

SB

279

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/25/94

FURTHER: _____

DATE TURNED INTO OFFICE: _____

The Finance Committee considered SENATE BILL NO. 279

"An Act relating to operating or driving a motor vehicle, commercial motor vehicle, aircraft, or watercraft."

Died in SFC 1994.

and recommends:

- replace with _____ CS _____ (FINANCE)
or adopt previous _____ CS _____
 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

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

DO PASS

OTHER RECOMMENDATIONS:

1. _____
Co-Chair: Signature/Recommendation

2. _____
Co-Chair: Signature/Recommendation

John

SENATE COMMITTEE REPORT

DATE: 3/14/94

FURTHER: Finance

DATE TURNED INTO OFFICE: 4/25/94

Judiciary Committee considered SENATE BILL NO. 279

"An Act relating to operating or driving a motor vehicle, commercial motor vehicle, aircraft, or watercraft."

and recommends:
 and a majority of the committee recommends it be replaced with

replace with _____ CS SB 279 (JUD)

or adopt previous _____ CS _____

attaches amendment(s)

same title
 new title
 technical title change (HB only)

and do pass

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

Fol

NEW FISCAL NOTES

Department	Date	Zero	Fiscal
<i>EMV</i>			<input checked="" type="checkbox"/>
<i>Adm - Pub Adm</i>			<input checked="" type="checkbox"/>
<i>" Pub Admin</i>			<input checked="" type="checkbox"/>
<i>Public Safety</i>			<input checked="" type="checkbox"/>

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

DO PASS:

Suzanne Little
Rich Haldford
George K. Kojan

OTHER RECOMMENDATIONS:

Adrian L. Taylor *DO Pass*
 Chair: Signature and Recommendation

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 2/4/94

FURTHER: Judiciary
Finance

Date of 5-Day Notice: 3-3-94
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 3-11-94

State Affairs Committee considered SB 279

"~~An Act~~ relating to operating or driving a motor vehicle, commercial motor vehicle, aircraft, or watercraft."

*as flows
+ ~~may~~ rpt back ~~info~~*

and recommends:

replace with _____ CS _____ ()

- same title
- new title
- technical title change (HB only)

attaches amendment(s)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

*3 φ FN
1 FN*

Guerra's previous

FISCAL NOTE INFORMATION

Department	Date	Zero	Fiscal
DOL	1-25-94	✓	—
DPS	1-10-94	—	119.5
DOA, P.D.B.	12-27-93	✓	—
DOA, P.A.W.	12-27-93	✓	—

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

OTHER RECOMMENDATIONS:

- ② Mike Miller No Rec
- ② Aldrin L. Taylor No Rec
- ② Mr. Ellis No Rec.
- ② ~~Adrian~~ ~~Guerra~~ NO REC

① *Adrian L. Guerra* Do Pass
Chair: Signature and Recommendation

HISTORY IN THE SENATE

1994
2/4 Read first time and referred to:
STA, JUD, FIN

3/14 SPA RPT() CS 1 DP 4 NR ___ DNP ___ AM
New Title ___ Same Title ___ Previous FN
1 FN 3 OFN To Jud

4/25 Jud RPT() CS 4 DP ___ NR ___ DNP ___ AM
New Title ___ Same Title ___ Previous FN
1 FN ___ OFN To SP

___ RPT() CS ___ DP ___ NR ___ DNP ___ AM
New Title ___ Same Title ___ Previous FN
___ FN ___ OFN To ___

___ Rules Calendar() CS ___ AM ___ Other
New Title ___ Same Title ___ Previous FN
___ FN ___ OFN

Read second time
___ CS Adopted () ___ New Title
___ Amended ___ Advanced

Read third time
___ Letter of Intent adopted
___ Return to second for specific amendment

PASSED EFD Same ___ or
Yeas Yeas
Nays Nays
Excused Excused
Absent Absent

Reconsideration
Reconsideration not taken up

PASSED EFD Same ___ or
Yeas Yeas
Nays Nays
Excused Excused
Absent Absent

Reported correctly engrossed
Signed by President, to House

Secretary of the Senate

HISTORY IN THE HOUSE

19
Read first time and referred to:

___ RPT CS() ___ New Title
___ DP ___ DNP ___ NR ___ AM
___ FN ___ OFN ___ Previous FN

___ RPT CS() ___ New Title
___ DP ___ DNP ___ NR ___ AM
___ FN ___ OFN ___ Previous FN

___ RPT CS() ___ New Title
___ DP ___ DNP ___ NR ___ AM
___ FN ___ OFN ___ Previous FN

Read second time
CS() Adopted

Amended

Advanced

Read third time

Return to second for specific amendment

PASSED EFD Same ___ or
Yeas Yeas
Nays Nays
Excused Excused
Absent Absent

___ Intent adopted

Reconsideration
Reconsideration not taken up

PASSED ON RECON. EFD Same ___ or
Yeas Yeas
Nays Nays
Excused Excused
Absent Absent

___ Intent adopted

Reported correctly engrossed, signed by the Speaker
and returned to the Senate

Chief Clerk of the House

SENATE-HOUSE HISTORY Continued

19	<p>Received from the House Version: _____</p> <p>Concur in House amendment Y ___ N ___ E ___ A ___ _____ Efd same or Y ___ N ___ E ___ A ___</p> <p>Failed to concur in House amendment, ask House recede Y ___ N ___ E ___ A ___</p> <p>House failed to / receded from amendment Y ___ N ___ E ___ A ___</p> <p>CC appointed by Senate _____ Chair _____</p> <p>CC appointed by House _____ Chair _____</p> <p>(S) Granted Limited Powers of Free Conference</p> <p>(H) Granted Limited Powers of Free Conference</p>
----	--

19	<p>(S) Adopted CC Rpt _____ Y ___ N ___ E ___ A ___ _____ Efd same or Y ___ N ___ E ___ A ___</p> <p>(H) Adopted CC Rpt _____ Y ___ N ___ E ___ A ___ _____ Efd same or Y ___ N ___ E ___ A ___</p> <p>To enrolling Received from enrolling Sent to Governor</p> <p>_____ By Governor</p> <p>Chapter Number _____</p> <p>Filed with Lieutenant Governor</p>
----	---

FISCAL NOTE

No. 5
 Bill Version: SSB 279 (Juo)
 (S) Publish Date: 5.3.94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO:

Revision Date: 04/26/94 Dept. Affected: Public Safety
 Title: DWI Laws BRU: Driver Services
 Component: Motor Vehicles
 Sponsor: BLS/GOVERNOR
 Requestor: (S) JUDICIARY COMPONENT SERIAL NO. 500

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

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()	0	0	0	0	0	0
<small>Revenue Code</small>						

FUNDING: (Thousands of Dollars)

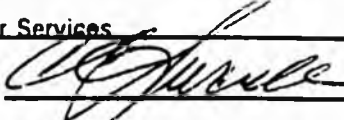
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0	0	0	0	0	0

Estimate of current year (FY 94) impact: \$ _____

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)
 It is not anticipated that this bill will impact the Division of Motor Vehicles.

