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# DESANCTIS INSURANCE AGENCY, INC.

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To Our Valued Clients:

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## **Ban on Hand-Held Mobile Phone Use While Driving a CMV**

We were recently informed that the U.S. DOT rule regarding the use of hand-held mobile phones in commercial motor vehicles which took effect on January 3<sup>rd</sup>, 2012 **will be enforced in Massachusetts.**

Massachusetts Regulation 540 CMR 14.00 includes: **14.02: Scope and Applicability**, and explains the MA DOT's adoption of federal regulations as state regulations under **14.03: Adoption and Incorporation of Federal Regulations as State Regulations.**

Under the regulation, no driver shall use a hand-held mobile telephone while driving a commercial motor vehicle. (49 CFR Part 392.82) A commercial motor vehicle is defined by the US DOT as a vehicle with a single or combined GVWR, or actual weight of over 10,000# utilized in interstate commerce. (Note: Most states have adopted the Federal Motor Carrier Safety Regulations for intrastate commerce with vehicles at weights ranging from 10,001 to 26,001#)

Use of a hand held mobile telephone means: (49 CFR Part 390.5)

1. Using at least one hand to hold a mobile telephone to conduct a voice communication;
2. Dialing or answering a mobile telephone by pressing more than a single button, or
3. Reaching for a mobile telephone in a manner which requires a driver to maneuver so that he or she is no longer in a seated position.

Our agent's association offers the following Guidance and information on Penalties.

- 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.

Please note, this is just a brief summary of some of the important points of the new rule. For Frequently Asked Questions and a complete text of the rule, please see the US DOT website at the following link: <http://www.fmcsa.dot.gov/about/other/faq/cellphone-ban-faqs.aspx>

Very Truly Yours,

DeSanctis Insurance Agency, Inc.