

2024 South Dakota Legislature

House Bill 1107**AMENDMENT 1107A
FOR THE INTRODUCED BILL**

1 **An Act to prohibit the use of certain mobile electronic devices while driving, and to**
2 **provide a penalty therefor.**

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

4 **Section 1. That § 32-26-46 be AMENDED:**

5 **32-26-46.** Terms used in §§ 32-26-47.1, 32-26-47.2, and 32-26-48 mean:

- 6 (1) "Operate," to drive or assume physical control of a motor vehicle upon a highway,
7 including operation while temporarily stationary because of traffic, road conditions,
8 a traffic light, or a stop sign. The term does not include a motor vehicle that is
9 lawfully parked;
- 10 (2) "Mobile electronic device," any hand-held or portable electronic device capable of
11 providing wireless data or voice communication between two or more persons or
12 amusement, including a cellular telephone, broadband personal communication
13 device, two-way messaging device, text messaging device, pager, electronic device
14 that can receive or transmit text or character-based images, access or store data,
15 or connect to the internet, personal digital assistant, laptop computer, computer
16 tablet, stand-alone computer, portable computing device, mobile device with a
17 touchscreen display that is designed to be worn, electronic game, equipment that
18 is capable of playing a video, taking photographs, capturing images, or recording
19 or transmitting video, and any similar device that is readily removable from a
20 vehicle and is used to write, send, or read text or data or capture images or video
21 through manual input. The term does not include a radio designed for the citizens
22 band service ~~or,~~ the amateur radio service of the Federal Communications
23 Commission ~~or,~~ a commercial two-way radio communications device, or in-vehicle
24 security, navigation, communications, or remote diagnostics;
- 25 (3) "Social networking site," any web-based service that allows persons to construct a
26 profile within a founded system and communicate with other users of the site; and

1 (4) "Voice-activated or hands-free mode," an attachment, accessory, wirelessly paired
 2 or tethered capability, application, wireless connection, or built-in feature of a
 3 mobile electronic device or a motor vehicle that allows the person to use verbal or
 4 single-touch commands to:

5 (a) Activate or deactivate the device; and

6 (b) Activate or deactivate a function or software application of the device.

7 This term does not include typing or scrolling on a mobile electronic device.

8 **Section 2. That § 32-26-47.1 be AMENDED:**

9 **32-26-47.1.** No person may operate a motor vehicle while using a mobile
 10 electronic device. A violation of this section is a Class 2 misdemeanor.

11 This section does not apply to:

12 (1) A law enforcement officer, firefighter, emergency medical technician, paramedic,
 13 operator of an authorized emergency vehicle, or similarly engaged paid or
 14 volunteer public safety first responder during the performance of that person's
 15 official duties, ~~and a public utility employee or contractor acting within the scope~~
 16 ~~of that person's employment;~~

17 (2) The use of a mobile electronic device for emergency purposes, including a text
 18 messaging device to contact a 911 system, an emergency call to a law enforcement
 19 agency, health care provider, fire department, or other emergency services agency
 20 or entity, or to report to appropriate authorities a fire, traffic accident, serious road
 21 hazard, or medical or hazardous materials emergency, or to report the operator of
 22 another motor vehicle who is driving in a reckless, distracted, or otherwise unsafe
 23 manner or who appears to be driving under the influence of alcohol or drugs, or to
 24 report a crime;

25 (3) The use of a global positioning or navigation system feature of a mobile electronic
 26 device, but does apply to manually entering information into the global positioning
 27 or navigation system feature of the device;

28 (4) ~~Reading, selecting, or entering a telephone number or name in a mobile electronic~~
 29 ~~device for the purpose of making or receiving a telephone call and using the device~~
 30 ~~for the call, or if a person otherwise activates or deactivates a feature or function~~
 31 ~~of a mobile electronic device; or~~

32 (5) The use of a mobile electronic device in a ~~voice-operated~~ voice-activated or hands-
 33 free mode if the operator of the motor vehicle does not use the operator's hands
 34 to operate the device, except to activate or deactivate a feature or function of the

1 device to initiate or participate in a cellular phone call or to initiate, compose, send,
2 or listen to an electronic message; or

3 (5) The use of a mobile electronic device within a motor vehicle only if the motor
4 vehicle is at a complete stop off the main-traveled portion of the roadway, or as
5 far away from the center of the roadway as is practicable if the motor vehicle
6 cannot be entirely removed from the traveled portion of the roadway.

7 **Section 3. That chapter 32-26 be amended with a NEW SECTION:**

8 No person may operate a motor vehicle while using a mobile electronic device,
9 thereby causing a vehicle accident, or injury of another person. A violation of this section
10 is a Class 1 misdemeanor.

11 **Section 4. That chapter 32-26 be amended with a NEW SECTION:**

12 No person may operate a motor vehicle while using a mobile electronic device,
13 thereby causing the death of another person. A violation of this section is a Class 6 felony.

14 **Section 5. That chapter 32-26 be amended with a NEW SECTION:**

15 The prohibitions in sections 2 to 4 of this Act, inclusive, are each primary laws.