

HB

61

3111 C STREET
ANCHORAGE, ALASKA 99503-3957
561-7007

WHILE IN SESSION:
ALASKA STATE CAPITOL
JUNEAU, ALASKA 99801-1182
465-4968

Alaska State Legislature
House of Representatives



DISTRICT 11:
SAND LAKE
SPENARD
TAKU-CAMPBELL

Representative Jim Nordlund

SPONSOR STATEMENT

House Bill 61 reduces the legal definition of intoxication for the crime of driving while intoxicated from .10% to .08% blood alcohol content. This means it would be illegal for a person to be in control of a motor vehicle, aircraft, or watercraft with a blood alcohol level of .08% or greater.

Five states have already lowered their legal definition of intoxication to .08%: California, Oregon, Utah, Maine, and Vermont. All of Canada has a .08% blood alcohol threshold, and all European nations prohibit driving with a .08% or lower blood alcohol level.

Scientific evidence persuasively establishes that the risk of a driver being involved in a serious or fatal crash increases as the alcohol concentration in the body increases. Many studies have shown that measurable impairment to operate a motor vehicle begins in most drivers at or below .05% blood alcohol level, and that all drivers are impaired at a blood alcohol level of .08%.

Setting the allowable blood alcohol level at .08% will greatly increase the probability of obtaining convictions for drunk driving. Because the law will increase the certainty of conviction, it will also be more effective than current law in deterring drunk driving and in reducing the number of alcohol related crashes.

A study by the state of California showed that traffic fatalities were reduced by 12% after the implementation of .08 DWI laws. Alaska averages approximately 100 traffic related fatalities per year. If we were to achieve the same results this bill could save approximately 12 lives per year.

In addition to the inherent benefits of the bill, the National Highway Traffic Safety Administration has notified us that Alaska currently receives \$688,000 in federal funds annually for Highway Safety Planning and may be eligible for a 30% or more increase if House Bill 61 passes. If similar legislation had passed last year, Alaska would have already received the benefits of the increase.

In the past, the argument against this type of law has been that it will further burden our corrections system. However, section 3 of this bill establishes the minimum penalty for newly affected drivers (those with blood alcohol levels between .08% and .10%) as a \$250 fine only. It is therefore not likely to have any effect on overcrowding except in the rare instance when a judge imposes jail time.

Since it was introduced, House Bill 61 has received an overwhelming amount of public support. In addition to the support of many individual Alaskans, House Bill 61 is endorsed by:

National Highway Traffic Safety Administration
Allstate Insurance Company
State Farm Insurance
American Medical Association
American Association of Neurological Surgeons
American Spinal Injury Association
National Safety Council
Mothers Against Drunk Driving (MADD)
Remove Intoxicated Drivers (RID)
Insurance Institute for Highway Safety
National Committee on Uniform Traffic Laws and Ordinances
National Commission Against Drunk Driving

CSHB 61(TRA) adds language to make the bill effective only if the state fails to become eligible for a basic federal grant as required under 23 U.S.C. 410(c) before January 1, 1995.

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SECTIONAL ANALYSIS
CSHB 61(TRA)

Section 1. Findings and purpose.

Section 2. Reduces the level of alcohol at which a person commits the crime of driving while intoxicated from 0.10% to 0.08%.

Section 3. Imposes a mandatory minimum fine of \$250 for a person convicted of driving while intoxicated who had a level of at least 0.08% but less than 0.10%. Imposes existing penalties for a person with a level of intoxication of 0.10% or more.

Section 4. Amends the presumptions of intoxication in a civil or criminal action relating to driving while intoxicated to conform with amendments in section 2.

Section 5. Provides that the Act will only take effect if the state fails to become eligible for a basic federal grant as required under 23 U.S.C. 410(c) before January 1, 1995.

Section 6. Effective date.

STATE OF ALASKA

DEPARTMENT OF LAW

CRIMINAL DIVISION

WALTER J. HICKEL, GOVERNOR

PLEASE REPLY TO:

CRIMINAL DIVISION CENTRAL OFFICE
P. O. BOX 110300 - STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3428

OFFICE OF SPECIAL PROSECUTIONS
AND APPEALS
1031 W. 4TH AVENUE, SUITE 318
ANCHORAGE, ALASKA 99501-5993
PHONE: (907) 279-7424

March 1, 1993

The Honorable Jim Nordlund
House of Representatives
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99801-1182

Re: HB 61 (Relating to DWI offenses)

Dear Representative Nordlund:

By letter dated February 17, 1993, you have asked for our comments regarding HB 61, relating to DWI offenses. As initially drafted, this bill creates a separate misdemeanor offense for driving with a blood-alcohol content of between .08 and .10, punishable by a fine of at least \$250 and up to one year in jail. The mandatory minimum periods of incarceration specified in AS 28.35.030(b) would not apply to this offense.

The new .08 DWI offense would not count as a prior conviction for purposes of the .10% offenses. Accordingly, the graduated sentencing scheme established in AS 28.35.030(b) would not be available for these offenses. Furthermore, as a lesser offense, courts would be obliged to sentence defendants less harshly for the .08 offense. Nonetheless, there may be serious collateral consequences for the defendant, such as loss of driving privileges and/or insurance problems. Accordingly, those charged with this offense would not be likely to plead out, but would instead probably take their cases to trial to the same extent as do other DWI offenders.

Also, the new .08 DWI offense would be considered a lesser-included offense of the traditional .10% offense. It is our experience that juries are predisposed toward lesser-included offenses, considering them to be a "compromise" verdict. We are thus concerned that the defense bar will expect us to regularly reduce offenses to this lesser-included offense, or will take substantially more cases to trial in the hopes that the jury will convict only on the lesser-included offense.

