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Official Business

Alaska State Legislature

Senate Committee on State Affairs

Vic Fischer, Chair • Pouch V

Juneau, Alaska 99811

(907) 465-4954

SENATE STATE AFFAIRS COMMITTEE

MEETING SCHEDULE

March 6, Tuesday 3:00 pm

Butrovich Room
Capitol Building

SB 421 Public contracts

SB 489 Alaska Industrial Development Authority

SB 495 Confidentiality of voter information

March 8, Thursday 3:00 pm

Butrovich Room
Capitol Building

SB 499 Motor vehicle laws

SB 500 Energy from litter

SB 505 Pacific Rim fellowship



Alaska State Legislature

Housekeeping for Vehicle Safety

Senate Committee on State Affairs

Vic Fischer, Chair • Pouch V
Juneau, Alaska 99811
(907) 465-4954

Official Business

MEMORANDUM

TO: Senate State Affairs Committee
FROM: Senate State Affairs Committee Staff
RE: SB 499 Motor vehicle laws
Date: March 8, 1984

SB 499 amends various motor vehicle statutes.

- Section 1: allows vehicles to be impounded when the vehicle identification number has been altered. This section also states that the owner is responsible for the impounding costs of a vehicle towed due to a deflection that would make it unsafe to drive.
- Section 2: allows the department to suspend or revoke (etc...) the registration or title of an automobile.
- Section 3: states that the court shall base their findings of an appealed decision made by a hearing officer on the record of that administrative hearing. This section also outlines the criteria the court must use to determine a stay of the hearing officer's order.
- Section 4: is a technical amendment more closely defining the grounds for a suspension or revocation of a person's license etc... .
- Section 5: allows a person to change the month their vehicle registration is due, but limits their option to a one time change.
- Section 6: restricts the free vehicle registration offered to residents 65 years or older to personal vehicles.
- Section 7: is a technical deletion relating to section 6.
- Section 8: adds to the list of persons not to be issued driver's licenses those persons whose ability to apply for a license has been suspended or revoked.
- Section 9: allows a "spouse 18 years of age or older" to give permission for a minor to get a special driver's permit.

TESTIFY:

- 1) Bill Brown: (WILL explain bill)
- 2) Gayle Horetzki:

I AM worried about section 3. It is highlighted in your bill.

Section 10: adds "spouse who is 18 years of age or older" to the list of those who can sign the application for a driver's license or instructor's permit.

Section 11: adds "spouse who is 18 years of age or older" to the list of those who can be financially responsible for the driving of a minor.

Section 12: allows the department or court to limit an out of state driver's license.

Section 13: allows the department or court to suspend or revoke a person's ability to apply for a driver's license.

Section 14: is a technical section requiring notices put out by the department to go first class.

Section 15: adds suspension of the ability to apply for a license to the list of suspensions for people who have failed to deposit security under 28.20.070.

Section 16: is a technical amendment stating that a person can be arrested for and not while operating a motor vehicle.

Fiscal information

This bill has a zero fiscal note.

Back-up information

fiscal note from the Department of Public Safety
position paper from the Department of Public Safety
transmittal letter from the Governor
motor vehicle statutes

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 499
 Title: An Act relating to motor vehicle laws.
 Sponsor: Governor
 Requestor: Senate State Affairs
 Date of Request: 2-21-84

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 ^{BB} 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

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DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - SB 499

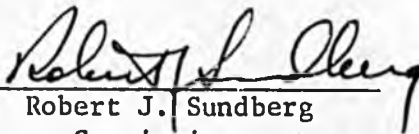
Support

February 17, 1984

SB 499, An Act relating to motor vehicle laws.

The Department supports this piece of legislation. It basically contains housekeeping measures which will enhance our operation by correcting problem areas we have experienced with Title 28.

A section by section analysis of the bill is contained on pages 2081, 2082, 2083 and 2084 of the Senate Journal.


Robert J. Sundberg
Commissioner



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

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.

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 8, 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.

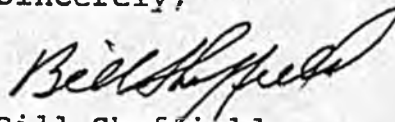
Section 14 of the bill specifically authorizes DMV to use first class mail to notify a driver that he is half-way to losing his license because of the accumulation of points resulting from conviction for traffic law violations. These notices are currently being sent by first class mail in accordance 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.

- 5 -

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

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

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

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

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

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

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

Section

- 111. Subpoenas; witness
- 121. Giving of notice

Sec. 28.05.111. commissioner and by the commission testimony under of the jurisdiction o regulations adopt section may req documents, record

(b) A subpoena days before the re officer or another registered or certifi service by mail. Th the same as for w

(c) A subpoena district court. (§ 6

Sec. 28.05.121. or required to give this title, unless expressly provide by personal delive certified mail, ret address as shown by mail is consid return of the noti the giving of noti the person giving person to whom tl manner of giving

Sec. 28.05.131. otherwise specif suspending, revc impounding is ne welfare of the pub for an administrat or privilege issue under this title is denied or a vehicl under this section the department :

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

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

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

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

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

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

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

- (1) the department is satisfied that the registration or certificate, plate or permit was fraudulently or erroneously issued;
- (2) the department determines that a registered vehicle is mechanically unsafe to be driven or moved on a highway, vehicular way or area, or other public property in this state and the vehicle has been seized or impounded under AS 28.05.091;
- (3) a registered vehicle has been scrapped, dismantled or destroyed beyond repair;
- (4) the department determines that a required fee or tax has not been paid and the fee or tax is not paid upon reasonable notice and demand;

(5) a registration is issued upon a vehicle of

(6) the department has committed an offense under the certificate, plate

(7) the vehicle is

unlawfully conveyed

(8) the department has

this state. (§ 7 ch

Sec. 28.10.061. Identification number. A vehicle may not be registered unless the identification number is on the vehicle or is not on the vehicle and apply to the department and for a new registration resources to determine if the number is the original identification number to show that he inspected by the department ownership of the vehicle and have assigned. The vehicle assigned identification

Sec. 28.10.071.

(a) The department received and, when keep a record of electronic or photographic combination of the and the vehicles: a record of the number may make statistical regulations and

(b) Records under

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(2) by the vehicle

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(c) The department

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§ 28.10.101

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October 15, 1978
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§ 28.10.105

MOTOR VEHICLES

§ 28.10.105

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

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

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

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

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

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

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

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

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

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

(i) The department may adopt regulations implementing staggered vehicle registration only as authorized under the provisions of this section and in accordance with the Administrative Procedure Act (AS 44.62), specifically subject to the legislative annulment procedures as provided in AS 44.62.320 and including notice as provided in AS 44.62.190 and AS 44.62.200 and an opportunity for public comment as provided in AS 44.62.210. (§ 7 ch 178 SLA 1978)

Sec. 28.10.107. Staggered registration implementation. (a) Every vehicle subject to registration under §§ 11 and 421(b)(3) and (4) and (c)(1) — (4) of this chapter shall have its initial registration, and may have its annual registration, renewed during the month of December, subject to the provisions of § 105(f) of this chapter.

