

SB

17

Alaska State Legislature

House of Representatives

Committee on Transportation



Rep. Bette Cato, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4858

May 8, 1987

COMMITTEE CALENDAR:

- HB 213: "An Act relating to allocation of federal-aid highway funds; and providing for an effective date."
- HB 280: "An Act relating to taxation of watercraft motor fuel."
- CSSB 17: "An Act relating to unlawful possession and vandalism of official traffic control devices, disregard of a highway obstruction, and damages to highway."

FOR THIS MEETING YOU HAVE:

A folder on HB 213 that includes:

- * a copy of the committee substitute for HB 213
- * a sectional analysis
- * a letter of intent
- * a fiscal note on CSHB 213 from DOT/PF
- * a copy of HB 213
- * a fiscal note & position paper on HB 213 from DOT/PF
- * information from the six-year capital plan
- * a classification of road miles within Alaska
- * a letter from the Ass't. Division Administrator of the Federal Highway Administration
- * a report on HB 213 from Rep. Hoffman
- * minutes from the 4/13, 4/15 & 5/4 public hearings of HB 213

A folder on HB 280 that includes:

- * a copy of HB 280
- * a fiscal note from the Dept. of Revenue
- * a position paper on the Senate companion bill
- * a discussion on the watercraft motor fuel tax
- * a resolution from the Anchorage Chamber of Commerce
- * written testimony from two witnesses

A folder on CSSB 17 that includes:

- * a copy of CSSB 17
- * a fiscal note and position paper from the Dept. of Public Safety
- * a memorandum and sectional analysis from Sen. Faiks
- * a copy of the statutes impacted by CSSB 17

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: CSSB 17 (Trsp)

Publish Date: _____

REQUEST

Revision Date: _____

Title: "An Act relating to vandalism of official traffic control devices.."

Sponsor: Sen. Faiks

Requestor: House Transportation

Agency Affected: Public Safety

BRU: Alaska State Troopers

Components: Detachments & CIB

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL		0	0	0	0	0
REVENUE						

FUNDING:: (Thousands of Dollars)

GENERAL FUNDS		0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated.

Prepared by: Francis C. Allan

Division: Alaska State Troopers

Phone: 269-5691

Date: 4/08/87

Approved by Commissioner: William R. Nix

Agency: Public Safety

Date: 4/8/87

Distribution (by preparer):

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

Jack
4/8/87

BILL NO: CSSB 17 (Trsp)

DATE: 4/08/87

TITLE: "An Act relating to unlawful possession and vandalism of official traffic control devices, disregard of a highway obstruction, and damage to highways."

CONTACT: James Vaden
Deputy Commissioner

APR 14 1987

DEPARTMENT OF PUBLIC SAFETY

This bill groups these types of offenses in one area of statutes, clarifies penalties, and provides a mechanism for forfeiture of firearms and other personal property, except a motor vehicle, used in aid of a violation.

Provides penalties and/or forfeiture of property relating to unlawful possession and vandalism of official traffic control devices, disregard of erected highway obstructions, and damages to highways.

Sec. 11.46.460 provides authority to arrest or charge an individual who disregards traffic control devices and/or detours through construction zones, closed roadways, and barricaded traffic lanes.

Sec. 11.46.462 appears to be redundant to AS 11.46.190 "Theft by Receiving." However, this may be necessary to clarify forfeitures under Sec. 11.46.487 - 489 of this bill.

Sec. 11.46.484(a)(7) provides penalties for theft or vandalism of traffic control devices, etc.

Sec. 11.46.487 would allow for stiff penalties to be applied to individuals who knowingly violate the law. This would provide the Court with a mechanism to forfeit the instrumentalities of the offense to the State.

The Department of Public Safety supports this legislation.

William R. Nix
William R. Nix
Acting Commissioner

Alaska State Legislature



PRESIDENT
907-465-3755

JAN FAIKS
POST OFFICE BOX V
JUNEAU, ALASKA 99811

Senate

April 10, 1987

MEMORANDUM

TO: Representative Bette Cato, Chairman
House Transportation Committee

FROM: Senator Jan Faiks
President of the Senate

SUBJECT: Background to Senate Bill 17
An Act relating to vandalism of official
traffic control devices and damages to highways
and roads.

