



SAFE DRIVING LAW NOW IN EFFECT

SAFE DRIVING LAW

The Safe Driving Law became effective in Massachusetts on September 30, 2010. The new law, which bans texting while driving and prohibits all cell phone and mobile electronic device usage by junior operators, contains a number of additional measures to encourage safe driving.

Mobile Device Usage

The law establishes new penalties for use of any handheld device while operating a vehicle. Some of those penalties can be found in the box to the right.

Three Surchargeable Events Suspension

Three surchargeable events in a two-year period may cause a license suspension. A surchargeable event is a motor vehicle violation or an at-fault accident. If you have a third surchargeable event within two years, you must complete a Driver Retraining Course within 90 days of the date of the notification you receive from the RMV. If you do not complete the course, your license will be suspended. You must complete the course each time you have a third surchargeable event within two years. It does not matter if you have already taken the course.

Required In-Person Renewals for Operators Over 75

Operators 75 years of age or older can only renew a driver's license at an RMV branch. The operator must either pass a vision test or present a completed Vision Screening Certificate.

SOME MOBILE PHONE/TEXTING LAW VIOLATION PENALTIES:

Use of a Mobile Phone or Mobile Electronic Device by a Junior Operator - Civil Offense - No Insurance Surcharge:

- 1st Offense - \$100 fine, 60 day license suspension & attitudinal course
- 2nd Offense - \$250 fine, 180-day suspension
- 3rd Offense - \$500 fine, 1-year suspension

Improper Use of a Mobile Phone by Operators 18 and Over - Civil Offense - No Insurance Surcharge: (One hand must be on the steering wheel at all times and no use of device can interfere with driving.)

- 1st Offense - \$35 assessment
- 2nd Offense in 12 Months - \$75 assessment
- 3rd Offense in 12 Months - \$150 assessment

Sending/Reading Text Messages - Civil Offense - No Insurance Surcharge: (Operators cannot use any mobile telephone or handheld device capable of accessing the Internet to write, send, or read an electronic message including text messages, emails, and instant message or to access the Internet while operating a vehicle. Law applies even if the vehicle is stopped in traffic.)

- 1st Offense - \$100
- 2nd Offense - \$250
- 3rd or Subsequent Offense - \$500

Negligent Operation & Injury from Mobile Phone Use - Criminal Offense - Insurance Surcharge:

JOL Suspensions:

- 1st Offense - 180-day suspension
- 2nd or Subsequent Offense within 3 Years - 1-year suspension
- \$500 Reinstatement Fee

Over-18 Suspensions:

- 1st Offense - 60-day suspension
- 2nd or Subsequent Offense within 3 Years - 1-year suspension
- \$500 Reinstatement Fee

WILL THE ACCIDENT I HAD IN MY COMPANY CAR IMPACT MY PERSONAL AUTO INSURANCE?

Surcharges only apply to vehicles insured under the Massachusetts personal auto policy, so if your MA personal auto policy does not pay out anything for the accident, a surcharge will not be applied to your policy. However, in today's competitive rating environment, an insurance company can use ANY type of claim against you when insuring you on a voluntary basis. If you are in the MAIP, the accident would not be used against you.

ALTERNATIVE HEATING

Consumers are turning more and more to alternative sources of heat to heat their homes and businesses with renewed interest in wood pellet stoves, space heaters, fireplaces and other devices. With that in mind, the *Institute for Business and Home Safety* offers the following safety information:

Use Caution

Before using any heating device, install carbon monoxide detectors in several parts of the house or building. Never use a kerosene heater indoors.

Pellet Stoves

These devices operate through an automated fuel-delivery process. In some designs, a fan delivers air to the fire and blows exhaust by-products out of a vent pipe that is smaller and usually less expensive than a chimney.

- Always hire an installer who is licensed and certified.
- Stove placement must allow for access to proper venting and electrical sources and must meet minimum required clearances.
- Outlets must be checked for proper voltage, grounding and polarity.
- Keep the stove clear of all combustible materials.
- Use PL vent pipes tested to Underwriters Laboratories (UL) 641.
- Regular maintenance is critical to ensure safe operation.
- Professional cleaning is recommended to vent systems before each seasonal use.

Wood Stoves

These traditional heat sources remain popular, but have been linked to an increase in house and chimney fires.

- Choose a stove that has been UL tested.
- Second hand stoves should be free of broken parts or cracks.
- Keep the stove clear of combustible materials and follow manufacturer's guidelines.
- Noncombustible floor covering should be used under and around the stove. The material should extend 18" on all sides.
- Prior to using the stove, place a layer of sand or firebrick in the bottom of the firebox.
- Vent pipes or chimneys must be inspected prior to use.
- Maintain at least 18 inches between the top of the stove pipe and the ceiling or other combustible material.
- Keep the chimney flue and stove pipe clean and free of any obstructions.

