

HB

386

Representative Jay Ramras
Chair, Judiciary
Chair, Economic
Development, Trade &
Tourism
Energy
Military & Veteran Affairs
Joint Armed Service
State Capitol, Room 118
Juneau, Alaska 99801-1182
Phone: (907) 465-3004
Fax: (907) 465-2070
Toll Free: (877) 465-3004

Alaska State Legislature



House of Representatives

Interim:
1292 Sadler Way, Suite 324
Fairbanks, Alaska 99701
Phone: (907) 452-1088
Fax: (907) 456-3346
Toll Free: (877) 465-3004

House District 10

Fax

To: Leg. Legal

Fax #: (907) 465-2029

Number of pages including cover: 3

From: Jane W. Pierson

Date: March 17, 2010

Re: HJUD CS for HB386 v. A

Today, the HJUD Committee heard HB386 (26-LS1525A) and passed the bill out of committee with two amendments:

1. Conceptual amendment #1 is attached
2. Page 5, Line 30 Delete "may" and insert "shall"

Representative_Jay_Ramras@legis.state.ak.us

Conceptual #1
AMENDMENT

OFFERED IN THE HOUSE

TO: HB 386

1 Page 2, lines 14, following "section.":

2 DELETE "The citation is considered a summons for a failure to obey a citation under AS
3 12.25.230, and the court may issue a bench warrant."

4

5 Page 2 line 29, through page 3, line 2: DELETE ALL MATERIAL AND INSERT:

6 **"* Sec. 6.** AS 04.21.065(j) is repealed and reenacted to read:

7 (j) A person cited under this section is guilty of failure to obey a citation under AS
8 12.25.230 if the person fails to pay the bail amount established under (g) of this section or
9 to appear in court as required."

10

11 Page 10, following line 13

12 INSERT a new bill section to read:

13 **"* Sec. 32.** AS 16.05.165 (a) is amended to read:

14 (a) When a peace officer stops or contacts a person concerning a violation of this title
15 except AS 16.51 and AS 16.52 or of a regulation adopted under this title except AS 16.51
16 and AS 16.52 that is a misdemeanor, the peace officer may, in the officer's discretion,
17 issue a citation to the person as provided in AS 12.25.175 – 12.25.230 [AS 12.25.180].

18

19 RENUMBER following sections accordingly

20

21 Page 10, line 26 following "required."

22 DELETE "The citation is considered a summons for failure to obey a citation under
23 AS 12.25.230, and the court may issue a bench warrant."

24

1 Page 11, line 14 following "required."

2 DELETED "The citation is considered a summons for failure to obey a citation under
3 AS 12.25.230, and the court may issue a bench warrant."

4
5 Page 12, line 30 following "required."

6 DELETED "The citation is considered a summons for failure to obey a citation under
7 AS 12.25.230, and the court may issue a bench warrant."

8
9 Page 15, line 6 following "required."

10 DELETED "The citation is considered a summons for failure to obey a citation under
11 AS 12.25.230 (b), and the court may issue a bench warrant."

12
13 Page 15, following line 18

14 INSERT a new bill section to read:

15 "* Sec. 57. AS 46.06.080(f) is repealed and reenacted to read:

16 (f) A person cited under this section is guilty of failure to obey a citation under AS
17 12.25.230 if the person fails to pay the fine or to appear in court as required."

18

HB 386

Page & Line where citations need to be
in writing

Check repealer section - § 24
PART of BOATING safety act.

* P. 5, line 30 - "may" to "shall" -

"Reasonably believes" - p. 6, l. 10.
- HERROW -

PASSES

AMENDMENT # 2 p. 5, l. 30

Delete "may" & insert "shall"

CONCEPTUAL
AMENDMENT #1
Passed

OFFERED IN THE HOUSE

TO: HB 386

1 Page 2, lines 14, following "section.":

2 DELETE "The citation is considered a summons for a failure to obey a citation under AS
3 12.25.230, and the court may issue a bench warrant."
4

5 Page 2 line 29, through page 3, line 2: DELETE ALL MATERIAL AND INSERT:

6 **** Sec. 6.** AS 04.21.065(j) is repealed and reenacted to read:

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8 12.25.230 if the person fails to pay the bail amount established under (g) of this section or
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16 and AS 16.52 that is a misdemeanor, the peace officer may, in the officer's discretion,
17 issue a citation to the person as provided in AS 12.25.175 – 12.25.230 [AS 12.25.180].
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9 Page 15, line 6 following "required."

