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COMMITTEE REPORT
SENATE

1/22/85

FURTHER: JUDICIARY
FINANCE

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:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 75 CS 11
- 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

[Signature]

T. Kelly

[Signature]

V. [Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS

[Signature]
Chairman

[Signature]
Chairman recommendation

Edwards
2/20/85 ✓

Original sponsor: Abood

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE
 2 CS FOR 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 referred 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

1 (8) to order the temporary detention of a minor, or take
2 other action authorized by law or rules of procedure, in cases arising
3 under AS 47.10, when the minor is in a condition or surrounding dan-
4 gerous or injurious to the welfare of the minor or others which re-
5 quires immediate action; the action may be continued in effect until
6 reviewed by the superior court in accordance with rules of procedure
7 governing these cases;

8 (9) to issue a temporary order for emergency injunctive
9 relief in cases involving domestic violence as provided in AS 25.35.-
10 020;

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

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

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

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

21 (2) state whether the applicant has been previously li-
22 censed as a driver and, if so, when and by what jurisdiction;

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

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

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

5 (a) If a chemical test administered under AS 28.35.031(a) to a
6 person driving a motor vehicle for which a driver's license is re-
7 quired produces a result described in AS 28.35.030(a)(2) or if a
8 person under arrest for driving a motor vehicle for which a driver's
9 license is required refuses to submit to a chemical test under AS 28.-
10 35.031(a), a law enforcement officer shall read a notice and deliver a
11 copy to the person. The notice shall advise that

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

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

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

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

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

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

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

5 (c) Procedures and references in AS 28 relating to the suspen-
6 sion or revocation of a driver's license are equally applicable to the
7 suspension or revocation of the privilege to obtain a driver's li-
8 cense.

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

10 Sec. 28.15.291. DRIVING WHILE LICENSE OR PRIVILEGE TO OBTAIN A
11 LICENSE CANCELLED, SUSPENDED, REVOKED OR IN VIOLATION OF LIMITATION.

12 (a) A person may not drive a motor vehicle on a highway or vehicular
13 way or area at a time when that person's driver's license, privilege
14 to obtain a driver's license, or privilege to drive has been canceled,
15 suspended or revoked in this or another jurisdiction, or when driving
16 in violation of a limitation placed upon that person's license or
17 privilege to drive in this or another jurisdiction. Except as provid-
18 ed in (c) of this section, upon conviction of a violation of this
19 section, the court shall impose a sentence of imprisonment of not less
20 than 10 days. The execution of sentence may not be suspended nor may
21 probation or parole be granted until the minimum imprisonment provided
22 in this section has been served; nor may imposition of sentence be
23 suspended. In addition, the person's license, privilege to obtain a
24 license, or privilege to drive shall be revoked, and the person may
25 not be issued a new license nor may the privilege to drive be restored
26 for an additional period of not less than one year after the date that
27 the person would have been entitled to restoration of driving privi-
28 leges or issuance of a license.

29 (b) When a person's license or privilege to obtain a license is

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

10 (c) The court shall impose a sentence of imprisonment of not
11 less than 30 days and a fine of not less than \$500 upon conviction of
12 a violation of this section if the person's driver's license or privi-
13 lege to obtain a driver's license was revoked under circumstances
14 described in AS 28.15.181(c)(1). The court shall impose a sentence of
15 imprisonment of not less than 90 days and a fine of not less than
16 \$1,000 upon conviction of a violation of this section if the person's
17 driver's license or privilege to obtain a driver's license was revoked
18 under circumstances described in AS 28.15.181(c)(2) or (3). The
19 execution of sentence may not be suspended nor may probation or parole
20 be granted until the minimum imprisonment provided in this subsection
21 has been served. Imposition of sentence may not be suspended. In
22 addition, the person's privilege to drive and to obtain a driver's
23 license shall be revoked for an additional period of not less than one
24 year after the date that the person would have been entitled to resto-
25 ration of driving privileges or to obtain a driver's license if the
26 person had not been convicted under this section.

