



REGULATORY UPDATE

DOT Announces Rule Banning Hand-Held Cell Phones for Interstate Truck and Bus Drivers

On Dec. 2, 2011 the Department of Transportation (DOT) announced a final rule specifically prohibiting interstate truck and bus drivers from using hand-held cell phones while operating their vehicles. The prohibition goes into effect on **Jan. 3, 2012**.

The joint rule from the Federal Motor Carrier Safety Administration (FMCSA) and the Pipeline and Hazardous Materials Safety Administration (PHMSA) is the latest action by the U.S. Department of Transportation to end distracted driving. In September 2010, FMCSA issued a regulation banning text messaging while operating a commercial truck or bus and PHMSA followed with a companion regulation in February 2011, banning texting by intrastate hazardous materials drivers.

Find a copy of the full rule [here](#).

This Leverity Insurance Group, Inc. Regulatory Update provides an overview of the new rule which will affect approximately four million commercial drivers.

BACKGROUND TO THE RULE

Nearly 5,474 people died and half a million people were injured in crashes involving a distracted driver in 2009. Distraction-related fatalities represented 16 percent of overall traffic fatalities in 2009, according to National Highway Traffic Safety Administration (NHTSA) research.

While driver distraction studies have produced mixed results, FMCSA research shows that using a hand-held cell phone while driving requires a commercial driver to take several risky steps beyond what is required for using a hands-free mobile phone, including searching and reaching for the phone.

Commercial drivers reaching for an object, such as a cell phone, are three times more likely to be involved in a crash or other safety-critical event. Dialing a hand-held cell phone makes it six times more likely that commercial drivers will be involved in a crash or other safety-critical event.

Many of the largest truck and bus companies, such as UPS, Covenant Transport, Wal-Mart, Peter Pan and Greyhound already have company policies in place banning their drivers from using hand-held phones.

PROHIBITIONS FOUND IN THE RULE

The final rule prohibits commercial drivers from using a hand-held mobile telephone while operating a commercial motor vehicle (CMV). Also, motor carriers are prohibited from requiring or allowing drivers of CMVs to use hand-held mobile telephones.

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Specifically, the rule restricts a CMV driver from holding a mobile telephone to conduct a voice communication, dialing a mobile telephone by pressing more than a single button, texting or reaching for a mobile phone in an unacceptable and unsafe manner (for example, reaching for any mobile telephone on the passenger seat, under the driver's seat, or into the sleeper berth).

A driver of a CMV who wants to use a mobile phone while driving will need to use a compliant mobile telephone (such as hands-free) located in close proximity to the driver that can be operated in compliance with this rule. Essentially, the CMV driver must be ready to conduct a voice communication on a compliant mobile telephone, before driving the vehicle.

The rule contains an exception to the general prohibition. CMV drivers are permitted to use a hand-held mobile telephone when necessary to communicate with law enforcement officials or other emergency services. For example, they may use the phone to report an accident or a drunk driver.

APPLICATION OF THE RULE

The ban on use of hand-held cell phones applies to drivers of CMVs. A **CMV** is defined as a self-propelled or towed vehicle used on the highways to transport persons or property in interstate commerce; and that either:

- Has a gross vehicle weight/gross vehicle weight rating of 10,001 pounds or greater;
- Is designed or used to transport more than 8 passengers (including the driver) for compensation;
- Is designed or used to transport more than 15 passengers, not for compensation; or
- Is transporting any quantity of hazardous materials requiring placards to be displayed on the vehicle.

The new rule also applies to school bus operations and CMVs designed or used to transport between 9 and 15 passengers (including the driver), not for direct compensation, even though they are exempt from other FMSCA requirements. However, the rule does not apply to employees of Federal, state or local governments.

IMPORTANT DEFINITIONS

Driving, for the purpose of this rule, means operating a commercial motor vehicle on a highway, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. Driving does not include operating a commercial motor vehicle when the driver has moved the vehicle to the side of, or off, a highway and has halted in a location where the vehicle can safely remain stationary.

A **mobile telephone** is a mobile communication device that falls under or uses any commercial mobile radio service. It does not include two-way or Citizens Band Radio services.

Using a hand-held mobile telephone means:

- Using at least one hand to hold a mobile telephone to conduct a voice communication;
- Dialing or answering a mobile telephone by pressing more than a single button, or
- Reaching for a mobile telephone in a manner that requires a driver to maneuver so that he or she is no longer in a seated driving position, restrained by a seat belt that is installed

Texting means manually entering alphanumeric text into, or reading text from, an electronic device. This action includes, but is not limited to, short message service, emailing, instant messaging, a command or request to access a World Wide Web page, pressing more than a single button to initiate or terminate a voice communication using a

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mobile telephone, or engaging in any other form of electronic text retrieval or entry, for present or future communication.

Texting does not include:

- Inputting, selecting, or reading information on a global positioning system or navigation system; or
- Pressing a single button to initiate or terminate a voice communication using a mobile telephone; or (iii) Using a device capable of performing multiple functions (for example: fleet management systems, dispatching devices, smart phones, citizens band radios, music players, etc.) for a purpose that is not otherwise prohibited in this part.

PENALTIES FOR NONCOMPLIANCE

Drivers who violate the restriction will face federal civil penalties of up to \$2,750 for each offense and disqualification from operating a commercial motor vehicle for multiple offenses. Additionally, states will suspend a driver's CDL after two or more serious traffic violations.

The rule implements new driver disqualification sanctions for drivers of CMVs who fail to comply with this federal restriction. The rule also contains new driver disqualification sanctions for commercial driver's license (CDL) holders who have multiple convictions for violating a state or local law or ordinance restricting the use of hand-held mobile telephones.

Finally, commercial truck and bus companies that allow their drivers to use hand-held cell phones while driving will face a penalty of up to \$11,000 for each violation.

Source: Dept. of Transportation

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