

ALASKA STATE LEGISLATURE
HOUSE TRANSPORTATION STANDING COMMITTEE

February 23, 2010
1:08 p.m.

MEMBERS PRESENT

Representative Peggy Wilson, Chair
Representative Craig Johnson, Vice Chair
Representative Kyle Johansen
Representative Cathy Engstrom Munoz
Representative Tammie Wilson
Representative Max Gruenberg
Representative Pete Petersen

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 7

"An Act naming the bridge over the Kasilof River on the Sterling Highway the Robert E. Bush, Jr., Veterans' Memorial Bridge."

- MOVED CSHB 7(TRA) OUT OF COMMITTEE

HOUSE BILL NO. 345

"An Act designating the bridge to be built on the Dalton Highway at approximately mile post 308 as the Sam Schuyler Memorial Bridge."

- MOVED HB 345 OUT OF COMMITTEE

HOUSE BILL NO. 257

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

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 7

SHORT TITLE: ROBERT E. BUSH VETERANS' MEMORIAL BRIDGE

SPONSOR(S): REPRESENTATIVE(S) CHENAULT

01/20/09 (H) PREFILE RELEASED 1/9/09
01/20/09 (H) READ THE FIRST TIME - REFERRALS
01/20/09 (H) TRA, FIN
02/23/10 (H) TRA AT 1:00 PM CAPITOL 17

BILL: HB 345

SHORT TITLE: SAM SCHUYLER MEMORIAL BRIDGE
SPONSOR(S): REPRESENTATIVE(S) RAMRAS

02/15/10 (H) READ THE FIRST TIME - REFERRALS
02/15/10 (H) TRA
02/23/10 (H) TRA AT 1:00 PM CAPITOL 17

BILL: HB 257

SHORT TITLE: BAN CELL PHONE USE WHEN DRIVING
SPONSOR(S): REPRESENTATIVE(S) DOOGAN, BUCH

01/08/10 (H) PREFILE RELEASED 1/8/10
01/19/10 (H) READ THE FIRST TIME - REFERRALS
01/19/10 (H) TRA, JUD
01/25/10 (H) FIN REFERRAL ADDED AFTER JUD
02/16/10 (H) TRA AT 1:00 PM CAPITOL 17
02/16/10 (H) Heard & Held
02/16/10 (H) MINUTE(TRA)
02/23/10 (H) TRA AT 1:00 PM CAPITOL 17

WITNESS REGISTER

THOMAS WRIGHT, Staff
Representative Mike Chenault
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 7 on behalf of the prime sponsor, Representative Mike Chenault.

MARGARET DOWLING, Staff
Representative Jay Ramras
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 345 on behalf of the prime sponsor, Representative Jay Ramras

MEADOW BAILEY
Public Information Officer, Northern Region
Department of Transportation & Public Facilities (DOT&PF)
Fairbanks, Alaska

POSITION STATEMENT: Testified during the discussion of HB 345.

HOWARD THIES, Director
Maintenance & Operations (M&O), Northern Region
Department of Transportation & Public Facilities (DOT&PF)
Fairbanks, Alaska
POSITION STATEMENT: Testified during the discussion of HB 345.

CLARK MILNE, Engineer
Maintenance & Operations (M&O), Northern Region
Department of Transportation & Public Facilities (DOT&PF)
Fairbanks, Alaska
POSITION STATEMENT: Testified during the discussion of HB 345.

REPRESENTATIVE MIKE DOOGAN
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Briefly testified during the discussion of
HB 257.

MIKE LANG
Sitka, Alaska
POSITION STATEMENT: Testified during the discussion of HB 257.

CHARLES BOYLE, Staff
Representative Mike Doogan
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Testified on behalf of the prime sponsor,
Representative Mike Doogan, during the discussion of HB 257.

CINDY CASHEN, Administrator
Highway Safety Office (AHSO)
Division of Program Development
Department of Transportation & Public Facilities (DOT&PF)
Juneau, Alaska
POSITION STATEMENT: Answered questions and testified during the
discussion of HB 257.

RODNEY DIAL, Lieutenant; Deputy Commander
Alaska State Troopers (AST)
Department of Public Safety (DPS)
Ketchikan, Alaska
POSITION STATEMENT: Testified during the discussion of HB 257.

JOSEPH STOCKER
Sitka, Alaska
POSITION STATEMENT: Testified during the discussion of HB 257.

JOAN PRIESTLEY, Physician; Medical Director
Health Renewal Institute
Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of HB 257.

MICHAELLA RICE
Fairbanks, Alaska

POSITION STATEMENT: Testified during the discussion of HB 257.

ACTION NARRATIVE

CHAIR PEGGY WILSON called the House Transportation Standing Committee meeting to order at 1:08 p.m.

[1:08:01 PM](#)

Representatives Munoz, Gruenberg, Petersen, P. Wilson were present at the call to order. Representatives T. Wilson, Johansen, and Johnson arrived as the meeting was in progress.

HB 7-ROBERT E. BUSH VETERANS' MEMORIAL BRIDGE

[1:08:14 PM](#)

CHAIR P. WILSON announced that the first order of business would be HOUSE BILL NO. 7, "An Act naming the bridge over the Kasilof River on the Sterling Highway the Robert E. Bush, Jr., Veterans' Memorial Bridge."

