

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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State Capitol
Juneau, AK 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

June 2, 2017

TO: Crystaline Jones
Chief Clerk

FROM: Laura Duval
Enrolling Secretary

SUBJECT: CSHB 132(L&C)

In accordance with Rule 43, Uniform Rules of the Alaska State Legislature, I am reporting the following manifest errors in CSHB 132(L&C), which have been corrected in enrolling:

Page 2, line 7:

Delete "exclude"

Page 2, line 8, following "AS 28.20,":

Insert "exclude"

Page 3, line 11:

Delete "its"

Insert "the automobile insurer's"

Page 3, line 23, following ""digital network,"":

Insert ""driver,""

Page 3, line 24:

Following ""transportation network company,"":

Insert "and"

Following ""transportation network company driver"":

Delete "and"

Page 3, line 25:

Delete ""driver""

Page 5, line 3, following ""transportation network company driver"":

Insert "or "driver""

Crystalline Jones

June 2, 2017

Page 2

Page 5, line 18, following the second occurrence of "the":

Insert "personal"

Page 8, line 25, following "network":

Insert "company"

Page 9, line 14, following "post":

Insert "on the company's Internet website"

Page 9, line 15:

Delete "on the company's Internet website"

Page 9, line 18:

Delete "its"

Insert "the transportation network company's"

Page 10, line 2:

Delete "its"

Insert "the transportation network company's"

Page 10, line 18, following "a":

Insert "felony or"

Page 11, line 5:

Delete "its"

Insert "the transportation network company's"

Page 13, line 10:

Delete "its"

Insert "the transportation network company's"

Page 13, lines 22 - 23:

Delete "prearranged rides"

Insert "a prearranged ride"

Attached is a copy of a memorandum dated June 2, 2017, from the Revisor of Statutes explaining the manifest error he discovered on page 10, line 18, which I have corrected in enrolling for the reasons stated in his memorandum.

Attachment

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MEMORANDUM

June 2, 2017

SUBJECT: Enrollment of CSHB 132(L&C) - Manifest Error
(Work Order No. 30-LS0522\I)

TO: Laura Duval
Enrolling Secretary

FROM: Gerald P. Luckhaupt 
Revisor of Statutes

I have discovered a manifest error by way of additions or omissions in CSHB 132(L&C) as passed by the legislature. When enrolling the bill, in sec. 28.23.100(b)(2)(B), on page 10, line 18 of the engrossed version of the bill, following "a" insert "felony or". As explained herein, this language was mistakenly omitted from the bill as it was prepared by this office.

Under Rule 43, Uniform Rules of the Alaska State Legislature, manifest errors by way of additions or omissions may be corrected by the enrolling secretary of the legislature.¹ Under the 2017 Manual of Legislative Drafting a manifest error by way of additions or omissions is

one where (1) the printed version does not accurately reflect legislative action, or (2) the provision is unquestionably inaccurate, the change to be made is the only logical result, and nothing in the record indicates the error was intentional.

I have determined that the language of sec. 28.23.100(b)(2)(B) in the engrossed version is unquestionably inaccurate, the addition of "felony or" is the only logical result, and there is nothing in the record to indicate that the failure to insert "felony or" was intentional on the part of the legislature. Further, without the addition of "felony or" the bill does not accurately reflect legislative action.

The addition of "felony or" makes both felony and misdemeanor forms of the crimes listed in sec. 28.23.100(b)(2)(B) a bar to a person being hired as a transportation network

¹ Under Rule 43, the enrolling secretary enrolls bills passed by the legislature with the revisor of statutes. Also under AS 01.05.031(b)(7), the revisor of statutes is authorized to (7) correct manifest errors that are clerical, typographical, or errors in spelling, or errors by way of additions or omissions;

company (TNC) driver. The "felony or" language was mistakenly omitted from the "T" and "I" versions of the bill when those versions were drafted even though that or similar language was requested by the sponsor. This omission is significant as there are felony forms of the crimes listed in sec. 28.23.100(b)(2)(B)(i) - (iii). Under the mistaken language of the engrossed version a person convicted of

(1) a misdemeanor driving while under the influence in the last seven years could not be hired as a TNC driver while a person convicted of the felony form of driving while under the influence could be hired²;

(2) a misdemeanor crime against a person under AS 11.41,³ including stalking, sexual assault, or sexual abuse of a minor, in the last seven years could not be hired as a TNC driver while a person convicted of the Class C felony version of those same crimes could be hired.

The sponsor's explanation of changes provided to the House Labor & Commerce Committee for the "T" version and the explanation of changes provided to the senate for the "I" version⁴ specify that the language of sec. 28.23.100(b) in those versions would disqualify a person from being hired if the person "has committed a violent crime, either **felony or misdemeanor**," or "has been convicted of driving under the influence" in the last seven years. The tapes of the hearings contain limited discussion of these changes but support that the error (the omission of "felony or") was not intentional and that both felony and misdemeanor forms of these crimes were intended to disqualify a person from employment for the requisite period of time.

Adding "felony or" is the only logical result as it is illogical to allow a person who has been convicted of felony driving while under the influence or a Class C felony sexual abuse of a minor (greater, more serious crimes) to be hired as a TNC driver while disqualifying a person convicted of misdemeanor driving while under the influence or misdemeanor sexual abuse of a minor (lesser crimes) during the same time period. There is nothing in the record to support that the legislature intended this illogical result.

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² The felony form of driving while under the influence requires that a person have been previously convicted two or more times prior to the person's current drunk driving offense.

³ AS 11.41 offenses are usually referred to as crimes against persons, violent crimes, or violent crimes against persons.

⁴ Available under the basis entry for HB 132 under the documents tab.