

Exhibit "A"

Amend Chapter 10 "Traffic Control", Article 10.03 "Operation of Motor Vehicles" by adding the following:

DIVISION 6. Use of Wireless Communication Devices.

Sec. 10.03.122. Definitions.

As used in this Division:

- (1) *Application software* means an electronic program, or set of electronic programs, designed to permit a person to perform a function, task, or activity.
- (2) *Authorized Emergency Personnel* means a person who is a law enforcement officer, firefighter, member of a governmental emergency services function, or a member of a governmental emergency management function.
- (3) *Electronic message* means a text-based, symbol-based, or photograph based communication that is composed on, transmitted by, or received by a wireless communication device.
- (4) *Hands-free device* means speaker-phone capability, or a telephone attachment, or another function or other piece of equipment, regardless of whether permanently installed in or on a wireless communication device or in a motor vehicle, that allows the use of the wireless communication device without use of either the operator's hands, except to activate or deactivate a function of the wireless communication device or hands-free device.
- (5) *Wireless communication device* has the meaning assigned in Section 545.425 of the Texas Transportation Code, as amended, as well as an electronic messaging device that is designed to receive and transmit voice communication, text or pictorial communication, or both, whether by internet or other electronic means, including but not limited to a mobile telephone, a tablet computer, a laptop computer, and a personal digital assistant (PDA).

Sec. 10.03.123. Violation.

A driver of a motor vehicle, other than authorized emergency personnel using authorized equipment and acting within the scope of his or her official capacity, shall not use a wireless communication device to view, send, or compose an electronic message, or engage other application software while operating a motor vehicle on a public roadway.

Sec. 10.03.124. Defenses.

It is an affirmative defense to prosecution of an offense under this Division that the wireless communications device was used:

- (1) while the vehicle was completely stopped at a location other than in a traffic lane on a public roadway;
- (2) strictly to engage in a telephone conversation, including dialing or deactivating the call;
- (3) solely as a global positioning or navigation system;
- (4) to contact police, fire, or emergency medical personnel in order to report a traffic accident, medical emergency, serious traffic hazard, or crime in progress, or to prevent a crime that the driver reasonably believed was about to be committed;

- (5) with the reasonable belief that a person's life or safety was in immediate danger;
- (6) in conjunction with voice-operated technology, a push-to-talk function, or a hands-free device.

Sec. 10.03.125. Possession of Device.

A peace officer who stops a motor vehicle for an alleged violation of this Division may not take possession of or otherwise inspect a portable wireless communication device in the possession of the operator unless authorized by the Texas Code of Criminal Procedure, the Texas Penal Code, or other law.

Sec. 10.03.126. Conflicts.

To the extent that this Division conflicts with any provision of the Texas Transportation Code regarding the use of wireless communication devices or hand-held mobile telephones, this Division does not apply.

Sec. 10.03.127. Culpable Mental State.

Evidence of a culpable mental state is not required to prove a criminal offense under this Division. It is hereby declared that, for an offense under this Division, the culpable mental state required by Section 6.02 of the Texas Penal Code is specifically negated and clearly dispensed with.

Sec. 10.03.128. Penalty.

A person who violates a provision of this Division shall be guilty of a misdemeanor and fined in a sum not to exceed \$500.00.