

Dangerous Road Ahead

11/8/2010

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Technology makes our lives easier by allowing us to stay connected to the world around us. But, at what point does technology make life more dangerous? Lately, newspapers and magazines have been filled with articles about people who were injured because they were sending text messages to friends or using their cell phones to access the Internet while driving. One recent incident involved celebrity plastic surgeon Frank Ryan. According to the California Highway Patrol, Dr. Ryan died while "tweeting" about his dog.

Here are some disturbing statistics:

- 72% of adults use text messaging.
- 47% of adults who use text messaging say they have sent or read messages while driving, according to a Pew Research Center survey.
- 49% of adults said they have been in a car when the driver was sending or reading text messages, according to the Pew survey.
- 54% of workers who have smart phones – including 66% of sales workers and 59% of professional business services workers – have admitted to checking messages while driving, according to a CareerBuilder survey.
- Text messaging while driving increases the risk for an accident or driving-related problem by 23.2 times, according to a Virginia Tech Transportation Institute study.
- A person who sends a text message while driving at the speed of 35 mph will travel 25 feet before coming to a complete stop, compared to a distance of 4 feet for a drunk driver, also according to the Virginia Tech study.

Many state and federal legislators have decided to take action against this problem. In Michigan, it is against the law for drivers to read, write or send text messages while they drive. Specifically, House Bill 4394 states "a person shall not read, manually type, or send a text message on a wireless 2-way communication device that is located in the person's hand or . . . lap . . . while operating a motor vehicle that is moving on a highway or street in this state." Drivers who violate the law will receive a \$100 fine for the first offense, a \$200 fine for subsequent violations and points on their driving records.

The U.S. Department of Transportation (DOT) while partnering with the Occupational Safety and Health Administration (OSHA) announced a rule that commercial bus and truck drivers will be prohibited from sending text messages while driving, and train operators will be barred from using cell phones and other electronic devices while on the job.

Within the DOT, the Federal Motor Carrier Safety Administration (FMCSA) has prepared a final rule that will allow the FMCSA to fine drivers up to \$2,750 and motor carriers up to \$11,000 for violations. Additionally, states would be required to disqualify commercial licenses for 60 days for drivers who violate the rule twice within three years and 120 days for drivers who violate the rule three times within three years.

Secretary of Labor Hilda Solis stated the reasoning: "OSHA is clear, employers must provide a workplace free of serious recognized hazards. It is imperative that employers eliminate financial incentives that encourage workers to text while driving."

So, what does this mean for you? It means that you may be liable if one of your employees sends a work-related text message or e-mail while driving. In Michigan, an employer may be held liable for the negligence of its employees, agents and contractors – even when the employer did not act negligently. Generally, it applies when an employee is acting within the scope of employment or for the benefit of the employer.

So, what can you do? You can update your policy to specifically address texting and e-mailing while driving and warn employees of its dangers. While it may be easier or more convenient to allow employees to continue to text and drive at the same time, it is a better practice to put an end to it – before an accident occurs.