Prepared By: Juanita Hensley Phone: 465-2650
 Division: Chief, Driver Services Date: 04/26/94
 Approved by Commissioner:  Date: 04/26/94
 Agency: Richard I. Burton, Dept. of Public Safety

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

HB. 4
Bill Number: SB 279
(C) Publish Date: 2-4-94

Revision Date: _____
Title: "An Act relating to driving a motor vehicle ..."
Sponsor: Rules/By Request of the Governor
Requestor: Governor's Office

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

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND &						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

REVENUE						
---------	--	--	--	--	--	--

FUNDING:

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

POSITIONS:

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

Estimate of current year (FY94) impact: -0-

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

Prepared by: Richard I. Peques, Director Phone: 465-3672
Division: Administrative Services Division Date: January 25, 1994
Approved by Commissioner: Bruce M. Botelho, Attorney General
Agency: Department of Law Date: January 25, 1994

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. _____

ANALYSIS CONTINUATION:

This bill makes several changes to state law to provide for "implied consent" for, and administration of, chemical tests to detect the presence of drugs in drivers of motor vehicles or commercial motor vehicles that are in accidents that cause death or serious physical injury to another person. Of particular importance, is the provision for blood chemical tests, after a serious accident, because drug use often goes undetected by breath chemical tests. Consequently, the bill will assist in the collection of better evidence for use by state prosecutors and will not, therefore, have a fiscal impact.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

No. 3

Bill Version: SB 279

(S) Publish Date: 2-4-94

Revision Date: _____ Dept. Affected: Public Safety

Title: Mandatory Drug / Alcohol Testing BRU: DPS Statewide Support

Component: Laboratory Services

Sponsor: Rules

Requestor: Governor COMPONENT SERIAL NO. 527

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

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	49.6	49.6	49.6	49.6	49.6	49.6
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	49.6	49.6	49.6	49.6	49.6	49.6
CAPITAL						
REVENUE FUND SOURCE:						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other Interagency Rcpts.	49.6	49.6	49.6	49.6	49.6	49.6
TOTAL	49.6	49.6	49.6	49.6	49.6	49.6

Estimate of current year (FY 94) impact: \$ 0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

See attached analysis.

Changes in CSRB 279 (JUD)
reflect **NO FISCAL CHANGE** from the original
fiscal note. This fiscal note is appropriate.
5-294 K. Sullivan
date Comte Aide (initial)

Prepared By: Francis C. Allan Phone: (907) 269-5691

Division: Administrative Services Date: 01/10/94

Approved by Commissioner: [Signature] Date: 01/10/94

Agency: Richard J. Burton, Dept. of Public Safety

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Department of Public Safety
Fiscal Note Analysis
Law Log 94-0019
Mandatory Drug/Alcohol Testing
Page 2 of 4

In 1992, 382 major injury crashes involving approximately 550 drivers and 89 fatal crashes involving approximately 125 drivers were reported statewide.

Implementation of this legislation will require chemical test or tests to be administered at the direction of a law enforcement officer who has reasonable grounds to believe that a person was operating or driving a motor vehicle or commercial vehicle involved in an accident that causes death or serious physical injury to another person, for the purpose of determining the presence of controlled substances in that person's blood and urine, even if the person is not under arrest.

The Scientific Crime Detection Laboratory oversees all breath instrument tests statewide. Approximately 6,000 DWI breath tests are conducted per year by city and state. Additionally 250 blood tests are administered for the purpose of determining the alcohol content of the person's blood. It is estimated that approximately 200 chemical tests will be administered statewide per year to detect the presence of alcohol and/or controlled substances in drivers of motor vehicles or commercial vehicles that are involved in accidents that cause death or serious physical injury to another person.

To perform this function the Scientific Crime Detection Laboratory will require one additional scientist, a Criminalist I, who will be a trained Toxicologist. This employee will utilize a sophisticated Ion Trap Mass Spectrometer instrument to analyze urine and blood samples to determine the presence or the lack of the presence of alcohol and/or controlled substances. Other duties performed by this employee would include: instrumental identification of controlled substances; drug analysis of specimens from suspects in murder and assault cases; analyses of solid dosages of controlled substances; and other tasks associated with the Statewide Breath Alcohol Program such as instrument calibration and certification.

Currently, the Scientific Crime Detection Laboratory is not performing these toxicology analyses; they are sent out-of-state. To our knowledge, there are no laboratories in the state (other than this laboratory) equipped to do these analyses. Additionally, if court testimony is needed of the analyst, it is very costly to bring them up from the Lower 48 for court purposes.

Department of Public Safety
Fiscal Note Analysis
Law Log 94-0019
Mandatory Drug/Alcohol Testing
Page 3 of 4

It is anticipated that federal highway funds through the Highway Safety Planning Agency will be available to fund the initial three years of this position. Contingent upon the success of the program and review by the regional administrator, federal highway funds may be available to continue this position beyond the initial three year period.

PERSONAL SERVICES

Salary - Criminalist I Range 15, Step A	\$34,260
Benefits	<u>15,321</u>

Total Personal Services	\$49,581
-------------------------	----------

POSITION INFORMATION HAS BEEN UPDATED AND FUNDING HAS BEEN UPDATED.

