

ALASKA LEGISLATURE COMMITTEE FILES 2007-2008 SJUD 12590

use of airborne and same day airborne shooting of large predators is retained, while the process for conducting game management programs that are critical to meeting several of the state's constitutional mandates relating to game management is made simpler, more workable, and more legally defensible. In doing so, this bill addresses the same subjects that are currently pending in a ballot measure, designated as 05HUNT, to be placed on the ballot in 2008, in a holistic approach that harmonizes the essential underlying concepts of that measure in keeping with other important principles and processes required under AS 16 (Fish and Game Code).

I urge your prompt and favorable consideration of the measure.

Sincerely,

Sarah Palin
Governor

TALKING POINTS ON HB 256

“An Act relating to active game management and to the airborne or same day airborne taking of certain game animals; making conforming amendments; and providing for an effective date.”

- HB 256 is intended to clarify the intent of the Intensive Management law, passed in 1994. It is not intended to address people's values or beliefs about predator management in Alaska.
 - HB 256 retains the process for implementing Intensive Management in circumstances where moose, caribou, and deer populations identified for high levels of human harvest fail to meet established population and harvest objectives.
- Because of confusing language in the existing law, the Departments of Law and Fish and Game have struggled in their efforts to effectively implement the Intensive Management law.
- The Department of Fish and Game has developed an administrative process for implementing the law.
 - While the Department's process clearly follows the intent of the law, individuals and groups repeatedly challenge whether these processes are in keeping with the letter of the law.
- Consequently, the Departments of Law and Fish and Game find themselves repeatedly challenged in court on their predator management programs. These challenges require the departments to invest substantial staff and financial resources in defending the programs.
- Time and money invested in court actions detracts from time and money that can be spent collecting biological data and information about Alaska's wildlife for use by the Board of Game in its deliberations on the many wildlife issues that come before the Board.
- While the Department of Law has repeatedly done well in court when faced with legal challenges, many of the same allegations are brought forward time and time again, demonstrating that the existing law is not clear.
 - HB 256 is put forward as a way to remove confusion and ambiguity.
- The bill is the first attempt by the people who have to implement the fish and game laws to harmonize two very different statutes, the intensive management law and the same-day airborne law. If we're going to keep both on the books, we need them to work together.
- The bill does not change the way the Board and Department rely on scientific data for their game management decisions. That process is already well established. The bill simply removes unnecessary language that has led to a great deal of public confusion about how the Board is supposed to make these types of decisions.
- Brown bears are included in the bill not so that aerial control methods may be used, as there are no current plans to use aerial methods even though the Board could have authorized this, but because they should be treated the same as wolverines-subject to the same general prohibition and the same exception from that prohibition.
- The bill authorizes the Board to permit the use of aircraft for predator control when doing so would be conducive to achieving its active management objectives for important deer, caribou, and moose populations. “Conducive” means “tending to cause.” Thus, contrary to assertions made by opponents, the bill retains a causation element for predator control decision making.

Applicability of subsection (a). — Subsection (a) applies to allocation of fish resources between two commercial fisheries. *Pennant Mktg. Ass'n v. State*, 817 P.2d 817 (Alaska 1991).

In adopting a regulation for the allocation of harvestable treaty salmon, the Board of Fisheries had discretion to treat guided and unguided sport fishing as a single category and to make a separate allocation to the commercial trolling fishery. *Rutler v. State*, Bd. of Fisheries, Dept of Fish & Game, 963 P.2d 1137 (Alaska 1998).

If a cooperative fishery and an open fishery use the same fishery resource, an allocation of resources to the cooperative would be impermissible allocation within a single fishery under subsection (c) of this section. *Gronert v. State*, 109 P.3d 174 (Alaska 2006).

Allocation criteria addressed in earlier proposal. — Where the Board of Fisheries considered each of the new allocation criteria for sockeye salmon with an earlier proposal and incorporated its previous determinations on that proposal into a later proposal, the board previously addressed the allocation criteria for sockeye salmon under a subsection (c) *Stepovak-Shumagan v. State*, Board of Fisheries, 886 P.2d 632 (Alaska 1994).

Regulation delaying the commercial salmon fishing season was consistent with and reasonably necessary for purposes of conservation and development, was not arbitrary and was supported by reasonable objectives. *Stepovak-Shumagan v. State*, Board of Fisheries, 886 P.2d 632 (Alaska 1994).

Regulation upheld. — In promulgating a regulation governing commercial herring fishing in Norton Sound, the board pursued a permissible objective (allocation of a fishery resource between resident and nonresident fishermen) and employed means within its powers, and the regulation itself was reasonable and nonarbitrary. *State v. Hebert*, 743 P.2d 392 (Alaska Ct. App. 1987), *aff'd*, 803 P.2d 863 (Alaska 1990).

Where a mixed stock regulation was the product of a four-day meeting in which the fisheries board took a hard look at the issues and justified its decisions through written findings, and where the regulation was not so indefinite or uncertain that it could be overturned as facially vague or devoid of substance, it was a valid exercise of discretion. *Native Village of Elim v. State*, 990 P.2d 1 (Alaska 1999).

Regulation held invalid because inconsistent with statutes. — Regulation developed by the Board of Fisheries to identify customary and traditional uses of Cook Inlet salmon qualifying for subsistence priority and codified as 5 AAC 01.597 was held invalid because it was inconsistent with former subsection (b) and AS 16.05.940 and contrary to the legislature's intent in enacting the 1978 subsistence law. *ch. 161, SLA 1978* *Madison v. Alaska Dept of Fish & Game*, 696 P.2d 168 (Alaska 1985).

Applied in *Meier v. State*, Bd. of Fisheries, 739 P.2d 172 (Alaska Ct. App. 1987); *Tongass Sport Fishing Ass'n v. State*, 866 P.2d 1314 (Alaska 1994).

Quoted in *Interior State Airboat Ass'n v. State*, 18 P.3d 686 (Alaska 2001).

Cited in *Reynolds v. State*, 666 P.2d 1313 (Alaska Ct. App. 1982); *Langester v. State*, 668 P.2d 1369 (Alaska Ct. App. 1983); *State v. Blusko*, 698 P.2d 174 (Alaska Ct. App. 1985).

Sec. 16.05.253. Operation of stationary fishing gear. (a) The Board of Fisheries may require a person who holds a limited entry permit or an interim-use permit under AS 16.43 to be physically present at a beach or riparian fishing site during the operation of net gear or other stationary fishing gear at the site, except when the permit holder is at or traveling to or from the location of

- (1) a sale of fish caught in the gear; or
- (2) other stationary gear of the permit holder.

(b) In this section, "fishing site" means fishing site as defined by the Board of Fisheries and includes any structure used for providing shelter in support of the operation of the net gear or other stationary fishing gear. (§ 1 ch 94 SLA 1982; am § 1 ch 19 SLA 1983)

Sec. 16.05.255. Regulations of the Board of Game; management requirements. (a) The Board of Game may adopt regulations it considers advisable in accordance with AS 44.62 (Administrative Procedure Act) for

(1) setting apart game reserve areas, refuges, and sanctuaries in the water or on the land of the state over which it has jurisdiction, subject to the approval of the legislature;

(2) establishing open and closed seasons and areas for the taking of game;

(3) establishing the means and methods employed in the pursuit, capture, taking, and transport of game, including regulations, consistent with resource conservation and development goals, establishing means and methods that may be employed by persons with physical disabilities;

(4) setting quotas, bag limits, harvest levels, and sex, age, and size limitations on the taking of game;

(5) classifying game as game birds, song birds, big game animals, fur bearing animals, predators, or other categories;

(6) methods, means, and harvest levels necessary to control predation and competition among game in the state;

(7) watershed and habitat improvement, and management, conservation, protection, use, disposal, propagation, and stocking of game;

(8) prohibiting the live capture, possession, transport, or release of native or exotic game or their eggs;

(9) establishing the times and dates during which the issuance of game licenses, permits, and registrations and the transfer of permits and registrations between registration areas and game management units or subunits is allowed;

(10) regulating sport hunting and subsistence hunting as needed for the conservation, development, and utilization of game;

(11) taking game to ensure public safety;

(12) regulating the activities of persons licensed to control nuisance wild birds and nuisance wild small mammals;

(13) promoting hunting and trapping and preserving the heritage of hunting and trapping in the state.

(b) [Repealed, § 12 ch 52 SLA 1986.]

(c) If the Board of Game denies a petition or proposal to amend, adopt, or repeal a regulation, the board, upon receiving a written request from the sponsor of the petition or proposal, shall in addition to the requirements of AS 44.62.230 provide a written explanation for the denial to the sponsor not later than 30 days after the board has officially met and denied the sponsor's petition or proposal, or 30 days after receiving the request for an explanation, whichever is later.

(d) Regulations adopted under (a) of this section must provide that, consistent with the provisions of AS 16.05.258, the taking of moose, deer, elk, and caribou by residents for personal or family consumption has preference over taking by nonresidents.

