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386

December 19, 1989

TO: Jim Hall
Assistant City-Borough Manager

FROM: Michael S. Galston
Chief of Police *Michael S. Galston*

SUBJECT: Crosswalk Enforcement

I agree with the concern raised by Assembly Member Peterson on the issue of crosswalk violations by motorists in the Juneau area. It appears as if there is a general attitude on the part of the motoring public that there is no sanctity for pedestrians attempting to properly use crosswalks.

In addition to the above, attempts by Juneau Police Department personnel at enforcement are not as vigorous as possible. This stems from a long standing inability to successfully prosecute crosswalk violations that have been issued to offending motorists. It has traditionally been the interpretation of the court of CBJ ordinance, and a correct interpretation, that the pedestrian must be actively asserting their right to the traveled half of the roadway in order for a motorist to be in violation. I am sure you will agree that in practice few pedestrians are aggressive enough to make this assertion.

Police Department staff are certainly willing to work to ensure crosswalk compliance. Enforcement, in conjunction with education and engineering will create an atmosphere more conducive to pedestrians feeling at ease when using pedestrian crosswalks. In this vein I met with Pepper McCollum, Jon Alhgren and Rick Purvis from the State of Alaska, DOT/PF in an attempt to coordinate state and local efforts pertinent to this issue.

However, in order to make enforcement a viable course of action to pursue, it will of necessity entail a modification of our ordinance, 72.02.155, through some type of change to 13AAC02.155 (a) to allow us to pursue a more aggressive enforcement stance.

X I have attached to this memorandum a memorandum I received from John Corso dated August 28, 1987. At that time I had requested that he look into a modification of our ordinance to allow for more productive enforcement of crosswalk violations. The essence of his memorandum was that without a change to state law no changes of city ordinances were possible.

Jim Hall

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December 19, 1989

Rest assured that I am desirous of working from an enforcement perspective to enhance pedestrian use of our crosswalks and will undertake what is necessary from that perspective to accomplish our desired end once we have the necessary resources.

MSG/ps

Authority: AS 28.05.011

Article 4. Pedestrian Rights and Duties

Section	Section
150. Pedestrian obedience to traffic-control devices and traffic regulations	180. Pedestrians soliciting rides or business
155. Pedestrian right-of-way in safety zones	185. (Repealed)
160. Crossing at other than crosswalks	190. Blind pedestrian devices and right-of-way
165. (Repealed)	195. Pedestrians yield to authorized emergency vehicles
170. (Repealed)	
175. Pedestrians on highways	

13 AAC 02.150. PEDESTRIAN OBEDIENCE TO TRAFFIC-CONTROL DEVICES AND TRAFFIC REGULATIONS. (a) Pedestrians must comply with traffic and pedestrian-control signals as provided in secs. 10 and 15 of this chapter and are subject to the applicable restrictions in this chapter.

(b) No pedestrian may enter or remain upon a bridge or its approach beyond the bridge signal, gate, or barrier after a bridge-operations signal indication has been given; nor may a pedestrian pass through, around, over, or under a crossing gate or barrier at a railroad grade crossing or bridge while the gate or barrier is closed or is being opened or closed. (In effect before 7/28/59; am 12/15/61, Register 3; am 8/10/66, Register 22; am 12/31/69, Register 31; am 6/28/79, Register 70)

Authority: AS 28.05.011



13 AAC 02.155. PEDESTRIAN RIGHT-OF-WAY IN SAFETY ZONES. (a) Except as provided in sec. 195 of this chapter, when traffic-control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way to a pedestrian who is on a sidewalk, vehicular way or area, or who is crossing a roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(b) No pedestrian may leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.

(c) When a vehicle is stopped at a marked crosswalk or at an unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, no driver of another vehicle approaching from the rear may overtake and pass the stopped vehicle.

(d) Pedestrians shall move, whenever practicable, upon the right half of the crosswalk.

having stopped, a driver shall yield the right-of-way to a vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard.

(c) The driver of a vehicle approaching a yield sign shall slow to a speed reasonable for the existing conditions and, if required for safety, stop as required in (b) of this section. After slowing or stopping, the driver shall yield the right-of-way as provided in (b) of this section. (In effect before 7/28/59; am 12/15/61, Register 3; am 8/10/66, Register 22; am 12/31/69, Register 31; am 6/28/79, Register 70)

Authority: AS 28.05.011

13 AAC 02.135. VEHICLE ENTERING ROADWAY. (a) Repealed 6/28/79.

(b) The driver of a vehicle about to enter or cross a roadway from a place other than another roadway shall yield the right-of-way to all vehicles approaching on the roadway so closely as to constitute an immediate hazard. (In effect before 7/28/59; am 12/15/61, Register 3; am 8/10/66, Register 22; am 12/31/69, Register 31; am 6/28/79, Register 70)

Authority: AS 28.05.011

13 AAC 02.140. DRIVING OF VEHICLES ON APPROACH OF AUTHORIZED EMERGENCY VEHICLES. (a) Upon the approach of an authorized emergency vehicle making use of a visual signal meeting the requirements of 13 AAC 04.090 and audible signals meeting the requirements of 13 AAC 04.210(d), or a police vehicle making use of either a visual or an audible signal, the driver of every vehicle proceeding in any direction shall yield the right-of-way by slowing, stopping, changing lanes, or pulling to the right-hand edge of the roadway clear of an intersection to await passage of the emergency vehicle.

(b) Except for a driver of an authorized emergency vehicle responding to an emergency, a driver of a vehicle shall yield the right-of-way as provided in (a) of this section to a vehicle displaying a flashing blue light as prescribed in 13 AAC 04.100. The vehicle displaying a flashing blue light shall yield the right-of-way to an authorized emergency vehicle which is responding to an emergency.

(c) The provisions of this section do not relieve the driver of an authorized emergency vehicle or a vehicle displaying a flashing blue light from the duty to drive with regard for the safety of all persons using the highways. (In effect before 7/28/59; am 12/15/61, Register 3; am 8/10/66, Register 22; am 12/31/69, Register 31; am 6/28/79, Register 70)

Alaska Statutes

Title 28. Motor Vehicles.

Chapter

- 01. Scope and Interpretation of Title (§§ 28.01.010 — 28.01.020)
- 05. Administration (§§ 28.05.011 — 28.05.151)
- 10. Vehicle Registration and Title (§§ 28.10.011 — 28.10.661)
- 11. Abandoned Vehicles (§§ 28.11.010 — 28.11.110)
- 15. Drivers' Licenses (§§ 28.15.011 — 28.15.291)
- 17. Commercial Driver Training Schools (§§ 28.17.011 — 28.17.071)
- 20. Motor Vehicle Safety Responsibility Act (§§ 28.20.010 — 28.20.640)
- 22. Mandatory Motor Vehicle Insurance (§§ 28.22.011 — 28.22.311)
- 32. Commercial Motor Vehicle Safety Inspections (§§ 28.32.010 — 28.32.900)
- 33. Commercial Motor Vehicle Financial Responsibility (§ 28.33.010)
- 35. Miscellaneous Provisions (§§ 28.35.015 — 28.35.255)
- 37. Driver License Compact (§§ 28.37.010 — 28.37.190)
- 40. General Provisions (§§ 28.40.050 — 28.40.110)

Revisor's notes. — The provisions of this title were redrafted in 1984 to remove personal pronouns pursuant to § 4, ch. 58, SLA 1982, and to make other minor word changes.

NOTES TO DECISIONS

Stated in *Buckalaw v. Holloway*, 604 P.2d 240 (Alaska 1979).

Chapter 01. Scope and Interpretation of Title.

Section

- 10. Provisions uniform throughout state
- 20. Short title

Sec. 28.01.010. Provisions uniform throughout state. a) The provisions of this title and the regulations adopted under this title are applicable within all municipalities of the state. A municipality may not enact an ordinance that is inconsistent with the provisions of this title or the regulations adopted under this title. A municipality may not incorporate into a publication of traffic ordinances a provision of this title or the regulations adopted under this title without speci-

cally identifying the provision or regulation as a state statute or regulation.

(b) A municipality may adopt by reference all or a part of this title and regulations adopted under this title, and may request and shall receive from the Departments of Public Safety and Community and Regional Affairs assistance in the drafting of model ordinances for adoption by reference. Notwithstanding (a) of this section, a municipality may enact necessary ordinances to meet specific local requirements.

(c) A copy of all traffic ordinances enacted by a municipality shall be forwarded to the commissioner and specific notice of any inconsistent ordinances shall be given by the municipality when the copy of the ordinances is forwarded. So far as practicable, the section number identifying a particular municipal traffic ordinance must be the same as the section number identifying a corresponding provision of this title or regulations adopted under this title.

(d) A municipality shall erect necessary official traffic control devices on streets and highways within its jurisdiction that as far as practicable conform to the current edition of the Alaska Traffic Manual prepared by the Department of Transportation and Public Facilities.

(e) Copies of all traffic ordinances enacted by a municipality shall be incorporated in a manual and made available to the general public.

(f) Regulations adopted pertaining to a matter partially or wholly governed by this title must be mutually consistent and compatible, and must complement each other, as far as practicable. For the purpose of uniformity, the department shall offer and receive reasonable assistance in the coordination and adoption of these regulations.

(g) Regulations adopted under this title must, as far as practicable, conform to the recommendations of the current edition of the Uniform Vehicle Code adopted by the National Committee on Uniform Traffic Laws and Ordinances. (§ 1 ch 91 SLA 1974; am §§ 1, 2 ch 241 SLA 1976; am §§ 1 — 5 ch 178 SLA 1978)

Revisor's notes. — Pursuant to E.O. No. 39, § 11, a reference to Department of Transportation and Public Facilities was

substituted for Department of Highways in (d) of this section in 1977.

NOTES TO DECISIONS

A city ordinance, to the extent it is in conflict with the state traffic regulations, constitutes an exercise of home-rule power expressly prohibited by the legislature. *Adkins v. Lester*, 530 P.2d 11 (Alaska 1974).

The word "inconsistent" describes that which reveals lack of uniformity in

over-all purpose or design. *Cremer v. Anchorage*, 575 P.2d 306 (Alaska 1978).

Similarity to Uniform Vehicle Code. — Subsection (a) is similar in substance and purpose to the provisions of § 15-101 of the Uniform Vehicle Code Annotated adopted by the National Committee on Uniform Traffic Laws and Ordinances in

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Public Safety
Title: "An Act relating to pedestrian use of crosswalks." BRU: Alaska State Troopers
Sponsor: Senator Duncan Component: Detachments
Requestor: Senate Transportation

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

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	-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-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER/PROG RCPT						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact anticipated.

CS
Changes in SB 386 (TRSP) have no fiscal impact. This fiscal note is appropriate. *CM*

Prepared by: Francis C. Allan Phone: 269-7691
Division: Alaska State Troopers Date: 01/19/90

Approved by: Commissioner

Alaska State Legislature



SENATOR JIM DUNCAN

P. O. BOX V JUNEAU, ALASKA 99811-3100
(907) 465-4766

COMMITTEES:
FINANCE
VICE CHAIR —
HEALTH EDUCATION
& SOCIAL SERVICES
BUDGET & AUDIT
BANKING &
ECONOMIC
DEVELOPMENT

TO: SENATOR JAN FAIKS
CHAIR
SENATE JUDICIARY COMMITTEE

FROM: SENATOR JIM DUNCAN

REGARDS: SENATE BILL 386

DATE: JANUARY 25, 1990

RECEIVED

JAN 25 1990

JAN FAIKS
SENATE OFFICE

I APPRECIATE THE EARLIEST POSSIBLE HEARING FOR SENATE BILL 386 BY THE SENATE JUDICIARY COMMITTEE.

SB 386, DEALING WITH PEDESTRIAN USE OF CROSSWALKS, WAS APPROVED BY THE SENATE TRANSPORTATION COMMITTEE THIS WEEK. THE CITY AND BOROUGH OF JUNEAU ASSEMBLY ADOPTED A RESOLUTION THIS WEEK IN SUPPORT OF THE MEASURE. ZERO FISCAL NOTES WERE PROVIDED BY THE DEPARTMENTS OF PUBLIC SAFETY AND TRANSPORTATION AND PUBLIC FACILITIES. THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES SUPPORTED THE BILL IN ITS FISCAL NOTE.

THE BILL IS FULLY EXPLAINED IN THE DOCUMENTATION PROVIDED THE TRANSPORTATION COMMITTEE. THE COMMITTEE, AT MY SUGGESTION, AMENDED THE ORIGINAL BILL BY ADDING LANGUAGE MAKING A VIOLATION OF THIS MEASURE AN INFRACTION. BARRING THIS AMENDMENT, VIOLATORS WOULD HAVE FACED A MISDEMEANOR CHARGE.

AS EXPLAINED IN THE DOCUMENTATION, THIS ADDITION TO STATE LAW WOULD PROVIDE LOCAL GOVERNMENTS THE DIRECTION AND AUTHORIZATION THEY NEED FROM THE STATE TO ENFORCE CROSSWALK VIOLATIONS. CURRENTLY, LOCAL GOVERNMENTS MAY NOT ENACT ORDINANCES WHICH ARE INCONSISTENT WITH THIS TITLE.

YOUR CONSIDERATION OF THIS REQUEST IS APPRECIATED.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 19, 1990

SUBJECT: Pedestrian use of crosswalks - SB 386
TO: Senator Jim Duncan *M.F.*
FROM: Michael F. Ford
Legislative Counsel

You requested a sectional analysis of SB 386. The bill adds a new section to AS 28.35, and requires that a motor vehicle yield the right-of-way to a pedestrian within a crosswalk, or a pedestrian attempting to use a crosswalk. The bill also provides that a pedestrian does not have the right-of-way with regard to an emergency vehicle, or when an approaching motor vehicle would not have an opportunity to safely stop at the crosswalk.

Please contact me if you need further assistance.

MFF:mi
wkmi6/029

MEMORANDUM

CITY/BOROUGH OF JUNEAU
155 South Seward Street, Juneau, Alaska 99801
DEPARTMENT OF POLICE

TO: Michael S. Gelston, Chief of Police
FROM: *John R. Corso*, Deputy City-Borough Attorney
SUBJECT: Amendment of CBJ 72.02.155
DATE: August 28, 1987

RECEIVED
AUG 31 1987

Sorry Chief, we can't help you. There is a state statute in the way. CBJ 72.02.155 is identical to 13 AAC 02.155(a). This is to be expected, since AS 28.01.010 provides in relevant part:

Provisions Uniform Throughout the State. (a)
The provisions of this title and the regulations promulgated under this title are applicable within all municipalities of this state. No municipality may enact an ordinance which is inconsistent with the provisions of this title or the regulations promulgated under this title. . . .

The supreme court, mindful of legislative concern for traffic law uniformity, has employed AS 28.01.010 to strike down an early attempt by Anchorage to enact a blood-level DWI ordinance when the state was still requiring evidence of actual impairment, Simpson v. Municipality of Anchorage, 635 P.2d 1197 (Alaska App. 1981). The same statute was applied to strike down a Fairbanks ordinance requiring an emergency vehicle to use audible signals at all times, while the state permitted a silent approach to a burglary scene. Adkins v. Lester, 530 P.2d 11 (Alaska 1974).

I expect that your requested amendment would meet the same fate. A requirement that the driver of a vehicle stop when a pedestrian enters any portion of a crosswalk is inconsistent with a requirement that the driver stop when the pedestrian enters a particular portion of the crosswalk.

It is unlikely that we can draft something that would fall within the savings clause of AS 28.01.010(b), which provides, in pertinent part:

Notwithstanding (a) of this section, a municipality may enact necessary ordinances to meet specific local requirements.



CITY/BOROUGH OF JUNEAU
★ ALASKA'S CAPITAL CITY

August 28, 1987

Under a rule established in Simpson, application of the savings clause requires a two-fold showing be made before an ordinance inconsistent under AS 28.01.010(a) can be upheld.

First, it is incumbent upon the municipality to demonstrate the existence of a 'specific local requirement.' Second, the municipality must show that its ordinance was 'necessary'--in other words, that the specific local problem could not be addressed in a manner consistent with the provisions of the Alaska motor vehicle code.

Unless we can establish that Juneau pedestrians are particularly fleet of foot or that Juneau drivers are in the habit of traveling on the wrong side of the roadway, I doubt we can establish a case for requiring drivers in Juneau to stop sooner than they must in other parts of the state.

This legal problem would be of less concern if the district court were willing to agree that there are occasions when a pedestrian "is approaching so closely from the opposite half of the roadway as to be in danger." In all fairness, though, I can see the court's dilemma: this "approaching so closely" exception is difficult to apply when the preceding clause appears to establish a simple "this half or that half" rule. I suggest that we resolve this dilemma by paying less attention to the pedestrian's location and more to his or her manner. Regardless of exact location, a pedestrian approaching from the opposite half of roadway is "in danger" if he or she is distracted, intoxicated, daydreaming, escorting a child, or otherwise unlikely to pause and yield at the halfway point of the crosswalk. A pedestrian who is cautious and alert, constantly scanning the street, proceeding slowly, and wearing a beanie with a flashing amber light can be expected to defer to the automobile. Unfortunately, my suggestion is difficult to apply. Few complainant pedestrians are likely to admit that they were in a mental fog while crossing the street. Drivers too, are apt to stress the apparent alertness of approaching pedestrians. Still, it's the best I can do for you right now given the uniform state rule applicable to this traffic situation.

JRC/mjm

Presented by: Assemblymember Peterson
Introduced: 01/22/90
Drafted by: J.R.C.

RESOLUTION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 1422

A RESOLUTION URGING THE ALASKA LEGISLATURE TO IMPROVE
TRAFFIC REGULATIONS RELATING TO CROSSWALK RIGHTS-OF-WAY.

WHEREAS, the Alaska Administrative Code provides at 13 AAC 02.155(a) that the drivers of an automobile must yield to pedestrians in crosswalks only when the pedestrian "is approaching so closely from the opposite half of the roadway as to be in danger," and

WHEREAS, the Assembly respectfully submits that the standard of care imposed on drivers by 13 AAC 02.155(a) is inadequate because it allows dangerous traffic situations to develop and fosters the attitude that drivers need only react to such situations, and

WHEREAS, traffic regulations should promote safety through standards of care designed to encourage vigilant and affirmative efforts to prevent danger, and

WHEREAS, by virtue of the uniform traffic standards imposed by AS 28.01.010, the City and Borough of Juneau may not independently address the need for reform of crosswalk safety standards;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

1. That the Alaska Legislature is urged to take such action as may be necessary to improve traffic safety by requiring that drivers yield to pedestrians as soon as the pedestrians enter any part of the crosswalk on an undivided roadway or that part of the crosswalk located on the driver's side of a divided roadway.

2. That the city clerk is directed to provide copies of this resolution to Juneau's Legislative Delegation, the Alaska Department of Public Safety, and other local governments in Alaska through the Alaska Municipal League.

3. Effective Date. This resolution shall be effective immediately upon adoption.

Adopted this 22nd day of January, 1990.

Howard M. Estelle

Mayor

Attest:

Patricia Kelly

Clerk