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BILL FILE LOG

BILL # 75

New fiscal + position on C.S. requested -
Logan

* Bill Brown will testify

Alaska State Legislature

INTERIM OFFICE
1024 WEST SIXTH AVENUE
ANCHORAGE ALASKA 99501
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IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4714



Senator Mitch Aboud
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.

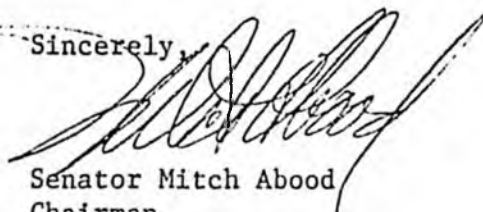
Driving without a valid license in violation of AS 28.15.011 carries a maximum penalty of 90 days in jail, a \$500 dollar fine, or both (see AS 28.35.320(a) and (b)). In contrast, DWLS carries a maximum penalty of one year in jail, a \$5,000 dollar fine, or both (see AS 28.15.291(d)). Additionally, a 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.

Letter to the Honorable Don Bennett
February 22, 1985
Page 2

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,

A handwritten signature in cursive script, appearing to read "Mitch Abood", written in dark ink. The signature is fluid and somewhat stylized, with a long horizontal stroke at the end.

Senator Mitch Abood
Chairman

MA/eb

SENATE BILL 75

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

SB 75 will solve a problem brought about by the Court of Appeals decision in Francis v. Municipality of Anchorage, 641 P.2d 226 (Alaska App. 1983). The gist of that decision is that a person who has never held a driver's license cannot be convicted of driving on a revoked license, even if the "revocation" was the result of a DWI conviction. Because of a standing order by the presiding judge in Anchorage, such a person can only receive a maximum sentence of a \$300 fine and be convicted of driving without a valid license.

This problem is solved by adding the language "privilege to obtain a driver's license."

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: Abcod
 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 CRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
----------------	--	--	--	--	--	--

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

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

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

Distribution (by Agency preparing fiscal note):

Legislative Finance
 Legislative Sponsor
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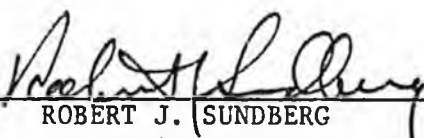
DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - CSSB75(SA)

February 27, 1985

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. 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.


ROBERT J. SUNDBERG
Commissioner

SIB 75

M E M O R A N D U M

TO: Pat Rodey
FROM: Pat Corbett
DATE: November 6, 1984
SUBJ: Limited License Privileges in case of DWI

Administrative revocations and Court revocations have the same minimum periods and the same criteria for granting limited license privileges.

CRITERIA

A hearing officer may grant limited license privileges for the final 60 days of the period of revocation if:

- 1) revocation is for DWI
- 2) no prior DWI or refusal of chemical test w/in 10 years
- 3) livelihood will be impaired
- 4) no excessive danger to the public

A hearing officer may not grant limited license privileges for a license revoked because of refusal to take chemical tests.

AS 28.15.166 (j)

MINIMUMS *Periods for Revocations*

- 1) 90 days no prior within last 10 years
- 2) 1 year 1 prior within last 10 years
- 3) 10 years more than one prior within last 10 years

AS 28.15.181 (c)

AS 28.15.165 Administrative Revocations
 28.15.166 (1) Administrative Review of Revocation
 28.15.181 (c) & (e) Court Suspension, Revocations, and Limitations