

SB

1 2 3

**<TARGET><BILL>SB 123</BILL><SUBJECT>SB
123</SUBJECT><COMM>SSTA29</COMM></TARGET>**

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 1/19/16

FURTHER: Judiciary

Date of 5-Day Notice: 2/4/2016
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 2/16/16

State Affairs Committee considered SENATE BILL NO. 123

SB 123-USE OF ELECTRONIC DEVICES WHILE DRIVING

"An Act relating to the penalty for the use of electronic devices while driving."

and recommends:

- be replaced with CS _____ (_____) Same Title New Title
- adopt previous CS _____ (_____) Same Title New Title
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

Dept Abbr.	
ADM	LWF
CED	LAW
COR	LEG
EED	MVA
DEC	DNR
DFG	DPS
GOV	REV
DHS	DOT
AJS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
DPS			✓	1
ADM			✓	2

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do NOT PASS	No REC	AMEND
	COGHILL	✓			
	HUGGINS	✓			
	MCGUIRE	✓			
	WIELECHOWSKI			✓	
CHAIR:	STOLTZE			✓	

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

Senator Bill Stoltze, Chair
State Capitol, Room 125
Juneau, AK 99801-1182
Phone (907) 465-4958
Fax (907) 465-4928



Official Business

Members:
Sen. John Coghill, Vice Chair
Sen. Charlie Huggins
Sen. Lesil McGuire
Sen. Bill Wielechowski

State Affairs Committee

Schedule for: February 10 – February 14, 2016

Weekly Schedule

REVISED 2/10/2016

+ Thursday, February 11, 2016 - 9:00 am - BUTROVICH - CAP 205

SB 128-PERM. FUND: DEPOSITS; DIVIDEND; EARNINGS

- Discussion of Constitutional Issues --
- Testimony <Invited> --

SB 127-INSURER'S USE OF CREDIT HISTORY/SCORES

- Presentation by Sponsor --
- Public Testimony --

<Bills Previously Heard/Scheduled>

+ Saturday, February 13, 2016 - 10:00 am - BUTROVICH - CAP 205

10:00am – 10:30am

SB 123-USE OF ELECTRONIC DEVICES WHILE DRIVING

- Presentation by Sponsor --
- Public Testimony --

10:30am – 11:30am

SB 91-OMNIBUS CRIM LAW & PROCEDURE; CORRECTIONS

- Presentation by Sponsor: Senator John Coghill --
- Testimony <Invited>--
 - John Skidmore, Department of Law – Criminal Division
 - Brenda Stanfill, Interior Alaska Center for Non-Violent Living
 - Taylor Winston, Office of Victim's Rights
 - Rick Allen, Office of Public Advocacy

11:30am – 12:00am

<Recess>

12:00 pm

SB 91-OMNIBUS CRIM LAW & PROCEDURE; CORRECTIONS

-- Public Testimony --

Statewide Public Testimony Begins at Noon*

*Public testimony limited to 2 minutes

*Limited number of Off-Net phone lines available.

*Public Testimony can be submitted in writing to the following email or fax addresses:

senate.state.affairs@akleg.gov or Fax to 907-465-4928

<Bills Previously Heard/Scheduled>

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Official Business

Members:
Sen. John Coghill, Vice Chair
Sen. Charlie Huggins
Sen. Lesil McGuire
Sen. Bill Wielechowski

February 13, 2016
Bill Packet Information

SB 123 USE OF ELECTRONIC DEVICES WHILE DRIVING

- Sponsor Statement
- SB 123 - version A
- Backup Documents:
 - NCSL: Texting While Driving State Laws 7-1-15
 - Texting While Driving Charges
 - Texting While Driving Penalties
 - Alaska Dispatch Article - 11-15-15
 - Excerpt from Anchorage Municipal Ordinance 2015-126 (adopted) amending AMC 09.28.050 (effective 1/1/2016)
 - Hands Free Info - Alaska Cell Phone Laws 7-3-08
- Fiscal Notes:
 - DPS-AST 02-08-16 (**Zero**)
 - DOA-OPA 02-09-16 (**Zero**)

SS for SB 91 OMNIBUS CRIM LAW & PROCEDURE; CORRECTIONS

- Sponsor Statement (*Revised to Sponsor Substitute / Version N*)
- Sectional Analysis - *Version N*
- SB 91 - *Version N*
- Backup Documents:
 - Legislature Letter to Alaska Criminal Justice Commission 9-8-15
 - Alaska Criminal Justice Commission Report - December 2015

(SB 91 Backup Documents - Continued)

- Op-Ed by Americans for Tax Reform & FreedomWorks; Fairbanks Daily News-Miner 9-2-2015
- Op-Ed by Tony Perkins (Family Research Council / Right on Crime); Alaska Dispatch 6-19-2015

- Consolidated Correspondence
 - Letters & Emails of Support & Opposition Through 2/12 (17)

- Fiscal Notes:
 - DHSS-PS 02-06-16 (Zero)
 - DOA-DMV 02-10-16 (Zero)
 - DOA-OPA 02-10-16 (Zero)
 - DOA-PDA 02-10-16 (Zero)
 - DOC-COMM 02-12-16 (Fiscal)
 - DPS-AST 02-08-16 (Zero)
 - DHSS (Forthcoming)
 - LAW (Forthcoming)

