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Original sponsor: Abood

NEW
Draft

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 3 ()
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to motor vehicle registration and
7 registration plates; increasing fees for driver's
8 licenses, permits, and identification cards; and
9 providing for an effective date."

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

11 * Section 1. AS 18.65.310(a) is amended to read:

12 (a) Upon payment of a \$7 [\$5] fee, the Department of Public
13 Safety shall issue a card identical to the motor vehicle operator's
14 license provided for in AS 28.15.111, except that the card must
15 [SHALL] be of a different color and must [SHALL] state in bold type
16 letters across the face of it that it is for identification purposes
17 only.

18 * Sec. 2. AS 28.10.051 is amended to read:

19 Sec. 28.10.051. DEPARTMENT MAY SUSPEND OR REVOKE REGISTRATION.
20 The department may suspend or revoke the registration of a vehicle,
21 the certificate of registration or a registration plate [PLATES] for a
22 vehicle, or a special permit when

23 (1) the department determines that the registration or
24 certificate, plate, or permit was fraudulently procured or erroneously
25 issued;

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

1 (3) a registered vehicle has been scrapped, dismantled or
2 destroyed beyond repair;

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

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

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

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

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

16 * Sec. 3. AS 28.10.091 is amended to read:

17 Sec. 28.10.091. LOST OR MUTILATED CERTIFICATE [CERTIFICATES] OF
18 REGISTRATION OR REGISTRATION PLATE [PLATES]. If a certificate of
19 registration or a registration plate is lost, stolen, mutilated or
20 becomes illegible, the owner or legal representative or successor in
21 interest of the owner of the vehicle for which the certificate or
22 plate was issued as shown by the records of the department shall,
23 immediately upon discovering the fact, apply for a duplicate or sub-
24 stitute certificate of registration or registration plate and shall
25 return to the department all parts of the original certificate of
26 registration or the registration plate [PLATES] that the applicant
27 possesses.

28 * Sec. 4. AS 28.10.108(g) is amended to read:

29 (g) The department shall issue to the registered owner, upon

1 receipt of the proper application and fees, a registration plate, tab
2 [PLATES, TABS] and registration form displaying the month and year in
3 which the registration expires.

4 * Sec. 5. AS 28.10.108(h) is amended to read:

5 (h) The department shall mail notice of registration expiration
6 to the registered owner of record at the owner's mailing address as
7 shown in the records of the department. An owner of a vehicle subject
8 to registration who has received notice under this subsection may
9 renew registration of the vehicle by returning the notice form, to-
10 gether with appropriate fees, to the department by mail postmarked no
11 later than the fifth day of the registration renewal period shown upon
12 the vehicle's current registration or notice form. Upon receipt of a
13 timely postmarked registration renewal and the appropriate fees and
14 taxes, the department shall renew the registration and mail the cur-
15 rent registration card and registration plate or tab [PLATES OR TABS]
16 to the owner at the owner's mailing address as shown in the depart-
17 ment's records.

18 * Sec 6. AS 28.10.111(b) is amended to read:

19 (b) The department may receive an application for the renewal of
20 vehicle registration and issue a new certificate of registration at
21 any time before the expiration of the annual registration as pre-
22 scribed in regulations adopted by the commissioner. Nothing in this
23 section prevents the commissioner from providing for multi-year regis-
24 tration; however, a person may not display the new registration plate
25 [PLATES] on a vehicle before a date which may be set by the commis-
26 sioner.

27 * Sec. 7. AS 28.10.161(a) is amended to read:

28 (a) The [EXCEPT AS PROVIDED IN AS 28.10.181(i), THE] department,
29 upon registering a vehicle, shall issue the owner one fully

1 reflectorized registration plate for the [A TRAILER OR A MOTORCYCLE
2 AND TWO FULLY REFLECTORIZED REGISTRATION PLATES FOR EVERY OTHER]
3 vehicle. Except as specifically provided in AS 28.10.181, the plate
4 must [OR PLATES SHALL] remain with the vehicle as long as the vehicle
5 is subject to registration under this chapter.

6 * Sec. 8. AS 28.10.171(b) is amended to read:

7 (b) Every registration plate issued under this chapter shall be
8 securely fastened to the rear of the vehicle to which it is assigned,
9 with the upper edge of the plate horizontal, at a height of not less
10 than 12 inches from the ground measuring from the bottom of the plate,
11 and maintained in a location and condition so as to be clearly legi-
12 ble. However, when considered necessary to insure legibility, the
13 commissioner may provide by regulation for another method of installa-
14 tion.

15 * Sec. 9. AS 28.10.181(a) is amended to read:

16 (a) The department shall register unique and special vehicles
17 and vehicles used for special purposes and issue registration plates
18 as provided in this section. Notwithstanding other provisions of this
19 chapter, a registration plate [PLATES] issued under this section
20 remains [REMAIN] with the person or organization to whom it was [THEY
21 ARE] issued when vehicle ownership is transferred or title or interest
22 in the vehicle is assigned, except for a plate [PLATES] issued under
23 (b), (h), and (i) of this section. A registration plate [REGISTRATION
24 PLATES] issued under this section may not be used on, or transferred
25 to, a vehicle other than the vehicle for which the plate was [PLATES
26 ARE] issued without the approval of the department and payment of any
27 required fees and taxes prescribed in AS 28.10.421(d), 28.10.431 and
28 28.10.441; however, if a plate [THE PLATES] issued under (c), (f), or
29 [AND] (j) of this section is [ARE] transferred to a vehicle for which

1 the registration fee is more than the fee for the vehicle from which
2 the plate was [PLATES ARE] transferred, the owner shall pay the dif-
3 ference between the two fees. A registration plate [REGISTRATION
4 PLATES] issued under this section to which a person is no longer
5 entitled or a plate that has been transferred [THE TRANSFER OF THE
6 PLATES] to another vehicle which the department does not approve shall
7 be returned immediately to the department by the person or organiza-
8 tion to whom the plate was [PLATES WERE] originally issued.

9 * Sec. 10. AS 28.10.181(b) is amended to read:

10 (b) Historic vehicles. The owner of an historic vehicle may
11 make application for special registration under this subsection. The
12 department, when satisfied that the vehicle meets the requirements for
13 historic vehicle registration under regulations adopted by the commis-
14 sioner, shall register the vehicle and issue a [TWO] permanent regis-
15 tration plate [PLATES] of distinctive design and color bearing no
16 date. This plate must [THESE PLATES] remain with the vehicle as long
17 as it is registered under this subsection. A vehicle [VEHICLES]
18 qualifying for registration under this subsection shall be issued a
19 registration plate [PLATES] numbered in a separate numerical series
20 beginning with "Historic Vehicle No. 1."

21 * Sec. 11. AS 28.10.181(c) is amended to read:

22 (c) Special request plate [PLATES]. Upon application by the
23 owner of a passenger vehicle, noncommercial van or pick-up truck, or
24 motor home, the department may design and issue a registration plate
25 [PLATES] containing a series of not more than six letters or numbers
26 or combination of letters and numbers as requested by the owner. The
27 department may, in its discretion, disapprove the issuance of a regis-
28 tration plate [PLATES] under this subsection when the requested sym-
29 bols are a duplication of an existing registration or when the symbols

1 are considered unacceptable by the department.

2 * Sec. 12. AS 28.10.181(f) is amended to read:

3 (f) Vehicles owned by elected state officials. The department
4 shall issue a special registration plate [PLATES] to each incumbent
5 elected state official for display on a noncommercial motor vehicle
6 [VEHICLES] owned and driven by the official. The department shall
7 number or design the plate [PLATES] so that registration by an elected
8 state official is indicated upon the plate [PLATES]. The registration
9 plate [PLATES] issued under this subsection remains [REMAIN] with the
10 owner of the vehicle only during the official's term of office.

11 * Sec. 13. AS 28.10.181(g) is amended to read:

12 (g) Vehicles owned by consular officers of foreign governments.
13 A vehicle owned by a consular officer of a foreign government shall be
14 issued a registration plate [PLATES] displaying the title "consular
15 corps" or "cc." However, the commissioner may waive the registration
16 of consular vehicles and the payment of fees and taxes when consistent
17 with international treaties or agreements.

18 * Sec. 14. AS 28.10.181(h) is amended to read:

19 (h) Vehicles owned by ranchers, farmers, and dairymen. A vehi-
20 cle not exceeding an unladen total gross weight of 16,000 pounds,
21 owned by a person deriving the person's primary source of livelihood
22 from the operation of a ranch, farm, or dairy where the person resides
23 full-time, and which vehicle is used exclusively to transport the
24 person's own ranch, farm, or dairy products to and from the market or
25 to transport supplies, commodities or equipment to be used on the
26 person's ranch, farm, or dairy, may be registered under this sub-
27 section and may be issued a registration plate [PLATES] of a distinc-
28 tive design or system of numbering.

29 * Sec. 15. AS 28.10.181(i) is amended to read:

1 (i) Amateur mobile radio station vehicles. A validly licensed
2 amateur radio operator who presents satisfactory proof that the owner
3 holds an unexpired Federal Communications Commission amateur radio
4 operator's license of any renewable class, and who presents satisfac-
5 tory proof that the vehicle contains or carries an amateur radio
6 transmitter and receiving unit of a type applicable to the license
7 class applied for, and who is permitted by law to operate a fixed
8 station, may register one amateur mobile radio station vehicle for
9 each radio license issued by the federal government and may receive
10 for the vehicle a distinctive registration plate [PLATES INSTEAD OF
11 REGULAR REGISTRATION PLATES]. The number on the plate [PLATES] shall
12 be the radio call sign of the owner.

13 * Sec. 16. AS 28.10.181(j) is amended to read:

14 (j) Vehicles owned by dealers. A state-registered and bonded
15 vehicle dealer may apply for dealer registration plates. A plate
16 issued under this subsection may be used only on dealer-owned vehicles
17 during the routine and normal course of the dealer's business, exclud-
18 ing service vehicles, or for transporting an unregistered vehicle from
19 a port of entry to the dealer's facilities or from one dealer to
20 another or, in the case of a house trailer, from the retail facility
21 to a trailer space. If the dealer sells or transfers the vehicle, the
22 dealer plate [PLATES] may be used on the vehicle by the new owner or
23 transferee for a period of not more than five days after the sale or
24 transfer. The department may seize the dealer plate [PLATES] if it has
25 reason to believe that the plate is [PLATES ARE] being used to defeat
26 the purposes of, or is [ARE] in violation of, this chapter.

27 * Sec. 17. AS 28.10.181(1) is amended to read:

28 (1) Vehicles owned by former prisoners of war. The department,
29 upon receipt of written proof, may issue without charge a special

1 registration plate [PLATES] for one noncommercial motor vehicle to a
2 person who has been a prisoner of war during a declared war or other
3 conflict, as determined by the Department of Defense under federal
4 regulations. The design and color of the prisoner of war plate
5 [PLATES] shall be solely within the discretion of the commissioner.

6 * Sec. 18. AS 28.10.181(m) is amended to read:

7 (m) Special request plate [PLATES] for Alaska National Guard
8 personnel. Upon application by the owner of a passenger vehicle,
9 noncommercial van or pick-up truck, or motor home who presents satis-
10 factory proof of current membership in the Alaska National Guard, the
11 department may design and issue a registration plate [PLATES] that
12 identifies [IDENTIFY] the vehicle as registered to a member of the
13 Alaska National Guard. The owner shall return the registration plate
14 [PLATES] to the department within 10 days following discharge from the
15 Alaska National Guard.

16 * Sec. 19. AS 28.10.181 is amended by adding a new subsection to read:

17 (n) Vehicles used in certain driving offenses. The department
18 shall design a special registration plate, numbered in a separate
19 numerical series, for issuance under this subsection. The department
20 may, upon proper application, issue temporary registration and a
21 special registration plate designed under this subsection to a vehicle
22 owner who has forfeited registration and a registration plate under
23 AS 28.35.039. The owner shall return the special registration plate
24 to the department following expiration of the temporary registration
25 or transfer of ownership of the vehicle.

26 * Sec. 20. AS 28.10.271(a) is amended to read:

27 (a) When the owner of a registered vehicle transfers or assigns
28 the owner's title or interest in the vehicle, the registration of the
29 vehicle expires; however, the registration plate remains [PLATES

REMAIN] on the vehicle except as otherwise provided in AS 28.10.181.

* Sec. 21. AS 28.10.281(b) is amended to read:

(b) A vehicle transferred to a dealer may not be driven unless it is re-registered under this chapter or is driven under a dealer registration plate [PLATES] issued under AS 28.10.181(j).

* Sec. 22. AS 28.10.331 is amended to read:

Sec. 28.10.331. DEPARTMENT TO ISSUE NEW CERTIFICATES OF TITLE AND REGISTRATION. The department, upon receipt of the certificate of title properly endorsed, the certificate of registration, the registration plate [PLATES], if any, the application for new title and registration and all required fees and taxes, shall issue a certificate of title and a certificate of registration to the transferee or the lienholder lawfully entitled to the certificates.

* Sec. 23. AS 28.10.351 is amended to read:

Sec. 28.10.351. DISMANTLING OR WRECKING VEHICLE. A person who dismantles, scraps, or destroys a registered vehicle shall immediately forward to the department the certificates of title and registration and the registration plate [PLATES] for the vehicle.

* Sec. 24. AS 28.10.421(d)(10) is amended to read:

(10) dealer registration plate [PLATES],

(A) an [THE] initial plate [SET OF PLATES] . . . \$45;

(B) each subsequent plate [SET OF PLATES]. . . . \$25;

* Sec. 25. AS 28.10.421(d) is amended by adding a new paragraph to read:

(14) special request plate issued under AS 28.10.181(n)...
..... \$25;
plus the fee required for that vehicle under (b), (c), or (d) of this section; the fee required by this paragraph shall be collected on the first issuance of the special request plate.

1 * Sec. 26. AS 28.10.441 is amended to read:

2 Sec. 28.10.441. SCHEDULE OF OTHER FEES AND CHARGES. The follow-
3 ing fees and charges are imposed by the department for the stated
4 services which it provides:

- 5 (1) title fee (including transfer of title)..... \$ 5;
- 6 (2) lien filing fee..... \$ 5;
- 7 (3) replacement of any registration plate [SET], including
8 a special request plate [PLATES] \$ 5;
- 9 (4) duplicate of original certificate of title..... \$ 5;
- 10 (5) duplicate of certificate of registration..... \$ 2;
- 11 (6) temporary preregistration permit issued under AS 28.-
12 10.031 none;
- 13 (7) special transport permit issued under AS 28.10.151 ...
14 \$ 5;
- 15 (8) special permit for vehicle used for transport of dis-
16 abled or handicapped person as provided in AS 28.10.215..... none.

17 * Sec. 27. AS 28.10.461 is amended to read:

18 Sec. 28.10.461. DRIVING VEHICLE WITHOUT EVIDENCE OF REGISTRA-
19 TION. Except as otherwise expressly permitted in this chapter, a
20 person may not drive or move, nor may an owner knowingly permit to be
21 driven or moved, on a highway or vehicular way or area, a vehicle
22 required to be registered under this chapter unless a valid registra-
23 tion plate, decal, or permit [PLATES, DECALS OR PERMITS] for the
24 current registration period is [ARE] attached to and displayed on the
25 vehicle in the manner required by this chapter, and unless a valid
26 certificate of registration for the current registration period is
27 carried, as required by this chapter, in the vehicle and is available
28 for inspection by a peace officer or an authorized representative of
29 the department.

1 * Sec. 28. AS 28.15.271 is amended to read:

2 Sec. 28.15.271. FEES. The fees for drivers' licenses and per-
3 mits, including [BUT NOT LIMITED TO] renewals, are as follows:

- 4 (1) all classes of drivers' licenses..... \$12 [\$10];
- 5 (2) motor-driven cycles..... \$12 [\$10];
- 6 (3) instruction permit..... \$5 [\$3];
- 7 (4) duplicate of driver's license or instruction per-
8 mit..... \$5 [\$3];
- 9 (5) temporary license and renewal of permit \$3;
- 10 (6) school bus driver's permit..... \$3.

11 * Sec. 29. AS 28.35 is amended by adding a new section to article 2 to
12 read:

13 Sec. 28.35.039. FORFEITURE OF MOTOR VEHICLE REGISTRATION AND
14 LICENSE PLATE. (a) In addition to any other penalty provided by law,
15 the court shall require the registered owner, including an owner
16 registered jointly with another owner, to surrender to the court the
17 registration and registration plate of the motor vehicle involved in
18 the commission of the following offenses:

19 (1) a second conviction within a five year period or a
20 third conviction within a 10-year period, for driving while intoxicat-
21 ed under AS 28.35.030 or refusal to submit to a chemical test of
22 breath under AS 28.35.032, or another law or ordinance with substan-
23 tially similar elements; or

24 (2) a conviction under AS 28.15.291 for driving a motor
25 vehicle when that person's driver's license has been revoked and the
26 revocation was imposed under AS 28.15.181(a)(5), or another law or
27 ordinance with substantially similar elements.

28 (b) This section does not apply if the registered owner of the
29 motor vehicle was not driving the vehicle during the commission of the

1 offense, unless the vehicle was used with the permission of the owner
2 and the owner knew, prior to the commission of the offense, that the
3 person was operating the vehicle without a valid driver's license.

4 (c) For purposes of this section, convictions for driving while
5 intoxicated under AS 28.35.030, and for refusal to submit to a chemi-
6 cal test of breath under AS 28.35.032, if arising out of a single
7 transaction and a single arrest, are considered one previous convic-
8 tion.

9 (d) The registration and registration plate surrendered under
10 this section shall be transmitted to the department, and may not be
11 reissued by the department until the period of driver's license revo-
12 cation imposed by the court is completed. A person who surrenders a
13 registration or a registration plate under this section may apply to
14 the department for a temporary registration and registration plate
15 under AS 28.10.181(n). An application may not be accepted by the
16 department unless a member of the applicant's household has a valid
17 driver's license.

18 (e) A person required to surrender a registration and registra-
19 tion plate under this section and whose driver's license has been
20 revoked, shall also identify to the court all persons residing in the
21 person's household who are 16 years of age or older. These names
22 shall be reported to the department along with the name of the person
23 in the household whose driver's license has been revoked. The depart-
24 ment shall provide to each named person written notice of the fact
25 that the driver's license of the person identified in the report has
26 been revoked, and that if a vehicle owner knowingly permits a person
27 who does not have a valid driver's license to drive the owner's vehi-
28 cle, the owner will be required to surrender the vehicle's registra-
29 tion and registration plate.

1 (f) An owner who has surrendered a motor vehicle registration
2 and registration plate under (a) of this section, and who wishes to
3 sell the vehicle, may apply to the department for permission to trans-
4 fer title to the motor vehicle. The department may, after trans-
5 ferring ownership of the vehicle, issue a new registration and regis-
6 tration plate. When title to a motor vehicle is transferred by fore-
7 closure, conditional sale contract, execution sale, or by a court
8 decree, the department shall transfer the registration to the new
9 owner and may reissue the registration plate.

10 * Sec. 30. AS 28.10.171(a) is repealed.

11 * Sec. 31. Sections 1 and 28 of this Act take effect July 1, 1987.

12 * Sec. 32. Sections 2 - 27, 29, and 30 of this Act take effect
13 January 1, 1988.

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22 (c) Special request plate [PLATES]. Upon application by the
23 owner of a passenger vehicle, noncommercial van or pick-up truck, or
24 motor home, the department may design and issue a registration plate
25 [PLATES] containing a series of not more than six letters or numbers
26 or combination of letters and numbers as requested by the owner. The
27 department may, in its discretion, disapprove the issuance of a regis-
28 tration plate [PLATES] under this subsection when the requested sym-
29 bols are a duplication of an existing registration or when the symbols

1 are considered unacceptable by the department.

2 * Sec. 12. AS 28.10.181(f) is amended to read:

3 (f) Vehicles owned by elected state officials. The department
4 shall issue a special registration plate [PLATES] to each incumbent
5 elected state official for display on a noncommercial motor vehicle
6 [VEHICLES] owned and driven by the official. The department shall
7 number or design the plate [PLATES] so that registration by an elected
8 state official is indicated upon the plate [PLATES]. The registration
9 plate [PLATES] issued under this subsection remains [REMAIN] with the
10 owner of the vehicle only during the official's term of office.

11 * Sec. 13. AS 28.10.181(g) is amended to read:

12 (g) Vehicles owned by consular officers of foreign governments.
13 A vehicle owned by a consular officer of a foreign government shall be
14 issued a registration plate [PLATES] displaying the title "consular
15 corps" or "cc." However, the commissioner may waive the registration
16 of consular vehicles and the payment of fees and taxes when consistent
17 with international treaties or agreements.

18 * Sec. 14. AS 28.10.181(h) is amended to read:

19 (h) Vehicles owned by ranchers, farmers, and dairymen. A vehi-
20 cle not exceeding an unladen total gross weight of 16,000 pounds,
21 owned by a person deriving the person's primary source of livelihood
22 from the operation of a ranch, farm, or dairy where the person resides
23 full-time, and which vehicle is used exclusively to transport the
24 person's own ranch, farm, or dairy products to and from the market or
25 to transport supplies, commodities or equipment to be used on the
26 person's ranch, farm, or dairy, may be registered under this sub-
27 section and may be issued a registration plate [PLATES] of a distinc-
28 tive design or system of numbering.

29 * Sec. 15. AS 28.10.181(i) is amended to read:

1 (i) Amateur mobile radio station vehicles. A validly licensed
2 amateur radio operator who presents satisfactory proof that the owner
3 holds an unexpired Federal Communications Commission amateur radio
4 operator's license of any renewable class, and who presents satisfac-
5 tory proof that the vehicle contains or carries an amateur radio
6 transmitter and receiving unit of a type applicable to the license
7 class applied for, and who is permitted by law to operate a fixed
8 station, may register one amateur mobile radio station vehicle for
9 each radio license issued by the federal government and may receive
10 for the vehicle a distinctive registration plate [PLATES INSTEAD OF
11 REGULAR REGISTRATION PLATES]. The number on the plate [PLATES] shall
12 be the radio call sign of the owner.

