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COMMITTEE REPORT

SENATE

2/9/82

FURTHER: None

Date: Feb 24, 1982

Mr. President:

The Committee on JUDICIARY has had SB 611 revising criminal penalties for unlawful operation of an aircraft

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- [X] do pass [ ] do not pass
[ ] do pass with attached amendments(s)
[ ] replace with CS for [ ] same title [ ] new title
and recommends
[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note
[ ] reports it back without recommendation
[ ] referred to the Committee

MEMBERS SIGNING DO PASS

MEMBERS HAVING OTHER RECOMMENDATIONS:

Handwritten signatures in the 'MEMBERS SIGNING DO PASS' column.

Handwritten signatures in the 'MEMBERS HAVING OTHER RECOMMENDATIONS:' column.

CHAIRMAN



District Court

State of Alaska

FOURTH JUDICIAL DISTRICT  
604 BARNETTE STREET, RM. 329

FAIRBANKS, ALASKA

99701

October 20, 1981

CHAMBERS OF  
HUGH H. CONNELLY, JUDGE

Don Bennett  
Box 2801  
Fairbanks, Alaska 99707

Re: Criminal Penalties for  
AS 02.35.030-Airmen License  
Required (See AS 02.35.120  
Penalty)  
and  
AS 02.30.030-Reckless Operation  
(See AS 02.30.040 Penalty)

Dear Don,

Recently I heard my second case involving Reckless Operation of an Aircraft in AS 02.30.030, and my first case of Operating a Civil Aircraft Without a License in AS 02.35.030, and would respectfully suggest that these two crimes be made either Class "C" felonies or Class "A" misdemeanors.

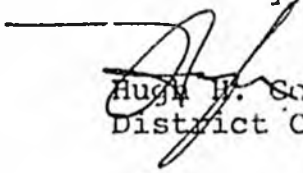
In regard to AS 02.30.030-Reckless Operation of Aircraft: When you consider that the operation of a rotor vehicle while under the influence of intoxicating liquor or other habit forming drugs is a Class "A" misdemeanor carrying a maximum penalty of \$5000.00 fine or 1 year in jail or both, and also carrying a mandatory minimum jail sentence with no provision for probation or parole on a first offense, the \$500.00 maximum penalty with no possible jail sentence for the Operation of an Aircraft While Under the Influence of Intoxicating Liquor or Drugs appears to be grossly inadequate. When you consider the potential danger to passengers, the pilot himself, the aircraft, ground or water car airports, and other aircraft which may be located

Page 2 (Penalties in AS 02.35.120 and AS 02.30.040)

at and near airports, it is my recommendation that the offense of Reckless Operation of Aircraft should be a Class "C" felony, or at least a Class "A" misdemeanor.

In regard to AS 02.35.030-Airmen License Required: In my recent case a person was operating a Cessna 180 airplane without a license. It is respectfully recommended that the penalty provision found in AS 02.35.120 be changed to a Class "A" misdemeanor because of the potential danger to other aircraft, passengers and the public in and around airports.

Cordially,

  
Hugh H. Connolly  
District Court Judge

HHC/ajw

PATRICK RODEY  
ANCHORAGE

*Aircraft*  
601 W. 5TH AVE. SUITE 820  
ANCHORAGE, ALASKA 99501

Alaska State Senate  
JUNEAU, ALASKA 99811

DURING SESSION  
POUCH V  
JUNEAU, ALASKA 99811

November 16, 1981

The Honorable Don Bennett  
P.O. Box 2801  
Fairbanks, AK 99707

Dear Don:

Thanks for forwarding Judge Connelly's suggestion to my office.

We can probably add this item to some bills I am proposing in Committee.  
I will forward drafts of these to you when I have them completed.

Sincerely,



Patrick M. Rodey  
Senator

PMR/ds

Alaska State Legislature



Senate

SENATOR

DON BENNETT

P.O. BOX 2801

FAIRBANKS, ALASKA 99707

LEGISLATIVE ADDRESS

POUCH V - STATE CAPITOL  
JUNEAU, ALASKA 99811

MEMO

DATE: October 30, 1981

TO: Senator Pat Rodey, Chairman Senate Judiciary Committee

FROM: Senator Don Bennett

I am forwarding to you Judge Hugh Connelly's letter regarding increased penalties for Reckless Operation of an Aircraft and Operating an Aircraft Without a License,

The specific suggestions seem good. Increasing the penalties appear appropriate.

