

Meeting Date: September 13, 2017



Agenda Item #: 7D

CITY COUNCIL AGENDA ITEM

Contact Information:

Contact Name: Chief Peter C. Thomas **Dept. Director:** Chief Peter C. Thomas

Contact Number: (386) 775-9999 **City Manager:** Dale Arrington

Type of Item:

<input type="checkbox"/>	Consent Agenda	<input type="checkbox"/>	Ordinance First Reading	<input type="checkbox"/>	Public Hearing
<input type="checkbox"/>	Council Approval	<input type="checkbox"/>	Ordinance Second Reading	<input checked="" type="checkbox"/>	Resolution
<input type="checkbox"/>	Discussion & Action	<input type="checkbox"/>	Presentation	<input type="checkbox"/>	Workshop

SUBJECT: Resolution Supporting Legislation Making Texting While Driving a Primary Offense

BACKGROUND:

The Florida Legislature passed the Florida Ban on Texting While Driving Law in 2013 to improve roadway safety and reduce crashes related to the act of text messaging. The law was written to prohibit a law enforcement officer from taking any enforcement action unless the law enforcement officer observes another traffic offense.

The Florida Legislature has considered bills that would make texting while driving a primary offense; however, the State of Florida remains one of only five states who do not enforce texting while driving as a primary offense.

Council member O'Connor, at the August 22, 2017 council meeting, requested consideration that the City of Orange City Council consider a resolution urging the Florida Legislature to consider making the act of texting while driving a primary offense.

COUNCIL DISTRICT:

City Wide

RECOMMENDATIONS:

Staff recommends adoption of the attached resolution.

ATTACHMENTS:

Resolution 878-17

Copy of the Florida Ban on Texting While Driving Law

FINANCIAL IMPACT:

N/A.

STRATEGIC PLAN:

N/A.

RESOLUTION NO. 878-17

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE CITY, FLORIDA, URGING THE FLORIDA LEGISLATURE TO ENACT LEGISLATION THAT WOULD MAKE TEXTING WHILE DRIVING A PRIMARY OFFENSE; REPEALING ALL RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, texting while driving increases the risk of a crash 3 times greater than driving while not distracted, according to the Virginia Tech Transportation Institute; and

WHEREAS, texting resulted in the longest duration of drivers taking their eyes off the road; and

WHEREAS, in 2014, approximately 431,000 people were injured in crashes in the United States involving distracted drivers, according to the National Highway Traffic Safety Administration (NHTSA); and

WHEREAS, in 2014, 3,179 people were killed in crashes in the United States involving distracted drivers, according to NHTSA; and

WHEREAS, the concern of the American public over distracted driving has grown exponentially, resulting in the first-ever national distracted driving enforcement and advertisement campaign in April 2014 by the United States Department of Transportation; and

WHEREAS, the degree of cognitive distraction associated with mobile phone use is so high that drivers using mobile phones exhibit greater impairment than legally intoxicated drivers, according to a University of Utah study; and

WHEREAS, on December 13, 2011, the National Transportation Safety Board urged all states to prohibit the use of cellular telephones and text messaging while behind the wheel of a motor vehicle; and

WHEREAS, during the 2002 regular session, the Florida Legislature enacted legislation that preempted local governments from regulating the use of electronic communications devices in motor vehicle; and

WHEREAS, during the 2013 regular session, the Florida Legislature passed the Florida Ban on Texting While Driving Law, which made texting while driving a noncriminal traffic infraction; and

WHEREAS, of the 46 states that have made it unlawful to text while driving, all but five have made texting while driving a primary offense; and

WHEREAS, Florida is among the five states that do not enforce texting while driving as a primary offense, but instead as a secondary offense; and

WHEREAS, a secondary offense is an offense for which a law enforcement officer can issue a traffic citation only if the driver has been pulled over for committing another traffic violation; and

WHEREAS, the Florida Legislature has considered bills that would make texting while driving a primary offense, however, to date, such bills have not been passed, allowing texting while driving to remain a secondary offense in Florida; and

WHEREAS, the City Council of the City of Orange City desires to urge the Florida Legislature to enact legislation that would make texting while driving a primary offense

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ORANGE CITY, FLORIDA:

SECTION 1. The City Council urges the Florida Legislature to enact legislation that would make texting while driving a primary offense.

