

# Senator Peter A. Micciche

*Alaska State Legislature*

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## SB 5 SPONSOR STATEMENT

*An Act relating to loss of income and valuing property for orders of restitution*

SB 5 strengthens Alaska's restitution laws; helps restore crime victims to a pre-offense condition; and protects the property interests of all Alaskans.

According to the Department of Public Safety's annual report, *Crime in Alaska 2013*, Alaskans suffered over 23 million dollars in loss due to property crimes in 2013, up more than 12% from 2011. A fundamental component of restorative justice is found in court ordered restitution, and how our justice system makes crime victims whole.

SB 5 addresses a language inconsistency in Alaska statutes that speaks to restitution as a provision of sentencing (AS 12.55.045), and as a provision of probation (AS 12.55.100) which can result in persons and businesses affected by crime not receiving just compensation for loss of income in restitution orders.

SB 5 amends AS 12.55.045(a) *Restitution and compensation* adding a public policy consideration that calls for offenders to compensate victims for damages and injury, *including loss of income*.

SB 5 amends AS 12.55.045(n) to define "loss of income" as the total loss of income a business or person may lose due to not having stolen property available for the period of time it takes to replace that property, and adds new language in AS 12.55.045(o) directing the courts in making determinations of loss for restitution to value property as the market value of the property at the time and place of the crime or, if this cannot reasonably be established, the cost of replacement within a reasonable time after the crime.

Finally, SB 5 amends AS 12.55.100(a)(2) *Conditions of probation* to clarify how the court will value property when determining the amount of actual damages or loss, establishing the same standard as in AS 12.55.045(n).

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The current inconsistency in our restitution laws contributed to a recent Alaska Appellate Court decision that is problematic to Alaskans and their property interests. In *Welsh v. State of Alaska*, the district court ruled in the restitution order that the defendant should restore at market value the property stolen from the business owner, as the defendant should not be better off than a lawful customer paying the market price. The Appellate Court disagreed, stating this reasoning was inconsistent with Alaska's two restitution statutes, finding that AS 12.55.045(a) - restitution orders as a provision of a sentence, does not limit restitution to actual damages or loss caused by the crime; and AS 12.55.100(a)(2) - restitution as a condition of probation, limits restitution to actual damages or loss.

The Court found it unusual that the two statutes would be construed differently, reversed the district court's order, and decided that restitution orders as a condition of sentencing or probation would be restricted to actual damages or loss suffered by the victim, and not consider market value of the property or loss of income to the crime victim.

SB 5 reconciles the current inconsistency in our restitution statutes, and makes it clear in the law we consider *loss of income* to be a real loss to persons and businesses that the courts should consider in determination of restitution orders.

I am committed to protect the rights of crime victims to just and fair restitution orders from our courts, and to the preservation of our free market economy. SB 5 is a substantial step in this direction. Please join me in strengthening Alaska's restitution laws; restoring crime victims to a pre-offense condition; and protecting property interests of all Alaskans.

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