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see

HB 17

SB

226

Directions: Please circle the best options

OPTION:	SB 61	CSFB 17 (Jud)am	SB 226	Current Law	Recommendations / Explanations
<u>ENFORCEMENT</u>					
1. Selective enforcement roadblocks	no provision	no provision	no provision	no provision	Anchorage Muni. Prosecutor, Allen Baily, suggested that this program be implemented at the municipal level (see attachment 1).
2. Mandatory breath alcohol content tests for those stopped for moving violations	no provision	no provision	no provision	PBTs are used in the Anch. area	Dennis Kelso, and Larry Ross recommended this as a successful deterrent (see attachment 2).
3. Implied consent	no provision	no provision	no provision	consent for BAC tests is given upon receiving driver's license	
4. back up crews to decrease police officer off-road time.	no provision	no provision	no provision	no provision	Increase enforcement efforts (see attachment 3).
5. purchase more accurate Breathalizers	no provision	no provision	no provision	no provision	evidence in court would be more reliable

ADJUDICATION AND SANCTIONING	SB 61	CSHB 17(Jud) am	SB 226	Current law	Recommendations /Explanations
1. Minimum fines for DWI or Breath test refusal	1st conviction \$250min, \$500max. 2nd conviction \$500min, 1000max. 3rd conviction \$1000min, 2500max.	no provision	no provision	no provision	recommended by many as appropriate sanction. was recommended as a deterrent (see attach. #4)
2. Minimum Incarceration for DWI and breath test refusal	1st conviction 72 consec. hrs. 2nd conviction 20 consec. days 3rd or subsequent conviction 30 consec. days min.	no provision	no provision	1st conviction 72 consec. hrs. 2nd conviction w/in 1yr 20dy. w/in 5yr 10dy.	recommended by many as appropriate sanction. --very expensive. success was questioned at at hearings (see attach.#5).
3. Presentence investigation report	no provision	no provision	no provision	no provision	recommended by many as way to increase DWI conviction rate
4. increase penalty for causing death or bodily injury	no provision	no provision	no provision	no provision	recommended in hearings as appropriate retribution
5. make sanctions for driving while license revoked equal to DWI	14 consecutive days, \$500 min.	no provision	no provision	no provision	recommended as a deterrent for drunk driving, and driving in violation of license revocation
6. driver's license suspensions	no provision	no provision	no provision	no provision	recommended as one of the most successful deterrents

ADJUDICATION/ SANCTIONING	SB 61	CSHB17(Jud)am	SB 226	Current Law	Recommendations/ Explanations
7. driver's license revocations	1st conviction DUI or refusal 90 day minimum 2nd conviction 1 yr license revocation, 3rd or subs. conviction permanent re- vocation	no provision	no provision	1st conviction DUI-30 day min, or 60 day limited license /revocation combination 2nd conviction w/in 1 yr license revoc./ no limited lic. 3rd conviction no lim. lic. for 3 years.	recommended as one of the most successful deterrents
8. administrative license revoca- tion	enf. officer shall seize license.(see attach #6).	no provision	no provision	no provision	recommended by Allen Baily as as one of the most successful deterrents.
9. community ser- vice.	no provision	no provision	no provision	no provision	cheaper than incarceration/ similar effect.
10. automobile impoundment	car being used when apprehended shall be impounded for 3rd or subsequent conviction.	no provision	no provision	Anchorage Muni. Judges may impound auto used for no less that 30 days upon 2nd conviction, and no less than 60 days for 3rd convict.	constitutional questions have been raised concerning this sanction.
11. automobile forfeiture	car being used when apprehended may be forfeited	no provision	no provision	no provision	was recommended numerous times during hearings as appropriate sanction

DECREASE ALCOHOL BEVERAGE CONSUMPTION	SB 61	CSFB 17(Jud)am	SB 226	Current Law	Recommendation/Explanation
1. raise the minimum drinking age.	no provision	raises to 21. contains advisory vote provision. Those under 21 may work in estab. serving alcohol.	no provision	no provision	recommended for general deterrence. May decrease alcohol related accidents by 28%.
2. increase the excise tax on liquor	no provision	no provision	no provision	no provision	a 50¢ increase per 5th is said to decrease alcohol consumption by 5%.
3. prohibit open alcohol containers in automobiles	no provision	no provision	no provision	prohibited in Muni. of Anch.	recommended by many as most obvious way to decrease drunk driving
4. decrease bar hours	no provision	no provision	no provision	no provision	would decrease amount of time for persons to consume alcohol
5. distribute alcohol licenses which are similar to driver's licenses.	no provision	no provision	no provision	no provision	allow regulation of problem drinkers and habitual drinkers who drive.
6. increase the price of liquor licenses	no provision	no provision	no provision	no provision	accord. to some, this would decrease the number of alcohol estab.

DECREASE ALCOHOL BEVERAGE CONSUMPTION		SB 61	CSHB 17(Jud)am	SB 226	Current Law	Recommendation/Explanation
7. mandatory food service between certain hours	no provision	no provision	no provision	no provision	no provision	this would decrease the rate at which one became intoxicated
ENGINEERING EFFORTS/ DRIVING SAFETY		SB 61	CSHB 17(Jud) am	SB 226	Current Law	Recommendations
1. mandatory seat-belt use	no provision	no provision	no provision	no provision	no provision	According to Larry Ross this would drastically reduce the number of auto fatalities
2. child safety restraints	no provision	no provision	no provision	no provision	no provision	this measure drastically reduces the number of infant fatalities.
3. lower the speed limit to 50mph	no provision	no provision	no provision	no provision	no provision	lowering the speed limit was one of the two most successful highway safety measures in the '70's.
4. mandatory auto insurance	no provision	no provision	no provision	no provision	no provision	would make driver's more respons. for their action. increased ins. rates would be a natural deterrent.
5. require digital add on equip. for car ignitions	no provision	no provision	no provision	no provision	no provision	would make it virtually impossible to start autos when intoxicated
6. curfew licenses for drivers under 18	no provision	no provision	no provision	driving prohibited for 16-17 year olds between 12am and 5am(see Attach 7)	no provision	could decrease fatalities for those covered under bill by as much as 63%

REHABILITATION TREATMENT/ EDUCATION	SB 61	CSHB 17(Jud)am	SB 226	Current law	RECOMMENDATION
1. provide reha- bilitation in incarceration facilities	no provision	no provision	no provision	no provision	recommended by Judge Andrews as necessary for habitual offenders
2. court mediator or, hotline for problem drinkers	no provision	no provision	no provision	no provision	some felt that this was necessary, for those who have no where to turn
3. teenage treatment program or facilities	no provision	no provision	no provision	no provision	treatment for teens should be tailored differently than that for adults.
4. rehabilitation, treatment	offender shall undertake rehabilitation or education specified by the court	no provision	no provision	treatment administered with judicial discretion	
5. education	offender shall undertake rehabilitation or education specified by the court	no provision	will provide education in high schools (see attach 7).	provided as treatment at discretion of courts	

ATTACHMENT 1

April 16, 1983

Selective enforcement roadblocks

Selective enforcement roadblocks have been implemented in a number of countries, and in the United States.

A pilot project was implemented in the state of Maryland to aid in the detection and apprehension of intoxicated drivers. The program is anticipated to be a deterrent for potential drunk drivers.

The safety of citizens as well as Public Safety personnel will be considered in the selection of the sites. The sites will also be selected based on time of day, day of week location, and the number of accidents located in that area. The sites must also have a safe area in which cars can stop.

The Maryland project does not use barricades to block oncoming traffic. All traffic approaching the checkpoint will be pass through the checkpoint where the car will be approached by a police officer who will hand the driver a brochure prepared to explain the selective roadblock. If the officer detects alcohol while the car is stopped, the driver will be detained and required to present their driver's license and vehicle registration. They may also be required to give a preliminary breath test. If sufficient evidence of intoxication is developed, the driver will be arrested.

No action will be taken against a driver for merely turning off the roadway before the checkpoint.

ATTACHMENT 2

April 16, 1983

Mandatory Breathalyzer tests

A number of states give preliminary breath alcohol tests for all persons who are stopped for moving violations or who are involved in car accidents. The probable cause to give the test is simply that alcohol impairment may have caused the accident of the illegal driving pattern.

This was recommended by Dr. Dennis Kelso during the April 9, 1983 hearing as one of the best ways to increase enforcement efforts.

The lack of adequate enforcement was established as one of the largest loopholes in the drunk driving situation.

ATTACHMENT 3

April 16, 1983

Backup crews to assist police officers

Currently, the Alaska state trooper must spend at least one hour with the car of the apprehended person until the car can be impounded.

Using backup crews to come and wait with the car was recommended during the April 9 hearing as one way to decrease their down time which would ultimately increase enforcement.

ATTACHMENT 4

April 16, 1983

Mandatory minimum fines

Many opposing views were expressed on this option during the hearings. For instance, Anchorage Municipal Prosecutor Allen Baily suggested that fines would be an appropriate deterrent for drunk driving. District Court Judge, Elaine Andrews, expressed her concern about the difficulties in trying to collect the fine when the person is unable to pay.

ATTACHMENT 5

April 16, 1983

Mandatory Minimum incarceration

Included with this attachment are copies of the request we made from the Division of Corrections regarding the costs of installing and operating new or used modular minimum security facilities.

Also included is a letter recommending the Harborview Disability Center as a minimum security facility.

Clearly, these suggestions have been made because of the strain already existing on the correctional facilities in the state.

Many persons during the hearings testified in favor of mandatory incarceration, and they generally stated it was a successful and warranted deterrent. Dr. Ross, on the other hand, stated that in England during the Road Safety act, there was no mandatory incarceration. The sanction for DWI was suspension of the driver's license. He suggested that the primary deterrent decreasing the fatality rate was the public's perception that they would be caught-- alcohol related accident fatalities rose within months of the implementation of the act with the change in the public perception.

ATTACHMENT 6

April 16, 1983

Administrative license revocation.

SB 61 states that if a person under arrest refuses to take the breathalyzer test, or if their BAC is above the legal limit, the enforcement officer shall seize that persons driver's license. The officer shall read and deliver to the person arrested a notice advising him or her that: 1) the state intends to revoke their driver's license; 2) the person has a right to obtain a court review of the revocation; 3) the notice is a temporary driver's license expiring seven days from date of notification; 4) the revocation of the person's driver's license shall take effect upon the expiration of the temporary driver's license unless that person within seven days initiates court proceedings to rescind the revocation.

ATTACHMENT 7

April 16, 1983

Curfew license provisions in SB 226

This bill creates three different stages of driver's licenses, and decreases the hours in which a person having a permit only can drive according to the outline below.

SB 226:

1) prohibits those automobile drivers with learning permits (as opposed to licenses) from driving between the hours of 9pm and midnight,† on Friday and Saturday, and prohibit them from driving between midnight and 5am every morning.

2) provides in the state driver's manual a more substantial section on the dangers of combining driving and alcohol-- including a portion on how to recognize an intoxicated driver, and create a corresponding section in the written examination.

3)creates a Stage 1 license--

-- this license would apply to 16 year old persons, and to those who are 17 years old who have not had driver's education.

-- persons with this license would be prohibited from driving between the hours of midnight and 5am unless accompanied by a parent or a spouse 18 years of age or older, or unless traveling to or from work or in the course of employment with a signed affidavit in hand from the employer.

-- two moving violations, 1 DWI, or driving in violation of the curfew would result in the revocation of this license, but would allow them to apply for a learner's permit.

4)creates a Stage 2 license--

--this license would apply to 17 year olds who have passed driver's education.

--to qualify for this license a 17 year old must have 6 consecutive months prior to application with no moving violations, and no DWIs or curfew violations.

--a moving violation, a DWI, or a curfew violation results in the revocation of the Stage 2 license. The person would, however, be able to apply for a stage 1 license.

--this Stage 2 license would not have any driving curfew.

5) creates a Stage 3 license equal to the current Alaska State driver's license in every way except that you must be 18 to be eligible for that license--

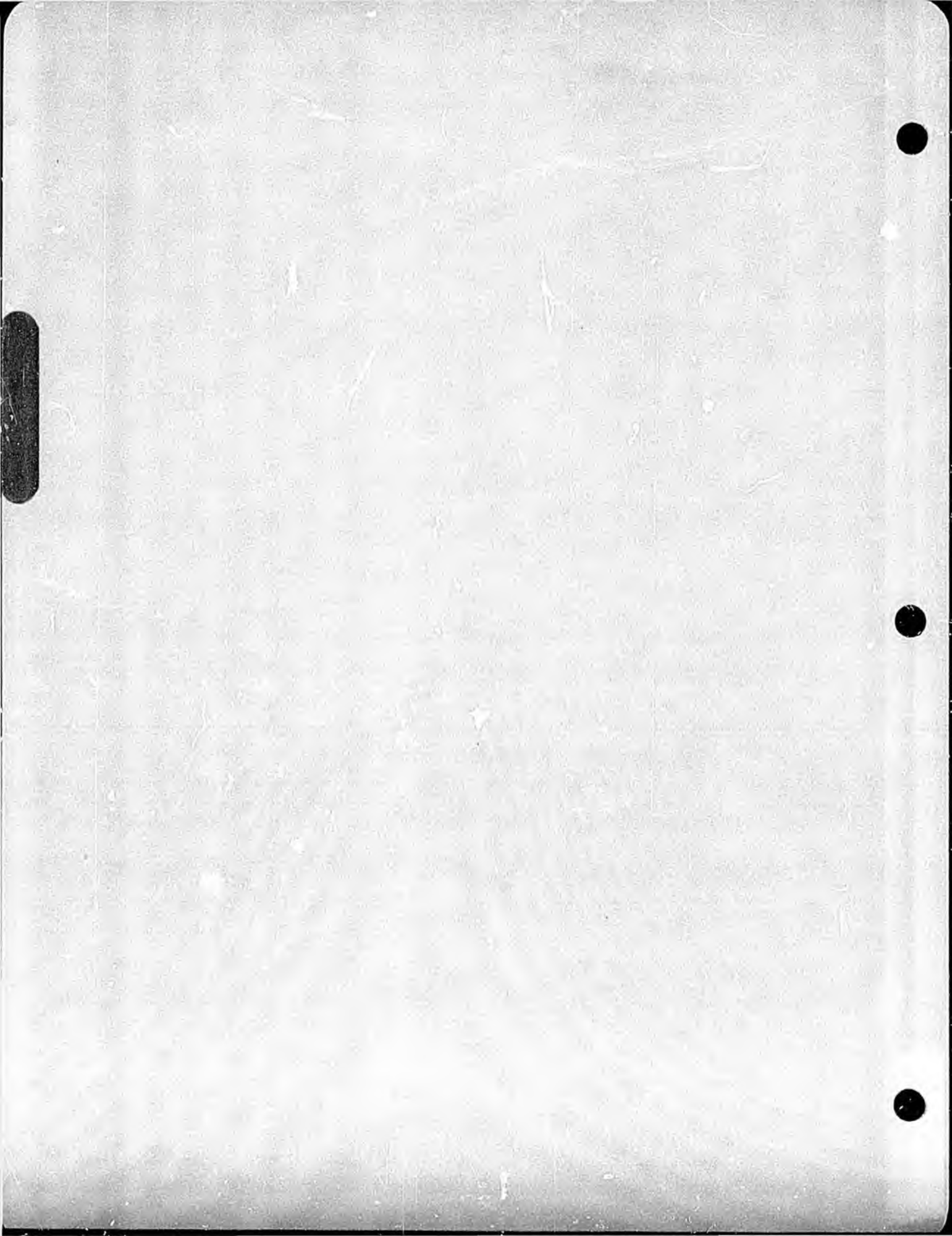
--any Alaska State resident currently eligible for a driver's license, and who is 18 years of age would be eligible for a Stage 3 license.

--traffic violations obtained with a permit, stage 1 license, or a stage 2 license shall be applied to the stage 3 license in compliance with current Alaska law when that license is obtained on or after their 18th birthday.

6) provides an effective date of January 1, 1984

--those who receive their driver's licenses before January 1, 1984 would have a three month period in which to obtain the appropriate license after the effective date of the bill before their license automatically expires.

7) in accordance with this bill, driver's education courses must be available to all persons under 18 through the high school curriculum.



I. REQUEST

Bill/Resolution No.: SCSCSH06
 Title: "Driving a Motor Vehicle"
 Sponsor: Senator Fischer
 Requestor: State Affairs

II. FISCAL DETAIL

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

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

GENERAL FUND

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared by: [Signature] Phone: 279-7547
 Date: May 16, 1987
 Approved by: [Signature] Date: May 16, 1987
 Department: [Signature]

- 1 - Legislative Finance
- 1 - Office of Management and Budget (for Legislature introduced bills)
- 1 - Governor's Office (for Governor introduced bills)
- 1 - Auditor
- 1 - Department of Administration

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

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

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

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

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

Terry Martin HB 17

~~Doesn't like~~
Senator Rodey arrived

T.M. Didn't like advisory vote
The changes made that

Senator Ray said he wanted
to have a statewide opinion
on that raising the drinking
age.

Senator Kelly related that
if we don't raise D age
in legislature we'll pass
initiative

Don Kubby A CHAR, supported
Kelly's amendments.

