

COMMITTEE REPORT

SENATE

FURTHER:

3/1/83

Date: _____

Mr. President:

The Committee on FINANCE Q has had CSM 6 (JTB)

Driving a motor vehicle.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for CS 3 (JTB) same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

202.7
245.6
0
226.5
234.0

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Joe Proctor

Bob [unclear]

CHAIRMAN

Jim [unclear]

STATE OF ALASKA
FISCAL NOTE

Revision Date June 16, 1983

①

I. REQUEST

Bill/Resolution No.: SCSCSHB 6 (Finance)
 Title: Act Relating to Driving a Motor Vehicle
 Sponsor: _____
 Requestor: _____

II. FISCAL DETAIL

Agency Affected: Alaska Court System
 Program Category Affected: Admin. of Justice
 BRU, Program of Subprogram(s) Affected: Trial Courts

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		208.5	221.0	234.3	248.4	263.3
200 TRAVEL						
300 CONTRACTUAL		7.5	8.0	8.5	9.0	9.5
400 COMMODITIES		7.5	8.0	8.5	9.0	9.5
500 EQUIPMENT		22.1				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		245.6	237.0	251.3	266.4	282.3

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		245.6	237.0	251.3	266.4	282.3
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		6	6	6	6	6
PART-TIME		2	2	2	2	2
TEMPORARY		4	4	4	4	4

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Recent revisions will have no additional fiscal impact on Court System.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard P. Barrier
 Division: Alaska Court System/Administration

Phone: 264-0545
 Date: June 16, 1983

Approved by Commissioner: _____
 Department: _____

Date: _____

Distribution:

Original to Legislative Finance
 Copy to Office of Management and Budget (for Legislature introduced bills)
 Copy to Department (for Governor introduced bills)

ANALYSIS OF FISCAL IMPACT OF SCSCSHB 6 (Finance)

The court system currently disposes of approximately 6,000 DWI cases each year. Presently, 8.6% of these cases are disposed of at trial, or approximately 500 trials per year. The bill will increase the number of cases proceeding to trial, since individuals faced with stiffer penalties and forfeiture of motor vehicles will be more likely to take their cases to trial than to plead guilty as they have in the past. Assuming that 5% of those individuals presently pleading guilty opted for a trial under the new statutes, the court system would experience an increase of approximately 250 trials per year. It is anticipated that this increase could be handled by use of retired judges on a part-time basis.

The Senate Judiciary Committee substitute provides that individuals issued temporary licenses upon arrest on DWI have seven days in which to schedule a court hearing regarding extension of their temporary license. If 25% of the individuals charged with DWI asked the court for this seven day hearing, the court would experience an increase of approximately 1,500 hearings per-year. However, the proposed Senate Finance Committee substitute incorporates an administrative rather than a judicial license revocation review, resulting in a substantially decreased cost to the court, since judicial involvement will be limited to appeals on the record and use of magistrates as hearing officers in outlying areas.

Along with the judicial resources required to conduct the trials and appeals, the court needs supporting staff for the judges and clerical staff to process the case files, calendar and notice the participants.

The impact of this legislation will be felt in each court location in the state, although the major impact will be in the larger metropolitan areas. Both Anchorage and Fairbanks currently have a heavy caseload of DWI cases, with Anchorage reporting approximately 10% of the state's caseload and Fairbanks 20% of the caseload. In each of these locations the caseload is at or near working capacity, and would therefore need increased resources to handle the projected number of new trials and hearings to be held under this legislation. In each location, the minimal staffing required to implement the cases is one additional judge, one additional district court judge, and an in-court clerk, and two court clerk II positions in the criminal sections to deal with the new clerical demands created by this legislation.

In addition to Anchorage and Fairbanks, both Palmer and Kenai have significant DWI caseloads, with each having nearly 10% of the state's caseload. Each would need at a minimum one additional court clerk II position.

Once the legislation comes into effect, the court system will monitor closely its impact on clerical and judicial resources. If the impact is substantially greater than anticipated, the court system will consider the need for a supplemental appropriation.

A detailed breakdown of the cost associated with the Senate Finance Committee substitute is provided below.

FY 84 COST OF IMPLEMENTING SCSCSHB 6 (Finance)

Personal Services:	<u>Revised</u>
Salaries:	
<u>Anchorage</u>	
Pretem retired district court judge (4 mos) . . .	\$ 5,050
In-court clerk (Range 12B) (4 mos)	7,784
Court clerk II (2 @ Range 10B) (12 mos)	41,424
<u>Fairbanks</u>	
Pretem retired district court judge (2 mos)	2,879
In-court clerk (Range 12B) (2 mos)	4,436
Court clerk II (2 @ Range 10 B) (12 mos)	46,706
<u>Palmer</u>	
Court clerk II (Range 10B) (12 mos)	21,384
<u>Kensi</u>	
Court clerk II (Range 10B) (12 mos)	21,984
	151,647
Benefits:	
Judges	10,011
Classified	46,808
	208,466
Total Personal Services	\$208,466
Contractual	7,500
Commodities	7,500
Equipment (one time costs)	22,100

(Subsequent years' costs include inflation at 6%)

STATE OF ALASKA
FISCAL NOTE

Revision Date June 16 1983

I. REQUEST

Bill/Resolution No.: SCSCSHB6 (FIN.)
Title: "Driving a Motor Vehicle"
Sponsor: Senator Fischer
Requestor: Senate Judiciary

II. FISCAL DETAIL

Agency Affected: Dept. of Admin.
Program Category Affected: Public Defen
BRU; Program of Subprogram(s) Affected:
Third District, Fourth District

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		177.2	187.8	199.1	211.0	223.7
200 TRAVEL						
300 CONTRACTUAL		15.0	15.9	16.9	17.9	19.0
400 COMMODITIES		4.5	4.8	5.1	5.4	5.7
500 EQUIPMENT		6.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		202.7	208.5	222.4	234.3	248.4

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		202.7	208.5	222.4	234.3	248.4
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		3.0	3.0	3.0	3.0	3.0
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Bob Stokes, Admin. Officer
Division: Dana Fabe, Public Defender *Dana Fabe*

Phone: 279.7541
Date: June 16, 1983

Approved by Commissioner: Lisa Rudd
Department: Administration

Date: _____

Distribution:

Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)

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ANALYSIS OF SCSCSHB 6 (FIN.)

There are several provisions within this bill which will require a substantial increase in the attorney time necessary to handle DWI and refusal of breathalyzer cases.

First, the increase in mandatory minimum penalties for second and subsequent offenders to 20 and 30 days respectively, as well as the increase in fines, will mean that a much higher number of defendants will exercise their right to a jury trial. Preparation for jury trial requires extensive interviews with the client and prospective witnesses, and the court time for the case is greatly increased, since a DWI change of plea in court may take 15 minutes while a jury trial in such a case usually last 1-2 days. We handle a high volume of not only State prosecuted DWI's but Municipally prosecuted DWI's as well. Past experience indicates that the Municipality of Anchorage will modify their ordinances to conform with the more severe penalty provisions of this bill. The increase in attorney time necessary for handling each drunk driving case, given our already staggering misdemeanor caseloads, will require two additional attorneys for the Anchorage office and one for the Fairbanks office.

Second, an increase in mandatory minimum penalties to 30 or 90 days for a conviction of driving with a suspended license where the offender has a prior history of DWI will greatly increase the number of jury trials which this office is required to handle.

Third, provisions in the statute which allow a police officer upon probable cause to seize the defendant's driver's license at the time of arrest will also require increased attorney time, due to the defendant's right to immediately schedule a hearing to obtain return of his license.

Although the defendant does not have a right to an attorney to handle the hearing which he institutes at the hearing, he does have the right to that hearing to the assistance of his court appointed attorney for the criminal case to the extent that that hearing could impact his criminal case. The hearing under this section addresses issues of whether the defendant should be submitted to a chemical test and what steps the arresting officer observed to justify his arrest for driving while intoxicated. These are the precise issues which will be litigated at trial.

For example, if the defendant admitted at the hearing that he had refused to submit to the chemical test but simply gave mitigating circumstances to justify the return of his license, he would have incriminated himself for purposes of his criminal trial. Similarly, if the defendant began to contest his state of sobriety, indicating the exact amount he had to drink at this administrative hearing on

ALASKA TELETYPE UNIT 1957-58 3-031-0143 50727003317 50740337007H 4

ANALYSIS OF SCSCSHB 6 (FIN.)

PAGE 2

the issue of whether the arresting officer had reasonable grounds to believe he was intoxicated, he would, by those statements, be incriminating himself for purposes of his upcoming criminal trial.

Even if this statement cannot be used in the State's case in chief, it could be used under this bill to cross-examine him for inconsistencies once he takes the stand. Furthermore, information gleaned at the hearing could be used derivatively to further investigate the case from the prosecution perspective. Because statements made at this hearing would directly bear on the issues to be tried in the criminal case, a client would have the right to the assistance of his court appointed counsel at that hearing. The attorney would have to attempt to obtain derivative use immunity due the client under the Alaska Supreme Court decision of McCracken v. Corey, as well as assure that the scope of cross-examination at the hearing were limited to prevent unwarranted discovery which could impact the criminal proceedings.

Because of the volume of DWI cases handled by this agency and the substantially increased attorney time necessary to comply with the provisions of this bill, two additional attorneys for Anchorage and one for Fairbanks are requested.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No SCS for CS for HB 6 (Finance)
Title Act relating to driving a motor vehicle
Requested by Senate Finance Committee Date June 17, 1983

II. FISCAL DETAIL

Agency Affected Health & Social Services
Program Category Affected Justice
BRU, Program, or Subprogram(s) Affected Adult Confinement
(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 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES		0	0	0	0	0
200 TRAVEL		0	0	0	0	0
300 CONTRACTUAL		0	0	0	0	0
400 COMMODITIES		0	0	0	0	0
500 EQUIPMENT		0	0	0	0	0
600 LAND & STRUCTURES		0	0	0	0	0
700 GRANTS, CLAIMS, ETC.		0	0	0	0	0
TOTAL		0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS		0	0	0	0	0
OTHER (Specify Fund Source)		0	0	0	0	0

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

IV. DATE June 17, 1983 PREPARED BY John Sackett
AGENCY John Sackett, Co-chairman
PHONE Senate Finance Committee
Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. SCS for CS for HB 6 (Finance)
 Title Act relating to driving a motor vehicle
 Requested by Senate Finance Committee Date June 16, 1983

II. FISCAL DETAIL
 Agency Affected Health & Social Services
 Program Category Affected Justice
 BRU, Program, or Subprogram(s) Affected Adult Confinement
 (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 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES				419.7	444.9	471.6
200 TRAVEL		2.0	2.1	2.2	2.4	2.5
300 CONTRACTUAL		39.6	42.0	76.7	81.3	86.2
400 COMMODITIES		68.6	72.7	80.7	85.6	90.7
500 EQUIPMENT		-	-	4.5	-	-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.		6.9	7.3	7.7	8.2	8.7
TOTAL	0	117.1	124.1	591.5	622.4	659.7
CAPITAL FUNDING (Thousands of Dollars)	0	0	0	0	0	0
GENERAL FUND	0	117.1	124.1	591.5	622.4	659.7
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME					
PART TIME					
TEMPORARY					

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

IV. DATE June 16, 1983 PREPARED BY John Sackett, Co-chairman
 AGENCY Senate Finance Committee
 PHONE 465-3753
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

REQUEST

Bill/Resolution No.: CS for HB 6 (Jud.)
 Title: Act relating to driving a m.v.
 Sponsor: Judiciary Committee
 Requestor: Finance Committee

II. FISCAL DETAIL

Agency Affected: Health & Social Services
 Program Category Affected: Justice
 BRU, Program of Subprogram(s) Affected:
 Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES				419.7	444.9	471.6
200 TRAVEL		2.0	2.1	2.2	2.4	2.5
300 CONTRACTUAL		39.6	42.0	76.7	81.3	86.2
400 COMMODITIES		68.6	72.7	80.7	85.6	90.7
500 EQUIPMENT		-	-	4.5	-	-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC		6.9	7.3	7.7	8.2	8.7
TOTAL OPERATING	-0-	117.1	124.1	591.5	622.4	659.7
CAPITAL	-0-	2,860.0	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	2,977.1	124.1	591.5	622.4	659.7
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	9	9	9
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The source of funds to offset the fiscal impact of this bill has not been identified by the sponsor.

IV. ANALYSIS: Attach a separate page for any analysis

Prepared By: Roger C. Lange *Roger C. Lange* Phone: 465-3376
 Division: Adult Corrections Date: May 5, 1983

Approved by Commissioner: _____
 Department: Health & Social Services

Distribution:

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- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

3/8/83

Department: Department of Law

Distribution:
 Original to Legislative Finance

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: SCSCSHB 6 (FINANCE)
Title: ..relating to driving a motor vehicle
Sponsor: Abood
Requestor: Senate Finance

II. FISCAL DETAIL

Agency Affected: Public Safety
Program Category Affected: Protection &
BRU, Program of Subprogram(s) Affected: Driver Services and AST Det. Justice
& CIB

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		116.4	148.1	157.0	166.4	176.4
200 TRAVEL		5.3	3.1	3.3	3.5	3.7
300 CONTRACTUAL		51.7	43.2	45.8	48.5	51.4
400 COMMODITIES		.7	.7	.7	.8	.9
500 EQUIPMENT		52.4				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		226.5	195.7	206.8	219.2	232.4
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		226.5	195.1	206.8	219.2	232.4
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		4	4	4	4	4
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Michael Orelove
Division: Administrative Services

Phone: 465-4349
Date: 6-16-83

Approved by Commissioner: *Robert J. Cheney*
Department: *muho* Public Safety

Date: 6/16/83

Distribution:

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3/8/83

1.	POSITION TITLE Driver Improvement Specialist II				RANGE/STEP 16A	BARG. UNIT GG	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT 7-15	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE									
	1		2		AMOUNT					
	PERSONAL SERVICES									
5.	Salary		30,876							
6.	Benefits		5,422							
7.	Supplemental Benefits		1,893							
8.	Fixed Benefits		2,880							
9.	TOTAL PERSONAL SERVICES		01		41,071					
10.	Travel			02	3,100					
11.	Contractual			03	300					
12.	Commodities			04	100					
13.	Equipment			05	2,969					
14.	Other									
15.	TOTAL COST				47,540					
16.	RECEIPT CODE	FUNDING SOURCE								
17.		Federal Receipts 1002								
18.		G.F. Match 1003								
19.		General Funds 1004		47,540						
20.		I-A Receipts 1005								
21.		Program Receipts 1028								
		Other								
FOR B&M USE ONLY										
4A KEY NUMBER										

This position would hold administrative hearings in the Anchorage area under driver license administrative suspension/revocation programs. This would include hearings on requests to grant a limited license on administrative license actions resulting from chemical sobriety tests, and refusals to submit to tests. Considerable time is necessary to properly prepare for each hearing.

Travel is based on two trips to Southeastern annually, two trips to Kodiak annually, and other outlying areas in the Second and Third Judicial Districts as required. \$1,200 in travel, and \$300 in contractual is to cover a one week course for administrative hearing officers at the National Judicial College at the University of Nevada.

Equipment breakdown for this position is as follows: Typewriter - \$1,245; Desk \$426; File Cabinet \$235; Chair \$163; and Recording equipment \$900.

Prepared showing full year costs. Only ten month cost reflected on fiscal note for FY84.

13 REQUEST FOR
NEW POSITION

AGENCY Public Safety
PROGRAM Life and Property Protection
BRU Driver/Vehicle Services
COMPONENT Driver Services

FY 84

Page of
Revised Date

1.	POSITION TITLE Clerk Typist II				RANGE/STEP 7B	BARG. UNIT GG	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT 7-15	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE				AMOUNT					
	1		2		3					
	PERSONAL SERVICES									
5.	Salary		18,120							
6.	Benefits		3,182							
7.	Supplemental Benefits		927							
8.	Fixed Benefits		2,880							
9.	TOTAL PERSONAL SERVICES		01		25,109					
10.	Travel		02							
11.	Contractual		03							
12.	Commodities		04		100					
13.	Equipment		05		2,947					
14.	Other									
15.	TOTAL COST				28,156					
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004		28,156						
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
FOR B&M USE ONLY										
4A KEY NUMBER _____										

This person would handle necessary paperwork for scheduling hearings, notifying individuals of hearing date, time and location, and keep appropriate records.

Would transcribe hearing records as requested, and prepare certified copies for courts, prosecutors, private attorneys, etc, when necessary. Update computer files reflecting when license action is stayed and/or limited driving privileges granted.

Equipment breakdown for this position is as follows:
 Typewriter - \$1,245; Desk - \$426; File Cabinet - \$235;
 Chair - \$141; Transcriber - \$900.

Prepared showing full year costs. Only ten month cost reflected on fiscal note for FY84.

13 REQUEST FOR
NEW POSITION

AGENCY Public Safety
 PROGRAM Life and Property Protection
 BRU Driver/Vehicle Services
 COMPONENT Driver Services

FY 84

Page _____ of _____
 Revised Date _____

1.	POSITION TITLE Document Processing Clerk II			RANGE/STEP 8B	BARG. UNIT GG	FORM 12	PAGE/LINE	GOV.	APPROV.	DISAP
2.	TYPE OF POSITION PFT	STAFF POSITION 12	RP NUMBER	PCN NUMBER	DRU PRIORITY	LOCATION Juncos	ELECTION DISTRICT 4	LEG.		
3.	CONTINUATION LEVEL			JUSTIFICATION						
4.	TYPE OF EXPENDITURE			<p>One Document Processing Clerk II will be required to handle administrative license actions and related work for individual defendants whose breath test results are .10% or higher. Will prepare and mail license actions (of which it is estimated there will be an increase of 3,500 to 4,000 annually based on 1982 statistics); enter data on computer; prepare certified copies for prosecutors, courts, etc.; process stays; maintain proof of insurance filings; and maintain records. Equipment breakdown for this position is as follows: Typewriter - \$1,245; File Cabinet - \$291; and Chair - \$188.</p> <p>Prepared showing full year costs. Only ten month cost reflected on fiscal note for FY84.</p>						
	PERSONAL SERVICES		AMOUNT							
5.	Salary	19,176								
6.	Benefits	3,367								
7.	Supplemental Benefits	1,175								
8.	Fixed Benefits	2,880								
9.	TOTAL PERSONAL SERVICES	01	26,598							
10.	Travel	02								
11.	Contractual	03								
12.	Commodities	04	100							
13.	Equipment	05	1,224							
14.	Other									
15.	TOTAL COST		28,422							
16.	RECEIPT CODE	FUNDING SOURCE								
17.		Federal Receipts	1002							
18.		G.F. Match	1003							
19.		General Funds	1004							
20.		I-A Receipts	1005							
21.		Program Receipts	1028							
		Other								
FOR I&M USE ONLY										
6A KEY NUMBER										

13 REQUEST FOR
NEW POSITION

AGENCY Public Safety
PROGRAM Life and Property Protection
DRU Driver/Vehicle Services
COMPONENT Driver Services

Page of
Revised Date

FY 84

1.	POSITION TITLE Driver Improvement Specialist II			RANGE/STEP 16A	BARG. UNIT GG	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION	STAFF MONTHS	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Fairbanks	ELECTION DISTRICT 18-21	LEG.	
3.	CONTINUATION LEVEL	ADDITION		JUSTIFICATION					
4.	TYPE OF EXPENDITURE:			AMOUNT					
	1		2		3				
	PERSONAL SERVICES								
5.	Salary	35,580							
6.	Benefits	6,248							
7.	Supplemental Benefits	2,181							
8.	Fixed Benefits	2,880							
9.	TOTAL PERSONAL SERVICES	01		46,889					
10.	Travel	02		2,200					
11.	Contractual	03		300					
12.	Commodities	04		100					
13.	Equipment	05		3,269					
14.	Other								
15.	TOTAL COST			52,758					
	RECEIPT CODE	FUNDING SOURCE							
16.		Federal Receipts 1002							
17.		G.F. Match 1003							
18.		General Funds 1004		52,758					
19.		I-A Receipts 1005							
20.		Program Receipts 1020							
21.		Other							
FOR B&M USE ONLY									
4A KEY NUMBER _____									

This position would hold all administrative hearings for the department in Fairbanks and outlying areas in the Fourth Judicial District. This includes hearings on requests to grant a limited license on administrative license actions resulting from chemical sobriety tests and refusals to submit to tests. Considerable time is necessary to prepare for each hearing.

Travel is based on 10 days per diem, and transportation costs within Fourth Judicial District. \$1,200 in travel, and \$300 in contractual is to cover a one week course for administrative hearing officers at the National Judicial College at the University of Nevada.

Equipment breakdown for this position is as follows: Typewriter - \$1,245; Desk - \$646; File Cabinet - \$291; Chair - \$187; and Recording equipment - \$900.

Prepared showing full year costs. Only ten month cost reflected on fiscal note for FY84.

13 REQUEST FOR
NEW POSITION

AGENCY Public Safety
PROGRAM Life and Property Protection
BRU Driver/Vehicle Services
COMPONENT Driver Services

FY 84

Page _____ of _____
Revised Date _____

300 - Contractual (cont')			
382a- DP Chargeback (Program & Maintenance		2.0	
390 - Tuition		.6	51.7
400 - Commodities			
480 - Normal office supplies, including tapes to			
record hearings.		.7	.7
500 - Equipment			
520 - Video player and monitor to review arresting			
agency video tapes at time of breath test, or			
refusal.		1.5	
550 - Office equipment (itemized on Forms 13)		10.9	
			12.4
		SUBTOTAL	186.5

DIVISION OF ALASKA STATE TROOPERS

40.0

Analysis: In order to comply with the provisions of this bill that requires the breathalyzer test to be administered at the scene of the incident, \$40,000 will be required to purchase 100 new portable breathalyzer units.

TOTAL 226.5

Division of Motor Vehicles

FISCAL NOTE DETAIL

SCSCSHB 6 (Finance)

Page 1

COMMENTS:

Under present law the department does not handle any reviews or hearings when administrative license action is taken for refusal to take a breath test. Therefore, the department currently does not have the staff to conduct the administrative reviews required in this bill. Three of the four positions requested are to handle the administrative review portion. Without the requested positions the reviews could not be conducted.

The present office space for the Driver Improvement Office in Anchorage, which will include two of the positions requested, will not accomodate any expansion. Therefore, the fiscal note provides for relocation and lease of new space for that section, which is currently within the Division of Motor Vehicles field office in Anchorage. Space can be made available within the Public Safety Building in Fairbanks for the hearing officer requested for that area. We currently have no hearing officers in Fairbanks.

ASSUMPTIONS:

This fiscal note is based on the following assumptions: 1) In 1982 there were approximately 4,755 arrests for DWI. Of those who refused to take the breathalyzer test approximately 19% filed appeals in the district court, mostly to request limited driving privileges. The fiscal note is based on the assumption there will be 5,000 arrests for DWI in FY84, of which 99% will receive administrative license action under the proposed law. It is assumed 20% of those will ask for a hearing, mostly to request limited driving privileges; 2) 99% of defendants who take breath test will have .10% or higher results; 3) Effective date is October 1, 1983, with staff coming on board September 1, 1983, for training.

DETAIL:

100 - Personal Services		
1 Driver Improvement Specialist II, Anchorage	34.2	
1 Driver Improvement Specialist II, Fairbanks	39.1	
1 Clerk Typist II, Anchorage	20.9	
1 Document Processing Clerk II, Juneau	22.2	
		116.4
200 - Travel		
210 - Field Travel	2.9	
230 - Training	2.4	5.3
300 - Contractual		
310 - Postage	7.9	
320 - Printing	.8	
330 - Lease Space (1,000 sq. ft.)	28.6	
360 - Equipment Rental (One AJIS terminal)	8.0	
380 - Professional Services (New slides for written tests)	3.8	

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: CSHB 6 (Judiciary)
 Title: "...driving a motor vehicle."
 Sponsor: Judiciary Committee (Abood-Orig.)
 Requestor: House Finance Committee

II. FISCAL DETAIL

Agency Affected: Department of Law
 Program Category Affected: General Govt BRU, Program of Subprogram(s) Affected Legal Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		164.2	208.9	221.4	234.7	248.8
200 TRAVEL		10.0	10.6	11.2	11.9	12.6
300 CONTRACTUAL		20.4	23.8	25.2	26.7	28.3
400 COMMODITIES		12.4	7.6	8.1	8.6	9.1
500 EQUIPMENT		32.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	239.0	250.9	265.9	281.7	298.8
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	239.0	250.9	265.9	281.7	298.8
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	4	4	4	4	4
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not specified by sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard I. Pegues, Director

Division: Administrative Services Division

Phone: 465-3672

Date: May 5, 1983

Approved by Commissioner: Norman C. Gorsuch, Attorney General

Department: Department of Law

Date: May 5, 1983

Distribution:

Original to Legislative Finance

Copy to Office of Management and Budget (for Legislature introduced bills)

Copy to Department (for Governor introduced bills)

Copy to Sponsor

CSHB 6 (Judiciary)

Fiscal Note

Analysis

#1

287

The committee substitute has eliminated impoundment of vehicles and retained modified and less restrictive provisions for forfeiture of vehicles. Likewise, the requirement to notify every person who has an ownership or security interest in vehicle within five days has been changed to simply notice prior to any hearing that would determine the disposition of any forfeited vehicle. Because of these changes, the fiscal impact on the department will be reduced. The requirement for court forfeiture hearings, however, still remains and the state must provide motions and answer intervenors' motions in order to invoke forfeiture. Consequently, the department's original estimate of four attorneys, and two clerical staff is being reduced to two attorneys and two clerical staff.

Fiscal Analysis - CSHB 6 #1

387

The impact of CSHB 6 is expected to result in the addition of one Attorney IV position (SR 24) and one Attorney III position (SR 22). In addition to these attorney positions, two secretarial positions will provide support for the Anchorage and Fairbanks attorneys.

The first year of this analysis will cover 10 months of FY 84, allowing 2 months for these four positions to be established. The costs beyond FY 84 have been projected on a 12 month basis and include a 6% annual inflation factor.

1st Year (10 months)

	ANCHORAGE		FAIRBANKS		TOTAL
	AIV	LSI	AIII	LSI	
Personal Services	56.2	24.5	56.2	27.3	164.2
Travel	5.0	-0-	5.0	-0-	10.0
Contractual	8.0	2.2	8.0	2.2	20.4
Commod. - ongoing	1.5	1.5	1.5	1.5	6.0
Commod. - single time	2.0	1.2	2.0	1.2	6.4
Equip. - single time	1.5	14.5	1.5	14.5	32.0
					<hr/> 239.0

2nd Year (12 months + 6% annual inflation)

Personal Services	71.5	31.2	71.5	34.7	208.9
Travel	5.3	-0-	5.3	-0-	10.6
Contractual	9.1	2.8	9.1	2.8	23.8
Commodities	1.9	1.9	1.9	1.9	7.6
					<hr/> 250.9

1. POSITION TITLE Attorney IV				RANGE/STEP 24A	BARG. UNIT X	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2. TYPE OF POSITION PFT		STAFF MONTHS 10	RP NUMBER	PCN NUMBER	DRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT	LEG.	
3. CONTINUATION LEVEL				ADDITION		JUSTIFICATION			
4. TYPE OF EXPENDITURE				AMOUNT		<p>This is one of two attorney positions required by the Department of Law in order to absorb the significant increase in workload which will result from new legislation authorizing the forfeiture of motor vehicles driven by persons arrested for driving while intoxicated. The new legislation requires a court hearing when a forfeiture is contested by the vehicle owner, or by someone who has a financial interest in the vehicle. It is anticipated that many of these hearings will involve representatives from banks or financing companies who retain a financial interest in the vehicle.</p>			
1		2		3					
PERSONAL SERVICES									
5. Salary 4,469/month		44,690							
6. Benefits		6,890							
7. Supplemental Benefits		2,240							
8. Fixed Benefits		2,400							
9. TOTAL PERSONAL SERVICES		01		56,220					
0. Travel		02		5,000					
1. Contractual		03		8,000					
2. Commodities		04		3,500					
3. Equipment		05		1,500					
4. Other									
5. TOTAL COST				74,220					
RECEIPT CODE				FUNDING SOURCE					
16.				Federal Receipts 1002					
17.				G.F. Match 1003					
18.				General Funds 1004		74,220			
19.				I-A Receipts 1005					
20.				Program Receipts 1028					
21.				Other					
FOR B&M USE ONLY				4A KEY NUMBER					

13 REQUEST FOR
NEW POSITION

AGENCY DEPARTMENT OF LAW
PROGRAM LEGA' SERVICES
DRU LEGAL SERVICES
COMPONENT LEGAL SERVICES OPERATIONS

FY 84

Page 4 of 7
Revised Date _____

1.	POSITION TITLE Legal Secretary I				RANGE/STEP 10B	ORG. UNIT CGU	FORM 12 PAGE/LINE	COV.	APPROV.	DISAPP.	
2.	TYPE OF POSITION PFT	STAFF MONTHS 10	RP NUMBER	PCN NUMBER	DRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT	LEG.			
3.	CONTINUATION LEVEL				JUSTIFICATION						
4.	TYPE OF EXPENDITURE										
	1		2		3						
	PERSONAL SERVICES										
5.	Salary	1.817/month	18,170								
6.	Benefits		2,800								
7.	Supplemental Benefits		1,110								
8.	Fixed Benefits		2,400								
9.	TOTAL PERSONAL SERVICES		01	24,480							
10.	Travel		02	-0-							
11.	Contractual		03	2,200							
12.	Commodities		04	2,700							
13.	Equipment		05	14,500							
14.	Other										
15.	TOTAL COST			43,880							
	RECEIPT CODE				FUNDING SOURCE						
16.					Federal Receipts 1002						
17.					G.F. Match 1003						
18.					General Funds 1004 43,880						
19.					I-A Receipts 1005						
20.					Program Receipts 1020						
21.					Other						
FOR D&M USE ONLY 4A KEY NUMBER _____											

This is the second of two attorney positions required by the Department of Law in order to absorb the significant increase in workload which will result from new legislation authorizing the forfeiture of motor vehicles driven by persons arrested for driving while intoxicated. The new legislation requires a court hearing when a forfeiture is contested by the vehicle owner, or by someone who has a financial interest in the vehicle. It is anticipated that many of these hearings will involve representatives from banks or financing companies who retain a financial interest in the vehicle.

13 REQUEST FOR
NEW POSITION

AGENCY DEPARTMENT OF LAW
 PROGRAM GENERAL GOVERNMENT
 DRU LEGAL SERVICES
 COMPONENT LEGAL SERVICES OPERATIONS

FY 84

1
 Page 5 of 7
 Revised Date _____

1.	POSITION TITLE Attorney III				RANGE/STEP 22A	ORG. UNIT X	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.	
2.	TYPE OF POSITION PPT	STAFF MONTHS 10	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Fairbanks	ELECTION DISTRICT	LEG.			
3.	CONTINUATION LEVEL				JUSTIFICATION						
4.	TYPE OF EXPENDITURE				AMOUNT						
	1		2		3						
	PERSONAL SERVICES										
5.	Salary	4,469/month	44,690								
6.	Benefits		6,890								
7.	Supplemental Benefits		2,240								
8.	Fixed Benefits		2,400								
9.	TOTAL PERSONAL SERVICES		01	56,220							
10.	Travel		02	5,000							
11.	Contractual		03	8,000							
12.	Commodities		04	3,500							
13.	Equipment		05	1,500							
14.	Other										
15.	TOTAL COST		74,220								
<p>This is one of two secretary positions required to provide secretarial support for the two new attorney positions assigned to Anchorage and Fairbanks. This particular secretarial position will serve the needs of the new attorney assigned to Anchorage. Included in the duties of this position will be the responsibility of coordinating the activities of the Civil Division attorneys handling the forfeiture action with the attorneys and support staff of the criminal division who originally prosecuted the intoxicated operator of the motor vehicle.</p>											
	RECEIPT CODE	FUNDING SOURCE									
16.		Federal Receipts 1002									
17.		G.F. Match 1003									
18.		General Funds 1004		74,220							
19.		I-A Receipts 1005									
20.		Program Receipts 1020									
21.		Other									
FOR B&M USE ONLY											
4A KEY NUMBER _____											

13 REQUEST FOR
NEW POSITION

AGENCY DEPARTMENT OF LAW
PROGRAM LEGAL SERVICES
BRU LEGAL SERVICES
COMPONENT LEGAL SERVICES OPERATIONS

FY 84

Page 10 of 7

Revised Date _____

1.	POSITION TITLE Legal Secretary I				RANGE/STEP 10B	DARG. UNIT CCU	FORM 12 PAGE/LINE	COV.	APPROV.	DISAPP.	
2.	TYPE OF POSITION PPT	STAFF MONTHS 10	RP NUMBER	PCN NUMBER	DRU PRIORITY	LOCATION Fairbanks	ELECTION DISTRICT	LEG.			
3.	CONTINUATION LEVEL				JUSTIFICATION						
4.	TYPE OF EXPENDITURE				AMOUNT						
	1		2		3						
	PERSONAL SERVICES										
5.	Salary	2,048/month	20,480								
6.	Benefits		3,160								
7.	Supplemental Benefits		1,260								
8.	Fixed Benefits		2,400								
9.	TOTAL PERSONAL SERVICES		01	27,300							
10.	Travel		02	-0-							
11.	Contractual		03	2,200							
12.	Commodities		04	2,700							
13.	Equipment		05	14,500							
14.	Other										
15.	TOTAL COST			46,700							
RECEIPT CODE FUNDING SOURCE											
16.			Federal Receipts 1002								
17.			G.F. Match 1003								
18.			General Funds 1004		46,700						
19.			I-A Receipts 1005								
20.			Program Receipts 1028								
21.			Other								
FOR B&M USE ONLY											
4A KEY NUMBER _____											

This is the second of two secretary positions required to provide secretarial support for the two new attorney positions assigned to Anchorage and Fairbanks. This particular secretarial position will serve the needs of the new attorney assigned to Fairbanks. Included in the duties of this position will be the responsibility of coordinating the activities of the Civil Division attorneys handling the forfeiture action with the attorneys and support staff of the criminal division who originally prosecuted the intoxicated operator of the motor vehicle.

13 REQUEST FOR
NEW POSITION

AGENCY DEPARTMENT OF LAW
PROGRAM LEGAL SERVICES
DRU LEGAL SERVICES
COMPONENT LEGAL SERVICES OPERATIONS

FY 84

Page 1 of 7
Revised Date _____

Original sponsors: Abood, Furnace,
Lindauer, et al

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 6 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to driving a motor vehicle."

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

8 * Section 1. AS 28.05.051(b) is amended to read:

9 (b) The commissioner, officers and employees of the department
10 designated by the commissioner, judges and employees of a court, and
11 all peace officers, may take possession of a certificate of title,
12 [OR] registration or license issued by this jurisdiction that [WHICH]
13 has been revoked, canceled, limited or suspended, or [WHICH] is ficti-
14 tious, stolen or altered.

15 * Sec. 2. AS 28.15.081(a) is amended to read:

16 (a) The department shall examine every applicant for a driver's
17 license. The examination shall include a test of the applicant's (1)
18 eyesight, (2) [HIS] ability to read and understand official traffic
19 control devices, (3) [HIS] knowledge of safe driving practices, (4)
20 knowledge of the effects of alcohol and drugs on drivers and the
21 dangers of driving under the influence of alcohol or drugs, and (5)
22 knowledge of the laws relating to driving while intoxicated and the
23 traffic laws and regulations of this state. The examination [, AND]
24 may include a demonstration of ability to exercise ordinary and rea-
25 sonable control in the driving of a motor vehicle of the type and
26 general class of vehicles for which the applicant seeks a license.
27 However, an applicant who has not been previously issued a driver's
28 license by this or another jurisdiction must demonstrate [HIS] abil-
29 ity, and must present medical information that [WHICH] the department

1 reasonably requires to determine [HIS] fitness to safely drive a motor
2 vehicle of the type and general class of vehicles for which the appli-
3 cant [HE] seeks a license.

