

2011 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB291)

Received: 10/25/2011

Received By: agary

Wanted: As time permits

Companion to LRB:

For: Jerry Petrowski (608) 266-1182

By/Representing: Tim Fiocchi

May Contact:

Drafter: agary

Subject: Transportation - driver licenses
Transportation - traffic laws

Addl. Drafters:

Extra Copies: EVM

Submit via email: YES

Requester's email: Rep.Petrowski@legis.wisconsin.gov

Carbon copy (CC:) to: aaron.gary@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Prohibiting cell phone use by operators holding an instruction permit or probationary license

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>
/?	agary 10/25/2011	wjackson 10/25/2011		_____			
/P1			rschluet 10/26/2011	_____	mbarman 10/26/2011		
/P2	agary 11/01/2011	wjackson 11/01/2011	phenry 11/02/2011	_____	sbasford 11/02/2011		
/1	agary	kfollett	jfrantze	_____	sbasford	sbasford	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	11/30/2011	11/30/2011	11/30/2011 _____		11/30/2011	11/30/2011	

FE Sent For:

<END>

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/P1			rschluet 10/26/2011	_____	mbarman 10/26/2011		
/P2	agary 11/01/2011	wjackson 11/01/2011	phenry 11/02/2011	_____	sbasford 11/02/2011		

11/5/11
11/30/11

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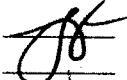
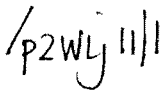
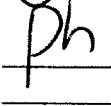
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/?	agary 10/25/2011	wjackson 10/25/2011					
/P1			rschluet 10/26/2011		mbarman 10/26/2011		

FE Sent For:


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See attached

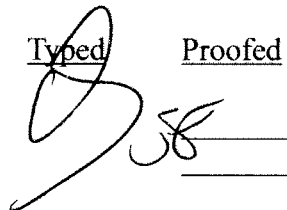
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/?

agary

/pl WLj 10/25



FE Sent For:

<END>

Gary, Aaron

From: Fiocchi, Tim
Sent: Tuesday, October 25, 2011 2:00 PM
To: Gary, Aaron
Cc: Punches, Derek; Krieser, Steven - DOT
Subject: Amendment to AB 291

Hi Aaron,

Per the discussion below, we would like to order an amendment to AB 291 to specify that using a cell phone while driving would be a moving violation for someone operating with a probationary license rather than a restriction on the license.

Let me know if this creates any extraneous issues.

Thank you,

Tim

From: Krieser, Steven - DOT [<mailto:Steven.Krieser@dot.wi.gov>]
Sent: Tuesday, October 18, 2011 4:04 PM
To: Fiocchi, Tim
Subject: RE: AB 291 Fiscal Note

Hi Tim,

With regard to the font, the fiscal notes are actually typed into a webform that is part of the fiscal estimate system run by DOA. The system formats them as finished PDF's. We control the verbiage, but have no control at all over formatting or font size. ;-)

I wanted to give you a little more background on the fiscal note on this bill, because I know it is frustrating for you and your boss.

As you know, the bill would create a new restriction upon the licenses of certain probationary licensees, preventing them from lawfully using cellular phones while driving. The term "restriction" has a specific legal meaning. Restrictions run the gamut, with the most common being a requirement that the driver must wear corrective lenses while driving. The DMV is required to imprint restrictions upon the back of the driver license card at the time of production.

With regard to probationary licensees, many of whom are also subject to the GDL law (also a restriction), the amount of information we're already required to print in that very limited space on the back of the DL is significant.

As we examined the bill, we realized that there would be circumstances (about 21,903, to be exact) where we will have licensees subject to the GDL restrictions, corrective lenses restriction, and the cell phone restriction, all on the same license. In those instances, the mandatory restriction language will spill onto a second, supplemental card that the driver must carry along with the primary card. It is the cost of producing those second cards that has produced the inflated fiscal note.