12/30/93

Position Information Inquiry/Update

07:58:10

Position: 12-12#091	Project: 0	Salary Costs: 34,260.00
Component: 12-62-06-02-01-10		Benefits Costs: 15,321.37
Scenario: 3 FY: 95	COLA %= 0.00	Total Costs: 49,581.37

 Actuals not available (Status: UNKNOWN) ° Retirement Code: A

 ° Step: A for 12.0 months & Step: B for 0.0 months (total: 12.00)
 00/00/00 ° Merit Date; use merit defaults? N (0.0 @ & 0.0 @)
 0 ° Class/Sched Prefix: 1 Schedule: 1A (actual:)
 ° Bargaining Unit: GG Range: 15 (actual:)
 ° Location Code: EBA Place: ANCHORAGE
 ° Job Class Code: P8371 Title: CRIMINALIST I
 ° Seasonal Indic.: F Type: -

Optional Override Salary Rates:

Monthly Rate: 0.00 for 0.0 months & rate of 0.00 for 0.0 months
 Hourly Rate: 0.00 for 0.0 months Frozen at this rate? (Y/N): N

Press ENTER to update record; enter # or use PF key to go to another screen:
 1=Premium pay info 2=Funding info 4=Code Translations 6=Calculations
 7=MISC NEW POS DATA 8=Detail Report 12=Exit w/o update Selection: 0_
 SÉÔ Aa æÅæ06 FX

FISCAL NOTE

STATE OF ALASKA

No. 2

Bill Version: SB 279

(S) Publish Date: 2-4-94

1994 LEGISLATIVE SESSION

Revision Date: _____

Department Affected: Administration

Title: Relating to operating a motor vehicle

BRU: Public Defender Agency

Sponsor: Rules Committee

Component: Public Defender Agency

Requestor: Governor

COMPONENT SERIAL NO. 3540

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
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 EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
------------------------	---	---	---	---	---	---

FUNDING SOURCE:

(Thousands of Dollars)

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

Estimate of any current year (FY 94) cost: \$

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: John B. Salemi, Public Defender
 Division: Public Defender Agency

Phone: 264-4400
 Date: _____

Approved by Commissioner: Nancy Bear Usera, Commissioner
 Agency: Department of Administration

Date: 12/27/93

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FISCAL NOTE

No. 1

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Bill Version: SB 279

(S) Publish Date: 2-4-94

Revision Date: _____

Department Affected: Administration

Title: Relating to operating a motor vehicle

BRU: Office of Public Advocacy

Sponsor: Rules Committee

Component: Office of Public Advocacy

Requestor: Governor

COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES:

(Thousands of Dollars)

	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
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	0.0	0.0	0.0

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
------------------------	---	---	---	---	---	---

FUNDING SOURCE:

(Thousands of Dollars)

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	0.0	0.0	0.0

Estimate of any current year (FY 94) cost: \$ 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

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Brant McGee, Director

Phone: 274-1684

Division: Office of Public Advocacy

Date: _____

Approved by Commissioner: Nancy Bear Usara

Date: 12/27/93

Agency: Administration

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WALTER J. HICKEL
GOVERNOR



P. O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 4, 1994

279

*The Honorable Rick Halford
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182*

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to operating or driving a motor vehicle, commercial motor vehicle, aircraft, or watercraft.

Sections 5, 7, 12, and 13 of the bill contain the main objective of the bill. Those sections contain provisions relating to implied consent for, and administration of, chemical tests to detect the presence of drugs in drivers of motor vehicles or commercial vehicles that are involved in accidents that cause death or serious physical injury to another person.

The use of drugs by motor vehicle drivers, both alone and in combination with alcohol, is a major traffic safety concern. The apprehension and successful prosecution of the drug-impaired driver has been and remains a major concern of law enforcement.

The state's implied consent law is contained in existing AS 28.35.031 and, for commercial motor vehicle drivers, in AS 28.33.031. These sections provide that a vehicle driver who is under arrest for driving while intoxicated is considered to have given "consent" to a chemical breath test to determine the amount of alcohol in the person's blood or breath. Existing AS 28.35.032 authorizes law enforcement officers to request that an arrested driver submit to that chemical breath testing.

Sections 5 and 7 of the bill amend the implied consent statutes (AS 28.33.031 and AS 28.35.031) to specify that a person who operates a motor vehicle or commercial

The Honorable Rick Halford
February 4, 1994
Page 2

motor vehicle in this state is considered to have given consent to submit to a chemical test to determine the presence of both alcohol and drugs if the person is involved in an accident that causes death or serious physical injury to another person, even if the person is not under arrest. A specific definition for "serious physical injury" is provided in sec. 16 of the bill. Driving is a privilege granted by the state that can be conditioned upon consent to reasonable terms, such as consent to the chemical tests enumerated in AS 28.33.031 and AS 28.35.031 as amended by the bill.

Under existing AS 28.35.032(a), a person can refuse to submit to a chemical breath test; existing AS 28.35.032(f) makes the refusal a misdemeanor offense. Section 8 of the bill amends AS 28.35.032(a) to add references to the chemical tests provided for in secs. 5 and 7 of the bill; sec. 10 of the bill amends AS 28.35.032(f) in the same way. Several "housekeeping" amendments to AS 28.35.032(a) are also made by sec. 8 of the bill.

Under AS 28.35.032(a) and 28.35.035, if a person has been notified of the penalties that will result from refusal to submit to a chemical breath test, and the person then refuses to submit, the test may not be given unless the person has been arrested and the arrest resulted from an accident that causes death or physical injury to another person. This bill does not change those provisions other than to add references to the additional chemical tests provided for in secs. 5 and 7 of the bill. See secs. 8, 12, and 13 of the bill.

Sections 1 - 4, 9, 11, and 14 of the bill make additional conforming amendments to statutes in AS 28 to refer to the chemical tests provided for in secs. 5 and 7 of the bill. The amendment to AS 28.33.190 in sec. 6 of the bill is generally to provide a definition for "controlled substance" in AS 28.33. That term is used in AS 28.33.031(a) as that statute is amended by sec. 5 of the bill. Additionally, the amendment to AS 28.33.190 will provide other needed definitions for AS 28.33.010 - 28.33.031. The existing language of AS 28.33.190 unnecessarily excludes those sections.

The amendments made by secs. 15 and 17 of the bill are to provide a definition of "controlled substance" for AS 28.35.029 - 28.35.039. The existing definition, which is specific to only AS 28.35.030, is repealed and is replaced by the same definition located in a general definition section for AS 28.35.029 - 28.35.039.

In my State of the State address on January 12, 1993, I identified "alcoholism, along with the abuse of other drugs," as "Alaska's number one health problem." I reiterated my commitment to dealing with this issue in my State of the State address this year, as well. This proposed legislation gives police and prosecutors the tools they need to

The Honorable Rick Halford
February 4, 1994
Page 3

combat the significant highway safety problem presented by those drivers who use drugs and then cause fatal or serious injury accidents.

