

**HB**

**136**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 4/23/93

FURTHER:

DATE TURNED INTO OFFICE: 5-3-93

The Finance Committee considered CS FOR HOUSE BILL NO. 136(FIN)

"An Act relating to revocation of and limitations on a driver's license; to the offenses of driving while intoxicated and refusal to submit to a breath test; imposing a limited license fee; amending Alaska Rule of Civil Procedure 32(b); and providing for an effective date."

and recommends:

- replace with \_\_\_\_\_ CS \_\_\_\_\_ (FINANCE)
- or  adopt previous 5 CS CSHB 136 (HES)
- 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**

Department	Date	Zero	Fiscal
Dohaw	4/23/93	<del>0</del>	
DPS (Drivers)	4/23/93	<del>0</del>	108.RW
DPS (Troopers)	4/23/93	<del>0</del>	
DNA (OPA)	4/23/93	<del>0</del>	
DOA (PD)	4/23/93	<del>0</del>	
DDC	4/23/93		1043.6

**PREVIOUS FISCAL NOTES**

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

**DO PASS:**

\_\_\_\_\_  
*Steve Nier*  
 \_\_\_\_\_  
*Ben Sharp*  
 \_\_\_\_\_

**OTHER RECOMMENDATIONS:**

\_\_\_\_\_  
*Geoff Sackel No Rec*  
 \_\_\_\_\_

1. *Steve Nier* Do Pass  
 Co-Chair: Signature/Recommendation

2. *Geoff Sackel* No Rec  
 Co-Chair: Signature/Recommendation

# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. SCS CSHB 136 (HESS)

Revision Date: 4-23-93 Dept. Affected: Corrections  
 Title: "An Act to amend AS 11.41.010, relating to the offense of driving while intoxicated." BRU: \_\_\_\_\_  
 Sponsor: Rep. Mulder Component: \_\_\_\_\_  
 Requestor: Senate Finance COMPONENT SERIAL NO. \_\_\_\_\_

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	1043.6	1043.6	1043.6	1043.6	1043.6	1043.6
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>1043.6</b>	<b>1043.6</b>	<b>1043.6</b>	<b>1043.6</b>	<b>1043.6</b>	<b>1043.6</b>

<b>CAPITAL</b>						
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<b>REVENUE FUND SOURCE: GF/PR 1005</b>	1043.6	1043.6	1043.6	1043.6	1043.6	1043.6
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**FUNDING:**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	1043.6	1043.6	1043.6	1043.6	1043.6	1043.6
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>1043.6</b>	<b>1043.6</b>	<b>1043.6</b>	<b>1043.6</b>	<b>1043.6</b>	<b>1043.6</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

**ANALYSIS:** (Attach a separate page if necessary)  
 Please see the attached fiscal analysis.

Prepared by: Dana LaTour, Special Assistant  
 Division: Commissioner's Office  
 Approved by Commissioner: Frank Prewitt, Commissioner  
 Agency: Department of Corrections

Phone: 465-3376  
 Date: 4-23-93  
 Date: 4-23-93

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FISCAL NOTE ANALYSIS

SCS CSHB 136 (HESS)

Page 2

SCS CSHB 136(HESS) provides for the placement of offenders, convicted of DWI or refusal to submit to a breath test, in a community residential center or other facilities. The bill requires the offenders to pay up to \$1000 of the cost of their imprisonment. The bill also requires the offender to perform community service work.

1992 DWI Offenses	X	Assumed Conviction Rates	Convicted Offenders
3532	1st offense	65%	2261
1174	(one prior offense)	75%	843
407	(two prior offenses)	80%	326
276	(4th & subsequent offenses)	80%	221

Using those numbers:

2261 - 226 (10% indigent offenders) = 2035 offenders x 3 days x \$60 day = \$ 366,300

843 - 84 (10% indigent offenders) = 759 offenders X \$1000 = \$ 759,000

407 - 41 (10% indigent offenders) = 366 offenders X \$1000 = \$ 366,000

276 - 28 (10% indigent offenders) = 248 offenders X \$1000 = \$ 248,000

The total amount charged annually could be approximately \$1,739,300. Assuming that 60% of the amount charged is collected, a total of \$1,043,580 should be generated in program receipts to offset the cost of contracting for additional CRC beds for these offenders.

FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. SCSCSHB 136 (HES)

Revision Date: \_\_\_\_\_  
Title: 'An Act relating to revocation of and limitations  
on driver's license and to the offenses . . .'  
Sponsor: Representative Mulder  
Requestor: \_\_\_\_\_

Department Affected: Administration  
BRU: Public Defender  
Component: Public Defender  
COMPONENT SERIAL NO. 1631

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: John Salemi, Public Defender  
Division: Public Defender Agency

Phone: 274-1684  
Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear Usera  
Agency: Administration

Date: 2/23/93

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**FISCAL NOTE**

**STATE OF ALASKA**  
**1993 LEGISLATIVE SESSION**

**BILL NO. SCSCSHB 136 (HES)**

Revision Date: \_\_\_\_\_  
 Title: 'An Act relating to revocation of and limitations on  
driver's licenses and to the offenses . . .'  
 Sponsor: Representative Mulder  
 Requestor: \_\_\_\_\_

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
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>CAPITAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
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<b>REVENUE FUND SOURCE:</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
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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
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**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 (FY 93) impact: 0

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: 4/23/93

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# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO: SCSCSHB 136(HES)

Revision Date: 4/23/93 Dept. Affected: Public Safety  
 Title: "An act relating to revocations of and BRU: Alaska State Troopers  
limitations on a driver's license ..." Component: Detachments  
 Sponsor: Representative Mulder  
 Requestor: Senate Finance 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						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>REVENUE FUND SOURCE:</b>	-0-	-0-	-0-	-0-	-0-	-0-

**FUNDING: (Thousands of Dollars)**

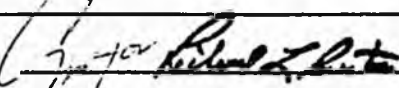
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

**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 (FY 93) impact: \$ \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)  
 No fiscal impact is anticipated.

Prepared By: Francis C. Allan Phone: 269-5691  
 Division: Alaska State Troopers Date: 4/23/93  
 Approved by Commissioner:  Date: 4/23/93  
 Agency: Richard L. Burton Dept. of Public Safety

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# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO: SCSCSHB 136(HES)

Revision Date: 4/22/93 Dept. Affected: Public Safety  
 Title: "An Act relating to offenses of driving while BRU: Motor Vehicles  
intoxicated and refusal to submit to a breath test." Component: Driver Services  
 Sponsor: Representative Mulder  
 Requestor: Senate Judiciary COMPONENT SERIAL NO. 500

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						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE FUND SOURCE:	108.0	108.0	108.0	108.0	108.0	108.0

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-

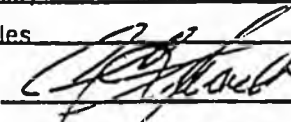
POSITIONS:

FULL-TIME	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 (FY 93) impact: \$ \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

It is estimated that 30% of all persons whose license is revoked as a first offender DWI will request a limited license. In 1992, there were approximately 3600 drivers license revocations for first offender DWIs. Charging a \$100.00 limited license application fee will generate approximately \$108.0 in revenue to the general fund.

Prepared By: Juanita Hensley Phone: 465-4361  
 Division: Motor Vehicles Date: 4/22/93  
 Approved by Commissioner:  Date: 4/22/93  
 Agency: Richard J. Burton, Dept. of Public Safety

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FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. SCS CSHB136 (HES)

Revision Date: April 23, 1993  
Title: "...relating to limited driver's licenses and...  
driving while intoxicated...refusal to submit..."  
Sponsor: Representative Mulder  
Requestor: Representative Mulder

Department Affected: Department of Law  
BRU: Legal Services  
Component: Operations  
COMPONENT SERIAL NO. 0093

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						
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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.

*Richard I. Peques*

Prepared by: Richard I. Peques, Director  
Division: Administrative Services Division

Phone: 465-3672  
Date: April 23, 1993

Approved by Commissioner: Charles E. Cole, Attorney General  
Agency: Department of Law

Date: April 23, 1993

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FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. SCS CSHB 136 (HES)

ANALYSIS (Continued):

Only two minor technical amendments have been made in this bill since submitting our last fiscal note comments on March 31, 1993. Consequently, SCS CSHB136 (HES) will not have a fiscal impact for the Department of Law.