(b) Every vehicle subject to registration under §§ 181, 411 and 421(d)(3), (6) and (9) of this chapter shall have its initial registration, and may have its annual registration, renewed during the month of January, subject to the provisions of § 105(f) of this chapter.

(c) Every vehicle subject to registration except those covered by (a) or (b) of this section shall have its initial registration, and may have its annual registration renewal period related to one of the 10 renewal periods. These vehicles will be initially assigned staggered registration periods in the following manner, subject to the provisions of § 105(f) of this chapter:

(1) vehicles registered in Alaska before January 1, 1979 shall be assigned to a registration renewal period related to the last digit of the license assigned to the vehicle and shown upon its current registration card;

(2) vehicles not registered in Alaska as of January 1, 1979 shall be assigned to a registration renewal period related to the month in which the vehicle was first registered in Alaska;

(3) vehicles shall retain the same annual expiration date regardless of the ownership of the vehicle;

(4) the date to which a vehicle is initially stagger-registered will determine its registration renewal period as follows:

Registration between	Anniversary Period
January 1 and January 31	1st
February 1 and February 28/29	1st
March 1 and March 31	2nd
April 1 and April 30	3rd
May 1 and May 31	4th
June 1 and June 30	5th
July 1 and July 31	6th
August 1 and August 31	7th
September 1 and September 30	8th
October 1 and October 31	9th
November 1 and November 30	10th
December 1 and December 31	10th

(d) The registration of a vehicle expires on the last day of the month to which the vehicle is assigned.

(e) The department shall send by United States mail, to the registered owner of record at his recorded mailing address as shown in the records of the department, notification of registration expiration.

(f) Owners of a vehicle by return notification form a be postmarked no period shown upon form.

(g) The department and appropriate in accordance with (f) to the owner, at the department's records tabs.

(h) If a vehicle registration and vehicle is sold to

(i) The purchaser been held in abeyance of purchase and department.

(j) The exemption this section applies

- (1) the dealer is
- (2) the vehicle part of the dealer 1978)

Sec. 28.10.111. renewal of vehicle form and paying freight carrier fee
 (b) The department vehicle registration time before the regulations adopted prevents the conversion however, no person before a date within 1978)

Am. Jur. references Automobiles, § 110.

Sec. 28.10.121 a noncommercial registration provisions state if the vehicle

§ 28.10.107

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§ 28.10.111

MOTOR VEHICLES

§ 28.10.121

(f) Owners of vehicles subject to registration who have received notification under (e) of this section may renew registration of the vehicle by returning by United States mail to the department the notification form and appropriate fees. Registration in this manner shall be postmarked no later than the fifth day of the registration renewal period shown upon the vehicle's current registration or notification form.

(g) The department, upon receipt of a registration renewal application and appropriate fees and taxes, which have been timely mailed in accordance with (f) of this section, shall renew the registration and send to the owner, at his last recorded mailing address as shown upon the department's records, current registration card and registration plates or tabs.

(h) If a vehicle is held for sale by a dealer, the requirement of registration and payment of fees and taxes does not apply until the vehicle is sold to a party other than another dealer.

(i) The purchaser of a vehicle for which registration and taxes have been held in abeyance shall register the vehicle within five working days of purchase and shall pay the prorated fees and taxes required by the department.

(j) The exemption from paying of fees and taxes as set out in (h) of this section applies to dealers only if

(1) the dealer is registered with the state; and

(2) the vehicle for which the exemption is sought can be shown to be part of the dealer's inventory at the time of exemption. (§ 7 ch 178 SLA 1978)

Sec. 28.10.111. Renewal of registration. (a) Application for the renewal of vehicle registration shall be made by completing the proper form and paying any required registration fee and tax, and any motor freight carrier fee or bus transportation fee required under AS 42.

(b) The department may receive an application for the renewal of vehicle registration and issue a new certificate of registration at any time before the expiration of the annual registration as prescribed in regulations adopted by the commissioner. Nothing in this section prevents the commissioner from providing for multi-year registration; however, no person may display the new registration plates on a vehicle before a date which may be set by the commissioner (§ 7 ch 178 SLA 1978)

Am. Jur. reference. — 5 Am. Jur.,
Automobiles, § 110.

Sec. 28.10.121. Vehicles of nonresidents. (a) A nonresident owner of a noncommercial vehicle registered outside the state is exempt from the registration provisions of this chapter for 90 days after entry into the state if the vehicle at all times when driven in this state is registered

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

Article 5. Fees and Charges.

Section

- 411. Registration fees levied
- 421. Registration fee rates

Section

- 431. Annual motor vehicle registration tax
- 441. Schedule of other fees and charges

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

(b) Motor carrier and bus transportation fees paid on vehicles subject to the Alaska Motor Freight Carrier Act (AS 42.10) and the Alaska Bus Act (AS 42.15) shall be paid to the department at the same time the registration fee is paid.

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

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

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

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

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

- (1) a passenger vehicle or motor home not used or maintained for the transportation of persons or property for hire or for other commercial use \$30;
- (2) a pick-up truck or a van not exceeding 6,000 pounds unladen weight and not used or maintained for the transportation of persons or property for hire or for other commercial use \$35;
- (3) a taxicab \$65;
- (4) a motor bus with a seating capacity for 20 or more persons and used exclusively for commercial purposes in the transporting of visitors or tourists \$80;
- (5) a motorcycle or a motor-driven cycle \$15;

(6) a two- or four- transportation of pe use, including, but trailer, utility trailer

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Sec. 28.10.216. Inadequate evidence of ownership. (a) When the department is not satisfied as to the ownership of a vehicle or believes that there may be undisclosed security interests in it, the department may register the vehicle but shall either

(1) withhold issuance of a certificate of title until the applicant presents documents sufficient to satisfy the department

(A) as to the ownership of the vehicle by applicant, and

(B) that there are no undisclosed security interests in the vehicle; or

(2) require the applicant, as a condition of the issuance of a certificate of title, to file with the department either

(A) a bond in the form prescribed by the department and executed by the applicant, or

(B) a deposit of cash.

(b) A bond or cash deposit filed under (a)(2) of this section shall be equal in amount to one and one-half times the value of the vehicle as determined by the department and be conditioned to indemnify former owners, secured parties, and subsequent purchasers of the vehicle and their successors against loss resulting from a defect in or undisclosed security interest on the title of the applicant. An injured party may sue on the bond for a breach of its conditions, but the liability of the surety or the department may not exceed the amount of the bond or deposit.

(c) The bond or deposit shall be returned (1) at the end of three years from its filing, or (2) when the vehicle is no longer registered in the state if (2) is earlier and if the certificate of title is surrendered to the department. Service on the department of notice that action is pending to recover on the bond or the deposit extends the periods established in this subsection until 45 days after a final decision in the action on the bond or on the deposit. (§ 3 ch 54 SLA 1979)

Article 5. Fees and Charges.

