

E-Update

by Stephanie Montgomery

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Ban on Cell Phone Use while Driving Starts in October



The Ontario government has enacted legislation that will prohibit the use of cell phones, Blackberrys, i-Phones and similar devices to speak, dial, text or email while driving. Talking on a cell phone will continue to be allowed while driving provided that the driver opts to use the hands-free mode. It will also be permissible to press buttons on head sets, ear buds or attached to clothing in order to engage a hands-free mode so long as the device can be seen by the driver with only a quick glance and can be easily reached without having to adjust driving position. Once this law takes effect, the only time it will be permissible for a driver to pick up a hand held telephone to make a call, to email or to text while in a car or truck will be when the car is off the road and the car is neither moving nor impeding traffic.

Disclaimer: Stephanie Montgomery practises in the area of commercial litigation with an emphasis on employment law and human rights. E-Update is intended to provide information to employers on subjects of interest and importance. The opinions expressed are not intended as legal advice. Before acting on any information contained in this E-Update, readers should obtain legal advice with respect to their own particular circumstances.

Should you need to discuss an employment related matter, please contact Stephanie Montgomery by e-mail or by telephone at (519) 672-9330. If corresponding by e-mail, be sure to include your name, your telephone number and a brief message.

Exemptions to the rule exist for drivers of ambulances or fire department or police vehicles. Similarly calls by drivers to these emergency personnel are exempt from the general restriction.

The new legislation will also prohibit the use of a display screen on a television, computer or similar device like a laptop or DVD player while driving. Global Positioning Systems (known as GPS devices) continue to be permitted to be used while driving. The GPS device must be securely mounted to the vehicle so that it does not move while driving. Similar to the cell phone use exemptions, law enforcement officers and fire fighters are exempt from the display device ban and continue to be allowed to drive with a display screen visible to them. Certain commercial motor vehicles like courier delivery vehicles, tow trucks and certain licensed taxicabs and limousines are also permitted to use a display screen while driving. Those industries that use computerized display devices to communicate with a dispatcher or control centre, including public utilities workers, electricity workers and road authority workers may continue to use these devices as well. Finally, those drivers who perform certain evaluation and monitoring functions relating to road, radio and telecommunications work and automobile technicians who are test driving vehicles continue to be permitted to use these display devices.

These changes in legislation are relevant to those employers whose employees use mobile technology at work. While this legislation does not currently impose liability on employers regarding mobile technology use by employees, in other jurisdictions where similar laws exist to ban cell phone and display device use, employers have been found liable for damages in certain cases.

The Ontario government has announced that these rules will go into effect on October 26, 2009. Police will not start issuing tickets for violations until February 1, 2010. Please contact Stephanie Montgomery for further information as to what steps employers should take to ensure that appropriate workplace policies are in place in advance of this new law taking effect.