

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

5162 HTRA HB 213 (FILE 2) - HB 256

784

# STATE OF ALASKA

## DEPARTMENT OF PUBLIC SAFETY

DIVISION OF ADMINISTRATIVE SERVICES

May 13, 1983

Ms. Betty Barton  
Ms. Deborah Pomeroy  
Alaska State Legislature  
House Research Agency  
Pouch Y  
Juneau, Alaska 99811

Dear Research Staff:

In response to your letter of April 20, 1983 to Commissioner Sundberg, the attached data identifies the federal funding received by the Department of Public Safety.

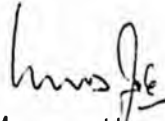
Narrative is provided to describe the program effects of reduced federal funding for the Highway Safety Planning Agency.

The Fatal Accident Reporting System (FARS) has received stable federal funding.

The Commercial Motor Carrier Safety Inspection and Weighing Demonstration Program was intended to terminate at the end of its third funding year.

If you have any questions, please call me or my staff.

Sincerely,



Jos Mapranath  
Director

Department of Public Safety

Robert J. Sundberg  
Commissioner

POUCH N  
JUNEAU, ALASKA 99811  
PHONE:

465-4336

RECEIVED  
MAY 17 1983

HOUSE RESEARCH AGENCY

## HIGHWAY SAFETY PLANNING AGENCY

The "Highway Safety Act" mandated that each state have a highway safety program and provided that the Governors would be directly responsible for the program within their respective states. AS 44.99.001, and Administrative Order Number 34 delegate the Governor's responsibility and authority to the Highway Safety Planning Agency for the highway safety program in Alaska. The highway safety program is a federally assisted state program which Congress requires be approved by the Secretary of Transportation.

Federal funds are allocated to the state to help administer sub-grants to state agencies and local jurisdictions.

The federal funds identified below are "no year funds" from the federal government, which means that we have the funds until spent, regardless of the fiscal year authorized, or the number of fiscal years needed to spend the funds. Because of this, the State budget usually requests authorization to carry forward and expend prior year funds.

The following obligational limitations on our federal funding reflect only the amounts actually received in the respective fiscal years. The State budgets may not coincide with the obligational limitations because of the difference in fiscal years and as explained previously, because of prior year federal funds being moved forward.

<u>1980</u> Base Program	\$ 834,383	<u>1981</u> Base Program	\$ 697,960
55 Enforcement	101,351	55 Enforcement	120,000
Seat Belts	16,975	Seat Belts	19,100
School Bus	12,500	School Bus	12,500
FHWA	138,846	FHWA	139,223
TOTAL	\$1,104,055	TOTAL	\$ 988,783

<u>1982</u> Base Program	\$ 329,875	<u>1983</u> Base Program	\$ 341,015
55 Enforcement	100,000	55 Enforcement	100,000
Seat Belts	9,500	Seat Belts	9,500
School Bus	25,000	School Bus	7,500
FHWA	49,000	FHWA	49,000
TOTAL	\$ 513,375	TOTAL	\$ 507,015

For FY 84, we anticipate \$507,015 will be new federal funds however we will not know for sure until about October.

As can be seen by the foregoing, federal funds are less than half of what they used to be and although we have supported legislation to offset these losses over the years, upon request for increased State funds, we have not been successful in obtaining more.

The biggest problem this has caused, is that although we receive less funds, the job that has to be done has not decreased.

The main area in which we have suffered is in the operation of this agency.

In 1981, for example, our Personal Services costs were \$361,500 for 9 positions. This has steadily decreased over the years to the point where our FY 84 Governor approved budget only provides \$140,300 for 5 positions, although this amount barely covers a little more than 2 positions.

The effects of this situation are having a tremendous impact on the citizens of the State as is explained in the following:

During the years 1975 through 1979, a great deal of emphasis was placed on the highway safety program in Alaska.

During this period, accidents, fatalities and the costs of accidents steadily decreased, as well as the cost of law suits against the State for engineering and maintenance related traffic accidents. In addition, according to the Division of Insurance, the cost of automobile insurance to the citizens of the State decreased steadily and significantly.

Beginning in 1980, the support for a comprehensive State traffic safety program was reflected by a reduction in federal as well as state funding.

During this period the reductions experienced in the period 1975 through 1979 began to turn around and have begun to increase steadily each year.

**ASSUMPTION:**

Economic conditions in the South 48 will drive more people to Alaska -- hence more drivers and more miles driven.

Decreased federal funds will be available for maintaining and improving the existing road network -- hence heavier traffic on deteriorating roads.

Decreased federal funds will be available for comprehensive highway safety projects.

Accidents and fatalities will continue to increase, as will the cost of these accidents to the citizens of the State.

Highway Safety related law suits against the State and its political subdivisions will continue to increase.

The cost of automobile insurance will cease its downward trend and will begin to increase.

Alaska Highway Safety Planning Agency

Traffic Accident Projection

<u>YEAR</u>	<u>TOTAL ACCIDENTS</u>	<u>INJURY ACCIDENTS</u>	<u>FATALITIES/RATE</u>	<u>PROPERTY DAMAGE</u>
1977	15,086	5,085	136/ 4.5	\$20,348,441
1978	12,962	4,822	127/ 4.5	18,775,536
1979	13,521	4,560	90/ 3.2	19,365,424
1980	13,165	4,993	88/ 3.3	20,793,029
1981	13,500	5,500	100/ 4.0	22,250,000
1982	14,000	6,000	115/ 4.5	23,750,000

## FATAL ACCIDENT REPORTING SYSTEM (FARS)

Since 1972, the National Highway Traffic Safety Administration (NHTSA) with the cooperation of the states has been developing the Fatal Accident Reporting System (FARS). The FARS is a national computerized data collection system which contains reports of current data on all motor vehicle traffic accidents in which there is a fatality. The FARS definition of a fatality is one which occurs within thirty (30) days of a motor vehicle traffic accident and as a result of the accident. The FARS is a primary tool which can be used by the NHTSA, the states, and the highway community to quantify the national and state accident picture, to identify problem areas, to evaluate highway safety countermeasures programs, and to enhance operation at both state and federal levels.

<u>Calendar Year</u>	<u>Contract Award</u>
1978	10,784
1979	10,393
1980	11,447
1981	10,935
1982	12,961
1983	14,854

COMMERCIAL MOTOR CARRIER SAFETY INSPECTION  
AND WEIGHING DEMONSTRATION PROGRAM

Alaska's participation in the "Commercial Motor Carrier Safety Inspection and Weighing Demonstration Program" began on March 12, 1980, through Cooperative Agreement DTFH 61-80-X-00042. The objectives of the Demonstration Program are to demonstrate the extent to which safety benefits can be obtained and to determine if the program is effective in increasing motor carrier compliance with the weight limitation specified by the United States Code and the State of Alaska.

Scope of Work

The State of Alaska shall accomplish these objectives during the term of the cooperative agreement by expanding State activity in the weighing and inspection of motor carriers utilizing uniform procedures. The activity under the Demonstration Program shall be above a base level of effort which shall be maintained by Alaska during the demonstration period.

In general, Alaska shall conduct combined weighing and inspection activities at fixed or permanent weighing facilities coupled with expanded portable weighing operations at various locations.

Alaska shall undertake the following three areas of responsibility; 1) the weighing of trucks; 2) the inspection of trucks and their drivers; and 3) the collecting and reporting of weighing, inspection, accident and cost data.

<u>Period</u>	<u>Amount</u>
March 12, 1980 - March 11, 1981	720,900
March 12, 1981 - March 11, 1982	709,250
March 12, 1982 - March 11, 1983	877,000

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-2300

May 19, 1983

Betty Barton  
Deborah Pomeroy  
Alaska State Legislature  
House of Representatives  
Research Agency  
Pouch Y  
Juneau, AK 99811

Ladies:

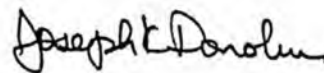
The Department of Revenue receives federal funds for its Child Support Enforcement Division. This funding is a reimbursement of 75 percent of the operating expenditures each fiscal year through FY 82. Beginning in FY 83 and in FY 84 the reimbursement rate is 70 percent. The following chart shows actual receipts for the fiscal years 1980, 1981, and 1982 and estimated receipts for 1983 and 1984.

Federal Receipts  
Department of Health and Human Services  
Title IV-D of the Social Security Act

FY 1980	FY 1981	FY 1982	FY 1983	FY 1984
\$1,505,100	\$1,755,300	\$1,815,000	\$2,458,800	\$2,875,200

As the reimbursement rate decreases, more state funds are required to maintain the current level of services.

Sincerely,



Joseph K. Donohue  
Deputy Commissioner, Taxation

JKD:jas

# STATE OF ALASKA

Department of Transportation  
and Public Facilities

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES  
DEPUTY COMMISSIONER - STANDARDS & STATEWIDE PROGRAMS

POUCH Z  
JUNEAU, ALASKA 99811  
PHONE: (907)465-3900

May 13, 1983

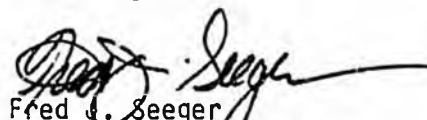
Ms. Betty Barton  
Ms. Deborah Pomeroy  
Research Staff  
Alaska State Legislature  
House of Representatives  
Research Agency  
Pouch Y  
Juneau, Alaska 99811

Dear Ms. Barton and Pomeroy:

With one minor exception, the Department of Transportation and Public Facilities is not experiencing any reductions in federal funding. In fact, the opposite is true as our major source of funds from the Federal Highway Administration has increased by almost 50% this year and will continue to increase in each of the next three years.

The only case where we are experiencing a reduction is in our Urban Mass Transit Administration (UMTA) section 18 funds. In the past few years we have been averaging approximately \$162,500 a year. The Department has passed the funding through to seven Alaskan cities to assist the communities in paying operating cost of transit services such as ferries, buses and taxis. These funds are classified as block grants and the current federal administration plans to reduce the funding by approximately 80% in 1984, 90% in 1985, and eliminate altogether after that. If the reductions are realized as planned the cities will have to increase taxes or fares or substantially reduce their operations.

Sincerely,

  
Fred J. Seeger  
Deputy Commissioner

cc: John C. Bates, Director, Planning & Programming  
Emil Notti, Special Assistant, Office of the Governor  
Wayne E. Weeks, Manager, Unit Support, Planning & Programming



Alaska Court System  
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

303 K Street  
Anchorage, Alaska 99501

May 17, 1983

ROBERT G. FISHER  
Manager of Fiscal Operations

RECEIVED  
MAY 23 1983

HOUSE RESEARCH AGENCY

Ms. Deborah Pomeroy  
Research Agency  
State House of Representatives  
Pouch Y  
Juneau, AK 99811

Dear Ms. Pomeroy:

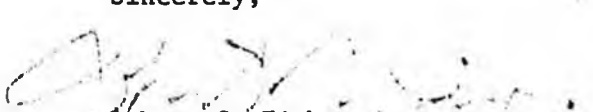
As we discussed the Alaska Court System is not a direct recipient of federal funds. The Court receives funds through other state agencies or political subdivisions. A schedule of grant funds received by the Court during fiscal years 1980 through 1984 is attached.

The effect of the loss of this funding can be summarized by the use of the funds. The elimination of CETA funds has greatly hampered the Court's ability to create a pool of trained temporary employees. Many of these employees were later promoted into permanent positions. The CETA program also helped to provide a ready pool of employees during temporary workload increases.

The elimination of the planning and continuing education funds has created a direct impact on the Court's operating budget. These programs are quite worthwhile and have had to be continued using general funds.

I hope this satisfactorily answers your questions. If not, please feel free to contact me.

Sincerely,

  
Robert G. Fisher  
Fiscal Officer

RGF/11

ALASKA COURT SYSTEM  
FEDERAL REVENUES  
FY1980 - FY1984

<u>SOURCE</u>	<u>PURPOSE OF FUNDING</u>	<u>FUNDING PERIOD</u>	<u>AMOUNT</u>
	(Revenues Originating in FY80)		
Department of Community & Regional Affairs	CETA Contract (#541401)	10/1/79 - 9/30/80	\$ 52,662
Department of Community & Regional Affairs	CETA Contract (#246106)	10/1/79 - 9/30/80	40,765
Municipality of Anchorage	CETA Contract (#C-II-905)	10/1/79 - 9/30/80	59,019
Municipality of Anchorage	CETA Contract (#C-VI-8006)	10/1/79 - 9/30/80	68,019
Department of Law-Criminal Justice Planning Agency	Planning Grant (#80-PD-001)	1/1/80 - 3/31/81	36,900
Department of Law-Criminal Justice Planning Agency	Continuing Judicial Education (#80-A-005)	1/1/80 - 12/31/80	12,461
	(Revenues Originating in FY81)		
Municipality of Anchorage	CETA Contract (#C-VI-8105S)	10/1/80 - 9/30/81	125,071
Municipality of Anchorage	CETA Contract (#C-VI-8118)	10/1/80 - 9/30/81	53,780
Department of Law-Criminal Justice Planning Agency	Continuing Judicial Education (#80-A-021)	4/1/81 - 5/19/82	37,144

\*Please Note: In FY82, FY83, and FY84 the Court did not receive Federal Funds.

HB

214

## Curt Menard

351 W. Swanson Ave.  
Wasilla, Alaska 99687

Or

P.O. Box V  
Juneau, Alaska 99811

376-5315 Work  
745-8122 Work  
376-5855 Home  
465-2679 Juneau



APR 16 1987

April 15, 1987

Bette Cato  
Chairman, House Transportation  
Pouch V  
Juneau, AK 99811

Dear Representative Cato,

I have been contacted by Mr. John Anton with an idea that just might save the Railroad some of their money, the Legislature their time, and the moose their hides.

I am forwarding this same information to the co-sponsors of HB214, The Departments of Fish and Game and Natural Resources, all members of House Transportation, the Alaska Moose Federation and the Alaska Outdoor Council.

This information is being offered for discussion purposes in relation to the objectives outlined in HB214.

Please feel most welcome to call if there are any questions.

Warm Regards,

A handwritten signature in dark ink, appearing to read "Curt Menard".

Curt Menard  
Representative

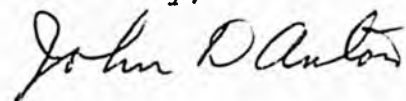
## SPECIFICATIONS

Dimension of tank may vary due to placement. At 7.8 gallons per cubic foot, you would have to maintain at least 133 cubic feet. This would give you about 1,000 gallons. You also would have to consider a tank heater if mounted externally. Minimum 3" rigid pipe will be needed to supply the vain pump. Heat tape will be needed concentrically applied to rigid pipe. The nozzle will have to be wrapped with heat tape also. Pump must be applied as close to nozzle as possible to prevent water loss. Water supply must be actuated at the end of the nozzle. The pump switch would have to be at hand right at the turret. You would have pressure instantaneously when throwing the switch. You would open and close the nozzle manually but you could not slam the lever shut very fast because it would produce a hammer effect which could possible destroy the hydraulics. Capacity of the pump would have to be of minimum output of 250 GPM. The turret would have to be omni-directional. Pump pressure would have to be minimum of 120 PSI to maintain 90 PSI at end of nozzle due to pressure loss in pipe. Water will have significant force at the extreme range of 200 feet when using a 1" nozzle and an increasing force the closer the target. At this GPM you would have basically enough fluid supply for 4 minutes of steady stream. Therefore by using 3 to 4 second blasts of water the use of the wate is more efficient. Exact placing of this device may be applied to the train itself under direction and consideration of the railroad mechanics since this device may be removed seasonally.

