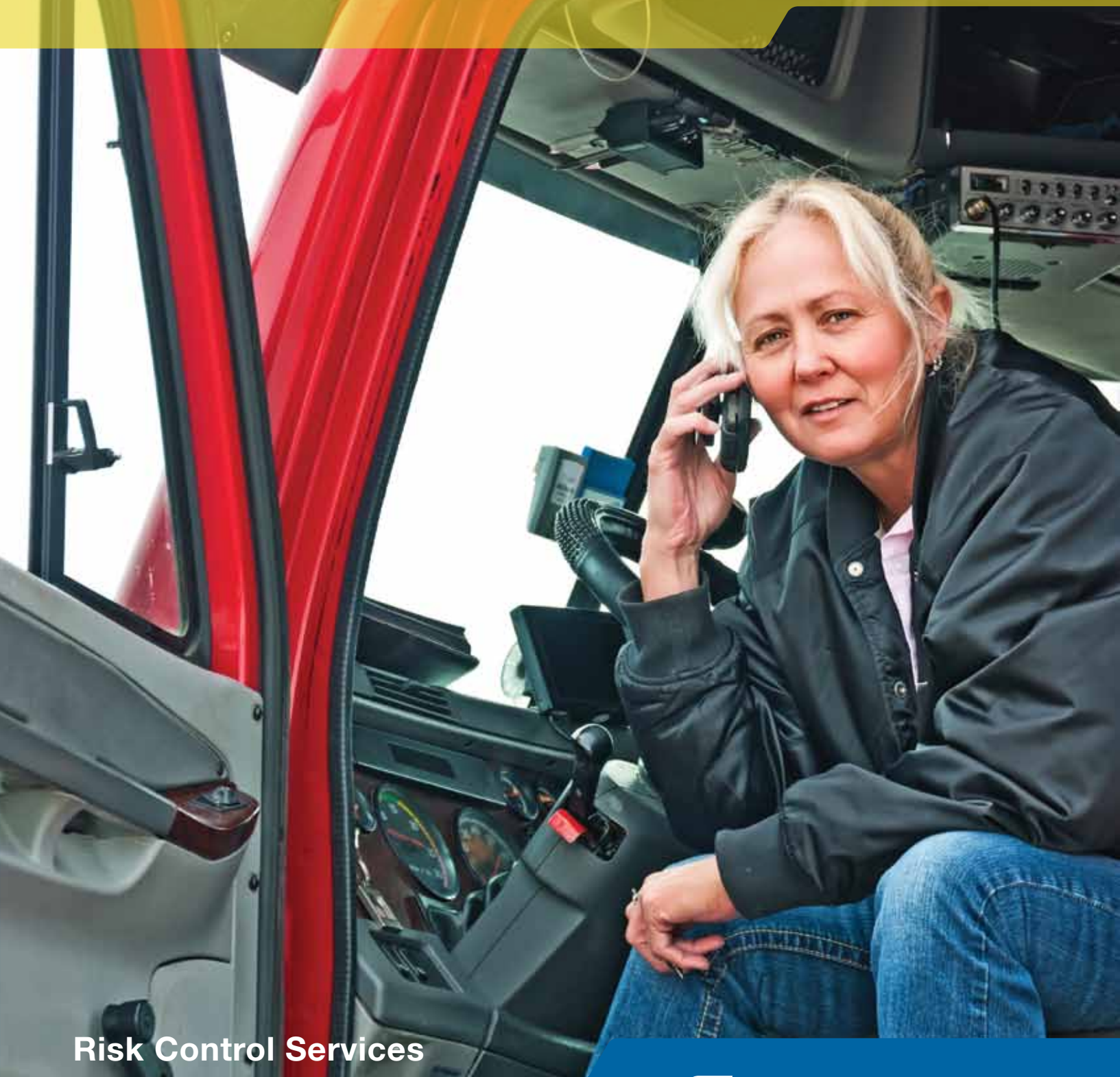


Driving without your cell phone

*Commercial truck operator standards
for cell phone and texting device use*



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The U.S. Department of Transportation (DOT) originally set Jan. 3, 2012, as the effective date of a hand-held cell-phone ban for commercial motor vehicle (CMV) drivers.

What does it prohibit?

The new rule says CMV drivers can't "use a hand-held mobile telephone" while driving a CMV (Sec.392.82 FMCSR). The rule contains the following new definitions:

"Use a hand-held mobile telephone means:

- "(1) Using at least one hand to hold a mobile telephone to conduct a voice communication;
- "(2) Dialing or answering a mobile telephone by pressing more than a single button, or"
- "(3) Reaching for a mobile telephone in a manner that requires a driver to maneuver so that he or she is no longer in a seated driving position, restrained by a seat belt that is installed in accordance with 49 CFR 393.93 and adjusted in accordance with the vehicle manufacturer's instructions."

"Mobile telephone" means a mobile communication device that falls under or uses any commercial mobile radio service, as defined in regulations of the Federal Communications Commission, 47 CFR 20.3. It doesn't include two-way or Citizens Band Radio services."

"Driving (for purposes of the ban) means operating a commercial motor vehicle on a highway, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. Driving doesn't include operating a commercial motor vehicle when the driver has moved the vehicle to the side of, or off, a highway and has halted in a location where the vehicle can safely remain stationary."

Who does it affect?

For now, the rule applies to:

- All interstate commercial motor vehicle drivers (as "commercial motor vehicle" is defined in section 390.5; this includes both CDL and non-CDL drivers); and
- All intrastate CMV drivers hauling a placarded amount of hazardous materials.

In the future, it is expected that the states will adopt a similar provision for all other in-state CMV drivers (with variances based on how each state defines "CMV"). States are given three years to adopt rules that are similar or identical to the federal standards.

What about "push to talk"?

