

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

March 16, 2009

1:07 p.m.

MEMBERS PRESENT

Representative Jay Ramras, Chair
Representative Nancy Dahlstrom, Vice Chair
Representative John Coghill
Representative Carl Gatto
Representative Bob Lynn
Representative Max Gruenberg
Representative Lindsey Holmes

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 102

"An Act relating to the Uniform Commercial Code, to the general provisions of the Uniform Commercial Code, to documents of title under the Uniform Commercial Code, to the Uniform Electronic Transactions Act, and to lease-purchases of personal property; amending Rules 403 and 902, Alaska Rules of Evidence; and providing for an effective date."

- MOVED CSHB 102(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 15

"An Act relating to prohibiting the use of cellular telephones by minors when driving a motor vehicle; and providing for an effective date."

- MOVED CSHB 15(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 35

"An Act relating to notice and consent for a minor's abortion; relating to penalties for performing an abortion; relating to a judicial bypass procedure for an abortion; relating to coercion of a minor to have an abortion; relating to reporting of abortions performed on minors; amending Rule 220, Alaska Rules of Appellate Procedure, and Rule 20, Alaska Probate Rules, relating to judicial bypass for an abortion; and providing for an effective date."

- BILL HEARING CANCELED

PREVIOUS COMMITTEE ACTION

BILL: HB 102

SHORT TITLE: UNIFORM COMMERCIAL CODE

SPONSOR(S): LABOR & COMMERCE

01/30/09	(H)	READ THE FIRST TIME - REFERRALS
01/30/09	(H)	L&C, JUD
02/13/09	(H)	L&C AT 3:15 PM BARNES 124
02/13/09	(H)	Moved Out of Committee
02/13/09	(H)	MINUTE(L&C)
02/16/09	(H)	L&C RPT 5NR
02/16/09	(H)	NR: LYNN, BUCH, NEUMAN, CHENAULT, OLSON
02/16/09	(H)	L&C AT 3:15 PM BARNES 124
02/16/09	(H)	<Bill Hearing Canceled>
03/16/09	(H)	JUD AT 1:00 PM CAPITOL 120

BILL: HB 15

SHORT TITLE: BAN CELL PHONE USE BY MINORS WHEN DRIVING

SPONSOR(S): GARDNER, TUCK

01/20/09	(H)	PREFILE RELEASED 1/9/09
01/20/09	(H)	READ THE FIRST TIME - REFERRALS
01/20/09	(H)	JUD, FIN
03/16/09	(H)	JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

TERRY L. THURBON, Commissioner

National Conference of Commissioners on Uniform State Laws
(NCCUSL)

Juneau, Alaska

POSITION STATEMENT: Presented HB 102 on behalf of the sponsor,
the House Labor and Commerce Standing Committee.

WILLIAM H. HENNING, Commissioner

National Conference of Commissioners on Uniform State Laws
(NCCUSL)

Tuscaloosa, Alabama

POSITION STATEMENT: Assisted with the presentation of HB 102.

REPRESENTATIVE BERTA GARDNER

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented HB 15 as one of the bill's joint prime sponsors.

NOAH HANSON, Staff
Representative Berta Gardner
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Assisted with the presentation of HB 15 on behalf of one of the bill's joint prime sponsors, Representative Gardner.

MICHAELA RICE
Fairbanks, Alaska

POSITION STATEMENT: Expressed disagreement with HB 15.

ALBERT JUDSON
Haines, Alaska

POSITION STATEMENT: Testified in opposition to HB 15.

CINDY CASHEN, Administrator
Highway Safety Office
Division of Program Development
Department of Transportation & Public Facilities (DOT&PF)
Juneau, Alaska

POSITION STATEMENT: Provided comments during discussion of HB 15.

SHELDON E. WINTERS, Attorney at Law
Lessmeier & Winters
Lobbyist for State Farm Insurance Company
Juneau, Alaska

POSITION STATEMENT: Provided comments during discussion of HB 15.

ROY E. HOYT, JR.
Homer, Alaska

POSITION STATEMENT: Provided comments during discussion of HB 15, and suggested that it should be altered to apply to drivers of all ages.

JENNIE MORRIS
Anchorage, Alaska

POSITION STATEMENT: Provided comments during discussion of HB 15, and indicated a preference for having the bill apply to drivers of all ages.