Section

421. Registration fee rates

Sec. 28.10.421. Registration fee rates. (a) Unless otherwise provided by law, the fees prescribed in this section shall be paid to the department at the times provided under AS 28.10.101 — 28.10.111.

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

(1) a passenger vehicle or motor home not used or maintained for the transportation of persons or property for hire or for other commercial use \$30;

(2) a pick-up truck or a van not exceeding 6,000 pounds unladen weight and not used or maintained for the transportation of persons or property for hire or for other commercial use \$35;

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§ 28.10.421

MOTOR VEHICLES

§ 28.10.421

- (3) taxicab \$65;
- (4) a motor bus with a seating capacity for 20 or more persons and used exclusively for commercial purposes in the transporting of visitors or tourists \$80;
- (5) a motorcycle or a motor-driven cycle \$15;
- (6) a two- or four-wheeled trailer not used or maintained for the transportation of persons or property for hire or for other commercial use, including, but not limited to, a boat trailer, baggage trailer, box trailer, utility trailer or house trailer \$ 5.

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

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

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

- (1) an historic vehicle (one time only upon initial registration under AS 28.10.181) \$10;
 - (2) special request plates \$20;
- plus the fee required for that vehicle under (b)(1) or (2) of this section; the fee required by this paragraph shall be collected only on the first issuance and on the replacement of special request plates;

(3) a vehicle owned by a disabled veteran or other handicapped person, and registered under AS 28.10.181 or a resident 65 years of age or older who complies with AS 28.10.411(c) none;

(4) a vehicle owned by the state none;

(5) a vehicle owned by an elected state official the fee required for that vehicle under (b) of this section;

(6) a vehicle owned by a consular officer, unless waived under AS 28.10.181 \$30;

(7) a vehicle owned by a rancher, farmer, or dairyman and registered under AS 28.10.181 \$30;

(8) a snowmobile or off-highway vehicle \$ 5;

(9) an amateur mobile radio station vehicle,

(A) with a transceiver capable of less than 5-band opera-

- (10) dealer registration plates,
 - (A) the initial set of plates \$40;
 - (B) each subsequent set of plates \$20;
- (11) a vehicle owned by a municipality or charitable organization meeting the requirements of § 181(e) of this chapter \$ 5.

(e) A vehicle registered under this section which, by the removal of seats, a camper unit, a canopy or other equipment, may be converted into a vehicle on which the registration fee is computed on a different basis or in a different amount may not be driven or moved with seats, camper unit, canopy or other equipment removed unless the other applicable registration fee is paid. (§ 7 ch 178 SLA 1978)

Sec. 28.10.431. Annual motor vehicle registration tax. (a) There is levied a motor vehicle registration tax within each municipality which elects, by passage of an appropriate ordinance, to come under this section. A municipality shall file a written notice of election with the department and may not rescind the notice for a subsequent fiscal year. The notice must be filed on or before January 1 of the year preceding the year election under this section is to become effective. If a municipality has, before October 15, 1978, levied a motor vehicle registration or ad valorem tax which has been repealed by a vote of the people at any regular or special municipal election, then the election provided for in this subsection is not effective until the ordinance passed by the local governing body has been approved by the people at the next regularly scheduled general or special municipal election.

(b) The tax is levied upon motor vehicles subject to the license tax under §§ 411 and 421 of this chapter, not including mobile homes, and is based upon the age of vehicles as determined by model year according to the following schedule:

Motor Vehicle	Tax According to Age of Vehicle							
	Since Model Year:							
	1st	2nd	3rd	4th	5th	6th	7th	8th or over
(1) motorcycle	\$ 8	\$ 7	\$ 6	\$ 5	\$ 4	\$ 3	\$ 2	\$ 2
(2) vehicles specified in § 421(b)(1) of this chapter	60	50	40	30	20	15	10	5

Motor Vehicle (3) vehicles specified in § 421(b)(3) of this chapter

(4) vehicles specified in § 421(c)(1) (4) of this chapter 5,000 pounds or less 5,001-12,000 pounds 12,001-18,000 pounds 18,001 pounds or over

(5) vehicles specified in § 421(b)(4) of this chapter

(6) vehicles specified in § 421(b)(6) of this chapter

§ 28.15.021

ALASKA STATUTES

§ 28.15.031

ALR 1153; 54 ALR 374; 58 ALR 532; 61 ALR 1190; 78 ALR 1028; 87 ALR 1469; 111 ALR 1258; 163 ALR 1375.

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

Lack of automobile registration for operator's license as evidence of negligence, 73 ALR 164.
60 C.J.S., Motor Vehicles, §§ 146 to 164.

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

- (1) an employee of the United States government while operating a motor vehicle owned by or leased to the United States government and being operated on official business, unless the employee is required by the United States government or an agency of that government to have a state driver's license;
- (2) a nonresident who is at least 16 years of age and who has a valid driver's license issued by another jurisdiction; however, an Alaska driver's license must be obtained by the end of a 90-day period after entry into the state;
- (3) a member of the armed forces of the United States who has a valid driver's license issued by another jurisdiction and who maintains his permanent residence in that jurisdiction;
- (4) a person when driving an implement of husbandry, as defined by regulation, which is only temporarily driven or moved on a highway. (§ 19 ch 178 SLA 1978)

Am. Jur. and C.J.S. references. — 6 Am. Jur., Automobiles, § 153.
60 C.J.S., Motor Vehicles, § 150.

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

- (b) The department shall not issue an original or duplicate driver's license to, nor renew or reinstate the driver's license of, a person
 - (1) whose license is suspended or revoked, except as otherwise provided in this chapter;
 - (2) who fails to appear in court for the adjudication of a certain vehicle, driver or traffic offense when his appearance is required by statute, regulation or court rule;
 - (3) who is an habitual user of alcohol or another drug to such a degree that he is incapable of safely driving a motor vehicle;
 - (4) who has previously been adjudged to be afflicted with, or suffering from, a mental disability or a disease and who has not, at the time of application for the license, been restored to competency by the methods provided by law;
 - (5) when the department, based upon medical evidence, has

§ 28.15.041

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

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

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

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

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

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

(b) No person may drive a school bus transporting school children, or a bus transporting school-age children or another motor vehicle when in use for the transportation of persons for compensation until he has applied for and has been issued a license for that purpose under (a) of this section. The department may not issue a license under this subsection unless the applicant is at least 19 years of age, has had at least one year of driving experience, and the department is satisfied as to the applicant's good character, competence and fitness to be licensed; nor may the department issue the license until proper application has been made and all required driving, written, and physical examinations have been successfully completed. A license issued under this subsection expires on September 1 of the year following issuance. Application for renewal may be made by submitting to the department the results of a current physical examination and paying the required fee. (§ 19 ch 178 SLA 1978)

