Cellular Phones in the Workplace: Issues and Policy

There can be no doubt that new forms of technology in the workplace impact the job of the HR professional. Cellular phones, though not new, are becoming more widely used for personal and business reasons and can present a variety of issues for employers to address. For example, while many companies have policies regarding personal telephone calls at work, some of those policies may fall short of encompassing the use of personal cell phones.

However, some of the most significant issues are faced by employers who provide cell phones for business use. Failure to consider and plan for possible risks of this practice can result in costs for lost or damaged equipment, bills for personal phone calls and even wage and hour investigations for unauthorized deductions from pay. Employers that permit personal use of company cell phones also have to consider tax ramifications to employees for such use.

But a much greater issue is the potential liability a company could face for employee accidents that occur while engaged in business-related phone conversations behind the wheel. Liability could be found regardless of whether the state specifically addresses cell phone use while driving or not, a growing area of exploration for many states. Though actual risks are still unknown at this point, taking time to anticipate and minimize their likely occurrence may help limit or reduce organization obligations if accidents do occur.

It is therefore prudent to evaluate these issues as they relate to present circumstances and to try to predict those that may occur in the future. Below is a sample cellular phone policy that incorporates some of the main issues employers may want to consider in developing a policy. Modifications for specific circumstances faced by the company will of course be necessary. In particular, state law regarding deductions from pay for loss or breakage will need to be incorporated for every state in which the company operates, should the organization plan to try to recover losses from the employee. In some states it is difficult to impossible to recover such losses directly from the employee's pay. In these cases separate legal action may be appropriate. As with any policy, employers are advised to obtain a specific legal review of the policy provisions before implementation.

Finally, in order to ensure full understanding and compliance with this policy, employers should be able to show that specific steps were taken to distribute and explain the provisions it contains. Organizations that regularly provide safety training may wish to incorporate this issue into the training schedule.

**Cellular Phone Policy**

Policy:

This policy outlines the use of personal cell phones at work, the personal use of business cell phones and the safe use of cell phones by employees while driving.
Procedures:

1. **Personal Cellular Phones**

   While at work employees are expected to exercise the same discretion in using personal cellular phones as is expected for the use of company phones. Excessive personal calls during the workday, regardless of the phone used, can interfere with employee productivity and be distracting to others. A reasonable standard the company encourages is to limit personal calls during work time to no more than one per day as needed. Employees are therefore asked to make any other personal calls to non-work time where possible and to ensure that friends and family members are aware of the company's policy. Flexibility will be provided in circumstances demanding immediate attention.

   The company will not be liable for the loss of personal cellular phones brought into the workplace.

2. **Personal Use of Company-Provided Cellular Phones**

   Where job or business needs demand immediate access to an employee the company may issue a business cell phone to an employee for work-related communications. In order to protect the employee from incurring a tax liability for the personal use of this equipment, such phones are to be used for business reasons only. Phone logs will be audited regularly to ensure no unauthorized use has occurred.

   If an employee experiences a severe personal emergency that results in the need to use the company's cellular phone, he or she is required to report this use to the Accounting Department within 48 hours. The employee will be asked to sign a form specifying the number called and the reason for the call as well as a specific authorization to deduct the cost of the call from his or her paycheck when the bill is received. [Note - state law may impact an employer's ability to make payroll deductions. This policy may be modified to provide alternative means, such as direct reimbursement from the employee or even legal action, to recover expenses owed to the company]. Failure to report such use may result in disciplinary action. Failure to reimburse the company for the cost of the call will result in tax liability for the employee as well as possible disciplinary action. [Note – some organizations may have other alternatives available for differentiating personal calls from business calls and/or may provide employees with a maximum that cannot be exceeded each month. The policy should be modified accordingly to address the exact arrangement.]

   Employees in possession of company equipment such as cellular phones are expected to protect the equipment from loss, damage or theft. Upon resignation or termination of employment, or at any time upon request, the employee may be asked to produce the phone for return or inspection. Employees unable to present the phone in good working condition within the time period requested (i.e. 24 hours) may be expected to bear the cost of a replacement.

   Employees who separate from employment with outstanding debts for equipment loss or unauthorized charges will be considered to have left employment on unsatisfactory terms and
may be subject to legal action for recovery of the loss.

3. Safety Issues for Cellular Phone Use

Employees whose job responsibilities include regular or occasional driving and who are issued a cell phone for business use are expected to refrain from using their phone while driving. Safety must come before all other concerns. Regardless of the circumstances, including slow or stopped traffic, employees are strongly encouraged to pull off to the side of the road and safely stop the vehicle before placing or accepting a call. If acceptance of a call is unavoidable and pulling over is not an option, employees are expected to keep the call short, use hands-free options if available, refrain from discussion of complicated or emotional discussions and keep their eyes on the road. Special care should be taken in situations where there is traffic, inclement weather or the employee is driving in an unfamiliar area.

In situations where job responsibilities include regular driving and accepting of business calls, hands-free equipment will be provided to facilitate the provisions of this policy.

Employees whose job responsibilities do not specifically include driving as an essential function, but who are issued a cell phone for business use, are also expected to abide by the provisions above. Under no circumstances are employees allowed to place themselves at risk to fulfill business needs.

Employees who are charged with traffic violations resulting from the use of their phone while driving will be solely responsible for all liabilities that result from such actions.

Violations of this policy will be subject to the highest forms of discipline, including termination.

4. Special Responsibilities for Managerial Staff

As with any policy, management staff are expected to serve as role models for proper compliance with the provisions above and are encouraged to regularly remind employees of their responsibilities in complying with this policy.

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Reviewed August 2001