



Legislative Assembly of Alberta

The 27th Legislature
First Session

Standing Committee
on the
Economy

Tuesday, July 29, 2008
1:31 p.m.

Transcript No. 27-1-2

**Legislative Assembly of Alberta
The 27th Legislature
First Session**

Standing Committee on the Economy

Allred, Ken, St. Albert (PC), Chair
Taylor, Dave, Calgary-Currie (L), Deputy Chair

Amery, Moe, Calgary-East (PC)
Bhullar, Manmeet Singh, Calgary-Montrose (PC)
Blakeman, Laurie, Edmonton-Centre (L)
Campbell, Robin, West Yellowhead (PC)
Marz, Richard, Olds-Didsbury-Three Hills (PC)
Mason, Brian, Edmonton-Highlands-Norwood (NDP)
McFarland, Barry, Little Bow (PC)
Weadick, Greg, Lethbridge-West (PC)
Xiao, David H., Edmonton-McClung (PC)

Bill 204 Sponsor

Johnston, Art, Calgary-Hays (PC)

Solicitor General and Department of Public Security Participant

Kimberly Armstrong	Executive Director, Policing and Community Safety Branch
--------------------	---

Support Staff

W.J. David McNeil	Clerk
Louise J. Kamuchik	Clerk Assistant/Director of House Services
Micheline S. Gravel	Clerk of <i>Journals</i> /Table Research
Robert H. Reynolds, QC	Senior Parliamentary Counsel
Shannon Dean	Senior Parliamentary Counsel
Corinne Dacyshyn	Committee Clerk
Erin Greidanus	Committee Clerk
Jody Rempel	Committee Clerk
Karen Sawchuk	Committee Clerk
Rhonda Sorensen	Manager of Communications Services
Melanie Friesacher	Communications Consultant
Tracey Sales	Communications Consultant
Philip Massolin	Committee Research Co-ordinator
Diana Staley	Research Officer
Rachel Stein	Research Officer
Katrina Stewart	Committee Research Assistant
Liz Sim	Managing Editor of <i>Alberta Hansard</i>

1:31 p.m.

Tuesday, July 29, 2008

[Mr. Allred in the chair]

The Chair: The time has come. We'll call the meeting to order. We have a quorum, several members.

I'm going to ask everyone to introduce themselves. Since we have Greg Weadick from Lethbridge on the line, on the conference call, I'll ask him to begin.

Mr. Weadick: Again, it's great to be here. I'm sitting on a deck looking at the lake in Osoyoos, so I'll enjoy the meeting today from here.

The Chair: And here we thought you were working in Lethbridge.

Mr. Weadick: No. Sorry. I'm working here.

The Chair: Okay. Welcome, Greg.

Mr. Taylor: Dave Taylor, Calgary-Currie, deputy chair.

Mr. Marz: Richard Marz, MLA, Olds-Didsbury-Three Hills.

Mr. Campbell: Robin Campbell, West Yellowhead.

Mr. Johnston: Art Johnston, Calgary-Hays.

Ms Armstrong: Kim Armstrong, executive director of policing with the Solicitor General's department.

Dr. Massolin: Good afternoon. Philip Massolin, committee research co-ordinator, Legislative Assembly Office.

Ms Stewart: Katrina Stewart, research assistant, Legislative Assembly Office.

Ms Sorensen: Rhonda Sorensen, manager of communications services with the Legislative Assembly Office.

Mrs. Kamuchik: Good afternoon. Louise Kamuchik, Clerk Assistant, director of House services.

Mr. Bhullar: Manmeet Bhullar, MLA, Calgary-Montrose.

Mr. Mason: Brian Mason, MLA for Edmonton-Highlands-Norwood.

Ms Rempel: Jody Rempel, committee clerk with the Legislative Assembly Office.

The Chair: My name is Ken Allred. I'm your chair today. I'd like to welcome everybody. We have an agenda before us.

Just a few housekeeping items. You don't have to do anything with your microphones. *Hansard* will look after them for us. I understand, Greg, they'll look after you as well, so when you pipe in, they'll put you right in. I also ask everybody to either turn your BlackBerrys off or at least take them off the table so that they don't interfere with the intercom.

Mr. Mason: No hand-held devices.

The Chair: And other hand-held devices.

Okay. We have an agenda that has been circulated. Could we have a motion for approval of the agenda.

Mr. Marz: I'll move that.

The Chair: Moved by Richard Marz. Any discussion? All those in favour? Any opposed? The motion is carried.

We'd welcome Shannon Dean, Senior Parliamentary Counsel, who has just joined us.

Ms Dean: My apologies for being late.

The Chair: Okay. The minutes from the July 14 meeting were posted on the website. Are there any errors or omissions? If not, could we have a motion that the minutes of the July 14, 2008, meeting of the Standing Committee on the Economy be adopted as circulated? Moved by Mr. Campbell. Any discussion? All those in favour?

Hon. Members: Agreed.

The Chair: Greg.

Mr. Weadick: Here. Agreed.

The Chair: Any opposed? The motion is carried. Thank you.

Okay. The next item is entitled Briefing from Mr. Art Johnston, Sponsor of Bill 204. I'm not sure if it's really a briefing, but if you'd like to make a presentation, Art, on your bill. The bill, as you are aware, has been circulated. We have information from *Hansard* that has also been included on the website, but we'd certainly appreciate any comments you have. The floor is yours.

Mr. Johnston: Okay. Thank you, Chair. How much time do I have?

The Chair: Well, up to half an hour.

Mr. Johnston: Okay. Thank you.

I have some notes I've prepared. Thank you for inviting me here to present to Bill 204, and that's the Traffic Safety (Hand-held Communication Devices) Amendment Act, 2008. I have a series of notes that I'd like to read from, and then I would be more than agreeable to answering any questions that anyone may have.

If enacted, Bill 204 would restrict any person from operating a vehicle while using a hand-held communication device unless the device is designed to allow for hands-free, again, and is used in that manner while driving. Punishment for the offence would be a fine and demerits up to the amount specified by the regulations of the act. Demerits are more effective than fines when trying to incent people to comply.

A further component of the bill restricts drivers participating in the graduated driver's licence, the GDL, program from using any type of communication device, hands-free or hand-held, while operating a motor vehicle. Punishment for the offence would be in line with current GDL penalty rates, which is \$100 and two demerits. Both of these provisions would be waived for emergency purposes such as calling for help or reporting a dangerous situation.

The bill's intent is to improve the safety of Alberta's roads for drivers and pedestrians alike by reducing a significant distraction affecting driving patterns. With the prevalence of growth of cellphone and text messaging use in our society this is an extremely relevant bill. Since more people have cellphones, we see more people using them while driving.

We've all witnessed the effect cellphones have on drivers: swerving, overcorrecting, delayed reaction time, and so on. This unsafe driving habit leads to costly accidents that result in property damage and bodily harm. While cellphone use is just one form of driver distraction, it is a growing problem, and drivers of all ages must learn to make smart choices when getting behind the wheel. I see Bill 204 as an opportunity to act proactively and target such negligence to prevent unnecessary accidents and harm.

A number of survey- and poll-based studies have demonstrated that Albertans are concerned about this danger posed by cellphone use while driving. This legislation would also address these growing concerns. Under research some Albertans may question the idea that a handset is enough of a distraction to be dangerous, while there are a number of credible studies that confirm the danger. Dialing and talking on a handset while driving inhibits attention, response time, and ultimately puts the drivers and those around them at risk of injury and even death.

In 2006 the National Highway Traffic Safety Administration and the Virginia Tech Transportation Institute completed an in-depth, naturalistic driving study using observations from in-car video cameras. The study found that dialing a hand-held phone tripled the risk of collision while talking on a hand-held increased the risk by 130 per cent. In 2004 the Canadian Automobile Association reviewed 84 studies on cellphone use in driving and found that there was a consistent increase in associated risk. In 2001 the Université de Montréal found that cellphone users were 38 per cent more likely to get into a collision. The same year the American Automobile Association researched the role of driver distraction and traffic crashes and found that 8.3 per cent of serious crashes were caused by driver distraction.

In 2006 researchers at the University of Utah found that drivers using their mobile were as impaired as drivers who were under the influence, or at .08. While their findings differ between the cellphone drivers and the intoxicated drivers, when compared to the control group, the cellphone drivers exhibited the following tendencies relative to both groups, and those were slower reaction time, longer speed recovery times after braking, and more accidents: the only group, in fact, to have accidents in the test environment. While these studies are still being contested, the prevailing message is clear: distractions cause accidents, and using a handset on a road, on a highway is a common distraction.

