



Legislative Assembly of Alberta

The 27th Legislature
First Session

Standing Committee
on the
Economy

Monday, September 29, 2008
10 a.m.

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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)
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McFarland, Barry, Little Bow (PC)
Weadick, Greg, Lethbridge-West (PC)
Xiao, David H., Edmonton-McClung (PC)

Bill 204 Sponsor

Johnston, Art, Calgary-Hays (PC)

Department of Solicitor General and Public Security Participant

Al Sauve Executive Director, Sheriffs Branch

Police Services Participants

George Harper	Staff Sergeant, Traffic Commander, Provincial Capital District, Royal Canadian Mounted Police
Barry Maron	Acting Staff Sergeant, Traffic Section, Edmonton Police Service
Michael O'Connor	Constable, Traffic Education, Calgary Police Service
Ben Wilkowski	Sergeant, Traffic Commander, Strathcona County Traffic Services, Royal Canadian Mounted Police

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[Mr. Allred in the chair]

The Chair: Okay. We'll call the meeting to order. My name is Ken Allred. I'm the chair. If I could ask the members of the committee to please introduce themselves. Brian, would you like to start?

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

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

Mr. Xiao: David Xiao, Edmonton-McClung.

Mr. Amery: Moe Amery, Calgary-East.

Mr. Weadick: Greg Weadick, Lethbridge-West.

The Chair: I believe we have three members online. Mr. Taylor, deputy chair.

Mr. Taylor: Yes. I'm here.

The Chair: Manmeet.

Mr. Bhullar: Yes. I am here.

The Chair: And Barry McFarland.

Mr. McFarland: Here.

The Chair: Good. Is there anyone I've missed? I guess not. If I could ask the staff to introduce themselves.

Ms Rempel: Jody Rempel, committee clerk.

Ms Norton: Erin Norton, committee clerk.

Ms LeBlanc: Stephanie LeBlanc, legal research officer, Legislative Assembly Office.

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

Mr. Reynolds: Rob Reynolds, Senior Parliamentary Counsel, Legislative Assembly.

Dr. Massolin: Good morning. I'm Philip Massolin. I'm the committee research co-ordinator, Legislative Assembly Office.

Mrs. Kamuchik: Good morning. Louise Kamuchik, Clerk Assistant, director of House services, Legislative Assembly Office.

The Chair: Thank you. We have five members of the various police services. We'll allow you to introduce yourselves shortly, when we get through some of our preliminaries. Thank you.

Okay. Approval of the agenda. If we could have a motion to approve the agenda, please. Mr. Weadick. Any discussion? All in favour? Those opposed? The motion is carried.

A review of and approval of the minutes of the September 10 meeting. Has everyone had a chance to review them? Are there any

errors or omissions? If not, can we have a motion for approval? Mr. Amery. Any discussion? All in favour? Those opposed? The motion is carried.

We've got a couple of items arising from the previous minutes: Alberta traffic collisions statistics from 2003-2007, a follow-up from Alberta Transportation – that's on the website – and number of careless driving convictions, again from Alberta Transportation, a follow-up, which also is on the website.

I'd just like to make a couple of preliminary comments. In reflecting back on our previous deliberations and some of the submissions and discussions, I'm concerned that the focus of the committee has been on the term "distracted driving" in the context of the current legislation. Now, section 115 in the highway traffic act deals with careless driving. The highway traffic act is silent on the use of the term "distracted driving" but, rather, speaks of careless driving. Now, the two terms are certainly not synonymous. In fact, careless leans towards negligence and recklessness whereas distracted only speaks to having one's mind on other matters. If one is to pursue the *Hansard* record from the last meeting, you will see the word "distracted" or derivatives thereof used extensively while the word "careless" was seldom used. I recognize that we're dealing with cellphone use, which is distracted driving, but I think we've got to be careful that we don't confuse the highway traffic act in the context of distracted as opposed to careless driving.

Mr. Campbell has just arrived. Welcome, Robin.

Mr. Campbell: Thank you.

The Chair: I make these comments as chair just to help us stay on focus and not get – pardon the pun – distracted from the subject at hand.

Now, we also have a confidential legal opinion on the website, which you should have in your packages, a decision of the Alberta Queen's Bench, Regina versus Lehr. That's very useful in reviewing, particularly with regard to the term "careless driving" in the context of the Criminal Code.

Okay. Without any further ado, then, we'll ask for the presentations from the traffic enforcement officials, and we'll start on my left. Sergeant Wilkowski, if you would like to introduce yourself and indicate the force you are with and make a few preliminary comments if you'd like.

Sgt. Wilkowski: Sergeant Ben Wilkowski. I'm with Strathcona county traffic services. I'm in the municipal end of our unit. Just in short, we believe that driving should be your only focus when you're behind the wheel. We think distracted driving is a huge issue, probably bigger than cellphones alone. Unfortunately, it's not addressed at all in the Traffic Safety Act other than, as you mentioned, careless driving, which then brings it into a set of circumstances that may include cellphone use.

Just happy to be here. Hopefully, I can help you with your decisions.

The Chair: Thank you.

Staff Sergeant Harper.

S/Sgt. Harper: Yes. Staff Sergeant George Harper. I'm with the provincial capital district traffic services unit, representing RCMP K Division on behalf of Inspector James Stiles.

With respect to cellphone use I know that the technology in this area is constantly moving forward. Not only are there people using cellphones, but they're also texting and doing other things while they're driving. On my way to Leduc the other day a gentleman was

moving from the inside lane to the outside lane, and I thought that perhaps I was dealing with an impaired driver. When I did in fact pull him over, he was just closing his cellphone. It's not that it's maybe a new problem, but it certainly is something worth looking at, and the word "distracting," I think, is very, very fitting in some of these cases. It could become problematic. Although the RCMP does not have any statistics on the number of collisions involving cellphone use, I know from my own personal experience that it is a problem.

The Chair: Thank you.

Chief Sauve: Good morning. I'm Al Sauve. I'm the executive director of the sheriffs branch. My colleague spoke very well about the issue. I believe that in a previous meeting my colleague from policing and community services branch Kimberly Armstrong spoke and stated the department's position on this matter, and I certainly want to echo that. I also am a member of the Alberta Association of Chiefs of Police, and as has been reflected in your previous minutes, they certainly support legislation in the area of distracted drivers as well.

Thank you.

The Chair: Thank you.

Cst. O'Connor: Constable Mike O'Connor, traffic education unit, Calgary Police Service. Again, what we would like to see is some legislation regarding distracted driving. It is becoming a problem. Many private industries and companies and corporations know of that already and are already enacting, you know, rules and regulations for their employees governing the use of electronic communication devices. Again, hopefully, we can answer any questions and persuade you to move in the direction of legislation.

Acting S/Sgt. Maron: Acting Staff Sergeant Barry Maron with the EPS traffic section. I would echo what the panel has already said here. We find ourselves often kind of in the middle. Usually it takes an inordinate amount of evidence to convict somebody of careless driving. We don't have anything currently in the legislation that would speak to distracted driving, and cellphones, we believe, are just one piece of the distracted driving piece. Even a lot of the other legislative pieces, such as "follow too closely," often don't really get to the point of what has happened in a collision. So distracted driving would certainly help us out.

Thank you.