He testified on the industries
position on ~~that~~ drunk
driving. He related the
concerns of the industry.
CHAR supports legislation which
would decrease drunk driving
laws.

Don Kubby did not support
dram shop legislation

Drum Shop legislation

* We do not have drum shop legislation.

Kelly said that Char would support having PBTs in bars to decrease alcohol consumption in bars.

Senator Kelly felt that if you decrease consumption you decrease alcohol related problems in our society.

Sen. Fischer said that major fatalities are due to abusive drinkers.

Safety Restraint 30th 35⁰⁰

U. Colonel Jim Vaden brought a PBT. Results are not admissible in court. They just give probable cause. He related how misleading statistics can be.

Average BAC = .17.
European BAC usually .07, .08.
Supported case of PBT.

LT. Vaden proposed to stop have
officer stop car and give
PBT test if smell of alcohol
is detected.

Senator Ray asked if incidence
of DWI was greater for 19+70
year olds.

LT Colonel Vaden said no that
there weren't many, any
more. He totally supported
roadblocks ~~for~~ from a police
officer's point of view.

Senator Fischer asked what
the fiscal impact would
be of roadblocks.

Senator Rodey suggested we
use ~~State Troops~~ State Troopers
or National Guard.

Senator Sturges asked why
they needed

would the committee like them
to us to draft legislation to
have mandatory breath tests for
those stopped for citations.

① Mandatory Breath tests,
+ Sobriety.

VRE. asked cost.
PBTs are \$350⁰⁰ a piece.
Do you have adequate funding
to purchase the units.

Charlie Smith, (compliance w/
suit & incentive 150.^{thru} 500. Barnes Bill)

- 1) immediate revocation
- 2) 90 day suspension.

Threshold 2.

funds would be available around
January.

Gaye - actual impoundment
of a car is not ~~it~~ in itself
unconstitutional.

Senator Today said that assumed
that forfeiture provision could
be reached that would be const +
itutional.

Senator Fisher asked if there
could be a mandatory provision
w/ an escape clause. Gaye answered
yes.

② Vic - compare SB 61 ~~to~~ w/ HB 6.

Administrative License Revocation.

— as policy matter, she would adopt it.

— Our courts will hold DPS & DMV to a higher standard of due process than other states.

She said that provisions could be drawn up, but it may not be as stringent as that provision currently in ~~the~~ HB 6.

Sobriety Checkpoints

1) try to make it constitutional w/ me & David.

Mandatory Breath tests for moving violations.

1) on the shakiest grounds.

2) HB 6 is too broad to make them submit to PBT.

VII. Set up categories, so if court struck one section down, other parts would still apply.

MEMORANDUM

TO: Norm Gorsuch,
Attorney General

FROM: Senator Vic Fischer, Chair
Senate State Affairs

RE: Attorney General's Opinion

DATE: April 28, 1983

In order to expedite the passage of bills relating to drunk driving currently before the Senate State Affairs Committee, I need to have an Attorney General's opinion on the following subjects:

- re. the constitutional implication*
1. impoundment provision in SB 61.
 2. forfeiture provision in SB 61.
 3. administrative license revocation provision in SB 61.
 4. sobriety checkpoints as implemented in Maryland (see attachment 1); and the intoxication control roadblock program currently before the Rhode Island General Assembly (see attachment 2).
 5. mandatory preliminary breath tests to all persons who are stopped for moving violations to check for their breath alcohol content.

If you have any need for clarification, please contact Suzanne Tryck (4954). In order to expedite the movement of these bills out of committee, I need to have these opinions by Tuesday, May 3.

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

SENATOR VIC FISCHER, CHAIRMAN

POUCH V, JUNEAU 99811

(907) 465-4954



April 7, 1983
3:00pm

Butrovich Room
Capitol Bldg.

Members Present

Senator Vic Fischer, Chair
Senator Bill Ray, Vice-Chair
Senator Pat Rodey
Senator Tim Kelly
Representative Mitch Abood

Drunk Driving Overview

SB 61, Relating to Drunk Driving

SB 226, Relating to the licensing and training of drivers

CSHB 17 (Jud) am, Raising the drinking age to 21

Charles Smith, Division of Highway Safety, gave a statistical overview of the drunk driving problem in Alaska. For 1980, he said that of the 95 automobile fatalities, 64 involved alcohol. He also related that 70.3% of the 91 fatalities in 1979 were alcohol related.

Discussion occurred on whether the statistics revealed the number of accidents which resulted from an alcohol impaired driver; or whether the statistics related the number of accidents where alcohol was detected, but may not have caused the accident. The conclusion was that the statistics represented accidents where alcohol was detected, and the role of alcohol in the accident was not clearly defined.

Gail Horetsky, Department of Law, discussed Title 28 as it applies to drunk driving. There was discussion of DWI, refusal to take a breath test, and DWLS (driving while license suspended).

Senator Vic Fischer asked her what problems exist with Title 28. She answered that the statutes relating to drunk driving need to be consolidated. She also said that there were three and sometimes four sections that addressed the same crimes. Lastly, she said that there are actual contradictions and a certain lack of clarity in Title 28.

Roger Endell, Division of Adult Corrections, said that 6% of the inmates

were serving time for alcohol related offenses. Approximately 3600 persons per year are booked on alcohol related offenses. His point was that prisons are overcrowded, and that other sanctions should be used. He described one alternative to incarceration-- the "social hospitals" used in Finland.

The hearing adjourned at 4:55pm

Jay,
Suzanne Jayde,
Researcher

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

SENATOR VIC FISCHER, CHAIRMAN

POUCH V, JUNEAU 99811

(907) 465-4954



April 9, 1983
9:00am

Municipal Assembly Chambers,
Anchorage

Members Present

Senator Vic Fischer, Chair
Senator Arliss Sturgulewski
Senator Pat Rodey

SB 61, An act relating to drunk driving
SB 226, Relating to the licensing and training of drivers
CSHB 17 (Jud) am, Raising the drinking age to 21

Dr. Dennis Keiso, invited expert, gave an overview of the issues. He suggested that the four functions of criminal law were retribution, incapacitation, rehabilitation, and deterrence. He said that the deterrence model has been the main focus of criminal law as it relates to drunk driving. The three elements that make up this model are certainty, severity and swiftness. Other major points of his testimony were that Alaska has the strongest laws in the country based on the deterrence model, and that this model hasn't been very effective in criminal law in general. He also expressed the need to redefine the problem of drunk driving.

Kathy Weltzin of the Alaska Council on the Prevention of Alcohol and Drug Abuse described the educational program "Here's looking at You," which has been implemented in the schools throughout the state. This program is a preventative measure designed to educate persons from grades K-12 about the problems associated with the consumption of alcohol.

Testimony was heard from many Anchorage residents who had specific recommendations. Some of these recommendations were to: lower the legal definition of intoxication, improve road safety, increase penalties, raise the drinking age, implement vehicle forfeiture and impoundment, establish curfews, and set up roadblocks.

Allen Baily, invited to speak from the Anchorage Municipal Prosecutor's office, commented on the deterrence model for dealing with drunk drivers. He spoke in favor of presumptive sentencing and administrative revocation and suspension of licenses. He said that the suspension of licenses was more effective than incarceration-- though he is still in favor of incarceration.

District Court Judge, Elaine Andrews, said that the state needs more judges to handle the extra load imposed on the courts by the legislation before the committee. She also suggested some other problems with the current (and proposed) methods of handling drunk drivers. One of her concerns was that the state can't collect mandatory fines if the person is unable to pay them. Another concern to Judge Andrews was that judges can order mandatory treatment, but they have no authority to see that it gets carried out.

Testimony was heard from concerned citizens about drunk driving. Testimony was heard on both sides of raising the drinking age. Most people spoke in favor of CSHB 17 (Jud) am, Raising the drinking age. Many people spoke in favor of more rehabilitation programs. There was general agreement that the record system for the state of Alaska desperately needed to be improved.

The hearing adjourned at 5:10pm.

by,

Suzanne D. [unclear]
Deputy Clerk

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

SENATOR VIC FISCHER, CHAIRMAN

POUCH V, JUNEAU 99811

(907) 465-4954



April 11, 1983
7:30pm, TELECONFERENCE

Butrovich room
Capitol Bldg.

Members Present

Senator Vic Fischer, Chair
Senator Tim Kelly
Senator Pappy Moss
Representative Mitch Abood

SB 61, An act relating to drunk driving
SB 226, Curfew licenses
CSHB 17 (Jud) am, Raising the drinking age to 21

Testimony was heard from over 20 people on the subject of drunk driving-- specifically, on the bills before the Senate State Affairs Committee.

The recommendations made by those that testified were to: increase penalties on the second offense, implement impoundment and forfeiture, lower the legal definition of an intoxicated person to a .05 BAC, enact mandatory restitution, shorten the bar hours, raise the liquor tax, and make automobile liability insurance mandatory.

Mrs. Claude Swaim of Fairbanks thought that society is partly responsible for the drunk driving problem by making drinking glamorous.

Tim Stearns, Anchorage Attorney and MADD member recommended community service as an alternative to incarceration. He was also concerned that minimum fines might be inappropriate for persons of modest means. He spoke in opposition to raising the drinking age. He expressed his concern about vehicle forfeiture as it doesn't require a speedy hearing.

Judge James Hornaday of Homer spoke about the need for a

statewide task force on drunk driving. He discussed DWI court procedures. He also favored community service as a sanction, but he also felt that stiffer sentences were effective deterrent measures.

Milton Hunt of Juneau, President of the Alaska Christian Conference, stated that most people arrested for DWI are first time offenders, and usually they don't get rearrested. He felt that repeat offenders usually have a serious addiction problem, and therefore he testified in favor of increasing the state treatment program. He spoke in favor of restitution, community service, house arrests, probation, deferred sentences, and pre-trial intervention as alternatives to incarceration.

The hearing adjourned at 10:05pm

Jay,
Suzanne Drake,
Researcher

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

SENATOR VIC FISCHER, CHAIRMAN

POUCH V, JUNEAU 99811

(907) 465-4954



April 12, 1983
1:30pm

Senate Finance Room
Capitol Bldg.

Members Present

Senator Vic Fischer, Chair
Senator Tim Kelly
Senator Bill Ray
Senator Arliss Sturgulewski

SB 61, An act relating to drunk driving
SB 226, Relating to the licensing and training of auto drivers
CSHB 17 (Jud) am, Raising the drinking age to 21

Dr. Larry Ross, Professor of Sociology and Law at State University of New York (Buffalo) discussed his latest book, Deterring the Drinking Driver: Legal Policy and Social Change. He reviewed the world knowledge on the legal attempts to control drunk driving. He related the three approaches to drunk driving which he defines as; 1) Scandinavian type laws, 2) enforcement campaigns, 3) severity crackdowns.

Dr. Ross said that the deterrence approach works only when the perceived risk of getting caught is high. At the present time, he said, only about 1 in 1000 persons who drive drunk are apprehended. He suggested, then, that the weakest link in trying to control the drunk driving problem is in the enforcement aspect of the system.

Dr. Ross said that he felt the two options obviously having the greatest chance at reducing drunk driving were 1) getting people to either drink less or drive less, 2) trying to make the environment less hostile by mandating the use of seatbelts and making the roadways safer.

Dr. Ross stated that one problem which frequently occurs when the penalties were too tough is that the system will fail--the police won't make the arrest, or the jury won't convict the offender etc...

That license actions are as effective as stiffer sentences was another

point made by Dr. Ross. He further related that taking away licenses doesn't keep many of these people off the road, but when they do drive they drive much more carefully and much less often.

He felt that raising the drinking age would decrease drunk driving. He also stated that license curfews may have the same effect of keeping young drivers off the roads when the highest amount of alcohol related accidents occur. On the subject of young drivers, Dr. Ross said that driver's education does not improve highway safety as it results in earlier licensure of youthful drivers which increases the number of alcohol related auto fatalities.

Senator Sturgulewski asked Dr. Ross if there was any hope of changing society's tolerance of drunk driving. Dr. Ross answered that it was very difficult to change attitudes through legislation unless the resulting laws were swift, sure, and certain. He felt that one sanction fitting into that framework was the administrative revocation of licenses. Dr. Kelso answered that we can have more success by changing the environment than we can have changing attitudes.

Discussion occurred on roadblocks, and on the effects of increasing the liquor tax.

The hearing adjourned at 4:10pm.

by,
Suzanne J. [unclear],
Researcher

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

REQUEST

Bill/Resolution No.: SB 61
 Title: "...relating to driving a motor vehicle."
 Sponsor: Sen. Josephson
 Requestor: Sen. Vic Fischer

II. FISCAL DETAIL

Agency Affected: Department of Law
 Program Category Affected: Gen. Gov.
 BRU, Program of Subprogram(s) Affected: Legal Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		240.0	305.3	323.6	343.0	363.6
200 TRAVEL		15.5	16.5	17.5	18.6	19.7
300 CONTRACTUAL		32.4	38.7	41.0	43.5	46.1
400 COMMODITIES		19.4	11.4	12.1	12.7	13.5
500 EQUIPMENT		35.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	342.3	371.9	394.2	417.8	442.9
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	342.3	371.9	394.2	417.8	442.9
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	5	5	5	5	5
PART-TIME		1	1	1	1	1
TEMPORARY						

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

Not specified by Sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard I. Pegues, Director
 Division: Administrative Services Division

Phone: 465-3672
 Date: April 1, 1983

Approved by Commissioner: Norman C. Gorwuch, Attorney General
 Department: Department of Law

Date: April 1, 1983

Distribution:

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

SB 61
Analysis

This bill makes several significant amendments to the state laws pertaining to driving while intoxicated, including raising the mandatory minimum sentences which must be imposed upon conviction for driving while intoxicated or refusal to take a breath test. There is the distinct possibility that the number of guilty pleas for Driving While Intoxicated or Refusal to Take a Breath Test will decrease due to the generally more severe penalties specified. With the corresponding increase in trials, a need for additional prosecuting attorney positions may arise. This possibility is speculative and, consequently, no additional prosecution positions have been requested at this time. Any legislative action diminishing the resources available to the department in FY 84, coupled with the enactment of this and other crime bills requiring a greater prosecution effort, will severely hamper the department's overall ability to prosecute criminal offenses.

The bill also authorizes the impoundment or forfeiture of motor vehicles driven by persons arrested for driving while intoxicated. If an impoundment or forfeiture is contested by the vehicle owner, or by someone who has financial interest in the vehicle, a court hearing must be held. It is anticipated that many of these hearings will involve representatives from banks or financing companies who retain a financial interest in the vehicle. The hearings would create a substantial additional workload for Department of Law civil attorneys, and will require an increase in the number of attorneys and support staff in the large offices. The department estimates that an additional three and a half attorney positions will be required: one Attorney IV and one Attorney III in Anchorage, one Attorney III in Fairbanks and half of an Attorney III in Juneau. Two new clerical staff will be needed, one legal secretary in Anchorage and one legal secretary in Fairbanks.

A fiscal impact statement from the Department of Health and Social Services, Division of Corrections should also be sought, as the additional days in jail which a person would be required to serve after conviction under the bill will probably increase the number of beds in correctional institutions which are permanently filled by D.W.I. convictees and thus unavailable for other offenders.

