

**SB**

**6**

HOUSE CS FOR SENATE BILL NO. 6(CRA)  
 IN THE LEGISLATURE OF THE STATE OF ALASKA  
 NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered:

Referred:

Sponsor(s): SENATORS TAYLOR, Sharp

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to suspension of a driver's license for failure to appear in court  
 2 or failure to pay a fine; relating to court and collection costs for traffic offenses;  
 3 and relating to citations and court procedures for municipal traffic and parking  
 4 offenses."

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

6 \* Section 1. PURPOSE AND INTENT OF SECTION 4. The purpose of sec. 4 of this Act  
 7 is to create a mechanism to enforce citations issued for offenses involving a moving motor  
 8 vehicle. It is the intent of the legislature that after a person has made a required court  
 9 appearance or paid a fine required by the court, that any driver's license suspension imposed  
 10 by the court be terminated as quickly as possible.

11 \* Sec. 2. AS 12.25.200(b) is amended to read:

12 (b) A citation issued under AS 12.25.180 must indicate

13 (1) the amount of bail or fine applicable to the offense;

14 (2) [,] the procedure a person must follow in responding to the citation;

1                   (3) [, AND] that if the person fails to pay the bail or fine the person  
2 must appear in court;

3                   (4) that failure to pay the bail or fine or appear in court for an  
4 offense involving a moving motor vehicle may result in

5                   (A) suspension of the person's driver's license, privilege to  
6 drive, or privilege to obtain a license; or

7                   (B) attachment of the person's permanent fund dividend to  
8 pay the fine plus court and collection costs under AS 28.05.155; and

9                   (5) [. IN ADDITION, A CITATION MUST INDICATE] that the  
10 person has a right to

11                   (A) [(1)] a trial;

12                   (B) [(2)] engage counsel;

13                   (C) [(3)] confront and question witnesses;

14                   (D) [(4)] testify; and

15                   (E) [(5)] subpoena witnesses on the person's behalf.

16 \* Sec. 3. AS 28.05 is amended by adding a new section to read:

17                   Sec. 28.05.155. COURT AND COLLECTION COSTS. If a person's  
18 permanent fund dividend is attached to pay the bail or fine for an offense involving  
19 a moving motor vehicle, the court shall increase the bail or fine of that person by at  
20 least

21                   (1) \$25 for court costs; and

22                   (2) \$10 for collection costs.

23 \* Sec. 4. AS 28.15.181 is amended by adding a new subsection to read:

24                   (h) The court may suspend the driver's license, privilege to drive, or privilege  
25 to obtain a license of a person who fails to appear in court as required by a citation  
26 for an offense involving a moving motor vehicle, or who fails to pay a fine as required  
27 by the court for an offense involving a moving motor vehicle. If the court suspends  
28 a driver's license under this subsection, the court shall also provide notice of the  
29 suspension to the department. A suspension imposed under this subsection remains  
30 in effect until the person appears in court as required by the citation, or pays the fine  
31 as required by the court. When the person appears in court or pays the required fine,

1  
2

the court shall terminate the suspension imposed under this subsection and provide the department and the person with written notice of the termination.

A M E N D M E N T

OFFERED IN THE HOUSE

TO: SB 6 am

- 1 Page 2, line 16, through page 3, line 1:
- 2 Delete all material.
- 3 Renumber the following bill sections accordingly.

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## Facsimile Cover Sheet

**To: Representative Ivan Ivan**

**Company:** Alaska State Legislature  
**Phone:** 907-465-4942  
**Fax:** 907-465-4589

**From: Tom Nicolos**

**Company:**  
**Phone:** (907) 852-2162  
**Fax:** (907) 852-2430

**Date:** 04/27/95

**Pages including this  
cover page:** 9

**Comments:**

Attached, please find my testimony from the teleconference on SB 87 this date, as you requested. Thank you for giving me the opportunity to express my views in what I believe are very important issues.

I would also like to point out some concerns I have about information which was misrepresented during the hearing. Please review AS 04.11.502 as currently written and reference SB 87 Section 30, and I believe you will find that, in fact, time restrictions on elections to remove a local option are much more restrictive than to impose a local option.

Further, I would like to point out that you were informed that Barrow's concerns have all ready been addressed and this is not true. Had our issues been addressed, I would not be testifying at this hearing and it was extremely disturbing to hear someone testify to the Committee that they had.

Please pay particular attention to page eight (8) of my testimony. My greatest concern is that a petition certified by the municipality can so easily and swiftly be swept aside.

Nineteenth Alaska State Legislature  
Juneau, Alaska 99801

April 27, 1995

RE: SB 87

My name is Tom Nicolos. I'd like to commend the Legislature for its efforts to further clarify Title 4; however I have many points of concern with SB 87. As I understand it, SB 87 was sponsored by Senator Taylor for the purpose of clarifying local option elections and to address some technical and common sense amendments to Title 4. While I completely agree with Senator Taylor that Title 4 needs overhauling, I feel this bill is far from being adequate. It contains contradictions within the bill itself and although the attempt to provide clarity and equity, SB 87 has become slanted toward the prohibitionist point of view which is unfair. It should be amended to be fair to both points of view. Personally, I do not think prohibition is the answer to the problems caused by alcohol, and further refining and giving more control to the government to set specific limits on local option law driven by prohibitionists is frightening. Serious consideration should be given before restricting the freedoms of law-abiding citizens, and for these reasons I would like to be heard.