4 * Sec. 3. AS 28.15 is amended by adding new sections to read:

5 . Sec. 28.15.165. ADMINISTRATIVE REVOCATIONS RESULTING FROM CHEMI-
6 CAL SOBRIETY TESTS AND REFUSALS TO SUBMIT TO TESTS. (a) If a chemi-
7 cal test administered under AS 28.35.031(a) to a person driving a
8 motor vehicle for which a driver's license is required produces a
9 result described in AS 28.35.030(a)(2) or if a person under arrest for
10 driving a motor vehicle for which a driver's license is required
11 refuses to submit to a chemical test under AS 28.35.031(a), a law
12 enforcement officer shall read a notice and deliver a copy to the
13 person. The notice shall advise that

14 (1) the department intends to revoke the person's driver's
15 license or nonresident privilege to drive, or refuse to issue an
16 original license to the person;

17 (2) the person has the right to administrative review of
18 the revocation or determination not to issue an original license;

19 (3) the notice itself is a temporary driver's license that
20 expires seven days after it is delivered to the person;

21 (4) revocation of the person's driver's license or nonresi-
22 dent privilege to drive, or a determination not to issue an original
23 license shall take effect upon expiration of the temporary driver's
24 license unless the person within seven days requests an administrative
25 review.

26 (b) After reading the notice under (a) of this section, the law
27 enforcement officer shall seize the person's driver's license if it is
28 in the person's possession and shall deliver it to the department with
29 a sworn report describing the circumstances under which it was seized.

1 (c) Upon receipt of a sworn report of a law enforcement officer
2 that a chemical test under AS 28.35.031(a) produced a result described
3 in AS 28.35.030(a)(2) or that a person refused to submit to a chemical
4 test under AS 28.35.031(a), that notice under (a) of this section was
5 provided to the person, and that contains a statement of the circum-
6 stances surrounding the arrest and the grounds upon which the offi-
7 cer's belief that the person was driving while intoxicated a motor
8 vehicle for which a driver's license is required was based, the de-
9 partment shall revoke the person's license or nonresident privilege to
10 drive a motor vehicle in the state, or refuse to issue an original
11 license effective upon expiration of the temporary driver's license
12 issued under (a) of this section.

13 (d) The period of revocation of a driver's license by the de-
14 partment under this section shall be for the appropriate minimum
15 period for court revocations under AS 28.15.181(c).

16 Sec. 28.15.166. ADMINISTRATIVE REVIEW OF REVOCATION. (a) A
17 person who has received a notice under AS 28.15.165(a) may make a
18 written request for administrative review of the department's action
19 under AS 28.15.165(c). If the person's driver's license has not been
20 previously surrendered to the department, it shall be surrendered to
21 the department at the time the request for review is made.

22 (b) A request for review shall be made within seven days after
23 receipt of the notice under AS 28.15.165 or the right to review is
24 waived and the action of the department under AS 28.15.165(c) is
25 final. If a written request for a review is made after expiration of
26 the seven-day period, and if it is accompanied by the applicant's
27 verified statement explaining the failure to make a timely request for
28 a review, the department shall receive and consider the request. If
29 the department finds that the person was unable to make a timely

1 request because of lack of actual notice of the revocation or because
 2 of factor of physical incapacity such as hospitalization or incarcer-
 3 ation, the department shall waive the period of limitation, reopen the
 4 matter, and grant the review request.

5 (c) Upon receipt of a request for review, if it appears that the
 6 person holds a valid driver's license and that the driver's license
 7 has been surrendered, the department shall issue a temporary driver's
 8 permit that is valid until the scheduled date for the review. A
 9 person who has requested a review under this section may request, and
 10 the department may grant for good cause, a delay in the date of the
 11 hearing. If necessary, the department may issue additional temporary
 12 permits to stay the effective date of its action under AS 28.15.165(c)
 13 until the final order after the review is issued.

14 (d) A person who has requested a hearing under this section and
 15 who fails to appear at the hearing, for reasons other than lack of
 16 actual notice of the hearing or physical incapacity such as hospitali-
 17 zation or incarceration, waives the right to a hearing. The deter-
 18 mination of the department that is based upon the enforcement offi-
 19 cer's report becomes final.

20 (e) Notwithstanding AS 28.05.141(b), the hearing under this
 21 section shall be held at the office of the department nearest to the
 22 residence of the person requesting the hearing unless a district court
 23 judge or a magistrate has been designated as a hearing officer in the
 24 matter by the commissioner or the department and the person agree that
 25 the hearing is to be held elsewhere.

26 (f) A review under this section shall be held before a hearing
 27 officer designated by the commissioner. Upon the consent of the
 28 administrative director of the state court system, the commissioner
 29 may designate a district court judge or a magistrate to serve as the

1 hearing officer. The hearing officer shall have authority to

2 (1) administer oaths and affirmations;

3 (2) examine witnesses and take testimony;

4 (3) receive relevant evidence;

5 (4) issue subpoenas, take depositions, or cause depositions
6 or interrogatories to be taken;

7 (5) regulate the course and conduct of the hearing;

8 (6) make a final ruling on the issue.

9 (g) The hearing under this section shall be limited to the
10 issues of whether the arresting officer had reasonable grounds to
11 believe that the person was driving a motor vehicle while intoxicated
12 and whether

13 (1) the person refused to submit to a chemical test under
14 AS 28.35.031(a) after being advised that refusal would result in the
15 suspension, revocation, or denial of the person's license or nonresi-
16 dent privilege to drive and that the refusal is a misdemeanor; or

17 (2) the chemical test authorized under AS 28.35.031(a) and
18 administered to the person produced a result described in AS 28.35.-
19 030(a)(2).

20 (h) The determination of the hearing officer may be based upon
21 the sworn report of a law enforcement officer. The law enforcement
22 officer need not be present at the hearing unless the person request-
23 ing the hearing or the hearing officer requests in writing before the
24 hearing that the officer be present. If in the course of the hearing
25 it becomes apparent that the testimony of the law enforcement officer
26 is necessary to enable the hearing officer to resolve disputed issues
27 of fact, the hearing may be continued to allow the attendance of the
28 law enforcement officer.

29 (i) Testimony given by the person at the hearing is not

1 admissible against the person in a criminal trial unless the person's
2 testimony at the trial is inconsistent with that given at the hearing.

3 (j) If the issues set out in (g) of this section are determined
4 in the affirmative by a preponderance of the evidence, the hearing
5 officer shall sustain the action of the department. If one or more of
6 the issues is determined in the negative, the department's action
7 shall be rescinded.

8 (k) If the action of the department in revoking a nonresident's
9 privilege to drive a motor vehicle is not administratively contested
10 by the nonresident driver or if the departmental action is sustained
11 by the hearing officer, the department shall give written notice of
12 action taken to the motor vehicle administrator of the state of the
13 person's residence and to any state in which that person has a driv-
14 er's license.

15 (l) A hearing officer revoking a driver's license because a
16 chemical test administered to the person produced a result described
17 in AS 28.35.030(a)(2) may grant limited license privileges if the
18 person has not been previously convicted within the preceding 10 years
19 of an offense (A) described in AS 28.15.181(a)(5) or (8); or (B) under
20 a law or ordinance in another jurisdiction with elements substantially
21 similar to an offense described in AS 28.15.181(a)(5) or (8). The
22 privileges may be granted for the final 60 days during which the
23 license is revoked if the hearing officer determines that the person's
24 ability to earn a livelihood would be severely impaired and a limita-
25 tion under AS 28.15.201 can be placed on the license that will enable
26 the person to earn a livelihood without excessive danger to the pub-
27 lic. A hearing officer may not grant limited license privileges when
28 revoking a driver's license because the person refused to submit to a
29 chemical test.

1 (m) Notwithstanding AS 28.05.141(d), within 30 days of the issu-
2 ance of the final determination of the department, a person aggrieved
3 by the determination may file an appeal in superior court for judicial
4 review of the hearing officer's determination. The judicial review
5 shall be on the record, without taking additional testimony. The
6 court may reverse the department's determination if the court finds
7 that the department misinterpreted the law, acted in an arbitrary and
8 capricious manner, or made a determination unsupported by the evidence
9 in the record.

10 (n) The filing of an appeal under (m) of this section does not
11 automatically stay the department's revocation order. The court may
12 grant a stay of the order only upon a motion and hearing, and upon a
13 finding that there is a reasonable probability that the petitioner
14 will prevail on the merits and that the petitioner will suffer irrepa-
15 rable harm if the order is not stayed.

16 * Sec. 4. AS 28.15.181(a) is amended to read:

17 (a) Conviction of any of the [THE] following offenses is [ARE]
18 grounds for the immediate [SUSPENSION OR] revocation of a driver's
19 license:

20 (1) manslaughter or negligent homicide resulting from [THE]
21 driving [OF] a motor vehicle;

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

24 (3) failure to stop and give aid as required by law [UNDER
25 THE LAWS OF THIS STATE] when a motor vehicle accident results in the
26 death or personal injury of another;

27 (4) perjury or [THE] making [OF] a false affidavit or
28 statement under oath to the department under a law relating to motor
29 vehicles;

(5) [OPERATING OR] driving a motor vehicle while

1 intoxicated;

2 (6) reckless driving; [OR]

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

5 (8) refusal to submit to a chemical test under AS 28.35.-
6 032;

7 (9) driving while license canceled, suspended, revoked or
8 in violation of a limitation.

9 * Sec. 5. AS 28.15.181(b) is amended to read:

10 (b) A court convicting a person of an offense described in
11 [UNDER] (a)(1) - (4), (6), or (7) of this section shall revoke that
12 person's driver's license for [A PERIOD OF] not less than 30 days for
13 the first conviction, unless the court determines that the person's
14 ability to earn a livelihood would be severely impaired and a limita-
15 tion under AS 28.15.201 can be placed on the license that [WHICH] will
16 enable the person to earn a livelihood without excessive [RISK OR]
17 danger to the public. If a court limits a person's license under this
18 subsection, it shall do so for [A PERIOD OF] not less than 60 [30]
19 days. Upon a subsequent conviction of a person for any offense de-
20 scribed in [UNDER] (a)(1) - (4), (6), or (7) of this section occurring
21 within 10 years after a prior conviction, the court shall revoke the
22 person's license and may not grant the person [ANY] limited license
23 privileges for the following periods:

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

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

27 * Sec. 6. AS 28.15.181(c) is repealed and reenacted to read:

28 (c) A court convicting a person of an offense described in
29 (a)(5) or (8) of this section arising out of the operation of a motor

1 vehicle for which a driver's license is required shall revoke that
2 person's driver's license. The revocation may be concurrent with or
3 consecutive to an administrative revocation under AS 28.15.165. The
4 court may not, except as provided in (e) of this section, grant lim-
5 ited license privileges for the following periods:

6 (1) not less than 90 days if, within the preceding 10
7 years, the person has not previously been convicted of an offense

8 (A) described in (a)(5) or (8) of this section; or

9 (B) under a law or ordinance in another jurisdiction
10 with elements substantially similar to an offense described in
11 (a)(5) or (8) of this section;

12 (2) not less than one year if, within the preceding 10
13 years, the person has been previously convicted of one offense

14 (A) described in (a)(5) or (8) of this section; or

15 (B) under a law or ordinance in another jurisdiction
16 with elements substantially similar to an offense described in
17 (a)(5) or (8) of this section;

18 (3) not less than 10 years if, within the preceding 10
19 years, the person has been previously convicted of more than one of
20 the following offenses or has more than once been previously convicted
21 of one of the following offenses:

22 (A) an offense described in (a)(5) or (8) of this sec-
23 tion; or

24 (B) an offense under another law or ordinance in
25 another jurisdiction with elements substantially similar to an
26 offense described in (a)(5) or (8) of this section.

27 * Sec. 7. AS 28.15.181 is amended by adding new subsections to read:

28 (d) A court convicting a person of an offense described in
29 (a)(9) of this section shall revoke that person's driver's license for

1 not less than the minimum period under AS 28.15.291(c).

2 (e) A court revoking a driver's license under (c) of this sec-
3 tion, or sustaining the action of the department under AS 28.15.-
4 165(c), may grant limited license privileges for the final 60 days
5 during which the license is revoked if the

6 (1) revocation was for driving while intoxicated but not if
7 the revocation was for refusal to submit to a chemical test of breath
8 under AS 28.35.032;

9 (2) person has not been previously convicted within the
10 preceding 10 years of an offense

11 (A) described in (a)(5) or (8) of this section; or

12 (B) under a law or ordinance in another jurisdiction
13 with elements substantially similar to an offense described in
14 (a)(5) or (8) of this section;

15 (3) court determines that the person's ability to earn a
16 livelihood would be severely impaired; and

17 (4) court determines that a limitation under AS 28.15.201
18 can be placed on the license that will enable the person to earn a
19 livelihood without excessive danger to the public.

20 (f) For purposes of this section, convictions for both driving
21 while intoxicated and for refusal to submit to a chemical test of
22 breath under AS 28.35.031(a), if arising out of a single transaction
23 and a single arrest, are considered one previous conviction.

24 * Sec. 8. AS 28.15.201(b)(1) is amended to read:

25 (1) require the surrender of the driver's license [AND, IF
26 THE PERSON IS CONVICTED OF AN OFFENSE UNDER AS 28.15.181(a)(5), REVOKE
27 THAT PERSON'S LICENSE FOR A PERIOD OF NOT LESS THAN 60 DAYS]; and

28 * Sec. 9. AS 28.15.201(c) is amended to read:

29 (c) After the termination of a limitation as shown on the

1 certificate issued under (b) of this section, the license of a person
2 on whom a limitation was imposed is revoked until the person receives
3 a new [NO LONGER BOUND BY THE LIMITATION AND MAY APPLY FOR A DUPLI-
4 CATE] license in accordance with AS 28.20.240 [UNDER AS 28.15.141 OR,
5 IF OTHERWISE ELIGIBLE, FOR A NEW LICENSE IF THE LICENSE WAS REVOKED
6 FOR CONVICTION OF AN OFFENSE UNDER AS 28.15.181(a)(5) AND LIMITED
7 LICENSE PRIVILEGES WERE GRANTED UNDER AS 28.15.181(c)].

8 * Sec. 10. AS 28.15.291 is amended to read:

9 Sec. 28.15.291. DRIVING WHILE LICENSE CANCELED, SUSPENDED,
10 REVOKED OR IN VIOLATION OF LIMITATION. (a) A [NO] person may not
11 drive a motor vehicle on a highway or vehicular way or area [IN THIS
12 STATE] at a time when that person's [HIS] driver's license, or privi-
13 lege to drive [IN THIS STATE IF HE IS LICENSED IN ANOTHER JURISDIC-
14 TION,] has been canceled, suspended or revoked in this or another
15 jurisdiction, or when [HE IS] driving in violation of a limitation
16 placed upon that person's [HIS] license or privilege to drive in this
17 or [, EVEN WHEN HE IS DRIVING UNDER A LICENSE ISSUED IN] another
18 jurisdiction. Except as provided in (c) of this section, upon [UPON]
19 conviction of a violation of this section, the court shall impose a
20 [MINIMUM] sentence of imprisonment of not less than 10 days. The exe-
21 cution of sentence may not be suspended nor may probation or parole be
22 granted until the minimum imprisonment provided in this section has
23 been served; nor may imposition of sentence be suspended [, EXCEPT
24 UPON THE CONDITION THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN
25 THE MINIMUM PERIOD PROVIDED FOR IN THIS SECTION]. In addition, the
26 person's [HIS] license or privilege to drive shall be revoked, and the
27 person [HE] may not be issued a new license nor may the [HIS] privi-
28 lege to drive be restored for an additional period of not less than
29 one year after the date that the person [HE] would have been entitled

1 to restoration of [HIS] driving privileges.

2 (b) When a person's license is canceled, limited, suspended or
3 revoked, that person [HE] shall be informed by the department or the
4 court that [WHICH] takes the action at the time of the action that,
5 upon a conviction of driving on a highway or vehicular way or area in
6 this state at a time when that person's [HIS] driver's license or
7 privilege to drive in this state has been canceled, suspended or
8 revoked, or upon a conviction of driving in violation of a limitation
9 of the [HIS] license, that person [HE] will be subject to the manda-
10 tory minimum sentence of [10-DAY] imprisonment under [(a) OF] this
11 section.

12 * Sec. 11. AS 28.15.291 is amended by adding new subsections to read:

13 (c) The court shall impose a sentence of imprisonment of not
14 less than 30 days and a fine of not less than \$500 upon conviction of
15 a violation of this section if the person's driver's license was
16 revoked under circumstances described in AS 28.15.181(c)(1). The
17 court shall impose a sentence of imprisonment of not less than 90 days
18 and a fine of not less than \$1,000 upon conviction of a violation of
19 this section if the person's driver's license was revoked under cir-
20 cumstances described in AS 28.15.181(c)(2) or (3). The execution of
21 sentence may not be suspended nor may probation or parole be granted
22 until the minimum imprisonment provided in this subsection has been
23 served. Imposition of sentence may not be suspended. In addition, the
24 person's privilege to drive shall be revoked for an additional period
25 of not less than one year after the date that the person would have
26 been entitled to restoration of driving privileges if the person had
27 not been convicted under this section.

28 (d) A person convicted of a violation of this section is guilty
29 of a class A misdemeanor.

1 * Sec. 12. AS 28.20.240 is amended to read:

2 Sec. 28.20.240. PROOF REQUIRED WHEN DRIVING PRIVILEGE [USE OF
3 LICENSE] IS RESTRICTED. Whenever under a law of this state the li-
4 cense of a person is suspended, revoked, limited under AS 28.15.201,
5 or canceled for any reason, the department may not issue to that
6 person a new or renewal of license [IN HIS NAME] until permitted to do
7 so under the motor vehicle laws of this state. A period of suspen-
8 sion, revocation, [LIMITATION,] or cancellation [UNDER THIS SECTION]
9 continues until proof of financial responsibility for the future is
10 provided. Upon expiration of a period of limitation, the license
11 remains revoked until proof of financial responsibility for the future
12 is provided.

13 * Sec. 13. AS 28.35.030(a)(2) is amended to read:

14 (2) when, as determined by a chemical test taken within
15 four hours after the alleged offense was committed, there is 0.10
16 percent or more by weight of alcohol in the person's blood or 100
17 milligrams or more of alcohol per 100 milliliters of blood, or when
18 there is 0.10 grams or more of alcohol per 210 liters of the person's
19 breath; or

20 * Sec. 14. AS 28.35.030(c) is amended to read:

21 (c) Upon conviction under this section the court shall impose a
22 minimum sentence of imprisonment of not less than 72 consecutive hours
23 and a fine of not less than \$250 if the person has not been previously
24 convicted in this or another jurisdiction of driving while intoxicated
25 under this or another law or ordinance with substantially similar
26 elements or refusal to submit to a chemical test under AS 28.35.032
27 or another law or ordinance with substantially similar elements. Upon
28 [A SUBSEQUENT] conviction under this section the court shall impose a
29 minimum sentence of imprisonment of not less than 20 consecutive days

1 and a fine of not less than \$500 if, within the preceding 10 years,
2 the person has been previously convicted once in this or another
3 jurisdiction [WITHIN FIVE YEARS AFTER A CONVICTION] of driving while
4 intoxicated under this or another law or ordinance with substantially
5 similar elements or [IN THIS OR ANY OTHER STATE OR CONVICTION OF]
6 refusal to submit to a chemical test under AS 28.35.032 or another law
7 or ordinance with substantially similar elements. Upon conviction
8 under this section [OF BREATH UNDER AS 28.35.032,] the court shall
9 impose a minimum sentence of imprisonment of not less than 30 [10]
10 consecutive days and a fine of not less than \$1,000 if, within the
11 preceding 10 years, the person has been previously convicted in this
12 or another jurisdiction of more than one of the following offenses or
13 has more than once been previously convicted of one of the following
14 offenses: (1) driving while intoxicated under this or another law or
15 ordinance with substantially similar elements; (2) refusal to submit
16 to a chemical test under AS 28.35.032 or another law or ordinance with
17 substantially similar elements [UNLESS THE SUBSEQUENT CONVICTION IS
18 WITHIN ONE YEAR OF THE PREVIOUS CONVICTION, IN WHICH CASE THE COURT
19 SHALL IMPOSE A MINIMUM SENTENCE OF IMPRISONMENT OF NOT LESS THAN 20
20 CONSECUTIVE DAYS]. The execution of sentence may not be suspended nor
21 may probation be granted except on condition that [UNTIL] the minimum
22 imprisonment provided in this section is [HAS BEEN] served. Impo-
23 sition of sentence may not be suspended [, EXCEPT UPON THE CONDITION
24 THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN THE MINIMUM PERIOD
25 PROVIDED IN THIS SECTION]. In addition, if the offense involved
26 driving a motor vehicle for which a driver's license is required, the
27 person's driver's [HIS OPERATOR'S] license shall be revoked in accor-
28 dance with AS 28.15.181 and the vehicle used in commission of the
29 offense may be forfeited under AS 28.35.036. In addition, the court

1 shall order, and a person convicted under this section [STATUTE] shall
2 undertake, for a term specified by the court, that program of alcohol
3 education or rehabilitation that [WHICH] the court, after considera-
4 tion of any information compiled under (d) of this section, finds
5 appropriate.

6 * Sec. 15. AS 28.35.030 is amended by adding a new subsection to read:

7 (g) For purposes of this section, convictions for both driving
8 while intoxicated and for refusal to submit to a chemical test of
9 breath under AS 28.35.031(a), if arising out of a single transaction
10 and a single arrest, are considered one previous conviction.

11 * Sec. 16. AS 28.35.031 is amended by adding new subsections to read:

12 (b) A person who operates or drives a motor vehicle in this
13 state shall be considered to have given consent to a preliminary
14 breath test for the purpose of determining the alcoholic content of
15 the person's blood or breath. A law enforcement officer may adminis-
16 ter a preliminary breath test at the scene of the incident if the
17 officer has reasonable grounds to believe that a person's ability to
18 operate a motor vehicle is impaired by the ingestion of alcoholic
19 beverages and that the person

20 (1) was driving a motor vehicle that is involved in an
21 accident; or

22 (2) committed a moving traffic violation.

23 (c) Before administering a preliminary breath test under (b) of
24 this section, the officer shall advise the person that refusal may be
25 used against the person in a civil or criminal action arising out of
26 the incident and that refusal is an infraction. If the person refuses
27 to submit to the test, the test shall not be administered.

28 (d) The result of the test under (b) of this section may be used
29 by the law enforcement officer to determine whether the driver should

1 be arrested.

2 (e) Refusal to submit to a preliminary breath test at the re-
3 quest of a law enforcement officer is an infraction.

4 (f) If a driver is arrested, the provisions of AS 28.35.031(a)
5 apply. The preliminary breath test authorized in this section is in
6 addition to any tests authorized under AS 28.35.031(a).

7 * Sec. 17. AS 28.35.032(a) is amended to read:

8 (a) If a person under arrest refuses the request of a law en-
9 forcement officer to submit to a chemical test under AS 28.35.031(a)
10 [OF BREATH AS PROVIDED IN AS 28.35.031], after being advised by the
11 officer that the refusal will, if that person was arrested while
12 operating or driving a motor vehicle for which a driver's license is
13 required, result in the [SUSPENSION,] denial or revocation of the
14 license or nonresident privilege to drive, that the refusal may be
15 used against the person in a civil or criminal action or proceeding
16 arising out of an act alleged to have been committed by the person
17 while operating or driving a motor vehicle or operating an aircraft or
18 a watercraft while intoxicated, and that the refusal is a misdemeanor,
19 a chemical test shall not be given, except as provided by AS 28.35.-
20 035.

21 * Sec. 18. AS 28.35.032(f) is amended to read:

22 (f) Refusal to submit to the chemical test of breath authorized
23 by AS 28.35.031(a) [AS 28.35.031] is a class A misdemeanor.

24 * Sec. 19. AS 28.35.032(g) is amended to read:

25 (g) Upon conviction of a person under this section, the court
26 shall impose a minimum sentence of imprisonment of not less than 72
27 consecutive hours and a fine of not less than \$250 if the person has
28 not been previously convicted in this or another jurisdiction of
29 driving while intoxicated under AS 28.35.030 or another law or

1 ordinance with substantially similar elements or refusal to submit to
2 a chemical test under this section or another law or ordinance with
3 substantially similar elements. Upon [A SUBSEQUENT] conviction under
4 this section the court shall impose a minimum sentence of imprisonment
5 of not less than 20 consecutive days and a fine of not less than \$500
6 if, within the preceding 10 years, the person has been previously con-
7 victed once in this or another jurisdiction [WITHIN FIVE YEARS AFTER A
8 CONVICTION UNDER THIS SECTION OR] of driving while intoxicated under
9 AS 28.35.030 or another law or ordinance with substantially similar
10 elements or refusal to submit to a chemical test under this section or
11 another law or ordinance with substantially similar elements. Upon
12 conviction under this section the court shall impose a minimum sen-
13 tence of imprisonment of not less than 30 consecutive days and a fine
14 of not less than \$1,000 if, within the previous 10 years, the person
15 has been previously convicted in this or another jurisdiction of more
16 than one of the following offenses or has more than once been pre-
17 viously convicted of one of the following offenses: (1) driving while
18 intoxicated under AS 28.35.030 or another law or ordinance with sub-
19 stantially similar elements; (2) refusal to submit to a chemical test
20 under this section or another law or ordinance with substantially
21 similar elements [IN THIS OR ANY OTHER STATE, THE COURT SHALL IMPOSE A
22 MINIMUM SENTENCE OF IMPRISONMENT OF NOT LESS THAN 10 CONSECUTIVE DAYS
23 UNLESS THE SUBSEQUENT CONVICTION IS WITHIN ONE YEAR OF THE PREVIOUS
24 CONVICTION, IN WHICH CASE THE COURT SHALL IMPOSE A MINIMUM SENTENCE OF
25 IMPRISONMENT OF NOT LESS THAN 20 CONSECUTIVE DAYS].. The execution of
26 sentence may not be suspended nor may probation be granted except on
27 condition that [UNTIL] the minimum imprisonment provided in this
28 section is [HAS BEEN] served. Imposition of sentence may not be
29 suspended. If the offense involved driving a motor vehicle for which

1 a driver's license is required, the person's driver's license shall be
 2 revoked under AS 28.15.181 [, EXCEPT UPON THE CONDITION THAT THE
 3 DEFENDANT BE IMPRISONED FOR NO LESS THAN THE MINIMUM PERIOD PROVIDED
 4 IN THIS SECTION]. In addition, the court shall order, and a person
 5 convicted under this section shall undertake, for a term specified by
 6 the court, that program of alcohol education or rehabilitation that
 7 the court, after consideration of any information compiled under (h)
 8 of this section, finds appropriate. The sentence imposed by the court
 9 under this subsection shall run consecutively with any other sentence
 10 of imprisonment imposed on the committed person.

11 * Sec. 20. AS 28.35.032 is amended by adding a new subsection to read:

12 (j) For purposes of this section, convictions for both driving
 13 while intoxicated and for refusal to submit to a chemical test of
 14 breath under AS 28.35.031(a), if arising out of a single transaction
 15 and a single arrest, are considered one previous conviction.

16 * Sec. 21. AS 28.35.034 is amended to read:

17 Sec. 28.35.034. SURRENDER OF LICENSE OR PERMIT [PERIOD OF REVO-
 18 CATION]. A person whose license or permit to operate or drive a motor
 19 vehicle has been [SUSPENDED OR] revoked under AS 28.15.165 or AS 28.-
 20 15.181 [THE PROVISIONS OF AS 28.35.032] shall surrender the [HIS]
 21 license or permit to the department on receipt of notice of the revo-
 22 cation. [SUCH A PERSON IS INELIGIBLE FOR AN OPERATOR'S LICENSE OR
 23 PERMIT FOR THREE MONTHS FOLLOWING THE DATE ON WHICH THE LICENSE OR
 24 PERMIT WAS RECEIVED BY THE DEPARTMENT, UNLESS THE DISTRICT COURT FINDS
 25 THAT EXTENUATING CIRCUMSTANCES EXIST WHICH WOULD CAUSE EXTREME HARD-
 26 SHIP, IN WHICH CASE THE SUSPENSION OR REVOCATION MAY BE MODIFIED OR
 27 NULLIFIED.] After the [THREE MONTHS'] period of revocation has ex-
 28 pired, the person may make application for a new license as provided
 29 by law.

1 * Sec. 22. AS 28.35.035 is amended to read:

2 Sec. 28.35.035. ADMINISTRATION OF CHEMICAL TESTS WITHOUT CON-
3 SENT. (a) If a person is under arrest for an offense arising out of
4 acts alleged to have been committed while the person was driving a
5 motor vehicle [THE CRIME OF DRIVING] while intoxicated, and that
6 arrest results from an accident that causes death or physical injury
7 to another person, a chemical test may be administered without the
8 consent of the person arrested to determine the amount of alcohol in
9 that person's breath or blood.

10 (b) A person who is unconscious or otherwise in a condition
11 rendering that person incapable of refusal is considered not to have
12 withdrawn the consent provided under AS 28.35.031(a) [AS 28.35.031]
13 and a chemical test may be administered to determine the amount of
14 alcohol in that person's breath or blood. A person who is unconscious
15 or otherwise incapable of refusal need not be placed under arrest
16 before a chemical test may be administered.

17 (c) If a chemical test is administered to a person under (a) or
18 (b) of this section, that person is not subject to the penalties for
19 refusal to submit to a chemical test provided by AS 28.35.032 and
20 28.35.034.

21 * Sec. 23. AS 28.35 is amended by adding new sections to read:

22 Sec. 28.35.036. FORFEITURE OF MOTOR VEHICLE. (a) After convic-
23 tion of an offense under AS 28.35.030 or AS 28.35.032 involving a
24 motor vehicle of a type for which a driver's license is required, the
25 state may move the court to order the forfeiture of the motor vehicle
26 involved in the commission of the offense if the convicted person has
27 been previously convicted in this or another jurisdiction of more than
28 one of the following offenses or has more than once been previously
29 convicted of one of the following offenses:

1 (1) driving while intoxicated under AS 28.35.030 or another
 2 law or ordinance with substantially similar elements; or

3 (2) refusal to submit to a chemical test under AS 28.35.032
 4 or another law or ordinance with substantially similar elements.

5 (b) For purposes of this section, convictions for both driving
 6 while intoxicated and for refusal to submit to a chemical test of
 7 breath under AS 28.35.031(a), if arising out of a single transaction
 8 and a single arrest, are considered one previous conviction.

9 (c) Upon receipt of a motion for forfeiture, the court shall
 10 schedule a hearing on the matter and shall notify the state and the
 11 convicted person of the time and place set for the hearing. At the
 12 hearing, the court may order the forfeiture of the motor vehicle if
 13 the court, sitting without a jury, determines by a preponderance of
 14 the evidence that the forfeiture of the motor vehicle will serve one
 15 or more of the following purposes:

16 (1) deterrence of the convicted person from the commission
 17 of future offenses under AS 28.35.030;

18 (2) protection of the safety and welfare of the public;

19 (3) deterrence of other persons who are potential offenders
 20 under AS 28.35.030; or

21 (4) expression of public condemnation of the serious or
 22 aggravated nature of the convicted person's conduct.

23 (d) Upon forfeiture of a motor vehicle the court shall require
 24 the surrender of the registration and certificate of title of that
 25 motor vehicle. The registration and certificate of title shall be
 26 delivered to the department.

27 (e) If not released under AS 28.35.037, a motor vehicle for-
 28 feited under this section may be disposed of at the discretion of the
 29 department.

1 Sec. 28.35.037. REMISSION OF FORFEITURES. (a) Upon receiving
2 notice from the court of the time and place set for a hearing under
3 AS 28.35.036, the state shall provide to every person who has an
4 ascertainable ownership or security interest in the motor vehicle
5 written notice that includes

- 6 (1) a description of the motor vehicle;
7 (2) the time and place of the forfeiture hearing;
8 (3) the legal authority under which the motor vehicle may
9 be forfeited;
10 (4) notice of the right to intervene to protect the inter-
11 est in the motor vehicle.

12 (b) At the hearing, a person who claims an ownership or security
13 interest in the motor vehicle must establish by a preponderance of the
14 evidence that

- 15 (1) the petitioner has an interest in the motor vehicle
16 acquired in good faith;
17 (2) a person other than the petitioner was convicted of the
18 offense that resulted in the forfeiture; and
19 (3) before parting with the motor vehicle, the petitioner
20 did not know or have reasonable cause to believe that it would be used
21 in the commission of an offense.

22 (c) If a person satisfies the requirements of (b) of this sec-
23 tion, the court shall order that an amount equal to the value of the
24 petitioner's interest in the motor vehicle be paid to the petitioner
25 or the court shall order that the motor vehicle be released to the
26 petitioner together with title to the motor vehicle.

27 (d) Forfeiture of a motor vehicle under AS 28.35.036 is without
28 prejudice to the rights, and does not extinguish the claims, of a
29 creditor with an interest in the motor vehicle.

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Sec. 28.35.038. MUNICIPAL IMPOUNDMENT AND FORFEITURE. Notwith-
standing other provisions in this title, a municipality may adopt an
ordinance providing for the impoundment or forfeiture of a motor
vehicle involved in the commission of an offense under AS 28.35.030,
28.35.032, or an ordinance with elements substantially similar to
AS 28.35.030 or AS 28.35.032. An ordinance adopted under this section
is not required to be consistent with this title or regulations adopt-
ed under this title.

* Sec. 24. AS 22.15.100 is amended by adding a new paragraph to read:

(10) to review an administrative revocation of a person's
driver's license or nonresident privilege to drive, and an administra-
tive refusal to issue an original license, when designated as a hear-
ing officer by the commissioner of public safety and with the consent
of the administrative director of the state court system.

* Sec. 25. AS 28.15.211(a)(4) and AS 28.35.032(b),(c), and (d) are re-
pealed.



From The
**SENATE
FINANCE COMMITTEE**

These fiscal
notes came attached
to CS HB 6 (Jud)
when it arrived in
Committee. Remaining
F. Notes relate to
Senate SA & Jud.
versions.

Jud 4/30

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

Page 1 of 2

I. REQUEST

Bill/Resolution No.: CSHB6 (Jud) # 1
Title: "An Act...Driving a Motor Vehicle"
Sponsor: Abood, Furnace, Lindauer
Requestor: _____

II. FISCAL DETAIL

Agency Affected: Dept. of Administration
Program Category Affected: Public Defender
BRU, Program of Subprogram(s) Affected: Third District, Fourth District

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		177.2	187.8	199.1	211.0	223.7
200 TRAVEL						
300 CONTRACTUAL		15.0	15.9	16.9	17.9	19.0
400 COMMODITIES		4.5	4.8	5.1	5.4	5.7
500 EQUIPMENT		6.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		202.7	208.5	222.4	234.3	248.4

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		202.7	208.5	222.4	234.3	248.4
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		3.0	3.0	3.0	3.0	3.0
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

GENERAL FUND

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Bob Stokes, Admin. Officer

Phone: 279-7541

Division: Dana Fabe, Public Defender

Date: April 13, 1983

Approved by Commissioner: Lisa Rudd

Date: April 14, 1983

Department: Administration

Distribution:

Original to Legislative Finance

Copy to Office of Management and Budget (for Legislature introduced bills)

Copy to Department (for Governor introduced bills)

Copy to Sponsor

There are several provisions within this bill which will require a substantial increase in the attorney time necessary to handle DWI and refusal of breathalyzer cases.

First, the increase in mandatory minimum penalties for second and subsequent offenders to 20 and 30 days respectively, as well as the increase in fines, will mean that a much higher number of defendants will exercise their right to a jury trial. Preparation for jury trial requires extensive interviews with the client and prospective witnesses, and the court time for the case is greatly increased, since a DWI change of plea in court may take 15 minutes while a jury trial in such a case usually lasts 1 - 2 days. We handle a high volume of not only State prosecuted DWI's but Municipally prosecuted DWI's as well. This increase in attorney time necessary for handling each drunk-driving case, given our already staggering misdemeanor caseloads, will require two additional attorneys for the Anchorage office, and one for the Fairbanks office.

Second, a drastic increase to a 90-day mandatory penalty for a first offender charged with driving with a suspended license will increase the number of jury trials which this office is required to handle.

Third, provisions in the statute which allow a police officer upon probable cause to seize the defendant's driver's license or impound his vehicle for a substantial period of time at the time of arrest will also require increased attorney time, due to the defendant's right to schedule a court hearing within 7 days to obtain return of his license or vehicle. Although the defendant may not have a right to an attorney to handle the hearing which he initiates to have his car or license returned, he will need an attorney's assistance at that hearing to the extent that it impacts his criminal case. Because anything that the defendant might say at that hearing regarding the facts of his case could be used against him at the subsequent criminal trial, he would need the assistance of counsel at that hearing. The attorney would have to obtain the immunity which would be due the client under the Alaska Supreme Court decision of McCracken v. Corey, as well as limit the scope of cross-examination at the hearing.

