

**SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 75**

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES SANDERS, Finkelstein, Kott

Introduced: 1/26/96

Referred: State Affairs, Judiciary, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to vehicle theft and the consequences of vehicle theft, including  
2 revocation of a driver's license, privilege to drive, or privilege to obtain a license;  
3 amending Rule 32.1, Alaska Rules of Criminal Procedure; and providing for an  
4 effective date."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 \* **Section 1.** AS 11.46 is amended by adding new sections to read:

7 ARTICLE 2A. VEHICLE THEFT.

8 Sec. 11.46.360. VEHICLE THEFT IN THE FIRST DEGREE. (a) A person  
9 commits the crime of vehicle theft in the first degree if, having no right to do so or  
10 any reasonable ground to believe the person has such a right, the person drives, tows  
11 away, or takes

12 (1) the motor vehicle of another;

13 (2) the propelled vehicle of another and the vehicle or any other  
14 property of another is damaged, or the owner incurs reasonable expenses as a result

1 of the loss of use of the vehicle, in a total amount of \$500 or more;

2 (3) the propelled vehicle of another and the vehicle is marked as a  
3 police or emergency vehicle; or

4 (4) the propelled vehicle of another and, within the preceding seven  
5 years, the person was convicted under

6 (A) this section or AS 11.46.365;

7 (B) former AS 11.46.482(a)(4) or (5);

8 (C) former AS 11.46.484(a)(2);

9 (D) AS 11.46.120 - 11.46.140 of an offense involving the theft  
10 of a propelled vehicle; or

11 (E) a law or ordinance of this or another jurisdiction with  
12 elements substantially similar to those of an offense described in (A) - (D) of  
13 this paragraph.

14 (b) Vehicle theft in the first degree is a class C felony.

15 Sec. 11.46.365. VEHICLE THEFT IN THE SECOND DEGREE. (a) A  
16 person commits the crime of vehicle theft in the second degree if, having no right to  
17 do so or a reasonable ground to believe the person has such a right,

18 (1) the person drives, tows away, or takes the propelled vehicle of  
19 another that is not a motor vehicle; or

20 (2) having custody of a propelled vehicle under a written agreement  
21 with the owner of the vehicle that includes an agreement to return the vehicle to the  
22 owner at a specified time, the person knowingly retains or withholds possession of the  
23 vehicle without the consent of the owner for so long a period beyond the time  
24 specified as to render the retention or possession of the vehicle an unreasonable  
25 deviation from the agreement.

26 (b) Vehicle theft in the second degree is a class A misdemeanor.

27 Sec. 11.46.370. DEFINITIONS. In AS 11.46.360 - 11.46.370,

28 (1) "aircraft" has the meaning given in AS 02.15.260;

29 (2) "commercial motor vehicle" has the meaning given in  
30 AS 28.40.100;

31 (3) "motorcycle" has the meaning given in AS 28.40.100;

1 (4) "motor vehicle" means a propelled vehicle that is a passenger car,  
2 truck, motorcycle, watercraft, aircraft, or commercial motor vehicle;

3 (5) "passenger car" means a vehicle designed or used primarily for the  
4 transportation of persons;

5 (6) "truck" means a vehicle designed, used, or maintained primarily for  
6 the transportation of property;

7 (7) "watercraft" means a vessel used or capable of being used as a  
8 means of transportation, for recreational or commercial purposes, on water.

9 \* **Sec. 2.** AS 11.46.484(b) is amended to read:

10 (b) **Criminal** [EXCEPT AS PROVIDED IN (c) OF THIS SECTION,  
11 CRIMINAL] mischief in the third degree is a class A misdemeanor.

12 \* **Sec. 3.** AS 11.46.486(a) is amended to read:

13 (a) A person commits the crime of criminal mischief in the fourth degree if,  
14 having no right to do so or any reasonable ground to believe the person has such a  
15 right,

16 (1) with reckless disregard for the risk of harm to or loss of the  
17 property or with intent to cause substantial inconvenience to another, the person  
18 tampers with property of another;

19 (2) with intent to damage property of another, the person damages  
20 property of another in an amount less than \$50; or

21 (3) the person rides in a propelled vehicle knowing it has been stolen  
22 or that it is being used in violation of **AS 11.46.360 or 11.46.365(a)(1)**  
23 [AS 11.46.482(a)(4) or 11.46.484(a)(2)].

24 \* **Sec. 4.** AS 12.55.045(e) is amended to read:

25 (e) If a defendant is convicted of **vehicle theft in the first degree in violation**  
26 **of AS 11.46.360 or vehicle theft in the second** [CRIMINAL MISCHIEF IN THE  
27 THIRD] degree in violation of **AS 11.46.365(a)(1)** [AS 11.46.484(a)(2)], and the  
28 victim of the offense incurs damage or loss as a result of the offense, the court shall  
29 order the defendant to pay restitution.

