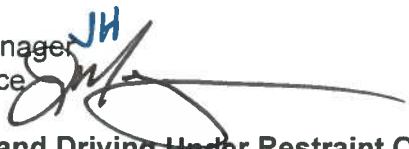


**NORTHGLENN POLICE DEPARTMENT
COUNCIL MEMORANDUM #2017- 09**

DATE: July 24, 2017

TO: Honorable Mayor Joyce Downing and City Council Members

FROM: James A. Hayes, AICP, City Manager
James S. May, Jr., Chief of Police 

SUBJECT: **CB 1892 – Distracted Driving and Driving Under Restraint Offenses**

PURPOSE:

City Council is considering a Councilman's Bill to amend Article 1 of the Northglenn Municipal Code to add traffic offenses in conformance with 2017 State legislation.

BACKGROUND:

Distracted Driving/Cell Phone Usage

The State of Colorado has recently adopted new legislation entitled Misuse of Wireless Telephone (C.R.S. 42-4-239) sponsored in Senate Bill 17-027.

The new language in the statute is paraphrased to state the following:

1. A person under the age of eighteen shall not use a wireless telephone while operating a motor vehicle.

First offense: Class A Traffic Infraction with a minimum fine of \$50.

Second offense: Class A Traffic Violation with a minimum fine of \$100.

2. A person shall not use a wireless telephone for the purpose of engaging in text messaging or similar forms of manual data entry or transmission while operating a motor vehicle in a manner that caused the operator to drive in a careless and imprudent manner, without due regard for the width, grade, curves, corners, traffic, and use of the streets and highways and all other attendant circumstances.

All offenses: Class 2 Traffic Offense with a minimum fine of \$300.

If bodily injury to another occurs: Class 1 misdemeanor.

If death to another occurs: Class 1 misdemeanor.

Driving Under Restraint/Outstanding Judgment

The State of Colorado has also recently adopted new legislation (C.R.S. 42-2-138(1.5)(2.5)) concerning the enforcement of unlicensed drivers whose licenses have been suspended for outstanding judgments. This new language allows municipalities to charge this current offense into municipal courts.

The new language in the statute is paraphrased to state the following:

Any person who drives a motor vehicle or off-highway vehicle upon any street or highway in the City of Northglenn with knowledge that the person's license or privilege to drive, either as a resident or a nonresident, is under restraint for an outstanding judgment is guilty of a traffic infraction.

These charges are not currently part of the Model Traffic Code or City Ordinances allowing Northglenn Police Officers to charge this offense into the Municipal Court.

The adoption of a new City Ordinance that mirrors the State of Colorado's language and penalty structure will allow us to charge these offenses into the Municipal Court.

UPDATES:

At the July 10, 2017 Council Meeting, the City Council approved the First Reading of CB 1892 and scheduled a Public Hearing and Second Reading for July 24, 2017.

BUDGET/TIME IMPLICATIONS:

Fines and fees associated with this new ordinance would directly benefit the City of Northglenn and Victim Assistance and Law Enforcement (V.A.L.E) Fund.

STAFF RECOMMENDATION:

Staff recommends the adoption of the Distracted Driving and Driving under Restraint Ordinance.

STAFF REFERENCE:

If Council Members have any comments or questions, they may contact Chief James S. May, Jr., @ 303-450-8967 or jmay@northglenn.org.

msn

SPONSORED BY: MAYOR DOWNING

COUNCILMAN'S BILL

ORDINANCE NO.

No. CB-1892
Series of 2017

Series of 2017

A BILL FOR AN ORDINANCE AMENDING CHAPTER 7, ARTICLES 1 AND 8, OF THE NORTHGLENN MUNICIPAL CODE, AMENDING AND ADDING TRAFFIC OFFENSES IN CONFORMANCE WITH 2017 STATE LEGISLATION

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. Section 7-1-6 of the Northglenn Municipal Code is hereby amended by the addition of the new subsection (b.5) to read as follows:

Section 7-1-6. Deletions, Modifications and Additions to the Model Traffic Code.

...

(b.5) Subsections (2), (3) and (6) of Section 239 are hereby amended to read as follows:

(2) A person under eighteen years of age shall not use a wireless telephone while operating a motor vehicle. THIS SUBSECTION (2) DOES NOT APPLY TO ACTS SPECIFIED IN SUBSECTION (3) OF THIS SECTION.