(a) The Board of Game shall adopt regulations to provide for intensive management programs to restore the abundance or productivity of identified big game prey populations as necessary to achieve human consumptive use goals of the board in an area where the board has determined that

(1) consumptive use of the big game prey population is a preferred use;

(2) depletion of the big game prey population or reduction of the productivity of the big game prey population has occurred and may result in a significant reduction in the allowable human harvest of the population; and

(3) enhancement of abundance or productivity of the big game prey population is feasibly achievable utilizing recognized and prudent active management techniques.

(f) The Board of Game may not significantly reduce the taking of an identified big game prey population by adopting regulations relating to restrictions on harvest or access to the population, or to management of the population by customary adjustments in seasons, bag limits, open and closed areas, methods and means, or by other customary means authorized under (a) of this section, unless the board has adopted regulations, or has scheduled for adoption at the next regularly scheduled meeting of the board regulations, that provide for intensive management to increase the take of the population for human harvest consistent with (e) of this section. This subsection does not apply if the board

(1) determines that intensive management would be

(A) ineffective, based on scientific information;

(B) inappropriate due to land ownership patterns; or

(C) against the best interest of subsistence uses; or

(2) declares that a biological emergency exists and takes immediate action to protect or maintain the big game prey population in conjunction with the scheduling for adoption of those regulations that are necessary to implement (e) of this section.

(g) The Board of Game shall establish population and harvest goals and seasons for intensive management of identified big game prey populations to achieve a high level of human harvest.

(h) [Repealed, 2000 Ballot Measure No. 6.]

(i) For the purpose of encouraging adults to take children hunting, the board shall establish annual hunting seasons in appropriate areas of the state for big game, other than bison and musk ox, that are open before schools start in the fall and before regular hunting seasons begin. Only a resident child accompanied by a resident adult or a child accompanied by the child's resident parent, resident stepparent, or resident legal guardian may take big game in an area where a season established under this subsection is in effect. The adult, parent, stepparent, or legal guardian who accompanies the child may only assist the child in taking big game. A big game

animal taken under this subsection must be counted against the bag limits of both the child and the adult, parent, stepparent, or legal guardian who accompanies the child. In this subsection,

(1) "adult" means an individual who is 21 years of age or older;

(2) "child" means an individual who is not more than 17 years of age and not younger than eight years of age.

(j) In this section,

(1) "harvestable surplus" means the number of animals that is estimated to equal the number of offspring born in a game population during a year less the number of animals required for recruitment for population maintenance and enhancement, when necessary, and the number of animals in the population that die from all causes, other than predation or human harvest, during that year;

(2) "high level of human harvest" means the allocation of a sufficient portion of the harvestable surplus of a game population to achieve a high probability of success for human harvest of the game population based on biological capabilities of the population and considering hunter demand;

(3) "identified big game prey population" means a population of ungulates that is identified by the Board of Game and that is important for providing high levels of harvest for human consumptive use;

(4) "intensive management" means management of an identified big game prey population consistent with sustained yield through active management measures to enhance, extend, and develop the population to maintain high levels or provide for higher levels of human harvest, including control of predation and prescribed or planned use of fire and other habitat improvement techniques.

(5) "sustained yield" means the achievement and maintenance in perpetuity of the ability to support a high level of human harvest of game, subject to preferences among beneficial uses, on an annual or periodic basis. (§ 3 ch 206 SLA 1975; am § 5 ch 151 SLA 1978; am §§ 10, 11 ch 132 SLA 1984; am §§ 4, 5, 12 ch 52 SLA 1986; am § 1 ch 6 SLA 1989; am § 2 ch 13 SLA 1994; am § 2 ch 54 SLA 1996; am §§ 4 — 6 ch 76 SLA 1998; am § 1 ch 20 SLA 2000; am § 1 2000 Ballot Measure No. 6; am § 1 ch 68 SLA 2001; am § 1 ch 132 SLA 2003; am § 4 ch 87 SLA 2005)

Revisor's notes. — Subsection (g) was enacted as (h) and paragraphs (j)(1), (2), and (5) were enacted as (j)(3)-(5), respectively. Renumbered in 1998, at which time former (j)(1) and (2) were renumbered as (h)(3) and (4), and relettered as (i) in 2000 and as (j) in 2001.

Former subsection (h) was enacted as (i), relettered in 2000. Subsection (i) was enacted as (j); relettered in 2001, at which time former subsection (i) was relettered as (j).

Cross references. — For restriction on maximum area of land that may be closed to multiple uses without an act of the state legislature, see AS 16.06.300a.

For legislative findings in connection with the enactment of (a), (f), and (j)(3) and (4) (formerly (a)-(g)) of this section, see § 1, ch. 13, SLA 1994 in the Temporary and Special Acts. For legislative findings relating to the 1998 amendment to paragraph (j)(4) (formerly (h)(4)) and the enactment of paragraphs (j)(1), (j)(2), and

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(c) It is an affirmative defense to a prosecution under (a) of this section that the person took the bear in defense of life or property if the person who took the bear shows by a preponderance of the evidence that

(1) the necessity for the taking was not brought about by harassment or provocation of the bear by the person who took the bear;

(2) the necessity for the taking was not brought about by the negligent disposal of garbage or the creation of a similar attractive nuisance by the person who took the bear; and

(3) the person exhausted all other practicable means to protect life and property before the bear was taken.

(d) Notwithstanding (a) — (c) of this section, the department may authorize the taking of a problem brown or grizzly bear within one-half mile of a solid waste disposal facility at any time, if the taking of the bear is necessary to protect the public and is consistent with sound game management principles.

(e) In this section

(1) "criminal negligence" has the meaning given in AS 11.81.900(a);

(2) "property" means

(A) a dwelling, permanent or temporary;

(B) an aircraft, boat, automobile, or other conveyance;

(C) a domestic animal;

(D) other property of substantial value necessary for the livelihood or survival of the owner;

(3) "solid waste disposal facility" means a facility for the disposal of solid waste, other than sewage, for which a prior authorization has been issued under AS 46.03.100. (§ 1 ch 64 SLA 1989; am § 1 ch 136 SLA 2004)

Cross references. — For penalties for class A misdemeanors, see AS 12.55.036(b)(5), 12.55.036, and 12.55.136(a).

Effect of amendments. — The 2004 amendment, effective July 1, 2004, substituted "prior authorization" for "permit" in paragraph (e)(3).

Sec. 16.05.783. Same day airborne hunting.

(a) A person may not shoot or assist in shooting a free-ranging wolf or wolverine the same day that a person has been airborne. However, the Board of Game may authorize a predator control program as part of a game management plan that involves airborne or same day airborne shooting if the board has determined based on information provided by the department

(1) in regard to an identified big game prey population under AS 16.05.255(g) that objectives set by the board for the population have not been achieved and that predation is an important cause for the failure to achieve the objectives set by the board, and that a reduction of predation can reasonably be expected to aid in the achievement of the objectives; or

(2) that a disease or parasite of a predator population

(A) is threatening the normal biological condition of the predator population; or

(B) if left untreated, would spread to other populations.

(b) This section does not apply to

(1) a person who was airborne the same day if that person was airborne only on a regularly scheduled commercial flight; or

(2) an employee of the department who, as part of a game management program, is authorized to shoot or to assist in shooting wolf, wolverine, fox, or lynx on the same day that the employee has been airborne.

(c) A person who violates this section is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$5,000, or by imprisonment for not more than one year, or by both. In addition, the court may order the aircraft and equipment used in or in aid of a violation of this section to be forfeited to the state.

(d) When the Board of Game authorizes a predator control program that includes airborne or same day airborne shooting, the board shall have the prerogative to establish predator reduction objectives and limits, methods and means to be employed, who is authorized to participate in the program, and the conditions for participation of individuals in the program.

(e) The use of state employees or state owned or chartered equipment, including helicopters, in a predator control program is prohibited without the approval of the commissioner.

(f) In this section,

(1) "free-ranging" means that the animal is wild and not caught in a trap or snare; and

(2) "game management program" means a program authorized by the Board of Game or the commissioner to achieve identified game management objectives in a designated geographic area. (§ 1 1996 Ballot Measure No. 3; am §§ 1 — 4 ch 2 SSSLA 1999; am § 2 ch 20 SLA 2000; am § 2 2000 Ballot Measure No. 6; am §§ 1, 2 ch 124 SLA 2003)

Revisor's notes. — Paragraph (f)(2) was enacted as (d)(3) and relettered as (d)(2) in 1999. Subsections (d) and (e) were enacted as (e) and (f) and relettered in 2003, at which time subsection (d) was relettered as (f).

Effect of amendments. — The first 2000 amendment, effective July 20, 2000, inserted "or agent" in two places in paragraph (b)(2).

The second 2000 amendment, effective January 4, 2001, by referendum deleted "or agent" following "employee" in two places in paragraph (b)(2).

The 2003 amendment, effective June 10, 2003, rewrote subsection (a) and added subsections (d) and (e).

