

**HB**

**255**

<TARGET><BILL>HB 255</BILL><SUBJECT>HB  
255</SUBJECT><COMM>HF IN27</COMM></TARGET>



# FISCAL NOTE

**STATE OF ALASKA**  
**2012 LEGISLATIVE SESSION**

Bill Version CS HB 255 (JUD)  
 Fiscal Note Number \_\_\_\_\_  
 () Publish Date \_\_\_\_\_

Identifier (file name) HB255-DOA-PDA-1-23-12 Dept. Affected Administration  
 Title Prohibit Dialing or Texting While Driving Appropriation Legal and Advocacy Services  
 Allocation Public Defender Agency  
 Sponsor Representatives Gara, Thomas, Gatto, P. Wilson  
 Requester House Finance Committee OMB Component Number 1631

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**FUND SOURCE** (Thousands of Dollars)

1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
<b>TOTAL</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS**

Full-time							
Part-time							
Temporary							

**CHANGE IN REVENUES**

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Estimated **SUPPLEMENTAL (FY12) operating costs** \_\_\_\_\_ (separate supplemental appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

Estimated **CAPITAL (FY13) costs** \_\_\_\_\_ (separate capital appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

**Why this fiscal note differs from previous version (if initial version, please note as such)**

The House Finance Committee zeroed the fiscal note.

Prepared by Joe Michel  
 Division House Finance Committee Aide  
 Approved by Co-Chair Stoltze  
House Finance Committee

Phone 465-4958  
 Date/Time 4/4/12 5:00 PM  
 Date 4/4/2012

FISCAL NOTE

STATE OF ALASKA  
2012 LEGISLATIVE SESSION

BILL NO. CS HB 255 (JUD)

**Analysis**

[Empty box for analysis content]

# FISCAL NOTE

**STATE OF ALASKA**  
**2012 LEGISLATIVE SESSION**

Bill Version HB 255  
 Fiscal Note Number \_\_\_\_\_  
 () Publish Date \_\_\_\_\_

Identifier (file name) HB255CSHB(JUD)-LAW-CRIM-04-03-12 Dept. Affected Law  
 Title An Act prohibiting dialing or texting while driving. Appropriation Criminal  
 Allocation Criminal Justice Litigation  
 Sponsor Representatives Gara, Thomas, Gatto, P. Wilson,  
Gruenberg, and Tuck  
 Requester (H) Finance OMB Component Number 2202

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>FUND SOURCE</b>		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
<b>TOTAL</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>POSITIONS</b>								
Full-time								
Part-time								
Temporary								

<b>CHANGE IN REVENUES</b>								

Estimated **SUPPLEMENTAL (FY12) operating costs** \_\_\_\_\_ (separate supplemental appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

Estimated **CAPITAL (FY13) costs** \_\_\_\_\_ (separate capital appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

**Why this fiscal note differs from previous version (if initial version, please note as such)**

Update for new Attorney General and requester.

Prepared by Sheila Bugbee, Administrative Officer  
 Division Administrative Services  
 Approved by Michael Geraghty, Attorney General  
Department of Law

Phone 465-3675  
 Date/Time 04/03/12 4:00PM  
 Date 4/3/2012

**FISCAL NOTE**

**STATE OF ALASKA  
2012 LEGISLATIVE SESSION**

**BILL NO. HB 255**

**Analysis**

Police are currently charging the conduct of texting while driving under AS 28.35.161, and the Department of Law has taken the position that the statute currently prohibits this conduct on appeal from a decision from a magistrate that current law does not prohibit this conduct. Clarifying the law would be helpful.

There should be no fiscal impact to the Department from this bill.

# FISCAL NOTE

STATE OF ALASKA  
2012 LEGISLATIVE SESSION

Bill Version HB 255  
Fiscal Note Number 1  
(H) Publish Date 1/27/12

Identifier (file name) HB255-DOA-OPA-1-20-2012 Dept. Affected Administration  
Title Prohibit Dialing or Texting While Driving Appropriation Legal and Advocacy Services  
Allocation Office of Public Advocacy  
Sponsor Representatives Gara, Thomas, Gatto, P. Wilson, Gruenberg, Tuck  
Requester House Transportation OMB Component Number 43

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

FUND SOURCE		(Thousands of Dollars)						
		FY13	FY14	FY15	FY16	FY17	FY18	
1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
<b>TOTAL</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	

POSITIONS							
	FY13	FY14	FY15	FY16	FY17	FY18	
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES							
	FY13	FY14	FY15	FY16	FY17	FY18	

Estimated SUPPLEMENTAL (FY12) operating costs \_\_\_\_\_ (separate supplemental appropriation required)  
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs \_\_\_\_\_ (separate capital appropriation required)  
(discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Not applicable, initial version

Prepared by Richard Allen, Director  
Division Office of Public Advocacy  
Approved by John Cramer, Deputy Commissioner  
Department of Administration

Phone 907-269-3504  
Date/Time 01/20/2012 11:45 a.m.  
Date 1/20/2012

FISCAL NOTE #1

STATE OF ALASKA  
2012 LEGISLATIVE SESSION

BILL NO. HB 255

**Analysis**

This bill prohibits the driver of a motor vehicle from reading or typing a text message or other nonvoice message or communication on a cellular telephone, computer, or personal data assistant while driving a motor vehicle.

The agency is not anticipating a significant impact to the current case load or fiscal cost increase with the passage of the legislation. However, the Office of Public Advocacy will monitor for a future potential fiscal impact. Therefore, at this time, the Agency submits a zero impact fiscal note.

# FISCAL NOTE

STATE OF ALASKA  
2012 LEGISLATIVE SESSION

Bill Version HB 255  
Fiscal Note Number 2  
(H) Publish Date 1/27/12

Identifier (file name) HB255-DOC-OC-01-20-12 Dept. Affected DOC  
Title "An Act prohibiting the driver of a motor vehicle from Appropriation Admin & Support  
House Transportation Committee Allocation Commissioner's Office  
Sponsor Gara, Thomas, Gatto, P.Wilson, Gruenberg, Tuck  
Requester House Transportation Committee OMB Component Number 694

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
<b>TOTAL</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

POSITIONS								
Full-time								
Part-time								
Temporary								

CHANGE IN REVENUES								

Estimated SUPPLEMENTAL (FY12) operating costs 0.0 (separate supplemental appropriation required)  
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs 0.0 (separate capital appropriation required)  
(discuss reasons and fund source(s) in analysis section)

**Why this fiscal note differs from previous version (if initial version, please note as such)**

This is the original version of the bill.

Prepared by Leslie Houston, Director  
Division Dept of Corrections - Administrative Services  
Approved by Joseph D. Schmidt, Commissioner  
Dept of Corrections

Phone 907-465-3339  
Date/Time 01/20/12 2:45pm  
Date 1/20/2012

FISCAL NOTE #2

STATE OF ALASKA  
2012 LEGISLATIVE SESSION

BILL NO. HB 255

**Analysis**

This legislation has little to no fiscal impact on the Department of Corrections.