We believe the effects would be substantially different if you simply reduced the necessary BAC for the DWI offense from .10% to .08%, without creating any new "in-between" offenses. Currently, defendants with .10 or .11% BAC levels are either not being

arrested or prosecuted or are more inclined to take their cases to trial because the margin of test-result error at that level is so small. If, however, the minimum level for a DWI offense were .08%, then defendants would be much more likely to plead out when their BAC was .10 or .11%.

If you have further questions or if we may be of assistance in any other manner, please do not hesitate to contact us. Thank you for extending us the opportunity to comment on this proposal.

Very truly yours,

CHARLES E. COLE
ATTORNEY GENERAL

By: Margot O. Knuth
Margot O. Knuth
Assistant Attorney General

cc: Charles Cole
Attorney General

Deborah Behr
Department of Law

Kris Lethin
Legislative Liaison
Office of the Governor

Richard Burton, Commissioner
Department of Public Safety

HOUSE COMMITTEE REPORT

(7)

Date Referred: March 26, 1993

FURTHER REFERRALS:

Finance

Date of Committee Action: 3-29-93

The JUDICIARY Committee considered:

HB 61

HOUSE BILL NO. 61

LOWER ALCOHOL LIMIT TO 0.08 FOR OMVI'S

"An Act relating to the offense of operating a motor vehicle, aircraft, or watercraft while intoxicated; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CS HB 61 (JUD)

the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S):

fiscal impact DEPT. OF ADMIN. - PUB. DEF. (3-31-93)

APPROVES PREVIOUS:

(Dept/Date)

fiscal note(s) _____

zero fiscal note DEPT. OF PUB. SAF. (3-30-93)

zero fiscal note(s) _____

SIGNING <u>DO PASS</u>	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Shannette James</i>	<input checked="" type="checkbox"/>	<i>Rita [unclear]</i>		<input checked="" type="checkbox"/>	
<i>Jim [unclear]</i>	<input checked="" type="checkbox"/>	<i>Chip [unclear]</i>		<input checked="" type="checkbox"/>	
<i>Brian S. Porter</i>	<input checked="" type="checkbox"/>				

Brian S. Porter
 CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSHB 61 (Iud)

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act relating to the offense of operating a BRU: Public Defender
motor vehicle, aircraft or watercraft while intoxicated . . ." Component: Public Defender
 Sponsor: Representative Nordlund
 Requestor: _____ COMPONENT SERIAL NO. 1631

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	885	108.0	111.2	114.5	117.9	121.4
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	2.0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	91.5	109.0	112.2	115.5	118.9	122.4

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING:

1002 Federal Receipts						
1003 GF Match						
1004 GF	91.5	109.0	112.2	115.5	118.9	122.4
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	91.5	109.0	112.2	115.5	118.9	122.4

POSITIONS

FULL-TIME	20	20	20	20	20	20
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ _____

ANALYSIS: (attach a separate page if necessary.)

See attached.

Prepared By: John Salemi, Public Defender Phone: 274-1684
 Division: Public Defender Agency Date: _____

Approved by Commissioner: Nancy Bear Usera *UBU* Date: 3/31/93
 Agency: Department of Administration

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CONTINUATION OF FISCAL NOTE ANALYSIS
For CSHB 61 (Jud)

CSHB 61 amends the State statutes regarding the crime of driving while under the influence of alcohol. The most significant change in the law proposed through this bill involves the amount of alcohol which a driver can have in his/her system in order to be found guilty of driving while intoxicated. Under present law, a suspected drunk driver who takes a chemical test and is found with 0.10% or more (by weight) of alcohol in his/her blood, is presumed by the court to be under the influence. If found guilty of said offense, mandatory minimum penalties must be imposed.

CSHB 61 lowers the amount of alcohol which must be found in the blood in order for a person to be presumed guilty of driving while intoxicated. This proposal also changes the evidentiary presumptions with respect to this issue. See Section 4, paragraph (a)(4) amending AS 28.35.033.

Significant mandatory penalties attach to a conviction for driving while intoxicated. These punishments will apply to the provisions of this bill.

The Public Defender supports all legislative enactments which reasonably deter driving while under the influence. Other states have lowered the blood alcohol level as is done through this proposal.

Fiscal Impact

There will be distinct fiscal impact on the Public Defender Agency if this bill becomes law. Under present law, individuals who fall into the .08%-10% range typically are offered a reduced charge of Reckless Driving in exchange for a plea of no contest. Reckless Driving carries no significant mandatory minimum penalties, does not have the same stigma as a DWI conviction, and in other ways is a more acceptable resolution of a case, from a defendant's perspective, than is a conviction for drunk driving. If this bill passes, it is anticipated that there will be more DWI charges and as a result, more DWI clients wishing to exercise their right to trial. With the attorneys who handle misdemeanors in Anchorage and Fairbanks already carrying caseloads of over 100 cases, it is likely additional resources will be required so that effective legal representation can be provided for these additional DWI prosecutions. It is felt that the fiscal impact can be absorbed through the use of paralegals to assist attorneys in file organization, witness coordination, and other related support work. As such, two paralegal positions are requested; one each for Anchorage and Fairbanks.

Budget Analysis

Anchorage:		
Paralegal II	16A	\$ 51.6
Fairbanks:		
Paralegal II	16A	53.4
100	Personal Services (10 months first year)	\$ 88.5
200	Travel	0.0
300	Contractual	0.0
400	Supplies	1.0
500	Equipment (one time)	<u>2.0</u>
	TOTAL	\$ 91.5

