

BULLETIN

July 27, 2011

Contact: Ms. Debbie Rojan
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R.C. 2278

To: The Members of the Board

RE: New York Workers Compensation & Employers Liability Manual
Classification Code 8069 – “Cellular Telephone Store - Retail”
Effective October 1, 2011

The Underwriting Committee of the New York Compensation Insurance Rating Board has authorized, and the New York State Insurance Department has approved, effective for use October 1, 2011, the institution of a new classification code and phraseology for “Cellular Telephone Store – Retail,” code number 8069.

The basis for this new classification follows the completion of a classification study, conducted by the Rating Board, regarding the retail cell phone sales industry. The study revealed that these specialty stores are definable and unique, with adequate credibility for the establishment of a new classification.

The pages modified and affected by this change, in the NY WC & EL Manual, and attached for your reference, are as follows: 1) Classification Section (C-19 and C-34), and 2) Digest of Rulings and Interpretations (D-66, D-67, D-77-b and D-78 thru D-79-b).

You will also find these revised pages updated accordingly in the on-line version of the Manual, which is available via our website at: www.nycirb.org.

Very truly yours,

Monte Almer

President

WVT:tg
Encl.

CASH REGISTER MFG.	3574
CASINO GAMBLING—ALL EMPLOYEES—& Clerical <i>Includes food, beverage and entertainment employees.</i> <i>Separately rate the transport of patrons as Code 8394.</i> <i>Separately rate casino gambling operations in conjunction with a hotel as Code 9044.</i>	9061
CASINO GAMBLING—HOTEL—ALL OTHER EMPLOYEES—& Outside Salespersons <i>Includes, but not limited to desk clerks, bellhops and maids.</i> <i>Musicians, players or entertainers to be separately rated only when restaurant operations are not conducted.</i> <i>See Code 9157 or Code 9159 "Theatrical Production."</i>	9044
RESTAURANT EMPLOYEES <i>Includes musicians, players or entertainers.</i> <i>Separately rate the transport of patrons as Code 8394.</i> <i>Separately rate casino gambling operations without a hotel as Code 9061.</i>	9058
CASKET or Coffin MFG. or ASSEMBLY—metal	3076
CASKET or Coffin MFG. or ASSEMBLY—wood <i>Includes the manufacturing of metal fittings.</i>	2883
CASKET or Coffin UPHOLSTERING and Burial Garment Mfg.	9522
CATERING— including entertainers and/or musicians <i>Applies to full-service restaurants, buffet-type establishments, banquet halls, cafes, diners and other food establishments that provide wait service.</i> <i>Refer to Section III of the Digest of Rulings and Interpretations to determine the application of the appropriate restaurant and/or bar classification.</i>	9071
CATHEDRAL or Art Glass WINDOW MFG. <i>Includes glass manufacturing.</i>	4133
CATTLE DEALER & Outside Salespersons, Drivers <i>Not operating farm or ranches.</i>	8288
★ CELLULAR Telephone Store—Retail <i>Includes incidental service or repair of cellular telephones</i>	8069
CEMENT MFG. <i>Separately rate excavation or digging, dredging, mining or quarrying.</i>	1701
CEMENT or Concrete DISTRIBUTING TOWER INSTALLATION , repair or removal <i>Not applicable to contractors who erect, repair or remove concrete or cement distributing towers as an incidental part of their construction work. When so performed, such operations shall be included in the classification with which such work is associated.</i>	5403

CLASS CODE	SUB CODE	HAZARD GROUP	INDUSTRY GROUP	PHRASEOLOGY
8048	00	C	5	Fruit or Vegetable Store—Wholesale
8068	00	B	5	Art Gallery & Clerical
8069	00	B	5	Cellular Telephone Store – Retail
8072	00	B	5	Book Store—Retail
8072	01	B	5	Audio or Video Cassette, Book, Record, Compact Disc or Software Store—Retail
8072	02	B	5	Compact Disc, Record, Video or Audio Cassette Store, Retail
8072	03	B	5	Magazine or Newspaper Store—Retail
8072	04	B	5	Newspaper or Magazine Store—Retail
8072	05	B	5	Sheet Music Store—Retail
8072	06	B	5	Software, Book, Record, Compact Disc, Video or Audio Cassette Store —Retail
8072	07	B	5	Video Cassette, Record or Compact Disc Store—Retail
8090	00	C	7	Auctioneers & Salespersons—Outside
8102	00	B	5	Seed Merchant
8102	01	B	5	Bean Sorting or Handling
8102	02	B	5	Grain Elevator Operation
8102	03	B	5	Peanut Handling
8103	00	D	5	Wool Merchant & Drivers
8103	01	D	5	Clippings Dealer & Drivers
8103	02	D	5	Cotton Merchant & Drivers
8103	03	D	5	Wiping Cloth Dealer & Drivers
8105	00	B	5	Hide or Leather Dealer
8106	00	D	5	Iron or Steel Merchant & Drivers
8106	01	D	5	Metal Merchant & Drivers
8106	02	D	5	Steel or Iron Merchant & Drivers
8107	00	E	5	Machinery Dealer NOC—Store or Yard—& Drivers
8107	01	E	5	Contractors' Machinery Dealer—Store or Yard—& Drivers
8107	02	E	5	Oil or Gas Well—Supplies or Equipment Dealer—New—Store or Yard—& Drivers
8111	00	D	5	Plumbers' Supplies Dealer & Drivers
8116	00	C	5	Farm Machinery Dealer—All Operations—& Drivers
8199	00	C	5	Farm or Feed Supply Dealer—Retail—Exclusively
8199	01	C	5	Feed or Farm Supply Dealer—Retail—Exclusively
8209	00	C	1	Vegetable Packing & Drivers

