Offered: 2/22/85
Referred: Judiciary and Finance

Original sponsor: Abood

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE

2 CS FOR SENATE BILL NO. 75 (State Affairs)

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 suspension of the privilege to

7 obtain a driver's license."

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

9 * Section 1. AS 22.15.100 is amended to read:

10 Sec. 22.15.100. FUNCTIONS AND POWERS OF DISTRICT JUDGE AND

11 MAGISTRATE. Each district judge and magistrate has the power

12 (1) to issue writs of habeas corpus for the purpose of

13 inquiring into the cause of restraint of liberty, returnable before a

14 judge of the superior court, and the same proceedings shall be had on

15 the writ as if it had been granted by the superior court judge under

16 the laws of the state in such cases;

17 (2) of a notary public;

18 (3) to issue marriage licenses and to solemnize marriages;

19 (4) to issue warrants of arrest, summons and search war-

20 rants according to manner and procedure prescribed by law and the

21 supreme court;

22 (5) to act as an examining judge or magistrate in prelimi-

23 nary examinations in criminal proceedings; to set, receive and forfeit

24 bail and to order the release of defendants under bail;

25 (6) to act as a referee in matters and actions referre to

26 the judge or magistrate by the superior court, with all powers con-

27 ferred upon referees by laws;

28 (7) of the superior court in all respects including but not

29 limited to contempts, attendance of witnesses and bench warrants;

(8) to order the temporary detention of a minor, or take other action authorized by law or rules of procedure, in cases arising under AS 47.10, when the minor is in a condition or surrounding dangerous or injurious to the welfare of the minor or others which requires immediate action; the action may be continued in effect until reviewed by the superior court in accordance with rules of procedure governing these cases;

(9) to issue a temporary order for emergency injunctive relief in cases involving domestic violence as provided in AS 25.35.-020;

(10) to review an administrative revocation of a person's driver's license, [OR] nonresident privilege to drive, <u>or privilege to obtain a driver's license,</u> and an administrative refusal to issue an original license, when designated as a hearing officer by the commissioner of public safety and with the consent of the administrative director of the state court system.

* Sec. 2. AS 28.15.061(b) is amended to read:

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

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

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

(3) state whether any previous driver's license issued to the applicant has ever been suspended or revoked, [OR] whether an application for a driver's license has ever been refused, <u>or whether the applicant's privilege to obtain a driver's license has ever been revoked by a court or the department or a similar agency in another state</u> and, if so, the date of and reason for the suspension, revocation, or refusal; and

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

* Sec. 3. AS 28.15.165(a) is amended to read:

(a) If a chemical test administered under AS 28.35.031(a) to a person driving a motor vehicle for which a driver's license is required produces a result described in AS 28.35.030(a)(2) or if a person under arrest for driving a motor vehicle for which a driver's license is required refuses to submit to a chemical test under AS 28.-35.031(a), a law enforcement officer shall read a notice and deliver a copy to the person. The notice shall advise that

(1) the department intends to revoke the person's driver's license or nonresident privilege to drive, or refuse to issue an original license to the person;

(2) the person has the right to administrative review of the revocation or determination not to issue an original license;

(3) the notice itself is a temporary driver's license, <u>for persons then holding a valid license,</u> that expires seven days after it is delivered to the person;

(4) revocation of the person's driver's license or nonresident privilege to drive, or a determination not to issue an original license shall take effect upon expiration of the temporary driver's license unless the person within seven days requests an administrative review.

* Sec. 4. AS 28.15 is amended by adding a new section to read:

Sec. 28.15.176. SUSPENSION OR REVOCATION OF PRIVILEGE TO OBTAIN A LICENSE. (a) A court or the department may suspend or revoke a person's privilege to obtain a driver's license in the same manner and for the same reasons as a driver's license issued under this chapter.

