

LEGAL SERVICES

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MEMORANDUM

January 17, 2012

SUBJECT: Sectional Analysis of HB 255 (Work Order No. 27-LS1165\I)

TO: Representative Les Gara
Attn: Rose Foley

FROM: Doug Gardner
Director



You have requested a sectional summary of HB 255. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Section one of the bill amends the uncodified law of Alaska by adding a new section providing for a statement of purpose by the legislature regarding the bill. In essence, the statement of purpose reflects that while the legislature is of the opinion that AS 28.35.161 currently prohibits the use of a cellular telephone, computer, personal data assistant or any other similar means for texting or communicating while driving a motor vehicle, that the purpose of the bill is to further clarify that use of these types of devices in the manner currently provided by AS 28.35.161, is prohibited conduct.

Section 2. Section two of the bill adds the phrase "while texting, while communicating on a computer" to AS 28.35.162(a) to clarify that texting or communicating on a computer is included as prohibited conduct by the existing language of the bill." Section two of the bill also splits the offense into two prosecution theories of prohibited conduct. The first theory utilizes the existing language of the statute regarding the prohibited conduct of driving a motor vehicle while the vehicle has a television, video monitor, portable computer, or any other similar means capable of providing a visual display that is in full view of the driver in a normal driving position while the vehicle is in motion and the monitor or visual display is operating while the person is driving. The second prosecution theory added by the bill by adding a new subsection (a)(2) to AS 28.35.161, prohibits the conduct of driving a motor vehicle while the person is reading or typing a text message or other nonvoice communication on a cellular telephone, personal data assistant, computer or any other similar means capable of providing a visual display that is in view of the driver in a normal driving position while the vehicle is in motion and the person is driving.

Section 3. Section three amends the existing language of AS 28.35.161(b) to make the existing language of this subparagraph, which restricts installation of equipment set out in either AS 28.35.161(a)(1) or 28.38.161(a)(2), consistent with the additional language added by section two of the bill.

Section 4. This section of the bill replaces the existing use of the term "verbal" with "voice," to clarify that this bill continues, as AS 28.35.161 does at present, to allow the conduct of for example "voice" communication on a cellular telephone or other device, as distinguished from the existing prohibited conduct as clarified by section two of the bill, which includes texting, typing a text message or reading a text message, watching television etc., while driving.

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