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COMMITTEE REPORT
SENATE

FURTHER:

2/14/84

Date April 30, 1984

Mr. President

The Committee on JUDICIARY considered CRS 301 306 (ind)

~~ONLY TO STOP AT THE DISCRETION OF A READER OFFICER~~

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Joe Joseph

Chairman

Chairman recommendation

TO: Senator Bill Ray
FROM: Paula d. Scavera
DATE: April 30, 1984
RE: CSSS HB 446 (Judiciary)

This bill clarifies that a person driving or operating a vehicle or motor vehicle, an aircraft or watercraft shall stop at the direction of a peace officer.

SECTION 1

Adds language to the the Motor Vehicle Code that a person driving or operating a vehicle or motor vehicle, or operating an aircraft or watercraft shall stop if requested or signalled to do so for a lawful purpose by a peace officer.

The peace officer must be driving or operating a vehicle or motor vehicle, or operating an aircraft or watercraft with markings or lighting and audible signals of law enforcement vehicle. Or the peace officer must be wearing a uniform or displaying a badge.

The crime is a Class B misdemeanor

There is no effective date clause.

The fiscal note is zero.

Alaska State Legislature

COMMITTEES

Vice Chairman — Judiciary
Vice Chairman — Legislative
Regulations Review
Resources
Finance Sub Committee on Labor



While in Session
Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3733

Home - District 15
Star Route Box 421
Eagle River, Alaska 99577
(907) 688-2526

House of Representatives

John J. Liska

MARCH 12TH, 1984

POSITION PAPER

CSSSHB 446, "AN ACT RELATING TO THE DUTY TO STOP AT THE DIRECTION OF A PEACE OFFICER."

"STOPPING FOR A PEACE OFFICER"

THE PURPOSE OF THIS LEGISLATION IS TO CLOSE A LOOPHOLE WHICH IS PRESENTLY EXISTING IN THE STATUTES.

IN YOUR PACKET FROM HOUSE RESEARCH AGENCY, PAGE ONE, PARAGRAPH #3, IT STATES, "WHEN APPROACHED BY AN AUTHORIZED EMERGENCY VEHICLE OR A POLICE VEHICLE YOU SHALL YIELD THE RIGHT OF WAY BY SLOWING, STOPPING, OR MOVING TO RIGHT HAND LANE." ALSO SEE PAGE ONE OF THE LETTER FROM DEPT. OF PUBLIC SAFETY, PARAGRAPH 3, AND I QUOTE, "THERE ARE NO REQUIREMENTS FOR A PERSON, UNDER ANY CIRCUMSTANCES, TO STOP AT THE REQUEST OF, OR LAWFUL COMMAND OF A PEACE OFFICER".

OUR BILL PUTS INTO THE STATUTES EXACTLY WHAT YOU ARE TO DO WHEN APPROACHED BY A PEACE OFFICER.

WE HAVE WORKED CLOSELY WITH COMMISSIONER SUNDBERG'S OFFICE ON THIS LEGISLATION AND YOU WILL FIND IN YOUR PACKET INFORMATION FROM DEPT. OF PUBLIC SAFETY SHOWING THE NEED FOR THIS LEGISLATION.

- A. REQUEST FROM COMMISSIONER SUNDBERG FOR THIS STATUTE.
- B. CASE IN KENAI - SOLDOTNA WHERE JUDGE ANDERSON DECIDED THERE WAS NO EXISTING LAW REQUIRING AN INDIVIDUAL TO STOP, AND THEREFORE THE CASE WAS DISMISSED.
- C. STATEMENT OF SUPPORT BY COMMISSIONER SUNDBERG.
- D. FISCAL NOTE FROM PUBLIC SAFETY.
- E. NEWSPAPER CLIPPING FROM THE FAIRBANKS DAILEY MINER 1-23-84.

IT IS THE FEELING OF MYSELF AS WELL AS COMMISSIONER SUNDBERG'S OFFICE THAT THIS IS A LOOPHOLE WHICH NEEDS TO BE TAKEN CARE OF AND THIS BILL IS DOING JUST THAT.



