HB

255

<TARGET><BILL>HB 255</BILL><SUBJECT>HB 255</SUBJECT><COMM>HJUD27</COMM></TARGET>

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: January 27, 2012 **FURTHER REFERRALS: Finance**

Date of Committee Action: 2/10/12

The JUDICIARY Committee considered: **HB 255**

HOUSE BILL NO. 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."

HB 255-PROHIBIT DIALING OR TEXTING WHILE DRIVING

Recommends it be replaced with [ ] HCS *or* [X] CS *for* HB255 (JUD)
For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR _____ **[ ] Same Title [X] New Title**

[ ] attach amendments
[ ] add new referral to _____ Committee
[ ] Letter of Intent _____ Committee

List of Abbrev for Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

***NEW* FISCAL NOTES**
*FN# is assigned by Chief Clerk's Office

*FN#	List by Dept(s):	Fiscal	Indet.	Zero

***PREVIOUS* FISCAL NOTES**

FN#	List by Dept(s):	Fiscal	Indet.	Zero
1	ADMIN			✓
2	COR			✓
3	CRT			✓
4	LAW			✓
5	ADMIN		✓	

Signing with recommendations		Printed Last Name	DP	DNP	NR	AM
	LYNN	LYNN			X	
	GRUENBERG	Gruenberg	✓			
	KELLER	Keller		X		
	—					
	HOLMES	Holmes	X			
	PRUITT	Pruitt	X			
Chair:	GATTO	GATTO	X			
Chair:						

LEGAL SERVICES

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

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

MEMORANDUM February 9, 2012

SUBJECT: Definition of "installed" in CSHB 255(JUD)
(Work Order No. 27-LS1165\X)

TO: Representative Carl Gatto
Chair of the House Judiciary Committee
Attn: Melanie Lesh

FROM: Pamela Finley
Revisor of Statutes

Enclosed is the referenced draft CS. Please note that page 3, line 19 (the definition of "installed") makes no sense. If the definition at page 3, lines 19 - 20 is substituted for "installed" in subsection (d), that subsection would read as follows:

> (d) Subsections (a) and (b) of this section do not apply to devices and equipment **equipment in an emergency vehicle, whether permanent or removable** [INSTALLED]in an emergency vehicle **or to the viewing of authorized screen devices by police, fire, or emergency medical service personnel if the user of the equipment or device reasonably believes the information on the device is necessary to respond to a health, safety, or criminal matter**. In this subsection,
>
> **(1)** "emergency vehicle" means a police, fire, or emergency medical service vehicle**;**
>
> **(2) "installed" means equipment in an emergency vehicle, whether permanent or removable**.

If the intent is to exempt all devices and equipment in an emergency vehicle, whether permanent or removable, it would be better to say so directly and delete "installed". If you want changes to the CS, please let the drafter, Doug Gardner, know. (I am writing this instead of him only because he is very busy at the moment.)

PF:ljw
12-108.ljw

Enclosure

cc: Doug Gardner

27-LS1165\X
Gardner
2/8/12

CS FOR HOUSE BILL NO. 255(JUD)

adopted 2/10/12

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES GARA, THOMAS, GATTO, PEGGY WILSON, GRUENBERG, AND TUCK, Costello, Gardner

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to screen devices in motor vehicles; prohibiting the driver of a motor**
2 **vehicle from reading or typing a text message or other nonvoice message or**
3 **communication on a cellular telephone, computer, or personal data assistant while**
4 **driving a motor vehicle; and providing for an effective date."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
7 to read:
8 STATEMENT OF PURPOSE. The purpose of this Act is to conform and clarify that
9 the use of a cellular telephone, computer, personal data assistant, or any other similar means
10 for texting or communicating in a manner prohibited by AS 28.35.161 has been illegal since
11 AS 28.35.161 was enacted and that the December 1, 2011, magistrate's decision in State v.
12 Adams, 3KN-11-719 CR, is legally incorrect.
13 *** Sec. 2.** AS 28.35.161(a) is amended to read:
14 (a) A person commits the crime of driving **<u>while texting, while</u>**

communicating on a computer, or while [WITH] a screen device **is** operating if [(1)] the person is driving a motor vehicle**, and**

(1) [; (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** [; AND (3)] the monitor or visual display is operating while the person is driving**; or**

(2) the person is reading or typing a text message or other nonvoice message or communication on a cellular telephone, personal data assistant, computer, or any other similar means capable of providing a visual display that is in the view of the driver in a normal driving position while the vehicle is in motion and while the person is driving.

* **Sec. 3.** AS 28.35.161(b) is amended to read:

(b) A person may not install or alter equipment described in **(a)** [(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.

* **Sec. 4.** AS 28.35.161(c) is amended to read:

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

(1) portable cellular telephones or personal data assistants being used for **voice** [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.

*** Sec. 5.** AS 28.35.161(d) is amended to read:

(d) Subsections (a) and (b) of this section do not apply to devices and equipment installed in an emergency vehicle **or to the viewing of authorized screen devices by police, fire, or emergency medical service personnel if the user of the equipment or device reasonably believes the information on the device is necessary to respond to a health, safety, or criminal matter**. In this subsection,

(1) "emergency vehicle" means a police, fire, or emergency medical service vehicle**;**

(2) "installed" means equipment in an emergency vehicle, whether permanent or removable.

