

**ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS
STANDING COMMITTEE**

February 5, 2004
9:00 a.m.

MEMBERS PRESENT

Representative Carl Morgan, Chair
Representative Kelly Wolf, Vice Chair
Representative Pete Kott
Representative Ralph Samuels
Representative Sharon Cissna

MEMBERS ABSENT

Representative Tom Anderson
Representative Albert Kookesh

COMMITTEE CALENDAR

HOUSE BILL NO. 387

"An Act relating to fines for offenses committed within school zones."

- MOVED CSHB 387(CRA) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 387

SHORT TITLE: INCREASE FINE FOR SCHOOL ZONE VIOLATIONS

SPONSOR(S): REPRESENTATIVE(S) GATTO

01/20/04	(H)	READ THE FIRST TIME - REFERRALS
01/20/04	(H)	CRA, TRA, JUD
02/05/04	(H)	CRA AT 9:00 AM CAPITOL 124

WITNESS REGISTER

REPRESENTATIVE CARL GATTO

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified as the sponsor of HB 387.

NONA WILSON, Legislative Liaison

Department of Transportation & Public Facilities

Juneau, Alaska

POSITION STATEMENT: During discussion of HB 387, answered questions.

ALLEN STOREY, Lieutenant
Central Office
Division of Alaska State Troopers
Department of Public Safety (DPS)
Anchorage, Alaska

POSITION STATEMENT: During discussion of HB 387, answered questions.

ACTION NARRATIVE

TAPE 04-2, SIDE A

Number 0001

CHAIR CARL MORGAN called the House Community and Regional Affairs Standing Committee meeting to order at 9:00 a.m. Representatives Morgan, Wolf, Kott, and Samuels were present at the call to order. Representative Cissna arrived as the meeting was in progress.

HB 387-INCREASE FINE FOR SCHOOL ZONE VIOLATIONS

CHAIR MORGAN announced that the only order of business would be HOUSE BILL NO. 387, "An Act relating to fines for offenses committed within school zones."

Number 0089

REPRESENTATIVE CARL GATTO, Alaska State Legislature, sponsor of HB 387, informed the committee that he has spent a lot of time in schools and thus in school zones. Representative Gatto reminded the committee that in the past the fines have been doubled for highway zones that were clearly marked as active construction. He related that he hasn't heard a public backlash to the aforementioned. School zones, he opined, are even more dangerous because most children are distracted. Therefore, the public needs to be as attentive as possible in school zones. To specify that [double fines] would be in effect in school zones when the lights are flashing would work in Anchorage, but not in the communities without flashing lights in the school zones. In some of the smaller communities there might not even be signs. He expressed the hope that the committee could help him fashion language that would specify the timeframe when the fines would be double and when they wouldn't because currently the language merely specifies [there are to be double fines] in school zones

and thus leaves the discretion to the police and state troopers. He pointed out that the legislation defines a "school zone" as "an area identified by signs as being near a school." Representative Gatto likened [this legislation] to [the statutes] relating to [double fines] in construction areas.

Number 0571

REPRESENTATIVE SAMUELS pointed out that when one drives through a construction zone, the signs specify that the fines are double and thus he surmised that the sponsor would want the signs in school zones to specify that the fines are double.

REPRESENTATIVE GATTO replied yes.

REPRESENTATIVE SAMUELS asked if the municipalities would have to hang the signs.

REPRESENTATIVE GATTO remarked that adding the language "double fines" to a sign wouldn't be much to add.

REPRESENTATIVE SAMUELS surmised that there could be double fines in school zones without [specifying such on the signs].

REPRESENTATIVE GATTO answered that for almost all traffic law, ignorance is no excuse. However, he said he would like to see the double fine signs installed because it's a reminder. Representative Gatto highlighted that he wasn't doubling the points, merely the monetary fine.

Number 0713

REPRESENTATIVE SAMUELS recalled the photo radar debate in Anchorage. The debate arose because the police were considering school zones as such even when the lights weren't flashing. This legislation doesn't clarify [the timeframe when a school zone would be considered such in relation to the speed limit].

REPRESENTATIVE GATTO noted the difficulty in defining this, but informed the committee that he had wanted [the double fines to be implemented] an hour before school starts to an hour after school starts and an hour before school ends to an hour after school ends.

REPRESENTATIVE SAMUELS said he wouldn't know when school starts if he doesn't see the flashing lights.

REPRESENTATIVE GATTO reiterated that ignorance isn't an excuse. Furthermore, he noted that schools are starting and ending at different times not to mention that some schools are active into the evening as well.

