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## **Cook Inlet Council On Alcohol And Drug Abuse**

"A PRIVATE NON-PROFIT CORPORATION"

February 15, 1985

The Honorable Max Gruenberg  
Co-Chairman, HESS Committee  
House of Representatives  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

RE: House Bill No. 54

Dear Mr. Gruenberg:

The Cook Inlet Council on Alcohol and Drug Abuse wishes to express its concern about House Bill No. 54. We believe that the intention of the Bill is proper; however, we do object to some specifics in execution of the Bill.

The issue of alcohol and drug abuse education being provided to the offender while in custody poses two major problem areas. The first difficulty is that the alcohol/drug counselor in the correctional system would not be capable of handling the caseload. Currently, the new system developed in the Correctional Centers is designed to give treatment to long-term inmates in need. Additional staff would be necessary at the State's expense in order to implement the treatment aspect of HB 54.

Secondly, there is already a system designed to accommodate the treatment needs of basic DWI offenders in the community. This system places the majority of the financial responsibility on the offender, not the State. This responsibility is congruent with alcohol and drug abuse treatment philosophy, making the offender responsible to assume the consequences of his behavior--not the State.

There are alternatives that would make HB 54 work as follows:

- 1) Have the offenders complete their treatment requirement in the community prior to doing their jail time, thus reducing their sentence by 72 hours.
- 2) Increase the basic requirements for treatment set up by the Alcohol Safety Action Program to a minimum of 24 hours.

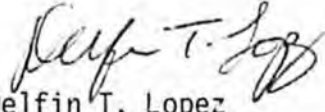
These recommendations would fulfill the purpose of HB 54 by placing less burden on the State and Correctional System, and would have therapeutic value in placing the financial and treatment responsibility on the offender, where it belongs.

We wish to express our approval of the legislative efforts in addressing the problems of alcohol and drug abuse in the State.

The Honorable Max Gruenberg  
Co-Chairman, HESS Committee  
House of Representatives  
Alaska State Legislature  
February 15, 1985  
Page 2

Thank you for giving this matter your serious consideration and attention.

Sincerely,

  
Delfin T. Lopez  
Substance Abuse Counselor

  
Kevin Murphy  
Executive Director

DTL/KM:pp

Introduced: 1/16/85  
Referred: Health, Education & Social  
Services, Judiciary and Finance

1 IN THE HOUSE

BY COLLINS

2 HOUSE BILL NO. 54

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to penalties and education for  
7 persons convicted of driving while intoxicated and  
8 refusal to submit to a chemical test."

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

10 \* Section 1. AS 28.35.030(c) is amended to read:

11 (c) Upon conviction under this section the court shall impose a  
12 minimum sentence of imprisonment of not less than 240 [72] consecutive  
13 hours and a fine of not less than \$500 [\$250] if the person has not  
14 been previously convicted in this or another jurisdiction of driving  
15 while intoxicated under this or another law or ordinance with substan-  
16 tially similar elements or refusal to submit to a chemical test under  
17 AS 28.35.032 or another law or ordinance with substantially similar  
18 elements. Upon conviction under this section the court shall impose a  
19 minimum sentence of imprisonment of not less than 20 consecutive days  
20 and a fine of not less than \$750 [\$500] if, within the preceding 10  
21 years, the person has been previously convicted once in this or ano-  
22 ther jurisdiction of driving while intoxicated under this or another law  
23 or ordinance with substantially similar elements or refusal to submit  
24 to a chemical test under AS 28.35.032 or another law or ordinance with  
25 substantially similar elements. Upon conviction under this section  
26 the court shall impose a minimum sentence of imprisonment of not less  
27 than 30 consecutive days and a fine of not less than \$1,000 if, within  
28 the preceding 10 years, the person has been previously convicted in  
29 this or another jurisdiction of more than one of the following

1 offenses or has more than once been previously convicted of one of the  
2 following offenses: (1) driving while intoxicated under this or another  
3 law or ordinance with substantially similar elements; (2) refusal  
4 to submit to a chemical test under AS 28.35.032 or another law or  
5 ordinance with substantially similar elements. A sentence under this  
6 section shall be reduced by 72 hours upon certification under AS 33.-  
7 30.052 that the prisoner completed 24 hours of alcohol and drug abuse  
8 education while in custody. The execution of sentence may not be  
9 suspended nor may probation be granted except on condition that the  
10 minimum imprisonment provided in this section is served. Imposition of  
11 sentence may not be suspended. In addition, if the offense involved  
12 driving a motor vehicle for which a driver's license is required, the  
13 person's driver's license shall be revoked in accordance with  
14 AS 28.15.181 and the vehicle used in commission of the offense may be  
15 forfeited under AS 28.35.036. In addition, the court shall order, and  
16 a person convicted under this section shall undertake, for a term  
17 specified by the court, that program of alcohol education or  
18 rehabilitation that the court, after consideration of any information  
19 compiled under (d) of this section, finds appropriate.

20 \* Sec. 2. AS 28.35.030(e) is amended to read:

21 (e) A person who is sentenced to imprisonment for 240 [72]  
22 consecutive hours upon a first conviction under (c) of this section  
23 and who is not released from imprisonment after 240 [72] hours may not  
24 bring an action against the state or a municipality or its agents,  
25 officers, or employees for damages resulting from the additional  
26 period of confinement if

27 (1) the employee or employees who released the person  
28 exercised due care and, in releasing the person, followed the standard  
29 release procedures of the prison facility; and

1 (2) the additional period of confinement did not exceed 12  
2 hours.

