

The Honorable Andrea M. Boland

*22 Kent Street
Sanford, ME 04073*

March 31, 2015

Senator Woodsome, Representative Dion,
Honorable Members of the Joint Committee
On Energy, Utilities and Technology

Re: LD 883 Cellular Telephone Labeling Act

Dear Members of the EUT Committee:

I'd like to thank you for your attention to this legislation. I'd like to thank Rep. Harlow and our distinguished expert witnesses, and fellow Mainers for coming to testify, also.

As many of you know, I've worked in the past three legislatures to see that purchasers of cell phones are better informed in the safer use of them than is the norm. The Maine State Legislature is known nationally as the pioneer in this issue. We have brought internationally acclaimed scientists to explain the science, physicists, doctors, lawyers, college professors, engineers, business people, and well-informed advocates to the hearings to make the case for promoting awareness and informed consent, while studies increase in number, other countries forbid sales to children, and numerous liability cases move through the Washington, DC courts. If you ever wanted to examine the record, the Law Library can access it for you – but the files are very large.

The science is divided mostly along the lines of who funds it: 75% of independent and university studies show harm; 75% of industry-funded studies show no harm. Legislatures take an oath to protect the public, products for sale are expected to be safe or have clear advisories on how to use safely, and liability increases as insurers back away from covering the industry and the health of people. I've presented to you a number of papers that you can review to back up what I've said. We have an offer from Lawrence Lessig, nationally respected constitutional lawyer and Harvard Law School professor to defend the State of Maine all the way to the U.S. Supreme Court, with a team of his, if we are sued by the wireless industry. We have to guess that they could do that, because that is their only credible weapon in the fight for transparency and public health.

Please take the time to consider the benefits of having purchasers of cell phones know about the warnings that come with them. Thank you. I'd be pleased to take questions.

*** Included herewith are: letter from the American Academy of Pediatrics; article by famous scientist/doctor on increasing brain tumors; examples of look of phone advisories; professional magazine article on "the duty to warn and instruct;" UMO economic study on effects on Maine retailers; Lloyds of London not covering rf related illness; OPLA paper showing that the San Francisco case does not apply; D.C. Appeals Court on legal standing of states to protect the public.

Andrea

LEGAL STANDING TO ACT...

The following is an excerpt from a recent Court of Appeals decision...

District of Columbia Court of Appeals

Nos. 07-CV-1074, 07-CV-1075, 07-CV-1076, 07-CV-1077, 07-CV-1078 & 07-CV-1079

Michael Patrick Murray, et al, APPELLEES

V.

Motorola, Inc., et al, APPELLEES

Appeals from the Superior Court
of the District of Columbia

(Nos. CA-8479-01, CA-1368-02, CA-1369-02, CA-1370-02, CA-1371-02 & CA-1372-02

(Hon. Cheryl M Long, Motions Judge)

(Argued January 23, 2009

Decided October 29, 2009)

Page 15 of this case...

"We agree with the *Farina* court that "Congress's intent in enacting [section 332 (c)(3)(A)] was to prevent states from obstructing the creation of nationwide cellular service coverage, and not the preemption of health and safety police powers." *Farina*, 578 F. Supp. 2d at 761; *see also id.* At 758 (nothing in the [statute] expressly preempts state common law designed to ensure the health and safety of cell phone users."

Therefore actions taken to give people fair warning or protect them from harmful radiation from non-thermal effects of non-ionizing radiation emitting devices such as cell phones, wireless PDA's, WIFI and smart meters are by law, not federally pre-empted.

THE DECLARATION OF INDEPENDENCE

<http://www.ushistory.org/declaration/document/>

American Academy of Pediatrics

DEDICATED TO THE HEALTH OF ALL CHILDREN™



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Reply to

Department of Federal Affairs

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Washington, DC 20005
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Fax: 202/393-6137
E-mail: kids1st@aap.org

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December 12, 2012

The Honorable Dennis Kucinich
2445 Rayburn House Office Building
Washington, DC 20515

Dear Representative Kucinich:

On behalf of the American Academy of Pediatrics (AAP), a non-profit professional organization of 60,000 primary care pediatricians, pediatric medical subspecialists, and pediatric surgical specialists dedicated to the health, safety and well-being of infants, children, adolescents, and young adults, I would like to share our support of H.R. 6358, the *Cell Phone Right to Know Act*.

