

# 10 Things to Include in Your Cell Phone Use Policy

written by Rory Lodge | March 28, 2014



Five years ago, we were writing articles urging employers to adopt policies governing use of cell phones in the workplace. Today, just about every company has adopted some kind of cell phone use policy. The bad news is that the quality of many of these policies leaves much to be desired. Here are the 12 things you need to do to get your own workplace cell phone use policy up to snuff (or create a policy from scratch if you're among the few that still don't have such a policy.)

## **WHY YOU NEED A CELL PHONE USE POLICY**

At the risk of preaching to the choir, it's important to have a written policy to reign in all the bad things that can happen when employees use cell phones and similar communication devices at work, including:

- **Safety hazards:** Cell phone use is distracting. And when the employee is talking, texting or emailing on a cell phone while driving a car, the odds of traffic accidents increase substantially;
- **Liability risks:** The accidents that result from employee use of cell phones while driving on the job have the potential to generate not just bad publicity but multi-million dollar damages against your company: [Exhibit A](#): The \$24 million verdict against Coca Cola after a cell-phone-distracted driver ran over a pedestrian with a company-owned truck;
- **Productivity losses:** One of the biggest problems posed to businesses by workplace cell phone use are the enormous productivity losses that occur when employees use their cell phones to engage in personal conversations when they're supposed to be working;
- **Privacy violations:** The ubiquitous cell phone camera has turned every workplace into a potential YouTube posting—with devastating effects on reputation and privacy; and,
- **Harm to IT infrastructure:** Cell phones and like devices have the potential to

transmit viruses, worms, Trojan horses and the like into a company's information network and cause serious problems for the IT infrastructure.

## WHAT THE LAW REQUIRES

Employers have a duty to safeguard workers from the risks posed by cell phone use at work. The obligation is rooted in three sets of laws:

### 1. OHS Laws

Cell phone use isn't one of the workplace hazards addressed in provincial OHS laws. However, every OHS act includes a "general duty" clause requiring employers to take steps to guard against known risks. This may include use of cell phones on the job. Cell phone distractions are especially likely to be deemed a known risk covered by the OHS general duty clause if driving is an essential job duty of your employees.

### 2. Traffic Safety Laws

Every province and territory has adopted a law banning the use of handheld cell phones while driving.

### 3. Negligence Law

Individuals and organizations also have safety duties under what's called "common law"—that is, law made up by judges in individual cases that serve as a precedent for future cases. Negligence is an example of safety-related common law. A company may face liability for negligence when it fails to take reasonable steps to protect individuals from foreseeable risks and somebody gets hurt as a result. Failing to take reasonable steps might include allowing workers to do their jobs while talking on cell phones. This is what happened in the Coca Cola case. And while it happened in the US, the exact same rules apply on this side of the border.

## HOW TO WRITE CELL PHONE USE POLICY

One way or another, you need to deal with this issue. One choice is to totally ban the use of cell phones in the workplace. But that's hardly a realistic or enforceable policy. Some employees may need cell phones to do their jobs and all employees want to have a cell phone in case family emergencies arise. In fact, stripping employees of communication devices might actually increase rather than reduce danger, especially if employees work alone or in isolation.

Bottom Line: Rather than a complete ban, your policy should establish reasonable restrictions on use of cell phones at work.

### 10 Things to Include in Your Cell Phone Use Policy

The policy should be in writing, posted in strategic points across the workplace and distributed to all employees. Although each policy must be tailored to the circumstances of the particular workplace, there are 12 things that you should include in any such policy:

**1. A clear definition of covered devices:** Cover not just "cell phones" but other wireless communication devices that pose the same problems, including Blackberries, tablets, iPods, text pagers, etc.

**2. A broad scope of workers covered:** The policy should cover not just your own employees but independent contractors, temps, leased labour, volunteers, contractors and subcontractors and any other workers who work for you.

**3. A broad scope of activities covered:** Say the policy applies not just at work but when employees are driving any vehicle on work-related business, again regardless of whether the vehicle is owned by the company or the employee.

**4. Rules governing use of personally owned devices:** Allow employees to use their own devices but limit use to business purposes. Rule of thumb: Limit employees to an average of 2 or 3 short personal communications per day. Also ban use of personal devices for:

- Accessing the internet for non-work related purposes;
- Playing games;
- Watching movies, television, sports, etc.; or
- Engaging in any activity that violates company policy, including accessing and/or distributing pornographic or harassing material.

**5. Limits on use of camera phones:** Don't forget the darned camera phones! The policy should ban employees from using such devices unless the use is essential for the job and consistent with your company's privacy policies.

**6. Rules for use of company-issued devices:** You want to adapt the rules that apply to use of personally owned cell phones to devices issued to employees by the company for use on the job.

**7. Required reimbursement for personal uses:** Include a provision that requires the employee to pay the company back for any personal charges for use of company-issued devices, e.g., for directory assistance to look up a personal contact's phone number.

**8. Clear language dispelling privacy expectations:** One of the key issues that arises is whether employees are entitled to privacy in their use of company-issued devices. The rule: Privacy is established if the employee can show that he had a "reasonable expectation" of privacy. Solution: Make it clear in the policy that employees should **not** have any reasonable expectations of privacy in company-issued devices and that you reserve the right to monitor use logs, text messages, etc.

**9. Safety rules for using cell phones while driving:** Ban employees from using cell phones while driving unless they use a hands-free device. In fact, because many believe that the conversation is more distracting with or without the use of hands, you might want to go beyond what the law requires and ban any use of cell phones while driving—even on a hands-free device.

**10. Clear consequences for violations:** Last but not least, warn employees that if they violate the policy, they'll be subject to disciplinary measures up to and including dismissal, depending on the circumstances.