3 \* Sec. 3. AS 28.35.032(g) is amended to read:

4 (g) Upon conviction of a person under this section, the court  
5 shall impose a minimum sentence of imprisonment of not less than 240  
6 [72] consecutive hours and a fine of not less than \$500 [\$250] if the  
7 person has not been previously convicted in this or another jurisdic-  
8 tion of driving while intoxicated under AS 28.35.030 or another law or  
9 ordinance with substantially similar elements or refusal to submit to  
10 a chemical test under this section or another law or ordinance with  
11 substantially similar elements. Upon conviction under this section the  
12 court shall impose a minimum sentence of imprisonment of not less than  
13 20 consecutive days and a fine of not less than \$750 [\$500] if, within  
14 the preceding 10 years, the person has been previously convicted once  
15 in this or another jurisdiction of driving while intoxicated under  
16 AS 28.35.030 or another law or ordinance with substantially similar  
17 elements or refusal to submit to a chemical test under this section or  
18 another law or ordinance with substantially similar elements. Upon  
19 conviction under this section the court shall impose a minimum sen-  
20 tence of imprisonment of not less than 30 consecutive days and a fine  
21 of not less than \$1,000 if, within the previous 10 years, the person  
22 has been previously convicted in this or another jurisdiction of more  
23 than one of the following offenses or has more than once been previ-  
24 ously convicted of one of the following offenses: (1) driving while  
25 intoxicated under AS 28.35.030 or another law or ordinance with sub-  
26 stantially similar elements; (2) refusal to submit to a chemical test  
27 under this section or another law or ordinance with substantially  
28 similar elements. A sentence under this section shall be reduced by  
29 72 hours upon certification under AS 33.30.052 that the prisoner

1 completed 24 hours of alcohol and drug abuse education while in  
2 custody. The execution of sentence may not be suspended nor may  
3 probation be granted except on condition that the minimum imprisonment  
4 provided in this section is served. Imposition of sentence may not be  
5 suspended. If the offense involved driving a motor vehicle for which  
6 a driver's license is required, the person's driver's license shall be  
7 revoked under AS 28.15.131. In addition, the court shall order, and a  
8 person convicted under this section shall undertake, for a term  
9 specified by the court, that program of alcohol education or  
10 rehabilitation that the court, after consideration of any information  
11 compiled under (h) of this section, finds appropriate. The sentence  
12 imposed by the court under this subsection shall run consecutively  
13 with any other sentence of imprisonment imposed on the committed  
14 person.

15 \* Sec. 4. AS 28.35.032(1) is amended to read:

16 (i) A person who is sentenced to imprisonment for 240 [72]  
17 consecutive hours under (g) of this section and who is not released  
18 from imprisonment after 240 [72] hours may not bring an action against  
19 the state or a municipality or its agents, officers, or employees for  
20 damages resulting from the additional period of confinement if

21 (1) the employee or employees who released the person  
22 exercised due care and, in releasing the person, followed the standard  
23 release procedures of the prison facility; and

24 (2) the additional period of confinement did not exceed 12  
25 hours.

26 \* Sec. 5. AS 33.30 is amended by adding a section to read:

27 Sec. 33.30.052. COMMISSIONER TO PROVIDE ALCOHOL AND DRUG ABUSE  
28 EDUCATION PROGRAM. The commissioner shall establish within each  
29 prison facility where persons convicted under AS 28.35.030 and

1 28.35.032 are confined an alcohol and drug abuse education program  
2 offering certification to persons who successfully complete 24 hours  
3 of education and counseling while in custody.  
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ALASKA STATE LEGISLATURE

14th. Legislature FIRST Session

HOUSE BILL NO. 54

By COLLINS

"An Act relating to penalties and education for persons convicted of driving while intoxicated and refusal to submit to chemical test."

Penalties/Ed. Driving Intox.

Introduced in the House 1/16, 1985.

HISTORY IN THE HOUSE

1985

Jan. 16

Read first time and referred to Committee on

HESS, JUDICIARY ANL.

Reported back with recommendation that

Read second time and

Read third time and

PASS Effective Date  
 Yeas Nays Absent Excused

Reconsideration

PASS Effective Date  
 Yeas Nays Absent Excused  
 Reported correctly engrossed  
 Signed by Speaker  
 Sent to Senate

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19

Read first time and referred to Committee on

Reported back with recommendation that

Read second time and

Read third time and

PASS Effective Date  
 Yeas Nays Absent Excused

Reconsideration

PASS Effective Date  
 Yeas Nays Absent Excused  
 Reported correctly engrossed  
 Signed by President  
 Returned to House

SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19

Received from Senate

Concurred in Senate amendment thus adopting:  
 VOTE

Failed to concur in Senate amendment; asked Senate to recede  
 VOTE

Senate receded from amendment  
 VOTE

Senate failed to recede from amendment  
 VOTE

CC appointed by House

CC appointed by Senate

CC adopted by House  
 VOTE

CC adopted by Senate  
 VOTE

To enrolling  
 Reported correctly enrolled  
 Sent to Governor

..... by Governor

Filed with Lt. Governor

Chapter No. ....