The Chair: Well, thank you, gentlemen, very much for coming. I'm sure the committee has a number of questions. We can rely on your expertise in enforcement, so I'll open it up to the committee members. I'll ask our cybermembers if they have any questions first. Don't all speak at once.

Mr. Taylor: It's Dave Taylor here, just turning around in my mind as I sit here at the other end of the phone how we would go from Bill 204 to distracted driving legislation and whether we could move in that direction. I guess that if we could get one of the officers or anyone who'd like to speak to this to discuss why a general distracted driving law would in their opinion be more effective and whether it also would be more easily enforced or more enforceable than the cellphone ban.

10:10

Sgt. Wilkowski: To be quite blunt, the cellphone is a huge issue on its own, but we've seen everything from people driving down the

road eating cereal out of a bowl to holding a map on a steering wheel, reading pocketbooks. There are such a wide variety of distractions that are going on out there that if you limit it to cellphones as opposed to just having a blanket charge that would read something like "distracted driving," period, then you could include any one of those distractions. The problem for us is going to be how you actually prove that this person is distracted by the individual thing, the task that they're trying to do.

In B.C. we had a problem with the liquor act. They had a consumption charge there. It wasn't a possession in a vehicle charge; it was a consumption charge. The only way that you could convict on that charge was if you actually saw them tipping the bottle to their lips. Simply having an open bottle in their hand in the car wasn't adequate.

What do you do with a cellphone? If the person has an earpiece or they're talking into a mike that's hanging from their sun visor, how do you prove that they were distracted by that? How do you prove that that offence has actually occurred? In my opinion, a distracted driving charge could include cellphones, but it could include all the other varieties of distraction as well.

Mr. Taylor: If I can ask, then, just one follow-up to make sure that I'm clear on what you're saying. If the Legislature were to bring in a distracted driving law, I'm gathering from what you're saying that the ability to convict would be based around the officer having witnessed one of these incidents of distracted driving taking place, and it would not necessarily require that there be any direct consequences to the distraction. In other words, there wouldn't have to be an accident take place. No one would have to have been cut off in traffic or anything like that. It would be sufficient that you had seen a motorist driving down the road with a cellphone in one hand and a cigarette in the other, for instance.

Sgt. Wilkowski: You're absolutely correct. The difference in circumstances right now between a collision or an offence taking place and that distraction would be the difference between distracted driving and careless driving.

Mr. Taylor: Thank you, sir.

Cst. O'Connor: I would just like to add one thing to that. As far as the legislation goes, making the difference between distracted driving and using already present legislation for careless driving, in the courts you generally are required to give multiple pieces of different evidence to get a conviction of careless driving, almost to the point of dangerous driving under the Criminal Code, whereas distracted driving would make it so much easier to, you know, give evidence just from either a single observation or a number of observations, which, again, would help in evidence or for a conviction and so on. Distracted driving legislation would make it much more easy to obtain evidence and give that evidence in court to get a conviction.

Sgt. Wilkowski: Just to kind of clarify, how we deal with it right now is that if I catch a person going through a stop sign, he will get a \$287 fine for violating that stop sign. If I catch him going through the stop sign on a cellphone, that would be adequate to pursue a careless driving.

The Chair: Thanks for that clarification.

Mr. McFarland: Barry here. Similar to Mr. Taylor, I'm having a little bit of difficulty here with the officers explaining the difference

between somebody being distracted and careless driving. Just bear with me a second. Three vehicles are going down the road in a 10-minute time span, and they both cross the line. After the fact you determine that one was driving with a cellphone, one was just tired, and one was arguing with his kids in the back seat. It's a distraction, for sure. I hear you say you wouldn't need evidence other than your own observation. I gather it would be harder to lay a careless driving charge. As Mr. Taylor indicated, the approach that you're suggesting would not just focus on cellphones, and it would be up to your discretion as to what is actually distracting a driver. Is that correct?

Sgt. Wilkowski: Absolutely.

The Chair: Barry, did you hear the answer? Did we lose you, Barry? Dave Taylor, are you still on the line? We lost them all.

Mr. Mason, you had a question.

Mr. Mason: Thanks. I guess the question is that if we want to capture distracted driving as a whole and we want to make sure that the use of a cellphone is included – and this might be a question for a lawyer, but I'll try it with the police first – would we write the language so that it would be distracted driving sort of in general and then leave it to the courts to determine what that is with respect to a cellphone, or should we include some specific language about cellphones as well?

Chief Sauve: I think you've hit it right on the head, Mr. Mason. The language in any proposed legislation would be key to its success and its effectiveness on the street. It's been a few years since I've been working the streets, but 30 years ago it was a lot easier, for example, to get a conviction for careless driving in the courts. As a result of interpretations by the courts and case law the standard for conviction changes over the years. That's what's happened with the careless driving piece of legislation. Any proposed legislation with respect to distracted driving would have to be very, very carefully worded, and the elements of the charge that would need to be proven would be key to its success. I don't have an answer for you, but I agree that the wording will be key to the legislation.

Mr. Mason: Yeah. I guess the question I have is that I'm kind of worried that you have to prove distraction as opposed to sort of deeming that someone talking on a cellphone or someone doing some other specific activity in the vehicle would be distracted so that you don't have to prove in court that they were in fact distracted. Do you follow what I'm saying?

Chief Sauve: Yes, I do.

Acting S/Sgt. Maron: I think that there would have to be some articulation on the part of the officer as to what was distracting that driver. Currently when we issue a summons for careless driving, the courts generally want a minimum of three different other TSA infractions that are breached.

Mr. Mason: TSA?

Acting S/Sgt. Maron: Yeah, Traffic Safety Act. What they'd be looking at is that the person was speeding and he failed to stop at a red light and he was following too close. Then the judge might convict for careless.

I think what the police services are looking for is something kind of medium, something midway that would hold a lesser fine, a lesser

amount of demerits, and would be easier to prove than careless operation.

The Chair: Mr. Amery.

Mr. Amery: Thank you, Mr. Chairman. Sergeant Harper, I'm still having difficulty understanding the difference between distraction and carelessness. You mentioned an incident that happened with you around Leduc, you said, where you thought that the driver was impaired, but in fact he was closing his phone. Would you consider that a distraction or carelessness? How can you prove distraction? I don't know if you would have issued a violation ticket. If you appear in court, how would you prove that this was a distraction?

10:20

S/Sgt. Harper: Yes. In that particular case it bordered on careless driving because in the period of time that I was behind this individual gathering the evidence visually, he had actually gone over the centre line; he was on the shoulder and back into the driving lane. I actually pulled alongside to see exactly what he was up to, and he was talking on his cellular phone at the time.

Now, as Acting Staff Sergeant Maron said, careless driving under the Traffic Safety Act typically is two, three other offences that you've identified which lead to the more serious charge of careless driving. With this fellow here there was no ticket issued. It was, you know: "Sir, drive properly. Don't talk on your cellphone." I mean, that's all we can do at this point. Had legislation been in place, I could have easily dropped a ticket on him, saying: "This is what I saw as a result of you driving with your cellphone on and talking to someone. Sir, you were definitely distracted." I don't think he was driving carelessly – close – but certainly he was driving while distracted.

The Chair: I'm going to call a five-minute recess so that we can see if we can get reconnected.

Okay. Dave Taylor, are you there?

