



Federal Motor Carrier Safety Administration to limit the use of wireless communication devices

McAfee & Taft RegLINC — May 2010 - May 2010

By **David Winfrey**

To reduce the numbers of highway accidents involving distracted commercial motor vehicle (“CMV”) drivers, the Federal Motor Carrier Safety Administration (FMCSA), an Agency of the U.S. Department of Transportation, has issued a notice of proposed rulemaking that would prohibit motor carriers from texting while driving in interstate commerce. The proposed rule, published in the Federal Register on April 1, 2010, is based upon DOT’s statutory obligation to ensure that CMVs are operated safely, and that driver activities do not impact their ability to operate CMVs safely.



Drivers who fail to comply with the new rule would face sanctions, including civil penalties and disqualification from operating CMVs in interstate commerce. The rule would also amend FMCSA’s commercial drivers license (CDL) provisions to add to the list of disqualifying offenses “a conviction under State or local laws, regulations, or ordinances that prohibit texting by CDL drivers while operating a CMV, including school bus drivers.”

If the rule becomes final, it would also prohibit carriers from requiring or allowing their drivers to engage in texting while driving. To comply with the rule, it will be incumbent upon motor carriers to be able to establish that they have adequate policies, practices and/or procedures in place to discourage their drivers from texting while driving. Should an allegation of texting arise in either an enforcement context or in the context of trucking accident litigation, evidence of written policies, training, monitoring, discipline and more will all be at issue.

LINKS

- [David M. Winfrey](#)

Oklahoma City TENTH FLOOR • TWO LEADERSHIP SQUARE 211 NORTH ROBINSON • OKLAHOMA CITY, OK 73102-7103 (405) 235-9621 office • (405) 235-0439 fax
Tulsa 500 ONEOK PLAZA 100 WEST 5TH STREET • TULSA, OK 74103 (918) 587-0000 office • (918) 599-9317 fax