

Distracted Driving Ordinance Fines

At a recent City Council meeting a citizen voiced concerns that a possible reason behind this ordinance was to generate revenue for the City. A formula was asserted based on a report that the Police Department had issued 100 warnings in a month. The implication was that when officers would begin issuing citations rather than warnings, this translated to 1,200 tickets annually and at a fine of \$200.00 each represented \$240,000.00 in revenue for the City.

The above concern suggests some clarification may be indicated as to how traffic fines are dispersed. The fines attached to any traffic citation do not go directly back to the issuing agency. Traffic ticket fines are dispersed according to formulas set by the State of Michigan and the courts. The distribution for distracted driving related citations is as follows:

Texting While Driving and Distracted Driving:

- Fine: \$200.00
 - 20% or \$40.00 goes to the State
 - 56% or \$112.00 goes to the Court
 - 24% or \$48.00 comes back to the City

Driving While Talking on a Cell Phone:

- Fine: \$75.00
 - 53% or \$40.00 goes to the State
 - 33% or \$24.50 goes to the Court
 - 14% or \$10.50 comes back to the City

Another aspect of the comments that were made that deserves clarification is the implication that every stop for a violation of this ordinance will result in a formal citation; that is not accurate, as officers have and use discretion in determining the appropriate enforcement action to pursue in regard to any stop for a traffic offense. A traffic stop does not necessarily translate into a traffic ticket in every event.

An advantage of enforcement under this ordinance is that it contains no points. This is similar to approaches taken when seatbelts were initially made mandatory. A no point violation provides officers with the ability to issue a citation that represents a lesser overall penalty to a violator when circumstances indicate such an approach is reasonable.

The Troy Police Department utilizes problem solving in its approach to traffic safety. Traffic enforcement for the mere sake of issuing tickets for the so-called generation of revenue is not practiced by this department. Our approach combines education, engineering considerations, and enforcement; all aimed at preventing traffic crashes. The overall goal is for the driving public to voluntarily comply with traffic regulations. Enforcement is meant to reinforce hazardous driving behavior that causes crashes, and hopefully stop it from being repeated in the future.

Captain Gerry Scherlink

Clarification of the City of Troy Distracted Driving Ordinance

Since November 2009, data has been collected from City of Troy crashes, specifically from driver and witness statements. These statements identified a variety of distracted driving behaviors that were the direct causes of traffic crashes in the City of Troy. This data was used as part of the background information given to City Council for consideration in passing this ordinance.

For the past several years, the City of Troy Police Department has reduced the number of traffic crashes by maintaining a consistent level of education and enforcement practices. Enforcement practices include giving warnings when warnings are warranted and writing tickets when a ticket is warranted. The new City of Troy, Distracted Driving ordinance is comprised of language used in similar ordinances across the country where the use of hand-held electronic devices, including cell phones, is banned. The ordinance is divided into three distinct sections:

1. TEXTING

The ordinance reads: ***The physical manipulation of any 2-way wireless electronic communications device used for dialing numbers; or scrolling; or typing or entering multiple letters, numbers, symbols, or other text; or the sending, receiving, and reading of any non-voice data in the vehicle while the motor vehicle is in motion on any highway or street or place open to the general public within the City of Troy. As used in this subsection, a wireless 2-way communication device does not include a global positioning or navigation system that is affixed to the motor vehicle.***

This section addresses texting and similar behaviors related to texting, such as dialing phone numbers or scrolling for and reading messages, music, internet information, etc. This particular section is modeled after the State of Michigan texting law that took effect on July 1, 2010.

2. CELL PHONE USE

The ordinance reads: ***The physical manipulation or handling of any wireless entertainment or electronic communication device for the purpose of speaking into, or listening to voice data, while the motor vehicle is in motion on any highway or street or place open to the public within the City of Troy.***

This section is specific to cell phone use. It is NOT a ban on cell phone use. It merely limits the type of cell phone you can use. If you have a hand-held device you will need to pull off the roadway (including the shoulder) and find a safe location to place your call. This section allows for the use of a hands-free device such as an ear speaker/microphone combination plugged into the phone, a blue-tooth device, a sync system, and even the use of a speaker phone, as long as the phone can be secured without physically holding it. The operative words in this section are **“the physical manipulation or handling”**, which means that you cannot have a cell phone in your hand to talk into or listen to.

3. COMMON DISTRACTIVE BEHAVIORS

The ordinance reads: ***Any action by the driver of a motor vehicle that diverts his or her attention resulting in the failure to use due care and caution in the safe operation of a motor vehicle while the vehicle is in motion on any highway or street or place open to the general public within the City of Troy. Such action can include but is not limited to: eating, reading, writing, performing personal hygiene/grooming, physical interaction with pets, passengers, or unsecured cargo, any of which is done in a manner that prohibits the driver from maintaining***

direct physical control of the motor vehicle steering mechanism with at least one hand that is free of all other objects and used entirely to form a controlled grip on the steering mechanism.

