

**SUBJECT:** Mobile Communication Device Usage While Driving

**NUMBER:** 107-001-016

**DIVISION:** Office of the Director

**EFFECTIVE DATE:** 01-01-2010

**APPROVED:**



**POLICY / PURPOSE:**

The purpose of this policy is to promote safe driving practices by employees and prevent job-related motor vehicle crashes due to use of Mobile Communication Devices (MCDs) while driving.

Employees who drive state vehicles or who drive personal vehicles while conducting state business must comply with all federal and state laws that govern the use of MCDs while driving. This policy encourages drivers to keep MCD use at a minimum while their vehicles are in motion. An employee should use a hands-free accessory if he or she absolutely must utilize an MCD while driving on state business. Do not make calls while driving, and try not to receive them. Set your MCD to receive voice mail while you drive. If you must take a call (or make one), find a safe place to pull over.

**AUTHORITY:**

ORS 811.507 and HB 2377 [2009 Session]

**APPLICABILITY:**

This policy applies to all DAS employees who use MCDs while driving for state business. Other agencies may follow this policy at their option.

This policy does **not** apply to:

- A person who provides public safety services or emergency services as a volunteer, or while acting in the scope of employment as a public safety officer as defined in ORS 348.270;
- Operators of authorized emergency transit vehicles;
- Persons who use an MCD for the purpose of farming or agricultural operations;
- A person who activates or deactivates the MCD or a function of the device;
- A person who operates an amateur radio and holds a valid amateur radio operator license issued by the Federal Communications Commission;
- A person who operates a two-way radio device that transmits radio communication transmitted by a station operating on an authorized frequency within the citizens' or family radio service bands in accordance with rules of the Federal Communications Commission;
- A person who uses one-way voice communication while engaging in any of the following activities:
  - A. Operating a motor vehicle in the scope of the person's employment;
  - B. Providing transit services to people with disabilities or senior citizens; or

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C. Participating in public safety or emergency service activities.

### ATTACHMENTS:

**Exhibit A** - Please refer to Exhibit A (Acceptable Use Agreement) attached to this policy which is the agreement each employee will sign agreeing to comply with the policy.

### DEFINITIONS:

#### **Business Emergency**

A business reason for using a state-issued MCD without a hands-free device.

#### **Hands-free Accessory**

An attachment to an MCD, or built-in feature or an addition to an MCD (whether or not permanently installed in a motor vehicle) that enables a person to keep both hands on the steering wheel while using the MCD.

#### **Mobile Communication Device (MCD)**

A text-messaging device or a wireless, two-way communication device that receives and transmits voice or text, including Nextel and any similar device and mobile Global Positioning System (GPS).

#### **Texting**

The act of sending a written message using a MCD such as a cell phone, BlackBerry or GPS.

### GUIDELINES:

#### **I. General Use at work:**

- Use privately owned MCDs sparingly in the workplace, since these devices are for personal communications.
- Agencies may assign MCDs to employees to enable them to conduct state business according to Policy 107-001-015.
- You may use an MCD as a pager for receipt of voice or text messages.
- Agencies may assign MCDs to employees primarily for business use, with occasional personal use as identified on a monthly basis and reimbursed through payroll deduction. Employees must protect MCDs and return them when employment ends.
- Agencies will monitor monthly charges for use of MCDs by employees. Managers may determine consequences of excessive or inappropriate use by their employees.
- This policy prohibits use of camera phones in restrooms and areas where confidential information is located.

#### **II. Safety**

- Avoid or terminate stressful or emotional phone calls while driving.
- Avoid using MCDs in unsafe or high risk situations while driving, e.g., construction sites, near heavy machinery, school zones, areas of greater foot traffic, etc. This guideline pertains to personal use and official use.
- Avoid using MCDs while driving on state-related business.
- Never look up phone numbers while driving, except when the vehicle is stationary.
- Keep your eyes on the road while driving.
- Never use an MCD in adverse weather or in difficult traffic conditions.

#### **III. Compliance**

- Any employee who violates this policy or engages in unauthorized use of a MCD is

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subject to disciplinary actions, up to and including dismissal.

- Any employee who operates a motor vehicle while using a MCD without a hands-free accessory commits a class D traffic violation, which is punishable upon conviction by a fine of \$90 as provided in ORS 153.018(2).
- Each occurrence of a violation is a separate offense.
- Payment of fines is the responsibility of the employee.

**PROCEDURES:**

<b><u>Step</u></b>	<b><u>Responsible Party</u></b>	<b><u>Action</u></b>
<b>1.</b>	<b>Agency Director</b>	<p>Each agency director has the following responsibilities:</p> <ul style="list-style-type: none"><li>• Ensure that the agency has sufficient safeguards in place to restrict expenditures for state information assets to those necessary for the conduct of official business. The director must also ensure that sufficient internal controls are in place.</li><li>• Ensure appropriate use of state information assets and compliance with applicable rules and policies.</li><li>• Ensure that the state pays only charges incurred by authorized users for official business.</li></ul>
<b>2</b>	<b>Division Administrator</b>	<p>The division administrator is responsible for enforcement of this policy; the administrator must do the following:</p> <ul style="list-style-type: none"><li>• Inform employees of this policy and obtain employees' signatures on Acceptable Use Agreement as it applies to use of state information assets in the scope of employment.</li><li>• Provide a good example of state information asset use, and guard against excessive or inappropriate use of such assets by employees.</li><li>• Maintain accurate record of violations of this policy.</li><li>• Implement a maintenance program and immediate withdrawal from service of any computer or device with mechanical defects; regular inspection and maintenance.</li></ul>
<b>3</b>	<b>Employee</b>	<p>All employees who drive a vehicle on state business are responsible for:</p> <ul style="list-style-type: none"><li>• Using an MCD hands-free device when placing or taking calls while driving.</li><li>• Ensuring that a vehicle is not in motion when entering information into a GPS.</li><li>• Following this policy and acknowledging understanding by signing an Acceptable Use Agreement.</li><li>• Understanding that sanctions, including dismissal, may result from the unauthorized use of the MCD.</li><li>• Understanding the minimum standards that relate to charges and use of MCDs according to Policy 107-001-015.</li></ul>

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**Exhibit A**

**Acceptable Use Agreement**

I, \_\_\_\_\_ acknowledge I am being granted use of state information assets in order to carry out my work and agree that my use of such assets will be conducted in a manner that ensures compliance with this Policy, Policy 107-01-010, and Policy 107-001-015 and by Oregon Accounting Manual Policy 40.10.00 PO and by Statewide Policy 107-001-016, Mobile Communication Device Usage While Driving.

I agree that any personal use of any provided Mobile Communication Device, will be identified on a monthly basis, and reimbursed to the agency through Payroll Deductions. I further understand that any personal use is also subject to taxation of the user.

I understand my usage will be monitored, without further warning, and that inappropriate usage may be cause for disciplinary action, including but not limited to reprimand, suspension, and termination of employment or Civil or criminal prosecution under federal and state law.

I understand that I must use a hands-free accessory when driving a motor vehicle while using a Mobile Communication Device, except where exclusions apply. Any traffic violations or payment of fines imposed for violation of any applicable laws are my personal responsibility.

I understand that the use of state information assets may be revoked at any time without further warning.

I acknowledge, I have read and understood this document by signing below. I further understand it is my responsibility to seek advice regarding any questions I might have regarding this document or policy prior to my signing.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Witness (Manager) Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date