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

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

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

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

(e) Notwithstanding other provisions of this chapter, the department may issue a special driver's license to a person who is under the age of 16 years because of the circumstances of hardship. Special licenses to be issued because of hardship shall be determined on an individual basis by the commissioner. (§ 19 ch 178 SLA 1978)

Sec. 28.15.061. Permit; notification; instruction permit. (a) An instruction permit furnished by the department shall contain the following information:

- (b) An application for an instruction permit shall contain the following information:
 - (1) contain the name and address of the applicant;
 - (2) state the type of vehicle to be driven and, if applicable, the date of the last driver's license examination; and
 - (3) state whether the applicant has ever been licensed to drive a motor vehicle.
- (c) An instruction permit shall contain the following information:
 - (1) the name and address of the applicant;
 - (2) the date of issuance;
 - (3) the date of expiration;
 - (4) the type of vehicle to be driven;
 - (5) the name and address of the instructor;
 - (6) the name and address of the person who issued the permit;
 - (7) the name and address of the person who received the permit;
 - (8) the name and address of the person who supervised the driver when he drives a motorcycle;
 - (9) the name and address of the person who supervised the driver when he drives a motor vehicle;
 - (10) the name and address of the person who supervised the driver when he drives a motor-driven cycle;
 - (11) the name and address of the person who supervised the driver when he drives a motor-driven cycle;
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 - (99) the name and address of the person who supervised the driver when he drives a motor-driven cycle;
 - (100) the name and address of the person who supervised the driver when he drives a motor-driven cycle;
- (d) The department shall maintain a record of all instruction permits issued in this state.
- (e) The department shall maintain a record of all instruction permits issued in this state.

Am. Jur. 4th ed. § 12
 Am. Jur., 2d ed. § 12
 Traffic, § 12

Sec. 28.15.062. Permit; notification; instruction permit. (a) An instruction permit furnished by the department shall contain the following information:

- (b) Any person who is at least 18 years of age and who has never been licensed to drive a motor vehicle shall be required to take a driver's license examination before being licensed to drive a motor vehicle.
- (c) If a person is licensed to drive a motor vehicle and the license is suspended or revoked, the person shall be required to take a driver's license examination before being licensed to drive a motor vehicle.

§ 28.15.051

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§ 28.15.061

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

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

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

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

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

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

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

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

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

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

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

(c) If a minor deposits, or there is deposited on his behalf, proof of financial responsibility for his driving of a motor vehicle, in the form and amount required in ch. 20 of this title, then the department may accept

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

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

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

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

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

(d) The department may enter into agreements with other state agencies, municipalities, or qualified persons for the purpose of conducting the examinations required under this chapter. (§ 19 ch 178 SLA 1978)

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

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

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

Article 3. Point System.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) comply with reasonable recommendations designed to improve his driving abilities which are made to him during the driver improvement interview.

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company issuing the policy or bond is authorized to do business in this state, or if the company is not authorized to do business in this state, unless it executes a power of attorney authorizing the director of the division of insurance to accept service on its behalf of notice or process in an action upon the policy or bond arising out of the accident.

(c) The department may rely upon the information in an accident report as to the existence of insurance or a bond unless the department has reason to believe that the information is erroneous. (§ 9 ch 163 SLA 1959; am § 1 ch 146 SLA 1966; am § 1 ch 202 SLA 1975; am § 12 ch 144 SLA 1977)

Cross reference. — See note to AS 28.20.060.

Effect of amendments. — The 1975 amendment substituted "\$25,000" for "\$15,000," "\$50,000" for "\$30,000," and "\$10,000" for "\$5,000" in subsection (a).

The 1977 amendment, in subsection (b), substituted "in another jurisdiction" for "elsewhere than in this state" and "director of the division of insurance" for "commissioner of commerce" and deleted "company" following "unless the insurance."

Renewal of policy does not require execution of second power of attorney. —

If the vehicle is not registered in Alaska, the fact that the policy is renewed while the vehicle is in Alaska does not mean that a second power of attorney must be executed by the unauthorized insurance company. 1962 Op. Att'y Gen., No. 2.

Unless first power of attorney has expired or been revoked. — See 1962 Op. Att'y Gen., No. 2.

Quoted in National Indem. Co. v. Hart, 4 Alas. L.J. No. 4, p. 54 (April, 1966); Hart v. National Indem. Co., Sup. Ct. Op. No. 387 (File No. 722), 422 P.2d 1015 (1967).

Am. Jur. reference. — 5 Am. Jur., Automobiles, § 504 et seq.

Sec. 28.20.080. Form and amount of security. (a) The security required by this chapter shall be in the form and amount the department requires, but in no case in excess of the limits specified in § 70 of this chapter for the acceptable limits of a policy or bond.

(b) Every depositor of security shall designate in writing the person in whose name the deposit is made and may at any time change the designation, but a single deposit of security applies only on behalf of a person required to furnish security because of the same accident. (§ 10 ch 163 SLA 1959)

Sec. 28.20.090. Suspension for failure to deposit security. (a) If a person required to deposit security under this chapter fails to deposit security within 10 days after the department sends notice, the department shall suspend

- (1) the license of each driver involved in the accident;
- (2) the privilege of operating a vehicle subject to registration if the driver is a nonresident;
- (3) the privilege of the owner to operate or permit the operation within this state of a vehicle subject to registration if the owner is a nonresident.

(b) Suspensions shall be made in respect to persons required by the department to deposit security who fail to deposit such security, except

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as otherwise provided under succeeding sections of this chapter. (§ 11 ch 163 SLA 1959)

Am. Jur. reference. — 5A Am. Jur.,
Automobiles and Highway Traffic, §§ 146
to 152.

Sec. 28.20.100. Release from liability. (a) A person is relieved from the requirement for deposit of security for the benefit or protection of another person injured or damaged in the accident if he is released from liability by the other person.

(b) A covenant not to sue relieves the parties to it as to each other from the security requirements of this chapter.

(c) If the department evaluates the injuries or damage to a minor in an amount not more than \$500, the department may accept, for the purposes of this chapter only, evidence of a release from liability executed by a natural or legal guardian on behalf of the minor without court approval. (§ 12 ch 163 SLA 1959; am § 13 ch 144 SLA 1977)

Effect of amendment. — The 1977
amendment substituted "\$500" for "\$200"
in subsection (c).

Sec. 28.20.110. Adjudication of nonliability. A person is relieved from the requirement for deposit of security for a claim for injury or damage arising out of the accident if the person is finally adjudicated not to be liable for the claim. (§ 13 ch 163 SLA 1959)

Sec. 28.20.120. Agreements for payment of damages. (a) Two or more persons involved in or affected by an accident as described in § 50 of this chapter may at any time enter into a written agreement for the payment of an agreed amount with respect to their claims because of bodily injury, death, or property damage arising from the accident. The agreement may provide for payment in installments. The parties may file a signed copy of the agreement with the department.

