

HOUSE BILL NO. 399

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/8/96

Referred: Health, Education and Social Services, 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
3 license; amending Alaska Rule of Criminal Procedure 32.1; and providing for
4 an 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,

11 (1) the person drives, tows away, or takes the motor vehicle of another;

12 (2) the person drives, tows away, or takes the propelled vehicle of
13 another and the vehicle or any other property of another is damaged or the owner
14 incurs reasonable expenses as a result of the loss of use of the vehicle in a total

1 amount of \$500 or more;

2 (3) the person drives, tows away, or takes the propelled vehicle of
3 another and the vehicle is marked as a police or emergency vehicle; or

4 (4) the person drives, tows away, or takes the propelled vehicle of
5 another and, within the preceding seven 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 the offenses described in (A) - (D)
13 of 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 any 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 passenger car, truck, motorcycle,
2 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, fresh or
9 salt, inland or coastal.

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

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

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

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

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

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

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

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

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

30 * **Sec. 5.** AS 12.55.055(f) is amended to read:

31 (f) The court may order a defendant convicted of **vehicle theft in the second**

1 [CRIMINAL MISCHIEF IN THE THIRD] degree in violation of AS 11.46.365(a)(1)
2 [AS 11.46.484(a)(2), WHOSE CONVICTION IS NOT A FELONY UNDER
3 AS 11.46.484(c)], to perform community work in lieu of all but 24 hours of a sentence
4 of imprisonment. Substitution of community work shall be at a rate of eight hours for
5 each day of imprisonment.

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

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

12 * **Sec. 7.** AS 18.65.705(4) is amended to read:

13 (4) has not been convicted, within the five years immediately preceding
14 the application, of, and is not currently charged under a complaint, information,
15 indictment, or presentment with, any of the following misdemeanor offenses or similar
16 laws of another jurisdiction:

17 (A) AS 11.41.230, 11.41.250, 11.41.270;

18 (B) AS 11.46.315, 11.46.320, 11.46.330, 11.46.365, 11.46.430,
19 11.46.484;

20 (C) AS 11.51.130;

21 (D) AS 11.56.330, 11.56.340, former AS 11.56.350, 11.56.380,
22 11.56.545, 11.56.700, 11.56.710, 11.56.740, 11.56.780, 11.56.790, 11.56.800,
23 11.56.805;

24 (E) AS 11.61.110, 11.61.120, 11.61.210, 11.61.220, 11.61.240;

25 or

26 (F) AS 11.71.050, 11.71.060;

27 * **Sec. 8.** AS 28.15.181(a) is amended to read:

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

30 (1) manslaughter or negligent homicide resulting from driving a motor
31 vehicle;

- 1 (2) a felony in the commission of which a motor vehicle is used;
- 2 (3) failure to stop and give aid as required by law when a motor
- 3 vehicle accident results in the death or personal injury of another;
- 4 (4) perjury or making a false affidavit or statement under oath to the
- 5 department under a law relating to motor vehicles;
- 6 (5) operating a motor vehicle or aircraft while intoxicated;
- 7 (6) reckless driving;
- 8 (7) using a motor vehicle in unlawful flight to avoid arrest by a peace
- 9 officer;
- 10 (8) refusal to submit to a chemical test authorized under
- 11 AS 28.33.031(a) or AS 28.35.031(a) while under arrest for operating a motor vehicle,
- 12 commercial motor vehicle, or aircraft while intoxicated, or authorized under
- 13 AS 28.35.031(g);
- 14 (9) driving while license, privilege to drive, or privilege to obtain a
- 15 license is canceled, suspended, or revoked, or in violation of a limitation;
- 16 **(10) vehicle theft in the first degree in violation of AS 11.46.360 or**
- 17 **vehicle theft in the second degree in violation of AS 11.46.365.**

18 * **Sec. 9.** AS 28.15.181(b) is amended to read:

19 (b) A court convicting a person of an offense described in (a)(1) - (4), (6),

20 [OR] (7), **or (10)** of this section shall revoke that person's driver's license, privilege

21 to drive, or privilege to obtain a license for not less than 30 days for the first

22 conviction, unless the court determines that the person's ability to earn a livelihood

23 would be severely impaired and a limitation under AS 28.15.201 can be placed on the

24 license that will enable the person to earn a livelihood without excessive danger to the

25 public. If a court limits a person's license under this subsection, it shall do so for not

26 less than 60 days. Upon a subsequent conviction of a person for any offense described

27 in (a)(1) - (4), (6), [OR] (7), **or (10)** of this section occurring within 10 years after a

28 prior conviction, the court shall revoke the person's license, privilege to drive, or

29 privilege to obtain a license and may not grant the person limited license privileges for

30 the following periods:

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

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

2 * **Sec. 10.** Rule 32.1(a), Alaska Rules of Criminal Procedure, is amended to read:

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

9 * **Sec. 11.** Rule 32.1, Alaska Rules of Criminal Procedure, is amended by adding a new
10 subsection to read:

11 (f) When Presentence Investigation Not Required. Unless a person may be
12 sentenced to a presumptive term of imprisonment under AS 12.55.125(e)(1) or (2), a
13 presentence investigation by the Department of Corrections is not required for a
14 defendant convicted of vehicle theft in the first degree in violation of AS 11.46.360.

15 * **Sec. 12.** AS 11.46.482(a)(4) and (5), 11.46.484(a)(2) and (3), and 11.46.484(c) are
16 repealed.

17 * **Sec. 13.** AS 11.46.360(a)(1), enacted by sec. 1 of this Act, applies to an act committed
18 on or after the effective date of this Act.

19 * **Sec. 14.** This Act takes effect immediately under AS 01.10.070(c).