

Introduced by: Legislator Yatauro, Abrahams, Bosworth, Corbin, Denenberg, Jacobs, Mejias, Scannell, Toback, Wink, Schmitt, Becker, Ciotti, Dunne, Ford, Gonsalves, Mangano, Muscarella, Nicollelo

Local Law No. 11 - 2008

A LOCAL LAW in relation to prohibiting text messaging while driving within the County of Nassau.

BE IT ENACTED by the County Legislature of the County of Nassau, as follows:

Section 1. This law shall appear in the miscellaneous laws as Title 71.

§ 2. Legislative Intent.

The legislature finds that the popularity of text messaging has created a new distraction for drivers, especially young drivers, and has led to numerous accidents, many of them fatal, nationwide. Text messaging while driving inevitably decreases driver awareness and safety on the roads, affecting reaction time and attention to the surrounding environment and roadways. In order to protect the health, safety, and well-being of persons within the County of Nassau and to insure that individuals are not distracted while driving, this local law seeks to prohibit text messaging while driving.

§ 3. Definitions.

As used in this title, the following terms shall have the meanings indicated:

“Authorized emergency vehicle” shall mean every ambulance, police vehicle or bicycle, correction vehicle, fire vehicle, civil defense emergency vehicle, emergency ambulance service vehicle and environmental emergency response vehicle.

“Text Message” also referred to as Short Messaging Service (SMS), shall mean the process by which users send or receive messages on wireless handsets. For the purposes of this local law, an e-mail shall also be considered a “text message.”

“Use” or “using” means holding a wireless handset while operating a motor vehicle on any public street or public highway within this county and activating, deactivating or initiating functions or keys on a wireless handset in order to send or receive text messages on a wireless handset.

“Voice recognition” shall mean the capability by which wireless handsets can be activated and controlled by voice commands.

"Wireless handset" shall mean a portable computing device, including cellular telephones, handheld mobile telephones and personal digital assistants capable of transmitting data in the form of an e-mail or text message.

§ 4. Prohibition.

No person shall use a wireless handset to compose or send a text message while operating a motor vehicle on any public street or public highway within the County of Nassau; provided, however, that the operator of an authorized emergency vehicle, when using such wireless handset in furtherance of their sworn duties, shall be exempt from the provisions of this title. This prohibition shall not apply to text messages composed via any voice recognition technology.

§ 5. Enforcement.

This law shall be enforced by the Nassau County Police Department and sworn officers, as defined in Section 1.20(34) of the New York State Criminal Procedure Law, of an authorized Police Department or force of a town or of a village within the geographic boundaries of Nassau County. This law may be enforced anywhere within the geographic boundaries of Nassau County.

§ 6. Penalties. Any violation of section four of this local law shall constitute an offense and be punishable by a fine not to exceed one hundred and fifty dollars for each violation. Each such violation shall constitute a separate and distinct offense.

§ 7. Severability. If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid

or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

§ 8. Effective date.

This local law shall become effective sixty days after it shall have become a law.