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Wheel Justice

by Jim C. Klepper, Attorney at Law

Cell Phone Law Update

25 killed in California Metrolink train crash September 12, 2008. Cause of crash: Cell Phone Texting.

50 injured in Boston Trolley in underground crash on May 8, 2009. Cause of crash: Cell Phone Texting.

80 percent of crashes and 65 percent of near-crashes involve some form of driver inattention within three seconds before the crash, according to a 2006 National Highway Traffic Safety Administration study. What do you think is the most common form of inattention for a driver?

Cell phones are the usual suspects for driver inattention. Any type of cell phone use will interrupt a driver's concentration according to a study from Carnegie Mellon University including dialing, holding, talking and even listening intently is sufficient to impair driving.

Five states (California, Connecticut, New Jersey, New York, Washington) and the District of Columbia prohibit ALL drivers from talking on handheld cell phones while driving. And all of them (except Washington State) have the ban as a primary enforcement law, meaning the officer can ticket without any other traffic offense taking place.

Twelve states (Alaska, Arkansas effective 10-09, California, Connecticut, Louisiana,

Maryland effective 10-09, Minnesota, New Jersey, Tennessee effective 7-09, Utah, Virginia effective 7-09, Washington) and the District of Columbia ban texting for all drivers.

Crash data is collected by officers on the accident report they file in 29 states, AK, CA, CO, CT, DE, FL, GE, IL, IN, IA, MD, MI, MN, MT, NE, NV, NJ, NY, NC, OK, OR, PA, SD, TN, TX, UT, VA, and WA.

Think of a truck driver talking or texting while driving, how much attention is he paying to the road? Suppose he is involved in an accident during his use of the cell phone or just seconds or minutes before the crash. Do you think the big bad plaintiff lawyer will be able to find out about cell phone usage? Will the cops be able find out? My answer to you is YES they can and they will. Your cell phone is time stamped with your usage. Your truck and the other vehicle have computers and GPS units in them that will time stamp the accident. How hard is it to connect the time stamps from all the computers, GPS units, take witness statements about your phone use just before or during the accident and determine whether you were using your cell phone at the time of the crash.

I have given you the law about cell phone usage as of May 2009. You now know the law in the states you travel. You know your company policy about cell phone use and



texting while the truck is moving. You can recite your company policy about cell phone usage, right? If not, find out what your company policy is about cell phone, texting and computer use in your truck.

Cell phone use and texting is not limited to 16 year old kids driving for the first time. They occur in all age groups, in all forms of transportation and it may lead to disastrous results for those that do not respect the road and all its dangers. CDL professionals from their viewpoint above the automobiles watch all the changing the radio or CD, lighting cigarettes, watching the navigational screen to see where they are, shaving, putting on make-up, eating, reading the paper every day as they drive America's highways. Cell phone use and texting are just the distractions that are the worst for all drivers yet are the most frequent forms for driver distraction.

There needs to be more research on distracted drivers, what causes the distraction and how to reduce or eliminate the majority of distractions of drivers. Even if we get the research and the laws to reduce the distractions, it will not work unless we have the number of law enforcement officers available to enforce those laws.

I think texting while driving is even worse than drunk driving. The drunk at least can see what is coming, even if his reaction time is slowed. The texting driver may travel over a mile without looking up from the cell phone to see where he is. Sixty seconds at sixty miles an hour equals one mile, so it is not difficult to believe the texting driver may travel that far without looking up. Both the drunk and the texting driver should not be on the road for my safety and yours.

I was rear ended two times in 2007. Both

times it was due to traffic stopping on the interstate and both drivers that hit me were using their cell phone to talk or text. Luckily, my vehicle suffered no damage, theirs did. Luckily, no one was injured and they received traffic tickets. Guess how many of those drivers had insurance and active driver's licenses? NONE, both drivers were without licenses or insurance. Luckily, there was no damage to my car and I was not injured. Now I watch my rearview mirror closely when traffic stops or slows to a crawl and I have bought extra uninsured insurance coverage to cover me.

Cell phones are a necessary product in today's transportation industry. However, you the driver must use common sense on when to use a cell phone. You will also need to follow company policy on cell phone use. Talking on the phone while between Amarillo and Albuquerque on I-40 at 10:00 in the evening is vastly different than hitting the I-20 and I-75 intersection in Atlanta at 5:15 PM on a Friday during rush hour traffic. •

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