Consultation. I have been working on this legislation for some time now, and I'm pleased to report to the committee that I've conducted a fair amount of consultation. Albertans have overwhelmingly reached out to me to express their concern with cellphone use while driving. Through letters of support, face-to-face meetings, and e-mails their sentiments have been made clear to me.

I've met with two prominent professors to learn more about cellphone use while driving, and I would encourage the committee to meet with both Dr. Jeff Caird from the U of C and Dr. Francescutti from the University of Alberta. I found their knowledge to be quite eye opening.

Dr. Caird is an associate professor in the department of psychology and an adjunct associate professor in the faculties of kinesiology and medicine at the University of Calgary, and he's director of the CFI-funded Cognitive Ergonomics Research Laboratory and the University of Calgary driving simulator, which I had the privilege to visit.

I also consulted with Dr. Francescutti from the department of public health at the University of Alberta. Dr. Francescutti founded the injury prevention centre at the U of A hospital and has been instrumental in the development and implementation of several award-winning innovative injury control programs. He's the leader

in the field of injury prevention and believes that accidents and injuries are entirely preventable, including accidents caused by the distraction of talking on a hand-held while driving. In 2005 he led the formation of the Coalition for Cellphone-Free Driving in Alberta. The coalition consists of a number of industry-leading companies and organizations who collectively acknowledge the risk associated with using a mobile handset while driving.

Both of these specialists are concerned with cellphone use while driving and would like to see it restricted.

1:40

When I met with the telecommunications sector, I was impressed with the support I had for hands-free. In fact, the industry advocates that drivers should pull over to have conversations. The industry has also increased its educational campaigns.

Under the enforcement sector, the Alberta Association of Chiefs of Police have written me in the last month indicating their support for the bill. I met with the representatives from the sheriffs and the Edmonton Police Service and the RCMP, and they were all supportive of this bill.

I was in Nova Scotia in May. As you are probably aware, they went to a hand-held ban on the 1st of April of this year. I met with the province's transportation minister. The penalties there in Nova Scotia are \$50 for the first offence, \$100 for the second, and \$200 for the third and subsequent offences. Court costs and fees are on top of that penalty. The first offence, for example, is \$164.50. No demerit points are assigned to a driver's record as the result of a conviction. Due to a successful educational campaign and a good piece of legislation, the minister advised us, they saw an immediate, actually, approximately 50 per cent compliance rate.

In other jurisdictions, Newfoundland and Labrador was the first Canadian jurisdiction to enact cellphone legislation. As of April 1 Quebecers have also banned hand-held communication devices when operating a motor vehicle. In Quebec the new law means that anyone caught using a cellphone, a hand-held, while driving faces a fine of between \$80 and \$100 and three demerit points.

A vast number of other countries have also acted on this matter, including our neighbours to the south. The states with bans are Connecticut, New Jersey, New York, Washington, California, Illinois, Massachusetts, Michigan, New Mexico, Ohio, Pennsylvania, and District of Columbia.

In closing, studies have shown that using a handset while driving is unsafe because it puts all users of the highway at risk. Driver inattention is one of the leading causes of traffic collisions. We need to increase awareness among drivers about the dangers of driving while using a cellphone. We know that there are many distractions on the road. Cellphones are a major distraction. Cellphone use as called for with Bill 204 is another tool to help prevent driver distraction, a leading factor in motor vehicle accidents.

Thank you. I'll take any questions you may have.

The Chair: Okay. Thank you, Art. Before I ask for questions, as well as your credentials as MLA for Calgary-Hays I wonder if you would just summarize your background. I know you have some credentials that are quite relevant to this topic.

Mr. Johnston: Yeah. Prior to becoming an MLA in 2004, I was 25, 26 years with the Calgary Police Service, with what they call field operations. I was a team sergeant there, so my day-to-day duties were highway enforcement. I had a team of 12 that worked for me, and again theirs was traffic enforcement, also.

The Chair: Okay. Thank you for that.

Questions. I'll ask Greg if he has anything first since we can't see him put his hand up. Greg, do you have any questions?

Mr. Weadick: No. I think it was a great presentation. I'll just look forward to hearing the questions and other presentations.

The Chair: Okay. Thanks, Greg.
Other questions? Richard.

Mr. Marz: Just relevant to your background, Art, while you were a police officer, did you ever use existing laws, such as driving without due care and attention, for someone using a hand-held communication device? Two-way radios have been in effect for many, many years, especially in the trucking community, and they used to be quite relevant amongst all Albertans with CB radios. I guess it could be argued that they're an equal distraction to a cellphone. We have a law in the books that would address that. Have you ever used that law?

Mr. Johnston: Yes. Yes, I have, but I retired in 2002, and cellphones weren't as prevalent at that time. I mean, there were some, but people were mainly using pagers. But, yes, I've laid charges. Nothing to do with cellphones, though. If you're talking about careless driving or undue care and attention, I've never written a ticket for anyone using a phone.

We get the information that that is a charge that is there now and available to use. That's not correct. With undue care and attention the courts like to see three offences. If you're talking on the phone and you're in and out of your lane and speeding, there are the three offences. The police lay charges. Now, I still deal with and speak to the police at functions. It's a charge that they just don't lay because they can't get a conviction of undue care and attention while talking on a cellphone. If there's serious bodily injury or harm, they have seized cellphones, but they have to get a search warrant.

Mr. Marz: Would you think that would be because the officers or the judges would feel that the penalty is too severe, being over \$400 and six demerits, that it's maybe using a sledgehammer to correct a problem? I think that's why there's an aversion to using that particular tool.

Mr. Johnston: Yeah. Not so much what I think, but that's what the officers indicated to me: they feel there's not a likelihood of conviction.

The Chair: Okay.
Brian Mason.

Mr. Mason: Thanks. Art, in the Transportation presentation in our committee documentation they refer to a number of jurisdictions where cellphone bans of one type or another have been enacted. At the end of each slide they say that there's a "lack of evidence that [a] cell phone ban has reduced collision frequency." I would just like you to have an opportunity to address that point.

Mr. Johnston: Okay. There's a lack of evidence because there are no statistics. They're not kept, to the best of my knowledge. It was very, very tough when I was looking for statistics. In Newfoundland I think it's been probably six years since they enacted legislation. We tried to get some statistics from them, and they don't have them. They could tell you how many charges were laid, but nothing in terms of statistics is kept.

One of my recommendations is to have what we used to call the

A form, the accident form, and have a check-off there – operator using cellphone when involved in accident, or whatever the case might be – so that statistics can be kept. To the best of my knowledge in most of these studies they don't have sufficient statistics.

Mr. Mason: Thank you.

The Chair: David.

Mr. Taylor: Thank you, Ken. On the one hand we don't have enough in the way of statistics to say conclusively, I guess, what the situation is. On the other hand – and I'll quote from the Transportation ministry's presentation here – "A consistent message in the literature is that hands-free cell phone use when driving is no safer than hand-held cell phone use." Although you have the added distraction of having the thing in your hands – I mean, there's a certain logic behind that – holding a conversation with someone you cannot make eye contact with while you're also trying to operate a motor vehicle is quite possibly the most distracting factor there. So I'm curious as to why you restricted Bill 204 to hand-held devices.

Mr. Johnston: Okay. I felt we wouldn't get a total ban. When I talked to Dr. Francescutti, when we met, he was for a total ban. He called me probably two months ago after he had a meeting with our new MLA Raj Sherman, who is a doctor. They had a conversation, and Raj was of the opinion that you'd never get a total ban on hand-held and hands-free. Bearing that in mind, I took what I thought was the most effective way to address this: banning the hand-held. I mean, when you're holding a phone to your ear, shoulder checking is a problem. You're holding a phone to your ear, and that hand is there. They still make standard vehicles. People have to shift those vehicles and steer the vehicles. To answer your question, I took what I thought was the best I could get. I didn't think we would ever get a total ban in Alberta.

Mr. Taylor: Thank you.

1:50

The Chair: Manmeet.

