

HB

61



Public Safety Employees Association, Inc.

"Representing Alaska's Finest"

1569 S. Bragaw #201, Anchorage, AK 99508

(907) 337-1979

Fax (907) 337-1753



**International Union of
Police Associations
Local 92 AFL-CIO**

February 17, 1993

Representative Jim Nordlund
State Capital
Juneau, AK 99801-1182

Dear Representative Nordlund,

I would like to commend you on your sponsorship on HB61. This legislation is long overdue and I wish you success in your endeavor to further the safety and welfare of the citizens of Alaska.

As President of the Public Safety Employee's Association, I represent law enforcement officers working throughout the State of Alaska. We fully endorse this proposed legislation. It would not only assist law enforcement officers with their responsibilities, but would take another step towards getting Alaska's most dangerous and lethal drivers off the roads.

It is readily apparent that the current regulations do not go far enough. At a .08 alcohol level drivers are extremely dangerous. Their vision is impaired, their reactions are slowed and they are more inclined to take risks. A .10 limit is just too high. We as citizens of the State of Alaska need this legislation. Our lives may depend on it. If there is any assistance our Association can provide in seeing HB61 prevail, don't hesitate to call. Good luck and thank you for your hard work.

Sincerely,

Keith Perrin
President

RECEIVED

FEB 22 1993

Ans'd.....

Representative Richard Foster
Chairman, Transportation Committee
State Capitol
Juneau, Alaska

February 25, 1993

Dear Representative Foster,

I support HB 61, lowering the BAC to .08 as the legal limit to drive as a short-term control over a much more fundamental problem- the public attitudes toward alcohol use and abuse. It is one piece of a larger plan which looks at reducing injuries and deaths from motor vehicle crashes. Alcohol increases the odds that a crash will occur and increases the severity of injury when it does occur. In Alaska, the most severe injuries occur among young drivers between 16-24 years old who have been drinking. The demand for state services to pick up the pieces from these injuries is astounding. If this deters even one person from taking that fifth drink, it saves the state thousands of dollars.

The most evidence supporting the lowered BAC limit, rests with the effect on adolescent involvement in alcohol-related fatal crashes. Though this legislation targets all drivers, the effect on youth may be most effective. In a 1991 study done in Anchorage Emergency Rooms, the leading cause of injury and death for adolescents from 14-19 years old was motor vehicle crashes. Though impaired driving occurs with any alcohol content in the body, this legislation lowers the limit of how much alcohol the community will accept. It recognizes the magnitude of the problem and sends a message that Alaskans need to sober up for the privilege of driving a motor vehicle.

Joan Diamond
Department of Health and Human Services
Community Health Education/Injury Prevention
Anchorage, Alaska

Post-It™ brand fax transmittal memo 7871 # of pages 1	
To Jim Nordmark	From Joan Diamond
Co. Uta Dennis	Co. MOA
Dept.	Phone # 943-4603
Fax # 465-2108	Fax # 258-6329



ALASKA STATE MEDICAL ASSOCIATION

107 Laurel Street • Anchorage, Alaska 99508-5334 • (907) 562-2662

March 30, 1993

Representative Jim Nordland
House of Representatives
State Capitol
Interdepartmental Mail Stop: 3100
Juneau, AK 99801-1182

Dear Representative Nordland:

Thank you for sponsoring House Bill 61. This bill would lower the legal limit of alcohol to 0.08 per cent for operating motor vehicles. This bill has strong support in the medical community, and we will assist you in any way we can to help with its passage. If the medical association can be of any assistance on this bill, do not hesitate to contact us.

Sincerely yours,

Donald R. Lehmann, M.D., A.B.F.P.
Chairman, Legislative Affairs Committee
Alaska State Medical Association

DRL:bj



National Transportation Safety Board

Washington, D.C. 20594

December 28, 1993

Office of the Chairman

Honorable Jim Nordlund
Alaska House of Representatives
716 W. Fourth Avenue, #240
Anchorage, Alaska 99501-2133

Dear Representative Nordlund:

This is in response to your recent letter to former Safety Board Chairman James Kolstad, regarding your legislation to reduce the blood alcohol concentration (BAC) from 0.10 percent to 0.08 percent that is now pending before the Finance Committee. I would like to share with you the conclusions of the National Transportation Safety Board based on its research and accident investigation experience.

There is considerable research that demonstrates measurable adverse effects of alcohol on performance, even at low BACs. An October, 1992 report to Congress by the National Highway Traffic Safety Administration concluded:

The scientific literature clearly documents the detrimental effects of alcohol on driver performance. There is no threshold for alcohol impairment, i.e. there is no lower level at which impairment starts, or below which no impairment is found Safety considerations and scientific evidence will support lowering the acceptable level to whatever the legislature chooses, down to any measurable BAC.

This finding has been supported by studies completed as early as 1950 which documented that the impairment threshold of a drivers' ability to drive occurs at concentrations of 0.035 to 0.040 percent. Many other, more recent, studies have confirmed this finding, and have documented impairing effects at lower concentrations.

The 1977 study by H. Laurell, "Effects of Small Doses of Alcohol on Driver Performance in Emergency Traffic Situations," found effects on driver performance at BACs below 0.05 percent, studied in two contexts: (1) in a critical car-driving situation involving emergency braking and evasive maneuvers, and (2) in a "surprise" situation that followed the first situation and involved the sudden appearance of a human-shaped obstacle blocking the roadway. Overall, detrimental effects of alcohol at an average BAC as low as 0.042 percent were found.

Other studies substantiate performance impairment at very low BACs. For example, in an article published in 1970, "Alcohol Disturbance of Visual Acuity for Moving Objects," H. Honneger stated that the ability to distinguish close, but separated, moving objects seems to be consistently impaired at BACs sometimes as low as 0.03 percent. C. E. Billings and R. L.

Honorable Jim Nordlund
Page 2

Wicks, in a report prepared for the FAA ("Effects of Alcohol on Pilot Performance during Instrument Flight," FAA-AM-72-4), stated that the ability to divide attention between tasks can be impaired at very low BACs (0.02 percent). Earlier (1964) findings by O. Gruner et. al., also concluded that very low BACs impair the ability to divide attention between tasks. Further studies (H. Franks et.al., "The Relationship Between Alcohol Dosage and Performance Decrement in Humans," Journal of Studies on Alcohol, 1976) indicate that the ability to stand upright without swaying begins to decrease significantly at a BAC as low as 0.04 percent.

The American Medical Association and the National Safety Council's Committee on Tests for Intoxication, have developed a table that places the effects of a BAC of 0.03 percent in the "euphoria" range. The behavioral symptoms of this level of intoxication include increased self-confidence, decreased inhibitions, loss of efficiency in finer performance tests, and diminution of attention, judgment, and control. These symptoms were expressly characterized as not compatible with the safe operation of motor vehicles.

Further, a 1985 study by Dr. Herbert Moskowitz shows evidence of impairment on divided attention and information processing tasks beginning at a BAC as low as 0.015 percent. At a 1987 international conference, Dr. Moskowitz reported on an exhaustive review of research on low BAC effects he conducted for the National Highway Traffic Safety Administration. Based on this review, Dr. Moskowitz states that "there is no lower threshold level below which impairment does not exist for alcohol."

A 1964 Indiana University study entitled, "The Role of the Drinking Driver in Traffic Accidents" by R. F. Borkenstein, determined that the relative probability of being involved in an accident is about 4 times greater than normal at 0.08 BAC, and about 25 times greater than normal at 0.15 BAC.

Additional research completed in late 1987 by the National Academy of Sciences provided further information on the effects of low levels of alcohol. In enacting the Commercial Motor Vehicle Safety Act of 1986, the Congress asked the Academy to study the effect of various alcohol level on the performance of truck drivers. The Academy's Transportation Research Board brought together a group of nationally recognized experts on the effects of alcohol, who concluded that "performance of driving related tasks decreases at any BAC above zero and crash risk increases sharply as BAC rises." The National Academy of Sciences recommended, and Federal Highway Administration regulations established, 0.04 BAC as the level at which commercial drivers would have an illegal alcohol level. Any alcohol ingestion can result in the commercial driver being put out of service for 24 hours.

Honorable Jim Nordlund

page 3

In 1989 the Safety Board recommended that the U.S. Department of Transportation:

Issue rules specifying zero (no alcohol) as the blood alcohol concentration for private sector employees in safety sensitive positions for all transportation modes and for Federal employees in safety sensitive positions.

The Board also has recommended State legislation specifying BAC's below 0.04 percent for both commercial vehicle operators and for pilots of general aviation aircraft.

Similarly, Federal regulations prohibit aircraft crews from ingesting alcohol in the eight hours prior to flight operations and they may not have an alcohol level of 0.04 percent or above. The Safety Board has recommended that the alcohol level for air crews be the lowest level that can be reliably measured.

When combined with the impairing effects of other potential stressors found in highway operations such as complex traffic response demands, fatigue, vibration and noise, the presence of alcohol even at very low blood alcohol concentrations must be considered a clear and definite risk to safe highway operations. Therefore, legislation to lower the BAC definition of intoxication to 0.08 percent would certainly be a most modest positive step.

I hope that this information is useful to you and your colleagues. Please let us know if there is any way the Safety Board can be of additional assistance.

Sincerely,



Carl Vogt
Chairman

cc: Representative Ron Larson
Co-Chair, House Finance Committee

DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER

P.O. BOX 111200
JUNEAU, ALASKA 99811-1200
PHONE: (907) 465-4322
FAX: (907) 465-4362

January 7, 1994

The Honorable Jim Nordlund
Alaska State Legislature
Court Building, Room 608
Juneau, AK 99801-1182

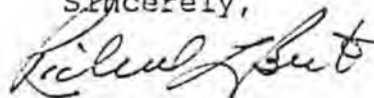
Dear Representative Nordlund:

I am writing in response to your correspondence requesting support from the Department of Public Safety for House Bill 61. HB 61 is one of the pieces of legislation the Department of Public Safety has placed as a priority. One of the recommendations the department made when testifying at the Alcohol Task Force hearings was to enact legislation setting the under-the-influence driving per se levels at .08 percent or lower. Junita Hensley from my staff has been following this piece of legislation and will continue to work with you and your staff, as well as the members of the various committees, as it makes its way through the Legislature.

Laws that will enhance the safety of driving on our roadways and especially those laws which will help reduce the number of alcohol-related accidents and fatalities are always a priority for this department.

You can be assured the department will continue to support HB 61. My staff and I look forward to working with you in the upcoming legislative session.

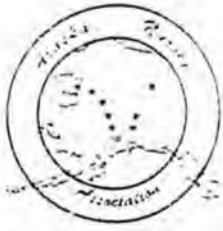
Sincerely,



Richard L. Burton
Commissioner

cc: Lee Ann Lucas
Special Asst., DPS

Nita Hensley
Chief of Driver Svcs, DMV



ALASKA NURSES ASSOCIATION

237 E. 3rd Avenue #3 Anchorage, AK 99501-2523
(907) 274-0827 FAX: (907) 272-0292

February 14, 1994

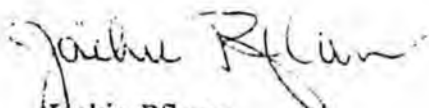
Representative Jim Nordlund
Judiciary Committee
Alaska State Legislature
State Capitol (MS 3100)
Room 608-Ct
Juneau, Alaska 99801-1182

Dear Representative Nordlund:

On behalf of the Alaska Nurses Association, the Legislative Committee would like to endorse HB 61. We understand that this bill proposes to impose a more restrictive legal limit on alcohol consumption above which the person will lose the privilege to drive.

Research has demonstrated that there is a significant correlation between the establishment of a lower blood alcohol and the subsequent reduction of alcohol related injuries and fatalities. Given the significant economic and human consequences of drunk driving in this state, we applaud your efforts to establish these tougher limits. If we can be of any additional assistance, please let us know.

Sincerely yours,


Jackie Pflaum
Legislative Chair

DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER

Richard L. Burton
Commissioner
P.O. BOX 111200
JUNEAU ALASKA 99811-1200
PHONE: (907) 465-4322
FAX: (907) 465-4362

March 7, 1994

Representative Jim Nordlund
House Task Force on Alcohol and Alcohol Abuse
Room 426
State Capitol
Juneau, Alaska 99801-1182

Dear Representative Nordlund:

In 1992, 89 traffic crashes on Alaska roadways resulted in the deaths of 108 people. Included in this total are 13 pedestrians, 7 motorcyclists, 8 ATV/snowmachine riders and 80 vehicle drivers.

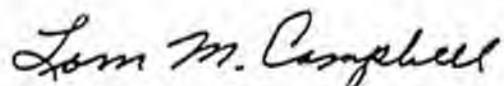
The major contributors to fatal traffic crashes were alcohol, speeding, and driver inattention, in that order. Sixty-three of these people died in 51 alcohol or drug-related crashes. The number of pedestrian fatalities was 13, with the rate of alcohol involvement being 84.6 percent compared to 52.6 percent in all other types of fatalities. A far higher average of alcohol involvement then found in the rest of the Nation.

In reviewing the recently released House Task Force Report on Alcohol and Alcohol Abuse, we at the Highway Safety Planning Agency would like to thank the Task Force for their many hours of work in compiling the information to make that report possible. It is our consensus that this report clearly identified the magnitude of the alcohol problem in Alaska and also went on to identify how State dollars can best be expended to meet the challenge of reducing injury and fatalities of our States most valuable resource, it's people.

On behalf of Commissioner Burton and the Department of Public Safety, we applaud the Task Force on their work and look forward to working with them in a concerted effort to make their recommendations a reality.

Again, "Thank You" to you and all the members for a job well done.

Sincerely,



Lorn M. Campbell
Administrator
Highway Safety Planning Agency

cc: Richard Burton, Commissioner

FROM THE AMERICAN BEVERAGE INSTITUTE



607 14th Street NW • Suite 1110 • Washington, DC 20005
Phone (202) 347-5215 • FAX (202) 347-5250

March 7, 1994

Sen. Bart Sharp
Room 514
State Capitol
Juneau, AK 99801-1182

Dear Senator Sharp:

Like many advocates working on the drunk driving issue, my experience is a personal one. It was my daughter's death at the hands of a multiple repeat-offender drunk driver that launched MADD, and as founder of MADD, I have been a longtime activist working to strengthen the penalties against drunk drivers. Sadly, drunk driving continues to be a dreadful problem on our nation's highways, and that is precisely why we should all seek long-term, effective means to address this problem.

It is our belief that the proposed lowering of the BAC from .10 percent to .08 percent is not a long-term, effective solution. It will not impact the drunk driving problem, and will certainly not affect the real cause of the majority of crashes: the drivers who drive at high BAC levels.

Indeed, research (both government and independent studies) over the past twenty years shows that 70 to 75 percent of those convicted of driving while drunk have a BAC of at least 0.15 percent and many have levels of .20 percent or higher. Lowering the BAC to .08 percent will not impede the problem drivers, who now get behind the wheel with BACs well above the current .10 limit. These are the real dangers on our roads; the ones we should concentrate on.

Furthermore, there is no identifiable decrease in the rate of alcohol-related fatalities in those states that have reduced their legal BAC to .08 percent. In 1991, in two separate reports (one most recently done by the California Department of Motor Vehicles) the analysis of the California experience has proven what one would expect from a .08 statute-- crashes and fatalities have continued to persist at the high BAC levels where the dangerous drunk drivers are found.

A study done by the National Highway Traffic Safety Administration (NHTSA) on the California experience showed that among fatalities of drivers who had BACs of .15 to .19, the number of fatalities increased over the comparative years, rather than decreasing. The California study notes, as does the NHTSA report, there was no significant change in alcohol related crashes in California after implementation of .08. In fact, there were *increased* alcohol related crashes in two of the study sites.

