

**SB**

**222**




# SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

## MEMORANDUM

**TO:** Senator John Cowdery  
Chair, Senate Transportation Committee

**FROM:** Senator Dave Donley 

**DATE:** February 8, 2002

**RE:** Committee Substitute for Senate Bill 222 "An Act relating to certain motor vehicles that are required to yield to following traffic."

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Attached is a work draft of Committee Substitute for SB 222 "An Act relating to certain motor vehicles that are required to yield to following traffic" for your consideration. This CS work draft contains only the violation portion of the previous SB 222.

If you have any additional questions or comments, please contact Sara Wright of my staff at x3892. Thank you.

**Attachments:** Work Draft CS for Senate Bill 222  
Sponsor Statement for CSSB 222  
Pertinent Statutes and Administrative Code

DD/sew

**Co-Chair: Senate Finance Committee**

**Vice-Chair: Senate Judiciary Committee**

**Member: Legislative Budget and Audit Committee • Legislative Council**

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January-May: STATE CAPITOL • JUNEAU, AK • 99801 • (907) 465-3892 • FAX: (907) 465-6595  
June-December: 716 West Fourth Avenue • Suite 400 • ANCHORAGE, AK • 99501 • (907) 269-0234 • FAX: (907) 269-0238

CS FOR SENATE BILL NO. 222( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATOR DONLEY

A BILL  
FOR AN ACT ENTITLED

1 "An Act relating to certain motor vehicles that are required to yield to following  
2 traffic."

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

4 \* Section 1. AS 28.35.140 is amended by adding a new subsection to read:

5 (b) A person operating a motor vehicle on a two-lane roadway shall pull the  
6 motor vehicle off the roadway at the first opportunity to pull over safely whenever  
7 there is at least 100 feet of visible and unobstructed roadway in front of that motor  
8 vehicle and there are five or more motor vehicles immediately following that motor  
9 vehicle. A person operating a motor vehicle who violates this subsection is guilty of  
10 an infraction as described in AS 28.40.050(d) and shall be punished by a fine of at  
11 least \$200.



# SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

## SPONSOR STATEMENT

WORK DRAFT COMMITTEE SUBSTITUTE SENATE BILL 222

C VERSION

"AN ACT RELATING TO CERTAIN MOTOR VEHICLES THAT ARE  
REQUIRED TO YIELD TO FOLLOWING TRAFFIC."

Senate Bill 222 will, with the cooperation of the Department of Transportation and Public Facilities, increase the number of posted signs along some of Alaska's highways informing motorists of the existing law prohibiting a vehicle from delaying traffic. This bill would also increase the fine for those in violation of this law from \$30 to \$200.

Current Alaska law prohibits slow traffic from delaying five or more vehicles; however, many drivers are not aware of this. It is the intent of this bill to make motorists more conscious of this law and to lessen some of the congestion on our highways, especially during the summer months.

The Department of Transportation and Public Facilities has committed to placing 20 signs on Alaskan highways with the highest traffic volume. The signs will indicate that it is unlawful to delay five or more vehicles and that a violation is punishable by a minimum fine of \$200.

This legislation is a step in the right direction to lessen the traffic congestion problems caused by slow vehicles. It is unfair and dangerous to motorists that a few drivers should "own" the road and dictate their own speed limit.

DD/sew

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[www.akrepublicans.org/Donley.htm](http://www.akrepublicans.org/Donley.htm) • [www.lis.state.ak.us/senate/donley.htm](http://www.lis.state.ak.us/senate/donley.htm)

Sec. 28.35.140. Unlawful obstruct or blocking of traffic.

A person may not purposely obstruct or block traffic on any roadway by any means. However, a service vehicle such as a bus, garbage truck, tow truck, or ambulance may make brief stops on a roadway, which stops on the roadway are necessary in the performance of its services.

