

2007 DRAFTING REQUEST

Bill

Received: **07/19/2007**

Received By: **bbalinsk**

Wanted: **As time permits**

Identical to LRB:

For: **Alan Lasee (608) 266-3512**

By/Representing: **Tom Van Ess**

This file may be shown to any legislator: **NO**

Drafter: **bbalinsk**

May Contact:

Addl. Drafters:

Subject: **Transportation - traffic laws**

Extra Copies: **ARG**

Submit via email: **YES**

Requester's email: **Sen.Lasee@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Prohibiting cell phone text messaging while driving.

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	bbalinsk 10/11/2007	csicilia 10/16/2007	pgreensl 10/16/2007	_____	lparisi 10/16/2007		
/P2	bbalinsk 10/26/2007	csicilia 11/05/2007	nmatzke 11/05/2007	_____	lparisi 11/05/2007		
/P3	bbalinsk 12/06/2007	csicilia 12/11/2007		_____			
		lkunkel 12/11/2007		_____			

2007 DRAFTING REQUEST

Bill

Received: **07/19/2007**

Received By: **bbalinsk**

Wanted: **As time permits**

Identical to LRB:

For: **Alan Lasee (608) 266-3512**

By/Representing: **Tom Van Ess**

This file may be shown to any legislator: **NO**

Drafter: **bbalinsk**

May Contact:

Addl. Drafters:

Subject: **Transportation - traffic laws**

Extra Copies: **ARG**

Submit via email: **YES**

Requester's email: **Sen.Lasee@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Prohibiting cell phone text messaging while driving.

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	bbalinsk 10/11/2007	csicilia 10/16/2007	pgreensl 10/16/2007	_____	lparisi 10/16/2007		
/P2	bbalinsk 10/26/2007	csicilia 11/05/2007	nmatzke 11/05/2007	_____	lparisi 11/05/2007		
/P3	bbalinsk 12/06/2007	csicilia 12/11/2007		_____			
		lkunkel 12/11/2007		_____			

2007 DRAFTING REQUEST

Bill

Received: 07/19/2007

Received By: bbalinsk

Wanted: As time permits

Identical to LRB:

For: Alan Lasee (608) 266-3512

By/Representing: Tom Van Ess

This file may be shown to any legislator: NO

Drafter: bbalinsk

May Contact:

Addl. Drafters:

Subject: **Transportation - traffic laws**

Extra Copies: **ARG**

Submit via email: YES

Requester's email: **Sen.Lasee@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Prohibiting cell phone text messaging while driving.

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	bbalinsk 10/11/2007	csicilia 10/16/2007	pgreensl 10/16/2007	_____	lparisi 10/16/2007		
/P2	bbalinsk 10/26/2007	csicilia 11/05/2007	nmatzke 11/05/2007	_____	lparisi 11/05/2007		

FE Sent For:

1/mk 12/11
11
pv
ps/emk
<END>

2007 DRAFTING REQUEST

Bill

Received: 07/19/2007

Received By: bbalinsk

Wanted: As time permits

Identical to LRB:

For: Alan Lasee (608) 266-3512

By/Representing: Tom Van Ess

This file may be shown to any legislator: NO

Drafter: bbalinsk

May Contact:

Addl. Drafters:

Subject: Transportation - traffic laws

Extra Copies: ARG

Submit via email: YES

Requester's email: Sen.Lasee@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Prohibiting cell phone text messaging while driving.

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	bbalinsk 10/11/2007	csicilia 10/16/2007	pgreensl 10/16/2007	_____	lparisi 10/16/2007		

FE Sent For:

Handwritten: /P2 9/5 11/5 07

Handwritten: mwn 11/5 nwn/rs 11/5

<END>

2007 DRAFTING REQUEST

Bill

Received: 07/19/2007

Received By: bbalinsk

Wanted: As time permits

Identical to LRB:

For: Alan Lasee (608) 266-3512

By/Representing: Tom Van Ess

This file may be shown to any legislator: NO

Drafter: bbalinsk

May Contact:

Addl. Drafters:

Subject: Transportation - traffic laws

Extra Copies: ARG

Submit via email: YES

Requester's email: Sen.Lasee@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Prohibiting cell phone text messaging while driving.