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12

13 Page 15, following line 18

14 INSERT a new bill section to read:

15 "* Sec. 57. AS 46.06.080(f) is repealed and reenacted to read:

16 (f) A person cited under this section is guilty of failure to obey a citation under AS
17 12.25.230 if the person fails to pay the fine or to appear in court as required."

18

Representative Mike Hawker

Alaska State Legislature



House Bill 386 Sponsor Statement

Session:

State Capitol
Juneau, AK 99801
907 465-4949 direct
800 478-4950 toll free
907 465-4979 fax

Interim:

716 W 4th Avenue
Anchorage, AK 99501
907 269-0244 office
907 269-0248 fax

House District 32:

Eagle River
Anchorage
Rainbow
Indian
Bird
Girdwood
Portage
Whittier
Sunrise
Hope

"An Act establishing a uniform format and procedure for citations for certain violations of state law; relating to the form, issuance, and disposition of citations for certain violations; relating to certain crimes and penalties for noncompliance with citations; and providing for an effective date."

House Bill 386 gives the Department of Public Safety necessary authority to prescribe a uniform citation format and process. Standardizing the citation process will improve efficiency and interdepartmental communications, facilitating electronic sharing of citation data between law enforcement, prosecution, courts and state and municipal collection departments.

By standardizing deadlines for payments, responses and paperwork filing by the citation issuer, HB 386 will also reduce confusion for citizens receiving citations and allow more fines to be paid through the courts' online e-payment system. A standard process is also an integral step in preparing for a statewide database and digital interoperability.

HB 386
Uniform Citations - Overview
Prepared by Representative Mike Hawker's Office

HB 386 establishes and requires the use of a uniform format, process and standard deadlines for citations issued in the state. The process is contained in sections 21 – 31 of the bill. The rest of the bill adopts the standard process for various citations.

Uniform Citation Process and Format contained in AS 12.25.175 – 12.25.230:

- ◇ 12.25.175 (new section of law) sets out requirements for the standard citation format, requires the commissioner of the Department of Public Safety to provide or prescribe the standard citation formats, and enables the commissioner to adopt regulations. Uniform citations must adhere to a statewide numbering system and contain specific information described in AS 12.25.200 (b). The citation issuer is also required to make an oath or affirmation, if authorized to do so, or make a statement under penalty of perjury that the citation was true and personally served on the person charged.
- ◇ 12.25.180 (existing law) clarifies when an officer can issue a citation instead of making an arrest. Most of the changes reword existing law for clarity and have no substantive effect.
 - In (a)(2), the requirement that the officer have “reasonable and probable cause to believe” that a person is a danger to self or others is replaced with “reasonably believes.” Probable cause indicates there are certain elements that must be met, whereas a reasonable belief can be articulated more easily. Because it is within the officer’s discretion to arrest or issue a citation, that determination should be based on a reasonable belief, rather than probable cause.
 - In (b)(2), the requirement that the person receiving the citation provide a written promise to appear in court is removed to facilitate electronic transmission of the citation. The required issuer’s oath or statement that a copy of the citation was correctly served (required by AS 12.25.175) satisfies the intent of this statute.
- ◇ 12.25.190 (existing law) clarifies when a person shall be given a five-day notice to appear in court. Most of the changes are language repeals to accommodate the standard process adopted in this legislation and rewording for clarity.
 - The provision allowing a person to request a hearing earlier than five days after the citation is issued is repealed. Officers in the field cannot always forward a citation to the court for a hearing in fewer than five days.
- ◇ 12.25.195 (existing law) outlines the disposition of “scheduled offenses” – violations that have an established bail or fine amount. If a person doesn’t contest the citation, there is a standard 30 day deadline for paying the bail or fine, regardless of the type of citation.
- ◇ 12.25.200 (existing law) specifies a format for citations. The changes to this section expand its applicability to all citations, instead of just those issued by law enforcement.
- ◇ 12.25.210 (existing law) outlines recordkeeping requirements for citation issuers. The changes to this section expand its applicability to all citations, instead of just those issued by law enforcement. This section also sets a 10 working day deadline for citations to be filed with the court and clarifies that missing the filing deadline does not negate the citation.
- ◇ 12.25.230 (existing law) outlines the penalties for failure to pay a fine or appear in court, as required by a citation. The current language is confusing. While having two sections implies

that that each offense should have a different penalty, because the type of misdemeanor is not defined, they can be interpreted to apply the same penalty to both types of citation. Under HB 386, there would be a bright line between offenses that require a court appearance and "scheduled offenses" which carry a particular fine and can be paid by mail.