Mr. Taylor: Yes, I am.

The Chair: Manmeet?

Mr. Bhullar: I'm here.

The Chair: Barry?

Mr. McFarland: I just got in on the last half of the last speaker's comments.

The Chair: Okay. Sorry that we lost you. We will reconvene, then. Thank you.

Okay. Further questions?

Mr. McFarland: Well, I don't know that I heard the first part, but I heard the last. I understand, you know, your desire to have the distracted. From my observation I think it might be better to have the distracted rather than specific to the cellphones. I travel the highways an awful lot, and I see far more things bordering on careless driving as a result of things other than cellphones; that's for sure. If we were going to stick strictly with cellphones – I have to put the officers on the spot here – I think many people that I see using cellphones in the various cities are actually police officers driving. How would you legally exempt a police officer who may or may not be responding to an emergency situation? What about

somebody who's having an emergency and desires to use his cellphone to call in an accident?

The Chair: Do one of you gentlemen want to respond to that question?

Acting S/Sgt. Maron: Yeah. I can, actually. I think there are a lot of distractions inside a police car. There's a police radio. There's the MWS, which is the computer system. There are cellphones. But I think it's the manner in which the vehicle is being driven that would determine if there's an infraction or not. There are some people who will never attain a competent level of driving, yet they're out there, and other people who can actually talk on a cellphone and drive very well.

I think that as far as the legislation goes, it would have to be an articulation, again, by the officer. It would be somebody that's driving along, maybe weaving in the lanes, changing lanes without signalling, making corners without signalling, not stopping at stop signs. It's a cumulation of events that would lead to distracted driving. They're not paying particular attention to all the rules of the road; therefore, we could lay a distracted driving charge. It's not enough to really say that they're careless at any one point but that at least they're not paying full attention to their duties. I think that's kind of the line that we're looking at.

Mr. McFarland: Thank you.

The Chair: Thank you.

Mr. Marz.

Mr. Marz: Thank you, Chair. I've got probably comments more than questions. The success of any legislation lies in the wording of it and definitely the definitions. It would be up to us as legislators, in consultation with the various Justice department and Solicitor General and the police services, to make sure a definition of distracted driving is adequately written to help you do your job. I don't foresee policemen sitting out with a pair of binoculars looking for an earbud in somebody's ear and pulling them over. It's going to be the result of a little bit of slowing down or speeding up or erratic behaviour in conjunction with that before you'd probably bother laying a charge. I'm assuming I'm correct there, with the little bit of experience I have in that regard. I think key to this whole thing is a proper definition that is going to help you, give you the tools to do the proper job and get these distracted drivers off the road.

The Chair: Any comments? I see that Staff Sergeant Maron is nodding his head in agreement.

Mr. Marz: The other thing is that I think in legislation like this there would have to be some types of exemptions for emergency service personnel in certain circumstances, like police services, fire, and ambulance. We are assuming that these are highly trained professionals, you know, that are a little better able to multi-task rather than those just strolling down the highway, as most of us have seen, using a cellphone to make the trip shorter by visiting with somebody the whole way or reading a newspaper. I've seen that, too.

The Chair: Any comments?

Cst. O'Connor: I'd like to make a comment. I agree with what you're saying. All of the police services that I know train their people to multi-task while they're driving. Again, it's just part of

job requirements, things that you must do every day. They are trained specifically to do that, which helps over the average driver. I think that in itself would go towards whether it was an exemption or whatever in the legislation.

Mr. Bhullar: Gentlemen, thank you very much for being there today. I was thinking from the onset that this piece of legislation needs to encompass more than just cellphone use.

Taking a look at some of the case law with respect to careless driving, I mean, it seems that the courts have been quite clear that talking on a cellphone alone is probably not careless. Distracted seems to be a way of capturing cellphone usage. But I'm hearing from you this morning that even distracted driving would require more than just usage, in your opinion. Am I correct in that assumption or not?

Acting S/Sgt. Maron: I would say that it would, certainly. I think there has to be some articulation on behalf of police members to say: "What was distracting this person? How was this person's driving a departure from the norm?" That's the only way to deal with that, I think.

Mr. Bhullar: In that case, would us legislating simple cellphone usage as a distraction, period, not be sufficient for a charge and a conviction on the surface? Let me put this a little bit more clearly. Would somebody talking on a cellphone and driving 120 kilometres an hour on highway 2 be charged with distracted driving?

Acting S/Sgt. Maron: I think it depends on your legislation.

Sgt. Wilkowski: I think that at that point, at 120 kilometres an hour on highway 2, depending on the traffic volume, talking on a cellphone might meet the threshold of careless driving. A simpler description would be that maybe the vehicle passed you at 120 on highway 2, and then five minutes later you pass him because he's now doing 80 and talking on the cellphone. That would be distracted driving. It would just be simply how to legislate it so that you don't have to meet the threshold of careless driving, but you would have to substantiate what the distraction had done to their driving behaviour, as Staff Sergeant Maron said.

The Chair: Manmeet, did you have a further question?

Mr. Bhullar: No, I think that's it. From the officers' comments today it seems as if perhaps careless driving doesn't have as high a threshold as we thought it may for a conviction, which is very interesting to note. I think that the last time we had Alberta Transportation officials out here, we asked them for some ideas on what a distracted driving sort of definition would look like and what it could encompass. Perhaps when we do have that, we can ask for the gentlemen's feedback on that particular definition.

10:30

The Chair: I'm sorry. Was there a question in there for these gentlemen, Manmeet?

Mr. Bhullar: No. When we get that definition, I'd be interested in their feedback.

The Chair: Okay. Thank you.

Mr. Marz: Just one more question. Would it be beneficial from an enforcement perspective to have specifics – cellphones, drying hair,

changing your baby's diaper in the back seat with one hand while you're driving – listed in a regulation of the bill to help back it up? With changing technology, we can't foresee what are going to be the distractions of tomorrow, and through regulation things could be added or taken away, I guess, if that was necessary. Would it be helpful to have some specifics in regulation to help you enforce and make these charges stand?

Sgt. Wilkowski: I think that, like you said, though, you can't foresee what distractions there will be, nor could you ever identify every single distraction. If you start itemizing them, you are going to exclude some, and that's going to leave a loophole there.

Mr. Marz: Okay.

The Chair: Constable O'Connor, do you have a further comment?

Cst. O'Connor: I was just going to basically say the same thing. You know, you yourself as a citizen driving down the street may observe someone leaning back. You can't see specifically that they're changing a diaper per se, but they're looking back behind them. They're not watching the roadway. They're doing something behind them. If you start listing specific things, it would be too difficult.

Mr. Marz: I was wondering that if in the absence of specifics the court could say, well, because it's not specifically listed, they're going to throw it out. Rob looks puzzled about that. Maybe he'd like to comment.

Cst. O'Connor: I think that's sort of similar to careless driving. Careless driving doesn't have specific things listed to say what you have to have to make careless driving. It's just a combination of things that resulted in a person driving carelessly. With distracted driving legislation, again, that would be, you know, one thing or maybe a number of things that that person did while they were distracted, whether that was applying personal cosmetics or using text messaging, whatever the case may be. It would make it more difficult again.