We can't remedy this by applying the restriction with a sticker. Wisconsin (like most states) is a signatory to the AAMVA North American DL/ID Card Design Standards. This document, promulgated by the American Association of Motor Vehicle Administrators, strictly regulates the layout and content of DL and ID card products in Canada, the US, and Mexico – primarily so law enforcement and motor vehicle departments in jurisdictions across the continent can tell more readily when they are being presented with a nonconforming / counterfeit product. The AAMVA standard requires that restrictions be hard-printed onto the license card.

So, with all of that being said, there might be an easy fix. Ban the use of cell phones by the same subclass of probationary licensees as you do under the bill now, but don't require us to print anything on the license. Make it a moving violation, but don't call it a restriction. That gets DMV out of the mix (other than some very minor programming related to the new moving violation), and gives you a fiscal note like last year's bill.

Does that help?

Steve Krieser
Executive Assistant
Wisconsin Department of Transportation
Phone: 608-266-1114

From: Fiocchi, Tim [<mailto:Tim.Fiocchi@legis.wisconsin.gov>]
Sent: Friday, October 14, 2011 10:14 AM
To: Krieser, Steven - DOT
Subject: RE: AB 291 Fiscal Note

I take it shrinking the font or some such isn't an option? Oh well, we'll pull it from the exec. Jerry asked me to provide the attached...

Have a good weekend – try not to work all the way through it.

Tim

<< File: AB-341fe.pdf >>

From: Krieser, Steven - DOT [<mailto:Steven.Krieser@dot.wi.gov>]
Sent: Thursday, October 13, 2011 4:52 PM
To: Fiocchi, Tim
Cc: Stewart, Kate
Subject: AB 291 Fiscal Note

Hi Tim and Kate,

This is late-breaking news, and I wanted to share it with you because this bill is scheduled for exec next week. Attached is the draft fiscal estimate for AB 291.

As you can see, there is a fairly substantial fiscal effect associated with this legislation that we didn't recognize until we actually worked up the fiscal note. Our initial review of the bill focused on the penalty aspect, which really doesn't have an impact on us. But the need to print a supplemental ID card for tens of thousands of drivers each year does. Our preference would be that the bill provide an appropriation to cover DMV budget impacts associated with producing these additional ID cards. Please let me know if you wish to discuss. Thanks – and sorry for the news.

Steve Krieser
Executive Assistant
Wisconsin Department of Transportation
Phone: 608-266-1114

<< File: ab291 fe.pdf >>

in 10/25
wanted by 10/31

50235/P1
LRB-~~2087~~
ARG:wlj:rs
STAYS
RMNR

Substitute Amendment,
11

To 2005 ASSEMBLY BILL ~~76~~ 291

D-Note

February 3, 2005 - Introduced by Representatives STASKUNAS, BOYLE, KERKMAN, SEIDEL, STEINBRINK, HINES, AINSWORTH, LENMAN, CULLEN, JESKEWITZ and SHERIDAN, cosponsored by Senators HARSDFORF, CARPENTER, OLSEN and STEPP. Referred to Committee on Highway Safety.

by a probationary licensee or instruction permittee

- 1 AN ACT ^{Regen} to amend 346.95 (1); and to create 346.89 (3) of the statutes; relating
- 2 to ^{while} driving a motor vehicle ~~while using~~ ^{the use of} a cellular telephone or other wireless
- 3 telecommunications device and providing a penalty.

Analysis by the Legislative Reference Bureau

these forms of

insert ANAL-A

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 a person driving under an instruction permit or a probationary license from driving a motor vehicle while using a cellular telephone or other wireless telecommunications device (cellular phone), except to report an emergency. (A probationary license is, with certain exceptions, issued to all applicants for an original driver's license and remains in effect for two years from the date of the licensee's next birthday.) The prohibition applies regardless of whether the cellular phone is hand-held, installed in the vehicle, or otherwise situated, and regardless of whether use of the cellular phone 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.

