

HB

12

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: April 12, 2005

FURTHER REFERRALS:

Date of Committee Action: 3-1-06

The FINANCE Committee considered:

HB 12

HOUSE BILL NO. 12

TVS AND MONITORS IN MOTOR VEHICLES

"An Act relating to televisions and monitors in motor vehicles."

Recommends it be replaced with HCS or CS for HB 12 (FIN)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

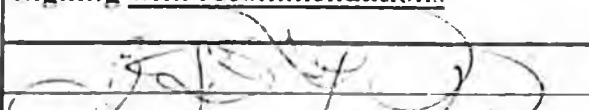
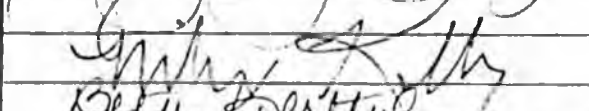
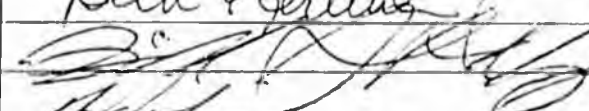
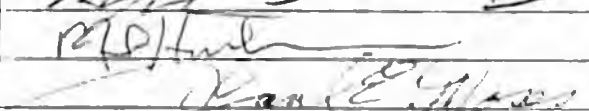
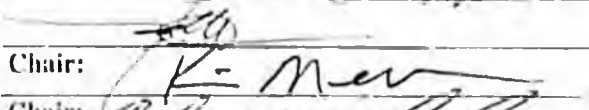


- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of
Abbrev
for
Depts.:

- ADM
- CED
- COR
- CRT
- EED
- DEC
- DFG
- GOV
- HSS
- LEG
- LAW
- LWF
- MVA
- DNR
- DPS
- REV
- DOT
- UA

| <u>NEW FISCAL NOTES</u> | | | | |
|-----------------------------------|------|--------|--------|------|
| *Assigned by Chief Clerk's Office | | | | |
| List by Dept(s): | *FN# | Fiscal | Indet. | Zero |
| ADM | | | | ✓ |
| LAW | | | | ✓ |
| DPS | | | | ✓ |
| DPS | | | | ✓ |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

| <u>PREVIOUS FISCAL NOTES</u> | | | | |
|------------------------------|-----|--------|--------|------|
| List by Dept(s): | FN# | Fiscal | Indet. | Zero |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

| Signing with recommendations | Printed Last Name | DP | DNP | NR | AM |
|--|-------------------|----|-----|----|----|
|  | ESTEL | X | | | |
|  | Kelly | | X | | |
|  | KERI HILL | | | | ✓ |
|  | SCOTT | | | ✓ | |
|  | Frank | | | ✓ | |
|  | Hawker | | X | | |
|  | MOSES | | | X | |
| | HOLM | | | ✓ | |
| Chair: | Meyer | | | ✓ | |
| Chair: | Chevall | | | ✓ | |

CS FOR HOUSE BILL NO. 12(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVES GRUENBERG, LYNN, GARDNER AND MCGUIRE, Ramras, Gara, Elkins

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to driver's licenses and to televisions, monitors, portable computers.
2 and similar devices in motor vehicles; and providing for an effective date."

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

4 * Section 1. AS 28.35 is amended by adding a new section to read:

5 Sec. 28.35.161. Driving a motor vehicle with a television, monitor, or
6 similar device operating; unlawful installation of television, monitor, or similar
7 device. (a) A person commits the crime of driving with a screen operating if

8 (1) the person is driving the motor vehicle;

9 (2) the vehicle has a television, video monitor, portable computer, or
10 any other similar means to create a visual display visible to the person while the
11 person is driving the motor vehicle; and

12 (3) the monitor or visual display is operating while the person is
13 driving.

14 (b) A person may not install or alter equipment described in (a)(2) of this

1 section that allows the display to be visible to the driver while the driver is driving the
2 motor vehicle.

3 (c) Subsections (a) and (b) of this section do not apply to

4 (1) portable cellular telephones; or

5 (2) equipment that displays only

6 (A) audio equipment information, functions, and controls;

7 (B) vehicle information or controls related to speed, fuel level,
8 battery charge, and other vehicle safety or equipment information;

9 (C) navigation or global positioning;

10 (D) maps; or

11 (E) visual information to enhance or supplement the driver's
12 view forward, behind, or to the sides of the motor vehicle for the purpose of
13 maneuvering the vehicle.

14 (d) Subsections (a) and (b) of this section do not apply to equipment installed
15 in an authorized emergency vehicle or to a motor vehicle providing emergency road
16 service or roadside assistance.

17 e) It is an affirmative defense to a prosecution under (b) of this section that
18 the equipment installed or altered also includes a device that, when the motor vehicle
19 is being driven, disables the equipment for all uses except those described in (c) of this
20 section.

21 (f) A person who violates (a) of this section is guilty of

22 (1) a class A misdemeanor, unless any of the circumstances described
23 in (2) - (4) of this subsection apply;

24 (2) a class C felony if the person's driving causes physical injury to
25 another person;

26 (3) a class B felony if the person's driving causes serious physical
27 injury to another person;

28 (4) a class A felony if the person's driving causes the death of another
29 person.

30 (g) A person who violates (b) of this section is guilty of a class A
31 misdemeanor.

1 * Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 DIRECTION TO DIVISION OF MOTOR VEHICLES. The division of motor
4 vehicles shall supply to each person issued a new, duplicate, or temporary driver's license
5 information about the requirements and restrictions being added by sec. 1 of this Act. This
6 requirement shall continue until the information is included in the driver's manual that is
7 published from time to time by division of motor vehicles.

8 * Sec. 3. This Act takes effect September 1, 2006.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CS HB 12(JUD)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title: An act relating to televisions, monitors, portable RDU: Legal and Advocacy Services
computers, and similar devices in motor.... Component: Office of Public Advocacy
Sponsor: Representative Gruenberg
Requester: (H) Finance Component No. 43

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2007 | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 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 | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|-------------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|-------------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|---|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 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 (FY2006) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

This bill, if enacted, would make it a criminal offense for a driver to be viewing a visual display such as a television or portable computer while driving. This legislation, if enacted, will have a de minimus fiscal impact on the Office of Public Advocacy.

Prepared by: Joshua P. Fink, Director Phone: 907 269-3500
Division: Office of Public Advocacy Date/Time: 2/8/06 at 6:30 p.m.
Approved by: Mike Tibbles, Deputy Commissioner Date: _____
Agency: Administration

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB12-LAW-CJL-2-6-0
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title "An Act relating to televisions, monitors, portable RDU CRIMINAL
computers, and similar devices in motor vehicles;..." Component Criminal Justice Litigation
Sponsor Representative Gruenberg
Requester House Finance Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2007 | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|------------------------|------------|------------|------------|------------|------------|------------|
| 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 | | | | | | |
|----------------------|--|--|--|--|--|--|

| | | | | | | |
|------------------------|--|--|--|--|--|--|
| 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 (Specify Type--Do not abbreviate) | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY2006) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 28.35 prohibiting watching a television receiver, a video monitor or the like while driving a motor vehicle. The bill similarly prohibits the installation of televisions or monitors or the like in such a way that they can be viewed by the driver of the vehicle unless there is a locking device that blocks power to the unit while the motor vehicle is in motion. The bill excepts vehicle information display, cellular phones, GPS, mapping display, or equipment intended to enhance the driver's view forward, behind or to either side of the motor vehicle. The bill does not apply to emergency vehicles. The bill also classifies offenses of this law in accordance with damage or harm caused by the violation.

The Department of Law does not anticipate that there will be many new prosecutions arising out of passage of this legislation, and thus does not anticipate a fiscal impact

Prepared by Kathryn Daughhetelee, Director Phone 465-3673
Division Administrative Services Division Date/Time 2/6/06 4:46 PM
Approved by Kathryn Daughhetelee for David Marquez, Attorney General Date 2/6/2006
Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB12(JUD)-DPS-AST-2-7-06
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title: "An Act relating to televisions, monitors, portable RDU Alaska State Troopers
computers, and similar devices in motor vehicles..." Component: AST Detachments
 Sponsor: Representative Gruenberg
 Requester: House Finance Committee Component No. 2325

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2007 | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|------------------------|------------|------------|------------|------------|------------|------------|
| 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 | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|-------------------------------|--|--|--|--|--|--|
| 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 (Specify Type--Do not abbreviate) | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY2006) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)
 Passage of this legislation will have no fiscal impact on the Department of Public Safety.

 This bill will prohibit the driver of a motor vehicle from watching a television receiver, video monitor, TV video screen, or similar device for viewing television or video signals while operating the motor vehicle. It also prohibits the installation of these devices so that they can be viewed by the driver of a motor vehicle while the vehicle is in motion. The bill does allow the following equipment; a vehicle information display; a GPS display; a mapping display; and a display used to enhance a drivers view forward, behind, or to the side of the vehicle.

Prepared by: Lieutenant James Helgoe Phone: 907-269-4532
 Division: Alaska State Troopers Date/Time: 2/7/06 8:37 AM
 Approved by: Commissioner William Tandeske Date: 2/7/2006
 Agency: Department of Public Safety

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB012CS(JUD)-DPS-CRI-2-24-06
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
Title "An Act relating to televisions, monitors, portable RDU Statewide Support
computers, and similar devices in motor vehicles.." Component Alaska Criminal Records and
Sponsor Representative Gruenberg Identification _____
Requester House Finance Committee Component No. 1190

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2007 | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|------------------------|------------|------------|------------|------------|------------|------------|
| 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 | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|-------------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|-------------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| FUND SOURCE | FY 2007 | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|---|------------|------------|------------|------------|------------|------------|
| 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 (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

| POSITIONS | FY 2007 | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|-----------|---------|---------|---------|---------|---------|---------|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (attach a separate page if necessary)

This Act creates a new AS 28.35.16 (a) to prohibit operating of a motor vehicle while watching a television or monitor; (b) prohibits installing a television or monitor viewable by the driver without an interlock; (c) exempts vehicle information, GPS, map, or maneuvering displays, and equipment with an interlock; (d) exempts emergency or assistance vehicles; (e) and (f) provide the penalties. A violation of AS 28.35.16(a) may be an A misdemeanor or an A, B, or C felony, depending on the facts.

Passage of this legislation will not have a fiscal impact on the Department of Public Safety.

Prepared by: Director David Schade
Division: Statewide Services
Approved by: Commissioner William Tandeske
Agency: Department of Public Safety

Phone: 907-269-0202
Date/Time: 2/24/06 3:14 PM
Date: 2/24/2006

Alaska State Legislature

House of Representatives

Session:
Alaska State Capitol
Juneau, AK 99801-1182
Phone: (907) 465-4940
Fax: (907) 465-3766
Toll Free: (866) 465-4940



Interim:
716 W. 4th Avenue
Anchorage, AK 99501-2133
Phone: (907) 269-0123
Fax: (907) 269-0124
E-mail: Rep.Max.Gruenberg@legis.state.ak.us

Representative Max Gruenberg

Sponsor Statement and Sectional Analysis

HB 12 (JUD) – Televisions and Monitors in Motor Vehicles

The purpose of the bill is to prevent operators of motor vehicles from watching television, video, and any other programming by making it a crime. Furthermore the bill makes it a crime to install a device capable of being viewed while the vehicle is in operation.

Sectional analysis

Section 1 amends AS 28.35 by adding a new section as follows:

Paragraph (a) sets forth the general rule that a person shall not drive a motor vehicle while watching television or video. The elements of the crime of "driving with a screen operating" are enumerated.

Paragraph (b) prohibits installing or altering a video display in a motor vehicle that can be viewed by the driver while the vehicle is moving. This paragraph goes on to provide for specified means of disabling the equipment lawfully.

Paragraph (c) provides specific exemptions to the general rule including cell phones and equipment that is in the nature of aides to navigation or operation.

Paragraph (d) makes it clear that the bill is not intended to cover equipment installed in an emergency vehicle or motor vehicle providing emergency service or roadside assistance.

Paragraph (e) establishes an affirmative defense so long as proper equipment is installed.

Paragraph (f) prescribes the types of crimes that a person who is in violation of the law will face under various circumstances including injury and death of another.

A person who violates the law is guilty of a

- (1) class A misdemeanor;
- (2) class C felony if as a result of that violation another person suffers a physical injury;
- (3) class B felony if as a result of that violation another person suffers a serious physical injury;
- (4) class A felony if as a result of that violation another person suffers death.

Paragraph (g) prescribes the crime and punishment of a person who installs equipment in violation of the law.

Section 2 of the bill sets forth an effective date of September 1, 2005.

House Bill 12 (JUD)

The following is a brief explanation of changes from original version of the above referenced bill:

- The most recent version of the bill has significant input from the Department of Law and changes the nature of the crime from "driving while watching" to "driving with a screen operating."
- The most recent version provides for an affirmative defense so long as prescribed disabling device is installed.
- The Judiciary version provides for additional exemptions in the way of cell phones. It also more clearly describes what is meant by vehicle information and controls.
- One of the misdemeanor violations originally was limited to a fine. This was changed in the most recent version.
- The most recent version has an effective date of September 1, 2005.

