

**HB**

**56**

<TARGET><BILL>HB 56</BILL><SUBJECT>HB  
56</SUBJECT><COMM>HFIN27</COMM></TARGET>

# HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: February 23, 2011

FURTHER REFERRALS:

Date of Committee Action: 2/22/12

The FINANCE Committee considered:

HB 56

**HOUSE BILL NO. 56**

"An Act making arson in the first degree and arson in the second degree serious felonies for purposes of application of the crime of conspiracy."

**HB 56 INCLUDE ARSON IN CRIMES OF CONSPIRACY**


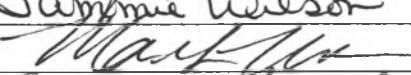
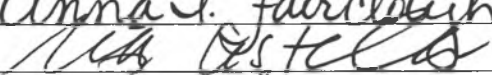
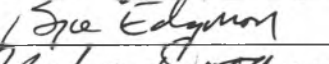
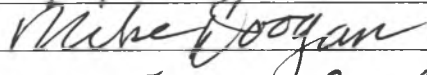
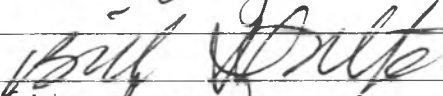

Recommends it be replaced with  HCS or  CS for \_\_\_\_\_ (\_\_\_\_\_)  
 For Senate Bills with new title:  Technical Title  New Title: HCR \_\_\_\_\_  Same Title  New Title

- attach amendments
- add new referral to \_\_\_\_\_ Committee
- Letter of Intent \_\_\_\_\_ Committee

- List of Abbrev for Depts.:
- ADM
  - CED
  - COR
  - CRT
  - EED
  - DEC
  - DFG
  - GOV
  - DHS
  - LWF
  - LAW
  - LEG
  - MVA
  - DNR
  - DPS
  - REV
  - DOT
  - UA

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

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

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	Gary	✓			
Jammie Wilson	Wilson			✓	
	Neuman			✓	
Anna L. Fairclough	Fairclough			✓	
	WISTELL			✓	
	Edgmon			✓	
	DODGAN			✓	
Chair: 	Gold			.	
Chair: 	Thomas			✓	

# FISCAL NOTE

**STATE OF ALASKA**  
**2012 LEGISLATIVE SESSION**

cost # codes

Bill Version HB 56  
 Fiscal Note Number \_\_\_\_\_  
 Publish Date \_\_\_\_\_

Identifier (file name) HB056-DOC-OC-12-22-11 Dept. Affected DOC  
 Title "An Act making arson in the first degree and arson in the second degree serious felonies for purposes of..." Appropriation Admin & Support  
 Allocation Commissioner's Office  
 Sponsor Representative Gatto, Gruenberg and Lynn  
 Requester House Finance Committee OMB Component Number 694

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

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

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
<b>OPERATING EXPENDITURES</b>	<b>FY13</b>	<b>FY13</b>	<b>FY14</b>	<b>FY15</b>	<b>FY16</b>	<b>FY17</b>	<b>FY18</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
<b>TOTAL OPERATING</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>

<b>FUND SOURCE</b>		(Thousands of Dollars)					
1002	Federal Receipts						
1003	GF Match						
1004	GF						
1005	GF/Prgm (DGF)						
1037	GF/MH (UGF)						
1178	temp code (UGF)						
<b>TOTAL</b>		<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>

<b>POSITIONS</b>							
Full-time							
Part-time							
Temporary							

<b>CHANGE IN REVENUES</b>							
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Estimated SUPPLEMENTAL (FY12) operating costs 0.0 (separate supplemental appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs 0.0 (separate capital appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

**Why this fiscal note differs from previous version (if initial version, please note as such)**

Update to reflect current fiscal year.