When driving a motor vehicle a driver should concentrate on driving. This section deals with a multitude of driving behaviors that often inhibit a driver from maintaining the level of due care and caution that is necessary for the safe operation of a motor vehicle in motion.

READING: whether you are reading notes for a meeting, reading a map, or reading a novel, reading takes your focus off of the roadway. Consider the fact that you may be driving at 45 MPH, which equates to traveling about 66 feet per second. If you are reading something that takes your focus away from the roadway for even one second, you have traveled 66 feet blindly! A two- second distraction leads you to travel about 132 feet blindly, which is almost half the length of a football field! Too many things can happen during that time that you will not see, let alone be able to react to.

WRITING: writing notes is a dangerous practice. Consider the time and distance example previously mentioned. You may have one hand on the steering wheel, but your focus is on writing information on a piece of paper or on an electronic device. This behavior takes your focus away from your primary objective, which is safe driving.

PERFORMING PERSONAL HYGIENE: putting on makeup or shaving, are types of behavior that often require the use of a mirror and/or the use of two hands to get the job done. This is dangerous driving behavior.

INTERACTION WITH PETS AND PASSENGERS: drivers who keep pets, particularly large pets, on their laps while driving are often prevented from having a clear view of the roadway or ready access to vehicle steering mechanisms, side and rear-view mirrors, turn signals, etc. The ordinance does not mean you cannot have a pet with you in the vehicle, but you must be mindful that depending on the size of the pet and its location within the vehicle, your interaction with the pet could constitute a distraction to safe driving.

Passengers who distract the driver of a moving motor vehicle by engaging in distractive behavior like pushing, shoving, grabbing, fighting, swaying the vehicle by movements done from inside the cabin, leaning out of a vehicle, etc., all constitute a distraction for which the driver may be stopped. Changing clothes, changing a baby's diaper (yes, we have seen it!) and having balloons float within the cabin of a moving vehicle causing a visual obstruction, are just a couple of the ways that physical interaction with cargo can contribute to unsafe conditions.

City of Troy police officers are trained in recognizing distracted driving. They will not stop drivers unless they exhibit specific distracted driving behaviors. The main focus for police officers, in terms of monitoring driving violations, is the prevention of traffic crashes. Most traffic crashes occur because a driver is not paying attention, they are in a hurry, they are inexperienced, they are exhibiting distracted driving behaviors, or a combination of all of these things.

The best way to avoid a ticket for distracted driving behavior is to eliminate distracted driving practices. When drivers do that, everyone wins.

Frequently Asked Questions

Can I eat/drink/smoke while driving? You can eat food while driving as long as you can maintain control of the steering mechanism. Drivers are required by law to use "due care and caution" while driving. Holding a bowl with one hand while using the other hand to hold a spoon with which to scoop

the food out of the bowl, while steering with your knees, does not constitute using due care and caution. Eating a submarine sandwich, or other food item, that requires the use of both hands while steering with your elbows or wrists, does not constitute using due care and caution. If you can eat a food item while maintaining a controlled grip on the steering wheel, no officer is going to stop you for distracted driving. You can drink non-alcoholic beverages and smoke cigarettes while driving.

Was this ordinance developed in order to generate more revenue for the City of Troy? Nothing could be further from the truth. The main focus of the Troy Police Department, in terms of traffic safety, is to reduce the number of traffic crashes by focusing on education, engineering, and enforcement efforts. If you look at the number of tickets the Troy Police Department writes annually, the ticket numbers have been consistent over the years and are low in comparison, yet we are still successful in reducing the number of traffic crashes each year. The City of Troy intends to continue to provide the community with the very best in education and enforcement efforts that will further reduce the frequency and the severity of traffic crashes. The Distracted Driving ordinance is just another tool that is available to us in our efforts to achieve this end.

Why do we need a new ordinance? Why not just have the police officers enforce the laws currently on the books and write tickets for careless or reckless driving? The trend around the country is to legislate distracted driving laws. The penalties for those laws are generally fines but no points. To be consistent, the Troy ordinance follows this practice by offering penalties that include fines but no points. In contrast, a Careless Driving ticket currently carries a fine of \$205.00 and three points. Reckless Driving is a misdemeanor crime where a judge/magistrate determines fines and costs in addition to six points. By organizing the new Troy ordinance in a three-part distracted driving package, with penalties as fines but no points, we are consistent with similar laws around the country.