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STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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JUNEAU, ALASKA 99811
907-465-3800

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary 2/11/85 1:30 pm
" " 2/12/85 1:30 pm

2

COMMITTEE REPORT

HOUSE

2/13

Rules

(7)

FURTHER:

1/14/85

Date: 2-12-85

The Committee on Judiciary has had HB 17

"An Act relating to multiple convictions for motor vehicle theft and joyriding."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 17 (old) same title
 new title
- and recommends DO PASS
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature]
CHAIRMAN

Edwards
2/8/85 ✓

Original sponsors: Uehling and Szymanski

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 17 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to multiple convictions for motor
7 vehicle theft and joyriding."

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

9 * Section 1. AS 11.46.484(c) is amended to read:

10 (c) A person convicted under (a)(2) of this section [WHO HAS
11 BEEN PREVIOUSLY CONVICTED UNDER THAT PARAGRAPH OR UNDER FORMER
12 AS 28.35.010] is guilty of a class C felony if, within the preceding
13 seven years, the person was convicted under

14 (1) the provisions of (a)(2) of this section;

15 (2) former AS 28.35.010;

16 (3) the provisions of AS 11.46.482(a)(4);

17 (4) an offense involving the theft of a propelled vehicle

18 under AS 11.46.120 - 11.46.140 or AS 11.46.160 - 11.46.190; or

19 (5) a law or ordinance of this or another jurisdiction with
20 elements substantially similar to those of the offenses described in
21 (1) - (4) of this subsection.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: February 15, 1985

REQUEST:

Bill/Resolution No.: H.B. 17
 Title: "An Act relating to multiple convictions for motor vehicle theft and joyriding"
 Sponsor: Representative Uehling
 Requestor: (H) Judiciary
 Date of Request: February 1, 1985

FISCAL DETAIL:

Agency Affected: DEPARTMENT OF CORRECTIONS
 Program Category Affected: _____
 Administration of Justice _____
 BRU, Program or Subprogram(s) Affected: Offender Confinement, Reformation, and Supervision

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		17.9	18.8	19.7	20.7	21.7
400 SUPPLIES		14.6	15.3	16.1	16.9	17.8
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	32.5	34.1	35.8	37.6	39.5

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	32.5	34.1	35.8	37.6	39.5
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	32.5	34.1	35.8	37.6	39.5

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary.

See attached narrative.

Prepared By: William W. Ludwig
 Division: Deputy Commissioner for Administration

Phone: 465-3376
 Date: February 15, 1985

Approved by Commissioner: Roger V. Endell by William W. Ludwig
 Agency: DEPARTMENT OF CORRECTIONS

Date: February 15, 1985

Distribution (by Agency preparing fiscal note):

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

ANALYSIS

I. Assumptions:

Based upon statistics provided by Anchorage Police Officer Davis, the following assumptions have been made:

1. Anchorage accounts for 83% of the annual arrests for auto theft.
2. The arrests have averaged 100 per year.
3. Of all 100 arrests for all types of auto theft, 15 are for joyriding.
4. Of the 15 arrestees, 3 have prior offenses.
5. Projecting the Anchorage area statistics to the statewide level results in 120 arrests per year for all auto theft crimes with 4 people being subject to this legislation.
6. It is assumed that the number of persons incarcerated under this bill would be 4.
7. It is assumed that incarceration of these 4 persons will require no additional bed space.
8. It is assumed that the cost of living will increase by 5% per year.

II. Program Summary:

A. The annual cost of care is computed as follows:

4 X 365 X 22.28	=	32,500
32.5 X 1.05	=	34.1
34.1 X 1.05	=	35.8
35.8 X 1.05	=	37.6
37.6 X 1.05	=	39.5
Total	=	179.5

III. Economic Impact:

Enactment of this bill will not have a significant impact on the State's economy.