Prepared by Leslie Houston, Director  
 Division Department of Corrections - Administrative Services  
 Approved by Joseph D. Schmidt, Commissioner  
Department of Corrections

Phone 907-465-3339  
 Date/Time 12/22/11 3:45 PM  
 Date 12/22/2011

**FISCAL NOTE**

**STATE OF ALASKA  
2012 LEGISLATIVE SESSION**

**BILL NO.** HB 56

**Analysis**

This legislation is creating a new serious felony crime of conspiring to commit arson in the first degree and arson in the second degree. Therefore, the Department of Corrections has no information to determine the number of offenders that will be placed under the custody of the department.

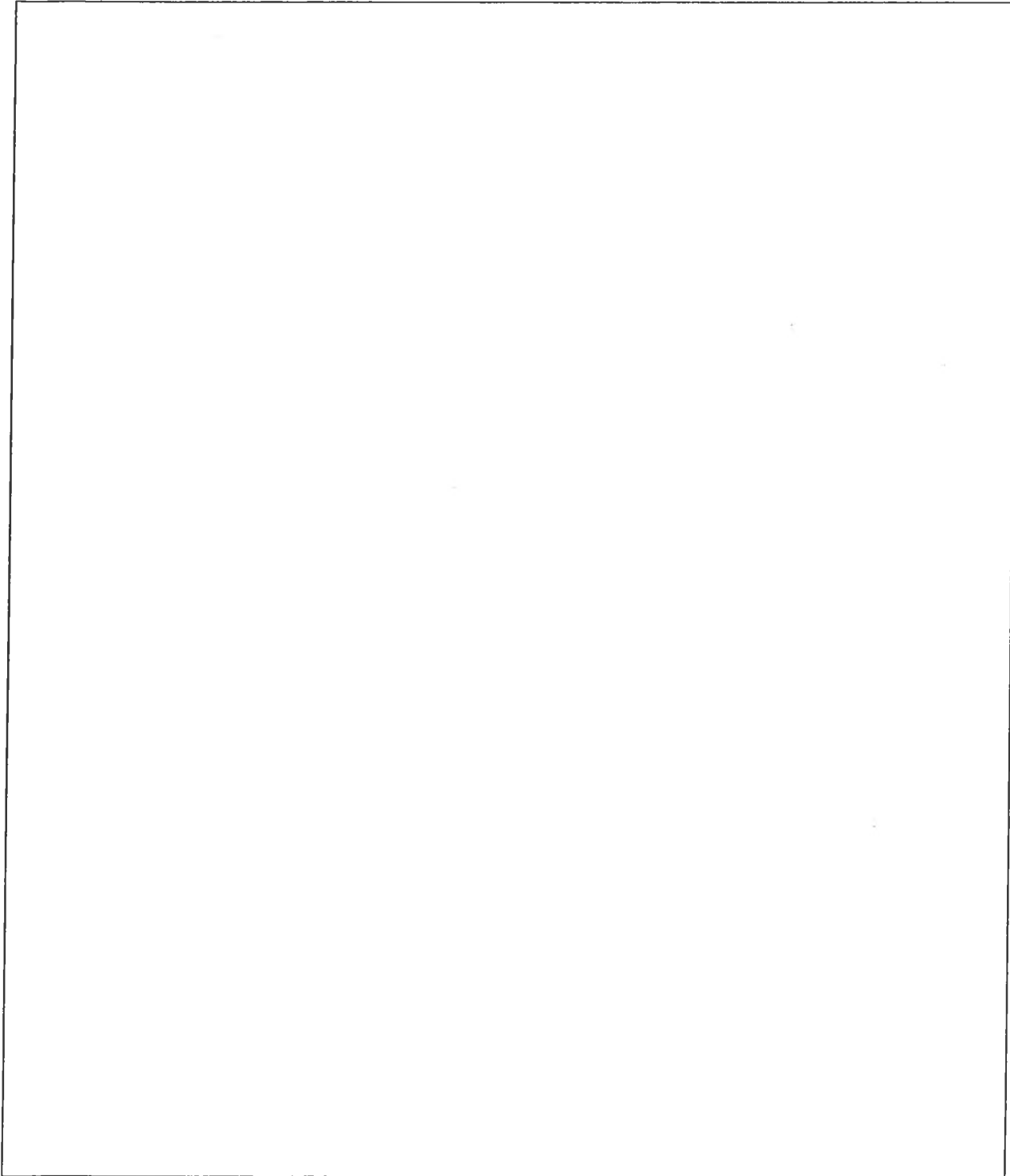
The department will closely monitor potential future impacts of this legislation.

