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STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department Public Safety	Sponsor (Principal) Rules by Request of the Governor	Bill Number SB319
Department Position Support		
Division Director Col. Tom Anderson Robert J. Rowan	Date 3-18-81	Commissioner William R. Nix Date 3/18/81

GOVERNOR'S OFFICE USE

Comments:

Position Noted By _____ Date _____

SUMMARY

1. a) Related Bills (Similar or Conflicting) None	1. b) Other Agencies Affected by Bill Community & Regional Affairs
2. a) Organizational Support for Bill	2. b) Organizational Opposition to Bill

3. Program Effects of Bill

Corrects deficiencies in present law.

4. Fiscal Impact: None Fiscal Note Attached

5. Amendments Proposed:

Page 4, Line 16, change to:
under AS 28.10.011(6), (7) or (12), upon application by that owner.

6. Comments:

This bill basically contains housekeeping measures which will enhance our operation by correcting problem areas we have experienced, and/or can foresee in the future.

Reason for proposed amendment is Sec. 7 of the bill will exempt a mobile home from registration. It should therefore be included in Sec. 10 of the bill allowing issuance of a title. If titles were not issued citizens would experience problems in obtaining financing through lending institutions.



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY SB 319

The inclusion of sections 25-27, dealing with the industrial incentive tax credit, caused the act to violate the single subject rule, and the purpose of this bill is to eliminate possible constitutional problems.

Adds a new paragraph to AS 28.05.011 stating that regulations shall include but are not limited to (12) certification and regulation of vehicle body repair shops.

Amends AS 28.05.021 Compacts or agreements affecting State finances or driving privileges must be approved by a concurrent resolution approved by a majority vote of both houses before it becomes effective.

Amends AS 28.05.091 Changes the title of the Section to Impound of Vehicles; adds language that a vehicle whose vehicle identification number has been removed, defaced, or altered is an unlawful vehicle and may be impounded. Also states that the owner of a vehicle driven on a highway (roads) which is defective in equipment and unsafe for driving shall pay the necessary costs of impounding and storing of the vehicle.

Amends AS 28.05.141 Court shall conduct a hearing limited to the issues raised at the hearing under section (a), deleting the wording which stated the court shall conduct a hearing "de novo".

Amends AS 28.10.011 Every vehicle (in the State) shall be registered under this chapter except when the vehicle is a mobile home.

Adds new section to AS 28.10.051 The Dept. may cancel, suspend, or revoke a title or registration if it has reasonable cause to believe the title or registration was obtained in violation of AS 28.10.491. A peace officer shall impound the vehicle, after the receipt of notification of temporary revocation, pending the notice and hearing provided under AS 28.05.131 (a).

SUMMARY SB 319 cont.

Amends AS 28.10.105 (f) (Staggered Registration) by stating that the registered owner of a vehicle may exercise the option of extended registration periods only once for each vehicle.

Amends AS 28.10.201(b) (Title Required; exceptions) by stating the owner of a vehicle which is exempt because of being driven or parked only on private property may be issued a title by the Dept. upon application.

Amends AS 28.15.181(a) (1) states that manslaughter or criminally negligent homicide resulting from the driving of a motor vehicle are grounds for immediate suspension or revocation of a drivers license. Amends subsection (a) (5) by stating that "driving while intoxicated" is grounds for immediate suspension. (presently "driving or operating a motor vehicle while under the influence of alcohol or another drug").

Amendments made to AS 29.53.020 (Municipal Assessment and Taxation Required exemptions) relates to exemptions for residents 65 years or older, stating that one motor vehicle is exempt a year from taxation of its assessed value or from the registration tax. The State shall pay a borough or city for lost tax revenues, and that the Dept. of C&RA shall adopt regulations necessary to impliment the exemptions.

Repeals AS 28.10.411 (d) The Dept. of C&RA shall pay to the borough and to the city in which a person who is granted an exemption under this section resides, an amount equal to the tax levied under section 431(b) of this chapter regardless of whether the borough or city is eligible for the tax levied under that section.

Provides Sections relating to senior citizens exemptions are retroactive to January 1, 1981. Provides that all other sections take effect immediately.

Section
examine applications, and admin-
ister oaths
51. Suspended or revoked documents

Section
(1. Records of department and certified
copies of records
71 Change of name or address

Sec. 28.05.011. Duty of commissioner to adopt regulations. The commissioner shall, unless otherwise provided by statute, adopt regulations in compliance with the Administrative Procedure Act (AS 44.62) necessary to carry out the provisions of this title and other statutes the administration of which is vested in the department. The regulations shall include, but not be limited to:

- (1) rules of the road relating to the driving, stopping, standing, parking and other conduct of vehicles, to pedestrians and to official traffic control devices;
- (2) minimum equipment for vehicles, including, but not limited to, minimum standards of compliance to be met by manufacturers and vehicle sales and repairs businesses;
- (3) inspection of vehicles, and the removal of vehicles from areas of public use when they are found to be in a defective or unsafe condition;
- (4) registration, titling, transfer and abandonment of vehicles;
- (5) licensing of drivers of vehicles;
- (6) financial responsibility relating to vehicles;
- (7) management of records of the department required for the administration of this title and regulations adopted under this title, including provisions for insuring the accuracy of information contained in automated and manual information retrieval systems;
- (8) the operation of motor vehicle weighing stations and the enforcement of size, weight and load limitations, including the issuing of special permits and prescribing fees for special permits, based upon directives of the Department of Transportation and Public Facilities for prescribing or restricting conditions for the driving of vehicles when necessary to protect against undue damage to the road foundations, surfaces or structures;
- (9) definitions of words and phrases used in this title and in regulations adopted under this title unless otherwise provided by statute;
- (10) registration of motor vehicle, trailer, and semi-trailer dealers; and
- (11) certification and regulation of junk yards. (§ 6 ch 178 SLA 1978)

Cross references. — See AS 28.35.230 and AS 28.35.260. As to establishing limitations on weight and load of vehicles, see AS 19.10.060(1).

Editor's note. — The cases cited below were decided under former AS 28.05.030.

Power of commissioner includes regulation of motorcycle construction and safety apparel. — The power of the commissioner of public safety to adopt regulations governing rules of the road has

been interpreted as including the regulation of motorcycle construction and safety apparel insofar as such regulations are reasonable and do not violate constitutional rights of the individual. *Kingery v. Chapple* Sup. Ct. Op. No. 858 (File No. 1554), 504 P.2d 831 (1972).

Wholesale frontal assault on traffic laws not intended. — Although the supreme court strongly presumes that most traffic regulations do in fact provide

standards of conceivable traffic certain traffic oblique or irrational. In the face of unreasonable violations the evidence of negligence. But it should be noted that the supreme court in *Wholesale* from and comprehend *Baxter, Sup. Ct. 484 P.2d 250 (1971)*.

Certain clauses protected from promulgating the legislature, more often by the fact that certain protected from example, in the requiring drive lanes was at protect on head-on collisions regulation pursuant to the Department implicitly indicate person would not ascertaining it. Therefore, before an instruction negligence per se. He is and, second, that a harm against signed to protect Ct. Op. No. 688 250 (1971).

Restatement of the supreme court in this state in trial opinion are the Restatement (Second) 288A, and 288B apply these rules alleged to have regulation, or (Second) of Tort. "The court may conduct of a requirements of an administration purpose is found (a) to protect includes the one and (b) to protect which is invaded interest against

two purposes. —
 including statutes,
 ordinances, serve two
 purposes. First, they provide
 a minor, for their
 benefit the standard of
 care thereby require a
 tort action if the
 defendant
 violation. Ferrell
 No. 688 (File No.
 1041).

the legal duty or
 of the driver to the
 be injured if such
 Ferrell v. Baxter, Sup.
 Ct. Op. No. 688 (File No. 1041), 484 P.2d 250

statute, regulation,
 or ordinance of that duty and,
 in a prima facie
 case, the defendant did not act
 in accordance with a reasonably
 prudent person. Ferrell v. Baxter, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250

for a traffic
 violation. Ferrell v. Baxter, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250

of violation of
 an ordinance or regulation.
 Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971).
 statute doctrine
 which imposes a firm duty to
 obey. Ferrell v. Baxter, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250

of the theoretical
 doctrine of
 negligence and comparison
 of the various
 standards. Ferrell v. Baxter, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250

liability. — See
 Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971);
 Ferrell v. Baxter, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250

law negligence
 Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971). But
 see, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971).
 or an applicable
 statute which has been
 held to be a standard of

reasonable behavior is negligence per se. Ferrell v. Baxter, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971). But see Claubaugh v. Bottcher, Sup. Ct. Op. No. 1235 (File No. 2481), 545 P.2d 172 (1976).

A violation of a statewide administrative traffic regulation adopted pursuant to statutory authority must be equated with a violation of a traffic statute itself. Ferrell v. Baxter, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971). But see Claubaugh v. Bottcher, Sup. Ct. Op. No. 1235 (File No. 2481), 545 P.2d 172 (1976).

Difference between negligence per se and mere evidence of negligence. — Assuming causation is shown, if a plaintiff proves that a defendant violated a traffic law prescribing a standard of reasonable behavior, and the defendant produces nothing to the contrary, plaintiff's case is then sufficiently strong to warrant a judgment in his favor. However, if the law is not held to establish a standard of reasonable behavior and its violation is further held merely to constitute evidence of negligence which may, but need not, be considered determinative by the trier of fact, the judge need not render a verdict for the plaintiff. Ferrell v. Baxter, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971).

Judgment for plaintiff in absence of defense. — Unless the defendant offers evidence of some defense, judgment for the plaintiff will be required in those jurisdictions in which a traffic violation is negligence in itself. Ferrell v. Baxter, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971).

Prima facie case satisfies burden of proof. — When the plaintiff establishes a prima facie case, that is enough to satisfy the burden of proof when the evidence is not in conflict. Ferrell v. Baxter, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971).

Certain traffic violations may be excused. Ferrell v. Baxter, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971).

One such excuse can be that the violation was caused by outside forces, either man-made or natural, over which the actor had no control. Ferrell v. Baxter, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971).

Contributory negligence. — Once a traffic violation has been proved, the defendant can offer any one of several defenses. For example, the contributory negligence of the plaintiff will be such a defense. Ferrell v. Baxter, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971).

Violation excused under § 288A(2)(c) of Restatement. — If a trial court holds that a statute sets forth the standard of reasonable behavior and admits evidence of its violation, the court still may, in appropriate cases, permit the defendant to introduce evidence that although he did in fact violate the law, its meaning was so obscure or unreasonable that he acted with all due care in attempting to obey it. In this case his violation could be excused under § 288A(2)(c) of the Restatement. Ferrell v. Baxter, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971).

Construction of 13 AAC 02.485(a). — Study of 13 AAC 02.485(a), which provides that "a driver of a vehicle may not back the vehicle unless the movement can be made with safety and without interfering with the traffic," and this section, under which this regulation was promulgated, reveals no reason why the regulation should be construed to prohibit an emergency excuse. Wilson v. Sibert, Sup. Ct. Op. No. 1151 (File No. 2165), 535 P.2d 1034 (1975).

Statutes may be enforced on streets not within state highway system. — The Department of Public Safety has the authority to enforce all traffic statutes and regulations upon dedicated or public subdivision streets, regardless of whether they are in the state highway system. 1965 Op. Att'y Gen., No. 10.

For application of rules and regulations governing roads and highways to military base in absence of federal statute, see Hundley v. United States, 15 Alas. 551, 131 F. Supp. 655 (D. Alas. 1955).

Am. Jur. and C.J.S. references. — 5 Am. Jur., Automobiles, § 58; 5A Am. Jur., Automobiles and Highway Traffic, § 5 to § 9.

60 C.J.S., Motor Vehicles, §§ 97 to 100.

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

commercially in the state does not comply with the requirements of this title or regulations adopted under this title or other statutes and regulations, he may, after giving 30 days notice to the person holding the certificate of approval for the equipment in this state, conduct a hearing upon the question of compliance of the equipment. After the hearing, the commissioner shall determine whether the equipment is in compliance. If the equipment is not in compliance with the law, the commissioner shall give notice of that fact to the person holding the certificate of approval for the equipment in this state.

(b) If, at the end of 90 days after the notice of noncompliance given under (a) of this section, the person holding the certificate of approval for the vehicle equipment has failed to satisfy the commissioner that the equipment as sold after the 90 days is in compliance with the law, the commissioner shall suspend or revoke the approval issued for the equipment until the equipment is resubmitted to, and retested by, a testing agency approved by the commissioner and is found to be in compliance with the law. The commissioner may, at the time of retest, purchase in the open market and submit to the testing agency one or more sets of the equipment. If the equipment upon retest fails to comply with the law, the commissioner may refuse to renew the certificate of approval of the equipment.

(c) After January 1, 1978, no motorcycle helmet may be manufactured or sold in this state which does not conform to standards established in regulations adopted by the commissioner. These regulations shall provide for helmets that allow normal peripheral vision and hearing and minimize neck injuries to the wearer potentially caused by the helmet. For the purposes of this section and § 11(2) of this chapter, a motorcycle helmet is considered to be vehicle equipment. (§ 6 ch 178 SLA 1978)

Sec. 28.05.091. Seizure of unsafe or defectively equipped vehicle. A motor vehicle which is driven on a highway or vehicular way or area, and which has been determined to be defective in equipment so as to be unsafe for driving, is an unlawful vehicle and may be impounded by a peace officer or an employee of the department officially designated for that purpose. The owner or person in lawful possession of the vehicle shall pay the necessary costs of impounding and storing the vehicle. The impounding of a vehicle is in addition to any other penalty. Nothing in this section prevents the driving or moving of a defective vehicle in the manner directed by the peace officer or employee to a place for

- (1) the correction of a defect in the equipment;
- (2) dismantling or wrecking; or
- (3) storage without repair. (§ 6 ch 178 SLA 1978)

Editor's note. — This section derives from the language of AS 28.35.210, which is treated as repealed by this section.

Article 3. Subpoenas, Notices and Hearings.

Section	Section
111. Subpoenas; witnesses and documents	131. Opportunity for hearing required
121. Giving of notice	141. Hearings and appeals

Sec. 28.05.111. Subpoenas; witnesses and documents. (a) The commissioner and officers and employees of the department designated by the commissioner may, for good cause, subpoena witnesses to give testimony under oath or to give written deposition upon a matter under the jurisdiction of the department with respect to this title, and regulations adopted under this title. A subpoena issued under this section may require the production of relevant books, papers, documents, records or other tangible things designated in the subpoena.

(b) A subpoena issued under this section shall be served at least five days before the return date, either by personal service made by a peace officer or another person who is not less than 18 years of age or by registered or certified mail. Return acknowledgment is required to prove service by mail. The fees for the attendance and travel of witnesses are the same as for witnesses appearing before the district court.

