

**HB**

**203**

HOUSE COMMITTEE REPORT

3/14/95

(7)

Date Referred: February 27, 1995  
 Date of Committee Action: 3/8/95

FURTHER REFERRALS:

Judiciary

The TRANSPORTATION Committee considered:

HB 203

HOUSE BILL NO. 203

PREVIOUS CONVICTIONS FOR DWI OFFENSES

"An Act relating to the meaning of the phrase "previously convicted" as that phrase applies to the operation of a motor vehicle, commercial motor vehicle, aircraft, or watercraft while intoxicated."

recommends it be replaced with the following committee substitute \_\_\_\_\_ [ ] the same title  
 [ ] a new title

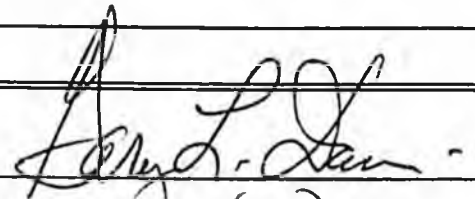
[ ] additional referral to \_\_\_\_\_ Committee  
 [ ] attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_ APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_  
 [ ] fiscal note(s) \_\_\_\_\_ [ ] fiscal note(s) \_\_\_\_\_

[ ] zero fiscal note(s) \_\_\_\_\_ (5) ~~W~~ zero fiscal note(s) (2) Admin, Corrections Law, P.S. 2/27/95

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
EP MacLean MacLean	✓			
Beverly Masek MASEK			✓	
W.K. Williams Williams	✓			
Henry Sanders Sanders	✓			
Gregory L. Davis G. DAVIS			✓	
	(3)		(2)	

CHAIR'S SIGNATURE   
 G. DAVIS

# FISCAL NOTE

**STATE OF ALASKA**  
**1995 LEGISLATIVE SESSION**

No. 5  
 Bill Version: HB 203  
 (H) Publish Date: 2/27/95

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: "An Act clarifying 'previously convicted' for  
determining repeat offenders of the D.W.I. Laws. Component: DPS Statewide Support  
 Sponsor: Governor Component: Commissioner's Office  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 0523

**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: \$ \_\_\_\_\_

**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 fiscal impact is anticipated to the Department of Public Safety

Prepared By: Lee Ann Lucas, Special Assistant to the Commissioner Phone: 465-4322  
 Division: Commissioner's Office Date: 2/16/95  
 Approved by Commissioner: *[Signature]* Date: 2-17-95  
 Agency: Ronald L. Ote, Dept. of Public Safety

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# FISCAL NOTE

No. 4  
 Bill Version: HB 203  
 (H) Publish Date: 2/27/95

**STATE OF ALASKA  
 1995 LEGISLATIVE SESSION**

Revision Date: \_\_\_\_\_ Dept. Affected: Department of Law  
 Title: "...revocation of a minor's license to drive... illegal use or possession of a firearm." BRU: Prosecution  
 Sponsor: Rules By the Governor's Request Component: All  
 Requester: Governor's Office/OMB COMPONENT SERIAL NO. 0085-0030

**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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE**

(Thousands of Dollars)

FUND SOURCE	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

**POSITIONS**

POSITIONS	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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 amends the state's "use it, lose it" law, AS 28.15.185, to provide for the revocation of a juvenile's driver's license, privilege to drive, or privilege to obtain a driver's license if the juvenile is convicted or adjudicated of an offense that involves the illegal use or possession of a firearm. The revocation of a license 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, regarding alcohol and drugs, has been minimal. Consequently, a fiscal impact is not expected.

Prepared by: Richard I. Pegues, Director  
 Division: Administrative Services Division  
 Approved by Commissioner: Bruce M. Botelho, Attorney General  
 Agency: Department of Law

Phone: 465-3672  
 Date: 2/16/95  
 Date: 2/16/95

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TONY KNOWLES  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

HB 203  
P.O. Box 110001  
Juneau, Alaska 99811-0001  
(907) 465-3500  
Fax (907) 465-3532

February 27, 1995

The Honorable Gail Phillips  
Speaker of the House  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear Speaker Phillips:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the meaning of the phrase "previously convicted" for purposes of this state's driving while intoxicated (DWI) laws. Alaska law tries to discourage repeat offenders by treating them more harshly than first offenders. In keeping with this public policy, the mandatory minimum sentences for second, third, and subsequent drunk driving offenses require more jail time, higher fines, and longer revocations of driving privileges. A repeat DWI offender also is subject to forfeiture of the vehicle or aircraft involved in the commission of the offense, and is precluded from being granted limited license privileges during the time that person's driver's license is revoked.

