

ORDINANCE NO. 15,808

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by adding and enacting new Sections 114-17, 114-20B, 114-32, 114-37, 114-38, 114-178, 114-243, 114- 276, 114-281, 114-284 and 114-372, relating to traffic and vehicle regulations.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, is hereby amended by adding and enacting new Sections 114-17, 114-20B, 114-32, 114-37, 114-38, 114-178, 114-243, 114-276, 114-281, 114-284 and 114-372, relating to traffic and vehicle regulations, as follows:

Sec. 114-17. Misdemeanor to violate registration provisions.

A person shall not drive or move, nor shall an owner knowingly permit to be driven or moved, upon the highway a vehicle of a type required to be registered under this chapter which is not registered, or for which the appropriate fees have not been paid, except as provided in Iowa Code §321.109, subsection 3.

State law reference(s)--Similar provisions, I.C. §321.17

Sec. 114-20B. Proof of security against liability- driving without liability coverage.

Except as otherwise provided in Iowa Code Chapter 321 or 321A, a person shall not drive a motor vehicle on the highways of this state unless financial liability coverage, as defined in Iowa Code §321.1, subsection 24B, is in effect for the motor vehicle and unless the driver has in the motor vehicle the proof of financial liability coverage card issued for the motor vehicle, or if the vehicle is registered in another state, other evidence that financial liability coverage is in effect for the motor vehicle. A proof of financial liability coverage card may be produced in paper or electronic format. Acceptable electronic formats include electronic images displayed on a cellular telephone or any other portable electronic device that has a display screen with touch input or a miniature keyboard.

State law reference(s)--Similar provisions, I.C. §321.20B

Sec. 114-32. Registration card carried and exhibited—exception.

- (a) A vehicle's registration card shall at all times be carried in the vehicle to which it refers and shall be shown to any peace officer upon the officer's request.

- (b) This section shall not apply when the registration card is being used for the purpose of making application for renewal of registration or upon a transfer of registration for that vehicle.

State law reference(s)--Similar provisions, I.C. §321.32

Sec. 114-37. Display of plates.

- (a) Registration plates issued for a motor vehicle other than an autocyte, motorcycle, motorized bicycle, or truck tractor shall be attached to the motor vehicle, one in the front and the other in the rear. The registration plate issued for an autocyte, motorcycle, or other vehicle required to be registered hereunder shall be attached to the rear of the vehicle. The registration plate issued for a truck tractor shall be attached to the front of the truck tractor. The special plate issued to a dealer shall be attached on the rear of the vehicle when operated on the highways of this state.
- (b) Registration plates issued for a motor vehicle which is model year 1948 or older, and reconstructed or specially constructed vehicles built to resemble a model year 1948 vehicle or older, other than a truck registered for more than five tons, autocyte, motorcycle, or truck tractor, may display one registration plate on the rear of the vehicle if the other registration plate issued to the vehicle is carried in the vehicle at all times when the vehicle is operated on a public highway.
- (c) It is unlawful for the owner of a vehicle to place any frame around or over the registration plate which does not permit full view of all numerals and letters printed on the registration plate.

State law reference(s)--Similar provisions, I.C. §321.37

Sec. 114-38. Plates--method of attaching--imitations prohibited.

Every registration plate shall at all times be securely fastened in a horizontal position to the vehicle for which it is issued so as to prevent the plate from swinging and at a height of not less than twelve inches from the ground, measuring from the bottom of the plate, in a place and position to be clearly visible and shall be maintained free from foreign materials and in a condition to be clearly legible. An imitation plate or plates imitating or purporting to imitate the official registration plate of any other state or territory of the United States or of any foreign government shall not be fastened to the vehicle.

State law reference(s)--Similar provisions, I.C. §321.38

Sec. 114-178. Use of electronic device with restricted license.

A person issued a restricted license under this section shall not use an electronic communication device or an electronic entertainment device while driving a motor vehicle unless the motor vehicle is at a complete stop off the traveled portion of the roadway. This subparagraph division does not apply to the use of electronic equipment which is permanently installed in the motor vehicle or to a portable device which is operated through permanently installed equipment.

