



LAWS OF ALASKA

1996

Source
CSSSHB 75(FIN)

Chapter No.
71

AN ACT

Relating to vehicle theft and the consequences of vehicle theft, including revocation of a driver's license, privilege to drive, or privilege to obtain a license; amending Rule 32.1, Alaska Rules of Criminal Procedure; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: June 19, 1996
Actual Effective Date: June 20, 1996

AN ACT

1 Relating to vehicle theft and the consequences of vehicle theft, including revocation of a
2 driver's license, privilege to drive, or privilege to obtain a license; amending Rule 32.1,
3 Alaska Rules of Criminal Procedure; and providing for an effective date.

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5 * Section 1. AS 11.46 is amended by adding new sections to read:

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ARTICLE 2A. VEHICLE THEFT.

7

Sec. 11.46.360. VEHICLE THEFT IN THE FIRST DEGREE. (a) A person
8 commits the crime of vehicle theft in the first degree if, having no right to do so or any
9 reasonable ground to believe the person has such a right, the person drives, tows away,
10 or takes

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(1) the car, truck, motorcycle, motor home, bus, aircraft, or watercraft of
12 another;

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(2) the propelled vehicle of another and the vehicle or any other property

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1 of another is damaged, or the owner incurs reasonable expenses as a result of the loss
2 of use of the vehicle, in a total amount of \$500 or more;

3 (3) the propelled vehicle of another and the vehicle is marked as a police
4 or emergency vehicle; or

5 (4) the propelled vehicle of another and, within the preceding seven
6 years, the person was convicted under

7 (A) this section or AS 11.46.365;

8 (B) former AS 11.46.482(a)(4) or (5);

9 (C) former AS 11.46.484(a)(2);

10 (D) AS 11.46.120 - 11.46.140 of an offense involving the theft
11 of a propelled vehicle; or

12 (E) a law or ordinance of this or another jurisdiction with
13 elements substantially similar to those of an offense described in (A) - (D) of this
14 paragraph.

15 (b) In this section,

16 (1) "aircraft" has the meaning given in AS 02.15.260;

17 (2) "all-terrain vehicle" means a three-wheeled propelled vehicle less than
18 75 inches in width and having a dry weight of 800 pounds or less, equipped with low
19 pressure tires, and designed primarily for travel over unimproved terrain;

20 (3) "motorcycle" means a vehicle having a seat or saddle for the use of
21 the rider, designed to travel on not more than three wheels in contact with the ground,
22 and having an engine with more than 50 cubic centimeters of displacement; "motorcycle"
23 does not include a tractor or an "all-terrain vehicle";

24 (4) "watercraft" means a propelled vehicle used or capable of being used
25 as a means of transportation, for recreational or commercial purposes, on water.

26 (c) Vehicle theft in the first degree is a class C felony.

27 Sec. 11.46.365. VEHICLE THEFT IN THE SECOND DEGREE. (a) A person
28 commits the crime of vehicle theft in the second degree if, having no right to do so or
29 a reasonable ground to believe the person has such a right,

30 (1) the person drives, tows away, or takes the propelled vehicle of
31 another, other than a vehicle described in AS 11.46.360(a)(1); or

1 (2) having custody of a propelled vehicle under a written agreement with
2 the owner of the vehicle that includes an agreement to return the vehicle to the owner
3 at a specified time, the person knowingly retains or withholds possession of the vehicle
4 without the consent of the owner for so long a period beyond the time specified as to
5 render the retention or possession of the vehicle an unreasonable deviation from the
6 agreement.

7 (b) Vehicle theft in the second degree is a class A misdemeanor.

8 * Sec. 2. AS 11.46.484(b) is amended to read:

9 (b) Criminal [EXCEPT AS PROVIDED IN (c) OF THIS SECTION,
10 CRIMINAL] mischief in the third degree is a class A misdemeanor.

11 * Sec. 3. AS 11.46.486(a) is amended to read:

12 (a) A person commits the crime of criminal mischief in the fourth degree if,
13 having no right to do so or any reasonable ground to believe the person has such a right,

14 (1) with reckless disregard for the risk of harm to or loss of the property
15 or with intent to cause substantial inconvenience to another, the person tampers with
16 property of another;

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

19 (3) the person rides in a propelled vehicle knowing it has been stolen or
20 that it is being used in violation of AS 11.46.360 or 11.46.365(a)(1) [AS 11.46.482(a)(4)
21 OR 11.46.484(a)(2)].

22 * Sec. 4. AS 12.55.045(e) is amended to read:

23 (e) If a defendant is convicted of vehicle theft in the first degree in violation
24 of AS 11.46.360 or vehicle theft in the second [CRIMINAL MISCHIEF IN THE
25 THIRD] degree in violation of AS 11.46.365(a)(1) [AS 11.46.484(a)(2)], and the victim
26 of the offense incurs damage or loss as a result of the offense, the court shall order the
27 defendant to pay restitution.