<Bills Previously Heard/Scheduled>

Alaska State Legislature



Interim:

716 West 4th Avenue
Anchorage, Alaska 99501
(907) 269-0199 Phone
(907) 269-0197 Fax

Session:

State Capitol Building, Room 111
Juneau, Alaska 99801-1182
(907) 465-4945 Phone
(907) 465-3476 Fax

Senate President Kevin Meyer Senate District M

TO: Senator Bill Stoltze, Chair
Senate State Affairs Committee

FROM: Senator Kevin Meyer 
Senate President

DATE: January 28, 2016

RE: Request to Schedule SB 123: Use of Electronic Devices While Driving

With this memorandum, I respectfully request the scheduling of SB 123 before the Senate Judiciary Committee. This legislation reduces the penalty for operating an electronic screen device (texting) while driving from a class A misdemeanor to a violation.

Attached to this memorandum please find:

- Sponsor Statement
- SB 123, Version 29-LS1198\A
- State of Alaska Charges Under AS 28.35.161 by Jurisdiction
- State of Alaska Texting While Driving Penalties
- National Conference of State Legislatures Cellular Phone Use and Texting While Driving Laws
- Alaska Dispatch News Article 11/10/2015

If you have any questions, please contact the staff member assigned to this bill, Edra Morledge at 465-6874.

Alaska State Legislature

Interim:

716 West 4th Avenue
Anchorage, Alaska 99501
(907) 269-0199 Phone
(907) 269-0197 Fax



Session:

State Capitol Building, Room 111
Juneau, Alaska 99801-1182
(907) 465-4945 Phone
(907) 465-3476 Fax

Senate President Kevin Meyer Senate District M

SB 123: Use of Electronic Devices While Driving

SB 123 changes the penalty for driving while texting from a class A misdemeanor to a violation of up to \$500, unless the action causes physical injury or death to another person. The more severe felony penalties for those offenses will remain unchanged. The reduction in penalty is intended to make prosecution of distracted drivers more expedient, in that law enforcement officers will be able to issue tickets immediately, rather than prosecute the individual through the court system. No other aspect of current law as summarized below is changed by this legislation.

Except for emergency vehicles, operating an electronic screen device while driving is illegal when:

1. The vehicle is moving
2. The vehicle has a television, video monitor, or portable computer in full view of the driver and the monitor or visual display is operating while the person is driving

Exceptions to the law are:

1. Using cell phones or tablets for verbal communication or displaying caller ID
2. Using equipment that is displaying information such as audio/stereo, GPS and navigation devices, vehicle operation information, video equipment showing reversing/maneuvering (driving) operation
3. Utilizing vehicle dispatching and response information for emergency roadside assistance and passenger or freight package delivery
4. Using information being displayed to perform highway construction, maintenance, or repair or data acquisition by DOT/PF or a municipality
5. Emergency vehicles (police, fire or emergency medical service) are exempt from these prohibitions

I respectfully request your support on SB 123.

Fiscal Note

State of Alaska
2016 Legislative Session

Bill Version: SB 123
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB123-DPS-AST-02-08-16
Title: USE OF ELECTRONIC DEVICES WHILE
DRIVING
Sponsor: MEYER
Requester: State Affairs

Department: Department of Public Safety
Appropriation: Alaska State Troopers
Allocation: Alaska State Trooper Detachments
OMB Component Number: 2325

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2017 Appropriation Requested	Included in Governor's FY2017 Request	Out-Year Cost Estimates					
			FY 2017	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES								
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	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
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Estimated SUPPLEMENTAL (FY2016) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2017) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By:	Lt. David Hanson	Phone:	(907)269-5587
Division:	Alaska State Troopers	Date:	02/08/2016 03:30 PM
Approved By:	Gary Folger, Commissioner	Date:	02/08/16
Agency:	Public Safety		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2016 LEGISLATIVE SESSION

BILL NO. SB 123

Analysis

This bill amends AS 28.35.161(f) to reduce the penalty for using an electronic device while driving from a misdemeanor to a violation if no physical injury, serious physical injury, or death of another person was caused.

Fiscal Note

State of Alaska
2016 Legislative Session

Bill Version: SB 123
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB123-DOA-OPA-02-09-16
Title: USE OF ELECTRONIC DEVICES WHILE
DRIVING
Sponsor: MEYER
Requester: Senate State Affairs

Department: Department of Administration
Appropriation: Legal and Advocacy Services
Allocation: Office of Public Advocacy
OMB Component Number: 43

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2017 Appropriation Requested	Included in Governor's FY2017 Request	Out-Year Cost Estimates					
			FY 2017	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES								
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	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
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Estimated SUPPLEMENTAL (FY2016) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2017) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By: Richard Allen, Director
Division: Office of Public Advocacy
Approved By: Sheldon Fisher, Commissioner
Agency: Department of Administration

Phone: (907)269-3504
Date: 02/09/2016 08:30 AM
Date: 02/09/16

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2016 LEGISLATIVE SESSION

BILL NO. SB 123

Analysis

This bill reduces the level of offense for using an electronic device while driving from a misdemeanor to a violation.