The AAP strongly supports H.R. 6358's emphasis on examining the effects of radiofrequency (RF) energy on vulnerable populations, including children and pregnant women. In addition, we are pleased that the bill would require the consideration of those effects when developing maximum exposure standards. Children are disproportionately affected by environmental exposures, including cell phone radiation. The differences in bone density and the amount of fluid in a child's brain compared to an adult's brain could allow children to absorb greater quantities of RF energy deeper into their brains than adults. It is essential that any new standards for cell phones or other wireless devices be based on protecting the youngest and most vulnerable populations to ensure they are safeguarded through their lifetimes.

In addition, the AAP supports the product labeling requirements in H.R. 6358. These standards will ensure consumers can make informed choices in selecting mobile phone purchases. They will also enable parents to better understand the potential dangers of RF energy exposure and protect their children.

On July 24, the U.S. Government Accountability Office (GAO) published a report on federal cell phone radiation exposure limits and testing requirements. The GAO noted that the Federal Communications Commission's (FCC) most recent data indicates that the number of estimated mobile phone subscribers has grown from approximately 3.5 million in 1989 to approximately 289 million at the end of 2009. Cell phone use behaviors have also changed during that time. The quantity and duration of cell phone calls has increased, as has the amount of time people use mobile phones, while cell phone and wireless technology has undergone substantial changes. Many more people, especially adolescents and young adults, now use cell phones as their only phone line, and they begin using wireless phones at much younger ages.

Despite these dramatic changes in mobile phone technology and behavior, the FCC has not revisited the standard for cell phone radiation exposure since 1996. The current FCC standard for maximum radiation exposure levels is based on the heat emitted by mobile phones. These guidelines specify exposure limits for hand-held wireless devices in terms of the Specific Absorption Rate (SAR), which measures the rate the body absorbs radiofrequency (RF). The current allowable SAR limit is 1.6 watts per kilogram (W/kg), as averaged over one gram of tissue. Although wireless devices sold in the United States must ensure that they do not exceed the maximum allowable SAR limit when operating at the device's highest possible power level, concerns have been raised that long-term RF energy exposure at this level affects the brain and other tissues and may be connected to types of brain cancer, including glioma and meningioma.

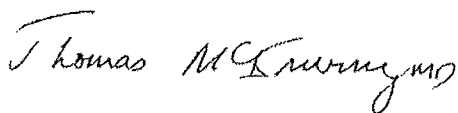
In May 2011, the International Agency for Research on Cancer (IARC), the United Nations' World Health Organization's (WHO) agency promoting international cancer research collaboration, classified RF energy as "possibly carcinogenic to humans." In addition, the National Cancer Institute has stated that although studies have not definitively linked RF energy exposure from cell phones to cancer, more research is required to address rapidly changing cell phone technology and use patterns.

This and other research identified by the GAO demonstrates the need for further research on this issue, and makes clear that exposure standards should be reexamined.

The GAO concluded that the current exposure limits may not reflect the latest research on RF energy, and that current mobile phone testing requirements may not identify maximum RF energy exposure. The GAO proposed that the FCC formally reassess its limit and testing requirements to determine whether they are effective. The AAP commends the activities proposed under H.R. 6358, as they would address this research gap and improve consumer knowledge and safety. Establishing an expanded federal research program as the basis for exposure standards will ensure that consumer protections incorporate the latest research. Currently, the National Institute of Health (NIH), the only federal agency the GAO identified as directly funding research on this topic, provided approximately \$35 million from 2001 to 2011. Given this previous funding level, the AAP supports the \$50 million per fiscal year for seven years that H.R. 6358 would authorize.

The AAP appreciates your recognition of the need for new research and standards for mobile phone radiation, and is pleased to support H.R. 6358. For further assistance, please do not hesitate to contact Sonya Clay, Assistant Director, Department of Federal Affairs, at 202-347-8600 or sclay@aap.org.

Sincerely,



Thomas K. McInerney, MD, FAAP
President

Translate From: Danish To: English View: Translation Original

NEWS

The increase in new cases of aggressive brain cancer

The number of men who are diagnosed with the most malignant form of brain cancer (glioblastoma), has almost doubled over the past ten years. - We have no idea what caused it and working hard to crack the code to a better treatment than we can offer today, said Dr. Hans Skovgaard Poulsen from Copenhagen University Hospital. Today, the average life just eighteen months after diagnosis. *Denmark*

A sharp increase in the number of new cases of the highly aggressive and malignant form of brain cancer, glioblastoma, will now have doctors and researchers to intensify work in the laboratories in hopes of finding a more effective treatment.

-We must recognize that current therapies - surgery, chemotherapy and radiation - is woefully inadequate, said Dr. Hans Skovgaard Poulsen from Copenhagen University Hospital.

Only one in 10 live longer than five years

Only just under one in ten patients with this cancer are alive after five years. The number of new cases has been increasing dramatically over the last ten years, so glioblastoma every year now affects about 260 Danes. And the increase include especially men.