Number 0887

REPRESENTATIVE KOTT moved to adopt CSHB 387, Version 23-LS1521\D, Luckhaupt, 1/30/04, as the working document. There being no objection, Version D was before the committee.

REPRESENTATIVE WOLF noted that in his district there are schools that have [flashing] lights and schools that don't. He asked if the Department of Transportation & Public Facilities (DOT&PF) is required to post an area that would fall under double fines. He further asked if such a requirement would be related to federal funding for transportation.

REPRESENTATIVE GATTO answered that he hadn't checked into that. However, he reiterated that ignorance of the law isn't an excuse, even if it isn't posted. With regard to whether the police will use this as an opportunity to set a trap, Representative Gatto said that he didn't know. Representative Gatto indicated that [per the definition of school zone in Version D], these double fines wouldn't apply in an area that isn't identified by signs as being near a school.

REPRESENTATIVE WOLF expressed concern with regard to whether DOT&PF would be required to put up signs that specify the area is a double fine zone. If not, is the school district going to be faced with the additional cost of putting up such signs.

REPRESENTATIVE GATTO replied no and explained that the legislation simply says that if the signs are there the fines are doubled. Again, if the signs [designating the area as a school zone] aren't there, then there is no requirement to double the fines. He mentioned that there may be some areas that don't want to double the fines.

Number 1226

REPRESENTATIVE SAMUELS posed a situation in which someone is stopped for speeding on a Saturday in a school zone when the lights aren't flashing. In such a situation, is the intention to double the fines, he asked.

REPRESENTATIVE GATTO related his experience that when school is actually in session, the school zone is fairly quiet. However, the [drop-off] periods before and after school are busy and there are also after-school programs that go into the evening. Representative Gatto specified that this legislation doesn't intend to exploit for profitability but rather to encourage people to recognize that school zones are different and more important than other zones.

REPRESENTATIVE SAMUELS pointed out that school zones only have lower speed limits sometimes. However, Representative Samuels said he understood the sponsor to want to double the fines in a school zone whether school is in or not.

REPRESENTATIVE GATTO remarked that locations where there are flashing lights indicating a school zone are ideal. He explained that he didn't want to simply specify that [a school zone] is only where there are flashing lights because that isn't a good idea either. Therefore, he chose [to define school zones] as he did in the legislation.

Number 1486

REPRESENTATIVE KOTT said that he believes this is a laudable goal, but agreed that it's difficult to determine the best mechanism. He expressed concern with regard to giving [law enforcement] discretion under this legislation. Beyond that, it seems that this legislation is trying to correct an Anchorage problem. He pointed out that of the 481 citations issued in 2003 410 were issued in Anchorage. Therefore, he questioned whether there is a problem. Representative Kott also questioned whether this legislation [raises a school zone] to higher importance than those areas which specify "Children at Play".

REPRESENTATIVE KOTT related his belief that this is a local control issue, noting that he didn't know of any schools that are located on state roads. Furthermore, he said he wasn't sure of the conditions that would allow the state to control this. Since most of the [school zone fines] are issued under local ordinances, he suspected there may be a variation in the fines for speeding in a school zone. If there is a variation in the fines, then one group may be penalized at a higher rate than another, which he indicated is of concern for him.

CHAIR MORGAN noted his appreciation for what the sponsor is attempting. However, he highlighted that in Bush Alaska there is the gamut of situations in school areas. Furthermore, he

said that much of Bush Alaska will never have signs much less flashing lights.

REPRESENTATIVE GATTO said that the variation of situations throughout the state is essentially why the legislation [defines school zones] as "an area identified by signs". He reiterated that if an area isn't identified as a school zone by signs, then this legislation doesn't apply.

Number 1821

REPRESENTATIVE CISSNA related her experience fighting to have a flashing light in a school zone. She also related her experience watching a school in her neighborhood over the course of a couple of elections. She explained that on election day the problems weren't those coming to vote but rather the parents of the children in the school. Although the signage [that would result from this legislation] might be great, HB 387 proposes an unfunded mandate, she said.

REPRESENTATIVE GATTO echoed his earlier testimony that schools are active during other times than when school is in session. Furthermore, in the summer the school is often used for sports practice. In fact, schools seem to be used year round.

REPRESENTATIVE KOTT pointed out that since the legislature is basically the authority in the unincorporated areas, he asked if passage of this legislation would mandate that DOT&PF place signs in areas where there are schools [in the unincorporated areas] and thus create a fiscal implication.