13 * Sec. 16. AS 28.10.181(j) is amended to read:

14 (j) Vehicles owned by dealers. A state-registered and bonded
15 vehicle dealer may apply for dealer registration plates. A plate
16 issued under this subsection may be used only on dealer-owned vehicles
17 during the routine and normal course of the dealer's business, exclud-
18 ing service vehicles, or for transporting an unregistered vehicle from
19 a port of entry to the dealer's facilities or from one dealer to
20 another or, in the case of a house trailer, from the retail facility
21 to a trailer space. If the dealer sells or transfers the vehicle, the
22 dealer plate [PLATES] may be used on the vehicle by the new owner or
23 transferee for a period of not more than five days after the sale or
24 transfer. The department may seize the dealer plate [PLATES] if it has
25 reason to believe that the plate is [PLATES ARE] being used to defeat
26 the purposes of, or is [ARE] in violation of, this chapter.

27 * Sec. 17. AS 28.10.181(1) is amended to read:

28 (1) Vehicles owned by former prisoners of war. The department,
29 upon receipt of written proof, may issue without charge a special

1 registration plate [PLATES] for one noncommercial motor vehicle to a
2 person who has been a prisoner of war during a declared war or other
3 conflict, as determined by the Department of Defense under federal
4 regulations. The design and color of the prisoner of war plate
5 [PLATES] shall be solely within the discretion of the commissioner.

6 * Sec. 18. AS 28.10.181(m) is amended to read:

7 (m) Special request plate [PLATES] for Alaska National Guard
8 personnel. Upon application by the owner of a passenger vehicle,
9 noncommercial van or pick-up truck, or motor home who presents satis-
10 factory proof of current membership in the Alaska National Guard, the
11 department may design and issue a registration plate [PLATES] that
12 identifies [IDENTIFY] the vehicle as registered to a member of the
13 Alaska National Guard. The owner shall return the registration plate
14 [PLATES] to the department within 10 days following discharge from the
15 Alaska National Guard.

16 * Sec. 19. AS 28.10.181 is amended by adding a new subsection to read:

17 (n) Vehicles used in certain driving offenses. The department
18 shall design a special registration plate, numbered in a separate
19 numerical series, for issuance under this subsection. The department
20 may, upon proper application, issue temporary registration and a
21 special registration plate designed under this subsection to a vehicle
22 owner who has forfeited registration and a registration plate under
23 AS 28.35.039. The owner shall return the special registration plate
24 to the department following expiration of the temporary registration
25 or transfer of ownership of the vehicle.

26 * Sec. 20. AS 28.10.271(a) is amended to read:

27 (a) When the owner of a registered vehicle transfers or assigns
28 the owner's title or interest in the vehicle, the registration of the
29 vehicle expires; however, the registration plate remains [PLATES

REMAIN] on the vehicle except as otherwise provided in AS 28.10.181.

* Sec. 21. AS 28.10.281(b) is amended to read:

(b) A vehicle transferred to a dealer may not be driven unless it is re-registered under this chapter or is driven under a dealer registration plate [PLATES] issued under AS 28.10.181(j).

* Sec. 22. AS 28.10.331 is amended to read:

Sec. 28.10.331. DEPARTMENT TO ISSUE NEW CERTIFICATES OF TITLE AND REGISTRATION. The department, upon receipt of the certificate of title properly endorsed, the certificate of registration, the registration plate [PLATES], if any, the application for new title and registration and all required fees and taxes, shall issue a certificate of title and a certificate of registration to the transferee or the lienholder lawfully entitled to the certificates.

* Sec. 23. AS 28.10.351 is amended to read:

Sec. 28.10.351. DISMANTLING OR WRECKING VEHICLE. A person who dismantles, scraps, or destroys a registered vehicle shall immediately forward to the department the certificates of title and registration and the registration plate [PLATES] for the vehicle.

* Sec. 24. AS 28.10.421(d)(10) is amended to read:

- (10) dealer registration plate [PLATES],
 - (A) an [THE] initial plate [SET OF PLATES] . . . \$45;
 - (B) each subsequent plate [SET OF PLATES]. . . \$25;

* Sec. 25. AS 28.10.421(d) is amended by adding a new paragraph to read:

(14) special request plate issued under AS 28.10.181(n)...
..... \$25;
plus the fee required for that vehicle under (b), (c), or (d) of this section; the fee required by this paragraph shall be collected on the first issuance of the special request plate.

1 * Sec. 26. AS 28.10.441 is amended to read:

2 Sec. 28.10.441. SCHEDULE OF OTHER FEES AND CHARGES. The follow-
3 ing fees and charges are imposed by the department for the stated
4 services which it provides:

- 5 (1) title fee (including transfer of title)..... \$ 5;
- 6 (2) lien filing fee..... \$ 5;
- 7 (3) replacement of any registration plate [SET], including
8 a special request plate [PLATES] \$ 5;
- 9 (4) duplicate of original certificate of title..... \$ 5;
- 10 (5) duplicate of certificate of registration..... \$ 2;
- 11 (6) temporary preregistration permit issued under AS 28.-
12 10.031 none;
- 13 (7) special transport permit issued under AS 28.10.151 ...
14 \$ 5;
- 15 (8) special permit for vehicle used for transport of dis-
16 abled or handicapped person as provided in AS 28.10.215..... none.

17 * Sec. 27. AS 28.10.461 is amended to read:

18 Sec. 28.10.461. DRIVING VEHICLE WITHOUT EVIDENCE OF REGISTRA-
19 TION. Except as otherwise expressly permitted in this chapter, a
20 person may not drive or move, nor may an owner knowingly permit to be
21 driven or moved, on a highway or vehicular way or area, a vehicle
22 required to be registered under this chapter unless a valid registra-
23 tion plate, decal, or permit [PLATES, DECALS OR PERMITS] for the
24 current registration period is [ARE] attached to and displayed on the
25 vehicle in the manner required by this chapter, and unless a valid
26 certificate of registration for the current registration period is
27 carried, as required by this chapter, in the vehicle and is available
28 for inspection by a peace officer or an authorized representative of
29 the department.

1 * Sec. 28. AS 28.15.271 is amended to read:

2 Sec. 28.15.271. FEES. The fees for drivers' licenses and per-
3 mits, including [BUT NOT LIMITED TO] renewals, are as follows:

- 4 (1) all classes of drivers' licenses..... \$12 [\$10];
- 5 (2) motor-driven cycles..... \$12 [\$10];
- 6 (3) instruction permit..... \$5 [\$3];
- 7 (4) duplicate of driver's license or instruction per-
8 mit..... \$5 [\$3];
- 9 (5) temporary license and renewal of permit \$3;
- 10 (6) school bus driver's permit..... \$3.

11 * Sec. 29. AS 28.35 is amended by adding a new section to article 2 to
12 read:

13 Sec. 28.35.039. FORFEITURE OF MOTOR VEHICLE REGISTRATION AND
14 LICENSE PLATE. (a) In addition to any other penalty provided by law,
15 the court shall require the registered owner, including an owner
16 registered jointly with another owner, to surrender to the court the
17 registration and registration plate of the motor vehicle involved in
18 the commission of the following offenses:

19 (1) a second conviction within a five-year period or a
20 third conviction within a 10-year period, for driving while intoxicat-
21 ed under AS 28.35.030 or refusal to submit to a chemical test of
22 breath under AS 28.35.032, or another law or ordinance with substan-
23 tially similar elements; or

24 (2) a conviction under AS 28.15.291 for driving a motor
25 vehicle when that person's driver's license has been revoked and the
26 revocation was imposed under AS 28.15.181(a)(5), or another law or
27 ordinance with substantially similar elements.

28 (b) This section does not apply if the registered owner of the
29 motor vehicle was not driving the vehicle during the commission of the

1 offense, unless the vehicle was used with the permission of the owner
2 and the owner knew, prior to the commission of the offense, that the
3 person was operating the vehicle without a valid driver's license.

4 (c) For purposes of this section, convictions for driving while
5 intoxicated under AS 28.35.030, and for refusal to submit to a chemi-
6 cal test of breath under AS 28.35.032, if arising out of a single
7 transaction and a single arrest, are considered one previous convic-
8 tion.

9 (d) The registration and registration plate surrendered under
10 this section shall be transmitted to the department, and may not be
11 reissued by the department until the period of driver's license revo-
12 cation imposed by the court is completed. A person who surrenders a
13 registration or a registration plate under this section may apply to
14 the department for a temporary registration and registration plate
15 under AS 28.10.181(n). An application may not be accepted by the
16 department unless a member of the applicant's household has a valid
17 driver's license.

18 (e) A person required to surrender a registration and registra-
19 tion plate under this section and whose driver's license has been
20 revoked, shall also identify to the court all persons residing in the
21 person's household who are 16 years of age or older. These names
22 shall be reported to the department along with the name of the person
23 in the household whose driver's license has been revoked. The depart-
24 ment shall provide to each named person written notice of the fact
25 that the driver's license of the person identified in the report has
26 been revoked, and that if a vehicle owner knowingly permits a person
27 who does not have a valid driver's license to drive the owner's vehi-
28 cle, the owner will be required to surrender the vehicle's registra-
29 tion and registration plate.

1 (f) An owner who has surrendered a motor vehicle registration
2 and registration plate under (a) of this section, and who wishes to
3 sell the vehicle, may apply to the department for permission to trans-
4 fer title to the motor vehicle. The department may, after trans-
5 ferring ownership of the vehicle, issue a new registration and regis-
6 tration plate. When title to a motor vehicle is transferred by fore-
7 closure, conditional sale contract, execution sale, or by a court
8 decree, the department shall transfer the registration to the new
9 owner and may reissue the registration plate.

10 * Sec. 30. AS 28.10.17(a) is repealed.

11 * Sec. 31. Sections 1 and 28 of this Act take effect July 1, 1987.

12 * Sec. 32. Sections 2 - 27, 29, and 30 of this Act take effect
13 January 1, 1988.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

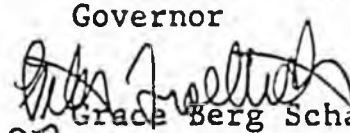
STEVE COWPER, GOVERNOR

P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

March 27, 1987

M E M O R A N D U M

TO: Honorable Steve Cowper
Governor

FROM: 
Grace Berg Schaible
Attorney General

RE: Attached bill on motor vehicle
registration and license fees
Our file: 773-87-0101

DEPARTMENT OF PUBLIC SAFETY
COMMISSIONER'S OFFICE
JUNEAU, ALASKA

MAR 31 1987

Attached is a bill, requested by the Department of Public Safety (DPS), which makes cost-saving and revenue-generating changes in the laws regarding motor vehicle registration and driver licensing. The request for this bill was approved by Pete Jeans on January 5, 1987.

The bill reduces the number of metal registration plates required for a motor vehicle from two to one, thereby saving the state approximately \$60,000 a year in associated costs. The bill also increases by \$2 the fee that a person must pay to obtain a driver's license, certain permits, or a state identification card (DPS originally requested, and received approval for, a \$1 increase). This increase is intended to cover the cost of continuing to include photographs on these licenses and cards. (DPS had considered the elimination of these photos as a way to lessen the cost of providing licensing services and to help absorb the recent reduction in its operating budget.) This small increase in fees is expected to generate approximately \$400,000 in additional revenue annually.

A draft transmittal letter to the legislature, explaining the bill in more detail, is also attached.

GBS:GAH:so:nb

cc w/enc.: Hon. William Nix, Acting Commissioner
Department of Public Safety

LETTER
FROM
GOVERNOR

D R A F T

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that will decrease the cost to the state of registering motor vehicles, and increase the general fund receipts generated by the issuance of drivers' licenses, instruction permits, school bus drivers' permits, and identification cards.

The bill does two things. First, sec. 5 of the bill amends existing law to require that the Department of Public Safety (DPS) issue only one metal registration plate per motor vehicle, rather than the two plates now required for all vehicles except motorcycles and trailers. This simple change will save the state approximately \$60,000 a year in costs associated with the purchase and issuance of these plates. As stated in sec. 6 of the bill, the single plate must be displayed on the rear of each vehicle. The changes made in secs. 2 -- 4 and 7 -- 17 of the bill are merely conforming amendments needed to make it clear that the law no longer requires the issuance of more than one registration plate for any single vehicle.

Second, secs. 1 and 18 of the bill increase by \$2 the fee that a person must pay to obtain a driver's license, motorcycle license, instruction permit, school bus driver's

permit, or state identification card. This modest increase will cover the cost of continuing to provide photographs on licenses and ID cards. As a cost-saving measure, we considered eliminating photographs from these licenses and cards. To ensure adequate identification of drivers and ID card holders, however, we concluded that it was preferable to continue the practice of affixing photographs to these documents, but to require that the individual seeking the document reimburse the state for the cost of this practice. The fee increase is expected to produce about \$400,000 a year in additional revenue to the state.

In this period of declining revenues, the state must make all reasonable efforts to reduce the cost of providing essential state services and to generate additional revenue. Although relatively minor, the cost-cutting measures contained in the bill, and, if appropriated to DPS, the revenue generated by the bill, will help to offset the reductions that have been made in the DPS operating budget and to ensure the continued efficiency of motor vehicle registration and licensing services. I therefore urge your prompt and favorable action on this bill.

Sincerely,

Steve Cowper
Governor

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

DRAFT

REQUEST: _____
Revision Date: _____
Title: An Act relating to motor
vehicle registration
Sponsor: Abood
Requestor: Abood

Bill Version: CSSB 3 (Trsp) DRAFT
Publish Date: _____
Agency Affected: Public Safety
BRU: Motor Vehicles
Components: Vehicle Services
Field Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		15.5	16.0	16.5	17.0	17.5
TRAVEL						
CONTRACTUAL		2.6	(3.3)	(3.4)	(3.5)	(3.6)
SUPPLIES		.1	.1	.1	.1	.1
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		18.2	12.8	13.2	13.6	14.0

CAPITAL		(25.0)	(51.5)	(53.1)	(54.7)	(56.3)
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REVENUE		428.5	440.5	452.5	465.5	478.5
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FUNDING: (Thousands of Dollars)

GENERAL FUND		18.2	12.8	13.2	13.6	14.0
FEDERAL FUNDS						
OTHER						
TOTAL		18.2	12.8	13.2	13.6	14.0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

See Page 2.

JAL
4/7/87

Prepared by: Charles R. Hosack Phone: 269-5551
Division: Motor Vehicles Date: 4-7-87
Approved by Commissioner: [Signature] Date: 4/7/87
Agency: Public Safety

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

FISCAL
NOTE

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 3 (Trsp) DRAFT

This bill requires issuance of temporary registration and special license plates to violators convicted of specific offenses. It also requires a letter be sent to all persons 16 years of age or older who reside with the violator when the violator's registration and license plates have been surrendered to the court. In addition the bill reduces the number of license plates required on a motor vehicle from two to one, and increases driver licensing and identification card fees by \$2.00.

EXPENDITURES:

Personal Services

One part-time Motor Vehicle Rep III, Range 10	15.5	15.5
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Contractual

1,140 special license plates @ \$4.50 per set avg.	5.1	
Postage for special plates @ \$1.43 per set avg. -	1.6	
Postage for letters required in section 28.35.039(e). 1,800 X \$.22	.4	
Postage for general correspondence 1,140 x \$.22	.3	
Print temporary registrations, 1,140 x .07	.1	
Print form letter	.1	
Savings - 332,500 less tabs @ \$.015 (1/2 year)	(5.0)	
	2.6	2.6

Commodities

Normal office supplies	.1	.1
		18.2

CAPITAL:

25,000 license plates @ \$1.00 (1/2 year)	(25.0)	(25.0)
---	--------	--------

REVENUE:

1,140 special license plates @ \$25.00	28.5
180,000 driver licenses and permits @ \$2.00	360.0
20,000 identification cards @ \$2.00	40.0
	428.5

A 3% increase in population and inflation is included for FY89 and subsequent years. No increase in number of special plates issued.

ASSUMPTIONS:

The section of law pertaining to special license plates is effective July 1, 1987.

The section of law pertaining to increase in driver license and identification card fees is effective July 1, 1987.

The section of law pertaining to one license plate is effective January 1, 1988.

Position Title Motor Vehicle Representative III		No. of Positions 1	Range/Step 10B	Barg. Unit GGU																										
Time Status PPT	Staff Months 6	Location Anchorage	Election District 7-15																											
<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th>Type of Expenditure</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>2</td> </tr> <tr> <td>Salary</td> <td>11,172</td> </tr> <tr> <td>Benefits</td> <td>4,293</td> </tr> <tr> <td>Premium Pay</td> <td></td> </tr> <tr> <td>Other</td> <td></td> </tr> <tr> <td>Total Personal Services</td> <td>15.5</td> </tr> <tr> <td>Travel</td> <td>-</td> </tr> <tr> <td>Contractual</td> <td>7.6</td> </tr> <tr> <td>Commodities</td> <td>.1</td> </tr> <tr> <td>Equipment</td> <td>-</td> </tr> <tr> <td>Other</td> <td>-</td> </tr> <tr> <td>Total Cost</td> <td>23.2</td> </tr> </tbody> </table>		Type of Expenditure	Amount	1	2	Salary	11,172	Benefits	4,293	Premium Pay		Other		Total Personal Services	15.5	Travel	-	Contractual	7.6	Commodities	.1	Equipment	-	Other	-	Total Cost	23.2	<p>Justification</p> <p>The Special Programs Unit of the Division of Motor Vehicles, which currently handles specialized license plate applications, is being reduced by 33% as a FY88 decrement. As a result the division will no longer issue some specialized plates, such as personalized (vanity) plates. This bill requires issuance of specialized license plates to certain law violators. This position would process the special applications; issue the registration and plates; maintain separate records on these vehicles; and reissue regular registration and plates when the driver's license revocation has ended. The position would also be responsible for collection and disposition of registration and license plates surrendered to the court, and the temporary registration and special plates surrendered after the revocation has ended. The position will process titles when the vehicle with special plates is sold during the revocation period. Will also be responsible to collect the required fee, and account for all monies received.</p>		
Type of Expenditure	Amount																													
1	2																													
Salary	11,172																													
Benefits	4,293																													
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CIP Receipts 1061																														
Other																														

FY 88

Page 3 of 3
Revised Date

Agency Department of Public Safety
 BRU Division of Motor Vehicles
 Component Vehicle Services

Request For
New Position

This bill reduces the number of metal registration plates required for a motor vehicle from two to one. The one plate will be displayed on the rear of the vehicle. Twenty states currently issue only one plate and four others have introduced legislation to change to only one plate. This is a cost-saving measure that is included in the FY-88 budget for a total annual savings of \$60,000.00.

The bill also increases by \$2.00 the fee that a person must pay to obtain drivers licenses and identification cards. This increase will cover the costs of continuing to provide photographs on licenses and ID cards. The fee increase is expected to produce about \$400,000.00 a year in additional revenue to the state.

The department supports this legislation.

BILL NO: SB 3

DATE: January 23, 1987

TITLE: An Act relating to motor
vehicle registration and
registration plates

CONTACT: Bill Brown
465-4335

DEPARTMENT OF
PUBLIC SAFETY

The bill will require the court to collect the registration and license plates from some repeat DWI offenders, and some offenders convicted of driving while revoked. The person may then apply to the department for specially designed license plates to replace those surrendered to the court. The department would also be required to send letters to all persons 17 years of age or older residing in the defendant's household.

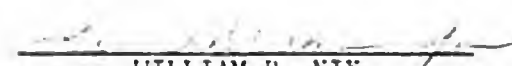
It is felt the special plates would deter the "revoked" driver from operating that specific vehicle during the time the special plates are displayed, however, not other vehicles owned by the person. It is unknown whether the possibility of receiving the special plates would deter an individual from driving while intoxicated.

The department recommends the following amendments:

- (1) Page 2, line 14: change AS 28.35.031 to AS 28.35.032. Section 032 is the criminal offense of refusal to submit to a chemical test of breath, not 031.
- (2) Page 2, line 25 and 26: delete all wording after "valid driver's license". For the offenses outlined in AS 28.35.039(a)(1) & (2), the person would not be eligible for a limited license, thus the last part of the sentence is unnecessary.
- (3) Page 2 and 3: delete section (e). The last sentence implies an action that may be taken, however, the action has already occurred as outlined in the first sentence. Thus, the letter would be unnecessary.

The bill will increase the workload on the courts and motor vehicles. The impact on motor vehicles would be the requirement to issue a temporary registration and special license plates; maintain separate records on these vehicles; and reissue regular registration and plates when the driver's license revocation has ended. As part of the motor vehicles decrement for FY88, the special programs unit is being reduced by 33% and the division will no longer issue some specialized license plates such as personalized (vanity) plates. There will be insufficient employees left in that unit to absorb the impact of this bill, and a part-time position is included in the fiscal note.

The department is neutral on this bill.


WILLIAM R. NIX
Acting Commissioner

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: SB 3
Publish Date: _____

Revision Date: _____
Title: An Act relating to motor vehicle registration and registration plates.
Sponsor: Abood
Requestor: Senate State Affairs

Agency Affected: Public Safety
BRU: Motor Vehicles
Components: Vehicle Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		15.5	16.0	16.5	17.0	17.5
TRAVEL						
CONTRACTUAL		8.6	8.9	9.2	9.5	9.8
SUPPLIES		.1	.1	.1	.1	.1
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		24.2	25.0	25.8	26.6	27.4
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		24.2	25.0	25.8	26.6	27.4
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

This bill requires issuance of temporary registration and special license plates to violators convicted of specific offenses. Also requires letter be sent to all persons 17 years of age or older who reside with the violator when the violator's registration and license plates have been surrendered to the court.

Prepared by: Bill Brown Phone: 465-4335
Division: Motor Vehicles Date: 1-23-87
Approved by Commissioner: [Signature] Date: 1-27-87
Agency: Public Safety

Distribution (by preparer):

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

JNK
1/24/87

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 3

The cost breakdown is as follows:

Personal Services

One Part-Time Motor Vehicle Rep. III, Range 10	15.5	15.5
--	------	------

Contractual

1,140 special license plates @\$5.00 per set	5.7	
--	-----	--

Postage for license plates @\$1.75 per set	2.0	
--	-----	--

Postage for letters required in section 28.35.039(e). 1,800 x .22	.4	
--	----	--

Postage for general correspondence 1,140 x .22	.3	
---	----	--

Print temporary registrations 1,140 x .07	.1	
---	----	--

Print form letter	.1	
-------------------	----	--

Total		8.6
-------	--	-----

Commodities

Normal office supplies	.1	<u>.1</u>
------------------------	----	-----------

TOTAL 24.2

A 3% inflation factor is included in subsequent fiscal year computations.

