

HB

105

<TARGET><BILL>HB 105</BILL><SUBJECT>HB
105</SUBJECT><COMM>HJUD28</COMM></TARGET>

ALASKA STATE LEGISLATURE

Session:

State Capitol Building
Room 428
Juneau, Alaska 99801-2186
Phone (907) 465-3004
Fax: (907) 465-2070
Toll Free: (877) 465-3004



Interim:

1292 Sadler Way, Ste. 323
Fairbanks, Alaska 99701
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REPRESENTATIVE STEVE THOMPSON

DISTRICT 3

MEMORANDUM

To: Representative Wes Keller, Chairman
House Judiciary Committee

From: Representative Steve Thompson 

Date: February 21, 2013

Re: Hearing Request for HB 105 "An Act relating to theft and property offenses; and providing for an effective date."

Please accept this memorandum as a request for HB 105 to be heard in the House Judiciary Committee. Attached are the following documents:

- HB 105 – Sponsor Statement
- HB 105 – Bill version 28-LS0451\A
- HB 105 – Sectional Summary
- HB 105 – Alaska Court System FN 2/7/13
- HB 105 – Letter of Support
- HB 105 – Letter of Opposition
- HB105 – Back-up Materials

ALASKA STATE LEGISLATURE

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REPRESENTATIVE STEVE THOMPSON DISTRICT 3

Sponsor Statement

HB 105 "An Act relating to theft and property offenses; and providing for an effective date."

(28-LS0451\A)

The purpose of House Bill 105 is to raise the threshold amounts that distinguish felony theft from misdemeanor theft, and to further distinguish a Class A misdemeanor theft from a Class B misdemeanor theft.

The current cash value for the crime of theft found in AS 11.46, *Offenses Against Property*, were adopted in 1978. To put this into perspective, in 1978, milk was \$1.71 a gallon, a dozen eggs cost \$0.82 and a gallon of gas cost \$0.63. "Valuation updates" in law for theft and property crimes are common throughout the United States. Alaska should be no different.

Under today's law, a 19-year old adult charged with stealing a bicycle, valued at \$500 or more, faces Class C felony charges. Upon conviction, this young adult will go through life as a felon. A felony conviction on a person's record may have lifetime effects, damaging the person's ability to secure employment, to integrate into society, and affecting their rights as a citizen.

Make no mistake; with the passage of HB 105 guilty defendants will still face justice. In addition to incarceration, the court, at sentencing may still require restitution and fines. Courts can still aggressively sentence defendants to the fullest extent of the law.

Please join Representative Thompson in supporting this legislation.

E-mail Representative_Steve_Thompson@akleg.gov

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REPRESENTATIVE STEVE THOMPSON

DISTRICT 3

Sectional

HB 105

"An Act relating to theft and property offense; and providing for an effective date."

(28-LS0451\A)

Section 1: AS 11.46.130(a) Theft in the Second Degree is amended:

This section will increase the minimum dollar amount of property or service taken for the crime of theft in the second degree from \$500 to \$1,500. Theft in the second degree is a class C felony. The range of sentencing for a class C felony is up to five years in prison and a fine of up to \$50,000.

Section 2. AS 11.46.140(a) Theft in the Third Degree is amended:

This section will increase the minimum amount of property or services taken for the crime of theft in the third degree from a range of \$50 - \$500, to a range of \$250 to \$1,500. Theft in the third degree is a class A misdemeanor. A class A misdemeanor is punishable by a term of imprisonment of not more than one year and fine of up to \$10,000.

Section 3. AS 11.46.150(a) Theft in the Third Degree is amended:

This section will increase the minimum amount of property or services taken for the crime of theft in the fourth degree from less \$50 to less than \$250. Theft in the fourth degree is a class B misdemeanor. A class B misdemeanor is punishable by a sentence of imprisonment of not more than 90 days and a fine of not more than \$2,000.

Section 4. AS 11.46.220(c) Concealment of Merchandise is amended:

These are conforming amendment, to increase the dollar amounts for the crimes of concealment of merchandises to correspond to the new threshold amounts for property or services theft crimes in sections 1-3 of the bill.

E-mail Representative_Steve_Thompson@akleg.gov

Section 5. AS 11.46.260(b) Removal of identification Marks is amended:

These are conforming amendments, to increase the dollar amounts for removal of identification marks to correspond to the threshold amounts for property or services theft crimes in sections 1-3 of the bill.

Section 6. AS 11.46.270(b) Unlawful possession is amended:

These are conforming amendments, to increase the dollar amounts for the crimes of unlawful possession to correspond to the threshold amount of property or services theft crimes in sections 1-3 of the bill.

Section 7. AS 11.46.280(d) Issuing a bad check is amended:

These are conforming amendments, to increase the dollar amounts for the crime of issuing a bad check to the threshold amounts of property or services theft crimes in sections 1-3 of the bill.

Section 8. AS 11.46.285(b) Fraudulent use of an access device is amended:

These are conforming amendments, to increase the dollar amounts for the crime of fraudulent use of an access device to the threshold amounts of property or services theft crimes in sections 1-3 of the bill.

Section 9. AS 11.46.360(a)(2)(B) Vehicle Theft in the first degree is amended:

Raises the loss amount from \$500 to \$1,500 for damages or reasonable expenses incurred for the crime to be Vehicle theft in the first degree is a class C felony..

Section 10. AS 11.46.482(a) Criminal Mischief in the third degree is amended:

This section will increase the minimum amount of property damage for the crime of criminal mischief in the third degree from \$500 to \$1,500. Criminal mischief in the third degree is a class C felony.

Section 11. AS 11.46.484(a) Criminal Mischief in the fourth degree is amended:

This section will increase the minimum amount of property damage for the crime of criminal mischief in the fourth degree from \$50 - \$500 to a range of \$250 - \$1,500. Criminal mischief in the fourth degree is a class A misdemeanor.

