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Lawsuits Driving Cell-Phone Policies

It isn't legislation that's spurring employers to restrict their employees' cell phone use -- it's lawsuits, according to the Associated Press.

One in suit particular seems to have caught the attention of many. The family of Naeun Yoon is suing lawyer Jane Wagner and her firm, Cooley Godward, for \$30 million, claiming that Wagner was so busy talking on her cell phone while driving home in Tyson's Corner, Va., that she didn't stop when she struck the teen-ager; instead, she proceeded on, thinking she had hit a deer.

It wasn't until the next morning, on March 9, 2000, when she heard that a hit-and-run driver had killed a 15-year-old girl, that Wagner realized what she had done. After turning herself in, she pleaded guilty to a felony hit-and-run. She is now serving a one-year sentence at a work-release program.

"The recent lawsuit focused our attention, but it's a common sense safety concern," said David Fuss, a partner at Wilkes Artis, one of several Washington, D.C., law firms that have enacted curbs on cell phone use. "Our policy is that personnel are not to conduct business while (driving) using cell phones, unless they pull over and stop or use a hands-free device."

According to the AP, even General Motors Corp., whose OnStar subsidiary sells embedded or hands-free mobile phones for cars, is revising guidelines for its own workers.

"Stay tuned. We're getting there," said GM spokeswoman Carolyn Markey. "We're working on a new policy regarding all distractions, and it should be available soon."

In June, New York became the first state to ban the use of hand-held cell phones by drivers. Curbs are pending in 42 other states. Japan, Israel, Portugal and Singapore are among 23 countries to have restrictions.

Beyond mobile phones, there is also increasing debate over a host of devices that let drivers send e-mail, check appointments, or get driving directions and access so-called concierge services for movie times and restaurant suggestions. GM maintains a "SenseAble driving" Web site with educational tools to help motorists stay focused.

Limiting liability is clearly behind the latest spate of policies, according to Tom Harrison, publisher of Lawyers Weekly USA, a national newspaper and Web site that tracks litigation trends for small firms.

"Companies get a lot of benefit from employees' productivity while talking on the phone from their car," Harrison told the AP. "It's still a question if they should be responsible for any accidents that result, but if most people think it's dangerous and should be banned, that's your jury pool."

Jonathan A. Segal, a Philadelphia attorney who advises companies on avoiding employment litigation, is drafting policies for several clients of his firm Wolf, Block, Schorr & Solis-Cohen.

But legal experts say specialized mobile-phone policies can't completely shield employers.

"There's nothing special about the cell phone," said Kenneth Abraham, a professor of tort and insurance law at the University of Virginia in Charlottesville, Va.

Companies still can be responsible if employees are only slightly deviating from their assigned tasks when the accident occurs, but not when staff do something "they really weren't supposed to do," he said.

Still, Abraham thinks the new guidelines make sense. "If they have a policy, their employees are less likely to have accidents."

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