

Presented by Ord 98-52  
IM No. 98-107 10/12/98  
48.

**WASILLA CITY COUNCIL INFORMATION MEMORANDUM**

IM No. 98-107 10/12/98  
48.

**SUBJECT: Surcharge of Municipal Fines.**

REQUESTED BY: Ken Jacobus, City Attorney

PREPARED BY: J. Newman, Deputy Clerk

DATE: September 22, 1998

FOR AGENDA OF: September 28, 1998

**SUMMARY:**

Mr. Jacobus has contacted the clerk's office and requested that we prepare the attached ordinance for council's consideration.

The State of Alaska has required that all municipalities authorize and provide for the collection of a surcharge on ordinance violations in which a fine of \$30 or more, or imprisonment is provided. Failure to so provide means that the municipality will not be able to enforce those ordinances to which the State law applies. This law took effect on August 27, 1998, so prompt action from the council is requested.

**FISCAL IMPACT:**  No  Yes, amount requested: \$

Fund:

**RECOMMENDED ACTION:** Consideration of Ordinance Serial No. 98-52.

**MAYOR REVIEW/COMMENT:**

  
Reviewed by: SARAH PALIN, Mayor

Attachments: Memorandum for Ken Jacobus

LAW OFFICES OF  
KENNETH P. JACOBUS, P.C.

425 G STREET, SUITE 920  
ANCHORAGE, ALASKA 99501-2140  
TELEPHONE (907) 277-3333  
FAX (907) 278-4848

**VIA FAX 907-373-9092**  
**Original Mailed**

September 20, 1998

Office of the City Clerk  
290 East Herning Avenue  
Wasilla AK 99654-7091

Re: Ordinance 98-\_\_\_\_\_, Surcharge on Municipal Fines

Dear Kristie,

I have enclosed a draft ordinance to be retyped and placed on the next council agenda. This ordinance is modeled after one being considered for adoption by the Borough at this time.

By 1998 S.L.A. Ch. 56, attached, the State has required that all municipalities authorize and provide for the collection of a surcharge on ordinance violations in which a fine of \$30 or more, or imprisonment, is provided. Failure to so provide means that the municipality will not be able to enforce those ordinances to which the State law applies. This law took effect on August 27, 1998, so prompt action by the City of Wasilla is important.

This matter should also be referred to Chief Fannon for his information. It may be necessary to revise the citation forms used by the City to reference the surcharge.

If you have any particular questions, please let me know. Also, please fax the ordinance back for review prior to placing it in the Council packet. Thanks for your help.

Very truly yours,

KENNETH P. JACOBUS, P.C.

By 

Kenneth P. Jacobus

KPJ:me

Encl.

1998 SLA CII. 56

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## CHAPTER 56

## AN ACT

Relating to fines and to a surcharge imposed for violations of state or municipal law and to the Alaska police training fund.

05.15.640

\* Section 1. AS 12.25.195 is amended by adding a new subsection to read: 12.25.195(c)

(c) Disposition of an offense under (a) of this section may not occur unless the person cited for the offense pays the surcharge prescribed in AS 12.55.039 in addition to the scheduled bail or fine amount. The surcharge required to be paid under this subsection shall be deposited into the general fund and accounted for under AS 37.05.142.

\* Sec. 2. AS 12.25.200(b) is amended to read: 12.25.200(b)

(b) A citation issued under AS 12.25.180 must indicate

(1) the amount of bail or fine and the surcharge applicable to the offense;

(2) the procedure a person must follow in responding to the citation;

(3) that if the person fails to pay the bail or fine the person must appear in court;

(4) that failure to pay the bail or fine or appear in court for an offense involving a moving motor vehicle may result in

(A) suspension of the person's driver's license, privilege to drive, or privilege to obtain a license; or

(B) attachment of the person's permanent fund dividend to pay the fine plus court and collection costs under AS 28.05.155; and

(5) that the person has a right to

(A) a trial,

(B) engage counsel;

(C) confront and question witnesses;

(D) testify; and

(E) subpoena witnesses on the person's behalf.

\* Sec. 3. AS 12.55.035 is amended by adding a new subsection to read: 12.55.035

(f) In imposing a fine, the court may not reduce the fine by the amount of a surcharge or otherwise consider the applicability of a surcharge to the offense.