**Suggested Language for Legislation
Concerning In-Vehicle Video**

- (a) A person may not operate a motor vehicle if a television receiver, a video monitor, or a television or video screen capable of displaying a television broadcast or video signal that produces entertainment or business applications, is located in the motor vehicle at any point forward of the back of the driver's seat, or is visible to the driver while operating the motor vehicle.
- (1) Section (a) does not apply to the following equipment when installed in a motor vehicle:
- (i) A vehicle information display;
 - (ii) A navigation or global positioning display;
 - (iii) A visual display used to enhance or supplement the driver's view forward, behind, or to the sides of a motor vehicle for the purpose of low-speed maneuvering of the vehicle;
 - (iv) A television receiver, video monitor, television or video screen or any other similar means of visually displaying a television broadcast or video signal, if that equipment has a device that, when the motor vehicle is being driven, disables the equipment for all uses except as a visual display as described in paragraphs (i)–(iii).
- (b) A person may not install in a motor vehicle a television receiver, a video monitor, or a television or video screen capable of displaying a television broadcast or video signal that produces entertainment or business applications at any point forward of the back of the driver's seat, or that is visible to the driver while operating the motor vehicle.

As introduced, H.B. 12 closely follows the model supported by CEA. One issue the committee might wish to consider is whether the last sentence in Section (b) of the H.B. 12 is redundant given the preferred language in Section (c)(5). In addition, the reference to "remove power" in Section (b) might be too proscriptive.

House State Affairs Committee
March 16, 2005
Page 3

Thank you again for the opportunity to provide the views of the consumer electronics industry regarding H.B. 12, and please let us know if you or the Committee have questions or need additional information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Douglas Johnson", followed by a horizontal line extending to the right.

Douglas Johnson
Senior Director, Technology Policy
djohnson@ce.org

2500 Wilson Boulevard
Arlington, VA 22201-3834, USA
Tel +1 703-907-7600

LESSMEIER & WINTERS

LAWYERS - LLC

VINTAGE BUSINESS PARK
3000 VINTAGE BOULEVARD
SUITE 100
JUNEAU, ALASKA 99801

MICHAEL L. LESSMEIER
GREGORY W. LESSMEIER
SHELDON E. WINTERS

TELEPHONE: (907) 796-4999
FACSIMILE: (907) 796-4998
E-MAIL: l-w@gcl.net

By Fax and Mail

February 28, 2005

Representative Max Gruenberg
Representative Bob Lynn
Representative Berta Gardner
Representative Lesil McGuire
State Capitol
Juneau, Alaska 99801

Re: HB 12

Dear Representatives:

On behalf of State Farm Insurance Companies, I would like to express State Farm's support of HB 12, "An Act relating to televisions and monitors in motor vehicles." If there is any information we can provide to you, please let me know.

Sincerely,



Sheldon E. Winters

SEW/caf

RepsGruenberg,Lynn,Gardner-McGuire.wpd

Sarah Hook

From: egglogg [egglogg@alaska.net]
Sent: Friday, March 04, 2005 11:04 AM
To: Sarah Hook
Subject: HB 12

Thank you and Representative Gruenberg for e-mailing me a copy of HB 12 which I understand will be introduced for hearing before the Judiciary Committee tomorrow morning. I will be unable to personally testify before the Committee tomorrow but I would appreciate having my written testimony read into the record.

Thank you for the opportunity to comment on HB 12 and thanks to the sponsors of this bill. Its introduction and hopeful passage should save lives of our friends, family, neighbors, co-workers, other community members and visitors to our state and serve as a useful deterrent to thoughtless and grossly negligent use of the stated devices. The bill centers legal responsibility on those persons and businesses that are in the best position to avoid harm to the public.

Over two years ago, close friends were killed in an accident that devastated family, friends, co-workers in what was alleged to have been a driver watching a DVD. This vehicle purportedly crossed over into our friends' driving lane snuffing out their lives and devastating all who knew and loved them. I sat through much of a very high profile trial in which the driver was charged with the murder of my friends. The jury acquitted that driver because of reasonable doubt as to his guilt.

I believe the outcome of that trial might have been very different had the Alaska State Troopers investigating at the accident scene and the Alaska Crime Lab had better training on how to determine whether the DVD was engaged and playing at the vehicles' impact. As the State Crime lab apparently cut or disabled the battery, it could not be forensically determined whether the DVD was engaged on impact. I believe in addition to HB12's passage, this Legislature should appropriate sufficient public safety funding to better ensure proper field and crime lab training to deal with collecting evidence with this relatively new technology so that spoliation of critical evidence is far less likely to occur.

Thank you for your thoughtful consideration and hopeful positive reporting out of this bill from your Committee.

Respectfully,

Russell A. Nogg
515 Fredricks Drive
Anchorage, Alaska 99504
(907) 276-6040 or (907) 337- 6851



**Local Channels
Now Available!**



adn.com

Anchorage Daily News

[Print Page](#) | [Close Window](#)

DVD unit plays role in Kenai crash case

MURDER TRIAL: Prosecutors say driver was watching a movie.

By TATABOLINE BRANT
Anchorage Daily News

(Published: July 23, 2004)

KENAI -- Was Erwin Jamie Petterson Jr. watching a movie while driving his truck two years ago when he slammed head-on into a Jeep on the Seward Highway in a fiery wreck that killed two people?

And even if the state can prove the 29-year-old Kenai man was watching the movie "Road Trip" on his in-dash DVD player while driving at highway speeds -- an allegation Petterson denies -- does such behavior constitute "an extreme indifference to the value of human life," deserving of a minimum 10-year prison sentence?

Those are a few of the questions surrounding a murder trial that began this week in Kenai and is said by industry experts and lawyers to be the first case in the country in which a DVD player is implicated in a fatal wreck resulting in the driver being charged with murder. The questions and trial assume even more importance given that more and more vehicle owners are installing players and monitors in their vehicles, according to figures from the Consumer Electronics Association.

In opening statements Thursday in front of Superior Court Judge Charles Cranston, prosecutors attributed the accident to Petterson's driving behavior. The defense claimed there are other explanations for the wreck.

Robert and Donna Weiser, 60 and 56, died in the Seward Highway crash, which occurred near Bertha Creek on the sunny afternoon of Oct. 12, 2002.

The couple, from Anchorage, had been on their way to the Kenai Peninsula for a weekend getaway. The state medical examiner believes both died on impact. Donna was pulled from the wreckage before it went up in flames. Robert was not.

Petterson, who has had three speeding tickets since 1991, and his passenger were hospitalized but recovered. Their air bags deployed, and troopers say they were wearing seat belts. Drugs and alcohol were not factors, authorities say.

Petterson, a carpenter with no criminal history who will turn 30 next month, is charged with second-degree murder. He has denied he was watching the comedy when he and the Weisers collided. He told troopers he had reached for a soda in the seconds before the crash.

"It was an accident," he told the Daily News last summer. "I get to live with this the rest of my life. ... It haunts me."

Petterson's attorney, Chuck Robinson, said during opening statements Thursday in Kenai Superior Court that his client was listening to a CD, not watching a movie, when the crash

occurred. Troopers found the music disc "Head to Toe" in the same dash unit where they found the DVD, he said.

He contended that the state also failed to pursue a key witness in the case until just last month. The man will testify that he saw Robert Weiser's Jeep "unsafely, imprudently and erratically pass other vehicles on the road," Robinson said.

"This case is about a tragic auto accident," Robinson said, "not murder."

Prosecutor June Stein told jurors she has witnesses who would testify to Petterson's erratic driving behavior the day of the accident, as well as a woman who claims Petterson's passenger told her that when the accident happened, he and Petterson "were zoned out watching a DVD."

While she didn't bring it up Thursday, the state has contended in court documents that Petterson ignored manufacturer's warnings in installing the DVD player so it would play while the car was moving. A Sony PlayStation II was also installed in the vehicle.

Robinson said Petterson plans to testify later in the trial that, while his in-dash system may have been capable of being operated while driven and viewed by the driver at the same time, it was not operated at the time of this accident.

"You will also find out that the installation of a DVD player in an automobile in Alaska is not illegal, even if it's installed where the driver can see it."

Alaska laws prohibit televisions within view of the driver in vehicles but do not address DVD players.

Emotions run strong on both sides of the case. The Weisers are survived by two grown sons, who have been devastated by the loss. For the past two years, David Weiser, a mortgage broker, has saved a message from his mom on his cell phone so it won't expire. In an interview last week, he said he hopes Petterson "sees the inside of a jail cell."

Petterson's friends and family have rallied to his side since his May 2003 arrest, holding dances and rummage sales to raise money for his defense. One couple put up the deed to their house to get him released on bail.

As the two sides face off, legal and electronics industry officials are keeping close tabs.

"If Erwin Petterson is convicted, I would expect to see more indictments like this," said Jack King, a spokesman for the National Association of Criminal Defense Lawyers. "And if it's upheld on appeal, I would expect to see more indictments for all sorts of distractions."

Petterson, fit and tan with short blond hair and braces, started the opening day of his murder trial ironing his shirt at home, according to his family. He ate a Hot Pocket and then headed to the Kenai courthouse. The trial began at 8:30 a.m.

"He's really nervous about this," said his dad, Jim Petterson.

Inside the courtroom, Petterson sat at a dark wood table between Robinson and his other attorney, Eric Derleth. Prosecutor June Stein sat at a table opposite them, with four large black binders before her.

The Weiser family sat behind Stein in the audience. Petterson's father, aunt, grandmother and two close friends sat in the audience behind his table, dressed casually in jeans. The tension between the two parties was palpable.

Three people testified Thursday: the Weisers' daughter-in-law, the state's chief medical

examiner Franc Fallico and trooper Paul Randall, who responded to the crash.

Robert and Donna Weiser moved to Alaska in the 1970s, according to their daughter-in-law, Bethany. Donna worked at Health South, Robert as a procurement officer for the National Park Service. Both loved to spend time with their granddaughters, ages 6 and 4. The license plate on their Jeep read "GRNPAA."

The pair headed south the day of the wreck to stay at the Kenai Princess Lodge. Randall, who was stationed in Cooper Landing at the time, told the court he was notified of the crash around 1:30 p.m.

Randall said when he got to the scene, he found a vehicle on fire in a ditch, a white truck off to the same side of the road and a body lying on the pavement with a blanket over it.

Petterson and his passenger were sitting in a woman's van, he said. Both men were "very shook up," he said, and appeared to have injuries.

Medical professionals and firefighters came from all directions. Petterson and Douglas were taken to the hospital, the Weisers to the morgue.

Troopers towed the cars and took numerous photos. Stein showed about two dozen of the images to jurors Thursday.

The photos showed a Jeep that burned to its frame and a white pickup that looked as if a bear had clawed off its front, revealing the engine.

Fallico told the jurors he believed the Weisers both died on impact, before the fire.

On cross-examination, Fallico confirmed that a small amount of Depakene, an epilepsy medicine, was found in Robert Weiser's body.

Fallico said the substance had nothing to do with the accident, but Derleth, the defense attorney, said during a recess he thought it might.

Derleth said Weiser was taking the drug to prevent migranes and suggested a medical emergency on Weiser's part might have caused the crash. He said the defense hopes to bring up Weiser's medical history in more detail later but is waiting for a ruling by the judge.

David Weiser said during a recess outside the courtroom that the defense is grasping at straws. "It's like they find fertilizer at your house and try to arrest you for blowing up a courthouse," he said.

The story of the wreck and the alleged involvement of a DVD player has garnered national attention. Spokespersons from the Consumer Electronics Association and the National Association of Criminal Defense Lawyers say they have never heard of a similar case.

Petterson is charged under two second-degree murder theories -- one that he knowingly did something that was certain to cause serious harm to another person and the other that his actions showed extreme indifference to human life.

King, with the national defense lawyers association, said he thinks the state is going to have a difficult time proving either.

"Having a friend put an apple on top of her head and shooting it -- that shows extreme indifference," he said. Trying to elude police by driving through a playground full of kids -- that's extreme indifference, he said.

Robinson called the charges excessive. He suspected the state was trying to send the message that it doesn't want people to drive and watch movies.

The trial is expected to take three weeks.

Reporter Tataboline Brant can be reached at tbrant@adn.com or 257-4321.

[Print Page](#) | [Close Window](#)

Copyright © 2004 The Anchorage Daily News (www.adn.com)

ANCHORAGE'S MOST WIDELY-READ WEEKLY NEWSPAPER

Vol. 12, Ed. 44 October 30 - November 5 2003

Page Code: coverstoryvol12ed44

[CLICK HERE FOR THE CURRENT ISSUE!](#)



- [Calendar](#)
- [Classifieds](#)
- [Live Local Music](#)
- [Movie Guide](#)
- [Personals](#)
- [Advertising](#)
- [Press Facts](#)
- [Subscribe](#)
- [Archives](#)
- [Feedback](#)



COVER STORY

None for the road

As more and more motorists get in-dash DVD players, the state gears up to try driver Erwin "Jamie" Petterson Jr. for murder in a fatal wreck. Among other things, he is charged with watching a movie while driving.

