

CSHB

461

SENATE COMMITTEE REPORT

FURTHER

5/3/88

DATE TURNED INTO OFFICE

5/7/88

Mr. President:

Finance

Committee considered

CSHB 461 (JUD)

increasing the penalties for repeat convictions for the crimes of theft and concealment of merchandise

and recommended

[] replace with _____ CS _____) [] same title
[] or adopt _____ CS _____) [] new title

[] attached amendment(s) and

[] do pass

[] do not pass

[x] no recommendation

[x] individual recommendations

[] further referral to _____

[] letter of intent adopted _____

Committee [] attached or [] adopted fiscal note(s)

[x] new [] updated or [] previous

[x] zero [] fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Paul V. Z. [Signature] No Rec

Paul [Signature] No Rec

[Signature] (No Rec)

[Signature] (No Rec)

[Signature] do pass

Chairman signature and recommendation

[] Committee Backup attached

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Act increasing the penalties
repeat convictions for crimes
Sponsor: Judiciary Committee
Requestor: Senate Finance Committee

Agency Affected: Dept. of Corrections
BRU: Statewide Operations
Components: Statewide Programs

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: *Rick Halford*

Division: Senator Rick Halford, Co-chairman
Senate Finance Committee

Phone: 465-3753

Date: May 7, 1988

Approved by Commissioner: _____

Date: _____

Agency: _____

Distribution (by preparer):

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

Original sponsor: Cotten

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR HOUSE BILL NO. 461 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act increasing the penalties for repeat con-
7 victions for the crimes of theft and concealment of
8 merchandise."

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

10 * Section 1. AS 11.46.120(a) is amended to read:

11 (a) A person commits the crime of theft in the first degree if
12 the person commits theft as defined in AS 11.46.100 and

13 (1) the value of the property or services is \$25,000 or
14 more; or

15 (2) the value of the property or services is \$500 or more
16 but less than \$25,000 and within the preceding five years the person
17 has been convicted and sentenced on two or more separate occasions in
18 this or another jurisdiction of a crime set out in (1) of this sub-
19 section or AS 11.46.130(a)(1) - (3) or an offense under another law or
20 ordinance with similar elements.

21 * Sec. 2. AS 11.46.130(a) is amended to read:

22 (a) A person commits the crime of theft in the second degree if
23 the person commits theft as defined in AS 11.46.100 and

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

26 (2) the property is a firearm or explosive; [OR]

27 (3) the property is taken from the person of another; or

28 (4) the value of the property is \$50 or more but less than
29 \$500 and within the preceding five years the person has been convicted

1 and sentenced on two or more separate occasions in this or another
2 jurisdiction of a crime set out in (1) - (3) of this subsection or
3 AS 11.46.140(a)(1) or (2) or an offense under another law or ordinance
4 with similar elements.

5 * Sec. 3. AS 11.46.140(a) is amended to read:

6 (a) A person commits the crime of theft in the third degree if
7 the person commits theft as defined in AS 11.46.100 and

8 (1) the value of the property or services is \$50 or more
9 but less than \$500; [OR]

10 (2) the property is a credit card; or

11 (3) the value of the property is less than \$50 and within
12 the past five years the person has been convicted and sentenced on two
13 or more separate occasions in this or another jurisdiction of theft or
14 an offense under another law or ordinance with similar elements.

15 * Sec. 4. AS 11.46.220(c) is amended to read:

16 (c) Concealment of merchandise is

17 (1) a class C felony if

18 (A) the merchandise is a firearm;

19 (B) [OR] the value of the merchandise is \$500 or more;

20 or

21 (C) the value of the merchandise is \$50 or more but
22 less than \$500 and within the preceding five years the person has
23 been convicted and sentenced on two or more separate occasions in
24 this or another jurisdiction of the offense of concealment of
25 merchandise that has a value of \$50 or more or an offense under
26 another law or ordinance with similar elements;

27 (2) a class A misdemeanor if

28 (A) the value of the merchandise is \$50 or more but
29 less than \$500; or

1 (B) the value of the merchandise is less than \$50 and
2 within the preceding five years the person has been convicted and
3 sentenced on two or more separate occasions of the offense of
4 concealment of merchandise in any degree or an offense under
5 another law or ordinance with similar elements;

6 (3) a class B misdemeanor if the value of the merchandise
7 is less than \$50.

