



## Florida Bans Texting While Driving

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By adopting the "Florida Ban on Texting While Driving Law," Florida has joined 41 other states where texting while driving is illegal. The new law prohibits, as a secondary offense, manual texting, e-mailing and instant messaging on a wireless device while driving. Drivers cannot be pulled over for texting alone; rather, the driver must have engaged in a separate traffic offense. The new law adds Section 316.305 to the Florida Statutes and amends other sections.

The ban does not apply to stationary vehicles; thus, drivers whose cars are stopped at traffic signals or in traffic jams may text. The ban also does not apply to: drivers who are law enforcement personnel, firefighters or emergency medical services professionals; drivers reporting criminal activities; or messages that are emergency alerts or related to the navigation of the vehicle. Drivers still may use wireless devices to place phone calls.

First-time violations are punishable by a fine of \$30; subsequent violations are subject to a \$60 fine. In the event a crash results in death or personal injury, a driver's billing records for a wireless device may be used as evidence to determine whether a violation of the ban occurred. Violations also may result in points against a driver's license depending on the severity of the primary offense. For example, drivers whose unlawful use of a wireless device results in a crash are subject to six points against their license.

Employers should have written policies prohibiting employees from texting while driving during work. Employers also should consider prohibiting the use of handheld electronic wireless communications devices unless hands-free technology is used. Such policies, in addition to helping employees avoid violating the law and making the roads safer, reduce the risk of liability for an employer on a theory of negligence per se or as respondeat superior. Moreover, proper handheld electronic wireless communications device policies extend a safe work environment to employees who must operate a motor vehicle as part of their employment and protect employees, employers, and other drivers.

To promote safe driving habits and avoid liability for car accidents caused by employees while driving within the scope of their employment, employers should develop written policies on safe and lawful use of handheld electronic wireless communications devices and educate employees on the risks of using such technology while driving. Please feel free to contact your Jackson Lewis attorney, or Lillian Chaves Moon, at (407) 246-8440 or moonl@jacksonlewis.com, to discuss Florida's ban on texting while driving and the relationship between your workplace policies and the new law.

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