

HB444

# SENATE FINANCE COMMITTEE REPORT

DATE: 5/11/92

FURTHER:

DATE TURNED INTO OFFICE: \_\_\_\_\_

The Finance Committee considered CS FOR HOUSE BILL NO. 444 (JUDICIARY)

"An Act relating to fees for identification cards and certain motor vehicle licenses and permits; to licenses issued to drivers and to revocation of a license to drive; and providing for an effective date."

and recommends:

replace with \_\_\_\_\_ CS \_\_\_\_\_ (FINANCE)  
or  adopt previous \_\_\_\_\_ S \_\_\_\_\_ (\_\_\_\_\_)  
 attaches amendment(s)

same title  
 new title  
 technical title change (HB only)

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

- do pass
- do not pass
- no recommendation
- individual recommendations

**NEW FISCAL NOTES** Dept/Date

**zero** fiscal notes \_\_\_\_\_

\_\_\_\_\_

fiscal notes \_\_\_\_\_

\_\_\_\_\_

appropriation--no fiscal note

**PREVIOUS FISCAL NOTES:** Dept/Date

**zero** fiscal notes \_\_\_\_\_

\_\_\_\_\_

fiscal notes \_\_\_\_\_

\_\_\_\_\_

**DO PASS:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

1. \_\_\_\_\_

Co-Chair: Signature/Recommendation

**OTHER RECOMMENDATIONS:**

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\_\_\_\_\_

\_\_\_\_\_

2. \_\_\_\_\_

Co-Chair: Signature/Recommendation

CS FOR HOUSE BILL NO. 444 (JUDICIARY)  
 IN THE LEGISLATURE OF THE STATE OF ALASKA  
 SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 3/20/92  
 Referred: Finance

Sponsor(s): REPRESENTATIVES CHOQUETTE, Koponen, Baker, M.A.Miller

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to fees for identification cards and certain motor vehicle licenses and  
 2 permits; to licenses issued to drivers and to revocation of a license to drive; and  
 3 providing for an effective date."

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

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

6 (a) Upon payment of a \$10 [\$5] fee, the Department of Public Safety shall issue a card  
 7 identical to the motor vehicle operator's license provided for in AS 28.15.111, except that the  
 8 card shall be of a different color and shall state in bold type letters across the face of it that it  
 9 is for identification purposes only.

10 \* Sec. 2. AS 28.15.111(a) is amended to read:

11 (a) Upon successful completion of the application and all required examinations, and  
 12 upon payment of the required fee, the department shall issue to every qualified applicant a  
 13 driver's license indicating the type or general class of vehicles that the licensee may drive. The  
 14 license must display (1) a distinguishing number assigned to the license; (2) the licensee's full

1 name, address, date of birth, brief physical description, and color photograph; [AND] (3) either  
2 a facsimile of the signature of the licensee or a space upon which the licensee must write the  
3 licensee's usual signature with pen and ink; (4) a holographic symbol intended to prevent  
4 illegal alteration or duplication; and (5) for a qualified applicant who is under age 21, the  
5 words "UNDER 21". A license is not valid until signed by the licensee. If facilities are not  
6 available for the taking of the photograph required under this section, the department shall  
7 endorse on the license, the words "valid without photograph."

8 \* Sec. 3. AS 28.15 is amended by adding new sections to read:

9 Sec. 28.15.187. ADMINISTRATIVE REVOCATION OF A LICENSE TO DRIVE FOR  
10 USE OF FALSE IDENTIFICATION. (a) If a peace officer has probable cause based on  
11 personal observation that a person has used a driver's license as fraudulent or false identification  
12 as prohibited by AS 04.16.060(d), the peace officer shall read a notice and deliver a copy to the  
13 person. The notice must advise that

14 (1) the department intends to revoke the person's driver's license, privilege to  
15 drive, or privilege to obtain a license, or refuse to issue an original license to the person;

16 (2) the person has the right to administrative review of the revocation or  
17 determination not to issue an original license;

18 (3) if the person has a driver's license or a nonresident privilege to drive, the  
19 notice itself is a temporary driver's license that expires seven days after it is delivered to the  
20 person;

21 (4) revocation of the person's driver's license, privilege to drive, or privilege to  
22 obtain a license, or a determination not to issue an original license takes effect seven days after  
23 delivery of the notice to the person unless the person, within seven days, requests an  
24 administrative review.

25 (b) After reading the notice under (a) of this section, the peace officer shall seize the  
26 person's driver's license if it is in the person's possession and shall deliver it to the department  
27 with a sworn report describing the circumstances under which it was seized.

28 (c) Unless the person has requested an administrative review, the department shall revoke  
29 the person's driver's license, privilege to drive, or privilege to obtain a license, or refuse to issue  
30 an original license, effective seven days after delivery to the person of the notice required under

31 (a) of this section, upon receipt of a sworn report of a peace officer

1 (1) that the officer had probable cause based on personal observations that the  
2 person used a driver's license as fraudulent or false identification as prohibited by  
3 AS 04.16.060(d);

4 (2) that notice under (a) of this section was provided to the person; and

5 (3) describing the circumstances surrounding the violation of AS 04.16.060(d).

6 (d) The department shall impose the revocation required under this section

7 (1) for a period of 90 days for a first revocation under this section; and

8 (2) for a second or subsequent revocation under this section for a period of 12  
9 months or until the person is 21 years of age, whichever is longer.

10 (e) Notwithstanding the provisions of AS 28.20.240 and 28.20.250, the department may  
11 not require proof of financial responsibility before restoring a driver's license or privilege that  
12 is revoked under this section.

13 (f) A license revocation imposed under this section shall be consecutive to a license  
14 revocation imposed under another provision of law.

