

**HB**

**222**

FISCAL NOTE

No. 1  
 Bill Version: CS HB 222(TRA)  
 (H) Publish Date: 4/24/97

STATE OF ALASKA  
 1997 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
 Title: An Act relating to abandoned, wrecked or junk vehicles.  
 Sponsor: Representative Rokeberg  
 Requestor: H. TRAN

Department Affected: Administration  
 BRU: Motor Vehicles  
 Component: Field Services  
 COMPONENT SERIAL NO. 0502

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 97) cost: \$ \_\_\_\_\_

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill does not have fiscal impact to the Division of Motor Vehicles.

Prepared by: Juanita M. Hensley  
 Division: Motor Vehicles

Phone: 465-2650  
 Date: \_\_\_\_\_

Approved by Commissioner: Mark Bover *Alison M. Elace*  
 Agency: Department of Administration

Date: 4/21/97

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# FISCAL NOTE

No. 2  
 Bill Version: CS HB 222 (TR)  
 (H) Publish Date: 4/24/97

STATE OF ALASKA  
 1997 LEGISLATIVE SESSION

BILL NO: H.

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: An Act relating to abandoned, wrecked, or BRU: Alaska State Troopers  
junked vehicles Component: \_\_\_\_\_  
 Sponsor: Rep. Rokeberg  
 Requestor: H.TRA COMPONENT SERIAL NO. 0799

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
OPERATING						
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-
CHANGE IN REVENUES ( ) Revenue Code	-0-	-0-	-0-	-0-	-0-	-0-

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 97) impact: \$ \_\_\_\_\_

**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.)

This bill would not have any significant fiscal impact on AST.

Prepared By: F/Sgt. Robert Gorder Phone: 269-5650  
 Division: Alaska State Troopers Date: 04/18/97  
 Approved by Commissioner: Ronald L. Otto *R. L. Otto* Date: 4-11-97  
 Agency: Department of Public Safety

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# ALASKA STATE LEGISLATURE

## House of Representatives

### COMMITTEE ASSIGNMENTS:

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SPECIAL COMMITTEE ON OIL & GAS, MEMBER  
JUDICIARY COMMITTEE, MEMBER  
CORRECTIONS BUDGET SUBCOMMITTEE, MEMBER  
ADMINISTRATION BUDGET SUBCOMMITTEE, MEMBER  
HESS BUDGET SUBCOMMITTEE, MEMBER




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718 WEST 4TH AVENUE, SUITE 640  
ANCHORAGE, AK 99501  
PHONE: (907) 258-8191  
FAX: (907) 258-2916

SESSION:  
STATE CAPITOL  
JUNEAU, AK 99801-1182  
PHONE: (907) 465-4968  
FAX: (907) 465-2040

## Representative Norman Rokeberg

### MEMORANDUM

TO: Senator Jerry Ward

FROM: Representative Norman Rokeberg 

DATE: May 5, 1997

RE: CSHB 222 (TRA) am  
Abandoned, wrecked, or junk vehicles

Thank you for agreeing to carry the captioned bill on the Senate side. I appreciate your assistance.

This bill was developed with the cooperation of:

- a. The Municipality of Anchorage who originally requested the bill. The bill is listed in the MOA's 1997 legislative program.
- b. The City Attorney from the City of Ketchikan.
- c. The Alaska Tow Truck Association.

For your convenience, I have attached a list of talking points about the bill. A request for hearing before your committee and a bill packet are also being delivered with this memorandum.

Again, thank you for your assistance.

## TALKING POINTS

CSHB 222 (TRA) AM - Abandoned, wrecked, or junk vehicles

- Suggested by the Municipality of Anchorage
- Supported by: Municipality of Anchorage  
City Attorney, City of Ketchikan  
Alaska Municipal League  
Alaska Tow Truck Association
- Informational letters supplied by: Department of Environmental Conservation  
I/M Division, Municipality of Anchorage
- Bill would give local governments more tools to work with when impounding and disposing of wrecked or junk vehicles.
- Last year, Municipality of Anchorage spent \$126,000 to deal with 1,000 vehicles.
- Bill would
  - expedite removal of junk vehicles from streets and rights-of-way
  - reduce holding time and decrease processing time for junk vehicles
  - assist in reducing the number of junk vehicles which are sold through auction and often re-deposited on the streets and rights of way
  - save money, allow municipal programs to be more effective, and help make roadways safe.
- Bill does not impact air quality (see DEC letter dated March 25, 1997 -- which date should actually be April 25, 1997)
- Bill allows for disposal by public auction of titled vehicles without a requirement that the auction/tow company register these vehicles. This is important in Anchorage and Fairbanks where registration requires that a vehicle pass an I/M test. The buyer of the vehicle will still have to register the vehicle in order to be able to drive the vehicle. The buyer is also well aware that the vehicle may not pass I/M muster (see Alaska Tow Truck packet).

