

HB

21

HFIN

FILE



Alaska State Legislature

HOUSE OF REPRESENTATIVES

Official Business

State Capitol
Juneau, AK 99801-1182

SPONSOR STATEMENT

House Bill 21 closes a small, but important loophole in House Bill 299 which passed last year.

That law should be amended to include municipal ordinance as well as state law. House Bill 21 does this.

At the recommendation of the Department of Law, the bill was amended in the House Finance Committee to include court revocation of a minor's license for a minor who is convicted or adjudicated for an offense involving the illegal use or possession of a firearm that is punishable under state statute or municipal ordinance. The House Finance Committee Substitute passed out with eight do-passes and three no-recs.

There are zero fiscal notes from the Department of Public Safety, the Department of Health and Social Services, and the Department of Law. The simple fix will cost the state nothing, but will increase the effectiveness of this law which provides additional incentive for youth not to use alcohol or drugs or illegally use or possess firearms.

House Bill 21 passed the House unanimously.

HOUSE COMMITTEE REPORT

(11)

Date Referred: March 1, 1995

FURTHER REFERRALS:

Date of Committee Action: 3/8/95

The FINANCE Committee considered:

HB 21

HOUSE BILL NO. 21

DRIVER'S LIC REVOCATION;ALCOHOL/DRUGS

"An Act relating to revocation of a driver's license for illegal possession or use of a controlled substance or illegal possession or consumption of alcohol by a person at least 13 but not yet 21 years of age; and providing for an effective date."

recommends it be replaced with the following committee substitute CS HB 21 (FIN) the same title a new title

additional referral to _____ Committee

attached amendment(s)

ADOPTS: HFC Letter of Intent

ATTACHES NEW FISCAL NOTE(S): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal note(s) _____

fiscal note(s) _____

zero fiscal note(s) Admin

zero fiscal note(s) DHSS 2/10/95

AK STATE TROOPERS 2/10/95; LAW 2/10/95

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Mark Hanley</i> Hanley	X			
<i>Edmund Mulder</i> Mulder	X			
<i>John Parnell</i> Parnell	X			
<i>Terry Martin</i> Martin	X			
<i>Kelly Kelly</i> Kelly	X			
<i>Gene Theriault</i> Theriault	X			
<i>Jim Kohring</i> Kohring	X			
<i>Tay Brown</i> Brown			X	
<i>Mike Navarre</i> Navarre			X	
<i>Ben Grussendorf</i> Grussendorf			X	
<i>Richard Foster</i> Foster	X			

CO-CHAIR'S SIGNATURE

Mark Hanley
Hanley

Richard Foster
Foster



Alaska State Legislature

HOUSE OF REPRESENTATIVES

Committee on Finance

Official Business

State Capitol
Juneau, Alaska 99801-1182

LETTER OF INTENT
FOR
CS HB 21 (FIN)

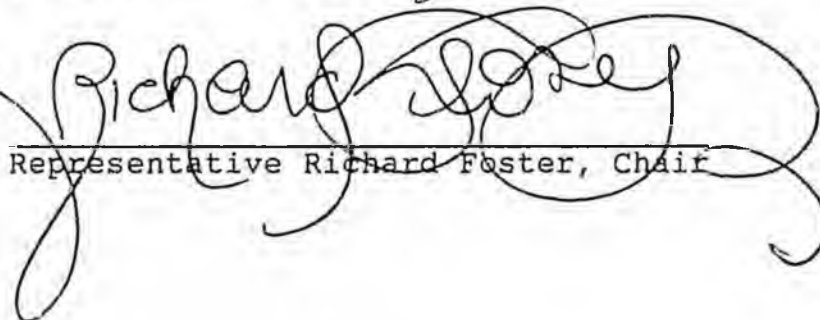
It is the intent of the Alaska Legislature that general fund program receipts provided by the driver's license reinstatement fee be divided equally between the Department of Public Safety and the Department of Health and Social Services. The program receipts received by the Department of Health and Social Services should be used for alcohol and drug abuse prevention and treatment programs specifically targeted at youth.



Representative Mark Hanley, Chair

3/8/95

Date



Representative Richard Foster, Chair

8 MAR 95

Date

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. CSHB 21 (JUD)

Revision Date: _____
 Title: "An Act relating to revocation of a driver's license for illegal possession or use of a controlled substance ..."
 Sponsor: Rep. Porter
 Requestor: (H) FIN

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
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FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)
 No measurable impact on the Public Defender Agency is anticipated.