FISCAL NOTE

STATE OF ALASKA  
2012 LEGISLATIVE SESSION

BILL NO. HB 56

Analysis Continued



# FISCAL NOTE

STATE OF ALASKA  
2012 LEGISLATIVE SESSION

Bill Version HB056  
Fiscal Note Number \_\_\_\_\_  
( ) Publish Date \_\_\_\_\_

Identifier (file name) HB056-DPS-FLS-12-22-11 Dept. Affected Public Safety  
Title "An Act making arson in the first degree and arson in the second degree serious felonies..." Appropriation Fire and Life Safety  
Allocation Fire and Life Safety Operations  
Sponsor Representatives Gatto, Gruenberg, Lynn  
Requester (H) FIN OMB Component Number 2883

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

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

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
<b>TOTAL</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

POSITIONS								
Full-time								
Part-time								
Temporary								

CHANGE IN REVENUES								

Estimated SUPPLEMENTAL (FY12) operating costs \_\_\_\_\_ (separate supplemental appropriation required)  
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs \_\_\_\_\_ (separate capital appropriation required)  
(discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Updated on new fiscal note form.

Prepared by Kelly Howell  
Division Office of the Commissioner  
Approved by Joe Masters, Commissioner  
Department of Public Safety

Phone (907) 269-5591  
Date/Time 12/22/11 2:40 PM  
Date 12/15/2011

**FISCAL NOTE**

**STATE OF ALASKA  
2012 LEGISLATIVE SESSION**

**BILL NO.** HB056

**Analysis**

Passage of this legislation will have no fiscal impact on the Division of Fire and Life Safety.

# FISCAL NOTE

STATE OF ALASKA cost # codes  
 2012 LEGISLATIVE SESSION

Bill Version HB 056  
 Fiscal Note Number \_\_\_\_\_  
 Publish Date \_\_\_\_\_

Identifier (file name) HB056-LAW-CRIM-12-07-11 Dept. Affected Law  
 Title An Act making arson in the first degree and arson in the Appropriation Criminal  
second degree serious felonies. Allocation Criminal Justice Litigation  
 Sponsor Representative(s) Gatto, Gruenberg, and Lynn  
 Requester (H) Finance OMB Component Number 2202

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

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

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
<b>OPERATING EXPENDITURES</b>	<b>FY13</b>	<b>FY13</b>	<b>FY14</b>	<b>FY15</b>	<b>FY16</b>	<b>FY17</b>	<b>FY18</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

FUND SOURCE		(Thousands of Dollars)					
1002	Federal Receipts						
1003	GF Match						
1004	GF						
1005	GF/Prgm (DGF)						
1037	GF/MH (UGF)						
1178	temp code (UGF)						
<b>TOTAL</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES							

Estimated SUPPLEMENTAL (FY12) operating costs \_\_\_\_\_ (separate supplemental appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs \_\_\_\_\_ (separate capital appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Updated for new fiscal year form.

Prepared by Eileen Donahue, Division Operations Manager  
 Division Administrative Services  
 Approved by John J. Burns, Attorney General  
Department of Law

Phone 465-5427  
 Date/Time 12/07/11 11:00AM  
 Date 12/7/2011

**FISCAL NOTE**

**STATE OF ALASKA  
2012 LEGISLATIVE SESSION**

**BILL NO. HB 056**

**Analysis**

HB 056 adds arson in the first and second degrees to those crimes defined as a "serious felony offense" in the statute defining conspiracy. With this amendment, the crime of conspiracy would prohibit persons from conspiring to commit arson in the first or second degree.