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	bbalinsk	/P1 gjs 10/16/07	10/16/07 PK	10/16/07 PK			

FE Sent For:

<END>

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

Tom ^{Sen} ^{Alan} ~~Lasca~~
Van Egg

E-3512

Wants a bill prohibiting
text messaging
↓
all drivers



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2994/P1

BAB:.....

gjs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

IN 10/11/07

D-NOTE

SAV
X-ref ✓

SOON
Gen Cat

- 1 AN ACT...; relating to: restrictions on the operation of motor vehicles by persons
- 2 using electronic text messaging devices and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits inattentive driving, which means that a driver of a motor vehicle may not be so engaged or occupied as to interfere with the safe driving of the vehicle. Any person convicted of inattentive driving may be required to forfeit not less than \$20 nor more than \$400. ✓

This bill prohibits the use of an electronic text messaging device by anyone who is operating a motor vehicle in this state. An "electronic text messaging device" is defined as a cellular telephone, personal digital assistant, portable or mobile computer while being used for purposes of text communications, or other electronic device capable of being used to record text communications or to transmit or receive text communications with one or more other persons. The bill provides an exception to this prohibition for law enforcement officers. The prohibition applies regardless of whether use of the electronic text messaging device interferes with operation of the vehicle. Persons who violate this prohibition may be required to forfeit not less than \$20 nor more than \$40 for a first offense, and not less than \$50 nor more than \$100 for a second or subsequent offense within one year. ✓

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 346.89 (3) of the statutes is created to read:

2 346.89 (3) (a) In this subsection, "electronic text messaging device" means any
3 electronic device, including a cellular telephone, personal digital assistant, or
4 portable or mobile computer while being used for purposes of text communication,
5 that is capable of receiving or transmitting a text message, electronic mail, or other
6 text communications to one or more other persons, but does not include any global
7 positioning system device.

is as a
device whose primary function is as a

8 (b) No person may operate, as defined in s. 343.305 (1) (c), any motor vehicle
9 while viewing, transmitting information into, or otherwise operating an electronic
10 text messaging device.

11 (c) This subsection does not apply to law enforcement officers who are on duty.

12 SECTION 2. 346.95 (1) of the statutes is amended to read:

13 346.95 (1) Any person violating s. 346.87, 346.88, 346.89 (2) or (3), 346.90 to
14 346.92 or 346.94 (1), (9), (10), (11), (12) or (15) may be required to forfeit not less than
15 \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100
16 for the 2nd or subsequent conviction within a year.

History: 1971 c. 278; 1973 c. 182, 314, 336; 1975 c. 297, 320; 1977 c. 68; 1983 a. 56, 175, 538; 1989 a. 335 s. 89; 1991 a. 83; 1993 a. 260, 455; 1995 a. 194, 373, 420; 1999 a. 109; 2001 a. 90; 2003 a. 192, 297, 327; 2005 a. 250.

17 SECTION 3. Effective date.

18 (1) This act takes effect on the first day of the 7th month beginning after
19 publication.