(c) A subpoena issued under this section may be enforced by the district court. (§ 6 ch 178 SLA 1978)

Sec. 28.05.121. Giving of notice. When the department is authorized or required to give notice under this title or regulations adopted under this title, unless a different method of giving notice is otherwise expressly provided, notice shall be given by a qualified person, either by personal delivery to the person to be notified or by registered or certified mail, return receipt requested, addressed to the person at his address as shown in the records of the department. The giving of notice by mail is considered complete upon the return of the receipt or upon return of the notice as undeliverable, refused, or unclaimed. Proof of the giving of notice in either manner may be made by the affidavit of the person giving the notice by personal delivery or by mail, naming the person to whom the notice was given and specifying the time, place, and manner of giving the notice. (§ 6 ch 178 SLA 1978)

Sec. 28.05.131. Opportunity for hearing required. (a) Unless otherwise specifically provided, or unless immediate action in suspending, revoking, cancelling, limiting, restricting, denying or impounding is necessary for the protection of the health, safety or welfare of the public, the department shall give notice of the opportunity for an administrative hearing before a license, registration, title, permit or privilege issued or allowed under this title or regulations adopted under this title is suspended, revoked, cancelled, limited, restricted or denied or a vehicle is impounded by the department. If action is required under this section and prior opportunity for a hearing cannot be afforded

hearing as soon after the action as possible to the parties concerned.

(b) The notice under this section shall state the reasons for the department's proposed action and provide for a reasonable attendance date of not less than 10 days after service of the notice. If there is no request for a hearing by the attendance date specified in the notice, the hearing is considered to have been waived. (§ 6 ch 178 SLA 1978)

Sec. 28.05.141. Hearings and appeals. (a) Unless otherwise specifically provided, all hearings required under this title or regulations adopted under this title shall be conducted by the department under regulations adopted by the commissioner governing practice and procedure and consistent with due process of law. Hearings shall be informal, and technical rules of evidence do not apply. A person who requests a hearing may retain an attorney if he so desires. The hearing officer shall be appointed by the commissioner and may be appointed from the department. A hearing officer need not be an attorney, but must be impartial and may not have participated in the decision which is under review. The hearing officer does not have to file a full opinion or make formal findings of fact or conclusions of law, but he must state the reasons for his determination and indicate the evidence relied upon. The proceedings at the hearing shall be recorded.

(b) A hearing ordered under (a) of this section shall be held at the office of the department nearest to the residence of the person requesting the hearing unless the department and the person agree that the hearing is to be held elsewhere. The department shall grant a hearing delay if the person presents good cause for the delay. If a person fails to appear for the hearing at the time and place stated by the department and if a hearing delay has not been granted, his failure to appear is considered a waiver of the hearing and the department may take appropriate action with respect to the person.

(c) If at the hearing under (a) of this section it appears that the record of the person sustains suspension, revocation, limitation, denial, or other remedial action, the hearing officer shall so order and the department may suspend, revoke, limit, deny, or take other remedial action against that person's license and, if appropriate, the department shall adjust the person's point total accumulated under AS 28.15.231.

(d) A person aggrieved by the decision of the hearing officer may, within 30 days, initiate a proceeding in district court to rescind the department's action by filing a notice of appeal in accordance with the applicable rules of court governing appeals in civil matters. The court shall conduct a hearing de novo. The decision of the department suspending, revoking, canceling, limiting, restricting or denying a license, registration, title, permit or privilege is stayed and does not take effect during the pendency of an appeal. (§ 6 ch 178 SLA 1978)

Article 4. Disposition of Certain Vehicle and Traffic Offenses.

Section

151. Form and issuance of citation

(Sec. 28.05.151. Form and issuance of citation. (a) When a person is arrested or cited for the commission of a vehicle or traffic offense which is a misdemeanor or an infraction, the arresting or citing officer shall, except when otherwise required by law or the immediate circumstances, issue a citation to the person arrested or cited. The person receiving the citation may not be required to endorse the citation.

(b) The state supreme court shall determine by rule or order those vehicle and traffic offenses that are amenable to disposition without court appearance and shall establish a schedule of bail amounts, not to exceed fines prescribed by law, for each offense. If the offense for which the citation is issued is one which may be disposed of without court appearance, the citing officer shall write on the citation the amount of bail applicable to the cited offense.

(c) A person cited for a motor vehicle or traffic offense for which a bail amount has been established under (b) of this section may, within five days from the date of the citation, mail or personally deliver to the clerk of the court having jurisdiction over the place where the offense occurred

- (1) the amount of bail indicated on the citation for that offense; and
- (2) a copy of the citation signed by him on an appropriate blank on the citation indicating his waiver of appearance, plea of no contest, and direction to forfeit the bail.

(d) When bail has been forfeited under this section, a judgment of conviction shall be entered. Bail forfeited under this section is a complete satisfaction for the offense, and the offender shall be given a receipt stating that fact.

(e) If the person cited fails to pay the bail amount or appear in court as required, the citation shall be considered a summons as for a charge of a misdemeanor and he shall be proceeded against in the manner prescribed by law. However, the maximum penalty which may be imposed for the original offense may not exceed the bail amount for that offense set out in the schedule of bail amounts as determined by the supreme court under (b) of this section.

(f) A municipality shall adopt a citation form which complies with the requirements of this section and is at least equivalent to that adopted by the commissioner under § 41 of this chapter. (§ 6 ch 178 SLA 1978)

Chapter 10. Vehicle Registration and Title.

Article

1. Registration (§§ 28.10.011 — 28.10.181)
2. Title (§§ 28.10.201 — 28.10.261)
3. Transfer of Vehicle (§§ 28.10.271 — 28.10.361)
4. Filing Documents Evidencing Liens or Encumbrances (§§ 28.10.371 — 28.10.401)
5. Fees and Charges (§§ 28.10.411 — 28.10.441)
6. Registration and Title Violations (§§ 28.10.451 — 28.10.491)
7. General Provisions (§§ 28.10.495 — 28.10.502)

Repeal of former chapter. — Section 7, ch. 178, SLA 1978, repealed former Chapter 10, entitled "Alaska Motor Vehicle Act." The former chapter consisted of §§ 28.10.010 — 28.10.660, and derived from §§ 1-12, ch. 124, SLA 1951; §§ 1-5, ch. 50, SLA 1953; §§ 1-3, ch. 59, SLA 1953; §§ 1, 2, ch. 73, SLA 1953; § 1, ch. 37, SLA 1955; § 1, ch. 8, SLA 1957; § 1, ch. 20, SLA 1957; §§ 1 — 3, ch. 95, SLA 1957; § 1, ch. 120, SLA 1957; § 1, ch. 176, SLA 1957; § 1, ch. 38, SLA 1959; ch. 59, SLA 1959; §§ 1, 2, ch. 73, SLA 1959; § 1, ch. 134, SLA 1959; § 1, ch. 138, SLA 1960; § 1, ch. 140, SLA 1960; § 1, ch. 22, SLA 1961; § 1, ch. 25, SLA 1961; § 1, ch. 60, SLA 1961; § 1, ch. 141, SLA 1961; § 1, ch. 8, SLA 1962; §§ 1, 2, ch. 94, SLA 1962; § 11, ch. 2, SLA 1964; §§ 1, 2, ch. 24, SLA 1964; §§ 30-33, ch. 43, SLA 1964; §§ 14, 15, ch. 70, SLA 1964; § 1, ch. 21, SLA 1965; §§ 1 — 3, ch. 59, SLA 1966; § 1, ch. 30, SLA 1966; § 1, ch. 141, SLA 1966; § 2, ch. 67, SLA 1967; § 1, ch. 81, SLA 1967; § 1, ch. 79, SLA 1968; § 1, ch. 97, SLA 1968; § 1, ch. 187, SLA 1968; §§ 1, 2, ch. 187, SLA 1968; §§ 1, 2, ch. 191, SLA 1968; §§ 1, 2, ch. 219, SLA 1968; §§ 1, 2, ch. 97, SLA 1969; § 58, ch. 69, SLA 1970; §§ 1 — 3, ch. 114,

SLA 1970; § 1, ch. 116, SLA 1970; § 1, ch. 152, SLA 1970; § 1, ch. 192, SLA 1970; § 1, ch. 12, SLA 1972; §§ 1 — 3, ch. 10, SLA 1973; § 1, ch. 81, SLA 1973; §§ 1 — 5, ch. 156, SLA 1975; §§ 11 — 14, 29, ch. 214, SLA 1975; §§ 1, 2, ch. 4, SLA 1976; § 2, ch. 61, SLA 1976; § 1, ch. 126, SLA 1976; §§ 1 — 4, ch. 195, SLA 1976; §§ 15 — 17, 20, ch. 241, SLA 1976; §§ 1, 3 — 7, ch. 256, SLA 1976; §§ 1 — 6, ch. 20, SLA 1977; § 2, ch. 135, SLA 1977; §§ 7 — 10, 25, ch. 144, SLA 1977.

Legislative committee reports. — For report on ch. 67, SLA 1967 (HB 175), see 1967 House Journal, pp. 349-350. For report on ch. 81, SLA 1967 (CSSB 145), see 1967 House Journal, pp. 544-545. For report on ch. 97, SLA 1968 (CSHB 27), see 1968 House Journal, p. 583. For report on ch. 152, SLA 1968 (HCSCSSB 220 am), see 1968 House Journal, p. 632. For report on ch. 69, SLA 1970 (HB 564), see 1970 House Journal Supplement No. 2, p. 7. For report on ch. 10, SLA 1973 (HB 85), see 1973 Senate Journal Supplement No. 6, p. 3. For report on ch. 81, SLA 1978 (CSHB 84 [Finance] am S), see 1978 House Journal, p. 547.

Article 1. Registration.

<p>Section</p> <p>11. Vehicles subject to registration</p> <p>21. Application for registration</p> <p>31. Temporary permits</p> <p>41. Grounds for refusing registration</p> <p>51. Department may suspend or revoke registration</p> <p>61. Registration of vehicles with altered or missing identification number</p> <p>71. Registration records and statistics; stolen vehicles</p>	<p>Section</p> <p>91. Lost or mutilated certificates of registration or registration plates</p> <p>101. Expiration of registration</p> <p>105. Staggered registration</p> <p>107. Staggered registration implementation</p> <p>111. Renewal of registration</p> <p>121. Vehicles of nonresidents</p> <p>131. Vehicles previously registered in other jurisdictions</p>
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<p>Section</p> <p>161. Registration plates to be furnished by department</p> <p>171. Display of registration plates</p>	<p>Section</p> <p>181. Registration of unique and special vehicles and vehicles used for special purposes</p>
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Sec. 28.10.011. Vehicles subject to registration. Every vehicle in the state shall be registered under this chapter except when the vehicle is

- (1) driven or moved on a highway only for the purpose of crossing the highway from one private property to another, including an implement of husbandry as defined by regulation;
- (2) driven or moved on a highway under a dealer's plate or temporary permit as provided for in §§ 31 and 181(j) of this chapter;
- (3) special mobile equipment as defined by regulation;
- (4) owned by the United States;
- (5) moved by human or animal power;
- (6) exempt under the Soldier's and Sailor's Civil Relief Act (50 U.S.C.A. Appr. 501 et seq.);
- (7) driven or parked only on private property;
- (8) the vehicle of a nonresident as provided under § 121 of this chapter;
- (9) a commercial interstate vehicle under § 141 of this chapter; or
- (10) transported under a special permit under § 151 of this chapter. (§ 7 ch 178 SLA 1978)

Am. Jur., ALR and C.J.S. references. — 5 Am. Jur., Automobiles, §§ 108, 136. Construction and application of exemption or exception from provisions of statute requiring registration, 91 ALR 422. 60 C.J.S., Motor Vehicles, §§ 60, 61.

Sec. 28.10.021. Application for registration. The owner of a vehicle subject to registration shall apply for registration under this chapter by properly completing the form prescribed by the commissioner under AS 28.05.041. Before the issuance of a certificate of registration by the department, the owner shall pay all registration fees and taxes required under this chapter and Alaska motor freight carrier and bus transportation fees required under AS 42, and comply with any other applicable statutes and regulations. (§ 7 ch 178 SLA 1978)

Am. Jur. and C.J.S. references. — 5 Am. Jur., Automobiles, § 779. 60 C.J.S., Motor Vehicles, §§ 101 to 104.

Sec. 28.10.031. Temporary permits. (a) When application, accompanied by the proper fee and tax, has been made for the registration of a vehicle, the vehicle may be driven pending the issuance of a certificate of registration by displaying a temporary permit issued by the department.

(b) A licensed vehicle dealer may issue to the purchaser of a vehicle a permit to drive the vehicle. A permit is

effective for a period not to exceed 30 days. The commissioner shall adopt regulations governing the issuance of permits under this section.

(c) No person may operate a vehicle under an expired permit issued under this section. (§ 7 ch 178 SLA 1978)

Sec. 28.10.041. Grounds for refusing registration. (a) The department may refuse to register a vehicle if

- (1) the application contains a false or fraudulent statement;
- (2) the applicant fails to furnish information required by the department;
- (3) the applicant is not entitled to the issuance of a certificate of title or registration under this chapter;
- (4) the vehicle is determined to be mechanically unsafe to be driven or moved on a highway, vehicular way or area, or other public property in this state;
- (5) the department has reasonable grounds to believe that the vehicle was stolen or fraudulently acquired or that the granting of registration would be a fraud against the rightful owner or other person having a valid lien upon the vehicle;
- (6) the registration of the vehicle has been suspended or revoked for any reason under the laws of this state;
- (7) the required fees, taxes, motor freight carrier fees or bus transportation fees have not been paid;
- (8) the vehicle or applicant fails to comply with this chapter or regulations authorized by this section.

(b) When the department refuses to register a vehicle, it shall immediately notify the applicant stating the reasons for the action and informing him of his right to a hearing under AS 28.05.131 — 28.05.141. (§ 7 ch 178 SLA 1978)

Am. Jur. reference. — 5 Am. Jur.,
Automobiles, § 111.

Sec. 28.10.051. Department may suspend or revoke registration. The department may suspend or revoke the registration of a vehicle, the certificate of registration or registration plates for a vehicle, or a special permit when

- (1) the department is satisfied that the registration or certificate, plate or permit was fraudulently or erroneously issued;
- (2) the department determines that a registered vehicle is mechanically unsafe to be driven or moved on a highway, vehicular way or area, or other public property in this state and the vehicle has been seized or impounded under AS 28.05.091;
- (3) a registered vehicle has been scrapped, dismantled or destroyed beyond repair;

(5) a registration plate, permit, or certificate is knowingly displayed upon a vehicle other than the vehicle for which issued;

(6) the department determines that the owner of a vehicle has committed an offense under this chapter involving the registration or the certificate, plate, or permit to be suspended or revoked;

(7) the vehicle has been reported to the department as stolen or unlawfully converted; or

(8) the department is otherwise required to do so under the laws of this state. (§ 7 ch 178 SLA 1978)

Sec. 28.10.061. Registration of vehicles with altered or missing identification number. When the vehicle identification number required to be registered under this chapter has been altered, removed or defaced, or is not on the vehicle, the owner shall, immediately upon discovery, apply to the department for replacement of the identification number and for a new registration. The department shall search all available sources to determine the identification number originally assigned and, if the number is determined, shall replace it. If efforts to determine the original identification number fail, the owner shall furnish information to show that he is entitled to ownership of the vehicle and have it inspected by the department. The department, when satisfied as to the ownership of the vehicle, shall assign an identification number to the vehicle and have the number placed upon the vehicle to which it is assigned. The vehicle shall then be registered under the replaced or assigned identification number. (§ 7 ch 178 SLA 1978)

Sec. 28.10.071. Registration records and statistics; stolen vehicles. (a) The department shall review each application for registration received and, when satisfied that it is correct, register the vehicle and keep a record of the registration in suitable books, index cards or electronic or photographic recording and storage media, or in any combination of them. The record is referred to as the "vehicle register" and the vehicles as "registered vehicles." The department may compile a record of the number and types of vehicles registered in this state and may make statistical data available to the public for a fee as prescribed in regulations adopted by the commissioner.