By Tony Hopfinger



On December 8, Erwin "Jamie" Petterson Jr. is due to be tried for murder for allegedly causing the deaths of two motorists while driving under the influence of the frat-boy comedy "Road Trip." That's the movie the state says was playing on the DVD player on the dashboard of Petterson's pickup truck when the wreck happened last fall on the Seward Highway. Motorists on cell phones have become a grudging part of most people's driving experience, but as the Petterson case shows, a new technological threat may be emerging on the roads: drivers zoning out in front of TV screens.

Televisions in cars are nothing new. Vans have had them in the backseat for decades. In the 1950s, car shows had futuristic exhibits of automobiles driving themselves as motorists watched TV, read or slept. Many of the cars of today have computer navigation systems and some have TVs; backseat DVD players and televisions are rapidly becoming the norm in SUVs and mini-vans. Just as we still have not seen personal jet-packs, cars do not yet drive themselves, yet some are apparently so confident in their multi-tasking abilities that they are watching movies while driving.

Those who install DVD players in dashboards are supplementing young men rigging big speakers and groovy stereos in their cars. Costing more than a thousand bucks, the DVD players are a coveted, macho investment, like

tinted windows, big bass and florescent lights. While looking at car DVD players recently at Anchorage's Pyramid Audio and Video, a young male customer explained their appeal this way: "Chick's dig 'em."

You're not supposed to be able to watch an in-dash DVD player while driving. Owner's manuals for the devices say that they must be hooked to the emergency brake or parking gear, so that you can only turn them on when the car isn't moving.

Why would you want sit behind the wheel in a parked car and watch a movie?

"Have you ever been sitting in the parking lot waiting for your girlfriend or wife to come out of the store?" asked Dave Van Dort, manager of Pyramid Audio and Video.

Van Dort says his shop only installs about one or two dashboard DVDs a month, but industry studies show sales of the players are one of the fastest growing sectors in car entertainment systems. An estimated one hundred and seventy-six thousand in-dash DVD players are expected to be sold this year, up from one hundred and twenty thousand last year, according to the Consumer Electronics Association.

Many people buy in-dash DVD players and install them on their own. Some purposely bypass the emergency brake so they can watch the players as they drive. Alaska State Troopers and state prosecutors say that's how Petterson had his DVD player wired, which along with inattentiveness and high speeds led him to cause the head-on crash that killed a husband and wife on the Seward Highway.



The state is going tough on Petterson, treating him like a drunk driver who survived a fatal wreck. Drinking played no role in the incident, yet Petterson, who is twenty-eight, is charged with four counts of second-degree murder, two counts each for the two people the state says he killed.

Petterson, who is out on bail and living in Anchorage, did not return calls for this story, but he has denied watching the DVD player while driving. His lawyer, Arthur Robinson, said the state has leveled a number of false allegations against his client, including accusing him of trying to pass another car when the accident happened. Robinson said he believes the state is wrongly trying to make an example of his client. "Is that the kind of social policy we want to have, charging murder for something that could have been a simple accident?" he asked.

"Murder implies that there is an intentional action, that the person knows that what they're doing will cause somebody to be killed. I don't think this case merits such charges."

State investigators say interviews and analysis of Petterson's pickup truck tell a different story. In great detail, court documents paint a picture of a guy obsessed with having the ultimate home entertainment system on wheels.

On October 12, 2002, Jamie Petterson and his friend Jonathan Douglas were driving from Kenai to Anchorage in Peterson's Ford F-150 pickup. According to trooper reports, the new, white truck was almost like a moving couch. Peterson had outfitted it with a Pioneer DVD player and five-inch monitor in the dashboard. He'd also hooked up a Sony PlayStation 2 in the front seat.

The DVD player turned on as soon as Petterson flipped the ignition, but that wasn't the way he was supposed to have wired the player. State investigators later found a green tag on the player with a disclaimer that said a safety wire must be connected to the emergency brake switch so that it could not be watched as the car was driven. Petterson or the person who installed it bypassed the brake, they say.

Petterson was ready to hit the road late fall with Road Trip on the DVD player and "Crash Handicoot" in the

PlayStation, according to court documents. Road Trip could prove a distraction to a driver speeding through Southcentral Alaska. "As with all road movies, it's not getting there that matters, but what happens along the way," said one reviewer. "And that means a lot of which has to do with sex."

Whether or not Petterson was preoccupied by, say, Marla Sucharetza's demi star turn as "Sperm Bank Nurse" in Road Trip, or the female auction scene, the state maintains he was also concerned with speed. Other drivers later said Petterson zoomed by them at speeds of more than ninety miles an hour, according to troopers. He was approaching Turnagain Pass when he crossed the center line, near mile 65.5 of the Seward Highway, to pass a car, the state says.

Coming in the other direction were Robert and Donna Weiser, of Anchorage, in a Jeep Grand Cherokee. They tried to swerve out of the way. So did Petterson, but the two cars ended up pointed in the same direction. The vehicles smashed and the Weisers' Jeep caught fire. A passing motorist pulled Donna Weiser from the Jeep but Robert couldn't be rescued before it was engulfed in flames. Both died at the scene.

Petterson and Douglas had minor injuries.

Although Petterson has denied the DVD player was playing, troopers say they pieced together a conflicting account from Douglas, his passenger, who spoke to his ex-wife shortly after the accident. According to troopers, Marty Zoda, Douglas' former wife, said that Douglas called her and told her he was "zoned out on the TV-DVD deal that Jamie has in his truck, and the next thing he knew Jamie said, 'Oh shit,' and they hit a car."

Douglas denies saying that.

Robinson, Petterson's lawyer, says the state's account of what happened is riddled with false statements. Petterson wasn't trying to pass a car, he says; Robert Weiser, in fact, crossed into Petterson's lane.

Robinson also says that an autopsy showed that Robert Weiser, who was sixty, was taking Depakene, an anti-seizure medication, at the time of the accident. The amount in his body was well below the therapeutic level, Robinson said, leading him to speculate that Weiser might have had a seizure just before the accident.

If Petterson is convicted of murder, it may be the first documented case in the country of an in-dash DVD player leading to a fatal car wreck. Nevertheless, such players have reportedly caused problems elsewhere, such as in London, where police are cracking down on people caught driving and watching movies on mini-screens by fining them the equivalent of a hundred dollars.

The stakes are much higher in Petterson's case, of course, but the fact remains that it is not even against the law in Alaska or most other states to have an in-dash television or mini movie screen. It just can't be on while the car is driven. In other words, it's up to the driver to keep it turned off.

Manufacturers of in-dash DVD players and other television devices have sought to shield themselves from liability by stipulating that their warranties are void if the cables for such a device are not properly connected to keep it from playing while a vehicle is in motion.

It takes no particular aptitude to bypass the safety feature. One need only go online for advice and visit a site such as the Dodge Dakota message board (at www.dogedakota.com). One recent posting there explained how to "get around" the emergency brake wiring.

Said another writer to the message board: "I'm no safety nut but rigging you're in-dash DVD player to play while driving is just plain STUPID."

The second-degree murder charges against Petterson cover a wide range of reckless behavior that prosecutors say includes being stupid enough to watch a movie as he drove.

Sergeant Keith Mallard, an Alaska trooper who responded to the wreck last fall, said he believes Petterson went

far beyond simple reckless driving.

"The reality of it is he showed a blatant disregard for driving and cost two people their lives," Mallard said. "Does that make him a murderer? Well, I won't answer that. We'll leave that up to the jury."

Supporters of Petterson say a murder conviction would bring a harsh punishment for a man who has no criminal record. State records do show, however, that Petterson had fifteen speeding tickets and other traffic violations between 1991 and 1999.

Petterson's friends are raising money to fight the charges against him, and have set up a website with the provocative address www.accidentsjusthappen.com.

Alcohol-related wrecks can result in murder charges, Robinson said, but he doesn't believe distractions such as in-dash movies are necessarily as grave. Besides, he said, Petterson, his client, did nothing wrong.

"Do you know how many things (there are) that distract drivers?" he said. "There are cell phones, navigation monitors... I mean, the state hasn't even outlawed the use of cell phones in cars."

Contact Tony Hopfinger at tony@anchoragepress.com or (907) 644-5406.

*Anchorage Press articles, commentary, news, reviews, features and calendar are copyrighted by:
Anchorage Publishing, Inc. 540 E. 5th Avenue Anchorage, Alaska 99501.
For information call 907-561-7737*

Petterson found not guilty on murder charges

Tuesday, August 10, 2004 - by Warren Williamson

Kenai, Alaska - Not guilty on all counts. That was the decision Tuesday in the second-degree murder trial of 29-year-old Jamie Petterson, the Kenai man accused of watching an onboard DVD movie that the state says caused a head-on collision, killing two people on the Seward Highway.



Clark Werner/KTUU

"We, the jury, find the defendant, Erwin J. Petterson Jr., not guilty of murder in the second degree."

After just five hours of deliberation, the jury returns its first verdict.

"We, the jury, find the defendant, Erwin J. Petterson Jr., not guilty of the lesser included offense."



Clark Werner/KTUU

At that, defense attorney Chuck Robinson hugged his client while Petterson exhaled a sigh of relief. The jury acquitted Petterson of all charges, including the lesser counts of manslaughter and criminally negligent homicide.

The decision came nearly two years after a horrific head-on collision on the Seward Highway took the lives of Robert and Donna Weiser.

"The state should have never brought this case in a criminal court," Robinson said after the trial. "They didn't have criminal evidence, and the jury agreed."

For Petterson, the decision had been a long time coming. "It's weighed on me heavy since Day 1," he said. "It's been a struggle. I mean, family and friends have pulled together to help with everything, money, third party, work, everything." He has been unable to work or drive for two years, and he says he now faces legal bills of about \$90,000.

Jurors actually were given the case about 1 p.m. Monday and left the courthouse for the day about 5 p.m. After returning Tuesday, it took them less than an hour to tell the judge that they had reached a verdict.

As for the family and friends of the Weisers, they say the decision was a disappointment, but admit the case from the beginning has been a difficult one to win.



Chris Werner / KTUU

"I wish I could say that it was a surprise," said David Weiser, a son of the victims. "But I think that, with the speed that the jury came back and the burdens that are placed on the state and the prosecution, 'beyond reasonable doubt,' I think that it didn't come as much of a shock."

"Regardless of the outcome of this trial, it wasn't going to heal what pains us," said Martin Weiser, also a son of the victims. "Justice wasn't served."

But long-term justice may be served. The defense team agree that, while Peterson was acquitted, this trial is a good beginning for discussions leading to a change in laws.

"A DVD player in your dash that you don't use is no more distracting than a radio that you're listening to, or kids or animals or food," said defense attorney Eric Derleth. "So we feel that the evidence just wasn't there that distracted driving was a part of this collision. But it certainly can't hurt to bring that topic into the forum for discussion in our society."

For right now, two families must find a way to rebuild their lives. For Martin and David Weiser, admittedly, finding the strength to move on will be difficult. Especially with a stark reminder -- a license plate reading GRNPAA -- of loving parents lost.



Chris Werner / KTUU

"Two years later, I still have my mom's last voice mail to me on my cell phone," said David Weiser. "I'm no more capable of deleting that right now, right this second, post-trial, than I was before."

For Jamie Peterson, it's a lifetime of memories of that horrible day two years ago. "I'll never forget this. It'll never go away," he said. A tragedy that took the lives of two innocent people.

The Weiser family did speak to Peterson after the verdict was read Tuesday. One told him, "You have a long life to live. Live it well."

KTUU-TV anchor John Tracy interviewed Peterson and his attorney

after the verdict.



Mr. Petterson, what emotions were you experiencing the moment you heard those precious two words 'not guilty'?

I couldn't even describe it. I really don't know.

Mr. Robinson, I don't think I've ever seen an attorney jump higher when a verdict was read. It was a quick decision, indicating that you did a good job of convincing this jury. Is there a key piece of testimony or evidence that you credit for Jamie's acquittal?

Yes, after talking to some of the jurors, we found out that the 911 caller, Mr. Steve Couture, was a very credible and instrumental piece of evidence and witness in this case, that caused the jury to have some reasonable doubt as to Mr. Petterson's guilt.

Are you surprised at the speedy return of this jury?

Actually, I thought they'd come back a little sooner, so I was a little worried last night. But when we were called this morning at about 10 o'clock, I felt pretty good that we had this case won.

Mr. Petterson, I know this is a victory for you and your family, but in the end, two people are still dead, and you yourself could have been killed. How much responsibility do you accept for this crash?

That's a tough thing to say. I mean there's a lot of things that I think I maybe could have done differently, but I'll never know.

Gentlemen, as you both know, this case generated a fair amount of national attention because of the growing popularity of DVDs in cars. Mr. Petterson, one question still nags at me from the trial -- if you did not watch DVDs while driving, why did you bypass the safety device that prohibits the DVD from playing while someone is driving?

It was just a matter of, it was easier to do. It was honestly easier to do on a bench, rather than having to change that in a car.



Mr. Robinson, you know that there has been all sorts of talk about perhaps changes in state law, and you certainly indicated to the jury that there currently is no state law preventing these in-dash DVDs.

Would now be the time, and would you support, such a law?

