



January 4, 2012 : MCM Weekly Newsletter

### Our Sponsors



MCM Member providing Tractor - Trailer Leasing & Repairs



In business for 29 years, and a member of MCM, we are proud to load MCM Carriers.



## Just a Reminder that FMCSA's New Hand-held Cell Phone Ban is in Effect Now

Official Effective Date: Tuesday, January 3, 2012

On December 2, 2011, the FMCSA and PHMSA (Pipeline and Hazardous Materials Safety Administration) published their Final Rule to restrict the use of hand-held cellular phones by commercial motor vehicles (CMVs), violation of which will subject drivers and carriers to stiff fines and penalties. The rule amends both the Federal Motor Carrier Safety Regulations (FMCSRs) and the Hazardous Materials Regulations (HMRs). This is on the heels of FMCSA's September's rule banning of texting by CMV drivers. Immediately after the announcement of the FMCSA's final rule, the National Transportation Safety Board called for a nationwide ban on all cell phone use in all vehicles (but that is only rhetoric, not a regulation).

Here are answers to some frequently asked questions:

### Q. Do violations affect a BASIC and if so what BASIC(s) will be involved?

**A:** Yes. Unsafe Driving BASIC Operation of commercial motor vehicles (CMVs) in a dangerous or careless manner. Example violations: speeding, reckless driving, improper lane change, and inattention. (FMCSR Parts [392](#) and [397](#))

### Q: What are the potential fines?

**A:** Driver and motor carrier fines (\$2,750 and \$11,000, respectively) in the rule are the recommended maximum that the Agency can assess on any violator. States, however, may choose to set the amount of a fine at or below those levels. Additionally, as noted above, civil penalties imposed under FMCSA regulations may be adjusted based on the circumstances of the violation.

### Q: Are wired or wireless earpieces allowed?

**A:** Yes. Hands-free use of a mobile telephone is allowed using either a wired or wireless earpiece, or the speakerphone function of the mobile telephone. Wireless connection of the mobile telephone to the vehicle for hands-free operation of the telephone, which would allow the use of single-button controls on the steering wheel or dashboard, would also be allowed.

### Q: Is Push-to-Talk allowed?

**A:**No. A driver's use of the Push-to-Talk function on a mobile telephone violates the prohibition against holding the phone. This includes the continuous holding of a button that is necessary to use a Push-to-Talk feature through a mobile telephone, even when the driver is using a connected microphone or wireless earphone.

### Q: Are holders of a commercial driver's license (CDL) subject to the regulation only when driving a CMV, as defined in 49 CFR 383.5, or any vehicle?

**A:** If a CMV driver is employed by a State or a political subdivision of a State (e.g. county, city, township, etc.), FMCSA safety regulations do not apply, even if the driver is engaged in interstate transportation. But if a CMV driver employed by a State or a political subdivision of a State is operating a vehicle



that requires a CDL, the applicable State traffic laws would govern (e.g., Maryland's prohibition on the use of hand-held phones). The States have three years to implement by State law the disqualification provision.

**Q: What is required of the employer?**

**A:** The rule does not require motor carriers to establish written policies in terms of company policy or training programs for their drivers. However, employers are prohibited from allowing or requiring their drivers to use hand-held mobile phones. A motor carrier may establish policies or practices that make it clear that the employer does not require or allow hand-held mobile telephone use while driving a CMV in interstate commerce. The carrier is responsible for its drivers conduct.

**GMTA SUGGESTS THAT YOU HAVE A SPECIFIC COMPANY POLICY IN PLACE NOW.**

**Q: Is dialing a phone number allowed under this rule?**

**A:** No. dialing a mobile telephone while operating a CMV in interstate commerce is prohibited by the rule. A driver can initiate, answer, or terminate a call by touching a single button on a mobile telephone, earpiece, steering wheel, or instrument panel comparable to using vehicle controls or instrument panel functions, such as the radio or climate control system.

**Q: Can a driver reach for a mobile telephone even if he/she intends to use the hands-free function?**

**A:** No. In order to comply with this rule, a driver must have his or her mobile telephone located where the driver is able to initiate, answer, or terminate a call by touching a single button while the driver is in the seated driving position and properly restrained by a seat belt. If the mobile telephone is not close to the driver and operable while the driver is restrained by properly installed and adjusted seat belts, then the driver is considered to be reaching for the mobile phone, which is prohibited by the rule.

[Forward email](#)



This email was sent to rtatarka2952@msn.com by [katie@mttrucking.org](mailto:katie@mttrucking.org) | [Update Profile/Email Address](#) | Instant removal with [SafeUnsubscribe™](#) | [Privacy Policy](#).

cynroc,inc | 2475 village lane, ste 300 | billings | MT | 59102