

Manitoba's Bill 5 - THE HIGHWAY TRAFFIC AMENDMENT ACT
(PROMOTING SAFER AND HEALTHIER CONDITIONS IN MOTOR VEHICLES)

Manitoba like most other provinces & territories have or are in the process of issuing a Bill to restrict the use of cell phones in motor vehicles while driving due to the number of accidents that have happened by inattentive drivers. When Bill 5 came out in Manitoba it was worded in a very broad form that basically said;

The Bill also prohibits drivers from using a cell phone or similar electronic communication device except

- *to make a hands-free telephone call;*
- *while pulled over and stopped; or*
- *to communicate with a police, fire or ambulance service in an emergency.*

The bill also said in the definitions portion;

Definitions re hand-operated electronic devices

215.1(1) The following definitions apply in this section.

"hand-operated electronic device" means

- (a) a cellular telephone;*
- (b) another electronic device that*
 - (i) **includes a telephone function**, and*
 - (ii) normally is held in the user's hand during use or requires the user to use his or her hand to operate any of its functions;*
- (c) an electronic device that is not otherwise described in clause (a) or (b) but that*
 - (i) is capable of transmitting or receiving e-mail or other text-based messages, and*
 - (ii) normally is held in the user's hand during use or requires the user to use his or her hand to operate any of its functions; or*
- (d) any other electronic device that is prescribed as a hand-operated electronic device by the regulations.*

"use", in relation to a hand-operated electronic device, means any of the following actions:

- (a) holding the device in a position in which it may be used;*
- (b) operating any of the device's functions;*
- (c) communicating by means of the device with another person or another device, by spoken word or otherwise;*
- (d) looking at the device's display; and*
- (e) taking any other action with or in relation to the device that is prescribed by the regulations.*

When you look up the definition of "Telephone" in Webster's or any other dictionary, you will see that two-way radio falls under this definition. As such, we felt that Amateur Radio would be affected by this bill. On the urging of VE4HAY, the assistant Midwest Director of Radio Amateurs of Canada (RAC) a committee was formed to look into bill 5 and to develop a plan to have the bill changed.

The committee

The committee immediately said they did not want every amateur to write to their member of Legislative Assembly (MLA) but, to allow the committee to develop a carefully thought out plan. We came up with the theme of promoting Amateur Radio as a service to the community, via the work that is done mainly with ARES and CanWARN but, also on community events where Amateur Radio is extensively used. We stressed the point that if Amateur Radio is restricted from mobile use, then Amateur Radio operators will not purchase the mobile rigs (\$200.00 - \$1800.00), and we will not mount them in our vehicles, and thusly will not be able to assist in the event of an emergency or a public service. Examples of how Amateur Radio has been of assistance in Manitoba were presented starting with the Flood of 1997, Canada's only F5 tornado in 2007 and the spring flood of 2009. To aid us in our effort to promote the good service Amateur Radio provides, we asked for third party letters of support calling for no restriction to Amateur Radio in Motor Vehicles. These were provided by a number of municipalities whom Amateur Radio operators had just finished assisting during the Spring 2009 flood. As they say timing is everything, and it certainly paid off for us. We also informed a number of other users of the radio spectrum that might be affected by this bill in an effort to gain a wider user approach to the bill.

The presentation.

Amateur Radio Operators, VE4HAY, VE4MBQ and VE4BAW all made excellent presentation at the committee stage of the bill. We were each well, received and thanked personally by a number of the MLA's and Ministers. However, when the night ended only an amendment for Police, Fire and ambulance exemption was added to the bill. We thought we were dead at this point, and we were trying to figure out where we could have gone wrong, and how we could make a last ditched presentation to the people who would be making any regulations that would go along with the bill. The spring session of the legislature was about to end, and we knew the bill would be passed but, we just could not get a meeting scheduled with regulators. Then at the last moment at the report Stage of the Bill an amendment was added that says.