27 (d) A person convicted of a violation of this section is guilty
28 of a class A misdemeanor.
29

1 IN THE SENATE

BY ABOOD

2 SPONSOR SUBSTITUTE FOR 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 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;

1 (8) to order the temporary detention of a minor, or take
2 other action authorized by law or rules of procedure, in cases arising
3 under AS 47.10, when the minor is in a condition or surrounding dan-
4 gerous or injurious to the welfare of the minor or others which re-
5 quires immediate action; the action may be continued in effect until
6 reviewed by the superior court in accordance with rules of procedure
7 governing these cases;

8 (9) to issue a temporary order for emergency injunctive
9 relief in cases involving domestic violence as provided in AS 25.35.-
10 020;

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

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

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

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

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

29 (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

1 birth, sex, and mailing and residence addresses;

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

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

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

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

15 (a) If a chemical test administered under AS 28.35.031(a) to a
16 person driving a motor vehicle for which a driver's license is re-
17 quired produces a result described in AS 28.35.030(a)(2) or if a
18 person under arrest for driving a motor vehicle for which a driver's
19 license is required refuses to submit to a chemical test under AS 28.-
20 35.031(a), a law enforcement officer shall read a notice and deliver a
21 copy to the person. The notice shall advise that

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

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

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

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

6 * Sec. 6. AS 28.15 is amended by adding a new section to read:

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

12 (b) This section applies to a person who

13 (1) has not been issued a driver's license under this
14 chapter, whether or not the person is eligible to apply for a license;
15 and

16 (2) does not have a privilege to drive in this state.

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

18 (a) Conviction of any of the following offenses is grounds for
19 the immediate revocation of a driver's license or the privilege to
20 obtain a driver's license:

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

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

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

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

- 1 (5) driving a motor vehicle while intoxicated;
2 (6) reckless driving;
3 (7) using a motor vehicle in unlawful flight to avoid
4 arrest by a peace officer;
5 (8) refusal to submit to a chemical test under AS 28.-
6 35.032;
7 (9) driving while license or privilege to obtain a license
8 is canceled, suspended, revoked or in violation of a limitation.

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

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

- 24 (1) not less than one year for the second conviction; and
25 (2) not less than three years for a third or subsequent
26 conviction.

27 * Sec. 9. AS 28.15.181(c) is amended to read:

28 (c) A court convicting a person of an offense described in
29 (a)(5) or (8) of this section arising out of the operation of a motor

1 vehicle for which a driver's license is required shall revoke that
2 person's driver's license or privilege to obtain a driver's license.
3 The revocation may be concurrent with or consecutive to an administra-
4 tive revocation under AS 28.15.165. The court may not, except as
5 provided in (e) of this section, grant limited license privileges for
6 the following periods:

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

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

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

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

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

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

19 (3) not less than 10 years if, within the preceding 10
20 years, the person has been previously convicted of more than one of
21 the following offenses or has more than once been previously convicted
22 of one of the following offenses:

23 (A) an offense described in (a)(5) or (8) of this
24 section; or

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

28 * Sec. 10. AS 28.15.211(a) is amended to read:

29 (a) Except for a point system suspension or revocation under

1 AS 28.15.221 - 28.15.241 and unless provided otherwise by law, and
2 unless the suspension or revocation was for a cause that has been
3 removed, a person whose driver's license, privilege to obtain a driv-
4 er's license, or privilege to drive a motor vehicle in this state has
5 been suspended or revoked may not apply for a new license nor may the
6 person's driving privilege be restored until the expiration of

7 (1) one month from the date on which the license or privi-
8 lege to obtain a license was suspended or revoked for a first convic-
9 tion of the particular offense from which the suspension or revocation
10 resulted;

11 (2) three months from the date on which the license or
12 privilege to obtain a license was suspended or revoked for a second
13 conviction within 12 consecutive months of the same offense from which
14 the suspension or revocation resulted;

15 (3) one year from the date on which the license or privi-
16 lege to obtain a license was suspended or revoked for a third or
17 subsequent conviction within 12 consecutive months of the same offense
18 from which the suspension or revocation resulted.

19 * Sec. 11. AS 28.15.291 is amended to read:

20 Sec. 28.15.291. DRIVING WHILE LICENSE OR PRIVILEGE TO OBTAIN A
21 LICENSE CANCELED, SUSPENDED, REVOKED OR IN VIOLATION OF LIMITATION.

22 (a) A person may not drive a motor vehicle on a highway or vehicular
23 way or area at a time when that person's driver's license, privilege
24 to obtain a driver's license, or privilege to drive has been canceled,
25 suspended or revoked in this or another jurisdiction, or when driving
26 in violation of a limitation placed upon that person's license or
27 privilege to drive in this or another jurisdiction. Except as provid-
28 ed in (c) of this section, upon conviction of a violation of this
29 section, the court shall impose a sentence of imprisonment of not less

1 than 10 days. The execution of sentence may not be suspended nor may
2 probation or parole be granted until the minimum imprisonment provided
3 in this section has been served; nor may imposition of sentence be
4 suspended. In addition, the person's license, privilege to obtain a
5 license, or privilege to drive shall be revoked, and the person may
6 not be issued a new license nor may the privilege to drive be restored
7 for an additional period of not less than one year after the date that
8 the person would have been entitled to restoration of driving privi-
9 leges or issuance of a license.

