

County of Tioga

Local Law No. 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.

County of Tioga

Local Law No. of the Year 2009.

A Local Law maintaining the current rate of taxes on sales and uses of tangible personal property and on certain services, and on occupancy of hotel rooms and amusement charges, pursuant to Article 29 of the Tax Law of the State of New York.

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

SECTION 1:

The first sentence of Section Two of Local Law No. 1 for 1968, as amended, is hereby amended to read as follows:

SECTION 2:

Imposition of sales tax.

On and after September 1, 1984, there is hereby imposed and there shall be paid a tax of three percent upon, and for the period commencing December 1, 2009, and ending November 30, 2011 there is hereby imposed and there shall be paid an additional tax of one percent upon:

SECTION 2:

Section 2-A of Local Law No. 1 of 1968, as amended, is hereby amended to read as follows:

SECTION 2-a:

Tax rate on certain energy sources and related services. (a) Notwithstanding the rate of tax set forth in Section 2 of this Local Law, on and after March 1, 1994, and through November 30, 2011, the taxes imposed on the receipts from the retail sale of fuel oil and coal used for residential purposes; the receipts from the retail sale of wood used for residential heating purposes; and the receipts from every sale, other than for resale, of propane (except when sold in containers of less than one hundred pounds), natural gas, electricity, steam and gas, electric and steam services used for residential purposes shall be paid at the rate of three percent. The provisions of this subdivision shall not apply to a sale of (i) diesel motor fuel which involves a delivery at a filling station or into a repository which is equipped with a hose or other apparatus by which such fuel can be dispensed into the fuel tank of a motor vehicle and (ii) enhanced diesel motor fuel except in the case of a sale of such enhanced diesel motor fuel used exclusively for residential purposes which is delivered into a storage tank which is not equipped with a hose or

other apparatus by which such fuel can be dispensed into the fuel tank of a motor vehicle and such storage tank is attached to the heating unit burning such fuel, provided that each delivery of such fuel of over four thousand five hundred gallons shall be evidenced by a certificate signed by the purchaser stating that the product will be used exclusively for residential purposes.

(b) Notwithstanding the rate of tax set forth in section 4 of this Local Law for the purposes of clause (A) of subdivision (a) thereof, on and after March 1, 1994, and through November 30, 2011, the compensating use tax imposed by such section on the use of fuel oil and coal used for residential purposes and wood used for residential heating purposes shall be at the rate of three percent of the consideration given or contracted to be given for such property or for the use of such property, plus the cost of transportation except where such cost is separately stated in the written contract, if any, and on the bill rendered to the purchaser. The provisions of this subdivision shall not apply to a use of (i) diesel motor fuel which involves a delivery at a filling station or into a repository which is equipped with a hose or other apparatus by which such fuel can be dispensed into the fuel tank of a motor vehicle and (ii) enhanced diesel motor fuel except in the case of a use of such enhanced diesel motor fuel used exclusively for residential purposes which is delivered into a storage tank which is not equipped with a hose or other apparatus by which such fuel can be dispensed into the fuel tank of a motor vehicle and such storage tank is attached to the heating unit burning such fuel.

(c) The rate set forth in this section shall apply to receipts from all retail sales and uses described in this section made, rendered or arising therefrom on or after March 1, 1994, and before December 1, 2011, although made or rendered under a prior contract, if a delivery or transfer of possession of such property or services is made during said period. Where such property or service is sold on a monthly, quarterly or other term basis and the bills for such property or service are based on meter readings, the amount received on each bill for such property or service for a month or quarter or other term shall be a receipt subject to the rate of tax set forth in this section, but such rate shall be applicable to all bills based on meters read on or after March 1, 1994, and before December 1, 2011, only where more than one-half of the number of days included in the month or other periods billed are days subsequent to February 28, 1994, and before December 1, 2011.

(d) Where a residence is a part of a multiple dwelling or other premises consisting of residential and non-residential units, or where a portion of a residence is used for non-dwelling purposes including the conduct of a trade or business, the same rules or regulations shall be applicable that have been established by the Commissioner of Taxation and Finance in order to allocate to such residence the portion of the sale of energy sources or services attributable to the residential portion.

(e) If the Commissioner of Taxation and Finance has prescribed a certificate to be taken by the vender of the energy sources or services specified in subdivision (a) of this section from the purchaser of such energy sources or services, such certificate shall be applicable for the purposes of this section. Where a certificate is required, unless such vendor shall have received such certificate in such form as the Commissioner of Taxation and Finance may prescribe, signed by the purchaser and setting forth his name and address, together with such other information as such commissioner may require, stating that the premises, for which such energy sources or services are purchased, is used solely as a residence or identifying the residential portion of premises, for which such energy sources or services are purchased including instances where a multiple dwelling unit or other premises consists of residential and non-residential units or where a portion of a residence is used for non-dwelling purposes, such as the conduct of a trade or business, the provisions of this section shall not apply and the tax shall be imposed at the rate provided for in sections 2 and 4 of this Local Law. No further certificate need be furnished for any subsequent purchase for such premises if the information set forth in the certificate last furnished the vendor has not materially changed, except that in the case of exempt purchases of enhanced diesel motor fuel in amounts of over forty-five hundred gallons, a separate certificate must be furnished for each purchase.