(b) To the extent provided by the written agreement filed with it, the department shall not require the deposit of security and shall terminate a previous order of suspension, or if security was deposited, the department shall immediately return the security to the depositor or his personal representative.

(c) If there is a default in a payment under the agreement upon notice of default the department shall take action suspending the license of the person in default as is appropriate in case of failure of the person to deposit security when required under this chapter.

(d) The suspension remains in effect and the license may not be restored until

(1) security is deposited as required under this chapter in the amount the department determines; or

stating that after refusal to submit to a test of the breath, "a chemical test shall not be given," means any chemical test, be it of the breath, blood, urine or otherwise, and not just a chemical test of the breath. Anchorage v. Geber, Sup. Ct. Op. No. 1824 (File Nos. 4016, 4037, 3827, 4046), 592 P.2d 1187 (1979).

Applied in Nelson v. State, Ct. App. Op.

No. 129 (File No. 6222), 650 P.2d 426 (1982).

Quoted in Simpson v. Municipality of Anchorage, Ct. App. Op. No. 57 (File Nos. 4945, 4946, 5288), 635 P.2d 1197 (1981).

Cited in Coleman v. State, Ct. App. Op. No. 229 (File No. 7215), P.2d (1983).

Sec. 28.35.032. Refusal to submit to chemical test. (a) If a person under arrest refuses the request of a law enforcement officer to submit to a chemical test under AS 28.35.031(a), after being advised by the officer that the refusal will, if that person was arrested while operating or driving a motor vehicle for which a driver's license is required, result in the denial or revocation of the license or nonresident privilege to drive, that the refusal may be used against the person in a civil or criminal action or proceeding arising out of an act alleged to have been committed by the person while operating or driving a motor vehicle or operating an aircraft or a watercraft while intoxicated, and that the refusal is a misdemeanor, a chemical test shall not be given, except as provided by AS 28.35.035.

(b) [Repealed, § 25 ch 77 SLA 1983.]

(c) [Repealed, § 25 ch 77 SLA 1983.]

(d) [Repealed, § 25 ch 77 SLA 1983.]

(e) The refusal of a person to submit to a chemical test of breath under (a) of this section is admissible evidence in a civil or criminal action or proceeding arising out of an act alleged to have been committed by the person while operating or driving a motor vehicle or operating an aircraft or watercraft while intoxicated.

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

(g) Upon conviction of a person under this section, the court shall impose a minimum sentence of imprisonment of not less than 72 consecutive hours and a fine of not less than \$250 if the person has not been previously convicted in this or another jurisdiction 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 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 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 than \$1,000 if, previously convicted the following offense of one of the following elements; (2) refusal to submit to another law or execution of sentence granted except if in this section is. If the offense in license is required AS 28.15.181. In under this section that program of consideration of finds appropriate section shall run ment imposed on

(h) Except as provided of treatment, this section shall apply regarding the court may require is confidential a convicted under preparing a pre-person convicted

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(j) For purposes intoxicated and AS 28.35.031(a) arrest, are considered § 28 ch 71 SLA 1982; am §§ 17

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days instead of within 60 days as required
by 7 AAC 30.050. Ahsogaek v. State, Ct.
App. Op. No. 147 (File No. 6601), P.2d
(1982).

Breathalyzer packet admissible as
evidence. — The admission of the
breathalyzer packet as a foundation for the
introduction of breathalyzer evidence in a
drunk driving case is the introduction of a
public record of factual findings recorded
in the regular course of official business,
made independently and well in advance
of any particular prosecution, and does not
violate the defendant's right to confronta-
tion under the 6th amendment. State v.
Huggins, Ct. App. Op. No. 127 (File Nos.
6535, 6595), P.2d (1982).

Documents referred to as a breathalyzer
packet were admissible under the public
records exception to the hearsay rule.
State v. Huggins, Ct. App. Op. No. 127
(File Nos. 6535, 6595), P.2d (1982).

Effect of alcohol consumption after
accident is jury question. — The issue of
whether and to what extent defendant's
consumption of alcohol after the accident
but before a breathalyzer examination
affected his breathalyzer result was a
question which was properly left for the

jury. Doyle v. State, Ct. App. Op. No. 43
(File No. 5115), 633 P.2d 306 (1981).

Applied in Catlett v. State, Sup. Ct. Op.
No. 1752 (File No. 3213), 585 P.2d 553
(1978); Erickson v. Municipality of
Anchorage, Ct. App. Op. No. 238 (File No.
7058), 662 P.2d 963 (1983).

Quoted in Simpson v. Municipality of
Anchorage, Ct. App. Op. No. 57 (File Nos.
4945, 4946, 5288), 635 P.2d 1197 (1981);
Cooley v. Municipality of Anchorage, Ct.
App. Op. No. 114 (File Nos. 5859, 6112,
6151), 649 P.2d 251 (1982).

Stated in Lyle v. State, Sup. Ct. Op. No.
1944 (File No. 3162), 600 P.2d 1357 (1979);
O'Leary v. State, Sup. Ct. Op. No. 2003
(File No. 3466), 604 P.2d 1099 (1979);
Municipality of Anchorage v. Serrano, Ct.
App. Op. No. 115 (File Nos. 6447, 6724,
6725), 649 P.2d 256 (1982).

Cited in Reeves v. State, Sup. Ct. Op.
No. 1924 (File No. 3161), 599 P.2d 727
(1979); Nygren v. State, Sup. Ct. Op. No.
2164 (File No. 4219), 616 P.2d 20 (1980);
Graham v. State, Sup. Ct. Op. No. 2493
(File No. 4092), 633 P.2d 211 (1981);
Morris v. Farley Enters., Inc., Sup. Ct. Op.
No. 2636 (File Nos. 6013, 6042), P.2d
(1983); Pena v. State, Ct. App. Op. No.
245 (File No. 6174), P.2d (1983).

Sec. 28.35.034. Surrender of license or permit. A person whose
license or permit to operate or drive a motor vehicle has been revoked
under AS 28.15.165 or AS 28.15.181 shall surrender the license or
permit to the department on receipt of notice of the revocation. After
the period of revocation has expired, the person may make application
for a new license as provided by law. (§ 1 ch 33 SLA 1969; am § 14 ch
129 SLA 1980; am § 21 ch 77 SLA 1983)

Effect of amendments. — The 1980
amendment inserted "operate or" in the
first sentence.

The 1983 amendment in the first sen-
tence deleted "suspended or" preceding
"revoked," revised the internal reference,

and made a minor word change; deleted
the former second sentence, regarding a
three-month suspensor of an operator's
license; and in the last sentence substi-
tuted "period of revocation" for "three
months' period."

NOTES TO DECISIONS

Quoted in Graham v. State, Sup. Ct.
Op. No. 2403 (File No. 4092), 633 P.2d 211
(1981).

Cited in Anchorage v. Geber, Sup. Ct.