- (b) Records under this section shall be maintained
- (1) by a distinctive registration number assigned to the vehicle;
 - (2) by the vehicle identification number, including but not limited to a record of identification numbers replaced or assigned under § 61 of this chapter;
 - (3) by the name and residence and mailing address of the owner; and
 - (4) as otherwise required by the department.
- (c) The department shall keep a record of the registrations of vehicles used in law enforcement work when secrecy is necessary. This record

§ 28.10.101

§ 28.10.105

MOTOR VEHICLES

§ 28.10.105

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(2) After December 31, 1978, expiration and renewal shall be as specified in the staggered vehicle registration procedures under §§ 105 and 107 of this chapter. (§ 7 ch 178 SLA 1978)

C.J.S. reference. — 60 C.J.S., Motor
Vehicles, §§ 126, 132.

Sec. 28.10.105. Staggered registration. (a) Effective January 1, 1979, every vehicle registration, registration card and registration plate expires and must be renewed in accordance with the registration renewal schedule set out in this section.

(b) Effective January 1, 1979, every new or used vehicle subject to registration but not currently registered must be registered in accordance with the registration renewal schedule set out in this section.

(c) Every vehicle registered before January 1, 1979 shall, no later than May 31, 1979, have its registration renewed by application for and payment of the registration fees prescribed in this chapter and, if applicable, the Alaska Transportation Commission fees as prescribed in AS 42.

(d) Vehicles initially assigned to the first through seventh registration periods must be registered and validated through the last day of their respective anniversary periods in 1980.

(e) Vehicles initially assigned to the eighth through tenth registration periods must be registered through the last day of their respective registration renewal periods in 1979, at which time the vehicles must be registered for a full 12-month period through the last day of their respective registration renewal periods in 1980.

(f) Every vehicle registered under this section and § 107 of this chapter may, at the option of the owner, have its registration period extended in monthly increments by payment of the proportionate prorated applicable fees to allow annual registration to occur in any month of the owner's choice.

(g) The department shall issue to the registered owner, upon receipt of the proper application and fees, registration plates, tabs and registration form displaying the month and year in which the registration expires.

(h) The department shall prorate fees in monthly increments to allow for registration of vehicles in more or less than one-year periods when required by any provision of this section.

(i) The department may adopt regulations implementing staggered vehicle registration only as authorized under the provisions of this section and in accordance with the Administrative Procedure Act (AS 44.62), specifically subject to the legislative annulment procedures as provided in AS 44.62.320 and including notice as provided in AS 44.62.170 and AS 44.62.200 and an opportunity for public comment as provided in AS 44.62.210. (§ 7 ch 178 SLA 1978)

of the license plate or contained on a suitable sticker or tab device issued by the department.

(c) The department may not adopt a new or altered passenger vehicle registration plate unless it substantially embodies the specifications of this section. (§ 7 ch 178 SLA 1978)

Am. Jur. and C.J.S. references. — 5 Am. Automobiles and Highway Traffic, § 85.
Jur., Automobiles, § 111; 5A Am. Jur., 60 C.J.S., Motor Vehicles, §§ 105 to 108.

Sec. 28.10.171. Display of registration plates. (a) When two registration plates are issued for a vehicle, they shall be attached to the vehicle for which issued, one in front and the other in the rear. When one registration plate is issued, it shall be attached to the rear of the vehicle for which issued.

(b) Every registration plate issued under this chapter shall be securely fastened to the vehicle to which it is assigned, with the upper edge of the plate horizontal, at a height of not less than 12 inches from the ground measuring from the bottom of the plate, and maintained in a location and condition so as to be clearly legible. However, when considered necessary to insure legibility, the commissioner may provide by regulation for another method of installation. (§ 7 ch 178 SLA 1978)

Am. Jur. reference. — 5 Am. Jur.,
Automobiles, § 111.

Sec. 28.10.181. Registration of unique and special vehicles and vehicles used for special purposes. (a) The department shall register unique and special vehicles and vehicles used for special purposes and issue registration plates as provided in this section. Notwithstanding other provisions of this chapter, registration plates issued under this section remain with the person or organization to whom they are issued when vehicle ownership is transferred or title or interest in the vehicle is assigned, except for plates issued under (b), (h) and (i) of this section. Registration plates issued under this section may not be used on, or transferred to, a vehicle other than the vehicle for which the plates are issued without the approval of the department and payment of any required fees and taxes prescribed in §§ 421(d), 431 and 441 of this chapter; however, if the plates issued under (c), (f) and (j) of this section are transferred to a vehicle for which the registration fee is more than the fee for the vehicle from which the plates are transferred, the owner shall pay the difference between the two fees. Registration plates issued under this section to which a person is no longer entitled or the transfer of the plates to another vehicle which the department does not approve shall be returned immediately to the department by the person or organization to whom the plates were originally issued.

(b) Historic vehicles. The owner of an historic vehicle may make application for special registration under this subsection. The department, when satisfied that the vehicle meets the requirements for historic vehicle registration under regulations adopted by the commissioner, shall register the vehicle and issue two permanent registration plates of distinctive design and color bearing no date. These plates remain with the vehicle as long as it is registered under this subsection. Vehicles qualifying for registration under this subsection shall be issued registration plates numbered in a separate numeric series beginning with "Historic Vehicle No. 1."

(c) Special request plates. Upon application by the owner of a passenger vehicle, noncommercial van or pick-up truck, or motor home, the department may design and issue registration plates containing a series of not more than six letters or numbers or combination of letters and numbers as requested by the owner. The department may, in its discretion, disapprove the issuance of registration plates under this subsection when the requested symbols are a duplication of an existing registration or when the symbols are considered unacceptable by the department.

(d) Vehicles owned by disabled veterans and handicapped persons. A person who presents to the department written proof that he is at least 70 per cent disabled or medically handicapped and should be given special consideration by the public with respect to the parking and standing of his vehicle in designated spaces, may register one passenger vehicle without charge. The proof required under this subsection may consist of evidence that the person receives at least 70 per cent disability compensation from a government agency at the time of registration or an affidavit signed by a physician licensed to practice medicine in the state. Upon the request of the applicant the department shall issue a specially designed registration plate which displays

(1) recognition of the disabled veteran if the applicant's disability originated from his service with the armed forces of the United States or

(2) the standard handicap symbol (the wheelchair logo).

(e) Vehicles owned by the state, municipalities, and charitable organizations of the state. Every certificate of registration and registration plate issued to the state, a municipality or charitable organization of the state is in effect until the vehicle for which the registration certificate and plate were issued is no longer owned and operated by the state, the municipality or the charitable organization of the state or until the department, in its discretion, declares its expiration. The state, municipality or charitable organization of the state shall maintain a current listing of all vehicles registered to it in the order of the registration number assigned to each vehicle, and shall provide

§ 28.10.181

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§ 28.10.201

MOTOR VEHICLES

§ 28.10.201

trailer, from the retail facility to a trailer space. If the dealer sells or transfers the vehicle, the dealer plates may be used on the vehicle by the new owner or transferee for a period of not more than five days after the sale or transfer. The department may seize the dealer plates if it has reason to believe that the plates are being used to defeat the purposes of, or are in violation of, this chapter. (§ 7 ch 178 SLA 1978)

Am. Jur. reference. — 5 Am. Jur., Automobiles, §§ 108, 136.

Article 2. Title.

Section	Section
201. Title required; exceptions	241. Delivery and effect of certificate of title
211. Application for title	251. Lost, stolen or mutilated certificate of title
221. Refusal, suspension, and revocation of title	261. Evidence
231. Certificate of title contents	

Sec. 28.10.201. Title required; exceptions. (a) Except as otherwise provided in (b) of this section or in §§ 131 — 141 of this chapter, every owner of a vehicle subject to registration in this state shall apply for a certificate of title under this chapter.

(b) The owner of a vehicle described in § 11 of this chapter as being exempt from registration and the owner of a snowmobile or off-highway vehicle may not apply for, nor may the department issue, a certificate of title for such a vehicle. However, the department may issue a certificate of title to the owner of a vehicle exempt from registration under § 11(6) of this chapter, upon application by that owner.

(c) The certificate of title issued may, when there is more than one owner, state the name of each owner in the conjunctive or in the disjunctive in order to indicate that the owners own the vehicle together or in the alternative.

(d) Except for vehicles registered under §§ 131(b) and 141 of this chapter, the department may not register a vehicle unless the applicant for registration at the same time applies for and obtains a certificate of title under this chapter, or presents satisfactory evidence that a certificate of title was previously issued to him. The department may not accept the application for the original certificate of registration or title to a vehicle unless the vehicle is in the state at the time of application. However, the department may accept an application for registration and certificate of title for a vehicle which is not in the state when the application is made by a registered and bonded dealer or by a resident of the state when the application is accompanied by a manufacturer's statement of origin, or in the case of a used vehicle, when the application is accompanied by a certificate of title issued in another jurisdiction and a certificate of inspection by a peace officer of that jurisdiction stating that the vehicle has been determined to be the

title fee required under § 441 of this chapter, the department shall issue a new certificate of title. (§ 7 ch 178 SLA 1978)

Article 5. Fees and Charges.

Section	Section
411. Registration fees levied	431. Annual motor vehicle registration tax
421. Registration fee rates	441. Schedule of other fees and charges

Sec. 28.10.411. Registration fees levied. (a) For every year during any part of which a vehicle is subject to registration under this chapter, a registration fee shall be paid to the department at the time of original registration and at each annual renewal of registration after that time.

(b) Motor carrier and bus transportation fees paid on vehicles subject to the Alaska Motor Freight Carrier Act (AS 2.10) and the Alaska Bus Act (AS 42.15) shall be paid to the department at the same time the registration fee is paid.

(c) A resident 65 years of age or older is entitled to an exemption from tax under this section for one motor vehicle subject to registration. No exemption may be granted except upon written application for the exemption on a form prescribed by the department.

(d) The Department of Community and Regional Affairs shall pay to the borough and to the city in which a person who is granted an exemption under (c) of this section resides an amount equal to the tax levied under § 431(b) of this chapter regardless of whether the borough or city is eligible for the tax levied under that section.

(e) Notwithstanding any other provision of law, the fees paid for registering a vehicle under § 421(b)(1), (2), (5), (6) or (d) of this chapter shall include all fees required for entry into and use of a state park or campground. (§ 7 ch 178 SLA 1978)

Sec. 28.10.421. Registration fee rates. (a) Unless otherwise provided by law, the fees prescribed in this section shall be paid to the department at the times provided under §§ 101—111 of this chapter.

(b) The annual registration fees under this subsection are imposed within the following classifications for:

- (1) a passenger vehicle or motor home not used or maintained for the transportation of persons or property for hire or for other commercial use \$30;
- (2) a pick-up truck or a van not exceeding 6,000 pounds unladen weight and not used or maintained for the transportation of persons or property for hire or for other commercial use \$35;
- (3) a taxicab \$65;
- (4) a motor bus with a seating capacity for 20 or more persons and used exclusively for commercial purposes in the transporting of visitors

(6) a two- or four-wheeled trailer not used or maintained for the transportation of persons or property for hire or for other commercial use, including, but not limited to, a boat trailer, baggage trailer, box trailer, utility trailer or house trailer \$ 5.

(c) The annual registration fees under this subsection are imposed and are based upon the actual unladen weight as established by the manufacturer's advertised weight or upon the actual weight which the owner shall furnish, subject to the approval of the commissioner or his representative, for a vehicle, including a motor vehicle pulling a trailer or semi-trailer, used or maintained for the transportation of passengers for hire, excepting taxicabs and buses under (b) of this section, or for the transportation of property for hire or for other commercial use, including a commercial vehicle such as a trailer, semi-trailer, truck, wrecker, tow car, hearse, ambulance, and tractor, as follows:

- (1) up to and including 5,000 pounds \$45;
- (2) more than 5,000 pounds to and including 12,000 pounds . . \$80;
- (3) more than 12,000 pounds to and including 18,000 pounds . . \$150;
- (4) more than 18,000 pounds \$215.

(d) The special registration fees under this subsection are imposed annually, unless otherwise specified, for:

- (1) an historic vehicle (one time only upon initial registration under § 181 of this chapter) \$10;
 - (2) special request plates \$20;
- plus the fee required for that vehicle under (b)(1) or (2) of this section;
- (3) a vehicle owned by a disabled veteran or other handicapped person, and registered under § 181 of this chapter or a resident 65 years of age or older who complies with § 411(c) of this chapter none;
 - (4) a vehicle owned by the state none;
 - (5) a vehicle owned by an elected state official the fee required for that vehicle under (b) of this section;
 - (6) a vehicle owned by a consular officer, unless waived under § 181 of this chapter \$30;
 - (7) a vehicle owned by a rancher, farmer, or dairyman and registered under § 181 of this chapter \$30;
 - (8) a snowmobile or off-highway vehicle \$ 5;
 - (9) an amateur mobile radio station vehicle,
 - (A) with a transceiver capable of less than 5-band operation the fee required for that vehicle under (b) or (c) of this section;
 - (B) in recognition of his service to the public: a mobile amateur radio station owned by an amateur with general class or higher license, provided the station must be satisfactorily proved capable of operating on at least five bands between 160 through 10 meters, must have an antenna, and must have a power supply and wiring as a permanent part of the vehicle; the transmitting unit may be removed from the car for

moved, on a highway or vehicular way or area, a vehicle required to be registered under this chapter unless valid registration plates, decals or permits for the current registration period are attached to and displayed on the vehicle in the manner required by this chapter, and unless a valid certificate of registration for the current registration period is carried, as required by this chapter, in the vehicle and is available for inspection by a peace officer or an authorized representative of the department. (§ 7 ch 178 SLA 1978)

Sec. 28.10.471. Driving vehicle when registration suspended or revoked or permit expired. No person may drive or move, nor may an owner knowingly permit to be driven or moved, on a highway or vehicular way or area, a vehicle for which the registration or permit has been suspended or revoked or has expired. (§ 7 ch 178 SLA 1978)

Am. Jur. reference. — 5 Am. Jur., automobiles, §§ 138, 777.

