

# Title 28. Motor Vehicles.

## Chapter

- 01. Alaska Uniform Traffic Laws Act (§§ 28.01.010 — 28.01.020)
- 05. Administration (§§ 28.05.011 — 28.05.155)
- 10. Vehicle Registration, Liens, and Title (§§ 28.10.011 — 28.10.661)
- 11. Abandoned Vehicles (§§ 28.11.010 — 28.11.110)
- 15. Drivers' Licenses (§§ 28.15.011 — 28.15.291)
- 17. Commercial Driver Training Schools (§§ 28.17.011 — 28.17.071)
- 20. Motor Vehicle Safety Responsibility Act (§§ 28.20.010 — 28.20.640)
- 22. Mandatory Motor Vehicle Insurance (§§ 28.22.011 — 28.22.321)
- 32. Commercial Motor Vehicle Safety Citations (§ 28.32.010)
- 33. Commercial Motor Vehicles (§§ 28.33.030 — 28.33.190)
- 35. Offenses and Accidents (§§ 28.35.028 — 28.35.410)
- 37. Driver License Compact (§§ 28.37.010 — 28.37.199)
- 39. Snowmobiles (§§ 28.39.010 — 28.39.250)
- 90. General and Miscellaneous Provisions (§§ 28.90.010 — 28.90.995)

**Revisor's notes.** — The provisions of this title were redrafted in 1984 to remove personal pronouns pursuant to § 4, ch. 58, SLA 1982, and in 1984, 1989, 1994, and 2006 to make other minor word changes under AS 01.05.031.

**Administrative Code.** — For motor vehicle and driving offenses: rules of the road, see 13 AAC 02.

For motor vehicle and driving offenses: vehicle equipment and inspection, see 13 AAC 04.

For operations, wheeled vehicles, see 17 AAC 25.

For buses, see 17 AAC 28.

## NOTES TO DECISIONS

Stated in *Buckalew v. Holloway*, 604 P.2d 240 (Alaska 1979).

## Chapter 01. Alaska Uniform Traffic Laws Act.

### Section

- 10. Provisions uniform throughout state
- 15. Municipal impoundment and forfeiture
- 20. Short title

**Sec. 28.01.010. Provisions uniform throughout state.** (a) The provisions of this title and the regulations adopted under this title are applicable within all municipalities of the state. A municipality may not enact an ordinance that is inconsistent with the provisions of this title or the regulations adopted under this title. A municipality may not incorporate into a publication of traffic ordinances a provision of this title or the regulations adopted under this title without specifically identifying the provision or regulation as a state statute or regulation.

(b) A municipality may adopt by reference all or a part of this title and regulations adopted under this title, and may request and shall receive from the Department of Commerce, Community, and Economic Development and, as appropriate, either the Department of Administration or the Department of Public Safety, assistance in the drafting of model ordinances for adoption by reference. Notwithstanding (a) of this section, a municipality may enact necessary ordinances to meet specific local requirements.

(c) A copy of all traffic ordinances enacted by a municipality shall be forwarded to the commissioner of public safety and specific notice of any inconsistent ordinances shall be given by the municipality when the copy of the ordinances is forwarded. So far as practicable, the section number identifying a particular municipal traffic ordinance must be the same as the section number identifying a corresponding provision of this title or regulations adopted under this title.

(d) A municipality shall erect necessary official traffic control devices on streets and highways within its jurisdiction that as far as practicable conform to the current edition of the Alaska Traffic Manual prepared by the Department of Transportation and Public Facilities. The municipality

(1) shall post a sign indicating that the school is a "drug-free school zone" at each location in which it has installed a sign identifying the location of a school;

(2) may post a sign at each recreation and youth center indicating that the center is a "drug-free recreation and youth center zone"; in this paragraph, "recreation or youth center" has the meaning given in AS 11.71.900.

(e) Copies of all traffic ordinances enacted by a municipality shall be incorporated in a manual and made available to the general public.

(f) Regulations adopted pertaining to a matter partially or wholly governed by this title must be mutually consistent and compatible, and must complement each other, as far as practicable. For the purpose of uniformity, the Department of Administration or the Department of Public Safety, whichever is appropriate, shall offer and receive reasonable assistance in the coordination and adoption of these regulations.