\* Sec. 4. AS 12.55.039(a) is amended to read: 12.55.039(a)

Eff. 5/30/98

SCS CSHB 261(FIN)

(a) In addition to any fine or other penalty prescribed by law, a defendant who pleads guilty or nolo contendere to, forfeits bail for, or is convicted of a

(1) felony shall be assessed a surcharge of \$100;

(2) violation of a misdemeanor offense under AS 28.33.030, 28.33.031, AS 28.35.030, or 28.35.032, or a violation of a municipal ordinance comparable to a misdemeanor offense under AS 28.33.030, 28.33.031, AS 28.35.030, or 28.35.032 and adopted under AS 28.01.010, shall be assessed a surcharge of \$75;

(3) misdemeanor or a violation of a municipal ordinance if a sentence of incarceration may be imposed for the misdemeanor or ordinance violation, other than a provision identified in (2) of this subsection, shall be assessed a surcharge of \$50;

(4) violation or an infraction under state law or a misdemeanor or a violation of a municipal ordinance if a sentence of incarceration may not be imposed for the misdemeanor or ordinance violation [OF A VEHICLE OR TRAFFIC OFFENSE UNDER AS 28, A REGULATION ADOPTED UNDER AS 28, OR A MUNICIPAL ORDINANCE UNDER AS 28.01.010] shall be assessed a surcharge of \$10 if the fine or bail forfeiture amount for the offense is \$30 or more

(1) \$10 IF THE VIOLATION IS FOR OTHER THAN A VIOLATION OF AS 28.15.291, AS 28.33.030, 28.33.031, AS 28.35.030, 28.35.032, 28.35.040, 28.35.060, OR A COMPARABLE MUNICIPAL ORDINANCE; OR

(2) \$25 IF THE VIOLATION IS A VIOLATION OF AS 28.15.291, AS 28.33.030, 28.33.031, AS 28.35.030, 28.35.032, 28.35.040, 28.35.060, OR A COMPARABLE MUNICIPAL ORDINANCE).

\* Sec. 5. AS 18.65.225 is amended to read:

Sec. 18.65.225. Alaska police training fund. The Alaska police training fund is created in the general fund. The fund consists of appropriations made by the legislature to the fund. The legislature may appropriate to the fund the annual estimated balance in the accounts maintained under AS 37.05.142 for money collected under AS 12.25.195(c), AS 12.55.039, [AND] AS 28.05.151, and AS 29.25.072. The legislature may make appropriations [APPROPRIATE EQUAL AMOUNTS] from the fund to [THE] (1) the Department of Public Safety for the Public Safety Training Academy, including Village Public Safety Officers, [AND] (2) the Alaska Police Standards Council to provide training for the law enforcement and corrections community of the state under AS 18.65.230, and (3) municipalities that

18.65.225

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\* Sec. 6.

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conduct their own police training programs. Nothing in this section creates a dedicated fund.

\* Sec. 6. AS 28.05.151(c) is amended to read:

28.05.151(c)

(c) The supreme court shall require as a condition of the disposition of an offense without appearance that a person charged with any offense for which a bail forfeiture amount has been adopted shall pay the [A] surcharge prescribed in AS 12.55.039 [OF \$10] in addition to the bail forfeiture amount established by the supreme court. The surcharge required to be paid under this subsection shall be deposited into the general fund and accounted for under AS 37.05.142.

\* Sec. 7. AS 29.10.200 is amended by adding a new paragraph to read:

29.10.200(54)

(54) AS 29.25.072 (surcharge).

\* Sec. 8. AS 29.25 is amended by adding a new section to read:

29.25.072

Sec. 29.25.072. Surcharge. (a) A municipality may not enforce an ordinance for which a fine of \$30 or more or imprisonment is prescribed as a penalty unless the municipality authorizes the imposition of and provides for the collection of the surcharge required to be imposed under AS 12.55.039. The surcharge shall be deposited into the general fund of the state and accounted for under AS 37.05.142. Subject to appropriation, the legislature may reimburse a municipality that collects a surcharge required to be imposed under AS 12.55.039 for the cost to the municipality in collecting the surcharge and transmitting the surcharge to the state. The reimbursement may not exceed 10 percent of the surcharge collected and transmitted to the state.

(b) This section applies to home rule and general law municipalities.

\* Sec. 9. AS 29.25.075 is amended to read:

29.25.075

Sec. 29.25.075. Collection of penalties. The court may collect for a municipality any monetary penalty or surcharge or item to be forfeited as a result of the violation of an ordinance. The supreme court may prescribe by rule the fees to be charged by all courts to municipalities for providing collection services under this section.

\* Sec. 10. Notwithstanding the requirements of AS 12.55.039(d) and AS 37.05.142 that surcharges collected under AS 12.55.039 be accounted for separately, the Alaska Court System shall deposit money collected under AS 12.55.039 in the general fund and shall, by February 1 of each year, provide to the Department of Administration, to the Legislative Budget and Audit Committee, and to each house of the legislature an estimate of the money collected under AS 12.55.039 for that fiscal year.

18.65.225

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\* Sec. 11. Section 10 of this Act is repealed on the earlier of (1) the date that the Alaska Court System has the capability to separately track and account electronically for money collected under AS 12.55.039, or (2) June 30, 2002. The executive director of the Alaska Court System shall notify the lieutenant governor and the revisor of statutes when the electronic capability described in this section has been obtained.

EFF. 8/27/98

SCS CSHB 261(FIN)