I urge your favorable action on this bill.

Sincerely,

A handwritten signature in black ink, reading "Walter J. Hickel". The signature is written in a cursive, flowing style with a large initial "W".

Walter J. Hickel
Governor

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSSB 279 (JUD)

Revision Date: _____ Dept. Affected: Alaska Court System
 Title: DWI Laws BRU: Trial Courts
 Sponsor: By request of the Governor Components: _____
 Requestor: _____ COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES (Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	705.4	705.4	705.4	705.4	705.4	705.4
TRAVEL	35.0	35.0	35.0	35.0	35.0	35.0
CONTRACTUAL	222.1	222.1	222.1	222.1	222.1	222.1
SUPPLIES	2.0	2.0	2.0	2.0	2.0	2.0
EQUIPMENT	22.3					
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	986.9	964.6	964.6	964.6	964.6	964.6

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

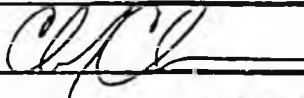
1002 Federal Receipts						
1003 GF Match						
1004 GF	986.9	964.6	964.6	964.6	964.6	964.6
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	986.9	964.6	964.6	964.6	964.6	964.6

POSITIONS

FULL-TIME	10.0	10.0	10.0	10.0	10.0	10.0
PART-TIME	4.0	4.0	4.0	4.0	4.0	4.0
TEMPORARY	4.0	4.0	4.0	4.0	4.0	4.0

Estimate of current year (FY 94) cost: \$ None

ANALYSIS: (Attach a separate page if necessary)
See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel  Phone: 264-8228
 Agency: Alaska Court System Date: 04/29/94

Approved by: Arthur H. Snowden, II, Administrative Director  Date: 04/29/94
 Agency: Alaska Court System

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ALASKA COURT SYSTEM
CSSB 279 (JUD)
FISCAL ANALYSIS

CSSB 279 (JUD) increases the penalty for three or more driving while intoxicated or refusing to submit to a chemical test convictions, from a class A misdemeanor to a class C felony. Three or more convictions will result in a minimum mandatory sentence of 360 days imprisonment.

The bill also extends existing vehicle forfeiture provisions for driving while intoxicated or refusing to submit to a chemical test, to make vehicle forfeiture mandatory upon a first conviction. A person having an ascertainable security interest in a forfeited vehicle, other than the person who committed the offense resulting in the forfeiture, would be permitted to seek remission of the forfeiture. A court hearing would be required. At the present time, the state rarely seeks vehicle forfeiture in DWI cases. CSSB 279 (JUD) would require the state to seek forfeiture in 3000 cases per year. This note assumes that 10 percent of these cases will result in a remission hearing. Such hearings can be expected to take one-half day of judicial time.

At the present time, approximately 700 persons are charged and 650 persons are convicted each year for driving while intoxicated three or more times. Handling these as felony cases rather than misdemeanor cases will substantially increase the court costs associated with the offense. An average misdemeanor DWI trial can be expected to last two days, and is tried before a six member jury. A felony DWI trial can be expected to average five days in length, and would be tried before a 12 member jury. The extra time results from the more serious consequences of a felony conviction; attorneys for both sides spend more time on matters such as jury selection, examination of witnesses, and motion practice.

Because of the more serious consequences of a felony conviction, and because the mandatory minimum penalty is much longer than the current mandatory minimum for most third and subsequent DWI convictions, the trial rates can be expected to increase substantially. Because there is no prosecutorial discretion with respect to charge or recommended sentence as there is in most other felony cases, the trial rate for this crime will most likely equal or exceed the trial rate for more serious felonies with presumptive sentences. This note assumes that the trial rate will increase from approximately five percent to 20 percent.

Unlike misdemeanor cases, felony cases require presentment to a grand jury. CSSB 279 (JUD) will increase the number of cases presented to grand juries each year by approximately 15 percent, with a corresponding increase in grand jury costs.

Fiscal notes for legislation which requires additional judicial time normally assume that retired judges will receive pro tem appointments to hear the new caseload. This is the

most economical way of increasing the availability of judges, since the court system only needs to pay a retired judge the difference between his or her retirement benefits and the salary of an active judge. However, the caseload increase made by CSSB 279 (JUD) is so large that it cannot be met by existing pro tem resources; additional superior court judgeships will need to be added by the legislature. Because this bill does not create those judgeships, this note does not reflect such costs; instead, it reflects the lower cost of pro tem judges. This is misleading, in that the bill cannot be implemented without the addition of several superior court judgeships or the full-time reassignment of several judges handling civil cases, with the resulting massive slippage in the civil caseload.

This fiscal note estimates a trial rate of 20 percent. Note that each increase of five percent in the trial rate for this offense would require an additional full-time judge. Thus, it is possible that this note dramatically underestimates the actual costs of CSSB 279 (JUD).

Alaska Court SystemFiscal AnalysisCSSB 279 (JUD)Personal Services

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Pro Tem Superior Court Judge, Anchorage, PFT, 12 months, 50% vested	\$48,300	\$30,370	\$78,670
Pro Tem Superior Court Judge, Anchorage, PFT, 12 months, 50% vested	48,300	30,370	78,670
Pro Tem Superior Court Judge, 1st District, PFT, 12 months, 50% vested	48,300	30,370	78,670
Pro Tem Superior Court Judge, 4th District, PFT, 12 months, 50% vested	48,300	30,370	78,670
In-Court Clerk, range 12A, Anchorage, PFT, 12 months	27,108	12,234	39,342
In-Court Clerk, range 12A, Anchorage, PFT, 12 months	27,108	12,234	39,342
In-Court Clerk, range 12A, 1st District, PFT, 12 months	27,108	12,234	39,342
In-Court Clerk, range 12A, 4th District, PFT, 12 months	30,780	13,200	43,980
Balliffs, range 6A, all courts, NPP, 48 months, 4 positions	76,320	8,492	84,812
Law clerk, range 13D, Anchorage, PFT, 12 months	31,824	13,474	45,298
Law clerk, range 13D, Anchorage, PFT, 12 months	31,824	13,474	45,298
Secretary, range 12A, Anchorage, PFT, 2 months	27,108	12,234	39,342
Secretary, range 12A, Anchorage, PFT, 12 months	27,108	12,234	39,342
Court Clerk II, range 10A, Anchorage, PFT, 12 months	24,012	11,419	35,431
Court Clerk II, range 10A, Anchorage, PFT, 12 months	24,012	11,419	35,431