(b) If a court or the department is required by statute or regulation to suspend or revoke a person's driver's license, then the privilege to obtain a driver's license shall be suspended or revoked if the person does not have a driver's license.

(c) Procedures and references in AS 28 relating to the suspension or revocation of a driver's license are equally applicable to the suspension or revocation of the privilege to obtain a driver's license.

* Sec. 5. AS 28.15.291 is amended to read:

Sec. 28.15.291. DRIVING WHILE LICENSE <u>OR PRIVILEGE TO OBTAIN A LICENSE</u> CANCELLED, SUSPENDED, REVOKED OR IN VIOLATION OF LIMITATION. (a) A person may not drive a motor vehicle on a highway or vehicular way or area at a time when that person's driver's license, <u>privilege to obtain a driver's license,</u> or privilege to drive has been canceled, suspended or revoked in this or another jurisdiction, or when driving in violation of a limitation placed upon that person's license or privilege to drive in this or another jurisdiction. Except as provided in (c) of this section, upon conviction of a violation of this section, the court shall impose a sentence of imprisonment of not less than 10 days. The execution of sentence may not be suspended nor may probation or parole be granted until the minimum imprisonment provided in this section has been served; nor may imposition of sentence be suspended. In addition, the person's license<u>, privilege to obtain a license,</u> or privilege to drive shall be revoked, and the person may not be issued a new license nor may the privilege to drive be restored for an additional period of not less than one year after the date that the person would have been entitled to restoration of driving privileges <u>or issuance of a license</u>.

(b) When a person's license <u>or privilege to obtain a license</u> is

canceled, limited, suspended or revoked, that person shall be informed by the department or the court that takes the action at the time of the action that, upon a conviction of driving on a highway or vehicular way or area in this state at a time when that person's driver's license, [OR] privilege to drive or privilege to obtain a driver's license in this state has been canceled, suspended or revoked, or upon a conviction of driving in violation of a limitation of the license, that person will be subject to the mandatory minimum sentence of imprisonment under this section.

(c) The court shall impose a sentence of imprisonment of not less than 30 days and a fine of not less than $500 upon conviction of a violation of this section if the person's driver's license or privilege to obtain a driver's license was revoked under circumstances described in AS 28.15.181(c)(1). The court shall impose a sentence of imprisonment of not less than 90 days and a fine of not less than $1,000 upon conviction of a violation of this section if the person's driver's license or privilege to obtain a driver's license was revoked under circumstances described in AS 28.15.181(c)(2) or (3). The execution of sentence may not be suspended nor may probation or parole be granted until the minimum imprisonment provided in this subsection has been served. Imposition of sentence may not be suspended. In addition, the person's privilege to drive and to obtain a driver's license shall be revoked for an additional period of not less than one year after the date that the person would have been entitled to restoration of driving privileges or to obtain a driver's license if the person had not been convicted under this section.

(d) A person convicted of a violation of this section is guilty of a class A misdemeanor.

Introduced: 1/22/85
Referred: State Affairs, Judiciary and Finance

1 IN THE SENATE BY ABOOD

2 SENATE BILL NO. 75

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 suspension of the privilege to

7 obtain a driver's license."

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

9 * Section 1. AS 22.15.100 is amended to read:

10 Sec. 22.15.100. FUNCTIONS AND POWERS OF DISTRICT JUDGE AND

11 MAGISTRATE. Each district judge and magistrate has the power

12 (1) to issue writs of habeas corpus for the purpose of

13 inquiring into the cause of restraint of liberty, returnable before a

14 judge of the superior court, and the same proceedings shall be had on

15 the writ as if it had been granted by the superior court judge under

16 the laws of the state in such cases;

17 (2) of a notary public;

18 (3) to issue marriage licenses and to solemnize marriages;

19 (4) to issue warrants of arrest, summons and search war-

20 rants according to manner and procedure prescribed by law and the

21 supreme court;

