

ORDINANCE NO. 20091217-090

AN ORDINANCE AMENDING ORDINANCE NO. 20091022-028 RELATED TO THE USE OF WIRELESS COMMUNICATION DEVICES WHILE OPERATING A MOTOR VEHICLE, AND CREATING AN OFFENSE.

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

PART 1. Part 2 of Ordinance 20091022-028 is amended to read:

PART 2. Section 12-1-34 of the City Code is amended to read:

§ 12-1-34 Electronic Messaging While Driving.

- (A) A driver of a motor vehicle may not use a wireless communication device to view, send, or compose an electronic message or engage other application software while operating a motor vehicle.
- (B) It is an affirmative defense to prosecution of an offense under this section if a wireless communications device is used:
 - (1) while the vehicle is stopped;
 - (2) strictly to engage in a telephone conversation, including dialing or deactivating the call [~~for making a telephone call~~];
 - (3) as a global positioning or navigation system that is affixed to the vehicle;
 - (4) [(3)] for obtaining emergency assistance to report a traffic accident, medical emergency, or serious traffic hazard, or to prevent a crime about to be committed;
 - (5) [(4)] in the reasonable belief that a person's life or safety is in immediate danger;
 - (6) [(5)] if the device is permanently installed inside the vehicle; or
 - (7) [(6)] solely in a voice-activated or other hands-free mode.
- (C) This section does not apply to an operator of an authorized emergency vehicle using a wireless communication device while acting in an official capacity.
- (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 takes effect on January 1, 2010.

PASSED AND APPROVED

December 17, 2009 §
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 § Lee Leffingwell
 Lee Leffingwell
 Mayor

APPROVED: David Allan Smith
 David Allan Smith
 City Attorney

ATTEST: Shirley A. Gentry
 Shirley A. Gentry
 City Clerk