



A Compliance Check Newsletter

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OSHA's Distracted Driving Initiative

The Occupational Safety and Health Administration's (OSHA) top priority is keeping workers safe. While there are fewer fatalities in the workplace today, the leading cause of worker fatalities year after year are motor vehicle crashes. Distracted driving dramatically increases the risk of such crashes. The Department of Labor (DOL) through OSHA is partnering with the Department of Transportation (DOT) to combat distracted driving.

OSHA will first focus on texting while driving. Employers should prohibit any work policy or practice that requires or encourages workers to text while driving. The Occupational Safety and Health Act of 1970 is clear – employers must provide a workplace free of serious recognized hazards. It is recognized that texting while driving dramatically increases the risk of a motor vehicle injury or fatality. It is imperative that employers eliminate financial or other incentives that encourage workers to text while driving. Employers who require their employees to text while driving or who organize work so that doing so is a practical necessity, even if not a formal requirement, violate the OSH Act and may incur civil liability for any resulting accidents or injuries.

There are currently 30 states which prohibit texting while driving. In addition, OSHA is launching a multi pronged initiative that will include the following:

- An education campaign to employers, launched during Drive Safely Work Week, calling on employers to prevent occupationally related distracted driving – with a special focus on prohibiting texting while driving;
- A website which includes a video message and model employer policies;
- Placing a special emphasis on reaching young workers; and
- When OSHA receives a credible complaint that an employer requires texting while driving or organizes work so that texting is a practical necessity, they will investigate and, where necessary, will issue citations and penalties to end this practice.

EEOC Files Nationwide Hiring Discrimination Lawsuit Against Kaplan Higher Education Corp.

Company's Use of Job Applicant's Credit History Discriminates Because of Race, Federal Agency Charges

Kaplan Higher Education Corporation, a nationwide provider of postsecondary education, engaged in a pattern or practice of unlawful discrimination by refusing to hire a class of black job applicants nationwide, the U.S. Equal Employment Opportunity Commission (EEOC) charged in a lawsuit it announced recently.

Since at least 2008, Kaplan Higher Education has rejected job applicants based on their credit history. The EEOC charged in its lawsuit that this practice has an unlawful discriminatory impact because of race and is neither job-related nor justified by business necessity.

As a result of these practices, the company has violated Title VII of the Civil Rights Act of 1964, according to the lawsuit filed by the EEOC's Cleveland Field Office in U.S. District Court for the Northern District of Ohio. It is a violation of Title VII to use hiring practices that have a discriminatory impact because of race and that are not job-related and justified by business necessity.

The EEOC attempted to reach a voluntary settlement before filing suit. The EEOC seeks injunctive relief in its lawsuit, as well as lost wages and benefits and offers of employment for people who were not hired because of Kaplan Higher Education's use of job applicants' credit history.

"Title VII of the Civil Rights Act of 1964 was intended to eliminate practices that serve as arbitrary barriers to employment because of a job applicant's race," said Regional Attorney Debra Lawrence of the EEOC's Philadelphia District Office, which oversees Pennsylvania, Delaware, West Virginia, Maryland, and portions of New Jersey and Ohio. "Employers need to be mindful that any hiring practice be job-related and not screen out groups of people, even if it does so unintentionally."