



Virginia Workplace Law

Is Your Hand Raised or Are You Busy Texting?

By: Annemarie Cleary. Thursday, June 9th, 2011

Raise your hand if your pet peeves include people who text while driving. If you are an employer, the Occupational Safety and Health Administration ("OSHA") expects to see your hand in the air. They also may want to see your workplace [cell phone](#) use policy prohibiting your employees from texting while driving on company business or in company vehicles.

[OSHA](#) recently announced a new joint effort with the Departments of Labor and Transportation to reduce the incidents of accidents and near-accidents attributable to texting while driving. The Assistant Secretary of Labor in charge of OSHA, David Michaels, PhD, MPH, said, "It is well recognized that texting while driving dramatically increases the risk of a motor vehicle injury or fatality. We are asking employers to send a clear message to workers and supervisors that your company neither requires nor condones texting while driving." In fact, according to research conducted by the Virginia Tech Transportation Institute, drivers who text are 23% [more likely to have an accident](#) or near-accident than the average driver. Although the joint effort is new, OSHA is not proceeding under a new law or new regulation. It is simply applying existing regulations in a new way.

Asst. Sec. Michaels has a strong message for employers: OSHA will use its enforcement powers to hold employers responsible for cell phone-related accidents caused by their employees if OSHA determines that the employer's policies -- or lack thereof -- contributed to the accident. [OSHA will pursue employers](#) who by policy or practice create situations in which employees have a strong incentive or are required to use their cell phones while driving if an accident and personal injury result.

So, where does that leave you, the employer? It leaves you in need of a clear, unequivocal and enforced written cell phone use policy. At a minimum, your policy should:

1. Prohibit texting while driving on company business or in a company-owned vehicle;
2. Require the use of a hands-free device for phone calls while driving on company business or in a company-owned vehicle; and

<http://virginiaworkplacelaw.com/>

[Richmond](#) • [Christiansburg](#) • [Fredericksburg](#) • [Research Triangle](#) • [McLean](#)

Copyright Sands Anderson PC

THE INFORMATION CONTAINED IN OUR WEB SITE DESCRIBES LEGAL MATTERS HANDLED IN THE PAST BY OUR ATTORNEYS. OF COURSE, THE RESULTS WE HAVE ACHIEVED DEPEND UPON A VARIETY OF FACTORS UNIQUE TO EACH MATTER. BECAUSE EACH MATTER IS DIFFERENT, OUR PAST RESULTS CANNOT PREDICT OR GUARANTEE A SIMILAR RESULT IN THE FUTURE.

3. Require that employees pull over to a safe place before making phone calls or texting if they do not have a hands-free device or need to make notes while talking.

In addition to keeping OSHA from calling on you, having a cell phone use policy may help you reduce lost productivity during the work day and may even help you avoid liability if one of your employees causes an accident while on company business. If you need any assistance crafting a cell phone use policy, please contact a [Virginia Employment Attorney](#).

<http://virginiaworkplacelaw.com/>

[Richmond](#) • [Christiansburg](#) • [Fredericksburg](#) • [Research Triangle](#) • [McLean](#)

Copyright Sands Anderson PC

THE INFORMATION CONTAINED IN OUR WEB SITE DESCRIBES LEGAL MATTERS HANDLED IN THE PAST BY OUR ATTORNEYS. OF COURSE, THE RESULTS WE HAVE ACHIEVED DEPEND UPON A VARIETY OF FACTORS UNIQUE TO EACH MATTER. BECAUSE EACH MATTER IS DIFFERENT, OUR PAST RESULTS CANNOT PREDICT OR GUARANTEE A SIMILAR RESULT IN THE FUTURE.