

ALASKA STATE LEGISLATURE
SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

April 24, 2007

3:39 p.m.

MEMBERS PRESENT

Senator Donny Olson, Chair
Senator Albert Kookesh, Vice Chair
Senator Gary Stevens
Senator Thomas Wagoner

MEMBERS ABSENT

Senator Joe Thomas

COMMITTEE CALENDAR

SENATE BILL NO. 145

"An Act relating to municipal impoundment and forfeiture."

MOVED CSSB 145(CRA) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 145

SHORT TITLE: MUNIS IMPOUND/FORFEIT MOTOR VEHICLE

SPONSOR(S): SENATOR(S) MCGUIRE

03/28/07	(S)	READ THE FIRST TIME - REFERRALS
03/28/07	(S)	CRA, JUD
04/24/07	(S)	CRA AT 3:30 PM BELTZ 211

WITNESS REGISTER

SENATOR LESIL MCGUIRE
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented SB 145 as sponsor.

WENDY CHAMBERLIN
Municipality of Anchorage

POSITION STATEMENT: Spoke in support of SB 145.

STEVE SMITH, Deputy Chief
Division of Administration
Anchorage Police Department,

POSITION STATEMENT: Spoke in support of SB 145.

DAN MOORE, Treasurer
Municipality of Anchorage
POSITION STATEMENT: Spoke in support of SB 145.

JOSHUA FREEMAN, Assistant Attorney
Municipality of Anchorage
POSITION STATEMENT: Spoke in support of SB 145.

MICK FORNELLI, Administrator
Municipality of Anchorage
POSITION STATEMENT: Spoke in support of SB 145.

DUANE BANNOCK, Director
Division of Motor Vehicles (DMV)
Department of Administration (DOA)
Anchorage AK
POSITION STATEMENT: Spoke in support of SB 145.

ED SNIFFEN, Assistant Attorney General
Civil Division
Department of Law
POSITION STATEMENT: Answer questions regarding SB 145.

ACTION NARRATIVE

CHAIR DONNY OLSON called the Senate Community and Regional Affairs Standing Committee meeting to order at [3:39:58 PM](#). Senators Olson, Wagoner, Stevens, and Kookesh were present at the call to order.

SB 145-MUNIS IMPOUND/FORFEIT MOTOR VEHICLE

CHAIR OLSON announced the consideration of SB 145.

SENATOR STEVENS moved to adopt CSSB 145(CRA), version C.

SENATOR WAGONER objected for an explanation.

[3:41:01 PM](#)

SENATOR MCGUIRE, sponsor of SB 145, said the bill allows municipalities to impound motor vehicles owned by persons who have more than \$1,000 in unpaid traffic fines. Under current law, municipalities are authorized to adopt local ordinances for impoundment and forfeiture of vehicles for crimes including driving while intoxicated, driving with a suspended license, and driving without insurance. The fines must be paid in order to

get a vehicle back. She said that SB 145 would add "accumulation of more than \$1,000 in unpaid citations" to the list. She said the Municipality of Anchorage brought this idea forward, because 1,017 of its individuals have a total of over \$7.57 million in unpaid traffic fines.

SENATOR MCGUIRE said it's important to note that it's the rare person who would allow up to \$1,000 in fines to accumulate in the first place. One person has 43 different citations totaling almost \$10,000 and another has 70 totaling \$7,853. This law is meant to target the habitual, repeat offenders who blatantly disregard public safety and refuse to pay their citation fees. Many refuse to pay the fines because they know the municipality has no recourse.

SENATOR MCGUIRE said the Anchorage Assembly unanimously passed an ordinance on the same issue two weeks ago making it a misdemeanor. SB 145 does not do that; it is about an impoundment - not making it a crime - for anyone who has at least three unpaid traffic tickets worth over \$1,000. It uses forfeiture as a way to encourage compliance with the law and has no fiscal impact to the state. Individuals stopped by a police officer under these circumstances would lose their vehicle for up to 30 days. To get it back, the individual would have to pay the \$390 in administration fees plus towing and storage fees - and they would have to pay their traffic fines.

SENATOR MCGUIRE said a person that did not pay the traffic fines and was caught a second time could lose the vehicle permanently. The CS adds a new section that would allow the department to provide information on individuals' employment history or records confidentially to a municipal attorney who would assist the municipality in finding the individuals and assist in collection of their civil or criminal fines, penalties, or other payment or judgments that were ordered by the court.

[3:44:47 PM](#)

SENATOR MCGUIRE said she is a privacy nut and so she inserted language saying that prior to release of this information, the department and the municipal attorney would have to enter into a written agreement that must specify the purpose of the information, a description of the information provided, a description of the procedure for transmitting, securing, using and disposing of the information, and the method of reimbursement for the cost of providing that information.