# ALASKA STATE LEGISLATURE

## House of Representatives

### COMMITTEE ASSIGNMENTS:

LABOR & COMMERCE COMMITTEE, CHAIRMAN  
SPECIAL COMMITTEE ON OIL & GAS, MEMBER  
JUDICIARY COMMITTEE, MEMBER  
CORRECTIONS BUDGET SUBCOMMITTEE, MEMBER  
ADMINISTRATION BUDGET SUBCOMMITTEE, MEMBER  
HESS BUDGET SUBCOMMITTEE, MEMBER



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SESSION:  
STATE CAPITOL  
JUNEAU, AK 99801-11\*2  
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FAX: (907) 465-2040

## Representative Norman Rokeberg

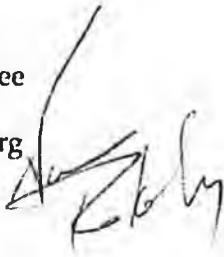
### MEMORANDUM

TO: Senator Jerry Ward, Chairman  
Senate Transportation Committee

FROM: Representative Norman Rokeberg

DATE: May 5, 1997

RE: CSHB 222 (Trans) am



I would request that CSHB 222 (Trans) am be scheduled for a hearing before your committee.

Attached are the following:

- a. Copy of CSHB 222 (Trans) am
- b. Sponsor Statement for HB 222
- c. Sectional Analysis to CSHB 222 (TRA)
- d. The amendment added to the bill on the House floor occurred on page 2, line 13. This amendment makes clear that vehicles used in competitive racing are not to be considered "junk" vehicles.
- e. Letter from Alaska Tow Truck Association
- f. Letter from DEC
- g. Letters and backup from MOA
- h. Letter from Steve Schweppe, City Attorney, City of Ketchikan
- i. Letter from the Alaska Municipal League.

If you have any questions, please contact Janet Seitz at x6547.

Attachments

# ALASKA STATE LEGISLATURE

## House of Representatives

### COMMITTEE ASSIGNMENTS

LABOR & COMMERCE COMMITTEE, CHAIRMAN  
SPECIAL COMMITTEE ON OIL & GAS, MEMBER  
JUDICIARY COMMITTEE, MEMBER  
CORRECTIONS BUDGET SUBCOMMITTEE, MEMBER  
ADMINISTRATION BUDGET SUBCOMMITTEE MEMBER  
HEALTH & SOCIAL SERVICES BUDGET SUBCOMMITTEE MEMBER



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STATE CAPITOL  
JUNEAU, AK 99901-1192  
PHONE: (907) 485-4958  
FAX: (907) 485-2640

### Representative Norman Rokeberg

#### SPONSOR STATEMENT

#### HOUSE BILL 222

#### BY REPRESENTATIVE NORMAN ROKEBERG

House Bill 222 is an act relating to abandoned, wrecked, or junk vehicles.

HB 222 would give local governments more tools to work with when impounding and disposing of wrecked or junk vehicles. The Municipality of Anchorage has placed the passage of such legislation on its 1997 Legislative Program as an issue that needs to be addressed. The number of vehicles abandoned on streets and highways has become and is a problem for local governments. These vehicles, besides being an eyesore, can be a possible traffic or health risk. Such vehicles are usually not properly registered and tracing the owner can be difficult.

It is expensive for local governments, and citizens of those governments, to remove wrecked or junk vehicles can be formidable. The Municipality of Anchorage removes more than 1,000 such vehicles from municipal and state rights-of-way each year. The cost to the Municipality of Anchorage to remove such vehicles is approximately \$126,000.

House Bill 222 would provide the following benefits to local governments:

- Expedite removal of junk vehicles from streets and rights-of-way
- Reduce holding time and decrease processing time for junk vehicles.
- Assist in reducing the number of junk vehicles which are sold through auction and often re-deposited on the streets and rights-of-way.

House Bill 222 would make it easier for local governments to remove junk vehicles from streets and rights-of-way. The provisions of HB 222 would save money, allow municipal programs in this area to be more effective, and help make our roadways safer.

Your support of this measure would be appreciated.

ED 1:4/14/97

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

APR 25 1997

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

## MEMORANDUM

April 25, 1997

**SUBJECT:** Sectional Summary of CSHB 222(TRA)

**TO:** Representative Norman Rokeberg  
Attn: Janet

**FROM:** Michael F. Ford *M.F.F.*  
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

**Section 1.** Establishes that a presumption of abandonment attaches to certain vehicles that reasonably appear to have been left unattended if the vehicles are registered or titled as required under AS 28.10.

**Section 2.** Allows certain junk vehicles to be removed and treated as abandoned vehicles. Provides a definition of "junk" and "wrecked" vehicles.

**Section 3.** Reduces the time period for reclaiming an impounded vehicle from 30 to 15 days.

**Section 4.** Allows disposal of a vehicle by scrap processing or by public auction.

**Section 5.** Requires that vehicles that are sold at auction must be titled.

**Section 6.** Allows municipalities to establish hearing procedures for removal of a wrecked or abandoned vehicle.

MFF:glc  
97-272.glc



APR 24 1997

**SUBJECT:** Impact of HB222 on the Towing Industry

**VIEWS:**

A towing company has the right to recover it's costs for towing, research, documentation, storage, insurance, yard rent, payroll and auction of impounded vehicles.

Requiring towing companies or buyers of impounded vehicles to register these vehicles would cause a serious financial hardship on the towing industry. As the buyers would not purchase these vehicles as they are mostly bought for parts not resale. To force buyers to register, would mean to purchase keys, and do repairs needed to bring vehicles into I/M requirements with in Anchorage & Fairbanks. The same applies to the towers if they are required to register these vehicles before sale.