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

September 15, 1983

MEMORANDUM

TO: Representative John Liska

FROM: Deb Pomeroy *Deb*
Administrative Assistant

RE: Stopping for a Police Officer
Research Request 83-199

Linda Edgeworth, of your staff, asked whether or not there is a statute requiring a motorist to stop when flagged down by a police officer. She also asked for information regarding a case in which a defendant was charged with failure to stop for a police officer. The defendant was acquitted because no statute set out this requirement. I spoke with the Gretchen Derr in the Commissioner's Office of the Department of Public Safety, who provided the attached correspondence pertaining to this issue.

The case the defendant won occurred prior to April 28, in Soldotna. A motorist had failed to stop when the police officer turned on the flashing lights and siren, and was subsequently charged with violating 13 AAC 02.140. I spoke with the District Attorney's Office in Kenai and requested the judge's decision as well as any pertinent documents. These will be forwarded to you as soon as we receive them.

The Alaska Administrative Code 13 AAC 02.140 (attached) states that "upon the approach of an authorized emergency vehicle...or a police vehicle making use of either a visual or an audible signal, the driver of every vehicle...shall yield the right-of-way by slowing, stopping, changing lanes or pulling to the right-hand edge of the roadway clear of an intersection to await passage of the emergency vehicle" (emphasis added). It appears that 13 AAC 02.140 pertains mostly to emergency situations.

Judge Anderson of Anchorage, who heard the case, ruled that the State had "made a half hearted attempt" in writing the regulation when it defined what a motorist must do when approached by a police vehicle with visual lights in a non-emergency situation. He went on to state that the police officer was attempting to stop a suspected violator when there was no existing emergency, and that the violator was therefore not required to stop.

Representative Liska
September 15, 1983
Page 2

A September 3, 1982 memorandum from Assistant Attorney General Balfe to the Kenai Police Chief concerning a similar incident states that as 13 AAC 02.140 is now written, any one of the required actions listed would comply with the regulation.

The Department of Public Safety is currently looking into this issue. According to Ms. Derr, revisions to the administrative code and possible statutory changes which would rectify this problem are being considered at this time. No written draft of the revisions is available. I have requested a copy of any proposal when it is completed, ~~and will forward~~ it to you.

I hope this information is useful to you. If you want more information, please call.

DP

Attachments

STATE OF ALASKA

DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH N
JUNEAU, ALASKA 99811
PHONE: 465-4322

November 4, 1983

Ms. Mary Whitman
Administrative Assistant
Legislative Affairs Agency
Pouch V
Juneau, AK 99811

Dear Ms. Whitman:

This is in reference to your request related to input from this department on HB 446, "An act relating to stopping a motor vehicle at the direction of a peace officer."

I have enclosed some statutes from other states, and the I.A.C.P. model "Uniform Vehicle Code" recommendation on the subject. The statutes sources were from the states of California, Oregon, and Washington. As can be seen, there are a variety of approaches, but all with the same theme.

As for this State, as reflected in a previous internal memorandum of this department, of which you have a copy, there are no requirements for a person, under any circumstances, to stop at the request of, or lawful command of a peace officer except when he is actually regulating or directing traffic (AS 28.35.280). Nor do any administrative code provisions require a person, under any circumstances, to stop as the result of a lawful order of a peace officer (13 AAC 02.140 and 13 AAC 02.195).

The department's desire, and I am sure you would find it the entire law enforcement community's desire, is to develop an all encompassing obedience statute covering a person, vehicle, boat, or aircraft. Whether this can be achieved is another matter.

House Bill 446, as it is now written, meets a portion of law enforcement needs, but may be somewhat vague and broad as it relates to "law enforcement vehicle."