Sec. 16.05.785. Effect of failure to remove old markers. If the Board of Fisheries by regulation uses department markers to establish waters closed to commercial fishing and the state fails to remove the old markers when new markers are posted to establish waters closed to commercial fishing, commercial fishing is expressly permitted in the waters between the new markers and the old

HEB

268

3-12-08

Fax to

Sen. Hollis French 907-465-6595

Sen. Charlie Huggins 907-465-3265

Please see letter attached in regard to HB 268, to be heard in committee this afternoon.

pgs 2

I recommend these changes to the draft legislation:

Sec. 11.46.420. Arson in the third degree. (a) A person commits the crime of arson in the third degree if the person intentionally damages a motor propelled vehicle by starting a fire or causing an explosion while that vehicle is located on public state or municipal lands without an appropriate permit issued by the State Fire Marshall or his designee, or municipal fire official or designee, or on any other property without the permission of the property owner.

(b) Arson in the third degree is a class C felony.

- 1) keeping the definition of any "vehicle" consistent with the definition of "propelled vehicle" in AS 11.81.900;
- 2) revise wording to "public lands" so that could be used when activity is committed on federal land that the state has ability to extent jurisdiction to criminal activities.
- 3) allows for a permit system for individuals and organizations to burn a vehicle on public land for a legitimate purpose such as training;
- 4) addresses when a vehicle is burned and abandoned on a vacant lot or other private property.

Sincerely,



Scott Hala
6607 Fairweather Drive
Anchorage, AK 99518
Work phone: (907) 274-2622

25-LS0867AE

Bannister

3/10/08

CS FOR SENATE BILL NO. 164()**IN THE LEGISLATURE OF THE STATE OF ALASKA****TWENTY-FIFTH LEGISLATURE - SECOND SESSION****BY****Offered:****Referred:****Sponsor(s): SENATOR MCGUIRE****A BILL****FOR AN ACT ENTITLED**

1 **"An Act relating to disclosures required for the sale of a used motor vehicle, including a**
2 **trailer, by a motor vehicle dealer."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1. AS 45.25.465(c) is repealed.**

5 *** Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to**
6 **read:**

7 **RETROACTIVE APPLICATION. (a) To the extent allowed by law, and except as**
8 **provided by (b) of this section, sec. 1 of this Act applies to the sale by a motor vehicle dealer**
9 **of a used motor vehicle or a current model used motor vehicle that occurred on or after**
10 **October 24, 2004, and is retrospective under AS 01.10.090 to that extent.**

11 **(b) Retroactivity under (a) of this section does not apply to the sale by a motor vehicle**
12 **dealer of a used motor vehicle or a current model used motor vehicle if the sale is or has been**
13 **the subject of a court action, including an appeal, based on AS 45.25.465(c), as repealed by**
14 **sec. 1 of this Act, and the court action is pending on, or was completed before, January 1,**

1 2008.

2 (c) In this section,

3 (1) "motor vehicle" has the meaning given in AS 45.25.590;

4 (2) "motor vehicle dealer" has the meaning given in AS 45.25.990;

5 (3) "sale" has the meaning given in AS 45.25.990;

6 (4) "used motor vehicle" has the meaning given in AS 45.25.990.

ALASKA STATE LEGISLATURE

Vice Chair:
House Finance Committee

Chair:
House Finance Subcommittees for;
Department of Public Safety
Department of Law



Session:
Alaska State Capitol
Juneau, AK 99801-1182
Phone: (907) 465-4958
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Interim:
PO Box 464
Chugiak, AK 99567

BILL STOLTZE

State Representative

Representative_Bill_Stoltze@legis.state.ak.us

House Bill 268

Motor Vehicle Arson on Public Land

"An Act relating to damaging a vehicle on public land by starting or causing an explosion."

In many parts of Alaska people can access areas of the State by roads and trails. While these roads and trails provide Alaskans with access for many recreational opportunities, the remote location of these access points also provides individuals with a place to dump their trash, old appliances, and abandon and burn motor vehicles. These activities negatively impact the area, fish and wildlife and their habitat, and the recreational opportunities for other Alaskans. House Bill 268 addresses the burning of vehicles on state and municipal land by establishing the burning of a vehicle on state or municipal land a class C felony. By establishing this offense for this particular activity we will give law enforcement officers and prosecutors another tool to pursue these individuals.

I ask for your consideration and support of HB 286 to help clean up our public lands so that all Alaskans can continue to enjoy them.

DISTRICT 16

BIRCHWOOD • BUTTE • CHUGIAK • EKLUTNA • FAIRVIEW LOOP
ENIK RIVER ROAD • LAZY MOUNTAIN • PALMER • PETERS CREEK



State of Alaska
Department of
Public Safety

Sarah Palin, Governor
Walt Monegan, Commissioner

February 11, 2008

The Honorable Bill Stoltze
House of Representatives
Alaska State Capitol, Room 501
Juneau, AK 99801-1182

Dear Representative Stoltze:

Thank you for introducing HB 268, "An Act relating to damaging a vehicle on public land by starting a fire or causing an explosion". The Department of Public Safety, including Division of Fire and Life Safety, Alaska State Troopers and Alaska Wildlife Troopers appreciate your initiative in tackling arson on state and municipal lands, not only in your district, but across the state. HB 268 provides law enforcement a tool to deal with problematic, illegal arson activities and a penalty that will hopefully deter citizens from continuing to start fires on public lands.

Currently, if an individual burns their own vehicle on state or municipal land, the possible charges include Criminally Negligent Burning (Class A Misdemeanor) and Failure to Control or Report Dangerous Fire (Class A Misdemeanor). Additionally, if the vehicle is left on state land after the fire, charges could include Unlawful Abandonment, (Class B Misdemeanor). If an individual burns the vehicle of another on state or municipal land, possible charges include Criminal Mischief and the crimes listed above, except for Unlawful Abandonment.

Clearly, current law and penalties do not provide sufficient charges to deter this destructive activity. Vehicular arson continues to plague state and municipal lands. This is problematic for a variety of reasons. Vehicular arson on state and municipal land carries the potential for significant environmental damage and clean-up costs. Additionally, the arsonic activity may also lead to forest fires which endanger communities and cause an increased work load for fire departments, law enforcement agencies and community volunteer entities to handle.

HB 268 provides a mechanism to both adequately penalize those who chose to engage in vehicular arson on public lands and discourage this activity in others. HB 268 will be useful for law enforcement and fire departments around the state. The Department of Public Safety urges the support of the Legislature on this measure.

