

HB

159

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 5/3/95

FURTHER:

DATE TURNED INTO OFFICE: 5-8-95

The Finance Committee considered CS FOR HOUSE BILL NO. 159(JUD)

Allowing a person under age 21 to be arrested by a peace officer without a warrant for illegal possession, consumption, or control of alcohol; efd.

and recommends:

- be replaced with 5 CS CS HB 159 (Fin)
- adopt previous _____ CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:
 same title
 new title

5CS (Fin)
Coming and new Fiscal notes Coming

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
		<i>Steve Keri</i>	✓		
		<i>Roller</i>	✓		
		<i>Bob Shamp</i>	✓		
		<i>Fiscal Note of 1,208.7 is a</i>			
Co-Chair:		Co-Chair: <i>[Signature]</i>	✓		
Co-Chair:		Co-Chair: <i>Rick Halford</i>	✓		

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

Courts	5/6/95	0	
DOC	5/7/95		5400

114.0 rev.

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

DORaw	7/10/95		284.1
Courts	7/22/95		131.6
DPS	7/10/95		59.4
DOA	4/03/95		297.5

Budget Trust

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

BILL NO: HB159

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL VERSION: _____

Revision Date: March 7, 1995
Title: An Act relating to DWI Laws

Dept. Affected: Alaska Court System
BRU: Alaska Court System

Sponsor: Representative Porter, Bunde
Requestor: _____

Components: Trial Courts
Serial #: _____

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
Personal Services						
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE	114.0	114.0	114.0	114.0	114.0	114.0
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FUNDING: (THOUSANDS OF DOLLARS)

General Fund						
Federal Fund						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

The Court System has determined that an estimated \$760.0 in new fines could be assessed by the Courts as a result of this bill. However, between 80% and 90% of this amount will be uncollectable for lack of financial resources on the part of the defendants. The Public Defender fiscal note estimates that they will handle 80% of the prosecutions under this law. Therefore, all but between \$76.0 and \$152.0 of the assessed fines cannot be relied upon to defray the costs of this legislation. Conservatively, \$114.0 could be expected to be collected by the Court System if the 330 case average is accurate.

Prepared by: Kathryn Daughhete, Fiscal Analyst *Kad*
Legislative Finance Division

Date: May 6, 1995

Phone: 465-5435

Prepared for: Senate
Finance Committee *Rich Helford*
(Chairman)

Date: _____

FISCAL NOTE

** CORRECTED FISCAL NOTE***

No. 6

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL
Bill Version: SCSCSHB 159 FIN
(S) Publish Date: 5/9/95

Revision Date: March 7, 1995
Title: An Act relating to DWI Laws
Sponsor: Representative Porter, Bunde
Requestor: _____

Dept. Affected: Corrections
BRU: Statewide Programs
Components: Comm Corr Director/CRCs
Serial #: 1382

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
Personal Services	122.0	253.0	259.5	269.2	273.3	283.6
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	418.4	836.8	836.8	836.8	836.8	836.8
Supplies						
Equipment						
Land & Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING	540.4	1089.8	1096.3	1106.0	1110.1	1120.4

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (THOUSANDS OF DOLLARS)

General Fund	540.4	1089.8	1096.3	1106.0	1110.1	1120.4
Federal Fund						
Other						
TOTAL	540.4	1089.8	1096.3	1106.0	1110.1	1120.4

POSITIONS:

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

This fiscal note has been prepared in conformance with the analysis the Department provided in a prior fiscal note, except that the implementation year funding has been reduced by one-half, to more accurately reflect the timing of the impact on Corrections. A copy of the Departments previous fiscal note and analysis is attached for reference.

Prepared by: Kathryn Daughhete, Fiscal Analyst Kad
Legislative Finance Division

Date: May 7, 1995
Phone: 465-5435

Prepared for: Senate Finance Committee
(Chairman) Kirk Halford

Date: _____

FISCAL NOTE

No. 1

Bill Version: CSHB 159 (JUD)

(H) Publish Date: 3/29/95

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Department of Law
 Title: "...classifying certain offenses...driving while
intoxicated...failure to submit to a chemical test...as felonies..." BRU: Prosecution
 Sponsor: Representative Porter Component: Third Judicial District
 Requester: Representative Porter COMPONENT SERIAL NO. 0087

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	218.5	218.5	218.5	218.5	218.5	218.5
TRAVEL	6.0	6.0	6.0	6.0	6.0	6.0
CONTRACTUAL	28.2	28.2	28.2	28.2	28.2	28.2
SUPPLIES	11.4	11.4	11.4	11.4	11.4	11.4
EQUIPMENT	30.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	294.1	264.1	264.1	264.1	264.1	264.1

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	294.1	264.1	264.1	264.1	264.1	254.1
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	294.1	264.1	264.1	264.1	264.1	264.1

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

POSITIONS

FULL-TIME	4.0	4.0	4.0	4.0	4.0	4.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill makes several changes in state laws regarding alcoholic beverages, driving while intoxicated, driving while license suspended, and refusal to submit to a chemical test.

First, the bill amends AS 12.25.030(b) to make it clear that a peace officer may arrest a person under 21 years of age without a warrant when the peace officer has reasonable cause to believe that the person knowingly possessed, consumed or controlled alcoholic beverages in violation of AS 04.16.050. This provision overrules a recent court decision, and restores past practice. Therefore, this change will not have a fiscal impact.

Second, the bill increases the penalty for a third or subsequent driving while intoxicated conviction from a class A misdemeanor to a class C felony, except that only convictions occurring within five years preceding the date of the present offense may be included. A court would be required to impose a minimum term of

Prepared by: Richard I. Peques, Director Phone: 465-3672
 Division: Administrative Services Division Date: 2/16/95
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 2/16/95
 Agency: Department of Law

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

ANALYSIS CONTINUATION:

imprisonment of 120 days for a third conviction and 240 days for a fourth or subsequent conviction. A minimum fine of \$5,000 would be imposed for a third or subsequent conviction. A court would not be permitted to suspend execution of sentence or grant probation except on the condition that a person serve the minimum sentence of imprisonment. And, a court would not be permitted to suspend imposition of sentence.

Currently, a third conviction results in a minimum sentence of sixty days imprisonment and a fine of not less than \$1,000. A fourth conviction results in a minimum period of imprisonment of 120 days and a fine of not less than \$2,000. A fifth conviction results in a minimum of 240 days imprisonment and a fine of not less than \$3,000. And a sixth conviction results in not less than 360 days of imprisonment and a fine of not less than \$4,000. The crime of driving while intoxicated, whatever the number of offenses, is a class A misdemeanor under existing law, and the counting of offenses for purposes of increasing the sentence covers a ten year span. Consequently, the existing penalties would remain in place for repeat offenders if the third or subsequent offense occurred between the sixth and the tenth year after the first offense.

Third, the bill raises the penalty for a third or subsequent refusal to submit to a chemical test from a class A misdemeanor to a class C felony, under the identical circumstances (three or more convictions within five years), and imposes identical minimum sentences.

Finally, the bill would also make it a class C felony if a person drives a motor vehicle while their license was revoked as a result of a felony conviction for driving while intoxicated or refusal to submit to a chemical test. Under current law, driving while a license is suspended or revoked is a class A misdemeanor. We note that the felony DWLS provision is triggered by a prior felony. The state's presumptive sentencing laws require a sentence of two years of imprisonment upon a second felony conviction.

During the past three years an average of 330 defendants have been convicted of three or more DWI/Refusal violations within five years. Based upon the department's DWI/Refusal conviction rate, approximately 400 additional felony level DWI/Refusal cases will be referred to the department for prosecution. Of this number, about 380 cases will be taken to the grand jury for indictment. The department currently handles about 4,000 felonies annually. Thus, raising this large a number of misdemeanor offenses to felony offenses represents a substantial increase in our workload, because of the additional effort required to process a felony case. This includes grand jury proceedings, motion practice, pre-sentence reports, 12-person juries, and sentencing hearings. None of these additional processes are required for the prosecution of misdemeanors. We also note, that although these cases are to be processed as felonies, the minimum sentence provisions are still those that attend misdemeanor offenses. Moreover, the increase in jail time (nearly 80% or 260 of 330 convictions are for third-time offenders) is bound to result in tougher defenses and more defendants going to trial, rather than pleading guilty. This will be of particular concern to felony defendants because of the consequences of presumptive sentencing.

Therefore, because of the large increase in felony processing, the department will have to add two Attorney III positions, one each in Anchorage, and Palmer where the largest number of offenses occur. Additionally, because of the higher level of activity one Legal Secretary I position will have to be added at both Anchorage and Palmer.

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 159

ANALYSIS CONTINUATION:

FISCAL ANALYSIS

Component Location Job Title	<u>Third Jud. District (0087)</u>				<u>TOTAL</u>
	<u>Anchorage Attorney III</u>	<u>Anchorage Leg. Sec. I</u>	<u>Palmer Atty III</u>	<u>Palmer Leg. Sec. I</u>	
Personal Services	71.7	36.1	74.1	36.6	218.5
Travel	3.0	0.0	3.0	0.0	6.0
Contractual	8.6	6.0	7.6	6.0	28.2
Supplies	3.3	2.4	3.3	2.4	11.4
Equipment	<u>6.5</u>	<u>8.5</u>	<u>6.5</u>	<u>8.5</u>	<u>30.0</u>
Total	93.1	53.0	94.5	53.5	294.1

01/24/95

14:59:24.3

PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

PAGE: 1

DEPARTMENT OF LAW

SCENARIO: 3

COMPONENT #: 6501020300 NAME: THIRD JUDICIAL DISTRICT

DRU NAME: PROSECUTION

PCH	UNANTD PCH	JOB CLASS TITLE	T S	LOCATION NAME	R C	D U	S	R&S BUDG	HOS	SALARY	PREM PAY	DERES	PER.SERV. COSTS	G. F. AMOUNT
#030		ATTORNEY III	F	ANCHORAGE	A	XE	AA	22A	12	53304	0	10305	71609.90	

*** JUSTIFICATION:

This position will be needed to handle an increased felony workload when the penalty for driving while intoxicated (or refusing to take a chemical test) for the 3rd or more times is raised from a class A misdemeanor to a class C felony.

TRAVEL COSTS	3000.00
CONTRACTUAL COSTS	6600.00
SUPPLIES COSTS	3300.00
EQUIPMENT COSTS	6500.00
OTHER COSTS	0.00

TOTAL COSTS 93009.90 71609.90

*** FUNDING DETAIL:

100% GENERAL FUND RECEIPTS 71609.90

TOTAL FUNDING 71609.90

#031		LEGAL SECRETARY I	F	ANCHORAGE	A	GC	2A	10A	12	24756	0	11367	36123.02	
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*** JUSTIFICATION:

This position will be needed to handle an increased felony workload when the penalty for driving while intoxicated (or refusing to take a chemical test) for the 3rd or more times is raised from a class A misdemeanor to a class C felony.

TRAVEL COSTS	0.00
CONTRACTUAL COSTS	6000.00
SUPPLIES COSTS	2400.00
EQUIPMENT COSTS	8500.00
OTHER COSTS	0.00

TOTAL COSTS 53023.02 36123.02

*** FUNDING DETAIL:

100% GENERAL FUND RECEIPTS 36123.02

TOTAL FUNDING 36123.02

*** COMPONENT TOTALS:

FULL TIME NEW POSITIONS	2	TOTAL PERSONAL SERVICES	107013.00
PART TIME/SEASONAL NEW POSITIONS	0		
NON PERMANENT NEW POSITIONS	0	TOTAL COSTS INC. ASSOC COSTS	146113.80
OTHER.....	0		

NUMBER OF NEW POSITIONS IN COMPONENT: 2

FUNDING DATA: G.F. & G.F. MATCH: 107013.00

OTHER FUNDS: 0.00

TOTAL FUNDING: 107013.00

02/14/95

09:46:00.0

PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

PAGE: 1

DEPARTMENT OF LAW

SCENARIO: 2

COMPONENT #: 6501020300 NAME: THIRD JUDICIAL DISTRICT

DRU NAME: PROSECUTION

PCN	UNAUTH PCN	JOB CLASS TITLE	F S	LOCATION NAME	R B S C U	A&S HOS BUDG	SALARY	PREM PAY	DERES	PER.SERV. COSTS	G. F. AMOUNT
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31026		ATTORNEY III	P	DILLINGHAM	A XE III	22A 6	33900	0	9723	43623.54	
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*** JUSTIFICATION:

substantial increases in the penalties for commercial fishing violations will result in more vigorous defense by defendants and will increase the number of trials significantly.

TRAVEL COSTS	3500.00
CONTRACTUAL COSTS	5000.00
SUPPLIES COSTS	1200.00
EQUIPMENT COSTS	6500.00
OTHER COSTS	0.00

TOTAL COSTS	59023.54	43623.54
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*** FUNDING DETAIL:

100% GENERAL FUND RECEIPTS	43623.54
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TOTAL FUNDING	43623.54
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31059		ATTORNEY III	F	ANCHORAGE	A XE AA	22A 12	53304	0	10305	71689.98	
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*** JUSTIFICATION:

This position will be needed to handle an increased felony caseload if state criminal mischief laws are amended to also the penalty for joyriding from a class A misdemeanor to a class C felony.

TRAVEL COSTS	3000.00
CONTRACTUAL COSTS	8600.00
SUPPLIES COSTS	3300.00
EQUIPMENT COSTS	6500.00
OTHER COSTS	0.00

TOTAL COSTS	93089.98	71689.98
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*** FUNDING DETAIL:

100% GENERAL FUND RECEIPTS	71689.98
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TOTAL FUNDING	71689.98
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0307		ATTORNEY III	F	PALMER	A XE DB	22A 12	55260	0	10073	74133.41	
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*** JUSTIFICATION:

This position will be required to handle the additional legal actions required to prosecute third-time DWI/refusal prosecutions as felonies rather than misdemeanors. This includes securing grand jury indictments and overcoming a tougher defense due to the substantially increased penalties.

TRAVEL COSTS	3000.00
CONTRACTUAL COSTS	7600.00
SUPPLIES COSTS	3300.00
EQUIPMENT COSTS	6500.00
OTHER COSTS	0.00

TOTAL COSTS	94533.41	74133.41
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*** FUNDING DETAIL:

100% GENERAL FUND RECEIPTS	74133.41
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TOTAL FUNDING	74133.41
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03060		LEGAL SECRETARY I	F	PALMER	A GG 2A	10A 12	25140	0	11463	36603.52	
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*** JUSTIFICATION:

This position will be required to handle the additional legal actions required to prosecute third-time DWI/refusal prosecutions as felonies rather than misdemeanors. This includes securing grand jury

TRAVEL COSTS	0.00
CONTRACTUAL COSTS	6000.00
SUPPLIES COSTS	2400.00
EQUIPMENT COSTS	6500.00

02/14/95

09:46:01.3

PERSONAL SERVICES EXPENDITURES NEW POSITION DETAIL REPORT

PAGE: 2

DEPARTMENT OF LAW

SCENARIO: 2

COMPONENT #: 6501020300 NAME: THIRD JUDICIAL DISTRICT

BRU NAME: PROSECUTION

PCN	UNAUTH PCN	JOB CLASS TITLE	T S	LOCATION NAME	R C	D U	S	R&S BUDG	MOS	SALARY	PREM PAY	BENEF PAY	PER.SERV. COSTS	G. F. AMOUNT
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Indictments and overcoming a tougher defense due to the substantially increased penalties.