My experience with wild game, is that when pursued they run in a line of least resistance, i.e. down the tracks. They will continue on this course until they sense a more immediate threat. The purpose of this water cannon is to make the moose aware that it is in "contact" with its pursuer, therefore resorting to its natural instinct of changing direction - hence leaving the tracks.

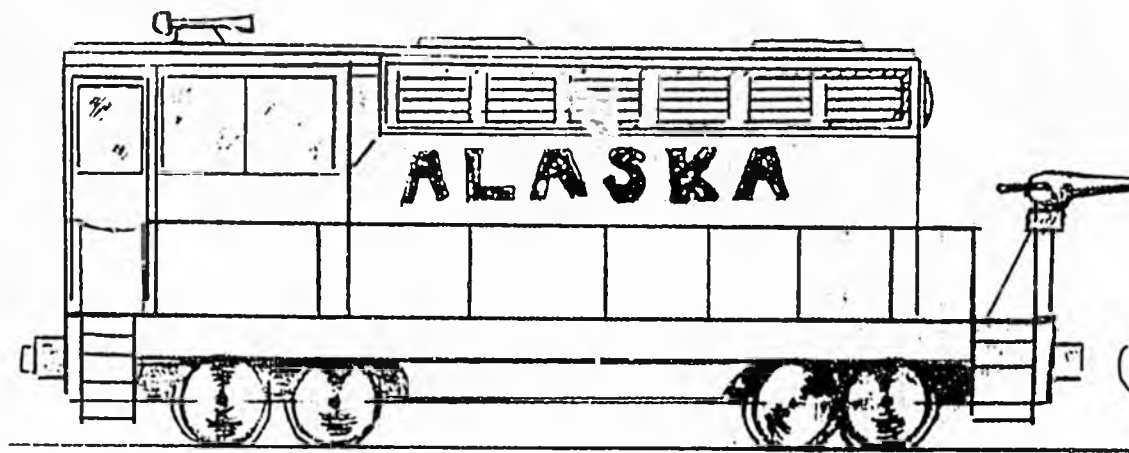
If you have any questions and/or would like to discuss this project please contact me by phone at 248-3114 or correspondence at 3322 W. 88th, Anchorage, AK 99502

Sincerely,

A handwritten signature in cursive script that reads "John Anton". The signature is written in dark ink and is positioned above the printed name.

John Anton

1000 GAL.  
RES.  
EQUIPTED  
WITH  
HEATER



3" RIDGED STEEL PIPE

HEAT TAPE

OFF/ON  
LEVER

MANUALLY CONTROLLED

TURRET

LINE PRESSURE AT  
NOZZLE 80 PSI

LINE PRESSURE AT  
PUMP 120 PSI

250 GPM VAIN PUMP  
"ELECTRICAL"  
ACTIVATED VIA ELECTRICAL  
SWITCH LOCATED AT NOZZLE.

HB

221

# Alaska State Legislature



## House of Representatives

### Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4858

April 6, 1987

FOR TODAY'S MEETING YOU HAVE:

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A FOLDER ON HB 221 THAT INCLUDES:

- \* a copy of HB 221
- \* a zero fiscal note from the Dept. of Commerce and Economic Development
- \* a position paper from the Alaska Railroad Corp.
- \* a copy of the statutes impacted by HB 221

SECTIONAL ANALYSIS OF SSHB 221:

Title 42 refers to the Alaska State Statutes on Public Utilities and Carriers.

Chapter 40 refers to the Alaska Railroad Corporation (ARRC).

Entry #260(b) is part of Article 4 regarding powers and duties of the ARRC and has to deal with ARRC's annual report.

Section 1 of SSHB 221 has to do with a report that would analyze potential sale arrangements whereby ARRC may be transferred into private ownership.

SSHB 221 specifies that the first report to the effect of selling the railroad would be due in ARRC's annual report for fiscal year 1991. THE FISCAL YEAR REFERRED TO IN SSHB 221 IS THE FISCAL YEAR OF THE ALASKA RAILROAD CORPORATION.

The ARRC operates on a fiscal year that extends from January 1 through December 31. The legislature operates on a fiscal year that extends from July 1 through June 30. By including the required information in its 1991 annual report, ARRC would be providing the legislature with the required information during legislative fiscal year 1992.

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

REQUEST: \_\_\_\_\_  
 Revision Date: \_\_\_\_\_  
 Title: An Act Suspending Requirements for Reports on Arrangements and Offers to Sell the Alaska Railroad  
 Sponsor: Rep. Cato  
 Requestor: House Transportation Committee  
 Bill Version: HB 221  
 Publish Date: 3-27-87  
 Agency Affected: Alaska Railroad Corporation  
 BRU: \_\_\_\_\_  
 Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-					
CAPITAL	-0-					
REVENUE	*					

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-					
FEDERAL FUNDS						
OTHER						
TOTAL	-0-					

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

\*As the position paper submitted by the Alaska Railroad Corporation explains, delaying efforts to sell the railroad beyond January 5, 1987, will mean that the State of Alaska, not the United States, will enjoy any sale profits.

Prepared by: Larry D. Wood, General Counsel Phone: 265-2461  
 Division: Alaska Railroad Corporation Date: 4-6-87  
 Approved by Commissioner: \_\_\_\_\_ Date: 4-6-87  
 Agency: F.G. Turpin, President & CEO *M.G. [Signature]*

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

# ALASKA RAILROAD CORPORATION



P.O. Box 7-2111 • Anchorage, Alaska 99510-7069

VIA TELECOPIER

April 3, 1987

APR 6 1987

Honorable Bette Cato, Chairman  
House Transportation Committee  
House of Representatives  
P.O. Box V, Room 15  
Juneau, Alaska 99811

Re: HB No. 221, An Act Suspending Requirements for Reports  
on Arrangements and Offers to Sell the Alaska Railroad

Dear Representative Cato,

Thank you for providing this opportunity for the Alaska Railroad Corporation ("ARRC") to comment on HB No. 221. As you know, the bill proposes to amend the Alaska Railroad Corporation Act and will require that the first analysis and documentation of potential railroad sale arrangements appear in the corporation's annual report for fiscal year 1992. We understand that "1990" in the present version of the bill is a typographical error.

For the reasons stated in enclosed position paper, we strongly support this legislation. Should the railroad be sold, delay of mandatory sale arrangements beyond 1990 will avoid federal legal requirements that sale profits be paid to the United States. This action will clearly serve the State's best interests.

Thank you also for your sponsorship of this important legislation.

Sincerely,

F. G. Turpin  
President and Chief Executive Officer

cc: James C. Campbell, Chairman

4112L

HOUSE BILL NO. 221

AN ACT SUSPENDING REQUIREMENTS FOR REPORTS  
ON ARRANGEMENTS AND OFFERS TO SELL THE  
ALASKA RAILROAD

I. INTRODUCTION

HB No. 221 proposes that the first analysis and documentation required under AS 42.40.260(b) (part of the Alaska Railroad Corporation Act ("ARCA")) be included in the corporation's annual report for fiscal year 1992.

The Alaska Railroad Corporation ("ARRC") strongly supports this legislation.

II. DISCUSSION

When the State of Alaska purchased the Alaska Railroad in January, 1985, it agreed to many sale terms. These terms include a provision in the federal Alaska Railroad Transfer Act ("ARTA") which requires the State to turn over any profits of a subsequent sale or transfer of the railroad to the United States, if the sale occurs within the first five years of state ownership. 45 USC § 1209(e). This period expires on January 5, 1990.

In the face of this restriction, ARCA presently requires ARRC to include in its annual report an analysis of potential arrangements to sell the railroad every five years, including documentation of at least three offers to sell the railroad. These offers must be bona fide attempts by the state-owned railroad to sell all or part of its assets and operations.

The combination of ARTA's requirement that the State turn over any profits to the federal government if the railroad is sold before January 5, 1990, and the great cost of researching, preparing, soliciting, and negotiating meaningful sale offers does justify delay of ARCA's mandate that sale offers be solicited by ARRC before 1990. This will be simply accomplished by HB No. 221.

The bill extends the due date for the first analysis of potential sale arrangements to fiscal year 1992 which is outside the federal protection period. This action will guarantee that the State will properly enjoy the entire

proceeds of any sale or transfer of the line. The modification of ARCA will clearly serve the State's best interests.

Finally, although out-of-pocket expenses associated with the preparation and negotiation of meaningful offers to sell the railroad may be deducted from sale proceeds which must be paid to the United States, there is less certainty about the deductibility of sale costs directly attributed to hundreds of hours of State and Railroad staff time. In light of that uncertainty, it is most prudent to delay such activities until all costs associated with State disposal of the railroad can be fully realized by its sale.

### III. CONCLUSION

ARRC views HB 221 as an important modification of the Alaska Railroad Corporation Act and urges that it be favorably considered.

4114L

# Alaska Statutes

## Title 1. General Provisions.

### Chapter

10. Laws and Statutes (§§ 01.10.030, 01.10.055, 01.10.060, 01.10.070)

### Chapter 05. Alaska Statutes.

#### Sec. 01.05.006. Adoption of Alaska Statutes.

Cross references. — For exception to provision that section headings are not a part of the law, see AS 45.01.109.

#### NOTES TO DECISIONS

Cited in Schnabel v. State, Ct. App. Op. No. 250 (File No. 7273), 663 P.2d 960 (1983).

#### Sec. 01.05.031. Revision of statutes.

#### NOTES TO DECISIONS

Quoted in Schnabel v. State, Ct. App. Op. No. 250 (File No. 7273), 663 P.2d 960 (1983).

## Chapter 10. Laws and Statutes:

### Article

2. General Rules of Statutory Construction (§§ 01.10.030, 01.10.055, 01.10.060)  
3. Effect of Statutes (01.10.070)

### Article 1. Common Law.

#### Sec. 01.10.010. Applicability of common law.

#### NOTES TO DECISIONS

Quoted in Wells v. State, Ct. App. Op. No. 401 (File Nos. 7479, 7663), 687 P.2d 917 (1984); Beran v. State, Ct. App. Op. No. 506 (File Nos. A-535, A-629, A-630, A-679), 705 P.2d 1280 (1985); Balentine v. State, Ct. App. Op. No. 538 (File No. A-381), 707 P.2d 922 (1985); State v. Burke, Ct. App. Op. No. 583 (File No. A-908), 714 P.2d 374 (1986).  
Cited in Jackson v. State, Ct. App. Op. No. 211 (File No. 6664), 657 P.2d 405 (1983); Stiegele v. State, Ct. App. Op. No. 382 (File No. A-399), 685 P.2d 1255 (1984).

(10) "property" includes real and personal property;

(11) "real property" is coextensive with land, tenements, and hereditaments;

(12) "signature" or "subscription" includes the mark of a person who cannot write, with the name of that person written near the mark by a witness who writes the witness's own name near the name of the person who cannot write; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names to the sworn statement;

(13) "state" means the State of Alaska unless applied to the different parts of the United States and in the latter case it includes the District of Columbia and the territories;

(14) "writing" includes printing. (§ 4 ch 62 SLA 1962; am § 2 ch 66 SLA 1965; am § 10 ch 117 SLA 1968; am § 19 ch 74 SLA 1985)

Revisor's notes. — Reorganized in 1985 to alphabetize the defined terms. Effect of amendments. — The 1985 amendment added paragraph (4).

NOTES TO DECISIONS

Quoted in Hull v. Alaska Fed. Sav. & Loan Ass'n, Sup. Ct. Op. No. 2605 (File No. 6346), 658 P.2d 122 (1983).

Article 3. Effect of Statutes.

Section

70. Time statutes become law and take effect

Sec. 01.10.070. Time statutes become law and take effect. (a) All bills passed by the legislature become law upon the governor's signature or upon the governor's veto being overridden or, when the governor allows a bill to become law without signature, on the day after expiration of the period allowed for gubernatorial action by art. II, § 17 of the Alaska Constitution. Acts become effective 90 days after becoming law, unless the legislature, by concurrence of two-thirds of the membership of each house, provides for another effective date.

(b) The actual effective date of an Act having no effective-date provision is determined by starting with the day after it is signed by the governor or the day after the governor's veto is overridden or the day after expiration of the period allowed for gubernatorial action by art. II, § 17 of the Alaska Constitution, and counting 90 calendar days, the Act becoming effective at 12:01 a.m., Alaska Standard Time on the 90th day.

(c) The actual effective date and time of an Act having an immediate-effective-date provision is 12:01 a.m., Alaska Standard Time, on

the day  
govern  
period  
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(d) A  
at 12:0  
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the day after it is signed by the governor or on the day after the governor's veto is overridden or on the day after expiration of the period allowed for gubernatorial action by art. II, § 17 of the Alaska Constitution.

(d) An Act which specifies a definite effective date becomes effective at 12:01 a.m., Alaska Standard Time on the date specified.

(e) When the governor allows a bill to become law without signature, the governor shall give written notice of that fact to the legislature. The date of this notice has no effect upon the date the bill becomes law nor upon the date the Act takes effect.

(f) In this section

(1) "Act" means a bill which has become law;

(2) "bill" means a legislative document proposing an Act;

(3) "becomes effective" means becomes applicable; "effective date" does not mean date of enactment (or date of becoming law), although the two will coincide when a bill which has an immediate-effective-date provision is allowed to become law without the governor's signature;

(4) "becomes law" means is enacted; "enactment" occurs when any one of the following takes place:

(A) a bill which is passed by the legislature is signed by the governor;

(B) the period specified in art. II, § 17 of the Alaska Constitution expires without gubernatorial action;

(C) the legislature overrides the governor's veto of a bill;

(5) "passed by the legislature" means that the required majority of each house of the legislature has taken final action in approving the same version of a bill. (§ 5 ch 62 SLA 1962; am § 8 ch 126 SLA 1966; am § 1 ch 115 SLA 1974; am §§ 1—3 ch 6 SLA 1984)

**Effect of amendments.** — The 1984 amendment substituted "Alaska" for "Pacific" near the end of subsection (b), near the beginning of subsection (c), and in subsection (d).

#### NOTES TO DECISIONS

Applied in *Atlantic Richfield Co. v. State*, Sup. Ct. Op. No. 2695 (File No. S-52), 666 P.2d 1031 (1985).