Mr. Bhullar: Yes. Art, I understand that, obviously, I mean, when you drive to and from Calgary to Edmonton so often, you see a whole array of things that people are engaged in on the highway. Richard Marz has a few very pleasant and entertaining examples for anyone who may want to engage him in such a conversation afterwards.

Mr. Marz: All true.

Mr. Bhullar: I guess my question is, Art, that I'm thinking that instead of having piecemeal solutions where we do this little bit for cellphones and then we do something else for whatever, playing with a GPS system – I mean, vehicles nowadays come with very complex GPS systems. I was driving my brother's car the previous week, and I'll tell you that it was very difficult for me to be able to control the climate without having to actually completely stop and pay at least two minutes' worth of attention to this very complicated screen. So what I'm thinking and I know others have – Richard, this is in line with your comments as well. Is there a way of combining cellphone use with other distracting behaviours and making, you know, such an offence based on that, an offence that police officers will not show as much hesitation in using? Yeah, that's essentially it.

Mr. Johnston: Well, an education program would be part of this, obviously, and that would go to great lengths, I feel. I spoke to vehicle dealers, not manufacturers, but they're representing manufacturers when they told me this, that they don't want to do anything to make the highways unsafe. They could be sued, and they don't want people injured either. The GPS and other devices are designed that you set that before your trip starts. You shouldn't be playing with it while you're driving. It shouldn't be necessary.

Mr. Bhullar: But we all know that that's rarely the case. I mean, you see people driving on the highway reading a newspaper, right? So my question is: is there a way of incorporating the cellphone ban with other distracting behaviours and giving our officers a tool to attack all distracted driving that isn't as harsh, perhaps, as careless driving? What are your thoughts on that?

Mr. Johnston: Yeah. It's a good question. Again, I would say that an education campaign would go to great lengths. But with the cellphone driving, it's prolonged, right? A call can be anywhere from – who knows? – 30 seconds to whatever, 10 minutes, 20 minutes, 30 minutes. It's prolonged distraction, and I think it's the most severe out there. The most severe distraction is the hand-held communication devices, in my opinion, and with the use of text messaging now younger people coming up are text messaging.

When I was in California in January – I forget the name of the area – there was a young person that hit a pedestrian in a crosswalk. He was sending a text message, and he didn't even see him. He ran over him and killed him, and what he said to the police later was: "I was sending a message. I had received a message, was sending a reply. It wasn't something that couldn't have waited. It was just non-urgent." So text messaging is a severe problem, too.

To answer your question on combined: I'm open to suggestions if there's anything that anyone can give me, but I think a strong education campaign with this legislation would be great.

Mr. Campbell: I've got a couple questions. Art, when you were talking about Newfoundland, you said there are no statistics, but you said you knew how many tickets were issued over the six-year period. Out of those tickets issued how many were convicted?

Mr. Johnston: I wasn't sure. That's what I mean about the lack of statistics. I don't have that here with me. I can certainly get it for you. That might have been in the first two years. I'm just not sure, Robin, but I can get that for you and have that sent to you or to the committee.

Mr. Campbell: To the committee is fine. Thanks.

Mr. Johnston: Okay.

Mr. Campbell: The second question I have is: if we were to pass this legislation, what kind of manpower increases would you be looking for to help make sure this happens? Like, would we be looking at any increase in manpower for policing? I'm looking, for example, at rural areas where you've got hundreds of miles of roads, and you might have a detachment of six RCMP, and they're out doing other things. So do you see any increase in manpower to police this?

Mr. Johnston: No. No, I don't. It's what an officer observes. If you're following someone and they're on the phone, the phone is held up to the ear. It would be an offence, and they would deal with it accordingly. There would be no hiring of any additional officers

if you could find them. I understand what you mean in terms of, you know, country roads or whatever, but there would be no increase in personnel to address this situation.

The Chair: Richard.

Mr. Marz: Thank you, Mr. Chair. Art, if I could go back to the discussion on the lack of statistics again. It shouldn't be too difficult to find statistics in these different jurisdictions on how many accidents per capita took place: what was the average prior to the legislation being enacted, and how many accidents per capita afterwards? That might not tell everything, but it might be helpful, especially in many jurisdictions if there's a trend there that was helpful.

The other thing, about at an accident asking the parties to the accident who was talking on a cellphone or if anybody was talking on a cellphone: in my experience with human nature the answer would be quite predictable. It would be no. It would be like asking somebody that drives into the back of someone else: were you following too close? They'll say no. Then your next question is the obvious: were you driving without due care and attention? They'll say no to that, too, not realizing it's an either/or. You're either doing one or the other.

In the short period of time that I wore a uniform so many years ago, our first reaction was to ask them if they were following too close. They'd say no, so you'd charge them with driving without due care and attention. That was the more severe charge. They kind of walked right into it.

Unless you have it recorded on a camera prior to an accident – and the likelihood of that is pretty remote, as far as keeping statistics goes. Could you comment on that?

Mr. Johnston: Do you mean in Canada the jurisdictions that have gone to the ban, the statistics from there? Is that what you mean, Richard?

Mr. Marz: Well, the jurisdictions that you've studied, anyways, in drafting this.

Mr. Johnston: Okay. I can get that for the committee as best I can. That sounds like that was a long time ago.

Mr. Marz: It was a very long time ago.

Mr. Johnston: You laid the charge of following too close unless they lied to you. Then you laid the more severe charge.

Mr. Marz: Then you just charge them with driving without due care and attention.

Mr. Johnston: Yeah. It's the opposite now. It's following too close unless they have a witness to indicate two or three offences. Then that's undue care and attention.

Mr. Marz: That was a long time ago. I don't want to date myself.

Mr. Johnston: What year was that?

Mr. Marz: Sixty-nine, '70: I think it was there.

The Chair: We welcome Dave Xiao with us. David, we're just concluding our questions of the mover of the bill. Do you have any questions you'd like to add?

Mr. Xiao: No. I think I'm not very well informed, so I have no further questions.

The Chair: Greg, do you have any questions?

Mr. Weadick: No. I'm good so far.

The Chair: Okay. Does anyone else have any questions?

Mr. Marz: I'd like to know from Greg how the fish are biting.

The Chair: That's not relevant to our terms, however.

Thank you very much, Art, for coming out and presenting to us today. We'd appreciate any of that further information that you can provide to us in due course.

Mr. Johnston: Okay. I've made a note of that, Chair. Thank you for having me today.

The Chair: Okay. Thank you.

In addition to the sponsor of the bill the committee also invited officials from two government departments to attend today's meeting and provide us with their comments and input. Unfortunately, we do not have any representatives from Alberta Transportation with us today although they did provide some briefing materials on Bill 204, that were distributed to the committee members last week. If committee members still think it would be useful to receive a verbal presentation from this department, then I would look for your direction to invite them to attend our next meeting. We have the background information they provided some time ago plus a PowerPoint presentation that they just provided last week. Would you like anything further?

2:00

Mr. Marz: I went over it. It seemed very clear. There's a lot of information in there.

The Chair: Yeah. I'd note that some members have made reference to it in the questions to Mr. Johnston as well.

Mr. Mason: Mr. Chairman?

The Chair: Yes.

Mr. Mason: I don't want to delay the discussion, but I just want to put on the record that I would have appreciated the opportunity to ask some questions about this. I find some of the conclusions and some of the logic in this presentation to be rather dubious. I would have appreciated that, but I think I can, you know, come to conclusions without that opportunity.

The Chair: Well, what is the wish of the committee? Would you like us to ask them to come out to the next meeting?

Mr. Campbell: I would suggest they come to a meeting and have a chance to talk to them and ask them questions. I mean, I'd like a little bit more explanation on some of the data they've put before us. I think it would be helpful to hear what they have to say and see which way they're leaning as a department.

The Chair: Is that the consensus of the committee? Nobody opposed? Okay. I will ask them if they will come and make their presentation at the next meeting.

Mr. Marz: Mr. Chairman, just for the record so the committee members know, the minister just got word today, I heard, that his brother passed away.

The Chair: Yes. I heard that as well.

Mr. Mason: We don't need the minister.

The Chair: No, not necessarily. We didn't ask for the minister. We just asked for a representative from the department.

Okay. We do have Kimberly Armstrong from the Alberta Solicitor General and Public Security department. She has joined us today without planning to make a formal presentation, but she is here to represent the department and answer questions.

Kimberly, would you like to make any opening comments?