JOHN ULCZYCKI, Group Vice President

Research, Communications, and Advocacy
National Safety Council (NSC)
Wilmette, Illinois

POSITION STATEMENT: Provided comments during discussion of HB 15, and encouraged members to support the bill.

ANNE CARPENETI, Assistant Attorney General
Legal Services Section
Criminal Division
Department of Law (DOL)
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 15, and responded to questions.

ACTION NARRATIVE

[1:07:17 PM](#)

CHAIR JAY RAMRAS called the House Judiciary Standing Committee meeting to order at 1:07 p.m. Representatives Ramras, Gruenberg, Holmes, Dahlstrom, Coghill, Gatto, and Lynn were present at the call to order.

HB 102 - UNIFORM COMMERCIAL CODE

[1:08:05 PM](#)

CHAIR RAMRAS announced that the first order of business would be HOUSE BILL NO. 102, "An Act relating to the Uniform Commercial Code, to the general provisions of the Uniform Commercial Code, to documents of title under the Uniform Commercial Code, to the Uniform Electronic Transactions Act, and to lease-purchases of personal property; amending Rules 403 and 902, Alaska Rules of Evidence; and providing for an effective date."

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REPRESENTATIVE DAHLSTROM moved to adopt the proposed committee substitute (CS) for HB 102, Version 26-LS0059\S, Bannister, 2/24/09, as the work draft. There being no objection, Version S was before the committee.

REPRESENTATIVE GRUENBERG, noting that HB 102 was introduced [by the House Labor and Commerce Standing Committee] at the request of the National Conference of Commissioners on Uniform State Laws (NCCUSL), explained that the bill proposes technical

changes to Alaska's statutes thereby reflecting changes made to Article 1 and Article 7 of the Uniform Commercial Code (UCC).

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TERRY L. THURBON, Commissioner, National Conference of Commissioners on Uniform State Laws (NCCUSL), explained that the NCCUSL has identified changes to the UCC that would be beneficial for states to adopt, and that the changes proposed via HB 102 pertain to the statutes that govern the commercial transactions occurring in the state, reflect the use of modern-day technology for such transactions, and will help bring Alaska's laws up to date. She mentioned that she would only be addressing the sections in Version S that pertain to the UCC, and would not be speaking to the bill's proposed changes to Title 9 or Title 34.

REPRESENTATIVE HOLMES noted that proposed AS 45.01.211(b)(15) says, "'defendant' includes a person in the position of defendant in a counterclaim, cross-claim, or third-party claim;" and questioned whether the word "claim" ought to be included as part of that definition.

REPRESENTATIVE GRUENBERG explained that AS 01.10.040(b) states that when the words "includes" or "including" are used in a law, they shall be construed as though followed by the phrase, "but not limited to". He surmised, therefore, that the definition in proposed AS 45.01.211(b)(15) already includes claims.

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WILLIAM H. HENNING, Commissioner, National Conference of Commissioners on Uniform State Laws (NCCUSL), concurred with that explanation, adding that the UCC contains the same definition as proposed AS 45.01.211(b)(15).

REPRESENTATIVE GRUENBERG observed that Version S's proposed AS 45.07.302 - regarding through bills of lading and similar documents of title - now reflects current federal law. In response to a question regarding the bill's indirect court rule changes, he explained that proposed AS 45.01.303(g) would require that if there is evidence of a relevant trade practice offered by one party, that party must give sufficient notice to the other party so as not to surprise the other party; and that proposed AS 45.01.307 would establish that documents required by the contract to be issued by a third party would be what he characterized as "self-authenticating." Such documents, he

proffered, would be easier to introduce [in court] and yet still be subject to challenge.

MR. HENNING added that the language of proposed AS 45.01.307 [is identical to that currently] in the UCC; that proposed AS 45.01.303(g) contains language that has always been part of the UCC, and is not a burden-shifting mechanism; and that both provisions are consistent with federal [court] rules.

MS. THURBON in response to comments, relayed that [Alaska's NCCUSL commissioners and the drafter] took a conservative approach with regard to including language that would effect indirect court rule changes, and are therefore not completely certain that the bill's proposed changes to the UCC really will result in "standards that are different than would occur under the court rules as they stand," but included the provisions authorizing indirect court rule changes in order to update Alaska's statutes even if indirect court rule changes do result. She offered her understanding that "these provisions of the revised [UCC] are consistent with other uniform Acts that [the NCCUSL] has developed except to the extent some of those might not yet have been updated."

