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SENATE COMMITTEE REPORT

FURTHER Judiciary

2/1/88

DATE TURNED INTO OFFICE 3/14/88

Mr. President:

State Affairs Committee considered SB 383

suspension and revocation of a minor's license to drive and the definition of driver's license; efd

and recommended

replace with CS SB 383 (SA) same title
 or adopt CS new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted _____

Committee attached or adopted fiscal note(s)
 new updated or previous
 zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Handwritten signatures]

[Handwritten signature]

Chairman signature and recommendation

Committee Backup attached

Senator Johne Binkley

Senate Finance Committee
P.O. Box V • Juneau, Alaska 99811 • (907) 465-4985

RECEIVED
FEB 29 1988
*sent letter dept. 12
mail*

Finance Committee
Co-Chairman

MEMORANDUM

February 24, 1988

TO: Senator Mitch Abood *JB*
FROM: Senator Johne Binkley *JB*
RE: SB 383/Revocation of a Minor's License to Drive

Attached please find a blank committee substitute for the above-referenced bill as you requested. The changes are as follows:

First, the title has been changed to remove the reference to "suspension" of the licence. Second, the old Section 1 has been removed and replaced with what was Section 2. Both of these changes were requested by Bill Brown at Motor Vehicles.

The final change requested by Mr. Brown was that the records not be sealed when the minor reaches the age of 18. His reasoning was that if a minor was in a revocation period on his 18th birthday, the sealing of the record would not allow the revocation to survive his turning 18. This has been discussed with the attorney at Legal Services who drafted the bill. I have attached a copy of his memorandum to me for your information. Basically, existing law is sufficient to extend the court's jurisdiction over the minor until his revocation period ends. At that time, the records will be sealed.

We have also changed the ages in the bill. First, the age group covered under this legislation is now 12 (rather than 13) to the end of the 17th year. Second, the first revocation shall last until the minor is 16-1/2 (it was 14-1/2), or 6 months, whichever is longer. Last, the second and subsequent revocations shall last for one year or until the minor reaches the age of 17 (it was 16), whichever is longer.

The final change to this bill was added at the suggestion of the drafter who, upon giving it further thought, decided that it would be cleaner to point out that the provisions in AS 47.10 relating to juvenile court procedures do not apply to actions taken under this legislation. This change is found in Section 3 of the attached bill.

If you have any questions at all, please do not hesitate to call. I also want to thank you for your attention to this bill and for your willingness to squeeze it into your Committee's busy agenda.

STATE OF ALASKA
THE LEGISLATURE

POUCHY STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 23, 1988

SUBJECT: CSSB 383()
(Work Order No. 5-1593)

TO: Senator John Binkley

FROM: Michael F. Ford, *M. F.*
Legislative Counsel

You have requested that AS 47.10.090(a) be amended to allow a record of driver's license revocation under AS 28.15.185 to remain open past a minor's 18th birthday until the period of revocation is completed, and then to require the records be sealed. Under AS 47.10.100 the court retains jurisdiction of a juvenile case for two years, but not longer than the minor's 19th birthday. For the purposes of CSSB 383(), this existing jurisdiction should be more than adequate to cover any period of license revocation imposed under AS 28.15.185. I have added new language to AS 47.10.090(a) to make certain that the record of proceedings under AS 28.15.185 are sealed after the minor turns 18, or after the court relinquishes jurisdiction of the case, if the proceedings extend beyond the minor's 18th birthday.

You should also note that in sec. 3 of the draft I have added new language to provide that the existing procedures of AS 47.10.020 - 47.10.085 do not apply to a driver's license revocation action under AS 28.15.185. As a practical matter the court will probably handle the underlying offenses and the license revocation in the same proceeding. By excepting the license revocation proceeding from the procedural requirements of AS 47.10.020 - 47.10.085, further amendment to these sections is not required.

MFF:bb
wkb3/018

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Public Safety
 Title: An Act relating to suspension and BRU: Motor Vehicles
revocation of a minor's license to drive..
 Sponsor: Binkley Components: Driver Services
 Requestor: Senate State Affairs

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		5.4	7.5	7.9	8.3	8.7
TRAVEL						
CONTRACTUAL		.2	.2	.2	.2	.2
SUPPLIES		.1	.1	.1	.1	.1
EQUIPMENT		2.3				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	8.0	7.8	8.2	8.6	9.0

CAPITAL						
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REVENUE	-0-	2.5	20.0	30.0	30.0	30.0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	8.0	7.8	8.2	8.6	9.0
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	8.0	7.8	8.2	8.6	9.0

POSITIONS:

FULL-TIME						
PART-TIME		1	1	1	1	1
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

One part-time clerical position will be necessary to handle additional workload, including preparing file, entry of license action on computer, preparing certified copies, notifying individual, preparation of record for microfilm, entry of data on microfilm retrieval system, etc. Cost breakdown attached.

Prepared by: Bill Brown Phone: 465-4335
 Division: Motor Vehicles Date: 2-4-88

Approved by Commissioner: George H. Hartzel, Dep. Comm. Date: 2-4-88
 Agency: Public Safety

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

JMR
2/4/88

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 383

DETAIL

100 Personal Services

One Document Processing Clerk II Part-Time, 2 hours per day	5.4	5.4
--	-----	-----

300 Contractual

Postage and tolls	.2	.2
-------------------	----	----

400 Commodities

Normal office supplies	.1	.1
------------------------	----	----

500 Equipment

1 typewriter	1.2	
1 desk	.6	
1 chair	.2	
1 file cabinet	.3	
		<u>2.3</u>
TOTAL		8.0

INFORMATION

It has been learned that of the total number of youth ages 13 to 17 who are arrested for offenses outlined in AS 28.15.185, an estimated 300 to 400 will be convicted or adjudicated by a juvenile court. It is felt a part-time position will be required to process the additional workload.

With the effective date being September 1, 1988, documents will not start being received from the Court until around October 1, 1988. Therefore, personal services for FY89 reflect a nine month period with the employee being hired October 1, 1988. Other items are budgeted accordingly with the first full year being FY90.

FY90 and subsequent years reflect a 5% inflation factor.

REVENUE

Statutes require payment of a \$100.00 reinstatement fee prior to issuance of a driver's license following a suspension or revocation. The revenue indicated is based on an estimation of the number of minor's whose driving privileges would be taken away under this legislation and who will apply for a license and pay the \$100.00 fee, following the revocation. If the person does not apply for a license prior to the sealing of the record at age 18, the \$100.00 fee will not be collected.

Position Title Document Processing Clerk II			No. of Positions	Range/Step 8h	Barg. Unit GGU
Time Status PPT	Staff Months 12		Location Juneau		Election District 4
Type of Expenditure			Amount		
1	2	3			
Salary	4.3				
Benefits	1.1				
Premium Pay					
Other					
Total Personal Services		5.4			
Travel					
Contractual			.2		
Commodities			.1		
Equipment			2.3		
Other					
Total Cost			8.0		
Funding Source for Total Cost					
Federal Receipts 1002					
G. F. Match 1003					
General Fund 1004			8.0		
GF Program Receipts 1005					
Other					
Justification					
<p>This legislation will require action against the driving privileges of an estimated 300 to 400 individuals who are convicted of, or adjudicated for offenses which do not currently require action. This position will prepare files, establishing beginning and ending dates of the action; enter the license action on the individual's driving record; change the status on the individual's record; send a notice to the individual concerning the action and requirements for reinstatement; prepare certified copies for prosecutors when individual is arrested for driving while revoked; change status on driving record when license action is over; prepare record for microfilm; enter data on microfilm retrieval system; and assist in correspondence concerning the license action.</p> <p>This form prepared reflecting nine months cost. Position to begin October 1, 1988.</p>					

Request For
New Position

Agency Public Safety
BRU Motor Vehicles
Component Driver Services

Page 3 of 3
Revised Date

FY 89


Senator John Binkley

Senate Finance Committee
P.O. Box V • Juneau, Alaska 99811 • (907) 465-4985

Finance Committee
Co-Chairman

MEMORANDUM

February 8, 1988

TO: Senator Mitch Abood
FROM: Senator John Binkley 
RE: SB 383, Revocation of a Minor's License to Drive

Thank you for the courtesy extended to Janice Adair of my staff today by your committee on State Affairs. I apologize for being unable to personally attend and testify on the bill. I appreciate your willingness to allow me to comment on the proposed changes.

I would agree to the first two amendments proposed by Bill Brown of Motor Vehicles. The first few drafts we had done on this bill did deal with convictions for DWI and refusal to submit to a chemical test. Those provisions were eliminated since, under current State law, minors so convicted are treated as adults.

Mr. Brown also proposed that we not allow these convictions to be sealed with the rest of the minor's record when they reach 18. I understand his concerns and did discuss this point in particular with Mike Ford, the attorney at Legal Services who drafted the bill, while we were working on it. It was my intention to make certain an active revocation survived the 18th birthday. I would agree to keeping the records opened past the age of 18 if a revocation were still in effect. That is to say, an amendment to Page 4, line 23 which would add after "offenses" something to the effect: "However, if a minor's license has been revoked under AS 28.15.185 and the revocation period has not elapsed upon the minor reaching the age of 18, then the record of the revocation shall not be sealed until the revocation period is over." That way, the Division's concerns are met and the revocation will not automatically end upon the minor reaching 18 and we won't run into the concern of making lifelong "criminals" out of minors.

Finally, I have received numerous comments that this bill is not strong enough. I have considered these comments and would not be opposed to making the penalties stronger - specifically, changing the age when the revocation begins. I would have no problem with changing the age on Page two, line 23 to 16-1/2 and the age on line 26 on that same page to 17 years of age. My intent with these changes is to prevent a minor who has been convicted of the two offenses covered under this bill from obtaining either his license or his permit until he is at least 16-1/2 years of age. My concern with making the first conviction a year long revocation is that it will be simply

too long to be meaningful to many kids. However, if they get convicted a second time, then the sentence should most definitely be strong.

It has also been suggested that the minors be evaluated by the Alcohol Safety Action Program and referred for treatment if deemed necessary by ASAP. It is my understanding that such a requirement would not increase the fiscal note. I would be agreeable to such a requirement for second and subsequent convictions.

Again, thank you for allowing me to respond to the amendments proposed by the Division of Motor Vehicles. I am pleased to know that you want to move the bill quickly from the Committee. Please call if you have any questions.

BILL NO: SB 383

DATE: March 1, 1988

TITLE: An Act relating to suspension and revocation of a minor's license to drive...

CONTACT: Bill Brown 465-4335

RECEIVED MAR 10 1988

DEPARTMENT OF PUBLIC SAFETY

This bill will require revocation of driving privileges for persons who are 13 thru 17 years of age and who are convicted, or "adjudicated delinquent" in juvenile court, for certain criminal offenses involving alcohol or other drugs. This will generate an additional workload for DMV to maintain the revocation files for each individual whose license is revoked under provisions of this bill.

This version of the bill is preferred over two versions currently pending in the House (HB 336 and HB 361) because of proposed 28.15.185(d) which would exempt those convicted or adjudicated of a non-traffic offense from having to maintain proof of financial responsibility (SR22 insurance).

The Department of Public Safety proposes the following amendments:

- 1) Delete words "suspension and" from the first line of the bill title, as the bill only addresses revocation.
- 2) On page 4, line 23, after word offenses, add "and driver's license action taken under AS 28.15.185". If we are required to seal the record when the individual becomes 18 years of age, it would prevent enforcement of revocation at that time. The result would be that a 17-year-old convicted or adjudicated for a second or subsequent offense would never be revoked for the full time period outlined in proposed AS 28.15.185(b)(2), because the record of the revocation would no longer appear and the individual could obtain a driver's license.

Arthur English

 Arthur English
 Commissioner

WILLIAM T. COUNCIL
DAVID C. CROSBY

LAW OFFICE OF
COUNCIL & CROSBY
A PROFESSIONAL CORPORATION
424 NORTH FRANKLIN STREET
JUNEAU, ALASKA 99801

(907) 586-1780

February 19, 1988

The Honorable John E. Binkley
Alaska House of Representatives
Room 318 Capitol Building
Juneau, Alaska 99801

Re: Senate Bill No. 383 (Minor Consuming
and Driving Privileges -- "Use and Lose")

Dear Senator Binkley:

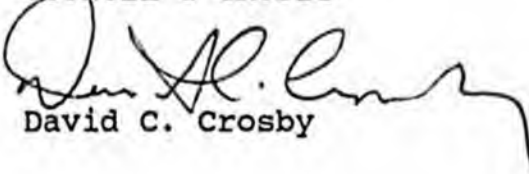
Thank you for notifying me of the hearings on SB 383.
Thank you also for your kind letter of February 11, 1988.

Enclosed is a supplement to the testimony I submitted
to you under cover letter of February 10, 1988.

Due to time constraints, I was unable to run off copies
for all committee members. I would appreciate it if you
would have your staff make copies and distribute them
accordingly.

Sincerely yours,

COUNCIL & CROSBY



David C. Crosby

Enc.

SUPPLEMENTAL TESTIMONY OF DAVID C. CROSBY

SENATE BILL 383 (MINOR CONSUMING AND
DRIVING PRIVILEGES -- "USE AND LOSE")

I would like to supplement my testimony submitted under cover letter of February 10, 1988, to Senator Binkley, with the following information:

1. H. W. Smith, "Oregon says "No" to Driving by Minors Who Use Drugs," The Challenge magazine. Attached to my testimony of February 10, 1988, was page 19 of an article printed in The Challenge magazine. This is a United States Department of Education publication. I am sorry that I cannot provide the volume number or date. The article appeared, however, within the last year. The author, H. Wesley Smith, is generally regarded to be the father of the "Use and Lose" laws. The additional materials submitted provide statistical confirmation that Oregon's Use and Lose law (which is virtually identical to H.B. 361 and similar to S.B. 383, with the exception of the penalty provision) has been effective in reducing alcohol and drug use by minors, including use in connection with driving. The law is credited with reducing juvenile drug arrests by nearly 30% in the four years since its enactment.

2. State of Oregon, interoffice memo dated April 8, 1987. This memorandum provides statistical information similar to that recited in the Smith article, covering the years 1982 through 1984. (The Oregon statute was passed in 1983.)

3. State of Oregon v. Day, 84 Or. App. 291, 733 P.2d 937 (1987), Petition for Review denied, ___ P.2d. ___ (1987). This case upheld the Oregon statute against contentions that it denied equal protection (including a contention that it created a suspect classification of minors) and a contention that the law violated the prohibition against cruel and unusual punishment. In the course of its opinion, the Oregon Court of Appeals had the following to say:

The legislative history reveals that the law was intended to meet two goals: Deterrence of drug and alcohol possession and use among young people and promotion of highway safety. Both goals are legitimate. The legislature considered the sanction appropriate to meet these goals because of the lack of other meaningful penalties for the group and the recognition that driving is a privilege young people do not want to lose.

. . . .

We conclude that the interest in possessing an operator's license, although an important entitlement, is outweighed by the State's goals of promoting highway safety and deterring drug and alcohol possession and use by those between the ages of 13 and 17.

4. Praete v. Commonwealth, 722 S.W.2d 602 (Ky App. 1987). In this case the Kentucky Court of Appeals held that the legislature could constitutionally impose more stringent penalties upon minors than others in connection with drug and alcohol use and driving. The Court of Appeals quoted the lower court's statement:

Those between the ages of 16 and 18 . . . are still deemed to be minors and the legislature may reasonably regard them as a class requiring closer supervision than those over the age of 18. More importantly, the legislature may properly decide that members of the general public are entitled to greater protection from those minors who have demonstrated a lack of maturity in both the consumption of alcohol and the operation of a motor vehicle upon the highways of the State.

5. SOADA Statistics and Bar Graph. In my testimony of February 10, 1988, I represented to you that "drivers under 21 constitute 7% of the driving public, but account for 14% of the serious drug and alcohol related accidents." Attachment 5 is the supporting documentation for this statement.

6. Adolescent Drug-Taking Behavior Follow-up Study, Juneau: Grades 7 through 12 (University of Alaska, 1987). This is a five-year follow-up study on drug and alcohol use among Juneau school students, highlighting changes from 1982 through 1987. The study is marked "Confidential." The

Juneau School District, however, has elected to release the report to the public.

There are two significant findings in this report. The first appears on page 6:

Presently, 58.4% of those surveyed, over half of the sample, reported having tried one or more of the chemical substances listed in the questionnaire during their lifetime. The number of students reported having tried one or more drugs in 1982 was 42.6%. The difference between the two statistics represents an increase of 15.8% (over a five year period).

This statistic should be contrasted with the Oregon statistics set forth in Attachment 1. While the two studies do not purport to measure precisely the same behavior (drug and alcohol violations, as opposed to reports of lifetime experiences with drugs and alcohol), one would logically expect statistics regarding violations to have some logical correspondence to usage. Without attempting to draw any conclusions from the magnitude of change in either study, it is significant to note that Oregon and Alaska appear to be headed in quite different directions concerning the extent of drug and alcohol usage among minors.

The second significant finding appears on page 12:

Previous research suggested that age 13 was the peak year for initiation into drugs, but the present findings indicate that age 12 now appears to be the critical year for initiation into drugs.

I cited this finding to you on page 6 of my original testimony. I wanted the Committee to have the supporting documentation.

Thank you for the opportunity to present these additional materials to you.

Oregon Says "No" To Driving By Minors Who Use Drugs

By H. Wesley Smith

When H. Wesley Smith was a school principal in Albany, Oregon, he led the movement to enact the 1983 Oregon law that suspended the driving privileges of teenagers who violated alcohol and drug laws.

In 1981 I was principal of a school that was considered to have an outstanding drug education program. And yet, the students were still using drugs.

I felt there had to be a way to motivate young people to stop using drugs. I thought that students might be encouraged to stay away from drugs to protect their privilege of driving. Receiving a driver's license is important to a teenager.

With this in mind, I exercised my right as an Oregonian to submit a proposal to the state legislature. My proposal stipulated that 13- to 17-year-olds found in violation of any drug or alcohol laws would lose their driving privileges for 1 year or until age 17, whichever was longer. The violator would be unable to apply for a license during the penalty period. In the case of a 13-year-old violator, the youth would have to wait until age 17 to apply, invoking the 1-year penalty after the youth became eligible at the age of 16. This penalty would be imposed whether or not a motor vehicle was involved. A second violation would require the suspension of driving privileges for 2 years or until age 18, whichever was longer. The proposal also provided an appeals procedure.

After much deliberation, the "Oregon Denial Law" was passed in 1983. The law was credited with

Denial Law Causes Sharp Decline in Drug Use

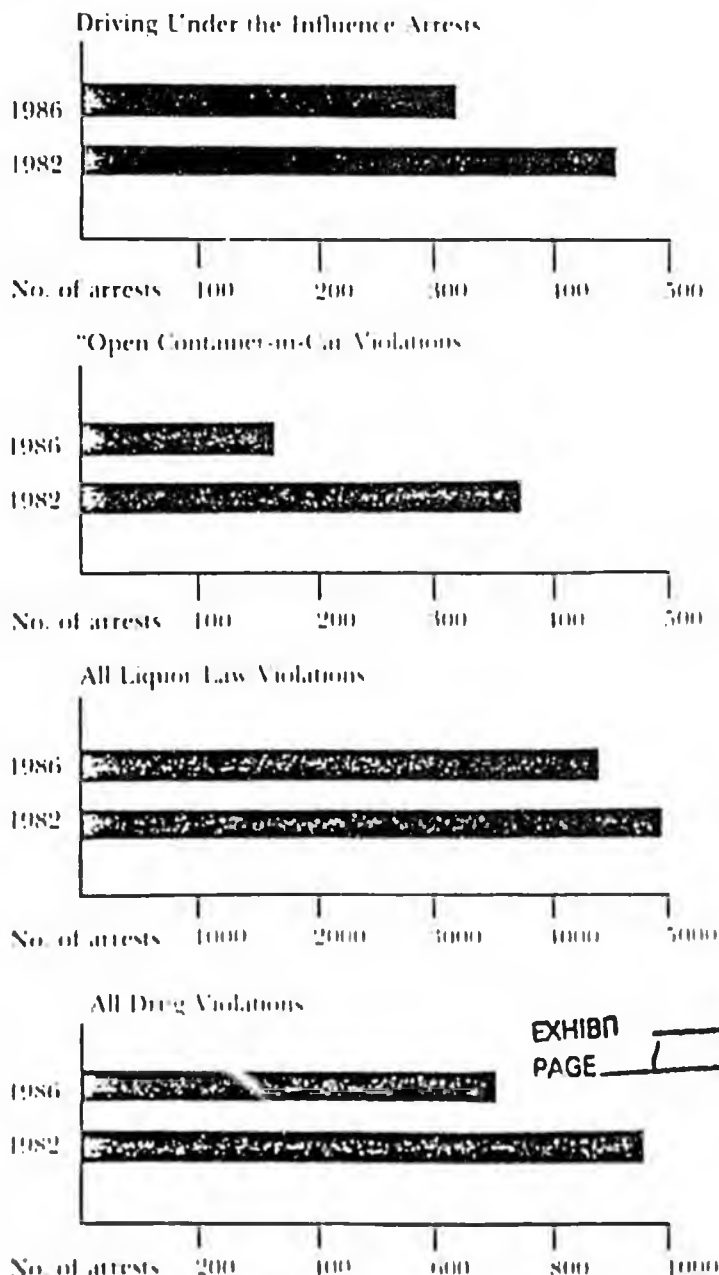


EXHIBIT PAGE 1 OF 2

reducing juvenile drug arrests 22 percent by the end of 1984 and an additional 7 percent by the end of 1986. Open-container-in-vehicle violations were reduced 45 percent by the end of 1984 and an additional 19 percent by the end of 1986.

The most persuasive arguments in favor of the law's concept were:

- It helped youth by giving them a reason to say "no" which was acceptable to their peers.
- It gave judges an effective tool to use in responding to drug violators.
- In contrast to traditional prevention programs, this penalty program was nearly cost-free to the state.
- It provided positive reinforcement to drug-free teenagers by maintaining their eligibility to drive.
- It demonstrated society's commitment to fight drug use by taking firm legal action.
- It provided an absolute consequence to drug violations.
- The law supported parents, schools, and others fighting drug abuse.

Passage of the law was not without struggle. Although opponents of the bill criticized it as harsh, and possibly in violation of the state constitution, we answered those criticisms. Oregon courts have upheld the law.