Ms Armstrong: Just a couple of things. There's no question that distracted drivers create a safety hazard on Alberta roads. The research that our department officials have observed demonstrates that there are a number of other distracting behaviours that are riskier than cellphones.

The enforcement community in Alberta is in favour of this legislation or similar legislation, and the Alberta Association of Chiefs of Police passed a resolution in that regard in 2008. They support provincial legislation banning the use of hand-held communication devices by drivers of motor vehicles.

Lastly, with respect to legislation itself our department has also reviewed the studies, the very, very few that have been done on legislative effectiveness, and we have failed to see it be demonstrated that this type of legislation over the long term is effective in reducing the behaviour it's seeking to address.

Those are our comments.

The Chair: Okay. Thank you, Kimberly.

Any questions of Ms Armstrong? Greg, I'll give you the first kick at the cat.

Mr. Weadick: Kimberly, in your department do you have any idea what type of legislation, then, would allow the officers to have better control of distracted drivers?

Ms Armstrong: The only section is the one that's already been discussed during this meeting, which is section 115 of the Traffic Safety Act. It has a penalty of \$420 and six demerit points for this offence. It's our information that police officers do in fact lay this charge in appropriate circumstances. We've been advised that it is particularly used following a collision where a driver has been distracted. This section will be used in that circumstance.

Mr. Weadick: Has there been any discussion about maybe a lesser charge with a lower amount, you know, say if someone is putting on their makeup or whether it's a cellphone or reading a newspaper, a distracted driving charge that would allow a police officer to at least get people's attention with a charge like \$100 or \$150, that would allow them not to need the same burden of proof to get a conviction on the other one but would allow us to start dealing with these behaviours?

Ms Armstrong: I would respectfully defer that question to the officials from the Department of Transportation because the Traffic Safety Act is under their purview, so any potential amendments to the act I think they would be best positioned to address. Respectfully, that would be my request.

Mr. Weadick: Thank you.

The Chair: Greg, maybe you can hold that question for when Transportation is here.

Mr. Weadick: Absolutely.

Mr. Campbell: My question is probably for Transportation, too. I'm just looking at the chart on page 5, the combined rural-urban results. I notice that Alberta, of course, has the highest cell use of anywhere in the country. I'm just curious of the differences between urban and rural. I'm looking at the fact that Ontario, for example, has a high population and even British Columbia, you know, in the mainland, where a lot of people use public transit, if that has any bearing on cellphone use. I'm just interested in why our usage is so much higher than Ontario, for example, with a bigger population. I think those numbers would be interesting, to break down the urban-rural split of cellphone use.

Also, I'd be interested in knowing – and Art raised a good point in his presentation – about texting, if there's any way to find out the difference between somebody just talking on the phone and somebody that's using their thumbs and texting, that I haven't mastered yet, especially our young people that do it a lot. I think there was a presentation where somebody had 4,500 text messages in a day, one individual's family. I think he had three kids. I just wonder, while I understand that cell use might be a distraction, if there is a correlation, with texting being more of a distraction than just talking on a phone and whether or not there's some way we can break that issue down.

The Chair: Just on your first point, Robin, are you referring to page 5, the graph in the Alberta Transportation PowerPoint presentation?

Mr. Campbell: Yes.

The Chair: Okay. Thank you.

Mr. Campbell: It's a combined rural and urban. I'm just curious what the difference between the two is.

The Chair: Perhaps that's something our research officer might be able to handle.

Dr. Massolin: Certainly, we could look into that if that's what the committee would like us to do.

The Chair: You don't have anything at your fingertips on it, but you think it's possible to get something?

Dr. Massolin: Yes, certainly. We would probably contact the department which would keep those statistics. Certainly, yeah.

The Chair: Good.

Mr. Xiao: Just a personal opinion: I think Albertans are simply busier than the rest of Canadians in other places.

Mr. Bhullar: A couple things I got from your comments. One was that there's behaviour that's more distracting than cellphone use, so obviously you want to strike that behaviour. Two: did you say that in the research that you've seen, you've also not seen a decrease in accidents or collisions as a result of this sort of legislation in other jurisdictions?

Ms Armstrong: I haven't actually even seen research that addresses that issue. There is such, I think, an absence of research following the introduction of legislation. None in Canada, as has already been referenced by the hon. member. The research has indicated in the two states where there was research done that after cellphones were banned, there was a decrease in usage over a period of time, following which typically usage climbs again, and enforcement, respectfully I would suggest, is a significant factor in whether it climbs again. It's how much enforcement is being directed at the activity.

There are also evidentiary issues that arise. How are you going to prove it in court? In Britain they use cameras. The police officers have a camera. They take a picture of the driver on the device, and that's the evidence they use in court. So you would need to turn your mind to that evidentiary issue or the law enforcement community would need to turn its mind to that issue, how they were going to prove the charge.

2:10

Mr. Bhullar: It seems as if the public attention generated from such legislation around the globe perhaps gives it that little blip, and then after that point it's that people return to their customary and usual behaviours, that I think everybody has become accustomed to. So when looking at legislation, I think this is a bit of a tough one. We obviously have a target of making the roads safer, but we also have a very significant issue of actually changing people's behaviours, which unless the penalty is significant enough for them to want to change or that there's an actual perceived risk in being caught – I mean, if perhaps enforcement isn't really there. Maybe, you know, you enact such legislation, and for a few months the enforcement community goes out there and charges a lot of people with this. Once those cases get to court, if they don't have that evidentiary burden, as you're saying, if they can't prove that, then I guess the public goes back to their normal behaviour because they see that it really doesn't meet the threshold.

I guess my concern is – and maybe, Art, in your experience as a police officer you can shed some light on this – how do we actually make this? I mean, we can do the education and we can put this in the books, but how do we make it so this is feasible for the police officers to actually get it done? I mean, are we going to have to have police officers carrying cameras around?

The Chair: We'll ask Kimberly if she'd like to respond to that first and then give Art a chance.

Ms Armstrong: Well, certainly, there are other methods by which you could prove the offence. The offence as I read it in the bill is use of the device. There's the consideration whether someone could suggest that they were holding it but they weren't using it at the time. The question has been asked whether you'd have to subpoena records from the cellphone provider to show that that cellphone was actually in use during the time period that the officer claimed they'd observed the individual with the device. I mean, those are all issues for contemplation or consideration.

Mr. Bhullar: So somebody playing a game on their cellphone would be exempt, then, no?

Ms Armstrong: No. It says, "use." I mean, I'm just reading it. If I'm not mistaken, it says use of the device is prohibited. "No person shall use a hand-held communication device while driving a motor vehicle on a highway" is the wording.

Mr. Bhullar: Art, I guess, then, in your opinion the word “use” would encompass running through someone’s address book, even.

Mr. Johnston: Yes. That’s use. It’s no different than an officer on routine patrol. This gets back to the question earlier about hiring more police. It’s what you observe in your normal day-to-day duties as a police officer. You observe someone talking on a hand-held. You observe someone text messaging. You don’t need cameras. It’s like photoradar, where they take a picture of the plate and that gets sent in. You may not even be pulled over. I wouldn’t ever suggest that you have to have enforcement and the police officer pulling someone over and subsequently writing a summons or not. It’s observations by the officer, and they’re trained to observe. That’s part of their training.

The Chair: Brian.

Mr. Mason: Thank you very much. There are some fallacies in the logic here that give me concern.

The Chair: You’re speaking of the logic of Transportation’s presentation?

Mr. Mason: Well, I’m referring to that, but I heard some similar thoughts here on the committee a little bit. One is that there are things that have a higher level of distraction, and therefore we ought not to do anything about this. That is logically fallacious. The other thing is that there are things like applying makeup that are more distracting, but there’s no reference to the prevalence of these activities. There may be things that are comparatively rare that are more distracting, but cellphone use is very, very widespread.

The other, I guess, point I’d like to make is that – and this can be a question to Art if that’s permitted – the intent here, as I understand it, is not to be able to bring a charge against somebody after an accident has occurred and go through all sorts of hoops to try and prove that the cellphone was responsible but, instead, to reduce the risk by reducing the behaviour, reducing the activity.

I guess I wonder if we could draw a parallel to the campaign to encourage seat belt use. There was a combination of public education and enforcement that had to go together in order to accomplish that. My impression is that that has been very, very successfully accomplished, and without one or the other it would not have occurred. Is it not the case, Art, that the objective of the legislation is to reduce the prevalence of the behaviour and therefore influence the safety on the roads?