# FISCAL NOTE

**STATE OF ALASKA**  
**2012 LEGISLATIVE SESSION**

Bill Version HB 255  
 Fiscal Note Number 3  
 (H) Publish Date 1/27/12

Identifier (file name) HB255-ACS-TRC-01-20-12 Dept. Affected Alaska Court System  
 Title Prohibit Dialing or Texting While Driving Appropriation Trial Courts  
 Allocation \_\_\_\_\_  
 Sponsor Representative Gara  
 Requester \_\_\_\_\_ OMB Component Number 768

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
<b>OPERATING EXPENDITURES</b>	<b>FY13</b>	<b>FY13</b>	<b>FY14</b>	<b>FY15</b>	<b>FY16</b>	<b>FY17</b>	<b>FY18</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>FUND SOURCE</b>		(Thousands of Dollars)					
1002	Federal Receipts						
1003	GF Match						
1004	GF						
1005	GF/Prgm (DGF)						
1037	GF/MH (UGF)						
1178	temp code (UGF)						
<b>TOTAL</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>POSITIONS</b>							
Full-time							
Part-time							
Temporary							

<b>CHANGE IN REVENUES</b>							
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Estimated **SUPPLEMENTAL (FY12) operating costs** \_\_\_\_\_ (separate supplemental appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

Estimated **CAPITAL (FY13) costs** \_\_\_\_\_ (separate capital appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

**Why this fiscal note differs from previous version (if initial version, please note as such)**

Initial version of fiscal note

Prepared by Doug Wooliver, Deputy Administrative Director  
 Division Alaska Court System  
 Approved by Doug Wooliver for Christine Johnson, Administrative Director  
Alaska Court System

Phone 907-463-4750  
 Date/Time 1-20-12 @ 11:30 am  
 Date 1/20/2012

**FISCAL NOTE #3**

**STATE OF ALASKA  
2012 LEGISLATIVE SESSION**

**BILL NO. HB 255**

**Analysis**

House Bill 255 amends AS 28.35.161(a) and other statutes to specifically ban texting while driving and communicating on a computer while driving. Because the current law banning driving with a screen device operating has generally be interpreted to include by inference a ban on the behaviors specifically banned in HB 255, the court system does not anticipate any fiscal impact from the passage of this bill.

# FISCAL NOTE

*amended  
by the committee  
zeroed out  
4/4/12*

STATE OF ALASKA cost # codes  
2012 LEGISLATIVE SESSION

Bill Version HB 255  
Fiscal Note Number 5  
Publish Date 1/27/12 (H)

Identifier (file name) HB255-DOA-PDA-1-23-12 Dept. Affected Administration  
Title Prohibit Dialing or Texting While Driving Appropriation Legal and Advocacy Services  
Allocation Public Defender Agency  
Sponsor Representatives Gara, Thomas, Gatto, P. Wilson  
Requester House Transportation OMB Component Number 1631

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
<b>OPERATING EXPENDITURES</b>							
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
<b>TOTAL OPERATING</b>	****	****	****	****	****	****	****

FUND SOURCE		(Thousands of Dollars)					
1002	Federal Receipts						
1003	GF Match						
1004	GF						
1005	GF/Prgm (DGF)						
1037	GF/MH (UGF)						
1178	temp code (UGF)						
<b>TOTAL</b>		****	****	****	****	****	****

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES							

Estimated SUPPLEMENTAL (FY12) operating costs \_\_\_\_\_ (separate supplemental appropriation required)  
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs \_\_\_\_\_ (separate capital appropriation required)  
(discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)  

Not applicable, initial version

Prepared by Quinlan Steiner, Public Defender Phone 907 334-4414  
 Division Public Defender Agency Date/Time 1/20/12 3:05 PM  
 Approved by John Cramer, Deputy Commissioner Date 1/23/2012  
Department of Administration

(Revised 8/17/2011 OMB)

FISCAL NOTE #5

STATE OF ALASKA  
2012 LEGISLATIVE SESSION

BILL NO. HB 255

**Analysis**

This bill amends AS 28.35.161(a) by adding language that specifically prohibits texting or the use of a cellular phone, data assistant, computer or other device for non-voice communication while operating a motor vehicle, unless specifically authorized under this statute. This crime carries a range of penalties from a class A misdemeanor to a class A felony. Under this statute persons convicted of texting while driving face potential penalties of up to one year of imprisonment for a class A misdemeanor, up to five years of imprisonment for a class C felony, up to 10 years of imprisonment for a class B felony and up to 20 years of imprisonment for a class A felony.

The Department of Law presently views the conduct addressed by this bill to be prohibited under the current statute. Accordingly, District Attorneys in various communities have brought charges for texting while driving. Judicial officers across the state, however, are split on whether texting and driving is prohibited by the current statute. In some communities where judicial officers have concluded that texting and driving is not covered by the current statute, District Attorneys are no longer pursuing charges for texting and driving.

Specifically prohibiting texting and driving will result in the prosecution of cases that are not currently prosecuted by the Department of Law. Additionally, the increased prosecution and awareness is expected to increase enforcement across the state. The Public Defender Agency cannot reliably predict how many additional cases will be prosecuted and require public counsel, however. The Agency anticipates that increased prosecution and enforcement will result in a fiscal impact on the Agency. The Agency, therefore, submits an indeterminate fiscal note.

# LEGAL SERVICES

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

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

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

## MEMORANDUM

January 17, 2012

**SUBJECT:** Sectional Analysis of HB 255 (Work Order No. 27-LS1165V)

**TO:** Representative Les Gara  
Attn: Rose Foley

**FROM:** Doug Gardner  
Director

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

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

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

Representative Les Gara  
January 17, 2012  
Page 2

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

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

DDG:plm  
12-026.plm

# ALASKA STATE LEGISLATURE



REPRESENTATIVE LES GARA  
REPRESENTATIVE BILL THOMAS

## House Bill 255 Summary of Changes from HB 255 to CSHB 255(JUD)

### Section 1

The Statement of Purpose was amended to clearly refer to the December 1, 2011 decision in State v. Adams, the impetus for this legislation.

### Section 2

No changes

### Section 3

No changes

### Section 4

No changes

### Section 5

Moved the definition of "installed" from a subsection of AS 28.35.161(d) into the body of that section, at the request of the reviser of statutes to meet drafting manual rules.

Added language that permits emergency personnel to view authorized wireless screen devices while driving, but only if the user reasonably believes the information is necessary to respond to a health, safety, or criminal matter. This provision was added at the request of law enforcement.

