

FLASH BULLETIN from MAIA

MAIA Bulletin 2012-1

January 5, 2012

MA to Enforce Ban on Hand-Held Mobile Phone Use While Driving a CMV

We have just learned that the U.S. DOT rule regarding the use of hand-held mobile phones in commercial motor vehicles which took effect yesterday **will be enforced in Massachusetts**. We learned from the State Police Truck Team that enforcement will be by the Truck Team and any state or local police officer certified for commercial motor vehicle enforcement by the National Transportation Safety Board (NTSB). (See the [December 2011 edition of Registry News](#).)

Massachusetts Regulation 540 CMR 14.00 establishes "rules and regulations governing the use and operation of certain motor vehicles, trailers and commercial motor vehicles, and motor carrier safety and the transportation of hazardous materials by motor carriers in both intrastate and interstate commerce upon the public ways of the Commonwealth of Massachusetts."

The regulation goes on to define "commercial motor vehicle" as follows:

14.02: Scope and Applicability

(1) 540 CMR 14.00 applies to:

- (a) motor carriers operating commercial motor vehicles and persons who drive commercial motor vehicles as, for, or on behalf of motor carriers, upon the ways of the Commonwealth.
- (b) all motor carriers and shippers transporting hazardous materials, under the Hazardous Materials Regulations of the United States Department of Transportation, Parts 171 through 179 of Title 49, Code of Federal Regulations, by motor vehicles upon the ways of the Commonwealth.
- (c) common and contract carriers by motor vehicle, and private carriers of property and passengers by motor vehicle.

(2) (a) As used in 540 CMR 14.00, "commercial motor vehicle" shall mean:

- 1. a motor vehicle with a gross vehicle weight rating or gross combination weight rating of 10,001 pounds or more used for the transportation of property, or
- 2. a motor vehicle designed to transport more than 15 passengers, including the driver, or
- 3. a motor vehicle used in the transportation of hazardous materials in a quantity requiring placarding under the Federal Hazardous Materials Transportation Act (49 U.S.C. App.1801-1813).



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- (b) It is the intent that the term "commercial motor vehicle" as used in 540 CMR 14.00 shall have the same meaning as in Part 390.5 of Title 49, Code of Federal Regulations, as it may be amended, and to the extent there is a conflict between the two at any time, the definition in 49 CFR Part 390.5 shall control.

The regulation goes on to explain MA DOT's adoption of federal regulations as state regulations:

14.03: Adoption and Incorporation of Federal Regulations as State Regulations

Subject only to the specific exceptions and limitations expressly stated in 540 CMR 14.00, the Federal Motor Carrier Safety Regulations, Parts 382, 390 through 397 of Title 49, Subchapter B of Chapter III, Code of Federal Regulations, and the highway related portions of the Federal Hazardous Materials Regulations, Parts 171 through 179 of Title 49, Subchapter C of Chapter L Code of Federal Regulations, as they may be amended, are incorporated by reference as the regulations of the Registry of Motor Vehicles governing motor carrier safety and the transportation of hazardous materials upon the ways of the Commonwealth of Massachusetts in both intrastate and interstate commerce.

As we indicated in last month's Registry News:

Guidance:

- This rule does not prohibit a driver from using a mounted mobile phone which can be easily accessed from the driver's seat and activated with a single button.
- Driving means operating a commercial vehicle while on a public road, and when stopped in traffic on such a road. Driving does not include instances when the driver is safely parked. Emergency use is permitted.
- The term mobile telephone does not include two way or Citizens Band Radio services, however the term mobile telephone does include mobile services which are provided for profit, have inter-connected service and is available to a substantial portion of the public.

Penalty:

Driver is disqualified from operating a commercial motor vehicle (CMV) for 60 days with the second offense in 3 years. (120 days for each subsequent offense within 3 years) Only applies if violation occurred while driving a CMV.

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As always, feel free to contact Donna McKenna or Kathy Cormier at the MAIA offices by phone at 800.972.9312 or 508.634.2900 or by email at <mailto:dmckenna@massagent.com> or <mailto:kcormier@massagent.com> if you have questions on this or any other RMV issue.