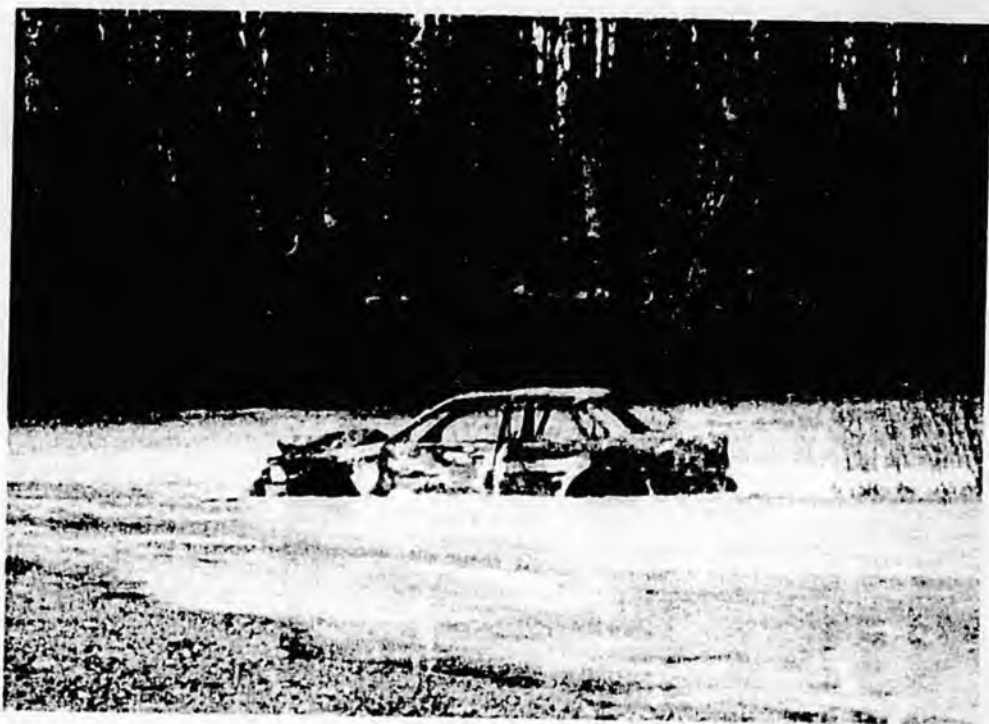
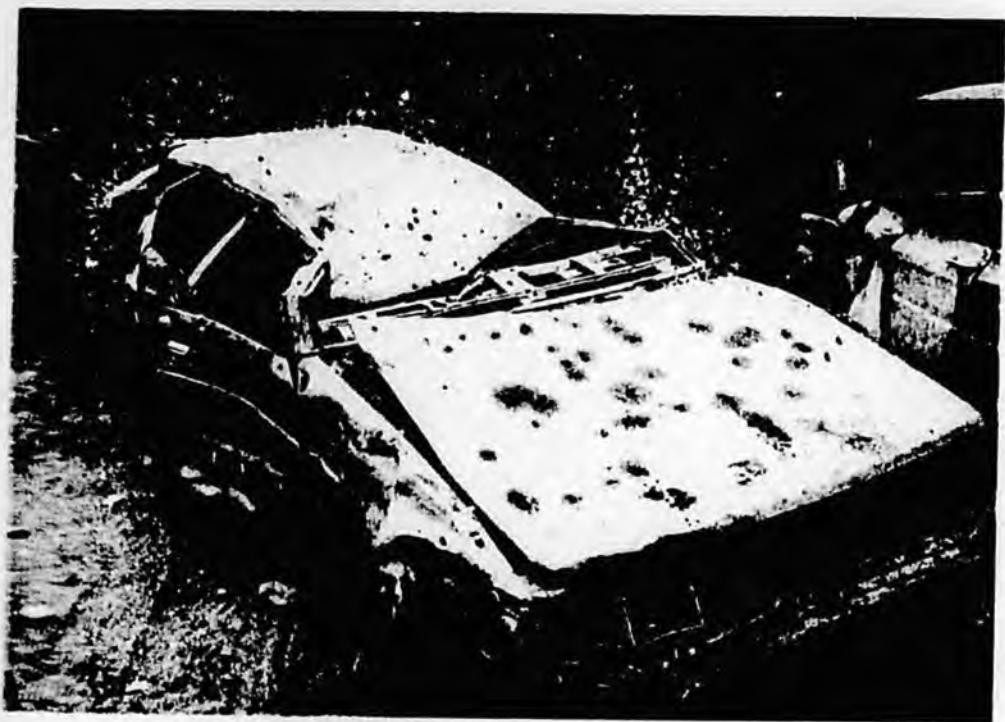
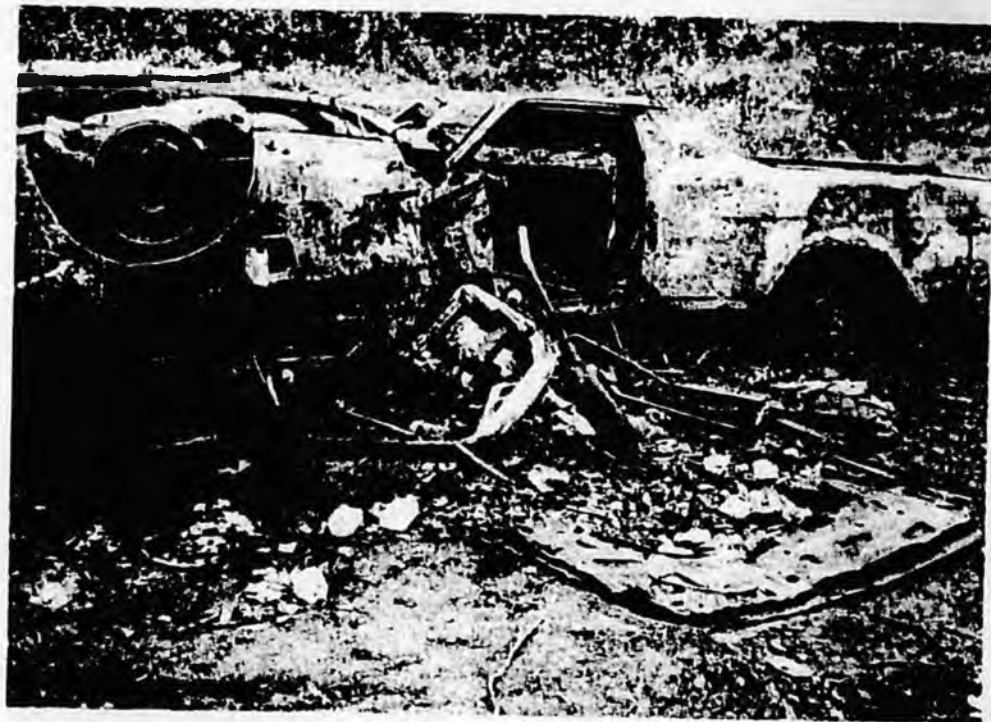
Sincerely,

A handwritten signature in black ink, appearing to be "Walt Monegan".

Walt Monegan
Commissioner

"Public Safety through Public Service"

Office of the Commissioner
5700 E. Tudor Road - Anchorage, AK 99507 - Voice (907) 269-5086 - Fax (907) 269-4543
Juneau Office - Voice (907) 465-4322 - Fax (907) 465-4362





Ben Mulligan

From: Knik River Lodge [knikriverlodge@mac.com]
Sent: Sunday, January 27, 2008 8:39 PM
To: Rep. Bill Stoltze; Rep. Jay Ramras
Cc: Butte Area Residents
Subject: Thank you and support for HB0268A

Dear Mr. Stoltz and Mr. Ramras,

Thank you very much for introducing HB0268A to make car burnings/explosions on state and municipal lands a Third Class Felony statewide. This is a much needed initiative and will help protect residents, visitors and our ecosystem. Please accept this email as a letter of support for HB0268A and feel free to contact me at anytime if we can be of further assistance in this matter.

Sincerely,

Peter Schadee

Knik River Lodge
T. 745 5002
F. 745 5024
E. info@knikriverlodge.com
www.knikriverlodge.com

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Original message:

Good news:

Last spring, following the consensus of our trails committee and members and supporters of our group, Butte Area Residents Civic Organization (BARCO), we submitted sample legislation and asked our legislators to give law enforcement agencies the tools to punish those who burn cars on public lands. As you all know, there's been an epidemic of car burnings in the Knik River Valley endangering residents and fire fighting personnel, threatening our woods and wildlife and contaminating its habitat. (See attachment: [LegisRequestArsonStatute.pdf](#))

Representative Bill Stoltze picked up the ball and introduced HB 268A last week to make car burnings/explosions on state and municipal lands a Third Class Felony statewide. Representatives Gatto, Lynn and Ramras are co-sponsoring this legislation. (See attachment: [HB0268A.pdf](#))

Rep. Stoltze's staff is currently putting a packet together to take the legislation to the Judiciary Committee. He asked us to send letters/emails of support for HB 268A to Rep. Stoltze at your earliest convenience. Once the bill gets to committee, we've been asked to solicit and send letters of support to the committee chair. (See addresses below).

May we ask you to please forward this to your friends and neighbors near and far and ask them to send a big thank-you to Rep. Stoltze along with your letters of support for this legislation.

Our thanks go also to the members of the BARCO Trails Committee, including Attorney Liz Friedman who wrote the sample legislation, to Butte Fire Chief Charlie von Gunten and AST Captain Casanova who reviewed it prior to our submitting it to our legislators, and to all of you who gave their time and consent to go forward with this.

Now is the time for us to follow through on this legislation of statewide importance. We are sending a copy of this also to the Cities of Palmer and Wasilla, as well as to our representatives at the Mat-Su Borough to solicit their support as well.

3/5/2008

Please send your letters of thanks and support to Rep. Stoltz as soon as possible. Please contact us for any questions you may have.

Sincerely,

Gregory Nilson and Brit Lively
Co-Founders, Butte Area Residents Civic Organization
907-745-7528

3/5/2008

Don McHugh

From: barbara hunt [bhunt@mtaonline.net]
Sent: Sunday, January 27, 2008 10:30 PM
To: Rep. Bill Stoltze
Cc: Brit Lively
Subject: never the right time

There is never a "right" time or place to burn up a vehicle. It is dangerous, toxic, mean-spirited and a lasting badge of dishonor, where ever it happens. Our public lands are not a dump. This legislation is appreciated and supported. Thank you.

Ben Mulligan

From: Kelley Griffin [kelleyg@mtaonline.net]

Sent: Monday, January 28, 2008 9:08 AM

To: Rep. Bill Stoltze

Subject: vehicle arson

I support this legislation! Car burning is a frustrating phenomenon that degrades entire areas in record time. Much like what occurs with the "broken window" syndrome. We need the tools to deal with this activity – statewide.

**Thank You,
Kelley Griffin
HC 35 Box 5355 Z
Wasilla, AK 99654**

3/5/2008

Ben Mulligan

From: Terri Nielsen-Rogers [nielsenranch@hotmail.com]

Sent: Tuesday, January 29, 2008 3:56 PM

To: Rep. Bill Stoltze

Subject: HB268A thank you

Representative Stoltze,

I just wanted to write and thank you for all your efforts to launch HB268A on our behalf. As a property owner and resident of the Butte Area, in close proximity to the popular Knik River recreation area, I am thrilled to have your support in putting something in place to allow local law enforcement to protect our area and allow prosecution of those people who disrespect our need for a clean, safe environment.

It is only through your efforts and those of the bill's cosponsors, that any positive change can begin to happen. Thank you for all your efforts on our behalf.

Terri Nielsen-Rogers

Need to know the score, the latest news, or you need your Hotmail®-get your "fix". [Check it out.](#)

Ben Mulligan

From: Butte Area Residents [resource@buttealaska.org]
Sent: Wednesday, January 30, 2008 5:08 PM
To: Rep. Bill Stoltze
Cc: Rep. Jay Ramras; Rep. Bob Lynn; Rep. Carl Gatto
Subject: HB 268A

January 30, 2008

The Honorable William Stoltze
Alaska House of Representatives
Juneau, Alaska

Dear Representative Stoltze,

We thank you for the good news conveyed to us by Mr. Mulligan that you responded favorably to our request from last year and have introduced legislation HB 268A to make the burning of cars on State of Alaska and municipal lands a felony offense.

