

Communiqué 2012-03

Amendment to the Ban of Cellular Telephone Use While Driving

The ban on the use of cellular telephones while driving came into force in April 2008. Since that time different police departments have issued tickets for the use of various types of devices which could be construed as telephone systems. Those who have received these tickets have vigorously contested them. The courts which have heard these cases have expanded considerably on the meaning of the law to include a multitude of communications equipment far from being cellular telephones.

RAQI has periodically made representations to various government authorities with a view to excluding amateur radio equipment from the ban on the use of cellular telephones while driving. On different occasions such as the RAQI nets or when meeting with club members RAQI has explained that the SAAQ and the Ministry of Transport were waiting to see in which direction the courts would interpret the cellular telephone law.

RAQI has also pointed out that radio amateurs are not the only group affected by the wider interpretation of the courts. For example, among others, the Ministry of Transport itself, Hydro Québec and many others cannot use their radio communications equipment in their own vehicles.

After four years of uncertainty the situation has now been clarified by amendments to the Highway Safety Code which came into effect this past June 6. The new article 439.1 of the code reads as follows:

439.1. No person may, while driving a road vehicle, use a hand-held device that includes a telephone function.

For the purposes of this section, a driver who is holding a hand-held device that includes a telephone function is presumed to be using the device.

This prohibition does not apply to drivers of emergency vehicles in the performance of their duties.

The first paragraph does not apply to a two-way radio, that is to say a cordless voice communication device which does not allow the parties to speak simultaneously.

The Minister may, by order, determine other situations or types of devices to which the prohibition set out in the first paragraph does not apply.

The underlined text is the two paragraphs added on June 6, 2012.

The legislature has retained the spirit of the 2008 law to prevent the use of cellular telephones by the general public while driving without restricting those using radio communications systems which were already in use before the arrival of cellular telephones, such as amateur radio.

RAQI is proud to have contributed, by its representations to the authorities concerned, to the clarification of the text of the law banning the use of cellular telephones while driving and permitting ALL QUEBEC RADIOAMATEURS and not just members of RAQI to continue to use their mobile communications equipment in their vehicles as they always have.

RAQI hopes that the radio amateur community recognizes the importance of a strong provincial association and the support it provides.

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