# ALASKA STATE LEGISLATURE HOUSE OF REPRESENTATIVES

**REPRESENTATIVE ELDON MULDER**  
DISTRICT 23 MULDOON-FT. RICHARDSON

- CHAIR -  
LEGISLATIVE COUNCIL

- CO-CHAIR -  
HOUSE SPECIAL COMMITTEE ON  
MILITARY AND VETERANS AFFAIRS

- CO-CHAIR -  
MILITARY AFFAIRS FOR  
ANCHORAGE CAUCUS

## **Sponsor Statement for SCS CS HB136 (HES)** Representative Eldon Mulder

House Bill 136 is a product of the Alaska Sentencing Commission's recommendations for increasing the usage of alternative sentencing. The purpose of the bill is two-fold; to crack down on DWI offenders by offering more serious and immediate punishment, and to do so in a manner that would help ease some of the financial burden on the Department of Corrections, and hence, the State.

The bill requires first and second time DWI offenders and those who refuse to submit to a breath test to serve their time in community residential centers and perform community work service while at the center. In cases where a community residential center is not available, another appropriate placement will be determined by the commissioner of corrections. In addition, the bill requires that all (not just first and second) DWI offenders, no matter where they are imprisoned, pay for the cost of their incarceration, up to a maximum of \$1,000. Unpaid costs are to be collected from the offender's permanent fund dividend check. "Cost of imprisonment" is defined in the bill to mean a uniform average cost of imprisonment that is determined and prescribed by regulation by the commissioner of corrections. This ensures that everyone pays the same rate, no matter where they are incarcerated.

The bill also contains several sections pertaining to limited licenses in relation to DWI offenses. Under current law, someone with up to six DWI offenses can obtain limited license privileges. HB 136 would reduce limited license privileges down to first offenders only. Those convicted of refusing to submit to a breath test would not be eligible for any limited license privileges. It also requires that an individual must show proof of enrollment in, or have completed, an alcohol treatment program before they can obtain a limited license. In addition, the bill imposes a fee of \$100 for a person applying for a limited driver's license. This stipulation will generate a substantial amount of revenue, as indicated in the Department of Public Safety's fiscal note.

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

### MEMORANDUM

April 24, 1993

**SUBJECT:** Sectional Summary of SCS CSHB 136(HES)

**TO:** Representative Eldon Mulder

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

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

**Section 1.** Allows the Department of Public Safety to terminate an administrative driver's license revocation and reissue a driver's license to a person convicted of driving while intoxicated or refusal to take a breath test, if the person meets the conditions set out under AS 28.15.181(e), relating to meeting the required minimum revocation period, alcoholism treatment, and paying the required fee.

**Section 2.** Reduces the mandatory minimum period of driver's license revocation for a conviction based on driving while intoxicated or refusal to take a breath test from five years to three years if the person is a third time offender, and from ten years to five years for a person convicted four or more times.

**Section 3.** Allows a court to terminate a driver's license revocation of a person convicted of driving while intoxicated or refusal to take a breath test, if the person meets the required minimum revocation period, and complies with the conditions set out in AS 28.15.211(d) and (e) relating to alcoholism treatment, and paying the required fee.

**Section 4.** Allows a court to impose limitations on a driver's license if the court determines the person meets certain conditions (imposed under (b) of this section) and the court determines that the limitations will allow the person to earn a livelihood. Allows the court or the Department of Public Safety to grant limited

Representative Eldon Mulder

April 24, 1993

Page 2

license privileges if the person was convicted of driving while intoxicated, but not if convicted of refusal to take a breath test, the person is a first time offender and the person meets the other conditions set out in (d)(3) - (5) of this section.

Section 5. Requires a person convicted of driving while intoxicated or refusal to take a breath test to take certain alcoholism treatment, before receiving a new driver's license.

Section 6. Imposes a fee of \$100 for a person applying for a limited driver's license under sec. 4.