30 \* **Sec. 5.** AS 12.55.135(e) is amended to read:

1 (e) **If** [EXCEPT AS PROVIDED IN AS 12.55.055(f), IF] a defendant is  
2 sentenced under (c) **or** [,] (d) [, OR (f)] of this section,

3 (1) execution of sentence may not be suspended and probation or parole  
4 may not be granted until the minimum term of imprisonment has been served;

5 (2) imposition of a sentence may not be suspended except upon  
6 condition that the defendant be imprisoned for no less than the minimum term of  
7 imprisonment provided in the section; and

8 (3) the minimum term of imprisonment may not otherwise be reduced.

9 \* **Sec. 6.** AS 12.55.135(f) is amended to read:

10 (f) A defendant convicted of **vehicle theft in the second degree in violation**  
11 **of AS 11.46.365(a)(1)** [CRIMINAL MISCHIEF IN THE THIRD DEGREE IN  
12 VIOLATION OF AS 11.46.484(a)(2), WHOSE CONVICTION IS NOT A FELONY  
13 UNDER AS 11.46.484(c),] shall be sentenced to a definite term of imprisonment of  
14 at least 72 hours but not more than one year.

15 \* **Sec. 7.** AS 28.15.181(a) is amended to read:

16 (a) Conviction of any of the following offenses is grounds for the immediate  
17 revocation of a driver's license, privilege to drive, or privilege to obtain a license:

18 (1) manslaughter or negligent homicide resulting from driving a motor  
19 vehicle;

20 (2) a felony in the commission of which a motor vehicle is used;

21 (3) failure to stop and give aid as required by law when a motor  
22 vehicle accident results in the death or personal injury of another;

23 (4) perjury or making a false affidavit or statement under oath to the  
24 department under a law relating to motor vehicles;

25 (5) operating a motor vehicle or aircraft while intoxicated;

26 (6) reckless driving;

27 (7) using a motor vehicle in unlawful flight to avoid arrest by a peace  
28 officer;

29 (8) refusal to submit to a chemical test authorized under  
30 AS 28.33.031(a) or AS 28.35.031(a) while under arrest for operating a motor vehicle,  
31 commercial motor vehicle, or aircraft while intoxicated, or authorized under

1 AS 28.35.031(g);

2 (9) driving while license, privilege to drive, or privilege to obtain a  
3 license, canceled, suspended, or revoked, or in violation of a limitation;

4 **(10) vehicle theft in the first degree in violation of AS 11.46.360 or**  
5 **vehicle theft in the second degree in violation of AS 11.46.365.**

6 \* **Sec. 8.** AS 28.15.181(b) is amended to read:

7 (b) A court convicting a person of an offense described in (a)(1) - (4), (6),  
8 [OR] (7), **or (10)** of this section shall revoke that person's driver's license, privilege  
9 to drive, or privilege to obtain a license for not less than 30 days for the first  
10 conviction, unless the court determines that the person's ability to earn a livelihood  
11 would be severely impaired and a limitation under AS 28.15.201 can be placed on the  
12 license that will enable the person to earn a livelihood without excessive danger to the  
13 public. If a court limits a person's license under this subsection, it shall do so for not  
14 less than 60 days. Upon a subsequent conviction of a person for any offense described  
15 in (a)(1) - (4), (6), [OR] (7), **or (10)** of this section occurring within 10 years after a  
16 prior conviction, the court shall revoke the person's license, privilege to drive, or  
17 privilege to obtain a license and may not grant the person limited license privileges for  
18 the following periods:

19 (1) not less than one year for the second conviction; and

20 (2) not less than three years for a third or subsequent conviction.

21 \* **Sec. 9.** Rule 32.1(a), Alaska Rules of Criminal Procedure, is amended to read:

22 (a) Scheduling. At the time guilt in a felony case is established by verdict or  
23 plea, the judge shall establish the date for a sentencing hearing and a presentencing  
24 hearing, if appropriate, and, **except as provided in paragraph (f) of this rule,** shall  
25 order a presentence investigation by the Department of Corrections. If the judge elects  
26 to schedule a single hearing, all of the procedures for the presentencing and sentencing  
27 hearings shall be applicable at the single hearing.

28 \* **Sec. 10.** Rule 32.1, Alaska Rules of Criminal Procedure, is amended by adding a new  
29 subsection to read:

30 (f) When Presentence Investigation Not Required. Unless a person may be  
31 sentenced to a presumptive term of imprisonment under AS 12.55.125(e)(1) or (2), a

1 presentence investigation by the Department of Corrections is not required for a  
2 defendant convicted of vehicle theft in the first degree in violation of AS 11.46.360.

3 \* **Sec. 11.** AS 11.46.482(a)(4), 11.46.482(a)(5), 11.46.484(a)(2), 11.46.484(a)(3),  
4 11.46.484(c); and AS 12.55.055(f) are repealed.

5 \* **Sec. 12.** AS 11.46.360(a)(1), enacted by sec. 1 of this Act, applies to an act committed  
6 on or after the effective date of this Act.

7 \* **Sec. 13.** This Act takes effect immediately under AS 01.10.070(c).