

HB

17

COMMITTEE REPORT
SENATE

FURTHER: JUDICIARY

2/28/85

Date 3-12-85

Mr. President

The Committee on STATE AFFAIRS considered CSHB 17(Jud)
multiple convictions for motor vehicle theft and joyriding.

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 5 CS for CSHB 17(SA)
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- With opinion from legislative counsel
- recommends referral to _____ Committee

MEMBERS SIGNING

DO PASS

Ed Anna De Vries

Bill Kay

Tom Kelly

MEMBERS HAVING

OTHER RECOMMENDATIONS

V. J. ...

[Signature]

Chairman

[Signature]

Chairman recommendation

Offered: 3/13/85
Referred: Rules

CSHB 17 (Jud)
SECOND VERSION

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.

Dept of Law
AMENDMENT

~~SECOND VERSION CSHB 17~~



ANCHORAGE POLICE DEPARTMENT

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



TONY KNOWLES
MAYOR

BRIAN S. PORTER
CHIEF

January 25, 1985

Representative Rick Uehling
Pouch V
Juneau, Alaska 99811

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

Dear Representative Uehling,

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.

Position paper Anch Police Dept.

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

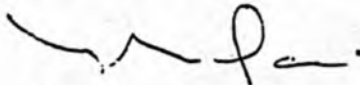
Auto Thefts (Anchorage)

		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.

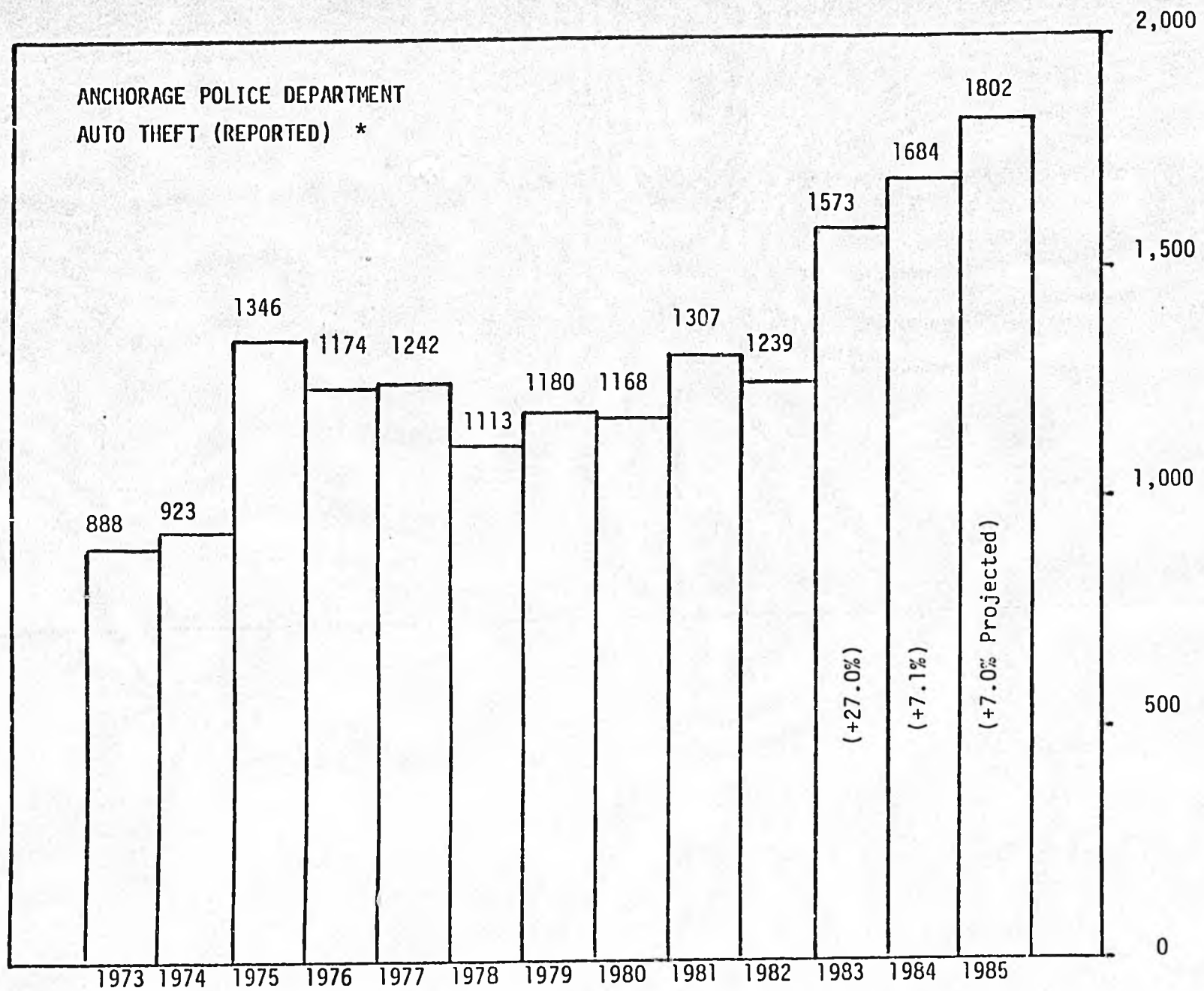
I strongly urge your support for House Bill No. 17. I have worked as an auto theft investigator for the past 12 years and I feel that this Bill will help to reduce auto theft in Alaska. House Bill No. 17 is also supported by the Alaska Chief of Police, Alaska Peace Officers Association and the Anchorage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