Scary development

-It is a frightening development. And we simply do not know the cause. Therefore, we very quickly started to clarify what this creepy increase may be due, says Hans Skovgaard Poulsen.

Today patients are treated by highly trained multidisciplinary teams, but despite intensive efforts, the cancer is virtually impossible to come to life. Brain tumor often come back quickly.

Cancer Society supports

-We have tried to treat patients with many new drugs, both biological and chemical, hoping to improve survival, but our progress is unfortunately extremely modest, recognizing His Skovgaard Poulsen, who has just received 1.5 million kroner from the Danish Cancer Society's Scientific Committee in order to develop new relevant cell models.

For Hans Skovgaard Poulsen and researcher team around Radiation Biology Laboratory, it is crucial to identify new approaches to beat the highly malignant cancer cells in brain tumor death. First through attempts relevant cancer cell models in the laboratory and if results are positive then the patients. It is



Hans Skovgaard Poulsen: - It is a frightening development we have seen in recent years.

OPLA RESEARCH REQUEST MEMO

To: Jean Guzzetti, Legislative Analyst
From: Kristin Brawn, Legislative Researcher
Date: May 3, 2011
RE: San Francisco Cell Phone Warning Label Law

*San Francisco Case
SAR
Thermal Effects only*

Hi Jean,

You asked me to research the San Francisco cell phone warning label law and CTIA's lawsuit against the city regarding this law. Please see a summary of my findings below.

San Francisco Cell Phone Right-to-Know Ordinance

According to notations in the ordinance and documentation included with the CTIA lawsuit (both of which are attached with this memo), this ordinance was passed by the San Francisco Board of Supervisors on June 22, 2010, and signed into law by the Mayor on July 1, 2010.

Section 1103(a) of the Cell Phone Right-to-Know ordinance requires cell phone retailers that post display materials in connection with sample phones on display to include the following three elements in the display materials:

1. The specific absorption rate (SAR) value of that phone and the maximum allowable SAR value for cell phones set by the Federal Communications Commission (FCC);
2. A statement explaining what an SAR value is; and
3. A statement that additional educational materials regarding SAR values and cell phone use are available from that cell phone retailer.

For cell phone retailers that do not post display materials with sample phones or phones on display, Section 1103(b) of the ordinance requires that those retailers display a poster in a prominent location that is visible to the public that includes the following three elements:

1. The SAR value of each make and model of cell phone offered for sale or lease at that retail location and the maximum allowable SAR value for cell phones set by the FCC;
2. A statement explaining what an SAR value is; and
3. A statement that additional educational materials regarding SAR values and cell phone use are available from the cell phone retailer.

The ordinance states that formula cell phone retailers must comply with these requirements by May 1, 2011, and that all other cell phone retailers must comply by February 1, 2012.

CTIA Lawsuit

According to a press release on the CTIA website (<http://www.ctia.org/media/press/body.cfm/prid/1989>), which is attached with this memo, on July 23, 2010, CTIA filed a lawsuit in the U.S. District Court Northern District of



iPhone Info

iPhone User Guide Go to www.apple.com/support. On iPhone, open Safari, then tap . Also available for free in the iBookstore.

Safety and Handling See "Safety, Handling, & Support" in the *iPhone User Guide*.
Exposure to Radio Frequency Energy On iPhone, go to Settings > General > About > Legal > RF Exposure.

Battery The lithium-ion battery in iPhone should be replaced only by Apple or an Apple Authorized Service Provider, and must be recycled or disposed of separately from household waste. For information about battery recycling and replacement, go to www.apple.com/batteries.

Hearing Aid Compatibility (HAC) Go to www.apple.com/support/hac, or see the *iPhone User Guide*.

Avoiding Hearing Damage To prevent possible hearing damage, do not listen at high volume levels for long periods. More information about sound and hearing is available online at www.apple.com/sound and in the *iPhone User Guide*.

Apple One-Year Limited Warranty Summary Apple warrants the included hardware product and accessories against defects in materials and workmanship for one year from the date of original retail purchase. Apple does not warrant against normal wear and tear, nor damage caused by accident or abuse. To obtain service, call Apple, or visit an Apple-owned retail store or an Apple Authorized Service Provider — available service options depend on the country in which service is requested. iPhone service may be restricted to the original country of sale. Call charges and international shipping charges may apply. Full terms and detailed information about obtaining service are available at www.apple.com/legal/warranty and www.apple.com/support. You may read and email a copy of the warranty to yourself during activation. Warranty benefits are in addition to rights provided under local consumer laws.