History -

(Sec. 50-5-7 ACLA 1949; am Sec. 1 ch 174 SLA 1970)

Decisions -

This law pertains to roads of sufficient width and condition to permit vehicles to pass, without injury to their tires or other parts, and without danger of collision. *Vogler v. Greimann*, 12 Alaska 19, 78 F. Supp. 575 (D. Alaska 1948).

On a two-lane highway, even a one foot obstruction could easily cause a following car to swerve into the opposite lane to clear a parked vehicle. This would interfere with the normal flow of traffic and amount to a violation under this section. *Beaumaster v. Crandall*, 576 P.2d 988 (Alaska 1978).

This section is not an exclusive list of service vehicles. *Beaumaster v. Crandall*, 576 P.2d 988 (Alaska 1978).

A driver, while not operating a professional service vehicle, may be engaged in the same activity as a service vehicle would have been. *Beaumaster v. Crandall*, 576 P.2d 988 (Alaska 1978).

Such as pulling over to aid occupants of overturned car. - This section describes service vehicles as buses, garbage trucks, tow trucks or ambulances, but a reasonable construction of the statute would hold that one who pulled his car over to the side of the road in an emergency situation in order to aid the occupants of an overturned car, was acting in a service capacity. *Beaumaster v. Crandall*, 576 P.2d 988 (Alaska 1978).

A person who pulled over to the side of the road in an emergency situation in order to aid the occupants of an overturned car, apparently parking as far over on the right as he could given the snow conditions and the presence of a ditch on the side of the road, and who also turned his emergency flasher lights on, was entitled to make a brief stop on the roadway as necessary in the performance of samaritan efforts. *Beaumaster v. Crandall*, 576 P.2d 988 (Alaska 1978).

Collateral Refs -

7A Am. Jur. 2d, Automobiles and Highway Traffic, Sec. 277.

61A C.J.S., Motor Vehicles, Sec. 684.

Sec. 28.40.050. Penalties for violations of law, regulations, and municipal ordinances.

(a) It is a misdemeanor for a person to violate a provision of this title unless the violation is by this title or other law declared to be a felony or an infraction.

(b) A person convicted of a misdemeanor for a violation of a provision of this title for which another penalty is not specifically provided is punishable by a fine of not more than \$500, or by imprisonment for not more than 90 days, or by both. In addition, the privilege to drive or the registration of vehicles may be suspended or revoked.

(c) Unless otherwise specified by law a person convicted of a violation of a regulation adopted under this title, or a municipal ordinance regulating vehicles or traffic when the municipal ordinance does not correspond to a provision of this title, is guilty of an infraction and is punishable by a fine not to exceed \$300.

(d) An infraction, as provided for in (c) of this section, is not considered a criminal offense and may not result in imprisonment, nor is a fine imposed for the commission of an infraction considered a penal or criminal punishment; nor may the commission of a single infraction result in the loss of a driver's license or privilege to drive in this state except as may result from the accumulation of points under AS 28.15.221 - 28.15.261, or the registration of vehicles; nor does a person cited with an infraction have a right to trial by jury or to court-appointed counsel.

(e) [Repealed, Sec. 5 ch 85 SLA 1987].

#### History -

(Sec. 50-1-8 ACLA 1949; am Sec. 12 ch 241 SLA 1976; am Sec. 22, 23 ch 144 SLA 1977; am Sec. 5 ch 85 SLA 1987)

#### Revisors Notes -

Formerly AS 28.35.230. Renumbered in 1984.

#### Decisions -

This section governs the penalties for violations of this title, and creates three categories of traffic offenses: felonies, misdemeanors and infractions. *State v. Clayton*, 584 P.2d 1111 (Alaska 1978).

Violations of AS 28.35.050(a) are punishable under this section. *Drahosh v. State*, 442 P.2d 44 (Alaska 1968).

Prerequisite to suspension of license or privilege to drive. - A driver's license or privilege to drive cannot properly be suspended unless the driver was in fact licensed or otherwise actually privileged to drive a motor vehicle within the state. *Roberts v. State*, 700 P.2d 815 (Alaska Ct. App. 1985).