Position Title Motor Vehicle Representative III		No. of Positions 1	Range/Step 10B	Barg. Unit CGU
Time Status PPT	Staff Months 12	Location Anchorage		Election District 7-15
Type of Expenditure		Justification		
1	2	The Special Programs Unit of the Division of Motor Vehicles, which currently handles specialized license plate applications, is being reduced by 33% as a FY88 decrement. As a result the division will no longer issue some specialized plates, such as personalized (vanity) plates. This bill requires issuance of specialized license plates to certain law violators. This position would process the special applications; issue the registration and plates; maintain separate records on these vehicles; and reissue regular registration and plates when the driver's license revocation has ended. The position would also be responsible for collection and disposition of registration and license plates surrendered to the court, and the temporary registration and special plates surrendered after the revocation has ended. The position will process titles when the vehicle with special plates is sold during the revocation period.		
Salary	11,172	Amount	3	
Benefits	4,293			
Premium Pay				
Other				
Total Personal Services			15.5	
Travel			-	
Contractual			8.6	
Commodities			.1	
Equipment			-	
Other			-	
Total Cost			24.2	
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	24.2		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

FY 88

Page 3 of 3
Revised Date

Agency Department of Public Safety
BRU Division of Motor Vehicles
Component Vehicle Services

Request For
New Position

BILL NO: CSSB 3(SA)

DATE: April 6, 1987

TITLE: An Act relating to forfeiture of motor vehicle registration and registration plates
CONTACT: Bill Brown 465-4335

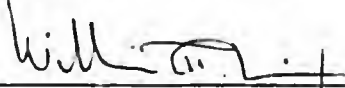
DEPARTMENT OF PUBLIC SAFETY

The bill will require the court to collect the registration and license plates from some repeat DWI offenders, and some offenders convicted of driving while revoked. The person may then apply to the department for specially designed license plates to replace those surrendered to the court. The department would also be required to send letters to all persons 16 years of age or older residing in the defendant's household. A \$25.00 fee will be charged for the special plates to cover the cost of the new program.

It is felt the special plates would deter the "revoked" driver from operating that specific vehicle during the time the special plates are displayed. The letter sent to other household residents should deter the "revoked" drivers from operating other vehicles owned by the person. It is unknown whether the possibility of receiving the special plates would deter an individual from driving while intoxicated.

The bill will increase the workload on the courts and motor vehicles. The impact on motor vehicles would be the requirement to issue a temporary registration and special license plates; maintain separate records on these vehicles; and reissue regular registration and plates when the driver's license revocation has ended. As part of the motor vehicles decrement for FY88, the special programs unit is being reduced by 33% and the division will no longer issue some specialized license plates such as personalized (vanity) plates. There will be insufficient employees left in that unit to absorb the impact of this bill, and a part-time position is included in the fiscal note.

The department is neutral on this bill.



WILLIAM R. NIX
Acting Commissioner

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: CSSB 3(SA)
Publish Date: _____

Revision Date: _____
Title: An Act relating to forfeiture of
motor vehicle registration and
Sponsor: Ahood
Requestor: Senate Transportation

Agency Affected: Public Safety
BRU: Motor Vehicles
Components: Vehicle Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		15.5	16.0	16.5	17.0	17.5
TRAVEL						
CONTRACTUAL		8.6	8.9	9.2	9.5	9.8
SUPPLIES		.1	.1	.1	.1	.1
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		24.2	25.0	25.8	26.6	27.4

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

REVENUE		28.5	28.5	28.5	28.5	28.5
---------	--	------	------	------	------	------

FUNDING: (Thousands of Dollars)

GENERAL FUND		24.2	25.0	25.8	26.6	27.4
FEDERAL FUNDS						
OTHER						
TOTAL		24.2	25.0	25.8	26.6	27.4

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

This bill requires issuance of temporary registration and special license plates to violators convicted of specific offenses. Also requires letter be sent to all persons 16 years of age or older who reside with the violator when the violator's registration and license plates have been surrendered to the court.

Prepared by: Bill Brown Phone: 465-4335
Division: Motor Vehicles Date: 4-6-87
Approved by Commissioner: [Signature] Date: 4/6/87
Agency: Public Safety

Distribution (by preparer):

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

JNR
4/6/87

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 3 (SA)

The cost breakdown is as follows:

Personal Services		
One Part-Time Motor Vehicle Rep. III, Range 10	15.5	15.5
Contractual		
1,140 special license plates @\$5.00 per set	5.7	
Postage for license plates @\$1.75 per set	2.0	
Postage for letters required in section 28.35.039(e). 1,800 x .22	.4	
Postage for general correspondence 1,140 x .22	.3	
Print temporary registrations 1,140 x .07	.1	
Print form letter	.1	
	Total	8.6
Commodities		
Normal office supplies	.1	<u>.1</u>
		TOTAL 24.2

A 3% inflation factor is included in subsequent fiscal year computations.

REVENUE:

1,140 special license plates @ \$25 per set.	28.5
--	------

Position Title Motor Vehicle Representative III		No. of Positions 1	Range/Step 10B	Darg. Unit GCU
Time Status PPT	Staff Months 6	Location Anchorage		Election District 7-15
Type of Expenditure		Justification		
1	2	The Special Programs Unit of the Division of Motor Vehicles, which currently handles specialized license plate applications, is being reduced by 33% as a FY88 decrement. As a result the division will no longer issue some specialized plates, such as personalized (vanity) plates. This bill requires issuance of specialized license plates to certain law violators. This position would process the special applications; issue the registration and plates; maintain separate records on these vehicles; and reissue regular registration and plates when the driver's license revocation has ended. The position would also be responsible for collection and disposition of registration and license plates surrendered to the court, and the temporary registration and special plates surrendered after the revocation has ended. The position will process titles when the vehicle with special plates is sold during the revocation period. Will also be responsible for all monies received.		
Salary	11,172	Amount	3	
Benefits	4,293			
Premium Pay				
Other				
Total Personal Services			15.5	
Travel			-	
Contractual			8.6	
Commodities			.1	
Equipment			-	
Other			-	
Total Cost			24.2	
Funding Source for Total Cost				
Federal Receipts	1002			
G. E. Match	1003			
General Fund	1004	24.2		
FA Receipts	1006			
CIP Receipts	1061			
Other				

FY 88

Page 3 of 3
Revised Date

Agency Department of Public Safety
BRU Division of Motor Vehicles
Component Vehicle Services

Request For
New Position

BILL NO: CSSB 3(Trsp)

DATE: April 14, 1987

TITLE: An Act relating to motor vehicle registration and registration plates

CONTACT: Bill Brown
465-4335

DEPARTMENT OF
PUBLIC SAFETY

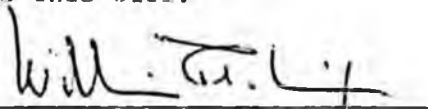
The bill will require the court to collect the registration and license plates from some repeat DWI offenders, and some offenders convicted of driving while revoked. The person may then apply to the department for specially designed license plates to replace those surrendered to the court. The department would also be required to send letters to all persons 16 years of age or older residing in the defendant's household. A \$25.00 fee will be charged for the special plates to cover the cost of the new program. It also reduces the number of metal license plates required for a motor vehicle from two to one, and increases drivers license and identification card fees by \$2.00.

It is felt the special plates would deter the "revoked" driver from operating that specific vehicle during the time the special plates are displayed. The letter sent to other household residents should deter the "revoked" drivers from operating other vehicles owned by the person. It is unknown whether the possibility of receiving the special plates would deter an individual from driving while intoxicated.

The one license plate will be displayed on the rear of the vehicle. Twenty states currently issue only one plate, and four others have introduced legislation to change to only one plate. This is a cost savings measure with a total annual savings of \$60,000. The \$2.00 increase in fees will produce approximately \$400,000 annually in additional revenue. Part of this revenue is to cover the costs of continuing to provide photographs on driver licenses and ID cards.

The special license plate portion of the bill will increase the workload on the courts and motor vehicles. The impact on motor vehicles would be the requirement to issue a temporary registration and special license plates; maintain separate records on these vehicles; and reissue regular registration and plates when the driver's license revocation has ended. As part of the motor vehicles decrement for FY88, the special programs unit is being reduced by 33% and the division will no longer issue some specialized license plates such as personalized (vanity) plates. There will be insufficient employees left in that unit to absorb the impact of this bill, and a part-time position is included in the fiscal note.

The department supports this bill.



WILLIAM R. NIX
Acting Commissioner

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version : CSSB 3(Trsp)
Publish Date : _____

Revision Date: _____
Title : An Act relating to motor vehicle registration and registration plates.....

Agency Affected: Public Safety
BRU: Motor Vehicles

Sponsor: Abood
Requestor: Senate Finance

Components : Vehicle Services
Field Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		7.8	16.0	16.5	17.0	17.5
TRAVEL						
CONTRACTUAL		(1.6)	(3.3)	(3.4)	(3.5)	(3.6)
SUPPLIES		.1	.1	.1	.1	.1
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		6.3	12.8	13.2	13.6	14.0

CAPITAL		(25.0)	(51.5)	(53.1)	(54.7)	(56.3)
---------	--	--------	--------	--------	--------	--------

REVENUE		414.3	440.5	452.5	465.5	478.5
---------	--	-------	-------	-------	-------	-------

FUNDING: (Thousands of Dollars)

GENERAL FUND		6.3	12.8	13.2	13.6	14.0
FEDERAL FUNDS						
OTHER						
TOTAL		6.3	12.8	13.2	13.6	14.0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

The sections of law pertaining to increase in driver license and identification card fees are effective July 1, 1987.

The sections of law pertaining to one license plate, and the new special license plates are effective January 1, 1988.

Prepared by: Charles R. Hosack *CRH/MS* Phone: 269-5551
Division: Motor Vehicles Date: _____

Approved by Commissioner: [Signature] Date: 4/13/87
Agency: Public Safety

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
Senate Secretary

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 3(Trsp)

This bill requires issuance of temporary registration and special license plates to violators convicted of specific offenses. It also requires a letter be sent to all persons 16 years of age or older who reside with the violator when the violator's registration and license plates have been surrendered to the court. In addition the bill reduces the number of license plates required on a motor vehicle from two to one, and increases driver licensing and identification card fees by \$2.00.

EXPENDITURES:

Personal Services

One part-time Motor Vehicle Rep III, Range 10	7.8	7.8
---	-----	-----

Contractual

570 special license plates @ \$4.00 each	2.3	
Postage for special plates @ \$1.10 each	.6	
Postage for letters required in section 28.35.039(e). 900 x \$.22	.2	
Postage for general correspondence 570 x \$.22	.1	
Print temporary registrations, 1,140 x \$.07	.1	
Print form letter	.1	
Savings - 332,500 less tabs @ \$.015 (1/2 year)	(5.0)	
	(1.6)	(1.6)

Commodities

Normal office supplies	.1	
		.1
		TOTAL 6.3

CAPITAL:

25,000 license plates @ \$1.00 (1/2 year)	(25.0)
---	--------

REVENUE:

570 special license plates @ \$25.00	14.3
180,000 driver licenses and permits @ \$2.00	360.0
20,000 identification cards @ \$2.00	40.0
	414.3

A 3% increase in population and inflation is included for FY89 and subsequent years. No increase in number of special plates issued.

Position Title Motor Vehicle Representative III		No. of Positions 1	Range/Step 10B	Barg. Unit GGU
Time Status PPT	Staff Months 6	Location Anchorage		Election District 7-15
Type of Expenditure		Justification		
1	2	The Special Programs Unit of the Division of Motor Vehicles, which currently handles specialized license plate applications, is being reduced by 33% as a FY88 decrement. As a result the division will no longer issue some specialized plates, such as personalized (vanity) plates. This bill requires issuance of specialized license plates to certain law violators. This position would process the special applications; issue the registration and plates; maintain separate records on these vehicles; and reissue regular registration and plates when the driver's license revocation has ended. The position would also be responsible for collection and disposition of registration and license plates surrendered to the court, and the temporary registration and special plates surrendered after the revocation has ended. The position will process titles when the vehicle with special plates is sold during the revocation period. Will also be responsible to collect the required fee, and account for all monies received.		
Salary	11,172	Amount	3	
Benefits	4,293		15.5	
Premium Pay			-	
Other			7.6	
Total Personal Services			.1	
Travel			-	
Contractual			23.2	
Commodities			-	
Equipment			-	
Other			-	
Total Cost			23.2	
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004		23.2	
I-A Receipts	1005			
CLP Receipts	1061			
Other				

(Figures on this form are for full year. They are cut in half for Page 2 because of effective date of 1-1-88 on special license plates.)

**Request For
New Position**

Agency Department of Public Safety
 DRU Division of Motor Vehicles
 Component Vehicle Services

FY 88

Page 3 of 3
 Revised Date _____

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of April 3, 1987 75-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: FINANCE

**FISCAL NOTE(S) ATTACHED **
IN ACCORDANCE WITH AS 24.08.035
(see below)

4/2/87

DATE TURNED INTO OFFICE April 9, 1987

Mr. President:

TRANSPORTATION

Committee considered

SB 3

motor vehicles registration and registration plates.

and recommended:

replace with CS SB 3 (TRSP) same title
 attached amendment(s) and new title

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted and attached

** Committee attached or adopted fiscal
 zero fiscal imp

*Revised fiscal
note forthcoming*

MEMBERS SIGNING DO PASS

OTHER

[Handwritten signatures]

[Handwritten signature]
Chairman signature and recommendation

Committee Backup Attached

Alaska State Legislature

INTERIM OFFICE
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-2843

WHILE IN SESSION
P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-4747



Senator Mitch Aboud
SENATE DISTRICT G-A

CHAIRMAN
STATE AFFAIRS
MAJORITY WHIP

MEMBER
TRANSPORTATION
COMMITTEE ON COMMITTEES
LEGISLATIVE COUNCIL
INTERNATIONAL TRADE

April 8, 1987

MEMORANDUM

TO: Members
Senate Transportation Committee

FROM: Senator Mitch Aboud *MA*

RE: CSSB 3, "An Act relating to motor vehicle registration and registration plates."

Attached please find a new draft -- CS for SB 3 as well as a sectional analysis. For your convenience, I have highlighted the language in the new draft which is being added. In addition, I have attached the following:

1. A memorandum from the Attorney General giving an explanation of the new language.
2. A letter from Governor Cowper explaining the purpose of the new language.
3. Statutes effected
4. A fiscal note from the Department of Motor Vehicles reflecting the revenue changes.

With the new language added, CS for SB 3 would accomplish the following:

1. Authorize the Department of Public Safety to design and issue special registration plates.
2. Establish a \$25 fee for acquiring special registration plates.
3. Require the surrender of registration and registration plates of a motor vehicle involved in certain repeat driving offenses.
4. Requires a person who surrenders their plates to identify certain family members, and requires the Dept. of Motor Vehicles to provide notice to the family members of the license revocation and the consequences of allowing a person without a driver's license to operate their vehicle.
5. Allows transfer of ownership of the vehicle with permission of the department.

PAGE TWO
Memorandum
April 8, 1987

6. Amends existing law requiring the Department of Public Safety to issue only one metal registration plate per motor vehicle.
7. Increases by \$2 the fee that a person must pay to obtain a driver's license, motorcycle license, instruction permit, school bus driver's permit, or state identification card.

April 7, 1987

SECTIONAL ANALYSIS

CSSB 3 (State Affairs), "An Act relating to motor vehicle registration and registration plates."

SECTION 1 - Authorizes the Department of Public Safety to design and issue special registration plates.

SECTION 2 - Establishes a \$25 fee for acquiring special registration plates.

SECTION 3 - Requires the surrender of registration and registration plates of a motor vehicle involved in certain repeat driving offenses. Establishes procedures for surrender of the registration and registration plates and for temporary registration and special plates. Requires a person who surrenders their registration and plates to identify certain family members, and requires the department to provide notice to the family members of the license revocation and the consequences of allowing a person without a driver's license to operate their vehicle. Allows transfer of ownership of the vehicle with permission of the department.

/ds

SUGGESTED AMENDMENTS AND QUESTIONS

SB 3, An Act relating to motor vehicles registration and registration plates.

Katherine Bigler, MADD & Ms. Rich, Tough Love

Suggested Amendment:

Page 3, line 1, change 17 years to 16 years of age as drivers licenses start at age 16.

Answer:

There was no objection to this amendment -- it is included in the committee substitute.

Bill Brown, Department of Public Safety, Division of Motor Vehicles

Suggested Amendment (1):

Page 2, line 14, change AS 28.35.031 to AS 28.35.032 because .032 is the criminal law in regards to refusing to take the breath test.

Answer (1):

There was no objection from the committee -- it is changed in the committee substitute.

Suggested Amendment (2):

Page 2, lines 25 & 26. Put a period after valid drivers' license and delete [or the applicant has a limited license issued under AS 28.15.181].

Answer (2):

There was no objections. The change is in the committee substitute

Senator Abood

Suggested Amendment:

Amend AS 28.35.039 (f) to have the Division of Motor Vehicles, instead of court, responsible for the transaction involving transfer of ownership of a vehicle under this section.

Answer:

With no objection, this amendment was added to the committee substitute.

Senator Josephson

Question:

Raised concern that a driver that had been convicted, has gotten his driving privileges restored, driving with a plate that triggers an officer to follow that driver may lead to unequal enforcement.

Answer:

Minnesota DWI Task Force explained that this has not been a problem. The patrol officer usually does not stop a car unless there is cause and even if the car is stopped the chances of it being stopped frequently to the point of harassment are slim since patrol cars have a large area within the city to patrol.

Senator Uehling

Question:

AS 28.35.039 (e) concerned Senator Uehling because the names of all persons residing in the convicted persons household who are age 16 or older would be included in the record of conviction -- guilt by association.

Answer:

After discussion, the committee agreed to remove the names of the household from the record of conviction, but still require members of the household to be notified of the person whose drivers' license was revoked and that if they knowingly let that person drive they will be held responsible.



UNIVERSITY OF MINNESOTA
TWIN CITIES

Minnesota Criminal Justice System
DWI Task Force
190 Law Center
229 19th Avenue South
Minneapolis, Minnesota 55455

(612) 373-9980
~~XXXXX~~ 625-5515

March 19, 1987

Senator Abood
P.O. Box V
Juneau, Alaska 99811

Dear Senator Abood:

The enclosed materials concern the impounding of motor vehicle registration plates because of a DWI conviction or driver's license revocation. H.F. 704 is the most current version of the proposed Minnesota law which has passed out of sub-committee in both the Senate and the House.

Several judges in the state have also begun to impound license plates from repeat violators when they plead not guilty on second and subsequent DWI charges. The surrendering of their plates is a condition of their release while the charge is pending. The judges have a 100% compliance with these impoundment orders because the defendants are informed that if they do not turn in their plates an order for their arrest will be issued.

I will speak with you on Wednesday March 25, 1987.

Sincerely,

Steve M. Simon
Director,
Minnesota Criminal Justice System DWI Task Force

SMS
rl

Enclosures



UNIVERSITY OF MINNESOTA
TWIN CITIES

Law School
285 Law Center
229 19th Avenue South
Minneapolis, Minnesota 55455
(612) 373-2717

MEMORANDUM

TO: Minnesota Criminal Justice System DWI Task Force

FROM: Steve Simon

DATE: June 6, 1984

SUBJECT: June 22, 1984 Meeting - IMPOUNDING OF LICENSE PLATES

Attached are materials from the Third Judicial District that we have obtained from Judge Russell Olson. These materials describe the license plate impoundment procedure that is implemented by the Judges in the Third Judicial District. Judge Olson originated the concept and he will be at our June 22 meeting to explain its operation. Please note that the plates are only impounded for second and subsequent DWI convictions.

SMS
mls

Attachments

DATE:

TO:

FROM: Five Judges of Olmsted & Dodge Counties

MEMORANDUM: Sentencing Sanctions of Surrender of Auto Registration Plates under M.S.A. 168.041 for Conviction of Second DWI

In the sentencing of persons convicted of the second DWI (whether a misdemeanor or gross misdemeanor) we five judges of Dodge and Olmsted Counties have agreed upon a sanction requiring the surrender of auto registration plates during the period of time of revocation of the driver's license of the defendant by the Commissioner of Public Safety.

The reasoning behind this venture is roughly as follows:

1. Usually a defendant convicted of his first DWI seems to respect the revocation of driving privileges; he does not usually drive during the revocation period. There are exceptions of course.
2. However, some significant number of defendants convicted of their second DWI do drive unlawfully during the period of revocation of their driver's license. This group of drivers appear to offer greater hazard to the safety of the public using highways and streets; their identity is unknown oftentimes to law enforcement officers until they are involved in either a separate traffic violation (perhaps including a third DWI) or an auto collision involving injury or even death to others. The public deserves our special efforts to remove such high-risk drivers from the highways.
3. Identification of those high-risk drivers probably can be enhanced by:
 - A. Surrender of his auto registration plates.
 - B. Furnishing him the special series plates which may be readily identified by traffic law enforcement officers as the statute says in 168.041, subd. 6. This permits family members to drive his car and permits him to use his car for limited drivers license purposes as the Commissioner of Public Safety sees fit to issue.
 - C. Giving actual notice of his non-licensing status to the other drivers living in his household and informing them of their risk if they permit him to drive their auto.

Attached is the following material:

1. A copy of Minnesota Statutes 168.041.
2. A copy of a boilerplate provision we propose using as one of the sanctions in sentencing (in addition to other sanctions such as mandatory jail for reasonable periods of time and, of course, money fines).
3. A copy of the actual notice required to be sent by the prosecuting attorney to the identified household members other than the defendant.
4. A copy of a typical sentencing order in a specific case.

168.041 IMPOUNDING REGISTRATION PLATES AND CERTIFICATES.

Subdivision 1. When any person is convicted of driving a motor vehicle after the suspension or revocation of the drivers license or driving privileges of such person, the court shall require the registration plates and registration certificates of any motor vehicle involved in such violation owned by such person or registered in his name to be surrendered to the court. Upon surrender thereof the court shall issue a receipt therefor.

If the violator is not the owner of such motor vehicle, the court shall require the registration plates and the registration certificate of any motor vehicle used by the violator, with the permission of the owner who had knowledge of the fact that the violator's drivers license had been revoked or suspended prior to the commission of the offense, to be surrendered to the court.

Subd. 2. If any person is convicted of violating any law or municipal ordinance, except parking laws or ordinances, regulating the operation of motor vehicles on the streets or highways, and the record of such person so convicted shows a previous conviction for driving after suspension or revocation of his driver's license or driving privileges, the court may direct the commissioner of public safety to suspend the driver's license of such person for not exceeding one year. The court may also require the registration plates and registration certificates of any motor vehicles owned by the violator or registered in his name to be surrendered to the court.

