

# Safety News



## States Ban Cell-Phone Use While Driving: Are Your Policies Ready?

California has now joined other states in banning the use of handheld cell phones while driving, and other states are likely to follow. And when employees' use of the phones causes an accident, employers are getting sued, too. Are your policies ready for the onslaught?

In politics, California is known as "The Big Enchilada." It's the most populous of states, more so than even many independent nations, and the influence it has on American society is just as massive.

That's why employers everywhere in the United States should take note that California has joined New York, New Jersey, and Connecticut, as well as the District of Columbia, in banning the use of handheld cell phones while driving.

As of July 1, and with a few narrow exceptions, anyone with a cell to his or her ear while moving down the road will be subject to a \$20 fine for the first offense and \$50 for those thereafter. Most drivers are still allowed to talk on hands-free cell phones, although those under 18 can't even do that. What's more, the law makes cell-phone use while driving a primary offense. That means the police can stop you for that purpose alone.

California legislators saw considerable reason to act. National Highway Safety Administration studies have shown about a million drivers on the road are talking on their cells at any one time. A Harvard University study showed 1.5 million cell-using drivers involved in accidents, with 2,600 deaths.

The real culprit, say road safety experts, is distraction, which can also come from eating, tuning a radio, or chatting with passengers while driving. But it's cell phones that have come under particular legal attack. And employers are wise to take note.

Why employers? Because, in a number of cell-use-related accidents, employers of the offending drivers have been sued, right along with the drivers, when those motorists have been on company business, but even sometimes, when not. Some examples assembled by the law firm Powell Goldstein LLP:

- *A Smith Barney employee dropped his cell while driving. In trying to pick it up, he ran a red light and killed a father of three. The family sued the firm even though the worker was neither driving on business nor using a company phone. Smith Barney settled for \$500,000.*
- *A salesman for a lumber wholesaler struck and severely injured a woman while driving and talking on a cell. The company settled for \$16.2 million.*
- *An attorney, talking business on her cell, struck and killed a 15-year-old girl. The firm settled for an undisclosed amount, and the attorney herself was ordered to pay \$2 million.*

### What's the bottom line on all this?

It's probable that since large, influential states are banning cell use while driving, other states and localities will get on the "ban-wagon." And it's also likely that the trend toward suing both driver and employer when there's any chance of collecting from the organization will continue. Put together, the fact that your driver has committed an illegal act will make it that much harder for you to win any action brought against you.

### What's the answer?

"In light of state legislation and potential liability to employers, companies should consider adopting a cell phone policy that prohibits cell phone use while driving," say the attorneys of Powell Goldstein.

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