[1:09:18 PM](#)

THOMAS WRIGHT, Staff, Representative Mike Chenault, Alaska State Legislature, on behalf of the prime sponsor, Representative Mike Chenault, paraphrased from the sponsor statement, which read [original punctuation provided]:

House Bill 7 was introduced at the request of the uncle of Robert Bush. Robert Bush passed away on July 12, 2007. He served with the United States Army and served his country in Operation Desert Storm. Upon his discharge he returned home and was diagnosed with Type 1 diabetes. This disease eventually claimed his life.

His children drive over the Kasilof River daily and naming the bridge in Robert's honor would remind his

family and the public of his contribution to his community and his country.

[1:12:11 PM](#)

REPRESENTATIVE MUNOZ pointed out that the possessive apostrophe in Veterans' is not needed.

REPRESENTATIVE GRUENBERG agreed. He remarked at the number of people who supported this.

MR. WRIGHT, in response to Chair Wilson, explained that Mr. Bush was not killed in action. He related widespread community support, and rather few negative comments.

[1:13:51 PM](#)

CHAIR P. WILSON related that typically the legislature will name a bridge after a veteran if the veteran was killed in action. She asked how long he served.

MR. WRIGHT responded that he does not have his service record.

CHAIR P. WILSON surmised that Mr. Bush's illness or death was not connected to his military service. She asked for the committee's input since this is unusual. She remarked on the number of people that expressed interest in this bill.

MR. WRIGHT commented that the area for the proposed memorial is more of a community than a town.

[1:15:12 PM](#)

REPRESENTATIVE PETERSEN asked about the fiscal note.

MR. WRIGHT referred to the fiscal note submitted by the DOT&PF in the amount of \$3,700 dollars to install signs.

[1:15:56 PM](#)

REPRESENTATIVE GRUENBERG stated that he was not certain of the length of time of service for Mr. Bush. He said he was unaware of any instance in which the state has honored people who have died from diabetes. He commented from his personal experience his awareness of the deadliness of diabetes. He asked how committee members and the family would feel about naming the bridge the "Robert E. Bush, Jr. Memorial Bridge." This would

honor not only Mr. Bush, but would also honor all people who suffer from diabetes.

MR. WRIGHT offered that the sponsor would not object to that change.

CHAIR P. WILSON characterized this solution as "a nice solution".

REPRESENTATIVE GRUENBERG agreed.

[1:17:28 PM](#)

REPRESENTATIVE GRUENBERG made a motion to adopt Conceptual Amendment 1, on page 1, lines 2, 5, and 7 to strike "Veterans".

There being no objection, Conceptual Amendment 1, was adopted.

CHAIR P. WILSON, after first determining no one else wished to testify, closed public testimony on HB 7.

[1:18:14 PM](#)

REPRESENTATIVE MUNOZ moved to report HB 7, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 7 was reported from the House Transportation Standing Committee.

HB 345-SAM SCHUYLER MEMORIAL BRIDGE

[1:18:46 PM](#)

CHAIR P. WILSON announced that the next order of business would be HOUSE BILL NO. 345, "An Act designating the bridge to be built on the Dalton Highway at approximately mile post 308 as the Sam Schuyler Memorial Bridge."

[1:19:15 PM](#)

MARGARET DOWLING, Staff, Representative Jay Ramras, Alaska State Legislature, Juneau, Alaska, on behalf of the prime sponsor, explained that Sam Schuyler was a beloved employee. The Dalton Highway is sometimes lonely and harsh place. Thus, friendships made along that road are often "forged like steel". The Department of Transportation & Public Facilities (DOT&PF) has indicated the existing DOT&PF budget can absorb the cost of any signage. She paraphrased from the sponsor statement, as follows [original punctuation provided]:

HB 345 gives the name the "Sam Schuyler Memorial Bridge" to a bridge that will be built at mile post 308 on the Dalton Highway. Sam Schuyler was a well loved and respected Alaska Department of Transportation and Public Facilities (DOT&PF) employee who spent his entire career working along the Dalton Highway. Sam began his career with DOT&PF as a heavy equipment operator at the Jim River Maintenance Station, milepost 135 of the Dalton Highway.

Sam immediately exhibited a spirited tenacity that set him apart from his peers. This trait caused Sam's career to rise rapidly. He was promoted to Foreman of the Jim River Maintenance Station and from there he quickly became the Dalton District Roving Foreman. In this position, Sam frequented every mile of the Dalton Highway and he was personally involved in the everyday functions of each maintenance camp.

Throughout Sam's storied career, he routinely placed the needs of friends and coworkers ahead of his own. He based his leadership on the principle "lead by example." Sam never asked an employee to take on a job he would not do himself. His men knew him well and respected him immensely.

Sam was dedicated to the Dalton Highway, often personally overseeing a project to ensure that the job was completed on time and within budget. This dedication is reflected in Sam's favorite saying, "Get 'er Done!" This often-used phrase, coupled with another favorite saying, "Can Do!" earned Sam the respect of other maintenance workers and the respect of the famous Dalton Highway truckers.

Sam's work ethic and his heartfelt commitment to improving the Dalton Highway are appreciated by travelers who drive this road today. He left the Dalton Highway in a much better condition than he found it.