OTHER COSTS 0.00

TOTAL COSTS 53503.52 36603.52

*** FUNDING DETAIL:

100% GENERAL FUND RECEIPTS 36603.52

TOTAL FUNDING 36603.52

*** COMPONENT TOTALS:

FULL TIME NEW POSITIONS	3
PART TIME/SEASONAL NEW POSITIONS	1
NON PERMANENT NEW POSITIONS	0
OTHER.....	0
TOTAL	4

TOTAL PERSONAL SERVICES 226050.45

TOTAL COSTS INC. ASSOC COSTS 300950.45

NUMBER OF NEW POSITIONS IN COMPONENT: 4

FUNDING DATA: G.F. & G.F. MATCH: 226050.45

OTHER FUNDS: 0.00

TOTAL FUNDING: 226050.45

No. 3
 Bill. version: CSHB 159 (JUD)
 (H) Publish Date: 3/29/95

FISCAL NOTE

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Alaska Court System
 Title: An Act relating to DWI laws BRU: Trial Courts
 Sponsor: Reps. Porter, Bunde Components: _____
 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	59.6	59.6	59.6	59.6	59.6	59.6
TRAVEL						
CONTRACTUAL	68.0	68.0	68.0	68.0	68.0	68.0
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	3.0					
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	131.6	128.6	128.6	128.6	128.6	128.6

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	131.6	128.6	128.6	128.6	128.6	128.6
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	131.6	128.6	128.6	128.6	128.6	128.6

POSITIONS

FULL-TIME						
PART-TIME	2.0	2.0	2.0	2.0	2.0	2.0
TEMPORARY	1.0	1.0	1.0	1.0	1.0	1.0

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

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel *CHC* Phone: 264-8228
 Agency: Alaska Court System Date: 02/22/95

Approved by: Arthur H. Snowden, II, Administrative Director *AS* Date: 02/22/95
 Agency: Alaska Court System

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Alaska Court System
Fiscal Analysis
HB 159

HB 159 increases the classification of a third or subsequent conviction for driving while intoxicated or refusing to submit to a chemical test from a class A misdemeanor to a class C felony, if the offenses occurred within a five year period. A person would receive a minimum 120 days in jail for a third conviction within a five year period, and a minimum 240 days in jail for a fourth or subsequent conviction within a five year period.

The bill also allows a person under the age of 21 to be arrested without a warrant for the illegal possession, consumption or control of alcoholic beverages.

At the present time, approximately 380 persons are charged each year with a third or subsequent DWI or refusal within a five year period. Handling these as felony cases rather than misdemeanor cases will substantially increase the court costs associated with the offenses. An average third or subsequent misdemeanor DWI trial can be expected to last one day and is tried before a six member jury. A felony DWI trial can be expected to average 3 days in length and will be tried before a 12 member jury. The extra trial time results from the more serious consequences of a felony conviction; attorneys for both sides spend more time on matters such as jury selection, examination of witnesses, and motion practice.

Because of the more serious consequences of a felony conviction, the trial rates can be expected to increase substantially. Because there is no prosecutorial discretion with respect to charge or recommended sentence as there is in most other felony cases, the trial rate for this crime will very likely be higher than it is for more serious felonies. This note assumes that the trial rate will increase from approximately five percent to approximately 15 percent.

Unlike misdemeanor cases, felony cases require presentment to a grand jury. HB 159 will increase the number of cases presented to grand juries each year approximately 14 percent, with a corresponding increase in juror costs.

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

No. 4
Version: CSHB 159 (JUD)
(H) Publish Date: 3/29/95

Revision Date: _____ Dept. Affected: Public Safety
Title: DWI Laws/minors in possession BRU: Alaska State Troopers
Component: Detachments
Sponsor: Representative Porter
Requestor: (H) Judiciary 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	59.4	59.4	59.4	59.4	59.4	59.4
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	59.4	59.4	59.4	59.4	59.4	59.4
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	59.4	59.4	59.4	59.4	59.4	59.4
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	59.4	59.4	59.4	59.4	59.4	59.4

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 analysis.

Prepared By: Francis C. Allan Phone: 269-5691
Division: Alaska State Troopers Date: 02/13/95
Approved by Commissioner: Ronald L. Otte Date: 2-16-95
Agency: Ronald L. Otte, Dept. of Public Safety

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Budget Section
Div. of Admin. Services
Dept. of Public Safety
2/16/95

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ANALYSIS
HB 159

This legislation will allow for the arrest of minors for violations of liquor laws, establishes Class C felonies for third time offenders of Driving While Intoxicated (DWI) or Breath Test Refusal and for Driving With License Revoked (DWLR) if the license was revoked as a result of a felony DWI or Breath Test Refusal Conviction. This fiscal note is intended to provide sufficient State Trooper clerical support time to meet the increased demands resulting from this bill.

Section 1 of the bill allowing for the warrantless arrest of minors for alcohol violations addresses the impact of recent court interpretations that ruled that law enforcement officers must obtain an arrest warrant before an arrest of this type can be made. This statute change will allow the police to continue past practices in enforcement of the alcohol laws as they pertain to minors. Therefore this change will have no financial impact.

Sections 5, 7 and 10 relating to the establishment of Class C felonies for third time DWI, Breath Test Refusal and or certain DWLR convictions will financially impact the Alaska State Troopers.

Although precise statistics can not be made available within the time frame necessary for this fiscal note response, approximately 400 DWI arrests per year are believed to be made for third time offenders. Of these, 380 go to grand jury and approximately one-third, or 127 of the grand jury cases involve the State Troopers.

The assumptions upon which this fiscal note are based are discussed below:

1) It is estimated that approximately 127 cases of this type per year will be investigated by the Alaska State Troopers.

2) Felony cases require evidentiary hearings and grand jury hearings that are not required had the cases been misdemeanors. Virtually all DWI arrests take place on swing or grave yard shifts, but all evidentiary and grand jury hearings take place during the day, causing Trooper time to be either overtime and/or on call out.

3) Felony cases average the following additional effort:

- 4 to 8 hours for grand jury and/or hearings
- 2 to 3 hours of clerical support time (transcriptions, etc.)
- 10 to 20% of felonies go to trial - 16 to 24 hours

This bill contains a provision that would create a felony offense of Driving with a Revoked License (DWRL), if the revocation was for a felony conviction of DWI. While a statistical analysis at this time is not available, it is possible that in the future this provision of the bill could have a fiscal impact on the Alaska State Troopers.

Currently, Troopers arrest about 2,000 persons per year for DWLR and related offenses. If a significant number of these became felony offenses, increased trooper costs for grand jury and other related activities could impact the Division in the future. These costs are not included in this fiscal note since no firm basis exists on which to make a projection.

Costs other than personal services are not material and are not included in this fiscal note.

**Division of Alaska State Troopers
Analysis
House Bill 159**

	FY96	FY97	FY98	FY99	FY00	FY01
<u>Personal Services:</u>						
A) Grand Jury/Hearings 127 cases x 6 hour average x \$46.75 (*1)	35,624					
B) Clerical Support 127 cases x 2.5 hour average x \$18.98 (*2)	6,026					
C) Trials 19 cases x 20 hour average x \$46.75 (*1)	17,765					
TOTAL PERSONAL SERVICES	59,415	59.4	59.4	59.4	59.4	59.4

*1 - Overtime hourly cost for a State Trooper, Range 76, Step D/E - (See PACS Scenario #1, PCN 1371.)

*2 - Hourly cost for an Administrative Clerk II, Range 8, Step A - (See PACS Scenario #1, PCN 1444.)

FISCAL NOTE

No. 5
 Bill Version: CSHB 159 (JUD)
 (H) Publstr Date: 4/27/95

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

Revision Date: _____
 Title: An Act classifying certain offenses... driving while
intoxicated... failure to submit to chemical test... as felonies...
 Sponsor: Representative Porter
 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	221.5	221.5	221.5	221.5	221.5	221.5
TRAVEL	6.0	6.0	6.0	6.0	6.0	6.0
CONTRACTUAL	30.0	30.0	30.0	30.0	30.0	30.0
SUPPLIES	10.0	10.0	10.0	10.0	10.0	10.0
EQUIPMENT	30.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	297.5	267.5	267.5	267.5	267.5	267.5

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

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

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	297.5	267.5	267.5	267.5	267.5	267.5
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	297.5	267.5	267.5	267.5	267.5	267.5

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

POSITIONS:

FULL-TIME	4.0	4.0	4.0	4.0	4.0	4.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached sheet.

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: 4/13/95

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. CSHB 159 (H.D.)

ANALYSIS: (continued)

This bill makes substantial changes in state law regarding alcoholic beverages, DWI, DWLS, and Refusal to Submit to a Chemical Test. The committee substitute amends the original bill regarding treatment of DWLS offenders. In discussions with the Department of Law, it has been determined that these changes will not affect the fiscal impact as originally determined. See Department of Law fiscal note dated February 16, 1995, and PD fiscal note dated March 9, 1995.

The most significant section of this bill increases the penalty for a third or subsequent DWI conviction from a Class A misdemeanor to a Class C felony. Upon conviction the sentencing court will be required to impose a minimum sentence of 360 days in jail and a fine of not less than \$1,000. The sentence cannot be suspended, nor is a suspended imposition of sentence permitted. This is a significant difference from the current structure and penalty range for third and subsequent DWI convictions. Currently a third conviction results in a 60-day period of imprisonment (minimum). A fourth conviction carries 120-day minimum and a fifth conviction a minimum of 240 days in jail.

A separate provision creates the same felony penalty structure if the individual is convicted of a third or subsequent "refusal" in connection with a DWI arrest.

The final provision of significance is that which makes it a Class C felony for a person to drive a motor vehicle while their license was suspended or revoked if said revocation was for a felony conviction for DWI or Refusal.

The Department of Law has indicated in their fiscal note that during the last three years "an average of 330 defendants have been convicted of three or more DWI/Refusal violations within five years. Based upon the department's DWI/Refusal conviction rate, approximately 400 additional felony level DWI/Refusal cases will be referred to the department for prosecution." The prosecution indicates it will need three felony-level lawyers and two secretaries to handle the increased workload.

The vast majority of these cases will involve Public Defender representation. Individuals who are convicted of third or subsequent driving offenses involving alcohol typically are either not employed or in very difficult financial straits. The Public Defender therefore estimates that more than 80 percent of these prosecutions will become Public Defender cases.

The Public Defender Agency will react to this legislation by placing felony-level lawyers (Attorney III) in Anchorage and in Palmer. Because these are felony level matters, a Legal Secretary I position will be established in each location as support.

FISCAL ANALYSIS

	<u>Anchorage Attorney III</u>	<u>Anchorage Legal Secty I</u>	<u>Palmer Attorney III</u>	<u>Palmer Legal Secty I</u>	<u>TOTAL</u>
Personal Services	72.8	36.7	75.3	36.7	221.5
Travel	3.0	0.0	3.0	0.0	6.0
Contractual	9.0	6.0	9.0	6.0	30.0
Supplies	3.0	2.0	3.0	2.0	10.0
Equipment	<u>6.5</u>	<u>8.5</u>	<u>6.5</u>	<u>8.5</u>	<u>30.0</u>
TOTAL	94.3	53.2	96.8	53.2	297.5

04/04/95

Position Information Inquiry/Update

09:34:30

Position: 02-02#074	Project: 0	Salary Costs: 24,756.00
Component: 02-65-07-01-00-00	Region:	Benefits Costs: 11,905.03
Scenario: 2 FY: 96	COLA %= 0.000	Total Costs: 36,661.03

Actuals not available (Status: UNKNOWN) | Retirement Code: A

00/00/00	Step: A for 12.0 months & Step: B for 0.0 months (total: 12.00)
0	Merit Date; use merit defaults? N (0.0 @ & 0.0 @)
	Class/Sched Prefix: 2 Schedule: 2A (actual:)
	Bargaining Unit: GG Range: 10 (actual:)
	Location Code: EBA Place: ANCHORAGE
	Job Class Code: P1145 Title: LEGAL SECRETARY I _____
	Seasonal Indic.: F Type: -

Optional Override Salary Rates:

Monthly Rate: 0.00 for 0.0 months & rate of 0.00 for 0.0 months
 Hourly Rate: 0.00 for 0.0 months Frozen at this rate? (Y/N): N

Press ENTER to update record; enter # or use PF key to go to another screen:
 1=Premium pay info 2=Funding info 4=Code Translations 6=Calculations
 7=MISC NEW POS DATA 8=Detail Report 12=Exit w/o update Selection: 0

POSITION INFORMATION HAS BEEN UPDATED AND FUNDING HAS BEEN UPDATED
04/04/95 Position Information Inquiry/Update

09:33:59

Position: 02-02#066 Project: 0 Salary Costs: 53,304.00
Component: 02-65-07-01-00-00 Region: Benefits Costs: 19,542.68
Scenario: 2 FY: 96 COLA %= 0.000 Total Costs: 72,846.68

Actuals not available (Status: UNKNOWN) Retirement Code: A

00/00/00 Step: A for 12.0 months & Step: B for 0.0 months (total: 12.00)
Merit Date; use merit defaults? N (0.0 @ & 0.0 @)
0 Class/Sched Prefix: 0 Schedule: AA (actual:)
Bargaining Unit: XE Range: 22 (actual:)
Location Code: EBA Place: ANCHORAGE
Job Class Code: P7144 Title: ATTORNEY III
Seasonal Indic.: F Type:

Optional Override Salary Rates:

Monthly Rate: 0.00 for 0.0 months & rate of 0.00 for 0.0 months
Hourly Rate: 0.00 for 0.0 months Frozen at this rate? (Y/N): N

Press ENTER to update record; enter # or use PF key to go to another screen:
1=Premium pay info 2=Funding info 4=Code Translations 6=Calculations
7=MISC NEW POS DATA 8=Detail Report 12=Exit w/o update Selection: 0

POSITION INFORMATION HAS BEEN UPDATED

04/04/95

Position Information Inquiry/Update

09:36:15

Position: 02-02#074	Project: 0	Salary Costs: 24,756.00
Component: 02-65-07-01-00-00	Region:	Benefits Costs: 11,905.03
Scenario: 2 FY: 96	COLA %= 0.000	Total Costs: 36,661.03

 Actuals not available (Status: UNKNOWN) | Retirement Code: A

00/00/00	Step: A for 12.0 months & Step: B for 0.0 months (total: 12.00)
0	Merit Date; use merit defaults? N (0.0 @ & 0.0 @)
	Class/Sched Prefix: 2 Schedule: 2A (actual:)
	Bargaining Unit: GG Range: 10 (actual:)
	Location Code: ECF Place: PALMER
	Job Class Code: P1145 Title: LEGAL SECRETARY I _____
	Seasonal Indic.: F Type: -

Optional Override Salary Rates:

Monthly Rate: 0.00 for 0.0 months & rate of 0.00 for 0.0 months
 Hourly Rate: 0.00 for 0.0 months Frozen at this rate? (Y/N): N

Press ENTER to update record; enter # or use PF key to go to another screen:
 1=Premium pay info 2=Funding info 4=Code Translations 6=Calculations
 7=MISC NEW POS DATA 8=Detail Report 12=Exit w/o update Selection: 0_

POSITION INFORMATION HAS BEEN UPDATED AND FUNDING HAS BEEN UPDATED.