Section 12. AS 11.46.486(a) Criminal mischief in the fifth degree is amended:

This section will increase the minimum amount of property damage for the crime of criminal mischief in the fifth degree from \$50 to \$250. Criminal mischief in the fifth degree is a class B misdemeanor.

Section 13. AS 11.46.530(b) Criminal simulation is amended:

This section will increase the minimum amount of property damage for the crime of criminal simulation for a class C felony and class A and B misdemeanors

- *A class C felony if the value of what the object purports to represent is raised from \$500 to \$1,500.*
- *A class A misdemeanor if the value of what the object purports to represent is raised from a range to \$50 - \$500 to a range of \$250 - \$1,500;*
- *A class B misdemeanor if the value of what the object purports to represent is raised from less than \$50 to less than \$250.*

Section 14. AS 11.46.620(d) Misapplication of Property is amended:

This section will increase the amount of the value of the property for the crime of misapplication of property for a class C felony and class A misdemeanor.

- *A class C felony if the value of the property misapplied is raised from \$500 to \$1,500*
- *A class A misdemeanor if the value of the property misapplied is less than \$50 is raised to less than \$250.*

Section 15. AS 11.46.730(c) Defrauding creditors is amended:

This section will increase the minimum dollar amount for the crime of defrauding creditors for a class A misdemeanor, and class C felony.

- *The threshold for a class A misdemeanor is raised from less than \$500 to less than \$1,500.*
- *The threshold for a class C felony would be raised from between \$500 - \$25,000 to between \$1,500 and \$25,000.*

Section 16. *The uncodified law of the State of Alaska is amended by adding a new section on Applicability that this Act applies to offenses committed on or after the effective date of this Act:*

Section 17. *Establishes an effective date of July 1, 2013.*

FISCAL NOTE

STATE OF ALASKA
2013 LEGISLATIVE SESSION

Bill Version HB105
Fiscal Note Number _____
() Publish Date _____

Identifier (file name) HB105-ACS-TRC-2-7-13 Dept. Affected Alaska Court System
Title Relating to Theft and Property Offenses Appropriation Trial Courts
Allocation _____
Sponsor Representative Thompson
Requester _____ OMB Component Number 768

Expenditures/Revenues (Thousands of Dollars)

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

	FY14 Appropriation Requested	Included in Governor's FY14 Request	Out-Year Cost Estimates				
			FY15	FY16	FY17	FY18	FY19
OPERATING EXPENDITURES	FY14	FY14	FY15	FY16	FY17	FY18	FY19
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0

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)						
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES

Estimated SUPPLEMENTAL (FY13) operating costs _____ (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY14) costs _____ (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? no
If yes, by what date are the regulations to be adopted, amended, or repealed? _____ Discuss details in analysis section.

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

Initial version.

Prepared by Nancy Meade, General Counsel
Division Alaska Court System
Approved by Nancy Meade for Christine Johnson, Administrative Director
Alaska Court System

Phone 907-463-4736
Date/Time 2/7/13 11:00 AM
Date 2/7/2013

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. HB105

Analysis

House Bill 105 raises the dollar amounts associated with a variety of property crimes. The increases that have the potential to impact the court system are those that raise from \$500 to \$1,500 the value of property that must be stolen or damaged before a property crime is categorized as a felony. This will have the effect of recharacterizing thefts of property that is valued between \$500 and \$1499, which is a Class C felony under current law, into a Class A misdemeanor instead.

These changes will impact the court if they result in a significant number of cases moving from the superior court, where felonies are handled and the relative cost per case is higher, to the district court, where misdemeanors are handled and the cost per case is lower. However, a review of available information shows that, because of the way cases in this category are prosecuted and processed, the majority of property crimes impacted by this bill are already resolved in the district court, or are dismissed or resolved early in the life of the case. Because of this, this bill will not have a measurable fiscal impact on the court system.

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: HB 105
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB105-DOA-PDA-2-28-13
Title: PROPERTY CRIMES
Sponsor: THOMPSON
Requester: House Judiciary

Department: Department of Administration
Appropriation: Legal and Advocacy Services
Allocation: Public Defender Agency
OMB Component Number: 1631

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2014 Appropriation Requested	Included in Governor's FY2014 Request	Out-Year Cost Estimates					
			FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
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Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No.
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, Initial version.

Prepared By:	Quinlan Steiner	Phone:	(907)334-4414
Division	Public Defender Agency	Date:	02/28/2013 11:18 AM
Approved By:	Curtis Thayer, Deputy Commissioner	Date:	02/28/13
	Department of Administration		

FISCAL NOTE ANALYSIS

**STATE OF ALASKA
2013 LEGISLATIVE SESSION**

BILL NO. HB105

Analysis

This bill raises the felony level for theft and other property crimes from \$500.00 to \$1500.00 and A misdemeanor from \$50.00 to \$250.00.

Reducing to a misdemeanor a crime that was previously charged as a felony will reduce the cost of processing individual cases. This will reduce the overall growth rate of the Agency's budget. Due to increasing caseloads in the most complex case types, however, the anticipated cost savings is not expected to result in a reduction of the Agency's budget. The Agency, therefore, submits a zero fiscal note.

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: HB 105
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB105-LAW-CRIM-03-01-13
Title: PROPERTY CRIMES
Sponsor: THOMPSON
Requester: (H) Judiciary

Department: Department of Law
Appropriation: Criminal Division
Allocation: Criminal Justice Litigation
OMB Component Number: 2202

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2014 Appropriation Requested	Included in Governor's FY2014 Request	Out-Year Cost Estimates				
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES	FY 2014	FY 2014					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By:	Loretta Withington, Division Operations Manager	Phone:	(907)465-5427
Division	Administrative Services Division	Date:	03/01/2013 12:00 AM
Approved By:	Michael C. Geraghty, Attorney General	Date:	03/01/13
	Department of Law		

FISCAL NOTE ANALYSIS

**STATE OF ALASKA
2013 LEGISLATIVE SESSION**

BILL NO. HB 105

Analysis

HB 105 raises the amount or value of property under the theft laws that are the thresholds between felony and misdemeanor theft, and between class A misdemeanor theft and class B misdemeanor theft. For example, under current law, the threshold between class C felony theft and class A misdemeanor theft is \$500. HB 105 would raise this to \$1,500. It makes these changes to the various types of theft, including issuing a bad check and fraudulent use of an access device.

