

ORDINANCE 10-40

AN ORDINANCE ENACTING SECTION 331.44
SENDING, READING OR WRITING A TEXT MESSAGE
WHILE DRIVING, OF THE CITY OF DELAWARE
CODIFIED ORDINANCES.

WHEREAS, texting while driving has been shown to be a dangerous and harmful activity to drivers and the general public, and

WHEREAS, the Legislature of the State of Ohio is considering the passage of House Bill 415 that would ban texting while driving under certain circumstances and make it an offense to “drive a motor vehicle, trackless trolley, or streetcar on any street, highway, or property open to the public for vehicular traffic while using an electronic wireless communications device to write, send, or read a text-based communication.”, and

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Delaware, Ohio that:

SECTION 1. That Section 331.44 of the Codified Ordinances of the City of Delaware is hereby enacted to read as follows:

**SECTION 331.44 SENDING, READING OR WRITING A TEXT MESSAGE OR
ACCESSING THE INTERNET WHILE DRIVING.**

(a) As used in this section:

(1) “Text message” means a message sent, stored or received via a mobile communication device. For purposes of this section, an e-mail message shall be considered a text message.

(2) “Mobile communication device” means any portable electronic device capable of transmitting or receiving data in the form of a text message ~~or capable of accessing the internet~~, including but not limited to a wireless telephone, a text-message device, a personal digital assistant, or a personal computer.

(b) No person shall operate a motor vehicle while using a mobile communication device to

(1) Compose, send or read a text message; ~~or~~

(2) ~~Send, read, create, play or interact with internet-based content.~~

(c) Notwithstanding the provisions of division (b), this section shall not be construed to prohibit the use of a mobile communication device inside a motor vehicle by:

(1) a driver using a mobile communication device while the motor vehicle is any of the following:

- (a) parked while not located on the traveled portion of the roadway,
- (b) standing or stopped while not located on the traveled portion of the roadway and is removed from the flow of traffic, or
- (c) is stopped due to the inoperability of such vehicle; or

(2) a driver using a mobile communication device in the course of the driver's duties while operating an emergency or public safety vehicle.

(d) Whoever violates this section is guilty of a minor misdemeanor.

SECTION 2. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including Section 121.22 of the Revised Code.

PASSED: 6/28, 2010

YEAS 6 NAYS 1
ABSTAIN 0

ATTEST: Christine Phaw
CITY CLERK

[Signature]
MAYOR