The Office of Public Advocacy does not anticipate a fiscal impact from this legislation. and therefore, submits a zero fiscal note.



NATIONAL CONFERENCE of STATE LEGISLATURES

Cellular Phone Use and Texting While Driving Laws

7/1/2015

The prevalence of cellular phones, new research, and publicized crashes has started many debates related to the role cell phones play in driver distraction. This chart details state cellular phone use and texting while driving laws.

- **Hand-held Cell Phone Use Ban:** 14 states, D.C., Puerto Rico, Guam and the U.S. Virgin Islands prohibit all drivers from using hand-held cell phones while driving.
- **All Cell Phone ban:** No state bans all cell phone use for all drivers, but 37 states and D.C. ban all cell phone use by novice or teen drivers, and 20 states and D.C. prohibit cell phone use for school bus drivers.
- **Text Messaging ban:** 46 states, D.C., Puerto Rico, Guam and the U.S. Virgin Islands ban text messaging for all drivers.
 - 3 states prohibit text messaging by novice or teen drivers.
 - 3 states restrict school bus drivers from texting.

Source: Governor's Highway Safety Administration.

The box allows you to conduct a full text search or use the dropdown menu option to select a state.

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.	All drivers	Primary: texting by all drivers Secondary: cell phone use by young drivers	
Alaska	No	No	All drivers	Primary: texting by all drivers	Yes
Arizona	No	School bus drivers	No	Primary: cell phone use by school bus drivers	
Arkansas	Drivers ages 18 to 20 years of age	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: hand held and texting by all drivers. Secondary: all cell phone use by young drivers.	Yes
Colorado	No	Drivers younger than 18	All drivers	Primary: for texting by all drivers and for drivers younger than 18.	Yes
Connecticut	All drivers	Learner's permit holders, drivers younger than 18, and school bus drivers	All drivers	Primary: for all offenses.	
Delaware	All drivers	Learner's permit and intermediate license holders and school bus drivers	All drivers	Primary: for all offenses.	Yes
District of Columbia	All drivers	School bus drivers and learner's permit holders	All drivers	Primary: for all offenses.	Yes
Florida	No	No	All drivers (effective 10/01/13)	Secondary: for texting by all drivers.	Yes
Georgia	Drivers younger than 18	School bus drivers. Drivers younger than 18.	All drivers	Primary: for all offenses.	Yes
Hawaii	All Drivers (effective 7-1-13)	Drivers younger than 18	All Drivers	Primary: for all offenses.	
Idaho	No	No	All Drivers	Primary: for texting by all drivers.	Yes***
Illinois	All Drivers	Learner's permit holders younger than 19, drivers	All drivers	Primary: for all offenses.	Yes

States	Hand-held ban	All cell phone ban younger than 19, and school bus drivers	Texting ban	Enforcement	Crash Data Collection
Indiana	No	Drivers under the age of 18.	All drivers	Primary: for all offenses.	Yes
Iowa	No	Learner's permit and intermediate license holders	All drivers	Primary: for drivers cell phone use by young drivers. Secondary: for texting by all drivers.	Yes
Kansas	No	Learner's permit and intermediate license holders	All drivers	Primary: for all offenses.	Yes
Kentucky	No	Drivers younger than 18, School Bus Drivers.	All drivers	Primary: for all offenses.	Yes
Louisiana	No	School bus drivers, learner's permit and intermediate license holders, drivers under age 18	All drivers	Primary: for all offenses.	Yes
Maine**	No	Learner's permit and intermediate license holders	All drivers	Primary: for all offenses.	Yes
Maryland	All drivers, School Bus Drivers.	Learner's permit and intermediate license holders under 18. School bus drivers.	All drivers	Primary: for all offenses. (effective 10/01/13)	Yes
Massachusetts	Local option	School bus drivers, passenger bus drivers, drivers younger than 18.	All drivers	Primary: for all offenses.	Yes
Michigan	Local option	Level 1 or 2 license holders.	All drivers	Primary: for texting by all drivers and level 1 or 2 license holders.	Yes
Minnesota	No	School bus drivers, learner's permit holders, and provisional license holders during the first 12 months after licensing	All drivers	Primary: for all offenses.	Yes
Mississippi	No	School bus drivers.	All drivers (effective July 2015)	Primary	Yes
Missouri	No	No	Drivers 21 years or younger.	Primary: Drivers 21 years or younger	
Montana	No	No	No	Not applicable	Yes
Nebraska	No	Learner's permit and intermediate license holders younger than 18	All drivers	Secondary: for all offenses.	Yes
Nevada	All drivers	No	All drivers	Primary: for all offenses.	Yes
New Hampshire	Yes	No	All drivers	Primary	
New Jersey	All drivers	School bus drivers, and learner's permit and intermediate license holders	All drivers	Primary: for all offenses.	Yes
New Mexico	Local option	Learners permit and intermediate license holders.	All Drivers	Primary: texting by all drivers.	Yes
New York	All drivers	No	All drivers	Primary: for all offenses.	Yes
North Carolina	No	Drivers younger than 18 and school bus drivers	All drivers	Primary: for all offenses.	
North Dakota	Drivers younger than 18	Drivers younger than 18	All drivers	Primary: for all offenses.	Yes
Ohio	Local option	Drivers younger than 18.	All drivers	Primary: for drivers younger than 18. Secondary: for texting by all drivers.	
Oklahoma	Learner's permit and intermediate license	School Bus Drivers and Public Transit Drivers	All Drivers. (Eff. Nov. 1,2015)	Primary: for all offenses.	Yes