If not being presumptive, and keeping in mind that the author is not trained in the legalized framing of statutes, the following is, at least, a draft revision of HB 446 for

Ms. Mary Whitman

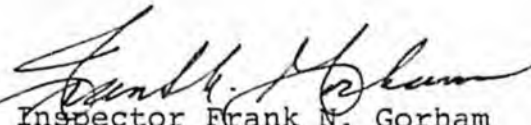
-2-

November 4, 1983

consideration that would meet the law enforcement needs.
The draft is not in proper form.

Sincerely,

ROBERT J. SUNDBERG
COMMISSIONER


BY: Inspector Frank N. Gorham
Assistant to the Commissioner

cc: Emil Notti
Legislative Assistant
to the Governor

Norman Gorsuch
Attorney General
Department of Law

Col. Michael Kolivosky, Director
Division of Alaska State Troopers
Department of Public Safety

*To: Mr. D.
Col. Kolivosky
Col. Kolivosky*

MEMORANDUM

State of Alaska ^D
DS

TO: Joseph Balfe
Assistant Attorney General
Department of Public Safety

DATE: May 12, 1983
MAY 16 1983

FILE NO:

TELEPHONE NO: 465-4322

FROM: Lt. Col. James D. Vaden *JW*
Office of the Commissioner
Department of Public Safety

SUBJECT: Failure to Stop

Please draft a change in our regulations requiring an individual to stop when lawfully directed to do so by a peace officer.

Return the draft to me and I will begin the procedures necessary to change the traffic regulations.

Since this problem could involve situations not involving a vehicle, we should also propose changes in the statutes. That recommendation should be held until the Administration requests proposed changes through legislation.

Attachments: a/s

cc: Robert J. Sundberg
Commissioner
Department of Public Safety

5/13/83

Rep. John Liska -

RE: our conversation on 5-11-83 -

we will proceed as outlined above.

Thank you.

Robert J. Sundberg
Comm.

Soldotna Police Department

P. O. Box 2499
Soldotna - Alaska 99669



April 28, 1983

Duane Udland
Chief of Police

Commissioner Robert Sundberg
Department of Public Safety
Pouch N
Juneau, AK 99811

Dear Commissioner Sundberg:

I am requesting that your staff review 13 AAC02.140 (a) for possible changes. Recently Soldotna had a case ruled on by Judge Anderson from Anchorage. The judge ruled that the State had "made a half hearted attempt" in writing the regulation when it defined what a motorist must do when approached by a police vehicle with visual lights on in a non-emergency situation.

The judge went on to say that in the case of Soldotna where the police officer was attempting to stop a suspected violator there was no existing emergency and the suspected violator was not required to stop. The judge then dismissed the citation that had been issued under the authority of 13 AAC02.140.

I am including in this letter a copy of a similar request made by Chief Ross of the Kenai Police Department. In the case of Kenai our local judge also dismissed a citation because the way the regulation is worded. It seems there is concern from more than one court about this regulation.

I have one other concern about the rules of the road contained in 13 AAC. Presently there is no regulation titled "Excessive Acceleration" or some other similar language. A problem comes up frequently when you have a motorist who spins his tires intentionally under heavy acceleration.

The only possible citation that can be issued in this situation is negligent driving. Our court has consistently ruled that absent other factors such as fishtailing, loss of control, etc. the elements of negligent driving are not satisfied.

It would seem to me that a new regulation could be written to cover this type of driving. This type of regulation would be most helpful in curtailing this sort of driving.

Thank you for your time and consideration.

Sincerely,

Duane Udland
Chief of Police

DEPARTMENT OF PUBLIC SAFETY
COMMISSIONER'S OFFICE
Juneau, Alaska

MAY 02 1983

MEMORANDUM

State of Alaska

TO: Robert J. Sundberg
Commissioner
Department of Public Safety

DATE: May 3, 1983

FILE NO:

TELEPHONE NO: 465-4322

FROM: Inspector Frank W. Gorham
Assistant to the Commissioner
Department of Public Safety

SUBJECT: Chief Udland Letter
re: Failure to Stop

As requested, research was done on the requirements, or more, the lack of requirements for a person to stop when signaled to do so by a police officer.

