

Litigation Alert

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Texting While Driving: Know the Law

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When seventeen-year-old Aaron Deveau slammed his car head-first into oncoming traffic, his eyes weren't on the road. They were focused on a text message — one of 193 texts he sent that day. A few moments of inattention resulted in the death of a father of three, as well as severe injuries to the deceased's passenger.

In a case garnering national attention, Deveau recently became the first person to be convicted under a new Massachusetts law imposing harsh criminal penalties on anyone who causes injury or property damage as a result of driving negligently while texting. Deveau was convicted of both vehicular homicide and negligent operation and was sentenced to two-and-a-half years in prison. Deveau also won't be getting in the driver's seat anytime soon: his license has been suspended for fifteen years.

Texting While Driving — Civil and Criminal Penalties

In September 2010, the Massachusetts Legislature passed new laws aiming to keep drivers' eyes off their mobile devices. The laws impose civil fines and license suspensions on drivers who text or even read emails while driving, and criminal penalties on drivers who cause damage or injury while doing so. Key provisions include:

- A \$100 fine and 60-day license suspension for drivers under 18 who use *any* mobile device or telephone — including hands-free models — while driving.
- A \$100 fine for drivers over 18 who access the Internet or type or read text messages or emails while driving, with fines escalating to \$250 and \$500 for second and third offenses.
- Imprisonment for not less than two weeks, and up to two years, for drivers who cause injury or property damage due to negligent driving while sending or reading texts or emails.

Law enforcement is on the lookout.

Driving while texting or emailing is a primary offense in Massachusetts, meaning that law enforcement can issue a citation when they see a driver texting or reading on a mobile device, even if the driver has not committed any other infractions. The same goes for minor drivers using cell phones.

Police officers are on the lookout for inattentive drivers. All but eleven states have laws targeting distracted driving, and Secretary of Transportation Ray LaHood has publicized his commitment to greater enforcement nationwide. Aaron Deveau's highly publicized case serves as a clear warning to the public that the new laws will be enforced vigorously. As we head into the summer driving season, expect officers to give heightened attention to enforcement of these laws.

1 in 3 teens admits to texting while driving.

In a recent CDC survey of more than 15,000 high school students, nearly one-third of the teens admitted to sending text messages or emails while driving. While the judge who sentenced Deveau wasn't aware of this figure

— the CDC's study was released one day later — he was no doubt concerned about an epidemic of inattention among young drivers. In fact, he specifically cited the need to send a message of deterrence as a key factor in his decision to impose the maximum sentences.

Interestingly, the CDC study also found that rates of driving under the influence among teenagers had noticeably decreased over the past two decades. Thus, it appears that teenagers don't view texting while driving as a danger akin to drunk driving. Or, they simply can't resist the impulse to stay constantly connected.

Warn your teenager drivers, and put the phone away.

Drivers who are under 18 may not use a cell phone or mobile device while driving, period. Parents who lend their teenagers their cars, or buy them their own, should make sure their young drivers are aware of the law. Parents might instruct their teens to turn off their phones before starting the ignition, or place them out of sight and reach — in the glove compartment or the trunk.

The temptation to check text messages and emails while driving isn't limited to teens, though. Busy adults rely on mobile devices to work remotely and while on the move. Be aware that although a red light or traffic jam may give you a free minute or two to check your inbox, if a police officer sees you, you can be pulled over and fined, even if your vehicle is stationary. Adult drivers who must conduct business or attend to personal matters are still free to make phone calls, however. Just make sure to keep one hand on the wheel and your attention on the road.

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