Public response to the law has been overwhelmingly positive. To obtain more information about the law, write to H. Wesley Smith, Assistant to the Superintendent, Greater Albany Public Schools, 718 Seventh Avenue, S.W., Albany, OR 97321 or telephone (503) 967-4515.

Oregon Denial Law Upheld

In April 1987, the Oregon Court of Appeals upheld that state's "Denial Law," which had been challenged on state constitutional grounds. In affirming the constitutionality of the statute, the court held that:

- The law meets its two intended goals—deterrence of drug and alcohol possession and use and promotion of highway safety; and
- A teenager's interest in possessing a driver's license is outweighed by the state's goals in this instance.

The court also rejected the claim that enforcement of the law constituted cruel and unusual punishment, that it treated minors unconstitutionally as a "suspect class," and that the license suspension penalty is out of proportion to more serious conduct.

The statute also survived an earlier court challenge based on arguments that it denied students their rights to equal protection under the state constitution.

States Follow Oregon's Lead

Several states have been actively considering proposals similar to Oregon's "denial" law. Here's a progress report from around the country:

New Jersey's new anti-drug law, effective since July 1987, contains provisions that relate drug use to driving privileges. New Jersey minors face a \$550 fine and a 6-month license suspension if caught with even one marijuana cigarette. Students found in possession of drugs before receiving a driver's license will have to wait 6 months past the normal date of eligibility before applying for a driver's license.

Missouri students will be subject to provisions of that state's new "abuse and lose" law scheduled to take effect on September 28, 1987. In Missouri, students under age 21 who are convicted of drunk driving or drug violations stand to lose their driving privilege for 1 year. Those under 16 would face a 1 year suspension beginning on their 16th birthday. These strict penalties also apply to students convicted of falsifying identification cards or carrying such cards.

The **California** legislature is considering a bill that would suspend or delay driving privileges of residents under 21 who are convicted of drug violations. Conviction for any drug or alcohol violation would result in a mandatory 1-year suspension of driving privileges for those with licenses. Students under 16 would be penalized by delaying their eligibility to drive for 1 year. The bill passed the California Senate by a vote of 21 to 4 and has been forwarded to the Assembly for further consideration.

In **Georgia**, Representative Thomas E. Wilder has introduced a bill in the General Assembly to deny auto licenses until the age of 17 to persons convicted of misdemeanors while under the influence of alcohol or drugs.

Wilder plans to seek passage of the bill in the next session of the General Assembly.



STATE OF OREGON

INTEROFFICE MEMO

TO: Catherine Webber
House Judiciary Committee

DATE April 8, 1987
04098702C

FROM: Gil Bellamy, *JB*
Administrator

SUBJECT 13 to 18 Year Old Driver's License Denial Law

The 13-18 year old driver's license denial law took effect October 15, 1983. Under the terms of this law, a person between the ages 13 and 18 who is found to have violated alcohol or drug laws loses their privilege to drive for one year or until age 17 whichever is longer. A second offense results in a denial for one year or until 18, whichever is longer. A judge can end the denial period after 90 days.

This law was proposed by school officials, particularly Wes Smith (967-4515), to reduce the consumption of alcohol and other drugs by students. The law was backed by traffic safety advocates because juveniles who illegally consume alcohol and other drugs inevitably either drive while under the influence or aid and abet other young people in doing so.

This law is virtually cost-free and has been a more effective deterrent than the sponsors of the legislation hoped. The driver's license is the equivalent of a right of passage in America and is highly prized.

Since the law took effect during 1983, a relevant evaluation is to compare 1982 with 1984 data. The following table contains the number of ARRESTS for juveniles (persons under 18) for offenses which result in a denial of the driver's license.

Offense Category	# Juveniles Arrested		% Change '82-'84
	1982	1984	
DUI	456	378	-17%
Open Container	373	205	-45%
All Liquor Law Violations	4,496	3,970	-12%
All Drug Violations	969	755	-22%

There were 1,760 driver's license denials for alcohol offenses in 1986. Of this number, 207 were second denials, 27 were third denials, 4 were fourth denials and one person was denied a driver's license five times.

GB:cek

bcc: Wes Smith

EXHIBIT 2
PAGE 1 OF 1

law and those people apparently is not the same, and in each of those cases they said, 'In this case, the trial judge abused his discretion.' So I would suggest that you be very optimistic.

There was no discretion for the trial court to abuse in this instance. The judgment should have been set aside as having been granted in violation of ORCP 69B(2), which provides, in part:

"If the party against whom judgment by default is sought has appeared in the action or if the party seeking judgment has received notice that the party against whom judgment is sought is represented by an attorney in the pending proceeding, the party against whom judgment is sought (or, if appearing by representative, such party's representative) shall be served with written notice of the application for judgment at least 10 days, unless shortened by the court, prior to the hearing on such application."

In *Denkers v. Durham Leasing Co.*, 299 Or 544, 704 P2d 114 (1985), the Supreme Court held that there is no notice requirement for the entry of an order of default. That entry is a purely ministerial act, which may be done by the clerk. The ten-day notice to a represented party required by ORCP 69B(2) is a notice of an application for a judgment by default, which presupposes an existing order of default. See also *Morrow Co. Sch. Dist. v. Oreg. Land and Water Co.*, 78 Or App 296, 716 P2d 766 (1986).

Here, defendant's motion was to set aside the judgment, not the order of default. The motion was well taken because of plaintiff's failure to give the notice required by ORCP 69B(2) after an order of default is taken. Entry of the judgment was therefore erroneous, and the court should have set it aside.

Reversed and remanded.

IN THE COURT OF APPEALS OF THE STATE OF OREGON

STATE OF OREGON,
Respondent.

PAULA MARIE DAY, 84 Co App 241
Appellant. 733 P2d 9-7
(MS-1158; CA A39279)

Appeal from District Court, Douglas County.

Robert H. Anderson, Judge.

Argued and submitted September 11, 1986.

Philip M. Suarez, Roseburg, argued the cause and filed the brief for appellant.

Carol Munson, Assistant Attorney General, Salem, argued the cause for respondent. With her on the brief were Dave Frohnmayer, Attorney General, and Virginia L. Linder, Solicitor General, Salem.

Before Buttler, Presiding Judge, and Warren and Rossman, Judges.

ROSSMAN, J.

Affirmed.

Recessed Denied 04/24/87

Pet'n. for Rev'n. by Cysler.
Denied 06/16/87

EXHIBIT PAGE 3 OF 3

ROSSMAN, J.

Defendant appeals her conviction for driving while suspended, contending that the statute under which her driver's license was suspended is unconstitutional under the Oregon Constitution. She was found to have violated ORS 471.430, which prohibits persons under 21 years of age from possessing alcohol. Because she was 17 years old,¹ her driver's license was suspended pursuant to former ORS 482.593(1),² which provided:

"Whenever a person who is 17 years of age or younger, but not younger than 13 years of age, is convicted of any offense described in this subsection or determined by a juvenile court to have committed one of the described offenses, the court in which the person is convicted shall prepare and send to the Motor Vehicles Division, within 24 hours of the conviction or determination, an order of denial of driving privileges for the person so convicted. This section applies to any crime, violation, infraction or other offense involving the possession, use or abuse of alcohol or controlled substances."

Defendant first contends that that statute violates Article I, section 20, of the Oregon Constitution:

"No law shall be passed granting to any citizen or class of citizens privileges, or immunities, which, upon the same terms, shall not equally belong to all citizens."

She does not challenge the legal authority of the legislature to pass legislation controlling alcohol possession or motor vehicle operation, see *State v. Freeland*, 295 Or 367, 667 P2d 509 (1983), but challenges the content of the statute as constituting a constitutionally impermissible classification. She contends that it violates Oregon's Privileges and Immunities Clause, either because its classification is a "suspect class" or because the statute impinges on a "fundamental right," either of which requires the court to apply the strict scrutiny test.

We turn first to defendant's suspect class argument. Here, the state has granted the privilege of driving, which,

¹ In *State ex rel Juv. Dept v. White*, 83 Or App 225, 730 P2d 1279 (1986), we held that former ORS 482.593 applied to persons up to their eighteenth birthdays.

² Former ORS 482.593 was repealed by Or Laws 1983, ch 16, § 475, and replaced by ORS 809.260, Or Laws 1985, ch 16, § 206 (which became effective January 1, 1986, Or Laws 1985, ch 16, § 476).

EXHIBIT 3
PAGE 2 OF 3

under Article I, section 20, must be available to all citizens "upon the same terms," unless a denial can be reasonably justified. *Former* ORS 482.593 denies driving privileges (or the ability to apply for the privilege) to persons who are 13 through 17 years old and are guilty of being a minor in possession. The group to whom the privilege is denied is not based on an immutable personal characteristic that can be suspected of reflecting "invidious" social or political premises, i.e., "prejudice or stereotyped prejudgments," and therefore it is not a suspect classification. See *Hewitt v. SAIF*, 294 Or 33, 45, 653 P2d 970 (1982).

Because the classification is not suspect, the question is whether the legislative distinction "bears a rational relationship to some legitimate state interest." *Ritchie v. Board of Parole*, 35 Or App 711, 717, 583 P2d 1 (1978), *adhered to as modified* 37 Or App 385, 587 P2d 1036 (1978). See *Olsen v. State ex rel Johnson*, 276 Or 9, 19, 554 P2d 139 (1976). We will not hold it invalid "if any state of facts reasonably may be conceived to justify it." *Brown v. Portland School Dist. #1*, 48 Or App 571, 576, 617 P2d 665 (1980), *rev'd on other grounds* 291 Or 77, 628 P2d 1183 (1981).

The legislative history reveals that the law was intended to meet two goals: deterrence of drug and alcohol possession and use among young people and promotion of highway safety. Both goals are legitimate. The legislature considered the sanction appropriate to meet these goals because of the lack of other meaningful penalties for the group and the recognition that driving is a privilege young people do not want to lose. We hold that *former* ORS 482.593 is rationally related to legitimate state interests.

As a separate challenge, defendant argues that the ability to drive is a "fundamental right" and that, under Article I, section 20, any infringement of that right must be subjected to strict scrutiny. This federal "fundamental rights" analysis does not apply to privileges and immunities challenges under the Oregon Constitution. In *Olsen v. State ex rel Johnson*, *supra*, the court instead balanced the interest involved against the state's justification for denying the interest to a certain group.

Thus, we balance the privilege of driving against the justification for denying it to persons 13 to 17 years of age who

are convicted of minor in possession. We conclude that the interest in possessing an operator's license, although an important entitlement, is outweighed by the state's goals of promoting highway safety and deterring drug and alcohol possession and use by those between the ages of 13 and 17. Accordingly, we hold that *former* ORS 482.593 does not violate Article I, section 20.

Defendant also argues that the statute violates Article I, section 16, of the Oregon Constitution, which provides in pertinent part:

"Cruel and unusual punishments shall not be inflicted, but all penalties shall be proportioned to the offense."

She contends that the license suspension penalty is out of proportion to other penalties for more serious conduct. Juveniles are subject to legal consequences in the juvenile system, including detention or other loss of personal freedom, for misconduct that would not constitute a crime if committed by an adult, e.g., the status offense of being a runaway. A loss of driving privileges for conviction of minor in possession is not a disproportionate penalty when compared to the loss of liberty that can be imposed for other offenses.³

Affirmed.

³ Defendant also contends that the statute violates Article I, section 16, because the penalty is not related to the offense. It is.

EXHIBIT 3 OF 3
PAGE 3

Michael D. PRAETE, Movant,

v.

COMMONWEALTH of
Kentucky, Respondent.

Jon T. EMNETT, Movant,

v.

COMMONWEALTH of
Kentucky, Respondent.

Court of Appeals of Kentucky.

Jan. 9, 1987.

On discretionary review from orders of the Circuit Court, Taylor County, William M. Hall, J., and the Circuit Court, Fayette County, Armand Angelucci, J., the Court of Appeals, Wilhoit, J., held that statute relating to revocation of driver's license upon conviction for driving under the influence, by providing for potentially harsher penalties for drivers under age 18, did not violate equal protection, did not constitute special legislation and did not contravene prohibition against cruel and unusual punishment.

Affirmed.

1. Constitutional Law ⇨230.5

Automobile drivers under age of 18 do not constitute suspect class for purposes of equal protection analysis. U.S.C.A. Const. Amend. 14.

2. Automobiles ⇨132

Constitutional Law ⇨230.5

Criminal Law ⇨1213.2(1)

Statutes ⇨77(1)

Statute relating to revocation of driver's license upon conviction for driving under the influence, by providing for potentially harsher penalties for drivers under age 18, did not violate equal protection, did not constitute special legislation and did not contravene prohibition against cruel and unusual punishment. KRS 189A.070, 189A.070(1, 2); U.S.C.A. Const. Amends. 8, 14; Const. § 17.

Phil Allan Bertram, Bertram & Cox, Campbellsville, for movant Michael D. Praete.

Jim M. Alexander, Alexander & Schreiner, Lexington, for movant Jon T. Emmett.

David L. Armstrong, Atty. Gen., Kay Winebrenner, Asst. Atty. Gen., Frankfort, for respondent Com.

Before CLAYTON, HAYES and WILHOIT, JJ.

WILHOIT, Judge.

These two cases are before the Court on discretionary review from an opinion and order of the Fayette Circuit Court and of the Taylor Circuit Court which affirmed orders of the respective district courts. The only question presented is whether KRS 189A.070 is unconstitutional.

Section (1) of KRS 189A.070 provides that if a person 18 years of age or older is convicted of operating a motor vehicle while under the influence of alcohol or other impairing substance, that person's driver's license shall be revoked for six months for the first offense, 12 months for the second, and 24 months for subsequent offenses. Section (2) of the statute provides that if a person under the age of eighteen is convicted of such an offense, his driver's license shall be revoked until he reaches the age of 18 or for the period of time set out in Section (1), whichever is longer.

The movants contend that the statute's disparate treatment of drivers under the age of 18 and those over that age offends both the Constitution of the United States and the Constitution of Kentucky. They maintain that the equal protection guarantee of the Fourteenth Amendment to the United States Constitution is violated because the statute has created a "suspect classification" (drivers who have not yet reached the age of majority), which requires strict scrutiny by the courts, and that there is no rational basis for not imposing the same penalty upon all drivers who are under the legal age for drinking

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PRAETE v. COM.

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Cite as, Ky App., 722 S.W.2d 602

(21), rather than singling out those who are under 18 for potentially harsher treatment.

[1] We do not believe that automobile drivers under the age of 18 constitute a suspect class for purposes of equal protection analysis. See *Massachusetts Board of Retirement v. Murgia*, 427 U.S. 307, 96 S.Ct. 2562, 49 L.Ed.2d 520 (1976); hence, we must consider only whether the statute's treatment of those under 18 is so unrelated to the achievement of any legitimate purpose that we can only conclude that the legislature's actions were irrational. See *Vance v. Bradley*, 440 U.S. 93, 99 S.Ct. 939, 59 L.Ed.2d 171 (1979).

[2] The opinion of Judge Angelucci of the Fayette Circuit Court points out as well as could we why the statute does not fail the "rational basis test." That opinion held as follows:

While it is true that individuals between the ages of eighteen and twenty-one cannot legally purchase alcoholic beverages in Kentucky, under KRS 2.015 they are deemed to be adults for all other purposes unless they are handicapped. Those between the ages of sixteen and eighteen, on the other hand, are still deemed to be minors and the legislature may reasonably regard them as a class requiring closer supervision than those over the age of eighteen. More importantly, the legislature may properly decide that members of the general public are entitled to greater protection from those minors who have demonstrated a lack of maturity in both the consumption of alcohol and the operation of a motor vehicle upon the highways of the state.

For these same reasons the statute does not constitute special legislation in contra-

vention of Section 59 of the Kentucky Constitution. The statute applies equally to all drivers who have not attained the age of majority, and as pointed out by Judge Angelucci, there are distinctive and natural reasons, based upon a consideration of maturity, or rather a lack thereof, for making such a classification. As also pointed out, the classification bears a reasonable relationship to the legislative purpose of protecting public safety. See *Schoo v. Rose*, Ky., 270 S.W.2d 940 (1954). Likewise, the statute does not violate Section 3 of the Kentucky Constitution. See *Markendorf v. Friedman*, 280 Ky. 484, 133 S.W.2d 516, 127 A.L.R. 416 (1939).

Finally, we do not believe that the statute contravenes the prohibition against cruel and unusual punishment found in the Eighth Amendment to the United States Constitution, or Section 17 of the Kentucky Constitution. For one thing, the penalty imposed upon those under 18 does not shock the conscience, neither is it greatly disproportionate to the offense, nor does it go beyond what is necessary to achieve the legislative intent. See *Workman v. Commonwealth*, Ky., 429 S.W.2d 374, 33 A.L.R.3d 326 (1968).

The judgments of the trial courts are affirmed.

All concur.



EXHIBIT 4
PAGE 1 OF 2

ACCIDENTS BY DRIVER AGE GROUPS
1986

DRIVER AGE	DRIVERS INJURY ACC	DRIVERS FATAL ACC	DRIVERS TOTAL ACC	% OF TOTAL INJURY	% OF TOTAL FATAL	% OF TOTAL ACC	DRIVERS ALC INJ	DRIVERS ALC ACC	DRIVERS TOTAL ACC	% OF ALC INJ	% OF ALC ACC	% OF ALL ACC	TOTAL DRIVER LICENSES	% OF LICENSES
0-20	1,010	25	3,505	16.6%	10.0%	14.5%	95	1	207	14.1%	14.6%	13.9%	25,875	6.7%
21-30	2,115	53	8,075	34.7%	38.1%	32.7%	300	19	636	43.4%	46.3%	42.7%	103,321	26.6%
31-40	1,551	32	6,137	25.5%	23.0%	24.9%	170	11	344	26.9%	22.6%	23.1%	125,906	32.7%
41-50	696	12	2,884	11.4%	6.6%	11.7%	44	4	129	6.7%	23.5%	8.7%	69,502	19.1%
51-60	338	13	1,433	5.5%	7.4%	5.8%	15	0	44	2.3%	0.0%	3.6%	36,015	9.4%
61-70	179	0	654	2.5%	0.0%	2.6%	9	0	22	1.4%	0.0%	1.5%	18,047	4.7%
70+	66	2	245	1.1%	1.4%	1.0%	2	0	6	0.3%	0.0%	0.4%	6,055	1.6%
UNK	139	2	1,670	2.3%	1.4%	6.6%	20	1	103	3.0%	2.4%	6.9%	0	0.0%
TOTAL	6,094	139	24,725	24.5%			661	41	1,451	44.3%	2.7%	6.0%	385,186	

EXHIBIT 5
PAGE 1 OF 2

PERCENT OF DRIVER BY AGE GROUP

INVOLVED IN ALCOHOL ACCIDENTS

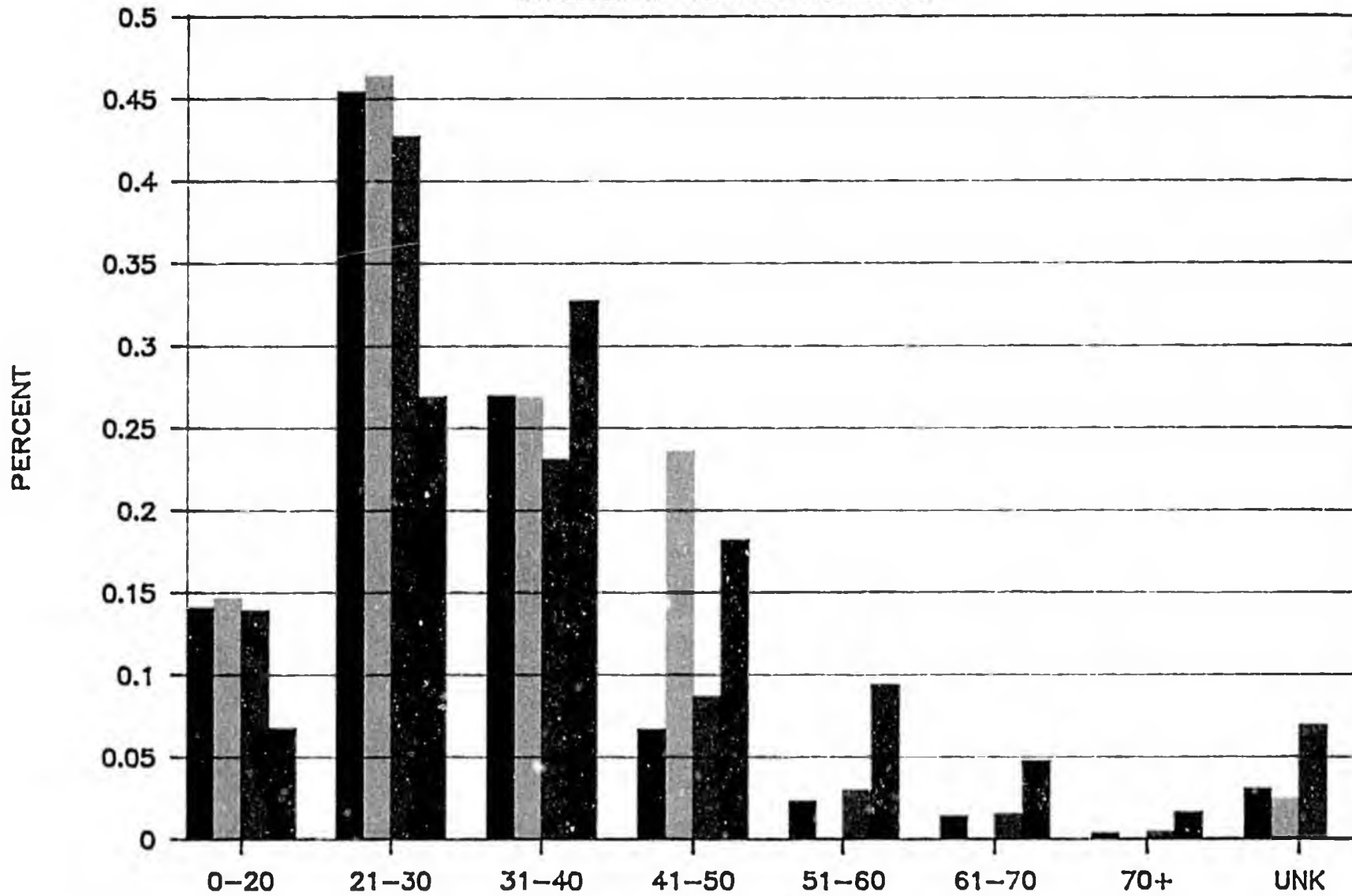


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EXHIBIT 5 OF 2
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Confidential

Adolescent Drug-Taking Behavior Followup Study

Juneau: Grade 7 thru 12



Bernard Segal, Ph.D.
 The Center for Alcohol and Addiction Studies
 University of Alaska Anchorage
 October, 1987

Get him down here

Funded by a grant from the State Office of Alcoholism and Drugs Abuse,
 Department of Health and Social Services

*Segal working on
 general conclusions
 for all districts*

Preface

Adolescent Drug-Taking Behavior Followup Study (Preliminary Findings)

During 1981 and 1982 an extensive statewide study, sponsored by the State Office of Alcoholism and Drug Abuse (SOADA), was undertaken by the Center for Alcohol and Addiction Studies (CAAS) to estimate the prevalence of drug-taking behavior among Alaskan youth. A comprehensive report of the findings was released in 1983 (Segal et al., 1983). That research involved eight widely separated urban and rural school districts representative of the different regions of Alaska, except for the Aleutian chain. The locations were Anchorage, Juneau, Bethel, Fairbanks, Juneau, Kotzebue, Nome, and Sitka. These sites were selected in order to obtain a representative sample of the state's junior and senior high school students. This research also served to establish baseline information about drug-taking behavior among Alaskan youth so that comparisons could be made with subsequent studies.

