



Cell Phone Use While Driving

Loss Control Bulletin

Cell phone use while driving, hands-free or not, is a hot topic and often debated. Most studies indicate talking or texting on a cell phone when driving can lead to accidents. Texting and checking emails on cell phones are even more hazardous than carrying on a cellular conversation. More than 220 million people in the United States subscribe to wireless services, and it is estimated that as many as 80% of those subscribers use their phones while driving.

Some studies have shown that cell phone use is less distracting than other common activities such as reaching for items on the seat or in the glove compartment or rear seat, eating, or talking to passengers. However, because cell phone use is such a prevalent activity, it is by far the most common cause of accidents. Research findings indicate drivers talking on cell phones were slower to hit the brakes, displayed more variation in following distance as their attention switched from driving and conversing, and were slower to resume normal speed after braking. The slowed reaction times of drivers using cell phones were found to be similar to impaired drivers under the influence of alcohol. The theory that hands-free phones are safer has been challenged by several studies that found that it's the talking that causes the distraction.

Driving + Cell Phone Use = Danger

There are two dangers associated with driving and cell phone use, including text messaging.

1. Drivers must take their eyes off the road while dialing or texting.
2. People can become so absorbed in their conversations that their ability to concentrate on active driving is severely impaired. This can jeopardize the safety of vehicle occupants, other motorists, and particularly pedestrians

In congested cities, particularly at busy pedestrian crosswalks, the danger of distracted driving is increased due to driver's need to pay attention to cross traffic, bicyclists, pedestrians in crosswalks, and the driver's ongoing conversation. Some states and countries prohibit or restrict the use of hand-held cell phones and text messaging while driving. Be sure to check the laws of your state.

Cell Phone Accident Liability Issues

Litigation stemming from accidents involving the driver's use of cell phones at the time of an accident is increasing. In 2009, a California jury awarded \$49 million to a severely injured student involved in a three-vehicle accident where the defendants were found negligent due to distractions as a result of using a cell phone while driving.

The potential for personal and corporate liability may exist under such circumstances. If an employer provides cellular phones or if cellular phone use is a necessary part of the job, employers may be found financially liable for injuries or property losses caused by an employee using a cell phone while driving or otherwise working for the employer. Some states, cities, and counties are enacting their own negligent driving laws relating to cell phone use while driving. Employers have a duty, under most state laws, to take proper steps to ensure worker safety and this includes safe use of cell phones.

Companies have been sued after an accident where it was deemed that their employee was talking on the phone and this was a cause of the accident. There have even been instances when an employee was not officially on company business, and in some cases not even making a business call, but the employer was still held liable because an accident involved a cell phone provided or permitted by the employer.

As a result, employers are establishing policies that universally cover situations involving use of cell phones on company time. Some businesses are now prohibiting workers from using cell phones while driving. Exxon, Mobil, and Shell are



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examples of large companies that ban employee use of any type of cell phones when driving during work hours. Clearly the safest course of action is to avoid using a cell phone when driving whether you have hands-free equipment.

Safety experts strongly recommend against the use of cell phones while driving. In consideration of the financial exposure that companies may face when employees use cell phones while driving, it is advisable that companies institute policies that ban or severely limit the use of cell phones while driving. The following rules will help reduce the possibility of having an accident:

- Never text message when driving. Do not answer the phone while driving.
- Turn your phone off when driving, so the ring won't distract you.
- Tell your friends and family to leave a voice mail message so you can return their call when it's safe.
- Check your messages and return the calls before you start driving.
- Return or make social and personal calls later. Calls of an emotional nature require more of a driver's attention thereby raising the risk for an accident.
- Keep your cell phone within easy reach in case of an emergency.

If you must use your cell phone while driving, here are some tips to help reduce the possibility of an accident.

- Use hands-free installed equipment.
- Pre-program important numbers and use voice activation for dialing.
- If you use any hands-free device, prepare everything before you start driving.
- Keep calls brief and stop the conversation if the road conditions become hazardous. Find a safe place to park and complete conversations at that time.
- Avoid making cell phone calls in congested areas and at pedestrian crosswalks.

The guidelines provided in this bulletin are only intended to provide an overview of some of the more important steps that can be taken by management to establish a safe workplace. The guidelines are not considered exhaustive of all measures and controls that can be implemented by management to address all potential loss or injury producing causes. Ultimately it is the responsibility of management to take the necessary steps to provide for employee and customer safety. It is not intended as an offer to write insurance for such conditions or exposures. The liability of Republic Indemnity Company of America and its affiliated insurers is limited to the terms, limits and conditions of the insurance policies underwritten by any of them. © 2022 Republic Indemnity of America, 4500 Park Granada, Suite 300, Calabasas, CA 91302.