



y r u texting if u r driving?

If you thought “texting” –sending text messages via a wireless device – while driving is a dangerous habit of teens, well, you’d be right – but only partially. While young drivers are the most common offenders, older drivers are becoming more tech-savvy, and getting in on the act. In 2006 alone, more than 260 million text messages were sent in the United States, and unfortunately, accident statistics show, many of those messages were sent from behind the wheel. A January 2007 study conducted by Nationwide Insurance Co. found that 37% of young drivers (ages 18-27) own up to texting while driving. Also significant, however, is that 19% of all drivers admit to this dangerous practice. That’s nearly one in five drivers! Young drivers seem to be getting most of the attention due to highly publicized court cases, yet all of us know busy professionals, addicted to their BlackBerry, who may be easily tempted to check and answer email in traffic.

Texting while driving – and cell phone use in general – has been a legislative hot topic for the last five years, with several states mandating the use of hands-free devices. Driving while talking on a cell phone has received the most attention, but more and more, lawmakers are targeting the more dangerous practice of texting. Most recently, Washington state passed a law specifically outlawing texting while driving, while other states are crafting legislation around the more general topic of “driving while distracted,” which can include talking on a cell phone, texting, working on a laptop, disciplining children in the back seat, applying makeup, and even reading the newspaper! In all, according to the National Conference of State Legislatures, 38 states are currently debating 133 bills that would regulate the use of wireless devices while driving, in some manner or other.

Opponents of the more specific legislation targeting cell phone use and texting – in particular lobbyists for the wireless technology industry – tend to favor the more general category of “driving while distracted,” claiming many drivers engage in equally unsafe practices that fall outside the realm of cell phone use. As we all know, this is true. However, it’s harder to enforce the more generally categorized law, because “distraction” is defined differently by different people, whereas cell phone usage can be quickly documented and used as evidence.

Meanwhile, many supporters believe current laws don’t go far enough. Specifically, most legislation makes talking on the phone and texting a “secondary offense,” meaning a driver can only be cited if he or she is pulled over for another infraction. Other supporters

think the fines aren't stiff enough; while fines range from \$100-\$250, some believe the amount is not sufficient to deter this reckless practice. Still others cite research that proves the act of talking on the phone (whether hand-held or hands-free) actually causes the distraction – and call for a ban on the use of cell phones while driving all together.

Nevertheless, all of this interest should have employers on their toes. If it hasn't already, your company should issue a wireless policy requiring employees to pull off the road before conducting business on a cell phone or wireless device. A cell phone policy is especially important if your company issues cell phones, PDAs, or laptop computers to employees to use for company business while away from the office – and in particular to companies with business fleets. Recent court cases have upheld employer liability when it can be proven (via wireless records) that an employee was on the phone conducting company business at the time of a crash – and employers have had to pay substantial damages. A March 2008 report by the Insurance Information Institute states:

Although only a handful of high-profile cases have gone to court, employers are still concerned that they might be held liable for accidents caused by their employees while driving and conducting work-related conversations on cell phones. Under the doctrine of vicarious responsibility, employers may be held legally accountable for the negligent acts of employees committed in the course of employment. Employers may also be found negligent if they fail to put in place a policy for the safe use of cell phones.

While there are a lot of “gray areas” around the use of wireless technology, two things are certain: Texting or talking on a cell phone while driving is dangerous – just don't do it! And, the debate over how to legislate the use of wireless technology will continue for quite some time.