Mr. Johnston: Yes. It is – I agree wholeheartedly – a proactive measure. That’s what it is.

Mr. Mason: Thank you.

Ms Armstrong: I would just want to clarify, and I apologize if I was unclear in my remarks. I wasn’t suggesting that the department’s position is that the bill should or should not go forward. That’s not what I was briefed on to come and talk about. I was simply pointing out that the research demonstrates certain things, but I wasn’t suggesting that as a result of that you should or should not support this legislation. My job was to come and identify to you what the relevant research says and to bring forward the position of the enforcement community, which is our stakeholders. As I’ve indicated, the AACP supports the bill. I just wanted to clarify that for the record, so to speak.

Mr. Taylor: This is just a point of clarification. I think we probably have this on the record already, but just so that I’m sure that we do, a question to Mr. Johnston, if I could. The charge of driving with undue care and attention: have we established that in the preponderance of cases that is a charge, then, that is only laid after a motor vehicle accident or after some kind of serious highway traffic incident?

Mr. Johnston: Yes. Well, in the majority of cases if you have the evidence or if you have witness evidence, the charge is laid immediately. There have been many times where at a subsequent investigation a charge will be laid that may not be undue care and attention. But if you have, as I indicated, two or three offences – the court likes three offences – for example, speeding, changing lanes, or going through a stop sign, talking on a cellphone . . .

Mr. Taylor: But, again, this is a very difficult charge for an officer to lay and have any hope that it will make it through the court process if you’re only referring to one particular distracting activity, whether that be talking on the cellphone or eating a Big Mac or whatever it might be.

Mr. Johnston: That’s correct at this time.

Mr. Taylor: Thank you.

The Chair: Okay. Any further questions?

Mr. Marz: Just to pursue Mr. Taylor’s comments a little further. Art, just your opinion on this, because I don’t know if you can provide anything more than that at this time. If there was an option for an officer to lay a charge – say, driving without due care and attention, for lack of a better term – that doesn’t cause a motor vehicle accident, so a nonaccident driving without due care and attention, that would have a \$50 fine and one demerit or something like that as opposed to the \$402 and six demerits – that way they could look at some of these other things that have been raised today, not just the cellphones but the makeup and the text messaging and the reading of newspapers and all the rest of it. That’s my first question, your opinion on that.

Failing that, introducing legislation just using cellphones itself: do you think it may cause people to try to avoid being detected and adopt an even more dangerous practice of using the text messaging more where the camera’s not going to pick it up, like looking through the bottom of the steering wheel or having your computer on the seat beside you, where it’s a little more difficult for a camera to spot what you’re actually doing in the car?

There are two questions there.

2:20

Mr. Johnston: Yeah. I understand. The second part: I don’t think so, but it’s tough to answer whether someone will try and circumvent the law by hiding their computer or keeping something in their lap and sending a text message, but certain people may try to do that. I don’t know.

Mr. Marz: I mean, I’m just thinking of the smoking legislation. I’ve seen all sorts of activities trying to circumvent and sneak a smoke in the bathroom, especially on a cold day. They just try to hide it more.

Mr. Mason: Going back to your high school days?

Mr. Marz: No. I'm just going back to the last time I went for supper in the Legion, about a week ago.

Mr. Johnston: Yeah. I don't smoke, but you may have a point, that certain people smoke where they're not supposed to.

Mr. Marz: But the thing is: if the phone rings and they think it's a busy call, they may not phone out, but they may be tempted to answer it down there or put it on speaker phone so they don't have to hold it up to their head, but they're still having their hand on it and still operating it.

Mr. Johnston: That may happen, Richard. I would hope not, but it might happen.

As far as the first part of your question, if I understood you correctly . . .

Mr. Marz: Basically, splitting the driving without due care and attention into two different things: one that doesn't cause an accident, a distraction that doesn't cause an accident, which would be a lesser charge, and one that does cause an accident. That one should be a greater charge. Then it would be an all-encompassing legislation that would be able to address a whole host of distracting issues, including cellphone use.

Mr. Johnston: Which kind of touches Manmeet's concerns. I would say just that when you get this as legislation, that would address that part of it. But if you're asking me if a lesser offence, whatever the offence might be – distracted driving, for example – would cover putting on makeup, reading a map under distracted driving, possibly. You still might have people that would do that, but I would hope not.

Mr. Marz: Yeah. I mean, driving is a very complex issue these days. Manmeet referred to these navigators. If you set them while you're stopped and text in your destination, they're probably less of a hazard than having a map stretched across the steering wheel, and I think we can all relate to that. So they have their place if they're used the way you agree to use them. When that little screen comes up, you have to actually touch a button that says you agree to use this responsibly by stopping and texting in your destination before and not while you're driving.

Mr. Johnston: I hope it would be used that way. They're designed that way.

Mr. Marz: Well, the one I have is designed that way, but I don't think it stops working if you don't do it that way. I haven't tried it, but for experimental uses I may in the field some day where it's safe.

Mr. Johnston: Do you want to stop now? Do you want to stop while you're ahead?

Mr. Taylor: There's something about inhalation here pretty soon.

Mr. Johnston: I'm not sure if I answered your question. I'm not sure of the question.

Mr. Marz: Well, I'm just thinking of splitting that particular piece of legislation into two parts, one that doesn't cause an accident and one that does cause an accident. I think the officers would be more apt to use it for a whole host of things, including cellphone use, if it

had a lesser charge, and I think the courts would tend to perhaps enforce it more or interpret it the way we would intend it to be interpreted. I think less people would actually challenge it if it was a \$50 fine; they're not going to take a day off work to go and fight a \$50 charge unless they're really passionate about it.

Mr. Johnston: So reduce the undue care and attention to have a specific section to deal with distracted driving, if I understand you.

Mr. Marz: Yeah.

Mr. Johnston: But this will deal with the major part of distracted driving, which, in my humble opinion, is hand-held communication devices. There are some that disagree with that, but I strongly believe it based on the studies I've been involved in and my observations of 26 years of front-line policing. Creating another section: again, it's prolonged. People putting on makeup: I have seen it. It's usually when they're stopped.

Mr. Marz: I guess the thing I'm getting at: are we going to have separate legislation over the next five years to deal with each one of these activities separately and have a bill for each one? It seems that that's probably where we would be heading.

Mr. Johnston: In my opinion, no. I hope that this is going to become legislation. The others have come along, and – again, this is my opinion – people bring them up. Putting on makeup: I've seen it; it does happen. I doubt if people are putting on makeup for 20 minutes a day and reading a map for 10 minutes at a time. I think common sense prevails. But in this case we have on average 400 deaths on the highways, and one study indicates that 38 per cent of that is distraction. I feel this is a major contributor – once again, my opinion – and I think we have to do something to address it.

The Chair: Okay.
Dave.

Mr. Taylor: Thank you, Ken. I mean, prevalence is a real issue here. We're comparing something like cellphone use, which is highly prevalent in our province, to something like reading while you're behind the wheel, putting on makeup while you're behind the wheel, reaching for an object, swatting a bug that's flown into your car, that sort of thing. While probably anecdotally every single one of us around this table could recall an incident where either that sort of thing has happened to us or we've observed it in some other driver, it's pretty much a series of one-off events. You drive between here and Calgary on any given day, and you're going to see a bunch of people talking on their cellphones, no question about it. I think we have to take prevalence into consideration when we're considering this legislation, the prevalence of cellphone use.

The other thing, if I can ask you, Mr. Johnston, just to again get your experience as a former police officer and traffic unit officer on the record about this: is there any highway traffic legislation that acts perfectly in the sense that every single time it's applied, it prevents people from doing the thing that it's supposed to prevent them from doing? Do laws regarding speeding prevent people from speeding? Will a law that says it's illegal to run a traffic light prevent every single person from running a red or gunning it at a yellow? Are we going down the wrong route when we talk about how people might look to subvert this legislation if it were to become law? Should we instead be looking at it, in your opinion, in terms of the impact and the positive effect that it will have?

Mr. Johnston: I would say in answer: no. There's no law that won't ever be broken, in my opinion. I try not to break many. I do tend to get over the speed limit sometimes, but in the four years on the highway, four years December, back and forth to Calgary I set mine at 119. I've never been stopped.

Mr. Taylor: One nineteen.

