

ARTICLE

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Car Accident Law: Texting A Driver In New Jersey



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By now the message is clear, texting while driving is an incredibly dangerous endeavor that leads to distracted driving and causes hundreds of accidents every year, some of which are tragically fatal. This point has been driven home through numerous, and sometimes frightening, stories and ads. In the last few years this tragic phenomenon has been addressed by state legislatures throughout the nation. New Jersey's legislature has specifically outlawed texting while driving, and one New Jersey court has taken this prohibition one step further by imposing liability on an individual who texts someone they know or should know is driving at the time.

In a recent civil suit involving incredibly tragic circumstances and gruesome injuries, a New Jersey appeals court ruled that the sender of a text can be held responsible for distracting a driver, if that sender knew the individual was driving at the time. The theory of the liability, as proposed by the victim's attorney, is that the sender of the text should be treated as if he or she was in the actual vehicle. While the court's ruling seemingly agreed with this line of reasoning, it is important to note the limitations of the liability imposed. Only individuals who know or should know that the driver is driving at the time and would respond to the text will be found culpable for distracting the driver and causing the accident at issue.

There has been a vocal outcry against this ruling because of the potential far-reaching consequences it could create. The theory of the ruling is that the text distracted an individual the sender knew was driving at the time. Therefore that sender should share liability. Implicitly, then, this ruling could be extended to other forms of communication that could distract a driver. For example, with so many people owning and using smartphones on a regular basis, liability could potentially be established against someone who sends an email, Facebook message, or even a Tweet. These are all forms of communication that are popular and could cause a driver to become distracted and cause an accident.

This decision has not been received well with many who believe that the ultimate responsibility not to text while driving is on the drivers themselves, and should not be shared with those who simply send a text. Those opposed to the decision have argued that if a texter can be held responsible for distracting a driver, then a company that advertises on a billboard alongside a road could also share liability. After all, these advertisements are specifically designed to grab the attention of drivers, attention that should be focused on the road and their surroundings. In fact, two New Jersey Assemblywomen have proposed new legislation that would overturn this decision by precluding liability claims brought against individuals who text drivers. According to proponent Assemblywoman Caroline Casagrande, "This legislation puts the responsibility where it belongs – in the front seat with the driver."

Case Led To Creation Of New State Law

While the court's ruling and subsequent fallout have generated furious debate, the tragic circumstances of the case itself have also spawned a new law. Dubbed the "Kulesh, Kubert and Bolish's Law" this law criminalizes distracted driving when it results in an accident, with fines as high as \$150,000 and the potential for imprisonment for up to 10 years. Additionally, in New Jersey, new legislation has been proposed that would grant police the authority to search through a driver's phone if they have reasonable grounds to believe the driver was using the phone at the time of the accident. What would constitute reasonable grounds to justify this type of intrusion remains unclear.

Other Proposed Restrictions

Other legislation has been proposed to which New Jersey drivers should pay stern attention. The most profound of these new bills to receive approval would put an end to a habit that nearly all drivers have participated in at one point or another: eating while driving. The prohibition of eating while driving is just one of the consequences of the new bill. Under the current structure of the bill, it would actually prohibit "any activity unrelated to the actual operation of a motor vehicle in a manner that interferes with the safe operation of a vehicle on a public road or highway." This would include eating, texting, emailing, and potentially anything that involves a driver removing their hands from the steering wheel or their eyes off of the road.

In an era dominated by the use of smartphones and other technology that has invaded everyday life, it is important not to shirk one's responsibilities, especially when behind the wheel of an instrument as powerful as a vehicle that can cause devastating injuries and death. Distracted driving is definitely a problem and it causes accidents every day. If you have been the victim of a car accident you should contact a personal injury as soon as possible to discuss your rights and a proper course of action.