The towing industry has shown a willingness to transfer title at the point of auction to the new buyers of these vehicles. This in turn will help not only the Municipalities, but the State recover moneys for abandoned vehicles, I.E. AMC 15.20.030-.090 Wreck Havoc. It will also bring in additional revenue to the state of \$5.00 per title that has not transferred from auction vehicles in the past.

At this time no Municipal, State or Federal compensation is given to the non contracted towing companies or scrap yards to recover costs for disposal. Until compensation is available the towing industry has no choice but to auction these vehicles to recover their costs.

THE EQUIPMENT OR GOODS SOLD HEREUNDER TO THE BUYER IS SOLD AS-IS WHERE-IS WITHOUT WARRANTY. TO THE EXTENT ALLOWED BY APPLICABLE LAW, THERE ARE NO WARRANTIES EXPRESSED OR IMPLIED INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE WHICH EXTEND BEYOND THOSE ON THE FACE HEREOF APPLICABLE TO THE EQUIPMENT OR GOODS. EXCEPT THE MANUFACTURERS EXPRESS WARRANTIES, IF ANY WHICH ARE THEIRS EXCLUSIVELY AND NOT THE SELLERS. SPECIFICALLY EXCLUDED, BUT NOT LIMITED TO, IS ANY RESPONSIBILITY OF THE SELLER TO PRESENT A CERTIFICATE OF INSPECTION WHICH MAY BE REQUIRED BY THE MUNICIPALITY OF ANCHORAGE UNDER IT'S MUNICIPAL CODE SECTION 15.80.010, OR ANY AMENDMENTS THERETO, OR UNDER THE "ANCHORAGE I/M PROGRAM DESIGN DOCUMENT". DATED OCTOBER 15, 1994 AS AMENDED OR ITS "PRIVATE GARAGE OPTION". DATED MAY 3, 1984, OR ANY AMENDMENTS THERETO. THE BUYER HEREBY WARRANTS AND UNDERSTANDS THAT THE EQUIPMENT IS PURCHASED WITHOUT AN I/M CERTIFICATE OF INSPECTION, WHICH MAY BE LEGALLY REQUIRED, AND AGREES TO INDEMNIFY AND HOLD THE SELLER HARMLESS FROM ANY CLAIMS DEMAND OR LIABILITIES RESULTING THEREFROM.

BUYER \_\_\_\_\_ SELLER \_\_\_\_\_

VIN # \_\_\_\_\_ YEAR \_\_\_\_\_

MAKE/MODEL/COLOR \_\_\_\_\_

RECEIPT FOR THE ABOVE DESCRIBED VEHICLE

BUYER \_\_\_\_\_

ADDRESS \_\_\_\_\_

PHONE \_\_\_\_\_

AMOUNT PAID \_\_\_\_\_ DATE \_\_\_\_\_



City of Anchorage  
Alaska

# Municipality of Anchorage

Department of Health and Human Services

825 L Street

P.O. Box 196650 Anchorage, Alaska 99519-6650



November 4, 1994

GLACIER TOWING  
P.O. BOX 231991  
ANCHORAGE, AK 99523-1991

Dear Owner/Manager:

The Assembly approved an amendment to the I/M Program Design that allows you to sell an impounded vehicle without furnishing the buyer an I/M certificate or waiver. This exemption is contingent upon your compliance with Section 2.2.4 (b), which reads as follows:

"(b) Sellers of vehicles sold through an impound sale in accordance with Alaska Statute 28.10.502 or Anchorage Municipal Code 9.27.026 and 9.50.020 are exempt from the above I/M requirement provided:

- (1) Vehicles are sold without license plates and;
- (2) Buyers are informed that these vehicles cannot be registered by the Division of Motor Vehicles until each complies with current I/M requirements and qualifies for a valid certificate of inspection."

The I/M Program tracks these vehicles and needs documentation on which plates were destroyed. To date, we required a form to be filled out on each vehicle and the submission of all license plates to our office. With this new amendment, we will accept a statement from you on your business letterhead that lists each license plate number removed and certifies that the plates were destroyed and properly disposed of to prevent fraudulent use. The letter must be signed by the seller and submitted to the I/M program office no less than 7 days after the sale. Please send by mail or deliver by courier to:

Vehicle Inspection Program, 825 L Street Room 510, P. O. Box 196650, Anchorage, AK 99519-6650

The information required by Section 2.2.4 (2) for the buyer should be in writing, signed by both the seller and the buyer with a copy provided for each. You should inform the buyer of an impound vehicle that the vehicle may not be titled in their name without an I/M certificate or waiver. If the buyer wants to obtain title to the vehicle, an application for a Title Only I/M certificate is available at the I/M Program office. The fee for a title only certificate is \$10.00.

Please call Senior I/M Field Inspector Jeff Hamer at 343-6970 if you have any questions. Thank you for your cooperation.

