

HB

405

(7)
Date Referred to Committee: February 12, 1998

FURTHER REFERRALS:

Date of Committee Action: 3/4/98

The JUDICIARY Committee considered:

HB 405

HOUSE BILL NO. 405

FLEEING OR EVADING A PEACE OFFICER

"An Act relating to failing to stop a vehicle when directed to do so by a peace officer."

recommends it be replaced with the following committee substitute _____ [-] the same title
[] a new title

[] additional referral to _____ Committee
[] attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
[] fiscal note(s) Law [] fiscal note(s) _____
[] zero fiscal note(s) _____ [] zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Brian D. Porter</i>	<input checked="" type="checkbox"/>			
<i>John P. Kelly</i>	<input checked="" type="checkbox"/>			
<i>Jim [unclear]</i>			<input checked="" type="checkbox"/> <i>NR</i>	<input checked="" type="checkbox"/> <i>E.C.</i>
<i>Charles [unclear]</i>			<input checked="" type="checkbox"/>	
<i>Samuel [unclear]</i>	<input checked="" type="checkbox"/>			
<i>Jim [unclear]</i>	<input checked="" type="checkbox"/>			
<i>CHAKA [unclear]</i>				<input checked="" type="checkbox"/>

CHAIR'S SIGNATURE *[Signature]*

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. HB 405

Revision Date (Note if correction) _____	Dept. Affected <u>Law</u>	_____
Title <u>An Act relating to failing to stop a vehicle when</u>	BRU <u>Criminal Division</u>	_____
directed to so by a peace officer _____	Component <u>1st-4th Jud District/OSPA</u>	_____
Sponsor <u>Representative Kott</u>	_____	<u>#2198/99/</u>
Requester <u>House Judiciary Committee</u>	Component Serial No <u>2261/79/01/03</u>	_____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services	56.6	56.6	56.6	56.6	56.6	56.6
Travel	0.2	0.2	0.2	0.2	0.2	0.2
Contractual	9.1	9.1	9.1	9.1	9.1	9.1
Supplies	0.9	0.9	0.9	0.9	0.9	0.9
Equipment	6.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	73.3	66.8	66.8	66.8	66.8	66.8

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	73.3	66.8	66.8	66.8	66.8	66.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	73.3	66.8	66.8	66.8	66.8	66.8

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time	1	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 405 creates a new class C felony crime for failure to stop at the direction of a peace officer when directed to, when during the commission of this offense, the person violates another law, ordinance, or traffic regulation. The penalty for simply knowingly failing to stop at the direction of a peace officer is increased from a class B to a class A misdemeanor.

An average of 220 cases of failure to stop at the direction of a peace officer are referred annually to state prosecutors, and approximately 100 are referred to prosecutors in the Municipality of Anchorage. The Department of Law assumes that a majority of these cases would be charged as felonies if this legislation were enacted. Outside of Anchorage, the cases would be spread around the various district attorney's offices statewide. Although this will increase the workload in each office, it does not justify addition of prosecutor positions outside of Anchorage. However, the Anchorage District Attorney's Office could not absorb such a large increase in felony cases. One-half of a full time equivalent attorney

Prepared by <u>Jean M. Kasson</u>	Phone <u>465-5370</u>
Division <u>Attorney General's Office</u>	Date <u>3/5/98</u>
Approved by Commissioner <u>Bruce M. Botelho, Attorney General</u>	Date <u>3/5/98</u>
Agency <u>Department of Law</u>	

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. HB 405

ANALYSIS CONTINUATION

position would be needed to handle this new caseload.

The cost estimate is based on the FY98/99 standard attorney cost schedule, and includes clerical support, communications, lease, and other normal overhead costs (\$133,500 per year for FTE attorney). Not included in the standard cost schedule are one-time equipment purchases for the new part-time position. These costs, \$6,500, are added separately for FY99 only.

Alaska State Legislature House of Representatives

Committees

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Interim:
10928 Eagle River Rd. Suite 141
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Session:
Alaska State Capitol
Juneau, AK 99801

SPONSOR STATEMENT HB 405

HB 405 increases the penalties for not stopping at the direction of a police officer. Failure to stop at the direction of a police officer in the first degree occurs if during the commission of the offense the person violates any other law and is a Class C felony. Failure to stop at the direction of a peace officer in the second degree occurs if the person knowingly fails to stop as soon as possible in a safe manner and is a Class A misdemeanor.