(g) Regulations adopted under this title must, as far as practicable, conform to the recommendations of the current edition of the Uniform Vehicle Code adopted by the National Committee on Uniform Traffic Laws and Ordinances.

(h) A municipality may issue a citation for a traffic offense only if the citation complies with the provisions of AS 12.25.175 and 12.25.200.

(i) A municipal parking citation trial or appeal process and fees charged for it must be substantially similar to the applicable trial or appeal process adopted by the Alaska Supreme Court or imposed by law.

(j) A court may not enforce a municipal ordinance prescribing a penalty for driving while under the influence of an alcoholic beverage, inhalant, or controlled substance or refusal to submit to a chemical test unless that ordinance imposes ignition interlock device requirements under this title. (§ 1 ch 91 SLA 1974; am §§ 1, 2 ch 241 SLA 1976; am §§ 1 — 5 ch 178 SLA 1978; am § 7 ch 63 SLA 1991; am § 6 ch 70 SLA 1994; am § 3 ch 47 SLA 1996; am E.O. No. 99 §§ 21 — 23 (1997); am § 2 ch 97 SLA 2008; am § 38 ch 29 SLA 2010)

**Revisor's notes.** — Under E.O. No. 39, § 11, a reference to Department of Transportation and Public Facilities was substituted for Department of Highways in (d) of this section in 1977. In 1999, in this section, "Department of Community and Economic Development" was substituted for "Department of Community and Regional Affairs" in accordance with § 91(a)(7), ch. 58, SLA 1999. In 2004, in (b) of this section, "Department of Community and Economic Development" was changed to "Department of Commerce, Community, and Economic Development", in

accordance with § 3, ch. 47, SLA 2004.

**Effect of amendments.** — The 2008 amendment, effective January 1, 2009, added subsection (j).

The 2010 amendment, effective July 1, 2010, in (h), substituted "AS 12.25.175 and 12.25.200" for "AS 12.25.200".

**Editor's notes.** — Under § 61, ch. 29, SLA 2010, the 2010 amendment of (h) of this section applies "to all citations issued . . . for violations occurring on or after July 1, 2010."

#### NOTES TO DECISIONS

A city ordinance, to the extent it is in conflict with the state traffic regulations, constitutes an exercise of home-rule power expressly prohibited by the legislature. *Adkins v. Lester*, 530 P.2d 11 (Alaska 1974).

The word "inconsistent" describes that which

reveals lack of uniformity in over-all purpose or design. *Cremer v. Anchorage*, 575 P.2d 306 (Alaska 1978).

**Similarity to Uniform Vehicle Code.** — Subsection (a) is similar in substance and purpose to the provisions of § 15-101 of the Uniform Vehicle Code

Annotated adopted by the National Committee on Uniform Traffic Laws and Ordinances in 1962. *Simpson v. Municipality of Anchorage*, 635 P.2d 1197 (Alaska Ct. App. 1981).

**Standard governing ordinance validity.** — Under the express terms of subsection (a) it is clear that inconsistency is the standard that governs the validity of a local ordinance regulating the operation of a motor vehicle. *Simpson v. Municipality of Anchorage*, 635 P.2d 1197 (Alaska Ct. App. 1981).

**Nature of inconsistency.** — When the question of inconsistency between a local ordinance and state law under subsection (a) is raised, the issue is not whether there is a mere discrepancy between the state law and local ordinance; rather, the inquiry must focus on whether any discrepancy in the ordinance impedes or frustrates policy expressed by state law. *Simpson v. Municipality of Anchorage*, 635 P.2d 1197 (Alaska Ct. App. 1981).

**Municipal penalties greater than state penalties are permitted.** — Because the legislature has explicitly granted municipalities the power to enact forfeiture ordinances that are inconsistent with the corresponding provisions of state law, municipalities do not violate state law when they exercise this power. *McCormick v. Municipality of Anchorage*, 999 P.2d 155 (Alaska Ct. App. 2000).