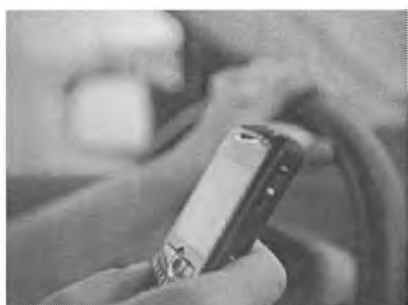
### Section 6

This new section provides an immediate effective date.

# Texting And Driving Worse Than Drinking and Driving

**Published:** Thursday, 25 Jun 2009 | 11:54 AM ET

By: [Phil LeBeau](#)  
CNBC Reporter



Admit it.

You've done it.

You've been driving down the side street (and yes, the highway as well) when your phone, blackberry, or whatever you use to call and text with goes off.

You immediately grab it, even though you are driving in traffic and really shouldn't.

It's a dangerous and terrible habit American drivers have developed.

The folks at [Car and Driver Magazine have now documented](#) just dangerous it can be.

Rigging a car with a red light to alert drivers when to brake, the magazine tested how long it takes to hit the brake when sober, when legally drunk at .08, when reading and e-mail, and when sending a text. The results are scary. Driving 70 miles per hour on a deserted air strip Car and Driver editor Eddie Alterman was slower and slower reacting and braking when e-mailing and texting.

The results:

- Unimpaired: .54 seconds to brake
- Legally drunk: add 4 feet
- Reading e-mail: add 36 feet
- Sending a text: add 70 feet

When I took the test for reading e-mail or texting, I was just as slow to react. On average, it took me four times longer to hit the brake. Mike Austin at Car and Driver told me in blunt terms that I was "way worse" than the average driver.



None of this should surprise you.

Sure, the headline about texting and driving being more dangerous than drinking and driving got your attention.

Maybe that's because the American public correctly views drinking and driving as wrong. But when it comes to texting and driving, we are not as outraged.

Probably because many of us have done it and still do it (even though it's banned in 14 states).

Sadly, it will likely take more accidents and more deaths to change that attitude. There are countless stories of teens dying in accidents because the driver was texting while driving.

Unfortunately, I fear there will be more. Too many people have become too accustomed to checking e-mail or sending a text while behind the wheel, even though it's as dangerous as drinking and driving.

*AUTOS & CELL PHONES on CNBC.com*



# Alaska Association of Chiefs of Police

April 3, 2012

Representative Les Gara  
Mailstop: 3100 Room 500  
State Capitol,  
Juneau AK 99801-1182

RE: HB 255, An Act prohibiting the driver of a motor vehicle from reading or typing a text message or other nonvoice message or communication on a cellular telephone, computer, or personal data assistant while driving a motor vehicle

Dear Representative Gara,

The Alaska Association of Chiefs of Police, Inc. (AACOP) represents Criminal Justice executives across Alaska; from Anchorage to Annette Island, Barrow to Bethel and Kotzebue to Ketchikan. Our 120 Members direct local, state and federal criminal justice agencies. We collaborate and work together toward one goal: making our state and communities safer.

AACOP leadership recently met to evaluate the impact on public safety of pending legislation before the 27<sup>th</sup> Alaska Legislature. One of the bills evaluated was HB 255, *An Act prohibiting the driver of a motor vehicle from reading or typing a text message or other nonvoice message or communication on a cellular telephone, computer, or personal data assistant while driving a motor vehicle.* **We are writing to express our unreserved support for this bill as it is currently drafted.**

I know that in your discussions with Cordova Chief Bob Griffiths, he expressed the importance of having enough flexibility within the statute to support public safety use of mobile devices that were not physically connected to their vehicles. Many small agencies do not have computers in their cars and must rely on mobile devices for emergency communications, alerts, and computer checks. While officers are taught to stop their vehicles to use these devices, in emergency cases this may not be possible. We appreciate the Legislature recognizing this need while still addressing the overall elimination of distracted driving.

If you have need of additional testimony from any of our members as the bill proceeds through the committee process, please do not hesitate to contact us.

Respectfully,

Chief Tom Clemons,  
President, AACOP  
(907) 224-3338

185 E Nelson Ave, Wasilla, AK 99654

(907) 376-2747

Sec. 28.35.161. Driving a motor vehicle with a screen device operating; unlawful installation of television, monitor, or similar device.

(a) A person commits the crime of driving with a screen device operating if

(1) the person is driving a motor vehicle;

(2) the vehicle has a television, video monitor, portable computer, or any other similar means capable of providing a visual display that is in full view of a driver in a normal driving position while the vehicle is in motion; and

(3) the monitor or visual display is operating while the person is driving.

(b) A person may not install or alter equipment described in (a)(2) of this section that allows the images to be viewed by the driver in a normal driving position while the vehicle is in motion.

(c) Subsections (a) and (b) of this section do not apply to

(1) portable cellular telephones or personal data assistants being used for verbal communication or displaying caller identification information;

(2) equipment that is displaying only

(A) audio equipment information, functions, and controls;

(B) vehicle information or controls related to speed, fuel level, battery charge, and other vehicle safety or equipment information;

(C) navigation or global positioning;

(D) maps;

(E) visual information to

(i) enhance or supplement the driver's view forward, behind, or to the sides of the motor vehicle for the purpose of maneuvering the vehicle; or

(ii) allow the driver to monitor vehicle occupants seated behind the driver;

(F) vehicle dispatching and response information for motor vehicles providing emergency road service or roadside assistance;

(G) vehicle dispatching information for passenger transport or freight or package delivery;

(H) information for use in performing highway construction, maintenance, or repair or data acquisition by the Department of Transportation and Public Facilities or a municipality; or

(I) information for use in performing utility construction, maintenance, repair, or data acquisition by a public utility; in this subparagraph, "public utility" has the meaning given in AS 42.05.990.

(d) Subsections (a) and (b) of this section do not apply to devices and equipment installed in an emergency vehicle. In this subsection, "emergency vehicle" means a police, fire, or emergency medical service vehicle.

(e) It is an affirmative defense to a prosecution under (b) of this section that the equipment installed or altered includes a device that, when the motor vehicle is being driven, disables the equipment for all uses except those described in (c) of this section.

(f) A person who violates (a) of this section is guilty of

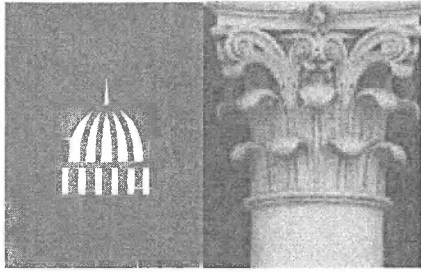
(1) a class A misdemeanor, unless any of the circumstances described in (2) - (4) of this subsection apply;

(2) a class C felony if the person's driving causes physical injury to another person;

(3) a class B felony if the person's driving causes serious physical injury to another person;

(4) a class A felony if the person's driving causes the death of another person.