#### Sec. 01.10.080. Computation of time.

#### NOTES TO DECISIONS

Quoted in *Fairbanks N. Star Borough v. Tundra Tours, Inc.*, Sup. Ct. Op. No. 3052 (File Nos. S-524, S-554), P.2d (1986).

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# Alaska Statutes

## Title 42. Public Utilities and Carriers.

### Chapter

- 05. Alaska Public Utilities Commission Act (§§ 42.05.141, 42.05.251, 42.05.361, 42.05.365, 42.05.381, 42.05.385, 42.05.431, 42.05.651, 42.05.711, 42.05.720)
- 06. Pipeline Act (§§ 42.06.160 — 42.06.200, 42.06.280, 42.06.340, 42.06.610, 42.06.630)
- 07. Alaska Transportation Commission Act (Repealed)
- 10. Alaska Motor Freight Carrier Act (Repealed)
- 30. Miscellaneous Regulations Governing Public Utilities and Carriers (§§ 42.30.200, 42.30.225, 42.30.380)
- 40. Alaska Railroad Corporation (§§ 42.40.010 — 42.40.990)

### Chapter 05. Alaska Public Utilities Commission Act.

#### Article

- 2. Powers and Duties of the Commission (§ 42.05.141)
- 3. Certificate of Public Convenience and Necessity (§ 42.05.251)
- 5. Rates and Rate Schedules (§§ 42.05.361, 42.05.365, 42.05.381, 42.05.385, 42.05.431)
- 9. Miscellaneous Provisions (§ 42.05.651)
- 10. General Provisions (§§ 42.05.711, 42.05.720)

#### Article 2. Powers and Duties of the Commission.

##### Section

- 141. General powers and duties of the commission

##### Sec. 42.05.141. General powers and duties of the commission.

(a) The Alaska Public Utilities Commission may

(1) regulate every public utility engaged or proposing to engage in such a business inside the state, except to the extent exempted by AS 42.05.711, and the powers of the commission shall be liberally construed to accomplish its stated purposes;

(2) investigate, upon complaint or upon its own motion, the rates, classifications, rules, regulations, practices, services and facilities of a public utility and hold hearings on them;

(3) make or require just, fair and reasonable rates, classifications, regulations, practices, services and facilities for a public utility;

(29) enter into agreements with a state agency or other instrumentality of the state; and

(30) do all things necessary or desirable to carry out the powers and duties of the corporation granted or necessarily implied in this chapter or other laws of the state or the laws or regulations of the federal government. (§ 2 ch 153 SLA 1984)

**Sec. 42.40.260. Annual report.** (a) Within 90 days following the end of the fiscal year of the Alaska Railroad the board shall distribute to the governor and to the legislature a report describing the operations and financial condition of the corporation during the preceding fiscal year. The report may include suggestions for legislation relating to the structure, powers or duties of the corporation or to the operation or facilities of the corporation. Subject to AS 42.40.220, the report shall itemize the cost of providing each category of service offered by the railroad and the income generated by each category.

(b) Every five years the annual report shall include an analysis of potential sale arrangements whereby the corporation may be transferred into private ownership. The analysis shall include documentation of at least three offers to sell the corporation initiated by the corporation during the last five years. (§ 2 ch 153 SLA 1984)

**Sec. 42.40.270. Audits.** (a) The board shall have the financial records of the corporation audited annually by an independent certified public accountant experienced in railroad accounting. The board shall have an annual performance audit conducted by a recognized railroad management expert to assure that the railroad is being managed and operated effectively and efficiently in accordance with the requirements of this chapter and that each appropriation is used to directly support those services for which the appropriation was requested. Auditors shall use the standards required under AS 42.40.100(9) and determine whether appropriations received for a service that is not self-sustaining were calculated in accordance with United States Interstate Commerce Commission standards for determining rail service subsidies.

(b) The corporation shall make all of its financial records available to an auditor appointed by the governor and to the legislative audit division for examination. Disclosure to the public by the auditor or legislative audit division of this information is subject to AS 42.40.220 and rules implementing that section. (§ 2 ch 153 SLA 1984)



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

P.O. Box Y, State Capitol  
Juneau, Alaska 99811-3100  
Mail Stop 3100  
(907) 465-3991

January 16, 1987

MEMORANDUM

TO: Representative Bette Cato

ATTN: Wendy Chamberlain

FROM: Penelope Weyhrauch  
Legislative Analyst

RE: Exemptions to and Sale Provision of the Alaska Railroad Act  
Research Request 87.057

You asked for a discussion of the Alaska Railroad Act exemptions and what effect repealing the exemptions might have on the Alaska Railroad Corporation. You also asked for a discussion of the requirement relating to offering the railroad for sale, and whether or not the Alaska Railroad Corporation is complying with this requirement.

Alaska Railroad Act Exemptions

I contacted the Alaska Railroad Corporation (ARRC) and asked them to discuss how the corporation would be affected by repealing the exemptions listed in AS 42.40.920. I asked Tad Lewis, General Counsel for the ARRC, what specific effect on the corporation's revenue and operations the repeal of each of the statutory exemptions would have. Mr. Lewis' letter response is attached. You will note that the response is very general.

Offering the Alaska Railroad for Sale

Alaska Statutes 42.40.260(b) states that "Every five years the [corporation's] annual report shall include an analysis of potential sale arrangements whereby the corporation may be transferred into private ownership. The analysis shall include documentation of at least three offers to sell the corporation initiated by the corporation during the last five years."

According to Jack McGee, Assistant Alaska Attorney General, AS 42.40.260(b) provides all the guidelines available for ARRC to follow to meet the offer-to-sell requirement. Mr. McGee said that the first five-year period began on January 5, 1985, at the time ownership for the railroad passed from the

federal government to the State. The ARRC is required to offer the railroad for sale three times before January 5, 1990.

Mr. McGee said that he interprets the statutory offer-to-sell requirement to mean that the ARRC must actively solicit offers and not just advertise that the railroad is for sale. Mr. McGee said that if the corporation does not comply with the statutory requirement, the legislature would probably take action, the severity of which would depend on how strongly they believed that the railroad should be transferred to private ownership.

I asked Mr. Lewis if the ARRC has taken any steps to begin complying with the statute. He said that at the last corporation board meeting, the board asked the ARRC's legal counsel to begin looking at different ways the corporation could approach complying with the requirement. Mr. Lewis mentioned that the board discussed the form in which offers should be conducted and how a sale will be most advantageous to the State. Mr. Lewis said that an offering to sell will probably be in the form of a solicitation of proposals to buy the railroad.

Mr. Lewis referenced federal restraints (included in the Alaska Railroad Transfer Act) in regard to selling the railroad. He said that one restraint is that if the railroad were sold within five years of the transfer of the railroad to State ownership, any profit from the sale reverts to the federal government. This restraint was included in the act because the federal government wanted the State to operate the railroad for at least five years. Mr. Lewis said that this restraint makes it more beneficial for the State to retain the railroad until after 1990.

\* \* \* \*

I have attached the Alaska Railroad Corporation Act (AS 42.40.010-980) for your information. If you would like the ARRC to provide more specific information on each of the exemptions, please let me know and I will write a second letter to the corporation.

PW

Attachments

The Federal Transfer Act has several provisions:

- a. If the state sells all or any part of the railroad during the first 5 years the monies from this sale will revert to the Federal Government.
- b. After the 5 years the state may not sell any land which is needed to operate the railroad (rights of ways) etc. The state may sell land that is not necessary for the railraod to operate, BUT it may not sell any of the approximate 18,000 acres required for the railraod to operate.
- c. After the ten years, the state may sell the entire Corporation is so desired.

# ALASKA RAILROAD CORPORATION



Pouch 7-2111 • Anchorage, Alaska 99510-7069

January 12, 1987

Ms. Penelope Weyhrauch  
Legislative Analyst  
Alaska State Legislature House of  
Representatives Research Agency  
P.O. Box Y  
State Capital  
Juneau, Alaska 99811-3100

Dear Ms. Weyhrauch:

Your letter dated December 4, 1986 to Mr. Larry Wood, General Counsel of the Alaska Railroad Corporation, was referred to me for response.

You have asked for our assessment of negative impacts that the Alaska Railroad Corporation ("ARRC") might experience if the statutory exemptions in AS 42.40.920 were repealed. Unfortunately, your question does not avail itself of a simple response.

In order to answer your question, it is important to understand the various laws and agreements which circumscribe ARRC's existence and operations. The federal Alaska Railroad Transfer Act ("ARTA"), 45 U.S.C. §§1201-1214, authorized the transfer of the Alaska Railroad to ARRC and established the ground rules for the State's purchase of the Railroad. As part of that act, the State was required to make certain declarations and agreements to abide by the sale terms. The state Alaska Railroad Corporation Act ("ARCA"), AS 42.40.010-.990, implemented the State's commitments all within the requirements of ARTA through the creation of a public corporation to own and operate the Alaska Railroad.

ARTA, the State's own declarations and agreements to abide by those sale terms, and ARCA insure that the State-owned railroad shall be a rail carrier generating, retaining, and managing its own revenues for railroad purposes to better serve Alaska's transportation and development needs. In framing the operating characteristics of the public corporation to conform to this expectation, Alaska's leadership, both federal and state, gave ARRC enough independence to conduct its activities as a

separate and viable economic entity. Exemptions from laws which apply to state agencies mean generally that ARRC promotes, receives, and manages its own revenues, supplies, equipment, facilities, and real estate, establishes its own personnel policies, compensation systems, and employment agreements, promulgates its own rules and regulations to govern internal and external affairs, and manages its own purchasing, financing, and budgeting needs. On the other hand, a desire for public accountability requires open meetings, appointments by the Governor to the railroad board, procurement and ethical codes substantially equivalent to State models, financial and management audits, annual and oversight reports, legislative approval of certain real estate transactions, and long-range capital improvement and program plans. This wise blend of financial and operations independence with State oversight requirements results in a quasi-public, quasi-private railroad armed with the flexibility needed to quickly react to changing market, financial, and legal needs and with the accountability mechanisms necessary to satisfy the governmental aspects of its operations.

As a result of the dual legislative desires of self-sufficiency and public accountability all within the confines of ARTA, the Alaska legislature created a public corporation unlike any other public corporation in Alaska. This is reflected in the legislative findings and purposes which accompanied ARCA. See 1984 Alaska Session Laws, Chapter 153, Section 1. The findings and purposes clauses state that the public corporation is to be exclusively responsible for the management of the financial and legal obligations of the Alaska Railroad, carry out its responsibilities on a self-sustaining basis, and provide for the prudent operation of the railroad according to sound business management practices. Also, ARCA creates a "viable economic entity with the powers and duties necessary to operate and manage the Alaska Railroad pending eventual transfer of the Railroad to the private sector." ARCA and its legislative history reflect a legislative desire that the railroad operate as independently as possible from the State to facilitate the smooth transfer of its business and assets to a private owner. Indeed, AS 42.40.260 requires that ARRC's annual report contain every five years an analysis of potential sale arrangements, including documentation of at least three offers to sell ARRC.

Under AS 42.40.920, ARRC is exempt from the following statutes:

- (1) AS 19;
- (2) AS 30.15;
- (3) AS 35;
- (4) AS 37.05;
- (5) AS 37.07;
- (6) AS 37.10.010 - 37.10.060;
- (7) AS 37.10.085;
- (8) AS 37.20;

Ms. Penelope Weyhrauch  
January 12, 1987  
Page 3

- (9) AS 37.25;
- (10) AS 38;
- (11) AS 44.62.040 - 44.62.320.

A careful review of these statutes demonstrates how each conflicts with ARCA or ARTA. Titles 19 and 35 set forth the powers and duties of the Department of Transportation and Public Facilities ("DOT/PF") to plan, construct, maintain and operate transportation facilities, including state ferries, airports and water and harbor facilities, and to plan and construct public buildings, boat harbors, dikes and breakwaters. Since ARRC operates as a self-sustaining public corporation, exemptions from Titles 19 and 35 insure that ARRC is responsible for its own facilities and operations.

AS 30.15 provides for state grants of monies and land for construction of local port facilities. ARRC's exemption precludes municipalities from using ARRC funds or lands for port facility development.

Exemptions from portions of Title 37 are required by ARTA which states that "revenues generated by the state-owned railroad shall be retained and managed by the state-owned railroad for railroad and related purposes." 45 U.S.C. §1207(a)(5). AS 37.05, the Fiscal Procedures Act, establishes uniform accounting, purchasing, post auditing, and related financial provisions for all "state agencies" and requires state agencies to submit reports, documents, and statements to the Department of Administration for accounting purposes, requires federal funds received by state agencies to be deposited in the state treasury, makes the Department of Administration responsible for all accounts and purchases of state agencies, requires competitive bidding procedures, and imposes other financial and reporting requirements. The exemption from AS 37.05 conforms to ARTA by allowing ARRC to maintain and control its own accounts and to act as its own purchasing agent.

The exemption from AS 37.07, the Executive Budget Act, also conforms to ARTA by allowing the ARRC to budget and manage its revenues as a separate economic entity.

AS 37.10.010 - .060 designates the Department of Administration as the custodian of state funds and requires all officers, boards and commissions to account to the Department of Revenue for moneys received. Again, an exemption from AS 37.10.010 to 37.10.060 allows ARRC to manage its own revenues.

AS 37.25 determines which unexpended appropriations lapse and which do not. This exemption insures that all ARRC's monies are available to it from year to year.

AS 37.10.085 prohibits political subdivisions from subscribing to the stock of a corporation and from loaning credit or

Ms. Penelope Weyhrauch  
January 12, 1987  
Page 4

borrowing money for a corporation's use. Exemption from AS 37.10.085 permits ARRC to manage its revenues by placing its funds in a wide range of investments, including lending its credit and borrowing money for the use of a corporation.

AS 37.20 authorizes the governor to accept federal grants and transfers of property. Transferred land falls within the jurisdiction of the Department of Natural Resources. ARRC's exemption from AS 37.20 insured that federal railroad property, including land, building, monies, personnel property and structures, would be directly conveyed to ARRC rather than to the Departments of Administration, Natural Resources and Transportation and Public Facilities.

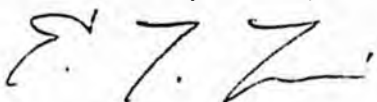
Title 38 states that the lands of the state are to be managed by the Department of Natural Resources. Exemption from Title 38 conforms to ARTA's and ARCA's mandate that ARRC manage railroad real estate.

AS 44.62.040 to 44.62.320, much of the Administrative Procedures Act, provide procedures for adopting and implementing regulations in state government. These provisions are supplanted by ARCA's AS 42.40.170 - .270, which call for publicly adopted rules by ARRC's board of directors.

