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HOUSE JUDICIARY COMMITTEE
BILL CHECKLIST

- 1.) CS for HB 58 (C&RA)
- 2.) Minutes on HB 58 C&RA - January 19, 1989
- 3.) HB 58
- 4.) 1/19/89 memo from Theresa Bannister to Rep. MacLean
re: CSHB 58 (C&RA)
- 5.) 1/19/89 memo "" "" "" "" "" "" ""
- 6.) amendment to Sec 2 adding new sec. C
- 7.) witness register
- 8.) Committee report - C&RA
- 9.) work draft C&RA CS
- 10.) Governor's letter of transmittal
- 11.) 1/9/89 Fiscal Note DPS/Fire Prevention

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

POUCHY - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

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

HB 58

H. CERA

1/19/89

Alaska State Legislature



House of Representatives House Judiciary Committee

P. O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-4990
(907) 465-4712

February 23, 1989

MEMORANDUM

TO: Representative Ben Grussendorf
Chairman, House Rules Committee

FROM: Representatives Max Gruenberg and Peter Goll,
Co-Chairman, House Judiciary Committee

RE: CSHB 58 (Jud): Changes from CSHB 58 (C&RA)

A handwritten signature in cursive script, appearing to read "Peter Goll", written over the "FROM" line of the memorandum.

CSHB 58 (Jud) differs from CSHB 58 (C&RA) in three primary respects:

1. Section 2, CSHB 58 (Jud) simplifies the language of Section 2 CSHB 58 (C&RA). The Judiciary version clarifies the procedure by which a fire department's compliance order may be stayed while an appeal of the order is pending in the superior court, and the terms on which a stay of the order may be granted.
2. The penalty provisions of the Community and Regional Affairs version have been changed.
3. Section 3 of the Judiciary Committee Substitute is new. This section changes the procedure by which warning placards for hazardous materials are adopted.

A detailed comparison of CSHB 58 (C&RA) and CSHB 58 (Jud) follows:

- A. Section 1, CSHB 58 (Jud) and Section 1 CSHB 58 (C&RA) are identical.
- B.(1) Under Section 2, CSHB 58 (C&RA), stays on appeal of fire department compliance orders were governed by Appellate Rule 603(a)(2), which has been interpreted as making issuance of a stay mandatory so long as a bond is filed. Section 2, CSHB 58 (Jud) changes this and amends Appellate Rule 603(a)(2) in cases arising under AS 18.70.100. CSHB 58 (Jud) clearly

states a fire department compliance order may not be stayed while an appeal is pending unless the court finds that a stay is in the public interest. The court is authorized to condition the stay on an appropriate bond or other terms.

(2) In addition, Section 2 of CSHB 58 (Jud) eliminates language in Section 2 of CSHB 58 (C&RA) that is unnecessary:

(a) Because each ten days that a violation continues is a separate offense, there is no need for the provisions that "the imposition of one penalty for a violation does not excuse the violation" (p.2, lines 12-13, CSHB 58 [C&RA]).

(b) Because enforcement orders contain a time limit for compliance (see 13 AAC 59.070[b]), there is no need for the requirement that violations be corrected "within a reasonable time" (p.2, lines 13-15, CSHB [C&RA]); and

(c) Because fire departments have independent authority under AS 18.70.070 to enforce the removal of prohibited conditions, there is no need for specific authorization for "enforcing the removal of prohibited conditions" when a criminal penalty has been imposed under AS 18.70.100 (p.2, lines 17-19, CSHB 58 [C&RA]).

(3) Finally, the penalty imposed in Section 2 of the bill for a violation of a fire protection regulation or a compliance order has been changed from a maximum of \$500 and six months in jail (CSHB 58 [Jud] at p.1, line 29 to p.2, line 2), to a maximum of \$1,000 and 90 days in jail, which is the standard penalty for a Class B misdemeanor. (CSHB 58 [Jud], at p.2, line 3).