Generic penalty provision. - Subsection (b) is not a penalty provision dealing specifically with the offense of driving while license suspended; rather it is a generic penalty provision, broadly applicable to violations of all Title 28 provisions for which the specific penalties are given. *Roberts v. State*, 700 P.2d 815 (Alaska Ct. App. 1985).

Meaning of "law" in subsection (c). - The term "law," as used in subsection (c) of this section, refers to statutory enactments of the Alaska legislature and cannot be read to include the provisions of municipal ordinances. *Anderson v. Municipality of Anchorage*, 645 P.2d 205 (Alaska Ct. App. 1982).

Nature of "correspondence" between ordinance and statute required by subsection (c). - The requirement of correspondence stated in subsection (c) of this section calls for a level of similarity between a municipal ordinance and a provision of AS 28 that would make the ordinance a functional equivalent of its statutory counterpart. *Anderson v. Municipality of Anchorage*, 645 P.2d 205 (Alaska Ct. App. 1982).

The legislature's purpose in enacting subsection (d) was to eliminate the criminal stigma from minor traffic offenses while keeping the enforcement of such offenses within the criminal system's procedures. *State v. Clayton*, 584 P.2d 1111 (Alaska 1978). A prosecution for a traffic infraction is a quasi-criminal proceeding to which certain criminal procedures including the issuance of warrants are applicable. *State v. Clayton*, 584 P.2d 1111 (Alaska 1978).

Although the language in subsection (d) with regard to an infraction not being considered a criminal offense nor a fine therefor a criminal punishment indicates that the legislature did not intend to make minor traffic offenses criminal offenses, it does not follow that the legislature by labeling infractions "noncriminal" meant that they are civil in nature and thus that criminal procedures are not available for the enforcement of infractions. *State v. Clayton*, 584 P.2d 1111 (Alaska 1978).

Notwithstanding the legislative labeling of a traffic infraction a noncriminal offense by this section, it retains many criminal terms, such as "convicted," "violation," "guilty," "punishable by a fine." *State v. Clayton*, 584 P.2d 1111 (Alaska 1978).

An infraction is not an offense for double jeopardy purposes. *Carlson v. State*, 676 P.2d 603 (Alaska Ct. App. 1984).

Jury trial. - AS 28.10.105(a) (now repealed) and the other registration statutes in pari materia do not specify a violation of the registration statutes as an infraction, and thus under this section, such a violation is a misdemeanor punishable by up to 90 days' imprisonment, and entitling a defendant to a jury trial, denial of which right constitutes prejudicial error, requiring a new trial. *Epperly v. State*, 648 P.2d 609 (Alaska Ct. App. 1982).

Traditional use of criminal process not affected. - In the absence of express contrary declaration, the legislature did not intend by the enactment of subsection (d) to affect the traditional use of the criminal process for enforcement of traffic infractions. *State v. Clayton*, 584 P.2d 1111 (Alaska 1978).

This section makes no changes in the traditional mode of proceeding in criminal matters with the exception of its declaration that a person cited with an infraction does not have a right to trial by jury or to court-appointed counsel. The action is brought in the name of the state; it is commenced by the filing of a complaint by a law enforcement official; it is prosecuted by the district attorney. The exceptions appear to merely codify existing constitutional law. *State v. Clayton*, 584 P.2d 1111 (Alaska 1978).

Applied in *Manderson v. State*, 655 P.2d 1320 (Alaska Ct. App. 1983).

Stated in *Francis v. Municipality of Anchorage*, 641 P.2d 226 (Alaska Ct. App. 1982).

Quoted in *State v. Dutch Harbor Seafoods, Ltd.*, 965 P.2d 738 (Alaska 1998).

Cited in *Lowry v. State*, 655 P.2d 780 (Alaska Ct. App. 1982).

#### Collateral Refs -

7A Am. Jur. 2d, Automobiles and Highway Traffic, Sec. 204.

