



Three New Louisiana Laws Limit Use of Cell Phones in Vehicles

Insights

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On Wednesday, July 2, 2008, Louisiana Governor Bobby Jindal signed three different bills limiting the use of cell phones and other wireless devices by the driver of a motor vehicle. Two of the bills target inexperienced drivers and broadly prohibit the use of cell phones. The other targets all drivers, but applies only to using devices for sending or reading text messages. Taken together, these laws create some significant restrictions on drivers that will apply to employees driving on company business.

Emailing/Texting Now Prohibited

The most expansive of the new laws is targeted toward forms of electronic text such as an email, instant message, or text message. The law prohibits a driver from using any wireless communications device to "write, send, or read a text based communication" while operating a motor vehicle. Wireless communications devices include cell phones, PDAs, and laptop computers. Numerous current business uses will be prohibited by this law, such as reading emails on a BlackBerry or other similar device. Likewise, sending a simple "running late" text message to a client while driving to the appointment is forbidden.

The law contains exceptions for emergency personnel in the performance of their duties, doctors communicating with their hospital, clinic, or office for the purpose of providing medical treatment, and for anyone reporting illegal activity, summoning emergency aid, or preventing injury to person or property. It also excludes using global positioning systems and permanently affixed dispatcher to operator devices in taxis and other transit for hire vehicles.

Cell Phone Use Curtailed

The second law prohibits all use of cellular telephones by any driver regardless of age who has held a Louisiana driver's license for less than one year unless they were previously licensed to drive in another jurisdiction. It contains exceptions for emergency personnel performing their duties, anyone contacting emergency personnel, and when in a parked vehicle. It also excludes CB radios, commercial radios, and devices with a push-to-talk function from coverage.

The third law prohibits drivers seventeen years of age and younger from using any wireless communication device for any reason, excluding CBs, commercial radios, and devices with a push-to-talk function. It also excepts using the devices for reporting emergencies, where personal safety is in jeopardy, reporting a criminal act against a third-party, or using the device in a parked vehicle.

While minors sixteen and under cannot drive on public roads as part of their jobs, seventeen year olds can drive for their employer under limited circumstances. As such, employers with employees in this age group need to be aware of these restrictions.

All the laws are enforced as "secondary violations," which means a driver can only be cited for a violation of the laws if he or she is stopped for a violation of a primary violation such as speeding. The penalties are fines that are doubled in the case of a driver violating the law causing an accident. The more significant aspect of these laws is their ability to create standards of care that can be applied to employers in lawsuits stemming from those accidents.

What Should Employers Do?

There are several steps an employer should take in response to these laws. First and foremost, it should communicate these restrictions to its employees. Employers should advise employees that if they are trying to communicate with an employee who is known to be behind the wheel of a car not to do so through email. Rather, calling them and leaving a voice mail is preferred. This will eliminate the temptation for a driver to reach for his BlackBerry to see the message that just appeared. As part of this process, employers should also revise cell phone use policies to ensure the company's policy is consistent with the new laws.