

**APPENDIX B**

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**The Committee on Standard Jury Instructions in Criminal Cases  
The Honorable F. Rand Wallis, Chair  
Report 2018-09**

To whom it may concern:

I am writing to provide my comments on the addition to the definition of "vehicle" for all of the jury instructions included in the August 1, 2018 Florida Bar News, especially the Driving Under the Influence ones.

The addition of "personal delivery devices, mobile carriers, and" into the definition of vehicle for all DUI jury instructions is confusing. I have been a prosecutor for six years in Collier County. I certainly do not presume to know everything; however, I primarily handled DUIs for 18 months in misdemeanor and some DUIs during my two years as a felony prosecutor. For the past two and a half years I have been serving as one of the misdemeanor supervisors, where again my focus is primarily DUIs.

I have no idea what a "personal delivery device" or a "mobile carrier" are and believe if the committee is going to add these to the definition of vehicle, it will also need to define them. I have never encountered a case where we had to ask ourselves whether something was a "personal delivery device" or "mobile carrier." I have even asked many of my colleagues and prosecutors that I supervise what they think these are. We did not get very far in our conversation.

There is no case or comment included to justify or explain why this addition is necessary so I am not sure what prompted this change. Without additional guidance in the instruction, it could be argued by clever defense attorneys that a "personal delivery device" or "mobile carrier" is a bicycle; yet, it is well settled that you can receive a DUI on bicycle. However, most juries do not know this, so this addition is not only confusing for the attorneys, but makes it confusing for the jury. Without knowing more about what the committee's intent was, my opinion is that even a car can be argued to be a "personal delivery device," say if they use the car to deliver food or groceries as part of their employment.

Last year in Collier County, we dealt with the question of whether or not you can receive a DUI while driving a large swamp buggy on a public roadway. The trial court here found that you cannot and the circuit court affirmed. It is peculiar that the definition of vehicle for DUI is unclear about on swamp buggies, something that is significantly larger than a car and could arguably cause more damage when someone impaired is operating it; however, we are adding exceptions to the definition of vehicle that are not clear. It would be more prudent to add to the definition of vehicle then take away from it.

I believe if the committee keeps the addition of "personal delivery devices, mobile carriers, and" into the definition of vehicle for all DUI jury instructions, then it would be helpful to also include definitions of "personal delivery devices" and "mobile carriers."

Sincerely,

Sabsina Nunez