20 (END)

D-Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2994/P1dn

BAB:/:....

gs

ATTN: Tom Van Ess

The attached draft has been prepared in preliminary form. Please review the draft carefully to ensure that it is consistent with your intent. Your request specified that the text messaging prohibition apply to all drivers. I have made an exception for law enforcement officers who are on duty. Is that acceptable? Would you like to make exceptions for any other groups of persons who might, in the course of their job duties, use some form of electronic text messaging devices in their vehicles, such as various other emergency response personnel including fire fighters and ambulance drivers, or employees of utilities? ✓

I have utilized the term "operate" rather than the more narrow term "drive" in this draft, as text messaging requires sufficient attention away from controlling the vehicle and observing the conditions around the vehicle that such activity may be unsafe while the driver is manipulating the controls of the vehicle but has not yet put it into motion. Is this acceptable? ✓

Do you want to include an exception to allow text messaging to report an emergency? ✓

Brett A. Balinsky
Legislative Attorney
Phone: (608) 267-7380
E-mail: brett.balinsky@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2994/P1dn
BAB:cjs:pg

October 16, 2007

ATTN: Tom Van Ess

The attached draft has been prepared in preliminary form. Please review the draft carefully to ensure that it is consistent with your intent. Your request specified that the text messaging prohibition apply to all drivers. I have made an exception for law enforcement officers who are on duty. Is that acceptable? Would you like to make exceptions for any other groups of persons who might, in the course of their job duties, use some form of electronic text messaging devices in their vehicles, such as various other emergency response personnel including fire fighters and ambulance drivers, or employees of utilities?

I have utilized the term "operate" rather than the more narrow term "drive" in this draft, as text messaging requires sufficient attention away from controlling the vehicle and observing the conditions around the vehicle that such activity may be unsafe while the driver is manipulating the controls of the vehicle but has not yet put it into motion. Is this acceptable?

Do you want to include an exception to allow text messaging to report an emergency?

Brett A. Balinsky
Legislative Attorney
Phone: (608) 267-7380
E-mail: brett.balinsky@legis.wisconsin.gov

10-16-07

Ref Tom VanESS ^{@ Sen} Lewis 6-3512
office

-Wants stiffer penalties for violations

1st off.: not less than \$100 nor more than \$400
2nd + subs. off.: " " \$200 " " \$800

Wants added penalties for injuries while driver was text messaging, similar to OUI - injury penalties.
↳ like negligent operation of a vehicle + negligent homicide penalties.

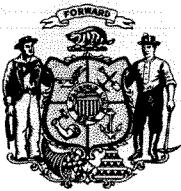
§ 939.50 - felonies

- 1
- 4
- 6

Class A Misdemeanor - injury

→ Negligent homicide

↓
§ 940.10



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2994/PI

BAB:cjs:pg

P2

TODAY

stays

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

FN 10/26/07

SOON

D-NOTE

Regen Cat

1 AN ACT to amend 346.95 (1); and to create 346.89 (3) of the statutes; relating
2 to: restrictions on the operation of motor vehicles by persons using electronic
3 text messaging devices and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits inattentive driving, which means that a driver of a motor vehicle may not be so engaged or occupied as to interfere with the safe driving of the vehicle. Any person convicted of inattentive driving may be required to forfeit not less than \$20 nor more than \$400.

This bill prohibits the use of an electronic text messaging device by anyone who is operating a motor vehicle in this state. An "electronic text messaging device" is defined as a cellular telephone, personal digital assistant, portable or mobile computer while being used for purposes of text communications, or other electronic device capable of being used to record text communications or to transmit or receive text communications with one or more other persons. The bill provides an exception to this prohibition for law enforcement officers. The prohibition applies regardless of whether use of the electronic text messaging device interferes with operation of the vehicle. Persons who violate this prohibition may be required to forfeit not less than \$20 nor more than \$40 for a first offense, and not less than \$50 nor more than \$100 for a second or subsequent offense within one year.

100

400

\$200

\$800

INSERT ANALYSIS

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 346.89 (3) of the statutes is created to read:

346.89 (3) (a) In this subsection, "electronic text messaging device" means any electronic device, including a cellular telephone, personal digital assistant, or portable or mobile computer while being used for purposes of text communication, that is capable of receiving or transmitting a text message, electronic mail, or other text communications to one or more other persons, but does not include any device whose primary function is as a global positioning system device.

