

**CS FOR HOUSE BILL NO. 358(TRA)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE TRANSPORTATION COMMITTEE

Offered: 2/25/98

Referred: Rules

Sponsor(s): REPRESENTATIVE KELLY

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to impoundment or forfeiture of a motor vehicle or aircraft;  
2 and providing for an effective date."

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

4 \* **Section 1.** AS 28.35.036 is amended by adding new subsections to read:

5 (f) A motor vehicle or aircraft may be impounded if the impoundment is  
6 incident to a valid arrest by a peace officer and there is probable cause to believe the  
7 motor vehicle or aircraft was operated or driven by a person while committing a  
8 violation of AS 28.35.030 or 28.35.032. A motor vehicle or aircraft impounded under  
9 this subsection shall be held for two days if the person has not been previously  
10 convicted of violating AS 28.35.030 or 28.35.032 and shall be held for five days if the  
11 person has been previously convicted of violating AS 23.35.030 or 28.35.032, unless  
12 a court orders the vehicle released to a person described under (g) of this section or  
13 orders continuation of the impoundment. This subsection does not apply to a motor  
14 vehicle or aircraft that is stolen. In this subsection,

1 (1) "impoundment" includes disabling or rendering immobile;

2 (2) "previously convicted" has the meaning given in AS 28.35.030.

3 (g) A court may order release of a motor vehicle or aircraft impounded under  
4 (f) of this section if the person seeking release has an ownership interest in the motor  
5 vehicle or aircraft and is not the person who was operating the motor vehicle or  
6 aircraft at the time of impoundment.

7 \* **Sec. 2.** AS 28.35.038 is amended to read:

8 **Sec. 28.35.038. Municipal impoundment and forfeiture.** Notwithstanding  
9 other provisions in this title, a municipality may adopt an ordinance providing for the  
10 impoundment or forfeiture of a motor vehicle [,] or aircraft, involved in the  
11 commission of **a felony offense or** an offense under AS 28.35.030, 28.35.032, or an  
12 ordinance with elements substantially similar to AS 28.35.030 or 28.35.032. An  
13 ordinance adopted under this section is not required to be consistent with this title or  
14 regulations adopted under this title.

15 \* **Sec. 3.** AS 29.35.010 is amended to read:

16 **Sec. 29.35.010. General powers.** All municipalities have the following  
17 general powers, subject to other provisions of law:

18 (1) to establish and prescribe a salary for an elected or appointed  
19 municipal official or employee;

20 (2) to combine two or more appointive or administrative offices;

21 (3) to establish and prescribe the functions of a municipal department,  
22 office, or agency;

23 (4) to require periodic and special reports from a municipal department  
24 to be submitted through the mayor;

25 (5) to investigate an affair of the municipality and make inquiries into  
26 the conduct of a municipal department;

27 (6) to levy a tax or special assessment, and impose a lien for its  
28 enforcement;

29 (7) to enforce an ordinance and to prescribe a penalty for violation of  
30 an ordinance;

31 (8) to acquire, manage, control, use, and dispose of real and personal

1 property, whether the property is situated inside or outside the municipal boundaries;  
2 this power includes the power of a borough to expend, for any purpose authorized by  
3 law, money received from the disposal of land in a service area established under  
4 AS 29.35.450;

5 (9) to expend money for a community purpose, facility, or service for  
6 the good of the municipality to the extent the municipality is otherwise authorized by  
7 law to exercise the power necessary to accomplish the purpose or provide the facility  
8 or service;

9 (10) to regulate the operation and use of a municipal right-of-way,  
10 facility, or service;

11 (11) to borrow money and issue evidences of indebtedness;

12 (12) to acquire membership in an organization that promotes legislation  
13 for the good of the municipality;

14 (13) to enter into an agreement, including an agreement for cooperative  
15 or joint administration of any function or power with a municipality, the state, or the  
16 United States;

17 (14) to sue and be sued;

18 **(15) to adopt an ordinance providing for motor vehicle or aircraft**  
19 **impoundment or forfeiture as provided under AS 28.35.038.**

20 \* **Sec. 4.** This Act takes effect July 1, 1998.