S/Sgt. Harper: I'll just start by making the statement that distracted driving is not something new, but it's certainly becoming more prevalent with the increased use of cellphones by people operating motor vehicles. I'll go back in time to when I was on the road. Typically, if I saw someone driving in an erratic manner, erratic could be anything from what I thought to be an impaired driver which turned out to be perhaps an older person that was not driving properly – and that's a whole different issue on its own – to somebody that was driving when they were tired and fatigued. Now we're finding a lot of people driving using cellphones. We talked about some of these other distractions: smoking cigarettes, putting on makeup, conducting business, reading newspapers. It's out there. Typically what we would do in the past is stop that vehicle and say: "Okay. Smarten up. You shouldn't be doing this. If you're driving, all you should be doing is paying attention to your driving."

Now, maybe to initiate some legislative changes – and I don't know where this data would come from – it would be very nice if there was data out there to support the fact that X number of collisions were caused by people that were talking on cellphones. That would certainly be a benefit because I think that ultimately somebody is going to ask you why you're looking at making this legislative change.

Now, distracted driving could be – and I agree with Acting Staff Sergeant Maron – something other than normal. As a police officer we have an idea of what normal driving behaviour is. If we see something that's an anomaly, that's not quite right, we will begin an investigation to make the determination as to why this person is driving in the manner that they're driving. Up to this point careless driving was the charge we would be looking at. Many of the cases that we investigated fell short of that. We didn't have the evidence to support a careless driving charge, but it certainly would fit if there was legislation in place that dealt with distracted driving. Not just the fact that a fellow is on a cellphone: he could be driving straight down the road, driving properly. It's the fact that the driving pattern would be changed as a result of whatever activity is going on in that vehicle including the cellphone use. I think maybe that's the direction that we should be going in and looking at.

The Chair: Mr. Mason.

Mr. Mason: Thanks very much. As I understand what I've heard, the legislation to deal with distracted driving would really have to have two triggers. First of all, police would have to observe something wrong with the driving, and secondly, there would have to be the presence of some distracting element that the driver had some control over. Is that a fair statement, that those two things would have to be satisfied?

Sgt. Wilkowski: Yes. Absolutely.

Mr. Mason: Then we would just leave the definition of who's guilty of that, how that's defined, up to the courts. Is that correct?

Sgt. Wilkowski: Yeah. You're absolutely right.

Just going back to your question about itemizing things in there, one thing that would definitely happen if that was in place, if those individual items were put in there, is that we would be taken to task to actually prove that portion of the offence. That would be in some cases maybe difficult. As he has indicated, somebody leaning back into their back seat: are they looking through their handbag? Are they helping a child? Are they doing something else? Yes, that's the distraction, but how would you prove it? We would be taken to that level, where they would say: prove to me exactly what the distraction was.

Chief Sauve: I think you're absolutely right about those two triggers. Any piece of legislation is always going to be open to the interpretation of the courts. Time will tell, I guess. There's no piece of legislation that's perfectly sound, in my experience, that'll capture everything yet give you exactly what you need in every circumstance. But you're absolutely right about the two triggers. Then it would be, I suppose, up to the accused to take the stand and say, you know, that if he wasn't distracted, how the manifestation in terms of his driving occurred if it wasn't by virtue of him talking on the cellphone or changing the diaper or whatever.

The Chair: Mr. Xiao.

Mr. Xiao: Yes. I just have two points that I want the officers to help me to clarify. One: what really constitutes the definition of a distraction? Secondly: how enforceable might this regulation be? You know, I'm thinking that nowadays, given the technology and the new models of vehicles coming off the production lines, you get all the navigation systems in the cars. Some of the screens are located on the lower part of the dash, and while you are really

looking at that, you kind of miss the road. Would we consider that a distraction as well? I just wonder how practical this regulation might be in terms of enforcement. I just want to hear from you officers.

Sgt. Wilkowski: You're absolutely right in that it's how you enforce it. You're also right in that your vehicles are changing. We call them your living room now because they try to accommodate every distraction that you could possibly have. Now on your steering wheel you have your radio, you have a head's up display, you have your GPS, you have everything else. Everything is right there to minimize that distraction, but you are still distracted because it's cognitive. It still is a distraction to you. That's where the two-part comes in, that we would have to actually see some deviance in your driving and then try to determine why.

10:40

Mr. Xiao: Yeah. You know, the other officer said that there must be a cumulative kind of behaviour along the road, but the problem is that the police officers are not following anybody in order to reach that point to make that judgment. That's what I'm saying. In most cases police cars are located right in front of the traffic, way ahead. When you see somebody coming towards you, probably that's how you make a judgment whether this driver's behaviour is normal or abnormal, right? That's why I'm wondering how practical this legislation is.

Sgt. Wilkowski: Well, you're right. Trust me, there's a lot of distraction that we don't see, but you cannot imagine what we do see. The stuff that is going on out there is phenomenal, and you just don't have the ability to do anything about it. Yes, there are some things that, you know, we may not be able to recognize, but we can also use a civilian witness where we have somebody that got cut off by somebody else and they're talking on the cellphone. This would be a perfect application for that. Other than just what the officer sees, there are tons of things happening out there that the public is actually watching and seeing.

Mr. Xiao: Okay. Thanks.

The Chair: Are there any other questions?

Mr. Marz: Just a comment keying on what David said about these new navigation systems. I've used them, and I've found them less distracting. I can't say that they're not distracting at all, but I've found them less distracting when you're in a strange place looking for an address, relying on a voice that comes on and says, "In 500 metres turn right," than gawking around looking at street signs. I think some discretion would have to be used, as with any legislation, in how devices are being used and if they contribute to the overall negligent driving habits of the operator.

Cst. O'Connor: I'd just like to make a comment in regard to that. As you say, whether it's a navigation system or your stereo system, generally speaking your attention may be drawn away from the roadway for a fraction of a second, same as checking your rear-view mirror, which, unfortunately, people don't do often enough. But with electronic devices, when you're momentarily or briefly just looking at that screen or as the voice talks to you and tells you to turn in 500 metres, that type of thing generally doesn't distract you enough that it would probably affect your driving ability or your driving habits per se, whereas with other distractions, whether it's hand-held electronic devices or whatever the case may be, you're

using those for a longer period of time. It's not just a momentary distraction. It's generally a long-term thing. Again, that's when you're not paying attention to your driving habits or abilities. The person that you're talking to or text messaging may be in Toronto. They have no idea where you're driving or anything like that. You know, they're talking to you like you're sitting at a desk, when you're driving a weapon down the road. Again, those types of things may not distract you enough to be charged or to alter your driving habits.

Mr. Marz: I find that a navigation system keeps you in the right lane so that at the last minute you're not trying to hurriedly cross about three lanes, which I saw last night, a confused driver on Gateway Boulevard wondering whether he should be going down the Anthony Henday or the other one. At the last minute he made a decision and made three lane changes really quickly, but the traffic wasn't very heavy, so he was forgiven.

Cst. O'Connor: Well, again, it's a little less distracting, as had been mentioned before, you know, driving down the road with the map on the steering wheel, trying to look at the map and so on, or having someone tell you or briefly look over to see where you're supposed to turn or whatever the case may be.

The Chair: Mr. Weadick.