Mr. Johnston: Yeah, but that's in good weather with ideal conditions. I'm telling you the truth. That's what I set it at.

But, yeah, there's no law that is perfect, and there's no law that people won't – what's the word I'm looking for? – break.

Mr. Taylor: Yeah. There's no law that has 100 per cent compliance.

Mr. Johnston: No.

The Chair: Okay. Any further questions of either of our presenters?

Mr. Xiao: You know, I think that I want to make some comments, probably, after listening to my colleagues for a while. I do think we can never regulate human behaviour no matter what we do. Somebody still will do it. But I agree. The speaker is a former cop, and I think that probably you can testify that, you know, using cellphones becomes a major distraction. I think this is one way for us to address the issue, and I think, for me, this is basically to use as a deterrent in some way that the people realize that there are some consequences to this.

Also, I think we cannot just rely on the legislation to solve the problem. I think that as a society as a whole we have to really try to educate the public, starting with ourselves. I have to confess that sometimes I do drive over the limit, and sometimes we do feel that we have to call somebody or receive the incoming phone calls. So for me I think this is a necessary step, just a small step. I think so.

2:30

The Chair: Do you have a question, David?

Mr. Xiao: My question is: do you think that passing this legislation will have a major impact on reducing the kind of distraction that causes the traffic accidents?

Mr. Johnston: Yes, I do. We heard that in the past enforcement and legislation enforcement is up, and then it levels off. Well, it's probably no different than any other traffic act legislation or law. When it first comes in, there's an education component, but the officers are aware they can lay the charge, and they lay the charge. I think most people will get it.

Nova Scotia had a 50 per cent compliance, an approximate, you know, estimate, 50 per cent compliance. So if we have a 50 per cent compliance to address what I feel is the most major distraction on our highway, I think that would be significant.

Mr. Xiao: Yeah. Just one supplementary, Chair: how much of a fine do you think will stop people, really, to think to, you know, stop using the hand device?

Mr. Johnston: In my opinion, first offence, a hundred dollars and two points. That's my opinion. I believe you have to have points associated with it because otherwise people that have money, they'll just pay the fine.

Mr. Xiao: What about \$200, even \$250?

Mr. Johnston: Well, what about \$500? But first offence, you asked me. First offence.

Mr. Xiao: Okay. Thanks.

The Chair: Just for clarification did you say that Nova Scotia already has found 50 per cent compliance?

Mr. Johnston: That was the transportation minister's estimate when I sat with him. Based on his conversations with officers and the law enforcement people, they felt that, and that's approximate, of course.

The Chair: That's just since April 1 of 2008.

Mr. Johnston: Yeah. I was there in May, so that was six weeks, I think, into the legislation.

The Chair: Interesting.

Mr. Campbell: Well, I find it interesting, Art. You know, I speed; I'm like everybody else. I mean, I set my radar about 125, 129 when I'm travelling. But, you know, you say you set your speedometer at 119, and the police aren't going to usually bother you. That's because they just don't have the time to stop everybody that's doing 119 on highway 2. As a matter of fact, 119 on highway 2 you're going to get run off the road, I think, because most people are doing 140.

My question is: we pass this legislation, and you know the police are going up and down highway 2; are they going to take the time to stop everybody they see talking on a cellphone?

Mr. Johnston: Well, it's tough for me to answer. Are they going to take the time? I would hope. It's going to be an offence.

Mr. Campbell: But they won't take the time to stop somebody doing 119 on the highway when the speed limit's 110.

Mr. Johnston: I'm not sure the relevance there.

Mr. Campbell: No. The relevance is that you're still breaking the law, right? You're doing 119. Everybody does it. It's almost common practice now that if you're nine kilometers over the speed limit, the police aren't going to bother you. Is it going to be just sort of hit and miss, that if we pass this legislation, if the police feel like stopping you because you're on your cellphone, they stop you, yet they're going to let maybe 50, 60, or a hundred people go up and down highway 2 on their cellphone because they just don't want to stop them that day? My concern is that, you know, we put this law in place, but who is going to get caught? Who isn't?

Mr. Johnston: How can I answer that?

Mr. Campbell: Well, I mean, I would hope that we're passing legislation that's going to do some good. You know, I just worry that the odd guy is going to get stopped, and yeah he's going to be on his cellphone; he's going to get charged. But there are going to be hundreds and hundreds of people every day using their cellphones that aren't going to get charged. What have we accomplished then?

Mr. Johnston: As I said, if we could get 50 per cent compliance by passing the law, as Nova Scotia did, I think that would be fantastic. Gee, it would be great if we had 70 per cent compliance, or 100 per cent would be ideal, but if you're asking me why someone will be

stopped and another not, I don't know. As I indicated to you, if I set it at 119, there are so many people doing 140, 150 passing me, that keeps the police busy. You know, there's a lot of enforcement now, especially with our provincial sheriffs program – that's a plug – and there are lots of people being stopped that are doing that 140 and 150. But if you ask me why one person might get a ticket and not the other, I can't answer that, or how many would and how many would not, I can't answer that.

Mr. Campbell: I just look at, like, even the rural-urban split, in the sense of you've got, you know, the city police in the city of Edmonton driving around, and there's a good presence of them, but then out in the rural areas, where you have a detachment of maybe six RCMP looking after a thousand square miles, where is the equality there in the enforcement?

Mr. Johnston: Yeah. I can only tell you when I sat with the RCMP – and I did; I sat with Edmonton and Calgary representatives and RCMP – they supported the legislation.

The Chair: Brian.

Mr. Mason: Thanks very much. Maybe we should get somebody to read the committee its rights before anyone else incriminates themselves.

The Chair: True confessions.

Mr. Mason: I wanted to ask about the seat belt legislation. You know, I think you could argue that if somebody is driving on highway 2 without their seat belt, they also might not be stopped. But I don't know if you or the representative of the Solicitor General can tell us what the compliance is with seat belt usage in the provinces. Do you have a figure on that?

Ms Armstrong: I don't have that information with me today, but I can certainly obtain it and forward it to the chair if you so request.

Mr. Mason: I think it's an interesting parallel because I would suspect, from my observation, that seat belt use in the province is now almost universal. It strikes me as an example of a very effective campaign because I can recall that when I was a younger driver, seat belt use was far from what it is today.

Mr. Marz: He's not that old.

The Chair: Would the committee like that information?

Mr. Mason: I predate airbags, but that's okay.

Mr. Johnston: Sorry. I just wanted to say in response to Mr. Mason that I suspect it's 90 per cent compliance. That's just my observations in 26 years of routine patrol. Unfortunately, some young people don't believe in seat belts, and we've got a few people in government, I think, that still don't use seat belts. But if people understand that the driver area is an engineered space, now with the airbags if you don't have a seat belt on and you're involved in an accident, you're going forward at such a speed and airbag is coming the other way that the airbag will kill you. So a seat belt has to be used with an airbag, or you're in serious trouble. I would hope that most people understand that. But I would say that 90 per cent, I would hazard, use seat belts now. That's just a guess.

Mr. Bhullar: You know, I've got to think about the truckers and the taxi drivers and their two-way radios. As the legislation sits right now, they would be caught by this – right? – which effectively would put a couple Calgary taxi companies in a situation where they would not be able to operate their dispatch system. That means they would have to invest a half million to a million dollars minimum in new technology to comply with this law. I think the same would be the case for companies here in Edmonton. Then, the trucking industry is still much more reliant on two-ways. So I'm thinking this would catch them as a consequence.

That leads me, again, to where my colleagues Richard and Greg have kind of been leaning as well: distracted driving or something of that sort of offence. I mean, careless driving, you know, the legislator, whatever, enacted that offence, probably hoped to address these sorts of issues that we're talking about today: people not paying attention . . .

2:40

Mr. Johnston: Sorry, Manmeet. I just want to tell you because you may go down a road that's unnecessary: that's not part of it. The CB radios and the taxis and such are exempt. They're not part of this. The same with police and such. Emergency vehicles are exempt and taxis and truckers.

Mr. Bhullar: Okay. Well, that's good to know, but I'm still leaning towards a distracted driving sort of offence. I understand that obviously cellphones and cellphone use is the one that you see the most on the road. Quantitatively, you know, this is what you see the most, but I think we have an opportunity now to grasp more than just that. I understand that this is very important. We have the opportunity to address reading a newspaper and putting on makeup and everything else as well.