Exception — certain radios and other equipment

215.1(3.2) Subsection (2) does not apply to the use of

(a) a radio apparatus, as defined in section 2 of the Radiocommunication Act (Canada), that

(i) is operated under the authority of a radio operator certificate issued under that Act,

This amendment now allows for Amateur Radio operators (who are issued a certificate) to use their radio while mobile in a motor vehicle as we have always done.

I want to personally thank Geoff, VE4BAW and Jeff, VE4MBQ for the very hard work they did, and to all on the committee, who worked back room magic, met with Ministers in hallways, or on curling ice, or wherever they ran into them, and raised our issues. It was only through a coordinated effort with cooler heads and with a plan that we were able to be exempted in the bill, as compared to be allowed by regulation.

Copies of the bill and the amendments are attached as well as a copy of my rough draft presentation at the committee stage.

73,

Derek Hay,



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Committee presentation on BILL 5 before the Manitoba Legislature by Derek Hay, VE4HAY on behalf of Radio Amateurs of Canada

Salutation to the committee chair and the committee,

I thank you for allowing myself to speak on the issue before you. I am a federally license and permitted Amateur Radio Operator since December 1990 under the federal regulated Radiocommunications Act. For the last eighteen plus years, I have operated my two-way radio station both in fixed mode and mobile mode without an indecent of any kind. I like many of the nearly nineteen hundred licensed amateur radio operators in Manitoba have put a lot of effort into ensuring we operate our radios in a safe manner be it in fixed mode or mobile mode. Having talked to many of the other Amateur radio operators in Manitoba, no one can recall any accident involving a motor vehicle that was attributed to an Amateur Radio Operator operating their radio at the time of the accident. This bill as it stands now will restrict the ability of an amateur radio operator to use their radio equipment in a mobile environment, and in particular during the honoured ability to assist in the event of disaster or emergency.

Amateur Radio operators provide emergency and public service communications on a volunteer, uncompensated basis. Amateur Radio is an avocation, which is intended by the Federal department of Industry Canada to encourage and promote technical self-training, international goodwill, non-commercial communication service (particularly with respect to emergency communications). Amateur Radio operators are responsible for many advances in electronics and telecommunications technology over the past 100 years.

Amateur Radio operators routinely equip their motor vehicles with two-way radios, operated most often with hand-held microphones. The radios are typically installed in the vehicles and utilize fixed mounted speakers. Unlike cellular telephones, the speakers are not held to the face; the radios remain in the receive mode most of the time; transmissions typically are brief and infrequent. The microphone is held only when a transmission is being made or is imminent, and otherwise is stowed in a position where the operator can reach it without removing his or her eyes from the road. Amateur operators often conduct mobile communications as participants in networks of stations, controlled often by a fixed station, not unlike commercial dispatch mobile radio systems. Radio amateurs have regularly used mobile two-way radio systems for the past 70 years.

The Province of Manitoba encourages mobile amateur radio operation as a public benefit. Every municipality in Manitoba is required to have an emergency plan in place, and the Manitoba Emergency Measures Organization encourages each municipality to include amateur radio into their plan. I urge you to contact the office of the Honourable Minister Steve Aston, Minister responsible for the Manitoba Emergency Measures Organization (MEMO) and ask him how MEMO plans to operate in the field, when the users of the radio equipment, be it their own people or their backup amateur radio operators are restricted in their use while operating in mobile mode.

To aide the authorities, the Province of Manitoba has issued personalized vehicle license plates since the early 1960's to motor vehicles of licensed radio amateurs showing their Industry Canada assigned call letters, in order to identify a particular vehicle as a mobile-radio equipped and/or an amateur radio operator driven vehicle.

