New Nevada Law Limits Cell Phone Use While Driving

Insights
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Nevada has now joined the ranks of several other states that limit cell phone usage while driving. The new law, effective October 1, 2011, but not to be enforced until January 1, 2012, generally makes it unlawful to talk or text on a cell phone while driving without the use of a hands-free device. Here are the details.

What The Law Prohibits
The new law makes it unlawful to type or read text messages, emails, or instant messages while driving a vehicle. It also makes it unlawful to make or receive phone calls while driving unless the individual uses a hands-free device. There appears to be an exception for entering in someone's phone number to initiate the call, but the law's language is not entirely clear, and there will likely be some disagreement over how it is enforced.

There are also exceptions to cover emergency situations and for police officers, firefighters, and ambulance drivers. Also, for those who have cars from the future, there is an exception "if the motor vehicle is driven autonomously through the use of artificial-intelligence software."

Timing
The law is effective October 1, 2011, but no citations will be given for violating the law until January 1, 2012. For a violation between October 1 and January 1, the police are only supposed to give a warning. Note, however, that â€“ as with any other traffic stop â€“ being pulled over for violating the new cell phone law, even during the non-ticketing phase, could lead to being ticketed for other violations.

Advice For Employers
When an employee is driving as part of the job and causes an accident, there is always the potential for employer liability. If the injured party can prove that the employee was negligent, and was acting within the course and scope of employment, the employer will be vicariously liable for the injury. This has always been the case, new law or not.

But, if the employee violates a statute when injuring someone, then proof of negligence is virtually automatic. For example, before the new cell phone law, an injured party still had to prove the employee was acting negligently by texting on their cell phone while driving. The new law makes proving negligence easier because the employee violated the statute (unless one of the exceptions

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apply). Therefore, after October 1, if an employee is texting while driving and injures someone, liability is very likely.

The best way to protect your company is to make sure that your employee handbook includes a policy specifically prohibiting employees from doing the things covered by the new law. This will not only help cut down on accidents, it can also provide a defense in the event of a lawsuit. A company might argue that the employee was not acting within the course and scope of employment because the employer's policy prohibits that activity. That could help avoid vicarious liability.

For further advice about how this law affects your business, contact any attorney in the Las Vegas office of Fisher Phillips at 702.252.3131.

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