

## Legislation Text

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**File #:** 17-586, **Version:** 1

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Presenter/Contact

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**SUBJECT:**

Approval of the second and final reading of an ordinance amending Chapter 126-104 to conform to House Bill 62 adopted by the Texas Legislature in the 85<sup>th</sup> regular session that allows an operator of a motor vehicle to read, write, or send an electronic message on a wireless communication device while stopped, and provides affirmative defenses to prosecution.

**BACKGROUND / RATIONALE:**

During the 85<sup>th</sup> legislative session, the Legislature adopted House Bill 62 which prohibits texting while driving a motor vehicle unless the vehicle is stopped. Stopped includes stopped in traffic, stopped at a red light, or stopped at a stop sign. This conflicts with the city's hands-free ordinance that City Council adopted in 2015. In the city's current ordinance, texting while driving a motor vehicle, even if the vehicle is stopped, is illegal. A driver may only text while legally parked or on private property. In addition, the city's ordinance has only three affirmative defenses for any violation of the ordinance, whereas, HB 62 provides six affirmative defenses for this offense, only two of which overlap defenses adopted by City Council in 2015. In order to be congruent with this new state law, this ordinance should be amended as reflected in the attached ordinance.

**ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:**

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**FISCAL IMPACT:**

**COMMITTEE RECOMMENDATION:**

**STAFF RECOMMENDATION:**

Staff recommends approval of the adoption of this ordinance that will amend Chapter 126-104 to conform to House Bill 62 adopted by the Texas Legislature in the 85<sup>th</sup> regular session that allows an operator of a motor vehicle to read, write, or send an electronic message on a wireless communication device while stopped, and provides affirmative defenses to prosecution.