04/04/95

Position Information Inquiry/Update

09:37:02

Position: 02-02#066	Project: 0	Salary Costs: 55,260.00
Component: 02-65-07-01-00-00	Region:	Benefits Costs: 20,072.55
Scenario: 2 FY: 96	COLA %= 0.000	Total Costs: 75,332.55

 Actuals not available (Status: UNKNOWN) | Retirement Code: A

00/00/00	Step: A for 12.0 months & Step: B for 0.0 months (total: 12.00)
0	Merit Date; use merit defaults? N (0.0 @ & 0.0 @)
	Class/Sched Prefix: 0 Schedule: BB (actual:)
	Bargaining Unit: XE Range: 22 (actual:)
	Location Code: ECF Place: PALMER
	Job Class Code: P7144 Title: ATTORNEY III
	Seasonal Indic.: F Type: -

Optional Override Salary Rates:

Monthly Rate: 0.00 for 0.0 months & rate of 0.00 for 0.0 months
 Hourly Rate: 0.00 for 0.0 months Frozen at this rate? (Y/N): N

Press ENTER to update record; enter # or use PF key to go to another screen:
 1=Premium pay info 2=Funding info 4=Code Translations 6=Calculations
 7=MISC NEW POS DATA 8=Detail Report 12=Exit w/o update Selection: 0_

5-7-95am
Amend.
pl. line 8 (3R)
Adopted.
9-LS0600AK

CS for CS FOR HOUSE BILL NO. 159(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 3/29/95
Referred: Finance

Sponsor(s): REPRESENTATIVES PORTER, Bunde, Green, Toohy

*Norma -
Please call
to legal
Called in
@ 2:33 PM*

A BILL

FOR AN ACT ENTITLED

1 "An Act allowing a person under age 21 to be arrested by a peace officer
2 without a warrant for illegal possession, consumption, or control of alcohol;
3 relating to the offenses of driving while intoxicated and failure to submit to a
4 chemical test of breath or blood; and providing for an effective date."

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

6 * Section 1. AS 12.25.030(b) is amended to read:

7 (b) In addition to the authority granted under (a) of this section, a peace officer
8 without a warrant may arrest a person when the peace officer has ^{probable} reasonable cause for
9 believing that the person has committed a crime under, or violated conditions imposed
10 as a part of the person's release before trial on misdemeanor charges brought under,

11 (1) AS 04.16.050 or an ordinance with similar elements;

12 (2) AS 11.41.270 or AS 11.56.740; or

13 (3) [(2)] AS 11.41, AS 11.46.330, or AS 11.61.120, or has violated an
14 ordinance with elements substantially similar to the elements of a crime under

1 AS 11.41, AS 11.46.330, or AS 11.61.120, when the victim is a spouse or former
2 spouse of the person who committed the crime; a parent, grandparent, child, or
3 grandchild of the person who committed the crime; a member of the social unit
4 comprised of those living together in the same dwelling as the person who committed
5 the crime; or another person who is not a spouse or former spouse of the person who
6 committed the crime but who previously lived in a spousal relationship with the person
7 who committed the crime or is in or has been in a dating, courtship, or engagement
8 relationship with the person who committed the crime.

9 * Sec. 2. AS 12.55.102(d) is amended to read:

10 (d) The court may include the cost of the ignition interlock device as a part
11 of the fine required to be imposed against the defendant under AS 28.35.030(b) or (n)
12 or 28.35.032(g) or (q).

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

14 (b) ~~Except as provided under (n) of this section, driving~~ [DRIVING] while
15 intoxicated is a class A misdemeanor. Upon conviction

16 (1) the court shall impose a minimum sentence of imprisonment of

17 (A) not less than 72 consecutive hours and a fine of not less
18 than \$250 if the person has not been previously convicted;

19 (B) not less than 20 days and a fine of not less than \$500 if the
20 person has been previously convicted once;

21 (C) not less than 60 days and a fine of not less than \$1,000 if
22 the person has been previously convicted twice and is not subject to
23 punishment under (n) of this section;

24 (D) not less than 120 days and a fine of not less than \$2,000
25 if the person has been previously convicted three times and is not subject to
26 punishment under (n) of this section;

27 (E) not less than 240 days and a fine of not less than \$3,000 if
28 the person has been previously convicted four times and is not subject to
29 punishment under (n) of this section;

30 (F) not less than 360 days and a fine of not less than \$4,000 if
31 the person has been previously convicted more than four times and is not

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subject to punishment under (n) of this section;

(2) the court may not

(A) suspend execution of sentence or grant probation except on condition that the person serve the minimum imprisonment under (1) of this subsection;

(B) suspend imposition of sentence;

(3) the court shall revoke the person's driver's license, privilege to drive, or privilege to obtain a license under AS 28.15.181, and may order the motor vehicle or aircraft that was used in commission of the offense to be forfeited under AS 28.35.036.

* Sec. 4. AS 28.35.030(h) is amended to read:

(h) The court shall order a person convicted under this section to satisfy the screening, evaluation, referral, and program requirements of an agency authorized by the court to make referrals for rehabilitative treatment or to provide rehabilitative treatment. If a person is convicted under (n) of this section, the court shall order the person to be evaluated as required by this subsection before the court imposes sentence for the offense.

* Sec. 5. AS 28.35.030(j) is amended to read:

(j) If a person fails to satisfy the requirements of an authorized agency under (i) of this section, the court

(1) may impose any portion of a suspended sentence; however, if the person was convicted under (n) of this section, the court shall impose the remaining portion of any suspended sentence;

(2) may punish the failure as contempt of the authority of the court under AS 09.50.010 or as a violation of a condition of probation; and

(3) shall order the revocation or suspension of the person's driver's license, privilege to drive, and privilege to obtain a driver's license until the requirements are satisfied.

* Sec. 6. AS 28.35.030(m)(4) is amended to read:

(4) "previously convicted" means having been convicted in this or another jurisdiction, within 10 years preceding the date of the present offense, of any

1 of the following offenses [, OR OF ANOTHER LAW OR ORDINANCE WITH
2 SUBSTANTIALLY SIMILAR ELEMENTS]; however, convictions for any of these
3 offenses, if arising out of a single transaction and a single arrest, are considered one
4 previous conviction:

5 (A) operating a motor vehicle, aircraft, or watercraft while
6 intoxicated, in violation of this section or in violation of another law or
7 ordinance with similar elements, except that the other law or ordinance
8 may provide for a lower level of alcohol in the person's blood or breath
9 than imposed under (a)(2) of this section;

10 (B) refusal to submit to a chemical test in violation of
11 AS 28.35.032 or in violation of another law or ordinance with similar
12 elements; or

13 (C) operating a commercial motor vehicle while intoxicated in
14 violation of AS 28.33.030 or in violation of another law or ordinance with
15 similar elements, except that the other law or ordinance may provide for
16 a lower level of alcohol in the person's blood or breath than imposed
17 under AS 28.33.030(a)(2).

18 * Sec. 7. AS 28.35.030 is amended by adding a new subsection to read:

19 (n) A person is guilty of a class C felony if the person is convicted of driving
20 while intoxicated and has been previously convicted two or more times. For purposes
21 of determining if a person has been previously convicted, the provisions of (m)(4) of
22 this section apply, except that only convictions occurring within five years preceding
23 the date of the present offense may be included. Upon conviction the court

24 (1) shall impose a fine of not less than \$5,000 and a minimum sentence
25 of imprisonment of not less than

26 (A) 120 days if the person has been previously convicted twice;

27 (B) 240 days if the person has been previously convicted three
28 times;

29 (C) 360 days if the person has been previously convicted four
30 or more times;

31 (2) may not

- 1 (A) suspend execution of sentence or grant probation except on
- 2 condition that the person serve the minimum imprisonment under (1) of this
- 3 subsection; or
- 4 (B) suspend imposition of sentence;
- 5 (3) shall revoke the person's driver's license, privilege to drive, or
- 6 privilege to obtain a license under AS 28.15.181(c);
- 7 (4) may order as a condition of probation or parole that the person take
- 8 a drug or combination of drugs, intended to prevent the consumption of an alcoholic
- 9 beverage; a condition of probation imposed under this paragraph is in addition to any
- 10 other condition authorized under another provision of law; and
- 11 (5) may also order forfeiture under AS 28.35.036 of the vehicle or
- 12 aircraft used in the commission of the offense, subject to remission under
- 13 AS 28.35.037.

14 * Sec. 8. AS 28.35.032(f) is amended to read:

15 (f) Except as provided under (q) of this section, refusal [REFUSAL] to

16 submit to a chemical test authorized by AS 28.33.031(a) or AS 28.35.031(a) or (g)

17 is a class A misdemeanor.

18 * Sec. 9. AS 28.35.032(g) is amended to read:

- 19 (g) Upon conviction under this section
- 20 (1) the court shall impose a minimum sentence of imprisonment of
- 21 (A) not less than 72 consecutive hours and a fine of not less
- 22 than \$250 if the person has not been previously convicted;
- 23 (B) not less than 20 days and a fine of not less than \$500 if the
- 24 person has been previously convicted once;
- 25 (C) not less than 60 days and a fine of not less than \$1,000 if
- 26 the person has been previously convicted twice and is not subject to
- 27 punishment under (q) of this section;
- 28 (D) not less than 120 days and a fine of not less than \$2,000
- 29 if the person has been previously convicted three times and is not subject to
- 30 punishment under (q) of this section;
- 31 (E) not less than 240 days and a fine of not less than \$3,000 if

1 the person has been previously convicted four times and is not subject to
2 punishment under (q) of this section:

3 (F) not less than 360 days and a fine of not less than \$4,000 if
4 the person has been previously convicted more than four times and is not
5 subject to punishment under (q) of this section;

6 (2) the court may not

7 (A) suspend execution of the sentence required by (1) of this
8 subsection or grant probation, except on condition that the person serve the
9 minimum imprisonment under (1) of this subsection; or

10 (B) suspend imposition of sentence;

11 (3) the court shall revoke the person's driver's license, privilege to
12 drive, or privilege to obtain a license under AS 28.15.181, and may order the motor
13 vehicle or aircraft that was used in commission of the offense be forfeited under
14 AS 28.35.036; and

15 (4) the sentence imposed by the court under this subsection shall run
16 consecutively with any other sentence of imprisonment imposed on the person.

17 * Sec. 10. AS 28.35.032(l) is amended to read:

18 (l) The court shall order a person convicted under this section to satisfy the
19 screening, evaluation, referral, and program requirements of an agency authorized by
20 the court to make referrals for rehabilitative treatment or to provide rehabilitative
21 treatment. If a person is convicted under (q) of this section, the court shall order
22 the person to be evaluated as required by this subsection before the court imposes
23 sentence for the offense.

24 * Sec. 11. AS 28.35.032(n) is amended to read:

25 (n) If a person fails to satisfy the requirements of an authorized agency under
26 (m) of this section, the court

27 (1) may impose any portion of a suspended sentence; however, if the
28 person was convicted under (q) of this section, the court shall impose the
29 remaining portion of any suspended sentence;

30 (2) may punish the failure as contempt of the authority of the court
31 under AS 09.50.010 or as a violation of a condition of probation; and

1 (3) shall order the revocation or suspension of the person's driver's
2 license, privilege to drive, and privilege to obtain a driver's license until the
3 requirements are satisfied.

4 * Sec. 12. AS 28.35.032 is amended by adding a new subsection to read:

5 (q) A person is guilty of a class C felony if the person is convicted under this
6 section and has been previously convicted two or more times. For purposes of
7 determining if a person has been previously convicted, the provisions of
8 AS 28.35.030(m)(4) apply, except that only convictions occurring within five years
9 preceding the date of the present offense may be included. Upon conviction,

10 (1) the court shall impose a fine of not less than \$5,000 and a
11 minimum sentence of imprisonment of not less than

12 (A) 120 days if the person has been previously convicted twice;

13 (B) 240 days if the person has been previously convicted three
14 times;

15 (C) 360 days if the person has been previously convicted four
16 or more times;

17 (2) the court may not

18 (A) suspend execution of the sentence required by (1) of this
19 subsection or grant probation, except on condition that the person serve the
20 minimum imprisonment under (1) of this subsection; or

21 (B) suspend imposition of sentence;

22 (3) the court shall revoke the person's driver's license, privilege to
23 drive, or privilege to obtain a license under AS 28.15.181(c);

24 (4) the court may order as a condition of probation or parole that the
25 person take a drug or combination of drugs intended to prevent consumption of an
26 alcoholic beverage; a condition of probation imposed under this paragraph is in
27 addition to any other condition authorized under another provision of law;

28 (5) the sentence imposed by the court under this subsection shall run
29 consecutively with any other sentence of imprisonment imposed on the person; and

30 (6) the court may also order forfeiture under AS 28.35.036, of the
31 vehicle or aircraft used in the commission of the offense, subject to remission under

1 AS 28.35.037.

2 * Sec. 13. APPLICABILITY. This Act applies to offenses that are committed on or after
3 the effective date of this Act, except that references to previous convictions include
4 convictions occurring before, on, or after the effective date of this Act.

5 * Sec. 14. This Act takes effect July 1, 1995.

Alaska State Legislature

Representative Brian S. Porter

5-6-95
Read by
Staffer

CHAIRMAN
HOUSE JUDICIARY COMMITTEE

MEMBER
HOUSE LABOR & COMMERCE COMMITTEE
HOUSE STATE AFFAIRS COMMITTEE
INTERNATIONAL TRADE & TOURISM
COMMITTEE

MEMBER
FINANCE SUBCOMMITTEES
DEPARTMENT OF LAW
DEPARTMENT OF EDUCATION
COURTS



DISTRICT 20

Sponsor Statement for CSHB 159 DWI LAWS

SESSION:
STATE CAPITOL, ROOM 118
JUNEAU, ALASKA 99801-1182
PHONE: (907) 465-4930
FAX: (907) 465-1834

INTERIM:
716 W. 4TH AVE., SUITE 640
ANCHORAGE, AK 99501-2133
PHONE: (907) 258-9197
FAX: (907) 258-5310

It's a crime drunk driving remains a misdemeanor in our state no matter how many times a person is convicted. At some point - a repeat conviction should become a felony.

CSHB 159 *DWI/minor in Possession* provides the criminal justice system with the tools needed to combat this crime: (1) allows a peace officer, in any municipality, to arrest without a warrant minors who drink alcohol; (2) renders drunk driving a felony on the third offense within a five year period with a minimum sentence of 120 days with a \$5,000 fine upon conviction; (3) grants prosecution the ability to convict prior offenses of lower BAC levels than is provided for in current statute.

CSHB 159 allows the court the option of ordering a person to take Antabuse or a similar drug as a condition of parole or probation. Secondly, this bill requires a person convicted of a felony DWI to be evaluated by an alcohol screening agency before the person is sentenced. Thirdly, the court is to impose any suspended jail time on a person convicted of felony DWI who fails to complete the alcohol treatment ordered by the court.