SECTION 3:

Section Three of Local Law No. 1 of 1968, as amended, is hereby amended by adding a new subdivision (h) to read as follows:

(h) With respect to the additional tax of one percent imposed for the period commencing December 1, 2009, and ending November 30, 2011, the provisions of subdivisions (a), (b), (c), (d) and (e) of this section apply, except that for the purposes of this subdivision, all references in said subdivisions (a), (b), (c) and (d) to an effective date shall be read as referring to December 1, 2009, all references in said subdivision (a) to the date four months prior to the effective date shall be read as referring to August 1, 2009, and the reference in subdivision (b) to the date immediately preceding the effective date shall be read as referring to November 30, 2009. Nothing herein shall be deemed to exempt from tax at the rate in effect prior to December 1, 2009, any transaction which may not be subject to the additional tax imposed effective on that date.

SECTION 4:

Section Four of Local Law No. 1 of 1968, as amended, is hereby amended to read as follows:

SECTION 4:

Imposition of compensating use tax.

(a) Except to the extent that property or services have already been or will be subject to the sales tax under this enactment, there is hereby imposed on every person a use tax for the use within this taxing jurisdiction on and after December 1, 2009, except as otherwise exempted under this enactment, (A) of any tangible personal property purchased at retail, (B) of any tangible personal property (other than computer software used by the author or other creator) manufactured, processed or assembled by the user, (i) if items of the same kind of tangible personal property are offered for sale by him in the regular course of business or (ii) if items are used as such or incorporated into a structure, building or real property, by a contractor, subcontractor or repairman in erecting structures or buildings, or building on, or otherwise adding to, altering, improving, maintaining, servicing or repairing real property, property or land, as the terms real property, property or land are defined in the real property tax law, if items of the same kind are not offered for sale as such by such contractor, subcontractor or repairman or other user in the regular course of business, (C) of any of the services described in paragraphs (1), (7) and (8) of subdivision (c) of section two, (D) of any tangible personal property, however acquired, where not acquired for purposes of resale, upon which any of the services described under paragraphs (2), (3) and (7) of subdivision (c) of section two have been performed, (E) of any telephone answering service described in subdivision (b) of section two and (F) of any computer software written or otherwise created by the user if the user offers software of a similar kind for sale as such or as a component part of other property in the regular course of business.

(b) For purposes of clause (A) of subdivision (a) of this section, for the period commencing December 1, 2009, and ending November 30, 2011, the tax shall be at the rate of four percent, and on and after December 1, 2011, the tax shall be at the rate of three percent, of the consideration given or contracted to be given for such property, or for the use of such property, including any charges for shipping or delivery as described in paragraph three of subdivision (b) of section one, but excluding any credit for tangible personal property accepted in part payment and intended for resale.

(c) For purposes of subclause (i) of clause (B) of subdivision (a) of this section, for the period commencing December 1, 2009, and ending November 30, 2011, the tax shall be at the rate of four percent, and on and after December 1, 2011, the tax shall be at the rate of three percent, of the price at which items of the same kind of tangible personal property are offered for sale by the user, and the mere storage, keeping, retention or withdrawal from storage of tangible personal property by the person who manufactured, processed or assembled such property shall not be deemed a taxable use by him.

(d) For purposes of subclause (ii) of clause (B) of subdivision (a) of this section, for the period commencing December 1, 2009, and ending November 30, 2011, the tax shall be at the rate of four percent, and on and after December 1, 2011, the tax shall be at the rate of three percent, of the consideration given or contracted to be given for the tangible personal property manufactured, processed or assembled into the tangible personal property the use of which is subject to tax, including any charges for shipping or delivery as described in paragraph three of subdivision (b) of section one.

(e) Notwithstanding the foregoing provisions of this section, for purposes of clause (B) of subdivision (a) of this section, there shall be no tax on any portion of such price which represents the value added by the user to tangible personal property which he fabricates and installs to the specifications of an addition or capital improvement to real property, property or land, as the terms real property, property or land are defined in the real property tax law, over and above the prevailing normal purchase price to such fabrication of such tangible personal property which a manufacturer, producer or assembler would charge an unrelated contractor who similarly fabricated and installed such tangible personal property to the specifications of an addition or capital improvement to such real property, property or land.