Well, I'm never for this attitude of, 'There's got to be a law against.' We've adapted to all sorts of entertainment in our automobiles since we left the horse and buggy days, from radios to CBs to CDs. I think that it just goes along with common sense, that it's pretty hard to watch a movie on a high-speed highway where you're going at least 65 mph, traveling over 100 miles. I doubt very seriously that anybody with good common sense would be watching a DVD anyway. So, I understand that it's legal in California, which is the largest populace state in the country, probably has the most vehicles per state, and it's not prohibited there, because when people get stuck in traffic jams in Los Angeles, it might be a good idea for them while they're waiting 45 minutes to an hour to entertain themselves with a movie.

Final question, Mr. Petterson. Your life's been on hold for two years, what's next for you?

Just going to get back to work. I've got a lot of people to pay back for all of this. So get back to work, get my life back on track.

Channel 2 Broadcasting Inc.
<http://www.ktuu.com/>

Subject: Bob and Donna Weiser: Trial starts this Monday, July 19th with jury selection.
From: "David Weiser" <davidw@theworld.com>
Date: Sat, 17 Jul 2004 09:21:14 -0400
To: "Max Gruenberg" <Representative_Max_Gruenberg@Legis.state.ak.us>
CC: <mbweiser@pci.net>

Max:

Update on the status of the trial, below

At some point I would like to speak with you about the possibility of presenting legislation that can serve to prevent this type of tragedy in the future. Alaska is by no means on the cutting edge of this type of legislation from what I understand. Something needs to be on the books making it illegal to even put these things in the front of a pickup truck. The way I understand it currently you can install one, nothing illegal about that, but it would be illegal to use it. That's like making Stinger missiles available in the open market by competition to terrorists (even creating a market for them) but making it illegal for them to actually fire one at a US plane. Everyone I speak to cannot fathom that it is even possible to have an in-dash DVD player in the front of a pickup truck that will actually work. And is easily made to do so by the driver of the vehicle. Even though it is illegal, you never hear of anyone being arrested for having a workable screen in their car. At best the person would probably receive a \$10 ticket or something? You have better access to that answer than I would. Once a law is on the books, as you know the next step is enforcement. But at least if there are tragic circumstances as in this case, the law exists with harsh penalties for violation?

Just some thoughts. Now that the defendant is about to go to trial I'm interested in pursuing this matter legislatively. Is that something you would be able to help me with?

David Weiser

----- Original Message -----

From: David Weiser

To: William M. Mehner ; Throop Brown ; Swmikel@aol.com ; Steven Newman ; Stacy Letton ; Shannon Kordas ; Sandy Gibbs ; Russ Norgg ; Roz Jones ; Ray Ellis ; Phil Weinberg ; Phil Lowenthal ; Mitchell J. (Mickey) LaBrie ; Mitch and Suzanne Shapira ; Mindy Sohcot ; Mike Schneider ; Mike Davis ; Mike Beckerman ; Michael Davis ; Maxine Rosenthal ; matthew_glogowski@us.ibm.com ; Matthew Glogowski ; Matt Bremson ; Linda Newman & Bob Steingisser ; Larry & Tirza Weiser ; Joy Kucinski ; Joy Kucinski ; Jodie Welch ; Jim Lucason ; Jill Piscitelle ; JESSE G. CHAVEZ ; Hinda and Andy Piscitelle ; Gayle Davis ; Gary Schloss ; Gary and Barbara Zipkin ; Gail and Mike Stemborski ; Fran Bremson ; Florence Frohman ; Erika Swanson ; Erika Swanson ; Doug Geiss ; Doug Geiss ; Davis, Barry S. ; David Weiser ; Dave Wolf ; Curt Michael ; Cheryl Bremson ; Cathy (Frawley) Doran ; Brock Shamberg ; Brian Meyers ; Bonnie Mehner ; Bob Steingisser ; Bethany Mehner-Weiser ; Anthony Moccia ; Ann Bardake ; Aaron Newman ; Mike and Judy Dapelo

Sent: Friday, July 16, 2004 10:51 PM

Subject: Trial starts this Monday, July 19th with jury selection.

Update:

After many postponements all at the request of the defense, Irwin Petterson, Jr. finally goes to trial on Monday, July 19th, accused of killing my parents Bob and Donna Weiser as a result of driving at high speeds while watching a DVD movie in the front of his pickup truck. <http://www.alachua.com/news/archives/courtesyof12ed-14.html> The DA is somewhat short on specifics as so much is up to change in a trial. But here's what I know.

The trial starts on Monday with jury selection, a process that should take between 2 to 3 days by estimation. This puts opening statements as early as Wednesday, but more likely Thursday. The trial is expected to last between 3 to 4 weeks, but that's a wide open estimate. Could be less or more. But with serious charges of 2nd degree murder, it is more likely to go

longer?

I've left my job of 8 years (permanently) to attend the trial which is projected to last far longer than I originally anticipated. My travel requirements became a source of tension at my job and a 4 week absence wasn't going to work for the ownership of the company. Such is life. Anyone interested is welcome to email me about my future plans.

Marty, Beth, and I will be attending the trial on a full time basis. I'm not sure if they will have to come and go as Isabel (6) and Sophie (4) will require their presence. The trial is being held in Kenai which is 2 hours or so South of Anchorage. Our accomodations are somewhat figured out, but it won't be easy especially being so far outside Anchorage. I am not expecting easy internet access, but will seek out internet cafes where they might be found.

The first witness to be called (at this time) will be my sister-in-law Bethany. It's a brave thing she is doing, the purpose of which is to put a human touch to the loss of my parents. I didn't feel like I should be up on the witness stand and Marty felt the same way from what I can tell.

A question that has been asked: Petterson has never attempted any contact with us to show remorse. And neither my brother or I have ever attempted contact either. We've heard his voice during telephonic participation in court proceedings, but neither of us have ever seen him in person. It should be interesting, speaking for myself anyway.

David Weiser
davidw@theworld.com
mobile: 617-877-1785

Signature powered by Plaxo ... Want a signature like this?



Consumer Electronics Association

2500 Wilson Blvd. Arlington, VA 22201-3834 USA (703) 907-7600 main (703) 907-7601 fax www.CEA.org

March 16, 2005

VIA E-MAIL

Page 1 of 3

The Honorable Paul Seaton
Chair, State Affairs Committee
House of Representatives
Alaska State Capitol
Juneau, Alaska 99801-1182

Re: H.B. 12 ("An act relating to televisions and monitors in motor vehicles")

Dear Representative Seaton:

The Consumer Electronics Association (CEA) appreciates the opportunity to present comments regarding House Bill 12 for the hearing scheduled on March 17, 2004 before the House State Affairs Committee.

CEA represents more than 1,800 companies involved in the design, development, manufacturing, distribution and integration of audio, video, in-vehicle electronics, wireless and landline communications, information technology, home networking, multimedia and accessory products, as well as related services that are sold through consumer channels. CEA also produces the nation's largest annual trade event, the International Consumer Electronics Show.

CEA welcomes the introduction of H.B. 12, which is an opportunity to revise and elevate Alaska's current law concerning in-vehicle video displays. CEA's main interest in this subject is to achieve and maintain a consistent regulatory approach to in-vehicle video displays across the United States, which benefits consumers, industry and the law enforcement community.

Two years ago, CEA developed model legislation regarding in-vehicle video displays, and versions of the model have been enacted in both California and Louisiana. The Louisiana legislation was subsequently adopted by the Council of State Governments for its 2004 volume of *Suggested State Legislation*. Attached is a copy.

The CEA model legislation (copy below) achieves three important objectives with regard to regulating in-vehicle video displays: consistency, flexibility and focus. As mentioned above, it is beneficial to achieve and maintain uniformity among the states with laws on this subject. Secondly, regarding flexibility, the model legislation avoids calling out specific technologies, which always change over time. Finally, the model legislation focuses on the video functions of concern while avoiding a broad ban on any visual presentation, such as navigation displays.

**Suggested Language for Legislation
Concerning In-Vehicle Video**

- (a) A person may not operate a motor vehicle if a television receiver, a video monitor, or a television or video screen capable of displaying a television broadcast or video signal that produces entertainment or business applications, is located in the motor vehicle at any point forward of the back of the driver's seat, or is visible to the driver while operating the motor vehicle.
- (1) Section (a) does not apply to the following equipment when installed in a motor vehicle:
- (i) A vehicle information display;
 - (ii) A navigation or global positioning display;
 - (iii) A visual display used to enhance or supplement the driver's view forward, behind, or to the sides of a motor vehicle for the purpose of low-speed maneuvering of the vehicle;
 - (iv) A television receiver, video monitor, television or video screen or any other similar means of visually displaying a television broadcast or video signal, if that equipment has a device that, when the motor vehicle is being driven, disables the equipment for all uses except as a visual display as described in paragraphs (i)–(iii).
- (b) A person may not install in a motor vehicle a television receiver, a video monitor, or a television or video screen capable of displaying a television broadcast or video signal that produces entertainment or business applications at any point forward of the back of the driver's seat, or that is visible to the driver while operating the motor vehicle.

As introduced, H.B. 12 closely follows the model supported by CEA. One issue the committee might wish to consider is whether the last sentence in Section (b) of the H.B. 12 is redundant given the preferred language in Section (c)(5). In addition, the reference to "remove power" in Section (b) might be too proscriptive.

House State Affairs Committee
March 16, 2005
Page 3

Thank you again for the opportunity to provide the views of the consumer electronics industry regarding H.B. 12, and please let us know if you or the Committee have questions or need additional information.

Sincerely,

A handwritten signature in cursive script that reads "Douglas Johnson". The signature is written in black ink and includes a horizontal line extending to the right from the end of the name.

Douglas Johnson
Senior Director, Technology Policy
djohnson@ce.org

2500 Wilson Boulevard
Arlington, VA 22201-3834, USA
Tel +1 703-907-7600

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

House Bill 12 – Televisions and monitors in motor vehicles.

Deborah Jilly, MPH, CLS
Acting Chief, CHEMS
Div. of Public Health
Department of Health & Social Services

The intent of this legislation is to prevent motor vehicle crashes and the related injury and death of the vehicle occupants, and pedestrians involved at the crash site, by giving law enforcement agencies the authority to cite drivers who are viewing entertainment devices.

Research has shown that 25% to 56 % of all crashes in the United States involve factors where the driver of a motor vehicle is distracted or is inattentive.

In 2002, A Gallop Survey of Distracted and Drowsy Driving Attitudes and Behaviors found that 22% of causes that led to a crash were the result of dealing with technology within the vehicle. The technology included cell phones, beeper, in-car navigation system, GPS, internet-email, radios, etc.

In Alaska, the National Center for Statistics, Fatality Analysis Reporting System or FARS listed driver inattention or inattentiveness as the primary factor in nearly 7% of fatal crashes in 2003. (2002 – 9.7%; 2001 – 5.4%)

Development of electronic devices for use with a motor vehicle is rapid growing field.

The majority of manufacturers of in-vehicle entertainment systems have reviewed issues pertaining to driver distraction and have included features to minimize distraction such as

- Locating screens out of view of the driver;
- Providing headphone jacks for occupants;
- Developing electronic interlock systems that prohibit driver viewing while the vehicle is in motion.

Yet, the need to improve technology to minimize driver distraction has been acknowledged by automotive manufacturers. Terry Connolly, Director of GM Safety Center acknowledged the growing trend of in-vehicle entertainment system; in turn, manufacturers must address driver distraction in order to ensure safety features are incorporated in future technologies.

- Minimize hands-on, eyes off-the-road time
- Simplify or reduce the number of steps to adjust technology
- Development of a common interface system for multiple devices

However, R&D for these safety features is lagging behind consumer demand.

Detail information in support of this topic.

- Thirty-eight states have legislation banning front-seat entertainment systems;
- Twelve states with similar laws pertaining to televisions and monitors in motor vehicles exempt moving maps and driving direction systems.

Consumers can purchase and install in-vehicle entertainment systems in vehicles not already equipped and the consumer installation can bypass safety devices and manufacturer recommendations for location of screens and controls.

It is also possible, and technology exists, to modify moving map displays to view movies and dvds.

And as fast as these safety features are developed and implemented by manufacturers, information is available on how to disengage, turn-off or circumvent the safety device on the web.

It should also be noted that it is possible to use a portable (laptop) computer in a motor vehicle for various applications such as listening to music, viewing GPS/map software, and potential view movies. While manufacturers of portable computers and software for maps recommended not using the equipment by drivers while driving, these are only recommendations.

nbc6.net

NBC 6 Investigation: Reckless Ride

More Motorists Watching TV While Driving

POSTED: 9:02 am EST February 11, 2005
UPDATED: 7:19 am EST February 16, 2005

MIRAMAR, Fla. -- They're on our roadways -- people driving and watching TV screens at the same time. It's a reckless ride that NBC 6 found happening more and more.

Watching video in cars has been around for years, but usually for passengers in the back seat.

FeedRoom



Reckless Ride

NBC 6 FeedRoom

Now, more of these new entertainment systems are being installed in the front seat where drivers can see them. You can watch movies, music videos and even live television.

For safety's sake, the driver is supposed to be restricted from watching while the car is moving, but NBC 6's Willard Shepard found several motorists watching while driving.

