

# COUNTY COUNCIL OF BEAUFORT COUNTY

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CHAIRMAN

STEWART H. RODMAN  
VICE CHAIRMAN

## COUNCIL MEMBERS

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CYNTHIA M. BENSCH  
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COUNTY ADMINISTRATOR

BRYAN J. HILL  
DEPUTY COUNTY ADMINISTRATOR

JOSHUA A. GRUBER  
COUNTY ATTORNEY

SUZANNE M. RAINEY  
CLERK TO COUNCIL

## AGENDA GOVERNMENTAL COMMITTEE (Includes Public Safety Division)

Tuesday, July 30, 2013

2:00 p.m.

Executive Conference Room  
Administration Building

### Governmental Committee Members:

Jerry Stewart, Chairman  
Laura Von Harten, Vice Chairman  
Cynthia Bensch  
Rick Caporale  
Gerald Dawson  
Brian Flewelling  
Tabor Vaux

### Staff Support:

Phil Foot, Division Director

1. CALL TO ORDER – 2:00 P.M.
2. DISCUSSION / TEXTING WHILE DRIVING ([Hilton Head Town Ordinance](#)) ([S.416](#))
3. DISCUSSION / BUSINESS LICENSE FEES ([State Code](#)) ([County Ordinance](#))
4. REQUEST FOR DISCUSSION TOPICS / LEGISLATIVE POLICY ISSUES ([backup](#))
5. EXECUTIVE SESSION - DISCUSSION OF NEGOTIATIONS INCIDENT TO PROPOSED CONTRACTUAL ARRANGEMENTS AND PROPOSED PURCHASE OR SALE OF PROPERTY
6. ADJOURNMENT

### Open Retreat Items

Dock Usage  
2014 Bond Referendum Issues  
Fire District Common Reserve  
Dispatch Center Update  
Facilities' Security



**AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND**

**PROPOSED ORDINANCE NO.: 2013-07**

**ORDINANCE NO.: 2013- 06**

**AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE TOWN OF HILTON HEAD ISLAND BY ADDING ARTICLE 6 SECTION 12-1-611 TO CHAPTER 1 OF TITLE 12, ESTABLISHING A REGULATION PROHIBITING THE USE OF A HANDHELD ELECTRONIC COMMUNICATION DEVICE FOR THE REVIEWING, DRAFTING, OR SENDING OF ELECTRONIC COMMUNICATIONS WHILE OPERATING A MOTOR VEHICLE IN THE TOWN OF HILTON HEAD ISLAND; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, studies have shown that drivers attempting to compose, send, or review electronic messages on handheld electronic communication devices while operating a motor vehicle pose a special danger to themselves, other vehicles, bicycles, and pedestrians on the roadway; and

**WHEREAS**, Town Council finds that it is in the best interests of the vehicle operators and other vehicles to prohibit the use of handheld electronic communication devices to compose, send, or review electronic messages while operating a motor vehicle within the Town; and

**WHEREAS**, Town Council declares that the purpose of this ordinance is to protect the health and safety of the residents and visitors of Hilton Head Island; and

**WHEREAS**, Town Council now desires to prohibit the use of handheld electronic communication devices to compose, send, or review electronic messages while operating a motor vehicle within the Town in the manner provided for in this ordinance.

**NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA; AND IT IS HEREBY ORDERED ORDAINED BY AND UNDER THE AUTHORITY OF THE SAID TOWN COUNCIL, AS FOLLOWS:**

**NOTE: Underlined and bold-face typed portions indicate additions to the Municipal Code. ~~Stricken~~ portions indicate deletions to the Municipal Code.**

That Chapter 1 of Title 12 of the Municipal Code of the Town of Hilton Head Island, South Carolina, is hereby amended by adding Article 6 Section 12-1-611:

**Article 6. TEXT MESSAGING**

**"Section 12-1-611. Electronic Communications While Operating a Motor Vehicle.**

**(a) Definitions:**

**“Electronic communications device” means an electronic device used for the purpose of composing, reading, or sending an electronic message, but does not include a global positioning system or navigation system or a device that is physically or electronically integrated into the motor vehicle.**

**“Electronic message” means a self-contained piece of digital communication that is designed or intended to be transmitted between physical devices. “Electronic message” includes, but is not limited to, electronic mail, a text message, an instant message, or a command or request to access an internet site.**

(b) **It shall be unlawful for a person to use an electronic communication device to compose, read, or send an electronic message while operating a motor vehicle on the streets and roads within the Town.**

