

Memorandum



DATE: February 15, 2008

TO: Members of the Public Safety Committee

SUBJECT: **Prohibitions on driving in the City while text-messaging or driving in an active school zone while using a hand-held mobile telephone**

Attached is briefing material on the "Prohibitions on driving in the City while text-messaging or driving in an active school zone while using a hand-held mobile telephone" to be presented to the Members of the Public Safety Committee on Tuesday, February 19, 2008.



Ryan S. Evans
First Assistant City Manager

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Attachment

2/14/08

ORDINANCE NO. _____

An ordinance adding Section 28-41.2 to CHAPTER 28, “MOTOR VEHICLES AND TRAFFIC,” of the Dallas City Code, as amended; prohibiting the use of a hand-held mobile telephone to engage in a call or the use of a mobile communication device to send, read, or write a text-message while operating a moving motor vehicle in an active school zone; providing defenses; defining terms; providing a penalty of \$200; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, the city council finds that the use of a hand-held mobile telephone to engage in a call or the use of a mobile communication device to send, read, or write a text message while operating a moving motor vehicle is a traffic hazard and a danger to the public because such actions limit the driver’s ability to steer and maneuver the motor vehicle in a safe manner, require the driver to remove his or her eyes from the road thereby limiting his or her ability to see and react to hazards, and otherwise distract the driver’s concentration from the safe operation of the motor vehicle; and

WHEREAS, the city council believes that the use of a hand-held mobile telephone to engage in a call or the use of a mobile communication device to send, read, or write a text message while driving in a school zone on official school days and during hours when the school zone is in effect creates a particular danger or probability of danger to school children traveling to and from schools and other educational facilities in the city of Dallas; and

WHEREAS, the city council believes that prohibiting the use of hand-held mobile telephones to engage in calls or mobile communication devices to send, read, or write text messages while driving in active school zones, with certain defenses, would further and protect the public health, safety, and welfare, especially of school-aged children; Now, therefore,

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

SECTION 1. That Division 1, "Generally," of Article VI, "Operation of Vehicles," of CHAPTER 28, "MOTOR VEHICLES AND TRAFFIC," of the Dallas City Code, as amended, is amended by adding new Section 28-41.2, entitled "Regulating the Use of Hand-Held Mobile Telephones and Mobile Communication Devices in School Zones," to read as follows:

"SEC. 28-41.2. REGULATING THE USE OF HAND-HELD MOBILE TELEPHONES AND MOBILE COMMUNICATION DEVICES IN SCHOOL ZONES."

(a) In this section:

(1) ENGAGING IN A CALL means talking into, dialing, or listening on a hand-held mobile telephone, but does not include holding a mobile telephone to activate or deactivate the telephone.

(2) HAND-HELD MOBILE TELEPHONE means a mobile telephone with which a user engages in a call using at least one hand (or prosthetic device or aid in the case of a physically disabled person).

(3) HANDS-FREE MOBILE TELEPHONE means a mobile telephone that has an internal feature or function or that is equipped with an attachment or addition, whether or not permanently part of the mobile telephone, by which a user engages in a call without the use of either hand (or prosthetic device or aid in the case of a physically disabled person) whether or not the use of either hand (or prosthetic device) is necessary to activate or deactivate the mobile telephone.

(4) MOBILE COMMUNICATION DEVICE means a text-messaging device or other electronic, two-way communication device that is designed to receive and transmit voice communication, text communication, or both. The term includes a mobile telephone and a personal digital assistant (PDA).

(5) MOBILE TELEPHONE means a device used by subscribers and other users of wireless telephone service to access such service.

(6) SCHOOL ZONE means a school traffic zone as designated in Section 28-50 of this chapter.

(7) TEXT MESSAGE means a two-way communication (whether real-time or asynchronous) in which data (composed in whole or in part of text, numbers, images, or symbols) is sent, entered, or received by a method other than by voice and transmitted through either a short message service (SMS) or a computer network. The term does not include a communication transmitted through a global positioning or navigation system.

(8) WIRELESS TELEPHONE SERVICE means two-way, real time voice telecommunications service that is interconnected to a public switched telephone network and is commonly referred to as cellular service or personal communication service.

(b) A person commits an offense if the person uses a hand-held mobile telephone to engage in a call or uses a mobile communication device to send, read, or write a text message, while operating a moving motor vehicle in a school zone:

(1) on an official school day;

(2) during the hours when the school zone is in effect; and

(3) when signs are conspicuously posted to indicate the beginning and end of the school zone.

(c) An operator of a motor vehicle who holds a mobile telephone to or in the immediate proximity of his or her ear while the vehicle is in motion is presumed to be engaging in a call under this section. Immediate proximity is any distance that permits the user of a mobile telephone to hear telecommunications transmitted over the telephone and does not require physical contact with the user's ear.

(d) It is a defense to prosecution under this section that the person was:

(1) operating an authorized emergency vehicle and using the mobile telephone or mobile communication device in the course and scope of the person's official duties;

(2) using the mobile telephone or mobile communication device to:

(A) report illegal activity to a law enforcement agency;

(B) communicate with an emergency response operator, a fire department, a law enforcement agency, a hospital, a physician's office, or a health clinic regarding a medical or other emergency situation; or

(C) prevent injury to a person or property; or

(3) using a hands-free mobile telephone in a hands-free manner.

(e) A person convicted of an offense under this section shall be punished by a fine of \$200.

(f) An offense under this section is not a moving violation and may not be made a part of a person's driving record or insurance record."

SECTION 2. That CHAPTER 28 of the Dallas City Code, as amended, will remain in full force and effect, save and except as amended by this ordinance.

SECTION 3. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of CHAPTER 1 of the Dallas City Code, as amended.

SECTION 4. That this ordinance will take effect on June 1, 2008, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By _____
Assistant City Attorney

Passed _____

LC/DCC/00424A