SURVEY

Can motorists safely watch television and drive at the same time?

- Yes
- No

[Vote](#)

[Results](#) | [Disclaimer](#)

"Sure, I could watch the DVD while driving," Janet Rodriguez said.

"If we be careful and pay attention to the road, we're not going to hurt nobody," Juan Montoya said.

In West Miami-Dade County, downtown, on Miami Beach and in Broward County, NBC 6 found drivers breaking the law -- finding ways around safety systems designed to prevent viewing television from the driver's seat.

Alaska prosecutors say driving and watching television led to a crash that killed Robert and Donna Weiser. Some legal observers say driver Jamie Petterson was acquitted of murder in the case because police didn't establish exactly what he was viewing before the TV device was taken from the dashboard after the crash.

On the 836, NBC 6 saw Steven Rivera watching a DVD and talking on his cell phone at 60 mph. When interviewed, he told us about clubs sprouting up for those who drive and watch.

"We've got the same TV on the dash in the same place," Rivera said.

Surprisingly in Florida, watching while driving is a non-criminal traffic infraction. The penalty is a \$71 ticket -- no deterrent to drivers like Montoya, who has an illegal TV.

"Yeah, I've been stopped. We got a lot of tickets," he said.

As a state legislator, Miami-Dade Commissioner Sally Heyman tried to toughen the penalties for distracted drivers. A study she pushed found that distracted drivers were hurt or killed twice as often as drivers in other accidents.

She says it's only a matter of time before a TV-watching driver kills a South Florida resident.

"As it becomes more available, as more people do it, you bet (it will happen)," Heyman said.

Lester Taks, who runs Cartronics where these entertainment systems are properly installed, says the front seat TVs are manufactured with devices to shut the video off when the car is in motion.

"It will shut down and this is the way they come from the factory," Taks said. "They are designed to work that way -- all of them."

But drivers told NBC 6 they didn't have any trouble finding ways around the safeguards. Some even told us where they had the work done.

With our undercover camera rolling, a worker at the Senior Stereo outlet in Pembroke Pines said, "We could hook it up so you can watch it."

But when confronted with a camera, the workers officially had no comment. Later, the company faxed a statement saying, "These systems are installed according to manufacturer recommendations."

Montoya said Best Buy installed his TV system and it came so he could watch and drive at the same time.

"That's how they do it," he said.

We went to a Best Buy store on Pines Boulevard where one employee told an NBC 6 producer how to bypass the safety system, but he said they would not do it and that we would have to do it on our own.

Best Buy responded saying it is concerned about the safe use of mobile electronics products and that the "products are installed in a manner that ensures the video mode of the product is not operable while the vehicle is in motion."

Florida Attorney General Charlie Crist says there's a need for the Legislature to take a close look at updating the Florida law to protect everyone on the road.

"If it is happening and it is increasing ... That's why it's important for policy makers to be vigilant about what modern technologies keep coming online," Crist said.

Another distraction is other motorists driving near a car with a TV screen because they're tempted to look over and see what's playing.

Installers point out the screens play a valuable role for drivers, displaying navigation aids and rear-mounted cameras that prevent backing over children.

Copyright 2005 by NBC6.net. All rights reserved. This material may not be published, broadcast, rewritten or redistributed.



Can motorists safely watch television and drive at the same time?

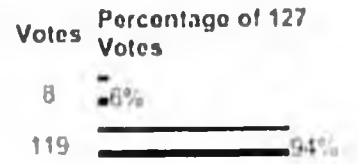
Choice

Yes

No

Thanks for sharing your opinion!

[close window](#)



(2) two or more crimes under AS 11.41, a consecutive term of imprisonment shall be imposed for at least

(A) the mandatory minimum term under AS 12.55.125(a) for each additional crime that is murder in the first degree;

(B) the mandatory minimum term for each additional crime that is an unclassified felony governed by AS 12.55.125(b);

(C) the presumptive term specified in AS 12.55.125(c) or the active term of imprisonment, whichever is less, for each additional crime that is

(i) manslaughter; or

(ii) kidnapping that is a class A felony;

(D) two years or the active term of imprisonment, whichever is less, for each additional crime that is criminally negligent homicide;

(E) one-fourth of the presumptive term under AS 12.55.125(c) or (i) for each additional crime that is sexual assault in the first degree under AS 11.41.410 or sexual abuse of a minor in the first degree under AS 11.41.434, or an attempt, solicitation, or conspiracy to commit those offenses; and

(F) some additional term of imprisonment for each additional crime, or each additional attempt or solicitation to commit the offense, under AS 11.41.200 — 11.41.250, 11.41.420 — 11.41.432, 11.41.436 — 11.41.458, or 11.41.500 — 11.41.520.

(d) In this section,

(1) "active term of imprisonment" means the total term of imprisonment imposed for a crime, minus suspended imprisonment;

(2) "additional crime" means a crime that is not the primary crime;

(3) "primary crime" means the crime

(A) for which the sentencing court imposes the longest active term of imprisonment; or

(B) that is designated by the sentencing court as the primary crime when no single crime has the longest active term of imprisonment. (§ 3 ch 125 SLA 2004)

Effective dates. — Section 9, ch 125, SLA 2004, provides that this section applies to offenses occurring on or after July 1, 2004.

Editor's notes. — Section 9, ch 125, SLA 2004

Sec. 12.55.135. Sentences of imprisonment for misdemeanors. (a) A defendant convicted of a class A misdemeanor may be sentenced to a definite term of imprisonment of not more than one year.

(b) A defendant convicted of a class B misdemeanor may be sentenced to a definite term of imprisonment of not more than 90 days unless otherwise specified in the provision of law defining the offense.

(c) A defendant convicted of assault in the fourth degree that is a crime involving domestic violence committed in violation of the provisions of an order issued or filed under AS 12.30.027 or AS 18.66.100 — 18.66.150 and not subject to sentencing under (k) of this section shall be sentenced to a minimum term of imprisonment of 20 days.

(d) A defendant convicted of assault in the fourth degree who knowingly directed the conduct constituting the offense at a uniformed or otherwise clearly identified peace officer, fire fighter, correctional employee, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the assault shall be sentenced to a minimum term of imprisonment of

(1) 60 days if the defendant violated AS 11.41.230(a)(1) or (2);

(2) 30 days if the defendant violated AS 11.41.230(a)(3).

(e) If a defendant is sentenced under (c), (d), or (h) of this section,

(1) execution of sentence may not be suspended and probation or parole may not be granted until the minimum term of imprisonment has been served,

(2) imposition of sentence against the defendant be imprudent under the section; and

(3) the minimum term of imprisonment shall be not less than

(f) A defendant convicted of a crime under AS 11.46.365(a)(1) shall be sentenced to a term of imprisonment of not more than

(g) A defendant convicted of a crime involving domestic violence shall be sentenced to a term of imprisonment of

(1) 30 days if the crime is a crime involving domestic violence against a person or a minor;

(2) 60 days if the crime is a crime involving domestic violence against a person or a minor or a crime involving domestic violence against a person or a minor in the second degree;

(h) A defendant convicted of a crime involving domestic violence in the second degree shall be sentenced to a term of imprisonment of 35 days or more unless the court finds that

(i) If a defendant is sentenced to a term of imprisonment of 35 days or more, the court shall grant probation or parole unless the court finds that

(1) execution of sentence is in the best interests of the community;

(2) imposition of sentence is in the best interests of the community;

(3) the minimum term of imprisonment is in the best interests of the community.

(j) In this section,

(1) "crime against another jurisdiction" means a crime that is committed in another jurisdiction but is punishable in this state;

(2) "crime involving domestic violence" means a crime involving domestic violence as defined in AS ch 166 SLA 1978; am § 3 ch 143 § 1982; am § 3 ch 6 SLA 1996; am § 9 ch 86 SLA 1998; am § 9 ch 86 SLA 1998; am § 9 ch 86 SLA 1998.

Revisor's notes. — Subsection (e) Relettered in 1998. Subsection (f) was substituted in subsection (e) and (g) were substituted in subsection (f). Subsections (i) and (j) were substituted in subsection (h).

Cross references. — For a list of crimes involving domestic violence in connection with this section, see AS 1 and 2, ch 166 SLA 1978; am § 3 ch 143 § 1982; am § 3 ch 6 SLA 1996; am § 9 ch 86 SLA 1998.

Effect of amendments. — The first 1996 amendment to this section substituted subsection (e) for subsection (d) and added subsection (f). The first 1998 amendment to this section substituted subsection (g) for subsection (e) and substituted subsection (h) for subsection (f).

The second 1998 amendment to this section substituted subsection (i) for subsection (g) and substituted subsection (j) for subsection (h).

The third 1998 amendment to this section substituted subsection (k) for subsection (i) and substituted subsection (l) for subsection (j).

Constitutionality of provisions. — See notes under AS 12.55.125, *Nell v. State*, 642 P.2d 1000, 1002 (Alaska, 1982).

Maximum sentence for joyri. — The maximum sentence for joyri in the district court judge was not a

IMPRISONMENT FOR MISDEMEANORS

(2) imposition of a sentence may not be suspended except upon condition that the defendant be imprisoned for no less than the minimum term of imprisonment provided in the section; and

(3) the minimum term of imprisonment may not otherwise be reduced.

(f) A defendant convicted of vehicle theft in the second degree in violation of AS 11.46.365(a)(1) shall be sentenced to a definite term of imprisonment of at least 72 hours but not more than one year.

(g) A defendant convicted of assault in the fourth degree that is a crime involving domestic violence shall be sentenced to a minimum term of imprisonment of

(1) 30 days if the defendant has been previously convicted of a crime against a person or a crime involving domestic violence;

(2) 60 days if the defendant has been previously convicted two or more times of a crime against a person or a crime involving domestic violence, or a combination of those crimes.

(h) A defendant convicted of failure to register as a sex offender or child kidnapper in the second degree under AS 11.56.840 shall be sentenced to a minimum term of imprisonment of 35 days.

(i) If a defendant is sentenced under (g) of this section,

(1) execution of sentence may not be suspended and probation or parole may not be granted until the minimum term of imprisonment has been served;

(2) imposition of sentence may not be suspended;

(3) the minimum term of imprisonment may not otherwise be reduced.

(j) In this section,

(1) "crime against a person" means a crime under AS 11.41, or a crime in this or another jurisdiction having elements similar to those of a crime under AS 11.41;

(2) "crime involving domestic violence" has the meaning given in AS 18.66.990. (§ 12 ch 166 SLA 1978; am § 2 ch 139 SLA 1980; am § 22 ch 59 SLA 1982; am § 13 ch 61 SLA 1982; am § 31 ch 143 SLA 1982; am §§ 4, 5 ch 92 SLA 1983; am §§ 5, 6 ch 53 SLA 1991; am § 3 ch 6 SLA 1996; am § 14 ch 64 SLA 1996; am §§ 5, 6 ch 71 SLA 1996; am §§ 8, 9 ch 86 SLA 1998; am §§ 3, 4 ch 106 SLA 1998)

Revisor's notes. — Subsection (h) was enacted as (g). Relettered in 1998, at which time the cross-reference in subsection (e) was conformed.

Subsections (j) and (j) were enacted as (h) and (i), respectively. Relettered in 1998.

Cross references. — For legislative findings and purpose in connection with the enactment of subsection (f), see §§ 1 and 2, ch 53, SLA 1991 in the Temporary and Special Acts.

Effect of amendments. — The 1991 amendment, effective September 13, 1991, rewrote subsection (e) and added subsection (f).

The first 1996 amendment, effective June 27, 1996, in subsection (d), substituted "who knowingly directed the conduct constituting the offense at" for "upon," "correctional employees" for "correctional officer," and paragraphs (1) and (2) for ".30 days."

The second 1996 amendment, effective July 1, 1996, in subsection (e), inserted "or filed" and "or issued under former" and inserted section references.

The third 1996 amendment, effective June 20, 1996,

in the introductory language in subsection (e), deleted "Except as provided in AS 12.55.055(f)," from the beginning and ", or (f)" following "(d)" and made related stylistic changes and rewrote subsection (f).

The first 1998 amendment, effective June 13, 1998, rewrote subsection (e) and added subsections (g), (h), and (j).

The second 1998 amendment, effective January 1, 1999, inserted a subsection reference and made minor stylistic changes in subsection (e) and added subsection (h).

Editor's notes. — Section 7, ch 6, SLA 1996 provides that the 1996 amendment to (d) of this section applies "to all offenses committed on or after June 27, 1996."

Section 22(c), ch 86, SLA 1998 provides that with respect to the 1998 enactment of subsections (g), (h), and (j), "[r]eferences to previous convictions in this Act apply to all convictions occurring before, on, or after June 13, 1998."

NOTES TO DECISIONS

Constitutionality of presumptive sentencing provisions. — See notes under same heading, AS 12.55.125. *Nell v. State*, 642 P.2d 1361 (Alaska Ct. App. 1982).