IV. Impact on Local Government:

This bill has no apparent impact on local government units.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 1/29/85

REQUEST
 Bill/Resolution No.: HB 17
 Title: "An Act relating to multiple convictions...for motor vehicles..."
 Sponsor: Repr. Uehling
 Requestor: House Judiciary
 Date of Request: 1/24/85

FISCAL DETAIL
 Agency Affected: Department of Law
 Program Category Affected: Administration of Justice
 BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
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-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

This bill amends AS 11.46.484(c) to provide that a person convicted under (a)(2) of that section who has been previously convicted of an offense having similar elements or of an offense involving the theft of a motor vehicle under AS 11.46.100-11.46.190 is guilty of a class C felony. The effect of the amendment is to provide for the inclusion of convictions of similar offenses in other jurisdictions in arriving at the offense level for repeat offenses in Alaska.

Richard I. Pegues

(Continued)

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: 1/29/85

Approved by Commissioner: *Richard I. Pegues / for* Norman C. Gorsuch Date: 1/29/85
 Agency: Department of Law

Distribution (by Agency preparing fiscal note):

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

FISCAL NOTE
HB 17 (Cont'd.)
Page 2

Analysis (Cont'd.)

Although this bill will cause a small increase in the number of offenses handled by state prosecutors, the changes caused by the bill will not be significant enough to warrant a fiscal note increase in the prosecution budget. Cummulatively, however, bills of this nature will have the effect of diverting prosecution resources from prosecuting more serious offenses.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST:

Bill/Resolution No.: H.B. 17
 Title: "An Act relating to multiple convictions for motor vehicle theft and joyriding"
 Sponsor: Representative Uehling
 Requestor: (H) Judiciary
 Date of Request: February 1, 1985

FISCAL DETAIL:

Agency Affected: DEPARTMENT OF CORRECTIONS
 Program Category Affected: _____
 Administration of Justice
 BRU, Program or Subprogram(s) Affected: Offender Confinement, Reformation, and Supervision

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
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-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary.

The Department of Corrections currently has one person with a prior conviction serving a two year sentence for Criminal Mischief III. This is the same sentence which would have been required if this offense was a Class C Felony.

Prepared By: William W. Ladwig
 Division: Deputy Commissioner for Administration

Phone: 465-3376
 Date: February 4, 1985

Approved by Commissioner: [Signature]
 Agency: DEPARTMENT OF CORRECTIONS

Date: February 4, 1985

Distribution (by Agency preparing fiscal note):

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

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST
Bill/Resolution No.: HB 27
Title: "...multiple convictions
for joyriding."
Sponsor: Rep. Uehling
Requestor: House Judiciary
Date of Request: 2-6-85

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
500 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE						

FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

See attached analysis.

Prepared By: Francis C. Allan ^{G.C.A.}
Division: Alaska State Troopers
Approved by Commissioner: [Signature]
Agency: Department of Public Safety
Phone: 269-5691
Date: 2-1-85
Date: 2-6-85

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

MEMORANDUM

January 29, 1985

SUBJECT: Sectional analysis of HB 17
TO: Representative M. Mike Miller
Chair, House Judiciary Committee
FROM: George W. Edwards *GWE*
Legislative Counsel

Section 1 AS 11.46.484(c) is amended by deleting language that described relevant previous convictions as those under this section and former AS 25.35.010 and by replacing it with broader language that includes among relevant previous convictions all offenses having similar elements and state motor vehicle theft offenses.

GWE:ojb
J11/036

January 25, 1985

JAN 29 1985

Representative Mike Miller
Chairman, House Judiciary Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Miller,

The Anchorage Police Department Employees Association has been involved with and supportive of Representative Rick Uehling in submitting a Bill to broaden utilization of greater Penalties upon second conviction for Motor Vehicle Theft and Joyriding. The result of this collective effort is HB17.

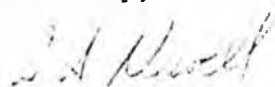
We understand that this Bill will come before your Committee. We request and encourage the Committees passing of this legislation.

The Anchorage Police Department Employees Association, Alaska Peace Officers Association and the Alaska Chiefs of Police are supportive of this Bill.

For additional information please contact Investigator Lyle Davis or Investigator Anne Newell, 264-4141, Anchorage Police Department, 625 C Street, Anchorage, Alaska 99501.

Thank you for your consideration in this matter.