Substitute amendment

ASSEMBLY BILL 76

~~For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill~~

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

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SECTION 1. 346.89 ~~(2)~~ ⁽⁴⁾ of the statutes is created to read:

346.89 ~~(2)~~ ⁽⁴⁾ No person who holds a probationary license issued under s. 343.085, or an instruction permit issued under s. 343.07, may drive, as defined in s. 343.305 (1) (b), a ^{ny} motor vehicle while using a cellular telephone or other wireless telecommunications device, except to report an emergency.

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 ~~(6)~~ ⁴, 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)

J-Note

**2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0235/P1ins
ARG:.....

INSERT ANAL-A:

Current law prohibits inattentive driving of a motor vehicle, which includes:
* 1) being so engaged or occupied, while driving a motor vehicle, as to interfere with
the safe driving of the vehicle[^] and 2) driving a motor vehicle while composing or
sending an electronic text message or an e-mail message, subject to various
exceptions.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0235/P1dn

ARG:.....

Wlj

Date

ATTN: Tim Fiocchi

Please review the attached draft carefully to ensure that it is consistent with your intent.

As discussed, this substitute amendment is very similar to 2005 AB-76. I note that there are various options for the penalty provision in this draft. Under current law, violations of the inattentive driving prohibition in s. 346.89 give rise to a penalty of either: 1) a forfeiture of 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 (see s. 346.95 (1)); or 2) a forfeiture of not less than \$20 nor more than \$400 (see s. 346.95 (2)). This bill adopts the penalty under option 1. I note that a texting violation gives rise to the penalty under option 2. As another option, I could create a new subsection in s. 346.95 that replicates the penalty on p. 3, lines 7 and 8 of 2011 AB 291.

I note that 2011 AB 131 pertains to similar subject matter. Do you want this substitute amendment to include any definition of "wireless telecommunications device," such as that appearing at p. 3, lines 166 of AB 131?

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "1" draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0235/P1dn
ARG:wlj:rs

October 26, 2011

ATTN: Tim Fiocchi

Please review the attached draft carefully to ensure that it is consistent with your intent.

As discussed, this substitute amendment is very similar to 2005 AB-76. I note that there are various options for the penalty provision in this draft. Under current law, violations of the inattentive driving prohibition in s. 346.89 give rise to a penalty of either: 1) a forfeiture of 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 (see s. 346.95 (1)); or 2) a forfeiture of not less than \$20 nor more than \$400 (see s. 346.95 (2)). This bill adopts the penalty under option 1. I note that a texting violation gives rise to the penalty under option 2. As another option, I could create a new subsection in s. 346.95 that replicates the penalty on page 3, lines 7 and 8, of 2011 AB 291.

I note that 2011 AB 131 pertains to similar subject matter. Do you want this substitute amendment to include any definition of "wireless telecommunications device," such as that appearing at page 3, lines 1 to 6, of AB 131?

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

Gary, Aaron

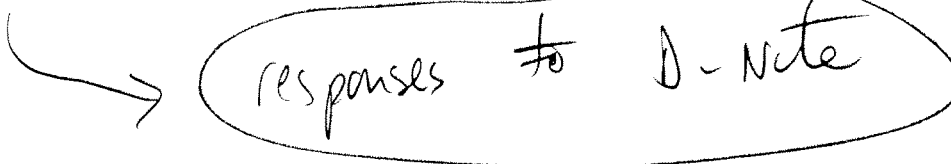
From: Fiocchi, Tim
Sent: Tuesday, November 01, 2011 10:52 AM
To: Gary, Aaron
Subject: RE: Amendment to AB 291

Hi Aaron,

Regarding the draft, we would like to go with option 1 for the penalties, and we would like to include the definition from AB 131.