It is anticipated this legislation will have no fiscal impact on the Department of Law.

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: HB 105
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB105-DOA-OPA-3-01-13
Title: PROPERTY CRIMES
Sponsor: THOMPSON
Requester: House Judiciary

Department: Department of Administration
Appropriation: Legal and Advocacy Services
Allocation: Office of Public Advocacy
OMB Component Number: 43

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2014 Appropriation Requested	Included in Governor's FY2014 Request	Out-Year Cost Estimates				
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES	FY 2014	FY 2014					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version

Prepared By:	Richard Allen, Director	Phone:	(907)269-3504
Division	Office of Public Advocacy	Date:	03/01/2013 09:45 AM
Approved By:	Curtis Thayer, Deputy Commissioner	Date:	03/01/13
	Department of Administration		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. HB105

Analysis

For the Office of Public Advocacy (OPA), HB105 might reduce defense costs if, all else being equal, an offense that would have been charged as a felony theft offense is now charged as a misdemeanor offense, it being generally less expensive to litigate a misdemeanor.

The purpose of the bill appears to adjust the loss dollar valuations owing to the rise in prices and values for goods since 1978. The new amounts may in fact be actually lower than would be necessary to account fully for inflation although the sponsor may have already made that calculation.

It is not possible to predict with accuracy how many theft-type offenses now charged as felonies might under the new law be charged as misdemeanors. It is safe to predict that there would probably be fewer felony-level prosecutions, with a corresponding reduction in systemic criminal justice costs, including prosecution, defense and corrections costs.

OPA does not anticipate a fiscal impact with this legislation and accordingly, submits a zero fiscal note.

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: HB 105
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB105-DPS-DET-02-28-13
Title: PROPERTY CRIMES
Sponsor: THOMPSON
Requester: Judiciary

Department: Department of Public Safety
Appropriation: Alaska State Troopers
Allocation: Alaska State Trooper Detachments
OMB Component Number: 2325

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2014 Appropriation Requested	Included in Governor's FY2014 Request	Out-Year Cost Estimates					
			FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
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Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By:	Lieutenant Rodney Dial	Phone:	(907)254-1284
Division	Alaska State Troopers	Date:	02/28/2013 12:30 PM
Approved By:	Joseph A. Masters, Commissioner	Date:	02/28/13
	Department of Public Safety		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. HB105

Analysis

This proposed legislation would raise the minimum value of property or services for certain theft offenses.

Passage of this bill would not change the investigative process regarding these offenses and will have no fiscal impact on the department. Therefore, a zero fiscal note is being submitted.

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: HB 105
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB105-DOC-OC-03-01-13
Title: PROPERTY CRIMES
Sponsor: THOMPSON
Requester: House Judiciary

Department: Department of Corrections
Appropriation: Administration and Support
Allocation: Office of the Commissioner
OMB Component Number: 694

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2014 Appropriation Requested	Included in Governor's FY2014 Request	Out-Year Cost Estimates				
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES	FY 2014	FY 2014					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

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Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

This is the original version of the bill.

Prepared By: Kevin Worley, Director
Division: Department of Corrections - Administrative Services
Approved By: Leslie Houston, Deputy Commissioner
Department of Corrections

Phone: (907)465-4641
Date: 03/01/2013 08:00 PM
Date: 03/01/13

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. HB 105

Analysis

Passage of this legislation will increase the minimum amounts for property values associated with property thefts.

This legislation would impact the number of offenders incarcerated under this statute by changing what is currently a felony conviction to a misdemeanor conviction. At this time, data is not available for the Department to calculate the number of offenders who would be sentenced as misdemeanors under this bill. The Department will continue to monitor the potential impacts of this legislation.

Alaska Court System
Criminal Theft Charge Dispositions
in Cases Disposed During Calendar Year 2012

Charge Category	Charge Disposition	2011	2012	
Theft 1	Conviction	Guilty After Trial	1	0
		Guilty Conviction After Guilty Plea	13	20
		Guilty Conviction After No Contest Plea	2	0
		Total Charges	16	20
	No Conviction	Dismiss-Delay in Sup Ct Transfer CrR5(e),43(b)	0	1
		Dismissed by Prosecution (CrR43(a))	21	28
		No Probable Cause Found.Chrg Dism.CrR 5 or 5.1	0	1
		Total Charges	21	30
	Total Charges		37	50
	Theft 2	Conviction	Guilty After Trial	16
Guilty Conviction After Guilty Plea			443	443
Guilty Conviction After No Contest Plea			57	31
No Separate Conviction.Merged With Other Count			10	6
Total Charges			526	493
No Conviction		Acquitted After Trial	6	9
		Change of Venue	2	0
		Change of Venue to Fort Yukon	1	0
		Dismiss-Delay in Sup Ct Transfer CrR5(e),43(b)	39	26
		Dismissed by Court-CrR 45 - Speedy Trial	0	1
		Dismissed by Prosecution (CrR43(a))	936	952
		Dismissed on Motion of Defendant	6	3
		Dismissed-Furtherance of Justice CrR 43(c)	8	1
		No True Bill	6	3
		Total Charges	1004	995
Total Charges		1530	1488	
Theft 3	Conviction	Guilty After Trial	9	4
		Guilty Conviction After Guilty Plea	629	807
		Guilty Conviction After No Contest Plea	89	58
		No Separate Conviction.Merged With Other Count	1	0
		Total Charges	728	869

Alaska Court System
Criminal Theft Charge Dispositions
in Cases Disposed During Calendar Year 2012

