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Alaska State Legislature



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CHAIRMAN
STATE AFFAIRS
MEMBER
BUDGET & AUDIT
TRANSPORTATION

Senator Mitch Abood
SENATE DISTRICT G-A

MEMORANDUM

TO: Rep. Mike Miller, Chairman
House Judiciary Committee

FROM: Senator Mitch Abood *ma / by CJ*

DATE: April 25, 1986

RE: CSSB 75 (SA) "An Act relating to suspension of the privilege to obtain a driver's license."

Today CSSB 75 (SA) passed out of the House State Affairs Committee with five (5) Do Passes. The House Judiciary Committee is the next committee of referral.

As prime sponsor of CSSB 75 (SA), and as the ended of session is fast approaching, I would request that you schedule CSSB 75 (SA) as soon as time permits.

Attached is the back-up material for CSSB 75 (SA).

Position paper from Department of Public Safety in Support
Zero fiscal note from Department of Public Safety
Letter of Intent
Note: Department of Law is also in favor of CSSB 75 (SA)

Thank you for your consideration.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSSB75(SA)
 Title: An Act relating to sus-
 pension of the privilege to obtain
 a driver's license
 Sponsor: Abood
 Requestor: Sen. Judiciary
 Date of Request: 2-27-85

FISCAL DETAIL

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Bill Brown Phone: 465-2650
 Division: Motor Vehicles Date: 2-27-85

Approved by Commissioner: Michael Clemon Date: 2-27-85
 Agency: Public Safety

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

7/1/84

WORKING / 12-15 AM
75(SA)

Alaska State Legislature



SENATE LETTER OF INTENT

The State Affairs CS for SB 75 is drafted to provide that a person's "privilege to obtain a license" may be suspended or revoked in the same manner and under the same conditions as a person's driver's license may be suspended or revoked under existing law.

In the case of Francis v. Municipality of Anchorage, 641 P.2d 226 (Alaska App. 1982), the Alaska Court of Appeals held that a person who had never applied for a driver's license could not be charged with the misdemeanor crime of driving while license suspended (DWLS) for driving after the Department of Motor Vehicles (DMV) had suspended a person's "privilege to drive" following an accident for which the person failed to establish financial responsibility. The court held that since the defendant had never had a license, there was nothing for DMV to suspend, and the most that the defendant could be charged with was driving without a valid license.

Driving without a valid license in violation of AS 28.15.011 carries a maximum penalty of 90 days in jail, a \$500 dollar fine, or both (see AS 28.35.320(a) and (b)). In contrast, DWLS carries a maximum penalty of one year in jail, a \$5,000 dollar fine, or both (see AS 28.15.291(d)). Additionally, a conviction for driving without a valid license does not require the mandatory minimum sentences which must be imposed following a conviction for DWLS (see AS 28.15.291(a) and (c)).

The intent of this legislation is fulfilled, in the most part, by section 4. This section provides that all court or department actions relating to a suspension or revocation of a driver's license, all Title 28 procedures relating to a suspension or revocation of a driver's license, and all Title 28 references to the suspension or revocation of a license also apply to the "privilege to obtain a driver's license." This method was chosen in preference to adding or privilege to obtain a license in each of the 70 odd places where "revocations" or "suspension" of a "license" or "driver's license" is mentioned throughout Title 28.

The only place in Title 28 where the language "or privilege to obtain a license" is added is in the section establishing the crime of driving while license suspended or revoked (AS 28.15.291). The Committee felt that special notice should be given in this section because it is a criminal statute concerning the offense in question.

ADOPTED BY THE SENATE 3/22/85.

COMMITTEE REPORT

HOUSE

JUDICIARY

(7)

FURTHER: FINANCE

3/25/85

Date: 4/25/86

The Committee on STATE AFFAIRS has had CSSB 75(SA)

"An Act relating to suspension of the privilege to obtain a driver's license."

under consideration and recommends:

do pass [] do not pass

[] do pass with attached amendments(s)

[] replace with CS for _____ [] same title

[] new title

and recommends

[] ^{ENDORSES SENATE SIP} AND attaches a "Letter of Intent" [] ^{1986 2/27} New Fiscal Note

[] reports it back without recommendation [] Zero Fiscal Note Attached

[] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Katie Hurley

Mike Savard

Will Kelly

Paul Jenkins

C.A. Bush

Katie Hurley
CHAIRMAN

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - CSSB75(SA)

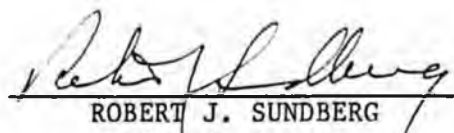
Support

April 23, 1986

CSSB75(State Affairs), An Act relating to suspension of the privilege to obtain a driver's license.

This bill addresses a problem brought to our attention by the Alaska Court of Appeals decision in the case of Francis vs Municipality of Anchorage in 1982, and Roberts vs State of Alaska in 1985. Those decisions held that a person who had never applied for a driver's license could not be charged with driving while license suspended if stopped for driving after the State had issued a suspension. Francis had been suspended following an accident for which he failed to establish financial responsibility. Roberts had been suspended for DWI, accumulation of points, and failure to provide proof of financial responsibility. The court held that since the defendant had never had a license, there was nothing for the Division of Motor Vehicles to suspend. The most the defendant could be charged with was for driving without a valid license.

In the Roberts decision the Court of Appeals decision contains the following sentence. "At this stage we believe that the solution for any problems stemming from the current statutory language should properly be resolved through legislative action rather than by the process of judicial interpretation."


ROBERT J. SUNDBERG
Commissioner

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : CS SB 75 (S.A.)
 Title : An Act relating to suspension
of the privilege to obtain a driver's
license.
 Sponsor : Abood
 Requestor : House State Affairs
 Date of Request : 4/18/86

FISCAL DETAIL

Agency Affected : Public Safety
 BRU : Motor Vehicles

 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
COMMENTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

r No fiscal impact

K. Miles
 Prepared by : Bill Brown Phone : 465-2650
 Division : Motor Vehicles Date : 4-18-86
 Approved by Commissioner : [Signature] Date : 4/18/86
 Agency : Public Safety

Distribution (by Agency preparing fiscal note):

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