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8013..... Jewelry Store – Operations Covered (continued)

- 3. Risks engaged in cutting or polishing precious stones, such as diamonds, emeralds, rubies, and sapphires. Assign Code 3384 "Diamond Cutting or Polishing."
- 4. Repair work which is *principally* performed for other dealers. Assign as follows:
 - Repair of Jewelry Code 3383 "Jewelry Mfg."
 - Repair of Clocks or Watches . . . Code 3385 "Watch Mfg."

8017..... Retail Store NOC—no service of food
The service of ice cream and soft drinks is included under this classification.

8017..... Drug or Cigar Store—no service of food—retail
The service of ice cream and soft drinks is included under this classification.

8017..... Dry Cleaning or Laundry Collecting or Distributing Store
8017..... Laundry or Dry Cleaning Collecting or Distributing Store
No dry cleaning or laundering at the same location.

8017..... Dry Cleaning or Laundry Store—self-service
8017..... Laundry or Dry Cleaning Store—self-service
No dry cleaning or laundering cleaning at the same location.

Operations Covered

This classification applies to stores which are *principally* engaged in the retail selling of merchandise that is not described by any other specialty retail store classification. Stores assigned to this classification sell items such as:

<ul style="list-style-type: none"> Art supplies Bakery products Beer and soft drinks ★ Cigars and cigarettes Computers Confectionery ★ Cosmetics and toilet items Drugs and medicines Floor coverings 	<ul style="list-style-type: none"> Giftware Greeting cards Household appliances, e.g. Radio and television sets Refrigerators Washing machines Stoves Housewares Lamps and Lighting fixtures Musical instruments, other than pianos and organs Paint and related supplies 	<ul style="list-style-type: none"> Pets and related supplies Photographic supplies and equipment Pocketbooks Radios Stationery and related items Sick room supplies Televisions Toys Typewriters and office machines Wines and liquors
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This classification also includes stores that serve ice cream and soft drinks, as well as specialty stands or stores which sell frozen custard or yogurt.

8017	Retail Store NOC —no service of food	(continued)
8017	Drug or Cigar Store —no service of food— retail	(continued)
8017	Dry Cleaning or Laundry Collecting or Distributing Store	(continued)
8017	Dry Cleaning or Laundry Store —self-service	(continued)

Other types of operations assigned to this classification are:

1. Demonstrators in retail stores.
2. Concessions such as those which provide doorkeepers, cigarette vendors, parcel or luggage checkroom and washroom attendants, rolling chairs on boardwalks, beach chairs, and beach umbrellas.
3. Amusement device operations such as those in "penny arcades," skee ball alleys and similar games.
4. Businesses that are engaged in providing shoppers to check the attentiveness, personality and honesty of sales personnel in stores that are owned and operated by others.