Subd. 3. If a person is convicted of any offense which makes mandatory the revocation of the drivers license of such person, or is convicted of driving a motor vehicle without having a valid drivers license in force, the court may require the registration plates and registration certificates of any motor vehicle owned by such person or any motor vehicles registered in his name to be surrendered to the court.

discretionary
surrender
w/ DWI

Subd. 4. Except as provided in subdivision 6 or subdivision 7, the court shall retain custody of the surrendered plates and certificates until such time as the drivers license of the violator has been reissued or reinstated.

Subd. 5. At the time of ordering the surrender of the registration plates and registration certificates of a violator or owner, the court shall notify the registrar of motor vehicles of that fact. Except as provided in subdivision 6 or subdivision 7, no new or duplicate registration plates or new registration certificates shall be issued to such violator or owner until his plates and certificates are returned to him by the court.

Notice by Court
to
Registrar
at State Level

Subd. 6. Any such violator or owner may apply to the registrar of motor vehicles for new registration plates which shall bear a special series number which may be readily identified by traffic law enforcement officers. A fee of \$3 shall accompany the application. The registrar of motor vehicles shall forthwith notify the court of such application. The court may return the registration certificate of such violator or owner to the registrar of motor vehicles, together with its consent to the issuance of such registration plates to such violator or owner. Thereupon the registrar of motor vehicles shall issue such new registration plates. Until the drivers license of such violator is reinstated, any new registration plates issued to him or to an owner whose plates have been impounded shall bear a special series number.

"Special series"
plates
available

Subd. 7. If an owner wishes to sell a motor vehicle during the time its registration plates and registration certificate are impounded or during the time its registration plates bear a special series number, he may apply to the court which impounded such plates and certificate, for consent to transfer title to the motor vehicle. If the court is satisfied that the proposed sale is in good faith and for a valid consideration, that the owner will thereby be deprived of the custody and control of the motor vehicle, and that the sale is not for the purpose of circumventing the provisions of this section, it may certify its consent to the registrar of motor vehicles and return the impounded registration plates and certificates. If during the time the registration plates and certificate of registration are impounded the title to said motor vehicle is transferred by the foreclosure of a chattel mortgage, the cancellation of a conditional sales contract, a sale upon execution, or by decree or order of a court of competent jurisdiction, the court shall order the license plates and registration certificate surrendered to the new owner and notify the registrar of motor vehicles of such action. The registrar of motor vehicles shall then transfer the registration plates and registration certificates to the new owner.

Subd. 8. Nothing contained in this section is intended to change or modify any provision of this chapter, with respect to the taxation of motor vehicles or the time within which the taxes thereon shall be paid.

Subd. 9. Any person who fails to surrender any impounded registration plates or registration certificates to the court upon demand or who operates any

State of Minnesota,)

Plaintiff,)

SENTENCING ORDER

-vs-

Scott Edward Nelson,)

File No. 5489

Defendant.)

September 23, 1982

APPEARANCES: Fred Suhler, Rochester City Attorney, appeared as
counsel on behalf of the State of Minnesota.

David VanDerHeyden, Attorney at Law, appeared as
counsel on behalf of the Defendant.

Defendant present in court.

The Court makes the finding that the Defendant is guilty of the
crime of Driving While Intoxicated, a gross misdemeanor for which the
maximum penalty is one year in jail or a thousand dollar fine or both,
upon his own plea of guilty and the Court makes the following disposition
and sentence:

IT IS ORDERED:

- I. That the Defendant pay a fine of three hundred dollars (\$300); said fine to be paid in installments of fifty dollars (\$50) on the first day of each month commencing October, 1, 1982.
- II. That the Defendant pay the assessment of thirty dollars (\$30) as provided by State law; said assessment to be paid forthwith.
- III. That the Defendant serve forty (40) days in the county jail upon the following terms and conditions:
 - A. That the Defendant serve ten (10) days in the county jail; said ten-day period may be served consecutively or on weekends from Fridays at 7:00 p.m. until Sundays at 7:00 p.m.
 - B. That the balance of the jail sentence (30 days) is suspended for a period of one year or during the period in which his driver's license is suspended or revoked, whichever is less, upon the following terms and conditions:
 - 1. That the Defendant is forbidden to drive any motor vehicle unless and until licensed to drive by the Commissioner of Safety, Driver's License Division.
 - 2. Pursuant to Minn. Stat. 168.041, Subd. (3) and (4), registration plates of all motor vehicles owned by the Defendant (and/or registered in his name) must be surrendered to the Clerk of this Court forthwith.

Sentencing Order

State vs. Scott Edward Nelson
File No. 5489
Sentencing Order
September 23, 1982
Page (two)

3. The Defendant is advised that pursuant to Minn. Stat. 168.041, Subd. (6) and (7), he may apply for substitute registration plates bearing a special series number (which may be readily identified by traffic law enforcement officers).
4. Additionally, the Defendant is required to identify under oath the person(s) now living in his household who are 17 years of age or more; the County Attorney or the City Attorney, whoever prosecuted this case, will provide actual written notice to those persons of the fact your driver's privileges are revoked until reinstated by the Commissioner of Public Safety, Driver's License Division.
5. The Defendant is further advised any person who allows him to drive his or her motor vehicle (knowing the Defendant's driver's license has been revoked) is himself or herself subject to prosecution and to forfeiture of registration plates under Minn. Stat. 168.041, Subd. (1).

Dated this 23rd day of September, 1982.

BY THE COURT:

O. Russell Olson
Judge of District Court

cc: City Attorney
County Jail
Defense Attorney
Defendant .

State of Minnesota,

Plaintiff,

-vs-

SENTENCING ORDER

(D.U.I.)

File No. _____

Defendant.

Date of sentencing hearing: _____, 19____.

APPEARANCES: _____, Olmsted County Attorney's Office, appeared as counsel on behalf of the State of Minnesota.

_____, Attorney at Law, appeared as counsel on behalf of the defendant.

Defendant present in court.

Pursuant to defendant's plea of guilty entered _____ 19____, the Court hereby enters judgment of guilty of Driving Under the Influence of an Alcoholic Beverage in violation of M.S. 169.121, subd. 1(a) and 3(a), a gross misdemeanor for which the maximum penalty is one year in jail or a \$3000 fine or both. The Court makes the following disposition:

IT IS ORDERED that the imposition of sentence be stayed for the period of TWO (2) years, or until earlier discharged by the Court, upon the following terms and conditions:

- I. That the defendant serve _____ in the county jail with the following provisions:
 - A. That the sentence is to commence _____ at which time the defendant is to report to the jail.

Case v. _____
File No. _____
Sentencing Order cont'd
Date: _____
Page two

B. That the defendant may be released from jail during the above-stated period as follows:

1. For the purpose of employment as provided in the jail work release program.

2. _____

II. That the defendant substantially complete the following program(s) as monitored by the Alcoholism Counselor (Jim Dexter or his staff designate): _____

III. That the defendant obey the alcohol-related traffic laws.

IV. That the defendant pay a fine in the amount of _____; said fine to be paid on or before _____

Further provisions: _____

V. That the defendant pay the alcohol evaluation assessment in the amount of \$50; said amount to be paid on or before _____

VI. That the defendant pay the surcharge of \$30 on or before _____

V.
Case No. _____

Sentencing Order cont'd

Date: _____

Page three

VII. That as a further condition of the stay of imposition of sentence the defendant comply with the following:

- A. That the defendant is forbidden to drive any motor vehicle unless and until licensed to drive by the Commissioner of Public Safety, Driver's License Division.
- B. Pursuant to Minn. Stat. 168.041, Subd. (3) and (4), registration plates of all motor vehicles owned by the defendant (and/or registered in the defendant's name) must be surrendered to the Clerk of this Court forthwith.
- C. That the defendant is advised that pursuant to Minn. Stat. 168.041, Subd. (6) and (7), the defendant may apply for substitute registration plates bearing a special series number (which may be readily identified by traffic law enforcement officers).
- D. Additionally, the defendant is required to identify "under oath the person(s) now living in the defendant's household who are 17 years of age or more; the County Attorney or the City Attorney, whoever prosecuted this case, will provide actual written notice to those persons of the fact the defendant's driving privileges are revoked until re-instated by the Commissioner of Public Safety.
- E. Defendant is further advised that any person who allows the defendant to drive that person's motor vehicle (knowing the defendant's driving privileges are revoked) is himself or herself subject to prosecution and additionally to forfeiture of registration plates under Minn. Stat. 168.041, Subd. (1).

Dated this _____ day of _____, 19 _____

BY THE COURT:

cc: Prosecuting Attorney
Defense Attorney
Defendant
Alcoholism Counselor
Jail (if applicable)

As a condition of the suspension of a portion of this sentence (or during any probation), you are forbidden to drive any motor vehicle unless and until licensed to drive by the Commissioner of Public Safety, Driver's License Division.

Further,

IT IS ORDERED as follows:

(1) Pursuant to Minn. Stat. 168.041, Subd. (3) and (4), registration plates (and registration certificates) of all motor vehicles owned by you (and/or registered in your name) must be surrendered to the Clerk of this Court on or before the date of revocation of license by the Commissioner of Public Safety.

(2) You are advised that pursuant to Minn. Stat. 168.041, Subd. (6) and (7), you may apply for substitute registration plates bearing a special series number (which may be readily identified by traffic law enforcement officers).

(3) Additionally, you are required to identify under oath the person(s) now living in your household who are 17 years of age or more; the County Attorney or the City Attorney, whoever prosecuted this case, will provide actual written notice to those persons of the fact your driver's privileges are revoked until re-instated by the Commissioner of Public Safety.

(4) You are further advised any person who allows you to drive his or her automobile (knowing your driver's license has been revoked) is himself or herself subject to prosecution and additionally to forfeiture of registration plates under Minn. Stat. 168.041, Subd. (1).

City of **ROCHESTER**

— Minnesota 55901 —



FREDERICK S. SUHL
City Attorney

Room 1, City Hall
(507) 285-8066

September 24, 1982

David E. & Carol E. Nelson
1236 SE 10th Avenue
Rochester, MN 55901

Dear Mr. & Mrs. Nelson:

On September 23, 1982, your son, Scott Edward Nelson appeared in the Olmsted County District Court before the Honorable O. Russell Olson for sentencing for his conviction of "driving a motor vehicle under the influence of alcohol". Because of the conviction, the Judge imposed as part of the sentence a requirement that your son was not to drive any motor vehicle under any circumstances unless his drivers license had been restored to him by the Commissioner of Public Safety of the State of Minnesota.

It would appear, based on information obtained by the Court during the sentencing proceeding, that you or other members of your family own motor vehicles which your son may have access to in the future.

I have been specifically instructed by the Judge to write you this letter and put you on notice that your son under the terms of this sentence is not to drive any vehicle until the drivers license is restored. You should also be advised that if you or any other person who knows he has no license permits him to drive under those circumstances, that a person allowing him to do so may be prosecuted.

If you have any questions with regard to this matter, please feel free to give me a call.

Sincerely,

Frederick S. Suhler, Jr.
Rochester City Attorney

lks

cc: Judge Olson

Sample letter
to household
members

City of **ROCHESTER**
— Minnesota 55901 —



FREDERICK S. SUHLER, JR.

City Attorney

Room 1, City Hall
(507) 285-8066

September 24, 1982

Cheryl Nelson
1236 SE 10th Avenue
Rochester, MN 55901

Dear Ms. Nelson:

On September 23, 1982, your brother, Scott Edward Nelson appeared in the Olmsted County District Court before the Honorable O. Russell Olson for sentencing for his conviction of "driving a motor vehicle under the influence of alcohol". Because of the conviction, the Judge imposed as part of the sentence a requirement that your brother was not to drive any motor vehicle under any circumstances unless his drivers license had been restored to him by the Commissioner of Public Safety of the State of Minnesota.

It would appear, based on information obtained by the Court during the sentencing proceeding, that you or other members of your family own motor vehicles which your brother may have access to in the future.

I have been specifically instructed by the Judge to write you this letter and put you on notice that your brother under the terms of this sentence is not to drive any vehicle until the drivers license is restored. You should also be advised that if you or any other person who knows he has no license permits him to drive under those circumstances, that a person allowing him to do so may be prosecuted.

If you have any questions with regard to this matter, please feel free to give me a call.

Sincerely,

Frederick S. Suhler, Jr.
Rochester City Attorney

lks

cc: Judge Olson

Little-used law to cost violators their license plates

By JIM SILHAN

Staff Writer

For many people, being forced by the courts to give up a driver's license is a fate worse than death — meaning that some driver anyway and take the risk of getting caught.

After Friday, however, those folks will find out that there is something worse than losing their driver's licenses — namely, losing their license plates and vehicle registration certificates, too.

The local District Court judges plan to start off a little-used law Friday that will leave motorists who are caught driving after revocation little choice but to put their cars up on blocks.

The law, which has been on the

books since 1955, requires that anyone convicted of driving with a suspended or revoked license surrender his car's license plates and vehicle registration to the courts.

Judge Clinton Wyant of Aitkin said this week that he and Judge John Spellacy of Grand Rapids plan to start enforcing the law Friday.

"Why now?" Wyant said, "we always thought it (imposition of the penalty) was discretionary. We had it called to our attention recently that it's mandatory."

And, he added, "If it's the law, then we're going to enforce it." Spellacy went a step further. Until a month ago, when the matter was brought to his attention

during a DWI Task Force meeting, he said, "I didn't even know the law existed."

The two judges picked Nov. 1 to begin enforcing the law because that is the traditional date for implementation of new laws.

And, Wyant added, "we've got to gear up for it."

Until 1961, enforcement of the law had been discretionary, meaning that judges were authorized to decide whether to impose the license plate, registration penalty. In 1961, however, an amendment was passed that made enforcement mandatory.

Judge Spellacy, citing one day on which every single case that came through his courtroom involved drunk driving, said the

law will give the courts one more tool in the battle to keep highways safe.

"We're running out of things to do," he said of the fight against drunk drivers. "We've got to get their attention."

"We're not stopping them by simply taking away their driver's license, and we're not stopping them by putting them in jail," imposing the law, he said, should "save a lot of lives."

"If we save 50 lives, isn't it worth it?" he asked. "We've got to get the drunks off the road."

The law will usually be invoked here upon conviction of aggravated DWI (driving while under the influence) — a gross misdemeanor involving a defendant who commits a DWI while

his or her license is under revocation for a previous DWI conviction or another, specific, alcohol-related reason.

Judge Spellacy said that, in Grand Rapids, the law will also be invoked whenever a person's driver's license is suspended or revoked, and upon conviction for such charges as fleeing a peace officer and DWI, subsequent conviction.

Here's the way the law will work:

— Upon conviction, the defendant will be required to surrender the license plates and certificate of the motor vehicle involved in the violation to the court.



PLATES

Continued on Page 2A

— The court will keep the plates and registration until the violator completes the court's sentence, takes the state-required tests and is issued a valid driver's license.

— The courts will also notify the registrar of motor vehicles of their action, and, except in one special category of cases, no new or duplicate plates or new registration will be issued to the violator until the courts return the old plates and registration.

The exception to that rule will occur when the courts allow violators to hold special permits which, for example, enable them to drive to and from work even though their licenses have been revoked. Violators holding these permits may apply to the registrar for new license plates. With the court's permission and payment of a \$5 fee, new plates may be issued.

Those plates, however, will bear a special series number which, in the words of the statute, "may be readily identified by law enforcement officers."

The law applies to the vehicle, not the person, involved in the violation — an important distinction. That means that, if you knowingly lend your car to someone whose license is under revocation, your license plates and registration could be impounded.

What happens if the car is leased or jointly owned? "That's a crack in the floor," Spellacy said, a hazy area in the statute.

Violators driving leased cars will not be compelled to turn in the plates on their own vehicles, he said. And in the case of joint ownership of a car, the non-violating owner may obtain special series "XW" plates so that he or she can continue to drive.

Vincent Courtney, Judge Wyant's law clerk, researched the law at Wyant's request, and noted that it is "not intended as punishment." Instead, the law was passed to keep people from driving after their licenses have been revoked and to keep the highways safe from those who have already shown they can be a risk.

"While enforcement of this statute could create some bureaucratic problems," Courtney concluded, "it should make those without valid driver's licenses think twice before driving their cars or someone else's."

Jack Wilds, motor vehicle administrator for the Minnesota Department of Public Safety, said that, with one exception — in Olmsted County in southern Minnesota — the law has not been used extensively.

The DPS, he said, has usually had no more than about 40 vehicles with impounded plates listed in its files at any one time.

The courts ordered it (surrender of plates), but there was no follow-up procedure," he said.

The problem, he said, is getting the word out to Minnesota's deputy registrars that certain in-

dividuals cannot legally get duplicate plates.

"There are 180 deputy registrar offices in Minnesota," Wilds said. "There is nothing to prevent me from getting a duplicate plate and putting it on my car."

"We would have to have a mechanism to verify every (license plate) renewal and every transfer of a motor vehicle, and there is no such mechanism in place now."

Keeping track of violators — there could be as many as 10,000 annually — could be a "bureaucratic nightmare," Wilds said.

However, he said, the mere fact that such a law exists may, as Courtney put it, make some people think twice.

"I do see it as an intimidating factor," he said. "We know down here (at the Department of Public Safety) how important it is when a person loses their driver's license, and the same thing will be true of license plates."

Judge Spellacy agreed that there will be problems with the law, but claimed that the DPS is "over-worrying."

"I can only predict that we are going to have some troubles," he said. "and if we have some troubles, we go to the Legislature and get the statute refined."

One way to overcome the problem of notifying field registrars, he said, is to computerize the entire system. "That," he said, "shouldn't be that hard these days."

Spellacy also favored simplifying the system by simply destroying license plates when they are surrendered.

That way, he said, when a violator's driver's license is returned, he or she would simply be issued new license plates instead of being given the old ones.

Spellacy also favored upgrading the failure to surrender plates from a misdemeanor to a low-grade felony, with a maximum penalty of a year and a day in jail.

In Olmsted County, the law has been strictly enforced for some time, invoked 10 times a month on the average, according to court officials in Rochester, the county seat.

Jill Johnson, a deputy District Court clerk there, said the court keeps an accurate list of those who turn in their plates. People who do not are ordered back into court for violating a part of their sentence.

Keeping track of violators can be a problem, she said. "We do have quite a volume. But we feel we're getting most of them."

Spellacy, rejecting a suggestion that the law should be redrafted to iron out some of the hazy areas, said he will go with the law as it's written and seek changes in it as needed.

"If (the law) isn't bug-free, but it's workable if we want to make it work," he said.

MEMO TO: Judge Spellacy
FROM: Diane Mangseth
DATE: January 15, 1986
RE: Impoundment of License Plates and Certificates of Title

- So far, we have opened 18 files for impoundments.

Judge Spooner: 9 cases - including 6 for D.A.R., 2 for D.A.S., and 1 for Aggravated D.W.I.

Judge Wyant: 1 case - Aggravated Violations.

Judge Spellacy: 8 cases - including 5 for D.W.I., gross misd. and 3 for Aggravated D.W.I.

Remarks:

Division II has 4 active bench warrants on misdemeanor Driving After Revocation for persons not turning in their plates. None of these defendants were placed on probation.

Division II judge waived turning in the plates on a D.A.R. conviction because the defendant lived in the Twin City area. He also was not placed on probation.

One misdemeanor case had already lost his plates when the officer, at the time of arrest, had a pick-up order from the State as the defendant was currently revoked for No Insurance. Only the certificate of title was turned in to our office.

One gross misdemeanor case had a Florida registration. The wife was requesting an X/W plate. The defendant had to register in Minnesota before being considered for an X/W plate. This was done on 12-23-85. So far, we have a photo-copy of the Florida certificate of title, the new Minnesota plates, and are waiting for the Certificate of Title from the State.

An X/W plate was recommended in the name of the defendant. However, the defendant is not entitled to an X/W plate until a limited license has been issued. In many cases, the defendant is not entitled to a limited license.

On a D.A.R. conviction, we never received either the plates or certificate of title. The vehicle had been impounded for illegal use of plates. The defendant was in jail and we tried to obtain the title which he stated was in the glove compartment. We had made a call to the police department and never heard from them. A follow-up call was made, about a week later. The vehicle had been junked at the request of the defendant as the storage and impoundment fees were more than the vehicle was worth. The junk yard sent in the title to the State. We contacted the State to see if we should send in an impoundment report and we were told "no" because the vehicle was being junked.

Another misdemeanor case called our office today and stated that they had sold the vehicle to another person and that person junked the vehicle. He didn't have a bill of sale, a check, or any proof of the sale.

Statistics

Another person had purchased an old vehicle from a friend and never received the title card. When he contacted the friend about the title card and turning it into the court, the friend stated that the certificate of title was lost. We only have the plates for this vehicle.

One party claimed the vehicle had been sold prior to the date of the plea and sentencing. The mother of the defendant testified that the vehicle was hers. We ran a 10-28 and it showed the vehicle registered to the defendant. We turned this over to the probation agent and also stated the possibility of perjury charges. The plates and registration were subsequently turned in.

#

Overall, I believe it is working better than we expected. The defendants are bringing in clean plates, as so instructed by the court.

The majority of our problems have been with the misdemeanor cases and those not placed on probation. Perhaps if the penalty is greater, there will be more incentive to turn in the plates.

I might add, a few have remarked of the difficulty they had in removing the plates—either they were rusted or frozen on.

MEMO TO: Judge Spellacy

FROM: Diane Mangseth

RE: Statistics on D.W.I. gross misdemeanors, Aggravated Violations, and Driving After Suspension and Driving After Revocation, from September 23, 1984 to present.

	<u>D.W.I., G.M.</u>	<u>Agg. Viol.</u>
Sept. 23, 1984 to Sept. 23, 1985	51	39
Sept. 24, 1985 to Sept. 24, 1986	35	31

(Between Sept. 24, 1985 to Nov. 1, 1985, we had (1) D.W.I. gross misd. and (6) Agg. Violations, which are included in the above totals.)

	<u>D.A.R AND D.A.S.</u>
Sept. 23, 1984 to Sept. 23, 1985	142
Sept. 24, 1985 to Sept. 24, 1986	108

(During the period of Sept. 24, 1985 to Nov. 1, 1985, 16 cases were handled in Court and are reflected in the above totals.)

