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Law Passed Banning Hand-Held Cell Phone Use for Commercial Truckers Nationwide

As you may be aware, just recently, a final ruling was made by the Federal Motor Carrier Safety Administration (FMCSA) regarding cell phone use by commercial truckers. Those who operate commercial trucks and buses will no longer be permitted to use any hand-held cell phones while navigating their vehicles on the nation's roadways. While there has been much debate over this issue in the past months, the final ruling has been issued by the FMCSA.

The new law will take effect **January 3, 2012**, one month after the official statement and paperwork was passed by the FMCSA. No driver will be allowed to hold a cell phone in their hand while driving with the other, and, if they break the rule, they can face disciplinary actions. Offenses will count as traffic violations and several accrued infractions can lead to a commercial driving license being revoked.

Drivers who violate the restriction will face federal civil penalties of up to \$2,750 for each offense and disqualification from operating a commercial motor vehicle for multiple offenses. States will suspend a driver's commercial driver's license after two or more serious traffic violations. Commercial truck and bus companies that allow their drivers to use hand-held cell phones while driving will face a maximum penalty of \$11,000. This ban follows the September 2010 ban regarding texting while operating a commercial truck or bus.

Some believe this new law was prompted by the tractor trailer accident here in Kentucky, near Munfordville, on March 26, 2010, wherein a collision occurred with a 15-passenger van resulting in 10 fatalities. According to the NTSB's investigation, the truck driver had used his mobile phone for calls and text messages a total of 69 times while driving during the preceding 24-hour period prior to the accident. Due to this accident and others, cell phone distraction and regulation has been a hot topic in the trucking industry.

With a firm rule now on the books holding employers accountable for their drivers' actions, it will likely be easier for parties injured in a distracted-driver accident to attach negligence liability to any company that does not implement a documentable compliance program for its drivers. Therefore, trucking companies should take immediate action, with revisions to training programs and policies, to heighten awareness of the new law.

Here are some suggestions to avoid violation of the new law and to mitigate potential claims:

- Invest in hands-free devices for your truck drivers or require drivers to purchase hands-free devices for their mobile phones;
- Update your employee handbook and safety policies to prohibit truck drivers from using hand-held cell phones while operating commercial vehicles and make a written recommendation that truck drivers pull over to make telephone calls; and
- Offer training on the new law and changes to company policies and require truck drivers to sign acknowledgments regarding the training and changes to the policies.

For additional information on legal issues in the Trucking Industry, please contact TAMMY MEADE ENSSLIN at 859-963-9049.

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