



Road Safety..... **Information**

February 2007

MOBILE PHONES AND DRIVING

A substantial body of research shows that using a hand-held or hands-free mobile phone while driving is a significant distraction, and substantially increases the risk of the driver crashing.

Drivers who use a mobile phone, whether hand-held or hands-free:

- are much less aware of what's happening on the road around them
- fail to see road signs
- fail to maintain proper lane position and steady speed
- are more likely to 'tailgate' the vehicle in front
- react more slowly and take longer to brake
- are more likely to enter unsafe gaps in traffic
- feel more stressed and frustrated.

They are also four times more likely to crash, injuring or killing themselves and/or other people.

Using a hands-free phone while driving does not significantly reduce the risks because the problems are caused mainly by the mental distraction and divided attention of taking part in a phone conversation at the same time as driving.

The Law

On 1 December 2003, a law came into force to prohibit drivers using a hand-held mobile phone, or similar device, while driving. It also made it an offence to "cause or permit" a driver to use a hand-held mobile phone while driving, or to use a hand-held mobile phone while supervising a driver who only has a provisional licence.

The penalties are initially a fixed penalty of £30 or a fine of up to £1,000 if the offender goes to court (£2,500 for drivers of goods vehicles or passenger carrying vehicles with 9 or more passenger seats).

From 27th February 2007, the penalty for using a hand-held mobile phone whilst driving will increase to £60 and three penalty points added to the drivers' licence.

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The Definition of a Hand-Held Mobile Phone

The Regulation includes any “device, other than a two-way radio, which performs an interactive communication function by transmitting and receiving data”.

It states that a “mobile telephone or other device is to be treated as hand-held if it is, or must be, held at some point during the course of making or receiving a call or performing any other interactive communication function”. "interactive communication function" includes:

- (i) sending or receiving oral or written messages;
- (ii) sending or receiving facsimile documents;
- (iii) sending or receiving still or moving images; and
- (iv) providing access to the internet;

There are two exemptions:

- 2- way “press to talk” radios, such as used by the emergency services and taxi drivers.
- Using a hand-held phone for a genuine emergency call to 999 or 112 if it would be unsafe for the driver to stop.

The Definition of Driving

“[The Road Vehicles \(Construction and Use\) \(Amendment\) \(No. 4\) Regulations 2003](#)” defines a person as “driving” even if the vehicle is stationary but the engine is running. The offence will apply to all motor vehicles, including motorcycles, but will not apply to pedal cycles.

The Department for Transport have published an Information sheet, “[Mobile Phones and Driving: Frequently Asked Questions](#)” to explain the detail of the law.

Hands-Free Mobile Phones

Unfortunately, in RoSPA’s view, this law does not ban the use of hands-free mobile phones. Although the government accepts the evidence that using a hands-free phone while driving distracts the driver and increases the risk of an accident, they do not think a hands-free ban would be enforceable. RoSPA disagrees.

Drivers should also note that the existing law requiring drivers to be in proper control of their vehicle, or careless or dangerous driving laws can be applied to driving while using a hands-free phone, if the police believe the nature of the driving warrants it.



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Employers

The new law includes an offence of “causing or permitting” a driver to use a hand-held phone while driving. This will, therefore, apply to employers who will be guilty of an offence if they require or permit their staff who drive for work, to use a hand-held mobile phone while driving.

Employers would be unwise to respond by supplying their staff with hands-free kits. Even if the use of these while driving does not contravene the specific ban on hand-held phones, employers could fall foul of health and safety laws if an investigation determined the use of the phone contributed to an accident.

Recent guidance from the Health and Safety Executive makes it clear that employers have a duty under health and safety law to manage the risks faced by their employees on the road. And one of the biggest risks they face is when using mobile phones while at the wheel. Research clearly shows that using a hands-free phone while driving is just as dangerous as using a hand-held phone – there is little point in having both hands connected to the steering wheel, if the brain is not connected to the hands.

There are good reasons for providing mobile phones to staff who drive for work, especially for lone workers and staff who will be travelling through areas where access to a public phone is difficult. If a member of staff breaks down, for example, they need to be able to summon help. Some employers provide mobile phones for certain staff and others reimburse the cost of work related calls made on private mobile phones.

But, this should not mean that staff use the phone while driving. As part of the management of work related road safety, employers should provide employees with clear guidance on the use of mobile phones. The use of hand-held or hands-free phones while driving should be prohibited, particularly as there is a simple alternative – let the phone take messages and return calls when stopped in a safe place.

RoSPA has produced a free guide, “[Driving for Work: Mobile Phones](#)” to help employers and line managers ensure that their staff do not use mobile phones while driving.