MS. THURBON, in response to a question, relayed that with regard to the UCC provisions, there is wide support - nationally - from the warehousing industries, and that the business section of the Alaska Bar Association (ABA) is amenable to [the proposed changes to state law]. Therefore, although it might not be urgent that the state adopt the proposed updates, doing so is in order if Alaska is going to stay on track with the rest of the country, particularly with regard to the warehousing provisions, and particularly given that [almost 40 states either already have adopted or will be adopting updates to the UCC]. Moreover, from the perspective of various operators, a failure to update Alaska's warehousing provisions could make it a little riskier to do business in Alaska. In conclusion, she said she doesn't see a downside to the [updated] UCC provisions.

CHAIR RAMRAS agreed.

[1:32:23 PM](#)

REPRESENTATIVE DAHLSTROM asked whether shipping rates to Alaska would be positively affected by the adoption of HB 102.

MS. THURBON declined to venture whether such would be the case, but suggested that adopting the bill might make it easier to

litigate excessive rates. In response to another question, she relayed that the bill is not intended to fix a particular problem with Alaska law, that Alaska is already behind other states with regard to updating its commercial code to reflect the use of new technology, and that the bill would conform state law to what is already occurring.

MR. HENNING explained that during the 1990s, through about 2001, there was a major effort to revise the UCC generally, with one of the goals being to create a neutral playing field for technological advancements such as electronic signatures, for example. Of the several revisions to various articles of the UCC that have occurred over the last several years, HB 102 reflects some of the latest revisions as well as aspects of "the model that was created by the Uniform Transactions Act," which Alaska has adopted. Providing for electronic certificates of title, for example, will help knit the rest of the UCC together, and will bring Alaska up to date with regard to what's already occurring in the commercial community. In conclusion, he said he couldn't think of a single negative aspect [to adopting the revisions to the UCC].

CHAIR RAMRAS, after ascertaining that no one else wished to testify, closed public testimony on HB 102.

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REPRESENTATIVE DAHLSTROM moved to report the proposed CS for HB 102, Version 26-LS0059\S, Bannister, 2/24/09, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 102(JUD) was reported out of the House Judiciary Standing Committee.

HB 15 - BAN CELL PHONE USE BY MINORS WHEN DRIVING

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CHAIR RAMRAS announced that the final order of business would be HOUSE BILL NO. 15, "An Act relating to prohibiting the use of cellular telephones by minors when driving a motor vehicle; and providing for an effective date."

[1:40:31 PM](#)

REPRESENTATIVE BERTA GARDNER, Alaska State Legislature, speaking as one of the joint prime sponsors of HB 15, posited that all legislators have heard from constituents who wish to see the use

of cellular ("cell") phones while driving banned. There have been a few accidents in her district, she relayed, and noted that this has engendered a discussion within the community regarding [such a ban]. She indicated that she's been thinking about this [issue] for several years, and proffered that there are several ways of approaching it. One way would be to ban all cell phone use by drivers of motor vehicles, though there might be significant opposition to such a proposal. Another way, which California is attempting, would be to ban cell phone use unless it was "hands-free." She opined, however, that it is not using one's hands that causes the problem, but rather having one's brain engaged in a way that's separate from driving. She relayed that she's recently heard from a person who'd been run over by a young person talking on a cell phone while driving; the man said he'd made eye contact with the driver before stepping off the curb but she ran over him anyway because she hadn't really been paying attention - she had been preoccupied with her phone conversation.

REPRESENTATIVE GARDNER offered her belief that there is a broad consensus to do something about [the problems associated with driving while using a cell phone], said her plan is to start with banning minors from using cell phones while driving, and pointed out that there is a lot of precedent for treating minors differently than adults. She predicted that taking this approach, rather than banning all persons from using a cell phone while driving, would garner less opposition, thereby increasing the likelihood that such legislation would pass. She indicated that members' packets contain statistics regarding, among other things, the frequency with which cell phone use by drivers has been implicated in motor vehicle accidents.

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NOAH HANSON, Staff, Representative Berta Gardner, Alaska State Legislature, said data he's received from the Department of Transportation & Public Facilities (DOT&PF) indicates that from 2002 through 2006, approximately one-third of all the vehicle accidents occurring in Alaska involving cell phone use also involved drivers between the ages of 16 and 20; that people in this age range have the highest crash fatality rate in the nation; and that 63 percent of teenage-passenger deaths occur when other teenagers are driving. These statistics are so high, he surmised, because young drivers do not have the skill level or experience that older drivers have. When minors are learning to drive, they need to keep their focus on the road in order to drive properly, particularly given that they already have a very

high accident rate, as evidenced by insurance costs as well as other available statistics.