Sincerely,



S. A. Newell
APDEA Legislative Committee

SAN:vka

Enclosure: Letter of Explanation
Current Statistics and
Ordinances



TONY KNOWLES
MAYOR

ANCHORAGE POLICE DEPARTMENT

625 C STREET • ANCHORAGE, ALASKA 99501-3599
TELEPHONE (907) 279-1441



BRIAN S. PORTER
CHIEF

January 25, 1985

JAN 28 1985

Representative Mike Miller
Chairman, House Judiciary Committee
Pouch V
Juneau, Alaska 99811

RE: House Bill No. 17
"An Act Relating to Multiple Convictions for Motor Vehicle Theft
and Joyriding

Dear Representative Miller,

Alaska Statute 11.46.484 (a)(2) Criminal Mischief in the Third Degree written, causes a person who has been previously convicted of this offense, or the old Title 28.35.010 (Driving a vehicle without owner's consent) to be charged with a Class "C" Felony.

Since the enactment of this Statute [11.45.484(a)(2)] in 1982, several problems have been encountered that have severely limited the felony prosecution for this offense. This Statute fails to take into consideration:

1. Convictions for the like offense of "Joyriding" (Driving a vehicle without the owner's consent). Other states and jurisdictions have Statutes or Ordinances for the offense of "Driving a vehicle without the owner's consent" (Joyriding), but with the restrictive language of AS 11.46.484(a)(2) prior convictions in other states and jurisdictions may not be used in determining an upgraded charge (felony).
2. Convictions of AS 11.46.482(a)(4) Criminal Mischief in the Second Degree, involving a stolen motor vehicle. The only difference between Criminal Mischief in the Second Degree [AS 11.46.482(a)(4)] (Felony) and Criminal Mischief in the Third Degree [AS 11.46.484(a)(2)] (Misdemeanor), is if the owner of the stolen vehicle incurs expenses in the amount of \$500 or more the Criminal Mischief in the Second Degree is charged.
3. Convictions of AS 11.46.100-190 Theft in the First-Third Degree. Not all people charged with stealing a motor vehicle are charged under the Criminal Mischief Statutes, depending on what they ultimately do to or with the vehicle, they can be charged under the Theft Statutes.

The Theft Statutes are utilized when it can be shown that the thief had the intent to permanently deprive the owner of his stolen vehicle, such as altering the vehicle identification numbers or dismantling the vehicle out.

Anchorage accounts for 44% of the vehicles registered in Alaska, and 83% of the vehicle thefts.

Registered vehicles (Anchorage)

1982	150,973
1983	172,911
1984	186,744

Auto Thefts (Anchorage)

		Dollar Amount
1982	1120 vehicles	\$2,563,800
1983	1433 vehicles (+28%)	3,744,000
1984	1562 vehicles (+ 9%)	4,634,000

In Anchorage, during 1984, your chance of having your vehicle stolen was "1" out of "119". The National average was "1" out of 158 and Seattle only had a rate of "1" out of 335.

I strongly urge your support for House Bill No. 17. I have worked as an auto theft investigator for the past 12 years and I feel that this Bill will help to reduce auto theft in Alaska. House Bill No. 17 is also supported by the Alaska Chief of Police, Alaska Peace Officers Association and the Anchorage Police Department Employees Association.

Sincerely,



Investigator Lyle L. Davis
Anchorage Police Department
Auto Theft Unit

LLD:vka
Attachments

stantial, was clearly adequate and measured up to the standards which the court of appeals has laid down in such cases. *Yoho v. United States*, 14 Alaska 174, 202 F.2d 241 (9th Cir. 1953).

Prosecution could waive felony and prosecute for misdemeanor. — If on trial a misdemeanor (e.g., larceny) turned

out to be a felony (e.g., robbery), then the prosecution could in such cases waive the felony, and prosecute only for the constituent misdemeanor, supposing the misdemeanor be proved. *Perkins v. United States*, 16 Alaska 471, 237 F.2d 857 (9th Cir. 1956).