The eradication of one or more of the ARCA exemptions will substantially change the model of a self-sufficient, competitive and accountable public railroad corporation that was created by Alaska's state and federal leadership. Furthermore, through the development of its own personnel, procurement, surplus property, budget, accounting, and land and lease plans, policies, and procedures, ARRC stands ready for expeditious transfer to the private sector. The short history of ARRC operations have underscored the wisdom of the legislature's original direction. We very much support that mission and would most appreciate the opportunity to comment upon proposed legislation to change or amend it.

I hope this adequately answers your question. Please feel free to call if you have any further questions.

Yours very truly,



E. Thaddeus Lewis  
Associate General Counsel

cc: F. G. Turpin  
L. D. Wood, Esq.

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### Chapter 40. Alaska Railroad Corporation.

#### Article

1. Establishment and Organization (§§ 42.40.010 -- 42.40.060)
2. Management (§§ 42.40.100 -- 42.40.120)
3. Administrative Provisions (§§ 42.40.150 -- 42.40.230)
4. Powers and Duties (§§ 42.40.250 -- 42.40.310)
5. Corporation Property (§§ 42.40.350 -- 42.40.450)
6. Financial Provisions (§§ 42.40.500 -- 42.40.540)
7. Bonds (§§ 42.40.600 -- 42.40.700)
8. Personnel and Labor Relations (§§ 42.40.705 -- 42.40.890)
9. General Provisions (§§ 42.40.900 -- 42.40.990)

**Cross references.** — For legislative findings and purpose in enacting this chapter, see § 1, ch. 153, SLA 1984 in the Temporary and Special Acts; for special reports required, see § 3, ch. 153, SLA 1984 in the Temporary and Special Acts.

**Legislative history reports.** — For legislative letter of intent relating to ch. 153, SLA 1984 (SCS CSHB 512 (Fin) am S), see 1984 Senate Journal, p. 3221.

#### Article 1. Establishment and Organization.

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| <p>Section</p> <p>10. Establishment of the corporation</p> <p>20. Board of directors</p> <p>30. Term of office</p> | <p>Section</p> <p>40. Vacancies</p> <p>50. Compensation and expenses</p> <p>60. Board officers</p> |
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**Sec. 42.40.010. Establishment of the corporation.** There is established the Alaska Railroad Corporation. The corporation is a public corporation and is an instrumentality of the state within the Department of Commerce and Economic Development. The corporation has a legal existence independent of and separate from the state. The continued operation of the Alaska Railroad by the corporation as provided in this chapter is considered an essential government function of the state. (§ 2 ch 153 SLA 1984)

*For purposes of liab (R or tort) the RR is separate indiv. can sue RR. - cannot go after other state assets. restricts liability*

*state owns the RR - RR auth. to issue tax exempt bonds.*

**Sec. 42.40.020. Board of directors.** (a) The powers of the corporation are vested in the board of directors. The board consists of the commissioner of commerce and economic development, the commissioner of transportation and public facilities, and five members appointed by the governor. The five appointed members must be registered voters in the state except as provided in (1) and (2) of this subsection. Except for the commissioners and the member appointed under (5) of this section, a member may not be a state officer or employee. Appointed members shall have the following qualifications:

(1) one member of the board shall be a person who has at least 10 years of experience in railroad management; a person who is not a resident of the state may be appointed under this paragraph;

Article 4. Powers and Duties.

Section

250. General powers

260. Annual report

270. Audits

280. State oversight reports

285. Legislative approval required

Section

290. Long-range capital improvement and program plan

300. Use of corporation assets

310. Indemnification

Sec. 42.40.250. General powers. In addition to the exercise of other powers authorized by law, the corporation may

- (1) adopt a seal;
- (2) adopt bylaws governing the business of the corporation;
- (3) sue and be sued;
- (4) appoint trustees and agents of the corporation and prescribe their powers and duties;
- (5) hire legal counsel to represent the corporation;
- (6) make contracts and execute instruments necessary or convenient in the exercise of its powers and duties;
- (7) acquire by purchase, lease, bequest, devise, gift, exchange, the satisfaction of debts, the foreclosure of mortgages, or otherwise, personal property, rights, rights-of-way, franchises, easements, and other interests in land, and acquire by appropriation water rights that are located in the state, taking title to the property in the name of the corporation;
- (8) hold, maintain, use, operate, improve, lease, exchange, donate, convey, alienate, encumber, or otherwise grant a security interest in, or authorize use or dispose of, land or personal property, subject to other provisions of this chapter;
- (9) contract with and accept transfers, gifts, grants or loans of funds or property from the United States and the state or its political subdivisions, subject to other provisions of federal or state law or municipal ordinances;
- (10) undertake and provide for the management, operation, maintenance, use, and control of all of the property of the corporation, including all land and personal property of the Alaska Railroad transferred under 45 U.S.C. 1203(a) and described in the report dated July 14, 1983, as amended, submitted to Congress and the legislature under 45 U.S.C. 1204(a);
- (11) recommend to the legislature and the governor any tax, financing, or financial arrangement the corporation considers appropriate for expansion or extension and operation of the Alaska Railroad;
- (12) maintain offices and facilities at places it designates;
- (13) apply to the state, the United States, and foreign countries or other proper agencies for the permits, licenses, rights-of-way, or approvals necessary to construct, maintain, and operate transportation and related services, and obtain, hold, and reuse the licenses and permits in the same manner as other railroad operators;

(14) prescribe rates to be charged for services provided by the Alaska Railroad consistent with 45 U.S.C. 1201 — 1214 (Alaska Railroad Transfer Act of 1982);

(15) determine the routes, schedules, and types of service to be provided by the Alaska Railroad;

(16) enter into contracts, leases, and other agreements with connecting carriers, shippers, and other persons concerning the services, activities, operations, property, and facilities of the corporation, including agreements that contain provisions to preserve and expand the railroad's traffic base;

(17) plan for and undertake expansion of the railroad and railroad activities, including extension of the rail system, and contract with other modes of transportation service connecting to the rail system;

(18) hire and discharge railroad personnel and determine benefits and other terms and conditions of employment;

(19) assume all rights, liabilities, and obligations of the Alaska Railroad in accordance with 45 U.S.C. 1201 — 1214 (Alaska Railroad Transfer Act of 1982);

(20) maintain a security force to enforce municipal ordinances, state laws, and the corporation's rules with respect to violations that occur on or to property owned, managed or transported by the corporation;

(21) issue its bonds upon approval of the legislature and provide for and secure their payment, provide for the rights of their holders and hold or dispose of them;

(22) purchase the corporation's bonds at a price not more than the principal amount of them plus interest;

(23) cancel bonds of the corporation purchased by the corporation;

(24) secure the payment of its bonds by pledge, mortgage, or other lien on its contracts, revenues, income, or property;

(25) consent to the modification of the rate of interest, time of payment of an installment of principal or interest, or other term of a loan, contract, or agreement to which the corporation is a party;

(26) borrow money, including the amounts necessary to establish reasonable reserves, and pay financing charges and interest on bonds for a reasonable period after which the corporation estimates other money will be available to pay the interest, consultant, advisory, and legal fees, and other expenses necessary or incident to borrowing;

(27) acquire, hold, and dispose of stocks, memberships, contracts, bonds, general or limited partnership interests or other interests in another corporation, association, partnership, joint venture, or other legal entity, and exercise the powers or rights in connection with these interests that are provided in contracts or agreements and that are allowed by law concerning the satisfaction of debts;

(28) undertake and provide for the acquisition, construction, maintenance, equipping, and operation of connecting, switching, terminal, or other railroads and railroad facilities;

(29) enter into contracts, leases, and other agreements with connecting carriers, shippers, and other persons concerning the services, activities, operations, property, and facilities of the corporation, including agreements that contain provisions to preserve and expand the railroad's traffic base;

(30) determine the routes, schedules, and types of service to be provided by the Alaska Railroad;

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(29) enter into agreements with a state agency or other instrumentality of the state; and

(30) do all things necessary or desirable to carry out the powers and duties of the corporation granted or necessarily implied in this chapter or other laws of the state or the laws or regulations of the federal government. (§ 2 ch 153 SLA 1984)

**Sec. 42.40.260. Annual report.** (a) Within 90 days following the end of the fiscal year of the Alaska Railroad the board shall distribute to the governor and to the legislature a report describing the operations and financial condition of the corporation during the preceding fiscal year. The report may include suggestions for legislation relating to the structure, powers or duties of the corporation or to the operation or facilities of the corporation. Subject to AS 42.40.220, the report shall itemize the cost of providing each category of service offered by the railroad and the income generated by each category.

(b) Every five years the annual report shall include an analysis of potential sale arrangements whereby the corporation may be transferred into private ownership. The analysis shall include documentation of at least three offers to sell the corporation initiated by the corporation during the last five years. (§ 2 ch 153 SLA 1984)

*Jack Meyer, AG  
most  
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**Sec. 42.40.270. Audits.** (a) The board shall have the financial records of the corporation audited annually by an independent certified public accountant experienced in railroad accounting. The board shall have an annual performance audit conducted by a recognized railroad management expert to assure that the railroad is being managed and operated effectively and efficiently in accordance with the requirements of this chapter and that each appropriation is used to directly support those services for which the appropriation was requested. Auditors shall use the standards required under AS 42.40.100(9) and determine whether appropriations received for a service that is not self-sustaining were calculated in accordance with United States Interstate Commerce Commission standards for determining rail service subsidies.

(b) The corporation shall make all of its financial records available to an auditor appointed by the governor and to the legislative audit division for examination. Disclosure to the public by the auditor or legislative audit division of this information is subject to AS 42.40.220 and rules implementing that section. (§ 2 ch 153 SLA 1984)

**Sec. 42.40.280. State oversight reports.** (a) The board shall provide a state oversight report to the governor and the legislature before undertaking

(1) expansion, reduction, or diversification of services provided by the railroad upon the date of transfer or as provided under this chapter that the board determines would represent a significant and permanent change in the level and nature of services provided; or

(2) an application for an appropriation to be used for providing any service that is not self-sustaining.

(b) The report under (a) of this section shall be in writing, describe the proposed undertaking in detail, and specify

(1) its financial impact on the corporation;

(2) its impact on the level and nature of services provided by the corporation;

(3) the reasons the action is necessary or desirable to achieve the purposes of this chapter;

(4) whether and when the undertaking or service is expected to be self-sustaining financially; and

(5) if the undertaking requires an appropriation to be used for providing a service that is not self-sustaining, that the amount of the appropriation has been strictly calculated in accordance with United States Interstate Commerce Commission standards for determining rail service subsidies. (§ 2 ch 153 SLA 1984)

**Sec. 42.40.285. Legislative approval required.** Unless the legislature approves the action by law, the corporation may not

(1) exchange, donate, sell, or otherwise convey its entire interest in land;

(2) issue bonds;

(3) extend railroad lines; this paragraph does not apply to a spur, industrial, team, switching or side track;

(4) lease land for a period in excess of 35 years unless the corporation reserves the right to terminate the lease if the land is needed for railroad purposes. (§ 2 ch 153 SLA 1984)

**Sec. 42.40.290. Long-range capital improvement and program plan.** (a) The corporation shall prepare and the board shall adopt a long-range capital improvement and program plan. The plan shall explain the manner in which the corporation intends to accomplish the purposes of this chapter and the corporation's anticipated capital improvements during each of the five years after the plan is adopted.

(b) The board shall annually review and approve revisions to the long-range capital improvement and program plan. The board shall provide copies of the updated plan to the governor and the legislature by December 1 of each year. (§ 2 ch 153 SLA 1984)

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**Sec. 42.40.905. Notice of legal actions.** (a) The corporation shall notify the Department of Law within 30 days before initiating legal action unless special circumstances exist that require immediate legal action to protect the corporation assets or to continue existing service.

(b) If notice of legal action is not given under (a) of this section, within seven days of taking action the board shall notify the Department of Law of the action taken and of the special circumstances that exempted the action from the requirements of (a) of this section. (§ 2 ch 153 SLA 1984)

**Sec. 42.40.910. Exemption from taxation.** (a) The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of the state, for their well-being and prosperity, and for the improvement of their social and economic conditions. Subject to (b) of this section, the real and personal property of the corporation and its assets, income, and receipts are exempt from all taxes and special assessments of the state or a political subdivision of the state.

(b) Bonds and notes issued under this chapter are issued by a body corporate and public of the state and for an essential public and governmental purpose. Therefore, the bonds and notes, the interest and income from them, and all fees, charges, funds, revenue, income and other money pledged or available to pay or secure the payment of the bonds and notes or interest on them, are exempt from taxation except for inheritance, transfer, and estate taxes.

(c) This section does not affect or limit an exemption from license fees, property taxes, or excise, income or other taxes, provided under any other law, nor does it create a tax exemption with respect to the interest of any business enterprise or other person, other than the corporation. (§ 2 ch 153 SLA 1984)

**Sec. 42.40.920. Application of existing laws.** (a) The corporation is not subject to the jurisdiction of the Alaska Transportation Commission.

(b) [Effective July 1, 1987] Unless specifically provided otherwise in this chapter, the following laws do not apply to the operations of the corporation:

*sets up DOT*

- (1) AS 19; - *Highways & Ferries*
- (2) AS 30.15; - *Navigation, Harbors + Shipping - State grants for port facilities constr*
- (3) AS 35; - *Public Buildings, Works & Improvements*
- (4) AS 36.30, except as specifically provided in that chapter; - *Public Contract*
- (5) AS 37.05; *Public Finance*; *financial reports - uniform accounting*
- (6) AS 37.07; - *Exec. Budget Act*
- (7) AS 37.10.010 - 37.10.060; *Public Funds*
- (8) AS 37.10.085; - *Fin. Aid to Corporations by State or political subdiv.*
- (9) AS 37.20; - *Acceptance of federal funds.*

- (10) AS 37.25; - *Misc provisions re Appropriations*
- (11) AS 38; - *Public Lands*
- (12) AS 44.62.010 — 44.62.320. (§ 2 ch 153 SLA 1984; am § 41, ch 106 SLA 1986) - *Admin Procedures Act. - applies primarily to developing regulations*

Effect of amendments. — The 1986 amendment, effective July 1, 1987, inserted paragraph (4) of subsection (b) and redesignated the following paragraphs accordingly.

Editor's notes. — Prior to July 1, 1987, subsection (b) read as follows: "(b) Unless specifically provided otherwise in this chapter, the following laws do not apply to the operations of the corporation:

"(1) AS 19;

- "(2) AS 30.15;
- "(3) AS 35;
- "(4) AS 37.05;
- "(5) AS 37.07;
- "(6) AS 37.10.010 — 37.10.060;
- "(7) AS 37.10.085;
- "(8) AS 37.20;
- "(9) AS 37.25;
- "(10) AS 38;
- "(11) AS 44.62.040 — 44.62.320."