Thank you,

Tim

→ 

From: Gary, Aaron
Sent: Tuesday, November 01, 2011 10:36 AM
To: Fiocchi, Tim
Cc: PUNCHES, Derek
Subject: RE: Amendment to AB 291

Hi Tim,

I note that AB-291 was Rep. Bernier's bill. I'm wondering if you are working with Rep. Bernier on this sub. (i.e. whether you are coordinating efforts). Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Fiocchi, Tim
Sent: Tuesday, October 25, 2011 2:00 PM
To: Gary, Aaron
Cc: PUNCHES, Derek; Krieser, Steven - DOT
Subject: Amendment to AB 291

Hi Aaron,

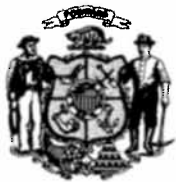
Per the discussion below, we would like to order an amendment to AB 291 to specify that using a cell phone while driving would be a moving violation for someone operating with a probationary license rather than a restriction on the license.

Let me know if this creates any extraneous issues.

Thank you,

Tim

From: Krieser, Steven - DOT [<mailto:Steven.Krieser@dot.wi.gov>]
Sent: Tuesday, October 18, 2011 4:04 PM
To: Fiocchi, Tim
Subject: RE: AB 291 Fiscal Note



in 11/1



LRBs0235/22 P2
ARG:wlj:rs

wanted 11/2

stays A RMR

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2011 ASSEMBLY BILL 291**

D-Note

Regen

1 AN ACT *to amend* 346.95 (1); and *to create* 346.89 (4) of the statutes; **relating**
2 **to:** the use of a cellular telephone or other wireless telecommunications device
3 by a probationary licensee or instruction permittee while driving a motor
4 vehicle and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits inattentive driving of a motor vehicle, which includes: 1) being so engaged or occupied, while driving a motor vehicle, as to interfere with the safe driving of the vehicle; and 2) driving a motor vehicle while composing or sending an electronic text message or an e-mail message, subject to various exceptions. Any person convicted of these forms of inattentive driving may be required to forfeit not less than \$20 nor more than \$400.

This substitute amendment prohibits a person driving under an instruction permit or a probationary license from driving a motor vehicle while using a cellular telephone or other wireless telecommunications device (cellular phone), except to report an emergency. (A probationary license is, with certain exceptions, issued to all applicants for an original driver's license and remains in effect for two years from the date of the licensee's next birthday.) The prohibition applies regardless of

whether the cellular phone is hand-held, installed in the vehicle, or otherwise situated, and regardless of whether use of the cellular phone 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:

Insert
2-2

1 SECTION 1. 346.89 (4) of the statutes is created to read:

2 346.89 (4) ^{(b) subject to sub. (3)} No person who holds a probationary license issued under s. 343.085,
3 or an instruction permit issued under s. 343.07, may drive, as defined in s. 343.305
4 (1) (b), any motor vehicle while using a cellular telephone or other wireless
5 telecommunications device, except to report an emergency.

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

7 346.95 (1) Any person violating s. 346.87, 346.88, 346.89 (2) or (4) ^(b) 346.90 to
8 346.92 or 346.94 (1), (9), (10), (11), (12) or (15) may be required to forfeit not less than
9 \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100
10 for the 2nd or subsequent conviction within a year.

11 SECTION 3. Effective date.

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

14 (END)

D-Note

ASSEMBLY BILL 131

buses, to the person's operator's license and the person may not reinstate the "S" endorsement to his or her operator's license for six months.

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

SECTION 1. 343.20 (1) (d) 3. of the statutes is created to read:

343.20 (1) (d) 3. The department shall cancel an operator's license that is endorsed for the operation of school buses under s. 343.12, regardless of the license expiration date, upon receiving a record of conviction showing that the person has been convicted of a violation of s. 346.94 (23) or a local ordinance in conformity with s. 346.94 (23), if the person was previously convicted of a violation of s. 346.94 (23) or a local ordinance in conformity with s. 346.94 (23) within the immediately preceding 2 years. Upon cancellation of an operator's license under this subdivision, the person may obtain from the department, without charge, an operator's license that is not endorsed for the operation of school buses and, after 6 months from the date of the license cancellation, may apply for reinstatement of the endorsement authorizing the operation of school buses.

