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Alaska State Legislature

HOUSE OF REPRESENTATIVES



FEB 21 1990

REPRESENTATIVE FRAN ULMER

MEMORANDUM

February 20, 1990

TO: Senator Lloyd Jones, Chair
Senate Transportation Committee

FROM: Rep. Fran Ulmer

RE: HB 53, relating to drunk driving penalties

Although the primary emphasis of CSHB 53 is to target the worst drunk drivers by increasing the penalties for repeat offenders, several related issues arose during the committee process which resulted in extensive debate, and amendment, on the House floor. One of those issues concerns the court's ability to require an offender to forfeit the vehicle in which he was cited. The bill was amended on the floor to include aircraft as a vehicle which may be forfeited for a DWI offense, but excludes watercraft as a vehicle subject to forfeiture. This point stimulated considerable debate.

I would like very much to have an opportunity to discuss this and the other transportation related issues of CSHB 53 with you at your convenience.

Alaska State Legislature

HOUSE OF REPRESENTATIVES



FEB 15 1990

REPRESENTATIVE FRAN ULMER

MEMORANDUM

February 15, 1990

TO: Senator Lloyd Jones, Chair
Senate Transportation Committee

FROM: Rep. Fran Ulmer

RE: CSHB 53 (Jud) AM, relating to drunk driving penalties

CSHB 53 (Jud)AM, relating to drunk driving penalties, passed the House this week with a resounding vote of support (39-1). The bill goes a long way toward redressing some of the inequities present in our driving laws. I would appreciate the bill being calendared for a hearing in your committee at the earliest possible date.

Thank you for your consideration of this request.

FU/dl

STATE OF ALASKA
THE LEGISLATURE

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BUREAU ALASKA 1111
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LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 26, 1990

SUBJECT: Driving while intoxicated - CSHB 53(Jud) am
TO: Representative Fran Ulmer
FROM: Michael F. Ford *M.F.*
Legislative Counsel

The following is a sectional analysis of CSHB 53(Jud) am.

Section 1 - Requires the commissioner of the Department of Public Safety to adopt regulations concerning procedures for obtaining a limited driver's license.

Section 2 - Allows a person under age 18 to receive a license without the signature of a parent or guardian, if the person is emancipated.

Section 3 - Amends the notice required to be given a person prior to administrative revocation of a driver's license for D.W.I. or refusal to submit to a chemical breath test.

Section 4 - Requires the department to revoke a driver's license seven days after the person receives notice under AS 28.15.165(a), if the department receives a sworn report from a law enforcement officer that contains the information described in this section.

Section 5 - Specifies that administrative revocation applies to persons not yet licensed. Provides that a department hearing officer may grant limited license privileges under AS 28.15.201.

Section 6 - Provides that a person whose license is revoked may make a written request for limited license privileges under AS 28.15.165(d).

Section 7 - Specifies that an initial request for limited license privileges may be made at any time and that subsequent requests may not be made unless the applicant demonstrates a significant change in circumstances.

Section 8 - Specifies the issues reviewed in the administrative revocation hearing.

Section 9 - Requires that the department's license revocation action be rescinded if after hearing an issue is not proven by the department.

Section 10 - Provides that a person filing an appeal of the department's order does not automatically get a stay of the order.

Section 11 - Establishes that both privilege to drive and to obtain a license are revoked for conviction of the listed offenses.

Section 12 - Establishes that both privilege to drive and to obtain a license shall be revoked for committing the described offenses.

Section 13 - Establishes that both privilege to drive and to obtain a license shall be revoked for committing the described offenses. Except as provided under AS 28.15.201, the court may not grant limited license privileges for certain periods depending on prior convictions.

Section 14 - Provides that both privilege to drive and to obtain a license as well as a driver's license shall be revoked for driving with a suspended or revoked license.

Section 15 - Defines the term "previously convicted" as used in AS 28.15.181.

Section 16 - Gives authority to a hearing officer to grant limited license privileges. Provides statutory factors that the court or hearing officer may consider. Limits the ability of the court to grant limited license privileges after revocation for D.W.I. or refusal of a chemical test of breath.

Section 17 - Requires the court or hearing officer to take possession of the driver's license and issue a temporary license when granting limited driving privileges.

Section 18 - Limits the restoration of the privilege to drive or to obtain a license for specified periods following a suspension or revocation.

Section 19 - Provides that a court imposed revocation, suspension or limitation includes the privilege to drive or to obtain a license. Establishes minimum periods of license revocation.

Section 20 - Establishes that a court imposed revocation takes effect on the date of final judgment unless another period of revocation is already in effect or unless otherwise specified by the court.

Section 21 - Provides that point system penalties apply to the privilege to drive or to obtain a license.

Section 22 - Provides that driving with a canceled, suspended or revoked license is an A misdemeanor. Establishes penalties for initial and subsequent convictions and adds a definition of "previously convicted" as used in this section.

Section 23 - Establishes that D.W.I. is a class A misdemeanor and provides for minimum jail sentences and fines for initial and subsequent convictions.