Senate Bill 17 has been referred to the House Transportation Committee for consideration. This bill expands the current statutes relating to vandalism of official traffic control devices and damages to highways and roads.

Safety on our highways and roads has long been of prime concern to all Alaskans. In recent years, the increase in the number of vehicles on our roads, along with an increase in major highway construction projects has lead to an alarming rate of accidents.

Vandalism to traffic signs, barricades, warning lights, and other safety devices contributes greatly to the deaths, personal injuries, and property damages suffered each year on our highways, roads, waterways, and other public and private property. The intent of this legislation is to provide criminal sanctions for vandalism to and theft of traffic control devices which have been utilized to protect or warn of dangers to real or personal property.

Senate Bill 17 strengthens the current provisions found in AS 19.25.30-40 by incorporating language of the Model Statute on Vandalism as developed by the American Traffic Safety Services Association. The criminal sanctions specified by this bill

OUT OF SESSION

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conform with those currently provided under the Alaska Statutes.

Since filing, and upon further review of this bill, various concerns were raised, which the CS from the Senate Transportation Committee effectively answers. The particular provisions of that CS are as follows:

Section 1. DISREGARD OF A HIGHWAY OBSTRUCTION/UNLAWFUL POSSESSION OF OFFICIAL TRAFFIC CONTROL DEVICE. AS 11.46 is amended by adding new sections (11.46.460 - 11.46.462) which provide criminal sanctions for the disregard of a highway obstruction or the unlawful possession of official traffic control devices by any person who neither has the right to do so nor a reasonable ground to believe that he does. Disregard of a highway obstruction is a class A misdemeanor (up to one year in prison and \$5,000 fine). Unlawful possession of official traffic control is punishable by not less than \$100 for the first offense, and not less than \$300 for subsequent offenses.

Section 2. CRIMINAL MISCHIEF IN THE 3RD DEGREE. AS 11.46.484(a) is amended by adding a new section (7) which creates the crime of criminal mischief in the third degree for a person who knowingly removes, destroys, or otherwise tampers with an official traffic control device or damages work upon a highway under construction. Section (1) of this statute as presently enacted would cover those situations in which damage is done to the traffic control devices utilized by private persons to protect their property or warn others of possible dangers.

Section 3. FORFEITURE OF PROPERTY UPON CONVICTION. Amends AS 11.46 by adding a new section, 11.46.489, which provides for forfeiture to the state, upon conviction, of firearms and other personal property, excluding motor vehicles, which are used to aid the commission of these acts.

Section 4. DEFINITIONS. Adds new definitions to AS 11.46.490, including "highway", "motor vehicle", "official traffic control device", and "traffic control device".

Section 5. DAMAGES TO STATE HIGHWAYS AND ROADS. AS 19.25.040 presently requires the commissioner of administration to separately account for money deposited in the general fund that is derived from damages to property related to state-owned highways and roads that are recovered from vehicle owners, drivers, or insurance companies. Such related property includes bridges, overpasses, signal poles, street lights and poles, traffic signals, guardrails, or fences.

SB 17 expands AS 19.25.040 to include "other person" in the class of persons from whom damages to property may be recovered. Additionally, it replaces the phrase "traffic signals" with the broader term "traffic control devices". The purpose of these amendments is to increase the amount of money deposited in the general fund for damages to state highways and roads.

Section 6. Repeals AS 19.25.030, which is provided for in Section 1 and Section 2 of this bill. This is the language which makes it a crime to disregard a highway obstruction or to unlawfully possess an official traffic control device.

I would appreciate the committee's consideration of this legislation at its earliest convenience. Should you need any additional information, please let me know.

Thank you.

Alaska Statutes

Title 11. Criminal Law.