Operations Not Covered

1. Code 8017 does not apply to any retail store that is described by any other specialty retail store classification.
2. Stores *principally* engaged in mail order sales of merchandise to individuals, such as the merchandise described above. Assign Code 8018 "Wholesale Store NOC."
3. Retail stores and drug or cigar stores otherwise assignable to this classification but which are also engaged in serving food (other than ice cream and soft drinks). Assign Code 8043 "Retail Store NOC—including service of food—not restaurants" provided that the receipts from the service of food do not exceed 50% of the store's gross receipts. If the receipts from service of food exceeds 50% of the gross receipts, assign either Code 9071 "Restaurant—Full-Service—including entertainers and/or musicians", Code 9072 "Restaurant—Fast Food & Drivers" or Code 9074 "Bar, Dance Club, Lounge, Nightclub or Tavern—including entertainers and/or musicians."
4. The installation, service or repair of household appliances by a retail store. Assign Code 9519 "Household Appliances—Electrical—Installation, Service or Repair—& Drivers."
5. The installation of carpets, linoleum and non-ceramic floor tile by a retail store. Assign Code 9521 "House Furnishings Installation NOC."
6. Hat or coat checkroom concessions. Assign Code 8008 "Clothing or Wearing Apparel Store—retail."
7. Stores principally engaged in selling audio or video cassettes, books, records, compact discs or software principally to private individuals. Assign Code 8072 "Audio or Video Cassette, Book, Record, Compact Disc or Software Store—retail."
8. Stores principally engaged in selling magazines, newspapers or sheet music to private individuals. Assign Code 8072 "Newspaper or Magazine Store—retail or Sheet Music Store—retail."
- ★ 9. Stores *principally* engaged in the selling of cellular telephones, pagers, beepers, calling cards, two-way radios, citizen band radios, and cellular telephone service plans to private individuals. Assign Code 8069.
- ★ 10. Stores *principally* engaged in the selling of cellular telephones on a telephone service company's premises. Assign Code 8901 "Telephone or Telegraph Co.—Office or Exchange Employees & Clerical."

★ **8069...Cellular Telephone Store - Retail**

Includes incidental service or repair of cellular telephones.

Operations Covered

This classification applies to stores **principally** engaged in the retail selling of cellular telephones, smartphones, pagers and calling cards. Also includes the activation or renewal of cellular telephone service plans, and incidental service or repair.

These stores may also sell an incidental amount of related cellular telephone accessories such as battery chargers, faceplates, skins, headsets, carrying straps and cases.

Operations Not Covered

1. Stores **principally** engaged in the wholesale selling of cellular telephones, smartphones and pagers. Assign Code 8018 "Wholesale Store NOC."
 2. Stores **principally** engaged in the wholesale selling of cellular telephone accessories such as faceplates, skins, headsets and carrying straps. Assign Code 8018 "Wholesale Store NOC."
 3. Stores **principally** engaged in the retail selling of cellular telephone accessories such as faceplates, skins, headsets and carrying straps. Assign Code 8017 "Retail Store NOC."
 4. Stores **principally** engaged in the wholesale selling of cellular telephone battery chargers. Assign Code 7999 "Hardware Store Wholesale."
 5. Stores **principally** engaged in the retail selling of cellular telephone battery chargers. Assign Code 7998 "Hardware Store Retail."
 6. Stores **principally** engaged in the retail selling of modular telephones. Assign Code 8017 "Retail Store NOC."
 7. Stores **principally** engaged in the wholesale selling of modular telephones. Assign Code 8018 "Wholesale Store NOC."
 8. Installation of modular telephones by a telephone service company. Assign Code 7600 "Telephone or Telegraph Co. – All Other Employees & Drivers."
 9. Installation of modular telephones by entity other than a telephone service company. Assign Code 5191 "Office Machine Installation, Inspection, Adjustment or Repair."
 10. Maintenance and installation of coin operated telephones. Assign Code 5192 "Vending or Coin Operated Machines – Installation, Service or Repair - & Route Salespersons, Route Supervisors & Drivers."
 11. Installation of Cellular Tower. Assign Code 5040 "Iron or Steel Erection – Radio, Television or Water Towers – Smokestacks or Gasholders."
 12. The operation of a Cellular Telephone Service Company. Assign Codes 8901 "Telephone or Telegraph Co. – Office or Exchange Employees & Clerical" / 7600 "Telephone or Telegraph Co. – All Other Employees & Drivers."
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- 8072 **Audio, Video Cassette, Record or Compact Disc Store**—retail
 8072 **Book Store**—retail
 8072 **Magazine or Newspaper Store**—retail
 8072 **Sheet Music Store**—retail
 8072 **Software Store**—retail

Not applicable to store locations where more than 50% of the gross receipts is in the service of food or the sale of musical instruments, computers or other hardware, household or electronic equipment:

Operations Covered

This classification applies to stores which are principally engaged in the retail selling of any or all of the following merchandise:

Audio Cassettes	Records
Books	Sheet Music
Comic Books	Software
Compact Discs	Video Cassettes
Magazines	Video Games
Newspapers	

Operations Not Covered

1. Retail drug stores, cigar stores, confectionery stores, and other “NOC” retail stores which also serve food (other than ice cream and soft drinks), where the receipts from service of food exceeds 50% of the gross receipts for the entire store. Assign Code 9071 “Restaurant—Full-Service—including entertainers and/or musicians”, Code 9072 “Restaurant—Fast-Food & Drivers” or Code 9074 “Bar, Dance Club, Lounge, Nightclub or Tavern—including entertainers and/or musicians. If the receipts from the service of food do not exceed 50% of the gross receipts for the entire store. Assign Code 8043 “Retail Store NOC—including service of food—not restaurants.”
2. Retail drug stores, cigar stores, confectionery stores, or other “NOC” retail stores which also serve ice cream or soft drinks (but no food). Assign Code 8017 “Retail Store NOC.”