MR. HANSON opined that removing a minor's ability to use a cell phone while driving will decrease the likelihood that he/she will cause more accidents; research indicates that the overwhelming majority of vehicle accidents involving teenage drivers is due to their failure to comply with safe operating techniques. Banning cell phone use by minors while driving is not uncommon, he remarked, and offered his understanding that 17 states already have such a ban. He too opined that it isn't the act of holding the cell phone to one's ear while driving that causes the problem; rather it's the phone conversation itself that creates what he termed a cognitive distraction. In comparison, when a driver is having a conversation with a person in the vehicle, that person is able to see that he/she needs to stop talking so that the driver can focus on the road. Furthermore, the U.S. military has already banned cell phone use by anyone driving a government vehicle on military property.

MR. HANSON explained that under the bill, a violation would only constitute an infraction - with a maximum fine of \$300 - and it would be a secondary offense because a law enforcement officer would not necessarily be able to determine whether a young driver seen using a cell phone is still a minor. Furthermore, AS 11.81.320 provides for an exemption - via an affirmative defense - in instances involving necessity. He relayed that although drivers between the ages 16 and 20 constitute only about 7.5 percent of the drivers on Alaska's road, they are involved in roughly 35 percent of the vehicle accidents wherein cell phone use [contributed to] the accident.

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MICHAELA RICE said she disagrees with the bill, surmising that it would take away a teenager's freedom to talk on a cell phone while driving. If the perceived problem stems from using one's hands to talk on the cell phone, that same issue arises when one eats or drinks while driving; furthermore, many other things going on in the car can be just as distracting or even more so than talking on a cell phone, such as driving with squabbling children in the car, for example, or listening to the radio, or using a Global Positioning System (GPS). Another concern she has, she relayed, is that the bill doesn't define what a minor is, the sponsor statement refers to people between the ages of 16 and 24, and the aforementioned statistic seems to indicate that two-thirds of all the vehicle accidents in Alaska involving

cell phone use involved drivers over the age of 20. She opined that if HB 15 is passed, it ought to apply to everybody, not just teenagers, because adult drivers can be "just as bad."

MS. RICE noted that some people who support HB 15 are more supportive of a ban on all cell phone use while driving, rather than just on cell phone use by minors while they are driving; and that a June 30, 2008, article in the Los Angeles Times referenced a study which indicates that using a hands-free cell phone while driving is just as cognitively distracting as using a hand-held cell phone. She also mentioned that when her father has to drive long distances, her family calls him on his cell phone to make sure he's okay. Again, cell phone use is not the most distracting thing that drivers face, and if a ban on cell phone use while driving is instituted, it should apply to everyone, she concluded.

REPRESENTATIVE LYNN indicated disfavor with the bill's focus on teenagers.

MS. RICE, in response to a question, indicated that she might be more supportive of the bill if it applied to everyone, but said that she would prefer the law to remain as is so that if she were home alone and a bad situation arose, she would be able to call her parents even if they were driving somewhere where they couldn't pull over. She also pointed out that the bill doesn't specify whether hand-free cell phone use would still be permissible. In response to another question, she surmised that better education efforts at home could reduce the accident rate of teenage drivers.

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[Chair Ramras turned the gavel over to Vice Chair Dahlstrom.]

ALBERT JUDSON said he is opposed to HB 15 because its focus is only on minors even though it is the use of cell phones while driving that's the problem. He offered his understanding that it is already against the law to drive with only one hand, and suggested that the bill be amended such that it would apply to anyone using a cell phone while driving. Cell phone use takes a driver's focus off driving, thus creating a hazard, not only for the driver, but also for everyone else in his/her vicinity such as passengers, other drivers, and pedestrians. He mentioned a report in Reader's Digest indicating that cell phone use could have adverse health effects as well. In conclusion, he indicated that he is questioning why there is such an emphasis

on minors, and suggested that an undue burden is being placed on minors without a compelling reason.

[Vice Chair Dahlstrom returned the gavel to Chair Ramras.]