Sec. 11.46.120. Theft in the first degree. (a) A person commits the crime of theft in the first degree if the person commits theft as defined in AS 11.46.100 and the value of the property or services is \$25,000 or more.

(b) Theft in the first degree is a class B felony. (§ 4 ch 166 SLA 1978)

NOTES TO DECISIONS

Sentence upheld. — Trial court did not err in sentencing defendant to 10 years' imprisonment with five years suspended and ordering her to pay \$300,000 restitution upon her conviction of embezzlement by an employee for money taken prior to January 1, 1980, and of theft in the first degree for money taken after January 1, 1980, the effective date for the revised criminal code. *Karr v. State*, Ct. App. Op. No. 230 (File No. 7011), 660 P.2d 450 (1983).

While no violence was involved, trial court properly found that appellant's

embezzlement of \$140,000 from her employer over a one-year period was among the most serious conduct prescribed by the statute and served to distinguish it from prior cases in which substantial sentences for embezzlement were disapproved, and eight-year sentence with four years suspended was not excessive. *Brezenoff v. State*, Ct. App. Op. No. 226 (File No. 7117), 558 P.2d 1355 (1983).

Cited in *Furham v. State*, Sup. Ct. Op. No. 2251 (File No. 3475), 629 P.2d 35 (1980).

Sec. 11.46.130. Theft in the second degree. (a) A person commits the crime of theft in the second degree if the person commits theft as defined in AS 11.46.100 and

(1) the value of the property or services is \$500 or more but less than \$25,000;

(2) the property is a firearm or explosive; or

(3) the property is taken from the person of another.

(b) Theft in the second degree is a class C felony. (§ 4 ch 166 SLA 1978)

NOTES TO DECISIONS

Failure to preserve evidence. — Convictions for second-degree theft were reduced to convictions for third-degree theft where the state failed to preserve the scrap copper which was the object of the theft. *Hatfield v. State*, Ct. App. Op. No. 257 (File Nos. 6371, 6732), 663 P.2d 987 (1983).

Applied in *Neil v. State*, Ct. App. Op.

No. 77 (File No. 5565), 642 P.2d 1361 (1982); *Williams v. State*, Ct. App. Op. No. 106 (File No. 5993), 648 P.2d 603 (1982).

Quoted in *Frankson v. State*, Ct. App. Op. No. 92 (File No. 6029), 645 P.2d 225 (1982).

Stated in *Leuch v. State*, Sup. Ct. Op. No. 2419 (File No. 5255), 633 P.2d 1006 (1981).

Cited in *Williams v. State*, Sup. Ct. Op. (File No. 6870), 655 P.2d 1319 (1982); No. 2147 (File No. 3901), 614 P.2d 1384 (1980); *Namen v. State*, Ct. App. Op. No. 264 (File No. 5662), 665 P.2d 557 (1983).

Sec. 11.46.140. Theft in the third degree. (a) A person commits the crime of theft in the third degree if the person commits theft as defined in AS 11.46.100 and

(1) the value of the property or services is \$50 or more but less than \$500; or

(2) the property is a credit card.

(b) Theft in the third degree is a class A misdemeanor. (§ 4 ch 166 SLA 1978)

NOTES TO DECISIONS

Failure to preserve evidence. — Convictions for second-degree theft were reduced to convictions for third-degree theft where the state failed to preserve the scrap copper which was the object of the theft. *Hatfield v. State*, Ct. App. Op. No. 257 (File Nos. 6371, 6732), 663 P.2d 987 (1983).

Remand for vacation of sentence. — Where defendant appealed from convictions and sentences simultaneously entered for the offenses of first-degree robbery and theft by taking in the third degree on the ground that all of the elements involved in his conviction of theft by taking in the third degree were necessarily included in his conviction for the of-

fense of first-degree robbery and thus, the imposition of separate sentences on the theft and robbery charges was precluded by double jeopardy, and on appeal the state confessed error as to this issue and requested that the judgment and commitment entered as to the lesser offense of theft be vacated upon remand to the superior court, the court remanded for that purpose. *Dunn v. State*, Ct. App. Op. No. 158 (File Nos. 5567, 5697), 653 P.2d 1071 (1982).