States	Hand-held ban holders, school bus drivers and public transit drivers	All cell phone ban	Texting ban	Enforcement	Crash Data Collection
Oregon	All drivers	Drivers younger than 18	All drivers	Primary: for all offenses.	Yes
Pennsylvania	Local option	No	All drivers	Primary: for texting by all drivers.	Yes
Puerto Rico	All drivers		All drivers	Primary: for all offenses.	
Rhode Island	No	School bus drivers and drivers younger than 18	All drivers	Primary: for all offenses.	Yes
South Carolina	No	No	All drivers	Primary	Yes***
South Dakota	No	Leamer's permit and intermediate license holders (effective 07/01/14)	All drivers (effective 07/01/14)	Secondary: for all offenses. (effective 07/01/14)	Yes
Tennessee	No	School bus drivers, and learner's permit and intermediate license holders	All drivers	Primary: for all offenses.	Yes
Texas	Drivers in school crossing zones	Bus drivers. Drivers younger than 18	Bus drivers when a passenger 17 and younger is present; intermediate license holders for first 12 months, drivers in school crossing zones	Primary: for all offenses.	Yes
Utah	See footnote*	Drivers under the age of 18.	All drivers	Primary for texting; secondary for talking on hand-held phone	Yes
Vermont	All drivers (effective 10/2014)	Drivers younger than 18 shall not use any portable electronic device while driving.	All drivers	Primary: for all offenses.	
Virgin Islands	Yes				Yes
Virginia	No	Drivers younger than 18 and school bus drivers	All drivers	Primary: for texting by all drivers. (effective 07/01/13) Secondary: for drivers younger than 18.	Yes
Washington	All drivers	Learners permit and intermediate license holders.	All drivers	Primary: for all offenses.	Yes
West Virginia	All Drivers	Drivers younger than 18 who hold either a learner's permit or an intermediate license	All drivers	Primary: for all offenses.	
Wisconsin	No	Learner or Intermediate License holder	All drivers	Primary: for all offenses.	
Wyoming	No	No	All drivers	Primary: for all offenses.	Yes
Total	All drivers: 13 states and District of Columbia, Guam, Virgin Islands and Puerto Rico.	School Bus drivers: 20 states and District of Columbia. Teen drivers: 37 states and District of Columbia.	All Drivers: 44 states and District of Columbia, Guam, Virgin Islands and Puerto Rico.	Primary for all drivers texting: 39. Secondary for all drivers texting: 5	48 and U.S. Virgin Islands and District of Columbia.

Source: *Source Insurance Institute for Highway Safety 2013.*

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

NCSL Member Toolbox

Members Resources

- Get Involved With NCSL
- Jobs Clearinghouse
- Legislative Careers
- NCSL Staff Directories
- Staff Directories
- StateConnect Directory

Policy & Research Resources

- Bill Information Service
- Legislative Websites
- NCSL Bookstore
- State Legislatures Magazine

Accessibility Support

- Tel: 1-800-659-2656 or 711
- Accessibility Support
- Accessibility Policy

Meeting Resources

- Calendar
- Online Registration

Press Room

- Media Contact
- NCSL in the News
- Press Releases

Denver

7700 East First Place
Denver, CO 80230
Tel: 303-364-7700 | Fax: 303-364-7811

Washington

444 North Capitol Street, N.W., Suite
Washington, D.C. 20001
Tel: 202-624-5400 | Fax: 202-737-1000

Texting While Driving Charges (AS 28.35.161)

Provided by the Department of Law 1/25/2016

<u>Texting While Driving</u>			
<u>AS 28.35.161</u>			
<u>Office</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
Anchorage	13	11	7
Kenai	6	9	4
Palmer	8	26	19
Juneau	3	0	2
Sitka	0	1	0
Ketchikan	1	0	0
Total	31	47	32

Alaska Texting While Driving Penalties

Text and drive only	Class A Misdemeanor	up to \$10,000 and 1 year in prison
Injure someone	Class C Felony	up to \$50,000 and 5 years in prison
Seriously injure someone	Class B Felony	up to \$100,000 and 10 years in prison
Kill someone	Class A Felony	up to \$250,000 and 20 years in prison

Alaska Dispatch News

Published on *Alaska Dispatch News* (<http://www.adn.com>)

[Home](#) > Anchorage Assembly approves new texting-and-driving penalty

[Devin Kelly](#) ⁽¹⁾

November 10, 2015

Drivers caught texting behind the wheel in Anchorage now face a \$500 fine but no threat of jail time as part of an ordinance approved Tuesday night by the Anchorage Assembly. It takes effect Jan. 1.

City officials said the change, approved in a 10-1 vote, is designed to make prosecution easier by changing a texting violation from a misdemeanor into a minor offense. Since 2011, just four people have been convicted of a misdemeanor charge of texting while operating a screen device in Anchorage, said city prosecutor Seneca Theno.

