

HB

438

STATE OF ALASKA

Interim:

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Session:

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Juneau, Alaska 99801
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REPRESENTATIVE JIM HOLM DISTRICT 9

DATE: February 4, 2004
TO: Representative Jim Holm, Chair
House Transportation Committee
FROM: Representative Jim Holm
RE: HB 438

Please schedule HB 438, MOVE OVER LAW FOR DRIVERS for hearing in the Transportation Committee at your earliest convenience. Back-up materials will be provided shortly.

Thank you very much for your help with this bill.

STATE OF ALASKA
HOUSE OF REPRESENTATIVES
Representative Jim Holm



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HB 438
"Move Over Laws For Drivers"
Sponsor Statement

13 FEB 04

"An Act relating to motorists moving over or slowing down for emergency vehicles."

HB 438 can save lives and prevent injury.

All over the country law enforcement, emergency, and fire personnel are putting their lives in danger on the roadways. This bill is an opportunity to improve their safety and their working conditions by requiring motorists to slow down and move over.

If Emergency personnel, as defined by statute, are pulled over on the side of the road with their emergency lights on, drivers will be required to slow down to 20 mph below the posted speed limit or to 5 mph on a road less than 25 mph. On a highway with more than two lanes, the motorist will also be required to occupy the lane furthest away from the emergency personnel unless otherwise directed.

This bill is long overdue. Many other states across the nation are adopting such statutes to ensure the safety of their citizens.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB438-DPS-ASTD-2-11-04
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title Motorists Slowing Down for Emergency Vehs RDU Alaska State Troopers
 Component AST Detachments
 Sponsor Rep. Holm
 Requester (H) Transportation Component No. 2325

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will amend AS 28.35.185 to require that drivers slow or move over (depending on conditions) when they approach a stationary emergency vehicle that is displaying flashing lights on a highway or roadway.

A violation of section AS 28.35.185 resulting in personal injury would be a class A misdemeanor; violations under other circumstances would constitute an infraction.

This bill will have no fiscal impact on the Alaska State Troopers.

Prepared by: Lt. Al Storey Phone 269-4532
 Division Alaska State Troopers Date/Time 2/11/04 10:23 AM
 Approved by: Commissioner William Tandeske Date 2/11/2004
 Agency Department of Public Safety

OHIO

[§ 4511.21.3] § 4511.213. Duties upon approaching stationary public safety vehicle displaying emergency light.

(A) The driver of a motor vehicle, upon approaching a stationary public safety vehicle that is displaying a flashing red light, flashing combination red and white light, oscillating or rotating red light, oscillating or rotating combination red and white light, flashing blue light, flashing combination blue and white light, oscillating or rotating blue light, or oscillating or rotating combination blue and white light, shall do either of the following:

(1) If the driver of the motor vehicle is traveling on a highway that consists of at least two lanes that carry traffic in the same direction of travel as that of the driver's motor vehicle, the driver shall proceed with due caution and, if possible and with due regard to the road, weather, and traffic conditions, shall change lanes into a lane that is not adjacent to that of the stationary public safety vehicle.

(2) If the driver is not traveling on a highway of a type described in division (A)(1) of this section, or if the driver is traveling on a highway of that type but it is not possible to change lanes or if to do so would be unsafe, the driver shall proceed with due caution, reduce the speed of the motor vehicle, and maintain a safe speed for the road, weather, and traffic conditions.

(B) This section does not relieve the driver of a public safety vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.

(C) No person shall fail to drive a motor vehicle in compliance with division (A)(1) or (2) of this section when so required by division (A) of this section.

(D) (1) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(2) Notwithstanding section 2929.28 of the Revised Code, upon a finding that a person operated a motor vehicle in violation of division (C) of this section, the court, in addition to all other penalties provided by law, shall impose a fine of two times the usual amount imposed for the violation.

