



# Here's what you need to know about new distracted driving laws

*Using your phone in any capacity, for example, to check maps, look up an address, or find your favourite playlist could count as distracted driving.*

According to Ontario Provincial Police, distracted driving continues to be the number one cause of accidents in the province. It is deadlier than impaired driving. In 2016, more fatal accidents were caused by distracted drivers than any other factor.

Ontario's new driving laws, which are now the toughest in the country, took effect on January 1, 2019. The new laws take a zero-tolerance approach towards distracted driving and implement harsh penalties, even for first-time offenders. For any company that employs commercial drivers, it's important to know what counts as distracted driving under the new laws, what the penalties are, and how you educate employees.

## What counts as distracted driving?

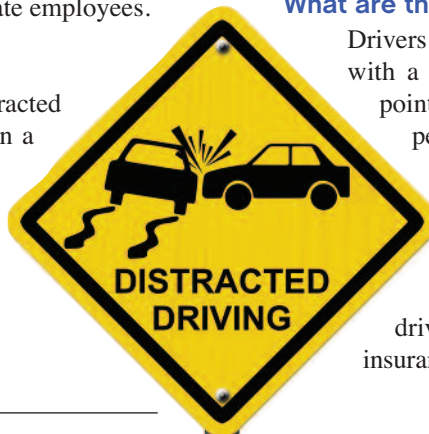
There's often a misconception that distracted driving is limited to talking or texting on a handheld phone, but this isn't the case. Using your phone in any capacity, for example, to check maps, look up an address, or find your favourite playlist all count as distracted driving.

Other activities such as eating, reading or typing a destination into a GPS can be dangerous. They are also considered distracted-driving activities under the new laws. There have even been instances where drivers have been convicted of distracted driving for wearing earphones or checking a smart watch.

According to the Ontario government, distracted driving counts as anything that causes a driver to be less focused on the road. The only exception is calling 911 in an emergency situation, or engaging in an activity once lawfully parked.

## What are the penalties?

Drivers convicted under the new laws will be slapped with a license suspension, hefty fine and demerit points. A first offence will carry a three-day suspension, three demerit points and a fine of up to \$1,000; a second offence will carry a seven-day suspension, six demerit points and a fine of up to \$2,000. Three or more offences will carry a 30-day suspension, six demerit points and a fine of up to \$3,000. All drivers who are convicted can also expect their insurance rates to climb.





*To keep your employees safe and reduce liability, implement a zero-tolerance policy that bans distracted driving in work vehicles or in personal vehicles being operated for work purposes.*

Different penalties apply to novice drivers holding a G1, G2, M1 or M2 license. Novice drivers convicted of distracted driving will face the same fines, but no demerit points and longer suspension periods: a 30-day suspension for a first offence, 90-day suspension for a second offence, and a license cancellation and removal from the graduated licensing system for a third offence.

Furthermore, if distracted driving activities are believed to directly endanger others, and the driver is believed to be operating a vehicle, "without due care and attention or without reasonable consideration for other persons using the road", a charge of careless driving or dangerous driving may apply, which include much heavier penalties including up to and including jail time.

And gone are the days when drivers will receive a warning. The Ontario Provincial Police have announced that distracted drivers will automatically be fined. However, it's important to note that police are not able to seize licenses roadside, and a court conviction is required for suspensions.

### How can my company reduce risk?

Distracted driving by commercial drivers creates risk not only for the driver and others on the road, but also for the company. Employers are responsible for the safety of workers who drive full or part-time, drive a company vehicle, and use a company-provided phone.

The Canadian Criminal Code states: anyone who has the authority to direct how another person works has a legal duty to prevent bodily harm to that person that arises from the work. Therefore, employers may face liability if an employee is injured or injures another while engaging in a distracted driving activity—if it can be proven that the employer did not take reasonable precautions to prevent such an injury.

It's important to find effective ways to share information about distracted driving with employees while equipping them with the tools they need to stay safe. Here are some tips for reducing risk:

**Create a distracted driving policy.** To keep your employees safe and reduce liability, implement a zero-tolerance policy that bans distracted driving in work vehicles or in personal vehicles being operated for work purposes. Make sure employees understand that this applies to all forms of distracted driving—not just cell-phone use.

Craft the policy to explicitly state company expectations with regards to distracted driving. Have all employees sign off on the policy. Ensure that employees are aware of the penalties of non-compliance both at a company level and according to the new distracted driving laws. Update content as and when required and alert employees to the updates.

**Invest in technology.** Where necessary, consider installing hands-free electronic device capabilities on company-owned devices. Encourage employees to change voicemail notifications to indicate that they are driving, and will return calls when they are safely parked. There are also apps available that silence incoming texts and send auto-replies when a message comes through while driving. When your vehicle is in motion, the app starts automatically. Consider implementing fleet tracking devices that monitor and report on dangerous driving activities.

**Discuss distracted driving at toolbox talks.** Supervisors should communicate information about the new distracted driving laws as well as your company's distracted driving policy during toolbox talks or safety briefings. Include distracted driving statistics in the discussion, to reinforce the severity of risk.

Facilitate an internal training session to cover the particulars of the new legislation and what needs to be done to ensure compliance. Train employees to comply with all applicable laws including seatbelt use, impaired driving regulations, and handheld device restrictions. This session could also provide a valuable opportunity to cover defensive driving best practices, special considerations for driving in extreme weather, vehicle accident procedures, and a myriad of other safe driving practices.

With effective communication, a focus on compliance, and the right tools in place, Ontario's new distracted driving laws can help to keep us all safer at work and on the road, while reducing liability for companies that operate a commercial fleet.

*This article was written by Jodi Burchenson, M.Sc. Jodi is a six sigma certified Operations Director with multiVIEW Locates Inc. She is responsible for overseeing operational processes and providing the company with long-term strategic direction.*