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COMMITTEE REPORT
SENATE

1/22/85

FURTHER: JUDICIARY
FINANCE

Date 2/21/85

Mr. President

The Committee on STATE AFFAIRS considered SB 84
motor vehicle laws.

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 84 (SA)
- 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**

John McVie
Tom Kelly
V. Fischer

**MEMBERS HAVING
OTHER RECOMMENDATIONS**

[Signature]
Chairman

[Signature]
Chairman recommendation

Original sponsor: Rules/Governor

1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR SENATE BILL NO. 84 (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 motor vehicle laws."

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

8 * Section 1. AS 28.05.091 is amended to read:

9 Sec. 28.05.091. VEHICLE IMPOUNDMENT [SEIZURE OF UNSAFE OR DE-
10 FECTIVELY EQUIPPED VEHICLE]. A motor vehicle which is driven on a
11 highway or vehicular way or area, and which has been determined to be
12 defective in equipment so as to be unsafe for driving, or on which the
13 vehicle identification number has been removed, defaced, or otherwise
14 altered, is an unlawful vehicle and may be impounded by a peace offi-
15 cer or an employee of the department officially designated for that
16 purpose. The owner or person in lawful possession of a vehicle that
17 is driven on a highway or vehicular way or area and that is so defec-
18 tive in equipment as to be unsafe for driving [THE VEHICLE] shall pay
19 the necessary costs of impounding and storing the vehicle. The im-
20 pounding of a vehicle is in addition to any other penalty. Nothing in
21 this section prevents the driving or moving of a defective vehicle in
22 the manner directed by the peace officer or employee to a place for

23 (1) the correction of a defect in the equipment;

24 (2) dismantling or wrecking; or

25 (3) storage without repair.

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

27 (c) If at the hearing under (a) of this section it appears that
28 the record of the person sustains suspension, revocation, limitation,
29 denial, or other remedial action, the hearing officer shall so order

1 and the department may suspend, revoke, limit, deny, or take other
2 remedial action against that person's license, registration, or title
3 and, if appropriate, the department shall adjust the person's point
4 total accumulated under AS 28.15.231.

5 * Sec. 3. AS 28.05.141(d) is amended to read:

6 (d) A person aggrieved by the decision of the hearing officer
7 may, within 30 days, initiate a proceeding in district court to re-
8 scind the department's action by filing a notice of appeal in accor-
9 dance with the applicable rules of court governing appeals in civil
10 matters. The district court shall base its review on the record of
11 the hearing, without taking additional testimony. The court may re-
12 verse the department's determination if the court finds that the hear-
13 ing officer misinterpreted the law, acted in an arbitrary and capri-
14 cious manner, or made a determination unsupported by the evidence in
15 the record. The filing of an appeal under this section does not auto-
16 matically stay the hearing officer's order. The court may grant a
17 stay of the order only upon a motion and hearing, and upon a finding
18 that there is a reasonable probability that the petitioner will pre-
19 vail on the merits and that the petitioner will suffer irreparable
20 harm if the order is not stayed [THE COURT SHALL CONDUCT A HEARING DE
21 NOVO. THE DECISION OF THE DEPARTMENT SUSPENDING, REVOKING, CANCELING,
22 LIMITING, RESTRICTING OR DENYING A LICENSE, REGISTRATION, TITLE,
23 PERMIT OR PRIVILEGE IS STAYED AND DOES NOT TAKE EFFECT DURING THE
24 PENDENCY OF AN APPEAL].

25 * Sec. 4. AS 28.10.051 is amended to read:

26 Sec. 28.10.051. DEPARTMENT MAY SUSPEND OR REVOKE REGISTRATION.
27 The department may suspend or revoke the registration of a vehicle,
28 the certificate of registration or registration plates for a vehicle,
29 or a special permit when

1 (1) the department determines [IS SATISFIED] that the reg-
2 istration or certificate, plate or permit was fraudulently procured or
3 erroneously issued;

4 (2) the department determines that a registered vehicle is
5 mechanically unsafe to be driven or moved on a highway, vehicular way
6 or area, or other public property in this state and the vehicle has
7 been seized or impounded under AS 28.05.091;

8 (3) a registered vehicle has been scrapped, dismantled or
9 destroyed beycnd repair;

10 (4) the department determines that a required fee or tax
11 has not been paid and the fee or tax is not paid upon reasonable
12 notice and demand;

13 (5) a registration plate, permit, or certificate is know-
14 ingly displayed upon a vehicle other than the vehicle for which is-
15 sued;

16 (6) the department determines that the owner of a vehicle
17 has committed an offense under this chapter involving the registration
18 or the certificate, plate, or permit to be suspended or revoked;

19 (7) the vehicle has been reported to the department as
20 stolen or unlawfully converted; or

21 (8) the department is otherwise required to do so under the
22 laws of this state.