(b) No person may operate, as defined in s. 343.305 (1) (c), any motor vehicle while viewing, transmitting information into, or otherwise operating an electronic text messaging device.

(c) This subsection does not apply to law enforcement officers who are on duty.

SECTION 2. 346.95 (1) of the statutes is amended to read:

346.95 (1) Any person violating s. 346.87, 346.88, 346.89 (2) or (3), 346.90 to 346.92 or 346.94 (1), (9), (10), (11), (12) or (15) may be required to forfeit not less than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100 for the 2nd or subsequent conviction within a year.

SECTION 3. Effective date.

(1) This act takes effect on the first day of the 7th month beginning after publication.

(END)

0-NOTE

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2994/P2ins
BAB:cjs:pg

1 Insert Analysis:

2 *NO II* Persons who, in the course of using a text messaging device, *while operating a*
3 resulting in bodily harm to another person must be fined not less than \$300 nor more
4 than \$2,000 *or* and may be sentenced to not less than 30 days nor more than one year
5 in the county jail. *or both* If a driver is using a text messaging device and causes an accident
6 resulting in the death of another person or in the death of an unborn child, the driver
7 is guilty of a Class G felony, which is punishable by a fine not to exceed \$25,000 or
8 imprisonment not to exceed *ten* 10 years, or both.

9 Insert 2-12:

10 **SECTION 2.** 346.95 (10) of the statutes is created to read:

11 346.95 (10) (a) In this subsection:

- 12 1. "Bodily harm" has the meaning given in s. 939.22 (4).
13 2. "Great bodily harm" has the meaning given in s. 939.22 (14).

14 (b) Except as provided in pars. (c) to (e), any person violating s. 346.89 (3) (b)
15 may be required to forfeit not less than \$100 nor more than \$400 for the first offense
16 and not less than \$200 nor more than \$800 for the 2nd or subsequent conviction.

17 (c) Any person who, in the course of a violation of s. 346.89 (3) (b), causes bodily
18 harm or great bodily harm to another person shall be fined not less than \$300 nor
19 more than \$2,000 *or* and may be imprisoned for not less than 30 days nor more than one
20 year in the county jail. *or both*

21 (d) Any person who, in the course of a violation of s. 346.89 (3) (b), causes the
22 death of another person shall be guilty of a Class G felony.

adjust text
to analysis format

1 (e) Any person who, in the course of a violation of s. 346.89 (3) (b), causes the
2 death of an unborn child shall be guilty of a Class G felony. ✓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2994/P2dn

BAB:cjs:pg

8 days

ATTN: Tom Van Ess

The attached draft incorporates the tougher penalties you requested for text messaging while driving violations and for such violations in which another person is injured or dies. You requested that a violation involving bodily harm or great bodily harm should be a Class A misdemeanor. In order to be consistent with the similar, broader prohibition against negligent operation of a vehicle, I have used the same penalties as for causing bodily harm under s. 346.62 (3), which are fines of not less than \$300 nor more than \$2,000 and imprisonment of not less than 30 days nor more than one year in the county jail. I have modeled the penalties for a violation of created s. 346.89 (3) involving death after the penalties for homicide by negligent operation of a motor vehicle under s. 940.10 (1), making such a violation a Class G felony. I have also incorporated the provision of s. 940.10 (2) which makes the negligent operation of a vehicle resulting in the death of an unborn child a Class G felony. Is that acceptable?

This draft provides a criminal penalty for drivers who, in the course of text messaging, cause an accident that results in bodily harm to another person. The definition of "bodily harm" under s. 939.22 (4) is "physical pain or injury, illness, or any impairment of physical condition," which is quite broad and if applied literally, could include very minor physical conditions such as slight bruising or temporary nausea. Would you like to provide a lower penalty for violations that involve bodily harm but are less severe than great bodily harm? Alternatively, you could make the imprisonment penalty under created s. 343.95 (10) permissive rather than mandatory, allowing a court greater discretion to impose only a fine and not necessarily any imprisonment in instances in which there was a less substantial injury. Please advise if you would like me to make either of these changes.