The law is not an outright cellphone ban while driving. It is designed to prevent drivers from using texting or apps on smartphones while behind the wheel.

In response to questions from Assembly members, Sgt. Roy LeBlanc, traffic unit supervisor in the Anchorage Police Department, also clarified that the violation for texting or using a screen device only applies while the driver has the vehicle in motion.

Assemblyman Ernie Hall noted that some states do ban cellphones entirely for drivers. He said the measure shouldn't be seen as a revenue-generator for the city.

"People that get caught while doing this -- the consequence (will be) great enough (that) it makes them think not only once or twice or three or four times before driving while texting," Hall said.

In a separate measure associated with traffic fine levels, the Assembly approved a proposal from Mayor Ethan Berkowitz to make sweeping inflation-based increases to some city fines and fees. That includes animal shelter fees, child care licenses and about 260 types of traffic tickets.

The measure passed 7-4, with Assembly members Bill Evans, Amy Demboski, Jennifer Johnston and Patrick Flynn opposing. Debate before the vote largely centered on the police fines and whether bigger fines would serve as a deterrent or be seen simply as a revenue-generating measure. The Assembly ultimately rejected an effort by Evans to keep the police fines unchanged.

The ordinance will net the city at least an estimated \$1.2 million in revenue annually, Berkowitz administration officials said. The administration has emphasized more recently that the measures would improve driver behavior.

Assemblyman Bill Starr said he supported the measure because the costs of enforcement have gone up over the years, while the fines haven't. Officials said the fee and fine schedule has not been significantly updated since 2001.

Several Assembly members pointed out the \$722,000 bump in estimated revenue from traffic tickets would come not from increased enforcement, but from officers writing the same number of tickets.

Both Evans and Johnston said the timing was an issue, and that the fines should be revised outside the city budget cycle. Assemblywoman Amy Demboski also said she was concerned the fine increases would have a disproportionate impact on lower-income residents.

As a result of the ordinance, speeding tickets will increase an average of 32 percent. The ordinance establishes flat fines for different speed categories, doing away with the old sliding scale method. That means a \$90 fine for driving between 3 and 9 mph over the speed limit, and \$180 for driving between 10 mph and 19 mph over the speed limit and \$360 for driving between 20 mph and 29 mph over. Speeding fines will ramp up steadily from there.

Some types of fines, like operating a vehicle in violation of a provisional license, double; others increase only slightly. Fines for motorists, bicyclists and pedestrians are included in the revised schedule. One new addition: a \$300 ticket for drag racing.

City fees are also increasing in restaurant permitting and food safety, Animal Care and Control, development services and the cemetery. The Department of Health and Human Services also introduced a new \$50 licensing fee for home childcare facilities with eight or fewer children, as well as increased fees for larger facilities.

Licensing for child care centers have not increased since 1992, but labor costs have increased by 50 percent, the memo said.

Noise in neighborhoods and loud music being played in cars were also targeted for a fine increase. East Anchorage Assemblyman Pete Petersen introduced an amendment Tuesday night to raise noise violation fines, which he said was spurred by a constituent who called regularly last summer to complain about being awoken early in the morning by loud music.

Noise disturbances can now lead to a \$250 fine, up from \$150. A first violation for loud music in a car would be a \$150 fine, up from \$100, and leading to a maximum \$1,500 fine after three violations in a year and the "forfeiture of the sound system or components of the sound system up to \$1,000 in value," according to Petersen's amendment.

Sgt. LeBlanc told Assembly members that a car noise violation is defined by music that is clearly audible at 25 feet or more from the vehicle.

Had the Assembly not approved the fee and fine changes, the budget proposed by the Berkowitz administration would have been unbalanced, officials wrote in a memo to Assembly members.

Earlier in the evening, the Assembly held a second public hearing on the budget proposed by the Berkowitz administration. Several people testified on issues that included the number of animal control officers and improvements for the Anchorage Senior Center.

Assembly Vice-chair Elvi Gray-Jackson said Assembly members are being asked to turn in proposed budget amendments early Thursday morning. A work session has been set for 1 p.m. Friday.

Correction: This story has been edited to reflect that the \$90 fine for speeding applies to speeds from 3 to 9 mph, not 1 to 9.

Source URL: <http://www.adn.com/article/20151110/anchorage-assembly-approves-new-texting-and-driving-penalty>

Links:

[1] <http://www.adn.com/author/devin-kelly>

(AO No. 82-205; AO No. 83-168, 10-17-83; AO No. 93-87(S-2), 1-1-94; AO No. 94-71(S), § 1, 4-26-94; AO No. 95-84(S-1), § 18, 4-27-95; AO No. 95-163(S), §§ 10—19, 8-8-95; AO No. 97-87, § 3, 6-3-97; AO No. 2001-51, § 1, 2-27-01; AO No. 2001-72, § 1, 7-1-02; AO No. 2001-139, § 2, 7-1-02; AO No. 2001-150, § 6, 8-28-01; AO No. 2003-73, §§ 12—14, 4-22-03; AO No. 2003-106, §§ 7, 8, 7-1-03; AO No. 2003-152S, § 2, 1-1-04; AO No. 2003-155, § 2, 6-1-04; AO No. 2004-61, § 1, 3-2-04; AO No. 2006-89(S), § 1, 6-6-06; AO No. 2006-115, § 1, 9-12-06; AO No. 2007-60, § 2, 11-1-07; AO No. 2007-161, § 3, 12-11-07; AO No. 2008-126, § 1, 1-6-09; AO No. 2010-76, § 4, 10-26-10; AO No. 2010-81(S-1), § 8, 12-7-10, eff. 1-1-11; AO No. 2012-16, § 3, 2-14-12, retro eff. 12-22-11; Ord. No. 2012-55, § 1, 7-10-12)