(g) A person who violates (b) of this section is guilty of a class A misdemeanor.



# National Conference of State Legislatures

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NOVEMBER-DECEMBER 2009

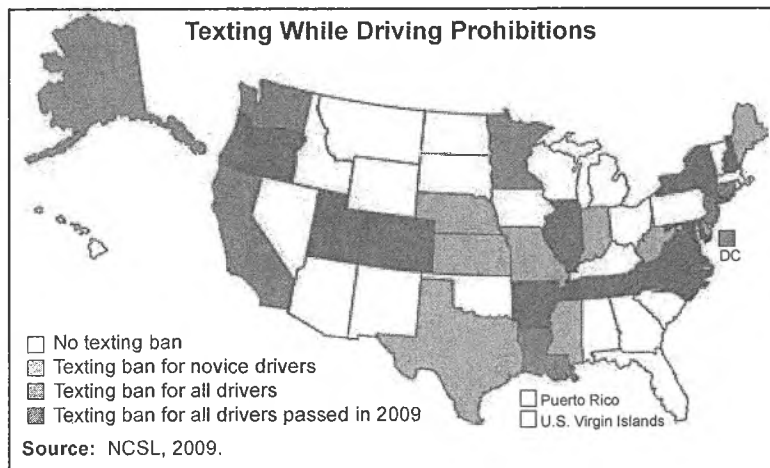
VOL. 17, No. 48

## Addressing Distracted Driving

By Melissa Savage

*Driver inattention causes nearly 80 percent of vehicle crashes.*

According to the National Highway Traffic Safety Administration, nearly 80 percent of vehicle crashes and 65 percent of near-crashes involve some form of driver inattention, often caused by tending to children in the back seat, talking with other passengers, or events happening outside the car. Talking on a cell phone and texting while driving have recently gained attention and have been the target of state legislation.



One trillion text messages were sent last year, according to the International Association for the Wireless Telecommunications Industry. That's up about 20 billion over the last three years. Many of these text messages were sent by drivers.

*Only 20 states collect cell phone use information at crash scenes.*

Tracking the problem can be difficult. Only 25 states collect cell phone use information at crash scenes. The National Occupant Protection Use Survey, conducted at randomly selected intersections by the U.S. Department of Transportation, found that 1 percent of observed drivers were manipulating a hand-held device, and 6 percent of observed drivers were using hand-held cell phones.

Studies using cameras and other tracking devices in personal vehicles found that drivers who send and receive text messages while driving had more than 20 times the risk of a crash or near crash than a driver who was not using a phone. Drivers who text messaged while driving took their eyes off the road for an average of 4.6 seconds during a 6-second interval; this equates to traveling the length of a football field at 55 mph without looking at the road. Talking on a cell phone while driving slightly increased the risk of a crash or near crash, but not to the same degree as text messaging.

*No state completely bans phone use for all drivers.*

**State Action** State distracted driving laws frequently are mislabeled as prohibitions on cell phones in the car. In fact, no state completely bans all phones for all drivers. Instead, state legislation usually addresses a range of issues, including particular wireless technologies and specific

National Conference  
of State Legislatures

Executive Director  
William T. Pound

Denver  
7700 East First Place  
Denver, Colorado 80230  
Phone (303) 364-7700  
[www.ncsl.org](http://www.ncsl.org)

Washington, D.C.  
444 North Capitol Street, NW, Suite 515  
Washington, D.C. 20001  
Phone (202) 624-5400

drivers. California, Connecticut, New York, New Jersey, Oregon, Washington and the District of Columbia prohibit all drivers from using hand-held phones. Other states have targeted only school bus drivers and teens. In 17 states and the District of Columbia, school bus drivers cannot use a cell phone while operating a bus; in 21 states and the District of Columbia, new drivers cannot use a cell phone while driving.

Since 2000, legislatures in every state, the District of Columbia and Puerto Rico have considered bills related to distracted driving or, more specifically, to driver cell phone use. In 2009, legislators in 46 states considered 198 driver distraction bills. Maine's 2009 distracted driving law covers all types of distraction, not just cell phone use. The law defines "operation of a motor vehicle while distracted" as non-vehicle-operation activity by drivers; if they cannot safely operate the vehicle, they are violating the law.

The most common driver distraction measure—prohibiting texting while driving—was debated in 27 legislatures in 2009. As of September, 18 states and the District of Columbia outlaw text messaging while driving for all drivers. Eleven of those states passed laws in 2009.

**Federal Action** U.S. Transportation Secretary Ray LaHood convened a September 2009 summit to address the dangers of text messaging and other distractions behind the wheel. The summit, organized by the U.S. Department of Transportation's Research and Innovative Technology Administration, convened senior transportation officials; elected officials, including state legislators; safety advocates; law enforcement personnel; and academics to discuss how to combat distracted driving.

President Obama recently released Executive Order 13513, which prohibits federal employees from text messaging while driving vehicles owned, leased or rented by the federal government or privately owned vehicles on official government business. The order also prohibits federal employees from using federal government-supplied electronic equipment while driving. The Department of Transportation will propose three separate rulemakings to: 1) ban the use of cell phones and other electronic devices by rail operators; 2) restrict cell phone use and ban text messaging by truck and interstate bus operators; and 3) revoke the commercial driver's licenses of school bus drivers convicted of texting while driving.

Congress also is considering a federal ban on texting while driving. Legislation introduced in both the U.S. House and Senate (H.R. 3535, S. 1536) would authorize withholding 25 percent of a state's highway funds if it fails to enact a law by a certain date to prohibit text messaging while driving. If passed, the federal legislation—Avoiding Life-Endangering and Reckless Texting by Drivers Act" (ALERT Drivers Act)—could authorize withholding a possible total of \$4.4 billion from the states and the District of Columbia, based on 2009 apportionments.

A second bill (S. 1938) introduced in the U.S. Senate would create a new grant program to encourage states to enact legislation that bans texting while driving, requires drivers using a cell phone to use a hands-free device, and prohibits drivers under age 18 from using any cell phone while driving. The grant program would be funded by redirecting unused surpluses from the existing federal grant program to states for encouraging enactment of a primary seat belt law.