This change reflects the Judiciary Committee's desire to standardize the penalties for misdemeanor offenses for offenses created outside of Title 12 (Criminal Law) to conform with the misdemeanor categories established in Title 12.

C. Section 3 of CSHB 58 (C&RA) has been eliminated. The wording in Section 2 of CSHB 58 (Jud) has been revised to eliminate the use of the word "department," so that there is no need to define that word.

D. Section 3 of CSHB 58 (Jud) is completely new. This provision amends AS 18.70.310(b) to allow the Department of Public Safety to adopt an alternate system of warning placards for hazardous materials when the standard system is inappropriate.

The Department, industry representatives, and fire enforcement representatives asked for this flexibility in order to enable the Department to address deficiencies in the standard warning sign system.

E. Section 4, CSHB 58(Jud) is identical to Section 4, CSHB 58 (C&RA), except that the penalty provisions have been revised in the same manner as in Section 2 of the bills.

F. Section 5, CSHB 58 (Jud) is new; it reflects the fact that in Section 2 of the bill, the requirements for granting a stay of an enforcement order have been altered from the provisions of Appellate Rule 603(a)(2).

G. Section 6, CSHB 58 (Jud) and Section 5, CSHB 58 (C&RA) are identical.

H. Bill Titles: The title of CSHB 58 (Jud) has been changed to reflect the amendment to Appellate Rule 603(a)(2) and the change in the selection of a system for hazardous materials warning placards.

Alaska State Legislature
Representative Niilo Koponen

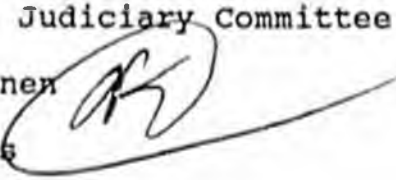
House District 21

119 N. Cushman, Suite 207
Fairbanks, Alaska 99701
(907) 456-8172

Pouch V
Juneau, Alaska 99811
(907) 465-4992

MEMORANDUM

TO: Rep. Max Gruenberg
Rep. Peter Goll
Co-Chair, House Judiciary Committee

FROM: Rep. Niilo Koponen 

RE: HB 58 amendments

DATE: 2/16/89

Thank you for giving me the opportunity to comment on the proposed amendments to the state's placarding statutes.

In spite of many hours spent with all interested parties in the course of our work on this issue in the last legislature, it appears we did not anticipate every situation. I suppose it was inevitable.

As you can see by the language pertaining to Municipalities, it was the intention of the sponsors of last year's legislation to grant flexibility to the responsible authorities. It was not our intention to tie the hands of any agency. Therefore, I feel Representative Gruenberg's proposal is consistent with the intent of this statute, and I fully support his amendment. Had this issue arisen during the course of our deliberations, I am sure we would have included similar language in last year's bill.

If I can be of any further assistance to the committee, please let me know.

STATE OF ALASKA

DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

P.O. BOX N
JUNEAU, ALASKA 99811-1200
PHONE:

February 7, 1989

Honorable Peter Goll
Co-Chairman
House Judiciary Committee
Alaska House of Representatives
P.O. Box V
Juneau, AK 99811

RECEIVED FEB - 7 1989

Re: House Bill 58
Fire Protection Laws

Dear Representative Goll:

The Department of Public Safety would like to request that the Judiciary Committee consider some amendments to CSHB 58 (C & RA), a bill relating to fire protection laws. We believe the amendments suggested below would clarify the language of the present bill.

Amendment No. 1. Add a new Section 1 to read:

Sec. 1. AS 18.70.020 is amended to read:

Sec. 18.70.020. DUTIES OF DEPARTMENT OF PUBLIC SAFETY.
The Department of Public Safety shall

- (1) aid in the enforcement of all laws and ordinances and the rules and regulations adopted under AS 18.70.010 - 18.70.100, ~~18.70.300 - 18.70.310~~, and all other laws relating to fires or to fire prevention and protection;
- (2) encourage the adoption of fire prevention measures by means of education;
- (3) prepare or have prepared for dissemination information relating to the subject of fire prevention and extinguishment; and
- (4) administer the state fire-service training program.

This change will provide conformity in AS 18.70.020 with the changes proposed in AS 18.70.090 and 18.70.100.

Amendment No. 2. Renumber CSHB 58 (C & RA) Section 1 to Section 2.

Amendment No. 3. Renumber CSHB 58 (C & RA) Section 2 to Section 3 and revise to read:

Sec. 3. AS 18.70.100 is repealed and reenacted to read:

Sec. 18.70.100. VIOLATION. (a) A person who violates a provision of AS 18.70.010 - 18.70.100, 18.70.300 - 18.70.310, or a regulation adopted under those sections, or who fails to comply with a department order issued under AS 18.70.010 - 18.70.100 or 18.70.300 - 18.70.310 is guilty of a misdemeanor, and is punishable by a fine of not more than \$500, or by imprisonment for not more than six months, or by both. When not otherwise specified, each 10 days that a prohibited condition is maintained is a separate offense.

(b) A person aggrieved by a final order of the department may appeal to the superior court within 30 days after the issuance of the order. Filing of the appeal does not excuse noncompliance with the order unless the court stays the operation of the order. A stay may not be granted or continued if it is against the public interest.

(c) Prosecution under (a) of this section does not prevent the department from enforcing the removal of the prohibited conditions as allowed by law.

(d) In this section, "department" means
(1) the Department of Public Safety; or
(2) a fire department that is enforcing regulations under AS 18.70.090.

This change will provide penalty provisions for hazardous materials violations, and more clearly describe the appeals process. It also clarifies the meaning of the term "department" as used in AS 18.70.100.

Section 4 of CSHB 58 (C & RA) deals with fireworks violations; and is acceptable in its present form.

Amendment No. 4. Add a new Section 5 to read:

Sec. 5. AS 18.70.100(b), as amended by sec. 3 of this Act, amends Alaska Rule of Appellate Procedure 603(a)(2) by prohibiting the granting or continuation of a stay if the court finds it is against the public interest.

This section is included as a precautionary measure, because the language in section 3 may have the effect of amending a court rule. The bill's title should also be changed to reflect this section.

Honorable Peter Goll
February 7, 1989

Page 3

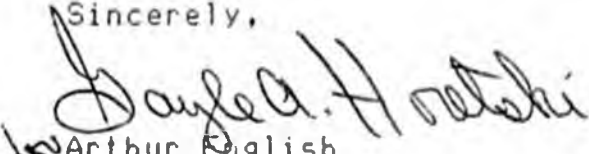
Amendment No. 5. Renumber CSHB 58 (C & RA) Section 5 to Section 6 and change it to read:

Sec. 6. Sections 1 and 2 of this Act take effect immediately under AS 01.10.070(c).

This language provides that the penalties for violations of hazardous materials laws take effect immediately.

We would be glad to discuss these proposed changes with you or your staff if you wish. Thank you for the opportunity to comment on this bill.

Sincerely,


for Arthur English
Commissioner

STATE OF ALASKA
THE LEGISLATURE

OFFICE OF THE CLERK
LEGISLATIVE AGENCY
1000 EAST BROADWAY
ANCHORAGE, ALASKA 99501

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 19, 1989

SUBJECT: CSHB 58 (C&RA)

TO: Representative Eileen MacLean, Chair
Community and Regional Affairs Committee

FROM: Theresa Bannister *TB*
Legislative Counsel

This memo accompanies CSHB 58 (C&RA). I have made the amendments that the committee approved.

I have two comments about the the definition of "department" that has been added to the bill as sec. 3. Since the bill has passed out of the committee you may wish to pass these comments along for the review of the next committee of referral.

The first comment is that the phrase "that is enforcing fire safety regulations under AS 18.70.090" could be interpreted to modify "Department of Public Safety". I presume this isn't what was intended. The definition could be rewritten to avoid this possibility.

The second is that the definition appears to be mildly inconsistent with the context of AS 18.70.100(a)(1) and (2). The definition limits the fire departments to those enforcing "fire safety" regulations. However, in the context of AS 18.70.100(a)(1) and (2) the department order can deal with hazardous substances that are not ignitable and that might not be included under "fire safety" regulations.

I would be happy to assist with any redrafting that you or the next committee would like done with regard to the above.

If I may be of further assistance, please advise.

TB:kb
wkk1/055

Enclosure

2

STATE OF ALASKA THE LEGISLATURE

POUCHY STATE CAPITOL
JUNEAU ALASKA 99801
707 465 1800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 18, 1989

SUBJECT: CSHB 58 (C&RA)

TO: Representative Eileen MacLean, Chair
Community and Regional Affairs Committee

FROM: Theresa Bannister ⁷³
Legislative Counsel

This memo accompanies the committee substitute that you requested for HB 58. The draft contains the title change made in the prior draft as well as two other changes.

1. TITLE CHANGE. The title is different from HB 58. The main purpose of the title change is to give notice that the bill covers fireworks and hazardous substances that are not ignitable.
2. SUBSTITUTION FOR "THIS CHAPTER". "This chapter" in secs. 1 and 2 of HB 58 has been replaced by citations for AS 18.70.010 - 18.70.100 and 18.70.300 - 18.70.310 (articles 1 and 3 of the chapter). A reference to "this chapter" pulls in article 2, relating to mutual fire aid agreements. Since the purpose of using the chapter reference was to include hazardous substances under AS 18.70.310, there is no need to reference article 2. Limiting the reference to articles 1 and 3 also avoids any possible confusion that the enforcement and penalty provisions apply in some way to mutual fire aid agreements. The new reference does include AS 18.70.300 since that section contains a definition that is used in the first article of the chapter.
3. DELETION OF FORMER SEC. 3. The present draft does not include sec. 3 of HB 58. Section 3 adds a subsection to AS 18.70.310 that indicates that a violation of the section or a regulation adopted under the section is punishable under AS 18.70.100. Since AS 18.70.100 already accomplishes what sec. 3 states, the cross-reference is unnecessary, and there is a slight possibility that the proposed subsection could be interpreted to limit the application of

Representative Eileen MacLean
Page 2
January 18, 1989

AS 18.70.100.

If I may be of further assistance, please advise.

TB:kb
wkk1/049

Attachment

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 9, 1989

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

Dear Representative Cotten:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to fire protection laws.

The bill does four things: (1) it assists the division of fire prevention by allowing fire code enforcement to be handled by fire departments "recognized" by the Department of Public Safety, rather than just "city" fire departments; (2) it corrects an oversight that has left violations of hazardous materials laws unenforceable; (3) it requires compliance with a department order unless a motion for a stay has been filed with the court (current law permits noncompliance simply by filing a notice of appeal); and (4) makes enforcement of fireworks regulations more feasible.

Section 1 of the bill amends AS 18.70.090 to allow fire departments that are not city fire departments to be "recognized" under regulations adopted by the Department of Public Safety which provide standards and qualifications for that recognition. Non-city fire departments would then be able to enforce state fire safety regulations. Given the limited resources of the division of fire prevention, this change is needed to provide meaningful enforcement in many areas of the state. City fire departments would, of course, be "recognized" under those regulations and would continue to enforce state fire safety regulations.

Section 2's amendments to AS 18.70.090 also change two section-specific citations to include instead all of AS 18.70. This change will make certain provisions in AS 18.70.090 applicable to AS 18.70.310, regarding hazardous materials and wastes placards.

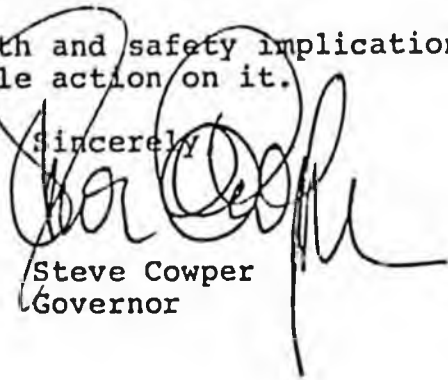
Sections 2 and 3 amend AS 18.70.100(a) and AS 18.70.310, respectively, to apply penalty provisions to violations of AS 18.70.310, regarding hazardous materials and wastes placards. Current law provides no penalty, leaving AS 18.70.310 essentially unenforceable.

Section 2 also amends AS 18.70.100(a) to make it a misdemeanor to be in noncompliance with a department order relating to fire protection, unless a motion for stay has been filed with the court. The existing language of AS 18.70.100(a) permits noncompliance with an order by merely filing a notice of appeal, thus unnecessarily delaying correction of life-threatening situations.

Finally, sec. 4 amend: AS 18.72.040 to make prosecution of fireworks violations more feasible by allowing a conviction if the person "recklessly" fails to comply with fireworks laws. This change is consistent with other provisions of law which prohibit reckless creation of risks of injury and which provide that ignorance of the law is no excuse. See AS 11.41.250 (reckless endangerment) and AS 11.81.620(a). The current language of AS 18.72.040 requires proof that the person knew what the law was, and "willfully" violated it, which is often impossible to prove.

This bill has important health and safety implications and I urge your prompt and favorable action on it.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", written over the word "Sincerely". The signature is fluid and cursive, with a long vertical line extending downwards from the end.

Steve Cowper
Governor

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An act relating to fire protection
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Public Safety
BRU: Fire Prevention
Component: Fire Prevention Operations

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	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND						
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)
No fiscal impact.

Prepared by: Gordon E. Brunton
Division: Fire Prevention

Phone: 465-4331
Date: 10/23/88

Approved by Commissioner: G.A.H. English
Agency: Department of Public Safety

Date: 11-14-88

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 20, 1989

FURTHER REFERRALS:

Date of Committee Action: 2/7/89

The JUDICIARY Committee recommends that:

HOUSE BILL NO. 58 [FIRE PROTECTION]

"An Act relating to fire protection; and providing for an effective date."

be replaced with CS HB 58 (Judiciary) the same title
 a new title

have attached amendment(s)

- 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
- zero fiscal note
- zero with analysis

APPROVES PREVIOUS:

- fiscal note(s) published: _____
- zero fiscal notes(s) published: _____

SIGNING DO PASS:

SIGNING OTHER THAN DO PASS:
(Do Not Pass, No Recommendation, Amend)

<u>Peter J. Lee</u>	Gall
<u>W. Davidson</u>	Davidson
<u>W. Gruenberg</u>	Gruenberg
<u>W. Ellis</u>	Ellis
<u>W. Davis</u>	Davis
<u>Terry Martin</u>	Martin

Peter J. Lee / W. Gruenberg
Chairman's signature

HOUSE COMMITTEE REPORT

(5)

Date Referred: January 9, 1989

FURTHER REFERRALS: JUDICIARY

Date of Committee Action: 1/19/89

The COMMUNITY & REGIONAL AFFAIRS Committee recommends that:

HOUSE BILL NO. 58 [FIRE PROTECTION]

"An Act relating to fire protection; and providing for an effective date."

be replaced with CS HB 58 C+RA the same title
 a new title

have attached amendment(s)

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
 zero fiscal note
 zero with analysis

APPROVES PREVIOUS:

fiscal note(s) published:

 zero fiscal notes(s) published:
1/9/89

SIGNING DO PASS:

Bette [Signature]
Richard [Signature]
Whit H. Davis
Eileen P. McLean

SIGNING OTHER THAN DO PASS:
(Do Not Pass, No Recommendation, Amend)

[Signature] no rec

Eileen P. McLean
Chairman's signature

AMENDMENT

HOUSE BILL 58

Under Section 2, add a new section (c) to read

(c) In this section

"department" means the Department of Public Safety or a fire department that is enforcing fire safety regulations under AS 18.70.090.

Revise AS 18.70.100 (b) as follows:

(b) The application of the penalty prescribed in (a) of this section does not prevent the ~~department~~ [DEPARTMENT OF PUBLIC SAFETY] from enforcing the removal of the prohibited conditions.

Amendment

H-2

Delete wording

"of Public Safety"
line 10 + 11

Page 2

Made by Rep. Davis

A M E N D M E N T

OFFERED IN THE HOUSE

BY GRUENBERG

TO: CSHB 58(Jud)

Page 1, line 8, following ";":

Insert "authorizing the adoption and use of alternative designs for warning placards for hazardous substances;"

Page 2, following line 10:

Insert a new bill section to read:

"* Sec. 3. AS 18.70.310(b) is amended to read:

(b) The Department of Public Safety, division of fire prevention, shall adopt the National Fire Protection Association 704M system of warning placards for hazardous chemicals, hazardous materials, and hazardous wastes. A municipality may, with the approval of the Department of Public Safety, division of fire prevention, adopt and use an alternative design for warning placards that gives adequate warning to the public and emergency response personnel, if the 704M system placards are inappropriate. The Department of Public Safety, division of fire prevention, may by regulation adopt one or more alternative designs for warning placards for use at an approved site outside a municipality by a business or government agency if the 704M system placards are inappropriate."

Renumber the following bill sections accordingly.

1A

A M E N D M E N T

OFFERED IN THE HOUSE

BY GRUENBERG

TO: CSHB 58(Judiciary)

Page 1, line 8, following ";;":

Insert "authorizing the adoption and use of alternative designs for warning placards for hazardous substances;"

Page 2, following line 10:

Insert a new bill section to read:

"* Sec. 5. AS 18.70.310(b) is amended to read:

(b) The Department of Public Safety, division of fire prevention, shall adopt the National Fire Protection Association 704M system of warning placards for hazardous chemicals, hazardous materials, and hazardous wastes. A municipality may, with the approval of the Department of Public Safety, division of fire prevention, adopt and use an alternative design for warning placards that gives adequate warning to the public and emergency response personnel, if the 704M system placards are inappropriate. Unless the site is located in a municipality that has adopted an alternative design for warning placards, the Department of Public Safety, division of fire prevention, may by regulation adopt one or more alternative designs for warning placards for use at an approved site by a business or government agency if the 704M system placards are inappropriate."

Renumber the following bill sections accordingly.

go0279hH
Bannister
2/10/89

Original sponsor: Rules/Governor

Rep. Gauenberg

BY THE JUDICIARY COMMITTEE

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 58 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the enforcement and penalty
7 provisions of certain laws on fire protection, fire-
8 works, and warning placards for hazardous substances;
9 and amending Alaska Rule of Appellate Procedure
10 603(a)(2); and providing for an effective date."

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

12 * Section 1. AS 18.70.090 is amended to read:

13 Sec. 18.70.090. ENFORCEMENT AUTHORITY [OF REGULATIONS]. The
14 Department of Public Safety and the chief of each [CITY] fire depart-
15 ment recognized under regulations adopted by the Department of Public
16 Safety, and their authorized representatives in their respective
17 areas, may enforce the regulations adopted by the Department of Public
18 Safety for the prevention of fire or for the protection of life and
19 property against fire or panic. All state peace officers may assist
20 the Department of Public Safety in the enforcement of AS 18.70.010 -
21 18.70.100, 18.70.300 - 18.70.310, and the regulations adopted under
22 those sections [IT]. The authority conferred in AS 18.70.010 - 18.-
23 70.100 and 18.70.300 - 18.70.310 extends to the enforcement of the
24 provisions of AS 11.46.400 - 11.46.430.

25 * Sec. 2. AS 18.70.100 is repealed and reenacted to read:

26 Sec. 18.70.100. VIOLATION. (a) A person who violates a pro-
27 vision of AS 18.70.010 - 18.70.100, 18.70.300 - 18.70.310, or a regu-
28 lation adopted under those sections, or who fails to comply with an
29 order issued under AS 18.70.010 - 18.70.100 or 18.70.300 - 18.70.310

1 is guilty of a class B misdemeanor. When not otherwise specified,
2 each 10 days that the violation or noncompliance continues is a sepa-
3 rate offense.

4 (b) A person aggrieved by a final order may appeal to the supe-
5 rior court within 30 days after the issuance of the final order.
6 Filing of the appeal does not excuse noncompliance with the order.
7 The court may stay the operation of the order on those terms relating
8 to bonding or other matters that the court finds proper. A stay may
9 not be granted or continued if the court finds that it is against the
10 public interest.

11 * Sec. 3. AS 18.72.040 is amended to read:

12 Sec. 18.72.040. VIOLATION. A person who recklessly [KNOWINGLY
13 AND WILFULLY] fails to comply with a provision of this chapter or
14 fireworks regulations adopted in the fire safety code is guilty of a
15 class B misdemeanor [AND UPON CONVICTION IS PUNISHABLE BY A FINE OF
16 NOT MORE THAN \$500, OR BY IMPRISONMENT FOR NOT MORE THAN SIX MONTHS,
17 OR BY BOTH]. Each day of noncompliance constitutes a separate of-
18 fense. In this section, "recklessly" has the meaning given in AS 11.-
19 81.900.

20 * Sec. 4. AS 18.70.100(b), as amended by sec. 2 of this Act, amends
21 Alaska Rule of Appellate Procedure 603(a)(2) by prohibiting the granting or
22 continuation of a stay if the court finds it is against the public interest
23 and by giving the court discretion regarding the terms and conditions of a
24 stay, including bonding.

25 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).
26
27
28
29

go0279hH
Bannister
2/9/89

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 58 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the enforcement and penalty
7 provisions of certain laws on fire protection, fire-
8 works, and warning placards for hazardous substances;
9 and amending Alaska Rule of Appellate Procedure
10 603(a)(2); and providing for an effective date."

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

12 * Section 1. AS 18.70.090 is amended to read:

13 Sec. 18.70.090. ENFORCEMENT AUTHORITY [OF REGULATIONS]. The
14 Department of Public Safety and the chief of each [CITY] fire depart-
15 ment recognized under regulations adopted by the Department of Public
16 Safety, and their authorized representatives in their respective
17 areas, may enforce the regulations adopted by the Department of Public
18 Safety for the prevention of fire or for the protection of life and
19 property against fire or panic. All state peace officers may assist
20 the Department of Public Safety in the enforcement of AS 18.70.010 -
21 18.70.100, 18.70.300 - 18.70.310, and the regulations adopted under
22 those sections [IT]. The authority conferred in AS 18.70.010 - 18.-
23 70.100 and 18.70.300 - 18.70.310 extends to the enforcement of the
24 provisions of AS 11.46.400 - 11.46.430.

25 * Sec. 2. AS 18.70.100 is repealed and reenacted to read:

26 Sec. 18.70.100. VIOLATION. (a) A person who violates a pro-
27 vision of AS 18.70.010 - 18.70.100, 18.70.300 - 18.70.310, or a regu-
28 lation adopted under those sections, or who fails to comply with an
29 order issued under AS 18.70.010 - 18.70.100 or 18.70.300 - 18.70.310

1 is guilty of a class B misdemeanor. When not otherwise specified,
2 each 10 days that the violation or noncompliance continues is a sepa-
3 rate offense.

4 (b) A person aggrieved by a final order may appeal to the supe-
5 rior court within 30 days after the issuance of the final order.
6 Filing of the appeal does not excuse noncompliance with the order.
7 The court may stay the operation of the order. A stay may not be
8 granted or continued if the court is satisfied that it is against the
9 public interest.

10 * Sec. 3. AS 18.72.040 is amended to read:

11 Sec. 18.72.040. VIOLATION. A person who recklessly [KNOWINGLY
12 AND WILFULLY] fails to comply with a provision of this chapter or
13 fireworks regulations adopted in the fire safety code is guilty of a
14 class B misdemeanor [AND UPON CONVICTION IS PUNISHABLE BY A FINE OF
15 NOT MORE THAN \$500, OR BY IMPRISONMENT FOR NOT MORE THAN SIX MONTHS,
16 OR BY BOTH]. Each day of noncompliance constitutes a separate of-
17 fense. In this section, "recklessly" has the meaning given in AS 11.-
18 81.900.

19 * Sec. 4. AS 18.70.100(b), as amended by sec. 2 of this Act, amends the
20 granting and duration of a stay under Alaska Rule of Appellate Procedure
21 603(a)(2) by prohibiting the granting or continuation of a stay if the
22 court finds it is against the public interest.

23 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).
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Original sponsor: Rules/Governor

IN THE HOUSE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

CS FOR HOUSE BILL NO. 58 (C&RA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the enforcement and penalty provisions of certain laws on fire protection, fireworks, and warning placards for hazardous substances; and providing for an effective date."

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

* Section 1. AS 18.70.090 is amended to read:

Sec. 18.70.090. ENFORCEMENT AUTHORITY [OF REGULATIONS]. The Department of Public Safety and the chief of each [CITY] fire department recognized under regulations adopted by the Department of Public Safety, and their authorized representatives in their respective areas, may enforce the regulations adopted by the Department of Public Safety for the prevention of fire or for the protection of life and property against fire or panic. All state peace officers may assist the Department of Public Safety in the enforcement of AS 18.70.010 - 18.70.100, 18.70.300 - 18.70.310, and the regulations adopted under those sections [IT]. The authority conferred in AS 18.70.010 - 18.70.100 and 18.70.300 - 18.70.310 extends to the enforcement of the provisions of AS 11.46.400 - 11.46.430.

* Sec. 2. AS 18.70.100 is amended to read:

Sec. 18.70.100. VIOLATION. (a) A person is [WHO VIOLATES ANY PROVISION OF AS 18.70.010 - 18.70.100 OR THE PUBLISHED REGULATIONS OR ORDERS ADOPTED UNDER IT FROM WHICH NO APPEAL HAS BEEN TAKEN WITHIN 30 DAYS AFTER THE ISSUANCE OF A FINAL ORDER IS, SEVERALLY, FOR EACH VIOLATION,] guilty of a misdemeanor, and is punishable by a fine of

not more than \$500, or by imprisonment for not more than six months, or by both, if the person (1) violates or otherwise fails to comply with a provision of AS 18.70.010 - 18.70.100, 18.70.300 - 18.70.310, or a regulation adopted under those sections; (2) fails to comply with a department order issued under AS 18.70.010 - 18.70.100 or 18.70.-300 - 18.70.310, unless a motion for a stay is filed with the superior court within 10 days after issuance of the order; or (3) fails to comply with a department order issued under AS 18.70.010 - 18.70.100 or 18.70.300 - 18.70.310, within 10 days after a motion for stay has been denied by the superior court. A person aggrieved by a final order of the department may appeal to the superior court within 30 days after the issuance of the order. The imposition of one penalty for a violation does not excuse the violation. A [AND A] person guilty of a violation shall correct the violation within a reasonable time. When not otherwise specified, each 10 days that a prohibited condition is maintained is a separate offense.

(b) The application of the penalty prescribed in (a) of this section does not prevent the department [DEPARTMENT OF PUBLIC SAFETY] from enforcing the removal of the prohibited conditions.

* Sec. 3. AS 18.70.100 is amended by adding a new subsection to read:

(c) In this section, "department" means the Department of Public Safety or a fire department that is enforcing fire safety regulations under AS 18.70.090.

* Sec. 4. AS 18.72.040 is amended to read:

Sec. 18.72.040. VIOLATION. A person who recklessly [KNOWINGLY AND WILFULLY] fails to comply with a provision of this chapter or fireworks regulations adopted in the fire safety code is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$500, or by imprisonment for not more than six months, or by

both. Each day of noncompliance constitutes a separate offense. In this section, "recklessly" has the meaning given in AS 11.81.900.

* Sec. 5. Section 1 of this Act takes effect immediately under AS 01.-
10.070(c).