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

Phone: 264-4400
 Date: _____

Approved by Commissioner: Mark Bover
 Agency: Department of Administration

Date: 3/2/95

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FISCAL NOTE

No. 1
 Bill Version: CS HB21(TRA)
 (H) Publish Date: 2/10/95

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Department of Law
 Title: ...revocation of a driver's license for illegal possession or use of a controlled substance...consumption of alcohol... BRU: Prosecution
 Sponsor: Representative Porter Component: All
 Requester: Representative Porter COMPONENT SERIAL NO. 0085-90

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill extends the driver's license revocation penalties, contained in AS 28.15, for minors who possess or use a controlled substance in violation of AS 11.71, or who possess or consume alcohol, in violation of AS 04.16.050, to include violations of municipal ordinances with substantially similar elements. The revocation of licenses is primarily an administrative process within the Department of Public Safety. The Department of Law's involvement consists of representing the Department of Public Safety (when needed) in an appeals hearing, to review a revocation. Such involvement, since the state's revocation penalties took effect last summer, has been minimal. Consequently, a fiscal impact is not expected.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Division Date: 2/1/95
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 2/1/95
 Agency: Department of Law

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FISCAL NOTE

STATE OF ALASKA

Bill

No. 2
 Version: CS HB 21 (TRA)
 (H) Publish Date: 2/10/95

1995 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Public Safety
 Title: An act relating to revocation of a BRU: Alaska State Troopers
driver's license for illegal possession, etc. Component: Detachments
 Sponsor: Representative Brian Porter
 Requestor: _____ 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						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
<small>Revenue Code</small>						

FUNDING: (Thousands of Dollars)

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

Estimate of current year (FY 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.)

No material impact.

Prepared By: Francis C. Allan Phone: 269-5691
 Division: Alaska State Troopers Date: 01/20/95
 Approved by Commissioner: [Signature] Date: 1/31/95
 Agency: Ronald L. Otte, Dept. of Public Safety

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STATE OF ALASKA
1995 LEGISLATIVE SESSION

Bill Version: CS HB 21 (TRA)
() Publish Date: 2/10/95

Revision Date: 01/27/95
Title: An act relating to revocation of a driver's license
Sponsor: Porter and Toohay
Requestor: _____

Dept. Affected: Health and Social Services
BRU: Alcohol and Drug Abuse Svcs
Component: ADA Administrators
COMPONENT SERIAL NO. 302
See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY95) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

This bill has no fiscal impact on the division.

Prepared by: Patty L. Olson
Division: Alcoholism & Drug Abuse
Approved by Commissioner: Karen Perdue, Commissioner
Agency: Department of Health & Social Services

Phone: _____
Date: 01/27/95
Date: 1/30/95

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FISCAL NOTE

not adopted

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO: CSHB 21 (FIN)

Revision Date: March 9, 1995 Dept. Affected: Public Safety
 Title: Driver's license revocation: alcohol/drug Motor Vehicles
 Component: Driver Services
 Sponsor: Representative Porter
 Requestor: (H) Finance COMPONENT SERIAL NO. 0500

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						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
<small>Revenue Code</small>						

FUNDING: (Thousands of Dollars)

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

Estimate of current year (FY 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.)
 No significant fiscal impact is anticipated to the Department of Public Safety

Prepared By: Juanita Henslev Phone: 465-4322
 Division: Motor Vehicle Date: 3/9/95
 Approved by Commissioner: *Ronald L. Otte* Date: 3-9-95
 Agency: Ronald L. Otte, Dept. of Public Safety

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Johnson + Porter

9-LS0121M2 ✓

Ford
3/8/95

AMENDMENT

1 adopted

OFFERED IN THE HOUSE

TO: CSHB 21(JUD)

1 Page 1, line 3, after "age;":

2 Insert "relating to revocation of a driver's license for illegal possession or use of
3 a firearm by a person at least 13 but not yet 18 years of age;"

4 Page 3, line 18, after "is":

5 Insert "convicted or who is"

6 Page 3, line 19:

7 Delete "or"

8 Page 3, line 20, after "ordinance":

9 Insert ". or (3) an offense involving the illegal use or possession of a firearm that
10 is punishable under AS 11 or a municipal ordinance"