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

AGENCY DEPARTMENT OF LAW

PROGRAM LEGAL SERVICES

BRU LEGAL SERVICES

COMPONENT LEGAL SERVICES OPERATIONS

FY 84

13 REQUEST FOR
NEW POSITION

Page of
Revised Date

1.	POSITION TITLE Attorney III			RANGE/STEP 22A	BARG. UNIT X	FORM 17 PAGE/LINE	GOV.	APPRDV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 10	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT	LEG.	
3.	CONTINUATION LEVEL			ADDITION	JUSTIFICATION				
4.	TYPE OF EXPENDITURE			AMOUNT					
	1	2	3						
	PERSONAL SERVICES								
5.	Salary	3,905/month	39,050						
6.	Benefits		6,020						
7.	Supplemental Benefits		2,240						
8.	Fixed Benefits		2,400						
9.	TOTAL PERSONAL SERVICES		01	49,710					
10.	Travel		02	3,000					
11.	Contractual		03	8,000					
12.	Commodities		04	3,500					
13.	Equipment		05	1,500					
14.	Other								
15.	TOTAL COST			65,710					
<p>This is the second of four attorney positions required by the Department of Law in order to absorb the significant increase in workload which will result from new legislation authorizing the impoundment or forfeiture of motor vehicles driven by persons arrested for driving while intoxicated. The new legislation requires a court hearing when an impoundment or forfeiture is cc tested by the vehicle owner, or by someone who has a financial interest in the vehicle. It is anticipated that many of these hearings will involve representatives from banks or financing companies who retain a financial interest in the vehicle.</p>									
	RECEIPT CODE	FUNDING SOURCE							
16.		Federal Receipts 1002							
17.		G.F. Match 1003							
18.		General Funds 1004			65,710				
19.		I-A Receipts 1005							
20.		Program Receipts 1028							
21.		Other							
<p>FOR B&M USE ONLY 4A KEY NUMBER _____</p>									

13 REQUEST FOR
NEW POSITION

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

FY 84

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Revised Date

1.	POSITION TITLE Legal Secretary I				RANGE/STEP 10B	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 10	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE				AMOUNT					
	1		2		3					
	PERSONAL SERVICES									
5.	Salary	1,817/month	18,170							
6.	Benefits		2,800							
7.	Supplemental Benefits		1,110							
8.	Fixed Benefits		2,400							
9.	TOTAL PERSONAL SERVICES		01		24,480					
10.	Travel		02		-0-					
11.	Contractual		03		2,200					
12.	Commodities		04		2,700					
13.	Equipment		05		14,500					
14.	Other									
15.	TOTAL COST				43,880					
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004		43,880						
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
FOR OFFICE USE ONLY										
4A KEY NUMBER _____										

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

13 REQUEST FOR
NEW POSITION

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

FY 84

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Revised Date _____

1.	POSITION TITLE Attorney III			RANGE/STEP 22A	BARG. UNIT X	FORM #? PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 10	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Fairbanks	ELECTION DISTRICT	LEG.	
3.	CONTINUATION LEVEL	ADDITION			JUSTIFICATION				
4.	TYPE OF EXPENDITURE			AMOUNT					
	1	2	3						
	PERSONAL SERVICES								
5.	Salary	4,469/month	44,690						
6.	Benefits		6,890						
7.	Supplemental Benefits		2,240						
8.	Fixed Benefits		2,400						
9.	TOTAL PERSONAL SERVICES		01	56,220					
10.	Travel		02	5,000					
11.	Contractual		03	8,000					
12.	Commodities		04	3,500					
13.	Equipment		05	1,500					
14.	Other								
15.	TOTAL COST			74,220					
	RECEIPT CODE	FUNDING SOURCE							
16.		Federal Receipts	1002						
17.		G.F. Match	1003						
18.		General Funds	1005	74,220					
19.		I-A Receipts	1006						
20.		Program Receipts	1028						
21.		Other							
FOR B&M USE ONLY									
4A KEY NUMBER _____									

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

13 REQUEST FOR
NEW POSITION

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

FY 84

Page _____ of _____
Revised Date _____

1.	POSITION TITLE Legal Secretary I				RANGE/STEP 10B	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPRDV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 10	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Fairbanks	ELECTION DISTRICT	LEG.		

3.	CONTINUATION LEVEL	ADDITION	
4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary 2,048/month	20,480	
6.	Benefits	3,160	
7.	Supplemental Benefits	1,260	
8.	Fixed Benefits	2,400	
9.	TOTAL PERSONAL SERVICES	01	27,300
10.	Travel	02	-0-
11.	Contractual	03	2,200
12.	Commodities	04	2,700
13.	Equipment	05	14,500
14.	Other		
15.	TOTAL COST		46,700

JUSTIFICATION

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

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	46,700
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

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4A KEY NUMBER _____

13 REQUEST FOR
NEW POSITION

AGENCY DEPARTMENT OF LAW

PROGRAM GENERAL GOVERNMENT

BRU LEGAL SERVICES

COMPONENT LEGAL SERVICES OPERATIONS

FY 84

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Revised Date _____

1.	POSITION TITLE Attorney III				RANGE/STEP 22A	BARG. UNIT X	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PPT	STAFF MONTHS 10	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE				AMOUNT					
	1		2		3					
	PERSONAL SERVICES									
5.	Salary	1,952/month	19,520							
5.	Benefits		3,010							
7.	Supplemental Benefits		1,200							
8.	Fixed Benefits		2,400							
9.	TOTAL PERSONAL SERVICES		01		26,130					
10.	Travel		02		2,500					
11.	Contractual		03		4,000					
12.	Commodities		04		3,500					
13.	Equipment		05		1,500					
14.	Other									
15.	TOTAL COST				37,630					
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004			37,630					
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
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4A KEY NUMBER _____										

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

AGENCY DEPARTMENT OF LAW

PROGRAM LEGAL SERVICES

BRU LEGAL SERVICES

COMPONENT LEGAL SERVICES OPERATIONS

13 REQUEST FOR
NEW POSITION

FY 84

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Revised Date	

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: S 61 Date on Bill: 1/19/83
 Title: An Act relating to driving a motor vehicle
 Sponsor: Josephson
 Requestor: _____

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital		0	0	0
Operating		0	0	0
Total		0	0	0

b. Revenues:

Revenue		0	0	0
---------	--	---	---	---

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Kenneth C. Moore *[Signature]* Phone: 465-2515
 Division: Insurance Date: 3/27/83

Approved by Commissioner: Richard A. Lyon *[Signature]* Date: _____
 Department: Commerce & Economic Development

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

2/15/83

I. REQUEST
 Bill/Resolution No.: Senate Bill No. 41
 Title: "An Act relating to driver's licenses"
 Sponsor: Sen. Josephson
 Requestor: Senate Affairs Committee

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	F. 87	FY 88
OPERATING						
100 PERSONAL SERVICES		-0-	-0-	204.2	216.5	229.4
200 TRAVEL		-0-	-0-	-0-	-0-	-0-
300 CONTRACTUAL		25.8	28.4	30.1	31.9	33.8
400 COMMODITIES		27.9	29.5	31.3	33.2	35.2
500 EQUIPMENT		-0-	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES		1176.0	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS, ETC		2.0	2.1	2.2	2.4	2.4
TOTAL OPERATING	-0-	56.7	60.0	267.8	284.0	300.9
CAPITAL	-0-	1176.0	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	1226.7	60.0	267.8	284.0	300.9
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

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

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

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

IV. ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Roger C. Lange Phone: 465-3376
 Division: Adult Corrections Date: March 30, 1983
 Approved by Commissioner: [Signature] Date: 4/10/83
 Department: Health & Social Services

Distribution:

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

IV. ANALYSIS

A. Assumptions

1. The result of increasing sentences for second and third offense drunk drivers would be the need for an additional nine (9) minimum custody beds in the state correctional system. This is based on data furnished by the court system which was analyzed by the Division's Research Analyst.
2. As a divisional average, one new position is required for every 2 1/2 inmates. Therefore, four (4) additional correctional officers are needed when the new beds would be completed at the beginning of FY 1986.
3. Inflation of 6% per year was used for subsequent years after FY 1984.

B. Program Summary

1. Positions - Four (4) Correctional Officers II
FY 1984 costs per position, including benefits, overtime and shift differential equals \$45,436.
 $4 \times 45,436 = \$ 181,740$
2. Other Expenditures
 - a. Capital
9 minimum security beds @ \$130,000 per bed
 $9 \times \$130,000 = \$ 1,170,000$
 - b. Contractual
Medical and counseling @ \$8.15 per inmate per day
 $9 \times \$8.15 \times 365 = \$26,773$
 - c. Commodities
Food and clothing @ \$8.48 per inmate per day
 $9 \times \$8.48 \times 365 = \$ 27,857$
 - d. Grants
Gratuities are given to inmates who work in the kitchen and on maintenance crews. Estimate \$2,000 needed for the nine (9) inmates.

C. Impact

It is estimated that there will be no significant impact on the State's economy or upon local governments if this legislation is enacted.

POSITION TITLE Correctional Officer II (4)				RANGE/STEP 13/B	BARG. UNIT G	FORM 12 PAGE/LINE	GOV.	AGENCY	DIVISION
TYPE OF POSITION PFT	STAFF MONTHS 372	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.		

QUALIFICATION LEVEL		EDUCATION		X		JUSTIFICATION	
PERSONAL SERVICES							
1.	Salary	106,464		OT 517,664			
2.	Benefits	34,260		Shift			
3.	Supplemental Benefits	7,852		Diff. 3934			
4.	Peace Officer	11,520					
5.	TOTAL PERSONAL SERVICES	160		181,744			
6.	Travel	62					
7.	Conferences	63					
8.	Supplies	64					
9.	Equipment	65					
10.	Other						
11.	TOTAL COST			181,744			

These positions will provide security coverage for the facility.

Single Position Costs:

Salary	52,218/mo.	\$62,616
Overtime		4,816
Shift Differential		626
		\$68,058
Peace Officer Retirement		3,000
Variable Benefits		5,471
SBS		1,553
Health Insurance		2,000
		<u>\$80,518</u>

RECEIPT CODE	FUNDING SOURCE	
12.	Federal Receipts	1002
13.	G.F. Match	1003
14.	General Funds	1004
15.	I-V Receipts	1005
16.	Program Receipts	1008
17.	Other	

(FY 1984 costs; 6% per year added to base figure.)

FOR OFFICE USE ONLY
A KEY NUMBER

17 REQUEST FOR
NEW POSITION

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

Page of
 Revised Date

FY 84

STATE OF ALASKA
FISCAL NOTE

Revision Date 1983

I. REQUEST

Bill/Resolution No.: SB 61
 Title: Act relating to driving a motor vehicle
 Sponsor: Josephson
 Requestor: State Affairs

II. FISCAL DETAIL

Agency Affected: PUBLIC SAFETY
 Program Category Affected: Justice/Pub. P
 BRU, Program of Subprogram(s) Affected: AST-DET&CIB/ Driver Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		53.2	56.4	59.8	63.3	67.0
200 TRAVEL		3.0	3.2	3.4	3.6	3.8
300 CONTRACTUAL		87.1	87.8	93.0	98.5	104.4
400 COMMODITIES		.2	.2	.2	.2	.2
500 EQUIPMENT		3.8	-	-	-	-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		147.3	147.6	156.4	165.4	175.4
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		147.3	147.6	156.4	165.6	175.4
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		2	2	.2	2	2
PART-TIME						
TEMPORARY						

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

Source of funds not identified

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Michael Orelove
 Division: Administrative Services

Phone: 465-4349
 Date: _____

Approved by Commissioner: X Wm. H. G.
 Department: Public Safety

Date: 3/21/83

Distribution:

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

ALASKA STATE TROOPERS BRUFiscal Impact:

Expenditures	FY 84	FY 85	FY 86
300 Contractual Services	77.5	82.2	87.1

Analysis:

The only impact that is anticipated from this Bill relates to the costs that will be incurred when vehicles are impounded under Section 28.35.036. We have estimated that one thousand vehicles will be impounded, of which five hundred will require towing and storage fees to be paid by the Department due to the person operating the vehicle not being the owner and operating the vehicle without the owner's consent, driver not being charged within the prescribed period, dismissed charge or where the driver is acquitted of the charge. Wrecker fees are estimated at \$80.00 per occurrence and a \$5.00 per day storage fee for fifteen days required. Inflation is estimated at 6% for each year after FY 84. No increase in personnel is anticipated.

DRIVER/VEHICLE SERVICES BRU

ASSUMPTIONS: This fiscal note is prepared with the following assumptions: 1) Arresting agencies will handle costs of impound and storage if vehicle released under AS 28.35.036(c) or (d); (2) Alaska Court System will handle "Revenue" fiscal note covering fines and vehicle forfeitures; 3) Hearing officer will cover areas outside Anchorage and Fairbanks quarterly; 4) 96% of defendants who take breath test will have .10% or higher; 5) For 26% of impounds an individual will ask for a hearing; and 6) Effective date is July 1, 1983.

PROGRAM SUMMARY: All License actions for .10% or higher will be in addition to present workload. The increase in license actions in turn increases the number of certified copies to be prepared for prosecutors, courts, etc.; number of SR-22 (insurance) filings etc. All actions, and computer entries, must be on a current basis, or law will lose its effectiveness. Will also increase the number of administrative hearings for those defendants and/or owners whose vehicles are impounded.

Program Effects of Bill

- A. Will sharply increase the paperwork in DMV as law enforcement agencies forward seized driver's license.
- B. Department will have to obtain additional 35mm slides for driver testing machines, and rewrite the written tests to comply with new provisions of AS 28.15.081(a).
- C. Will probably sharply increase hearings required by vehicle impounds (AS 28.35.036(c)), and will eventually require additional hearing officers.

Amendments Proposed

- A. Sec. 5: AS 28.15.201(c) should be amended to read:

(c) After the termination of a limitation as shown on the certificate issued under (b) of this section, the license of a person on whom a limitation was imposed will become suspended unless the person has complied with AS 28.20.240. [IS NO LONGER BOUND BY THE LIMITATION AND MAY APPLY FOR A DUPLICATE LICENSE UNDER AS 28.15.141 OR, IF OTHERWISE ELIGIBLE, FOR A NEW LICENSE IF THE LICENSE WAS REVOKED FOR CONVICTION OF AN OFFENSE UNDER AS 28.15.181(a)(5) AND LIMITED LICENSE PRIVILEGES WERE GRANTED UNDER AS 28.15.181(c).]

Reason for recommended change: At present time, it states a person may apply for a duplicate license at the end of the limitation period, which is in conflict with AS 28.20.240, which reflects the limitation will continue until the individual files proof of insurance. Also, per AS 28.20.240, the limitation may continue for the three year period a person is otherwise required to file proof of insurance, thus circumventing the insurance requirement.

- B. Sec. 9: Line 9, delete word "suspension".

Reason for recommended change: To be uniform with line 26 and 29.

- C. Sec. 11: AS 28.35.032(d), Page 8, line 11, amend to read:

"...shall be 3 months. ..." in place of "...shall be 90 days. ..."

Reason for recommended change: Easier for department to administer. Present law also reads 3 months.

- D. Sec. 11. AS 28.35.032, amend as follows:

Line 9/10, delete words "suspension or", to be in conformity with Sec. 9.
 Line 19, delete words "Suspension or", to be in conformity with Sec. 9, and because this sentence speaks to permanent license action. AS 28.35.260 defines "suspend" as temporary withdrawal.

Comments

(A) Sec. 8. AS 28.35.030(c) states that upon conviction the vehicle shall be impounded. Who will be responsible for locating the vehicle for impoundment, and accomplishing same? This may have a fiscal impact.

(B) Sec. 13. AS 28.35.033(j) does not indicate length of revocation if defendant has no previous DWI or refusal of chemical test convictions. Should probably be similar to Sec. 11. (AS 28.35.032(d))

(C) Sec. 13. AS 28.35.033(i) raises question "What if a person does not initiate proceedings in court, thus court does not sustain action? Would we be prohibited from notifying the person's residence state?"

(D) Sec. 14. This section appears to be in conflict with Sec. 9 where Sec. 9 specifies the arresting officer shall seize the license.

(E) Sec. 15. Speaks to impoundment at time of arrest, while Sec. 8 (which refers to this section, i.e. AS 28.35.036) speaks to impoundment at time of conviction. Would there be two impounds if the conviction is after the 15/90 day periods specified in this section?

AS 28.35.037(b) should specify that the court will immediately forward registration and certificate of title to the department.

Question arises as to what, if any, penalty arises if defendant tells the vehicle prior to forfeiture, but after the offense? Basically, to avoid forfeiture.

AS 28.35.036(c) and (d): Who pays towing and storage fees under these sections? Unless spelled out it could lead to law suits.

AS 28.35.036(c) provides opportunity for a hearing under AS 28.05.131. May entail extensive travel.

(F) May want to look at AS 28.15.221(a), which is not addressed in this bill, and amend that section by adding "or another law or ordinance with substantially similar elements if committed in another jurisdiction". Reason: As presently written an out-of-state violation cannot be included as a violation against an Alaska driver's license, and be counted in the point total. Appears from this bill the intent is to count a DWI conviction in another jurisdiction the same as if it occurred in Alaska. The above change would allow entry of an out-of-state DWI, or any other traffic violation, for people who possess an Alaska driver's license, and to equal treatment as if the offense occurred in Alaska.

EXPENDITURES

	FY 84	FY 85	FY 86
100 Personal Services	53.2	56.4	59.8
200 Travel	3.0	3.2	3.4
300 Contractual	9.6	5.6	5.9
400 Commodities	.2	.2	.2
500 Equipment	3.8	-0-	-0-
TOTAL	69.8	65.4	69.3

ANALYSIS

One Documents Processing Clerk II will be required in Juneau to handle administrative license actions, and related work for individual defendants whose breath results are .10% or higher. Will prepare and mail license actions (of which it is estimated there will be an increase of 2,700 to 3,000 annually, based on 1981 statistics); enter data on computer; prepare certified copies for prosecutors, courts, etc.; process stays; maintain proof of insurance filings; and maintain records. Equipment breakdown for this position is as follows: Typewriter - \$1,245; File Cabinet - \$291; and Chair - \$188.

One Clerk Typist III in Anchorage is proposed to handle data relating to hearings requested by individuals whose vehicle was impounded. Will send hearings notices to those requesting a hearing, maintain current computer records concerning hearings, and maintain tape file for all hearings. Will type hearing transcripts from tape as required for appeals, and other court action. Equipment breakdown for this position is as follows: Typewriter - \$1,245; Desk - \$426; File Cabinet - \$235; and Chair - \$163.

Travel is for hearing officer when hearings are outside the Anchorage or Fairbanks areas.

\$4,300 of first year contractual is for new testing material and forms, and \$5,300 is for postage (all license actions and hearing notices must be sent via certified mail). Remaining years contractual is for postage only.

We basically know what the increased workload will be as a result of increased license actions, and that one clerical position in Juneau will be necessary if we are to process this increase. However, at this point it is only an estimate as to how many defendants and/or vehicle owners will ask for a hearing after impoundment of a motor vehicle. Figures released by the Court System in 1981 reflect a 75% conviction rate between 1978 and 1980 for DWI cases. It is estimated 75% of those not convicted will ask for a hearing in an effort to determine who will pay impound and storage costs; plus 10% of the remaining for other various reasons. If there is this large of an increase in hearings one clerical position will be needed in Anchorage to handle the workload.