Position Title Paralegal Assistant II		No. of Positions 2	Range / Step 16/A	Barg. Unit GGU
Time Status PFT	Staff Months 20.0	Location EBA - JBA		Election District 7 - 20
TYPE OF EXPENDITURE		Amount		
Salary	62.2	Justification HB 61 amends the state statutes regarding the crime of driving while under the influence of alcohol. The most significant change in the law proposed through this bill involves the amount of alcohol which a driver can have in their system in order to be found guilty of driving while intoxicated. If this bill passes it is anticipated that there will be more DWI charges and as a result more DWI clients wishing to exercise their right to trial. With the attorneys who handle misdemeanors in Anchorage and Fairbanks already carrying caseloads of over 100 cases, additional resources will be required so that effective legal representation can be provided. The fiscal impact can be absorbed through the use of paralegals to assist attorneys in file organization, witness coordination and other related support work. As such, two paralegal positions are requested; one each for Anchorage and Fairbanks.		
Benefits	26.3			
Premium Pay				
Other				
Total Personal Services	88.5			
Travel	-0-			
Contractual	-0-			
Commodities	1.0			
Equipment	2.0			
Other				
Total Cost	91.5			
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts 1002				
G.E. Match 1003				
General Fund 1004	91.5			
IA Receipts 1007				
CIP Receipts 1061				
Other				

**Request For
New Position**

AGENCY Department of Administration
 BRU Public Defender Agency
 COMPONENT Public Defender Agency

FY 94

Page 3 of 3
 Revised Date: _____

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO: CSHB 61(JUD)

Revision Date: 3/30/93 Dept. Affected: Public Safety
 Title: "An Act relating to offense of operating a motor vehicle while intoxicated." BRU: Alaska State Troopers
 Sponsor: Representative Nordlund Component: Detachments
 Requestor: Representative Nordlund COMPONENT SERIAL NO. 799

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	12.5	12.5	0	0	0	0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	12.5	12.5	0	0	0	0
CAPITAL						
REVENUE FUND SOURCE:						

FINDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	12.5	12.5	0	0	0	0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	12.5	12.5	0	0	0	0

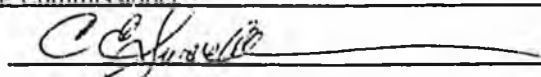
POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY 93) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary.)

Please see attached.

Prepared By: C.E. Swackhammer Phone: 465-4322
 Division: Office of the Commissioner Date: 3/30/93
 Approved by Commissioner:  Date: 3/30/93
 Agency: Richard L. Burton, Dept. of Public Safety

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Analysis:

Statistics show that "lower level" or "borderline" DWI offenders are not being apprehended now. The average breath alcohol concentration (BAC) of DWI arrestees in 1989 was .19 percent--well over the legal limit of .10. Concerted, long-term training will be needed to assist law enforcement officers to detect and apprehend DWI offenders at lower BAC levels. The need for such training, and for more effective enforcement efforts will be an issue addressed in the Department's FY 94 budget request. In the meantime, \$25,000 in contractual funding (\$12,500 in each of the next two fiscal years) is needed to develop and implement a concentrated public information program to educate the public about the dangers of drinking and driving and about the content of the new law.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSHB 61

Revision Date: 3-30-93

Dept. Affected: Corrections

Title: "An Act relating to the offense
of operating a motor vehicle....

BRU: Statewide Programs: Institutions
 Component: _____

Sponsor: Rep. Nordlund

Requestor: House Judiciary

COMPONENT SERIAL NO. 1860; 1858

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
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 FUND SOURCE						
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FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ -0-

ANALYSIS: (Attach a separate page if necessary)

The committee substitute does not change the department's earlier zero fiscal note.

Prepared by: Dana LaTour
 Division: Special Assistant

Phone: 465-3376

Date: 3-30-93

Approved by Commissioner: Lloyd G. Rupp
 Agency: Commissioner

Date: 3-30-93

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSHB 61 (Iud)

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act relating to the offenses of operating a motor vehicle ..." BRU: Office of Public Advocacy
 Component: Office of Public Advocacy
 Sponsor: Representative Nordlund and Ulmer
 Requestor: House Judiciary COMPONENT SERIAL NO. 43

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS

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

Estimate of current year (FY93) impact: \$ None

ANALYSIS: (attach a separate page if necessary.)

Prepared By: Brant McGee, Public Advocate Phone: 274-1684
 Division: Office of Public Advocacy Date: _____

Approved by Commissioner: Nancy Bear Usery Date: 3/31/93
 Agency: Department of Administration

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STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSHB 61 (JUD)

Revision Date: March 31, 1993
 Title: "...relating to the offense of operating a motor vehicle, aircraft, or watercraft while intoxicated..."
 Sponsor: Representative Nordlund
 Requestor: House Judiciary Committee

Department Affected: Department of Law
 BRU: Prosecution
 Component: All
 COMPONENT SERIAL NO. 0085 through 0090

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

REVENUE FUND SOURCE:						
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FUNDING:

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

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

Estimate of current year (FY93) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared by: Richard I. Peques, Director
 Division: Administrative Services Division
 Approved by Commissioner: Charles E. Cole, Attorney General
 Agency: Department of Law

Phone: 465-3672
 Date: March 31, 1993
 Date: March 31, 1993

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSHB 61 (JUD)

ANALYSIS (Continued):

The Judiciary Committee Substitute for HB 61 amends AS 28.35.030(a) and AS 28.35.033(a) to lower the blood/alcohol limit for the crime of driving while under the influence of intoxicating liquor from 0.10 percent or more by weight alcohol in a person's blood to 0.08 percent. This version of the bill drops language that would have made driving while intoxicated, with less than 0.10 percent blood/alcohol, a lesser included offense.

Other jurisdictions, most notably California and Maryland, experienced about a ten percent increase in DWI arrests in the year immediately following their lowering of the limit to 0.08 percent. However, Oregon, which lowered its limit in 1983, saw a small decrease in arrests. It is not known why their results differed, or what impact enforcement and public information efforts may have had on them. Consequently, we cannot predict the result in Alaska.

Moreover, the Department of Public Safety has advised that they do not anticipate any significant increase in DWI arrests, because that department's traffic stops are based on observed impaired driving behavior where the operator appears intoxicated. Therefore, we are not requesting fiscal impact funds.