The most frequent violent crime in the country is drunk driving. A study published by the Alaska Department of Transportation and Public Facilities stated alcohol was a factor in 982 Accidents statewide in 1993. In the same year, 49 Alaskans died in 37 alcohol or drug related accidents.

Repeat offenders account for a disproportionate number of fatal accidents, in spite of licenses suspended and jail time served. In fatal accidents in which the driver is drunk, people with a prior conviction for drunk driving are almost five times more likely to be involved than those with no record, according to the National Highway Transportation Safety Administration.

Driving is a privilege not a right. CSHB 159 gives Alaska one of the toughest drunk driving statutes in the nation. CSHB 159 will send a clear message that Alaskans will no longer tolerate persons who drive drunk.

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 109
Juneau, Alaska 99801-2105

MEMORANDUM

April 12, 1995

SUBJECT: Sectional Summary of CSHB 159(JUD).
TO: Representative Brian Porter
FROM: Michael F. Ford
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Allows a person under age 21 to be arrested by a peace officer, without a warrant, for illegal possession, consumption, or control of an alcoholic beverage in violation of state law or a municipal ordinance.

Section 2. Allows a court to include the cost of an ignition interlock device as a part of a fine imposed for convictions of driving while intoxicated or refusal to take a breath test.

Section 3. Technical amendment

Section 4. Requires evaluation for rehabilitation treatment before sentencing, if the person is convicted of felony driving while intoxicated.

Section 5. Requires the court to impose the remaining portion of any suspended sentence, if the person is convicted of felony D.W.I.

Section 6. Amends the definition of "previous conviction" for purposes of determining the penalty applicable to a driving while intoxicated or refusal to take a breath test conviction.

Section 7. Makes a third driving while intoxicated conviction a class C felony; if it is the person's third or greater conviction within five years. Imposes a minimum fine, minimum jail time, and prohibits probation or suspended imposition of sentence unless the minimum imprisonment is served. Requires revocation of the offender's driver's license, allows

Representative Brian Porter
April 12, 1995
Page 2

imposition of certain probation or parole conditions and allows forfeiture of the motor vehicle or aircraft used in the offense.

Section 8. Technical amendment.

Section 9. Technical amendment.

Section 10. Requires evaluation for rehabilitation treatment before sentencing if the person is convicted of felony breath test refusal.

Section 11. Requires the court to impose the remaining portion of any suspended sentence, if the person is convicted of felony breath test refusal.

Section 12. Makes a third refusal to take a breath test conviction a class C felony, if it is the person's third or greater conviction within five years. Imposes a minimum fine, a minimum jail time, and prohibits probation or suspended imposition of sentence unless the minimum imprisonment is served. Requires revocation of the offender's driver's license, allows imposition of certain probation or parole conditions and allows forfeiture of the motor vehicle or aircraft used in the offense.

Section 13. Applicability section

Section 14. Effective date.

MFF:klb
95-260.klb

FISCAL NOTE

BILL NO: HB159

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL VERSION: _____

Revision Date: March 7, 1995
Title: An Act relating to DWI Laws

Dept. Affected: Corrections
BRU: Statewide Programs

Sponsor: Representative Porter, Bunde
Requestor: _____

Components: Comm Corr Director/CRCs
Serial #: 1392

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
Personal Services	122.0	253.0	259.5	269.2	273.3	283.6
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	418.4	836.8	836.8	836.8	836.8	836.8
Supplies						
Equipment						
Land & Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING	540.4	1089.8	1096.3	1106.0	1110.1	1120.4

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (THOUSANDS OF DOLLARS)

General Fund						
Federal Fund						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

This fiscal note has been prepared in conformance with the analysis the Department provided in a prior fiscal note, except that the implementation year funding has been reduced by one-half, to more accurately reflect the timing of the impact on Corrections. A copy of the Departments previous fiscal note and analysis is attached for reference.

Prepared by: Kathryn Daughettee, Fiscal Analyst *Kad*
Legislative Finance Division

Date: May 7, 1995

Phone: 465-5435

Prepared for: Senate Finance Committee

Rich Halford
(Chairman)

Date: _____

STATE OF ALASKA
1995 LEGISLATIVE SESSION

FISCAL YEAR REPORTED OUT OF PUBLISH DATE: 3/29/95

HFC 4/26/95

Effective Date: _____
 Title: An Act possession and consumption of alcohol
 and DWI
 Sponsor: Rep. Porter
 Requester: Rep. Porter
 Dept. Affected: Corrections
 BRU: Statewide programs
 Component: CC Dir.'s office/CRCs
 COMPONENT SERIAL NO. 1382

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	243.3	253.0	259.5	269.2	273.3	283.5
TRAVEL						
CONTRACTUAL	336.8	336.8	336.8	336.8	336.8	336.8
SUPPLIES						
EQUIPMENT ?						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	1,080.7	1,089.8	1,096.3	1,106.0	1,110.1	1,120.4

CAPITAL EXPENDITURES

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CHANGE IN REVENUES ()

--	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	1,080.7	1,089.3	1,096.3	1,106.0	1,110.1	1,120.4
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	1,080.7	1,089.8	1,096.3	1,106.0	1,110.1	1,120.4

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

POSITIONS

FULL-TIME	5					
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill would make a third or subsequent conviction of DWI or refusal to submit to a chemical test under AS 28.33.031 a class C felony and sets minimum sentences. It also makes DWRL based on conviction under the new Class C felony sections a class C felony. The minimum sentence under this bill exceeds the current minimum only for the third and fourth offenses.

261 people will be convicted of a third offense annually and will be sentenced to an additional 60 days imprisonment. They will serve 40 of these days after statutory goodtime. 53 offenders will be convicted of a fourth offense and will serve an additional 80 days.

261 X 40 = 10,440 additional prisoner days
 53 X 80 = 4,240 additional prisoner days

CONTINUED ON NEXT PAGE:

Prepared by: Jerry Shriner Phone: 465-4840
 Division: Commissioner's Office Date: 2/15/95
 Approved by Commissioner: Harold H. Pugh Date: 2/15/95
 Agency: Department of Corrections

FISCAL NOTE

HB 159

2/14/95

page 2

This totals 14,680 bed days or 41 additional beds on an annual basis. With rare exception this class of prisoners would be housed in a treatment facility or CRC.

The average cost of a CRC bed is \$57 per day or \$20,805 per year.

$$14,680 \times \$57 = \$836.8 \text{ thousand.}$$

If fifth and subsequent convictions resulted in more than the minimum sentence or if the minimum sentence is greater than the average sentence under the current sentencing practices, there would be additional costs. At this time sufficient data is not available to address this issue.

Recent experience shows that after the second offense covered by this bill, the ability to collect either from the individual or to attach their permanent fund to offset these costs falls precipitously and no program receipts are expected.

As a felony, each conviction would require a pre-sentence investigation and report prepared by a probation officer, as well as additional time in court. The department's standard for this process is 18 hours per pre-sentence report. 330 individuals would be convicted of a felony under this bill, even though some would not receive a longer sentence.

$$330 \text{ PSIs} \times 18 \text{ hours} = 5,940 \text{ total hours.}$$

Allowing for vacation and sick leave we can expect a probation officer position to devote 1,875 hours to pre-sentence investigations annually.

$$5,940 / 1,875 = 3.2 \text{ position equivalents.}$$

Four probation officer positions and one clerical person have been included to support the required investigation and report function and a one time cost for equipment at \$5,000 per staff person has been included.

FISCAL NOTE

BILL NO: HB159

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL VERSION: _____

Revision Date: March 7, 1995
Title: An Act relating to DWI Laws

Dept. Affect: Alaska Court System
BRU: Alaska Court System

Sponsor: Representative Porter, Bunde
Requestor: _____

Components: Trial Courts
Serial #: _____

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
Personal Services						
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE	114.0	114.0	114.0	114.0	114.0	114.0
---------	-------	-------	-------	-------	-------	-------

FUNDING: (THOUSANDS OF DOLLARS)

General Fund						
Federal Fund						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

The Court System has determined that an estimated \$760.0 in new fines could be assessed by the Courts as a result of this bill. However, between 80% and 90% of this amount will be uncollectable for lack of financial resources on the part of the defendants. The Public Defender fiscal note estimates that they will handle 80% of the prosecutions under this law. Therefore, all but between \$76.0 and \$152.0 of the assessed fines cannot be relied upon to defray the costs of this legislation. Conservatively, \$114.0 could be expected to be collected by the Court System if the 330 case average is accurate.

Prepared by: Kathryn Daughhete, Fiscal Analyst *Kad*
Legislative Finance Division

Date: May 6, 1995
Phone: 465-5435

Prepared for: Senate
Finance Committee
Rick Halford
(Chairman)

Date: _____

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO: HB159

BILL VERSION: _____

Revision Date: March 7, 1995

Dept. Affected: Corrections

Title: An Act relating to DWI Laws

BRU: Statewide Programs

Sponsor: Representative Porter, Bunde

Components: Comm Corr Director/CRCs

Requestor: _____

Serial # 1382

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
Personal Services	122.0	253.0	259.5	269.2	273.3	283.6
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	418.4	836.8	836.8	836.3	836.8	836.8
Supplies						
Equipment						
Land & Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING	540.4	1089.8	1096.3	1106.0	1110.1	1120.4

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (THOUSANDS OF DOLLARS)

General Fund						
Federal Fund						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

This fiscal note has been prepared in conformance with the analysis the Department provided in a prior fiscal note, except that the implementation year funding has been reduced by one-half, to more accurately reflect the timing of the impact on Corrections. A copy of the Departments previous fiscal note and analysis is attached for reference.

Prepared by:

Kathryn Daugherte, Fiscal Analyst *Kad*

Date: May 7, 1995

Legislative Finance Division

Phone: 465-5435

Prepared for: Senate
Finance Committee

Rich Halford
(Chairman)

Date:

STATE OF ALASKA
1995 LEGISLATIVE SESSION

HFC 4/26/95

Revision Date: _____ Dept. Affected: Corrections
 Title: An Act possession and consumption of alcohol BRU: Statewide programs
 and OWI Component: CC Dir.'s office/CRCs
 Sponsor: Rep. Porter
 Requester: Rep. Porter COMPONENT SERIAL NO. 1382

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	273.3	253.0	259.5	269.2	273.3	283.8
TRAVEL						
CONTRACTUAL	836.3	836.3	836.8	836.8	836.8	836.3
SUPPLIES						
EQUIPMENT ?						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	1,080.7	1,089.3	1,096.3	1,106.0	1,110.1	1,120.4

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	1,080.7	1,089.3	1,096.3	1,106.0	1,110.1	1,120.4
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	1,080.7	1,089.3	1,096.3	1,106.0	1,110.1	1,120.4

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

POSITIONS

FULL-TIME	5					
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill would make a third or subsequent conviction of DWI or refusal to submit to a chemical test under AS 28.33.031 a class C felony and sets minimum sentences. It also makes DWRL based on conviction under the new Class C felony sections a class C felony. The minimum sentence under this bill exceeds the current minimum only for the third and fourth offenses.

261 people will be convicted of a third offense annually and will be sentenced to an additional 60 days imprisonment. They will serve 40 of these days after statutory goodtime. 53 offenders will be convicted of a fourth offense and will serve an additional 80 days.

261 X 40 = 10,440 additional prisoner days
 53 X 80 = 4,240 additional prisoner days

CONTINUED ON NEXT PAGE:

Prepared by: Jerry Shriner Phone: 465-4640
 Division: Commissioner's Office Date: 2/15/95
 Approved by Commissioner: Maureen M. Pugh Date: 2/15/95
 Agency: Department of Corrections

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FISCAL NOTE

HB 159

2/14/95

page 2

This totals 14,680 bed days or 41 additional beds on an annual basis. With rare exception this class of prisoners would be housed in a treatment facility or CRC.

The average cost of a CRC bed is \$57 per day or \$20,305 per year.

$$14,680 \times \$57 = \$836.8 \text{ thousand.}$$

If fifth and subsequent convictions resulted in more than the minimum sentence or if the minimum sentence is greater than the average sentence under the current sentencing practices, there would be additional costs. At this time sufficient data is not available to address this issue.

Recent experience shows that after the second offense covered by this bill, the ability to collect either from the individual or to attach their permanent fund to offset these costs falls precipitously and no program receipts are expected.

As a felony, each conviction would require a pre-sentence investigation and report prepared by a probation officer, as well as additional time in court. The department's standard for this process is 18 hours per pre-sentence report. 330 individuals would be convicted of a felony under this bill, even though some would not receive a longer sentence.

$$330 \text{ PSIs} \times 18 \text{ hours} = 5,940 \text{ total hours.}$$

Allowing for vacation and sick leave we can expect a probation officer position to devote 1,875 hours to pre-sentence investigations annually.

$$5,940 / 1,875 = 3.2 \text{ position equivalents.}$$

Four probation officer positions and one clerical person have been included to support the required investigation and report function and a one time cost for equipment at \$5,000 per staff person has been included.

Replaced by new LFD/Correctivis Note

No. 2

FISCAL NOTE

Bill Version: CSHB 159 (JUD)

(H) Publish Date: 3/29/95

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Corrections
 Title: An Act possession and consumption of alcohol and DWI BRU: Statewide programs
 Sponsor: Rep. Porter Component: CC Dir.'s office/CRCs
 Requester: Rep. Porter COMPONENT SERIAL NO. 1382

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	243.9	253.0	259.5	269.2	273.3	283.6
TRAVEL						
CONTRACTUAL	836.8	836.8	836.8	836.8	836.8	836.8
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	1,080.7	1,089.8	1,096.3	1,106.0	1,110.1	1,120.4

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	1,080.7	1,089.8	1,096.3	1,106.0	1,110.1	1,120.4
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	1,080.7	1,089.8	1,096.3	1,106.0	1,110.1	1,120.4

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 make a third or subsequent conviction of DWI or refusal to submit to a chemical test under AS 29.33.031 a class C felony and sets minimum sentences. It also makes DWRL based on conviction under the new Class C felony sections a class C felony. The minimum sentence under this bill exceeds the current minimum only for the third and fourth offenses.

261 people will be convicted of a third offense annually and will be sentenced to an additional 60 days imprisonment. They will serve 40 of these days after statutory goodtime. 53 offenders will be convicted of a fourth offense and will serve an additional 80 days.

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 53 X 80 = 4,240 additional prisoner days

CONTINUED ON NEXT PAGE:

Prepared by: Jerry Shriner Phone: 465-4640
 Division: Commissioner's Office Date: 2/15/95
 Approved by Commissioner: Margaret M. Pugh Date: 2/15/95
 Agency: Department of Corrections

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FISCAL NOTE

HB 159

2/14/95

page 2

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Allowing for vacation and sick leave we can expect a probation officer position to devote 1,875 hours to pre-sentence investigations annually.

$$5,940 / 1,875 = 3.2 \text{ position equivalents.}$$

Four probation officer positions and one clerical person have been included to support the required investigation and report function and a one time cost for equipment at \$5,000 per staff person has been included.

