ANCHORAGE, ALASKA
AO No. 2023-67(S)


WHEREAS, the Municipality of Anchorage enacted its first iteration of the “Scofflaw Law” with passage of AO 2007-060 with a delayed effective date, and soon after repealed and rewrote its law by AO 2007-161 enacting Anchorage Municipal Code section 9.28.035 to be consistent with nascent state legislation that authorized municipalities to adopt ordinances allowing impoundment and forfeiture of motor vehicles driven on public streets if the driver has accumulated more than $1,000 in delinquent fines for moving violations committed within the municipality; and

WHEREAS, the stated purpose of, the Municipality’s Scofflaw code, in AMC section 9.28.035A., is: “The purpose of abatement is to remove motor vehicles operated by repeat traffic offenders who have not been subject to the deterrent and rehabilitative effects of sentencing, and who therefore pose a heightened danger to the public. The purpose of abatement is not to generate revenue.”; and

WHEREAS, the Alaska Legislature later enacted a state statute amendment that requires the Department of Motor Vehicles to “cancel a driver’s license upon determination that … the licensee owes $1,000 or more in unpaid fines for offenses involving a moving motor vehicle and failed to (A) pay the fines in full as required by the court; or (B) make payments in good faith on the unpaid balance of the fines under a payment plan established by the department.” AS 28.15.161(a)(7). The statute change was part of House Bill 49 passed in 2019 as a response to the crime rates in the wake of passage of Senate Bill 91 passed in 2016, as one of the tools to address repeat offenders; and

WHEREAS, the Municipal Ombudsman analyzed the utility and effect of the Scofflaw code in a February 5, 2020 memorandum, finding that the “alleged public safety purpose of the scofflaw program has not been achieved,” concluded that it is “not fair, equitable or reasonable,” and recommended it be repealed; now, therefore,

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. [Anchorage Municipal Code section 9.28.035 is hereby repealed in its entirety. In accordance with AMC section 1.05.050B., a copy of the existing text of the section being repealed is attached as Attachment A.]
Anchorage Municipal Code 9.28.035 is hereby amended to read as follows (the remainder of the section is not affected and therefore not set out):

9.28.035 Abatement of vehicles operated by delinquent offenders.

A. Any motor vehicle operated by a person who accumulates delinquent traffic fines totaling more than $2,500.00 [$1,000.00] is a public nuisance subject to abatement as provided in this section. The purpose of abatement is to remove motor vehicles operated by repeat traffic offenders who have not been subject to the deterrent and rehabilitative effects of sentencing, and who therefore pose a heightened danger to the public. The purpose of abatement is not to generate revenue.

B. Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Traffic fine means a fine issued by the municipality for a moving violation, which is any violation of vehicle laws that is committed by the driver of a vehicle while the vehicle is moving, including not having proof of insurance. Moving violations shall not include equipment violations or paperwork violations relating to registration, licensing, and inspection. Traffic fine does not include fines for parking violations.

Section 2. [Anchorage Municipal Code section 9.28.026 is hereby amended as follows (the remainder of the section is not affected and therefore not set out):]

9.28.026 Impoundment and forfeiture of vehicle.

[F]. Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Legally unjustified means there was:
[1.] [No reasonable suspicion for the stop of the vehicle leading to an arrest for soliciting, driving without a valid license, driving under the influence, [OPERATING A MOTOR VEHICLE THAT IS PUBLIC NUISANCE UNDER SECTION 9.28.035] or operating without the required security based on the individual allegedly operating, driving, or being in actual physical control of the vehicle; or]

[2.] [No probable cause for the arrest of an individual for soliciting, driving without a valid license, driving under the influence, [OPERATING A MOTOR VEHICLE THAT IS PUBLIC NUISANCE UNDER SECTION 9.28.035] or operating without the required security based on the individual allegedly operating, driving, or being in actual physical control of the vehicle.]

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[(AO No. 82-205; AO No. 83-168, 10-17-83; AO No. 93-87(S-2), 1-1-94; AO No. 94-71(S), § 1, 4-26-94; AO No. 95-84(S-1), § 18, 4-27-95; AO No. 95-163(S), §§ 10-19, 8-8-95; AO No. 97-87, § 3, 6-3-97; AO No. 2001-51, § 1, 2-27-01; AO No. 2001-72, § 1, 7-1-02; AO No. 2001-139, § 2, 7-1-02; AO No. 2001-150, § 6, 8-28-01; AO No. 2003-73, §§ 12-14, 4-22-03; AO No. 2003-106, §§ 7, 8, 7-1-03; AO No. 2003-152S, § 2, 1-1-04; AO No. 2003-155, § 2, 6-1-04; AO No. 2004-61, § 1, 3-2-04; AO No. 2005-89(S), § 1, 6-6-06; AO No. 2006-115, § 1, 9-12-06; AO No. 2007-60, § 2, 11-1-07; AO No. 2007-161, § 3, 12-11-07; AO No. 2008-126, § 1, 1-6-09; AO No. 2010-76, § 4, 10-26-10; AO No. 2010-81(S-1), § 8, 12-7-10, eff. 1-1-11; AO No. 2012-16, § 3, 2-14-12, retro eff. 12-22-11; AO No. 2012-55, § 1, 7-10-12; AO No. 2015-126, § 2, 1-1-16)]

[Section 3. Anchorage Municipal Code section 9.28.027 is hereby amended as follows (the remainder of the section is not affected and therefore not set out):]

[9.28.027 - Failure to return a vehicle released under a vehicle return bond.]

[A]. [It is unlawful for the person who has secured the release of a vehicle under a vehicle return bond under section 9.28.019, 9.28.020, 9.28.022, 9.28.026, 9.28.030, 9.28.035, or 8.65.030 to willfully fail to return that vehicle when ordered by a court. Each day a vehicle is not returned constitutes a separate offense under this section.]

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[(AO No. 95-84(S-1), § 19, 4-27-95; AO No. 2001-72, § 3, 7-1-02; AO No. 2001-139, § 3, 7-1-02; AO No. 2003-155, § 3, 6-1-04; AO No. 2004-61, § 1, 3-2-04; AO No. 2007-60, § 3, 4-10-07; AO No. 2007-161, § 4, 12-11-07; AO No. 201-76, § 1, 10-26-10)]
Section 4. This ordinance shall be effective immediately upon [30 days after] passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this ______ day of ____________, 2023.

ATTEST:

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Chair of the Assembly

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Municipal Clerk