



Driven to Distraction – Keeping Employees Safe on the Road

by Eric Glass

On June 7, 2014, a well-known comedian was severely injured in a traffic accident. A sleep-deprived tractor-trailer driver, travelling at 65 mph in a 45 mph work zone, hit the comedian's limo. Because of the victim's fame and the employer's name, the accident quickly made national news. But this type of incident happens every day without much attention, and may have already happened to your company. If your organization does not have any tractor-trailers, insert "private passenger autos" or "light trucks" into the scenario—the vehicle type doesn't matter.

Unfortunately, most organizations have experienced some sort of fleet-auto related incident. Just being involved in an accident is awful, but it is much more terrifying to be at fault. This fear keeps the business owner up at night; one claim could mean a serious financial hit or closure of their business. It compels a fleet manager to take a candid look at how they train, qualify, and sustain the skills of a safe driver. It weighs on the driver because one at-fault incident could mean the end of his professional career.

The Stats

Speed and distracted driving are two of the major causes of all roadway incidents (the third is driving under the influence of legal or illegal drugs and alcohol). But let's review some other important data first. Although these are U.S.-based statistics, the percentages and hazards translate well from border to border.

According to the NHTSA Traffic Safety Facts Sheet, there were 32,719 traffic fatalities on U.S. roadways in 2013:

- 50% of the fatalities were drivers, 18% passengers, 14% motorcyclists, 15% pedestrians, 2.3% peda-cyclists and .08% not-classified.
- 40% of the fatalities were operating private passenger autos, 38% light trucks, 9% large trucks, 11% motorcycles and 3.3% not-classified.
- Out of the 9,892,000 fatal/non-fatal accidents reported, 96% (or 9,538,000) involved private passenger autos.





- Private passenger autos account for 93% of registered vehicles and account for 90% of the vehicle miles travelled.
- 32% of crash deaths occurred between 3 p.m. and 9 p.m.

Why do you see a lot of statistics and information regarding “private passenger autos”, “speed” and “distracted driving”? It is for a very good reason and important for you to understand and “set the table” for what you are about to read in this post. They are also closely intertwined. We’ll get there!

Dangers of Speeding

“Speeding” knows no borders. If you looked at any nation that has drivers, vehicles, and roadways, you will find that speeding is one of the major causes for accidents and fatalities. In the United States:

- 29% of fatalities (9,613) were directly attributed to speed as a contributing factor in the crash report. Since 2004, speeding has been a factor in 30% of on-road fatalities.
- Speed-related deaths were higher on minor roads (35%) compared to interstates and freeways (30%) or major roads (26%).

Speeding also:

- Increases the chances of death or serious injury for every 10mph you travel over 50mph
- Reduces a driver’s ability to react to road hazards
- Reduces the effectiveness of seat belts and other impact protection devices
- Increases fuel costs
- Increases commercial and personal insurance premiums (or insurability status as a whole)
- Adds distance necessary for stopping your vehicle

Here’s a crazy and dangerous practice: incentivizing employees to make as many deliveries as they can in a day. Are you kidding me? So, they are rewarded for doing things “efficiently” yet if they were in a speed-related crash, they’d be written up for unsafe driving?

Dangers of Distracted Driving

Distractions are simply anything that would cause a driver to take focus off the task at hand (safe driving). These could be distractions from inside or outside the vehicle. With the introduction of mobile technology, use handheld devices have dramatically increased the number of accidents and fatalities. It has also overtaken “speed” as the #1 cause of all roadway accidents. And this number will continue to rise as technology becomes more and more affordable and part of standard packages in the automotive industry.



Driver distractions fall into three categories:

- **External:** distractions outside your vehicle that may cause you to take your eyes off the road ahead of you (animals, road signs, scenery, other drivers)
- **Psychomotor:** distractions inside your vehicle that may cause you to take your eyes off the road ahead and your hands off the steering wheel where they belong (mobile devices, car radios, GPS, seat controls, reaching for items inside the cab)
- **Cognitive:** distractions that can take your mind off the task of driving and cause your attention to wander from the road (thoughts)

Companies can easily address external and psychomotor through awareness training, administrative/standard operating procedure (SOP) changes, or elimination. The cognitive part is more challenging because we can't control what or how employees think. But we can help control their workloads or be in tune when they might be going through some tough times. It's difficult, but not impossible.

According to the dedicated U.S. Government website for Distracted Driving, in 2013:

- 3,154 people were killed in motor vehicle crashes involving distracted drivers.
- 421,000 people were injured in crashes involving distracted drivers.
- 153.3 billion text messages were sent in the United States alone in a one month period.
- At any given moment, about 660,000 drivers are using mobile technology while driving.
- 5 seconds is the average time your eyes are off the road when using mobile technology. At 55 mph, that's like driving the length of a football field blindfolded.
- 10% of drivers younger than 20 years old involved in fatal crashes were reported as distracted at the time of the crash.

What You Preach vs. What You Actually Do

If organizations want to better educate their drivers about hazards, the information above is a great start. But ask yourself, "does my operation contribute to any of these distraction types?" "Do our standard operating procedures undermine any of the good information above by requiring employees to take attention away from the task at hand (driving)?" As a business owner, EHS professional, supervisor, or training manager, it is imperative that you go through this process--not only for distracted driver prevention training, but ALL of your training subjects.