I would appreciate your help in having Judiciary take whatever action necessary for implementation.

DEAR DON,

THANKS FOR FORWARDING ~~THE~~ JUDGE CONNELLY'S  
SUGGESTION TO MY OFFICE.

~~I HAVE ALREADY CORRESPONDED WITH~~  
WE CAN PROBABLY ADD THIS ITEM TO  
SOME BILLS I AM PROPOSING IN  
COMMITTEE. I WILL FORWARD DRAFTS  
OF THESE TO YOU WHEN I HAVE  
THEM COMPLETED.

Sincerely  
PJR



Official Business

# Alaska State Legislature

## Senate

### Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

FEBRUARY 24, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

#### Legislation Before Committee:

- SB 620 - "An Act repealing the limitations on awarding compensation to victims of violent crime if the victim is a relative or member of the household of the offender."
- SB 193 - "An Act amending state personnel laws; and providing for an effective date."
- SB 611 - "An Act revising the criminal penalties for unlawful operation of an aircraft."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:30 P.M. Committee members present were: Senators Rodey, Parr, Bennett, and Ray.

Chairman Rodey first brought before the committee SB 620. Mr. Bruce gave a brief summary of previous action on the bill.

Sue Johnson, Violent Crimes Compensation Board, testified against CSSB 620, stating that the Board would rather have the discretion in awarding claims than the language in the committee substitute.

Chairman Rodey next called Caren Robinson, Alaska Network on Domestic Violence, before the committee. She testified in favor of the concept of CSSB 620, but stressed that a section should be added to allow direct payment to care providers.

Senator Ray moved that the following amendment be made: Page 1, Line 15, and 17, delete "reported", and insert "filed with"; Page 1, Line 18, delete "report", and insert "filing". Senators Ray, Bennett, and Parr voted in favor of the amendment. Senator Rodey voted against the amendment. The amendment was adopted.

Senator Ray moved that on Page 1, Line 16 and 17, the word "five" be deleted and "fifteen" inserted in its place. Senators Rodey, Bennett, and Ray voted in favor of the amendment. Senator Parr voted against the amendment. The amendment was adopted.

Senator Bennett left the committee meeting to attend to his Finance Committee duties.

Senator Ray moved to pass CSSB 620 from committee as amended. There was no objection. Senator Parr signed no recommendation. Senators Ray and Rodey signed do pass.

Chairman Rodey next brought SB 611 before the committee. Senator Ray explained the purpose of the bill and its background.

After brief discussion Senator Ray moved that the bill be passed from committee. There was no objection. Senators Rodey, Ray, and Parr signed do pass.

The last item on the agenda was SB 193. Mr. Bruce reviewed the history of the bill for the committee.

Chairman Rodey calls Cherie Shelly, APEA, before the committee. Ms. Shelly testified against the deletion of the Limited Entry Commission and the Post Secondary Education from the classified service.

Ken Kareen, Director of Personnel, briefly explained the amendments that the Department of Administration submitted to the Committee last meeting.

There was no action taken on SB 193 and it was returned to the file.

Chairman Rodey adjourned the meeting at 2:50 P.M.

\* Sec. 1

AS 18.67.130(a) is amended to read:

(a) No order for the payment of compensation may be made under AS 18.67.080 unless the application has been made within two years after the date of the personal injury or death, and

(1) the personal injury or death was the result of an incident or offense listed in AS 18.67.101 which had been reported to the police within five days of its occurrence or, if the incident or offense could not reasonably have been reported within that period, within five days of the time when a report could reasonably have been made; and

(2) the applicant has not initiated the dismissal of criminal charges against the offender for conduct that is the basis for the applicant's claim for compensation.

\* Sec. 2. AS 18.67.130(b) is amended to read:

(b) No compensation may be awarded if the victim

[(1) IS A RELATIVE OF THE OFFENDER;]

(2) is, at the time of application for compensation [THE PERSONAL INJURY OR AT THE TIME OF THE INJURY WHICH RESULTS IN THE DEATH OF THE VICTIM] living with the offender as a member of the same family or household, or maintaining a sexual relationship, whether illicit or not, with the offender [OR WITH A MEMBER OF THE OFFENDER'S FAMILY];

(3) violated a penal law of the state, which violation caused or contributed to his injuries or death; or

(4) is injured as a result of the operation of a motor vehicle, boat or airplane unless the vehicle was used as a weapon in a deliberate attempt to injure or kill the victim.

