

HOUSE BILL NO. 396

IN THE LEGISLATURE OF THE STATE OF ALASKA
 TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE BY REQUEST

Introduced: 2/8/02

Referred: Judiciary, Finance

A BILL**FOR AN ACT ENTITLED**

1 **"An Act relating to a surcharge on certain offenses for law enforcement equipment."**

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

3 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
 4 to read:

5 SHORT TITLE. This Act may be known as the Justin Wollam Act.

6 * **Sec. 2.** AS 12.25.195(c) is amended to read:

7 (c) Disposition of an offense under (a) of this section may not occur unless the
 8 person cited for the offense pays the **surcharges required to be imposed under**
 9 **[SURCHARGE PRESCRIBED IN] AS 12.55.039 and 12.55.041** in addition to the
 10 scheduled bail or fine amount. The **surcharges** **[SURCHARGE]** required to be paid
 11 under this subsection shall be deposited into the general fund and accounted for under
 12 AS 37.05.142.

13 * **Sec. 3.** AS 12.25.200(b) is amended to read:

14 (b) A citation issued under AS 12.25.180 must indicate

15 (1) the amount of bail or fine and **each** **[THE]** surcharge applicable to

1 the offense;

2 (2) the procedure a person must follow in responding to the citation;

3 (3) that if the person fails to pay the bail or fine the person must appear
4 in court;

5 (4) that failure to pay the bail or fine or appear in court for an offense
6 involving a moving motor vehicle may result in

7 (A) suspension of the person's driver's license, privilege to
8 drive, or privilege to obtain a license; or

9 (B) attachment of the person's permanent fund dividend to pay
10 the fine plus court and collection costs under AS 28.05.155; and

11 (5) that the person has a right to

12 (A) a trial;

13 (B) engage counsel;

14 (C) confront and question witnesses;

15 (D) testify; and

16 (E) subpoena witnesses on the person's behalf.

17 * **Sec. 4.** AS 12.55 is amended by adding a new section to read:

18 **Sec. 12.55.041. Surcharge for misdemeanors and violations.** (a) In
19 addition to a fine or other penalty prescribed by law, a defendant who pleads guilty or
20 nolo contendere to, forfeits bail for, or is convicted of an offense listed in AS 04, a
21 regulation adopted under AS 04, an offense listed in AS 28 that includes the ingestion
22 or possession of alcohol as an element of the offense, a regulation adopted under
23 AS 28 that includes ingestion or possession of alcohol as an element of the offense, or
24 a municipal ordinance under AS 28.01.010 that includes ingestion or possession of
25 alcohol as an element of the offense, shall be assessed a surcharge of \$100.

26 (b) A court may not fail to impose the surcharge required under this section.
27 The surcharge may not be waived, deferred, or suspended. A court may allow a
28 defendant who is unable to pay the surcharge required to be imposed under this
29 section to perform community work under AS 12.55.055(c) in lieu of the surcharge.

30 (c) The surcharge shall be paid within 10 days of imposition or such shorter
31 period of time as ordered by the court. Failure to pay the surcharge is punishable as

1 contempt of court. Proceedings to collect the surcharge may be instituted by the state,
2 by the municipality, or by the court on its own motion.

3 (d) Money collected under this section shall be deposited into the general fund
4 and accounted for under AS 37.05.142.

5 * **Sec. 5.** AS 18.65 is amended by adding a new section to read:

6 **Sec. 18.65.227. Alaska alcohol offense equipment fund.** The Alaska alcohol
7 offense equipment fund is created in the general fund. The fund consists of
8 appropriations made by the legislature to the fund. The legislature may appropriate to
9 the fund the annual estimated balance in the accounts maintained under AS 37.05.142
10 for money collected under AS 12.55.041. The legislature may make appropriations
11 from the fund to (1) the Department of Public Safety, and (2) municipalities, for the
12 purchase of law enforcement equipment that will assist in the enforcement and
13 prevention of alcohol-related offenses. Nothing in this section creates a dedicated
14 fund.

15 * **Sec. 6.** AS 28.05.151(c) is amended to read:

16 (c) The supreme court shall require as a condition of the disposition of an
17 offense without appearance that a person charged with any offense for which a bail
18 forfeiture amount has been adopted shall pay the **surcharges** [SURCHARGE]
19 prescribed in AS 12.55.039 **and 12.55.041** in addition to the bail forfeiture amount
20 established by the supreme court. The **surcharges** [SURCHARGE] required to be
21 paid under this subsection shall be deposited into the general fund and accounted for
22 under AS 37.05.142.

23 * **Sec. 7.** AS 29.25.074(a) is amended to read:

24 (a) A municipality may not enforce a penalty for violation of an ordinance for
25 which a surcharge is required to be imposed under AS 12.55.039 **or 12.55.041** unless
26 the municipality authorizes the imposition of and provides for the collection of the
27 **surcharges** [SURCHARGE]. The **surcharges** [SURCHARGE] shall be deposited
28 into the general fund of the state and accounted for under AS 37.05.142. Subject to
29 appropriation, the legislature may reimburse a municipality that collects a surcharge
30 required to be imposed under AS 12.55.039 **or 12.55.041** for the cost to the
31 municipality in collecting the surcharge and transmitting the surcharge to the state.

1 The reimbursement may not exceed 10 percent of the surcharge collected and
2 transmitted to the state.

3 * **Sec. 8.** Section 9 of this Act is repealed on the earlier of (1) the date that the Alaska Court
4 System has the capability to separately track and account electronically for money collected
5 under AS 12.55.041, or (2) June 30, 2003. The executive director of the Alaska Court System
6 shall notify the lieutenant governor and the revisor of statutes when the electronic capability
7 described in this section has been obtained.

8 * **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 DIRECTION TO COURT SYSTEM. Notwithstanding the requirements of
11 AS 12.55.041 and AS 37.05.142 that surcharges collected under AS 12.55.041 be accounted
12 for separately, the Alaska Court System shall deposit money collected under AS 12.55.041 in
13 the general fund and shall, by February 1 of each year, provide to the Department of
14 Administration, to the Legislative Budget and Audit Committee, and to each house of the
15 legislature an estimate of the money collected under AS 12.55.041 for that fiscal year.