Section 3. Anchorage Municipal Code section 9.28.050, Driving a motor vehicle with a screen device operating, is hereby amended to read as follows (*the remainder of the section omitted is not affected and therefore not set out*):

9.28.050 Driving a motor vehicle with a screen device operating.

*** **

[C. VIOLATIONS OF THIS SECTION ARE PUNISHABLE UNDER SECTION 9.48.010D.]

(AO No. 2011-113(S), § 66, 11-22-11, eff. 12-22-11)

Section 4. Anchorage Municipal Code section 9.48.010, Penalties, is hereby amended to read as follows (*the remainder of the section omitted is not affected and therefore not set out*):

9.48.010 Penalties.

*** **

C. Any person convicted of violating the following sections shall be punished by imprisonment for not more than 90 days, or by a fine of not more than \$2,000.00, or by both such fine and imprisonment:

*** **

[4. CHAPTER 9.28 (SERIOUS TRAFFIC OFFENSES): SECTIONS 9.28.030A.]

D. Any person convicted under the following sections shall be punished by imprisonment for not more than one year, or by a fine of not more than \$10,000.00, or by both such fine and imprisonment:

*** **

2. Chapter 9.28 (Serious Traffic Offenses): Sections 9.28.010, 9.28.011, 9.28.019B., 9.28.020, and 9.28.022C., AND 9.28.050.]

*** **

(CAC 9.48.010; AO No. 267-76; AO No. 78-72; AO No. 82-126; AO No. 82-186(S); AIM 33-83; AO No. 83-168; AO No. 84-60; AO No. 89-52; AO No. 99-15, § 2, 2-9-99; AO No. 2003-73, § 17, 4-22-03; AO No. 2004-151, § 2, 1-1-05; AO No. 2006-89(S), § 3, 6-6-06; AO No. 2009-61, § 7, 7-7-09; AO No. 2011-113(S), § 155, 11-22-11, eff. 12-22-11; AO No. 2012-16, §§ 2, 5, 2-14-12, retro eff. 12-22-11; AO No. 2014-42, § 24, 6-21-14)

Section 5. Anchorage Municipal Code section 9.48.130 is hereby amended to read as

follows (*the remainder of the section omitted is not affected and therefore not set out*):

9.48.130 Traffic offenses fine schedule.

In accordance with AS 28.05.151, a citation issued for violation of any of the following sections of this title shall be subject to disposition with payment of a fine in lieu of a court appearance or as otherwise prescribed. Violations committed within a highway work zone or a traffic safety corridor shall be subject to double the fine amount indicated. Pursuant to AS 28.05.151(e), an offense listed on this schedule may not be disposed of without court appearance if the offense is in connection with a motor vehicle crash that results in the death of a person. Notwithstanding any other provision of this Code, fines stated as an amount per mile over a designated speed limit established under chapter 9.26 are calculated according to the fine schedule and not subject to the maximum fine amount in this section 9.48.010A.

Title	Section	Fine amount
*** **	*** **	*** **
SERIOUS TRAFFIC OFFENSES		
*** **	*** **	*** **
Driving w/o proof of insurance or other security	9.28.030A[B]	Corr./500.00
*** **	*** **	*** **
Driving with a screen device operating	9.28.050	500.00
*** **	*** **	*** **

(CAC 9.48.060; AO No. 78-72; AO No. 88-12; AO No. 88-167; AO No. 88-180; AO No. 89-134; AO No. 90-24; AO No. 94-68(S), § 38, 8-11-94; AO No. 95-67(S), § 5, 7-1-95; AO No. 95-102, § 1, 4-26-95; AO No. 95-117, § 3, 6-29-95; AO No. 95-163(S), § 20, 8-8-95; AO No. 99-15, § 1, 2-9-99; AO No. 2000-130, § 2, 9-12-00; AO No. 2001-51, § 1, 2-27-01; AO No. 2001-145(S-1), § 8, 12-11-01; AO No. 2003-157, § 2, 12-17-03; AO No. 2004-63, § 2, 4-13-04; AO No. 2011-113(S), § 160, 11-22-11, eff. 12-22-11; AO No. 2012-16, § 6, 2-14-12, retro eff. 12-22-11; AO No. 2013-41(S-1), § 2, 4-23-13; AO No. 2014-42, § 26, 6-21-14)

Section 6. This ordinance shall be effective January 1, 2016.

PASSED AND APPROVED by the Anchorage Assembly this 10th day of November, 2015.