The present research, also under the auspices of a grant from SOADA, is a follow-up study of the initial study undertaken during 1981-1982. The overall aims of the current study are: (1) to assess the nature and extent of current drug-taking behavior among Alaskan youth, (2) to compare the current findings with the initial study of drug-taking behavior, (3) to examine psychosocial characteristics associated with use and nonuse of chemical substances, and (4) to explore some of the implications that the findings have for prevention of substance abuse. Some of the specific objectives are:

- (1) To obtain demographic and socialization information about adolescents in grades 7 - 12 relative to use or nonuse of chemical substances.
- (2) To obtain information on the prevalence of specific chemical substances, including alcohol and tobacco.
- (3) To obtain data relating to the patterns of drug-taking behavior, including alcoholic beverages and tobacco products.
- (4) To obtain data relating to actual or perceived peer group use of specific drugs, including alcohol and tobacco.
- (5) To obtain information on the consequences of drug-taking behavior.
- (6) To obtain information about which factors serve to contribute to or mitigate against drug-taking behavior.

The preliminary results of the study pertaining to Juneau students is presented as a confidential report to the Juneau Borough School District. The findings will not be made public in any manner by CAAS, and will not be presented in any way that will allow Juneau to be identified in published documents. If the school district chooses to make the findings public, only then will the information be in the public domain.

This document presents a summary of the major findings, specifically focusing on substance use, alcohol, and tobacco. Comparisons will be made with previous findings and with findings from other Alaska communities. A complete report of the findings will be released by SOADA upon the study's completion. Additional findings pertaining to Juneau will be forwarded after further analysis of the data is completed.

I would like to express my appreciation to the Juneau Borough Schools for enabling me to include Juneau in this follow-up study.

Bernard Segal, Ph.D.
Principal Researcher and,
Director, Center for Alcohol and Addiction Studies

Introduction

The apparent ongoing use of mind-altering substances in the United States, particularly by youth, has continued to challenge the efforts of educators, health professionals, law enforcement agencies, and governmental authorities, to deal with the problem. Despite significant efforts at prevention of drug abuse, it is patently clear that some youth will try drugs, and that a few will continue to use them to the point where they become substance abusers. From large surveys conducted in the United States, we have seen that there was an upward trend in the use of illicit drugs that began during the 1970s, which reached its peak in the 1980s. There is still considerable concern that while the use of many illicit psychoactive substances is beginning to decline, others such as cocaine are just beginning to stabilize, or even show modest increases in use.

This study provides an opportunity to review what is happening within Alaska with respect to the use of illicit psychoactive substances and about drinking and use of tobacco products among the state's adolescent population. It is envisioned that these findings will be useful to both the state and school districts in their efforts to address the continuing problem of drug use among adolescents.

It is important to note that the findings reported herein are based on self-report questionnaires. Although the research literature continues to indicate that such data are valid, a note of caution should be introduced. The findings can only reflect what the adolescent respondents say they think they have taken, and not what was actually used. It is well known that counterfeit and lookalike drugs exist, and that youngsters may have taken such substances thinking that they were the "real thing." In this instance what is important is that drug-taking behavior occurred, and that it was reported as having had occurred. Furthermore, it is always possible that some adolescents who may have tried a chemical substance may not have reported such use, or that some students may have either over- or under-reported their use. Each questionnaire was reviewed for consistency of responses to attempt to obtain reliable and valid data.

Confidentiality and Anonymity

The purpose of this research was to gain an understanding of drug-taking behavior among Alaskan Adolescents, and not to identify those who use or have tried a drug. Considerable effort was undertaken to obtain the most reliable and valid responses from the students choosing to participate in the study by ensuring their anonymity and confidentiality. The student's names were not asked for in any phase of the research, nor were any identifying measures used except to identify the community in which surveying was undertaken. The only

Identifying information on the questionnaire was age, gender, grade, and ethnicity, none of which could be used to identify any single student.

Method

Questionnaire

The questionnaire used in the 1987 study was similar to the one used in the previous study, but with a different format. The questionnaire was designed to be self-administered and restricted to an administration time of one class period (about 50 minutes). The types of data items outlined below were collected through the questionnaire shown in Appendix A.

(1) Demographic

This section included question that inquired about: gender, ethnic background, age, participation in drug education programs, grades obtained, and length of time lived in community.

(2) Drug Usage

Information on drug usage included an extensive set of question on nonprescriptive or social/recreational use of marijuana, cocaine, crack, stimulants, hallucinogens, depressants, heroin, inhalants, and tranquilizers, with specific reference to recency and frequency of use, problems from use, age of first use, and level of peer use.

(3) Alcohol

This section includes information about the quantity and frequency of consumption, and about some adverse consequences of drinking.

(4) Tobacco

Information on cigarette smoking and on use of smokeless tobacco products, including the quantity and frequency of use.

(5) Personality Items

The use or nonuse of drugs is in part influenced by personality characteristics. The incorporation of a measure of personality attributes facilitates an evaluation of what personality traits are related or unrelated to nonuse of drugs and to differing pattern of drug use.

The Sample

Sampling within the Juneau schools was undertaken by the School District itself, utilizing the method of stratified random sampling to obtain a representative sample of students in grades 7-12. Stratification was based on class and gender. A total of 418 completed questionnaires were obtained. A response rate cannot be provided because the total number of students asked to complete the questionnaire is not known. Additionally, since the total

number of students in grades 7-12 is not known, it is not possible to report what percentage of the total population of students in grades 7-12 is represented in the sample. A description of the samples follows.

Characteristics of the Juneau Student Sample

<u>Gender</u>	<u>N</u>	<u>%</u>	<u>Ethnicity</u>	<u>N</u>	<u>%</u>	<u>Grade</u>	<u>N</u>	<u>%</u>
Males	199	47.6	Alaska Native	41	10.0	7	86	20.6
Females	218	52.2	White	317	75.8	8	88	21.1
Unreported	<u>1</u>	<u>.2</u>	Am. Indian	11	2.6	9	70	16.7
Total	146		Asian-Pacific	21	5.0	10	66	15.8
			Black	10	2.4	11	78	18.7
			Hispanic	6	1.4	12	29	6.9
			Other	6	1.4	NR*	1	.2
			Not reported	6	1.4			

*Not reported

Participation by School, Gender*, and Grade*

<u>School</u>	<u>Grade</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>11</u>	<u>12</u>	<u>Total</u>
Drake								
Males		21	22					43
Females		22	27					49
Dryden								
Males		20	17					37
Females		23	21					44
J. Alternative								
Males			1	19	1			21
Females				15	0			15
Juneau-Douglas H.S.								
Males				11	37	37	13	98
Females				25	28	41	16	110
Total:		86	88	70	66	78	29	417
Males								199
Females								218

*One student did not report gender, and one did not indicate grade.

The extent to which this sample is representative of the school district's student population cannot be estimated because the actual class sizes and

representation by gender are unknown. What is evident, however, is that the sample is that seniors are underrepresented and, overall, more females than males are represented in the sample.

Results

Part I. Chemical Substances

Opportunity to Try and Trying Drugs

Trying mood-altering drugs does not occur without an opportunity to be exposed to such substances. After exposure, a choice is then made to try or not try a given drug. Table 1, which is represented graphically in Figure 1, presents the findings with respect to the number of students who indicated that they had an opportunity to try one or more of the different mood-altering substances listed in the questionnaire. A comparison with the 1982 findings is also presented.

Inspection of the findings indicate that some changes in students' opportunity to try, or exposure to, chemical substances has occurred since 1982. Most noticeable is the increase in opportunities to try inhalants (+18.9%), which is almost doubled since 1982. A large increase in opportunities to try tranquilizers (+11.0%) has also taken place. In contrast, opportunities to try cocaine decreased since 1982 (-4.5%). Although some other changes have also occurred, the nature of these shifts suggest that exposure to these substances has remained fairly constant. Overall, what these findings suggest is that adolescents may be trying to keep up with current drug trends or "fads." It is thus possible that an actual increase in the actual available of these substances has not occurred, but that the changes reported by the students reflects a shift in their pattern of use.

Lifetime Experience (Prevalence)

(1) Prevalence of Use: Trying One or More Drugs

Figure 2A shows how many respondents reported actually having tried one or more chemical substances. Presently, 58.4 percent of those surveyed, over half of the sample, reported having tried one or more of the chemical substances listed in the questionnaire during their lifetime. The number of students reported having tried one or more drugs in 1982 was 42.6 percent. The difference between the two statistics represents an increase of 15.8 percent (over a five year period). Table 2 shows the patterns of use reported by the students.

(2) Lifetime Prevalence: (Ever vs. Never Trying a Chemical Substance)

Table 2, accompanied by Figure 2B, indicates how many adolescents in the

Table 1
Opportunity to Try and Trying Drugs:
Comparison of 1982 and 1987 Findings
Juneau Schools
Grades 7-12

<u>Drug</u>	<u>1987</u> (n=418) Percent of Sample <u>Having a Chance to Try</u>	<u>1982</u> (n=298) Percent of Sample <u>Having a chance to Try</u>
Marijuana	69.4	68.7
Hallucinogens	25.1	26.5
Cocaine	30.1	34.6
Heroin	8.6	9.1
Inhalants	47.4	28.5
Stimulants	46.2	44.6
Depressants	22.7	18.1
Tranquilizers	24.2	13.4
Crack	1.4	--

Figure 1
Juneau Schools
Opportunity to Try Chemical Substances
Comparison of 1987 and 1982 Findings
Grades 7-12

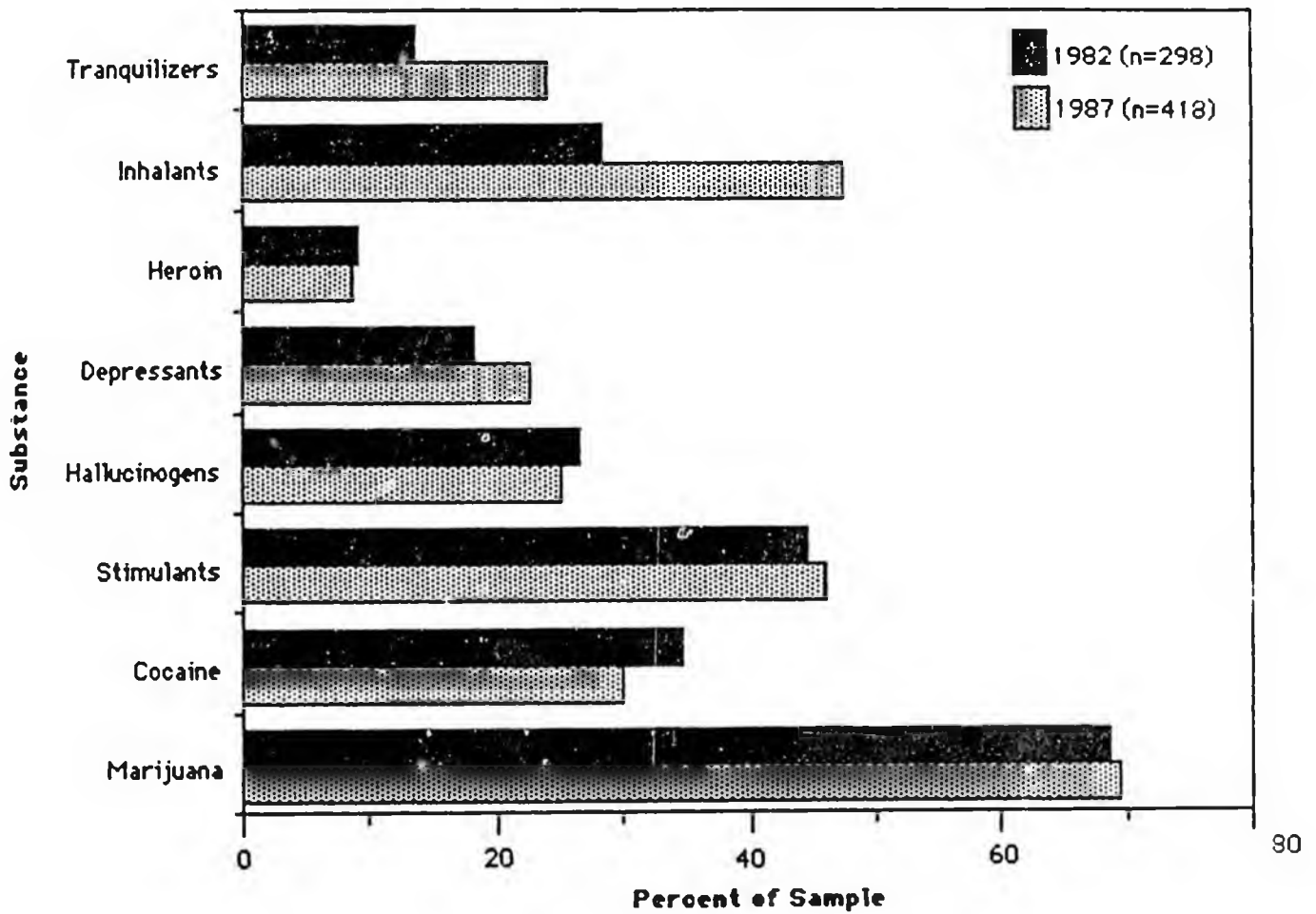


Figure 2A
Juneau Schools
Lifetime Experience with One or More Chemical Substances
Grades 7-12

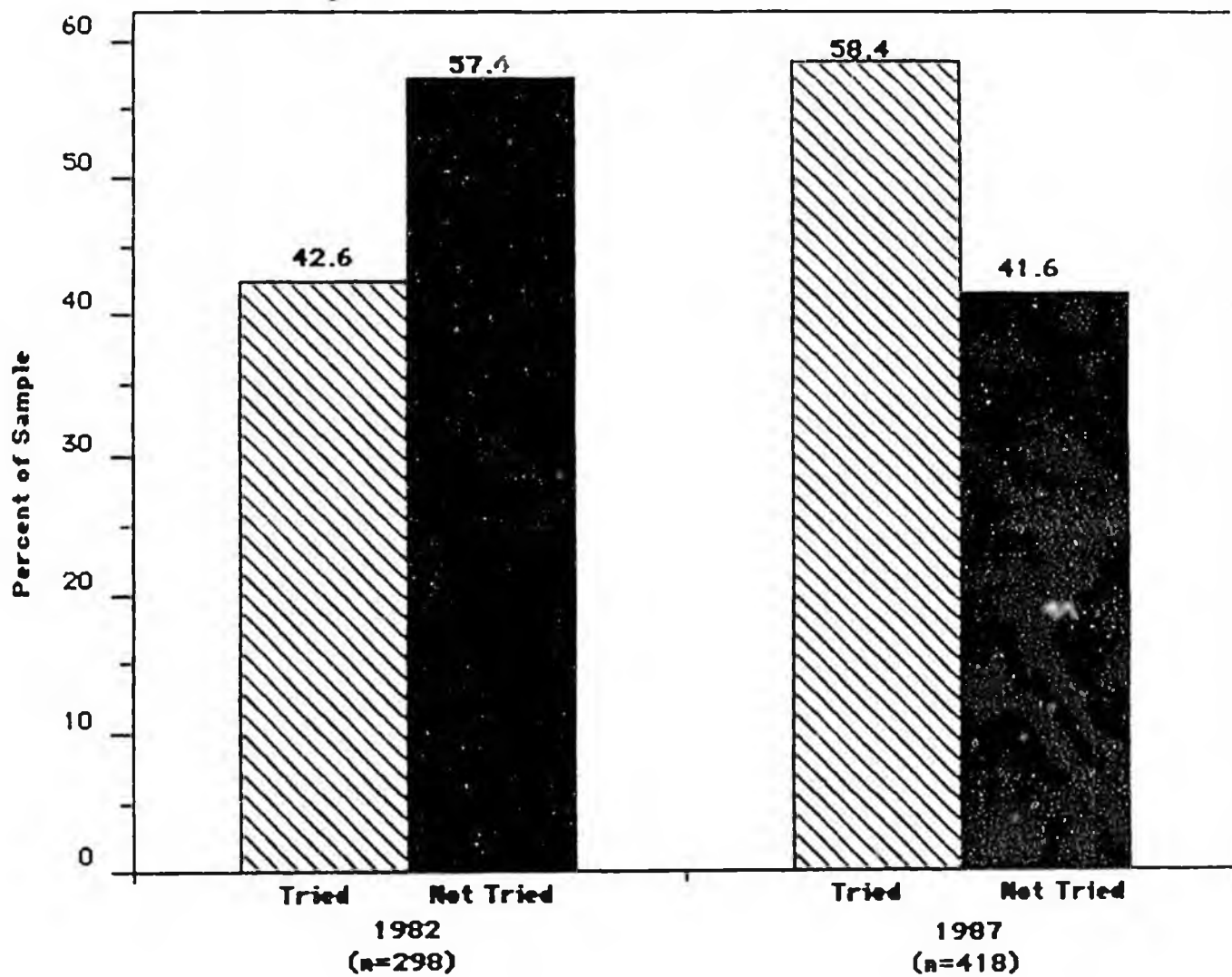
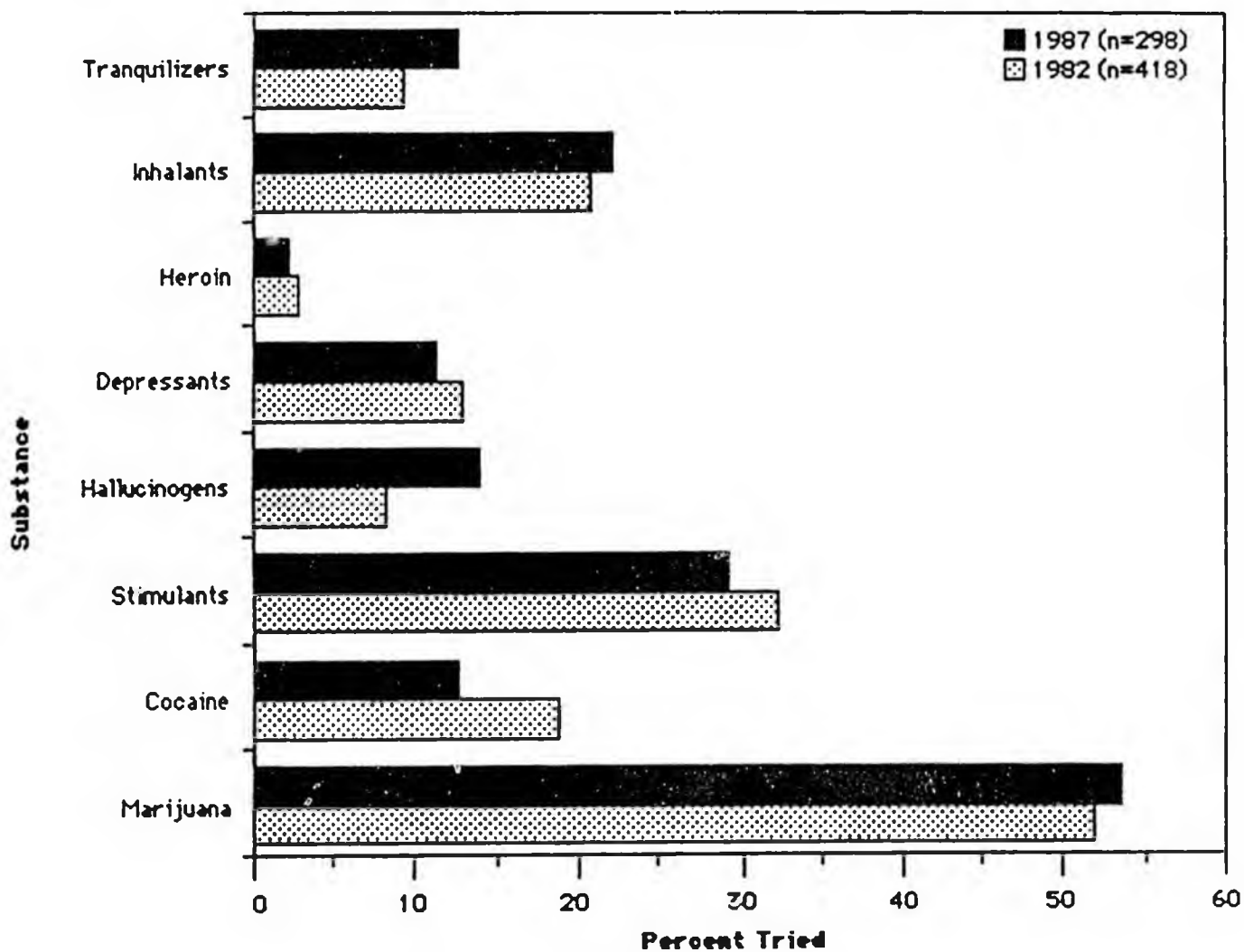


Table 2
Lifetime Experience with One or More
Chemical Substances
1982 and 1987
Juneau Schools
Grades 7-12

<u>Drug</u>	<u>Lower*</u> <u>Limit</u>	<u>1987</u> <u>(n=418)</u>	<u>Upper*</u> <u>Limit</u>	<u>1982</u> <u>(n=298)</u>	<u>Change</u>
Marijuana	48.5	53.3	58.1	51.7	+ 1.6%
Hallucinogens	10.6	13.9	17.2	8.1	+ 5.8%
Cocaine	9.5	12.7	15.9	18.8	- 6.1%
Heroin	0.8	2.2	3.6	2.7	- .5%
Inhalants	18.2	22.2	26.2	20.8	+ 1.4%
Stimulants	25.0	29.4	33.8	32.2	- 2.8%
Depressants	8.2	11.2	14.2	12.8	- 1.6%
Tranquilizers	9.5	12.7	15.9	9.4	- 3.3%
Crack	0.3	1.4	2.5	--	--

*95% Confidence Interval. These figures represent the lower and upper confidence intervals within which the true population value lies (95 out of 100 times).