Cited in *Law v. State*, Sup. Ct. Op. No. 2301 (File No. 4552), 624 P.2d 284 (1981); *Wasson v. State*, Ct. App. Op. No. 141 (File No. 6072), 652 P.2d 117 (1982).

Sec. 11.46.150. Theft in the fourth degree. (a) A person commits the crime of theft in the fourth degree if the person commits theft as defined in AS 11.46.100 and the value of the property or services is less than \$50.

(b) Theft in the fourth degree is a class B misdemeanor. (§ 4 ch 166 SLA 1978)

Sec. 11.46.160. Theft of lost or mislaid property. (a) A person commits theft of lost or mislaid property if the person obtains property of another knowing that the property was lost, mislaid, or delivered under a mistake as to the nature or amount of the property or the identity of the recipient and the person fails to take reasonable measures to restore the property to the owner with intent to deprive the owner of the property.

(b) As used in this section "reasonable measures" includes notifying the identified owner or a peace officer. (§ 4 ch 166 SLA 1978)

(b) Failure to control or report a dangerous fire is a class A misdemeanor. (§ 4 ch 166 SLA 1978)

Sec. 11.46.480. Criminal mischief in the first degree. (a) A person commits the crime of criminal mischief in the first degree if, having no right to do so or any reasonable ground to believe the person has such a right,

(1) with intent to cause a substantial interruption or impairment of a service rendered to the public by a utility or by an organization which deals with emergencies involving danger to life or property, the person damages or tampers with property of that utility or organization and causes substantial interruption or impairment of service to the public;

(2) with intent to damage property of another by the use of widely dangerous means, the person damages property of another in an amount exceeding \$100,000 by the use of widely dangerous means; or

(3) the person intentionally damages an oil or gas pipeline or supporting facility.

(b) Criminal mischief in the first degree is a class B felony. (§ 4 ch 166 SLA 1978)

Cross references. — For liability for destruction of property by minors, see AS 34.50.020.

NOTES TO DECISIONS

Stated in *Wertz v. State*, Sup. Ct. Op. No. 2069 (File No. 4683), 611 P.2d 8 (1980).

Collateral references. — 52 Am. Jur. 2d, Malicious Mischief, § 1 et seq.

Sec. 11.46.482. Criminal mischief in the second degree. (a) A person commits the crime of criminal mischief in the second degree if, having no right to do so or any reasonable ground to believe the person has such a right,

(1) with intent to damage property of another, the person damages property of another in an amount of \$500 or more;

(2) the person tampers with an oil or gas pipeline or supporting facility or an airplane or helicopter with reckless disregard for the risk of harm to or loss of the property;

(3) the person recklessly creates a risk of damage in an amount exceeding \$100,000 to property of another by the use of widely dangerous means; or

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(4) the person drives, tows away, or takes the propelled vehicle of another and the vehicle or any other property of another is damaged or the owner incurs reasonable expenses as a result of the loss of use of the vehicle in a total amount of \$500 or more.

(b) Criminal mischief in the second degree is a class C felony. (§ 4 ch 166 SLA 1978; am § 13 ch 102 SLA 1980)

Cross references. — For liability for destruction of property by minors, see AS 34.50.020.

Effect of amendments. — The 1980 amendment rewrote paragraph (4) in subsection (a).

Legislative history reports. — For a report on Chapter 102, SLA 1980 (HCS CSSB 511), see 1980 Senate Journal Supplement, No. 44, May 29, 1980, or 1980 House Journal Supplement, No. 79, May 29, 1980.

NOTES TO DECISIONS

For case construing former AS 11.20.520, making malicious destruction of property a crime, see Hensel v. State, Sup. Ct. Op. No. 1983 (File No. 2432), 604 P.2d 222 (1979).

For case construing former AS 11.20.525, making stealing, removing or damaging parts of an aircraft a crime, see Catlett v. State, Sup. Ct. Op. No. 1752 (File No. 3213), 585 P.2d 553 (1978).

Sentence upheld. — See Austin v. State, Ct. App. Op. No. 18 (File No. 5341), 627 P.2d 657 (1981).

