

ORDINANCE NO. 20140828-041

AN ORDINANCE AMENDING SECTION 12-1-34 OF THE CITY CODE TO PROHIBIT THE USE OF PORTABLE ELECTRONIC DEVICES WHILE OPERATING A MOTOR VEHICLE OR BICYCLE, AND CREATING AN OFFENSE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Section 12-1-34 of the City Code is amended to read:

§ 12-1-34 USE OF PORTABLE ELECTRONIC DEVICES WHILE OPERATING A MOTOR VEHICLE OR BICYCLE.

(A) In this section:

- (1) portable electronic device means a hand-held mobile telephone, personal digital assistant, MP3 or other hand-held music player, electronic reading device, laptop computer, pager, broadband personal communication device, global positioning or navigation system, electronic game device, or portable computing device.
- (2) use means employing a portable electronic device for any reason including, without limitation, the following activities while holding or touching the device:
 - (a) dialing or deactivating a phone call;
 - (b) speaking in or listening to a conversation;
 - (c) viewing, taking, or transmitting electronic images;
 - (d) composing, sending, viewing, accessing, browsing, retrieving, or saving email messages, text messages, or other electronic data;

- (e) entering or changing information in a global positioning or navigation system or any software or application designed for navigation;
 - (f) accessing or viewing an internet website or computer application or;
 - (g) playing a game.
- (3) operating a bicycle means astride a permanent seat attached to the bicycle while the bicycle is in motion.
- (4) authorized emergency personnel means a person who is a law enforcement officer, firefighter, member of a governmental emergency medical services function, or member of a governmental emergency management function.
- (B) [~~(A)~~] An operator of a motor vehicle [~~driver of a motor vehicle~~] may not use a portable electronic device [~~wireless communication device to view, send, or compose an electronic message or engage other application software~~] while the vehicle is in motion.
- (C) A person may not use a portable electronic device while operating a bicycle.
- (D) [~~(B)~~] It is an affirmative defense to prosecution of an offense under this section if [~~a wireless communications device is used~~]:
- (1) the motor vehicle or bicycle is at a complete stop;
 - (2) the portable electronic device is used in a hands-free mode of operation and used to engage in telephone communication or to listen to audio transmissions;
 - (3) the portable electronic device is [as] a global positioning or navigation device, or global positioning or navigation software on a device, and the device is affixed to the motor vehicle or bicycle;

- (4) use of a portable electronic device is for obtaining emergency assistance to report a crime, traffic accident, medical emergency, or serious traffic hazard, or to prevent a crime about to be committed; or
- (5) use of a portable electronic device is in the reasonable belief that a person's life or safety is in immediate danger.
- ~~[(6)] [if the device is permanently installed inside the vehicle; or]~~
- ~~[(7)] [solely in a voice-activated or other hands-free mode.]~~
- (E) ~~[(C)]~~ This section does not apply to ~~[an operator of an]~~ authorized emergency personnel ~~[vehicle]~~ using a portable electronic ~~[wireless communication]~~ device while acting in an official capacity.
- (F) This section does not apply to an operator who is licensed by the Federal Communications Commission while operating a radio frequency device other than a portable electronic device or an operator using a two-way radio communication device in a commercial vehicle.
- (G) ~~[(D)]~~ To the extent that this section conflicts with the Texas Transportation Code Section 545.424, regarding the use of wireless communication devices while operating a motor vehicle by minors, or Texas Transportation Code Section 545.425, regarding the use of wireless communication devices in school crossing zones, this section does not apply.

PART 2. This ordinance shall take effect January 1, 2015.

PASSED AND APPROVED

_____, August 28, 2014

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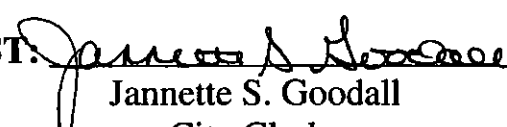
Lee Leffingwell
Mayor

APPROVED:



Karen M. Kennard
City Attorney

ATTEST:



Jannette S. Goodall
City Clerk