The crime of eluding a police officer is inherently dangerous for pedestrians, other drivers and innocent bystanders. As an example in the Municipality of Anchorage in August of 1998, a passenger in a vehicle attempting to avoid arrest was killed when the vehicle ran a red light and struck a building. This is only one of several recent incidents where casualties have resulted from this very serious crime.

Increasing the penalties for this crime will not only help deter this potentially dangerous behavior but will more correctly align the severity of the punishment with the severity of the crime itself.

I urge your support for this legislation.

Representative Pete Kott

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HOUSE BILL NO. 405

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE KOTT

Introduced:

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to failing to stop a vehicle when directed to do so by a peace
2 officer."

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

4 * Section 1. AS 28.35.182 is repealed and reenacted to read:

5 Sec. 28.35.182. Failure to stop at direction of peace officer. (a) A person
6 commits the offense of failure to stop at the direction of a peace officer in the first
7 degree if the person violates (b) of this section, and, during the commission of that
8 offense, the person violates another law, ordinance, or traffic regulation.

9 (b) A person commits the offense of failure to stop at the direction of a peace
10 officer in the second degree if the person, while driving or operating a vehicle or
11 motor vehicle or while operating an aircraft or watercraft, knowingly fails to stop as
12 soon as practical and in a reasonably safe manner under the circumstances when
13 requested or signaled to do so by a peace officer.

14 (c) In a prosecution under this section, it is an affirmative defense, if the peace

1 officer, when requesting or signaling the defendant to stop,

2 (1) was operating a vehicle, motor vehicle, aircraft, or watercraft, and
3 the vehicle, motor vehicle, aircraft, or watercraft

4 (A) did not meet lighting and audible signaling requirements of
5 law for law enforcement vehicles; and

6 (B) was not marked appropriately so that a reasonable person
7 would recognize it as a law enforcement vehicle; or

8 (2) was not operating a vehicle, motor vehicle, aircraft, or watercraft,
9 and the peace officer was not wearing the uniform of office or displaying a badge or
10 other symbol of authority so as to be reasonably identifiable as a peace officer.

11 (d) In this section,

12 (1) "knowingly" has the meaning given in AS 11.81.900;

13 (2) "signal" means a hand motion, audible mechanical or electronic
14 noise device, visual light device, or combination of them, used in a manner that a
15 reasonable person would understand to mean that the peace officer intends that the
16 person stop.

17 (e) Failure to stop at the direction of a peace officer in the first degree is a
18 class C felony punishable as provided in AS 12.55. Failure to stop at the direction of
19 a peace officer in the second degree is a class A misdemeanor.

LEGAL SERVICES

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Juneau, Alaska 99801-2105

MEMORANDUM

February 18, 1998

SUBJECT: Sectional Summary of HB 405.

TO: Representative Pete Kott
Attn: Jim Homaday

FROM: Gerald P. Luckhaupt 
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, please note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

Section 1 of the bill repeals AS 28.35.182, the offense of failing to stop at the direction of a peace officer, and reenacts that section as failure to stop at the direction of a peace officer in the first and second degree.

Subsection (a) creates the new offense of failure to stop at the direction of a peace officer in the first degree which is committed when a person violates subsection (b), failure to stop at the direction of a peace officer in the second degree and the person violates another law, ordinance, or traffic regulation.

Subsection (b) provides that a person commits the offense of failure to stop at the direction of a peace officer in the second degree if the person while operating a vehicle knowing fails to stop when requested to do so by a peace officer.

Subsection (c) provides affirmative defenses¹ to a person charged with failure to stop at the direction of a peace officer. The defenses are that the peace officer's vehicle (if the peace officer was operating a vehicle when requesting the defendant to stop) did not meet lighting and audible signaling requirements for law enforcement vehicles and was not marked appropriately

1. AS 11.81.900(b)(1) defines "affirmative defense" to mean that

(A) some evidence must be admitted which places in issue the defense; and
(B) the defendant has the burden of establishing the defense by a preponderance of the evidence.

Representative Pete Kott

February 18, 1998

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so as to be recognizable as a law enforcement vehicle or that the peace officer was not wearing the uniform of office or displaying a badge when requesting the defendant to stop.

Subsection (d) supplies definitions.

Subsection (e) provides that failure to stop at the direction of a peace officer in the first degree is a class C felony and failure to stop at the direction of a peace officer in the second degree is a class A misdemeanor.

GPL:glc:jr

98-089.glc