New position costs	801,640
--------------------	---------

Personal services cost offset for existing judicial and clerical resources devoted to DWI misdemeanors	(96,200)
--	----------

Net Personal Services	705,440
-----------------------	---------

Travel

Judicial travel to outlying courts	35,000
------------------------------------	--------

Contractual

Petit jury fees for 140 felony trials (20% trial rate on 700 cases) of 5 days, 13 jurors at \$25 day	227,500
Grand jury fees. Estimated 15% increase in grand jury costs (using FY 93 costs of \$175,900)	26,385
Jury costs offset for fees paid in existing misdemeanor trials	(36,750)
Telephone, postage and other contractual costs related to new employees	5,000

Total contractual costs	222,135
-------------------------	---------

Supplies

Estimated supply costs for new employees and from increased workload	2,000
--	-------

Equipment (one-time cost)

Equipment for new permanent full-time positions	22,300
---	--------

Total estimated cost	\$986,875
----------------------	-----------

FISCAL NOTE

**STATE OF ALASKA
1994 LEGISLATIVE SESSION**

BILL NO. CSSB 279 (Jud)

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act relating to operating a motor vehicle..." BRJ: Office of Public Advocacy
 Component: Office of Public Advocacy
 Sponsor: Rules Committee
 Requestor: (S) Judiciary COMPONENT SERIAL NO. 43

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
-----------------------------	------------	------------	------------	------------	------------	------------

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
Total	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY94) cost: none

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

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

Phone: 274-1684
 Date: _____

Approved by Commissioner: Nancy Bear Usura
 Agency: Administration

Date: 4/27/94

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSSB 279 (JUD)

Revision Date: _____
 Title: 'An Act relating to operating or driving a motor vehicle, commercial motor vehicle, aircraft, or watercraft . . . '
 Sponsor: Senate Rules Committee
 Requestor: _____

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	377.7	389.0	400.7	412.7	425.1	437.9
TRAVEL	3.0	3.1	3.2	3.3	3.4	3.5
CONTRACTUAL	6.0	6.2	6.4	6.6	6.8	7.0
SUPPLIES	6.0	6.2	6.4	6.6	6.8	7.0
EQUIPMENT	9.0	-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	401.7	404.5	416.7	429.2	442.1	455.4

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUNDING SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	401.7	404.5	416.7	429.2	442.1	455.4
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	401.7	404.5	416.7	429.2	442.1	455.4

Estimate of any current year (FY 94) cost: \$ -0-

POSITIONS:

FULL-TIME	5	5	5	5	5	5
PART-TIME	2	2	2	2	2	2
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached.

Prepared by: John B. Salemi, Director
 Division: Public Defender Agency

Phone: 264-4400
 Date: _____

Approved by Commissioner: Nancy Bear Usura
 Agency: Department of Administration

Date: 4/27/94

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSSB 279 (JUD)

ANALYSIS: (continued)

The Committee Substitute to SB 279 makes a third DWI or refusal conviction a felony crime, with a mandatory year in jail. While the original bill's implied consent provision had negligible fiscal impact, this proposal would have a profound and immediate fiscal impact. Department of Motor Vehicle statistics indicate that in the last 3 years such a change would have resulted in an increase of between 650 and 750 new felony charges per year. The increased seriousness of this charge and the consequent cost to defend assure the likelihood of Public Defender appointment. Felony charges are the most expensive and work intensive of Public Defender cases. With the possibility of a felony record and a mandatory year in prison there is little likelihood of a plea to the charge. Trial preparation, investigation, independent chemical testing, possible accident reconstruction, expert testimony and constitutional challenges as well as lengthy trials will be the likely consequence. National law enforcement standards require a minimum of four attorneys qualified to conduct felony litigation, as well as necessary support services.

Budget Analysis

100 Personal Services

2 - Attorney III - Anchorage	146.8
1 - Attorney III - Fairbanks	83.1
1 - Attorney III - Juneau	73.4
1 - Legal Secretary I - Anchorage	36.9
1/2 - Legal Secretary I - Fairbanks	19.1
1/2 - Legal Secretary I - Juneau	<u>18.4</u>
	377.7

200 Travel

Outer offices from Anchorage, Fairbanks and Juneau	3.0
---	-----

300 Contractual

Office Space	6.0
--------------	-----

400 Supplies	6.0
--------------	-----

500 Equipment (one time)	<u>9.0</u>
TOTAL	401.5

Position Title Attorney III		No. of Positions 4	Range / Step 22/A	Barg. Unit PX
Time Status PFT	Staff Months 48	Location EBA - JBA - AWA		Election District 50 - 60 - 3
TYPE OF EXPENDITURE		AMOUNT		
Salary		220,920		
Benefits		82,216		
Premium Pay				
Other				
Total Personal Services		303,136		
Travel		3,000		
Contractual		6,000		
Commodities		4,000		
Equipment		6,000		
Other				
Total Cost		322,136		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	322,136		
I-A Receipts	1007			
CIP Receipts	1061			
Other				
Justification This bill, CSSB 279, could result in an additional 650 to 750 new felony cases per year for the Public Defender Agency. The recommended felony load for an attorney is 150 cases so the agency will need a minimum of 4 attorneys plus support staff. Two Attorney III's and a Legal Secretary I would be assigned to Anchorage; one Attorney III and a part-time Legal Secretary I would be assigned to Fairbanks and Juneau respectively. The attorneys would include a travelling calendar to serve outer agency offices with fewer cases.				