I have grave concern that enacting this bill will perpetuate the present problem of citizens potentially becoming felons because they have "too much beer" in their home. Felony crimes in my estimation are heinous crimes against the State, such as murder, kidnapping, and sexual assault.

It should not be because a citizen has one too many bottles of wine in his possession. I urge you to go home tonight and take stock of you own liquor

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cabinet. If you had a local option election tomorrow and possession was made illegal, would you be "over the limit," thereby a potential felon? Any well-stocked liquor cabinet exceeds the limit (even in a city where liquor stores are available for restocking purposes). However items such as single-malt scotches and schnapps are rarely used in bootlegging operations, nevertheless according to SB 87, by merely owning them, they can add up to the presumption of sale. This is unfair and untrue.

Specific changes to the bill I would like to see:

Page 3, Sec. 4: "In a criminal prosecution for possession of alcoholic beverages for sale in violation of (a) of this section, the fact that a person possessed more than 12 liters of distilled spirits, 24 liters or more of wine, or 12 gallons or more of malt beverages in an area where the sale of alcoholic beverages is restricted or prohibited under AS 04.11.491 creates a presumption that the person possessed the alcoholic beverages for sale." Rewrite this section to aim it toward the populace that can be presumed to be selling alcoholic beverages. A bootlegger is going to be selling the inexpensive variety to keep profit margins up; a bootlegger is rarely going to be selling cognac, liqueur, etc. Any person convicted of possession of more than these quantities, because this may incorrectly presume sale, is guilty of a Class C felony; the same as a person who sells cocaine.

Page 18, Sec. 24, Line 18-27: CHANGE OF LOCAL OPTION This is a commendable change to the law which appears to be well thought-out and will allow a village or municipality to exactly state their desire at the polls, without having to go through multiple elections to do so.

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Page 21, Sec. 30, Line 29: PROCEDURE FOR LOCAL OPTION ELECTION: "Upon receipt of a petition of a number of registered voters equal to 35 percent or more of the number of votes cast at the last regular municipal election, the local governing body of a municipality shall place upon a separate ballot at the next regular election, or at a special election, whichever local option, change in local option or removal of local option constitutes the subject of the petition."

Exactly when a local option election can be held needs to be stipulated in this section. Title 29 and Title 15 specifically address time frames of elections in regards to windows after a petition is certified to clarify whether an item will be voted on in a special election or a general election for referendum, initiative, and recall.

(AS 29.26.180) states that after certification of a petition for referendum, "if no election occurs within 75 days of certification of a petition, the governing body shall hold a special election within 75 days, but not sooner than 45 days after certification."

(AS 29.26.170) states for an initiative election, "if no regular election occurs within 75 days after the certification of a petition, the governing body shall hold a special election within 75 days, but not sooner than 45 days after certification"

(AS 29.26.320) for recall election states "If a regular election occurs within 75 days but not sooner than 45 days after submission of the petition to the governing body, the governing body shall submit the recall at that election. If no regular election occurs within 75 days, the governing body shall hold a special election

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on the recall question within 75 days but not sooner than 45 days after a petition is submitted to the governing body."

However, verbage in SB 87 states "shall place upon a separate ballot at the next regular election, or at a special election." No windows are indicated as are in all other petition-process elections. This needs to be rectified.

Delete ~~or more~~ from paragraph ( c) ~~Upon receipt of a petition of 35 percent~~ ~~or more of the registered voters~~ . (AS 29.26.130) Signature requirements for initiative and referendum state "" equal to 25% of the votes cast if a municipality has fewer than 7,500 persons; or equal to 15% of the votes cast if a municipality has 7,500 persons or more. (AS 29.26.280) Signature requirements for recall states "the petition shall be signed by a number of voters equal to 25% of the number of votes cast for that office." No mention is made in any other election of obtaining a certain percentage or more of signatures on a petition. Exactly at whose discretion is or more ? Would a City Council or the Lieutenant Governor be able to require a set percentage amount, say 85%, at their discretion? The 35% of signatures needed for petitioning the government to place a local option question on the ballot as opposed to the 25% needed for any other election item indicates the strength of a community's desire on this important issue. Since this is such an important issue, the law has adequately built in an additional 10% of signatures needed. The term, " or more " adds vagueness to something you're attempting to clarify. I suggest changing the verbage to " equal to 35% of the number of votes cast at the last regular municipal election".

A recent court decision stated that local option elections are neither referendum nor initiative. So, specific clarification and concrete time frames are needed to

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stipulate when a local option election can be held after the certification of a petition.

Page 22, Sec. 30, Line 22-26: "Notwithstanding any other provisions of law, an election under (b) or (c) of this section to remove a local option or to change to a less restrictive option than the local option previously adopted under AS 04.11.491 may not be conducted during the first 12 months after the local option was adopted or more than once in an 18-month period." If I understand this

correctly, it appears that there's numerous restrictions on when an election can be held to remove an option or to change to a less restrictive option, but imposing more restrictions is unlimited in fact an election could be held monthly. Where's the equity in this law? There seems to be none. Legislation regarding an individual's freedoms should be impartial whether imposing or removing a local option question it should have the same set of time frame criterion.

