

MINNESOTA IS GOING HANDS FREE!



As you have likely heard, the Legislature passed and the Governor signed a Hands Free Law. That Law becomes effective August 1, 2019. Minnesota state law already bans texting, using email, and web browsing while driving, but this legislation requires drivers to only use cell phones in 'hands-free' mode for voice-activated calls. 'One-touch' functions, such as navigation prompts, music, podcasts, and other audi-based content, will still be allowed if accessed without holding the device, typing, or scrolling. The law does not apply to drivers in legally-parked vehicles or to law enforcement and emergency personnel. The penalty for violating the law is a gross misdemeanor, carrying a \$50 fine for the first violation and a \$275 fine for subsequent violations.

Bottom line, if the phone or device can be used in "hands-free" mode (i.e. voice activated), it is legal to use the phone or device when driving. The phone or device can also be used if it only involves a "one-touch" function as described above. Otherwise, the driver needs to legally park the vehicle to use the phone or device in another manner.

Update on Minneapolis Sick and Safe Time Ordinance



The Minnesota Court of Appeals recently handed down a decision regarding the Minneapolis Sick and Safe time Ordinance. The *Minnesota Chamber of Commerce v. City of Minneapolis*, the Court vacated a permanent injunction issued by the district court that limited the ordinance to employers located within the City of Minneapolis. Now, according to the Court's decision, the ordinance will apply to any employee who works a minimum of 80 hours within the City of Minneapolis, regardless of where the employer is located.

The Chamber has until May 20, 2019 to appeal this decision to the Minnesota Supreme Court. If they choose not to appeal, the decision from the Court of Appeals will bring an end to the twisted tale of litigation which began as a result of the ordinance passed by the City of Minneapolis in 2016. That ordinance required that employers allow employees who work at least 80 hours a year in the City of Minneapolis to accrue one hour of paid safe and sick time for each 30 hours worked, up to a maximum of 48 hours a year. Minneapolis applied its ordinance to all employers regardless of whether or not it had a physical presence in the City.

In 2017, the Minnesota Chamber of Commerce, along with several private employers, challenged the portion of the ordinance that required employers not physically within the borders of the City to adhere to the requirements of the Sick and Safe time ordinance. The district court ruled in favor of the Minnesota Chamber of Commerce and its fellow challengers, finding that the City had overstepped its authority by seeking to apply the ordinance to employers not physically located within the City, and issued an injunction that was affirmed by the Minnesota Court of Appeals, pending further proceedings at the district court level.

In 2018, the City of Minneapolis, in response to the Court's ruling, amended the ordinance to specify that only hours worked within the City limits counted in the calculation of sick and safe time, and the accrued hours could be used by the employees only when scheduled to work in the City. The district court once again ruled in favor of the Chamber of Commerce and the private employers and issued a permanent injunction, holding that the City was improperly attempting to extend the application of the statute beyond its borders. This district court decision was the subject of the Court of Appeals recent decision, that held in favor of the City.

Minneapolis Minimum Wage to Increase July 1, 2019



The City of Minneapolis will have increased minimum hourly wage hikes through July 1, 2024. The rate increase depends upon an employer's size.

Employers should note that an employee's tips and gratuities are not used in determining an employee's hourly minimum wage. An employer may not consider gratuities towards payment of the minimum wage owed an employee.

Additionally, pursuant to the City of Minneapolis ordinance, it does not matter where an employer is located, an employer must pay at least the Minneapolis minimum wage rate, for time

worked in the City of Minneapolis, to any employee who worked at least two hours in a calendar week within the City of Minneapolis.

The minimum wage in Minneapolis will increase as of July 1, 2019. The minimum wage for small businesses, with 100 or less employees, will increase from \$10.25 to \$11.00. The minimum wage for large businesses, with more than 100 employees, will increase from \$11.25 to \$12.25.

If you would like to speak further with one of our attorneys regarding this or other employer-employee related matters, please email us at email@mdh-law.com and visit our website at www.mdh-law.com.

Data Privacy Regulation Update



The European Union's ("EU") General Data Protection Regulation ("GDPR") went into effect almost one year ago, on May 25, 2018. The GDPR legislation granted numerous new privacy rights to consumers including the right to demand that companies tell them how their data is used, and to ask corporations to destroy their data, a tenet of the law known as "the right to be forgotten."

The GDPR applies to all businesses (including US businesses) that control the processing of personal data and/or process personal data of EU citizens. The law has the world's stiffest potential privacy fines: up to 20 million euros or 4% of a company's global annual revenue for the previous year for the most egregious violations.