(c) **Exceptions. This section shall not apply to a person operating a motor vehicle while:**

**(1) off the traveled portion of a roadway;**

**(2) using an electronic communication device in a hands free, voice-activated, or voice-operated mode that allows the driver to review, prepare and transmit an electronic message without the use of either hand except to activate, deactivate, or initiate a feature or function;**

**(3) summoning medical or other emergency assistance; or**

**(4) using a citizens band radio, commercial two-way radio communication device, in-vehicle security, or amateur or ham radio device.**

(d) **Penalty. A person who violates this section is guilty of misdemeanor distracted driving and, upon conviction, shall be fined one hundred dollars for a first offense, two hundred dollars for a second offense, and three hundred dollars for a third or subsequent offense. This fine is subject to all applicable court costs, assessments, and surcharges.**

**Section 2. Severability.** If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**Section 3. Effective Date.** Ordinance shall become effective upon adoption by the Town Council of the Town of Hilton Head Island, South Carolina.

PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN  
OF HILTON HEAD ISLAND ON THIS 2<sup>ND</sup> DAY OF JULY, 2013

By: 

Drew A. Laughlin, Mayor

**ATTEST:**

By: 

Esther Coulson, Town Clerk

First Reading: JUNE 18, 2013

Second Reading: JULY 2, 2013

**APPROVED AS TO FORM:**

  
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Gregory M. Alford, Town Attorney

Introduced by Council Member: WILLIAM D. HARRIS

# **MEMORANDUM**

**TO:** Town Council  
**FROM:** Staff Attorney

**Via:** Stephen G. Riley, ICMA-CM, Town Manager  
Gregory D. DeLoach, Esquire, Assistant Town Manager

**RE:** Second Reading of Proposed Ordinance Number 2013-07, Prohibiting the composition, reviewing, or sending of electronic messages while operating a motor vehicle in the Town of Hilton Head Island

**DATE:** June 19, 2013

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No changes were made to Proposed Ordinance #2013-07 as a result of First Reading on June 18, 2013.

# **MEMORANDUM**

**TO:** Town Council  
**FROM:** Staff Attorney

**Via:** Stephen G. Riley, ICMA-CM, Town Manager  
Gregory D. DeLoach, Esquire, Assistant Town Manager

**RE:** Proposed Ordinance Number 2013-07, Prohibiting the composition, reviewing, or sending of electronic messages while operating a motor vehicle in the Town of Hilton Head Island

**DATE:** June 4, 2013

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**Recommendation:** At its June 4, 2013 meeting, the Public Safety Committee voted unanimously to send the attached proposed Ordinance to Town Council for their consideration.

Staff has no recommendation pertaining to the attached proposed Ordinance. The Greater Island Council of Hilton Head Island and Bluffton has made a recommendation that Town Council consider passing an Ordinance prohibiting the composition, reviewing, or sending of electronic messages while operating a motor vehicle in the Town of Hilton Head Island, and recommended that it be modeled after House Bill 3121, which is currently pending before the South Carolina Legislature.


Staff has drafted the attached Proposed Ordinance Number 2013-07, adding Section 611 to Chapter 1 to Title 12 of the Municipal Code (Text Messaging While Operating a Motor Vehicle), as recommended by the Town Council Public Safety Committee. This ordinance is modeled, in part, after House Bill 3121.

**Summary:** This Ordinance prohibits the composition, reviewing, or sending of electronic messages while operating a motor vehicle in the Town of Hilton Head Island. This proposed Ordinance will not prohibit the use of a hands free device to compose, review, or send an electronic message while operating a motor vehicle. It will also not prohibit the use of handheld cell-phones for the making of telephone calls or navigation purposes.

**Background:** At a recent Town Council meeting, Council requested that the Town Manager review a Beaufort City text messaging and cellphone ordinance and have a general discussion on the matter at a Public Safety Committee meeting. At its May 6, 2013 meeting, the Public Safety Committee had a general discussion related to whether to ban text messaging while operating a motor vehicle in Hilton Head Island and recommended Town Council have a general discussion concerning an Ordinance to ban text messaging while driving.

On September 11, 2012 the Beaufort City Council passed an ordinance banning all drivers from texting while driving and drivers under age 18 from using a cellphone while behind the wheels of a motor vehicle within city limits. The ban does not apply to GPS and similar devices. To date, Beaufort is the only municipality in the county to pass such an ordinance.