\* Sec. 3

AS 18.67 is amended by adding a new section to read:

Sec. 18.67.135. FORFEITURE OF COMPENSATION. A person awarded compensation under this chapter shall repay the compensation to the state and shall be ineligible for future compensation for additional personal injuries inflicted by the same offender, if the person initiates the dismissal of criminal charges against the offender for conduct that is the basis for the person's claim for compensation.

RECKLESS ENDANGERMENT

NEW CRIMINAL CODE

Sec. 11.41.250. RECKLESS ENDANGERMENT. (a) A person commits the crime of reckless endangerment if he recklessly engages in conduct which creates a substantial risk of serious physical injury to another person.

(b) Reckless endangerment is a class A misdemeanor.

PRIOR CRIMINAL CODE

None.

COMMENTARY

From Senate Journal, 17:

If a person engages in reckless conduct and death results, he will be guilty of either murder in the second degree or manslaughter depending on the presence of "extreme indifference to the value of human life." If the person engages in the same conduct but no one is killed, but someone is injured, he will be guilty of some degree of assault. The crime of reckless endangerment covers the situation where the person acts with the same degree of recklessness as regards human life, but no one is injured. The person, for example, who shoots a bullet through a tent and fortunately does not kill or injure anyone could be charged with reckless endangerment.

See also TD I, 51; LR 55-56.

CROSS REFERENCES

Definition of "serious physical injury" - AS 11.81.-900(b)

Definition of "recklessly" - AS 11.81.900(a)

Assault in the first, second and third degree - AS 11.41.200-230

Murder in the second degree - AS 11.41.110(a)(1), (2)

(Effective January 1, 1980)

Sec. 11.81.640. Application of §§ 600 — 630. Sections 600 — 630 of this chapter apply only to this title. (§ 10 ch 166 SLA 1978).

### Article 6. Definitions.

Section  
900. Definitions

Sec. 11.81.900. Definitions. (a) For purposes of this title, unless the context requires otherwise,

(1) a person acts "intentionally" with respect to a result described by a provision of law defining an offense when his conscious objective is to cause that result;

(2) a person acts "knowingly" with respect to conduct or to a circumstance described by a provision of law defining an offense when he is aware that his conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless he actually believes it does not exist; a person who is unaware of conduct or a circumstance of which he would have been aware had he not been intoxicated acts knowingly with respect to that conduct or circumstance;

(3) a person acts "recklessly" with respect to a result or to a circumstance described by a provision of law defining an offense when he is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation; a person who is unaware of a risk of which he would have been aware had he not been intoxicated acts recklessly with respect to that risk;

(4) a person acts with "criminal negligence" with respect to a result or to a circumstance described by a provision of law defining an offense when he fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

(b) As used in this title, unless otherwise specified or unless the context requires otherwise,

(1) "affirmative defense" means that

(A) some evidence must be admitted which places in issue the defense; and

(Effective

(B) the defendant has the preponderance of the evidence;

(2) "benefit" means a profit, advantage, or benefit to a person, beneficiary or to a third party;

(3) "building", in addition to a structure, includes a vehicle or structure adapted or for carrying on business, including apartment units, and is considered a separate building;

(4) "cannabis" has the same meaning as in AS 11.81.010;

(5) "conduct" means an act or omission;

(6) "controlled substance" means:

(A) a narcotic drug as defined in AS 11.81.010;

(B) a depressant, hallucinogenic drug, or cannabis, as defined in AS 11.81.010;

(7) "correctional facility" means a place used for the confinement of a person;

(8) "credit card" means a card, credit plate, or other name, issued with the name of the cardholder in obtaining credit;

(9) "crime" means an act or omission which is authorized; a crime is a violation of a law;

(10) "culpable mental state" means "intentionally", "knowingly", "recklessly", or with "criminal negligence" as defined in (a) of this section;

(11) "dangerous instrument" means a dangerous instrument or other instrument, in circumstances in which it is to be used, is capable of causing death or serious physical injury;

(12) "deadly force" means the use of force which creates a substantial risk of causing death or serious physical injury; "deadly force" includes intentional or reckless use of a dangerous instrument against another person or in the presence of another person;

(13) "deadly weapon" means a dangerous instrument which is capable of causing death or serious physical injury, including a knife, an axe, a club, or a firearm;

(14) "deception" means a false statement or a false impression;

(A) created or confirmed; a person who does not believe to be true; and false impressions;