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HOUSE COMMITTEE REPORT

(7)

Date Referred: April 26, 1989

FURTHER REFERRALS:

Date of Committee Action: 1/26/90

The JUDICIARY Committee considered:

HB 316

HOUSE BILL NO. 316

[CRIMINAL FINES FOR ORGANIZATIONS]

"An Act relating to fines imposed in criminal cases against organizations."

RECOMMENDATIONS:

- [] be replaced with _____ [] the same title
[] a new title
[] have attached amendment(s)
[X] do pass
[] do not pass
[] no recommendation
[] individual recommendations
[] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS: (Date/Dept)

- [] fiscal impact _____
[] zero fiscal note _____
[X] zero with analysis LAW

- [] fiscal note(s) _____
[] zero fiscal note(s) _____
[] zero fn/analysis _____

SIGNING DO PASS:

SIGNING:
(Check approp. column)

Do Not Pass No Rec Amend

Neil Gunberg
Mike D...
H. Ellis
Mike Miller
Cliff Davidson
Peter J...

| SIGNING: | Do Not Pass | No Rec | Amend |
|---------------------|-------------|-------------------------------------|-------|
| <u>Terry Martin</u> | | <input checked="" type="checkbox"/> | |
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Neil Gunberg Peter J...
Chairman's Signature

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

cc
94B 316

April 26, 1989

The Honorable Sam Cotten
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to fines imposed in criminal cases against organizations.

This bill is intended to increase the maximum fine that a court may impose against a corporate defendant convicted of violating a criminal law of the State of Alaska. The need for this legislation arises from our review of criminal statutes in light of the Prince William Sound oil spill.

Under current law, when a defendant that is an organization is convicted of a criminal offense, the court may impose a fine not exceeding the greater of \$100,000, or three times the pecuniary gain realized by a defendant as a result of an offense. In other words, in cases where a defendant has not realized pecuniary gain, the maximum possible fine is \$100,000. I believe that a fine of \$100,000 is insufficient to deter organizations from engaging in criminal activity that poses a significant risk of damage to persons or property, yet does not involve pecuniary gain.

This bill allows a court to assess a fine equal to two times the damage or loss caused by the defendant to another, or to the property of another, as a result of a criminal offense. Since it is unlikely, in most situations, that an organization could be sentenced to serve time in jail, the intent of the bill is to provide a significant financial penalty for organizations that violate the criminal laws of this state and in so doing cause damage to Alaskans. A fine imposed under this section would not limit a victim's ability to obtain restitution under AS 12.55.045.

I urge your favorable action on this bill.

Sincerely,

A large, stylized handwritten signature of Steve Cowper in black ink.

Steve Cowper
Governor

FISCAL NOTE

REQUEST:

Revision Date: January 11, 1990
 Title: "An Act relating to fines imposed in criminal cases against organizations."
 Sponsor: House Rules/Governor
 Requestor: House Judiciary

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 91 | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 |
|------------------------|-------|-------|-------|-------|-------|-------|
| 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 attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: January 11, 1990
 Approved by Commissioner: Douglas B. Baily, Attorney General Date: January 11, 1990
 Agency: Department of Law

- 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. HB 316

This bill amends AS 12.55.035(c) by adding a new paragraph, which provides that upon a criminal conviction that includes a fine, a defendant that is an organization may be sentenced to pay a fine in an amount which is two times the damage or loss caused by the defendant to another or to the property of another as a result of the offense. This is a change in a sentencing provision, which occurs after a conviction, and it should not have a direct fiscal impact on the Department of Law.

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An Act relating to fines... in criminal cases against organizations."
 Sponsor: Rules/By Req. of the Governor
 Requestor: Governor's Office/OMB

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 89 | FY 90 | FY 91 | FY 92 | FY 93 | FY 94 |
|------------------------|------------|------------|------------|------------|------------|------------|
| 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
 Division: Administrative Services

Phone: 464-3672
 Date: April 24, 1989

Approved by Commissioner: Douglas B. Bailly, Attorney General
 Agency: Department of Law

Date: April 24, 1989

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. _____

This bill amends AS 12.55.035(c) by adding a new paragraph, which provides that upon a criminal conviction that includes a fine, a defendant that is an organization may be sentenced to pay a fine in an amount which is two times that damage or loss caused by the defendant to another or to the property of another as a result of the offense. This is a change in a sentencing provision and it should not have a direct fiscal impact on the Department of Law.