March 7, 1994

Page 2

Legislative and enforcement efforts should concentrate on the problem drinkers, arresting more of them rather than diluting enforcement efforts by shifting the focus to include drivers with lower BACs. The American Beverage Institute is interested in supporting sanctions that work. That is why we are introducing legislation such as the Graduated Penalty bill similar to the one introduced in Washington State. This legislation focuses on the real culprits on our highways, the high BACs, the repeat offender drivers.

The hospitality industry has long worked side by side with anti-drunk driving activists on this issue and believes strongly that drunk driving affects all of us. ABI equally believes that we must continue to look for meaningful, long-term solutions instead of hastily adopting short-term, ineffective legislation. The Alaskan Legislature must affirm its commitment to this problem by supporting strategies that really work-- not ones that feel good but do very little.

Thank you for your attention to this critical matter.

Sincerely,

A handwritten signature in cursive script that reads "Candace Lightner".

Candace L. Lightner

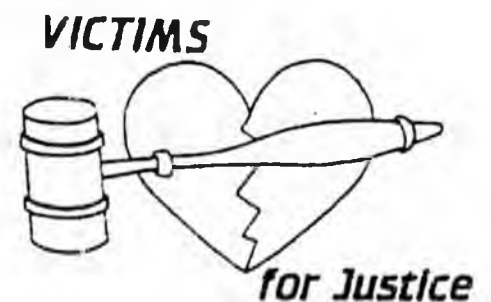
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**POSITION STATEMENT
FROM THE COALITION OF**

**THE ALASKA PEACE OFFICER'S ASSOCIATION
and MOTHERS AGAINST DRUNK DRIVERS**

before the
19th Alaska Legislature
March 1993



SB 32/HB 61
LOWERING THE PRESUMPTIVE LEVEL TO .08%

Drinking and driving under the influence of drugs or alcohol continues to be a matter of grave concern to the citizens of Alaska. Behavior and attitudes toward the drinking driver have changed remarkably in the last decade. Drinking and driving is no longer as socially acceptable as it once was. People have come to understand and realize the high price we pay for such excesses. As attitudes change in recognition of the problem, so should our laws.

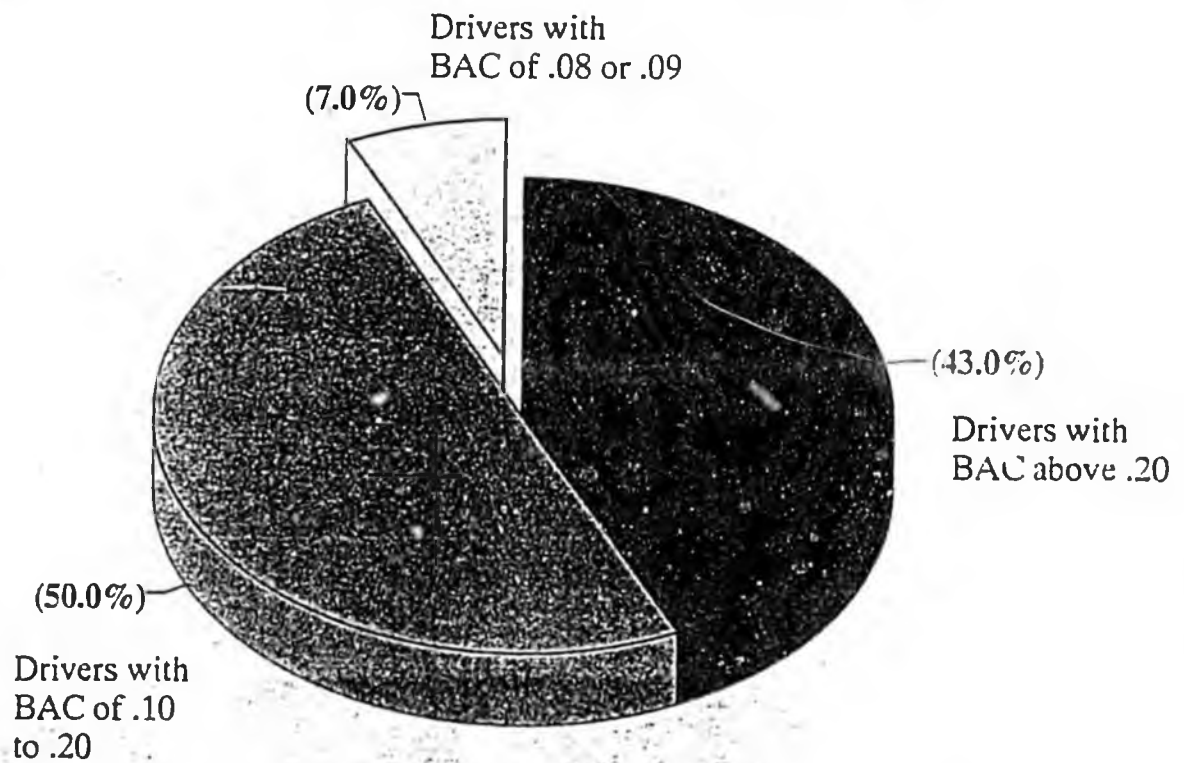
The trend nationally has been to lower the presumptive level in Driving While Intoxicated cases from .10% to .08%. Studies show that drivers with this lower level of alcohol in their blood are significantly impaired. Drivers with this level of impairment are responsible for a large percentage of motor vehicle accidents causing untold damage to property and human life.

We believe that there is a relationship between a lower limit of blood alcohol content and the reduction of the alcohol related accidents. The passage of this bill will assist law enforcement in removing the impaired driver off the roadways, and the citizens of Alaska will be better protected.

Besides lowering the presumptive level of intoxication from .10% to .08%, we encourage the legislature to change the Implied Consent Law to require motorists to submit to a test of any combination of blood, breath, or urine tests, with the type of test to be administered left to the discretion of the arresting officer. Presently, the only test required is a breath test which is incapable of determining drug intoxication.

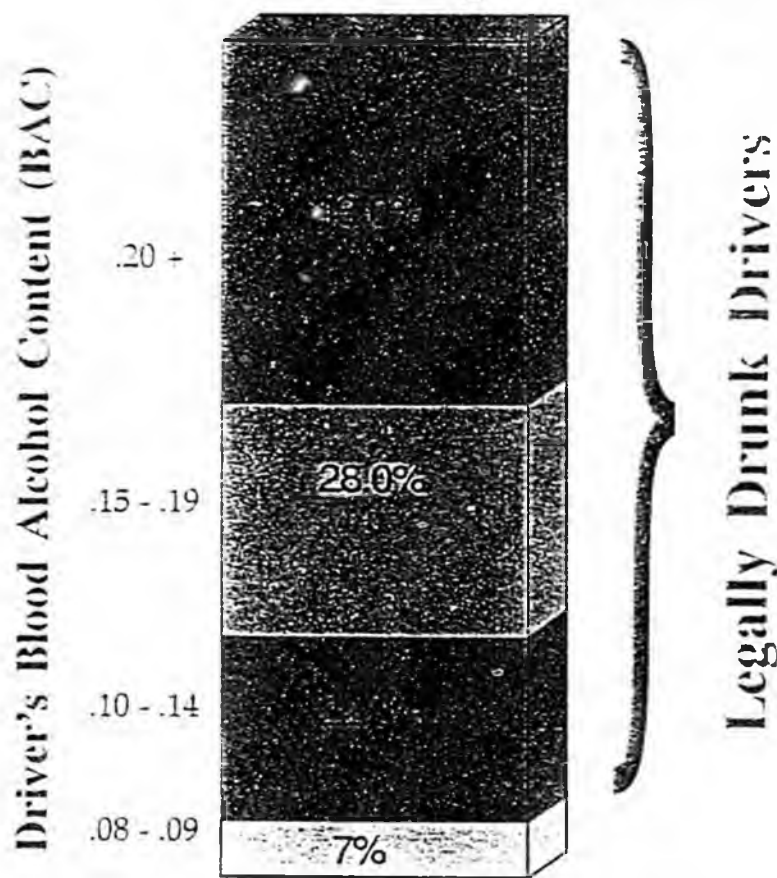
Further, we propose rescinding the statutory language that became effective in 1991 which allows people who refuse to take a breath test and people who are DWI re-offenders to have a limited license. This language makes Alaska ineligible for Federal 410 Funds (approximately \$400,000 annually). Another requirement of 410 Funds is that the state adopt the .08% presumptive intoxication level within 4 or 5 years of the receipt of the funds. Unless the legislature changes the language mentioned above, the State of Alaska will continue to be ineligible for federal funds.

Alcohol Related Fatalities by Driver's Blood Alcohol Content



American Beverage Institute, 1994

Drunk Driving: Who's the Problem?



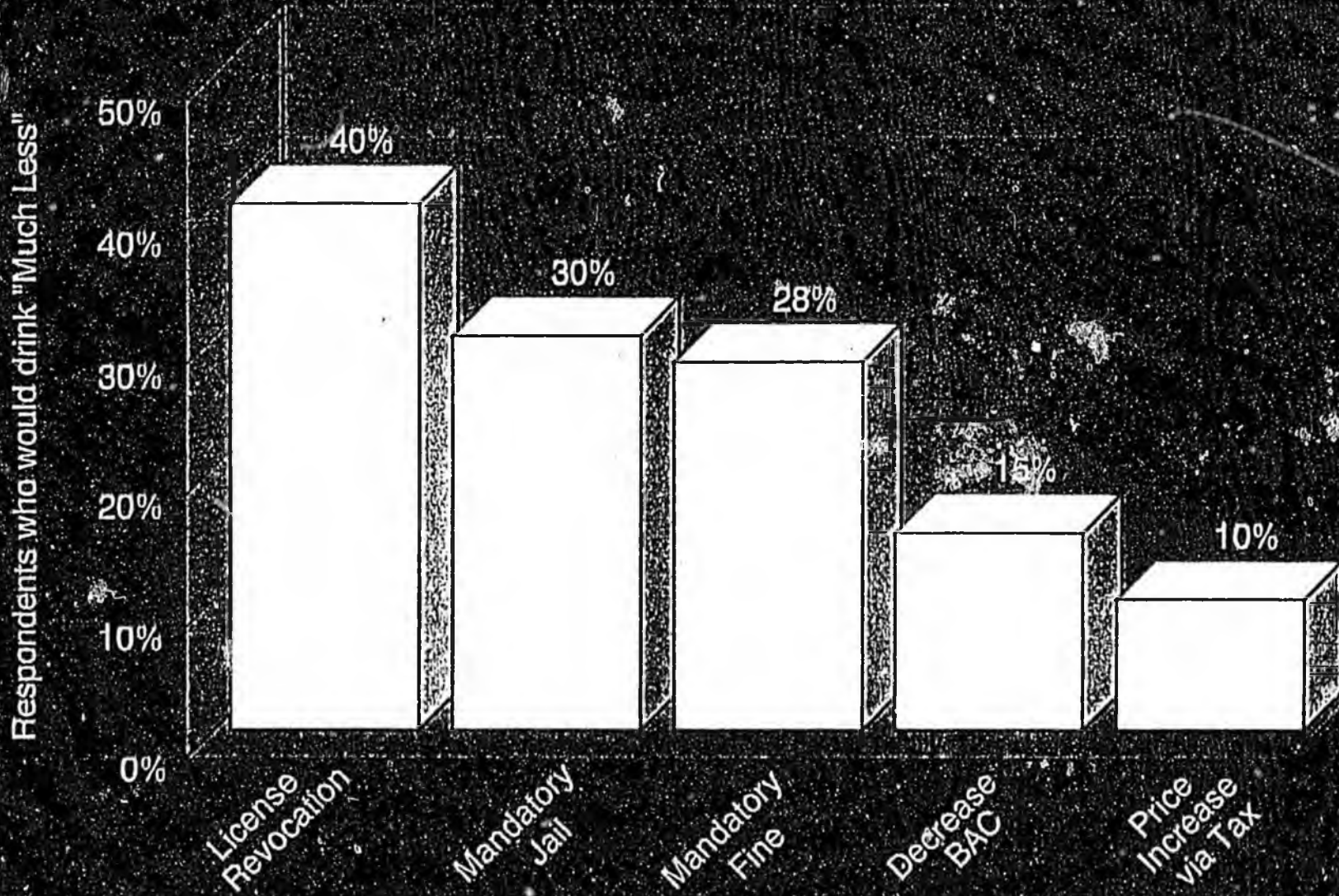
Lowering the intoxication threshold from .10% to .08% would do nothing to reduce the deaths caused by drivers already legally drunk. 93% of the deaths caused by drunk drivers would be by drivers at or above a BAC of .10%.

Percent of Alcohol Related Fatalities

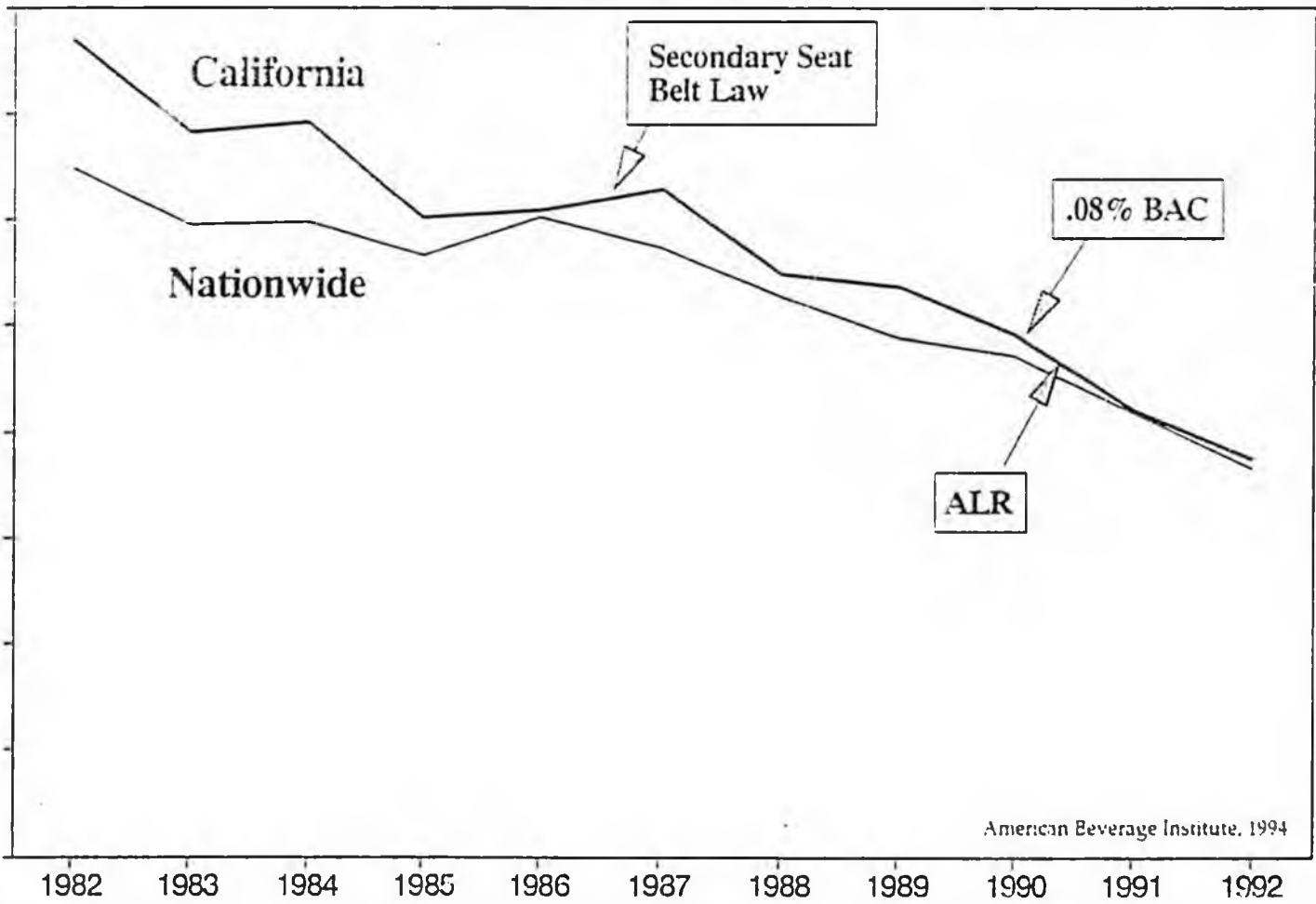
Source: Unpublished tabulations by the National Highway Traffic Safety Administration