Rep. Brian Porter, Chairman

House Judiciary Committee

Date: March 29, 1993

Place: Capitol Room 120

HB 61 Lower Alcohol Limit to .08 for DWIs'

Subject of Meeting: HB 41 Civil Liability for Ski Accidents; HB 147 Employer's Liability for Reference

Info; HJR 3 Limiting Terms of Legislators

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
MARGOT KNUTH	law - crim	Box 110300		3428		<input checked="" type="radio"/> Y <input type="radio"/> N	HB 61
Juanita Hensley	DPS/DMV	Box 20720	99802	4335	4335	<input checked="" type="radio"/> Y <input type="radio"/> N	HB 61
Cherise Rose	---					Y <input type="radio"/> N	
GRETCHEN PEWET	DPS	Box 200100	99811	4322		Y <input checked="" type="radio"/> N	HB 41
Jenni Gorsuch	Miller	Box 240504, Douglas	99824		3-3531	Y <input checked="" type="radio"/> N	#BC1 LISTEN ONLY
GADY MENDIVIL	EAGLECREST SA AREA	155 S. Seward St.	99830	586-5284	→	Y <input checked="" type="radio"/> N	HB 41
						Y <input type="radio"/> N	
						Y <input type="radio"/> N	
						Y <input type="radio"/> N	
						Y <input type="radio"/> N	
						Y <input type="radio"/> N	
						Y <input type="radio"/> N	

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State Farm Insurance
American Medical Association
American Association of Neurological Surgeons
American Spinal Injury Association
National Safety Council
Mothers Against Drunk Driving (MADD)
Remove Intoxicated Drivers (RID)
Insurance Institute for Highway Safety
National Committee on Uniform Traffic Laws and Ordinances
National Commission Against Drunk Driving

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WHILE IN SESSION:
ALASKA STATE CAPITOL
JUNEAU, ALASKA 99801-1182
465-4968

Alaska State Legislature
House of Representatives



DISTRICT 11:
SAND LAKE
SPENARD
TAKU-CAMPBELL

Representative Jim Nordlund

SECTIONAL ANALYSIS

Section 1. Findings and purpose.

Section 2. Reduces the level of alcohol at which a person commits the crime of driving while intoxicated from 0.10% to 0.08%.

Section 3. Imposes a mandatory minimum fine of \$250 for a person convicted of driving while intoxicated who had a level of at least 0.08% but less than 0.10%. Imposes existing penalties for a person with a level of intoxication of 0.10% or more.

Section 4. Amends the presumptions of intoxication in a civil or criminal action relating to driving while intoxicated to conform with amendments in section 2.

Section 5. Effective date.

3111 C STREET
ANCHORAGE, ALASKA 99503-3957
561-7007

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DISTRICT 11:
SAND LAKE
SPENARD
TAKU-CAMPBELL

Representative Jim Nordlund

MEMORANDUM

TO: Representative Richard Foster, Chair
Transportation Committee

FROM: Representative Jim Nordlund

RE: HB 61 - Lowering Blood Alcohol Level for DWI

DATE: February 16, 1993

I would greatly appreciate it if a Transportation hearing could be scheduled as soon as possible on House Bill 61, which reduces the legal definition of intoxication for DWI from .10% to .08% blood alcohol content. A number of states, Canada, and all European nations have lowered their legal definition of intoxication from .10% based on medical evidence that shows driving ability is significantly impaired at the lower blood alcohol level.

The National Highway Traffic Safety Administration has notified us that Alaska currently receives \$688,000 in federal funds annually for Highway Safety Planning and may be eligible for a 30% or more increase if House Bill 61 passes. If similar legislation had passed last year, Alaska would have already received the benefits of the increase.

A study by the state of California showed that traffic fatalities were reduced by 12% after the implementation of .08 DWI laws. Alaska averages approximately 100 traffic related fatalities per year. If we were to achieve the same results this bill could save approximately 12 lives per year. In order to begin saving lives, I believe that it is important for the legislature to act quickly in passing House Bill 61.

Dennis Poshard of my staff is preparing the necessary back up and will provide it to you as soon as necessary.

Thank you for your consideration of this matter.

3111 C STREET
ANCHORAGE, ALASKA 99503-3957
561-7007

WHILE IN SESSION:
ALASKA STATE CAPITOL
JUNEAU, ALASKA 99801-1182
465-4963

Alaska State Legislature
House of Representatives



DISTRICT 11:
SAND LAKE
SPENARD
TAKU-CAMPBELL

Representative Jim Nordlund

	# OF DRINKS TO .10 BAC (1HR PERIOD)	#OF DRINKS TO .08 BAC (1HR PERIOD)
FEMALE 100 LBS.	2	2
FEMALE 140 LBS.	3	3
FEMALE 180 LBS.	4	3
MALE 120 LBS.	3	3
MALE 160 LBS.	5	4
MALE 200 LBS.	6	5
MALE 240 LBS.	7	6

* Information from the "Controlled Drinking Guide" published by The Alaska Center for Responsible Alcohol Control

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 15, 1993

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: _____

** AS HB 61 (Trans)
attached*

The TRANSPORTATION Committee considered:

HB 61

HOUSE BILL NO. 61

LOWER ALCOHOL LIMIT TO 0.08 FOR OMVI'S

"An Act relating to the offense of operating a motor vehicle, aircraft, or watercraft while intoxicated; and providing for an effective date."