Sam's life ended unexpectedly on January 1, 2007. He was still a DOT&PF employee when he passed away.

[1:20:58 PM](#)

MEADOW BAILEY, Public Information Officer, Northern Region, Department of Transportation & Public Facilities (DOT&PF) stated, on behalf of the Maintenance & Operations (M&O), and other DOT&PF employees who worked with the Alaska Trucking Association, Inc. to support this bill. She stated that Sam Schuyler worked on the Dalton Highway for 23 years and died suddenly. He was a knowledgeable manager who was loved by his employees and was someone would help out anyone in need. The DOT&PF employees and the Alaska Trucking Association, Inc. employees were very excited at the prospect of honoring Mr. Schuyler by naming a memorial bridge in his honor.

[1:22:28 PM](#)

MS. BAILEY, in response to Representative Gruenberg, identified Mr. Schuyler as the man in orange in the photograph in members' packets.

[1:23:03 PM](#)

REPRESENTATIVE PETERSEN asked which river the bridge will cross and if there is an existing bridge at the site.

MS. BAILEY related that currently a culvert exists at the site, but as part of reconstruction project on the Dalton Highway this summer the DOT&PF plans to install a small bridge in a section of the Dalton Highway on which Sam Schuyler worked. In response to Chair P. Wilson, she clarified that the existing culvert collapsed and the DOT&PF has recommended replacing it with a bridge.

[1:24:10 PM](#)

HOWARD THIES, Director, Maintenance & Operations (M&O), Northern Region, Department of Transportation & Public Facilities (DOT&PF) stated that Sam Schuyler was a great employee and this would be a great tribute to him and to the people who drive and work on the Dalton Highway.

[1:24:55 PM](#)

CLARK MILNE, Engineer, Maintenance & Operations (M&O), Northern Region, Department of Transportation & Public Facilities (DOT&PF), stated that he worked with Sam Schuyler and the reason truckers and crew thought was good idea is that Sam was "one of those big-hearted neat guys." He was the assistant superintendent for a number of years. He stated that Sam got

along well with everyone and solved problems. He emphasized that Sam loved the Dalton Highway. He said he thought this would be a gesture that would remind people of Sam Schuyler.

MR. THIES interjected that Sam Schuyler knew the Dalton Highway and would provide maintenance when truckers identified areas in need of repairs.

[1:26:07 PM](#)

CHAIR P. WILSON, after first determining no one else wished to testify, closed public testimony on on HB 345.

[1:26:25 PM](#)

REPRESENTATIVE MUNOZ moved to report HB 345 out of committee with individual recommendations and the accompanying fiscal note. There being no objection, HB 345 was reported from the House Transportation Standing Committee.

HB 257-BAN CELL PHONE USE WHEN DRIVING

[1:27:07 PM](#)

CHAIR P. WILSON announced that the final order of business would be HOUSE BILL NO. 257, "An Act relating to prohibiting the use of cellular telephones when driving a motor vehicle; and providing for an effective date."

[1:27:17 PM](#)

REPRESENTATIVE MIKE DOOGAN, Alaska State Legislature, as sponsor of HB 257, mentioned that he is available to answer any questions.

[1:28:53 PM](#)

CHAIR P. WILSON noted that public testimony is open on HB 257.

[1:29:06 PM](#)

MIKE LANG stated he was speaking on behalf of himself. He asked for the reason that this bill only applies to cell phones, since eating food or applying makeup is equally distracting. He questioned the \$300 fine for use of a cell phone.

CHAIR P. WILSON recalled prior testimony and related that some things are more distracting to drivers, and cell phone use was identified as one of the highest reasons for distractions while driving.

MR. LANG mentioned that the speed limit in Sitka is 20 miles per hour and talking on a cell phone does not have any effect on driver safety.

CHARLES BOYLE, Staff, Representative Mike Doogan, Alaska State Legislature, stated Mr. Lang has addressed the issue pretty well.

CHAIR P. WILSON related her own experiences driving in Sitka.

[1:31:54 PM](#)

REPRESENTATIVE JOHANSEN agreed with Mr. Lang's point that many other things can be equally distracting to drivers. He said he supports his concern.

CHAIR P. WILSON pointed out that she has never tried to put on make-up in the car, but has heard that people engage in many distracting activities, such as eating or trying to read while driving.

[1:32:33 PM](#)

REPRESENTATIVE GRUENBERG asked whether Ms. Cashen could come forward since he recalled that she provided a study from Virginia which helps identify the severity of the problem.

[1:32:56 PM](#)

CINDY CASHEN, Administrator, Highway Safety Office (AHSO), Division of Program Development, Department of Transportation & Public Facilities (DOT&PF), explained that driver distraction is a significant factor for crashes that result in injuries and fatalities in Alaska. While the data is sketchy, according to research, the number of drivers distracted from driving while using a cell phone and driving is increasing nationwide. She referred to a 100-car driving study, conducted by the National Highway Traffic Safety Administration (NHTSA). She noted that she has a copy of the entire study, a 20-page summary of the study, and a 1-page fact sheet. She elaborated that the 200-page NHTSA study breaks down various categories of distraction and the types of distractions, including hand-held and hands-

free cell phone devices, eating food, putting on lipstick, or any activity that takes the driver's eyes away from the road for up to three seconds.