Sincerely,

Christopher P. Beane  
I/M Program Administrator

TONY KNOWLES, GOVERNOR

**DEPT. OF ENVIRONMENTAL CONSERVATION**  
DIVISION OF ENVIRONMENTAL HEALTH  
DIRECTOR'S OFFICE  
555 CORDOVA STREET  
ANCHORAGE, ALASKA 99501  
<http://www.state.ak.us/dec/home.htm>

APR 25 1997

Telephone: (907) 269-7644

Fax: (907) 269-7654

E-mail: [jadair@envircon.state.ak.us](mailto:jadair@envircon.state.ak.us)

March 25, 1997

The Honorable Norman Rokeberg  
House of Representatives  
Room 24, State Capitol  
Juneau, AK 99801

Re: HB 222

Dear Representative Rokeberg:

Janet Seitz on your staff called me about the amendment to this bill that would not require an abandoned car be registered, only titled, if it was sold at public auction. She wanted to know what, if any, effects that amendment might have on the I/M program and on air quality.

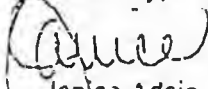
I talked with Chuck Hosack, deputy director of the Division of Motor Vehicles, as well as staff in our air program. As we read HB 222 with the Amendment #3, it will require the car be titled but not registered when sold at auction. You cannot register a car without the I/M certificate, but you can obtain a title.

As we understand the process, once the Municipality lays claim to a junked or abandoned vehicle, the vehicle becomes the property of the Municipality. The Municipality is not required to obtain a title to the car, nor is the contractor/towing company who may be used for auctioning it. Instead, the person who buys the vehicle at the public auction is the one responsible for getting title.

In order to get a title, the new owner will either need to get an I/M certificate, or he may get a "Title Only" waiver from the Municipality for the I/M certificate. With the I/M certificate, he can register the car and everything is fine. With the "Title Only" waiver, the car is not registered and cannot be driven. In fact, the Municipality will take the license plates away when it issues the "Title Only" waiver. Since an unregistered car cannot be driven, and a car cannot be registered without an I/M certificate, this bill should have no impact on air quality.

I hope this answers your questions. Please don't hesitate to contact me if you need anything further.

Sincerely,

  
Janice Adair  
Director

cc: Michele Brown, Commissioner  
Mike Conway, Acting Director, Air & Water Quality Division

# Municipality of Anchorage



P.O. 196650  
Anchorage, Alaska 99519-6650  
Telephone: (907) 786-8277  
Fax: (907) 561-1057

*Rick Mystrom, Mayor*

APR 03 1997

DEPARTMENT OF PUBLIC WORKS  
Street Maintenance Division  
(3500 E. Todd Road)

April 3, 1997

Representative Norm Rokeberg  
Alaska State Legislature  
State Capitol "MS 3100", Room 24  
Juneau, AK 99801-1182

Re: Junk Vehicle House Bill

Dear Representative Rokeberg:

To reduce the costs of impounding and disposing of approximately 1000 abandoned, wrecked, or junk vehicles in the Municipality of Anchorage each year, we are seeking revisions to AS 28.11.020, 28.22.050 and 28.11.070. These revisions will provide the following benefits:

- Enable the Municipality to expedite removal of junk vehicles from streets and rights-of-ways by reducing the notice time to twenty-four hours rather than the current forty-eight hour requirement;
- The reduction of the holding time from thirty days to fifteen days will not only decrease the processing time for a junk vehicle, but will also provide additional economies for the program by reducing the size of holding yards for municipal contractors.
- The change to allow junk vehicles to be taken directly to a scrap processing yard will greatly assist in reducing the number of junk vehicles which are sold through auction and often re-deposited onto our streets and rights-of-ways.

The revisions proposed in this bill will save money, make municipal junk vehicle programs more effective, and help to make all of our roadways more attractive to our citizens and visitors. Thank you for sponsoring HB 222, "An Act Relating to Abandoned, Wrecked, or Junk Vehicles." This bill will help us manage the problem more effectively and efficiently.

Sincerely,

*Everett L. Mabry*  
Everett L. Mabry  
Manager

cc: Tim Rogers

worddraw/junkbill

MUNICIPALITY OF ANCHORAGE  
1997 LEGISLATIVE PROGRAM

SUMMARY OF LEGISLATIVE ISSUES

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Page  
Reference

HIGHEST PRIORITY LEGISLATIVE ISSUES

- 2-3 Public Safety Program
- 2-5 Safe Communities Program
- 2-6 Economic Development – Global Logistics Industrial Park Infrastructure
- 2-7 Bill of Mandates Legislation or Constitutional Amendment

OTHER LEGISLATIVE ISSUES

- 2-9 Amend AS 29.65 to provide conveyance of isolated tracts
- 2-10 Economic Development – Reauthorize Alaska Regional Development Organizations (ARDOR's)
- 2-11 Abandoned Vehicles - AS 28.11.020, AS 28.04.050, and AS 28.11.070
- 2-14 Revision to Method of Imposition of Penalties for Minor Traffic Offenses and Operator's License Revocations - AS 28.15.191 & AS 28.40.050
- 2-16 Amendment to Worker's Compensation Statute - AS 23.30.015 Compensation when third persons are liable
- 2-20 Amend Public Employees Pension Plans to limit basis of computation of retirement benefits to base pay. Exclude overtime that inflates future pension benefits.