28 * Sec. 5. AS 12.55.135(e) is amended to read:

29 (e) If [EXCEPT AS PROVIDED IN AS 12.55.055(f), IF] a defendant is
30 sentenced under (c) or [,] (d) [, OR (f)] of this section,

31 (1) execution of sentence may not be suspended and probation or parole

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1 may not be granted until the minimum term of imprisonment has been served;

2 (2) imposition of a sentence may not be suspended except upon condition
3 that the defendant be imprisoned for no less than the minimum term of imprisonment
4 provided in the section; and

5 (3) the minimum term of imprisonment may not otherwise be reduced.

6 * Sec. 6. AS 12.55.135(f) is amended to read:

7 (f) A defendant convicted of vehicle theft in the second degree in violation of
8 AS 11.46.365(a)(1) [CRIMINAL MISCHIEF IN THE THIRD DEGREE IN
9 VIOLATION OF AS 11.46.484(a)(2), WHOSE CONVICTION IS NOT A FELONY
10 UNDER AS 11.46.484(c),] shall be sentenced to a definite term of imprisonment of
11 at least 72 hours but not more than one year.

12 * Sec. 7. AS 28.15.181(a) is amended to read:

13 (a) Conviction of any of the following offenses is grounds for the immediate
14 revocation of a driver's license, privilege to drive, or privilege to obtain a license:

15 (1) manslaughter or negligent homicide resulting from driving a motor
16 vehicle;

17 (2) a felony in the commission of which a motor vehicle is used;

18 (3) failure to stop and give aid as required by law when a motor
19 vehicle accident results in the death or personal injury of another;

20 (4) perjury or making a false affidavit or statement under oath to the
21 department under a law relating to motor vehicles;

22 (5) operating a motor vehicle or aircraft while intoxicated;

23 (6) reckless driving;

24 (7) using a motor vehicle in unlawful flight to avoid arrest by a peace
25 officer;

26 (8) refusal to submit to a chemical test authorized under
27 AS 28.33.031(a) or AS 28.35.031(a) while under arrest for operating a motor vehicle,
28 commercial motor vehicle, or aircraft while intoxicated, or authorized under
29 AS 28.35.031(g);

30 (9) driving while license, privilege to drive, or privilege to obtain a
31 license, canceled, suspended, or revoked, or in violation of a limitation;

1 (10) vehicle theft in the first degree in violation of AS 11.46.360 or
2 vehicle theft in the second degree in violation of AS 11.46.365.

3 * Sec. 8. AS 28.15.181(b) is amended to read:

4 (b) A court convicting a person of an offense described in (a)(1) - (4), (6),
5 [OR] (7), or (10) of this section shall revoke that person's driver's license, privilege
6 to drive, or privilege to obtain a license for not less than 30 days for the first
7 conviction, unless the court determines that the person's ability to earn a livelihood
8 would be severely impaired and a limitation under AS 28.15.201 can be placed on the
9 license that will enable the person to earn a livelihood without excessive danger to the
10 public. If a court limits a person's license under this subsection, it shall do so for not
11 less than 60 days. Upon a subsequent conviction of a person for any offense described
12 in (a)(1) - (4), (6), [OR] (7), or (10) of this section occurring within 10 years after a
13 prior conviction, the court shall revoke the person's license, privilege to drive, or
14 privilege to obtain a license and may not grant the person limited license privileges for
15 the following periods:

16 (1) not less than one year for the second conviction; and

17 (2) not less than three years for a third or subsequent conviction.

18 * Sec. 9. Rule 32.1(a), Alaska Rules of Criminal Procedure, is amended to read:

19 (a) Scheduling. At the time guilt in a felony case is established by verdict or
20 plea, the judge shall establish the date for a sentencing hearing and a presentencing
21 hearing, if appropriate, and, except as provided in paragraph (f) of this rule, shall
22 order a presentence investigation by the Department of Corrections. If the judge elects
23 to schedule a single hearing, all of the procedures for the presentencing and sentencing
24 hearings shall be applicable at the single hearing.

25 * Sec. 10. Rule 32.1, Alaska Rules of Criminal Procedure, is amended by adding a new
26 subsection to read:

27 (f) When Presentence Investigation Not Required. Unless a person may be
28 sentenced to a presumptive term of imprisonment under AS 12.55.125(e)(1) or (2), a
29 presentence investigation by the Department of Corrections is not required for a
30 defendant convicted of vehicle theft in the first degree in violation of AS 11.46.360.

31 * Sec. 11. AS 11.46.482(a)(4), 11.46.482(a)(5), 11.46.484(a)(2), 11.46.484(a)(3),

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- 1 11.46.484(c); and AS 12.55.055(f) are repealed.
- 2 * **Sec. 12.** AS 11.46.360(a)(1), enacted by sec. 1 of this Act, applies to an act committed
- 3 on or after the effective date of this Act.
- 4 * **Sec. 13.** This Act takes effect immediately under AS 01.10.070(c).