Sec. 28.10.481. Improper use of evidence of registration or certificate of title. No person may lend to another, or knowingly permit the use by another of, a certificate of registration or title, registration plate, decal, special plate, or permit issued under this chapter if the person to whom it is loaned or whose use is permitted is not entitled to its use, nor may a person display in or upon a vehicle a certificate of registration, registration plate, decal, special plate, or permit not issued for that vehicle or not otherwise lawfully used on that vehicle. (§ 7 ch 178 SLA 1978)

Sec. 28.10.491. Felonies relating to title, registration, identification number, and removal and representation of vehicles.

(a) Upon conviction, a person is guilty of a felony who

(1) alters, forges or counterfeits a certificate of title or registration, or a registration plate, decal, tab or sticker of this or another jurisdiction;

(2) alters or forges an assignment of a certificate of title or an assignment or release of a security interest on a certificate of title of this or another jurisdiction or on a form the department prescribes;

(3) has possession of or uses a certificate of title or registration, registration plate, decal, tab or sticker of this or another jurisdiction knowing it to have been altered, forged or counterfeited;

(4) wilfully removes or falsifies a vehicle identification number;

(5) wilfully conceals or misrepresents the identity of a vehicle or vehicle equipment;

(6) buys, receives, possesses, sells or disposes of a vehicle or vehicle equipment, knowing that a vehicle identification number or equipment has been unlawfully removed or falsified;

(7) removes from the state a vehicle which is the subject of a security

(8) represents a motor vehicle or house trailer to be a new vehicle and who sells or procures the sale of that motor vehicle as a new vehicle without presenting a "manufacturer's statement of origin."

(b) A person convicted of an offense under this section is punishable by imprisonment for not less than one year nor more than five years, or by a fine of not less than \$500 nor more than \$5,000, or by both. (§ 7 ch 178 SLA 1978)

Article 7. General Provisions.

Section		Section
495. Parking permit for transporting disabled person	for vehicle	501. Definitions
		502. Towing and storage lien.

Sec. 28.10.495. Parking permit for vehicle transporting disabled person. (a) When the owner or person in lawful possession of a vehicle presents to the department written proof, in the form of an affidavit, that he is primarily responsible for the transportation of a disabled or medically handicapped person, the department shall issue to the applicant, without charge, a special permit bearing the applicant's name, address, driver's license number, and the registration plate numbers of the vehicles to be used for that transportation. The permit issued under this section, when displayed in the front windshield of a parked or standing vehicle, shall provide for special consideration by the public with respect to the parking or standing in designated spaces of a vehicle which is not registered in the name of the disabled or medically handicapped person, but which is used for the primary transportation of that person.

(b) No person is entitled to use the special permit provided for in (a) of this section except

(1) the driver named on the permit;

(2) when in a vehicle having its registration number on the permit; and

(3) only when providing transportation for the disabled or handicapped person with respect to whom the permit was issued.

(c) Proof of disablement or medical handicap, for the purpose of this section, shall be provided as specified in § 181(d) of this chapter. (§ 24 ch 178 SLA 1978)

Sec. 28.10.501. Definitions. Unless otherwise specifically defined or unless the context otherwise requires, in this chapter and in regulations adopted under this chapter, "dealer" means a person engaged in the business of buying, selling, or exchanging vehicles of a type required to be registered under this chapter and who maintains a place of business or by word of mouth, advertising or in any other manner holds himself out to be in the business of buying, selling or exchanging vehicles. (§ 7 ch 178 SLA 1978)

Sec. 28.10.502. Towing and storage lien. (a) A person engaged in the business of towing motor vehicles, who tows, transports or stores a motor vehicle, has a possessory lien on the vehicle. This lien attaches when the person acts under a contract with the owner or at the direction of a public officer acting lawfully or a person entitled to possession of the property upon which the motor vehicle is parked without consent. The lien remains in effect while the motor vehicle is in the possession of the person, and the vehicle may be sold, as provided in (c) of this section, to pay the charges for towing, transportation or storage.

(b) A lien under this section is limited to towing and storage charges assessed according to the tariff filed by the carrier with the Alaska Transportation Commission; however, in the absence of a filed tariff, the towing or storage charge shall be the same as the lowest similar charge in the other filed tariffs covering the same service or route. Storage charges cease to be part of the lien after 60 days unless the registered owner or primary lienholder, if any, has been given actual notice of the possessory lien within that time or unless a certified letter has been mailed within that time to the owner and primary lienholder, if any, at their addresses of record with the Department of Public Safety or the corresponding office in another jurisdiction in which the title to the motor vehicle and the lien on it are recorded.

(c) If the motor vehicle remains unclaimed for a period of 30 days in the possession of the person who performed the towing, transportation or storage, it shall be sold on giving 20 days notice of the sale. The notice shall be delivered to the proper officer and personally served on the registered owner and all lienholders, if any, of the motor vehicle in the same manner as provided by law for service of summons. If either of these persons cannot be located and served personally, notice of the sale shall be forwarded to him at his last known address by certified mail, return receipt requested. This notice shall contain a description of the motor vehicle, including its registration plate number and vehicle identification number, together with the time and place of sale, a statement of the amount due, and the name and address of the person to whom the charges are due.

(d) The money realized from a sale made under this section shall be applied first to the payment of costs and expenses of the sale and secondly to the lawful charges of the person having a lien on the motor vehicle under this section. Remaining proceeds from the sale shall be retained by the Department of Public Safety to be distributed to the registered and legal owner or lienholder entitled to the remaining proceeds. A purchaser in good faith of a titled motor vehicle sold under this section takes the motor vehicle free of any rights of prior lien. (§ 21 ch 178 SLA 1978)

Chapter 11. Abandoned Vehicles.

- 50. Vesting of title
- 60. Redemption
- 70. Disposal of abandoned vehicles
- 80. Disposal facilities

- 90. Towing and storage lien on abandoned vehicle
- 100. Municipal abatement procedure
- 110. Abandoned motor vehicle fund

Sec. 28.11.010. Abandonment unlawful. (a) No person may abandon a vehicle upon a highway or vehicular way or area.

(b) No person may abandon a vehicle upon public property or upon private property without the consent of the owner or person in lawful possession or control of the property.

(c) A person who abandons a vehicle in a place specified in (a) or (b) of this section is considered responsible for the abandonment of the vehicle and is liable for the cost of its removal and disposition.

(d) Except as otherwise provided in (b) of this section, the lawful owner of a vehicle, as shown by the records of the department, whether or not he has complied with the provisions of AS 28.10.271, is considered responsible for the abandonment of the vehicle and is liable for the cost of removal and disposition of the abandoned vehicle unless

(1) the vehicle was abandoned by a person driving the vehicle without the permission of the owner; or

(2) the identity of the person abandoning the vehicle is established and the abandonment was without the consent of the owner. (1 ch 61 SLA 1976; am §§ 8, 9, 22 ch 178 SLA 1978)

Effect of amendment. — The 1978 amendment, in subsection (c), substituted "who abandons a vehicle in a place" for "abandoning a vehicle as" and "the vehicle" for "a vehicle," inserted "its" preceding "removal," and deleted "of the abandoned vehicle" from the end of the subsection. In the introductory paragraph of subsection (d), the amendment added "Except as otherwise provided in (b) of this section" to the beginning, substituted "a vehicle" for "the vehicle" near the beginning, "AS 28.10.271" for "AS 28.10.350" near the middle, and "the vehicle" for "a vehicle" near the end. The amendment also, in subsection (d), substituted "driving" for "operating" and "without the permission of the owner" for "without permission" in paragraph (1), and deleted "lawful" following "consent of the" in paragraph (2).

Sec. 28.11.020. Presumption of abandonment. A vehicle which has been left unattended, standing, parked upon or within 10 feet of the traveled portion of a highway, in excess of 48 hours, or a vehicle left standing or parked on private property in excess of 24 hours or upon other public property for more than 30 days, without the consent of the owner or person in charge of the property, notwithstanding other statutory provisions, may be removed under § 30 of this chapter and treated as an abandoned vehicle, unless the vehicle is reclaimed and removed before action regarding removal is taken under § 30 of this chapter. The department for good cause may make provisions for parking of vehicles on state property other than specified in this section and under the provisions of AS 44.62. (§ 1 ch 61 SLA 1976; am § 10 ch 178 SLA 1978)

Effect of amendment. — The 1978 amendment rewrote this section.

Sec. 28.11.030. Removal of abandoned vehicles. (a) A peace officer or an employee authorized by the state or a municipality may remove or have removed to a place for storage a vehicle abandoned on a highway, on a vehicular way or area, or on private property.

(b) Removal of an abandoned vehicle from private property shall be upon the written request of the owner or person in lawful possession or control of the property, and on a form prescribed by the department.

(c) A written report of the removal shall be made by the peace officer or employee who removes or has removed a vehicle under this section, and the report shall be sent immediately to the department and a copy of the report shall be given to the person who stores the property. The report shall describe the vehicle, the date, time, and place of removal, the grounds for removal, and the place of impoundment of the vehicle. (§ 1 ch 61 SLA 1976; am § 11 ch 178 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "peace officer" for "police officer" and "have removed" for "cause to be removed" in subsection (a), deleted "safe" following "place for" and "public street or" preceding "highway" in subsection (a), substituted "upon the written request" for "on the written request" and "on a form" for "upon a form" in subsection (b), and, in the first sentence of subsection (c), substituted "peace officer" for "police officer" and "has removed" for "causes the removal of" and added the language beginning "and a copy of the report" to the end of the sentence.

Sec. 28.11.040. Notice to owners and lienholders. The person or company who stores an abandoned vehicle at the direction of a peace officer or an employee under § 30 of this chapter shall within 30 days give notice, in the manner prescribed for the giving of notice by the department under AS 28.05.121, to the vehicle owner of record and to lienholders of record, stating the grounds for removal and the location of the place of impoundment of the vehicle. If the vehicle is not registered in the state or the name and address of the registered or legal owner or lienholder cannot be ascertained, notice shall be given by publication in the manner prescribed in the rules of the court for service of process by publication. (§ 1 ch 61 SLA 1976; am § 12 ch 178 SLA 1978)

Effect of amendment. — The 1978 amendment rewrote this section.

Sec. 28.11.050. Vesting of title. Title to an impounded vehicle not reclaimed by the registered owner, a lienholder, or other person entitled to possession of the vehicle within 30 days from the notice given under § 40 of this chapter vests with the state or, if a municipal ordinance is adopted under § 100 of this chapter, with the municipality, as

Effect of amendment. — The 1978 amendment substituted "a lienholder" for "the lienholder," "given under" for "provided by," "municipal ordinance" for "local ordinance," and "municipality" for "local governing body" in the first sentence and added the second sentence.

Sec. 28.11.060. Redemption. A person who presents satisfactory proof of ownership or right to possession may redeem a vehicle removed under this chapter at any time before an auction under § 70(a) of this chapter by paying the charges of towing, storage, notice, other cost of impoundment, and any applicable penalty imposed by law. (§ 1 ch 61 SLA 1976; am § 14 ch 178 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "an auction" for "auction or relinquishment" and "any applicable penalty" for "penalties."

Sec. 28.11.070. Disposal of abandoned vehicles. (a) Upon satisfaction of the notice and reporting requirements prescribed in this chapter, a vehicle may be disposed of by public auction 20 days after notice of the auction is published in a newspaper of general circulation in the area or municipality in which the vehicle was found and presumed abandoned. The notice of auction shall describe the vehicle and specify the place, date, and time at which it will be sold. A copy of the notice of auction shall be conveyed to the department.

(b) A vehicle disposed of under this section must be registered and titled under ch. 10 of this title, and may not be subsequently sold without a certificate of title issued by the department.

(c) Notwithstanding the provisions of this section, a person who disposes of an abandoned vehicle under this section may initiate a civil action against a person named in § 10 of this chapter, if liable, for costs exceeding receipts for the disposal of the vehicle. (§ 1 ch 61 SLA 1976; am § 15 ch 178 SLA 1978)

Effect of amendment. — The 1978 amendment rewrote this section.

Sec. 28.11.080. Disposal facilities. (a) The department may negotiate with an appropriate state or municipal agency in an effort to designate and acquire land for the temporary storage of vehicles before sale under § 70 of this chapter, or for the final disposal of unsold abandoned vehicles.

(b) A municipality which adopts an ordinance under § 100 of this chapter shall designate appropriate areas within its jurisdiction for the disposal of abandoned vehicles. (§ 1 ch 61 SLA 1976; am § 16 ch 178 SLA 1978)

Effect of amendment. — The 1978 amendment, in subsection (a), combined the former first and second sentences by sentence and "These areas may be used for" at the beginning of the former second sentence, substituted "may negotiate with

agencies," "temporary storage" for "centrally located" following "designate and acquire." "temporary holding," and "under § 70" for "as prescribed in § 70," and deleted

Sec. 28.11.090. Towing and storage lien on abandoned vehicle. A person authorized by contract or other official order to remove an abandoned vehicle has a lien upon a vehicle towed, moved, or stored by him and in his possession in accordance with AS 28.10.502. (§ 1 ch 61 SLA 1976; am § 17 ch 178 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "AS 28.10.502" for "AS 28.10.515."

Sec. 28.11.100. Municipal abatement procedure. A municipality may adopt an ordinance establishing procedures for the abatement and removal from private or public property, as a public nuisance or a health or safety hazard, a wrecked, dismantled, or inoperative vehicle or a vehicle otherwise presumed to be abandoned. An ordinance adopted under this section shall contain provisions for (1) notice to owners and lienholders of record and persons known to be lawfully entitled to possession of the vehicles, of their right to a hearing which shall be conducted by the municipality in the manner provided for the department under AS 28.05.131 — 28.05.141; (2) notice to owners and lienholders as provided in § 40 of this chapter; and (3) disposal of abandoned vehicles as provided in § 70 of this chapter. (§ 1 ch 61 SLA 1976; am § 18 ch 178 SLA 1978)

Effect of amendment. — The 1978 amendment rewrote this section.

Sec. 28.11.110. Abandoned motor vehicle fund. (a) There is created in the department an abandoned motor vehicle fund, to be composed of appropriations by the legislature and proceeds from the sale of abandoned motor vehicles.

(b) The proceeds from the sale of an abandoned motor vehicle under this chapter, after deducting the cost of impounding, advertising, and selling the vehicle, shall be deposited in the fund set out in (a) of this section.

(c) Money in the fund shall be disbursed to the department and to each of the municipalities bound by the provisions of this chapter upon presentation of a voucher for payment of services rendered in compliance with this chapter. (§ 1 ch 61 SLA 1976)

Chapter 15. Drivers' Licenses.