### Contacts for More Information

Melissa Savage  
NCSL—Denver  
(303) 364-7700, ext. 1527  
melissa.savage@ncsl.org

Molly Ramsdell  
NCSL—Washington, D.C.  
(202) 624-5400  
molly.ramsdell@ncsl.org

Anne Teigen  
NCSL—Denver  
(303) 364-7700  
anne.teigen@ncsl.org

*Every state has considered bills related to distracted driving.*

*Congress is considering a federal ban on texting while driving.*



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## Cell Phone Use and Texting While Driving Laws

Updated December 2011

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STATES	HAND-HELD BAN	ALL CELL PHONE BAN	TEXTING BAN	ENFORCEMENT	CRASH DATA COLLECTION
Alabama	No	Drivers age 16 and 17 who have held an intermediate license for less than 6 months.	No	Not applicable	
Alaska	No	No	All drivers	Primary	Yes
Arizona	No	School bus drivers	No	Primary	
Arkansas	No	School bus drivers, drivers younger than 18	All drivers	Primary for texting by all drivers and cell phone use by school bus drivers; secondary for cell phone use by young drivers	Yes
California	All drivers	School and transit bus drivers and drivers younger than 18	All drivers	Primary	Yes
Colorado	No	Drivers younger than 18	All drivers	Primary	Yes
Connecticut	All drivers	Learner's permit holders, drivers younger than 18, and school bus drivers	All drivers	Primary	
Delaware	All drivers (effective 01/02/11)	Learner's permit and intermediate license holders and school bus drivers	All drivers (effective 01/02/11)	Primary	Yes
District of Columbia	All drivers	School bus drivers and learner's permit holders	All drivers	Primary	Yes
Florida	No	No	No	Not applicable	Yes
Georgia	Drivers younger than 18 (effective 07/01/10)	School bus drivers. Drivers younger than 18.	All drivers (effective 07/01/10)	Primary	Yes
Hawaii	No	No	No	Not applicable	
Idaho	No	No	No	Not applicable	Yes***
Illinois	Drivers in construction and school speed zones	Learner's permit holders younger than 19, drivers younger than 19, and school bus drivers	All drivers	Primary	Yes
Indiana	No	Drivers under the age of 18.	All drivers (effective 07/01/11).	Primary	Yes
Iowa	No	Learner's permit and intermediate license holders	All drivers	Secondary for texting	Yes
Kansas					

	No	Learner's permit and intermediate license holders	All drivers (effective 07/01/10)	Primary	Yes
Kentucky	No	Drivers younger than 18 (effective 07/13/10), School Bus Drivers.	All drivers (effective 07/13/10)	Primary (effective 07/13/10)	Yes
Louisiana	No	School bus drivers, learner's permit and intermediate license holders, drivers under age 18	All drivers	Primary	Yes
Maine**	No	Learner's permit and intermediate license holders	All drivers (effective 09/13/11)	Primary	Yes
Maryland	All drivers (effective 10/01/10), School Bus Drivers.	Learner's permit and intermediate license holders under 18. School bus drivers.	All drivers	Primary for texting	Yes
Massachusetts	Local option	School bus drivers, passenger bus drivers, drivers younger than 18.	All drivers (effective 09/30/10)	Primary	Yes
Michigan	Local option	No	All drivers (effective 07/01/10)	Primary (effective 07/01/10)	Yes
Minnesota	No	School bus drivers, learner's permit holders, and provisional license holders during the first 12 months after licensing	All drivers	Primary	Yes
Mississippi	No	School bus drivers.	Learner's permit holders and intermediate license holders	Primary	Yes
Missouri	No	No	Drivers 21 years of age or younger	Primary	
Montana	No	No	No	Not applicable	Yes
Nebraska	No	Learner's permit and intermediate license holders younger than 18	Learner's permit and intermediate license holders younger than 18 All drivers	Secondary	Yes
Nevada	All drivers (effective 01/01/12)	No	All drivers (effective 01/01/12)	Not applicable	Yes
New Hampshire	No	No	All drivers	Primary	
New Jersey	All drivers	School bus drivers, and learner's permit and intermediate license holders	All drivers	Primary	Yes
New Mexico	Local option	Learners permit and intermediate license holders.	No	Not applicable	Yes
New York	All drivers	No	All drivers	Primary	Yes
North Carolina	No	Drivers younger than 18 and school bus drivers	All drivers	Primary	
North Dakota	Drivers younger than 18	Drivers younger than 18 (effective 01/01/12)	All drivers (effective 08/01/11)	Primary (effective 08/01/11)	Yes

	(effective 01/01/12)				
Ohio	Local option	No	No	Not applicable	
Oklahoma	Learner's permit and intermediate license holders, school bus drivers and public transit drivers (effective 11/01/10)	School Bus Drivers and Public Transit Drivers (effective 11/01/10).	Learner's permit holders, intermediate license holders, school bus drivers and public transit drivers (effective 11/01/10)	Primary	Yes
Oregon	All drivers	Drivers younger than 18	All drivers	Primary	Yes
Pennsylvania	Local option	No	All drivers	Primary	Yes
Rhode Island	No	School bus drivers and drivers younger than 18	All drivers	Primary	Yes
South Carolina	No	No	No	Not applicable	Yes***
South Dakota	No	No	No	Not applicable	Yes
Tennessee	No	School bus drivers, and learner's permit and intermediate license holders	All drivers	Primary	Yes
Texas	Drivers in school crossing zones	Bus drivers. Drivers younger than 18. (09/01/11)	Bus drivers when a passenger 17 and younger is present; intermediate license holders for first 12 months, drivers in school crossing zones	Primary	Yes
Utah	See footnote*	No	All drivers	Primary for texting; secondary for talking on hand-held phone	Yes
Vermont	No	Drivers younger than 18 shall not use any portable electronic device while driving.	All drivers	Primary	
Virgin Islands	Yes				Yes
Virginia	No	Drivers younger than 18 and school bus drivers	All drivers	Secondary; primary for school bus drivers	Yes
Washington	All drivers	Learners permit and intermediate license holders.	All drivers	Primary	Yes
West Virginia	No	Drivers younger than 18 who hold either a learner's permit or an intermediate license	Drivers younger than 18 who hold either a learner's permit or an intermediate license	Primary	
Wisconsin	No	No	All drivers (effective 12/01/10)	Primary (effective 12/01/10)	
Wyoming	No	No	All drivers	Primary	Yes
Total	All drivers: 9 states and District of Columbia.	School Bus drivers: 19 states and District of Columbia. Teen drivers: 30 states and District of Columbia.	All Drivers: 35 states and District of Columbia.	Primary for all drivers texting: 32.	36 and U.S. Virgin Islands and District of Columbia.

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**Source: AAA, Insurance Institute for Highway Safety, NCSL 2011.**

**Governor's Highway Safety Association**

\* Utah considers speaking on a cell phone, without a hands-free device, to be an offense only if a driver is also committing some other moving violation (other than speeding).

\*\* Maine has a law that makes driving while distracted a traffic infraction. 29-A M.R.S.A. Sec. 2117.