- 12.25.230 (a) states that the penalty for failing to appear to answer a citation that requires a court appearance would be a class A misdemeanor (see penalties above).
- 12.25.230 (b) states that the penalty for failing to appear or pay the bail or fine for a citation for a "scheduled offense" is a class B misdemeanor, which is punishable by up to a \$2,000 fine and/or imprisonment of up to 90 days.

Statutory changes to implement the Uniform Citation Process and Format for various violations:

- ◇ Sections 1, 4, 7, 9, 14, 17, 34, 37, 38, 39, 40, 44, 45, 49, 56 and 57 are statutory references changed or added to reference the standard citation process and format.
- ◇ Sections 2, 5, 32, 35, 41, 54, and 56 reflect the standard deadline of 30 days for payment for a "scheduled offense" citation (see AS 12.25.195). These sections also add language specifying that this deadline is for violators who plead "no contest," since a person contesting the citation wouldn't be sending in a payment.
- ◇ Sections 3, 6, 33, 36, 42, 53, and 55 are individual penalty sections that are amended or repealed and reenacted to adopt the uniform penalties in AS 12.25.230.
- ◇ Sections 10, 14, 18, 45 and 49 remove the condition that a citation be "in writing" (see notes for AS 12.25.180 (b)(2)).
- ◇ Sections 11, 15, 19, 46, and 50 reflect the five day notice and repeal language allowing a person to request an earlier hearing (see notes for AS 12.25.190).
- ◇ Sections 12 and 51 reflect the 10 day deadline for a citation to be filed with the court by the citation issuer (see AS 12.25.210).
- ◇ Sections 13, 16, 20, 47, and 52 repeal language specifying what needs to be in particular citations and instead state that a citation that complies with the uniform format is considered to be a lawful complaint for the purposes of prosecution.

Miscellaneous Sections:

- ◇ Sections 8 and 24 ensure that the law is consistent after other previously enacted bills sunset. The language mirrors language found in sections 7 and 23, respectively.
- ◇ Section 43 allows citations to be given for violations in the Knik River Public Use Area.
- ◇ Section 48 allows DPS to establish regulations to implement standardized citations.
- ◇ Section 58 repeals statutes regarding citation formats that are made moot by adoption of the standardized format in this bill.
- ◇ Sections 59-63 provide applicability instructions, transitional provisions and effective dates.

Amendments to HB 386 (26-LS1525\A)

Add new sections:

- ♦ **Sec. 16.05.165. Form and issuance of citation.**
 - (a) When a peace officer stops or contacts a person concerning a violation of this title except AS 16.51 and AS 16.52 or of a regulation adopted under this title except AS 16.51 and AS 16.52 that is a misdemeanor, the peace officer may, in the officer's discretion, issue a citation to the person as provided in AS 12.25.175 – 12.25.230 [AS 12.25.180].
- ♦ **AS 46.06.080(f) is repealed and reenacted to read:**
 - (f) A person cited under this section is guilty of failure to obey a citation under AS 12.25.230 if the person fails to pay the fine or to appear in court as required.

Amend Existing Sections as follows:

- ♦ Page 2 line 29, through page 3, line 2: DELETE ALL MATERIAL AND INSERT:
 - * **Sec. 6.** AS 04.21.065(j) is repealed and reenacted to read:
 - (j) A person cited under this section is guilty of failure to obey a citation under AS 12.25.230 if the person fails to pay the bail amount established under (g) of this section or to appear in court as required.
- ♦ Please delete the sentence ““The citation is considered a summons for a failure to obey a citation under AS 12.25.230, and the court may issue a bench warrant.” where it appears in the bill. Hopefully this is a comprehensive list:
 - × Page 2, lines 14-16: AS 04.16.205 (f)
 - × Page 10, lines 26-28: AS 16.05.165 (e)
 - × Page 11, lines 14-16: AS 18.35.341
 - × Page 12, line 30 – Page 13, line 1: AS 41.21.960(e)
 - × Page 15, lines 6-8: AS 45.75.133(d)

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 386
 () Publish Date: _____

Identifier (file name): HB386-LAW-CRIM-03-12-10 Dept. Affected: Law
 Title An Act establishing a uniform format and procedure for citations RDU CRIMINAL
for certain violations of state law Component Criminal Justice Litigation
 Sponsor Representative Hawker
 Requester Judiciary Component Number 2202

