

SB

105

JUDICIARY COMMITTEE REPO.

(7)

Date Referred: April 24, 1991

FURTHER REFERRALS:

Finance

Date of Committee Action: 5-11-91

The JUDICIARY 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 CSSB 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) LAW 4-17-91

zero fiscal note _____

zero fiscal note(s) Corrections 4-17-91

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Terry Mastus</i>	<input checked="" type="checkbox"/>				
<i>Mark Stanley</i>	<input checked="" type="checkbox"/>				
<i>N. Amundson</i>	<input checked="" type="checkbox"/>				
<i>Kevin Paul Hamel</i>	<input checked="" type="checkbox"/>				
<i>Dave Donley</i>	<input checked="" type="checkbox"/>	<i>J. E. Ellis</i>			<input checked="" type="checkbox"/>

Dave Donley
 CHAIRMAN'S SIGNATURE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

No. 1
bill Version: SA 105
(S) Publish Date: 4/17/91

Revision Date: _____ Department Affect: _____
Title: "An Act amending the penalty... crime of criminal mischief...propelled vehicle." BRU: Statewide Operations
Sponsor: Senators Jones, Halford, Component: _____
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: _____

Changes in CS 53/05 (JUD) have no fiscal impact. This fiscal note is appropriate.

ANALYSIS: (Attach a separate page if necessary.)

W. Bail date April 17, 1991
Comte Aide (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						
---------	--	--	--	--	--	--

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 date Don Bailey 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.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB 105

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						
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EQUIPMENT						
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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						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared By: Richard I. Pegues, Director

Phone: 465-3672

Division: Administrative Services

Date: March 29, 1991

Approved by Commissioner:

Richard I. Pegues / FOR
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

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STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. S.B. 105

Revision Date: _____ Department Affected: Corrections

Title: "An Act amending the penalty... crime of criminal mischief...propelled vehicle." BRU: Statewide Operations
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						
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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-
---------	-----	-----	-----	-----	-----	-----

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.)

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).

Alaska State Legislature

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



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

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

Senator Lloyd Jones

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 Guanelli, 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.

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*
Dean J. Guaneli
Assistant Attorney General

DJG:ma

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.

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

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

M O R A N D U M

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

7-LS0590ND ✓
Gaguinc
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 11.46.484(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.

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. 7LS0590\A)

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 PEACE OFFICERS ASSOCIATION

State APOA Office P.O. Box 240106 Anchorage, Alaska 99524-0106 (907) 277-0515

April 9, 1991

Senator Lloyd Jones
Alaska State Legislature
Pouch V
Juneau, Alaska

Dear Senator Jones,

The Alaska Peace Officers Association is very much in favor of Senate Bill 105, amending the penalty for joyriding.

When the bill was introduced, and passed, a couple of years ago making a second conviction of joyriding a felony, we had expressed a very real concern. That concern was that so many times a first time offender is given a suspended imposition of sentence; no record is made on the first offense; and the offender could realistically become a repeat offender with no deterrence from this act.

This bill would alleviate that from ever occurring. The Anchorage Police Department receives 1,500 cases per year which fit under the statute of Criminal Mischief in the Third Degree. Approximately 85% of these are repeat offenders.

We frequently handle cases where cars worth \$20,000 or more are stolen. Since it is a misdemeanor, the offender is merely given a suspended imposition of sentence. Thefts in these amounts is a Class C felony and have been recognized for their seriousness. This amendment will certainly send a clear message that we are serious about the theft of our citizens' vehicles and create a stronger deterrent for the true first time offender.

Sincerely,

John Shover
R. John Shover
President, APOA

RJS:rlc



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Edward T. Harter

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**National
Car Rental**

National Car Rental
Alaska Sales and Service, Inc.
1300 East Fifth Avenue
Anchorage, Alaska 99501
(907) 274-3695

April 8, 1991

Alaska State Legislature
Ray Matiashowski
Assistant to Senator Lloyd Jones
P.O. Box V
Juneau, Ak 99811

Dear Mr. Matiashowski,

In regard to SB 105, Joyriding Legislation.

National Car Rental is the largest car rental in the state of Alaska. We are pleased to support SB 105 which amends the penalty of joyriding.

National can cite many cases in which our vehicles have been used for "joyriding" and we are then left helpless because of a lean joyride law.

We strongly urge a stiff sentence to those individuals who use an automobile for joyriding purposes. It costs everyone in the long run and it seems the person who is not affected is the joyrider himself.

Please do what you can to pass SB 105.

Sincerely,

A handwritten signature in cursive script that reads "Debra L. Hulien".

Debra L. Hulien
Assistant General Manager
National Car Rental.

AVIS RENT A CAR SYSTEM

BOX 180028, ANCHORAGE, ALASKA 99518-0028

(907) 243-4300

FAX (907) 243-2294



LICENSEE

Number of Pages: One (including cover page)

Date: April 8, 1991 FAX: 465-3922

To: Senator Lloyd Jones LOC: Juneau

From: Gary Zimmerman LOC: Anchorage

Transmitting from: 907-243-2294

April 8, 1991

The Honorable Senator Jones
P.O. Box V
Juneau, Alaska 99811

Dear Senator Jones:

AVIS RENT A CAR of Alaska would like to take this opportunity to express our support of Senate Bill 105 (increasing the penalty for "joyriding" in the State of Alaska).

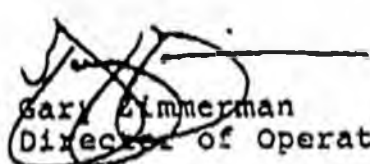
We are sure our experience with stolen vehicles is similar to many - not only to other businesses but also to the general public. Frustration and a sense of helplessness is felt each time one of our vehicles is involved in a "joyriding" incident. Frustration because the vehicle is usually returned to our inventory damaged from abuse; a sense of helplessness because it is extremely hard to obtain restitution; and knowing that the people involved will walk away with barely a slap on the wrist even though in many instances the perpetrators had no intention of ever returning the vehicle.

For many people an automobile is their largest investment. The average cost of a new automobile has reached \$15,000. This is a lot of money. People are sitting in jail for stealing far less.

The time has come to act on this. We believe by increasing the penalty for the unauthorized taking of a vehicle there would be a clear message to would-be thieves that the State of Alaska is getting tough on crime.

Sincerely,

AVIS/ALASKA


Gary Zimmerman
Director of Operations