*** Sec. 6.** This Act takes effect immediately under AS 01.10.070(c).

27-LS1165\X.1
Finley/Gardner
2/9/12

passed

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 255(JUD), Draft Version "X"

1 Page 3, line 13, following "vehicle":

2 Insert "**, whether removable or permanently installed,**"

3

4 Page 3, line 17:

5 Delete "**(1)**"

6

7 Page 3, lines 18 - 20:

8 Delete "**;**

9 **(2) "installed" means equipment in an emergency vehicle, whether**

10 **permanent or removable**"

2/10/12

27-LS1165\X.2
Finley/Gardner
2/10/12

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE GRUENBERG

TO: CSHB 255(JUD), Draft Version "X"

Page 3, line 13, following "vehicle":

Insert "**, whether removable or permanently installed,**"

Page 3, line 17:

Delete "**(1)**"

Page 3, lines 18 - 20:

Delete "**;**

(2) "installed" means equipment in an emergency vehicle, whether permanent or removable"

27-LS1165\D.1
Gardner
2/7/12

Rep Greenberg
M Amdt. 1
Obj. removed
Holmes

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 255( ), Draft Version "D"

1 Page 1, lines 6 - 12:

2 Delete all material and insert:

3 "* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
4 to read:

5 STATEMENT OF PURPOSE. The purpose of this Act is to conform and clarify that
6 the use of a cellular telephone, computer, personal data assistant, or any other similar means
7 for texting or communicating in a manner prohibited by AS 28.35.161 has been illegal since
8 AS 28.35.161 was enacted and that the December 1, 2011, magistrate's decision in State v.
9 Adams, 3KN-11-719 CR, is legally incorrect."

27-LS1165\D.4
Gardner
2/8/12

Amdt. 2
Max: M

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE GRUENBERG

TO: CSHB 255( ), Draft Version "D"

Withdrawn

1 Page 2, line 11, following "**driving**":

2 Insert "**or takes an affirmative act to access such data**"

27-LS1165\D.5
Gardner
2/8/12

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE GRUENBERG

TO: CSHB 255( ), Draft Version "D"

Amdt. 3
OK

1 Page 1, line 1:
2 Delete "**and**"
3
4 Page 1, line 4, following "**vehicle**":
5 Insert "**; and providing for an effective date**"
6
7 Page 3, following line 20:
8 Insert a new bill section to read:
9 "* **Sec. 6.** This Act takes effect immediately under AS 01.10.070(c)."

27-LS1165\X
Gardner
2/8/12

CS FOR HOUSE BILL NO. 255(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES GARA, THOMAS, GATTO, PEGGY WILSON, GRUENBERG, AND TUCK, Costello, Gardner

A BILL

FOR AN ACT ENTITLED

"An Act relating to screen devices in motor vehicles; 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; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

*** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section to read:

STATEMENT OF PURPOSE. The purpose of this Act is to conform and clarify that the use of a cellular telephone, computer, personal data assistant, or any other similar means for texting or communicating in a manner prohibited by AS 28.35.161 has been illegal since AS 28.35.161 was enacted and that the December 1, 2011, magistrate's decision in State v. Adams, 3KN-11-719 CR, is legally incorrect.

*** Sec. 2.** AS 28.35.161(a) is amended to read:

(a) A person commits the crime of driving **<u>while texting, while</u>**

communicating on a computer, or while [WITH] a screen device **is** operating if [(1)] the person is driving a motor vehicle**, and**

(1) [; (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** [; AND (3)] the monitor or visual display is operating while the person is driving**; or**

(2) the person is reading or typing a text message or other nonvoice message or communication on a cellular telephone, personal data assistant, computer, or any other similar means capable of providing a visual display that is in the view of the driver in a normal driving position while the vehicle is in motion and while the person is driving.

* **Sec. 3.** AS 28.35.161(b) is amended to read:

(b) A person may not install or alter equipment described in **(a)** [(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.

* **Sec. 4.** AS 28.35.161(c) is amended to read:

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

(1) portable cellular telephones or personal data assistants being used for **voice** [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.

* **Sec. 5.** AS 28.35.161(d) is amended to read:

(d) Subsections (a) and (b) of this section do not apply to devices and equipment installed in an emergency vehicle **or to the viewing of authorized screen devices by police, fire, or emergency medical service personnel if the user of the equipment or device reasonably believes the information on the device is necessary to respond to a health, safety, or criminal matter**. In this subsection,

(1) "emergency vehicle" means a police, fire, or emergency medical service vehicle**;**

(2) "installed" means equipment in an emergency vehicle, whether permanent or removable.

* **Sec. 6.** This Act takes effect immediately under AS 01.10.070(c).

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.

January-May: State Capitol • Juneau, AK 99801-1182 • (907) 465-2647 • Fax (907) 465-3518
June-December: 716 W. 4th Avenue • Anchorage, AK 99501• (907) 269-0106• Fax (907) 269-0109
Representative_Les_Gara@legis.state.ak.us

convicted under (d) of this section. This subsection does not apply to a lessor of a vehicle if the lessor keeps a record of the name and address of the lessee. A violation of this subsection may not result in the loss of a driver's license or privilege to drive and does not constitute grounds for assessment of demerit points under AS 28.15.221 — 28.15.261. This subsection does not prohibit or limit the prosecution of a vehicle driver for violating (a) or (b) of this section. (§ 1 ch 8 SLA 1986; am § 10 ch 76 SLA 1987)

Revisor's notes. — In 2006, in (e) of this section, "AS 28.90.010(d)" was substituted for "AS 28.40.050(d)" to reflect the 2006 renumbering of AS 28.40.050.

Opinions of attorney general. — The 1987 amendment to this section, providing that the owner or lessee of an offending vehicle will now be guilty of an infraction, would be likely to survive constitutional challenge. Although generally a person may not be found guilty of an offense unless he or she acts with a "culpable mental state," AS 11.81.600(b)(2) provides that no culpable mental state need be proven if the legislature intended to "dispense with" such a requirement, and the legislature so intended here. June 11, 1987, Op. Att'y Gen.

Sec. 28.35.150. Unlawful to interfere with or destroy official traffic control device or highway construction; action by state for damages. [Repealed, § 25 ch 144 SLA 1977.]