(3) A person ~~eighteen years of age or older~~ shall not use a wireless telephone for the purpose of engaging in text messaging or other similar forms of manual data entry or transmission while operating a motor vehicle.

* * *

(6)(a) An operator of a motor vehicle shall not be cited for a violation of subsection (2) of this section unless the operator was under eighteen (18) years of age and a law enforcement officer saw the operator use, as defined in paragraph (c) of subsection (1) of this section, a wireless telephone.

(b) An operator of a motor vehicle shall not be cited for a violation of subsection (3) of this section ~~unless the operator was eighteen years of age or older and~~ a law enforcement officer saw the operator use a wireless telephone for the purpose of engaging in text messaging or other similar forms of manual data entry or transmission, IN A MANNER THAT CAUSED THE OPERATOR TO DRIVE IN A CARELESS AND IMPRUDENT MANNER, WITHOUT DUE REGARD FOR THE WIDTH, GRADE, CURVES, CORNERS, TRAFFIC, AND USE OF THE STREETS AND HIGHWAYS AND ALL OTHER ATTENDANT CIRCUMSTANCES, AS PROHIBITED BY SECTION 1402.

Section 2. Section 7-1-13, subsection (c), of the Northglenn Municipal Code is hereby amended to read as follows:

Section 7-1-13. Violations--Penalty.

...

(c) Exceptions to the penalty provision set forth under subsection (b) of this section 7-1-13 are as follows:

* * *

(4) A PERSON WHO OPERATES A MOTOR VEHICLE IN VIOLATION OF SECTION 239(2) SHALL BE PUNISHED BY A MINIMUM MANDATORY FINE OF NOT LESS THAN FIFTY DOLLARS (\$50). A SECOND OR SUBSEQUENT VIOLATION OF SECTION 239(2) SHALL BE PUNISHED BY A MINIMUM MANDATORY FINE OF NOT LESS THAN ONE HUNDRED DOLLARS (\$100).

(5) EXCEPT AS SET FORTH BELOW, A PERSON WHO OPERATES A MOTOR VEHICLE IN VIOLATION OF SECTION 239(3) SHALL BE PUNISHED BY A MINIMUM MANDATORY FINE OF NOT LESS THAN THREE HUNDRED DOLLARS (\$300). IF THE PERSON'S ACTIONS ARE THE PROXIMATE CAUSE OF BODILY INJURY OR DEATH TO ANOTHER, THE PERSON SHALL BE PUNISHED BY A MINIMUM MANDATORY FINE OF NOT LESS THAN THREE HUNDRED DOLLARS (\$300) OR BY IMPRISONMENT FOR A PERIOD FROM TEN (10) DAYS TO ONE (1) YEAR, OR BOTH SUCH FINE AND IMPRISONMENT; PROVIDED THAT WHERE THE PERSON CONVICTED IS UNDER THE AGE OF EIGHTEEN (18) AT THE TIME OF THE OFFENSE, SUCH PERSON SHALL NOT BE SUBJECT TO IMPRISONMENT FOR OR ON ACCOUNT OF SAID VIOLATION.

Section 3. Effective August 9, 2017, the Northglenn Municipal Code is hereby amended by the addition of a new Section 7-8-5, reading as follows:

SECTION 7-8-5. DRIVING UNDER RESTRAINT PROHIBITED.

ANY PERSON WHO DRIVES A MOTOR VEHICLE OR OFF-HIGHWAY VEHICLE UPON ANY STREET OR HIGHWAY IN THE CITY OF NORTHGLENN WITH KNOWLEDGE THAT THE PERSON'S LICENSE OR PRIVILEGE TO DRIVE, EITHER AS A RESIDENT OR A NONRESIDENT, IS UNDER RESTRAINT FOR AN OUTSTANDING JUDGMENT IS GUILTY OF A TRAFFIC INFRACTION PUNISHABLE ACCORDING TO SECTION 7-1-13 HEREIN.

INTRODUCED, READ AND ORDERED POSTED this 10th day of July,
2017.


JOYCE DOWNING
Mayor

ATTEST:


JOHANNA SMALL, CMC
City Clerk


PASSED ON SECOND AND FINAL READING this ____ day of _____,
2017.

JOYCE DOWNING
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:


COREY Y. HOFFMANN
City Attorney