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PRACTICE AREAS

Workers Compensation

Personal Injury

Motor Vehicle Accidents

Wrongful Death

Distracted Driving: Curtailing the Use of Hand Held Cellular Devices While Driving

The number of car accidents caused by distracted drivers is steadily rising, and the consequences are devastating, resulting in serious physical injuries and even death. Drivers are prone to many distractions—eating, grooming, and tending to other passengers—but of recent concern is the distraction caused by cell phones and other portable electronic devices. In this age of multitasking, drivers are using cell phones to talk and text while driving, risking their own safety and that of their passengers and other drivers. A collision can occur in the split second it takes to look away from the road, take the hand off the wheel, and quickly read a text or make a call. Findings by the National Highway Traffic Safety Administration show that in 2008, more than 500,000 people were injured and 6,000 died in car accidents involving a distracted driver, and that an estimated 800,000 cars are driven by someone using a hand held cell phone at any given time of the day. These statistics clearly indicate that enforced legislation on the use of hand held cellular devices is necessary.

Legislation has been introduced in many states to restrict the use of hand held electronic devices while driving, with a particular focus on encouraging hands free devices and prohibiting communication via text messages while driving. The legislation, however, is not being met with overwhelming approval. To date, only eight states have laws prohibiting the use of hand held cell phones while driving and 30 states have laws forbidding texting while driving.

Illinois amended the Illinois Vehicle Code in 2009 by prohibiting the use of hand held electronic communication devices to send, compose, or read electronic messages (which includes texts, e-mails, instant messages, and internet surfing) unless the car is parked or stopped in traffic. Legislation to ban talking on hand held cell phones while driving, however, has not been as successful. A statewide ban on hand held cell phones while driving applies only in school and construction zones, to bus drivers transporting passengers, and to drivers under the age of 19. There is no general prohibition applying to all drivers, and only a few communities, including Chicago, have such ordinances in effect. The Chicago ordinance bans the use of hand held cellular and wireless devices by drivers unless the car is parked or unless a hands free device is used, with certain exceptions for law enforcement officers and emergencies. A violation of the



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Chicago ordinance incurs a \$100 fine, with the imposition of an additional fine of up to \$500 if the violation occurred at the time of a collision.

Opposition to the legislation has largely centered on the difficulty of enforcement and the possibility of selective enforcement, arguments similar to those made during the initial introduction of legislation mandating seatbelt use. Today, however, laws mandating seatbelt use are nationwide and have been enforced to the point that most people routinely fasten their seatbelts when driving in a car, but not for fear of getting a ticket for not wearing one. Rather, conformity to the laws is due to the awareness that use of a seatbelt in a collision can prevent serious injuries and save lives. The legislation seemed extreme at the outset, but it worked to protect the safety of drivers and passengers involved in collisions. The same effort to create the public awareness and legislation that has caused a drastic increase in seatbelt use is currently being applied to decrease the use of hand held electronic devices while driving, with the hope that awareness and enforcement will reduce the incidence of accidents caused by distracted drivers. Most notable in their efforts to raise public awareness about the dangers of distracted driving are the websites www.distraction.gov and www.focus.gov, both of which seek to educate the public about the dangers of distracted driving.

"Click it or ticket," the slogan popularized in the nationwide effort to enact and enforce legislation mandating seatbelt use, has paved the way for a new slogan, which has already captured the campaigns in some states to reduce the dangers of using hand held cellular devices while driving: "Phone in one hand. Ticket in the other." As use of the slogan becomes more widespread, perhaps we will begin to activate our hands free devices and set our phones down shortly after fastening our seatbelts, to ensure that we can drive safely and keep our focus on the road.

The Law Office of Howard Ankin practices personal injury and workers compensation in Chicago and throughout the state of Illinois.