10 (b) When a person's license or privilege to obtain a license is
11 canceled, limited, suspended or revoked, that person shall be informed
12 by the department or the court that takes the action at the time of
13 the action that, upon a conviction of driving on a highway or vehicu-
14 lar way or area in this state at a time when that person's driver's
15 license, [OR] privilege to drive or privilege to obtain a driver's
16 license in this state has been canceled, suspended or revoked, or upon
17 a conviction of driving in violation of a limitation of the license,
18 that person will be subject to the mandatory minimum sentence of
19 imprisonment under this section.

20 (c) The court shall impose a sentence of imprisonment of not
21 less than 30 days and a fine of not less than \$500 upon conviction of
22 a violation of this section if the person's driver's license or privi-
23 lege to obtain a driver's license was revoked under circumstances
24 described in AS 28.15.181(c)(1). The court shall impose a sentence of
25 imprisonment of not less than 90 days and a fine of not less than
26 \$1,000 upon conviction of a violation of this section if the person's
27 driver's license or privilege to obtain a driver's license was revoked
28 under circumstances described in AS 28.15.181(c)(2) or (3). The
29 execution of sentence may not be suspended.

1 be granted until the minimum imprisonment provided in this subsection
2 has been served. Imposition of sentence may not be suspended. In
3 addition, the person's privilege to drive and to obtain a driver's
4 license shall be revoked for an additional period of not less than one
5 year after the date that the person would have been entitled to resto-
6 ration of driving privileges or to obtain a driver's license if the
7 person had not been convicted under this section.

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

10 * Sec. 12. AS 28.20.090(a) is amended to read:

11 (a) If a person required to deposit security under this chapter
12 fails to deposit security within 10 days after the department sends
13 notice, the department shall suspend

14 (1) the license of each driver involved in the accident;

15 (2) the privilege of operating a vehicle subject to regis-
16 tration if the driver is a nonresident;

17 (3) the privilege of the owner to operate or permit the
18 operation within this state of a vehicle subject to registration if
19 the owner is a nonresident;

20 (4) the privilege to obtain a driver's license if the
21 person has not been issued a license under this title and does not
22 have a privilege to drive in this state.

23 * Sec. 13. AS 28.22.240(a) is amended to read:

24 (a) If a person fails to provide proof that motor vehicle lia-
25 bility insurance or a certificate of self-insurance was in effect at
26 the time of an accident or when the person was charged with a viola-
27 tion of a traffic law described in AS 28.22.210, the department shall
28 suspend the driver's license or privilege to obtain a driver's license

1 (1) not less than 90 days if, within the preceding 10
2 years, the person has not previously had a driver's license or privilege
3 to obtain a driver's license suspended for violation of AS 28.-
4 22.200;

5 (2) not less than one year if, within the preceding 10
6 years, the person has previously had a driver's license or privilege
7 to obtain a driver's license suspended one or more times for violation
8 of AS 28.22.200.

9 * Sec. 14. AS 28.35.030(c) is amended to read:

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

1 (1) driving while intoxicated under this or another law or ordinance
2 with substantially similar elements; (2) refusal to submit to a chemi-
3 cal test under AS 28.35.032 or another law or ordinance with substan-
4 tially similar elements. The execution of sentence may not be sus-
5 pended nor may probation be granted except on condition that the
6 minimum imprisonment provided in this section is served. Imposition of
7 sentence may not be suspended. In addition, if the offense involved
8 driving a motor vehicle for which a driver's license is required, the
9 person's driver's license or privilege to obtain a driver's license
10 shall be revoked in accordance with AS 28.15.181 and the vehicle used
11 in commission of the offense may be forfeited under AS 28.35.036. In
12 addition, the court shall order, and a person convicted under this
13 section shall undertake, for a term specified by the court, that
14 program of alcohol education or rehabilitation that the court, after
15 consideration of any information compiled under (d) of this section,
16 finds appropriate.