8 * Sec. 5. AS 11.46 is amended by adding a new section to article 1 to
9 read:

10 Sec. 11.46.295. PRIOR CONVICTIONS. For purposes of considering
11 prior convictions in prosecuting a crime of theft under AS 11.46.-
12 120(a)(2), 11.46.130(a)(4), or 11.46.140(a)(3), or in prosecuting the
13 crime of concealment of merchandise under AS 11.46.220(c), a convic-
14 tion for an offense under another law or ordinance with similar ele-
15 ments is a conviction of an offense having elements similar to those
16 of an offense defined as such under Alaska law at the time the offense
17 was committed.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: CSHB 461 (JUD)
PUBLISH DATE: HOUSE 4/13/88

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act increasing the penalties for repeat convictions for the crimes..."
Sponsor: Judiciary Committee
Requestor: _____

Agency Affected: Department of Corrections
BRU: Statewide Operations
Components: Statewide Programs

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	-0-	348.5	348.6	348.6	348.5	348.6
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	848.6	848.6	848.6	848.6	848.6

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-	848.6	848.6	348.6	848.6	848.6
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	848.6	848.6	848.6	848.6	848.6

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

See Attached

Susan E. Knighton

Prepared by: Susan E. Knighton, Director
Division: Administrative Services

Phone: 465-3376
Date: 4-5-88 4-6-88

Approved by Commissioner: Susan Humphrey-Barnett
Agency: Department of Corrections

Date: 4-5-88

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS**For Bill/Resolution No.****ANALYSIS**

This proposed legislation would increase the penalties imposed on persons who are repeatedly convicted for the crimes of theft. It would have a fiscal impact on the Department of Corrections.

To determine the effect, we have analyzed recidivism data for the State of Alaska, the number of offenders in the theft categories who are being placed in the custody of the Department, the amount of jail time currently being served and the amount of jail time proposed in this legislation.

The recidivism rates are as follows:

Theft II	33%
Theft III	39%
Theft IV	74%
Concealment	68%

This fiscal note is based upon the yearly incarceration of repeat theft offenders in Restitution Centers or Community Residential Centers. They would serve 77.5 man-years more than is currently served.

Using the Anchorage daily soft bed cost of \$30.00 per day, the estimated yearly fiscal impact is \$848,625. Using the statewide average cost of \$45.00 per day, the estimated yearly fiscal impact is \$1,272,937.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: CSHB 461 (JUD)
PUBLISH DATE: HOUSE 4/13/88

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act increasing the penalties for repeat convictions ... theft ..."
Sponsor: House Judiciary
Requestor: House Finance

Agency Affected: Department of Law
BRU: Prosecution
Components: All

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

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)

Please see the attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
Division: Administrative Services Date: April 6, 1988

Approved by Commissioner: Grace Berg Schepke Date: April 6, 1988
Agency: Department of Law

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

RECEIVED

APR 8 1988

LEGISLATIVE FINANCE

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No.

The committee substitute for HB 461 amends AS 11.46 to provide stiffer penalties for third-time theft offenders. For instance, a person convicted of theft of property or services with a value of \$500 or more but less than \$25,000, normally theft in the second degree, would be guilty of theft in the first degree if the person had been convicted and sentenced on two or more separate occasions within the preceding five years for the crime of theft in the second degree. Likewise, a third conviction for a crime normally constituting theft in the third degree or a third conviction for a crime normally constituting theft in the fourth degree would result in conviction at the next higher level. As a consequence, the penalty for a third conviction normally resulting in a class C felony would be raised to a class B felony. A third conviction normally resulting in a class A misdemeanor would be raised to a class C felony. A third conviction normally resulting in a class B misdemeanor would be raised to a class A misdemeanor. Repeat offenses for the crime of concealment of merchandise would be treated in a similar manner.

