

HB

127

SENATE COMMITTEE REPORT

DATE: 4/25/03

FURTHER:

DATE TURNED IN TO OFFICE: 5/2/03

State Affairs Committee considered CS FOR HOUSE BILL NO. 127(STA)

HB 127 ROADSIDE MEMORIALS

"An Act relating to roadside memorials within the right-of-way of a state highway."

and recommends:

- be replaced with Sen CS for CS HB127 (STA)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical title

new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
DOT	3/4/03		✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
CHAIR: <i>[Signature]</i>	X			

STATE OF ALASKA

Frank H. Murkowski, Governor

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

P.O. BOX 110300
JUNEAU, ALASKA 99811-0300
PHONE: (907)465-3600
FAX: (907)465-2075

May 1, 2003

Senator Gary Stevens, Chair
Senate State Affairs
Alaska State Legislature
State Capitol
Juneau, AK 99801

Re: SCS CSHB 127(TRA) - "An Act relating to roadside memorials within the right-of-way of a state highway"

Dear Senator Stevens:

I am writing this letter to request that you consider and move for adoption the attached amendment to the subject bill. Although there was discussion in House State Affairs Committee on March 27, 2003, regarding the intent that the state not be liable to third parties for injuries that may have been caused by the presence of a roadside memorial, it would be beneficial to the state to make this intent specific by reinserting this amendment to the bill.

If you have any questions, please feel free to contact me.

Sincerely,

GREGG D. RENKES
Attorney General

By:


David W. Marquez
Assistant Attorney General

DWM:lb

Cc: Mike Tibbles, Legislative Director, Office of the Governor
Jim Whitaker, House of Representatives
Deborah Behr, Legislation and Regulations Attorney, Department of Law

AMENDMENT #1

*Adopted
w/o obj.*

OFFERED IN THE SENATE STATE AFFAIRS
COMMITTEE

BY _____

TO: SCS CSHB 127(TRA)

- 1 Page 2, line 8, following "damage to":
- 2 Insert ", or damage or injury resulting from the presence of,"

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB127
 (H) Publish Date: 3/7/03

Revision Date/Time (Note if correction): _____ Dept. Affected: DOT&PF
 Title An Act allowing certain roadside memorials to BRU Design and Engineering Services
be placed in the right-of-way of a state highway Component Norther Region D&ES
 Sponsor Whitaker
 Requester HTRA Component No. 2299

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
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	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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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 (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Dennis R. Poshard Phone 465-3900
 Division Special Assistant to Commissioner Date/Time 3/6/03 8:59 AM
 Approved by: Commissicner Mike Barton Date 3/6/2003
 Agency Alaska Department of Transportation and Public Facilities

Alaska State Legislature

Representative Jim Whitaker
House of Representatives
District 10



Session
Capitol Building, Room 501
Juneau, Alaska 99801
Phone: (907) 465-3004
Fax: (907) 465-2070

Interim
119 N. Cushman St. Suite 213
Fairbanks, AK 99701
Phone: (907) 452-1088
Fax: (907) 452-1146

Sponsor Statement

HB 127 – Roadside Memorials

When a person dies on an Alaska road, family and friends often express their grief by placing items near where the tragedy occurred, in a kind of memorial to their loved one. Sometimes, even strangers are moved to add to the memorial when particularly touched by the loss.

These memorials serve two purposes. One, to allow the grieving to express their sorrow, and two, to remind those who travel, of the inherent dangers in driving Alaska's roads, particularly when excessive speed or alcohol contributed to the cause of the accident. Many Alaskans instinctively check their speed and take extra care in driving when passing one of these personal memorials.

Recently, the State of Alaska Department of Transportation informed the creators of such memorials that these encroachments to the right of way would no longer be tolerated. They warned that the department would remove them if they were not taken down by a date certain. This action is in response to a perceived threat to federal highway funding if the state allowed the memorials, as well as an interpretation of the state law that bans billboards.

The liberty to express our grief, the desire to memorialize a fallen officer, the wish to recognize a tragedy among our community, is a very personal freedom that must not be unnecessarily infringed by government.

HB 127 sets out to clarify that, while the State does not attempt to discourage the placing of such memorials, they will be reasonably regulated so as not to allow unsafe distractions and hazards in Alaska's right of ways.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

Introduced by: Mayor Thompson
& Council Member Kawasaki
Date: March 10, 2003

RESOLUTION NO. 4054

A RESOLUTION IN SUPPORT OF HOUSE BILL 127, WHICH WOULD ALLOW THE PLACEMENT OF ROADSIDE MEMORIALS FOR THE VICTIMS OF A TRAFFIC ACCIDENT TO BE PLACED WITHIN THE RIGHT-OF-WAY OF A STATE HIGHWAY.

WHEREAS, certain staff of the Alaska Department of Transportation and Public Facilities have taken a position that will not allow the placement of personalized roadside memorials in memory of victims of traffic accidents.

