

New Nevada Law Bans Cell Phone Use While Driving

November 18, 2011

Practices

Workplace Safety and Health

Nevada's new cell phone law (SB 140) prohibits a person from manually typing or entering text into a cell phone or similar device, and from sending or reading data using a cell phone or other device, while operating a motor vehicle. The law also prohibits the use of cell phones for voice communication unless the phone is used with an accessory that allows for hands-free use. Global positioning systems (GPS) are not covered.

The new law went into effect on October 1, 2011, but formal enforcement will begin January 1, 2012. The law provides that until January 1, law enforcement officers may issue a verbal or written warning, rather than a citation, for a violation.

In 2009, distracted drivers were reportedly involved in the death of nearly 5,500 people and the injury of half a million. Handheld cell phone use — and texting while driving, in particular — is a key distraction.

Exceptions to the Ban

The use of cell phones or similar devices while driving is permissible when the phone or device is used by law enforcement officers and other emergency personnel acting in the normal course of their employment. The law also allows drivers to use cell phones to report or request assistance relating to a medical emergency, a safety hazard, or criminal activity, or if the person is responding to a situation requiring immediate action and stopping the vehicle would be inadvisable, impractical, or dangerous.

Fines and Penalties

A violation of the law is a misdemeanor and punishable by a fine of \$50 for a first offense within the immediately preceding seven years, \$100 for a second offense within the immediately preceding seven years and \$250 for a third or subsequent offense within the immediately preceding seven years. The law also provides that a first offense will not be treated as a moving traffic violation and that penalties increase for violations in a temporary traffic control zone. Law enforcement officers can make a stop for violations of the cell phone law without observing another, separate violation.

This enactment makes Nevada the 34th state to bar texting while driving and the ninth state to prohibit all handheld cell phone use while behind the wheel. Other states that ban drivers from using handheld mobile phones while driving include California, Oregon, Utah, and Washington.

What Employers Should Consider

Companies with employees who drive as part of the job may be found vicariously liable for a violation of the Nevada ban should an employee using a cell phone cause an accident while acting in the course and scope of employment. Employers should consider implementing and enforcing a policy prohibiting employee use of handheld electronic communication and data transmission devices while driving on the job unless they do so using a hands-free device. Educate your employees about the research showing how using such devices while driving impairs drivers, and be sure employees know about the new Nevada law.

Employers should be wary of inadvertently or implicitly requiring employees to use electronic communication devices while driving. Organizations often knowingly or unknowingly encourage risky behavior by calling or expecting return phone calls during employees' drive times. Employers should examine scheduling conference calls during known drive times and address employees' habit of checking for messages on their drive into work, as these choices increase risk and corporate liability. For employees who must communicate on the job while driving, consider providing them with hands-free devices and implementing a policy requiring their use.

guarantee a similar outcome.

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