

HB

350

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If the comm. wanted to make the power more narrow, it could amend this or qualify it such that a case will only be successively prosecuted if there is a compelling state interest. This would provide the power while allaying some of the fears that it might be abused.

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Production
to
fuel allowance.

STATE OF ALASKA

DEPARTMENT OF LAW

CRIMINAL DIVISION

February 15, 2000

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

CRIMINAL DIVISION CENTRAL
OFFICE
P.O. BOX 110300
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3428
FAX: (907) 465-4043

OFFICE OF SPECIAL PROSECUTIONS
AND APPEALS
310 K STREET, SUITE 308
ANCHORAGE, ALASKA 99501-2064
PHONE: (907) 269-6250
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The Hon. Pete Kott, Chair
House Judiciary Committee
Alaska State Legislature
State Capitol, Room 118
Juneau, Alaska

Re: HB 350 (Statutory bar to state prosecution)

Dear Chairman Kott:

House Bill 350, introduced February 7, 2000, has been referred to the House Judiciary Committee. I am writing to request that the bill be scheduled for a hearing at your earliest convenience.

The bill repeals the statutory prohibition on the prosecution of a criminal offender for a crime that has been already prosecuted by another jurisdiction. This statutory prohibition has been in effect since statehood. It is not based on constitutional law, because the protection against being put twice in jeopardy for the same offense does not prohibit two separate jurisdictions from prosecuting the same conduct under different bodies of law.

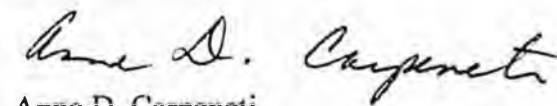
The recent federal prosecution of a cruise ship company for polluting Alaska waters has led to a reconsideration of the statutory policy. Alaska suffered distinct harm from that pollution, which should have been addressed in a separate prosecution. This bill will allow such a prosecution.

Thank you for your consideration of this request. If you would like additional information, please do not hesitate to contact me.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By:



Anne D. Carpeneti
Assistant Attorney General

FISCAL NOTE

Bill Version: HB 350
 (H) Publish Date: 2/7/00

**STATE OF ALASKA
 2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) _____ Dept. Affected Law
 Title "An Act repealing the statutory bars to the State BRU Criminal Division
of Alaska's prosecution of a criminal act that resulted Component 1st-4th Judicial Districts; Criminal
 Sponsor Rules Committee Appeals/Special Litigation
 Requester Governor Component No. 2198-99;2201/03/61/79

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
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 ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill repeals the statutory prohibitions on the State of Alaska for prosecuting and punishing a criminal act that has been prosecuted by the federal government or another jurisdiction. This statute recently prevented the State of Alaska from prosecuting a cruise ship company that was illegally dumping water containing oil and hazardous waste in Alaska waters, because the federal government had already prosecuted the company for the same acts under federal law. This conduct should have been addressed in a separate state prosecution, so that injury to the state could be compensated by fines or restitution. This bill would allow the State of Alaska to prosecute an offender if a similar situation should arise again.

Passage of this legislation is expected to result in only a handful of new cases per year. Although they may be highly visible cases, their numbers are not anticipated to be sufficient to cause a fiscal impact on the Department of Law.

Prepared by: Joan M. Kasson *Joan M. Kasson* Phone 465-5370
 Division Attorney General's Office Date/Time 12/1/99, 11:02 AM
 Approved by Commissioner Bruce M. Botelho, Attorney General Date 12/1/99
 Agency Department of Law

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FISCAL NOTE

Bill Version: HB 350
(H) Publish Date: 2/7/00

STATE OF ALASKA

2000 LEGISLATIVE SESSION

Revision Date: _____
Title: "An Act repealing the statutory bars to the State of Alaska's prosecution of a criminal act..."
Sponsor: Rules Committee
Requestor: Governor

Department Affected: Administration
BRU: Legal and Advocacy Services
Component: Public Defender Agency

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2 003	FY 2004	FY 2005	FY 2006
PERSONAL SERVICES	**	**	**	**	**	**
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	**	**	**	**	**	**

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						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	**	**	**	**	**	**

Estimate of any current year (FY 00) cost: \$ 0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.) This bill would remove Alaska's longstanding statutory bars against successive prosecution by different sovereigns. Although successive prosecution by different sovereigns (for example, by the federal government and then the state) does not violate federal double jeopardy, several states, including Alaska have traditionally prohibited it. The United States Department of Justice has a strict policy against successive state and federal prosecutions. Presumably, if this bill passed, the Department of Law would develop similar standards.

Nevertheless, this bill could result in additional criminal cases being brought and the Public Defender Agency being appointed to additional cases. The Public Defender Agency is particularly concerned about repealing the Bar against successive prosecutions in drug cases. AS 11.71.310. The federal authorities in Alaska prosecute many drug offenses under federal law. If even a small percentage of these cases were prosecuted in state court as well, there could be a considerable effect on the Public Defender Agency's operations.

Prepared by: Barbara Brink, Director
Division: Public Defender Agency

Phone: (907) 264-4414
Date: 12/3/99

Approved by Commissioner: Robert Pce Jr.
Agency: Department of Administration

Phone: 465-2200
Date: 12/3/99

HB 350

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 4, 2000

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Porter:

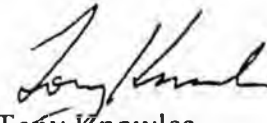
I am transmitting a bill that would allow the State of Alaska to prosecute and punish an offender for a crime that has been prosecuted by the federal government or by another state or territory.

Since early statehood, the State of Alaska has had statutory prohibitions on the state prosecuting and punishing a person, including a corporation, for an act that another jurisdiction has already prosecuted. This policy is not based on constitutional law; the state and federal constitutional prohibitions against being placed twice in jeopardy for the same act do not prohibit separate jurisdictions from separately prosecuting, and punishing, the same act under different bodies of law.

Recent events have suggested a reconsideration of this policy. The federal prosecution of a cruise ship company for illegally discharging water polluted with oil and hazardous waste into our pristine Alaska waters demonstrates that the harm suffered by our state should have been addressed in a separate state prosecution. This bill will allow the State of Alaska to prosecute an offender if a similar situation should arise again.

I urge your prompt and favorable consideration of this bill.

Sincerely,


Tony Knowles
Governor