Most push-to-talk devices are "mobile telephones," so they are subject to the ban.

Can I use my phone at a stop light?

No, CMV drivers can't use hand-held phones while temporarily stopped due to traffic, a traffic control device, or other momentary delays.

When can I use a hand-held phone?

Hand-held cell-phone use is allowed if you move the vehicle to the side of, or off, the highway and stop in a safe location.

Hand-held cell-phone use is also allowed "when necessary to communicate with law enforcement officials or other emergency services."

Can I mount my phone within reach?

Yes, the rule doesn't prohibit that. Be aware that the DOT says that "reaching for any mobile phone on the passenger seat, under the driver's seat, or into the sleeper berth are not acceptable actions."

Can officers review my call history?

According to the DOT, "Nothing in the rule authorizes enforcement officers to require a driver to make a mobile telephone available so that the officer can review call history for purposes of enforcing this rule." Enforcement will be handled at the state/local level, so the methods used to enforce the new rule will vary.

What are the penalties?

Fines and/or disqualification. Drivers who violate the new ban will face federal civil penalties of up to \$2,750 for each offense and disqualification for multiple offenses. This includes CDL and non-CDL drivers. Violating a state law on hand-held cell-phone use is considered a "serious traffic violation" under the new rule, and a second conviction of any serious traffic violation in 3 years will result in disqualification for 60 days, or 120 days after three convictions. See Sec. 383.51 and 391.15, FMCSRs.

Companies that allow their drivers to violate the ban face penalties of up to \$11,000 for each violation.

CSA scoring. The rule has been added to the list of violations tracked under the CSA enforcement program, so violations could affect your CSA scores.



What about texting?

Texting while driving is already prohibited under federal (Sec.392.80 FMCSR) and most state rules.

In order to combat the growing number of fatalities caused by distracted driving, the DOT and the Federal Motor Carrier Safety Administration (FMCSA) have enacted a federal rule banning commercial motor vehicle operators from texting while driving.

What is a Commercial Motor Vehicle?

The federal texting ban applies to drivers of CMVs. For purposes of the texting ban, a CMV is defined as a self-propelled or towed vehicle used on highways to transport persons or property in interstate commerce that either:

- Has a gross vehicle weight/gross vehicle weight rating of more than 10,000 pounds.
- Is designed or used to transport more than eight passengers (including the driver) for compensation.
- Is designed or used to transport more than 15 passengers (including the driver), not for compensation.
- Is transporting any quantity of hazardous materials requiring placards to be displayed on the vehicle.

The ban doesn't apply to employees of federal, state or local governments. However, it does apply to certain drivers that are usually exempt from the Federal Motor Carrier Safety Regulations (FMCSRs):

- School bus drivers who are employed by non-government entities and who transport school children and/or staff between home and school in interstate commerce.
- Drivers of small passenger-carrying vehicles designed to transport nine to 15 passengers that are not receiving direct compensation.

Prohibition on texting

Under the final rule, CMV drivers may not text while driving. In addition, motor carriers may not allow or require their drivers to text while driving. There is an exception for texting when necessary to communicate with law enforcement officials or other emergency services.



For purposes of this rule, “driving” means operating a CMV with the motor running, including while stopped as a result of traffic, a traffic control device or other momentary delays. Driving does not include CMV operation, with or without the motor running, when the driver has moved the vehicle off of the road or to the side of the road to a place where the vehicle can safely remain stationary.

“Texting” means manually entering alphanumeric text into, or reading text from, an electronic device. An electronic device includes, but is not limited to, a cellular telephone, personal digital assistant, pager, computer or any other device used to input, write, send, receive or read text.

Texting includes the following:

- Short message service
- Emailing
- Instant messaging
- Commands or requests to access a website
- Engaging in any other form of electronic text retrieval or electronic text entry for present or future communication.

Texting does not include:

- Reading, selecting or entering a telephone number, an extension number or voicemail retrieval codes and commands into an electronic device to make or receive a telephone call
- Using voice commands to make or receive a telephone call
- Inputting, selecting or reading information on a global positioning system or navigation system
- Using a device capable of performing multiple functions (such as fleet management systems, dispatching devices, smart phones, citizens band radios and music players) for purposes other than texting

Penalties and enforcement

Drivers can be fined up to \$2,750 for violations of the texting ban. Employers are subject to penalties up to \$11,000.

Drivers who are convicted of two or more violations of the texting ban can be disqualified from operating a CMV in interstate commerce. A driver is disqualified for 60 days if he or she is convicted of two violations in separate incidents during a three-year period. A driver is disqualified for 120 days if he or she is convicted of three or more violations in separate incidents during a three-year period.

State and local regulation

In addition to the texting ban, motor carriers and drivers that are subject to FMCSA regulations must still comply with the laws, ordinances and regulations of the jurisdiction in which the CMV is being operated. If the federal rules are stricter than local laws, the federal rule must be obeyed. Thus, in states and localities having laws, ordinances and regulations related to “texting” while driving, non-texting cell phone use or any other similar traffic

offenses, a violation of state or local law will also be seen as a violation of the federal regulation.

Commercial Driver's License

The rule also adds a federal disqualification standard for those operating with a commercial driver's license (CDL). If a driver is convicted of a state or local law prohibiting texting while driving a CMV that requires a CDL, the driver must be disqualified by the state that issued the CDL even if that state does not have its own law banning texting while driving. The driver must be disqualified for 60 days for two convictions within a three-year period and for 120 days for three or more convictions within three years.

States that issue CDLs are required to adopt and implement the CDL disqualification provisions as soon as practicable, but at least before Oct. 27, 2013. States that receive Motor Carrier Safety Assistance program (MCSAP) grant funds are also required to adopt regulations on texting that are compatible with the federal rule by that date.



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