Page 22, Sec. 30, Line 27-30: "Notwithstanding AS 29.26.140(a), after a petition has been certified as sufficient to meet the requirements of (b) or (c) of this section, another petition may not be filed or certified until after the question presented in the first petition has been voted on. Only one local option question may be presented in an election." I feel that restricting the number of items a

voter be allowed to vote on is a direct restriction of democracy and serves no purpose.

Page 30, Sec. 50, Line 9-12: "The court shall order destroyed any property forfeited under this section that is harmful to the public and shall order any property forfeited under this section that was seized in a municipality to be transferred to the municipality in which the property was seized." Acts of

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property seizures that can be left to the discretion of a local police force should not be permitted especially if the municipality will gain financially from the seizure. Employment and salaries could become dependent upon the amount of property seized. It also tends to punish a person twice for the same offense.

Page 30, Sec. 51, Line 24-30: the monthly amounts of alcoholic beverages a person may import into the municipality. This is to say that the municipality has the right to dictate just how many bottles of distilled spirits they think is proper for a citizen to bring into their home? The problem in a community is caused by alcohol abuse, not alcohol use. And there is a difference. Regulating the quantity of importation is too restrictive and allows a municipality to attempt to legislate morality which is not it's job.

Secondly, the type of alcoholic beverage container that may be possessed in the municipality. What exactly does this mean? If you are trying to clarify something, what sense does it make to add a clause that if you ask five different people what it means, you get five different answers? When it boils right down to it, why does it really matter and who cares what type of alcoholic beverage container may be possessed? What next? Are we going to legislate and regulate what color the container can be? Where does the line get drawn?

Page 30-31, Sec. 52, 31-9: After the adoption of a local option under AS 04.11.491(a), a municipality may adopt an ordinance making the sale, importation or possession of alcoholic beverages a misdemeanor to the extent prohibited under the local option.

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I believe possession and importation should be an infraction. Importation and possession are victimless crimes and shouldn't carry a possibility of a felony, especially when residents in one portion of the State could be felons whereas their neighbors in other locations of State wouldn't. Again, the problem with alcohol is alcohol abuse, not alcohol use....so legislate against abuse, not use as is presently written. Additionally, if possession were made a misdemeanor, this will allow law enforcement agencies to obtain a search warrant to enter a private residence. I, like many other citizens, should not have to fear answering the door to find the Dept. of Public Safety there to invade my privacy based on a tip. The fact of the matter is, I resent it.

Page 27, Sec. 44, Line 22-27: (AS 04.11.501) clearly states that possession may not be considered a criminal offense. I very much agree with this; making possession a criminal offense can only further burden the State's judicial system and impose a large financial burden on the State for what is clearly a victimless crime. Can the State truly afford this added financial burden especially at a time when we are looking for ways to do more with less? This is clearly a contradiction within the bill and I urge you to maintain possession as an infraction and to reduce importation to an infraction as well.

Page 36, Sec. 72, Line 22-25: TRANSITION: EXISTING LOCAL OPTION PETITIONS. A petition to adopt or remove a local option on file with a municipality or the lieutenant governor on the effective date of this section that has not been voted on is void and may not be placed on an election ballot.

find Section 72 fair, then let's be completely fair and under Section 71, let's just void local options earlier adopted and let everyone start with a clean slate. I can see no reason in voiding existing petitions so they may not be placed on an election ballot merely because the law is being modified. The people of Barrow

If you

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currently have petitions on file with the municipality; I find it absurd, a duplication of effort, and a direct thwart of the will of the people to void their petitions on file with the municipality. This is just as senseless as legislating a transition clause stating that on the effective date of this section that all local option restrictions in place within any municipality shall be nullified and started fresh. I can not imagine why anyone, in their wildest dreams, could find anything fair or just about voiding lawfully-certified petitions on file awaiting an election.

Thank you for your time and allowing me to express my views on this matter.

SB87

FACSIMILE COVER PAGE

To: House Committee on CRA  
Time: 21:12:33  
Pages (including cover): 6

From: James B. Wood  
Date: 4/27/95

For delivery to: Chairman and members of the House Committee on Community and Regional Affairs

This cover is the first of six pages. There are five pages of text.

If all pages are not received or there is an error in transmission, please contact:

James B. Wood  
Box 470  
Barrow, Alaska 99723

907-852-2960

TO: THE HOUSE, ALASKA STATE LEGISLATURE  
NINETEENTH LEGISLATURE - FIRST SESSION  
HOUSE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS

Date: April 27, 1995

Subj: CS For Senate Bill No. 87 (FIN), "An Act relating to community local options for control of alcoholic beverages, *et seq*"

Mr. Chairman and Members of the Committee on Community and Regional Affairs:

My name is James Wood. I am a Police Captain employed by the North Slope Borough. I have lived in the North Slope for fifteen years. My home is in Barrow, Alaska, a community that has prohibited the importation, sale and possession of alcoholic beverages by local option election.

Senate Bill No. 87 (FIN version, dated 4/11/95) is, or will soon be, before you. The way possession of an alcoholic beverage in a local option area is treated in Sections 40-45 (pages 26-28) of SB87 is inadequate to deter civilly disobedient citizens who intend to continue drinking alcoholic beverages despite local options that ban it. The possession of an alcoholic beverage in a local option area is a serious breach of order that should be classified as a **crime**, not a mere infraction as it is now treated. We, who live in and experience a local option area daily, believe that the illegal possession of an alcoholic beverage in a local option area is, because of the same unpredictable consequences, every bit as serious as driving while intoxicated, a class A misdemeanor. Possession of alcoholic beverages in violation of local option should be a crime, classified as a misdemeanor or felony according to the amounts possessed the same as is provided for the sending, transporting, or bringing alcoholic beverages into a municipality or established village in violation of local option (Sec. 39, pages 25-26).

