

State of South Dakota

EIGHTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2014

228V0042

SENATE STATE AFFAIRS

ENGROSSED NO. **HB 1177** - 03/05/2014

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 restrict the regulation by local governments of distracted
2 or inattentive driving, to prohibit the use of certain handheld electronic wireless
3 communication devices, and to provide a penalty therefor.

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

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

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

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



1 State or local law enforcement agencies shall enforce this section as a secondary action. A
2 violation of this section is a petty offense.

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

5 Terms used in this Act mean:

- 6 (1) "Electronic wireless communication device," a mobile communication device that
7 uses short-wave analog or digital radio transmissions or satellite transmissions
8 between the device and a transmitter to permit wireless telephone communications
9 to and from the user of the device within a specified area;
- 10 (2) "Voice operated or hands free technology," technology that allows a user to write,
11 send, or listen to a text-based communication without the use of either hand except
12 to activate, deactivate, or initiate a feature or function; and
- 13 (3) "Write, send, or read a text-based communication," using an electronic wireless
14 communications device to manually communicate with any person using text-based
15 communication including communications referred to as a text message, instant
16 message, or electronic mail.

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

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

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

23 For the purposes of equitable and uniform regulation and implementation, the Legislature
24 is the exclusive governmental regulator of all matters relating to distracted driving and use of

1 electronic wireless communication devices in motor vehicles.

2 Section 5. That chapter 32-26 be amended by adding thereto a NEW SECTION to read as

3 follows:

4 No electronic wireless communication device used in a violation of the provisions of this

5 Act may be seized by a law enforcement officer.