Maximum sentence for joyriding justified. — The district court judge was not clearly mistaken in

characterizing a defendant as a worst offender, and in imposing the maximum sentence of one year for third-degree criminal mischief (joyriding). Despite the limited period of time in which the defendant committed the offenses, the defendant's record, coupled with the especially serious nature of the particular joyrid-

at shall be
onal crime
nclassified
imprison-
additional
additional
abuse of a
spiracy to
additional
11.41.420
osed for a
nment; or
no single
ness occur-
efendant
isonment
a definite
d in the
nvolving
l or filed
nder (g)
ys.
ected the
ed peace
amedic,
perform-
am term
y not be



583 P.2d 840 (Alaska 1978); *State v. Afcan*, 583 P.2d 849 (Alaska 1978); *Daniels v. State*, 584 P.2d 47 (Alaska 1978); *Honeycutt v. State*, 583 P.2d 805 (Alaska 1978); *Ferguson v. State*, 590 P.2d 43 (Alaska 1979); *One v. State*, 592 P.2d 1193 (Alaska 1979); *Dayton v. State*, 598 P.2d 67 (Alaska 1979); *Stone v. State*, 598 P.2d 72 (Alaska 1979); *Edinger v. State*, 598 P.2d 943 (Alaska 1979); *Larson v. State*, 598 P.2d 946 (Alaska 1979); *LaBarbera v. State*, 598 P.2d 947 (Alaska 1979); *Elstad v. State*, 599 P.2d 137 (Alaska 1979); *Charles v. State*, 606 P.2d 390 (Alaska 1980); *Pyrdol v. State*, 617 P.2d 513 (Alaska 1980); *Coleman v. State*, 621 P.2d 869 (Alaska 1980), cert. denied, 454 U.S. 1090, 102 S. Ct. 653, 70 L. Ed. 2d 628 (1981); *Shearer v. State*, 619 P.2d 726 (Alaska 1980); *Nelson v. State*, 619 P.2d 480 (Alaska Ct. App. 1980); *Bryant v. State*, 623 P.2d 310 (Alaska 1981); *Hoover v. State*, 641 P.2d 1263 (Alaska Ct. App. 1982); *Davidson v. State*, 642 P.2d 1383 (Alaska Ct. App. 1982); *Parker v. State*, 714 P.2d 802 (Alaska Ct. App. 1986); *State v. Price*, 740 P.2d 476 (Alaska Ct. App. 1987); *State v. Cupjohn*, 779 P.2d 1255 (Alaska Ct. App. 1989); *State v. Clurk*, 782 P.2d 308 (Alaska Ct. App. 1989).

Sentence too lenient. — See *State v. Chaney*, 477 P.2d 441 (Alaska 1970); *State v. Wortham*, 537 P.2d 1117 (Alaska 1975); *State v. Lancaster*, 550 P.2d 1257 (Alaska 1976); *State v. Abraham*, 566 P.2d 267 (Alaska 1977); *State v. Wassilie*, 578 P.2d 971 (Alaska 1978); *Putnam v. State*, 629 P.2d 35 (Alaska 1980); *State v. Brinkley*, 681 P.2d 351 (Alaska Ct. App. 1984); *Cleary v. State*, 548 P.2d 952 (Alaska 1976); *Salazar v. State*, 562 P.2d 694 (Alaska 1977); *Cleary v. State*, 564 P.2d 374 (Alaska 1977); *Amidon v. State*, 565 P.2d 1248 (Alaska 1977); *Black v. State*, 569 P.2d 804 (Alaska

1977); *Sumabat v. State*, 580 P.2d 323 (Alaska 1978); *Hansen v. State*, 582 P.2d 1041 (Alaska 1978); *Kanipe v. State*, 620 P.2d 678 (Alaska 1980); *Hintz v. State*, 627 P.2d 207 (Alaska 1981); *State v. Hooper*, 750 P.2d 840 (Alaska Ct. App. 1988).

Inclusion of improper reference to unverified police contacts did not require remand for resentencing before different judge. — See *Parks v. State*, 571 P.2d 1003 (Alaska 1977).

Reference to unverified police contacts in a presentence report does not require a remand for resentencing where the record indicates that the sentencing judge was not unduly or improperly influenced by reference to the unverified police contacts. *Pascoe v. State*, 628 P.2d 547 (Alaska 1980).

Case remanded for resentencing. — See *Neal v. State*, 628 P.2d 19 (Alaska 1981).

Case remanded for sentence review. — Although a sentence of 15 years' imprisonment with eligibility for parole at the discretion of the parole board upon conviction of manslaughter was not excessive, since the trial court had sentenced defendant as if his conviction had been obtained within one year of the crime and therefore substantially ignored his subsequent history of steady employment, his meritorious service in the army, and his lack of involvement in any criminal activity other than a few traffic offenses in the 12 years since the commission of the crime, the case was remanded for the purpose of permitting the trial court to review the sentence it imposed, in light of all available information concerning defendant without excluding the time period commencing one year from the time of the killing until the present. *Padie v. State*, 594 P.2d 60 (Alaska 1979).

Sec. 12.55.125. Sentences of imprisonment for felonies. (a) A defendant convicted of murder in the first degree shall be sentenced to a definite term of imprisonment of at least 20 years but not more than 99 years. A defendant convicted of murder in the first degree shall be sentenced to a mandatory term of imprisonment of 99 years when

(1) the defendant is convicted of the murder of a uniformed or otherwise clearly identified peace officer, fire fighter, or correctional employee who was engaged in the performance of official duties at the time of the murder;

(2) the defendant has been previously convicted of

(A) murder in the first degree under AS 11.41.100 or former AS 11.15.010 or 11.15.020;

(B) murder in the second degree under AS 11.41.110 or former AS 11.15.030; or

(C) homicide under the laws of another jurisdiction when the offense of which the defendant was convicted contains elements similar to first degree murder under AS 11.41.100 or second degree murder under AS 11.41.110;

(3) the court finds by clear and convincing evidence that the defendant subjected the murder victim to substantial physical torture; or

(4) the defendant is convicted of the murder of and personally caused the death of a person, other than a participant, during a robbery.

(b) A defendant convicted of attempted murder in the first degree, solicitation to commit murder in the first degree, conspiracy to commit murder in the first degree, kidnapping, or misconduct involving a controlled substance in the first degree shall be sentenced to a definite term of imprisonment of at least five years but not more than 99 years. A defendant convicted of murder in the second degree shall be sentenced to a definite term of imprisonment of at least 10 years but not more than 99 years. A defendant convicted of murder in the second degree shall be sentenced to a definite term of imprisonment of at least 20 years but not more than 99 years when the defendant is convicted of the murder of a child under 16 years of age and the court finds by clear and convincing evidence that the defendant (1) was a natural parent, a stepparent, an

adopted parent, a legal to the child; or (2) caused under AS 11.41.200 — authority" have the mo

(c) Except as provided may be sentenced to a be sentenced to the following 12.55.155 — 12.55.175

(1) if the offense is described in (2) of this

(2) if the offense is

(A) other than for dangerous instrument offense, or knowingly otherwise clearly identified medical technician, paid was engaged in the pe

(B) for manslaughter directed towards a child

(C) for manslaughter while under the influence seven years;

(3) if the offense is

(4) if the offense is sentencing under (d) of

(d) Except as provided

may be sentenced to a be sentenced to the following 12.55.155 — 12.55.175

(1) if the offense is

(2) if the offense is

(e) Except as provided may be sentenced to a shall be sentenced to th

in AS 12.55.155 — 12.5

(1) if the offense is

(2) if the offense is

(3) if the offense is 08.54.720(a)(15), one y

(f) If a defendant is

(1) imprisonment for pending under AS 12.55

(2) imposition of sen

(3) imprisonment for except as provided in (j)

(g) If a defendant is

section, except to the e

(1) imprisonment ma

(2) imposition of sent

(3) terms of imprison

(h) Nothing in this se except as specifically pr

to impose a sentence of

adopted parent, a legal guardian, or a person occupying a position of authority in relation to the child; or (2) caused the death of the child by committing a crime against a person under AS 11.41.200 — 11.41.530. In this subsection, "legal guardian" and "position of authority" have the meanings given in AS 11.41.470.

(c) Except as provided in (i) of this section, a defendant convicted of a class A felony may be sentenced to a definite term of imprisonment of not more than 20 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, five years;

(2) if the offense is a first felony conviction

(A) other than for manslaughter and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, or knowingly directed the conduct constituting the offense at a uniformed or otherwise clearly identified peace officer, fire fighter, correctional employee, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the offense, seven years;

(B) for manslaughter and the conduct resulting in the conviction was knowingly directed towards a child under the age of 16, seven years;

(C) for manslaughter and the conduct resulting in the conviction involved driving while under the influence of an alcoholic beverage, inhalant, or controlled substance, seven years;

(3) if the offense is a second felony conviction, 10 years;

(4) if the offense is a third felony conviction and the defendant is not subject to sentencing under (l) of this section, 15 years.

(d) Except as provided in (i) of this section, a defendant convicted of a class B felony may be sentenced to a definite term of imprisonment of not more than 10 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(1) if the offense is a second felony conviction, four years;

(2) if the offense is a third felony conviction, six years.

(e) Except as provided in (i) of this section, a defendant convicted of a class C felony may be sentenced to a definite term of imprisonment of not more than five years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(1) if the offense is a second felony conviction, two years;

(2) if the offense is a third felony conviction, three years;

(3) if the offense is a first felony conviction, and the defendant violated AS 08.54.720(a)(15), one year.

(f) If a defendant is sentenced under (a) or (b) of this section,

(1) imprisonment for the prescribed minimum or mandatory term may not be suspended under AS 12.55.080;

(2) imposition of sentence may not be suspended under AS 12.55.085;

(3) imprisonment for the prescribed minimum or mandatory term may not be reduced, except as provided in (j) of this section.

(g) If a defendant is sentenced under (c), (d)(1), (d)(2), (e)(1), (e)(2), (e)(3), or (f) of this section, except to the extent permitted under AS 12.55.155 — 12.55.175,

(1) imprisonment may not be suspended under AS 12.55.080;

(2) imposition of sentence may not be suspended under AS 12.55.085;

(3) terms of imprisonment may not be otherwise reduced.

(h) Nothing in this section or AS 12.55.135 limits the discretion of the sentencing judge except as specifically provided. Nothing in (a) of this section limits the court's discretion to impose a sentence of 99 years imprisonment, or to limit parole eligibility, for a person

convicted of murder in the first or second degree in circumstances other than those enumerated in (a).

(i) A defendant convicted of

(1) sexual assault in the first degree or sexual abuse of a minor in the first degree may be sentenced to a definite term of imprisonment of not more than 40 years and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(A) if the offense is a first felony conviction and does not involve circumstances described in (B) of this paragraph, eight years;

(B) if the offense is a first felony conviction and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, 10 years;

(C) if the offense is a second felony conviction and does not involve circumstances described in (D) of this paragraph, 15 years;

(D) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, 20 years;

(E) if the offense is a third felony conviction and the defendant is not subject to sentencing under (F) of this paragraph or (l) of this section, 25 years;

(F) if the offense is a third felony conviction, the defendant is not subject to sentencing under (l) of this section, and the defendant has two prior convictions for sexual felonies, 30 years;

(2) attempt, conspiracy, or solicitation to commit sexual assault in the first degree or sexual abuse of a minor in the first degree may be sentenced to a definite term of imprisonment of not more than 30 years and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(A) if the offense is a first felony conviction and does not involve circumstances described in (B) of this paragraph, five years;

(B) if the offense is a first felony conviction, and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, 10 years;

(C) if the offense is a second felony conviction and does not involve circumstances described in (D) of this paragraph, 10 years;

(D) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, 15 years;

(E) if the offense is a third felony conviction, does not involve circumstances described in (F) of this paragraph, and the defendant is not subject to sentencing under (l) of this section, 15 years;

(F) if the offense is a third felony conviction, the defendant is not subject to sentencing under (l) of this section, and the defendant has two prior convictions for sexual felonies, 20 years;

(3) sexual assault in the second degree, sexual abuse of a minor in the second degree, unlawful exploitation of a minor, or distribution of child pornography may be sentenced to a definite term of imprisonment of not more than 20 years and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(A) if the offense is a second felony conviction and does not involve circumstances described in (B) of this paragraph, five years;

(B) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, 10 years;

(C) if the offense is a third felony conviction, does not involve circumstances described in (D) of this paragraph, 10 years;

(D) if the offense is a third felony conviction, and the defendant has two prior convictions for sexual felonies, 15 years;

(4) sexual assault in the second degree, possession of child pornography, or sexual assault in the second degree involving the exploitation of a minor may be sentenced to a definite term of imprisonment of not more than 20 years and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.175:

(A) if the offense is described in (B) of this subsection, 10 years;

(B) if the offense is a sexual felony, 10 years;

(C) if the offense is described in (D) of this subsection, 15 years;

(D) if the offense is a sexual felony and the defendant has two prior convictions for sexual felonies, 20 years;

(j) A defendant sentenced under (a) of this section may be sentenced to a definite term of imprisonment under the Alaska Rules of Criminal Procedure, subject to consideration of good time and credit for time served under (l) of this section, and the defendant shall be sentenced to the definite term or (B) of this subsection, regardless of the number of motions filed.