Sec. 28.35.155. Operation of vehicle with certain tires prohibited. (a) It is unlawful to operate a motor vehicle with studded tires or tires with chains attached on a paved highway or road from May 1 through September 15, inclusive, north of 60 North Latitude and from April 15 through September 30, inclusive, south of 60 North Latitude, except that at any latitude on a paved portion of the Sterling Highway a person may not operate a motor vehicle with studded tires or tires with chains attached from May 1 through September 15, inclusive. The commissioner of public safety shall by emergency order provide for additional lawful operating periods based on unusual seasonal or weather conditions. An emergency order adopted under this section is not subject to AS 44.62 (Administrative Procedure Act). Upon application, a special individual traction permit may be issued by the Department of Administration allowing the operation of a motor vehicle with studded tires or chains at any time at the discretion of the vehicle owner. The fee for the special individual permit is one-third of the biennial registration fee applicable to that class of vehicle under AS 28.10.421. The department may provide an appropriate sticker or other device identifying the vehicle to which the permit applies.

(b) In this section, "studded tire" means a tire with metal studs or spikes imbedded in the periphery of the tire surface, and protruding not more than one-fourth inch from the tire surface. (§ 9 ch 241 SLA 1976; am § 29 ch 94 SLA 1980; am § 1 ch 22 SLA 1996; am § 16 ch 44 SLA 1996; am E.O. No. 99 § 61 (1997))

Cross references. — For transitional provisions that relate to the amendments to subsection (a) made by § 16, ch. 44, SLA 1996, see § 20, ch. 44, 1996 in the Temporary and Special Acts.

Sec. 28.35.160. Unlawful injury to or destruction of traffic regulations or guidance device. [Repealed, § 25 ch 144 SLA 1977.]

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. (§ 1 ch 99 SLA 2008; am § 1 ch 42 SLA 2009)

Effect of amendments. — The 2009 amendment, effective September 18, 2009, added (c)(2)(I), and made related stylistic changes.

Effective dates. — Section 3, ch. 99, SLA 2008, makes this section effective September 1, 2008.

Sec. 28.35.170. Operation with more than three persons in driver's seat. [Repealed, § 20 ch 241 SLA 1976.]

Sec. 28.35.175. Propane gas detector required. A person may not sell a recreational motor vehicle manufactured after 1990 or rent a recreational motor vehicle to another if the vehicle is equipped with a propane stove or propane heating device unless the vehicle is also equipped with a propane gas detector. (§ 1 ch 110 SLA 1990)

Sec. 28.35.180. Disobedience to signals of officer regulating traffic prohibited. A driver of a vehicle may not refuse to obey a lawful order or direction of a peace officer, firefighter, or authorized flagman regulating and directing traffic. A peace officer or

27-LS1165\D
Gardner
2/2/12

CS FOR HOUSE BILL NO. 255( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES GARA, THOMAS, GATTO, PEGGY WILSON, GRUENBERG, AND TUCK, Costello, Gardner

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to screen devices in motor vehicles; and prohibiting the driver of a**
2 **motor vehicle from reading or typing a text message or other nonvoice message or**
3 **communication on a cellular telephone, computer, or personal data assistant while**
4 **driving a motor vehicle."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
7 to read:
8 STATEMENT OF PURPOSE. The purpose of this Act is expressly to provide that the
9 use of a cellular telephone, computer, personal data assistant, or any other similar means for
10 texting or communicating in a manner proscribed by AS 28.35.161 is prohibited. It is the
11 opinion of the legislature that the use of these devices in a manner proscribed by
12 AS 28.35.161 is currently illegal in the state.
13 *** Sec. 2.** AS 28.35.161(a) is amended to read:
14 (a) A person commits the crime of driving **<u>while texting, while</u>**

communicating on a computer, or while [WITH] a screen device **is** operating if [(1)] the person is driving a motor vehicle**, and**

(1) [; (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** [; AND (3)] the monitor or visual display is operating while the person is driving**; or**

(2) the person is reading or typing a text message or other nonvoice message or communication on a cellular telephone, personal data assistant, computer, or any other similar means capable of providing a visual display that is in the view of the driver in a normal driving position while the vehicle is in motion and while the person is driving.

* **Sec. 3.** AS 28.35.161(b) is amended to read:

(b) A person may not install or alter equipment described in **(a)** [(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.

* **Sec. 4.** AS 28.35.161(c) is amended to read:

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

(1) portable cellular telephones or personal data assistants being used for **voice** [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

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(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

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* **Sec. 5.** AS 28.35.161(d) is amended to read:

(d) Subsections (a) and (b) of this section do not apply to devices and equipment installed in an emergency vehicle **or to the viewing of authorized screen devices by police, fire, or emergency medical service personnel if the user of the equipment or device reasonably believes the information on the device is necessary to respond to a health, safety, or criminal matter**. In this subsection,

(1) "emergency vehicle" means a police, fire, or emergency medical service vehicle**;** utility vehicle MEA,

(2) "installed" means equipment in an emergency vehicle, whether permanent or removable.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
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MEMORANDUM January 17, 2012

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

TO: Representative Les Gara
Attn: Rose Foley

FROM: Doug Gardner
Director

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

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

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

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

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

DDG:plm
12-026.plm

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version: **HB255**
Fiscal Note Number:
() Publish Date:

Identifier (file name): HB255-DOA-OPA-1-20-2012
Title: Prohibit Dialing or Texting While Driving
Sponsor: entatives Gara, Thomas, Gatto, P.Wilson, Gruenberg, Tuck (
Requester: House Transportation

Dept. Affected: Administration
Appropriation: Legal and Advocacy Services
Allocation: Office of Public Advocacy
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				
OPERATING EXPENDITURES	**FY13**	**FY13**	**FY14**	**FY15**	**FY16**	**FY17**	**FY18**
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