17 * Sec. 15. AS 28.35.032(g) is amended to read:

18 (g) Upon conviction of a person under this section, the court
19 shall impose a minimum sentence of imprisonment of not less than 72
20 consecutive hours and a fine of not less than \$250 if the person has
21 not been previously convicted in this or another jurisdiction of
22 driving while intoxicated under AS 28.35.030 or another law or ordi-
23 nance with substantially similar elements or refusal to submit to a
24 chemical test under this section or another law or ordinance with
25 substantially similar elements. Upon conviction under this section the
26 court shall impose a minimum sentence of imprisonment of not less than
27 20 consecutive days and a fine of not less than \$500 if, within the
28 preceding 10 years, the person has been previously convicted once in
29 this or another jurisdiction of driving while intoxicated under

1 AS 28.35.030 or another law or ordinance with substantially similar
2 elements or refusal to submit to a chemical test under this section or
3 another law or ordinance with substantially similar elements. Upon
4 conviction under this section the court shall impose a minimum sen-
5 tence of imprisonment of not less than 30 consecutive days and a fine
6 of not less than \$1,000 if, within the previous 10 years, the person
7 has been previously convicted in this or another jurisdiction of more
8 than one of the following offenses or has more than once been previ-
9 ously convicted of one of the following offenses: (1) driving while
10 intoxicated under AS 28.35.030 or another law or ordinance with sub-
11 stantially similar elements; (2) refusal to submit to a chemical test
12 under this section or another law or ordinance with substantially
13 similar elements. The execution of sentence may not be suspended nor
14 may probation be granted except on condition that the minimum impris-
15 onment provided in this section is served. Imposition of sentence may
16 not be suspended. If the offense involved driving a motor vehicle for
17 which a driver's license is required, the person's driver's license or
18 privilege to obtain a driver's license shall be revoked under AS 28.-
19 15.181. In addition, the court shall order, and a person convicted
20 under this section shall undertake, for a term specified by the court,
21 that program of alcohol education or rehabilitation that the court,
22 after consideration of any information compiled under (h) of this
23 section, finds appropriate. The sentence imposed by the court under
24 this subsection shall run consecutively with any other sentence of
25 imprisonment imposed on the committed person.

26 * Sec. 16. AS 28.40.050(b) is amended to read:

27 (b) A person convicted of a misdemeanor for a violation of a
28 provision of this title for which another penalty is not specifically
29 provided is punishable by a fine of not more than \$500, or by

1 imprisonment for not more than 90 days, or by both. In addition, the
2 privilege to drive or to obtain a license or the registration of
3 vehicles may be suspended or revoked.
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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)

	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:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

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

Approved by Commissioner: Michael J. Clemens 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)

TO: Committee Members
FROM: Senator Abood, Chairman
RE: CS for SB 75 (SA)

The changes made in SB 75 are as follows:

Added a new section (Sec. 6) which defines when a person's privilege to obtain a driver's license may be suspended or revoked and who the suspension, revocation applies to.

Sec. 12 of the bill amends AS 28.20.090(a), which deals with security deposits, to include the authority to suspend the privilege to obtain a driver's license.

Sec. 13 of the bill amends AS 28.22.240(a), which deals with the ability to provide proof of motor vehicle liability insurance or a certificate of self-insurance, to include the language of privilege to obtain a driver's license.

Each of these changes were made at the recommendation of the Department of Public Safety.

2

SENATE AMENDMENT

BY State Affairs Committee

To: _____ SENATE BILL No. 75

To: _____ HOUSE BILL No. _____

PAGE:

LINE:

* Sec 11. AS 28.20.090(a) is amended to read:

(a) If a person required to deposit security under this chapter fails to deposit security within 10 days after the department sends notice, the department shall suspend

(1) the license of each driver involved in the accident;

(2) the privilege of operating a vehicle subject to registration if the driver is a nonresident;

(3) the privilege of the owner to operate or permit the operation within this state of a vehicle subject to registration if the owner is a nonresident;

(4) the ability to apply for a driver's license if the person has not been issued a license under this title and does not have a privilege to drive in this state.

3

SENATE AMENDMENT

By _____

To: _____ SENATE BILL No. SB 75

To: _____ HOUSE BILL No. _____

PAGE:

LINE:

AS 28.22.240(a) is amended to read:

(a) If a person fails to provide proof that motor vehicle liability insurance or a certificate of self-insurance was in effect at the time of an accident or when the person was charged with a violation of a traffic law described in AS 28.22.210, the department shall suspend the driver's license or privilege to obtain a driver's license of that person for the following periods:

(1) not less than 90 days if, within the preceding 10 years, the person has not previously had a driver's license or privilege to obtain a driver's license suspended for violation of AS 28.22.200;

(2) not less than one year if, within the preceding 10 years, the person has previously had a driver's license or privilege to obtain a driver's license suspended one or more time for violation of AS 28.22.200.

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - SB 75

Support with Amendments

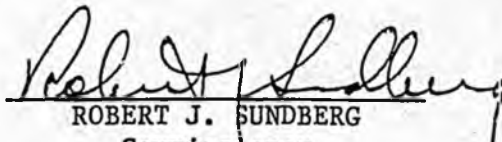
January 30, 1985

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

RECEIVED
JAN 31 1985

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."