# South Carolina Legislature

texting found 1 time in summary. 

## S 416

Session 120 (2013-2014)

Summary: **Texting**

### S 0416 General Bill, By Alexander

A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 56-5-3890 SO AS TO PROVIDE THAT A PERSON MAY NOT OPERATE A MOTOR VEHICLE ON A PUBLIC ROAD, STREET, OR HIGHWAY IN THIS STATE WHILE USING A WIRELESS TELECOMMUNICATION DEVICE TO WRITE, SEND, OR READ A TEXT-BASED COMMUNICATION, TO DEFINE TERMS, TO PROVIDE FOR PENALTIES, AND TO PROVIDE FOR REPORTING.

02/21/13 Senate Introduced and read first time (Senate Journal-page 3)

02/21/13 Senate Referred to Committee on Judiciary  
(Senate Journal-page 3)

03/08/13 Senate Referred to Subcommittee: Massey (ch), Coleman,  
Nicholson, Bennett, Shealy

### S. 416

#### A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 56-5-3890 SO AS TO PROVIDE THAT A PERSON MAY NOT OPERATE A MOTOR VEHICLE ON A PUBLIC ROAD, STREET, OR HIGHWAY IN THIS STATE WHILE USING A WIRELESS TELECOMMUNICATION DEVICE TO WRITE, SEND, OR READ A TEXT-BASED COMMUNICATION, TO DEFINE TERMS, TO PROVIDE FOR PENALTIES, AND TO PROVIDE FOR REPORTING.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 31, Chapter 5, Title 56 of the 1976 Code is amended by adding:

"Section 56-5-3890. (A) For purposes of this section:

(1) 'Wireless telecommunication device' means a handheld cellular telephone, a text messaging device, a personal digital assistant, a stand alone computer, or any other similar wireless device that is readily removable from a vehicle and is used to write, send, or read text or data through manual input. The term 'wireless telecommunication device' does not include a device which is voice-operated and which allows the user to send or receive a text-based communication without the use of either hand except to activate or deactivate a feature or function.

(2) 'Write, send, or read a text-based communication' means using a wireless telecommunication device to manually communicate with any person using text-based communication, including, but not limited to, communications referred to as a text message, instant message, or electronic mail. The term does not include reading, selecting, or entering a telephone number or name in a cell or wireless telephone or communication device for the purpose of making a telephone call.

(B) A person may not operate a motor vehicle on a public road, street, or highway in this State while using a wireless telecommunication device to write, send, or read a text-based communication.

(C) This section does not apply to:



(1) an individual using a wireless communication device to obtain emergency services including, but not limited to, an emergency call to a law enforcement agency, health care provider, fire department, or other emergency services agency or entity;

(2) an individual using a wireless communication device while the motor vehicle is parked on the shoulder of the highway, road, or street; and

(3) an individual using a wireless communication device as a global positioning or navigation system to receive driving directions which has been preprogrammed with the desired coordinates. The programming of coordinates while operating a vehicle remains a violation of this section.

(D)(1) A person who is adjudicated to be in violation of the provisions of this section must be fined not more than twenty-five dollars, no part of which may be suspended. No court costs, assessments, or surcharges may be assessed against a person who violates a provision of this article. A person must not be fined more than fifty dollars for any one incident of one or more violations of the provisions of this article. A custodial arrest for a violation of this article must not be made, except upon a warrant issued for failure to appear in court when summoned or for failure to pay an imposed fine. A violation of this article does not constitute a criminal offense. Notwithstanding Section 56-1-640, a violation of this article must not be:

(a) included in the offender's motor vehicle records maintained by the Department of Motor Vehicles or in the criminal records maintained by SLED; or

(b) reported to the offender's motor vehicle insurer.

(2) A law enforcement officer must not issue a citation to a driver or a passenger for a violation of this section when the stop is made in conjunction with a driver's license check, safety check, or registration check conducted at a checkpoint established to stop all drivers on a certain road for a period of time, except when the driver is cited for violating another motor vehicle law.

(3) A violation of this article is not negligence per se or contributory negligence, and is not admissible as evidence in a civil action.

(4) A vehicle, driver, or occupant in a vehicle must not be searched, nor may consent to search be requested by a law enforcement officer, solely because of a violation of this section.

(5) A law enforcement officer must not stop a driver for a violation of this section except when the officer has probable cause that a violation has occurred based on his clear and unobstructed view of a driver who is using a wireless telecommunication device to write, send, or read a text-based communication.