MS. CASHEN reported that the NHTSA study entailed 100 cars and various types of cars and drivers were included in the study. The NHTSA study concluded that the number one distraction was cell phone use, she remarked. She related that little difference exists between use of hand-held and hands-free devices, in terms of distractibility. The NHTSA study found that using a hand-held cell phone requires a person to punch in numbers during which time his/her eyes must leave the road. However, conversations made using hand-held devices tend to result in shorter duration calls. Although drivers using hands-free devices are able to keep their eyes on road, their typical conversations last longer, she stated. The NHTSA study found drivers using cell phones had impaired cognitive thinking, but drivers could hold conversations with passengers without impairment. Cognitive thinking is used for such activities as turning on turn signals. The study surmised that when the conversation was held with someone not in car, the driver's brain focused on the conversation and not on the necessary motor skills needed for driving. She surmised that may account for the reason that some drivers using cell phones either speeded up or slowed down, or perhaps would stop at a green light while engaged in cell phone conversations.

1:36:50 PM

MR. LANG, in response to Chair Wilson, agreed the testimony offered some explanation for the bill. However, he offered his belief that the responsibility still rests with the driver. He said he thought that banning cell phone use while driving would take away a little personal freedom.

REPRESENTATIVE GRUENBERG challenged members to try using only one hand to make a turn while driving or parallel parking a vehicle. He concluded that essentially describes the difficulty in driving with hand-held cell phones. He pointed out that would be different when devices are attached to a dashboard, although he agreed it still would be more difficult to dial a phone while using hands-free devices.

REPRESENTATIVE PETERSEN recalled a list of tasks people attempt to perform while talking on a cell phone. He commented that he has also seen people attempt to perform these same tasks while

driving when they are not talking on cell phones. Sometimes people are not good drivers, he concluded.

[1:39:09 PM](#)

MS. CASHEN, in response to Representative Johnson, offered to provide a copy of the distractions listed in the NHTSA study to the committee.

REPRESENTATIVE JOHNSON wondered if the top five or ten distractions identified in the NHTSA study should also be prohibited in the bill since they all limit the driver's ability to perform.

MS. CASHEN mentioned that the NHTSA study provides the level of risk for causing automobile accidents so she thought it might be something the committee would want to review.

[1:39:39 PM](#)

REPRESENTATIVE T. WILSON asked how the determination was made that a driver using a cell phone contributed to an accident.

MS. CASHEN responded that data was collected from police and traffic crash reports. The driver either admits to using the cell phone caused the accident or the law enforcement officer confiscates the device and obtains the cell phone record. She offered her belief that cell phone records would be obtained for accidents involving serious injuries or fatalities.

REPRESENTATIVE T. WILSON said she thought that just because a driver was using his/her cell phone and had an accident, that the cause of the accident may not have been caused by the cell phone usage.

MS. CASHEN explained that when a cell phone device is confiscated during an accident investigation that law enforcement can determine whether the cell phone was actually in use at the time of the accident. She related her understanding that the officer would examine the cell phone record.

CHAIR P. WILSON, in response to Representative T. Wilson, explained that cell phone record would indicate if a call was being made at the time the accident occurred.

[1:42:22 PM](#)

REPRESENTATIVE T. WILSON stated that she did not think that meant the accident was caused by the cell phone use.

MS. CASHEN commented that the traffic crash form allows a law enforcement officer to check off specific boxes to indicate contributing factors for an accident, including inclement weather or road conditions.

[1:43:14 PM](#)

RODNEY DIAL, Lieutenant; Deputy Commander, Alaska State Troopers (AST), Department of Public Safety (DPS), related that essentially an Alaska State Trooper would attempt to determine primary cause of an accident during his/her investigation. He agreed that if a cell phone was involved, it may not be the cause of the accident. For example, when a driver is traveling on an icy road, the icy road would constitute the primary cause, but the cell phone may have contributed in some manner to the accident.

[1:44:16 PM](#)

REPRESENTATIVE T. WILSON referred to the report form and asked whether the officer would check several boxes.

LT. DIAL agreed the officer would do so.

[1:44:44 PM](#)

CHAIR P. WILSON asked whether a box on the form exists to rank the primary and secondary causes of an accident.

LT. DIAL responded that usually there is a primary cause listed. Often an accident has multiple secondary causes and sometimes it can be difficult to determine the primary cause. However, law enforcement officers are trained and must use their best judgment, he stated.

[1:45:17 PM](#)

REPRESENTATIVE MUNOZ recalled other states have restricted cell phone use and she asked for clarification.

MS. CASHEN agreed. She reported that currently eight states, including Washington D.C. ban hand-held devices, but other

states have not banned hands-free cell phone use, although some states are considering legislation to ban all cell phones.

[1:46:14 PM](#)

JOSEPH STOCKER stated that he attends Pacific High School in Sitka. He asked what would be considered an emergency since the bill allows cell phone use for emergencies.

MS. CASHEN deferred the definition of emergency to Lt. Dial.

LT. DIAL answered that the department would classify an emergency as something to protect property or safety. Thus, if someone needed to call 911, it would be considered an emergency.

CHAIR P. WILSON added that she would consider it an emergency if an accident happened.