MUNICIPALITY OF ANCHORAGE  
1997 LEGISLATIVE PROGRAM  
LEGISLATIVE ISSUES

TITLE: Abandoned Vehicles - AS 28.11.020, AS 28.04.050 and AS 28.11.070

Over the last several years, the number of vehicles abandoned on streets and highways has increased to the point that it has become one of the more vexing problems of local government. In Anchorage alone, more than 1,000 junk vehicles are removed from municipal and state rights-of-way each year. These abandoned vehicles are an eyesore on the roadways, present a possible traffic or health risk, and are a potential pollution source due to leaking hazardous materials. The cost to the MOA to remove these vehicles is estimated to be approximately \$126,000 annually.

The vehicles that are abandoned are usually not properly registered making it difficult to trace the true owner to assess civil or criminal penalties. Further, even if a responsible owner did wish to properly dispose of a vehicle, the cost could be as much as \$300 per vehicle given the maze of local, state and federal regulations which must be complied with.

The proposed changes herein address these concerns and are designed to expedite removal and disposal of junk vehicles. In order to resolve these issues, the Municipality of Anchorage recommends the following specific changes to state statutes:

Section 28.11.020. Presumption of Abandonment.

1. A vehicle currently registered pursuant to AS 28.10 that has been left unattended, standing, parked upon or within 10 feet of the traveled portion of a highway, in excess of 48 hours, or a currently registered vehicle left standing or parked on private property in excess of 24 hours or upon other public property for more than 30 days, without the consent of the owner or person in charge of the property, notwithstanding other statutory provisions, may be removed under AS 28.11.030 and treated as an abandoned vehicle, unless the vehicle is reclaimed and removed before action regarding removal is taken under AS 28.11.030.

(more)

Abandoned Vehicles  
(continued)

2. A wrecked vehicle or Junk Vehicle that has been left unattended, standing, parked upon or within 10 feet of the traveled portion of a highway, in excess of 24 hours, or a wrecked vehicle or junk vehicle left standing or parked on private property or other public property in excess of 24 hours without the consent of the owner or person in charge of the property, notwithstanding other statutory provisions, may be removed under AS 28.11.030 and treated as an abandoned vehicle, unless the vehicle is reclaimed and removed before action regarding removal is taken under AS 28.11.030.
3. The department for good cause may make provisions for parking of vehicles on state property other than specified in this section and under the provisions of AS 44.62.
4. For purposes of this title and regulations adopted under this title the following terms shall have the meanings set forth below:
  - A. Wrecked Vehicle means a vehicle which is so disabled that whole vehicle cannot be used for its primary function without substantial repair or reconstruction.
  - B. Junk Vehicle means a vehicle that exhibits one of the following:
    1. not currently registered for operation upon the public roads of the State; or
    2. stripped, wrecked, or otherwise inoperable due to mechanical failure; or
    3. has not been repaired because of mechanical difficulties or because the cost of repairs required to make it operable exceeds the fair market value of the vehicle; or
    4. in a condition which exhibits more than one of the following elements:
      - (a) broken glass;

(more)

Abandoned Vehicles  
(continued)

- (b) missing wheels or tires;
- (c) missing body panels or parts; or
- (d) missing drive train parts.

Section 28.11.050. Vesting of Title.

Title to an impounded vehicle not reclaimed by the registered owner, a lienholder, or other person entitled to possession of the vehicle within [30] 15 days from the notice given under AS 28.11.040 vests with the state or, if a municipal ordinance is adopted under AS 28.11.100, with the municipality, as appropriate. However, nothing in this section prohibits a lien under AS 28.11.090.

Section 28.11.070. Disposal of Abandoned Vehicles.

- (a) Upon satisfaction of the notice and reporting requirements prescribed in this chapter, a vehicle may be disposed of as follows:
  - (1) By removal to a scrap processing yard or auto wrecker at which place said vehicle shall be disposed of in such a fashion so as to render it incapable of use as a vehicle.
  - (2) By public auction 20 days after notice of the auction is published in a newspaper of general circulation in the area or municipality in which the vehicle was found and presumed abandoned. The notice of auction must describe the vehicle and specify the place, date, and time at which it will be sold. A copy of the notice of auction shall be conveyed to the department.
- (b) A vehicle disposed of under (a)(2) of this section must be registered and titled under AS 28.10, and may not be subsequently sold without a certificate of title issued by the department.
- (c) Notwithstanding the provisions of this section, a person who disposes of an abandoned vehicle under this section may initiate a civil action against a person named in AS 28.11.010, if liable, for costs exceeding receipts for the disposal of the vehicle.

Contact: Ann Waller Resch  
Deputy Municipal Attorney  
Phone: 343-4545

MUNICIPALITY OF ANCHORAGE  
DEPARTMENT OF HEALTH & HUMAN SERVICES  
MEMORANDUM

APR 24 1997  
4:35 p.m.

DATE: April 24, 1997  
TO: Tim Rogers, Executive Assistant for Legislative Affairs  
THRU: Elaine Christian, Director, Department of Health and Human Services  
FROM: Christopher P. Beane, I/M Program Administrator  
SUBJECT: House Bill 222, Abandoned Vehicles, AS 28.11.070(b)

We support House Bill 222 as amended and believe that it will have a positive impact on Air Quality. Attached is previous correspondence on this subject.

cc: Lura Morgan, Ph.D., Manager, Environmental Services Division  
Steve Morris, Air Quality Manager

Atchs.