23 * Sec. 5. AS 28.10.105(f) is amended to read:

24 (f) The registration period of a [EVERY] vehicle registered un-
25 der this section and AS 28.10.107 may, at the option of the owner, be
26 [HAVE ITS REGISTRATION PERIOD] extended in monthly increments by pay-
27 ment of the proportionate prorated applicable fees to allow annual
28 registration to occur in any month of the owner's choice. The regis-
29 tered owner of a vehicle may exercise this option only once for each

1 vehicle.

2 * Sec. 6. AS 28.10.411(c) is amended to read:

3 (c) A resident 65 years of age or older on the date that the tax
4 is due is entitled to an exemption from the tax under AS 28.10.431(b)
5 and the registration fee [TAX] under this section for one motor vehi-
6 cle subject to registration under AS 28.10.421(b)(1), (2), (5), or
7 (6). An exemption may not be granted except upon written application
8 for the exemption on a form prescribed by the department.

9 * Sec. 7. AS 28.10.421(d) is amended to read:

10 (d) The special registration fees under this subsection are
11 imposed annually, unless otherwise specified, for:

12 (1) an historic vehicle (one time only upon initial regis-
13 tration under AS 28.10.181).....\$10;

14 (2) special request plates.....\$20;
15 plus the fee required for that vehicle under (b)(1) or (2) of this
16 section; the fee required by this paragraph shall be collected only on
17 the first issuance and on the replacement of special request plates;

18 (3) a vehicle owned by a disabled veteran or other handi-
19 capped person, and registered under AS 28.10.181 [OR A RESIDENT 65
20 YEARS OF AGE OR OLDER WHO COMPLIES WITH AS 28.10.411(c)].....none;

21 (4) a vehicle owned by the state.....none;

22 (5) a vehicle owned by an elected state official.....the
23 fee required for that vehicle under (b) of this section;

24 (6) a vehicle owned by a consular officer, unless waived
25 under AS 28.10.181.....\$30;

26 (7) a vehicle owned by a rancher, farmer, or dairyman and
27 registered under AS 28.10.181.....\$30;

28 (8) a snowmobile or off-highway vehicle.....\$ 5;

29 (9) an amateur mobile radio station vehicle,

1 (A) with a transceiver capable of less than 5-band
2 operation.....the
3 fee required for that vehicle under (b) or (c) of this section;

4 (B) in recognition of service to the public: a mobile
5 amateur radio station owned by an amateur with general class or
6 higher license, provided the station must be satisfactorily
7 proved capable of operating on at least five bands between 160
8 through 10 meters, must have an antenna, and must have a power
9 supply and wiring as a permanent part of the vehicle; the trans-
10 mitting unit may be removed from the car for service or dry
11 storage.....none
12 for a mobile amateur radio station vehicle included in (b)(1) or
13 (2) of this section;

14 (10) dealer registration plates,

15 (A) the initial set of plates.....\$40;

16 (B) each subsequent set of plates.....\$20;

17 (11) a vehicle owned by a municipality or charitable orga-
18 nization meeting the requirements of AS 28.10.181(c).....\$ 5;

19 (12) an occasional use vehicle under AS 28.10.181(k)....\$15;

20 (13) a vehicle owned by a former prisoner of war.....none.

21 * Sec. 8. AS 28.15.051(d) is amended to read:

22 (d) The department may issue a special driver's permit to a per-
23 son who is at least 14 years of age with the consent of the person's
24 parents, [OR] guardians, or spouse who is 18 years of age or older,
25 for the purpose of driving a motor-driven cycle. This permit may be
26 issued upon application and successful completion of all prescribed
27 tests and fees, and is valid for the same period of time as a driver's
28 license. The permit is not valid in a municipality which by ordinance
29 prohibits the driving of a motor-driven cycle by a person under the

1 age of 16 years; a borough may adopt the ordinance on a nonareawide
2 basis only, unless the power to adopt it on an areawide basis is
3 acquired under AS 29.33.250 - 29.33.290.