22 (5) to act as an examining judge or magistrate in prelimi-

23 nary examinations in criminal proceedings; to set, receive and forfeit

24 bail and to order the release of defendants under bail;

25 (6) to act as a referee in matters and actions referred to

26 the judge or magistrate by the superior court, with all powers con-

27 ferred upon refereer by laws;

28 (7) of the superior court in all respects including but not

29 limited to contempts, attendance of witnesses and bench warrants;

(8) to order the temporary detention of a minor, or take other action authorized by law or rules of procedure, in cases arising under AS 47.10, when the minor is in a condition or surrounding dangerous or injurious to the welfare of the minor or others which requires immediate action; the action may be continued in effect until reviewed by the superior court in accordance with rules of procedure governing these cases;

(9) to issue a temporary order for emergency injunctive relief in cases involving domestic violence as provided in AS 25.35.-020;

(10) to review an administrative revocation of a person's driver's license, [OR] nonresident privilege to drive, or privilege to obtain a driver's license, and an administrative refusal to issue an original license, when designated as a hearing officer by the commissioner of public safety and with the consent of the administrative director of the state court system.

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

(c) If at the hearing under (a) of this section it appears that the record of the person sustains suspension, revocation, limitation, denial, or other remedial action, the hearing officer shall so order and the department may suspend, revoke, limit, deny, or take other remedial action against that person's license or privilege to obtain a license and, if appropriate, the department shall adjust the person's point total accumulated under AS 28.15.231.

* Sec. 3. AS 28.15.031(b) is amended to read:

(b) The department may not issue an original or duplicate driver's license to, nor renew or reinstate the driver's license of, a person

(1) whose license or privilege to obtain a license is

1 suspended or revoked, except as otherwise provided in this chapter;
2 (2) who fails to appear in court for the adjudication of a
3 certain vehicle, driver or traffic offense when the person's appear-
4 ance is required by statute, regulation or court rule;
5 (3) who is an habitual user of alcohol or another drug to
6 such a degree that the person is incapable of safely driving a motor
7 vehicle;
8 (4) who has previously been adjudged to be afflicted with,
9 or suffering from, a mental disability or a disease and who has not,
10 at the time of application for the license, been restored to compe-
11 tency by the methods provided by law;
12 (5) when the department, based upon medical evidence, has
13 determined that because of the person's physical or mental disability
14 the person is not able to drive a motor vehicle safely;
15 (6) who is unable to understand official traffic control
16 devices as displayed in this state or who does not have a fair knowl-
17 edge of traffic laws and regulations, as demonstrated by an examina-
18 tion;
19 (7) who has knowingly made a false statement in the per-
20 son's application for a license or has committed fraud in connection
21 with the person's application for, or in obtaining or attempting to
22 obtain, a license, or who has not applied under oath on the form
23 provided for the purpose of obtaining or attempting to obtain a li-
24 cense or permit; or
25 (8) who is required under AS 28.20 to furnish proof of
26 financial responsibility and who has not done so.
27 * Sec. 4. AS 28.15.061(b) is amended to read:
28 (b) An application under (a) of this section shall
29 (1) contain the applicant's full name, date and place of

birth, sex, and mailing and residence addresses;

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

(3) state whether any previous driver's license issued to the applicant has ever been suspended or revoked, [OR] whether an application for a driver's license has ever been refused, or whether the applicant's privilege to obtain a driver's license has ever been revoked by a court or the department or a similar agency in another state and, if so, the date of and reason for the suspension, revocation, or refusal; and

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

* Sec. 5. AS 28.15.165(a) is amended to read:

(a) If a chemical test administered under AS 28.35.031(a) to a person driving a motor vehicle for which a driver's license is required produces a result described in AS 28.35.030(a)(2) or if a person under arrest for driving a motor vehicle for which a driver's license is required refuses to submit to a chemical test under AS 28.-35.031(a), a law enforcement officer shall read a notice and deliver a copy to the person. The notice shall advise that

(1) the department intends to revoke the person's driver's license or nonresident privilege to drive, or refuse to issue an original license to the person;

(2) the person has the right to administrative review of the revocation or determination not to issue an original license;

(3) the notice itself is a temporary driver's license, for persons then holding a valid license, that expires seven days after it is delivered to the person;

(4) revocation of the person's driver's license or nonresident privilege to drive, or a determination not to issue an original license shall take effect upon expiration of the temporary driver's license unless the person within seven days requests an administrative review.

