

REQUEST FOR LEGISLATIVE ACTION


Completed by County Counselor's Office:

Res/Ord No.: 5209

Sponsor(s): T. Galvin

Date: ~~01/24/2019~~ 03/11/2019

<p>SUBJECT</p>	<p>Action Requested: <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Ordinance</p> <p>Project/Title: To adopt an ordinance under the Jackson County Code, Chapter 52," Traffic Code" which prohibits distracted driving on Jackson County, Missouri roadways, and adopt new definitions under Chapter 52 of the Jackson County Traffic Code, which provides definition for "Personal Electronic Device", numbered 5210.23, and "Write, Send, Read a Text or Electronic Message", numbered 5210.24.</p>												
<p>BUDGET INFORMATION <i>To be completed By Requesting Department and Finance</i></p>	<table border="1" data-bbox="313 590 1192 873"> <tr> <td>Amount authorized by this legislation this fiscal year:</td> <td>N/A</td> </tr> <tr> <td>Amount previously authorized this fiscal year:</td> <td>N/A</td> </tr> <tr> <td>Total amount authorized after this legislative action:</td> <td>N/A</td> </tr> <tr> <td>Amount budgeted for this item * (including transfers):</td> <td>\$</td> </tr> <tr> <td>Source of funding (name of fund) and account code number;</td> <td>FROM ACCT \$</td> </tr> <tr> <td></td> <td>TO ACCT</td> </tr> </table> <p>* If account includes additional funds for other expenses, total budgeted in the account is: \$</p> <p>OTHER FINANCIAL INFORMATION:</p> <p><input type="checkbox"/> No budget impact (no fiscal note required) <input type="checkbox"/> Term and Supply Contract (funds approved in the annual budget); estimated value and use of contract: Department: Estimated Use: \$</p> <p>Prior Year Budget (if applicable): \$ Prior Year Actual Amount Spent (if applicable):</p>	Amount authorized by this legislation this fiscal year:	N/A	Amount previously authorized this fiscal year:	N/A	Total amount authorized after this legislative action:	N/A	Amount budgeted for this item * (including transfers):	\$	Source of funding (name of fund) and account code number;	FROM ACCT \$		TO ACCT
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<p>PRIOR LEGISLATION</p>	<p>Prior ordinances and (date): Prior resolutions and (date): N/A</p>												
<p>CONTACT INFORMATION</p>	<p>RLA drafted by (name, title, & phone):Sgt. Doug Blodgett JCSO Sergeant</p>												
<p>REQUEST SUMMARY</p>	<p>Accept and adopt ordinance number 5267, which states "No person who operates a moving vehicle shall send, read, or write a text or electronic message utilizing a personal electronic device, or send or receive any picture message by means of a personal electronic device, or engage in personal grooming while operating a moving vehicle, or utilize a personal electronic device for conversation while operating a moving vehicle, or intentionally engage in any action that causes the driver's attention to be obscured, diminished, or directed away from the path of travel or operating of the moving vehicle which results in a traffic crash.";</p> <p>Accept and Adopt the exceptions to 5267 which state: "this ordinance shall not apply to the following person(s) or conditions: A Police Officer, Sheriff, State Highway Patrol, Ambulance, or Fire, operating an authorized emergency vehicle, and / or acting within the course and scope of their employment; A vehicle stopped off the highway, roadway; A person who receives and reads an emergency, traffic, weather, AMBER, SILVER, or BLUE alert message, or; A person utilizing 911 to report current or ongoing illegal activity or providing pertinent information to prevent imminent injury to person or property to law enforcement or emergency personnel."</p> <p>Accept and Adopt new definitions to Chapter 52 which state: numbered 5210.23 "Personal Electronic Device" is defined as any wireless communication device which provides for voice or data communication between two</p>												

	<p><i>or more parties including but not limited to, a mobile or cellular telephone, a text messaging device, a person digital assistant that sends and receives messages, and audio-video player that sends and receives messages or a laptop computer. Personal Electronic Device does not include a device which is voice-operated wand which allows the user to send and received a text based communication, carry on a conversation, provide streaming digital media, or provide directions without the use of either hand, except to activate or deactivate the function;</i></p> <p>And numbered 5210.24 Write, Send or Read a Text or Electronic Message is defined as using a personal electronic device to manually type, send or read a written communication, including, but not limited to, a text message, instant message, picture message, multi-media message, or electronic mail.</p>	
CLEARANCE	<input type="checkbox"/> Tax Clearance Completed (Purchasing & Department) <input type="checkbox"/> Business License Verified (Purchasing & Department) <input type="checkbox"/> Chapter 6 Compliance - Affirmative Action/Prevailing Wage (County Auditor's Office)	
ATTACHMENTS	Research and Documentation (2 Pages)	
REVIEW	Department Director: 	Date: 01/25/2019
	Finance (Budget Approval): <i>If applicable</i>	Date:
	Division Manager:	Date:
	County Counselor's Office:	Date:

Fiscal Information (to be verified by Budget Office in Finance Department)

- This expenditure was included in the annual budget.
- Funds for this were encumbered from the _____ Fund in _____.
- There is a balance otherwise unencumbered to the credit of the appropriation to which the expenditure is chargeable and there is a cash balance otherwise unencumbered in the treasury to the credit of the fund from which payment is to be made each sufficient to provide for the obligation herein authorized.
- Funds sufficient for this expenditure will be/were appropriated by Ordinance # _____
- Funds sufficient for this appropriation are available from the source indicated below.

Account Number:	Account Title:	Amount Not to Exceed:

- This award is made on a need basis and does not obligate Jackson County to pay any specific amount. The availability of funds for specific purchases will, of necessity, be determined as each using agency places its order.
- This legislative action does not impact the County financially and does not require Finance/Budget approval.



Office of the JACKSON COUNTY SHERIFF

Sheriff Darryl Forté

Distracted Driving Ordinance

Research and Identification of Necessity:

When asked to draft an ordinance to protect residents and visitors of Jackson County, Missouri from the perils of distracted drivers on Jackson County roadways, I agreed and delved into researching the topic. What I found was that while in 46 states, Washington DC, Puerto Rico, Guam and the U.S. Virgin Islands, texting while driving is an illegal, ticketable offense, the language found in the ordinances and statutes varied widely and provided a great deal of open interpretation; however the crash statistics in Jackson County, Missouri were the second highest in the state. The Missouri State Highway Patrol, statewide traffic accident records system (STARS), distraction - involved traffic crash report showed that through the years of 2015 – 2017, Jackson County had over 6,173 traffic crashes involving distracted drivers. The report details that out of that 6,173 traffic crashes, 1,928 sustained personal injury, with 194 suffering disabling injury; 4,226 sustained property damage, and 21 people lost their lives.

The state of Missouri has enacted law which only places a prohibition on specific age ranges, which I believe to be inadequate and fails to fulfill the intended outcome. O'Fallon city ordinance provides a significantly broader legal requirement to be found guilty of distracted driving, which again fails to address the quantifiable contributing factors for traffic crashes with particularity. Oklahoma State statute is narrower in scope, but the definitions utilized for electronic device are antiquated and again fail to address the contributing factors with particularity.

The language outlined below for the "Distracted Driving Ordinance" is a combination of language derived from the RSMO.304.820, North Dakota Century Code 39-08-23 and 39-08-24, Kansas Statute Article 15, 8-15,111, Oklahoma Statute 47 OK Stat § 47-11-901c, Iowa Code Section 321.276, O'Fallon Missouri Ordinance, and Columbia, Missouri ordinance. The combination of the language used allowed for a direct prohibition on electronic communication by means of an electronic device while in operation of a vehicle, as well as grooming practices, or speaking to anyone on a cell phone, the top three causes of traffic crashes involving distracted driving. The language also allows for a broader enforcement definition which for use in investigation of traffic crashes (i.e. child care issues, mobile televisions, tuning of a radio or digital media station, passengers in a vehicle, eating while driving, or any other behavior which caused deviation in the driver's attention resulting in a traffic crash).

Proposed Ordinance Language:

I utilized the aforementioned facts and information to draft the language to be used as Jackson County Ordinance, Chapter 52, 5267, which if approved by this legislature would state:

"No person who operates a moving vehicle shall send, read, or write a text or electronic message utilizing a personal electronic device, or send or receive any picture message by means of a personal electronic device, or engage in personal grooming while operating a moving vehicle, or utilize a personal electronic device for conversation while operating a moving vehicle, or intentionally engage in any action that causes the driver's attention to be obscured, diminished, or directed away from the path of travel or operation of the moving vehicle which results in a traffic crash."