1/Leg94/17/11607d.kp

Request For New Position

AGENCY ADMINISTRATION
 BRU PUBLIC DEFENDER AGENCY
 COMPONENT PUBLIC DEFENDER AGENCY

FY 95

Page 3 or 5
 Revised Date: _____

Position Title Legal Secretary I		No. of Positions 1	Range / Step 10/A	Barg. Unit GGU
Time Status PFT	Staff Months 12	Location EBA		Election District 50
TYPE OF EXPENDITURE		AMOUNT		Justification This bill, CSSB 279, could result in an additional 650 to 750 new felony cases per year for the Public Defender Agency. The recommended felony load for an attorney is 150 cases so the agency will need a minimum of 4 attorneys plus support staff. Two Attorney III's and a Legal Secretary I would be assigned to Anchorage; one Attorney III and a part-time Legal Secretary I would be assigned to Fairbanks and Juneau respectively. The attorneys would include a travelling calendar to serve outer agency offices with fewer cases.
Salary		24,756		
Benefits		12,110		
Premium Pay				
Other				
Total Personal Services		36,866		
Travel		-0-		
Contractual		-0-		
Commodities		1,000		
Equipment		1,500		
Other				
Total Cost		39,366		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	39,366		
I-A Receipts	1007			
CIP Receipts	1061			
Other				

1/Leg94/17/11607b.kp

Request For New Position

AGENCY ADMINISTRATION
 BRU PUBLIC DEFENDER AGENCY
 COMPONENT PUBLIC DEFENDER AGENCY

FY 95

Page 4 of 5
 Revised Date: _____

Position Title Legal Secretary I (Part-Time)		No. of Positions 2	Range / Step 10/A	Barg. Unit GGU
Time Status PPT	Staff Months 12	Location JBA - AWA		Election District 60 - 3
TYPE OF EXPENDITURE		AMOUNT		
Salary		25,254		
Benefits		12,250		
Premium Pay				
Other				
Total Personal Services		37,504		
Travel		-0-		
Contractual		-0-		
Commodities		1,000		
Equipment		1,500		
Other				
Total Cost		40,004		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004		40,004		
I-A Receipts 1007				
CIP Receipts 1061				
Other				
Justification This bill, CSSB 279, could result in an additional 650 to 750 new felony cases per year for the Public Defender Agency. The recommended felony load for an attorney is 150 cases so the agency will need a minimum of four attorneys plus support staff. Two Attorney's III and a Legal Secretary I would be assigned to Anchorage; one Attorney III and a part-time Legal Secretary I would be assigned to Fairbanks and Juneau respectively. The attorneys would include a travelling calendar to serve outer agency offices with fewer cases.				

1/Leg94/17/11607a.kp

Request For New Position

AGENCY ADMINISTRATION
 BRU PUBLIC DEFENDER AGENCY
 COMPONENT PUBLIC DEFENDER AGENCY

FY 95

Page 5 of 5
 Revised Date: _____

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO: CSSB 279(JUD)

Revision Date: 04/26/94 Dept. Affected: Public Safety
 Title: DWI Laws BRU: DPS Statewide Support
 Component: Laboratory Services
 Sponsor: BLS/GOVERNOR
 Requestor: (S) JUDICIARY COMPONENT SERIAL NO. 527

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

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	49.6	49.6	49.6	49.6	49.6	49.6
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	49.6	49.6	49.6	49.6	49.6	49.6
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						
<small>Revenue Code</small>						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other Interagency Receipts	49.6	49.6	49.6	49.6	49.6	49.6
TOTAL	49.6	49.6	49.6	49.6	49.6	49.6

Estimate of current year (FY 94) impact: \$ _____

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)
See attached analysis.

Prepared By: Lee Ann Lucas Phone: 465-4322
 Division: Commissioner's Office Date: 04/26/94
 Approved by Commissioner: *[Signature]* Date: 04/26/94
 Agency: Richard L. Burton, Dept. of Public Safety

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L17 CAS

In 1992, 382 major injury crashes involving approximately 550 drivers and 89 fatal crashes involving approximately 125 drivers were reported statewide.

Implementation of this legislation will require chemical test or tests to be administered at the direction of a law enforcement officer who has reasonable grounds to believe that a person was operating or driving a motor vehicle or commercial vehicle involved in an accident that causes death or serious physical injury to another person, for the purpose of determining the presence of controlled substances in that person's blood and urine, even if the person is not under arrest.

The Scientific Crime Detection Laboratory oversees all breath instrument tests statewide. Approximately 6,000 DWI breath tests are conducted per year by city and state. Additionally, 250 blood tests are administered for the purpose of determining the alcohol content of the person's blood. It is estimated that approximately a total of 300 chemical tests will be administered statewide per year to detect the presence of alcohol and/or controlled substances in drivers of motor vehicles or commercial vehicles that are involved in accidents that cause death or serious physical injury to another person.

To perform this function, the Scientific Crime Detection Laboratory will require one additional scientist, a Criminalist I, who will be a trained Toxicologist. This employee will utilize a sophisticated Ion Trap Mass Spectrometer instrument to analyze urine and blood samples to determine the presence or the lack of the presence of alcohol and/or controlled substances. Other duties performed by this employee would include: instrumental identification of controlled substances; drug analysis of specimens from suspects in murder and assault cases; analyses of solid dosages of controlled substances; and other tasks associated with the Statewide Breath Alcohol Program such as instrument calibration and certification.

Currently, the Scientific Crime Detection Laboratory is not performing these toxicology analyses; they are sent out-of-state. To our knowledge, there are no laboratories in the State (other than this laboratory) equipped to do these analyses. Additionally, if court testimony is needed of the analyst, it is very costly to bring them up from the Lower 48 for court purposes.

It is anticipated that federal highway funds through the Highway Safety Planning Agency will be available to fund the initial three years of this

Department of Public Safety
DWI Laws
CSSB 279 (JUD)
Page 3 of 4

position. Contingent upon the success of the program and review by the regional administrator, federal highway funds may be available to continue this position beyond the initial three-year period.

PERSONAL SERVICES

Salary - Criminalist I, Range 15, Step A	\$34,260	
Benefits	15,321	
	<hr/>	
Total Personal Services		\$49,581

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSSB 279 (JUD)

Revision Date: April 26, 1994
Title: "...relating to operating...a motor vehicle...
classifying certain...offenses as felonies..."
Sponsor: Senate Rules/By Request of the Governor
Requestor: Senate Judiciary

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

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL	604.6	604.6	604.6	604.6	604.6	604.6
TRAVEL	40.0	40.0	40.0	40.0	40.0	40.0
CONTRACTUAL	51.3	51.3	51.3	51.3	51.3	51.3
SUPPLIES	27.9	23.4	23.4	23.4	23.4	23.4
EQUIPMENT	62.5					
LAND &						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	786.3	719.3	719.3	719.3	719.3	719.3

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

REVENUE						
---------	--	--	--	--	--	--

FUNDING:

1002 Federal						
1003 GF Match						
1004 GF	786.3	719.3	719.3	719.3	719.3	719.3
1005 GF/Program						
1006 GF/MHTIA						
OTHER						
TOTAL	786.3	719.3	719.3	719.3	719.3	719.3

POSITIONS:

FULL-TIME	9.0	9.0	9.0	9.0	9.0	9.0
PART-TIME						
TEMPC...RY						

Estimate of current year (FY94) impact: -0-

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

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

Phone: 465-3672
Date: April 26, 1994

Approved by Commissioner: Bruce M. Botelho, Attorney General
Agency: Department of Law

Date: April 26, 1994

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SB 279

FISCAL NOTE

**STATE OF ALASKA
1994 LEGISLATIVE SESSION**

BILL NO. CSSB 279(IUD)

ANALYSIS CONTINUATION:

This bill amends the state's laws concerning driving while intoxicated, and implied consent to submit to a chemical test to determine intoxication, in three important respects.

