

Should Trucking Companies Ban or Limit Cellphone Use

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A controversial topic at many industry functions I have attended is whether trucking companies should ban or limit cellphone use by their drivers while behind the wheel of a commercial motor vehicle. This controversy was further illustrated in a recent article by David Wren entitled [Lawsuit Settlement Could Lead to More Cellphone Bans by Trucking Firms](#). Click here to view [The Post and Courier](#) article. The article discusses a settlement agreement reached in a personal injury lawsuit, where the personal injury plaintiffs alleged the commercial vehicle operator was distracted because he was using a hands-free device to talk on his phone at the time of the crash. The driver's employer had a policy that drivers could not use their phones for a period longer than two minutes, but evidence showed the policy was not enforced. As part of the settlement, the company agreed to ban its drivers from using the devices while their trucks are on the road.

We can all agree that it is in everyone's best interest to have the safest roads possible. Ideally, this would mean drivers are not distracted by cellphones, GPS devices, Starbucks, McDonalds, or in my case, a screaming toddler in the back seat who just dropped her favorite baby doll. A world free of distractions, however, is not reality, nor is it the law. Missouri does not ban cellphone use while driving, and while Illinois requires hands-free devices, it is completely legal to carry on hours long conversations. Similarly, the Federal Motor Carrier Association ("FMCSA") has banned hand-held phone use by drivers, but does allow hands-free use. This brings me to my point. A commercial vehicle operator complying with FMCSA regulations by using a hands-free device while driving has done nothing wrong, and is operating in compliance with the standard of care required of all drivers. If a trucking company wants to ban cellphone use by its drivers, good for them, but a company who allows its operators to use hands-free devices is **NOT** negligent if one of its drivers is involved in an accident while on the phone.

Contrary to what any personal injury attorney would have you believe, the driver of a commercial vehicle is held to the same standard of care as the rest of the motoring public. This means that they are allowed to talk to family and friends on their phones as long as they are using a hands-free device. Similarly, a company may establish a policy that its drivers are not to use even hands-free devices, but again even this is not a basis for liability under the law if a violating driver is involved in an accident. While it would be a violation of company policy that could lead to discipline and/or termination, it alone is **NOT** enough to establish negligence.

My advice to my clients and to the trucking companies in general is to figure out what works for your company. If you decide a limitation or ban on cellphone use is the way to go, enforce it. Drive safely this holiday season.