For Canadian Consumers: Residents of Quebec are governed by that province's consumer protection legislation. Les résidents du Québec sont régis par la législation sur la protection du consommateur de cette province.

Regulatory Regulatory information, certification, and compliance marks specific to iPhone are available on iPhone. Go to Settings > General > About > Legal > Regulatory. Additional regulatory information is included in "Safety, Handling, & Support" in the *iPhone User Guide*.

FCC Compliance Statement This device complies with part 15 of the FCC rules. Operation is subject to the following two conditions: (1) this device may not cause harmful interference, and (2) this device must accept any interference received, including interference that may cause undesired operation.

Note: This equipment has been tested and found to comply with the limits for a Class B digital device, pursuant to part 15 of the FCC Rules. These limits are designed to provide reasonable protection against harmful interference



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EFFECTS OF CELLULAR TELEPHONE WARNING
LABELS (LD 1706) ON MAINE RETAILERS

SOE Staff Paper 584
February 2010

Todd Gabe (Associate Professor) and Mario Teisl (Professor) *
School of Economics, University of Maine

Executive Summary:

The purpose of this report is to provide research-based information from published academic studies on the potential effects of a proposed cellular telephone warning label program on Maine retailers. Our qualitative analysis centers around the questions of (1) will Maine consumers “give up” their cellular telephones due to the warning labels; and (2) will higher prices as a (potential) result of the warning label program reduce sales in Maine? With respect to the first question, we feel that it is unlikely that substantial numbers of Maine residents would give up their cellular telephones because of the warning labels. Past studies show that people will engage in safe behavior suggested by a product warning, but compliance tends to be higher if the costs of doing so are low. The estimated costs of “giving up” a cellular telephone are about 18-times higher than the costs of using a hands-free device, which suggest that the latter is the more likely response to the warning labels. With respect to the second question, we feel that higher retail prices (if they occur) are unlikely to lead to a substantial reduction in the number of cellular telephones sold in Maine. The price elasticity of demand for cellular telephones is quite low, which means that people are not likely to respond very much to a price change. This report considers only one of the issues related to LD 1706 –namely, how it might impact Maine retailers. Thus, additional information is needed to determine –one way or another –whether the benefits of LD 1706 outweigh the costs.

* We gratefully acknowledge the helpful comments provided by Mark Anderson, James McConnon and Sharon Tisher.

Smart Meter Harm

Overbilling, fires, health problems,
inaccuracy, hacking & cybersecurity,
interference, privacy loss, and more...

Lloyd's of London excludes liability coverage for RF/EMF claims

Posted on [March 18, 2015](#)

Credit to Sharon Noble, Director, Coalition to Stop Smart Meters in British Columbia, for bringing this information to the public.

Lloyd's of London excludes any liability coverage for claims,

"Directly or indirectly arising out of, resulting from or contributed to by electromagnetic fields, electromagnetic radiation, electromagnetism, radio waves or noise." (Exclusion 32)

This information is from CFC Underwriting Limited, which is a Lloyd's of London underwriter (page 12-13 of policy document, page 13-14 of pdf), and was posted by Citizens for Safe Technology:

[This] is a recent renewal policy which, as of Feb. 7, 2015, excludes any coverage associated with exposure to non-ionizing radiation. In response to clarification, this response was received on Feb. 18, 2015 from CFC Underwriting LTD, London, UK agent for Lloyd's:

"The Electromagnetic Fields Exclusion (Exclusion 32) is a General Insurance Exclusion and is applied across the market as standard. The purpose of the exclusion is to exclude cover for illnesses caused by continuous long-term non-ionising radiation exposure i.e. through mobile phone usage."

<http://www.citizensforsafetechnology.org/Lloyds-of-London-excludes-coverage-for-RFEMR-claims.2.4168>

The policy document is here: <http://emrabc.ca/wp-content/uploads/2015/03/InsuranceAEWordingCanada17Feb2015.pdf>

Also <http://www.citizensforsafetechnology.org/uploads/scribd/Insurance%20AE%20Wording%20Canada%20v1%207%20Feb%202015.pdf>

From the Lloyd's of London policy:

"Exclusions (starting on Page 6 of policy, Page 7 of pdf):

We will not

- a) make any payment on your behalf for any claim, or
- b) incur any costs and expenses, or
- c) reimburse you for any loss, damage, legal expenses, fees or costs sustained by you, or
- d) pay any medical expenses:

...

32. Electromagnetic fields (General Insurance Exclusions –Page 7 of policy):

Follow

directly or indirectly arising out of, resulting from or contributed to by electromagnetic fields, electromagnetic radiation, electromagnetism, radio waves or noise.”