Expenditures/Revenues (Thousands of Dollars)

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

| | Appropriation Required | Information | | | | | | |
|-------------------------------|---------------------------|-------------|------------|------------|------------|------------|------------|------------|
| | | FY 2011 | FY 2011 | FY 2012 | FY 2013 | FY 2014 | FY 2015 | FY 2016 |
| OPERATING EXPENDITURES | | | | | | | | |
| 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 | 0.0 | 0.0 |

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| CAPITAL EXPENDITURES | | | | | | | | |
|-----------------------------|--|--|--|--|--|--|--|--|

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| 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 Interagency Receipts | | | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY2010) cost: _____

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This bill provides for statutory amendments and would require all citations issued in Alaska to be in the form designated by the Department of Public Safety. According to the new section, AS 12.25.175(b), DPS will either "provide or prescribe citation forms for use by...persons who are authorized by law to issue citations." The Department of Law does not anticipate a fiscal impact from this bill.

Prepared by: Eileen Donahue, Division Operations Manager
 Division: Administrative Services
 Approved by: Daniel S. Sullivan, Attorney General
Department of Law

Phone 465-5427
 Date/Time 3/12/10 12:00 PM
 Date 3/12/2010

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 386
 () Publish Date: _____

Identifier (file name): HB386-CED-CBPL-3-16-10 Dept. Affected: DCCED
 Title: Citations RDU: Corp. Bus. & Prof Licensing (117)
 Component: Corp. Bus. & Prof Licensing
 Sponsor: Representative Hawker Component Number: 2360
 Requester: House Judiciary

Expenditures/Revenues (Thousands of Dollars)

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

| | Appropriation Required | Information | | | | | | |
|-------------------------------|---------------------------|-------------|------------|------------|------------|------------|------------|------------|
| | | FY 2011 | FY 2011 | FY 2012 | FY 2013 | FY 2014 | FY 2015 | FY 2016 |
| OPERATING EXPENDITURES | | | | | | | | |
| 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 | 0.0 | 0.0 |

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| CAPITAL EXPENDITURES | | | | | | | | |
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| CHANGE IN REVENUES (1156) | | | | | | | | |
|------------------------------------|--|--|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | | | |
|--------------------------|------------|------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | | | |
| 1003 GF Match | | | | | | | | |
| 1004 GF | | | | | | | | |
| 1005 GF/Program Receipts | | | | | | | | |
| 1037 GF/Mental Health | | | | | | | | |
| Other: (1156) RSS | | | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY2010) cost: 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This bill would establish a uniform format and procedure for citations of certain violations of state law and adjusts penalties for noncompliance with citations.

The department does not expect a fiscal impact as a result of this legislation.

Prepared by: Jennifer Strickler, Division Operations Manager
 Division: Corporations, Business & Professional Licensing
 Approved by: Emil Notti, Commissioner
Commerce, Community, and Economic Development

Phone (907) 465-2144
 Date/Time 3/16/2010 9:20AM
 Date 3/16/2010

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: _____
() Publish Date: _____

Identifier (file name): HB386-DPS-AST-03-16-10 Dept. Affected: Public Safety
Title "An act relating to uniform citations." RDU Alaska State Troopers
Component AST Detachments
Sponsor Representative Hawker
Requester House Judiciary Component Number 2325

Expenditures/Revenues (Thousands of Dollars)

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

| | Appropriation Required | Information | | | | | |
|-------------------------------|---------------------------|-------------|------------|------------|------------|------------|------------|
| | | FY 2011 | FY 2012 | FY 2013 | FY 2014 | FY 2015 | FY 2016 |
| OPERATING EXPENDITURES | | | | | | | |
| 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 | 0.0 |

| | | | | | | | |
|-----------------------------|--|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | | |
|-----------------------------|--|--|--|--|--|--|--|

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|-------------------------------|--|--|--|--|--|--|--|
| 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 Interagency Receipts | | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY2010) cost: 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This bill would set a uniform standard for citations used by law enforcement agencies and facilitate the electronic transfer of information. This legislation will help eliminate the need for duplicative data entry and reduce data entry errors.

This legislation will have no fiscal cost and is expected to increase the productivity of the department in the long term.

Prepared by: Lt. Rodney Dial
Division: Alaska State Troopers
Approved by: Joseph Masters, Commissioner
Department of Public Safety

Phone 907-247-4480
Date/Time 3/16/2010 4:30:00 PM
Date 3/16/2010