

-----Original Message-----

From: Mark Hicks

Sent: Tuesday, October 26, 2010 12:51 PM

To: Pat Clements; dirbwt

Subject: Re: [Dir-BWT] Maggie's Law in Tennessee?

To the Board:

I think we should focus on all forms of distracted driving and or bad driving that cause serious injuries and death. Proving someone was asleep or did not sleep enough prior to a crash would be extremely difficult. I think the "Maggie's Law " is a bad model.

Per a news article is already illegal 49 states to falling asleep at the wheel according the National Sleep Foundation (NSF) "Whether Maggie's law succeeds in reducing fatigue-related crashes in New Jersey remains to be seen. It certainly opens the way for an expensive process of passing similar laws in other states. However, as the NSF points out, a survey it conducted in 1998 showed that in all states except Alabama, people can be charged under existing laws for causing a crash or fatality after falling asleep at the wheel." <http://www.drivers.com/article/643/>

I think it would be preferable to increase the penalties for violating 55-8-136 Drivers to exercise due care which contains the following language:

*"by operating the motor vehicle at a safe speed, by maintaining a safe lookout, by keeping the motor vehicle under proper control and by devoting full time and attention to operating the motor vehicle, under the existing circumstances to avoid endangering life, limb or property."*

Mark M. Hicks

55-8-136. Drivers to exercise due care. —

(a) Notwithstanding the foregoing provisions of this chapter, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway, and shall give warning by sounding the horn when necessary, and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway.

(b) Notwithstanding any speed limit or zone in effect at the time, or right of way rules that may be applicable, every driver of a motor vehicle shall exercise due care to avoid colliding with any other motor vehicle, either being driven or legally parked, upon any roadway, or any road sign, guard rail or any fixed object legally placed within or beside the roadway right of way, by operating the motor vehicle at a safe speed, by maintaining a safe lookout, by keeping the motor vehicle under proper control and by devoting full time and attention to operating the motor vehicle, under the existing circumstances to avoid endangering life, limb or property.

(c) A violation of this section is a Class C misdemeanor.  
[Acts 1955, ch. 329, § 35; T.C.A., § 59-836; Acts 2005, ch. 198, § 1.]