61A C.J.S., Motor Vehicles, Sec. 588 to 595.

applicable within the district or at intersections when they erect signs giving notice of the variance. (In effect before 7/28/59; am 12/15/61, Register 3; am 8/10/66, Register 22; am 12/31/69, Register 31; am 6/28/79, Register 70; am 8/22/92, Register 123; am 2/27/97, Register 141)

Authority: AS 28.05.011

**13 AAC 02.285. WHEN LOCAL AUTHORITY MAY ALTER MAXIMUM LIMIT.** Repealed 6/28/79.

**13 AAC 02.290. SPEED LIMIT CONFLICTS.** Repealed 6/28/79.

**13 AAC 02.295. MINIMUM SPEED REGULATION.** (a) No person may drive a motor vehicle so slowly as to impede the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation or in compliance with statutes, regulations, or ordinances.

(b) When the Department of Transportation and Public Facilities, or a municipality, in their respective jurisdictions, determines under sec. 280 of this chapter that slow speeds on a highway or part of a highway unreasonably impede the normal movement of traffic, the respective authority may determine a minimum speed limit not in excess of 55 miles per hour for that highway or part of a highway below which no person may drive a vehicle, except when necessary as prescribed in (a) of this section. The limit is effective when posted on fixed or variable signs. (In effect before 7/28/59; am 12/15/61, Register 3; am 8/10/66, Register 22; am 12/31/69, Register 31; am 6/28/79, Register 70)