Figure 2B
Juneau Schools
Lifetime Experience with One or
More Chemical Substances
Comparison of 1982 and 1987 Findings
Grades 7-12



sample indicated having tried one or more of the different substances during their lifetime. (Also incorporated in Table 2 are the upper and lower confidence levels for the statistics obtained from the 1987 sample. These figures represent the range within which the true population value would be found 95 out of 100 times.) Based on these findings it is clear that marijuana was the most commonly experienced drug, but that the number of adolescents trying it has increased very slightly since 1982 (+1.6%). The largest increase in lifetime experience was for hallucinogens (+5.8%). Experiences with cocaine have shown a decrease (-6.1%), and stimulant use has also declined (-2.8%). Inhalants have shown a modest increase of 1.4%.

The overall pattern of use, however, has generally remained the same since the initial study. Marijuana, stimulants, and inhalants, continue to be the top three drugs tried, respectively. Cocaine, which was fourth in 1982, is presently tied for fifth place with tranquilizers. The decline in the prevalence of cocaine is consistent with national trends indicating a decrease in its use among youth (NIDA, 1987).

Number of Drugs Tried

Figure 3 shows the number of drugs tried by gender. The largest number of students tried only one drug, with males exceeding females by 14.2%, but more females tried two or three drugs than males. An equal number of males and females have tried four drugs (50%), after which the pattern varies between males and females as to who had tried more drugs. After four drugs, however, as the number of drugs tried increases, the number of students trying five or more drugs decreases.

Experience With Drugs by Grade

Figure 4A provides a report of drug use according to grade and gender. What this table describes is the percentage of students who have tried one or more drugs by the time they have reached their current grade level. Inspection of the data shows that as grade level increases there is a corresponding increase in drug-taking behavior. The increase between grades 7 - 10 is particularly striking, increasing at what appears to be a consistent rate of about 6 percent per year. Although there is a slight decrease in the number of students who tried drugs by the 11th grade, this decline is offset by a slight increase in drug use among seniors (12th grade).

Experience with Drugs by Gender Within Grade Levels

Figure 4B expands the data in Table 4A by including gender. As can be observed, in the early grades (7 and 8) males tend to have tried more drugs than females, but that by the 9th and 10th grades, females begin to exceed males with respect to experiences with chemical substances. These two grades also appear to be the grades levels during which drug-taking behavior

Figure 3
Number of Drugs tried by Gender
Juneau Schools
Grades 7-12
1987

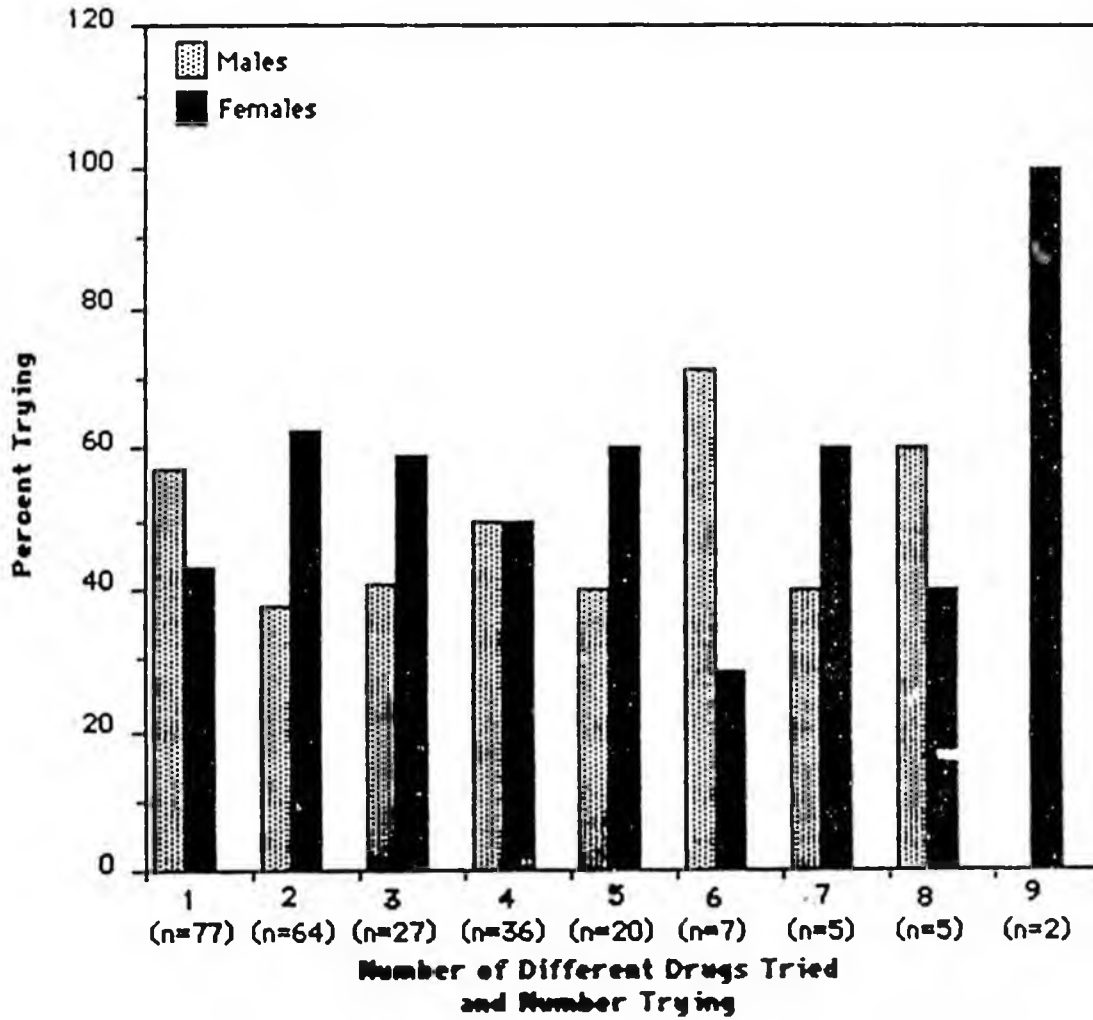


Figure 4A
Experience with Drugs by Grade
Juneau Schools
Grades 7-12
1987

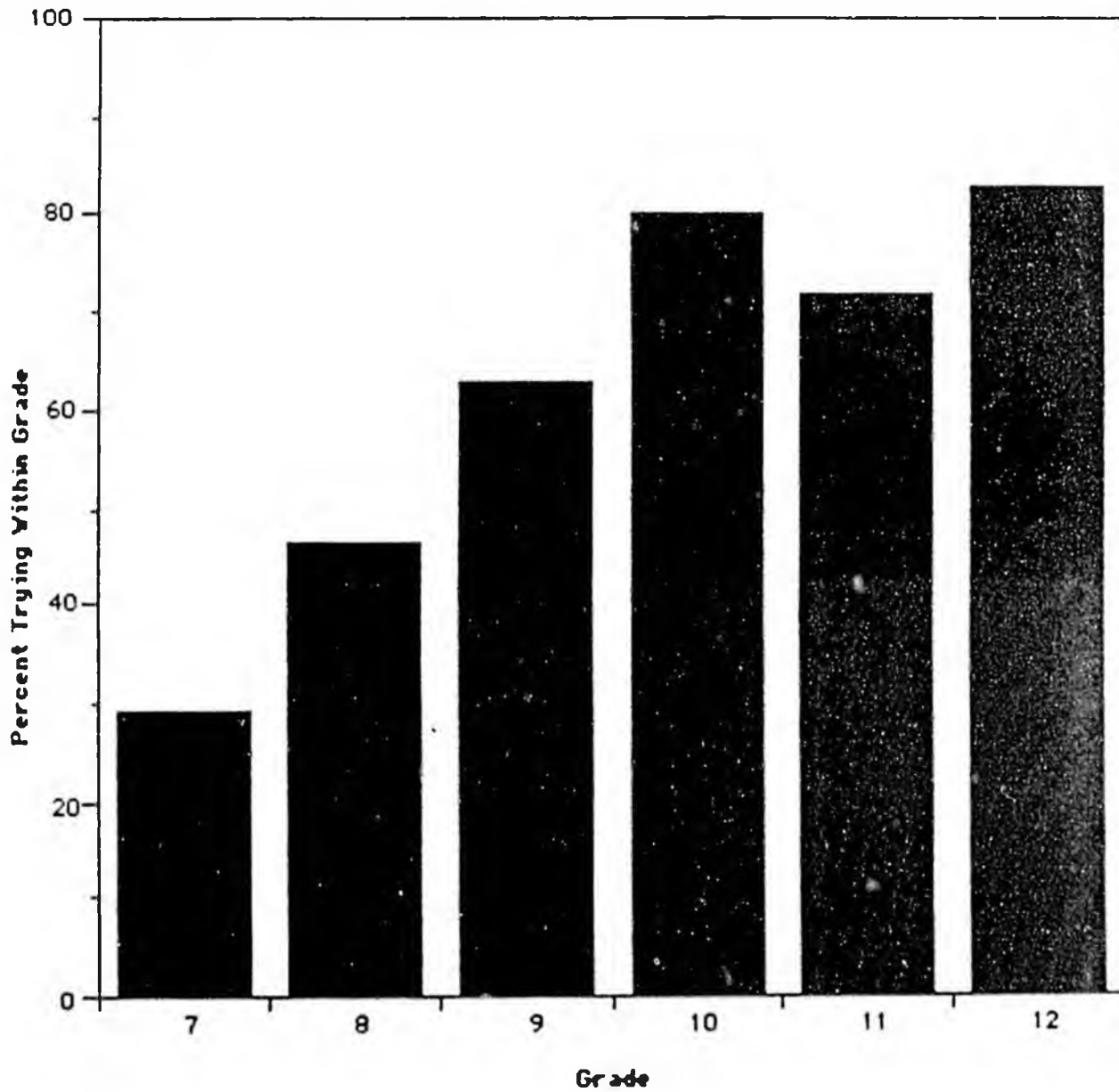
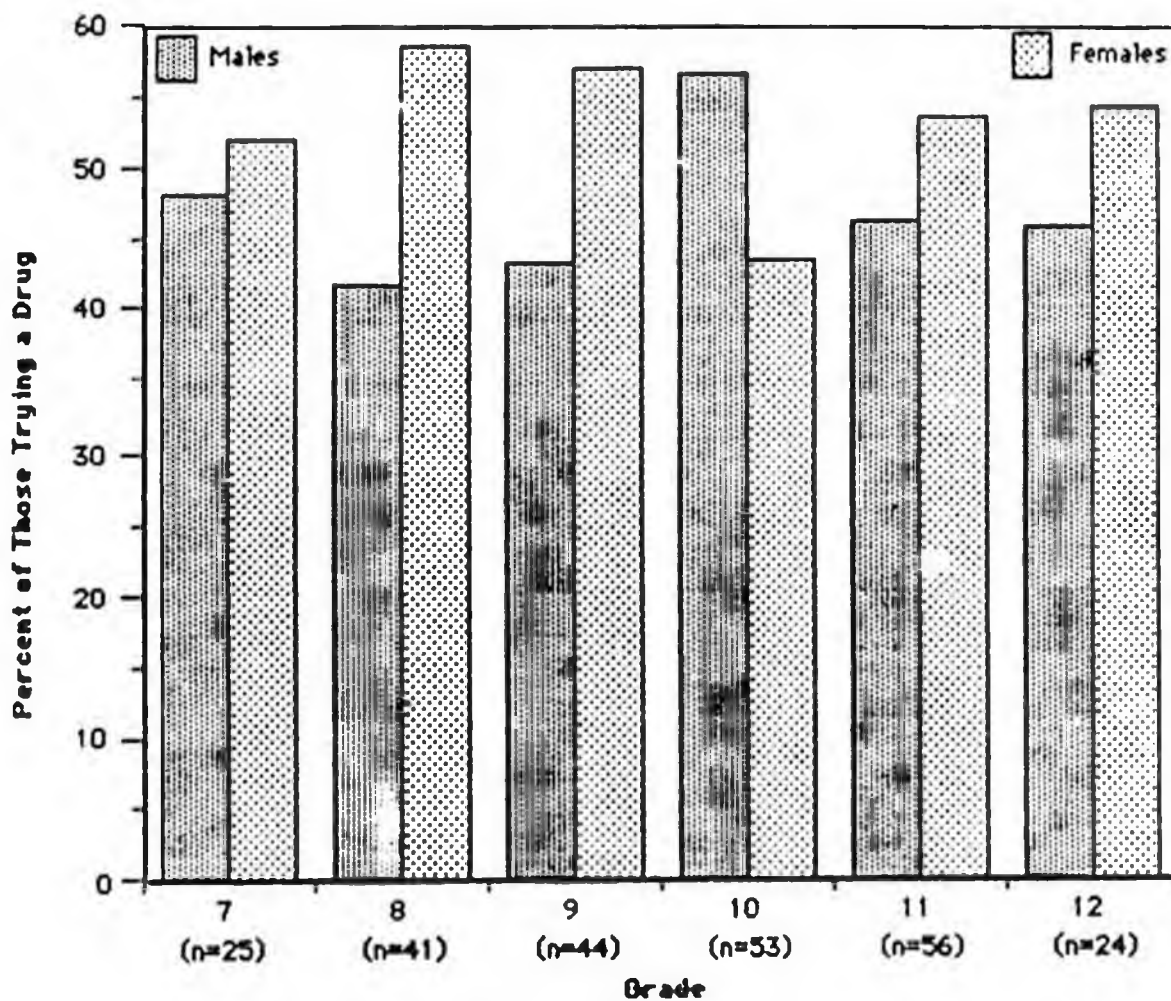


Figure 4B
Experience with Drugs by Gender and Grade
Juneau Schools
Grades 7-12
1987



begins to peak. By the 11th and 12th grades drugs-taking behavior begins to decline, with more females having experienced drugs in the 11th grade than males. This process is dramatically reversed in the 12th grade where females exceeded the number of males with respect to drug-taking behavior.

Frequency and Recency of Use

The report thus far has described data pertaining to lifetime experience with drugs, that is, ever having tried one or more drugs without respect to the number of times tried or how recently a drug may have been taken. This section focuses on how many times respondents reported having used a drug during the month prior to sampling (past month), during past year, and during their lifetime. The data is based on an analysis of the reports of use by those adolescents who have indicated that they have tried any substance. Both crack and heroin were not included because of their low prevalence rates. It should be noted that the reports of lifetime experience, past year, and past month experiences may not have been treated as mutually exclusive categories by the respondents. Therefore the data presented may reflect a summation of experiences, in which an individual reported that he or she tried a substance once during their lifetime, which occurred either during the past year or past month or both. It is imperative to recognize that the following seven figures (5A-5G) depict three unique percentages (lifetime, past year, past month) derived from the total number of students who ever tried each of the substances. The number of students who have ever tried each substance for the given time period is included in the legend within each figure.

1. Marijuana

Figure 5A shows the distribution of reports of frequency and recency of use of marijuana. What is evident is that the prevalence of marijuana has been high, and that both experimental and regular use has occurred. Experimental use (1-2 times) was highest during the past month, suggesting ongoing infrequent or experimental use. In contrast to this pattern, a large number of students have used marijuana more extensively. Over 30% of those having used marijuana did so 40 or more times during their lifetime, over 20 percent did so during the past year, and slightly over 5 percent reported having used marijuana forty or more times during the past month. Overall, many students have apparently tried and continue to use marijuana, following a pattern that ranges from infrequent to what may be termed "regular" use.

2. Cocaine

Table 5B shows that of those adolescents who have indicated having tried cocaine at some point in their life, the clear majority do so experimentally or infrequently (five times or less). Of these, 80 percent had tried it during the past month, over 50 percent reported having tried it during the past year, and over 40 percent had tried it at some point during their lifetime. A small

Figure 5A
Frequency and Recency of Marijuana Use
Juneau Schools
Grades 7-12
1987

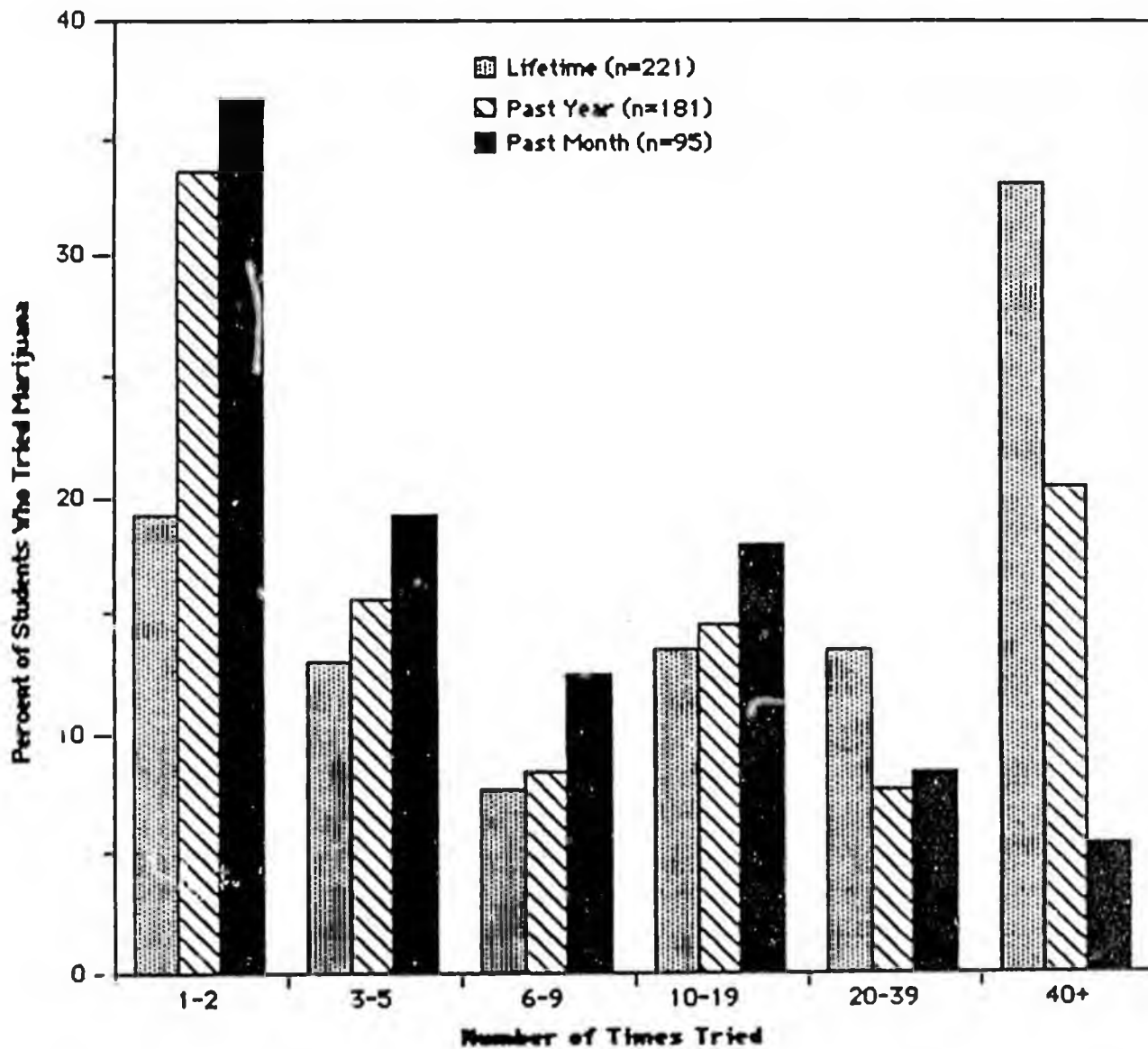
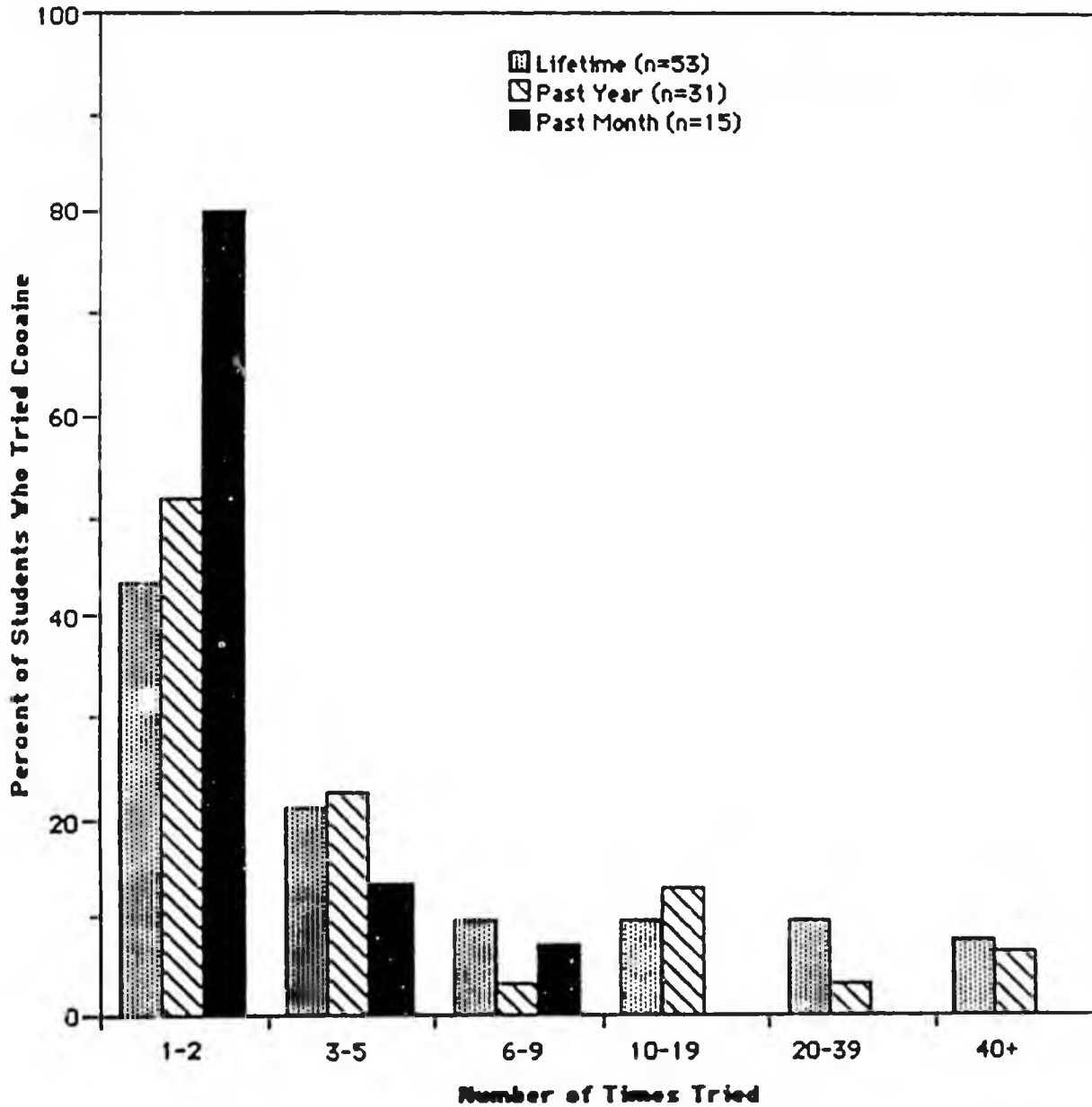


Figure 5B
Frequency and Recency of Cocaine Use
Juneau Schools
Grades 7-12
1987



number of students (6.7%) have indicated that they used cocaine 6-9 times during the past month. More frequent use of cocaine has occurred among a small number of students one or more years ago.