Operations Not Covered (continued)

3. Stores principally engaged in the retail sale of musical instruments, computers or other related hardware, household appliances or electronic equipment. Assign Code 8017 “Retail Store NOC.”

8105 Hide or Leather Dealer

Operations Covered

This classification applies to wholesale or retail stores *principally* engaged in selling all kinds of raw or dressed animal hides, reptile skins and tanned leather.

Raw hides are usually received from slaughter houses and are sorted, graded, salted by hand and shipped to tanneries for processing. After processing at the tannery, the dressed and finished hides, skins and leather are returned to the dealers where they are graded, measured, edge trimmed by hand where necessary, stocked and shipped.

Operations Not Covered

1. Dealers in fur skins, such as those used for clothing, e.g., mink, ermine, sable, beaver, rabbit, fox and raccoon. Assign Code 8018 "Wholesale Store NOC."
2. This classification does not include any processing operations, (other than the hand edge trimming stated above). If processing is performed, it is assigned as shown below:

Leather Coloring or Painting Code 9501—"Painting-Shop-& Drivers"

Leather Embossing Code 2640—"Leather Embossing"

Leather Skiving Code 2688—"Leather Goods Mfg. NOC"

Leather Splitting, Leather Finishing,
Leather Dressing Code 2623—"Tanning"

9071 **Restaurant-Full-Service**—including entertainers and/or musicians

9071 **Catering**—including entertainers and/or musicians

Operations Covered

Applies to full-service restaurants, buffet-type establishments, banquet halls, cafés, diners and other food establishments that provide wait service.

In a full-service restaurant, patrons may seat themselves or be escorted to a table by a maitre d', host or other restaurant employee. Patrons order their food and beverage selections from a menu. The food orders are then prepared by the kitchen staff and served to the patrons by the wait staff.

Catering operations are also contemplated by this classification. Customers are served a sit-down type meal or buffets are provided in the banquet hall. The kitchen staff prepares the menu items which are served to the patrons by a wait staff. If there is a buffet, the patrons will serve themselves. Other catering establishments prepare food from a customer's pre-selected menu choices. Orders are prepared according to customers' specifications and placed in trays and packaged for pick-up or delivery to the location designated by the customer.

This classification also applies to cafés that are engaged in preparing and serving coffee, beverages, a lite menu fare and desserts to their patrons. These types of establishments may also prepare and/or cook food items. Patrons can seat themselves or are escorted to a table by a café employee. Coffee, beverages and/or food orders are prepared by the kitchen staff and/or counter clerk and then served to patrons by the wait staff.

The above types of restaurants often engage in offering the rental of their facilities for private parties. The employer accommodates the guests by serving food and beverages including alcoholic beverages.

Restaurants can also provide take-out food services. Customers will either call in advance or come into the restaurant to place an outgoing food order. This is a common practice of many restaurants and such operations are included under this class provided that the gross receipts for outgoing orders do not exceed 50% of the total gross receipts.

The above types of establishments may engage in the service of alcoholic beverages. The gross receipts of alcoholic beverages, however, shall not exceed 50% of the total receipts of food and non-alcoholic beverage items sold.

Operations Not Covered

1. Bar, dance club, lounge, nightclub or tavern operation where the gross receipts of alcoholic beverages exceeds 50% of the total receipts. Assign Code 9074 "Bar, Dance Club, Lounge, Nightclub or Tavern—including entertainers and/or musicians."
2. Fast food restaurants including, but not limited to, pizza parlors, sandwich shops, donut shops, concession stands, hamburger, taco and fried chicken establishments, including take-out food establishments. Assign Code 9072 "Restaurant—Fast Food & Drivers."
3. Restaurant, bar, dance club, lounge, nightclub or tavern operated by hotels or motels. Assign Code 9058 "Hotel: Restaurant Employees."
4. Stores engaged in principally (more than 50% of the gross receipts) selling NOC items that also prepare and serve food that constitutes less than 50% of the total gross receipts. Assign Code 8043 "Retail Store NOC—including service of food—not restaurants."

Delivery of food orders with use of a bicycle or vehicle. Assign Code 7380 "Drivers and Helpers NOC—Commercial" provided that more than 50% of the driver's time is spent in connection with a bicycle or vehicle.

Reserved for future use