Authority: AS 28.05.011

**13 AAC 02.300. SPEED LIMIT ON LIMITED OR CONTROLLED-ACCESS FACILITY.** Repealed 6/28/79.

**13 AAC 02.305. "STOP" SIGN AT INTERSECTION WITH INCREASED SPEED HIGHWAY.** Repealed 6/28/79.

**13 AAC 02.310. MAXIMUM SPEED LIMIT WHEN PASSING SCHOOL OR PLAYGROUND CROSSWALK.** Repealed 6/28/79.

**13 AAC 02.315. MAXIMUM SPEED, WEIGHT OR SIZE — BRIDGE, ELEVATED STRUCTURE, TUNNEL AND UNDERPASS.** Repealed 6/28/79.

**13 AAC 02.320. SPECIAL SPEED LIMITATION ON MOTOR SCOOTER.** Repealed 6/28/79.

Statute or Regulation	Description of Offense	Ball	Statute or Regulation	Description of Offense	Ball
13 AAC 02.090 (a-c)	Following too closely	50	13 AAC 02.215 (a-f)	Signals required turn/stop/slowing-discontinue after	30
13 AAC 02.095(a)	Driving over, across or within barrier/median	50	13 AAC 02.240 (a-b)	Obedience to train signals and barriers	50
13 AAC 02.095(a)	Failure to stay on right side of divided highway	50	13 AAC 02.250(a)	Certain vehicles to stop at all railroad crossings	50
13 AAC 02.095(c)	Improper entry/exit—controlled-access highway	30	13 AAC 02.255(a&b)	Heavy equipment to give notice of RR crossing	20
13 AAC 02.107	Drive nearest right edge on narrow/winding roadway	30	13 AAC 02.255(a&c)	Heavy equipment to stop at RR crossing	50
13 AAC 02.120(a)	FTY to vehicle on right at unsigned intersection	50	13 AAC 02.257	Give warning w/horn when vision restricted/alley/driveway/bldgs	30
13 AAC 02.120(b)	FTY to vehicle entering intersection after stop	50	13 AAC 02.257	Stop: Emerging from alley/driveway/building	50
13 AAC 02.125	FTY when turning left	50	13 AAC 02.257	Position of stop when emerging from alley/driveway/bldg	30
13 AAC 02.130(b)	Improper position of vehicle stopping at stop sign	30	13 AAC 02.265	Stop when traffic may be obstructed	30
13 AAC 02.130 (bc)	FTY after stopping or at yield sign	50	13 AAC 02.275(a)	Basic speed: Reasonable & prudent for road conditions	30
13 AAC 02.130(b)	Failure to stop for stop sign	50	13 AAC 02.275(b)	Speeding: 3--19 mph over posted limit	4/mi
13 AAC 02.135(b)	FTY when entering roadway from non-roadway	50	13 AAC 02.280 (a-J)	Altered speed limits: 3--19 mph over posed limit	4/mi
13 AAC 02.140(c)	Driver of emergency vehicle not to disregard safety	30	13 AAC 02.295	Minimum speed regulation	30
13 AAC 02.150 (a-b)	Pedestrians subject to traffic regulations	20	13 AAC 02.325(a)	Speed limitation on motor-driven cycles at night	30
13 AAC 02.155(a)	FTY to pedestrian in crosswalk	50	13 AAC 02.325 (b)&(c)	Special speed limit when: (b) Towing mobile home or (c) Passing school bus with flashing yellow lights 3--19 mph over	4/mi
13 AAC 02.155(b)	Pedestrian to exercise due caution	20	13 AAC 02.325(e)	Driving with lighted headings at unreasonable speed	30
13 AAC 02.155(c)	Vehicle not to pass vehicle stopped for pedestrian	50	13 AAC 02.325(f)	Overweight, oversize or excess speed when crossing over bridge or through tunnel 3--19 mph over Overwidth Overlength Overweight	4/mi 25ft 10ft 0.5lb
13 AAC 02.155(e)	Not to drive within or through pedestrian safety zone	30	13 AAC 02.34(a-d except (d)(1)(L))	Stopping/standing/parking on highway/other location	10
13 AAC 02.160 (a-f)	Pedestrian crossing at other than crosswalks	20	13 AAC 02.340(d) (1)(L)	Handicapped parking	100
13 AAC 02.175 (a-c)	Pedestrian to use sidewalk/left edge of roadway and not interfere, sleep, loiter or obstruct	20	13 AAC 02.365 (a-g)	Additional parking regulations	10
13 AAC 02.180	Pedestrian not to distract drivers when soliciting rides and pedestrian not to solicit employment, business or contributions from vehicle occupants	20	13 AAC 02.367(d)	Not to stop/stand/park in loading zone	10
13 AAC 02.190(a)	FTY to pedestrian w/white cane/guide dog	50	13 AAC 02.372(b)	Position of bus stopping to load/unload passengers	10
13 AAC 02.190(b)	Not to use white cane/guide dog unless blind	20	13 AAC 02.372(c)	Taxi cab restrictions on standing/parking	10
13 AAC 02.195(a)	Pedestrian FTY to authorized emergency vehicle	20			
13 AAC 02.200 (a-c)	Improper position/method turning at intersection	30			
13 AAC 02.205 (a-b)	U-turn only when safe/not on hill, crest or curve	30			
13 AAC 02.210	Improper start from parked/stopped standing	30			

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB222  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DOT&PF  
 Title An Act relating to certain motor BRU Highways and Aviation  
vehicles that are required to yield to following traffic Component Central Region Highways and Aviation  
 Sponsor Donley  
 Requester Senate Transportation Component No. 564

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual	30.0					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>30.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	30.0					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>30.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
 The department expects to install approximately 20 signs at appropriate highway locations to notify the public of the law. Production and installation costs approximately \$1500/sign. 20 signs X \$1500 = \$30.0

Prepared by: Dennis R. Poshard, Assistant to Commissioner Phone 465-3904  
 Division Commissioner's Office Date/Time 2/11/02 9:51 AM  
 Approved by: Joseph L. Perkins, Commissioner Date 2/11/2002  
 Agency Alaska Department of Transportation and Public Facilities

22-LS0611\C  
Ford  
2/7/02

**CS FOR SENATE BILL NO. 222( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-SECOND LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): SENATOR DONLEY**

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