Chair of the Assembly

ATTEST:

Municipal Clerk

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Cell phone/text messaging update: Anchorage has established its own \$500 fine for texting & driving, in a move that will encourage more prosecutions. As of Jan. 1, the offense moved from criminal court — as it was under the existing state distracted driving law — to the local traffic court. There have only been four texting convictions in the city since 2011. Alaska's state distracted driving offenses range from class A misdemeanors (simple texting) to class A felonies (causing a death) with offenders subject to jury trials. The plan was approved Nov. 10 in a 10-1 Anchorage Assembly vote.

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State Sen. Kevin Meyer has filed legislation for 2016 that also addresses the class A misdemeanor issue, seeking to lessen the offense to a traffic

violation. The intent of Senate Bill 123 is to give law enforcement an easier path to cite violators. "Because the misdemeanor offense required prosecution and the involvement of the court system, very few people were ever penalized," a staffer for Meyer said in mid-January.

The state of Alaska has no limits on use of cell phones. In 2012, it took legislative action to close loopholes in its texting and driving law.

Current prohibitions:

- Drivers are prohibited from text messaging and "communicating" on computers.
- Drivers are barred from watching videos while behind the wheel.

Read the [Alaska distracted driving law](#).

Distracted driving legislation (2015-2016):

[Senate Bill 123](#): Makes electronic device offense while driving a traffic violation instead of a class A misdemeanor, if no injury occurs. (Meyer)

Distracted driving notes (2014)

The Senate in 2014 approved a plan that would allow municipalities to limit cell phone use near schools, but the measure failed the clear the House. The bill came from

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state Sen. Kevin Meyer, who also proposed barring texting in vehicles stopped at red lights and stop signs. The schools bill was OK'd by the full Senate in a 13-2 vote Feb. 14. It stalled in the House Judiciary Committee, however.

An Anchorage teenager was sentenced to a year in prison after pleading not guilty to manslaughter charges in the distracted driving death of a 27-year-old mother. In early 2013, Murphy Gross allegedly stole his father's SUV, smoked pot, received numerous cell phone calls and text messages before running a light and killing Cathy Cope. The actual sentence, handed down Nov. 13, 2014, was three years with two years suspended. Gross faced [felony charges for texting](#) because a death was involved.

State Sen. Kevin Meyer, a Republican who represents Anchorage, filed a bill to prohibit texting at red lights or stop signs "because the driver is distracted and can interfere with other traffic around them." That in-traffic texting by stopped drivers can result in "a very dangerous situation."

"Texting in any kind of traffic is distracted driving," Meyer says. Current Alaska law prohibits text messaging only if the vehicle is "in motion and the person is driving."

Meyer told Hands Free Info that his red-light bill had received "more negative comments (from legislators) than positive" as of late January.

Of his plan to allow municipalities to limit cell phone use near schools, Meyer said he took that approach because "some localities do not wish to have such an ordinance,"

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but state laws requiring uniform traffic rules prohibit those that do want a law. The Senate OK'd that plan.

2013-2014 distracted driving legislation:

Senate Bill 122: Would specify that text messaging is not allowed by drivers unless the vehicle is not on a roadway — must be “lawfully parked, standing or stopped.” Current law permits texting if vehicle is not in motion. Stalled in State Affairs Committee. (Meyer)

SB 123: Would allow municipalities to adopt ordinances prohibiting use of cell phone while driving in school zones or on school property. Current law requires cities to demonstrate a special need for a local traffic law. Advanced by the Community and Regional Affairs Committee on Feb. 6. Approved by the Senate in a 13-2 vote of Feb. 14. To the House. Approved by the House Community and Regional Affairs Committee on Feb. 28. Stalled in Judiciary. (Meyer)

2013 distracted driving notes

An Army pilot stationed in Anchorage was awarded \$375,000 after a policeman who allegedly was using his patrol car's computer plowed into his truck. The jury award for the 2010 accident came in June 2013. The officer admitted to previously running a red light while using the onboard computer.

2011-2012 legislation:

HB 255: Would prohibit all drivers from reading or typing a text message. Legislation comes in response to court rulings against existing law, whose wording does not specify text messaging as a prohibited activity for drivers. Amended to allow emergency personnel to view authorized wireless screen devices while driving, but in

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connection with a health, safety or criminal matter.

Unanimously approved by the Transportation Committee on Jan. 27. Amended (added "takes effect immediately") and approved by the Judiciary Committee in a 4-1 vote Feb. 13 and then by the House in a 34-5 vote April 10. Approved unanimously by the Senate Judiciary Committee on April 13 and then by the full Senate in a 19-1 vote April 15. Signed by the governor. (Gara, Thomas)

House Bill 128: Would prohibit all cell phone use by drivers under the age of 18. Secondary enforcement. Amended (added July 1 effective date) and narrowly approved by the House Transportation Committee on March 1, 2012. Approved by a divided Judiciary Committee (3-3) on March 15. To the full House. Dead. (Gardner)

HB 22: Would ban handheld cell phone use by drivers in Alaska. Hands-free operation OK. Primary enforcement, meaning law officers do not need another reason to halt drivers. Cleared the House Transportation Committee on March 8, 2011. Dead. (Muñoz)

HB 35: Seeks to outlaw drivers' use of cell phones regardless of whether a hands-free attachment was employed. Only exception is for emergencies. Primary enforcement. No activity in over a year. Dead. (Doogan)

HB 68: Would bar drivers from using handheld cell phones in Alaska. Sponsor says he won't push for this bill and instead backs HB 22, above. No activity in over a year. Dead. (Gruenberg)

2011-2012 legislation notes:

Bipartisan legislation that removes any doubt that texting and driving is illegal in Alaska was approved in the final days of the 2012 legislative session. State Reps. Les Gara and Bill Thomas' HB 255 cleared the House and Senate in mid-April and was signed into law by the governor.