Applied in Deal v. State, Ct. App. Op. No. 209 (File No. 6812), 657 P.2d 404 (1983).

Stated in Wertz v. State, Sup. Ct. Op. No. 2069 (File No. 4683), 611 P.2d 8 (1980).

Cited in State v. Grogan, Sup. Ct. Op. No. 2356 (File No. 5199), 628 P.2d 570 (1981); Tritt v. State, Ct. App. Op. No. 009 (File No. 4983), 625 P.2d 882 (1981); Deal v. State, Ct. App. Op. No. 225 (File No. 6776), 659 P.2d 625 (1983).

Collateral references. — 52 Am. Jur. 2d, Malicious Mischief, § 1 et seq.

Sec. 11.46.484. Criminal mischief in the third degree. (a) A person commits the crime of criminal mischief in the third degree if, having no right to do so or any reasonable ground to believe the person has such a right

(1) with intent to damage property of another, the person damages property of another in an amount of \$50 or more but less than \$500;

(2) the person drives, tows away, or takes the propelled vehicle of another;

(3) having custody of a propelled vehicle under a written agreement with the owner of the vehicle which includes an agreement to return the vehicle to the owner at a specified time, the person knowingly retains or withholds possession of the vehicle without the consent of the owner for so long a period beyond the time specified as to render the retention or possession of the vehicle an unreasonable deviation from the agreement; or

(4) the person tampers with a fire protection device in a building which is a public place.

(b) Except as provided in (c) of this section, criminal mischief in the third degree is a class A misdemeanor.

(c) A person convicted under (a)(2) of this section who has been previously convicted under that paragraph or under former AS 28.35.010 is guilty of a class C felony. (§ 4 ch 166 SLA 1978; am § 1 ch 18 SLA 1979; am §§ 7, 8 ch 143 SLA 1982)

Cross references. — For liability for destruction of property by minors, see AS 34.50.020.

Effect of amendments. — The 1979 amendment added paragraph (4) to subsection (a).

The 1982 amendment added "Except as provided in (c) of this section, criminal" to the beginning of subsection (b) and added subsection (c).

NOTES TO DECISIONS

Restitution in excess of \$500. — A person pleading guilty to criminal mischief in the third degree can be required, pursuant to AS 12.55.045 and AS 12.55.100(a), to pay an amount of restitution in excess of \$500 so long as the payment is made to an aggrieved party and the amount does not exceed the actual damages or loss caused by the crime for which conviction was had. *Fee v. State*, Ct. App. Op. No. 187 (File No. 6951), 656 P.2d 1202 (1982).

Separate punishment where defendant fired at cabin and truck. — Separate punishment upon conviction of two counts of misconduct involving weapons in the second degree, and two counts of criminal mischief in the third degree, where the evidence established that defendant had fired a rifle at a cabin and a pickup truck did not violate the double jeopardy provisions of this section since there were sufficient and significant differences between the intent in the two firings.

Leonard v. State, Ct. App. Op. No. 168 (File No. 5989), 655 P.2d 766 (1982).

For case construing former AS 11.20.525, making stealing, removing or damaging parts of an aircraft a crime, see *Catlett v. State*, Sup. Ct. Op. No. 1752 (File No. 3213), 585 P.2d 553 (1978).

For case construing former AS 28.35.010, prohibiting driving a vehicle without owner's consent, see *State v. G.L.P.*, Sup. Ct. Op. No. 1786 (File No. 2978), 590 P.2d 65 (1979); *Bell v. State*, Sup. Ct. Op. No. 1885 (File No. 3612), 573 P.2d 908 (1979); *Sheakley v. State*, Ct. App. Op. No. 87 (File No. 4936), 644 P.2d 864 (1982).

Applied in *Blackmon v. State*, Ct. App. Op. No. 160 (File No. 6141), 653 P.2d 669 (1982).

Quoted in *Frankson v. State*, Ct. App. Op. No. 92 (File No. 6029), 645 P.2d 225 (1982).

Collateral references. — 52 Am. Jur. 2d, Malicious Mischief, § 1 et seq.