Chapter

- 41. Offenses Against the Person (§§ 11.41.443, 11.41.445)
- 46. Offenses Against Property (§§ 11.46.200, 11.46.480, 11.46.484, 11.46.630, 11.46.740, 11.46.985, 11.46.990)
- 51. Offenses Against the Family (§§ 11.51.125, 11.51.130)
- 56. Offenses Against Public Administration (§§ 11.56.340, 11.56.350, 11.56.805, 11.56.810, 11.56.815, 11.56.820)
- 61. Offenses Against Public Order (§ 11.61.125)
- 71. Controlled Substances (§§ 11.71.030 — 11.71.070, 11.71.120, 11.71.305, 11.71.900)
- 81. General Provisions (§§ 11.81.250, 11.81.410, 11.81.900)

Chapter 16. Parties to Crime.

Sec. 11.16.100. Legal accountability based upon conduct.

NOTES TO DECISIONS

Cited in Dailey v. State, Ct. App. Op.
No. 329 (File No. 7128), 675 P.2d 657
(1984).

Sec. 11.16.110. Legal accountability based upon the conduct of another: Complicity.

NOTES TO DECISIONS

Cited in Dailey v. State, Ct. App. Op.
No. 329 (File No. 7128), 675 P.2d 657
(1984).

Sec. 11.16.120. Exemptions to legal accountability for conduct of another.

NOTES TO DECISIONS

Quoted in Kott v. State, Sup. Ct. Op.
No. 2774 (File No. 5570), 678 P.2d 386
(1984).

Revisor's notes. — Minor word amendment added paragraph (4) to sub- changes were made in the section in 1984. section (a) and added subsection (c).
Effect of amendments. — The 1984

Sec. 11.46.482. Criminal mischief in the second degree.

NOTES TO DECISIONS

Conviction and sentence upheld. —
See *Andrejko v. State*, Ct. App. Op. No. 444 (File No. A-205), 695 P.2d 246 (1985).

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 that 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;

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

(5) the person knowingly accesses a computer, computer system, computer program, computer network, or any part of a computer system or network; or

(6) the person uses a device to descramble an electronic signal that has been scrambled to prevent unauthorized receipt or viewing of the signal unless the device is used only to descramble signals received directly from a satellite or unless the person owned the device before September 18, 1984.

(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 is guilty of a class C felony if, within the preceding seven years, the person was convicted under

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

(2) former AS 28.35.010;

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

(4) an offense involving the theft of a propelled vehicle under AS 11.46.120 — 11.46.140; or

Alaska Statutes

Title 19. Highways and Ferries.

Chapter

- 05. Administration (§§ 19.05.020, 19.05.040, 19.05.046, 19.05.080)
- 10. State Highway System (§§ 19.10.060, 19.10.070, 19.10.072, 19.10.160 — 19.10.210)
- 20. Cooperation by and with the State (§ 19.20.015)
- 25. Protection and Use of State Highways and Roads (§§ 19.25.020, 19.25.040, 19.25.200)
- 30. Access Roads (§§ 19.30.070, 19.30.080, 19.30.127, 19.30.131, 19.30.141, 19.30.161, 19.30.241, 19.30.260 — 19.30.320)
- 40. James Dalton Highway (§§ 19.40.020, 19.40.100, 19.40.200, 19.40.210)
- 45. Miscellaneous Provisions (§ 19.45.001)
- 60. Ferry Terminal Facilities (§ 19.60.010, 19.60.070)
- 65. Alaska Marine Highway System (§ 19.65.010)

Chapter 05. Administration.

Article

- 1. Department of Transportation and Public Facilities (§§ 19.05.020, 19.05.040, 19.05.046)
- 2. Acquisition of Property (§ 19.05.080)

Article 1. Department of Transportation and Public Facilities.

Section

- 20. Regulations
- 40. Powers of department

Section

- 46. Accounting and disposition of receipts from nonstate entities

Sec. 19.05.020. Regulations [Effective July 1, 1987]. The department shall adopt regulations necessary to carry out the purpose of AS 19.05 — AS 19.25. The regulations may not conflict with AS 36.30 (State Procurement Code) or regulations adopted by the Department of Administration to implement that chapter. (§ 1 art III title I ch 152 SLA 1957; am § 10 ch 106 SLA 1986)

Effect of amendments. — The 1986 amendment, effective July 1, 1987, added the second sentence.