REPRESENTATIVE JOHNSON speculated that if he were a teenager on his way home that he would consider calling home to tell his parents he was going to be late as constituting an emergency.

LT. DIAL answered that such activity would not constitute an emergency, nor would calling 911 to report such information be considered an emergency.

[1:48:51 PM](#)

REPRESENTATIVE GRUENBERG related an emergency is an objective determination and the test would be whether a reasonable person would consider the activity as an emergency.

CHAIR P. WILSON remarked to testifiers that Representative Gruenberg can provide some guidance since he is an attorney.

REPRESENTATIVE GRUENBERG referred to an e-mail in members' packets with a lengthy description of the Virginia study.

[1:50:20 PM](#)

MR. STOCKER pointed out that he spends a good portion of his time driving and the bill would be too restrictive to drivers.

CHAIR P. WILSON remarked that as a person gets older less time is spent in his/her car. She explained that the legislature must consider what the best solution overall is for citizens.

[1:52:35 PM](#)

JOAN PRIESTLEY, Physician; Medical Director, Health Renewal Institute, stated that she is a medical doctor for a private non-profit foundation in Alaska. She explained the Health Renewal Institute has studied the issue. Most importantly, the legislation will not have the intended affect on safety, she stated. She then referred to an "exhaustive review" by the Insurance Institute of Highway Safety (IIHS), which took over nine months to compile. She stated that from 1995- 2008, cell phone users increased by 500 percent and between 2000 and 2008 the number of drivers using cell phones while driving has increased by 250 percent. It is currently estimated that approximately 10 percent of drivers are talking on cell phone at any one time. However, the national insurance study claims that from 1995 - 2008 the incidence of insurance claims has not increased. She stated that the IIHS reviewed fatal and non-fatal accidents and found a gradual decline of 8 percent for all accidents were reported during that period. She noted the DOT&PF report also seems to bear this out. She reported that over 425,000 drivers' licenses are issued in Alaska, and thousands of accidents are reported annually. Yet, from 2002-2007 only 59 accidents annually involve cell phone use. She reported that figure has decreased by 25 percent in Alaska in recent years.

[1:55:41 PM](#)

DR. PRIESTLEY stated that the IIHS reviewed four states with bans on hand-held cell phones, including New York, California, Connecticut, and Washington D.C. The study reviewed all of the claims submitted two years prior to the ban and two years after the ban went into effect. The IIHS did not find any change in insurance claims submitted in those states during the timeframes. Next, the study compared those four states to four other states, including Arizona, Pennsylvania, Massachusetts, and one other state, comparable in population, that did not have a ban on cell phones. She reported that the two graphs for the states were identical. She stated that there was not any decline in insurance claims when comparing the states. She quoted the president as saying, "The key finding is that crashes are not going down where hand-held phone use is going down. This finding doesn't demonstrate any safety payoff from all the new laws that ban phone use and texting while driving."

[1:57:11 PM](#)

DR. PRIESTLEY surmised that based on research this bill could actually cause crashes. In Alaska, people want to be instantly accessible or they may lose clients or business. If people must pull off the road, they must find an area off the road to answer their phones. She thought this would affect professionals, including real estate and health professionals.

DR. PRIESTLEY stated that this bill will call citizens to suffer needless expense in the form of fines, which basically will "criminalize" innocent actions. She noted the subtle revenue stream. She related that insurance is keen on passing this type of legislation. She offered her belief that insurance companies think accidents rates will be reduced.

[1:58:42 PM](#)

DR. PRIESTLEY explained that when a person has a record or obtains points on their license for being cited for cell phone use, that the insurance companies could "jack that person's rate sky high." She related this could drive people of lesser economic means to make a choice between paying their rent or auto insurance.

DR. PRIESTLEY stated that HB 257 goes too far by gutting the fourth amendment protections against unreasonable searches. The bill would allow police to stop vehicles without probable cause. She said this bill should be subtitled, "The Police State Acceleration and Enhancement Act." She characterized this bill as social engineering. She recalled several studies by American Automobile Association Foundation for Traffic Safety. She summarized the findings, and the causes of distractions. The most common distraction was looking at an outside event, which caused 30 percent of all crashes caused by distractions. Adjusting the radio or the CD caused 11 percent of accidents. Disciplining children or talking to passengers caused 11 percent of accidents. Another study showed that eating food increased the odds of an accident by 57 percent. And personal grooming or reading increased the risk of a crash by 300 percent, she stated. She said using cell phones caused an accident between 1.5 to 3.5 percent, based on the two studies.

DR. PRIESTLEY suggested this bill is dangerous, onerous, needless, and expensive and has unintended consequences. She encouraged members to allow this bill to suffer a quiet and dignified death.

[2:03:07 PM](#)

CHAIR P. WILSON asked whether she could describe the Health Renewal Institute.

DR. PRIESTLY stated the IIHS was formed to study issues like this, and to promote the use of holistic medicine.

[2:04:02 PM](#)

REPRESENTATIVE PETERSEN related that the bill makes it a primary offense to use a cell phone. A police officer could stop a person for talking on their cell phone. He asked whether Alaska has enough law enforcement personnel to enforce this.

DR. PRIESTLEY answered no, not the Alaska State Troopers and Anchorage Police Department since they have enough real crimes to investigate.