			2011	2012
Theft 3	No Conviction	Acquitted After Trial	1	4
		Change of Venue to Fairbanks	1	0
		Dismissed by Court-CrR 45 - Speedy Trial	0	1
		Dismissed by Prosecution (CrR43(a))	576	567
		Dismissed Due to Identity Error	0	1
		Dismissed on Motion of Defendant	2	1
		Dismissed. Defendant Found Incompetent	1	0
		Dismissed-Furtherance of Justice CrR 43(c)	0	2
		No Probable Cause Found.Chrg Dism.CrR 5 or 5.1	8	2
		Total Charges		589
Total Charges		1317	1447	
Theft 4	Conviction	Guilty After Trial	3	1
		Guilty Conviction After Guilty Plea	202	305
		Guilty Conviction After No Contest Plea	24	33
		Total Charges		229
	No Conviction	Acquitted After Trial	1	0
		Dismissed by Prosecution (CrR43(a))	212	228
		Dismissed on Motion of Defendant	1	0
		Dismissed-Furtherance of Justice CrR 43(c)	1	1
		No Probable Cause Found.Chrg Dism.CrR 5 or 5.1	1	4
		No True Bill	0	1
Total Charges		216	234	
Total Charges		445	573	
Total Charges			3329	3558

End of Report

Alaska Court System
Criminal Theft Charges
Charges Filed During Calendar Year 2012

Charge Category	Charge Description	2011	2012
Theft 1	AS11.46.120: Theft 1- Value \$25,000+	38	69
	Total	38	69
Theft 2	AS11.46.130(a)(1): Theft 2-Value \$500-\$24,999	1145	1103
	AS11.46.130(a)(2): Theft 2-Firearm Or Explosive	320	205
	AS11.46.130(a)(3): Theft 2- From Person Of Another	28	28
	AS11.46.130(a)(4): Theft 2-Vessel Safety Equip	1	1
	AS11.46.130(a)(5): Theft 2-Aircraft Safety Equipment	0	1
	AS11.46.130(a)(6): Theft 2- \$50-\$499, Prior Convictions	46	104
	AS11.46.130(a)(7): Theft 2 - Access Device	323	272
	AS11.46.130: Theft 2	125	24
	Total	1988	1738
Theft 3	AS11.46.140(a)(1): Theft 3- Value \$50-\$499	977	1047
	AS11.46.140(a)(2): Theft 3- Access Device	2	6
	AS11.46.140(a)(3): Theft 3- Under \$50, Prior Convictions	45	73
	AS11.46.140: Theft 3	81	20
	Total	1105	1146
Theft 4	AS11.46.150: Theft 4- Under \$50	461	655
	Total	461	655
AS11.46.160(a): Theft Of Lost Or Mislaid Property	AS11.46.160(a): Theft Of Lost Or Mislaid Property	2	3
	Total	2	3
Total Charges		3594	3611

End of Report

Ernest Prax

From: Jane Pierson
Sent: Monday, March 04, 2013 12:43 PM
To: Ernest Prax; Karen Lidster
Subject: FW: HB 105 Property Crimes Average Sentences

Hi Ernest and Karen,

I just received this from Kaci Schroeder. Regarding sentencing time for theft crimes.

Jane

From: Schroeder, Kaci K (DOC) [<mailto:kaci.schroeder@alaska.gov>]
Sent: Monday, March 04, 2013 11:14 AM
To: Jane Pierson
Subject: HB 105 Property Crimes Average Sentences

Jane,

Here are the average sentence lengths for the crimes in HB 105. Please let me know if you have any other questions.

OFFENSE	AVERAGE SENTENCE LENGTH (IN DAYS) FOR CALENDAR YEAR 2003	AVERAGE SENTENCE LENGTH (IN DAYS) FOR CALENDAR YEAR 2012
AS11.46.130(A)(1)	592.83	534.63
AS11.46.130(A)(6)	288.3*	840.28
AS11.46.140(A)(1)	182.15	140.92
AS11.46.140(A)(3)	102.6*	164.14
AS11.46.150	60.09	65.87
AS11.46.220(C)(1)(B)	1095	.
AS11.46.220(C)(1)(C)	0**	621.67*
AS11.46.220(C)(2)(A)	57*	25.25*
AS11.46.220(C)(2)(B)	70	112.67*
AS11.46.280(D)(2)	681*	1095*
AS11.46.280(D)(3)	162.14*	.
AS11.46.280(D)(4)	80*	.
AS11.46.285(B)(1)	911.67*	730*
AS11.46.285(B)(2)	180*	479.61
AS11.46.285(B)(3)	180*	183.33*
AS11.46.360(a)(2)(A)	.	1257.22*
AS11.46.482(A)(1)	374.29	475.65
AS11.46.484(A)(1)	109.83	125.57
AS11.46.486(A)(2)	141.59	40
AS11.46.620(D)(1)	.	365*
AS11.46.620(D)(2)	.	182.5*

*Average Sentence Length based on fewer than 10 convictions and is therefore subject unpredictable variations potentially resulting in inconsistent averages.

**The offender was sentenced to a \$300 fine. However, the offense makes the list because the offender was incarcerated prior to sentencing.



KACI SCHROEDER
Special Assistant to the Commissioner II

Alaska Department of Corrections
802 3rd St - Douglas, AK 99824
Office: (907) 465-1854 - Cell: (907) 957-2167
Fax: (907) 465-3390 - kaci.schroeder@alaska.gov

★ CHOOSE RESPECT ★



February 15, 2013

AMERICAN CIVIL
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EMMA HILL, Anchorage
STUDENT ADVISOR

The Honorable Wes Keller, Chair
The Honorable Bob Lynn, Vice-Chair
House Judiciary Committee
Alaska State House of Representatives
State Capitol
Juneau, AK 99801

via email: Rep.Wes.Keller@akleg.gov
Rep.Bob.Lynn@akleg.gov

**Re: House Bill 105 - Relating to the Increase of Value in the
Property Offense Grading System
ACLU Letter of Support**

Chair Keller, Vice-Chair Lynn:

Thank you for the opportunity to submit this Letter of Support for House Bill 105, relating to the increase in value requirement for grades of theft and other property offenses.

