

Local Law Filing

NEW YORK STATE
DEPARTMENT OF STATE
41 STATE ST, ALBANY, NEW YORK 12231

(Use this form to file a local law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County
City of Seneca
Town
Village

Local Law No. 2 of the year 2009

A local law To Prohibit the Use of Wireless Handsets to Compose, Read or Send Text Messages while Operating a Motor Vehicle in Seneca County
(Insert Title)

Be it enacted by the Board of Supervisors **of the**
(Name of Legislative Body)

County
City of Seneca **as follows:**
Town
Village

Section 1: Title

This law shall be known as the "Local Law To Prohibit The Use Of Wireless Handsets To Compose, Read Or Send Text Messages While Operating A Motor Vehicle In Seneca County".

Section 2. Declaration of Intent

Text messaging while driving is a growing problem on our roads. This activity by its very nature involves the driver taking hands off the wheel and eyes off the road, and is a clear distraction that leads to accidents and fatalities. Often, it is the younger, less experienced driver who texts while underway. Until such time as the New York State legislature passes a similar law, Seneca County needs to address this problem with a local law.

Section 3. Definitions

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

A) "Hands-free" shall mean the manner in which a wireless handset is operated for the purpose of composing, reading or sending text messages, by using an internal feature or function, or through an attachment or addition, including but not limited to an ear piece, head set, remote microphone or short-range wireless connection, thereby allowing the user to operate said device without the use of the hands.

B) "Motor vehicle" shall mean any vehicle that is self-propelled by a motor, including but not limited to, automobiles, trucks, vans, buses, construction vehicles, etc.

C) "Inoperability" shall mean a motor vehicle that is incapable of being operated or being operated in a safe and prudent manner due to mechanical failure, including but not limited to engine overheating or tire failure.

D) "Person" shall mean any natural person, corporation, unincorporated association, firm, partnership, joint venture, joint stock association or other entity or business organization of any kind.

E) "Stopped" shall mean not in motion.

F) "Text message", also referred to as short messaging service (SMS), shall mean the process by which users send, read or receive messages on a wireless handset, including but not limited to, text messages, instant messages, electronic or e-mails, in order to communicate with any person or device.

G) "To use" shall mean to hold a wireless handset in one's hand.

H) "Wireless Handset" shall mean a portable electronic or computing device, including cellular telephones and personal digital assistants (PDAs) capable of transmitting data in the form of a text message.

Section 4. Prohibition

No person shall use a wireless handset to compose, read, or send text messages while operating a motor vehicle on any public street or public highway within Seneca County.

Section 5. Exceptions

A. Notwithstanding Section 4, this law shall not be construed to prohibit the use of any wireless handset by:

i. Any law enforcement, public safety or police officers, peace officers, emergency services officials, first aid, emergency medical

technicians and personnel, and fire safety officials in the performance of duties arising out of and in the course of their employment as such;

ii. A person using a wireless handset to contact any individual listed in subsection (i); or

iii. A person using a wireless handset inside a motor vehicle while such motor vehicle is parked, standing or stopped and is removed from the flow of traffic, in accordance with applicable laws, rules or ordinances, or is stopped due to the inoperability of such motor vehicle.

iv. Any person who holds a valid amateur radio operator's license issued by the FCC and who operates a duly licensed portable mobile transmitter and in connection therewith a receiver or receiving set.

B. Notwithstanding Section 4, this law shall not be construed to prohibit a person operating a motor vehicle from utilizing a hands-free wireless handset.

Section 6. Penalties

A violation of Section 4 of this local law shall constitute an offense and be punishable by a fine not to exceed \$150.00 for each single violation. Each such violation shall constitute a separate and distinct offense.

This local law shall be enforced by the Seneca County Sheriff's Office and may be enforced by any other law enforcement agency having jurisdiction.

Section 7. Effect of Other Laws

This local law shall be null and void on the day that New York statewide legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this local law, or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by Seneca County. The Board of Supervisors may determine via resolution whether identical or substantially similar statewide legislation or preempting regulations have been enacted for the purposes of triggering the provision of this section.

Section 8. Severability

If any section, subsection, sentence, clause, phrase or other portion of this local law is for any reason declared unconstitutional, or

invalid or in whole or in part by any court of competent jurisdiction, such portion shall be deemed severable and such unconstitutionality or invalidation shall not affect the validity of the remaining portions of this law which remaining portions shall remain in full force and effect.

Section 9. Effective date

This local law shall take effect thirty days after filing in the Office of the Secretary Of State pursuant to section 27 of the Municipal Home Rule Law

(Filed by NYS Department of State on June 22, 2009