

## Local Government Insurance Trust

# RISK MANAGEMENT BULLETIN

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### CELL PHONE POLICIES

#### *Introduction*

We frequently receive questions pertaining to Cell Phone Use Policies. The following information is not meant to be all-inclusive, but should assist LGIT Members in developing their own Cell Phone Use Policy.

The information provided is not prioritized and is provided from a Risk Management perspective. The information is not intended as a substitute for legal advice. Please consult with your legal counsel for further advice.

#### *Employer Liability*

Employers should be aware of the potential liability arising from providing employees with cell phones, or requiring, directly or indirectly, cell phone use as a necessary component of job performance.

A Cell Phone Use Policy should include specific procedures for all employees who may use or be required to use cell phones while driving. The policy should emphasize the dangers resulting from the use of cell phones while driving. Employees must be aware of associated dangers. The following guidelines should be considered in adopting any Cell Phone Use Policy.

- Develop and implement a motor vehicle and equipment cell phone use policy. The policy should clearly state any restrictions on the use of cell phones, and be communicated to all affected employees.
- Prepare a laminated card that outlines safety procedures, and distribute the card to all employees who have driving responsibilities.
- Obtain a written “Memorandum of Understanding” from each employee, which states that the policy will be followed at all times while the employee is operating a motor vehicle or other equipment in government service.
- Provide hand free devices, handsets, or microphones to assist drivers to operate vehicles or other equipment as safely as possible.

National Highway Traffic Safety Administration Report, Nov. 1997 available at [www.nhtsa.dot.gov/people/injury/research/wireless/#rep](http://www.nhtsa.dot.gov/people/injury/research/wireless/#rep). Also see Alisdair Cain & Mark Burris, Center for urban Transportation Research, College of Engineering, University of South Florida; Apr. 1999, “Investigation of the Use of Mobile Phones While Driving; Executive Summary”, available at [www.voicesofsafety.com](http://www.voicesofsafety.com); Materials by the Intelligent Transportation Society of America (US Dept. of Transportation) (ITSA.org), report of May 5, 2002; David Strayer, Frank Drews, Robert Albert and William Johnston, “Does Cell Phone Conversation Impair Driving Performance?”, Nov. 2001, Psychological Science.

*Sponsoring Organizations*



***National Safety Council Recommends***

Driving can be difficult enough even when you concentrate completely on the road, but driving while you dial a phone and balance it to your ear can be distracting and potentially dangerous. Car phones may be convenient for those who own them, but, if not used properly, drivers with car phones are a danger to themselves and everyone on the road.

The National Safety Council offers this safety information about cellular phones:

- When purchasing a car phone, consider type of phone and its ease of operation. The Council strongly suggests a cellular phone with hands free speakerphone option with a microphone installed in the sun visor directly above the driver's line of vision.
- The handset should be placed for the driver's maximum comfort and convenience by being easily accessible and allowing the driver to sit and drive normally. Every user should insist on a dealer demonstration of mobile phone use before and during a test drive.
- Once the motorist is ready to begin actual use of a cellular mobile phone, he or she should remember that safe driving is the priority. The driver should keep both hands on the steering wheel and eyes on the road, using the speakerphone and letting the handset stay in its cradle while the vehicle is in motion.
- Becoming familiar with how to use the phone, reading the user's manual and practicing using the different features are essential for safety.

Please see the Council's website, [www.nsc.org](http://www.nsc.org), for additional information.

***Using a Car Phone***

Mobile phone users should assess the traffic situation for placing or receiving calls, making sure they are fully aware of road and vehicle distractions. The safest method of calling is to dial numbers when stopped. Most phones allow the entry of numbers for calling at the user's convenience. Further, frequently called numbers can be stored within the phone's memory to minimize dialing while driving.

Research has shown that drivers engaged in cell phone conversations miss twice as many simulated traffic signals as when not on cell phones, and take longer to react to signals they do detect. (Strayer article, cited above.) The Council stresses that phone users should remember to obey all traffic signs and signals and observe posted speed limits. A motorist on the phone should drive in the slow traffic lane unless he/she decides to pull over to complete the call, which is especially important if notes have to be taken.

No motorist should try to write notes while driving. Allow calls to go into voice mail instead.

The Council emphasizes that driving safely must take precedent over phoning. When on the road, you should concentrate on safe and defensive driving, not on making phone calls.

***Conclusion***

The use of common sense and sound judgment is encouraged while operating a motor vehicle and, more particularly, when using a cellular telephone. This requires that employees be aware of where they are in

relation to traffic, pedestrian hazards, and relate this to safe use of in-vehicle technology.

Drivers must be aware of the hazards that relate to the use of cell phones while driving and be responsible for the control of their vehicle at all times. This requires that drivers operate their vehicles at the lowest risk possible and avoid distractions that take their attention away from the task at hand — driving *safely*.

#### CELL PHONE POLICY SUMMARY

1. Prohibit use of phone while driving; or use a hands-free voice-activated unit.
2. Allow use of phone only when parked.
3. Instruct individuals to use voice mail for incoming calls and return them at individual's convenience.
4. Phone must be kept out of the reach of the driver.
5. Include guidelines for using phone for non-work related calls, which should be on an emergency basis only. Reasons for non-work related calls should be limited to:
  - a. Reporting an accident or medical emergency
  - b. Reporting DUI
  - c. Requesting breakdown assistance

If you have any further question please contact Richard A. Furst, Senior Loss Control Manager at [dick@lgit.org](mailto:dick@lgit.org) or 1-800-673-8231.

*This bulletin is intended to be merely informational and is not intended to be used as the basis for any compliance with federal, state or local laws, regulations or rules, nor is it intended to substitute for the advice of legal counsel.*

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