



Fatalities from Distracted Driving Increase

Motor vehicle accidents that result in fatalities are on the rise in New Jersey. According to the New Jersey State Police Fatal Accident Investigation Unit, there were 625 fatalities in 2017. This includes drivers, passengers, cyclists, and pedestrians. The most common contributing circumstance for these fatalities is reported to be driver inattention.ⁱ Driver inattention includes distractions that may cause the driver to lose focus on the task at hand. One common type of distraction is the illegal use of a cellular phone or electronic device. Distracted driving is a leading cause of accidents that lead to serious bodily injury or death. The New Jersey State Legislature has recognized this challenge and responded by passing N.J.S.A. 2C:11-5 and N.J.S.A. 2C:12-1. These laws establish that the illegal use of a cell phone while driving is recklessness under the vehicular homicide and assault by auto statutes. This law makes it easier to obtain convictions for vehicular homicide or assault by auto against a person who illegally uses a cell phone while driving and, as a result, kills or injures someone.

N.J.S.A.39:4-97.3 prohibits the use of handheld electronic devices (e.g., cellular telephones) while driving a motor vehicle on any public road or highway. Using a hand-held cellular telephone or texting device is a primary offense. Law enforcement may stop and cite a motorist specifically for these actions. Motorists are permitted to use a hands-free cellular telephone if it does not interfere with any federally required safety equipment or with the safe operation of the vehicle. Although the use of a hands-free cellular telephone is legal, it is strongly discouraged. A handheld cellular telephone may be used only in certain emergency situations, which include: fire, traffic accident, serious road hazard, medical emergency, or a hazardous material emergency. Motorists in the above-mentioned circumstances must keep one hand on the steering wheel while using a handheld device.ⁱⁱ

Public employees are not exempt from N.J.S.A. 39:4-97.

If a serious motor vehicle accident occurs that involves serious bodily injury and or death; accident investigators are trained on how to obtain information about cell phone usage. Metadata, phone call information, Wi-Fi connectivity, and text data can be obtained from a subscriber's cell phone carrier. This information will identify the date, time, and location of when the cell phone was being operated.

The consequences of illegally using a cell phone while operating a motor vehicle are serious. The Safety Director offers the following recommendations:

- Develop a policy on the use of cell phones that minimally complies with Federal and State Law.
- Further, consider prohibiting all non-emergency use of cell phones while operating any vehicle
- Identify the consequences
- Educate employees and provide strong policy guidance
- Lead by example and take enforcement action when personnel fail to follow the law or your organization's policies.

When developing your rules, look beyond the "driving" aspect and assess other work tasks that may be affected by an employee's use of a cell phone while working. Examples include, but are not limited to, Lifeguards, Flaggers, Public Works, Crossing Guards, Police, Fire, and EMS.

ⁱ New Jersey State Police, 2016 Fatal Motor Vehicle Crash Comparative Data Report For The State of New Jersey

ⁱⁱ New Jersey Motor Vehicle Commission, "The New Jersey Driver Manual." p. 78-79.
<https://driving-tests.org/new-jersey/nj-mvc-drivers-handbook-manual/>