SECTION 2. 346.94 (23) of the statutes is created to read:

346.94 (23) USE OF CELLULAR TELEPHONES AND OTHER DEVICES WHILE OPERATING

CERTAIN VEHICLES TRANSPORTING CHILDREN. (a) In this subsection

1. "Alternative pupil transport vehicle" means a motor vehicle used to provide pupil transportation services and that is being operated as an alternative method of transportation under s. 121.555 (1) or is a motor bus being operated for purposes of transporting pupils to or from curricular or extracurricular activities.

2. "Operate" has the meaning given in s. 343.305 (1) (c).

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Arxiv

ASSEMBLY BILL 131

insert 2-2 cont'd

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3 Wireless

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"Wireless telecommunications device" means any personal digital assistant or other device while being used by the device's operator to transmit verbal communications, electronic mail, text messages, or any other electronic communication to one or more persons not physically present with the device's operator, but does not include any 2-way radio or citizens band radio or any global positioning system device installed in or on a vehicle.

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~~(b) 1. Except as provided in subd. 2., and notwithstanding s. 346.89 (3), no person may operate on the roadway of a highway a school bus or alternative pupil transport vehicle that is transporting pupils or other authorized passengers except any passenger employed for the purpose of assisting the school bus or alternative pupil transport vehicle operator, or load or unload passengers onto or from a school bus or alternative pupil transport vehicle, while using a cellular telephone or other wireless telecommunications device.~~

~~2. Subdivision 1. does not apply to the use of a cellular telephone, or of any wireless telecommunications device capable of real-time voice communications, to make an emergency "911" telephone call or communicate with an emergency system response operator, police department, fire department, ambulance or emergency medical technician service, or hospital or emergency care facility regarding an emergency situation.~~

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SECTION 3. 346.95 (12) of the statutes is created to read:

346.95 (12) Any person violating s. 346.94 (23) shall forfeit \$200 for the first offense and \$500 for each subsequent offense occurring within 2 years.

SECTION 4. Effective date.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0235/P2dn

ARG: /:...

Wlj

Date

ATTN: Tim Fiocchi

Please review the attached draft carefully to ensure that it is consistent with your intent.

As discussed, the definition of "wireless telecommunications device" in this draft is the same as that appearing in 2011 ABQ131. In reviewing this language more closely, and in reviewing the language of the texting ban passed last session (see s. 346.89 (3)), I'm not sure that retaining the "wireless telecommunications device" language in this draft does anything. The language in this draft was first developed a number of years ago, when the issue of cell phone bans was emerging. After giving the matter further attention, I suggest that you consider replacing the term "cellular telephone" with "mobile telephone" in the attached draft and then removing from the draft the "wireless telecommunications device" language, since 2009 Act 220 already banned texting while driving.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0235/P2dn
ARG:wlj:rs

November 2, 2011

ATTN: Tim Fiocchi

Please review the attached draft carefully to ensure that it is consistent with your intent.

As discussed, the definition of “wireless telecommunications device” in this draft is the same as that appearing in 2011 AB 131. In reviewing this language more closely, and in reviewing the language of the texting ban passed last session (see s. 346.89 (3)), I’m not sure that retaining the “wireless telecommunications device” language in this draft does anything. The language in this draft was first developed a number of years ago, when the issue of cell phone bans was emerging. After giving the matter further attention, I suggest that you consider replacing the term “cellular telephone” with “mobile telephone” in the attached draft and then removing from the draft the “wireless telecommunications device” language, since 2009 Act 220 already banned texting while driving.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible “/1” draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

Gary, Aaron

From: Punches, Derek
Sent: Tuesday, November 29, 2011 4:24 PM
To: Gary, Aaron
Subject: RE: Changes to ASA to AB 291 (LRBs0235/P2)

Aaron,

After discussing it with Rep. Petrowski, I think the best choice in this case would be to use the phrase "**cellular or other wireless telephone.**" We don't want to excessively narrow the term, but do want to ensure the intent is clear. With this change, I think we're happy with the draft. Can you convert s0235 to an introducible bill?

Thank you.