(f) For purposes of clauses (C), (D) and (E) of subdivision (a) of this section, for the period commencing December 1, 2009, and ending November 30, 2011, the tax shall be at the rate of four percent, and on and after December 1, 2011, the tax shall be at the rate of three percent, of the consideration given or contracted to be given for the service, including the consideration for any tangible personal property transferred in conjunction with the performance of the service and also including any charges for shipping and delivery of the property so transferred and of the tangible personal property upon which the service was performed as such charges are described in paragraph three of subdivision (b) of section one.

(g) For purposes of clause (F) of subdivision (a) of this section, for the period commencing December 1, 2009, and ending November 30, 2011, the tax shall be at the rate of four percent, and on and after December 1, 2011, the tax shall be at the rate of three percent, of the consideration given or contracted to be given for the tangible personal property which constitutes the blank medium, such as disks or tapes, used in conjunction with the software, or for the use of such property, and the mere storage, keeping, retention or withdrawal from storage of computer software described in such clause (F) by its author or other creator shall not be deemed a taxable use by such person.

SECTION 5:

Subdivision (1) of Section 11 of Local Law No. 1 of 1968, as amended, is hereby amended by adding a new paragraph (C) to read as follows:

(C) With respect to the additional tax of one percent imposed for the period beginning December 1, 2009, and ending November 30, 2011, in respect to the use of property used by the purchaser in this County prior to December 1, 2009.

SECTION 6:

Subdivision (c) of Section Fourteen of Local Law No. 1 of 1968, as amended, is hereby amended to read as follows:

(c) Notwithstanding any provision of this local law or other law to the contrary, one-half of the net collections received by the County from the additional one percent rate of sales and compensating use taxes imposed, respectively, by sections two and four of this local law for the period December 1, 2009, through November 30, 2011, shall be deposited in the general fund of the County and retained for County purposes, and one-half of such net collections shall be deposited by the County in a capital reserves fund. Disbursements from such capital reserves fund shall be made solely for the purposes of capital projects and repaying any debts incurred for such capital projects in the County.

SECTION 7:

This enactment shall take effect on December 1, 2009.

County of Tioga

Local Law No. of the Year 2009.

A Local Law amending Local Law No. 4 of 1989 A Local Law providing for the Collection of a Hotel/Motel Tax in Tioga County, as amended by Local Law No. 2 of 1993, as amended by Local Law No. 3 of 1994, as amended by Local Law No. 9 of 1995, as amended by Local Law No. 6 of 2001, as amended by Local Law No. 3 of 2006, as amended by Local Law No. 4 of 2006, and as amended by Local Law No. 5 of 2007.

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

SECTION 1: TITLE

This Local Law shall be known as Amendment No. 8 of Local Law No. 4 of 1989, providing for the collection of a hotel/motel tax in Tioga County.

SECTION 2: TERMINATION

Local Law No. 4 of 1989, as amended by Local Law No. 2 of 1993, as amended by Local Law No. 3 of 1994, as amended by Local Law No. 9 of 1995, as amended by Local Law No. 6 of 2001, as amended by Local Law No. 3 of 2006, as amended by Local Law No. 4 of 2006, and as amended by Local Law No. 5 of 2007, is hereby amended to read as follows:

Section 10 is amended to read:

SECTION 10: EFFECTIVE DATE This Local Law originally effective January 1, 1990 shall remain in effect until November 30, 2011.

SECTION 3: SEVERABILITY

If any provision of this Local Law or the application thereof to any person or circumstances shall be held invalid, the remainder of this Local Law and the application of its provisions to other persons or circumstances shall not be affected thereby.

SECTION 5: EFFECTIVE DATE

This Local Law shall take effect on December 1, 2009.

Local Law Filing

**New York State Department of State
41 State Street, Albany, NY 12231**

County of Tioga

Local Law No. of the Year 2009.

A Local Law amending Local Law No. 4 of 1989 A Local Law providing for the Collection of a Hotel/Motel Tax in Tioga County, as amended by Local Law No. 3 of 1994, increasing the Hotel/Motel Tax from 3% to 4%.

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

SECTION 1: TITLE

This Local Law shall be known as Amendment No. 9 of Local Law No. 4 of 1989, providing for the collection of a hotel/motel tax in Tioga County.

SECTION 2: AMENDMENTS

Local Law No. 4 of 1989, as amended by Local Law No. 3 of 1994, is hereby amended to read as follows:

Section 4(A) of Local Law 4 of 1989, as amended by Local Law No. 3 of 1994, is hereby amended to increase the tax rate from three percent (3%) of the per diem rental rate for each room occupied to four percent (4%).

SECTION 3: SEVERABILITY

If any provision of this Local Law or the application thereof to any person or circumstances shall be held invalid, the remainder of this Local Law and the application of its provisions to other persons or circumstances shall not be affected thereby.

SECTION 5: EFFECTIVE DATE

This Local Law shall take effect on December 1, 2009.