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)							
TOTAL		**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

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: 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

(Revised 1/17/2012 OMB)

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. HB255

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 cost ≠ codes
2012 LEGISLATIVE SESSION

Bill Version: **HB255**
Fiscal Note Number:
Publish Date:

Identifier (file name): HB255-DOA-PDA-1-23-12
Title: Prohibit Dialing or Texting While Driving
Sponsor: Representatives Gara, Thomas, Gatto, P. Wilson
Requester: House Transportation

Dept. Affected: Administration
Appropriation: Legal and Advocacy Services
Allocation: Public Defender Agency
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				
OPERATING EXPENDITURES	**FY13**	**FY13**	**FY14**	**FY15**	**FY16**	**FY17**	**FY18**
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	****	****	****	****	****	****	****

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)							
TOTAL		****	****	****	****	****	****	****

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
Division: Public Defender Agency
Approved by: John Cramer, Deputy Commissioner
Department of Administration

Phone: 907 334-4414
Date/Time: 1/20/12 3:05 PM
Date: 1/23/2012

(Revised 8/17/2011 OMB)

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. HB255

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.

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version: **HB 255**
Fiscal Note Number:
() Publish Date:

Identifier (file name): HB255-DOC-OC-01-20-12
Title: "An Act prohibiting the driver of a motor vehicle from
Sponsor: Gara, Thomas, Gatto, P.Wilson, Gruenberg, Tuck
Requester: House Transportation Committee

Dept. Affected: DOC
Appropriation: Admin & Support
Allocation: Commissioner's Office
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				
OPERATING EXPENDITURES	**FY13**	**FY13**	**FY14**	**FY15**	**FY16**	**FY17**	**FY18**
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

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)							
TOTAL		**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

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

(Revised 11/18/2011 OMB)

FISCAL NOTE

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:
() Publish Date:

Identifier (file name): HB255-ACS-TRC-01-20-12
Title: Prohibit Dialing or Texting While Driving
Sponsor: Representative Gara
Requester:

Dept. Affected: Alaska Court System
Appropriation: Trial Courts
Allocation:
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				
OPERATING EXPENDITURES	**FY13**	**FY13**	**FY14**	**FY15**	**FY16**	**FY17**	**FY18**
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

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)							
TOTAL		**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

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)

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

(Revised 1/17/2012 OMB)

FISCAL NOTE

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.

ANCHORAGE FIRE DEPARTMENT

Headquarters
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Anchorage, Alaska 99501
Phone (907) 267-4936 / Fax (907) 267-4977

Dan Sullivan
Mayor

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,

Mark S. Hall
Fire Chief
Municipality Of Anchorage

LESSMEIER & WINTERS

LAWYERS - LLC

8390 AIRPORT BOULEVARD
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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

convicted under (d) of this section. This subsection does not apply to a lessor of a vehicle if the lessor keeps a record of the name and address of the lessee. A violation of this subsection may not result in the loss of a driver's license or privilege to drive and does not constitute grounds for assessment of demerit points under AS 28.15.221 — 28.15.261. This subsection does not prohibit or limit the prosecution of a vehicle driver for violating (a) or (b) of this section. (§ 1 ch 8 SLA 1986; am § 10 ch 76 SLA 1987)

Revisor's notes. — In 2006, in (e) of this section, "AS 28.90.010(d)" was substituted for "AS 28.40.050(d)" to reflect the 2006 renumbering of AS 28.40.050.

Opinions of attorney general. — The 1987 amendment to this section, providing that the owner or lessee of an offending vehicle will now be guilty of an infraction, would be likely to survive constitutional challenge. Although generally a person may not be found guilty of an offense unless he or she acts with a "culpable mental state," AS 11.81.600(b)(2) provides that no culpable mental state need be proven if the legislature intended to "dispense with" such a requirement, and the legislature so intended here. June 11, 1987, Op. Att'y Gen.

Sec. 28.35.150. Unlawful to interfere with or destroy official traffic control device or highway construction; action by state for damages. [Repealed, § 25 ch 144 SLA 1977.]

Sec. 28.35.155. Operation of vehicle with certain tires prohibited. (a) It is unlawful to operate a motor vehicle with studded tires or tires with chains attached on a paved highway or road from May 1 through September 15, inclusive, north of 60 North Latitude and from April 15 through September 30, inclusive, south of 60 North Latitude, except that at any latitude on a paved portion of the Sterling Highway a person may not operate a motor vehicle with studded tires or tires with chains attached from May 1 through September 15, inclusive. The commissioner of public safety shall by emergency order provide for additional lawful operating periods based on unusual seasonal or weather conditions. An emergency order adopted under this section is not subject to AS 44.62 (Administrative Procedure Act). Upon application, a special individual traction permit may be issued by the Department of Administration allowing the operation of a motor vehicle with studded tires or chains at any time at the discretion of the vehicle owner. The fee for the special individual permit is one-third of the biennial registration fee applicable to that class of vehicle under AS 28.10.421. The department may provide an appropriate sticker or other device identifying the vehicle to which the permit applies.

(b) In this section, "studded tire" means a tire with metal studs or spikes imbedded in the periphery of the tire surface, and protruding not more than one-fourth inch from the tire surface. (§ 9 ch 241 SLA 1976; am § 29 ch 94 SLA 1980; am § 1 ch 22 SLA 1996; am § 16 ch 44 SLA 1996; am E.O. No. 99 § 61 (1997))

Cross references. — For transitional provisions that relate to the amendments to subsection (a) made by § 16, ch. 44, SLA 1996, see § 20, ch. 44, 1996 in the Temporary and Special Acts.

Sec. 28.35.160. Unlawful injury to or destruction of traffic regulations or guidance device. [Repealed, § 25 ch 144 SLA 1977.]