Comments (continued)

(G) Sections 10 and 13 should be reviewed and possibly amended as follows:
Sec. 10, page 7, lines 8 thru 11:

"Department of Public Safety shall revoke [NOTIFY THE PERSON THAT] the person's license or nonresidence privilege to drive or operate a motor vehicle in the state. [IS REVOKED OR SUSPENDED, OR THAT NO ORIGINAL LICENSE OR PERMIT WILL BE ISSUED] The revocation is effective upon expiration of the temporary

Sec. 13, page 11, lines 1 thru 4 in the same manner.

Reason: Allow the notice given by the law enforcement officer as mentioned in Sections 9 and 13 suffice for notice, and not require additional notice via mail. This would save mailing costs on approximately 4,000 notices annually at current price of \$1.55 each, plus clerical time to process.

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

REQUEST

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

II. FISCAL DETAIL

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

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

IV. ANALYSIS: Attach a separate page for any Analysis

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

Approved by Commissioner: _____ Date: _____
 Department: _____

Distribution:

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

3/8/83

ANALYSIS OF FISCAL IMPACT OF SB 61/HB 6:

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

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

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

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

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

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

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

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

FY 84 COST OF IMPLEMENTING HB 6/SB 61

PERSONAL SERVICES:

SALARIES:

ANCHORAGE

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

FAIRBANKS

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

PALMER

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

Court Clerk II (Range 10B)	<u>21,984</u>
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\$361,118

BENEFITS:

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

Total Personal Services 579,359

CONTRACTUAL 15,000

COMMODITIES 15,000

EQUIPMENT (one time costs) 31,200

TOTAL COST \$640,559

FIRST YEAR ADJUSTMENT:

Less two months recruitment time (101,560)

TOTAL COST FIRST YEAR \$538,999

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

ANALYSIS OF S.B. 61

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

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

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

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

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY
OFFICE OF THE COMMISSIONER

POUCH N
JUNEAU, ALASKA 99811
PHONE: 465-4322

April 7, 1983

The Honorable Vic Fischer
Chairman, Senate State Affairs
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Fischer:

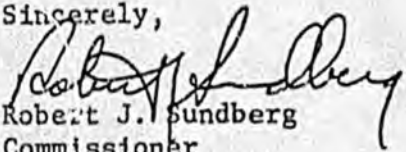
This is in reply to your request for a departmental position paper on SB-61 entitled "An Act relating to driving a motor vehicle".

As you are aware drunk drivers are a hazard to the general motoring public, and the cause of several deaths and disabling injuries on our highways every year. I support what SB-61 is attempting to accomplish, however, the department's position on SB-61 as written is neutral.

The department's fiscal note reflects most of my concerns with the bill as presently written.

Attached is a copy of amendments proposed by the Division of Motor Vehicles concerning actions against a driver's license.

Sincerely,


Robert J. Sundberg
Commissioner

1. Sec. 5, Page 3 (AS 28.15.201(c)), change to read as follows:

(c) After the termination of the limitation as shown on the certificate issued under (b) of this section, the license of a person on whom a limitation was imposed will become suspended unless the person has complied with AS 28.20.240. [IS NO LONGER BOUND BY THE LIMITATION AND MAY APPLY FOR A DUPLICATE LICENSE UNDER AS 28.15.141.....]

The reason for this recommended change is because at the present time, and in the proposed new law, it states a person may apply for a duplicate license at the end of the limitation period, which is in conflict with AS 28.20.240. That section reflects the limitation will continue until the individual files proof of insurance. Also under AS 28.20.240, the limitation may continue for the three year period a person is otherwise required to file proof of insurance, thus circumventing the insurance requirement. This amendment would prevent that.

2. Sec. 11, Page 8, Line 11, amend to read:

"...shall be 3 months..." in place of "...shall be 90 days..."

Reason: Easier for the department to administer. Present law reads 3 months.

3. Sec. 14 Page 12 (AS 28 35.034) replace with language similar to following: "A person whose license or permit to operate or drive a motor vehicle has been revoked or suspended under provisions of AS 28.35.032 or AS 28.35.033 shall surrender the license or permit to the law enforcement officer who delivers to him a copy of the suspension or revocation notice. The law enforcement officer shall forward the license, and a copy of the suspension or revocation notice to the department. If the department determines that a person is subject to license suspension or revocation, and the notice has not already been served upon the person by a law enforcement officer as required in AS 28.35.032(a) or AS 28.35.033(g), the department shall issue a notice of suspension or revocation."

Reason for this recommendation is so it doesn't conflict with Sec. 9 and Sec. 13, which reflect the law enforcement officer shall seize the person's driver's license. It also specifies what the officer is to do with the license.

4. Sec. 10, Page 7, lines 8 thru 11 (AS 28.35.032(b), and Sec. 13, Page 11, lines 1 thru 5 (AS 28.35.033(h): "...the Department of Public Safety shall revoke or suspend [NOTIFY THE PERSON THAT] the person's license or nonresident privilege to drive or operate a motor vehicle in the state. [IS REVOKED OR SUSPENDED, OR THAT NO ORIGINAL LICENSE OR PERMIT WILL BE ISSUED] The revocation is effective upon expiration of the temporary....."

Reason: Allow the notice given by the law enforcement officer as mentioned in Sec. 9 and Sec. 13 suffice for notice, and not require additional notice via mail. This would save mailing costs on approximately 4,000 notices annually at current price of \$1.55 each, plus clerical time to process.

5. Sec. 13, Page 11 (AS 28.35.033(j)): This section addresses revocation if defendant takes a chemical test, and results are .10% or higher. It mentions duration of the revocation if the defendant has previously been convicted, however, no mention is made as to duration if no previous convictions. Should have a sentence added similar to the first sentence in Sec. 11, page 8.

Reason: Self-explanatory.

6. A section of Title 28 not addressed in this bill, however, it is related in some ways, is AS 28.15.221(a). You may want to look at amending that section by adding, "or another law or ordinance with substantially similar elements if committed in another jurisdiction".

Reason: As presently written an out-of-state violation cannot be included as a violation against an Alaska driver's license, and be counted in the point total. Appears from this bill the intent is to count a DWI conviction in another jurisdiction the same as if it occurred in Alaska. The above change would allow entry of out-of-state DWI, or any other traffic violation, for people who possess an Alaska driver's license, and thus equal treatment for all violations, regardless of where the offense occurred.

POSITION PAPER

House Bill No. 6

"An Act relating to driving a motor vehicle."

House Bill No. 6 amends existing state law by increasing the length of sentence for first offense of driving with license suspended from 10 days to 14 days; second offense of operating a motor vehicle while intoxicated from 10 days to 20 days; third offense of operating a motor vehicle while intoxicated from 10 days to 30 days. It is estimated that the net effect of increasing the penalties for the specified offenses would increase the prison population by nine beds.

This bill would not significantly affect program objectives of the Division of Adult Corrections; however, it would have fiscal impact.

Recommended by: *for Roger V. Endell*
Roger V. Endell, Director
Division of Adult Corrections

Date: 2/8/83

Approved by: *Robert London Smith*
Robert London Smith, Ph.D.
Commissioner

Date: 2/9/83

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

March 18, 1983

SUBJECT: Driving a motor vehicle while intoxicated
(SB 61)

TO: Senator Vic Fischer

FROM: *RJ* Russ Josephson
Legislative Counsel

Following is the sectional analysis of SB 61 that you requested:

Section 1 adds new requirements for a driver's license application examination: (1) that the applicant know the effects of alcohol and drugs on drivers and the related dangers of driving under their influence; and (2) that the applicant know the laws relating to driving while intoxicated.

Section 2 adds a new basis for the immediate suspension or revocation of a driver's license by a court: the refusal to submit to a chemical test of breath under AS 28.35.032.

Section 3 requires a court convicting a person of driving while intoxicated or refusal to submit to a chemical test of breath to revoke the person's driver's license and not to grant limited license privileges. The period of revocation depends upon whether the person has been previously convicted in this or another jurisdiction of either offense. If the person has not been previously convicted, the period of revocation is 90 days. If the person has been convicted once, the period is one year. If the person has been convicted more than once, revocation is permanent. Under existing law the court shall revoke the license of a person for not less than 30 days for the first conviction and may grant the person limited license privileges. The court shall revoke the license for not less than one year for a second conviction and may not grant limited license privileges. The court shall revoke the license for not less than three years for a third or subsequent conviction and may not grant limited license privileges. See accompanying chart.

March 18, 1983

Section 4 removes the reference to a person convicted of driving a motor vehicle while intoxicated with reference to limited license privileges since, under Sec. 3 of this bill, a person convicted of driving while intoxicated may no longer receive limited license privileges.

Section 5 removes the references to the issuance of a new driver's licenses for persons convicted of driving a motor vehicle while intoxicated after a limited license period has expired because, under Sec. 3 of this bill, no limited license privileges may be granted.

Section 6 changes the penalty for violation of the prohibition against driving while a license is canceled, suspended, or revoked, or in violation of a limitation on the license. The minimum sentence is increased from 10 days to 14 consecutive days and a fine of \$500 - \$1000 is added. In addition, the provision allowing the sentence to be suspended after the defendant has been imprisoned for no less than the minimum period has been removed.

Section 7 requires a chemical test to be given within four hours after the alleged offense of driving while intoxicated if the amount of alcohol in a person's blood or breath is relied on as an element of the crime.

Section 8 changes the penalties for conviction of driving while intoxicated. If a person has not been previously convicted, a fine of not less than \$250 nor more than \$500 is imposed along with the minimum sentence of imprisonment. If a person has been previously convicted once, the minimum sentence of imprisonment is not less than 20 consecutive days and a fine of not less than \$500 nor more than \$1,000 is imposed. If a person has been previously convicted more than once, the minimum sentence of imprisonment is 30 days and a fine of not less than \$1,000 nor more than \$2,500 is imposed. The five-year period used for calculating the number of convictions required to increase the penalty has been eliminated, so that all previous convictions are considered. A conviction in this or another jurisdiction, if the elements are substantially similar, is counted for purposes of determining enhanced penalties. The provision for suspension of sentence after the minimum sentence is served has been eliminated. The vehicle used in commission of the offense shall be impounded and may be forfeited.

Section 9 authorizes, on refusal to submit to a chemical test of breath, the seizure of the driver's license by the law enforcement officer and revocation of the license by the Department of Public Safety. The officer reads the driver a notice and gives him a copy of the notice. The notice explains the revocation procedure and the right of court review. The notice itself is a temporary driver's license that expires in seven days unless the driver initiates court proceedings to rescind the revocation of license.

Section 10 provides that the notice of revocation or suspension of a driver's license also indicate that the action will be effective after the temporary driver's license provided for in Sec. 9 has expired. A revocation or suspension action is stayed if the person initiates a court action to rescind the Department of Public Safety's action. The three months' suspension or revocation period is eliminated from this section.

Section 11 provides new license revocation periods for the refusal to submit to a chemical test of breath under the implied consent statute. The periods are similar to those provided in Sec. 3 for the offense of driving while intoxicated.

Section 12 provides new penalties for refusal to submit to a chemical test which are similar to the fines and terms of imprisonment imposed for driving while intoxicated under Sec. 8 of this bill.

Section 13 provides for driver's license seizure and revocation by the Department of Public Safety if a chemical test of breath or blood produces results specified in AS 29.35.030(a)(2). The procedure is the same as that in Sec. 9. In addition, the new language limits the court proceeding in which the driver's action to rescind the suspension of revocation of the driver's license is heard to two issues: (1) whether or not the arrest for driving while intoxicated was valid; and (2) whether the chemical test produced the results specified in AS 29.35.030(a)(2). The periods of administrative revocation for driving while intoxicated are the same as those imposed by a court under Sec. 3 of this bill for driving while intoxicated.

Section 14 removes provisions allowing the district court to find extenuating circumstances and to modify or nullify the

suspension or revocation of a driver's license or permit for refusing to submit to a chemical test of breath.

Section 15 adds new sections providing for the impoundment and forfeiture of a motor vehicle used in the commission of an offense under AS 28.35.030 (Operating a Vehicle, Aircraft or Watercraft While Intoxicated), and also for the forfeiture of a motor vehicle used in the commission of an offense under AS 28.35.032(f) (Refusal to Submit to a chemical Test of Breath). In addition, provision is made for the remission of forfeitures, a procedure to allow a person with ownership or security interests in a forfeited motor vehicle to claim the vehicle or interest in the vehicle through court proceedings.

Section 16 repeals AS 28.15.211(a)(4), a provision concerning the period of suspension, revocation, or limitation of the license of a person convicted of refusal to submit to a chemical test. The repealed provision has been replaced by other provisions throughout this bill.

RJ:ljb

REFUSAL
TO
SUBMIT
TO
CHEMICAL
TEST
OF
BREATH

1st offense: Ineligible for a driver's license or permit for a three months' period unless the court finds hardship and nullifies or modifies the suspension or revocation. If has prior DWI conviction, period of revocation or suspension is one year. First offense also carries minimum 72 consecutive hours' imprisonment. (AS 28.35.032)

2nd offense: If has prior conviction for either DWI or refusal to submit to a chemical test of breath, suspension or revocation of license is for one year. A conviction for DWI or for refusal to submit to a chemical test of breath within previous five years yields a sentence of ten consecutive days' imprisonment. However, if the prior convictions for DWI or for refusal to submit to a chemical test of breath were within one year of this second conviction for refusal to submit to a chemical test of breath, imprisonment is for 20 days. The ten-day and 20-day sentences are both minimums. (AS 28.35.032)

Conviction under AS 28.35.032 also requires participation in a program of alcohol education or rehabilitation for term the court finds appropriate.

1st offense: Driver's license seized if driving a motor vehicle. License is revoked or suspended for 90 days, unless has a prior DWI conviction. In that case, suspension or revocation is for one year. Vehicle impounded for 15 days. 72 consecutive hours imprisonment plus fine: \$250 minimum; \$500 maximum. (AS 28.35.032, secs. 9 - 12)

2nd offense: If has either a prior DWI conviction or conviction for refusal to submit to a chemical test of breath, suspension or revocation is for one year. Second conviction for refusal to submit to a chemical test of breath or first conviction of a person with a prior DWI conviction: minimum of 20 consecutive days imprisonment and a fine of \$500 minimum; \$1000 maximum. Driver's license seized if driving a motor vehicle. Vehicle impounded for 90 days and may be forfeited. (AS 28.35.032, secs. 9 - 12)

3rd or subsequent offense: If for refusal to submit to a chemical test of breath or DWI in any combination, suspension or revocation of the driver's license is permanent. 30 consecutive days' imprisonment plus a fine of \$1000 minimum and \$2000 maximum. Same license seizure as for first offense. Vehicle impoundment and forfeiture provisions the same as for the second offense. (AS 28.35.032, secs. 9 - 12)

Alcohol program participation requirements are unchanged.

The five-year period for calculation of the number of offenses a person has committed, for the purposes of determining a penalty, has been eliminated for this offense.

Note provisions for seizure of driver's license in sec. 13 in addition to provisions for refusal to submit to a chemical test of breath as trigger for seizure (above).

DWI

1st conviction for DWI: 72 consecutive hours imprisonment (AS 28.35.030). Driver's license revoked for 30 days minimum, or limited license and revocation for 60 days minimum. (AS 28.15.181)

2nd conviction for DWI or for refusal to submit to a chemical test of breath: Driver's license revoked and limited license may not be granted for one year minimum (AS 28.15.181). If within five years of a conviction for DWI or for refusal to submit to a chemical test of breath, ten consecutive days minimum imprisonment, unless within one year of a previous conviction, then 20 days. Court may order participation in alcohol education or rehabilitation program (AS 28.35.030). Subsequent convictions treated by the same provisions except that limited driver's license privileges may not be granted for at three years upon a third or subsequent conviction. Sentence may be suspended after the minimum sentence has been served.

1st conviction for DWI or refusal to submit to a chemical test of breath: revocation of driver's license for 90 days minimum (sec. 3). Fine: \$250 minimum, \$500 maximum (sec. 8) in addition to jail time.

2nd conviction, DWI or refusal to submit to a chemical test of breath (or equivalent elsewhere): One year minimum driver's license revocation (sec. 3); 20 consecutive days minimum and 20 consecutive days minimum imprisonment and a fine of \$500 minimum and \$1000 maximum (sec. 8).

3rd or subsequent conviction for DWI or refusal to submit to a chemical test of breath (or equivalent elsewhere) in any combination of three or more: permanent revocation of driver's license (sec. 3). 30 consecutive days minimum imprisonment and a fine of \$1000 minimum and \$2500 maximum (sec. 8). No change in provision on alcohol education and rehabilitation assignments by court.

Limited license privileges are removed for all DWI offenders.

DRIVING
WITH
LICENSE
CANCELED,
SUSPENDED,
REVOKED,
VIOLATION
LIMITATION

Ten days' Imprisonment minimum.
Suspension of sentence after minimum sentence served
Is possible.