REPRESENTATIVE GARDNER offered her belief that having only 7.8 percent of the drivers on Alaska's roads being involved in 35 percent of the accidents is a compelling reason; that number is just too disproportionate, and has become a safety issue for everyone on the road. With regard to the comment about the seeming discrepancy between the age groups listed in the sponsor statement and the age group the bill would affect, she explained that the age groups listed in the sponsor statement simply reflect various statistics garnered from different studies conducted around the country. She said that the rule in her house was that her children couldn't use the phone while driving the family car, but she acknowledged that some families either don't have such a rule or are unable to enforce it if they do. She offered her hope that when it's the latter situation, having a law making it illegal to use a cell phone while driving could help those parents enforce such a family rule.

REPRESENTATIVE GARDNER said there are some very good reasons for having a ban on cell phone use while driving apply to everyone, but acknowledged that there would be opposition to that. She suggested that the best approach, therefore, would be to at least make the roads a little bit safer for a small part of the population, and then perhaps revisit the issue in a few years when the impact of the bill could be seen.

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REPRESENTATIVE LYNN questioned whether the concept embodied in the bill could be incorporated into the first stage of the state's graduated driver's licensing requirements.

REPRESENTATIVE GARDNER offered her understanding that doing so would only provide for a very small period of time - six months - during which a minor would be precluded from using a cell phone while driving, and characterized doing so for just that short period of time as pretty meaningless.

REPRESENTATIVE HOLMES asked whether the bill would also apply to minors driving snow machines or all terrain vehicles (ATVs).

MR. HANSON offered his belief that the bill possibly could apply depending on the particular roadway or pathway, but surmised

that it would be very difficult to talk on a cell phone while operating a snow machine or an ATV anyway because of the noise level associated with such machines. In response to a question, he pointed out that the language in the bill specifies motor vehicles, and thus it would not apply to bicycles.

REPRESENTATIVE DAHLSTROM, with regard to an earlier comment, clarified that federal law states that a cell phone may not be used by anyone driving on a government military base regardless of whether the vehicle is government owned.

REPRESENTATIVE HOLMES sought confirmation that the bill wouldn't apply to a driver whose car was parked.

REPRESENTATIVE GARDNER said the bill is intended to address cell phone use while driving.

REPRESENTATIVE GATTO questioned whether the bill is intended to apply to any device capable of allowing the driver of a vehicle to speak to someone not in the vehicle, such as a walkie-talkie.

REPRESENTATIVE GARDNER said her intention was to have the bill only apply to cell phones, though she would be amenable to having it address other such devices as well should the committee choose.

CHAIR RAMRAS, citing a familiarity with teenage drivers and the accident statistics regarding drivers under the age of 24, said he is supportive of HB 15, but expressed discomfort over the concept of it being just a first step towards banning everyone from using a cell phone while driving. He offered his understanding that California has a ban, and that New York, by enforcing its ban, recently brought in approximately \$1 million in fine revenue.

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CINDY CASHEN, Administrator, Highway Safety Office, Division of Program Development, Department of Transportation & Public Facilities (DOT&PF), explained that the policy statement of the National Highway Traffic Safety Administration (NHTSA), which provides the state with federal transportation funding, says [original punctuation provided]:

The primary responsibility of the driver is to operate a motor vehicle safely. The task of driving requires full attention and focus. Cell phone use can distract

drivers from this task, risking harm to themselves and others. Therefore, the safest course of action is to refrain from using a cell phone while driving.

MS. CASHEN relayed that the NHTSA encourages states to pass laws that ban the use of cell phones [while driving], and indicated that [the NHTSA's web site in part also says] [original punctuation provided]:

Research shows that driving while using a cell phone can pose a serious cognitive distraction and degrade driver performance. The data are insufficient to quantify crashes caused by cell phone use specifically, but NHTSA estimates that driver distraction from all sources contributes to 25 percent of all police-reported traffic crashes. ...

The available research indicates that whether it is a hands-free or hand-held cell phone, the cognitive distraction is significant enough to degrade a driver's performance. This can cause a driver to miss key visual and audio cues needed to avoid a crash. ...

As a general rule, drivers should make every effort to move to a safe place off of the road before using a cell phone. However, in emergency situations a driver must use their judgment regarding the urgency of the situation and the necessity to use a cell phone while driving. ...

Any activity a driver engages while driving has the potential to distract the driver from the primary task of driving. Some research findings comparing cell phone use to passenger conversations while driving, show each to be equally risky, while others show cell phone use to be more risky. A significant difference between the two is the fact that a passenger can monitor the driving situation along with the driver and pause for, or alert the driver to, potential hazards, whereas a person on the other end of the phone line is unaware of the roadway situation. ...