- House Bill 222
- February 10<sup>th</sup> Letter
- April 22<sup>nd</sup> Letter

Post-It* Fax Note	7671	Date	# of pages
To	Janet Seitz	From	Tim Rogers
Co/Dept	0	Co.	
Phone #		Phone #	343-4467
Fax #	465-250	Fax #	

**OFFICE OF THE CITY ATTORNEY**  
CITY OF KETCHIKAN, ALASKA

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April 21, 1997

APR 21 1997

VIA FACSIMILE  
(907) 465-2040

Representative Norman Rokeberg  
Alaska State Legislature  
House of Representatives  
State Capitol  
Juneau, Alaska 99801-1182

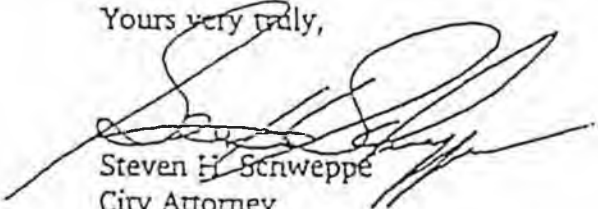
Re: House Bill 222

Dear Representative Rokeberg:

Thank you very much for drafting the proposed amendment to AS 28.11.100. I believe that it addresses the issue which I discussed with your staff. I know that the Ketchikan Police Department and the Ketchikan City Council will be pleased to know that they can establish their own notice and hearing procedures without being mandated to adopt the system used by the State Department of Public Safety.

Since talking to your staff, I have also been contacted by Pete Ecklund of Representative Williams' office concerning this matter. I am enclosing material which I faxed to him last week concerning enforcement of the abandoned vehicle laws. You may want to consider some of these additional issues. I would not, however, want to delay the change to Alaska Statutes 28.11.100 by adding new issues, especially since we have been able to avoid some of these issues in Ketchikan by drafting our own local ordinance.

Yours very truly,

  
Steven H. Schweppe  
City Attorney

KIM/RNR

Enclosures

cc: Pete Ecklund, Representative Williams' office  
Via Facsimile (907) 465-3793

**OFFICE OF THE CITY ATTORNEY**  
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April 18, 1997

VIA FACSIMILE  
(907) 465-3793

Mr. Pete Ecklund  
House of Representatives  
Representative Bill Williams  
M/S 3100  
Juneau, AK 99801-1182

Re: Representative Rokeberg's Bill on Abandoned and Wrecked Vehicles

Dear Pete:

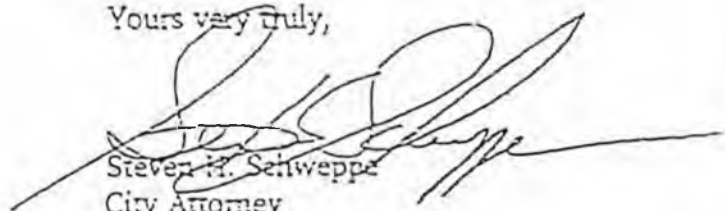
Following our discussion earlier this week, I found the enclosed memorandum which I wrote to the Borough Attorney concerning abandoned vehicles and a presentation he was preparing to make to the Municipal Attorney's Convention. Please note numbers (1) through (3) on pages two and three. These three paragraphs address the primary problem we have with enforcing the abandoned vehicle laws. Paragraph (1) on page two addresses the certified mail problem which we discussed this week. Paragraph (2) on page three discusses the problem with the presumption of abandonment. We have had a number of street-side mechanics who seek to evade the abandoned vehicle ordinance by pushing the vehicle up and down the street. If they are successful in pushing it far enough so that it no longer "reasonably appears" to have been in the same place for 48 hours, the presumption of abandonment ends and the vehicle cannot be removed. In number (3) I address the most common problem in convicting owners of abandoning their vehicles. It would be helpful if the statute would describe how the "identity of the person abandoning the vehicle" is established. People who abandon vehicles or leave junked vehicles on streets generally do not register their vehicles with the Department of Motor Vehicles. In order to establish the identity of the person abandoning the vehicle, the registered owner should be required to present a bill of sale signed by both parties and witnessed or notarized. I would prefer to have the abandoned vehicle law written as a strict liability

law imposing liability on the registered owner unless he has transferred title through the Department of Motor Vehicles.

In reviewing the proposed House Bill No. 222 I noted an additional point which I missed in my discussions with Representative Rokeberg's office. I note that Section 1 states that the vehicle must have been left unattended, standing or parked for 48 hours. The City of Ketchikan has rewritten its abandoned vehicle ordinance to provide that the presumption of abandonment applies if the vehicle "reasonably appears" to have been left unattended, standing, parked. We made this change to eliminate the owner's defense that he pushed the car two feet or three feet during the night. Generally police officers cannot determine whether the vehicle has been moved a matter of two or three feet and obviously cannot know that the vehicle has been unattended for 48 consecutive hours. By adding the phrase reasonably appears, the City's ordinance stops people from evading the ordinance by moving their cars back and forth a few feet or inches. You may want to look at adding the phrase "reasonably appears" to Section 1 and Section 2 of the proposed statute. On several occasions I have had vehicle owner's argue that every 48 hours they pushed their car back and forth. Please apologize to Representative Rokeberg's office for not having brought this to their attention when they called me. My excitement and concern over the certified mail issue caused me to overlook this issue.