Mr. Weadick: Thanks. I just want to get it straight. We're probably going to be in the next little while trying to make a value judgment between dealing with cellphones as a one-off and saying that people will or won't be able to use cellphones or looking at legislation that's a little more encompassing, kind of like what you're talking about, which is something that would give you a tool to deal with a lot of activities. It appears to me that cellphone legislation in and of itself could be somewhat helpful, but if you had that, that still wouldn't help when you pull a guy over that's reading a map or eating a Big Mac or whatever other activities might be happening because those can still continue unless some changes in legislation allow for you to have some type of distracted driving rules.

What I'm hearing – and correct me if I'm wrong – is that as a group of police officers some type of legislation that would allow you to deal with all and any form of distracted driving that's causing that kind of behaviour behind the wheel would be much more helpful than trying to target any one or two areas of distracted driving. Is that fair? Like I said, at some point we're going to have to make a recommendation to the Legislature and feel comfortable that what we're bringing in will make our roads safer and your jobs a little bit easier. From what I'm hearing, that's what it appears to be. If you have any comments on that.

Cst. O'Connor: Just that, you know, it's the driving habits and the driving attitude of people that we have to change. Again, the distracted driving rather than being specific to cellphones or text messaging, whatever the case may be, would do the same thing but would be a lot more encompassing and make it cover the problem, not just a specific area of that problem.

Mr. Weadick: Okay. Thank you very much.

Chief Sauve: So it's fair to say on behalf of the group that the answer to your question is yes.

Mr. Weadick: Thank you.

Sgt. Wilkowski: Just the same thing. You're absolutely right: yes is the answer. People have to realize that when they're in that car, their primary focus is driving. Okay? Nothing else. People have forgotten that. They believe that they can do everything else and drive. There has to be some means for us to make people accountable for their driving behaviour. They have to be able to focus. That's why it has to be all encompassing. It will in fact do the cellphone thing as well, as opposed to the other way, just dealing with cellphones and nothing else.

Mr. Weadick: I appreciate that. I'm getting a picture of Maxwell Smart trying to get his shoe off to answer the phone while he's driving.

The Chair: Mr. Campbell.

Mr. Campbell: Thank you, Mr. Chairman. I'm a real MLA. I put on about a hundred thousand kilometres a year, so I see lots on the road, too. I'm just interested in the statistics from 2005 to 2008. They say that the number of careless driving convictions as of March 31 increased by 1,700 convictions. I would probably suggest that a number of those convictions wouldn't have included cellphone use. Would they be for other areas of careless driving?

Sgt. Wilkowski: I would imagine that the majority of those would have been as a result of a collision.

Mr. Campbell: Of a collision?

Sgt. Wilkowski: Yeah.

Mr. Campbell: Okay. I notice also that from 2003 to 2007 property damage collisions went up, from 94,000 in 2003 to 135,000 in 2007. I drive highway 16 on a regular basis, and I drive highway 2 quite a bit. You know, to say that you're driving 120 and talking on your cellphone, I'd say you're a model citizen because nobody travels under 120 on highway 2.

My concern is: do we have the resources, if we put in a cell ban, to enforce that offence, especially out in the rural part of the country? I mean, in the city we've got the city police and we've got the RCMP and we've got some sheriffs. Out in the rural parts of this province, for example, I can drive from Hinton to Grande Cache and not see a vehicle. I could be on my cellphone, driving along, and the only vehicle I happen to see is the RCMP cruiser. Is he going to pull me over and give me a ticket because I'm talking on my cellphone? I'm not doing anything wrong. I'm doing the speed limit, 100 clicks. Actually, if you're doing 100 clicks on that road, you're doing well, too. That's my concern: do we have the resources, number one, to make this an effective law?

Number two, I guess I always look at the people that probably don't usually break the law and just go about their daily business. Are they the ones that are going to get targeted on a daily basis, and the people that we're really after, you know, to sort of get off the streets are going to continue to just run wild?

10:50

Sgt. Wilkowski: I think two parts there. You're absolutely right. We wouldn't have the resources to go out there and target that specific charge. Okay? It would just simply be another tool for us to deal with those problem people that we do encounter. You driving down the road at a hundred twenty talking on your cellphone are probably not dangerous. There we go back to the two-part system, where there would be probably no deviation in your driving.

In our rural areas as opposed to in the city, where traditionally you can't get away with it quite as much because of the volume of traffic, when you talk about the rural statistics, those vehicles that are driving off the right shoulder, those people that are losing their right wheel off the shoulder, are 99 per cent distracted driving, whether it be from a cellphone or because of just driving inattention. They're either sleepy – it's the middle of the afternoon, it's warm out, they're kind of nodding off – or on autopilot. That's a distraction, maybe not the cellphone. I think that the effectiveness of this would be in the extra tool for the officers to use.

Mr. Campbell: Thank you.

Acting S/Sgt. Maron: As well, I think that if you associate that with seat belt use, I mean, we certainly don't have the resources to issue everybody a summons that's not wearing a seat belt. But studies have shown that if you're wearing your seat belt, you're more likely to survive in a collision.

Now, I would further that by saying that just because you're talking on a cellphone doesn't necessarily mean that you're dangerous. It's not a dangerous device; it's the manner in which you use it. If you're phoning your wife and saying, "Hey, honey, I'm going to be a few minutes late tonight," you're probably not that distracted. But if you're talking to a business partner about the interworkings of your business and about making decisions about tomorrow, well, you're probably not paying as much attention to the roadway. So I think it's how the device is used, not necessarily the device itself.

The Chair: Does the committee have any further questions?

Mr. Taylor: Mr. Chairman, Dave Taylor here. If I can ask one more question.

The Chair: Go ahead.

Mr. Taylor: This is to any or all of the officers that wish to comment on it. At our last meeting we spent a little bit of time contemplating some of the statistics around cellphone ban enforcements and the use of cellphones one, two, and three years out from legislated bans being brought into effect in various other jurisdictions that have bans on the use of cellphones in moving vehicles. There seemed to be a pretty clear trend or a pretty clear indication to me that in most of those cases in the months immediately following the enacting of the ban, there's a substantial drop in cellphone use by drivers of moving vehicles, and then it just sort of inches its way back up over the course of the next three years almost to the point that it was before the ban came into effect.

I guess the question that I have for the officers is: if we were to pursue the route of bringing in distracted driving legislation as opposed to Bill 204, the ban on hand-held electronic devices in moving vehicles by the drivers, can they give us any assurance that the distracted driving law would be any more enforceable or any more effective or that three years out we would see that there had been a decided drop in the number of people who are eating behind the wheel, those sorts of things, and that that had held firm?

I'm looking at the officers to give us some assurance here on the committee that legislation like this could in fact really alter driver behaviour on an ongoing basis in the way that seat belt legislation clearly has. There's the possibility that this might work, also the possibility that it might not be very effective. I'd just like some informed opinion from the officers about that.

Sgt. Wilkowski: Sorry to keep occupying your mike system here. The difference between an outright ban on a cellphone would be like

a legislated speed limit, and you would be going and targeting that specific offence. So you would see the automatic reduction because people would be afraid of being caught using their cellphone. It would have nothing to do with whether or not it was distracting them. By going the way of a distracted driving legislation, you would now have a tool to deal with the incident, so it would be circumstances versus just simply a legislated ban.

