

SB

166

Alaska State Legislature

Senate Majority Leader
Chair, Judiciary Committee
Vice Chair, Community &
Regional Affairs

Member, State Affairs Committee
Committee on Committees
Western States Legislative Forestry Task Force
Legislative Council



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Senator Robin L. Taylor

MEMORANDUM

**TO: Senator Bert Sharp, Chair
Senate Transportation Committee**

FROM: Senator Robin L. Taylor *R.L.T.*

DATE: 3/21/94

REF: Hearing Request - Senate Bill 166

Please consider this to be my formal request that you schedule a hearing on Senate Bill 166 at your earliest convenience.

Thank you in advance for your consideration.

District A:

Hyder • Ketchikan • Kupreanof • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell

Alaska State Legislature

Legislative Research Agency



P.O. Box Y
Juneau, AK 99811-3100
Phone: (907) 165-3991
Fax: (907) 163-3351

April 2, 1991

MEMORANDUM

TO: Representative Robin Taylor

FROM: Christine M. Cheff *Cheff*
Legislative Analyst

RE: Draft Bill -- Fines and Court Appearances
Research Request 91.193

You asked us to discuss the draft of your bill amending the Alaska Motor Vehicles Code with the California attorney general's office, comparing it to California Code Section 40509 upon which the amendments are based.¹

There appear to be some differences between the draft bill and the California statutes (Attachment A) which you might like to review before we contact the California attorney general. For instance, in California, penalties are attached to vehicle registration only for failure to pay parking fines, and then only after the vehicle owner or lessee has been properly notified. Also, we were unable to find a license revocation provision in the law. However, the court can impound for up to 30 days the license of persons convicted of an infraction if they fail to pay a fine. The attached table outlines the provisions in your draft and the California statutes (Attachment B).

We spoke with Bernard Lu, with the California Department of Motor Vehicles legal department, who did make one comment about your draft bill. He said that penalties for failure to pay fines should be differentiated between those for parking and moving violations. Because parking violations are recorded against vehicles, penalties should be attached to vehicle registration. Moving violations affect a person's driving privileges, therefore penalties should be attached to the driver's license.

Please let us know what further action you would like taken on this request. Don't hesitate to call if you have any questions.

Attachments

¹Motor Vehicles code sections AS 28.10.041, 28.15.031(b)(2), and 28.15.181(g) pertaining to penalties for failure to pay fines or to appear in court.

**COMPARISON TABLE: Alaska and California Motor Vehicle Codes
(Penalties for Failure to Appear or to Pay Fines)**

ALASKA		CALIFORNIA	
<u>Statute</u>	<u>Text</u>	<u>Statute</u>	<u>Text</u>
AS 28.10.041	Refuses registration to applicant who fails to appear in court or to pay fine for traffic or parking violation.	Sec.4760	Registration renewal can be refused if a notice of delinquent parking violations has been mailed to owner or lessee, and itemization of penalties and fees has been filed with the department.
AS 28.15.031(b)(2)	No original or duplicate driver's license, or renewal or reinstatement to person who fails to appear in court or who fails to pay a fine for a parking or moving violation.	Sec.40508	Willful violation of promise/continuance/order to appear is a misdemeanor. Willful failure to pay fine for vehicle code violation is a misdemeanor.
AS 28.15.181(g)	After the court has provided 10 days written notice of impending license revocation, it may revoke the license of a person who fails to appear in court for a parking offense or moving violation.		The court may impound the driver's license, for up to 30 days, of a person convicted of an infraction of the vehicle code who fails to pay a fine.
		Sec.40509	(a) Magistrate or clerk may notify the Motor Vehicle Department if an order to appear in court has been violated for 15 days or more. (b) Magistrate or clerk may notify the Motor Vehicle Department of a person's failure to pay a fine for 15 days or more.
		Sec.40509.5	(a) and (b) same as Sec. 40509. (c) Court will mail courtesy warning notice to defendant 10 days before sending notice to the department.

Alaska State Legislature

Legislative Research Agency



130 Seward Street, Suite 218
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February 23, 1993

MEMORANDUM

TO: Senator Robin Taylor

FROM: Christine M. Cheff *CME*
Legislative Analyst

RE: **Sanctions for Failure to Pay Traffic Fines or Make Court Appearances**
Research Request 93.116

You asked about the Hawaii, Oregon and Washington laws which pertain to sanctions imposed for failure to pay traffic fines or to make related court appearances. Additionally, you wanted to know if there were any problems with implementation of the laws, and whether driver's license revocation and nonrenewal of vehicle registration are effective sanctions. Your request is related to draft legislation that is modeled on California Vehicle Code 40509.