Brett A. Balinsky
Legislative Attorney
Phone: (608) 267-7380
E-mail: brett.balinsky@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2994/P2dn
BAB:cjs:nwn

November 5, 2007

ATTN: Tom Van Ess

The attached draft incorporates the tougher penalties you requested for text messaging while driving violations and for such violations in which another person is injured or dies. You requested that a violation involving bodily harm or great bodily harm should be a Class A misdemeanor. In order to be consistent with the similar, broader prohibition against negligent operation of a vehicle, I have used the same penalties as for causing bodily harm under s. 346.62 (3), which are fines of not less than \$300 nor more than \$2,000 and imprisonment of not less than 30 days nor more than one year in the county jail. I have modeled the penalties for a violation of created s. 346.89 (3) involving death after the penalties for homicide by negligent operation of a motor vehicle under s. 940.10 (1), making such a violation a Class G felony. I have also incorporated the provision of s. 940.10 (2) which makes the negligent operation of a vehicle resulting in the death of an unborn child a Class G felony. Is that acceptable?

This draft provides a criminal penalty for drivers who, in the course of text messaging, cause an accident that results in bodily harm to another person. The definition of "bodily harm" under s. 939.22 (4) is "physical pain or injury, illness, or any impairment of physical condition," which is quite broad and if applied literally, could include very minor physical conditions such as slight bruising or temporary nausea. Would you like to provide a lower penalty for violations that involve bodily harm but are less severe than great bodily harm?

Brett A. Balinsky
Legislative Attorney
Phone: (608) 267-7380
E-mail: brett.balinsky@legis.wisconsin.gov

12/4/07

Mtg w/ Tom Van Ess + Katie Walby

Changes:

① expand to exempt
emergency personnel

② bodily harm → ^{is due to} 30 days

Issue: Fed requirements of emerg. products
communications by cell phone

may cause potential
problems b/c text
messaging is probably
going to be preferred
method of communication

emergency use exception - No don't include

Make the GPS exception be only
for built-in devices, not
portable ones.

11-23-07

Tom Van Ess - Sen. Lasee's office

→ primary enforcement - can they be pulled over for seat messages
↳

bodily harm penalties beyond OVI?

Penalties → what are they beyond? tougher than inattentive driving

GM's OnStar → will provide us

① Firefighters → ^{exception} charges to emergency personnel

Wait to redraft until he sends these docs

→ penalties for bodily harm vs ~~charges~~ to guest bodily harm

change for lower penalty - may impose up to 30 days for bodily harm

Want to introduce bill soon

Balinsky, Brett

From: Van Ess, Thomas
Sent: Friday, November 30, 2007 1:59 PM
To: Balinsky, Brett
Cc: 'KWalby@foley.com'
Subject: FW: Text messaging bill

Brett, Would you please take a look at the following email and let me know what you think? I was wondering if we could set up a quick meeting for Tuesday to discuss some minor changes along with talking with Katie regarding her comments. Katie is lobbying for On Star and they have concerns about our bill regarding emergency services and receiving specific messages. Would you have time on Tuesday at about 1PM to discuss possible final changes. We could meet at our office. Thanks, Tom.

From: Walby, Kathleen M. [mailto:KWalby@foley.com]
Sent: Friday, November 30, 2007 12:38 PM
To: Van Ess, Thomas
Subject: RE: Text messaging bill

Hi Tom:

As promised, here are the comments from OnStar's attorney. Let's catch up on Monday.

"As written it prohibits radio displays, device information (number dialed/calling, minutes used/remaining, etc.), and perhaps most importantly it is in direct conflict with the Federal WARN Act which requires wireless devices to distribute emergency alerts. Such alerts have been determined to be best delivered as a text message to those devices. My recommendation would be to suggest the adoption of the PA bill (text attached below). We have made this suggestion for a couple of states."

