

# What employers should know about cell phone law

We've heard it hundreds of times: Hang up and drive. Wait to text. The implications are real.

Besides the horrific risks of personal loss, the National Highway Traffic Safety Administration has estimated that on-the-job car accidents cost employers on average \$16,500 per incident.

That number climbs to \$74,000 when an injury is involved and can reach more than \$500,000 with a fatality. Illinois has joined a growing number of states that have tightened distracted driving laws by making it illegal to even talk on a hand-held cellphone while driving.

Employers should be aware of the liabilities this new law may bring.

## The new law

Beginning Jan. 1, 2014, most uses of a cell phone while driving in Illinois are prohibited. This law forbids any person from operating a "motor vehicle on a roadway while using an electronic communication device," which includes any hand-held wireless telephone, personal digital assistant or mobile computer. 625 ILCS 5/12-610.2.

While the previous law prohibited drivers from reading or sending electronic messages, the new law is much more comprehensive, making it illegal to even talk on a hand-held phone.



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## Basics of employer liability

Under principles of "vicarious liability," an employer may be liable for the negligent acts of its employees performed within the scope of the employment relationship and in furtherance of the business's interests at an authorized time and place.

Basically, if an employee is "on the job" or working at the time of a negligent act, then an employer could be held responsible for injuries caused by the negligence of its employee.

This type of incident may happen when an employee is required to drive for his job or even when he is running a work-related errand and picks up the phone to make or receive a work-related call.

Thus, even employers that are not in the transportation industry must be aware of the significance of vicarious liability.

## How the new law affects employers

In order to best protect the business from liability, employers should implement and enforce policies that ban the use of all electronic communication devices while driving. This means more than just passing out policies, but also educating employees on the dangers of distracted driving and disciplining employees for known offenses.

While the law provides exceptions for hands-free devices, the temptation to simply pick up the phone while driving remains. The best and safest practice is to simply prohibit all phone usage while driving.

Accidents can happen in the blink of an eye, so update your policies or you could be at risk.

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