The American Civil Liberties Union of Alaska represents thousands of members and activists throughout the State of Alaska who seek to preserve and expand individual freedoms and civil liberties guaranteed under the United States and Alaska Constitutions. In that regard, we appreciate the opportunity to provide the Committee with information highlighting the importance of the proposed legislation. Further, we appreciate the Committee's consideration of this Bill and hope for its passage; and thank the Sponsor for its introduction.

We would be happy to work with you or the Committee to answer any questions you might have.

Background

Crucial to the Alaska criminal justice system – as with virtually any comparable criminal justice system – are an important set of laws that defend

public safety. Different offenses are graded differently, to recognize that some crimes are comparatively worse than others. Murder is recognized as inflicting greater harm than theft, thus the range of penalties – in terms of years of incarceration or supervision, or of fines – is greater than for a theft offense.

Within certain types of offenses, legislatures identify different grades of severity. Theft of very valuable items is categorized more seriously than items of low value. Stealing items of high value, such as a car or jewelry, is punished more severely than shoplifting a magazine or a pack of gum. Assaults that result in or risk very serious injuries (like stabbings) are punished more seriously than minor assaults (like punching someone once).

This system is both intuitive and widely accepted. Moreover, the grading scheme serves a very important purpose by helping to ensure relative uniformity and proportionality in sentencing. Grading offenses properly also helps deter people from committing more serious offenses. ***But, if a grading system stops tracking the relative moral seriousness of crimes, it detracts from the function of the justice system.*** Maintaining the integrity of the grading system is a basic public safety function.

Revision of the Property Offense Grading Statutes is Long-Overdue – 35 Years in the Making

HB 105 proposes to increase the values associated with various grades of property offenses. The most common standard used for differentiating between more and less serious thefts looks at the value of the items stolen. Generally, using value of the items stolen as the basis for grading makes sense; a person presented with the opportunity to steal something of great value may need a stronger penalty to deter him from taking it, than someone presented with the opportunity to steal something worth a few dollars. Further, the grading of theft offenses along the lines of value deters someone who has stolen something from stealing more money or more goods.

However, a hazard of using monetary value as the basis of grading is that – over time – inflation can negatively impact the utility of this grading system. The cost of goods in Alaska has changed dramatically over the last several decades. **Legislatures should frequently amend theft statutes to ensure that the grading of theft offenses continues to track the seriousness of the crime.**

Upon review of the theft statutes, it appears that the dollar values associated with the grading of most theft offenses has not changed since 1978, when the current theft statutes were originally drafted. For instance, the second-degree theft statute, AS 11.46.130, treats as a C felony the theft of anything valued at more than \$500 – which HB 105 would increase to \$1500. Legal records show that that AS 11.46.130 has been amended multiple times since its original passage in 1978: in 1988, 1989, 1992, 2001, 2005, and 2006. However, none of those amendments addressed inflation over those decades. A 1982 case refers to the \$500 minimum

standard for the grading of second-degree theft. *Williams v. State*, 648 P.2d 603, 605 n.1 (Alaska App. 1982).

Similarly, the third-degree theft statute currently makes theft of items worth more than fifty dollars a class A misdemeanor, a standard that the bill would increase to \$250. That grading provision has also not been adjusted for inflation since its passage in 1978. *See Lee v. State*, 673 P.2d 892, 894 n. 1 (Alaska App. 1983).

This change is long overdue. Five hundred dollars in 1978 is worth \$1760.69 in 2012 dollars, while fifty dollars in 1978 is worth \$176.07 in 2012 dollars.¹ In 1978, a gallon of unleaded gasoline cost about 67 cents. A stamp cost 15 cents. The ordinary American household took home about \$15,000 a year.

Someone charged with felony theft in 2012 for stealing something worth \$500 (such as a nice bicycle) would have only been stealing an item worth about \$150 in 1978, and an item worthy only of misdemeanor charges by that Legislature's reckoning.

Another example of a provision now badly out of date is that amended by section 10 of HB 105, which makes causing damage of more than \$500 to someone else's car a class C felony. AS 11.46.482. HB 105 would raise that amount to \$1500. Anyone who has recently taken a car to an auto body shop can say that even very minor damage to a car can run upwards of \$500. From 1978 to 2006, the average cost of a car rose from \$6,500 to \$20,000.² Over the passage of time, the criminal mischief provision has changed from one that makes destroying 8% of a new car's value a felony, to one that makes destroying 2.5% of that car's value a felony. The legislature must make periodic adjustments to the grading of criminal offenses within reasonable time periods.

This inflation-related discrepancy is very important, because the relative seriousness of felony theft has declined while the seriousness of other offenses not graded in monetary terms has stayed the same. While stealing a bicycle has effectively become a felony over the passage of time, theft of a firearm has retained the same grading. One would likely not argue that theft of a bicycle and theft of a firearm are equivalently serious offenses. As another example, a second-degree burglary is a Class C offense. Again, we likely would not contend that stealing a bicycle from an open place is comparable to breaking into a store after hours with the intent to commit a crime inside.

///

¹ *See* Bureau of Labor Statistics, CPI Inflation Calculator, at <http://data.bls.gov/cgi-bin/cpicalc.pl>.

² Vehicles Technologies Office, U.S. Dep't of Energy, Average Price of a New Car, 1970-2006, at http://www1.eere.energy.gov/vehiclesandfuels/facts/2008_fotw520.html.

Standards in Other Pacific Region States

Other states have property offense laws which reflect much more lenient standards on monetary valuation.

California has two theft offenses:³ grand theft and petty theft. Grand theft includes any theft of property worth \$950 or more and is generally punishable by up to a year in jail. Cal. Penal Code §§ 487, 489. Petty theft is any theft under \$950 and is punishable by up to six months in jail. Cal. Penal Code §§ 488, 490.