Because of the volume of DWI cases handled by this agency and the substantially increased attorney time necessary to comply with the provisions of the Statute, two additional attorneys for Anchorage and one for Fairbanks are requested.

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Page 1 of 3

Bill/Resolution No.: HB6/SB61 # 2
 Title: Drunk Driving
 Sponsor: _____
 Requestor: _____

II. FISCAL DETAIL

Agency Affected: Alaska Court System
 Program Category Affected: Admin. of Justice
 BRU, Program of Subprogram(s) Affected: Trial Courts

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		482.8	614.2	651.1	690.2	731.6
200 TRAVEL						
300 CONTRACTUAL		12.5	15.9	16.9	17.9	19.0
400 COMMODITIES		12.5	15.9	16.9	17.9	19.0
500 EQUIPMENT		31.2				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		539.0	646.0	684.9	726.0	769.6

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		539.0	646.0	684.9	726.0	769.6
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		12	12	12	12	12
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard Barrier *[Signature]* Phone: 264-0545
 Division: Alaska Court System/Administration Date: 4/13/83

Approved by Commissioner: _____ Date: _____
 Department: _____

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- Copy to Office of Management and Budget (for Legislature introduced bills)
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The Court System currently disposes of approximately 6,000 DWI cases each year. Presently, 8.6% of these cases are disposed of at trial, or approximately 500 trials per year. This legislation will increase the number of cases proceeding to trial, since individuals faced with stiffer penalties and forfeiture of motor vehicles will be more likely to take their cases to trial than to plead guilty as they have in the past. Assuming that 5% of those individuals presently pleading guilty opted for a trial under the new statutes, the Court System would experience an increase of approximately 250 trials per year.

This legislation provides that individuals issued temporary licenses upon arrest on DWI have seven days in which to schedule a court hearing regarding extension of their temporary license. If 25% of the individuals charged with DWI ask the court for this seven day hearing, the court would experience an increase of approximately 1,500 hearings per year.

Once a motor vehicle has been forfeited to the state, the court must notice any interested party regarding this forfeiture and permit interested parties to submit a petition for remission of interest in the motor vehicle. Each petition filed will require a court hearing. It is estimated that this would lead to approximately 500 hearings per year.

Statewide, the major impact of this legislation would be an increase of approximately 250 DWI trials and 2,000 hearings per year. Along with the judicial manpower required to conduct the trials and hearings, the court needs supporting staff for the judges and clerical staff to process the case files, calendar and notice the participants in hearings, and perform other new clerical functions under this legislation related to impoundment of vehicles and forfeiture of vehicles.

The impact of this legislation will be felt in each court location in the state, though the major impact will be in the larger metropolitan areas. Both Anchorage and Fairbanks currently have a heavy caseload of DWI cases, with Anchorage reporting approximately 30% of the state's caseload and Fairbanks 25% of the caseload. In each of these locations the district courts are working at capacity, and would therefore need increased resources to handle the projected number of new trials and hearings to be held under this legislation. In each location, the minimal staffing required to implement this legislation would be one district court judge, with a support staff of a secretary and in-court clerk, and two court clerk II positions in the criminal sections to deal with the new clerical demands created by this legislation.

In addition to Anchorage and Fairbanks, both Palmer and Kenai have significant DWI caseloads, with each having nearly 10% of

the state's caseload. While these courts may be able to get by without additional judicial resources, each would need at a minimum one additional court clerk II position.

A detailed breakdown of the cost associated with this legislation is provided below.

FY 84 COST OF IMPLEMENTING HB 6/SB 61

PERSONAL SERVICES:

SALARIES:

ANCHORAGE

District Court Judge	\$ 60,600
Secretary (Range 12B)	23,352
In-Court Clerk (Range 12B)	23,352
Court Clerk II (2 @ Range 10B)	41,424

FAIRBANKS

District Court Judge	69,084
Secretary (Range 12B)	26,616
In-Court Clerk (Range 12B)	26,616
Court Clerk II (2 @ Range 10B)	46,706

PALMER

Court Clerk II (Range 10B)	21,384
----------------------------	--------

KENAI

Court Clerk II (Range 10B)	<u>21,984</u>
----------------------------	---------------

\$361,118

BENEFITS:

Judges	139,659
Classified	<u>78,582</u>

Total Personal Services 579,359

CONTRACTUAL 15,000

COMMODITIES 15,000

EQUIPMENT (one time costs) 31,200

TOTAL COST \$640,559

FIRST YEAR ADJUSTMENT:

Less two months recruitment time (101,560)

TOTAL COST FIRST YEAR \$538,999

(Subsequent years' costs include inflation at 6%.)

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: ^{#2 107} CS for HB 6 (Jud.)
Title: Act relating to driving a m.v.
Sponsor: Judiciary Committee
Requestor: Finance Committee

II. FISCAL DETAIL

Agency Affected: Health & Social Services
Program Category Affected: Justice
BRU, Program of Subprogram(s) Affected: Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES				419.7	444.9	471.6
200 TRAVEL		2.0	2.1	2.2	2.4	2.5
300 CONTRACTUAL		39.6	42.0	76.7	81.3	86.2
400 COMMODITIES		68.6	72.7	80.7	85.6	90.7
500 EQUIPMENT		-	-	4.5	-	-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC		6.9	7.3	7.7	8.2	8.7
TOTAL OPERATING	-0-	117.1	124.1	591.5	622.4	659.7
CAPITAL	-0-	2,860.0	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	2,977.1	124.1	591.5	622.4	659.7
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	9	9	9
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The source of funds to offset the fiscal impact of this bill has not been identified by the sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange *Roger C. Lange* Phone: 465-3376
Division: Adult Corrections Date: May 5, 1983

Approved by Commissioner: *Jan A. Eyr* Date: May 6, 1983
Department: Health & Social Services

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3/8/83

IV. ANALYSIS:

A. Assumptions

1. Bed Impact

The passage of this bill will result in the need for 22 additional minimum security beds within the Alaska correctional system. The sections of the bill which affect increased inmate population projections are:

a. Section 11

Statistics furnished by the Department of Public Safety show 181 persons were convicted in 1982 for driving with a suspended or revoked license where the original offense resulting in the loss of license was driving while intoxicated (DWI) or implied consent (refusal to take a breathalyzer test). For purposes of this fiscal note, that number was used for calculating the increased person days of incarceration resulting from increased sentences to 30 or 90 days. It was assumed that 80% of the offenders would have been convicted only once in the previous 15 years and 20% convicted more than once in the previous 15 years.

The following calculations also consider that the offender would have been given a minimum sentence of 10 days previously, and it is assumed that every offender will earn all good time for which they are eligible. Therefore, 145 offenders would serve an additional 15 days and 36 offenders would serve an additional 60 days. This results in the need for an additional 11.88 beds.

b. Section 13

This section of the bill increases the minimum sentence for second time drunk drivers from 10 days to 20 days and third and subsequent time drunk drivers from 10 days to 30 days. It is estimated that would be 450 repeat offenders affected by this legislation, 425 second offenders and 25 third offenders. The additional sentence length to be served, assuming all good time will be earned is 12 days for second time offenders and 20 days for third offenders. This increased sentence length results in the need for 9 additional minimum security beds.

c. Section 16

This section provides new penalties for refusal to take a chemical test similar to the sentences to be imposed for driving while intoxicated. Statistical data for this offense was not available. Therefore, it was assumed that 20 individuals would be convicted with one

FISCAL NOTE

CS for House Bill No. 6 (Judiciary)

Page 3

#2 376

prior and 7 individuals would be convicted with 2 or more prior offenses. This would result in the need for 1.1 additional beds.

- d. The summary of a, b, and c above is 21.98 beds, which were rounded to 22 beds.
2. All persons convicted would receive the minimum sentence and all persons would earn all good time for which they would be eligible.
3. Inflation of 6% per year was used for the entire period of the fiscal note.
4. The new beds would not be available for occupancy until July 1, 1985. This will result in further overcrowding of the existing facilities for two years.
5. One additional position is needed for every 2.5 prison beds. Therefore, 9 correctional officers are needed to provide the security and supervision of the inmates. These positions would be requested for FY 1986.

B. Program Summary:

1. Positions

- 1 - Correctional Officer III
- 8 - Correctional Officers II

These positions are needed to provide for the security of the institution where the beds will be constructed and for the supervision of the additional 22 persons (full-time equivalents) within the Alaska corrections system.

2. Other Expenditures

The fiscal impact will be experienced as soon as the bill becomes law. Therefore, the incremental costs directly related to inmate care are identified in FY 1984. Position costs and costs related to building operations are not included until FY 1986.

- a. Travel - \$2000. Inmate transportation to point of arrest when released from custody.
- b. Contractual - \$39,600. Medical expenses for 22 full-time equivalent inmates at \$1800 per inmate per year.
- c. Commodities - \$68,600. Food, clothing, bedding, etc. for 8,085 inmate days at \$8.48 per day.
- d. Grants - \$6,900. Inmate gratuities paid for persons working in the kitchen, or janitorial/maintenance crews, etc.

FISCAL NOTE

CS for House Bill No. 6 (Judiciary)

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e. Capital Expenditures

22 beds @ \$130,000 per bed = \$2,860,000

D. Economic Impact:

Passage of this bill should not significantly impact the State's economy.

E. Impact on Local Governments:

There would be no fiscal impact on local governments unless they changed local ordinances related to DWI to include the same penalties contained in this bill. The fiscal impact would occur for local government units who contract with the State for the care of prisoners for local offenses.

1.	POSITION TITLE Correctional Officer II (8)			RANGE/STEP 13/B	ORG. UNIT. 3	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 96	RP NUMBER	PCN NUMBER	DRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.	
3.	CONTINUATION LEVEL			ADDITION	JUSTIFICATION				
4.	TYPE OF EXPENDITURE			AMOUNT					
	1	2	3						
	PERSONAL SERVICES								
5.	Salary	223,608	OT 26,968						
6.	Benefits	69,167	Shift Diff. 8,000						
7.	Supplemental Benefits	15,857							
8.	Fixed Benefits	25,888							
9.	TOTAL PERSONAL SERVICES	01	369,576						
10.	Travel	02							
11.	Contractual	03							
12.	Commodities	04	1,600						
13.	Equipment	05	4,000						
14.	Other								
15.	TOTAL COST		375,176						
	RECEIPT CODE	FUNDING SOURCE							
16.		Federal Receipts 1002							
17.		G.F. Match 1003							
18.		General Funds 1004		375,176					
19.		I-A Receipts 1005							
20.		Program Receipts 1020							
21.		Other							
FOR O&M USE ONLY 4A KEY NUMBER _____									

These positions will provide security coverage for the minimum security beds resulting from enactment of CS for House Bill No. 6 (Judiciary).

Single position costs:

Salary	\$27,951
Overtime	3,371
Shift Diff.	1,011
Benefits	13,864
	\$46,197

13 REQUEST FOR
NEW POSITION

AGENCY Corrections
Offender Confinement, Reformation,
& Supervision
PROGRAM
BRU Adult Confinement
COMPONENT _____

#2
Page 5 of 6

Revised Date _____

FY 84

POSITION TITLE Correctional Officer III				RANGE/STEP 1:5/A	BARG. UNIT G.	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.		

CONTINUATION LEVEL	<input checked="" type="checkbox"/> ADDITION	
TYPE OF EXPENDITURE		AMOUNT
1	2	3
PERSONAL SERVICES		
Salary	30,944	OT \$ 3371
Benefits	9,446	Shift Diff
Supplemental Benefits	2,165	\$ 1011
Fixed Benefits	3,236	
TOTAL PERSONAL SERVICES	01	50,173
Travel	02	
Contractual	03	
Commodities	04	200
Equipment	05	500
Other		
TOTAL COST		50,873

JUSTIFICATION

These positions will provide supervision of security staff for the new minimum security beds resulting from the passage of CS for House Bill No. 6 (Judiciary).

Single position costs:

Salary	\$ 30,944
Overtime	3,371
Shift Diff.	1,011
Benefits	<u>14,847</u>
	\$ 50,173

RECEIPT CODE	FUNDING SOURCE	
	Federal Receipts 1002	
	G.F. Match 1003	
	General Funds 1004	50,873
	I-A Receipts 1005	
	Program Receipts 1028	
	Other	

FOR D&M USE ONLY
4A KEY NUMBER _____

AGENCY Corrections
Offender Confinement, Reformation,
& Supervision

PROGRAM _____

BRU Adult Confinement

COMPONENT _____

FY 84

**13 REQUEST FOR
NEW POSITION**

Page 6 of 6
 Revised Date _____

I. REQUEST

Bill/Resolution No.: CS HB 6 (Judiciary)
 Title: "Act Relating to Motor Vehicles"
 Sponsor: Abood
 Requestor: House Judiciary

II. FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Life & Prop. Pro
 BRU, Program of Subprogram(s) Affected: Driver/Vehicle Services & AST

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		26.6	28.2	29.9	31.7	33.6
200 TRAVEL						
300 CONTRACTUAL		10.5	6.6	7.0	7.4	7.8
400 COMMODITIES		.2	.2	.2	.2	.3
500 EQUIPMENT		41.7	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		80.7	35.0	37.1	39.3	41.7
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		80.7	35.0	37.1	39.3	41.7
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by sponsor

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Michael Orelve
 Division: Administrative Services

Phone: 465-4349
 Date: 4-26-83

Approved by Commissioner: [Signature]
 Department: Public Safety

Date: 4/26/83

Distribution:

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Division of Motor Vehicles

ANALYSIS

Personal Services and Equipment breakdown is contained on attached Form 13 - Request for New Position.

\$4,300 of first year contractual is for new testing material and forms, and \$6,200 is for postage (all license actions must be sent via certified mail). Remaining years contractual is for postage only.

ASSUMPTIONS

1) Alaska Court System will handle "Revenue" fiscal note covering fines and vehicle forfeitures; 2) 98% of defendants who take breath test will have .08% or higher; and 3) Effective date is July, 1983.

Division of Alaska State Troopers

ANALYSIS

In order to comply with the "at the scene" provision in Section 13 of this Bill, 40.0 will be required to purchase 100 new portable breathalyzer units (\$400X100 = 40.0).

1.	POSITION TITLE Document Processing Clerk II				RANGE/STEP 8B	DARG. UNIT CG	FORM 12 PAGE/LINE	GOV.	APPRDV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT 4	LECC.		

3.	CONTINUATION LEVEL	ADDITION	
4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	19,176	
6.	Benefits	3,367	
7.	Supplemental Benefits	1,175	
8.	Fixed Benefits	2,880	
9.	TOTAL PERSONAL SERVICES	01	26,598
10.	Travel	02	
11.	Contractual	03	
12.	Commodities	04	100
13.	Equipment	05	1,724
14.	Other		
15.	TOTAL COST		28,422

JUSTIFICATION

One Document Processing Clerk II will be required to handle administrative license actions and related work for individual defendants whose breath test results are .08% or higher. Will prepare and mail license actions (of which it is estimated there will be an increase of 3,500 to 4,000 annually based on 1982 statistics); enter data on computer; prepare certified copies for prosecutors, courts, etc.; process stays; maintain proof of insurance filings; and maintain records. Equipment breakdown for this position is as follows: Typewriter - \$1,245; File Cabinet - \$291; and Chair - \$188.

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	28,422
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

FOR B&M USE ONLY
4A KEY NUMBER _____

3 REQUEST FOR
NEW POSITION

AGENCY Public Safety

PROGRAM Life and Property Protection

BRU Driver/Vehicle Services

COMPONENT Driver Services

CSHB 6 (Jud) # 3

Page 3 of 3

Revised Date _____

FY 84

Josephson

6/16/83

Original sponsors: Abood, Furnace,
Lindauer, et al

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 6 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to driving a motor vehicle."

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

8 * Section 1. AS 28.05.051(b) is amended to read:

9 (b) The commissioner, officers and employees of the department
10 designated by the commissioner, judges and employees of a court, and
11 all peace officers, may take possession of a certificate of title,
12 [OR] registration or license issued by this jurisdiction that [WHICH]
13 has been revoked, canceled, limited or suspended, or [WHICH] is ficti-
14 tious, stolen or altered.

15 * Sec. 2. AS 28.15.081(a) is amended to read:

16 (a) The department shall examine every applicant for a driver's
17 license. The examination shall include a test of the applicant's (1)
18 eyesight, (2) [HIS] ability to read and understand official traffic
19 control devices, (3) [HIS] knowledge of safe driving practices, (4)
20 knowledge of the effects of alcohol and drugs on drivers and the
21 dangers of driving under the influence of alcohol or drugs, and (5)
22 knowledge of the laws relating to driving while intoxicated and the
23 traffic laws and regulations of this state. The examination [, AND]
24 may include a demonstration of ability to exercise ordinary and rea-
25 sonable control in the driving of a motor vehicle of the type and
26 general class of vehicles for which the applicant seeks a license.
27 However, an applicant who has not been previously issued a driver's
28 license by this or another jurisdiction must demonstrate [HIS] abil-
29 ity, and must present medical information that [WHICH] the department

1 reasonably requires to determine [HIS] fitness to safely drive a motor
2 vehicle of the type and general class of vehicles for which the appli-
3 cant [HE] seeks a license.

4 * Sec. 3. AS 28.15 is amended by adding new sections to read:

5 Sec. 28.15.165. ADMINISTRATIVE REVOCATIONS RESULTING FROM CHEMI-
6 CAL SOBRIETY TESTS AND REFUSALS TO SUBMIT TO TESTS. (a) If a chemi-
7 cal test administered under AS 28.35.031(a) to a person driving a
8 motor vehicle for which a driver's license is required produces a
9 result described in AS 28.35.030(a)(2) or if a person under arrest for
10 driving a motor vehicle for which a driver's license is required
11 refuses to submit to a chemical test under AS 28.35.031(a), a law
12 enforcement officer shall read a notice and deliver a copy to the
13 person. The notice shall advise that

14 (1) the department intends to revoke the person's driver's
15 license or nonresident privilege to drive, or refuse to issue an
16 original license to the person;

17 (2) the person has the right to administrative review of
18 the revocation or determination not to issue an original license;

19 (3) the notice itself is a temporary driver's license that
20 expires seven days after it is delivered to the person;

21 (4) revocation of the person's driver's license or nonresi-
22 dent privilege to drive, or a determination not to issue an original
23 license shall take effect upon expiration of the temporary driver's
24 license unless the person within seven days requests an administrative
25 review.

26 (b) After reading the notice under (a) of this section, the law
27 enforcement officer shall seize the person's driver's license if it is
28 in the person's possession and shall deliver it to the department with
29 a sworn report describing the circumstances under which it was seized.

1 (c) Upon receipt of a sworn report of a law enforcement officer
2 that a chemical test under AS 28.35.031(a) produced a result described
3 in AS 28.35.030(a)(2) or that a person refused to submit to a chemical
4 test under AS 28.35.031(a), that notice under (a) of this section was
5 provided to the person, and that contains a statement of the circum-
6 stances surrounding the arrest and the grounds upon which the offi-
7 cer's belief that the person was driving while intoxicated a motor
8 vehicle for which a driver's license is required was based, the de-
9 partment shall revoke the person's license or nonresident privilege to
10 drive a motor vehicle in the state, or refuse to issue an original
11 license effective upon expiration of the temporary driver's license
12 issued under (a) of this section.

13 (d) The period of revocation of a driver's license by the de-
14 partment under this section shall be for the appropriate minimum
15 period for court revocations under AS 28.15.181(c).

16 Sec. 28.15.166. ADMINISTRATIVE REVIEW OF REVOCATION. (a) A
17 person who has received a notice under AS 28.15.165(a) may make a
18 written request for administrative review of the department's action
19 under AS 28.15.165(c). If the person's driver's license has not been
20 previously surrendered to the department, it shall be surrendered to
21 the department at the time the request for review is made.

22 (b) A request for review shall be made within seven days after
23 receipt of the notice under AS 28.15.165 or the right to review is
24 waived and the action of the department under AS 28.15.165(c) is
25 final. If a written request for a review is made after expiration of
26 the seven-day period, and if it is accompanied by the applicant's
27 verified statement explaining the failure to make a timely request for
28 a review, the department shall receive and consider the request. If
29 the department finds that the person was unable to make a timely

1 request because of lack of actual notice of the revocation or because
2 of factors of physical incapacity such as hospitalization or incarcer-
3 ation, the department shall waive the period of limitation, reopen the
4 matter, and grant the review request.

5 (c) Upon receipt of a request for review, if it appears that the
6 person holds a valid driver's license and that the driver's license
7 has been surrendered, the department shall issue a temporary driver's
8 permit that is valid until the scheduled date for the review. A
9 person who has requested a review under this section may request, and
10 the department may grant for good cause, a delay in the date of the
11 hearing. If necessary, the department may issue additional temporary
12 permits to stay the effective date of its action under AS 28.15.165(c)
13 until the final order after the review is issued.

14 (d) A person who has requested a hearing under this section and
15 who fails to appear at the hearing, for reasons other than lack of
16 actual notice of the hearing or physical incapacity such as hospitali-
17 zation or incarceration, waives the right to a hearing. The deter-
18 mination of the department that is based upon the enforcement offi-
19 cer's report becomes final.

20 (e) Notwithstanding AS 28.05.141(b), the hearing under this
21 section shall be held at the office of the department nearest to the
22 residence of the person requesting the hearing unless a district court
23 judge or a magistrate has been designated as a hearing officer in the
24 matter by the commissioner or the department and the person agree that
25 the hearing is to be held elsewhere.

26 (f) A review under this section shall be held before a hearing
27 officer designated by the commissioner. Upon the consent of the
28 administrative director of the state court system, the commissioner
29 may designate a district court judge or a magistrate to serve as the

1 hearing officer. The hearing officer shall have authority to

- 2 (1) administer oaths and affirmations;
- 3 (2) examine witnesses and take testimony;
- 4 (3) receive relevant evidence;
- 5 (4) issue subpoenas, take depositions, or cause depositions
- 6 or interrogatories to be taken;
- 7 (5) regulate the course and conduct of the hearing;
- 8 (6) make a final ruling on the issue.

9 (g) The hearing under this section shall be limited to the

10 issues of whether the arresting officer had reasonable grounds to

11 believe that the person was driving a motor vehicle while intoxicated

12 and whether

13 (1) the person refused to submit to a chemical test under

14 AS 28.35.031(a) after being advised that refusal would result in the

15 suspension, revocation, or denial of the person's license or nonresi-

16 dent privilege to drive and that the refusal is a misdemeanor; or

17 (2) the chemical test authorized under AS 28.35.031(a) and

18 administered to the person produced a result described in AS 28.35.-

19 030(a)(2).

20 (h) The determination of the hearing officer may be based upon

21 the sworn report of a law enforcement officer. The law enforcement

22 officer need not be present at the hearing unless the person request-

23 ing the hearing or the hearing officer requests in writing before the

24 hearing that the officer be present. If in the course of the hearing

25 it becomes apparent that the testimony of the law enforcement officer

26 is necessary to enable the hearing officer to resolve disputed issues

27 of fact, the hearing may be continued to allow the attendance of the

28 law enforcement officer.

29 (i) Testimony given by the person at the hearing is not

1 admissible against the person in a criminal trial unless the person's
2 testimony at the trial is inconsistent with that given at the hearing.

3 (j) If the issues set out in (g) of this section are determined
4 in the affirmative by a preponderance of the evidence, the hearing
5 officer shall sustain the action of the department. If one or more of
6 the issues is determined in the negative, the department's action
7 shall be rescinded.

8 (k) If the action of the department in revoking a nonresident's
9 privilege to drive a motor vehicle is not administratively contested
10 by the nonresident driver or if the departmental action is sustained
11 by the hearing officer, the department shall give written notice of
12 action taken to the motor vehicle administrator of the state of the
13 person's residence and to any state in which that person has a driv-
14 er's license.

15 (l) A hearing officer revoking a driver's license because a
16 chemical test administered to the person produced a result described
17 in AS 28.35.030(a)(2) may grant limited license privileges if the
18 person has not been previously convicted within the preceding 10 years
19 of an offense (A) described in AS 28.15.181(a)(5) or (8); or (B) under
20 a law or ordinance in another jurisdiction with elements substantially
21 similar to an offense described in AS 28.15.181(a)(5) or (8). The
22 privileges may be granted for the final 60 days during which the
23 license is revoked if the hearing officer determines that the person's
24 ability to earn a livelihood would be severely impaired and a limita-
25 tion under AS 28.15.201 can be placed on the license that will enable
26 the person to earn a livelihood without excessive danger to the pub-
27 lic. A hearing officer may not grant limited license privileges when
28 revoking a driver's license because the person refused to submit to a
29 chemical test.

1 (m) Notwithstanding AS 28.05.141(d), within 30 days of the issu-
2 ance of the final determination of the department, a person aggrieved
3 by the determination may file an appeal in superior court for judicial
4 review of the hearing officer's determination. The judicial review
5 shall be on the record, without taking additional testimony. The
6 court may reverse the department's determination if the court finds
7 that the department misinterpreted the law, acted in an arbitrary and
8 capricious manner, or made a determination unsupported by the evidence
9 in the record.

10 (n) The filing of an appeal under (m) of this section does not
11 automatically stay the department's revocation order. The court may
12 grant a stay of the order only upon a motion and hearing, and upon a
13 finding that there is a reasonable probability that the petitioner
14 will prevail on the merits and that the petitioner will suffer irrepa-
15 rable harm if the order is not stayed.

16 * Sec. 4. AS 28.15.181(a) is amended to read:

17 (a) Conviction of any of the [THE] following offenses is [ARE]
18 grounds for the immediate [SUSPENSION OR] revocation of a driver's
19 license:

20 (1) manslaughter or negligent homicide resulting from [THE]
21 driving [OF] a motor vehicle;

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

24 (3) failure to stop and give aid as required by law [UNDER
25 THE LAWS OF THIS STATE] when a motor vehicle accident results in the
26 death or personal injury of another;

27 (4) perjury or [THE] making [OF] a false affidavit or
28 statement under oath to the department under a law relating to motor
29 vehicles;

(5) [OPERATING OR] driving a motor vehicle while

1 intoxicated;

2 (6) reckless driving; [OR]

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

5 (8) refusal to submit to a chemical test under AS 28.35.-
6 032;

7 (9) driving while license canceled, suspended, revoked or
8 in violation of a limitation.

9 * Sec. 5. AS 28.15.181(b) is amended to read:

10 (b) A court convicting a person of an offense described in
11 [UNDER] (a)(1) - (4), (6), or (7) of this section shall revoke that
12 person's driver's license for [A PERIOD OF] not less than 30 days for
13 the first conviction, unless the court determines that the person's
14 ability to earn a livelihood would be severely impaired and a limita-
15 tion under AS 28.15.201 can be placed on the license that [WHICH] will
16 enable the person to earn a livelihood without excessive [RISK OR]
17 danger to the public. If a court limits a person's license under this
18 subsection, it shall do so for [A PERIOD OF] not less than 60 [30]
19 days. Upon a subsequent conviction of a person for any offense de-
20 scribed in [UNDER] (a)(1) - (4), (6), or (7) of this section occurring
21 within 10 years after a prior conviction, the court shall revoke the
22 person's license and may not grant the person [ANY] limited license
23 privileges for the following periods:

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

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

27 * Sec. 6. AS 28.15.181(c) is repealed and reenacted to read:

28 (c) A court convicting a person of an offense described in
29 (a)(5) or (8) of this section arising out of the operation of a motor

1 vehicle for which a driver's license is required shall revoke that
2 person's driver's license. The revocation may be concurrent with or
3 consecutive to an administrative revocation under AS 28.15.165. The
4 court may not, except as provided in (e) of this section, grant lim-
5 ited license privileges for the following periods:

6 (1) not less than 90 days if, within the preceding 10
7 years, the person has not previously been convicted of an offense

8 (A) described in (a)(5) or (8) of this section; or

9 (B) under a law or ordinance in another jurisdiction
10 with elements substantially similar to an offense described in
11 (a)(5) or (8) of this section;

12 (2) not less than one year if, within the preceding 10
13 years, the person has been previously convicted of one offense

14 (A) described in (a)(5) or (8) of this section; or

15 (B) under a law or ordinance in another jurisdiction
16 with elements substantially similar to an offense described in
17 (a)(5) or (8) of this section;

18 (3) not less than 10 years if, within the preceding 10
19 years, the person has been previously convicted of more than one of
20 the following offenses or has more than once been previously convicted
21 of one of the following offenses:

22 (A) an offense described in (a)(5) or (8) of this sec-
23 tion; or

24 (B) an offense under another law or ordinance in
25 another jurisdiction with elements substantially similar to an
26 offense described in (a)(5) or (8) of this section.

27 * Sec. 7. AS 28.15.181 is amended by adding new subsections to read:

28 (d) A court convicting a person of an offense described in
29 (a)(9) of this section shall revoke that person's driver's license for

1 not less than the minimum period under AS 28.15.291(c).

2 (e) A court revoking a driver's license under (c) of this sec-
3 tion, or sustaining the action of the department under AS 28.15.-
4 165(c), may grant limited license privileges for the final 60 days
5 during which the license is revoked if the

6 (1) revocation was for driving while intoxicated but not if
7 the revocation was for refusal to submit to a chemical test of breath
8 under AS 28.35.032;

9 (2) person has not been previously convicted within the
10 preceding 10 years of an offense

11 (A) described in (a)(5) or (8) of this section;

12 (B) under a law or ordinance in another jurisdiction
13 with elements substantially similar to an offense described in
14 (a)(5) or (8) of this section;

15 (3) court determines that the person's ability to earn a
16 livelihood would be severely impaired; and

17 (4) court determines that a limitation under AS 28.15.201
18 can be placed on the license that will enable the person to earn a
19 livelihood without excessive danger to the public.

20 (f) For purposes of this section, convictions for both driving
21 while intoxicated and for refusal to submit to a chemical test of
22 breath under AS 28.35.031(a), if arising out of a single transaction
23 and a single arrest, are considered one previous conviction.

24 * Sec. 8. AS 28.15.201(b)(1) is amended to read:

25 (1) require the surrender of the driver's license [AND, IF
26 THE PERSON IS CONVICTED OF AN OFFENSE UNDER AS 28.15.181(a)(5), REVOKE
27 THAT PERSON'S LICENSE FOR A PERIOD OF NOT LESS THAN 60 DAYS]; and

28 * Sec. 9. AS 28.15.201(c) is amended to read:

29 (c) After the termination of a limitation as shown on the

1 certificate issued under (b) of this section, the license of a person
2 on whom a limitation was imposed is revoked until the person receives
3 a new [NO LONGER BOUND BY THE LIMITATION AND MAY APPLY FOR A DUPLI-
4 CATE] license in accordance with AS 28.20.240 [UNDER AS 28.15.141 OR,
5 IF OTHERWISE ELIGIBLE, FOR A NEW LICENSE IF THE LICENSE WAS REVOKED
6 FOR CONVICTION OF AN OFFENSE UNDER AS 28.15.181(a)(5) AND LIMITED
7 LICENSE PRIVILEGES WERE GRANTED UNDER AS 28.15.181(c)].

8 * Sec. 10. AS 28.15.291 is amended to read:

9 Sec. 28.15.291. DRIVING WHILE LICENSE CANCELED, SUSPENDED,
10 REVOKED OR IN VIOLATION OF LIMITATION. (a) A [NO] person may not
11 drive a motor vehicle on a highway or vehicular way or area [IN THIS
12 STATE] at a time when that person's [HIS] driver's license, or privi-
13 lege to drive [IN THIS STATE IF HE IS LICENSED IN ANOTHER JURISDIC-
14 TION,] has been canceled, suspended or revoked in this or another
15 jurisdiction, or when [HE IS] driving in violation of a limitation
16 placed upon that person's [HIS] license or privilege to drive in this
17 or [, EVEN WHEN HE IS DRIVING UNDER A LICENSE ISSUED IN] another
18 jurisdiction. Except as provided in (c) of this section, upon [UPON]
19 conviction of a violation of this section, the court shall impose a
20 [MINIMUM] sentence of imprisonment of not less than 10 days. The exe-
21 cution of sentence may not be suspended nor may probation or parole be
22 granted until the minimum imprisonment provided in this section has
23 been served; nor may imposition of sentence be suspended [, EXCEPT
24 UPON THE CONDITION THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN
25 THE MINIMUM PERIOD PROVIDED FOR IN THIS SECTION]. In addition, the
26 person's [HIS] license or privilege to drive shall be revoked, and the
27 person [HE] may not be issued a new license nor may the [HIS] privi-
28 lege to drive be restored for an additional period of not less than
29 one year after the date that the person [HE] would have been entitled

1 to restoration of [HIS] driving privileges.

2 (b) When a person's license is canceled, limited, suspended or
3 revoked, that person [HE] shall be informed by the department or the
4 court that [WHICH] takes the action at the time of the action that,
5 upon a conviction of driving on a highway or vehicular way or area in
6 this state at a time when that person's [HIS] driver's license or
7 privilege to drive in this state has been canceled, suspended or
8 revoked, or upon a conviction of driving in violation of a limitation
9 of the [HIS] license, that person [HE] will be subject to the manda-
10 tory minimum sentence of [10-DAY] imprisonment under [(a) OF] this
11 section.

12 * Sec. 11. AS 28.15.291 is amended by adding new subsections to read:

13 (c) The court shall impose a sentence of imprisonment of not
14 less than 30 days and a fine of not less than \$500 upon conviction of
15 a violation of this section if the person's driver's license was
16 revoked under circumstances described in AS 28.15.181(c)(1). The
17 court shall impose a sentence of imprisonment of not less than 90 days
18 and a fine of not less than \$1,000 upon conviction of a violation of
19 this section if the person's driver's license was revoked under cir-
20 cumstances described in AS 28.15.181(c)(2) or (3). The execution of
21 sentence may not be suspended nor may probation or parole be granted
22 until the minimum imprisonment provided in this subsection has been
23 served. Imposition of sentence may not be suspended. In addition, the
24 person's privilege to drive shall be revoked for an additional period
25 of not less than one year after the date that the person would have
26 been entitled to restoration of driving privileges if the person had
27 not been convicted under this section.

28 (d) A person convicted of a violation of this section is guilty
29 of a class A misdemeanor.

1 * Sec. 12. AS 28.20.240 is amended to read:

2 Sec. 28.20.240. PROOF REQUIRED WHEN DRIVING PRIVILEGE [USE OF
3 LICENSE] IS RESTRICTED. Whenever under a law of this state the li-
4 cense of a person is suspended, revoked, limited under AS 28.15.201,
5 or canceled for any reason, the department may not issue to that
6 person a new or renewal of license [IN HIS NAME] until permitted to do
7 so under the motor vehicle laws of this state. A period of suspen-
8 sion, revocation, [LIMITATION,] or cancellation [UNDER THIS SECTION]
9 continues until proof of financial responsibility for the future is
10 provided. Upon expiration of a period of limitation, the license
11 remains revoked until proof of financial responsibility for the future
12 is provided.

