



Liability & Property Pool Workers' Compensation Fund

RISK CONTROL SOLUTIONS

A Service of the Michigan Municipal League Liability and Property Pool and
the Michigan Municipal League Workers' Compensation Fund

DISTRACTED DRIVING, ROAD WORK & YOU

You come to a four-way stop. You watch a car blast right through the intersection without stopping, totally oblivious to what just happened.

You're behind a car at a traffic light. The light turns green, the car doesn't move. You can see the driver's head bent down, obviously texting. You honk your horn, but it is still not enough to get the driver's attention.

It is a beautiful bright sunny day, there is minimal traffic on the two-lane highway. For no apparent reason, the car coming towards you is drifting into your lane, presenting a potential head-on collision. You are about to drive into the ditch to save yourself when, finally, the oncoming vehicle swerves back into its own lane.

Close calls. Near misses. We have all witnessed these, and more severe occurrences. Sometimes, it has even been us at fault.

We all know that incidents like these are frequent, daily events. Traffic fatalities have gone up recently, after many years of downward trending. Wonder why? Distracted driving is a primary reason. Some studies indicate that texting and driving is as bad or worse than drunk driving.

And you work in this environment. You are exposed to it daily in your job. Police, Firefighters and DPW personnel work in and on the shoulder of the road regularly. Studies show that road workers are 6 times more likely to be injured or killed on the job compared to other professions.

Michigan's "move over" law will help minimize some traffic crash risks. But, distracted driving is here and, at least for the foreseeable future, is here to stay. Fortunately, there are steps that can be taken to reduce these serious and frequent safety hazards. So, how do you protect yourself and your department?

POLICE DEPARTMENT

You have likely seen it on TV: A typical traffic stop turns into a disaster when another car, driven by a drunk or drugged, inattentive, or just plain poor driver smashes into the scene. It seems all those bright flashing lights are an attraction, rather than a deterrent.

Confirm that all patrol vehicles are properly outfitted with adequate emergency lights, flares, high-visibility vests and other safety equipment required for effective and safe traffic control. All personnel should know how to properly use this equipment.

Set your own car as a blocker when you pull somebody over. If it is a hilly, curvy area, direct the driver to a safer, adjacent side road. Look before you get out of your patrol car. Is there adequate space between your vehicle and theirs? Do not stand between the patrol car and the vehicle that you have stopped. If you must remove individuals from their car, make certain that they stand off the roadway, well away from the traffic stop. When it is dark, foggy, raining or snowing be especially observant.

High-visibility vests should be mandatory for accident scenes where you are directing traffic. Ensure all responding agencies are coordinating traffic control efforts.

FIRE DEPARTMENT

If you are in or near the traffic flow, high visibility reflectorized vests should be mandatory. Turn-out gear is reflectorized, but used alone it is inadequate. As soon as possible, park a large vehicle upstream. Ensure that you and other responding agencies (Sheriff, MSP, local PD) coordinate traffic control and each is aware of specific traffic control duties.

If you must direct or flag traffic, make sure your fire fighter has been trained for this. If you must talk to another emergency responder, get as far off the roadway as possible.

Keep your head on a swivel. Often, it will be the one you don't see that gets you.

DPW

Road work does not just mean work within the confines of the road. Consider any area from the sidewalk to the roadway as road work. Prepare and conduct work your practices accordingly. If you think you are safe because you are inside of the curb, you may be wrong. Very wrong.

ANSI standard compliant high-visibility vests for all is mandatory. If you use a flagger ("traffic regulator"), they must be trained specifically for that task and wear the vest, hard hat, safety glasses and steel-toed boots. Make certain they are not distracted by their cell phone or radio, and that they are clearly focused on the project and their job.

If you have a rolling patch crew, it is imperative to have a blocker with an arrow board bringing up the rear. Depending on traffic, you may need more than one blocker. Ensure they are properly spaced. A pick-up truck with an arrow board is better than nothing. Sometimes, a pick-up alone is insufficient protection. Put your heaviest vehicle in back of the caravan blocking the work area; your crew will be much safer in a rear-end collision.