American Beverage Institute, 1994

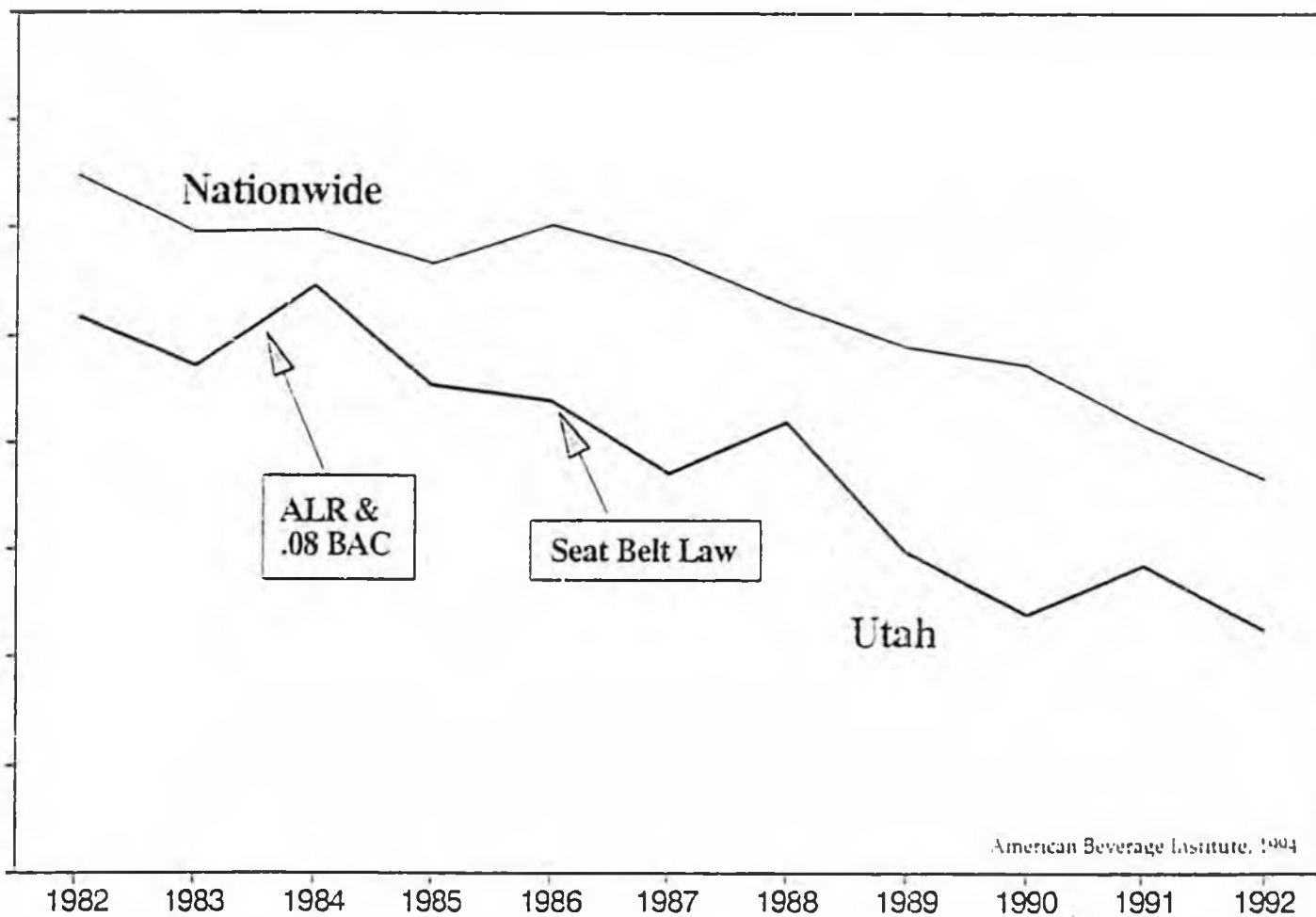
Deterrent Impact of Individual Measures on Drinking Drivers



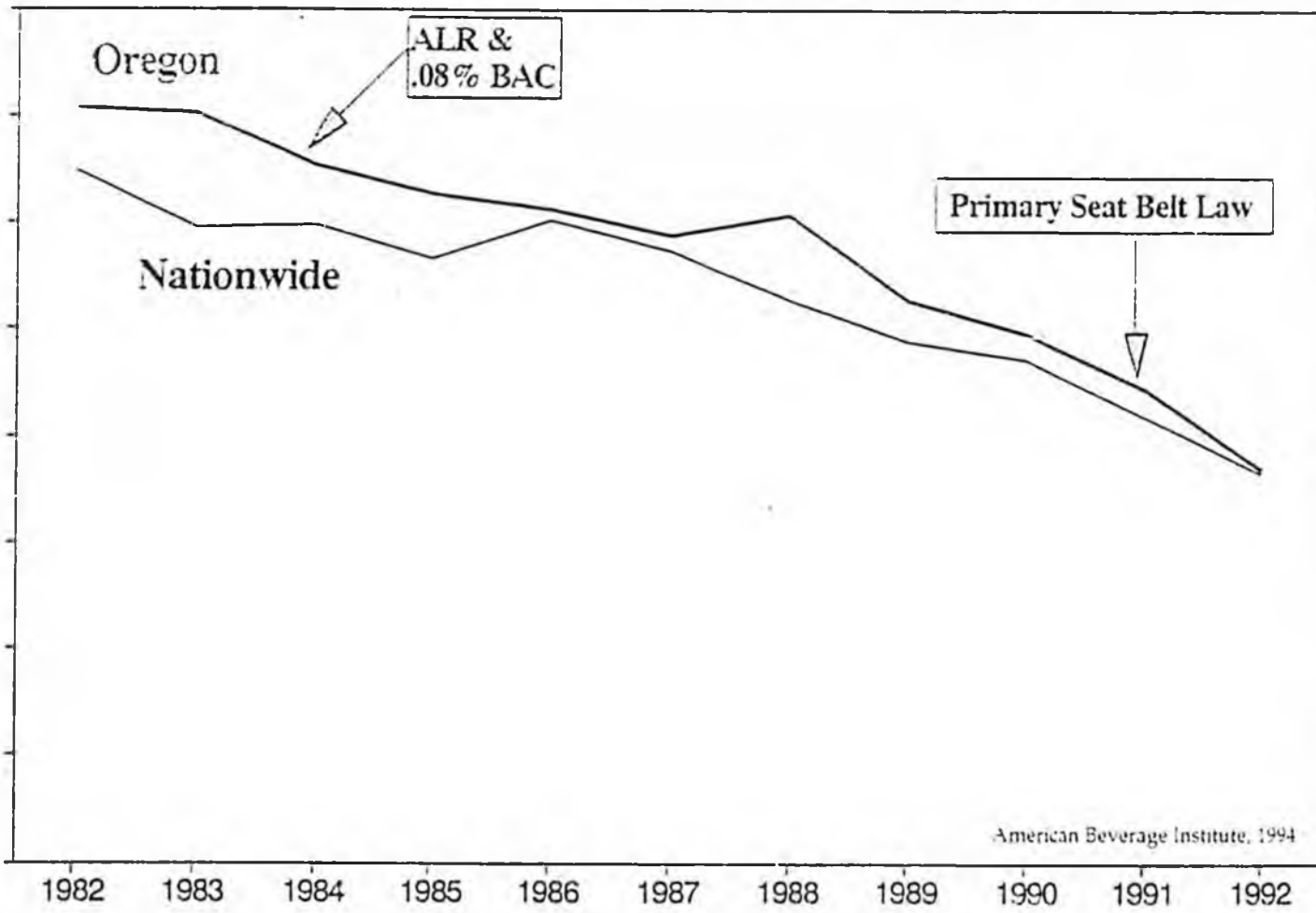
Alcohol Related Fatalities per 100 million Vehicle Miles Traveled



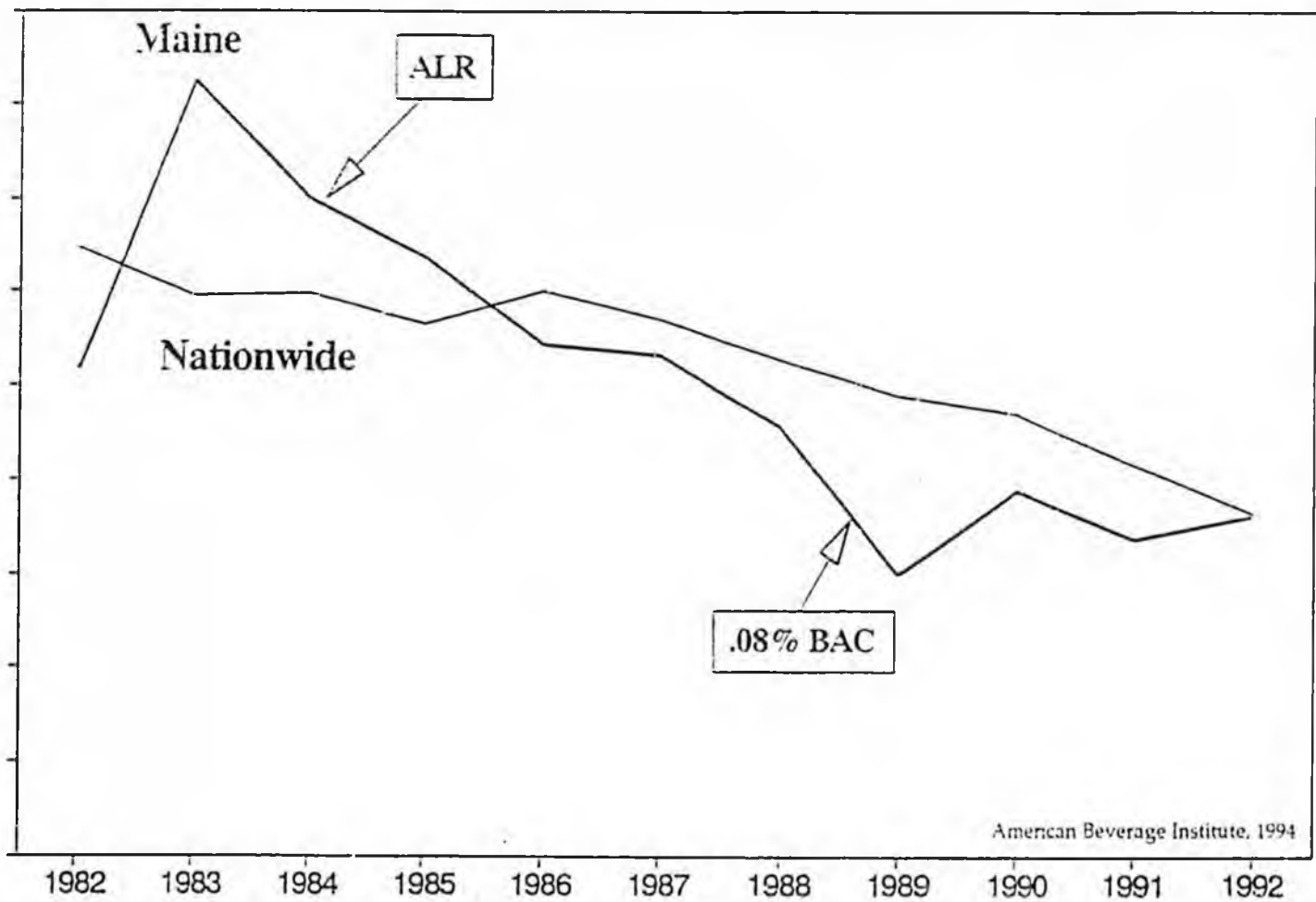
Alcohol Related Fatalities per 100 million Vehicle Miles Traveled



Alcohol Related Fatalities per 100 million Vehicle Miles Traveled



Alcohol Related Fatalities per 100 million Vehicle Miles Traveled



Robert Nakada
173 W. Pioneer Ave.
Homer, Ak. 99603

Honorable Senator:

I am writing to ask you not to pass HOUSE Bill No. 51. The bill that will change the legal limit for intoxication from .10 to .03 percent. I have thought about the ramifications of this action and am against it for the following reasons.

1. It will seriously hurt the tourist industry as visitors from other states, thinking that the federal intoxication limit applies here, as in every other state, could unknowingly surpass the proposed new state limit, but be legal in any other state. In this way you would be making criminals of otherwise law-abiding citizens. For example, I know of one bartender that almost got fired because she served wine to a customer in a larger glass, and was told that could put them over the limit without their knowledge. You could be doing the same thing to out of state visitors and residents alike.
2. It won't take many out of state visitors taking tales home to cause drops in tourist flow. It could even make the national news.
3. This could hurt non-tourist related business and conferences as well. A business man could be flying in on a one day meeting and could be leaving the same night. He could have two drinks on his flight in, rent a car to drive to the meeting, get arrested for DWI with a limit that only applies to this state. He would have to spend at least three days here, (state minimum jail time for DWI) and possibly lose the contract and his job as a bonus.
4. I have known people who gauge their sobriety on a rule-of-thumb (one drink an hour), spend a long and quiet evening in the company of others and at the end of the evening actually consider whether they are a threat to themselves or others before driving.
5. This would do nothing to increase conviction of the dangerous, "hundred mile an hour" type of drunk driver, who is usually in the .20 or above range, the type who belts down a bunch of beers, climbs in his car so drunk he can't find the key hole, and runs down people in crosswalks. This is the type of drunk driver I, as a parent and pedestrian (and driver), am concerned about stopping.
6. Designated drivers are fine, if you are really going out to an event (ie. New Year's Eve, the Superbowl Game), but what about an anniversary or a quiet candlelit dinner? It would not feel right to have a third person there as chauffeur, just so you can both have a drink with your dinner.

I urge you again not to pass this bill. Thank you for your time.



THIS COMMUNICATION

April 19, 1993

RECEIVED APR 20 1993 CPNM

Dear Editor,

The traffic deaths on our Alaskan highways is sobering!

In your editorial published on 6 April you stated that in 1991 half of the 101 people that died on our highways were alcohol-related deaths. This misleading tidbit of information was written to support passage of House Bill 61. A bill that would lower the Blood Alcohol Level, BAC, from the existing 0.10 to 0.08.

Unlike you dear editor I got off my couch and did a little research of my own. Hold on to your seats folks - are you going to be suprised!

I got a copy of the 1991 Alaska Traffic Accidents report from the Department of Transportation-Public Facilities, DOT-PF, located on Peger Road. On page 41 of this report Table C.3.1 blows a large hole in what you claim. This table is titled "Human Factors Contributing to Alaska Traffic Accidents, 1991.