**Sec. 42.40.930. Conflicting laws inapplicable.** If provisions of AS 42.40 conflict with the provisions of other state law, the provisions of AS 42.40 prevail. Provisions of AS 42.40 shall be construed so that they do not conflict with 45 U.S.C. 1201 — 1214 (Alaska Railroad Transfer Act of 1982). (§ 2 ch 153 SLA 1984)

**Sec. 42.40.935. Railroad facilities code compliance.** (a) Not later than two years after the date of transfer the corporation in consultation with the Department of Labor shall develop and adopt a plan to achieve compliance with AS 18.60. The plan shall be implemented and compliance achieved within five years after it is adopted.

(b) No later than two years after the date of transfer, the corporation in consultation with the Department of Public Safety and appropriate municipal officials, shall develop and adopt a plan to achieve compliance with building and related safety codes applicable to facilities of the corporation. The plan shall be implemented and compliance achieved within five years after it is adopted. In the sole determination of the commissioner of public safety, any existing building owned or controlled by the corporation that does not present a serious safety hazard and for which compliance would be uneconomical in consideration of its remaining useful life shall be exempted from compliance with state or municipal safety codes. (§ 2 ch 153 SLA 1984)

**Sec. 42.40.940. Sale or lease of the railroad** (a) The governor may provide for the sale or lease of the Alaska Railroad and dissolve the corporation if

(1) it can be assured that the railroad will continue to operate after the sale or lease; and

(2) under the terms of the sale or lease, the state will receive the amount of money it has spent in connection with the Alaska Railroad.

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(b) A sale under this section is subject to approval by law. (§ 2 ch 153 SLA 1984)

**Sec. 42.40.950. Reversion of assets.** Except as provided in AS 42.40.940, if the corporation ceases to exist its assets revert to the state. (§ 2 ch 153 SLA 1984)

**Sec. 42.40.980. Definitions.** In this chapter unless the context otherwise requires,

(1) "board" means the board of directors of the Alaska Railroad Corporation;

(2) "bonds" means bonds, bond anticipation notes, notes, refunding bonds, or other obligations;

(3) "collective bargaining" means the performance of the mutual obligation of the corporation or its designated representatives and the representatives of the employees to meet at reasonable times, including meetings in advance of the budget making process, and negotiating in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or negotiation of a question arising under an agreement and the execution of a written contract incorporating an agreement reached if requested by either party, but these obligations do not compel either party to agree to a proposal or require the making of a concession;

(4) "corporation" means the Alaska Railroad Corporation;

(5) "date of transfer" means the date on which the United States Secretary of Transportation delivers the transfer documents under 45 U.S.C. 1201 — 1214 (Alaska Railroad Transfer Act of 1982);

(6) "employees" means all persons employed by the corporation including executive officers;

(7) "executive officer" means the corporation's chief executive officer, assistant chief executive officer, assistant to the chief executive officer, chief of administration, superintendent of transportation, manager of marketing and sales, chief engineer, chief mechanical officer, manager of industrial development and real estate, manager of budget and accounting, manager of planning, manager of personnel, manager of supply and procurement, chief of security, manager of operating rules, manager of data processing, manager of strategy, manager of operations planning, manager of supply, manager of procurement, manager of safety, manager of administrative procedure, chief counsel, or, if so designated by the board, any employee who fulfills these management functions under a different title or who exercises a similar or comparable level of responsibility or supervision;

(8) "land" means any interest in real property, including tide and submerged land, and any right appurtenant to the interest;

STATE OF ALASKA  
THE LEGISLATURE

COPY

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 2, 1988

SUBJECT: Solicitation of offers to purchase  
the Alaska Railroad (W.O. 5-1769)

TO: Representative Bette Cato  
Chairperson  
House Transportation Committee

FROM: George Utermohle  
Legislative Counsel

Enclosed is the draft bill relating to solicitation of offers to purchase the Alaska Railroad requested by Wendy Chamberlain of your staff.

The bill establishes a schedule for the Governor to solicit offers for the purchase of the Alaska Railroad and then to report back to the legislature on the results of the solicitation. The bill achieves its purpose by imposing the duty upon the Governor under his authority under AS 42.40.940, rather than upon the Board of Directors of the Alaska Railroad under the provisions of AS 42.40.260(b).

The contents of the solicitation is left to the discretion of the Governor. The bill takes this approach rather than list all the things that must be included in the solicitation, because it would be difficult to anticipate all of the kinds of information that a prospective buyer may need in order to make a decision whether to pursue the issue further. Also a detailed listing of the contents of a solicitation for offers would require the assistance of experts familiar with privatization of government enterprises, and the sale of large corporations. In the absence of such expertise, the bill relies on the Governor to develop a meaningful solicitation for offers and gives the Governor ample time in which to develop and release the solicitation.

If I can provide further assistance, please advise.

Enclosure  
GU:bb  
wkb2/027

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY  
LEGISLATIVE REFERENCE LIBRARY

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

H. TRANS.

4-6-87

1:30p.m.

# HOUSE COMMITTEE REPORT

(7)

Date referred: 4/3/87

FURTHER REFERRALS: Finance

DATE: April 6, 1987

The Transportation Committee has considered SSHB 221

"An Act suspending requirements for reports on arrangements and offers to sell the Alaska Railroad; and providing for an effective date."

**RECOMMENDS:**

- replace with \_\_\_\_\_  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(s):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

**SIGNING DO PASS:**

*M.W. Miller*  
 \_\_\_\_\_  
*Heinrich Springs*  
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*Bette Cato*  
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*Bill Hudson*  
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*Ed B. Parker*  
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**SIGNING OTHER RECOMMENDATIONS:**

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*Bette Cato*

Chairman's signature



HB

256

# Alaska State Legislature

## House of Representatives

### Committee on Transportation



Rep. Bette Cato, Chairman

Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4858

April 24, 1987

#### COMMITTEE CALENDAR:

HB 256: "An Act relating to driving motor vehicles in the vicinity of the James Dalton Highway; providing penalties for violations of motor vehicle laws; and providing for an effective date."

HCR 8: Relating to levels of service by the Alaska Marine Highway System.

#### FOR THIS MEETING YOU HAVE:

A folder on HB 256 that includes:

- \* a copy of HB 256
- \* a fiscal note from ~~the Governor's office~~ **DOT/PF**
- \* a fiscal note and position paper from the Department of Public Safety
- \* a letter from the Governor
- \* a copy of the statutes impacted by HB 256

A folder on HCR 8 that includes:

- \* copy of HCR 8
- \* fiscal note from DOT/PF
- \* correspondences of support
- \* a report on the Alaska Marine Highway System commissioned by the Southeast Conference

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

REQUEST: 3-23-87

Bill Version: HB 256  
Publish Date: HOUSE 4/8/87

Revision Date: \_\_\_\_\_  
Title: Motor vehicles near Dalton Hwy

Agency Affected: \_\_\_\_\_  
BRU: \_\_\_\_\_

Sponsor: Administration  
Requestor: Governor's Office

Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

This proposed legislation would not have a fiscal impact on the Department of Transportation and Public Facilities.

Prepared by: H. Glenzer Jr. (signed)  
Division: Regional Director, Northern Region

Phone: 451-2210  
Date: 3/26/87

Approved by Commissioner: *M. L. S. III*  
Agency: Transportation & Public Facilities

Date: 3/27/87

- Distribution (by preparer):
- Legislative Finance
  - Legislative Sponsor
  - Requestor
  - Office of Management and Budget
  - Impacted Agency(ies)
  - Senate Secretary

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

Bill Version: HB 256

Publish Date: \_\_\_\_\_

REQUEST \_\_\_\_\_

Revision Date: \_\_\_\_\_

Agency Affected: Public Safety

Title: An Act relating to driving  
in the vicinity of the James Dalton..

BRU: Fish & Wildlife Protection

Sponsor: Rules Comm./Governor

Components: \_\_\_\_\_

Requestor: House Transportation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUNDS		0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL		0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated.

Prepared by: Kathy Niles, Administrative Ass't

Phone: 465-4336

Division: Commissioner's Office

Date: 4/22/87

Approved by Commissioner: [Signature]

Date: 4/24/87

Agency: Public Safety

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

JNL  
4/24/87

BILL NO: HB 256

DATE: 4/22/87

TITLE: "An Act relating to driving CONTACT: motor vehicles in the vicinity of the James Dalton Highway..."

James D. Vaden Deputy Commissioner 465-4322

DEPARTMENT OF PUBLIC SAFETY

The bill establishes penalties for violating a provision in existing law which prohibits driving a vehicle within five miles of the James Dalton Highway (the North Slope haul road). Existing law, while prohibiting such conduct, does not specify a penalty for violation of the law. Because of this apparently inadvertent omission, there is no practical way to ensure compliance with the law.

HB 256 broadens the prohibition from "off-road vehicles" (a term that is not defined in AS 19) to all "motor vehicles" as defined under AS 28.40.100. It further clarifies, and slightly expands, the exceptions to the general prohibition.

This bill makes violation of the statute a "strict liability" offense. This means that the state need not prove that the offender intended to break the law, only that he voluntarily committed an act that did violate the law. Under the bill, the offense is classified as a "violation," punishable by a maximum fine of \$300; no jail time may be imposed. If it can be proved that the offender acted with "criminal negligence," however -- that is, his conduct was a gross deviation from the standard of care that a reasonable person would observe in the situation (see AS 11.81.900(a)(4)) -- his conduct would constitute a class B misdemeanor offense, punishable by up to 90 days in jail, up to a \$1,000 fine, or both.

This bill also amends AS 19.45.002 to explicitly provide that the penalties set out in that section apply not only to violations of the designated chapters of the statute, but to regulations adopted under those chapters. This clarification is needed to allow the state to regain the ability to enforce existing regulations regarding commercial vehicle width, height, and weight. Although these regulations have been in effect for many years, and have been enforced under the authority of AS 19.45.002 since at least 1972, the new "bail schedule" contained in the "Vehicle and Traffic Offenses" booklet issued by the Alaska Court System on January 1, 1987 states that 17 AAC 25.020 -- 17 AAC 25.060 and 17 AAC 25.100, regarding vehicle width, height, load, road closures and restrictions, etc., "are not enforceable because there is no penalty in the statutes (AS 19) for violation of the regulations." Vehicle Booklet at 27. The new bail schedule does not include a bail amount for violations of these regulations, effectively precluding enforcement of the existing regulations. The absence of any enforceable vehicle weight, height, or width limits, or road closure provisions, will have a devastating effect on highway safety and the protection of the roadway surfaces in Alaska; this problem should be addressed as quickly as possible.

The language of AS 19.45.002 is also updated by making a violation of the designated provisions a "class B misdemeanor" offense, a cross-reference to the

Position Paper  
HB 256  
Page 2

classification and penalty structures contained in Alaska's revised criminal code. The substance of the new subsec. (b) was taken from existing AS 28.40.050(e), and makes clear that, notwithstanding the general penalty provision, the penalty for a violation of a vehicle weight limit is a fine of five cents for each pound of weight over the authorized limit.

Passage of this bill would help to protect the state's roadway surfaces and the frozen terrain along the Dalton Highway.

The Department of Public Safety supports this legislation.

A handwritten signature in cursive script, appearing to read "Arthur English", written over a horizontal line.

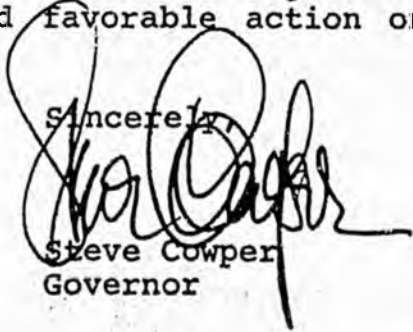
Arthur English  
Commissioner

The bill also amends AS 19.45.002 to explicitly provide that the penalties set out in that section apply not only to violations of the designated chapters of the statute, but to regulations adopted under those chapters. This clarification is needed to allow the state to regain the ability to enforce existing regulations regarding commercial vehicle width, height, and weight. Although these regulations have been in effect for many years, and have been enforced under the authority of AS 19.45.002 since at least 1972, the new "bail schedule" contained in the "Vehicle and Traffic Offenses" booklet issued by the Alaska Court System on January 1, 1987 states that 17 AAC 25.020 -- 17 AAC 25.060 and 17 AAC 25.100, regarding vehicle width, height, load, road closures and restrictions, etc., "are not enforceable because there is no penalty in the statutes (AS 19) for violation of the regulations." Vehicle Booklet at 27. The new bail schedule does not include a bail amount for violations of these regulations, effectively precluding enforcement of the existing regulations. The absence of any enforceable vehicle weight, height, or width limits, or road closure provisions, will have a devastating effect on highway safety and the protection of the roadway surfaces in Alaska; this problem should be addressed as quickly as possible.

The language of AS 19.45.002 is also updated by making a violation of the designated provisions a "class B misdemeanor" offense, a cross-reference to the classification and penalty structures contained in Alaska's revised criminal code. The substance of new subsec. (b) was taken from existing AS 28.40.050(e), and makes clear that, notwithstanding the general penalty provision, the penalty for a violation of a vehicle weight limit is a fine of five cents for each pound of weight over the authorized limit.

To protect the state's roadway surfaces, the people who travel on them, and the fragile terrain along the Dalton Highway, I urge your prompt and favorable action on this measure.

Sincerely,



Steve Cowper  
Governor

# Alaska Statutes

## Title 19. Highways and Ferries.

### Chapter

- 05. Administration (§§ 19.05.020, 19.05.040, 19.05.046, 19.05.080)
- 10. State Highway System (§§ 19.10.060, 19.10.070, 19.10.072, 19.10.160 — 19.10.210)
- 20. Cooperation by and with the State (§ 19.20.015)
- 25. Protection and Use of State Highways and Roads (§§ 19.25.020, 19.25.040, 19.25.200)
- 30. Access Roads (§§ 19.30.070, 19.30.080, 19.30.127, 19.30.131, 19.30.141, 19.30.161, 19.30.241, 19.30.260 — 19.30.320)
- 40. James Dalton Highway (§§ 19.40.020, 19.40.100, 19.40.200, 19.40.210)
- 45. Miscellaneous Provisions (§ 19.45.001)
- 60. Ferry Terminal Facilities (§ 19.60.010, 19.60.070)
- 65. Alaska Marine Highway System (§ 19.65.010)

### Chapter 05. Administration.

#### Article

- 1. Department of Transportation and Public Facilities (§§ 19.05.020, 19.05.040, 19.05.046)
- 2. Acquisition of Property (§ 19.05.080)

#### Article 1. Department of Transportation and Public Facilities.

##### Section

- 20. Regulations
- 40. Powers of department

##### Section

- 46. Accounting and disposition of receipts from nonstate entities

**Sec. 19.05.020. Regulations [Effective July 1, 1987].** The department shall adopt regulations necessary to carry out the purpose of AS 19.05 — AS 19.25. The regulations may not conflict with AS 36.30 (State Procurement Code) or regulations adopted by the Department of Administration to implement that chapter. (§ 1 art III title I ch 152 SLA 1957; am § 10 ch 106 SLA 1986)

**Effect of amendments.** — The 1986 amendment, effective July 1, 1987, added the second sentence.

**Sec. 19.40.200. Disposal of land or materials.** (a) The state may not dispose of state land under AS 38 which is within five miles of the right-of-way of the highway.