Article

Expiration and Renewal of Licenses (§§ 28.15.011 — 28.15.151)

Repeal of former chapter. — Section 19, ch. 178, SLA 1978, repealed former Chapter 15, which derived from § 1, ch. 84, SLA 1949; § 8, ch. 47, SLA 1955; § 1, ch. 139, SLA 1959; §§ 1—23, 25—35, ch. 173, SLA 1959; § 1, ch. 4, SLA 1961; §§ 1, 2, ch. 19, SLA 1961; §§ 1—12, 13 ch. 17, SLA 1964; § 1, ch. 34, SLA 1965; § 3, ch. 24, SLA 1966; § 8, ch. 157, SLA 1966; §§ 1, 2, ch. 56, SLA 1968; § 1, ch. 59, SLA 1972; § 1, ch. 115, SLA 1972; § 41, ch. 53, SLA 1973; § 1, ch. 82, SLA 1973; §§ 1—3, 5, ch. 74, SLA 1974; §§ 1—8, ch. 121, SLA 1974; § 35, ch. 127, SLA 1974; § 30, ch. 214, SLA 1975; § 1, ch. 3, SLA 1976; § 20, ch. 241, SLA 1976; §§ 1, 2, ch. 38, SLA 1977; § 2, ch. 135, SLA 1977; § 25, ch. 144, SLA 1977; § 1, ch. 69, SLA 1978. The former chapter

consisted of five articles, as follows: 1. Issuance, Expiration and Renewal of Licenses (§§ 28.15.010 — 28.15.140); 2. Cancellation, Suspension or Revocation of Licenses (§§ 28.15.170 — 28.15.280); 3. Violation of Licensing Provisions (§§ 28.15.290 — 28.15.330); 4. Fees (§§ 28.15.340 — 28.15.350); 5. General Provisions (§ 28.15.360).

Legislative committee reports. — For report on ch. 53, SLA 1973 (CSHB 382), see 1973 House Journal, pp. 793, 885. For report on ch. 82, SLA 1973 (FCCS CSSB 5 am FCC), see 1973 Senate Journal Supplement No. 10, p. 1 and No. 16, p. 2. For report on ch. 127, SLA 1974 (SCSHB 817 am S), see 1974 House Journal, p. 657.

Article 1. Issuance, Expiration and Renewal of Licenses.

Section	Section
11. Drivers must be licensed	91 Department may require re-examination
21. Persons exempt from driver licensing	101. Expiration and renewal of driver's license; re-examination
31. Persons not to be licensed	111. Licenses issued to drivers; anatomical gift document
41. Classification of drivers' licenses	121. Restricted driver's license
51. Instruction permit, temporary driver's license and special driver's permit	131. License to be carried and exhibited on demand
61. Application for driver's license or instruction permit; notice of anatomical gift procedure	141. Duplicate driver's license
71. Application of minors	151. Records to be kept by the department
81. Examination of applicants	

Sec. 28.15.011. Drivers must be licensed. (a) No person shall be denied the privilege to drive a motor vehicle upon a highway in this state, except as prescribed by law.

(b) Every person exercising his privilege to drive, or exercising any degree of physical control of a motor vehicle upon a highway, vehicular way or area, or other public property in this state, is required to have in his possession a valid Alaska driver's license issued under the provisions of this chapter for the type or class of vehicle driven, unless expressly exempted by law from this requirement.

(c) A person licensed under the provisions of this chapter may exercise in this state the privilege to drive a motor vehicle and is subject to the restrictions prescribed by this chapter. No municipality may require a person to obtain any other driver's license to drive or operate a motor vehicle in this state. (§ 19 ch 178 SLA 1978)

Am. Jur., ALR and C.J.S. references. — person, 16 ALR 117; 35 ALR 68; 64 ALR 381; 87 ALR 1473; 163 ALR 1375. *Am. Jur., Automobiles, § 151; 6A Am. Jur., Automobiles and Highway Traffic.* Defense of contributory negligence as

ALR 1153; 54 ALR 374; 58 ALR 532; 61 ALR 1190; 78 ALR 1028; 87 ALR 1469; 111 ALR 1258; 163 ALR 1376.

Validity, construction and applicability of statute or ordinance relating to grant of license or permit to operate automobile, 71 ALR 616; 108 ALR 1162; 125 ALR 1459.

Lack of automobile registration for operator's license as evidence of negligence, 73 ALR 164.
60 C.J.S., Motor Vehicles, §§ 145 to 164.

Sec. 28.15.021. Persons exempt from driver licensing. The following persons are exempt from driver licensing under this chapter:

(1) an employee of the United States government while operating a motor vehicle owned by or leased to the United States government and being operated on official business, unless the employee is required by the United States government or an agency of that government to have a state driver's license;

(2) a nonresident who is at least 16 years of age and who has a valid driver's license issued by another jurisdiction; however, an Alaska driver's license must be obtained by the end of a 90-day period after entry into the state;

(3) a member of the armed forces of the United States who has a valid driver's license issued by another jurisdiction and who maintains his permanent residence in that jurisdiction;

(4) a person when driving an implement of husbandry, as defined by regulation, which is only temporarily driven or moved on a highway. (§ 19 ch 178 SLA 1978)

Am. Jur. and C.J.S. references. — 5 Am. Jur., Automobiles, § 153.
60 C.J.S., Motor Vehicles, § 150.

Sec. 28.15.031. Persons not to be licensed. (a) The department shall not issue a driver's license to a person who is under the age of 16 years, except that the department may issue a permit under § 51 of this chapter or a restricted license under § 121 of this chapter.

(b) The department shall not issue an original or duplicate driver's license to, nor renew or reinstate the driver's license of, a person

(1) whose license is suspended or revoked, except as otherwise provided in this chapter;

(2) who fails to appear in court for the adjudication of a certain vehicle, driver or traffic offense when his appearance is required by statute, regulation or court rule;

(3) who is an habitual user of alcohol or another drug to such a degree that he is incapable of safely driving a motor vehicle;

(4) who has previously been adjudged to be afflicted with, or suffering from, a mental disability or a disease and who has not, at the time of application for the license, been restored to competency by the methods provided by law;

determined that because of his physical or mental disability the person is not able to drive a motor vehicle safely;

(6) who is unable to understand official traffic control devices as displayed in this state or who does not have a fair knowledge of traffic laws and regulations, as demonstrated by an examination;

(7) who has knowingly made a false statement in his application for a license or has committed fraud in connection with his application for, or in obtaining or attempting to obtain, a license, or who has not applied under oath on the form provided for the purpose of obtaining or attempting to obtain a license or permit; or

(8) who is required under ch. 20 of this title to furnish proof of financial responsibility and who has not done so. (§ 19 ch 178 SLA 1978)

Am. Jur. reference. — 5 Am. Jur., Automobiles, § 151.

Sec. 28.15.041. Classification of drivers' licenses. (a) The commissioner shall provide by regulation for the classification of drivers' licenses. The regulations shall specify license classifications which are reasonably necessary for the safe operation of the various types, sizes and combinations of motor vehicles. The regulations shall also establish medical standards, standards of driving conduct and proficiency, and other standards governing the issuance, renewal, or denial of these licenses. The department may examine each applicant to determine his qualifications according to the class of license applied for, and upon issuing a driver's license the department shall indicate on the license the classification for which an applicant for a license has qualified by examination. The regulations and any subsequent modifications under this section become effective only if approved by a concurrent resolution adopted by a majority vote of each house of the legislature.

(b) No person may drive a school bus transporting school children, or a bus transporting school-age children or another motor vehicle when in use for the transportation of persons for compensation until he has applied for and has been issued a license for that purpose under (a) of this section. The department may not issue a license under this subsection unless the applicant is at least 19 years of age, has had at least one year of driving experience, and the department is satisfied as to the applicant's good character, competence and fitness to be licensed; nor may the department issue the license until proper application has been made and all required driving, written, and physical examinations have been successfully completed. A license issued under this subsection expires on September 1 of the year following issuance. Application for renewal may be made by submitting to the department the results of a current physical examination and paying the required fee. (§ 19 ch 178

Sec. 28.15.051. Instruction permit, temporary driver's license and special driver's permit. (a) Except as provided in (b) of this section, a person who is at least 14 years of age may apply to the department for an instruction permit. The department may, after the applicant has successfully passed all parts of the examination under § 81 of this chapter other than the driving test, issue to the applicant an instruction permit. The permit allows a person, while having the permit in his immediate possession, to drive a specified type or class of motor vehicle on a highway or vehicular way or area for a period not to exceed two years. The permittee must be accompanied by a person at least 19 years of age who has been licensed at least one year to drive the type or class of vehicle being used, who is capable of exercising control over the vehicle and who occupies a seat beside the driver, or who accompanies and immediately supervises the driver when he drives a motorcycle. An instruction permit may be renewed.

(b) The department, upon receiving proper application, may issue a restricted instruction permit effective for a school year or for a more restricted period to an applicant who is at least 14 years of age and who is enrolled in a driver education program which includes practice driving and is approved by the department. The restricted instruction permit allows the permittee, when he has the permit in his immediate possession, to drive a specified type or class of motor vehicle; however, an approved instructor must occupy a seat beside the permittee or, if the permittee is driving a motorcycle, he must be accompanied by and under the immediate supervision of an approved instructor.

(c) The department may issue a temporary driver's license to an applicant for a driver's license permitting him to drive a specified type or class of motor vehicle while the department is completing its investigation and determination of all facts relative to the applicant's eligibility to receive a driver's license. The temporary license must be in the applicant's immediate possession while he is driving a motor vehicle. A temporary driver's license is invalid when the applicant's license has been issued or has been refused for good cause.

(d) The department may issue a special driver's permit to a person who is at least 14 years of age with the consent of his parents or guardians for the purpose of driving a motor-driven cycle. This permit may be issued upon application and successful completion of all prescribed tests and fees, and is valid for the same period of time as a driver's license. The permit is not valid in a municipality which by ordinance prohibits the driving of a motor-driven cycle by a person under the age of 16 years; a borough may adopt the ordinance on a nonareawide basis only, unless the power to adopt it on an areawide basis is acquired under AS 29.33.250 — 29.33.290.

(e) Notwithstanding other provisions of this chapter, the department

Sec. 28.15.061. Application for driver's license or instruction permit; notice of anatomical gift procedure. (a) Application for an instruction permit or for a driver's license must be made on a form furnished by the department and must be accompanied by the fee required under § 271 of this chapter.

(b) An application under (a) of this section shall

(1) contain the applicant's full name, date and place of birth, sex, and mailing and residence addresses;

(2) state whether the applicant has been previously licensed as a driver and, if so, when and by what jurisdiction;

(3) state whether any previous driver's license issued to the applicant has ever been suspended or revoked or whether an application for a driver's license has ever been refused and, if so, the date of and reason for the suspension, revocation, or refusal; and

(4) contain other information which the department may reasonably require to determine the applicant's identity, competency, and eligibility.

(c) When an application is received from a person previously licensed in another jurisdiction, the department may request a copy of the applicant's driving record from the other jurisdiction. Upon receipt of that record by the department, it becomes a part of the driver's record in this state with the same effect as if the record originated in this state.

(d) The department shall, by placement of posters and brochures in the office where the application is taken, make known to the applicant the procedure necessary to complete a document of gift under the Uniform Anatomical Gifts Act (AS 13.50). (§ 19 ch 178 SLA 1978)

Am. Jur. and C.J.S. references. — 5A 60 C.J.S., Motor Vehicles, § 156.
Am. Jur., Automobiles and Highway
Traffic, §§ 127 to 135.

Sec. 28.15.071. Application of minors. (a) The application of a person under the age of 18 years for an instruction permit or driver's license must be signed by the father, mother or guardian, or if there is no parent or guardian then by another responsible adult who is willing to assume the obligation imposed under this section upon a person signing the application. The application must be signed and verified before a person authorized to administer oaths, or be signed in the presence of an authorized representative of the department.

(b) Any negligence or wilful misconduct of a person under the age of 18 years when driving a motor vehicle in this state is imputed to the person who signed the application of the person for a permit or license, and that person is jointly and severally liable for damage caused by the negligence or wilful misconduct of the person under the age of 18 years, except as provided in (c) of this section.

(c) If a minor deposits, or there is deposited on his behalf, proof of financial responsibility for his driving of a motor vehicle, in the form and

the application of the minor signed as required under (a) of this section, and, while proof of financial responsibility is maintained, the parent, guardian or other responsible adult is not subject to the liability imposed under (b) of this section.

(d) A person who signs the application of a minor for a driver's license may file with the department a verified written request that the license of the minor be canceled. When the license is canceled, the person who signed the application is relieved from liability under (b) of this section. (§ 19 ch 178 SLA 1978)

Sec. 28.15.081. Examination of applicants. (a) The department shall examine every applicant for a driver's license. The examination shall include a test of the applicant's eyesight, his ability to read and understand official traffic control devices, his knowledge of safe driving practices and the traffic laws and regulations of this state, and may include a demonstration of ability to exercise ordinary and reasonable control in the driving of a motor vehicle of the type and general class of vehicles for which the applicant seeks a license. However, an applicant who has not been previously issued a driver's license by this or another jurisdiction must demonstrate his ability, and must present medical information which the department reasonably requires to determine his fitness to safely drive a motor vehicle of the type and general class of vehicles for which he seeks a license.

(b) The commissioner shall adopt regulations under the procedures established by AS 44.62 necessary to implement this section and the department may obtain the services of, and consult with, medical authorities whose specialties relate to driving abilities for the purpose of making the medical determinations necessary under this section or § 91 or 101 of this chapter. Regulations adopted under this section must be approved by a concurrent resolution adopted by majority vote of each house of the legislature before becoming effective. The requirements of the eyesight test under this section may also be satisfied by presenting the current certification of a licensed physician or optometrist that the applicant's vision meets or exceeds the standards established by the department. The commissioner shall request and receive assistance from the commissioner of health and social services in implementing this section.

(c) A requirement for a medical examination under this chapter is satisfied if the applicant is the holder of a current and valid first- or second-class medical certificate issued under federal aviation regulations and has satisfied any applicable requirement of the Department of Education relating to tests for tuberculosis if applicable.

(d) The department may enter into agreements with other state agencies, municipalities, or qualified persons for the purpose of the examinations required under this chapter. (§ 19 ch 178

Sec. 28.15.091. Department may require re-examination. If the department has good cause to believe that a licensed driver is incompetent or otherwise not qualified to be licensed, it may upon written notice of at least 10 days to the licensee require him to submit to an examination. Upon conclusion of the examination, the department shall take action as may be appropriate and may cancel the license of the person, or may issue a restricted license under § 12 of this chapter, or restrict the type or class of vehicles that the person may drive. If the licensee refuses or neglects to submit to examination, the department may suspend his license until he complies with the requirements of re-examination. (§ 19 ch 178 SLA 1978)

Sec. 28.15.101. Expiration and renewal of driver's license; re-examination. (a) Unless otherwise provided in this chapter, a driver's license expires on the licensee's date of birth in the fifth year following issuance of the license. A license is renewable within one year of its expiration upon proper application, successful completion of a test of the licensee's eyesight, and payment of the required fee.