Accordingly, Section 39 should be amended to include the following new language identified in brackets:

\* Sec 39. AS 04.16.200(e) is amended to read:

(c) A person who sends, transports, or brings alcoholic beverages into a municipality or established village in violation of AS 04.11.499, [or possesses an alcoholic beverage in a municipality or established village in violation of AS 04.11.501 or an ordinance adopted under AS 04.11.501,] is, upon conviction,

- (1) guilty of a class A misdemeanor if the quantity imported [or possessed] is less than 12 liters of distilled spirits, 24 liters of wine, or 12 gallons of malt beverages, or
- (2) guilty of a class C felony if the quantity imported [or possessed] is 12 liters or more of distilled spirits, 24 liters of wine, or 12 gallons or more of malt beverages.

Sections 40 - 45 (pages 26-28) should be deleted. Section 46 should be amended to include the following new language enclosed in brackets:

\* Sec. 46. AS 04.16.220(a) is amended to read:

(a) The following are subject to forfeiture:

(1) Alcoholic beverages manufactured, sold, offered for sale or possessed for sale, bartered or exchanged for goods and services in this state in violation of AS 04.11.010; alcoholic beverages possessed, stocked, warehoused, or otherwise stored in violation of AS 04.21.060 [or AS 04.11.501]; alcoholic beverages sold, or offered for sale in violation of a local option adopted under AS 04.11.491; alcoholic beverages transported into the state and sold to persons not licensed under this chapter in violation of AS 04.16.170(b);

Current law is too lenient. A possessor of an alcoholic beverage in violation of a local option may only, at a maximum, be fined \$1000.00. Even that cannot be imposed until the violator is caught a third time in illegal possession. This limitation was imposed by the Alaska Superior Court who mandated, by bail schedule, that the culprit can be fined only a maximum of \$100.00 for the first and second convictions. The fine amounts to less than the \$150.00 price of an illegal bottle of liquor here. This falls far short of deterrence. The result is that few people have any real fear of the punitive consequences of illegal alcohol possession. No meaningful message is conveyed to them about how serious a breach of public trust, confidence, and safety they have committed. Where is the message of public condemnation in such light treatment of so serious a matter? What rehabilitation occurs for the violator? What example is being set for our children?

And, although Section 4 of SB87 (page 3) proposes that possession of a particular amount of an alcoholic beverage in a local option area creates a presumption that the alcoholic beverage was possessed for sale, realistically there is not likely to be found anywhere in Alaska a jurisdiction where violators will be prosecuted for sales based only on the amount of liquor they possessed. To the contrary, District Attorneys steadfastly refuse to prosecute for illegal sales of alcohol based only on the amount of alcohol possessed. This presumption of law is not valid.

Because the possession of an alcoholic beverage in a local option area is an infraction, the police are not likely to be able to obtain a search warrant to find and seize illegally possessed alcohol. They may do so to search for evidence of a crime, but not for an infraction. Without the availability of this basic enforcement tool, alcoholic beverages will continue to leach into our community. The demonstrated danger and harm that alcohol does to families and individuals in their own homes, and the danger and harm to the public posed by those who begin drinking alcohol at home then venture out, justifies making the illegal possession of it a crime in local option areas, and tilts the balance of justice toward condoning the warranted entry into citizen's homes to seize illegal alcohol over condoning illegal possession of alcohol to preserve the sanctity of the home.

Limitations of the numbers of law enforcement officers, of their time and of their resources, and the reality that few citizens involve themselves in law enforcement, make it unlikely that many who illegally possess an alcoholic beverage will get caught until they have done some monstrous act that draws attention to them...some monstrous crime that was the basis for the ban on alcoholic beverages in the first place. Those who illegally possess alcoholic beverages in a local option area are time bombs of violence waiting to explode, or, too often are opportunists getting wealthy from other people's misery and pain. They are a unique danger to the health, welfare and life safety of our community. The penalty for violating a local option ban on the possession of alcoholic beverages must carry a message strong enough to deter them and others, express public condemnation, and to promote opportunities for rehabilitation. Relegating the illegal possession of alcoholic beverages in a local option area to a simple infraction, no more serious than a parking or littering ticket, is grossly unjustified.

We in Barrow, as in communities all across Alaska, have first hand knowledge of the pain and suffering that alcohol abuse has caused among our citizens. Because the majority of us were sickened to our hearts by the murders, violent physical assaults, rapes, suicides, and pandemic family deterioration caused by alcohol abuse in our community, we voted to ban it entirely. Most of us were personally touched by the barrage of tragedies caused by alcohol abuse through the years.

After the ban went into effect in Barrow on November 1, 1994, alcohol related crime (about 95% of our previous crime rate) dropped by 80%. We have not had any murders, serious physical assaults, rapes, or suicides since then, and our community is a healthier, more productive, happier place to live. The public health has improved, and recovering families are being reunited. Even citizens here who opposed the ban on alcohol agree that there has been a big improvement in our health, welfare and life safety. Where there was misery, there is joy. Where there was sickness, there is health. Where there was death, there is life. We feel, with alcohol banned, that local culture and our community has a greater chance of survival.