This table shows that in 1991 there were 131 fatalities on our Alaskan highways contributed to human factors. Alcohol-related fatalities total 38. This means that out of the 131 fatalities caused by human factors in 1991, there were 93 people killed by sober drivers!

This figure is no where the "half" you claim. What this table indicates is that your chances of getting killed by a sober driver over a driver who consumes alcohol is around 2.5 to 1. Notice I stated a driver who consumes alcohol instead of the more common mis-used term "drunk" driver. This is because DOT-PF says that alcohol-related accidents are accidents where any level of alcohol is detected or suspected. I point this out because I do not want to accuse responsible people of being drunks just because they consume alcohol and drive.

I also discovered that DOT-PF showed four fatalities attributed to vehicles and four more fatalities attributed to roadways and environment. That brings the total fatalities for 1991 to 139. Now use your couch calculator to find that for every alcohol-related fatality in 1991 there were 3.65 non-alcohol-related fatalities.

Why not round thing off and say that when you get on our Alaskan road system your chances of getting killed by a sober driver in a shoddy vehicle on black ice is four times greater than getting wiped out by a driver who drank one or one hundred glasses of wine! You don't believe me? Get off your couch and start getting the facts.!!

Non-alcohol-related deaths accounted for 72.7% of all fatalities in Alaska in 1991. Non-alcohol-related accidents accounted for 91.2% of all accidents in Alaska in 1991. Hey! Nine out of ten accidents in Alaska are caused by sober people!

So why do we want to direct our attention to lowering the BAC level when we have the numbers to show where the heavier problems are? The BAC level of 0.10 is working. Thanks to Mothers Against Drunk Drivers, M.A.D.D., and their aggressive public awareness programs we, the public, have become more responsible when it comes to drinking and driving.

With the 0.10 BAC on the law books alcohol-related accidents for 1991 were 8.8%. If we want to pass new laws, tougher laws, how about unsafe speed which caused 19.2 % of all accidents. Or driver inattention, 11.5%, failure to yield, 10.9%?

Even the founder of M.A.D.D., Candy Lightner, states that lowering the BAC level to 0.08 will not solve the problem with drinking drivers. Candy wants to concentrate on the repeat offender and the BAC level of 0.15 with stiffer fines and sentencing. She states that lowering the BAC won't make a difference to these offenders and that M.A.D.D. needs to focus on the programs and laws that will make the most difference.

And dear editor don't believe everything you read about how States with existing BAC levels of 0.08 have lowered alcohol-related deaths. In California, the state everybody seems to refer to, you read that their alcohol-related fatalities dropped 12% when they put in the 0.08 BAC level. What you never read in the papers is that the year California made this astonishing report the number of alcohol-related collisions actually remained the same and that the laws requiring motorized seatbelts and airbags effective the same year accounted for the lower fatalities!

How come nobody asks how Washington State is doing? Look into it - you would be suprised.

Then there is the question of that almighty breath-alcohol tester used by all law enforcement agencies to determine your BAC level. This testing device, known as the Dial-a-drunk device in legal circles, is not quite the accurate piece of junk people have become accustomed to.

Since this is the critical device that determines your innocence or guilt the court systems have recognized the need for accuracy. Seems in Nebraska the Supreme Court ruled that all BAC level readings had to be reduced by 52%. The judges ruled that the defendant is entitled to the benefit of any "margin of error" as the breath-tester is the evidence used to make or break the case. Other State courts have allowed a margin of error from 22% on up. Guess what it is for Alaska?

Did you know that hyperventilating before breathing out could reduce alcohol levels by as much as 12% ? Or hcliding your breath prior to exhaling into a breath-alcohol tester could raise your alcohol level by as much as 19% ? If you have ever been picked up for driving under the influence and sat in the back of the patrol car and complained that it was to hot? Increased body temperatures will increase BAC levels.

Knowing all this new information I think it is obvious we should be addressing the real problems on our Alaskan roads. Tougher laws for speed violators and repeat offenders who are "drunk" drivers. Enhance enforcement of all existing traffic laws would probably do what we want, lower our accident and fatality rates.

Remember dear editor, if you want to burn a witch at the stake, don't use wet wood! Are you really for safer roads or do you just want everybody to stop drinking, period!

Sincerely,



Larry J. Hackenmiller

518 Farmers Loop Road
457-1327

Fairbanks, Alaska 99712

How Reliable Is BREATH-ALCOHOL TESTING?

Flaws

Unfortunately, while breath-alcohol analysis might appear to be an ideal means of identifying OUIA drivers, it is flawed. Breath testers, such as the Breathalyzer and the Intoxilyzer, make absolutely no allowance for variations in human physiology and biochemistry. These instruments equalize all subjects tested, which accounts for the flawed nature of breath testing.

Chief among the flaws is the assumption that all subjects tested are characterized by the specific alveolar breath-blood alcohol relationship referred to previously. The reality is that this relationship can vary significantly among individuals and a particular breath test result can be either lower or higher than the actual BAC. This problem prompted the Nebraska Supreme Court in February, 1987, to rule partially in favor of a defendant who was evaluated with the Intoxilyzer and found to have a BAC of 0.164%. Although the Court upheld the defendant's conviction because other evidence strongly supported his OUIA status, it decided that his BAC reading should be reduced by approximately 52%. This margin of error was derived from the testimony of a pharmacologist who served as an expert defense witness in the case. Moreover, the Court cited a 1978 ruling (*State of Nebraska v. Bjornsen*), which held that a defendant is entitled to the benefit of any margin of error associated with the result of a particular test.

Interestingly, Kurt Dubowski of the University of Oklahoma, one of the foremost proponents of breath-alcohol analysis in the U.S., has made a recommendation that supports the decision of the Nebraska Supreme Court. In testimony he gave in evidentiary hearings in the case of *Municipality of Anchorage v. Serrano* (Alaska Court of Appeals, 1982), Dubowski stated that all BAC results from breath analysis ought to be reduced by a safety factor of 0.025%, based on his research data. Although not as substantial a reduction as that adopted by the Nebraska Supreme Court, the Dubowski safety factor would be significant, particularly in borderline cases.

The factor of temperature is also critical in breath testing. An increased body temperature for a particular individual would produce a false high BAC result (and vice versa), since it would cause more alcohol to escape from the blood into the breath.

Additional uncertainty in breath test results stems from variables such as differences in the breathing techniques of subjects, possible trace respiratory gas contamination, and the timing of a breath test. With regard to the first, the Department of Alcohol and Drug Addiction Research of the Karolinska Institute, Stockholm, Sweden, reported in the early 1980's that, if subjects hold their breath prior to exhalation, the level of alcohol in the expired air can increase by as much as 18%. Alternatively, hyperventilating before breathing out could reduce alcohol levels by as much as 12%. In effect, then, breathing technique can account for an over-all variation of 30% in test results.

Breath examinations do not take into account trace gases that are expired by all individuals, whether or not they have consumed alcohol. These are often the products of metabolic processes and are exhaled in minute quantities, although the amounts vary on an individual basis. In the case of Intoxilyzer and Breathalyzer analyses, trace gas contamination can produce a false high BAC reading. The extent of such increases would be expected to be small, but the effect could be critical, especially in a borderline case. One way to deal with this problem could be to give a suspect the option of another test when he would be alcohol-free, to ascertain whether or not trace gases make a natural contribution to the breath test result.

The last of the variables cited, the timing of a breath test, is crucial. For example, when an individual has consumed alcoholic beverages during a meal, the food in his or her stomach will reduce the rate of absorption of alcohol into the bloodstream. Several hours can elapse before complete absorption occurs. If this person is arrested as a suspected OUIA driver after completing that meal, the BAC at the time of arrest can be below the minimum 0.10% limit for a definite OUIA classification. However, by the time this person is tested, often one to two hours after arrest, the BAC very well could exceed 0.10%, and this would be the key piece of chemical evidence used against this defendant in a court of law.

Pertinent to this issue is testimony given in a DWI case by expert defense witness Jay Zimmerman, associate professor of physiology, St. John's University. The defendant had eaten a bacon cheeseburger and french fries nearly one hour before he was involved in an accident that led to his arrest. About two hours later, he underwent two consecutive Breathalyzer tests conducted 10 minutes apart. Zimmerman testified that the high fat content of this food substantially would delay the absorption of alcohol into the bloodstream.

Therefore, he maintained, the two BAC readings, 0.15% and 0.16%, respectively, could not be used to predict conclusively that the defendant's BAC at the time of the accident had been 0.10% or higher. Although the defendant was found guilty, Zimmerman's testimony ultimately had a positive effect, for the conviction was reversed (*People v. Meriz*, State of New York, 1986).

Breath-alcohol testing is obviously an imperfect approach to identifying intoxicated drivers. This point was made quite effectively by attorney Stephen Scaring, who successfully defended former New York Knicks basketball star Dave DeBusschere in a DWI case. DeBusschere was arrested in Long Island's Nassau County in July, 1986, and voluntarily took a Breathalyzer test that registered a BAC of 0.16%. During the subsequent trial, Scaring argued that the Breathalyzer used to evaluate his client was "antiquated, unreliable and capable of being calibrated incorrectly," and he scornfully termed the instrument "Dial-a-Drunk." After a not guilty verdict was returned on Nov. 26, 1986, Nassau County District Court Judge Harold Fertig, who presided over the trial, concluded that the jury had ignored the Breathalyzer evidence.

Noted Miami attorney Richard Essen and his staff handle about 1,000 DWI cases annually. He also has attacked the reliability of the breath test, telling the New York *Daily News* (Oct. 19, 1986), "If you have chewing gum in your mouth . . . it can cause an inaccurate reading." Essen has been remarkably successful in defending his clients.

The stand taken by Scaring, Essen, and numerous other attorneys recently was reinforced by a researcher in *Clinical Chemistry*, whose critical commentary is noteworthy:

In general, manufacturers' specifications for the accuracy and precision of scientific instruments are conservative, for obvious reasons, but it is especially important that they be conservative when the measurements are used as evidence in a legal proceeding. There now are abundant experimental results that show that the manufacturers' specifications for accuracy and precision of their breath analyzers are far too optimistic. . . . Manufacturers of quantitative evidential breath-alcohol analyzers need to use explicit, unambiguous specifications for accuracy and precision that are consistent with results of research published in the scientific literature. Subjects should be informed that breath-analyzer results can be less accurate than direct BAC measurements, and a direct blood test should be advised when the breath result is at or near statutory limits. The practice of reporting an appropriate amount of uncertainty along with breath test results should also be adopted.

This view is, in effect, a plea for fair play among all parties involved in DWI cases. If these recommendations are implemented and strictly adhered to, justice will be served better.



MADD

Mothers Against Drunk Driving

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NATIONAL OFFICE

RESPONSES TO EDITORIAL COMMENTS FROM CANDY LIGHTNER

MADD is disappointed that Candy Lightner, in her new role as lobbyist for the American Beverage Institute, has chosen the opposite side of the issue on lowering the BAC to .08. MADD's position on this issue is well-founded and MADD is confident that adoption of this measure will help save lives.

Candy Lightner has not been involved with MADD since 1985 and is not a spokesperson for MADD.

MADD did not simply pull the .08 BAC illegal limit out of the air. The decision of the Board of Directors of MADD to advocate .08 as the illegal per se level for drivers over the age of 21 was based on research and studies and the impact of lowering the BAC in reducing alcohol related fatalities.

The evidence is uncontroverted that even experienced drivers' driving skills are impaired at .08 and this would set the level at which the driving skills are proven to be compromised for the vast majority of drivers. (NHTSA)

Research indicates that the risk of crash involvement is 3 times higher for drivers with a BAC level of .08 than it is with a zero BAC and the relative fatality risk for drivers in single vehicle crashes with BACs between .05 and .09 is 11 times greater than for drivers with a zero BAC.

A BAC level of .08 means about four drinks within one hour on an empty stomach for an average male weighing 160 pounds. Unlike Ms. Lightner, MADD does not consider this level of consumption to be "social drinking".

Lowering the BAC level to .08 does not mean that the average individual will be prohibited from stopping and having a drink on the way home from work. However, there is no minimum acceptable safe level and it has been MADD's position since the organization was founded that individuals simply should not drink and drive.

MADD agrees with Ms. Lightner that the high BAC driver and the chronic alcohol abuser represents a dangerous threat to society and that the majority of alcohol related crashes involve offenders with BACs exceeding .08. However, these heavy drinking drivers are not

the only problem and this does not mean that we can ignore the thousands of victims who are killed or injured by offenders with a BAC lower than the average and in the .08 or below range. It is no consolation to the family of a victim who was killed or injured, that the offender's BAC level was "only" .08 rather than .15.

Ms. Lightner has stated that most of the drivers who are involved in fatal crashes have a high BAC and are repeat offenders. While the majority of these drivers do have a high BAC level, 85% of them have no prior DUI conviction and are not repeat offenders. If we removed every repeat DUI offender from the road today, we would have no impact on 85% of all the highway crashes that are alcohol related.

MADD's approach to stopping impaired driving is to address the problem across the board. We must impact the potential offender, the first offender and the repeat offender. We must look for solutions to deal with the high BAC driver and the lower BAC driver. .08 BAC is just one of the tools that must be used in the war against drunk driving. We cannot exclude any measure that has life saving potential.

There is no simple solution nor single cure-all to stop impaired driving. MADD recognizes that we must continue to examine and advocate for stronger measures to impact the high-BAC driver; we would hope that our lawmakers and the public would recognize the equally important need to address the problem of impaired drivers at all BAC levels. The lives and welfare of the citizens of this country cannot be sacrificed for the profit derived from the sale of one less or one more drink.

Ms. Lightner's decision to become a paid lobbyist for the American Beverage Institute is a personal decision she has made at this point in her life and should not be used to cloud the issues surrounding the efforts of MADD and other highway safety advocates to stop impaired driving and save lives.

