

ALASKA STATE LEGISLATURE
SENATE JUDICIARY COMMITTEE

April 17, 2002
1:45 p.m.

MEMBERS PRESENT

Senator Dave Donley, Vice Chair
Senator John Cowdery
Senator Gene Therriault

MEMBERS ABSENT

Senator Robin Taylor, Chair
Senator Johnny Ellis

COMMITTEE CALENDAR

HOUSE BILL NO. 381

"An Act relating to the crime of failure to stop at the direction of a peace officer; and providing for an effective date."

MOVED OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 30

Relating to an amendment to the Constitution of the United States prohibiting desecration of the Flag of the United States.

MOVED OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

HB 381 - No previous action to record.

HJR 30 - See State Affairs minutes dated 4/2/02.

WITNESS REGISTER

Ms. Heather Nobrega
Counsel to the House Judiciary Committee
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Testified for the sponsor of HB 381

Ms. Linda Sylvester
Staff to Representative Kott
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Presented HJR 30 for the sponsor

ACTION NARRATIVE

TAPE 02-18, SIDE A

Number 001

VICE-CHAIRMAN DAVE DONLEY called the Senate Judiciary Committee meeting to order at 1:45 p.m. Senators Therriault, Cowdery and Donley were present. The committee took up HB 381.

#HB 381

HB 381-FAILURE TO STOP FOR PEACE OFFICER

MS. HEATHER NOBREGA, counsel to the House Judiciary Committee, explained to members that the legislature amended state law in 1998 to address the problem of purposely attempting to elude a police officer. That amendment raised the crime of committing a moving traffic violation and failing to stop for a police officer to a felony. Since that time, the number of cases involving this crime have risen dramatically. The purpose of HB 381 is to clarify the intent of the 1998 legislation. The law will be changed to read that when a driver is driving recklessly and fails to stop at the direction of a peace officer, the crime rises to a felony. For any other driving violation, the crime would be a misdemeanor.

SENATOR COWDERY asked who would determine that the driver was driving recklessly.

MS. NOBREGA said the officer who is trying to stop the vehicle would make that determination.

SENATOR COWDERY moved HB 381 to the next committee of referral.

SENATOR THERRIAULT objected for the purpose of one question. He asked how this issue was brought to Representative Rokeberg's attention.

MS. NOBREGA said she did not know who brought this to Chairman Rokeberg's attention. However, a representative of the Department of Public Safety testified in the House Judiciary Committee and said the current law is being abused by police officers, for example, who are considering a driving violation to be a broken tail light. She noted the Department of Public Safety had no problems with this bill.

SENATOR THERRIAULT withdrew his objection.

VICE-CHAIR DONLEY asked for clarification of the statement on the fiscal note that reads, "Failure to stop while violating a traffic law or committing another crime will do."

MS. NOBREGA said she was not sure what the Department of Law meant. She noted the bill should have a positive fiscal impact as it should result in fewer felony trials.

SENATOR THERRIAULT asked if the bill has a further referral.

MS. NOBREGA said it does not.

VICE-CHAIR DONLEY said that without further objection, HB 381 was moved out of committee.

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#HJR 30

HJR 30-DESECRATION OF U.S. FLAG

MS. LINDA SYLVESTER, staff to Representative Pete Kott, sponsor of HJR 30, told the committee that HJR 30 asks Congress to present a constitutional amendment to the states that authorizes Congress to prohibit the physical desecration of the American flag. The resolution supports two measures in Congress: one, HJR 36, is successfully moving through Congress. HJR 36 passed the House of Representatives in July, 2001 with a vote of 298 to 125. However, it is now one of the resolutions affectionately referred to as the "Daschle 50" and has been held up in the Senate. In 1989, the Supreme Court overturned the final effort to outlaw or restrict desecration of the American flag. That action set in motion a successful grassroots campaign. No other issue on Capitol Hill has the endorsement of 80 percent of the American people, the overwhelming majority of the U.S. House and Senate, and 100 percent of state legislatures. Every state has passed a resolution since 1989, including Alaska, requesting Congress to initiate a constitutional amendment for ratification by the states. HJR 30 asks the U.S. Senate to yield to the will of the people and send the proposed flag amendment to the states for ratification.

There being no further testimony or questions, SENATOR COWDERY moved HJR 30 and its fiscal note to the next committee of referral.

VICE-CHAIR DONLEY announced that without objection, the motion carried. There being no further business to come before the committee, he adjourned the meeting at 1:55 p.m.

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