



2020 South Dakota Legislature
House Bill 1169
ENROLLED

AN ACT

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

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

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

32-26-46. Definitions.

Terms used in §§ 32-26-47.1, 32-26-47.2, and 32-26-48 mean:

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

Section 2. That a NEW SECTION be added:

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

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

This section does not apply to:

- (1) A law enforcement officer, firefighter, emergency medical technician, paramedic, operator of an authorized emergency vehicle, or similarly engaged paid or volunteer public safety first responder during the performance of that person's official duties, and a public utility employee or contractor acting within the scope of that person's employment;
- (2) The use of a mobile electronic device for emergency purposes, including a text messaging device to contact a 911 system, an emergency call to a law enforcement agency, health care provider, fire department, or other emergency services agency or entity, or to report to appropriate authorities a fire, traffic accident, serious road hazard, or medical or hazardous materials emergency, or to report the operator of another motor vehicle who is driving in a reckless or otherwise unsafe manner or who appears to be driving under the influence of alcohol or drugs, or to report a crime;
- (3) The use of a global positioning or navigation system feature of a mobile electronic device, but does apply to manually entering information into the global positioning or navigation system feature of the device;
- (4) Reading, selecting, or entering a telephone number or name in a mobile electronic device for the purpose of making or receiving a telephone call and using the device for the call, or if a person otherwise activates or deactivates a feature or function of a mobile electronic device; or
- (5) The use of a mobile electronic device in a voice-operated or hands-free mode if the operator of the motor vehicle does not use the operator's hands to operate the device, except to activate or deactivate a feature or function of the device.

Section 3. That a NEW SECTION be added:

32-26-47.2. Social networking sites--Prohibition--Violation as misdemeanor.

No person may access, read, or post to a social networking site while operating a motor vehicle. A violation of this section is a Class 2 misdemeanor.

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

32-26-48. Seizure of handheld electronic wireless communication device.

No mobile electronic device used in violation of § 32-26-47.1 or 32-26-47.2 may be seized by a law enforcement officer to establish a violation of either of those sections. However, a mobile electronic device may be seized upon compliance with the search and seizure requirements in chapter 23A-35.

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

23-1A-22. Judgment--Amount--Reduction or elimination--Defendant award--Amount of deposit.

If the plaintiff prevails in a petty offense case, the plaintiff shall be granted a judgment of twenty-five 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.

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

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

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I certify that the attached Act originated in the:

House as Bill No. 1169

Received at this Executive Office
this ____ day of _____,
2020 at _____ M.

Chief Clerk

By _____
for the Governor

Speaker of the House

The attached Act is hereby
approved this _____ day of
_____, A.D., 2020

Attest:

Chief Clerk

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

President of the Senate

Attest:

Filed _____, 2020
at _____ o'clock __ M.

Secretary of the Senate

Secretary of State

House Bill No. 1169
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State