

**ALASKA STATE LEGISLATURE  
HOUSE JUDICIARY STANDING COMMITTEE**

March 9, 2011

1:37 p.m.

**MEMBERS PRESENT**

Representative Steve Thompson, Vice Chair  
Representative Wes Keller  
Representative Bob Lynn  
Representative Lance Pruitt  
Representative Max Gruenberg

**MEMBERS ABSENT**

Representative Carl Gatto, Chair  
Representative Lindsey Holmes  
Representative Mike Chenault (alternate)

**COMMITTEE CALENDAR**

HOUSE BILL NO. 175

"An Act relating to an appearance before a judicial officer after arrest; relating to penalties for operating a vehicle without possessing proof of motor vehicle liability insurance or a driver's license; relating to penalties for certain arson offenses; amending Rule 5(a)(1), Alaska Rules of Criminal Procedure, and Rule 43.10, Alaska Rules of Administration; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 175

SHORT TITLE: COURT APPEARANCES; ARSON; INFRACTIONS

SPONSOR(S): JUDICIARY

02/28/11	(H)	READ THE FIRST TIME - REFERRALS
02/28/11	(H)	JUD, FIN
03/09/11	(H)	JUD AT 1:00 PM CAPITOL 120

**WITNESS REGISTER**

ANNE CARPENETI, Assistant Attorney General  
Legal Services Section  
Criminal Division

Department of Law (DOL)  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 175 on behalf of the sponsor, the House Judiciary Standing Committee.

**ACTION NARRATIVE**

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**VICE CHAIR STEVE THOMPSON** called the House Judiciary Standing Committee meeting to order at 1:37 p.m. Representatives Thompson, Gruenberg, Keller, and Pruitt were present at the call to order. Representative Lynn arrived as the meeting was in progress. Representatives Gatto and Holmes were excused.

**HB 175 - COURT APPEARANCES; ARSON; INFRACTIONS**

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VICE CHAIR THOMPSON announced that the only order of business would be HOUSE BILL NO. 175, "An Act relating to an appearance before a judicial officer after arrest; relating to penalties for operating a vehicle without possessing proof of motor vehicle liability insurance or a driver's license; relating to penalties for certain arson offenses; amending Rule 5(a)(1), Alaska Rules of Criminal Procedure, and Rule 43.10, Alaska Rules of Administration; and providing for an effective date."

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ANNE CARPENETI, Assistant Attorney General, Legal Services Section, Criminal Division, Department of Law (DOL), relayed that HB 175 would address four inconsistencies in current law. She explained that Sections 1, 2, and 6 - pertaining respectively to AS 12.25.150, rights of prisoner after arrest, AS 12.70.130, arrest without warrant of a person charged with a crime in another state, and Rule 5(a)(1) of the Alaska Rules of Criminal Procedure, proceedings before the judge or magistrate - would conform those provisions of law to reflect changes made last year via House Bill 324. Specifically, that bill last year increased the timeframe - from 24 hours to 48 hours - in which a person must be brought before a judicial officer after being arrested; unfortunately, that bill neglected to also make conforming changes to AS 12.25.150 and AS 12.70.130.

MS. CARPENETI explained that Section 3 - pertaining to AS 28.15.131, license to be carried and exhibited on demand - would

conform that statute to current court rules - Alaska Rules of Administration - which provide that not having one's valid driver's license in one's possession while driving is merely a correctable infraction, with bail set at \$50, rather than a class B misdemeanor. Section 4 - pertaining to AS 28.22.019, proof of insurance to be carried and exhibited on demand [and] penalty - would similarly conform that statute to current court rules - Alaska Rules of Administration - which provide that not having proof of insurance in one's possession while driving is merely a correctable infraction, with a mandatory fine of \$500, rather than a class B misdemeanor with a discretionary minimum fine of \$500.

MS. CARPENETI explained that Section 5 - pertaining to AS 41.23.220, penalty [for committing violations in the Knik River Public Use Area] - would conform that statute to AS 11.46.420, pertaining to the crime arson in the third degree. Enacted in 2006, AS 41.23.220 and associated regulations provided that burning a vehicle in the Knik River Public Use Area would be a violation, with a bail amount of \$50; in contrast, when enacted in 2008, AS 11.46.420 provided that burning a vehicle on state or municipal land would be a class C felony property crime. Under Section 5, all burning of vehicles in public areas would be a class C felony, and this is in keeping with the latest expression of legislative intent as evidenced by the enactment of AS 11.46.420.

MS. CARPENETI, referring again to Section 6, elaborated that when Rule 5(a)(1) of the Alaska Rules of Criminal Procedure was changed last year via the aforementioned House Bill 324, a drafting error occurred. By rewriting Rule 5(a)(1), Section 6 corrects that error, which mistakenly defined a term that wasn't being used in that rule. Section 6 would not be making a substantive change to that court rule, she assured the committee.

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REPRESENTATIVE GRUENBERG, on the issue of applicability, referred to Section 8's subsection (a), which stipulates that Sections 1 - 4 of the bill apply to arrests for offenses committed before, on, or after the bill's effective date, and subsection (b), which stipulates that Sections 5 - 7 apply to offenses committed on or after the bill's effective date. He questioned whether Section 8 should instead provide that Section 6 of the bill has the same applicability as Sections 1 and 2, since all three sections address the same issue.

MS. CARPENETI concurred with that point and asked for an opportunity to research the issue further. She ventured, though, that perhaps Section 8 was drafted as it was merely as a courtesy to the Alaska Court System (ACS), that its court rules not be changed retroactively. She also noted that it shouldn't make a difference either way, since the change from 24 hours to 48 hours was made to Rule 5(a)(1) of the Alaska Rules of Administration last year. In response to a question regarding Section 4, Ms. Carpeneti explained that the mandatory \$500 fine would only be assessed if the infraction is not corrected by providing proof of insurance; this provision of the bill doesn't address driving without automobile insurance altogether, but rather only driving without proof of automobile insurance.

MS. CARPENETI, in response to comments and other questions, reiterated portions of her explanation of Section 5, surmising that the rationale for establishing the crime of arson in the third degree back in 2008 was that a burning vehicle creates a huge safety hazard for both life and property, and explained that Section 7 provides notice that Section 5 would effect an indirect court rule change, specifically to Rule 43.10 - Knik River Public Use Area Bail Forfeiture Schedule - of the Alaska Rules of Administration; that providing for a specific effective date lets everyone know exactly when the new laws take effect; and that the crime of arson in the third degree requires a culpable mental state of "intentionally".

VICE CHAIR THOMPSON announced that the committee would hold HB 175 over and keep public testimony open.

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#### **ADJOURNMENT**

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:09 p.m.