Thank you for calling my office on this bill. The Ketchikan Police Department and I will be extremely happy if the certified mail requirement is deleted and we are permitted to draft our own notice requirements.

Yours very truly,



Steven H. Schweppe  
City Attorney

Enclosure

**STEVEN H. SCHWEPPE**  
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**MEMORANDUM**

TO: Scott A. Brandt-Erichsen, Esq.  
Borough Attorney

FROM: *SKS* Steven H. Schweppe  
City Attorney

RE: Carwars Presentation

DATE: October 29, 1996

Thank you for giving me an opportunity to review your draft materials on vehicle impoundment and forfeiture. Discussion of this issue is long overdue, and is particularly pertinent in view of the recent U.S. Supreme Court decisions on double jeopardy. It is one of those topics that personally affects all municipal attorneys. We have probably all been confronted on several occasions by elected officials demanding better or quicker impoundment of vehicles. As municipal attorneys we need to have prompt and good responses. Your presentation will be a survival course for municipal attorneys.

I have several initial comments concerning the state cases cited in your memorandum. First, on page 6 you cite *Skagen v. Municipality of Anchorage*. This case was reported in *Municipality of Anchorage v. William M. Skagen*, \_\_\_ P.2d \_\_\_, Op. No. 1474 (Alaska App., June 21, 1996). Unfortunately, the Court of Appeals stated that the double-jeopardy claim was not ripe. Furthermore the Court relied upon Skagen's default in the forfeiture action, and thus apparently waived his right to contest the forfeiture altogether. Hopefully, Cliff will have an update on the criminal case and whether double jeopardy was raised as a defense at that time.

On page 14 you cite *Resek v. State*, 706 P.2d 288 (Alaska 1985). The *Resek* case is important for two reasons. As you point out, it holds that an indigent claimant does not have a constitutional right to appointed counsel. Secondly, the *Resek* case suggests that forfeiture actions should be stayed pending completion of the criminal prosecution. This is an important principle affecting cities that do not prosecute all DWT's. It requires us to wait until after the State's criminal case is resolved before we can forfeit the automobile. In Ketchikan we only prosecute first-offense DWT's. We forfeit vehicles in second-offense DWT's. Due to *Resek* we must delay our *in rem* forfeiture case until the State's criminal

case is completed. Since the criminal case will generally drag on for several months, this results in significant impoundment costs being imposed upon us. Municipalities which are considering impoundment and forfeiture of DWI vehicles need to realize that, due to *Resek*, the costs of impound will often exceed the value of the vehicle. When the City of Ketchikan first considered a DWI forfeiture ordinance we talked to the Portland, Oregon, officials who were administering the model ordinance which was used by both Anchorage and Ketchikan. The Portland authorities advised that a municipality should have its own impound lots before it begins a DWI forfeiture program. Without a municipally-owned impound lot, the costs of storage will eliminate most of the income from the sale of most vehicles. In general, if the vehicle has any value, there is a lien upon the vehicle for most if not all of its value. Under *State v. Rice*, 626 P.2d 104 (Alaska 1991), the lienholder's share of the car's value may be inaccessible to the municipality.

As to the abandoned vehicle discussion, you may wish to consider the following matters:

- (1) Is certified mail notice necessary prior to impoundment? AS 28.11.100 authorizes municipalities to adopt ordinances for the removal of abandoned vehicles. Under that section an ordinance must provide notice to owners "of the right to a hearing which shall be conducted by the municipality in the manner provided for the department under AS 28.05.131 - 28.05.141." Under AS 28.05.131 the State may impound only after "giving of notice." The term "giving of notice" is defined in AS 28.05.121. That definition requires certified mail or return mail. I realize that AS 28.05.131 allows for immediate removal where necessary for protection of health, safety or welfare. I find it difficult to believe that towing of abandoned vehicles will generally fall within this exception. If it does fall within the exception, the entire section is rendered meaningless. Obviously, any impoundment will be done for the protection of the health, safety and welfare. AS 28.11.100 may be read as providing for municipally determined notice with the phrase "which shall be conducted by the municipality in the manner provided for the department under AS 28.05.131 - 28.05.141" referring simply to the hearing process and not to the notice process. The manner of giving notice is, however, specifically required by AS 28.05.131. Furthermore, AS 28.01.010 provides that the provisions of Title 28 are applicable to all municipalities, and that a municipality may not enact ordinances inconsistent with Title 28.

The City of Ketchikan has long required that certified mail notice be given before an abandoned vehicle is towed. This creates a fair amount of paperwork, and considerable delay. From a municipal attorney's perspective this requirement is particularly significant since abandoned vehicles are frequently impounded on the complaint of angry citizens. These citizens do not understand why weeks or more may pass between the time of their complaint and the time the vehicle is removed. Certified mail notice is one of the reasons for this delay, and is the source of significant dissatisfaction among citizens and elected officials.