\*\*\* Listed as a part of contributing factors

Denver Office

Tel: 303-364-7700 | Fax: 303-364-7800 | 7700 East First  
Place | Denver, CO 80230

Washington Office

Tel: 202-624-5400 | Fax: 202-737-1069 | 444 North Capitol Street, N.W.,  
Suite 515 | Washington, D.C. 20001

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# LESSMEIER & WINTERS

LAWYERS - LLC

8390 AIRPORT BOULEVARD  
SUITE 104  
JUNEAU, ALASKA 99801

MICHAEL L. LESSMEIER  
GREGORY W. LESSMEIER\*  
SHELDON E. WINTERS  
\*OF COUNSEL

TELEPHONE: (907) 796-4999  
FACSIMILE: (907) 796-4998  
E-MAIL: lw@gcl.net

February 7, 2012

The Honorable Les Gara  
Alaska House of Representatives  
State Capitol, Room 500  
Juneau, Alaska 99801-1182

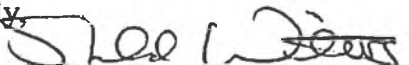
Re: State Farm Support for HB 255

Dear Representative Gara:

State Farm, the largest insurer of autos in Alaska, strongly supports HB 255, which prohibits drivers from reading or typing a text message or other non-voice message on cell phones, computers or personal data assistants. The bill clarifies this conduct is illegal in Alaska and provides for stiff penalties as a deterrent. Statistics establish without a doubt this bill will immediately begin to reduce accidents, reduce property damage, help to keep insurance costs down and most importantly save lives.

Please include this letter of support in your bill file and in all committee hearings. If we can provide you any further information or assistance, please let me know.

Sincerely,



Sheldon E. Winters

Lobbyist for State Farm Insurance Companies

SEW/lg

Gara 2-7-12 letter of support.wpd

# ANCHORAGE FIRE DEPARTMENT



*Dan Sullivan*  
Mayor

Headquarters  
100 East 4<sup>th</sup> Avenue  
Anchorage, Alaska 99501  
Phone (907) 267-4936 / Fax (907) 267-4977



*Mark S. Hall*  
Fire Chief

Representative Les Gara  
State Capital Bldg. Room 500  
Juneau, AK 99801-1182

Ref: Amendment HB255

Representative Gara,

The Anchorage Fire Department fully supports AS 28.35.161, which makes the use of electronic devices unlawful by the operator of a motor vehicle, and the amendments as proposed in HB 255. Specifically, the provision to permit the use of electronic equipment by emergency personnel when needed as part of emergency response is sufficient to continue safe and effective operations by the fire department. Further, the Anchorage Fire Department agrees that operators of emergency apparatus should be restricted to only information that is applicable to the emergency response and no other exclusions should be permitted. The amendments as proposed allowing emergency providers to view necessary information on a wireless screen while driving, but not type back to the sender will provide the ability for the Anchorage Fire Department to continue providing the best possible emergency response using the latest technology, while also reducing risk to the operators of emergency apparatus and other drivers on the roadway.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark S. Hall".

Mark S. Hall  
Fire Chief  
Municipality Of Anchorage

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## Kenai Judge Throws Out Texting-While-Driving Case

December 22, 2011 | By Matthew Simon | Channel 2 News

KENAI, Alaska — A Kenai judge says the 2008 law intended to make texting-while-driving illegal is not enforceable.

The state's screen device law does not include the word "text." Lawmakers say by not mentioning texting in the part of the bill allowing people to talk on phones means it is an implied illegal action.

However, on Dec. 1 Magistrate Jennifer Wells cited the lack of the word texting as the specific reason for tossing out the case against a man charged with texting-while-driving.

"Whether the 25<sup>th</sup> Legislature did, indeed, intend the statute to prohibit texting, or whether the statute has gotten the reputation because legislators and law enforcement wish this were true, is perhaps irrelevant," Wells writes. "From the court's perspective, because A.S. 28.35.161 creates misdemeanor and felony penalties, it is particularly important that the statute be clear."

"And we all thought that included texting," says Rep. Les Gara, D-Anchorage. "We intended for that to include texting."

If a state appeal of Wells ruling fails, Gara plans on making a proposal.

"Probably the smartest thing to do is, and the quickest way to fix this for the legislature, is find a criminal bill that's about to pass. Add an amendment to it that clarifies that we meant for texting to be illegal while you're driving."

The amendment, Gara says, would have language specifying all typing while driving is illegal.

For Rep. Mike Doogan, D-Anchorage, that is not good enough.

"All of the evidence we have is letting people talk on the cell phone while driving is a bad idea, Doogan says.

Like the National Transportation Safety Board, Doogan wants an all out ban on drivers using cell phones. His bill, and others like it, have stalled in Juneau.

"The first time there is a four car pileup that kills a bunch of people, that bill's going to pass," Doogan says. "But do I think it's going to pass before that, not really."

Gara says he is just trying to remove politics from the process by focusing on what lawmakers intended to originally accomplish.

"We should not allow people to text while they're driving," Gara says. "That leads to death. That leads to serious injury."

Anchorage Police Spokesperson Marleen Lammers says the department has only issued 10 screen violation tickets for this year.

Department of Law lawyers disagree with the Kenai judge. According to Gara their lawyers say they still intend to continue prosecuting cases, and most state courts will continue to hear them.

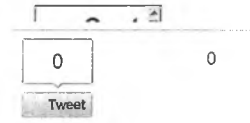
House Finance Co-Chair Bill Stolze, R-Chugiak, was one of the few lawmakers who voted against this law back in 2008.

"I voted that way because the law failed to keep up with changing technology," Stolze says. "I don't know if his (Gara) proposal is well thought out because we haven't been effective at trying to define technology."

House Speaker Mike Chenault, R-Nikiski, agrees with Gara, saying the law was intended to stop texting-while-driving and should be revised if there is any lingering confusion.

"I can see that happening, if there's a question in the law," Chenault says. "Rep. Gara's solution would work."

However, when it comes to other cell phone bills stalling in the legislature, Chenault says there are already existing laws protecting drivers.



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Anchorage Daily News

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## Police say driver in fatal accident was texting

By KYLE HOPKINS

(12/09/11 19:37:30)

The 19-year-old charged in a fatal Anchorage hit-and-run had been texting on her iPhone when her car struck and killed a village man on Easter Sunday, police say.

"OMG OMG OMG," Ashley Nichole Bashore texted to a friend shortly after the crash that knocked pedestrian Hubert Tunuchuk, 28, out of his shoes and into the intersection, according to paperwork filed Thursday by state prosecutors.

Instead of stopping or calling 911, prosecutors say, Bashore drove to a friend's house where she said her SUV had "hit a mangy Rottweiler without a collar."

Arrested Wednesday night following a months-long investigation, Bashore pleaded not guilty Thursday to three felonies: Criminally negligent homicide, leaving the scene of an accident and tampering with evidence.

The tampering charge stems from Bashore's attempt to delete text messages sent in the days after the April 24 collision, prosecutors say.

Bashore entered the courtroom in tears, attempting to hide her face with shackled hands. A bailiff warned a distraught woman in the gallery to stop trying to communicate with Bashore, who sat sobbing at the end of a line of prisoners. She pulled her prison shirt to her face, her fingernails painted a soft green.

