South Louisiana Chapter of RIMS – January Meeting

Distracted Driving

Keith Bain, CSP
Chubb Limited
January 17, 2018
Today’s Focus

• Motor vehicle crashes – a public health epidemic
• Accident statistics
• Distracted driving (evolving dilemma)
• Why are cell phones involved in so many crashes
• Impact stories
• Distracted Driving Policies
• Questions
How many traffic fatalities occurred in the U. S. last year?

35,092

(NHTSA Fatality Analysis Reporting System 2015)
How many of those deaths occurred in Louisiana?

726

(250 involved BAC of 0.08+)
Greater New Orleans?

114

Orleans = 50
Jefferson = 25
Saint Tammany = 25
Saint Bernard = 6
Plaquemines = 8
U.S. Highways with the Most Fatalities over the Past Ten Years

Geotab – Most Dangerous Highways in America Report: April, 2017
Distracted Driving
Distractions: Something Other than Driving
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The Facts about Mobile Electronic Devices

• In 1995, 11% of the U.S. population was covered by a cell phone subscription

• By 2010, 93% of the U.S. population was covered by a cell phone subscription

• At any one time, 9% of drivers are talking on cell phones

• Talking on a cell phone increases your likelihood of a crash by 4 times.
The Facts

• American teens send and receive an average of 3,300 text messages each month

• On average, a text message causes a driver to look away from the road for 4.6 seconds

• Drivers using cell phones behind the wheel miss half of the information in their driving environment

• Texting while driving increases your chances of a crash by up to 8 to 23 times
The Facts

• In 2012:
  – 5% of all crashes involved texting
  – 21% of all crashes involved cell phone conversations

• 2012 Totals: 26% of all crashes involved cell phone use
The Facts – Motor Vehicle Crashes

• Leading cause of on-the-job and off-the-job unintentional deaths in the U.S.

• #1 or #2 cause of death for people 5 to 35 years old

• Safety engineering has made significant advances to curb this problem

• Society appears to have grown complacent, accepting these deaths and injuries
National Safety Council’s David Teeter

Why are cell phones different than other distractions?
Video’s Main Points

• Talking on a cell phone while driving increases your likelihood of a crash by 4 times.

• Texting while driving increases your chances of a crash by up to 8 to 23 times

• Prevalence of Use
  – At any one time, 9% of drivers are talking on cell phones
  – People use cell phones for longer periods of time
Driving Distractions

The science of distraction

1. Visual – *Eyes on road*
2. Mechanical – *Hands on wheel*
3. Cognitive – *Mind on driving*

Visual and mechanical distractions are short lived - cognitive distractions last much longer
The Facts About Distraction and Driving

We’ve always had distractions while driving. Talking to passengers, eating, drinking, lighting cigarettes, listening to the radio, etc. have always presented distractions while driving.

Be wary of smart phones though because they are substantially more distracting than these other activities. The problem, they are cognitively engaging. In other words…you think while you use them!
Cognitive Distraction

Why can’t people multitask while driving?
Selective attention / switching

- There is no such thing as “multi-tasking.” When brains are overloaded by two cognitive tasks, people switch attention (without recognizing it).

- We make one task “primary” and the other task “secondary.” Cognitive attention to driving becomes secondary to a phone conversation.

- When driving is a secondary task for the brain, driving becomes impaired.

- Two primary forms of impairment: Inattention Blindness and Tunnel Vision.
Tunnel Vision
Hands-Free Devices and Crash Risk

• Hands-free devices do not reduce crash risk:
  – National Safety Council
  – National Transportation Safety Board
  – World Health Organization
  – Insurance Institute for Highway Safety
  – Governors Highway Safety Association

• 30 + studies reported substantial negative effects of cell phone use on driving for hands-free and handheld devices

• Similar effects in reaction time. Speed, headway and lateral lane position, for hands-free and handheld devices
Munfordville, KY – March 26, 2010
11 Fatalities
Overview from NTSB Accident Report

• Truck-tractor semitrailer was traveling south on I-65

• Departed left lane, crossed rumble strips and entered 60’ wide depressed earthen median

• Overrode the high-tension median cable barrier adjacent to the left shoulder of northbound I-65 and entered northbound lanes

• Truck-tractor struck a 15-passenger van with 12 passengers that was traveling northbound in the left lane. Truck fire ensued.

