

HOUSE BILL NO. 133

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE PEGGY WILSON

Introduced: 2/13/09

Referred: Transportation, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to traffic control devices on highways and claims related to those
2 devices; relating to designation of highway systems; making conforming amendments;
3 and providing for an effective date."

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

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

7 PURPOSE. The purpose of this Act is to

8 (1) identify expressly the Alaska Traffic Manual in statute;

9 (2) validate and affirm that the Alaska Traffic Manual is not intended by the
10 legislature to set legal requirements for the installation of traffic control devices unless the
11 manual sets out mandatory standards;

12 (3) recognize expressly that the state, a municipality, and other public entities
13 that use the Alaska Traffic Manual have the same protection from certain claims for damages
14 for actions or inactions related to traffic control devices;

1 (4) overrule that portion of *Guerrero v. Alaska Housing Finance Corp.*, 123
2 P.3d 966 (Alaska 2005), related to the statement set out in (2) of this section; and

3 (5) replace certain statutory references to "marking," "posting," and "signals"
4 with a uniform reference to "traffic control devices."

5 * **Sec. 2.** AS 19.10.020 is amended to read:

6 **Sec. 19.10.020. Designation of [STATE] highway systems [SYSTEM].** The
7 department may designate, locate, create, and determine what highways constitute the
8 state highway system **and may classify and designate other highways as authorized**
9 **by law or necessary to meet federal requirements** [. IN DESIGNATING,
10 LOCATING, CREATING, AND DETERMINING THE SEVERAL ROUTES OF
11 THE STATE HIGHWAY SYSTEM, THE DEPARTMENT SHALL STRIVE TO
12 ATTAIN THE PURPOSES AND OBJECTIVES SET OUT IN AS 19.05.125].

13 * **Sec. 3.** AS 19.10.050 is repealed and reenacted to read:

14 **Sec. 19.10.050. Traffic control devices.** (a) The department shall adopt by
15 regulation a uniform system of traffic control devices as specified in the Alaska
16 Traffic Manual. The Alaska Traffic Manual consists of a Manual on Uniform Traffic
17 Control Devices and an Alaska supplement approved by the Federal Highway
18 Administration. The Alaska Traffic Manual is the standard for all traffic control
19 devices installed on highways and bicycle trails open to public travel in the state.

20 (b) A claim for damages may not be made against the state, a state agency, a
21 municipality, a public entity, or an employee of the state, a municipality, or a public
22 entity for failure to conform to the Alaska Traffic Manual unless the claim is based on
23 an alleged failure to conform to mandatory traffic control provisions contained in the
24 Alaska Traffic Manual. This subsection does not

25 (1) amend or preclude the application of AS 09.50.250 or
26 AS 09.65.070;

27 (2) prohibit the department, a municipality, or a public entity from
28 making design modifications; or

29 (3) preclude the application of any other defense available to the
30 department, a municipality, or other public entity in a legal action.

31 (c) A municipality or other public entity may not place or maintain a traffic

1 control device on a highway under the jurisdiction of the department except by written
2 authorization of the department.

3 (d) The department may adopt regulations to implement this section.

4 (e) In this section,

5 (1) "Alaska Traffic Manual" means the Alaska Traffic Manual adopted
6 in regulation by the department;

7 (2) "mandatory traffic control provisions" means only the provisions in
8 the Alaska Traffic Manual that are designated by the term "shall."

9 * **Sec. 4.** AS 19.25.080 is amended to read:

10 **Sec. 19.25.080. Purpose.** The purposes of AS 19.25.080 - 19.25.180 are

11 (1) to protect the public safety and the welfare of persons using the
12 highways of the state by having outdoor advertising signs, displays, and devices along
13 the highways controlled;

14 (2) to prevent unreasonable distraction of operators of motor vehicles;
15 to prevent confusion with regard to traffic control devices [TRAFFIC LIGHTS,
16 SIGNS, OR SIGNALS] or other interference with the effectiveness of traffic
17 regulations; [, AND] to promote the safety, convenience, and enjoyment of travel on,
18 and protection of the public investment in, highways in this state; to preserve and
19 enhance the natural scenic beauty or aesthetic features of the highways and adjacent
20 areas; and to attract tourists;

21 (3) to regulate outdoor advertising signs, displays, and devices in areas
22 adjacent to the rights-of-way of the interstate, primary, and secondary systems within
23 this state in accordance with this chapter and the regulations adopted under this
24 chapter;

25 (4) to provide that outdoor advertising signs, displays, and devices that
26 are not in conformity with the requirements of this chapter are a public nuisance;

27 (5) to provide a statutory basis for regulation of outdoor advertising
28 signs, displays, and devices consistent with the public policy declared by the United
29 States Congress relating to areas within and adjacent to the right-of-way of a highway
30 of the interstate, primary, or secondary systems.

31 * **Sec. 5.** AS 19.59.001 is amended by adding a new paragraph to read:

1 (13) "traffic control device" means a sign, signal, marking, or other
2 device used to control, regulate, warn, or guide traffic that is placed on, over, or
3 adjacent to a highway, pedestrian facility, bicycle trail, or multi-use pathway by
4 authority of a public entity having jurisdiction.

5 * **Sec. 6.** AS 28.01.010(d) is amended to read:

6 (d) A municipality shall erect necessary official traffic control devices on
7 streets and highways within its jurisdiction that as far as practicable conform to the
8 current edition of the Alaska Traffic Manual, **as that document is described in**
9 **AS 19.10.050**, prepared by the Department of Transportation and Public Facilities.
10 The municipality

11 (1) shall post a sign indicating that the school is a "drug-free school
12 zone" at each location in which it has installed a sign identifying the location of a
13 school;

14 (2) may post a sign at each recreation and youth center indicating that
15 the center is a "drug-free recreation and youth center zone"; in this paragraph,
16 "recreation or youth center" has the meaning given in AS 11.71.900.

17 * **Sec. 7.** AS 19.10.040 is repealed.

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

20 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change the
21 heading of art. 1 of AS 19.10 from "Designation, Marking, and Use" to "Designation, Traffic
22 Control Device, and Use."

23 * **Sec. 9.** This Act takes effect immediately under AS 01.10.070(c).