1992

Traffic Deaths — ALASKA

SUMMARY - 1992 ALASKA TRAFFIC DEATHS

31 December 1993

Factors Contributing To Alaska Traffic Accident Deaths - 1992

FACTOR	DEATHS	PER CENT
Alcohol	46	30.5 %
Unsafe Speed	34	22.5 %
Human Factors, Other	17	11.3 %
Roadway & Environment	15	9.9 %
Driver Inattention	12	8.0 %
Failure To Yield	7	4.6 %
Passenger; Wrong Lane Use	5	3.3 %
Pedestrian Error	5	3.3 %
Traffic Control Ignored	5	3.3 %
Vehicular	5	3.3 %
	151	100 %

SOURCE: Alaska Department Of Transportation And Public Facilities,
DOT-PF, "1992 Alaska Traffic Accidents"

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Table C.5.1. Page 48 - See reverse side this document

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1992

ALASKA TRAFFIC ACCIDENTS

SUMMARY - 1992 ALASKA TRAFFIC ACCIDENTS

31 December 1993

NUMBER OF OCCURRENCES - Alaska Traffic Accidents by Frequency
and Factor Type

CONTRIBUTING FACTOR	NUMBER OF OCCURRENCES	PER CENT
Unsafe Speed	3,156	18.6 %
Roadway & Environment	2,990	17.6 %
Human Factors - Other	2,976	17.5 %
Failure to Yield	2,014	12.0 %
Driver Inattention	1,823	10.7 %
Alcohol	1,583	9.3 %
Passing; Wrong Lane Use	767	4.5 %
Improper Turning	668	4.0 %
Following Too Closely	630	3.7 %
Vehicular	362	2.1 %
	16,969	100 %

SOURCE: Alaska Department of Transportation And Public Facilities,
DOT-PF, "1991 Alaska Traffic Accidents"

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D

1992 ALASKA TRAFFIC ACCIDENTS

Table C.4.1
Human Factors Contributing to Alaska Traffic Accidents
by Accident Injury Severity, 1992

CONTRIBUTING FACTOR	NUMBER OF OCCURRENCES				TOTAL
	Property Damage Only	Minor Injury	Major Injury	Fatal	
Alcohol, test given.....	396	288	77	36	797
Alcohol, no test given ..	114	81	23	4	222
Alcohol suspected	375	155	28	6	564
Illegal drugs	9	5	5	1	20
Prescription medication ..	3	2	1	.	6
Lost consciousness.....	10	11	1	.	22
Fell asleep	46	47	14	4	111
Driver inattention	1,193	571	47	12	1,823
Passenger distraction ..	29	22	3	.	54
Physical disability	7	5	2	.	14
Illness	9	4	2	.	15
Driver inexperience	259	111	18	4	392
Unsafe backing	474	24	2	.	500
Failure to yield	1,384	571	52	7	2,014
Following too closely ..	423	200	5	2	630
Passing; wrong lane use ..	617	119	26	5	767
Pedestrian error	28	59	19	5	111
Traffic control ignored ..	361	235	20	5	621
Improper turning	543	108	16	1	668
Unsafe speed	2,174	350	98	34	3,156
Other human factor	826	256	23	5	1,110
ALL HUMAN FACTORS	9,280	3,724	482	131	13,617

Table C.5.1
Vehicular Factors Contributing to Alaska Traffic Accidents,
by Accident Injury Severity, 1992

CONTRIBUTING FACTOR	NUMBER OF OCCURRENCES				TOTAL
	Property Damage Only	Minor Injury	Major Injury	Fatal	
Defective accelerator ..	11	3	1	.	15
Defective brakes	59	29	1	2	91
Tire failure; inadequacy ..	34	23	2	1	60
Steering failure	9	6	.	1	16
Windshield inadequacy ..	6	.	.	.	6
Defective headlights ..	3	6	1	.	10
Other lighting defect ..	24	7	2	.	33
Oversized vehicle	10	3	.	1	14
Defective tow hitch	13	.	.	.	13
Other vehicular factor ..	67	32	5	.	104
ALL VEHICULAR FACTORS ..	236	109	12	5	362

Table C.7.1
Factors Contributing to Alaska Traffic Accidents,
by Accident Injury Severity and Factor Type, 1992

FACTOR TYPE	NUMBER OF OCCURRENCES				TOTAL
	Property Damage Only	Minor Injury	Major Injury	Fatal	
Human	9,280	3,724	482	131	13,617
Roadway	1,589	508	32	8	2,137
Environmental	610	214	22	7	853
Vehicular	736	109	12	5	862
ALL FACTOR TYPES	11,715	4,555	548	151	16,969

1991 Traffic Deaths — ALASKA

SUMMARY - 1991 ALASKA TRAFFIC DEATHS

1 October 1992

FACTORS Contributing To Alaska Traffic Accident Deaths - 1991

FACTOR	DEATHS	PER CENT
Alcohol	38	27.3%
Unsafe Speed	26	18.7%
Other Human Factors	16	11.5%
Driver Inattention	15	10.8%
Passing; Wrong Lane Use	11	7.9%
Pedestrian Error	9	6.5%
Failure to Yield	8	5.8%
Traffic Control Ignored	8	5.8%
Roadways & Environmental	4	2.8%
Vehicle	4	2.9%
	139	100 %

SOURCE: Alaska Department of Transportation And Public Facilities,
DOT-PF, "1991 Alaska Traffic Accidents"

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1991 ALASKA TRAFFIC ACCIDENTS

SUMMARY - 1991 ALASKA TRAFFIC ACCIDENTS

1 October 1992

NUMBER OF OCCURRENCES - Alaska Traffic Accidents by Frequency and Factor Type

CONTRIBUTING FACTOR	NUMBER OF OCCURRENCES	PER CENT
Unsafe Speed	3,506	19.2%
Roadways & Environmental	3,368	18.5%
Human Factors - not listed	3,002	16.4%
Driver Inattention	2,097	11.5%
Failure to Yield	1,992	10.9%
Alcohol	1,501	8.8%
Passing Wrong Lane	820	4.5%
Improper Turning	695	3.8%
Following To Closely	687	3.8%
Vehicle	473	2.6%
	18,241	100 %

SOURCE: Alaska Department of Transportation And Public Facilities, DOT-PF, "1991 Alaska Traffic Accidents"

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B

1991 ALASKA TRAFFIC ACCIDENTS

Table C.3.1
Human Factors Contributing to Alaska Traffic Accidents by Accident Injury Severity, 1991

CONTRIBUTING FACTOR	NUMBER OF OCCURRENCES				TOTAL
	Property Damage Only	Minor Injury	Major Injury	Fatal	
Alcohol, test given....	450	273	71	30	814
Alcohol, no test given ..	112	72	29	2	215
Alcohol suspected	377	167	72	6	572
Illegal drugs	9	3	2	1	17
Prescription medication ..	4	3	2	2	11
Lost consciousness	12	8	3	.	23
Fall asleep	53	53	10	2	118
Driver inattention	1,404	618	60	15	2,097
Passenger distraction	40	26	4	.	70
Physical disability	16	2	1	.	19
Illness	11	10	3	.	24
Driver inexperience	260	136	18	1	415
Unsafe backing	420	21	5	.	446
Failure to yield	1,354	581	49	8	1,992
Following too closely	500	179	7	1	687
Passing, wrong lane use	649	136	24	11	820
Pedestrian error	37	31	17	2	94
Traffic control ignored	386	231	28	9	654
Improper turning	548	127	16	4	695
Unsafe speed	2,436	916	128	26	3,506
Other human factor	812	261	34	5	1,112
ALL HUMAN FACTORS	9,880	3,856	533	132	14,400

118
1601

Table C.4.1
Vehicular Factors Contributing to Alaska Traffic Accidents, by Accident Injury Severity, 1991

CONTRIBUTING FACTOR	NUMBER OF OCCURRENCES				TOTAL
	Property Damage Only	Minor Injury	Major Injury	Fatal	
Defective accelerator ..	10	3	1	.	14
Defective brakes	71	27	7	2	107
Tire failure, inadequacy ..	43	17	4	.	70
Steering failure	16	9	1	.	26
Windshield inadequacy ..	2	1	.	.	3
Defective headlights	3	5	.	1	10
Other lighting defect	33	11	2	.	46
Oversized vehicle	19	3	.	.	22
Defective tow hitch	11	1	1	.	13
Other vehicular factor ..	118	40	3	1	162
ALL VEHICULAR FACTORS ..	332	118	19	4	473

Table C.5.1
Environmental and Roadway Factors Contributing to Alaska Traffic Accidents, by Accident Injury Severity and Factor, 1991

CONTRIBUTING FACTOR	NUMBER OF OCCURRENCES				TOTAL
	Property Damage Only	Minor Injury	Major Injury	Fatal	
Animal action	299	78	12	.	389
Clare	16	24	4	.	64
View obstructed; limited ..	213	107	18	1	339
Other envir. factor	109	24	3	1	137
Bad lane marking	35	11	.	.	46
Construction debris	10	4	.	.	14
Pavement deteriorated ..	23	7	.	.	30
Pavement slippery	1,611	503	32	2	2,150
Inadequate shoulders	28	4	3	.	35
Sign missing or occluded ..	3	3	.	.	6
Signal inoperative	3	2	.	.	7
Other roadway factor	120	34	2	.	156
ALL ENVIR. AND ROADWAY ..	2,492	798	74	4	3,368

ALCOHOL-RELATED CRASHES - 1976 thru 1992

Year	FATAL CRASHES				DEATHS				NON-FATAL INJURY CRASHES			
	Total Crashes	Alcohol Related	< Diff >	% Alcohol Related	Total Deaths	Alcohol Related	< Diff >	% Alcohol Related	Total Crashes	Alcohol Related	< Diff >	% Alcohol Related
1976	111	67	41	60.4%	124	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1977	130	64	66	49.2%	136	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1978	112	59	53	52.7%	127	59	68	46.5%	3,263	651	2,612	20.0%
1979	81	45	36	55.6%	91	69	22	75.8%	3,161	663	2,498	21.0%
1980	79	43	36	54.4%	88	64	24	72.7%	3,348	707	2,641	21.1%
1981	90	50	40	55.6%	100	76	24	76.0%	3,852	899	2,953	23.3%
1982	98	54	44	55.1%	107	54	53	50.5%	4,104	897	3,207	21.9%
1983	135	53	82	39.3%	150	64	86	42.7%	4,476	959	3,517	21.4%
1984	123	61	62	49.6%	137	70	67	51.1%	4,743	956	3,787	20.2%
1985	107	58	49	54.2%	127	69	58	54.3%	4,170	779	3,391	18.7%
1986	89	46	43	51.7%	101	50	51	49.5%	3,620	656	2,964	18.1%
1987	70	40	30	57.1%	76	44	32	57.9%	3,318	676	2,642	20.4%
1988	86	43	43	50.0%	97	48	49	49.5%	3,500	634	2,866	18.1%
1989	79	44	35	55.7%	84	46	38	54.8%	3,622	652	2,970	18.0%
1990	92	47	45	51.1%	98	48	50	49.0%	3,775	674	3,101	17.9%
1991	90	45	45	50.0%	101	50	51	49.5%	3,890	678	3,212	17.4%
1992	89	50	39	56.2%	108	61	47	56.5%	3,786	665	3,121	17.6%
Total	1,420	738	682	52.0%	1,592	872	720	54.8%	56,628	11,146	45,482	19.7%

N/A - not available

NOTE: Alcohol injury data from 1978 to 1984 was extrapolated from the hard copy of line charts found in previous HSPs. No supporting data can be found in DOT's accident summaries until 1986.

ALCOHOL-RELATED CRASHES - 1976 thru 1992

Year	NON-FATAL INJURIES				PROPERTY DAMAGE CRASHES				ALL TRAFFIC CRASHES			
	Total Injuries	Alcohol Related	< Diff >	% Alcohol Related	Total Crashes	Alcohol Related	< Diff >	% Alcohol Related	Total Crashes	Alcohol Related	< Diff >	% Alcohol Related
1976	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1977	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1978	4,695	986	3,709	21.0%	9,537	909	8,628	9.5%	12,912	1,619	11,293	12.5%
1979	4,560	994	3,566	21.8%	10,277	929	9,348	9.0%	13,519	1,637	11,882	12.1%
1980	4,992	1093	3,899	21.9%	9,735	1,043	8,692	10.7%	13,162	1,793	11,369	13.6%
1981	5,783	1394	4,389	24.1%	10,158	1,156	9,002	11.4%	14,100	2,105	11,995	14.9%
1982	6,047	1367	4,680	22.6%	12,541	1,241	11,300	9.9%	16,743	2,192	14,551	13.1%
1983	6,705	1468	5,237	21.9%	13,509	1,275	12,234	9.4%	18,120	2,287	15,833	12.6%
1984	6,852	1062	5,790	15.5%	14,499	1,338	13,161	9.2%	19,365	2,355	17,010	12.2%
1985	6,038	908	5,130	15.0%	13,423	1,052	12,371	7.8%	17,700	1,889	15,811	10.7%
1986	5,424	741	4,683	13.7%	11,149	790	10,359	7.1%	14,858	1,492	13,366	10.0%
1987	4,984	799	4,185	16.0%	9,902	733	9,169	7.4%	13,290	1,449	11,841	10.9%
1988	5,215	702	4,513	13.5%	9,714	724	8,990	7.5%	13,300	1,401	11,899	10.5%
1989	5,550	752	4,798	13.5%	10,663	790	9,873	7.4%	14,364	1,486	12,878	10.3%
1990	5,859	792	5,067	13.5%	12,423	917	11,506	7.4%	16,290	1,638	14,652	10.1%
1991	5,669	743	4,926	13.1%	11,910	1,013	10,897	8.5%	15,890	1,736	14,154	10.9%
1992	5,561	661	4,900	11.9%	11,726	923	10,803	7.9%	15,601	1,638	13,963	10.5%
Total	83,934	14,462	69,472	17.2%	171,166	14,833	156,333	8.7%	229,214	26,717	202,497	11.7%



U.S. Department
of Transportation
National Highway
Traffic Safety
Administration

Post-It[®] brand[™] transmittal memo 7671 # of pages 1/18

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Alcohol-Related Deaths Three-Year Averages

State	Before .08	After .08	Difference
California	2,591 (87-89)	2,215 (90-91)*	376 less fatalities/yr. A 14.5% decrease
Utah	138 (80-82)	114 (84-86)	24 less fatalities/yr. A 17.4% decrease
Oregon	316 (80-82)	270 (84-86)	46 less fatalities/yr. A 14.5% decrease
Maine	111 (85-87)	70 (89-91)	41 less fatalities/yr. A 37% decrease
Total 4 States	3,156	2,669	487 less fatalities/yr A 15.4% decrease

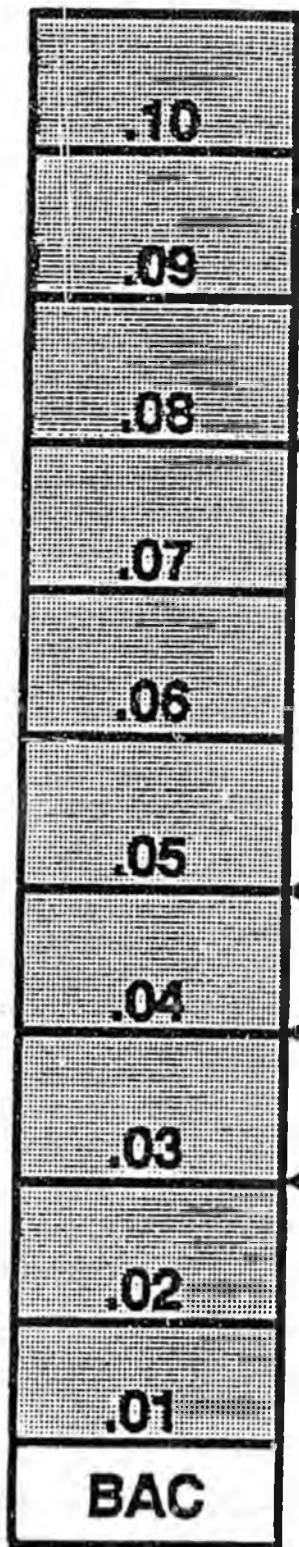
* California fatalities are 2-year average of 1990-1991; 1992 data not complete as of 3/93.

Drunk Driving Arrests Three-Year Averages

State	Before .08	After .08	Difference
California (CHP only)	135,260 (87-89)	140,715 (90-92)	+5,455 arrests/yr. A 4% increase.
Utah	9,400 (80-82)	13,700 (84-86)	+4,300 arrests/yr. A 45% increase.
Oregon	29,369 (80-82)	24,743 (84-86)	-4,626 arrests/yr. A 16% decrease.
Maine	9,693 (85-87)	11,827 (89-91)	+2,134 arrests/yr. A 22% increase.
Total 4 States	183,722	190,985	+7,263 arrests/yr. A 3.9% increase.