SENATOR MCGUIRE said that people will testify that it is increasingly difficult for municipalities to collect these unpaid fines. It is low on their list of priorities because they have no method to get to the repeat offenders who are the worst ones. The amendment would change the "may" to "shall". Her local assembly, which is bipartisan, has passed this, and there has been positive feedback. She added that the costs of running a municipality are passed on to folks who do pay their fines and abide by the law while offenders just shrug their shoulders. This will get their attention. It may also be a deterrent. Studies from the DNA database law show that a general attitude toward disrespecting the law on a repeat basis tends to trend into other areas.

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SENATOR STEVENS noted that this is just another tool that a municipality can choose to use or not. He remarked that the size of the accumulated fines was amazing.

SENATOR MCGUIRE said forfeiture would get offenders' attention, and she wants to make life as difficult as possible for them.

SENATOR WAGONER asked if "meter maids" would have a list of offenders to check.

SENATOR MCGUIRE replied that is her understanding. If someone is stopped for another violation, this law would kick in. It could happen with a meter person.

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CHAIR OLSON asked why she proposed taking a violator's vehicle instead of his driver's license. What happens if an offender is driving someone else's vehicle or a company vehicle?

SENATOR MCGUIRE replied that was a very good question and it has been debated. It was found that impounding the vehicle was the most effective away of getting offenders' attention. She didn't know the answer to what would happen with a company vehicle. When she was chair of the House Judiciary Committee she found using the threat of taking a driver's license tended to not get people's attention as well, because people who have this kind of mentality have a general disregard of the law. Having a driver's license is a privilege and why would that individual care about his privilege to drive when he hadn't cared enough to not drive drunk three different times or have 43 citations issued to him.

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SENATOR STEVENS moved to adopt Amendment 1, which changes "may" to "shall" on page 1, line 5.

CHAIR OLSON objected for an explanation.

SENATOR MCGUIRE said there is some concern that the Department of Labor and Workforce Development (DOLWD) might not want to give out the information. This would make the bill unworkable.

CHAIR OLSON asked under what circumstances they would be unwilling to release this information.

SENATOR MCGUIRE replied she couldn't speculate, but said if the legislature wants to adopt sharing that information as public policy then the bill ought to say "shall".

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SENATOR STEVENS asked why they are asking the DOLWD for the information.

SENATOR MCGUIRE replied that this bill has to do with the garnishment of wages, and Title 23 already has many ways to access DOLWD records for IRS and payment of child support, for instance. The municipalities can ask for the ability to work with the department in the same way. This wouldn't help with individuals who work for themselves.

CHAIR OLSON removed his objection and without further objection Amendment 1 was adopted.

[3:57:08 PM](#)

SENATOR MCGUIRE said she hoped for a conceptual amendment [Amendment 2] for a severability clause to state that if any part of the bill is ruled unconstitutional, the remainder of it could still be enforced.

SENATOR STEVENS asked why she thought one part may be ruled unconstitutional.

WENDY CHAMBERLIN, Municipality of Anchorage, answered that the DOLWD has expressed concern over providing any information due to confidentiality laws. From the municipality's point of view, it already has the confidential information in terms of names of the offenders, their social security numbers, addresses, ages, et cetera, but frequently these offenders move jobs and they don't have the employers' names and addresses. The department

originally thought it could provide that information, but then it asked for explicit direction to do it to be on the safe side.

[3:59:16 PM](#)

SENATOR KOOKESH asked what the unconstitutionality would be.

MS. CHAMBERLIN replied that the municipality's attorneys said there wouldn't be one, but the DOLWD had some concerns about severability, and she thought it was a wise course to put the severability clause in there.

SENATOR STEVENS asked if the first section goes down because it's unconstitutional, the next section would still allow someone's vehicle to be impounded.

MS. CHAMBERLIN replied yes. She said driver's license records from the Anchorage police department show there is a tremendous correlation between motor vehicle accidents and drivers who have significant delinquent traffic fines. Often their licenses have already been taken away.

[4:01:25 PM](#)

CHAIR OLSON read Amendment 2:

If any part of this bill is ruled unconstitutional, the remainder of the bill will remain in force.

There were no objections and Amendment 2 was adopted.

STEVE SMITH, Deputy Chief, Division of Administration, Anchorage Police Department, said the department supported the bill. The department's main mission is to change bad behavior in offenders by enforcing the law and imposing consequences on bad behavior. Unenforceable consequences do not change bad behavior. A small portion of Anchorage's population does not recognize these sanctions and become delinquent. These offenders typically pose an ongoing danger to the public due to the bad attitude that exudes in their conduct. The provisions in this bill will give law enforcement an additional tool to change that behavior. As was noted, taking their licenses away does not work, because they don't recognize that authority in the first place. Many don't have a license already. At the very least it "gets them on their feet instead of on the road."