Mr. Taylor: Okay. But our goal here would be to change driver behaviour for the better, would it not? Since we've already seen some pretty compelling evidence that the change in driver behaviour around cellphone use is only temporary and kind of transitory, you know, before they go back to using their cellphone like they used to, just like they probably go back to speeding like they used to, I'm wondering if you think that the distracted driving legislation would actually have an ongoing impact?

Sgt. Wilkowski: I definitely think it will. Obviously, it would still also require a fairly extensive education session that would have to accompany it where you would be actually trying to target people to recognize in themselves when they're being distracted. It's not just the legislation itself; it's to get their brain triggered around the fact that they have to focus on their driving, that they cannot drive distracted. So I think the long-term effect would be even greater.

Mr. Taylor: Okay. If I may, just one supplemental question. Do you see distracted driving legislation as being enforceable by the traffic officers that are on the roads throughout the province of Alberta, urban and rural, today? Or does there need to be an increase in the number of bodies, in the number of squad cars, you know, in police services' ability to enforce this law?

Sgt. Wilkowski: I don't think you need to have an increase in the enforcement end of things. You simply have to give us the extra tool to use at the discretion of the officers that we have on the road right now. It's not going to require people to go out and target one specific offence. It's merely to give us a tool to actually target that offence.

Mr. Taylor: Okay. Thank you.

Chief Sauve: If I could just make a comment. In the research that I've done in preparation for today, I have to say, though, that in other jurisdictions where there's cellphone ban legislation in place, there is no evidence to suggest that collisions have been reduced. I just have to point that out.

Mr. Taylor: Thank you.

Chief Sauve: It's not to say that our assumptions about distracted driver legislation, what that might produce, is going to be different. I'm not suggesting that it won't. I just have to point out that in jurisdictions where those sorts of legislation are in place, there is no empirical evidence that collisions have been reduced.

The Chair: Any further questions?

Mr. McFarland: Thanks for that last comment. I'm wondering along the same lines and maybe along the lines of the comment Mr. Taylor made. We often hear that whether or not we have legislation, so much of the officers' time is spent in court. I just have to ask. If you've got the other tool in your kit bag and you're able to lay a few more charges – I don't know what percentage the success/failure

ratio would be on the charges – I am a little concerned that we're going to have more officers again appearing in court for something that I don't want to say is relatively minor, but when you consider some of the gang issues that are going on out there, it would be minor. So the staffs' time that's taken in court.

Secondly, if you could comment on if this were to be put into place. What would your reaction be if I were to say: let's try a pilot in the two major cities, where at least you have some huge numbers to work from to gather a base for statistics and you also have much larger manpower availability?

Sgt. Wilkowski: To be quite honest with you, I don't think that you're going to see any great difference in the percentage of time spent in court than we do right now. It's about a 4 or 5 per cent dispute rate that we have right now regardless of what the charge is, whether it's speeding, stop sign, follow too close. I don't think that would change anymore with an additional charge of distracted driving. I don't think that doing a pilot project on this would make any difference because how would you evaluate the pilot project? We don't have a base to compare it to.

11:00

I think that it's simply having the tool out there to be able to target that particular violation, which is a huge issue. I don't think that we can relate gang activity to traffic safety. Traffic safety is completely its own section of safety in public that we're dealing with here, and distracted driving is probably one of the biggest things that we have now on our roadways. We have complacent drivers, we have aggressive drivers, and in the middle of it we've got distracted drivers, and they're compromising everybody's safety on the road. You know, by giving us that tool, I don't think it's going to cost society anything in terms of what we will gain in reward.

The Chair: Thank you.

Further questions?

Mr. Marz: Just one. Would it be correct to say that the higher the cost of the offence, the fine and/or the demerits put together, the more likelihood of a person challenging it in the courts? I think the key on this is to make the fine enough to be an educational tool but not punitive enough to have everybody challenge it in the courts. Would that be correct?

Sgt. Wilkowski: Yeah. You're absolutely right. I mean, for instance, careless driving is \$402 and six demerits. You certainly couldn't go beyond that. Because the threshold would be half of what careless driving is, you should probably consider something half.

There is a certain percentage of people that do dispute just simply because of the cost. If I give somebody a careless ticket or I mail out a careless ticket versus a fail to obey ticket, \$172 versus \$402, there is a very minor percentage of people that would dispute that ticket simply because of the value. But usually by the time it comes around to the court case, they haven't shown because they've already figured it out.

Mr. Marz: The amount of demerits would certainly cause a lot of people to challenge it if they thought they were going to lose their licence, if that was going to put them over.

Sgt. Wilkowski: You're absolutely right, but I think you have to still weigh, you know, the benefit that we have to road safety, and that's where the accumulation has to come in. Certainly, you couldn't go

to a six-demerit ticket, like a careless, because, again, you're below that threshold.

Mr. Marz: People will go to great lengths to maintain their driving status.

Sgt. Wilkowski: Some.

S/Sgt. Harper: Just a point, maybe, for the group to ponder here is the difference between a cellphone ban and distracted driving. I've just been mulling it over in my head. If we include cellphone usage under distracted driving and someone is on a cellphone and they're driving down the roadway and they're not deviating from the norm and we don't stop them because there's no real reason to stop them, have we defeated the purpose of considering cellphones in distracted driving versus a complete cellphone ban? If cellphones are a problem – and it is my understanding, based on statistics and personal experience, that they are – would we be defeating the purpose of including it into distracted driving? Realistically, if you're looking for the anomalies or an abnormal driving pattern, what have we accomplished by including cellphones in with reading the newspapers and putting makeup on and drinking coffee and smoking cigarettes and reading newspapers all at the same time? I'm not trying to cloud the waters here, but I guess I'm maybe looking for an answer from the legislators here.

Mr. Marz: Well, my understanding would be that it would not be listed specifically, but it would all be included. From what I heard you folks say before, to stay away from the specifics, it would be included. If your cellphone use is causing you to speed up, slow down, and change lanes without signalling because you're distracted by the phone, it would be included.

S/Sgt. Harper: Okay. I guess my point there is that if part of the investigation is gathering all this evidence, then it's fine, and it would work, but if somebody is just driving down the road on a cellphone and he's driving normally, then carry on. Correct?

Mr. Marz: Well, that's kind of my understanding of what I'm hearing here.

S/Sgt. Harper: Okay.

The Chair: Okay. Committee, any further questions?

If not, I thank you gentlemen very much for your participation this morning. I think you've answered a lot of questions and maybe will stimulate some debate a little later on. I think it has been excellent having you out. I appreciate you taking the time from your busy lives to come out. This is an open meeting. You're welcome to stay. We will be continuing until about 12 o'clock, but if you have other things to attend to, please feel free to excuse yourself.

Sgt. Wilkowski: If you're into your debate, would you like us to stay?

The Chair: It's entirely up to yourselves.

Sgt. Wilkowski: I'm just thinking in terms of, you know, if you have questions or if things crop up, whatever.

The Chair: Hopefully, all of the questions have been answered, but you never know.

Sgt. Wilkowski: Okay. Good.

The Chair: Gentlemen, do you want a five-minute break? Okay. A five-minute break.

[The committee adjourned from 11:05 a.m. to 11:11 a.m.]

The Chair: I'll call the committee back to order.

Mr. Taylor: Are we going into discussion on Bill 204 now?

The Chair: Yes.

