

Office of the City Manager

5200 Emerald Parkway • Dublin, OH 43017-1090

Phone: 614-410-4400 • Fax: 614-410-4490

Memo

To: Dublin City Council

From: Marsha Grigsby, City Manager

Date: February 10, 2011

Initiated By: Heinz von Eckartsberg, Interim Chief of Police

Stephen J. Smith, Law Director

Jennifer D. Readler, Assistant Law Director

Re: Ordinance 08-11 (Amended) - Amending Section 72.058 of the Codified

Ordinances of Dublin, Ohio to Create a Subsection Prohibiting "Sending,

Reading, or Writing a Text Message or Accessing the Internet While Driving"

Summary

Since the introduction of Ordinance 08-11 on January 24, 2011, the Legal Department received comments from AT&T on the proposed revisions to Section 72.058 of the Dublin Codified Ordinances. AT&T has been involved with texting initiatives throughout the country. They made the following two suggestions:

• In division (D)(1), insert "Manually" before "Write."

Per AT&T, this change would provide clarification that the prohibition is on a driver manually writing or sending so as not to inadvertently prohibit voice-activated in-vehicle technologies or text-to-speech applications from being used.

• In division (D)(4)(b), in the last clause, replace the phrase "an internet based vehicle navigation system" with a "global positioning or navigation system."

Per AT&T, this change would provide clarification that the use of navigation applications on a smart phone is permitted; the exception should not be limited to in-vehicle navigation systems. The smart phone navigation applications, which perform the same functions as traditional navigation devices (both in-car and handheld), are increasing in popularity and their use should not be precluded.

We believe AT&T's points are valid and, consequently, have made the suggested revisions to the attached ordinance. No other revisions have been made since the first reading.

Recommendation

Ordinance 08-11(Amended) is presented for second reading/public hearing on February 14, 2011.

RECORD OF ORDINANCES

Dayton Legal Blank, Inc.			Form No. 30043
Ordinance No	08-11(Amended)	Passed	, 20

AN ORDINANCE AMENDING SECTION 72.058 OF THE CODIFIED ORDINANCES OF DUBLIN, OHIO TO PROHIBIT "SENDING, READING, OR WRITING A TEXT MESSAGE OR ACCESSING THE INTERNET WHILE DRIVING"

WHEREAS, texting while driving has been shown to increase the risk of accidents, especially to younger drivers; and

WHEREAS, Council identifies the need to improve roadway safety for all vehicle operators, passengers, bicyclists, pedestrians, and other roadway users by prohibiting texting while driving;

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Dublin, State of Ohio, _____ of the elected members concurring that:

<u>Section 1.</u> That Section 72.058 of the Codified Ordinances of the City of Dublin is hereby amended to read as follows:

72.058 Failure to Control; Weaving; Full Time Attention; Sending, Reading, or Writing a Text Message or Accessing the Internet While Driving.

- (A) No person shall operate a motor vehicle or motorcycle without exercising reasonable and ordinary control over such vehicle.
- (B) No person shall operate a motor vehicle or motorcycle in a weaving or zigzag course unless such irregular course is necessary for safe operation or in compliance with law.
- (C) No person shall operate a motor vehicle or motorcycle without giving his full time and attention to the operation of such vehicle.
- (D) No person shall operate a motor vehicle or motorcycle while using a mobile communication device to:
 - (1) Manually write, send, read or reply to a text message; or
 - (2) Send, read, create, or interact with internet-based content, play games or otherwise interact with the internet.
 - (3) Division (D) shall not apply to:
 - (a) Operators of emergency or public safety vehicles where the operator of a public safety vehicle uses such device in the course of the operator's official duties;
 - (b) Any person reporting a health or safety emergency;
 - (c) Drivers parked, standing or stopped and removed from the flow of traffic, or stopped due to an inoperable vehicle.
 - (4) As used in division (D):
 - (a) "Text message" means any message sent, stored or received via mobile communications device. For the purposes of this Section, an email message and an instant message shall be considered a text message.
 - (b) "Mobile communications device" means any portable electronic device capable of transmitting or receiving data in

RECORD OF ORDINANCES

Dayton Legal Blank, Inc.			Form No. 300
Ordinance No	08-11(Amended)	Passed	Page 2 of 2
	internet, include text-messaging personal comp portable mobile mobile navigation systems (c) "Emergial have the same	ding but not limited device, a persona uter, but specifically le data terminal and em being used for the ency vehicles" and meaning as set for	capable of accessing the to a wireless telephone, of a digital assistant, or of excluding a commercial a global positioning of at purpose. "Public safety vehicles to the in Ohio Revised Code
, ,	Section 4511.0 signation of any of the display of t		ion shall be considered t
(F) Wh		C) or (D) of this Se	ection shall be guilty of a
Section 2.		take effect and be in	n force from and after the
Passed this	day of	, 2011	
Mayor - Pro	esiding Officer		
Titlost.			
Clerk of Co	uncil		
TT.			



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Memo

To: Dublin City Council

From: Marsha Grigsby, City Manager

Date: January 20, 2011

Initiated By: Heinz von Eckartsberg, Interim Chief of Police

Stephen J. Smith, Law Director

Jennifer D. Readler, Assistant Law Director

Re: Ordinance 08-11 - Amending Section 72.058 of the Codified Ordinances of Dublin, Ohio to Create a Subsection Prohibiting "Sending, Reading, or Writing a Text Message or Accessing the Internet While Driving"

Summary

At Council's request, the Legal Department researched the issue of prohibiting texting while driving and, in consultation with the Police Department, has drafted the attached legislation for Council's consideration. It is based upon the legislation that was passed by the Ohio House of Representatives and is currently pending in the Ohio Senate.

The key elements of this legislation as currently drafted are as follows:

- Prohibits texting, accessing the internet, instant messaging and reading any such information;
- Permits making or receiving cellular telephone calls and does not mandate the use of a hands-free (Bluetooth) device;
- Provides for the following additional exceptions:
 - o The use of an internet-based vehicle navigation system and a commercial portable mobile data terminal;
 - o Emergency/public safety personnel, as defined by the Ohio Revised Code;
 - o Motorists reporting a health/safety emergency;
 - Motorists parked outside the flow of traffic or stopped due to an inoperable vehicle.
- Provides that a violation is a primary offense. This means that a police officer may initiate a traffic stop based solely on a violation of this ordinance;
- Establishes the penalty as a fourth degree misdemeanor.

At the suggestion of the Police Department, the penalty for a violation of division (C) of Section 72.058 (Full Time Attention) was increased from a minor misdemeanor to a fourth degree misdemeanor.

In addition to the proposed legislation, the City is continuing with ongoing educational efforts to discourage texting and driving.

Memo re. Ordinance 08-11 – Prohibiting Texting While Driving January 20, 2011 Page 2 of 2

Legal staff, along with the Police Department, will be available to respond to any questions regarding this legislation.

Recommendation

Ordinance 08-11 is presented to Council for first reading on January 24, 2011.