In Oregon, theft of property worth more than \$1000 is a felony, subject to a maximum of five years of incarceration. Or. Rev. Stat. Ann. §§ 164.055, 161.625. Theft of more than \$100 is a class A misdemeanor, subject to a maximum of one year in jail. Or. Rev. Stat. Ann. §§ 164.045, 161.615. Theft of less than \$100 is a class C misdemeanor, subject to a maximum of 30 days incarceration. Or. Rev. Stat. Ann. §§ 164.043, 161.615.

In Washington State, thefts of property valued at more than \$5,000 are class B felonies, punishable by up to ten years of incarceration. Wash. Rev. Code Ann. §§ 9A.56.030, 9A.20.021. Theft of more than \$750 is a class C felony, punishable by up to five years in custody. Wash. Rev. Code Ann. §§ 9A.56.040, 9A.20.021. Theft of anything worth less than \$750 is a gross misdemeanor, punishable by a year in jail. Wash. Rev. Code Ann. §§ 9A.56.050, 9A.20.021.

Under current Alaska law, anyone stealing property worth more than \$25,000 is guilty of a class B felony and would be eligible for 10 years of incarceration. AS 11.46.120; AS 12.55.125. Anyone stealing property worth more than \$500 is guilty of a Class C felony and eligible for up to five years of incarceration. AS 11.46.130; AS 12.55.125. Anyone stealing property worth more than \$50 is guilty of a Class A misdemeanor and eligible for up to a year of incarceration. AS 11.46.140; AS 12.55.135. Anyone stealing property of any value is guilty of a Class B misdemeanor and eligible for up to a year of incarceration. AS 11.46.150; AS 12.55.135

This means that, under current Alaska law, someone stealing property worth \$500 is eligible for a longer sentence – five years – than he would be eligible for in any of the three states above: one year in Oregon and Washington, and six months in California. Theft of property worth \$50 in Alaska would make an offender eligible for a year in prison, the same as in Washington, while Oregon would set a 30-day maximum and California would allow only six months of incarceration.

³ All discussion of theft offense relates to their most general theft provision. Each state has its own unique grading policies and statutes, singling out special types of thefts (e.g., thefts of aircraft, animals etc.) or special offenders (e.g., offenders with multiple theft convictions) for special sentences. Exhaustively describing every single possible theft scenario in four different states would not be helpful to this body and require a longer memorandum.

The proposed changes in HB 105 will tend not only to account for inflation, but to bring Alaska law generally into line with other states in the region in terms of their punishment of property offenses.

A Suggested Further Provision to Ensure Prompt Future Inflation Adjustments

As the periodic adjustment of grading provisions for inflation is a necessary part of monetary based grading systems, the ACLU would suggest that the Legislature consider creation of a fixed mechanism for their review. The Legislature could designate some state employee, such as the Revisor of Statutes, to conduct a review every ten years (or some other reasonable period of time). Based on that review, a draft bill would adjust any provisions that rely on definite values expressed in dollars, for the index of inflation in the preceding decade. Our statutes would certainly benefit from a commitment by the Legislature to take steps to ensure that future inflation adjustments take place more frequently than every 35 years.

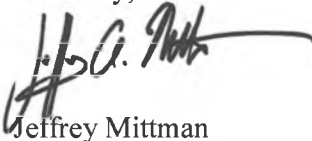
Conclusion

Again, we are pleased to support HB 105, and hope that the House Judiciary Committee will note the importance of reforming the grading of theft offenses as described therein. These changes are essential to maintaining a credible, rational justice system.

Please feel free to contact the undersigned should you require any additional information. Again, we are happy to reply to any questions that may arise either through written or verbal testimony, or to answer informally any questions which Members of the Committee may have.

Thank you again for the opportunity to express our support for HB 105.

Sincerely,



Jeffrey Mittman
Executive Director
ACLU of Alaska

cc: Representative Neal Foster, Rep.Neal.Foster@akleg.gov
Representative Max Gruenberg, Rep.Max.Gruenberg@akleg.gov
Representative Gabrielle LeDoux, Rep.Gabrielle.LeDoux@akleg.gov
Representative Charisse Millett, Rep.Charisse.Millett@akleg.gov
Representative Lance Pruitt, Rep.Lance.Pruitt@akleg.gov
Representative Steve Thompson, Rep.Steve.Thompson@akleg.gov



NATIONAL CONFERENCE *of* STATE LEGISLATURES

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Principles of Effective State Sentencing and Corrections Policy

A Report of the NCSL Sentencing
and Corrections Work Group



Principles of Effective State Sentencing and Corrections Policy

Rockefeller Drug laws in New York also have been reviewed and revised. Named after then-Governor Nelson Rockefeller, these laws included some of the nation's toughest mandatory sentences for drug offenses. In 2004, the Legislature made the first in a series of changes to the state's drug laws, including fixing shorter prison terms for nonviolent offenders, expanding eligibility for prison-based treatment and raising drug quantity thresholds for certain drug possession offenses. In 2004 and 2005, certain offenders serving lengthy prison sentences under the previous law were allowed to apply for resentencing under the new laws. In 2009, the Legislature further modified the drug laws, authorizing community supervision and substance abuse treatment for many nonviolent offenders who previously would have served mandatory prison terms.

Statement of Intent for 2009 New York Drug Sentencing Law

"New York has achieved great success in reducing the crime rate in recent years, in part, by targeting heightened penalties on violent felons. To achieve further dramatic success in reducing crime, our state must make a concerted effort to eliminate the substance abuse which lies at the core of most criminal behavior. Expanding the number of nonviolent drug offenders that can be court ordered to drug abuse treatment will help break the cycle of drug use and crime and make our streets, homes and communities safer. This will make New York's criminal justice policies not only tough -- but smart."

*A6085 (2009), quoted here, ultimately was enacted in the budget bill, Chapter 56 of 2009.