We are also encouraged that Messrs. Gatto, Lynn and Ramras acknowledge the importance of this legislation by co-sponsoring HB 268A, recognizing that such willful destruction of property results in high costs to the public, exposes residents and fire-fighting personnel to danger and puts public assets - forests, wildlife and its habitat - at risk. In addition, it gives the areas, such as our community of Butte, an unsavory reputation because everyone knows that, "people come here to do bad stuff" and get away with it.

The car burnings especially in Butte/Knik River Valley have proliferated because perpetrators know they will be neither charged nor punished even if the crime was observed and reported. It's become part of the party scene to torch a vehicle. As residents, we've observed the aftermath of such parties knowing that the often drugged and drunken persons were causing the weekend car crashes on our trails, highways and near our homes and the dangerous shooting at their newly created "targets." Insurance fraud is another reason for some of the car burnings. We have provided you with a sampler of photos dating back to 1998/1999 showing burned cars: Some were stolen, some just burned and shot at, many of them burned in the middle of our woods, and many of them were pushed into salmon streams and the shores and waters of the Knik River.

No community anywhere in Alaska should have to deal with such criminal activity and no community in Alaska deserves the kind of reputation which is foisted upon them by persons who use the public lands for their crimes while law enforcement does not have the tools to cite them. Your legislation, HB 268A, is an easy fix to a big problem, placing a useful tool in law enforcement's citation options, one that will make residents feel safe and also help bring back good people to our area to enjoy the public lands, without fear of finding their parked vehicle torched upon their return.

Sincerely,

Gregory Nilsson and Brit Lively
Co-Founders, Butte Area Residents Civic Organization
907-745-7526
www.buttealaska.org

3/5/2008

Ben Mulligan

From: Charlotte Sartor [obsartor@gmail.com]

Sent: Thursday, February 21, 2008 7:50 PM

To: Rep. Bill Stoltze

Subject: Thank You

Thank you for your efforts in introducing and getting HB 268 passed in the house.
Charlotte Sartor

3/5/2008

Don Mulligan

From: Scott and Carrie Gray Wolfe [graywolfe@mtaonline.net]
Sent: Thursday, February 21, 2008 11:21 PM
To: Rep. Bill Stoltze
Subject: HB 268

Thank you, Representative Stoltze, for your efforts to introduce legislation HB 268 that was requested by the Butte Area Residents Civic Organization. Do you need any more support to help make the burning and exploding of vehicles on state and municipal lands a felony?

Sincerely,
Carrie A. Gray Wolfe

20390 E. Birch Hill Drive
Palmer, Alaska 99645
(907) 746-8008

HB

286

Alaska State Legislature

Senator Hollis French, Chair
State Capitol, Room 417
Juneau, Alaska 99801
Phone: (907) 465-3892
Fax: (907) 465-0595



Committee Members:
Senator Charlie Huggins
Senator Bill Wielechowaki
Senator Leail McGuire
Senator Gene Therriault

Senate Judiciary Committee

MEMORANDUM

April 4, 2008

TO: Leg. Legal

From: Cindy Smith *CS*

RE: CS for HB286

Please amend CSHB307\C with the language of Amendment #1, attached.

Please prepare as an as-passed final. Thanks!

Cindy Smith

From: Karey Cooperrider
Sent: Friday, April 04, 2008 4:03 PM
To: Cindy Smith
Subject: Amendment to SCS HB 288

SENATOR MCGUIRE said the conceptual amendment is to make Section 2 the misdemeanor offense that applies to the broader public servant category consistent with the peace officer felony language by narrowing on line 11, the any act language to "purports to exercise the authority of a public servant in relation to another person."

CHAIR FRENCH said Section 2 would read as follows:

(a) A person commits the crime of impersonating a public servant in the second degree if the person pretends to be a public servant and purports to exercise the authority of a public servant in relation to another person.

So it's the last part of the sentence that's bolded and underlined.

25-LS1169C

Luckhaupt

4/1/08

SENATE CS FOR HOUSE BILL NO. 286(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVES DAHLSTROM, Lynn, Gatto, LeDoux, Johnson, Olson, Roses, Wilson

A BILL**FOR AN ACT ENTITLED**

1 "An Act relating to impersonating a public servant."

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**3 * **Section 1.** AS 11.56 is amended by adding a new section to read:4 **Sec. 11.56.827. Impersonating a public servant in the first degree.** (a) A
5 person commits the crime of impersonating a public servant in the first degree if the
6 person violates AS 11.56.830 by pretending to be a peace officer and purports to
7 exercise the authority of a peace officer in relation to another person.

8 (b) Impersonating a public servant in the first degree is a class C felony.

9 * **Sec. 2.** AS 11.56.830(a) is amended to read:10 (a) A person commits the crime of impersonating a public servant in the
11 second degree if the person pretends to be a public servant and does any act in that
12 capacity.13 * **Sec. 3.** AS 11.56.830(d) is amended to read:14 (d) Impersonating a public servant in the second degree is a class B
15 misdemeanor.

1 * Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 APPLICABILITY. AS 11.56.827, added by sec. 1 of this Act, applies to offenses
4 committed on or after the effective date of this Act.

AMENDMENT #1

OFFERED IN THE SENATE

TO: HB 286

- 1 Page 1, line 6, following "officer":
- 2 Insert "and purports to exercise the authority of a peace officer in relation to another
- 3 person"

ALASKA STATE LEGISLATURE

Co-Chair:
Joint Armed Services Committee

Vice-Chair:
Legislative Council

Member:
Judiciary Committee
Oil and Gas Committee
Military and Veterans Affairs Committee
Community and Regional Affairs Committee



Session:
Alaska State Capitol
Juneau, AK 99801-1182
Phone: (907) 465-3783
Fax: (907) 465-2293
Toll Free (877) 460-3783

Interim:
10928 Eagle River Road
Eagle River, Alaska 99577
Phone: (907) 622-3783
Fax: (907) 622-3784

REPRESENTATIVE NANCY DAHLSTROM

ELMENDORF AFB • FORT RICHARDSON • BIRCHWOOD • FIRE LAKE • GOVERNMENT HILL • MULDOON

Representative_Nancy_Dahlstrom@legis.state.ak.us

MEMORANDUM

TO: Senator Hollis French, Chair
Senate Judiciary Committee

FROM: Representative Nancy Dahlstrom

DATE: March 14, 2008

SUBJECT: Hearing Request

I respectfully request House Bill 286, "An act relating to impersonating a public servant," to be heard in your committee at your earliest convenience.

Thank you.

Co-Chair:
Joint Armed Services Committee

Vice-Chair:
Legislative Council

Member:
Judiciary Committee
Oil and Gas Committee
Military and Veterans Affairs Committee
Community and Regional Affairs Committee



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Representative_Nancy_Dahlstrom@legis.state.ak.us

House Bill 286 Sponsor Statement

House Bill 286 "An act relating to impersonating a public servant" makes it a class C felony for those who impersonate a public servant in the first degree. A person commits the crime of impersonating a public servant in the first degree if the person violates AS 11.56.830 by pretending to be a peace officer. Currently in the state of Alaska it is a class B misdemeanor to impersonate any public servant.

Class C felony sentencing guidelines, under AS 12.55.125(e), cover the following presumptive ranges:

- First offense: 0-2 years
- Second offense: 2-4 years
- Third offense: 3-5 years

Class B Misdemeanors are usually handled with little or no jail time unless the person has a significant criminal history. HB 286 targets those who intend to cause harm to an individual or group while appearing as someone whose job it is to protect others and uphold the law. Taking on a persona of a peace officer is a severe breach of trust and should be punished accordingly.

There is a growing concern for safety in our communities. House Bill 286 adds teeth to existing law, and provides another tool to law enforcement agencies. In addition, the bill serves as a strong deterrent for those who deliberately make choices that put our families, neighbors and community at risk.

The sponsor respectfully requests the committee's favorable consideration of House Bill 286. Thank you.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3887 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 11, 2008

SUBJECT: Crime of Impersonating a Public Servant
(HB 286; Work Order No. 25-LS1169\A)

TO: Representative Nancy Dahlstrom

FROM: Gerald P. Luckhaupt 
Legislative Counsel

You have asked me to explain how the existing crime of impersonating a public servant works and how HB 286 affects that. Specifically, you want me to address concerns that others have expressed that this bill makes it a crime to dress up in a Halloween costume as a police officer.

The existing crime of impersonating a public servant¹ makes it a crime for a person to pretend "to be a public servant and [to do] any act in that capacity." The term public servant² includes a peace officer. Therefore, under existing law just wearing a Halloween costume of a public servant does not subject a person to criminal liability. The person would have to wear the costume³ and then engage in some act or activity in the capacity

¹ AS 11.56.830.

