



LABOR & EMPLOYMENT DEPARTMENT

ALERT

AWTTW*:

OSHA TARGETS EMPLOYERS ON TEXTING WHILE DRIVING

By Steven K. Ludwig

- Q. What's worse for an employer than having an employee involved in a serious auto accident caused by distracted driving related to texting on the job?
- A. Coping with the liability **and** then being fined by the Occupational Safety and Health Administration (OSHA) for having failed to adopt and communicate a policy to educate employees of the risks and prohibit certain activities that result in distracted driving.

Since the leading cause of worker fatalities is motor vehicle crashes, OSHA has announced a Distracted Driving Initiative and is intent upon flexing its muscles against unfortunate employers that have not modified their policies before being caught in OSHA's dragnet.

Employers must prohibit any work policy or practice that requires or encourages workers to text while driving, according to OSHA. In OSHA's view, employer that provide financial or other incentives that encourage workers to text while driving – or organize work so that doing so is a practical necessity – violate the law. In OSHA's view, an employer that fails to provide a safe workplace free of the recognized hazard of texting while driving exposes itself to enforcement action.

If OSHA receives a credible complaint, it will investigate and issue citations and penalties to end the practice. So it would be prudent for employers to update or issue a cell phone/electronic device usage policy to get ahead of this juggernaut.

HTH.OO.

For more information about the information in this alert, please contact Steven K. Ludwig at 215.299.2164 or sludwig@foxrothschild.com or any member of Fox Rothschild's Labor & Employment Department.

* A word to the wise, in text lingo.

