



CIRSA HAZARD ALERT

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Your Partner in Risk Management

Distracted Driving - Cell Phones

According to the Centers for Disease Control (CDC), annually in the United States, approximately 3,500 people are killed, and more than 390,000 are injured in crashes that are reported to involve a distracted driver. The National Safety Council (NSC) reports you are four times as likely to crash when using a cell phone while driving. Under-reporting the use of cell phones in crashes can lead decision makers to think the cell phone driver-distraction problem is less significant than it is, according to the NSC.

Distracted driving involves doing another activity that takes attention away from driving. Sending a text message, talking on a cell phone, using a navigation system, and eating while driving are a few examples of distracted driving. Any of these distractions can endanger the driver and others. Texting while driving is especially dangerous, because it combines visual, manual, and cognitive types of distraction. Sending or reading a text message takes your eyes off the road for about five seconds, long enough to cover a football field while driving at 55 mph.

Someone is negligent when he or she proceeds with an action despite knowing the risks of the action on the safety of others. This standard can apply not just to individuals and their actions, but also to entities that know the risks and whether the entity banned employees from engaging in the risky action.

An employer may be held legally accountable if the

employee was acting within the scope of his or her employment at the time of a crash. The key phrase "acting within the scope of his or her employment" can and has been defined broadly in cases of crashes involving cell phones. Employers who expect employees to use cell phones while driving as part of their job duties must recognize that doing so exposes them to preventable crash risks.

Employers are being held liable up to \$25 million for employee crashes, even when employees use hands-free devices. Organizations have an obligation to protect their employees and others with whom they share the roads. Banning the use of cell phones while driving is a risk reduction effort. Implementing enforced total ban policies can help protect employees from crashes and injury and help protect employers from liability. This policy should be reinforced throughout the year with education and training.

An employer must demonstrate that a policy has been enforced and is more than words on paper. Furthermore, an employer should not foster a culture where employees feel that they need to use cell phones while driving.

The following are two examples of governmental entities found liable for crashes involving cell phones.

\$1.45 MILLION – CITY OF PALO ALTO, 2006 CRASH IN CALIFORNIA

The city agreed to pay a \$1.45 million settlement to a crash victim left with permanent, debilitating spinal injuries after being struck by a city worker who was reaching for his cell phone while driving. The injured man's vehicle was rear-ended at a red light.

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Cell Phones (cont.)

\$8.7 MILLION – STATE OF ILLINOIS, 2007 CRASH IN ILLINOIS

While responding to a crash, a state trooper was speeding at more than 120 mph on an interstate freeway. He was talking on a cell phone to his girlfriend and using email before he lost control of his squad car and crossed over the median. The crash instantly killed two teenage sisters in the first vehicle, which was hit head-on, and injured a couple in another vehicle. The family of the sisters was awarded \$8 million, and the other family was awarded \$700,000 by the State Court of Claims.

Leaders who are committed to safety excellence know that their safety systems and policies often exceed minimum OSHA requirements or state laws. Designing safety policies that only comply with minimum laws and regulations often leave employees vulnerable to injury and their entity exposed to liability.

The following are some ideas to help reduce the likelihood of a collision due to distracted driving:

- If you don't already have a policy that addresses talking and texting while driving an entity-owned or leased vehicle, adopt one. Hands-free cell/smart phones are no better than handheld units, as the driver still suffers from the cognitive distraction. Disciplinary action should be considered when an employee violates the policy, even if a collision does not occur.
- Emerging technology can be employed to prevent the use of cell/smart phones while a vehicle is in motion.
- Computers in vehicles should have a device installed that blacks out the monitor when the vehicle is in motion, or computers should be turned off when the vehicle is in motion.
- If a call, text, or email comes in while the vehicle is in motion, the driver should wait until the vehicle can be stopped in a safe place before answering.
- Employees should be trained in the dangers of distracted driving. Cell/smart phone, radio, and computer use are not the only types of distractions when driving. Eating and drinking, reaching for items in the vehicle, or adjusting radio/climate controls while driving have also led to collisions resulting in injury and death.
- Supervisors should perform field driver evaluations of their employees who operate vehicles to accomplish their jobs. Focusing on distracted driving should be a part of that evaluation.
- Set the example for your peers and subordinates by not engaging in distracted driving, and talk to fellow employees about the dangers when they are observed driving while distracted.
- Younger employees are more likely to be heavily influenced by cell/smart phones and may need more encouragement to stop this practice. It may become necessary to have employees leave their phones in their personal vehicle or locker while on the job.