

SB

43

<TARGET><BILL>SB 43</BILL><SUBJECT>SB
43</SUBJECT><COMM>SJUD28</COMM></TARGET>

Alaska State Legislature

SENATOR
JOHN COGHILL

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In-State Energy committee
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State Affairs Committee
Joint Services Committee
Legislative Council
Rules Committee



Senate Majority Leader

Session:
State Capitol, Room 119
Juneau, Alaska 99801-1182
(907) 465-3719
Fax (907) 465-3258
Interim:
301 Santa Claus Lane
North Pole Plaza Mall, Ste 3
(907) 452-2063
Fax (907) 451-2063
Fax (907) 451-2332
Toll Free 1-877-465-3719
www.aksenate.org

SECTIONAL

Senate Bill 43

An Act relating to theft offenses and Providing for an effective date

Section 1: AS 11.46.130(a) is amended to read:

This section will increase the minimum amount of property or services for the crime of theft in the second degree. Theft in the second degree is a class C felony and carries a maximum sentence of up to five years in prison and a fine of up to \$50,000.

(a) commits the crime of theft in the second degree if the person commits theft as defined in AS 11.46.100 and

- (1) the value of property or services is **\$1,500** [\$500] or more but less than \$25,000;
- (6) the value of the property is **\$250** [\$50] or more but less than **\$1,500** [\$500] and within the preceding five years the person has been sentenced on two or more separate occasions of an offense with similar elements.

Section 2. AS 11.46.140(a) is amended to read:

This section will increase the minimum amount of property or services for the crime of theft in the third degree. Theft in the third degree is a class A misdemeanor and carries a term of imprisonment of not more than one year and a fine of up to \$10,000.

(a) commits the crime of theft in the third degree if the person commits theft as defined in AS 11.46.100 and

- (1) the value of property or services is **\$250** [\$50] or more but less than **\$1,500** [\$500]; **or**
- (2) [REPEALED]
- (3) the value of the property is less than **\$250** [\$50] and within the past five years the person has been sentenced on two or more separate occasions of an offense with similar elements.

Section 3. AS 11.46.150(a) is amended to read:

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

(a) A person commits the crime of theft in the fourth degree if the person commits theft as defined in AS 11.46.100 and the value of the property or services is less than \$250 [\$50].

Section 4. AS 11.46.220(c) is amended to read:

This section will increase the minimum amount of merchandise for the crime of concealment of merchandise for a class C felony, and class A and B misdemeanors.

(c) Concealment of merchandise is

(1) a class C felony if

(B) the value of the merchandise is \$1,500 [\$500] or more, or

(C) the value of the merchandise is \$250 [\$50] or more but less than \$1,500 [\$500] and within the past 5 years the person has been convicted and sentenced on two or more separate occasions for an offense with similar elements.

(2) a class A misdemeanor if

(A) the value of the merchandise is \$250 [\$50] or more but less than \$1,500 [\$500]; or

(B) the value of the merchandise is less than \$250 [\$50] and, within the past 5 years the person has been convicted and sentenced on two or more separate occasions for an offense with similar elements.

(3) a class B misdemeanor if the value of the merchandise is less than \$250 [\$50].

Section 5. AS 11.46.260(b) is amended to read:

This section will increase the minimum amount of property that identification marks are removed from for a class C felony and class A and B misdemeanors.

(b) Removal of identification marks is

(1) a class C felony if the value of the property on which the serial number or identification mark appeared is \$1,500 [\$500] or more,

(2) a class A misdemeanor if the value of the property on which the serial number or identification mark appeared is \$250 [\$50] or more but less than \$1,500 [\$500];

(3) a class B misdemeanor if the value of the property on which the serial number of identification mark appeared is less than \$250 [\$50].

Section 6. AS 11.46.270(b) is amended to read:

This section will increase the minimum amount of unlawful possession of property for a class C felony and class A and B misdemeanors.

(b) Unlawful possession is

- (1) a class C felony if the value of the property on which the serial number or identification mark appeared is **\$1,500** [\$500] or more,
- (2) a class A misdemeanor if the value of the property on which the serial number or identification mark appeared is **\$250** [\$50] or more but less than **\$1,500** [\$500];
- (3) a class B misdemeanor if the value of the property on which the serial number or identification mark appeared is less than **\$250** [\$50].

Section 7. AS 11.46.280(d) is amended to read:

This section will increase the minimum amount of a bad check for a class C felony and class A and B misdemeanors.

(d) Issuing a bad check is

- (1) a class B felony if the face amount of the check is \$25,000 or more;
- (2) a class C felony if the face amount of the check is **\$1,500** [\$500] or more but less than \$25,000;
- (3) a class A misdemeanor if the face amount of the check is **\$250** [\$50] or more but less than **\$1,500** [\$500];
- (4) a class B misdemeanor if the face amount of the check is less than **\$250** [\$50].

Section 8. AS 11.46.285(b) is amended to read:

This section will increase the minimum amount of the fraudulent use of an access device for a class C felony and class A misdemeanor.

(b) Fraudulent use of an access device is

- (1) a class B felony if the value of the property or services obtained is \$25,000 or more;
- (2) a class C felony if the value of the property or services obtained is **\$1,500** [\$50] or more but less than \$25,000;
- (3) a class A misdemeanor if the value of the property or services obtained is less than **\$1,500** [\$50].

Section 9. AS 11.46.360(a) is amended to read:

This section will increase the minimum amount of property damage and expenses as a result of the loss of use of a vehicle.