In 2011, the Kentucky General Assembly established drug quantity thresholds to distinguish offenders who are primarily drug users and in need of treatment from more serious drug dealers. Drug quantities were added to trafficking offenses and penalties for smaller amounts of controlled substances were lowered. The recent law also set probation as the presumptive sentence in lieu of a prison term for first or second-time convictions for possession of a controlled substance unless the court makes a finding that probation is not appropriate. Kentucky is among the states that have taken a comprehensive approach to screening felony defendants for substance abuse, diverting some to community supervision and sending others to secure treatment. Kentucky has 20 corrections-based treatment programs around the state.

Updating Theft Thresholds In many states, stealing a few hundred dollars' worth of property is or could be a felony. Over time, consumer goods increase in price. When felony theft thresholds do not keep pace, smaller thefts that would have been misdemeanors when the threshold was put in place become felonies, although that may not be the clear legislative intent.

Since 2000, at least 22 states have adjusted monetary thresholds for theft crimes; Figure 1 lists these states. Colorado's 2007 law included a provision requiring the Division of Criminal Justice to consult with state economists and make threshold recommendations to the General Assembly every five years to ensure that regular review and revision occur.



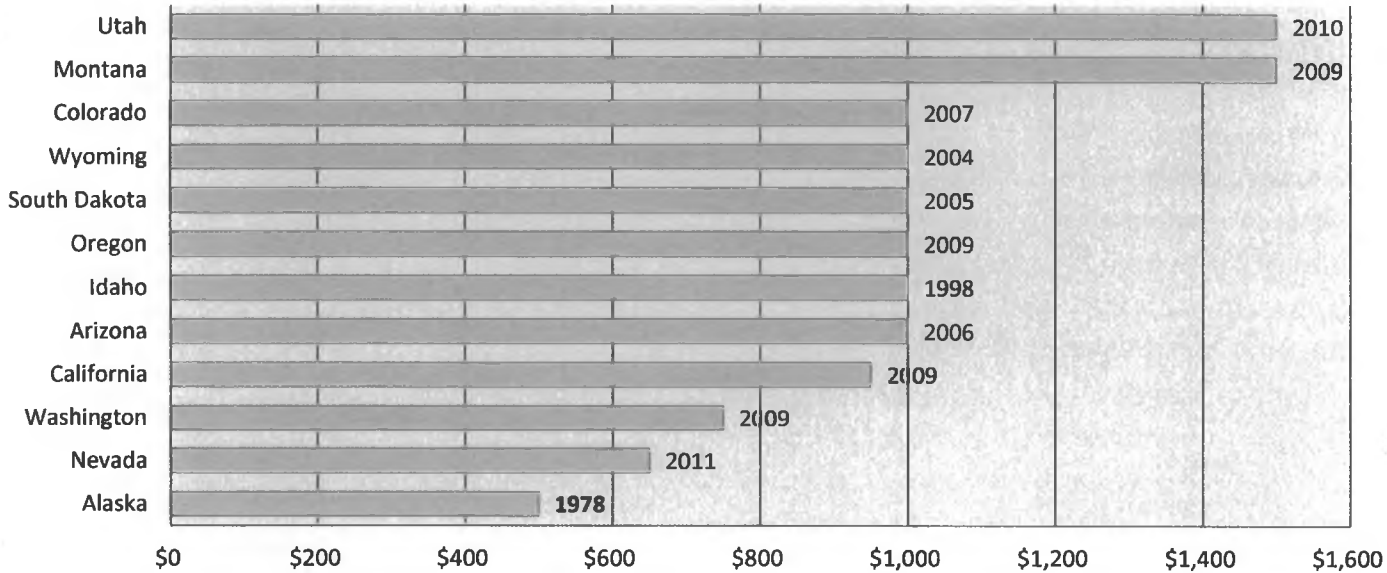
Review and revision of mandatory minimum sentences for some offenders and update of felony theft thresholds are among the significant ways state legislatures are modernizing criminal codes to reflect current circumstances and needs, as stated in *Principle 6*.

Felony Theft Thresholds for all 50 States

Prepared February 5, 2013 by Carmen Gutierrez

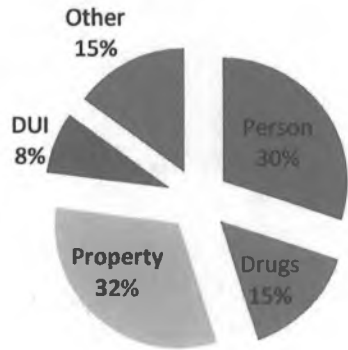
Alabama \$500
Alaska \$500
Arizona \$1,000
Arkansas \$1,000
California \$950
Colorado \$1,000
Connecticut \$1,000
Delaware \$1,000
Florida \$300
Georgia \$300
Hawaii \$300
Idaho \$1,000
Illinois \$500 for general larceny & \$300 for retail larceny
Indiana Theft is a Class D Felony, regardless of amount
Iowa \$1,000
Kansas \$1,000
Kentucky \$500
Louisiana \$500
Maine \$1,000
Maryland \$1000
Massachusetts \$250
Michigan \$1,000
Minnesota \$500
Mississippi \$500
Missouri \$500
Montana \$1,500
Nebraska \$500
Nevada \$650
New Hampshire \$500
New Jersey \$400
New Mexico \$500
New York \$1,000
North Carolina \$1,000
North Dakota \$500
Ohio \$1000
Oklahoma \$500
Oregon \$1,000
Pennsylvania \$2,000
Rhode Island \$500
South Carolina \$2,000
South Dakota \$1,000
Tennessee \$500
Texas \$1,500
Utah \$1,500
Vermont \$900
Virginia \$200
Washington \$750
Washington DC \$1,000
West Virginia \$1,000
Wisconsin \$2,500
Wyoming \$1,000