MS. CASHEN indicated that with regard to the risk posed by other behaviors while driving, [the NHTSA's web site in part also says] [original punctuation provided]:

The current research does not provide a definitive answer as to which behavior is riskier. In a controlled study, comparing eating and operating a voice-activated cell phone to continuously operating a CD player, it was found that the CD player operation was more distracting than the other activities. In a test track study conducted by NHTSA, the results showed that manual dialing was about as distracting as grooming/eating, but less distracting than reading or changing CDs. It is also important to keep in mind that some activities are carried out more frequently and for longer periods of time and may result in greater risk.

MS. CASHEN pointed out that motor vehicle accidents are the leading cause of death for teenagers because of their inexperience, risk-taking behavior, and greater risk exposure. When those factors are combined with cell phone usage, even with a hands-free unit, national, state, and local data illustrates that teenagers are over represented. In response to a question, she too pointed out that the bill provides that it would be a secondary offense, and so police would have to have another reason to pull someone over before citing him/her for a violation of this proposed law.

REPRESENTATIVE COGHILL raised the issue of enforcement.

MS. CASHEN concurred that enforcement is key and would serve to encourage teenage drivers to drive more carefully, and indicated that Alaska's current law regarding graduated driver's licenses would be upgraded to reduce distractions through banning the use of cell phones. According to data collected for the Strategic Highway Safety Plan (SHSP), over the past five years in Alaska, there were an average of 86 fatalities and 880 major injuries sustained due to cell phone use by drivers ages 16-20.

CHAIR RAMRAS, citing an example, offered his belief that young drivers face myriad distractions.

REPRESENTATIVE GATTO questioned whether the term "driving" is interchangeable with the term "operating".

MS. CASHEN said she is sure they are not, but surmised that the representative from the Department of Law (DOL) could address that issue further.

[Chair Ramras turned the gavel over to Vice Chair Dahlstrom.]

MS. CASHEN, in response to a question, pointed out that the bill would only apply to drivers under the age of 18.

MR. HANSON, in response to another question, surmised that no one training to be - or volunteering as - a first responder, or operating a commercial vehicle would be under the age of 18. In response to a comment, agreed to research that issue further. In response to a question, he explained that the bill applies to any use of the cell phone while driving, whether to make a call or when receiving a call, except in emergency situations.

2:30:40 PM

SHELDON E. WINTERS, Attorney at Law, Lessmeier & Winters, Lobbyist for State Farm Insurance Company, said that as an attorney, he has been involved with hundreds of automobile accidents, and that he has two teenagers living at home, both of whom use cell phones. He offered his belief that the statistics provided in members' packets regarding cell phone use by teenagers while driving are understated. In 2006, State Farm Insurance Company performed a nationwide survey in alliance with The Children's Hospital of Philadelphia, with a statistical sampling representing the 10.6 million teenagers in the public school system in the U.S.; nine out of every ten of those teenagers said that cell phone use while driving was very common, and seven out of every ten of those teenagers said they had observed other teenagers using a cell phone while driving and while also being very emotionally upset.

MR. WINTERS said he'd questioned whether the bill would do any good given that the behavior it addresses would only be a secondary offense. He added, though, that although his children might do what he tells them only about 50 percent of the time, they do obey the law, and so that's where a bill such as HB 15 could come into play. For example, another question the aforementioned survey asked was what would motivate the teenager to not use a cell phone while driving, and the primary motivator was that it was against the law to do so and there would therefore be consequences. Although the statistics in members' packets regarding teenage accident rates are telling and compelling, they don't give members a sense of just how tragic an accident involving children can be. House Bill 15 will save some lives, he opined, and noted that such legislation is part of a nationwide trend. Moreover, if the bill is not passed now, it will simply come up again in the future, but meanwhile, some people's teenagers will have died in an accident. He therefore

encouraged the committee to pass the bill now, rather than later.

MR. WINTERS, on the issue of why the focus here should be on teenagers, recalled that when the state's graduated driver's licensing law was being debated, there were studies brought forth which showed that teenagers aren't like adults: teenagers have immature brain development, and they get distracted more often and more easily. Bills like HB 15, therefore, are not picking on teenagers but instead protecting them; teenagers are society's prized possessions, and they are the ones who need saving via a bill such as HB 15. He noted for example, that after the state's graduated driver's licensing requirements were instituted, the number of motor vehicle accidents involving teenage drivers dropped dramatically. On the issue of insurance rates, he explained that accident claims drive rates, and that young drivers between the ages of 16 and 21 have the highest accident rates, and therefore the highest insurance rates. House Bill 15 is not about reducing insurance rates; instead, it is about saving lives, and for that reason, "we" would encourage the committee to pass HB 15, he concluded.