* Sec. 6. AS 28.15.181(a) is amended to read:

(a) Conviction of any of the following offenses is grounds for the immediate revocation of a driver's license <u>or the privilege to obtain a driver's license</u>:

(1) manslaughter or negligent homicide resulting from driving a motor vehicle;

(2) a felony in the commission of which a motor vehicle is used;

(3) failure to stop and give aid as required by law when a motor vehicle accident results in the death or personal injury of another;

(4) perjury or making a false affidavit or statement under oath to the department under a law relating to motor vehicles;

(5) driving a motor vehicle while intoxicated;

(6) reckless driving;

(7) using a motor vehicle in unlawful flight to avoid arrest by a peace officer;

(8) refusal to submit to a chemical test under AS 28.-35.032;

(9) driving while license <u>or privilege to obtain a license is</u> canceled, suspended, revoked or in violation of a limitation.

* Sec. 7. AS 28.15.181(b) is amended to read:

(b) A court convicting a person of an offense described in (a)(1) - (4), (6), or (7) of this section shall revoke that person's

driver's license or privilege to obtain a driver's license for not less than 30 days for the first conviction, unless the court determines that the person's ability to earn a livelihood would be severely impaired and a limitation under AS 28.15.201 can be placed on the license that will enable the person to earn a livelihood without excessive danger to the public. If a court limits a person's license under this subsection, it shall do so for not less than 60 days. Upon a subsequent conviction of a person for any offense described in (a)(1) - (4), (6), (7) of this section occurring within 10 years after a prior conviction, the court shall revoke the person's license or privilege to obtain a driver's license and may not grant the person limited license privileges for the following periods:

(1) not less than one year for the second conviction; and

(2) not less than three years for a third or subsequent conviction.

* Sec. 8. AS 28.15.181(c) is amended to read:

(c) A court convicting a person of an offense described in (a)(5) or (8) of this section arising out of the operation of a motor vehicle for which a driver's license is required shall revoke that person's driver's license or privilege to obtain a driver's license. The revocation may be concurrent with or consecutive to an administrative revocation under AS 28.15.165. The court may not, except as provided in (e) of this section, grant limited license privileges for the following periods:

(1) not less than 90 days if, within the preceding 10 years, the person has not previously been convicted of an offense

(A) described in (a)(5) or (8) of this section; or

(B) under a law or ordinance in another jurisdiction with elements substantially similar to an offense described in

1 (a)(5) or (8) of this section;

2 (2) not less than one year if, within the preceding 10
3 years, the person has been previously convicted of one offense

4 (A) described in (a)(5) or (8) of this section; or

5 (B) under a law or ordinance in another jurisdiction
6 with elements substantially similar to an offense described in
7 (a)(5) or (8) of this section;

8 (3) not less than 10 years if, within the preceding 10
9 years, the person has been previously convicted of more than one of
10 the following offenses or has more than once been previously convicted
11 of one of the following offenses:

12 (A) an offense described in (a)(5) or (8) of this
13 section; or

14 (B) an offense under another law or ordinance in
15 another jurisdiction with elements substantially similar to an
16 offense described in (a)(5) or (8) of this section.