Section 24 - Adds a definition of "previously convicted" for purposes of AS 28.35.030.

Section 25 - Provides that the court shall order a person convicted of D.W.I. to comply with any required rehabilitation treatment. Establishes criteria for inpatient treatment. Establishes penalties for failure to comply with inpatient treatment.

Section 26 - Amends the notice required to be given when a person under arrest refuses to take a chemical breath test.

Section 27 - Provides for minimum jail sentences, fines and license penalties for persons convicted of refusal to take a chemical breath test.

Section 28 - Provides that the court shall order a person convicted of refusal to take a chemical test of breath to comply with any required rehabilitation treatment. Establishes criteria for inpatient treatment. Establishes penalties for failure to comply with inpatient treatment. Adds a new definition of "previously convicted" for purposes of AS 28.35.032.

Representative Fran Ulmer

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March 26, 1990

Section 29 - Provides that a chemical test may be administered without consent to a person under arrest for operating a motor vehicle, aircraft, or watercraft while intoxicated.

Section 30 - Provides that the state may seek forfeiture of a motor vehicle or watercraft if involved in a D.W.I. or refusal to take a chemical breath test and the person has two or more prior convictions for D.W.I. or refusal to take a breath test.

Section 31 - Establishes procedures for remission of forfeiture for an aircraft.

Section 32 - Provides that municipalities can establish by ordinance for impoundment or forfeiture of an aircraft.

Section 33 - Changes the definition of "driver's license" to include the privilege to drive or to obtain a license.

Section 34 - Repealers.

Section 35 - Notice of change to Alaska Rules of Appellate Procedure 603 and 611(d).

Section 36 - Applicability section.

Section 37 - Effective date.

MFF:pl
WKP3/082

Alaska State Legislature

HOUSE OF REPRESENTATIVES

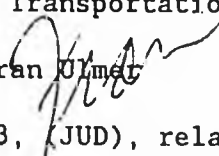


REPRESENTATIVE FRAN ULMER

M E M O R A N D U M

March 26, 1990

TO: Senator Lloyd Jones, Chair
Senate Transportation Committee

FROM: Rep. Fran Ulmer 

RE: CSHB 53, (JUD), relating to drunk driving penalties

CSHB 53 (Jud) corrects several inequities in Alaska's current driving laws. The major thrust of this legislation is to target the worst drunk drivers. It increases penalties for repeat DWI offenses to reflect the seriousness of the crime (see attached comparison of penalties). In addition, it decreases the penalties for driving with a license suspended or revoked. Specifically, the bill:

- (1) Makes the penalty for the 6th DWI conviction 360 days; the 5th conviction is 240 days; 4th conviction is 120 days. This increase in penalties is consistent with the principle of graduated penalties for repeat offenders.
- (2) Allows those convicted of DWI to earn back a limited license through their good conduct after their release from jail. A person convicted of a second DWI could apply to the court for a limited license for the last 60 days of a one-year revocation.
- (3) Under the 3rd DWI conviction, the license is revoked for 5 years rather than 10 years (current law), with the possibility of earning back the last 2 years.

District 4B — Juneau

P.O. Box V • Juneau, Alaska 99811-3100 • (907) 465-4947

CSHB 53 (Jud)
March 26, 1990
Page 2

- (4) Authorizes the court to require a convicted defendant to participate in rehabilitative alcohol treatment programs. This provision is necessary because, as a result of recent decisions from the Court of Appeals, courts can no longer continue the prior practice of requiring convicted offenders to participate in treatment programs.

The increase in DWI penalties is balanced fiscally by the reduction in penalties for driving with a license revoked (DWLR) or suspended (DWLS). The Department of Corrections states that there should be no fiscal impact on the correctional system.

CSHB 53 (Jud) seeks to ensure that Alaska's driving laws impose the most serious penalties on the most dangerous drivers. We need to get the less serious DWLR/DWLS offenders out of jail and get the most dangerous drunk drivers off the road, in jail, and into treatment.

This legislation is supported by Mothers Against Drunk Driving, the Alaska Council on Prevention of Alcohol and Drug Abuse, and the Departments of Law, Public Safety, and Corrections.

COMPARISON OF PENALTIES
CSHB 53 (JUD)

CRIME	CURRENT LAW	CSHB 53 (Jud)
1st DWI	3 days in jail; 90 day loss/license \$250 fine	3 days in jail; 90 day loss/license Earn back last 60 dy \$250 fine
2nd DWI	20 days in jail; 1 yr loss/license \$500 fine	20 days in jail; 1 yr loss/license Earn back last 60 dy \$500 fine
3rd DWI	30 days in jail; 10 yr loss/license \$1000 fine	60 days in jail; 5 yr loss/license Earn back last 2 yrs \$1000 fine
4th DWI	30 days in jail; 10 yr loss/license \$1000 fine	120 days in jail; 10 yr loss/license Earn back last 5 yrs \$2000 fine
5th DWI	30 days in jail; 10 yr loss/license \$1000 fine	240 days in jail; 10 yr loss/license Earn back last 5 yrs \$3000 fine
6th DWI	30 days in jail; 10 yr loss/license \$1000 fine	360 days in jail; 10 yr loss/license Earn back last 5 yrs \$4000 fine
DWLR/DWLS 1/non-DWI	10 days in jail; 1 yr loss/license	10 days/jail w/10 sus 90 day loss/license 80 hrs comm. service
DWLR/DWLS 2/non-DWI	10 days in jail; 1 yr loss/license	10 days in jail 90 day loss/license
DWLR/DWLS Court ordered revoc for 1/DWI	30 days in jail; 1 yr loss/license \$500 fine	20 days/jail w/10 sus 90 day loss/license 80 hrs comm. service \$500 fine
DWLR/DWLS Court ordered revoc for 2 or more DWI	90 days in jail; 1 yr loss/license \$1000 fine	30 days in jail; 90 day loss/license \$1000 fine