Op. No. 1824 (File Nos. 4016, 4037, 3827,
4046), 592 P.2d 1187 (1979); Pena v. State,
Ct. App. Op. No. 245 (File No. 6174),
P.2d (1983).

**Sec. 28.35.035. Administration of chemical tests without
consent.** (a) If a person is under arrest for an offense arising out of acts
alleged to have been committed while the person was driving a motor

vehicle while intoxicated, and that arrest results from an accident that causes death or physical injury to another person, a chemical test may be administered without the consent of the person arrested to determine the amount of alcohol in that person's breath or blood.

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

(c) If a chemical test is administered to a person under (a) or (b) of this section, that person is not subject to the penalties for refusal to submit to a chemical test provided by AS 28.35.032 and 28.35.034. (§ 21 ch 117 SLA 1982; am § 22 ch 77 SLA 1983)

Effect of amendments. — The 1983 amendment in subsection (a) substituted "an offense . . . driving a motor vehicle" for "the crime of driving" and in subsection (b) revised the internal reference in the present first sentence and added the present second sentence.

NOTES TO DECISIONS

Stated in Copelin v. State, Sup. Ct. Op. (1983); Pena v. State, Ct. App. Op. No. 2617 (File Nos. 5453, 5708), P.2d 245 (File No. 6174), P.2d (1983).

Sec. 28.35.036. Forfeiture of motor vehicle. (a) After conviction of an offense under AS 28.35.030 or AS 28.35.032 involving a motor vehicle of a type for which a driver's license is required, the state may move the court to order the forfeiture of the motor vehicle involved in the commission of the offense if the convicted 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; or
- (2) refusal to submit to a chemical test under AS 28.35.032 or another law or ordinance with substantially similar elements.

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

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

- (1) deterrence of the offenses under AS 28.35.030; or
 - (2) protection of the public safety;
 - (3) deterrence of offenses under AS 28.35.030; or
 - (4) expression of the nature of the conviction.
- (d) Upon forfeiture, the registrant shall surrender of the registration to the department.
- (e) If not released under this section, the registrant shall be imprisoned. (§ 23 ch 77 SLA 1983)

Sec. 28.35.037. Notice from the court. Upon conviction under AS 28.35.036, the state shall give notice of the conviction to the owner of the vehicle, if the owner's name is on the title. The notice shall include:

- (1) a description of the vehicle;
 - (2) the time and place of the hearing;
 - (3) the legal consequences of the forfeiture;
 - (4) notice of the hearing.
- (b) At the hearing, the court shall consider the evidence that:
- (1) the petitioner acted in good faith;
 - (2) a person other than the petitioner had an interest in the vehicle that resulted in the forfeiture;
 - (3) before the hearing, the person had not known or had not had reasonable cause to know of the commission of the offense.
- (c) If a person has an interest in the vehicle, the court shall order that the person's interest in the vehicle be protected by the court.
- (d) Forfeiture of the vehicle shall not be a bar to the person's interest in the vehicle.

Sec. 28.35.038. Notwithstanding

city if it lies within the city and to the borough if it lies within the borough outside a city. If the property vacated is a lot or tract, title vests in the rightful owner.

(b) If the borough or city acquired the street or other public area vacated for legal consideration or by express dedication to and acceptance by the borough or city other than required subdivision platting, before the final act of vacation the fair market value of the street or public area shall be deposited with the platting authority to be paid over to the borough or city on final vacation.

(c) Provisions of (a) of this section notwithstanding, the council of a second class city located outside an organized borough may vacate those streets, alleys, crossings, sidewalks or other public ways that may have been previously dedicated or established when the council, in its discretion, finds that the streets, alleys, crossings, sidewalks or other public ways are no longer necessary for the public welfare, or when the public welfare will be enhanced by the vacation. If the council determines that all or a portion of the area vacated under this subsection should be devoted to another public purpose, title to the area vacated and held for another public purpose does not vest as provided in (a) of this section but remains in the city. (§ 2 ch 118 SLA 1972; am § 5 ch 118 SLA 1972)

Effect of amendment. — The 1972 amendment added subsection (c).

Sec. 29.33.245. Delegations. The assembly may by ordinance authorize the planning commission, the platting board and the board of adjustment to delegate powers to hear and decide cases under this chapter in a manner authorized by the ordinance, including but not limited to delegations to one or more members of the commission or board, to other boards or commissions, or to a hearing officer designated by the commission or board. The assembly shall prescribe procedures for hearings and appeals. The commission or board shall hear and decide appeals de novo. (§ 2 ch 118 SLA 1972)

Article 5. Additional Areawide Powers.

Section	Section
250. Additional areawide powers	280. Investigation
260. Transfer by city	290. Election
270. Petition for power	

Sec. 29.33.250. Additional areawide powers. First and second class boroughs acquire additional areawide municipal powers by transfer from a city or by holding an areawide election on the question, except as provided otherwise in AS 29.48.030 and 29.48.035 (b). (§ 2 ch 118 SLA 1972)

Borough voters may use an initiative to acquire an areawide power for the borough which cities refuse to transfer. 1965 Op. Att'y Gen., No. 6.

Power of health power given areawide the borough power under any city for

Sec. 29.3 first or second powers or assembly.

(b) First transferred

Sec. 29.3 adding an a

(1) a number of votes cast file a petition

(2) the 2 ch 118 SLA

Borough voters initiative to acquire

Sec. 29.3 one public shall then elect and make it

Sec. 29.3 after its first held on the after the opening after the

(b) If not rately on the

(c) The Department question of separate election home rule consist of all voters of the vote shall assume election resolution enough succeed service areawide claims, franchise bonded and

§ 29.33.250

lies within lot or tract,

other public ration to and l subdivision 'ket value of platting au- cation.

ng, the coun- borough may other public blished when vs, crossings, sary for the anced by the n of the area nother public r public pur- it remains in 72)

ordinance au- and the board : cases under ice, inclu_ing s of the com- to a hearing ssembly shall ommission or 8 SLA 1972)

t and second al powers by n on the ques-) and 29.48.-

ities refuse to t'y Gen., No. 6.

§ 29.33.260

MUNICIPAL GOVERNMENT

§ 29.33.290

Power of borough given areawide health powers. — If a borough were given areawide public health powers, the borough assembly would have the power under the law to contract with any city for the furnishing of addi-

tional health services. 1962 Op. Att'y Gen., No. 9.

Should not be referred to in the incorporation petition. — See 1962 Op. Att'y Gen., No. 9.

Sec. 29.33.260. Transfer by city. (a) A city may transfer to the first or second class borough in which it is located any of its powers or functions, subject to the approval of the borough assembly.