² "Public servant" is defined in AS 11.81.900(b)(54) as:

(54) "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 acting as an advisor, consultant, or assistant at the request of, the direction of, or under contract with the state, a municipality or other political subdivision of the state, or another governmental instrumentality; in this subparagraph "person" includes an employee of the person;

(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;

³ Or impersonate a public servant in some other manner.

of that public servant. When AS 11.56.830 was adopted as part of the criminal code revision in 1978 the following commentary was attached:

The Code provision, a class B misdemeanor, prohibits the impersonation of any public servant. The defendant must pretend to be a public servant and must do an act in that capacity.

The existing requirement that the impersonator require another to aid or assist him is not retained in the Code. Thus, the Code insures coverage in situations where no specific aid is requested, but the defendant has acted improperly. For example, a person who falsely pretends to be a housing inspector and obtains entrance to an apartment has violated the statute. The requirement that an act be performed in the capacity of public servant insures that otherwise innocent impersonations, such as wearing a judge's robe to a costume ball, are not covered by this statute.

Subsection (b)(1) rejects any possible defense based upon nonexistence of the office the impersonator pretended to hold while subsection (b)(2) recognizes that a public servant can commit the offense by impersonating another public servant. The exclusion provided in subsection (c) is necessary to insure that peace officers engaged in undercover work in which it is necessary to impersonate a public servant will not be subject to criminal penalties for the impersonation.

Senate Journal Supplement No. 47, at 90 (June 12, 1978).

HB 286 recognizes the greater potential for harm when a person violates the existing crime of impersonating a public servant by impersonating a peace officer. To accomplish this HB 286 makes the existing crime of impersonating a public servant the second degree offense⁴ and creates a new first degree offense⁵ that is committed when the person violates AS 11.56.830 and the public servant impersonated is a peace officer. Thus, if a person impersonates a peace officer and does any act in that capacity the person commits impersonating a public servant in the first degree.

The concern that others have expressed, that HB 286 makes it a crime to wear a Halloween costume, is incorrect. A person must impersonate a peace officer and do an act in that capacity. So a person who impersonates a peace officer and pulls over a woman on a highway commits the crimes. So too does a person who calls another and, after identifying themselves as a peace officer, orders another to appear at the police station at a particular time regarding an investigation or else they will be arrested.

GPL:ljw
08-081.ljw

⁴ Section 2 of the bill.

⁵ Section 1 of the bill.



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Gov. Owens signs House Bill for Lacy's Law

19 Mar 2004

OWENS SIGNS BILL TO TOUGHEN PENALTIES FOR IMPERSONATING A POLICE OFFICER

(DENVER) – Gov. Bill Owens today signed House Bill 1304 to increase the penalties for impersonating a police officer

"In our society, the only sure barrier between our citizens and the chaos of lawlessness is a blue line of police officers," said Owens. "The ability of each law enforcement officer to protect us depends on trust. Today, Colorado takes an important step to restore the trust that every citizen must have in law enforcement."

The legislation comes in the wake of the abduction and murder of Lacy Miller, a twenty-year-old student from Fort Collins, this past January. Miller was abducted when she was pulled over by a man impersonating a police officer.

Wendy Cohen, Lacy Miller's mother, joined the Gov. Owens at the bill signing. Since the death of her daughter, Cohen has been a diligent advocate for tougher penalties for anyone who impersonates a police officer.

"I'm honored to stand alongside Wendy Cohen," said Owens. "Her determination has helped make Colorado a safer place."

House Bill 1304 was sponsored by Rep. Bob McCluskey and Sen. Steve Johnson.

Under House Bill 1304, a judge may sentence the perpetrator to 18 months in jail and up to a \$5,000 fine.

4444



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Police Impersonators

10 Jul 2007

From GMA

July 10, 2007

Police are still searching for a Massachusetts man who posed as an undercover state trooper and sexually assaulted a female driver this weekend in Boston.

The nature of the crime is particularly chilling: transforming the trusted image of a police officer into someone to be feared at all costs. With fake police badges, uniforms, official-looking caps and other gear readily available, potential victims may not have any clue that the police officer before them is a fake.

Since February, ABC News has uncovered at least 13 incidents of people impersonating police officers across the country. The cases ranged from displaying a fake badge to sexual assault.

Wendy Cohen's daughter Lacy was abducted and murdered in Fort Collins, Colo., by a police imposter who had pulled her over.

Cohen is now wary of police officers she sees on the road. "I'd rather take the ticket for evading the police and pay the fine than be kidnapped, raped or killed," Cohen said.

Cohen said the more aware people were of these types of crimes, the safer they would be.

"The person that is going to do this type of crime is going to look for the opportunity," said Mary Ann Vaverette, the former president of the International Association of Chiefs of Police.

A wide range of authentic-looking police gear can be found for sale on the Internet.

"Many of the auction sites allow the sale of police identifiers and as long as there's a profit, somebody's willing to sell it," said Chuck Canterbury, the national president of the Fraternal Order of Police.

A simple Internet search conducted by ABC News retrieved pages displaying real-looking badges representing nearly every state, city and law enforcement division.

"Obviously we push for legislation that stops the sale of any police identifiers," Canterbury said.

The organization hopes to eventually decrease the number of tragic cases like Lacy's.

In 2004, Cohen helped to pass Lacy's Law, legislation that makes impersonating a police officer a felony in Colorado. Cohen also created a Web site in honor of her daughter to raise awareness and prompt other states to enact similar laws. For more information, visit www.2hearts4lacy.org.

Good Morning America 4444



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"Lacy's Law" Targets Police Impersonators
15 Apr 2003

Wendy Cohen circulates petition to toughen penalties

By Sarah Langbein
SarahLangbein@coloradoan.com

Wendy Cohen is getting a jump-start on Colorado's next legislative session by asking everyone she knows to circulate a petition.

Her campaign to enact a "Lacy Law" would change the laws of police impersonation in Colorado.

Police believe Cohen's daughter, Lacy Miller, was murdered in January by a Fort Collins man posing as a police officer. Police believe that Jason Peder Clausen lured Miller from her car with flashing police-type lights that he had installed in her sport utility vehicle.

Clausen was sentenced April 3 to life in prison for brutally killing Miller.

"Let's learn from what happened to Lacy Miller," the petition reads. "Let's take away tools from would-be law enforcement impersonators and keep our loved ones safe."

The petition proposes that anyone possessing police-style lights, who does not work in law enforcement, would be charged at minimum with a class 1 misdemeanor. The lights would be confiscated on the spot by authorities. In addition, anyone possessing or using any other police paraphernalia, such as badges or car emblems, would be charged with a class 2 misdemeanor. Those items also would be taken away.

"I just wanted to be prepared if I ever get a voice," Cohen said. "I just want to get their attention. I think by doing this I will get their attention."

Cohen is in the process of setting up a mailbox outside of her home, 2915 Bruinbaugh Drive, where people can pick up and drop off petitions. She said people can stop by her home until then to get copies of the petition.

"Hopefully, it will get out the message to people who do have lights in their cars," she said. "I want to have every 18-year-old and older in Colorado sign one. I want to be able to bring them stacks of petitions."

Cohen also has been invited by Gov. Bill Owens to attend the signing of House Bill 1304.

State Rep. Bob McCluskey, R-Fort Collins, introduced House Bill 1304 that looks to increase the penalty of impersonating a peace officer from a class 2 misdemeanor, punishable by up to a year in prison and a fine up to \$1,000, to a class 1 misdemeanor. The crime's punishment would be up to 18 months in jail and a fine up to \$5,000.

It has passed both houses of the General Assembly and awaits the governor's signature.

"It would be my honor if you would consider joining me at the signing ceremony," Owens wrote to Cohen. "Again, thanks for bringing this matter to my attention, and for dedicating your time and energy to the task of ensuring that this crime against Lacy does not strike other innocent victims."

Dan Hopkins, spokesman for Owens, said the governor has not yet received the bill, and the date of the

signing has not been determined.

"I will be there with bells on," Cohen said.

Sarah Langbein 4444

Public Safety Employees Association, Inc.
"Representing Alaska's Finest"

Position Paper
Supporting HB 286

HB 286 increases the penalties for a person who impersonates a peace officer. We must be conscience of every effort to protect the environment and the enforcement persona of those who work to enforce the law and protect persons from those who seek to break the law. One who impersonates a peace officer infiltrates the confidence a law abiding citizen has in our system of law enforcement.

Alaska's citizens must be assured that those who wear the uniform of a peace officer or drive a police vehicle are who they appear to be. Anyone who seeks to impersonate a police officer for whatever reason not only confuse, anger and abuse the public, they place law abiding citizens at risk. If and when a law abiding citizen honors a police vehicle's strobes by pulling over, that individual doesn't need to question whether the person wearing a peace officer's uniform is who they appear to be

An effort to discourage or curtail impersonation is good public policy. The members of the Public Safety Employees Association commend Representatives Dahlstrom, Lynn and Gatto for introducing HB 286 and recommend it passage.