If you have a static work site, like a trenching project, place signs notifying oncoming drivers that a work area is ahead. Generally, signs should be placed 100 feet for every 10 mph of posted speed in the zone (e.g., 300 feet in a 30 mph zone). If the area is hilly or curvy, double that distance. Use barrels, cones, barricades, attenuators, and arrow boards to alert and direct drivers. Remember – use a large, heavy vehicle as a blocker upstream of the work site.

Before you start a project, make sure you have the proper equipment. When planning, ask yourself if there are an adequate number of crash avoidance devices available? Are they in good repair? Are they properly deployed? If they are battery powered, are they charged? Do you have enough trained traffic regulators?

A press release to the local radio stations or news agencies, notifying the public of the construction project, may assist in reducing traffic in the area where the work is being performed.

Road work may be a necessary part of your job, but it can be done safely. There should be no compromise on safety measures. **Your safety and that of your team matters!!!**

AND NOW, YOUR EMPLOYEES

All the above are ways to protect employees from distracted drivers.

There are also liability exposures to consider from your own operations. The negligent operation of government-owned vehicles is one of the few exceptions to governmental immunity. **Texting or other cell phone use while driving is now generally accepted as a negligent act, so any employee involved in an accident while texting or phoning would present a significant liability exposure for the municipality.** So, what can you do to prevent your people from being a distracted driver?

1. Have a clear written policy.
2. Ensure that all your drivers are trained **annually** on the policy.
3. Strictly enforce your policy.

The policy should prohibit cell phone use and any other devices, actions or behaviors that divert the driver's eyes and full attention away from the road.

There are exceptions. First Responders will have to respond to radio and some emergency phone calls. DPW staff, in some situations, may as well. In limited circumstances, non-emergency personnel might need to answer or make calls while driving.

When a policy violation is observed, issue a reprimand. You may be saving that driver, road worker, or emergency responder from injury or death. Issue regular reminders on what you expect of your drivers.

A good training program is essential for success. Use videos, outside speakers or your own experienced employees. Real-life stories of crashes or near misses at work sites will make a big impact.

RISK CONTROL RECOMMENDATIONS

Make constant awareness a top priority. Instruct employees to follow these recommendations:

1. Stay Off the Phone!

- Do NOT use electronics while driving or operating equipment. Make sure the vehicle or equipment is stopped completely before using a smartphone or smart tablet for work purposes.
- When you need electronics for your job, remember to look up often and in alternating directions.
- Do NOT use electronics while flagging, other than for coordinating traffic control movements with other flaggers.

2. Follow Policy

- Only use personal electronics in approved safe zones or during breaks. Talking, texting, games, and pictures can wait.
- Use hands-free devices or voice commands.
- Have devices properly mounted instead of holding them or allowing them to be loose.

- Practice working with any electronic devices you need to use before getting on the jobsite.

3. Look Around or Have a Spotter.

- Some work tasks use handheld devices. Look up every 2 seconds to check for new hazards.
- If you must focus on a device, have a spotter next to you to watch for hazards.

CONCLUSION

Citizens expect first responders to come when called. Crashes resulting from distracted responders cause delays.

At least for the foreseeable future, Michigan roads and infrastructure will need consistent, substantial repair and replacement. The pothole war is never-ending. Citizens want good roads, but have little patience for their construction.

For these reasons and more it is imperative that your employees have been properly trained and are instilled with an appreciation for the hazards that they will face.

For more information, contact the League's Loss Control Services, or MML Risk Management Services.



Important Contact Information

MML Risk Management Services	734/662-3246 or 800/653-2483
Loss Control Services	800/482-2726

Note: This document is not intended to be legal advice. It does not identify all the issues surrounding this particular topic. Public agencies are encouraged to review their procedures with an expert or a competent attorney who is knowledgeable about the topic.