VICE CHAIR DAHLSTROM asked Mr. Winters whether he would prefer for the bill to ban all drivers from using a cell phone while driving.

MR. WINTERS said State Farm Insurance Company does not have a position on that issue, but he himself would be in favor of such a ban. In response to a question, he offered to research how many accidents result in injury compared to how many result in death.

[Vice Chair Dahlstrom returned the gavel to Chair Ramras.]

REPRESENTATIVE LYNN asked whether insurance rates for teenagers would go down at all due to the passage of HB 15.

MR. WINTERS said he simply couldn't say, but proffered that doing everything that can be done to reduce the number of accident claims would have a positive impact on insurance rates.

REPRESENTATIVE HOLMES questioned whether the accident rate for teenage drivers has increased over the years due to cell phone use becoming more prevalent.

MR. WINTERS offered his belief that there have been more accidents due to cell phone use simply because such usage has

become more prevalent, but he doesn't yet have a specific number to provide the committee.

[2:41:28 PM](#)

ROY E. HOYT, JR., after relaying that has been both a licensed driver and airplane pilot since 1942, said he doesn't think that HB 15 goes far enough, that it should instead apply to drivers of all ages. For example, in Homer, he relayed, drivers in their 30's have caused more accidents due to cell phone use than teenagers, adding that he rarely sees teenagers using cell phones anyway. He also suggested that the bill should specify that it applies when the motor vehicle is in motion, surmising that there is always an opportunity to pull over in order to use the phone - drivers can simply let their cell phone ring, and then, when it is safe to pull over, they can call the caller back.

[2:43:58 PM](#)

JENNIE MORRIS relayed that she has been run over twice in the last few years by drivers who were using their cell phones. In response to a question, she said that one of the drivers was 24 and the other was 19. However, kids are starting to use cell phones at much younger ages, she pointed out, so the problem is only going to get worse, and she therefore thinks that the bill should apply to drivers of all ages. She said she is tired of being hit by drivers using cell phones, and is afraid for her family and friends; something needs to be done because the problem is not getting any better, and it's not fair or right that responsible drivers and pedestrians have to pray before even leaving the house that they will make it back home. In conclusion, she said she would appreciate anything that the legislature could do to address this situation even though it might be difficult - simply consider which loved one it might be that next gets hit by someone using a cell phone while driving.

[2:47:21 PM](#)

JOHN ULCZYCKI, Group Vice President, Research, Communications, and Advocacy, National Safety Council (NSC) - after mentioning that the mission of the NSC is to save lives and prevent injuries, and that the NSC is a non-governmental organization with a membership of approximately 20,000 member companies and organizations representing a cross section of American business and industry - said the NSC was the first national organization to ask that state legislatures across the country ban all cell

phone use by all drivers while operating a motor vehicle. This policy proposal, he relayed, was arrived at after many years of research and after reviewing over 50 studies, all of which found that some measure of driver performance is affected by the cognitive distraction caused by cell phone use. The effects of cell phone conversations are varied; they may include decreased reaction times, increased deviations within driver lanes, increased steering wheel movements, and over-steering.

MR. ULCZYCKI said that the bottom line is that for all age groups, cell phone use while driving increases a person's risk of being in a crash fourfold. Regardless that a massive educational effort is needed in order to get people to understand the risks, speaking on a cell phone while driving is much more dangerous than many of the other distracting activities people engage in while driving; those other activities pose a miniscule risk of being implicated in a crash compared with cell phone use. [Lawmakers and policymakers] must focus on the most serious distraction - that being cell phone use. And while there are other activities that are more dangerous than talking on a cell while driving - such as reading, reaching into the back seat, and putting on makeup - far fewer people engage in those three higher-risk activities and engage in them for much smaller periods of time.

