Sec. 545.424. OPERATION OF VEHICLE BY PERSON UNDER 18 YEARS OF AGE.

(a) A person under 18 years of age may not operate a motor vehicle while using a wireless communications device, except in case of emergency.

(a-1) A person under 18 years of age may not operate a motor vehicle:

   (1) after midnight and before 5 a.m. unless the operation of the vehicle is necessary for the operator to attend or participate in employment or a school-related activity or because of a medical emergency; or

   (2) with more than one passenger in the vehicle under 21 years of age who is not a family member.

(b) A person under 17 years of age who holds a restricted motorcycle license or moped license may not operate a motorcycle or moped while using a wireless communications device, except in case of emergency.

(b-1) A person under 17 years of age who holds a restricted motorcycle license or moped license, during the 12-month period following the issuance of an original motorcycle license or moped license to the person, may not operate a motorcycle or moped after midnight and before 5 a.m. unless:

   (1) the person is in sight of the person's parent or guardian; or

   (2) the operation of the vehicle is necessary for the operator to attend or participate in employment or a school-related activity or because of a medical emergency.

(c) This section does not apply to:

   (1) a person operating a motor vehicle while accompanied in the manner required by Section 521.222(d)(2) for the holder of an instruction permit; or

   (2) a person licensed by the Federal Communications Commission to operate a wireless communication device or a radio frequency device.

(d) For the purposes of this section, employment includes work on a family farm by a member of the family that owns or operates the farm.

(e) A peace officer may not stop a vehicle or detain the operator of a vehicle for the sole purpose of determining whether the operator of the vehicle has violated this section.

(f) In this section, "wireless communication device" means a handheld or hands-free device that uses commercial mobile service, as defined by 47 U.S.C. Section 332.
Sec. 545.425. USE OF WIRELESS COMMUNICATION DEVICE IN A SCHOOL CROSSING ZONE OR WHILE OPERATING A SCHOOL BUS WITH A MINOR PASSENGER; OFFENSE.

(a) In this section:

(1) "Hands-free device" means speakerphone capability or a telephone attachment or other piece of equipment, regardless of whether permanently installed in the motor vehicle, that allows use of the wireless communication device without use of either of the operator's hands.

(2) "Wireless communication device" means a device that uses a commercial mobile service, as defined by 47 U.S.C. Section 332.

(b) Except as provided by Subsection (c), an operator may not use a wireless communication device while operating a motor vehicle within a school crossing zone, as defined by Section 541.302, Transportation Code, unless:

(1) the vehicle is stopped; or

(2) the wireless communication device is used with a hands-free device.

(b-1) Except as provided by Subsection (b-2), a municipality, county, or other political subdivision that enforces this section shall post a sign that complies with the standards described by this subsection at the entrance to each school crossing zone in the municipality, county, or other political subdivision. The department shall adopt standards that:

(1) allow for a sign required to be posted under this subsection to be attached to an existing sign at a minimal cost; and

(2) require that a sign required to be posted under this subsection inform an operator that:

(A) the use of a wireless communication device is prohibited in the school crossing zone; and

(B) the operator is subject to a fine if the operator uses a wireless communication device in the school crossing zone.

(b-2) A municipality, county, or other political subdivision that by ordinance or rule prohibits the use of a wireless communication device while operating a motor vehicle throughout the jurisdiction of the political subdivision is not required to post a sign as required by Subsection (b-1) if the political subdivision:

(1) posts signs that are located at each point at which a state highway, U.S. highway, or interstate highway enters the political subdivision and that state:

(A) that an operator is prohibited from using a wireless communication device while operating a motor vehicle in the political subdivision; and

(B) that the operator is subject to a fine if the operator uses a wireless communication device while operating a motor vehicle in the political subdivision; and
(2) subject to all applicable United States Department of Transportation Federal Highway Administration rules, posts a message that complies with Subdivision (1) on any dynamic message sign operated by the political subdivision located on a state highway, U.S. highway, or interstate highway in the political subdivision.

(b-3) A sign posted under Subsection (b-2)(1) must be readable to an operator traveling at the applicable speed limit.

(b-4) The political subdivision shall pay the costs associated with the posting of signs under Subsection (b-2).

(c) An operator may not use a wireless communication device while operating a passenger bus with a minor passenger on the bus unless the passenger bus is stopped.

(d) It is an affirmative defense to prosecution of an offense under this section that:

(1) the wireless communication device was used to make an emergency call to:

   (A) an emergency response service, including a rescue, emergency medical, or hazardous material response service;

   (B) a hospital;

   (C) a fire department;

   (D) a health clinic;

   (E) a medical doctor's office;

   (F) an individual to administer first aid treatment; or

   (G) a police department; or

   (2) a sign required by Subsection (b-1) was not posted at the entrance to the school crossing zone at the time of an offense committed in the school crossing zone.

(d-1) The affirmative defense available in Subsection (d)(2) is not available for an offense under Subsection (b) committed in a school crossing zone located in a municipality, county, or other political subdivision that is in compliance with Subsection (b-2).