WHEREAS, House Bill 127, as attached, will accommodate the interest of both the state and those wishing to place personalized roadside memorials; and

WHEREAS, the City Council believes that personalized memorials, safely placed in accord with House Bill 127, will not only honor the dead, but will also serve as a better way to alert motorists of the importance of driving responsibly; and

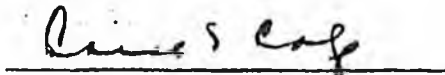
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Fairbanks that the City Council supports passage of House Bill 127.

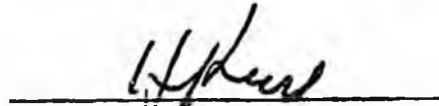
Passed, Approved and Effective this 10th day of March, 2003


Steve M. Thompson, City Mayor

ATTEST:

APPROVED AS TO FORM


Carol L. Colp, City Clerk


Herbert P. Kuss, City Attorney

Date:	# Of Pages	QUICK FAX™ OfficeMax	
To: <i>Lauri Brinkley</i>	From: <i>James McCulloch</i>	Co./Dept:	City Clerks Office
Fax:	Phone:	Fax:	Phone:
Note:	E-Mail:		

**MADD GOLDEN HEART CHAPTER
FAIRBANKS, ALASKA**

Resolution

March 4, 2003

RE: H. B. No. 127
Roadside Memorials

The Pending MADD Golden Heart Chapter of Fairbanks, Alaska, has voted in support of Rep. Jim Whitaker's House Bill Number 127, which allows for personal roadside memorials to be placed on or near the site of a traffic accident.

The following members have voted in support of the legislation:

Asa Dowdy, Jr.
Barbara Dowdy
Mary Ehrlander
Sally Ekland
Joe Joseph
Heather Koponen
Gabriele Larry
Bill Larry
Sandra McVeigh
Linda Pearson
Brenda Sadler
Pat Thurman
Michael Thurnes
Sandi Trumbower
Perry Williamson
Sue Williamson
Jennifer White

MEMORIALS ON THE RIGHT OF WAY NATIONWIDE SURVEY

STATE	Allow DWI	Allow Other	State Law	Time limit	Cost Burden	Sign or memorial	Unofficially allowed to stay in place?:
Alabama							
Alaska							
Arizona							
Arkansas							
California	NO	NO	NO	N/A	N/A	N/A	YES, for a few months
Colorado	YES	NO	NO	2 years	\$100 family	Sign	NO
Connecticut	NO	NO	NO	N/A	N/A	N/A	NO
Delaware							
Florida	YES	YES	NO	1 yr min	State	Sign	NO
Georgia							
Hawaii	YES	YES	NO	1 week	Family	Flowers	NO
Idaho	YES	YES	NO	NONE	Family	Sign	YES
Illinois							
Iowa							
Indiana							
Kansas	YES	YES	NO	NONE	Family	Memorial	YES <i>Warren Dick - Trans. Engineer</i>
Kentucky							
Louisiana	NO	NO	NO	N/A	N/A	N/A	NO
Maine							
Maryland	NO	NO	NO	N/A	N/A	N/A	YES, for a short period of time.
Massachussetts							
Michigan	NO	NO	NO	N/A	N/A	N/A	YES
Minnesota							
Mississippi	NO	NO	NO	N/A	N/A	N/A	YES
Missouri							
Montana	YES	YES	NO	NO	American legion	Cross only	YES

MEMORIALS ON THE RIGHT OF WAY NATIONWIDE SURVEY

STATE	Allowed DWI	Allowed Other	State Law	Time limit	Cost Burden	Sign or memorial	Unofficially allowed to stay in place?:
Nebraska	NO	NO	NO	N/A	N/A	N/A	YES
Nevada	NO	NO	NO	N/A	N/A	N/A	YES
New Hampshire	YES	YES	NO	6-months	Family	Memorial	YES <i>603-271-3734 Commisio</i>
New Jersey	YES	YES	NO	NONE	Family	Memorial	YES
New Mexico	YES	YES	NO	1 yr min	Family	Sign	YES
New York							
North Carolina							
North Dakota	NO	NO	NO	N/A	N/A	N/A	YES
Ohio							
Oklahoma							
Oregon	NO	NO	NO	N/A	N/A	N/A	YES. The last legislative session attempted to deal with the issue and quickly backed off the subject entirely due to the heated emotions.
Pennsylvania	NO	NO	NO	N/A	N/A	N/A	YES. They also allow the planting of flowers.
Rhode Island							
South Carolina							
South Dakota							
Tennessee							
Texas							
Utah							
Vermont	YES	NO	NO	NONE	Family	Sign	YES, for 1 month
Virginia	YES	YES	NO	NONE	Family	Memorial	YES
Washington	YES	YES	NO	6 months	Family	Sign	YES
West Virginia	YES	YES	YES	NONE	Family	Memorial	YES
Wisconsin							

MEMORIALS ON THE RIGHT OF WAY NATIONWIDE SURVEY

STATE	Allowed DWI	Allowed Other	State Law	Time limit	Cost Burden	Sign or memorial	Unofficially allowed to stay in place?:
Wyoming	NO	NO	NO	N/A	N/A	N/A	YES