

## **Distracted Driving and Amateur Radio – First appeared in the SARC Communicator June 1, 2016**

I am not a lawyer – this is based on information we have compiled, conversations with the Solicitor General, the Superintendent of Motor Vehicles and some of the Province’s Senior Policy advisors.

### **The background:**

An Amateur Radio operator was ticketed under British Columbia’s Distracted Driving law. He went to traffic court and was found guilty by the Magistrate. The Magistrate ruled that the hand microphone he was using, with multiple buttons on it, was an electronic device, and he had it in his hand.

Two members of the Delta Amateur Radio Society and the RAC Director for BC & YT, met with the Provincial government to discuss Amateur Radio and Distracted Driving on April 25, 2016. Attending were the Solicitor General (Minister Mike Morris), the Superintendent of Motor Vehicles (Sam MacLeod) and the Minister of State for Emergency Preparedness (Naomi Yamamoto), several Policy Advisors and the Delta South MLA Vicki Huntington (Ind).

We identified that we were concerned that the apparent exemption for Amateur Radio Operators had been removed from the MOJ guide. In addition, at least one Amateur had been charged and convicted of Distracted Driving for using their hand microphones while in their vehicle. We also highlighted the inconsistencies in the wording of the regulations, and that the MOJ handout was downright wrong in some of the information it was providing. We offered to work with the Province to correct the errors, and to help reword the legislation to make it clear what was legal, and what wasn’t, when it came to using Amateur Radio in a moving vehicle.

We subsequently held a working session on May 27, 2016, which was a very productive meeting with a Senior Policy Advisor and his associate, two members of the Delta club, and myself. We discussed our concerns, we explained more about how Amateur Radio was used, and we reviewed our suggested rewording of the language that governs Distracted Driving. There will be more working sessions.

The Province explained their position, that Distracted Driving was a rapidly growing problem, and was resulting in a steadily increase in deaths, injuries and accidents. We have all heard that the government have substantially increased the penalties, both with fines and points totaling \$543 and 4 points for a first offense, as of June 1st, 2016.

The Province will be conferring with stakeholder groups (of which Amateur Radio is one), including the trucking industry, taxi cab industry, Police etc. They are also looking into what other Jurisdictions are doing, so they can better understand the range of options that they have. This is going to take some time, and if Legislative or Regulatory changes are required – even more time.

### **So what is legal today?**

Remember – I’m not a lawyer. As I understand it, if you have a transceiver, firmly attached to your body, or your vehicle, and it has a hand microphone, with only one button - a push to talk switch, you are legal using it when you are driving. There are some caveats, it can’t obstruct your view forward or

sideways, and the hand mike must be within easy reach of the driver. So the first problem, who has a hand mike that has more than just a push to talk button on it? Probably all of us.

First thing to do – don't use any of those other buttons while driving. My smartphone has a lot of things on it that I can't use while driving, so I don't. Apparently it is not a problem for you to reach over to the radio, and physically turn the volume up or down, or to change frequencies or channels. You do the same thing using the buttons on your hand mike, and it would be considered Distracted Driving!

There are also some things that are not supported under the current rules. For example, push to talk on the driving wheel, on the floorboard or a headset with VOX are not, technically, supported. Oh yes, hands free using Bluetooth to the transceiver isn't covered as well. My daily drive radio has a separate speaker – it doesn't use the hand mike as a speaker – not legal.

Now I think you are starting to see the problem. So is the Province. They are prepared to work with us to address the issues, but I doubt we will ever get an 'exemption' and it is going to take time. What do you do if you get a ticket? Be polite, point out that it is a handheld microphone tethered to the radio, firmly attached to your vehicle and you were only using the push to talk button as permitted under the regulations. Carrying a copy of B.C Reg. 308/209 (available on [www.bclaws.ca](http://www.bclaws.ca)) along with your ham certificate could help justify your radio operation. Contest the ticket, then contact me and we will work with you to mount a defense, hire a lawyer (we'll be passing the hat for that) and we'll fight it.

In the meantime, we will continue to work with the Senior Policy Advisors and make sure they understand the issues, the options and what the wording of their regulations / legislation means to Amateur Radio Operators, our use of the equipment and our ability to be prepared should our volunteer services be required.

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