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. (§ 1 ch 99 SLA 2008; am § 1 ch 42 SLA 2009)

Effect of amendments. — The 2009 amendment, effective September 18, 2009, added (c)(2)(I), and made related stylistic changes.

Effective dates. — Section 3, ch. 99, SLA 2008, makes this section effective September 1, 2008.

Sec. 28.35.170. Operation with more than three persons in driver's seat. [Repealed, § 20 ch 241 SLA 1976.]

Sec. 28.35.175. Propane gas detector required. A person may not sell a recreational motor vehicle manufactured after 1990 or rent a recreational motor vehicle to another if the vehicle is equipped with a propane stove or propane heating device unless the vehicle is also equipped with a propane gas detector. (§ 1 ch 110 SLA 1990)

Sec. 28.35.180. Disobedience to signals of officer regulating traffic prohibited. A driver of a vehicle may not refuse to obey a lawful order or direction of a peace officer, firefighter, or authorized flagman regulating and directing traffic. A peace officer or

print

Texting while driving: Legislature should clear up ambiguous law

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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National Conference of State Legislatures

LEGISBRIEF

BRIEFING PAPERS ON THE IMPORTANT ISSUES OF THE DAY

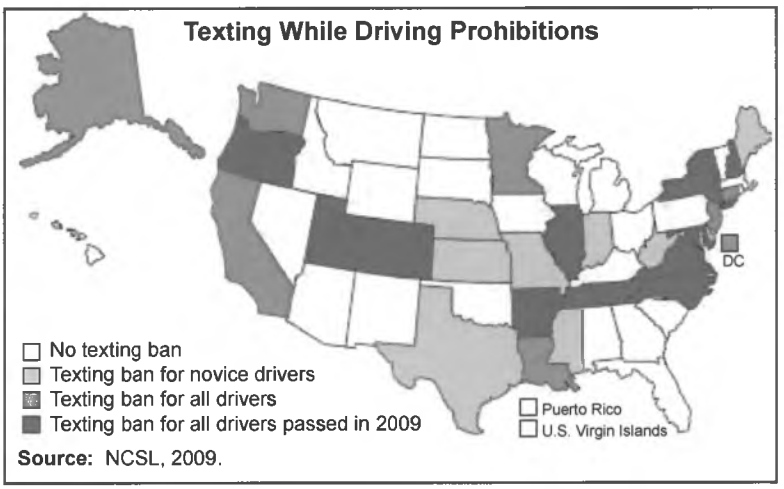
NOVEMBER-DECEMBER 2009 VOL. 17, NO. 48

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

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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.

Every state has considered bills related to distracted 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 is considering a federal ban on 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.

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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.

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

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Kenai Judge Throws Out Texting-While-Driving Case

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

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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 25th 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."

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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.

"We don't need a law outlawing all cell phone use," Chenault says.

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Opinion

Tuesday, Jan. 10, 2012

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

By **Charles Ward**

6 comments »

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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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6 comments »

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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, 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

Print this article

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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nation and world

Many drivers admit to behavior they say is dangerous

By Ashley Halsey III
The Washington Post

Posted: 01/06/2012 12:00:00 AM PST

WASHINGTON — American drivers once again have identified their enemy as themselves.

When quizzed in an annual survey, they have admitted they often are guilty of the very behaviors they view as a menace on the road.

Almost everyone said that drunken driving was unacceptable, and three-quarters described drunken drivers as a serious threat. Yet 14 percent of them said that within the year, they had driven with an alcohol level probably near or above the legal limit, AAA's Foundation for Traffic Safety reported.

The June survey of 3,147 people used online technology said to create a representative cross-section of the U.S. population. People were asked about their driving habits in the month, or year, preceding that.

Cellphone use and sending text messages were dangerous, 94 percent said, but more than a third said they had read texts or e-mails while driving. A quarter of them also said they had sent messages. Two-thirds said they had talked on their cellphones, and a third said they do so regularly.

"This 'Do as I say, not as I do' attitude that persists among drivers needs to change before we can experience a traffic-safety culture where safe driving is the norm," Peter Kissinger, head of the foundation, said in a statement.

The foundation said that 74 percent of drivers felt it was unacceptable to go more than 15 mph above the speed limit on a freeway, but more than half admitted they had done that.

Although

94 percent said the same excessive speeding was unacceptable on a residential street, a quarter of them admitted they had gone more than 15 mph above the limit.

Nearly all drivers said that when a traffic light turns red, people should stop if they can do so safely, but 37 percent said they had run a red light.

Falling asleep behind the wheel was identified as a serious problem by 96 percent of drivers, but a third of drivers said they had nodded off at least once.

The safety value of a seat belt has been long established, and 86 percent of drivers agreed they should be used, but almost a quarter of drivers said they had not used one at least once in the month before they were surveyed. Nineteen percent said they had failed to do so more than once.

Recent federal data showed that 32,885 people

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were killed in vehicle crashes in 2010, the lowest number in 60 years. The drop has been attributed to better safety features in vehicles: seat-belt improvements, safer air bags, better vehicle stabilization, advancements in highway design, and high-profile campaigns against drunken and distracted driving.

"We are moving in the right direction when it comes to safety on our roads, but we need to do much more," Kissinger said. "Changing driver behaviors is not rocket science. It's harder."

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www.ktuu.com/news/alaska-state-texting-while-driving-bill-advances-20120210,0,3300942.story

ktuu.com

Alaska State Texting While Driving Bill Advances

By Jason Lamb

1:08 PM AKST, February 10, 2012

JUNEAU, Alaska

The state House Judiciary Committee approved a bill trying to clarify Alaska's driving while texting laws on Friday.

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According to committee chair Rep. Carl Gatto (R-Palmer), judges in Kenai and Fairbanks are not enforcing the current texting while driving law because it doesn't specifically mention "texting."

The new law includes the phrase "driving while texting."

