

SB

44

COMMITTEE REPORT

2-6-75

HOUSE

Mr. Speaker:

Date Feb 13, 1975

The Committee on JUDICIARY has had SB 44

under consideration. A Majority of the members of the Committee

recommends it DO PASS

recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR SR44 AND THAT

CS FOR SR44 DO PASS

"and" recommends it BE REFERRED TO THE \_\_\_\_\_

COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

<u>T. F. G.</u>	_____	_____
<u>Way Hardin</u>	_____	_____
_____	_____	_____
_____	_____	_____

Members NOT concurring in the Majority report:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

Way Hardin Chairman

HOUSE JOURNAL

House Judiciary Committee  
Statement of Intent - House CS SB 44

This new criminal offense is not intended to preclude prosecutions for other criminal offenses in appropriate cases.

Original Sponsor: Ray

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 44

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the negligent use of combustible  
7 materials."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 11.15 is amended by adding a new section to read:

10 Sec. 11.15.340. NEGLIGENT USE OF COMBUSTIBLE MATERIALS. A person  
11 who negligently or recklessly causes a fire which results in physical  
12 harm to another person or in damage to the property of another is guilty  
13 of a misdemeanor, and upon conviction is punishable by imprisonment for  
14 not more than one year, or by a fine of not more than \$500, or by both.

*changes*

- 17 1.) *property of another*
- 18 2.) *all negligently or recklessly*
- 19 3.) *intent*

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23  
24  
25

# CAUTION

CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 70-27

## IT IS UNLAWFUL TO SMOKE IN BED

32.05.010. **SMOKING.** Whoever, by reason of careless or willful conduct in smoking or in the use of lighters or matches shall set fire to any bedding, carpet, curtains, drapes, furniture, household equipment or other goods or chattels or to any building shall be guilty of a misdemeanor.

32.05.020. **DEFINITION.** The term "careless conduct in smoking" shall include as used herein, any of the following acts of commission or omission.

Permitting a spark or sparks from a lighted cigar, cigarette, or pipe to fall upon or into anything flammable; placing any lighted smoking material on or about or in close proximity to any flammable article or articles; falling asleep with lighted smoking material of any kind at hand; throwing lighted smoking material out of a window or into an elevator pit or elsewhere than in a proper receptacle therefore; dropping a lighted cigarette or cigar or part thereof into a mail chute in any building; failure to extinguish the fire of a match or any kind of lighter device after use of the same; failure to destroy the lighted part of a cigar or cigarette when disposing of it; failure to destroy the burning smidgen or smidgens of tobacco from a pipe when cleaning or unloading a pipe.

32.05.030. **NOTICE TO BE POSTED.** A plainly printed notice of the provisions of this chapter shall be posted in a conspicuous place in every sleeping room of every hotel, motel, rooming house, tourist home, tourist court, or other place renting rooms for the accommodation of the public. Such notice shall be posted by the owner, proprietor, lessee or managing agent of such establishment.

32.05.040. **VIOLATIONS A MISDEMEANOR.** Any person, firm, co-partnership or corporation violating any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than three hundred dollars (\$300.00) and imprisoned for not more than thirty (30) days, or both.

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HB 6

Amendment proposed by Rep. Parr

Line 13

in damage to the property of another,

-----

language in SB 44 which has passed the Senate

Line 13

to another person is guilty

-----

proposed language of letter of intent

This new criminal offense is not intended to preclude  
prosecutions for homicide in appropriate cases.

A M E N D M E N T

IN THE HOUSE

BY THE JUDICIARY COMMITTEE

TC: HOUSE BILL NO. 6

Page 1, line 6: delete all matter and insert:

"For an Act entitled: "An Act relating to the negligent use of flammable materials."

Page 1, line 10: delete all matter and insert:

"Sec. 11.15.340. NEGLIGENT USE OF FLAMMABLE MATERIALS. A person who, negligently or recklessly causes a fire-

Page 1, line 13: delete all matter and insert:

"to another person or in damage to the property of another, is guilty of a misdemeanor,-"

House Judiciary Committee  
February 5, 1975

The meeting was called to order at 1:35 by Chairman Gardiner.  
Members present: Gardiner, Parr, Cotton, Brown

SB  
44

HB 6 - Smoking materials

Representative Jim Duncan gave a brief description of the bill. He stated that the city and borough of Juneau presently have such an ordinance and the passage of this bill would not jeopardize anyone's option to file suit as the result of a fire.

