

JUSTICE FOR ALL

DRIVING AND TEXT MESSAGING – DRIVER BEWARE!

As of September 20, 2010, it is against the law to use a cellular phone to either send or receive text messages while driving in Huntsville. This newly enacted city ordinance applies to anyone operating a motor vehicle within the city limits of Huntsville (even if they live in another city or state). This issue of *Justice for All* is intended to help you understand why this law was enacted, what it specifically prohibits, and the resulting penalties for violating it.

THE DANGERS OF TEXT MESSAGING

Huntsville is now the fourth city in Alabama to enact an ordinance banning text messaging while driving (Madison has passed a virtually identical law – also effective September 20, 2010, and Decatur is considering a similar law). In so doing, Huntsville joins 30 states that completely ban “texting” while driving. The City Council and Mayor Tommy Battle enacted this ordinance largely due to the inherent danger associated with texting and driving.

An estimated one out of every five drivers sends or receives text messages while operating a motor vehicle on a public highway. Many of these individuals are young or inexperienced drivers, who do not understand or appreciate the significant, adverse effect this has on their ability to safely operate an automobile.

In this day and age, far too many people try to save time by “multi-tasking.” Oftentimes this includes talking on a cell phone while driving. Merely using a cell phone and driving decreases

reaction time and results in more car wrecks each year than driving while legally drunk! The problem is even more obvious when the driver is texting. One study found that, on average, drivers take their eyes off the road for 5 seconds when texting. Another study has shown that the risk of being involved in a wreck while sending or receiving a text message is 23 times greater than when not texting.

APPLICATION OF THE ORDINANCE

Effective September 20th, the driver of an automobile cannot use a cell phone to send, receive, download, or view music, video, pictures, or other form of communication, specifically including instant messaging or text messaging. This applies to the operation of a motor vehicle on any public highway or street in Huntsville.

Exceptions

It is still not illegal to *talk* on a cellular phone while operating a motor vehicle in Huntsville. This was a point of some contention among various City Council members, at least one of whom publicly stated that the new law should completely ban the use of cellular phones while driving. I would not be surprised to see this issue come up again in the future.

Also excepted from this ordinance is the use of a cell phone to send or receive text messages for emergency purposes, such as communicating with emergency personnel.

It is also permissible to send or receive text messages, so long as the driver's vehicle is parked on the shoulder of the road or stopped because of traffic being obstructed (*i.e.*, a wreck), if the vehicle's transmission is in neutral or park.

RESULTING PENALTIES

A driver cannot be stopped by a law enforcement officer solely because he or she is suspected of violating this law. In general, this would mean that the individual also violated another law, such as driving recklessly, speeding, or causing a wreck.

The applicable penalties are as follows:

- 1) First offense – fine of \$100.00 *or* up to 10 days imprisonment;
- 2) Second offense – fine of \$200.00 *or* up to 30 days imprisonment; and
- 3) Third or subsequent offense – fine of

\$500.00 *and* up to 3 months imprisonment.

CONCLUSION

The City of Huntsville has taken a bold and progressive step by prohibiting the potentially lethal combination of driving and texting. Yet, it would be foolish to think that this will completely eliminate the problem. People still drive while intoxicated, speed, run stop lights, *etc.*

Regardless where you may be traveling, please avoid driving and texting. Not only are you putting your own personal safety at risk, but also that of any passengers in your vehicle (to include children), as well as the safety of other drivers and pedestrians.

If you would like to obtain a copy of this city ordinance, please feel free to contact Marlene Koch at mlk@ryderlaw.com or (256) 881-3881.

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