

**HB**

**136**

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO:

No. 4

Bill Version: CSHB 136 (JUD)

(H) Publish Date: 3/26/93

Revision Date: 3/24/93 Dept. Affected: Public Safety  
 Title: "An Act relating to offenses of driving while intoxicated and refusal to submit to a breath test." BRU: Motor Vehicles  
 Sponsor: Representative Mulder Component: Driver Services  
 Requestor: House 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-

Changes in SCS (SIB) (175) reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.  
3/24/93 126  
 date Comte Aide (initial)

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: 465-4351  
 Division: Motor Vehicles Date: 3/24/93  
 Approved by Commissioner: [Signature] Date: 3/24/93  
 Agency: Richard L. Burton, Dept. of Public Safety

COMMITTEE COPY  
Rev 11/92

LEGISLATIVE OFFICE  
Legislative Office

# FISCAL NOTE

No. 7  
 Bill version: CSHB 136 (FIN)  
 (H) Publish Date: 4/13/93

**STATE OF ALASKA  
 1993 LEGISLATIVE SESSION**

Revision Date: \_\_\_\_\_ Dept. Affected: Corrections  
 Title: "An Act relating to the offense of driving while intoxicated..." BRU: \_\_\_\_\_  
 Sponsor: Rep. Mulder Component: \_\_\_\_\_  
 Requestor: House Finance COMPONENT SERIAL NO. \_\_\_\_\_

Expenditures/Revenues:	(Thousands of Dollars)				1858	
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>						
<b>REVENUE FUND SOURCE: GF/PR 1005</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>

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
1008 GF/MHTA						
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)  
 See attached fiscal analysis.

Changes in CS CSHB 136 (H25)  
 reflect NO FISCAL CHANGE from the original  
 fiscal note. This fiscal note is appropriate.  
4/13/93 LD  
 date Comte Aide (initial)

Prepared by: Dana LaTour, Legislative Liaison Phone: 465-3376  
 Division: Office of the Commissioner Date: 04-05-93  
 Approved by Commissioner: Lloyd G. Rupp, Commissioner Date: 04-05-93  
 Agency: Department of Corrections

**ORIGINAL**

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE  
 For further distribution information call the Governor's Legislative Office

FISCAL NOTE ANALYSIS  
CSHB 136 (JUD)  
Page 2

CSHB 136(JUD) 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
1124	(one prior offense)	75%	843
407	(two prior offenses)	80%	326
276	(three prior offenses)	80%	221

Using those numbers:

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

$$843 - 84 \text{ (10\% indigent offenders)} = 759 \text{ offenders} \times \$1000 = \$ 759,000$$

$$407 - 41 \text{ (10\% indigent offenders)} = 366 \text{ offenders} \times \$1000 = \$ 366,000$$

$$276 - 28 \text{ (10\% indigent offenders)} = 248 \text{ offenders} \times \$1000 = \$ 248,000$$

The total amount charged annually should be approximately \$1,739,300. Assuming that 60% of the amount charged is collected, a total of \$1,043,580 should be generated each year from the program.

FISCAL NOTE

No. 6

Bill Version: CSHB 136 (JUD)

(H) Publish Date: 3/26/93

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
 Title: "An Act relating to the offenses of DWI and refusal to submit to a breath test . . ." BRU: Public Defender  
 Component: Public Defender  
 Sponsor: Representative Mulder  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 1631

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	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
---------	---	---	---	---	---	---

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

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/Mi-PIA	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

Changes in CS CSHB 136 (H&S) have no fiscal impact. This fiscal note is appropriate.

ANALYSIS: (attach a separate page if necessary.)

4/21/93 bt  
date Comte Aide (initial)

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

Approved by Commissioner: Nancy Bear Usura Date: 3/10/93  
 Agency: Department of Administration

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE  
 For further distribution information call the Governor's Legislative Office

FISCAL NOTE

No. 5  
 Bill Version: CSHB 136 (JUD)  
 (H) Publish Date: 3/26/93

STATE OF ALASKA  
 1993 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
 Title: 'An Act relating to limited driver's licenses  
and to the offenses . . .  
 Sponsor: Representative Mulder  
 Requestor: House Judiciary

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

EXPENDITURES/REVENUES:

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

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

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

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
PART-TIME	0	0	0
TEMPORARY	0	0	0

Changes in SCS 136 (JUD) have no fiscal impact. This fiscal note is appropriate.