[2:05:24 PM](#)

REPRESENTATIVE JOHNSON asked if she could provide the committee with the studies.

DR. PRIESTLEY referred to a summary from the Highway Loss Data Institute, who testified at a Society of Automotive Engineer's meeting on January 29, 2010. She said the slides are large, readable, and excellent and demonstrate that a ban on drivers' cell phones will do not result in safer driving.

REPRESENTATIVE JOHNSON asked for copies of the studies.

DR. PRIESTLEY offered to provide studies and summary of her testimony.

[2:07:07 PM](#)

DR. PRIESTLEY, in response to Representative Gruenberg, answered that she is a medical doctor.

REPRESENTATIVE GRUENBERG asked for information on the three organizations she cited.

DR. PRIESTLEY stated that the Insurance Institute for Highway Safety is an independent organization supported by the insurance industry. It is surprising to have a serious study done by the insurance industry that to refute cell phone bans since the industry seems to support laws that ban cell phones. She stated

that the Highway Loss Data Institute is a subdivision of the IIHS and compiled claims from 1995 - 2008.

[2:08:52 PM](#)

DR. PRIESTLEY, in response to Representative Gruenberg, explained that the Health Renewal Institute was founded this year and does not receive any industry support.

[2:09:17 PM](#)

MICHAELLA RICE stated that this bill, HB 257, could cause more problems than it solves. She offered her belief that the bill would adversely affect businesses that use cell phones. She pointed out that the bill does not allow hands-free usage. She explained that some devices could be concealed by hair and some cars also have devices that can answer phones. She did not think Alaska could be compared to other states since most states have busier highways and more distractions for drivers than Alaska does. She recommended members consider an amendment to the bill to allow for hands-free devices to be used.

LT DIAL added that "emergency" is defined under AS 42.20.150. He said emergency means a situation in which property or human life is in jeopardy and the prompt summoning of aid is essential.

[2:13:09 PM](#)

REPRESENTATIVE GRUENBERG asked whether Lt. Dial would support an amendment to the bill that would add a definition for emergency.

LT. DIAL answered yes.

[2:13:57 PM](#)

REPRESENTATIVE GRUENBERG asked Dr. Priestly if she would prefer the bill if it was amendment limited to hands-free cell phones.

DR. PRIESTLEY responded that she believes that the limit would still be social engineering and micro-management.

REPRESENTATIVE GRUENBERG asked whether she could put aside her personal politics and consider the scientific data.

DR. PRIESTLEY opined that there was not a basis to support restrictions of devices, even in states that allowed hands-free

devices. She offered her view that the science did not support this. She considered the restriction of cell phones to be an unfunded mandate since people would likely need to buy the phones. She said she did not think restricting cell phones would have the hoped for results.

2:15:53 PM

REPRESENTATIVE T. WILSON asked Lt. Dial if cell phones were banned, if he could identify a type of alternative that would be less hazardous for people to use while driving.

LT. DIAL deferred the question to the AHSO, since he did not think he was qualified to answer this question.

REPRESENTATIVE T. WILSON asked whether cell phones were used by the Alaska State Troopers.

LT. DIAL related that the AST primarily uses police radios. He explained that the AST would limit cell phone use to confidential information. Further, the AST recommends officers pull off the roadway before using a cell phone. In response to Representative Gruenberg, he referred to AS 42.21.150 for the location of definitions.

2:18:44 PM

CHAIR P. WILSON, after first determining no one else wished to testify, closed public testimony on HB 257.

2:19:01 PM

REPRESENTATIVE MUNOZ made a motion to adopt Amendment 1, labeled 26-LS1104\E.1, Luckhaupt, 2/8/10, which read, as follows:

Page 1, line 8, following "telephone":
Insert "(1)"

Page 1, line 10, following "entity":
Insert "; or
(2) by hands-free mode"

Page 1, following line 10:
Insert a new subsection to read:
"(c) In this section, "hands-free mode" means use of a cellular telephone for listening or talking

by means of a speaker function, headset, or earpiece without holding the telephone."

Reletter the following subsection accordingly.

REPRESENTATIVE PETERSEN objected for purpose of discussion.

[2:19:30 PM](#)

REPRESENTATIVE MUNOZ explained that Amendment 1 would allow an exception for the use of hands-free cell phones.

REPRESENTATIVE JOHNSON offered his belief that this is bad policy, that it is an infringement of personal rights. He recalled testimony that data is missing, or is speculated. He stated that if cell phone use is problematic, that the correlation between number of accidents and enormous increase in cell phone use does not indicate a problem exists.

REPRESENTATIVE T. WILSON stated that no other states have banned cell phones entirely. She asked how this bill would affect tour guides and others who use cell phones in their everyday business use, including law enforcement officers.

REPRESENTATIVE PETERSEN offered his belief that if exclusions were listed, the list would run into "pages and pages" of exclusions since so many businesses use cell phones. He understood that many companies no longer use dispatches since their drivers all have cell phones.

REPRESENTATIVE JOHANSEN pointed out that an amendment is on the table that deals exclusively with hands-free devices.

CHAIR P. WILSON cautioned members to keep comments to Amendment 1.

REPRESENTATIVE T. WILSON asked whether statistics were available to support the amendment.

[2:23:54 PM](#)

REPRESENTATIVE GRUENBERG suggested members may wish to review several research papers in members' packets. He listed a number of the studies and information that members should consider.