I could find but one area of the State Statutes that requires a person (driver of a vehicle) to obey the signals of an officer. Even at that, it only relates to the condition of directing traffic. See attached AS 28.35.180.

The 13 AAC 2.100 does not directly require a vehicle to stop but makes it an option when an emergency vehicle of any type is approaching. Nor does the companion, 13 AAC 2.195, related to pedestrians.

Also attached is a proposed addition to either the Administrative Code or State Statutes that should serve the purpose. Not being a legal beagle, I am not sure how many holes it has in it.

Enclosures: a/s

RECEIVED
SEP 12 1983

HOUSE RESEARCH AGENCY

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - SSHB446

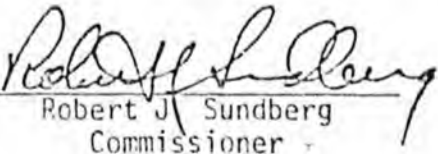
Support with Amendment

January 16, 1984

SSHB446 - "An Act relating to the duty to stop at the direction of a peace officer.

This legislation deals with the public's responsibility to follow the directions of peace officers in emergency situations. Some confusion has existed on this subject on the part of the public due to the inconcise wording of present regulations (13.AAC.02.140). This proposed legislation clarifies the duty of the public without infringing upon their rights.

The wording in Sec. 28.35.184 requires that a person guilty of flight from a police officer is guilty of a class C felony. This is felt to be too severe a penalty and we request that it be amended to a class B misdemeanor. The original wording would result in many individuals having felony records that now only face misdemeanor violations. Additionally, the numerous violations of the section may place an unnecessarily heavy burden upon the Criminal Justice System.


Robert J. Sundberg
Commissioner

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 01/16/84

REQUEST

Bill/Resolution No.: SSHB446
Title: "...stop at the direction
of a Peace Officer
Sponsor: Rep. Liska & Syzmanski
Requestor: House Judiciary
Date of Request: 1-16-84

FISCAL DETAIL

Agency Affected: Public Safety
Program Category Affected: Administration of Justice
BRU, Program or Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

No Fiscal Impact.

Prepared By: Francis C. Allan ^{mck} _{Q.C.A.}
Division: Alaska State Troopers

Phone: 269-5691
Date: 01/16/84

Approved by Commissioner: Robert J. Sundberg ^{RJB.}
Agency: Public Safety

Date: 1-19-84

Distribution (by Agency preparing fiscal note):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

Officials want to fill little traffic loophole

News-Miner Bureau

JENEAU—In theory, it's no crime to ignore the flashing red lights of a state trooper flagging you down after a traffic violation.

But like many theories, putting it into practice may be another question.

The House Judiciary Committee was told Friday that there is no state law requiring drivers to stop when a police officer in a car turns on his emergency flashers.

Committee members began working to close the loophole by considering a bill filed by Rep. John Liska, R-Eagle River, and Rep. Mike Szymanski, D-Anchorage.

Frank Gorham, an assistant to the commissioner of Public Safety, told the committee two cases on the Kenai Peninsula have been thrown out of court because there's no law requiring drivers to stop.

The bill offered by Liska and Szymanski would make it a misdemeanor to ignore a police officer's signal to stop.

Current law requires drivers to stop only at the direction of a traffic

officer.

When an "emergency vehicle" like an ambulance or fire truck approaches from behind, drivers are required to yield by slowing down or turning off onto a side street. Stopping is just one of the options.

Legislators expressed concern that news of the loophole would prompt motorists to ignore signals from law enforcement officers. Failure to pull off in most cases could not be defined as resisting arrest, said assistant Attorney General Gayle Horetski.

However, it's not too smart, Horetski said.

To elude a police officer, a driver would most likely break a law that is on the books, such as excessive speed or reckless driving.

If a driver bashed the car of a police officer attempting to force him to stop, or crashed through a roadblock, he would add to the original offense for which he was being stopped, Horetski said.