

# ALBUQUERQUE CRIMINAL LAWYER BLOG

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## **Texting Driver Convicted for Reckless Driving: Might This Be a Trend?**

Texting and driving is dangerous. The topic of texting and driving has gotten a lot of attention in the past year even making Oprah. The attention is well deserved.

A Car & Driver Magazine study found that texting and driving was more hazardous than drinking and driving. The study found that texting drivers had a breaking response time 3 to 4 times slower than drunken drivers. The Car & Driver findings are backed up by National Highway Safety Administration (NHTSA) which found that texting is among the most serious and dangerous distractions facing drivers causing close to 6000 deaths and 500,000 injuries in 2008 alone.

Now prosecutors are taking note. A jury recently found a texting bus driver guilty of reckless driving as a result of a texting related auto accident. The video footage from the bus showed the driver checking texts for a full 6 minutes prior to his rear ending another vehicle at 35 mph. It took the jury only ten minutes to find him guilty.

The behavior of the driver was particularly egregious so the finding perhaps was not surprising. What texting drivers may want to consider is that this may indicate a trend on the part of prosecutors. The numbers of deaths and injuries caused by texting will certainly get the attention of prosecutors. In addition, texting is growing in usage not shrinking suggesting that the problem could worsen.

Such a trend in New Mexico could prove particularly painful for texting drivers. A first time conviction for reckless driving carries a mandatory jail sentence of 5 days. A second or subsequent offense carries a mandatory 10 day jail sentence. A first offense carries up to 90 days and a subsequent up to 6 months. This means that judges have a great deal of latitude in sentencing. A reckless driving conviction coupled with an accident would likely push the jail time up. Of course, an accident involving death would likely carry vehicular homicide charges.

If the specter of having caused harm to another as result of texting or the certain personal injury lawsuit resulting from a texting related auto accident is not enough to deter texting and driving, there is the possibility that penal consequences will be brought to bear on the issue. If the Texas verdict marks a trend, the text you are about to send will seem significantly less urgent in the event of an accident.

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