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

# *Alaska State Legislature*

## HOUSE OF REPRESENTATIVES



**Representative Carl Gatto  
Representative Max Gruenberg  
Representative Bob Lynn**

### **HB 56 INCLUDE ARSON IN CRIMES OF CONSPIRACY**

#### **Sponsor Statement**

House Bill 56 adds first and second degree arson to Alaska's conspiracy statute, which will provide strong deterrents to committing arson and close a loophole in current law.

HB 56 was drafted after it became apparent during a committee hearing the last legislative session that arson is not currently included in Alaska's conspiracy statute. Because of this, arsonists may only be charged with a crime if the arson is completed, and they cannot be charged with the separate crime of conspiracy if two or more people are involved in the arson. HB 56 will fix those problems.

Including arson in the conspiracy statute will provide stronger punishments, whether or not conspirators actually complete the arson. Under HB 56, if arson is committed, the conspiring arsonists can be charged with *both* arson and conspiracy, rather than just arson under the current law. If the arson is not completed, however, this bill will allow conspirators to be prosecuted for conspiracy to commit arson, which is not punishable under current law.

If you have any questions, please contact Representative Lynn's legislative aide, Mike Sica, at 465-4965.

**David Tyler**  
 Director/State Fire Marshal  
 5700 E. Tudor Rd.  
 Anchorage, AK 99507

**FIRE AND LIFE SAFETY**  
**PUBLIC INFORMATION OFFICE**

**Megan A. Peters**  
 Information Officer  
 907.269.5413  
 cell: 907.351.3137  
 megan.peters@alaska.gov

**Press Release**

May 1, 2009



**2009**  
**Arson Awareness Week**  
 May 3 - 9



(ANCHORAGE, Alaska) — Across the nation this week, fire officials are speaking out against Arson. The Alaska Department of Public Safety is joining in the educational push. According to the National Fire Protection Association, in 2005, an estimated 323,900 intentionally set fires were reported to U.S. fire departments. These fires resulted in 490 civilian fire deaths, three firefighter deaths, 1,500 civilian fire injuries and 7,600 firefighter injuries. These fires caused \$1.102 billion in direct property damage.

In Alaska during 2005, six deaths were attributed to intentionally set fires. Last year, there were two people in Alaska killed by intentionally set fires.

The theme for the 2009 Arson Awareness Week is Arson for Profit. Nationwide, community officials are reporting a sharp increase of vehicle owners who are suspected of reporting their vehicle stolen and then destroying their vehicle by setting it on fire. There has also been an increase of vehicle arson arrests.



Arsons are often times done for financial reasons, to include collecting insurance money, liquidating property, dissolving businesses and concealing losses.

Arson for profit affects everyone through the loss of life, increased insurance premiums and related expenses for the fire and law enforcement professionals. It can be curtailed by a collaborative effort and cooperation of fire investigators, law enforcement, insurance professionals and the legal system.

# Alaska State Legislature

## House of Representatives



**Representative Carl Gatto**  
**Representative Max Gruenberg**  
**Representative Bob Lynn**

### HB 56 INCLUDE ARSON IN CRIMES OF CONSPIRACY

#### Relevant Statutes

#### AS 11.31.120 Conspiracy

(a) An offender commits the crime of conspiracy if, with the intent to promote or facilitate a serious felony offense, the offender agrees with one or more persons to engage in or cause the performance of that activity and the offender or one of the persons does an overt act in furtherance of the conspiracy.

(b) If an offender commits the crime of conspiracy and knows that a person with whom the offender conspires to commit a serious felony offense has conspired or will conspire with another person or persons to commit the same serious felony offense, the offender is guilty of conspiring with that other person or persons to commit that crime whether or not the offender knows their identities.

(c) In a prosecution under this section, it is a defense that the defendant was merely present at the time that two or more other persons agreed to engage in or cause the performance of a serious felony offense.