The question was raised as to whether the passage of this bill would eliminate the possible felony prosecution of negligent homicide.

Rep. Parr offered a proposed amendment to line 13: in damage to the property of another to eliminate the possibility of being fined for damage to one's own property.

Rep. Brown suggested that a letter of intent accompany the bill to state that "This new criminal offense is not intended to preclude prosecutions for homicide in appropriate cases."

HJR 3 - Grand Jury

Dan Hickey, District Attorney stated that the 5th amendment guarantee in the U.S. Constitution of grand jury indictment is not transferred to the states through the 14th amendment. He cited two Supreme Court decisions.

He indicated that if the bill passes, prosecutors would still choose grand jury indictments in cases of: fugitive defendants, corrupt public conduct, doubtful cases, and to get testimony under oath.

He stated that 12.80.020 should also be amended. The committee agreed that, should HJR 3 receive voter approval, there would still be time for the next legislature to amend the above statute prior to the existence of a conflict.

Mr. Hickey favored the proposed amendment to line 12 - felony. He suggested that "presentment" be deleted in line 12 since in Alaska persons are not held on a presentment. In line 14 he suggested that the language, "or magistrate" be added after "judge." In line 14 eliminate "hearing" and insert "examination."

In response to a question from Rep. Parr, Senator Rader stated that the committee chairman's power would probably be greater under a unicameral system but since there would be more committees, areas of jurisdiction would be more narrow. The whole system would be more open and the number of people with power to stop legislation would be limited. Rep. Specking stated that we need rules changes not a whole new system.

Rep. Gardiner asked the committee how they wanted to handle this piece of legislation. All members present indicated that they wished to pass it out of committee after amended. Rep. Gardiner stated that announcements would be made to the press of a public hearing to be held in about three weeks. In the mean time, amendments would be drawn up and considered.

HB 55 - SB 53

The proposed statement of intent was approved by the committee on a voice vote. Rep. Brown moved and asked unanimous consent that House CS for SB 53 be passed out of committee. There being no objections, the motion passed.

HB 6

5B44 Rep. Fink suggested an amendment to change the language to general recklessness or negligence and delete the reference to smoking materials. The committee asked that research be done into the present statutes on negligence. The title too would have to be amended.

House Judiciary Committee  
February 13, 1975

The meeting was called to order at 1:35 p.m. by Chairman Gardiner. Members present: Gardiner, Fink, Specking, and Brown.

HCR 5 Drivers License Regulations

Charlie Smith and Dennis Robertson from the Department of Public Safety testified that the following changes had been made: The effective date was July 1, the implementation date January 1. The maximum weight a towed vehicle could be with a regular license was increased from 5,000 to 6,000 lbs.

The committee suggested that a separate category of license be created for 5th wheel, boats and recreation vehicles but not house trailers.

Special permits could also be issued for limited times.

Public Safety will make the requested changes and appear again before committee with a copy of the new regulations.

HB 112 Conspiracy

Dan Hickey, District Attorney explained the proposed CS. It is limited to specific crimes in section (a). Section (b) contains an area open to court interpretation: whether one could be prosecuted for an agreement made outside the state with an overt act within the state. Section (c) is just slightly changed. He also suggested no effective date, but would have the legislation go into effect 90 days after enactment.

Committee suggestions included adding to the list of covered crimes, forgery and drugs, adding a definition of overt act and agree to commit, and that some language should be added to cover those who renounce the crime and actually attempt to thwart its success.

Mr. Weberg and Mr. Wellington of Public Safety supported the bill and urged inclusion of narcotics offenses.

HB 6/SB 44

Gary Crouse, Deputy Fire Marshall testified for the bill. The committee agreed to accept the proposed amendments of Mr. Fink and Mr. Parr and submit House CS for SB 44.