



ASCIP *RISK ALERT!*

Date: May 28, 2008

Attention: ASCIP Members

Subject: 2008 Hands-Free Wireless Device Legislation

California educational agencies which provide cellular phones to their employees for business purposes will soon be subject to the restrictions imposed by the Governor's signing of SB 1613 on September 15, 2006, which adds Sections 23123 and 23124 to the California Vehicle Code.

The use of cellular phones as a means to communicate while away from the workplace has been commonplace for many years. Because the use of wireless devices have been questioned in a number of motor vehicle accidents, vehicle safety advocates have made efforts to prohibit distracted driving by limiting the use of wireless devices while operating motor vehicles. While there are many forms of distracted driving, the use of cellular phones while operating a motor vehicle is cited as being a contributing factor in a significant number of motor vehicle accidents in the United States.

The new legislation, which goes into effect on **July 1st, 2008**, prohibits any motor vehicle operator from using a wireless telephone "*unless that telephone is specifically designed and configured to allow hands-free listening and talking, and is used in that manner while driving.*" The legislation also prohibits all drivers under the age of 18 operating a motor-vehicle from using any "*mobile service device*", which includes laptops, cellular phones, pagers, two-way devices and other similar devices regardless of if in hands-free mode.

The new legislation provides for emergency calls to be placed by motor vehicle operators during the operation of a motor vehicle if the emergency call is placed to a law enforcement agency, a fire department, a health care provider, or other similar emergency service.

ASCIP recommends that education agencies review their existing policies as they relate to company issued cellular phones and defensive driving. Educational agencies should consider providing headsets (wired or wireless) when issuing cellular phones to employees. In addition, driving/fleet policies should be revised to prohibit multiple forms of distracted driving, including the use of cellular phones while operating a motor vehicle.

If you have questions on this important code change please feel free to contact ASCIP staff.