

AN ACT

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

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

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

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

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

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 seizure requirements in chapter 23A-35.

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

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

An Act to prohibit certain use of handheld electronic wireless communication devices while driving and to provide a penalty therefor.

=====

I certify that the attached Act
originated in the

HOUSE as Bill No. 1177

Chief Clerk

=====

Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1177

File No. _____

Chapter No. _____

=====

Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

=====

The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor

=====

STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State