



Legislation Text

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The purpose of this legislation is to amend various sections in Titles 21 and 23 of the Columbus City Codes to place limits on distribution and enact protections for residents in certain public areas. Twenty years ago, Columbus City Council enacted (and has since amended) code to prevent aggressive panhandling in public areas, in response to resident concerns about public safety.

In 2015, the United States Supreme Court made a unanimous ruling in *Reed v. Town of Gilbert* that would prevent governments from favoring certain messages on signs from others based on content. This case had far-reaching implications for municipalities across the country in their zoning codes and elsewhere. On advice from the Columbus City Attorney last year, the City determined that, based on *Reed v. Town of Gilbert*, it could not enforce current Chapter 2333, given the potential violations of the First Amendment.

Columbus City Council held a public hearing on panhandling and other types of distribution and heard numerous concerns related to public safety issues. From the information presented by the public, as well as local organizations and human service agencies, it was determined that public safety issues still exist from certain actions taken by those panhandling or engaging in other acts of distribution (the exchange, or attempt to exchange, a physical item between two or more individuals), which includes solicitations for non-profit fundraising. Specifically, this includes engaging in the right-of-way near streets and other roadways, approaching too closely to individuals at ATMs (potentially compromising sensitive personal financial information), and obstructing reasonable access to public right-of-ways.

Based on this feedback, and in conjunction with the Columbus City Attorney's office, Council will consider the following amendments to City Code to ensure the health, safety and welfare of Columbus residents, while also continuing to ensure the ability of all citizens to exercise their First Amendment rights.

Emergency action is requested to more quickly put into place enforceable code provisions that will govern distribution activities.

To amend Section 2171.06 of the Columbus City Codes; and to repeal and replace Chapter 2333 of the Columbus City Codes, placing limits on distribution, ensuring ATM privacy, and preventing obstruction of public right-of-ways; and to declare an emergency.

WHEREAS, current Chapters 2171 and 2333 of the Columbus City Codes pertain to pedestrians, traffic, and acts of solicitation; and

WHEREAS, the City has determined that Chapter 2333, which regulates aggressive panhandling, is currently unenforceable, due to constitutional issues; and

WHEREAS, acts of distribution in a roadway, violating privacy at automated teller machines (ATMs), and obstructing right-of-ways, still remain threats to public safety; and

WHEREAS, public hearings have been held and detailed resident concerns regarding panhandling and public safety

concerns that arise from this activity and other acts of distribution; and

WHEREAS, it is an immediate need in that the City of Columbus, in furthering its efforts to promote safe neighborhoods while respecting the rights of residents, finds it necessary to provide limitations on distribution, protect ATM privacy, and prevent obstructions to the public right-of-way, preserving the health, safety, and welfare of Columbus residents; now, therefore

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

SECTION 1. That Section 2171.06 of the Columbus City Codes is hereby amended, reading as follows:

2171.06 - Soliciting rides-Riding on outside of vehicle.

(a) No person while on a freeway, street, highway or roadway outside a safety zone shall solicit a ride from the driver of any vehicle.

~~(b) No person shall stand on a freeway, street, highway or roadway for the purpose of soliciting employment, business, or contributions from the driver or occupants of any vehicle. The prohibition contained in this paragraph does not apply if the person is soliciting contributions as a designated agent on behalf of an organization that has been issued a permit pursuant to section 525.24 and that person has a copy of that permit in their possession.~~

~~(e)~~ (b) No person shall hang onto or ride on the outside of any motor vehicle, streetcar, or trackless trolley while it is moving upon a freeway, street, highway or roadway, except mechanics or test engineers making repairs or adjustments, or workers performing specialized highway or street maintenance or construction under authority of a public agency.

~~(d)~~ (c) No operator shall knowingly permit any person to hang onto or ride on the outside of any motor vehicle while it is moving upon a freeway, street, highway or roadway, except mechanics or test engineers making repairs or adjustments, or workers performing specialized highway or street maintenance or construction under authority of a public agency.

~~(e)~~ (d) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one (1) year of the offense, the offender previously has been convicted of or pleaded guilty to one (1) predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one (1) year of the offense, the offender previously has been convicted of two (2) or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

SECTION 2. That existing Section 2171.06 of the Columbus City Codes is hereby repealed and replaced as provided herein.

SECTION 3. That new Chapter 2333 of the Columbus City Codes is hereby enacted, reading as follows:

Chapter 2333 - PEDESTRIAN OR VEHICLE INTERFERENCE; ATM PRIVACY

2333.01 Distribution in a right-of-way.

(A) No person shall engage in distribution with the driver or occupant of a vehicle in a right-of-way unless such vehicle is lawfully stopped, standing, or parked in compliance with chapter 4511 of the Revised Code and title VII of

the Revised Code.