First, the bill gives police officers the authority to administer a chemical test to drivers involved in a serious accident. Refusal could result in the same penalties for refusing to take a chemical test after being arrested for driving while intoxicated.

Second, the bill increases the penalty for three or more driving while intoxicated convictions, from a class A misdemeanor to a class C felony. The bill similarly raises the penalty for three or more refusing to submit to a chemical test convictions from a class A misdemeanor to a class C felony. This bill also provides that three or more convictions will result in a minimum mandatory sentence of 360 days of imprisonment.

Third, the bill extends existing optional vehicle forfeiture provisions for driving while intoxicated or refusing to submit to a chemical test, to make vehicle forfeiture mandatory upon a first conviction. Currently, the state's vehicle forfeiture provisions do not apply until the third conviction for driving while intoxicated or refusing to submit to a chemical test. A person having an ascertainable security interest in a forfeited vehicle, other than the person who committed the offense resulting in the forfeiture, would be permitted to seek remission of the forfeiture. A court hearing would be required to effect remission of a forfeited vehicle.

Increasing the penalty for a third offense to a class C felony, and invoking vehicle forfeiture for a first offense, will have a substantial impact on the Department of Law.

About 650 persons are currently penalized each year for driving while intoxicated for the third or more times. Consequently, prosecutors will be required to handle these prosecutions as felonies with attendant increased judicial processes, such as grand jury, motion practice, and appeals. This is a significant increase in the number of felonies handled annually, where the statewide total is now about 4,000. Furthermore, the number of offenses where forfeiture would apply would jump from 650 a year (where the state has the seldom-used option to seek forfeiture) to over 3,000 a year where the state would be required to seek forfeiture. As a result, state attorneys would be required to represent the state at a very large number of remission hearings.

Based on the foregoing, the following new positions (and new positions costs) will be needed to implement the increased penalty provisions provided in the bill.

<u>Location</u>	<u>Position</u>	<u>Per. Svc.</u>	<u>Travel</u> ¹	<u>Contr.</u>	<u>Supplies</u>	<u>Equipment</u>	<u>Total Cost</u>	
Anchorage	A	Attorney III	72.1	3.0	8.6	3.3	6.5	93.5
	A	Attorney III	72.1	3.0	8.6	3.3	6.5	93.5
	B	Attorney III	72.1	3.0	8.6	3.3	6.5	93.5
	A/B	Leg. Sec. I	37.3	-0-	6.0	2.4	8.5	54.2
Fairbanks	A	Attorney III	81.7	7.5	4.0	3.3	6.5	103.0
	B	Attorney III	81.7	7.5	4.0	3.3	6.5	103.0
	A/B	Leg. Sec. I	38.6	-0-	3.5	2.4	8.5	53.0
Kenai	A/B	Attorney III	76.9	6.0	4.0	3.3	6.5	96.7
SE Alaska (Juneau)	A/B	Attorney III	72.1	10.0	4.0	3.3	6.5	95.9
			<u>604.6</u>	<u>40.0</u>	<u>51.3</u>	<u>27.9</u>	<u>62.5</u>	<u>786.3</u>

A = New felony caseload

B = New forfeiture remission caseload

¹\$25,000 in reimbursable travel is included for Department of Public Safety chemists/laboratory experts travel outside of Anchorage to testify/verify intoxometer results against intoxometer challenges.

STATE OF ALASKA
1994 LEGISLATIVE SESSION

FISCAL NOTE

BILL NO.: CSSB 279(JUD)

Revision Date:	_____	Dept. Affected:	Corrections
Title:	DWI Laws	BRU:	All
Sponsor:	Senate Rules	Component:	All
Requestor:	Senate Judiciary	Component Serial #:	694-1884

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXP.	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS	11,896.4	12,257.2	12,624.9	13,003.7	13,393.8	13,795.6
TOTAL OPERATING	11,896.4	12,257.2	12,624.9	13,003.7	13,393.8	13,795.6

CAPITAL EXP	20,000.0	0.0	0.0	0.0	0.0	0.0
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CHANGES IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

1002 Federal Receipts						
1003 GF Match						
1004 GF	31,896.4*	12,257.2*	12,624.9*	13,003.7*	13,393.8*	13,795.6*
1005 GF/Program Receipts	.	.	.	.	.	.
1006 GF/MHTIA						
Other						
TOTAL	31,896.40	12,257.20	12,624.90	13,003.70	13,393.80	13,795.60

Estimate of any current year (FY94) cost \$ 0.0

POSITIONS

FULL-TIME	.	.	.	.	.	.
PART-TIME	.	.	.	.	.	.
TEMPORARY	.	.	.	.	.	.

ANALYSIS: Please see the attached explanation.

Prepared by: Diane Schenker, Special Assistant
 Division: Office of the Commissioner
 Approved by: J. Frank Prewitt, Jr., Commissioner
 Agency: Department of Corrections

Phone: 465-4643/786-2147
 Date: 4/25/94
 Date: 4/25/94
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The bill authorizes chemical testing of breath, blood, and urine to determine the presence of alcohol or other controlled substances if a person is involved in a motor vehicle accident that causes death or serious physical injury. This is expected to impact the department by increasing the chances of conviction for manslaughter or certain assault crimes involving motor vehicles.

The bill also makes a third conviction for DWI or refusing a chemical test a class C felony, punishable by a minimum of 360 days of imprisonment. An offender may be ordered by the court to take antabuse to prevent consumption of alcohol, as a condition of probation.