Theft Felony Thresholds in Western U.S. and Year of Adoption



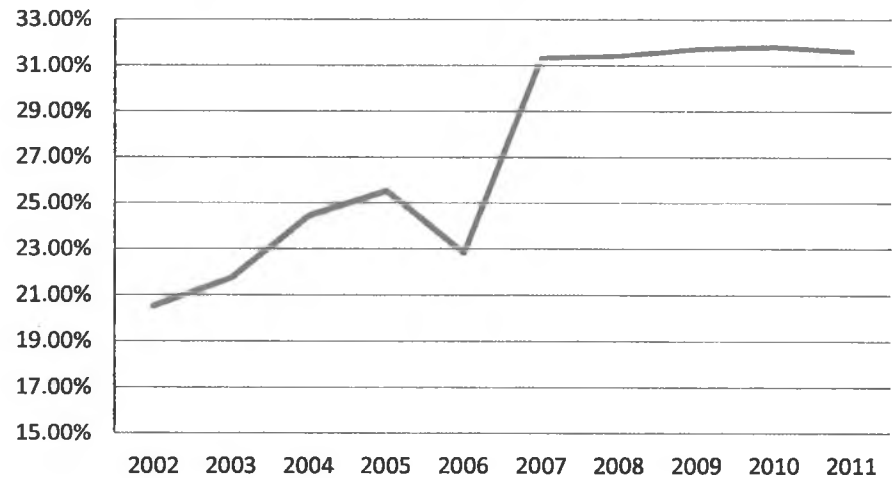
Alaska	\$500
Nevada	\$650
Washington	\$750
California	\$950
Arizona	\$1,000
Idaho	\$1,000
Oregon	\$1,000
South Dakota	\$1,000
Wyoming	\$1,000
Colorado	\$1,000
Montana	\$1,500
Utah	\$1,500

AK Felonies by Case Type FY11



U.S. Dollar Inflation	
1978	2011
\$50	\$173.06
\$500	\$1730.61

Property Crimes as a Percentage of All Felonies



NFIB

The Voice of Small Business®

ALASKA

February 4, 2013

The Honorable Steve Thompson
Alaska State House of Representatives
State Capitol Building
Juneau, Alaska 99801-1182

RE: House Bill 105

Dear Representative Thompson:

On behalf of the National Federation of Independent Business/Alaska, I wish to respectfully inform you of our opposition to House Bill 105. In a recent NFIB/Alaska member ballot our membership voted overwhelmingly to oppose any increase in the felony theft threshold. The National Federation of Independent Business is the largest small-business advocacy group in Alaska.

NFIB/AK members recognize that \$500 is a significant amount to a small business, and the state shouldn't be making it easier for thieves to steal from them by raising the felony theft threshold to \$1,500. There is substantial evidence that theft rings are becoming very sophisticated; they are aware of the felony limits and will steal up to that amount. Thus, while there might be potential savings in judicial processes, businesses would see a tripling of the amount of theft in goods. Instances of individuals "stealing to feed their families" are rare, and the courts and prosecutors have enough discretion to handle these circumstances appropriately. We believe that simply inflation-proofing crime is poor public policy.

Sincerely yours,



Dennis L. DeWitt
Alaska State Director

Cc: NFIB/AK Leadership Council
Rep. Wes Keller, Chair, House Judiciary Committee

March 4, 2013

Representative Wes Keller
Chair, House Judiciary Committee
State Capitol, Room 118
Juneau, AK 99801

Dear Representative Keller and members of the Committee:

My name is Shawn Crousore, and I am the Loss Prevention Coordinator for all 11 Fred Meyer stores in Alaska.

Thank you for the opportunity to provide testimony on this important issue.

I would like to ask you to consider not passing House Bill 105.

As you may know, Fred Meyer is a full-line grocery store as well as a general merchandise retailer. We sell many items in our stores that would become prime theft targets should this legislation pass. And I can tell you from experience that the news that a theft of up to \$1500 is just a misdemeanor would spread like wildfire among our theft and shoplifting community.

It seems to me that, from some of the statements I've seen regarding this legislation, those of us in the retail industry have not done a good enough job of explaining what is going on in our world when it comes to theft.

Theft in our stores is no longer a person grabbing a carton of milk or eggs or a bottle of wine and stuffing it in their jacket. It's not a young kid stealing one bike. The days when these kinds of thefts were our primary problem are long gone.

Theft is now a profession. Our problem in today's world is professional, savvy, organized crime rings.

At Fred Meyer we sell Dyson Vacuum Cleaners, KitchenAid Mixers, iPads and iPods, LED and Plasma flat screen TVs, Xbox and Wii consoles. These are the items where we face the most theft, and there has not been inflation in these products. In fact, there has been significant deflation. Flat screen TVs used to be \$6000. You can now get 30- and 40-inch flat screen TVs for \$500.

These professional thieves come into our stores and roll out with two Dyson Vacuum Cleaners, or four flat screen TVs. They take off with 30 or 40 DVDs. They break into our iPod cases and take off with a dozen Ipods. They then make a living by selling the items they steal.

Don't get me wrong: we have strong and successful theft prevention programs in our stores. We invest heavily in staying one step ahead of these professional criminals, and we do a very good job of it. But if any of you have been to a Fred Meyer store on a Thursday or Friday afternoon, you can see how the sheer volume of people in the store makes it possible for a skilled thief to gather multiple items and leave the store before anyone can catch them.

As a retailer, we're trying to get affordable merchandise to the customer, and in today's economy that means doing all we can to keep prices low. The items these professional thieves are stealing are very low margin – there's no margin in TVs or iPods. We sell them because we hope you'll also buy the accessories or grab your groceries while you're there. So when they steal these items from us, that cost simply comes out of the store profit with which we pay wages and benefits to our nearly 3000 employees in Alaska.

I ask you to please reconsider this legislation. At \$500, a young kid who makes a stupid mistake and steals a bike or a sweatshirt or a pair of cool headphones is still only committing a misdemeanor and will get his or her second chance. But \$1500 is just too high. It allows these professional criminals to walk out of our store with three flat screen TVs and get a slap on the hand. And I can tell you from experience that the theft community WILL know about this change and WILL adjust accordingly. Passage of House Bill 105 will lead to more theft and a big hit to the profits of your legitimate retailers.

Thank you for your time, and I'd be glad to take any questions.