(b) The department may defer the expiration of the driver's license of a person who is outside the state under terms and conditions which the department shall prescribe by regulation. (§ 19 ch 178 SLA 1978)

Sec. 28.15.111. Licenses issued to drivers; anatomical gift document. (a) Upon successful completion of the application and all required examinations, and upon payment of the required fee, the department shall issue to every qualified applicant a driver's license indicating the type or general class of vehicles which the licensee may drive. The license shall display

- (1) a distinguishing number assigned to the license;
- (2) the licensee's full name, address, date of birth, brief physical description, and color photograph; and
- (3) either a facsimile of the signature of the licensee or a space upon which the licensee must write his usual signature with pen and ink. No license is valid until signed by the licensee. If facilities are not available for the taking of the photograph required under this section, the department shall endorse on the license, the words "valid without photograph."

(b) The department shall provide, at the time that an operator's license is issued, a form for a document by which the owner of a license may make an anatomical gift under AS 13.50.010 — 13.50.090. The document (1) may not be larger than an operator's license, (2) shall contain sufficient space for the signature of two witnesses to the donor's act of execution of the document, and (3) shall provide a means by which the donor may cancel the gift. If the document making an anatomical gift is executed by the applicant, it shall be sealed in plastic and attached to the license. A symbol indicating the existence of the anatomical gift

Sec. 28.15.121. Restricted driver's license. (a) The department, upon issuing a driver's license, may for good cause impose restrictions suitable to the licensee's driving ability with respect to special mechanical control devices required on a motor vehicle which the licensee drives. The department may impose other restrictions applicable to the licensee that it determines to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(b) The department may issue a special restricted license or may set out restrictions on the usual license form.

(c) The department may, upon receiving satisfactory evidence of a violation of the restrictions on a license restricted or issued under this section, suspend the restricted license for a period not to exceed 30 days.

(d) No person may drive a motor vehicle in violation of the restrictions imposed on a restricted license. (§ 19 ch 178 SLA 1978)

Sec. 28.15.131. License to be carried and exhibited on demand. Every licensee shall have his driver's license in his immediate possession at all times when driving a motor vehicle, and shall present for inspection his license upon the demand of a peace officer or other authorized representative of the department who identifies himself as such. However, a person charged with violating this section may not be convicted if he produces in court or in the office of the arresting or citing officer, a driver's license previously issued to him which was valid at the time of his arrest or citation. (§ 19 ch 178 SLA 1978)

A licensing statute cannot be used as a means for obtaining information or evidence not related to the licensing requirement. *Schraff v. State*, Sup. Ct. Op. No. 1223 (File No. 2263), 644 P.2d 834 (1975), decided under former AS 28.15.090.

Sec. 28.15.141. Duplicate driver's license. If a valid driver's license issued under this chapter is lost or destroyed, the person to whom the license was issued may, upon payment of the required fee, obtain a duplicate license. A person who recovers an original license for which a duplicate has been issued shall immediately surrender the duplicate to the department. (§ 19 ch 178 SLA 1978)

Sec. 28.15.151. Records to be kept by the department. (a) The department may maintain a file of

(1) every driver's license application, license or permit and duplicate driver's license issued by it;

(2) every license which has been suspended, revoked, canceled, limited, restricted, or denied, and the reasons for those actions; and

(3) all accident reports required to be forwarded to the department under this title.

(b) The department may also maintain a file of all accident reports, transcripts of court records of convictions of vehicle, driver and traffic

furnish a municipal, state or federal administrative or judicial agency with a certified abstract of the driving record of a driver. The abstract shall include a listing of accidents in which the driver has been determined by the department or a court of competent jurisdiction to have been liable, convictions of vehicle, driver and traffic offenses, any actions taken upon his license, and information relating to financial responsibility.

(d) The department shall, upon request and payment of a fee determined by the commissioner, furnish a driver with an abstract of the driver's record as provided in (c) of this section.

(e) An insurance carrier may not require a person to furnish an abstract of his driving record to the carrier as a condition for providing the person with motor vehicle insurance.

(f) Except as provided otherwise in this section, information and records under this section are declared confidential and private. (§ 19 ch 178 SLA 1978)

Article 2. Cancellation, Suspension, Revocation or Limitation of Drivers' Licenses.

Section	Section
161. Cancellation of driver's license	191. Court reports to department
171. Suspending privileges of a person licensed in another jurisdiction; reporting convictions, suspensions, and revocations	201. Limitation of driver's license
181. Court suspensions, revocations, and limitations	211. Periods of limitation suspension or revocation; opportunity for hearing and surrender of license

Sec. 28.15.161. Cancellation of driver's license. (a) The department shall cancel a driver's license upon determination that

(1) the licensee is not medically or otherwise entitled to the issuance or retention of the license, or has been adjudged incompetent to drive a motor vehicle;

(2) there is an error or defect in the license;

(3) the licensee failed to give the required or correct information in his application; or

(4) the license was obtained fraudulently.

(b) The licensee may apply for a new license at any time after cancellation upon removal of the cause for the cancellation. (§ 19 ch 178 SLA 1978)

Intent of act. — This act plainly expresses the intent that all revocations and suspensions of operators' licenses be the act of the Department of Public Safety. *Knudsen v. City of Anchorage*, Sup. Ct. Op. No. 21 (File No. 59), 259 P.2d 975 (1956); *458 P.2d 340*, *Glasgow v. State*, Sup. Ct. Op. No. 616 (File No. 1049), 469 P.2d 682 (1970), and *Baker v. City of Fairbanks*, Sup. Ct. Op. No. 618 (File No. 1141), 471 P.2d 385 (1970). These cases were decided under former AS 28.15.170.

Am. Jur., Automobiles and Highway Traffic, §§ 136 to 141.

Validity, construction and application of statute or ordinance relating to revocation of license, 71 ALR 616; 108 ALR 1162; 125 ALR 1459.

What amounts to conviction within statute making conviction ground for

Sec. 28.15.171. Suspending privileges of a person licensed in another jurisdiction; reporting convictions, suspensions, and revocations. (a) The privilege of driving a motor vehicle on a highway or vehicular way or area of this state given to a person licensed in another jurisdiction is subject to suspension or revocation by the department in the same manner and for the same reasons as a driver's license issued under this chapter.

(b) The department may, upon receiving the record of a conviction of a person licensed in another jurisdiction for a vehicle, driver, or traffic offense in this state, or upon suspending or revoking the person's driving privilege, forward a copy of the record or suspension or revocation to the motor vehicle administrator for the jurisdiction in which the person convicted has his driver's license. (§ 19 ch 178 SLA 1978)

Am. Jur. reference. — 5 Am. Jur., Automobiles, §§ 154 to 156.

Sec. 28.15.181. Court suspensions, revocations, and limitations. (a) The following are grounds for the immediate suspension or revocation of a driver's license:

- (1) manslaughter or negligent homicide resulting from the driving of a motor vehicle;
- (2) a felony in the commission of which a motor vehicle is used;
- (3) failure to stop and give aid as required under the laws of this state when a motor vehicle accident results in the death or personal injury of another;
- (4) perjury or the making of a false affidavit or statement under oath to the department under a law relating to motor vehicles;
- (5) driving or operating a motor vehicle while under the influence of alcohol or another drug;
- (6) reckless driving; or
- (7) using a motor vehicle in unlawful flight to avoid arrest by a peace officer.

(b) A court convicting a person of an offense under (a)(1) — (7) of this section shall revoke that person's driver's license for a period of not less than 30 days for the first conviction, unless the court determines that the person's ability to earn a livelihood would be severely impaired and

refusing or cancelling license, 113 ALR 1179.

Necessity and sufficiency of notice and hearing before revocation of driver's license, 10 ALR2d 833.

60 C.J.S., Motor Vehicles, §§ 159, 160.

or danger to the public. If a court limits a person's license under this subsection, it shall do so for a period of not less than 30 days. Upon a subsequent conviction of a person for any offense under (a) of this section, the court shall revoke the person's license and may not grant him any limited license privileges for the following periods:

- (1) not less than one year for the second conviction; and
 - (2) not less than three years for a third or subsequent conviction.
- (§ 19 ch 178 SLA 1978)

Sec. 28.15.191. Court reports to department. (a) A court which convicts a person of an offense under this title or a regulation adopted under this title, or another law or regulation of this state, or a municipal ordinance which regulates the driving of vehicles, shall forward a record of the conviction to the department. A conviction of a standing or parking offense need not be reported.

(b) A conviction on a plea of *nolo contendere* accepted by the court or a forfeiture of bail or collateral deposited to secure a defendant's appearance in court which has not been vacated is equivalent to a conviction for purposes of this chapter.

(c) A court which suspends, revokes, or limits a driver's license shall require the surrender of the license, and shall immediately forward it to the department with the record of conviction and notification of the effective date of the suspension, revocation or limitation as determined under § 211(b) of this chapter.

(d) A court which limits a driver's license, in addition to the actions required under (c) of this section, shall issue to the licensee a form specifying the court's limitations imposed upon a person's driver's license, and shall immediately forward to the department a copy of the limitations imposed upon the license.

(e) A court shall report to the department every change of name authorized by it, and the name, address, age, description, and driver's license number if available, of every person adjudged to be afflicted with or suffering from a mental disability or disease, or to be an habitual user of alcohol or another drug. The department shall prescribe and furnish the forms for making these reports. (§ 19 ch 178 SLA 1978)

For case where magistrate City of Anchorage, Sup. Ct. Op. No. 121 recommended suspension of driver's (File No. 247), 377 P.2d 381 (1962), decided license for three years, see Hanrahan v. under former AS 28.15.190

Sec. 28.15.201. Limitation of driver's license. (a) A court of competent jurisdiction may, for good cause, impose limitations upon the driver's license of a person which will enable the person to earn a livelihood without excessive risk or danger to the public. However, no limitation may be placed upon a driver's license until after a review has been made of the person's driving record and other relevant information.

nor may a limitation be imposed when a statute specifically prohibits the limitation of a license for a violation of its provisions.

(b) A court imposing a limitation under this section shall require the surrender of the driver's license and shall issue to the licensee a certificate valid for the duration of the limitation.

(c) After the termination of a limitation as shown on the certificate issued under (b) of this section, a person on whom a limitation was imposed is no longer bound by the limitation and may apply for a duplicate license under § 141 of this chapter. (§ 19 ch 178 SLA 1978)

Sec. 28.15.211. Periods of limitation, suspension or revocation; opportunity for hearing and surrender of license. (a) Except for a point system suspension or revocation under §§ 221 — 241 of this chapter and unless provided otherwise by law, and unless the suspension or revocation was for a cause which has been removed, a person whose driver's license or privilege to drive a motor vehicle in this state has been suspended or revoked may not apply for a new license nor may his driving privilege be restored until the expiration of

(1) one month from the date on which the license was suspended or revoked for a first conviction of the particular offense from which the suspension or revocation resulted;

(2) three months from the date on which the license was suspended or revoked for a second conviction within 12 consecutive months of the same offense from which the suspension or revocation resulted;

(3) one year from the date on which the license was suspended or revoked for a third or subsequent conviction within 12 consecutive months of the same offense from which the suspension or revocation resulted; or

(4) three months from the date on which the license was revoked for refusal to submit to a chemical test as required in AS 28.35.032; however, if the person who refuses to submit to the chemical test, within two years previous to his arrest, has been convicted in this or another jurisdiction of driving a motor vehicle while intoxicated, the period of revocation for his license of privilege to drive is one year.

(b) A limitation, suspension, or revocation of a driver's license imposed by a court takes effect on the date of final judgment, except that if another limitation, suspension, or revocation of license is in effect on the date of final judgment, the effective date of the last imposed limitation, suspension, or revocation is at the end of the last day of the previous limitation, suspension, or revocation unless the court specifies otherwise.

(c) At the end of a period of suspension or limitation, the person whose license has been suspended or limited may apply to the department and, upon payment of the proper fee, be issued a duplicate driver's license

of a new license, but shall submit to re-examination and pay all required fees.

(e) At the end of a period of limitation, suspension or revocation under this chapter, the department may not issue a driver's license or a duplicate driver's license to the licensee until he has complied with ch. 20 of this title relating to proof of financial responsibility.

(f) Unless otherwise provided by law, periods of limitation shall be made at the discretion of the court. (§ 19 ch 178 SLA 1978)

Article 3. Point System.

Section	Section
221. Point system	251. Suspension, revocation, limitation, denial
231. Assessment of problem driver improvement interview	261. Definitions
241. Reduction of points	

Sec. 28.15.221. Point system. (a) For the purpose of identifying habitually reckless or negligent drivers and habitual or frequent violators of traffic laws, the commissioner shall adopt regulations establishing a uniform system for the suspension, revocation, limitation or denial of a driver's license or driving privilege by assigning demerit points for convictions for violations of traffic laws which are required to be reported to the department under § 191 of this chapter.

(b) The regulations adopted under (a) of this section shall include a designated level of point accumulation which identifies drivers who are habitually reckless or negligent or who are habitual or frequent violators of traffic laws, so as to show a disrespect for traffic laws and a disregard for the safety of other persons. In formulating the point system authorized by this section, the commissioner shall, in the interest of interstate uniformity, provide for suspension, revocation or denial of a driver's license or privilege for an accumulation of 12 or more points as a result of offenses committed during any consecutive 12-month period or 18 or more points as a result of offenses committed during any 24-month period. (§ 19 ch 178 SLA 1978)

Sec. 28.15.231. Assessment of points, driver improvement interview. (a) Notice of each assessment of points may be given, but notice shall be given when the point accumulation reaches 50 per cent of the number at which suspension, revocation or denial is required under § 221(b) of this chapter, and a driver who has reached that level of point accumulation shall be identified as a problem driver. The department may require a problem driver to appear for a driver improvement interview. The purpose of that interview is to assist the person who is identified as a problem driver in overcoming substandard driving habits. An interview under this subsection is to be conducted in

recommendations designed to improve his driving abilities which are made to him during the interview.

(b) No points may be assessed for violating a provision of a state law or regulation or a municipal ordinance regulating standing, parking, equipment, size or weight; nor may points be assessed for violations by pedestrians, passengers or bicycle riders, or for violations of provisions relating to the preservation of the condition of traffic-control devices on the highways. Points shall be assessed for violations of oversize or overweight permits relating only to restrictions upon speed or hours of operation.

(c) If a licensee is convicted of two or more traffic violations committed on a single occasion, the licensee shall be assessed points for one offense only, and if the offenses involved have different point values, the licensee shall be assessed for the offense having the greater point value.

(d) The time periods provided for in this section for the accumulation of points shall be based upon the date of violation, but points may not be assessed until after conviction, either upon a plea of guilty, nolo contendere, or a forfeiture of bail, or as a result of a trial, for violation of the traffic laws.

(e) The points assessed and the application of them against the licensee by the department under this section are in addition to, and not in substitution for, other provisions of this chapter and are not a substitute for any penalty imposed by a court. (§ 19 ch 178 SLA 1978)

Sec. 28.15.241. Reduction of points. (a) Two points shall be deducted from a licensee's assessed total if he has not been convicted of a violation of traffic laws which occurred during the 12-month period after the date of the last violation of which he was convicted.