• Truck driver, van driver and nine van passengers died
NTSB Accident Diagram

- Cut rock wall
- Drainage ditch
- Curved tire marks
- Gouge and scrape marks
- Freightliner truck (final rest)
- Van impact with wall
- Dodge 15-passenger van (final rest)
Driver’s Cellular Telephone Carrier Records

• 161 telephone connections in the 24 hours preceding the accident (8 data, 101 text, and 52 voice)

• One-third of the driver’s text activity and two-thirds of the voice activity occurred while his vehicle was moving (total of 69 phone connections)
<table>
<thead>
<tr>
<th>Time</th>
<th>Incoming/Outgoing Call</th>
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<tbody>
<tr>
<td>4:28 a.m.</td>
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<tr>
<td>4:51 a.m.</td>
<td>Incoming call</td>
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<tr>
<td>5:03 a.m.</td>
<td>Outgoing</td>
</tr>
<tr>
<td>5:07 a.m.</td>
<td>Outgoing</td>
</tr>
<tr>
<td>5:14 a.m.</td>
<td>Outgoing</td>
</tr>
<tr>
<td>5:14 a.m.</td>
<td>ACCIDENT</td>
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# NTSB Accident Report

## Seat Occupancy and Injury Details

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<thead>
<tr>
<th>Seat</th>
<th>Sex</th>
<th>Age</th>
<th>Injury</th>
<th>Eject.</th>
<th>Restraint use</th>
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<td>M</td>
<td>41</td>
<td>Fatal</td>
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<tr>
<td>2</td>
<td>M</td>
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<td>Fatal</td>
<td>Y</td>
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<tr>
<td>3</td>
<td>M</td>
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<tr>
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<td>N</td>
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<td>M</td>
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<td>N</td>
<td>Y</td>
</tr>
<tr>
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<td>M</td>
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<td>N</td>
<td>Y</td>
</tr>
<tr>
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<td>15</td>
<td>M</td>
<td>22</td>
<td>Fatal</td>
<td>N</td>
<td>N</td>
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</tbody>
</table>

[seats unoccupied]
“...he was distracted from the driving task by the use of his cellular telephone at the time of the accident...”
“...changes in driving behavior occur when the cognitive distraction of a cellular telephone conversation diverts attention from driving...”
“...[therefore] use of either a handheld or a hands-free cellular telephone while driving can impair driver performance.”
Action and Calls for Action

• 2008 Federal Railroad Administration bans the use of cell phones by rail workers

• 2009 National Safety Council calls for a total cell phone ban for drivers

• 2009 Presidential Executive order banning text messaging while driving for all Federal Employees

• 2010 FMCSA prohibits texting by all CMV drivers

• 2011 National Transportation Safety Board calls for a total cell phone ban for drivers

• 2011 FMCSA prohibits hand-held use of cell phone by all CMV drivers
Legislative Advances as of January, 2018

• 47 states have enacted text messaging bans

• 15 states now ban drivers from using handheld devices

• 38 states have banned the all use of cellphones by novice drivers

• 20 states have banned the all use of cellphones by school bus drivers
# Louisiana Laws

## Distracted Driving Laws by State

*Updated July 2017*

<table>
<thead>
<tr>
<th>State</th>
<th>Hand-held Ban</th>
<th>All Cell Phone Ban</th>
<th>Text Messaging Ban</th>
<th>Crash Data</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td>School Bus Drivers</td>
<td>Novice Drivers</td>
<td></td>
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<tr>
<td>Kansas</td>
<td></td>
<td>Learner or Intermediate License (Primary)</td>
<td>Yes (Primary)</td>
<td>Yes</td>
</tr>
<tr>
<td>Kentucky</td>
<td>Yes (Primary)</td>
<td>&lt;18 (Primary)</td>
<td>Yes (Primary)</td>
<td>Yes</td>
</tr>
<tr>
<td>Louisiana</td>
<td>Learner or Intermediate License (regardless of age) (Primary)</td>
<td>Yes (Primary for &lt;18)</td>
<td>Yes (Primary)</td>
<td>Yes</td>
</tr>
</tbody>
</table>
The “Textalyzer”

Ben Lieberman and NY Governor Andrew Cuomo

National Public Radio
April 27, 2017
It’s a huge problem for American Companies!

- Victim’s attorneys are digging for cell phone gold!
- Cell phone use = pouring gasoline on the fire
- Company’s are being sued for Gross Negligence / Punitive Damages
- Insurance may not protect you:
  - Inadequate policy limits
  - No coverage for punitive damages
  - Increased premiums
Coca-Cola Hit with a $21 Million Distracted Driving Judgment

by Morgan O'Rourke on May 14, 2012 · 6 comments

Last week, a jury in Corpus Christi, Texas awarded $21 million in damages to a woman who was struck by a Coca-Cola driver who had been talking on her cell phone at the time of the accident. The plaintiff’s attorneys were able to successfully argue that Coca-Cola’s cell phone policy for its drivers was “vague and ambiguous.” They also suggested that Coca-Cola was aware of the dangers but “withheld this information from its employee driver,” which led directly to the circumstances that caused the accident.