To summarize – I know it's been brought up a couple of times, Art – would you be supportive of a distracted driving sort of offence, so something that entails the use of a hand-held cellphone or applying makeup or even eating in a manner that distracts one while they're driving? Do you think that that will capture what you are intending to do with this bill?

Mr. Johnston: I'm not sure that it would. Again, we talked about putting on makeup and reading a map. I don't know how much it happens. We're talking about prolonged calls. In my mind it's separate altogether. I may not be averse to it if I knew a little more about the intention of distracted driving. In my opinion, again, I am dealing with what I think is the most significant distraction on our highways today.

Mr. Bhullar: But if there is a way of making distracted driving so that it definitely includes – I mean, cellphone use is distracted driving. Then I would think it accomplishes the very same thing that you're looking to accomplish.

The Chair: As I understand it, we have legislation that accomplishes that. Art has brought forward very specific legislation dealing with a certain circumstance, and that's really what we're here to hear.

Mr. Bhullar: Well, I think the legislation that the minister spoke about is probably careless driving. We the legislator can put out legislation, but at the end of the day it's the common law that determines what exactly is careless, so unless we define, "Well, this is careless, and this is careless," then the common law and the courts are the ones that determine what is careless. It appears that they've

set a pretty high threshold to find something to be careless. What we're looking at is something with a lower threshold that will just deal with distracted instead of careless driving.

Mr. Johnston: Careless or undue care and attention.

Mr. Bhullar: Yes.

The Chair: Well, I think we're getting probably more into discussion than questions of our presenters here. Are there any other specific questions to either of our presenters?

Greg, you still with us?

Mr. Weadick: Still here.

The Chair: Any questions?

Mr. Weadick: No.

The Chair: Okay. If there are no other questions . . .

Mr. Mason: I do have a question, Mr. Chairman.

The Chair: Sorry, Brian.

Mr. Mason: Maybe it's to you. If we were going to take Manmeet's suggestion, if we took this bill as a basis and then we were looking for amendments that wouldn't change the meat of the bill here, wouldn't change the language, but would add another section, how does the committee proceed in doing something like that?

The Chair: Well, as Shannon indicated at the first meeting, we have the power to do most anything, but we're really making recommendations back to the Assembly, so that's where our power ends. But we can make any recommendations we wish, whether it's recommend for amendments, recommend for total change, or whatever.

Is that generally correct?

Mr. Mason: I would certainly be open to the suggestion. As long as the basic bill and the language around cellphones is intact, I have no objection to doing that. I'm just wondering who would write that for us.

The Chair: Well, if we made a recommendation, I presume our researchers could probably come up with a draft if we wanted to adopt a draft and recommend a draft that could go back from this committee as a recommendation to the Assembly, and the Assembly could do what they wanted with it.

Mr. Mason: Are we allowed to ask for recommendations from a department?

The Chair: I see no reason why not.

Shannon, do you have any comments on that?

Ms Dean: Just a few comments based on last year's history with the policy field committees. If the committee was of the desire to recommend certain types of amendments, what occurred on a number of occasions last year was the Legislative Assembly Office staff, namely Rob and myself, worked with department officials on recommended wording for amendments. That could be one approach.

The Chair: Our hands aren't tied.

Mr. Mason: I find it varies from committee to committee.

The Chair: Certainly. We're breaking new ground, too, with these policy field committees, particularly with this one because it's the first one that's dealt with a private member's bill.

Mr. Mason: Yeah. Okay.

The Chair: Any further questions?

Mr. Marz: I have one question while Art is here, just a clarification on the exemption section, which is 3(3). I don't see that it lists taxi drivers or truck drivers in the bill. It does list operators of emergency vehicles, but it doesn't particularly list taxi drivers or truck drivers.

Mr. Johnston: Yeah. It should, and that was part of my original.

Mr. Marz: So you're looking at some kind of amendment to make sure of that.

Mr. Johnston: We would have to, then, because that was my intention, to have that there.

Mr. Marz: Just a clarification on that.

The Chair: Good point.

Mr. Johnston: Thank you.

The Chair: Okay. If there are no further questions, I thank you both very much for coming. Thank you, Art, for sticking around. You thought you were off the hook, but it was very good. Actually, we had some good interchange. Thank you, Kimberly.

Mr. Johnston: Thank you.

Ms Armstrong: Thank you.

The Chair: You can stay if you wish. They're not hesitating.

Okay. Next item is research materials. Phil, I believe you presented the cross-jurisdictional information in the package.

Dr. Massolin: Yes.

The Chair: Would you like to comment on that or accept questions?

Dr. Massolin: Certainly, Mr. Chair. If it's your desire, I can go through quickly some of the findings of that cross-jurisdictional comparison.

The Chair: I would hope everybody has read it, so if you can sort of just briefly summarize the key points, if that's acceptable.

Dr. Massolin: Sure. I will do so. As was mentioned previously, Newfoundland and Labrador, Nova Scotia, and Quebec all have legislation that prohibits the use of a hand-held communication device while driving, and this is what Bill 204 is proposing as well.

In terms of definition – and I hope this is what you want. Stop me if you're thinking this is too detailed, but I just wanted to go into some descriptions and definitions to show how the jurisdictions vary or are the same.

Under Bill 204 a hand-held communication device means a cellular phone or other device with a telephone, text-messaging, e-mail, or Internet function. A hands-free feature “enables a person to fully operate a hand-held communication device without any manual manipulation.” That’s Bill 204. In Newfoundland and Labrador the legislation defines a hand-held cellular phone as a device that can send two-way voice telecommunications and which is held to the ear and mouth by one or more body parts. Nova Scotia and Quebec both simply describe the prohibition. They don’t have definitions.

2:50

In terms of hands-free use all of the jurisdictions that appear in this briefing allow for the use of a communications device with a hands-free function. Under Bill 204 and according to the legislation in Newfoundland and Labrador, this is an explicit exemption. In Nova Scotia and Quebec this exemption is implied in the legislation. Note that according to Bill 204 the hands-free function exemption does not apply to novice drivers. Bill 204 is the only legislation that makes this provision; i.e., excluding novice drivers from the hands-free exemption.

Other exemptions. Bill 204 allows exemptions for emergency workers to use hand-held communication devices while in the course of their duties. All drivers according to Bill 204 can use hand-held communication devices to report accidents, unlawful acts, or unsafe road conditions.

I just wanted to stop here, Mr. Chairman, and make a correction to the cross-jurisdictional piece. All drivers – and that includes novice drivers – can use hand-held devices in the case of the report of unsafe driving conditions, unlawful acts, or accidents. Just to make mention that on pages 3 and 5 of the jurisdictional comparison that was misstated.

Nova Scotia, like Bill 204, exempts people who are reporting emergencies. Quebec, also like Bill 204, exempts drivers of emergency vehicles from their legislation. However, Newfoundland and Labrador’s legislation does not make any additional exemptions.

That’s basically a quick summary of our findings, and we’re prepared to take any questions if there are any.

The Chair: Okay. Questions?

I guess one question I might have is that having compared with other jurisdictions, do you have any concerns with the definitions or the lack of definitions or anything else in the proposed Bill 204?

Dr. Massolin: Well, I guess it’s not for us to say per se.

The Chair: But if you think there are some areas that are maybe a little weak or need to be strengthened, we’d certainly appreciate your raising the red flag.

Dr. Massolin: Yeah. Well, Mr. Chair, I guess it’s not our role to necessarily point those sort of issues out. I mean, we could talk maybe briefly about the issue that arose in Newfoundland and Labrador in terms of the wording that they used to define a hand-held device just to show you, you know, a Charter issue and what could happen potentially, if you’d like us to discuss that. But it’s in the comparison, of course.

The Chair: Yeah. I thought you addressed that very well. I thought there might be some other concerns you had there.

Dr. Massolin: No, I don’t think so, Mr. Chair.

Thank you.

The Chair: Thank you.

Any questions? Greg, any questions?

Mr. Weadick: No. Sounds good so far.

The Chair: Works in B.C.?

Mr. Weadick: Absolutely.

The Chair: Well, if there are no questions, thank you very much, Phil, for that cross-jurisdictional comparison. I think it’s very useful.

Dr. Massolin: You’re welcome, Mr. Chair. I should just point out that Katrina did the lion’s share of the work on that, so she should get the kudos.

The Chair: Thank you, Katrina.