SECTION 2. The City Council hereby directs the City Clerk to transmit a certified copy of this resolution to the Governor of Florida, President of the Florida Senate and Speaker of the Florida House of Representatives.

SECTION 3. That all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed.

SECTION 4. That this resolution shall take effect immediately upon its adoption by the City Council of the City of Orange City, Florida.

ROLL CALL VOTE AS FOLLOWS (Resolution No. 878-17):

_____	Jim Mahoney	Anthony Pupello	_____
_____	Bill O'Connor	Evelyn Robinson	_____
_____	Jeff Allebach	O. William Crippen, Mayor	_____
_____	Gary A. Blair, Mayor		

ATTEST:

AUTHENTICATED:

Gloria J. Thomas, CMC, City Clerk

Gary A. Blair, Mayor

Approved as to form and legal sufficiency:

William E. Reischmann, Jr., City Attorney

STATE UNIFORM TRAFFIC CONTROL

316.305 Wireless communications devices; prohibition.—

- (1) This section may be cited as the “Florida Ban on Texting While Driving Law.”
- (2) It is the intent of the Legislature to:
 - (a) Improve roadway safety for all vehicle operators, vehicle passengers, bicyclists, pedestrians, and other road users.
 - (b) Prevent crashes related to the act of text messaging while driving a motor vehicle.
 - (c) Reduce injuries, deaths, property damage, health care costs, health insurance rates, and automobile insurance rates related to motor vehicle crashes.
 - (d) Authorize law enforcement officers to stop motor vehicles and issue citations as a secondary offense to persons who are texting while driving.
- (3)(a) A person may not operate a motor vehicle while manually typing or entering multiple letters, numbers, symbols, or other characters into a wireless communications device or while sending or reading data on such a device for the purpose of nonvoice interpersonal communication, including, but not limited to, communication methods known as texting, e-mailing, and instant messaging. As used in this section, the term “wireless communications device” means any handheld device used or capable of being used in a handheld manner, that is designed or intended to receive or transmit text or character-based messages, access or store data, or connect to the Internet or any communications service as defined in s. 812.15 and that allows text communications. For the purposes of this paragraph, a motor vehicle that is stationary is not being operated and is not subject to the prohibition in this paragraph.
 - (b) Paragraph (a) does not apply to a motor vehicle operator who is:
 1. Performing official duties as an operator of an authorized emergency vehicle as defined in s. 322.01, a law enforcement or fire service professional, or an emergency medical services professional.
 2. Reporting an emergency or criminal or suspicious activity to law enforcement authorities.
 3. Receiving messages that are:
 - a. Related to the operation or navigation of the motor vehicle;
 - b. Safety-related information, including emergency, traffic, or weather alerts;
 - c. Data used primarily by the motor vehicle; or
 - d. Radio broadcasts.
 4. Using a device or system for navigation purposes.
 5. Conducting wireless interpersonal communication that does not require manual entry of multiple letters, numbers, or symbols, except to activate, deactivate, or initiate a feature or function.
 6. Conducting wireless interpersonal communication that does not require reading text messages, except to activate, deactivate, or initiate a feature or function.
 7. Operating an autonomous vehicle, as defined in s. 316.003, in autonomous mode.
 - (c) Only in the event of a crash resulting in death or personal injury, a user’s billing records for a wireless communications device or the testimony of or written statements from appropriate authorities receiving such messages may be admissible as evidence in any proceeding to determine whether a violation of paragraph (a) has been committed.
- (4)(a) Any person who violates paragraph (3)(a) commits a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.
 - (b) Any person who commits a second or subsequent violation of paragraph (3)(a) within 5 years after the date of a prior conviction for a violation of paragraph (3)(a) commits a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.
- (5) Enforcement of this section by state or local law enforcement agencies must be accomplished only as a secondary action when an operator of a motor vehicle has been detained