- (2) Notice provisions also relate to another problem with the abandoned vehicle statute. Once a street-side mechanic is notified of the abandoned vehicle provisions, he will frequently attempt to avoid abandonment by moving his vehicle several feet in one direction or another. I have recently had several cases in which people have pushed their nonoperating vehicle back and forth up the street. The City of Ketchikan has somewhat addressed this problem by applying its abandoned vehicle ordinance to vehicles which "reasonably appear" to have been abandoned. Since a police officer will seldom be able to testify that the vehicle is in exactly the same position as it was 48 hours earlier, this language has saved several convictions. While it may be somewhat inconsistent with the state statute, AS 28.11.100 permits ordinances which create a presumption of abandonment. We have expanded upon the statutory presumption. Furthermore, our ordinance is consistent with the policy of the statute, and therefore some inconsistency would seem to be permitted under AS 28.01.010. This is an important issue in enforcement of these ordinances.
- (3) In most abandoned vehicle cases the registered owner claims to have sold or given the vehicle to some named third party. Frequently the city attorney will not learn of the name of this person prior to trial. When he is lucky enough to obtain the name and/or address of this "new owner" prior to trial, the chances are great that the "new owner" will have moved to parts unknown. AS 28.11.010(d) states that the lawful owner of the vehicle as shown on the department's records is considered responsible for the abandonment of the vehicle. The statute does not, however, create strict liability on the part of the registered owner. It contains a large loophole. The presumption is overcome if "the identity of the person abandoning the vehicle is established." A defendant will seek to establish the identity of that person by testifying that he sold or gave the vehicle to the "new owner." While this may establish the identity of a new owner, I have argued with some success that this testimony does not establish the identity of the person who abandoned the vehicle. It assumes that the new owner abandoned the vehicle, but no testimony is available to make this link. In some cases, however, the registered owner does establish this link through his testimony, or the testimony of a friend. Furthermore, I frequently find that the registered owner files a transfer pending with the Department of Motor Vehicles shortly after receiving notice of the abandoned vehicle. This document can be filed without the cooperation of the supposed "new owner." The DMV's records have been so horrendously outdated that we sometimes find that the transfer pending has been filed and/or a transfer completed months prior to the abandonment without any update of the DMV records. The municipal attorney cannot completely rely upon DMV records. This breakdown in the system and the low level of proof needed to overcome the presumption, makes prosecution unnecessarily difficult.

The topic of abandoned vehicles is a major issue affecting the relationship of municipal

attorneys to their elected bodies. It is a source of frustration. A municipal attorney will spend excessive amounts of time prosecuting these violations with below average odds of success. Elected officials are frustrated when their constituents call complaining about a vehicle which has not been immediately removed. For these reasons the AMAA may wish to seek changes in the abandoned vehicle statutes. These changes would include language allowing municipalities to establish their own notice and hearing procedures, a statute placing greater responsibility on the registered owner, perhaps making the registered owner responsible, and requiring him to recover from the "new owner" who abandoned the vehicle. This would create a strict liability standard. Since the registration of the vehicle is something within the seller's control, it seems appropriate that the seller should bear the full responsibility for his negligence and his failure to protect himself by properly registering the vehicle in the new owner's name. Finally, there may be some advantage in looking at language specifically expanding abandoned vehicles to include those that "reasonably appear" to be unmoved within 48 hours.

Two other related issues may be worth discussing. First, the City of Ketchikan is currently seeking an amendment to the Administrative Code to change posting requirements for 24-hour parking. Currently, 24-hour parking limitations must be posted along every block where the limitation applies. The proposed change would allow for a 24-hour limitation to be posted only on the outskirts of town. The 24-hour limitation would then apply on all streets within the town. The Department of Public Safety has taken public comment on this proposed change. Other cities might want to consider expanding this posting exemption to apply to calendar parking requirements or requirements prohibiting street parking during certain evening hours. One benefit of such parking limitations is the removal of junked and abandoned vehicles on a shorter timetable. These limitations are also helpful in snow removal and street cleaning.

Secondly, it would be helpful to discuss the judicial authority for impounding vehicles with outstanding parking tickets (see page 2 of your memo). It is quicker and easier to impound for outstanding parking tickets than for abandonment. No giving of notice is required. I have, however, been unsure of the judicial authority which support such impounds.



APR 22 1997

217 Second Street, Suite 200 • Juneau, Alaska 99801 • Tel (907) 586-1325, Fax (907) 463-5

April 22, 1997

Representative Norman Rokeberg  
State Capitol Room 24  
Juneau, AK 99801

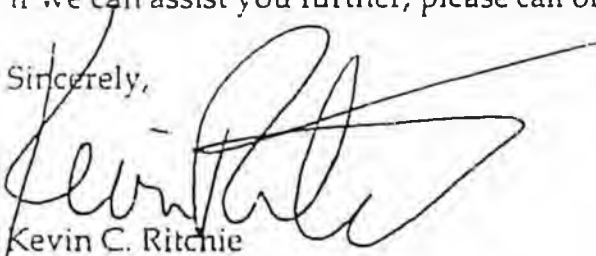
Dear Representative Rokeberg:

We are writing in support of HB 222, relating to abandoned, wrecked, or junk vehicles. Many of our member municipalities are obligated to remove junk vehicles from their city streets and this bill will provide them with the tools to make that process easier.

We understand this issue is of considerable concern to the Municipality of Anchorage, however, we feel that passage of this legislation will help all municipalities who have the responsibility of keeping the streets safe and more attractive.

If we can assist you further, please call on me.

Sincerely,



Kevin C. Ritchie  
Executive Director

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