In the first year of the GDPR, enforcement actions have been slow to roll out, largely because it takes time to build a consensus on how to determine compliance. However, in January of 2019, Google was hit with a fine of 50 million euros (\$57 million)—the largest data privacy fine to-date. As the law enters its second year, enforcement is likely to ramp up. This summer, companies can expect an increase in enforcement actions and penalties as regulatory officials have now had sufficient time to investigate GDPR violations.

Since the enactment of the GDPR, a flurry of privacy legislation has been introduced in the US on the state and federal level. The California Consumer Privacy Act (CCPA) came on the heels of the GDPR and is slated to be the most comprehensive data privacy law in the US. The CCPA will go into effect on January 1, 2020 and, like the GDPR, puts guidelines on personal information collection and usage by businesses, giving Californians significant visibility and access to what data is gathered, how it is shared and control over its deletion. Eleven other states including Washington, Maryland, Massachusetts, Hawaii, New Mexico, and Rhode Island have also introduced legislation around privacy, opening the door for more potential statewide privacy compliance challenges for businesses.

With such a rapidly changing regulatory landscape, compliance is and will continue to be a substantial challenge for businesses of all sizes. If enacted, these laws would result in significant costs for businesses as they try to understand and put in place a privacy framework that would comply with this patchwork of US and non-US laws that often have overlapping and conflicting requirements.

As a result, many leading businesses are calling on Congress to step in and implement federal data privacy legislation. A number of competing bills have been introduced this past session, but progress has been limited. If federal data privacy legislation is passed, it would represent the first-ever federal privacy standard, with the promise of uniformity and consistency in what would otherwise be a patchwork of state laws and regulatory standards.

In this environment, companies should prioritize privacy and implement risk management frameworks to avoid steep penalties. Because the GDPR and other state and federal legislative proposals each introduce new and different requirements on handling personal data, companies should conduct annual compliance assessments. If your business has any questions on whether your privacy policies and practices comply with applicable privacy laws, please contact an attorney at Madigan, Dahl & Harlan at email@mdh-law.com and visit our website at www.mdh-law.com.

Congratulations to Christine Lantinen



At Madigan, Dahl & Harlan, P.A., we are honored to recognize our clients' accomplishments and awards. To that end, please join us in congratulating Christine Lantinen, President/Owner of Maud Borup, Inc. for receiving the Minnesota Small Business Association 2019 Small Business Person of the Year award. Congratulations Christine on this well-deserved recognition. Click here to read more about the SBA and this year's award winners: <https://www.sba.gov/about-sba/sba-newsroom/press-releases-media-advisories/minnesotas-2019-small-business-week-winners-announced>

Congratulations to Steve Hark



The 40 under 40, an award presented by the Minneapolis/St. Paul Business Journal, is highly-sought after and receives hundreds of nominations each year. Madigan, Dahl & Harlan, P.A. is honored to recognize our client Steve Hark, Founder and CEO - Entourage Events Group and Elite Catering, for being named one of the Forty Under Forty for 2019 by the Minneapolis/St. Paul Business Journal. Congratulations Steve on this well-deserved recognition. Click here to read more about the Minneapolis/St. Paul Business Journal award and this year's award winners: <https://www.bizjournals.com/twincities/news/2019/03/19/2019-40-under-40-steve-hark-entourage-events-group.html>.

Keg and Case Market Chosen as Top Project for 2018 by Finance & Commerce

MDH is pleased to announce that Keg and Case was chosen as a Finance & Commerce Top Project of 2018. This is the 11th year that Finance & Commerce is honoring various construction projects from across the state. Of the nearly 100 nominations of projects completed during 2018, Keg and Case stood out among the best.

Keg and Case is a much talked about and honored development on West 7th Street in St. Paul. Acknowledged as the best food hall in America by USA Today in 2018, the facility consists of a central market with a collection of food and craft vendors, with the remaining portion anchored by restaurants such as In Bloom (which was the Star Tribune 2018 Restaurant of the year) and Pimento Jamaican Kitchen as well as Clutch Brewing Company. Outside in the Keg and Case Park, there will be a Farmer's Market and the occasional festival.

MDH represented the developers, Craig Cohen and Dean Perlman, in re-purposing the Keg House that once served to support the Schmidt Brewery in St. Paul, Minnesota. From land acquisition, construction, financing and leasing, we worked closely with the developers in every aspect of the project. We continue to represent the developers and their investment group in this project and other ongoing ventures.

Keg and Case will be honored by Finance & Commerce at an awards ceremony at the end of July 2019. Congratulations to Craig, Dean and all of the other investors and visionaries that made Keg and Case a truly unique development and destination in the Twin Cities.