17 * Sec. 9. AS 28.15.211(a) is amended to read:

18 (a) Except for a point system suspension or revocation under
19 AS 28.15.221 - 28.15.241 and unless provided otherwise by law, and
20 unless the suspension or revocation was for a cause that has been
21 removed, a person whose driver's license, <u>privilege to obtain a</u>
22 <u>driver's license,</u> or privilege to drive a motor vehicle in this state
23 has been suspended or revoked may not apply for a new license nor may
24 the person's driving privilege be restored until the expiration of

25 (1) one month from the date on which the license <u>or privi-</u>
26 <u>lege to obtain a license</u> was suspended or revoked for a first convic-
27 tion of the particular offense from which the suspension or revocation
28 resulted;

29 (2) three months from the date on which the license <u>or</u>

1 privilege to obtain a license was suspended or revoked for a second
2 conviction within 12 consecutive months of the same offense from which
3 the suspension or revocation resulted;
4 (3) one year from the date on which the license or privi-
5 lege to obtain a license was suspended or revoked for a third or
6 subsequent conviction within 12 consecutive months of the same offense
7 from which the suspension or revocation resulted.
8 * Sec. 10. AS 28.15.291 is amended to read:
9 Sec. 28.15.291. DRIVING WHILE LICENSE OR PRIVILEGE TO OBTAIN A
10 LICENSE CANCELED, SUSPENDED, REVOKED OR IN VIOLATION OF LIMITATION.
11 (a) A person may not drive a motor vehicle on a highway or vehicular
12 way or area at a time when that person's driver's license, privilege
13 to obtain a driver's license, or privilege to drive has been canceled,
14 suspended or revoked in this or another jurisdiction, or when driving
15 in violation of a limitation placed upon that person's license or
16 privilege to drive in this or another jurisdiction. Except as provid-
17 ed in (c) of this section, upon conviction of a violation of this
18 section, the court shall impose a sentence of imprisonment of not less
19 than 10 days. The execution of sentence may not be suspended nor may
20 probation or parole be granted until the minimum imprisonment provided
21 in this section has been served; nor may imposition of sentence be
22 suspended. In addition, the person's license, privilege to obtain a
23 license, or privilege to drive shall be revoked, and the person may
24 not be issued a new license nor may the privilege to drive be restored
25 for an additional period of not less than one year after the date that
26 the person would have been entitled to restoration of driving privi-
27 leges or issuance of a license.
28 (b) When a person's license or privilege to obtain a license is
29 canceled, limited, suspended or revoked, that person shall be informed

1 by the department or the court that takes the action at the time of
2 the action that, upon a conviction of driving on a highway or vehicu-
3 lar way or area in this state at a time when that person's driver's
4 license, [OR] privilege to drive or privilege to obtain a driver's
5 license in this state has been canceled, suspended or revoked, or upon
6 a conviction of driving in violation of a limitation of the license,
7 that person will be subject to the mandatory minimum sentence of
8 imprisonment under this section.
9 (c) The court shall impose a sentence of imprisonment of not
10 less than 30 days and a fine of not less than $500 upon conviction of
11 a violation of this section if the person's driver's license or privi-
12 lege to obtain a driver's license was revoked under circumstances
13 described in AS 28.15.181(c)(1). The court shall impose a sentence of
14 imprisonment of not less than 90 days and a fine of not less than
15 $1,000 upon conviction of a violation of this section if the person's
16 driver's license or privilege to obtain a driver's license was revoked
17 under circumstances described in AS 28.15.181(c)(2) or (3). The
18 execution of sentence may not be suspended nor may probation or parole
19 be granted until the minimum imprisonment provided in this subsection
20 has been served. Imposition of sentence may not be suspended. In
21 addition, the person's privilege to drive and to obtain a driver's
22 license shall be revoked for an additional period of not less than one
23 year after the date that the person would have been entitled to resto-
24 ration of driving privileges or to obtain a driver's license if the
25 person had not been convicted under this section.
26 (d) A person convicted of a violation of this section is guilty
27 of a class A misdemeanor.
28 * Sec. 11. AS 28.35.030(c) is amended to read:
29 (c) Upon conviction under this section the court shall impose a