Derek

Derek Punches
Office of Representative Jerry Petrowski
86th Assembly District
(608) 266-1182

From: Gary, Aaron
Sent: Tuesday, November 29, 2011 2:12 PM
To: Punches, Derek
Subject: RE: Changes to ASA to AB 291 (LRBs0235/P2)

Derek,

I spoke to the telecom drafter. There is no clear "best option" for how to refer to a cell phone. The problem with the term "cellular telephone" is that, even though it is used by most people in a general sense, the term also does have a technical meaning and, in a technical sense, refers to a specific type of technology. The term "mobile telephone" is more general but perhaps too vague. The telecom drafter recommended either using the phrase "wireless telephone" or "cellular or other wireless telephone." Do you have a preference of what term to use?

Thanks. Aaron

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From: Gary, Aaron
Sent: Tuesday, November 29, 2011 1:59 PM
To: Punches, Derek
Subject: RE: Changes to ASA to AB 291 (LRBs0235/P2)

Hi Derek,

I called your office but got the answering machine. The sub that I drafted (s0235/P2) would seem to me to meet your description below of what you want. It retains the prohibition but makes it a moving violation instead of a restriction violation. It also has the emergency exception. As I indicated in the drafter's note, I would like to revise the s0235/P2 draft to eliminate the term "wireless telecommunications device" and its definition, and substitute the term "mobile telephone" for "cellular telephone." But with these changes, it seems that s0235 would accomplish your intent. Aaron

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From: Punches, Derek
Sent: Tuesday, November 29, 2011 1:27 PM
To: Gary, Aaron
Subject: Changes to ASA to AB 291 (LRBs0235/P2)

Mr. Gary,

For the substitute amendment to AB 291, we'd like to keep the basic intent of the bill with one major change. The bill will retain the prohibition on a person using a cellphone while driving a vehicle if he or she is under an instruction permit or probationary license. Instead of including this prohibition as a license restriction, we would like it to be a moving violation instead. Please retain the language allowing the use of a cellular phone in the event of an emergency.

Let me know if you have any questions or comments.

Best regards,
Derek

Derek Punches
Office of Representative Jerry Petrowski
86th Assembly District
(608) 266-1182



TODAY



LRBs0235/1
ARG:wlj:rs

in 11/30

stays RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2011 ASSEMBLY BILL 291

Regen

1 AN ACT *to amend* 346.95 (1); and *to create* 346.89 (4) of the statutes; **relating**
2 **to:** the use of a cellular telephone or other wireless ~~telecommunications device~~
3 by a probationary licensee or instruction permittee while driving a motor
4 vehicle and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits inattentive driving of a motor vehicle, which includes: 1) being so engaged or occupied, while driving a motor vehicle, as to interfere with the safe driving of the vehicle; and 2) driving a motor vehicle while composing or sending an electronic text message or an e-mail message, subject to various exceptions. Any person convicted of these forms of inattentive driving may be required to forfeit not less than \$20 nor more than \$400.

This substitute amendment prohibits a person driving under an instruction permit or a probationary license from driving a motor vehicle while using a cellular ~~telephone~~ or other wireless ~~telecommunications device~~ (cellular phone), except to report an emergency. (A probationary license is, with certain exceptions, issued to all applicants for an original driver's license and remains in effect for two years from the date of the licensee's next birthday.) The prohibition applies regardless of

telephone

whether the cellular phone is hand-held, installed in the vehicle, or otherwise situated, and regardless of whether use of the cellular phone 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:

SECTION 1. 346.89 (4) of the statutes is created to read:

346.89 (4) (a) In this subsection, "wireless telecommunications device" means any personal digital assistant or other device while being used by the device's operator to transmit verbal communications, electronic mail, text messages, or any other electronic communication to one or more persons not physically present with the device's operator, but does not include any 2-way radio or citizens band radio or any global positioning system device installed in or on a vehicle.

(b) Subject to sub. (3), no person who holds a probationary license issued under s. 343.085, or an instruction permit issued under s. 343.07, may drive, as defined in s. 343.305 (1) (b), any motor vehicle while using a cellular telephone or other wireless telecommunications device, except to report an emergency.

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

3 (END)