RECOMMENDATIONS:

be replaced with _____

AS HB 61 (Trans) the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S):

(Dept)

APPROVES PREVIOUS:

(Dept/Date)

fiscal impact ⁽³⁾ DPS, D.Law, Admin. fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) _____

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
		<i>[Signature]</i>		X	
		<i>[Signature]</i>		*	
		<i>[Signature]</i>	✓		
<i>[Signature]</i>	X	<i>[Signature]</i>	X		
		<i>[Signature]</i>	X		

Richard J. Foley
CHAIRMAN'S SIGNATURE



add: info
submitted

*Alaska Cabaret, Hotel,
Restaurant & Retailers Association*

P. O. Box 104830 • Anchorage, Alaska 99510
401 K Street • (907) 272-8133 • Fax: (907) 271-8640

February 23, 1993

Representative Richard Foster
House of Representatives
State Capitol
Juneau, AK 99801-1182

Dear Representative Foster,

House Bill 61, shortly to be considered by the Transportation Committee, would lower the legal definition of intoxication from a Blood Alcohol Content (BAC) of 0.10 to 0.08%. This bill does not address the real cause of the drunk driving problem, the alcohol abuser, and may in fact, impede efforts to reduce the number of accidents and fatalities caused by intoxicated drivers. The State of Maine adopted the lower BAC standard in 1988, one of only 5 states to do so. Between 1988 and 1990, the arrest rate increased by 16% as more people were considered technically intoxicated. At the same time, the alcohol-related fatality rate increased, by more than 7%.

These deaths were the unintended result of diluting the law enforcement and judicial resources available to combat the real culprit, the alcohol abuser. The average BAC of someone involved in an alcohol-related accident is over 0.15%. To direct scarce resources against the responsible consumer is counterproductive. We are continually reminded by the media of our overloaded court and jail facilities, to the point of serious recommendations that jail time for first time DWI offenders under the current definition be abolished.

Addressing the problem by restricting responsible consumption is clearly misdirected. Instead, our efforts should be directed to pursue realistic solutions to this terrible social problem by providing our law enforcement, judiciary, and corrections systems the assets they require to implement current laws and to provide stiffer penalties against repeat offenders.

Candy Lightner, the founder of Mothers Against Drunk Drivers (MADD), has doubts about lowering the BAC to 0.08% which she has expressed publicly on several occasions. I am enclosing a copy of a newspaper column that she wrote issue in 1992. Also enclosed is a reprint of a report originally published by the Beverage Retailers

Is MADD Veering off the Road?

by Candy Lightner, founder of MADD

Cleveland Plain Dealer
Thursday, May 21, 1992

I founded Mothers Against Drunk Driving 12 years ago after my 13-year-old daughter, Cari, was killed by a hit-and-run drunken driver. Two days before he killed my daughter, the man had been arrested for another hit-and-run drunken driving with injury. His blood alcohol content was 0.22% -- more than twice the 0.10%, the current legal limit in most states.

My grief and anger made me determined to do everything in my power to stop the senseless slaughter caused by impaired drivers. Though still deeply committed to that goal, I worry that the movement I helped create has lost direction.

Our biggest obstacle was society's tolerance of drinking and driving. So we passed more than 1,000 laws, and attitudes changed. Society no longer considers impaired driving socially acceptable.

This led to significant reductions in alcohol-related fatalities; 50% in 1988 involved alcohol, as compared to 57% in 1982. But we are still nowhere near the point of eliminating this horrible tragedy from our streets and highways.

Lately, anti-drunken driving groups are working on legislation that would lower the BAC to .08. The recent federal highway bill conditions access to highway aid on implementing anti-drunken driving measures, including the suggestion that states adopt the .08 standard. Unfortunately, this ignores the real core of the problem, individuals who, despite new laws and the change in attitude, continue to drink and drive.

While no one can deny that the safest BAC is no BAC, this is also unrealistic given our limited resources and energies. What is realistic, is attacking the problem drinker or chronic drunken driver, the most dangerous threat to our safety.

In our rush to "do the right thing" let's not lose sight of the facts:

- * Half of the drinking drivers involved in fatal crashes have a BAC of 0.17 or greater. Most drivers with a level this high are problem drinkers and repeat offenders.
- * Even among young people aged 16 to 24, the great majority of deaths involved drinkers with a BAC of at least .15%.

Lowering the blood alcohol content won't make a difference to these offenders. After 12 years we should be past the point of just raising public consciousness. We need to bring creativity into play and focus on the programs and laws that will make the most difference.

Ohio, for example, is concentrating on measures that would reduce recidivism. In the past 10 years, 53% of all drunken driving offenses were committed by repeat offenders. The State Highway Patrol now notifies law enforcement officers of individuals whose driving record includes five or more DUI convictions and whose licenses were suspended. The repeat offenders were also contacted directly and told they risked re-arrest if they continued to drive.

2

Kodiak Liquor Licence Association
P.O. Box 947
Kodiak, Alaska 99615
March 9, 1993

Representative Richard Foster
House Of Representatives
State Of Alaska

Re: House Bill 61

Dear Representative Foster:

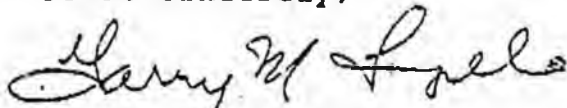
I am writing on behalf of our Association to oppose what we believe to be serious consequences for our industry of HB # 61.

We believe that those that drink and drive should take full responsibility for their actions and that their actions need to be stopped. What our industry is most concerned with is the fact that in Alaska we are also liable and .08 is a very low level for our staff to gauge (it might be only two drinks for some people, yet they would show few visible effects) Also there is provision here for the courts to look at .04. The .04 is very scary. We do not mind that ways be made to stop drinking and driving (the level is a technical point, the liability is the issue). We also want to see those in our industry who over serve to be removed, and if current laws were enforced this could be dealt with.

Our industry is in a very great squeeze, on one hand consumption is down 16% over the last 7 years and insurance rates (if you can get coverage) has gone through the roof. The most seriously affected are those Ma and Pa operations that make up the majority of our members.

Please give our thoughts serious consideration.

