



## New Rule Prohibits CMV Drivers from Using Cell Phones or Texting While Driving

by Sarah E. Pawlicki and Thomas A. Dixon

Employers of commercial motor vehicle (CMV) drivers should be aware that effective January 3, 2012, new Department of Transportation regulations prohibit cell phone use and texting by CMV drivers while driving. (CB radios are excluded from this rule.) Use of a cell phone is defined as: 1) using at least one hand to hold a cell phone, 2) needing to push more than one button to dial or answer a cell phone, 3) reaching for a cell phone in such a manner that the driver is no longer seated or properly restrained by a seatbelt. Therefore, hands-free devices that do not require pushing more than one button are not included in the definition of cell phone under this rule. Texting while driving also is prohibited under the rule. Texting does not include inputting or reading information from a GPS system or using a system that is "capable of performing multiple functions" (such as fleet management systems) unless that use is otherwise prohibited. The regulation prohibits the

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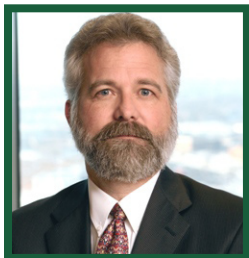
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*About the photo:* Picture of the Ohio Statehouse

use of cell phones and texting while driving (even if the CMV is stopped because of traffic) and requires CMV drivers to move the vehicle off of the road and stop in a safe location before using hand-held cell phones or texting. Any driver that is in violation of the rule will be suspended from driving for a period of 60 days after two convictions under the rule in a three year period and after the third or subsequent violation will be suspended for 120 days. Companies who employ CMV drivers should be aware of this new rule and update their policies accordingly.



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*Mr. Dixon is a member of the Firm. He practices in the areas of management labor and employment law. Ms. Pawlicki is a member. She represents employers in employment discrimination and workers' compensation matters before administrative agencies and employment litigation in federal and Ohio courts. Additionally she has a Senior Professional in Human Resources certification. Both attorneys work in our Toledo office (419-241-6000).*



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