Several of Tunuchuk's family members watched from the back of the room.

"Everybody's affected by what happened. Her family. My family. Everyone involved," said his aunt, Esther Stauffer. "I just feel so sorry for her. She's so young. If she had made the right choice when that happened, then perhaps we wouldn't be here today."

Esther's husband, Geoffrey, said he feels sorry for the 19-year-old too. But he's also angry.

"I feel like maybe she's just scared for herself. She tried to hide this and we lived the last six months not knowing if they were ever going to be able to charge the person," Geoffrey Stauffer said.

The village of Chefornak, a Yup'ik community of about 400 people in Western Alaska, sent Tunuchuk to the state vocational-technical school in Seward to study power plant operations. He was in Anchorage on April 24 with friends to celebrate Easter and planned to stay at the Stauffers' house, the couple said.

Early Sunday morning, Tunuchuk was intoxicated and walking behind two friends westbound on the Tudor Road overpass above the Seward Highway, according to a document filed by prosecutors. Had he been driving, his blood-alcohol level would have been above the legal limit, said traffic

investigator Michael Busey.

Tunuchuk was in the roadway, near the narrow sidewalk curb of the overpass, according to prosecutors. A Hyundai Sante Fe driven by Bashore approached heading eastbound, prosecutors say.

As Bashore came across the overpass, the front of the SUV struck Tunuchuk on the passenger side, prosecutors say. Tunuchuk was thrown into the intersection where the Seward Highway off-ramp meets Tudor. Busey could not say how far he traveled. At some point before or after the collision, the Sante Fe drove up onto the curb, the investigator said.

Someone called 911 at about 3:15 a.m. to report the incident, police said at the time.

Tunuchuk survived for about three hours, according to police.

"We thought at first he was going to make it. ... Unfortunately he just lost too much blood," said Geoffrey Stauffer, who along with his wife placed a cross at the scene of the crash. It's still there.

Police say Bashore fled the scene, driving to a friend's house and telling the story of hitting a dog. She smelled of marijuana following the accident, according to the police investigation. But Busey said there's no way to determine whether she was high the night of the collision.

Police had few leads at first, prosecutors said, but a piece of trim from the Sante Fe and a Crimestoppers tip soon led police to the vehicle. While Bashore is not the registered owner of the SUV, she drove it on a regular basis, Busey said.

Police seized Bashore's iPhone, finding that all texts sent before April 26, two days after the collision, had been deleted, according to prosecutors and police. A review of her phone records revealed Bashore was "likely texting immediately before or at the time of the collision," according to paperwork filed by prosecutors.

Bashore eventually told a friend that she had hit a person and did so because she was texting, according to the prosecutor's memo.

A profile for Bashore appears on [exploretalent.com](http://exploretalent.com), a website where hopeful performers post resumes and photos. She wants to be a model and once appeared in a horror movie filmed in the Butte, the profile says. "I enjoy swimming, biking, instant messaging and texting with friends," the profile says.

An Anchorage grand jury handed up the three-count indictment of Bashore on Wednesday -- more than seven months after the hit-and-run. Busey and another traffic investigator arrested Bashore on Wednesday night at her home in West Anchorage, a police spokesman said.

Efforts to establish details of the crash, along with DNA testing, the phone seizure and review by prosecutors all contributed to the length of the investigation, Busey said.

"Putting it all together just takes time, unfortunately," he said.

Before her arrest in the hit-and-run, Bashore had no criminal record as an adult. Three months after the collision that killed Tunuchuk, she was ticketed for speeding more than 20 mph over the speed limit, court records show.

Tunuchuk was about two weeks from graduating from the power plant operations training, his aunt said. He had planned to spend a couple of months fishing in Bristol Bay before returning to the

village, she said.

Bashore's bail was set at \$2,500 cash with a court-ordered third-party custodian required for release, a police spokesman said. Bashore is also forbidden from driving while on bail, he said.

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## KTVA CBS 11 News Anchorage, AK

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# Fairbanks Head-on Crash is Attributed to Drunken Texting

*Originally printed at <http://www.ktva.com/news/local/Fairbanks-Head-on-Crash-is-Attributed-to-Drunken-Texting--114660904.html>*

By Fairbanks Daily News-Miner  
January 26, 2011

**FAIRBANKS** - An early morning head-on collision on Phillips Field Road is being blamed on an untimely text message by a suspected drunken driver.

Roger Dean Ostbloom, 40, was reportedly sending a text message from his phone on Sunday while driving his Ford F-150 pickup westbound and drifted into the oncoming lane of traffic. Ostbloom looked up and realized he was about to collide with a Chevy Avalanche.

Fairbanks Police arrived at 12:29 a.m. to find both vehicles with severe front-end damage.

Adam Strom, the driver of the Avalanche, suffered a broken femur in the accident and was taken to Fairbanks Memorial Hospital for surgery.

Ostbloom told police he was texting and saw the oncoming vehicle immediately before impact. Strom said he slowed in an attempt to avoid a collision.

Ostbloom, who was not hospitalized, also smelled of alcohol and had watery eyes and slurred speech, according to charging documents. A chemical test showed he had a breath-alcohol content of 0.097, slightly more than the legal limit of 0.08.

He was charged with driving a motor vehicle with a screen device operating, a law that makes texting while driving illegal. He was also charged with felony second-degree assault and driving under the influence of alcohol.

It's been illegal to text while driving in Alaska since 2008, but texting arrests remain uncommon in Alaska. Two local people were arrested for the offense last year, but neither was involved in an accident.

Cindy Cashen, administrator for the Alaska Highway Safety Office, said studies show texting while driving is a particularly risky form of "distracted driving." Authorities, however, are rarely in a position to blame texting as the primary cause of an accident.

"Unfortunately, the data doesn't show it's a very serious problem, but that's because it's very difficult to enforce," Cashen said.

Contact staff writer Jeff Richardson at 459-7518.



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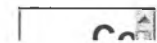
Wed. Jan. 112:37 pm | 36° Overcast, light rain

Opinion

Tuesday, Jan. 10, 2012

# It's time to explicitly ban texting while driving in Alaska

By Charles Ward



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A rather quirky decision by a Kenai judge last month created some wiggle room for those of us (yes, us, because I've done it too) who stupidly choose to text, email or Facebook while behind the wheel.

Fortunately, one of the first bills prefiled for consideration in the 2012 legislative session aims to tighten up any ambiguity in a law that certainly seemed on the surface to bar all kinds of silly behind-the-wheel activities, including texting.

Currently, Alaska state law prohibits driving if “the vehicle has a television, video monitor, portable computer, or any other similar means capable of providing a visual display that is in full view of a driver in a normal driving position while the vehicle is in motion; and ... the monitor or visual display is operating while the person is driving.” While the law does have exemptions — 11 in fact — for screens that provide information like the car’s status, GPS information and people making voice calls, texting is not given an express exemption. For most folks, texting without looking at a screen is all but impossible. Siri and other voice recognition software might change that, and perhaps there are some touch typists for tiny keyboards, but those special cases are 1) unusual and 2) don’t violate the intent of the law, which is to keep drivers’ eyes on the road, not on an electronic device.