(B) No person who is within a right-of-way shall engage in distribution with the driver or occupant of a vehicle stopped in a right-of-way in obedience to a traffic control signal. However, a person may engage in distribution with the occupant of a vehicle in a right-of-way so long as the person remains on the surrounding sidewalks and not in or on the right-of-way itself, including any medians or traffic islands within the right-of-way.

(C) No person, being the driver or occupant of a vehicle in a right of way, shall engage in distribution with another who is not an occupant of the vehicle unless such vehicle is lawfully stopped, standing, or parked in compliance with chapter 4511 of the Revised Code and title VII of the Revised Code.

(D) No person, being the driver or occupant of a vehicle stopped in a right of way in obedience to a traffic control signal, shall engage in distribution with another who is not an occupant of the vehicle. However, a driver or occupant of a vehicle in a right of way may engage in distribution with another who is not an occupant of the vehicle so long as the person remains on the surrounding sidewalks and not in the right of way itself, including any medians or traffic islands within the right of way.

(E) Whoever violates this section is guilty of distribution in a right-of-way, a misdemeanor of the fourth degree. When a person has been previously convicted of a violation of section 2333.01, or any other substantially similar state statute or municipal ordinance, the offense of distribution in a right of way is a misdemeanor of the third degree.

(F) For the purpose of this section, the term "distribution" means "an exchange or an attempt to exchange a physical item between two or more individuals."

(G) All other words and phrases used in this section shall have the same meanings as defined in section 4511.01 of the Ohio Revised Code.

(H) This section shall not apply to persons possessing a permit issued pursuant to section 525.24 of the Columbus City Code.

(I) A violation of subsection (A), (B), (C), or (D) is a strict liability offense.

2333.02 Aggressive distribution.

(A) No person shall engage or attempt to engage in distribution in the following manners:

(1) By knowingly touching or grabbing another person or that person's property without that person's consent.

(2) By knowingly following another person and continuing to engage or attempt to engage in distribution with that person after that person has made an affirmative communication that the person is unwilling or unable to engage in distribution.

(B) Whoever violates this section is guilty of aggressive distribution, a misdemeanor of the second degree. When a person has been previously convicted of a violation of section 2333.02, or any other substantially similar state statute or municipal ordinance, aggressive distribution is a misdemeanor of the first degree.

(C) For the purpose of this section, the term "distribution" means "an exchange or an attempt to exchange a physical item between two or more individuals."

2333.03 ATM privacy.

- (A) No person shall knowingly approach within three feet of any person who is actively using an automated teller machine without that person's consent.
- (B) "Automated teller machine" means a fixed device linked to a financial institution's account records which is able to carry out transactions, including but not limited to, account transfers, deposits, withdrawals, balance inquiries, and mortgage and loan payments.
- (C) Whoever violates this section is guilty of invasion of ATM privacy, a misdemeanor of the fourth degree. When a person has been previously convicted of a violation of section 2333.03, or any other substantially similar state statute or municipal ordinance, the offense of violating ATM privacy is a misdemeanor of the third degree.

2333.04 Obstructing city right-of-way.

- (A) A person commits an offense if, without legal privilege or authority to do so, the person recklessly:
- 1) Obstructs a highway, street, sidewalk, railway, waterway, elevator, aisle, hallway, entrance, or exit to which the public or a substantial group of the public has access, or any other place used for the passage of persons, vehicles, or conveyances, regardless of the means of creating the obstruction and whether the obstruction arises from the person's acts alone or from the person's acts and the acts of others; or
 - 2) Disobeys a reasonable request or order to move issued by a person the actor knows to be or is informed is, a peace officer or a person with the authority to control the use of the premises when the request/order is made in order to prevent the obstruction of a highway or any of the areas mentioned in subsection (1)
- (B) For purposes of this section, "obstruct" means to render impassable or to render passage unreasonably inconvenient or hazardous.
- (C) An offense under this section is a misdemeanor of the fourth degree. When a person has been previously convicted of a violation of section 2333.04, or any substantially similar statute or municipal ordinance, the offense of obstructing a city right of way is a misdemeanor of the third degree.

SECTION 4. That existing Chapter 2333 of the Columbus City Codes is hereby repealed in its entirety and replaced as provided herein.

SECTION 5. That for the reasons stated in the preamble hereto, which is hereby made a part hereof, this ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