**The saving provisions of subsection (b) by their express terms, require a twofold showing to be made before an ordinance inconsistent under subsection (a) can be upheld.** First, it is incumbent upon the municipality to demonstrate the existence of a "specific local requirement." Second, the municipality must show that its ordinance was "necessary," in other words, that the specific local problem could not be addressed in a manner consistent with the provisions of this title. *Simpson v. Municipality of Anchorage*, 635 P.2d 1197 (Alaska Ct. App. 1981).

**Posting of state-wide speed limits not required.** — Although subsection (d) of this section states that a municipality shall erect signs, the effectiveness of the 30 mile per hour limit set by the state in the Alaska Administrative Code is not conditioned upon the posting of signs. *Bailey v. Lenord*, 625 P.2d 849 (Alaska 1981).

**Ordinance held inconsistent.** — See *Simpson v. Municipality of Anchorage*, 635 P.2d 1197 (Alaska Ct. App. 1981).

**Ordinance held not inconsistent.** — There was no unlawful inconsistency between Anchorage, Alaska, Mun. Code 9.28.019.B (ordinance) and AS 28.15.291 under subsection (a) of this section, where the ordinance did not impede or frustrate state policy or the enforcement of state law due to the fact that its culpable mental state for driving under the influence was recklessness rather than negligence, as provided in AS 28.15.291; the ordinance did not authorize conduct that the Alaska legislature had forbidden or forbid conduct that the legislature had authorized, it simply made it harder for the municipality to prosecute someone for the same conduct. *Lampley v. Municipality of Anchorage*, 159 P.3d 515 (Alaska Ct. App. 2007).

City code for Juneau, § 72.02.210(b), does not violate AS 28.01.010(a) because it regulates or prohibits conduct, unnecessary tire-spinning, that is not inconsistent with state traffic law. *State v. Hamilton*, 216 P.3d 547 (Alaska Ct. App. 2009).

District court did not err when it found that there was no significant inconsistency between the municipal and state laws, and defendant was lawfully

stopped for driving while his license was suspended. *Jenkins v. Municipality of Anchorage*, — P.3d — (Alaska Ct. App. Aug. 11, 2010), (memorandum opinion).

**Home rule ordinance held not inconsistent with former AS 28.15.300(a).** — Home rule ordinance which prohibited driving a motor vehicle while one's license is suspended or revoked as did former AS 28.15.300(a) but which was not limited to public highways as was former AS 28.15.300(a) was not in conflict with former AS 28.15.300(a) and, therefore, was not invalid. *Cremer v. Anchorage*, 575 P.2d 306 (Alaska 1978).

A slight discrepancy between former AS 28.15.300(a) and an ordinance which prohibited the same acts but was not limited to public highways, i.e., the driving of motor vehicles on private property, was not of such a nature that the exercise of municipal power has been directly or indirectly prohibited by legislative action. *Cremer v. Anchorage*, 575 P.2d 306 (Alaska 1978).

The over-all or basic purpose or design of former AS 28.15.300(a) and a home rule ordinance which prohibited the same acts but was not limited to public highways is the same: to prohibit the driving of a motor vehicle while one's license is suspended or revoked. *Cremer v. Anchorage*, 575 P.2d 306 (Alaska 1978).

The fact that former AS 28.15.300(a) referred to the license suspension being effected by a "court of competent jurisdiction" did not mean that the ordinance was inconsistent with the statute because it might have encompassed a valid license suspension effected by a state agency rather than by a court. *Cremer v. Anchorage*, 575 P.2d 306 (Alaska 1978).

Noncompliance with subsection (c) did not illustrate any inconsistency between an ordinance prohibiting the driving of a motor vehicle while one's license is suspended or revoked and former AS 28.15.300(a). *Cremer v. Anchorage*, 575 P.2d 306 (Alaska 1978).

**Jury instructions.** — Although a city ordinance set the speed limit on the streets in question at 20 miles per hour, the trial court did not err in instructing the jury that the applicable speed limit was the state-wide limit of 30 miles per hour since the city did not post speed limit signs as required by the Alaska Administrative Code. *Bailey v. Lenord*, 625 P.2d 849 (Alaska 1981).