(6) A person charged with a violation of this section may admit or deny the violation, enter a plea of nolo contendere, or be tried before either a judge or a jury. If the trier of fact is convinced beyond a reasonable doubt that the person was using a wireless telecommunication device to write, send, or read a text-based communication, the penalty is a civil fine pursuant to this subsection. If the trier of fact determines that the State has failed to prove beyond a reasonable doubt that the person was not using a wireless telecommunication device to write, send, or read a text-based communication, no penalty shall be assessed.

(7) A person found to be in violation of this section may bring an appeal to the court of common pleas pursuant to Section 18-3-10 or Section 14-25-95.

(8) No points provided for in Section 56-1-720 or any other provision of law may be assessed for a violation of this article.

(E) Each state and local law enforcement agency in this State must maintain statistical information on traffic stops made pursuant to this section on minority groups. The statistical information must be reported to the to the Department of Public Safety monthly."

SECTION 2. This act takes effect upon approval by the Governor.



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Legislative Services Agency  
<http://www.scstatehouse.gov>

**SECTION 12-37-135.** Countywide **business registration; fee.** [SC ST SEC 12-37-135]

A county governing body may require a business registration throughout the entire county area and may impose an administrative fee not to exceed fifteen dollars. The fee is an administrative fee and must not be based upon business income. The business registration authorized by this section must be administered and enforced in the same manner as the business license tax described in Section 4-9-30(12), but must not be converted into a business license tax as described in that provision. The business registration administrative fee may be billed on any property tax bill and is deemed to be property tax for the purposes of collection if so billed. This registration, if adopted, is in lieu of any business license which is authorized pursuant to Section 4-9-30(12).

HISTORY: 2005 Act No. 145, § 45, eff June 7, 2005.

**SECTION 4-9-30.** Designation of powers under each alternative form of government except board of commissioners form

(12) to levy uniform license taxes upon persons and businesses engaged in or intending to engage in a business, occupation, or profession, in whole or in part, within the county but outside the corporate limits of a municipality except those persons who are engaged in the profession of teaching or who are ministers of the gospel and rabbis, except persons and businesses acting in the capacity of telephone, telegraph, gas and electric utilities, suppliers, or other utility regulated by the Public Service Commission and except an entity which is exempt from license tax under another law or a subsidiary or affiliate of any such exempt entity. No county license fee or tax may be levied on insurance companies. The license tax must be graduated according to the gross income of the person or business taxed. A business engaged in making loans secured by real estate is subject to the license tax only if it has premises located in the county but outside the corporate limits of a municipality. If the person or business taxed pays a license tax to another county or to a municipality, the gross income for the purpose of computing the tax must be reduced by the amount of gross income taxed in the other county or municipality



# South Carolina Association of Counties

Charles T. Edens, President  
*Sumter County*

Michael B. Cone  
*Executive Director*

July 2, 2013

## MEMORANDUM

TO: County Officials

FROM: Mike Cone

SUBJECT: **Input Requested – SCAC Legislative Policy Development Process**

The SCAC legislative policy development process is structured to assist in the formulation and adoption of the Association's policy positions. This process provides that the members of the SCAC Legislative Committee (consisting of the SCAC Board and each county council chair or his/her designee) be assigned to one of four policy steering committees. These steering committees are *County Government & Intergovernmental Relations; Revenue, Finance & Economic Development; Public Safety, Corrections & Judicial; and Land Use, Natural Resources & Transportation*. The SCAC President will appoint an additional 25 persons with expertise in these policy areas to serve on the steering committees.

The steering committees will meet at the SCAC Offices on September 10 and 11 to develop their policy papers. The policy papers will be presented to the County Council Coalition on October 18 (Embassy Suites Hotel, Columbia) for further input. The policy steering committees will reconvene at the Association offices on November 5 and 6 to refine their reports for presentation to the SCAC Legislative Committee at its conference December 5–6 in Charleston. The positions adopted by the Legislative Committee at this meeting will then become the official policy positions of the Association of Counties.

In consideration of the above, we are requesting your input on any legislative policy issues that you deem appropriate for consideration by the steering committees. So they can be included in the material that will be mailed to the steering committees in early September, it is requested that you submit any such proposals in writing to the Association offices no later than MONDAY, AUGUST 12.

Please feel free to call our office if you have any questions about the SCAC legislative policy development process.

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*Building Stronger Counties for Tomorrow*