

One-rdg. _____
P. Hrngs. _____
Pgs. 4
Filed: 12-05-17

Sponsored by: Fishel, Fisk
and Hosmer

First Reading: _____

Second Reading: _____

COUNCIL BILL 2017 - 294

GENERAL ORDINANCE _____

AN ORDINANCE

1 AMENDING Springfield City Code, Chapter 106 – ‘Traffic and Vehicles,’ Article V. –
2 ‘Operation,’ Division 1. – ‘Generally,’ Section 106-199. – ‘Seat belt
3 regulations,’ by removing the language prohibiting a violation of this
4 section to be the basis for a vehicle stop by law enforcement officers.
5 (Plans and Policies Committee recommends approval).
6
7

8 WHEREAS, seat belt use is linked to motor vehicle crash survival rates; and
9

10 WHEREAS, the proposed amendment will allow the Springfield Police
11 Department (“SPD”) to treat a violation of City Code Section 106-199. – ‘Seat belt
12 regulations,’ as a primary offense; and
13

14 WHEREAS, SPD will be able to stop a motorist to determine compliance with this
15 code section.
16

17 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
18 SPRINGFIELD, MISSOURI, as follows, that:
19

20 Section 1 – The Springfield City Code, Chapter 106– ‘Traffic and Vehicles,’
21 Article V ‘Operation,’ Division 1 ‘Generally,’ Section 106-199. – ‘Seat belt regulations,’ is
22 hereby amended as follows:
23

24 Note: Underlined language is to be added. Language to be removed is ~~stricken~~.
25

26 Section 106-199. – Seat belt regulations.
27

28 (a) As used in this section, the term "passenger car" means every motor vehicle
29 designed for carrying ten persons or less and used for the transportation of persons;
30 except that, the term "passenger car" shall not include motorcycles, motorized
31 bicycles, motor tricycles and trucks with a licensed gross weight of 12,000 pounds or
32 more.
33

34 (b) Each driver, except persons employed by the United States Postal Service while
35 performing duties for that federal agency which require the operators to service postal
36 boxes from their vehicles, or which require frequent entry into and exit from their
37 vehicles, and front seat passenger of a passenger car manufactured after January 1,
38 1968, operated on a street or highway in this state shall wear a properly adjusted and
39 fastened safety belt that meets federal National Highway, Transportation and Safety
40 Act requirements; except that a child less than four years of age shall be protected as
41 required in RSMo 210.104. Each driver of a motor vehicle transporting a child four
42 years of age or more, but less than 16 years of age, in the front seat of the motor
43 vehicle shall secure the child in a properly adjusted and fastened safety belt. ~~No~~
44 ~~person shall be stopped, inspected or detained solely to determine compliance with~~
45 ~~this subsection.~~ The provisions of this section shall not be applicable to a person who
46 has a medical reason for failing to have a seat belt fastened about his body.

47
48 (c) To the extent permitted by law, in any action to recover damages arising out of the
49 ownership, common maintenance or operation of a motor vehicle, failure to wear a
50 safety belt in violation of this section shall not be considered evidence of comparative
51 negligence. Failure to wear a safety belt in violation of this section may be admitted to
52 mitigate damages, but only under the following circumstances:

- 53
- 54 (1) Parties seeking to introduce evidence of the failure to wear a safety belt in
55 violation of this section must first introduce expert evidence proving that a failure
56 to wear a safety belt contributed to the injuries claimed by the plaintiff.
 - 57 (2) If the evidence supports such a finding, the trier of fact may find that the
58 plaintiff's failure to wear a safety belt in violation of this section contributed to the
59 plaintiff's claimed injuries, and may reduce the amount of the plaintiff's recovery
60 by an amount not to exceed one percent of the damages awarded after any
61 reductions for comparative negligence.

62
63 (d) Each person who violates the provisions of subsection (b) of this section after April
64 1, 1996, shall be guilty of a violation, for which a fine of \$10.00 may be imposed,
65 except that a violation of the provisions relating to a child less than four years of age
66 shall be punishable by a fine not to exceed \$25.00. All other provisions of law and
67 court rules to the contrary notwithstanding, no court costs may be imposed if court
68 costs have been assessed on any other charge arising out of the same occurrence.

69
70 Section 2 – Severability Clause. If any section, subsection, sentence, clause or
71 phrase of this Ordinance is for any reason held to be invalid, such decision shall not
72 affect the validity of the remaining portions of this Ordinance. Council hereby declares
73 that it would have adopted the Ordinance and each section, subsection, sentence,
74 clause or phrase thereof, irrespective of the fact that any one or more sections,
75 sentences, clauses, or phrases be declared invalid.

76
77 Section 3 – Savings Clause. Nothing in this Ordinance shall be construed to
78 affect any suit or proceeding now pending in any court or any rights acquired or liability
79 incurred nor any cause or cause of action occurred or existing, under any act or

80 ordinance repealed hereby. Nor shall any right or remedy of any character be lost,
81 impaired, or affected by this Ordinance.

82
83 Section 4 –This Ordinance shall be in full force and effect from and after
84 passage.

85
86 Passed at meeting: _____

87
88 _____
89 Mayor

90 Attest: _____, City Clerk

91
92
93 Filed as Ordinance: _____

94
95 Approved as to form: _____, Assistant City Attorney

96
97 Approved for Council action: _____, City Manager

EXPLANATION TO COUNCIL BILL 2017-294

FILED: 12-05-17

ORIGINATING DEPARTMENT: Police

PURPOSE: To amend Springfield City Code, Chapter 106 – ‘Traffic and Vehicles,’ – Article V. ‘Operation,’ Division 1. – ‘Generally,’ Section 106-199. – ‘Seat belt regulations,’ by removing the language prohibiting a violation of this section to be the basis for a vehicle stop by law enforcement officers. (Plans and Policies Committee recommends approval).

BACKGROUND INFORMATION: The proposed amendment will allow the Springfield Police Department (“SPD”) to treat a violation of Springfield City Code, Section 106-199 as a primary offense. This means that an SPD officer can stop a motorist to determine compliance with this code section. In 2014 the Missouri Court of Appeals held in *City of St. John v. Brocus* that the bar on primary enforcement contained in Section 307.178 RSMo is limited to that section and does not prohibit municipalities from having a primary seat belt law. Fifty-four Missouri municipalities enacted local primary seat belt laws after this ruling.

Seat belt use is linked to motor vehicle crash survival rates. According to the Missouri Department of Transportation, in 2015, 63 percent of all drivers and passengers killed in traffic crashes were not belted and that number increased to 70 percent for teen drivers and their passengers. These deaths and injuries are many times preventable by wearing a seat belt.

RECOMMENDATIONS:

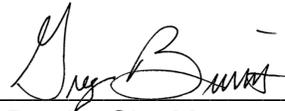
The Plans and Policies Committee met on July 20, 2017, and recommended passage of this Ordinance by a vote of 3 to 0 (one committee member was absent).

Submitted by:

Approved by:



Paul F. Williams, Chief of Police



Greg Burris, City Manager