14 consecutive days, plus fines: \$500 minimum and
\$1000 maximum. No suspension of sentence.

IMPOUNDMENT No present provision.

Upon probable cause of peace officer that vehicle used in
DUI offense. Unless released, impoundment is for 15 days if
no prior convictions for DUI or for refusal to submit to a
chemical test of breath. If a prior conviction in Alaska or
elsewhere for either, impoundment is for 90 days.

FORFEITURE No present provision.

If a prior conviction in Alaska or elsewhere for DWI or for refusal to submit to a chemical test of breath (or equivalent elsewhere), vehicle may be forfeited.

TO: Senator Vic Fischer, Chairman
Senate State Affairs Committee
Alaska State Legislature

DATE: May 4, 1983

FILE NO:

TELEPHONE NO: 465-4371

FROM: Charles A. Smith, Director *CAS*
Highway Safety Planning Agency
Department of Public Safety

SUBJECT: Incentive Grant
Criteria

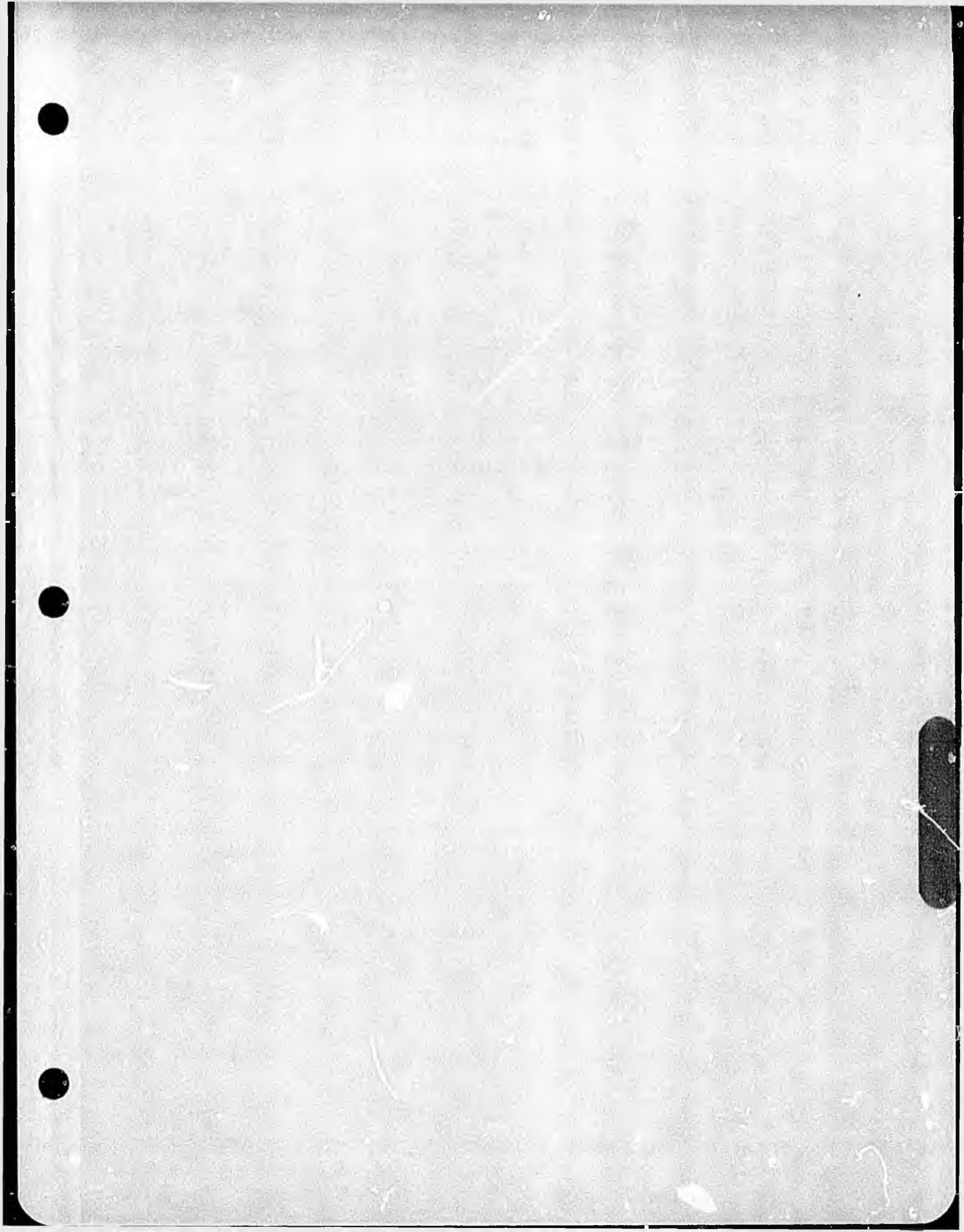
In reviewing the Federal legislation concerning the subject matter, I have determined the following:

1. Bills pending before the Legislature, if passed, would qualify the State for up to \$262,000 in incentive funds;
2. Two items that are required, as a minimum, are prompt suspension or revocation of the driver's license for drunk driving, and a minimum of 90 days suspension/revocation for the first offense.

In order to qualify for continued incentive funds in succeeding years, other parts of the bills would have to be passed.

I hope that the foregoing provides the information you require and I would be happy to provide further or more detailed information.

CAS/vo



I. REQUEST

Bill/Resolution No.: CSHB17(Jud)am
 Title: Age of majority for alcoholic beverages
 Sponsor: House Judiciary
 Requestor: Senate State Affairs Comm

II. FISCAL DETAIL

Agency Affected: REvenue
 Program Category Affected: Public Protection
 BRU, Program of Subprogram(s) Affected: Alcoholic Beverage Control Board

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Patrick L. Sharrock, Director
 Division: Alcoholic Beverage Control Board

Phone: 277-8638
 Date: 3/20/83

Approved by Commissioner: Robert D. Heath
 Department: Revenue

Date: 3/30/83

Distribution:

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

Fiscal Note
CSHB17(Jud)am

The following items are noted for possible further clarification:

1. Referencing page 4, line 26, one could conclude that parental consent was intended to be provided in AS 04.16.049(a)(2) at page 2, line 5. However, parental consent is not required in AS 04.16.049(a)(2) but is required in AS 04.16.049(a)(3) at page 2, line 8. OR: page 4, line 26 and 28 could be changed to read "...age of 16..." and "AS 04.16.049(a)(3)" respectively.

2. Page 3, line 8 - "restaurant or eating place" refers to a specific type of license under AS 04.11.100. If it is intended that persons 19 years of age or older be employed in restaurant premises which might also be "beverage dispensary" (AS 04.11.090) licenses premises, line 8 could be changed to read "premises of a hotel or premises designated as a restaurant for the purpose of this section, may enter and remain"

3. Page 6, line 18 - it would seem appropriate to add "and AS 04.16.049(d)."

4. It has been traditional under law that the "local governing body" defined at AS 04.21.080(a)(10) participate in approving "designated" restaurant premises referred to at lines 5 and 8, page 2, and noted in (2) above.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: House Bill 17 Date on Bill: _____
 Title: "An Act relating to age limits under Title 4, Alcoholic Beverages"
 Sponsor: _____
 Requestor: House Judiciary Committee

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total			-0-	-0-	-0-	-0-		

b. Revenues:

Revenue			-0-	-0-	-0-	-0-		
---------	--	--	-----	-----	-----	-----	--	--

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: George E. Mundell, Acting Coordinator *AAA*
 Division: Office of Alcoholism/Drug Abuse

Phone: 586-6201
 Date: 2/23/83

Approved by Commissioner: Rita Gordon Smith, Ph.D.
 Department: HRSS

Date: 2/25/83

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor

"An Act relating to age limits under Title 4, Alcoholic Beverages."

The main thrust of House Bill No. 17 is to restore the legal minimum age for drinking alcoholic beverages in Alaska from age 19 to age 21.

Background

Passage in 1971 of the 26th Amendment to the United State Constitution not only allowed 18 year olds to vote but this action assisted in extending certain other privileges to this age group including reducing the minimum legal drinking age. With Alaska acting first, the Legislatures in 27 states lowered their minimum drinking age for all alcoholic beverages, and another 11 states lowered the drinking age for beer and/or wine. However, beginning in 1976 a reversal of this trend began to occur when Minnesota raised its minimum drinking age and since then 18 additional states have done likewise.

Discussion

savings was not matches with cost

Proponents for restoring the minimum drinking age to 21 advance a two-fold argument for this position that includes: (1) a reduction in the affected age group's driving accidents and resultant property damage, personal injury, and death, and (2) less alcohol available to the age group immediately younger than the legal minimum drinking age.

Traffic Accidents

The December, 1982, Interim Report to the Nation by the Presidential Commission on Drunk Driving after reviewing available evidence and studies concluded:

"There is a direct correlation between the minimum drinking age and alcohol-related crashes among the age groups affected. Studies have shown that raising the legal drinking age produced an average annual reduction of 28 percent in nighttime fatal crashes involving 18-21 year old drivers. In order to reduce the death rate of American Youth, the minimum legal drinking age for all alcoholic beverages should be raised to 21."

According to information from the Highway Safety Planning Agency, Department of Public Safety the Alaska experience is similar to national statistics. For the years 1979, 1980, and 1981 the 0-20 age group represents only 2.9% of the licensed drivers in Alaska yet this same age group accounted for 23% of all fatal alcohol related accidents and 25% of all alcohol related fatalities.

Pass Down Affect

Youth age 17 and under accounted for 55.5% of all liquor law violations in Alaska in 1981. Evidence indicates many of these youth obtain alcohol

from friends who are of legal age. A recent study of under age youth noted that 60% of boys and 66% of girls get their drinks from friends. Thus, it appears that when the legal age is 19 alcohol is more accessible to youth ages 18 and less. Parents and teachers groups are particularly cognizant of this situation.

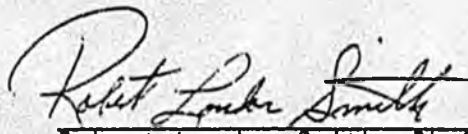
Administration Position

From a public health and public safety perspective the administration is convinced by the evidence presented in studies and the experience in other states, that restoring the minimum legal drinking age to 21 can be an effective strategy in preventing alcohol problems among younger Alaskans. However the administration is concerned that a rapid departure from the current legal age of 19 may initiate serious law enforcement and legal actions that would detract from some of the beneficial aspects of this bill. Accordingly the administration is supportive of this bill if it provides for a phased in effective date and recommends consideration be given to the following schedule:

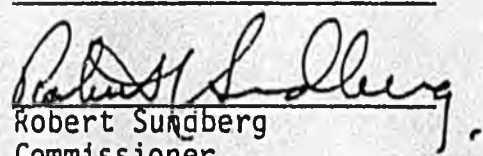
- 1. attain age 19 prior to July 1, 1983
- 2. attain age 20 prior to July 1, 1984
- 3. attain age 21 prior to July 1, 1985

Under this schedule no existing aged persons would lose their current legal drinking privileges and full implementation of the intent of this bill would be accomplished by July 1, 1985.

Approved by:


 Robert London Smith, Ph.D.
 Commissioner
 Dept. of Health &
 Social Services

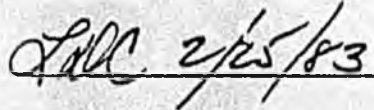
Date:


 2/25/83
 Robert Sundberg
 Commissioner
 Dept. of Public Safety

Date:

 Emil Notti
 Special Assistant
 Governor's Office

Date:


 2/25/83

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 21, 1983

SUBJECT: Drinking age
(CSHB 17 (Judiciary) am)

TO: Senator Vic Fischer

FROM: *RJ* Russ Josephson
Legislative Counsel

You have asked for a sectional analysis of CSHB 17 (Judiciary) am, which follows.

Please note, as well, that there were some omissions in the floor amendments to CSHB 17 (Judiciary). Primarily, they were phrases and references that appeared in CSHB 17 (Finance) and should have been included when sections of that bill were substituted into CSHB 17 (Judiciary). A copy of CSHB 17 (Judiciary) am with the necessary changes indicated, has been enclosed.

Section 1. Changes the age reference in AS 04.11.090(f), pertaining to bowling alleys, from 19 to 21.

Section 2. Changes the age reference in AS 04.11.110(g), pertaining to access to clubs during times when no alcoholic beverages are sold, from 19 to 21.

Section 3. Changes the age reference in AS 04.11.460(c), pertaining to prior public approval of new or transferred liquor licenses, from 19 to 21.

Section 4. Repeals and reenacts AS 04.16.049(a), pertaining to access of underaged persons to licensed premises. Paragraph (1) of the existing law, allowing access if accompanied by a parent, guardian or spouse, is changed only in the age reference, from 19 to 21.

Paragraph (2) in this bill will allow a person 16 years of age or older to enter a licensed premise designated as a restaurant for purposes of dining only. The present law, by

contrast, specifies no age limiter for the underaged person but requires the underaged person to be accompanied by a person over the age of 19 years and to have the consent of a parent or guardian.

Paragraph (3) provides for access to a restaurant by a person under the age of 16 years, if accompanied by a person over the age of 21 years, if the parent or guardian of the underaged person consents, and if the underaged person enters and remains only for dining. It is similar to existing paragraph (2) except for the specification of the age of 16.

Section 5. Amends AS 04.15.049(b) to clarify that the employee referred to in the provision that allows refusal of entry to underaged persons is the employee of the licensee. Makes the age change as well.

Section 6. Amends AS 04.16.049(c), pertaining to the access of underaged persons to licensed premises, to adjust to the other changes in AS 04.16.049. (The access here is for work not involving serving, mixing, delivering, or dispensing of alcoholic beverages.)

Section 7. Adds a new subsection (d) to AS 04.16.049 to allow a person 19 years of age or older to be employed in a licensed premise and to service, deliver or dispense alcoholic beverages. (Incidentally, both this subsection and subsection (c) ought to include the word "sell", as that word is used specifically in AS 23.10.355, which refers to AS 04.16.049.)

Section 8. Amends AS 04.16.050, pertaining to the possession or consumption of alcoholic beverages by an underaged person, by changing the age reference from age 19 to 21.

Section 9. Amends AS 04.16.051, pertaining to furnishing alcoholic beverages to underaged persons, by changing the age reference from age 19 to 21.

Section 10. Amends AS 04.16.052, pertaining to furnishing alcoholic beverages to underaged persons by licensees. Makes the wording sex neutral and changes the age reference from 19 to 21. Paragraph (4) of this section should have the phrase "except as provided in AS 04.16.049(d)" added at the end (page 4, line 4, following "beverages").

Section 11. Amends AS 04.16.060, pertaining to the purchase of alcoholic beverages by an underaged person, by making the language sex neutral and changing the age reference from 19 to 21. Note that subsection (e), pertaining to misrepresentation of age or consent of a parent or guardian, needs some amendments to make sense and to reflect the provisions of AS 04.16.049 as they appear in this bill. The changes are noted on page 4, lines 28 and 29, of the bill.

Sections 12 and 13. Amend AS 04.16.200, pertaining to unlicensed persons, by changing the age reference from 19 to 21.

Section 14. Amends AS 04.21.020, pertaining to civil liability of persons providing alcoholic beverages to another, by changing the age reference from 19 to 21.

Sections 15 and 16. Amend AS 04.21.050, pertaining to proof of age, by changing the age reference from 19 to 21, by making references to the new provisions in AS 04.16.049 (secs. 4 through 7 of the bill), and by providing for the Alcoholic Beverage Control Board to determine what form the consent required by AS 04.16.049 should take.

Allows the licensee or the agent or employee of the licensee to request not only proof of age, as at present, but to request proof of consent when required by AS 04.16.049. Note that there are two consents required in that section for two different purposes, one in subsection (a)(3) and one in subsection (c).

Please note that some phrases required in this section by the other amendments to this bill were not amended into this bill. These overlooked phrases are noted on the bill at pages 5 and 6 (page 5, line 25; page 6, lines 3 and 4).

Section 17. Amends AS 23.10.355, pertaining to employment of underaged persons to sell or serve alcoholic beverages or to work on a licensed premise. Changes the age reference from 19 to 21 and simplifies the language referring to licensed premises. Please note that the reference on page 6, line 18, ought to be to AS 04.16.049 rather than to AS 04.16.049(c). This reference change was missed when the bill was amended on the House floor but is necessary because subsection (c) is not the only subsection of AS 04.16.049 with a provision relating to AS 23.10.355. As was mentioned above, because of the wording of this section, the wording of AS 04.16.049 ought to be amended to include the word "sell".

Senator Vic Fischer

Page 4

March 21, 1983

Section 18. Calls for an advisory vote at the next state-wide election to indicate a preference for maintaining the drinking age at 21 or for a return to age 19.

RJ:ljb

Enclosure

10/027

STATE OF ALASKA
THE LEGISLATURE

POUCH Y. STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 5, 1983

SUBJECT: Drinking age
(SCS CSHB 17 (State Affairs))

TO: Senator Vic Fischer
Chairman, Senate State Affairs Committee

FROM: *RJ* Russ Josephson
Legislative Counsel

Some time ago you received a sectional analysis of CSHB 17 (Judiciary) am, the version of the drinking age bill as it passed the House. This memorandum is an addendum to that sectional analysis, explaining what the Senate State Affairs committee substitute has done.