Space Heaters

These appliances can be an affordable option for heating a small space, but they are also the leading source of house fires during winter months.

- Look for products that have been tested by UL.
- Buy a model with an automatic shut-off feature and heat element guards.
- Maintain a 36 inch clearance between the heater and combustible materials, such

as bedding, furniture, wall coverings or other flammable items.

- Do not leave a heater unattended.
- Electric heaters should be inspected prior to use.
- Check the cord for fraying, cracking and any signs of overheating in the device itself.
 - Use only heavy-duty extension cords marked with a No.14 gauge or larger wire.
 - If the heater's plug has a grounding prong, use only a grounding (3 wire) extension cord.
 - Never run the heater's cord under rugs or carpeting.

Fireplace

This popular heat source requires maintenance and caution to ensure safe operation.

- Annual inspections by a professional chimney sweep are needed.
- Regular cleaning is needed.
- Have a removable cap installed at the top of the chimney to keep out debris and animals.
- Maintain proper clearance around the fireplace.
- Always close the screen when in use.
- Keep glass doors open during the fire.
- Use a fireplace grate.
- Avoid using any liquid accelerant.
- Never leave a fire unattended.
- Make sure the fire is completely out before closing the damper.

NON-DISCRIMINATION TESTING FOR GROUP HEALTH PLANS

The Patient Protection and Affordable Care Act (PPACA) requires that group health plans meet non-discrimination rules which have never before applied to fully insured plans. The rules take effect on the first day of the plan year after September 23, 2010 (unless your plan is grandfathered).

Basically, a group health plan cannot discriminate in favor of highly compensated individuals with respect to either **eligibility** or the **benefits** offered.

For a plan to be considered non-discriminatory with respect to **eligibility** to participate in the plan, as spelled out in the tax code under Section 105(h), it must meet one of three tests:

- 70% of *all* employees benefit from the plan

- 80% of all *eligible* employees benefit from the plan and 70% of all employees are eligible
- The plan benefits a non-discriminatory classification of employees

For a plan to be considered non-discriminatory with respect to **benefits**, the plan must provide the same benefits to non-highly compensated employees as to highly compensated employees.

A highly compensated individual is defined in the tax code as follows:

- One of the company's five highest paid officers
- A shareholder owning more than 10% of the company's stock
- The top 25% highest paid employees of

the company

While the rules do not apply to grandfathered plans, please note that most fully insured plans for groups with less than 100 lives will lose their grandfathered status as of the first plan anniversary following September 23, 2010. The non-discrimination rules already apply to all self-insured group plans. Excise tax penalties imposed on group plans deemed to be discriminatory are set at \$100 per day per employee impacted by the discriminatory practice.

For assistance in designing your benefits programs to meet your business goals, your employees' needs and the legislative requirements on federal and state levels, please contact our Financial Services and Benefits team at 508-995-4553.

EPA RENOVATE, REPAIR AND PAINTING RULE

The EPA Renovate, Repair and Painting Rule went into effect on 4/22/2010. Named 40 CFR Part 745, this law requires that renovation, repair and painting projects that disturb lead-based paints in homes, child care facilities, and schools built before 1978, must be done by EPA Certified Firms using Certified Renovators who must follow specific work practices to prevent lead contamination.

On July 9, 2010, Massachusetts was awarded delegating authority to enforce and administer the law. If you are not certified as of this date, you are not in compliance with the law and must become certified to work on pre-1978 properties.

Individuals can become certified renovators by taking an eight-hour training course from an EPA-approved training provider.

Certification is mandatory for anyone disturbing more than 6 square feet of interior or 20 square feet of exterior

painted surface on pre-1978 homes:

- Remodelers/Carpenters
- Window, Siding and Gutter Contractors
- Property Managers and Landlords
- Plasterers, Insulation and Flooring Contractors
- Painters, Handymen and Roofers
- Plumbers, Electricians and HVAC Contractors
- City and Town Maintenance Workers
- Housing Authorities, Realtors, Banks

An RRP Certification Course was held at the Sylvia Group in December. ***The next course will be held Tuesday, February 15th. If you would like to attend or want more information, please notify Kristine Arsenault of the Sylvia Group by calling her at 508-742-9247 or emailing her at karsenault@sylviainsurance.com.***

SJC RULING: "NATURAL ACCUMULATION" DEFENSE

The Massachusetts SJC released a decision earlier this year changing the way liability is measured for clearing snow and ice on real property. The longstanding rule in Massachusetts, in which a property owner is not liable in tort for failing to remove a "natural accumulation" of snow and ice, was unique in this country, and was referred to as the "Massachusetts rule." There has been a distinction between natural and unnatural accumulations of snow, as well as distinctions between duty to different types of parties, such as tenants, invitees, licensees and trespassers.