Sec. 11.46.486. Criminal mischief in the fourth degree. (a) A person commits the crime of criminal mischief in the fourth degree if, having no right to do so or any reasonable ground to believe the person has such a right,

(1) with reckless disregard for the risk of harm to or loss of the property or with intent to cause substantial inconvenience to another, the person tampers with property of another;

Sgt. Liba
**MUNICIPALITY
OF ANCHORAGE**

**POLICE
DEPARTMENT**

**MUNICIPAL CRIMINAL CODE
(ARRESTABLE OFFENSES
FROM TITLE 9 INCLUDED)**

JANUARY 1984

receipt issued for and accompanied by the article or articles of merchandise or thing or things of value. (Adapted from GAAB 18.05.040.)

8.05.560 Solicitation to Illegal Act.

It is unlawful to solicit a person for the purpose of committing any illegal act. (GAAB 18.05.010R.)

8.05.580 Switchblade Knives.

It is unlawful for a person to sell, offer for sale, display or carry about his person, a knife which has a blade which can be opened by a spring mechanism, exertion of pressure on the handle, or by gravity. This section does not apply to any officer of the United States, the State of Alaska or the municipality whose carrying or displaying of such a knife is necessary in the course of his official duties. (Adapted from CAC 8.50.010 and new.)

8.05.590 Telephones — Illegal Use of.

It is unlawful for any person to anonymously or repeatedly telephone another person for the purpose of annoying, molesting, or abusing through patently offensive and profane language, or harassing that person or his family. (Adapted from AS 11.45.035, am AO 82-134.)

8.05.600 Theft of Vehicle and Joyriding.

Any person who drives or takes a motor vehicle not his own without the consent of the owner thereof, and with intent to either permanently or temporarily deprive the owner thereof of his possession of the vehicle, whether with or without intent to steal the same, or any person who is a party or accessory to or an accomplice in the driving or unauthorized taking or stealing, is guilty of a misdemeanor. The consent of the owner of a vehicle to its taking or driving shall not in any case be presumed or implied because of such owner's consent on a previous occasion to the taking or driving of the vehicle by the same or a different person. (Adapted from CVC 10851 Calif. Vehicle Code.)

8.05.610 Unauthorized Duplication of Keys.

It is unlawful for any person to make a duplicate of a key bearing the inscription "do not duplicate" or "it is unlawful to duplicate this key," unless authorized to do so by the owner of the lock which the key fits. (CAC 8.32.010.)