State law reference(s)--Similar provisions, I.C. §321.178

Sec. 114-243. Civil Automated Traffic Enforcement.

- (a) Policy Statement. Having been presented with information and opinions concerning Automated Traffic Enforcement (“ATE”), the Des Moines city council finds as follows:
 - (1) The use of ATE advances public interests of traffic safety and safety of emergency responders, as well as the interests of Des Moines taxpayers in cost effective enforcement of traffic laws;
 - (2) The use of ATE devices which capture an image of only the rear license plate strikes a desirable balance between the above stated public interests and privacy interests of the motoring public;
 - (3) The National Law Enforcement Telecommunications System (“Nlets”) is a cost effective means for determining ownership of vehicles detected as traveling in violation of traffic laws within the city limits of Des Moines; and
 - (4) The technology underlying ATE is self-calibrating and reliable, and its accuracy is readily verifiable.
- (b) General. The city of Des Moines, in accordance with the police powers authorized it by the state of Iowa for governing safe traffic flow, may deploy, erect or cause to have erected an automated traffic enforcement system for making video images of vehicles that fail to obey red light traffic signals at intersections designated by the city manager or his designee or fail to obey speed regulations at other locations in the city. The system may be managed by the private contractor that owns and operates the requisite equipment with supervisory control vested in the city's police department. Video images shall be provided to the police department by the contractor for review. The police department will determine which vehicle owners are in violation of the city's traffic control ordinances and are to receive a notice of violation for the offense.
- (c) Definitions. The following phrases or terms when used in this section shall have the meanings ascribed to them herein:
 - Automated traffic enforcement system* means an electronic system consisting of a photographic, video, or electronic camera and a vehicle sensor installed to work in conjunction with an official traffic controller or police department employee to automatically produce photographs, video or digital images of each vehicle violating a standard traffic control device or speed restriction.
 - Vehicle owner* means the person or entity identified by the Iowa Department of Transportation, or registered with any other state vehicle registration office, as the registered owner of a vehicle.
- (d) Offense.
 - (1) The vehicle owner shall be liable for a civil penalty as imposed below if such vehicle crosses a marked stop line or the intersection plane at a system location when the traffic signal for that vehicle's direction is emitting a steady red light or red arrow.
 - (2) The vehicle owner shall be liable for a civil penalty as imposed below if such vehicle travels at a speed above the posted speed limit.
 - (3) The violation may be rebutted by a showing that a stolen vehicle report was made

- on the vehicle encompassing the time period in question.
- (4) The notice of violation shall not be reported to the Iowa Department of Transportation or similar department of any other state for the purpose of being added to the vehicle owner's driving record.
- (e) Penalty and Appeal.
- (1) Any violation of subsection (c)(1) or subsection (c)(2) above shall be considered for a notice of violation for which a civil penalty in the amount specified in the schedule of administrative penalties adopted by city council by resolution shall be imposed, payable to the city at the city's finance department or a designee.
 - (2) A recipient of an automated traffic enforcement notice of violation may dispute the notice of violation by requesting an administrative hearing pursuant to chapter 3 or by requesting issuance of a municipal infraction by the police department. The request for an administrative hearing or issuance of a municipal infraction must initially be made within 30 days of the date that the notice of violation is issued. If the recipient of an automated traffic notice of violation who requests an administrative hearing is not satisfied with the determination of the hearing officer, he or she may request the police department to issue a municipal infraction within 30 days of the date of determination. If a timely request is made to the police department for the issuance of a municipal infraction, the city may issue a municipal infraction or dismiss the notice.

Sec. 114-276. Use of electronic communication device while driving.