Mr. Taylor: Okay. I may have to go away from the phone for a minute or two here shortly, but I'll come back on.

The Chair: Barry, are you there? Manmeet?

Mr. Bhullar: Yes, I'm here.

The Chair: Okay. We're still missing Barry. We will continue on.

The next item is Discussion on Bill 204. As I see it, we have quite a number of options. We can recommend to the Legislative Assembly that Bill 204 be either adopted as is or be defeated, we can recommend that it be amended to include hands-free communication devices, we can recommend that it be defeated but referred back to the department to report back to this committee with a suggested amendment dealing with distracted driving, or we could recommend a public awareness program. There are any number of different things we could recommend. I leave it open to discussion and/or proposals.

Mr. Amery: Well, Mr. Chairman, I'm a little troubled by the last statement that Chief Sauve made.

The Chair: Can I interrupt for just a minute? I believe our legal counsel wanted to make a few comments before we start.

Mr. Reynolds: I'm sorry, Mr. Chair. I missed the opening part of your comment. I just want to say that when the committee is considering what might happen to this bill, one thing is that if the committee recommended that the bill not proceed, then that would be the recommendation in the report that would go forward, and if it was adopted, the bill would not proceed.

I want to mention that there are 10 minutes of consideration of the bill at second reading right now – five minutes left for debate and five minutes left for the sponsor to close debate – so you might ask: well, what kind of debate would you have at second reading on the principle?

If you wanted to recommend that the bill be sort of gutted and redone, I think that would raise a procedural issue. If you said, "Well, we're taking out everything in the bill except the fact that it amends the Traffic Safety Act," you know, that would raise a procedural issue, I believe, at this stage because it's difficult to say what principle the Assembly would be recommending. Well, admittedly, the bill hasn't received second reading. That's an issue. Of course, if the committee wants to recommend that the bill proceed, that's another issue, and it would of course proceed that way.

I just wanted to make clear that it's difficult to set out a set regime, a hard line of saying: this is where the amendment would be offside; this is where it would be onside. It would vary based on the nature of the recommendation that was under consideration by the committee.

The Chair: Are you suggesting it would be a procedural problem to refer it back to the department to come up with whatever?

Mr. Reynolds: No, I'm not saying that, Mr. Chair. It was just with respect to the procedure in the House. For instance, the committee could say – and hypothetically it's just one of the options that you may consider – that there should be an offence of distracted driving, refer it back to the minister to bring in legislation at the next session of the Legislature but that this bill not proceed. I mean, that would be entirely onside if that was the desire of the committee.

The Chair: Okay. Thank you.

Okay, Mr. Amery. Sorry. We cut you off there.

Mr. Amery: No problem. Just saying that I'm a little troubled by the last statement that Chief Sauve made when he said that there's no evidence that collisions have been reduced in jurisdictions that have a cellphone ban. I'm worried that we are bringing in some legislation that will not help us reduce the collisions. The other statement that I heard, that resources are not there to enforce it, is another issue that I'm not comfortable with. The third one: my understanding that the officers would like to see a more encompassing legislation not only concentrating or focusing on cellphone bans.

The Chair: Thank you.

Further discussion?

Mr. Campbell: I agree with everything that Mr. Amery just said. I think also that, if I'm not mistaken, the Department of Transportation said that they were looking into legislation that was more all-encompassing as far as distractions. I think that the way Mr. Reynolds just worded his last statement is something that we should look at accepting, that we send this back to the Ministry of Transportation to look at bringing legislation forward encompassing all distractions to driving and have that brought back in front of the House next session.

Mr. Marz: I would agree with that. I'd just like to key in on three points that the officers said. They said that they support legislation regarding distracted driving, cellphones are just one piece of distracted driving, and distracted driving is becoming much more prevalent than before, so perhaps it is time that we address this issue. I think the best thing to do is to refer it back to the department with a recommendation to look into a distracted driving charge and proceed from there.

The Chair: Other comments?

Mr. Taylor: Mr. Chairman, Dave Taylor here. I think I would be comfortable with that, too. I certainly started out this process thinking that the idea of a ban on the use of cellphones was a good idea, but we've seen some pretty compelling evidence that it really hasn't achieved what it was designed to achieve in a lot of the jurisdictions where the bans have been brought in, perhaps most of the jurisdictions I think I could probably say with accuracy. You know, it has a certain amount of popularity – there's no question about that – with the voters. Nevertheless, I think we want to bring in a piece of legislation that's actually going to do what we try to design it to do, and that is to alter driver behaviour. We've heard, I think, some pretty compelling testimony today from the officers who were here that there really needs to be a broader way for them to address some of the sins, if you can say that, that they see behind the wheel every day.

The other thing I'm concerned about, of course, is that whatever we bring forward needs to be enforced and needs to be enforceable. Yet another law on the books that isn't being enforced doesn't make a whole lot of difference to traffic safety, whether it be on the highway or in urban areas.

I would concur with what Mr. Reynolds has said in terms of a proposed recommendation that the committee make back to the Legislature. I'm wondering, Mr. Chair – perhaps this question should go to Mr. Reynolds – whether we have any authority in directing the Minister of Transportation to consider a distracted driving law, to put any kind of a timeline on that so that, you know, it's seen to be moving ahead in a timely fashion.

The Chair: Mr. Weadick.

11:20

Mr. Weadick: Well, thank you. I agree with what I've been hearing and with what our counsel has suggested, that that's an appropriate way to go. It's clear that the officers have asked for a tool to help them deal with specific cases. We've heard them cite a number of them today, cases where there was significant distraction but they didn't have the tools to deal with those people effectively. They've taken the time, they've pulled them over, and all they can say is, "Please be more careful" and send them on their way.

This would allow them the opportunity to deal with a broad range of issues that they determine are distracting a driver and making it less safe to be on the roads, so I think it's the right direction to go. Referring it to the minister to come back with an appropriately developed piece of legislation would make some sense, but I agree with the former speaker that it would be nice to put a timeline so that we could see either that piece of legislation back to this committee prior to the spring session or that it come back to the spring session, whichever is most appropriate. I believe that would be the way that we would want to go so that we can clearly see something done in this regard.

Thank you.

The Chair: David.

Mr. Xiao: Yes. Listening to the officers, I'm really convinced that, you know, combined with regulation, that is with a specific item, I think this is not effective legislation. So I agree with many of our colleagues that we should recommend this to the Transportation department, ask them to come back to the committee with a regulation that can provide effective tools to the police officers instead of just targeting specific items.

The Chair: Any further comments?

Mr. Bhullar: Mr. Chair, a question. Manmeet here. I believe it was the last meeting when I asked the folks from the ministry to provide us with possible definitions and the like of distracted driving. Have they sent anything back to you?

The Chair: Sorry. I missed that, Manmeet.

Mr. Bhullar: Has Alberta Transportation or any officials from there sent you any information on distracted driving with respect to how we would actually define it?

The Chair: No. They've only submitted, I believe, two statistical reports, plus we have that very extensive report they initially tabled with us on distracted driving, but nothing further.

Mr. Bhullar: Okay. Yeah. I had asked them for a definition – I guess we haven't got it yet – or some ideas of definitions.