In Burnette v. Municipality of Anchorage, 823 P.2d 10 (Alaska App. 1991), an Alaska court held that a defendant who had a prior DWI conviction from Oregon was not subject to Alaska's enhanced mandatory minimum sentence for second offenses because Oregon's DWI law was less restrictive than Alaska's law. In Oregon, and many other states, a person is presumed intoxicated if there is more than .08 percent by weight of alcohol in the person's blood (BAC). Alaska still uses the .10 percent BAC standard. Because it is possible for a person in Oregon or one of these other states to be convicted of drunk driving with a lower BAC than that required in Alaska, our courts have held that convictions from these states cannot be counted when deciding what is the proper mandatory minimum sentence to impose. This result occurs even if the court records from the other state show that the person's BAC was not .08 or .09 percent, but was actually .10 percent or higher at the time of the offense.

TRANSMITTAL LETTER

The Honorable Gail Phillips

February 27, 1995

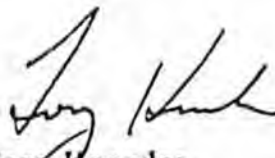
Page 2

This is not fair. A person who has been convicted of drunk driving in one state should be treated like a repeat offender when convicted of drunk driving in another state. The person should not be treated like a first offender over and over again because of technical differences between the states' laws. Drunk drivers are dangerous and need to be kept off of our roads.

This bill will help do that. It amends DWI-related provisions in AS 28 to make clear that the phrase "previously convicted" includes a conviction under a law of another state even if that law allows conviction with a lower BAC level than that used in Alaska. Whether another state's law allows a DWI conviction for .08 or .09 BAC levels, it is still a conviction for drunk driving and it should count as one.

I urge your favorable action on this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Knowles". The signature is stylized and cursive.

Tony Knowles  
Governor

# FISCAL NOTE

No. 3  
 Bill Version: HB 203  
 (H) Publish Date: 2/27/95

STATE OF ALASKA  
 1995 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Corrections  
 Title: An Act relating to the meaning of the phrase BRU: \_\_\_\_\_  
"previously convicted"..... Component: \_\_\_\_\_  
 Sponsor: \_\_\_\_\_  
 Requester: Governors Office COMPONENT SERIAL NO. \_\_\_\_\_

**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						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

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

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

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

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

This bill would succeed in clarifying the meaning of "previously convicted" and the intent of including conviction of similar offenses in other jurisdictions. The Department of Corrections is impacted only to the extent that offenders convicted in other states were convicted under statutes requiring less than a .10 BAC and to the extent that those convictions are discovered at the time of conviction in Alaska.

No data is available to test the impact of this bill on DOC, however, prior to 1991 these cases would have been included in the conviction data without reference to the BAC. Therefore, in any average case numbers would include some years in which these added cases would be included. The numbers are small and the impact, if any will be negligible.

Prepared by: Jerry Shriner  
 Division: \_\_\_\_\_

Phone: 465-5582  
 Date: 2/16/95

Approved by Commissioner: *Walter M. Pugh*  
 Agency: Department of Corrections

Date: 2/16/95

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# FISCAL NOTE

No. 2  
 Bill Version: HB 203  
 (H) Publish Date: 2/27/95

STATE OF ALASKA  
 1995 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
 Title: "An Act relating to the meaning of 'previously convicted' in determining repeat drunk drivers . . ."  
 Sponsor: \_\_\_\_\_  
 Requestor: \_\_\_\_\_

Department Affected: Administration  
 BRU: Public Defender Agency  
 Component: Public Defender Agency  
 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						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CHANGE IN REVENUES ( )</b>	0.0	0.0	0.0	0.0	0.0	0.0

**FUND SOURCE:** (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	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 fiscal impact.

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

Phone: (907) 264-4412  
 Date: \_\_\_\_\_

Approved by Commissioner: Mark Bover  
 Agency: Department of Administration

Date: 2-19-95

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FISCAL NOTE

No. 1  
 Bill Version: \_\_\_\_\_  
 (H) Publish Date: 2-27-95

STATE OF ALASKA  
 1995 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
 Title: "An Act relating to the meaning of 'previously convicted' in determining repeat drunk drivers..."  
 Sponsor: Governor  
 Requestor: \_\_\_\_\_

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

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						
<b>TOTAL OPERATING</b>	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						
<b>TOTAL</b>	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.)

There is no fiscal impact.

Prepared by: Brant McGee  
 Division: Office of Public Advocacy

Phone: 274-1684  
 Date: 2-17-95

Approved by Commissioner: Mark Boyer  
 Agency: Department of Administration

Date: 2-17-95

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GOVERNOR



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The Honorable Gail Phillips  
February 27, 1995  
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I urge your favorable action on this bill.

Sincerely,



Tony Knowles  
Governor