8.05.620 Unauthorized Entry.

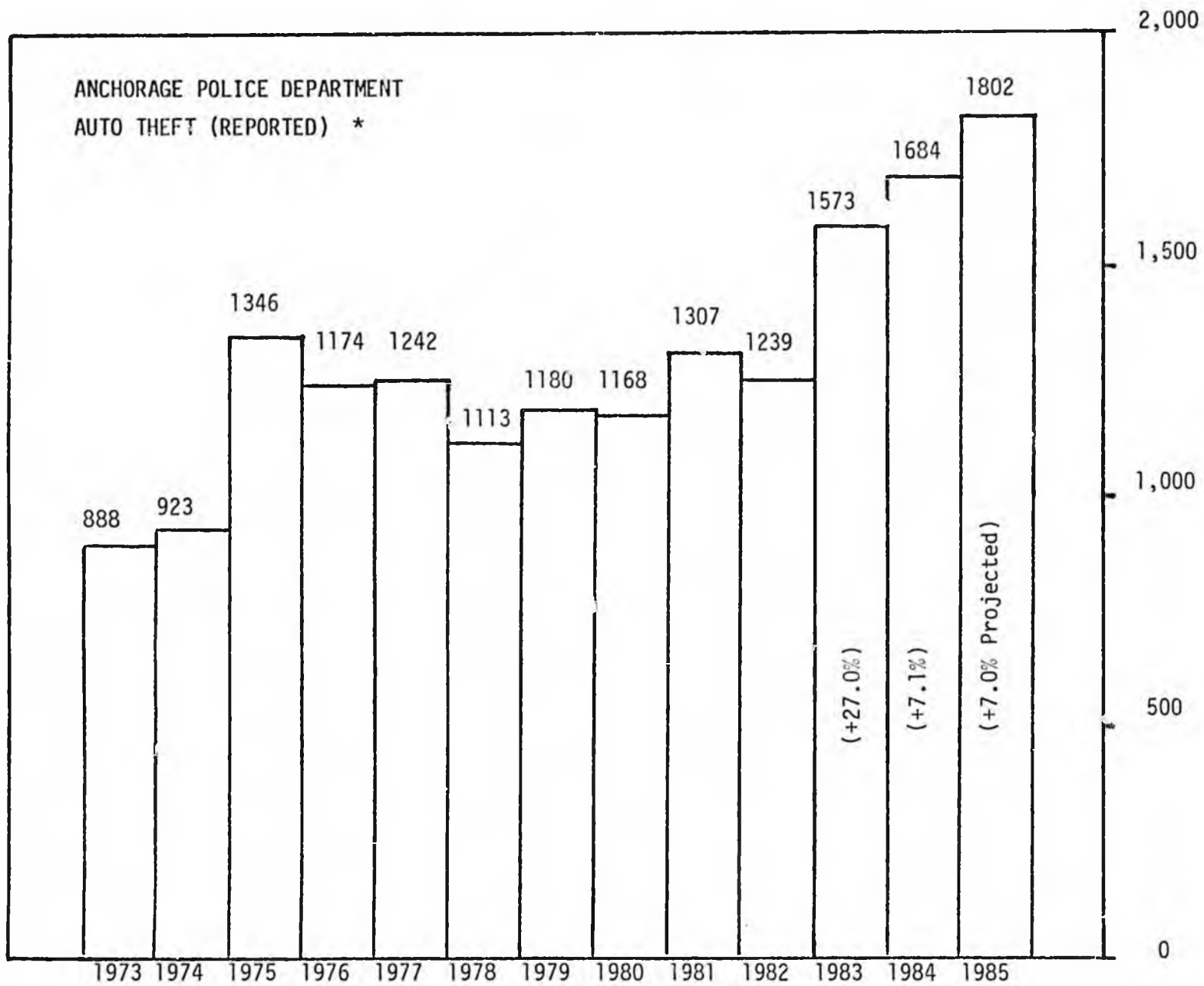
A. It is unlawful for any person to enter, use or occupy any occupied or unoccupied dwelling, house, tent, hotel, office, store, shop, warehouse, barn, factory or other building, boat, ship, railroad car or structure, or apartment, cottage, clubhouse, bathhouse, hunting or fishing lodge, garage or any other structure or use any personal property therein, except with the consent of the owner of the facility or his agent. However, a person may enter, use or occupy an unoccupied structure specified in this section without the consent of the owner if:

1. the entry, use or occupancy of the facility is for an emergency in the case of immediate and dire need; and
2. the person contacts the owner or agent within 15 days after using the facility or, if the owner is unknown, the Anchorage Police Department, and makes a report of the time of entry, use or occupancy of the facility and any damage to the facility or personal property, unless a notice waiving the necessity for such report is posted in the facility by the owner or his agent.

B. In this section, "occupied" means that the premises is being used by one or more persons entitled to its enjoyment and use, and this includes actual as well as constructive occupancy. (Adapted from AS 11.20.135.)

8.05.660 Vehicle — Tampering With.

It is unlawful for any person, either individually or in concert with one or more other persons, willfully to:



* (includes reports later found to be false)

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - HB 17

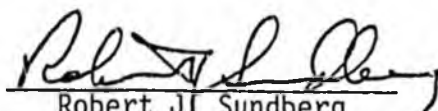
Support

February 1, 1985

HB 17 - "An Act relating to multiple convictions for motor vehicle theft and joyriding."

This legislation broadens the parameters of criminal activity that are to be considered in determining previous convictions involving joyriding.

This wording change will allow more serious charges to be brought against joyriding suspects which should bring the importance of this crime to the public's attention and thus lessen the number of occurrences due to the fear of prosecution as a more serious crime.


Robert J. Sundberg
Commissioner