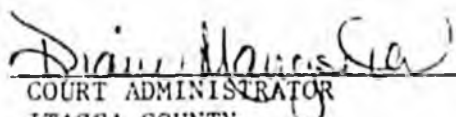
Dated: September 24, 1986

ADDENDUM:

Between Sept. 24 - Nov. 1, 1986 we had 4 gross misd. DWI's and 6 aggravated DWI's. We also had one Driving After Revocation.

Division II reports 11 additional D.A.R. and D.A.S. charges between 9-24-86 to 11-1-86.

Dated: November 18, 1986



COURT ADMINISTRATOR
ITASCA COUNTY

DEPUTY

TO: Judge Spellacy

FROM: Diane Mangseth

RE: Report on License Plate and Certificate of Title Impoundments

DATE: September 23, 1986

Listed below is a month by month listing of impoundments in Itasca County for gross misdemeanors. Attached is a separate list from Division II on misdemeanor impoundments. Division II was unable to furnish a list of the plates that have been returned.

We are currently holding 68 plates and certificates of title for the two courts.

COURT DATE BY MONTH	NAME OF DEFENDANT	CURRENTLY HOLDING PLATES & TITLE		EXPLANATION FOR NOT HOLDING PLATES	
		Yes	No		
Nov. 1985	T. Petz	x		6-24-86 returned. Valid D/L	
	E. Ross	x			
	R. Olson		x		
	R. Sletten	x			
Dec. 1986	R. Schmidt	x		Valid D/L Plates ret'd 4-14-86	
	D. Parantala	x			
	M. Payne		x		
	J. Woodford	x			
	T. Neary		x		
					x
Jan. 1986	M. Beighley	x		Plates returned. Veh. sold 7-9-86	
	D. Thompson		x		
	H. Peterson	x			Plates returned. Veh. sold 7-30-86
	J. Gray		x		
Feb.	J. Tobias	x		Plates returned. Val. D/L 3-17-86	
	B. Lougee		x		
March	D. Dexter		x	Waived - veh. sold Waived - Viol. occurred 8-85	
	W. Bertossi		x		
April	T. Nichols	x		Active warrant	
	J. Ritter	x			
	D. Heikkila		x		
May	E. Nason		x	To St. Cloud Reformatory	
	G. Huf	x			
	R. Salo	x			
	J. LeSarge	x			
	R. Olds	x			
	S. Brower		x		
			x	Waived - Div. II Judge	

COURT DATE BY MONTH	NAME OF DEFENDANT	CURRENTLY HOLDING PLATES & TITLE		EXPLANATION FOR NOT HOLDING PLATES
		Yes	No	
June 1986	K. Feltus		x	Waived - Veh. sold
	J. Bunker	x		
	B. Thibodeau		x	Waived - Veh. sold
	B. Oberg	x		
	R. Young	x		
	K. Isaacs		x	Plates were returned to vehicle owner - Villeneuve Plates confiscated by Sheriff - Illegal plates
D. Garbow		x		
N. Torbenson	x			
July	K. Holmied	x		Waived - dealer plates
	C. Gagner		x	
Aug.	D. Lokken	x		Serving 1 yr. in jail
	S. Herr	x		
	F. Bebeau	x		
	F. Graves		x	
	K. Talonen	x		
	E. Ridlon		x	
Sept.	K. Dowling	x		
	B. Karjala	x		
	R. Schmidt	x		
	D. Bruur		x	Mo. lic. plates - not pulled Until 9-29-86 to turn in
	H. Preble		x	
	D. Lindahl		x	Until 9-29-86 to turn in Until 9-29-86 to turn in
	W. Tendrup		x	

Division II Plates Report

November 1985	2
December 1985	4
January 1986	3
February 1986	6
March 1986	5
April 1986	7
May 1986	8
June 1986	7
July 1986	4
August 1986	4
Septem. 1986	5
	<hr/>
	55 ordered

48 plates picked up to 9-22-86

7 active bench warrants for failure to surrender plates

the intrusion." Id., United States v. Martinez-Fuerte, 428 U.S. 543, 558 (1976). The basic difference recognized by the court is that a driver is warned of a roadblock by the posting of signs and can see other vehicles being stopped and subjected to the same intrusion. The intrusion on a driver whose vehicle bears special plates is similarly distinguishable from a random stop situation in that the driver is on notice of the increased likelihood of being stopped and has assented to this.

Assuming that the state has the power it asserts in MSA §168.041 Subd. 3 to impound registration plates upon conviction resulting in mandatory revocation of driving privileges, the state clearly has the power to give back (with attendant limitations) some of the privileges it has taken away. MSA §168.041 Subd. 6. The person driving the vehicle, be it the revoked driver operating under a restricted license (MSA §171.30) or a member of the revoked driver's family, is aware that the privilege of operating the vehicle has been reinstated only conditionally -- the conditions extending to permissible times of operation and to persons permitted to drive the vehicle as well as to the possibility of being stopped for inquiry without reasonable suspicion of a violation. The revoked driver and her family have, in effect, agreed to submit to a greater degree of interference with freedom of movement, inconvenience, and anxiety than the normal driver in return for the re-extension of the privilege of operating the vehicle.

An analogy can be drawn to the situation presented in United States v. Biswell, 406 U.S. 311 (1972). The challenged action in Biswell was the warrantless search, without probable cause, of the premises of a person licensed to sell firearms under the Gun Control Act of 1968, 18 U.S.C. §921 et. seq., 406 U.S. at 311-312. In upholding the validity of the search, the court noted "that inspections for compliance with the

I. ISSUE

A person who violates the criminal or civil provisions of the DWI law may be required by the court to su-render the registration plates and certificates of ownership of any motor vehicles owned by or registered in the name of that person. MSA §168.041 Subd. 3

A person whose registration plates and certificates were impounded by a court (under MSA §168.041 Subd. 3) may apply for new registration plates which shall bear a readily identifiable special series number. MSA §168.041 Subd. 6.

Absent probable cause to suspect a violation of the law, can a police officer stop a motor vehicle bearing a (§168.041 Subd. 6) special license plate for purposes of determining whether the vehicle is being driven by a person whose driving privileges have been revoked or whether the vehicle is being driven in conformity with restrictions imposed under MSA §171.30 Subd. 1?

II. GENERAL RULE ON NON-PROBABLE CAUSED-BASED AUTOMOBILE STOPS

Stops of vehicles without "at least articulable and reasonable suspicion that a motorist is unlicensed or that an automobile is not registered, or that either the vehicle or an occupant is otherwise subject to seizure for violation of law" are violations of drivers' 4th Am. rights. Delaware v. Prouse, 440 U.S. 648, 663, 59 L.Ed.2d 660, 673.

"This holding does not preclude . . . develop[ment of] methods for spot checks that involve less intrusion or that do not involve the unconstrained exercise of discretion." Id.

III. ANALYSIS

1. Presence of a special license plate does not constitute articulable and reasonable suspicion that a motorist is unlicensed. The purpose for issuing the special plate is to allow operation of the vehicle by members

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of the revoked driver's family or by the revoked driver herself in conformity with restrictions imposed upon the driving privilege. In light of the presumption of innocence, the mere operation of a vehicle bearing a special plate cannot create an articulable and reasonable suspicion that the vehicle is being operated outside the limitations of the special license.

2. Presence of a special license plate does not constitute articulable and reasonable suspicion that the vehicle is not registered. The special license plates are issued only upon receipt of an application from a driver or owner whose regular registration has been impounded. These special plates must be surrendered and the regular registration returned upon reinstatement of the revoked driver's regular, unrestricted driving privileges. There is thus a minimal possibility that the vehicle bearing the special plates is not properly registered and no probable cause for an officer to stop the car on this basis.

3. The stopping of a car bearing special license plates involves less intrusion on the 4th Am. rights of the driver than does a random stop of a vehicle bearing regular registration plates. The Prouse decision does not preclude states from developing methods for enforcing licensing and registration laws which involve less intrusion on drivers' 4th Am rights than do random stops without reasonable suspicion. 440 U.S. at 663. Although the search of an automobile is regarded as far less intrusive than the search of one's person or of a building, Almeida-Sanchez v. United States, 413 U.S. 266, 279 (1973) (Powell, J., concurring), the Prouse Court was greatly concerned with the interference with freedom of movement, inconvenience, and anxiety imposed upon a driver by random stops. 440 U.S. at 657. The Court stated, however, that in roadblock-type stops a driver is "much less likely to be frightened or annoyed by

the intrusion." Id., United States v. Martinez-Fuerte, 428 U.S. 543, 558 (1976). The basic difference recognized by the court is that a driver is warned of a roadblock by the posting of signs and can see other vehicles being stopped and subjected to the same intrusion. The intrusion on a driver whose vehicle bears special plates is similarly distinguishable from a random stop situation in that the driver is on notice of the increased likelihood of being stopped and has assented to this.

Assuming that the state has the power it asserts in MSA §168.041 Subd. 3 to impound registration plates upon conviction resulting in mandatory revocation of driving privileges, the state clearly has the power to give back (with attendant limitations) some of the privileges it has taken away. MSA §168.041 Subd. 6. The person driving the vehicle, be it the revoked driver operating under a restricted license (MSA §171.30) or a member of the revoked driver's family, is aware that the privilege of operating the vehicle has been reinstated only conditionally -- the conditions extending to permissible times of operation and to persons permitted to drive the vehicle as well as to the possibility of being stopped for inquiry without reasonable suspicion of a violation. The revoked driver and her family have, in effect, agreed to submit to a greater degree of interference with freedom of movement, inconvenience, and anxiety than the normal driver in return for the re-extension of the privilege of operating the vehicle.

An analogy can be drawn to the situation presented in United States v. Biswell, 406 U.S. 311 (1972). The challenged action in Biswell was the warrantless search, without probable cause, of the premises of a person licensed to sell firearms under the Gun Control Act of 1968, 18 U.S.C. §921 et. seq., 406 U.S. at 311-312. In upholding the validity of the search, the court noted "that inspections for compliance with the

Gun Control Act pose only limited threats to the dealer's justifiable expectations of privacy," in that the federal license was accepted with the knowledge that the permits would be subject to inspection. Id. at 316. In the case of a specially-licensed vehicle, the operator has similarly accepted a license with the knowledge that a degree of 4th Am. protection is surrendered in return. The driver of a specially-licensed vehicle has a lesser justifiable expectation of privacy on the road than the normal unrestricted driver.

NOTE: The above analysis proceeds on a theory of waiver of 4th Am. rights by the revoked driver and her family. Under current Supreme Court doctrine, a waiver of constitutional rights will be found only if it is "voluntary, knowing, and intelligently made." D.H. Overmeyer v. Frick, 405 U.S. 174, 185 (1972). The state should, therefore, take steps to ensure that the individuals involved are advised that the vehicle bearing the special plates may be stopped without evidence of a violation, and that those individuals accept this limitation on their rights.

4. Allowing police officers to stop vehicles bearing special plates does not subject the occupants of those vehicles to the unconstrained exercise of police discretion. Under Prouse, states may develop methods for enforcing motor vehicle licensing and registration laws which do not involve the unconstrained exercise of discretion associated with random stops. 440 U.S. at 663. Police officers are not permitted to stop any vehicle without reasonable suspicion -- the practice struck down in Prouse; they may only stop the limited number of vehicles bearing special registration plates. The decision to stop the car is thus not entirely in the hands of the police officer, having been made by the legislature, the court, and the motor vehicle registration authorities. c.f. United States v. Martinez-Fuerte, 423 U.S. 543, 566 (1976).

NOTIF: In the interest of limiting police discretion, it would be preferable for the statute or regulation to make it imperative that the vehicle be stopped if special plates are observed -- the question then becomes one of the state's power and of waiver of rights as discussed in part III.

The general motoring public will not be subjected to potentially unlimited interference at the sole discretion of police officers. Id. at 559.

The usual method of limiting officers' discretion is the requirement of probable cause or reasonable suspicion to justify the seizure. Prouse, 440 U.S. at 657. The basis for the stop can then later be later examined for sufficiency by an impartial court. Id. at 654. Unless, however, a police officer personally knows and can recognize a particular driver whose license has been revoked or limited (an unlikely situation in urban areas), there will be no objective facts that the vehicle is not being driven in conformity with the restrictions perviously imposed.

Where, as here, there is an important state interest along with a possibility of arbitrary invasions of 4th Am. rights, the permissibility of a particular practice will be judged by balancing the intrusion upon the individual against the promotion of legitimate governmental objectives. Id. For this case, the intrusion upon the individual, as discussed in part III, is justifiable. The state, on the other hand, has a vital interest -- recognized by the Prouse Court -- in ensuring that only qualified persons are permitted to drive motor vehicles. Id. at 658. This interest is not sufficient to justify the random stopping of any vehicle, given the reasonable alternative of stopping only upon evidence of a violation. Here, however, there is no outward evidence of the violation and the court should find that the state's interest is sufficient to allow stopping of the limited number of vehicles bearing special plates. The state will not be stopping a large

number of vehicles, among whose operators will presumably be a much higher than average percentage of unlicensed or restricted drivers.

IV. CONCLUSION

The fact that a vehicle bears a specially numbered license plate does not create an articulable and reasonable suspicion of a licensing or registration violation. A stop of the vehicle cannot be justified on these grounds under Delaware v. Prouse, 440 U.S. 648 (1979).

The stopping of a car bearing special license plates can, however, be justified on a different ground stated by the Prouse Court. A statute such as MSA §168.041 represents a method for the spot-checking of vehicles which is less intrusive of the driver's 4th Am. rights than is a purely random stop. The driver of a specially-licensed vehicle has a lower expectation of privacy than an ordinary driver (assuming that clear notice of the right of police officers to stop the vehicle without suspicion of a vehicle has been given). The driver of a specially-licensed vehicle can be viewed as having waived the 4th Am. rights recognized in the Prouse decision.

The restraint of police officers' discretion afforded by MSA §168.041 is an additional ground for its validity under the Prouse rationale. Police officers are limited to stopping only vehicles bearing the special plates -- vehicles singled out because of restrictions imposed upon their operation, not because of the officer's discretionary decision. A police officer may, therefore, validly stop a vehicle solely because it bears specially-numbered license plates.

RECOMMENDATION TO THE LEGISLATURE FOR LEGISLATIVE ACTION #23

The Minnesota Criminal Justice System DWI Task Force recommends that the Minnesota Legislature adopt a statute that requires that license plates be impounded from individuals whose drivers licenses are revoked a second time within five years or a third time within ten years for violation of Minnesota's DWI Laws.

This recommendation is based on the following reasons:

1. Approximately 25 percent of all alcohol-related traffic fatalities in Minnesota involve a driver who has a prior DWI-related driver's license revocation.
2. Repeat violators of the DWI law have a very high probability of being chemically dependent.
3. Revoking the driver's license of a chemically dependent person does not stop them from driving. They must be separated from their vehicle until they deal with their chemical dependency.
4. Impounding the license plates of repeat DWI violators can make it more difficult for them to continue to drive after their license is revoked.
5. The impoundment law, as drafted by the Minnesota Criminal Justice System DWI Task Force, allows for the issuance of special plates so that other members of the repeat violator's household can continue to drive as well as allowing the repeat violator himself to drive if he obtains a limited drivers license.
6. An impoundment law directed at repeat violators is consistent with the philosophy that the criminal justice system should focus on repeat violators because of the high probability of their being involved in an alcohol-related accident.

The following amendments to the license plate impoundment statute, 168.041, resulted from Minnesota Criminal Justice System DWI Task Force recommendations. They passed out of committee but were not passed by the full legislature in 1986 due to time constraints. Only that portion dealing with registration plate and certificate impoundment has been reproduced below.

"Section 1. Minnesota Statutes 1984, section 168.041, is amended to read:

168.041 [IMPOUNDING REGISTRATION PLATES AND CERTIFICATES.]

Subdivision 1. When any person is convicted of driving a motor vehicle after the suspension or revocation of the driver's license or driving privileges of such person, the court shall require the registration plates and registration certificates of any motor vehicle involved in such violation owned by such person or registered in his name to be surrendered to the court. Upon surrender thereof the court shall issue a receipt therefor.

If the violator is not the owner of such motor vehicle, the court shall require the registration plates and the registration certificate of any motor vehicle used by the violator, with the permission of the owner who had knowledge of the fact that the violator's drivers had been revoked or suspended prior to the commission of the offense, to be surrendered to the court.

Subd.2. If any person is convicted of violating any law or municipal ordinance, except parking laws or ordinances, regulating the operation of motor vehicles on the streets or highways, and the record of such person so convicted shows a previous conviction for driving after suspension or revocation of his driver's license or driving privileges, the court may direct the commissioner of public safety to suspend the driver's license

of such person for not exceeding one year. The court may also require the registration plates and registration certificates of any motor vehicles owned by the violator or registered in his name to be surrendered to the court.

Subd. 3. Except as otherwise provide in subdivision 3a, if a person is convicted of any offense which makes mandatory the revocation of the driver's license of such person, or is convicted of driving a motor vehicle without having a valid driver's license in force, the court may require the registration plates and registration certificates of any motor vehicle owned by such person or any motor vehicles registered in his name to be surrendered to the court.

Subd. 3a. If a person's driver's license or driving privileges are revoked pursuant to a third violation of sections 169.121 or 169.123 within ten years, the court shall require the registration plates and registration certificates of any motor vehicle involved in the violation and owned by or registered in the name of the violator, including vehicles registered jointly in the name of the violator and the violator's spouse, to be surrendered to the court. An impoundment order shall be issued under this subdivision when the person appears in court on any criminal charge or civil driver's license matter arising out of the incident resulting in the most recent license revocation. If no criminal charge or civil license matter is initiated in court, the attorney general may initiate a registration plate and certificate impoundment proceeding, requesting an impoundment order under this subdivision. This proceeding shall be brought in municipal or county court in the jurisdiction where the

violation of section 169.121 or 169.123 occurred.

Subd. 4. Any registration plates surrendered to the court pursuant to this section shall be destroyed by the court. Any registration certificates surrendered to the court shall be forwarded to the registrar of motor vehicles by the court. Except as provided in subdivisions 5a, 6, or 7, no new registration plates may be issued to the person, violator, or owner until such time as the driver's license of the person, violator, or owner has been reissued or reinstated.

Subd. 5. At the time of ordering the surrender of the registration plates and registration certificates of the person, violator, or owner, the court shall notify the registrar of motor vehicles of that fact. The registration plates shall be destroyed by the court within three days of the date of surrender. When the registration plates are destroyed, the court shall notify the registrar of motor vehicles of that fact.

Subd. 5a. If the driver's license revocation which is the basis for a registration plate and certificate impoundment order is rescinded, upon application to the registrar of motor vehicles, the person whose registration plates and certificate have been impounded shall receive new plates and the certificate for the impounded vehicle at no cost. The application shall include a copy of the order rescinding the driver's license revocation.

Subd. 6. Any such person, violator, or owner may apply to the court which ordered the surrender of registration plates and certificates for new registration plates which shall bear a

special series number which may be readily identified by traffic law enforcement officers. The court may authorize the issuance of special plates if (1) a member of the person's, violator's, or owner's household has a valid driver's license, or (2) the person, violator, or owner has a limited license issued pursuant to section 171.30. If the court authorizes the issuance of special plates, it shall notify the registrar of motor vehicles and the registrar shall issue the special plates upon payment of a \$100 fee for each vehicle for which special plates are requested. Until the driver's license of such person, violator, or owner is reinstated or reissues, any new registration plates issued to him or to an owner whose plates have been ordered surrendered shall bear a special series number.

Subd. 7. If the owner wishes to sell a motor vehicle during the time its registration plates bear a special series number, he may apply to the court which ordered he surrender of such plates and certificate, for consent to transfer title to the motor vehicle. If the court is satisfied that the proposed sale is in good faith and for a valid consideration, that the owner will thereby be deprived of the custody and control of the motor vehicle, and that the sale is not for the purpose of circumventing the provision of this section, it may certify its consent to the registrar of motor vehicles. The registrar shall then transfer the registration certificate to the new owner upon proper application and shall issue new registration plates to the new owner. After the registration plates and certificate of registration have been surrendered to the court pursuant to this section, if the title to said motor vehicle is transferred by the

foreclosure of a chattel mortgage, the cancelation of a conditional sales contract, a sale upon execution, or by decree or order of a court of competent jurisdiction, the court shall order the registration certificate surrendered to the new owner. The registrar of motor vehicles shall then transfer the registration certificates to the new owner and shall issue new registration plates to the new owner.

Subd. 8. Nothing contained in this section is intended to change or modify any provision of this chapter, with respect to the taxation of motor vehicles or the time within which the taxes thereon shall be paid.

Subd. 9. Any person who fails to surrender any registration plates or registration certificates to the court upon demand pursuant to this section or who operates any motor vehicle on a street or highway at a time when a court has ordered the surrender of its registration plates and registration certificate is guilty of a misdemeanor.

Robert J. Sundberg
Commissioner

465-4371

October 22, 1986

Mr. Ray Lewis, Research Consultant
Minnesota Criminal Justice System
DWI Task Force
University of Minnesota
190 Law Center
229 19th Avenue South
Minneapolis, Minnesota 55455

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OCT 23 1986


Dear Mr. Lewis:

In response to your letter of October 9, 1986, there are no court jurisdictions in Alaska that allow for the impounding of the license plates and registration certificates of motor vehicles owned or registered to individuals convicted of a DWI offense.

Although our State Statute does allow for the confiscation of a vehicle owned or registered to an individual that has three or more convictions for DWI, this sanction is seldom used. It is cumbersome because of the ownership complications involved.

However, confiscation of the license plates and registration certificates would seem to eliminate this problem and is certainly worth pursuing. Good luck.

Sincerely,


T. Michael Lewis, Program Director
Alaska Highway Safety Planning Agency

bcc: Senator Mitch Abood ✓



UNIVERSITY OF MINNESOTA
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Minnesota Criminal Justice System
DWI Task Force
190 Law Center
229 19th Avenue South
Minneapolis, Minnesota 55455
~~(612) 575-3388~~

RECEIVED

OCT 14 1985

HIGHWAY SAFETY

October 9, 1986

Mr. Michael Lewis, Program Director
Department of Public Safety
Batch 5
Minneapolis, MN 55455

Governor's Highway Safety Traffic Coordinator:

The courts in three Minnesota counties are regularly impounding the license plates and registration certificates of motor vehicles owned or registered to individuals convicted of Gross Misdemeanor DWI, Aggravated DWI, or driving after license withdrawal. The judges believe this practice has resulted in a reduction in the number of such cases in their jurisdictions. The Minnesota Criminal Justice System DWI Task Force has recommended that the legislature adopt a statute requiring all courts to follow this practice.