I believe that, to be very frank and honest, if we want to be effective in our legislation, then we have to understand the fact that this hasn't worked in the bulk of jurisdictions. Therefore, I think we should shift our focus to being one where we help drivers become more conscious of their driving habits and their driving patterns as opposed to just trying to go after one-offs, you know, saying: well, you can't hold a cellphone while you drive, or you can't read a newspaper or what have you. I think our approach of going towards distracted driving and a distracted driving offence is absolute on cue. I think that's how we can raise awareness of people being more conscious and vigilant when they drive. Now, there's no doubt that the department would be able to give very proper attention to what needs to be included in such an offence, so I concur with my colleagues in referring this to them.

The Chair: Anything further?

Okay. I have a draft motion here submitted by Mr. Marz: moved that Bill 204 be not now debated any further in the Legislature but be referred to the Department of Solicitor General and Public Security and Minister of Justice to look into the recommendation of introducing a disturbed driving offence.

Mr. Marz: Distracted.

The Chair: Distracted driving. Pardon me. It's not your writing; it's my reading.

Mr. Taylor: Mr. Chairman, I'm sorry. I was slightly distracted there. Could you read that again, please?

The Chair: I was distracted, too.

Moved that Bill 204 be not now debated any further in the Legislature but be referred to the Department of Solicitor General and Public Security and Minister of Justice to look into the recommendation of introducing a distracted driving offence.

Mr. McFarland: Chairman, it's Barry. Would that also have to be referred to the Minister of Transportation?

The Chair: I think Mr. Marz has nodded his head and said that that's a friendly amendment. We'll add Department of Transportation in there as well.

Mr. McFarland: Thank you. I'd support it.

Mr. Bhullar: Mr. Chair, Manmeet here. Would we have a specific date by which they need to bring this back to us, or would it go back to the Legislature after this? What would be the process?

The Chair: I think that's a good point, Manmeet, and I believe somebody had mentioned that earlier, that we needed to have a specific date. That could be an amendment.

Mr. Bhullar: Yeah. I think that just because we have given this a considerable amount of time and effort, it warrants us to ensure that it comes back either to us or to the Legislature within a specified period of time.

The Chair: I might suggest – and I've got some legal wording here from our learned legal counsel – that perhaps the motion should read that the committee recommend that Bill 204 not proceed and that the

issue be referred to the ministries of Transportation, Solicitor General, and Justice with the intention that legislation establishing an offence of distracted driving be introduced at the spring 2009 sitting of the Assembly.

Now, just one question on that point. Do you want it to come back to this committee first, or do you want it to go direct to the Assembly? It's your motion.

Mr. Marz: I'd like to listen to Rob's comments before I decide.

Mr. Campbell: I think it's important that it comes back to this committee first to discuss and make sure that, you know, we're onside with it. I mean, again, as said earlier, we went through a lot of trouble to get to where we're at. I think it's also important that we might want to make sure that we don't dissuade the public from having any comments on any legislation that we're going to put in front of the House. I would have it come back to this committee, have us look at it, see if we think it has to go to any public consultation, and be comfortable that we've sort of dotted all the i's, crossed all the t's, and then have it go to the session of the Legislature.

Mr. Marz: I'd accept that as another friendly amendment.

The Chair: Do you want me to read the motion first before you speak? Okay. Let's see if this motion meets the wishes of the mover here.

That the committee recommend that Bill 204 not proceed and that the issue be referred to the ministries of Transportation, Solicitor General, and Justice with the intention that legislation establishing an offence of distracted driving be introduced at the spring 2009 sitting of the Assembly and that the draft legislation be referred back to the Standing Committee on the Economy prior to the spring session.

Mr. Marz: You took the words right out of my mouth, you silver-tongued devil, you.

Mr. Mason: Well, I think I should leave the room more often. That's good work. I totally support that motion the way it's drafted.

The Chair: Any further discussion?

Mr. Taylor: Mr. Chairman, Dave Taylor here. I do totally support the motion as well.

The Chair: Any other discussion?
Ready for the question?

Mr. Taylor: Question.

The Chair: All those in favour?

Hon. Members: Agreed.

The Chair: Those opposed? The motion is carried unanimously.
Well, thank you very much, gentlemen. No ladies on the committee present today.

Okay. Our timetable for reporting is the last week of October. We have a meeting scheduled for October 6.

11:30

Mr. Weadick: We don't need that meeting now, do we?

The Chair: Well, I would think we need to have a report to go back with the motion – was that not correct? – so I would suggest that we

have the report. Phil, will you have any problem getting a report prepared by the next meeting, the 6th?

Dr. Massolin: Not at all, Mr. Chair.

The Chair: We'll discuss the report, and presumably we will approve the report, and our work will be done.

Mr. Mason: Can we get them to send us another bill since we're so efficient?

The Chair: On hands-free?

Okay. Our next meeting is scheduled for Monday, October 6. It's scheduled from 1:30 to 3:30. I would expect that it may be a fairly short meeting, but that would be great. Then we can go golfing, no?

Mr. Taylor: Okay. That's Monday, October 6, from 1:30 to 3:30.

The Chair: That is correct.

Mr. Taylor: Mr. Chairman, I'll have to participate by teleconference again.

The Chair: That's fine.

Mr. McFarland: Mr. Chairman, it's Barry again. I won't be able to attend or do teleconference on that date at that time.

The Chair: Will you be able to get an alternate, Barry?

Mr. McFarland: I don't know.

The Chair: Okay. See if you can.

Mr. McFarland: If it's just to ratify what we've already decided, I don't see the point.

The Chair: I suppose there is another option if you wish. We could have the report circulated and ratified by e-mail meeting. Would there be a problem with that?

Mr. Taylor: In fact, I would favour that if we could do that. That would be great.

Mr. Bhullar: I, too, would favour that.

Mr. Xiao: We would probably need the legal counsel there.

The Chair: Any concerns from our staff on that? I guess the problem would be if we want to amend the report. I think, perhaps, we should go ahead with a formal face-to-face meeting even if a number of members have to be here by teleconference or appoint alternates.

Mr. McFarland: This is Barry. I'll try to handle that end of it and see if I can get an alternate, Mr. Chairman.

The Chair: Okay. Thank you, Barry.
Any last comments, Manmeet?

Mr. Bhullar: I will be late, Mr. Chair, for the next meeting. I've got a courtesy call with a high commissioner.

The Chair: Okay. If you can get an alternate, that would be appreciated.

Or, I suppose, would there be any problem if members sent their consent to the report or amendments that could be proposed?

Mr. Reynolds: Well, Mr. Chair, the practical problem is that when people start sending in amendments, how does one decide whether that's acceptable or not unless the committee votes on it?

The Chair: I guess it gets a little complicated in case there are amendments. I'm trusting that Phil's report is going to be so good that everybody is just going to approve it.

We'd better continue with the meeting, and people can be available by teleconference or appoint an alternate.

Mr. Marz: We'll have the report a day or two ahead of the meeting.

The Chair: I would expect so, yes. I can see Phil nodding his head.

Mr. Marz: So we should all be prepared to make our comments and be as brief as possible because I know everybody has got a lot of other commitments, including myself.

The Chair: As much as we'd like to streamline it, I guess we've got to be a little bit careful here.

Okay. The next meeting will be Monday, October 6, at 1:30. I declare the meeting adjourned.

[The committee adjourned at 11:33 a.m.]