Municipality of Anchorage

4501 Bengow Street • Anchorage, Alaska 99503 • Telephone: (907) 786-4600 • <http://www.muni.org>



Mayor Mark Begich

Anchorage Police Department

January 31, 2008

Representative Nancy Dahlstrom
House of Representatives
State Capitol
Juneau, Alaska 99801-1182

Dear Representative Dahlstrom:

On behalf of the law enforcement professionals at the Anchorage Police Department, I want you to know of my support for HB286, an act relating to impersonating a public servant.

As you know, preservation of the public trust is basic to the credible enforcement of state statutes. That said, the appropriate drafting and resourcing of appropriate legislation, and the establishment of a credible expectation of consequences for the intentional crossing of this trust by those inclined to victimize the public, is proper.

I'd like to thank the sponsors for their continued efforts on behalf of public safety.

Rob Heun
Chief of Police
Anchorage Police Department

Community, Security, Prosperity

STATE OFFICE
ALASKA PEACE OFFICERS ASSOCIATION

P.O. Box 240106 Anchorage, Alaska 99524-0106 Phone (907) 277-0515 Fax (907) 272-5355



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Unalaska
Pres. Aleutian Islands Chapter

Kelly Shover, Member
Wrangell
Pres. Wrangell Chapter

Scott McCumby, Member
Valdez
Pres. Po. of Valdez Chapter

January 24, 2008

Representative Nancy Dahlstrom
House of Representatives
State Capitol
Juneau AK 99801-1182

Dear Representative Dahlstrom:

On behalf of the Alaska Peace Officers Association (APOA), I would like to thank you for introducing HB 286, an act relating to impersonating a public servant.

The APOA State Board's Legislative Committee recently reviewed this proposed legislation and decided to unanimously support this bill.

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

Sincerely,

Angela Long
State President

(30) "identification document" means a paper, instrument, or other article used to establish the identity of a person; "identification document" includes a social security card, driver's license, non-driver's identification, birth certificate, passport, employee identification, or hunting or fishing license;

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

(32) "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;

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

(34) "law" includes statutes and regulations;

(35) "leased" includes "rented";

(36) "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;

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

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

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

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

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

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

(43) "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;

(44) "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;

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

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

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

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

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

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

(51) "property" means an article, substance, or thing of value, including tangible and intangible personal property including data or information stored on a computer program, system, or network, real property, an access device, a domestic animal, 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;

(52) "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 assembly,

February 22, 2008

Shirley A. Gifford
P.O. Box 1696
Soldotna, Alaska 99669
(907) 260-5605
sgifford@alaska.net

The Honorable Nancy Dahlstrom
Representative for the State of Alaska
c/o [Jennifer Baxter@legis.state.ak.us](mailto:Jennifer_Baxter@legis.state.ak.us)

Dear Representative Dahlstrom,

I had been a peace officer in the State of Alaska for 27 years. I retired from the Anchorage Police Department as captain of detectives and again from the Soldotna Police Department as chief of police. I remain involved as a lifetime member of the Alaska Peace Officers Association, the Women Police of Alaska and the International Association of Women Police.

Many times throughout my career I had advised citizens that if they feel uncomfortable about the circumstances of a traffic stop they should follow their instincts. I have advised them that upon being directed in some way to stop their car by a person they feel suspicious, either verbally, by motions, or by lights on top of the car it is legal and right that they drive to the police department, trooper detachment or another well-lit and traveled location.

It is a horrible situation for everyone when a person is violated by someone impersonating a peace officer. Peace officers are the very people our citizens should be able to trust above all others, wherever they may be at the time. When that trust is violated by someone posing as an officer it affects the feeling of safety and security for all people. I have also advised that it is reasonable to ask for identification even if a peace officer is in uniform. It is unfortunate our citizens must be this careful but there are those who will go to great lengths to prey on the innocent.

I have had the opportunity to read a bill you are sponsoring – HB 286, impersonating a Public Servant. I was very pleased to see that you have separated a peace officer from the definition of a public servant and attached a more severe penalty. I agree with your intention to make impersonating a peace officer a class C felony rather than the current class B felony. Thank you very much for your initiative and support of the integrity of peace officers around the state, and your support especially for our citizens who count on us to provide protection.

Sincerely,

Shirley A. Gifford

Barry J. Schimmack

24888 Teal Loop, Chugiak, AK 99567

688-5525 barryjay@mtaonline.net

October 22, 2007

Rep. Nancy Dahlstrom
10928 Eagle River Rd.
Eagle River, AK 99577

RE: Impersonating an Officer

Dear Representative Dahlstrom,

It was a pleasure for my son Brett and I to meet you at the recent Eagle River Rotary meeting, and it was great to hear your insights into the events happening in our state government.

You may remember we talked briefly about my concerns on our state and municipal laws concerning Impersonating a Police Officer. You asked me to finish my document and get it to your office as soon as I could.

I'd like you to take a moment and meet my friend's daughter, Lacy. In Ft. Collins, CO, she was pulled over by a man impersonating a police officer, only a few houses away from her own home. The man used flashing red and blue lights to pull Miller over:



Lacy Jo Miller

My name is Lacy Jo Miller. I was born in Billings, Mont., on Aug. 10, 1982. I came to Fort Collins when I was 6 years old. I was a Brownie. I loved school, playing Barbies, tea parties, coloring, dress-up, my best friend Katy, horses, sleepovers, art class and singing.

When I was in junior high school I ran track, played softball and learned to play the piano and the flute. I loved watching my little brother Kenyan and making things for him. I was quiet and shy for the most part, but once you got to know me, I was funny and would say what was on my mind.

In high school, I was in student council and on the yearbook committee. I loved my friends, hanging out during lunch, doing things I thought my mom didn't know about, driving my car, listening to Dave Matthews Band, dancing, dreaming about being a designer or teacher, talking on the phone, instant messaging my friends, watching "Friends," being a couch potato, sleeping, going to movies, Thanksgivings with my Aunt Stacy and lots more. I loved seeing my Dad and brother Jesse and every year spending time with my grandparents in Texas. I loved my family, I loved Jesus, and I loved life.

I was tragically taken from this planet in January 2003. Regretfully, I leave behind my mother, Wendy (Patterson) Cohen; my father, David Miller, my little brothers: Jessie Miller and Kenyan Kreisher, my best friends: Angela, Andrea, Amanda, Kendra and many, many, more girlfriends.

Thank you for loving me, laughing with me, teaching me what I needed to know and for looking and praying so hard to find me so my parents wouldn't have to worry any more.

* * * * *

In Alaska, our Municipal Code and State Law on impersonating a police officer is only a Class B Misdemeanor. (see attached) According to one sergeant at A.P.D., "I'd say most Class B Misdemeanors are handled without jail unless the person has a significant criminal history. Community work, service, fines, etc. are more common."

As you know, there have been a number of "police impersonation" cases in the Anchorage area within the past 2 years, including at least 2 high profile cases. Thankfully, none have resulted in a fatality.

Shortly after Lacy's death, her mother Wendy approached the representatives in Colorado and within months they signed into law a House Bill named **Lacy's Law**:

"Named for slain Fort Collins college student Lacy Miller - makes impersonating a police officer a class 6 felony, which carries a mandatory minimum sentence of 15 months in prison. It also made possession or use of police emergency lights a class 1 misdemeanor, punishable by a fine of up to \$5,000."

This is the 5th year anniversary of Lacy's death, and I can't think of a better way to honor her memory than for our Alaska lawmakers to address these types of crimes to deter this type of crime in Alaska. Let's not lose another Alaskan to somebody impersonating a public servant!

There is more information about House Bill 1003 on Lacy's website at:

<http://www.2hearts4lacy.org/page/page/3127081.htm>

Thank you,

Barry Schimmack

HB

301

Cindy Smith

From: Jim Minnery [minnery@alaska.net]
Sent: Thursday, April 03, 2008 12:17 PM
To: Cindy Smith
Subject: *****SPAM***** HB301
Importance: High

Cindy...thanks for taking some time regarding HB301. Two common concerns you'll hear about this bill are listed below along with brief responses. We look forward to getting this on the calendar in Judiciary. I'd be happy to address any questions you might have.

Jim Minnery - *President*
Alaska Family Council
907-279-2825

1) The bill as it is written does not clarify what stage in a pregnancy that a partial birth abortion refers to.

First, the bill does very clearly only apply to late term abortions because it is only in cases of late term pregnancies that a physician can "vaginally deliver a living fetus" either feet first so that the trunk is outside the vagina past the babies navel or head first so that the whole head of the baby is outside the vagina.

Early term pregnancies are performed inside the womb. In the United States, first trimester surgical abortions (typically 6-8 weeks gestation but also 9-14 weeks gestation) are done by Manual Vacuum Aspiration (MVA). In this procedure the woman's cervix is dilated and the cannula (the vacuum aspiration tube) is inserted through the cervix into the uterus and the content of the uterus is then vacuumed out by suction. This abortion procedure occurs completely inside the womb. There is NO partial delivery of a living fetus. See Paul et. al., A Clinician's Guide to Medical and Surgical Abortion, pp. 63-67, 110-115 (Churchill Livingstone 1999) (This medical text is the physician's Bible on Abortion and abortion procedure).

