

ORDINANCE G-4985

AN ORDINANCE AMENDING CHAPTER 36, ARTICLE VII, DIVISION 2, PHOENIX CITY CODE, BY ADDING SECTION 36-76.01, PROHIBITING THE USE OF PERSONAL DIGITAL ASSISTANTS WHILE DRIVING.

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BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PHOENIX as follows:

SECTION 1. Chapter 36, Article VII, Division 2, Phoenix City Code, is amended by adding Section 36-76.01 to read:

Sec. 36-76.01 Use of personal digital assistants while driving; prohibited; exceptions.

A. A PERSON SHALL NOT OPERATE A MOTOR VEHICLE ON A STREET WHILE USING A PERSONAL DIGITAL ASSISTANT TO SEND OR RECEIVE A WRITTEN MESSAGE WHILE THE MOTOR VEHICLE IS IN MOTION.

B. THIS SECTION DOES NOT APPLY TO ANY OF THE FOLLOWING:

1. LAW ENFORCEMENT AND SAFETY PERSONNEL.
2. DRIVERS OF AUTHORIZED EMERGENCY VEHICLES.
3. HOLDERS OF COMMERCIAL DRIVER LICENSES WHILE DRIVING WITHIN THE SCOPE OF THEIR EMPLOYMENT.
4. PUBLIC TRANSIT PERSONNEL.
5. A PERSON WHO IS REPORTING RECKLESS OR NEGLIGENT BEHAVIOR.

6. THE USE OF A PERSONAL DIGITAL ASSISTANT FOR THE SOLE PURPOSE OF COMMUNICATING WITH ANY OF THE FOLLOWING REGARDING AN EMERGENCY SITUATION:

- (a) AN EMERGENCY RESPONSE OPERATOR.
- (b) A HOSPITAL, PHYSICIAN'S OFFICE OR HEALTH CLINIC.
- (c) A PROVIDER OF AMBULANCE SERVICES.
- (d) A PROVIDER OF FIRE FIGHTING SERVICES.
- (e) A LAW ENFORCEMENT AGENCY.

7. A PERSON WHO BELIEVES THE PERSON IS IN PHYSICAL DANGER IF THE PERSON IS THE ONLY ADULT IN THE MOTOR VEHICLE.

C. FOR PURPOSES OF THIS SECTION, "PERSONAL DIGITAL ASSISTANT" MEANS A WIRELESS ELECTRONIC COMMUNICATION DEVICE THAT PROVIDES FOR DATA COMMUNICATION OTHER THAN BY VOICE.

D. A VIOLATION OF THIS SECTION IS A NONMOVING CIVIL TRAFFIC VIOLATION.

E. IF A PERSON VIOLATES THIS SECTION AND THE PERSON IS NOT INVOLVED IN A MOTOR VEHICLE ACCIDENT, THE PERSON IS SUBJECT TO A CIVIL PENALTY OF NOT LESS THAN ONE HUNDRED DOLLARS PLUS ANY OTHER PENALTY ASSESSMENTS AUTHORIZED BY LAW.

F. IF A PERSON VIOLATES THIS SECTION AND THE PERSON IS INVOLVED IN A MOTOR VEHICLE ACCIDENT, THE PERSON IS SUBJECT TO A CIVIL PENALTY OF NOT LESS THAN TWO HUNDRED FIFTY DOLLARS PLUS ANY OTHER PENALTY ASSESSMENTS AUTHORIZED BY LAW.

G. IF A PERSON IS CITED FOR VIOLATING THIS SECTION, THE PERSON IS INVOLVED IN A MOTOR VEHICLE ACCIDENT AND A WRITTEN ACCIDENT REPORT IS REQUIRED BY LAW, THE LAW ENFORCEMENT OFFICER INVESTIGATING THE ACCIDENT SHALL INDICATE ON THE WRITTEN ACCIDENT FORM THE USE OF A PERSONAL DIGITAL ASSISTANT TO SEND OR RECEIVE A WRITTEN MESSAGE AT THE TIME OF THE ACCIDENT.

SECTION 2. Warning period.

For the purpose of informing and educating persons who operate motor vehicles, beginning on September 20, 2007 through October 19, 2007, any peace officer may stop motor vehicles and issue verbal warnings to persons who would be violating section 36-76.01, Phoenix City Code, as added by this Ordinance.

SECTION 3. Emergency.

Whereas, the immediate operation of the provisions of this Ordinance is necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage by the Council as required by the City Charter and is hereby exempted from the referendum clause of said Charter.

SECTION 4. Legislative agenda.

The subject of using personal digital assistants while driving shall be placed at the top of the City of Phoenix's legislative agenda so that the City may work toward a statewide solution and may request the Arizona legislature to enact maximum penalties by putting violators' drivers licenses at risk or having violators' vehicles impounded.

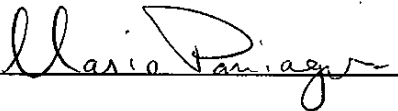
PASSED by the Council of the City of Phoenix this 19<sup>th</sup> day of September,

2007.

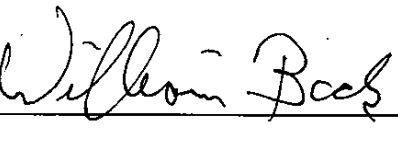


MAYOR

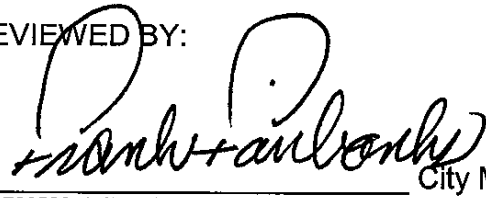
ATTEST:

 City Clerk

APPROVED AS TO FORM:

 Acting City Attorney *MS*

REVIEWED BY:

 City Manager

MS:708529v1; Item 17.1; 09/19/07