MR. ULCZYCKI said the NSC estimates that there are over 100 million people engaged in cell phone use [while driving]; there are 270 million cell phone subscribers in the U.S., and over 80 percent of them admit to talking on a cell phone while driving. Cell phone use is now part of the culture, and so changing the laws to totally ban adults from using a cell phone while driving is going to be very difficult, he acknowledged, because most Americans don't understand the magnitude of the risk they assume when they talk on the phone [while driving]. It is going to require a culture change, but the NSC is up for the challenge. He noted that back in the 1970s, drunk driving wasn't thought of in the same way that it is today; people used to think they could drink 6-8 beers and drive safely - that was just part of the culture - whereas people have now come to understand that that's just not true. He predicted that in the future, people will wonder why everyone was so slow to understand the science [behind the risk of using a cell phone while driving].

MR. ULCZYCKI said a change in social norms is what's required. For example, most people today would insist on driving when a friend or spouse has had too much to drink to be able to drive, but not many would insist on taking control of the car because a

friend or spouse is putting everyone at four times the risk of a crash by using a cell phone while driving. When the social norm changes, it will be easier to change the laws as well, he remarked, and expressed appreciation of the legislature's focus on the most at-risk drivers - teenagers - via the introduction of HB 15. The statistics for Alaska are comparable to those of the nation: teenagers are involved in fatal crashes at much higher rates than any other age group. Nationally, 6 percent of licensed drivers are teenagers, but they account for 14 percent of fatal crash involvement, with the two main causes being driver inexperience and distractions.

MR. ULCZYCKI said that's why many states have enacted graduated driver's licensing laws that require teenagers to obtain significant experience driving with their parents in the car before they can drive unsupervised; that's why many states have enacted passenger restrictions for teenage drivers - to keep teenage drivers from being distracted; and that's why 18 other states have the kind of teenage-driver cell-phone ban that the legislature is considering today. A bill such as HB 15 is not discriminatory, he opined, given that teenage drivers comprise the group thought of as most likely to be in a crash - they are the highest risk group as well as the group most willing to engage in this dangerous behavior. A national public opinion survey, for example, found that 60 percent of teenage drivers use a cell phone while driving; even more alarming, though, is that 40 percent regularly text message while driving.

MR. ULCZYCKI encouraged the committee to pass HB 15, and to support law enforcement officers as they enforce it, because what's been found in other states is that enforcement of this kind of law is critical. If people think that a law is not going to be enforced, then they are more likely to engage in breaking that law. For example, why do people speed? Because they can. This will also be true with regard to cell phone use while driving. In states that have enacted bans against cell phone use by teenagers while driving, studies by the Insurance Institute for Highway Safety (IIHS) have found that compliance with the law increased and decreased almost proportionately with the level of enforcement applied; if a law is visibly enforced, and people - in this case teenagers - believe they will be caught, then their behavior changes.

REPRESENTATIVE GARDNER relayed that the Department of Law has suggested a change to HB 15, that being to replace the term "probable cause" on page 1, lines 9-10, with the term "reasonable suspicion".

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ANNE CARPENETI, Assistant Attorney General, Legal Services Section, Criminal Division, Department of Law (DOL), said that the administration supports HB 15, and that she is suggesting only the aforementioned change. In response to a question, she offered her understanding that the term "operating" is broader than the term "driving", and includes sitting in a parked car with the engine running, and so HB 15 wouldn't apply in such a situation because the bill uses the term "driving". In response to another question, she assured the committee that the defense of necessity could be raised if a minor found himself/herself in an emergency situation and therefore used a cell phone while driving. She surmised, though, that law enforcement officers and prosecutors would exercise discretion before attempting to charge/prosecute a minor for using a cell phone in such a circumstance.

REPRESENTATIVE HOLMES asked whether a violation of HB 15 could be used as proof of negligent driving.

MS. CARPENETI said she doesn't think that a violation of the bill would provide a presumption that a minor is guilty of a misdemeanor.

CHAIR RAMRAS closed public testimony on HB 15.

REPRESENTATIVE LYNN noted that by definition, the act of driving itself requires multitasking; therefore, if one can't multitask, perhaps one shouldn't be driving to begin with.

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REPRESENTATIVE DAHLSTROM made a motion to adopt Amendment 1, to replace the words "probable cause" on page 1, lines 10-11, with the words "reasonable suspicion". There being no objection, Amendment 1 was adopted.

REPRESENTATIVE GATTO noted that when his son was a minor, his son disapproved of such a ban, but now that his son is no longer a minor, his son is in favor of it.

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REPRESENTATIVE DAHLSTROM moved to report HB 15, as amended, out of committee with individual recommendations and the

accompanying fiscal notes. There being no objection, CSHB 15(JUD) was reported from the House Judiciary Standing Committee.

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ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:03 p.m.