

## FAQ'S ABOUT THE CMV CELL PHONE BAN

*The U.S. Department of Transportation* (DOT) set January 3, 2012 as the effective date of a new hand-held cell phone ban for commercial motor vehicle (CMV) drivers. The new rule was published in the Federal Register on December 2, 2011.

What does it prohibit? The new rule says CMV drivers cannot "use a hand-held mobile telephone" while driving a CMV. The rule contains the following new definitions:

**"Use of 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 does not include two-way or Citizen 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 does not 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"). Under Appendix A to Part 355, 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 cannot 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 does not 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.

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

CSA scoring. The rule is expected to be 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 (§392.80) and most state rules. The DOT says it has already cited over 300 CMV drivers for texting.