

AN ORDINANCE TO AMEND, CHAPTER 21, ARTICLE III OF THE CODE OF ORDINANCES SO AS TO PROHIBIT USING TEXT MESSAGING SERVICES WHILE OPERATING A MOTOR VEHICLE

WHEREAS, The State of Tennessee currently has in effect Tennessee Code Annotated 55-8-19__, which prohibits a driver from using text messaging services while operating a motor vehicle; and

WHEREAS, Tennessee Code Annotated 16-18-302 (a)(1-2) recognizes and authorizes a municipal court to possess jurisdiction to enforce any municipal law or ordinance that mirrors, substantially duplicates or incorporates by cross-reference the language of a state criminal statute, if and only if the state criminal statute mirrored, duplicated or cross-referenced is a Class C misdemeanor and the maximum penalty prescribed by municipal law or ordinance is a civil fine not in excess of fifty dollars (\$50.00).

WHEREAS, the City Council of the City of Memphis intends to exercise its authority to enact new traffic ordinances.

SECTION 1. NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that Chapter 21 Article III, Sec. 21-134 is hereby created to add a new section 21-134 – *Texting while driving* to read as follows:

Sec. 21-1 Definitions.

Mobile telephone – means a cellular, analog, wireless or digital device That provides for voice communication and for data communication other than by voice; and

Personal digital assistant – means a wireless electronic communication device that provides for data communication other than by voice.

Sec. 21-134 Texting while driving.

- (a) No driver shall operate a motor vehicle on any highway while using a Hand held mobile telephone or a hand held personal digital assistant to Transmit or read a written message while such vehicle is in motion; provided, that a driver does not transmit or read a written message for the purpose of this subsection

- (b) if such driver reads, selects or enters a telephone number or name in a hand held mobile telephone or a personal digital assistant for the purpose of making or receiving a telephone call.

Sec. 21-134.1 Exemptions from this section.

The following person are exempt from this section while in the proper discharge of their professional duties:

- (1) Officers of the city, charged with the enforcement of the laws of the state, when in the actual discharge of their official duties;
- (2) Campus police officers and public safety officers, when in the actual discharge of their official duties;
- (3) Emergency medical technicians, emergency medical technician-paramedics, and firefighters, both volunteer and career, when in the actual discharge of their official duties; and
- (4) Emergency management agency officers of the city when in the actual discharge of their official duties.

Section 21-134.2 Penalty for violation of section

- (a) A violation of this section is a Class C misdemeanor, punishable by a fine of \$50.00.
- (c) For a violation of this section, a law enforcement officer shall issue a citation in lieu of continued custody, unless the offender refuses to sign and accept the citation, as provided in T.C.A. § 40-7-118.

Jim Strickland