

Don't dial and drive

It's a dangerous combination. **Interviewed by Elizabeth Grace Saunders**

Forget a sunroof, the latest must-have accessory for most drivers is a cell phone attached to their ear. Although this trend may seem positive for companies, in terms of increased productivity and connectivity, driving and talking can pose serious problems in terms of risk and liability.

"From an insurance and risk management standpoint, cell phone use is a problem for business owners," says John Gumbrecht, senior risk control representative at Westfield Insurance. "Cell phone use distracts drivers from operating their vehicles. Just a couple of seconds of distraction can cause an accident."

Smart Business spoke with Gumbrecht about company liability for cell phone use and how to minimize this risk.

Can companies be held liable for accidents that occur while employees are driving and talking on a cell phone?

From an insurance perspective, businesses can definitely be held liable if the accident occurs in a company vehicle while the employee is using a cell phone to talk or text. The incident damages could include the cost of repair to the vehicle, medical care for the employee and payment for third-party expenses, such as damage to vehicles, people and property. The price for these accidents can reach six figures, and, most tragically, they put people's lives and health in danger.

Does it matter if the phone conversation at the time of the accident was work-related?

From an insurance standpoint, if the accident happens while the employee operates a company vehicle, it doesn't matter whether the conversation concerns professional or personal matters. Businesses would still retain liability for the actions of their employees while operating company property. Gray areas where a company may or may not incur the initial liability for an accident include the personal use of a business car or the business use of a personal vehicle. In these situations, it's best for companies to err on the side of caution, in terms of cell phone use, expectations and policies.

Another important point to consider is



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whether it is truly beneficial for employees to conduct business conversations or make professional decisions while they operate a vehicle. Drivers can't apply the clarity and focus necessary for quality decision-making while they attempt to navigate through rush hour or find their way to a new destination.

Are hands-free sets any safer than hand-held phones?

Many companies have cell phone use policies that state drivers can only use hands-free cell phones. But these policies fail to address the main reason for accidents: distraction. A lack of mental concentration can happen whether people hold a phone to their ear and have one hand on the wheel, or they talk at a speaker and drive with both hands. The point is cell phone use means their minds are focusing on issues other than driving.

What should business owners do to minimize risk from cell phone-related accidents and the resulting liability?

The single most important action companies can take is to establish a sound cell

phone use policy. This policy should state that employees should not use cell phones under any circumstances while they drive, regardless of whether the cell phones have hands-free devices. By developing a strong 'no cell phone use' policy and communicating it to the employees, business owners minimize their risk in the event of a cell-phone-related accident and, most importantly, encourage safer drivers.

How can companies effectively implement their cell phone use policy?

Employers need to address the mentality that answering a cell phone call takes precedence over safety. Employees need to understand they can let voice mail answer a call. If individuals think the call needs an answer in the near future, they can pull over to a safe spot and return the phone call.

When businesses conduct company training, they not only should talk to the people who drive work vehicles, but also the employees in the office who work with them. Oftentimes, drivers receive the most calls from people within their own company. Everyone in the company should know to leave messages when their colleagues don't answer because they're on the road. The call can be returned when drivers reach their destination.

Businesses need to document their policy, communicate management expectations and implement an accountability system. This evaluation could include bonuses for safe driving, and it also could mean that employees incur some of the liability for the accident deductible if they violate the established cell phone policy.

Business owners should touch base with their insurance carrier and risk control personnel who can assist them with establishing a program and training drivers. Employers should also check with legal counsel and review local and state laws regarding cell phone use as they develop their policy. <<

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