

SB105

(11)

USE COMMITTEE REPORT

Date Referred: May 13, 1991

FURTHER REFERRALS:

Date of Committee Action: 5/17/91

The FINANCE Committee considered:

CSSB 105(JUD)

CS FOR SENATE BILL NO. 105 (JUDICIARY)

MINIMUM PENALTY FOR JOYRIDING

"An Act amending the penalty for the crime of criminal mischief in the third degree involving the unauthorized taking of a propelled vehicle."

RECOMMENDATIONS:

be replaced with HCS CS SB 105 (JUD) the same title a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

2 zero fiscal note(s) D/ot Corrections: D/ot Law ^{4/17/91}

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Bob Sharp</i>	<input checked="" type="checkbox"/>	<i>Ed. Mechean MACKAN</i>		<input checked="" type="checkbox"/>	
<i>REGG E. PHILLIPS</i>	<input checked="" type="checkbox"/>	<i>MOMERSON BOYER</i>		<input checked="" type="checkbox"/>	
<i>Ronald J. Finkelson</i>	<input checked="" type="checkbox"/>	<i>Tom Brown BROWN</i>		<input checked="" type="checkbox"/>	
_____		<i>(Kopman) KOPMAN</i>		<input checked="" type="checkbox"/>	
		<i>George Jack JACK</i>		<input checked="" type="checkbox"/>	
		<i>Spice Yavum NAVARR</i>		<input checked="" type="checkbox"/>	
		<i>Man Ulmer ULMER</i>		<input checked="" type="checkbox"/>	

Spice Yavum
 CO-CHAIRMAN'S SIGNATURE
 NAVARR

Ed. Mechean
 MACKAN

**STATE OF ALASKA
1991 LEGISLATIVE SESSION**

Dir 1

b... Version: SA105

(S) Publish Date: 4/17/91

Revision Date: _____ Department Affect: _____

Title: "An Act amending the penalty... BRU: Statewide Operations

crime of criminal mischief...propelled Component: _____

Sponsor: Senators Jones, Halford,

Requestor: Uehling COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Changes in SSB 105 (Jud) have no fiscal impact. This fiscal note is appropriate.

WRBail date / AG 04/17/91 Comptroller (initial)

Prepared By: Tom Sutton, Director *Tom Sutton* Phone: (907)465-3376

Division: Administrative Services Date: 04/03/91

Approved by Commissioner: _____

Agency: Department of Corrections Date: 04/03/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

No. 2

Bill Version: SB 105

(S) Publish Date: 4/17/91

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Department of Law

Title: "...amending the penalty..." BRU: Prosecution

Unauthorized taking of a propelled vehicle Component: All

Sponsor: Senator Jones

Requestor: Senate Judiciary

COMPONENT SERIAL NO.			8	9
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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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						

Estimate of current year impact:

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Changes in CSSB 105 (Jud)
reflect NO FISCAL CHANGE from the original
fiscal note. This fiscal note is appropriate.

4/17/91 Don Bailey
Date Comte Aide (Initial) DB

Prepared By: Richard I. Pegues, Director Phone: 465-3672

Division: Administrative Services Date: March 29, 1991

Approved by Commissioner: Charles E. Cole, Attorney General

Agency: Department of Law Date: March 29, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 105

This bill amends AS 11.46.484 by adding a new subsection that imposes a mandatory minimum sentence for joyriding of a term of imprisonment of not less than 72 hours, a fine of not less than \$250, and restitution. These sentencing provisions will not have a fiscal impact on the Department of Law. It should be noted that some additional prosecutor time will be needed because defendants can be expected to offer a more vigorous defense in the face of a mandatory jail term, in some first offense cases where jail time is not currently imposed. Because this bill amends a sentencing provision the department recommends that it be located in Title 12 rather than Title 11. Finally, to the extent that additional imprisonment occurs, there will be a fiscal impact for the Department of Corrections.

HOUSE CS FOR CS FOR SENATE BILL NO. 105 (JUDICIARY)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 5/13/91
Referred: Finance

Sponsor(s): SENATORS JONES, Halford, Uehling

A BILL

FOR AN ACT ENTITLED

1 "An Act amending the penalty for the crime of criminal mischief in the third degree
2 involving the unauthorized taking of a propelled vehicle."