13 * Sec. 13. AS 28.35.030(a)(2) is amended to read:

14 (2) when, as determined by a chemical test taken within
15 four hours after the alleged offense was committed, there is 0.10
16 percent or more by weight of alcohol in the person's blood or 100
17 milligrams or more of alcohol per 100 milliliters of blood, or when
18 there is 0.10 grams or more of alcohol per 210 liters of the person's
19 breath; or

20 * Sec. 14. AS 28.35.030(c) is amended to read:

21 (c) Upon conviction under this section the court shall impose a
22 minimum sentence of imprisonment of not less than 72 consecutive hours
23 and a fine of not less than \$250 if the person has not been previously
24 convicted in this or another jurisdiction of driving while intoxicated
25 under this or another law or ordinance with substantially similar
26 elements or refusal to submit to a chemical test under AS 28.35.032
27 or another law or ordinance with substantially similar elements. Upon
28 [A SUBSEQUENT] conviction under this section the court shall impose a
29 minimum sentence of imprisonment of not less than 20 consecutive days

1 and a fine of not less than \$500 if, within the preceding 10 years,
2 the person has been previously convicted once in this or another
3 jurisdiction [WITHIN FIVE YEARS AFTER A CONVICTION] of driving while
4 intoxicated under this or another law or ordinance with substantially
5 similar elements or [IN THIS OR ANY OTHER STATE OR CONVICTION OF]
6 refusal to submit to a chemical test under AS 28.35.032 or another law
7 or ordinance with substantially similar elements. Upon conviction
8 under this section [OF BREATH UNDER AS 28.35.032,] the court shall
9 impose a minimum sentence of imprisonment of not less than 30 [10]
10 consecutive days and a fine of not less than \$1,000 if, within the
11 preceding 10 years, the person has been previously convicted in this
12 or another jurisdiction of more than one of the following offenses or
13 has more than once been previously convicted of one of the following
14 offenses: (1) driving while intoxicated under this or another law or
15 ordinance with substantially similar elements; (2) refusal to submit
16 to a chemical test under AS 28.35.032 or another law or ordinance with
17 substantially similar elements [UNLESS THE SUBSEQUENT CONVICTION IS
18 WITHIN ONE YEAR OF THE PREVIOUS CONVICTION, IN WHICH CASE THE COURT
19 SHALL IMPOSE A MINIMUM SENTENCE OF IMPRISONMENT OF NOT LESS THAN 20
20 CONSECUTIVE DAYS]. The execution of sentence may not be suspended nor
21 may probation be granted except on condition that [UNTIL] the minimum
22 imprisonment provided in this section is [HAS BEEN] served. Impos-
23 sition of sentence may not be suspended [, EXCEPT UPON THE CONDITION
24 THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN THE MINIMUM PERIOD
25 PROVIDED IN THIS SECTION]. In addition, if the offense involved
26 driving a motor vehicle for which a driver's license is required, the
27 person's driver's [HIS OPERATOR'S] license shall be revoked in accor-
28 dance with AS 28.15.181 and the vehicle used in commission of the
29 offense may be forfeited under AS 28.35.036. In addition, the court

1 shall order, and a person convicted under this section [STATUTE] shall
2 undertake, for a term specified by the court, that program of alcohol
3 education or rehabilitation that [WHICH] the court, after considera-
4 tion of any information compiled under (d) of this section, finds
5 appropriate.

6 * Sec. 15. AS 28.35.030 is amended by adding a new subsection to read:

7 (g) For purposes of this section, convictions for both driving
8 while intoxicated and for refusal to submit to a chemical test of
9 breath under AS 28.35.031(a), if arising out of a single transaction
10 and a single arrest, are considered one previous conviction.

11 * Sec. 16. AS 28.35.031 is amended by adding new subsections to read:

12 (b) A person who operates or drives a motor vehicle in this
13 state shall be considered to have given consent to a preliminary
14 breath test for the purpose of determining the alcoholic content of
15 the person's blood or breath. A law enforcement officer may adminis-
16 ter a preliminary breath test at the scene of the incident if the
17 officer has reasonable grounds to believe that a person's ability to
18 operate a motor vehicle is impaired by the ingestion of alcoholic
19 beverages and that the person

20 (1) was driving a motor vehicle that is involved in an
21 accident; or

22 (2) committed a moving traffic violation.

23 (c) Before administering a preliminary breath test under (b) of
24 this section, the officer shall advise the person that refusal may be
25 used against the person in a civil or criminal action arising out of
26 the incident and that refusal is an infraction. If the person refuses
27 to submit to the test, the test shall not be administered.

28 (d) The result of the test under (b) of this section may be used
29 by the law enforcement officer to determine whether the driver should

1 be arrested.

2 (e) Refusal to submit to a preliminary breath test at the re-
3 quest of a law enforcement officer is an infraction.

4 (f) If a driver is arrested, the provisions of AS 28.35.031(a)
5 apply. The preliminary breath test authorized in this section is in
6 addition to any tests authorized under AS 28.35.031(a).

7 * Sec. 17. AS 28.35.032(a) is amended to read:

8 (a) If a person under arrest refuses the request of a law en-
9 forcement officer to submit to a chemical test under AS 28.35.031(a)
10 [OF BREATH AS PROVIDED IN AS 28.35.031], after being advised by the
11 officer that the refusal will, if that person was arrested while
12 operating or driving a motor vehicle for which a driver's license is
13 required, result in the [SUSPENSION,] denial or revocation of the
14 license or nonresident privilege to drive, that the refusal may be
15 used against the person in a civil or criminal action or proceeding
16 arising out of an act alleged to have been committed by the person
17 while operating or driving a motor vehicle or operating an aircraft or
18 a watercraft while intoxicated, and that the refusal is a misdemeanor,
19 a chemical test shall not be given, except as provided by AS 28.35.-
20 035.

21 * Sec. 18. AS 28.35.032(f) is amended to read:

22 (f) Refusal to submit to the chemical test of breath authorized
23 by AS 28.35.031(a) [AS 28.35.031] is a class A misdemeanor.

24 * Sec. 19. AS 28.35.032(g) is amended to read:

25 (g) Upon conviction of a person under this section, the court
26 shall impose a minimum sentence of imprisonment of not less than 72
27 consecutive hours and a fine of not less than \$250 if the person has
28 not been previously convicted in this or another jurisdiction of
29 driving while intoxicated under AS 28.35.030 or another law or

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ordinance with substantially similar elements or refusal to submit to a chemical test under this section or another law or ordinance with substantially similar elements. Upon [A SUBSEQUENT] conviction under this section the court shall impose a minimum sentence of imprisonment of not less than 20 consecutive days and a fine of not less than \$500 if, within the preceding 10 years, the person has been previously convicted once in this or another jurisdiction [WITHIN FIVE YEARS AFTER A CONVICTION UNDER THIS SECTION OR] of driving while intoxicated under AS 28.35.030 or another law or ordinance with substantially similar elements or refusal to submit to a chemical test under this section or another law or ordinance with substantially similar elements. Upon conviction under this section the court shall impose a minimum sentence of imprisonment of not less than 30 consecutive days and a fine of not less than \$1,000 if, within the previous 10 years, the person has been previously convicted in this or another jurisdiction of more than one of the following offenses or has more than once been previously convicted of one of the following offenses: (1) driving while intoxicated under AS 28.35.030 or another law or ordinance with substantially similar elements; (2) refusal to submit to a chemical test under this section or another law or ordinance with substantially similar elements [IN THIS OR ANY OTHER STATE, THE COURT SHALL IMPOSE A MINIMUM SENTENCE OF IMPRISONMENT OF NOT LESS THAN 10 CONSECUTIVE DAYS UNLESS THE SUBSEQUENT CONVICTION IS WITHIN ONE YEAR OF THE PREVIOUS CONVICTION, IN WHICH CASE THE COURT SHALL IMPOSE A MINIMUM SENTENCE OF IMPRISONMENT OF NOT LESS THAN 20 CONSECUTIVE DAYS]. The execution of sentence may not be suspended nor may probation be granted except on condition that [UNTIL] the minimum imprisonment provided in this section is [HAS BEEN] served. Imposition of sentence may not be suspended. If the offense involved driving a motor vehicle for which

1 a driver's license is required, the person's driver's license shall be
2 revoked under AS 28.15.181 [, EXCEPT UPON THE CONDITION THAT THE
3 DEFENDANT BE IMPRISONED FOR NO LESS THAN THE MINIMUM PERIOD PROVIDED
4 IN THIS SECTION]. In addition, the court shall order, and a person
5 convicted under this section shall undertake, for a term specified by
6 the court, that program of alcohol education or rehabilitation that
7 the court, after consideration of any information compiled under (h)
8 of this section, finds appropriate. The sentence imposed by the court
9 under this subsection shall run consecutively with any other sentence
10 of imprisonment imposed on the committed person.

11 * Sec. 20. AS 28.35.032 is amended by adding a new subsection to read:

12 (j) For purposes of this section, convictions for both driving
13 while intoxicated and for refusal to submit to a chemical test of
14 breath under AS 28.35.031(a), if arising out of a single transaction
15 and a single arrest, are considered one previous conviction.

16 * Sec. 21. AS 28.35.034 is amended to read:

17 Sec. 28.35.034. SURRENDER OF LICENSE OR PERMIT [PERIOD OF REVO-
18 CATION]. A person whose license or permit to operate or drive a motor
19 vehicle has been [SUSPENDED OR] revoked under AS 28.15.165 or AS 28.-
20 15.181 [THE PROVISIONS OF AS 28.35.032] shall surrender the [HIS]
21 license or permit to the department on receipt of notice of the revo-
22 cation. [SUCH A PERSON IS INELIGIBLE FOR AN OPERATOR'S LICENSE OR
23 PERMIT FOR THREE MONTHS FOLLOWING THE DATE ON WHICH THE LICENSE OR
24 PERMIT WAS RECEIVED BY THE DEPARTMENT, UNLESS THE DISTRICT COURT FINDS
25 THAT EXTENUATING CIRCUMSTANCES EXIST WHICH WOULD CAUSE EXTREME HARD-
26 SHIP, IN WHICH CASE THE SUSPENSION OR REVOCATION MAY BE MODIFIED OR
27 NULLIFIED.] After the [THREE MONTHS'] period of revocation has ex-
28 pired, the person may make application for a new license as provided
29 by law.

1 * Sec. 22. AS 28.35.035 is amended to read:

2 Sec. 28.35.035. ADMINISTRATION OF CHEMICAL TESTS WITHOUT CON-
3 SENT. (a) If a person is under arrest for an offense arising out of
4 acts alleged to have been committed while the person was driving a
5 motor vehicle [THE CRIME OF DRIVING] while intoxicated, and that
6 arrest results from an accident that causes death or physical injury
7 to another person, a chemical test may be administered without the
8 consent of the person arrested to determine the amount of alcohol in
9 that person's breath or blood.

10 (b) A person who is unconscious or otherwise in a condition
11 rendering that person incapable of refusal is considered not to have
12 withdrawn the consent provided under AS 28.35.031(a) [AS 28.35.031]
13 and a chemical test may be administered to determine the amount of
14 alcohol in that person's breath or blood. A person who is unconscious
15 or otherwise incapable of refusal need not be placed under arrest
16 before a chemical test may be administered.

17 (c) If a chemical test is administered to a person under (a) or
18 (b) of this section, that person is not subject to the penalties for
19 refusal to submit to a chemical test provided by AS 28.35.032 and
20 28.35.034.

21 * Sec. 23. AS 28.35 is amended by adding new sections to read:

22 Sec. 28.35.036. FORFEITURE OF MOTOR VEHICLE. (a) After convic-
23 tion of an offense under AS 28.35.030 or AS 28.35.032 involving a
24 motor vehicle of a type for which a driver's license is required, the
25 state may move the court to order the forfeiture of the motor vehicle
26 involved in the commission of the offense if the convicted person has
27 been previously convicted in this or another jurisdiction of more than
28 one of the following offenses or has more than once been previously
29 convicted of one of the following offenses:

1 (1) driving while intoxicated under AS 28.35.030 or another
2 law or ordinance with substantially similar elements; or

3 (2) refusal to submit to a chemical test under AS 28.35.032
4 or another law or ordinance with substantially similar elements.

5 (b) For purposes of this section, convictions for both driving
6 while intoxicated and for refusal to submit to a chemical test of
7 breath under AS 28.35.031(a), if arising out of a single transaction
8 and a single arrest, are considered one previous conviction.

9 (c) Upon receipt of a motion for forfeiture, the court shall
10 schedule a hearing on the matter and shall notify the state and the
11 convicted person of the time and place set for the hearing. At the
12 hearing, the court may order the forfeiture of the motor vehicle if
13 the court, sitting without a jury, determines by a preponderance of
14 the evidence that the forfeiture of the motor vehicle will serve one
15 or more of the following purposes:

16 (1) deterrence of the convicted person from the commission
17 of future offenses under AS 28.35.030;

18 (2) protection of the safety and welfare of the public;

19 (3) deterrence of other persons who are potential offenders
20 under AS 28.35.030; or

21 (4) expression of public condemnation of the serious or
22 aggravated nature of the convicted person's conduct.

23 (d) Upon forfeiture of a motor vehicle the court shall require
24 the surrender of the registration and certificate of title of that
25 motor vehicle. The registration and certificate of title shall be
26 delivered to the department.

27 (e) If not released under AS 28.35.037, a motor vehicle for-
28 feited under this section may be disposed of at the discretion of the
29 department.

1 Sec. 28.35.037. REMISSION OF FORFEITURES. (a) Upon receiving
2 notice from the court of the time and place set for a hearing under
3 AS 28.35.036, the state shall provide to every person who has an
4 ascertainable ownership or security interest in the motor vehicle
5 written notice that includes

- 6 (1) a description of the motor vehicle;
7 (2) the time and place of the forfeiture hearing;
8 (3) the legal authority under which the motor vehicle may
9 be forfeited;
10 (4) notice of the right to intervene to protect the inter-
11 est in the motor vehicle.

12 (b) At the hearing, a person who claims an ownership or security
13 interest in the motor vehicle must establish by a preponderance of the
14 evidence that

- 15 (1) the petitioner has an interest in the motor vehicle
16 acquired in good faith;
17 (2) a person other than the petitioner was convicted of the
18 offense that resulted in the forfeiture; and
19 (3) before parting with the motor vehicle, the petitioner
20 did not know or have reasonable cause to believe that it would be used
21 in the commission of an offense.

22 (c) If a person satisfies the requirements of (b) of this sec-
23 tion, the court shall order that an amount equal to the value of the
24 petitioner's interest in the motor vehicle be paid to the petitioner
25 or the court shall order that the motor vehicle be released to the
26 petitioner together with title to the motor vehicle.

27 (d) Forfeiture of a motor vehicle under AS 28.35.036 is without
28 prejudice to the rights, and does not extinguish the claims, of a
29 creditor with an interest in the motor vehicle.

1 Sec. 28.35.038. MUNICIPAL IMPOUNDMENT AND FORFEITURE. Notwith-
 2 standing other provisions in this title, a municipality may adopt an
 3 ordinance providing for the impoundment or forfeiture of a motor
 4 vehicle involved in the commission of an offense under AS 28.35.030,
 5 28.35.032, or an ordinance with elements substantially similar to
 6 AS 28.35.030 or AS 28.35.032. An ordinance adopted under this section
 7 is not required to be consistent with this title or regulations adopt-
 8 ed under this title.

9 * Sec. 24. AS 22.15.100 is amended by adding a new paragraph to read:

10 (10) to review an administrative revocation of a person's
 11 driver's license or nonresident privilege to drive, and an administra-
 12 tive refusal to issue an original license, when designated as a hear-
 13 ing officer by the commissioner of public safety and with the consent
 14 of the administrative director of the state court system.

15 * Sec. 25. AS 28.15.211(a)(4) and AS 28.35.032(b),(c), and (d) are re-
 16 pealed.

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Official Business

Alaska State Legislature

Senate

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State Capitol
Juneau, Alaska 99811

SECTIONAL ANALYSIS - SCS SCHB 6 (JUD)

JUNE 9, 1983

Sec. 1.

Adds judges and employees of the court to the list of those persons who may physically take a license which has been revoked, canceled, limited, or suspended or is fictitious, stolen or altered.

Sec. 2.

Adds the subject of alcohol and drug abuse to the required topics of testing on the written portion of the driver's license examination.

Sec. 3.

Provides for administrative license revocation for refusal to submit to a chemical breath test and for an illegal breath-alcohol level; outlines procedures for the revocation, and provides for review of the revocation.

- Notice includes - Dept notice of intent to revoke or refusal to issue original license.
- right to obtain court review of revocation.
 - notice itself is temporary license.
 - actual revocation effective after expiration of temporary license.

Court review limited to issues of probable cause to believe driver was intoxicated and whether driver refused to take chemical test or test was taken and proved driver to be under the influence. The standard of review is be a preponderance of the evidence.

Sec. 4.

Conviction of refusal to submit to a chemical test and driving while license canceled, suspended, revoked or in violation of a limitation are added to the list of offenses of grounds for immediate revocation of a driver's license.

Sec. 5.

Outlines license revocation periods for persons convicted of certain driving offenses listed in section 4. The period of revocation is not less than 30 days for the first conviction. Limited licenses may be granted at the discretion of the court. Consideration of prior conviction in adjudicating offenses is limited to 10 years.

Sec. 6.

Outlines license revocation for persons convicted of DWI and refusal to submit to a chemical sobriety test. The period of revocation would be not less than 90 days for the first conviction. Upon a second

conviction for a period of not less than one year. Upon a third conviction, for a period of not less than ten years.

Sec. 7.

Conviction of driving while license canceled, suspended, revoked or in violation of a limitation shall result in a penalty of:

i. not less than 30 days and a fine of not less than \$500.

ii. not less than 90 days and a fine of not less than \$1000.

the above applies to offense under AS 28.15.181(c) (2) or (3).

Sec. 8.

Amendment removing the penalty that is now increased in AS 28.15.181 (c)(1)(A).

Sec. 9.

States that a person may not receive a new license until proof of financial responsibility is shown. (AS 28.20.240)

Sec. 10.

A person convicted of driving in violation of a license revocation, suspension or cancellation shall be subject to a mandatory minimum sentence of not less than 10 days.

Sec. 11.

Sets out the penalties for violation of the statute.

Sec. 12.

Upon expiration of period of limitation, the license remains revoked until proof of financial responsibility for the future is provided.

Sec. 13.

A chemical test to determine blood alcohol level must be taken within four hours after the alleged offense is committed.

Sec. 14.

Outlines fines and incarceration periods for those convicted of DWI and refusal of chemical sobriety tests. Also states that the court shall order treatment for the above offenses.

Sec. 15.

A person who drives or operates a motor vehicle in this state shall be considered to have given consent to a preliminary breath test. Refusal to take the test is an infraction.

Sec. 16.

A chemical test shall not be given, if a person is advised of the consequences, unless the arrest is predicated upon AS 28.35.035 (sec. 22 of this analysis)

Sec. 17.

Outlines the penalties of refusing to submit to preliminary sobriety tests. The driver has the right to appeal the department's license revocation to district court.

Sec. 18.

A person who refuses to submit to the chemical test, and has been convicted of DWI or refusal in this or another state, shall be denied driving privileges for one year.

Sec. 19.

Refusal to submit to a chemical test of breath is a class A misdemeanor.

Sec. 20.

Outlines the penalties for conviction of DWI or refusal to take chemical test.

Sec. 21.

After notice, a person must surrender license or permit to department. Application for new license may be made after period of revocation.

Sec. 22.

A chemical test may be administered without the consent of a person who is arrested for an offense of DWI that results in death or physical injury to another.

An unconscious person is considered not to have withdrawn consent. An unconscious person need not be placed under arrest before a chemical test may be administered.

Sec. 23.

Outlines the reasons and procedures for forfeiture of a motor vehicle.

Third parties with interest in vehicle to be forfeited shall be provided notice and opportunity to reclaim vehicle.

Home rule clause acknowledging municipality's right to establish impoundment or forfeiture of motor vehicle.

There is not effective date clause.

SCSCS HB 6
SUMMARY OF FISCAL NOTES

	<u>FY 84</u>	<u>FY 85</u>	<u>FY 86</u>	<u>FY 87</u>	<u>FY88</u>
Alaska Court System (6/8/83)	245.5	237.0	251.3	266.4	282.3
Dept. of Administration Public Defender Agency (6/6/83)	202.7	208.5	222.4	234.3	248.4
Dept. of H&SS (5/17/83)	117.1	124.1	591.5	622.4	659.7
Capital (22 beds x 130,000 ea.)	2860.0				
Dept. of Law General Government (5/5/83)	239.0	250.9	265.9	281.7	298.8
Dept. of Public Safety Life & Property Protect. (6/6/83)	<u>75.1</u>	<u>35.5</u>	<u>37.6</u>	<u>39.8</u>	<u>42.2</u>
OPERATING TOTAL	<u>877.4</u>	<u>856.0</u>	<u>1368.7</u>	<u>1444.6</u>	<u>1531.4</u>
CAPITAL TOTAL	<u>2860.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
FY TOTAL	3737.4	856.0	1368.7	1444.6	1531.4

STATE OF ALASKA
FISCAL NOTE

Revision Date June 8, 1983

I. REQUEST

Bill/Resolution No.: SCSCSHB 6 (Finance)
 Title: Act Relating to Driving a Motor Vehicle
 Sponsor: _____
 Requestor: _____

II. FISCAL DETAIL

Agency Affected: Alaska Court System
 Program Category Affected: Admin. of Justice
 BRU, Program of Subprogram(s) Affected: Trial Courts

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		208.5	221.0	234.3	248.4	263.3
200 TRAVEL						
300 CONTRACTUAL		7.5	8.0	8.5	9.0	9.5
400 COMMODITIES		7.5	8.0	8.5	9.0	9.5
500 EQUIPMENT		22.1				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		245.6	237.0	251.3	266.4	282.3

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		245.6	237.0	251.3	266.4	282.3
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		6	6	6	6	6
PART-TIME		2	2	2	2	2
TEMPORARY		4	4	4	4	4

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

[RECEIVED

JUN 12 1983

Josephson,

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard P. Barrier

Division: Alaska Court System/Administration

Phone: 264-0545

Date: June 8, 1983

Approved by Commissioner: _____

Department: _____

Date: _____

Distribution:

Original to Legislative Finance

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3/8/83

ANALYSIS OF FISCAL IMPACT OF SCSCSHB 6 (Finance)

The court system currently disposes of approximately 6,000 DWI cases each year. Presently, 8.6% of these cases are disposed of at trial, or approximately 500 trials per year. The bill will increase the number of cases proceeding to trial, since individuals faced with stiffer penalties and forfeiture of motor vehicles will be more likely to take their cases to trial than to plead guilty as they have in the past. Assuming that 5% of those individuals presently pleading guilty opted for a trial under the new statutes, the court system would experience an increase of approximately 250 trials per year. It is anticipated that this increase could be handled by use of retired judges on a part-time basis.

The Senate Judiciary Committee substitute provides that individuals issued temporary licenses upon arrest on DWI have seven days in which to schedule a court hearing regarding extension of their temporary license. If 25% of the individuals charged with DWI asked the court for this seven day hearing, the court would experience an increase of approximately 1,500 hearings per year. However, the proposed Senate Finance Committee substitute incorporates an administrative rather than a judicial license revocation review, resulting in a substantially decreased cost to the court, since judicial involvement will be limited to appeals on the record and use of magistrates as hearing officers in outlying areas.

Along with the judicial resources required to conduct the trials and appeals, the court needs supporting staff for the judges and clerical staff to process the case files, calendar and notice the participants.

The impact of this legislation will be felt in each court location in the state, although the major impact will be in the larger metropolitan areas. Both Anchorage and Fairbanks currently have a heavy caseload of DWI cases, with Anchorage reporting approximately 30% of the state's caseload and Fairbanks 25% of the caseload. In each of these locations the district courts are working at capacity, and would therefore need increased resources to handle the projected number of new trials and hearings to be held under this legislation. In each location, the minimal staffing required to implement the revised legislation would be one part-time retired district court judge, and an in-court clerk, and two court clerk II positions in the criminal sections to deal with the new clerical demands created by this legislation.

In addition to Anchorage and Fairbanks, both Palmer and Kenai have significant DWI caseloads, with each having nearly 10% of the state's caseload. Each would need at a minimum one additional court clerk II position.

Once the legislation comes into effect, the court system will monitor closely its impact on clerical and judicial resources. If the impact is substantially greater than anticipated, the court system will consider the need for a supplemental appropriation.

A detailed breakdown of the cost associated with the Senate Finance Committee substitute is provided below.

FY 84 COST OF IMPLEMENTING SCSCSHB 6 (Finance)

Personal Services:	<u>Revised</u>
Salaries:	
<u>Anchorage</u>	
Pretem retired district court judge (4 mos)	\$ 5,050
In-court clerk (Range 12B) (4 mos)	7,784
Court clerk II (2 @ Range 10B) (12 mos)	41,424
<u>Fairbanks</u>	
Pretem retired district court judge (2 mos)	2,879
In-court clerk (Range 12B) (2 mos)	4,436
Court clerk II (2 @ Range 10 B) (12 mos)	46,706
<u>Palmer</u>	
Court clerk II (Range 10B) (12 mos)	21,384
<u>Kenai</u>	
Court clerk II (Range 10B) (12 mos)	<u>21,984</u>
	151,647
Benefits:	
Judges	10,011
Classified	<u>46,808</u>
Total Personal Services	\$208,466
Contractual	7,500
Commodities	7,500
Equipment (one time costs)	<u>22,100</u>
Total Cost	<u>\$245,566</u>

(Subsequent years' costs include inflation at 6%)

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: SCSCSHB 6 (Jud)
 Title: Act relating to driving a motor vehicle
 Sponsor: Rep. Abood
 Requestor: Senate Finance

II. FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Life & Prop Prot
 BRU, Program of Subprogram(s) Affected: Driver/Vehicle Services and AST

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		22.2	28.2	29.9	31.7	33.6
200 TRAVEL		-0-	-0-	-0-	-0-	-0-
300 CONTRACTUAL		9.0	7.1	7.5	7.9	8.3
400 COMMODITIES		.2	.2	.2	.2	.3
500 EQUIPMENT		41.7	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		73.1	35.5	37.6	39.8	42.2

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		73.1	35.5	37.6	39.8	42.2
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by sponsor

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Michael Orelove
 Division: Administrative Services

Phone: 465-4349
 Date: 6-6-83

Approved by Commissioner: [Signature]
 Department: Public Safety

Date: 6/5/83

Distribution:

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3/8/83

FISCAL NOTE DETAIL

SCSCSHB6 (Judiciary)

Division of Motor Vehicles

ANALYSIS:

Personal Services and Equipment breakdown is contained on attached Form 13 - Request for New Position.

\$4,300 of first year contractual is for new testing material and forms, and \$4,700 is for postage (all license actions must be sent via certified mail). Remaining years contractual is for postage and printing only.

ASSUMPTIONS:

- 1) 99% of defendants who take breath test will have .10% or higher;
- 2) Effective date is October 1, 1983, with new position coming on board September 1, 1983, for training.
- 3) Reviews are handled by the Alaska Court System rather than the department.

COMMENTS:

Section 17 and Section 18 of this bill should be eliminated. The statute numbers referred to in these two sections are repealed under Section 24 of the bill, and the topics are addressed in Section 3.

Division of Alaska State Troopers

ANALYSIS:

In order to comply with the provisions of this bill allowing for breathalyzer tests to be administered at the scene of the incident, \$40,000 will be required to purchase 100 new portable breathalyzer units.

1.	POSITION TITLE Document Processing Clerk II				RANGE/STEP 8B	BARG. UNIT GG	FORM 12 PAGE/LINE	GOV.	APPRDV.	DISAPP	
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT 4	LEC.			
3.	CONTINUATION LEVEL				JUSTIFICATION						
4.	TYPE OF EXPENDITURE										
	1	2	3								
	PERSONAL SERVICES										
5.	Salary	19,176									
6.	Benefits	3,367									
7.	Supplemental Benefits	1,175									
8.	Fixed Benefits	2,880									
9.	TOTAL PERSONAL SERVICES	01	26,598								
10.	Travel	02									
11.	Contractual	03									
12.	Commodities	04	100								
13.	Equipment	05	1,724								
14.	Other										
15.	TOTAL COST		28,422								
	RECEIPT CODE	FUNDING SOURCE									
16.		Federal Receipts	1002								
17.		G.F. Match	1003								
18.		General Funds	1004	28,422							
19.		I-A Receipts	1005								
20.		Program Receipts	1028								
21.		Other									
FOR H&M USE ONLY											
4A KEY NUMBER _____											

One Document Processing Clerk II will be required to handle administrative license actions and related work for individual defendants whose breath test results are .10% or higher. Will prepare and mail license actions (of which it is estimated there will be an increase of 3,500 to 4,000 annually based on 1982 statistics); enter data on computer; prepare certified copies for prosecutors, courts, etc.; process stays; maintain proof of insurance filings; and maintain records. Equipment breakdown for this position is as follows: Typewriter - \$1,245; File Cabinet - \$291; and Chair - \$188.

This form prepared showing full year costs. Only ten month cost reflected on fiscal note for FY84.

13 REQUEST FOR
NEW POSITION

AGENCY Public Safety
 PROGRAM Life and Property Protection
 BRU Driver/Vehicle Services
 COMPONENT Driver Services

Page _____ of _____
 Revised Date _____

FY 84

STATE OF ALASKA
FISCAL NOTE

Revision Date 6/6, 1983

I. REQUEST

Bill/Resolution No.: SCSCSHB6
 Title: "Driving a Motor Vehicle"
 Sponsor: Senator Fischer
 Requestor: Senate Judiciary

II. FISCAL DETAIL

Agency Affected: Dept. of Admin.
 Program Category Affected: Public Defen
 BRU, Program of Subprogram(s) Affected:
 Third District, Fourth District

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		177.2	187.8	199.1	211.0	223.7
200 TRAVEL						
300 CONTRACTUAL		15.0	15.9	16.9	17.9	19.0
400 COMMODITIES		4.5	4.8	5.1	5.4	5.7
500 EQUIPMENT		6.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		202.7	208.5	222.4	234.3	248.4
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		202.7	208.5	222.4	234.3	248.4
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		3.0	3.0	3.0	3.0	3.0
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Bob Stokes, Admin. Officer
 Division: Dana Rabe, Public Defender with table
 Approved by Commissioner: Lisa Rudd
 Department: Administration

Phone: 279.7543
 Date: June 6, 1983
 Date: 6/6/83

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ANALYSIS OF SCSCSHB 6

There are several provisions within this bill which will require a substantial increase in the attorney time necessary to handle DWI and refusal of breathalyzer cases.

First, the increase in mandatory minimum penalties for second and subsequent offenders to 20 and 30 days respectively, as well as the increase in fines, will mean that a much higher number of defendants will exercise their right to a jury trial. Preparation for jury trial requires extensive interviews with the client and prospective witnesses, and the court time for the case is greatly increased, since a DWI change of plea in court may take 15 minutes while a jury trial in such a case usually last 1 - 2 days. We handle a high volume of not only State prosecuted DWI's but Municipally prosecuted DWI's as well. This increase in attorney time necessary for handling each drunk-driving case, given our already staggering misdemeanor case-loads, will require two additional attorneys for the Anchorage office and one for the Fairbanks office.

Second, an increase in mandatory minimum penalties to 30 or 90 days for a conviction of driving with a suspended license where the offender has a prior history of DWI will greatly increase the number of jury trials which this office is required to handle.

Third, provisions in the statute which allow a police officer upon probable cause to seize the defendant's driver's license or impound his vehicle for a substantial period of time at the time of arrest will also require increased attorney time, due to the defendant's right to schedule a hearing within a short time to obtain return of his license or vehicle. Although the defendant may not have a right to an attorney to handle the hearing which he initiates to have his car or license returned, he will need an attorney's assistance at that hearing to the extent that it impacts his criminal case. Because anything that the defendant might say at that hearing regarding the facts of his case could be used against him at the subsequent criminal trial, he would need the assistance of counsel at that hearing. The attorney would have to obtain the immunity which would be due the client under the Alaska Supreme Court decision of McCracken v. Corey, as well as limit the scope of cross-examination at the hearing.

Because of the volume of DWI cases handled by this agency and the substantially increased attorney time necessary to comply with the provisions of the Statute, two additional attorneys for Anchorage and one for Fairbanks are requested.

STATE OF ALASKA
FISCAL NOTE

Revision Date 6.6, 1983

I. REQUEST

Bill/Resolution No.: SCSCSHB6
 Title: "Driving a Motor Vehicle"
 Sponsor: Senator Fischer
 Requestor: Senate Judiciary

II. FISCAL DETAIL

Agency Affected: Dept. of Admin.
 Program Category Affected: Public Defen
 BRU, Program of Subprogram(s) Affected: Third District, Fourth District

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		177.2	187.8	199.1	211.0	223.7
200 TRAVEL						
300 CONTRACTUAL		15.0	15.9	16.9	17.9	19.0
400 COMMODITIES		4.5	4.8	5.1	5.4	5.7
500 EQUIPMENT		6.0				
600 LAND & STRUCTURFS						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		202.7	208.5	222.4	234.3	248.4
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		202.7	208.5	222.4	234.3	248.4
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		3.0	3.0	3.0	3.0	3.0
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Bob Stokes, Admin. Officer Phone: 279.7541
 Division: Dana Pace, Public Defender Date: June 6, 1983
 Approved by Commissioner: Lisa Rudd Date: 6/6/83
 Department: Administration

Distribution:

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ANALYSIS OF SCSCSHB 6

There are several provisions within this bill which will require a substantial increase in the attorney time necessary to handle DWI and refusal of breathalyzer cases.

First, the increase in mandatory minimum penalties for second and subsequent offenders to 20 and 30 days respectively, as well as the increase in fines, will mean that a much higher number of defendants will exercise their right to a jury trial. Preparation for jury trial requires extensive interviews with the client and prospective witnesses, and the court time for the case is greatly increased, since a DWI change of plea in court may take 15 minutes while a jury trial in such a case usually last 1 - 2 days. We handle a high volume of not only State prosecuted DWI's but Municipally prosecuted DWI's as well. This increase in attorney time necessary for handling each drunk-driving case, given our already staggering misdemeanor case-loads, will require two additional attorneys for the Anchorage office and one for the Fairbanks office.

Second, an increase in mandatory minimum penalties to 30 or 90 days for a conviction of driving with a suspended license where the offender has a prior history of DWI will greatly increase the number of jury trials which this office is required to handle.

Third, provisions in the statute which allow a police officer upon probable cause to seize the defendant's driver's license or impound his vehicle for a substantial period of time at the time of arrest will also require increased attorney time, due to the defendant's right to schedule a hearing within a short time to obtain return of his license or vehicle. Although the defendant may not have a right to an attorney to handle the hearing which he initiates to have his car or license returned, he will need an attorney's assistance at that hearing to the extent that it impacts his criminal case. Because anything that the defendant might say at that hearing regarding the facts of his case could be used against him at the subsequent criminal trial, he would need the assistance of counsel at that hearing. The attorney would have to obtain the immunity which would be due the client under the Alaska Supreme Court decision of McCracken v. Corey, as well as limit the scope of cross-examination at the hearing.

Because of the volume of DWI cases handled by this agency and the substantially increased attorney time necessary to comply with the provisions of the Statute, two additional attorneys for Anchorage and one for Fairbanks are requested.

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: SCSCSHB 6 (S.A.)
 Title: Act relating to driving a m.v.
 Sponsor: Judiciary Committee
 Requestor: Finance Committee

II. FISCAL DETAIL

Agency Affected: Health & Social Services
 Program Category Affected: Justice
 BRU, Program of Subprogram(s) Affected: Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES				419.7	444.9	471.6
200 TRAVEL		2.0	2.1	2.2	2.4	2.5
300 CONTRACTUAL		39.6	42.0	76.7	81.3	86.2
400 COMMODITIES		68.6	72.7	80.7	85.6	90.7
500 EQUIPMENT		-	-	4.5	-	-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC		6.9	7.3	7.7	8.2	8.7
TOTAL OPERATING	-0-	117.1	124.1	591.5	622.4	659.7
CAPITAL	-0-	2,860.0	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	2,977.1	124.1	591.5	622.4	659.7
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	9	9	9
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The source of funds to offset the fiscal impact of this bill has not been identified by the sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange *Roger C. Lange* Phone: 465-3376
 Division: Adult Corrections Date: May 17, 1983
 Approved by Commissioner: Arthur J. Mat Date: 18 May 83
 Department: Health & Social Services

Distribution:

Original to Legislative Finance
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3/8/83

IV. ANALYSIS:

A. Assumptions

1. Bed Impact

The passage of this bill will result in the need for 22 additional minimum security beds within the Alaska correctional system. The sections of the bill which affect increased inmate population projections are:

a. Section 11

Statistics furnished by the Department of Public Safety show 181 persons were convicted in 1982 for driving with a suspended or revoked license where the original offense resulting in the loss of license was driving while intoxicated (DWI) or implied consent (refusal to take a breathalyzer test). For purposes of this fiscal note, that number was used for calculating the increased person days of incarceration resulting from increased sentences to 30 or 90 days. It was assumed that 80% of the offenders would have been convicted only once in the previous 15 years and 20% convicted more than once in the previous 15 years.

The following calculations also consider that the offender would have been given a minimum sentence of 10 days previously, and it is assumed that every offender will earn all good time for which they are eligible. Therefore, 145 offenders would serve an additional 15 days and 36 offenders would serve an additional 60 days. This results in the need for an additional 11.88 beds.

b. Section 13

This section of the bill increases the minimum sentence for second time drunk drivers from 10 days to 20 days and third and subsequent time drunk drivers from 10 days to 30 days. It is estimated that would be 450 repeat offenders affected by this legislation, 425 second offenders and 25 third offenders. The additional sentence length to be served, assuming all good time will be earned is 12 days for second time offenders and 20 days for third offenders. This increased sentence length results in the need for 9 additional minimum security beds.

c. Section 16

This section provides new penalties for refusal to take a chemical test similar to the sentences to be imposed for driving while intoxicated. Statistical data for this offense was not available. Therefore, it was assumed that 20 individuals would be convicted with one

prior and 7 individuals would be convicted with 2 or more prior offenses. This would result in the need for 1.1 additional beds.

- d. The summary of a, b, and c above is 21.98 beds, which were rounded to 22 beds.
2. All persons convicted would receive the minimum sentence and all persons would earn all good time for which they would be eligible.
3. Inflation of 6% per year was used for the entire period of the fiscal note.
4. The new beds would not be available for occupancy until July 1, 1985. This will result in further overcrowding of the existing facilities for two years.
5. One additional position is needed for every 2.5 prison beds. Therefore, 9 correctional officers are needed to provide the security and supervision of the inmates. These position would be requested for FY 86.

B. Program Summary:

1. Positions

- 1 - Correctional Officer III
- 8 - Correctional Officer II's

These positions are needed to provide for the security of the institution where the beds will be constructed and for the supervision of the additional 22 persons (full-time equivalents) within the Alaska corrections system.

2. Other Expenditures

The fiscal impact will be experienced as soon as the bill becomes law. Therefore, the incremental costs directly related to inmate care are identified in FY 84. Position costs and costs related to building operations are not included until FY 86.

- a. Travel - \$2000. Inmate transportation to point of arrest when released from custody.
- b. Contractual - \$39,600. Medical expenses for 22 full-time equivalent inmates at \$1800 per inmate per year.
- c. Commodities - \$68,600. Food, clothing, bedding, etc. for 8,085 inmate days at \$8.48 per day.
- d. Grants - \$6,900. Inmate gratuities paid for persons working in the kitchen, or janitorial/maintenance crews, etc.

FISCAL NOTE

SCSCS House Bill No. 6 (State Affairs)

Page 4

e. Capital Expenditures

22 beds @ \$130,000 per bed = \$2,860,000

D. Economic Impact:

Passage of this bill should not significantly impact the State's economy.

E. Impact on Local Governments:

There would be no fiscal impact on local governments unless they changed local ordinances related to DWI to include the same penalties contained in this bill. The fiscal impact would occur for local government units who contract with the State for the care of prisoners for local offenses.

1.	POSITION TITLE Correctional Officer II (8)				RANGE/STEP 13/B	BARG. UNIT G	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.										
2.	TYPE OF POSITION PFT	STAFF MONTHS 96	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.												
3.	CONTINUATION LEVEL				JUSTIFICATION															
4.	TYPE OF EXPENDITURE			AMOUNT																
	1	2	3																	
	PERSONAL SERVICES																			
5.	Salary	223,608	OT 26,968																	
6.	Benefits	69,167	Shift Diff. 8,088																	
7.	Supplemental Benefits	15,857																		
8.	Fixed Benefits	25,888																		
9.	TOTAL PERSONAL SERVICES	01	369,576																	
10.	Travel	02																		
11.	Contractual	03																		
12.	Commodities	04	1,600																	
13.	Equipment	05	4,000																	
14.	Other																			
15.	TOTAL COST		375,176																	
<p>These positions will provide security coverage for the minimum security beds resulting from enactment of CS for House Bill No. 6 (Judiciary).</p> <p>Single position costs:</p> <table> <tr> <td>Salary</td> <td>\$27,951</td> </tr> <tr> <td>Overtime</td> <td>3,371</td> </tr> <tr> <td>Shift Diff.</td> <td>1,011</td> </tr> <tr> <td>Benefits</td> <td>13,864</td> </tr> <tr> <td></td> <td>\$46,197</td> </tr> </table>											Salary	\$27,951	Overtime	3,371	Shift Diff.	1,011	Benefits	13,864		\$46,197
Salary	\$27,951																			
Overtime	3,371																			
Shift Diff.	1,011																			
Benefits	13,864																			
	\$46,197																			
16.	RECEIPT CODE	FUNDING SOURCE																		
17.		Federal Receipts 1002																		
18.		G.F. Match 1003																		
19.		General Funds 1004																		
20.		I-A Receipts 1005																		
21.		Program Receipts 1028																		
		Other																		
FOR BSM USE ONLY																				
4A KEY NUMBER _____																				

13 REQUEST FOR
NEW POSITION

AGENCY Corrections
PROGRAM Offender Confinement, Reformation,
& Supervision
BRU Adult Confinement
COMPONENT _____

FY 84

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Revised Date _____

1.	POSITION TITLE Correctional Officer III			RANGE/STEP 15/A	DARG. UNIT G	FORM 12 PAGE/LINE	GOV.	APPROV.	DISCIP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.	
3.	CONTINUATION LEVEL	<input checked="" type="checkbox"/>	ADDITION		JUSTIFICATION				
4.	TYPE OF EXPENDITURE			AMOUNT					
	1	2	3						
	PERSONAL SERVICES			OT \$ 3371					
5.	Salary	30,944		Shift Diff.					
6.	Benefits	9,446		\$ 1011					
7.	Supplemental Benefits	2,165							
8.	Fixed Benefits	3,236							
9.	TOTAL PERSONAL SERVICES	01		50,173					
10.	Travel	02							
11.	Contractual	03							
12.	Commodities	04		200					
13.	Equipment	05		500					
14.	Other								
15.	TOTAL COST			50,873					
	RECEIPT CODE	FUNDING SOURCE							
16.		Federal Receipts	1002						
17.		G.F. Match	1003						
18.		General Funds	1004	50,873					
19.		I-A Receipts	1005						
20.		Program Receipts	1028						
21.		Other							
FOR B&M USE ONLY									
4A KEY NUMBER _____									

These positions will provide supervision of security staff for the new minimum security beds resulting from the passage of CS for House Bill No. 6 (Judiciary).

Single position costs:

Salary	\$ 30,944
Overtime	3,371
Shift Diff.	1,011
Benefits	14,847
	<u>\$ 50,173</u>

13 REQUEST FOR NEW POSITION

AGENCY Corrections
Offender Confinement, Reformation,
& Supervision

PROGRAM _____

BRU Adult Confinement

COMPONENT _____

FY 84

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Revised Date _____

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: SCSCSHB 6 (S.A.)
 Title: Act relating to driving a m.v.
 Sponsor: Judiciary Committee
 Requestor: Finance Committee

II. FISCAL DETAIL

Agency Affected: Health & Social Services
 Program Category Affected: Justice
 BRU, Program of Subprogram(s) Affected: Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES				419.7	444.9	471.6
200 TRAVEL		2.0	2.1	2.2	2.4	2.5
300 CONTRACTUAL		39.6	42.0	76.7	81.3	86.2
400 COMMODITIES		68.6	72.7	80.7	85.6	90.7
500 EQUIPMENT		-	-	4.5	-	-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC		6.9	7.3	7.7	8.2	8.7
TOTAL OPERATING	-0-	117.1	124.1	591.5	622.4	659.7
CAPITAL	-0-	2,860.0	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	2,977.1	124.1	591.5	622.4	659.7
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	9	9	9
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The source of funds to offset the fiscal impact of this bill has not been identified by the sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange *Roger C. Lange* Phone: 465-3376
 Division: Adult Corrections Date: May 17, 1983

Approved by Commissioner: Arthur J. Maitland *Arthur J. Maitland* Date: 18 May 83
 Department: Health & Social Services

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3/8/83

IV. ANALYSIS:

A. Assumptions

1. Bed Impact

The passage of this bill will result in the need for 22 additional minimum security beds within the Alaska correctional system. The sections of the bill which affect increased inmate population projections are:

a. Section 11

Statistics furnished by the Department of Public Safety show 181 persons were convicted in 1982 for driving with a suspended or revoked license where the original offense resulting in the loss of license was driving while intoxicated (DWI) or implied consent (refusal to take a breathalyzer test). For purposes of this fiscal note, that number was used for calculating the increased person days of incarceration resulting from increased sentences to 30 or 90 days. It was assumed that 80% of the offenders would have been convicted only once in the previous 15 years and 20% convicted more than once in the previous 15 years.

The following calculations also consider that the offender would have been given a minimum sentence of 10 days previously, and it is assumed that every offender will earn all good time for which they are eligible. Therefore, 145 offenders would serve an additional 15 days and 36 offenders would serve an additional 60 days. This results in the need for an additional 11.88 beds.

b. Section 13

This section of the bill increases the minimum sentence for second time drunk drivers from 10 days to 20 days and third and subsequent time drunk drivers from 10 days to 30 days. It is estimated that would be 450 repeat offenders affected by this legislation, 425 second offenders and 25 third offenders. The additional sentence length to be served, assuming all good time will be earned is 12 days for second time offenders and 20 days for third offenders. This increased sentence length results in the need for 9 additional minimum security beds.

c. Section 16

This section provides new penalties for refusal to take a chemical test similar to the sentences to be imposed for driving while intoxicated. Statistical data for this offense was not available. Therefore, it was assumed that 20 individuals would be convicted with one

prior and 7 individuals would be convicted with 2 or more prior offenses. This would result in the need for 1.1 additional beds.

- d. The summary of a, b, and c above is 21.98 beds, which were rounded to 22 beds.
2. All persons convicted would receive the minimum sentence and all persons would earn all good time for which they would be eligible.
3. Inflation of 6% per year was used for the entire period of the fiscal note.
4. The new beds would not be available for occupancy until July 1, 1985. This will result in further overcrowding of the existing facilities for two years.
5. One additional position is needed for every 2.5 prison beds. Therefore, 9 correctional officers are needed to provide the security and supervision of the inmates. These positions would be requested for FY 86.

B. Program Summary:

1. Positions

- 1 - Correctional Officer III
- 8 - Correctional Officer II's

These positions are needed to provide for the security of the institution where the beds will be constructed and for the supervision of the additional 22 persons (full-time equivalents) within the Alaska corrections system.

2. Other Expenditures

The fiscal impact will be experienced as soon as the bill becomes law. Therefore, the incremental costs directly related to inmate care are identified in FY 84. Position costs and costs related to building operations are not included until FY 86.

- a. Travel - \$2000. Inmate transportation to point of arrest when released from custody.
- b. Contractual - \$39,600. Medical expenses for 22 full-time equivalent inmates at \$1800 per inmate per year.
- c. Commodities - \$68,600. Food, clothing, bedding, etc. for 8,085 inmate days at \$8.48 per day.
- d. Grants - \$6,900. Inmate gratuities paid for persons working in the kitchen, or janitorial/maintenance crews, etc.

e. Capital Expenditures

22 beds @ \$130,000 per bed = \$2,860,000

D. Economic Impact:

Passage of this bill should not significantly impact the State's economy.

E. Impact on Local Governments:

There would be no fiscal impact on local governments unless they changed local ordinances related to DWI to include the same penalties contained in this bill. The fiscal impact would occur for local government units who contract with the State for the care of prisoners for local offenses.

1.	POSITION TITLE Correctional Officer II (8)			RANGE/STEP 13/B	BARG. UNIT G	FORM 12. PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 96	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.	

3.	CONTINUATION LEVEL	ADDITION	
4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	223,608	OT 26,968
6.	Benefits	69,167	Shift Diff. 8,000
7.	Supplemental Benefits	15,857	
8.	Fixed Benefits	25,888	
9.	TOTAL PERSONAL SERVICES	01	369,576
10.	Travel	02	
11.	Contractual	03	
12.	Commodities	04	1,600
13.	Equipment	05	4,000
14.	Other		
15.	TOTAL COST		375,176

JUSTIFICATION

These positions will provide security coverage for the minimum security beds resulting from enactment of CS for House Bill No. 6 (Judiciary).

Single position costs:

Salary	\$27,951
Overtime	3,371
Shift Diff.	1,010
Benefits	13,866
	\$46,197

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		C.F. Match 1003	
18.		General Funds 1004	375,176
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

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13 REQUEST FOR
NEW POSITION

AGENCY Corrections
PROGRAM Offender Confinement, Reformation,
& Supervision
BRU Adult Confinement
COMPONENT _____

FY 84

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Revised Date _____

1.	POSITION TITLE Correctional Officer III			RANGE/STEP 15/A	DARG. UNIT G	FORM 12 PAGE/LINE	GOV.	APPROV.	DIS/PT.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	DRU PRIORITY	LOCATION	ELECTION DISTRICT	LEC.	

3.	CONTINUATION LEVEL	<input checked="" type="checkbox"/>	ADDITION	
4.	TYPE OF EXPENDITURE		AMOUNT	
	1		2	3
	PERSONAL SERVICES			
5.	Salary		30,944	OT \$ 3371
6.	Benefits		9,446	Shift Diff. \$ 1011
7.	Supplemental Benefits		2,165	
8.	Fixed Benefits		3,236	
9.	TOTAL PERSONAL SERVICES	01		50,173
10.	Travel	02		
11.	Contractual	03		
12.	Commodities	04		200
13.	Equipment	05		500
14.	Other			
15.	TOTAL COST			50,873

JUSTIFICATION

These positions will provide supervision of security staff for the new minimum security beds resulting from the passage of CS for House Bill No. 6 (Judiciary).

Single position costs:

Salary	\$ 30,944
Overtime	3,371
Shift Diff.	1,011
Benefits	14,847
	\$ 50,173

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	50,873
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

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4A KEY NUMBER _____

AGENCY Corrections
PROGRAM Offender Containment, Reformation, & Supervision
BRU Adult Confinement
COMPONENT _____

13 REQUEST FOR
NEW POSITION

FY 84

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Revised Date _____

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: SCSCSHB 6 (SA)
 Title: Related to Driving a Motor Vehicle
 Sponsor: Rep. Abood
 Requestor: Senate State Affairs

II. FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Protection
 BRU, Program of Subprogram(s) Affected: Driver Services and AST

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		116.4	148.1	157.0	166.4	176.4
200 TRAVEL		5.3	3.1	3.3	3.5	3.7
300 CONTRACTUAL		51.7	43.2	45.8	48.5	51.4
400 COMMODITIES		.7	.7	.7	.8	.9
500 EQUIPMENT		52.4				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		226.5	195.1	206.8	219.2	232.4
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		226.5	195.1	206.8	219.2	232.4
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		4	4	4	4	4
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Michael Orelve
 Division: Administrative Services
 Approved by Commissioner: X [Signature]
 Department: Public Safety

Phone: 465-4349
 Date: 5-13-83
 Date: 5/16/83

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3/8/83

Division of Motor Vehicles

FISCAL NOTE DETAIL

SCSCSHB 6 (SA)

Page 1

ASSUMPTIONS:

This fiscal note based on following assumptions: 1) SCSCSHB 6 (State Affairs) will be identical to CS HB 6 (Judiciary) with one exception. That exception being a person whose license is revoked under AS 28.15.165 could ask for an administrative hearing by the department rather than a court review. This includes requests for a limited license following an administrative revocation under AS 28.15.165, however, not in instances where the court takes the license action under AS 28.15.181. I have not seen a draft of the proposed committee substitute as it has not been prepared at the time of this writing; 2) In 1982 there were approximately 4,755 arrests for DWI. Of those who refused to take the breathalyzer test approximately 19% filed appeals in the district court, mostly to request limited driving privileges. The fiscal note is based on the assumption there will be 5,000 arrests for DWI in FY84, of which 99% will receive administrative license action under the proposed law. It is assumed 20% of those will ask for a hearing, mostly to request limited driving privileges; 3) 99% of defendants who take breath test will have .10% or higher results; 4) Effective date is October 1, 1983, with staff coming on board September 1, 1983, for training.

COMMENTS:

The present office space for the Driver Improvement Office in Anchorage, which includes all the hearing officers, will not accommodate any expansion. Therefore, the fiscal note provides for relocation and lease of new space for that section, which is currently within the Division of Motor Vehicles field office in Anchorage. Space can be made available within the Public Safety Building in Fairbanks for the hearing officer requested for that area.

DETAIL:

100 - Personal Services			
1 Driver Improvement Specialist II, Anchorage		34.2	
1 Driver Improvement Specialist II, Fairbanks		39.1	
1 Clerk Typist II, Anchorage		20.9	
1 Document Processing Clerk II, Juneau		22.2	
			116.4
200 - Travel			
210 - Field Travel		2.9	
230 - Training		2.4	
			5.3

300 - Contractural		
310 - Postage	7.9	
320 - Printing	.8	
330 - Lease Space (1,000 sq. ft.)	28.5	
360 - Equipment Rental (One ADIS terminal)	8.0	
380 - Professional Services (New Slides for written tests)	3.8	
382a- DP Chargeback (Program & Maintenance)	2.0	
390 - Tuition	.5	
		51.7
400 - Commodities		
480 - Normal office supplies, including tapes to record hearings.	.7	.7
500 - Equipment		
520 - Video player and monitor to review arresting agency video tapes at time of breath test, or refusal.	1.5	
550 - Office equipment (itemized on Forms 13)	10.9	
		<u>12.4</u>
	SUBTOTAL	185.5

<u>DIVISION OF ALASKA STATE TROOPERS</u>		<u>40.0</u>
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Analysis: In order to comply with the provisions of this bill that requires the breathalyzer test to be administered at the scene of the incident, \$40,000 will be required to purchase 100 new portable breathalyzer units.

TOTAL	225.5
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1.	POSITION TITLE Driver Improvement Specialist II				RANGE/STEP 16A	BARG. UNIT GG	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PMT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT 7-15	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT	<p>This position would hold administrative hearings in the Anchorage area under driver license administrative suspension/revocation programs. This would include hearings on requests to grant a limited license on administrative license actions resulting from chemical sobriety tests, and refusals to submit to tests. Considerable time is necessary to properly prepare for each hearing.</p> <p>Travel is based on two trips to Southeastern annually, two trips to Kodiak annually, and other outlying areas in the Second and Third Judicial Districts as required. \$1,200 in travel, and \$300 in contractual is to cover a one week course for administrative hearing officers at the National Judicial College at the University of Nevada.</p> <p>Equipment breakdown for this position is as follows: Typewriter - \$1,245; Desk \$426; File Cabinet \$235; Chair \$163; and Recording equipment \$900.</p> <p>Prepared showing full year costs. Only ten month cost reflected on fiscal note for FY84.</p>					
	1	2	3							
	PERSONAL SERVICES									
5.	Salary	30,876								
6.	Benefits	5,422								
7.	Supplemental Benefits	1,893								
8.	Fixed Benefits	2,880								
9.	TOTAL PERSONAL SERVICES	01	41,071							
10.	Travel	02	3,100							
11.	Contractual	03	300							
12.	Commodities	04	100							
13.	Equipment	05	2,969							
14.	Other									
15.	TOTAL COST		47,540							
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts	1002							
17.		G.F. Match	1003							
18.		General Funds	1004	47,540						
19.		I-A Receipts	1005							
20.		Program Receipts	1028							
21.		Other								
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4A KEY NUMBER _____										

13 REQUEST FOR
NEW POSITION

AGENCY Public Safety

PROGRAM Life and Property Protection

BRU Driver/Vehicle Services

COMPONENT Driver Services

FY 84

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Revised Date _____

1.	POSITION TITLE Clerk Typist II			RANGE/STEP 7B	BARG. UNIT GC	FORM 12 PAGE/LINE	GOV.	APPRDV.	DISAPP.
2.	TYPE OF POSITION PPT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT 7-15	LEG.	
3.	CONTINUATION LEVEL			JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT					
	1	2	3						
	PERSONAL SERVICES								
5.	Salary	18,120							
6.	Benefits	3,182							
7.	Supplemental Benefits	927							
8.	Fixed Benefits	2,880							
9.	TOTAL PERSONAL SERVICES	01	25,109						
10.	Travel	02							
11.	Contractual	03							
12.	Commodities	04	100						
13.	Equipment	05	2,947						
14.	Other								
15.	TOTAL COST		28,156						
16.	RECEIPT CODE	FUNDING SOURCE							
17.		Federal Receipts 1002							
18.		G.F. Match 1003							
19.		General Funds 1004		28,156					
20.		I-A Receipts 1005							
21.		Program Receipts 1028							
		Other							
FOR B&M USE ONLY 4A KEY NUMBER _____									

This person would handle necessary paperwork for scheduling hearings, notifying individuals of hearing date, time and location, and keep appropriate records.

Would transcribe hearing records as requested, and prepare certified copies for courts, prosecutors, private attorneys, etc, when necessary. Update computer files reflecting when license action is stayed and/or limited driving privileges granted.

Equipment breakdown for this position is as follows: Typewriter - \$1,245; Desk - \$426; File Cabinet - \$235; Chair - \$141; Transcriber - \$900.

Prepared showing full year costs. Only ten month cost reflected on fiscal note for FY84.

13 REQUEST FOR NEW POSITION

AGENCY Public Safety
PROGRAM Life and Property Protection
BRU Driver/Vehicle Services
COMPONENT Driver Services

FY 84

Page _____ of _____
Revised Date _____

1.	POSITION TITLE Document Processing Clerk II				RANGE/STEP 8B	BARG. UNIT GG	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAB.
2.	TYPE OF POSITION PFT	STATE PRIORITIES 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT 4	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE									
	PERSONAL SERVICES									
5.	Salary		19,176							
6.	Benefits		3,367							
7.	Supplemental Benefits		1,175							
8.	Fixed Benefits		2,880							
9.	TOTAL PERSONAL SERVICES		01	26,598						
10.	Travel		02							
11.	Contractual		03							
12.	Commodities		04	100						
13.	Equipment		05	1,724						
14.	Other									
15.	TOTAL COST			28,422						
16.	RECEIPT CODE	FUNDING SOURCE								
17.		Federal Receipts 1002								
18.		G.F. Match 1003								
19.		General Funds 1004		28,422						
20.		I-A Receipts 1005								
21.		Program Receipts 1028								
		Other								
FOR O&M USE ONLY										
4A KEY NUMBER										

One Document Processing Clerk II will be required to handle administrative license actions and related work for individual defendants whose breath test results are .10% or higher. Will prepare and mail license actions (of which it is estimated there will be an increase of 3,500 to 4,000 annually based on 1982 statistics); enter data on computer; prepare certified copies for prosecutors, courts, etc.; process stays; maintain proof of insurance filings; and maintain records. Equipment breakdown for this position is as follows: Typewriter - \$1,265; File Cabinet - \$291; and Chair - \$188.

Prepared showing full year costs. Only ten month cost reflected on fiscal note for FY84.

13 REQUEST FOR NEW POSITION

AGENCY Public Safety
PROGRAM Life and Property Protection
BRU Driver/Vehicle Services
COMPONENT Driver Services

FY 84

Page of
Revised Date

1.	POSITION TITLE Driver Improvement Specialist II			RANGE/STEP 16A	BARG. UNIT GG	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION	STAFF MONTHS	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Fairbanks	ELECTION DISTRICT 18-21	LEG.	
3.	CONTINUATION LEVEL			ADDITION	JUSTIFICATION				
4.	TYPE OF EXPENDITURE			AMOUNT	<p>This position would hold all administrative hearings for the department in Fairbanks and outlying areas in the Fourth Judicial District. This includes hearings on requests to grant a limited license on administrative license actions resulting from chemical sobriety tests and refusals to submit to tests. Considerable time is necessary to prepare for each hearing.</p> <p>Travel is based on 10 days per diem, and transportation costs within Fourth Judicial District. \$1,200 in travel, and \$300 in contractual is to cover a one week course for administrative hearing officers at the National Judicial College at the University of Nevada.</p> <p>Equipment breakdown for this position is as follows: Typewriter - \$1,245; Desk - \$646; File Cabinet - \$291; Chair - \$187; and Recording equipment - \$900.</p> <p>Prepared showing full year costs. Only ten month cost reflected on fiscal note for FY84.</p>				
	1	7	3						
	PERSONAL SERVICES								
5.	Salary	35,580							
6.	Benefits	6,248							
7.	Supplemental Benefits	2,181							
8.	Fixed Benefits	2,880							
9.	TOTAL PERSONAL SERVICES	01	46,889						
10.	Travel	02	2,200						
11.	Contractual	03	300						
12.	Commodities	04	100						
13.	Equipment	05	3,269						
14.	Other								
15.	TOTAL COST		52,758						
	RECEIPT CODE	FUNDING SOURCE							
16.		Federal Receipts	1002						
17.		G.F. Match	1003						
18.		General Funds	1004	52,758					
19.		I-A Receipts	1005						
20.		Program Receipts	1028						
21.		Other							
FOR B&M USE ONLY									
4A KEY NUMBER									

13 REQUEST FOR
NEW POSITION

AGENCY Public Safety
PROGRAM Life and Property Protection
BRU Driver/Vehicle Services
COMPONENT Driver Services

Page _____ of _____
Revised Date _____

FY 84

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: SCSCSHB 6 (SA)
 Title: Related to Driving a Motor Vehicle
 Sponsor: Rep. Abood
 Requestor: Senate State Affairs

II. FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Protection
 BRU, Program of Subprogram(s) Affected: Driver Services and AST

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		116.4	148.1	157.0	166.4	176.4
200 TRAVEL		5.3	3.1	3.3	3.5	3.7
300 CONTRACTUAL		51.7	43.2	45.8	48.5	51.4
400 COMMODITIES		.7	.7	.7	.8	.9
500 EQUIPMENT		52.4				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		226.5	195.1	206.8	219.2	232.4
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		226.5	195.1	206.8	219.2	232.4
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		4	4	4	4	4
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Michael Orelove
 Division: Administrative Services
 Approved by Commissioner: X [Signature]
 Department: Public Safety

Phone: 465-4349
 Date: 5-13-83
 Date: 5/16/83

Distribution:

Original to Legislative Finance
 Copy to Office of Management and Budget (for Legislature introduced bills)
 Copy to Department (for Governor introduced bills)
 Copy to Sponsor
 Copy to Requestor (if different from Sponsor)

3/8/83

Division of Motor Vehicles

FISCAL NOTE DETAIL

SCSCSHB 6 (SA)

Page 1

ASSUMPTIONS:

This fiscal note based on following assumptions: 1) SCSCSHB 6 (State Affairs) will be identical to CS HB 6 (Judiciary) with one exception. That exception being a person whose license is revoked under AS 28.15.165 could ask for an administrative hearing by the department rather than a court review: This includes requests for a limited license following an administrative revocation under AS 28.15.165, however, not in instances where the court takes the license action under AS 28.15.181. I have not seen a draft of the proposed committee substitute as it has not been prepared at the time of this writing; 2) In 1982 there were approximately 4,755 arrests for DWI. Of those who refused to take the breathalyzer test approximately 19% filed appeals in the district court, mostly to request limited driving privileges. The fiscal note is based on the assumption there will be 5,000 arrests for DWI in FY84, of which 99% will receive administrative license action under the proposed law. It is assumed 20% of those will ask for a hearing, mostly to request limited driving privileges; 3) 99% of defendants who take breath test will have .10% or higher results; 4) Effective date is October 1, 1983, with staff coming on board September 1, 1983, for training.

COMMENTS:

The present office space for the Driver Improvement Office in Anchorage, which includes all the hearing officers, will not accommodate any expansion. Therefore, the fiscal note provides for relocation and lease of new space for that section, which is currently within the Division of Motor Vehicles field office in Anchorage. Space can be made available within the Public Safety Building in Fairbanks for the hearing officer requested for that area.

DETAIL:

100 - Personal Services		
1 Driver Improvement Specialist II, Anchorage	34.2	
1 Driver Improvement Specialist II, Fairbanks	39.1	
1 Clerk Typist II, Anchorage	20.9	
1 Document Processing Clerk II, Juneau	22.2	
		116.4
200 - Travel		
210 - Field Travel	2.9	
230 - Training	2.4	
		5.3

300 - Contractural		
310 - Postage	7.9	
320 - Printing	.8	
330 - Lease Space (1,000 sq. ft.)	28.5	
360 - Equipment Rental (One AJIS terminal)	8.0	
380 - Professional Services (New Slides for written tests)	3.8	
382a- DP Chargeback (Program & Maintenance)	2.0	
390 - Tuition	.6	
		51.7
400 - Commodities		
480 - Normal office supplies, including tapes to record hearings.	.7	.7
500 - Equipment		
520 - Video player and monitor to review arresting agency video tapes at time of breath test, or refusal.	1.5	
550 - Office equipment (itemized on Forms 13)	10.9	
		<u>12.4</u>
	SUBTOTAL	185.5

DIVISION OF ALASKA STATE TROOPERS40.0

Analysis: In order to comply with the provisions of this bill that requires the breathalyzer test to be administered at the scene of the incident, \$40,000 will be required to purchase 100 new portable breathalyzer units.

TOTAL	226.5
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1.	POSITION TITLE Driver Improvement Specialist II				RANGE/STEP 16A	BARG. UNIT GG	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAP.
2.	TYPE OF POSITION PPT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT 7-15	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT	<p>This position would hold administrative hearings in the Anchorage area under driver license administrative suspension/revocation programs. This would include hearings on requests to grant a limited license on administrative license actions resulting from chemical sobriety tests, and refusals to submit to tests. Considerable time is necessary to properly prepare for each hearing.</p> <p>Travel is based on two trips to Southeastern annually, two trips to Kodiak annually, and other outlying areas in the Second and Third Judicial Districts as required. \$1,200 in travel, and \$300 in contractual is to cover a one week course for administrative hearing officers at the National Judicial College at the University of Nevada.</p> <p>Equipment breakdown for this position is as follows: Typewriter - \$1,245; Desk \$426; File Cabinet \$235; Chair \$163; and Recording equipment \$900.</p> <p>Prepared showing full year costs. Only ten month cost reflected on fiscal note for FY84.</p>					
	1	2	3							
	PERSONAL SERVICES									
5.	Salary	30,876								
6.	Benefits	5,422								
7.	Supplemental Benefits	1,893								
8.	Fixed Benefits	2,880								
9.	TOTAL PERSONAL SERVICES	01	41,071							
10.	Travel	02	3,100							
11.	Contractual	03	300							
12.	Commodities	04	100							
13.	Equipment	05	2,969							
14.	Other									
15.	TOTAL COST		47,540							
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts	1002							
17.		G.F. Match	1003							
18.		General Funds	1004	47,540						
19.		I-A Receipts	1005							
20.		Program Receipts	1028							
21.		Other								
FOR B&M USE ONLY										
4A KEY NUMBER										

13 REQUEST FOR
NEW POSITION

AGENCY Public Safety

PROGRAM Life and Property Protection

BRU Driver/Vehicle Services

COMPONENT Driver Services

FY 84

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Revised Date _____

1.	POSITION TITLE Clerk Typist II				RANGE/STEP 7B	BARG. UNIT GG	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PPT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT 7-15	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE				AMOUNT					
	1		2		3					
	PERSONAL SERVICES									
5.	Salary		18,120							
6.	Benefits		3,182							
7.	Supplemental Benefits		927							
8.	Fixed Benefits		2,880							
9.	TOTAL PERSONAL SERVICES		01		25,109					
10.	Travel		02							
11.	Contractual		03							
12.	Commodities		04		100					
13.	Equipment		05		2,947					
14.	Other									
15.	TOTAL COST				28,156					
16.	RECEIPT CODE	FUNDING SOURCE								
17.		Federal Receipts 1002								
18.		G.F. Match 1003								
19.		General Funds 1004		28,156						
20.		I-A Receipts 1005								
21.		Program Receipts 1020								
		Other								
FOR B&M USE ONLY										
4A KEY NUMBER										

This person would handle necessary paperwork for scheduling hearings, notifying individuals of hearing date, time and location, and keep appropriate records.

Would transcribe hearing records as requested, and prepare certified copies for courts, prosecutors, private attorneys, etc, when necessary. Update computer files reflecting when license action is stayed and/or limited driving privileges granted.

Equipment breakdown for this position is as follows:
 Typewriter - \$1,245; Desk - \$426; File Cabinet - \$235;
 Chair - \$141; Transcriber - \$900.

Prepared showing full year costs. Only ten month cost reflected on fiscal note for FY84.

13 REQUEST FOR
NEW POSITION

AGENCY Public Safety
 PROGRAM Life and Property Protection
 BRU Driver/Vehicle Services
 COMPONENT Driver Services

FY 84

Page of
 Revised Date

1.	POSITION TITLE Document Processing Clerk II				RANGE/STEP 8B	BARG. UNIT GG	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAP.
2.	TYPE OF POSITION PET	STAFF PHOTOS 12	RP NUMBER	PCN NUMBER	DRU PRIORITY	LOCATION Juncos	ELECTION DISTRICT 4	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	ADDITION									
5.	TYPE OF EXPENDITURE				PERSONAL SERVICES					
	1		2		3					
5.	Salary		19,176							
6.	Benefits		3,367							
7.	Supplemental Benefits		1,175							
8.	Fixed Benefits		2,880							
9.	TOTAL PERSONAL SERVICES		01		26,598					
10.	Travel		02							
11.	Contractual		03							
12.	Commodities		04		100					
13.	Equipment		05		1,724					
14.	Other									
15.	TOTAL COST				28,422					
16.	RECEIPT CODE	FUNDING SOURCE								
17.		Federal Receipts 1002								
18.		G.F. Match 1003								
19.		General Funds 1004		28,422						
20.		I-A Receipts 1005								
21.		Program Receipts 1020								
		Other								
FOR D&M USE ONLY										
4A KEY NUMBER										

One Document Processing Clerk II will be required to handle administrative license actions and related work for individual defendants whose breath test results are .10% or higher. Will prepare and mail license actions (of which it is estimated there will be an increase of 3,500 to 4,000 annually based on 1982 statistics); enter data on computer; prepare certified copies for prosecutors, courts, etc.; process stays; maintain proof of insurance filings; and maintain records. Equipment breakdown for this position is as follows: Typewriter - \$1,245; File Cabinet - \$291; and Chair - \$188.

Prepared showing full year costs. Only ten month cost reflected on fiscal note for FY84.

13 REQUEST FOR NEW POSITION

AGENCY Public Safety
 PROGRAM Life and Property Protection
 DRU Driver/Vehicle Services
 COMPONENT Driver Services

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1.	POSITION TITLE Driver Improvement Specialist II			RANGE/STEP 16A	BARG. UNIT CG	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION	STAFF MONTHS	RP NUMBER	PCN NUMBER	BRJ PRIORITY	LOCATION Fairbanks	ELECTION DISTRICT 18-21	LEG.	
3.	CONTINUATION LEVEL			ADDITION	JUSTIFICATION				
4.	TYPE OF EXPENDITURE			AMOUNT	<p>This position would hold all administrative hearings for the department in Fairbanks and outlying areas in the Fourth Judicial District. This includes hearings on requests to grant a limited license on administrative license actions resulting from chemical sobriety tests and refusals to submit to tests. Considerable time is necessary to prepare for each hearing.</p> <p>Travel is based on 10 days per diem, and transportation costs within Fourth Judicial District. \$1,200 in travel, and \$300 in contractual is to cover a one week course for administrative hearing officers at the National Judicial College at the University of Nevada.</p> <p>Equipment breakdown for this position is as follows: Typewriter - \$1,245; Desk - \$646; File Cabinet - \$291; Chair - \$187; and Recording equipment - \$900.</p> <p>Prepared showing full year costs. Only ten month cost reflected on fiscal note for FY84.</p>				
	1	2	3						
	PERSONAL SERVICES								
5.	Salary	35,580							
6.	Benefits	6,248							
7.	Supplemental Benefits	2,181							
8.	Fixed Benefits	2,880							
9.	TOTAL PERSONAL SERVICES	01	46,889						
10.	Travel	02	2,200						
11.	Contractual	03	300						
12.	Commodities	04	100						
13.	Equipment	05	3,269						
14.	Other								
15.	TOTAL COST		52,758						
	RECEIPT CODE	FUNDING SOURCE							
16.		Federal Receipts 1002							
17.		G.F. Match 1003							
18.		General Funds 1004	52,758						
19.		I-A Receipts 1005							
20.		Program Receipts 1028							
21.		Other							
FOR U&M USE ONLY									
4A KEY NUMBER _____									

13 REQUEST FOR NEW POSITION

AGENCY Public Safety
 PROGRAM Life and Property Protection
 BRJ Driver/Vehicle Services
 COMPONENT Driver Services

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FY 84

CORRECTION

Discard SCS CS HB 6 (S.A.)
and retain this corrected version.

Offered: 5/19/83
Referred: Judiciary

Original sponsors: Abood, Furnace,
Lindauer, et al

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE
2 SENATE CS FOR CS FOR HOUSE BILL NO. 6 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to driving a motor vehicle."
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 28.05.051(b) is amended to read:

9 (b) The commissioner, officers and employees of the department
10 designated by the commissioner, judges and employees of a court, and
11 all peace officers, may take possession of a certificate of title,
12 [OR] registration or license issued by this jurisdiction that [WHICH]
13 has been revoked, canceled, limited or suspended, or [WHICH] is ficti-
14 tious, stolen or altered.

15 * Sec. 2. AS 28.15.081(a) is amended to read:

16 (a) The department shall examine every applicant for a driver's
17 license. The examination shall include a test of the applicant's (1)
18 eyesight, (2) [HIS] ability to read and understand official traffic
19 control devices, (3) [HIS] knowledge of safe driving practices, (4)
20 knowledge of the effects of alcohol and drugs on drivers and the
21 dangers of driving under the influence of alcohol or drugs, and (5)
22 knowledge of the laws relating to driving while intoxicated and the
23 traffic laws and regulations of this state. The examination [, AND]
24 may include a demonstration of ability to exercise ordinary and rea-
25 sonable control in the driving of a motor vehicle of the type and
26 general class of vehicles for which the applicant seeks a license.
27 However, an applicant who has not been previously issued a driver's
28 license by this or another jurisdiction must demonstrate [HIS] abil-
29 ity, and must present medical information that [WHICH] the department

1 reasonably requires to determine [HIS] fitness to safely drive a motor
2 vehicle of the type and general class of vehicles for which the appli-
3 cant [HE] seeks a license.

4 * Sec. 3. AS 28.15 is amended by adding new sections to read:

5 Sec. 28.15.165. ADMINISTRATIVE REVOCATIONS RESULTING FROM CHEMI-
6 CAL SOBRIETY TESTS AND REFUSALS TO SUBMIT TO TESTS. (a) If a chemi-
7 cal test administered to a person driving a motor vehicle for which a
8 driver's license is required produces a result described under AS 28.-
9 35.030(a)(2) or if a person under arrest for driving a motor vehicle
10 for which a driver's license is required refuses to submit to a chemi-
11 cal test under AS 28.35.031(a), the law enforcement officer shall read
12 a notice and deliver a copy to the person. The notice shall meet the
13 requirements of AS 44.62.360 and shall advise that

14 (1) the department intends to revoke the person's driver's
15 license or nonresident privilege to drive, or refuse to issue an
16 original license to the person;

17 (2) the person has the right to administrative review of
18 the revocation or determination not to issue an original license in a
19 hearing conducted by the department under the Administrative Procedure
20 Act (AS 44.62);

21 (3) the notice itself is a temporary driver's license that
22 expires seven days after it is delivered to the person;

23 (4) revocation of the person's driver's license or nonresi-
24 dent privilege to drive, or a determination not to issue an original
25 license shall take effect upon expiration of the temporary driver's
26 license unless the person requests an administrative review under
27 AS 28.15.166.

28 (b) After reading the notice under (a) of this section, the law
29 enforcement officer shall seize the person's driver's license if it is

1 in the person's possession and shall deliver it to the department with
2 a sworn report describing the circumstances under which it was seized.

3 (c) Upon receipt of a sworn report of a law enforcement officer
4 that a chemical test produced a result described under AS 28.35.030-
5 (a)(2) or that a person refused to submit to a chemical test under
6 AS 28.35.031(a), that notice under (a) of this section was provided to
7 the person, and that contains a statement of the circumstances sur-
8 rounding the arrest and the grounds upon which the officer's belief
9 that the person was driving while intoxicated a motor vehicle for
10 which a driver's license is required was based, the department shall
11 revoke the person's license or nonresident privilege to drive a motor
12 vehicle in the state, or refuse to issue an original license effective
13 upon expiration of the temporary driver's license issued under (a) of
14 this section.

15 (d) The period of revocation of a driver's license by the de-
16 partment under this section shall be determined in accordance with
17 guidelines for court revocations under AS 28.15.181(c).

18 Sec. 28.15.166. ADMINISTRATIVE REVIEW OF REVOCATION. (a) A
19 person who has received a notice under AS 28.15.165(a) may make a
20 written request for administrative review of the department's action
21 under AS 28.15.165(c) in a hearing conducted by the department under
22 the Administrative Procedure Act (AS 44.62). If the person's driver's
23 license has not been previously surrendered to the department, it
24 shall be surrendered to the department at the time the request for
25 review is made.

26 (b) A request for review shall be made in accordance with
27 AS 44.62.390, except that if the request is not made within seven days
28 after receipt of the notice under AS 28.15.165, then the right to
29 review is waived and the action of the department under AS 28.15.-

1 165(c) is final. However, if the person shows that the person for
2 good cause was unable to make a timely request, the department may
3 waive the period of limitation, reopen the matter, and grant the
4 hearing requested.

5 (c) Upon receipt of a request for a hearing, if it appears that
6 the person holds a valid driver's license and that the driver's li-
7 cense has been surrendered, the department shall issue a temporary
8 driver's permit that is valid until the scheduled date for the hear-
9 ing. The department may issue additional temporary permits if neces-
10 sary to stay the effective date of its action under AS 28.15.165(c)
11 until the final order after the hearing is issued.

12 (d) The hearing under this section shall be limited to the
13 issues of whether there was probable cause to believe that the person
14 was driving a motor vehicle while intoxicated and whether

15 (1) the person refused to submit to a chemical test under
16 AS 28.35.031(a); or

17 (2) the chemical test administered to the person produced a
18 result described under AS 28.35.030(a)(2).

19 (e) If the issues set out in (d) of this section are determined
20 in the affirmative by a preponderance of the evidence, the hearing
21 officer shall sustain the action of the department. If one or more of
22 the issues are determined in the negative, the department's action
23 shall be rescinded.

24 (f) If the action of the department in revoking a nonresident's
25 privilege to drive a motor vehicle is sustained by the hearing offi-
26 cer, the department shall give written notice of action taken to the
27 motor vehicle administrator of the state of the person's residence and
28 to any state in which that person has a driver's license.

29 * Sec. 4. AS 28.15.181(a) is amended to read:

1 (a) Conviction of any of the [THE] following offenses is [ARE]
2 grounds for the immediate [SUSPENSION OR] revocation of a driver's
3 license:

4 (1) manslaughter or negligent homicide resulting from [THE]
5 driving [OF] a motor vehicle;

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

8 (3) failure to stop and give aid as required by law [UNDER
9 THE LAWS OF THIS STATE] when a motor vehicle accident results in the
10 death or personal injury of another;

11 (4) perjury or [THE] making [OF] a false affidavit or
12 statement under oath to the department under a law relating to motor
13 vehicles;

14 (5) [OPERATING OR] driving a motor vehicle while intoxi-
15 cated;

16 (6) reckless driving; [OR]

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

19 (8) refusal to submit to a chemical test under AS 28.35.-
20 032.

21 * Sec. 5. AS 28.15.181(b) is amended to read:

22 (b) A court convicting a person of an offense under (a)(1) -
23 (4), (6), or (7) of this section shall revoke that person's driver's
24 license for [A PERIOD OF] not less than 30 days for the first convic-
25 tion, unless the court determines that the person's ability to earn a
26 livelihood would be severely impaired and a limitation under AS 28.-
27 15.201 can be placed on the license that [WHICH] will enable the
28 person to earn a livelihood without excessive [RISK OR] danger to the
29 public. If a court limits a person's license under this subsection,

1 it shall do so for [A PERIOD OF] not less than 60 [30] days. Upon a
2 subsequent conviction of a person for any offense under (a)(1) - (4),
3 (6), or (7) of this section occurring within 10 years after a prior
4 conviction, the court shall revoke the person's license and may not
5 grant the person [ANY] limited license privileges for the following
6 periods:

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

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

10 * Sec. 6. AS 28.15.181(c) is repealed and reenacted to read:

11 (c) A court convicting a person of an offense under (a)(5) or
12 (8) of this section arising out of the operation of a motor vehicle
13 for which a driver's license is required shall revoke that person's
14 driver's license and may not, except as provided in (d) of this sec-
15 tion, grant limited license privileges for the following periods:

16 (1) not less than 90 days if, within the preceding 10
17 years, the person has not previously been convicted of an offense

18 (A) under (a)(5) or (8) of this section; or

19 (B) under a law or ordinance in another jurisdiction
20 with elements substantially similar to an offense under (a)(5) or
21 (8) of this section;

22 (2) not less than one year if, within the preceding 10
23 years, the person has been previously convicted of one offense

24 (A) under (a)(5) or (8) of this section; or

25 (B) under a law or ordinance in another jurisdiction
26 with elements substantially similar to an offense under (a)(5) or
27 (8) of this section;

28 (3) not less than 10 years if, within the preceding 10
29 years, the person has been previously convicted of more than one of

1 the following offenses or has more than once been previously convicted
2 of one of the following offenses:

- 3 (A) an offense under (a)(5) or (8) of this section; or
4 (B) an offense under another law or ordinance in
5 another jurisdiction with elements substantially similar to an
6 offense under (a)(5) or (8) of this section.

7 * Sec. 7. AS 28.15.181 is amended by adding a new subsection to read:

8 (d) A court revoking a driver's license under (c)(1) of this
9 section may grant limited license privileges for the final 60 days
10 during which the license is revoked if the court determines that the
11 person's ability to earn a livelihood would be severely impaired and a
12 limitation under AS 28.15.201 can be placed on the license that will
13 enable the person to earn a livelihood without excessive danger to the
14 public.

15 * Sec. 8. AS 28.15.201(b)(1) is amended to read:

16 (1) require the surrender of the driver's license [AND, IF
17 THE PERSON IS CONVICTED OF AN OFFENSE UNDER AS 28.15.181(a)(5), REVOKE
18 THAT PERSON'S LICENSE FOR A PERIOD OF NOT LESS THAN 60 DAYS]; and

19 * Sec. 9. AS 28.15.201(c) is amended to read:

20 (c) After the termination of a limitation as shown on the certi-
21 ficate issued under (b) of this section, the license of a person on
22 whom a limitation was imposed is revoked until the person receives a
23 new [NO LONGER BOUND BY THE LIMITATION AND MAY APPLY FOR A DUPLICATE]
24 license in accordance with AS 28.20.240 [UNDER AS 28.15.141 OR, IF
25 OTHERWISE ELIGIBLE, FOR A NEW LICENSE IF THE LICENSE WAS REVOKED FOR
26 CONVICTION OF AN OFFENSE UNDER AS 28.15.181(a)(5) AND LIMITED LICENSE
27 PRIVILEGES WERE GRANTED UNDER AS 28.15.181(c)].

28 * Sec. 10. AS 28.15.291 is amended to read:

29 Sec. 28.15.291. DRIVING WHILE LICENSE CANCELED, SUSPENDED,

1 REVOKED OR IN VIOLATION OF LIMITATION. (a) A [NO] person may not
2 drive a motor vehicle on a highway or vehicular way or area [IN THIS
3 STATE] at a time when that person's [HIS] driver's license, or privi-
4 lege to drive [IN THIS STATE IF HE IS LICENSED IN ANOTHER JURISDIC-
5 TION,] has been canceled, suspended or revoked in this or another
6 jurisdiction, or when [HE IS] driving in violation of a limitation
7 placed upon that person's [HIS] license or privilege to drive in this
8 or [, EVEN WHEN HE IS DRIVING UNDER A LICENSE ISSUED IN] another
9 jurisdiction. Except as provided in (c) of this section, upon [UPON]
10 conviction of a violation of this section, the court shall impose a
11 [MINIMUM] sentence of imprisonment of not less than 10 days. The exe-
12 cution of sentence may not be suspended nor may probation or parole be
13 granted until the minimum imprisonment provided in this section has
14 been served; nor may imposition of sentence be suspended [, EXCEPT
15 UPON THE CONDITION THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN
16 THE MINIMUM PERIOD PROVIDED FOR IN THIS SECTION]. In addition, the
17 person's [HIS] license or privilege to drive shall be revoked, and the
18 person [HE] may not be issued a new license nor may the [HIS] privi-
19 lege to drive be restored for an additional period of one year after
20 the date that the person [HE] would have been entitled to restoration
21 of [HIS] driving privileges.

22 (b) When a person's license is canceled, limited, suspended or
23 revoked, that person [HE] shall be informed by the department or the
24 court that [WHICH] takes the action at the time of the action that,
25 upon a conviction of driving on a highway or vehicular way or area in
26 this state at a time when that person's [HIS] driver's license or
27 privilege to drive in this state has been canceled, suspended or
28 revoked, or upon a conviction of driving in violation of a limitation
29 of the [HIS] license, that person [HE] will be subject to the manda-

1 tory minimum sentence of [10-DAY] imprisonment under [(a) OF] this
2 section.

3 * Sec. 11. AS 28.15.291 is amended by adding a new subsection to read:

4 (c) The court shall impose a sentence of imprisonment of not
5 less than 30 days and a fine of not less than \$500 upon conviction of
6 a violation of this section if the person's driver's license was
7 revoked under AS 28.15.181(c)(1). The court shall impose a sentence
8 of imprisonment of not less than 90 days and a fine of not less than
9 \$1,000 upon conviction of a violation of this section if the person's
10 driver's license was revoked under AS 28.15.181(c)(2) or (3). The
11 execution of sentence may not be suspended nor may probation or parole
12 be granted until the minimum imprisonment provided in this subsection
13 has been served. Imposition of sentence may not be suspended. In
14 addition, the person's privilege to drive shall be suspended for an
15 additional period of not less than one year after the date that the
16 person would have been entitled to restoration of driving privileges
17 if the person had not been convicted under this section.

18 * Sec. 12. AS 28.20.240 is amended to read:

19 Sec. 28.20.240. PROOF REQUIRED WHEN DRIVING PRIVILEGE [USE OF
20 LICENSE] IS RESTRICTED. Whenever under a law of this state the li-
21 cense of a person is suspended, revoked, limited under AS 28.15.201,
22 or canceled for any reason, the department may not issue to that
23 person a new or renewal of license [IN HIS NAME] until permitted to do
24 so under the motor vehicle laws of this state. A period of suspen-
25 sion, revocation, [LIMITATION,] or cancellation [UNDER THIS SECTION]
26 continues until proof of financial responsibility for the future is
27 provided. Upon expiration of a period of limitation, the license
28 remains revoked until proof of financial responsibility for the future
29 is provided.

1 * Sec. 13. AS 28.35 is amended by adding new sections to read:

2 Sec. 28.35.028. SOBRIETY CHECKPOINTS. (a) The department
3 shall enforce the provisions of this title regarding driving while
4 intoxicated and in its enforcement efforts may use preliminary
5 breath tests under AS 28.35.031(b) at sobriety checkpoints on a
6 highway.

7 (b) In this section, "sobriety checkpoint" means a temporary
8 location on the highway used by peace officers and selected as a safe
9 place for detecting and apprehending intoxicated drivers.

10 (c) Nothing in this section prevents a person approaching a
11 sobriety checkpoint from avoiding the checkpoint by lawfully driving
12 in another direction.

13 Sec. 28.35.029. OPEN CONTAINER. (a) A person may not operate a
14 motor vehicle when there is an open bottle, can or other receptacle
15 containing an alcoholic beverage in the passenger compartment of the
16 vehicle.

17 (b) In this section,

18 (1) "motor vehicle" means a vehicle for which a driver's
19 license is required;

20 (2) "open" includes having a broken seal;

21 (3) "passenger compartment" means the area of a motor
22 vehicle normally occupied by the driver and passengers and includes a
23 utility or glove compartment accessible to the driver or a passenger
24 while the vehicle is being operated.

25 (c) A person who violates (a) of this section is guilty of an
26 infraction.

27 * Sec. 14. AS 28.35.030(c) is amended to read:

28 (c) Upon conviction under this section the court shall impose a
29 minimum sentence of imprisonment of not less than 72 consecutive hours

1 sition of sentence may not be suspended [, EXCEPT UPON THE CONDITION
2 THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN THE MINIMUM PERIOD
3 PROVIDED IN THIS SECTION]. In addition, if the offense involved
4 driving a motor vehicle for which a driver's license is required, the
5 person's driver's [HIS OPERATOR'S] license shall be revoked in accor-
6 dance with AS 28.15.181 and the vehicle used in commission of the
7 offense may be forfeited under AS 28.35.036. In addition, the court
8 shall order, and a person convicted under this section [STATUTE] shall
9 undertake, treatment or education commensurate with the person's needs
10 and the resources of the community where the person lives [FOR A TERM
11 SPECIFIED BY THE COURT, THAT PROGRAM OF ALCOHOL EDUCATION OR REHABILI-
12 TATION WHICH THE COURT, AFTER CONSIDERATION OF ANY INFORMATION COM-
13 PILED UNDER (d) OF THIS SECTION, FINDS APPROPRIATE].

14 * Sec. 15. AS 28.35.031 is amended by adding a new subsection to read:

15 (b) A person who drives a motor vehicle that is involved in an
16 accident or who has committed a moving traffic violation shall be
17 considered to have given consent to a preliminary breath test for the
18 purpose of determining the alcoholic content of the person's blood or
19 breath. The test shall be administered at the scene of the incident
20 at the direction of a law enforcement officer who has reasonable
21 grounds to believe that the person's ability to operate a motor vehi-
22 cle is impaired by the ingestion of alcoholic beverages, drugs or a
23 combination of drugs and alcohol, and that the person was driving a
24 motor vehicle that is involved in an accident or has committed a
25 moving traffic violation. The result of the test may be used by the
26 law enforcement officer to determine whether the driver should be
27 arrested. Before administering the test, the officer shall advise the
28 person that refusal may be used against the person in a civil or
29 criminal action arising out of the incident and that refusal is an

1 and a fine of not less than \$250 if the person has not been previously
2 convicted in this or another jurisdiction of driving while intoxicated
3 under this or another law or ordinance with substantially similar
4 elements or refusal to submit to a chemical test under AS 28.35.032
5 or another law or ordinance with substantially similar elements. Upon
6 [A SUBSEQUENT] conviction under this section the court shall impose a
7 minimum sentence of imprisonment of not less than 20 consecutive days
8 and a fine of not less than \$500 if, within the preceding 10 years,
9 the person has been previously convicted once in this or another
10 jurisdiction [WITHIN FIVE YEARS AFTER A CONVICTION] of driving while
11 intoxicated under this or another law or ordinance with substantially
12 similar elements or [IN THIS OR ANY OTHER STATE OR CONVICTION OF]
13 refusal to submit to a chemical test under AS 28.35.032 or another law
14 or ordinance with substantially similar elements. Upon conviction
15 under this section [OF BREATH UNDER AS 28.35.032,] the court shall
16 impose a minimum sentence of imprisonment of not less than 30 [10]
17 consecutive days and a fine of not less than \$1,000 if, within the
18 preceding 10 years, the person has been previously convicted in this
19 or another jurisdiction of more than one of the following offenses or
20 has more than once been previously convicted of one of the following
21 offenses: (1) driving while intoxicated under this or another law or
22 ordinance with substantially similar elements; (2) refusal to submit
23 to a chemical test under AS 28.35.032 or another law or ordinance with
24 substantially similar elements [UNLESS THE SUBSEQUENT CONVICTION IS
25 WITHIN ONE YEAR OF THE PREVIOUS CONVICTION, IN WHICH CASE THE COURT
26 SHALL IMPOSE A MINIMUM SENTENCE OF IMPRISONMENT OF NOT LESS THAN 20
27 CONSECUTIVE DAYS]. The execution of sentence may not be suspended nor
28 may probation be granted except on condition that [UNTIL] the minimum
29 imprisonment provided in this section is [HAS BEEN] served. Impo-

1 sition of sentence may not be suspended [, EXCEPT UPON THE CONDITION
2 THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN THE MINIMUM PERIOD
3 PROVIDED IN THIS SECTION]. In addition, if the offense involved
4 driving a motor vehicle for which a driver's license is required, the
5 person's driver's [HIS OPERATOR'S] license shall be revoked in accor-
6 dance with AS 28.15.181 and the vehicle used in commission of the
7 offense may be forfeited under AS 28.35.036. In addition, the court
8 shall order, and a person convicted under this section [STATUTE] shall
9 undertake, treatment or education commensurate with the person's needs
10 and the resources of the community where the person lives [FOR A TERM
11 SPECIFIED BY THE COURT, THAT PROGRAM OF ALCOHOL EDUCATION OR REHABILI-
12 TATION WHICH THE COURT, AFTER CONSIDERATION OF ANY INFORMATION COM-
13 PILED UNDER (d) OF THIS SECTION, FINDS APPROPRIATE].

14 * Sec. 15. AS 28.35.031 is amended by adding a new subsection to read:

15 (b) A person who drives a motor vehicle that is involved in an
16 accident or who has committed a moving traffic violation shall be
17 considered to have given consent to a preliminary breath test for the
18 purpose of determining the alcoholic content of the person's blood or
19 breath. The test shall be administered at the scene of the incident
20 at the direction of a law enforcement officer who has reasonable
21 grounds to believe that the person's ability to operate a motor vehi-
22 cle is impaired by the ingestion of alcoholic beverages, drugs or a
23 combination of drugs and alcohol, and that the person was driving a
24 motor vehicle that is involved in an accident or has committed a
25 moving traffic violation. The result of the test may be used by the
26 law enforcement officer to determine whether the driver should be
27 arrested. Before administering the test, the officer shall advise the
28 person that refusal may be used against the person in a civil or
29 criminal action arising out of the incident and that refusal is an

1 infraction. If the person refuses to submit to the test, the test
2 shall not be administered. Refusal to submit to a preliminary breath
3 test at the request of a law enforcement officer is an infraction.

4 * Sec. 16. AS 28.35.032(a) is amended to read:

5 (a) If a person under arrest refuses the request of a law en-
6 forcement officer to submit to a chemical test under AS 28.35.031(a)
7 [OF BREATH AS PROVIDED IN AS 28.35.031], after being advised by the
8 officer that the refusal will, if that person was arrested while
9 operating or driving a motor vehicle for which a driver's license is
10 required, result in the [SUSPENSION,] denial or revocation of the
11 license or nonresident privilege to drive, that the refusal may be
12 used against the person in a civil or criminal action or proceeding
13 arising out of an act alleged to have been committed by the person
14 while operating or driving a motor vehicle or operating an aircraft or
15 a watercraft while intoxicated, and that the refusal is a misdemeanor,
16 a chemical test shall not be given, except as provided by AS 28.35.-
17 035.

18 * Sec. 17. AS 28.35.032(g) is amended to read:

19 (g) Upon conviction of a person under this section, the court
20 shall impose a minimum sentence of imprisonment of not less than 72
21 consecutive hours and a fine of not less than \$250 if the person has
22 not been previously convicted in this or another jurisdiction of
23 driving while intoxicated under AS 28.35.030 or another law or ordi-
24 nance with substantially similar elements or refusal to submit to a
25 chemical test under this or another law or ordinance with substan-
26 tially similar elements. Upon [A SUBSEQUENT] conviction under this
27 section the court shall impose a minimum sentence of imprisonment of
28 not less than 20 consecutive days and a fine of not less than \$500 if,
29 within the preceding 10 years, the person has been previously con-

1 victed once in this or another jurisdiction [WITHIN FIVE YEARS AFTER A
2 CONVICTION UNDER THIS SECTION OR] of driving while intoxicated under
3 AS 28.35.030 or another law or ordinance with substantially similar
4 elements or refusal to submit to a chemical test under this or another
5 law or ordinance with substantially similar elements. Upon conviction
6 under this section the court shall impose a minimum sentence of im-
7 prisonment of not less than 30 consecutive days and a fine of not less
8 than \$1,000 if, within the previous 10 years, the person has been
9 previously convicted in this or another jurisdiction of more than one
10 of the following offenses or has more than once been previously con-
11 victed of one of the following offenses: (1) driving while intoxi-
12 cated under AS 28.35.030 or another law or ordinance with substan-
13 tially similar elements; (2) refusal to submit to a chemical test
14 under this or another law or ordinance with substantially similar
15 elements [IN THIS OR ANY OTHER STATE, THE COURT SHALL IMPOSE A MINIMUM
16 SENTENCE OF IMPRISONMENT OF NOT LESS THAN 10 CONSECUTIVE DAYS UNLESS
17 THE SUBSEQUENT CONVICTION IS WITHIN ONE YEAR OF THE PREVIOUS CONVIC-
18 TION, IN WHICH CASE THE COURT SHALL IMPOSE A MINIMUM SENTENCE OF
19 IMPRISONMENT OF NOT LESS THAN 20 CONSECUTIVE DAYS]. The execution of
20 sentence may not be suspended nor may probation be granted except on
21 condition that [UNTIL] the minimum imprisonment provided in this
22 section is [HAS BEEN] served. Imposition of sentence may not be
23 suspended. If the offense involved driving a motor vehicle for which
24 a driver's license is required, the person's driver's license shall be
25 revoked under AS 28.15.181 [, EXCEPT UPON THE CONDITION THAT THE
26 DEFENDANT BE IMPRISONED FOR NO LESS THAN THE MINIMUM PERIOD PROVIDED
27 IN THIS SECTION]. In addition, the court shall order, and a person
28 convicted under this section shall undertake, treatment or education
29 commensurate with the person's needs and the resources of the communi-

1 ty where the person lives [FOR A TERM SPECIFIED BY THE COURT, THAT
2 PROGRAM OF ALCOHOL EDUCATION OR REHABILITATION THAT THE COURT, AFTER
3 CONSIDERATION OF ANY INFORMATION COMPILED UNDER (h) OF THIS SECTION,
4 FINDS APPROPRIATE]. The sentence imposed by the court under this
5 subsection shall run consecutively with any other sentence of im-
6 prisonment imposed on the committed person.

7 * Sec. 18. AS 28.35.034 is amended to read:

8 Sec. 28.35.034. SURRENDER OF LICENSE OR PERMIT [PERIOD OF REVO-
9 CATION]. A person whose license or permit to operate or drive a motor
10 vehicle has been [SUSPENDED OR] revoked under AS 28.15.165 or AS 28.-
11 15.181 [THE PROVISIONS OF AS 28.35.032] shall surrender the [HIS]
12 license or permit to the department on receipt of notice of the revo-
13 cation. [SUCH A PERSON IS INELIGIBLE FOR AN OPERATOR'S LICENSE OR
14 PERMIT FOR THREE MONTHS FOLLOWING THE DATE ON WHICH THE LICENSE OR
15 PERMIT WAS RECEIVED BY THE DEPARTMENT, UNLESS THE DISTRICT COURT FINDS
16 THAT EXTENUATING CIRCUMSTANCES EXIST WHICH WOULD CAUSE EXTREME HARD-
17 SHIP, IN WHICH CASE THE SUSPENSION OR REVOCATION MAY BE MODIFIED OR
18 NULLIFIED.] After the [THREE MONTHS'] period of revocation has ex-
19 pired, the person may make application for a new license as provided
20 by law.

21 * Sec. 19. AS 28.35.035 is amended to read:

22 Sec. 28.35.035. ADMINISTRATION OF CHEMICAL TESTS WITHOUT CON-
23 SENT. (a) If a person is under arrest for an offense arising out of
24 acts alleged to have been committed while the person was driving a
25 motor vehicle [THE CRIME OF DRIVING] while intoxicated, and that
26 arrest results from an accident that causes death or physical injury
27 to another person, a chemical test may be administered without the
28 consent of the person arrested to determine the amount of alcohol in
29 that person's breath or blood.

1 (b) A person who is unconscious or otherwise in a condition
2 rendering that person incapable of refusal is considered not to have
3 withdrawn the consent provided under AS 28.35.031 and a chemical test
4 may be administered to determine the amount of alcohol in that per-
5 son's breath or blood. A person who is unconscious or otherwise
6 incapable of refusal need not be placed under arrest before a chemical
7 test may be administered.

8 (c) If a chemical test is administered to a person under (a) or
9 (b) of this section, that person is not subject to the penalties for
10 refusal to submit to a chemical test provided by AS 28.35.032 and
11 28.35.034.

12 * Sec. 20. AS 28.35 is amended by adding new sections to read:

13 Sec. 28.35.036. FORFEITURE OF MOTOR VEHICLE. (a) After convic-
14 tion of an offense under AS 28.35.030 or AS 28.35.032 involving a
15 motor vehicle of a type for which a driver's license is required and
16 upon motion by the state, the court shall hold a forfeiture hearing
17 and may order the forfeiture of the motor vehicle involved in the
18 commission of the offense if the person has been previously convicted
19 in this or another jurisdiction of more than one of the following
20 offenses or has more than once been previously convicted of one of the
21 following offenses:

22 (1) driving while intoxicated under AS 28.35.030 or another
23 law or ordinance with substantially similar elements; or

24 (2) refusal to submit to a chemical test under AS 28.35.032
25 or another law or ordinance with substantially similar elements.

26 (b) Upon forfeiture of a motor vehicle the court shall require
27 the surrender of the registration and certificate of title of that
28 motor vehicle. The registration and certificate of title shall be
29 delivered to the department.

1 (c) If not released under AS 28.35.037, a motor vehicle for-
2 feited under this section may be disposed of at the discretion of the
3 department.

4 Sec. 28.35.037. REMISSION OF FORFEITURES. (a) Upon moving for
5 forfeiture of a motor vehicle under AS 28.35.036, the state shall
6 provide to every person who has an ascertainable ownership or security
7 interest in the motor vehicle written notice that includes

8 (1) a description of the motor vehicle;

9 (2) the time and place of the forfeiture hearing;

10 (3) the legal authority under which the motor vehicle may
11 be forfeited;

12 (4) notice of the right to intervene to protect the inter-
13 est in the motor vehicle.

14 (b) Upon receipt of a motion to intervene in a forfeiture hear-
15 ing the court shall order the satisfaction of the interest from the
16 proceeds of the sale of the motor vehicle or order the motor vehicle
17 to be released to the petitioner together with title to the motor
18 vehicle if the petitioner shows by a preponderance of the evidence
19 that

20 (1) the petitioner has an interest in the motor vehicle
21 acquired in good faith;

22 (2) a person other than the petitioner was convicted of the
23 offense that resulted in the forfeiture;

24 (3) the petitioner was not negligent in parting with the
25 motor vehicle.

26 Sec. 28.35.038. MUNICIPAL IMPOUNDMENT AND FORFEITURE. Notwith-
27 standing other provisions in this title, a municipality may adopt an
28 ordinance providing for the impoundment or forfeiture of a motor
29 vehicle involved in the commission of an offense under AS 28.35.030,

1 28.35.032, or an ordinance with elements substantially similar to
2 AS 28.35.030 or AS 28.35.032. An ordinance adopted under this section
3 is not required to be consistent with this title or regulations adopt-
4 ed under this title.

5 * Sec. 21. AS 28.15.211(a)(4) and AS 28.35.032(b),(c), and (d) are re-
6 pealed.

SFC-83
6/7/83

June 7, 1983

M E M O R A N D U M

TO: Sen. Don Bennett, Co-chairman
Senate Finance Committee
Sen. John Sackett, Co-chairman
Senate Finance Committee
Sen. Frank Ferguson
Sen. Joe Josephson
Sen. Jan Faiks
Sen. Vic Fischer
Sen. Bob Mulcahy

FROM: Karla L. Forsythe *KLF*
General Counsel, Alaska Court System

SUBJECT: Senate CS for CS for House Bill No. 6 (Judiciary)
"An Act relating to driving a motor vehicle"

Thank you for the opportunity to submit comments regarding the above-entitled act.

The proposed bill impacts the courts in two ways. First, penalties for DWI are increased. Based on past experience, the court system anticipates more contested hearings, because defendants will go to trial in an attempt to avoid harsher penalties. New resources (primarily part-time judges and clerical staff) will be required to process these cases, particularly in urban areas where DWI filings are heaviest and where courts are already working at capacity.

The second area of impact relates to a feature of this legislation not found in current law. Presently, an intoxicated driver's license is not revoked until the driver is sentenced by the court. The proposed bill requires immediate revocation on the scene by the law enforcement officer. If an officer has probable cause to believe a driver is intoxicated, and the driver refuses a chemical test or the test indicates the requisite blood alcohol content, the officer must take the person's license. The officer gives the driver a notice which serves as a 7-day driving permit. During that time, the driver can ask for review of the revocation, and the revocation must be stayed.

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Previous versions of this bill have incorporated one of two different approaches to the revocation review. One way is to have the review handled by the courts, which results in scheduling delays because of crowded court calendars. Alternatively, the hearing can be handled administratively by the department of public safety. The latter approach is recommended by the National Traffic Highway Safety Administration as a means of avoiding inevitable court delays, and was incorporated in the version of the bill from Senate State Affairs. Both the House bill and the Senate Judiciary Committee version require the court to handle these hearings, based in part on a DPS concern that the department would have to hire new hearing officers. However, the court would also have to hire new staff, including two judges, at a greater cost than that incurred by hiring hearing officers.

The department of public safety, the department of law, and the court system have analyzed the revocation procedure to determine if there is a way to resolve these concerns. The court system believes a mutually satisfactory approach has been developed, which places the hearing responsibility within the department of public safety, but permits the use of court system magistrates as hearing officers in outlying areas, which saves travel costs.

This new approach differs from the current version of the bill in several respects. First, the revocation procedure, including the administrative paperwork, would be handled under the auspices of the department of public safety. However, upon consent of the administrative director of the Alaska Court System, the commissioner of public safety would be authorized to designate magistrates to serve as hearing officers.

Practically speaking, this means that in the more urban locations where DPS can readily provide hearing officers, such as Anchorage and Fairbanks, DPS will handle the hearings. However, in outlying areas, such as Unalaska and Cordova, the local magistrate would be designated as the hearing officer. This approach saves state money, because it would be costly to transport a hearing officer to outlying communities in which revocation reviews rarely arise.

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It is also proposed that the hearing officer should be able to grant limited licenses, using the same standard as would the court. Since most appeals to court under current law are for the purpose of obtaining a limited license rather than appealing legal issues, this procedure should avoid duplicative effort and reduce the number of appeals. Any appeal from a hearing officer's decision would not be conducted as a de novo hearing, as is the case under current law, but instead as an appeal on the record without new evidence.

The major advantage to an approach which uses both DPS and court system resources is that hearings in urban areas can be scheduled apart from the court calendar, resulting in speedier revocation of licenses. However, the costs of the procedure will be minimized by use of existing court system positions.

The court system has attached proposed revisions to the bill which incorporate these changes. In the sections which outline the revocation procedure, the word "court" has been stricken, or the word "department" substituted. New language authorized the commissioner to designate a magistrate to serve as a hearing officer upon consent of the administrative director of the court system. New proposed sections also authorize the hearing officer to grant a limited license, and set forth the procedure for judicial review of the revocation hearing. Finally, an amendment to Title 22 includes the duties of hearing officer as one of the functions of a district judge and magistrate.

The court system suggests re-drafting two other sections of the legislation. First, the bill should clearly define the relationship between the immediate revocation by an officer, the revocation review hearing, and any concurrent or consecutive revocation which the court imposes as part of the DWI sentence. Second, the present version of the bill contains separate sections for review of a revocation based on refusal to submit to a chemical test, and for review of a revocation based on the requisite blood alcohol content. These sections should be combined, and any inconsistencies resolved. Although it is not appropriate for the court system to propose substantive changes in these areas, clarification will aid the court in following the legislative intent.

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The court system will be glad to provide additional information about these comments, or to answer any questions relating to the court's role in implementing the proposed bill.

cc:
Rep. Mitch Abood
Chief Justice Edmond W. Burke
Arthur H. Snowden, II
Gayle Horetski, Department of Law

Offered: 6/1/83
Referred: Finance

Original sponsors: Abood, Furnace,
Lindauer, et al

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 SENATE CS FOR CS FOR HOUSE BILL NO. 6 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL
6 For an Act entitled: "An Act relating to driving a motor vehicle."
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 28.05.051(b) is amended to read:

9 (b) The commissioner, officers and employees of the department
10 designated by the commissioner, judges and employees of a court, and
11 all peace officers, may take possession of a certificate of title,
12 [OR] registration or license issued by this jurisdiction that [WHICH]
13 has been revoked, canceled, limited or suspended, or [WHICH] is ficti-
14 tious, stolen or altered.

15 * Sec. 2. AS 28.15.081(a) is amended to read:

16 (a) The department shall examine every applicant for a driver's
17 license. The examination shall include a test of the applicant's (1)
18 eyesight, (2) [HIS] ability to read and understand official traffic
19 control devices, (3) [HIS] knowledge of safe driving practices, (4)
20 knowledge of the effects of alcohol and drugs on drivers and the
21 dangers of driving under the influence of alcohol or drugs, and (5)
22 knowledge of the laws relating to driving while intoxicated and the
23 traffic laws and regulations of this state. The examination [, AND]
24 may include a demonstration of ability to exercise ordinary and rea-
25 sonable control in the driving of a motor vehicle of the type and
26 general class of vehicles for which the applicant seeks a license.
27 However, an applicant who has not been previously issued a driver's
28 license by this or another jurisdiction must demonstrate [HIS] abil-
29 ity, and must present medical information that [WHICH] the department

1 reasonably requires to determine [HIS] fitness to safely drive a motor
2 vehicle of the type and general class of vehicles for which the appli-
3 cant [HE] seeks a license.

4 * Sec. 3. AS 28.15 is amended by adding new sections to read:

5 Sec. 28.15.165. ADMINISTRATIVE REVOCATIONS RESULTING FROM CHEMI-
6 CAL SOBRIETY TESTS AND REFUSALS TO SUBMIT TO TESTS. (a) If a chemi-
7 cal test administered under AS 28.35.031(a) to a person driving a
8 motor vehicle for which a driver's license is required produces a
9 result described in AS 28.35.030(a)(2) or if a person under arrest for
10 driving a motor vehicle for which a driver's license is required
11 refuses to submit to a chemical test under AS 28.35.031(a), the law
12 enforcement officer shall read a notice and deliver a copy to the
13 person. The notice shall advise that

14 (1) the department intends to revoke the person's driver's
15 license or nonresident privilege to drive, or refuse to issue an
16 original license to the person;

17 (2) the person has the right to obtain [court] review of the
18 revocation or determination not to issue an original license;

19 (3) the notice itself is a temporary driver's license that
20 expires seven days after it is delivered to the person;

21 (4) revocation of the person's driver's license or nonresi-
22 dent privilege to drive, or a determination not to issue an original
23 license shall take effect upon expiration of the temporary driver's
24 license unless the person within seven days initiates [court] proceed-
25 ings to rescind the action.

26 (b) After reading the notice under (a) of this section, the law
27 enforcement officer shall seize the person's driver's license if it is
28 in the person's possession and shall deliver it to the department with
29 a sworn report describing the circumstances under which it was seized.

1 (c) Upon receipt of a sworn report of a law enforcement officer
2 that a chemical test under AS 28.35.031(a) produced a result described
3 in AS 28.35.030(a)(2) or that a person refused to submit to a chemical
4 test under AS 28.35.031(a), that notice under (a) of this section was
5 provided to the person, and that contains a statement of the circum-
6 stances surrounding the arrest and the grounds upon which the offi-
7 cer's belief that the person was driving while intoxicated a motor
8 vehicle for which a driver's license is required was based, the
9 department shall revoke the person's license or nonresident privilege
10 to drive a motor vehicle in the state, or refuse to issue an original
11 license effective upon expiration of the temporary driver's license
12 issued under (a) of this section.

13 (d) The period of revocation of a driver's license by the de-
14 partment under this section shall be determined in accordance with
15 guidelines for court revocations under AS 28.15.181(c).

16 Sec. 28.15.166. ~~[COURT]~~ REVIEW OF REVOCATION. (a) A person who
17 has received a notice under AS 28.15.165(a) may make a written request
18 for ~~[court]~~ review of the department's action under AS 28.15.165(c). If
19 the person's driver's license has not been previously surrendered to
20 the department, it shall be surrendered ~~[to the court]~~ at the time the
21 request for review is made.

22 (b) A request for review shall be made within seven days after
23 receipt of the notice under AS 28.15.165 or the right to review is
24 waived and the action of the department under AS 28.15.165(c) is
25 final. If a written request for a review is made after expiration of
26 the seven-day period, and if it is accompanied by the applicant's
27 verified statement explaining the failure to make a timely request for
28 a review, the ~~[court]~~ ^{department} shall receive and consider the request. If the
29 ~~[court]~~ ^{department} finds that the person was unable to make a timely request due to

1 lack of actual notice of the revocation or due to factors of physical
2 incapacity such as hospitalization or incarceration, the [court] shall
3 waive the period of limitation, reopen the matter, and grant the
4 review request.

5 (c) Upon receipt of a request for review, if it appears that the
6 person holds a valid driver's license and that the driver's license
7 has been surrendered, the [court] shall issue a temporary driver's
8 permit that is valid until the scheduled date for the review. If
9 necessary, the [court] may issue additional temporary permits to stay
10 the effective date of the action of the department under AS 28.15.-
11 165(c) until the final order after the review is issued.

(d) The review shall be heard before a hearing officer designated by the commissioner. Upon the request of the administrative director of the Alaska court system, the commissioner may designate a district judge or magistrate to serve as the hearing officer. The hearing officer shall have authority to administer oaths and affirmations; to examine witnesses and take testimony; to receive relevant evidence; to issue subpoenas, take depositions, or cause depositions or interrogatories to be taken; to regulate the course and conduct of the hearing; and to make a final ruling on the issue. If the person who requested the hearing fails to appear without just cause, the right to a hearing shall be waived, and the determination of the department which is based upon the enforcement officer's report becomes final.

12 ^(e)
13 ~~[(d)]~~ The ~~[court]~~ review under this section shall be limited to the
14 issues of whether there was probable cause to believe that the person
15 was driving a motor vehicle while intoxicated and whether

16 (1) the person refused to submit to a chemical test under
17 AS 28.35.031(a); or

18 (2) the chemical test authorized under AS 28.35.031(a) and
19 administered to the person produced a result described in
20 AS 28.35.030(a)(2).

21 ^(f)
22 ~~[(e)]~~ If the issues set out in (d) of this section are determined
23 in the affirmative by a preponderance of the evidence, the ~~[court]~~ ^{hearing officer} shall
24 sustain the action of the department. If one or more of the issues is
25 determined in the negative, the department's action shall be
26 rescinded.

27 ^(g)
28 ~~[(f)]~~ If the action of the department in revoking a nonresident's
29 privilege to drive a motor vehicle is sustained by the ~~[court]~~ ^{hearing officer}, the
30 department shall give written notice of action taken to the motor
31 vehicle administrator of the state of the person's residence and to
32 any state in which that person has a driver's license.

33 (h) A hearing officer revoking a driver's license
34 on the basis that a chemical test administered to the
35 person produced a result described in AS 28.35.030(a)(2)
36 may grant limited license privileges. The privileges
37 may be granted for the final 60 days during which the
38 license is revoked if the hearing officer determines that
39 the person's ability to earn a livelihood would be severely
40 impaired and a limitation under AS 28.15.201 can be placed
41 on the license that will enable the person to earn a
42 livelihood without excessive danger to the public. A
43 hearing officer revoking a driver's license on the basis
44 that the person refused to submit to a chemical test may
45 not grant limited license privileges.

46 (i) Within 30 days of the issuance of the final
47 determination of the department, a person aggrieved by
48 the determination shall have the right to file an appeal
49 for judicial review in superior court. The review shall

be on the record, without taking additional testimony. If the court finds that the department made an erroneous interpretation of the law, acted in an arbitrary and capricious manner, or made a determination which is unsupported by the evidence in the record, the court may reverse the department's determination. The filing of an appeal shall not result in an automatic stay of the revocation order. The court may grant a stay of the order only upon motion and hearing, and upon a finding that there is a reasonable probability that the petitioner will prevail upon the merits, and that the petitioner will suffer irreparable harm if the order is not stayed.

Sections 4 - 16. No changes.

1 (f) If a driver is arrested, the provisions of AS 28.35.031(a)
2 apply. The preliminary breath test authorized in this section is in
3 addition to any tests authorized under AS 28.35.031(a).

4 * Sec. 16. AS 28.35.032(a) is amended to read:

5 (a) If a person under arrest refuses the request of a law en-
6 forcement officer to submit to a chemical test under AS 28.35.031(a)
7 [OF BREATH AS PROVIDED IN AS 28.35.031], after being advised by the
8 officer that the refusal will, if that person was arrested while
9 operating or driving a motor vehicle for which a driver's license is
10 required, result in the [SUSPENSION,] denial or revocation of the
11 license or nonresident privilege to drive, that the refusal may be
12 used against the person in a civil or criminal action or proceeding
13 arising out of an act alleged to have been committed by the person
14 while operating or driving a motor vehicle or operating an aircraft or
15 a watercraft while intoxicated, and that the refusal is a misdemeanor,
16 a chemical test shall not be given, except as provided by AS 28.35.-
17 035.

18 * Sec. 17. AS 28.35.032(b) is amended to read:

19 (b) Upon receipt of a sworn report of a law enforcement officer
20 that a person has refused to submit to a chemical test authorized
21 under AS 28.35.031(a) [AS 28.35.031], containing a statement of the
22 circumstances surrounding the arrest and the grounds upon which the
23 law enforcement officer's belief was based that the person was
24 operating or driving a motor vehicle in violation of AS 28.35.030, the
25 Department of Public Safety shall notify the person that the person's
26 license or nonresident privilege to drive or operate a motor vehicle
27 in the the state is revoked or suspended, or that no original license
28 or permit will be issued for 90 days [THREE MONTHS]. In the same
29 notice the department shall inform the person that the person may

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1 initiate a proceeding [~~in the district court~~] to ^{review} ~~rescind~~ the
2 department's action. The court proceeding shall be ~~without jury~~ and
3 shall be limited to the issues of whether

4 (1) the arresting officer had reasonable grounds to believe
5 the arrested person had been operating or driving a motor vehicle in
6 the state while intoxicated;

7 (2) the arrested person refused to submit to the breath
8 test upon request of the officer after being advised that refusal
9 would result in the suspension, revocation, or denial of the person's
10 license or nonresident privilege to drive and that the refusal is a
11 misdemeanor; and

12 (3) the accused defendant was informed fairly of the nature
13 of the tests, the accuracy of the methods, machines, equipment
14 involved, the expertise of the person administering the tests, or
15 operator of the machines, and the accused given such other reasonable
16 information as may be requested by the accused.

17 * Sec. 18. AS 28.35.032(d) is amended to read:

18 (d) If the person who refuses to submit to the chemical test
19 authorized by AS 28.35.031(a) [AS 28.35.031] has been convicted in
20 this or any other state of operating or driving a motor vehicle while
21 intoxicated or of refusal to submit to a chemical test of breath under
22 this section, the period of suspension or revocation for the person's
23 license, nonresident privilege to drive, or denial of original license
24 shall be one year.

25 * Sec. 19. AS 28.35.032(f) is amended to read:

26 (f) Refusal to submit to the chemical test of breath authorized
27 by AS 28.35.031(a) [AS 28.35.031] is a class A misdemeanor.

28 * Sec. 20. AS 28.35.032(g) is amended to read:

29 (g) Upon conviction of a person under this section, the court

* Sec. 20 - 24. No changes.

* Sec. 25. AS 22.15.100 is amended to read:

Sec. 22.15.100. Functions and powers of district judge and magistrate. Each district judge and magistrate has the power

(1) to issue writs of habeas corpus for the purpose of inquiring into the cause of restraint of liberty, returnable before a judge of the superior court, and the same proceedings shall be had on the writ as if it had been granted by the superior court judge under the laws of the state in such cases;

(2) of a notary public;

(3) to issue marriage licenses and to solemnize marriages;

(4) to issue warrants of arrest, summons and search warrants according to manner and procedure prescribed by law and the supreme court;

(5) to act as an examining judge or magistrate in preliminary examinations in criminal proceedings; to set, receive and forfeit bail and to order the release of defendants under bail;

(6) to act as a referee in matters and actions referred to the judge or magistrate by the superior court, with all powers conferred upon referees by laws;

(7) of the superior court in all respects including but not limited to contempt, attendance of witnesses and bench warrants;

(8) to order the temporary detention of a minor, or take other action authorized by law or rules of procedure, in cases arising under AS 47.10, when the minor is in a condition or surrounding dangerous or injurious to the welfare of the minor or others which requires immediate action; the action may be continued in effect until reviewed by the superior court in accordance with rules of procedure governing these cases.

(9) to issue a temporary order for emergency injunctive relief in cases involving domestic violence as provided in AS 09.55.610.

(10) to review administrative revocation of a person's driver's license or nonresident privilege to drive, and administrative refusal to issue an original license, when designated by the commissioner of public safety and upon the consent of the administrative director of the Alaska court system.

Offered: 4/30/83
Referred: Finance

Original sponsors: Abood, Furnace,
Lindauer, et al

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 6 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to driving a motor vehicle."

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

8 * Section 1. AS 28.05.051(b) is amended to read:

9 (b) The commissioner, officers and employees of the department
10 designated by the commissioner, judges and employees of a court, and
11 all peace officers, may take possession of a certificate of title,
12 [OR] registration or license issued by this jurisdiction that [WHICH]
13 has been revoked, canceled, limited or suspended, or [WHICH] is
14 fictitious, stolen or altered.

15 * Sec. 2. AS 28.15.081(a) is amended to read:

16 (a) The department shall examine every applicant for a driver's
17 license. The examination shall include a test of the applicant's (1)
18 eyesight, (2) [HIS] ability to read and understand official traffic
19 control devices, (3) [HIS] knowledge of safe driving practices, (4)
20 knowledge of the effects of alcohol and drugs or drivers and the
21 dangers of driving under the influence of alcohol or drugs, and (5)
22 knowledge of the laws relating to driving while intoxicated and the
23 traffic laws and regulations of this state. The examination [, AND]
24 may include a demonstration of ability to exercise ordinary and rea-
25 sonable control in the driving of a motor vehicle of the type and
26 general class of vehicles for which the applicant seeks a license.
27 However, an applicant who has not been previously issued a driver's
28 license by this or another jurisdiction must demonstrate [HIS] abil-
29 ity, and must present medical information that [WHICH] the department

1 reasonably requires to determine [HIS] fitness to safely drive a motor
2 vehicle of the type and general class of vehicles for which the appli-
3 cant [HE] seeks a license.

4 * Sec. 3. AS 28.15 is amended by adding new sections to read:

5 Sec. 28.15.165. ADMINISTRATIVE REVOCATIONS RESULTING FROM CHEMI-
6 CAL SOBRIETY TESTS AND REFUSALS TO SUBMIT TO TESTS. (a) If a chemi-
7 cal test administered to a person driving a motor vehicle for which a
8 driver's license is required produces a result described under AS 28.-
9 35.030(a)(2) or if a person under arrest for driving a motor vehicle
10 for which a driver's license is required refuses to submit to a chemi-
11 cal test under AS 28.35.031(a), the law enforcement officer shall read
12 a notice and deliver a copy to the person. The notice shall advise
13 that

14 (1) the Department of Public Safety intends to revoke the
15 person's driver's license or nonresident privilege to drive, or refuse
16 to issue an original license to the person;

17 (2) the person has the right to obtain court review of the
18 revocation or determination not to issue an original license;

19 (3) the notice itself is a temporary driver's license that
20 expires seven days after it is delivered to the person;

21 (4) revocation of the person's driver's license or nonresi-
22 dent privilege to drive, or a determination not to issue an original
23 license shall take effect upon expiration of the temporary driver's
24 license unless the person within seven days initiates court proceed-
25 ing to rescind the action.

26 (b) After reading the notice und (a) of this section, the law
27 enforcement officer shall seize the pe a's driver's license if it is
28 in the person's possession and shall deliver it to the Department of
29 Public Safety with a sworn report describing the circumstances under

1 which it was seized.

2 (c) Upon receipt of a sworn report of a law enforcement officer
3 that a chemical test produced a result described under AS 28.35.030-
4 (a)(2) or that a person refused to submit to a chemical test under
5 AS 28.35.031(a), that notice under (a) of this section was provided to
6 the person, and that contains a statement of the circumstances sur-
7 rounding the arrest and the grounds upon which the officer's belief
8 that the person was driving while intoxicated a motor vehicle for
9 which a driver's license is required was based, the Department of
10 Public Safety shall revoke the person's license or nonresident privi-
11 lege to drive a motor vehicle in the state, or refuse to issue an
12 original license effective upon expiration of the temporary driver's
13 license issued under (a) of this section.

14 (d) The period of revocation of a driver's license by the De-
15 partment of Public Safety under this section shall be determined in
16 accordance with guidelines for court revocations under
17 AS 28.15.181(c).

18 Sec. 28.15.166. COURT REVIEW OF REVOCATION. (a) A person who
19 has received a notice under AS 28.15.165(a) may make a written request
20 for court review of the department's action under AS 28.15.165(c). If
21 the person's driver's license has not been previously surrendered to
22 the Department of Public Safety, it shall be surrendered to the court
23 at the time the request for review is made.

24 (b) A request for review shall be made within seven days after
25 the person receives the notice under AS 28.15.165(a) or the right to
26 review is waived and the action of the Department of Public Safety
27 under AS 28.15.165(c) is final. However, if the person shows that the
28 person for good cause was unable to make a timely request, the court
29 may waive the period of limitation, reopen the matter, and grant the

1 review requested.

2 (c) Upon receipt of a request for review, if it appears that the
3 person holds a valid driver's license and that the driver's license
4 has been surrendered, the court shall issue a temporary driver's
5 permit that is valid until the scheduled date for the review. The
6 court may issue additional temporary permits if necessary to stay the
7 effective date of the action of the Department of Public Safety under
8 AS 28.15.165(c) until the final order after the review is issued.

9 (d) The court review under this section shall be without jury
10 and shall be limited to the issues of whether there was probable cause
11 to believe that the person was driving a motor vehicle while intoxi-
12 cated and whether

13 (1) the person refused to submit to a chemical test under
14 AS 28.35.031(a); or

15 (2) the chemical test administered to the person produced a
16 result described under AS 28.35.030(a)(2).

17 (e) If the issues set out in (d) of this section are determined
18 in the affirmative by a preponderance of the evidence, the court shall
19 sustain the action of the Department of Public Safety. If one or more
20 of the issues are determined in the negative, the department's action
21 shall be rescinded.

22 (f) If the action of the Department of Public Safety in revoking
23 a nonresident's privilege to drive a motor vehicle is sustained by the
24 court, the department shall give written notice of action taken to the
25 motor vehicle administrator of the state of the person's residence and
26 to any state in which that person has a driver's license.

27 * Sec. 4. AS 28.15.181(a) is amended to read:

28 (a) Conviction of any of the [THE] following offenses is [ARE]
29 grounds for the immediate [SUSPENSION OR] revocation of a driver's

1 license:

2 (1) manslaughter or negligent homicide resulting from [THE]
3 driving [OF] a motor vehicle;

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

6 (3) failure to stop and give aid as required by law [UNDER
7 THE LAWS OF THIS STATE] when a motor vehicle accident results in the
8 death or personal injury of another;

9 (4) perjury or [THE] making [OF] a false affidavit or
10 statement under oath to the department under a law relating to motor
11 vehicles;

12 (5) [OPERATING OR] driving a motor vehicle while intoxi-
13 cated;

14 (6) reckless driving; [OR]

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

17 (8) refusal to submit to a chemical test under AS 28.35.-
18 032.

19 * Sec. 5. AS 28.15.181(b) is amended to read:

20 (b) A court convicting a person of an offense under (a)(1) -
21 (4), (6), or (7) of this section shall revoke that person's driver's
22 license for [A PERIOD OF] not less than 30 days for the first convic-
23 tion, unless the court determines that the person's ability to earn a
24 livelihood would be severely impaired and a limitation under AS 28.-
25 15.201 can be placed on the license that [WHICH] will enable the
26 person to earn a livelihood without excessive [RISK OR] danger to the
27 public. If a court limits a person's license under this subsection,
28 it shall do so for [A PERIOD OF] not less than 60 [30] days. Upon a
29 subsequent conviction of a person for any offense under (a)(1) - (4),

1 (6), or (7) of this section occurring within 15 years after a prior
2 conviction, the court shall revoke the person's license and may not
3 grant the person [ANY] limited license privileges for the following
4 periods:

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

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

8 * Sec. 6. AS 28.15.181(c) is repealed and reenacted to read:

9 (c) A court convicting a person of an offense under (a)(5) or
10 (8) of this section arising out of the operation of a motor vehicle
11 for which a driver's license is required shall revoke that person's
12 driver's license and may not, except as provided in (d) of this sec-
13 tion, grant limited license privileges for the following periods:

14 (1) not less than 90 days if, within the preceding 15
15 years, the person has not previously been convicted of an offense

16 (A) under (a)(5) or (8) of this section; or

17 (B) a law or ordinance in another jurisdiction with
18 elements substantially similar to an offense under (a)(5) or (8)
19 of this section;

20 (2) not less than one year if, within the preceding 15
21 years, the person has been previously convicted of one offense

22 (A) under (a)(5) or (8) of this section; or

23 (B) a law or ordinance in another jurisdiction with
24 elements substantially similar to an offense under (a)(5) or (8)
25 of this section;

26 (3) not less than 10 years if, within the preceding 15
27 years, the person has been previously convicted of more than one of
28 the following offenses or has more than once been previously convicted
29 of one of the following offenses:

1 (A) an offense under (a)(5) or (8) of this section; or
2 (B) an offense under another law or ordinance in
3 another jurisdiction with elements substantially similar to an
4 offense under (a)(5) or (8) of this section.

5 * Sec. 7. AS 28.15.181 is amended by adding a new subsection to read:

6 (d) A court revoking a driver's license under (c)(1) of this
7 section may grant limited license privileges for the final 60 days
8 during which the license is revoked if the court determines that the
9 person's ability to earn a livelihood would be severely impaired and a
10 limitation under AS 28.15.201 can be placed on the license that will
11 enable the person to earn a livelihood without excessive danger to the
12 public.

13 * Sec. 8. AS 28.15.201(b)(1) is amended to read:

14 (1) require the surrender of the driver's license [AND, IF
15 THE PERSON IS CONVICTED OF AN OFFENSE UNDER AS 28.15.181(a)(5), REVOKE
16 THAT PERSON'S LICENSE FOR A PERIOD OF NOT LESS THAN 60 DAYS]; and

17 * Sec. 9. AS 28.15.201(c) is amended to read:

18 (c) After the termination of a limitation as shown on the certi-
19 ficate issued under (b) of this section, the license of a person on
20 whom a limitation was imposed is revoked until the person receives a
21 new [NO LONGER BOUND BY THE LIMITATION AND MAY APPLY FOR A DUPLICATE]
22 license in accordance with AS 28.20.240 [UNDER AS 28.15.141 OR, IF
23 OTHERWISE ELIGIBLE, FOR A NEW LICENSE IF THE LICENSE WAS REVOKED FOR
24 CONVICTION OF AN OFFENSE UNDER AS 28.15.181(a)(5) AND LIMITED LICENSE
25 PRIVILEGES WERE GRANTED UNDER AS 28.15.181(c)].

26 * Sec. 10. AS 28.15.291 is amended to read:

27 Sec. 28.15.291. DRIVING WHILE LICENSE CANCELED, SUSPENDED,
28 REVOKED OR IN VIOLATION OF LIMITATION. (a) A [NO] person may not
29 drive a motor vehicle on a highway or vehicular way or area [IN THIS

1 STATE] at a time when that person's [HIS] driver's license, or privi-
2 lege to drive [IN THIS STATE IF HE IS LICENSED IN ANOTHER JURISDIC-
3 TION,] has been canceled, suspended or revoked in this or another
4 jurisdiction, or when [HE IS] driving in violation of a limitation
5 placed upon that person's [HIS] license or privilege to drive in this
6 or [, EVEN WHEN HE IS DRIVING UNDER A LICENSE ISSUED IN] another
7 jurisdiction. Except as provided in (c) of this section, upon [UPON]
8 conviction of a violation of this section, the court shall impose a
9 [MINIMUM] sentence of imprisonment of not less than 10 days. The exe-
10 cution of sentence may not be suspended nor may probation or parole be
11 granted until the minimum imprisonment provided in this section has
12 been served; nor may imposition of sentence be suspended [, EXCEPT
13 UPON THE CONDITION THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN
14 THE MINIMUM PERIOD PROVIDED FOR IN THIS SECTION]. In addition, the
15 person's [HIS] license or privilege to drive shall be revoked, and the
16 person [HE] may not be issued a new license nor may the [HIS] privi-
17 lege to drive be restored for an additional period of one year after
18 the date that the person [HE] would have been entitled to restoration
19 of [HIS] driving privileges.

20 (b) When a person's license is canceled, limited, suspended or
21 revoked, that person [HE] shall be informed by the department or the
22 court that [WHICH] takes the action at the time of the action that,
23 upon a conviction of driving on a highway or vehicular way or area in
24 this state at a time when that person's [HIS] driver's license or
25 privilege to drive in this state has been canceled, suspended or
26 revoked, or upon a conviction of driving in violation of a limitation
27 of the [HIS] license, that person [HE] will be subject to the manda-
28 tory minimum sentence of [10-DAY] imprisonment under [(a) OF] this
29 section.

1 * Sec. 11. AS 28.15.291 is amended by adding a new subsection to read:

2 (c) The court shall impose a sentence of imprisonment of not
3 less than 30 days and a fine of not less than \$500 upon conviction of
4 a violation of this section if the person's driver's license was
5 revoked under AS 28.15.181(c)(1). The court shall impose a sentence
6 of imprisonment of not less than 90 days and a fine of not less than
7 \$1,000 upon conviction of a violation of this section if the person's
8 driver's license was revoked under AS 28.15.181(c)(2) or (3). The
9 execution of sentence may not be suspended nor may probation or parole
10 be granted until the minimum imprisonment provided in this subsection
11 has been served. Imposition of sentence may not be suspended. In
12 addition, the person's privilege to drive may not be restored for an
13 additional period of one year after the date that the person would
14 have been entitled to restoration of driving privileges if the person
15 had not been convicted under this section.

16 * Sec. 12. AS 28.20.240 is amended to read:

17 Sec. 28.20.240. PROOF REQUIRED WHEN DRIVING PRIVILEGE [USE OF
18 LICENSE] IS RESTRICTED. Whenever under a law of this state the li-
19 cense of a person is suspended, revoked, limited under AS 28.15.201,
20 or canceled for any reason, the department may not issue to that
21 person a new or renewal of license [IN HIS NAME] until permitted to do
22 so under the motor vehicle laws of this state. A period of suspen-
23 sion, revocation, [LIMITATION,] or cancellation [UNDER THIS SECTION]
24 continues until proof of financial responsibility for the future is
25 provided. Upon expiration of a period of limitation, the license
26 remains revoked until proof of financial responsibility for the future
27 is provided.

28 * Sec. 13. AS 28.35.030(c) is amended to read:

29 (c) Upon conviction under this section the court shall impose a

1 minimum sentence of imprisonment of not less than 72 consecutive hours
2 and a fine of not less than \$250 if the person has not been previously
3 convicted in this or another jurisdiction of driving while intoxicated
4 under this or another law or ordinance with substantially similar
5 elements or refusal to submit to a chemical test under AS 28.35.032
6 or another law or ordinance with substantially similar elements. Upon
7 [A SUBSEQUENT] conviction under this section the court shall impose a
8 minimum sentence of imprisonment of not less than 20 consecutive days
9 and a fine of not less than \$500 if, within the preceding 15 years,
10 the person has been previously convicted once in this or another
11 jurisdiction [WITHIN FIVE YEARS AFTER A CONVICTION] of driving while
12 intoxicated under this or another law or ordinance with substantially
13 similar elements or [IN THIS OR ANY OTHER STATE OR CONVICTION OF]
14 refusal to submit to a chemical test under AS 28.35.032 or another law
15 or ordinance with substantially similar elements. Upon conviction
16 under this section [OF BREATH UNDER AS 28.35.032,] the court shall
17 impose a minimum sentence of imprisonment of not less than 30 [10]
18 consecutive days and a fine of not less than \$1,000 if, within the
19 preceding 15 years, the person has been previously convicted in this
20 or another jurisdiction of more than one of the following offenses or
21 has more than once been previously convicted of one of the following
22 offenses: (1) driving while intoxicated under this or another law or
23 ordinance with substantially similar elements; (2) refusal to submit
24 to a chemical test under AS 28.35.032 or another law or ordinance with
25 substantially similar elements [UNLESS THE SUBSEQUENT CONVICTION IS
26 WITHIN ONE YEAR OF THE PREVIOUS CONVICTION, IN WHICH CASE THE COURT
27 SHALL IMPOSE A MINIMUM SENTENCE OF IMPRISONMENT OF NOT LESS THAN 20
28 CONSECUTIVE DAYS]. The execution of sentence may not be suspended nor
29 may probation be granted except on condition that [UNTIL] the minimum

1 imprisonment provided in this section is [HAS BEEN] served. Impos-
2 sition of sentence may not be suspended [, EXCEPT UPON THE CONDITION
3 THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN THE MINIMUM PERIOD
4 PROVIDED IN THIS SECTION]. In addition, if the offense involved
5 driving a motor vehicle for which a driver's license is required, the
6 person's driver's [HIS OPERATOR'S] license shall be revoked in accor-
7 dance with AS 28.15.181 and the vehicle used in commission of the
8 offense may be forfeited under AS 28.35.036. In addition, a person
9 convicted under this section [STATUTE] shall undertake, for a term
10 specified by the court, that program of alcohol education or rehabili-
11 tation that [WHICH] the court, after consideration of any information
12 compiled under (d) of this section, finds appropriate.

13 * Sec. 14. AS 28.35.031 is amended by adding a new subsection to read:

14 (b) A person who drives a motor vehicle that is involved in an
15 accident, has committed an offense under AS 28.15.181(a), or drives a
16 motor vehicle in a manner that creates an unjustifiable risk to a
17 person or to property shall be considered to have given consent to a
18 preliminary breath test for the purpose of determining the alcoholic
19 content of the person's blood or breath. The test shall be adminis-
20 tered at the scene of the incident at the direction of a law enforce-
21 ment officer who has reasonable grounds to believe that the person was
22 driving a motor vehicle that is involved in an accident, has committed
23 an offense under AS 28.15.181(a), or is driving in a manner that
24 creates an unjustifiable risk to a person or to property. The result
25 of the test may be used by the law enforcement officer to determine
26 whether the driver should be arrested. Before administering the test,
27 the officer shall advise the person that refusal may be used against
28 the person in a civil or criminal action arising out of the incident
29 and that refusal is an infraction. If the person refuses to submit to

1 the test, the test shall not be administered. Refusal to submit to a
2 preliminary breath test at the request of a law enforcement officer is
3 an infraction.

4 * Sec. 15. AS 28.35.032(a) is amended to read:

5 (a) If a person under arrest refuses the request of a law en-
6 forcement officer to submit to a chemical test under AS 28.35.031(a)
7 [OF BREATH AS PROVIDED IN AS 28.35.031], after being advised by the
8 officer that the refusal will, if that person was arrested while
9 operating or driving a motor vehicle for which a driver's license is
10 required, result in the [SUSPENSION,] denial or revocation of the
11 license or nonresident privilege to drive, that the refusal may be
12 used against the person in a civil or criminal action or proceeding
13 arising out of an act alleged to have been committed by the person
14 while operating or driving a motor vehicle or operating an aircraft or
15 a watercraft while intoxicated, and that the refusal is a misdemeanor,
16 a chemical test shall not be given, except as provided by AS 28.35.-
17 035.

18 * Sec. 16. AS 28.35.032(g) is amended to read:

19 (g) Upon conviction of a person under this section, the court
20 shall impose a minimum sentence of imprisonment of not less than 72
21 consecutive hours and a fine of not less than \$250 if the person has
22 not been previously convicted in this or another jurisdiction of
23 driving while intoxicated under AS 28.35.030 or another law or ordi-
24 nance with substantially similar elements or refusal to submit to a
25 chemical test under this or another law or ordinance with substan-
26 tially similar elements. Upon [A SUBSEQUENT] conviction under this
27 section the court shall impose a minimum sentence of imprisonment of
28 not less than 20 consecutive days and a fine of not less than \$500 if,
29 within the preceding 15 years, the person has been previously

1 convicted once in this or another jurisdiction [WITHIN FIVE YEARS
2 AFTER A CONVICTION UNDER THIS SECTION OR] of driving while intoxicated
3 under AS 28.35.030 or another law or ordinance with substantially
4 similar elements or refusal to submit to a chemical test under this or
5 another law or ordinance with substantially similar elements. Upon
6 conviction under this section the court shall impose a minimum sen-
7 tence of imprisonment of not less than 30 consecutive days and a fine
8 of not less than \$1,000 if, within the previous 15 years, the person
9 has been previously convicted in this or another jurisdiction of more
10 than one of the following offenses or has more than once been pre-
11 viously convicted of one of the following offenses: (1) driving while
12 intoxicated under AS 28.35.030 or another law or ordinance with sub-
13 stantially similar elements; (2) refusal to submit to a chemical test
14 under this or another law or ordinance with substantially similar
15 elements [IN THIS OR ANY OTHER STATE, THE COURT SHALL IMPOSE A MINIMUM
16 SENTENCE OF IMPRISONMENT OF NOT LESS THAN 10 CONSECUTIVE DAYS UNLESS
17 THE SUBSEQUENT CONVICTION IS WITHIN ONE YEAR OF THE PREVIOUS CONVIC-
18 TION, IN WHICH CASE THE COURT SHALL IMPOSE A MINIMUM SENTENCE OF
19 IMPRISONMENT OF NOT LESS THAN 20 CONSECUTIVE DAYS]. The execution of
20 sentence may not be suspended nor may probation be granted except on
21 condition that [UNTIL] the minimum imprisonment provided in this
22 section is [HAS BEEN] served. Imposition of sentence may not be
23 suspended. If the offense involved driving a motor vehicle for which
24 a driver's license is required, the person's driver's license shall be
25 revoked under AS 28.15.181 [, EXCEPT UPON THE CONDITION THAT THE
26 DEFENDANT BE IMPRISONED FOR NO LESS THAN THE MINIMUM PERIOD PROVIDED
27 IN THIS SECTION]. In addition, a person convicted under this section
28 shall undertake, for a term specified by the court, that program of
29 alcohol education or rehabilitation that the court, after

1 consideration of any information compiled under (h) of this section,
2 finds appropriate. The sentence imposed by the court under this
3 subsection shall run consecutively with any other sentence of im-
4 prisonment imposed on the committed person.

5 * Sec. 17. AS 28.35.034 is amended to read:

6 Sec. 28.35.034. SURRENDER OF LICENSE OR PERMIT [PERIOD OF REVO-
7 CATION]. A person whose license or permit to operate or drive a motor
8 vehicle has been [SUSPENDED OR] revoked under AS 28.15.165 or AS 28.-
9 15.181 [THE PROVISIONS OF AS 28.35.032] shall surrender the [HIS]
10 license or permit to the department on receipt of notice of the revo-
11 cation. [SUCH A PERSON IS INELIGIBLE FOR AN OPERATOR'S LICENSE OR
12 PERMIT FOR THREE MONTHS FOLLOWING THE DATE ON WHICH THE LICENSE OR
13 PERMIT WAS RECEIVED BY THE DEPARTMENT, UNLESS THE DISTRICT COURT FINDS
14 THAT EXTENUATING CIRCUMSTANCES EXIST WHICH WOULD CAUSE EXTREME HARD-
15 SHIP, IN WHICH CASE THE SUSPENSION OR REVOCATION MAY BE MODIFIED OR
16 NULLIFIED.] After the [THREE MONTHS'] period of revocation has ex-
17 pired, the person may make application for a new license as provided
18 by law.

19 * Sec. 18. AS 28.35 is amended by adding new sections to read:

20 Sec. 28.35.036. FORFEITURE OF MOTOR VEHICLE. (a) After convic-
21 tion of an offense under AS 28.35.030 or AS 28.35.032 involving a
22 motor vehicle of a type for which a driver's license is required and
23 upon motion by the state, the court shall hold a forfeiture hearing
24 and may order the forfeiture of the motor vehicle involved in the
25 commission of the offense if the person has been previously convicted
26 in this or another jurisdiction of more than one of the following
27 offenses or has more than once been previously convicted of one of the
28 following offenses:

29 (1) driving while intoxicated under AS 28.35.030 or another

1 law or ordinance with substantially similar elements; or

2 (2) refusal to submit to a chemical test under AS 28.35.032
3 or another law or ordinance with substantially similar elements.

4 (b) Upon forfeiture of a motor vehicle the court shall require
5 the surrender of the registration and certificate of title of that
6 motor vehicle. The registration and certificate of title shall be
7 delivered to the Department of Public Safety.

8 (c) If not released under AS 28.35.037, a motor vehicle for-
9 feited under this section may be disposed of at the discretion of the
10 department.

11 Sec. 28.35.037. REMISSION OF FORFEITURES. (a) Upon moving for
12 forfeiture of a motor vehicle under AS 28.35.036, the state shall
13 provide to every person who has an ascertainable ownership or security
14 interest in the motor vehicle written notice that includes

15 (1) a description of the motor vehicle;

16 (2) the time and place of the forfeiture hearing;

17 (3) the legal authority under which the motor vehicle may
18 be forfeited;

19 (4) notice of the right to intervene to protect the inter-
20 est in the motor vehicle.

21 (b) Upon receipt of a motion to intervene in a forfeiture hear-
22 ing the court shall order the satisfaction of the interest from the
23 proceeds of the sale of the motor vehicle or order the motor vehicle
24 to be released to the petitioner together with title to the motor
25 vehicle if the petitioner shows by a preponderance of the evidence
26 that

27 (1) the petitioner has an interest in the motor vehicle
28 acquired in good faith;

29 (2) a person other than the petitioner was convicted of the

1 offense that resulted in the forfeiture;

2 (3) the petitioner was not negligent in parting with the
3 motor vehicle.

4 Sec. 28.35.038. . MUNICIPAL IMPOUNDMENT AND FORFEITURE. Notwith-
5 standing other provisions in this title, a municipality may adopt an
6 ordinance providing for the impoundment or forfeiture of a motor
7 vehicle involved in the commission of an offense under AS 28.35.030,
8 28.35.032, or an ordinance with elements substantially similar to
9 AS 28.35.030 or AS 28.35.032. An ordinance adopted under this section
10 is not required to be consistent with this title or regulations adopt-
11 ed under this title.

12 * Sec. 19. AS 28.15.211(a)(4) and AS 28.35.032(b),(c), and (d) are re-
13 pealed.

Offered: 6/1/83
Referred: Finance

Original sponsors: Abood, Furnace,
Lindauer, et al

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 SENATE C~~O~~ FOR CS FOR HOUSE BILL NO. 6 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION
5 A BILL

6 For an Act entitled: "An Act relating to driving a motor vehicle."
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 28.05.051(b) is amended to read:

9 (b) The commissioner, officers and employees of the department
10 designated by the commissioner, judges and employees of a court, and
11 all peace officers, may take possession of a certificate of title,
12 [OR] registration or license issued by this jurisdiction that [WHICH]
13 has been revoked, canceled, limited or suspended, or [WHICH] is ficti-
14 tious, stolen or altered.

15 * Sec. 2. AS 28.15.081(a) is amended to read:

16 (a) The department shall examine every applicant for a driver's
17 license. The examination shall include a test of the applicant's (1)
18 eyesight, (2) [HIS] ability to read and understand official traffic
19 control devices, (3) [HIS] knowledge of safe driving practices, (4)
20 knowledge of the effects of alcohol and drugs on drivers and the
21 dangers of driving under the influence of alcohol or drugs, and (5)
22 knowledge of the laws relating to driving while intoxicated and the
23 traffic laws and regulations of this state. The examination [, AND]
24 may include a demonstration of ability to exercise ordinary and rea-
25 sonable control in the driving of a motor vehicle of the type and
26 general class of vehicles for which the applicant seeks a license.
27 However, an applicant who has not been previously issued a driver's
28 license by this or another jurisdiction must demonstrate [HIS] abil-
29 ity, and must present medical information that [WHICH] the department

1 reasonably requires to determine [HIS] fitness to safely drive a motor
2 vehicle of the type and general class of vehicles for which the appli-
3 cant [HE] seeks a license.

4 * Sec. 3. AS 28.15 is amended by adding new sections to read:

5 Sec. 28.15.165. ADMINISTRATIVE REVOCATIONS RESULTING FROM CHEMI-
6 CAL SOBRIETY TESTS AND REFUSALS TO SUBMIT TO TESTS. (a) If a chemi-
7 cal test administered under AS 28.35.031(a) to a person driving a
8 motor vehicle for which a driver's license is required produces a
9 result described in AS 28.35.030(a)(2) or if a person under arrest for
10 driving a motor vehicle for which a driver's license is required
11 refuses to submit to a chemical test under AS 28.35.031(a), the law
12 enforcement officer shall read a notice and deliver a copy to the
13 person. The notice shall advise that

14 (1) the department intends to revoke the person's driver's
15 license or nonresident privilege to drive, or refuse to issue an
16 original license to the person;

17 (2) the person has the right to obtain court review of the
18 revocation or determination not to issue an original license;

19 (3) the notice itself is a temporary driver's license that
20 expires seven days after it is delivered to the person;

21 (4) revocation of the person's driver's license or nonresi-
22 dent privilege to drive, or a determination not to issue an original
23 license shall take effect upon expiration of the temporary driver's
24 license unless the person within seven days initiates court proceed-
25 ings to rescind the action.

26 (b) After reading the notice under (a) of this section, the law
27 enforcement officer shall seize the person's driver's license if it is
28 in the person's possession and shall deliver it to the department with
29 a sworn report describing the circumstances under which it was seized.

1 (c) Upon receipt of a sworn report of a law enforcement officer
2 that a chemical test under AS 28.35.031(a) produced a result described
3 in AS 28.35.030(a)(2) or that a person refused to submit to a chemical
4 test under AS 28.35.031(a), that notice under (a) of this section was
5 provided to the person, and that contains a statement of the circum-
6 stances surrounding the arrest and the grounds upon which the offi-
7 cer's belief that the person was driving while intoxicated a motor
8 vehicle for which a driver's license is required was based, the
9 department shall revoke the person's license or nonresident privilege
10 to drive a motor vehicle in the state, or refuse to issue an original
11 license effective upon expiration of the temporary driver's license
12 issued under (a) of this section.

13 (d) The period of revocation of a driver's license by the de-
14 partment under this section shall be determined in accordance with
15 guidelines for court revocations under AS 28.15.181(c).

16 Sec. 28.15.166. COURT REVIEW OF REVOCATION. (a) A person who
17 has received a notice under AS 28.15.165(a) may make a written request
18 for court review of the department's action under AS 28.15.165(c). If
19 the person's driver's license has not been previously surrendered to
20 the department, it shall be surrendered to the court at the time the
21 request for review is made.

22 (b) A request for review shall be made within seven days after
23 receipt of the notice under AS 28.15.165 or the right to review is
24 waived and the action of the department under AS 28.15.165(c) is
25 final. If a written request for a review is made after expiration of
26 the seven-day period, and if it is accompanied by the applicant's
27 verified statement explaining the failure to make a timely request for
28 a review, the court shall receive and consider the request. If the
29 court finds that the person was unable to make a timely request due to

1 lack of actual notice of the revocation or due to factors of physical
2 incapacity such as hospitalization or incarceration, the court shall
3 waive the period of limitation, reopen the matter, and grant the
4 review request.

5 (c) Upon receipt of a request for review, if it appears that the
6 person holds a valid driver's license and that the driver's license
7 has been surrendered, the court shall issue a temporary driver's
8 permit that is valid until the scheduled date for the review. If
9 necessary, the court may issue additional temporary permits to stay
10 the effective date of the action of the department under AS 28.15.-
11 165(c) until the final order after the review is issued.

12 (d) The court review under this section shall be limited to the
13 issues of whether there was probable cause to believe that the person
14 was driving a motor vehicle while intoxicated and whether

15 (1) the person refused to submit to a chemical test under
16 AS 28.35.031(a); or

17 (2) the chemical test authorized under AS 28.35.031(a) and
18 administered to the person produced a result described in
19 AS 28.35.030(a)(2).

20 (e) If the issues set out in (d) of this section are determined
21 in the affirmative by a preponderance of the evidence, the court shall
22 sustain the action of the department. If one or more of the issues is
23 determined in the negative, the department's action shall be
24 rescinded.

25 (f) If the action of the department in revoking a nonresident's
26 privilege to drive a motor vehicle is sustained by the court, the
27 department shall give written notice of action taken to the motor
28 vehicle administrator of the state of the person's residence and to
29 any state in which that person has a driver's license.

1 (c) Upon receipt of a sworn report of a law enforcement officer
2 that a chemical test under AS 28.35.031(a) produced a result described
3 in AS 28.35.030(a)(2) or that a person refused to submit to a chemical
4 test under AS 28.35.031(a), that notice under (a) of this section was
5 provided to the person, and that contains a statement of the circum-
6 stances surrounding the arrest and the grounds upon which the offi-
7 cer's belief that the person was driving while intoxicated a motor
8 vehicle for which a driver's license is required was based, the
9 department shall revoke the person's license or nonresident privilege
10 to drive a motor vehicle in the state, or refuse to issue an original
11 license effective upon expiration of the temporary driver's license
12 issued under (a) of this section.

13 (d) The period of revocation of a driver's license by the de-
14 partment under this section shall be determined in accordance with
15 guidelines for court revocations under AS 28.15.181(c).

16 Sec. 28.15.166. COURT REVIEW OF REVOCATION. (a) A person who
17 has received a notice under AS 28.15.165(a) may make a written request
18 for court review of the department's action under AS 28.15.165(c). If
19 the person's driver's license has not been previously surrendered to
20 the department, it shall be surrendered to the court at the time the
21 request for review is made.

22 (b) A request for review shall be made within seven days after
23 receipt of the notice under AS 28.15.165 or the right to review is
24 waived and the action of the department under AS 28.15.165(c) is
25 final. If a written request for a review is made after expiration of
26 the seven-day period, and if it is accompanied by the applicant's
27 verified statement explaining the failure to make a timely request for
28 a review, the court shall receive and consider the request. If the
29 court finds that the person was unable to make a timely request due to

1 * Sec. 4. AS 28.15.181(a) is amended to read:

2 (a) Conviction of any of the [THE] following offenses is [ARE]
3 grounds for the immediate [SUSPENSION OR] revocation of a driver's
4 license:

5 (1) manslaughter or negligent homicide resulting from [THE]
6 driving [OF] a motor vehicle;

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

9 (3) failure to stop and give aid as required by law [UNDER
10 THE LAWS OF THIS STATE] when a motor vehicle accident results in the
11 death or personal injury of another;

12 (4) perjury or [THE] making [OF] a false affidavit or
13 statement under oath to the department under a law relating to motor
14 vehicles;

15 (5) [OPERATING OR] driving a motor vehicle while intoxi-
16 cated;

17 (6) reckless driving; [OR]

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

20 (8) refusal to submit to a chemical test under AS 28.35.-
21 032;

22 (9) driving while license canceled, suspended, revoked or
23 in violation of a limitation.

24 * Sec. 5. AS 28.15.181(b) is amended to read:

25 (b) A court convicting a person of an offense described in
26 [UNDER] (a)(1) - (4), (6), or (7) of this section shall revoke that
27 person's driver's license for [A PERIOD OF] not less than 30 days for
28 the first conviction, unless the court determines that the person's
29 ability to earn a livelihood would be severely impaired and a

1 limitation under AS 28.15.201 can be placed on the license that
2 [WHICH] will enable the person to earn a livelihood without excessive
3 [RISK OR] danger to the public. If a court limits a person's license
4 under this subsection, it shall do so for [A PERIOD OF] not less than
5 60 [30] days. Upon a subsequent conviction of a person for any
6 offense described in [UNDER] (a)(1) - (4), (6), or (7) of this section
7 occurring within 10 years after a prior conviction, the court shall
8 revoke the person's license and may not grant the person [ANY] limited
9 license privileges for the following periods:

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

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

13 * Sec. 6. AS 28.15.181(c) is repealed and reenacted to read:

14 (c) A court convicting a person of an offense described in
15 (a)(5) or (8) of this section arising out of the operation of a motor
16 vehicle for which a driver's license is required shall revoke that
17 person's driver's license and may not, except as provided in (e) of
18 this section, grant limited license privileges for the following
19 periods:

20 (1) not less than 90 days if, within the preceding 10
21 years, the person has not previously been convicted of an offense

22 (A) described in (a)(5) or (8) of this section; or

23 (B) under a law or ordinance in another jurisdiction
24 with elements substantially similar to an offense described in
25 (a)(5) or (8) of this section;

26 (2) not less than one year if, within the preceding 10
27 years, the person has been previously convicted of one offense

28 (A) described in (a)(5) or (8) of this section; or

29 (B) under a law or ordinance in another jurisdiction

1 with elements substantially similar to an offense described in
2 (a)(5) or (8) of this section;

3 (3) not less than 10 years if, within the preceding 10
4 years, the person has been previously convicted of more than one of
5 the following offenses or has more than once been previously convicted
6 of one of the following offenses:

7 (A) an offense described in (a)(5) or (8) of this sec-
8 tion; or

9 (B) an offense under another law or ordinance in
10 another jurisdiction with elements substantially similar to an
11 offense described in (a)(5) or (8) of this section.

12 * Sec. 7. AS 28.15.181 is amended by adding new subsections to read:

13 (d) A court convicting a person of an offense described in
14 (a)(9) of this section shall revoke that person's driver's license for
15 not less than the minimum period under AS 28.15.291(c).

16 (e) A court revoking a driver's license under (c)(1) of this
17 section, or sustaining the action of the department under AS 28.15.-
18 165(c), may grant limited license privileges for the final 60 days
19 during which the license is revoked if the

20 (1) revocation was for driving while intoxicated but not if
21 the revocation was for refusal to submit to a chemical test of breath
22 under AS 28.35.032;

23 (2) court determines that the person's ability to earn a
24 livelihood would be severely impaired; and

25 (3) court determines that a limitation under AS 28.15.201
26 can be placed on the license that will enable the person to earn a
27 livelihood without excessive danger to the public.

28 * Sec. 8. AS 28.15.201(b)(1) is amended to read:

29 (1) require the surrender of the driver's license [AND, IF

1 THE PERSON IS CONVICTED OF AN OFFENSE UNDER AS 28.15.181(a)(5), REVOKE
2 THAT PERSON'S LICENSE FOR A PERIOD OF NOT LESS THAN 60 DAYS]; and

3 * Sec. 9. AS 28.15.201(c) is amended to read:

4 (c) After the termination of a limitation as shown on the certi-
5 ficate issued under (b) of this section, the license of a person on
6 whom a limitation was imposed is revoked until the person receives a
7 new [NO LONGER BOUND BY THE LIMITATION AND MAY APPLY FOR A DUPLICATE]
8 license in accordance with AS 28.20.240 [UNDER AS 28.15.141 OR, IF
9 OTHERWISE ELIGIBLE, FOR A NEW LICENSE IF THE LICENSE WAS REVOKED FOR
10 CONVICTION OF AN OFFENSE UNDER AS 28.15.181(a)(5) AND LIMITED LICENSE
11 PRIVILEGES WERE GRANTED UNDER AS 28.15.181(c)].

12 * Sec. 10. AS 28.15.291 is amended to read:

13 Sec. 28.15.291. DRIVING WHILE LICENSE CANCELED, SUSPENDED,
14 REVOKED OR IN VIOLATION OF LIMITATION. (a) A [NO] person may not
15 drive a motor vehicle on a highway or vehicular way or area [IN THIS
16 STATE] at a time when that person's [HIS] driver's license, or privi-
17 lege to drive [IN THIS STATE IF HE IS LICENSED IN ANOTHER JURISDIC-
18 TION,] has been canceled, suspended or revoked in this or another
19 jurisdiction, or when [HE IS] driving in violation of a limitation
20 placed upon that person's [HIS] license or privilege to drive in this
21 or [, EVEN WHEN HE IS DRIVING UNDER A LICENSE ISSUED IN] another
22 jurisdiction. Except as provided in (c) of this section, upon [UPON]
23 conviction of a violation of this section, the court shall impose a
24 [MINIMUM] sentence of imprisonment of not less than 10 days. The exe-
25 cution of sentence may not be suspended nor may probation or parole be
26 granted until the minimum imprisonment provided in this section has
27 been served; nor may imposition of sentence be suspended [, EXCEPT
28 UPON THE CONDITION THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN
29 THE MINIMUM PERIOD PROVIDED FOR IN THIS SECTION]. In addition, the

1 person's [HIS] license or privilege to drive shall be revoked, and the
2 person [HE] may not be issued a new license nor may the [HIS] privi-
3 lege to drive be restored for an additional period of not less than
4 one year after the date that the person [HE] would have been entitled
5 to restoration of [HIS] driving privileges.

6 (b) When a person's license is canceled, limited, suspended or
7 revoked, that person [HE] shall be informed by the department or the
8 court that [WHICH] takes the action at the time of the action that,
9 upon a conviction of driving on a highway or vehicular way or area in
10 this state at a time when that person's [HIS] driver's license or
11 privilege to drive in this state has been canceled, suspended or
12 revoked, or upon a conviction of driving in violation of a limitation
13 of the [HIS] license, that person [HE] will be subject to the manda-
14 tory minimum sentence of [10-DAY] imprisonment under [(a) OF] this
15 section.

16 * Sec. 11. AS 28.15.291 is amended by adding a new subsection to read:

17 (c) The court shall impose a sentence of imprisonment of not
18 less than 30 days and a fine of not less than \$500 upon conviction of
19 a violation of this section if the person's driver's license was
20 revoked under circumstances described in AS 28.15.181(c)(1). The
21 court shall impose a sentence of imprisonment of not less than 90 days
22 and a fine of not less than \$1,000 upon conviction of a violation of
23 this section if the person's driver's license was revoked under
24 circumstances described in AS 28.15.181(c)(2) or (3). The execution
25 of sentence may not be suspended nor may probation or parole be
26 granted until the minimum imprisonment provided in this subsection has
27 been served. Imposition of sentence may not be suspended. In
28 addition, the person's privilege to drive shall be revoked for an
29 additional period of not less than one year after the date that the

1 person would have been entitled to restoration of driving privileges
2 if the person had not been convicted under this section.

3 * Sec. 12. AS 28.20.240 is amended to read:

4 Sec. 28.20.240. PROOF REQUIRED WHEN DRIVING PRIVILEGE [USE OF
5 LICENSE] IS RESTRICTED. Whenever under a law of this state the li-
6 cense of a person is suspended, revoked, limited under AS 28.15.201,
7 or canceled for any reason, the department may not issue to that
8 person a new or renewal of license [IN HIS NAME] until permitted to do
9 so under the motor vehicle laws of this state. A period of suspen-
10 sion, revocation, [LIMITATION,] or cancellation [UNDER THIS SECTION]
11 continues until proof of financial responsibility for the future is
12 provided. Upon expiration of a period of limitation, the license
13 remains revoked until proof of financial responsibility for the future
14 is provided.

15 * Sec. 13. AS 28.35.030(a)(2) is amended to read:

16 (2) when, as determined by a chemical test taken within
17 four hours after the alleged offense was committed, there is 0.10
18 percent or more by weight of alcohol in the person's blood or 100
19 milligrams or more of alcohol per 100 milliliters of blood, or when
20 there is 0.10 grams or more of alcohol per 210 liters of the person's
21 breath; or

22 * Sec. 14. AS 28.35.030(c) is amended to read:

23 (c) Upon conviction under this section the court shall impose a
24 minimum sentence of imprisonment of not less than 72 consecutive hours
25 and a fine of not less than \$250 if the person has not been previously
26 convicted in this or another jurisdiction of driving while intoxicated
27 under this or another law or ordinance with substantially similar
28 elements or refusal to submit to a chemical test under AS 28.35.032
29 or another law or ordinance with substantially similar elements. Upon

1 [A SUBSEQUENT] conviction under this section the court shall impose a
2 minimum sentence of imprisonment of not less than 20 consecutive days
3 and a fine of not less than \$500 if, within the preceding 10 years,
4 the person has been previously convicted once in this or another
5 jurisdiction [WITHIN FIVE YEARS AFTER A CONVICTION] of driving while
6 intoxicated under this or another law or ordinance with substantially
7 similar elements or [IN THIS OR ANY OTHER STATE OR CONVICTION OF]
8 refusal to submit to a chemical test under AS 28.35.032 or another law
9 or ordinance with substantially similar elements. Upon conviction
10 under this section [OF BREATH UNDER AS 28.35.032,] the court shall
11 impose a minimum sentence of imprisonment of not less than 30 [10]
12 consecutive days and a fine of not less than \$1,000 if, within the
13 preceding 10 years, the person has been previously convicted in this
14 or another jurisdiction of more than one of the following offenses or
15 has more than once been previously convicted of one of the following
16 offenses: (1) driving while intoxicated under this or another law or
17 ordinance with substantially similar elements; (2) refusal to submit
18 to a chemical test under AS 28.35.032 or another law or ordinance with
19 substantially similar elements [UNLESS THE SUBSEQUENT CONVICTION IS
20 WITHIN ONE YEAR OF THE PREVIOUS CONVICTION, IN WHICH CASE THE COURT
21 SHALL IMPOSE A MINIMUM SENTENCE OF IMPRISONMENT OF NOT LESS THAN 20
22 CONSECUTIVE DAYS]. The execution of sentence may not be suspended nor
23 may probation be granted except on condition that [UNTIL] the minimum
24 imprisonment provided in this section is [HAS BEEN] served. Impo-
25 sition of sentence may not be suspended [, EXCEPT UPON THE CONDITION
26 THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN THE MINIMUM PERIOD
27 PROVIDED IN THIS SECTION]. In addition, if the offense involved
28 driving a motor vehicle for which a driver's license is required, the
29 person's driver's [HIS OPERATOR'S] license shall be revoked in

1 accordance with AS 28.15.181 and the vehicle used in commission of the
2 offense may be forfeited under AS 28.35.036. In addition, the court
3 shall order, and a person convicted under this s.ction [STATUTE] shall
4 undertake, for a term specified by the court, that program of alcohol
5 education or rehabilitation that [WHICH] the court, after considera-
6 tion of any information compiled under (d) of this section, finds
7 appropriate.

8 * Sec. 15. AS 28.35.031 is amended by adding new subsections to read:

9 (b) A person who operates or drives a motor vehicle in this
10 state shall be considered to have given consent to a preliminary
11 breath test for the purpose of determining the alcoholic content of
12 the person's blood or breath. A law enforcement officer may
13 administer a preliminary breath test at the scene of the incident if
14 the officer has reasonable grounds to believe that a person's ability
15 to operate a motor vehicle is impaired by the ingestion of alcoholic
16 beverages and that the person

17 (1) was driving a motor vehicle that is involved in an
18 accident; or

19 (2) committed a moving traffic violation.

20 (c) Before administering a preliminary breath test under (b) of
21 this section, the officer shall advise the person that refusal may be
22 used against the person in a civil or criminal action arising out of
23 the incident and that refusal is an infraction. If the person refuses
24 to submit to the test, the test shall not be administered.

25 (d) The result of the test under (b) of this section may be used
26 by the law enforcement officer to determine whether the driver should
27 be arrested.

28 (e) Refusal to submit to a preliminary breath test at the
29 request of a law enforcement officer is an infraction.

1 (f) If a driver is arrested, the provisions of AS 28.35.031(a)
2 apply. The preliminary breath test authorized in this section is in
3 addition to any tests authorized under AS 28.35.031(a).

4 * Sec. 16. AS 28.35.032(a) is amended to read:

5 (a) If a person under arrest refuses the request of a law en-
6 forcement officer to submit to a chemical test under AS 28.35.031(a)
7 [OF BREATH AS PROVIDED IN AS 28.35.031], after being advised by the
8 officer that the refusal will, if that person was arrested while
9 operating or driving a motor vehicle for which a driver's license is
10 required, result in the [SUSPENSION,] denial or revocation of the
11 license or nonresident privilege to drive, that the refusal may be
12 used against the person in a civil or criminal action or proceeding
13 arising out of an act alleged to have been committed by the person
14 while operating or driving a motor vehicle or operating an aircraft or
15 a watercraft while intoxicated, and that the refusal is a misdemeanor,
16 a chemical test shall not be given, except as provided by AS 28.35.-
17 035.

18 * Sec. 17. AS 28.35.032(b) is amended to read:

19 (b) Upon receipt of a sworn report of a law enforcement officer
20 that a person has refused to submit to a chemical test authorized
21 under AS 28.35.031(a) [AS 28.35.031], containing a statement of the
22 circumstances surrounding the arrest and the grounds upon which the
23 law enforcement officer's belief was based that the person was
24 operating or driving a motor vehicle in violation of AS 28.35.030, the
25 Department of Public Safety shall notify the person that the person's
26 license or nonresident privilege to drive or operate a motor vehicle
27 in the the state is revoked or suspended, or that no original license
28 or permit will be issued for 90 days [THREE MONTHS]. In the same
29 notice the department shall inform the person that the person may

1 initiate a proceeding in the district court to rescind the
2 department's action. The court proceeding shall be without jury and
3 shall be limited to the issues of whether

4 (1) the arresting officer had reasonable grounds to believe
5 the arrested person had been operating or driving a motor vehicle in
6 the state while intoxicated;

7 (2) the arrested person refused to submit to the breath
8 test upon request of the officer after being advised that refusal
9 would result in the suspension, revocation, or denial of the person's
10 license or nonresident privilege to drive and that the refusal is a
11 misdemeanor; and

12 (3) the accused defendant was informed fairly of the nature
13 of the tests, the accuracy of the methods, machines, equipment
14 involved, the expertise of the person administering the tests, or
15 operator of the machines, and the accused given such other reasonable
16 information as may be requested by the accused.

17 * Sec. 18. AS 28.35.032(d) is amended to read:

18 (d) If the person who refuses to submit to the chemical test
19 authorized by AS 28.35.031(a) [AS 28.35.031] has been convicted in
20 this or any other state of operating or driving a motor vehicle while
21 intoxicated or of refusal to submit to a chemical test of breath under
22 this section, the period of suspension or revocation for the person's
23 license, nonresident privilege to drive, or denial of original license
24 shall be one year.

25 * Sec. 19. AS 28.35.032(f) is amended to read:

26 (f) Refusal to submit to the chemical test of breath authorized
27 by AS 28.35.031(a) [AS 28.35.031] is a class A misdemeanor.

28 * Sec. 20. AS 28.35.032(g) is amended to read:

29 (g) Upon conviction of a person under this section, the court

1 shall impose a minimum sentence of imprisonment of not less than 72
2 consecutive hours and a fine of not less than \$250 if the person has
3 not been previously convicted in this or another jurisdiction of
4 driving while intoxicated under AS 28.35.030 or another law or ordi-
5 nance with substantially similar elements or refusal to submit to a
6 chemical test under this section or another law or ordinance with
7 substantially similar elements. Upon [A SUBSEQUENT] conviction under
8 this section the court shall impose a minimum sentence of imprisonment
9 of not less than 20 consecutive days and a fine of not less than \$500
10 if, within the preceding 10 years, the person has been previously con-
11 victed once in this or another jurisdiction [WITHIN FIVE YEARS AFTER A
12 CONVICTION UNDER THIS SECTION OR] of driving while intoxicated under
13 AS 28.35.030 or another law or ordinance with substantially similar
14 elements or refusal to submit to a chemical test under this section or
15 another law or ordinance with substantially similar elements. Upon
16 conviction under this section the court shall impose a minimum sen-
17 tence of imprisonment of not less than 30 consecutive days and a fine
18 of not less than \$1,000 if, within the previous 10 years, the person
19 has been previously convicted in this or another jurisdiction of more
20 than one of the following offenses or has more than once been pre-
21 viously convicted of one of the following offenses: (1) driving while
22 intoxicated under AS 28.35.030 or another law or ordinance with sub-
23 stantially similar elements; (2) refusal to submit to a chemical test
24 under this section or another law or ordinance with substantially
25 similar elements [IN THIS OR ANY OTHER STATE, THE COURT SHALL IMPOSE A
26 MINIMUM SENTENCE OF IMPRISONMENT OF NOT LESS THAN 10 CONSECUTIVE DAYS
27 UNLESS THE SUBSEQUENT CONVICTION IS WITHIN ONE YEAR OF THE PREVIOUS
28 CONVICTION, IN WHICH CASE THE COURT SHALL IMPOSE A MINIMUM SENTENCE OF
29 IMPRISONMENT OF NOT LESS THAN 20 CONSECUTIVE DAYS]. The execution of

1 sentence may not be suspended nor may probation be granted except on
2 condition that [UNTIL] the minimum imprisonment provided in this
3 section is [HAS BEEN] served. Imposition of sentence may not be
4 suspended. If the offense involved driving a motor vehicle for which
5 a driver's license is required, the person's driver's license shall be
6 revoked under AS 28.15.181 [, EXCEPT UPON THE CONDITION THAT THE
7 DEFENDANT BE IMPRISONED FOR NO LESS THAN THE MINIMUM PERIOD PROVIDED
8 IN THIS SECTION]. In addition, the court shall order, and a person
9 convicted under this section shall undertake, for a term specified by
10 the court, that program of alcohol education or rehabilitation that
11 the court, after consideration of any information compiled under (h)
12 of this section, finds appropriate. The sentence imposed by the court
13 under this subsection shall run consecutively with any other sentence
14 of imprisonment imposed on the committed person.

15 * Sec. 21. AS 28.35.034 is amended to read:

16 Sec. 28.35.034. SURRENDER OF LICENSE OR PERMIT [PERIOD OF REVO-
17 CATION]. A person whose license or permit to operate or drive a motor
18 vehicle has been [SUSPENDED OR] revoked under AS 28.15.165 or AS 28.-
19 15.181 [THE PROVISIONS OF AS 28.35.032] shall surrender the [HIS]
20 license or permit to the department on receipt of notice of the revo-
21 cation. [SUCH A PERSON IS INELIGIBLE FOR AN OPERATOR'S LICENSE OR
22 PERMIT FOR THREE MONTHS FOLLOWING THE DATE ON WHICH THE LICENSE OR
23 PERMIT WAS RECEIVED BY THE DEPARTMENT, UNLESS THE DISTRICT COURT FINDS
24 THAT EXTENUATING CIRCUMSTANCES EXIST WHICH WOULD CAUSE EXTREME HARD-
25 SHIP, IN WHICH CASE THE SUSPENSION OR REVOCATION MAY BE MODIFIED OR
26 NULLIFIED.] After the [THREE MONTHS'] period of revocation has ex-
27 pired, the person may make application for a new license as provided
28 by law.

29 * Sec. 22. AS 28.35.035 is amended to read:

1 Sec. 28.35.035. ADMINISTRATION OF CHEMICAL TESTS WITHOUT CON-
2 SENT. (a) If a person is under arrest for an offense arising out of
3 acts alleged to have been committed while the person was driving a
4 motor vehicle [THE CRIME OF DRIVING] while intoxicated, and that
5 arrest results from an accident that causes death or physical injury
6 to another person, a chemical test may be administered without the
7 consent of the person arrested to determine the amount of alcohol in
8 that person's breath or blood.

9 (b) A person who is unconscious or otherwise in a condition
10 rendering that person incapable of refusal is considered not to have
11 withdrawn the consent provided under AS 28.35.031(a) [AS 28.35.031]
12 and a chemical test may be administered to determine the amount of
13 alcohol in that person's breath or blood. A person who is unconscious
14 or otherwise incapable of refusal need not be placed under arrest
15 before a chemical test may be administered.

16 (c) If a chemical test is administered to a person under (a) or
17 (b) of this section, that person is not subject to the penalties for
18 refusal to submit to a chemical test provided by AS 28.35.032 and
19 28.35.034.

20 * Sec. 23. AS 28.35 is amended by adding new sections to read:

21 Sec. 28.35.036. FORFEITURE OF MOTOR VEHICLE. (a) After convic-
22 tion of an offense under AS 28.35.030 or AS 28.35.032 involving a
23 motor vehicle of a type for which a driver's license is required, the
24 state may move the court to order the forfeiture of the motor vehicle
25 involved in the commission of the offense if the convicted person has
26 been previously convicted in this or another jurisdiction of more than
27 one of the following offenses or has more than once been previously
28 convicted of one of the following offenses:

29 (1) driving while intoxicated under AS 28.35.030 or another

1 law or ordinance with substantially similar elements; or

2 (2) refusal to submit to a chemical test under AS 28.35.032
3 or another law or ordinance with substantially similar elements.

4 (b) Upon receipt of a motion for forfeiture, the court shall
5 schedule a hearing on the matter and shall notify the state and the
6 convicted person of the time and place set for the hearing. At the
7 hearing, the court may order the forfeiture of the motor vehicle if
8 the court, sitting without a jury, determines by a preponderance of
9 the evidence that the forfeiture of the motor vehicle will serve one
10 or more of the following purposes:

11 (1) deterrence of the convicted person from the commission
12 of future offenses under AS 28.35.030;

13 (2) protection of the safety and welfare of the public;

14 (3) deterrence of other persons who are potential offenders
15 under AS 28.35.030; or

16 (4) expression of public condemnation of the serious or
17 aggravated nature of the convicted person's conduct.

18 (c) Upon forfeiture of a motor vehicle the court shall require
19 the surrender of the registration and certificate of title of that
20 motor vehicle. The registration and certificate of title shall be
21 delivered to the department.

22 (d) If not released under AS 28.35.037, a motor vehicle for-
23 feited under this section may be disposed of at the discretion of the
24 department.

25 Sec. 28.35.037. REMISSION OF FORFEITURES. (a) Upon receiving
26 notice from the court of the time and place set for a hearing under
27 AS 28.35.036, the state shall provide to every person who has an
28 ascertainable ownership or security interest in the motor vehicle
29 written notice that includes

- 1 (1) a description of the motor vehicle;
2 (2) the time and place of the forfeiture hearing;
3 (3) the legal authority under which the motor vehicle may
4 be forfeited;
5 (4) notice of the right to intervene to protect the inter-
6 est in the motor vehicle.

7 (b) At the hearing, a person who claims an ownership or security
8 interest in the motor vehicle must establish by a preponderance of the
9 evidence that

10 (1) the petitioner has an interest in the motor vehicle
11 acquired in good faith;

12 (2) a person other than the petitioner was convicted of the
13 offense that resulted in the forfeiture; and

14 (3) before parting with the motor vehicle, the petitioner
15 did not know or have reasonable cause to believe that it would be used
16 in the commission of an offense.

17 (c) If a person satisfies the requirements of (b) of this sec-
18 tion, the court shall order that an amount equal to the value of the
19 petitioner's interest in the motor vehicle be paid to the petitioner
20 or the court shall order that the motor vehicle be released to the
21 petitioner together with title to the motor vehicle.

22 (d) Forfeiture of a motor vehicle under AS 28.35.036 is without
23 prejudice to the rights, and does not extinguish the claims, of a
24 creditor with an interest in the motor vehicle.

25 Sec. 28.35.038. MUNICIPAL IMPOUNDMENT AND FORFEITURE. Notwith-
26 standing other provisions in this title, a municipality may adopt an
27 ordinance providing for the impoundment or forfeiture of a motor
28 vehicle involved in the commission of an offense under AS 28.35.030,
29 28.35.032, or an ordinance with elements substantially similar to

1 AS 28.35.030 or AS 28.35.032. An ordinance adopted under this section
2 is not required to be consistent with this title or regulations adopt-
3 ed under this title.

4 * Sec. 24. AS 28.15.211(a)(4) and AS 28.35.032(b),(c), and (d) are re-
5 pealed.

COMMITTEE REPORT

SENATE

FURTHER:

Rules

5/19/83

Date: 5/30/83

Mr. President:

The Committee on JUDICIARY has had CSHB 6 (Jud)
Driving a motor vehicle.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s);
- replace with CS for CSHB 6 (Jud) same title
 new title
- and recommends 1 do pass 2 no pass
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

✓ Joe Josephson - Do Pass

MEMBERS HAVING
OTHER RECOMMENDATIONS:

1 3 votes - No Pass

Bill Ray
CHAIRMAN
1 No Pass

COMMITTEE REPORT

SENATE

FURTHER:

JUDICIARY

5/16/83

Date: 5/18/83

Mr. President:

The Committee on STATE AFFAIRS has had CSH: 6 (Jud)

Driving a motor vehicle.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with ~~CS~~ for SCS CS HB 6 (CSA) same title
 new title
- and recommends do not pass
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Tim Kelly

Arthur Stupjurenko

V. Fischer do pass

CHAIRMAN