4 * Sec. 9. AS 28.15.071(a) is amended to read:

5 (a) The application of a person under the age of 18 years for an
6 instruction permit or driver's license must be signed by the father,
7 mother, [OR] guardian, or spouse who is 18 years of age or older, or
8 if there is no parent, [OR] guardian, or spouse, then by another re-
9 sponsible adult who is willing to assume the obligation imposed under
10 this section upon a person signing the application. The application
11 must be signed and verified before a person authorized to administer
12 oaths, or be signed in the presence of an authorized representative of
13 the department.

14 * Sec. 10. AS 28.15.071(c) is amended to read:

15 (c) If a minor deposits, or there is deposited on behalf of the
16 minor, proof of financial responsibility for the minor's driving of a
17 motor vehicle, in the form and amount required in AS 28.20, then the
18 department may accept the application of the minor signed as required
19 under (a) of this section, and, while proof of financial responsibil-
20 ity is maintained, the parent, guardian, spouse, or other responsible
21 adult is not subject to the liability imposed under (b) of this sec-
22 tion.

23 * Sec. 11. AS 28.15.171(a) is amended to read:

24 (a) The privilege of driving a motor vehicle on a highway or
25 vehicular way or area of this state given to a person licensed in an-
26 other jurisdiction is subject to suspension, [OR] revocation, or limi-
27 tation by the department or a court in the same manner and for the
28 same reasons as a driver's license issued under this chapter.

29 * Sec. 12. AS 28.15.231 is amended by adding a new subsection to read:

1 (f) The notice required under (a) of this section may be given
2 by first class mail.

3 * Sec. 13. AS 28.35.032(a) is amended to read:

4 (a) If a person under arrest refuses the request of a law en-
5 forcement officer to submit to a chemical test under AS 28.35.031(a),
6 after being advised by the officer that the refusal will, if that per-
7 son was arrested for [WHILE] operating or driving a motor vehicle for
8 which a driver's license is required, result in the denial or revoca-
9 tion of the license or nonresident privilege to drive, that the refus-
10 al may be used against the person in a civil or criminal action or
11 proceeding arising out of an act alleged to have been committed by the
12 person while operating or driving a motor vehicle or operating an air-
13 craft or a watercraft while intoxicated, and that the refusal is a
14 misdemeanor, a chemical test shall not be given, except as provided by
15 AS 28.35.035.
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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

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The Honorable Don Bennett
President of the Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Bennett:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which makes many badly needed amendments to the motor vehicle laws contained in AS 28. These amendments address a variety of issues. The bill alters existing statutes to more accurately reflect the current practices of the division of motor vehicles (DMV) in the Department of Public Safety, to allow DMV to adopt more efficient procedures, and to address some inadvertent omissions in current law.

Section 1 of the bill amends AS 28.05.091 to make it clear that a peace officer may impound a motor vehicle if the vehicle's identification number has been altered or removed. Law enforcement officers often must impound such vehicles in order to investigate whether the vehicle has been stolen, but the language of the current impoundment statute does not clearly authorize a seizure of this sort. Under the proposed language, the owner of an impounded vehicle would not be required to pay any costs associated with impoundment or storage of the vehicle. The owner of an impounded vehicle would be entitled to request a hearing to contest the impoundment. See existing AS 28.05.131.

Section 2 of the bill amends a general provision regarding DMV administrative hearings to make it clear that a hearing officer may take appropriate action against a person's vehicle title or registration as well as against the person's driver's license. This amendment would bring the language of AS 28.05.141(c) into conformity with AS 28.05.131(a), with current administrative practices, and with common sense interpretation.

Section 3 of the bill amends AS 28.05.141(d), which deals with a motorist's right to appeal from an administrative

hearing officer's decision. The new language would allow a motorist to appeal a hearing officer's decision to the district court, and specifies the scope of appellate review. Existing law allows a hearing de novo -- a complete new hearing on the same issues which were decided at the administrative hearing. In many cases, this makes the entire administrative hearing process superfluous. A motorist dissatisfied with a hearing officer's decision will commonly request a de novo hearing in district court, and DMV personnel and their witnesses are forced to present the entire case over again. This is not an efficient use of either administrative or judicial resources. The new language is modelled upon the provisions adopted by the legislature in 1983 regarding the appeal rights granted to a person whose driver's license has been administratively revoked because he drove while intoxicated or refused to take a breath test. See AS 28.15.166(m) and (n).

The amendment contained in sec. 4 of the bill clarifies AS 28.10.051(1), which authorizes DMV to suspend or revoke a motor vehicle certificate of registration if it was fraudulently obtained. Unless an emergency requires immediate action, a motorist has the right to request a hearing under AS 28.05.131 before DMV suspends or revokes a registration certificate.