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

4 * Section 1. FINDINGS. The legislature finds that

5 (1) many defendants convicted for the first time of violating AS 11.46.484(a)(2)
6 (joyriding) are not now receiving an adequate sentence; and

7 (2) the public's interest in deterring people from violating AS 11.46.484(a)(2) and in
8 rehabilitating those convicted of violations of the statute will be served by the court imposing sentences
9 of imprisonment on those convicted of this crime.

10 * Sec. 2. PURPOSE. It is the purpose of this Act to ensure that a defendant convicted of criminal
11 mischief in the third degree in violation of AS 11.46.484(a)(2), whose conviction is not a felony under
12 AS 11.46.484(c), does not receive a wholly suspended sentence. However, in light of statistics showing
13 that over 50 percent of defendants sentenced under current law are required to serve 10 or more days
14 in jail, and recognizing that a second conviction for criminal mischief in the third degree is a felony, the

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

JAN 31 1991

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029

Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

January 30, 1991

SUBJECT: Amending the penalty for misdemeanor
joyriding (W. O. 7LS0590A)

TO: Senator Lloyd Jones

FROM: John B. Gaguine *JBG*
Legislative Counsel

The legislation imposes a mandatory minimum sentence for a first conviction for the offense of misdemeanor joyriding ("criminal mischief in the third degree") involving the taking of a propelled vehicle in which the damage or expenses are less than \$500. A first conviction for the offense is defined as a class A misdemeanor, with normal maximum penalties of a \$5000 fine and one year in jail. Under this bill, one convicted would face a mandatory sentence of

- imprisonment for a minimum of 72 hours;
- a minimum fine of \$250; and
- payment of restitution as the court may order.

The court would be precluded from suspending imposition or execution of sentence and would be precluded from admitting the convicted defendant to probation unless the minimum sentence was served.

In essence, the penalty incorporates the content of the penalty for first offense Driving While Intoxicated (AS 28.35.030(c)).

Although this bill suggests a "go to jail" approach, under AS 33.30.151 - 33.30.161, the mandatory sentence required by the bill may be served in a correctional restitution center.

Senator Lloyd Jones

January 30, 1991

Page 2

The penalty for felony joyriding, involving damage to the vehicle of \$500 or more--a class C felony--is unchanged: a maximum fine of \$50,000 and maximum term of imprisonment of five years.

JBG:pl

91-040.plm

Alaska State Legislature

Chair, Resources Committee
Vice-chair, Transportation Committee
Member, Rules Committee
Member, Committee on Committees



District A
Ketchikan, Wrangell, Petersburg,
Hyder, Myers Chuck, Kupreanof

Senator Lloyd Jones

P.O. Box V
Juneau, AK 99811
907 465-3743
Fax: 907 465-3922

352 Front Street
Ketchikan, AK 99901
907 225-9082
Fax: 907 225-8546

MEMORANDUM

To: Rep. Dave Donley, Chairman
House Judiciary Committee

From: Senator Lloyd Jones

Date: April 26, 1991

Subject: SB 105: Amending the penalty for Joyriding

Joyriding continues to be a problem in Alaska. This crime involves first offense auto theft with less than \$500 damage to the vehicle. Under current law there is no assurance that those found guilty of joyriding (Criminal Mischief III), will pay any penalty whatsoever. In fact, statistics show that of the 132 convicted cases in FY 88, 48 offenders served no jail time at all (36.4%), and nearly 100 of these offenders paid no monetary fine (75%). As shown in the statement of Assistant Attorney General Dean Guaneli, there is no reason to believe these statistics vary significantly from year to year.

Senate Bill 105 imposes a mandatory "floor", or minimum sentence for those convicted of misdemeanor joyriding. SB 105 imposes a mandatory jail time of three days once convicted. In addition to the jail time that will be served, the legislation makes restitution to the victim of the crime mandatory along with a mandatory minimum fine of \$250.

It is irrational that an individual can break into a house and steal a \$450 television set and be convicted of a felony and serve jail time, while the same individual can break into and steal a \$20,000 automobile, incur \$450 damages and be charged with a misdemeanor and no tangible penalty. As the back-up in your files show, both the public and law enforcement officials often feel powerless when faced with the theft of an automobile. A car is one of the major investments an individual makes, and to be involuntarily deprived of its use for any length of time is wrong. Such action must have tangible consequences. SB 105 will insure that those individuals found guilty of this crime will be held accountable. It also insures that those individuals impacted by the same crime will be made whole financially, and will have the peace of mind that the criminal will pay.