4/21/93 date h.j. Comte Aide (initial)

Estimate of current year (FY93) impact: None

ANALYSIS: (Attach a separate page if necessary.)

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

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

Approved by Commissioner: Nancy Bear Usera  
 Agency: Administration

Date: 3/10/93

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE  
 For further distribution information call the Governor's Legislative Office

FISCAL NOTE

No. 2

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

Bill Version: CSHB 136 (HES)  
(H) Publish Date: 3/5/93

Revision Date: March 1, 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						
---------	--	--	--	--	--	--

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

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.

Changes in SCS CSHB 136 (HES) have no fiscal impact. This fiscal note is appropriate.

4/2/93  
date

64  
Comte Aide (initial)

Prepared by: Richard I. Peques, Director  
Division: Administrative Services Division  
Approved by Commissioner: Richard I. Peques (FOR)  
Agency: Department of Law

Phone: 465-3672  
Date: March 1, 1993  
Date: March 1, 1993

**COMMITTEE COPY** TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE  
For further distribution information call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO.

CSHB 136(HES)

No. 2

pg 2 of 2

ANALYSIS (Continued):

The workdraft version of CSHB 136 (HES), dated 2/26/93, substantially amends the state's laws relating to driving while intoxicated and refusal to submit to a breath test. The bill's amendments primarily address sentencing provisions which occur after prosecution. For the most part, the amendments will not have a fiscal impact on the Department of Law.

The major feature of the bill provides the minimum mandatory period of imprisonment, 72 hours for a first offense and 20 days for a second offense shall be served at a community residential center or, if a center is not available, at another appropriate facility determined by the commissioner of corrections. The bill further provides that the cost of the imprisonment shall be paid by the person who is sentenced. And the bill provides that the state shall seek reimbursement from a person's permanent fund dividend, in cases where a person has not paid for the cost of imprisonment. The Department of Law's civil division currently collects unpaid criminal fines and would collect unpaid imprisonment costs that result from the adoption of these provisions.

The department's attorney, who is responsible for the collection of unpaid criminal fines, is assisting the sponsor's staff to clarify the language in Section 5 and Section 6 to insure that the bill's cost reimbursement provisions are straightforward and enforceable. Otherwise, it may not be possible to collect unpaid imprisonment costs without incurring costs greater than the unpaid amount. Consequently, it will probably not be possible to collect unpaid costs, unless these sections are clarified. We also note that requiring DWI and breath test refusal offenders to pay the cost for their imprisonment may cause a legal problem, because other offenders are not required to pay the cost of their imprisonment.



# Alaska Sentencing Commission

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

James V. Gould, Chair  
Philip R. Volland, Vice Chair

Jayne E. Andreen  
Richard L. Burton

Charles E. Cole  
Hon. Beverly W. Cutler

Sen. Steve Frank  
Lloyd G. Rupp

JoAnn Holmes  
Hon. Warren W. Matthews

Gigi Pilcher  
John Salem

Duane S. Udland  
Rep. Fran Ulmer

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**

SENTENCING COMMISSION RECOMMENDATIONS

**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.

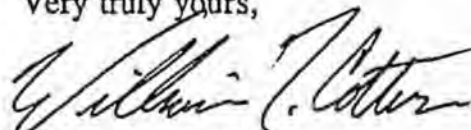
Jail time is only one part of the sentence for DWI in Alaska. First time DWI offenders also are required to follow the treatment recommendations made by the state alcohol screening program, pay a fine of at least \$250, and have their driver's license suspended for 90 days. For second offenses, the fine 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

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.**

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 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

**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**

March 24, 1993

**SUBJECT:** Sectional Summary of CSHB 136(JUD)   \*\*\*Note: This Sectional Analysis still applies to the current version of the bill

**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

SECTIONAL ANALYSIS

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.

SENATE COMMITTEE REPORT

DATE: 4/21/93

FURTHER: FINANCE

DATE TURNED INTO OFFICE: 4/22/93

JUDICIARY 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 \_\_\_\_\_ (\_\_\_\_\_)
- 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
Corrections	4-5-93		1043.6
Admin. (2)	3-16-93	✓	
Public Safety	3-24-93		108.0
LAW	3-01-93	✓	

Appropriation No Fiscal Note

DO PASS:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

OTHER RECOMMENDATIONS:

*Donna Dowley* No REC

*Deanne R. Hutto* No Rec

\_\_\_\_\_

\_\_\_\_\_

*Robin L. Taylor* - No rec.

Chair: Signature and Recommendation



# 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.