Number 2050

NONA WILSON, Legislative Liaison, Department of Transportation & Public Facilities, related her understanding that upon passage of HB 387 DOT&PF would only be responsible for the school zones that are located on state-owned, -maintained, and -operated roads. Each municipality and school district would be left to decide whether to mark [the other] school zones. With regard to the unorganized boroughs, Ms. Wilson reiterated that DOT&PF would only be responsible for those school zones on state-owned roads. She offered to find out more about the unorganized boroughs. The department would make its own signs, she noted. With the assumption that there are five school zones in Anchorage, two up North, and three in Southeast, putting up signs at 10 schools and perhaps an extra post would cost \$70,000

to \$100,000. However, she noted that the department is unclear with regard to where exactly these signs would be placed.

MS. WILSON, in response to Representative Wolf's earlier question regarding whether DOT&PF would be responsible for getting the signs to everyone, specified that DOT&PF would be responsible for its own gear. She recalled that there has been a lot of reference to the construction law, which is different than what this legislation is attempting. She explained that in a construction area, DOT&PF marks the locations where one enters and exits a double fine zone because the construction zone is constantly changing. In order to double the fine in a construction zone, individuals entering and exiting the area must be notified, which requires four signs so that people traveling in both directions can see the signs. Therefore, four three-and-a-half feet by three-and-a-half feet diamond signs, \$400 per school zone. The aforementioned estimate doesn't include perpetual maintenance or the cost of a new post, were it necessary.

Number 2294

REPRESENTATIVE SAMUELS offered Conceptual Amendment 1, as follows:

Page 1, line 10, after "school zone."
Insert "In a school zone if there is a differential in speed limits, the double fines only apply when the lower speed limit is in effect."

REPRESENTATIVE SAMUELS explained that if during certain times the speed limit is decreased, then the double fines would only be in effect during the time of lower speed limits.

REPRESENTATIVE KOTT objected and asked if Representative Samuels would consider applying the above amendment to work area zones that are addressed in this legislation as well. He noted that sometimes the [double fine] signs in the work zones are left up when no one is working in the area.

REPRESENTATIVE SAMUELS agreed to Representative Kott's suggestion and thus he amended Conceptual Amendment 1, as follows:

Page 1, line 10, after "school zone."

Insert "If there is a differential in speed limits, the double fines only apply when the lower speed limit is in effect."

CHAIR MORGAN asked if there were any further objections. [At this point, Representative Kott's objection was treated as withdrawn.]

REPRESENTATIVE GATTO said that he didn't object.

CHAIR MORGAN announced that [Conceptual Amendment 1 as amended] was adopted.

REPRESENTATIVE KOTT turned attention to a document labeled, "State of Alaska Department of Public Safety School Zone Violations FY 2003", which specifies that Alaska State Troopers issued only 26 citations. In what areas of the state were these citations given, he asked.

Number 2500

ALLEN STOREY, Lieutenant, Central Office, Division of Alaska State Troopers, Department of Public Safety (DPS), answered that he didn't have such information. In his experience, he suspected that those citations were primarily issued in school zones in the Mat-Su Valley and Fairbanks region. In further response to Representative Kott, Lieutenant Storey confirmed that there are variations in fines because municipalities have the ability, by statute, to establish its own bail schedule. However, some areas use the court's bail schedule, which includes enhanced penalties for school zone violations. He informed the committee that under the state's bail schedule, speeding in a school zone requires a mandatory court appearance with a six-point penalty. The aforementioned would be the case in identified school zones during the time one would logically assume that there would be danger to school children.

REPRESENTATIVE KOTT turned to the substantial discretion used when a speeding violator is stopped. He speculated that there is probably some discretion regarding whether to issue a citation for someone stopped for speeding less than 10 miles an hour over the speed limit. However, the speeding violation in school zones seems to be taken more seriously because of the potential harm to children.

LIEUTENANT STOREY agreed, highlighting that the lower speed limit in school zones is for the protection of the children.

Therefore, a variance of four to five miles an hour could make a significant difference in a school zone where there is a large number of children or other traffic.

Number 2668

REPRESENTATIVE GATTO asked if the 10 school districts are currently signed.

MS. WILSON answered that from her understanding, "Yes." She reiterated that just to sign those 10 districts would cost approximately \$70,000-\$100,000.

REPRESENTATIVE GATTO inquired as to the [cost] of attaching a rectangular sign specifying double fines in [these districts] that are already signed as school zones.

MS. WILSON surmised that the small plaques would probably cost considerably less. However, if DOT&PF is to be responsible for [placing these signs in school zones], the department would place large signs.

CHAIR MORGAN asked whether there are regulations with regard to the size and height of signs.