11 Page 3, line 21, after "license":

12 Insert "privilege to drive, or privilege to obtain a license"

13 Page 4, line 4:

14 Delete "AS 11.71"

15 Insert "AS 11"

AMENDMENT ✓ adopted

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: CSHB 21(JUD)

1 Page 1, line 3, after "age;"

2 Insert "relating to treatment programs required for issuance or reissuance of a
3 driver's license;"

4 Page 3, line 4:

5 Delete "and"

6 Insert "or [AND]"

7 Page 3, line 7, after "drug":

8 Insert "education or"

9 Page 3, line 29, after "drug":

10 Insert "education or"

11 Page 3, line 30, after "alcohol":

12 Insert "education or"

13 Page 4, line 2, after "alcohol":

14 Insert "education or"

15 Page 4, line 3, after "drug":

16 Insert "education or"

AMENDMENT

3

Failed

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: CSHB 21(JUD)

Page 1, line 7:

Delete to believe

Insert "and based on personal observation"

Page 2, line 17:

Delete to believe

Insert "and based on personal observations"

AMENDMENT

4 withdrawn

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: CSHB 21(JUD)

Page 1, line 6 after "**Section 1.**":

Insert "FINDINGS. The legislature finds that

- (1) drinking alcohol is a factor in approximately one-half of all fatal motor vehicle accidents;
- (2) youthful drivers who consume alcohol are far more likely than sober teenage drivers to be killed in single vehicle accidents;
- (3) studies show increases in alcohol excise taxes are a substantial deterrent to youths abusing alcohol;
- (4) schools in this state should conduct educational programs to teach youths about the dangers of drinking or using controlled substances and driving; and
- (5) the legislature should increase the state alcohol excise tax to discourage underage drinking."

Renumber following sections.

AMENDMENT

5
accepted
Letter of Intent

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: CSHB 21(JUD)

Page 1, line 6 after "**Section 1.":

Insert "INTENT. It is the intent of the Alaska Legislature that general fund program receipts provided by the driver's license reinstatement fee be divided equally between the Department of Public Safety and the Department of Health and Social Services. The program receipts received by the Department of Health and Social Services should be used for alcohol and drug abuse prevention and treatment programs specifically targeted at youth."

Renumber following sections.

AMENDMENT

II adopted
N/D

OFFERED IN THE HOUSE
TO: CSHB 21(JUD)

BY REPRESENTATIVE BROWN

- 1 Page 1, line 3, after "age;"
- 2 Insert "relating to treatment programs required for issuance or reissuance of a
- 3 driver's license;"

- 4 Page 3, line 4:
- 5 Delete "and"
- 6 Insert "or [AND]"

- 7 Page 3, line 7, after "drug":
- 8 Insert "education or"

- 9 Page 3, line 29, after "drug":
- 10 Insert "education or"

- 11 Page 3, line 30, after "alcohol":
- 12 Insert "education or"

- 13 Page 4, line 2, after "alcohol":
- 14 Insert "education or"

- 15 Page 4, line 3, after "drug":
- 16 Insert "education or"

amendments
(1)
(2)
(5)

CS FOR HOUSE BILL NO. 21(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 3/1/95
Referred: Finance

Sponsor(s): REPRESENTATIVES PORTER AND TOOHEY

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to revocation of a driver's license for illegal possession or use
2 of a controlled substance or illegal possession or consumption of alcohol by a
3 person at least 13 but not yet 21 years of age; and providing for an effective
4 date."

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

6 * Section 1. AS 28.15.183(a) is amended to read:

7 (a) If a peace officer has probable cause to believe [AND BASED ON
8 PERSONAL OBSERVATION] that a person who is at least 14 years of age but not
9 yet 21 years of age has possessed or used a controlled substance in violation of
10 AS 11.71 or a municipal ordinance, or possessed or consumed alcohol in violation
11 of AS 04.16.050 or a municipal ordinance, and the peace officer has cited the person
12 or arrested the person for a violation of AS 11.71, [OR] AS 04.16.050, or the
13 municipal ordinance, the peace officer shall read a notice and deliver a copy to the
14 person. The notice must advise that

1 (1) the department intends to revoke the person's driver's license or
2 permit, privilege to drive, or privilege to obtain a license or permit;

3 (2) the person has the right to administrative review of the revocation;

4 (3) if the person has a driver's license or permit, the notice itself is a
5 temporary driver's license or permit that expires seven days after it is delivered to the
6 person;

7 (4) revocation of the person's driver's license or permit, privilege to
8 drive, or privilege to obtain a license or permit, takes effect seven days after delivery
9 of the notice to the person unless the person, within seven days, requests an
10 administrative review.

