



2020 South Dakota Legislature

House Bill 1169

Introduced by: **Representative Barthel**

1 **An Act to prohibit the use of certain electronic devices while driving.**

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

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

4 **32-26-46. Definitions.**

5 Terms used in ~~§§ 32-26-47 and 32-26-48~~ §§ 32-26-47.1, 32-26-47.2, and 32-26-
6 48 mean:

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

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

14 (3) ~~"Write, send, or read a text-based communication," using an electronic wireless~~
15 ~~communications device to manually communicate with any person using text-based~~
16 ~~communication including communications referred to as a text message, instant~~
17 ~~message, or electronic mail"~~Operate," to drive or assume physical control of a motor
18 vehicle upon a highway, including operation while temporarily stationary because
19 of traffic, road conditions, a traffic light, or a stop sign. The term does not include
20 a motor vehicle that is lawfully parked;

21 (2) "Mobile electronic device," any hand-held or portable electronic device capable of
22 providing wireless data or voice communication between two or more persons or
23 amusement, including a cellular telephone, broadband personal communication
24 device, two-way messaging device, text messaging device, pager, electronic device
25 that can receive or transmit text or character-based images, access or store data,
26 or connect to the internet, personal digital assistant, laptop computer, computer

1 tablet, stand-alone computer, portable computing device, mobile device with a
2 touchscreen display that is designed to be worn, electronic game, equipment that
3 is capable of playing a video, taking photographs, capturing images, or recording
4 or transmitting video, and any similar device that is readily removable from a
5 vehicle and is used to write, send, or read text or data or capture images or video
6 through manual input. The term does not include a radio designed for the citizens
7 band service or the amateur radio service of the Federal Communications
8 Commission or a commercial two-way radio communications device;
9 (3) "Social networking site," any web-based service that allows persons to construct a
10 profile within a founded system and communicate with other users of the site.

11 **Section 2.** That a NEW SECTION be added:

12 **32-26-47.1. Use of mobile electronic device--Prohibitions--Violation as**
13 **misdemeanor--Exceptions.**

14 No person may operate a motor vehicle while using a mobile electronic device. A
15 violation of this section is a Class 2 misdemeanor.

16 This section does not apply to:

- 17 (1) A law enforcement officer, firefighter, emergency medical technician, paramedic,
18 operator of an authorized emergency vehicle, or similarly engaged paid or
19 volunteer public safety first responder during the performance of that person's
20 official duties, and a public utility employee or contractor acting within the scope
21 of that person's employment when responding to a public utility emergency;
22 (2) The use of a mobile electronic device for emergency purposes, including a text
23 messaging device to contact a 911 system, an emergency call to a law enforcement
24 agency, health care provider, fire department, or other emergency services agency
25 or entity, or to report to appropriate authorities a fire, traffic accident, serious road
26 hazard, or medical or hazardous materials emergency, or to report the operator of
27 another motor vehicle who is driving in a reckless or otherwise unsafe manner or
28 who appears to be driving under the influence of alcohol or drugs, or to report a
29 crime;
30 (3) The use of a global positioning or navigation system feature of a mobile electronic
31 device, but does apply to manually entering information into the global positioning
32 or navigation system feature of the device;
33 (4) Reading, selecting, or entering a telephone number or name in a mobile electronic
34 device for the purpose of making or receiving a telephone call or if a person

1 otherwise activates or deactivates a feature or function of a mobile electronic
2 device; or
3 (5) The use of a mobile electronic device in a voice-operated or hands-free mode if the
4 operator of the motor vehicle does not use the operator's hands to operate the
5 device, except to activate or deactivate a feature or function of the device.

6 **Section 3.** That a NEW SECTION be added:

7 **32-26-47.2. Social networking sites--Prohibition--Violation as misdemeanor.**
8 No person may access, read, or post to a social networking site while operating a
9 motor vehicle. A violation of this section is a Class 2 misdemeanor.

10 **Section 4.** That § 32-26-48 be AMENDED:

11 **32-26-48. Seizure of handheld electronic wireless communication device.**
12 ~~No handheld electronic wireless communication device used in violation of § 32-~~
13 ~~26-47 mobile electronic device used in violation of §§ 32-26-47.1 or 32-26-47.2 may be~~
14 ~~seized by a law enforcement officer to establish a violation of § 32-26-47 either of those~~
15 ~~sections.~~ However, a handheld electronic wireless communication mobile electronic device
16 may be seized upon compliance with the search and seizure requirements in chapter 23A-
17 35.

18 **Section 5.** That § 23-1A-22 be AMENDED:

19 **23-1A-22. Amount of judgment for plaintiff--Reduction or elimination in**
20 **interest of justice--No award to defendant--Amount of deposit.**

21 If the plaintiff prevails in a petty offense case, the plaintiff shall be granted a
22 judgment of twenty-five dollars. ~~If the plaintiff prevails in a petty offense case under § 32-~~
23 ~~26-47, the plaintiff shall be granted a judgment of one hundred dollars.~~ However, the trial
24 court may reduce or eliminate the award in the interest of justice. No award may be
25 granted a defendant in a petty offense case. If a deposit is required by this chapter, it
26 shall be the amount set by this section.

27 **Section 6.** That § 32-26-47 be REPEALED.

28 **32-26-47. Use of handheld electronic wireless communication device for**
29 **text-based communication on highway prohibited--Exceptions--Violation as**
30 **petty offense.**