Bill sponsor Rep. Les Gara (D-Anchorage) has said his new proposal would allow talking on the phone, including dialing a number and answering a call, but it would outlaw texting and associated activities like tweeting.

Texting while the car was stopped, like at a red light, would be allowed, Gara has said.

Rep. Bill Thomas (R-Haines) is also a prime sponsor of the bill.

Rep. Wes Keller (R-Wasilla) said he didn't approve of the bill, and recommended against its final passage in the House.

"Reading a text message is such a miniscule action -- to make it illegal, I just can't go there," Keller said.

He said if the texting while driving law was adopted, it may prompt outlawing other common in-car distractions like eating or adjusting the radio.

"There's just no chance," Gara said Friday in reaction to Keller's comments. He said "someone would be laughed out of the building" if they proposed bills that would ban things outlawing those types of distractions.

While Reps. Lance Pruitt (R-Anchorage) and Bob Lynn (R-Anchorage) expressed other concerns with the bill, they both recommended to pass the bill out of committee.

Reps. Max Gruenberg (D-Anchorage), Lindsey Holmes (D-Anchorage) and Gatto also voted to move the bill on to the Finance Committee.

Email Jason Lamb

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Melanie Lesh

From:	House Judiciary
Sent:	Thursday, February 09, 2012 1:21 PM
To:	Rep. Bob Lynn; Rep. Lance Pruitt; Rep. Lindsey Holmes; Rep. Max Gruenberg; Rep. Steve Thompson; Rep. Wes Keller; Rep. Max Gruenberg; James Waldo; 'Jane Pierson'; Jim Pound; Mike Coumbe; Mike Sica; Miles Brookes
Cc:	Rep. Les Gara; Rose Foley
Subject:	HB 255 Legislative Legal Svcs. interpretation of the definition of installed"
Attachments:	HB 255 Legislative Legal Services Memo.pdf; HB 255 CS X version.pdf

FYI: Please review the attached new (JUD) CS along with a memo from Pamela Finley, Legislative Legal, concerning a problem with the definition of "installed".

Melanie

Melanie Lesh
House Judiciary Committee Aide
Rep. Carl Gatto, Chair
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Juneau, Alaska 99801
(907)465-4990
Melanie.Lesh@legis.state.ak.us

Melanie Lesh

From: Rep. Les Gara
Sent: Thursday, February 09, 2012 12:30 PM
To: Rose Foley; Kaci Schroeder; Melanie Lesh; Rep. Carl Gatto; Rep. Bill Thomas; Rose Foley
Subject: Taxting amendments - solved I think.

Max is happy to withdraw his third amendment. That makes things a lot less complex. Thanks, Kaci, for your note. Bill and I had concerns witht hat amendment, as did some committee members. So that problem is gone.

Pam Finley, the revisor of statutes, is going to send us a technical clarification that has to do – not with substance – but how their drafting manual requires bills to be written. It actually relates to the former law's language, and not stuff we've added, but she just caught it.

It is along the lines of a memo she wrote to Rep. Gatto. I just spoke to her. Feel free to call if you want to know about that but, basically, she just wants to move the location of the word "installed" – that's the part of the law where we let emergency personnel use equipment that's been "installed" in a vehicle. We presume that if a first responder department installs equipment, it must be important to their work, so we let them use it.

But Max's bigger amendment is gone.

Hope we're all OK with that. I really don't care about Pam's amendment that much, but it seems proper to follow her advice on drafting style.

Thanks. Les

Any concerns?

From: Rose Foley
Sent: Thursday, February 09, 2012 11:20 AM
To: Rep. Les Gara
Subject: FW: "affirmative act"

From: Kaci Schroeder
Sent: Thursday, February 09, 2012 11:05 AM
To: Rose Foley
Subject: RE: "affirmative act"

It seems like it would be VERY difficult to narrow down to encompass the targeted activity. Also, I think Rep. Thomas thought the bill was supposed to be just a clarification of what was already in the books and this amendment seems to create a new crime (taking an affirmative act to check text messages). I think Rep. Pruitt and Rep. Holmes had excellent points in committee.

Rep. Thomas isn't too thrilled with that amendment.

The other amendments seemed very good. Maybe Rep. Gruenberg would be happy with 2 out of 3?

Kaci Schroeder Hotch
Chief of Staff
Office of Representative Thomas
State Capitol, Rm 505
Juneau, Alaska 99801
(907) 465-3732
fax: (907) 465-2652
"A certain amount of opposition is of great help to a man.
Kites rise against, not with the wind."
-John Neal

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
JUDICIARY COMMITTEE
REPRESENTATIVE CARL GATTO, CHAIR

COMMITTEE MEMBERS:
REP. STEVE THOMPSON, VICE CHAIR
REP. BOB LYNN
REP. WES KELLER
REP. LANCE PRUITT
REP. LINDSEY HOLMES
REP. MAX GRUENBERG

STATE CAPITOL BUILDING, RM 120
JUNEAU, AK 99801-1182
PHONE: 907-465-4990
FAX: 907-465-2381
HOUSE_JUDICIARY@LEGIS.STATE.AK.US

DATE: February 2, 2012

TO: Suzie Lowell, Chief Clerk
Alaska House of Representatives

FROM: Representative Carl Gatto, Chair
House Judiciary Committee

RE: House Judiciary Committee Hearing Notice

House Judiciary Committee Agenda

Wednesday, February 8, 2012 at 1:00 p.m. in Room 120.