(b) In addition to (a) of this section, two points shall be deducted from the assessed total upon the driver's furnishing to the department adequate proof of successful completion within 12 months of the date of his last violation of a driver improvement course approved by the department. No more than one course may be used to obtain a reduction in points in any 12-month period.

(c) From January 1, 1975, one point shall accumulate to the driver's benefit for each year of licensed, violation-free driving. (§ 19 ch 178 SLA 1978)

Sec. 28.15.251. Suspension, revocation, limitation, denial. (a) The department shall suspend, revoke, limit, deny, or initiate other remedial action against the driver's license of a person, upon his failure to

(1) appear for a driver improvement interview under § 231(a) of this

(b) The department shall suspend, revoke, or deny a driver's license of a person who has been identified through his point accumulation as an habitual or frequent violator under § 221 of this chapter.

(c) No suspension, revocation, limitation, or denial of, or other action against, a driver's license under §§ 221 — 261 of this chapter may be for more than one year.

(d) If a driver's license is suspended or revoked upon the accumulation of the number of points which require that action under §§ 221 — 261 of this chapter and regulations adopted under those sections, no limited license may be issued to that person during the period of suspension or revocation.

(e) Except for immediate action under § 181 of this chapter, when the department proposes to take action against a driver's license under (b) of this section, it shall notify the licensee that the proposed action shall become effective 30 days from the date of the notice, except that the licensee shall have the right, within the 30-day period, to make an oral or written answer or statement in which he may controvert any point or issue and he may present evidence and arguments for the consideration of the department pertinent to the action to be taken or the grounds for the action.

(f) Upon receipt of an oral or written answer or statement from the licensee, the department shall make findings on the matter under consideration and shall notify the person involved of its decision in writing by registered mail. If the department's decision is to sustain an action against the licensee's driver's license, the department shall notify the licensee of his opportunity for a hearing under AS 28.05.121 — 28.05.141. (§ 19 ch 178 SLA 1978)

Sec. 28.15.261. Definitions. In §§ 221 — 261 of this chapter (1) "traffic laws" means statutes, regulations, and municipal ordinances governing the driving or movement of vehicles; (2) "licensee" includes, but is not limited to an applicant for a new driver's license if his license was revoked under §§ 221 — 261 of this chapter. (§ 19 ch 178 SLA 1978)

Article 4. Fees.

Section 271. Fees

Sec. 28.15.271. Fees. The fees for drivers' licenses and permits, including but not limited to renewals, are as follows:

- (1) all classes of drivers' licenses \$ 5;
- (2) motor-driven cycles \$ 2;
- (3) instruction permit \$ 1;
- (4) duplicate of driver's license or instruction permit \$ 2;

Am. Jur. and C.J.S. references. — 5 Am. Jur., Automobiles, § 127; 5A Am. Jur., Automobiles and Highway Traffic, §§ 127 to 135. 60 C.J.S., Motor Vehicles, § 156.

Article 5. Driver License Violations.

Section

- 281. Unlawful use of license; permitting unauthorized person to drive
- 291. Driving while license canceled, suspended, revoked or in violation of limitation

Sec. 28.15.281. Unlawful use of license; permitting unauthorized person to drive. (a) No person may

- (1) display, cause or permit to be displayed, or have in his possession a canceled, suspended, revoked, fictitious or unlawfully altered driver's license;
- (2) display or represent as his own a driver's license not issued to him;
- (3) display or present a driver's license other than an Alaska driver's license to a peace officer or to the department when that person has been licensed under this chapter; or
- (4) lend his driver's license to another person or knowingly permit the use of his license by another.

(b) No person may authorize or knowingly permit a motor vehicle owned by him or under his control to be driven in this state by a person who is not validly licensed. (§ 19 ch 178 SLA 1978)

Sec. 28.15.291. Driving while license canceled, suspended, revoked or in violation of limitation. (a) No person may drive a motor vehicle on a highway or vehicular way or area in this state at a time when his driver's license, or privilege to drive in this state if he is licensed in another jurisdiction, has been canceled, suspended or revoked or when he is driving in violation of a limitation placed upon his license, even when he is driving under a license issued in another jurisdiction. Upon conviction of a violation of this section, the court shall impose a minimum sentence of imprisonment of not less than 10 days. The execution of sentence may not be suspended nor may probation or parole be granted until the minimum imprisonment provided in this section has been served; nor may imposition of sentence be suspended, except upon the condition that the defendant be imprisoned for no less than the minimum period provided for in this section. In addition, his license or privilege to drive shall be revoked, and he may not be issued a new license nor may his privilege to drive be restored for an additional period of one year after the date that he would have been entitled to restoration of his

(b) When a person's license is canceled, limited, suspended or revoked, he shall be informed by the department or the court which takes the action at the time of the action that, upon a conviction of driving on a highway or vehicular way or area in this state at a time when his driver's license or privilege to drive in this state has been canceled, suspended or revoked, or upon a conviction of driving in violation of a limitation of his license, he will be subject to the mandatory 10-day imprisonment under (a) of this section. (§ 19 ch 178 SLA 1978)

Ordinance not in conflict with former AS 28.15.300(a). — Home rule ordinance which prohibited driving a motor vehicle while one's license is suspended or revoked as did former AS 28.15.300(a) but which was not limited to public highways as was former AS 28.15.300(a) was not in conflict

with former AS 28.15.300(a) and, therefore, was not invalid. *Cremer v. Anchorage*, Sup. Ct. Op. No. 1579 (File No. 3537), 675 P.2d 306 (1978).

Am. Jur. reference. — 5 Am. Jur., Automobiles, §§ 138, 777.

Chapter 17. Commercial Driver Training Schools.

Section

- 11. License required
- 21. Exemptions
- 31. Issuance and expiration of licenses; fees
- 41. Authority of commissioner to adopt regulations

Section

- 51. Refusal, suspension, or revocation of license
- 61. Penalties
- 71. Definitions

Repeal of former chapter. — Section 20, ch. 241, SLA 1976, repealed former Chapter 17, entitled "Commercial Driver Training

Schools." The former chapter consisted of §§ 28.17.010 — 28.17.080, and derived from § 1, ch. 215, SLA 1968.

Sec. 28.17.011. License required. No person may operate a commercial driver training school or act as an instructor of a commercial driver training school unless licensed by the department as provided in this chapter. (§ 4 ch 241 SLA 1976)

Sec. 28.17.021. Exemptions. A driver education course or training which is approved by the department or the Department of Education with the concurrence of the department, or is taught at an accredited college or university, is exempt from the provisions of this chapter, but an instructor employed by such a school or institution is exempt only to the extent that his activities are as an agent of the school or institution. (§ 4 ch 241 SLA 1976)

Sec. 28.17.031. Issuance and expiration of licenses; fees. (a) The

Sec. 29.53.020. Required exemptions. (a) The following property is exempt from general taxation:

(1) municipal, state or federally owned property, except that private leaseholds, contracts or other interest in the property shall be taxable to the extent of those interests;

(2) household furniture of the head of a family or a householder not exceeding \$500 in value;

(3) property used exclusively for nonprofit religious, charitable, cemetery, hospital or educational purposes;

(4) property of a nonbusiness organization composed entirely of persons with 90 days or more of active service in the armed forces of the United States whose conditions of service and separation were other than dishonorable, or the property of the auxiliary of such organization;

(5) money on deposit;

(6) the real property of certain residents of the state to the extent and subject to the conditions provided in (e) of this section.

(b) "Property used exclusively for religious purposes" includes the following property owned by a religious organization:

(1) the residence of the pastor, priest, rabbi, minister or religious order of a recognized religious organization;

(2) a structure, its furniture and its fixtures used solely for public worship, charitable purposes, religious education or a nonprofit hospital;

(3) lots supporting and adjacent to a structure or residence mentioned in (1) or (2) of this subsection which are necessary to convenient use;

(4) lots required by local ordinance for parking near a structure defined in (2) of this subsection.

(c) Property described in (a) or (b) of this section from which income is derived is exempt only if that income is solely from use of the property by nonprofit religious, charitable, hospital, or educational groups for classroom space.

(d) Laws exempting certain property from execution under the Code of Civil Procedure (AS 09) do not exempt the property from taxes levied and collected by municipalities.

(e) After January 1, 1973 the real property owned and occupied as a permanent place of abode by a resident 65 years of age or over whose gross annual income totals less than \$10,000 is exempt from taxation of the assessed value of the real property. Only one exemption may be granted with respect to the same property and, if two or more persons are eligible for an exemption with respect to the

respect to the same property, the total combined gross annual income of the parties may not exceed \$10,000. No real property may be exempted under this subsection which the assessor determines, after notice and hearing to the parties concerned, has been conveyed to the applicant primarily for the purpose of obtaining the exemption. The determination of the assessor is appealable under AS 44.62.560—44.62.570.

(f) No exemption may be granted except upon written application for the exemption on a form prescribed by the state assessor for use by local assessors. The claimant must file the application no later than January 15 of the assessment year for which the exemption is sought and must file a separate application for each assessment year in which the exemption is sought. If an application is filed within the required time and is approved by the assessor, he shall allow an exemption in accordance with the provisions of this section. The assessor may at any time require proof in the form he considers necessary of the right and amount of an exemption claimed under this section, and in that respect may as one form of proof require authorization from the taxpayer to verify gross income level by reference to gross income shown in the latest state income tax return available for all or part of the assessment year for which an exemption is sought.

(g) The state shall reimburse a borough or city, as appropriate, for the real property tax revenues lost to it by the operation of (e) of this section.

(h) Nothing in (e)—(i) of this section affects similar exemptions from property taxes granted by municipalities on September 10, 1972 or prevents municipalities from granting similar exemptions by ordinance as provided in § 25 of this chapter. However, under (e)—(i) of this section only the amount of revenue lost to the municipality by reason of the exemption authorized in those provisions may be reimbursed to the municipality by the state.

(i) In (e)—(i) of this section the term "real property" includes but is not limited to mobile homes, whether classified as real or personal property for municipal tax purposes. (§ 2 ch 118 SLA 1972)

History of section. — See *City of Anchorage v. Chugach Elec. Ass'n*, 17 Alaska 481, 252 F.2d 412 (9th Cir. 1959).

This section was enacted pursuant to Alaska Const., art. IX, § 4. Harmon v. North Pac. Union Conference Ass'n of Seventh Day Adventists, Sup. Ct. Op. No. 591 (File No. 1060), 462 P.2d 432 (1969).

Intent of constitutional convention.

was being used to produce income should be taxable, that such other parts should be exempt, and that a proration between taxable and non-taxable parts should be made. 1962 Op. Att'y Gen., No. 15.

Purpose.—The purpose of this section is to encourage the establishment of privately supported nonprofit educational institutions; the motivation for their establishment is largely

Strict construction.—Provisions exempting property from ad valorem taxation must be strictly construed against the property holder and in favor of the taxing authority. *McKee v. Evans*, Sup. Ct. Op. No. 740 (File No. 1382), 490 P.2d 1226 (1971).

The power of deciding what types of education are to be publicly supported, either under the School Foundation Act or by tax exemption, is vested with the legislature. *McKee v. Evans*, Sup. Ct. Op. No. 740 (File No. 1382), 490 P.2d 1226 (1971).

Alaska Const., art. IX, § 4, directs the legislature to define the educational exemption and encourage the exercise of that responsibility. *McKee v. Evans*, Sup. Ct. Op. No. 740 (File No. 1382), 490 P.2d 1226 (1971).

The phrase "educational purposes" as used in Alaska Const., art. IX, § 4, and subsection (a) of this section includes systematic instruction in any and all branches of learning from which a substantial public benefit is derived. *McKee v. Evans*, Sup. Ct. Op. No. 740 (File No. 1382), 490 P.2d 1226 (1971).

This section in no way delimits the term "educational purposes," and there is no justification for the supreme court to give to that term anything other than its ordinary meaning. That restrictive definition is legislative concern seems especially apparent at a time when there is increasing desire for specialized practical education, a proliferation of new kinds of educational institutions, and rapidly changing concepts of mass education. *McKee v. Evans*, Sup. Ct. Op. No. 740 (File No. 1382), 490 P.2d 1226 (1971).

The minutes of the constitutional convention reveal no indication of what was intended to constitute an "educational" purpose, the drafters stating merely that they intended to adopt a "standard" state exemption. Nor has the legislature defined the term as it has done with regard to "religious purposes." *McKee v. Evans*, Sup. Ct. Op. No. 740 (File No. 1382), 490 P.2d 1226 (1971).

When exemption attaches.—Under this section, once it is determined that the institution involved is non-profit in character and that the prop-

erties are used for the primary purposes of its charitable corporation owner, and so long as the money derived was incidental. *Sisters of Charity v. Greater Anchorage Area Borough*, 8 Alas. L.J. No. 11, p. 272 (Sept., 1970).

The Apprenticeship and Manpower Training Trust Fund is entitled to an exemption from real property taxation by the Greater Anchorage Area Borough (GAAB) on the ground that its property is "used exclusively for nonprofit . . . educational purposes" within the meaning of subsection (a) of this section. *McKee v. Evans*, Sup. Ct. Op. No. 740 (File No. 1382), 490 P.2d 1226 (1971).

The general public is clearly benefited both by the increased opportunity for Alaskans to obtain vocational training not otherwise available, and by the increased quality of service from a skilled trade. *McKee v. Evans*, Sup. Ct. Op. No. 740 (File No. 1382), 490 P.2d 1226 (1971).

"Charity" and "charitable purposes".—Neither in Alaska's Constitution nor in its general laws are the terms "charity" or "charitable purposes" defined. In such circumstances, resort to the common-law definition of these terms is appropriate. *Matanuska-Susitna Borough v. King's Lake Camp*, Sup. Ct. Op. No. 472 (File No. 857), 439 P.2d 441 (1968).

It is quite clear that what is done is a matter of good will and a desire to add to the improvement of the moral, mental, and physical welfare of the public generally comes within this meaning of the word "charity." *Matanuska-Susitna Borough v. King's Lake Camp*, Sup. Ct. Op. No. 472 (File No. 857), 439 P.2d 441 (1968).

Rentals or income not derived as result of dominant profit motive.—If it appears that rentals or income are not derived as a result of a dominant profit motive on the charity's part, but are incidental to and reasonably necessary for the accomplishment of its charitable purposes, then such rentals or income are not within the ambit of subsection (c)'s limitation upon properties which qualify for a charitable exemption. *Matanuska-Susitna Borough v. King's Lake Camp*, Sup. Ct. Op. No. 472 (File No. 857), 439 P.2d 441 (1968).

Property of a charitable institution is not deprived of its exempt charac-

tery for carrying the primary purposes of its charitable corporation owner, and so long as the money derived was incidental. *Sisters of Charity v. Greater Anchorage Area Borough*, 8 Alas. L.J. No. 11, p. 272 (Sept., 1970).

Religious property is exempt from taxation.—All religious property in the state not used for business, rent or profit, is exempt from taxation. 1962 Op. Att'y Gen., No. 15.