But, there are people here, as elsewhere, who will violate the law. They will import, sell and possess alcoholic beverages despite the majority's local option to ban them. They will perpetuate the misery and pain of our past. Already they are doing it. During November in Barrow there were 32 alcohol related police calls. In December there were 15. In January

- 26. In February - 32. In March - 53. The numbers are spiraling upward. As people learn about the limitations of enforcement and the lack of a meaningful penalty for possession, more and more alcoholic beverages are being sneaked into our community. People who do so are not afraid of a \$100.00 fine. And, there is little incentive for them to cooperate with the community to keep alcoholic beverages out. The police are hard pressed to catch alcoholic beverages before they get into the community, and they are frustrated by their limited ability to do much after the alcohol has breached the portal. There are just too many ways that alcoholic beverages can be smuggled into our community. And, with each new alcohol related crime, with each child touched by alcohol induced violence and neglect, our future dims just a bit more.

The law simply must be amended to **criminalize the possession** of alcoholic beverages in local option areas. A greater burden must be placed on the illegal possessor and user of illegal alcohol. There are those who say "get the ones who import the liquor. Get the ones who sell it. They are the violators." While importers and sellers of illegal alcohol are law breakers, the guilt must equally be shared by those who solicit and use illegal alcohol. It is they who perpetuate the market for it. It is they who must be held equally accountable, share equally in the responsibility for their actions, and share equally in society's condemnation and punishment.

SB87 proposes to allow municipalities to make the illegal importation, sales or possession of alcoholic beverages a misdemeanor crime within municipal ordinances. Most communities, especially those in bush Alaska where local option bans or limitations on alcohol are most prominent, do not have the resources or money to prosecute misdemeanor crimes. They simply cannot afford the costs of court, prosecutors, public defenders, and all of the related costs. Consequently, most communities in Alaska will not be able to enact, enforce or prosecute misdemeanor laws. Making the possession of alcohol a misdemeanor crime under state law is the best, more workable approach.

There are voices opposed to our majority privilege to ban the importation, sale and possession of alcoholic beverages. There most always are opposing views in such matters. Many of them warn that banning or limiting access to alcohol will only make criminals of innocent citizens. But isn't it our republican form of government to acquiesce to the will of the majority, acting for the common good of all? We who prevail in local option elections to ban or limit alcoholic beverages do not make criminals out of anyone. We simply exercise our option, as a majority, to enact laws that we believe are best for the good of all. People who commit crimes make criminals of themselves.

On behalf of all of those who have reawakened to the vigor of sobriety and those who struggle daily simply to survive with clean hearts and clear minds, I appeal to you to make the will of the majority meaningful. Close the loophole. The conduct of those who violate a local option ban on possession of alcoholic beverages must not be condoned. Violators must risk stern penalties the first time they're caught, not after they are caught a third, fourth or even more times. **Please, make the possession of an alcoholic beverage in a local option area a class A misdemeanor.**

Thank you.

# Alaska State Legislature

Chairman,  
Judiciary Committee  
  
Member,  
Transportation Committee  
  
Member,  
Resources Committee  
Western Legislative Forestry Task Force



*Senator Robin L. Taylor*

State Capitol  
Juneau, Alaska 99801-1182  
907-465-3873  
Fax: 907-465-3922

352 Front Street  
Ketchikan, Alaska 99901  
907-225-8088  
Fax: 907-225-0713

## SPONSOR STATEMENT

### SENATE BILL 6

The intent of this legislation is to encourage individuals to pay some of the 25,000 traffic fines for moving violations that go uncollected each year.

Senate Bill 6 is designed to provide the court system with additional leverage in the collection of fines. It would also apply to an individual who fails to appear in court, as ordered.

SB 6 would be a valuable tool for use by the courts in addressing the problems created by those who choose to ignore the law, especially those who fail to make court-ordered appearances or to pay fines imposed by the court.

The bill is based on statutes from other states. The experience in the state of Washington indicates that over 50 percent of those who receive notice of possible sanctions clear up outstanding matters within one week.

SB 6 allows the court to suspend the driver's license of anyone who fails to make a court appearance or pay a fine. It also includes a provision putting the offender on notice that under existing law their Permanent Fund Dividend could be attached. The bill would actually generate revenue, first by helping to collect outstanding fines and secondly by the reinstatement fees that would be collected by the Division of Motor Vehicles.

Section three of the bill was not included in the original legislation. It addresses perceived problems with the Anchorage Parking Authority and would restrict the amount municipalities could collect on traffic citations issued by someone other than a peace officer.

District A

Hyder • Ketchikan • Kupreanof • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO: SB 6

Revision Date: 3/10/95 Dept. Affected: Public Safety  
 Title: An Act relating to registration of a motor vehicle and suspension of a driver license BRU: Motor Vehicles  
 Sponsor: Senator Taylor Component: Driver Services & Field Services  
 Requestor: S JUD COMPONENT SERIAL NO. 0500 & 0502

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

	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
<b>OPERATING</b>						
PERSONAL SERVICES	75.4	75.4	75.4	75.4	75.4	75.4
TRAVEL						
CONTRACTUAL	10.7	10.7	10.7	10.7	10.7	10.7
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	20.0					
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>114.6</b>	<b>88.8</b>	<b>98.8</b>	<b>98.8</b>	<b>98.8</b>	<b>98.8</b>
<b>CAPITAL EXPENDITURES</b>	<b>0-</b>	<b>0-</b>	<b>0-</b>	<b>0-</b>	<b>0-</b>	<b>0-</b>
<b>CHANGE IN REVENUES (1004 Revenue Code)</b>	<b>416.2</b>	<b>416.2</b>	<b>416.2</b>	<b>416.2</b>	<b>416.2</b>	<b>416.2</b>