(1) by the department as a cost of highway construction, if the utility facility is installed or authorized under a utility permit or a regulation after the effective date of this Act and is installed in the location specified in the permit;

(2) by the department as a cost of highway construction, if the facility was installed before the effective date of this Act under a utility permit issued on or after July 1, 1960, and is in the location specified in the permit;

(3) by the department as a cost of highway construction, if the utility facility was installed before July 1, 1960, or before the road became part of the state highway system;

(4) by the department as a cost of highway construction, if the utility permit that requires the utility to pay the relocation cost was issued more than five years before the contract for the highway construction project was first advertised;

(5) by the utility in all other cases, unless the commissioner finds it is in the public interest for the cost to be paid by the department.

(d) If requested by a municipality, the department shall implement this chapter by requiring to the maximum extent possible location underground of electric power transmission lines within the municipality. (§§ 2, 3 ch 57 SLA 1961; am § 4 ch 106 SLA 1977; am § 3 ch 142 SLA 1986)

Effect of amendments. — The 1986 amendment, effective June 11, 1986, in subsection (c) deleted "by the state" following "construction to be paid" and substituted the language beginning "as fol-

lows:" for "notwithstanding the terms or provisions of any existing permit, agreement, regulation or statute to the contrary."

Article 2. Damages and Obstructions.

Section

40. Damages to state highways and roads

Sec. 19.25.040. Damages to state highways and roads. The commissioner of administration shall separately account for money deposited in the general fund that is derived from damages that are recovered from vehicle owners, drivers, or insurance companies for damage to property related to state-owned roads and highways, including bridges, overpasses, signal poles, street lights and poles, traffic signals, guardrails, or fences. The annual estimated balance in the account may be used by the legislature to make appropriations to the department for the purpose of repairing the damage. (§ 40 ch 138 SLA 1986)

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lations prescribed by the department and if authorized by a written permit issued by the department. (§ 8 art VII title II ch 152 SLA 1957; am § 3 ch 106 SLA 1977)

Effect of amendments. — The 1977 amendment rewrote this section. 2d, Highways, Streets and Bridges, §§ 218-234.
Collateral references. — 39 Am. Jur. 40 C.J.S., Highways, §§ 232, 233.

Sec. 19.25.020. Relocation of utilities incident to highway projects. (a) If, incident to the construction of a highway project, the department determines and orders that a utility facility located across, along, over, under, or within a state right-of-way must be changed, relocated or removed, the utility owning or maintaining the facility shall change, relocate or remove it in accordance with the order. The order shall provide a reasonable time period for compliance.

(b) If the utility facility is not changed, relocated or removed in accordance with the order, the facility becomes an unauthorized encroachment and may be disposed of in accordance with AS 19.25.240 — 19.25.250. In addition, the owner of the facility shall indemnify the state for any amount for which the state may be liable to a contractor by reason of the encroachment.

(c) The cost of change, relocation, or removal necessitated by highway construction is a cost of highway construction to be paid by the state in accordance with AS 19.45.001(4), notwithstanding the terms or provisions of any existing permit, agreement, regulation or statute to the contrary.

(d) If requested by a municipality, the department shall implement this chapter by requiring to the maximum extent possible location underground of electric power transmission lines within the municipality. (§§ 2, 3 ch 57 SLA 1961; am § 4 ch 106 SLA 1977)

Revisor's notes. — A reference to AS 19.45.001(4) was substituted for a reference to AS 19.05.130(4) in subsection (c) to conform to the renumbering of that section by the revisor of statutes under AS 01.05.031.

Effect of amendments. — The 1977 amendment rewrote this section.

Opinions of attorney general. — This section is constitutional. 1961 Op. Att'y Gen., No. 12.

Article 2. Damages and Obstructions.

