

HB

784



Alaska Court System
State of Alaska

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February 21, 1978

Honorable Sally Smith
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Re: HB 784 -- Jurisdiction of
Magistrates

Dear Sally:

This is in response to your request for back-up material in support of HB 784.

Under AS 28.35.230, all violations of state traffic regulations are classified as infractions, and thus carry a maximum penalty of a \$300 fine. Because the maximum fine is relatively low and because the possible penalty does not include incarceration, there is no right to trial by jury and no right to appointed counsel at government expense. Thus, we believe that traffic infractions are particularly appropriate to include within magistrate jurisdiction.

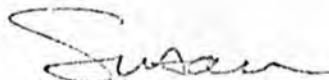
This is especially true in light of the anomalous situation that now exists with respect to magistrate jurisdiction over misdemeanors. As you know, magistrates may now hear and try any misdemeanor filed by a municipality for violation of its ordinances. A magistrate may not, however, hold a trial for an offense charged under state law or regulation (including traffic infractions) unless the defendant consents in writing to be tried by the magistrate. A number of municipal ordinances around the state carry possible penalties that are much more severe than the maximum allowed for state traffic infractions. There seems no reason to allow magistrates full jurisdiction over the more serious municipal cases and restrict their jurisdiction over state traffic infractions.

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Our Technical Operations office is in the process of compiling the statewide traffic statistics for 1977. We anticipate that these statistics will show that a high proportion of traffic cases were state infractions. It would provide the judiciary with additional flexibility if these traffic infractions could be heard by magistrates without written consent by the defendants. We will forward these statistics to you as soon as they are available, which should be within about a week.

Please let me know if you would like any additional information.

Sincerely,



Susan Burke
Staff Counsel

SB/bjs