Yours sincerely,



Garry M. Langille
President

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO: HB 61

Revision Date: _____ Dept. Affected: Public Safety
 Title: "An Act relating to offense of operating a BRU: Alaska State Troopers
motor vehicle while intoxicated. Component: Detachments
 Sponsor: Representative Nordlund
 Requestor: Representative Nordlund COMPONENT SERIAL NO. 799

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	12.5	12.5	0	0	0	0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	12.5	12.5	0	0	0	0
CAPITAL						
REVENUE FUND SOURCE:						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	12.5	12.5	0	0	0	0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	12.5	12.5	0	0	0	0

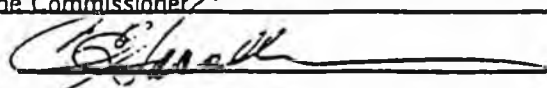
POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY 93) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary.)

Please see attached.

Prepared By: C.E. Swackhammer Phone: 465-4322
 Division: Office of the Commissioner Date: 1/22/93
 Approved by Commissioner:  Date: 1/22/93
 Agency: Richard I. Burton, Dept. of Public Safety

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Analysis:

Statistics show that "lower level" or "borderline" DWI offenders are not being apprehended now. The average breath alcohol concentration (BAC) of DWI arrestees in 1989 was .19 percent--well over the legal limit of .10. Concerted, long-term training will be needed to assist law enforcement officers to detect and apprehend DWI offenders at lower BAC levels. The need for such training, and for more effective enforcement efforts will be an issue addressed in the Department's FY 94 budget request. In the meantime, \$25,000 in contractual funding (\$12,500 in each of the next two fiscal years) is needed to develop and implement a concentrated public information program to educate the public about the dangers of drinking and driving and about the content of the new law.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 61

Revision Date: February 22, 1993
Title: ...relating to the offense of operating a motor vehicle, aircraft, or watercraft while intoxicated...
Sponsor: Representative Nordlund
Requestor: Representative Nordlund

Department Affected: Department of Law
BRU: Prosecution
Component: Third Judicial District
COMPONENT SERIAL NO. 0087

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	54.8	109.6	109.6	109.6	109.6	109.6
TRAVEL	2.5	5.0	5.0	5.0	5.0	5.0
CONTRACTUAL	6.0	11.9	11.9	11.9	11.9	11.9
SUPPLIES	5.8	4.8	4.8	4.8	4.8	4.8
EQUIPMENT	15.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	69.1	131.3	131.3	131.3	131.3	131.3

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

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING:

1002 Federal Receipts						
1003 GF Match						
1004 GF	69.1	131.3	131.3	131.3	131.3	131.3
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL						

FULL-TIME	2	2	2	2	2	2
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact -0-

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared by: Richard I. Pegues, Director
Division: Administrative Services Division
Approved by Commissioner: Charles E. Cole, Attorney General
Agency: Department of Law

Phone: 465-3672
Date: February 22, 1993
Date: February 22, 1993

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 61

ANALYSIS CONTINUATION:

This bill amends AS 28.35.030(a) and AS 28.35.033(a) to lower the blood alcohol limit for the crime of driving while under the influence of intoxicating liquor, a class A misdemeanor, from 0.10 percent to 0.08 percent. The bill also provides that a court shall impose a minimum mandatory fine of not less than \$250 when there was at least 0.08 but less than 0.10 percent blood alcohol.

Other jurisdictions, most notably California and Maryland, experienced about a ten percent increase in DWI arrests in the year immediately following their lowering of the limit to 0.08 percent. However, Oregon, which lowered its limit in 1983, saw a small decrease in arrests. It is not known why their results differed, or what impact enforcement and public information efforts may have had on them. Consequently, we cannot predict the result in Alaska, but some increase in arrests will probably occur if the bill is approved. And although it could be that the bill will result in less litigation, the amount of litigation will most probably increase.

The bill provides for a fine of at least \$250 when a person's blood alcohol content is below 0.10 percent, but the underlying crime is still a class A misdemeanor, and a court is free to impose a far harsher penalty, including imprisonment. This means that defendants must be accorded a jury trial and, if eligible, a publicly-funded defense. Even in those cases where a person might expect to face only the potential of a \$250 fine, defendants can still be expected to wage an aggressive defense because of the serious collateral consequences of a guilty verdict. These include most particularly the restriction or suspension of a person's privilege to drive (as ordered by the court or as a result of an administrative process) and the certainty of a substantially increased cost for insurance.

The defense of these types of 0.08 DWI cases will be easier than normal DWI cases and therefore more defendants may decide to go to trial. In a normal DWI case the state can obtain a conviction by proving either that a breath-test yielded a result of 0.10% or that the person was "under the influence." Therefore even if the results of the breath-test are suppressed or if the jury does not believe the breath-test results (which often happens), the person is nonetheless convicted because bad driving or other symptoms of intoxication prove that the person was "under the influence." In 0.08 cases, the only issue is the validity of the test results; if the jury does not believe the test result, the defendant is acquitted.

Ironically, the existence of a different penalty for 0.08% cases than for normal DWI cases is an advantage to all DWI defendants, not merely for those whose blood alcohol is below 0.10%. The reason is because this new offense may be considered to be a "lesser included offense" of normal DWI, and thus every DWI defendant will ask that the jury be permitted to find that this lesser offense, rather than normal DWI, was committed. The possibility of this kind of compromise verdict may encourage more defendants to take their chances at trial. Alternatively, defendants may ask for a "special verdict", in which the jury is asked to determine the specific amount of blood alcohol. This may tend to prolong jury deliberations and may lead to jury confusion if the jury cannot agree on a specific amount.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 61

ANALYSIS CONTINUATION:

During FY 92, nearly 4,000 DWI complaints were referred to Department of Law prosecutors. If Alaska follows the California example, a ten percent increase would result in 400 new DWI cases statewide. The largest number of new cases would be experienced in the Anchorage and Mat-Su Valley areas. When we commented on similar legislation in 1992 (HB 102) we indicated that although we expected an increase in the misdemeanor caseload we were not going to request fiscal note funds because of the recent addition of three new prosecutors in Anchorage. Subsequently, the department's budget was reduced and the three attorney positions, plus one paralegal and two clerical positions were eliminated in Anchorage. We expect that this bill will cause us to prosecute 300 or more additional class A misdemeanors in the Third Judicial District, where the effects of the bill will be felt most. Because of staffing cutbacks in Anchorage, and because the Anchorage office is the hub from which prosecutors are sent to other offices to assist in times of overload, it will therefore be necessary to add one Attorney III at Anchorage.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 61