Because this legislation is primarily a sentencing bill it is not expected to have a fiscal impact on the Department of Law sufficient enough to warrant fiscal note costs. Some additional prosecutor time may be required to prove the repeat status of some offenders. And because of the increased penalties, prosecutors may face a more spirited defense in some cases. For the most part, however, these are cases that the department is already handling, and an appreciable additional expense is not anticipated.

REPRESENTATIVE
SAM COTTEN
DISTRICT 15



P.O. BOX 296, EAGLE RIVER, AK 99577
P.O. BOX V, JUNEAU, AK 99811

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

MEMO

TO: Senator Rick Halford
Co-Chairman, Finance Committee

FROM: Rep. Sam Cotten, C

DATE: May 3, 1988

RE: Scheduling of HB 461

HB 461, an Act increasing penalties for repeat convictions for the crimes of theft and concealment of merchandise, has been assigned to your committee. In light of the short time remaining to this session, I would appreciate your scheduling the bill for a hearing as soon as possible.

HB 461 was introduced at the request of the Anchorage Police Department Employees Association. Repeat misdemeanor offenders are not covered by presumptive sentencing under the revised criminal code. As a result of this, sentences are increased only slightly when a person commits numerous misdemeanors in even a short period of time.

The bill addresses this problem by setting in motion a loop that will gradually increase a repeat offenders sentence. I have attached an analysis of the House Judiciary substitute.

I believe HB 461 fills a void left by the revision of the criminal code and again ask that it be scheduled before the Judiciary committee at the earliest possible date.

Thank you.

CSHB 461 (Judiciary)

An Act increasing the penalties for repeat convictions for the crimes of theft and concealment

SECTIONAL ANALYSIS

Section 1. A person who has been convicted of two Class C felonies or above and is charged with a third Class C felony within a five-year period will be sentenced with a Class B felony.

Section 2. A person who has been convicted of two Class A misdemeanors or above and is charged with a third Class A misdemeanor within a five-year period will be sentenced with a class C felony.

Section 3. A person who has been convicted of two Class B misdemeanors or above and is charged with a third Class B misdemeanor within a five-year period will be sentenced with a class A misdemeanor.

Section 4. In the case of concealment, a person who is charged with a Class A misdemeanor concealment charge and who has had two prior convictions within the past five-years of concealment of merchandise valued at \$50 or more will be sentenced with a class C felony.

A person charged with a Class B concealment charge who has been previously convicted of any two concealment charges will be sentenced with a class A misdemeanor.

Section 5. Definition of prior convictions with similar elements.

	<u>Fine</u>	(and/or)	<u>Jail Term</u>
1st degree theft = Class B felony	\$50,000		0-10 years
2nd degree theft = Class C felony	50,000		0-5 years
3rd degree theft = Class A misdemeanor	5,000		0-1 years
4th degree theft = Class B misdemeanor	1,000		0-90 days

THEFT

B felony if value of property or services is \$25,000 or more	
C felony	\$500 - 25,000
A misdemeanor	\$50 - 500
B misdemeanor	less than \$50

CONCEALMENT

C felony if the: merchandise is a firearm
value of the merchandise is \$500 or more

A misdemeanor if the value of the merchandise is \$50 - 500
B misdemeanor if the value of the merchandise is less than \$50

SENATE COMMITTEE REPORT

revd 4/27

FURTHER

FINANCE

4/27/88

DATE TURNED INTO OFFICE _____

Mr. President:

Judiciary Committee considered CSHB 461 (JUD)

increasing the penalties for repeat convictions for the crimes of theft and concealment of merchandise

and recommended

[] replace with _____ CS _____) [] same title
[] or adopt _____ CS _____) [] new title

[] attached amendment(s) and

Report
[] do pass

[] do not pass

[] no recommendation

individual recommendations

[] further referral to _____

[] letter of intent adopted _____

Committee attached or [] adopted fiscal note(s)
[] new [] updated or [] previous
[] zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Colin Sturgis
Pratt

2 All present - No Rec.

[] Committee Backup attached

Kurtz
Chairman signature and recommendation