Section 7. Specifies that a person convicted of driving while their driver's license is revoked, suspended, or in violation of a limitation cannot get a limited driver's license.

Section 8. Provides that a first or second time D.W.I. offender will serve prison time at a half-way house or other appropriate facility determined by the commissioner of corrections. Requires a person convicted of D.W.I. to pay the costs of imprisonment, up to a maximum of \$1,000, unless the person is indigent. Provides that for costs of imprisonment not paid, the person's permanent fund dividend may be used to pay those costs, including a dividend issued to a person determined to be indigent. Required that certain community service work be performed and that the commissioner of corrections determine the uniform average cost of imprisonment for purposes of determining the cost of imprisonment to be paid by the person.

Section 9. Definition.

Section 10. Provides that a person convicted of refusal to take a breath test for the first or second time will serve their prison time at a half-way house or other appropriate facility determined by the commissioner of corrections. Requires a person convicted of refusal to take a breath test to pay the costs of imprisonment, up to a maximum of \$1,000, unless the person is indigent. Provides that for costs of imprisonment not paid, the person's permanent fund dividend may be used to pay those costs, including a dividend issued to a person determined to be indigent. Required that certain community service work be performed and that the commissioner of corrections determine the uniform average cost of imprisonment for purposes of determining the cost of imprisonment to be paid by the person.

Section 11. This section sets out the effect certain sections of the bill have on Alaska Rule of Criminal Procedure 32(b).

Section 12. Applicability section.

Section 13. Effective date.

MFF:gc  
93-370.glc

**BILL NO:** SCSCSHB 136(HES)

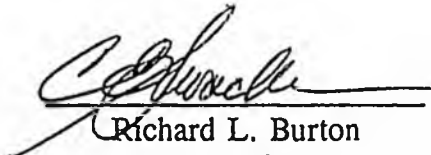
**DATE:** April 27, 1993

**TITLE:** "An Act relating to the offenses of driving while intoxicated. . ."

**CONTACT:** C.E. Swackhammer  
Deputy Commissioner  
465-4322

Sections 1 through 7 of SCSCS HB 136(HES) correct a problem in existing law dealing with driver license revocations and limitations. In 1990 the legislature passed HB 153, allowing individuals convicted of up to six DWI'S to obtain a limited driver's license. This law has been overly burdensome to the Alaska Court System and the Division of Motor Vehicles. Instead of issuing a limited license to repeat DWI offenders, this bill will allow the courts or the department to review the individual's record and, if appropriate, terminate the revocation and issue a license. It also requires that the individual meet the minimum period of license revocation prior to application for license revocation termination.

The Department of Public Safety supports this legislation and recommends passage of HB 136.

  
Richard L. Burton  
Commissioner

STATE OF ALASKA  
**POSITION PAPER**

**DEPARTMENT OF CORRECTIONS**

PHON: 465-3376 - FAX 465-2006

Senate CS for CS for House Bill 136 (HES)

"An Act relating to revocation of and limitations on a driver's license; to the offenses of driving while intoxicated and refusal to submit to a breath test; imposing a limited license fee; amending Alaska Rule of Civil Procedure 32(b); and providing for an effective date."

This legislation impacts the Department of Corrections by amending AS 28.35.030 and AS 28.35.035 and directing the department to place offenders, convicted of DWI charges or refusal to submit to a breath test, in community residential centers. If a CRC is not available, imprisonment may be served in another appropriate facility. This legislation also requires an offender to pay up to \$1000 of the cost of their imprisonment, unless the person is indigent. The person's permanent fund dividend may be used to pay for those costs.

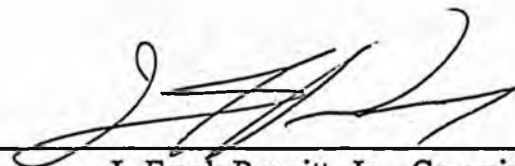
The Department of Corrections supports this legislation. It encourages the use of less expensive community placements, and holds the offender responsible for the cost of incarceration.

The Department of Corrections currently has over 1800 offenders scheduled to serve time as space becomes available in correctional centers and community residential centers. These individuals are called "court-ordered reports (COR)." In some cases, these offenders are being told to wait for 8 - 9 months before they report to serve their sentences.