1 minimum sentence of imprisonment of not less than 72 consecutive hours
2 and a fine of not less than $250 if the person has not been previously
3 convicted in this or another jurisdiction of driving while intoxicated
4 under this or another law or ordinance with substantially similar
5 elements or refusal to submit to a chemical test under AS 28.35.032 or
6 another law or ordinance with substantially similar elements. Upon
7 conviction under this section the court shall impose a minimum sen-
8 tence of imprisonment of not less than 20 consecutive days and a fine
9 of not less than $500 if, within the preceding 10 years, the person
10 has been previously convicted once in this or another jurisdiction of
11 driving while intoxicated under this or another law or ordinance with
12 substantially similar elements or refusal to submit to a chemical test
13 under AS 28.35.032 or another law or ordinance with substantially
14 similar elements. Upon conviction under this section the court shall
15 impose a minimum sentence of imprisonment of not less than 30 consecu-
16 tive days and a fine of not less than $1,000 if, within the preceding
17 10 years, the person has been previously convicted in this or another
18 jurisdiction of more than one of the following offenses or has more
19 than once been previously convicted of one of the following offenses:
20 (1) driving while intoxicated under this or another law or ordinance
21 with substantially similar elements; (2) refusal to submit to a chemi-
22 cal test under AS 28.35.032 or another law or ordinance with substan-
23 tially similar elements. The execution of sentence may not be sus-
24 pended nor may probation be granted except on condition that the
25 minimum imprisonment provided in this section is served. Imposition of
26 sentence may not be suspended. In addition, if the offense involved
27 driving a motor vehicle for which a driver's license is required, the
28 person's driver's license <u>or privilege to obtain a driver's license</u>
29 shall be revoked in accordance with AS 28.15.181 and the vehicle used

in commission of the offense may be forfeited under AS 28.35.036. In addition, the court shall order, and a person convicted under this section shall undertake, for a term specified by the court, that program of alcohol education or rehabilitation that the court, after consideration of any information compiled under (d) of this section, finds appropriate.

* Sec. 12. AS 28.35.032(g) is amended to read:

(g) Upon conviction of a person under this section, the court shall impose a minimum sentence of imprisonment of not less than 72 consecutive hours and a fine of not less than $250 if the person has not been previously convicted in this or another jurisdiction of driving while intoxicated under AS 28.35.030 or another law or ordinance with substantially similar elements or refusal to submit to a chemical test under this section or another law or ordinance with substantially similar elements. Upon conviction under this section the court shall impose a minimum sentence of imprisonment of not less than 20 consecutive days and a fine of not less than $500 if, within the preceding 10 years, the person has been previously convicted once in this or another jurisdiction of driving while intoxicated under AS 28.35.030 or another law or ordinance with substantially similar elements or refusal to submit to a chemical test under this section or another law or ordinance with substantially similar elements. Upon conviction under this section the court shall impose a minimum sentence of imprisonment of not less than 30 consecutive days and a fine of not less than $1,000 if, within the previous 10 years, the person has been previously convicted in this or another jurisdiction of more than one of the following offenses or has more than once been previously convicted of one of the following offenses: (1) driving while intoxicated under AS 28.35.030 or another law or ordinance with substantially

similar elements; (2) refusal to submit to a chemical test under this section or another law or ordinance with substantially similar elements. The execution of sentence may not be suspended nor may probation be granted except on condition that the minimum imprisonment provided in this section is served. Imposition of sentence may not be suspended. If the offense involved driving a motor vehicle for which a driver's license is required, the person's driver's license <u>or privilege to obtain a driver's license</u> shall be revoked under AS 28.-15.181. In addition, the court shall order, and a person convicted under this section shall undertake, for a term specified by the court, that program of alcohol education or rehabilitation that the court, after consideration of any information compiled under (h) of this section, finds appropriate. The sentence imposed by the court under this subsection shall run consecutively with any other sentence of imprisonment imposed on the committed person.