- (2) the propelled vehicle of another and
 - (A) the vehicle or any other property of another is damaged in a total amount of **\$1,500** [\$500] or more;

(B) the owner incurs reasonable expenses as a result of the loss of use of the vehicle, in a total amount of **\$1,500** [\$500] or more; or

Section 10. AS 11.46.482(a) is amended to read:

This section will increase the minimum amount of property damage for the crime of criminal mischief in the third degree. Criminal mischief in the third degree is a class C felony.

(1) with intent to damage property of another, the person damages property of another in an amount of **\$1,500** [\$500] or more;

Section 11. AS 11.46.484(a) is amended to read:

This section will increase the minimum amount of property damage for the crime of criminal mischief in the fourth degree. Criminal mischief in the fourth degree is a class A misdemeanor.

(2) with intent to damage property of another, the person damages property of another in an amount of **\$250** [\$50] or more but less than **\$1,500** [\$500];

Section 12. AS 11.46.486(a) is amended to read:

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

(2) with intent to damage property of another, the person damages property of another in an amount less than **\$250** [\$50]; or

Section 13. AS 11.46.530(b) is amended to read:

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.

(1) a class C felony if the value of what the object purports to represent is **\$1,500** [\$500] or more;

(2) a class A misdemeanor if the value of what the object purports to represent is **\$250** [\$50] or more but less than **\$1,500** [\$500];

(3) a class B misdemeanor if the value of what the object purports to represent is less than **\$250** [\$50].

Section 14. AS 11.46.620(d) is amended to read:

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

- (1) a class C felony if the value of the property misapplied is **\$1,500** [\$500] or more;
- (2) a class A misdemeanor if the value of the property misapplied is less than **\$1,500** [\$500].

Section 15. AS 11.46.730(c) is amended to read:

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

(c) Defrauding creditors is a class A misdemeanor unless that secured party, judgment creditor, or creditor incurs a pecuniary loss of **\$1,500** [\$500] or more as a result to the defendant's conduct, in which case defrauding secured creditors is

- (1) a class B felony if the loss is \$25,000 or more;
- (2) a class C felony if the loss is **\$1,500** [\$500] or more but less than \$25,000.

Section 16. The uncodified law of the State of Alaska is amended by adding a new section to read:

This section will establish the date this act will apply to offenses committed.

APPLICABILITY. This Act applies to offenses committed on or after the effective date of this Act.

Section 17. This Act takes effect July 1, 2013.

FISCAL NOTE

STATE OF ALASKA
2013 LEGISLATIVE SESSION

Bill Version CSSB 43(JUD)
 Fiscal Note Number 1
 (S) Publish Date 3/6/13

Identifier (file name) SB043-ACS-TRC-2-7-13 Dept. Affected Alaska Court System
 Title Relating to Theft Offenses Appropriation Trial Courts
 Allocation _____
 Sponsor Senator Coghill
 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 Phone 907-463-4736
 Division Alaska Court System Date/Time 2/7/13 11:00 AM
 Approved by Nancy Meade for Christine Johnson, Administrative Director Date 2/7/2013
Alaska Court System

FISCAL NOTE ANALYSIS #1

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. CSSB 43(JUD)

Analysis

Senate Bill 43 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: CSSB 43(JUD)
Fiscal Note Number: 2
(S) Publish Date: 3/6/13

Identifier: SB043-DOA-OPA-2-19-13
Title: PROPERTY CRIMES
Sponsor: COGHILL
Requester: Senate 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 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:	Richard Allen, Director	Phone:	(907)269-3504
Division	Office of Public Advocacy	Date:	02/18/2013 07:04 PM
Approved By:	Curtis Thayer, Deputy Commissioner	Date:	02/19/13
	Department of Administration		

FISCAL NOTE ANALYSIS #2

**STATE OF ALASKA
2013 LEGISLATIVE SESSION**

BILL NO. CSSB 43(JUD)

Analysis

This legislation raises the felony level for theft and other property crimes from \$500.00 to \$1,500.00 and a class A misdemeanor from \$50.00 to \$250.00. This action is expected to help reduce the cost of processing cases that would formerly be charged as a felony and assist the Office of Public Advocacy (OPA) in absorbing caseload increase.

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

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: CSSB 43(JUD)
Fiscal Note Number: 3
(S) Publish Date: 3/6/13

Identifier: SB043-DOA-PDA-2-20-13
Title: PROPERTY CRIMES
Sponsor: COGHILL
Requester: Senate 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	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2014 Request	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:	Quinlan Steiner	Phone:	(907)334-4414
Division	Public Defender Agency	Date:	02/20/2013 09:16 AM
Approved By:	Curtis Thayer, Deputy Commissioner	Date:	02/20/13
	Department of Administration		

FISCAL NOTE ANALYSIS #3

**STATE OF ALASKA
2013 LEGISLATIVE SESSION**

BILL NO. CSSB 43(JUD)

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: CSSB 43(JUD)
Fiscal Note Number: 4
(S) Publish Date: 3/6/13

Identifier: SB043-DOC-OC-02-20-13
Title: PROPERTY CRIMES
Sponsor: COGHILL
Requester: Senate 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	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2014 Request	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:

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: 02/20/2013 03:00 PM
Date: 02/20/13

FISCAL NOTE ANALYSIS #4

**STATE OF ALASKA
2013 LEGISLATIVE SESSION**

BILL NO. CSSB 43(JUD)

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. There are no costs to the Department associated with this change in statute.

Testimony before the Senate Judiciary Committee
Senate Bill 43
Sean Crousore
Fred Meyer Stores district of Alaska Loss Prevention Coordinator
February 25, 2013

Good day Mr. Chairman and members of the Committee. My name is Sean Crousore, and I am the Loss Prevention Coordinator for all 11 Fred Meyer stores in Alaska.

Thank you for taking the time today to listen to everyone's important testimony.

I would like to ask you to consider not passing Senate Bill 43.

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 Senate Bill 43 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.