Okay. The next item under Research Materials is the stakeholder list. We have quite a lengthy stakeholder list there. I count about 41 different potential stakeholders. Do you want to say anything before I open up questions?

Dr. Massolin: Sure. I could mention a thing or two, if I may, just in terms of what the strategy was in putting this list together. I mean, what we did was basically listen to the committee members last time around and, of course, did our own research to try to put together as well-rounded a list as possible in terms of what the bill itself provides.

There are a couple of things that I’d like to point out to the committee members. If you could just turn to page 2 and see the footnote there, it says, “Research was conducted on driving school associations.” We couldn’t find any. Now, our question to the committee is to find out whether or not the committee would like us to pursue that further and get input from driving schools, potentially. The other thing I’d like to point out is that the Alberta Association of Chiefs of Police is not on this list, and the committee may want to consider that they should be on the list as well.

Thank you.

Mr. Taylor: There’s one other group or, at least, there may be some other representatives that fall into I think one group that are not represented on here that maybe we should consider adding to the list, and that is corporations that have enacted their own cellphone bans. I know that a few years ago I believe it was ExxonMobil that was one of the first in the oil patch – not the first but one of the first – to bring in as a matter of corporate policy a ban on the use of cell-phones by any of their employees while they were in a moving vehicle. I remember that in that case there was a requirement that they stop every so often when they were on the road and check for messages and reply to messages if they needed to. I think there might be some information that we could glean from those sources in terms of sort of real-world experience with a ban that might be informative for the committee. I wonder if you could do a bit of research to find maybe two or three representatives of industry groups that we could talk to, corporations or industry groups.

The Chair: Are you asking for major corporations? Because there are some Alberta ones, I believe, that have been cited in some of the material.

Mr. Taylor: It could be either. Certainly, my own experience in the ExxonMobil case was interviewing representatives of ExxonMobil

back in my past life as a talk show host, and those were corporate representatives in Calgary. We're talking about a ban that the company brought in as part of corporate policy here in Alberta. Mr. Chair, I don't remember whether that was part of a company-wide, world-wide policy or whether that was Alberta specific. I'm interested in hearing from people from corporations or companies, businesses, or any other kind of association that's done this within their own organizations, with their own employees, with an Alberta-specific experience.

The Chair: Is the committee in agreement with that?

Other questions, comments?

As I indicated, there is a fairly extensive list here: 41. Do you think we need to add them all to our stakeholder list? Are you comfortable with them? What is the wish?

David.

Mr. Xiao: Yeah. You know, based on the time limitation, I don't think we can get all the stakeholders to come to us in front of us to give their testimony.

The Chair: I believe we've asked for written submissions.

Mr. Xiao: Yeah. That's what I'm saying. Also, I want to find out how many written responses we have got so far from the citizens, from the individuals.

The Chair: We'll perhaps deal with that under the Communications Update.

Mr. Xiao: Okay. Sure. Thanks.

Mr. Campbell: I think the stakeholder list is pretty comprehensive. Anybody that wants to reply from that list should be given the chance to reply. I don't think we're under any time limits.

The Chair: Okay. So is the consensus that the stakeholder list is okay the way it is, with the addition that Mr. Taylor has mentioned, and that we should contact them all for written submissions, invite them all for written submissions?

Dr. Massolin: What about the other two suggestions that I made earlier? Is that part of this?

The Chair: Yes. Driving schools was a question.

Mr. Taylor: Mr. Chairman, we might be able to kill two birds with one stone there, in that I see we've put the Alberta Motor Association on the stakeholder list. Of course, they're a major driving instruction organization right there, so we may be able to take care of it in that regard.

The Chair: With regard to the Alberta chiefs of police I believe we have a letter from them. Alberta Association of Chiefs of Police is the name.

Dr. Massolin: Right. Yes.

The Chair: We have a resolution and a letter that they wrote to the minister that's included in our package.

Dr. Massolin: Okay.

The Chair: Now, do we want to ask for anything more? I think it's fairly clear.

Mr. Taylor: I'm comfortable.

The Chair: Okay. So if not, we'll go ahead with the research list as it is with the one addition, then.

Dr. Massolin: Thank you.

The Chair: Okay. Communications update.

Rhonda.

Ms Sorensen: Thank you, Mr. Chair. I want to take this opportunity to let the committee know that following its recommendation and direction at the last meeting, we were able to work with the chair and the deputy chair on the content of an ad, which did go into Alberta dailies and weeklies beginning last Friday and will continue to run until this Sunday, I believe.

The one thing I wanted to draw the committee's attention to is that we were able to realize significant savings, which I think the committee might be pleased to know. Originally we thought that the daily campaign would cost around \$9,700, and it actually cost \$6,000. The weekly campaign we originally quoted at \$31,000, and it came in at \$23,000. Unless the committee has any questions, I just wanted to provide that update.

3:00

The Chair: The advertisement, I think, is on the website, is it?

Ms Sorensen: Yes, it is.

The Chair: Okay. As Rhonda indicated, that just went into the paper last week, so I don't imagine we've had any response yet.

Jody, did you have something?

Ms Rempel: Yes. I'll just update the committee in response to the member's question. As Rhonda pointed out, the ad run has been limited, but we have actually received five submissions so far.

The Chair: As Rhonda indicated to me earlier, even with the 41 stakeholders we may not get an awful lot of responses.

Ms Sorensen: If I can just supplement that, Mr. Chair. I did want to point out to the committee, too, that in the future we'll be able to use web statistics to measure the success of the ad campaign. We'll work with research to be able to determine from all of the submissions that do come in how many might have come from a stakeholders list and how many might have come from advertising.

The Chair: Good information.

Does anyone have any questions of Rhonda or any questions on communications in general?

Okay. We will move on. Other business, correspondence. As I indicated, we received the letter from the Alberta Association of Chiefs of Police through the Minister of Transportation, and that encloses a resolution endorsing banning hand-held communication devices. Any questions or comments on that letter? Okay. We'll maintain that as information.

The date of the next meeting. The deadline for submissions I believe was August 22. Okay. I was thinking it was September 1. I guess the question is: do we want to have a meeting? We talked about a meeting at the end of August, August 25. Perhaps I can ask

Greg. Greg, is your standing policy committee going ahead on August 25, or is that going to be deferred?

Mr. Weadick: At this point we're planning to go ahead on August 25, Ken.

The Chair: You're still planning on it.

Mr. Weadick: Yes, we are.

The Chair: So it would probably be convenient for us to piggyback one on August 25 if the committee wishes.

Dr. Massolin: Sorry, Mr. Chair. At the risk of sounding self-serving, just because there are only a few days between the submission deadline and that next meeting, I think we'd need a few more days just to put together all the submission summaries for the committee. So perhaps we could have a few more days until the next meeting.

The Chair: That's a good point. Unless the committee wants to wade through all those submissions themselves rather than let Phil summarize them, it's probably a good point.

Mr. Marz: As well, Mr. Chairman, many people are planning a break for the summer that haven't had one yet. It's very difficult to replace yourself on a committee in July and August, so I would suggest September would be better and give us a little bit of time to review the submissions after the deadline.

Mr. Taylor: Now I am going to be self-serving without apologizing for it at all because I'm going to be away that first week in September, so I wonder if we might consider putting the next meeting off until the week of September 8.

The Chair: I believe we had canvassed all members for their schedule right up until the end of September, and I believe the committee gave Dave and I the discretion to pick the next date. If you're still comfortable with that, we'll pick one, bearing in mind that Dave and I will both be gone the first week in September.

Mr. Taylor: So we're both self-serving.

The Chair: Sometime later in September, I think, probably fits best in any event, giving Phil some time to summarize all those submissions. There's going to be a stack that high, I'm sure.

Mr. Marz: The afternoon would suit me better, since we're all in the self-serving mode.

The Chair: Okay. Is the committee comfortable with us picking a date that is suitable?

Mr. Marz: As long as it's in September.

The Chair: If anybody has changed their calendar from the original request, please let us know of any dates that you're not going to be available so that we can try and get as many people included as possible.

Okay. I guess if there's nothing else.

Mr. Taylor: I'm going to start a tradition here. I'll move adjournment.

The Chair: Okay. All those in favour of adjournment? All those opposed? Okay.

Thank you very much, and we'll see everybody in September.

[The committee adjourned at 3:06 p.m.]

