

2011 LEGISLATIVE UPDATE – NDDOT, SAFETY DIVISION

HB 1195 – Use of wireless communications device prohibited.

This bill created a new section to chapter 39-08 of the NDCC as follows:

39-08-23. Use of a wireless communications device prohibited.

1. The operator of a motor vehicle that is part of traffic may not use a wireless communications device to compose, read, or send an electronic message.

2. Under this section:

a. "Electronic message" means a self-contained piece of digital communication that is designed or intended to be transmitted between physical devices. The term includes e-mail, a text message, an instant message, a command or request to access a world wide web page, or other data that uses a commonly recognized electronic communications protocol. The term does not include:

(1) Reading, selecting, or entering a telephone number, an extension number, or voice mail retrieval codes and commands into an electronic device for the purpose of initiating or receiving a telephone or cellular phone call or using voice commands to initiate or receive a telephone or cellular phone call;

(2) Inputting, selecting, or reading information on a global positioning system device or other navigation system device;

(3) Using a device capable of performing multiple functions, such as fleet management systems, dispatching devices, smart phones, citizen band radios, music players, or similar devices, for a purpose that is not otherwise prohibited;

(4) Voice or other data transmitted as a result of making a telephone or cellular phone call; or

(5) Data transmitted automatically by a wireless communication device without direct initiation by an individual.

b. "Traffic" means operation of a motor vehicle while in motion or for the purposes of travel on any street or highway and includes a temporary stop or halt of motion, such as at an official traffic-control signal or sign. The term does not include a motor vehicle that is lawfully parked.

3. This section does not apply if a wireless communications device is used for obtaining emergency assistance to report a traffic accident, medical emergency, or serious traffic hazard or to prevent a crime about to be committed, in the reasonable belief that an

individual's life or safety is in immediate danger, or in an authorized emergency vehicle while in the performance of official duties.

HB 1251 – Interagency cooperation and Joint exercise of police power.

This bill created new sections to chapter 44-08 and chapter 54-40.3 of the NDCC as follows:

44-08-24. Interagency cooperation.

1. Any appointive or elective agency or office of peace officers, as defined in section 12-63-01, may establish policies and enter agreements with other agencies and offices and a state or local criminal justice agency of this state may establish policies and procedures or enter agreements with other criminal justice agencies of this state to:

- a. Assist other state and local criminal justice agencies; and
- b. Exchange the criminal justice agency's peace officers with peace officers of another criminal justice agency on a temporary basis.

2. A criminal justice agency may establish policies for assisting probation and parole officers who are supervising probationers or parolees in the criminal justice agency's jurisdiction.

3. a. When a peace officer provides assistance to another peace officer within the scope of the policies of the peace officer's employing criminal justice agency, the assistance must be within the line of duty and course of employment of the peace officer rendering the assistance.

b. When a peace officer acts on behalf of another agency or office within the scope of an exchange agreement entered under subsection 1, the peace officer's actions are within the peace officer's line of duty and course of employment to the same extent as if the peace officer had acted on behalf of the peace officer's employing agency.

4. This section does not extend or enlarge the duties or authority of any peace officer or any other law enforcement agent except as provided in this section.

54-40.3-04. Joint exercise of police power.

A state or a local criminal justice agency of this state, with the approval of its governing body, may enter an agreement in the manner provided in section 54-40.3-01 with another state or a political subdivision of another state, for the joint exercise of peace officer duties. A peace officer acting under an agreement pursuant to this section must be licensed under chapter 12-63, or if the peace officer is from another state, the officer must be licensed or certified by the other state's licensing or certifying authority. A

peace officer acting under an agreement pursuant to this section has full peace officer authority in any jurisdiction that is a party to the agreement. Before an agreement entered under this section is effective, the governing body for each criminal justice agency must have approved the agreement and the attorney general must have determined the agreement is legally sufficient.

SENATE BILL – 2112 Relating to commercial driver’s licenses and use of electronic devices

39-06.2-02. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

15. "Electronic device" includes a cellular telephone, personal digital assistant, pager, computer, or any other device used to input, write, send, receive, or read text.

27. "Serious traffic violation" means a conviction when operating a commercial motor vehicle of:

g. Violating a state or local law or ordinance prohibiting texting while driving.

29. "Texting" means manually entering alphanumeric text into, or reading text from, an electronic device. This action includes short message service, e-mailing, instant messaging, a command or request to access a worldwide web page, or engaging in any other form of electronic text retrieval or entry, for present or future communication. "Texting" does not include:

- a. Reading, selecting, or entering a telephone number, an extension number, or voice mail retrieval codes and commands into an electronic device for the purpose of initiating or receiving a telephone call using voice commands to initiate or receive a telephone call;
- b. Inputting, selecting, or reading information on a global positioning system or navigation system; or
- c. Using a device capable of performing multiple functions, including fleet management systems, dispatching devices, smartphones, citizens' band radios, or music players, for a purpose that is not otherwise prohibited in 49 CFR part 383.

SENATE BILL 2133 – Using false identification to obtain alcoholic beverages

5-01-08.3. Proof of age - Seizure of false identification.

1. A licensed retailer of alcoholic beverages or an employee of a licensed retailer may determine proof of age for purchasing or consuming an alcoholic beverage solely by inspection of one of the following:

- a. A valid driver's license or identification card issued by this state, another state, or a province of Canada which includes the photograph and date of birth of the licensed individual;
 - b. A valid military identification card issued by the United States department of defense; or
 - c. A valid passport issued or recognized by the United States.
2. A licensed retailer or an employee of a licensed retailer may seize a form of identification displayed as proof of age if the licensed retailer or an employee of a licensed retailer has a reasonable belief that the form of identification has been altered, falsified, or is being used to unlawfully obtain alcoholic beverages.
 3. Within twenty-four hours of seizing a form of identification as allowed under this section, a licensed retailer or an employee of a licensed retailer shall notify a law enforcement agency of the seizure and the law enforcement agency shall take possession of the identification within twenty-four hours after receipt of the notice.

SENATE BILL 2285 – Relating to arrests without a warrant and the 24/7 sobriety program

29-06-15. Arrest without warrant - Peace officer - Officer in the United States customs service or the immigration and naturalization service.

3. If a law enforcement officer has reasonable cause to believe an individual has violated a lawful order of a court of this state which requires the individual to participate in the twenty-four seven sobriety program authorized in sections 54-12-27 through 54-12-31, the law enforcement officer may take the individual into custody without a warrant. An individual taken into custody under this subsection may not be released on bail or on the individual's personal recognizance unless the individual has made a personal appearance before a magistrate.