[2:26:56 PM](#)

REPRESENTATIVE GRUENBERG offered that seven states impose statewide bans while talking on hand-held devices. He pointed out that Amendment 1 would prohibit hand-held devices, but permit hands-free devices. He maintained that seven states allow hands-free cell phones.

REPRESENTATIVE T. WILSON agreed that seven states would allow hands-free cell phone use.

[2:27:50 PM](#)

REPRESENTATIVE GRUENBERG referred to the Connecticut statute, and read, "hand-held mobile telephone means a mobile telephone with which a user engages in a call using at least one hand." He said, "It bans them and it does exactly what Amendment 1 does. So we have seven states do what Amendment 1 does, plus the District of Columbia."

[2:28:51 PM](#)

REPRESENTATIVE MUNOZ explained that the data provided in members' packets speaks to seven states that banned hand-held devices, but all of the states allow hands-free devices, although that information is not explicitly stated.

REPRESENTATIVE GRUENBERG pointed out that seven states already have laws in place similar to what Amendment 1 would impose. There is a trend for other states to ban the use of cell phones. He elaborated that some ban text messaging, a second group bans cell phone use while operating a school bus, yet another group bans novice drivers from using cell phones. Thus, Alaska would be taking a step similar to what the other seven states have done.

[2:30:45 PM](#)

REPRESENTATIVE PETERSEN removed his objection.

[2:31:03 PM](#)

REPRESENTATIVE JOHNSON then objected.

A roll call vote was taken. Representatives Johansen, Munoz, Gruenberg, Petersen, and Chair P. Wilson voted in favor of the amendment. Representatives Johnson and T. Wilson voted against it. Therefore, Amendment 1 was adopted by a vote of 5-2.

[2:32:18 PM](#)

REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 2, labeled, 26-LS 1104\E.2, Luckhaupt, 2/19/10, which read:

Page 1, line 2:

Delete "**; and providing for an effective date**"

Page 1, line 13:

Delete all material.

REPRESENTATIVE T. WILSON objected.

[2:33:00 PM](#)

REPRESENTATIVE GRUENBERG explained that normally it takes a simple majority for a bill to pass the legislature. However, if an effective date is contained in the bill it would take 27 votes to pass the House. Thus, unless there is a good reason for it, he suggested the effective date should be removed.

REPRESENTATIVE JOHANSEN pointed out that in the event the House of Representatives did not vote on the effective date that it would take 90 days for the bill to become law. He related that the effective date has no bearing on substance of the bill.

[2:34:31 PM](#)

REPRESENTATIVE T. WILSON maintained her objection.

CHAIR WILSON recapped Amendment 2, stating that it would delete on page 1, line 2, "; and providing for an effective date."

A roll call vote was taken. Representatives Munoz, Gruenberg, Petersen, and P. Wilson voted in favor of Amendment 2. Representatives Johansen, Johnson, and T. Wilson voted against it. Therefore, Amendment 2 was adopted by a vote of 4-3.

[2:35:42 PM](#)

REPRESENTATIVE GRUENBERG made a motion to adopt Conceptual Amendment 3, to adopt the definition for "emergency" as given in AS 42.20.150 (1). He described Conceptual Amendment 3, which would use the definition of "emergency" for this section as it is defined in AS 42.20.150 (1). He stated this amendment would clarify the type of "emergency" that would apply.

There being no objection, Conceptual Amendment 3 was adopted.

2:37:28 PM

REPRESENTATIVE PETERSEN made a motion to adopt Amendment 4, labeled 26-LS1104\E.3, Luckhaupt, 2/23/10, which read, as follows:

Page 1, following line 10:

Insert a new subsection to read:

"(c) Notwithstanding another provision of law, a peace officer may not stop or detain a motor vehicle to determine compliance with (a) of this section, or issue a citation for a violation of (a) of this section, unless the peace officer has probable cause to stop or detain the motor vehicle other than for a violation of (a) of this section."

Reletter the following subsection accordingly.

REPRESENTATIVE JOHNSON objected for purpose of discussion.

REPRESENTATIVE PETERSEN explained that Amendment 4 would require a police officer to have probable cause in order to stop or detain a motor vehicle for some reason other than for cell phone use. Thus, a police officer must have some reason, such as erratic driving, before the officer could make a traffic stop. Therefore, cell phone use while driving would be considered a secondary offense. He stated that several other states have adopted this law. Since law enforcement officers are limited in numbers, Amendment 4 would also allow them to ignore cell phone use, but in the event a driver was stopped or involved in an accident, an officer could cite the driver for cell phone use.

2:40:13 PM

REPRESENTATIVE JOHNSON asked whether distracted driving is a currently considered a primary offense and if an AST would pull over the vehicle.

LT. DIAL answered that several potential citations could be used in the event a driver was engaged in reckless or negligent driving or if the cell-phone use caused an accident. In further response to Representative Johnson, Lt. Dial stated that an officer would likely cite someone for negligent driving if the driver was distracted by activities such as putting on make-up while driving. He further answered that the category of

reckless driving is considered a more serious charge than negligent driving since it would create a substantial risk to persons or property.