3. Stimulants

Figure 5C reports on the pattern of stimulant use. As can be observed, among those who indicated having tried stimulants a large percentage of have done so experimentally (less than five times) during the past month and year. More recent and frequent is also reported by a small number of students, some of which occurred during the past month.

4. Hallucinogens

An active pattern of hallucinogen use is evident among the number of students who reported having tried a hallucinogenic substance. The results, shown in Figure 5D, indicate that the predominant level of use has been one or two times, but 75% of those who have tried it did so during the past month. More recent and frequent use is also reported, with 6.3 percent having used such substances 10-19 times during the past month. More extensive use has also occurred, but this has taken place a year or more ago.

5. Depressants

The predominate mode of experience with depressant substances, as shown in Table 5E, appears to be primarily experimental (1-2 or 3-5 times), but some students have used depressants more extensively.

6. Inhalants

Inhalant use, as revealed in Table 5F, shows a varying pattern of use, ranging from infrequent (1-2 times) during the past month to more frequent (40+ times) during the past month. The overall pattern suggests that an active involvement with inhalant substances is occurring.

7. Tranquilizers

Figure 5G shows that use of tranquilizer type drugs has been chiefly experimental, but that students have used it within the past month, and that a small number have also used such substances extensively.

In summarizing the findings pertaining to recency and frequency of drug-taking behavior, it appears that there is a mixed pattern of ongoing experimental and more sustained use of most substances. The substances used most recently and with greater frequency are marijuana, cocaine, stimulants, hallucinogens, and inhalants.

Age of First Experience With Marijuana, Stimulants, and Inhalants

Figure 6 shows the ages with which respondents indicated having first tried

Figure 5C
Frequency and Recency of Stimulant Use
Juneau Schools
Grades 7-12
1987

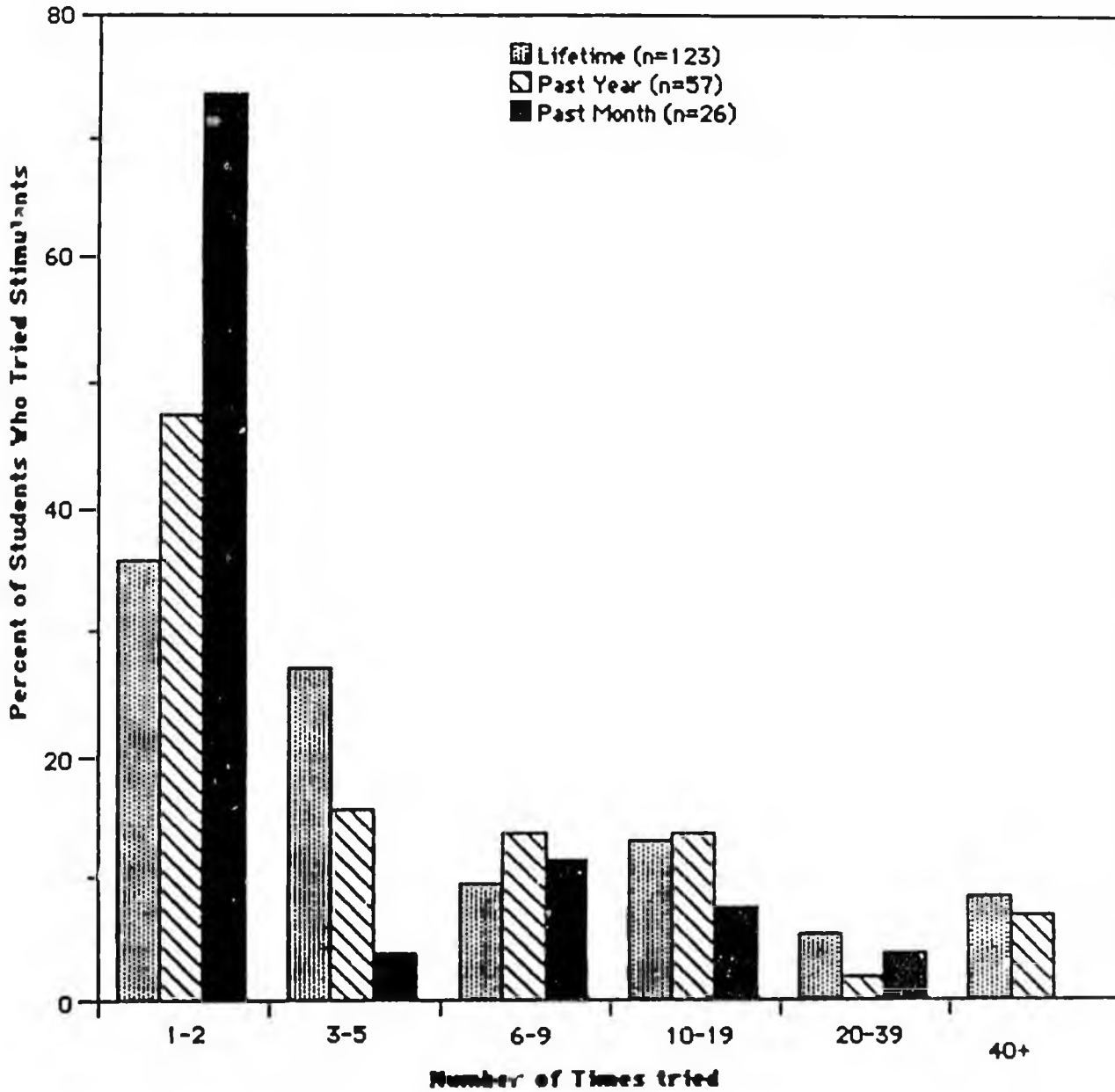


Figure 5D
Frequency and Recency of Hallucinogen Use
Juneau Schools
Grades 7-12
1987

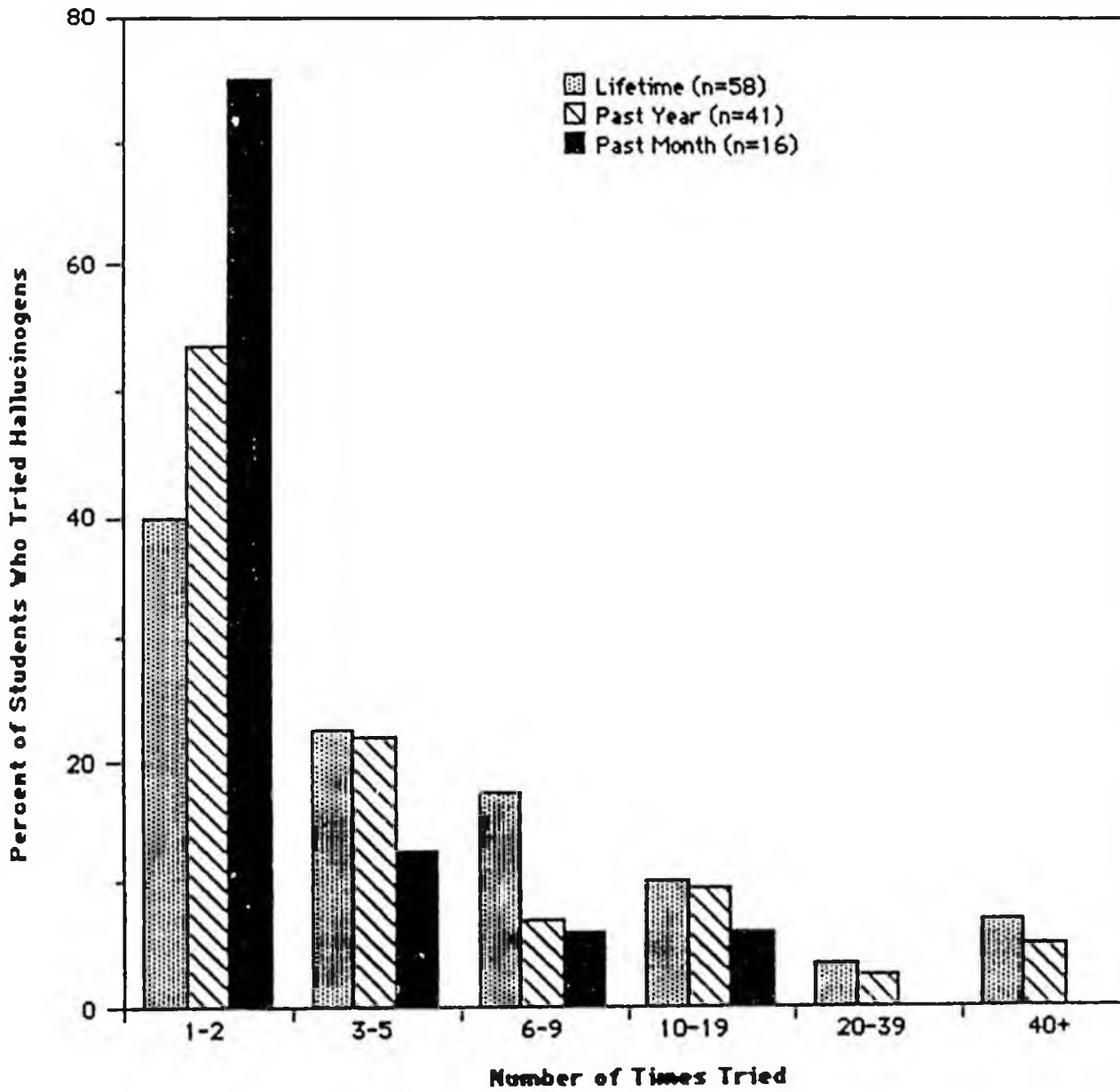


Figure 5E
Frequency and Recency of Depressant Use
Juneau Schools
Grades 7-12
1987

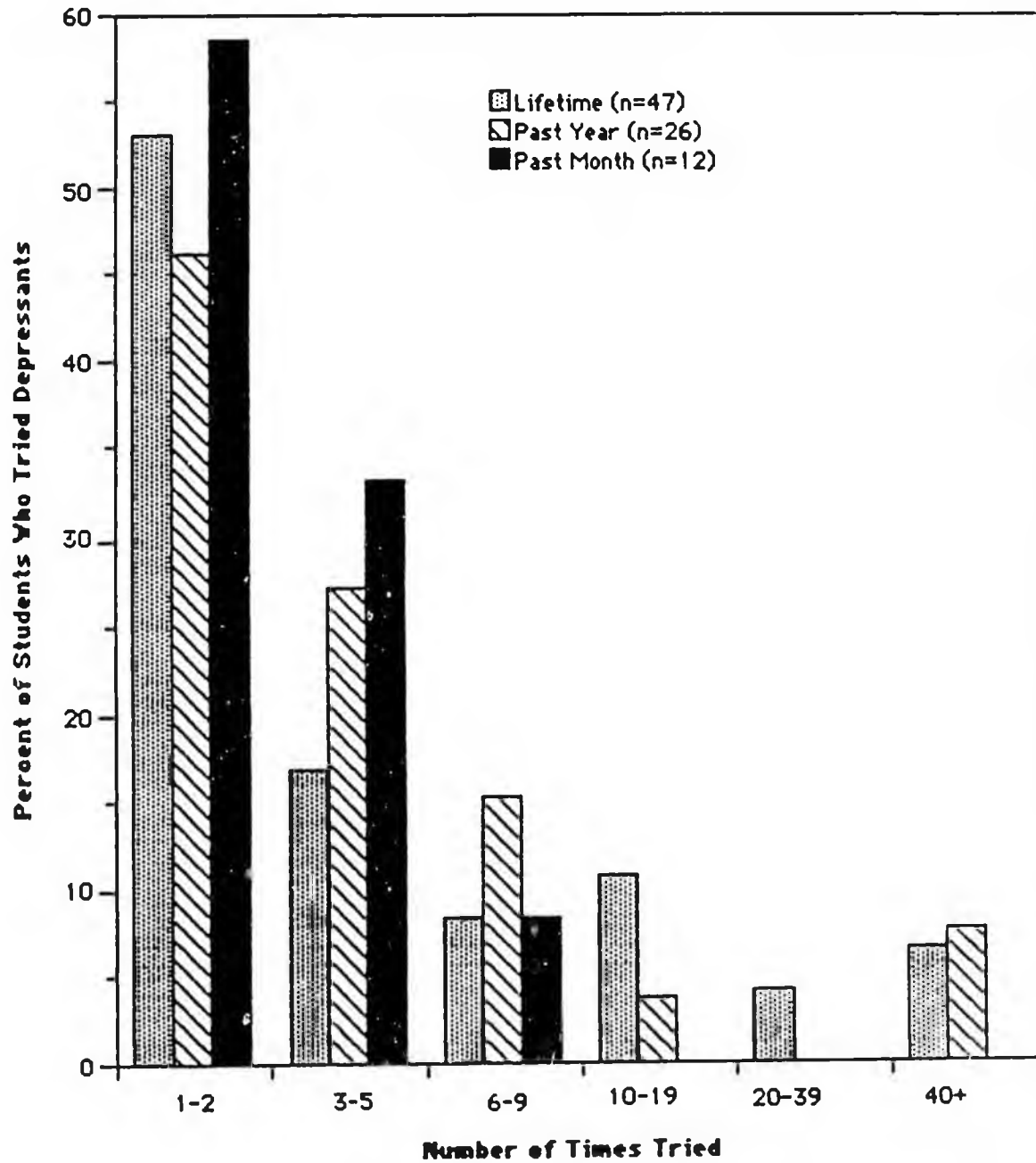


Figure 5F
Frequency and Recency of Inhalants Use
Juneau Schools
Grades 7-12
1987

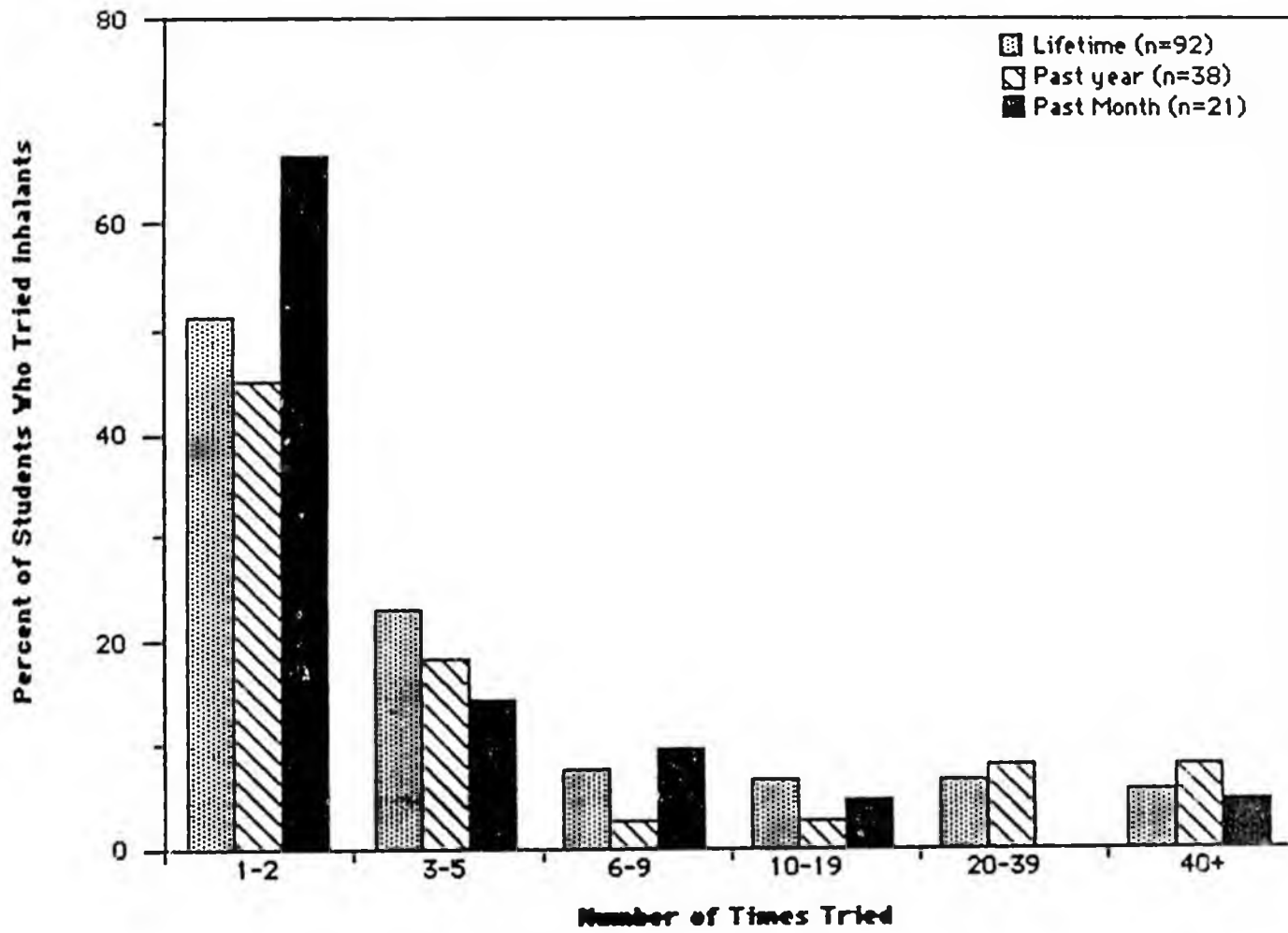
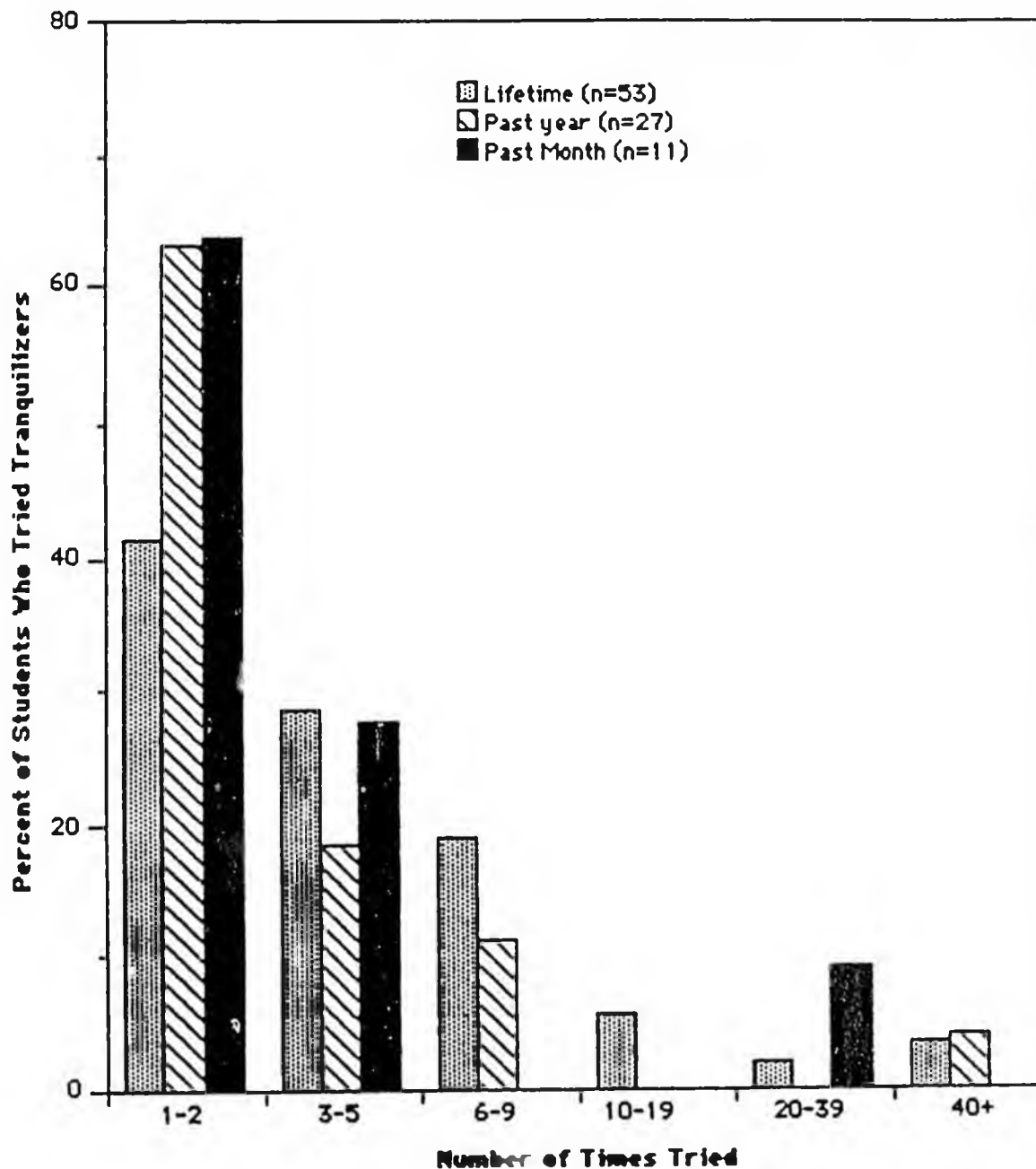


Figure 56
Frequency and Recency of Tranquilizers Use
Juneau Schools
Grades 7-12
1987



marijuana, stimulants, and inhalants, the three drugs tried most frequently by the sample. At nine years or less a small number of students have been initiated into substance use, with the highest number trying an inhalant type substance. Subsequent to nine years there is a decrease in initiation until age 12, where the first major peak occurs for all three substances. This high initiation level then drops sharply for inhalants, increases slightly for marijuana, and remains stable for stimulants at age 13. Subsequent to this point initiation into marijuana declines sharply. By age 14 initiation into stimulants peaks again at age 14, then drops sharply. Initiation into inhalants also increases, and then declines.