* Sec. 13. AS 28.40.050(b) is amended to read:

(b) A person convicted of a misdemeanor for a violation of a provision of this title for which another penalty is not specifically provided is punishable by a fine of not more than $500, or by imprisonment for not more than 90 days, or by both. In addition, the privilege to drive <u>or to obtain a license</u> or the registration of vehicles may be suspended or revoked.

Alaska State Legislature

INTERIM OFFICE
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-2843

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4714

Senator Mitch Ahood
CHAIRMAN

Senate Committee on State Affairs

LETTER OF INTENT

February 22, 1985

The Honorable Don Bennett
Senate President
Pouch V
Juneau, Alaska 99811

Dear Senator Bennett:

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 or 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.

Sincerely,

Senator Mitch Abood
Chairman

MA/eb

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: CSSB75(SA)
Title: An Act relating to suspension 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						
REVENUE						

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

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

Approved by Commissioner: Michael J. Cleman
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

AB

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: SB 75
Title: An Act relating to suspension of the privilege to obtain a driver's
Sponsor: Abood
Requestor: Sen. Abood
Date of Request: 1-25-85

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)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Bill Brown BB
Phone: 465-4335
Division: Motor Vehicles
Date: 1-30-85

Approved by Commissioner: Michael J Cleary
Date: 1-30-85
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

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - SB 75

Support with Amendments

January 30, 1985

SB 75, 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. That decision 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 Division of Motor Vehicles had issued him a suspension following an accident for which he failed to establish financial responsibility. The court held that since the defendant had never had a license, there was nothing for the Division of Motor Vehicles to suspend. The most the defendant could be charged with was for driving without a valid license.

This problem has been discussed with the Department of Law. Their responses as to how it could be solved are contained in Sections 8, 13, and 15 of SB 84.

Public Safety supports the sponsor's intent but would like the bill amended by adding the wording "or privilege to obtain a license" to AS 28.20.090(a) and AS 28.22.240(a). As written, the bill would cover license actions by the court, and administrative license actions imposed after an arrest for DWI, however, not administrative license actions under the Mandatory Insurance or Financial Responsibility laws following an uninsured accident. The proposed amendments would cover these two instances.

ROBERT J. SUNDBERG
Commissioner

COMMITTEE REPORT

SENATE

FURTHER: FINANCE

2/22/85

Date 3-14-85

Mr. President

The Committee on JUDICIARY considered SB 75
suspension of the privilege to obtain a driver's license.

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

[X] do pass

[ ] do pass with attached amendment(s)

[ ] replace with/or adopt CS for ~~SB 75 (SA)~~ State Affairs CS

[ ] new title

[ ] same title and recommends

[ ] and attached a "LETTER OF INTENT" [ ] NEW FISCAL NOTE

[ ] reports it back without recommendation

[ ] recommends referral to Committee

MEMBERS SIGNING DO PASS

MEMBERS HAVING OTHER RECOMMENDATIONS

Tim Kelly

Zaiglin - N/R.

Chairman

Do PASS

Chairman recommendation

COMMITTEE REPORT

SENATE

FURTHER: JUDICIARY
FINANCE

1/22/85

Date 2/27/85

Mr. President

The Committee on STATE AFFAIRS considered SB 75
suspension of the privilege to obtain a driver's license.

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

[X] do pass

[ ] do pass with attached amendment(s)

[X] replace with/or adopt CS for SB 75 (SA)
[ ] new title
[ ] same title and recommends

[X] and attached a "LETTER OF INTENT" [X] NEW FISCAL NOTE Zero

[ ] reports it back without recommendation

[ ] recommends referral to _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS
[signature]	
[signature]	
[signature]	
[signature]	
[signature]	

[signature]
Chairman

[signature]
Chairman recommendation