ANALYSIS CONTINUATION:

	<u>Attorney III</u> (22A)	<u>Legal Secretary I</u> (10B)	<u>Total</u>
Personal Services	72.3	37.3	109.6
Travel	5.0	-0-	5.0
Contractual	7.4	4.5	11.9
Supplies	4.1	4.1	8.2
Equipment	6.5	8.5	15.0
	<hr/>	<hr/>	<hr/>
Total	95.3	54.4	149.7

Position Title Attorney III		No. of Positions 1	Range / Step 22A	Barg. Unit PX
Time Status PFT	Staff Months 12	Location Anchorage		Election District 7/15
TYPE OF EXPENDITURE		AMOUNT		
Salary		53,304		
Benefits		19,011		
Premium Pay				
Other				
Total Personal Services		73,315		
Travel		5,000		
Contractual		7,400		
Commodities		4,100		
Equipment		6,500		
Other				
Total Cost		95,300		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts1002				
G.F. Match1003				
General Fund1004		95,300		
I-A Receipts1007				
CIP Receipts1061				
Other				
Justification				
<p>This position is needed to handle the 300 or more additional class A misdemeanors that are expected if HB 61 is enacted. The bill will lower the blood alcohol content from 0.10 percent to 0.08 percent for driving while under the influence of alcohol, resulting in a potential increase of 10 percent in the number of DWI prosecutions handled by the Anchorage District Attorney's Office and other offices in the District where the Anchorage office provides overload and relief coverage. Because of skills required to prosecute class A misdemeanors, this position should be allocated to the Attorney III level.</p>				

Request For New Position

AGENCY DEPARTMENT OF LAW

BRU Prosecution

COMPONENT Third Judicial District 0087

FY 94

Page 1 of 2
Revised Date: _____

Position Title Legal Secretary I		No. of Positions 1	Range / Step 10B	Barg. Unit GGU
Time Status PFT	Staff Months 12	Location Anchorage		Election District 7/15
TYPE OF EXPENDITURE		AMOUNT	Justification This position is needed to handle the paperwork and witness scheduling for an additional 300 misdemeanors that are expected to be handled if HB 61 is enacted. Full-time legal secretarial assistance is required due to the large number of misdemeanor trials that are expected. Preparation of legal pleadings and other documentation is appropriately handled by the Legal Secretary I classification.	
Salary		25,524		
Benefits		11,780		
Premium Pay				
Other				
Total Personal Services		37,304		
Travel				
Contractual		4,500		
Commodities		4,100		
Equipment		8,500		
Other				
Total Cost		54,404		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts1002				
G.F. Match1003				
General Fund1004		54,404		
I-A Receipts1007				
CIP Receipts1061				
Other				

Request For New Position

AGENCY DEPARTMENT OF LAW

BRU Prosecution

COMPONENT Third Judicial District 0087

FY 94

Page 2 of 2
Revised Date: _____

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 61

Revision Date: _____ Dept. Affected: Department of Corrections
 Title: "An Act relating to the offense of BRU: Statewide Programs; Institutions
operating a motor vehicle... while intoxicated..." Component: Statewide Programs; Institutions
 Sponsor: Rep. Nordlund
 Requestor: Rep. Nordlund COMPONENT SERIAL NO. 1860: 1858

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

REVENUE FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-
-----------------------------	------------	------------	------------	------------	------------	------------

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ -0-

ANALYSIS: (Attach a separate page if necessary)

 See attached fiscal analysis.

Prepared by: Dana LaTour *D. LaTour* Phone: 465-3376
 Division: Office of the Commissioner Date: 2-23-93
 Approved by Commissioner: Lloyd G. Rupp *L. G. Rupp for* Date: 2-23-93
 Agency: Department of Corrections

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Fiscal Analysis

HB 61: "An Act relating to the offense of operating a motor vehicle, aircraft, or watercraft while intoxicated;"

Page 2

This bill amends AS 28 by lowering the blood alcohol limit for drunk driving from 0.10 to 0.08 percent. Although the crime remains a class a misdemeanor, the bill provides that a court shall impose a minimum mandatory fine of \$250. The department assumes that although the court can impose a sentence of incarceration, in most cases it will order only a fine.

The Department of Public Safety provided the department with data that shows the motorists stopped by Alaska State Troopers for suspicion of driving while under the influence of alcohol test on the intoximeter at an average blood alcohol level of 0.19 percent. Statistics from the Juneau Police Department show that in 1990 148 people were tested on the intoximeter, and none tested at between 0.08 and 0.10 percent.

Considering the infrequency of the number of offenders whose test result fall into the 0.08 and 0.10 rate, it is assumed that HB 61 will not have a significant fiscal impact on the Department.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 61

Revision Date: _____ Dept. Affected: Department of Corrections
 Title: "An Act relating to the offense of operating a motor vehicle... while intoxicated..." BRU: Statewide Programs; Institutions
 Component: Statewide Programs; Institutions
 Sponsor: Rep. Nordlund
 Requestor: Rep. Nordlund COMPONENT SERIAL NO. 1860: 1858

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

REVENUE FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-
----------------------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year (FY93) impact: \$ -0-

ANALYSIS: (Attach a separate page if necessary)

See attached fiscal analysis.