Sincerely,

Katie Walby
Foley & Lardner LLP - Madison
608-258-4783

From: Walby, Kathleen M.
Sent: Tuesday, November 27, 2007 11:38 AM
To: 'Van Ess, Thomas'
Subject: RE: Text messaging bill

Hi Tom:

Sorry for the delay in getting this language to you...the most important part is what is highlighted in red. Let me know your thoughts.

Katie Walby
Foley & Lardner LLP - Madison

12/4/2007

physician's office or health clinic; an ambulance company or corps; a fire department, district or company; or a police department; or

(2) any of the following persons while in the performance of their official duties: a police officer or peace officer; or a member of a fire department, district or company; or

(3) emergency alert messages and messages related to the operation of the vehicle or an accessory component of the vehicle.

(e) Penalty. A violation of subsection (a) shall be a traffic infraction and shall be punishable by a fine of not more than \$100.

(f) Definitions. As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Electronic wireless communications device." An electronic device that permits the user thereof to transmit a communication of written text by means other than through an oral transfer or wire communication as those terms are defined under 18 Pa.C.S. Section 5702 (relating to definitions). The term does not include a ~~voice-activated~~ global positioning or navigation system that is permanently affixed to a motor vehicle.

"Use," "uses" or "using." The act of manually writing, reading or transmitting by touching a button, key or making a mark with an implement on a screen of an electronic wireless communications device for the sole purpose of making a communication of a text message on or through the electronic wireless communications device. The term does not include such act for the sole purpose of entering a number or a name on an electronic wireless communications device in order to make an oral communication.

Section 2. This act shall take effect in 60 days.

Copyright 2007 State Net. All Rights Reserved.

From: Van Ess, Thomas [mailto:Thomas.VanEss@legis.wisconsin.gov]
Sent: Tuesday, November 20, 2007 9:33 AM
To: Walby, Kathleen M.
Subject: RE: Text messaging bill

Thanks Katie

From: Walby, Kathleen M. [mailto:KWalby@foley.com]
Sent: Tuesday, November 20, 2007 9:27 AM
To: Van Ess, Thomas
Subject: RE: Text messaging bill

No, but I represent GM and they own OnStar. A lot of OnStar issues are similar to cell phone companies. I don't think the bill will be an issue for them, but I'm going to send it on for their review.

Katie Walby



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

IN 12/6/07
~~307~~

NON

Reisen

✓

1 AN ACT to create 346.89 (3) and 346.95 (10) of the statutes; relating to:
2 restrictions on the operation of motor vehicles by persons using electronic text
3 messaging devices and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits inattentive driving, which means that a driver of a motor vehicle may not be so engaged or occupied as to interfere with the safe driving of the vehicle. Any person convicted of inattentive driving may be required to forfeit not less than \$20 nor more than \$400.

This bill prohibits the use of an electronic text messaging device by anyone who is operating a motor vehicle in this state. An "electronic text messaging device" is defined as a cellular telephone, personal digital assistant, portable or mobile computer while being used for purposes of text communications, or other electronic device capable of being used to record text communications or to transmit or receive text communications with one or more other persons. The bill provides an exception to this prohibition for law enforcement officers. The prohibition applies regardless of whether use of the electronic text messaging device interferes with operation of the vehicle. Persons who violate this prohibition may be required to forfeit not less than \$100 nor more than \$400 for a first offense, and not less than \$200 nor more than \$800 for a second or subsequent offense within one year. Persons who, in the course of using a text messaging device while operating a motor vehicle, cause an accident resulting in bodily harm to another person must be fined not less than \$300 nor more than \$2,000 or be sentenced to not less than 30 days nor more than one year in the county jail, or both. If a driver is using a text messaging device and causes an