(e) This section does not apply to:

(1) an operator of an authorized emergency vehicle using a wireless communication device while acting in an official capacity; or

(2) an operator who is licensed by the Federal Communications Commission while operating a radio frequency device other than a wireless communication device.
Sec. 545.4252. USE OF WIRELESS COMMUNICATION DEVICE ON SCHOOL PROPERTY; OFFENSE.

(a) In this section:

(1) "Hands-free device" has the meaning assigned by Section 545.425.

(2) "Wireless communication device" has the meaning assigned by Section 545.425.

(b) Except as provided by Section 545.425(c), an operator may not use a wireless communication device while operating a motor vehicle on the property of a public elementary, middle, junior high, or high school for which a local authority has designated a school crossing zone, during the time a reduced speed limit is in effect for the school crossing zone, unless:

(1) the vehicle is stopped; or

(2) the wireless communication device is used with a hands-free device.

(c) It is an affirmative defense to prosecution of an offense under this section that the wireless communication device was used to make an emergency call to:

(1) an emergency response service, including a rescue, emergency medical, or hazardous material response service;

(2) a hospital;

(3) a fire department;

(4) a health clinic;

(5) a medical doctor's office;

(6) an individual to administer first aid treatment; or

(7) a police department.

(d) This section does not apply to:

(1) an operator of an authorized emergency vehicle using a wireless communication device while acting in an official capacity; or
(2) an operator who is licensed by the Federal Communications Commission while operating a radio frequency device other than a wireless communication device.

(e) This section preempts all local ordinances, rules, or regulations that are inconsistent with specific provisions of this section adopted by a political subdivision of this state relating to the use of a wireless communication device by the operator of a motor vehicle, except that a political subdivision may by ordinance or rule prohibit the use of a wireless communication device while operating a motor vehicle throughout the jurisdiction of the political subdivision.
ORDINANCE NO. 20140828-041

AN ORDINANCE AMENDING SECTION 12-1-34 OF THE CITY CODE TO PROHIBIT THE USE OF PORTABLE ELECTRONIC DEVICES WHILE OPERATING A MOTOR VEHICLE OR BICYCLE, AND CREATING AN OFFENSE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Section 12-1-34 of the City Code is amended to read:

§ 12-1-34 USE OF PORTABLE ELECTRONIC DEVICES WHILE OPERATING A MOTOR VEHICLE OR BICYCLE.

(A) In this section:

(1) portable electronic device means a hand-held mobile telephone, personal digital assistant, MP3 or other hand-held music player, electronic reading device, laptop computer, pager, broadband personal communication device, global positioning or navigation system, electronic game device, or portable computing device.

(2) use means employing a portable electronic device for any reason including, without limitation, the following activities while holding or touching the device:

(a) dialing or deactivating a phone call;

(b) speaking in or listening to a conversation;

(c) viewing, taking, or transmitting electronic images;

(d) composing, sending, viewing, accessing, browsing, retrieving, or saving email messages, text messages, or other electronic data;
(e) entering or changing information in a global positioning or navigation system or any software or application designed for navigation;

(f) accessing or viewing an internet website or computer application or;

(g) playing a game.

(3) operating a bicycle means astride a permanent seat attached to the bicycle while the bicycle is in motion.

(4) authorized emergency personnel means a person who is a law enforcement officer, firefighter, member of a governmental emergency medical services function, or member of a governmental emergency management function.

(B) [(A)] An operator of a motor vehicle [driver of a motor vehicle] may not use a portable electronic device [wireless communication device to view, send, or compose an electronic message or engage other application software] while the vehicle is in motion.

(C) A person may not use a portable electronic device while operating a bicycle.

(D) [(B)] It is an affirmative defense to prosecution of an offense under this section if [a wireless communications device is used]:

(1) the motor vehicle or bicycle is at a complete stop;

(2) the portable electronic device is used in a hands-free mode of operation and used to engage in telephone communication or to listen to audio transmissions;

(3) the portable electronic device is [as] a global positioning or navigation device, or global positioning or navigation software on a device, and the device is affixed to the motor vehicle or bicycle;
(4) use of a portable electronic device is for obtaining emergency assistance to report a crime, traffic accident, medical emergency, or serious traffic hazard, or to prevent a crime about to be committed; or

(5) use of a portable electronic device is in the reasonable belief that a person's life or safety is in immediate danger.

([6]) [if the device is permanently installed inside the vehicle; or]

([7]) [solely in a voice-activated or other hands-free mode.]

(E) [(G)] This section does not apply to [an operator of an] authorized emergency personnel [vehicle] using a portable electronic [wireless communication] device while acting in an official capacity.

(F) This section does not apply to an operator who is licensed by the Federal Communications Commission while operating a radio frequency device other than a portable electronic device or an operator using a two-way radio communication device in a commercial vehicle.

(G) [(D)] To the extent that this section conflicts with the Texas Transportation Code Section 545.424, regarding the use of wireless communication devices while operating a motor vehicle by minors, or Texas Transportation Code Section 545.425, regarding the use of wireless communication devices in school crossing zones, this section does not apply.

PART 2. This ordinance shall take effect January 1, 2015.

PASSED AND APPROVED

August 28, 2014

Lee Leffingwell
Mayor

APPROVED: [Signature]
Karen M. Kennard
City Attorney

ATTEST: [Signature]
Jannette S. Goodall
City Clerk