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GE Match						
1004 GE	114.6	88.8	98.8	98.8	98.8	98.8
1005 GE/Program Receipts						
1006 GE/MHTIA						
Other						
<b>TOTAL</b>	<b>114.6</b>	<b>88.8</b>	<b>98.8</b>	<b>98.8</b>	<b>98.8</b>	<b>98.8</b>

Estimate of current year (FY 95) impact: \$ \_\_\_\_\_

**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.)

SEE ATTACHED

Prepared By: Juanita M. Hensley Phone: 465-2650  
 Division: Motor Vehicles Date: 3/10/95  
 Approved by Commissioner: Ronald L. Otte Date: 3/10/95  
 Agency: Ronald L. Otte, Dept. of Public Safety

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This bill allows the courts to suspend a driver's license of a person who has failed to appear in court or failed to pay a fine for a moving traffic offense. The court has advised there are 25,000 moving violations each year where the person fails to pay the fine or fails to appear in court for these offenses. Assuming the court suspends the driver's license of 10 percent or 2,500 driver's license each year.

This bill impacts the Division of Motor Vehicles by resulting to 4,750 updates to the driving record of the persons whose license is being suspended. One computer entry to add the suspension to the driving record and another entry to end the suspension once the person has complied. Reinstating the driver's license will also impact the DMV field offices. The Motor Vehicle Representative will be required to see proof from the court that the person has complied with the court requirements by, appearing in court, or by paying the fine for the moving violation. It is estimated 90 percent of all persons whose license is suspended will reinstate their driving privilege. A \$100 CO reinstatement fee is charged anytime a person has had their license suspended or revoked within the 10 years preceding application for a driver's license. It is estimated 1,125 individuals will pay the \$100. If the license was suspended or revoked more than one time within the 10 years preceding application for a driver's license, the reinstatement fee is increased to \$250. It is estimated 1,125 will pay the \$250. A person will also have to pay a duplicate license fee of \$10 prior to the license being issued. The amount of additional new general fund program receipt revenue generated by this bill is approximately \$416.2.

Total number of suspension notices received from the courts by DMV	2,500
Total number of suspension notices being ended when a person has complied with the courts	2,250
Total number of license reinstated	2,250

<u>OPERATING</u>	<u>FY 96</u>	<u>FY97</u>
<u>Personal Services</u>	Salary and Benefits	
Administrative Clerk III (Juneau)	\$38.4	\$38.4
Motor Vehicle Representative II (Anchorage)	\$36.7	\$36.7
<u>Contractual</u>		
Computer line Charges (Mainframe connection) \$0.5 per workstation	\$1.0	\$1.0
Postage 1st class mail	\$0.8	\$0.8
Postage is for 2,500 courtesy letters informing the individual of the effective date of the license suspension.		
Telephone lease & line charges	\$1.1	\$1.1
Redesign and printing of traffic citations	\$5.8	
Office lease space allocation 440 sq ft @\$1.35 per sq ft	\$9.8	\$9.8
<u>Supplies</u>		
Routine office supplies	\$1.0	\$1.0
<u>Equipment</u>		
2 Computer Workstations @ \$10.0 each (One time costs)	\$20.0	
<b>TOTAL OPERATING</b>	<b>\$114.8</b>	<b>\$88.8</b>
 <u>REVENUE</u>		
2,250 Reinstatements 1,125 @\$100, 1,125 @\$250	\$393.7	\$393.7
2,250 Duplicate license fees @10	\$22.5	\$22.5
<b>TOTAL REVENUE</b>	<b>\$416.2</b>	<b>\$416.2</b>

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. SB 6

Revision Date:

Dept. Affected: Alaska Court System

Title: License/Registration - Suspension/

BRU: Trial Courts

Denial

Components:

Sponsor: Sen. Taylor

Requestor:

COMPONENT SERIAL NO. 768

**EXPENDITURES/REVENUES** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	5.5	5.5	5.5	5.5	5.5	5.5
TRAVEL						
CONTRACTUAL	1.5	1.5	1.5	1.5	1.5	1.5
SUPPLIES	0.2	0.2	0.2	0.2	0.2	0.2
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
<b>TOTAL OPERATING</b>	<b>7.2</b>	<b>7.2</b>	<b>7.2</b>	<b>7.2</b>	<b>7.2</b>	<b>7.2</b>

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

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	7.2	7.2	7.2	7.2	7.2	7.2
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>7.2</b>	<b>7.2</b>	<b>7.2</b>	<b>7.2</b>	<b>7.2</b>	<b>7.2</b>

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY 95) cost: \$ None

**ANALYSIS:** (Attach a separate page if necessary)

See attached fiscal analysis.