But property of a religious organization used for the production of income is taxable. 1962 Op. Att'y Gen., No. 15.

Even in the latter situation, however, a proration must be made with regard to the property involved, between those portions being used for business, rent or profit, and those with no such use. 1962 Op. Att'y Gen., No. 15.

The fact that a segment of religious property is used for business, rent or profit, will not result in the taxation of the whole. 1962 Op. Att'y Gen., No. 15.

The words "the residence of the pastor," etc., imply that only those residences may qualify that have some direct relationship to a structure used primarily as a house of worship. *Harmon v. North Pac. Union Conference Ass'n of Seventh Day Adventists*, Sup. Ct. Op. No. 591 (File No. 1060), 462 P.2d 432 (1969).

The parsonage of an assistant or lay pastor is exempt from an ad valorem tax under the broadened tax exemption provisions of Alaska Const., art. IX, § 4, and this section. *Evangelical Covenant Church of America v. City of Nome*, Sup. Ct. Op. No. 243 (File No. 457), 394 P.2d 882 (1964).

Residences of church administrators and teachers do not qualify for property tax exemption. *Harmon v. North Pac. Union Conference Ass'n of Seventh Day Adventists*, Sup. Ct. Op. No. 591 (File No. 1060), 462 P.2d 432 (1969).

Church-operated radio station. — Ad valorem taxes may be assessed and collected upon the facilities and property of a radio station operated

missionary work of the church. *Evangelical Covenant Church of America v. City of Nome*, Sup. Ct. Op. No. 243 (File No. 457), 394 P.2d 882 (1964), construing section prior to 1964 amendment.

To hold that a church-operated, profit-making radio station was exempt from ad valorem taxes would result in a taxed commercial business being forced to compete with the commercial activities of institutions claiming a tax exempt status under the law. *Evangelical Covenant Church of America v. City of Nome*, Sup. Ct. Op. No. 243 (File No. 457), 394 P.2d 882 (1964), construing section prior to 1964 amendment.

Property need not be used fully and continuously for exempt purposes. — Property, to be exempt from taxation because of its use for religious, charitable or educational purposes, need not be fully and continuously in use for such purposes. *Sisters of Charity v. Greater Anchorage Area Borough*, 8 Alas. L.J. No. 11, p. 272 (Sept., 1970).

Portion of property used intermittently for corporate purposes.—If a portion of the property of a charitable, religious or educational organization is used even intermittently for the corporate purposes, such portion is entitled to the exemption. *Sisters of Charity v. Greater Anchorage Area Borough*, 8 Alas. L.J. No. 11, p. 272 (Sept., 1970).

Determining portion of property devoted to purposes of organization. — Determination of what portion of property owned by a charitable, religious, or educational organization is devoted to purposes of the organization, is a factual function devolving upon the assessor and the board of equalization by law. *Sisters of Charity v. Greater Anchorage Area Borough*, 8 Alas. L.J. No. 11, p. 272 (Sept., 1970).

Nonutilization of property. — Decisions do not go so far as to hold that nonutilization of the property of a charitable, religious or educational organization continues to entitle the entirety of such property to exemption. *Sisters of Charity v. Greater*

tioned in this section, is not subject to valuation by first class cities for the purposes of AS 14.17.010 et seq., to the extent that it is exempt from taxation. 1962 Op. Att'y Gen., No. 18.

Exclusive employment of occupants of properties sought to be taxed was such as to bring these properties within the exemptions provided in subsections (b)(1) and (b)(2) for residences of ministers owned by religious organizations, or property used for "solely charitable purposes" or "religious education." North Pac. Union Conference Ass'n of Seventh Day Adventists v. Harmon, 5 Alaska L.J. No. 11, p. 228 (Nov., 1967).

The providing of recreational facilities, such as accommodations for campers, is a charitable use of the property. Matanuska-Susitna Borough v. King's Lake Camp, Sup. Ct. Op. No. 472 (File No. 867), 439 P.2d 441 (1968).

Ordinance exempting from local taxation any class of real or personal property.—A home rule city has the power to enact an ordinance exempting from local taxation any class of real or personal property, if such an exemption is not prohibited by the city's home rule charter. 1969 Op. Att'y Gen., No. 1.

Sec. 29.53.025. Optional exemption and exclusions. (a) Municipalities may exclude or exempt or partially exempt residential property from taxation by ordinance ratified by the voters at a regular or special election.

(b) Municipalities may by ordinance

(1) classify boats and vessels for purposes of taxation and may establish the assessed valuation of boats and vessels on the basis of their registered or certificated net tonnage; a tax based upon a tonnage valuation shall not exceed \$5 a year for a boat or vessel of less than five net tons and shall not exceed \$15 a year for a boat or vessel of more than five net tons;

(2) classify and exempt from taxation

(A) the household furniture over \$500 in value and the effects of the head of a family or a householder; and

(B) the property of an organization not organized for business or profit-making purposes and used exclusively for community purposes, provided that income derived from rental of such property

Electric cooperative operating under arrangement with federal agency is not exempt.—A nonprofit cooperative is not an agency of the United States government simply by virtue of an "arrangement" with the Rural Electrification Administration pursuant to 7 USC §§ 901—915, and therefore immune from local taxation. City of Anchorage v. Chugach Elec. Ass'n, 17 Alaska 481, 252 F.2d 412 (9th Cir. 1958).

There is no statutory authority exempting the property of Chugach Electric Association from taxation by the city of Anchorage and the Anchorage Independent school district. City of Anchorage v. Chugach Elec. Ass'n, 17 Alaska 481, 252 F.2d 412 (9th Cir. 1958).

Exemption of property on federal land inapplicable to Railroad Reserve. — The doctrine that property located upon federally owned land is immune from local taxation is inapposite where it is not shown that the Railroad Reserve is "federal property" or under the exclusive jurisdiction of the federal government. City of Anchorage v. Chugach Elec. Ass'n, 17 Alaska 481, 252 F.2d 412 (9th Cir. 1958).

(C) historic sites, buildings and monuments.

(c) The provisions of (a) of this section notwithstanding,

(1) a home rule or first or second class borough may, by ordinance adopted without weighted voting, adjust its property tax structure in whole or in part to the property tax structure of a city within it, including but not limited to, excluding personal property from taxation, establishing exemptions and extending the redemption period;

(2) a home rule or first class city shall have the same power to grant exemptions or exclude property from borough taxes that it has as to city taxes, provided that the exemptions or exclusions have been adopted as to city taxes and further provided that the city appropriate to the borough sufficient money to equal revenues lost by the borough because of the exemptions or exclusions, the amount to be determined annually by the assembly without weighted voting.

(d) Exemptions or exclusions from property tax which have been granted by home rule municipalities in addition to exemptions authorized or required by law, and which are in effect on September 10, 1972 and not later withdrawn, are not affected by this Act. (§ 2 ch 118 SLA 1972)

City may not exempt property without express authority.—The authority of a municipal corporation to allow exceptions of particular property from taxation, unless expressly conferred by law, has very generally been denied. Valentine v. City of Junenu, 36 F.2d 904 (9th Cir. 1929).

Ordinance exempting from local taxation any class of real or personal property.—A home rule city has the power to enact an ordinance exempting from local taxation any class of real or personal property, if such an exemption is not prohibited by the city's home rule charter. 1969 Op. Att'y Gen., No. 1.

Valuation of full and true value not precluded. — The fact that first

class cities may choose the tonnage valuation of ships for the purposes of taxation does not preclude them from making a valuation of full and true value for the purposes of taxation. It necessarily follows that boats and vessels should be valued at full and true value for the purpose of AS 14.17.010 et seq. 1962 Op. Att'y Gen., No. 18.

Rules applicable to second class cities.—The rules applicable to boats and vessels in first class cities apply equally to those under the jurisdiction of second class cities. 1962 Op. Att'y Gen., No. 18.

Sec. 29.53.030. Mining claims. The assessed value of an unimproved unpatented mining claim which is not producing, and a non-producing patented mining claim upon which the improvements originally required for patent have become useless and valueless through depreciation, removal or otherwise, is fixed at \$200 for each 20 acres or fraction of 20 acres. If the surface ground of a

dealer, and there was no evidence that he undertook to serve the public generally — that within the limits of his operations he was available to everyone who desired his service, the trial judge did not err in finding that he was not a common carrier. *Echenderline v. Robertson*, Sup. Ct. Op. No. 232 (File No. 459), 394 P.2d 395 (1964).

This section as evidence of legislative intent with respect to AS 42.10.130(d), (e)

and (f). — See *Lynden Transp., Inc. v. State*, Sup. Ct. Op. No. 1120 (File No. 2100), 532 P.2d 700 (1975).

Am. Jur. and C.J.S. references. — 9 Am. Jur., Carriers, § 1 et seq.; 37 Am. Jur., Motor Transportation, § 1 et seq.; 43 Am. Jur., Public Utilities and Services, §§ 192 to 223.

13 C.J.S. Carriers §§ 2 to 14.

Sec. 42.10.020. Exempt vehicles. This chapter shall apply to all vehicles unless specifically exempted by this section. This chapter, except when specifically otherwise provided, does not apply to

(1) motor vehicles operated exclusively in the transportation of United States mail or in the transportation of newspapers or periodicals alone or in conjunction with an express service delivering packages not to exceed 100 pounds to any one receiver;

(2) motor vehicles owned and operated by the United States, the state, or a borough, city, town, or municipality in the state, or by a department of any of them, except when the vehicles are used to transport property of the general public for compensation in competition with other common carriers subject to this chapter, and to the extent regulation of vehicles operated by the United States is permitted by the laws of the United States;

(3) motor vehicles not exceeding a total gross weight of 12,000 pounds, owned and operated by a rancher, farmer, or dairyman in the transportation of his own ranch, farm, or dairy products from the point of production to market or to the point of transportation to market, or of supplies, commodities, or equipment used on his own ranch, farm, or dairy. Motor vehicles operating under this classification shall be identified as farm vehicles in accordance with regulations prescribed by the commissioner of revenue;

(4) vehicles operated by a construction contractor while performing such a business as defined in § 420(12) of this chapter except that weight fees in an amount as provided by § 240 of this chapter shall be paid for each vehicle designed to be operated on a public highway. (§ 5 ch 166 SLA 1960; am § 4 ch 121 SLA 1961; am § 1 ch 103 SLA 1963; am § 1 ch 107 SLA 1970)

Legislative committee report. — For report on ch. 107, SLA 1970 (HCSCSSB 271 am H), see 1970 House Journal, p. 902. Also refer to 1970 House Journal, p. 1244 (re HCSSB 543).

Quoted in *Alaska Transp. Comm'n v. Hancock*, Sup. Ct. Op. No. 578 (File No. 1044), 458 P.2d 1012 (1969).

Am. Jur. reference. — 37 Am. Jur., Motor Transportation, §§ 53 to 65.

Sec. 42.10.030. Compliance enjoined. It is unlawful for any person to operate as a motor carrier on a public highway of this state except in accordance with this chapter. (§ 6 ch 166 SLA 1960)

Scope. Freight section. 1

Sec. motor v may not transpo this cha recovers direct o unreason transpor same rot shall not the corn carriers. free of di

Sec. 42 otherwise combinati others up commissio transporta so. Every the transp what porti service, an in writing, agreement a combinat commissio

Effect of amendment in

Sec. 42.10

Repealed

Cross refere AS 42.07.121.

Section 70. Regulatory common

AN ACT

Amending the motor vehicle code; and providing for an effective date.

Section 1. AS 28.10.011 is amended to read:

Sec. 28.10.011. VEHICLES SUBJECT TO REGISTRATION. Every vehicle driven, moved, or parked upon a highway or other public parking place in the state shall be registered under this chapter except when the vehicle is

- (1) driven or moved on a highway only for the purpose of crossing the highway from one private property to another, including an implement of husbandry as defined by regulation;
- (2) driven or moved on a highway under a dealer's plate or temporary permit as provided for in AS 28.10.031 and 28.10.181(j);
- (3) special mobile equipment as defined by regulation;
- (4) owned by the United States;
- (5) moved by human or animal power;
- (6) exempt under the Soldier's and Sailor's Civil Relief Act (50 U.S.C. App. [U.S.C.A. APPR. 1 501 et seq.);
- (7) driven or parked only on private property;
- (8) the vehicle of a nonresident as provided under AS 28.10.121;
- (9) a commercial interstate vehicle under AS 28.10.141; [OR]
- (10) transported under a special permit under AS 28.10.151;
- (11) driven or moved on a highway or vehicular way not

AN ACT

Relating to parking permits for disabled persons.

Section 1. AS 28.10.495 is amended to read:

Sec. 28.10.495. PARKING PERMIT FOR VEHICLE TRANSPORTING DISABLED PERSON. (a) Upon application by [WHEN THE OWNER OR PERSON IN LAWFUL POSSESSION OF A VEHICLE PRESENTS TO THE DEPARTMENT WRITTEN PROOF, IN THE FORM OF AN AFFIDAVIT, THAT HE IS PRIMARILY RESPONSIBLE FOR THE TRANSPORTATION OF] a disabled or medically handicapped person, the department shall issue to the applicant, without charge, a special permit bearing the control number of the applicant [APPLICANT'S NAME, ADDRESS, DRIVER'S LICENSE NUMBER, AND THE REGISTRATION PLATE NUMBERS OF THE VEHICLES TO BE USED FOR THAT TRANSPORTATION]. The permit issued under this section, when displayed in the front windshield of a parked or standing vehicle, shall provide for special consideration by the public with respect to the parking or standing in designated spaces of a vehicle [WHICH IS NOT REGISTERED IN THE NAME OF THE DISABLED OR MEDICALLY HANDICAPPED PERSON, BUT] which is being used for the [PRIMARY] transportation of the disabled or medically handicapped [THAT] person.

(b) No person is entitled to use the special permit provided for in (a) of this section except

- (1) THE DRIVER NAME ON THE PERMIT;
- (2) WHEN IN A VEHICLE HAVING ITS REGISTRATION NUMBER ON THE PERMIT; AND

AN ACT

relating to the availability of an abstract of a driver's record; and providing for an effective date.

~~Section 1.~~ AS 28.15.151(d) is amended to read:

(d) The department shall, upon request and payment of a fee determined by the commissioner, furnish a driver or a person designated by the driver with an abstract or the original copy of the computer record of the driver's record as provided in (c) of this section.

~~Sec. 2.~~ AS 28.15.151(e) is repealed.

~~Sec. 3.~~ This Act takes effect immediately in accordance with AS 01.10.-

II. FISCAL DETAIL

Agency Affected Department of Public SafetyProgram Category Affected Public ProtectionBRU, Program, or Subprogram(s) Affected Driver/Vehicle Services

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

No fiscal impact.

IV. DATE 5-18-81

PREPARED BY

Bill Brown
Bill BROWN

AGENCY

Motor Vehicles - Driver Services

Original: Legislative Finance

PHONE

465-4335

cc: Budget and Management

Prime Sponsor (First Legislator Named)