

**County of Tioga**

**Local Law No. 4 of the Year 2009.**

**A Local Law to prohibit text messaging while driving.**

**Be It Enacted by the Legislature of the County of Tioga as follows:**

**SECTION 1: Legislative Intent**

**This Legislature understands that according to CTIA, an international organization representing all sectors of wireless communications, including cellular, personal communication services, and enhanced specialization mobile radio, United States subscribers sent close to 65 billion text messages through the first half of 2006.**

**The Legislature further believes that drivers sending text messages while driving are creating great risk to themselves and to others.**

**This Legislature also determines that text messaging while driving inevitably decreases safety on the road, affecting driver reaction time and attention to the surrounding environment.**

**Therefore the purpose of this law is to prohibit text messaging while driving.**

**SECTION 2: Definitions**

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

**TEXT MESSAGE – also referred to as Short Messaging Service (SMS), which allows users to send or receive short text messages on wireless handsets. For the purpose of this law, an e-mail shall be considered a “text message”.**

**USE – activating, deactivating or initiating functions or keys on a wireless handset.**

**VOICE RECOGNITION – the capability by which wireless handsets can be activated and controlled by voice commands.**

**WIRELESS HANDSET – a portable computing device, including cellular telephones and personal digital assistants (PDA’s), capable of transmitting data in the form of e-mail and/or text message..**

### **SECTION 3: Prohibitions**

- A.) Pursuant to Article 9, Section 2(c)(10) of the New York Constitution, and in order to protect the health, safety, and well-being of persons within the County, no person shall use a wireless handset to compose or send text messages while operating a motor vehicle on any public street or public highway within the County of Tioga, while the motor vehicle is in motion on such public street or public highway.**
- B.) The prohibition contained in paragraph A above shall not apply to text messages composed via any voice recognition technology.**

### **SECTION 4: Penalties**

- A.) Any violation of any provision of Section 3 of this 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.) This law shall be enforced by the Tioga County Sheriff's Department and sworn officers of an authorized Police Department or force of a town or village within the geographic boundaries of Tioga County.**
- C.) This law shall be enforced by the Tioga County Sheriff's Department and sworn officers of an authorized Police Department or force of a town or village within the geographic boundaries of Tioga County. This law may be enforced anywhere within the geographic boundaries of the County of Tioga by a police officer as defined in Section 1-20(34) of the New York Criminal Procedure Law.**

### **SECTION 5: Applicability**

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

### **SECTION 6: Reverse Pre-emption.**

**This law shall be null and void on the day that Statewide 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 administration agency issues and promulgates regulations preempting such action by the County of Tioga. The County Legislature may determine via mere resolution whether or not identical or substantially similar statewide legislation, or pertinent preempting State or Federal regulations have been enacted for the purposes of triggering the provisions of this section.**

### **SECTION 7: Severability**

**If any clause, sentence, paragraph, subdivision, section, or part of this 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 8: Effective Date**

**This law shall take effect ninety (90) days after its filing in the Office of the Secretary of State.**

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 4 of 2009 of the (County) of Tioga was duly passed by the Tioga County Legislature on July 14, 2009, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)

I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (County) (City) (Town) (Village) of on , 20 , and was (approved)(not disapproved)(repassed after disapproval) by the and was deemed duly adopted on , 20 , in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (County)(City)(Town)(Village) of on , 20 , and was (approved)(not disapproved)(repassed after disapproval) by the on , 20 Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on , 20 , in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (County)(City)(Town)(Village) of on , 20 , and was (approved)(not disapproved)(repassed after disapproval) by the on , 20 . Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of , 20 , in accordance with the applicable provisions of law.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the City of having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on , 20 , become operative.

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\*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the County of \_\_\_\_\_, State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_, 20 \_\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

\_\_\_\_\_  
Clerk of the County legislative body, City, Town  
or Village Clerk or officer designated by local  
legislative body

(Seal)

Date: July 14, 2009

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

State of New York

County of Tioga

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

\_\_\_\_\_  
Signature  
Judith M. Quigley  
Title Assistant County Attorney  
County of Tioga  
City  
Town  
Village

Date: July 14, 2009