

State of South Dakota

EIGHTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2014

991V0578

SENATE BILL NO. 179

Introduced by: Senators Vehle, Bradford, Buhl O'Donnell, Ewing, Frerichs, Jones (Tom), Kirkeby, Lucas, Soholt, Sutton, Tidemann, and White and Representatives Munsterman, Bolin, Carson, Conzet, Duvall, Ecklund, Gibson, Hawley, Heinert, Hickey, Hoffman, Hunhoff (Bernie), Kirschman, Magstadt, Parsley, Ring, Rozum, Schoenfish, Sly, Soli, Tyler, and Werner

1 FOR AN ACT ENTITLED, An Act to prohibit the use of certain handheld electronic wireless
2 devices for electronic messaging while driving and to allow conflicting local ordinances.

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

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

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

- 9 (1) While the vehicle is lawfully parked;
- 10 (2) To contact any emergency public safety answering point or dispatch center;
- 11 (3) To write, read, select, or enter a telephone number or name in an electronic wireless
12 communications device for the purpose of making or receiving a telephone call; or
- 13 (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 § 23-1A-22 be amended to read as follows:

4 23-1A-22. If the plaintiff prevails in a petty offense case, the plaintiff shall be granted a
5 judgment of twenty-five dollars. If the plaintiff prevails in a petty offense case under section 1
6 of this Act, the plaintiff shall be granted a judgment of one hundred dollars. However, the trial
7 court may reduce or eliminate the award in the interest of justice. No award may be granted a
8 defendant in a petty offense case. If a deposit is required by this chapter, it shall be the amount
9 set by this section.

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

12 Terms used in this Act mean:

- 13 (1) "Electronic wireless communication device," a mobile communication device that
14 uses short-wave analog or digital radio transmissions or satellite transmissions
15 between the device and a transmitter to permit wireless telephone communications
16 to and from the user of the device within a specified area;
- 17 (2) "Emergency response vehicle," any ambulance, fire department, law enforcement, or
18 civil defense vehicle, or other vehicle used primarily for emergency purposes;
- 19 (3) "Voice operated or hands free technology," technology that allows a user to write,
20 send, or listen to a text-based communication without the use of either hand except
21 to activate, deactivate, or initiate a feature or function; and
- 22 (4) "Write, send, or read a text-based communication," using an electronic wireless
23 communications device to manually communicate with any person using text-based
24 communication including communications referred to as a text message, instant

1 message, or electronic mail.

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

4 A municipality or county may adopt or enforce any ordinance or policy at variance with
5 section 1 of this Act, but the penalty in the municipal or county ordinance shall be at least as
6 strict as the penalty in section 1 of this Act.