

Publications

Labor and Employment Alert: No Hand-Held Devices While Driving in Georgia (and 16 Other Jurisdictions)

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Georgia law already requires drivers to exercise “due care” in operating motor vehicles and to not engage in any actions which distract the driver from the vehicle’s safe operation. Effective July 1, 2018, to reduce distracted driving, drivers in Georgia will be prohibited from using “wireless communication devices” and “stand-alone electronic devices” while driving.

A “wireless telecommunications device” is defined as a cellular telephone, a portable telephone, a text-messaging device, a personal digital assistant, a stand-alone computer, a global positioning system receiver or substantially similar portable wireless device that is used to initiate or receive communication, information or data. It does not include a radio, citizens band radio, citizens band radio hybrid, commercial two-way radio communication device or its functional equivalent, subscription based emergency communication device, prescribed medical device, amateur or ham radio device, or in-vehicle security, navigation or remote diagnostics system. A “stand-alone electronic device” is any other device that stores audio or video data files to be retrieved on demand by a user.

Under the new law, a person operating a motor vehicle is prohibited from:

- (1) Physically holding or supporting, with any part of his or her body a wireless telecommunications device (except when using an earpiece, headphone device, or device worn on a wrist to conduct voice-based communication) or stand-alone electronic device;
- (2) Writing, sending, or reading any text based communication, including a text message, instant message, e-mail, or Internet data on a wireless telecommunications device or stand-alone electronic device. This prohibition does not apply to a voice-based communication which is automatically converted by a device to be sent as a message in a written form, or to a device used for navigation or global positioning system purposes;

(3) Watching a video or movie on a wireless telecommunications device or stand-alone electronic device other than watching data related to the navigation of such vehicle; or

(4) Recording or broadcasting a video on a wireless telecommunications device or stand-alone electronic device (except for electronic devices used for the sole purpose of continuously recording or broadcasting video within or outside of the motor vehicle).

Additionally, drivers operating commercial motor vehicles are prohibited from using more than a single button on a wireless telecommunications device to initiate or terminate a voice communication; and from reaching for a wireless telecommunications device or stand-alone electronic device in such a manner that requires the driver to no longer be in a seated driving position properly restrained by a safety belt.

The above prohibitions do not apply when the vehicle is parked. The law provides exceptions for reporting a traffic accident, medical emergency, fire, an actual or potential criminal or delinquent act, or road condition which causes an immediate and serious traffic or safety hazard. In addition, there are exceptions for utility workers and public safety officers and first responders during the performance of their official duties.

Georgia joins 16 other jurisdictions that have banned the use of hand-held devices while driving: California, Connecticut, Delaware, District of Columbia, Hawaii, Illinois, Maryland, Nevada, New Hampshire, New Jersey, New York, Oregon, Puerto Rico, Rhode Island, Vermont, Washington and West Virginia. Employers in these jurisdictions should review their policies and procedures to ensure that they prohibit hand-held device use while driving. This is particularly important for employers with employees who frequently drive in the course and scope of their employment. While these states have outright bans, employers outside these jurisdictions should note that other state and local jurisdictions have restrictions related to the age of the driver or the particular device. Contact your Vorys lawyer if you have questions about implementing these policies in your workplace.