From our analysis of the Hawaii, Oregon and Washington laws it is clear that a **differentiation is made between a parking violation sanction, generally nonrenewal of vehicle registration, and a moving violation sanction which affects driving privileges.** That differentiation was also noted in our previous analysis of the California law upon which your draft bill is based.¹

In the states you asked about, **Oregon is the only one which suspends a driver's license for failure to appear in court or to pay fines for moving traffic violations,** whereas, Hawaii and Washington have nonrenewal provisions. None of the three states suspend vehicle registrations for failure to pay parking fines. **Washington does, however, have a proviso against renewal of a vehicle registration if the registrant has more than two outstanding parking violations.**

¹Christine Cheff, "Draft Bill -- Fines and Court Appearances," Legislative Research Agency Memorandum 91.193, 1991.

Senator Taylor
February 23, 1993
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No legal opinions related to the sanction laws appear to have been issued, either by the courts or by the states' attorneys general.²

Although we spoke with court personnel about the effectiveness of sanctions, most of the information we obtained was from persons employed in the driver's license and motor vehicle registration departments in each state. The primary responsibility for enforcing court suspensions or nonrenewal orders, as well as for maintaining recordkeeping systems, falls to those departments. The persons with whom we spoke were knowledgeable concerning the application of sanctions and provided general overviews of their effectiveness. Although we were unable to determine what initial problems may have been encountered with implementing the sanctions programs, the principal recommendation we received from the departments contacted was that an automated recordkeeping system and communications link should be in place before implementation.

Summaries of our contacts with the staff of various agencies and of the individual state laws are provided below.

Hawaii

Highway Safety Code Section 286-109 provides that anyone who fails to respond to a traffic citation or summons for violation of traffic laws, or who fails to comply with orders of the court, may be denied issuance or renewal of a driver's license. There is no provision for revocation or suspension of driving privileges.

The municipal courts on each island are responsible for notifying the respective traffic violations divisions about outstanding fines or citations. That information is entered into a computerized recordkeeping system which serves as the checkpoint when a person makes application for or attempts to renew a driver's license. Although each island has a traffic violations division, there is no electronic link between their recordkeeping systems. According to Milton Hee, manager of the Honolulu Traffic Violations section, the computer systems throughout the islands are very old and it is, therefore, impossible to track the number of persons currently on suspension or nonrenewal status. The only comprehensive source for that information is a computer printout. When an outstanding obligation has been satisfied, the court will issue a clearance notice to the traffic violation division and the person's name is removed from the computer.

²We conducted a WESTLAW search of the Attorney General Opinions and case law for Hawaii, Oregon and Washington, and called the Attorney General's office in Oregon.

Hawaii does not have a statutory provision for suspension or nonrenewal of a vehicle registration for outstanding parking fines. Persons who fail to respond to a summons or citation for an illegally parked vehicle may be issued a penal summons to appear in court (Traffic Code Section 291C-168). Failure to appear in court can result in the person's arrest (Traffic Code Section 291C-169).

Oregon

Under Oregon law (ORS 809.210 and 809.220), failure to appear (FTA) for a court hearing or to pay a traffic fine will result in the suspension of a person's driving privileges.³ There are no sanctions (other than towing) for failure to pay fines related to parking offenses.

The Oregon Department of Motor Vehicles (DMV) is electronically connected to over 300 courts statewide--district, municipal, justice, and circuit. According to Jeanelle Naatz, Data Entry Division supervisor, about 12,000 FTAs are processed by the division each month. Ms. Naatz believes that the incidence of repeat offenders is quite high, possibly 50-75 percent. The courts clear between 6,000 and 7,000 driver's licenses for reinstatement per month. After five years, a statute of limitations allows the violator to clear a suspension by simply coming to the DMV office and paying the fine, plus interest. No court appearance is necessary.

Lane Borg, manager of the Criminal Division for the Multnomah County Circuit and District Courts, believes that sanctions are not particularly effective because of the limitations on enforcement. Conceivably, a person may drive on a suspended or expired license for five years and then clear the record without having to go to court.

Washington

Currently, the only sanction for those who fail to appear in court or to pay parking fines is nonrenewal of a driver's license (RCW 46.20.031(3)) or vehicle registration (RCW 46.16.216) respectively.