Prepared by: Dana LaTour *D. LaTour* Phone: 465-3376
 Division: Office of the Commissioner Date: 2-23-93
 Approved by Commissioner: Lloyd G. Rupp *L. Rupp for* Date: 2-23-93
 Agency: Department of Corrections

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Fiscal Analysis

HB 61: "An Act relating to the offense of operating a motor vehicle, aircraft, or watercraft while intoxicated;"

Page 2

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Considering the infrequency of the number of offenders whose test result fall into the 0.08 and 0.10 rate, it is assumed that HB 61 will not have a significant fiscal impact on the Department.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 61

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act relating to the offense of operating a motor vehicle, aircraft or watercraft while intoxicated" BRU: Public Defender Agency
 Component: Public Defender Agency
 Sponsor: Reps. Nordlund, Ulmer
 Requestor: _____ COMPONENT SERIAL NO. 1631

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES	52.5	108.0	111.2	114.5	117.0	121.4
TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	2.0	-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	55.5	109.0	112.2	115.5	118.9	122.4

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	55.5	109.0	112.2	115.5	118.9	122.4
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	55.5	109.0	112.2	115.5	118.9	122.4

POSITIONS:

FULL-TIME	2.0	2.0	2.0	2.0	2.0	2.0
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary)

See attached.

Prepared by: John Salemi, Public Defender
 Division: Public Defender Agency
 Approved by Commissioner: Nancy Bear Usura
 Agency: Administration

Phone: 279-7541
 Date: _____
 Date: 2/24/93

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CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 61

HB 61 amends the state statutes regarding the crime of driving while under the influence of alcohol. The most significant change in the law proposed through this bill involves the amount of alcohol which a driver can have in his/her system in order to be found guilty of driving while intoxicated. Under present law a suspected drunk driver who takes a chemical test and is found with 0.10% or more (by weight) of alcohol in his/her blood is presumed by the court to be under the influence. If found guilty of said offense, mandatory minimum penalties must be imposed.

HB 61 lowers the amount of alcohol which needs to be found in the blood in order for a person to be presumed guilty of driving while intoxicated. This proposal also changes the evidentiary presumptions with respect to this issue. See Section 4, paragraph (a)(4), amending A.S. 28.35.033.

This bill makes distinctions, in terms of punishment, between those individuals who are convicted of DWI with an alcohol level of 0.10% or higher and those whose alcohol level is at least 0.08% but less than 0.10% blood alcohol level. It appears from the bill that a fine of \$250 is the only mandatory punishment. If this bill passes into law, it remains to be seen how the courts will otherwise distinguish, in terms of punishment, a .08% offender from a .10% offender.

The Public Defender supports all legislative enactments which reasonably deter driving while under the influence. Other states have lowered the blood alcohol level as is done through this proposal.

Fiscal Impact

There will be distinct fiscal impact on the Public Defender Agency if this bill becomes law. Under present law individuals who fall into the .08% - .10% range typically are offered a reduced charge of Reckless Driving in exchange for a plea of no contest. This charge carries no significant mandatory minimum penalties, does not have the same stigma as a DWI conviction and in other ways is a more acceptable resolution of a case, from a defendant's perspective, than is a conviction for drunk driving. If this bill passes it is anticipated that there will be more DWI charges and as a result more DWI clients wishing to exercise their right to trial. With the attorneys who handle misdemeanors in Anchorage and Fairbanks already carrying caseloads of over 100 cases, it is likely additional resources will be required so that effective legal representation can be provided. It is felt that the fiscal impact can be absorbed through the use of paralegals to assist attorneys in file organization, witness coordination and other related support work. As such, two paralegal positions are requested; one each for Anchorage and Fairbanks. In that the effective date for enactment is January 1, 1994, the requested FY 94 personal services expenditures are for one half of the fiscal year.

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 61

Budget Analysis

Anchorage

Paralegal II 16A 25.8

Fairbanks

Paralegal II 16A 26.7

100	Personal Services	52.5
200	Travel	-0-
300	Contractual	-0-
400	Supplies	1.0
500	Equipment (one time)	<u>2.0</u>
	TOTAL	55.5

Position Title Paralegal Assistant II		No. of Positions 2	Range / Step 16/A	Barg. Unit GGU
Time Status PFT	Staff Months 24.0	Location EBA - JBA		Election District 7 - 20
TYPE OF EXPENDITURE		Amount		
Salary	74,340	Justification HB 61 amends the state statutes regarding the crime of driving while under the influence of alcohol. The most significant change in the law proposed through this bill involves the amount of alcohol which a driver can have in their system in order to be found guilty of driving while intoxicated. If this bill passes it is anticipated that there will be more DWI charges and as a result more DWI clients wishing to exercise their right to trial. With the attorneys who handle misdemeanors in Anchorage and Fairbanks already carrying caseloads of over 100 cases, additional resources will be required so that effective legal representation can be provided. The fiscal impact can be absorbed through the use of paralegals to assist attorneys in file organization, witness coordination and other related support work. As such, two paralegal positions are requested; one each for Anchorage and Fairbanks.		
Benefits	30,550			
Premium Pay				
Other				
Total Personal Services	104,890			
Travel	-0-			
Contractual	-0-			
Commodities	1.0			
Equipment	2.0			
Other				
Total Cost	107,890			
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.E. Match	1003			
General Fund	1004	107,890		
EA Receipts	1007			
CIP Receipts	1061			
Other				

**Request For
New Position**

AGENCY Department of Administration
 BRU Public Defender Agency
 COMPONENT Public Defender Agency

FY _____

Page 4 of 4
 Revised Date: _____

FISCAL NOTE
 STATE OF ALASKA
 1993 LEGISLATIVE SESSION

BILL NO. HB 61

Revision Date: _____
 Title: 'An Act relating to the offenses of operating a motor vehicle. . . .'
 Sponsor: Reps. Nordlund, Ulmer
 Requestor: House Transportation

Department Affected: Administration
 BRU: Office of Public Advocacy
 Component: Office of Public Advocacy
 COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year (FY93) impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Brant McGee, Public Advocate
 Division: Office of Public Advocacy

Phone: 274-1684
 Date: _____

Approved by Commissioner: Nancy Bear Usera
 Agency: Administration

Date: 2/24/93

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