First, the committee substitute has incorporated CSSB 88 (Judiciary) into the house bill. This has resulted in new language on page 2, lines 5 - 10 of the new committee substitute. These are provisions concerning the entry into licensed premises by an underaged person. This new version of the bill allows an underaged person access in three ways:

- (1) if with a parent, guardian or spouse at least 21 years of age;
- (2) if accompanied by a person at least 21 years old and with consent of the parent or guardian, if the premises are designed by the Alcoholic Beverage Control Board as a restaurant and the person dines only; or
- (3) if the premises are certified as a restaurant.

The provision for the certification of the premises as a restaurant, including municipal approval if the premises are in a municipality, appears on page 3, line 9 of the draft. This provision is also from CSSB 88 (Judiciary).

Additional changes made by this new committee substitute are the change of the date of the advisory vote to the 1986

Senator Vic Fischer

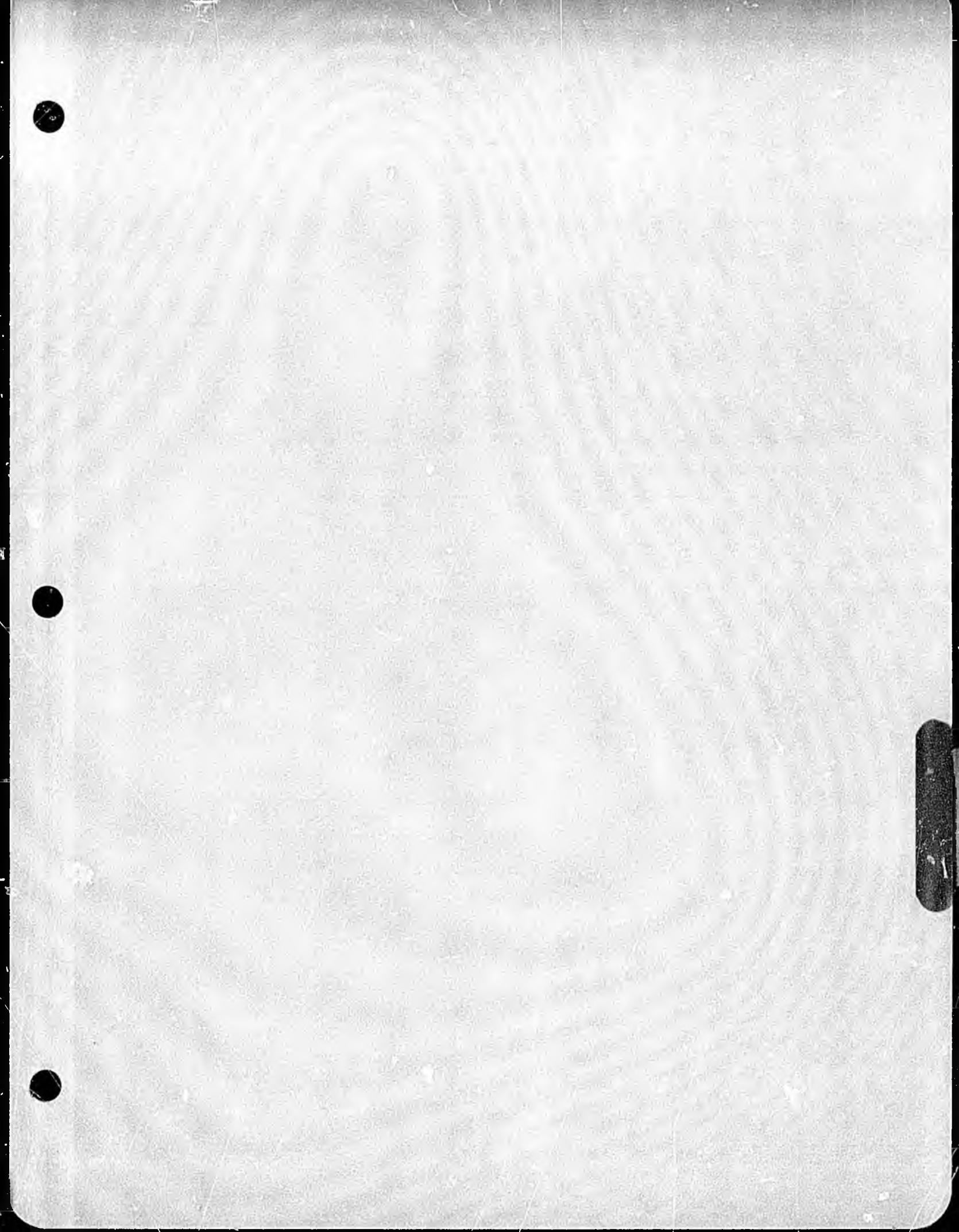
Page 2

May 5, 1983

elections, the "grandfather clause" for persons age 19 or older on January 1, 1984, and the January 1, 1984, effective date. Some technical changes have been made throughout the bill to reflect the major changes detailed above.

RJ:ljb

18/001



STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

REQUEST

Bill/Resolution No.: CS SB-226 (SA)
 Title: ...training, and licensing of drivers..
 Sponsor: Fischer, V.
 Requestor: Senate State Affairs

II. FISCAL DETAIL

Agency Affected: Education
 Program Category Affected: _____
 BRU, Program of Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		0	0	0	0	0
CAPITAL		0	0	0	0	0
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Steve Hole Phone: 465-2865
 Division: Management, Law & Finance, Date: 5/4/83

Approved by Commissioner: Marshall L. Lind Date: 5/4/83
 Department: Education

Distribution:

- Original to Legislative Finance
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- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

3/8/83

STATE OF ALASKA
FISCAL NOTE

Revision Date 5/2, 1983

I. REQUEST

Bill/Resolution No.: CS SB 226 (SA)
Title: "Training & licensing of drivers"
Sponsor: Senator V. Fischer
Requestor: Senate State Affairs

II. FISCAL DETAIL

Agency Affected: Public Safety
Program Category Affected: Public Protection
BRU, Program of Subprogram(s) Affected: &
Driver/Vehicle Services & Justice
Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		378.0	753.2	798.4	846.3	897.1
200 TRAVEL		11.0	23.2	24.6	26.1	27.6
300 CONTRACTUAL		157.2	208.6	222.7	237.3	251.6
400 COMMODITIES		17.0	35.3	37.4	39.7	42.1
500 EQUIPMENT		208.1				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		771.3	1020.3	1083.1	1149.4	1218.4
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		771.3	1020.3	1083.1	1149.4	1218.4
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		13	13	13	13	13
PART-TIME						
TEMPORARY		3				

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

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Michael Orelove Phone: 465-4349
Division: Administrative Services Date: 5-2-83
Approved by Commissioner: *[Signature]* Date: 5/3/83
Department: Public Safety

Distribution:

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

Division of Motor Vehicles

FISCAL NOTE ANALYSIS

SB 226

Fiscal note based on following:

1982 statistics: 2,522 16 year old licensed drivers
 4,461 17 year old licensed drivers
 5,932 18 year old licensed drivers

1980 statistics: 1,115 16 year old drivers received 1,596 citations
 2,894 17 year old drivers had total of 4,333 citations

Therefore, approximately 7,000 16 and 17 year olds must obtain new provisional license by April 1, 1984.

500 16 year olds will have provisional license revoked and apply for Instruction Permit.

500 Reissuance of provisional license after three months.

1,000 17 year olds will have provisional license revoked and apply for Stage One license.

800 17 year olds will have Stage Two license reissued.

4,500 17 year olds with provisional license will obtain regular license at age 18 years, annually.

2,600 16 year olds will change from Stage One to Stage Two provisional license each year.

Detail: FY 84

100 Personal Services

1 - Document Processing Clerk II, 1/2 year	13.3	
1 - Motor Vehicle Rep. II, 1/2 year	14.1	
1 - Driver Improvement Specialist, 1/2 year	21.3	
3 - Motor Vehicle Rep II (Nonpermanent - 4 months)	22.6	

TOTAL 71.3

200 Travel

Hearing Officers travel to various cities to conduct revocation hearings.	1.0	1.0
---	-----	-----

300 Contractual

310 - postage (All revocation notices and insurance cancellation notices must be sent via certified, return receipt mail at \$1.55 each)	2.4	
320 - advertising/publicity	10.0	
360 - equipment rental (2 AJIS terminals)	16.0	
380 - professional services (contract at \$.75 per drivers license issued)	9.0	

382a - DP Chargeback (programming and maintenance) 2.0

Total 39.4

400 Commodities

480 - Normal office supplies .3 .3

500 Equipment

3 typewriters 3.7

2 file cabinets .5

1 desk .4

3 chairs .5

Total 5.1

TOTAL 117.1

REVENUE

Revenue figure is based on assumption each different stage or class of license will require a \$5.00 fee per schedule outlined in AS 28.15.271. 11,950 licenses in FY84 = \$59.8. 9,900 licenses in FY85 = \$49.5.

GENERAL COMMENTS:

A. Proposed AS 28.15.055(a) outlines what a stage one provisional license is valid for. The bill does not address what a stage two provisional license is valid for. This should possibly be covered in proposed AS 28.15.055(b).

B. Question arises on AS 28.15.055(c) where it states "if the person is qualified". If an individual had a stage one provisional license revoked, and did not obtain an instruction permit as required by AS 28.15.213(c), would that person be qualified? Same with stage two and AS 28.15.213(d) - would that person be required to obtain a stage one first? Or once a person becomes 18 years of age, are all revocations of provisional licenses under AS 28.15.213 invalid?

C. Question also arises on AS 28.15.055(a) where it indicates a holder of a provisional license has all the rights and privileges of a person with an "unrestricted" license, except hours. Does this possibly void any restriction we may impose for medical or other reasons? If AS 28.15.055(d) is the escape clause, it seems contradictory.

1.	POSITION TITLE Motor Vehicle Rep. II			RANGE/STEP 9B	BARG. UNIT GG	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	DRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT 7-15	LEG.	
3.	CONTINUATION LEVEL			ADDITION	JUSTIFICATION				

TYPE OF EXPENDITURE			AMOUNT
1	2	3	
PERSONAL SERVICES			
5.	Salary	20,400	
6.	Benefits	3,582	
7.	Supplemental Benefits	1,251	
8.	Fixed Benefits	2,880	
9.	TOTAL PERSONAL SERVICES	01	28,113
10.	Travel	02	
11.	Contractual	03	
12.	Commodities	04	100
13.	Equipment	05	1,408
14.	Other		
15.	TOTAL COST		29,621

This position will work in the field office and be responsible to issue driver's licenses. It is estimated this bill will generate issuance of 9,900 additional licenses each year, plus an additional 7,000 required by Section 9 of the bill, for a total of 16,900 the first year. Approximately 50% of these will be in Anchorage.

Requested equipment breakdown is as follows:
 Typewriter - \$1,245
 Chair - 163
 Total \$1,408.

RECEIPT CODE	FUNDING SOURCE	
16.	Federal Receipts 1002	
17.	G.F. Match 1003	
18.	General Funds 1004	29,621
19.	I-A Receipts 1005	
20.	Program Receipts 1020	
21.	Other	

Prepared showing full year costs. Only 1/2 year reflected on fiscal note for FY84.

FOR D&H USE ONLY
 4A KEY NUMBER _____

13 REQUEST FOR
 NEW POSITION

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

Page of
 Revised Date _____

FY 84

1.	POSITION TITLE Document Processing Clerk II				RANGE/STEP 811	DEPT. UNIT GG	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCH NUMBER	DRU PRIORITY	LOCATION Juncos	ELECTION DISTRICT 4	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE				AMOUNT					
	1		2		3					
	PERSONAL SERVICES									
5.	Salary		19,176							
6.	Benefits		3,357							
7.	Supplemental Benefits		1,175							
8.	Fixed Benefits		2,880							
9.	TOTAL PERSONAL SERVICES		01		26,588					
10.	Travel		02		-					
11.	Contractual		03		-					
12.	Commodities		04		100					
13.	Equipment		05		1,724					
14.	Other									
15.	TOTAL COST				28,422					
	RECEIPT CODE				FUNDING SOURCE					
16.					Federal Receipts 1002					
17.					G.F. Hatch 1003					
18.					General Funds 1004					
19.					I-A Receipts 1005					
20.					Program Receipts 1020					
21.					Other					
FOR O&M USE ONLY										
4A KEY NUMBER										

Will handle processing of paperwork related to revocations required by proposed AS 28.15.213. Will prepare and send out notices; handle certified copies for court and prosecutors; and maintain necessary files. Will also proof of insurance filings required by AS 28.20.240 after each revocation for a period of three years. It is estimated this bill will generate an additional 1,500 administrative revocations annually, which after three years will require proof of insurance be maintained on 4,500 individuals. Each time insurance is cancelled the individual must be sent a letter, or if not renewed, their license withdrawn.

Equipment breakdown is as follows:
 Typewriter - \$1,245
 File Cabinet - 291
 Chair - 188
 Total \$1,724

Prepared showing full year costs, Only 1/2 year reflected on fiscal note for FY04.

13 REQUEST FOR NEW POSITION

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

FY 84

Page of
 Revised Date

1.	POSITION TITLE Driver Improvement Specialist				RANGE/STEP 16B	DARG. UNIT .CG.	FORM 12 PAGE/LINE 11. .	GOV	APPROV	DISAPP																					
2.	TYPE OF PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT. 7-15	LEG.																							
3.	CONTINU/	LEVEL	ADDITION		JUSTIFICATION																										
4.	TYPE OF EXPENDITURE																														
	1	2		3																											
	PERSONAL SERVICES																														
5.	Salary	32,040																													
6.	Benefits	5,626																													
7.	Supplemental Benefits	1,964																													
8.	Fixed Benefits	2,880																													
9.	TOTAL PERSONAL SERVICES	01		42,510																											
10.	Travel	02		1,200																											
11.	Contractual	03																													
12.	Commodities	04		100																											
13.	Equipment	05		2,069																											
14.	Other																														
15.	TOTAL COST			46,579																											
<table border="1"> <thead> <tr> <th>RECEIPT CODE</th> <th>FUNDING SOURCE</th> <th></th> </tr> </thead> <tbody> <tr> <td>16.</td> <td>Federal Receipts 1002</td> <td></td> </tr> <tr> <td>17.</td> <td>G.F. Match 1003</td> <td></td> </tr> <tr> <td>18.</td> <td>General Funds 1004</td> <td>46,579</td> </tr> <tr> <td>19.</td> <td>I-A Receipts 1005</td> <td></td> </tr> <tr> <td>20.</td> <td>Program Receipts 1028</td> <td></td> </tr> <tr> <td>21.</td> <td>Other</td> <td></td> </tr> </tbody> </table>											RECEIPT CODE	FUNDING SOURCE		16.	Federal Receipts 1002		17.	G.F. Match 1003		18.	General Funds 1004	46,579	19.	I-A Receipts 1005		20.	Program Receipts 1028		21.	Other	
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21.	Other																														
<p>FOR B&M USE ONLY</p> <p>4A KEY NUMBER _____</p>																															

This position will be responsible to hold hearings under driver license administrative suspension programs. Each time a provisional license is revoked under proposed AS 28.15.213, the department must offer a hearing per AS 28.05.131. It is estimated this bill will generate an additional 1,500 administrative license actions annually. In addition to holding hearings would be responsible to maintain current records concerning the hearings.

Travel is based on two trips to Fairbanks annually, two trips to Southeastern annually, and two trips to the Kenai Peninsula annually.

Requested equipment breakdown is as follows:

- Typewriter - \$1,245
- Desk - 426
- File Cabinet - 235
- Chair - 163
- Total \$2,069

Prepared showing full year costs. Only 1/2 year reflected on fiscal note for FY84.