A bill to suspend driver's licenses for FTAs related to moving violations has been introduced in the legislature, but at present the offense is a misdemeanor (RCW 46.64.020). Anyone with two or more outstanding FTAs within five years is guilty of "failure to comply" (RCW 46.64.027), which is a gross misdemeanor punishable by up to one year in the county jail or a fine of up to \$5,000, or both (RCW 9A20.020).

³In Oregon an FTA refers to outstanding fines as well as to failure to appear in court.

Senator Taylor
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Approximately 85 of the 150 eligible court jurisdictions in Washington participate in the automated vehicle registration suspension program maintained by the state's Title & Registration Department. Statewide, the department processes 30-35 parking violation suspensions per day. Bob Bardish, internal operations manager, says that over 50 percent of the suspensions which come in during a week are cleared by the end of that week.

Copies of the statutes referenced in this memorandum are attached. I hope the information will be useful. Please do not hesitate to call if we can be of further assistance.

Attachments

Alaska State Legislature

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SPONSOR STATEMENT

SENATE BILL 166

The intent of this legislation is to encourage individuals to pay outstanding fines related to moving vehicle citations and parking offenses. The bill provides specific means by which this goal can be accomplished: Namely drivers license revocation and non-renewal of motor vehicle registrations.

Senate Bill 166 was designed to provide the court system and municipalities throughout Alaska with additional leverage to collect outstanding fines. It would also apply when an individual fails to appear in court, as ordered.

The bill duplicates House Bill 368, which I introduced in the 17th Alaska State Legislature.

I believe SB 166 would be a valuable tool for use by the courts in addressing the problems of scofflaws, especially those who failed to appear in court or pay a fine imposed by the courts.

The bill is based on statutes from other states. The experience in Washington state indicates that over 50 percent of those who receive notice of possible sanctions clear up outstanding matters within one week.

STATE COMMITTEE OF REFERRAL

DATE: 3/16/93

FURTHER: JUDICIARY
FINANCE

Date of 5-Day Notice: 3/31/94
(in accordance with Uniform Rule 23)

DATE TURNED
INTO OFFICE: _____

TRANSPORTATION Committee considered SB 166

"An Act relating to registration of a motor vehicle, and issuance, renewal, reinstatement, and revocation of a driver's license for failure to appear in court or failure to pay a fine."

and recommends:

replace with _____ CS SB 166 (TRA)

- same title
- new title
- technical title change (HB only)

attaches amendment(s)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

FISCAL NOTE INFORMATION

Department	Date	Zero	Fiscal
AK COURT SVS.	4/4/94		54.9

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

Tom Kell
RODNEY GIBSON Do Pass
[Signature]

OTHER RECOMMENDATIONS:

[Signature] - NR

[Signature] - Do Pass
Chair: Signature and Recommendation

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SB 166

Revision Date:	Dept. Affected: <u>Alaska Court System</u>
Title: <u>Driver's License Revocation</u>	BRU: <u>Trial Courts</u>
Sponsor: <u>Senate Judiciary</u>	Components: _____
Requestor: _____	COMPONENT SERIAL NO. <u>768</u>

EXPENDITURES/REVENUES (Thousands of Dollars)

EXPENDITURES/REVENUES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
OPERATING EXPENDITURES						
PERSONAL SERVICES	39.0	39.0	39.0	39.0	39.0	39.0
TRAVEL						
CONTRACTUAL	13.8	13.8	13.8	13.8	13.8	13.8
SUPPLIES	2.1	2.1	2.1	2.1	2.1	2.1
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	54.9	54.9	54.9	54.9	54.9	54.9

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

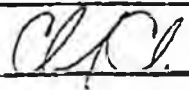
1002 Federal Receipts						
1003 GF Match						
1004 GF	54.9	54.9	54.9	54.9	54.9	54.9
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	54.9	54.9	54.9	54.9	54.9	54.9

POSITIONS

FULL-TIME	1.0	1.0	1.0	1.0	1.0	1.0
PART-TIME	1.0	1.0	1.0	1.0	1.0	1.0
TEMPORARY						

Estimate of current year (FY 94) cost: \$ None

ANALYSIS: (Attach a separate page if necessary)
 See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel  Phone: 264-8228
 Agency: Alaska Court System Date: 04/04/94

Approved by: Arthur H. Snowden, II, Administrative Director  Date: 04/04/94
 Agency: Alaska Court System

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

Alaska Court System
Fiscal Analysis
SB 166

This bill will require preparation, mailing and tracking of 3 new forms for certain traffic offenses. The notices will be mailed to persons who fail to pay fines in traffic-related offenses and to persons who fail to appear at the court for moving violations. The three new forms are (1) a notice of pending license revocation, (2) a notice of license revocation and (3) a notice of termination of license revocation. During FY 93, the court system processed over 68,500 traffic offenses, of which nearly 39,000 involved moving violations. For purposes of this fiscal note, we have used the following assumptions:

<u>Estimated Number of Warrants Issued for Failure to Satisfy (25% of all traffic citations)</u>		<u>17,100</u>
100% of warrant recipients will receive Notice of Pending Revocation	17,100	
60% of warrant recipients will receive Notice of Revocation	10,300	
50% of warrant recipients will receive Notice of Termination of Revocation	8,600	
<u>Estimated Number of Warrants Issued for Failure to Appear (20% of moving violation citations)</u>		<u>7,800</u>
100% of warrant recipients will receive Notice of Pending Revocation	7,800	
40% of warrant recipients will receive Notice of Revocation	3,100	
10% of warrant recipients will receive Notice of Termination of Revocation	800	
Total number of notices processed by the courts	<u>47,700</u>	

It is assumed that each notice will require 3 minutes of clerical time for preparation, mailing and tracking. Statewide clerical staffing needs are estimated at 1.2 new clerks.

Personal Services

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Court Clerk I, range 8A, Anchorage, PFT, 12 months	\$21,336	\$10,715	\$32,051
Court Clerk I, range 8A, Fairbanks, PPT, 2.4 months	4,802	2,114	<u>6,916</u>
Total Personal Services			38,967

Contractual

Postage - mail 47,700 notices at 29¢ each 13,833

Supplies

Cost of paper and envelopes for printing and mailing notices 2,069

Total Cost **\$54,869**

8-LS0406E
Ford
4/12/94

CS FOR SENATE BILL NO. 166()
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to registration of a motor vehicle and suspension of a driver's
2 license for failure to appear in court or failure to pay a fine."

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

4 * Section 1. AS 12.25.200(b) is amended to read:

5 (b) A citation issued under AS 12.25.180 must indicate the amount of bail or
6 fine applicable to the offense, the procedure a person must follow in responding to the
7 citation, [AND] that if the person fails to pay the bail or fine the person must appear
8 in court, and that failure to pay the bail or fine or appear in court for an offense
9 involving a moving motor vehicle may result in suspension of the person's driver's
10 license. In addition, a citation must indicate that the person has a right to

- 11 (1) a trial;
- 12 (2) engage counsel;
- 13 (3) confront and question witnesses;
- 14 (4) testify; and

1 (5) subpoena witnesses on the person's behalf.

2 * Sec. 2. AS 28.10.041 is amended by adding a new subsection to read:

3 (d) If an applicant has received actual notice of a required payment of a fine
4 for a parking offense and has failed to pay the fine, the department shall refuse to
5 register the applicant's vehicle until the applicant provides proof that the fine has been
6 paid. An agency of the state or a municipality may report a person's failure to pay a
7 fine to the department on a form prescribed by the department. The department may
8 require electronic reporting.

9 * Sec. 3. AS 28.15.181 is amended by adding a new subsection to read:

10 (h) The court may suspend the driver's license, privilege to drive, or privilege
11 to obtain a license of a person who fails to appear in court as required by a citation
12 for an offense involving a moving motor vehicle, or who fails to pay a fine as required
13 by the court for an offense involving a moving motor vehicle. If the court suspends
14 a driver's license under this subsection, the court shall also provide notice of the
15 suspension to the department. Suspension imposed under this subsection shall remain
16 in effect until the person appears in court as required by the citation, or pays the fine
17 as required by the court. When the person appears in court or pays the required fine,
18 the court shall terminate the suspension imposed under this subsection and provide the
19 person with written notice of the termination.

20 * Sec. 4. AS 28.15.211(c) is amended to read:

21 (c) At the end of a period of suspension or limitation, when that limitation
22 follows a suspension, the person whose license has been suspended or limited may
23 apply to the department and, upon payment of the proper fees, including a
24 reinstatement fee of \$100, be issued a duplicate driver's license if the person is
25 otherwise entitled to the license under this title. The reinstatement fee required
26 under this section is not required for a suspension imposed under AS 28.15.181(h).

27 * Sec. 5. AS 28.15.211(e) is amended to read:

28 (e) Except for a suspension under AS 28.15.181(h), at [AT] the end of a
29 period of limitation, suspension, or revocation under this chapter, the department may
30 not issue a driver's license or a duplicate driver's license to the licensee until the
31 licensee has complied with AS 28.20 relating to proof of financial responsibility.