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The Very Real Costs to Employers of Distracted Driving

Although employers rightfully appreciate the efficiency and responsiveness of employees who use cell phones (and smart phones) to get their work done, they must also be aware of the financial and safety risks created by the use of these devices while driving. Numerous media reports have trumpeted the increase of distracted driving including the use of a cell phone as a cause for automobile accidents. A recent article in the [Washington Post](#) noted multi-million dollar jury awards against employers in accidents involving death or serious injury, when the negligent driver was talking, texting, or emailing for company business at the time of the accident.

Although the risk of serious injury or death should be a significant deterrent on its own, employers should be mindful of the financial risk related to distracted driving. Various studies, including those cited in the [Washington Post](#) article, note that drivers using cell phones risk injury at four times the normal accident rate. Several states, including [Minnesota](#), have passed statutes making it a misdemeanor to text while driving. Some states prohibit use of handheld cell phones while driving, and others have more general prohibitions against distracted driving. In addition, as was noted [here](#), in December the National Transportation Safety Board recommended a complete ban on handheld cell phone use while driving. The fact that research, legislation, and government action all recognize the risks of using cell phones and smartphones while driving increases the likelihood that an employer will be held liable if it takes no action to minimize those risks.

To protect against this very real economic threat, employers should have (as we have previously discussed) a written [policy](#) prohibiting, or at least significantly limiting, work-related phone use while driving. It is equally important that employers take steps to encourage or monitor actual compliance by employees with such a policy. Failure to do so in today's legal climate invites liability, while creation and implementation of effective policies may provide a liability shield.