This would include the microwave radiation and electromagnetic radiation emitted from Smart Meters (AMR, AMI, PLC), from Home Area Network devices and appliances (including AC and thermostats), from Wi-Fi transmitters, from wireless devices in schools, offices, and homes, and from wireless sensors and wireless-connected fire alarms.

“This means that the Province (that is we, the taxpayer) will be held liable for claims from teachers and parents of children suffering biological effects from wifi in schools, from homeowners exposed to RF from mandated smart meters on homes, and from employees forced to use cell phones or exposed to wifi at work. Lawsuits in other countries have resulted in huge payments already, and it is only a matter of time before similar lawsuits are filed and won in Canada.

“Potentially those who allow such devices, after having been fully informed about the dangers, could be held liable for negligence, and directors' insurance may not provide financial protection. Directors' insurance applies when people are performing their duties “in good faith”. **It is hard to argue they are acting “in good faith” after having been warned by true scientific experts and by a well-respected insurer.**

“Consider yourself notified once again that you could be held legally responsible for the decisions you have made.”

Yours truly,
Sharon Noble

Director, Coalition to Stop Smart Meters in British Columbia Victoria, British Columbia, Canada

The full letter with policy document is here: <http://www.citizensforsafetechnology.org/Lloyds-of-London-excludes-coverage-for-RFEMR-claims,2,4168>

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Andrea Baland*

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From: sixwings@metrocast.net
 To: <sixwings@metrocast.net>
 Subject: Fwd: Re: Maine Cell Phone legislation questions

Sent: Thu 01/09/14 11:39 AM
 Priority: Normal
 Type: Embedded HTML/Text

On Tue 01/07/14 8:10 AM , Lawrence Lessig <lessig@pobox.com> wrote:

Representative Boland:

Thank you for your email. I'll try to respond to your questions briefly. But the most important comment you make is at the end: In my view, the issue here is state sovereignty: What power does the state have to protect its citizens against potential risks? The strategy of the cell phone companies has been to use the threat of litigation to frighten legislators away from exercising that sovereign authority. This is an obviously dangerous trend, as these international companies are often many times larger than the states that would regulate them. If history has taught us anything, it is that giving into bullying is the best way to incentivize bullying. In my view, the battle against warning labels is just commercial bullying.

(1) Yes, Maine's liability for the legal fees of another party depends upon who wins the case. If Maine loses, there is a chance it would be forced to pay the legal fees. The claims made against the state are based on the First Amendment, and the fee shifting statutes presume fees should be shifted when rights are being protected. But the judge retains some discretion — again, if, and only if, Maine loses.

(2) Commercial providers do claim that being forced to say prominently what they are already saying in the fine print is "compelled speech." They have been successful in some lower courts with that claim. It is my view that the Supreme Court will ultimately uphold the sovereign right of a state to require warnings at least where health effects are uncertain. That this has been the law for as long as any of us can remember can be seen by looking on the side of any package of cigarettes.

(3) You are correct in your statement about the dormant commerce clause. While the Supreme Court's decisions are not crystal clear, the central question is whether states are discriminating. If a state rule applies equally to instate and out-of-state producers, then the only issue is whether it is a constitutionally undue burden. That doesn't mean "is it a burden." It means "is it so severe a burden as to outweigh any possible gain." It seems clear a simple warning applied equally is not a constitutionally undue burden.

As I have indicated before, I am happy to help support Maine in its efforts here, however I can, and of course, pro bono. And I would be more than willing to speak to any representatives who would like to discuss it.

Good luck with the legislation.

 Lessig
 Roy L. Furman Professor of Law and Leadership
 Harvard Law School
 1563 Massachusetts Ave
 Cambridge, MA 02138
 vx:1-617-496-8853
 fx:1-617-496-4866

(my underlinings)
 Andrea



Sun, 10 March 2013

Text size - +

Mobile phones to be banned for children

28/02/2013



The Belgian government has announced measures to restrict the use of mobile phones by young children.

Together



Public Health minister Laurette Onkelinx has announced that sales of mobile phones to children under 7 years will be banned in shops and also on the internet.

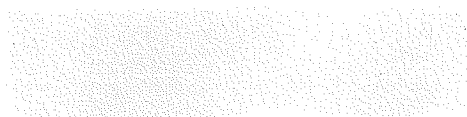
Adverts for mobile phones during children's programmes on TV radio and the internet will also be banned.

Research shows than in Belgium every two out of three children under 10 years have a mobile phone. At 12 years they nearly all have one.

The minister has highlighted the radiation risk from cell phones which is higher for young children than adults.

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