

Knowledge

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ARTICLE 32

Mobile phones in cars and vans

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The use of mobile phones

Several research projects have been carried out into the effects of using a mobile phone while driving.

Germany was one of the first countries to carry out detailed research into mobile phone use when driving. It showed drivers make 6.5 times as many driving mistakes (for example, not stopping at red light) when holding a mobile phone. It also revealed that 20 accidental deaths and 550 injuries had been caused in Germany by the use of hand-held mobile phones. Hence Germany was the first country to introduce legislation banning their use.

If you expect drivers to use mobile phones when driving for work and they then have an accident, the employer and the directors of the company may both be held responsible.

A hands-free phone may be slightly safer than a hand-held one, because at least both of the driver's hands can be used for driving the vehicle. But what happens when they dial a number?

Research in Germany showed that dialling a number when driving means travelling 150 metres blindly. And once the call has been dialled, even the use of a hands-free phone can still cause distraction.

When the use of mobile phones was made illegal in Japan, the number of mobile phone-related accidents halved.

We all know that when we use a mobile phone, or indeed any phone, we enter a parallel universe where we become less aware of the things around us.

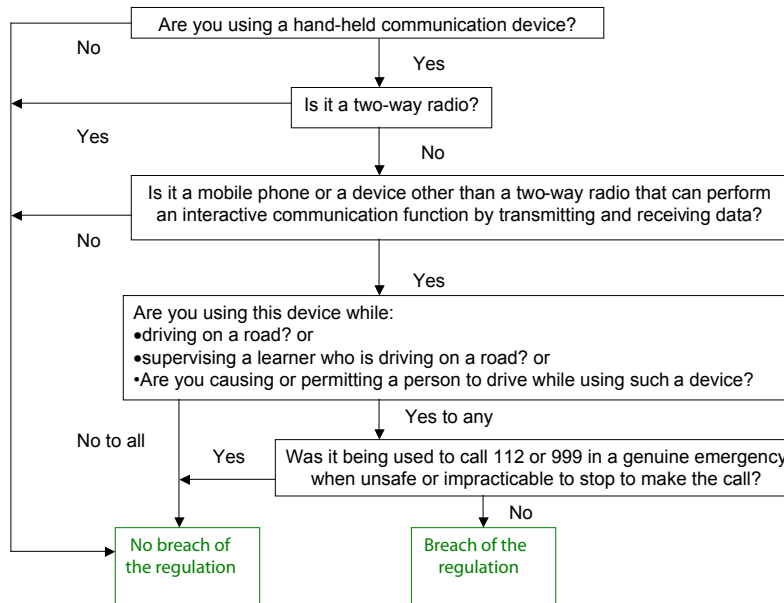
The Department of Transport introduced a partial ban on the use of mobile phones while driving from December 2003. The regulations ban drivers from speaking, sending or receiving a call with a hand-held phone, except when calling the emergency services.

The precise wording of the legislation is:

There was early speculation that the ban might cover the use of loudspeaker system and hands'-free earpieces but the government decided not to ban these as they present enforcement difficulties. Therefore drivers can still press a button to receive a call so long as the phone is not held.

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This chart explains the rules.



Since February 2007 the offence has carried a minimum £60 fine and 3 penalty points, with fines of up to £1,000 and 6 points on conviction. If the vehicle is a goods vehicles or any vehicle that can carry more than eight passengers, the maximum fine is £2,500.

The regulation permits the use of a hand-held mobile whilst stationary, even if the engine is running, but not when the vehicle is at traffic lights or held up in traffic.

Even before the new regulations were announced, employers could be prosecuted if they were to 'cause or permit' their employees to use a hand-held mobile phone for work when driving. These regulations remain in force, so employers as well as drivers have responsibilities in this area.

If an employee has an accident when driving and using a hand-held mobile phone, and is convicted, their use of the phone will be taken into consideration when they are being sentenced. Hence a fleet van

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driver was jailed for three years in August 2004 for causing death by dangerous driving whilst using a hand-held mobile phone. The court heard that the van was driven onto the wrong side of the road and crashed into a pick-up truck being driven by a pensioner. The police obtained evidence from the mobile phone company to confirm that the van driver had been speaking on his mobile phone at the time of the accident.

The driver's employer had a policy banning the use of hand-held mobile phones when driving, and the driver had signed confirming receipt of the handbook.

From comments in court during the case, it was apparent that the police would have prosecuted the driver's employer had it not been for this policy.

It's a good idea is set up a message that says 'I am driving and cannot take your call. Please leave a message and I will call you back when it is safe to do so'.

More information on the new regulations is available from www.roads.dft.gov.uk

It is worthwhile considering having a company policy on other distractions while driving, such as eating and drinking. In June 2004, at Newcastle Crown Court, a delivery driver pleaded guilty to causing death by dangerous driving while driving for work. He had been using a hand-held mobile phone at the time of the accident. His employer prohibited the use of hand-held mobile phones in the company's vehicles. This was clearly set out in the driver handbook that had been issued to the driver and that he had signed for. In court the Crown Prosecution Service said that it was not planning to prosecute the employer in this case, because it had a robust policy. The message here is clear; a well-written driver handbook reflecting best practice can save your company from prosecution.