MS. WILSON responded that in hazardous areas, such as work zones, the signs are the three-and-a-half feet by three-and-a-half feet reflective yellow signs. Ms. Wilson offered that in this case, the department may put up the larger signs when the change first occurs in order to inform the public. After a certain amount of time, the larger signs would probably be replaced with the smaller plaques that would probably become a permanent fixture on the post itself.

Number 2827

REPRESENTATIVE KOTT inquired as to DOT&PF's position.

MS. WILSON said that the department would comply and agrees that it would be to protect children. However, the department is trying to determine the requirements of DOT&PF with regard to the size and number of signs this would require. Ms. Wilson noted that she had learned from Representative Gatto that there are 506 school zones. Still, the department would need to determine which school zones are located on state-owned roads as well as determine the number of signs required at each zone. In further response to Representative Kott, Ms. Wilson said that

she didn't know how long it would take to comply with this legislation. However, she offered that to design and produce signs takes a week. She remarked that getting all the signs made and packed up and flying a group of workers where there are no DOT&PF workers would require time and organization and would be expensive.

REPRESENTATIVE KOTT asked whether, depending upon the number and cost of signs, this would have to go out to a request for proposals (RFP).

MS. WILSON replied that she didn't know. She mentioned that the department would produce the signs and perhaps it would be more cost effective to deliver those signs to the area and have the municipality post them. In further response to Representative Kott, Ms. Wilson said that there hasn't been a comparison between this legislation and [similar legislation] implemented by the State of Washington. However, she recalled that last week Senator Wilken's testimony in the Senate Judiciary Standing Committee referred to conversations he had with someone from the State of Washington.

TAPE 04-2, SIDE B

Number 3012

REPRESENTATIVE GATTO asked if DOT&PF would be required to construct signs.

MS. WILSON explained that the language referencing "school zones" would mean that the department would have to determine which school zones are located on state roads and DOT&PF would have to place signs on those roads. She indicated that the language would need to be specific in saying that the municipalities and cities would be responsible for [municipal and city] roads.

REPRESENTATIVE GATTO pointed out that school zones are already in existence and this legislation doesn't address signing school zones or any requirement for DOT&PF to add signs. Representative Gatto said that he would like to have signs in place for this. However, he said he would leave it up to the communities to decide whether the signs are necessary. Representative Gatto specified that he never intended for anything in HB 387 to direct DOT&PF to establish signs in school zones because he presumed that DOT&PF has already done its job.

If DOT&PF's job is to place signs in school zones, then those signs should already be in place.

MS. WILSON reiterated that the discussion since receiving HB 387 has been to double the fines and DOT&PF has been asked numerous times whether it would be able to make signs to post in those areas. Therefore, the presumption was that the school zone areas would be clearly marked by signs.

CHAIR MORGAN asked if DOT&PF is prepared to issue a fiscal note.

MS. WILSON answered that she could provide the committee with a fiscal note. She mentioned that the larger the fiscal note, the more discouraged DOT&PF will be. It would be expensive for the department to post signs in areas where there is little to no problem with this.

Number 2834

REPRESENTATIVE SAMUELS surmised that if clarifying language was included that said no new signs were required, then there would be no need for a fiscal note.

MS. WILSON replied yes.

REPRESENTATIVE KOTT suggested that the effective date be changed to January 1, 2005, because the [department] is unsure as to the implementation period. If this legislation requires DOT&PF to do something, then they should be allowed to do it in a fashion that's acceptable and doesn't place the department in a difficult position. Currently, this legislation doesn't have an effective date and thus it would go into effect 90 days after the governor signs the legislation. Furthermore, Representative Kott said he believes that the public needs to have an understanding of the change in the law proposed in this legislation because it's a rather significant change.

REPRESENTATIVE GATTO said that he was thinking [an appropriate] effective date would be 12 months after the governor signs the legislation. Such a timeframe would provide the public with a one-year transition during which the public could be educated to the change.

REPRESENTATIVE KOTT said that the effective date can't be one year after the governor signs the legislation because no one knows when the governor will sign the legislation. Furthermore, the governor can allow the legislation to go into effect without

signing it, which would occur 90 days after reaching the governor's desk. Therefore, Representative Kott maintained that January 1, 2005, is a good date that allows enough of a transition.

Number 2659

REPRESENTATIVE KOTT moved that the committee adopt [Amendment 2] that would add language specifying that the effective date of this legislation would be January 1, 2005. There being no objection, it was so ordered.

Number 2634

REPRESENTATIVE SAMUELS moved to report CSHB 387, Version 23-LS1521\D, Luckhaupt, 1/30/04, as amended, out of committee with individual recommendations. There being no objection, CSHB 387(CRA) was reported from the House Community and Regional Affairs Standing Committee.

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 9:55 a.m.