Penalties Comparison

FISCAL NOTE

REQUEST:

Revision Date	<u>2/9/90</u>	Agency Affected:	<u>Alaska Court System</u>
Title:	<u>An Act relating to the privilege to drive...</u>	BRU:	<u>Trial Courts</u>
Sponsor:	<u>Ulmer, Koponen, Collins</u>	Components:	<u></u>
Requestor:	<u></u>		

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

General Funds	0.0	0.0	0.0	0.0	0.0	0.0
Federal Funds						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact. See attached analysis.

Prepared by: Jan Strandberg, General Counsel
 Division: Alaska Court System
 Approved by: Arthur H. Snowden, II, Administrative Director
 Agency: Alaska Court System

Phone: 264-8228
 Date: 02/09/90
 Date: 02/09/90

Distribution (by preparer):
 Legislative Finance
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 Office of Management & Budget
 Impacted Agency(ies)

AK Court System - Fiscal note

Alaska Court System

CSHB 53 (Jud)

Any fiscal impact on the Alaska Court System will be in the number of review hearings that may be held under sections 24 and 27. Because that number cannot be determined with any accuracy at this time, no fiscal impact is indicated. If the court finds that it is holding an appreciable number of review hearings, a supplemental appropriation will be requested.

FISCAL NOTE

REQUEST:

Revision Date: 1-10-90
 Title: An act relating to drunk driving penalties
 Sponsor: Rep. Ulmer
 Requestor: _____

Agency Affected: Department of Corrections
 BRU: _____
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL						
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

see Attached

Susan E. Knighton

Prepared by: Susan E. Knighton, Director Phone: 465-3376
 Division: Administrative Services Date: 1-12-90

Approved by Commissioner: _____ Date: 1-12-90
 Agency: Department of Corrections

Distribution (by preparer):

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

Dpt. of Corrections - Fiscal note

FISCAL NOTE

REQUEST:

Revision Date: January 19, 1990
 Title: "An Act relating to...
 driving while intoxicated..."
 Sponsor: House Judiciary Committee
 Requestor: Repr. Ulmer

Agency Affected: Department of Law
 BRU: Prosecution
 Components: All

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: January 19, 1990
 Approved by Commissioner: Richard I. Pegues /FOR/ Date: January 19, 1990
 Agency: Douglas B. Bailey, Attorney General
Department of Law

Distribution (by preparer):

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

Dpt. of Law - Fiscal note

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill Resolution No. CSHB 53 (JUD)

This bill amends several sections in Title 28 by revising the penalties for driving while intoxicated and driving while license suspended. The current version of the bill eliminates the felony provision that was included in prior versions of the bill. Moreover, the penalty provisions that are now included in the bill are consistent with the sentences being imposed under existing law. Consequently, there will not be a fiscal impact for the Department of Law.



ALASKA COUNCIL ON PREVENTION OF ALCOHOL AND DRUG ABUSE, INC.

March 05, 1990

Senator Lloyd Jones, Chair
Senate Transportation Committee
Alaska State Legislature
P. O. Box V
Juneau, Alaska 99811-3100

Dear Senator Jones:

The Alaska Council on Prevention of Alcohol and Drug Abuse supports the changes to our state's drinking and driving penalties which are proposed under CSHB 53.

As you know, drinking and driving is a serious problem in the state of Alaska. Last year alone approximately 1,800 people were seriously injured or disabled in crashes involving alcohol. Alcohol-related motor vehicle crashes continue to be the leading cause of death among young people ages 16 to 24. It is crucial that we look at positive strategies which will address this serious problem. Ensuring that Alaska's driving laws are consistent and impose the most serious penalties on the most dangerous drivers is one important way to reduce the human loss and tragedy that often results from drinking and driving.

As you review which bills to put on the schedule in your Senate Transportation Committee, I would ask that you consider giving CSHB 53 a prompt hearing and a favorable vote. You will be making a valuable contribution toward reducing alcohol-related injuries and deaths in Alaska.

Thank you for taking time from your busy schedule to consider my request and viewpoint.

Sincerely,

Bette O'Moor
Executive Director

BCM/LA:kb

cc: Fran Zilmer



A United Way Agency

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Alaska Council on Prevention
of Alcohol & Drug Abuse - Support

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