AUTO SAFETY HOTLINE
(800) 424-6303
Wash. D.C. Area 305-0123



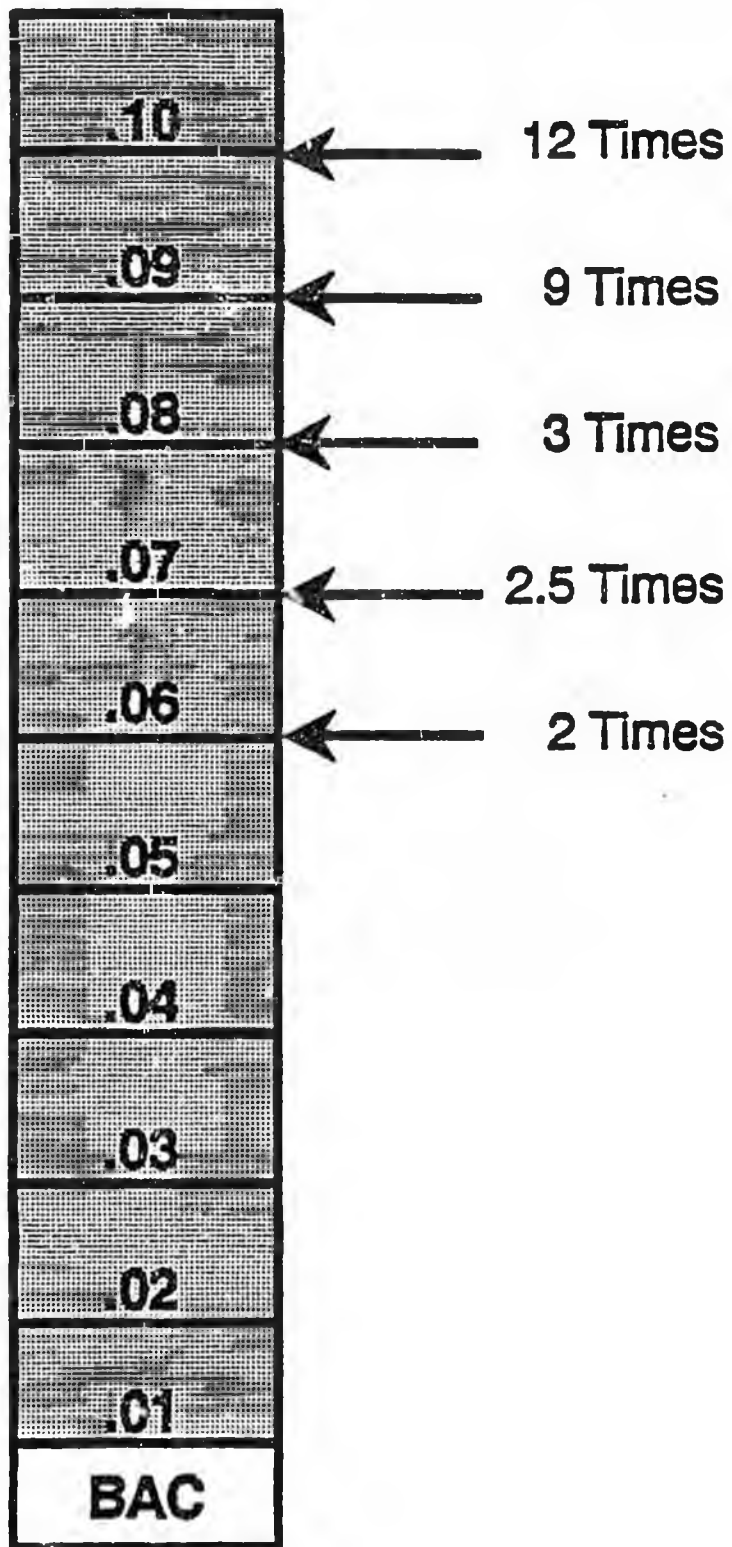
Concentrated Attention, Speed Control, Braking, Steering, Gear Changing, Lane Tracking, Judgment

Tracking, Divided Attention, Coordination, Comprehension, Eye Movement

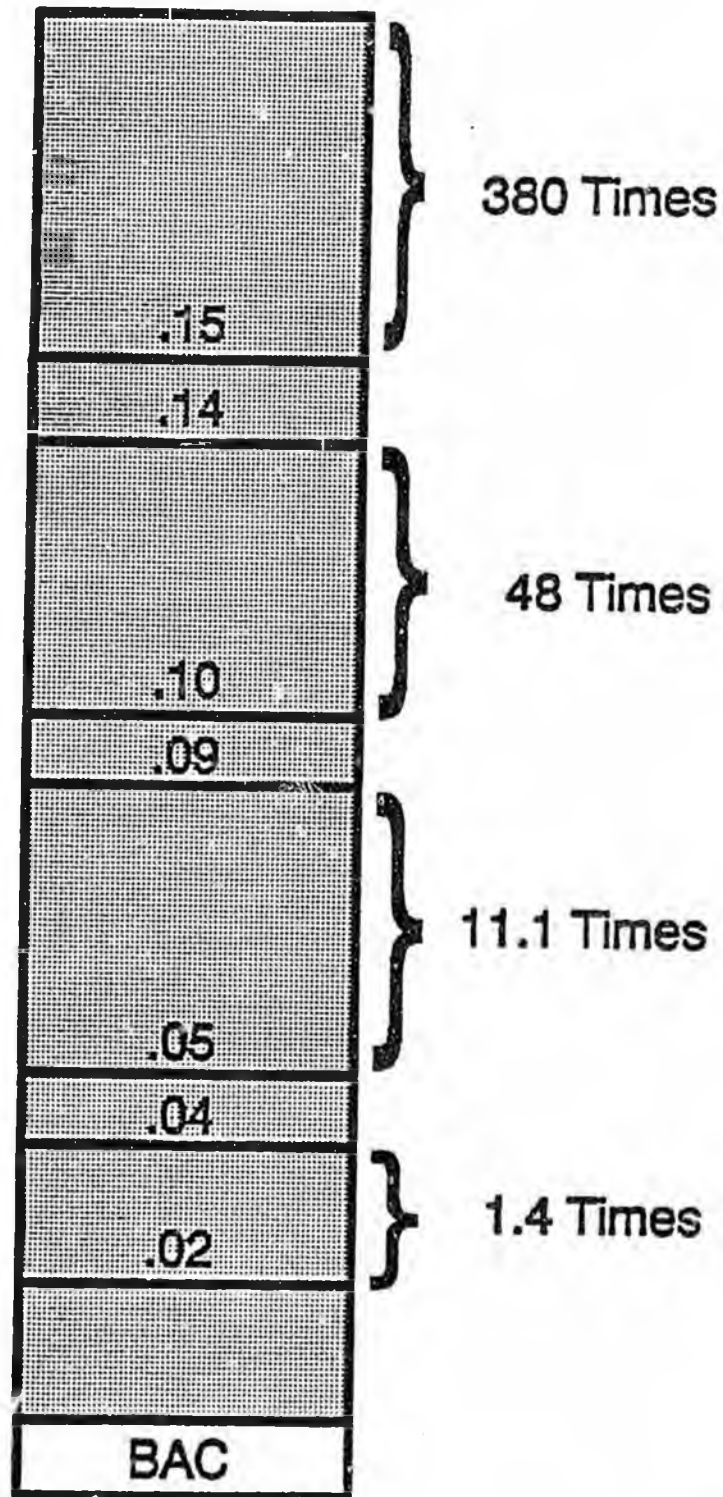
Simple Reaction Time, Emergency Response

Choice Reaction Time

BAC and Impairment



BAC and Crash Risk



**Relative Fatality Risk for Drivers in
Single Vehicle Crashes by BAC
(Zador, IIHS, 1991)**

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ANCHORAGE, ALASKA 99503-3957
561-7007

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Alaska State Legislature
House of Representatives



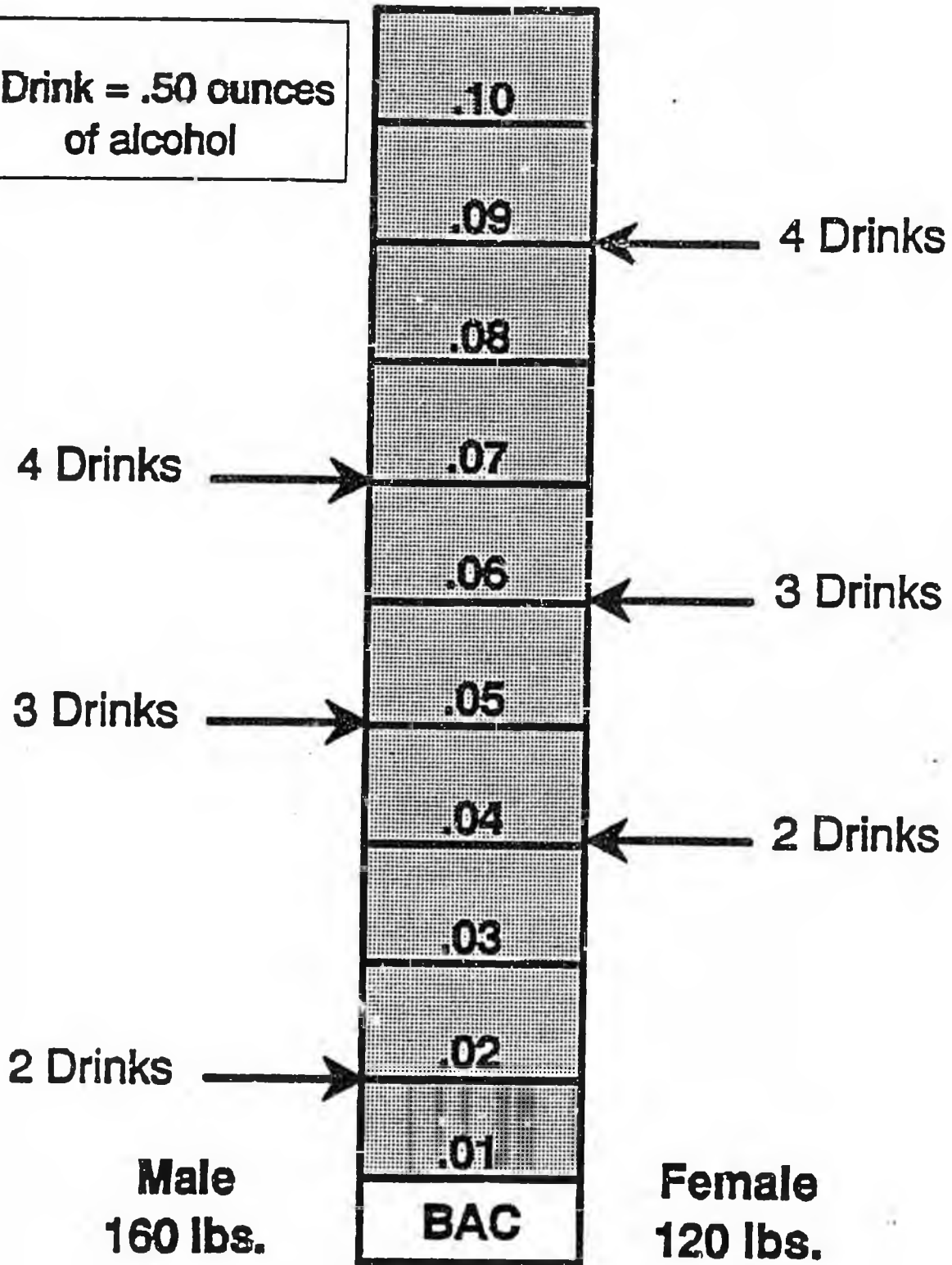
DISTRICT 14:
SAND LAKE
SPENARD
TAKU-CAMPBELL

Representative Jim Nordlund

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

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

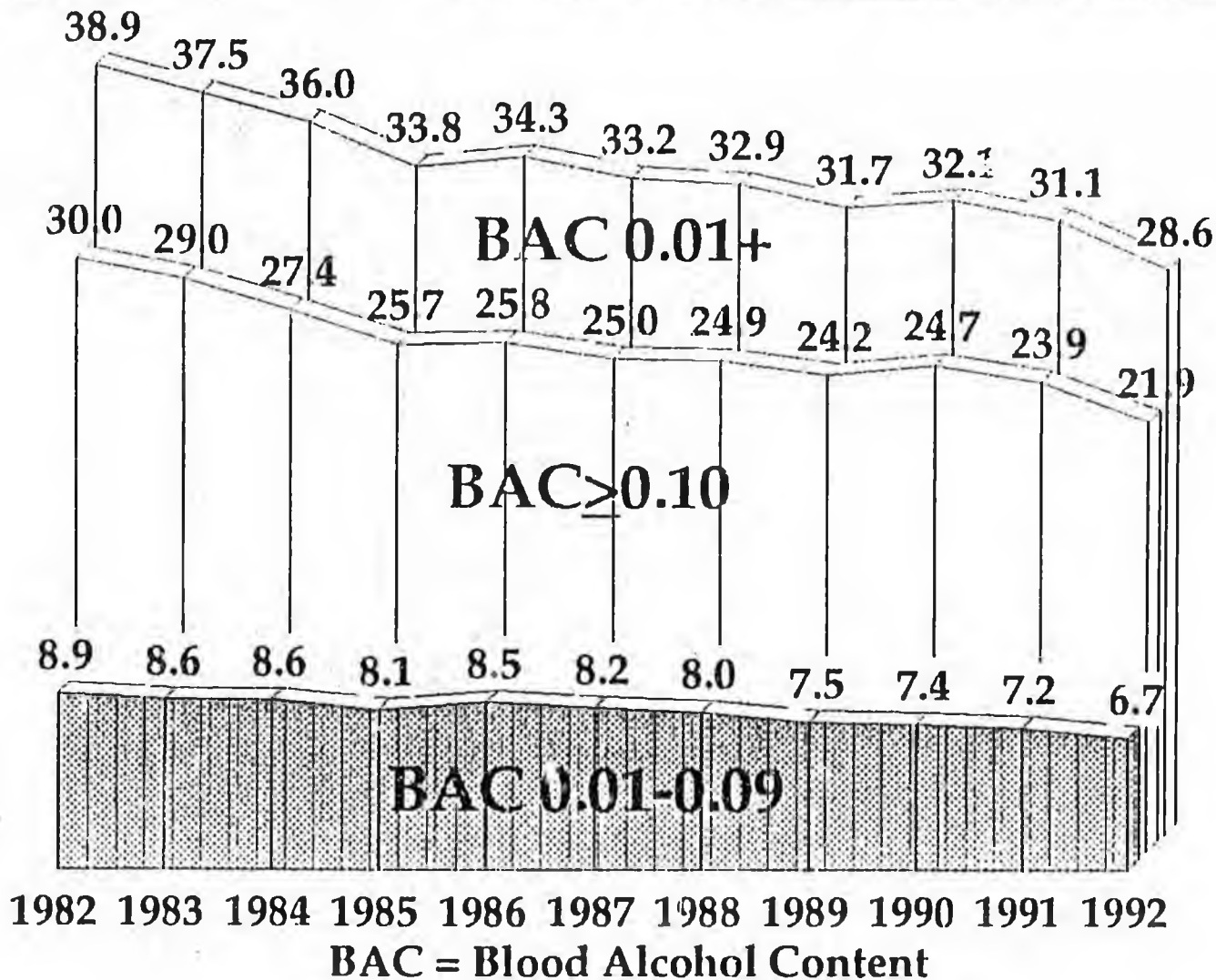
1 Drink = .50 ounces
of alcohol



Number of Drinks and BAC In One Hour of Drinking

Estimated Proportion of Drivers Involved in All Crashes with Effective Blood Alcohol Concentration

Percentage of Drivers



Effectiveness of .08 Per Se

- **NHTSA Evaluated Effects of .08 in California**
- **Results:**
 - **81% knew BAC limit was stricter**
 - **Increase in DUI arrests**
 - **12% reduction in A/R fatalities**
 - **Some of effects due to ALR**

.08 Per Se

Will .08 be cost effective?

