



HRW Legal Alert: No Texting While Driving Law!

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Massachusetts Passes Safe Driving Law - Effective October 2, 2010

Dear Valued Clients and Friends of Hirsch Roberts Weinstein LLP:

On July 2, 2010, Massachusetts passed the new "Safe Driving Law" (House No. 4795), which makes it illegal to text, IM, send or read e-mail while driving and which will go into effect on October 2, 2010. Below, we summarize the key points of the law, as well as some things that employers should consider regarding how the new law may apply to the workplace.

Summary of Most Relevant Workplace Related Changes:

- The crux of the law prohibits persons from using anything which may interfere with or impede the proper operation of a vehicle.
- All drivers are prohibited from using a mobile phone or other handheld device capable of accessing the Internet to manually compose, send or read an electronic message while operating a motor vehicle even while stopped at a red light. However, drivers may use a mobile phone or 2-way radio to speak on the phone, as long as one hand remains on the wheel at all times.
- Drivers under 18 years of age are prohibited from using a mobile telephone, hands-free mobile telephone or mobile electronic device while operating a motor vehicle on a public way. (This prohibition is generally not applicable to limited emergency situations and when the operator is parked outside of a public way).¹ Fines and license suspension penalties apply to violations.
- Operators of public transportation vehicles are prohibited from using a mobile telephone or other mobile electronic devices unless the use is related to the

¹ Emergencies are defined as situations where: (i) the motor vehicle is disabled; (ii) medical attention or assistance is required; (iii) police intervention, fire department or other emergency service is necessary for the personal safety of the operator or a passenger; or (iv) a disabled vehicle or an accident is present in the public way.

performance of official duties and consistent with written applicable guidelines. Fines apply for violations, as do exceptions for limited emergency use.

- Health care providers² and law enforcement officers now have the authority to request a medical evaluation of a driver's ability to safely operate a motor vehicle where they have reasonable cause to believe that the driver is not physically or medically capable of safe operation of a motor vehicle, or the driver has a cognitive or functional impairment that affects the ability to safely operate a motor vehicle. However, such requests for evaluation (which are made to the Registrar) may not be made solely on the basis of age. The reports of health care providers and law enforcement officers are treated as confidential and health care providers and law enforcement officers are immune from civil liability for their decisions to make a report, or to not make a report.
- Three or more surchargeable incidents within 24 months may require the driver to complete a driver education program or be subject to license suspension.

Things to consider in the workplace in the context of the new Safe Driving Law:

- Employers should update their safe driving policy to include the highlights of this new safe driving law. Where an employer does business in multiple states, we recommend employers consider adopting strict workplace driving policies in the interest of safety even if certain provisions are not required by some states' laws.
- Employers of employees 18 and under that have driving duties should require these minor employees to review and sign a safe driving policy or a document agreeing not to use cell phones or other hand-held devices while driving, except for limited emergency reasons and only when parked outside of a public way.
- Employers may wish to consider including hands free equipment in company vehicles or providing financial assistance to employees who choose to include this equipment in their own vehicles used for work related travel.

² Under the new law, health care providers are defined to include registered nurses, licensed practical nurses, physicians, physician assistants, psychologists, occupational therapists, optometrists, ophthalmologists or podiatrists.