FISCAL NOTES

Re: HB 159 DWI LAWS/ MINOR IN POSSESSION LAWS

<u>No.</u>	<u>Dept.</u>	<u>Date</u>	<u>Amount</u>
1.	DOLaw	2/16/95	\$294.1
2.	DOC	2/15/95	\$1,080.7
3.	Courts	2/22/95	131.6
4.	DPS	2/16/95	59.4
5.	DOA (PDA)	4/03/95	297.5

Prepared by Senate Finance
5-4-95

STATE OF ALASKA

IMPAIRED DRIVING ASSESSMENT
October 2 - October 8, 1994

National Highway Traffic Safety Administration
Technical Assistance Team

William S. Ethridge
John D. Fenner
Don D. Hinton
Timothy Johnson
William T. McCollum

INTRODUCTION

Motor vehicle crashes are the leading cause of death for individuals between the ages of one and thirty-four. Nationwide, alcohol is involved in nearly one-half of these fatalities.

In pursuit of the goal to reduce alcohol-related traffic fatalities and injuries, the National Highway Traffic Safety Administration (NHTSA) developed a Technical Assistance Team evaluation program. This approach provides states the opportunity to use federal highway safety funds to support an administrative evaluation of existing and proposed alcohol and drug-impaired driving countermeasures.

NHTSA staff facilitates the process by assembling a team of individuals who, through their immediate involvement with national and state programs, have demonstrated their competence in impaired driving program development, implementation and evaluation. Selection of the Technical Assistance Team reflects experience in special areas identified by the state. These areas correlate with the components of a comprehensive impaired driving program as defined in the Highway Safety Program Advisory that was published by NHTSA. Examples of program and systems expertise among the Alaska Technical Assistance Team members include program management (both state and local levels), prevention, enforcement, prosecution, adjudication, evaluation, traffic records, driver licensing, treatment and rehabilitation.

The State of Alaska requested NHTSA's assistance in reviewing its alcohol and drug impaired driving countermeasures program. On August 3, 1994, NHTSA met with Department of Public Safety and Alaska Highway Safety Planning Agency staff members who helped to define key issues of concern to the state. NHTSA agreed to facilitate the technical review.

The Alaska Alcohol and Drug Impaired Driving Program Assessment was conducted in Anchorage from October 2 - 8, 1994. Alaska Highway Safety Planning Administrator, Lorn Campbell, arranged for State and local program experts (see Section 7, Agenda) to deliver briefings and provide support and materials to the Team on a wide variety of topics related to impaired driving. Forty-five presentations were made to the Technical Assistance Team over a period of three and one-half days.

According to 1993 statistics, the State of Alaska has a population of nearly 600,000 located across 580,000 square miles of diverse land. More than one-half of the population resides in three major communities: 300,000 in Anchorage, 40,000 in Fairbanks, and 35,000 in Juneau. The remaining population resides in smaller communities over a vast and remote area. Alaska is not divided into counties but rather has a combination of municipalities, towns, villages and very remote "bush" areas. The demographic complexion of the state is made up of approximately 74 percent Whites, 15.6 percent Native Alaskans, 4.1 percent African Americans; 3.2 percent Hispanic, and 3.1 percent Asian Pacific Americans. The median income for Alaskan residents is \$45,000 as compared to \$31,000 in the lower 48 states.

Alaska's economy has suffered due to dwindling oil and fishing revenues. The state is faced with the challenge of maintaining adequate services for its residents while reducing government spending and decreasing state government personnel. In addition, Alaska's citizens routinely reject government efforts to increase taxes on alcohol or enact other revenue raising laws including tapping into the \$14 billion reserve which could alleviate its perceived economic recession. The economic situation along with the challenges of designing programs appropriate for its geographic composition and meeting the requirements the realities for establishing a comprehensive DWI program in the State of Alaska may seem overwhelming. However, the Team believes that the recommendations contained in this report present viable options to overcoming the situation.

In addition, the following 1993 data pertaining to motor vehicle and traffic safety in Alaska were provided:

523,158	Registered vehicles
393,931	Licensed drivers
39.19	Billion vehicle miles travelled
\$.01	Crash deaths per 100 million vehicle miles travelled
14,509	Motor vehicle crashes
88	Fatal Crashes
37	Alcohol-related Fatal Crashes
49	Alcohol-related Crash Deaths
\$31,995,638	Total annual cost of alcohol-related motor vehicle crashes

The Technical Assistance Team's analysis of Alaska's Alcohol and Drug Impaired Driving Program is based solely on written and oral information provided to the team during the assessment process. The Team used this information to develop recommendations after considering what could be reasonably accomplished within the state. The Team believes that enactment of the proposed recommendations will result in a comprehensive program to prevent impaired driving and will set the framework for expansion to meet future needs in the system.

8. DRUNK DRIVING

Penalties for drunk driving have become tougher over the years as the cost of this dangerous behavior rises. Reckless alcohol consumption among young people has also risen markedly, and it has been met with sharp intolerance.

Drunk driving, or driving while intoxicated (DWI) or driving under the influence (DUI), is typically determined by the alcohol content found in the driver's blood. Blood alcohol content (BAC) may be determined in two ways: through breath analysis or urinalysis. Most states have set the legal limit of blood alcohol content at 0.10 percent. Six states have no set amount of blood alcohol to presume intoxication. In these states it is still illegal to drive while drunk, but blood alcohol content is merely one piece of evidence of intoxication.

Penalties for drunk driving are severe in most states.

Virtually every state suspends the driver's license on a first offense, and the length of suspension increases sharply with each successive offense. There is, however, a great deal of variation in the lengths of suspension of driving privileges among the states. A few only impose suspension for as little as one year for multiple offenses. Michigan, however, revokes the driver's license on the second offense. Several states include revocation on the third or fourth offense.

The newest development in the laws of drunk driving concern court-ordered attendance at an alcohol abuse rehabilitation program upon conviction for driving while intoxicated. Six states still do not have rehabilitation requirements for offenders, while the rest have some sort of rehabilitation requirement for problem drinkers and drivers.

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Table 8: Drunk Driving

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension?	Other Penalties
ALABAMA	32-5A-191	.10% BAC per se at time of driving	Yes on first offense; DUI court referral program approved by state	1st offense: 90 days; 2nd: 1 yr.; 3rd: 3 yrs.	1st offense: imprisonment up to 1 yr. and/or \$250-1000; 2nd within 5 yrs.: up to 1 yr. and \$500-2500; 3rd within 5 yrs.: up to 1 yr. and \$1000-\$5000
ALASKA	28.35.030; 28.15.181	.10% BAC as determined by test taken within 4 hours	Yes, program of alcohol education or rehabilitation that court finds appropriate for term specified by court	1st: 90 days min.; 2nd: 1 yr. min.; 3rd: 10 yrs. min.	1st: min. 72 hrs. and min. \$250; 2nd within 10 yrs.: min. 20 days and min. \$500; 3rd within 10 yrs.: min. 30 days and min. \$1000
ARIZONA	28-692. et seq.	.10% BAC at time of offense	Yes, alcohol abuse screening session by screening or treatment facility approved by health services; alcohol abuse classes or treatment facility if necessary; habitual abuse	1st: 90 days; 2nd within 5 yrs.; revocation; 3rd within 5 yrs.; revocation min. 3 yrs.	1st: min. 24 hrs. and min. \$250 and 8-24 hrs. community service; 2nd within 5 yrs.: min. 60 days and min. \$500; 3rd within five yrs.: min. 6 mos.
ARKANSAS	5-65-103. et seq.	.10% BAC as determined by test	Alcohol Education Program prescribed and approved of by Arkansas Highway Safety Program or alcohol treatment program approved by Office on Alcohol and Drug Abuse Prevention	1st: 90-120 days; 2nd: 12-16 mos.; 3rd: 24-30 mos.; 4th: 3 yrs.	1st: 1 day to 1 yr. prison, court can order public service in lieu of jail and \$150-1000; 2nd within 3 yrs.: 7 days to 1 yr. and \$400-3000; 3rd within 3 yrs.: 90 days to 1 yr. and \$900-5000; 4th within 3 yrs.: felony, 1-6 yrs.; fine only for 2nd and 3rd offenses within 5 yrs.
CALIFORNIA	Vch. §§23152, et seq.	.10% BAC at time of driving (rebuttably presumed that percentage at time of driving was more than at time of test); if test is less than .05% BAC, BAC presumed not .10% when driving; if test is .05-.10%, not presumption but evidence of .10%; .10% at time of test equals .10% at time of driving	1st: if probation, must participate in alcohol or drug education program designated by court if programs approved of are available in that county; 2nd: if probation, 1 yr. in program acceptable to court	1st: 6 mos., or if probation granted, could be 90 days with exception of traveling to work and rehab program; 2nd: restricted to necessary travel (work and rehab) for 1 yr.; 3rd: 3 yrs.	1st: 96 hrs. to 6 mos. prison and \$390-1000; 2nd within 5 yrs.: 90 days to 1 yr. and \$390-1000; 3rd within 5 yrs.: 120 days to 1 yr. and \$390-\$1000

(Continued)

Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension ¹	Other Penalties
COLORADO	42-2-122.1; 42-4-1202	.15 g. of alcohol per 100 mm. of blood while driving or .15 g. of alcohol per 200 mm. of blood at time of test	Court's discretion up to 2 yrs.; drug and alcohol driving safety program	1 yr.	1st: 5 days to 1 yr. and court may fine \$300-1000 and 48-96 hrs. useful community service; 2nd within 5 yrs.: 90 days to 1 yr. and court may fine \$500-1500 and 60-120 hrs. useful community service
CONNECTICUT	14-227a	.10% BAC at time of offense	Court may order participation in alcohol education and treatment program in addition to any fine or sentence	1st: 1 yr. (court's discretion); 2nd: 2 yrs.; 3rd: 3 yrs.; 4th: permanently	1st: \$500-1000 and jail up to 6 mos. or 100 hrs. community service; 2nd within 5 yrs.: \$500-2000 and jail up to 1 yr.; 3rd within 5 yrs.: \$1000-4000 and jail up to 2 yrs.; 4th within 5 yrs.: \$2000-8000 and jail up to 3 yrs.
DELAWARE	Tit. 21 §4177	.10% BAC as shown by test taken within 4 hours of offense	1st: required program of rehabilitation or course of instruction which may include inpatient up to 6 mos.; 2nd: program of education or rehabilitation which may include inpatient treatment up to 15 mos.	1st or 2nd: 1 yr.; 3rd or more: 18 mos.	1st: \$200-1000 or jail 60 days-6 mos.; for each subsequent offense within 5 yrs. of former offense: \$500-2000 and jail 2-18 mos.
DISTRICT OF COLUMBIA	40-716	.10% BAC; .13% alcohol in urine	No	Yes for unspecified time	1st: up to \$300 and/or 90 days; 2nd within 15 yrs.: up to \$5000 and/or up to 1 yr.; 3rd within 15 yrs.: up to \$10,000 and/or up to 1 yr.

(Continued)

Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required ¹	Driver's License Suspension ²	Other Penalties
FLORIDA	316-193	.10% BAC	Substance abuse course specified by the court	Revocation/suspension upon conviction	1st: \$250-500 and jail up to 6 mos.; 2nd within 3 yrs.: \$500-1000 and jail up to 9 mos.; 3rd within 3 yrs.: \$1000-2500 and jail up to 12 mos.; 4th within 3 yrs.: 3rd degree felony, prison up to 5 yrs.; if first offense BAC exceeds .20%: 1st: \$500-1000 and jail up to 9 mos.; 2nd within 3 yrs.: \$1000-2000 and jail up to 12 mos.; 3rd within 3 yrs.: \$2000-5000 and jail up to 12 mos.; additional penalties: 1st: probation up to 1 yr. and community service of 50 hrs. minimum or \$10 fine per hour not worked
GEORGIA	40-5-63; 40-6-391	.10% BAC at time of test		1st: 1 yr.; 2nd within 5 yrs.; 3 yrs.; 3rd within 5 yrs.; considered habitual offender, 5 yrs.	1st: \$300-1000 and 10 days to 12 mos.; 2nd within 5 yrs.: \$600-1000 and 90 days to 12 mos.; 3rd: \$1000-5000 and 120 days to 12 mos. mandatory
HAWAII	291-4	.10% BAC	1st: 14 hr. minimum alcohol abuse rehab program including education and counseling or comparable program approved by court; subsequent: may be required pending evaluation by substance abuse counselor	1st: 90 days (court can make it 30 days total prohibition and 60 days only for work and rehab); 2nd: 1 yr. absolute prohibition; 3rd: 1-5 yrs.	1st: \$150-1000 and/or min. 48 hrs. jail and/or 72 hrs. community service; 2nd within 5 yrs.: \$500-1000 and min. 48 hrs. jail or min. 80 hrs. community service; 3rd within 5 yrs.: \$500-1000 and 10-180 days jail
IDAHO	18-8004, <i>et seq.</i>	.10% BAC	Alcoholic evaluation (own expense) approved facility; if necessary, an alcoholic treatment program best suited for individual	1st: mandatory up to 180 days (defendant may request for necessary privilege-work and family health needs); 2nd: mandatory 6 mos. after getting out of jail and possibly an additional time up to 1 yr.; 3rd: 1-5 yrs. (no privileges at all)	1st: up to \$1000 and/or up to 6 mos.; 2nd within 5 yrs.: mandatory fine up to \$2000 and jail 10 days to 1 yr.; 3rd within 5 yrs.: felony, jail up to 5 yrs. and may be fined up to \$5000

(Continued)

Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension?	Other Penalties
ILLINOIS	625 ILCS 5/11-501, et seq.	.10% BAC, less than .05% at test: presumed not to have required BAC at time of driving; .05%- .10% at test: no presumption of guilt but take it with other evidence; .10% at test: guilty	Professional evaluation to determine if there is abuse problem and extent; defendant pays cost; program must be approved/licensed by Dept. of Alcohol and Substance Abuse	Up to 1 yr.	1st: Class A misdemeanor; jail up to 1 yr.; 2nd within 5 yrs.: mandatory min. 48 hrs. jail or min. 10 days community service; 3rd: Class 4 felony, 1-3 yrs. prison
INDIANA	9-30-5-1, et seq.	.10% BAC	No	1st: 90 days to 2 yrs.; 2nd 10 or more yrs. ago: 90 days to 2 yrs.; 2nd 5-10 yrs. ago: 6 mos. to 2 yrs.; 2nd within 5 yrs.: 1-2 yrs.	1st: Class A misdemeanor; 2nd within 5 yrs.: min. 5 days jail or min. 30 hrs. community service in addition to Class D felony (min. 2 yrs.) and may be fined up to \$10,000
IOWA	3213.1, et seq.	.10% BAC	2nd offense: must undergo substance abuse evaluation prior to sentencing; 3rd offense or if evaluation recommends treatment: may be required to commit to treatment	1st: 180 days; 2nd within 6 yrs.: 1 yr.	1st: serious misdemeanor, \$500-1000 and min. 48 hrs. jail, may perform up to 200 hrs. community service in lieu of fine if court allows; 2nd: aggravated misdemeanor, min. \$750 and min. 7 days jail; 3rd: Class D felony, min. \$750 and 30 days to 1 yr. jail
KANSAS	8-1008, 1014, 1557	.10% BAC at time of test	Presentence alcohol and drug evaluation conducted by community-based alcohol and drug safety action program. supervision and monitoring of all convicted persons	1st: 30 days or upon completion of required treatment program (whichever is longer); subsequent: 1 yr. or upon completion of required treatment program (whichever is longer)	1st: \$200-500 and 48 hrs. to 6 mos. jail or 100 hrs. community service; 2nd: \$500-1000 and 90 days to 1 yr. jail; 3rd: \$1000-2500 and 90 days to 1 yr. jail