The passage of this legislation would generate approximately \$1,000,000 for the department to use in contracting for additional beds, and will help in keeping the COR backlog from growing.

Fiscal Note:

- YES  
 NO



J. Frank Prewitt, Jr., Commissioner

Walter J. Hickel, Governor



# Alaska Sentencing Commission

1029 W. Third Avenue, Suite 201, Anchorage, Alaska 99501 (907) 279-2526 FAX (907) 276-5046

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February 10, 1993

Representative Eldon Mulder  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

RE: HB 136; DWI

**FEB 15 1993**

Dear Representative Mulder:

I am writing with respect to your proposed legislation altering DWI penalties. Your legislation encourages the housing of DWI prisoners in halfway houses and strengthens the fines and forfeiture provisions of the current law.

One of the Sentencing Commission's major recommendations is well served by your legislation -- the increased use of halfway houses. Clearly, the great majority of DWI offenders could be more cheaply and more effectively punished in the setting you propose (halfway houses with community service) than in hard beds. As you know, many DWI offenders in Anchorage and Fairbanks already serve their sentences in halfway houses.

While the Commission did not specifically make a recommendation as to the use of community service while in halfway houses, your proposal is certainly consistent with their general recommendations. You might also consider a requirement for alcohol screening and education while at the halfway house. We have discussed a similar program with representatives of MADD. I recommend you consult with both DOC and MADD.

The commission recommended the increased use of fines and forfeitures, but as alternatives to jail time rather than as additional penalties. The commission generally recommended the use of fines scaled to the offender's income, which would seem appropriate in DWI cases. See 1992 ASC Report at p. 11. The Commission also recommended that the legislature investigate alternatives to the current three day minimum sentence for first time DWI offenders. At p. 44-45 of its 1992 report, the Commission recommends:

**Beginning immediately, the legislature should amend the law providing that DWI first offenders must be sentenced to jail for at least three days. Instead the**

**legislature should investigate other creative alternatives to punish drunk drivers more quickly, cheaply, and effectively.**

The commission recognizes that drunk driving is a serious offense which must be deterred, but believes that the current law does not represent the most cost-effective approach. The Department of Corrections estimates that housing DWI offenders costs approximately \$6 million per year, even though many DWI offenders are already serving their sentences in halfway houses. This does not represent the full cost of housing drunk drivers, since many first and second offenders are housed in local jails.

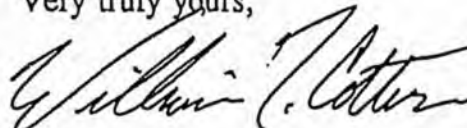
Jail time is only one part of the sentence for DWI in Alaska. First time DWI offenders also are required to follow the treatment recommendations made by the state alcohol screening program, pay a fine of at least \$250, and have their driver's license suspended for 90 days. For second offenses, the fine rises to \$500 and the period of suspension to 365 days. AS 28.35.030; AS 28.15.171. In addition, the offender's insurance rates are likely to go up. The commission does not recommend changes in these aspects of the DWI sentence.

While the mandatory jail term may have some added deterrent value, there are many less costly approaches. Other jurisdictions have used a variety of successful programs that publicly identify offenders and require community service from them, like wearing an orange vest to pick up trash along the highway. The commission recommends that the legislature work with representatives of groups like Mothers Against Drunk Drivers to formulate a plan that will deal with this serious problem more effectively. This recommendation passed, nine in favor and four opposed.

The Commission certainly understands the political realities concerning DWI. Its recommendation quoted above was only made after a long discussion and consideration of all the issues. Nevertheless, if we are to address the current backlog of about 2500 misdemeanants waiting up to nine months to go to jail, within our current fiscal constraints, we must consider creative alternatives. I would ask you to consider whether some combination of community service, stiff fines (on a sliding scale dependent on income to increase the bite), and mandatory alcohol treatment could be substituted for the current required 72 hours in jail.

Please feel free to give me a call if you have any questions.

Very truly yours,



William T. Cotten  
Executive Director

WTC:erm

criticized for competing with the private sector, they have strong support from the general public. This recommendation was adopted without objection.