Definitions:

"Personal Electronic Device" is defined as: *"any wireless communication device which provides for voice or data communication between two or more parties, including but not limited to, a mobile or cellular telephone, a text messaging device, a personal digital assistance that sends and receives messages, and audio-video player that sends and receives messages or a laptop computer. "Personal Electronic Device" does not include a device which is voice-operated and which allows the user to send and receive a text based communication, carry on a conversation, provide streaming digital media, or provide directions without the use of either hand, except to activate or deactivate the function.* **Definition must be added 5210.23**

"Write, Send or Read a Text or Electronic Message" is defined as: *"using a personal electronic device to manually type, send or read a written communication, including, but not limited to, a text message, instant message, picture message, multi-media message, or electronic mail."* **Definition must be added 5210.24**

"Police Officer, Sheriff, State Highway Patrol, Ambulance or Fire, operating an Authorized Emergency Vehicle" is defined in Chapter 52, 5201.1, subsections a – g.

"Vehicle" is defined in Chapter 52, 5210.22.

"Through Highway" is defined in Chapter 52, 5210.18

Exceptions:

This ordinance shall not apply to the following person(s) or conditions:

1. A Police Officer, Sheriff, State Highway Patrol, Ambulance or Fire, operating an authorized emergency vehicle, and acting within the course and scope of their employment;
2. A vehicle stopped, off the highway, roadway, ;
3. A person who receives and reads and emergency, traffic, weather, AMBER, SILVER, or Blue alert message; or
4. A person utilizing 911 to report current or ongoing illegal activity or providing pertinent information to prevent imminent injury to a person or property, to law enforcement or emergency personnel.

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<p>SUBJECT</p>	<p>Action Requested: <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Ordinance</p> <p>Project/Title: To adopt an ordinance under the Jackson County Code, Chapter 52, "Traffic Code" titled "Improper Lane Usage": which states "Any vehicle operating on Jackson County roadways, highway, and interstates shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety, and the person operating the moving vehicle shall not cross any lane divider line, including dotted lane dividers, solid fog lines, and solid lane divider lines, without the use of proper advance signal by either hand and arm or by signal light, or signal device in good mechanical condition. Any person failing to do so is guilty of an infraction". Numbered 5268</p>										
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<p>CONTACT INFORMATION</p>	<p>RLA drafted by (name, title, & phone): Sgt. Doug Blodgett JCSO Sergeant</p>										
<p>REQUEST SUMMARY</p>	<p>Accept and adopt ordinance number 5268, Under Chapter 52, "Traffic Code" which states "Any vehicle operating on Jackson County roadways, highway, and interstates shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety, and the person operating the moving vehicle shall not cross any lane divider line, including dotted lane dividers, solid fog lines, and solid lane divider lines, without the use of proper advance signal by either hand and arm or by signal light, or signal device in good mechanical condition. Any person failing to do so is guilty of an infraction".</p>										
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Lane Violation / Improper Lane Usage Ordinance

Research and Necessity:

When examining the current ordinances outlined in Chapter 52, of the Jackson County, Missouri code, it became evident that many of the causes for traffic crashes are not recognized or have any specific prohibition on them through the code. One such violation that has plagued the metro as a cause of traffic collision is the improper lane use and failure to signal a lane change. When inspecting the data as outlined in the Missouri State Highway Patrol STARS report, lane violation / improper lane usage contributes to a significant amount of traffic crashes. Improper lane usage and failing to signal a lane change is often an indicator of a more serious condition, and often associated with DWI or DWI / Drugs. The Sheriff's Office is able to cite a violator utilizing state statute; however with the advent of Division 301 many state traffic citations are being forwarded to the municipal division where no ordinance is available to hold the violator accountable.

The State of Missouri addresses this issue with the use of RSMO 304.019 and 304.015, which dictates the direction of travel of a vehicle, requirement to signal prior to make a lane change, and requirement to drive on the right half of roadway when practical. The City of Kansas City, Missouri addressed this issue with city ordinance number 70-398, which dicta mirrors that of state traffic code. The Unified Government of Kansas City, Kansas utilized ordinance 35-296 and 35-304 which also states that all vehicles leaving a marked lane must first ascertain that the movement can be made safely and that advance warning must be provided by use of a turn signal (mechanical, hand and arm, or illuminated signal).

Proposed Ordinance Language:

“Any vehicle operating on Jackson County roadways, highway, and interstates shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety, and the person operating the moving vehicle shall not cross any lane divider line, including dotted lane dividers, solid fog lines, and solid lane divider lines, without the use of proper advance signal by either hand and arm or by signal light, or signal device in good mechanical condition. Any person failing to do so is guilty of an infraction”.