(Continued)

Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension ¹	Other Penalties
KENTUCKY	189.010, <i>et seq.</i>	No limit per se. "while under the influence of alcohol"	1st offense: 90 day alcohol or substance abuse program can lessen driver suspension from 6 mos. to 30 days	1st: 6 mos.; 2nd: 1 yr.; 3rd: 2 yrs.	1st: \$250-500 or 48 hrs. to 30 days jail or 2-30 days community labor; 2nd within 5 yrs.: \$350-500 and 7 days to 6 mos. jail and may get 10 days to 6 mos. community labor in addition to jail term; 3rd within 5 yrs.: \$500-1000 and 30 days to 12 mos. jail and may get 10 days to 1 yr. community labor in addition to jail term
LOUISIANA	14:98; 32:414	.10% BAC	Rehabilitation provided for 1st and 2nd offense, includes screening procedure to determine portion of program which may be applicable and appropriate for individual offender	1st: 60 days	1st: \$125-500 and 10 days to 6 mos. jail; 2nd: \$300-500 and 30 days to 6 mos. jail; 3rd: up to \$1000 and 1-5 yrs. jail; 4th: hard labor 10-30 yrs.
MAINE	Tit. 29 §1312	.10% BAC	1st: Education program conducted by Dept. of Human Services; 2nd: education program conducted by Dept. of Human Services and where required by Dept. of Human Services, alcohol or rehab program	1st: 30 days or successful completion of educational program, whichever is longer; 2nd: 1 yr. (may be reduced to 6 mos. on successful completion of educational program)	1st: up to \$1000 and up to 90 days jail; 2nd: \$250-2000 and 24 hrs. to 6 mos. jail
MARYLAND	Transp. 16-205; 16-212; 21-902; 27-101	"While intoxicated or while under the influence of a controlled dangerous substance"	Driver Improvement Program and Alcohol Education Program required	1st: up to 60 days; 2nd within 3 yrs.: up to 120 days	1st: up to \$1000 and/or up to 1 yr. jail; 2nd within 3 yrs.: up to \$1000 and/or 48 hrs. to 2 yrs. jail, may also receive min. 80 hrs. community service; 3rd within 3 yrs.: up to \$2000 and/or up to 3 yrs. jail

(Continued)

Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension?	Other Penalties
MASSACHUSETTS	Ch. 90 §24	No limit per se	1st offense: appropriate to defendant with his/her consent as a condition of probation upon written finding that appropriate and adequate treatment is available to defendant and defendant would benefit and safety of public would not be endangered; minimum 14 days in residential alcohol treatment program	1st: 1 yr.; 2nd: 2 yrs.; 3rd: 5 yrs.; after 2 yrs. can apply for new license on limited basis on grounds of hardship and present/past violation dealt with and under control	1st: \$100-1000 and/or up to 2 yrs. jail; 2nd within 6 yrs.: \$300-1000 and 7 days to 2 yrs. jail; 3rd within 6 yrs.: \$500-1000 and 60 days to 2 yrs. jail
MICHIGAN	MCL 9.2325	.10% BAC	Screening and assessment to determine the likely benefit from rehabilitation. court may order person to participate and successfully complete one or more rehab programs	1st: 6 mos. to 2 yrs. (can get restricted license); 2nd: revoked; 3rd: revoked	1st: \$100-500 and/or up to 90 days jail and costs of prosecution and community service up to 45 days; 2nd within 7 yrs.: \$200-1000 and either 10-90 days community service and up to 1 yr. jail or up to 90 days community service and 48 hrs. to 1 yr. jail; 3rd within 10 yrs.: \$500-5000 and/or 1-5 yrs. jail
MINNESOTA	169.121, et seq.	.10% BAC within 2 hrs. of time of driving	Alcohol problem assessment in counties of more than 10,000 population and report made to court including recommendation as to treatment or rehab program	1st: min. 30 days; 2nd within 5 yrs.: min. 90 days and until court has certified treatment/rehabilitation has been successfully completed; 3rd within 5 yrs.: min. 1 yr. and until rehab completed; 4th within 5 yrs.: min. 2 yrs. and until rehab completed	2nd within 5 yrs.: gross misdemeanor. min. 30 days jail or 8 hrs. community service for each jail day; 3rd within 10 yrs.: gross misdemeanor. min. 30 days jail or 8 hrs. community service for each jail day
MISSISSIPPI	63-11-30	.10% BAC	1st: required alcohol safety education program; subsequent: may participate	1st: 90 days or successful completion of program, whichever is longer; 2nd: 2 yrs. (can be reduced after successful completion of program); 3rd: 5 yrs. (eligible for reinstatement after 3 yrs.); 4th: 5 yrs.	1st: \$250-1000 and/or up to 24 hrs. jail; 2nd within 5 yrs.: \$600-1000 and 48 hrs. to 1 yr. jail or 10 days to 1 yr. community service; 3rd within 5 yrs.: \$800-1000 and 30 days to 1 yr. jail; 4th within 5 yrs.: \$2000-5000 and 90 days to 5 yrs. jail

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Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension?	Other Penalties
MISSOURI	577.012, (249)	.10% BAC	1st. Court may order participation and successful completion of alcohol or drug-related traffic offender education or rehab program which meets standards established by Dept. of Public Safety and Dept. of Mental Health	Upon failure to submit to breath test	1st: Class C misdemeanor, \$50 min. and/or up to 3 mos. jail; 2nd within 3 yrs.: Class A misdemeanor, 7 days to 6 mos. jail; 3rd within 3 yrs.: Class D felony, 45 days to 1 yr. jail
MONTANA	61-5-200, 205: 61-8-406, 722	.10% BAC	Defendant shall complete alcohol information course at alcohol treatment program approved by Dept. of Corrections & Human Services which may include alcohol or drug treatment or both if considered necessary by counselor conducting program	Up to 1 yr. per offense	1st: \$100-500 and up to 10 days jail; 2nd: \$300-500 and 48 hrs. to 30 days jail; 3rd: \$500-1000 and 48 hrs. to 6 mos. jail
NEBRASKA	28-106: 39-669.07, et seq.	.10% BAC	None	1st: 6 mos. (if judge orders suspension of sentence or probation, 60 days from time of order); 2nd within 10 yrs.: 1 yr. (if judge orders suspension of sentence or probation, 6 mos. from time of order); 3rd within 10 yrs.: 15 yrs. (if judge orders suspension of sentence or probation, 1 yr. from time of order)	1st: \$200-500 and 7-30 days jail; 2nd: \$500 and 30 days jail; 3rd: \$500 and 3-6 mos. jail

(Continued)

Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension?	Other Penalties
NEVADA	484.379, et seq.	.10% BAC	1st or 2nd within 7 yrs.: may apply to undergo program of treatment for alcoholism or drug abuse for at least one yr. if classified by physician/counselor as alcoholic or drug abuser; if defendant pays costs and has served jail sentence; 1st: must do educational course on alcohol and substance abuse		1st: \$200-1000 and 2 days to 6 mos. jail or 48 hrs. community service (jail sentence can be lessened if defendant participates in rehab program); 2nd within 7 yrs.: \$500-1000 and 10 days to 6 mos. jail; 3rd within 7 yrs.: \$2000-5000 and 1-6 yrs. jail; in addition to any penalty, civil penalty of \$35 paid to court
NEW HAMPSHIRE	263:65-a: 265.82	.10% BAC	Yes, Impaired Driver Intervention Program: must successfully complete to get license back: must be approved by director of Office of Alcohol and Drug Abuse Prevention and commissioner	1st: 60 days to 2 yrs.; 2nd: 3 yrs.; 3rd: Indefinite, min. 3 yrs.	1st: up to \$1000; 2nd within 7 yrs.: up to \$1000 and 7 days to 6 mos. jail; 3rd within 7 yrs.: up to \$1000 and 7 days to 6 mos. jail
NEW JERSEY	39:4-50	.10% BAC	Screening evaluation referral program and fee requirements of Div. of Alcoholism's Intoxicated Driving Programs Unit and 12-48 hrs. in two consecutive days in Intoxicated Driver Resource Center and a program of alcohol education and highway safety as proscribed by director of Div. of Motor Vehicles	6 mos. to 1 yr.; 2nd: 2 yrs.; 3rd: 10 yrs.	1st: \$250-400 and up to 30 days jail; 2nd within 10 yrs.: \$500-1000, 30 days community service, and 48 hrs. to 90 days jail; 3rd within 10 yrs.: \$1000 and min. 180 days jail; up to 90 days of jail can be exchanged for community service

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Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension?	Other Penalties
NEW MEXICO	66-5-29, 66-8-102	10% BAC	May be required by court to enroll in screening program to determine level of abuse and recommendation of treatment, if necessary; must complete any recommended treatment program required by court; 1st offense: can attend driver rehab program as a deferred sentence	1 yr. on 1st offense suspension can be avoided by attending driver rehab program)	1st: \$300, 500 and/or 30-90 days jail; 2nd within 5 yrs.: up to \$1000 and/or 90 days to 1 yr. jail; 3rd or more within 5 yrs.: up to \$1000 and min. 6 mos. jail
NEW YORK	VEH. & TRAF. 1192(2)	.10% BAC	Court may require attendance at single session of "victims impact program"	1st: 6 mos.; 2nd within 10 yrs.; 1 yr.	1st: \$350-500 and/or up to 1 yr. jail; 2nd: \$500-5000 and/or min. 1 yr. jail. Class E felony
NORTH CAROLINA	20-138.1, 179	10% BAC at time of test	Assessment may be required for alcoholism and substance abuse and appropriate treatment if necessary	1st: 1 yr.; 2nd within 3 yrs.; 4 yrs. (conditionally restored after 2 yrs.); 3rd with most recent within 5 yrs.; permanent (conditionally restored after 3 yrs.)	1st: up to \$1000 and 7 days to 12 mos. jail; subsequent within 7 yrs.: \$2000 and 14 days to 24 mos. jail
NORTH DAKOTA	39-06-31; 39-08-01	.10% BAC at time of test given within 2 hrs. of driving	Order for addiction evaluation by appropriate licensed addiction treatment program with appropriate treatment if necessary	1 yr. or period as recommended by trial court	1st: Class B misdemeanor, min. \$250; 2nd within 5 yrs.: Class B misdemeanor, min. \$500 and min. 4 days jail or 10 days community service; 3rd within 5 yrs.: Class A misdemeanor, \$1000 and min. 60 days jail; 4th within 7 yrs.: Class A misdemeanor, \$1000 and 180 days jail
OHIO	3793.10; 4507.16; 4511.19	.10% BAC	1st: Driver's Intervention Program (in suspended jail sentence); rehab may be required in sentences	1st: 60 days to 3 yrs.; 2nd within 5 yrs.; 120 days to 5 yrs.; 3rd within 5 yrs.; 180 days to 10 yrs.	1st: \$150-1000 and 3 days to 6 mos. jail; 2nd within 5 yrs.: \$150-1000, 10 days to 6 mos. jail; 3rd within 5 yrs.: \$150-1000 and 30 days to 1 yr. jail
OKLAHOMA	Tit. 47 §§6- 205.1, 11- 902	.10% BAC at time of test	Dept. of Mental Health Treatment Program may be required upon evaluation	1st: 90 days; 2nd within 5 yrs.; 1 yr.; 3rd within 5 yrs.; 3 yrs.	Up to \$1000 and 10 days to 1 yr. jail; subsequent within 10 yrs.: up to \$2500 and 1-5 yrs. jail

(Continued)

Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension?	Other Penalties
OREGON	161.615, <i>et seq.</i> ; 813.010, <i>et seq.</i>	.08% BAC	Mandatory complete exam by court approved agency/organization to determine whether individual has a problem condition involving alcohol or controlled substances; complete a treatment program if exam shows it necessary; if none necessary, then complete alcohol and drug information program.	1st: 1 yr.; 2nd within 5 yrs.: 3 yrs.; 3rd within 5 yrs.: 3 yrs.	1st: Class A misdemeanor, up to \$2500, up to 1 yr. jail, fees for program; 2nd: impound vehicle in addition to above
PENNSYLVANIA	Tit. 75 1548; 1532; 3731	.10% BAC	2nd or subsequent offense within 5 yrs.: evaluation to determine if person needs or would benefit from treatment for alcohol or drug abuse; may order treatment if necessary	12 mos.	1st.: min. \$300 and min. 48 hr. jail
RHODE ISLAND	27-21	.10% BAC	1st: attendance required at special course on DWI or under the influence of controlled substance and/or alcoholic or drug treatment for individual; 2nd: drug and alcohol treatment	1st: 3-6 mos.; 2nd: 1-2 yrs.	1st: \$100-300 and 10-60 hrs. community service and/or up to 1 yr. jail; 2nd within 5 yrs.: \$400 and 10 days to 1 yr. jail; 3rd: in addition to 2nd offense penalties, may have car seized and sold by State of Rhode Island and proceeds going to general fund; in addition anyone convicted under this section pays highway assessment fine of \$500
SOUTH CAROLINA	56-5-2930, <i>et seq.</i>	"Under influence of intoxicating liquors"	Successful completion of Alcohol and Drug Safety Action Program certified by South Carolina Commission on Alcohol and Drug Abuse prior to reinstatement of license	1st: 6 mos.; 2nd within 10 yrs.: 1 yr.; 3rd within 10 yrs.: 2 yrs.; 4th within 10 yrs.: 3 yrs.; 5th within 10 yrs.: permanent	1st: \$200 and 48 hrs. to 30 days jail or 48 hrs. public service; 2nd within 10 yrs.: \$2000-5000 and 48 hrs. to 1 yr. jail or min. 10 days public service; 3rd within 10 yrs.: \$3500-6000 and 60 days to 3 yrs. jail; 4th within 10 yrs.: 1-5 yrs. jail

(Continued)

Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension?	Other Penalties
SOUTH DAKOTA	32-23-1, <i>et seq.</i>	10% BAC	1st: required if 17% BAC, court-ordered evaluation	1st: min. 30 days to 1 yr.; 2nd: min. 1 yr.; 3rd: min. 1 yr. (unconditional); 4th: min. 2 yrs.	1st: \$1000 and/or 1 yr. jail; 2nd within 5 yrs.: \$1000 and/or 1 yr. jail; 3rd within 5 yrs.: \$2000 and/or 2 yrs. jail; 4th: Class 5 felony, 5 yrs. jail and may impose fine of \$5000
TENNESSEE	55-10-401, 403	"Under the influence"	2nd offense: may be required to participate in court-approved inpatient alcohol and drug treatment program	1st: 1 yr.; 2nd: 2 yrs.; 3rd: 3-10 yrs.	1st: \$250-1000 and 48 hrs. to 11 mos., 29 days jail; 2nd within 10 yrs.: \$500-2500 and 45 days to 11 mos., 29 days jail; 3rd: \$1000-5000 and 120 days to 11 mos., 29 days jail
TEXAS	Tex. Rev. Civ. Stat. Art. 67011-1	10% BAC	Evaluation	1st: 90-365 days; 2nd or 3rd: 180 days to 2 yrs.	1st: \$100-2000 and 72 hrs. to 2 yrs. jail; 2nd: \$300-2000 and 15 days to 2 yrs. jail; 3rd: \$500-2000 and 30 days to 2 yrs. jail or 60 days to 5 yrs. state penitentiary
UTAH	41-6-44	.08% BAC	1st: assessment and educational series at a licensed alcohol rehab facility; 2nd: same as above and treatment at court's discretion; 3rd: same as above and treatment at alcohol rehab facility is mandatory; 4th: treatment required	1st: 90 days; subsequent within 6 yrs. of prior conviction: 1 yr.	1st: Class B misdemeanor, up to \$1000 and 48-240 hrs. jail or 24-50 hrs. community service; 2nd within 6 yrs.: up to \$1000 and 240-720 hrs. jail or 30-240 hrs. community service; 3rd within 6 yrs.: 720-2160 hrs. jail or 240-720 hrs. community service; if prior two convictions were both after 4/23/90, then: \$1000-2500 and 240-2160 hrs. jail or 240-720 hrs. community service; 4th within 6 yrs.: if all after 4/23/90, \$1000-5000 and 720-2160 hrs. jail or 240-720 hrs. community service
VERMONT	1201, <i>et seq.</i>	.08% BAC	1st: alcohol assessment screening-therapy program or driver rehab if necessary at court's discretion; 2nd completion of therapy program at court's discretion	1st: 90 days; 2nd: 18 months; 3rd: 3 yrs.; 4th: life	1st: max. \$750 and/or up to 2 yrs. jail; 2nd: up to \$1500 and/or 48 hrs. to 2 yrs. jail; 3rd: up to \$2500 and/or up to 5 yrs. jail

(Continued)

Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension?	Other Penalties
VIRGINIA	18.2-266(i), et seq.	.10% BAC	Alcohol Safety Action Program for 1st or 2nd offense at court's discretion	1st: 1 yr.; 2nd within 10 yrs.: 3 yrs.; 3rd within 10 yrs.: 3 yrs	2nd within 10 yrs.: \$200-2500 and 1 mo. to 1 yr. jail; 3rd: \$500-2500 and 2 mos. to 1 yr. jail
WASHINGTON	46.61.502 (1), 515	.10% BAC	1st: alcohol information course or more intensive treatment program as determined by court; 2nd: diagnostic evaluation by alcoholism agency approved by Dept. of Social & Health Services	1st: 90 days; 2nd within 5 yrs.: 1 yr.; 3rd within 5 yrs.: 2 yrs.	1st: \$250-1000 and 24 hrs. to 1 yr. jail; 2nd within 5 yrs.: \$500-2000 and 7 days to 1 yr. jail
WEST VIRGINIA	17C-5-2	.10% BAC	Motor Vehicle Alcohol Test and lock program upon revocation of license	1st: min. 6 mos.; 2nd: 10 yrs.; 3rd: life	1st: \$100-500 and 1 day to 6 mos. jail; 2nd: \$1000-3000 and/or 6 mos. to 1 yr. jail; 3rd: \$3000-5000 and/or 1-3 yrs. jail
WISCONSIN	343.30; 346.63	.10% BAC	Not mentioned	1st: 6-9 mos.; 2nd within 5 yrs.: 1 yr. to 18 mos.; 3rd or more within 5 yrs.: 2-3 yrs.	1st: \$150-300; 2nd within 5 yrs.: \$300-1000 and 5 days to 6 mos. jail; 3rd within 5 yrs.: \$600-2000 and 30 days to 1 yr. jail; 4th within 5 yrs.: \$600-2000 and 60 days to 1 yr. jail; 5th within 5 yrs.: \$600-2000 and 6 mos. to 1 yr. jail
WYOMING	31-5-233; 31-7-127	.10% BAC	No	3rd conviction within 5 yrs.: 3 yrs.	1st: up to \$750 and/or up to 6 mos. jail; 2nd within 5 yrs.: \$200-750 and 7 days to 6 mos. jail

STATE OF ALASKA

IMPAIRED DRIVING ASSESSMENT
October 2 - October 8, 1994

National Highway Traffic Safety Administration
Technical Assistance Team

William S. Ethridge
John D. Fenner
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INTRODUCTION

Motor vehicle crashes are the leading cause of death for individuals between the ages of one and thirty-four. Nationwide, alcohol is involved in nearly one-half of these fatalities.

In pursuit of the goal to reduce alcohol-related traffic fatalities and injuries, the National Highway Traffic Safety Administration (NHTSA) developed a Technical Assistance Team evaluation program. This approach provides states the opportunity to use federal highway safety funds to support an administrative evaluation of existing and proposed alcohol and drug-impaired driving countermeasures.

NHTSA staff facilitates the process by assembling a team of individuals who, through their immediate involvement with national and state programs, have demonstrated their competence in impaired driving program development, implementation and evaluation. Selection of the Technical Assistance Team reflects experience in special areas identified by the state. These areas correlate with the components of a comprehensive impaired driving program as defined in the Highway Safety Program Advisory that was published by NHTSA. Examples of program and systems expertise among the Alaska Technical Assistance Team members include program management (both state and local levels), prevention, enforcement, prosecution, adjudication, evaluation, traffic records, driver licensing, treatment and rehabilitation.

The State of Alaska requested NHTSA's assistance in reviewing its alcohol and drug impaired driving countermeasures program. On August 3, 1994, NHTSA met with Department of Public Safety and Alaska Highway Safety Planning Agency staff members who helped to define key issues of concern to the state. NHTSA agreed to facilitate the technical review.

The Alaska Alcohol and Drug Impaired Driving Program Assessment was conducted in Anchorage from October 2 - 8, 1994. Alaska Highway Safety Planning Administrator, Lorn Campbell, arranged for State and local program experts (see Section 7, Agenda) to deliver briefings and provide support and materials to the Team on a wide variety of topics related to impaired driving. Forty-five presentations were made to the Technical Assistance Team over a period of three and one-half days.

According to 1993 statistics, the State of Alaska has a population of nearly 600,000 located across 580,000 square miles of diverse land. More than one-half of the population resides in three major communities: 300,000 in Anchorage, 40,000 in Fairbanks, and 35,000 in Juneau. The remaining population resides in smaller communities over a vast and remote area. Alaska is not divided into counties but rather has a combination of municipalities, towns, villages and very remote "bush" areas. The demographic complexion of the state is made up of approximately 74 percent Whites, 15.6 percent Native Alaskans, 4.1 percent African Americans; 3.2 percent Hispanic, and 3.1 percent Asian Pacific Americans. The median income for Alaskan residents is \$45,000 as compared to \$31,000 in the lower 48 states.

Alaska's economy has suffered due to dwindling oil and fishing revenues. The state is faced with the challenge of maintaining adequate services for its residents while reducing government spending and decreasing state government personnel. In addition, Alaska's citizens routinely reject government efforts to increase taxes on alcohol or enact other revenue raising laws including tapping into the \$14 billion reserve which could alleviate its perceived economic recession. The economic situation along with the challenges of designing programs appropriate for its geographic composition and meeting the requirements the realities for establishing a comprehensive DWI program in the State of Alaska may seem overwhelming. However, the Team believes that the recommendations contained in this report present viable options to overcoming the situation.

In addition, the following 1993 data pertaining to motor vehicle and traffic safety in Alaska were provided:

523,158	Registered vehicles
393,931	Licensed drivers
39.19	Billion vehicle miles travelled
\$.01	Crash deaths per 100 million vehicle miles travelled
14,509	Motor vehicle crashes
88	Fatal Crashes
37	Alcohol-related Fatal Crashes
49	Alcohol-related Crash Deaths
\$31,995,638	Total annual cost of alcohol-related motor vehicle crashes

The Technical Assistance Team's analysis of Alaska's Alcohol and Drug Impaired Driving Program is based solely on written and oral information provided to the team during the assessment process. The Team used this information to develop recommendations after considering what could be reasonably accomplished within the state. The Team believes that enactment of the proposed recommendations will result in a comprehensive program to prevent impaired driving and will set the framework for expansion to meet future needs in the system.

8. DRUNK DRIVING

Penalties for drunk driving have become tougher over the years as the cost of this dangerous behavior rises. Reckless alcohol consumption among young people has also risen markedly, and it has been met with sharp intolerance.

Drunk driving, or driving while intoxicated (DWI) or driving under the influence (DUI), is typically determined by the alcohol content found in the driver's blood. Blood alcohol content (BAC) may be determined in two ways: through breath analysis or urinalysis. Most states have set the legal limit of blood alcohol content at 0.10 percent. Six states have no set amount of blood alcohol to presume intoxication. In these states it is still illegal to drive while drunk, but blood alcohol content is merely one piece of evidence of intoxication.

Penalties for drunk driving are severe in most states.

Virtually every state suspends the driver's license on a first offense, and the length of suspension increases sharply with each successive offense. There is, however, a great deal of variation in the lengths of suspension of driving privileges among the states. A few only impose suspension for as little as one year for multiple offenses. Michigan, however, revokes the driver's license on the second offense. Several states include revocation on the third or fourth offense.

The newest development in the laws of drunk driving concern court-ordered attendance at an alcohol abuse rehabilitation program upon conviction for driving while intoxicated. Six states still do not have rehabilitation requirements for offenders, while the rest have some sort of rehabilitation requirement for problem drinkers and drivers.



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Table 8: Drunk Driving

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension?	Other Penalties
ALABAMA	32-5A-191	10% BAC per se at time of driving	Yes on first offense; DUI court referral program approved by state	1st offense, 90 days; 2nd: 1 yr.; 3rd: 3 yrs.	1st offense: imprisonment up to 1 yr. and/or \$250-1000; 2nd within 5 yrs.: up to 1 yr. and \$500-2500; 3rd within 5 yrs.: up to 1 yr. and \$1000-\$5000
ALASKA	28.35.030; 28.15.181	10% BAC as determined by test taken within 4 hours	Yes, program of alcohol education or rehabilitation that court finds appropriate for term specified by court	1st: 90 days min.; 2nd: 1 yr. min.; 3rd: 10 yrs. min.	1st: min. 72 hrs. and min. \$250; 2nd within 10 yrs.: min. 20 days and min. \$500; 3rd within 10 yrs.: min. 30 days and min. \$1000
ARIZONA	28-692, <i>et seq.</i>	10% BAC at time of offense	Yes, alcohol abuse screening session by screening or treatment facility approved by health services; alcohol abuse classes or treatment facility if necessary; habitual abuse	1st: 90 days; 2nd within 5 yrs.; revocation; 3rd within 5 yrs.; revocation min. 3 yrs.	1st: min. 24 hrs. and min. \$250 and 8-24 hrs. community service; 2nd within 5 yrs.: min. 60 days and min. \$500; 3rd within five yrs.: min. 6 mos.
ARKANSAS	5-65-103, <i>et seq.</i>	10% BAC as determined by test	Alcohol Education Program prescribed and approved of by Arkansas Highway Safety Program or alcohol treatment program approved by Office on Alcohol and Drug Abuse Prevention	1st: 90-120 days; 2nd: 12-16 mos.; 3rd: 24-30 mos.; 4th: 3 yrs.	1st: 1 day to 1 yr. prison, court can order public service in lieu of jail and \$150-1000; 2nd within 3 yrs.: 7 days to 1 yr. and \$400-3000; 3rd within 3 yrs.: 90 days to 1 yr. and \$900-5000; 4th within 3 yrs.: felony, 1-6 yrs.; fine only for 2nd and 3rd offenses within 5 yrs.
CALIFORNIA	Veh. §§23152, <i>et seq.</i>	0.10% BAC at time of driving (rebuttably presumed that percentage at time of driving was more than at time of test); if test is less than .05% BAC, BAC presumed not .10% when driving; if test is .05-.10%, not presumption but evidence of .10%; .10% at time of test equals .10% at time of driving	1st: if probation, must participate in alcohol or drug education program designated by court if programs approved of are available in that county; 2nd: if probation, 1 yr. in program acceptable to court	1st: 6 mos., or if probation granted, could be 90 days with exception of traveling to work and rehab program; 2nd: restricted to necessary travel (work and rehab) for 1 yr.; 3rd: 3 yrs.	1st: 96 hrs. to 6 mos. prison and \$390-1000; 2nd within 5 yrs.: 90 days to 1 yr. and \$390-1000; 3rd within 5 yrs.: 120 days to 1 yr. and \$390-\$1000

(Continued)

Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension	Other Penalties
COLORADO	42-2-122.1; 42-4-1202	.15 g. of alcohol per 100 mm. of blood while driving or .15 g. of alcohol per 200 mm. of blood at time of test	Court's discretion up to 2 yrs.; drug and alcohol driving safety program	1 yr.	1st: 5 days to 1 yr. and court may fine \$300-1000 and 48-96 hrs. useful community service; 2nd within 5 yrs.: 90 days to 1 yr. and court may fine \$500-1500 and 60-120 hrs. useful community service
CONNECTICUT	14-227a	.10% BAC at time of offense	Court may order participation in alcohol education and treatment program in addition to any fine or sentence	1st: 1 yr. (court's discretion); 2nd: 2 yrs.; 3rd: 3 yrs.; 4th: permanently	1st: \$500-1000 and jail up to 6 mos. or 100 hrs. community service; 2nd within 5 yrs.: \$500-2000 and jail up to 1 yr.; 3rd within 5 yrs.: \$1000-4000 and jail up to 2 yrs.; 4th within 5 yrs.: \$2000-8000 and jail up to 3 yrs.
DELAWARE	Tit. 21 §4177	.10% BAC as shown by test taken within 4 hours of offense	1st: required program of rehabilitation or course of instruction which may include inpatient up to 6 mos.; 2nd: program of education or rehabilitation which may include inpatient treatment up to 15 mos.	1st or 2nd: 1 yr.; 3rd or more: 18 mos.	1st: \$200-1000 or jail 60 days-6 mos.; for each subsequent offense within 5 yrs. of former offense: \$500-2000 and jail 2-18 mos.
DISTRICT OF COLUMBIA	40-716	.10% BAC; .13% alcohol in urine	No	Yes for unspecified time	1st: up to \$300 and/or 90 days; 2nd within 15 yrs.: up to \$5000 and/or up to 1 yr.; 3rd within 15 yrs.: up to \$10,000 and/or up to 1 yr.