What the configuration of these three curves suggests is that inhalants tended to be used more than marijuana and stimulants at an early age, but that as age increases, interest shifts to experiencing marijuana and stimulants. Twelve years appears to correspond to a "critical period" of initiation into trying marijuana, inhalants, and stimulants. Subsequent to age 12 initiation to these substances declines, except for stimulants, which seems to attract the attention of 14 year olds. The data also suggests that if these substances were not tried by or before age 17, initiation into their use declines.

Part II. Alcohol

Lifetime Prevalence of Experience with Alcohol

Figure 7 shows the number of students who reported ever having tried alcohol in 1987 and 1982. (The lower confidence limit for the statistic pertaining to the number of students who drank is 64.7; the upper limit is 73.5.) As can be observed, the prevalence of lifetime experience with alcohol has decreased very slightly (1.4%) since 1982. The difference, however, is sufficiently small to conclude that the number of students who tried alcohol in 1982 and in 1987 remains at a consistent level.

Frequency of Drinking During the Past 30 Days

Figure 8 reports the frequency of alcohol consumption among students who indicated having consumed alcohol during the past 30 days. Of those, over 30% indicated that they did not drink during the past 30 days. Among those who did report that they consumed alcohol, the largest number reported drinking 2-3 times a week. What seems evident from the data is that alcohol is being consumed, and its use ranges from infrequent for a majority of respondents, to more frequently (more than 3-4 times a week) for a smaller number of students.

Drinking by Gender

Figure 9 reports on use of alcohol by gender, comparing lifetime and past year experience with alcohol. Interestingly, more females than males showed

Figure 7
Lifetime Experience With Alcohol
Comparison of 1982 and 1987
Juneau Schools
Grades 7-12

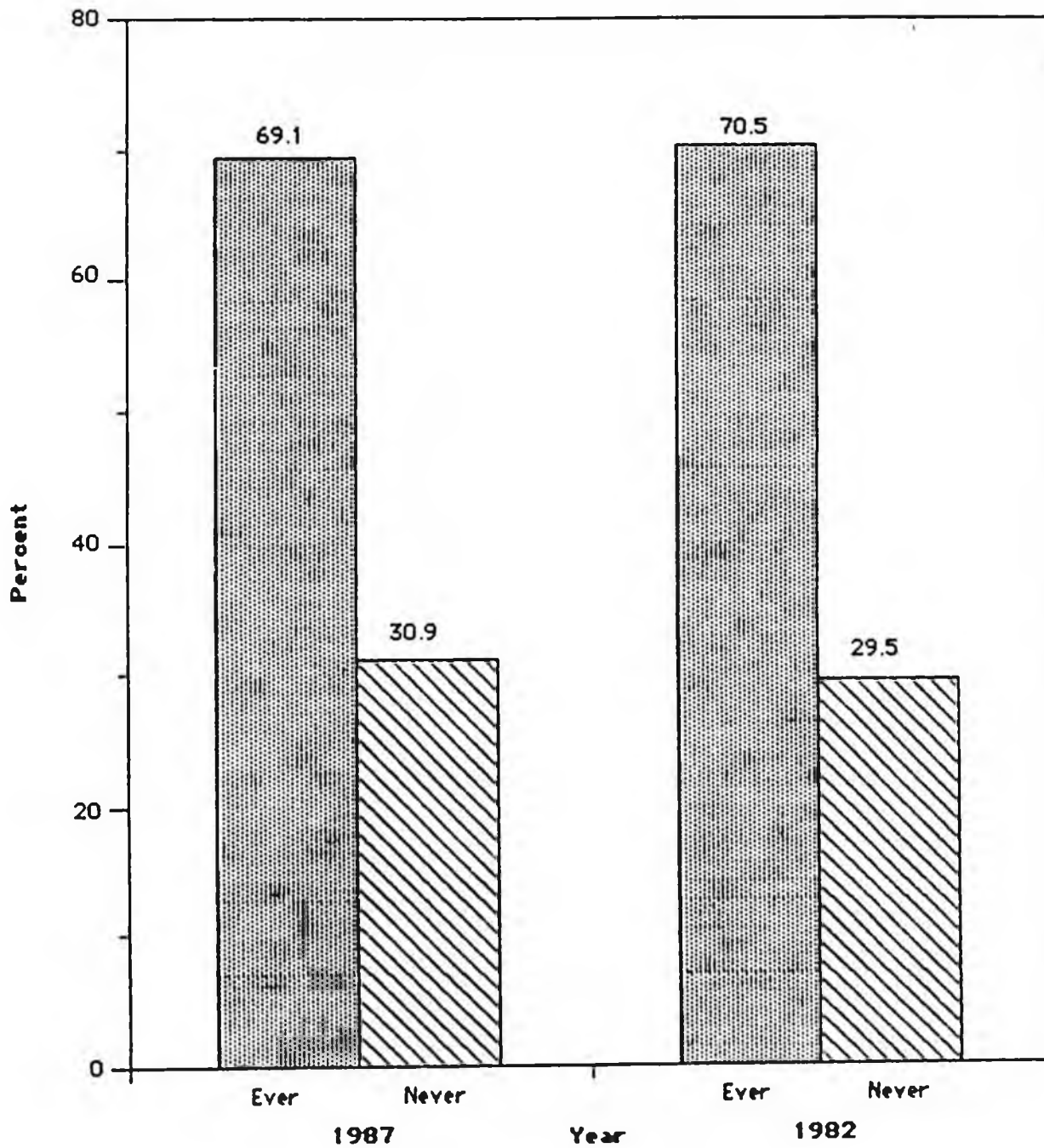


Figure 8
Frequency of Drinking Past 30 Days
Juneau Schools Grades 7-12
1987
(n=289)

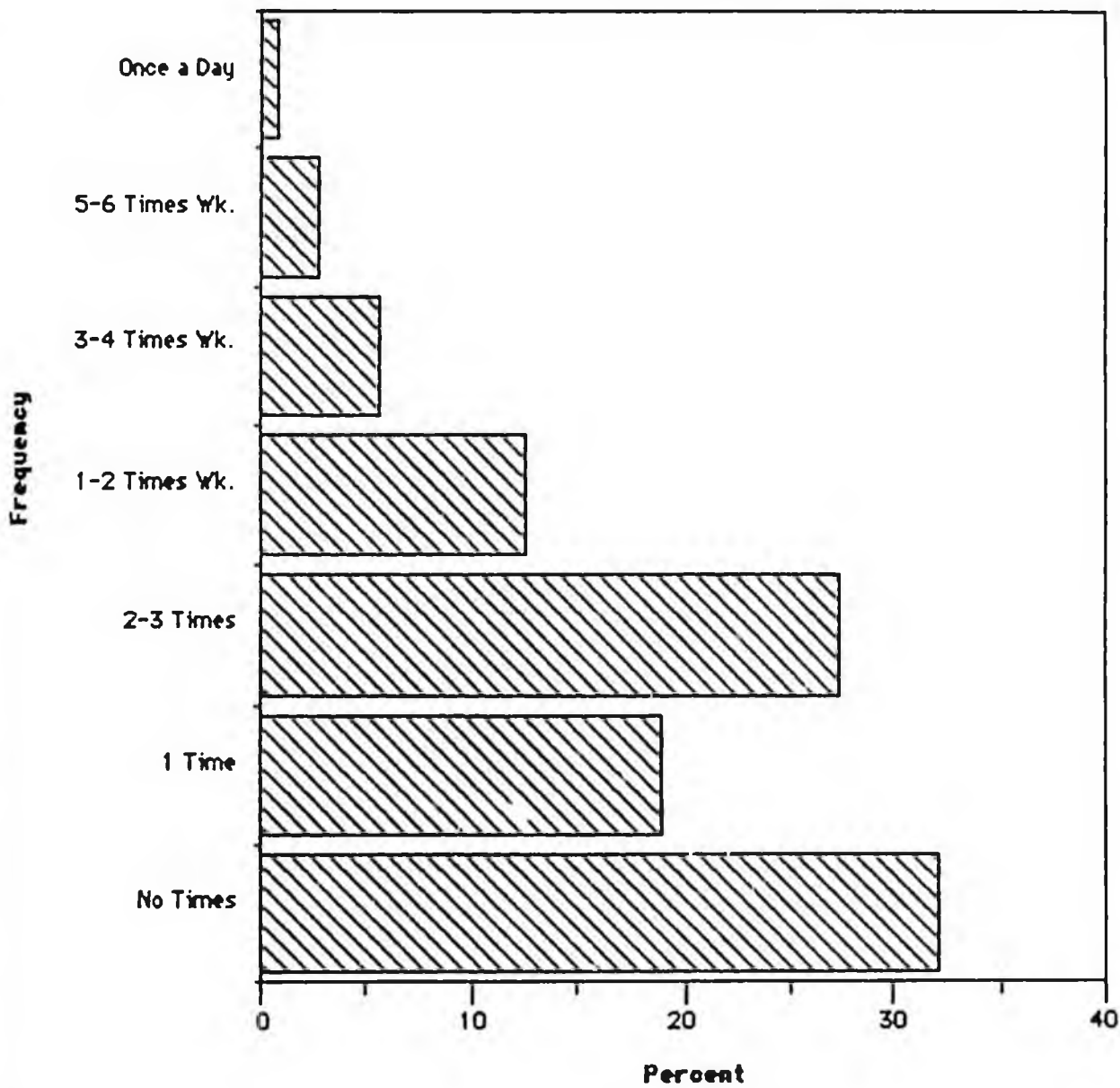
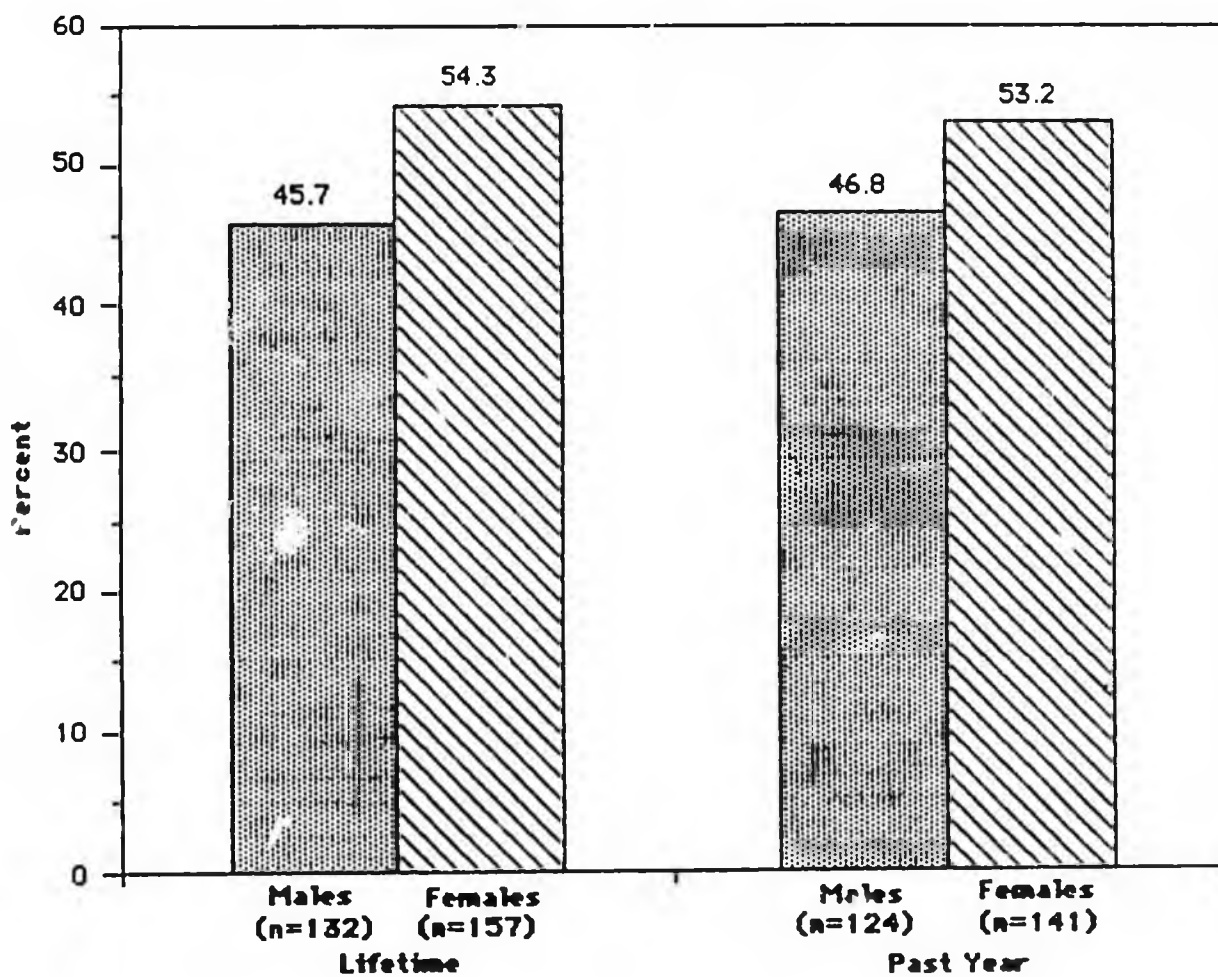


Figure 9
Alcohol Use by Gender During
Lifetime and Past Year
Juneau Schools
1987



both higher rates of lifetime prevalence and use during the past year

Consequences of Drinking

Figure 10 shows how many respondents reported the frequency with which their drinking resulted in either feeling high, getting drunk or very high, or in having gotten sick during the past year. Inspection of the findings indicate that most of the students who drank did so to get high, but many of those who did drink experienced drunkenness or became sick one or more times. There are some students, however, who report more frequent incidents of adverse consequences associated with their drinking, and if these self-reports are accurate, these occurrences meet established criteria representative of "problem drinking" among adolescents (Rachel et al., 1980).

Part III. Tobacco

Smoking and Chewing/Smokeless Tobacco

Figure 11 provides a description of the prevalence rates for lifetime use of tobacco (ever tried), and a comparison of the present findings with those obtained in 1982. Data for comparing the prevalence rates from the 1982 sample for chewing/smokeless tobacco were unavailable. As can be noted, the prevalence of cigarette smoking has increased (by 24.7 percent) since 1982. Over a third of those sampled have also indicated having used smokeless or chewing tobacco.

Part IV. Students' Perception of Increase or Decrease in Drug Use

Figure 12 presents the summarized results of questions that asked students to report whether they thought use of any of the substances had increased or decreased in their school during the past year. The students' perception of the level of use, for the most part, appears to be consistent with the pattern of drug use observed with respect to the reports of recency and frequency of substance use. Marijuana, cocaine, hallucinogens, and stimulants, which showed a recent and frequent pattern of use, are all perceived by the students as having increased in use during the past year. Surprisingly inhalants, which showed a recent and frequent pattern of use, was perceived as having decreased in use by the students. The students also report that alcohol and tobacco use have increased during the past year, and this perception is almost universal.

Part V. Comparison with Other Alaska Communities

Figure 13 provides a comparison of the findings for reports of lifetime experience with chemical substances from Juneau with two other Alaskan communities surveyed in the spring of 1987. As can be observed Juneau, except for lifetime experiences with stimulants, either shows the lowest, or second lowest, prevalence rate among the three communities.

EXHIBIT 6
PAGE 16 OF 19

Figure 10
Consequences of Drinking During
the Past Year
Juneau Schools
Grades 7-12
1987