The ambiguous wording of Alaska's 2008 prohibition on texting & driving came back to haunt legislators when a judge ruled that the state needed to be more precise with the distracted driving law. The magistrate noted correctly that its wording never actually refers to "text messaging." (Read the [Alaska texting law](#) story.)

[House Bill 255's](#) full title is "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."

At least four bills related to driving while using handheld cell phones in Alaska were up for consideration in the 2011-2012 legislative session, but none found success. A teen cell phone ban barely got through committee.

Rep. Mike Hawker cast a key vote in favor of the [teen cell phone ban](#) in the Judiciary Committee, even though he opposes it on libertarian grounds. "I represent my constituents, and I respect the counsel they've given me (in favor of the bill)," Hawker said. The bill died later in the session, however.

Rep. Berta Gardner, D-Achorage, said her teen cell phone ban HB 128 might pass because of the number of

distracted driving accidents involving young drivers: "I think we can build a consensus about cellphones with minors. ... This isn't a tough one to support." In committee, Gardner fended off suggestions that its secondary enforcement status be upgraded by saying police would pull over too many adults legally using cell phones because officers have difficulty determining the age of drivers.

Anchorage's chief of police says he's "the poster child" for distracted driving after he hit another vehicle from behind while fooling with his cell phone. The fender bender occurred at a light as it changed from red to green. No ticket resulted, but the city manager reportedly reprimanded top cop Mark Mew.

HB 35 sponsor Rep. Mike Doogan said: "This type of bill (cell phone) is going to be a tough bill to get passed in any form. People are just reluctant to pass legislation that actually affects real people on the ground. He was right. No distracted driving legislation advanced.

Doogan, D-Anchorage, told the Juneau Empire that the handheld cell phone legislation HB 22 from Rep. Cathy Muñoz, R-Juneau, had a better chance of passage than his measure because she is in the majority party. Rep. Max Gruenberg, D-Anchorage, agrees and says he won't pursue his own HN 68 in favor of the Muñoz plan.

A Department Of Public Safety rep says only a few citations have been written under the Alaska law that bans text messaging.

2010 legislation notes:

Alaska's 2010 legislative session concluded April 18 without taking action on the proposed cell phone law.

The head of the House Judiciary Committee sought to water down Rep. Mike Doogan's HB 257, the cell phone legislation. Rep. Jay Ramras, R-Fairbanks, told the Anchorage Daily News that in order to clear his panel, the bill authored by Doogan, D-Anchorage, would have to change its goal from primary enforcement to secondary enforcement. "I don't think law enforcement needs more reasons to pull people over," Ramras said. (Primary enforcement means an officer can stop a motorist for that violation alone.)

Rep. Berta Gardner, D-Anchorage, says of her HB 15: "For all intents and purposes, the bill is dead." The measure has been stuck in the House Finance Committee for almost a year.

2010 legislation (dead):

[Alaska House Bill 257](#): Would outlaw all uses of cellular phones while driving. Does not permit cell phone use if a [hands-free device](#) is attached. Primary enforcement. Fines up to \$300 plus points. Stalled out in Judiciary Committee. (Doogan)

[HB 15](#) (from 2009): Would prohibit the use of cell phones by drivers under the age of 18. Secondary enforcement. Fines up to \$300. Filed in 2009. As of February 2010, the bill was technically alive but not scheduled for a hearing. Did not emerge from the Finance Committee, where it apparently died. (Gardner)

2009 legislation:

See HB 15, above.

2009 legislation notes:

Alaska's fiercely individualistic nature could make cell-phone driving laws a long shot. Even State Rep. Max Gruenberg, co-author of texting/video legislation, says he doesn't think Alaska is ready for a hands-free law.

The proposed cell phone ban on teenagers would be a secondary offense, meaning law officers would need another reason to pull over drivers under 18 using cell phones. The sponsors are Reps. Berta Gardner and Chris Tuck, both D-Anchorage.

Alaska's texting law took effect Sept. 1, 2008. Its prohibitions include drivers' use of televisions, monitors and portable computers, as well as installation of video screens within the sight of the driver. Six months later, State Troopers reported that only three motorists had been cited for the offense of text messaging while driving in Alaska. The law agency was investing in an ad campaign to warn of the dangers of texting while behind the wheel.

The texting/portable video law was [inspired by a 2002 crash](#) in which an Anchorage couple died. A man was accused of watching the movie "Road Trip" when he hit the couple, but he was acquitted of second-degree murder charges.

Anchorage activist Jennie Morris' next project could be cell phone use while driving, inspired by an accident in which she was hit by a 19-year-old on a cell phone.