(k) A first felony conviction for a sexual offense is not subject to sentencing under (1) of this section. A defendant sentenced under (1) of this section may be sentenced to a definite term of imprisonment of not more than one motion filed, regardless of the number of motions filed.

(l) A first felony conviction for a sexual offense is not subject to sentencing under (1) of this section.

(1) may be sentenced to a definite term of imprisonment of not more than one motion filed, regardless of the number of motions filed.

(2) except as provided in (j) of this section, a defendant convicted of a felony offense shall be sentenced to a definite term of imprisonment of not more than one motion filed, regardless of the number of motions filed.

(l) Notwithstanding any other law, a defendant convicted of a class A felony of this section, shall be sentenced to a definite term of imprisonment of not more than 99 years and shall be sentenced to a definite sentence unless the superior court, if a defendant is convicted of a felony offense, shall be sentenced to a definite term of imprisonment of not more than one motion filed, regardless of the number of motions filed.

(1) imprisonment for not more than 10 years; or

(2) imposition of sentence of not more than 10 years;

(3) imprisonment for not more than 10 years provided in (j) of this section;

(m) Notwithstanding any other law, a defendant convicted of a felony offense shall be sentenced to a definite term of imprisonment of not more than one motion filed, regardless of the number of motions filed.

(n) A defendant convicted of a felony offense shall be sentenced to a definite term of imprisonment of not more than one motion filed, regardless of the number of motions filed.

(4) sexual assault in the third degree, incest, indecent exposure in the first degree, possession of child pornography, or attempt, conspiracy, or solicitation to commit sexual assault in the second degree, sexual abuse of a minor in the second degree, unlawful exploitation of a minor, or distribution of child pornography, may be sentenced to a definite term of imprisonment of not more than 10 years and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 — 12.55.175:

(A) if the offense is a second felony conviction and does not involve circumstances described in (B) of this paragraph, two years;

(B) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, three years;

(C) if the offense is a third felony conviction and does not involve circumstances described in (D) of this paragraph, three years;

(D) if the offense is a third felony conviction and the defendant has two prior convictions for sexual felonies, six years.

(j) A defendant sentenced to a (1) mandatory term of imprisonment of 99 years under (a) of this section may apply once for a modification or reduction of sentence under the Alaska Rules of Criminal Procedure after serving one-half of the mandatory term without consideration of good time earned under AS 33.20.010, or (2) definite term of imprisonment under (l) of this section may apply once for a modification or reduction of sentence under the Alaska Rules of Criminal Procedure after serving the greater of (A) one-half of the definite term or (B) 30 years. A defendant may not file and a court may not entertain more than one motion for modification or reduction of a sentence subject to this subsection, regardless of whether or not the court granted or denied a previous motion.

(k) A first felony offender convicted of an offense for which a presumptive term of imprisonment is not specified under this section

(1) may be sentenced to a term of unsuspended imprisonment that exceeds the presumptive term for a second or third felony offender convicted of the same crime if the offender is convicted of criminally negligent homicide and the victim is a child under the age of 16;

(2) except as provided in (1) of this subsection, may not be sentenced to a term of unsuspended imprisonment that exceeds the presumptive term for a second felony offender convicted of the same crime unless the court finds by clear and convincing evidence that an aggravating factor under AS 12.55.155(c) is present, or that circumstances exist that would warrant a referral to the three-judge panel under AS 12.55.165.

(l) Notwithstanding any other provision of law, a defendant convicted of an unclassified or class A felony offense, and not subject to a mandatory 99-year sentence under (a) of this section, shall be sentenced to a definite term of imprisonment of at least 40 years but not more than 99 years when the defendant has been previously convicted of two or more most serious felonies and the prosecuting attorney has filed a notice of intent to seek a definite sentence under this subsection at the time the defendant was arraigned in superior court. If a defendant is sentenced to a definite term under this subsection,

(1) imprisonment for the prescribed definite term may not be suspended under AS 12.55.080;

(2) imposition of sentence may not be suspended under AS 12.55.085;

(3) imprisonment for the prescribed definite term may not be reduced, except as provided in (j) of this section.

(m) Notwithstanding (a)(4) and (l) of this section, if a court finds that imposition of a mandatory term of imprisonment of 99 years on a defendant subject to sentencing under (a)(4) of this section would be manifestly unjust, the court may sentence the defendant to a definite term of imprisonment otherwise permissible under (a) of this section. (5 12 ch 166 SLA 1978; am § 18 ch 45 SLA 1982; am §§ 28 — 30 ch 143 SLA 1982; am § 8 ch 78

SLA 1983; am §§ 1 — 3 ch 92 SLA 1983; am § 5 ch 59 SLA 1988; am § 4 ch 37 SLA 1989; am §§ 23 — 25 ch 79 SLA 1992; am § 5 ch 3 SLA 1994; am §§ 1, 2, 6 ch 6 SLA 1996; am §§ 3 — 7 ch 7 SLA 1996; am § 8 ch 30 SLA 1996; am § 4 ch 33 SLA 1996; am §§ 9 — 11 ch 54 SLA 1999; am § 1 ch 65 SLA 1999; am §§ 1, 2 ch 49 SLA 2000; am § 4 ch 60 SLA 2002; am §§ 1 — 5 ch 90 SLA 2003; am § 5 ch 99 SLA 2004)

Cross references. — For classification of felonies and misdemeanors, see AS 11.81.250; for authorized fines, see AS 12.55.035; for reduction of sentence for good behavior, see AS 33.20.010; for effect of the enactment of (j) of this section on Alaska Rule of Criminal Procedure 35, see § 34, ch. 79, SLA 1992 in the Temporary and Special Acts; for findings related to the addition of subsection (l), see § 1, ch. 7, SLA 1996 in the Temporary and Special Acts; for the effect of amendments to (j) of this section made by ch. 7, SLA 1996 on Alaska Rule of Criminal Procedure 35, see § 20, ch. 7, SLA 1996 in the Temporary and Special Acts. For applicability provisions relating to the 1999 amendment of subsection (b) by § 9, ch. 54, SLA 1999, and relating to the 1999 amendment of subsections (c) and (k), see § 16, ch. 54, SLA 1999 in the 1999 Temporary & Special Acts. For applicability provisions relating to the 1999 amendment of subsection (b) by § 1, ch. 65, SLA 1999, see § 2, ch. 64, SLA 1999 in the 1999 Temporary & Special Acts. For applicability provisions relating to the 2000 amendment of subsection (n) by sec. 1, ch. 49, SLA 2000, and the addition of subsection (m) by sec. 2, ch. 49, SLA 2000, see sec. 3, ch. 49, SLA 2000 in the 2000 Temporary & Special Acts.

Effect of amendments. — The 1992 amendment, effective September 14, 1992, in subsection (a), added the second sentence and paragraphs (1) to (3); added the second sentence in subsection (b); and added subsections (j) and (k).

The 1994 amendment, effective May 30, 1994, inserted "conspiracy to commit murder in the first degree," in subsection (b).

The first 1996 amendment, effective June 27, 1996, substituted "correctional employee" for "correctional officer" in paragraphs (a)(1) and (c)(2) and repealed paragraphs (d)(3) and (e)(3).

The second 1996 amendment, effective June 27, 1996, in paragraphs (c)(4) and (k)(2), inserted "and the defendant is not subject to sentencing under (l) of this section"; in subsection (f), inserted "or mandatory" in paragraphs (1) and (2), and in paragraph (3), deleted "otherwise" preceding "reduced" and added ", except as provided in (j) of this section"; in (j), inserted "(1), "once," and all of the language following "AS 33.20.010"; and added subsection (l).

The third 1996 amendment, effective May 16, 1996, inserted a section reference in subsection (g).

The fourth 1996 amendment, effective May 23, 1996, made a section reference substitution in paragraph (e)(4).

The first 1999 amendment, effective June 5, 1999, in subsection (b), inserted "solicitation to commit murder in the first degree" in the first sentence and added the third and fourth sentences, and added subparagraph (c)(2)(B), the subparagraph (c)(2)(A) designation, paragraph (k)(1), the paragraph (k)(2) designation, and "except as provided in (l) of this subsection" at the beginning of paragraph (k)(2).

The second 1999 amendment, effective September 20, 1999, in subsection (b) deleted "murder in the second degree," following "convicted of" in the first sentence and added the second sentence.

The 2000 amendment, effective August 9, 2000, added paragraph (a)(4) and made related stylistic changes, and added subsection (m).

The 2002 amendment, effective July 1, 2002, added subparagraph (c)(2)(C).

The 2003 amendment, effective September 11, 2003, added "Except as provided in (i) of this section" at the beginning of subsections (c)-(e); substituted "(e)(3)" for "(e)(4)" in subsection (g); rewrote subsection (i); and made stylistic changes.

The 2004 amendment, effective July 23, 2004, substituted "subsection" for "section" at the end of the introductory language of subsection (l).

Editor's notes. — Section 7, ch. 6, SLA 1996 provides that the repeal of (d)(3) and (e)(3) and the amendments to (a) and (c) of this section made by ch. 6, SLA 1996 apply "to all offenses committed on or after June 27, 1996." Section 19, ch. 7, SLA 1996 provides that references to prior or previous convictions in ch. 7, SLA 1996, which amended subsections (c), (f), (i), and (j) and added subsection (l), "apply to all convictions occurring before, on, or after June 27, 1996."

Subsection (b) was amended by § 9, ch. 54, SLA 1999, with an effective date of June 5, 1999, and was further amended by § 1, ch. 65, SLA 1999, with a later effective date of September 20, 1999. Thus, on and after June 5 and before September 20, 1999, subsection (b) read as follows: "A defendant convicted of murder in the second degree, attempted murder in the first degree, solicitation to commit murder in the first degree, conspiracy to commit murder in the first degree, kidnapping, or misconduct involving a controlled substance in the first degree shall be sentenced to a definite term of imprisonment of at least five years but not more than 99 years. A defendant convicted of murder in the second degree shall be sentenced to a definite term of imprisonment of at least 20 years but not more than 99 years when the defendant is convicted of the murder of a child under 16 years of age and the court finds by clear and convincing evidence that the defendant (1) was a natural parent, a stepparent, an adopted parent, a legal guardian, or a person occupying a position of authority in relation to the child; or (2) caused the death of the child by committing a crime against a person under AS 11.41.200 — 11.41.530. In this subsection, "legal guardian" and "position of authority" have the meanings given in AS 11.41.470."

Section 12(a), ch. 90, SLA 2003 provides that the provisions of §§ 1 — 5, ch. 90, SLA 2003 amending this section apply "to sentencing for offenses committed on or after September 11, 2003," and that "[a]ll references to prior or previous convictions in [that section] apply to convictions occurring before, on, or after September 1, 2003."

- I. General Consideration.
- II. Sentencing.
 - A. In General.
 - B. Specific Crimes.
- III. Presumptive Sentencing
 - A. In General.
 - B. First Offenders.

I. GENERAL CON

Constitutionality of 1982 ter 143, SLA 1982, which a: not violate the Alaska Const § 14. Galbraith v. State, 693 1985).

- Applied in Faulkenberry (Alaska Ct. App. 1982); State (Alaska Ct. App. 1982); Qual (Alaska Ct. App. 1982); Willia (Alaska Ct. App. 1982); Conn (Alaska Ct. App. 1982); Sew (Alaska Ct. App. 1982); Hartl (Alaska Ct. App. 1982); Griffi (Alaska Ct. App. 1982); Nix (Alaska Ct. App. 1982); Duni (Alaska Ct. App. 1982); Stat 1060 (Alaska Ct. App. 1982); 1186 (Alaska Ct. App. 1982); 1199 (Alaska Ct. App. 1982); 1324 (Alaska Ct. App. 1983); P2d 621 (Alaska Ct. App. 19 P2d 184 (Alaska 1983); Con 654 (Alaska Ct. App. 1984); C 662 (Alaska Ct. App. 1984); 912 (Alaska Ct. App. 1984); 415 (Alaska Ct. App. 1984); P2d 1093 (Alaska Ct. App. 1 P2d 737 (Alaska Ct. App. 19 P2d 1061 (Alaska Ct. App. 1 693 P2d 887 (Alaska Ct. App. 698 P2d 1230 (Alaska Ct. A) 702 P2d 651 (Alaska Ct. App. 730 P2d 161 (Alaska Ct. App. P2d 695 (Alaska Ct. App. 198 P2d 1164 (Alaska Ct. App. 1 P2d 1198 (Alaska Ct. App. 1 P2d 715 (Alaska Ct. App. 739 P2d 769 (Alaska Ct. Ap 759 P2d 541 (Alaska Ct. App. 771 P2d 448 (Alaska Ct. App. 770 P2d 296 (Alaska Ct. App. P2d 599 (Alaska Ct. App. 198 P2d 377 (Alaska Ct. App. 19 P2d 1258 (Alaska Ct. App. 15 P2d 33 (Alaska Ct. App. 1990 P2d 677 (Alaska Ct. App. 15 807 P2d 506 (Alaska Ct. App. 808 P2d 280 (Alaska Ct. App. 826 P2d 775 (Alaska Ct. App. 829 P2d 1191 (Alaska Ct. App. 837 P2d 130 (Alaska Ct. App. P2d 1244 (Alaska Ct. App. 19 P2d 1347 (Alaska Ct. App. 19 P2d 298 (Alaska Ct. App. 199 P2d 1319 (Alaska Ct. App. 196 P2d 517 (Alaska Ct. App. 199 P2d 1335 (Alaska Ct. App. 196 P2d 1208 (Alaska Ct. App. 19

HOUSE FINANCE COMMITTEE

March 1, 2006 - Wednesday

HB 338-CERTIF. OF FITNESS FOR EXPLOSIVE HANDLERS

Previously published notes: #1 Labor, #2 DPS

- Lalanya Snyder, Staff to Rep. Mike Chenault

Grey Mitchell, Director, Division of Labor Standards and Safety, DOL

Technical Questions via Teleconference:

Cliff Husted, Chief Consultation and Training, Labor Standards and Safety,

HB 12-TVS AND MONITORS IN MOTOR VEHICLES

4 new zero fiscal notes: 2 for DPS, DOA, and Law

Need to adopt CS 24-LS0058N

Amendment 1 – Kerttula N.1

Rep. Gruenberg

Rep. Stoltze will introduce CS

Questions:

Anne Carpenet, Assistant Attorney General, Legal Services Section-
Juneau, Criminal Division, Department of Law

March 1-2020

②

HB 408
Child Abuse

CS HB 408 (HES)
Governor

24-642021)G

~~Ø~~

Ø #1 HSS

SKNH

①

HB 338

Fitness of explosive
handlers

CS HB 338 (L+C)

Clenault, Lynn

24-LS1380\F

PO "do pass"

Ø #2 DPS

Ø #1 ~~WF~~ LWF

②

HB 12

TV Monitors
in Motor Vehicles

New CS HB 12 ()

24-LS0058)N

#Greenberg, Lynn, Gardner, McGuire, Raras, Gau, Elkies

Amend. 1-Kertula

N.1.