+*HB 253 CATHINONE BATH SALTS

+ HB 255 PROHIBIT DIALING OR TEXTING WHILE DRIVING

+*HB 299 CIVIL LEGAL SERVICES FUND

+*HB 303 SUSPENDED IMPOSITION OF SENTENCE

Friday, February 10, 2012 at 1:00 p.m. in Room 120

Bills Previously Heard

27-LS1165\D.1
Gardner
2/7/12

passed
2/8/12

AMENDMENT #1

OFFERED IN THE HOUSE

TO: CSHB 255( ), Draft Version "D"

Page 1, lines 6 - 12:

Delete all material and insert:

"* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section to read:

STATEMENT OF PURPOSE. The purpose of this Act is to conform and clarify that the use of a cellular telephone, computer, personal data assistant, or any other similar means for texting or communicating in a manner prohibited by AS 28.35.161 has been illegal since AS 28.35.161 was enacted and that the December 1, 2011, magistrate's decision in State v. Adams, 3KN-11-719 CR, is legally incorrect."

27-LS1165\D.4
Gardner
2/8/12

AMENDMENT #2 W/d

OFFERED IN THE HOUSE BY REPRESENTATIVE GRUENBERG

TO: CSHB 255( ), Draft Version "D"

1 Page 2, line 11, following "**driving**":

2 Insert "**or takes an affirmative act to access such data**"

27-LS1165\D.5
Gardner
2/8/12

AMENDMENT #3

Passed 2/8/12

OFFERED IN THE HOUSE BY REPRESENTATIVE GRUENBERG

TO: CSHB 255( ), Draft Version "D"

Page 1, line 1:

Delete "**and**"

Page 1, line 4, following "**vehicle**":

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

Page 3, following line 20:

Insert a new bill section to read:

"* **Sec. 6.** This Act takes effect immediately under AS 01.10.070(c)."

ALASKA STATE LEGISLATURE

REPRESENTATIVE LES GARA
REPRESENTATIVE BILL THOMAS
(ADDITIONAL CO-SPONSORS)

Want to co-prime w/ Rep. Thomas + I?
Carl - Here's the bill fixing the texting glitch. Flexible on the wording.
Les-250-0106
Want to co-prime

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 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. The language is written so that similar activities on social media sites will be covered, and prohibited while people are driving a vehicle.

DRAFT

January-May: State Capitol • Juneau, AK 99801-1182 • (907) 465-2647 • Fax (907) 465-3518
June-December: 716 W. 4th Avenue • Anchorage, AK 99501• (907) 269-0106• Fax (907) 269-0109
Representative_Les_Gara@legis.state.ak.us

HOUSE BILL NO. 255

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES GARA AND THOMAS

Introduced: 1/6/12
Referred: Prefiled

A BILL

FOR AN ACT ENTITLED

on an electronic device

1 **"An Act prohibiting the driver of a motor vehicle from reading or typing a text message**
2 **or other nonvoice message or communication on a cellular telephone, computer, or**
3 **personal data assistant while driving a motor vehicle."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
6 to read:
7 STATEMENT OF PURPOSE. The purpose of this Act is expressly to provide that the
8 use of a cellular telephone, computer, personal data assistant, or any other similar means for
9 texting or communicating in a manner proscribed by AS 28.35.161 is prohibited. It is the
10 opinion of the legislature that the use of these devices in a manner proscribed by
11 AS 28.35.161 is currently illegal in the state.
12 *** Sec. 2.** AS 28.35.161(a) is amended to read:
13 (a) A person commits the crime of driving **while texting, while**
14 **communicating on a computer, or while** [WITH] a screen device **is** operating if [(1)]

the person is driving a motor vehicle**, and**

(1) [; (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** [; AND (3)] the monitor or visual display is operating while the person is driving**; or**

(2) the person is reading or typing a text message or other nonvoice message or communication on a cellular telephone, personal data assistant, computer, or any other similar means capable of providing a visual display that is in the view of the driver in a normal driving position while the vehicle is in motion and while the person is driving.

* **Sec. 3.** AS 28.35.161(b) is amended to read:

(b) A person may not install or alter equipment described in **(a)** [(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.

* **Sec. 4.** AS 28.35.161(c) is amended to read:

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

(1) portable cellular telephones or personal data assistants being used for **voice** [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.

ALASKA STATE LEGISLATURE

REPRESENTATIVE LES GARA
REPRESENTATIVE BILL THOMAS

House Bill 255
Expected Witnesses

Expected Testimony

- Rep. Les Gara, bill presentation

Available for Questions

- Anne Carpeneti, District Attorney's Office
- Doug Gardner, Legislative Legal Services
- Lieutenant Tom Dunn, Alaska State Troopers, Bureau of Highway Patrol

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Representative_Les_Gara@legis.state.ak.us

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 offnet #

Available for Questions

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

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Representative_Les_Gara@legis.state.ak.us

ALASKA STATE LEGISLATURE

REPRESENTATIVE BILL THOMAS
REPRESENTATIVE LES GARA

To: Representative Gatto
From: Representative Bill Thomas
Representative Les Gara
Re: HB 255 Hearing Request
Date: January 27, 2012

Dear Representative Gatto:

We respectfully request a hearing on HB 255 in the House Transportation Committee. Accompanying this request are the required materials for the bill hearing.

Rose Foley, aide to Rep. Gara, is the contact person for this legislation. She can be reached at 465-2647.

Please contact either office if you need any additional information or have any questions.

Sincerely,

Representative Bill Thomas

Representative Les Gara

January-May: State Capitol • Juneau, AK 99801-1182 • (907) 465-2647 • Fax (907) 465-3518
June-December: 716 W. 4th Avenue • Anchorage, AK 99501• (907) 269-0106• Fax (907) 269-0109
Representative_Les_Gara@legis.state.ak.us

Melanie Lesh

From: Rose Foley
Sent: Friday, February 03, 2012 3:27 PM
To: Melanie Lesh
Subject: HB 225 CS
Attachments: CS D version 2.2.12.pdf; HB 255 Expected Witnesses H (JUD).pdf

Hi Melanie,

Attached is the CS we discussed yesterday (or was it the day before?), and an updated list of expected witnesses. I'm sure you know this, but I made an appointment for Rep. Gara to meet with Rep. Gatto on HB 255 and HB 303 on Tuesday of next week at 11:00 am. Please let me know if you need anything else in the meantime.