Now, in keeping with common and statutory laws across the country, property owners are responsible for removal of unsafe conditions.

If a property owner knows or reasonably should know of a dangerous condition on its property, whether arising from an accumulation of snow or ice, rust on a railing, or a discarded banana peel,

the property owner has a duty to lawful visitors to make reasonable efforts to protect lawful visitors against the danger.

In the actual decision (*Papadopoulos vs. Target Corporation*), the court indicated that fact finders "will determine what snow and ice removal efforts are reasonable in light of the expense they impose on the landowner and the probability and seriousness of the foreseeable harm to others...the snow removal reasonably expected of a property owner will depend on the amount of foot traffic to be anticipated on the property, the magnitude of the risk reasonably feared, and the burden and expense of snow and ice removal. Therefore, while an owner of a single-family home, an apartment house owner, a store owner, and a nursing home operator each owe lawful visitors to their property a duty of reasonable care, what constitutes reasonable snow removal may vary among them."

Non-Profit Profile

Our Sisters' School

"A good education is only another name for happiness"

Ann Plato, 1840

Our Sisters' School seeks to foster the intellectual, moral, social and physical development of its students, and to nurture, in a small-school setting, the full potential of their characters. Since Opening Day in September 2008, the school's faculty and staff have worked closely with students' families and other volunteers, building ties between school and community, and developing the kinds of personal and institutional support that will ensure the continuing success of their students in high school, college, and in later life.

To learn more about this middle school and its safe, supportive, and challenging environment, visit www.oursistersschool.org

Given the ambiguities of the law, it is now more important than ever to document all loss prevention measures in regard to snow and ice removal, sanding, plowing and shoveling activities. Documentation can include both written and digital activity logs as well as photos taken to prove that reasonable measures were taken within a reasonable time frame to protect the public from the dangers of ice and snow.

Whenever possible, property owners or any individual or entity that is responsible for the maintenance and upkeep of any real property should have a formal written contract or agreement with the property's snow removal contractor that includes indemnification language that favors the property owner or responsible entity and that minimum insurance coverage requirements for the contractor are met.

Source: Massachusetts Trial Court Law Libraries

KEEPING YOU INFORMED: WEBINARS & SEMINARS

2010 Seminars & Webinars

We offered the following webinars and seminars in 2010:

Wellness Programs
Roth IRA Conversions
Investment Basics
Employer Health Care Update
ClientConnect
Long Term Care
CLASS Act
Medicare Updates
COBRA Changes
Date Security Legislation
Social Security and You

Upcoming Seminars & Webinars

March 3rd, 10:00 am or 6:00pm - Online Webinar

Estate Planning Basics

While there is no "one size fits all" estate plan, looking at some general estate planning concepts and strategies, this overview will assist you in thinking about your own planning needs.

Presented by Nick Petronelli

March 24th, 6:00 pm - Seminar at the Sylvia Group

Social Security

Presented by Nick Petronelli & Delia DeMello of the SSA
Learn about your Social Security Benefits; the difference between early and delayed benefits and what you need to know about Medicare. Ms. DeMello is an expert from Social Sec.

If you would like more information or are interested in signing up for any of our upcoming webinars and/or seminars, or would like to be on our email invitation list, please give Kristine Arsenault a call at (508) 742-9247

PLANNING FOR THE FUTURE...WE CAN HELP

FAMILY BUSINESS PLANNING KIT

From interesting statistics to some basic planning strategies, our Business Planning Kit, will help guide you through some of the many areas of strategic planning needed to build, implement, and update a plan that will help to ensure the financial stability of your business and your future.

Call our Financial Services & Benefits Department today at 508-995-4553 to request a copy of the kit or to set up a meeting with one of our Trusted Advisors who can help you create strategies that will fit your needs and those of your business.

CHARITABLE GIVING

If you have a favorite charity or charities for whom you would like to provide for in the future, there are many creative ways in which you can do this if you do not have the cash to donate now. Call our Financial Services & Benefits Department today to find out more about some popular options, including:

- Estate and gift creation through the use of life insurance.
- Annuities that create a gift for the charity while giving the donor income for life or a set period of time.



Sylvia & Company Insurance Agency, Inc.

500 Faunce Corner Road
Building 100, Suite 120
Dartmouth, Massachusetts 02747

Phone: (508) 995-4553
Toll Free: (800) 466-5939

www.sylviainsurance.com

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