INSERT ANALYSIS #1

persons operating authorized emergency vehicles electronic

be imprisoned for
INSERT ANALYSIS #2

person who in the course
of using an electronic

accident resulting in the death of another person or in the death of an unborn child, the driver is guilty of a Class G felony, which is punishable by a fine not to exceed \$25,000 or imprisonment not to exceed ten years, or both.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 346.89 (3) of the statutes is created to read:

346.89 (3) (a) In this subsection, "electronic text messaging device" means any electronic device, including a cellular telephone, personal digital assistant, or portable or mobile computer while being used for purposes of text communication, that is capable of receiving or transmitting a text message, electronic mail, or other text communications to one or more other persons, but does not include any device whose primary function is as a global positioning system device.

(b) No person may operate, as defined in s. 343.305 (1) (c), any motor vehicle while viewing, transmitting information into, or otherwise operating an electronic text messaging device.

(c) This subsection does not apply to law enforcement officers who are on duty.

SECTION 2. 346.95 (10) of the statutes is created to read:

346.95 (10) (a) In this subsection:

- 1. "Bodily harm" has the meaning given in s. 939.22 (4).
- 2. "Great bodily harm" has the meaning given in s. 939.22 (14).

(b) Except as provided in pars. (c) to (e), any person violating s. 346.89 (3) (b) may be required to forfeit not less than \$100 nor more than \$400 for the first offense and not less than \$200 nor more than \$800 for the 2nd or subsequent conviction.

(c) Any person who, in the course of a violation of s. 346.89 (3) (b), causes bodily harm or great bodily harm to another person shall be fined not less than \$300 nor

Handwritten annotations: "person" above line 1; "SET" above line 1; "INSERT 2-7" with arrow pointing to line 7; "operators of authorized emergency vehicles" above line 11; "INSERT 2-19" with arrow pointing to line 19; "e" above line 19; "harm or" circled in line 20.

1 more than \$2,000 or be imprisoned for not less than 30 days nor more than one year
2 in the county jail, or both.

3 ^(e) (d) Any person who, in the course of a violation of s. 346.89 (3) (b), causes the
4 death of another person shall be guilty of a Class G felony.

5 ^(e) (e) Any person who, in the course of a violation of s. 346.89 (3) (b), causes the
6 death of an unborn child shall be guilty of a Class G felony.

7 **SECTION 3. Effective date.**

8 (1) This act takes effect on the first day of the 7th month beginning after
9 publication.

10 (END)

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2994/P3ins
BAB:cjs:nwn

1 Insert Analysis #1

2 *N/A* The definition of electronic text messaging device does not include devices that
3 transmit or receive emergency alert messages or messages relating to the operation
4 of the vehicle or an accessory that is integrated into the electrical system of a vehicle,
5 including non-portable global positioning system devices. ✓

7 Insert Analysis #2

8 *N/A* *As persons* A driver who, in the course of using a *electronic* text messaging device while operating a
9 motor vehicle, caused an accident resulting in great bodily harm to another person
10 must be fined not less than \$300 nor more than \$2,000 or *STET* be imprisoned for not less
11 than 30 days nor more than one year in the county jail, or both. ✓

13 Insert 2-6

14 *N/A* transmitting and receiving emergency alert messages and messages related to
15 the operation of the vehicle or an accessory that is integrated into the electrical
16 system of a vehicle, including a global positioning system device. ✓

18 Insert 2-19

19 *A* (c) Any person who, in the course of a violation of s. 346.89 (3) (b), causes bodily
20 harm to another person shall be fined not *STET* less than \$300 nor more than \$2,000 or be
21 imprisoned for not more than 30 days in the county jail, or both. ✓

Barman, Mike

From: Esser, Eric

Sent: Wednesday, December 12, 2007 8:56 AM

To: LRB.Legal

Subject: Draft Review: LRB 07-2994/1 Topic: Prohibiting cell phone text messaging while driving.

Please Jacket LRB 07-2994/1 for the SENATE.