11 * Sec. 2. AS 28.15.183(c) is amended to read:

12 (c) Unless the person has requested an administrative review, the department
13 shall revoke the person's driver's license or permit, privilege to drive, or privilege to
14 obtain a license or permit, effective seven days after delivery to the person of the
15 notice required under (a) of this section, upon receipt of a sworn report of a peace
16 officer

17 (1) that the officer had probable cause to believe [AND BASED ON
18 PERSONAL OBSERVATIONS] that the person is at least 14 years of age but not yet
19 21 years of age and has possessed or used a controlled substance in violation of
20 AS 11.71 or a municipal ordinance, or possessed or consumed alcohol in violation
21 of AS 04.16.050 or a municipal ordinance;

22 (2) that the peace officer has cited the person or arrested the person for

23 (A) a violation of AS 11.71 or AS 04.16.050; or

24 (B) possession or use of a controlled substance or alcohol in
25 violation of a municipal ordinance;

26 (3) that notice under (a) of this section was provided to the person; and

27 (4) describing the circumstances surrounding the violation of the
28 controlled substances provisions of AS 11.71, [OR] the alcoholic beverages provisions
29 of AS 04.16.050, or the municipal ordinance.

30 * Sec. 3. AS 28.15.183(g) is amended to read:

31 (g) Except as provided under (h) of this section, the department may not issue

1 a new license or reissue a license to a person whose driver's license, permit, or
2 privilege to drive has been revoked under this section unless the person is enrolled in
3 and is in compliance with, or has successfully completed

4 (1) an alcoholism education and rehabilitation treatment program, if the
5 revocation resulted from possession or consumption of alcohol in violation of
6 AS 04.16.050 or a municipal ordinance; or

7 (2) a drug rehabilitation treatment program, if the revocation resulted
8 from possession or use of a controlled substance in violation of AS 11.71 or a
9 municipal ordinance.

10 * Sec. 4. AS 28.15.184(g) is amended to read:

11 (g) The hearing for review of a revocation by the department under
12 AS 28.15.183 shall be limited to the issues of whether the person was at least 14 years
13 of age but not yet 21 years of age and whether the person possessed or used a
14 controlled substance in violation of AS 11.71 or a municipal ordinance, or possessed
15 or consumed alcohol in violation of AS 04.16.050 or a municipal ordinance.

16 * Sec. 5. AS 28.15.185(a) is amended to read:

17 (a) A person who is at least 13 years of age but not older than 17 years of age
18 who is adjudicated by a juvenile court of (1) misconduct involving a controlled
19 substance under AS 11.71 or a municipal ordinance, or (2) possession or
20 consumption of alcohol under AS 04.16.050 or a municipal ordinance is subject to
21 revocation of the person's driver's license under (b) of this section.

22 * Sec. 6. AS 28.15.185(c) is amended to read:

23 (c) Upon conviction or adjudication of an offense listed in (a) of this section,
24 the court may, upon petition of the person, review the revocation and may restore the
25 driver's license, except a court may not restore the driver's license until

26 (1) at least one-half of the period of revocation imposed under this
27 section has expired; and

28 (2) the person has taken and successfully completed a state approved
29 program of drug rehabilitation if convicted of misconduct involving a controlled
30 substance under AS 11.71 or a municipal ordinance, or alcohol rehabilitation if
31 convicted of possession or consumption of alcohol under AS 04.16.050 or a

1 municipal ordinance; this paragraph does not apply to a person who resides in an area
2 that does not offer a state approved drug or alcohol rehabilitation program or a person
3 that the court determines does not need alcohol or drug rehabilitation.

4 * Sec. 7. APPLICABILITY. This Act applies to violations of AS 04.16.050, AS 11.71,
5 or a municipal ordinance that occur on or after the effective date of this Act.

6 * Sec. 8. This Act takes effect July 1, 1995.

Municipality
of
Anchorage



P.O. Box 196650
Anchorage, Alaska 99519-6650
Telephone: (907) 343-4250

Rick Mystrom, Mayor

DEPARTMENT OF LAW
Office of the Prosecutor
130 L Street, Suite 100

January 19, 1995

I am writing to express my strongest support for proposed House Bill 21, sponsored by Representative Porter.