(E) As used in this section, "public safety vehicle" has the same meaning as in section 4511.01 of the Revised Code.

HISTORY: 148 v H 86. Eff 9-28-99; 149 v. s 123, §1, eff. 1-1-04; 149 v H 490, §/4, eff. 1-1-04.

OHIO

32-31-6.1. Stop required upon approaching stopped emergency vehicle using red signals -- Requirements for approaching vehicles using amber or yellow signals -- Violation as misdemeanor. Upon approaching from any direction any stopped authorized emergency vehicle making use of red visual signals meeting the requirements of this title, the driver of every other vehicle shall come to a complete stop before reaching the stopped emergency vehicle and may, unless otherwise directed, proceed with caution only after ascertaining that it is safe to do so, and upon approaching from any direction any stopped vehicle making use of amber or yellow warning lights, the driver of every other vehicle shall:

(1) If driving on an interstate highway or other highway with two or more lanes traveling in the same direction as the vehicle, merge into the lane farthest from the vehicle and proceed with caution, unless otherwise directed; or

(2) If driving on a two lane highway, slow to a speed that is at least twenty miles per hour less than the posted speed limit or five miles per hour when the speed limit is posted at twenty miles per hour or less and proceed with caution, unless otherwise directed.

A violation of this section is a Class 2 misdemeanor.

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321.323A Approaching certain stationary vehicles.

1. The operator of a motor vehicle approaching a stationary authorized emergency vehicle that is displaying flashing yellow, amber, white, red, or red and blue lights shall approach the authorized emergency vehicle with due caution and shall proceed in one of the following manners, absent any other direction by a peace officer:

a. Make a lane change into a lane not adjacent to the authorized emergency vehicle if possible in the existing safety and traffic conditions.

b. If a lane change under paragraph "a" would be impossible, prohibited by law, or unsafe, reduce the speed of the motor vehicle to a reasonable and proper speed for the existing road and traffic conditions, which speed shall be less than the posted speed limit, and be prepared to stop.

2. The operator of a motor vehicle approaching a stationary towing or recovery vehicle, or a stationary highway maintenance vehicle, that is displaying flashing yellow, amber, or red lights shall approach the vehicle with due caution and shall proceed in one of the following manners, absent any other direction by a peace officer:

a. Make a lane change into a lane not adjacent to the towing, recovery, or highway maintenance vehicle if possible in the existing safety and traffic conditions.

b. If a lane change under paragraph "a" would be impossible, prohibited by law, or unsafe, reduce the speed of the motor vehicle to a reasonable and proper speed for the existing road and traffic conditions, which speed shall be less than the posted speed limit, and be prepared to stop.

Section History: Recent form

2002 Acts, ch 1013, §1

Footnotes

For applicable scheduled fines, see §805.8A, subsection 11, paragraph b

Previous Section [321.323](#)

Next Section [321.324](#)



Subject: New Alaska Statute

Date: Sat, 07 Feb 2004 01:12:33 -0900

From: Eric Jewkes <ejewkes@ci.fairbanks.ak.us>

To: Representative_Jim_Holm@legis.state.ak.us

I have read over the proposed statute AS 28.35.185 and give it my support. One, often overlooked, danger emergency service personnel frequently face is that of careless drivers. With so much of our time being spent on or near the road way, this danger is one that is difficult to defend against. Nothing we have can stop a 6000 pound car traveling at 55 plus mph.

To add a personal story relating to this: After working for the Fairbanks Police department around 2 years I responded to a traffic accident on the Johansen expressway. The vehicles involved in the accident were not able to be driven, which meant staying on the roadside, near the Peger overpass. I was aware of the dangers of passing cars and had one of the driver's, whom I was speaking with, stand with me in front of my car. While I was talking to the driver I heard a vehicle sliding on the ice. I turned around to see a Jeep, out of control, and heading right at my patrol car, and us. I had just enough time to tell the other driver to run. We both ran toward the guardrail, jumping over it and down the embankment(luckily just passed the overpass and not on the actual bridge). The Jeep struck my patrol car, at approximately 50 mph, in the middle of the driver's door, pushing my car into the area where we had just been standing.