Partial

ADM Ø #1 Ø

LAW #2 Ø

DPS #3 Ø

DPS #4 Ø

New

New adm. Ø 43 2-8

LAW Ø 2-6

DPS Ø 2325 2-7

DPS Ø 1190 replaces 4
2-21

RD "no recommendation"

Committee Action on Legislation

COMMITTEE House Finance
N. Thomas SECRETARY

DATE: 3-1-06
PAGE 1 OF 1

SHORT TITLE

HB 408

ACTION TAKEN ON LEGISLATION

- Moved Out of Cmte
- Moved CS (___)Out of Cmte
- Moved HCS (___)Out of Cmte
- Heard and Held
- Heard and Held; Assigned to Subcmte
- Scheduled but not Heard
- Failed to Move Out of Committee
- Waived Out of Committee

SHORT TITLE

HB 338

ACTION TAKEN ON LEGISLATION

- Moved Out of Cmte
- Moved CS (L+C)Out of Cmte
- Moved HCS (___)Out of Cmte
- Heard and Held
- Heard and Held; Assigned to Subcmte
- Scheduled but not Heard
- Failed to Move Out of Committee
- Waived Out of Committee

SHORT TITLE

HB 12

ACTION TAKEN ON LEGISLATION

- Moved Out of Cmte
- Moved CS (FIN)Out of Cmte
- Moved HCS (___)Out of Cmte
- Heard and Held
- Heard and Held; Assigned to Subcmte
- Scheduled but not Heard
- Failed to Move Out of Committee
- Waived Out of Committee

*adopted 3-1-06
vote 6-4*

24-LS0058VN
Luckhaupt
2/27/06

CS FOR HOUSE BILL NO. 12()

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES GRUENBERG, LYNN, GARDNER AND MCGUIRE, Ramras, Gara, Elkins

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to driver's licenses and to televisions, monitors, portable computers,
2 and similar devices in motor vehicles; and providing for an effective date."

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

4 * Section 1. AS 28.35 is amended by adding a new section to read:

5 Sec. 28.35.161. Driving a motor vehicle with a television, monitor, or
6 similar device operating; unlawful installation of television, monitor, or similar
7 device. (a) A person commits the crime of driving with a screen operating if

8 (1) the person is driving the motor vehicle;

9 (2) the vehicle has a television, video monitor, portable computer, or
10 any other similar means to create a visual display visible to the person while the
11 person is driving the motor vehicle; and

12 (3) the monitor or visual display is operating while the person is
13 driving.

14 (b) A person may not install or alter equipment described in (a)(2) of this

1 section that allows the display to be visible to the driver while the driver is driving the
2 motor vehicle.

3 (c) Subsections (a) and (b) of this section do not apply to

4 (1) portable cellular telephones; or

5 (2) equipment that displays only

6 (A) audio equipment information, functions, and controls;

7 (B) vehicle information or controls related to speed, fuel level,
8 battery charge, and other vehicle safety or equipment information;

9 (C) navigation or global positioning;

10 (D) maps; or

11 (E) visual information to enhance or supplement the driver's
12 view forward, behind, or to the sides of the motor vehicle for the purpose of
13 maneuvering the vehicle.

14 (d) Subsections (a) and (b) of this section do not apply to equipment installed
15 in an authorized emergency vehicle or to a motor vehicle providing emergency road
16 service or roadside assistance.

17 (e) It is an affirmative defense to a prosecution under (b) of this section that
18 the equipment installed or altered also includes a device that, when the motor vehicle
19 is being driven, disables the equipment for all uses except those described in (c) of this
20 section.

21 (f) A person who violates (a) of this section is guilty of

22 (1) a class A misdemeanor, unless any of the circumstances described
23 in (2) - (4) of this subsection apply;

24 (2) a class C felony if the person's driving causes physical injury to
25 another person;

26 (3) a class B felony if the person's driving causes serious physical
27 injury to another person;

28 (4) a class A felony if the person's driving causes the death of another
29 person.

30 (g) A person who violates (b) of this section is guilty of a class A
31 misdemeanor.

1 * Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 DIRECTION TO DIVISION OF MOTOR VEHICLES. The division of motor
4 vehicles shall supply to each person issued a new, duplicate, or temporary driver's license
5 information about the requirements and restrictions being added by sec. 1 of this Act. This
6 requirement shall continue until the information is included in the driver's manual that is
7 published from time to time by division of motor vehicles.

8 * Sec. 3. This Act takes effect September 1, 2006.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 4
 Bill Version: CSHB 12(STA)
 (H) Publish Date: 3/18/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title: Televisions and monitors in motor vehicles RDU: Alaska State Troopers
 Component: AST Detachments
 Sponsor: Representative Gruenberg
 Requester: House State Affairs Component No.: 2325

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2006 | FY 2007 | FY 2008 | FY 2009 | FY 2010 | FY 2011 |
|------------------------|------------|------------|------------|------------|------------|------------|
| 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 | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|-------------------------------|--|--|--|--|--|--|
| 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 (Specify Type--Do not abbreviate) | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY2005) cost: 00

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

Passage of this bill will have no fiscal impact on the Department of Public Safety.

This bill will prohibit the driver of a motor vehicle from watching a television receiver, video monitor, TV video screen, or similar device for viewing television or video signals while operating the motor vehicle. It also prohibits the installation of these devices so that they can be viewed by the driver of a motor vehicle while the vehicle is in motion. The bill does allow the following equipment; a vehicle information display; a GPS display; a mapping display; and a display used to enhance a drivers view forward, behind, or to the sides of the vehicle.

Prepared by: Lieutenant Todd Sharp Phone: 907-465-5223
 Division: Alaska State Troopers Date/Time: 2/28/05 1:26 PM
 Approved by: Commissioner William Tandeske Date: 2/28/2005
 Agency: Department of Public Safety

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 12(STA)
(H) Publish Date: 3/18/05

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title "An Act relating to televisions and monitors RDU CRIMINAL
in motor vehicles. Component Criminal Justice Litigation
Sponsor Representative Gruenberg
Requester House State Affairs Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2006 | FY 2007 | FY 2008 | FY 2009 | FY 2010 | FY 2011 |
|------------------------|------------|------------|------------|------------|------------|------------|
| 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 | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|-------------------------------|--|--|--|--|--|--|
| 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 (Specify type--Do not abbreviate) | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 28.35 prohibiting watching a television receiver, a video monitor or the like while driving a motor vehicle. The bill similarly prohibits the installation of televisions or monitors or the like in such a way that they can be viewed by the driver of the vehicle unless there is a locking device that blocks power to the the unit while the motor vehicle is in motion. The bill excepts vehicle information display, GPS, mapping display, or equipment intended to enhance the driver's view forward, behind or to either side of the motor vehicle. The bill does not apply to emergency vehicles.

The Department of Law does not anticipate that there will be many new prosecutions arising out of passage of this legislation, and thus does not anticipate a fiscal impact.

Prepared by: Kathryn Daughhette, Director Phone 465-3673
Division Administrative Services Division Date/Time 2/28/05 2:57 PM
Approved by: K. Daughhette for Scott Nordstrand, Acting Attorney General Date 2/28/2005
Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 12(STA)
(H) Publish Date: 3/18/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title An Act relating to televisions RDU Legal and Advocacy Services
and monitors in vehicles Component Public Defender Agency
Sponsor Reps. Gruenberg, Lynn, Gardner,...
Requester House State Affairs Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2006 | FY 2007 | FY 2008 | FY 2009 | FY 2010 | FY 2011 |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 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 | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|-------------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|-------------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|---|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 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 (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)
This bill creates a number of new offenses, including felonies, for operating a motor vehicle while watching a TV or video monitor or installing such equipment that is capable of being viewed by the driver while the vehicle is moving. Due to the indigency of public defender clients this bill, if enacted, is not expected to have a significant fiscal impact on the operations of the Agency.

Prepared by: Linda K. Wilson, Deputy Director Phone (907)334-4416
Division: Public Defender Agency Date/Time 3/1/05 7:26 AM
Approved by: Michael Tibbles, Deputy Commissioner Date 3/1/2005
Agency: Department of Administration

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: CSHB 12(STA)
 (H) Publish Date: 3/18/05

Revision Date/Time (Note if correction): _____ Dept. Affect'd: Public Safety
 Title: "An Act relating to televisions and RDU: Statewide Support
monitors in motor vehicles" Component: Alaska Criminal Records &
 Sponsor: Representative Gruenberg Identification: _____
 Requester: House State Affairs Component No: 1190

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

| OPERATING EXPENDITURES | FY 2006 | FY 2007 | FY 2008 | FY 2009 | FY 2010 | FY 2011 |
|------------------------|------------|------------|------------|------------|------------|------------|
| 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 | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|-------------------------------|--|--|--|--|--|--|
| 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 (Specify Type-Domestic/Foreign) | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

This Act creates a new AS 28.35.16 (a) to prohibit operation of a motor vehicle while watching a television or monitor, (b) prohibits installing a television or monitor viewable by the driver without an interlock, (c) exempts vehicle information, GPS, map, or maneuvering displays, and equipment with an interlock, (d) exempts emergency or assistance vehicles, (e) and (f) provide the penalties. A violation of AS 28.35.16(a) may be an A misdemeanor or an A, B, or C felony, depending on the facts.

Passage of this bill will not have a fiscal impact on the Department of Public Safety.

Prepared by: Director David Schade Phone: 260-5092
 Division: Statewide Services Date/TIME: 3/10/05 10:51 AM
 Approved by: Commissioner William Taniguchi Date: 3/10/05
 Agency: Department of Public Safety

HOUSE FINANCE COMMITTEE ROLL CALL

DATE: 3-1-96

Amendment: Amend. 1
CS HB 12 (FIN)

MEMBER

Favor

Oppose

| | | |
|--------------------------|---|---|
| KERTTULA | ✓ | |
| MOSES | ✓ | |
| STOLTZE | | ✓ |
| WEYHRAUCH <i>present</i> | | |
| FOSTER | ✓ | |
| HAWKER | ✓ | |
| HOLM | | ✓ |
| JOULE | ✓ | |
| KELLY | | ✓ |
| | | |
| CHENAULT | | ✓ |
| MEYER | | ✓ |

total 5 5

AMENDMENT

1 Kerttula

OFFERED IN THE HOUSE

TO: CSHB 12(), Draft Version "N"

failed
5-6-5

- 1 Page 1, line 1:
- 2 Delete "to driver's licenses and"
- 3
- 4 Page 1, line 2, following "vehicles;":
- 5 Insert "requiring that persons issued a driver's license be informed of certain
- 6 restrictions and requirements concerning televisions, monitors, portable computers, and
- 7 similar devices in motor vehicles;"

HOUSE FINANCE
COMMITTEE
ROLL CALL

DATE: 3-1-06

Amendment: CS HB 12

MEMBER

Favor

Oppose

| MEMBER | Favor | Oppose |
|-------------------------|-------|--------|
| KELLY | ✓ | |
| KERTTULA | | ✓ |
| MOSES | | ✓ |
| STOLTZE | ✓ | |
| WEYHRAUCH <i>absent</i> | | |
| FOSTER | ✓ | |
| HAWKER | | ✓ |
| HOLM | ✓ | |
| JOULE | | ✓ |
| | | |
| MEYER | ✓ | |
| CHENAULT | ✓ | |