As a state, Alaska, sorrowfully, has one of the highest incidents of alcohol abuse in the nation. Unfortunately that abuse often begins at a young age. At least 50% of all juvenile crime in Alaska is linked to alcohol. Alcohol is also a factor in a tremendous number of suicides. In fact as many as 72% of suicides by Native men aged 15 to 24 are alcohol related. Chillingly, nationwide almost 70% of juveniles who report using drugs or alcohol state their first experiences were with drugs or alcohol taken from their parents' supplies.

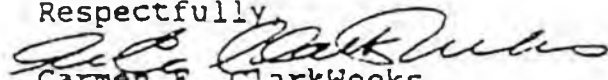
This abuse causes carnage on the roadway. Here in Anchorage there were 13 DWI traffic fatalities compared to 24 murders in 1994. In 1993 Alaska had the 3rd highest percentage of alcohol-related traffic deaths in the nation. Drunk drivers kill 26,000 Americans every year or 1 every 20 minutes. One and a half million people are seriously injured or crippled each year while economic losses range over \$24 billion a year.

Young people generally lack the maturity of judgement to make them the best of drivers at any time. Their sense of immortality can make them disregard or fail to perceive dangers the adult driver would readily see. Couple those characteristics with a proven disposition to consume alcohol and a recipe for disaster is created. Thus, taking their driver's license is both a remedial measure which removes a likely risk from the road and a rehabilitative measure that teaches the relationship between behavior and consequences. The unpleasant consequence, loss of the license, should lead to a decrease in the frequency of the undesirable behavior. The end results will be safer roads and children growing up without the health and social risks associated with early alcohol consumption.

The language chosen for the proposed amendments is also laudable. The Court of Appeals is required to give restrictive interpretation to legislative language. Using the language selected will allow communities to explore approaches to lessening juvenile drug and alcohol abuse tailored to the community's specific needs and problems instead of forcing a complete mirroring of the state statutory prohibitions. In the long run that can only lead to more effective treatment and enforcement.

In closing, I urge the passage of House Bill 21.

Respectfully,



Carmen E. ClarkWeeks
Acting Municipal Prosecutor



CITY OF BARROW

"farthest north incorporated city"

March 3, 1995

Finance Committee
House of Representatives
State Capitol
Juneau, AK 99801-1182

Re: CSHB 21(JUD)

Dear Committee Members:

The City of Barrow, in cooperation with the North Slope Borough School District, and the North Slope Borough Departments of Public Safety and Health, has a minor consuming alcohol program which has been in effect for approximately three years.

Enclosed is a copy of the City of Barrow ordinances relating to the possession or consumption of alcoholic beverages and controlled substances by persons under the age of 18. While our ordinances address both alcohol and controlled substances it has been my experience that minors are cited only under the alcohol portion. As you can see, our ordinance closely tracks the States statute on minor consuming alcohol.

In addition to ordering the minor to pay a fine, the court usually orders the minor to attend one of the City of Barrow's two alcohol education programs. The first program, Insight, is an nine hour education program conducted by a City Community Services Department employee in the school. The second program, Lifeguides, is a thirty two hour education program which is also conducted by a Community Services Department employee in the school.

When the minor has withdrawn from school or is about to turn eighteen the City Attorney does not recommend to the court that the minor be required to attend one of these education programs since the classes are taught in the schools and our ordinance addresses minors up to the age of eighteen.

In more serious cases the court will refer the minor the North Slope Borough's Substance Abuse Treatment Services for evaluation and referral to an off slope treatment program. However, since a violation of the City's ordinance is only an infraction, the court cannot order the minor to comply with any inpatient treatment recommendations from SATS.

I have two comments specific to CSHB 21(JUD):

1. Section 5 which amends AS 28.15.185(a) relates to a minor being adjudicated by a juvenile court. Since the City of Barrow's ordinance is an infraction, it is dealt with in

March 6, 1995 Letter
CSHB 21 (JUD)
Page 2

District Court, as are all City citations. Even though it appears that the proposed amendments were aimed at including violations of ordinances such as the City of Barrow's, since AS 28.15.185 addresses only juvenile court proceedings it does not appear that the court will be given the authority to revoke a minor's driving privileges for violating the City of Barrow's minor consuming ordinance.