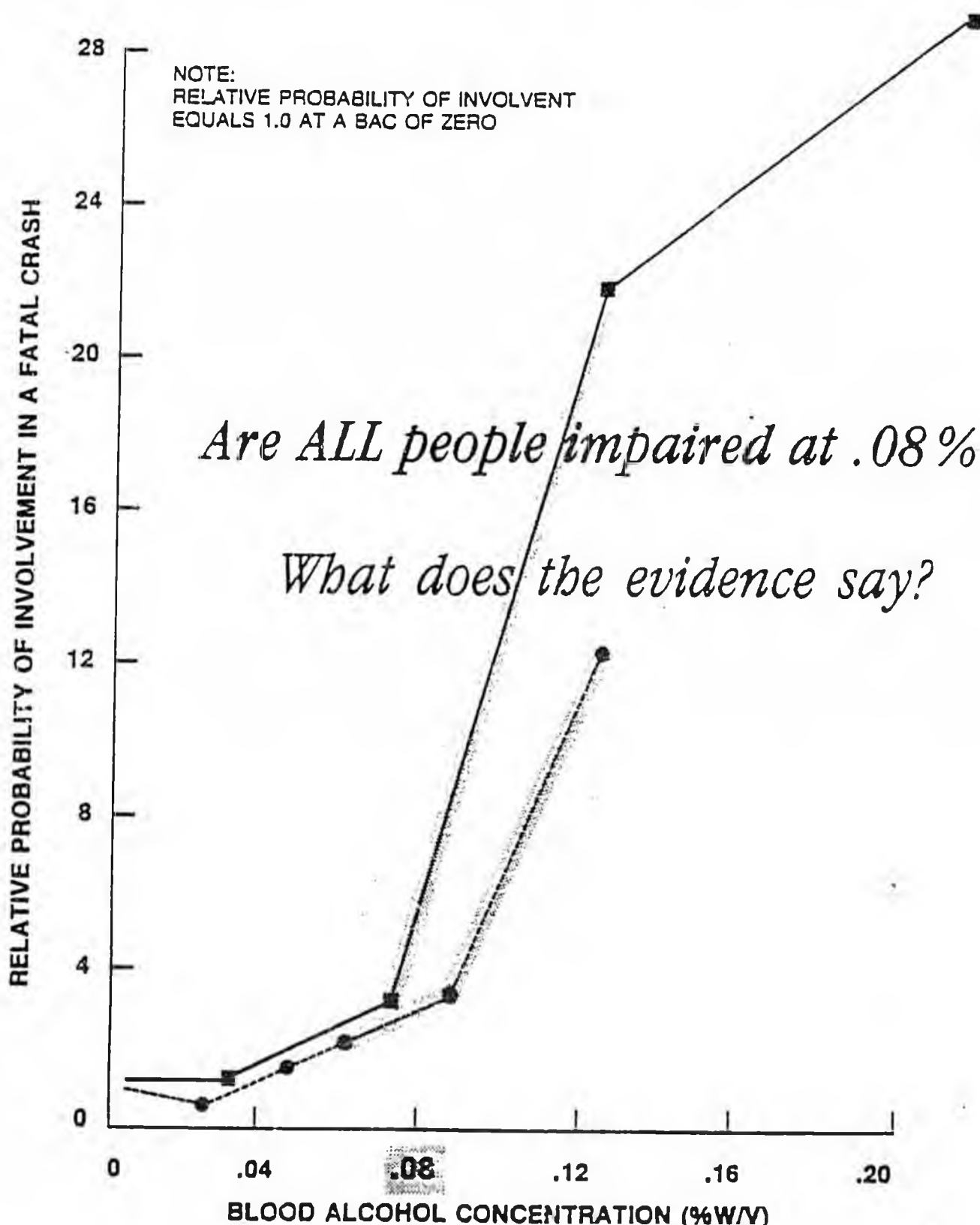
The costs associated with the increased DWI arrests that will occur will be more than offset by **lives saved** due to reductions in alcohol-related fatalities. Eventually, reductions in drinking and driving should also occur and arrests will go back down.

BAC Limits in Other Countries

<u>Country</u>	<u>Illegal Per Se</u>
Canada	.08
Great Britain	.08
Australia	.05 - .08
Austria	.08
Switzerland	.08
Netherlands	.05
Norway	.05
Finland	.05
Sweden	.02

Relative Probability of Involvement in Fatal Crashes for Drivers with BACs at Given Levels

RL



● GRAND RAPIDS, MICHIGAN, 300 FATAL OR SERIOUS CRASHES (Hurst 1974) ■ VERMONT, 108 FATAL CRASHES (Hurst 1974)

COMPLIMENTS OF
SENATOR BILL LEONARD

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8507

SENATE TRANSPORTATION

LOWERING BLOOD ALCOHOL LEVELS

By Jeanne Mejeur

Drunk driving still kills.

Alcohol is a major factor in highway fatalities. It is involved in 48 percent of all fatal accidents, according to the Fatal Accident Reporting System (FARS) of the National Highway Traffic Safety Administration. That is a decrease from 57 percent in 1982, but alcohol still accounts for 51 percent of weekend fatalities and 57 percent of nighttime crashes; for accidents occurring during the nighttime on weekends, the figure jumps to an alarming 63 percent.

Illegal per se laws create an irrefutable presumption of drunkenness.

In an effort to reduce drunk driving, nearly every state has established a threshold to determine when a person is legally intoxicated while driving a motor vehicle, through the use of illegal per se (Latin, meaning by itself) laws. These laws make it a crime to operate a vehicle with a blood alcohol content (BAC) above the statutorily established level. Simply put, if a driver is caught with a BAC level above the legal limit, there is an irrefutable presumption that he or she is drunk.

Most states established BAC levels of .10.

BAC measures the ratio of grams of alcohol in blood, breath or urine. When states began enacting illegal per se laws in the early 1980s, most set the BAC level at .10. Over the last several years however, a number of states have reconsidered the effectiveness of the .10 standard in reducing drunk driving, and some have lowered the level for legal intoxication to .08.

Many people exhibit at least some effects of alcohol with a BAC level as low as .04 and everyone is impaired to some extent at a .08 level in motor skills, ability to concentrate, reaction time, vision and judgment. The National Safety Council estimates that a BAC level of .08 is reached by consuming two to four alcoholic beverages.

State Action

Ten states now have .08 levels.

During the 1993 legislative session, **FLORIDA, KANSAS, NEW HAMPSHIRE, NEW MEXICO and NORTH CAROLINA** changed their laws to reduce the illegal per se level to .08, joining **CALIFORNIA, MAINE, OREGON, UTAH and VERMONT** that had already done so.

The effectiveness of the .08 standard is not easily determined because it is only one of a variety of strategies used by states to curb drunk driving and it is not without controversy. In fatal accidents involving alcohol, only 5 percent of drivers had a level of .08 to .099 while 83 percent had levels of .10 or higher (12 percent were under .08), according to FARS. Activists are divided on whether lowering the level is addressing the real problem.

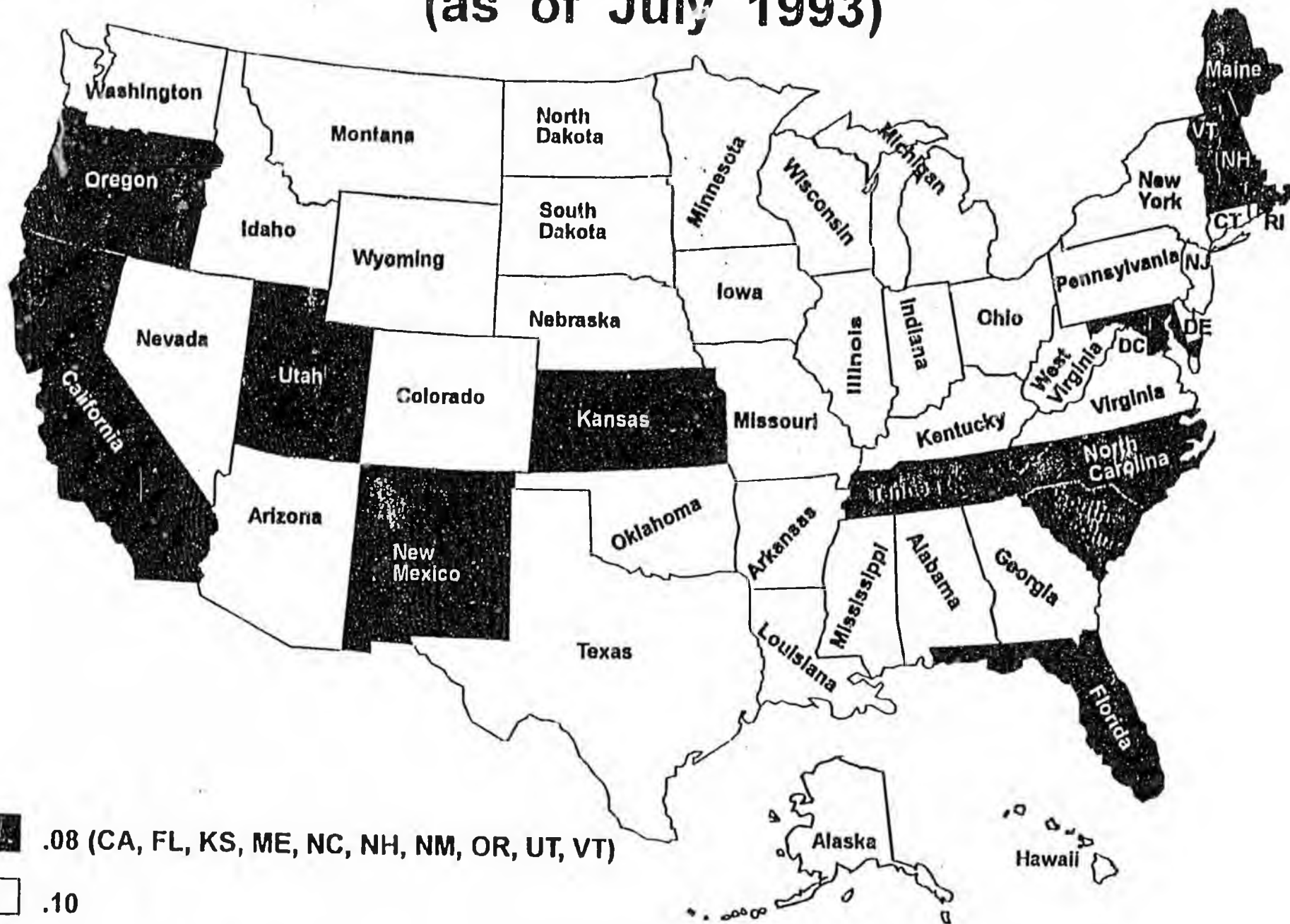
Lowering the legal level for intoxication does permit law enforcement officers to make more arrests and get more drunk drivers off the streets. It increases public awareness of strict drunk driving enforcement and suggests to people who may be tempted to drive after having consumed alcohol that they are more likely to be stopped for drunk driving.




Lower BAC levels may increase costs.

States that enact a lower BAC level as part of their illegal per se law can anticipate increases in the workload of law enforcement agencies, the criminal justice system and state and local corrections, and must consider the additional resources that will be needed to enforce the lower level.

Some states are establishing even lower BAC levels for young drivers, who are considered a high-risk population for drinking and driving. Despite not being legally able to purchase alcohol until age 21, 44 percent of fatally injured drivers aged 15-20 had positive BAC levels, according to FARS. A

States with BAC Per Se Laws (as of July 1993)



-  .08 (CA, FL, KS, ME, NC, NH, NM, OR, UT, VT)
-  .10
-  No Per Se Law (MA, MD, SC, TN)

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258-8191

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465-4968

Alaska State Legislature
House of Representatives



DISTRICT 11:
SAND LAKE
SPENARD
TAKU-CAMPBELL

Representative Jim Nordlund

SECTIONAL ANALYSIS
CSHB 61(FIN)am

Section 1. Findings and purpose.

Section 2. Clarifies when a person is intoxicated for purposes of the crime of operating a commercial motor vehicle while intoxicated.

Section 3. Clarifies when a person is intoxicated for purposes of the crime of operating or driving a motor vehicle or operating an aircraft or watercraft while intoxicated. Also changes the legal level of intoxication from .10BAC to .08BAC.

Section 4. Changes the applicable level of intoxication for the purposes of presumptions in criminal and civil proceedings to conform to the new standard.

Section 5. Removes .08 as the standard of liability for alcohol servers.

Section 6. Effective date of September 1, 1994.

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258-8191

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

Alaska State Legislature
House of Representatives



DISTRICT 11:
SAND LAKE
SPENARD
TAKU-CAMPBELL

Representative Jim Nordlund

SPONSOR STATEMENT

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

Last year, as we continued to consider this bill, 5 more states passed .08 laws bringing the total to 10. All of Canada has a .08% blood alcohol threshold, and all European nations prohibit driving with a .08% or lower blood alcohol level.

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

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

According to the Department of Public Safety, Alaska receives approximately \$200,000 in section 410 Grants of Alcohol Incentive Program from the federal government. Alaska will be eligible for a 5% increase if House Bill 61 passes. If we fail to reduce the level from .10 to .08 within the next two years, we will become ineligible to receive any of these funds.

Far more important than the fiscal impact of this law is its ability to save lives. A study by the state of California showed that traffic fatalities were reduced by 12% after the implementation of .08 DWI laws.

On December 30, 1993, the Supreme Court ruled in Haynes v. Dept. of Public Safety that due to the margin of error inherent to the Intoximeter 3000 of .01, the actual level at which an operator of a motor vehicle should be convicted of drunk driving is .11. This shows an even stronger need for .08 legislation.