2. **Beginning immediately, the legislature should offer support and encouragement to criminal justice agencies in their efforts to reach creative, long-term solutions to budget reductions.**

Innovative ideas are necessary to cope with major budget reductions. The commission recommends that criminal justice agencies be allowed some discretionary funds for planning and for pilot programs. The Legislature also should support internal reallocation of budgets within agencies to achieve long-term budget reductions.

Agencies will need the encouragement of the Legislature and the Governor to try new ideas without the immediate assumption that such changes are unacceptable. If state revenues in fact decline by \$1 billion over the next 10 years, people will need to change their expectations of what government can do. The results of the focus groups indicate that people think the state should take financial considerations into account in devising a suitable system of punishment. All branches of government should work to educate the public on the budget impacts of their programs and to provide information necessary to make difficult choices. This recommendation was adopted without objection.

3. **Beginning immediately, Department of Corrections should establish a plan to allow offenders convicted of driving while intoxicated (DWI) and driving with license suspended or revoked (DWLS/R) to serve their sentences without a long delay (currently nine months in some locations).**

Far and away the most common criminal offense is driving while intoxicated. In 1990, 2544 DWI offenders served time in Department of Corrections facilities. 1629 of these were first-time DWI offenders with an average sentence of five days. Another 2255 people served time in one of the 19 local jails, which are run on contract with the Department of Public Safety, serving an average sentence of three days. As of October 1992, about 960 DWI offenders were on waiting lists with the Department of Corrections, waiting up to nine months to serve their sentences.

In order to clear up the backlog and to provide specific programming appropriate for drunk drivers, the Department of Corrections should investigate the use of low-security facilities to process large numbers of DWI and DWLR/S offenders in the bigger communities. Offenders serving short sentences in halfway houses should not be mixed with offenders being reintegrated into the community at the end of long sentences.

4. **Beginning immediately, the legislature should amend the law providing that DWI first offenders must be sentenced to jail for at least three days. Instead the legislature should investigate other creative alternatives to punish drunk drivers more quickly, cheaply, and effectively.**

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approach. The Department of Corrections estimates that housing DWI offenders costs approximately \$6 million per year, even though many DWI offenders are already serving their sentences in halfway houses. This does not represent the full cost of housing drunk drivers, since many first and second offenders are housed in local jails.

Jail time is only one part of the sentence for DWI in Alaska. First time DWI offenders also are required to follow the treatment recommendations made by the state alcohol screening program, pay a fine of at least \$250, and have their driver's license suspended for 90 days. For second offenses, the fine rises to \$500 and the period of suspension to 365 days. AS 28.35.030; AS 28.15.171. In addition, the offender's insurance rates are likely to go up. The commission does not recommend changes in these aspects of the DWI sentence.

While the mandatory jail term may have some added deterrent value, there are many less costly approaches. Other jurisdictions have used a variety of successful programs that publicly identify offenders, and require community service from them, like wearing an orange vest to pick up trash along the highway. The commission recommends that the legislature work with representatives of groups like Mothers Against Drunk Drivers to formulate a plan that will deal with this serious problem more effectively. This recommendation passed, nine in favor and four opposed.

The Department of Corrections should increase the use of alternative punishments as part of some presumptive sentences. The commission recommends that the Department of Corrections pursue an active policy for some presumptively sentenced offenders that substitutes time spent in alternative punishment programs for time in prison, within the limits of public safety. High supervision programs such as community residential centers, treatment programs, intensive supervised probation, and day reporting centers can control risk to the public, provide rehabilitative opportunities, and fulfill the goals of presumptive sentencing at lower cost than spending the entire presumptive term in prison.

The commission believes that its support for presumptive sentencing is compatible with its support for alternative punishments. Alaska case law already provides that time spent in custodial programs such as community residential centers and residential treatment programs must be credited to the offender's time served, just like incarceration. Regardless of whether the correctional budget is reduced, the commission has already recommended that these alternatives be routinely used for presumptively sentenced offenders during the final portion of their sentences, to help them make their transition back to the community. For many offenders, these alternatives may also be safely and effectively used for longer periods of time. The commission recommends strong oversight for these offenders, along with careful monitoring and evaluation of their programs. See Section II-A of this report.