Assumptions

1. Attachment A reflects the annual number of cases of third-time or higher DWI/Refusal cases, based upon information from the Department of Public Safety, Division of Motor Vehicles, 1991-93. The average number per year is approximately 685 cases.
2. Current minimum sentences of imprisonment for third, fourth, and fifth(+)-time offenders are 60, 120, and 360 days, respectively. DOC randomly surveyed prisoner records convicted for third and subsequent DWI/Refusals to arrive at the "average sentence" length in the table below. Combining this average sentence-length information with the DMV data on rate of occurrence provides the expected total prisoner-days per year for these offenses under current law. The result is a weighted average of 92 days for an average sentence for third or subsequent offenders. With deduction for statutory good time (SGT), this would result in an average period of incarceration of approximately 60 days.

OFFENSE	# OF CASES PER DMV (1993)	AVERAGE SENTENCE (DOC FILE REVIEW)	IMPRISONMENT DAYS PER YEAR
3rd offense	423	75 days	31,725
4th + offense	224	125 days	28,000
TOTAL	647	92.3	59,725

3. The bill would require a minimum sentence of imprisonment of 360 days for third and subsequent convictions. With deduction for statutory good time, this would result in actual imprisonment for 240 days. Subtracting the average 60 days of imprisonment served under current law, there would be an increase of 180 days of incarceration in each case. (This assumption should be considered conservative since it is based upon the minimum sentence in every case.) For 647 cases per year, 180 days of additional incarceration would result in 116,460 additional prisoner-days per year ($647 \times 180 = 116,460$).

4. 116,400 prisoner-days per year will require 319 additional correctional beds. (116,400 days divided by 365 days per year.) The system cannot absorb any additional prisoners without additional beds, since it has been operating over emergency capacity for more than a year and faces a contempt motion at this time. Additionally, many DWI cases are already awaiting prison space due to severely backlogged court report lists. These felony DWI cases would be remanded directly to DOC, it is assumed, based upon the seriousness of the offense and the well-known inability of the system to accommodate those placed on waiting lists in a timely manner.

It is assumed that two thirds of the new beds would be state correctional beds. By definition of the crimes addressed in the bill, this is a repeatedly non-compliant population who present high risk of reoffense and will have to be carefully screened for furlough eligibility in community settings.

5. Based on Assumption #4, DOC will need 200 new state correctional beds, at an average construction cost of \$100,000 per bed. An additional 119 CRC beds will be purchased through contract.

6. The average daily cost of incarceration based upon a weighted average of state correctional beds and community residential center beds is approximately \$98 per day. It is assumed that this population will be spending time in both prison and community placements.

5. Felony cases require preparation of Presentence Investigation reports by the Community Corrections component. These reports are not prepared in misdemeanor cases. The cost of report preparation is estimated at \$750 per report for staff investigation, criminal checks, writing, preparation, and presentation to the court.

6. It is assumed that felony offenders will be placed on formal, supervised probation for approximately 2 years, average, based upon anecdotal information from DOC probation staff. This should be considered conservative, since the maximum period of probation could be up to five years. (Misdemeanor cases are not supervised on probation by DOC, so all supervision will be additional costs.)

7. Regular probation is estimated to cost approximately \$6 per day, but involves infrequent face-to-face contact. If a probationer is ordered to take antabuse as a condition of probation, additional indeterminate expenses may be incurred to cover medical prescriptions and any special monitoring necessary to ensure compliance.

8. The state receives payments from local governments in Anchorage, Juneau, and Fairbanks, for incarcerating misdemeanants prosecuted and convicted of local misdemeanor charges. By changing third and subsequent DWI/Refusal cases to felonies, the state will carry the burden of all incarceration costs. However, this effect might be lessened by the fact that as felons, many offenders will be furloughed to CRCs where they will be allowed to work and contribute 25% of their earnings to the state. DOC will probably request changes in program receipt authority as a result of these factors.

9. A substantial number of third or subsequent offenders will have prior felonies, thus falling under presumptive sentencing laws. A substantial number of these offenders will violate probation, be revoked, and be returned to custody for additional periods of time. The additional costs attributable to these factors underscore the conservative nature of this fiscal estimate

Operating Expenses

116,400 prisoner-days X \$98 per day = \$11,407,200 in FY95

(Adjusted for inflation by 3% in subsequent years)

647 cases X \$750 per PSI = \$485,250 in FY95 (adjusted for 3% inflation thereafter.)

647 cases per year X 1 year probation at \$6 per day = \$3,882 in FY95

647 cases on second year of probation plus 647 new cases at \$6 per day = \$7,764 in FY96 and subsequent years. (Subsequent years adjusted for 3% inflation.)

Capital Expenses

Out of the 319 new beds per year, 119 are assumed to be CRC beds under contract, the cost of which is included in the operating costs above. The remaining 200 beds will have to be added to the state correctional system:

200 X \$100,000 per bed = \$ 20,000,000

91-93BAC.XLS

Number of administrative driver's license revocations for breath alcohol concentration of .10 or greater BAC and refusal to submit to a chemical test.						
			1991	1992	1993	
1st offense			3638	3532	3224	
2nd offense			1141	1124	1223	
3rd offense			375	470	423	
4th and subsequent offense			283	276	224	
			653	746	647	
This table does not reflect the number of court convictions for the criminal charge of DWI or Refusal to submit to a chemical test.						

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4/20/94
(S) FIN

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SB 270

Revision Date: _____ Dept. Affected: Alaska Court System
 Title: An Act relating to operating a motor BRU: Trial Courts
vehicle, commercial motor vehicle, aircraft, or watercraft Components: _____
 Sponsor: Senate Rules by request of the Governor
 Requestor: _____ COMPONENT SERIAL NO. 788

EXPENDITURES/REVENUES (Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1008 GF/MHTA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY 94) cost: \$ None

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

Prepared by: C. S. Christensen III, Staff Counsel Phone: 264-8228
 Agency: Alaska Court System Date: 04/20/94

Approved by: Arthur H. Snowden, II, Administrative Director Date: 04/20/94
 Agency: Alaska Court System

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Alaska State Legislature Senate

Office of the Secretary

OFFICIAL BUSINESS

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CAPITOL BUILDING
JUNEAU, ALASKA 99811

FOR YOUR IMMEDIATE ATTENTION

DATE: 5-3-94

TO SENATE COMMITTEE: Finance - Katay

FROM: Office of the Senate Secretary

The attached fiscal note(s) relate to the following bill(s) pending in your Committee.

Please place the fiscal note inside the front cover of the blue or yellow committee folder.

HB 445 am

CSB 279 (JUD)

Call me
JR

Thank you.

SIGNATURE OF PERSON RECEIVING THIS NOTE

JR/s