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

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(907) 465-3867 or 465-2450
FAX (907) 465-2029

Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

April 9, 1991

SUBJECT: Department of Law's proposed changes to SB 105
TO: Senator Lloyd Jones
FROM: John B. Gaguine *JBG*
Legislative Counsel

The Department of Law's proposed revision of SB 105 - putting the change to the law in AS 12.55.135 instead of in AS 11.46.484 - made sense to me. Accordingly I have prepared a blank CS making the change. It is enclosed.

If I may be of further assistance, please advise.

JBG:gc
91-197.glc

Enclosure

Department of Law
Proposed Amendment to HB 123/SB 105
April 2, 1991

Whenever possible, sentencing provisions appear in AS 12.55, rather than as part of the statute defining the criminal offense. In accordance with this policy, this bill should amend AS 12.55.135 ("sentences of imprisonment for misdemeanors"), rather than AS 11.46.484.

It could do so by moving existing AS 12.55.135(e) to (f) and adding a new (e), which would read:

A defendant convicted of criminal mischief in the third degree in violation of AS 11.46.484(a)(2), whose conviction is not a felony, shall be sentenced to a minimum term of imprisonment of not less than 72 hours, payment of a fine of not less than \$250, and restitution.

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF LAW

CRIMINAL DIVISION

REPLY TO:

CRIMINAL DIVISION CENTRAL OFFICE
P.O. BOX KC
JUNEAU, ALASKA 99811-0310
PHONE: (907) 465-3428

OFFICE OF SPECIAL PROSECUTIONS
AND APPEALS
1031 WEST 4TH AVENUE, SUITE 318
ANCHORAGE, ALASKA 99501-5993
PHONE: (907) 279-7424

April 9, 1991

The Honorable Lloyd Jones
Alaska State Senate
P.O. Box V
Juneau, AK 99811

Dear Senator Jones:

I was requested by your office staff to provide you with updated statistics on cases involving the offense of joyriding (criminal mischief in the third degree). The previous report for your office on this subject was prepared in January, 1989, and showed the following approximate percentages of joyriding convictions that resulted in jail sentences of certain lengths.

less than three days	38%
three to nine days	10%
10 to 30 days	30%
over 30 days	22%

I do not envision any significant change in either the overall number of such cases or in the sentences imposed.

If I can provide additional information, please contact me.

Very truly yours,

CHARLES E. COLE
ATTORNEY GENERAL

By: 

Dean J. Guaneli
Assistant Attorney General

DJG:ma

7-LS0590ND ✓
Gaguine
4/9/91

CS FOR SENATE BILL NO. 105 ()
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsors: SENATORS JONES, Halford, Uehling

A BILL

FOR AN ACT ENTITLED

1 "An Act amending the penalty for the crime of criminal mischief in the third degree
2 involving the unauthorized taking of a propelled vehicle."

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

4 * Section 1. AS 12.55.135(e) is amended to read:

5 (e) The execution of a sentence under (c), (d), or (f) [OR (d)] of this section may not
6 be suspended and probation or parole may not be granted until the minimum term of
7 imprisonment has been served. Imposition of a sentence under (c), (d), or (f) [OR (d)] of this
8 section may not be suspended, except upon condition that the defendant be imprisoned for no less
9 than the minimum term of imprisonment provided in (c), (d), or (f) [OR (d)] of this section, and
10 the minimum sentence provided for in (c), (d), or (f) [OR (d)] this section may not be otherwise
11 reduced.

12 * Sec. 2. AS 12.55.135 is amended by adding a new subsection to read:

13 (f) A defendant convicted of criminal mischief in the third degree in violation of
14 AS 11.46.434(a)(2), whose conviction is not a felony under AS 11.46.484(c), shall be sentenced

1 to a minimum term of imprisonment of not less than 72 hours, payment of a fine of not less than
2 \$250, and restitution.

**DOCUMENTS WHICH HAVE NOT BEEN FILMED BUT ARE
AVAILABLE IN THE ORIGINAL FILE INCLUDE:**

CORRESPONDENCE AND STATEMENTS OF SUPPORT FROM:

- 1. ALASKA PEACE OFFICERS ASSOCIATION, 4/9/91**
- 2. NATIONAL CAR RENTAL, 4/8/91**
- 3. AVIS RENT-A-CAR SYSTEM, 4/8/91**