**Differences in sentencing under state or municipal law.** — Municipal sentencing provision that allowed concurrent sentences for convictions of driving under the influence and refusing to submit to a chemical test under Anchorage, Alaska, Mun. Code 9.28.020A, 9.28.022.C was not fatally inconsistent with AS 28.35.032(a) for purposes of subsection (a) of this section because the fact that the district court might have different sentencing authority, depending on whether a motorist is charged under state or municipal law, did not affect the statutory goal of statewide uniformity of traffic laws. *Lampley v. Municipality of Anchorage*, 159 P.3d 515 (Alaska Ct. App. 2007).

**Stated in City of Anchorage v. Richards**, 654 P.2d 797 (Alaska Ct. App. 1982).

**Cited in Anderson v. Municipality of Anchorage**, 645 P.2d 205 (Alaska Ct. App. 1982); **Cooley v. Municipality of Anchorage**, 649 P.2d 251 (Alaska Ct. App. 1982); **Mangiapane v. Municipality of Anchorage**, 974 P.2d 427 (Alaska Ct. App. 1999); **Dunn v. Municipality of Anchorage**, 100 P.3d 905 (Alaska Ct. App. 2004).

**Sec. 28.01.015. Municipal impoundment and forfeiture.** (a) Notwithstanding other provisions in this title, a municipality may adopt an ordinance providing for the impoundment or forfeiture of a

(1) motor vehicle, watercraft, or aircraft involved in the commission of an offense under AS 28.35.030, 28.35.032, or an ordinance with elements substantially similar to AS 28.35.030 or 28.35.032;

(2) motor vehicle involved in the commission of an offense under AS 28.15.291 or an ordinance with elements similar to AS 28.15.291;

(3) motor vehicle used by a person whose license is suspended under AS 28.22.041;

(4) motor vehicle used by a person who fails to carry proof of insurance as required under AS 28.22.019; or

(5) motor vehicle used by a person who has \$1,000 or more in delinquent traffic fines for moving violations committed within the municipality.

(b) An ordinance adopted under (a) of this section may

(1) include a fee for the administrative costs incurred by the municipality; and

(2) be more stringent than or the same as but may not be less stringent than applicable provisions under this title or regulations adopted under this title. (§ 6 ch 60 SLA 2002; am § 1 ch 64 SLA 2007)

**Effect of amendments.** — The 2007 amendment, effective October 29, 2007, added paragraph (a)(5) and made related changes.

#### NOTES TO DECISIONS

**Construction.** — The legislature's failure to specifically mention AS 12.55.080 — 12.55.085 in the wording of this section does not manifest a legislative intent to bar municipalities from enacting mandatory forfeitures. *McCormick v. Municipality of Anchorage*, 999 P.2d 155 (Alaska Ct. App. 2000).

**Municipal penalties greater than state penal-**

**ties are permitted.** — Because the legislature has explicitly granted municipalities the power to enact forfeiture ordinances that are inconsistent with the corresponding provisions of state law, municipalities do not violate state law when they exercise this power. *McCormick v. Municipality of Anchorage*, 999 P.2d 155 (Alaska Ct. App. 2000).

**Sec. 28.01.020. Short title.** This chapter may be cited as the Alaska Uniform Traffic Laws Act. (§ 3 ch 241 SLA 1976)

## Chapter 05. Administration.

### Article

1. Powers and Duties of Departments of Public Safety and Administration (§§ 28.05.011 — 28.05.071)
2. Vehicle Equipment Standards and Seat Belts (§§ 28.05.081 — 28.05.106)
3. Subpoenas, Notices, and Hearings (§§ 28.05.111 — 28.05.141)
4. Disposition of Certain Vehicle and Traffic Offenses (§§ 28.05.151, 28.05.155)

**Administrative Code.** — For division of motor vehicles, see 13 AAC, part 4.

### Article 1. Powers and Duties of Departments of Public Safety and Administration.

#### Section

11. Duty of commissioners to adopt regulations
15. Wheeled adjuncts
21. Commissioners to enter compacts and reciprocal agreements
31. Department of Public Safety to publish statutes

#### Section

- and regulations relating to vehicles, vehicle use, and pedestrians
35. Approval of accident prevention courses
41. Forms, applications, and oaths
45. Voter registration