Section

30. Damages to obstructions, signs, and construction

Sec. 19.25.030. Damages to obstructions, signs, and construction. The driver or owner, or both, of a vehicle, self-propelling or otherwise, which passes through, over or around an obstruction placed under authority of AS 19.10.100, or a person who opens, removes or defaces an obstruction or warning sign without written permission

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from the engineer in charge of the highway or the work on the highway, or a person who wilfully, knowingly, or maliciously damages the work under construction, is guilty of a misdemeanor. (§ 8 art IV title II ch 152 SLA 1957)

Collateral references. — 40 Am. Jur. 2d, Highways, Streets and Bridges, §§ 604-610.
40 C.J.S., Highways, §§ 248-282.
60 C.J.S., Motor Vehicles, §§ 655, 714.
Liability for damaging highway or

bridge by nature or weight of vehicles or loads transported over it. 5 ALR 768.
Construction and application of statute or ordinance designed to prevent the use of vehicles or equipment thereof injurious to the highway. 135 ALR 550.

Article 3. Outdoor Advertising.

Section	Section
80. Purpose	140. Compensation for removal of advertising
90. Outdoor advertising prohibited	150. Unlawful advertising
100. [Repealed]	160. Definitions
105. Limitations of outdoor advertising signs, displays and devices	170. Agreements with the United States; regulations
110. [Obsolete]	180. Interpretation
120. [Obsolete]	
130. Penalty for violation	

Sec. 19.25.080. Purpose. The purposes of AS 19.25.080 — 19.25.180 are

(1) to protect the public safety and the welfare of persons using the highways of the state by having outdoor advertising signs, displays and devices along the highways controlled;

(2) to prevent unreasonable distraction of operators of motor vehicles; to prevent confusion with regard to traffic lights, signs or signals or otherwise interfere with the effectiveness of traffic regulations, and to promote the safety, convenience and enjoyment of travel on, and protection of the public investment in highways in this state; to preserve and enhance the natural scenic beauty or aesthetic features of the highways and adjacent areas; and to attract tourists;

(3) to regulate outdoor advertising signs, displays and devices in areas adjacent to the rights-of-way of the interstate, primary and secondary systems within this state in accordance with this chapter and the regulations adopted under this chapter;

(4) to provide that outdoor advertising signs, displays and devices which are not in conformity with the requirements of this chapter are a public nuisance;

(5) to provide a statutory basis for regulation of outdoor advertising signs, displays and devices consistent with the public policy relating to areas adjacent to a highway of the interstate or primary systems declared by Congress in Title 23, United States Code, "Highways." (§ 1 ch 59 SLA 1949; am § 1 ch 86 SLA 1953; am § 2 ch 233 SLA 1968; am § 1 ch 155 SLA 1970)

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
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May, 1988

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

Mary Van Nimwegen

H. TRANS.

5-8-87

1:30p.m.

(7)

HOUSE COMMITTEE REPORT

Date referred: 4/8/87

FURTHER REFERRALS: Judiciary

DATE: May 8, 1987

The Transportation Committee has considered CSSB 17 (Trsp)

"An Act relating to unlawful possession and vandalism of official traffic control devices, disregard of a highway obstruction, and damages to highways."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

Mike M. Roe

G. W. L. Lander

Heinrich Sprungel

Wm. J. ...

Bill ...

Bitte ...

SIGNING OTHER RECOMMENDATIONS:

Bitte ...

 Chairman's signature



Official Business

COMMITTEE:

House Transportation Committee

DATE: May 8, 1987

SIGN-IN

Subject of meeting:

HB 213: Allocation of Federal Highway Funds

*HB 280: Taxation of Watercraft Motor Fuel

CSSB 17: Vandalism of Traffic Control Devices

NAME Please include title ADDRESS Please use full address. Please include zip. PHONE REPRESENTING DO YOU WANT TO TESTIFY?

Carl H. Meyer Chief of Audit Appeals	Dept. of Revenue P.O. Box 5A	465-2343	DOR	Available for HB 280 Questions
Alexis Gabay Staff Attorney	Ken. Faiks — CSSB 17	465-4523	Senator Faiks	Yes
Jon Scribner	DOT&PF Pouch Z JNU	465-3906	DOT&PF	if questions yes

*indicates first public hearing