

**S B**

**386**

# 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 LLOYD JONES  
CHAIR  
TRANSPORTATION COMMITTEE

FROM: SENATOR JIM DUNCAN

REGARDS: REQUEST FOR HEARING ON SB 386

DATE: JANUARY 15, 1990

JAN 15 1990

I WOULD APPRECIATE THE EARLIEST POSSIBLE HEARING FOR SB 386 BY THE TRANSPORTATION COMMITTEE.

SB 386 AMENDS ALASKA STATUTE 28.35. BY ADDING A NEW SECTION DEALING WITH PEDESTRIAN USE OF CROSSWALKS.

THIS ADDITION TO STATE LAW WOULD ALLOW LOCAL GOVERNMENTS TO ENFORCE CROSSWALK VIOLATIONS. CURRENTLY LOCAL GOVERNMENTS MAY NOT ENACT AN ORDINANCE WHICH IS INCONSISTENT WITH THIS TITLE OR STATE REGULATIONS PROMULGATED UNDER THIS TITLE.

LOCAL GOVERNMENT OFFICIALS IN JUNEAU SEE A NEED FOR THIS CHANGE AND I'M SURE OTHER LOCAL GOVERNMENTS ACROSS THE STATE WOULD SUPPORT IT.

THERE'S NO DOUBT OF THE NEED FOR ENFORCEMENT ACTIVITIES IN JUNEAU. THIS MEASURE OUTLINES THE CIRCUMSTANCES OF WHEN PEDESTRIANS HAVE THE RIGHT OF WAY AND WHEN THEY DON'T. IT WILL PROVIDE LOCAL GOVERNMENTS THE DIRECTION AND AUTHORIZATION THEY NEED FROM THE STATE.

YOUR CONSIDERATION OF THIS REQUEST IS MOST APPRECIATED.

SENATE COMMITTEE REPORT  
FIRST COMMITTEE OF REFERRAL

DATE: January 12, 1990

FURTHER: Judiciary

Date of 5-Day Notice: 1-18-90  
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 1-23-90

Transportation Committee considered SENATE BILL NO. 386

An Act relating to pedestrian use of crosswalks.

and recommended:

replace with \_\_\_\_\_ CS SB 386 (Trsp)  same title  
 attached amendment(s)  new title

\_\_\_\_\_ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

ATTACHES NEW FISCAL NOTE(S):

Department(s)/Date:

Department(s)/Date:

fiscal note(s) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

appropriation-no fiscal note

Governor's bill w/fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

Pat Sanchez  
Johanna  
J. B. ...  
Paul ...

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Key ... (Do Pass)  
Chair's Signature and Recommendation

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

BILL VERSION: SB 336 (a)  
PUBLISH DATE: 1/24/90

REQUEST: FISCAL NOTE

Revision Date: Agency Affected:  
Title: An Act relating to pedestrian use of crosswalks.

DOT&PF  
BRU: Engineering & Operations Standards

Sponsor: Sen. Duncan  
Requestor:

Components:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTURAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
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	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
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: The department supports this bill as it clarifies and strengthens the rights and responsibilities of pedestrians when entering a marked crosswalk. It may be prudent to also clarify the law for unmarked but implied crosswalks at unsignalized intersections. The fiscal impact of this bill is zero. Some basic facts about pedestrian accidents in Alaska and the current traffic engineering are discussed on page 2.

Prepared by: Jeffery C. Ottesen  
Division: Engineering and Operations Standards

Phone: 465-2951  
Date: Jan. 23, 1990

Approved by Commissioner:   
Agency: Department of Transportation and Public Facilities

Date: 1/23/90

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

The fiscal impact of this bill in FY90 is zero.

#### Pedestrian Traffic Accidents in Alaska

It should be noted that pedestrian safety is a vital matter given the losses that occur in our state. In 1988 there were 21 pedestrian deaths in Alaska and 29 pedestrians suffered major injuries. While involved in only 1.4% of all traffic accidents they comprise 22% of fatal traffic accidents. About one-half of these accidents involve children or youth. The death rate is also skewed toward the Native population. A paper written in 1986 by Doctor John P. Middaugh, State Epidemiologist suggests there is a crisis in pedestrian fatalities in the Anchorage area involving Native Alaskans.

#### Traffic Engineering Considerations for Crosswalks

Some studies have shown that painted crosswalks, particularly at uncontrolled intersections, create a false sense of security for pedestrians. This is partially validated by the difficulty the average driver has in seeing crosswalk striping from a safe stopping distance. Even in the best of conditions (daylight with bright striping) crosswalks can be hard to see at 40 mph due to the low viewing angle. In Alaska, with long winter darkness, and diminished striping effectiveness due to snow, or the wearing effect of sand and studded tires, the situation is only aggravated.

This creates a dilemma for traffic engineers. Common sense would suggest that marked crosswalks be installed wherever sufficient pedestrian traffic warrants them. Yet accident statistics suggest this fosters an unsafe condition. From an international perspective, our standards for identifying crosswalks may be at issue. In Europe, New Zealand and Australia crosswalks are identified with brightly delineated vertical poles and/or much wider pavement markings.

#### Education and Enforcement

Public education for both pedestrians and drivers as well as sufficient law enforcement are necessary components to a campaign to reduce pedestrian accidents.

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: "An Act relating to pedestrian  
use of crosswalks."  
Sponsor: Senator Duncan  
Requestor: Senate Transportation

Agency Affected: Public Safety  
BRU: Alaska State Troopers  
Component: Detachments

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.

Prepared by: Francis C. Allan  
Division: Alaska State Troopers

Phone: 269-5691  
Date: 01/19/90

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

Date: 1-19-90

JAR  
1/19/90

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

BILL VERSIONS SB 386 (Trsp) (a)  
PUBLISH DATE: 1/24/90

REQUEST: FISCAL NOTE

Revision Date: Agency Affected: DOT&PF  
Title: An Act relating to pedestrian use of crosswalks. BRU: Engineering & Operations Standards  
Sponsor: Sen. Duncan Components:  
Requestor:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
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Legislative Finance  
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Requestor  
Office of Management and Budget  
Impacted Agency(ies)

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

The fiscal impact of this bill in FY90 is zero.

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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	-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 CM  
appropriate.

Prepared by: Francis C. Allan Phone: 269-5691  
Division: Alaska State Troopers Date: 01/19/90

Approved by Commissioner: J.A.H. 1/20 Arthur English

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

RECEIVED  
AUG 31 1987

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

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

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

December 19, 1989

TO: Jim Hall  
Assistant City-Borough Manager

FROM: Michael S. Selston  
Chief of Police

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  
Page 2  
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