Prepared by: C. S. Christensen III, Staff Counsel Phone: 284-8228  
 Agency: Alaska Court System Date: 02/02/95

Approved by: Arthur H. Snowden, II, Administrative Director  
 Agency: Alaska Court System Date: 02/02/95

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# FISCAL NOTE

STATE OF ALASKA

BILL NO. 51

SB6

1995 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: "An Act relating to registration of a motor vehicle...suspension...for failure to pay a fine..." BRUJ: Alaska State Troopers  
 Sponsor: Senator Robin Taylor Component: Detachments  
 Requestor: (S) State Affairs COMPONENT SERIAL NO. 0799

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

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL EXPENDITURES</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CHANGE IN REVENUES ( )</b>	-0-	-0-	-0-	-0-	-0-	-0-
<small>Revenue Code</small>						

**FUNDING: (Thousands of Dollars)**

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

Estimate of current year (FY 95) impact: \$ -0-

**POSITIONS:**

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

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

Prepared By: Francis C. Allan Phone: 269-5391  
 Division: Alaska State Troopers Date: 01/31/95  
 Approved by Commissioner: *Dee Smith* Date: 2/1/95  
 Agency: Ronald L. Otte, Dept. of Public Safety

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# Alaska State Legislature

Legislative Research Agency



130 Seward Street, Suite 218  
Juneau, Alaska 99801-2196

Phone: (907) 465-3991  
Fax: (907) 463-3351

February 23, 1993

## MEMORANDUM

TO: Senator Robin Taylor

FROM: Christine M. Cheff *Cheff*  
Legislative Analyst

RE: Sanctions for Failure to Pay Traffic Fines or Make Court Appearances  
Research Request 93.116

You asked about the Hawaii, Oregon and Washington laws which pertain to sanctions imposed for failure to pay traffic fines or to make related court appearances. Additionally, you wanted to know if there were any problems with implementation of the laws, and whether driver's license revocation and nonrenewal of vehicle registration are effective sanctions. Your request is related to draft legislation that is modeled on California Vehicle Code 40509.

From our analysis of the Hawaii, Oregon and Washington laws it is clear that a differentiation is made between a parking violation sanction, generally nonrenewal of vehicle registration, and a moving violation sanction which affects driving privileges. That differentiation was also noted in our previous analysis of the California law upon which your draft bill is based.<sup>1</sup>

In the states you asked about, Oregon is the only one which suspends a driver's license for failure to appear in court or to pay fines for moving traffic violations, whereas, Hawaii and Washington have nonrenewal provisions. None of the three states suspend vehicle registrations for failure to pay parking fines. Washington does, however, have a proviso against renewal of a vehicle registration if the registrant has more than two outstanding parking violations.

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<sup>1</sup>Christine Cheff, "Draft Bill -- Fines and Court Appearances," Legislative Research Agency Memorandum 91.193, 1991.

Senator Taylor  
February 23, 1993  
Page 2

No legal opinions related to the sanction laws appear to have been issued, either by the courts or by the states' attorneys general.<sup>2</sup>

Although we spoke with court personnel about the effectiveness of sanctions, most of the information we obtained was from persons employed in the driver's license and motor vehicle registration departments in each state. The primary responsibility for enforcing court suspensions or nonrenewal orders, as well as for maintaining recordkeeping systems, falls to those departments. The persons with whom we spoke were knowledgeable concerning the application of sanctions and provided general overviews of their effectiveness. Although we were unable to determine what initial problems may have been encountered with implementing the sanctions programs, the principal recommendation we received from the departments contacted was that an automated recordkeeping system and communications link should be in place before implementation.

Summaries of our contacts with the staff of various agencies and of the individual state laws are provided below.

## Hawaii

Highway Safety Code Section 286-109 provides that anyone who fails to respond to a traffic citation or summons for violation of traffic laws, or who fails to comply with orders of the court, may be denied issuance or renewal of a driver's license. There is no provision for revocation or suspension of driving privileges.

The municipal courts on each island are responsible for notifying the respective traffic violations divisions about outstanding fines or citations. That information is entered into a computerized recordkeeping system which serves as the checkpoint when a person makes application for or attempts to renew a driver's license. Although each island has a traffic violations division, there is no electronic link between their recordkeeping systems. According to Milton Hee, manager of the Honolulu Traffic Violations section, the computer systems throughout the islands are very old and it is, therefore, impossible to track the number of persons currently on suspension or nonrenewal status. The only comprehensive source for that information is a computer printout. When an outstanding obligation has been satisfied, the court will issue a clearance notice to the traffic violation division and the person's name is removed from the computer.

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<sup>2</sup>We conducted a WESTLAW search of the Attorney General Opinions and case law for Hawaii, Oregon and Washington, and called the Attorney General's office in Oregon.

Hawaii does not have a statutory provision for suspension or nonrenewal of a vehicle registration for outstanding parking fines. Persons who fail to respond to a summons or citation for an illegally parked vehicle may be issued a penal summons to appear in court (Traffic Code Section 291C-168). Failure to appear in court can result in the person's arrest (Traffic Code Section 291C-169).

### Oregon

Under Oregon law (ORS 809.210 and 809.220), failure to appear (FTA) for a court hearing or to pay a traffic fine will result in the suspension of a person's driving privileges.<sup>3</sup> There are no sanctions (other than towing) for failure to pay fines related to parking offenses.

The Oregon Department of Motor Vehicles (DMV) is electronically connected to over 300 courts statewide--district, municipal, justice, and circuit. According to Jeaneile Naatz, Data Entry Division supervisor, about 12,000 FTAs are processed by the division each month. Ms. Naatz believes that the incidence of repeat offenders is quite high, possibly 50-75 percent. The courts clear between 6,000 and 7,000 driver's licenses for reinstatement per month. After five years, a statute of limitations allows the violator to clear a suspension by simply coming to the DMV office and paying the fine, plus interest. No court appearance is necessary.