Sincerely,



Investigator Lyle L. Davis
Anchorage Police Department
Auto Theft Unit

LLD:vka
Attachments



* (includes reports later found to be false)

HB 17 - JOYRIDING

- This is not a new and different concept. Existing law already provides that anyone convicted of joyriding, who has previously been convicted of a joyriding offense under State law, is guilty of a class C felony.
- This bill amends existing law to close a gaping loophole. Existing law would not allow consideration of a previous conviction for joyriding under municipal ordinances or under another state's law. To allow this situation to continue will result in continued inconsistent treatment of similar offenders. E.g., their penalty would depend on whether they were previously convicted under Anchorage municipal law or state law.
- The significant change in the law is the inclusion of previous convictions for related crimes. That is, a previous conviction for theft of a motor vehicle or a previous conviction of joyriding where \$500 or more of property damage was caused will also be counted to incur the class C felony treatment.
- Although the result of the bill will be increased felony convictions, there is no presumptive term for a first time class C felony conviction. The only time the presumptive scheme will come into play is when that person has previous felony convictions (2 years for a second felony conviction and 3 years for a third felony conviction).

REP. RICK UEHLING
TESTIMONY TO HOUSE JUDICIARY COMMITTEE
REGARDING HOUSE BILL 17

MR. CHAIRMAN,

DURING THE INTERIM, IT WAS BROUGHT TO MY ATTENTION BY MEMBERS OF THE ANCHORAGE POLICE DEPARTMENT THAT CERTAIN DEFICIENCIES EXIST IN THE CURRENT LAWS UNDER WHICH A PERSON IS CHARGED WITH AS 11.46.484(a)(2) CRIMINAL MISCHIEF IN THE THIRD DEGREE (INVOLVING THE THEFT OF A MOTOR VEHICLE.)

UNDER THE CURRENT LAW, FELONY PROSECUTIONS HAVE BEEN LIMITED FOR THIS OFFENSE BY ITS RESTRICTIVE LANGUAGE. THE STATUTE DOES NOT ALLOW OUR POLICE AND PROSECUTORS THE ABILITY TO TAKE INTO CONSIDERATION THE FOLLOWING:

1. VIOLATIONS OF MUNICIPAL ORDINANCES FOR THE CRIME OF "JOYRIDING" (DRIVING A VEHICLE WITHOUT THE OWNER'S CONSENT)
2. CONVICTIONS IN OTHER JURISDICTIONS (OTHER STATES) FOR A LIKE OFFENSE
3. CONVICTIONS OF AS 11.46.482(a)(d) CRIMINAL MISCHIEF IN THE SECOND DEGREE, INVOLVING A STOLEN MOTOR VEHICLE.
4. CONVICTIONS OF AS 11.46.100-190 THEFT IN THE FIRST THROUGH THIRD DEGREE, AS 11.46.100-190 INVOLVING THE THEFT OF A MOTOR VEHICLE.

AUTO THEFT IN ANCHORAGE IS GROWING AT AN INCREASING RATE. IN 1983 THERE WAS A 28% INCREASE IN AUTO THEFTS AND IN 1984, A 9% INCREASE. THE TOTAL VALUE OF ALL CARS STOLEN IN 1984 WAS 4.6 MILLION DOLLARS.

WE NEED TO GIVE OUR POLICE THE TOOLS NECESSARY TO DEAL WITH THIS PROBLEM. I UNDERSTAND THAT THE ATTORNEY GENERAL'S OFFICE MAY HAVE CHANGES THAT THEY WANT TO MAKE. I HAVE NO PROBLEM WITH THAT. I AM WILLING TO WORK WITH MEMBERS OF THE COMMITTEE, THE CHAIRMAN, AND THE ATTORNEY GENERAL'S OFFICE TO SOLVE OUT ANY PROBLEMS. INVESTIGATOR LYLE DAVIS & ANN NEWELL ARE HERE TO TESTIFY AND I AM CERTAIN THAT THEY CAN BETTER ANSWER ANY SPECIFIC QUESTIONS THAT YOU MAY HAVE. THANK YOU.

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 MISCF' LANEOUS						
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. Ladwig
 Division: Deputy Commissioner for Administration

Phone: 465-3376
 Date: February 15, 1985

Approved by Commissioner: Roger V. Endell by William W. Ladwig
 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.

~~NOTE pg. 1 was never received~~
50+ it!

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

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						
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

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.

(Continued)

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

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

1885

REQUEST
Bill/Resolution No.: HB 17
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						
600 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)

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

See attached analysis.

Prepared By: Francis C. Allan ^{G.C.O.} Phone: 269-5691
Division: Alaska State Troopers Date: 2-1-85

Approved by Commissioner B. J. Sundberg Date: 2-6-85
Agency: Department of Public Safety

Distribution (by Agency preparing fiscal note):

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

[Handwritten signature and date]
7/1/84

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - HB 17

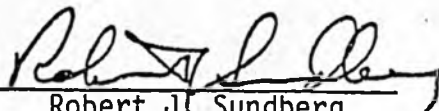
Support

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

~~Position Paper Dept of Pub. Safety~~

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 GAAII 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. (GAAII 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 Cald. 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: