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COMMITTEE REPORT
SENATE

FURTHER:

Date _____

Mr. President

The Committee on _____ considered _____

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Chairman

Chairman recommendation

Revision Date: _____

REQUEST

Bill/Resolution No.: SB499
Title: An Act relating to motor vehicle laws.

Sponsor: _____
Requestor: _____
Date of Request: _____

FISCAL DETAIL

Agency Affected: Public Safety
Program Category Affected: Life and Property Protection
BRU, Program or Subprogram(s) Affected: Division of Motor Vehicles

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Bill Brown Phone: 465-4336
Division: Motor Vehicles Date: 12-14-83
Approved by Commissioner: [Signature] Date: 12/23/83
Agency: Public Safety

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

Fiscal Note



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

sh 499

February 13, 1984

The Honorable Jalmar Kerttula
Alaska State Senate
Pouch V
Juneau, AK 99811

Dear Senator Kerttula:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which makes many badly needed amendments to the motor vehicle laws contained in Title 28. These amendments address a variety of issues. The bill alters existing statutes to more accurately reflect the current practices of the division of motor vehicles (DMV) in the Department of Public Safety, to allow DMV to adopt more efficient procedures and to address some inadvertent omissions in current law.

Section 1 of the bill amends AS 28.05.091 to make it clear that a peace officer may impound a motor vehicle if the vehicle identification number has been altered or removed. Law enforcement officers often must impound such vehicles in order to investigate whether the vehicle has been stolen, but the language of the current impoundment statute does not clearly authorize a seizure of this sort. Under the proposed language, the owner of an impounded vehicle would not be required to pay any costs associated with impound or storage of the vehicle. As under current AS 28.05.131, the owner of an impounded vehicle would also be entitled to request a hearing to contest the impoundment.

Section 2 of the bill amends a general provision regarding DMV administrative hearings to make it clear that a hearing officer may take appropriate action against a person's vehicle title or registration as well as against the person's driver's license. This amendment would bring the language of AS 28.05.141(c) into conformity with AS 28.05.131(a), with current administrative practices, and with common sense interpretation.

Governor's Letter 2/13/84

Section 3 of the bill amends AS 28.05.141(d) regarding a motorist's right to appeal from an administrative hearing officer's decision. The new language allows a motorist to appeal such a decision to the district court, and specifies the scope of appellate review. Existing law allows a hearing de novo -- a complete new hearing on the same issues which were decided at the administrative hearing. This makes the entire administrative hearing process superfluous in many cases. A motorist dissatisfied with a hearing officer's decision will commonly request a de novo hearing in district court, and DMV personnel and their witnesses are forced to present the entire case over again. This is not an efficient use of either administrative or court resources. The new language is based upon the provisions adopted by the legislature in 1983 regarding the appeal rights granted to a person whose driver's license has been administratively revoked because he drove while intoxicated or refused to take a breath test. See AS 28.15.166(m) and (n).

The amendment contained in sec. 4 of the bill clarifies AS 28.10.051(1) which authorizes DMV to suspend or revoke a motor vehicle certificate of registration which was fraudulently obtained. Unless an emergency requires immediate action, a motorist has a right to request a hearing under AS 28.05.131 before DMV suspends or revokes a registration certificate.

For the convenience of vehicle owners, current AS 28.10.-105(f) allows an owner to register a vehicle for a portion of a year so that annual registration fees for all vehicles owned by that person will be due at the same time under the state's staggered registration system. This privilege has been abused by some owners who have repeatedly registered and paid fees on a vehicle for only part of a year, rather than for the entire year. AS 28.10.105 was never intended to allow a vehicle to be routinely registered for a period less than a year. The amendment to the statute contained in sec. 5 of the bill states that an owner may exercise this partial-year payment option only once per motor vehicle.

The changes made in secs. 6 and 7 of the bill correct an ambiguity in current law. AS 28.10.411 establishes a state motor vehicle registration fee. AS 28.10.431 authorizes municipalities to levy a motor vehicle registration tax, which may be collected by DMV on behalf of the municipality at the same time that state registration fees are collected. Present AS 28.10.411(c) exempts a resident 65 years of age or older from payment of "tax under this section" for one motor vehicle. This language does not

make sense, as AS 28.10.411 levies a fee. A tax is authorized under AS 28.10.431. The new language makes it clear that a resident aged 65 years or older, on the date the tax is due, is exempt from payment of both the registration fee and the tax. This is in accord with DMV's present interpretation of the existing language. The amendment specifies that the exemption applies to one personal vehicle but not to commercial vehicles. This implements the original intent of the provision, which was to excuse senior citizens from paying the costs of registering one personal vehicle, rather than to benefit commercial businesses.

Sections 3, 13, and 15 of this bill provide that a person's "ability to apply for a license" can be suspended or revoked under the same conditions and in the same way that a person's driver's license can be suspended or revoked under existing law. In the case of Francis v. Municipality of Anchorage, 641 P.2d 226 (Alaska App. 1982), the Alaska Court of Appeals held that a person who had never applied for a driver's license could not be charged with the misdemeanor crime of driving while license suspended (DWLS) for driving after DMV had suspended his "privilege to drive" following an accident for which he failed to establish financial responsibility. The court held that since the defendant had never had a license, there was nothing for DMV to suspend, and the most that the defendant could be charged with was driving without a valid license.

Driving without a valid license in violation of AS 28.15.-011 carries a maximum penalty of 90 days in jail, a \$500 fine, or both. See AS 28.35.230(a) and (b). In contrast, DWLS carries a maximum penalty of one year in jail, a \$5,000 fine, or both. See AS 28.15.291(d). Additionally, a conviction for driving without a valid license does not require the mandatory minimum sentences which must be imposed following a conviction for DWLS. See AS 28.15.-291(a) and (c).

In a very real sense, persons such as defendant Francis are more blatant violators of the motor vehicle laws than the "average" DWLS offender. Not only did Francis drive after receiving a suspension notice from DMV, he drove (and was involved in an accident) without ever obtaining a license in the first place. Such blatant disregard of the licensing laws should not be rewarded with lesser criminal penalties. The amendments included in this bill will make offenders like Francis subject to the general laws against DWLS and the more serious penalties.

Under current law, a person under age 18 may not apply for a driving instruction permit or a motorcycle driver's permit unless a parent or guardian signs the application and agrees to assume responsibility for any negligence or willful misconduct of the minor. In the case of a minor who is married, however, a parent may either not be available, or may be unwilling to assume this responsibility. The language contained in secs. 9, 10, and 11 allow a spouse 18 years of age or older to sign the necessary application forms and assume this responsibility on behalf of the minor.

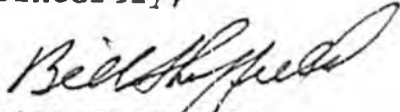
AS 28.15.171 presently provides that DMV may suspend or revoke a nonresident's privilege to drive in this state in the same manner and for the same reasons that an Alaska driver's license may be suspended or revoked. Section 12 of the bill amends AS 28.15.171 to clarify that a court also has this authority, and allows the court or DMV to place a limitation on the privilege to drive.

Section 14 of the bill specifically authorizes DMV to use first class mail to notify a driver that he is half-way to losing his license because of the accumulation of points resulting from convictions for traffic law violations. These notices are currently being sent by first class mail in accordance with 13 AAC 08.220(c). To conform with the requirements of AS 28.05.121, this amendment is needed to clearly establish DMV's ability to use first class mail for these notices.

The amendment contained in sec. 16 of the bill is needed to clarify AS 28.35.032(a) which establishes the crime of refusal to take a breath test. The new language provides that a person's license may be revoked if he was "arrested for operating or driving a motor vehicle for which a driver's license is required." The current law contains the language "arrested while operating" Obviously, a DWI offender would never be arrested while he was driving because the arrest always occurs after his vehicle is stopped.

Adoption of all the amendments to AS 28 included in this bill will clear up some imprecise language contained in the current law, and will enable DMV to more efficiently administer the state's motor vehicle laws. I therefore urge your prompt action on this bill.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Sheffield".

Bill Sheffield
Governor

DEPARTMENT OF LAW

CRIMINAL DIVISION

March 13, 1984

BILL SHEFFIELD, GOVERNOR

REPLY TO

 OFFICE OF THE CHIEF PROSECUTOR
 POUCH KC
 JUNEAU, ALASKA 99811
 PHONE (907) 465-3428

 OFFICE OF SPECIAL PROSECUTIONS
 AND APPEALS
 1031 WEST 4TH AVENUE SUITE 318
 ANCHORAGE, ALASKA 99501-5993
 PHONE (907) 279-7424

The Honorable Bill Ray
 Chairman, Senate Judiciary Committee
 Alaska State Senate
 Pouch V
 Juneau, Alaska 99811

Re: Amendment to SB 499, An Act Relating
 to Motor Vehicle Laws

Dear Senator Ray:

As you may recall, the Senate H.E.S.S. Committee considered SB 499 (An Act Relating to Motor Vehicle Laws) at a hearing on March 8, 1984. At that hearing, you indicated that when the bill was referred to Senate Judiciary Committee you would favor an amendment to the language in section 3 of the bill to allow a de novo hearing to be held in district court if a D.M.V. administrative hearing officer's decision was reversed by the court on appeal.

To accomplish this, I have drafted a new proposed subsection (e) for AS 28.05.141. I would suggest that the current version of SB 499 be amended by adding a new section 4, to read:

Sec. 4. AS 28.05.141 is amended by adding a new subsection to read:

(e) If, upon appeal, the court reverses the department's determination, the court may, in its discretion

(1) return the case to the department for a new hearing before the same or another hearing officer, or

(2) conduct a hearing de novo in district court.

If this new section 4 is added, the other sections of the bill should be renumbered as sections 5 through 17.

March 13, 1984

Please contact me if you have any questions about the draft language above, or if I can be of any further assistance on this bill.

Very truly yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

DANIEL W. HICKEY
CHIEF PROSECUTOR

By: 

Gayle A. Horetski
Assistant Attorney General

GAH/gb-12

Revision Date: _____

REQUEST
Bill/Resolution No.: SB499
Title: An Act relating to motor vehicle laws.
Sponsor: _____
Requestor: _____
Date of Request: _____

FISCAL DETAIL
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Program Category Affected: Life and Property Protection
BRU, Program or Subprogram(s) Affected: Division of Motor Vehicles

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REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Bill Brown Phone: 465-4335
 Division: Motor Vehicles Date: 12-14-83
 Approved by Commissioner: [Signature] Date: 12/28/83
 Agency: Public Safety

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

12/1/83

Fiscal Note

TO: Senator Bill Ray

FROM: Paula d. Scavera

DATE: March 26, 1984

RE: SB 499

This bill makes amendments to the motor vehicle laws contained in Title 28. These amendments address a variety of issues.

SECTION 1

Adds language so that a peace officer may impound a motor vehicle if the vehicle identification number has been altered or removed.

SECTION 2

Amends a general provision regarding DMV administrative hearings to make it clear that a hearing officer may take appropriate action against a person's vehicle title or registration as well as against a person's drivers license.

SECTION 3

Adds language regarding a motorist's right to appeal from an administrative hearing officer's decision. The new language allows a motorist to appeal such a decision to the district court, and specifies the scope of appellate review.

SECTION 4

Clarifies that section in the law which authorizes DMV to suspend or revoke a motor vehicle certificate of registration which was fraudulently obtained.

SECTION 5

Amends language so owner may exercise an partial-year payment option only once per motor vehicle for their registration.

SECTIONS 6 & 7

Correct an ambiguity in existing language of "tax" and "fee" in regards to exemptions for residents 65 years and older. The new language makes it clear that a resident aged 65 years or older, on the date the tax is due, is exempt from payment of both the registration fee and tax for one personal vehicle.

SECTION 8

Provide that a person's "ability to apply for a license" can be suspended or revoked under the same conditions and in the same way that a person's drivers license can be suspended or revoked under existing law.

SECTIONS 9, 10, & 11

Allow a spouse 18 years or older to sign the necessary application forms and assume this responsibility on behalf of the minor.

SECTION 12

Clarifies that a court has the authority to suspend, revoke, or limit a nonresident's privilege to drive in this state in the same manner and for the same reasons that an Alaskan driver's license maybe suspended, revoked, or limited.

SECTION 13

Provide that a person's "ability to apply for a license" can be suspended or revoked under the same conditions and in the same way that a person's drivers license can be suspended or revoked under existing law.

SECTION 14

This language specifically authorizes DMV to use first class mail to notify a driver that he is half-way to losing his license because of accumulation of points resulting from convictions.

SECTION 15

Provide that a person's "ability to apply for a license" can be suspended or revoked under the same conditions and in the same way that a person's drivers license can be suspended or revoked under existing law.

SECTION 16

Clarifies the language which establishes the crime of refusal to take a breath test.