

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1308/1dn
EVM:wlj:md

January 19, 2010

ATTN: Aaron Dumas

The following are a few notes about this draft:

1. I did not add any language specifying that a person may use a cellular telephone while pulled over to the side of the road. The current prohibition applies only when a person is driving, as defined in s. 343.305 (1) (b), stats. The definition of “drive” under that provision requires that the car be in motion.
2. Your e-mail instructions asked that I provide the same exceptions as in current AB 496. I took this to mean the exceptions in ASA 1 to AB 496. Please let me know if this is not what you intended.
3. As your e-mail suggests, there is a possibility that this amendment could be challenged as nongermane. The argument for nongermaneness is that this provision may substantially expand the scope of the proposal. Where AB 496 addresses only the specific issue of composing and sending text communications while driving, this amendment adds a prohibition to the different area of verbally communicating while driving. Also, the dangerous practice addressed by the original bill involves both distraction and failure to maintain proper lookout, while the amendment addresses the dangerous practice mainly of distraction. The argument for germaneness is that this provision is not a substantial expansion. Both the original bill and this amendment regulate only certain types of electronic communication while driving — forms of communication often accomplished by use of the same devices. Also, both the original provision and this amendment deal essentially with forms of distracted driving.

Please let me know if you have any questions or further instructions.

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