(b) The prohibition on disposal of state land under (a) of this section does not apply to a disposal necessary for

- (1) an oil and gas lease under AS 38.05.180;
- (2) exploration, development, production, or transportation of oil and gas north of 68 degrees north latitude; or
- (3) a state lease or materials sale for exploration, development, production, or transportation of oil and gas or reconstruction or maintenance of the highway north of 68 degrees north latitude.

(c) Before the sale of materials under (b)(3) of this section to a private entity or person or to a state agency the state shall give due consideration to the availability of materials from private sources in the area where the materials are needed. (§ 5 ch 177 SLA 1980; am § 1 ch 77 SLA 1985)

**Revisor's notes.** — By judgment dated March 19, 1981, in Alaska Legislative Council v. Hammond, case no. 4FA-80-1689, the superior court for the fourth judicial district upheld the validity of the enactment of ch. 177, SLA 1980. The attorney general's opinion cited in the legislative history note to this section in the main pamphlet should be disregarded.

**Effect of amendments.** — The 1985 amendment added subsections (b) and (c).

**Editor's notes.** — Section 3, ch. 77, SLA 1985 made the 1985 amendments to this section retroactive to October 5, 1980.

**Legislative history reports.** — For Senate letter of intent relating to (b)(3) of this section, see 1985 Senate Journal, page 264, which refers to identical language in an earlier version of the bill.

**Sec. 19.40.210. Prohibition of off-road vehicles.** Off-road vehicles are prohibited on land within five miles of the right-of-way of the highway. However, this prohibition does not apply to off-road vehicles necessary for oil and gas exploration, development, production, or transportation or to a person who holds a mining claim in the vicinity of the highway and who must use land within five miles of the right-of-way of the highway to gain access to the mining claim. (§ 5 ch 177 SLA 1980; am § 2 ch 77 SLA 1985)

**Effect of amendments.** — The 1985 amendment, in the second sentence inserted "to off-road vehicles necessary for oil and gas exploration, development, production, or transportation or" and substituted "the" for "his" following "access to."

**Editor's notes.** — Section 3, ch. 77, SLA 1985 made the 1985 amendments to this section retroactive to October 5, 1980.

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

STEVE COWPER  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

JRB 256

April 7, 1987

The Honorable Ben Grussendorf  
Speaker of the House  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that cures some serious technical problems with the penalty provisions in AS 19 (highway laws).

The bill establishes penalties for violating a provision in existing law which prohibits driving a vehicle within five miles of the James Dalton Highway (the North Slope haul road). Existing law, while prohibiting such conduct, does not specify a penalty for violation of the law. Because of this apparently inadvertent omission, there is no practical way to ensure compliance with the law.

The passage of motorized vehicles over the fragile terrain that surrounds the Dalton Highway can cause significant and long-term environmental damage. Recognizing this problem, this bill broadens the prohibition from "off-road vehicles" (a term that is not defined in AS 19) to all "motor vehicles" as defined under AS 28.40.100. The bill also clarifies, and slightly expands, the exceptions to the general prohibition.

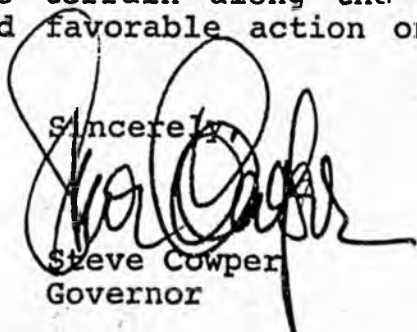
Because it may be difficult at times to prove a person's intent to violate this law, the attached bill makes violation of the statute a "strict liability" offense. This means that the state need not prove that the offender intended to break the law, only that he voluntarily committed an act that did violate the law. Under the bill, the offense is classified as a "violation," punishable by a maximum fine of \$300; no jail time may be imposed. If it can be proved that the offender acted with "criminal negligence," however -- that is, his conduct was a gross deviation from the standard of care that a reasonable person would observe in the situation (see AS 11.81.900(a)(4)) -- his conduct would constitute a class B misdemeanor offense, punishable by up to 90 days in jail, up to a \$1,000 fine, or both.

The bill also amends AS 19.45.002 to explicitly provide that the penalties set out in that section apply not only to violations of the designated chapters of the statute, but to regulations adopted under those chapters. This clarification is needed to allow the state to regain the ability to enforce existing regulations regarding commercial vehicle width, height, and weight. Although these regulations have been in effect for many years, and have been enforced under the authority of AS 19.45.002 since at least 1972, the new "bail schedule" contained in the "Vehicle and Traffic Offenses" booklet issued by the Alaska Court System on January 1, 1987 states that 17 AAC 25.020 -- 17 AAC 25.060 and 17 AAC 25.100, regarding vehicle width, height, load, road closures and restrictions, etc., "are not enforceable because there is no penalty in the statutes (AS 19) for violation of the regulations." Vehicle Booklet at 27. The new bail schedule does not include a bail amount for violations of these regulations, effectively precluding enforcement of the existing regulations. The absence of any enforceable vehicle weight, height, or width limits, or road closure provisions, will have a devastating effect on highway safety and the protection of the roadway surfaces in Alaska; this problem should be addressed as quickly as possible.

The language of AS 19.45.002 is also updated by making a violation of the designated provisions a "class B misdemeanor" offense, a cross-reference to the classification and penalty structures contained in Alaska's revised criminal code. The substance of new subsec. (b) was taken from existing AS 28.40.050(e), and makes clear that, notwithstanding the general penalty provision, the penalty for a violation of a vehicle weight limit is a fine of five cents for each pound of weight over the authorized limit.

To protect the state's roadway surfaces, the people who travel on them, and the fragile terrain along the Dalton Highway, I urge your prompt and favorable action on this measure.

Sincerely,



Steve Cowper  
Governor

# Alaska Statutes

## Title 19. Highways and Ferries.

### Chapter

- 05. Administration (§§ 19.05.020, 19.05.040, 19.05.046, 19.05.080)
- 10. State Highway System (§§ 19.10.060, 19.10.070, 19.10.072, 19.10.160 — 19.10.210)
- 20. Cooperation by and with the State (§ 19.20.015)
- 25. Protection and Use of State Highways and Roads (§§ 19.25.020, 19.25.040, 19.25.200)
- 30. Access Roads (§§ 19.30.070, 19.30.080, 19.30.127, 19.30.131, 19.30.141, 19.30.161, 19.30.241, 19.30.260 — 19.30.320)
- 40. James Dalton Highway (§§ 19.40.020, 19.40.100, 19.40.200, 19.40.210)
- 45. Miscellaneous Provisions (§ 19.45.001)
- 60. Ferry Terminal Facilities (§ 19.60.010, 19.60.070)
- 65. Alaska Marine Highway System (§ 19.65.010)

### Chapter 05. Administration.

#### Article

- 1. Department of Transportation and Public Facilities (§§ 19.05.020, 19.05.040, 19.05.046)
- 2. Acquisition of Property (§ 19.05.080)

#### Article 1. Department of Transportation and Public Facilities.

##### Section

- 20. Regulations
- 40. Powers of department

##### Section

- 46. Accounting and disposition of receipts from nonstate entities

**Sec. 19.05.020. Regulations [Effective July 1, 1987].** The department shall adopt regulations necessary to carry out the purpose of AS 19.05 — AS 19.25. The regulations may not conflict with AS 36.30 (State Procurement Code) or regulations adopted by the Department of Administration to implement that chapter. (§ 1 art III title I ch 152 SLA 1957; am § 10 ch 106 SLA 1986)

**Effect of amendments.** — The 1986 amendment, effective July 1, 1987, added the second sentence.

**Sec. 19.40.200. Disposal of land or materials.** (a) The state may not dispose of state land under AS 38 which is within five miles of the right-of-way of the highway.

(b) The prohibition on disposal of state land under (a) of this section does not apply to a disposal necessary for

(1) an oil and gas lease under AS 38.05.180;

(2) exploration, development, production, or transportation of oil and gas north of 68 degrees north latitude; or

(3) a state lease or materials sale for exploration, development, production, or transportation of oil and gas or reconstruction or maintenance of the highway north of 68 degrees north latitude.

(c) Before the sale of materials under (b)(3) of this section to a private entity or person or to a state agency the state shall give due consideration to the availability of materials from private sources in the area where the materials are needed. (§ 5 ch 177 SLA 1980; am § 1 ch 77 SLA 1985)

**Revisor's notes.** — By judgment dated March 19, 1981, in Alaska Legislative Council v. Hammond, case no. 4FA-80-1689, the superior court for the fourth judicial district upheld the validity of the enactment of ch. 177, SLA 1980. The attorney general's opinion cited in the legislative history note to this section in the main pamphlet should be disregarded.

**Effect of amendments.** — The 1985 amendment added subsections (b) and (c).

**Editor's notes.** — Section 3, ch. 77, SLA 1985 made the 1985 amendments to this section retroactive to October 5, 1980.

**Legislative history reports.** — For Senate letter of intent relating to (b)(3) of this section, see 1985 Senate Journal, page 264, which refers to identical language in an earlier version of the bill.

**Sec. 19.40.210. Prohibition of off-road vehicles.** Off-road vehicles are prohibited on land within five miles of the right-of-way of the highway. However, this prohibition does not apply to off-road vehicles necessary for oil and gas exploration, development, production, or transportation or to a person who holds a mining claim in the vicinity of the highway and who must use land within five miles of the right-of-way of the highway to gain access to the mining claim. (§ 5 ch 177 SLA 1980; am § 2 ch 77 SLA 1985)

**Effect of amendments.** — The 1985 amendment, in the second sentence inserted "to off-road vehicles necessary for oil and gas exploration, development, production, or transportation or" and substituted "the" for "his" following "access to."

**Editor's notes.** — Section 3, ch. 77, SLA 1985 made the 1985 amendments to this section retroactive to October 5, 1980.

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# Alaska Statutes

## Title 28. Motor Vehicles.

### Chapter

- 05. Administration (§§ 28.05.021, 28.05.091, 28.05.141)
- 10. Vehicle Registration and Title (§§ 28.10.011, 28.10.021, 28.10.041, 28.10.051, 28.10.101, 28.10.105, 28.10.107, 28.10.108, 28.10.111, 28.10.181, 28.10.321, 28.10.411, 28.10.421, 28.10.423, 28.10.431, 28.10.502)
- 15. Drivers' Licenses (§§ 28.15.041, 28.15.046, 28.15.051, 28.15.071, 28.15.171, 28.15.221, 28.15.231, 28.15.271)
- 17. Commercial Driver Training Schools (§ 28.17.051)
- 20. Motor Vehicle Safety Responsibility Act (§ 28.20.440)
- 22. Motor Vehicle Liability Insurance (§§ 28.22.010, 28.22.100, 28.22.200, 28.22.600)
- 32. Commercial Motor Vehicle Safety Inspections (§§ 28.32.010 — 28.32.900)
- 33. Commercial Motor Vehicle Financial Responsibility (§ 28.33.010)
- 35. Miscellaneous Provisions (§§ 28.35.031, 28.35.032, 28.35.045, 28.35.145, 28.35.251, 28.35.253, 28.35.255)
- 37. Driver License Compact (§§ 28.37.010 — 28.37.190)
- 40. General Provisions (§ 28.40.100)

### Chapter 05. Administration.

#### Article

- 1. Powers and Duties of Department of Public Safety (§ 28.05.021)
- 2. Vehicle Equipment Standards (§ 28.05.091)
- 3. Subpoenas, Notices and Hearings (§ 28.05.141)

#### Article 1. Powers and Duties of Department of Public Safety.

#### Section

- 21. Commissioner to enter compacts and reciprocal agreements

**Sec. 28.05.021. Commissioner to enter compacts and reciprocal agreements.** (a) The commissioner may, under terms and conditions best calculated to promote the interests of the state, enter into a compact or agreement with an authorized representative of another jurisdiction in a matter relating to driver licensing, vehicle registration, or other activity authorized under this title. A compact or agree-

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No. 478  
(1985).

**Sec. 28.40.100. Definitions for title.** (a) Unless otherwise specifically defined or unless the context otherwise requires, in this title and in regulations adopted under this title

(1) "cancel" means the annulment or termination by formal action of the department of a certification, registration, license, permit or privilege issued or allowed under this title or regulations adopted under this title, because of an error or defect in the document issued or the application for issuance or because the person holding the document is no longer entitled to it;

(2) "commissioner" means the commissioner of public safety;

(3) "department" means the Department of Public Safety;

(4) "driver" means a person who drives or is in actual physical control of a vehicle;

(5) "driver's license", or "license" when used in relation to driver licensing, means a license, permit or privilege, whether or not a person holds a valid license issued in this or another jurisdiction, to drive a motor vehicle under the laws of this state;

(6) "highway" means the entire width between the boundary lines of every way that is publicly maintained when a part of it is open to the public for purposes of vehicular travel, including but not limited to every street and the Alaska state marine highway system but not vehicular ways or areas;

(7) "motor vehicle" means a vehicle which is self-propelled except a vehicle moved by human or animal power;

(8) "motorcycle" means a vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground; the term does not include a tractor;

(9) "motor-driven cycle" means a motorcycle, motor scooter, motorized bicycle, or similar conveyance with a motor attached and having an engine with 50 or less cubic centimeters of displacement;

(10) *[Repealed, § 88 ch 74 SLA 1985, effective January 1, 1986.]*

(11) "official traffic-control device" means a sign, signal, marking, or other device not inconsistent with this title, placed or erected by authority of a state or municipal agency or official having jurisdiction, for the purpose of traffic regulating, warning and guiding;

(12) "owner" means a person, other than a lienholder, having the property in or title to a vehicle, including but not limited to a person entitled to the use and possession of a vehicle subject to a security interest in another person, but exclusive of a lessee under a lease not intended as security;

(13) "revoke" means the termination by formal action of the department or a court of a certification, registration, license, permit or privilege issued or allowed under this title or regulations adopted under this title; the certification, registration, license, permit or privilege may not be reissued, renewed or restored during the time for which revoked; however, after that time, an application for a new certificate, registration, license, permit or privilege may be made;

(14) "roadway" means that portion of a highway designed or ordinarily used for vehicular travel, exclusive of the sidewalk, berm, or shoulder, even though the sidewalk, berm, or shoulder is used by persons riding bicycles or other human powered vehicles; and in the event that a highway includes two or more separate roadways, the term refers to each roadway separately but not to all such roadways collectively;

(15) "suspend" means the temporary withdrawal by formal action of the department or a court of a certificate, registration, license, permit or privilege issued or allowed under this title or regulations adopted under this title, effective for a period of time which must be specifically designated by the department or court;

(16) "traffic" means pedestrians, ridden or herded animals, vehicles and other conveyances either singly or together while using a highway or vehicular way or area which is open to public use for purposes of travel;

(17) "underinsured motor vehicle" means a motor vehicle licensed for highway use with respect to ownership, operation, maintenance, or use for which there is a bodily injury or property damage insurance policy or a bond applicable at the time of an accident and the amount of insurance or bond

(A) is less than the limit for uninsured and underinsured coverage of the insured's policy; or

(B) has been reduced by payments to persons other than an insured, injured in an accident, to less than the limit for uninsured and underinsured coverage of the insured's policy;

(18) "vehicle" means a device in, upon, or by which a person or property may be transported or drawn upon or immediately over a highway or vehicular way or area except devices used exclusively upon stationary rails or tracks; and

(19) "vehicular way or area" means a way, path or area, other than a highway or private property, which is designated by official traffic control devices or customary usage and which is open to the public for purposes of pedestrian or vehicular travel, and which way or area may be restricted in use to pedestrians, bicycles, or other specific types of vehicles as determined by the department or other agency having jurisdiction over the way, path or area.