The ability for an amateur radio operator to use their radio while mobile in a motor vehicle is a very import part of their function in their relaying of information from the field to a central dispatcher and then on to various government departments or other served agencies. Ham radio operators were, an important member of the 1997 Flood of the Century, being placed behind the ring dikes with their own equipment sending information back to Winnipeg on the conditions in the field. Ham radio operators also relayed information during times of severe storms such as last summers F5 tornado near Elie. This information is sent directly to the amateur radio CANWarn station located in the Prairie Storm Prediction Centre of Environment Canada office on Main Street. During non-emergency times amateur radio provides communication service for a number of public service event such as for the Manitoba Marathon. Without the services of Amateur Radio, the Manitoba Marathon would not have been able to operate over these many years. It is the behind the scenes use of amateur radio that supports the runners by providing medical, therapy and aid dispatch through out the course.

In other words Amateur Radio is used in motor vehicles in much the same way that emergency services (i.e. police, fire, ambulance, public works, Transportation etc...) use their radios in their motor vehicles. While these emergency services use their radio for routine exchange of information on a daily basis and on occasion exchange emergency information during times of crisis, Amateur radio operators also use their radios on a daily basis exchanging information between each other. While this information is personal in nature for 95% of the time, it is also used to develop skills and knowledge of radio use that can and do get used during times of need, be it public service or during emergency situations.

For Amateur Radio Operators to safely operate their vehicles and their two-way equipment it is imperative that they be trained. It is only through the day to day continued use of Amateur Radio while in mobile mode can the Amateur Radio Operators be properly trained in its safe use. There is not point in having the equipment mounted and ready for use, if the operators have not been trained in the proper use of the equipment while in a calm environment, so that they can ready to serve when called upon, and be able to perform that service in a stress filled environment. There is not one service anywhere in the world that trains during actual emergencies. All training is done in non-emergency times, and it is that repetitive training to the point where it becomes almost routine that really aids the operator to perform their service, during an emergency.

If Amateur Radio Operators are restricted in their use of two-way radio equipment operation while in their vehicles, they will tend not to mount their equipment in said vehicles. And thusly they will tend not to invest the \$200 - \$1500.00 + on mobile radio

equipment. And thus, when the need or emergency comes up, Amateur Radio will not be equipped to perform their requested service.

The documentation I have submitted is just a small example of some of the emergency assistance and public service work that amateur radio has provided to the citizens of Manitoba. You have all heard of examples where Amateur Radio (HAM) is the only form of communication that is working. Think of Katrina, the Tsunami of 2007, the Earthquakes around the world. There are countless other examples that I can draw upon all over world, the United States, Canada and even right here in Manitoba. The examples all show one thing - that "When all else fails, Amateur Radio is there"

The simple approach for this committee to take is to add a clause to the bill such as;

" Communication apparatus &/or persons licensed or permitted to operate under the Canada Radiocommunications Act are exempt".

This one line would negate the need to make separate amendments for police, fire, ambulance, public service, amateur radio operators, and other licensed users of the radio waves, who might need to be specifically named under the proposed law or regulations. In all cases, the person, the equipment or both are licensed under federal law. It would also avoid any challenges to the law over federal-provincial jurisdictional issues. Since neither cellphones nor their users are actually licensed, they would not be exempted. However, if any of the exempted people abused common sense, they too could be charged for careless or dangerous driving under already existing laws.

The intent of Bill-5 is to make highways safer by prohibiting drivers from demonstrable high-risk activities such as handheld cellphone use, text messaging, and watching entertainment videos. This must be balanced with the historically low risk presented by trained amateur radio operators who have passed a rigorous Government of Canada regulated examination in order to earn the privilege of operating Amateur Radio equipment. After decades of mobile Amateur Radio operations, there has been no concern voiced by this province or any other province in Canada and I note that the provinces of Quebec, Nova Scotia, and Newfoundland and Labrador exempted Amateur Radio from the provisions of their provincial equivalents to Bill 5. The Province of Ontario is being asked by Radio Amateurs of Canada for the same exemption.

In closing, to ensure that Amateur Radio remains a viable resource for emergency response officials and public service activities I request, **Mr/Ms. Chairman/woman** and your committee members give Manitoba Amateur Radio Operators similar consideration.

Thank you



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