

State of South Dakota

EIGHTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2014

228V0042

CONFERENCE COMMITTEE ENGROSSED NO. **HB 1177** - 03/14/2014

Introduced by: Representatives Gosch, Cronin, Dryden, May, Novstrup (David), Olson (Betty), Steele, Stevens, Westra, and Wink and Senators Maher, Brown, Curd, Jones (Chuck), Kirkeby, Peters, and Rave

1 FOR AN ACT ENTITLED, An Act to prohibit certain use of handheld electronic wireless
2 communication devices while driving and to provide a penalty therefor.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 32-26 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 No person may operate a motor vehicle on a highway while using a handheld electronic
7 wireless communication device to write, send, or read a text-based communication. This section
8 does not apply to a person who is using a handheld electronic wireless communication device:

- 9 (1) While the vehicle is lawfully parked;
- 10 (2) To contact any emergency public safety answering point or dispatch center;
- 11 (3) To write, read, select, or enter a telephone number or name in an electronic wireless
12 communications device for the purpose of making or receiving a telephone call; or
- 13 (4) When using voice operated or hands free technology.

14 State or local law enforcement agencies shall enforce this section as a secondary action. A



violation of this section is a petty offense with a fine of one hundred dollars.

Section 2. That chapter 32-26 be amended by adding thereto a NEW SECTION to read as follows:

Terms used in this Act mean:

(1) "Electronic wireless communication device," a mobile communication device that uses short-wave analog or digital radio transmissions or satellite transmissions between the device and a transmitter to permit wireless telephone communications to and from the user of the device within a specified area;

(2) "Voice operated or hands free technology," technology that allows a user to write, send, or listen to a text-based communication without the use of either hand except to activate, deactivate, or initiate a feature or function; and

(3) "Write, send, or read a text-based communication," using an electronic wireless communications device to manually communicate with any person using text-based communication including communications referred to as a text message, instant message, or electronic mail.

Section 3. That chapter 32-26 be amended by adding thereto a NEW SECTION to read as follows:

The Department of Public Safety shall expend lawfully appropriated funds to develop and communicate a distracted drivers public awareness campaign.

Section 4. That chapter 32-26 be amended by adding thereto a NEW SECTION to read as follows:

No handheld electronic wireless communication device used in violation of this Act may be seized by a law enforcement officer to establish a violation of this Act. However, a handheld electronic wireless communication device may be seized upon compliance with the search and

1 seizure requirements in chapter 23A-35.

2 Section 5. That § 23-1A-22 be amended to read as follows:

3 23-1A-22. If the plaintiff prevails in a petty offense case, the plaintiff shall be granted a
4 judgment of twenty-five dollars. If the plaintiff prevails in a petty offense case under section 1
5 of this Act, the plaintiff shall be granted a judgment of one hundred dollars. However, the trial
6 court may reduce or eliminate the award in the interest of justice. No award may be granted a
7 defendant in a petty offense case. If a deposit is required by this chapter, it shall be the amount
8 set by this section.