

Sec. 82-22. - Use of wireless communication devices while driving.

- (a) *Definitions* . For the purpose of this section, the following words, terms, phrases and their derivations shall have the meanings as set out below:
- (1) *Handheld wireless communication device* means a wireless communication device that is portable, and includes, but is not limited to, wireless telephones, tablets, ipads, smartphones, or laptops, whether it is physically attached to a vehicle.
  - (2) *Text-based communications* means a communication that is designed or intended to be composed with at least one hand on a handheld communication device and that is transmitted between wireless communication devices for the purpose of manually communicating in a non-spoken manner with another person in a written medium. The term includes:
    - a. A text message;
    - b. An instant message;
    - c. An email;
    - d. A comment on any social media; or
    - e. Any other type of electronic message.
  - (3) Use of a wireless communication device shall include, but not be limited to:
    - a. Sending or reading a text message or email;
    - b. Posting or reading any written communications or comments on any social media;
    - c. Use of the internet for any purpose; or
    - d. Use of any smartphone application other than a GPS navigation application that has voice activated directions.
- (b) An operator of a motor vehicle commits an offense if the operator uses a handheld wireless communication device to read, write, or send a text-based communication while operating a motor vehicle on a public street.
- (c) Subsection (b) does not apply to an operator of an authorized emergency or law enforcement vehicle using a wireless communication device while acting in an official capacity.
- (d) It is a defense to prosecution under subsection (b) if the text-based communication is performed:
- (1) While the vehicle is stopped, out of the moving lanes of the roadway;
  - (2) Strictly to engage in a telephone conversation, including dialing or deactivating the call;
  - (3) As a global positioning or navigation system that is affixed to the vehicle;
  - (4) To communicate with 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 to prevent injury to a person or property;
  - (5) In the reasonable belief that a person's life or safety is in immediate danger; or
  - (6) Solely in a voice-activated or other hands-free mode.
- (e) 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. No citations will be issued for the first 90 days following the effective date of this section so that an education effort by the city may be conducted to inform the public about the importance and requirements of this new section. Thereafter, a person convicted of an offense under this section shall be punished by a fine of up to \$200.00.

( [Ord. No. 3274, § 1, 3-18-2014](#) )