15 Sec. 28.15.189. ADMINISTRATIVE REVIEW OF REVOCATION OF LICENSE FOR  
16 USE OF FALSE IDENTIFICATION. (a) A person who has received a notice under  
17 AS 28.15.187(a) may make a written request for administrative review of the department's action.  
18 If the person's driver's license has not been previously surrendered to the department, it shall be  
19 surrendered to the department at the time the request for review is made.

20 (b) A request for review of the department's revocation under AS 28.15.187 shall be  
21 made within seven days after receipt of the notice under AS 28.15.187 or the right to review is  
22 waived and the action of the department under AS 28.15.187(c) is final. If a written request for  
23 a review is made after expiration of the seven-day period, and if it is accompanied by the  
24 applicant's verified statement explaining the failure to make a timely request for a review, the  
25 department shall receive and consider the request. If the department finds that the person was  
26 unable to make a timely request because of lack of actual notice of the revocation or because of  
27 factors of physical incapacity such as hospitalization or incarceration, the department shall waive  
28 the period of limitation, reopen the matter, and grant the review request.

29 (c) Upon receipt of a request for review, if it appears that the person holds a valid  
30 driver's license and that the driver's license has been surrendered, the department shall issue a  
31 temporary driver's permit that is valid until the scheduled date for the review. A person who has

1 requested a review under this section may request, and the department may grant for good cause,  
2 a delay in the date of the hearing. If necessary, the department may issue additional temporary  
3 permits to stay the effective date of its action under AS 28.15.187(c) until the final order after  
4 the review is issued.

5 (d) A person who has requested a hearing under this section and who fails to appear at  
6 the hearing, for reasons other than lack of actual notice of the hearing or physical incapacity such  
7 as hospitalization or incarceration, waives the right to a hearing. The determination of the  
8 department that is based upon the officer's report becomes final.

9 (e) Notwithstanding AS 28.05.141(b), the hearing under this section shall be held  
10 telephonically unless the person requesting the hearing requests in writing that the hearing not  
11 be held telephonically.

12 (f) A review under this section shall be held before a hearing officer designated by the  
13 commissioner. The hearing officer shall have authority to

14 (1) administer oaths and affirmations;  
15 (2) examine witnesses and take testimony;  
16 (3) receive relevant evidence;  
17 (4) issue subpoenas, take depositions, or cause depositions or interrogatories to  
18 be taken;

19 (5) regulate the course and conduct of the hearing;

20 (6) make a final ruling on the issue.

21 (g) The hearing for review of a revocation by the department under AS 28.15.187 shall  
22 be limited to the issue of whether the person used a driver's license as fraudulent or false  
23 identification as prohibited by AS 04.16.060(d).

24 (h) The determination of the hearing officer may be based upon the sworn report of a  
25 peace officer, if the sworn report is supported by probable cause based on personal observations  
26 as required under AS 18.15.187(a). The peace officer need not be present at the hearing unless  
27 either the person requesting the hearing or the hearing officer requests in writing before the  
28 hearing that the officer be present. If in the course of the hearing it becomes apparent that the  
29 testimony of the peace officer is necessary to enable the hearing officer to resolve disputed issues  
30 of fact, the hearing shall be continued to allow the attendance of the peace officer.

31 (i) Upon written request of the person requesting the hearing, the hearing officer shall

1 stay the hearing until the conclusion of related criminal proceedings. If the person requesting  
2 the hearing does not request a stay, testimony given by the person at the hearing is admissible  
3 against the person in a criminal trial.

4 (j) If the issue set out in (g) of this section is determined in the affirmative by a  
5 preponderance of the evidence, the hearing officer shall sustain the action of the department. If  
6 the issue is determined in the negative, the department's revocation action shall be rescinded.

7 (k) If the action of the department in revoking a nonresident's privilege to drive a motor  
8 vehicle is not administratively contested by the nonresident driver or if the departmental action  
9 is sustained by the hearing officer, the department shall give written notice of action taken to the  
10 motor vehicle administrator of the state of the person's residence and to any state in which that  
11 person has a driver's license.

12 (l) Within 30 days of the issuance of the final determination of the department, a person  
13 aggrieved by the determination may file an appeal in superior court for judicial review of the  
14 hearing officer's determination. The judicial review shall be on the record without taking  
15 additional testimony. The court may reverse the department's determination if the court finds  
16 that the department misinterpreted the law, acted in an arbitrary and capricious manner, or made  
17 a determination unsupported by the evidence in the record.

18 (m) The filing of an appeal under (l) of this section or a petition for review does not  
19 automatically stay the department's order or revocation. The court may grant a stay of the order  
20 or revocation under the applicable rules of court, after a motion and hearing, and upon a finding  
21 that there is a reasonable probability that the petitioner will prevail on the merits and that the  
22 petitioner will suffer irreparable harm if the order is not stayed.

23 \* Sec. 4. AS 28.15.271(a) is amended to read:

24 (a) The fees for drivers' licenses and permits, including but not limited to renewals, and  
25 all related driver skills tests are as follows:

- 26 (1) all noncommercial vehicles and motor-driven cycles
  - 27 (A) each license fee ..... \$ 12 [10];
  - 28 (B) each driver skills test ..... \$ 15;
- 29 (2) all commercial motor vehicles
  - 30 (A) each license fee ..... \$100;
  - 31 (B) each driver skills test ..... \$ 25;

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- 1                   (3) instruction permit ..... \$ 5 [3];
- 2                   (4) duplicate of driver's license or instruction permit ..... \$ 5 [3];
- 3                   (5) temporary license and renewal of permit ..... \$ 3;
- 4                   (6) school bus driver's endorsement renewal ..... \$ 3.

5   \* Sec. 5. This Act takes effect July 1, 1992.