(d) In a prosecution under this section, it is not a defense that a person with whom the defendant conspires could not be guilty of the crime that is the object of the conspiracy because of

(1) lack of criminal responsibility or other legal incapacity or exemption;

(2) belonging to a class of persons who by definition are legally incapable in an individual capacity of committing the crime that is the object of the conspiracy;

(3) unawareness of the criminal nature of the conduct in question or of the criminal purpose of the defendant; or

(4) any other factor precluding the culpable mental state required for the commission of the crime.

(e) If the offense that the conspiracy is intended to promote or facilitate is actually committed, a defendant may not be convicted of conspiring to commit that offense with another person for whose conduct the defendant is not legally accountable under AS 11.16.120(b).

(f) In a prosecution under this section, it is an affirmative defense that the defendant, under circumstances manifesting a voluntary and complete renunciation of the defendant's criminal intent, either (1) gave timely warning to law enforcement authorities; or (2) otherwise made proper effort that prevented the commission of the crime that was the object of the conspiracy. Renunciation by one conspirator does not affect the liability of another conspirator who does not join in the renunciation.

(g) Notwithstanding AS 22.10.030, venue in actions in which the crime of conspiracy is alleged to have been committed may not be based solely on the location of overt acts done in furtherance of the conspiracy.

(h) In this section,

(1) "overt act in furtherance of the conspiracy" means an act of such character that it manifests a purpose on the part of the actor that

the object of the conspiracy be completed;

(2) "serious felony offense" means an offense

(A) against the person under AS 11.41, punishable as an unclassified or class A felony;

(B) involving controlled substances under AS 11.71, punishable as an unclassified, class A, or class B felony;

(C) that is criminal mischief in the first degree under AS 11.46.475; or

(D) that is terroristic threatening in the first degree under AS 11.56.807.

(i) Conspiracy is

(1) an unclassified felony if the object of the conspiracy is murder in the first degree;

(2) a class A felony if the object of the conspiracy is a crime punishable as an unclassified felony other than murder in the first degree;

(3) a class B felony if the object of the conspiracy is a crime punishable as a class A felony;

(4) a class C felony if the object of the conspiracy is a crime punishable as a class B felony.

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#### **AS 11.46.400 Arson in the First Degree**

(a) A person commits the crime of arson in the first degree if the person intentionally damages any property by starting a fire or causing an explosion and by that act recklessly places another person in danger of serious physical injury. For purposes of this section, "another person" includes but is not limited to fire and police service personnel or other public employees who respond to emergencies, regardless of rank, functions, or duties being performed.

(b) Arson in the first degree is a class A felony.

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#### **AS 11.46.410 Arson in the Second Degree**

(a) A person commits the crime of arson in the second degree if the person knowingly damages a building by starting a fire or causing an explosion.

(b) In a prosecution under this section, it is an affirmative defense

(1) that no person other than the defendant had a possessory, proprietary, or security interest in the building or that all persons having such an interest consented to the defendant's conduct; and

(2) that the sole intent of the defendant was to damage or destroy the building for a lawful purpose.

(c) Arson in the second degree is a class B felony.



## ALASKA FIRE CHIEF'S ASSOCIATION

2358 Bradway Road, North Pole, Alaska 99705

Phone: (907) 488-3400 FAX: (907) 488-6118

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February 15<sup>th</sup>, 2011

Representative Carl Gatto  
State Capitol, Room 118  
Juneau, AK 99801-1182

Reference: HB56

Dear Representative Gatto,

On behalf of the Alaska Fire Chiefs Association I would like to give you our support for HB56 "An Act making arson in the first degree and arson in the second degree serious felonies for purposes of application of the crime of conspiracy."

The act of Arson is a horrendous and devastating crime. Arson crimes take a terrible toll on individuals and communities across the State of Alaska through the loss of lives and property.

The Alaska Fire Chiefs Association supports your efforts to add conspiracy to the possible offenses for this crime.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Tucker".