Would this proposed law change what happened or what could have happened? Maybe not. Regardless, I believe the intent of the law represents what a driver with good sense would do anyway. Unfortunately common sense does not always parallel good sense and a legislative reminder is necessary.

Thank you for your concerns and efforts.

Eric Jewkes, Sergeant
Fairbanks Police Department

Subject: Testimonial

Date: Fri, 06 Feb 2004 10:32:27 -0900

From: "Douglas L. Whorton" <dlwhorton@ci.fairbanks.ak.us>

To: Representative_Jim_Holm@legis.state.ak.us

Sir,

I am Sgt. Whorton with the Fairbanks Police Department. I started in Law Enforcement with the Kansas City Missouri Police Department shortly after returning from Desert Shield/Storm. My father retired from KCPD and I grew up around law enforcement. There are lots of stories that show officer being killed or sustaining injuries from working a traffic accident.

I personally know of a recruit who was working East Patrol Division. He responded with his FTO to an accident less than a mile from the station. He was directing traffic when a speeding car topped the hill and ran him down. The recruit was hospitalized with serious injuries and never recovered to the point where he was able to physically perform the job. This ended his career but not his life.

Sgt. James M. Leach was killed by a drunk driver while working Westport Traffic on May 2nd 1992. The drunk driver also killed several civilians in the area of the crash. I worked several times with Sgt. Leach, he was a good man.

Ofc. Thomas R. Meyers was killed by a DUI driver while working a traffic accident on a 4 lane highway. Ofc. Meyers was struck with such force that his body was thrown across four lanes of traffic & the Jersey barrier into the oncoming four lanes of traffic and repeatedly struck again. If I remember correctly the full size Cadillac was estimated at 94 MPH at the moment he hit Ofc. Meyers. I saw Ofc. Meyers in Traffic Court but did not know him. Even he said he was a good man and left behind a devastated family.

I worked East Patrol Division with Ofc. Schultz and even the same area for two years. He had a no nonsense attitude but went far beyond what he needed to do for cases involving children in abusive families. A case of a tough guy with a teddy bear hat for the kids. He was killed responding to a MVA accident. He was also a very good man. I miss him.

I also worked a crash of our department helicopter when they went down in my patrol area. They were heading back to the pad after assisting in a motor vehicle pursuit. The Sgt. was dead and on fire when I arrived. The copilot was smoldering and trying to crawl away and get his revolver upholstered when I arrived. I have no idea to this day what he was going to do with his revolver. He died as we carried him through the woods to the approaching ambulance.

The friends I had that were killed working MVA's you can see on the KCPD home page under Memorials. There are 19 pages of KCPD officers who were killed. I attended every funeral since 1971 through 1995. More than I care to remember. I missed a few when I was in the Air Force but my dad wrote me so I would know.

There is no memorial for those not killed while working MVA's. They are medically retired or as one officer was transferred to supply never to work the streets again from his injuries. The cost associated to the injuries and the loss of not just a job but a way of life is tremendous. What other job is there where you are hurt like this and not be able to seek damages from the person liable for inflicting the damage?

Officer and Police Departments should be able to seek damages for their losses.

Testimonial

I support the bill associated with this e-mail but that is a first step in accountability.

I can be reached at 907 459-6500 x 6415.

Sgt. Whorton

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: HB438-LAW-CDCO-2-13
 Bill Version: HB438
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to motorists moving over or RDU CRIMINAL
slowing down for emergency vehicles." Component Criminal Justice Litigation
 Sponsor Representative Holm
 Requester House Transportation Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 28.35 by adding a new section to require that drivers of vehicles overtaking parked emergency vehicle shall vacate the lane nearest the parked emergency vehicle if two or more lanes travelling in the same direction exist. Otherwise the driver of the overtaking vehicle shall slow to 20 miles an hour below the speed limit except where the speed limit is 25 mile per hour or below, in which case the driver shall slow to five miles per hour. The amendment provides that a violation of the new section is a class A misdemeanor results in personal injury, and an infraction if not.