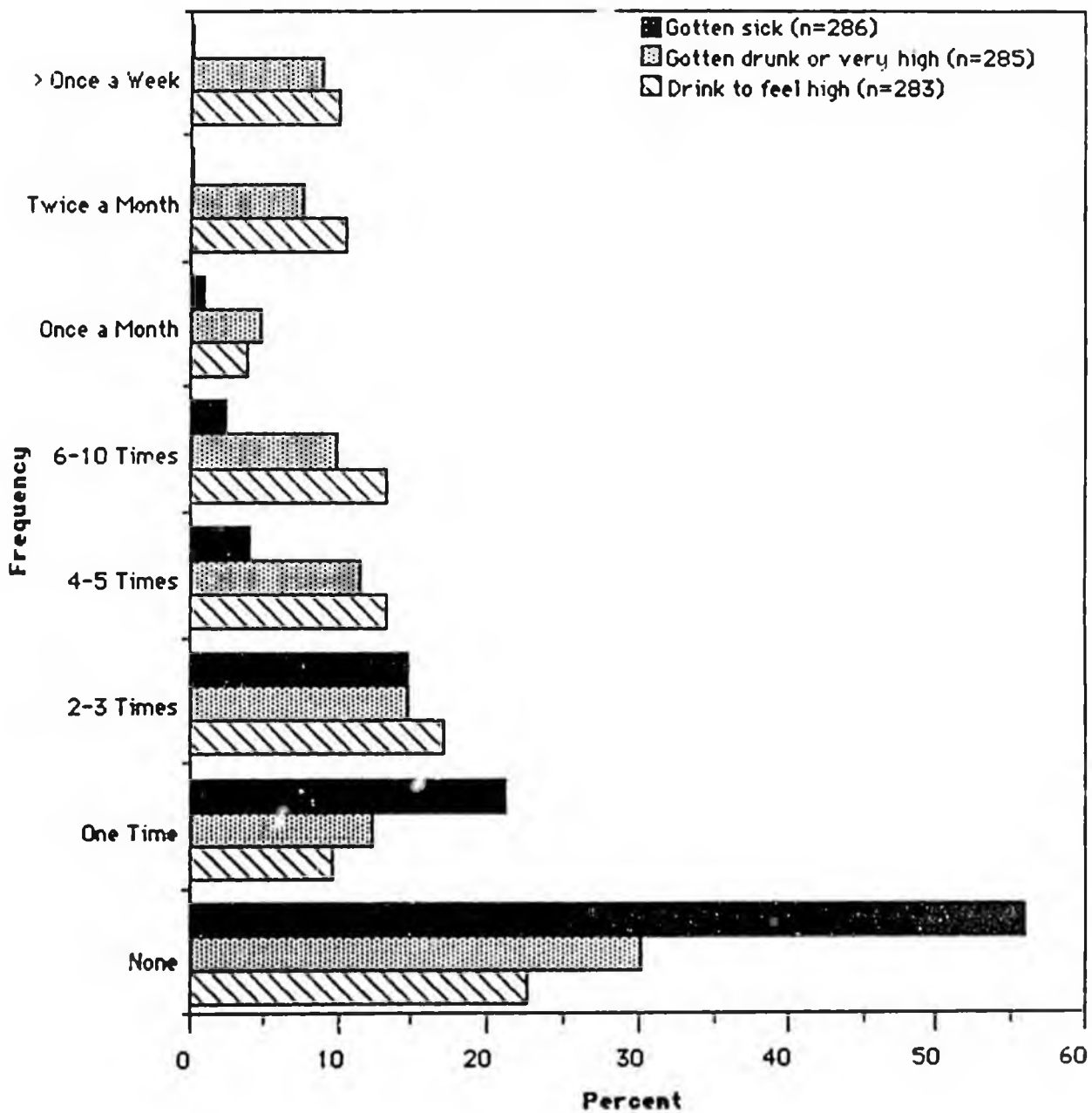


Figure 11
Use of Tobacco Products
Lifetime Experience
Juneau Schools

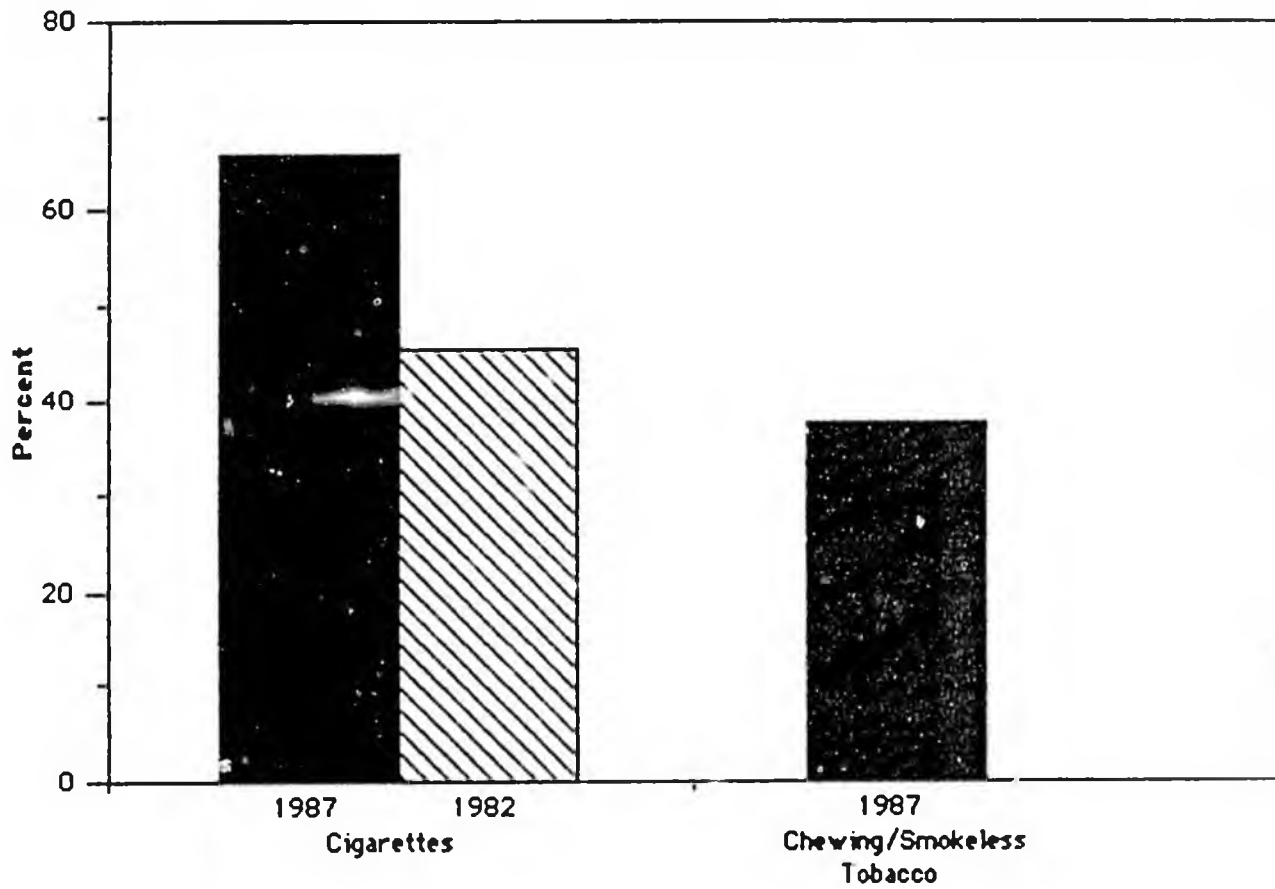
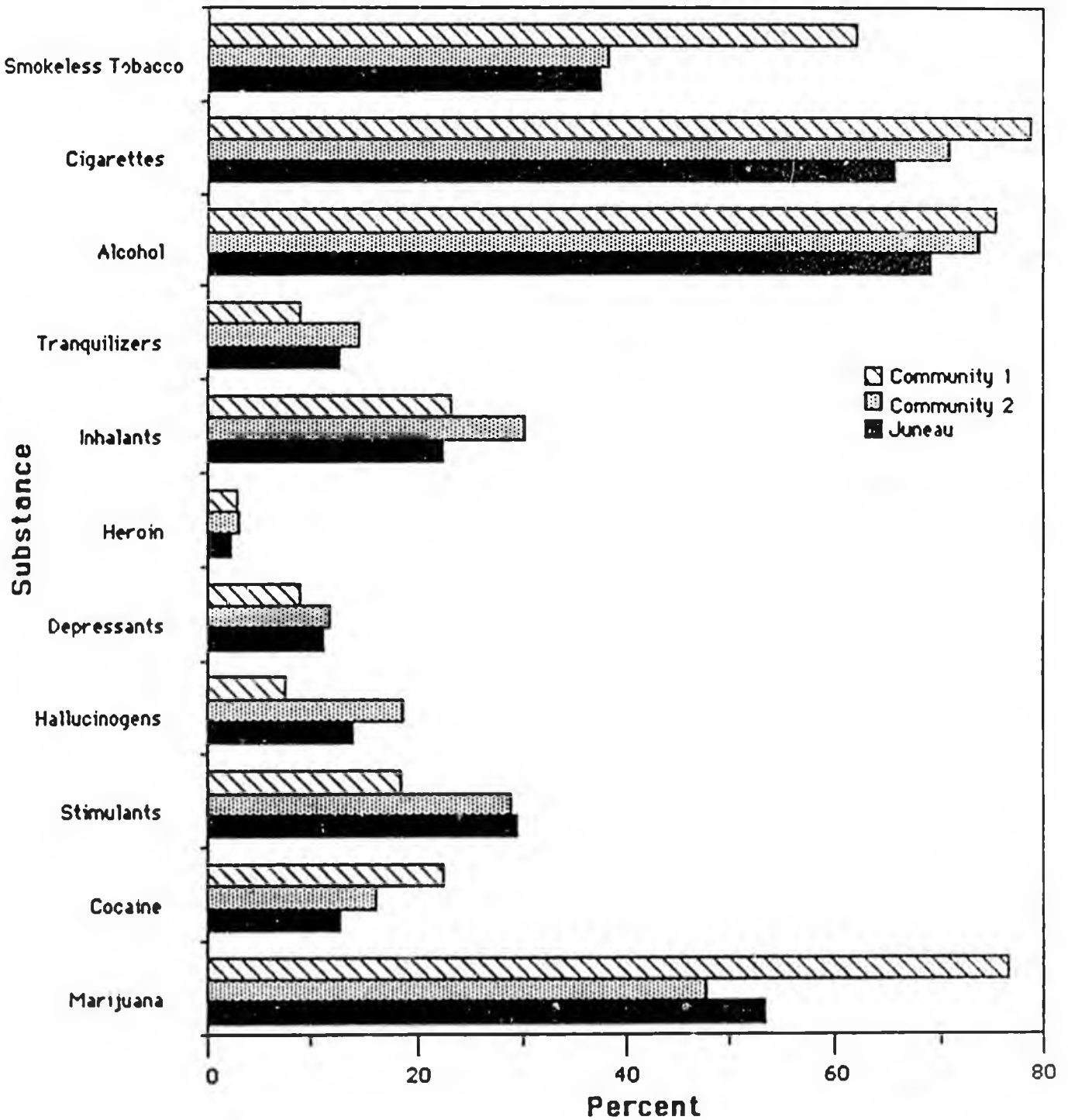


Figure 13
Lifetime Prevalence
Comparison of Experiences with Chemical
Substances Among Three Alaska Communities
1987



ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672
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Discussion and Implications

In summarizing the findings, it is apparent that drug-taking behavior is prevalent in varying degrees among the students responding to the questionnaire, and that changes in the pattern of drug use has taken place since the previous survey was undertaken in 1982. Increases have occurred in the use of some substances, some have appeared to stabilize, while others have decreased. Although marijuana continues to show the highest overall prevalence, experience with hallucinogens and inhalants have increased slightly, while cocaine has decreased. While the findings do suggest that the drug-taking behavior reported by the students can largely be described as experimental or infrequent use, a pattern of more frequent use is also evident. Of special interest in this pattern of use is that more females than males are involved in drug-taking behavior. Additionally, the present findings indicate a downward trend in age of initiation into drug use. Previous research (Segal, 1986) suggested that age 13 was the peak year for initiation into drugs, but the present findings indicate that age 12 now appears to be the critical year for initiation into drug use.

The prevalence of alcohol use was also high, and encompassed a wide range of different types of consumption, one of which is consistent with criteria indicating problem drinking among a small number of students. The extent of smoking is also high, having increased by 25 Percent since 1982.

The findings suggest that efforts are needed to reduce or minimize teenage involvement with chemical substances, tobacco products, drinking, and its associated negative consequences. Both direct and indirect strategies can be utilized to modify the situation. Direct strategies encompass drug education or prevention programs within the school setting that deal directly with the problem. Indirect strategies focus on modifying conditions believed to influence adolescents' behavior with respect to use of drugs. An example of an indirect strategy is a program to help students develop decision making skills useful in dealing with high risk situations. Such a program, however, needs to correspond to the point at which students are at a high risk for initiation into drugs, alcohol, or tobacco products. Based on the results of this study, a critical point would be at the grade level corresponding to age 11, one year before the first peak initiation period occurs.

In approaching the problem of preventing/minimizing the use of mood-altering substances, smoking or use of chewing/smokeless tobacco, and use of alcohol, it is important to take note that illicit drug use, smoking, and drinking, have become incorporated into the American lifestyle. Adolescents are thus, to a large extent, reflecting the value system of the larger society, and their behavior with respect to alcohol, drugs, and tobacco, can be

considered, to some extent, to be "normative" behavior. Many adolescents thus become involved with drugs in order to know what drug experience are like. Segal (1985-86) has shown that a major reason given by adolescents who try drugs is to experience the sensation that drugs provide. This does not diminish the need, however, to eliminate or reduce drug use among youth, particularly when other adolescents have reported that they used drugs to reduce stress (Segal, 1985-86), a motive that suggests that some adolescent drug users may be in need of help.

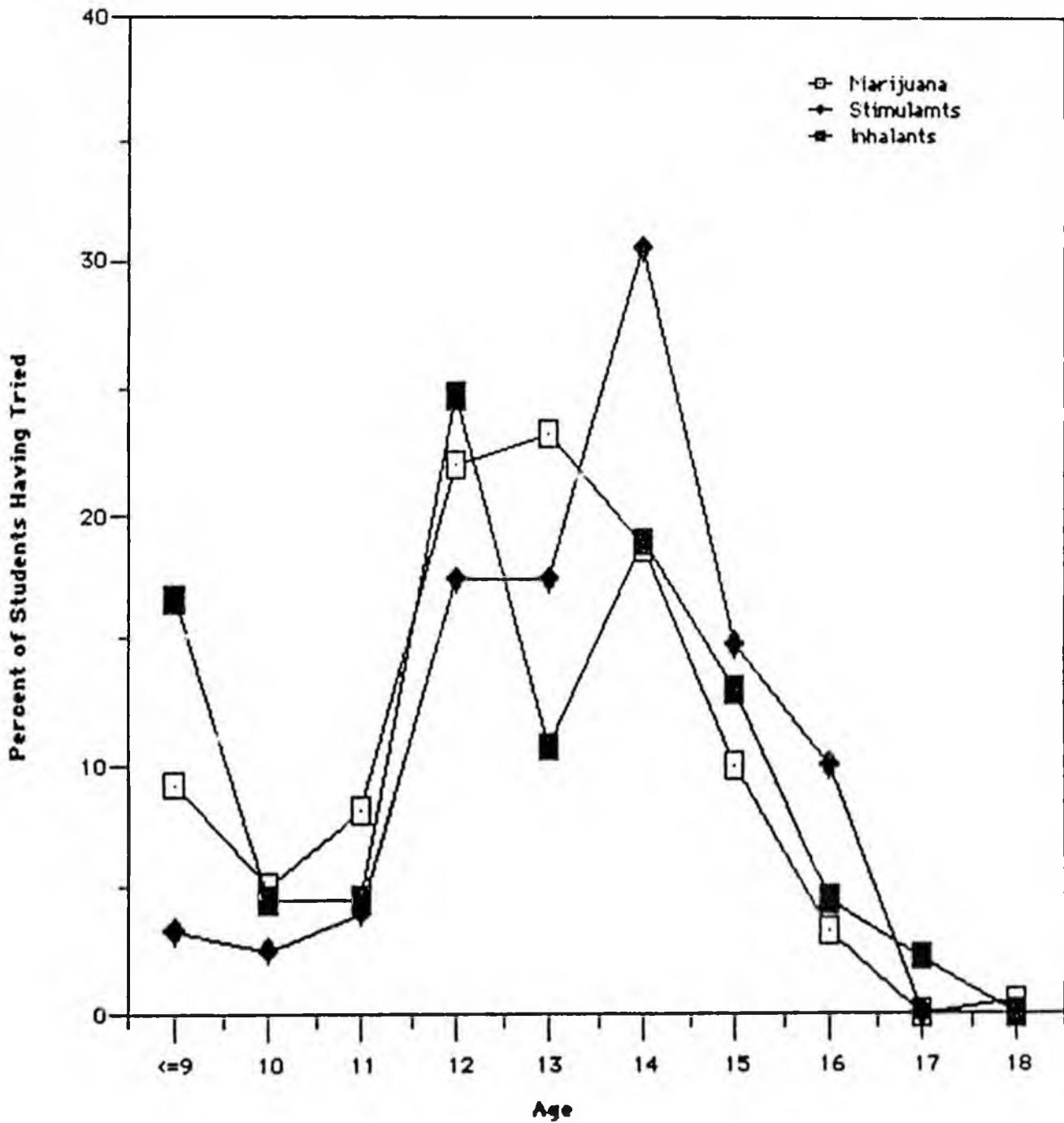
An effective way to combat the problem of drug use is a combination of both direct and indirect programs, in which the school and community cooperate on establishing an education/prevention program that is designed to meet common goals and objectives. A broadbased, community-wide approach, involving all elements of the community (parents, children, educators, police, governmental officials, counselors, etc.) is required to alleviate the problem of teenage smoking, drinking, and drug-taking behavior.

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Appendix A

Figure 6
Age of Initiation into
Marijuana, Stimulants, and Cocaine
Juneau School's
Grades 7-12
1987



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DAVID C. CROSBY

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February 10, 1988

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see memo
m
RECEIVED
FEB 11 1988

The Honorable John E. Binkley
Alaska House of Representatives
Room 318 Capitol Building
Juneau, Alaska 99801

Re: Senate Bill No. 383 (Minor Consuming
and Driving Privileges -- "Use and Lose")

Dear Senator Binkley:

Due to some confusion regarding the time of the hearing held on February 8, 1988, regarding Senate Bill No. 383, I was unable to testify. Please include the enclosed testimony and attachments in the record and have your legislative assistant call me if further hearings are scheduled.

Sincerely yours,

COUNCIL & CROSBY

D. C. Crosby
David C. Crosby

Enc.

cc: Senator Mitch Abood
Senator Rick Uehling
Senator Jan Faiks
Senator Willie Hensley
Senator Joe P. Josephson
Senator Jalmer M. Kerttula
Senator Arliss Sturgulewski
Senator Rick Halford
Senator Patrick Rodey

TESTIMONY OF DAVID C. CROSBY

SENATE BILL 383 (MINOR CONSUMING AND
DRIVING PRIVILEGES -- "USE AND LOSE")

I am the parent of two teenagers, one of whom was diagnosed as alcohol dependent and drug abusive at age 14. I am a member of the City and Borough of Juneau School Board. Prior to my election in 1986, I served on a citizen committee that drafted drug and alcohol disciplinary regulations for the Juneau-Douglas High School. In March of 1987 I was appointed as the Co-Chair of the Juneau Blue Ribbon Commission on Youth, which was created by the Mayor and Assembly at the request of the Juneau Youth Advocates Coalition, of which I am also a member.

Before getting into the specifics of Senate Bill 383, I would like to supply the Committee with some background statistics. Attached to this letter is a brief summary taken from the magazine "Alaska Medicine," January-March 1987 issue. According to this source, Alaska youth ages 12 to 17 have an experimentation rate with marijuana twice the national average, cocaine nearly three times the national average, and alcohol roughly 10% higher than the national average. These statistics correlate with drug and alcohol surveys performed for the Juneau School District on an annual and five year basis.

The most recent five year summary from the University of Alaska indicates that use of illegal substances has increased by approximately 15% in Juneau over the last five years. Perhaps more ominously, the average age when experimentation begins has dropped from 13 to 12 over that same five year period.

In addition to the individual tragedies caused by this epidemic of drug and alcohol use by teenagers in Alaska, recent statistics from the State Office of Alcohol and Drug Abuse document that minors are involved in a disproportionately large number of serious automobile accidents where drug or alcohol use is the contributing cause. (Drivers under 21 constitute 7% of the driving public, but account for 14% of the serious drug and alcohol related accidents.)

I am also enclosing for the record a copy of a recent editorial and "My Turn" column published by the Juneau Empire. These articles discuss the impact of adolescent substance abuse in Juneau, including the recent tragic single-car automobile accident that left one high school student dead, one in a coma and one probably paralyzed for life.

As you may know, Representative Bill Hudson is also a member of the Juneau Blue Ribbon Commission on Youth. Representative Hudson has been instrumental in introducing, through the House HESS Committee, a version of the so-called "Use and Lose" law that is similar in many respects to Senate Bill 383. At a recent hearing held by the Juneau Blue Ribbon Commission on Youth, nearly all witnesses testified favorably in support of a Use and Lose law for Alaska. The Juneau Blue Ribbon Commission on Youth supports this approach, as does the Governor's Blue Ribbon Commission on Youth.

The objectives of the Use and Lose law, as I understand it, are twofold. First, the law would assist in removing from the highways a class of drivers who are responsible for a disproportionately high incidence of serious, drug and alcohol related highway tragedies. Secondly, the Use and Lose law sends a potent message to adolescents who are struggling with the decision whether to use drugs and alcohol. The Senate Bill, as presently drafted, would accomplish neither of these objectives.

Under Senate Bill 383, as presently drafted, a minor could be convicted twice of drug and alcohol related offenses and still receive his or her driver's license on his or her 16th birthday. This is a meaningless sanction,

for at least two reasons. First, the right to obtain a permit, which can only be used in the presence of an adult, is not nearly so significant as the right independently to operate a motor vehicle. It is the latter event that marks the division between the dependence of youth and the independence of adulthood in the minds of many adolescents.

Secondly, I submit to you that we already have a major problem of credibility in enforcing the criminal law with juveniles. Overworked prosecutors (in Juneau there are two prosecutors and three public defenders) do not charge what they regard to be as "insignificant offenses." If the prosecutors won't charge, sooner or later the police stop arresting. Testimony at the recent hearing held by the Blue Ribbon Commission on Youth suggests that this is precisely what is happening with the minor consuming laws in general. Juneau Superior Court Judge Walter Carpeneti advises me that he cannot recall seeing a prosecution for minor consuming in his years on the bench. The sanctions imposed in Senate Bill 383 are so trivial that neither police nor prosecutors will bother with enforcement.

I am also enclosing with this testimony a brief summary of Use and Lose laws from other jurisdictions. While these summaries are no substitute for a detailed analysis of the legislation from other jurisdictions, it nevertheless

suggests that Alaska would be unique in permitting a minor to be convicted of drug and alcohol related offenses and still receive a driver's license on his or her 16th birthday.

I realize that the House HESS version, which would defer or suspend the license privilege for one year or until the 17th birthday for the first offense, and until the 18th birthday for the second offense, may seem harsh or "punitive." It does send a message to the kids that we are very serious about drug and alcohol use by minors. We don't do the children any favors when we set up a system of rules that lacks credibility and that is so slow to impose meaningful sanctions that bad habits -- possibly even addicting habits -- have been permitted to take root before the child encounters any meaningful sanction from society. By that time, it is too late.

For those who are concerned about the harshness of the House Bill, I would suggest that both the House and Senate version give the judge some leniency to restore privileges. If this restoration were made contingent upon successful completion of drug and alcohol counseling, the harshness of the penalty could be mitigated, as it should be, by a showing of a good faith effort to correct the behavior that

is so dangerous to the child and the others who must share the highway with him or her.

Finally, the statistics received by the Juneau School District suggest that the starting age for juveniles affected by the law should be reduced to age 12 to correspond with the age when experimentation is most likely to begin.

To summarize, the Use and Lose concept holds perhaps the greatest promise for both deterring adolescent drug and alcohol use and for reducing drug and alcohol related traffic accidents by modifying the behavior or denying licenses to a class of drivers that is statistically more likely to be involved in serious drug and alcohol related traffic accidents than members of the driving public in general. In order to accomplish these worthwhile objectives, I suggest that the language of Senate Bill No. 383 be amended as follows:

1. Strike "13" and insert "12" in the first sentence of AS 28.15.185.

2. Strike "six months" and "14 and one-half" from AS 28.15.185(b)(1) and insert in their stead "one year" and "17."

3. Strike "15" in AS 28.15.185(b)(2) and insert "18."

4. Insert in AS 28.15.185(c) following "Upon petition of the person," the following language: "and upon proof of successful completion of an approved drug and/or alcohol counseling program,"

Thank you for affording me the opportunity to express my views on this vital piece of legislation. I would very much appreciate the opportunity to state my views in person, should the Committee hold additional hearings.

2-3-88

JUNEAU EMPIRE

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Local tragedy being addressed

Nothing is so tragic as a needless injury or loss of life, but that tragedy is even greater when it involves a young person. In Juneau, an increasing number of young people - our young people - are being hurt or killed or permanently injured.

The cause of this tragedy? It's not disease, or a natural disaster. It is the ready availability of drugs and alcohol to teen-agers.

That is one of the findings of the Juneau Blue Ribbon Commission on Youth, a group of concerned citizens that has been probing the complex and as-yet unresolved problems facing young people here.

Today, we are publishing a "My Turn" column written by David Crosby, a lawyer who is co-chair of the commission and a

ISSUE: Youth panel progresses toward solutions

member of the Juneau City-Borough Board of Education. It expresses better than any stack of statistics or studies the tragedy drug and alcohol abuse is working on our young people, how it is happening and some of the ways we might be able to stem its tide.

Do not misunderstand the message of this commission. All of our young people are not alcoholics or drug addicts. But the overwhelming prevalence of serious alcohol and drug abuse in our community demands our attention.

Recognizing the problem and formulating possible solutions is a giant leap, but the commission recognizes that the real progress will be made with action - in the Alaska Legislature, the Juneau City-Borough Assembly, the school board, the Juneau Police Department and all the way down to individual families. If each segment does its part, there is little doubt the community as a whole will be making a giant stride towards solving the problem.

The commission deserves the thanks of the community for its work so far, but its members recognize that much remains to be done.

The real celebration will come once the appropriate steps are taken and our young people are living better, more fulfilling lives.

MY TURN

By DAVID CROSBY

So what's wrong with Juneau? Members of the Juneau Blue Ribbon Commission on Youth asked that question of a cross section of local citizens—students and parents, teachers and religious leaders, business leaders and law enforcement officials, people who make a living providing services to kids. Natives and non-Natives. We got lots of interesting answers, ranging from lack of recreational facilities to "too many surveys" but in every group we polled, the number one concern was substance use and the easy availability of drugs and alcohol to our kids in Juneau. There weren't any close seconds, not even among the high school students we polled.

Well, you may say, everybody is concerned these days, and Juneau is no worse off than anywhere else. Not so. In part because the names of juveniles injured or arrested while under the influence are never published, the impact of what has been going on in this community is depersonalized. Often times the fact that drugs or alcohol are involved in a tragedy involving a minor is not reported in deference to the families of the victims.

My own unofficial tally from the two years I have been back in Juneau is as follows: The recent car accident left one dead, one in a coma, one paralyzed and one with serious internal injuries. Two deaths by drowning. These were kids who stumbled into the water and were too drunk to get themselves out. In both instances their friends were too far gone themselves to notice or render any effective assistance. One death by falling from a high tension tower. One male quadriplegic as a result of a motor vehicle accident while under

the influence.