Jeff Tucker, President  
Alaska Fire Chiefs Association

Cc: Rep. Gruenberg  
Rep. Lynn

# MUNICIPALITY OF ANCHORAGE



*Mayor Dan Sullivan*

February 15, 2011

Representative Carl Gatto  
Representative Max Gruenberg  
Representative Bob Lynn

Reference: House Bill No. 56 - Arson

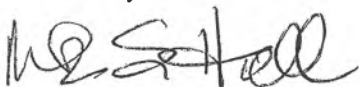
Dear Representatives:

The Anchorage Fire Department is fully in support of House Bill No. 56 and would like to offer our assistance in any way you feel would be beneficial to aid in the enactment of this bill.

It is our belief that the enactment of this bill will provide a greater deterrent to the crime of arson and allow for the prosecution of arson/conspiracy cases where the actual arson was not completed, but a crime nonetheless was committed.

I can be reached at (907) 267-4936 or by e-mail at [hallms@muni.org](mailto:hallms@muni.org) should you wish to contact me.

Sincerely,



Mark S. Hall  
Fire Chief

cc: Brian Balega – Arson Investigator – Anchorage Fire Department



February 14, 2011

Representative Carl Gatto  
House of Representatives  
State Capitol  
Juneau AK 99801-1182

Dear Representative Gatto:

On behalf of our respective organizations, we would like to thank you for introducing HB 56, an Act making arson in the first degree and arson in the second degree serious felonies for purposes of application of the crime of conspiracy.

We met recently to review proposed legislation and decided to unanimously support this bill.

Again, thank you for addressing this issue. Please contact the APOA office in Anchorage at 277-0515 if there is anything our organizations can do to assist in the passage of this bill.

Sincerely,

John Lucking Jr., President  
Alaska Peace Officers  
Association  
PO Box 240106  
Anchorage AK 99524

Tom Clemons, President  
Alaska Association of  
Chiefs of Police  
183 Nelson Ave  
Wasilla AK 99654

Michele Logan, President  
Women Police  
of Alaska  
PO Box 233306  
Anchorage AK 99523

cc: Max Gruenberg  
Bob Lynn



Fire Chief Richard Etheridge

February 17, 2011

Representative Carl Gatto  
Representative Max Gruenberg  
Representative Bob Lynn

Reference: House Bill No. 56 – Include Arson in Crimes of Conspiracy

Dear Representatives:

Capital City Fire/Rescue fully supports House Bill No. 56 and would like to offer our assistance in any way that would be beneficial to the enactment of this bill.

If this bill were enacted, we believe that there would be a greater deterrent to the crime of arson and allow the prosecution of arson/conspiracy cases when the actual arson was not completed, but a crime was committed.

I can be reached at (907) 586-5322 or by e-mail at [dan\\_jager@ci.juneau.ak.us](mailto:dan_jager@ci.juneau.ak.us) if you wish to contact me.

Sincerely,

Daniel M. Jager  
Fire Marshal

Mailing Address: 820 Glacier Avenue Juneau, Alaska 99801

# THE ALASKA ASSOCIATION OF FIRE & ARSON INVESTIGATORS



February 15, 2011

Representative Carl Gatto  
Representative Max Gruenberg  
Representative Bob Lynn

Reference: House Bill 56 - Arson

Dear Representatives:

The Alaska Association of Fire & Arson Investigators is in total support of House Bill 56 and would like to offer our assistance in any way, which would aid in the enactment of this bill.

It is our belief the enactment of this bill will provide a greater deterrent to the crime of arson and allow for the prosecution of arson/conspiracy cases, where the actual arson was not completed, but a crime nonetheless committed. This will put a closure to a loophole presently in the current law.

Please feel free to contact my office at 907-262-4792 or [ghale@borough.kenai.ak.us](mailto:ghale@borough.kenai.ak.us).

Sincerely,

Gary E. Hale, President  
Alaska Association of Fire & Arson Investigators