However, no centralized reporting system in Minnesota has been able to provide information on the increase or decrease of these offenses in response to implementation of the impoundment policy in individual jurisdictions. Do you know of any court jurisdictions in your state that regularly impounds the license plates and registration certificates of repeat DWI offenders? Has such a program ever been evaluated for effectiveness in reducing DWI recidivism? If so, would you please send me this information and the name of a contact person.

I am enclosing a memo regarding the present impounding practice in one southern Minnesota jurisdiction and the proposed statutory amendments for registration plate and certificate impoundment in Minnesota.

Thank you for your response,

Ray Lewis

Ray Lewis, Research Consultant
Minnesota Criminal Justice System DWI Task Force

xcc: Senator Mitch Abood, w/attachments 10/86 ✓

3/12/87-4:30

[RESDEPT] ES/jb RH704A-3

1 _____ moves to amend H. F. No. 704, as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. Minnesota Statutes 1986, section 168.041, is
4 amended to read:

5 168.041 (IMPOUNDING REGISTRATION PLATES AND CERTIFICATES.)

6 Subdivision 1. When any person is convicted of driving a
7 motor vehicle after the suspension or, revocation or
8 cancellation of the drivers driver's license or driving
9 privileges of such person, the court shall require the
10 registration plates and registration certificates certificate of
11 any motor vehicle involved in such violation owned by such
12 person or registered in that person's name to be surrendered to
13 the court. Upon surrender thereof the court shall issue a
14 receipt therefor.

15 If the violator is not the owner of such the motor vehicle,
16 the court shall require the registration plates and the
17 registration certificate of any motor vehicle used by the
18 violator, with the permission of the owner who had knowledge of
19 the fact that the violator's drivers driver's license had been
20 revoked or suspended prior to the commission of the offense, to
21 be surrendered to the court.

22 Subd. 2. If any person is convicted of violating any law
23 or municipal ordinance, except parking laws or ordinances,
24 regulating the operation of motor vehicles on the streets or



UNIVERSITY OF MINNESOTA
TWIN CITIES

Minnesota Criminal Justice System
DWI Task Force
190 Law Center
229 19th Avenue South
Minneapolis, Minnesota 55455

(612) 373-8880
XXXXXX 625-5515

December 1, 1986

THE MINNESOTA CRIMINAL JUSTICE SYSTEM DWI TASK FORCE

The Minnesota Criminal Justice System DWI Task Force was established in 1982 to undertake a comprehensive and ongoing examination of Minnesota's efforts to reduce the number of drunk drivers on our roads. An essential concept of the task force is that its investigation is ongoing and that its existence is not limited to a single legislative session.

The purpose of the task force is to examine the DWI laws in Minnesota and the manner in which they are enforced by law enforcement agencies and the courts. The task force also recommends changes in statutes, enforcement practices, and public policy that will result in decreasing the number of people who drive a car after consuming too much alcohol. The Minnesota Criminal Justice System DWI Task Force has made twenty three recommendations for improving DWI control to the legislature, law enforcement agencies, and the courts.

The task force brings together representatives from all parts of the Minnesota Criminal Justice System so that ideas and information about the DWI problem can be shared and discussed.

Members compare the goals, perspectives, priorities, and policies of the different agencies and institutions they represent. The task force members include judges, prosecutors, defense attorneys, police officers, court services personnel, driver license evaluators, public health workers, and state traffic safety officials.

The task force meetings provide a regular opportunity for members of different agencies and organizations to identify and discuss common problems in DWI control. Areas of investigation are generated by task force members. Once an area is identified, resource materials and information are gathered and distributed to members in advance of the meeting at which the area is to be discussed. The task force believes it has been successful in its attempts to identify the different aspects of the DWI problem and in its investigation of possible solutions. Its ability to gather data, which it bases its actions on, is crucial to its success.

To follow up on the information gathered, a quarterly newsletter updates members of the criminal justice system on legislative activity, legal cases, improved enforcement and court procedures, and research findings. The current mailing list for the Newsletter reaches over 1,500 individuals involved in the DWI control system.

The task force is supported by the Minnesota Department of Public Safety with funds from the National Highway Traffic Safety Administration. The task force is based at the University of Minnesota Law School. Ray R. Lewis is the DWI research consultant for the task force. Professor Stephen M. Simon is the director of the Minnesota Criminal Justice System DWI Task Force.

3/12/87-4:30

[RESDEPT] ES/jb RH704A-3

1 _____ moves to amend H. F. No. 704, as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. Minnesota Statutes 1986, section 168.041, is
4 amended to read:

5 168.041 [IMPOUNDING REGISTRATION PLATES AND CERTIFICATES.]

6 Subdivision 1. When any person is convicted of driving a
7 motor vehicle after the suspension or, revocation or
8 cancellation of the ~~drivers~~ driver's license or driving
9 privileges of such person, the court shall require the
10 registration plates and registration certificates certificate of
11 any motor vehicle involved in such violation owned by such
12 person or registered in that person's name to be surrendered to
13 the court. Upon surrender thereof the court shall issue a
14 receipt therefor.

15 If the violator is not the owner of such the motor vehicle,
16 the court shall require the registration plates and the
17 registration certificate of any motor vehicle used by the
18 violator, with the permission of the owner who had knowledge of
19 the fact that the violator's ~~drivers~~ driver's license had been
20 revoked or suspended prior to the commission of the offense, to
21 be surrendered to the court.

22 Subd. 2. If any person is convicted of violating any law
23 or municipal ordinance, except parking laws or ordinances,
24 regulating the operation of motor vehicles on the streets or

1 highways, and the record of such the person so convicted shows a
2 previous conviction for driving after suspension or revocation
3 of the person's driver's license or driving privileges, the
4 court may direct the commissioner of public safety to suspend
5 the driver's license of such the person for not exceeding one
6 year. The court may also require the registration plates and
7 registration certificates certificate of any motor vehicles
8 vehicle owned by the violator or registered in the violator's
9 name to be surrendered to the court.

10 Subd. 3. Except as otherwise provided in subdivision 3a,
11 if a person is convicted of any offense which makes mandatory
12 the revocation of the drivers person's driver's license of such
13 person, or is convicted of driving a motor vehicle without
14 having a valid driver's license in force, the court may require
15 the registration plates and registration certificates
16 certificate of any motor vehicle owned by such person or any
17 motor vehicles vehicle registered in that person's name to be
18 surrendered to the court.

19 Subd. 3a. If a person's driver's license or driving
20 privileges are revoked pursuant to a second violation of section
21 169.121 or 169.123 within five years, or a third or subsequent
22 violation of section 169.121 or 169.123 within ten years, the
23 court shall issue an impoundment order requiring the surrender
24 of the registration plates and registration certificate of any
25 motor vehicle involved in the violation, and any motor vehicle
26 owned by, registered, or leased in the name of the violator,
27 including vehicles registered or leased jointly in the name of
28 the violator and the violator's spouse. This requirement does
29 not apply to rental motor vehicles, as defined in subdivision
30 10, that are involved in the violation, leased in the name of
31 the violator, or leased jointly in the name of the violator and
32 the violator's spouse. An impoundment order must be issued
33 under this subdivision when the person appears in court on any
34 criminal charge or civil driver's license matter arising out of
35 the incident resulting in the most recent license revocation.
36 If no criminal charge or civil license matter is initiated in

1 court, the attorney general may request an impoundment order
2 under this subdivision in municipal or county court, or the
3 unified district court in the jurisdiction where the violation
4 of section 169.121 or 169.123 occurred.

5 Subd. 4. ~~Except as provided in subdivision 6 or~~
6 ~~subdivision 7, the court shall retain custody of the surrendered~~
7 ~~plates and certificates~~ Within three days after the court issues
8 an impoundment order, the registration plates and certificates
9 must be surrendered to the court. The court either must destroy
10 surrendered registration plates within seven days and forward
11 surrendered registration certificates to the registrar of motor
12 vehicles or it may retain custody of the surrendered plates and
13 certificates. Except as provided in subdivision 5, 6, or 7, no
14 new registration plates may be issued to the person, violator,
15 or owner until such time as the drivers driver's license of
16 the person, violator, or owner has been reissued or reinstated.

17 Subd. 5. ~~At the time of ordering the surrender of the~~
18 ~~registration plates and registration certificates of a violator~~
19 ~~or owner, the court shall notify the registrar of motor vehicles~~
20 ~~of that fact. Except as provided in subdivision 6 or~~
21 ~~subdivision 7, no new or duplicate registration plates or new~~
22 ~~registration certificates shall be issued to such violator or~~
23 ~~owner until the surrendered plates and certificates are returned~~
24 ~~to the violator or owner by the court. If the driver's license~~
25 ~~revocation that is the basis for an impoundment order is~~
26 ~~rescinded, the registrar of motor vehicles must issue new plates~~
27 ~~and the certificate for the vehicle at no cost, when the~~
28 ~~registrar receives an application that includes a copy of the~~
29 ~~order rescinding the driver's license revocation.~~

30 Subd. 6. (a) Any such violator or owner may apply to the
31 ~~registrar of motor vehicles~~ commissioner for new registration
32 plates which shall bear a special series number ~~which may of~~
33 numbers or letters so as to be readily identified by traffic law
34 enforcement officers. A fee of \$5 shall accompany the
35 application. The registrar of motor vehicles shall forthwith
36 notify the court of such application. The court may return the

1 registration-certificate-of-such-violator-or-owner-to-the
2 registrar-of-motor-vehicles, together with its consent to the
3 issuance of such registration plates to such violator or owner.
4 Thereupon the registrar of motor vehicles shall issue such new
5 registration plates. The commissioner may authorize the
6 issuance of special plates if (1) a member of the person's,
7 violator's, or owner's household has a valid driver's license,
8 or (2) the person, violator, or owner has a limited license
9 issued under section 171.30. The commissioner may issue the
10 special plates on payment of a \$20 fee for each vehicle for
11 which special plates are requested.

12 (b) Until the driver's license of such person,
13 violator, or owner is reinstated or reissued, the person,
14 violator, or owner must inform the commissioner that an
15 impoundment order is in effect when requesting any new
16 registration plates issued to the violator or to an owner whose
17 plates have been impounded shall bear a special series number.

18 Subd. 7. If an owner wishes to may not sell a motor
19 vehicle during the time its registration plates and registration
20 certificate are impounded have been ordered surrendered or
21 during the time its registration plates bear a special series
22 number of numbers or letters, unless the owner may apply
23 applies to the court which impounded such plates and
24 certificate, for consent to transfer title to the motor
25 vehicle. If the court is satisfied that the proposed sale is in
26 good faith and for a valid consideration, that the owner will
27 thereby be deprived of the custody, and control of the motor
28 vehicle, and that the sale is not for the purpose of
29 circumventing the provisions of this section, it may certify its
30 consent to the registrar of motor vehicles and return the
31 impounded registration plates and certificates. If during the
32 registrar shall then transfer the registration certificate to
33 the new owner upon proper application and issue new registration
34 plates. After the time the registration plates and certificate
35 of registration are impounded have been ordered surrendered to
36 the court under this section, if the title to said motor vehicle

1 is transferred by the foreclosure of a chattel mortgage, the
2 cancellation of a conditional sales contract, a sale upon
3 execution, or by decree or order of a court of competent
4 jurisdiction, the court shall order the ~~license-plates-and~~
5 registration certificate surrendered to the new owner and ~~notify~~
6 ~~the-registrar-of-motor-vehicles-of-such-action.~~ The registrar
7 of motor vehicles shall then transfer the registration plates
8 ~~and-registration-certificates-to-the-new-owner~~ certificate and
9 issue new registration plates to the new owner.

10 Subd. 8. Nothing contained in this section is intended to
11 change or modify any provision of this chapter, with respect to
12 the taxation of motor vehicles or the time within which the
13 taxes thereon shall must be paid.

14 Subd. 9. Any person who fails to surrender any ~~impounded~~
15 registration plates or registration ~~certificates~~ certificate to
16 the court upon demand ~~or~~ under this section, and operates any
17 motor vehicle on a street or highway at a time when a court has
18 ordered the surrender of its registration plates and
19 registration certificate, or who fails to comply with
20 subdivision 6, paragraph (b), is guilty of a misdemeanor.

21 Subd. 10. As used in subdivision 3a, "rental motor vehicle"
22 means a passenger vehicle, truck, motorcycle, or motorized
23 bicycle which is one of a fleet of two or more vehicles that are
24 rented for periods of 30 days or less.

25 Sec. 2. Minnesota Statutes 1986, section 169.123,
26 subdivision 5b, is amended to read:

27 Subd. 5b. [ADMINISTRATIVE REVIEW.] At any time during a
28 period of revocation imposed under this section and of
29 impoundment under section 168.041 a person may request in
30 writing a review of the order of revocation or impoundment by
31 the commissioner of public safety. Upon receiving a request the
32 commissioner or the commissioner's designee shall review the
33 order, the evidence upon which the order was based, and any
34 other material information brought to the attention of the
35 commissioner, and determine whether sufficient cause exists to
36 sustain the order. Within 15 days of receiving the request the

1 commissioner shall report in writing the results of the review.
2 The review provided in this subdivision is not subject to the
3 contested case provisions of the administrative procedure act in
4 sections 14.01 to 14.70. As a result of this review, if the
5 commissioner finds that the owner's driver's license or driving
6 privileges were not revoked under this section or section
7 169.121, the owner was not and is not a member of the revoked
8 operator's household, and the owner had no knowledge that the
9 vehicle was being driven, operated, or physically controlled in
10 violation of section 169.121, the commissioner may authorize the
11 issuance at no cost of new registration plates and a
12 registration certificate to the owner of the vehicle, or may
13 authorize the return of the owner's former registration plates
14 and registration certificate if custody of them was retained by
15 the court under section 168.041, subdivision 4.

16 The availability of administrative review for an order of
17 revocation shall have no effect upon the availability of
18 judicial review under this section.

19 Sec. 3. Minnesota Statutes 1986, section 169.123,
20 subdivision 5c, is amended to read:

21 Subd. 5c. [PETITION FOR JUDICIAL REVIEW.] Within 30 days
22 following receipt of a notice and order of revocation pursuant
23 to this section, or while an impoundment order is in effect
24 under section 168.041, a person may petition the court for
25 review. The petition shall be filed with the court
26 administrator of county or municipal court in the county where
27 the alleged offense occurred, together with proof of service of
28 a copy on the commissioner of public safety, and accompanied by
29 the standard filing fee for civil actions. No responsive
30 pleading shall be required of the commissioner of public safety,
31 and no court fees shall be charged for the appearance of the
32 commissioner of public safety in the matter.

33 The petition shall be captioned in the name of the person
34 making the petition as petitioner and the commissioner of public
35 safety as respondent. The petition shall state with specificity
36 the grounds upon which the petitioner seeks rescission of the

1 order of revocation or denial or the order of impoundment.

2 The filing of the petition shall not stay the revocation or
3 denial or the impoundment order. The reviewing court may order
4 a stay of the balance of the revocation or impoundment if the
5 hearing has not been conducted within 60 days after filing of
6 the petition upon terms the court deems proper. Judicial
7 reviews shall be conducted according to the rules of civil
8 procedure.

9 Sec. 4. Minnesota Statutes 1986, section 169.123,
10 subdivision 6, is amended to read:

11 Subd. 6. [HEARING.] A hearing under this section shall be
12 before a municipal or county judge, in any county in the
13 judicial district where the alleged offense occurred. The
14 hearing shall be to the court and may be conducted at the same
15 time and in the same manner as hearings upon pretrial motions in
16 the criminal prosecution under section 169.121, if any. The
17 hearing shall be recorded. The commissioner of public safety
18 shall appear and be represented by the attorney general or
19 through the prosecuting authority for the jurisdiction involved.

20 The hearing shall be held at the earliest practicable date,
21 and in any event no later than 60 days following the filing of
22 the petition for review. The judicial district administrator
23 shall establish procedures to ensure efficient compliance with
24 the provisions of this subdivision. To accomplish this, the
25 administrator may, whenever possible, consolidate and transfer
26 review hearings among the county courts within the judicial
27 district.

28 The scope of the hearing shall be limited to the issues of:

29 (1) whether the peace officer had probable cause to believe
30 the person was driving, operating, or in physical control of a
31 motor vehicle while under the influence of alcohol or a
32 controlled substance, and whether the person was lawfully placed
33 under arrest for violation of section 169.121, or the person was
34 involved in a motor vehicle accident or collision resulting in
35 property damage, personal injury or death, or the person refused
36 to take a screening test provided for by section 169.121,

1 subdivision 6, or the screening test was administered and
2 recorded an alcohol concentration of 0.10 or more; and

3 (2) whether at the time of the request for the test the
4 peace officer informed the person of the person's rights and the
5 consequences of taking or refusing the test as required by
6 subdivision 2; and

7 (3) either (a) whether the person refused to permit the
8 test, or (b) whether a test was taken and the test results
9 indicated an alcohol concentration of 0.10 or more at the time
10 of testing, and whether the testing method used was valid and
11 reliable, and whether the test results were accurately evaluated.

12 It shall be an affirmative defense for the petitioner
13 prove that, at the time of the refusal, the petitioner's refusal
14 to permit the test was based upon reasonable grounds.

15 Certified or otherwise authenticated copies of laboratory
16 or medical personnel reports, records, documents, licenses and
17 certificates shall be admissible as substantive evidence.

18 The court shall order either that the revocation or
19 impoundment be rescinded or sustained and forward the order to
20 the commissioner of public safety. The court shall file its
21 order within 14 days following the hearing. If the revocation
22 is sustained, the court shall also forward the person's driver's
23 license or permit to the commissioner of public safety for
24 further action by the commissioner of public safety if the
25 license or permit is not already in the commissioner's
26 possession. If the impoundment is sustained, the court shall
27 also direct the petitioner to forward the registration plates
28 and registration certificate to the court for further action if
29 the plates and certificate are not already in the court's
30 possession. Proof of all of the following is an affirmative
31 defense to an impoundment order:

32 (1) the petitioner is the owner of the vehicle;
33 (2) the petitioner's driver's license or operating
34 privileges were not revoked under this section or section
35 169.121;

36 (3) the petitioner was not and is not a member of the

1 revoked operator's household; and

2 (4) the petitioner had no knowledge that the vehicle was
3 being driven, operated, or physically controlled in violation of
4 section 169.121.

5 Sec. 5. Minnesota Statutes 1986, section 169.1261, is
6 amended to read:

7 169.1261 [REINSTATEMENT OF DRIVING PRIVILEGES; NOTICE.]

8 Upon expiration of any period of revocation under section
9 169.121 or 169.123, or of impoundment under section 168.041, the
10 commissioner of public safety shall notify the person of the
11 terms upon which driving privileges can be reinstated, and new
12 registration plates and registration certificate issued, which
13 terms are: (1) successful completion of a driving test and
14 proof of compliance with any terms of alcohol treatment or
15 counseling previously prescribed, if any; and (2) any other
16 requirements imposed by the commissioner and applicable to that
17 particular case. The commissioner shall also notify the person
18 that if driving is resumed without reinstatement of driving
19 privileges, and issuance of new registration plates and
20 registration certificate, the person will be subject to criminal
21 penalties.

22 Sec. 6. Minnesota Statutes 1986, section 171.29, is
23 amended by adding a subdivision to read:

24 Subd. 3. A person whose driver's license has been revoked
25 under section 169.121 or 169.123 must not be issued another
26 driver's license at the end of the revocation period unless the
27 person has complied with all applicable registration plate
28 impoundment provisions of section 168.041.

29 Sec. 7. [DESTRUCTION OF STORED LICENSE PLATES.]

30 License plates surrendered to courts before the effective
31 date of section 1 may be destroyed.

32 Sec. 8. [EVALUATION.]

33 The commissioner of public safety shall monitor and
34 evaluate the implementation and effects of the registration
35 plate impoundment provisions of sections 1 to 7, and shall
36 submit a written report to the legislature by January 1, 1989.

3/12/87-4:30

[RESDEPT] ES/jb RH704A-3

1 containing the commissioner's findings and recommendations.

2 Sec. 9. [EFFECTIVE DATE.]

3 Sections 1 to 8 are effective August 1, 1987, and apply to

4 violations committed on or after that date."



Oregon Traffic Safety Commission

4th FLOOR - STATE LIBRARY BUILDING, SALEM, OREGON 97310 PHONE 378-3669
Toll Free 1-800-922-2022

November 17, 1986

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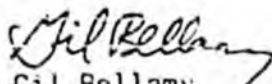
Ray Lewis
Research Consultant
Minnesota Criminal Justice System
DWI Task Force
190 Law Center
229 19th Avenue South
Minneapolis, Minnesota 55455

Approximately 100 vehicle registrations a month are suspended resulting in removal of the license plates in Oregon.

Occasionally, courts also impound cars driven by drivers who are second or subsequent DUI or for driving while suspended.

The program has not been evaluated for recidivism rates.

Sincerely,


Gil Bellamy
Administrator

GB:cek



Governor's Office of Highway Safety

959 East Confederate Ave., S.E.

P.O. Box 1497

Atlanta, Georgia 30301

(404) 656-6996

Gov. Frank Harris
GOVERNOR

Minuand C. McGuire
DIRECTOR

October 23, 1986

Mr. Ray Lewis
Research Consultant
Minnesota Criminal Justice System
DWI Task Force
University of Minnesota
190 Law Center
229 19th Avenue South
Minneapolis, Minnesota 55456

Dear Mr. Lewis:

This shall acknowledge receipt of your inquiry regarding the practice of courts impounding the registration certificate and license plates for those persons convicted for certain violations related to DWI and driving after suspension.

Provisions of our current statutes provide for the suspension of the operators license and vehicle registration/plate for driving while under suspension (regardless of suspension type), failure to maintain safety responsibility and failure to comply with the provisions of the No-Fault Insurance law.

Judges in our state have certain discretionary authority to suspend licenses for certain offenses, however, the State Department of Public Safety is vested with authority to suspend on virtually all mandatory suspensions. Courts rarely take possession of a license unless they convict for operating while suspended. We know of no court that suspends the registration for any conviction.

As previously stated above, the Department of Public Safety does suspend as provided by statute, however, no studies have been conducted to determine the effectiveness of this practice. We do know that unless one central agency administers both driver history records and registrations it is difficult to prevent their obtaining duplicates through fraudulent means. It is also quite prevalent that these individuals can easily obtain stolen plates and continue operating as before.

