

By County Administration and Public Safety and Emergency Services Committees  
Seconded by

**RESOLUTION ADOPTING LOCAL LAW INTRO. NO. 6 OF 2009, ENTITLED: "A LOCAL LAW OF THE COUNTY OF BROOME, NEW YORK PROHIBITING THE USE OF WIRELESS HANDSETS TO COMPOSE, READ, OR SEND TEXT MESSAGES WHILE OPERATING A MOTOR VEHICLE."**

RESOLVED, that Local Law Intro. No. 6 of 2009, entitled: "A Local Law of the County of Broome, New York Prohibiting the Use of Wireless Handsets to Compose, Read, or Send Text Messages While Operating a Motor Vehicle," be and the same hereby is adopted and approved in accordance with the Broome County Charter and Administrative Code and all the applicable statutes and laws pertaining thereto.

**LOCAL LAW INTRO. NO. 6 Of 2009**

**A LOCAL LAW OF THE COUNTY OF BROOME, NEW YORK PROHIBITING THE USE OF WIRELESS HANDSETS TO COMPOSE, READ, OR SEND TEXT MESSAGES WHILE OPERATING A MOTOR VEHICLE**

BE IT ENACTED, by the County Legislature of the County of Broome as follows:

Section 1. That Chapter 190, entitled **PROHIBITING SMS USAGE WHILE OPERATING A MOTOR VEHICLE**, is hereby added to the Broome County Charter and Administrative Code and is adopted to read as follows:

Section 190-1. Purpose

This Legislature hereby determines that text messaging while driving inevitably decreases safety on the road, affects driver reaction time, reduces attention to the surrounding environment and substantially increases the likelihood for vehicular accidents and personal injury. The purpose of this local law is to protect the health, safety, and welfare of the public by prohibiting text messaging while driving.

Section 190-2. Definitions.

Wherever used in this title, the following terms shall be defined as follows, unless the context or subject matter otherwise requires:

- 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 hands.
- b. "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 messages, or e-mails, in order to communicate with any person or device.
- c. "Use" shall mean activating, deactivating, or initiating functions or keys on a wireless handset.
- d. "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 an e-mail or text message.
- e. "Motor vehicle" shall mean any vehicle that is self-propelled by a motor, including but not limited to automobiles, trucks, vans, construction vehicles, etc.
- f. "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.
- g. "Stopped" shall mean not in motion.

Section 190-3. Prohibited Uses of Electronic Devices While Operating A Motor Vehicle.

- a. No person shall use a wireless handset to compose, read, receive, or send text messages while operating a motor vehicle on any public street or public highway within the County of Broome.
- b. The prohibition contained in Section 3 (a) above shall not be construed to prohibit the use of any wireless handset by:
  - (i) Any law enforcement, public safety or police 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 an 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.

- c. The prohibition contained in Section 3 shall not be construed to prohibit a person operating a motor vehicle from utilizing a hands-free wireless handset.

Section 190-4. Enforcement and Penalties.

- a. A violation of any provision of Section 3 of this local law shall constitute an offense and be punishable by a fine not to exceed \$150.00 for each violation. Each such violation shall constitute a separate and distinct offense.
- b. Any law enforcement agency having jurisdiction within the geographic boundaries of the County of Broome shall have authority to enforce the provisions of this local law.

Section 190-5. Applicability.

This law shall apply to all actions occurring on or after the effective date of this law.

Section 190-6. Reverse Preemption.

This law shall be null and void on the day that statewide or federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent State or Federal administrative agency issues and promulgates regulations preempting such action by the County of Broome. The Broome County Legislature may determine via resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions of this section.

Section 190-7. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this Local Law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 190-8. Effective Date.

This local law shall be filed pursuant to the provisions of the Municipal Home Rule Law and shall take effect September 1, 2009.