The Department of Corrections currently is seeking a legal opinion on whether it may furlough presumptively sentenced offenders to their homes in order to participate in highly structured programs such as intensive supervised probation and day reporting centers. See AS 33.30.111. If this cannot be done under current statutes, the commission



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Mr. Lorn Campbell, Administrator  
Alaska Highway Safety Planning Agency  
Department of Public Safety  
Highway Safety Planning Agency  
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Juneau, Alaska 99811-1200

April 28, 1993

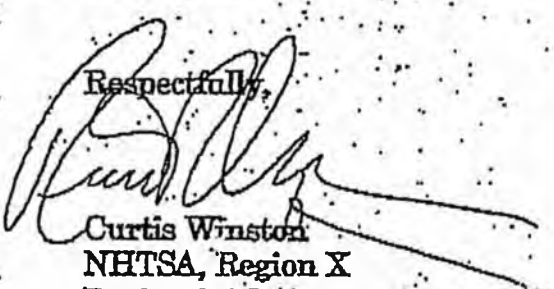
Dear Mr. Campbell:

As Regional Administrator for the National Highway Traffic Safety Administration, I am writing to inform you of the financial assistance which could be available to Alaska if HB-136 is also adopted by the Senate. As you are probably aware, HB-136 amends existing legislation to require a minimum 90 day "hard suspension" of driving privileges for first refusers of chemical tests administered to determine blood alcohol content.

If HB-136 is passed, Alaska may be eligible to receive up to \$355,000 annually in Section 410 alcohol incentive grants to promote the development and implementation of innovative programs to combat impaired driving. Funding could be available for up to five years, and would be administered through the Alaska Highway Safety Planning Agency to support such efforts as public information and education, alcohol server training programs, assessment and screening programs for drunk driving offenders, alcohol enforcement programs and other alcohol and drug impaired driving countermeasures.

Drinking and driving continues to be one of Alaska's most critical highway safety problems. Even though progress is being made, Alaska remains above the national average with over half of its crash fatalities being alcohol related. It is with this concern that I continue to follow the progress of all your highway safety initiatives.

Respectfully,

  
Curtis Winston  
NHTSA, Region X  
Regional Administrator





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Administration

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Mr. Lorn Campbell, Administrator  
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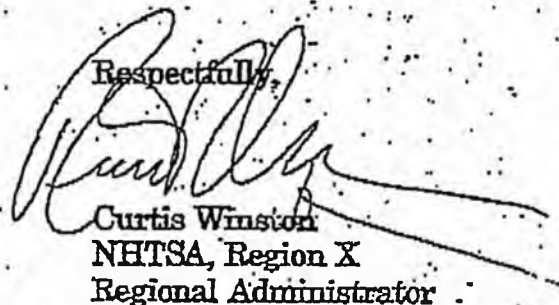
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Respectfully,



Curtis Winston  
NHTSA, Region X  
Regional Administrator



# M A D D

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4/27/83

Rep. Eldon Mulder  
State Capitol Rm. 114  
Juneau, AL 99801

Dear Rep. Mulder:

The Anchorage Chapter of MADD is pleased to support the current version of HB 136. We feel that this bill addresses the concerns of not only the department of Corrections, but also the department of motor vehicles and the general public.

It has been found that:

1. The state of Alaska has found itself in the position of being unable to afford the cost of supporting misdemeanants while incarcerated. It is only appropriate for individuals convicted of drunk driving to bear the financial responsibility. This is true accountability to society.

2. With Modemants incurring the cost of incarceration, this will enable the department of Corrections to purchase more bed space, which in turn will clear up the current back log and provide for swift and certain punishment of D.U.I. offenders in the future.

3. By having drunk driving offenders do their community work ~~work~~ and alcohol programs while incarcerated, will lessen the burden on the department of law relative to current severe problems of non-compliance.

The benefits are numerous, enormous and far reaching. It is our feeling that this is one of the finest pieces of legislation regarding individual responsibility and drunk driving.

We look forward to this passing this session with great anticipation.

Sincerely,  
Barbara B Mills  
Executive Director  
Mothers Against Drunk Drivers