I regret that we could not be of more assistance on this inquiry but do not hesitate to advise us in the future if we can be of service.

Sincerely,

Minuand C. McGuire

MCM:gdw



STATE OF DELAWARE
OFFICE OF HIGHWAY SAFETY
S. 1E 363 THOMAS COLLINS BUILDING
540 SOUTH DUPONT HIGHWAY AT WATER STREET
DOVER, DELAWARE 19901

TELEPHONE (302) 739-4475

October 24, 1986

Mr. Ray Lewis
Research Consultant
Minnesota Criminal Justice System
DWI Task Force
190 Law Center
229 19th Avenue South
Minneapolis, Minnesota 55455

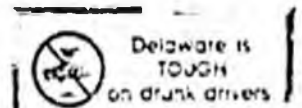
Dear Mr. Lewis:

This is in response to your letter of October 9, 1986 requesting information concerning impoundment of license plates and registration certificates of repeat DUI offenders. While our DUI law contains provisions for this, courts have not enforced it. I would appreciate a copy of the results of any evaluations that you do.

Sincerely,

Francis A. Ianni
Director

Inclosure - DUI Law



Delaware

or affirmed is guilty of perjury and shall be fined or imprisoned as are other persons committing perjury.

§ 2756. Driving Vehicle While License Is Suspended Or Revoked; Penalty.

(a) Any person whose driver's license or driving privileges have been suspended or revoked and who drives any motor vehicle upon the highways of this State during the period of suspension or revocation shall for the first offense be fined not less than \$100 nor more than \$500 and be imprisoned not less than 30 days nor more than six months. For each subsequent like offense, he shall be fined not less than \$500 nor more than \$1,000 and in addition be imprisoned not less than 60 days nor more than one year. However, for a first offense under this section, if the suspension or revocation resulted from a violation of §4177 of this Title or a local ordinance substantially conforming thereto, the minimum fine shall be \$200.

(b) The minimum fine for a first or subsequent offense shall not be subject to suspension. The period of imprisonment for a subsequent offense shall not be subject to suspension. In addition, for the first or subsequent offense under this section, if the suspension or revocation resulted from a violation of a criminal statute dealing with injury or death caused to another person by the person's driving or operation of the vehicle and driving under the influence was an element of such offense, the minimum fine shall be \$500 and the minimum period of imprisonment shall not be subject to suspension.

(c)(1) With respect to any vehicle used in connection with a violation of this section, while the permit or license of the operator was revoked for violation of §2742 or §4177 or pursuant to §2732 of this Title, the Court, at the time of sentencing the operator for violating this section may, upon motion by the State, order the said vehicle to be impounded for at least ninety days for the first violation of this section, and for at least one year for a subsequent violation, provided that a public or private secure storage area may be obtained by the arresting police agency for said vehicle. The court shall permit any party with a legal or equitable interest in the vehicle an opportunity to show cause why the impoundment of such vehicle should cease. Prior to release of said vehicle, the person to whom the vehicle is released

shall pay all reasonable towing and storage fees connected therewith. The State and the arresting police agency shall be liable for any expenses incurred in connection with the towing of said vehicle.

(c)(2) In lieu of impoundment, the Court, upon motion by the State, may order the operator to be suspended from driving a motor vehicle for a period of at least ninety (90) days for the first violation of this section, and for at least one (1) year for a subsequent violation. The court shall permit any party with a legal or equitable interest in the vehicle an opportunity to show cause why the surrender of said plate should cease.

§ 2757. Penalties.

(a) Whoever violates this chapter shall for the first offense be fined less than \$10 nor more than \$100 or imprisoned not less than 5 nor more than 30 days or both. For each subsequent like offense, he shall be fined not less than \$25 nor more than \$200 or imprisoned not less than 10 nor more than 60 days or both.

(b) This section shall not apply to violations for which a specific punishment is set forth elsewhere in this chapter.

§ 2758. Driving During Period of Denial; Penalties.

(a) Any person not licensed to drive a motor vehicle who is arrested and convicted of an offense for which the penalty is mandatory suspension or revocation of driver's license or driving privileges shall be ineligible for licensing for a time equivalent to the time his license would have been suspended or revoked if he had been licensed.

(b) Any person not licensed as a driver who is convicted of driving a motor vehicle during a license denial period shall be punished as provided in § 2756 of this title.

§ 2759. Liability for Towing Expenses

Whenever a motor vehicle is towed in connection with the enforcement of §4177 or a criminal offense for which violation of §4177 is an element, the person to whom the vehicle is released shall be liable for the towing and storage costs, except that the police agency ordering such towing shall be liable for such costs if the driver was not actually arrested for driving in violation of §4177 or another criminal offense as a result of that incident and no other existing situation reasonably necessitated such towing.

§ 4177

§ 4177. Operation of Vehicle While Under the Influence of Intoxicating Beverage or Drugs; Penalties.

(a) No person shall drive, operate or have in actual physical control a vehicle, an off highway vehicle, a moped or a bicycle while under the influence of alcohol or of any drug or any combination of drugs and/or alcohol.

(b) Any person charged under subsection (a) of this section whose blood alcohol concentration is one tenth of 1% or more by weight as shown by a chemical analysis of a blood, breath or urine sample taken within four hours of the alleged offense shall be guilty of violating subsection (a) of this section. This provision shall not preclude a conviction based on other admissible evidence.

(c) The fact that any person charged with violating this section is or has been legally entitled to use alcohol or a drug shall not constitute a defense against any charge of violating this section.

(d) Whoever is convicted of a violation of subsection (a) of this section shall

(1) For the first offense, be fined not less than \$200 nor more than \$1,000 or imprisoned not less than 60 days nor more than six months or both, and shall be required to complete a course of



JAMES J. BLANCHARD, GOVERNOR
DEPARTMENT OF STATE POLICE
COL. GERALD L. HOUGH, DIRECTOR

OFFICE OF HIGHWAY SAFETY
PLANNING
LOWER LEVEL
111 S. CAPITOL AVENUE, E
LANSING, MICHIGAN 48227
PHONE 317 3741 11

November 12, 1986

Mr. Ray Lewis, Research Consultant
Minnesota Criminal Justice System
DWI Task Force
University of Minnesota
190 Law Center
229 19th Avenue South
Minneapolis, Minnesota 55455

Dear Mr. Lewis:

I have been asked to respond to your survey on vehicle/
registration impoundment. Although Michigan has two statutes
dealing with the impoundment of vehicles or confiscation of
registration plates of vehicles, we were unable to find one
court that has enforced these particular sections of the law. -
I have enclosed copies of these sections of our Vehicle Code
for your information.

This office coordinated the efforts of the Michigan
Drunk Driving Task Force and this same issue was raised. We
would be interested in hearing of the results of your
efforts.

Sincerely

GARY R. HOLBEN, Chief
Special Programs Unit

GRH:nmb

Enclosure

CHAPTER VIII.

PENALTIES

257.901 Misdemeanor, penalty. [MSA 9.2601]

Sec. 901. (1) It is a misdemeanor for a person to violate this act, unless that violation is by this act or other law of this state declared to be a felony or a civil infraction.

(2) Unless another penalty is provided in this act or by the laws of this state, a person convicted of a misdemeanor for the violation of this act shall be punished by a fine of not more than \$100.00, or by imprisonment for not more than 90 days, or both.

Am. 1978, Act 610.

257.901a No license in possession, when fine waived. [MSA 9.2601(1)]

Sec. 901. If a person has received a citation for a violation of section 311, the court shall waive any fine and costs, upon receipt of certification by a law enforcement agency that the person, before the appearance date on the citation, has produced his or her operator's or chauffeur's license and that the license was valid on the date the violation of section 311 occurred.

Add. 1982, Act 433.

257.902 Felony, penalty. [MSA 9.2602]

Sec. 902. Any person who is convicted of a violation of any of the provisions of this act declared to constitute a felony, unless a different penalty is expressly provided herein, shall be punished by imprisonment for not less than 1 year nor more than 5 years, or by a fine of not less than \$500.00 nor more than \$5,000.00, or by both such fine and imprisonment.

257.903 False certification is perjury. [MSA 9.2603]

Sec. 903. A person who makes a false certification to a matter or thing required by the terms of this act to be certified, is guilty of perjury.

Am. 1980, Act 398.

257.904 Suspended, revoked or denied license or registration, penalty for operation of vehicle. [MSA 9.2604]

Sec. 904. (1) A person whose operator's or chauffeur's license or registration certificate has been suspended or revoked and who has been notified as provided in section 212 of that suspension or revocation, or whose application for license has been denied, as provided in this act, or who has never applied for a license, and who operates a motor vehicle upon the highways of this state or who knowingly permits a motor vehicle owned by the person to be operated by another upon a highway, except as permitted under this act, while the license or registration certificate is suspended or revoked, or whose application for license has been denied, as provided in this act, is guilty of a misdemeanor, punishable, except as provided in subsections (2) and (3), by imprisonment for not less than 3 days nor more than

90 days, or a fine of not more than \$100.00, or both. Unless the vehicle was stolen or used with the permission of a person who did not knowingly permit an unlicensed driver to operate the vehicle, the registration plates of the vehicle shall be confiscated.

(2) A person whose operator's or chauffeur's license has been suspended under section 321a because that person has failed to answer a citation or has failed to comply with an order or judgment issued pursuant to section 907 and who operates a motor vehicle upon a highway, may be punished by imprisonment for not more than 90 days, or a fine of not more than \$100.00, or both.

(3) A person convicted of a second or subsequent violation of this section is guilty of a misdemeanor, punishable by imprisonment for not less than 5 days nor more than 1 year, or a fine of not more than \$500.00, or both. Unless the vehicle was stolen, the registration plates of the vehicle shall be confiscated.

(4) The secretary of state, upon receiving a record of the conviction or probate court finding of a person upon a charge of unlawful operation of a motor vehicle while the license of the person is suspended, revoked, or denied, or of the conviction, civil infraction determination, or probate court finding of a person for a violation of the motor vehicle laws of this state while the license of the person is suspended, revoked, or denied, immediately shall extend the period of the first suspension or revocation for an additional like period, or if a period has not been determined, then for not less than 30 days nor more than 1 year.

(5) The secretary of state, upon receiving a record of the conviction or a civil infraction determination of a person upon a charge of unlawful operation of a motor vehicle requiring a class 1, class 2, or class 3 indorsement while the indorsement is suspended pursuant to section 319a, immediately shall extend the period of suspension for an additional like period.

(6) Before the plea of the person is accepted under this section, the arresting officer shall check with the secretary of state to determine the record and status of the person according to the records of the secretary of state and so inform the court.

(7) This section shall not apply to a person who operates a vehicle solely for the purpose of protecting human life or property, if the life or property is endangered and the summoning of prompt aid is essential.

Am. 1982, Act 310.

257.904a Motor vehicles; operation by unlicensed person; penalty; second offense. [MSA 9.2604(1)]

Sec. 904a. Any person, not exempt from license under this act, who shall operate a motor vehicle upon the highways of this state and who is unable to show that he has been issued a license to operate a motor vehicle by any state or foreign country valid within the 3 years preceding is guilty of a misdemeanor, and upon conviction shall be punished by

other than for the purposes and under the conditions prescribed in the permit shall, upon conviction therefor, be imprisoned for ten (10) days."

Amendments. The 1985 amendment, by Act No. 1064, in the first sentence of the first paragraph substituted "of" for "from" preceding "the person arrested"; in the first sentence of the second paragraph substituted "not less than ninety (90) days nor more than one hundred twenty (120) days" for "at least ninety days (90)"; substituted "not less than one (1) year nor more than sixteen (16) months" for "at least one year," substituted "a second offense within three (3) years" for "the second offense within three years", substituted "not less than two (2) years nor more than thirty (30) months" for "at least two years", substituted "within three (3) years" for "within three years," and substituted "within a three (3) year period" for "within a three year period," at the end of the second sentence of the second paragraph substituted "for a period of three (3) years" for "until and unless a three year period has transpired during which the person has not been cited for any moving traffic offense or violation"; and added the third paragraph.

Emergency. Section 3 of Acts 1985,

75-2512. Operation of motor vehicle during period of suspension or revocation of license.

Any person whose privilege to operate a motor vehicle has been suspended or revoked under the provisions of this Act [§§ 75-1031.1, 75-1045, 75-2501 — 75-2514], who shall, during the period of such suspension or revocation, operate a motor vehicle in this State, shall be imprisoned for ten (10) days. [Acts 1983, No. 549, § 14, p. 1153.]

NOTES TO DECISIONS

Suspension of Sentence.

The sentencing provisions of the Omnibus DWI Act of 1983 (§§ 75-2501 — 75-2514) are mandatory; where impris-

onment is required, such a sentence cannot be reduced or suspended by the judge. Lovell v. State, — Ark. —, 681 S.W.2d 395 (1984).

No. 113, read: "It is hereby found and determined by the General Assembly that Section 13 of Act 549 of 1983 prescribed only minimum periods of suspension of motor vehicle operator licenses upon first and subsequent offenses of driving while intoxicated and contain no maximum periods of suspension; that as a result of one or more lower court decisions in the State, serious concern has arisen concerning the constitutionality of the Legislature prescribing only minimum periods of suspension and prescribing no maximum periods; that this Act is designed to prescribe minimum and maximum periods of motor vehicle operator license suspension for violations of Act 549 of 1983 and should be given effect immediately in order to remove constitutional doubt concerning the license suspension provisions of that Act. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval." Approved February 14, 1985.

Cited: Lovell v. State, — Ark. —, 681 S.W.2d 395 (1984); Rawlings v. State, — Ark. —, 683 S.W.2d 223 (1985).

75-2513. Impoundment of license plate — Temporary substitute license plate.

When any law enforcement officer arrests a person for operating a motor vehicle while such person's operator license or permit has been suspended or revoked under the laws of any state due to such person having previously been found guilty or having pled guilty or nolo contendere to violating Section 3 [§ 75-2503] of this Act, and if the motor vehicle operated by the person is owned in whole or part by the person, the motor vehicle license plate shall be impounded by the law enforcement officer for no less than ninety (90) days. If the court determines it is in the best interest of dependents of the offender, the court shall instruct the Revenue Commissioner to issue a temporary substitute license plate to such vehicle and such license plate shall indicate that the original plate has been impounded. [Acts 1983, No. 549, § 15, p. 1153.]

75-2514. Highway safety program advisory council — Members — Terms — Duties.

There is hereby created the Highway Safety Program Advisory Council to be composed of 16 members as follows: one (1) shall be the Director of the Office of Alcohol and Drug Abuse Prevention, one (1) shall be the Director of the Highway Safety Program, one (1) shall be the Chief Administrative Officer of the Office of Driver Services, one (1) shall be the Chief Administrative Officer of the Blood Alcohol Program of the Department of Health, one (1) shall be appointed by the Governor to represent the Arkansas State Police, one (1) shall be appointed by the Governor to represent local law enforcement agencies, one (1) shall be appointed by the Governor to represent the Judiciary, one (1) shall be appointed by the Governor to represent the field of alcoholic rehabilitation, and eight (8) shall be lay citizens appointed by the Governor. The members first appointed by the Governor shall serve the following terms: four (4) shall serve four (4) year terms, four (4) shall serve three (3) year terms, and four (4) shall serve two (2) year terms. Subsequent members shall be appointed to four (4) year terms. The members of the Highway Safety Program Advisory Council shall serve without compensation. The Council shall act in an advisory capacity to the Highway Safety Program and shall:

- (a) Monitor the effectiveness of DWI legislation;
- (b) Encourage public awareness programs to heighten the public perception of the dangers of drunken driving;
- (c) Encourage and initiate the involvement of volunteer community groups in addressing the DWI problem;

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VEHICLES

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Source: S.L. 1959
1957 Supp., § 39-06
1969, ch. 340, § 6
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er is delivered to the licensee at his address of record
pursuant to section 39-06-20. Constructive delivery under
shall be considered as occurring forty-eight hours after the order
to the person by regular mail.

Source: S.L. 1955, ch. 251, § 36; R.C. 1913,
Supp., § 39-0637; S.L. 1967, ch. 292, § 14;
1975, ch. 341, § 2; 1981, ch. 385, § 4.

39-06-40.1. Reproducing operator's or driver's license or permit — Penalty.

- 1. It shall be unlawful for any person to print, photograph, photostat, duplicate, alter, or in any way reproduce any operator's or driver's license or permit or facsimile thereof, or to print, photograph, photostat, duplicate, alter, or in any way reproduce any document used in the production of any operator's or driver's license or permit or facsimile thereof, in such a manner that it would be mistaken for a valid license or document containing valid information, or to display or have in his possession any such print, photograph, photostat, duplicate, reproduction, or facsimile unless authorized by the provisions of the North Dakota law.
- 2. It shall also be unlawful for any person to alter in any manner any operator's or driver's license or permit, or to display or have in his possession any altered operator's or driver's license or permit.
- 3. Every person violating the provisions of this section shall be guilty of a class B misdemeanor.
- 4. The commissioner upon receiving a record of the conviction or other satisfactory evidence of the violation of this section shall revoke forthwith the operator's or driver's license or driving privileges of such person. The period of revocation shall be determined at the discretion of the commissioner.

Source: S.L. 1969, ch. 340, § 9; 1971, ch.
370, § 1; 1975, ch. 196, § 431; 1979, ch. 405, § 7;
1981, ch. 384, § 6.

39-06-42. Penalty for driving while license suspended or revoked — Impoundment of vehicle number plates — Authority of cities.

- 1. Except as provided in chapters 39-16 and 39-16.1 and section 39-06.1-11, any person who drives a motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state while that person's license or privilege so to do is suspended or revoked is guilty of a class B misdemeanor.

Source:
1957 Supp.
1975, ch. 34
415, § 11; 19

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2. If the suspension or revocation was imposed for violation of section 39-08-01 or equivalent ordinance or was governed by section 39-06-31 or chapter 39-20, the sentence must be at least four consecutive days' imprisonment and such fine as the court deems proper. The sentence and the imposition of sentence may not be suspended under chapter 12-53. Forfeiture of bail is not permitted in lieu of the defendant's personal appearance in open court for arraignment on a charge under this subsection.
3. In addition to any other punishment imposed, the court may order the number plates of the motor vehicle owned and operated by the offender at the time of the offense to be impounded by the sheriff for the duration of the period of suspension or revocation. When a period of suspension has been extended under subsection 5 of section 39-06-17, the court may order the number plates to be impounded in accordance with this subsection. The impounded number plates may be released, upon order of the court, to a bona fide purchaser of the offender's motor vehicle, if that purchaser produces a new certificate of title to the motor vehicle issued by the registrar of motor vehicles.
- * 4. A city may, by ordinance, authorize its municipal judge to order impoundment of motor vehicle number plates in the manner provided in subsection 3.

Source: S.L. 1955, ch. 251, § 41; R.C. 1943, 1957 Supp., § 39-0642; S.L. 1975, ch. 100, § 432; 1975, ch. 344, § 1; 1977, ch. 350, § 1; 1983, ch. 415, § 11; 1985, ch. 429, § 4.

Actual Knowledge that License Revoked.

Defendant's claim that he did not receive notices of an opportunity for a hearing and the orders for suspension of his driver's license provided no defense to a charge of driving while his license was revoked where at the time of arrest on the charge he had actual knowledge that his driver's license was revoked. *State v. Moore* (1983) 341 NW 2d 373.

Collateral Attack on License Suspension.

At trial on charge of driving while driver's license suspended, defendant could not collaterally attack the validity of the suspension of his license where he had been notified of his right to a hearing on the suspension, he failed to make a written request for a hearing, he was notified that his license was suspended, and he surrendered his license to the proper authorities without contesting the validity of the suspension. *State v. Metlhoff* (1982) 318 NW 2d 314.

Expired Temporary License.

Defendant was properly convicted for driving while his license was suspended where he was arrested for driving with an expired temporary driver's license which had been issued to him, along with a hard copy of a citation for driving under influence, after he had been arrested for driving under influence and his regular license confiscated by arresting officer pursuant to section 39-20-03.1, due process requirement of notice and opportunity for a hearing before state may suspend a driver's license was not violated because, under circumstances, defendant had actual knowledge that he was driving while his license was suspended and he was given notice of an opportunity for a hearing by his possession of hard copy of driving under influence citation which contained such notice. *State v. Obrigewitch* (1984) 356 NW 2d 105.

Strict Liability.

As a matter of law, the defense of excuse based upon mistake of law, section 121-05-02, is not applicable to prosecutions for driving while license is suspended, a strict liability offense for which proof of culpability is not required. *State v. Fridley* (1983) 335 NW 2d 785.

39-06-43. Extension of license suspension or revocation. The commissioner upon receiving a record of the conviction of any person upon a charge of driving a vehicle while the license or driving privileges of the person was suspended shall extend the period of that suspension for an additional like period and if the original suspension was for an indefinite or unstated period of time, the additional suspension shall be for a period of six months on and after the date the person would otherwise have been entitled to the return of license or privileges. If, however, the original suspension of driving privileges resulted solely from failure to appear in court or to post and forfeit bond on noncriminal traffic violations, there shall be no additional period of suspension. If the conviction was upon a charge of driving

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39-07-13. Wrecker and towing services to report. The person in charge or the operator of any commercial towing or wrecker service which causes any motor vehicle to be transported to a private residence or business other than a garage or repair shop which shows evidence of having been involved in a reportable accident as provided in section 39-08-09 or of being struck by any bullet, shall report or cause a report to be made to a police officer within twenty-four hours after such motor vehicle is transported. The report must give the registration number, and the name and address of the owner, operator, or person in control of such vehicle with a description of the location and type of damage to the vehicle, or any missing parts, along with the location such vehicle was transported to, if the vehicle does not have a sticker on a window thereof issued by a police officer, sheriff, or highway patrolman, bearing information to show that the accident in which the vehicle was involved has been investigated. If the vehicle does bear such a sticker the towing or wrecker service need not make the report this section requires.

Source: S.L. 1983, ch. 433, § 1.