(b) The commissioner shall adopt regulations to define other terms which are used in this title and in regulations adopted under this title. (§ 50-1-1 ACLA 1949; am § 3 ch 81 SLA 1973; am §§ 13, 14 ch 241 SLA 1976; am § 1 ch 135 SLA 1977; am § 14 ch 70 SLA 1984; am § 1 ch 13 SLA 1985; am § 88 ch 74 SLA 1985)

# Alaska Statutes

## Title 11. Criminal Law.

### Chapter

- 41. Offenses Against the Person (§§ 11.41.443, 11.41.445)
- 46. Offenses Against Property (§§ 11.46.200, 11.46.480, 11.46.484, 11.46.630, 11.46.740, 11.46.985, 11.46.990)
- 51. Offenses Against the Family (§§ 11.51.125, 11.51.130)
- 56. Offenses Against Public Administration (§§ 11.56.340, 11.56.350, 11.56.805, 11.56.810, 11.56.815, 11.56.820)
- 61. Offenses Against Public Order (§ 11.61.125)
- 71. Controlled Substances (§§ 11.71.030 — 11.71.070, 11.71.120, 11.71.305, 11.71.900)
- 81. General Provisions (§§ 11.81.250, 11.81.410, 11.81.900)

### Chapter 16. Parties to Crime.

#### Sec. 11.16.100. Legal accountability based upon conduct.

##### NOTES TO DECISIONS

Cited in Dailey v. State, Ct. App. Op.  
No. 329 (File No. 7128), 675 P.2d 657  
(1984).

#### Sec. 11.16.110. Legal accountability based upon the conduct of another: Complicity.

##### NOTES TO DECISIONS

Cited in Dailey v. State, Ct. App. Op.  
No. 329 (File No. 7128), 675 P.2d 657  
(1984).

#### Sec. 11.16.120. Exemptions to legal accountability for conduct of another.

##### NOTES TO DECISIONS

Quoted in Kott v. State, Sup. Ct. Op.  
No. 2774 (File No. 5570), 678 P.2d 386  
(1984).

**Sec. 11.81.627. Effect of ignorance or mistake upon liability.****NOTES TO DECISIONS**

Quoted in *Afcan v. State*, Ct. App. Op. No. 572 (File No. A-703), 711 P.2d 1198 (1986).

Cited in *Gerlach v. State*, Ct. App. Op. No. 468 (File No. A-501), 699 P.2d 358 (1985).

**Sec. 11.81.630. Intoxication as a defense.****NOTES TO DECISIONS**

Excluding lay testimony on alcoholic blackouts. — The trial court did not err in rejecting lay testimony which defendant offered to establish the existence of alcoholic blackouts. *Stael v. State*, Ct. App. Op. No. 454 (File No. A-78), 697 P.2d 1050 (1985).

Applied in *Fox v. State*, Ct. App. Op. No. 394 (File No. 7483), 685 P.2d 1267 (1984); *Abruska v. State*, Ct. App. Op. No. 502 (File No. 7672), 705 P.2d 1261 (1985).

Cited in *Baden v. State*, Ct. App. Op. No. 285 (File No. 6832), 667 P.2d 1275 (1983).

**Article 6. Definitions.****Section****900. Definitions**

**Sec. 11.81.900. Definitions.** (a) For purposes of this title, unless the context requires otherwise,

(1) a person acts "intentionally" with respect to a result described by a provision of law defining an offense when the person's conscious objective is to cause that result; when intentionally causing a particular result is an element of an offense, that intent need not be the person's only objective;

(2) a person acts "knowingly" with respect to conduct or to a circumstance described by a provision of law defining an offense when the person is aware that the conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist; a person who is unaware of conduct or a circumstance of which the person would have been aware had that person not been intoxicated acts knowingly with respect to that conduct or circumstance;

(3) a person acts "recklessly" with respect to a result or to a circumstance described by a provision of law defining an offense when the person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation; a person who is

unaware of a risk of which the person would have been aware had that person not been intoxicated acts recklessly with respect to that risk;

(4) a person acts with "criminal negligence" with respect to a result or to a circumstance described by a provision of law defining an offense when the person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

(b) In this title, unless otherwise specified or unless the context requires otherwise,

(1) "affirmative defense" means that

(A) some evidence must be admitted which places in issue the defense; and

(B) the defendant has the burden of establishing the defense by a preponderance of the evidence;

(2) "benefit" means a present or future gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary;

(3) "building", in addition to its usual meaning, includes any propelled vehicle or structure adapted for overnight accommodation of persons or for carrying on business; when a building consists of separate units, including apartment units, offices, or rented rooms, each unit is considered a separate building;

(4) "cannabis" has the meaning ascribed to it in AS 11.71.900(10), (11), and (14);

(5) "conduct" means an act or omission and its accompanying mental state;

(6) "controlled substance" has the meaning ascribed to it in AS 11.71.900(4);

(7) "correctional facility" means premises, or a portion of premises, used for the confinement of persons under official detention;

(8) "credit card" means any instrument or device, whether known as a credit card, credit plate, courtesy card, or identification card or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining property or services on credit;

(9) "crime" means an offense for which a sentence of imprisonment is authorized; a crime is either a felony or a misdemeanor;

(10) "culpable mental state" means "intentionally", "knowingly", "recklessly", or with "criminal negligence", as those terms are defined in (a) of this section;

(11) "dangerous instrument" means any deadly weapon or anything which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is capable of causing death or serious physical injury;

(12) "deadly force" means force which the person uses with the intent of causing, or uses under circumstances which he knows create a substantial risk of causing, death or serious physical injury; "deadly force" includes intentionally discharging or pointing a firearm in the direction of another person or in the direction in which another person is believed to be and intentionally placing another person in fear of imminent serious physical injury by means of a dangerous instrument;

(13) "deadly weapon" means any firearm, or anything designed for and capable of causing death or serious physical injury, including a knife, an axe, a club, metal knuckles, or an explosive;

(14) "deception" means to knowingly

(A) create or confirm another's false impression which the defendant does not believe to be true, including false impressions as to law or value and false impressions as to intention or other state of mind;

(B) fail to correct another's false impression which the defendant previously has created or confirmed;

(C) prevent another from acquiring information pertinent to the disposition of the property or service involved;

(D) sell or otherwise transfer or encumber property and fail to disclose a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether or not that impediment is a matter of official record; or

(E) promise performance which the defendant does not intend to perform or knows will not be performed;

(15) "defense", other than an affirmative defense, means that

(A) some evidence must be admitted which places in issue the defense; and

(B) the state then has the burden of disproving the existence of the defense beyond a reasonable doubt;

(16) "drug" has the meaning ascribed to it in AS 11.71.900(9);

(17) "dwelling" means a building that is designed for use or is used as a person's permanent or temporary home or place of lodging;

(18) "explosive" means a chemical compound, mixture, or device that is commonly used or intended for the purpose of producing a chemical reaction resulting in a substantially instantaneous release of gas and heat, including dynamite, blasting powder, nitroglycerin, blasting caps, and nitrojelly, but excluding salable fireworks as defined in AS 18.72.050, black powder, smokeless powder, small arms ammunition, and small arms ammunition primers;

(19) "felony" means a crime for which a sentence of imprisonment for a term of more than one year is authorized;

(20) "fiduciary" means a trustee, guardian, executor, administrator, receiver, or any other person carrying on functions of trust on behalf of another person or organization;

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(21) "firearm" means a weapon, including a pistol, revolver, rifle, or shotgun, whether loaded or unloaded, operable or inoperable, designed for discharging a shot capable of causing death or serious physical injury;

(22) "force" means any bodily impact, restraint, or confinement or the threat of imminent bodily impact, restraint, or confinement; "force" includes deadly and nondeadly force;

(23) "government" means the United States, any state or any municipality or other political subdivision within the United States or its territories; any department, agency, or subdivision of any of the foregoing; an agency carrying out the functions of government; or any corporation or agency formed under interstate compact or international treaty;

(24) "highway" means a public road, road right-of-way, street, alley, bridge, walk, trail, tunnel, path, or similar or related facility, as well as ferries and similar or related facilities;

(25) "includes" means "includes but is not limited to";

(26) "incompetent person" means a person who is impaired by reason of mental illness or mental deficiency to the extent that the person lacks sufficient understanding or capacity to make or communicate responsible decisions concerning that person;

(27) "intoxicated" means intoxicated from the use of a drug or alcohol;

(28) "law" includes statutes and regulations;

(29) "leased" includes "rented";

(30) "metal knuckles" means a device that consists of finger rings or guards made of a hard substance and designed, made, or adapted for inflicting serious physical injury or death by striking a person;

(31) "misdemeanor" means a crime for which a sentence of imprisonment for a term of more than one year may not be imposed;

(32) "nondeadly force" means force other than deadly force;

(33) "offense" means conduct for which a sentence of imprisonment or fine is authorized; an offense is either a crime or a violation;

(34) "official detention" means custody, arrest, surrender in lieu of arrest, or confinement under an order of a court in a criminal or juvenile proceeding, other than an order of conditional bail release;

(35) "official proceeding" means a proceeding heard before a legislative, judicial, administrative, or other governmental body or official authorized to hear evidence under oath;

(36) "omission" means a failure to perform an act for which a duty of performance is imposed by law;

(37) "organization" means a legal entity, including a corporation, company, association, firm, partnership, joint stock company, foundation, institution, government, society, union, club, church, or any other group of persons organized for any purpose;

(38) "peace officer" means a public servant vested by law with a duty to maintain public order or to make arrests, whether the duty extends to all offenses or is limited to a specific class of offenses or offenders;

(39) "person" means a natural person and, when appropriate, an organization, government, or governmental instrumentality;

(40) "physical injury" means a physical pain or an impairment of physical condition;

(41) "police dog" means a dog used in police work under the control of a peace officer;

(42) "possess" means having physical possession or the exercise of dominion or control over property;

(43) "premises" means real property and any building;

(44) "propelled vehicle" means a device upon which or by which a person or property is or may be transported, and which is self-propelled, including automobiles, vessels, airplanes, motorcycles, snow machines, all-terrain vehicles, sailboats, and construction equipment;

(45) "property" means an article, substance, or thing of value, including money, tangible and intangible personal property including data or information stored in a computer program, system, or network, real property, a credit card, a domestic pet or livestock regardless of value, choses-in-action, and evidence of debt or of contract; a commodity of a public utility such as gas, electricity, steam, or water constitutes property but the supplying of such a commodity to premises from an outside source by means of wires, pipes, conduits, or other equipment is considered a rendition of a service rather than a sale or delivery of property;

(46) "public place" means a place to which the public or a substantial group of persons has access and includes highways, transportation facilities, schools, places of amusement or business, parks, playgrounds, prisons, and hallways, lobbies, and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence;

(47) "public record" means a document, paper, book, letter, drawing, map, plat, photo, photographic file, motion picture, film, microfilm, microphotograph, exhibit, magnetic or paper tape, punched card or other document of any other material, regardless of physical form or characteristic, developed or received under law or in connection with the transaction of official business and preserved or appropriate for preservation by any agency, municipality, or any body subject to the open meeting provision of AS 44.62.310, as evidence of the organization, function, policies, decisions, procedures, operations, or other activities of the state or municipality or because of the informational value in it; it also includes staff manuals and instructions to staff that affect the public;

(48) "public servant" means each of the following, whether compensated or not, but does not include jurors or witnesses:

(A) an officer or employee of the state, a municipality or other political subdivision of the state, or a governmental instrumentality of the state, including legislators, members of the judiciary, and peace officers;

(B) a person who participates as an advisor, consultant, or assistant at the request or direction of the state, a municipality or other political subdivision of the state, or a governmental instrumentality;

(C) a person who serves as a member of the board or commission created by statute or by legislative, judicial, or administrative action by the state, a municipality or other political subdivision of the state, or a governmental instrumentality;

(D) a person nominated, elected, appointed, employed, or designated to act in a capacity defined in (A) — (C) of this paragraph, but who does not occupy the position;

(49) a "renunciation" is not "voluntary and complete" if it is substantially motivated, in whole or in part, by

(A) a belief that circumstances exist which increase the probability of detection or apprehension of the defendant or another participant in the criminal enterprise, or which render more difficult the accomplishment of the criminal purpose; or

(B) a decision to postpone the criminal conduct until another time or to transfer the criminal effort to another victim or another but similar objective;

(50) "serious physical injury" means

(A) physical injury caused by an act performed under circumstances that create a substantial risk of death; or

(B) physical injury that causes serious and protracted disfigurement, protracted impairment of health, protracted loss or impairment of the function of a body member or organ, or that unlawfully terminates a pregnancy;

(51) "services" includes labor, professional services, transportation, telephone or other communications service, entertainment, including cable, subscription, or pay television or other telecommunications service, the supplying of food, lodging, or other accommodations in hotels, restaurants, or elsewhere, admission to exhibitions, the use of a computer, computer time, a computer system, a computer program, a computer network, or any part of a computer system or network, and the supplying of equipment for use;

(52) "sexual contact" means

(A) the defendant's

(i) knowingly touching, directly or through clothing, the victim's genitals, anus, or female breast; or

(ii) knowingly causing the victim to touch, directly or through clothing, the defendant's or victim's genitals, anus, or female breast;

(B) but "sexual contact" does not include acts

(i) that may reasonably be construed to be normal caretaker responsibilities for a child, interactions with a child, or affection for a child; or

(ii) performed for the purpose of administering a recognized and lawful form of treatment that is reasonably adapted to promoting the physical or mental health of the person being treated;

(53) "sexual penetration" means

(A) genital intercourse, cunnilingus, fellatio, anal intercourse, or an intrusion, however slight, of an object or any part of a person's body into the genital or anal opening of another person's body;

(B) but "sexual penetration" does not include acts performed for the purpose of administering a recognized and lawful form of treatment that is reasonably adapted to promoting the physical health of the person being treated;

(C) each party to any of the acts defined as "sexual penetration" is considered to be engaged in sexual penetration;

(54) "solicits" includes "commands";

(55) "threat" means a menace, however communicated, to engage in conduct described in AS 11.41.520(a)(1) — (7) but under AS 11.41.520(a)(1) includes all threats to inflict physical injury on anyone;

(56) "violation" is a noncriminal offense punishable only by a fine, but not by imprisonment or other penalty; conviction of a violation does not give rise to any disability or legal disadvantage based on conviction of a crime; a person charged with a violation is not entitled

(A) to a trial by jury; or

(B) to have a public defender or other counsel appointed at public expense to represent the person;

(57) "voluntary act" means a bodily movement performed consciously as a result of effort and determination, and includes the possession of property if the defendant was aware of the physical possession or control for a sufficient period to have been able to terminate it. (§ 10 ch 166 SLA 1978; am §§ 29 — 32 ch 102 SLA 1980; am §§ 12 — 14 ch 45 SLA 1982; am §§ 12 — 15 ch 143 SLA 1982; am § 2 ch 54 SLA 1983); am § 5 ch 79 SLA 1984; am § 3 ch 114; am §§ 1, 2 ch 116 SLA 1984)

**Effect of amendments.** — The first 1984 amendment inserted "the use of a computer, computer time, a computer system, a computer program, a computer network, or any part of a computer system or network" in paragraph (51) of subsection (b).