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

American Automobile Association
General Federation of Women's Clubs
Association for the Advancement of Automotive Medicine
International Association of Chiefs of Police
National Association of Independent Insurers
National Institute for Alcohol Abuse and Alcoholism
National Transportation Safety Board
National Highway Traffic Safety Administration
Allstate Insurance Company
State Farm Insurance
American Medical Association
American Association of Neurological Surgeons
American Spinal Injury Association
National Safety Council
Mothers Against Drunk Driving (MADD)
Remove Intoxicated Drivers (RID)
Insurance Institute for Highway Safety
National Committee on Uniform Traffic Laws and Ordinances
National Commission Against Drunk Driving
Network of Employees for Traffic Safety
U.S. Surgeon General, Health & Human Services
Alaska Peace Officer's Association
Victims for Justice

DWI REVOCATION STATISTICS

Year 1992

LOCATION	POLICE DEPARTMENTS		TROOPERS		TOTAL
	Refusals	Took Test	Refusals	Took Test	
Anchorage	246	1,343	37	276	1,902
Fairbanks	62	219	60	329	670
Juneau	35	217	0	16	268
Soldotna	18	69	34	87	208
Ketchikan	35	139	17	106	297
Homer	17	61	6	57	141
Sitka	22	131	0	1	154
Palmer	9	35	85	493	622
Kenai	22	100	0	0	122
Cordova	3	22	0	4	29
Valdez	11	53	0	1	65
Kodiak	13	98	4	18	133
Seward	20	77	0	13	110
Nome	7	20	0	0	27
North Pole	6	55	0	0	61
Haines	3	15	0	0	18
Barrow	36	84	0	0	120
Craig	9	45	0	1	55
Wrangell	8	19	0	0	27
Petersburg	7	17	0	0	24
Military	2	16	0	0	18
Bethel	39	92	0	0	131
Dillingham	11	38	0	0	49
FBKS Air Pol	0	22	0	0	22
ANCH Air Pol	2	3	0	0	5
Other	40	153	11	96	300
TOTAL	683	3,143	254	1,498	5,578

BREATH TEST RESULTS:

.10 to .149		1,259
.15 to .199		1,708
.20 to .249		1,141
.25 to .299		416
.30 to .349		101
.35 and up		16

1993 REVOCATION STATISTICS BAC DESK						
LOCATIONS						
		POLICE DEPARTMENTS		TROOPERS		
		REFUSALS	TOOK TEST	REFUSALS	TOOK TEST	TOTAL
ANCHORAGE		229	1347	52	281	1909
FAIRBANKS		90	274	45	249	658
JUNEAU		48	230		7	285
SOLDOTNA		16	88	28	60	192
WASILLA		21	104			125
KETCHIKAN		36	134	11	79	260
HOMER		13	64	10	27	114
SITKA		24	97			121
PALMER		16	69	92	481	658
KENAI		27	126			153
CORDOVA		5	18			23
VALDEZ		5	29			34
KODIAK		24	96	4	21	145
SEWARD		23	114	1	2	140
NOME		6	33		1	40
NORTH POLE		13	64			77
HAINES		3	8		1	12
BARROW		33	60			93
CRAIG		4	53	1		58
WRANGELL		7	20			27
PETERSBURG		12	19		1	32
MILITARY POLICE			9			9
BETHEL		37	77			114
DILLINGHAM		6	11			17
AIRPORT POLICE		3	6			9
OTHER		46	156	2	2	206
TOTAL		747	3306	246	1212	5511
BREATH TEST RESULTS %						
.10 TO .149		1226				
.15 TO .199		1749				
.20 TO .249		1060				
.25 TO .299		371				
.30 TO .349		95				
.35 AND UP		17				

CS FOR HOUSE BILL NO. 61(FIN) am
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 2/23/94
Offered: 2/15/94

LTD
RUN

Sponsor(s): REPRESENTATIVES NORDLUND, Ulmer, Brown, Porter
SENATOR Leman

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to the offense of operating a commercial motor vehicle while
2 intoxicated and the offense of operating a motor vehicle, aircraft, or watercraft
3 while intoxicated; relating to presumptions arising from the amount of alcohol in
4 a person's breath or blood; relating to chemical testing of a person's breath; and
5 providing for an effective date."

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

7 * Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that the number of
8 persons who are drinking and driving in an impaired condition is a matter of serious concern,
9 and that there is a rational relationship between establishing a lower limit of alcohol
10 consumption and reducing the number of alcohol-related accidents and fatalities.

11 (b) It is the purpose of this Act to promote the general welfare and public safety by
12 imposing a more restrictive legal limit on alcohol consumption above which the person will
13 lose the privilege to drive.

1 * Sec. 2. AS 28.33.030(a) is amended to read:

2 (a) A person commits the crime of operating a commercial motor vehicle while
3 intoxicated if the person operates a commercial motor vehicle

4 (1) while under the influence of intoxicating liquor or any controlled
5 substance;

6 (2) when, as determined by a chemical test taken within four hours
7 after the alleged offense was committed, there is at the time the test is taken 0.04
8 percent or more by weight of alcohol in the person's blood or 40 milligrams or more
9 of alcohol per 100 milliliters of blood, or when there is 0.04 grams or more of alcohol
10 per 210 liters of the person's breath; or

11 (3) while under the combined influence of intoxicating liquor and a
12 controlled substance.

13 * Sec. 3. AS 28.35.030(a) is amended to read:

14 (a) A person commits the crime of driving while intoxicated if the person
15 operates or drives a motor vehicle or operates an aircraft or a watercraft

16 (1) while under the influence of intoxicating liquor, or any controlled
17 substance;

18 (2) when, as determined by a chemical test taken within four hours
19 after the alleged offense was committed, there is at the time the test is taken 0.08
20 [0.10] percent or more by weight of alcohol in the person's blood or 80 [100]
21 milligrams or more of alcohol per 100 milliliters of blood, or when there is 0.08 [0.10]
22 grams or more of alcohol per 210 liters of the person's breath; or

23 (3) while the person is under the combined influence of intoxicating
24 liquor and a controlled substance.

25 * Sec. 4. AS 28.35.033(a) is amended to read:

26 (a) Upon the trial of a civil or criminal action or proceeding arising out of acts
27 alleged to have been committed by a person while operating or driving a motor vehicle
28 or operating an aircraft or a watercraft while intoxicated, the amount of alcohol in the
29 person's blood or breath at the time alleged shall give rise to the following
30 presumptions:

31 (1) If there was 0.04 [0.05] percent or less by weight of alcohol in the

1 person's blood, or 40 [50] milligrams or less of alcohol per 100 milliliters of the
2 person's blood, or 0.04 [0.05] grams or less of alcohol per 210 liters of the person's
3 breath, it shall be presumed that the person was not under the influence of intoxicating
4 liquor.

5 (2) If there was in excess of 0.04 [0.05] percent but less than 0.08
6 [0.10] percent by weight of alcohol in the person's blood, or in excess of 40 [50] but
7 less than 80 [100] milligrams of alcohol per 100 milliliters of the person's blood, or
8 in excess of 0.04 [0.05] grams but less than 0.08 [0.10] grams of alcohol per 210 liters
9 of the person's breath, that fact does not give rise to any presumption that the person
10 was or was not under the influence of intoxicating liquor, but that fact may be
11 considered with other competent evidence in determining whether the person was
12 under the influence of intoxicating liquor.

13 (3) [REPEALED]

14 (4) If there was 0.08 [0.10] percent or more by weight of alcohol in
15 the person's blood, or 80 [100] milligrams or more of alcohol per 100 milliliters of the
16 person's blood, or 0.08 [0.10] grams or more of alcohol per 210 liters of the person's
17 breath, it shall be presumed that the person was under the influence of intoxicating
18 liquor.

19 * Sec. 5. AS 28.35.033(c) is amended to read:

20 (c) The provisions of (a) of this section

21 (1) may not be construed to limit the introduction of any other
22 competent evidence bearing upon the question of whether the person was or was not
23 under the influence of intoxicating liquor; and

24 (2) do not apply to a civil action permitted under AS 04.21.020.

25 * Sec. 6. This Act takes effect September 1, 1994.

FISCAL NOTE

No. 9
 Bill Version: CSHB 61 (FIN)
 (H) Publish Date: 2/15/94

STATE OF ALASKA
 1994 LEGISLATIVE SESSION

Revision Date: 2/11/94 Dept. Affected: Corrections
 Title: An Act relating to the offense of BRU: All
operating a motor vehicle .. Component: All
 Sponsor: Rep. Nordlund
 Requestor: House Finance COMPONENT SERIAL NO. 694-1884

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						
MISCELLANEOUS	166.6	171.6	176.7	182.0	187.5	193.0
TOTAL OPERATING	166.6	171.6	176.7	182.0	187.5	193.0

CAPITAL EXPENDITURES	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004-GF	33.3	34.3	35.3	36.4	37.5	38.6
1005 GF/Program Receipts	133.3	137.3	141.4	145.6	150.0	154.4
1006 GF/MHTIA						
Other						
TOTAL	166.6	171.6	176.7	182.0	187.5	193.0

Estimate of any current year (FY94) cost: \$ 0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Please see the attached fiscal analysis.

Prepared by: Diane Schenker, Special Assistant Phone: 465-4643/786-2147
 Division: Office of the Commissioner Date: 2/11/94
 Approved by Commissioner: J. Frank Prewitt, Jr. Date: 2/11/94
 Agency: Department of Corrections

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The bill lowers the blood alcohol limit for the crime of DWI, from .10 to .08 percent.

Assumptions

1. According to the National Highway Traffic Safety Administration, a study of five other states indicates an average increase in DWI cases of approximately 3.9% as a result of lowering the limit from .10 to .08. On 12/31/93 there were 130 inmates incarcerated for DWI, statewide. A 3.9 percent increase in this population would raise the DWI population by 5.07 inmates, or 1,851 inmate-days per year ($5.07 \times 365 = 1,851$).
2. The cost per day to incarcerate the average DWI case is \$90. The department calculated this cost by using the cost of Community Residential Center (CRC) beds and state correctional beds actually used to incarcerate DWIs last year. Generally, DWI cases are housed in state correctional centers only in unsentenced status or in locations where no CRC is available.
3. A recent change in law requires DWI offenders to pay for some of the costs of incarceration. The department has written regulations to collect these fees, which should go into effect within the next month or so. The regulation will require a first-time DWI offender to pay \$270, and a second-time offender to pay \$1,000. The Department of Law, which is expected to collect the fees, expects to collect approximately 80% of the fees, through voluntary compliance and by taking Permanent Fund Dividends. It is expected that the fees will offset costs only for first and second-time offenders.
4. There are currently about 650 DWI offenders on waiting lists to serve their sentences. If the courts were to remand offenders directly to jail to serve their mandatory sentences, instead of allowing many DWI offenders to report to the department for a distant date to serve the sentence, the impact of this legislation would be greater and more immediate. The reason there were only 130 DWI offenders incarcerated on 12/31/94 is that the department was able to control the rate of intake in many cases. Because the statewide waiting list grew to over 2500 offenders and a sentence delay of more than eight months last year, it is possible the courts may cease or lessen the use of this option.
5. The legislation only affects DWIs charged under state statute. DWIs charged under local city ordinances will remain at the .10 level unless the local laws are changed. It is estimated that over half of the DWIs incarcerated in the state correctional system are from Anchorage, charged under city law.
6. Increases in DWI cases may have a "ripple effect" on other crimes, such as Failure to Appear, Failure to Satisfy Judgment, and Driving With License Suspended/Revoked. The department notes that misdemeanants are the fastest-growing incarcerated population. It is

assumed that this factor could double the number of additional inmates referenced in Assumption 1. However, it is assumed that Assumption 5 will offset this, since half the DWI population comes from Anchorage on municipal, rather than state, charges.

7. National studies suggest that this type of legislation may reduce the number of traffic fatalities. This could result in some lessening of prisoner-days served for vehicular homicides. This may help offset the costs not reflected in the fiscal note, for possible increases in remands rather than court-reports, and for third-time or higher offenders who cannot pay the costs of incarceration through fees.

8. The costs of incarceration are reflected under "miscellaneous" because some expenses will be incurred in individual institutions, some in CRC contracts, and some in department overhead for administering contracts and providing support services for institutions.

9. A 3% inflation factor is assumed.

Operating Expenses

1,851 inmate-days per year X \$90 per day = \$ 166,590 total expense, FY95

80% (DWI fee collection rate) of \$ 166,590 = \$ 133,272 GF/Program Receipts, FY95

\$166,590 - \$133,272 = \$ 33,318 GF, FY95

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 61 (Jud) am

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

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	87.9	105.5	105.5	105.5	105.5	105.5
TRAVEL						
CONTRACTUAL						
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	2.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	90.9	106.5	106.5	106.5	106.5	106.5

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	90.9	106.5	106.5	106.5	106.5	106.5
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
Total	90.9	106.5	106.5	106.5	106.5	106.5

Estimate of current year (FY94) cost: \$ _____

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

See attached.

Prepared by: John Salemi, Public Defender Phone: 264-4400
 Division: Public Defender Agency Date: _____

Approved by Commissioner: Nancy Bear Usura Date: 3/7/94
 Agency: Administration

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CONTINUATION OF FISCAL NOTE ANALYSIS
For CSHB 61 (Jud) am

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

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

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

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

Fiscal Impact

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

Budget Analysis

Anchorage:		
Paralegal II	16A	\$ 51.8
Fairbanks:		
Paralegal II	16A	53.7
100	Personal Services (10 months first year)	\$ 87.9
200	Travel	0.0
300	Contractual	0.0
400	Supplies	1.0
500	Equipment (one time)	2.0
	TOTAL	\$ 90.9

Position Title Paralegal Assistant II		No. of Positions 2	Range / Step 16/A	Barg. Unit GGU
Time Status PFT	Staff Months 20.0	Location EBA - JBA		Election District 7 - 20
TYPE OF EXPENDITURE		Amount		
Salary	61.9	Justification HB 61 amends the state statutes regarding the crime of driving while under the influence of alcohol. The most significant change in the law proposed through this bill involves the amount of alcohol which a driver can have in their system in order to be found guilty of driving while intoxicated. If this bill passes it is anticipated that there will be more DWI charges and as a result more DWI clients wishing to exercise their right to trial. With the attorneys who handle misdemeanors in Anchorage and Fairbanks already carrying caseloads of over 100 cases, additional resources will be required so that effective legal representation can be provided. The fiscal impact can be absorbed through the use of paralegals to assist attorneys in file organization, witness coordination and other related support work. As such, two paralegal positions are requested; one each for Anchorage and Fairbanks.		
Benefits	26.0			
Premium Pay				
Other				
Total Personal Services	87.9			
Travel	0.0			
Contractual	0.0			
Commodities	1.0			
Equipment	2.0			
Other				
Total Cost	90.9			
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004	90.9			
I-A Receipts 1007				
CIP Receipts 1061				
Other				

**Request For
New Position**

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

FY 95

Page 3 of 3
 Revised Date: _____

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 61 (Fin) am

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act relating to the offenses of operating a BRU: Office of Public Advocacy
motor vehicle " Component: Office of Public Advocacy
 Sponsor: Rep. Nordlund
 Requestor: (S) Trsp 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
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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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, Public Advocate Phone: 274-1684
 Division: Office of Public Advocacy Date: _____
 Approved by Commissioner: Nancy Bear Usura Date: 3/7/94
 Agency: Administration

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FISCAL NOTE

No. 12
 Bill Version: CSHB 61 (FIN)
 (H) Publish Date: 2/15/94

STATE OF ALASKA
 1994 LEGISLATIVE SESSION

Revision Date: December 10, 1993
 Title: "...relating to the offense of operating a motor vehicle, aircraft, or watercraft while intoxicated..."
 Sponsor: Representative Nordlund
 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						
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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. Pegues, Director
 Division: Administrative Services Division
 Approved by Commissioner: Charles E. Cotz, Attorney General
 Agency: Department of Law

Phone: 465-3672
 Date: December 10, 1993
 Date: December 10, 1993

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FISCAL NOTE

No. 10

Bill Version: CSHB 61 (FIN)

(H) Publish Date: 2/15/94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act relating to the offenses of operating a BRU: Office of Public Advocacy
motor vehicle Component: Office of Public Advocacy
 Sponsor: Rep. Nordlund
 Requestor: (H) Fin 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
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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, Public Advocate
 Division: Office of Public Advocacy
 Approved by Commissioner: Nancy Bear Usery
 Agency: Administration

Phone: 274-1684
 Date: _____
 Date: 2/7/94

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

No. 11
Bill Version: CSHB 61 (FIN)
(H) Publish Date: 2/15/94

Revision Date: _____ Dept. Affected: Public Safety
Title: An Act relating to the offense of operating BRU: Motor Vehicles
a motor vehicle...while intoxicated... Component: _____
Sponsor: Rep Nordlund
Requestor: H. FIN 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	0					
TRAVEL	0					
CONTRACTUAL	0					
SUPPLIES	0					
EQUIPMENT	0					
LAND & STRUCTURES	0					
GRANTS, CLAIMS	0					
MISCELLANEOUS	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: (Thousands of Dollars)

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

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

Fiscal impact is not anticipated.

Prepared By: Juanita Henslev Phone: 465-4361
Division: Motor Vehicles Date: 2/4/94
Approved by Commissioner: *Richard L. Burton* Date: 2/4/94
Agency: Richard L. Burton, Dept. of Public Safety

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