“From the time I took the Coca-Cola driver’s testimony and obtained the company’s inadequate cell phone driving policy, I knew we had a corporate giant with a huge safety problem on our hands,” said Thomas J. Henry, one of the plaintiff’s attorneys.
Employer Liability

• **$20.9 million**: Dykes Industries of Little Rock, AR lost a personal injury suit in which its employee was using a cell phone when the crash occurred

• **$18 million**: Holmes Transport of Muscle Shoals, AL was ordered to pay damages by a U.S. District Judge to a man who was left unable to walk or talk after a crash caused by one of their drivers distracted by a cell phone

• **$5.2 million**: International Paper employee using her company-supplied cell phone when she rear-ended a vehicle injuring the driver
Employer Liability

- **$2.5 million**: State of Hawaii agreed to pay as its share of liability in a crash involving a state employee who was talking on her cell phone when she hit a tourist.

- **$1.5 million**: City of Palo Alto, CA agreed to pay the victim of a 2006 vehicle crash involving a city worker who was using his cell phone while driving.
How is your company doing?

• “Safety is very important here”

• “Safety is a top priority in our organization”

• “We value safety”

• Do you have a distracted driving policy in place?

• 2010 survey of Fortune 500 companies found that only 20% of the respondents had a policy that totally banned the use of wireless device for their company drivers
Companies with Policies

- Exxon/Mobil
- DuPont
- Halliburton
- Shell
- Chevron
- BP
- Enbridge
- AstraZeneca Pharmaceutical
- Abbott Pharmaceutical
- Cargill
- CSX Intermodal
- Schneider National
- Sysco Corporation
- Time Warner Cable
- Potash
- Owens Corning
- NTSB
Without a complete ban employers lose…

• No policy whatsoever: Company is admitting they didn’t realize cell phone use was a problem
  – Ridiculous in light of the media storm and jurors own knowledge

• Policy that isn’t a complete ban: Company admits they knew it was a problem, but didn’t take effective and decisive action
  – You knew better, but you didn’t do better

• Either way…jurors will likely teach you a lesson!
Protecting Your Employees and Your Company

• Implement a clear-cut and non-discretionary policy

• Policy must unequivocally ban all cell phone use, including hands-free, while on the job

• Policy must be accompanied by employee education and management buy-in

• Policy must be enforced by regular reinforcement, monitoring, possible use of technology, and concrete, progressive and publicized penalties for violations
Some likely BARRIERS you’ll face…

• Management buy-in for prohibiting hands-free devices

• Employee buy-in and compliance

• Productivity concerns
Productivity Concerns

• 2010 survey of Fortune 500 companies – those respondents with total bans reported:

  – 19 percent said productivity increased
  – 22 percent said productivity remained the same
  – 52 percent did not yet know the impact on productivity
  – 7 percent said productivity decreased
Example of a Distracted Driving Policy

Employees may not use cell phones (including hands-free) or any other mobile electronic devices while operating a motor vehicle.

This policy applies when you are driving any vehicle owned, leased or rented by the organization, whether for official business or personal use.

This policy applies to any family member authorized to drive a vehicle owned, leased or rented by the organization.

This policy also applies to the use of any mobile electronic device provided by the organization while you are driving your own vehicle on personal business.
Example of a Distracted Driving Policy

The activities covered under this policy include, but are not limited to, answering or making phone calls, engaging in phone conversations, reading or responding to e-mails and text messages, adjusting a Global Positioning System (GPS) and accessing the internet.

In addition, this policy requires that you:

- Modify your voice mail greeting to indicate that you are unavailable to answer calls or return messages while driving.
- Inform clients, associates and business partners that company policy does not permit you to place or return calls while you are driving.
Example of a Distracted Driving Policy

In addition, this policy requires that you:

- Prohibitions on use of cell phones while driving do not apply to calls made to report an emergency. In such cases, all precautions should be taken to protect your safety and that of fellow motorists.

- If a call must be made or received while you are on the road, pull over to a safe place and park the vehicle.

• Include employee training and management training

• Include acknowledgement and sign-off for all parties
Resources

• National Safety Council’s Cell Phone Policy Kit (Free download!)
  
  • [http://cellphonekit.nsc.org](http://cellphonekit.nsc.org)

• Network of Employers for Traffic Safety (NETS)


• ANSI/ASSE Z15.1-2012 Safe Practices for Motor Vehicle Operations (Members = $57 and Non-Members = $77)

The Bottom Line…

• Motor vehicle crashes are a the leading cause of death

• Cell phone drivers are 4 times more likely to be in a crash

• Hands-free phone use is just as dangerous as handheld phone use

• Cell phone use is involved in 26% of all crashes

• Distracted driving is serious hazard for the majority of businesses and cannot be ignored

• Employer liability is increasing for accidents involving cell phones

• A Cell Phone Policy is imperative
Questions
Thank You

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