AGENCY Department of Public Safety

PROGRAM Life and Property Protection

BRU Driver/Vehicle Services

FY 84

13 REQUEST FOR NEW POSITION

Page _____ of _____

Revised Date _____

1.	POSITION TITLE Motor Vehicle Rep. II				RANGE/STEP 9A	BARG. UNIT GG	FORM 12 PAGE/LINE	COV.	APPROV.	DISAPP.
2.	TYPE OF POSITION NON PERM	STAFF MONTHS 4	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Fairbanks	ELECTION DISTRICT 18-21	LEG.		
3.	CONTINUATION LEVEL	ADDITION			JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT	<p>This position will work in the field office and be responsible to issue driver's licenses during the start up period when all 16 and 17 year olds must obtain a different license.</p>					
	1	2	3							
	PERSONAL SERVICES									
5.	Salary	7,448								
6.	Benefits	725								
7.	Supplemental Benefits									
8.	Fixed Benefits									
9.	TOTAL PERSONAL SERVICES	01	8,173							
10.	Travel	02								
11.	Contractual	03								
12.	Commodities	04								
13.	Equipment	05								
14.	Other									
15.	TOTAL COST									
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004		8,173						
19.		I-A Receipts 1005								
20.		Program Receipts 1020								
21.		Other								
FOR IISH USE ONLY										
4A KEY NUMBER _____										

13 REQUEST FOR
NEW POSITION

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

FY 84

Page _____ of _____
 Revised Date _____

1.	POSITION TITLE Motor Vehicle Rep. II			RANGE/STEP 9A	BARG. UNIT GG	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION NON PERM	STAFF MONTHS 4	RP NUMBER	PCN NUMBER	DRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT 7-15	LEG.	
3.	CONTINUATION LEVEL			ADDITION	JUSTIFICATION				
4.	TYPE OF EXPENDITURE			AMOUNT	<p>This position will work in the field office and be responsible to issue driver's licenses during the start up period when all 16 and 17 year olds must obtain a different license.</p>				
	1	2	3						
	PERSONAL SERVICES								
5.	Salary	6,596							
6.	Benefits	642							
7.	Supplemental Benefits								
8.	Fixed Benefits								
9.	TOTAL PERSONAL SERVICES	01	7,238						
10.	Travel	02							
11.	Contractual	03							
12.	Commodities	04							
13.	Equipment	05							
14.	Other								
15.	TOTAL COST								
	RECEIPT CODE	FUNDING SOURCE							
16.		Federal Receipts 1002							
17.		G.F. Match 1003							
18.		General Funds 1004		7,238					
19.		I-A Receipts 1005							
20.		Program Receipts 1020							
21.		Other							
FOR D&H USE ONLY									
4A KEY NUMBER _____									

13 REQUEST FOR
NEW POSITION

AGENCY Department of Public Safety
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DRU Driver/Vehicle Services
COMPONENT Field Services

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Revised Date

FY 84

1.	POSITION TITLE Motor Vehicle Rep. II				RANGE/STEP 9A	BARG. UNIT GG	FORM 12 PAGE/LINE	GOV.	APPROV.	DESIGN.
2.	TYPE OF POSITION NON PERM	STAFF MONTHS 4	RP NUMBER	PCN NUMBER	DRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT 7-15	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE				AMOUNT					
	1		2		3					
	PERSONAL SERVICES									
5.	Salary		6,596							
6.	Benefits		642							
7.	Supplemental Benefits									
8.	Fixed Benefits									
9.	TOTAL PERSONAL SERVICES		01		7,238					
10.	Travel		02							
11.	Contractual		03							
12.	Commodities		04							
13.	Equipment		05							
14.	Other									
15.	TOTAL COST									
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004		7,238						
19.		I-A Receipts 1005								
20.		Program Receipts 1020								
21.		Other								
FOR HSM USE ONLY										
4A KEY NUMBER _____										

This position will work in the field office and be responsible to issue driver's licenses during the start up period when all 16 and 17 year olds must obtain a different license.

13 REQUEST FOR
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AGENCY Department of Public Safety
PROGRAM Life and Property Protection
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Revised Date _____

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(A) First Year Costs

	<u>AST Cost</u>	<u>Academy Cost</u>	<u>Total DPS 1984 Cost</u>
100 Personal Services	306,652 (1)		306,652
200 Travel	10,000 (1)		10,000
300 Contractual Services	87,840 (1)	30,000	117,840
400 Commodities	16,500 (1)	2,000	16,700
500 Equipment	203,000 (2)		203,000
TOTAL	<u>623,992</u>	<u>32,000</u>	<u>654,192</u>

- (1) Cost at 1/2 full year costs to reflect time needed to bring on and train new Troopers.
- (2) Equipment cost at estimated purchase price.

(B) Subsequent Year Costs

	<u>1984 (A)</u>	<u>1985 (B)</u>	<u>1986(B)</u>
100 Personal Services	613,304	650,102	689,108
200 Travel	20,000	21,200	22,472
300 Contractual Services	175,680	186,221	197,394
400 Commodities	33,000	34,980	37,079
TOTAL	<u>841,984</u>	<u>892,503</u>	<u>946,053</u>

- (A) Costs as if they were a full year. Not carried to fiscal note.
- (B) 6% inflation added each year. No equipment costs and subsequent Academy costs.

TROOPER COSTS

PERSONAL SERVICES - 100

\$2,998 x 12 months =	\$35,976	
+ 300 hours OT	5,427	
SUB TOTAL	<u>\$41,403</u>	
+ .2721% Benefits	11,266	
+ 6.13 SBS	2,240	
+ \$240 per month - Health Benefits	<u>2,880</u>	
TOTAL PERSONAL SERVICES		\$57,789

TRAVEL & PER DIEM - 200

Average - This will vary
TOTAL TRAVEL & PER DIEM 2,000

CONTRACTUAL - 300

Telephone/Postage, \$85 per month x 12	1,020	
Photo Processing, \$40 per month x 12	480	
PSEA Physical Exam, Average	300	
Uniform PSEA Cleaning Allowance*	540	
HWCf Vehicle - Monthly Cost Replacement \$369 per month + 2,000 miles x .45 =	<u>15,228</u>	
TOTAL CONTRACTUAL		17,568

COMMODITIES - 400

Uniforms/with all accessories; jacket, hats, handcuffs, etc.	1,900	
Film Supplies + Office Supplies	750	
Vehicle Accessories - Blanket, tire chains, snow tires, flares, etc.	<u>650</u>	
TOTAL COMMODITIES		3,300

EQUIPMENT - 500

Patrol - Vehicle - initial cost	12,000	
Light Bar	500	
Underhood Speaker	100	
Car Radio	3,000	
Siren/Amplifier	250	
MX 360 Radio-Portable w/charger	3,200	
Moving Radar Gun	600	
Firearms (revolver, shotgun, & rifle)	<u>650</u>	
TOTAL EQUIPMENT		<u>20,300</u>

TOTAL TROOPER COST TO THE BRU

\$100,957

*Tentative cost under the proposed increases effective 01/01/83.

TROOPER COSTS

PERSONAL SERVICES - 100

\$2,998 x 12 months =	\$38,724	
+ 300 hours OT	8,763	
SUB TOTAL	<u>\$47,487</u>	
+ .2721% Benefits	12,921	
+ 6.13 SBS	2,240	
+ \$240 per month - Health Benefits	<u>2,880</u>	
TOTAL PERSONAL SERVICES		\$65,528

TRAVEL & PER DIEM - 200

Average - This will vary
TOTAL TRAVEL & PER DIEM 2,000

CONTRACTUAL - 300

Telephone/Postage, \$85 per month x 12	1,020	
Photo Processing, \$40 per month x 12	480	
PSEA Physical Exam, Average	300	
Uniform PSEA Cleaning Allowance*	540	
HWCF Vehicle - Monthly Cost Replacement \$369 per month + 2,000 miles x .45 =	<u>15,228</u>	
TOTAL CONTRACTUAL		17,568

COMMODITIES - 400

Uniforms/with all accessories; jacket, hats, handcuffs, etc.	1,900	
Film Supplies + Office Supplies	750	
Vehicle Accessories - Blanket, tire chains, snow tires, flares, etc.	<u>650</u>	
TOTAL COMMODITIES		3,300

EQUIPMENT - 500

Patrol - Vehicle - initial cost	12,000	
Light Bar	500	
Underhood Speaker	100	
Car Radio	3,000	
Siren/Amplifier	250	
MX 360 Radio-Portable w/charger	3,200	
Moving Radar Gun	600	
Firearms (revolver, shotgun, & rifle)	<u>650</u>	
TOTAL EQUIPMENT		<u>20,300</u>

TOTAL TROOPER COST TO THE BRU \$108,696

*Tentative cost under the proposed increases effective 01/01/83.

FAIRBANKS
TROOPER COSTS

PERSONAL SERVICES - 100

\$3,346 x 12 months =	\$40,152	
+ 300 hours OT	9,087	
SUB TOTAL	<u>\$49,239</u>	
+ .2721% Benefits	13,398	
+ 6.13 SBS	2,240	
+ \$240 per month - Health Benefits	<u>2,880</u>	
TOTAL PERSONAL SERVICES		\$67,757

TRAVEL & PER DIEM - 200

Average - This will vary		
TOTAL TRAVEL & PER DIEM		2,000

CONTRACTUAL - 300

Telephone/Postage, \$85 per month x 12	1,020	
Photo Processing, \$40 per month x 12	480	
PSEA Physical Exam, Average	300	
Uniform PSEA Cleaning Allowance*	540	
HWCF Vehicle - Monthly Cost Replacement \$369 per month + 2,000 miles x .45 =	<u>15,228</u>	
TOTAL CONTRACTUAL		17,568

COMMODITIES - 400

Uniforms/with all accessories; jacket, hats, handcuffs, etc.	1,900	
Film Supplies + Office Supplies	750	
Vehicle Accessories - Blanket, tire chains, snow tires, flares, etc.	<u>650</u>	
TOTAL COMMODITIES		3,300

EQUIPMENT - 500

Patrol - Vehicle - initial cost	12,000	
Light Bar	500	
Underhood Speaker	100	
Car Radio	3,000	
Siren/Amplifier	250	
MX 360 Radio-Portable w/charger	3,200	
Moving Radar Gun	600	
Firearms (revolver, shotgun, & rifle)	<u>650</u>	
TOTAL EQUIPMENT		<u>20,300</u>

TOTAL TROOPER COST TO THE BRU

\$110,925

*Tentative cost under the proposed increases effective 01/01/83.

1.	POSITION TITLE State Trooper 10				RANGE/STEP	BARG. UNIT	FORM 12 PAGE/LINE	GOV	APPROV	DISAPP
2.	TYPE OF POSITION PFT	STAFF MONTHS	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION See Below	ELECTION DISTRICT	LEC		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT	<p>Implementation of the proposed legislation (SB 226) would require additional State Troopers to enforce its provisions. It is estimated that two additional Troopers would be needed in each of the following five locations: Anchorage, Fairbanks, Juneau, Ketchikan, and Soldotna/Kenai.</p> <p>Assumptions include an effective date of July 1, 1983 and an annual inflation rate of 6% for FY 85 and beyond. Equipment and Academy training costs would be incurred only in the first year. FY 83 costs allow for recruitment and training time.</p> <p>See fiscal note for detail salary calculation.</p>					
	1	2	3							
	PERSONAL SERVICES									
5.	Salary									
6.	Benefits									
7.	Supplemental Benefits									
8.	Fixed Benefits									
9.	TOTAL PERSONAL SERVICES			01 305,652						
10.	Travel			02 10,000						
11.	Contractual			03 117,840						
12.	Commodities			04 16,700						
13.	Equipment			05 213,000						
14.	Other									
15.	TOTAL COST			654,192						
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004		654,192						
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
FOR B&M USE ONLY										
4A KEY NUMBER										

13 REQUEST FOR
NEW POSITION

AGENCY Public Safety
PROGRAM Crime ID & Apprehension
BRU Alaska State Troopers
COMPONENT Detachments & CIB

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Revised Date

FY 84

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: CS SB 225 (State Affairs)
 Title: Training & licensing of drivers
 Sponsor: Senator V. Fischer
 Requestor: Senate State Affairs

II. FISCAL DETAIL

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES	0	71.3	103.1	109.3	115.9	122.9
200 TRAVEL	0	1.0	2.0	2.1	2.2	2.3
300 CONTRACTUAL	0	39.4	22.4	25.3	28.1	29.8
400 COMMODITIES	0	.3	.3	.3	.4	.4
500 EQUIPMENT	0	5.1	0	0	0	0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	117.1	127.8	137.0	146.6	155.4
CAPITAL						
REVENUE	0	59.8	49.5	49.5	49.5	49.5

FUNDING: (Thousands of Dollars)

GENERAL FUND		117.1	127.8	137.0	146.6	155.4
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	0	3	3	3	3	3
PART-TIME						
TEMPORARY		3				

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

Not identified by sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis (2 pages attached)

Prepared By: Bill Brown Phone: 465-4335
 Division: Motor Vehicles Date: 4-6-83
 Approved by Commissioner: [Signature] Date:
 Department: Public Safety

Distribution:

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

3/8/83

Fiscal note based on following:

1982 statistics: 2,622 16 year old licensed drivers
4,461 17 year old licensed drivers
5,932 18 year old licensed drivers

1980 statistics: 1,115 16 year old drivers received 1,596 citations
2,894 17 year old drivers had total of 4,333 citations

Therefore, approximately 7,000 16 and 17 year olds must obtain new provisional license by April 1, 1984.

500 16 year olds will have provisional license revoked and apply for Instruction Permit.

500 Reissuance of provisional license after three months.

1,000 17 year olds will have provisional license revoked and apply for Stage One license.

800 17 year olds will have Stage Two license reissued.

4,500 17 year olds with provisional license will obtain regular license at age 18 years, annually.

2,600 16 year olds will change from Stage One to Stage Two provisional license each year.

Detail: FY 84

100 Personal Services

1 - Document Processing Clerk II, 1/2 year 13.3

1 - Motor Vehicle Rep. II, 1/2 year 14.1

1 - Driver Improvement Specialist, 1/2 year 21.3

3 - Motor Vehicle Rep II (Nonpermanent - 4 months) 22.6

TOTAL 71.3

200 Travel

Hearing Officers travel to various cities to conduct revocation hearings. 1.0 1.0

300 Contractual

310 - postage (All revocation notices and insurance cancellation notices must be sent via certified, return receipt mail at \$1.55 each) 2.4

320 - advertising/publicity 10.0

360 - equipment rental (2 AJIS terminals) 15.0

380 - professional services (contract at \$.75 per drivers license issued) 9.0

382a - DP Char (programming and maintenance)	<u>2.0</u>	
Total		39.4

400 Commodities

480 - Normal office supplies	.3	.3
------------------------------	----	----

500 Equipment

3 typewriters	3.7	
2 file cabinets	.5	
1 desk	.4	
3 chairs	<u>.5</u>	
Total		<u>5.1</u>

TOTAL 117.1

REVENUE

Revenue figure is based on assumption each different stage or class of license will require a \$5.00 fee per schedule outlined in AS 28.15.271. 11,950 licenses in FY84 = \$59.8. 9,900 licenses in FY85 = \$49.5.

GENERAL COMMENTS:

A. Proposed AS 28.15.055(a) outlines what a stage one provisional license is valid for. The bill does not address what a stage two provisional license is valid for. This should possibly be covered in proposed AS 28.15.055(b).

B. Question arises on AS 28.15.055(c) where it states "if the person is qualified". If an individual had a stage one provisional license revoked, and did not obtain an instruction permit as required by AS 28.15.213(c), would that person be qualified? Same with stage two and AS 28.15.213(d) - would that person be required to obtain a stage one first? Or once a person becomes 18 years of age, are all revocations of provisional licenses under AS 28.15.213 invalid?

C. Question also arises on AS 28.15.055(a) where it indicates a holder of a provisional license has all the rights and privileges of a person with an "unrestricted" license, except hours. Does this possibly void any restriction we may impose for medical or other reasons? If AS 28.15.055(d) is the escape clause, it seems contradictory.

1.	POSITION TITLE Motor Vehicle Rep. II				RANGE/STEP 9B	BARG. UNIT GG	FORM 12 PAGE/LINE	GOV.	APPRDV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT 7-15	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT						
	1	2		3						
	PERSONAL SERVICES									
5.	Salary	20,400								
6.	Benefits	3,582								
7.	Supplemental Benefits	1,251								
8.	Fixed Benefits	2,880								
9.	TOTAL PERSONAL SERVICES	01	28,113							
10.	Travel	02								
11.	Contractual	03								
12.	Commodities	04	100							
13.	Equipment	05	1,408							
14.	Other									
15.	TOTAL COST	29,621								
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004		29,621						
19.		I-A Receipts 1005								
20.		Program Receipts 102B								
21.		Other								
FOR B&H USE ONLY										
4A KEY NUMBER										

This position will work in the field office and be responsible to issue driver's licenses. It is estimated this bill will generate issuance of 9,900 additional licenses each year, plus an additional 7,000 required by Section 9 of the bill, for a total of 16,900 the first year. Approximately 50% of these will be in Anchorage.

Requested equipment breakdown is as follows:

Typewriter - \$1,245
 Chair - 163
 Total \$1,408

Prepared showing full year costs. Only 1/2 year reflected on fiscal note for FY84.