Somewhat less dramatic, but nonetheless disturbing, I have carried a young, semi-conscious high school girl into the emergency room of Bartlett Memorial Hospital after she and a friend tried to down a bottle of vodka in 15 minutes. I have picked a young woman up off the highway and delivered her to the same emergency room after she stepped out of a moving vehicle on Egan Drive. The driver was charged with DWI. I know of two middle school students who went to the emergency room in alcohol induced comas after a recent party. If you have kids in middle school or high school and you keep your ears open, you know that my stories are just the tip of the iceberg.

Extend the definition of "youth" a little (but not much) and you have the young man whose body was thrown into Montana Creek by his own friends after he overdosed on cocaine. The poignant letter to the editor from that young man's mother hinted at what the mother of every drug or alcohol addicted child knows in her heart—there is a kind of living death that consists of watching what was once a bright, energetic, loving young person destroy him or her self, and for which the death of the child comes almost as a welcome release.

Teenage crime goes hand in hand with substance use. Steal from your parents. Steal from your friends. One young Juneau man narrowly escaped a murder charge when the gun he pointed at the liquor store owner failed to go off. He was living with an (only) slightly older companion who was charged with dealing cocaine. Arrests by the Juneau Police Department for violation of the drug laws

by juveniles jumped from 31 in 1985 to 77 in 1986. Arrests for violation of the liquor laws by juveniles jumped from 110 to 148 over the same period.

I'm staying within my two year time frame. Are you still listening? I moved to Juneau from a suburb of Seattle, where I lived for eight years across the street from the high school. In eight years in that town (Renton), I do not recall as many drug and alcohol related tragedies as I have seen in Juneau in just two.

Statistics for the State of Alaska suggest that one of every two students in Juneau will use marijuana before graduating from high school. (The national average is one in four). One in six will do the same with cocaine. (The national average is closer to one in twenty.) Three out of four kids will use alcohol by the time they graduate, which is slightly higher than the national average. One recently released study of Juneau students found a 15 percent increase in drug and alcohol use since 1982. The average age at which experimentation starts is now 11-12 years old (down from 13 five years ago).

Some of these kids, like those I just mentioned, will kill themselves quickly and by accident. Some will kill themselves deliberately. (Nine of ten adolescents who attempt or successfully commit suicide are harmfully involved with drugs or alcohol.) Some of them will kill others. Although minors in Alaska are only 7 percent of the drivers, they are responsible for 14 percent of the traffic deaths linked to substance use. Still others will just kill their dreams, or the dreams of those who love them.

Is there anything we can do about this? The Commission is looking at long range proposals that focus on

Youth, substance use, and the law

education and providing healthy alternatives to drugs and alcohol. We are also looking at the laws relating to substance use by juveniles. On Feb. 4, at 7 p.m. in the School District Conference Room, the laws subcommittee of the Blue Ribbon Commission on Youth will hold a hearing on substance use and related problems in Juneau and proposals for legal reform.

Among the most promising of reforms put forth to date is a so-called "use and lose" law. The concept is simple: use, possess or sell drugs or alcohol to a minor and the time when you can apply for a driver's license is put off — one year for the first conviction and another year for the second offense. For most kids the day on which they get their driver's license marks the passage from the status of a dependent child to that of an independent adult. It is, as most who read this will no doubt recall, the most long-awaited day of your short life. For kids who use drugs or alcohol because they think it is acceptable "adult" behavior, the "use and lose" law sends a potent message.

The Commission has also received numerous communications urging it to join school districts and other organizations concerned about adolescent substance use in calling for the recriminalization of marijuana. Locally, both the School Board and the Assembly have passed resolutions call for recriminalization.

Although state law currently forbids use or possession of marijuana by minors, the fact that state law legalizes possession and use for adults makes marijuana more readily available to all. Like liquor, smoking marijuana has become a litmus test of the adult status that adolescents

so desperately covet. Put a slightly different way, patterns of adolescent substance use tend to mirror use in the community as a whole. Kids are sensitively attuned to adult hypocrisy. As one high school student testified at hearings on the marijuana recriminalization bill last year, "If it's no good for me, it's no good for you." She may also have had in mind the converse of her own statement: "If it's good for you, it's good for me."

The Commission has received considerable evidence documenting the harmful effects of marijuana usage, especially upon developing adolescents. The so-called "Raven" decision, in which the Alaska Supreme Court found a constitutional right of privacy for adults to use and possess marijuana in their homes (notwithstanding federal laws prohibiting the same conduct), left the door ajar to a different result should advances in medical evidence suggest that the drug is more harmful than was generally believed a decade ago, when that case was decided. Many citizens now believe the case for recriminalization can and should be made. Juneau Rep. Bill Hudson, a Commission member, recently added his name to the list of co-sponsors of the bill to recriminalize marijuana.

Other citizens have expressed dismay and outrage at the apparent ease with which kids are able to obtain alcohol in Juneau. In a poll conducted by the high school newspaper a few years ago, of those students who drank (a majority of the school population), only 5 percent reported that availability was a problem. Alcohol is sold to minors not because it is difficult to determine who is a minor and who is not. It is sold because it is profitable. The kids quickly learn who checks ID and who does not, and give their not inconsiderable business accordingly.

Although it is illegal for a liquor licensee to sell to a minor, a violation of this provision is treated no more seriously than any other offense. Under current law, a liquor license may not be revoked until the third violation. There appears to be no legitimate reason for this tolerant atti-

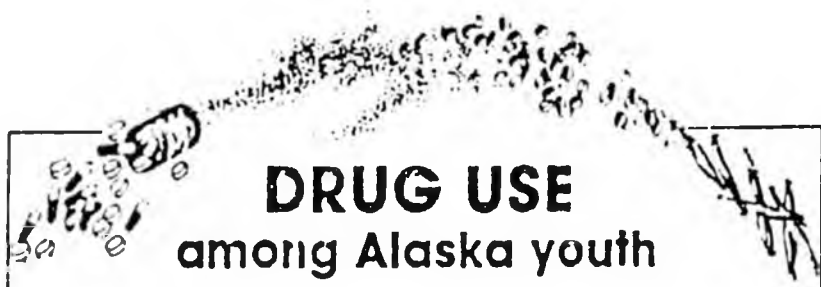
tude, when a simple check of the driver's license could provide a complete defense to prosecution.

The Commission has also received a copy of a Washington "keg law," requiring liquor store owners to record the names and addresses of persons purchasing kegs. All too often when police bust a keg party it is impossible to determine who purchased the alcohol given to the kids, and who sold it to them.

The Commission will also look at enforcement issues. Many citizens have observed that perhaps a better job could be done of policing areas where drugs are used and distributed by and to students, such as the graveyard and the small boat harbor across from the high school. "Sting" operations could and should be mounted against liquor store owners suspected of selling to kids. The Commission has received several complaints that police "bust" parties where drinking is evident, but simply issue verbal warnings. If true, this conduct on the part of the police sends a message that drinking by adolescents is acceptable — and expected, as long as it "doesn't get out of hand" — which, of course, it never does until someone climbs the high tension tower, or walks into the lake, or walks into the river, or crosses the median.

The Commission has received communications from some parents who, for very understandable reasons, might be unwilling to give public testimony. The Commission understands and respects this need for confidentiality. If you have information or an opinion that you would like to express to the Commission in confidence about adolescent substance use or related problems in Juneau, you may mail your testimony to the Juneau Blue Ribbon Commission on Youth, care of Rep. Bill Hudson, Pouch Y, Juneau, Alaska 99811. Otherwise, we hope that you will attend the public hearing on Feb. 4 at 7 p.m. at the School District Conference Room.

David Crosby is co-chair of the Blue Ribbon Commission on Youth and a member of the Juneau City-Borough School Board.



DRUG USE among Alaska youth

Percentage of Alaska, U.S. youth who have tried drugs

<u>Drug</u>	<u>Alaska youth ages 12-17</u>	<u>U.S. youth ages 12-17</u>
Marijuana	47.4	26.7
Hallucinogens	7.9	5.2
Cocaine	16.6	6.5
Heroin	2.3	0.1
Stimulants	25.9	6.7
Depressants	14.0	5.8
Tranquilizers	11.1	4.9
Alcohol	71.7	65.2
Tobacco	55.0	49.5

Source: Alaska Medicine, January-March
1987 issue

reducing juvenile drug arrests 22 percent by the end of 1984 and an additional 7 percent by the end of 1986. Open-container-in-vehicle violations were reduced 45 percent by the end of 1984 and an additional 19 percent by the end of 1986.

The most persuasive arguments in favor of the law's concept were:

- It helped youth by giving them a reason to say "no" which was acceptable to their peers
- It gave judges an effective tool to use in responding to drug violators
- In contrast to traditional prevention programs, this penalty program was nearly cost-free to the state
- It provided positive reinforcement to drug-free teenagers by maintaining their eligibility to drive
- It demonstrated society's commitment to fight drug use by taking firm legal action
- It provided an absolute consequence to drug violations
- The law supported parents, schools, and others fighting drug abuse

Passage of the law was not without struggle. Although opponents of the bill criticized it as harsh, and possibly in violation of the state constitution, use answered those criticisms. Oregon courts have upheld the law.

Public response to the law has been overwhelmingly positive. To obtain more information about the law, write to H. Wesley Smith, Assistant to the Superintendent, Greater Albany Public Schools, 718 Seventh Avenue, S.W., Albany, OR 97321 or telephone (503) 967-4515.

Oregon Denial Law Upheld

In April 1987, the Oregon Court of Appeals upheld that state's "Denial Law," which had been challenged on state constitutional grounds. In affirming the constitutionality of the statute, the court held that:

- The law meets its two intended goals—deterrence of drug and alcohol possession and use and promotion of highway safety; and
- A teenager's interest in possessing a driver's license is outweighed by the state's goals in this instance.

The court also rejected the claim that enforcement of the law constituted cruel and unusual punishment, that it treated minors unconstitutionally as a "suspect class," and that the license suspension penalty is out of proportion to more serious conduct.

The statute also survived an earlier court challenge based on arguments that it denied students their rights to equal protection under the state constitution.

States Follow Oregon's Lead

Several states have been actively considering proposals similar to Oregon's "denial" law. Here's a progress report from around the country:

New Jersey's new anti-drug law, effective since July 1987, contains provisions that relate drug use to driving privileges. New Jersey minors face a \$550 fine and a 6-month license suspension if caught with even one marijuana cigarette. Students found in possession of drugs before receiving a driver's license will have to wait 6 months past the normal date of eligibility before applying for a driver's license.

Missouri students will be subject to provisions of that state's new "abuse and lose" law scheduled to take effect on September 28, 1987. In Missouri, students under age 21 who are convicted of drunk driving or drug violations stand to lose their driving privilege for 1 year. Those under 16 would face a 1 year suspension beginning on their 16th birthday. These strict penalties also apply to students convicted of falsifying identification cards or carrying such cards.

The **California** legislature is considering a bill that would suspend or delay driving privileges of residents under 21 who are convicted of drug violations. Conviction for any drug or alcohol violation would result in a mandatory 1-year suspension of driving privileges for those with licenses. Students under 16 would be penalized by delaying their eligibility to drive for 1 year. The bill passed the California Senate by a vote of 21 to 4 and has been forwarded to the Assembly for further consideration.

In **Georgia**, Representative Thomas E. Wilder has introduced a bill in the General Assembly to deny auto licenses until the age of 17 to persons convicted of misdemeanors while under the influence of alcohol or drugs.

Wilder plans to seek passage of the bill in the next session of the General Assembly.

SB 383

PROPOSED AMENDMENTS:

- #1: Delete words "suspension and" from first line of bill title since the bill only addresses revocation.

- #2: Delete entire Section 1 of the bill. This section is unnecessary and is a carry-over from draft of a previous bill which changed revocation time periods for persons 13 thru 17 years of age when convicted of offenses specified in this section. This bill does not change those revocation time periods, thus amendments specified in section 1 are not necessary.

- #3: On page 4, line 23, after word "offenses", add "and driver's license action taken under AS 28.15.185". If we are required to seal the record when the individual becomes 18 years of age, it would prevent enforcement of revocation at that time. The result being a 17 year old convicted or adjudicated for a second or subsequent offense would never be revoked for the full time period outlined in proposed AS 28.15.185(b)(2) because the record of the revocation would no longer appear, and the individual could obtain a driver's license.

Bill Brown 465-4335
Division of Motor Vehicles
Department of Public Safety
February 8, 1988

Senator John Binkley

Senate Finance Committee
P.O. Box V • Juneau, Alaska 99811 • (907) 465-4985

Finance Committee
Co-Chairman

February 8, 1988

RECEIVED
FEB 8 1988

The Honorable Mitch Abood
Chairman, State Affairs Committee
Alaska State Senate
P. O. Box V
Juneau, AK 99811

FOR HAND DELIVERY

Dear Senator Abood:

Today before your committee, you will be considering SB 383, relating to suspension and revocation of a minor's license to drive. I would like to offer the following comments on the bill for the consideration of you and the other committee members.

This bill would revoke or delay a minor's driver's license or permit, or their ability to obtain either, if the minor is convicted of possession or consumption of alcohol or abuse involving a controlled substance. For the first offense, the revocation/delay would be for 6 months, or until the minor reaches the age of 14-1/2, whichever is longer. For second and subsequent offenses, the revocation/delay would be for one year or until the minor is 15 years of age, whichever is longer. The bill covers minors who are at least 13 years old but not older than 17 (in other words, up through the end of their 17th year).

There is a provision which allows for the court to reinstate the license or permit after one-half of the sentence has elapsed upon petition by the minor. In other words, after 3 months for the first conviction and after 6 months for second and subsequent convictions, the minor may address the court to have his license restored. This will have the effect of making the young person sit down and think about what he has done and just what role driving plays in his life vis a vis his use of drugs or alcohol.

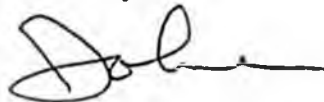
Because neither offense is a traffic violation, Section 2(d) (page 3, line 6) exempts minors who lose their licenses under this bill from having to file proof of financial responsibility with the Department of Public Safety, commonly called an SR-22. Proof of financial responsibility is required to be filed with the Department by the insurance company anyone who has had an accident or serious moving violation, and precedes the State's mandatory insurance laws.

The Honorable Mitch Abood
February 8, 1988
Page Two

The SR-22 shows that the person does have insurance and requires the company to give the Department 30 days notice before it cancels the insurance for any reason, including non-payment. An SR-22 has the effect of driving up the cost of insurance for the insured, plus there is about a \$100 filing fee charged by the insurance company. It was our desire to keep the financial burden on the minors as light as possible.

Driving is a privilege and must be recognized as such. It requires sound judgment and adherence to laws. Possession or consumption of alcohol and drugs is illegal for minors. This bill does not create a new crime; it simply sets a penalty for a violation, the commission of which indicates lack of sound judgment and disregard for the laws. I would appreciate your favorable consideration of this piece of legislation.

Sincerely,



Senator John Binkley
Yukon-Kuskokwim and
Interior Rivers

jka


Senator John Binkley

Senate Finance Committee
P.O. Box V • Juneau, Alaska 99811 • (907) 465-4985

Finance Committee
Co-Chairman

MEMORANDUM

January 26, 1988

TO: Senator Mitch Abood
FROM:  Senator John Binkley
RE: Revocation of a Minor's License to Drive

RECEIVED
JAN 26 1988

Attached you will find a bill I will be introducing this week that will suspend or revoke a minor's license to drive, instructional permit, or his ability to obtain the same if the minor is convicted or adjudicated in juvenile court of:

- 1) possession or consumption of alcohol, or
- 2) misconduct involving a controlled substance.

This bill covers minors who are at least 13 but who have not reached their 18th birthday. For the first conviction, the revocation/suspension will be for 6 months or until the minor reaches 14-1/2 years of age, whichever is longer. For the second and subsequent convictions, it will be for one year or until the minor reaches 15 years old, whichever is longer.

The Court may restore the license after 3 months for the first conviction and 6 months for the second and subsequent convictions. The Court records on these convictions will be sealed when the minor reaches 18 as is the norm.

Since neither offense is a moving violation, this bill exempts minors so convicted of having to file proof of financial responsibility (SR-22) with their insurance company.

The idea behind this piece of legislation is to get the attention of kids who are convicted of these two offenses, and there is probably nothing more important to a high schooler than his or her driver's license.

I would welcome your co-sponsorship on this bill. If you have any questions, or would like to add your name, please call Janice Adair of my staff (4985) by the close of business Thursday, January 28.

SB 383

2/8/88
2:50p

LINDA ADAMS

ALASKA FOR DRUG FREE YOUTH

KETCHIKAN

- SUPPORTS INCREASING WITHDRAWAL OF LICENSE FROM 6 MONTHS TO 1 YEAR.
- OREGON HAS A LAW ON THE BOOKS THAT TAKES IT AWAY FOR 1 YEAR - IT HAS PROVEN TO BE VERY EFFECTIVE AND IS ESTABLISHED IN THE COURTS

WANTED TO MAKE CERTAIN COMMITTEE
KNEW OF THIS ~~ORIG~~ OREGON PROVISION
! ITS EFFECTIVENESS

aka

1
2 IN THE SENATE

BY BINKLEY

3 SENATE BILL NO.

4 IN THE LEGISLATURE OF THE STATE OF ALASKA

5 FIFTEENTH LEGISLATURE - SECOND SESSION

6 A BILL

7 For an Act entitled: "An Act relating to suspension and revocation of a
8 minor's license to drive and the definition of driv-
9 er's license; and providing for an effective date."

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

11 * Section 1. AS 28.15.181(c) is amended to read:

12 (c) Except for court revocation of a minor's license to drive
13 under AS 28.15.185, a [A] court convicting a person of an offense
14 described in (a)(5) or (8) of this section arising out of the opera-
15 tion of a motor vehicle for which a driver's license is required shall
16 revoke that person's driver's license as provided in this subsection.
17 The revocation may be concurrent with or consecutive to an administra-
18 tive revocation under AS 28.15.165. The court may not, except as
19 provided in (e) of this section, grant limited license privileges for
20 the following periods:

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

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

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

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

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

(B) under a law or ordinance in another jurisdiction

1 with elements substantially similar to an offense described in
2 (a)(5) or (3) of this section;

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

7 (4) an offense described in (a)(5) or (3) of this
8 section; or

9 (5) an offense under another law or ordinance in
10 another jurisdiction with elements substantially similar to an
11 offense described in (a)(5) or (3) of this section.

12 * Sec. 2. AS 23.15 is amended by adding a new section to read:

13 Sec. 23.15.195. COURT REVOCATION AND RESTRICTION OF A MINOR'S
14 LICENSE TO DRIVE. (a) A person who is at least 13 years of age, but
15 not older than 17 years of age who is convicted, or adjudicated by a
16 juvenile court, of misconduct involving a controlled substance under
17 AS 11.71 or possession or consumption of alcohol under AS 04.16.050
18 shall have the person's driver's license revoked under (b) of this
19 section.

20 (b) The court shall impose the revocation required under (a) of
21 this section as follows:

22 (1) for a first conviction or adjudication, the revocation
23 shall be for six months or until the person reaches 14 and one-half
24 years of age, whichever is longer;

25 (2) for a second or subsequent conviction or adjudication,
26 the revocation shall be for one year or until the person reaches 15
27 years of age, whichever is longer.

28 (c) Upon conviction or adjudication of an offense listed in (a)
29 of this section the court may, upon petition of the person, review the

revocation and may restore the driver's license, except a court may not restore the driver's license for a period of

(1) 90 days for the first conviction or adjudication;

(2) 180 days for second or subsequent convictions or adjudications.

(d) Notwithstanding the provisions of AS 18.10.040 and 18.10.050, upon conviction of an offense specified in (a) of this section, the department may not require proof of financial responsibility before restoring or issuing the person's driver's license.

* Sec. 3. AS 18.40.100(a)(5) is amended to read:

(5) "Driver's license" or "license" when used in relation to driver licensing, means a license, permit, or privilege to obtain a driver's license, whether or not a person holds a valid license issued in this or another jurisdiction, to drive a motor vehicle under the laws of this state;

* Sec. 4. AS 47.10.080(g) is amended to read:

(g) Except for purposes of driver's licensing under AS 18.15.185, an [NO] adjudication under this chapter upon the status of a child may not operate to impose any of the civil disabilities ordinarily imposed by conviction upon a criminal charge, nor may a minor afterward be considered a criminal by the adjudication, nor may the adjudication be afterward deemed a conviction, nor may a minor be charged with or convicted of a crime in a court, except as provided in this chapter. The commitment and placement of a child and evidence given in the court are not admissible as evidence against the minor in a subsequent case or proceedings in any other court, nor does the commitment and placement or evidence operate to disqualify a minor in a future civil service examination or appointment in the state.

* Sec. 5. AS 47.10.090(a) is amended to read:

1 (a) The court shall make and keep records of all cases brought
2 before it. The court's official records may be inspected only with
3 the court's permission and only by persons having a legitimate inter-
4 est in them. All information and social records pertaining to a minor
5 and prepared by an employee of the court or by a federal, state or
6 city agency in the discharge of the employee's or agency's official
7 duty, are privileged and may not be disclosed directly or indirectly
8 to anyone without the court's permission, except for traffic offenses
9 and driver's license action taken under AS 28.15.185. Traffic of-
10 enses and driver's license action may not be disclosed without the
11 court's permission, except as specified in AS 28.15.151. However, a
12 state or city law-enforcement agency shall disclose information re-
13 garding a case which is needed by the person or agency charged with
14 making a preliminary investigation for the information of the court.
15 The court shall forward a record of adjudication of a violation of an
16 offense listed in AS 28.15.185(a) to the Department of Public Safety.
17 Within 30 days of the date of a minor's 18th birthday or, if the court
18 retains jurisdiction of a minor past the minor's 18th birthday, within
19 30 days of the date on which the court relinquishes jurisdiction over
20 the minor, the court shall order sealed all the court's official
21 records, information and social records pertaining to that minor, as
22 well as records of all criminal proceedings against the minor and
23 punishments assessed against the minor except for traffic offenses. A
24 person may not use these sealed records for any purpose except that
25 the court may order their use for good cause shown or may order their
26 use by an officer of the court in making a presentencing report for
27 the court.

28 * Sec. 6. This Act takes effect September 1, 1988.
29