

SB

364



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 22, 1988

The Honorable Jan Faiks
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Faiks:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that deals with a technical problem in AS 28 relating to the crime of driving while license suspended, canceled, or revoked, or driving in violation of a limitation, and that reduces, in certain circumstances, the mandatory penalty for those convicted of that offense.

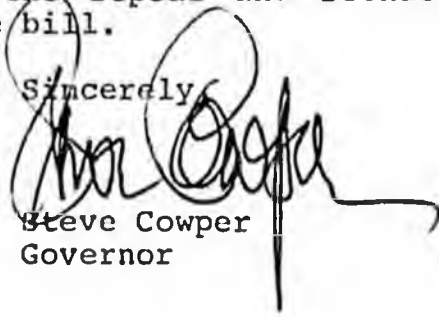
Section 1 of the bill amends AS 12.55.055(d) to allow a court to offer community work service, if it is specifically provided for in the applicable statute, in substitution for a mandatory minimum period of imprisonment. This amendment was made to enable the court to require community work service, in place of imprisonment, under repealed and reenacted AS 28.15.291 in sec. 5 of the bill.

Sections 2, 3, 4, and 5 of the bill rectify a technical problem in the law, regarding the state's ability to, under certain circumstances, charge a person with the crime of driving while license suspended, canceled, or revoked, which was addressed in Fielding v. State, 733 P.2d 271 (Ak. App. 1987), Roberts v. State, 700 P.2d 815 (Ak. App. 1985) and Francis v. Municipality of Anchorage, 641 P.2d 226 (Ak. App. 1982). The amendments to AS 28.18.165(a) and (c) and 28.65.181(a), combined with the repeal and reenactment of AS 28.15.291, make it clear that the privilege to drive or obtain a license can be suspended, canceled, or revoked, if an individual does not have a valid driver's license at the time certain offenses were committed, and that if the person subsequently drives when that privilege has been suspended, canceled, or revoked, he or she can be charged under AS 28.15.291.

In sec. 5 of the bill, repealed and reenacted AS 28.15.291 sets out the elements and penalty of the crime of driving while license or privilege is suspended, canceled, or revoked, or driving in violation of a limitation. Current AS 28.15.291 distinguishes between two classes of violators. The first class consists of all individuals who drove in violation of the action taken upon their license, except those whose license was affected as a result of convictions for driving while under the influence (DWI) or refusal to submit to a chemical test (refusal). The penalty for this first class is a 10-day mandatory jail term, irrespective of the number of the violator's similar prior convictions. As reenacted, AS 28.15.291(b)(1) requires that a violator be sentenced to a minimum sentence of imprisonment of not less than 10 days, with all of it suspended on the condition that the violator complete 80 hours of community work service. Under reenacted AS 28.15.291(b)(2), if the violator had previously been convicted of a similar offense, the current 10-day mandatory jail term would be imposed.

The second class of violators under present AS 28.15.291 consists of those individuals driving in violation after being convicted of DWI or refusal. The penalties for this class in reenacted AS 28.15.291(b)(3) and (4) distinguish between individuals who subsequently drive a motor vehicle after a first conviction for DWI or refusal, and individuals who subsequently drive after a second conviction. Under those paragraphs, the mandatory jail term has been greatly reduced for this second class of violators, and some mandatory community work service would be imposed.

Section 6's repeal of AS 28.15.181(d), combined with sec. 4's deletion of AS 28.15.181(a)(9), remove the mandatory one-year driver's license revocation by the court for both classes of offenders. The revocation language in existing AS 28.15.291 is deleted by the repeal and reenactment of that section in sec. 5 of the bill.

Sincerely,

 Steve Cowper
 Governor

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to privilege to drive and relating penalties for DWIs."
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Corrections
BRU: Statewide Operations
Components: All Institutions

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
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		0				
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Inasmuch as this bill seeks to reduce use of costly hard bed space in favor of community service, it would seem on the surface to have a negative not a zero fiscal note. However, since the Alaska inmate population is expanding and since this bill would affect fewer than twenty beds statewide,

Prepared by: Susie H. Riley Phone: 465-3376
Division: Administrative Services Date: 01-21-88
Approved by Commissioner: Susan Humphrey-Barnett Date: 01-21-88
Agency: Department of Corrections

Distribution (by preparer):

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CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. _____

the effect is to simply postpone slightly the time when additional beds must be constructed and on line or reduce the current overcrowded situation. It reduces total state costs over a long span of time, but it does not reduce costs of operations of any current facility since they must still be fully staffed and funded. The bill serves to help stabilize prison population growth.

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Public Safety
 Title: An Act relating to the privilege
to drive and to obtain a license.... BRU: Motor Vehicles
 Sponsor: Rules Committee
 Requestor: Senate State Affairs Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact on this department.

JWR
2/2/88

Prepared by: Bill Brown Phone: 465-4335
 Division: Motor Vehicles Date: 1-28-88
 Approved by Commissioner: Walter Hartel, Dec. Date: 2-10-88
 Agency: Public Safety

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