The second 1984 amendment inserted

"including cable, subscription, or pay television or other telecommunications service" in paragraph (51) of subsection (b).

The third 1984 amendment, in paragraph (52) of subsection (b), inserted present subparagraph (A), added presented subparagraph (B), and, in subparagraph (A), divided the formerly undivided

# Alaska Statutes

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## Title 12. Code of Criminal Procedure.

### Chapter

- 05. Jurisdiction (§ 12.05.010)
- 10. Limitations of Actions (§§ 12.10.010 — 12.10.040)
- 20. Bars to Actions (§§ 12.20.010 — 12.20.060)
- 25. Arrest (§§ 12.25.010 — 12.25.230)
- 30. Bail (§§ 12.30.010 — 12.30.080)
- 35. Search and Seizure (§§ 12.35.010 — 12.35.120)
- 36. Disposition of Recovered or Seized Property (§§ 12.36.010 — 12.36.090)
- 40. Grand Jury (§§ 12.40.010 — 12.40.100)
- 45. Trial (§§ 12.45.010 — 12.45.160)
- 47. Insanity and Competency to Stand Trial (§§ 12.47.010 — 12.47.130)
- 50. Witnesses (§§ 12.50.010 — 12.50.101)
- 55. Sentencing and Probation (§§ 12.55.005 — 12.55.185)
- 60. Prevention of Crimes (§§ 12.60.020 — 12.60.240)
- 61. Rights of Victims (§§ 12.61.010 — 12.61.020)
- 62. Criminal Justice Information Systems Security and Privacy (§§ 12.62.010 — 12.62.070)
- 65. Coroner's Inquest (§§ 12.65.010 — 12.65.110)
- 70. Uniform Criminal Extradition Act (§§ 12.70.010 — 12.70.290)
- 75. Habeas Corpus (§§ 12.75.010 — 12.75.230)
- 80. Miscellaneous Provisions (§§ 12.80.010 — 12.80.050)
- 85. General Provisions (§§ 12.85.010 — 12.85.020)

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Revisor's notes. — The provisions of this title were redrafted in 1984 to remove personal pronouns pursuant to § 4, ch. 58, SLA 1982 and to make other, minor word changes.

For a review of the sources of some of Alaska law, see Brown, *The Sources of the Alaska and Oregon Codes* (pts. 1 and 2), 2 UCLA — Alaska L. Rev. 15, 87 (1972-1973).

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## Chapter 05. Jurisdiction.

### Section

- 10. Crime commenced outside state but consummated inside

within paragraphs (4), (5) or (6) of subsection (g) the court may not impose a concurrent sentence. However, if the defendant's conduct falls within paragraphs (1), (2) or (3) of subsection (g) the court is authorized to impose concurrent sentences. (*Griffith v. State*, Ct. App. Op. No. 331 (File No. A-47), 675 P.2d 662 (1984).

Where defendant's various check forgery cases violated similar societal interests, he could therefore receive concurrent sentences. *Winfree v. State*, Ct. App. Op. No. 378 (File No. A-156), P.2d (1984).

*Sec. 12.55.030. Discharge of indigents imprisoned for nonpayment of fine. [Repealed, § 16 ch 53 SLA 1973.]*

**Sec. 12.55.035. Fines.** (a) Upon conviction of an offense, a defendant may be sentenced to pay a fine as authorized in this section or as otherwise authorized by law. In determining the amount and method of payment of a fine, the court shall take into account the financial resources of the defendant and the nature of the burden its payment will impose. No defendant may be imprisoned solely because of inability to pay a fine.

(b) Upon conviction of an offense, a defendant who is not an organization may be sentenced to pay, unless otherwise specified in the provision of law defining the offense, a fine of no more than:

(1) \$75,000 for murder in the first or second degree, sexual assault in the first degree, kidnapping, or misconduct involving a controlled substance in the first degree;

(2) \$50,000 for a class A, B, or C felony;

(3) \$5,000 for a class A misdemeanor;

(4) \$1,000 for a class B misdemeanor;

(5) \$300 for a violation.

(c) Upon conviction of an offense, a defendant that is an organization may be sentenced to pay a fine not exceeding the greater of

(1) \$100,000; or

(2) an amount which is three times the pecuniary gain realized by the defendant as a result of the offense.

(d) If a defendant is sentenced to pay a fine, the court may grant permission for the payment to be made within a specified period of time or in specified installments. (§ 12 ch 166 SLA 1978; am § 17 ch 45 SLA 1982; am § 26 ch 143 SLA 1982)

**Cross references.** — For classification of offenses, see AS 11.81.250; for sentences of imprisonment for felonies, see AS 12.55.125; for sentences of imprisonment for misdemeanors, see AS 12.55.135; for sentences for violations, see AS 12.55.140.

**Effect of amendments.** — The first 1982 amendment, in subsection (b)(1), deleted "or" preceding "kidnapping" and

added "or misconduct involving a controlled substance in the first degree."

The second 1982 amendment inserted "sexual assault in the first degree" in paragraph (1) of subsection (b).

While neither 1982 amendment gave effect to the other, both have been given effect in paragraph (b)(1), set out above.

# Alaska Statutes

## Title 1. General Provisions.

### Chapter

10. Laws and Statutes (§§ 01.10.030, 01.10.055, 01.10.060, 01.10.070)

### Chapter 05. Alaska Statutes.

#### Sec. 01.05.006. Adoption of Alaska Statutes.

**Cross references.** — For exception to provision that section headings are not a part of the law, see AS 45.01.109.

#### NOTES TO DECISIONS

Cited in *Schnabel v. State, Ct. App. Op. No. 250* (File No. 7273), 663 P.2d 960 (1983).

#### Sec. 01.05.031. Revision of statutes.

#### NOTES TO DECISIONS

Quoted in *Schnabel v. State, Ct. App. Op. No. 250* (File No. 7273), 663 P.2d 960 (1983).

## Chapter 10. Laws and Statutes.

### Article

2. General Rules of Statutory Construction (§§ 01.10.030, 01.10.055, 01.10.060)  
3. Effect of Statutes (01.10.070)

### Article 1. Common Law.

#### Sec. 01.10.010. Applicability of common law.

#### NOTES TO DECISIONS

Quoted in *Wells v. State, Ct. App. Op. No. 401* (File Nos. 7479, 7663), 687 P.2d 917 (1984); *Beran v. State, Ct. App. Op. No. 506* (File Nos. A-535, A-629, A-630, A-679), 705 P.2d 1280 (1985); *Balentine v. State, Ct. App. Op. No. 538* (File No. A-381), 707 P.2d 922 (1985); *State v. Burke, Ct. App. Op. No. 583* (File No. A-908), 714 P.2d 374 (1986).  
Cited in *Jackson v. State, Ct. App. Op. No. 211* (File No. 6664), 657 P.2d 405 (1983); *Stiegele v. State, Ct. App. Op. No. 382* (File No. A-399), 685 P.2d 1255 (1984).

(10) "property" includes real and personal property;

(11) "real property" is coextensive with land, tenements, and hereditaments;

(12) "signature" or "subscription" includes the mark of a person who cannot write, with the name of that person written near the mark by a witness who writes the witness's own name near the name of the person who cannot write; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names to the sworn statement;

(13) "state" means the State of Alaska unless applied to the different parts of the United States and in the latter case it includes the District of Columbia and the territories;

(14) "writing" includes printing. (§ 4 ch 62 SLA 1962; am § 2 ch 66 SLA 1965; am § 10 ch 117 SLA 1968; am § 19 ch 74 SLA 1985)

Revisor's notes. — Reorganized in 1985 to alphabetize the defined terms. Effect of amendments. — The 1985 amendment added paragraph (4).

NOTES TO DECISIONS

Quoted in Hull v. Alaska Fed. Sav. & Loan Ass'n, Sup. Ct. Op. No. 2605 (File No. 6346), 658 P.2d 122 (1983).

Article 3. Effect of Statutes.

Section

70. Time statutes become law and take effect

Sec. 01.10.070. Time statutes become law and take effect. (a) All bills passed by the legislature become law upon the governor's signature or upon the governor's veto being overridden or, when the governor allows a bill to become law without signature, on the day after expiration of the period allowed for gubernatorial action by art. II, § 17 of the Alaska Constitution. Acts become effective 90 days after becoming law, unless the legislature, by concurrence of two-thirds of the membership of each house, provides for another effective date.

(b) The actual effective date of an Act having no effective-date provision is determined by starting with the day after it is signed by the governor or the day after the governor's veto is overridden or the day after expiration of the period allowed for gubernatorial action by art. II, § 17 of the Alaska Constitution, and counting 90 calendar days, the Act becoming effective at 12:01 a.m., Alaska Standard Time on the 90th day.

(c) The actual effective date and time of an Act having an immediate-effective-date provision is 12:01 a.m., Alaska Standard Time, on

the day after the governor's veto is overridden or, when the governor allows a bill to become law without signature, on the day after expiration of the period allowed for gubernatorial action by art. II, § 17 of the Alaska Constitution.

(d) An Act becomes law at 12:01 a.m., Alaska Standard Time, on the 90th day after the day after the governor's veto is overridden or the day after expiration of the period allowed for gubernatorial action by art. II, § 17 of the Alaska Constitution.

(e) When an Act becomes law, the governor's signature is not required. The date the Act becomes law is the date the Act becomes law.

(f) In this section, "Act" means a bill.

(1) "Act"

(2) "bill"

(3) "becomes law"

does not mean the date the Act becomes law.

the two will take effect on the date provided in the Act.

date provided in the Act;

ture;

(4) "becomes law"

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Effect of amendments. — The 1985 amendment added paragraph (4).

Applied in State, Sup. Ct. Op. No. S-52, 666 P.2d 122 (1983).

Sec. 01.10.080

Quoted in Tundra T

the day after it is signed by the governor or on the day after the governor's veto is overridden or on the day after expiration of the period allowed for gubernatorial action by art. II, § 17 of the Alaska Constitution.

(d) An Act which specifies a definite effective date becomes effective at 12:01 a.m., Alaska Standard Time on the date specified.

(e) When the governor allows a bill to become law without signature, the governor shall give written notice of that fact to the legislature. The date of this notice has no effect upon the date the bill becomes law nor upon the date the Act takes effect.

(f) In this section

(1) "Act" means a bill which has become law;

(2) "bill" means a legislative document proposing an Act;

(3) "becomes effective" means becomes applicable; "effective date" does not mean date of enactment (or date of becoming law), although the two will coincide when a bill which has an immediate-effective-date provision is allowed to become law without the governor's signature;

(4) "becomes law" means is enacted; "enactment" occurs when any one of the following takes place:

(A) a bill which is passed by the legislature is signed by the governor;

(B) the period specified in art. II, § 17 of the Alaska Constitution expires without gubernatorial action;

(C) the legislature overrides the governor's veto of a bill;

(5) "passed by the legislature" means that the required majority of each house of the legislature has taken final action in approving the same version of a bill. (§ 5 ch 62 SLA 1962; am § 8 ch 126 SLA 1966; am § 1 ch 115 SLA 1974; am §§ 1-3 ch 6 SLA 1984)

Effect of amendments. - - The 1984 amendment substituted "Alaska" for "Pacific" near the end of subsection (b), near the beginning of subsection (c), and in subsection (d).

NOTES TO DECISIONS

Applied in Atlantic Richfield Co. v. State, Sup. Ct. Op. No. 2695 (File No. S-52), 666 P.2d 1031 (1985).

Sec. 01.10.080. Computation of time.

NOTES TO DECISIONS

Quoted in Fairbanks N. Star Borough v. Tundra Tours, Inc., Sup. Ct. Op. No. 3052 (File Nos. S-524, S-554), P.2d (1986).

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

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May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

H. TRANS.

4-24-87

1:30p.m.

# HOUSE COMMITTEE REPORT

(7)

Date referred: 4/8/87

FURTHER REFERRALS: Judiciary

DATE: April 24, 1987

The Transportation Committee has considered HB 256

"An Act relating to driving motor vehicles in the vicinity of the James Dalton Highway; providing penalties for violations of motor vehicle laws; and providing for an effective date."

**RECOMMENDS:**

- replace with \_\_\_\_\_  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

**SIGNING DO PASS:**

**SIGNING OTHER RECOMMENDATIONS:**

*Bob Boucher*  
 \_\_\_\_\_  
*Bill Hurd*  
 \_\_\_\_\_  
*Heinrich Sprunger*  
 \_\_\_\_\_  
*Butte Cato*  
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*Butte Cato*  
Chairman's signature



Official Business

**COMMITTEE:**

House Transportation Committee

**DATE:** April 24, 1987

**SIGN-IN**

**Subject of meeting:**

- \* HB 256: Dalton Hwy Use & Other Motor Vehicle Laws
- \* HCP 8: Winter Service; Alaska Marine Highway

**NAME** Please include title **ADDRESS** Please use full address. Please include zip. **PHONE** **REPRESENTING** **DO YOU WANT TO TESTIFY?**

NAME Please include title	ADDRESS Please use full address. Please include zip.	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?	
Deputy Comm. Stin Vaded	Boyn Juvenau	4322	Dept. of Public Safety	Yes	HB 256
Special Asst. Gretchen Deur	P.O. Box N. Juneau 99911	4654300	<del>Criminal Division</del> DPS HB 256	No	
GATLE HORETSKI	BOX KC JUNEAU	465-3428	Criminal Division DEPT. OF LAW	HB 256 YES	256
John Vincent Roscamp	204 N. Franklin Juneau 99801	586-2315	Alaska Environmental Cobby	Yes	256

\* indicates first public hearing