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State of Minnesota  
**HOUSE OF REPRESENTATIVES**  
*First Division Engrossment*

NINETY-FIRST SESSION

**H. F. No. 1408**

02/18/2019 Authored by Koegel, Hornstein and Bernardy  
The bill was read for the first time and referred to the Committee on Ways and Means

**Division Action**

*Referred by Chair to the Transportation Finance and Policy Division*

03/07/2019 *Division action, to adopt as amended and return to the Committee on Ways and Means*

1.1 A bill for an act

1.2 relating to public safety; authorizing peace officers to issue citations based on

1.3 report from work zone flagger; prohibiting wireless communications device use

1.4 in work zones; providing penalties; amending Minnesota Statutes 2018, sections

1.5 169.06, subdivision 4a; 169.475, subdivisions 2, 3; proposing coding for new law

1.6 in Minnesota Statutes, chapter 160.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. **[160.075] ROAD CONSTRUCTION CONTRACTS; SPECIFICATIONS.**

1.9 (a) For purposes of this section, "live traffic contract" means a contract for road

1.10 construction, reconstruction, or maintenance, in which it is anticipated that:

1.11 (1) work zone flaggers are present within the work zone, as defined in section 169.011,

1.12 subdivision 95; and

1.13 (2) one or more lanes of traffic are open for vehicular travel and are adjacent to the

1.14 location of any workers.

1.15 (b) A road authority, including a statutory or home rule charter city, must include a bid

1.16 item for flagging hours within the specifications for a live traffic contract.

1.17 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies for contracts

1.18 advertised for bids on or after that date.

1.19 Sec. 2. Minnesota Statutes 2018, section 169.06, subdivision 4a, is amended to read:

1.20 Subd. 4a. **Obedience to work zone flagger; violation, penalty.** (a) A flagger in a work

1.21 zone may stop vehicles and, hold vehicles in place until it is safe for the vehicles to proceed.

1.22 ~~A person operating a motor vehicle that has been stopped by a flagger in a work zone may~~

2.1 ~~proceed after stopping only on instruction by the flagger or a police officer, and direct~~  
2.2 vehicles to proceed when it is safe. A driver who does not comply with an instruction made  
2.3 by a flagger in a work zone under this paragraph is guilty of a petty misdemeanor and must  
2.4 pay a fine of \$300 in addition to the surcharge under section 357.021, subdivision 6.

2.5 (b) A person convicted of operating a motor vehicle in violation of a speed limit in a  
2.6 work zone, or any other provision of this section while in a work zone, shall be required to  
2.7 pay a fine of \$300. This fine is in addition to the surcharge under section 357.021, subdivision  
2.8 6.

2.9 (c) If a motor vehicle is operated in violation of paragraph (a), the owner of the vehicle,  
2.10 or for a leased motor vehicle the lessee of the vehicle, is guilty of a petty misdemeanor and  
2.11 is subject to a fine as provided in paragraph ~~(b)~~ (a). The owner or lessee may not be fined  
2.12 under this paragraph if (1) another person is convicted for that violation, or (2) the motor  
2.13 vehicle was stolen at the time of the violation. This paragraph does not apply to a lessor of  
2.14 a motor vehicle if the lessor keeps a record of the name and address of the lessee.

2.15 (d) Paragraph (c) does not prohibit or limit the prosecution of a motor vehicle operator  
2.16 for violating paragraph (a).

2.17 (e) A violation under paragraph (c) does not constitute grounds for revocation or  
2.18 suspension of a driver's license.

2.19 (f) A peace officer may issue a citation to the operator of a motor vehicle if the peace  
2.20 officer has probable cause to believe that the person has operated the vehicle in violation  
2.21 of paragraph (a). In addition to other evidentiary elements or factors, a peace officer has  
2.22 probable cause under this subdivision if:

2.23 (1) a qualified work zone flagger has provided a report of a violation of paragraph (a)  
2.24 that includes a description and the license plate number of the vehicle used to commit the  
2.25 offense, and the time of the incident;

2.26 (2) the person is operating the vehicle described in the report; and

2.27 (3) it is within the four-hour period following the time of the incident, as specified in  
2.28 the report.

2.29 (g) A work zone flagger is qualified to provide a report under paragraph (f) if each  
2.30 flagger involved in the reporting has completed training that includes information on flagging  
2.31 operations, equipment, traffic laws, observation and accurate identification of motor vehicles,  
2.32 and delegation of duties involving a report under paragraph (f).

3.1 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to violations  
3.2 that occur on or after that date.

3.3 Sec. 3. Minnesota Statutes 2018, section 169.475, subdivision 2, is amended to read:

3.4 Subd. 2. **Prohibition on use; penalty.** (a) No person may operate a motor vehicle while  
3.5 using a wireless communications device to compose, read, or send an electronic message,  
3.6 when the vehicle is in motion or a part of traffic.

3.7 (b) When a motor vehicle is in motion or a part of traffic, the person operating the vehicle  
3.8 is prohibited from using a wireless communications device while in a work zone, which  
3.9 includes but is not limited to engaging in a cellular phone call, including initiating a call,  
3.10 talking or listening, and participating in video calling.

3.11 (c) A person who violates ~~paragraph (a)~~ this subdivision a second or subsequent time  
3.12 must pay a fine of \$225, plus the amount specified in the uniform fine schedule established  
3.13 by the Judicial Council.

3.14 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to violations  
3.15 that occur on or after that date.

3.16 Sec. 4. Minnesota Statutes 2018, section 169.475, subdivision 3, is amended to read:

3.17 Subd. 3. **Exceptions.** This section does not apply if a wireless communications device  
3.18 is used:

3.19 (1) solely in a voice-activated or other hands-free mode;

3.20 (2) except for the prohibition under subdivision 2, paragraph (b), for making a cellular  
3.21 phone call;

3.22 (3) for obtaining emergency assistance to (i) report a traffic accident, medical emergency,  
3.23 or serious traffic hazard, or (ii) prevent a crime about to be committed;

3.24 (4) in the reasonable belief that a person's life or safety is in immediate danger; or

3.25 (5) in an authorized emergency vehicle while in the performance of official duties.

3.26 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to violations  
3.27 that occur on or after that date.