Thank you, and happy Friday!

Rose Foley
Aide to Representative Les Gara
State Capitol, Room 500
Juneau, AK 99801
p - (907) 465-2647
f - (907) 465-3518

LEGAL SERVICES

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

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

MEMORANDUM December 30 2011

SUBJECT: Texting While Driving Bill Versions
(Work Order Nos. 27-LS1149\M and 27-LS1165\M)

TO: Representative Les Gara

FROM: Doug Gardner
Director

Please find enclosed three versions of the bill we've been working on regarding texting while driving. These versions need your review, and you should let us know which version you would like to prefile, and also call to our attention any changes so they can be made as soon as possible. The bill versions are:

1. Texting with SIS version 27-LS1149\M
2. Texting only version *without* the "stationary vehicle" exclusion 27-LS1165\B
3. Texting only version *with* the "stationary vehicle" exclusion 27-LS1165\M

As with any multiple version project, please review the drafts enclosed to make sure I've covered all the issues in the bill drafts that you wanted to address. Call if you have questions.

DDG:plm
11-361.plm

Enclosures

27-LS1165\B
Gardner
12/28/11

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE GARA

Introduced:
Referred:

A BILL

FOR AN ACT ENTITLED

1 **"An Act prohibiting the driver of a motor vehicle from reading or typing a text message**
2 **or other nonvoice message or communication on a cellular telephone, computer, or**
3 **personal data assistant while driving a motor vehicle."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
6 to read:
7 STATEMENT OF PURPOSE. The purpose of this Act is expressly to provide that the
8 use of a cellular telephone, computer, personal data assistant, or any other similar means for
9 texting or communicating in a manner proscribed by AS 28.35.161 is prohibited. It is the
10 opinion of the legislature that the use of these devices in a manner proscribed by
11 AS 28.35.161 is currently illegal in the state.
12 *** Sec. 2.** AS 28.35.161(a) is amended to read:
13 (a) A person commits the crime of driving **<u>while texting, while</u>**
14 **<u>communicating on a computer, or while</u>** [WITH] a screen device **<u>is</u>** operating if [(1)]

the person is driving a motor vehicle**, and**

(1) [; (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** [; AND (3)] the monitor or visual display is operating while the person is driving**; or**

(2) the person is reading or typing a text message or other nonvoice message or communication on a cellular telephone, personal data assistant, computer, or any other similar means capable of providing a visual display that is in the full view of the driver in a normal driving position while the vehicle is in motion and while the person is driving.

(deleted from latest version)

* **Sec. 3.** AS 28.35.161(b) is amended to read:

(b) A person may not install or alter equipment described in **(a)** [(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.

* **Sec. 4.** AS 28.35.161(c) is amended to read:

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

(1) portable cellular telephones or personal data assistants being used for **voice** [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.

CS FOR HOUSE BILL NO. 22(TRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE TRANSPORTATION COMMITTEE

Offered: 3/9/11
Referred: Judiciary, Finance

Sponsor(s): REPRESENTATIVES MUÑOZ AND HERRON, Gruenberg

A BILL

FOR AN ACT ENTITLED

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

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* **Section 1.** AS 28.35 is amended by adding a new section to read:

Sec. 28.35.165. Prohibited use of cellular telephone. (a) A person may not use a cellular telephone when driving a motor vehicle on a highway or vehicular way or area.

(b) This section does not apply to a person

(1) using a cellular telephone for emergency purposes, including an emergency call to a law enforcement agency, fire department, or other emergency services agency or entity; or

(2) 18 years of age or older using a cellular telephone by hands-free mode.

(c) In this section,

1 (1) "emergency" has the meaning given in AS 42.20.150;
2 (2) "hands-free mode" means use of a cellular telephone for listening
3 or talking by means of a speaker function, headset, or earpiece without holding the
4 telephone.
5 (d) A person who violates this section is guilty of an infraction and may be
6 punished as provided under AS 28.90.010.
7 * **Sec. 2.** This Act takes effect July 1, 2011.

HOUSE BILL NO. 22

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES MUÑOZ AND HERRON

Introduced: 1/18/11
Referred: Transportation, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

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

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* **Section 1.** AS 28.35 is amended by adding a new section to read:

Sec. 28.35.165. Prohibited use of cellular telephone. (a) A person may not use a cellular telephone when driving a motor vehicle on a highway or vehicular way or area.

(b) This section does not apply to a person using a cellular telephone

(1) for emergency purposes, including an emergency call to a law enforcement agency, fire department, or other emergency services agency or entity; or

(2) that has a voice-activated or hands-free mode or configuration if the telephone is used in a voice-activated or hands-free manner.

(c) A person who violates this section is guilty of an infraction and may be punished as provided under AS 28.90.010.

1 * **Sec. 2.** This Act takes effect July 1, 2011.

REPRESENTATIVE CATHY MUÑOZ

MEMORANDUM

TO: Representative Carl Gatto
Judiciary Chair

CC: Sarah Munson
Committee Aide

FROM: Representative Cathy Muñoz

DATE: March 9, 2011

RE: Explanation of Changes to CS for HB22 (TRA)

The House Transportation Committee adopted an amendment to HB22 which would prohibit the use of cell phones for individuals under the age of 18 (including prohibiting the use of hands-free devices and a speaker function). Committee members stated teen drivers are more at risk for causing a collision due to their inexperience of driving - this has also been sighted in numerous studies. For those 18 years of age and over the use of a hands-free device is still permitted while operating a motor vehicle to accommodate commercial drivers, tour operators and other to allow flexibility.

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