AGENCY Department of Public Safety,

PROGRAM Life and Property Protection

BRU Driver/Vehicle Services

COMPONENT Field Services

13 REQUEST FOR
NEW POSITION

FY 84

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1.	POSITION TITLE Document Processing Clerk II			RANGE/STEP 8B	BARG. UNIT GG	FORM 12	PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	DRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT 4	LEG.		
3.	CONTINUATION LEVEL			ADDITION	JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT	<p>Will handle processing of paperwork related to revocations required by proposed AS 28.15.213. Will prepare and send out notices; handle certified copies for court and prosecutors; and maintain necessary files. Will also proof of insurance filings required by AS 28.20.240 after each revocation for a period of three years. It is estimated this bill will generate an additional 1,500 administrative revocations annually, which after three years will require proof of insurance be maintained on 4,500 individuals. Each time insurance is cancelled the individual must be sent a letter, or if not renewed, their license withdrawn.</p> <p>Equipment breakdown is as follows: Typewriter - \$1,245 File Cabinet - 291 Chair - 188 Total \$1,724</p> <p>Prepared showing full year costs. Only 1/2 year reflected on fiscal note for FY84.</p>					
	1	2	3							
	PERSONAL SERVICES									
5.	Salary	19,176								
6.	Benefits	3,367								
7.	Supplemental Benefits	1,175								
8.	Fixed Benefits	2,880								
9.	TOTAL PERSONAL SERVICES	01	26,598							
10.	Travel	02	-							
11.	Contractual	03	-							
12.	Commodities	04	100							
13.	Equipment	05	1,724							
14.	Other									
15.	TOTAL COST		28,422							
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts	1002							
17.		G.F. Match	1003							
18.		General Funds	1004	28,422						
19.		I-A Receipts	1005							
20.		Program Receipts	1020							
21.		Other								

FOR B&M USE ONLY

4A KEY NUMBER

AGENCY Department of Public Safety

PROGRAM Life and Property Protection

DRU Driver/Vehicle Services

COMPONENT Driver Services

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13 REQUEST FOR
NEW POSITION

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1.	POSITION TITLE Driver Improvement Specialist			RANGE/STEP 16B	BARG. UNIT CG	FORM 12 PAGE/LINE	GOV.	APPRDV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT 7-15	LEG.	
3.	CONTINUATION LEVEL	ADDITION			JUSTIFICATION				
4.	TYPE OF EXPENDITURE			AMOUNT					
	1	2	3						
	PERSONAL SERVICES								
5.	Salary	32,040							
6.	Benefits	5,626							
7.	Supplemental Benefits	1,964							
8.	Fixed Benefits	2,880							
9.	TOTAL PERSONAL SERVICES	01	42,510						
10.	Travel	02	1,900						
11.	Contractual	03							
12.	Commodities	04	100						
13.	Equipment	05	2,069						
14.	Other								
15.	TOTAL COST		46,579						
	RECEIPT CODE	FUNDING SOURCE							
16.		Federal Receipts	1002						
17.		G.F. Match	1003						
18.		General Funds	1004	46,579					
19.		I-A Receipts	1005						
20.		Program Receipts	1028						
21.		Other							

This position will be responsible to hold hearings under driver license administrative suspension programs. Each time a provisional license is revoked under proposed AS 28.15.213, the department must offer a hearing per AS 28.05.131. It is estimated this bill will generate an additional 1,500 administrative license actions annually. In addition to holding hearings would be responsible to maintain current records concerning the hearings.

Travel is based on two trips to Fairbanks annually, two trips to Southeastern annually, and two trips to the Kenai Peninsula annually.

Requested equipment breakdown is as follows:
 Typewriter - \$1,245
 Desk - 426
 File Cabinet - 235
 Chair - 163
 Total \$2,069

Prepared showing full year costs. Only 1/2 year reflected on fiscal note for FY84.

FOR B&M USE ONLY
 4A KEY NUMBER _____

13 REQUEST FOR
 NEW POSITION

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

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1.	POSITION TITLE Motor Vehicle Rep. II				RANGE/STEP 9A	BARG. UNIT GG	FORM 12 PAGE/LINE	COV.	APPROV.	DISAPP.	
2.	TYPE OF POSITION NON PERM	STAFF MONTHS 4	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Fairbanks	ELECTION DISTRICT 18-21	LEG.			
3.	CONTINUATION LEVEL				JUSTIFICATION						
4.	TYPE OF EXPENDITURE										
	1		2		3						
	PERSONAL SERVICES										
5.	Salary		7,448								
6.	Benefits		725								
7.	Supplemental Benefits										
8.	Fixed Benefits										
9.	TOTAL PERSONAL SERVICES		01		8,173						
10.	Travel		02								
11.	Contractual		03								
12.	Commodities		04								
13.	Equipment		05								
14.	Other										
15.	TOTAL COST										
	RECEIPT CODE				FUNDING SOURCE						
16.					Federal Receipts 1002						
17.					G.F. Match 1003						
18.					General Funds 1004						
19.					I-A Receipts 1005						
20.					Program Receipts 1028						
21.					Other						
				8,173							
FOR B&M USE ONLY											
4A KEY NUMBER _____											

This position will work in the field office and be responsible to issue driver's licenses during the start up period when all 16 and 17 year olds must obtain a different license.

13 REQUEST FOR
NEW POSITION

AGENCY Department of Public Safety

PROGRAM Life and Property Protection

BRU Driver/Vehicle Services

COMPONENT Field Services

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Page _____ of _____
Revised Date _____

1.	POSITION TITLE Motor Vehicle Rep. II			RANGE/STEP 9A	BARG. UNIT GC	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION NON PERM	STAFF MONTHS 4	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT 7-15	LEC.	
3.	CONTINUATION LEVEL	ADDITION		JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT					
	1		2						
	PERSONAL SERVICES								
5.	Salary		6,596						
6.	Benefits		642						
7.	Supplemental Benefits								
8.	Fixed Benefits								
9.	TOTAL PERSONAL SERVICES		01		7,238				
10.	Travel		02						
11.	Contractual		03						
12.	Commodities		04						
13.	Equipment		05						
14.	Other								
15.	TOTAL COST								
<p>This position will work in the field office and be responsible to issue driver's licenses during the start up period when all 16 and 17 year olds must obtain a different license.</p>									
16.	RECEIPT CODE	FUNDING SOURCE							
17.		Federal Receipts 1002							
18.		G.F. Match 1003							
19.		General Funds 1004		7,238					
20.		I-A Receipts 1005							
21.		Program Receipts 1020							
22.		Other							
<div style="border: 1px solid black; padding: 5px; width: fit-content;"> <p>FOR D&M USE ONLY 4A KEY NUMBER _____</p> </div>									

13 REQUEST FOR
NEW POSITION

AGENCY Department of Public Safety
PROGRAM Life and Property Protection
BRU Driver/Vehicle Services
COMPONENT Field Service

Page of
Revised Date

FY 84

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13 REQUEST FOR
NEW POSITION

AGENCY Department of Public Safety
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BRU Driver/Vehicle Services
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Page of
Revised Date

FY 84

STATE OF ALASKA
THE LEGISLATURE

POUCH Y. STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800


LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

May 5, 1983

SUBJECT: Driver's licenses, curfews, and license
revocations (SSSB 226)

TO: Senator Vic Fischer

FROM:  Russ Josephson
Legislative Counsel

Following is the sectional analysis of SSSB 226 which you requested.

Section 1 requires the Department of Public Safety to include in the driver's manual information concerning drinking and driving.

Section 2 is a technical amendment to AS 28.15.041(a), adding a reference to a new section of law creating the new types of driver's licenses.

Section 3 amends AS 28.15.051 to indicate that certain persons licensed under this section may not drive between midnight and 5:00 a.m. on any day and between 9:00 p.m. and midnight on Friday and Saturday. An exception is made for motor-driven cycle permittees to participate in organized races after curfew.

Section 4 creates provisional driver's licenses. A stage one provisional license, to be held by persons 16 years old and some persons 17 years old, carries a restriction on driving between midnight and 5:00 a.m. unless certain conditions are met. A stage two provisional license may be held by a person 17 years of age with a clean record during the six months preceding the application for the stage two license.

The holder of the stage two provisional license may lose that license and revert to a stage one provisional license if the person violates other provisions of this bill. The section also provides that a person 18 years of age or older

may apply for an unrestricted and unlimited driver's license (the typical adult license). The requirements of the section are in addition to present requirements of law.

Section 5 requires that the driver's examination test the applicants knowledge of the laws relating to driving while intoxicated.

Section 6 is a technical amendment of AS 28.15.111(a) requiring that the driver's license indicate the stage of the license, if it is a provisional license, in addition to the other information now required.

Section 7 is a new section stating the grounds for revoking the two types of provisional licenses. The section provides for the issuance of the next lower stage of license or instruction permit to a person whose license has been revoked. Thus, for example, a person who holds a stage two provisional license that is revoked may apply for a stage one provisional license. Application for a new provisional license at the level of the license revoked may be made only after at least three months' time.

Section 8 explains who must obtain which type of license, and when. The key date is April 1, 1984.

Section 9 provides a January 1, 1984, effective date.

RJ:ljb
17/030

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LAW

CRIMINAL DIVISION

POUCH KC - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3428

May 5, 1983

The Honorable Vic Fischer, Chair
Senate State Affairs Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: Senate Bill 61

Dear Senator Fischer:

This letter is response to your memorandum of April 28, 1983, to Attorney General Gorsuch requesting a review of the impoundment, forfeiture, and administrative license revocation provisions contained in SB 61. You also asked for an opinion regarding sobriety checkpoints and mandatory preliminary breath tests. Because your memo did not indicate what aspects of these provisions you wished to be discussed, I contacted Ms. Suzanne Tryck of your office for clarification. Ms. Tryck indicated that your request was directed toward possible constitutional problems in these provisions. They are discussed below in the order given in your memorandum.

The impoundment provision of SB 61 provides that a peace officer who has probable cause to believe that a motor vehicle was used in the commission of a DWI offense, the motor vehicle. The bill requires that the owner or a person with the right to possess the motor vehicle shall pay the costs of impounding and storing the vehicle. The bill does not address the situation of indigent persons who do not have the funds to pay the impound or the storage fees. If their cars were to be in effect, permanently forfeited because of an inability to pay the impound fees, this would violate due process of law. See, e.g., Sutton v. City of Milwaukee, 521 F.Supp. 733 (Wis.Dis.Ct. E.D.) and Lominac v. Municipality of Anchorage, Op. No. 220 (Ak.Ct.App., February 18, 1983).

There are some practical and administrative problems with the impoundment provision as currently drafted in SB 61. For example, section 15 of the bill cross references to AS 28.05.131. That section is a general hearing section, and is not specifically designed for an impoundment situation. The bill provides that a vehicle is to be returned to a first offender after 15 days. But, under AS 28.05.131, a hearing may

not be held less than 10 days after service of the notice upon the owner. Thus, by the terms of the statute, a first offender would seldom, if ever, receive a hearing before the period of impoundment has expired.

The provisions of the bill which allow an "innocent" person to redeem a car from impoundment are very narrow. The language is probably sufficient to meet the due process requirements of F/V American Eagle v. State, 620 P.2d 657 (Alaska 1980) and State v. Rice, 626 P.2d 104 (Alaska 1981), but would in most cases probably prevent a spouse of a person arrested for DWI from redeeming the vehicle.

The forfeiture of the motor vehicle of a repeat DWI offender does not itself violate the constitution, provided that the statute supplies sufficient due process guarantees and is applied in a nondiscriminatory manner. There are some administrative problems with the forfeiture provisions as currently drafted, including the fact that the court is required to give notice to persons who have an ownership or security interest in the vehicles. (See, AS 28.35.038 on page 14.) The court is a neutral party in a legal action, and should not be expected to fulfill duties regarding notice and proof between the litigants. I direct your attention to the forfeiture provisions contained in section 18 of CSHB 6 (JUD). That language appears to achieve the aim of the comparable language in SB 61, but does not contain the drafting problems discussed above.

The notion of administratively suspending or revoking licenses for refusal to take a breathalyzer test or because of a breath test result of .10 or higher is not a new one, and differing versions of administrative revocation statutes have been in effect in virtually all states for several years. The administrative revocation procedures for breathalyzer refusal and a breath test result of .10 have been combined and included in new sections AS 28.15.165 and 28.15.166, section 3 of CSHB 6. I recommend that your committee consider substituting those provisions for the sections in SB 61 which deal with license revocations in these circumstances.

A possible problem with the license revocation provisions in SB 61 is that it does not indicate what happens to the person's license if he or she files for a review of the revocation within the seven-day period allowed. Also, there is no indication of what recourse, if any, a person has following the expiration of the seven-day period. This is of some concern, as our state supreme court has indicated in dicta that Alaskan law will be held to a higher standard in administrative license revocation proceedings than that imposed upon jurisdictions at the federal level. In Graham v. State, 633 P.2d 211 (Alaska 1981), the court indicated that a breathalyzer refusal was not the type of emergency situation which would justify summary

action in the suspension of a person's driver's license before a hearing could be held. 633 P.2d at 216. This is contrary to a holding of the United States Supreme Court in Mackey v. Montrym, 443 U.S. 1 (1979), where the court approved a pre-hearing revocation of the license of a person who refused to submit to a breath test.

I have reviewed the material which you supplied regarding the use of roadblock sobriety check points to detect the intoxicated driver. The cases and theories which were discussed in the legal analyses included in the materials confirms other research in this area. Thus, it appears that sobriety check points would be constitutional if reasonable in scope and duration, the intrusion upon privacy was minimal, every car or every car in a particular numerical sequence was stopped, and the roadblocks are at a fixed location. One note of caution, however. The Alaska Supreme Court has required a higher standard when stopping a citizen than that which the United States Supreme Court adopted in Terry v. Ohio, 392 U.S. 1 (1968). Our court has held that there must be a reasonable suspicion that imminent public danger exists. Coleman v. State, 553 P.2d 40, 46 (Alaska 1976). While our court has recognized that an intoxicated driver does constitute an immediate threat to the public safety, sobriety roadblocks result in the stopping of people who are not suspected of drunk driving, but are merely being checked for the possibility. There is no case decision which would preclude such procedures, if properly implemented, but our courts may subject the practice to a more thorough scrutiny than it might receive in other jurisdictions or at the federal level.

The final area upon which you asked for comment is a test of mandatory preliminary breath testing of persons who have been stopped for moving violations. Approximately 14 states currently have preliminary breath testing statutes of some sort. Some require a person to give a preliminary breath sample only if he or she is suspected of driving while intoxicated; others require the giving of a sample if a person has been involved in an accident or is suspected of having committed a traffic violation. Refusal to submit to a preliminary breath test is generally considered a minor violation, noncriminal in nature, and the sanction is generally revocation of the license. Preliminary breath testing presents substantial constitutional questions, although some judicial decisions in other jurisdictions which have upheld these statutes.

The potential problem with a statute of this nature is that a person may be stopped, and his or her breath "seized" upon less than probable cause. The United States Supreme Court in Terry v. Ohio, 392 U.S. 1 (1968) has approved the stop, search, and seizure of a person based on less than probable cause, i.e. "a reasonable suspicion." As stated earlier,

however, our court requires a higher standard for stops in this state than that in operation at the federal level. See, Coleman v. State, 553 P.2d 40, 46 (Alaska 1976).

I hope these comments are of assistance to the committee in considering action on SB 61. I remain willing to work with the committee on improving the language of the bill, if requested.

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

DANIEL W. HICKEY
CHIEF PROSECUTOR

By:


Gayle A. Hovetski
Assistant Attorney General

GAH/lb-91

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY
OFFICE OF THE COMMISSIONER

POUCH N
JUNEAU, ALASKA 99811
PHONE: 465-4322

May 12, 1983

MAY 12 1983

The Honorable Vic Fischer
Senator
Alaska State Senate
Pouch V
Juneau, AK 99811

Dear Senator Fischer:

This is in reply to a request from Senate State Affairs for a departmental position paper on a proposed amendment to SB 61 which will change the requirement as to which agency will handle the original request for a hearing after administrative license action. That being, a person whose license is revoked under AS 28.15.165 could ask for an administrative hearing by the Department of Public Safety rather than a court review.

The department has objection to such action for the following reasons. The department currently has hearing officers only in Anchorage. If a person in Ketchikan, Nome, Barrow, Unalaska, Fairbanks, etc., asks for an administrative hearing, we are required to hold that hearing at the office of the department nearest to the residence of that person unless the person agrees that the hearing can be held elsewhere. Whenever possible, in areas more than 50 miles from Anchorage, or outside Fairbanks, we presently attempt to handle administrative hearings by phone. If the individual objects, a hearing officer must schedule a hearing at the office nearest the individual's residence, and travel to that location to hold the hearing.

In instances such as outlined, there may be considerable delay between the time a hearing is requested and when it is held. During that time, the license action must be stayed until the hearing. In other words, the person arrested for drunk driving will be allowed to continue to drive until the hearing is held.

The Honorable
Vic Fischer

- 2 -

May 12, 1983

The department holds hearings regularly in Anchorage, and approximately every two months in Fairbanks. However, not on a regular basis in other areas of the state. The court system has judges and/or magistrates scattered throughout the state who can handle the court review as outlined in present law. The department only has hearing officers in Anchorage. If the proposed amendment is passed, and our fiscal note approved, a hearing officer would be added to Fairbanks. I feel, since the court system already has the staff throughout the state, no change should be made switching the responsibility to the Department of Public Safety, requiring an increase of staff, travel, and other expenses.

It should also be pointed out that if the law is changed as proposed, and the person is unsatisfied with the administrative hearing results, such as non-issuance of a limited license, that person can appeal the decision of the hearing officer to the district court per AS 28.05.141(d). Over 95% of the court reviews under the present law have been to request limited driving privileges.

Another possible problem area is that there will be two different agencies with the authority to grant limited driving privileges, the Department of Public Safety and the courts. If one denies and the other grants, there will be confusion on the defendant's part as to whether or not he can legally drive, as well as creating a difficult situation for law enforcement officers and prosecutors.

Since a copy of the proposed committee substitute has not been perused, the attached fiscal note is based only on the assumption that the department would be required to hold hearings on any request for a limited license following an administrative revocation under AS 28.15.165, but not in instances where the court takes the license action under AS 28.15.181.

Sincerely,


Robert J. Sundberg
Commissioner

cc: Emil Notti
Legislative Aide, Office of the Governor
Kevin K. Bruce
Special Assistant to the Governor