For the convenience of vehicle owners, current AS 28.10.105(f) allows an owner to register a vehicle for a portion of a year so that annual registration fees for all vehicles owned by that person will be due at the same time under the state's staggered registration system. This privilege has been abused by some owners who have repeatedly registered and paid fees on a vehicle for only part of a year, rather than for the entire year. AS 28.10.105 was never intended to allow a vehicle to be routinely registered for a period of less than a year. The amendment to the statute contained in sec. 5 of the bill states that an owner may exercise this partial-year payment option only once per motor vehicle.

The changes made in secs. 6 and 7 of the bill correct an ambiguity in current law. AS 28.10.411 establishes a state motor vehicle registration fee. AS 28.10.431 authorizes municipalities to levy a motor vehicle registration tax, which may be collected by DMV on behalf of the municipality at the same time that state registration fees are collected. Present AS 28.10.411(c) exempts a resident 65 years of age or older from payment of "tax under this section" for one motor vehicle. This language does not make sense, as AS 28.10.411 levies a fee. A tax is

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authorized under AS 28.10.431. The new language makes it clear that a resident aged 65 years or older on the date the tax is due is exempt from payment of both the registration fee and the tax. This is in accord with DMV's present interpretation of the existing language. The amendment specifies that the exemption applies to one personal vehicle, but not to commercial vehicles. This would fulfill the original intent of the provision, which was to excuse senior citizens from paying the costs of registering one personal vehicle, rather than to benefit commercial businesses.

Sections 8, 13, and 15 of this bill provide that a person's "ability to apply for 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 DMV had suspended his "privilege to drive" 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 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 fine, or both. See AS 28.35.230(a) and (b). In contrast, DWLS carries a maximum penalty of one year in jail, a \$5,000 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).

In a very real sense, persons such as defendant Francis are more blatant violators of the motor vehicle laws than the "average" DWLS offender. Not only did Francis drive after receiving a suspension notice from DMV, he drove (and was involved in an accident) without ever obtaining a license in the first place. Such blatant disregard of the licensing laws should not be rewarded with lesser criminal penalties. The amendments included in this bill will make offenders like Francis subject to the general DWL laws and their more serious penalties.

Under current law, a person under age 18 may not apply for a driving instruction permit or a motorcycle driver's permit unless a parent or guardian signs the application and agrees to assume responsibility for damage caused by the negligence or willful misconduct of the minor. In the case of a minor who is married, however, a parent may be unavailable or unwilling to assume this responsibility. The language contained in secs. 9, 10, and 11 of this bill allows a spouse 18 years of age or older to sign the necessary application forms and assume this responsibility on behalf of the minor.

AS 28.15.171 presently provides that DMV may suspend or revoke a nonresident's privilege to drive in this state in the same manner and for the same reasons that an Alaska driver's license may be suspended or revoked. Section 12 of the bill amends AS 28.15.171 to clarify that a court also has this authority, and allows the court or DMV to place a limitation on the non-resident's privilege to drive.

Section 14 of the bill specifically authorizes DMV to use first class mail to notify a driver that he is half-way to losing his license because of the accumulation of points resulting from traffic law violations. Existing AS 28.05.121 is a general provision which requires notice to be made by personal delivery, or by registered or certified mail, "unless a different method of giving notice is otherwise expressly provided." "Half-way" notices are currently being sent by first class mail in accordance with 13 AAC 08.220(c). The proposed amendment is intended to meet the requirements of AS 28.05.121 and to bring the statutory language in line with existing regulations and procedures.

The amendment contained in sec. 16 of the bill is a minor one which is intended only to clarify AS 28.35.032(a), which established the misdemeanor crime of refusal to take a breath test. The new language provides that a person's license may be revoked if he was "arrested for operating or driving a motor vehicle for which a driver's license is required." The current law contains the language "arrested while operating" Obviously, a DWI offender would never be arrested while he was driving. The arrest always occurs after the offender's vehicle has been stopped.

Adoption of these amendments to AS 28 will clarify some imprecise language contained in the current law, and will

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enable DMV to more efficiently administer the state's motor vehicle laws. I therefore urge your prompt action on this bill.

Sincerely,



Bill Sheffield
Governor

STATE OF ALASKA '1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: 288 84
 Title: An Act relating to motor vehicle laws.
 Sponsor: Rules by request of Governor
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Life and Property Protection
 BRU, Program or Subprogram(s) Affected: 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	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

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: 465-4335
 Division: Motor Vehicles Date: 12-10-84

Approved by Commissioner: [Signature] Date: 12/11/84
 Agency: _____

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 Legislative Finance
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