[4:04:22 PM](#)

SENATOR STEVENS asked what happens to the vehicle if an offender doesn't show up to get it back.

MR. SMITH replied that an impounded vehicle is subject to forfeiture, which is a separate proceeding. He said they try to recover some of their costs through those proceedings, especially if a car has been impounded for a long time.

[4:05:42 PM](#)

CHAIR OLSON asked what happens if the vehicle is not registered in the violator's name.

MR. SMITH replied that the bill does not require that the driver has to be the registered owner; so the vehicle would be subject to impound no matter who owned it.

CHAIR OLSON asked what would happen if someone borrowed the preacher's wife's car.

MR. SMITH replied that he could see how that might not be fair to the preacher's wife, but these scofflaws have a support network and pass vehicles around. This provision would make that person someone you wouldn't want to lend your car to. It narrows their "friend pool" for accessing different vehicles.

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CHAIR OLSON observed that a person with thousands of dollars in fines and a jalopy worth \$400 could just let it go.

MR. SMITH said that was a reasonable supposition, but police focus on behaviors. "We want them off the street."

SENATOR WAGONER supposed a person has a valid driver's license and is working as a delivery person in a \$17,000 company van.

MR. SMITH replied the police would follow the law and impound the vehicle. He deferred to others, but he thought the legitimate owner would have a way to get the vehicle back.

[4:08:59 PM](#)

CHAIR OLSON asked if the department would impound aircraft that doesn't belong to the violator as well - in reference to page 2, line 4.

MR. SMITH replied that the Anchorage police don't get involved with air or watercraft.

CHAIR OLSON said the language says it would have that authority.

MR. SMITH replied that item 5 is specific to motor vehicles under the delinquent traffic fine section. So the department wouldn't have the authority relating to water and aircraft under the \$1,000 delinquent traffic fine provision.

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SENATOR MCGUIRE said she wanted to make it clear that the bill will not impact the current statute that applies to air and watercraft. All this bill does is deal with motor vehicles.

DAN MOORE, Treasurer, Municipality of Anchorage, said the traffic and criminal fine cases they are pursuing for collection are all ones that have run through the court system and are considered judgments which they are fully empowered by the court to collect. They have a formal agreement with the court system to act as its collection agent. In terms of unpaid default judgment cases, it is at a crisis point for local governments within Alaska and for the Alaska court system. He strongly supported the concepts behind the major elements in CSSB 145 and felt that it would greatly enhance public safety. Going forward, it would encourage better compliance with the law.

[4:12:57 PM](#)

MR. MOORE said the original proposed language was very specific for how the DOLWD would comply with future requests by a municipal attorney for employer information for garnishing wages. In the past it had complied but not in the last couple of years. He supported the language changing "may" to "shall". He said the City of Anchorage has been pursuing these cases very actively for the last several years and has done all sorts of things that improve collection realization. It formed a task force that included the court system, the Division of Motor Vehicles, the municipal prosecutor, and the Anchorage Police Department. The magnitude of the problem was quoted accurately in the Anchorage figure by Senator McGuire, but he stated the figures for the state would be much greater.

MR. MOORE said the two main categories for garnishing wages they would pursue are for unpaid traffic citations, which amounts to almost \$8 million and affects 23,000 individuals and the second category of criminal fines, which gets into domestic violence and DUIs. Criminal fines add up to over \$16 million of unpaid fines and are tied to over 16,000 individuals. The problem is huge and despite the department's efforts, they are not able to take a big enough bite out of it. It gets worse every year.

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MR. MOORE added that they propose asking that the DOLWD provide employer names and addresses. This is commonly-asked information. With it, they could follow the court process of garnishing wages. He said the department's 14-year track record for protecting information is good. It has never had any breach of confidentiality. Every year the municipality receives 600,000 names along with date-of-birth and social security numbers from the Department of Revenue. It already has a working relationship with the court. The wages are from a private employer data base that the Department of Labor maintains and updates quarterly. The information will be very timely, he added.

MR. MOORE said the department has already garnished the wages from people employed by the Anchorage municipality. He state that this legislation provides the greatest public good by holding debtors accountable for breaking public laws, thus encouraging greater compliance and improving public safety. He said that every dollar collected via wage garnishment by the municipality will go back to the police department budget to fund police enforcement. It will also partially reimburse the court system for court collection costs.

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SENATOR STEVENS asked if he was correct that Section 2, which deals with impoundment and forfeiture of vehicles, would be used for the \$7 million in unpaid traffic citations, but getting the employers' names and addresses from the DOLWD would be for collecting the \$16 million in unpaid civil or criminal fines.

MR. MOORE replied that the intent is that the wage garnishment process would apply to both traffic and criminal fines together. There is a lot of crossover between scofflaws and the people who owe criminal fines. Representing the treasury, he is more focused on collecting the dollars. The effect of the second part of the bill dealing with impoundment is to interrupt the "high flyers," and get them off the road. That is more of a public safety issue. They are trying to recover the over \$20 million that exists in both traffic and criminal fines.

