



MEMORANDUM

TO: NLA BOARD MEMBERS AND ASSOCIATION PRESIDENTS
FROM: CORNERSTONE GOVERNMENT AFFAIRS
SUBJECT: TEXTING BAN FINAL RULE
DATE: OCTOBER 1, 2010

Summary of Texting Ban Final Rule

On September 27, 2010, the Department of Transportation's Federal Motor Carrier Safety Administration published its final rule on limiting the use of wireless communication devices. Specifically, this rule prohibits texting on any device by commercial motor vehicle drivers while operating in interstate commerce and imposes penalties on drivers who fail to comply with the rule. Additionally, employers are prohibited from requiring their drivers to text while driving. The rule focuses on texting as an especially risky behavior that can cause physical, visual, and cognitive distraction.

It is important to note that this rule deals strictly with texting. More important, the rule does not address or prohibit talking on cell phones or dispatching devices. Therefore, the use of cell phones or other electronic devices for functions other than texting is outside the scope of consideration in this rulemaking. Since this rule bans texting, however, carriers are forbidden to use dispatching devices for texting. FMCSA held that "texting on a dispatching device is indistinguishable from texting on another text-capable device and is...prohibited."

To provide more clarity on the dispatching and cell phone issue, the following is excerpted from the rule:

"FMCSA acknowledges the concerns of motor carriers that have invested significant resources in electronic dispatching tools and fleet management systems; this rulemaking should not be construed as a proposal to prohibit the use of such technology. The rulemaking should also not be construed as a proposal to prohibit the use of cell phones for purposes other than texting. The Agency will address the use of these and other electronic devices while driving in separate notice-and-comment rulemaking proceedings.

Many fleets do not allow drivers to operate any electronic devices at all while the vehicle is moving, including dispatching equipment. ATA conducted an opinion survey of its safety committees on the use of "non-integrated electronic devices." From the responses of these industry leaders, ATA found that 67 percent of respondents had a policy restricting or limiting the use of portable electronic devices while driving. United Parcel Service, Inc. has an existing policy of no distractions while behind the wheel (e.g., two hands on the wheel and no two-way

communication) and FedEx does not allow drivers to use any electronic device while operating FedEx vehicles. Additionally, ExxonMobil and Shell are examples of large companies that prohibit employees' use of any type of cell phone while driving during work hours. Because numerous large commercial trucking operations already have policies that prohibit the use of portable electronic devices while driving, which would presumably include texting, a prohibition on texting is not expected to have an adverse impact on trucking fleets. FMCSA solicits comments on whether and how companies have implemented policies on drivers' use of portable electronic devices while driving."

The texting ban goes into effect on October 27, 2010. To read the rule in its entirety, visit:
<http://www.fmcsa.dot.gov/rules-regulations/administration/rulemakings/final/Texting-Ban-Final-Rule-plus-OST-press-release.pdf>