(b) First and second class boroughs shall exercise all powers transferred to them by cities. (§ 2 ch 118 SLA 1972)

Sec. 29.33.270. Petition for power. An election on the question of adding an areawide power may be initiated in two ways:

(1) a number of voters equal to 15 per cent of the number of votes cast in the borough at the preceding regular election may file a petition with the assembly, or

(2) the assembly may propose the acquisition of the power. (§ 2 ch 118 SLA 1972)

Borough voters may use an initia- tive to acquire an areawide power for the borough which cities refuse to transfer. 1965 Op. Att'y Gen., No. 6.

Sec. 29.33.280. Investigation. The assembly shall hold at least one public hearing in the borough on the question. The assembly shall then evaluate the ability of the borough to exercise the powers and make its findings public. (§ 2 ch 118 SLA 1972)

Sec. 29.33.290. Election. (a) The assembly shall, within 30 days after its findings have been made public, order an election to be held on the question. The election shall be held at least 30 days after the order and not later than the next regular election occurring after the 30-day period.

(b) If more than one power is proposed, each appears separately on the ballot.

(c) The borough mayor shall certify the election results to the Department of Community and Regional Affairs. The vote on the question of adding an areawide power shall be tabulated in two separate classifications. One shall consist of all votes cast in the home rule and first class cities of the borough. The other shall consist of all votes cast in the remaining borough area. If the majority of the vote cast in each classification is favorable, the borough shall assume the added power within 30 days of certification of the election results. Upon acquisition of an areawide power the borough succeeds to all of the rights, powers and duties of any city or service area with respect to that power. The borough succeeds to claims, franchises and other contractual obligations, liability for bonded and all other indebtedness and to all of the right, title and

interest in the real and personal property held by the city or service area for the exercise of the power. The borough assembly may levy and collect special charges, taxes or assessments including interest for the purpose of amortizing bonded indebtedness previously incurred by the city or service area for continuing services in the area. When a city or service area had previously incurred bonded indebtedness, no less than all property that was within the city or service area at the time the bonds were issued shall remain subject to taxation to pay the principal of and interest on the bond for as long as they remain outstanding. Upon acquisition of additional areawide powers the borough, in consultation with the city or service area personnel, shall arrange for an orderly and equitable transfer of rights, assets, liabilities, powers, duties and other matters related to acquisition of the areawide powers. This subsection applies to home rule and general law cities. (§ 2 ch 118 SLA 1972; am § 9 ch 200 SLA 1972)

Effect of amendment. — The 1972 amendment, effective July 1, 1972, substituted "Department of Community and Regional Affairs" for "Local Affairs Agency" in the first sentence of subsection (c).

Chapter 38. Borough Powers and Duties in the Area Outside Cities.

Section
10. First class borough
20. Second class borough
30. Additional powers

Section
40. Investigation
50. Election

Sec. 29.38.010. First class borough. The first class borough may exercise in the area outside cities any general law municipal power. Before exercising a power outside cities only, the borough shall seek to have the identical power transferred from cities within the borough or propose joint borough-city exercise of the power. (§ 2 ch 118 SLA 1972)

Borough voters may use an initiative to acquire an areawide power for the borough which cities refuse to transfer. 1965 Op. Att'y Gen., No. 6. Powers not to exceed those of comparable agencies in first class cities. — Broad public health provisions proposed in an incorporation petition would be contrary to this section, since the borough board of health would possess more power than is possessed by comparable agencies in first class cities. 1962 Op. Att'y Gen., No. 0.

Sec. 29.38.020. Second class borough. The second class borough may exercise in the area outside cities municipal powers approved at incorporation, conferred by AS 29.48.020, or added as provided in this chapter. Before exercising a power outside cities only, the borough shall seek to have the identical power transferred from cities within the borough or propose joint borough-city exercise of the power. (§ 2 ch 118 SLA 1972)

Powers granted in violation of section. — Broad powers given to a borough board of health in a proposed incorporation petition would

violate this section provided that should be administered by borough assembly of health which

Sec. 29.38.0 initiate the action of two ways:

(1) a number of votes cast in the election may file a

(2) the assembly 118 SLA 1972

Sec. 29.38.0 one public health shall then evaluate and make its

Sec. 29.38.0 after its final question in the held at least regular election

(b) If more than one regularly on the

(c) The Department of the votes assume the results. (§ 2

Effect of amendment, substituted "D

Ch

Section
10. Powers of
20. Assembly

Sec. 29.0 borough shall assessment boroughs. Organized borough to the extent

(b) A full-time fish service

Introduced: 2/14/84
Referred: State Affairs
and Judiciary

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

SENATE BILL NO. 499

2

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

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

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

8 * Section 1. AS 28.05.091 is amended to read:

9 Sec. 28.05.091 VEHICLE IMPOUNDMENT [SEIZURE OF UNSAFE OR DE-
10 FECTIVELY EQUIPPED VEHICLE]. A motor vehicle which is driven on a
11 highway or vehicular way or area, and which has been determined to be
12 defective in equipment so as to be unsafe for driving, or on which the
13 vehicle identification number has been removed, defaced, or otherwise
14 altered, is an unlawful vehicle and may be impounded by a peace offi-
15 cer or an employee of the department officially designated for that
16 purpose. The owner or person in lawful possession of a vehicle which
17 is driven on a highway or vehicular way or area and which is so defec-
18 tive in equipment as to be unsafe for driving [THE VEHICLE] shall pay
19 the necessary costs of impounding and storing the vehicle. The im-
20 pounding of a vehicle is in addition to any other penalty. Nothing in
21 this section prevents the driving or moving of a defective vehicle in
22 the manner directed by the peace officer or employee to a place for

23 (1) the correction of a defect in the equipment;

24 (2) dismantling or wrecking; or

25 (3) storage without repair.

26 * Sec. 2. AS 28.05.141(c) is amended to read:

27 (c) If at the hearing under (a) of this section it appears that
28 the record of the person sustains suspension, revocation, limitation,
29 denial, or other remedial action, the hearing officer shall so order

*(owner
is
liable
for
costs
of
impound-
ment)*

*under current statute, there would be no way to
The revocation cannot be sustained
by hearing officer.*

1 and the department may suspend, revoke, limit, deny, or take other
2 remedial action against that person's license, registration, or title
3 and, if appropriate, the department shall adjust the person's point
4 total accumulated under ~~AS 28.15.231.~~

Current practice of the department

* Sec. 3. AS 28.05.141(d) is amended to read:

(d) A person aggrieved by the decision of the hearing officer may, within 30 days, initiate a proceeding in district court to rescind the department's action by filing a notice of appeal in accordance with the applicable rules of court governing appeals in civil matters. The district court's review shall be based on the record of the hearing, without taking additional testimony. The court may reverse the department's determination if the court finds that the hearing officer misinterpreted the law, acted in an arbitrary and capricious manner, or made a determination unsupported by the evidence in the record. The filing of an appeal under this section does not automatically stay the hearing officer's order. The court may grant a stay of the order only upon a motion and hearing, and upon a finding that there is a reasonable probability that the petitioner will prevail on the merits and that the petitioner will suffer irreparable harm if the order is not stayed. [THE COURT SHALL CONDUCT A HEARING DE NOVO. THE DECISION OF THE DEPARTMENT SUSPENDING, REVOKING, CANCELING, LIMITING, RESTRICTING OR DENYING A LICENSE, REGISTRATION, TITLE, PERMIT OR PRIVILEGE IS STAYED AND DOES NOT TAKE EFFECT DURING THE PENDENCY OF AN APPEAL.]

