

RESOLUTION OF THE
NAVAJO NATION COUNCIL

21st NAVAJO NATION COUNCIL - Third Year, 2009

AN ACT

RELATING TO PUBLIC SAFETY; ENACTING THE NAVAJO NATION MOTOR
VEHICLE CODE PROHIBITED ACTIVITIES WHILE DRIVING ACT OF
2008 AT 14 N.N.C. § 406

BE IT ENACTED:

**Section One. Enactment of the Title 14 Navajo Nation
Motor Vehicle Code Prohibited Activities While Driving Act
of 2008**

The Navajo Nation Council hereby enacts the Title 14,
Navajo Nation Motor Vehicle Code Prohibited Activities
While Driving Act of 2008.

Section Two. Purpose

The purpose of the Navajo Nation Motor Vehicle Code
Prohibited Activities While Driving Act of 2008 is to ban
hand-held wireless mobile telephone use while driving
unless the device is configured to allow hands-free
listening and talking. This ban also prohibits text
messaging while driving.

**Section Three. Amendments to Title 14 of the Navajo
Nation Code**

The Navajo Nation hereby amends the Navajo Nation
Code, Title 14, as follows:

Title 14. Navajo Nation Motor vehicle Code

Chapter 2. Civil Infractions; Responsibility and Assessment

Subchapter 21. Miscellaneous Provisions

**§ 406. Prohibited Activities While Driving: wireless mobile
telephone use; definitions; penalty.**

A. A person shall not drive a motor vehicle while using a wireless mobile telephone to engage in a call unless that wireless mobile telephone is specifically designed and configured to allow hands-free listening and talking, and is used exclusively in that manner while driving.

B. A person shall not drive a motor vehicle while using a wireless mobile telephone to create, send or read text messages despite hands-free capability.

C. Subsection (A), does not apply to:

1. A person using a wireless mobile telephone for emergency purposes, 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 emergency services professional using a wireless mobile telephone while operating an authorized emergency vehicle in the course and scope of his or her duties.

3. A person while driving motor vehicle on a privately maintained road not open to the public

4. A person operating a farm vehicle that is exempt from registration and that is not being driven on public roadways.

D. Definitions; for purposes of this section:

1. "Hands-free" means the use of a wireless mobile telephone with a speaker phone, headset, or earpiece.

2. "Wireless mobile telephone" shall mean any device used by subscribers and other users of wireless telephone service to access such service.

3. "Using" shall mean holding a wireless mobile telephone to, or in the immediate proximity of, the user's ear.

4. "Engage in a call" shall mean talking into or listening on a hand-held wireless mobile telephone, but shall not include holding a wireless mobile telephone to activate, deactivate, or initiate a function of such telephone.

Violators of this Section are subject to a civil assessment fee of not more than twenty dollars (\$20) for the first offense and fifty dollars (\$50) for each subsequent offense.

Section Four. Codification

The Provisions of this Act which amend or adopt new sections of the Navajo Nation Code shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel shall incorporate such amended provisions in the next codification or supplement of the Navajo Nation Code.

Section Five. Saving Clause

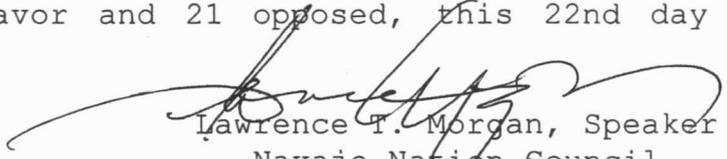
Should any provisions of this Act be determined invalid by the Navajo Nation Supreme Court, or the District Courts of the Navajo Nation, without appeal to the Navajo Nation Supreme Court, those portions of this Act which are not determined invalid shall remain the law of the Navajo Nation.

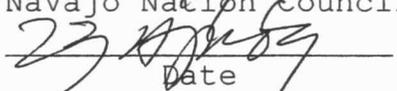
Section Six. Effective Date

The provisions of this Act shall become effective in accord with 2 N.N.C. § 221(B).

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 37 in favor and 21 opposed, this 22nd day of April 2009.


Lawrence T. Morgan, Speaker
Navajo Nation Council


Date

Motion: Edmund Yazzie
Second: Sampson Begay

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I hereby sign into law the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (10), on this _____ day of MAY 03 2009 2009.



Dr. Joe Shirley, Jr., President
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (11), this _____ day of _____ 2009 for the reason(s) expressed in the attached letter to the Speaker.

Dr. Joe Shirley, Jr., President
Navajo Nation