2. I do not see a definition of "state approved drug or alcohol rehabilitation" in the bill. However, since our classes are education programs and not rehabilitation programs I assume that the City's classes do not qualify. Unfortunately, the City's classes are the only alcohol programs offered for minors in Barrow. The North Slope Borough's SATS program evaluates minors and assists them in finding treatment off slope but SATS does not provide alcohol rehabilitation in Barrow for minors.

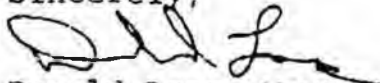
The effect of the amendments in Barrow will be:

1. A minor will be cited for violating the City's minor consuming alcohol ordinance.
2. DMV will revoke the minor's privilege to drive for 90 days.
3. The court will not be able to suspend the minor's driving privileges even if DMV has not done so administratively since the proceeding will not be in juvenile court.
4. Minors will not have the incentive of completing an alcohol education program in order to regain their driving privileges because the City's education programs do not qualify and the minor "who is required to obtain drug or alcoholism treatment resides in an area where drug rehabilitation or alcoholism treatment is unavailable".

Since it appears that the intent of the statutes and amendments is to encourage minors to become educated as to the harmful effect that alcohol has on their lives (in this case through the very real harmful effect of losing driving privileges) I hope that this Committee will consider:

1. Expanding the amendments to include all court proceedings, not just juvenile proceedings involving violations of local ordinances
2. Expanding the definition of alcohol rehabilitation to include programs such as the City of Barrow's Insight and Lifeguides programs.

Sincerely,


Donald Long Mayor

Chapter 9.14POSSESSION OR CONSUMPTION OF ALCOHOLIC BEVERAGES
OR CONTROLLED SUBSTANCES BY MINORSSections:

- 9.14.010 Possession or consumption by persons under the age of eighteen.
9.14.020 Violation--Detention of minor.
9.14.030 Violation--Civil forfeiture.
9.14.040 Definitions.

9.14.010 Possession or consumption by persons under the age of eighteen. A. A person under the age of eighteen may not knowingly consume, possess, or control alcoholic beverages except those furnished under AS 04.16.051(b).

B. A person under the age of eighteen may not knowingly consume, possess, or control a controlled substance except as authorized in AS 17.30.

C. Violation of this section is an infraction, punishable by a maximum fine of three hundred dollars. Additionally, the court may order, and a minor convicted under this section shall undertake, for a term specified by the court, that program of alcohol and/or drug education or rehabilitation that the court, after consideration of any information presented, finds appropriate. (Ord. 91-16 §3(part))

9.14.020 Violation--Detention of minor. If a peace officer has probable cause to believe that a minor is in violation of this chapter, the officer may, in conformity with AS 47.10.140 and AS 47.10.142, take the minor into custody for the sole purpose of either returning the minor to the minor's parent or guardian or, if the minor prefers, to a shelter operated under contract with the State Department of Health and Social Services. (Ord. 91-16 §3(part))

9.14.030 Violation--Civil forfeiture. A. Alcohol or controlled substances possessed or controlled in violation of this chapter and seized as evidence shall be forfeited under the following circumstances:

1. Actual or constructive notice is given to the owner of the liquor or controlled substance so seized that a forfeiture action will be taken; and

2. Judgment is issued by a court of competent jurisdiction in a proceeding in rem that the liquor or controlled substance was used in a manner subjecting it to forfeiture under this section.

B. Property forfeited under this section shall be placed

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in the custody of the North Slope Borough department of public safety for disposition according to an order of court. The court shall order destroyed any liquor or controlled substance forfeited under this section, unless it is determined to be evidence necessary in another criminal prosecution. (Ord. 91-16 §3(part))

9.14.040 Definitions. For the purposes of this chapter, the following words and phrases shall have the following meanings:

A. A person acts "knowingly" with respect to conduct or to a circumstance described by a provision of law defining an offense when the person is aware that the person's conduct is of that nature or that the circumstances exist; when knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist; a person who is unaware of conduct or a circumstance of which the person would have been aware had the person not been intoxicated acts knowingly with respect to that conduct or circumstances.

B. "Alcoholic beverage" means an alcoholic beverage as defined by AS 04.21.080(b)(1).

C. "Controlled substance" means any Schedule IA, IIA, IIIA, IVA, VA, or VIA substance defined in AS 11.71. (Ord. 91-16 §3(part))