CHAPTER 39-08

REGULATIONS GOVERNING OPERATORS

Section	
39-08-01.	Persons under the influence of intoxicating liquor or controlled substances not to operate vehicle — Penalty.
39-08-01.1.	Prior offenses.
39-08-01.2.	Special punishment for causing injury or death while operating a vehicle while under the influence of alcohol.
39-08-03.1.	Exhibition driving and drag racing — Definitions — Penalty.
39-08-04.1.	Emergency care at scene of accident — Liability.
39-08-09.	Immediate notice of accident.
39-08-11.	When driver unable to report.
39-08-13.	Accident report forms.
39-08-17.	Repealed.
39-08-18.	Open bottle law — Penalty.
39-08-20.	Driving without liability insurance prohibited — Penalty.

39-08-01. Persons under the influence of intoxicating liquor or controlled substances not to operate vehicle — Penalty.

1. A person may not drive any vehicle upon a highway or upon public or private areas to which the public has a right of access for vehicular use in this state if any of the following apply:
 - a. That person has a blood alcohol concentration of at least ten one-hundredths of one percent by weight at the time of the performance of a chemical test within two hours after the driving.
 - b. That person is under the influence of intoxicating liquor.
 - c. That person is a habitual user of narcotic drugs or is under the influence of a narcotic drug.
 - d. That person is under the influence of any controlled substance to a degree which renders that person incapable of safely driving.
 - e. That person is under the influence of a combination of intoxicating liquor and a controlled substance to a degree which renders that person incapable of safely driving.
2. A person may not be in actual physical control of any vehicle upon a highway or upon public or private areas to which the public has a right of access for vehicular use in this state if any of the following apply:

- a. That person has a blood alcohol concentration of at least ten one-hundredths of one percent by weight at the time of the performance of a chemical test within two hours after being in physical control of a vehicle.
 - b. That person is under the influence of intoxicating liquor.
 - c. That person is a habitual user of narcotic drugs or is under the influence of a narcotic drug.
 - d. That person is under the influence of any controlled substance to a degree which renders that person incapable of safely driving.
 - e. That person is under the influence of a combination of intoxicating liquor and a controlled substance to a degree which renders that person incapable of safely driving.
3. A person violating this section or equivalent ordinance is guilty of a class B misdemeanor for the first or second conviction in a five-year period, and of a class A misdemeanor for a later conviction in a five-year period. Notwithstanding the other provisions of this subsection, a person violating this section or equivalent ordinance is guilty of a class A misdemeanor for the fourth or subsequent conviction in a seven-year period. The minimum penalty for violating this section is as provided in subsection 5. The court shall take judicial notice of the fact that a conviction would be a subsequent conviction if indicated by the records of the commissioner or may make such finding based on other evidence.
- * 4. Upon conviction, the court may order the motor vehicle number plates of the motor vehicle owned and operated by the offender at the time of the offense to be impounded by the sheriff or the chief law enforcement officer of the city, as is appropriate, for the duration of the period of suspension of the offender's driver's license or driving privilege by the licensing authority. The impounded motor vehicle number plates may be released, upon the order of the court, to a bona fide purchaser of the offender's motor vehicle, if that purchaser produces a new certificate of title issued by the registrar of motor vehicles.
5. A person convicted of violating this section, or an equivalent ordinance, must be sentenced in accordance with this subsection.
- a. For a first offense, the sentence must include both a fine of at least two hundred fifty dollars and an order for addiction evaluation by an appropriate licensed addiction treatment program.
 - b. For a second offense within five years, the sentence must include at least four days' imprisonment of which forty-eight hours must be served consecutively, or ten days' community service; a fine of at least five hundred dollars; and an order for addiction evaluation by an appropriate licensed addiction treatment program.
 - c. For a third offense within five years, the sentence must include at least sixty days' imprisonment, of which forty-eight hours must be served consecutively; a fine of one thousand dollars, and an order for addiction evaluation by an appropriate licensed addiction treatment program.
 - d. For a fourth offense within seven years, the sentence must include one hundred eighty days' imprisonment, of which forty-eight hours must be served consecutively and a fine of one thousand dollars.
 - e. A sentence or imposition of sentence under this section may not be suspended under chapter 12-53 except that a fine or a sentence of imprisonment may be suspended in any of the following instances:
 - (1) Upon conviction of being in actual physical control of a motor vehicle in violation of this section or equivalent ordinance.
 - (2) If the defendant is under age eighteen when convicted except that if the defendant has, within the preceding five years, previously been convicted of violating section 39-08-01 or equivalent ordinance, the sentence must include at least forty-eight consecutive hours imprisonment

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may modify its original sentence of a fine to an alternative sentence to which the defendant could have originally been sentenced, without violating the equal protection clause: State v. Harris, 2 OApp3d 46, 2 OBR 54, 440 NE2d 572.

2. (1983) Revised Code § 4507.34 is not void for vagueness because it does not forbid conduct, but merely gives the trial court discretion to suspend the license of a defendant who violates a statute or ordinance relating to reckless operation: Columbus v. Tyson, 19 OApp3d 224, 19 OBR 374, 484 NE2d 155.

3. (1983) Where defendant is convicted under Columbus City Ordinance 2113.01, and is charged with but found not guilty of a violation of RC § 2903.07, it is not a violation of defendant's due process rights for the trial court to invoke, without notice, RC § 4507.34 to suspend defendant's driver's license, since RC § 4507.34 does not charge an offense but merely sets forth a possible penalty. Furthermore, the application of RC § 4507.34 does not violate the constitutional provisions prohibiting double jeopardy, because the legislature has authorized the imposition of multiple punishments in this case: Columbus v. Tyson, 19 OApp3d 224, 19 OBR 374, 484 NE2d 155.

4. (1983) Use of the phrase "relating to reckless operation" in RC § 4507.34 demonstrates the General Assembly's intent to give the trial court authority to invoke RC § 4507.34 when a defendant is guilty of something less than "recklessness," as defined in RC § 2901.22, and when a defendant has been found guilty of violating laws and ordinances other than RC § 4511.20 (reckless operation). So interpreted, a conviction for violating Columbus City Ordinance 2113.01 by operating a motor vehicle through a red light is a conviction for an offense "relating to reckless operation." Columbus v. Tyson, 19 OApp3d 224, 19 OBR 374, 484 NE2d 155.

while such license, permit, or privilege is suspended or revoked. No person who is granted occupational driving privileges by any court shall operate any motor vehicle upon the highways or streets in this state except in accordance with the terms of the privileges.

(B) It is an affirmative defense to any prosecution brought pursuant to this section that the alleged offender drove under suspension because of a substantial emergency, provided that no other person was reasonably available to drive in response to the emergency.

(C) In the event such person is convicted of a violation of this section, the trial judge of any court shall, in addition to, or independent of any other penalties provided by law or ordinance, impound the certificate of registration and identification license plates of any motor vehicle registered in the name of such person.

(D) The court shall send the impounded certificate of registration and license plates to the registrar of motor vehicles who shall retain the certificate of registration and license plates until such time as the operator's or chauffeur's license of the owner has been reinstated.

(E) Whenever such certificate of registration and license plates have been impounded in accordance with the provisions of this section, the court shall notify the registrar of motor vehicles of such action. Such notice shall contain the name and address of the driver, the serial number of his operator's or chauffeur's license, the serial numbers of the certificate of registration and license plates of the motor vehicle, and the length of time for which the certificate of registration and license plates have been impounded. The registrar shall record such data in such manner that it shall become a part of the driver's permanent record.

(F) Any such motor vehicle owner may apply to the registrar of motor vehicles, or to a deputy registrar, for special license plates which shall conform to the requirements of section 4503.231 [4503.23.1] of the Revised Code. The registrar, or deputy registrar, shall forthwith notify the court of such application, and upon approval of the court, shall issue special plates to the applicant.

Until such time as the operator's or chauffeur's license of the owner is reinstated, any new license plates issued to him shall also conform to such requirements.

(G) A fee of two dollars [and] fifty cents shall be charged for every set of special license plates which are [is] issued in accordance with this section, except upon renewal as specified in section 4503.10 of the Revised Code, when the regular fee as provided in section 4503.04 of the Revised Code shall be charged. Whenever a set of special license plates is exchanged, by reason of the reinstatement of the operator's or chauffeur's license of the owner, for those ordinarily issued, no fee shall be charged.

§ 4507.35 Display of license.

CASE NOTES AND OAG

1. (1984) Failure to display an operator's license when that license is not on or about the person or, a fortiori does not exist, is not a criminal violation of RC § 4507.35, but rather prima-facie evidence of not having a license: State v. Green, 13 OMisc2d 14, 13 OBR 301, 462 NE2d 466 (CoC).

§ 4507.36 Prohibition against false statements.

Cross-References to Related Sections
Additional court cost imposed, RC § 2743.70.

§ 4507.38 [Restriction against driving when license suspended; impoundment of registration and license plates.]

(A) No person whose operator's or chauffeur's license or permit or nonresident operating privilege has been suspended or revoked under sections 4507.01 to 4507.40 of the Revised Code or under applicable law in any other jurisdiction where the license or permit was issued, shall operate any motor vehicle upon the highways or streets in this state

(H) If an owner wishes to sell a motor vehicle during the time the special license plates provided under this section are in use, he may apply to the court which impounded such plates and registration certificate for permission to transfer title to the motor vehicle. If the court is satisfied that such sale will be made in good faith and not for the purpose of circumventing the provisions of this section, it may certify its consent to the owner and to the registrar of motor vehicles who shall enter notice of such transfer in the owner's driving record.

(I) If, during the time the special license plates provided under this section are in use, the title to a motor vehicle is transferred by the foreclosure of a chattel mortgage, a sale upon execution, the cancellation of a conditional sales contract, or by order of a court, the court shall notify the registrar of motor vehicles of such action and the registrar shall enter notice of such transfer in the owner's driving record.

(J) Nothing contained in this section is intended to change or modify any provision of Chapter 4503, of the Revised Code with respect to the taxation of motor vehicles or the time within which the taxes thereon shall be paid.

*HISTORY: 139 v S 432. Eff 3-16-83.

Cross-References to Related Sections

Penalty, RC § 4507.99.
 Additional court cost imposed, RC § 2743.70.
 Aggravated vehicular homicide, RC § 2903.06.
 Six points assessed for violation, RC § 4507.40.
 Vehicular homicide, RC § 2903.07.

Law Review

Driving under the influence of alcohol in Ohio after Senate Bill 432—the prosecutor's viewpoint. Ronald J. O'Brien. 15 ToledoLRev 171 (1983).
 Ohio's new drunk driving law: a halfhearted experiment in deterrence. L. R. Katz & R. D. Sweeney, Jr. 34 CaseWResLRev 239 (1983-4).

CASE NOTES AND OAG

1. (1982) In a prosecution under RC § 4509.76, once the state meets its burden to present a prima facie case that the defendant drove under suspension, then the defendant may proffer evidence to rebut the presumption of compliance by the Bureau of Motor Vehicles with the statutorily devised notice provisions: State v. Morrison, 2 OApp3d 364, 2 ORR 421, 442 NE2d 114.
2. (1983) A defendant cannot be found guilty of a violation of RC § 4507.02, driving without a license, if he in fact has a license, although it is under suspension by the Bureau of Motor Vehicles: Cincinnati v. Tribble, 7 OMisc2d 46, 7 OBR 310, 455 NE2d 27 (MC).
3. (1984) A safety search conducted by a state highway patrolman pursuant to RC § 4513.02 in a non-random fashion so that motor vehicles are not being stopped pursuant to unbridled acts of whim, but as part of a calculated pattern of inspecting motor vehicles at a designated checkpoint, does not violate the Fourth Amendment prohibition against unreasonable searches and seizures. Hence, pursuant to RC § 4513.02, evidence obtained in a safety search made from a designated checkpoint indicating that the

driver of the stopped vehicle was driving under a suspension in violation of RC § 4507.38 is not obtained in violation of the Fourth Amendment and is thus admissible: State v. Goines, 16 OApp3d 168, 16 OBR 178, 474 NE2d 1219.

§ 4507.39 Operating vehicle with license suspended prohibited.

(A) No nonresident or other person whose operator's or chauffeur's license or permit or nonresident operating privilege has been suspended or revoked shall operate a motor vehicle in this state under a license, permit, or registration certificate issued by any other jurisdiction, or otherwise operate a motor vehicle in this state during a period of such suspension, or within one year after the date of such revocation.

(B) It is an affirmative defense to any prosecution brought pursuant to this section that the alleged offender drove under suspension because of a substantial emergency, provided that no other person was reasonably available to drive in response to the emergency.

*HISTORY: 139 v S 432. Eff 3-16-83.

Cross-References to Related Sections

Penalty, RC § 4507.99.
 Additional court cost imposed, RC § 2743.70.
 Vehicular homicide, RC § 2903.07.

Law Review

Driving under the influence of alcohol in Ohio after Senate Bill 432—the prosecutor's viewpoint. Ronald J. O'Brien. 15 ToledoLRev 171 (1983).

§ 4507.40 Point system for motor vehicle violations; repeat traffic offender; habitual traffic offender.

(A) Every county court judge, mayor, and clerk of a court of record shall keep a full record of every case in which a person is charged with any violation of sections 4511.01 to 4511.771 [4511.77.1], 4511.99, and 4513.01 to 4513.36 of the Revised Code, or of any other law or ordinance regulating the operation of vehicles, streetcars, and trackless trolleys on highways or streets.

(B) Within ten days after the conviction or forfeiture of bail of a person upon a charge of violating any of such sections or other law or ordinance regulating the operation of vehicles, streetcars, and trackless trolleys on highways or streets, the county court judge, mayor, or clerk shall prepare and immediately forward to the bureau of motor vehicles an abstract of the court record covering the case in which the person was convicted or forfeited bail, which abstract shall be certified by the person required to prepare the same to be true and correct.

(C) The abstract shall be made upon a form approved and furnished by the bureau and shall include the name and address of the party charged,

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held, and the suspension provided in divisions (A) and (C) of this section shall not be imposed. The court shall inform the registrar of motor vehicles in writing of the action taken.

HISTORY: 1943 H 453. Eff. 9-25-72.

Penalty, RC § 4507.99(B).

Research Aids

Conviction of driver's license to violate liquor laws:

O-Jur3d: Auto § 87

Am-Jur2d: Auto §§ 122-132

[§ 4507.16.4] § 4507.164 Impoundment of registration and license plates upon suspension or revocation of license.

When the license of any person is suspended or revoked, the trial judge may impound the certificate of registration and identification license plates of any motor vehicle registered in the name of such person. When such certificate of registration and license plates have been impounded, divisions (C) to (E) of section 4507.35 of the Revised Code are applicable.

HISTORY: 1924 H 518 (Eff. 12-14-67); 135 v S 313. Eff. 7-26-74.

Penalty, RC § 4507.99(B).

Research Aids

Impoundment of registration and license plates:

O-Jur3d: Auto § 86

Am-Jur2d: Auto § 90

[§ 4507.16.5] § 4507.165 [Suspension for passing stopped school bus.]

The trial judge of any court of record or mayor's court may, in addition to all other penalties provided by law, suspend for not more than one year the license of any person who is convicted of or pleads guilty to a violation of division (A) of section 4511.75 of the Revised Code.

When an operator's or chauffeur's license has been suspended under this section, the trial court shall cause the offender to deliver the license to the court, and the court or clerk of the court shall forthwith forward the license to the registrar of motor vehicles, together with notice of the action of the court.

HISTORY: 197 v S 389. Eff. 3-15-79.

Cross-References to Related Sections

Penalty, RC § 4507.99(B).

See RC § 4511.75, I which refers to this section.

Research Aids

Conviction of crime:

O-Jur3d: Auto § 88

Am-Jur2d: Auto §§ 133-139

[§ 4507.16.6] § 4507.166 [Suspension for causing death while fleeing officer.]

The trial judge of any court of record shall, in ad-

dition to or independent of all other penalties provided by law, suspend the driver's or chauffeur's license of any person who is convicted or pleads guilty to causing the death of another, as the proximate result of operating a motor vehicle, while eluding or fleeing a police officer.

After the operator's or chauffeur's license has been suspended, the trial court shall cause the offender to deliver to the court such license, and the court or clerk of such court shall forthwith forward to the registrar such license together with notice of the action of the court.

Such suspension shall be for a period of ten years and the registrar shall not issue to the offender another operator's or chauffeur's license during the effective dates of such revocation.

The trial judge of any court of record shall suspend the driver's or chauffeur's license of any person who is convicted or pleads guilty under this section a second time, for the life of the offender.

HISTORY: 135 v H 116. Eff. 8-22-79.

Penalty, RC § 4507.99(B).

Research Aids

Conviction of crime:

O-Jur3d: Auto § 86

Am-Jur2d: Auto §§ 133-136

§ 4507.17 Effect of revocation of license. (GC § 6296-21)

Any person whose license is suspended or revoked under sections 4507.01 to 4507.39, inclusive, of the Revised Code, is not entitled to apply for or receive a new license during the effective dates of such suspension or revocation.

HISTORY: GC § 6296-21; 116 v Phil 33, § 21; Bureau of Code Revision, 10-1-53; 125 v 367. Eff. 10-15-53.

See former GC § 12607-1.

Penalty, RC § 4507.99(B).

Research Aids

Suspension or revocation of license:

O-Jur3d: Auto § 85

Am-Jur2d: Auto § 145

§ 4507.18 Disposition of license while appeal proceedings are pending. (GC § 6296-18)

Any person whose operator's or chauffeur's license has been suspended or revoked under section 4507.16 of the Revised Code, who desires to retain such license during the pendency of an appeal, shall at the time sentence is pronounced notify the trial court of his intention to appeal; whereupon the court, or clerk of such court, shall retain such license until such appeal is perfected, and, if execution of sentence is stayed, such license shall be returned to the accused to be held by him during the pendency of such appeal. If such appeal is not perfected or is dismissed or terminated in an affirmance of the conviction, then such license shall be taken up by the

119.01 to 119.13 of the Revised Code, except as otherwise provided under section 4509.101 [4509.10.1] of the Revised Code.

*HISTORY: 139 v S 250. Eff 1-1-84.

The effective date of SB 250 is set by section 3 of the act.

§ 4509.06 Accident reports.

Cross-References to Related Sections

Increase minimum amount of damage required to bring accident under financial responsibility, RC § 4509.101.

[§ 4509.10.1] § 4509.101 [Operation of motor vehicle without maintaining proof of financial responsibility prohibited.]

(A)(1) No person shall operate, or permit the operation of, a motor vehicle in this state, unless proof of financial responsibility is maintained with respect to that vehicle, or, in the case of a driver who is not the owner, with respect to his operation of that vehicle.

(2) Whoever violates division (A)(1) of this section shall be subject to the following civil penalties:

(a) Suspension of the person's operating privileges and impoundment of the person's license until the person complies with division (A)(5) of this section, which suspension shall be for a period of not less than ninety days and shall not be subject to revocation, suspension, or occupational or other limited operating privileges;

(b) In addition to the suspension of an owner's license under division (A)(2)(a) of this section, the suspension of the rights of the owner to register the motor vehicle and the impoundment of the owner's certificate of registration and registration plates until the owner complies with division (A)(5) of this section.

(3) A person to whom this state has issued a certificate of registration for a motor vehicle or a license to operate a motor vehicle or who is determined to have operated any motor vehicle or permitted the operation in this state of a motor vehicle owned by the person shall be required to verify the existence at the time of the traffic offense or accident of proof of financial responsibility covering the operation of the motor vehicle or the person's operation of the motor vehicle whenever the person, or a third person operating the person's motor vehicle with the person's permission, is required to appear in court on the charge of a traffic offense specified in Traffic Rule 13(B) or the person or a motor vehicle owned by the person is involved in a traffic accident that requires the filing of an accident report under section 4509.06 of the Revised Code.

(4) An order of suspension and impoundment of a license or registration, or both, shall state the

date on or before which the person is required to surrender the person's license or certificate of registration and registration plates. The person is deemed to have surrendered the license or certificate of registration and registration plates, in compliance with the order, if the person does either of the following:

(a) On or before the date specified in the order, personally delivers the license or certificate of registration and registration plates, or causes the delivery of such items, to the registrar of motor vehicles or court, whichever issued the order;

(b) Mails the license or certificate of registration and registration plates to the registrar or court, whichever issued the order, in an envelope or container bearing a postmark showing a date no later than the date specified in the order.

(5) The registrar shall not restore any operating privileges or registration rights suspended under this section or return any license, certificate of registration, or registration plates impounded under this section unless such rights are not subject to suspension or revocation under any other law and unless the person, in addition to complying with all other conditions required by law for reinstatement of such operating privileges or registration rights, complies with all of the following:

(a) Pays a reinstatement fee of thirty dollars. The reinstatement fee may be increased, upon approval of the controlling board, up to an amount not exceeding fifty dollars.

(b) If the person has not voluntarily surrendered the license, certificate, or plates in compliance with the order, pays a nonvoluntary compliance fee in an amount, not to exceed fifty dollars, determined by the registrar;

(c) Files and maintains proof of financial responsibility under sections 4509.44 to 4509.65 of the Revised Code.

(B)(1) Any defendant, who is charged with a traffic offense specified in Traffic Rule 13(B) that requires an appearance in court, shall be required to verify the existence of proof of financial responsibility covering the operation of the vehicle at the time of the offense in accordance with this section. If the defendant pleads guilty or is found guilty, the court shall, as part of the sentencing procedures, require the defendant to prove that the operation of the motor vehicle was covered by proof of financial responsibility. The court may order the defendant to identify the owner of the motor vehicle, and, if the defendant owns the motor vehicle, to present its certificate of registration.

The court may cause notice to be given to defendants charged with such offenses at such time and in such manner as the court determines to be necessary or appropriate, and may allow a reasonable continuance to permit the defendant to obtain evidence of proof of financial responsibility. The court may permit a defendant to present evidence

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IN SESSION
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Senator Mitch Abood
CHAIRMAN

Senate Committee on State Affairs

February 24, 1987

MEMORANDUM

To: Members, Senate State Affairs Committee

From: Senator Mitch Abood, Chairman
Senate State Affairs Committee

Re: SB 3, "An Act relating to motor vehicle
registration and registration plates.

SB 3 was before the Senate State Affairs Committee on February 4, 1987 and was held over to allow for further research on questions which were raised during the hearing.

As you may know, by reviewing the back-up provided, SB 3 was molded after the language used for impounding of vehicle registration and registration plates in Minnesota. My staff has contacted the Criminal Justice System, DWI Task Force in Minnesota for additional information on how they are currently enforcing their law and procedures which they follow for processing the cases.

I am providing each of you with a copy of suggested amendments and questions which individuals expressed at the committee hearing and the information which we received from Minnesota. Also attached, for your review, is a committee substitute for SB 3 and sectional analysis.