[4:20:36 PM](#)

SENATOR STEVENS asked if Section 1 covers the unpaid criminal and the unpaid traffic citations as well.

MR. MOORE replied that it covers traffic fines, because in Anchorage those are considered civil violations.

CHAIR OLSON asked if revoking the driver's license wouldn't be a more valuable tool.

MR. MOORE replied that the task force has researched the top 300 violators and found they commonly ignore the law and drive regardless of the status of their license. History has shown that scofflaws aren't affected by revoking their licenses.

CHAIR OLSON asked about vehicles that are registered to a person other than the offender.

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JOSHUA FREEMAN, Assistant Attorney, Municipality of Anchorage, responded that the assembly has made a finding based on data provided by the Anchorage Police Department that there is a high correlation between motor vehicle accidents caused by drivers with significant delinquent traffic fines and that just suspending a person's license doesn't mitigate the problem. Taking their vehicle causes them more of a problem than telling they can't drive any more. However, while the department can take vehicles for public safety purposes, he didn't think it could take them just to collect fines and the proposed legislation would make it necessary for the state to authorize the municipalities to make this a misdemeanor offense. The \$1,000 fine limit is where it is a public safety issue.

[4:26:17 PM](#)

CHAIR OLSON asked what the chances are of getting a list of the offenders.

MR. MOORE replied that he included the list in an email to the committee aide.

CHAIR OLSON asked if the list could be posted on line.

MR. MOORE replied yes.

SENATOR WAGONER said he thought that would be irrelevant.

[4:27:35 PM](#)

MICK FORNELLI, Municipality of Anchorage, reiterated that all of these issues come to it as a default judgment. It wants to utilize the available tools under due process. The municipality has utilized the writ of execution to file against bank accounts and the permanent fund dividend. This law will allow it to go against wages. However, to be effective the employer's name needs to be known, and the Department of Labor has that

information. Names are needed for filing against a bank account or the permanent fund dividend, but in a wage situation, one needs the employer's name. He reiterated this provides the opportunity to have a consequence for those who have failed to comply with the law.

[4:29:38 PM](#)

SENATOR STEVENS asked if this bill would benefit communities other than Anchorage.

DUANE BANNOCK, Director, Division of Motor Vehicles (DMV), replied yes. The City of Fairbanks is considering a similar ordinance. The reason the DMV supports this is because this bill doesn't impound, but it allows local governments to do such a thing by ordinance. It adds a tool to the tool box.

[4:31:04 PM](#)

CHAIR OLSON asked about the severability and constitutionality of SB 145.

ED SNIFFEN, Assistant Attorney General, Civil Division, Department of Law, said the constitutionality deals with privacy issues in Section 1, and this is whether the disclosure of the information by the Department of Labor might infringe on privacy interests. But the representative from Anchorage was accurate in stating that it already has the confidential information on these offenders, so the DOL would not be giving up that information. There is a potential argument that the employer identification information could fall under right-to-privacy interest, but he didn't think it was a violation. Section 2 contains the other question of whether the department could take a vehicle for failure to pay fines - a financial issue alone, but tying it to the safety issue could help it pass constitutional muster. He didn't see either issue raising any problems.

[4:33:52 PM](#)

SENATOR WAGONER removed his objection to adopting the CS as amended and it was adopted.

SENATOR MCGUIRE thanked the committee and added information about the aircraft issue saying that current aircraft law references "operating a vehicle, aircraft or watercraft while under the influence of alcohol, an alcoholic beverage, an inhalant or controlled substance". The other part is refusing to take a breathalyzer. SB 145 does not impact that law.

She concluded that passing this bill will not make it state law but will give the option to municipalities across the state to adopt ordinances that will give them a strong tool for affecting those individuals who continue to thumb their noses at the law to a level that reaches above \$1,000. People who do pay their fines pay for others that don't and that adds up to the millions of dollars. Many municipalities are in financial trouble. She said the misdemeanor issue could be discussed in Judiciary Committee.

[4:36:24 PM](#)

CHAIR OLSON asked if the \$7.5 million was in citations alone or if it included the accumulated interest.

MR. MOORE replied that the amount only includes the fine amount and the collection costs that are awarded by the courts. No interest is accumulated.

CHAIR OLSON asked if the administrative costs are \$390 per incident.

MR. MOORE said that was for the impound program.

[4:37:12 PM](#)

SENATOR STEVENS moved to report CSSB 145(CRA), Version C, as amended, from committee with individual recommendations and accompanying fiscal notes. There were no objections and it was so ordered.

There being no further business to come before the committee, Chair Olson adjourned the meeting at [4:37:39 PM](#).