First trimester abortions can also be done by medical (i.e., non surgical) methods. This is done by use of the drug RU 486. Again, in the case of a "medical abortion" there is no "partial delivery of a living fetus." There is no delivery at all. There is an eventual expulsion of a dead fetus by the woman's body, more or less a forced miscarriage.

Second trimester abortions in the United States are primarily done by Dilation & Evacuation ("D&E"). The most common D&E procedure is the "nonintac." D&E procedure in which the cervix is dilated, the physician inserts a forceps through the cervix into the uterus and then "disarticulates" (i.e., rips apart) the fetus inside the uterus and then removes the parts, piece by piece. See Paul et. al., A Clinician's Guide to Medical and Surgical Abortion, pp. 67-68, 123-137 (Churchill Livingstone 1999).

The only procedure that the bill prohibits is that which is known as the Dilation & Extraction ("D&X") or the "Intact D&E" procedures. These two medical terms are actually two names for the exact same procedure. In a "Intact D&E" or the "D&X" the physician "partially delivers" through the vagina a living fetus for the purpose of then killing the fetus. In this procedure the physician either delivers the fetus feet first until the baby is outside the vagina except for its head. The physician then cuts the baby so that he can insert a cannula into its skull and vacuum out its contents (sucks its brains out). The physician then crushes the baby's skull and then removes the dead baby completely from the vagina. If the physician delivers the baby head first he performs exactly the same procedure but vacuums and crushes the skull outside the vagina before removing the rest of the babies body. See Paul et. al., A Clinician's Guide to Medical and Surgical Abortion, pp. 136-137 (Churchill Livingstone 1999).

2) The Federal legislation as determined by the US Supreme Court defines the timeline as second and third trimester.

This is completely incorrect. The Federal Partial Birth Abortion Act, 18 U.S.C. Section 1531 defines "Partial Birth

Abortion" EXACTLY the same as HB 301. There is absolutely no reference to "trimesters" in the federal law. The reason that there is no reference to "trimesters" is because the law applies to only one specific procedure, the intact D&E or the D&X, which is the "Partial Birth Abortion." It does not matter when the D&E or the D&X is performed (second or third trimester), it is illegal under federal law. This means that under federal law a physician may perform abortions in the second or third trimester BUT NOT by way of the "Intact D&E" or "D&X" procedure, i.e., the partial birth abortion. This leaves the standard D&E procedure fully available to the physician for second trimester abortions.

The United States Supreme Court's decision in Casey actually abandoned the trimester framework that Roe v. Wade had adopted.

ALASKA STATE LEGISLATURE

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REPRESENTATIVE WES KELLER DISTRICT 14

MEMO

To: Senator Hollis French
Chair, Senate Judiciary Committee

Fm: Representative Wes Keller *WK*

Cc:

Date: March 27, 2008

Re: Request for Hearing of HB 301

Please consider this to be a request for the Senate Judiciary Committee to schedule a hearing for HB 301, "An Act relating to partial-birth abortions."

HB 301 will add Alaska to the list of 36 other states that restrict terminating life by a medical procedure. It brings Alaska law into compliance with the recent U.S. Supreme Court decision.

HB 301 is a statement that we believe there comes a time when a fetus becomes a child and that should change the character of the medical procedures. I urge your consideration of this bill before the Senate Judiciary Committee at your earliest convenience. Thank you for your time and consideration. If you have any additional questions, please do not hesitate to contact me.

Attachments: Sponsor Statement, HB 301, AS 18.16.050, Fiscal Note, Legal restrictions, Partial Birth Misconceptions and Realities, Facts on preserving the mothers health, U.S. House record, (S 3) 18 USC § 1531, Information on Gonzales v. Carhart, House Judicial Report, Committee and Floor report, Public support .

E-Mail: [Representative Wes Keller@legis.state.ak.us](mailto:Representative_Wes_Keller@legis.state.ak.us)
Call Juneau Toll free: (800) 468-2186
Website: www.akrepublicans.org/keller/

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REPRESENTATIVE WES KELLER DISTRICT 14 Sponsor Statement HB 301

Since the Supreme Court of the United States determined that states, not the federal government should control certain medical procedures within their state boundaries, abortions have been legal in Alaska. Despite strong controversies on the abortion issue there is one practice that many people agree needs to stop. Partial-Birth or late term abortion is a process that few people support.

House Bill 301 will end this practice in Alaska. The procedure is well described by its name with the child being partially born and then terminated. Alaska is one of only 14 states that have not restricted this practice, and Congress passed legislation with broad Bi-partisan support to ban it nationwide.

HB 301 sends a message that Alaska will not tolerate this inhumane treatment, and that other better decisions must be made. Your support of HB 301 goes beyond Pro-Life or Pro-Choice.

###

**E-Mail: Representative_Wes_Keller@legis.state.ak.us
Call Juneau Toll free: (800) 468-2186
Website: www.akrepublicans.org/keller/**

Sec. 18.16.050. Partial-birth abortions.

(a) Notwithstanding compliance with AS 18.16.010, a person may not knowingly perform a partial-birth abortion unless a partial-birth abortion is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury and no other medical procedure would suffice for that purpose. Violation of this subsection is a class C felony.

(b) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section or under any other law if the prosecution is based on this section.

(c) In this section, "partial-birth abortion" means an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.

((1 ch 15 SLA 1997))

Editor's notes. A Superior Court for the Third Judicial District held that AS 18.16.050 is unconstitutional and enjoined its enforcement. *Planned Parenthood v. State*, 3-AN-97-6019 (Super. Ct., Third Jud. Dist. at Anchorage, Alaska; March 13, 1998), appeal withdrawn, No. S-08810 (June 29, 2000). The State appealed the Superior Court's decision, but withdrew the appeal following the U.S. Supreme Court's decision in *Stenberg v. Carhart*, 530 U.S. 914, 120 S. Ct. 2597, 147 L.Ed.2d 743 (2000).

Legal restrictions on later abortion

As of 1998, among the 152 most populous countries, 54 either banned abortion entirely or permitted it only to save the life of the pregnant woman.^[15] In contrast, another 44 of the 152 most populous countries generally banned late-term abortions after a particular gestational age: 12 weeks (Albania, Armenia, Azerbaijan, Belarus, Bosnia-Herzegovina, Bulgaria, Croatia, Cuba, Czech Rep., Denmark, Estonia, France, Georgia, Greece, Kazakhstan, Kyrgyz Rep., Latvia, Lithuania, Macedonia, Moldova, Mongolia, Norway, Russian Fed., Slovak Rep., Slovenia, South Africa, Ukraine, Tajikistan, Tunisia, Turkey, Turkmenistan, Uzbekistan, and Yugoslavia), 13 weeks (Italy), 14 weeks (Austria, Belgium, Cambodia, Germany, Hungary, and Romania), 18 weeks (Sweden), viability (Netherlands and to some extent the United States), and 24 weeks (Singapore).^[15]

United States

The United States Supreme Court decisions on abortion, including Roe v. Wade, allow states to impose more restrictions on post-viability abortions than during the earlier stages of pregnancy.

As of April 2007, 36 states had bans on late-term abortions that were not facially unconstitutional (i.e. banning *all* abortions) or enjoined by court order.^[16] In addition, the Supreme Court in the case of Gonzales v. Carhart ruled that Congress may ban certain late-term abortion techniques, "both previability and postviability".

Some of the 36 state bans are believed by pro-choice organizations to be unconstitutional.^{[17] [18]} The Supreme Court has held that bans must include exceptions for threats to the woman's life, physical health, and mental health, but four states allow late-term abortions only when the woman's life is at risk; four allow them when the woman's life or physical health is at risk, but use a definition of health that pro-choice organizations believe is impermissibly narrow.^[16] Assuming that one of these state bans is constitutionally flawed, then that does not necessarily mean that the entire ban would be struck down: "invalidating the statute entirely is not always necessary or justified, for lower courts may be able to render narrower declaratory and injunctive relief."^[19]

Also, 13 states prohibit abortion after a certain number of weeks' gestation (usually 24 weeks).^[18] The U.S. Supreme Court held in Webster v. Reproductive Health Services that a statute may create "a presumption of viability" after a certain number of weeks, in which case the physician must be given an opportunity to rebut the presumption by performing tests.^[20] Therefore, those 13 states must provide that opportunity. Because this provision is not explicitly written into these 13 laws, as it was in the Missouri law examined in Webster, pro-choice organizations believe that

such a state law is unconstitutional, but only "to the extent that it prohibits pre-
viability abortions".^[17]

Ten states require a second physician to approve.^[18] The U.S. Supreme Court struck
down a requirement of "confirmation by two other physicians" (rather than one other
physician) because "acquiescence by co-practitioners has no rational connection
with a patient's needs and unduly infringes on the physician's right to practice".^[21]
Pro-choice organizations such as the Guttmacher Institute therefore interpret some
of these state laws to be unconstitutional, based on these and other Supreme Court
rulings, at least to the extent that these state laws require approval of a second or
third physician.^[16]

Nine states have laws that require a second physician to be present during late-term
abortion procedures in order to treat a fetus if born alive.^[19] The Court has held that
a doctor's right to practice is not infringed by requiring a second physician to be
present at abortions performed after viability in order to assist in saving the life of the
fetus.^[22]