

**SENATE BILL NO. 220**

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY SENATORS LEMAN, Halford, Pearce, Green

Introduced: 1/12/96

Referred: JUD, FIN

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the crimes of criminal mischief committed by joyriding;  
2 relating to penalties and sentencing for those offenses; and amending Alaska Rule  
3 of Criminal Procedure 32.1."

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

5 \* Section 1. AS 11.46.484(c) is amended to read:

6 (c) A person convicted under (a)(2) of this section is guilty of a class C felony  
7 if the person is 18 years of age or older and, within the preceding seven years, the  
8 person was previously convicted under

- 9 (1) the provisions of (a)(2) of this section;  
10 (2) former AS 28.35.010;  
11 (3) the provisions of AS 11.46.482(a)(4) or (5);  
12 (4) an offense involving the theft of a propelled vehicle under  
13 AS 11.46.120 - 11.46.140; or  
14 (5) a law or ordinance of this or another jurisdiction with elements

1 substantially similar to those of the offenses described in (1) - (4) of this subsection.

2 \* **Sec. 2.** AS 11.46.486(a) is amended to read:

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

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

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

11 (3) the person rides in a propelled vehicle knowing it has been stolen  
12 or that it is being used in violation of AS 11.46.482(a)(4) or (5) or 11.46.484(a)(2).

13 \* **Sec. 3.** AS 12.55.135(f) is amended to read:

14 (f) A defendant convicted of criminal mischief in the third degree in violation  
15 of AS 11.46.484(a)(2), whose conviction is not a felony under AS 11.46.484(c), shall  
16 be sentenced to a definite term of imprisonment of at least

17 (1) 72 hours, but not more than one year, if the defendant is not  
18 subject to sentencing under (2) of this subsection;

19 (2) 10 days, but not more than one year, if the defendant has been  
20 previously convicted under, or adjudicated a delinquent for a violation of,

21 (A) AS 11.46.482(a)(4) or (5) or 11.46.484(a)(2);

22 (B) former AS 28.35.010;

23 (C) an offense involving the theft of a propelled vehicle  
24 under AS 11.46.120 - 11.46.140; or

25 (D) a law or ordinance of this or another jurisdiction with  
26 elements similar to those of the offenses described in (A) - (C) of this  
27 paragraph.

28 \* **Sec. 4.** AS 28.15.181(a) is amended to read:

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

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

1 vehicle;

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

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

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

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

8 (6) reckless driving;

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

11 (8) refusal to submit to a chemical test authorized under AS 28.33.031(a)  
12 or AS 28.35.031(a) while under arrest for operating a motor vehicle, commercial motor  
13 vehicle, or aircraft while intoxicated, or authorized under AS 28.35.031(g);

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

16 (10) criminal mischief in the second degree in violation of  
17 AS 11.46.482(a)(4) or (5) or criminal mischief in the third degree in violation of  
18 AS 11.46.484(a)(2).

19 \* **Sec. 5.** AS 28.15.181(b) is amended to read:

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

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

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

1 \* **Sec. 6.** AS 47.10.010(b) is amended to read:

2 (b) When a minor is accused of violating a statute specified in this subsection,  
3 other than a statute the violation of which is a felony, AS 47.10.020 - 47.10.090 and the  
4 Alaska Delinquency Rules do not apply and the minor accused of the offense shall be  
5 charged, prosecuted, and sentenced in the district court in the same manner as an adult.  
6 If a minor is charged, prosecuted, and sentenced for an offense under this subsection, the  
7 minor's parent, guardian, or legal custodian shall be present at all proceedings. The  
8 provisions of this subsection apply when a minor is accused of violating

9 (1) a traffic statute or regulation, or a traffic ordinance or regulation of  
10 a municipality;

11 (2) AS 11.76.105, relating to the possession of tobacco by a person under  
12 19 years of age;

13 (3) a fish and game statute or regulation under AS 16;

14 (4) a parks and recreational facilities statute or regulation under  
15 AS 41.21; [AND]

16 (5) AS 04.16.050, relating to possession or consumption; **and**

17 **(6) AS 11.46.484(a)(2), relating to the driving, towing away, or taking**  
18 **of the propelled vehicle of another.**

19 \* **Sec. 7.** Rule 32.1(a), Alaska Rules of Criminal Procedure, is amended to read:

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

26 \* **Sec. 8.** Rule 32.1, Alaska Rules of Criminal Procedure, is amended by adding a new  
27 subsection to read:

28 (f) A presentence investigation by the Department of Corrections is not  
29 required for a defendant convicted of criminal mischief in the second degree in  
30 violation of AS 11.46.482(a)(4) or (5) and criminal mischief in the third degree in  
31 violation of AS 11.46.484(a)(2) when that violation is a felony under AS 11.46.484(c).

32 \* **Sec. 9.** APPLICABILITY. References in this Act to prior or previous convictions apply

**1** to convictions occurring before, on, or after the effective date of this Act.