- a. For purposes of this section:
- (1) "Electronic message" includes images visible on the screen of a hand-held electronic communication device including a text-based message, an instant message, a portion of electronic mail, an internet site, a social media application, or a game.
 - (2) "Engage in a call" means talking or listening on a mobile telephone or other portable electronic communication device.
 - (3) "Hand-held electronic communication device" means a mobile telephone or other portable electronic communication device capable of being used to write, send, or view an electronic message. "Hand-held electronic communication device" does not include a voice-operated or hands-free device which allows the user to write, send, or view an electronic message without the use of either hand except to activate or deactivate a feature or function. "Hand-held electronic communication device" does not include a wireless communication device used to transmit or receive data as part of a digital dispatch system. "Hand-held electronic communication device" includes a device which is temporarily mounted inside the motor vehicle, unless the device is a voice-operated or hands-free device.
 - (4) The terms "write", "send", and "view", with respect to an electronic message, mean the manual entry, transmission, or retrieval of an electronic message, and include playing, browsing, or accessing an electronic message.
- (b) A person shall not use a hand-held electronic communication device to write, send, or view an electronic message while driving a motor vehicle unless the motor vehicle is at a complete stop off the traveled portion of the roadway.

- (1) A person does not violate this section by using a global positioning system or navigation system or when, for the purpose of engaging in a call, the person selects or enters a telephone number or name in a hand-held mobile telephone or activates, deactivates, or initiates a function of a hand-held mobile telephone.
- (2) The provisions of this subsection relating to writing, sending, or viewing an electronic message do not apply to the following persons:
 - a. A member of a public safety agency, as defined in Iowa Code §34.1, performing official duties.
 - b. A health care professional in the course of an emergency situation.
 - c. A person receiving safety-related information including emergency, traffic, or weather alerts.
 - d. Nothing in this section shall be construed to authorize a peace officer to confiscate a hand-held electronic communication device from the driver or occupant of a motor vehicle.
 - e. A violation of this section shall not be considered a moving violation for purposes of this chapter or rules adopted pursuant to this chapter.

State law reference(s)--Similar provisions, I.C. §321.276

Sec. 114-281. Actions against bicyclists.

- (a) A person operating a motor vehicle shall not steer the motor vehicle unreasonably close to or toward a person riding a bicycle on a highway, including the roadway or the shoulder adjacent to the roadway.
- (b) A person shall not knowingly project any object or substance at or against a person riding a bicycle on a highway.

State law reference(s)--Similar provisions, I.C. §321.281

Sec. 114-284. Open containers in motor vehicles—drivers.

A driver of a motor vehicle upon a public street or highway shall not possess in the passenger area of the motor vehicle an open or unsealed bottle, can, jar, or other receptacle containing an alcoholic beverage. "Passenger area" means the area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including the glove compartment. An open or unsealed receptacle containing an alcoholic beverage may be transported in the trunk of the motor vehicle. An unsealed receptacle containing an alcoholic beverage may be transported behind the last upright seat of the motor vehicle if the motor vehicle does not have a trunk.

State law reference(s)--Similar provisions, I.C. §321.284

Sec. 114-372. Passing School Bus.

- (a) The driver of a vehicle, including the driver of a vehicle operating on a private road or driveway, when meeting a school bus with flashing amber warning lamps shall reduce the

vehicle's speed to not more than twenty miles per hour, and shall bring the vehicle to a complete stop when the school bus stops and the stop signal arm is extended. The vehicle shall remain stopped until the stop signal arm is retracted after which time the driver may proceed with due caution.

- (b) The driver of a vehicle, including the driver of a vehicle operating on a private road or driveway, overtaking a school bus shall not pass a school bus when red or amber warning signal lights are flashing. The driver shall bring the vehicle to a complete stop no closer than fifteen feet from the school bus when it is stopped and the stop arm is extended, and the vehicle shall remain stopped until the stop arm is retracted and the school bus resumes motion.
- (c) A person convicted of a violation of this section is guilty of a simple misdemeanor punishable as provided in section 1-15.

State law reference(s)--Similar provision, I.C. §321.372

Section 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

Lawrence F. Dempsey, Assistant City Attorney

T. M. Franklin Cownie, Mayor

Attest: I, Laura Baumgartner, Acting City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance (Roll Call No. 19-1636), passed by the City Council of said City at a meeting held October 14, 2019 signed by the Mayor on October 14, 2019 and published and provided by law in the Business Record on November 1, 2019. Authorized by Publication Order No.10798.

Laura Baumgartner, Acting City Clerk