Nevertheless, Magistrate Jennifer Wells ruled the law as written wasn't enough to explicitly ban texting while driving, the Associated Press reported on Dec. 25, 2011. Usually, the terms “activist judge” and “legislating from the bench” are code for “the judge ruled against my side,” but here, it seems Wells is reading vagueness into the law that just isn't there. The AP reported she believed the law was vague because California wrote two separate laws, one covering distracting screens and the other banning texting. Why Wells decided to be persuaded by California's solution to a

problem Alaska's legislators answered for their own state is for her to answer. But it strikes of reaching for a different solution to a problem the Alaska Legislature had already figured out. Simply put, anyone who looks at a screen to text should have run afoul of Alaska's statute, and been subject to a citation if caught.

Regardless of whether the ambiguity is real or imagined, hopefully it will no longer exist come the Legislature's adjournment in April (May? June?). Reps. Les Gara and Bill Thomas have introduced House Bill 255, which explicitly bans texting while driving. Hopefully, it winds its way through the Legislature this term and onto Gov. Sean Parnell's desk for his signature, because texting while driving is a practice I and every other driver needs to end. It creates a great danger — not only to ourselves, but others on the road.

Distracted driving is a contributing factor in half, or 3 million, of the traffic accidents in the U.S. in a given year, according to AAA. Car and Driver magazine conducted a June 2009 test that suggested texting while driving (even just reading the texts) can be more dangerous than drunken driving. There's simply no way to keep both eyes on the road when typing on a tiny keyboard or reading a screen, and the practice needs to not just stop, but be stopped by law enforcement because of the danger created to everyone on the road, not just the texter/driver.

Many driving laws are tradeoffs between safety and convenience, otherwise we'd be required to drive 10-ton roll cages at 5 mph down Egan Drive after a daily inspection by a state trooper. At one extreme, the National Transportation Safety Board recently called for the outright ban of all cell phone usage while driving — talking, texting, hands-free, the works. A complete ban would be overkill and would face incredibly tough sledding in state legislatures. But a ban on texting while driving would get rid of one of the worst road distractions out there, while still leaving the convenience of mobile communication as an option. Texting while driving has been banned once in Alaska, but if it takes different wording in a new law to make the prohibition stick, it's worth the Legislature's time. Let's hope we see quick action on the Gara/Thompson bill this term.

• Charles Ward is Deputy Managing Editor of the Juneau Empire. His views do not necessarily reflect the views of its editorial board.

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## **Texting while driving: Legislature should clear up ambiguous law**

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12.27.11 - 11:50 pm

### **Editorial**

Texting while driving is foolish.

It's dangerous.

It shows willful disregard for the safety of others.

Alaska's legislators and Gov. Sean Parnell apparently agreed on all of that when they approved a bill in 2008 outlawing texting while driving. At least, that's what they thought they were doing.

It turns out the law, according to a couple of judges, doesn't actually use the words "texting while driving." That led a Kenai judge to dismiss a case brought against a 21-year-old driver who had been charged under the law. And a judge in Fairbanks has advised magistrates to not accept cases brought under the law because of some ambiguity.

No one can possibly argue that texting while driving should be a permissible practice.

The fastest way to clear this up is for the Legislature to quickly approve clear language during its next session, which opens in January. The state is appealing the decision of the Kenai judge, but the judicial process can consume quite a bit of time before an issue is resolved. The Legislature can act quicker.

And it should.

The U.S. Centers for Disease Control and Prevention found in a 2010 study that 9 percent of U.S. drivers reported they "regularly" or "fairly often" text or email while driving. The agency also noted "Texting while driving is especially dangerous because it combines visual, manual and cognitive distractions."

The Legislature has already had the debate on this topic. There's no need to rehash the issue.

What is needed is a quick fix and some clear language so we can reduce the prevalence of texting while driving.

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## KAALtv.com

### Investigators: Teen Texting Before Fatal Collision With School Bus

Posted at: 02/10/2012 7:37 AM  
Updated at: 02/10/2012 7:41 AM  
By: Melanie Bloom



(ABC 6 NEWS) - The Iowa State Patrol believes a teen from Stacyville was texting before her car collided with a school bus, killing her.

The accident happened in November 2011 on Highway 218 near St. Ansgar.

Authorities say 17 year old Allison Smith was alone in the car and died on the scene. No one on the bus was hurt.

Investigators used cell phone records and video from the school bus to determine that Smith was texting prior to the collision. They also determined that data from the car's airbags show smith never braked and likely never saw the bus before impact.

Smith was a junior at St. Ansgar High School. Before she was killed, there were only a class of 58 students.

# ALASKA STATE LEGISLATURE



REPRESENTATIVE LES GARA  
REPRESENTATIVE BILL THOMAS

## House Bill 255 Sponsor Statement

Alaska's Ban on Texting, and Other Typing and Reading Words on Video Screens.

In December of 2011 one court ruled that Alaska's current law, which bans looking at video screens and increases the criminal penalties for injuries when they are caused by that conduct, was not worded clearly. Other courts have indicated they may rule similarly. The ruling stated that the current law did not bar texting while driving a moving vehicle.

This bi-partisan legislation reestablishes what the 2008 Legislature intended – that typing or reading messages on a video screen is covered by Alaska law as criminal conduct. It is widely recognized that texting while driving a vehicle can kill or severely injure innocent people, as well as the driver. This bill is crafted to remain consistent with the existing legislation. It exempts certain emergency uses and mapping devices, and simply adds that the law passed in 2008 banning using video screens in a moving vehicle also includes a ban on typing or reading on a computer, cell phone, or other video or computer screen in a moving vehicle. The language is written so that similar activities on social media sites will be covered, and prohibited while people are driving a vehicle.

The bill recognizes that other legislators have filed legislation on a separate subject – talking on and dialing cell phones while driving. Alaska currently has no per se ban on that activity. This bill does not address that issue at all. It leaves the debate on that subject for the bills on that subject that have been filed. The bill is simply aimed at clarifying the law passed in 2008 so that activity such as texting or reading texts is banned.

# ALASKA STATE LEGISLATURE



REPRESENTATIVE LES GARA  
REPRESENTATIVE BILL THOMAS

## House Bill 255 Expected Witnesses

### Expected Testimony

- Rep. Les Gara, bill presentation
- Mark Hall, Fire Chef, Anchorage Fire Department
- Bob Griffiths, Executive Director, Alaska Association of Chiefs of Police

### Available for Questions

- Anne Carpeneti, District Attorney's Office
- Doug Gardner, Legislative Legal Services