



Is hands-free equipment legal?



Q: What are the current regulations with regards to the use of hands-free equipment by drivers?



A: In relation to the use of hands-free equipment there are a number of regulations which impact upon their use by a driver. As most drivers are aware it is now an offence to use a hand-held mobile phone while driving. Should a driver be caught using a mobile phone while driving their vehicle they will currently be subject to three penalty points and a fine of up to £2,500 for a PCV driver on conviction in court. These penalties are currently under review.

In terms of a driver operating hand-free equipment generally while driving the vehicle, for example, using a Bluetooth device to take a call, etc, although this is currently permitted within the regulations (You are allowed to push buttons on a phone while it is in a cradle or on the steering wheel, as the law only says you must not hold the phone), should a driver be involved in a collision and at the time he was using a hands-free device, this can be used by the court as an aggravating factor leading to the possibility of an increase in penalties. This would also apply if the driver was interacting with a GPS system, CD player etc.

The law does not demand that your mobile phone is switched off when travelling in a vehicle. Strictly speaking, the law applies while driving which does, in theory, include times when the driver is stopped at traffic lights or during traffic jams. However, if your engine



PCV drivers can be fined up to £2,500 for using a handheld mobile phone

is switched off, the law no longer applies. It is unlikely that someone would be prosecuted for making a quick call on a non-hands free mobile device in a serious traffic jam - as long as it was clear that they had turned off their engine and were therefore not driving. However you may find it difficult to prove that the engine was switched off when you made the call.

You are allowed to call 999 (or 112) in a genuine emergency where it is impractical or unsafe to stop.

What is HSE policy on work traffic incidents?



Q: What is the Health & Safety Commission's health and safety policy on work traffic incidents?



A: The Health & Safety Executive and Local Authority Inspectors do not generally seek involvement with work-related work traffic incidents arising from driving activities on public roads. The presumption has

been that the Police (or Highway Authority), Vehicle Inspectorate, Traffic Commissioners, etc) have a better [logus] for dealing with the issue involved and the road traffic legislation is sufficient to adequately ensure safety.

However, the policy does not exclude the use of health & safety legislation in respect of all work relating to road traffic incidents and there may be a need to use health & safety legislation, particularly in the case of serious management shortcomings. The Health & Safety Executive has stated it is going to take a more proactive approach to bus and coach operations. Risk assessments should be carried out into all aspects of operation, including those outside the depot gate. They should include local bus services, school buses, long distance coach operations and any other specialist operations where particular risks could occur, such as airport, airside work or skiing tours.

The HSE and the local authorities are mostly definitely responsible for

regulating site transport within premises and will investigate incidents that take place on the public highway immediately outside works premises, for example, where a vehicle is turning into an entrance.

Rules on audio/visual equipment?

Q: What are the time rules and regulations in relation to audio/visual equipment on board a coach?

A: The installation of television receiving equipment may not be installed if the screen is partly visible to the driver while driving a vehicle, unless it is only capable of displaying information, for example, about the state of the vehicle or its equipment.

In relation to changing of programmes, videos, DVDs, etc, while the vehicle is in motion this should be avoided by passengers as if the vehicle were to brake suddenly it could cause injury: no such operation should be undertaken if they affect the driver.

It is worth noting that, if music or image recording equipment is installed in the coach (ie, radio, video) then a licence should be sought from the Performing Rights Society.

What are regs on assisting passengers?

Q: What are the current regulations with regards to assisting passengers to embark and disembark from the PSV?

A: Since 1 January 2005, all coaches and buses have



Disabled people have right to be helped by a PCV driver to board or alight

been required to be accessible for wheelchairs and disabled passengers.

Under the Public Service Vehicles (Conduct for Drivers, Inspectors and Passengers) (Amendment) Regulations 2002, drivers must assist a disabled person to alight and disembark where this is requested of them.

Although these Regulations do not specifically determine the use of any means that is not a fixture to the bus or coach to assist passengers to board or alight, they do advocate the use of specific boarding devices for this purpose.

Drivers must:

- Know how to use the boarding device fitted to their vehicle.
 - If they use a portable ramp, know how to fit it.
 - Ensure the tools to fit a board device are installed on the vehicle.
- Drivers are not to let disabled passengers board the bus if a failure or fault of this equipment means it is unsafe for them to do so. This would infer that drivers are not

supposed to get the passenger on board the vehicle by the use of other objects (boxes etc.).

Should a driver use some other object on a person, who as a result is injured, this could result in a legal claim being commenced. Even if the employer has stated to the driver, they must only use the equipment provided, they may still be liable.

Given that it is part of the driver's job to assist passengers to get on and off the bus, if he chooses to do this authorised task in an unauthorised manner vicarious liability can still attach.

As to whether the insurance company would be affected, this would depend on the terms of the particular policy.



Andrew Sanderson
Solicitor

Hammonds

Legal Jottings is brought to you through CDC's partnership with leading transport lawyer, Andrew Sanderson.
Tel: 020 7655 1060 Email: andrew.sanderson@hammonds.com