

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0871/2dn
EVM:jld:jf

October 28, 2009

ATTN: Andrea Wahl

Please review the attached draft carefully to ensure that it is consistent with your intent. I have taken a slightly different approach to this amendment than that proposed by your constituent.

As currently drafted, 2009 AB-429 defines “wireless telecommunications device” partially in regards to the manner in which it is currently being used. That is, a wireless telecommunications device is a wireless telecommunications device only when being used for certain purposes, e.g. transmitting verbal communications. More concretely, under the current bill, a cellular telephone, for example, is a wireless telecommunications device when someone is talking on it, but not when someone is simply holding it. This draft changes that construction somewhat. I have changed the definition of wireless telecommunications device to include devices that are capable of transmitting, for example, verbal communications. A functional cellular telephone would, therefore, under this amendment be a wireless telecommunications device regardless of the manner in which it is currently being used.

To avoid changing the meaning of your draft, I have also moved the “functions” portion of the definition to the prohibition section of the draft. Instead of prohibiting “use” of a wireless telecommunications device, this amendment would prohibit the use of a wireless telecommunications device to transmit verbal communications, text messages, etc. The net result is, I believe, a negligible change to the meaning of the bill, but a more clear definition and prohibition. With these changes, I do not believe a further addition to the text regarding simply “activating, deactivating, selecting, or initiating a feature or function of the device” is necessary. The prohibition should be clear that only communicative use is prohibited.

This amendment also changes the final portion of the definition to expressly exclude devices integrated into the vehicle, a somewhat broader exclusion than in the unamended version of the bill. This amendment continues to provide specific exclusions for amateur radio operators and operators of commercial motor vehicles. Please let me know if you have any questions or further instructions.

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