Passage of this legislation will have no foreseeable fiscal impact on the Department of Law.

Prepared by: Kathryn A. Daughetee, Director Phone 465-3673
 Division Administrative Services Date/Time 2/13/04 3:03 PM
 Approved by: Kathryn Daughetee for Gregg D. Renkes, Attorney General Date 2/13/2004
 Agency Department of Law

Fairbanks Police Department

Attn: Officer David A. Stevenson
911 Cushman Street
Fairbanks, AK 99701

February 16th, 2004

STATE OF ALASKA HOUSE OF REPRESENTATIVES
Representative Jim Holme
ATTN: Matthew Rudig, Staff to Representative Jim Holm
State Capitol Building
Juneau, AK 99801

To Whom It May Concern:

I am submitting this letter as a Statement in Support of House Bill 438.

I have been a police officer for over 17 years. I have been a police officer in Alaska since 1993. On October 8th, 2000 I was involved in an accident on the Richardson Highway just south of Fairbanks. In my accident, a driver traveling southbound on the Richardson Highway realized at the last minute that I was not merely doing a traffic stop. A wrecker was facing backwards on the highway ready to tow a vehicle. I did things to try and get the driver to slow down. My emergency overhead lights were on. She moved over, but did not slow down. She swerved suddenly and the icy road conditions threw her vehicle into a spin at 50 MPH causing her to crash into my patrol car. On this day, I did something different than I have ever done in my career. I did not get out of my patrol car and direct traffic as I usually do. It was dark. It was snowing heavily and had been raining earlier in the night, causing extremely slick road conditions. I could hardly stand on the road. If I had been out of my vehicle at the time of the accident, I would have been crushed between the patrol car and the car that struck me.

My patrol car was involved in a similar accident in 1998. Fairbanks Police Department Officer Williams using my patrol car. He was working an accident on the Richardson Highway when a driver failed to slow, drove through a large flare pattern and rear-ended my patrol car.

Sergeant Jewkes with the Fairbanks Police Department also was working an accident on the Johansen Expressway near the Peger Road overpass. A vehicle did not slow down and slid on the icy roads. He and a bystander had to jump over an embankment to avoid being crushed as the car struck the guardrail they were standing next to. We are thankful at the Fairbanks Police Department that it was only the embankment, and not the bridge itself.

In the 1980's Fairbanks Police Officer Don Lasage was struck on the Richardson Highway after he stopped to clear debris from the roadway. His emergency overhead lights were on. Officer Lasage was gravely injured and subsequently had to retire on medical retirement.

There are similar stories across the state where officers have jumped out of the way or felt the high speed brush of a mirror passing their head at 55 MPH plus. I have discovered an interesting effect through the years. Some drivers are so busy looking at the emergency overhead lights they actually drive towards them. (You drive to where you are looking.)

The point I see in this law is it will give a person an automatic response to the sight of emergency vehicles along the side of the road. We all take our foot off the accelerator when we see a police car coming the other way. I do it too. Even though we may not be speeding, it is an automatic response. We do not want a speeding ticket. With the proper advertising campaign and support in the media, this law could engrain in most driver's head that

when they seen the emergency overhead lights, they need to slow down and move over. We will automatically think, "Oh, emergency overhead lights... I better slow down and move over." Nobody wants a ticket.

Thank you for your time and consideration in this matter. Please vote for House Bill 438. It is a simple law that could save an officer's life and save our government money in damages and medical bills.

Sincerely,

David A. Stevenson #307
Police Officer
Fairbanks Police Department