I have seen many organizations that will strongly attest that they do invest great time and effort to educate their employees on safe driving. But, they will also call their drivers or other employees while on the road to ask questions, change a delivery drop-off location, or other company business that the employee is responsible for executing. Isn't that sending a wrong or confusing message to the employee?

This confusion allows the terms "but", "except for", or "sometimes" to be inserted into



thought process. “I was driving distraction-free BUT my manager texted me a change on my route.” “SOMETIMES my company overlooks speed if it means we make the appointment on time.” “We cannot drive distraction-free BECAUSE we are constantly expected to correspond with customers. And customers are what keep us in business.”

Negligent Entrustment & Respondeat Superior

Want a good, eye-opening education on the ramifications of speeding or distracted driving? Look no further than a plaintiff attorney website. Not only will they inform the general public about the hazards and statistics of speeding, they also offer great advice on how to pursue a lawsuit against an individual or company that fails to protect the general public under the doctrine of “negligent entrustment” or “respondeat superior”.

The legal term of negligent entrustment is “the act of leaving an object, such as an automobile, with another whom the lender knows or should know could use the object to harm others”. Claims arise when an unlicensed, incompetent, or reckless driver causes damage while driving a motor vehicle owned by someone else (your employee driving YOUR company-owned vehicles).

Another important legal term to be cognizant of is “respondeat superior” (aka master-servant rule) which states “an employer is responsible for the action of employees performed within the course of their employment.” All aspects of their work they perform includes the operation of ANY motor vehicle (yes, their own too). This would include sales people who operate their own vehicles to conduct business for you as well as other employees that might be tasked to perform a company errand (e.g. picking up an office lunch, going to a parts store to purchase an item, etc.). And, usually this is done in their PERSONAL private passenger automobile.

So, has your mind changed about what actually defines your fleet? Personal vehicles are usually the unchecked exposure for most organizations. Even though companies are not required to insure an employee’s personal vehicle for comprehensive and collision coverages, that does not mean that liability does not exist. Most jurisdictions require an individual driver to have auto liability coverages but, under the doctrine of respondeat superior, companies can be sued because they are ultimately responsible for the actions of their employees conducting business on their behalf. And if employees are driving their own vehicles, companies have that possible liability exposure.

Keeping Your People Safe and Your Liability Limited

Here are some things to consider:

- **It all starts with good hiring practices.** Ensure that your hiring processes have the ability to recruit and hire quality employees and avoid the “fill it with a body” mentality. Remember, hires made out of desperation usually leave via termination.
- **Examine your job descriptions.** A heavy investment on the front end will save time and money on the back end. A well written, thought-out job description (which includes “occasional driving responsibilities”) is essential during the hiring process. It sets the stage for not only what would be required of the employee in the course



of their employment, but also sets conditional requirements (which include various background checks including MVRs) to be considered for a job. For employees that are already in your ranks? Have a discussion with your HR or Legal Counsel regarding how (or if) job descriptions can be modified without exposing your organization to possible employment-related practices liability exposure.

- **Limit your exposure as much as possible.** Identify and select current employees that you are certain have acceptable driving records and active driver's licenses. There have been cases where employers have tasked employees to run errands and find out after accidents that their licenses had been revoked or suspended.
- **Strictly enforce a Safe Driving policy.** Develop a comprehensive policy and strictly enforce it. Employees should read and sign, stating that they understand what is required of them while conducting business on behalf of the company. Address not only speeding and distracted driving, but any other hazards or processes you feel that need to be addressed.
- **Treat all drivers the same.** Whether driving is a part of the employee's primary job description or something they might do once in a blue moon, they should strictly follow your company's Safe Driving Policy and receive periodic training on road and driving exposures.
- **Align/verify coverages.** If employees are required to use their own vehicles to conduct company business, ensure their personal auto policies 1) would be primary in the event of an accident, 2) have acceptable coverage limits that align with your commercial coverage limits, or 3) permits this type of activity for their policyholder in the first place. This is common practice for organizations that have large personal private passenger auto exposure.
- **Scrub your SOPs.** Make sure your SOPs don't encourage unsafe driving. Examine how you communicate with employees while on the road. If your communication might cause them to be distracted, then change that process.
- **Go for a ride.** Periodically ride with drivers to observe their in-cab behaviors and assess how they do their jobs while on route. Do this both on a scheduled and ad-hoc basis.
- **Get help!** Depending where your company resides, there might be specific employment law regarding what you can and cannot do post-hire regarding drivers. Before taking any action or making any changes, seek consultation from your HR Department or Corporate Counsel.

In closing, reacting to this newly-found liability exposure is relatively simple and rooted in common sense. For most EHS professionals, it is a foreign concept but frequently falls under EHS responsibilities. Of course, there are some tough questions that need to be addressed during the process and sometimes the solutions will require some outside help or consultation. Don't be afraid to reach out and get the guidance you need. It is definitely an exposure that needs to be addressed and discussed immediately.

AUTHOR

Eric Glass, a Senior EHS Advisor with UL Workplace Health & Safety, has 18 years of risk management, loss control and safety experience. He is an OSHA Outreach Trainer and advises companies on the design of advanced risk management and safety programs. In addition, Eric provides insight for workplace safety training and software development and contributes to UL's Fire and Electrical Safety Audits offering for international ready-made garment factories. He also assisted with development of Florida's first continuing education safety curriculum for service contractors in the HVAC, electrical and plumbing industries.

Copyright: UL and the UL logo are trademarks of UL LLC © 2015. No part of this document may be copied or distributed without the prior written consent of UL LLC 2015.