REPRESENTATIVE JOHNSON asked whether a driver would be pulled over if he/she did not swerve or otherwise exhibit erratic driving while using a cell phone.

LT. DIAL answered no. He stated that it is quite common to observe all kinds of distracted driving and drivers are not pulled over if they are not endangering someone or something.

[2:42:59 PM](#)

REPRESENTATIVE JOHNSON removed his objection.

REPRESENTATIVE T. WILSON stated that she noticed a fiscal note was not attached to the bill. She then asked whether radios would have to be installed in state vehicles if cell phone use is banned.

[2:44:17 PM](#)

There being no further objection, Amendment 4 was adopted.

[2:44:56 PM](#)

REPRESENTATIVE JOHANSEN made a motion to rescind the committee's action to adopt Amendment 2.

REPRESENTATIVE GRUENBERG explained that the effect of Amendment 2 was to delay the effect of the bill. He suggested that the bill would be effective earlier. He said he did not object if the bill has an earlier effective date.

REPRESENTATIVE JOHANSEN withdrew his motion to rescind the committee's action on adopting Amendment 2.

[2:47:11 PM](#)

REPRESENTATIVE JOHNSON made a motion to table the bill to allow time for the committee to obtain information, including the information referenced by Dr. Priestly, prior to passing this bill. He offered his belief that this bill would place an egregious burden on citizens.

REPRESENTATIVE JOHANSEN objected.

REPRESENTATIVE JOHNSON withdrew his motion to table HB 257.

CHAIR P. WILSON stated her intention to hold the bill over since there appears to be significant objection to the bill.

[2:49:40 PM](#)

MS. CASHEN offered to provide copies of two studies to the committee: the AAA study and the Institute of Insurance Highway Safety (IIHS) study. She explained the reason the AHSO office did not use the information contained in the studies had to do with potential bias. She explained that the Institute of Insurance study raised many questions with the Governor's Highway Safety Association and the National Highway Transportation Safety Administration because the type of data collected depends on the people involved in automobile crashes to independently file their insurance claims. She explained that the data fluctuates for many reasons. She pointed out that the AHSO reviews considers "hard data" but does not consider data that may be affected by economic reasons or similar factors. She also mentioned that about ten years ago a change was made so that drivers involved in accidents are not required to wait for law enforcement to arrive. The DOT&PF currently depends on drivers to file their own crash information. Thus, what has transpired is that the forms submitted have subsequently diminished since it is the driver's responsibility to submit the form. This has definitely impacted the data collected, she stated.

[2:52:09 PM](#)

REPRESENTATIVE JOHANSEN commented would like to see the information contained in the actual studies rather than have the DOT&PF interpret the data. He stated that if the AHSO has a problem gathering data that the DOT&PF should request a statute change.

CHAIR P. WILSON stated that self-reporting data may be slanted since the driver may want to "put themselves in the best light".

MS. CASHEN related that the AHSO has seen the number of forms collected decline and the AHSO has noticed cell phone usage is not often listed. Chair Wilson's observation may be part of the explanation for the change.

[2:53:38 PM](#)

REPRESENTATIVE JOHANSEN asked for further clarification on whether a change in statute is needed to assist the AHSO in obtaining additional information.

MS. CASHEN explained that the AHSO is concerned about what information is requested on the reporting form.

REPRESENTATIVE JOHANSEN maintained his interest in assisting the AHSO obtain the information it needs.

MS. CASHEN clarified that one small change on the accident reporting form would affect every agency, including the court system. Thus, the effect may result in agencies not having the capability to share the information with other agencies. She stressed the importance of being able to capture and share the information the potential costs for computer software upgrades to accommodate agencies, including the court system and the DMV could be in the millions. She noted the complexity of the reporting issues, but related that as agencies convert to electronic citations that categories for distractions will be added. She said she wished that capturing accurate crash data was an easier problem to remedy, but she assured members that the AHSO will continue to work on the issue.

[2:55:56 PM](#)

REPRESENTATIVE JOHNSON asked whether the form is no longer required.

MS. CASHEN said she thought he was referring to one page of the report. She offered her belief that the Department of Public Safety does not currently have the responsibility to fill out crash forms.

LT. DIAL explained that AS 28.35.080 addresses this issue. He said that essentially the driver of a vehicle involved in an accident that results in bodily injury, death, or damage to an extent of \$2,000 or more must provide notice of the accident to the police department. He stated that the AST completes accident report forms in those cases. However, in the event an accident happened in the past or results in less than \$2,000 in damages, the individual is give a Participant Accident Form and would fill out the form without the assistance of a trooper.

[2:57:33 PM](#)

CHAIR P. WILSON offered her belief that the AST cannot cover all accidents so a policy call was made.

LT. DIAL agreed the policy change has reduced the AST's involvement in accident reports.

[2:59:00 PM](#)

REPRESENTATIVE JOHNSON referred to a collision report in members' packets and asked if this specific form was the self-reporting form mentioned earlier.

LT. DIAL responded that all law enforcement agencies in the state use the specified form in instances of any serious accidents, but that it is not considered the self-reporting form. In further response to Representative Johnson, Lt. Dial agreed that the state currently collects data on serious accidents.

[2:59:51 PM](#)

[HB 257 was held over.]

[3:00:09 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Transportation Standing Committee meeting was adjourned at 3:00 p.m.