ADDITIONAL RESOURCES:

MML Risk Control Solutions, http://www.mml.org/insurance/shared/risk_resources/risk_solutions.html

Reducing the Risk of ***Motor Vehicle Operations*** (4 parts):

A Management Brief

Development of a Motor Vehicle Operations Policy

Motor Vehicle Inspection and Maintenance

Hiring and Training to Reduce Losses

SafetySurance, <https://www.safetysurance.com>

SafetySurance is a virtual library of accident-prevention and safety related information. Access to SafetySurance, and its safety resources and training videos, is free for all MML Liability & Property Pool and Workers' Compensation Fund members.

National Highway Traffic Safety Administration, <https://www.nhtsa.gov/>

National Safety Council, <https://www.nsc.org/>

Michigan Department of Transportation, <https://www.michigan.gov/mdot>

National Work Zone Safety Information Clearinghouse, <https://www.workzonesafety.org/>

SAMPLE POLICY LANGUAGE

USE OF HANDHELD ELECTRONIC DEVICES

The purpose of this policy is to protect your safety and the safety of others by limiting the use of cell phones and other handheld electronic devices when driving or operating equipment.

Personnel must not engage in any practice or activity that distracts or diverts their attention while driving, operating equipment, or performing work activities. These distractions may prevent you from concentrating on the safe operation of the vehicle or equipment and lead to a tragic incident.

Personnel may not use handheld communication devices (cellular phone), portable media player (MP3 Players), or a portable computer or tablet for talking, texting, messaging, electronic mail communication, or other means of transferring information while driving, working in or on the road, or being within the limits of a construction project under the jurisdiction of the <city, village, township>, except under the following conditions:

- First Responders when receiving and sharing information while responding to an emergency.
- The individual is designated as a member of the “emergency response” group for a construction or maintenance project.
- Traffic control flagging operations (two-way radio communication).
- Surveying crews (data may be transferred between surveying devices and computers in a controlled environment).

Personnel that need to make or receive a non-emergency call while driving shall locate a lawfully designated safe place, away from traffic, to park. The shoulder of the roadway is not considered a safe area to park.

GPS navigation units, or GPS smartphone or tablet applications, shall not be adjusted unless stopped and parked in a lawfully designated place.

This policy also applies when operating personal vehicles that are driven while performing <city, village, township> business.

Violating this policy may result in disciplinary action. Managers and supervisors are responsible for educating subordinates about appropriate electronic device use procedures, monitoring their usage, and enforcing this policy.

HIGH-VISIBILITY SAFETY APPAREL

All employees working within the right-of-way of any street, highway, roadway or a construction site, who are exposed to either traffic or construction equipment within the work area, regardless of job type, shall wear high-visibility safety apparel.

High-visibility Safety Apparel means personal protective safety apparel that is intended to provide conspicuity during both daytime and nighttime usage and that meets the Performance Class 2 or Class 3 requirements of the ANSI/ISEA 107-2015 publication "*American National Standard for High-Visibility Safety Apparel and Headwear*".

High-visibility safety vests meeting Performance Class 2 and Class 3 requirements will be provided to employees. Issued rain gear shall be safety green in color and meet the Performance Class 2 or Class 3 requirements.

T-shirts and jackets or other apparel meeting ANSI Standard 107-2015 Class 2 and 3 are acceptable, but must be purchased by the employee and shall maintain the appropriate ANSI 107-2015 Label. All safety apparel must be properly fitted and properly worn.

For daytime activity, employees shall wear safety apparel meeting the requirements of ANSI 107-2015 standard performance for Class 2 or Class 3 risk exposure. For nighttime activity, employees shall wear safety apparel meeting the requirements of ANSI 107-2015 standard performance for Class 3 risk exposure.

Supervisors shall decide if high visibility apparel is faded or soiled beyond reasonable usefulness in terms of conspicuity. When there is any doubt whether the apparel offers employees the high-visibility characteristics intended by this policy, it shall be replaced with new apparel which unquestionably meets Department intent to maintain very high levels of conspicuity. If there is any dispute, a safety representative will make the final decision.