Court would make a determination based on the record (evidence)

They don't like De Novo because they want hearing officer to review new evidence.

The court would specifically have to grant a stay. specifies when the court can grant the stay.

*what is the problem
It's not a hearing officer.*

* Sec. 4. AS 28.10.051(1) is amended to read:

(1) the department determines [IS SATISFIED] that the registration or certificate, plate or permit was fraudulently procured or erroneously issued; *[grounds for suspension or revocation]*

* Sec. 5. AS 28.10.105(F) is amended to read:

allows person to come in and change the month of their registration. @
[only allow them to change it once]

Division's records (except same policy and all just)

1 (f) The registration period of a [EVERY] vehicle registered un-
2 der this section and AS 28.10.307 may, at the option of the owner, be
3 [HAVE ITS REGISTRATION PERIOD] extended in monthly increments by pay-
4 ment of the proportionate prorated applicable fees to allow annual
5 registration to occur in any month of the owner's choice. The regis-
6 tered owner of a vehicle may exercise this option only once for each
7 vehicle.

8 * Sec. 6. AS 28.10.411(c) is amended to read:

9 (c) A resident 65 years of age or older on the date that the tax
10 is due is entitled to an exemption from the tax under AS 28.10.431(b)
11 and the registration fee [TAX] under this section for one motor
12 vehicle subject to registration under AS 28.10.421(b)(1), (2), (5) or

13 (6). No exemption may be granted except upon written application for
14 the exemption on a form prescribed by the department.

15 * Sec. 7. AS 28.10.421(d)(3) is amended to read:

16 (3) a vehicle owned by a disabled veteran or other handi-
17 capped person, and registered under AS 28.10.181 [OR A RESIDENT 65
18 YEARS OF AGE OR OLDER WHO COMPLIES WITH AS 28.10.411(c)]
19 none;

20 * Sec. 8. AS 28.15.051(b) is amended to add a new paragraph to read:

21 (9) whose ability to apply for a driver's license has been
22 suspended or revoked.

23 * Sec. 9. AS 28.15.051(d) is amended to read:

24 (d) The department may issue a special driver's permit to a per-
25 son who is at least 14 years of age with the consent of his parents,
26 [OR] guardians, or spouse who is 18 years of age or older, for the
27 purpose of driving a motor-driven cycle. This permit may be issued
28 upon application and successful completion of all prescribed tests and
29 fees, and is valid for the same period of time as a driver's license.

restricts
Senior
free
registration
& tax
to personal
vehicles

technical
deletion

person has
never had
a license,
they cannot
apply for license

at 16 yr.
old allows
their
spouse
to be
responsible
for their
driving

spouse
to
accept
for
responsibility.

1 The permit is not valid in a municipality which by ordinance prohibits
2 the driving of a motor-driven cycle by a person under the age of 16
3 years; a borough may adopt the ordinance on a nonareawide basis only,
4 unless the power to adopt it on an areawide basis is acquired under

5 AS 29.33.250 -- 29.33.290 ✓

6 * Sec. 10. AS 28.15.071(a) is amended to read:

7 (a) The application of a person under the age of 18 years for an
8 instruction permit or driver's license must be signed by the father,
9 mother, [OR] guardian, or spouse who is 18 years of age or older, or
10 if there is no parent, [OR] guardian, or spouse, then by another re-
11 sponsible adult who is willing to assume the obligation imposed under
12 this section upon a person signing the application. The application
13 must be signed and verified before a person authorized to administer
14 oaths, or be signed in the presence of an authorized representative of
15 the department.

16 * Sec. 11. AS 28.15.071(c) is amended to read: ✓

17 (c) If a minor deposits, or there is deposited on his behalf,
18 proof of financial responsibility for his driving of a motor vehicle,
19 in the form and amount required in AS 28.20, then the department may
20 accept the application of the minor signed as required under (a) of
21 this section, and, while proof of financial responsibility is main-
22 tained, the parent, guardian, spouse, or other responsible adult is
23 not subject to the liability imposed under (b) of this section.

24 * Sec. 12. AS 28.15.171(a) is amended to read: ✓

25 (a) The privilege of driving a motor vehicle on a highway or
26 vehicular way or area of this state given to a person licensed in an-
27 other jurisdiction is subject to suspension, [OR] revocation, or limi-
28 tation by the department or a court in the same manner and for the
29 same reasons as a driver's license issued under this chapter.

SB 499 Department & court can
limit license issued by
out of state.

*suspend
ability
to apply
for
a
license*

1 * Sec. 13. AS 28.15 is amended by adding a new section to read:
2 ~~Sec. 28.15.176~~ ✓ SUSPENSION OR REVOCATION OF ABILITY TO APPLY FOR
3 A LICENSE. (a) A court or the department may suspend or revoke a
4 person's ability to apply for a driver's license in this state in the
5 same manner and for the same reasons as a court or the department may
6 suspend or revoke a driver's license issued under this chapter. For
7 this purpose, the terms "driver's license" or "license" as used in
8 this title may be construed as "ability to apply for a driver's li-
9 cense."

10 (b) This section applies to a person who
11 (1) has not been issued a driver's license under this
12 chapter, whether or not the person is eligible to apply for such a
13 license; and

14 (2) does not have a privilege to drive in this state.

15 * Sec. 14. AS 28.15.231 is amended by adding a new subsection to read:

16 (f) The notice required under (a) of this section may be given
17 by first class mail.

18 ~~Sec. 28.20.090(a)~~ ✓ is amended by adding a new paragraph to
19 read:

20 (4) the ability to apply for a driver's license if the
21 person has not been issued a license under this title and does not
22 have a privilege to drive in this state.

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

24 (a) If a person under arrest refuses the request of a law en-
25 forcement officer to submit to a chemical test under AS 28.35.031(a),
26 after being advised by the officer that the refusal will, if that per-
27 son was arrested for [WHILE] operating or driving a motor vehicle for
28 which a driver's license is required, result in the denial or revoca-
29 tion of the license or nonresident privilege to drive, that the

*present
practice*

*ability
to apply
for a
license*

*person
cannot
be
arrested
while
operating
a
vehicle*

1 refusal may be used against the person in a civil or criminal action
2 or proceeding arising out of an act alleged to have been committed by
3 the person while operating or driving a motor vehicle or operating an
4 aircraft or a watercraft while intoxicated, and that the refusal is a
5 misdemeanor, a chemical test shall not be given, except as provided by

6 AS 28.35.085

SB 499

waived to Judiciary