Lane Borg, manager of the Criminal Division for the Multnomah County Circuit and District Courts, believes that sanctions are not particularly effective because of the limitations on enforcement. Conceivably, a person may drive on a suspended or expired license for five years and then clear the record without having to go to court.

### Washington

Currently, the only sanction for those who fail to appear in court or to pay parking fines is nonrenewal of a driver's license (RCW 46.20.031(3)) or vehicle registration (RCW 46.16.216) respectively.

A bill to suspend driver's licenses for FTAs related to moving violations has been introduced in the legislature, but at present the offense is a misdemeanor (RCW 46.64.020). Anyone with two or more outstanding FTAs within five years is guilty of "failure to comply" (RCW 46.64.027), which is a gross misdemeanor punishable by up to one year in the county jail or a fine of up to \$5,000, or both (RCW 9A20.020).

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<sup>3</sup>In Oregon an FTA refers to outstanding fines as well as to failure to appear in court.

Senator Taylor  
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Approximately 85 of the 150 eligible court jurisdictions in Washington participate in the automated vehicle registration suspension program maintained by the state's Title & Registration Department. Statewide, the department processes 30-35 parking violation suspensions per day. Bob Bardish, internal operations manager, says that over 50 percent of the suspensions which come in during a week are cleared by the end of that week.

Copies of the statutes referenced in this memorandum are attached. I hope the information will be useful. Please do not hesitate to call if we can be of further assistance.

Attachments

**OFFICE OF THE CITY ATTORNEY**  
CITY OF KETCHIKAN, ALASKA

*Steven H. Schweppe*  
City Attorney  
334 FRONT STREET  
KETCHIKAN, ALASKA 99901  
(907) 225-3111, EXT. 327  
Facsimile (907) 247-2111

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November 30, 1994

Mr. Joe Ambrose  
Senator Robin Taylor's Office  
352 Front Street  
Ketchikan, Alaska 99901

Re: Statutory Changes to Improve Collection  
of Traffic Citations

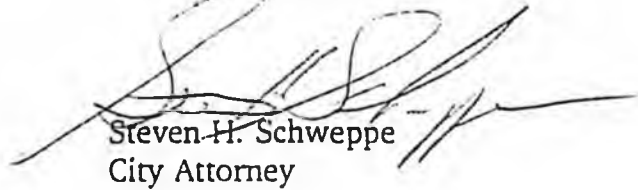
Dear Joe:

Earlier this month I attended the Alaska Municipal Attorney's Association Convention in Juneau. During the convention I had an opportunity to speak with Senator Taylor and with other municipal attorneys on the topic of enforcement of traffic citations. It appeared that municipal attorneys from around the State were all confronting difficulties in the current system of collecting fines imposed in traffic cases and in pursuing violators who fail to appear in court when scheduled. Senator Taylor talked to us about his proposal to require payment of outstanding citations prior to allowing a driver to register a vehicle or renew his driver's license. As you probably know, Judge Gucker has been a strong advocate of this concept as well. I have had some previous experience with this system in the State of Wisconsin and found it to be highly effective when applied to outstanding unpaid parking tickets. Judge Gucker believes that it is used effectively in California. It could be an effective way to collect fines from people who leave the State. Senator Taylor suggested that I contact you concerning my interest in this topic and my willingness to provide such assistance as I can to obtain its passage. It appeared that the municipal attorneys in Barrow, Kenai, and Juneau found this concept to be attractive and might be willing to provide some assistance to obtain its passage. The same system should be applied to persons who fail to appear for arraignment or trial of a traffic offense.

I understand that setting up and maintaining a system for recording traffic offenses with the Department of Public Safety, may cause some expense to the State. The expense

can be covered by imposing an additional fee on the violator. This fee is justifiable on two counts. First, it seems only appropriate that the persons who cause the additional expense should pay for it. Secondly, these same offenders found it too inconvenient to pay the fine as required by the court or to appear in court. Since they would now desire the additional convenience of paying their fines through the licensing process, they should pay for this additional service. In short, it appears to me that this system can provide a direct, fair, and efficient method to enforce laws which are now expensive and time consuming to enforce.

Yours very truly,



Steven H. Schweppe  
City Attorney

EG/M/JA



# City and Borough of Sitka

100 LINCOLN STREET, SITKA, ALASKA 99835

December 12, 1994

Steven H. Schweppe  
City Attorney  
334 Front Street  
Ketchikan, Alaska 99901

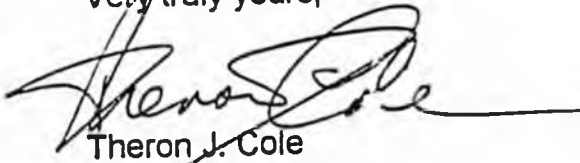


**RE: PROPOSED LEGISLATION TO PERMIT THE SUSPENSION OF DRIVER'S  
LICENSES UPON FAILURE TO APPEAR OR PAY TRAFFIC OR PARKING  
CITATIONS**

Dear Mr. <sup>Steve</sup>Schweppe:

After such a large reference, I have very little to say. The proposed legislation looks good to me.

Very truly yours,

  
Theron J. Cole  
Municipal Attorney

cc: Sitka Police Department