(Continued)

Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required ¹	Driver's License Suspension ²	Other Penalties
FLORIDA	316-195	.10% BAC	Substance abuse course specified by the court	Revocation/suspension upon conviction	1st: \$250-500 and jail up to 6 mos.; 2nd within 5 yrs.: \$500-1000 and jail up to 9 mos.; 3rd within 3 yrs.: \$1000-2500 and jail up to 12 mos.; 4th within 3 yrs.: 3rd degree felony, prison up to 5 yrs.; if first offense BAC exceeds .20%: 1st: \$500-1000 and jail up to 9 mos.; 2nd within 3 yrs.: \$1000-2000 and jail up to 12 mos.; 3rd within 3 yrs.: \$2000-5000 and jail up to 12 mos.; additional penalties: 1st: probation up to 1 yr. and community service of 50 hrs. minimum or \$10 fine per hour not worked
GEORGIA	40-5-63; 40-6-391	.10% BAC at time of test		1st: 1 yr.; 2nd within 5 yrs.; 3 yrs.; 3rd within 5 yrs.; considered habitual offender, 5 yrs.	1st: \$300-1000 and 10 days to 12 mos.; 2nd within 5 yrs.: \$600-1000 and 90 days to 12 mos.; 3rd: \$1000-5000 and 120 days to 12 mos. mandatory
HAWAII	291-4	.10% BAC	1st: 14 hr. minimum alcohol abuse rehab program including education and counseling or comparable program approved by court; subsequent: may be required pending evaluation by substance abuse counselor	1st: 90 days (court can make it 30 days total prohibition and 60 days only for work and rehab); 2nd: 1 yr. absolute prohibition; 3rd: 1-5 yrs.	1st: \$150-1000 and/or min. 48 hrs. jail and/or 72 hrs. community service; 2nd within 5 yrs.: \$500-1000 and min. 48 hrs. jail or min. 80 hrs. community service; 3rd within 5 yrs.: \$500-1000 and 10-180 days jail
IDAHO	18-8004, <i>et seq.</i>	.10% BAC	Alcoholic evaluation (own expense) approved facility; if necessary, an alcoholic treatment program best suited for individual	1st: mandatory up to 180 days (defendant may request for necessary privilege-work and family health needs); 2nd: mandatory 6 mos. after getting out of jail and possibly an additional time up to 1 yr.; 3rd: 1-5 yrs. (no privileges at all)	1st: up to \$1000 and/or up to 6 mos.; 2nd within 5 yrs.: mandatory fine up to \$2000 and jail 10 days to 1 yr.; 3rd within 5 yrs.: felony, jail up to 5 yrs. and may be fined up to \$5000

(Continued)

Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension?	Other Penalties
ILLINOIS	625 ILCS 5/11-501, et seq.	.10% BAC, less than .05% at test: presumed not to have required BAC at time of driving; .05%- .10% at test: no presumption of guilt but take it with other evidence; .10% at test: guilty	Professional evaluation to determine if there is abuse problem and extent; defendant pays cost; program must be approved/licensed by Dept. of Alcohol and Substance Abuse	Up to 1 yr.	1st: Class A misdemeanor; jail up to 1 yr.; 2nd within 5 yrs.: mandatory min. 48 hrs. jail or min. 10 days community service; 3rd: Class 4 felony, 1-3 yrs. prison
INDIANA	9-30-5-1, et seq.	.10% BAC	No	1st: 90 days to 2 yrs.; 2nd 10 or more yrs. ago: 90 days to 2 yrs.; 2nd 5-10 yrs. ago: 6 mos. to 2 yrs.; 2nd within 5 yrs.: 1-2 yrs.	1st: Class A misdemeanor; jail up to 1 yr.; 2nd within 5 yrs.: min. 5 days jail or min. 80 hrs. community service in addition to Class D felony (min. 2 yrs.) and may be fined up to \$10,000
IOWA	3213.1, et seq.	.10% BAC	2nd offense: must undergo substance abuse evaluation prior to sentencing; 3rd offense or if evaluation recommends treatment: may be required to commit to treatment	1st: 180 days; 2nd within 6 yrs.: 1 yr.	1st: serious misdemeanor, \$500-1000 and min. 48 hrs. jail, may perform up to 200 hrs. community service in lieu of fine if court allows; 2nd: aggravated misdemeanor, min. \$750 and min. 7 days jail; 3rd: Class D felony, min. \$750 and 30 days to 1 yr. jail
KANSAS	8-1008, 1014, 1557	.10% BAC at time of test	Presentence alcohol and drug evaluation conducted by community-based alcohol and drug safety action program; supervision and monitoring of all convicted persons	1st: 30 days or upon completion of required treatment program (whichever is longer); subsequent: 1 yr. or upon completion of required treatment program (whichever is longer)	1st: \$200-500 and 48 hrs. to 6 mos. jail or 100 hrs. community service; 2nd: \$500-1000 and 90 days to 1 yr. jail; 3rd: \$1000-2500 and 90 days to 1 yr. jail

(Continued)

Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension ¹	Other Penalties
KENTUCKY	189A.010, <i>et seq.</i>	No limit per se. "while under the influence of alcohol"	1st offense: 90 day alcohol or substance abuse program can lessen driver suspension from 6 mos. to 30 days	1st: 6 mos.; 2nd: 1 yr.; 3rd: 2 yrs.	1st: \$250-500 or 48 hrs. to 30 days jail or 2-30 days community labor; 2nd within 5 yrs.: \$350-500 and 7 days to 6 mos. jail and may get 10 days to 6 mos. community labor in addition to jail term; 3rd within 5 yrs.: \$500-1000 and 30 days to 12 mos. jail and may get 10 days to 1 yr. community labor in addition to jail term
LOUISIANA	14:98; 32:414	.10% BAC	Rehabilitation provided for 1st and 2nd offense, includes screening procedure to determine portion of program which may be applicable and appropriate for individual offender	1st: 60 days	1st: \$125-500 and 10 days to 6 mos. jail; 2nd: \$300-500 and 30 days to 6 mos. jail; 3rd: up to \$1000 and 1-5 yrs. jail; 4th: hard labor 10-30 yrs.
MAINE	Tit. 29 §1312	.10% BAC	1st: Education program conducted by Dept. of Human Services; 2nd: education program conducted by Dept. of Human Services and where required by Dept. of Human Services, alcohol or rehab program	1st: 30 days or successful completion of educational program, whichever is longer; 2nd: 1 yr. (may be reduced to 6 mos. on successful completion of educational program)	1st: up to \$1000 and up to 90 days jail; 2nd: \$250-2000 and 24 hrs. to 6 mos. jail
MARYLAND	Transp. 16-205; 16-212; 21-02; 27-101	"While intoxicated or while under the influence of a controlled dangerous substance"	Driver Improvement Program and Alcohol Education Program required	1st: up to 60 days; 2nd within 3 yrs.: up to 120 days	1st: up to \$1000 and/or up to 1 yr. jail; 2nd within 3 yrs.: up to \$1000 and/or 48 hrs. to 2 yrs. jail, may also receive min. 80 hrs. community service; 3rd within 3 yrs.: up to \$2000 and/or up to 3 yrs. jail

(Continued)

Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension?	Other Penalties
MASSACHUSETTS	Ch. 90 §24	No limit per se	1st offense: appropriate to defendant with his/her consent as a condition of probation upon written finding that appropriate and adequate treatment is available to defendant and defendant would benefit and safety of public would not be endangered; minimum 14 days in residential alcohol treatment program	1st: 1 yr.; 2nd: 2 yrs.; 3rd: 5 yrs.; after 2 yrs. can apply for new license on limited basis on grounds of hardship and present/past violation dealt with and under control	1st: \$100-1000 and/or up to 2 yrs. jail; 2nd within 6 yrs.: \$300-1000 and 7 days to 2 yrs. jail; 3rd within 6 yrs.: \$500-1000 and 60 days to 2 yrs. jail
MICHIGAN	MCL 9.2325	.10% BAC	Screening and assessment to determine the likely benefit from rehabilitation; court may order person to participate and successfully complete one or more rehab programs	1st: 6 mos. to 2 yrs. (can get restricted license); 2nd: revoked; 3rd: revoked	1st: \$100-500 and/or up to 90 days jail and costs of prosecution and community service up to 45 days; 2nd within 7 yrs.: \$200-1000 and either 10-90 days community service and up to 1 yr. jail or up to 90 days community service and 48 hrs. to 1 yr. jail; 3rd within 10 yrs.: \$500-5000 and/or 1-5 yrs. jail
MINNESOTA	169.121, et seq.	.10% BAC within 2 hrs. of time of driving	Alcohol problem assessment in counties of more than 10,000 population and report made to court including recommendation as to treatment or rehab program	1st: min. 30 days; 2nd within 5 yrs.; min. 90 days and until court has certified treatment/rehabilitation has been successfully completed; 3rd within 5 yrs.; min. 1 yr. and until rehab completed; 4th within 5 yrs.; min. 2 yrs. and until rehab completed	2nd within 5 yrs.: gross misdemeanor, min. 30 days jail or 8 hrs. community service for each jail day; 3rd within 10 yrs.: gross misdemeanor, min. 30 days jail or 8 hrs. community service for each jail day
MISSISSIPPI	63-11-30	.10% BAC	1st: required alcohol safety education program; subsequent: may participate	1st: 90 days or successful completion of program, whichever is longer; 2nd: 2 yrs. (can be reduced after successful completion of program); 3rd: 5 yrs. (eligible for reinstatement after 3 yrs.); 4th: 5 yrs.	1st: \$250-1000 and/or up to 24 hrs. jail; 2nd within 5 yrs.: \$600-1000 and 48 hrs. to 1 yr. jail or 10 days to 1 yr. community service; 3rd within 5 yrs.: \$800-1000 and 30 days to 1 yr. jail; 4th within 5 yrs.: \$2000-5000 and 90 days to 5 yrs. jail

(Continued)

Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension?	Other Penalties
MISSOURI	577.012, (b)9	10% BAC	1st. Court may order participation and successful completion of alcohol or drug-related traffic offender education or rehab program which meets standards established by Dept. of Public Safety and Dept. of Mental Health	Upon failure to submit to breath test	1st: Class C misdemeanor, \$50 min. and/or up to 3 mos. jail; 2nd within 3 yrs.: Class A misdemeanor, 7 days to 6 mos. jail; 3rd within 3 yrs.: Class D felony, 45 days to 1 yr. jail
MONTANA	61-5-200, 205, 61-8-406, 722	10% BAC	Defendant shall complete alcohol information course at alcohol treatment program approved by Dept. of Corrections & Human Services which may include alcohol or drug treatment or both if considered necessary by counselor conducting program	Up to 1 yr. per offense	1st: \$100-500 and up to 10 days jail; 2nd: \$300-500 and 48 hrs. to 30 days jail; 3rd: \$500-1000 and 48 hrs. to 6 mos. jail
NEBRASKA	28-106: 39-669.07, et seq.	10% BAC	None	1st: 6 mos. (if judge orders suspension of sentence or probation, 60 days from time of order); 2nd within 10 yrs.: 1 yr. (if judge orders suspension of sentence or probation, 6 mos. from time of order); 3rd within 10 yrs.: 15 yrs. (if judge orders suspension of sentence or probation, 1 yr. from time of order)	1st: \$200-500 and 7-30 days jail; 2nd: \$500 and 30 days jail; 3rd: \$500 and 3-6 mos. jail

(Continued)

Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension?	Other Penalties
NEVADA	484.379, et seq.	.10% BAC	1st or 2nd within 7 yrs.: may apply to undergo program of treatment for alcoholism or drug abuse for at least one yr. if classified by physician/counselor as alcoholic or drug abuser; if defendant pays costs and has served jail sentence; 1st: must do educational course on alcohol and substance abuse		1st: \$200-1,000 and 2 days to 6 mos. jail or 48 hrs. community service (jail sentence can be lessened if defendant participates in rehab program); 2nd within 7 yrs.: \$500-1000 and 10 days to 6 mos. jail; 3rd within 7 yrs.: \$2000-5000 and 1-6 yrs. jail; in addition to any penalty, civil penalty of \$35 paid to court
NEW HAMPSHIRE	263:65-a; 265.82	.10% BAC	Yes, Impaired Driver Intervention Program: must successfully complete to get license back; must be approved by director of Office of Alcohol and Drug Abuse Prevention and commissioner	1st: 60 days to 2 yrs.; 2nd: 3 yrs.; 3rd: Indefinite, min. 3 yrs.	1st: up to \$1000; 2nd within 7 yrs.: up to \$1000 and 7 days to 6 mos. jail; 3rd within 7 yrs.: up to \$1000 and 7 days to 6 mos. jail
NEW JERSEY	39:4-50	.10% BAC	Screening evaluation referral program and fee requirements of Div. of Alcoholism's Intoxicated Driving Programs Unit and 12-48 hrs. in two consecutive days in Intoxicated Driver Resource Center and a program of alcohol education and highway safety as proscribed by director of Div. of Motor Vehicles	6 mos. to 1 yr.; 2nd: 2 yrs.; 3rd: 10 yrs.	1st: \$250-400 and up to 30 days jail; 2nd within 10 yrs.: \$500-1000, 30 days community service, and 48 hrs. to 90 days jail; 3rd within 10 yrs.: \$1000 and min. 180 days jail; up to 90 days of jail can be exchanged for community service

(Continued)

Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension?	Other Penalties
NEW MEXICO	66-5-29, 66-8-102	.10% BAC	May be required by court to enroll in screening program to determine level of abuse and recommendation of treatment, if necessary; must complete any recommended treatment program required by court; 1st offense: can attend driver rehab program as a deferred sentence	1 yr. (on 1st offense suspension can be avoided by attending driver rehab program)	1st: \$300-500 and/or 30-90 days jail; 2nd within 5 yrs.: up to \$1000 and/or 90 days to 1 yr. jail; 3rd or more within 5 yrs.: up to \$1000 and min. 6 mos. jail
NEW YORK	VEH. & TRAF. 1192(2)	.10% BAC	Court may require attendance at single session of "victims impact program"	1st: 6 mos.; 2nd within 10 yrs.: 1 yr.	1st: \$350-500 and/or up to 1 yr. jail; 2nd: \$500-5000 and/or min. 1 yr. jail, Class E felony
NORTH CAROLINA	20-138.1, 179	.10% BAC at time of test	Assessment may be required for alcoholism and substance abuse and appropriate treatment if necessary	1st: 1 yr.; 2nd within 3 yrs.: 4 yrs. (conditionally restored after 2 yrs.); 3rd with most recent within 5 yrs.: permanent (conditionally restored after 3 yrs.)	1st: up to \$1000 and 7 days to 12 mos. jail; subsequent within 7 yrs.: \$2000 and 14 days to 24 mos. jail
NORTH DAKOTA	39-06-31; 39-08-01	.10% BAC at time of test given within 2 hrs. of driving	Order for addiction evaluation by appropriate licensed addiction treatment program with appropriate treatment if necessary	1 yr. or period as recommended by trial court	1st: Class B misdemeanor, min. \$250; 2nd within 5 yrs.: Class B misdemeanor, min. \$500 and min. 4 days jail or 10 days community service; 3rd within 5 yrs.: Class A misdemeanor, \$1000 and min. 60 days jail; 4th within 7 yrs.: Class A misdemeanor, \$1000 and 180 days jail
OHIO	3793.10; 4507.16; 4511.19	.10% BAC	1st: Driver's Intervention Program (in suspended jail sentence); rehab may be required in sentences	1st: 60 days to 3 yrs.; 2nd within 5 yrs.: 120 days to 5 yrs.; 3rd within 5 yrs.: 180 days to 10 yrs.	1st: \$150-1000 and 3 days to 6 mos. jail; 2nd within 5 yrs.: \$150-1000, 10 days to 6 mos. jail; 3rd within 5 yrs.: \$150-1000 and 30 days to 1 yr. jail
OKLAHOMA	Tit. 47 §§6-205.1, 11-902	.10% BAC at time of test	Dept. of Mental Health Treatment Program may be required upon evaluation	1st: 90 days; 2nd within 5 yrs.: 1 yr.; 3rd within 5 yrs.: 3 yrs.	Up to \$1000 and 10 days to 1 yr. jail; subsequent within 10 yrs.: up to \$2500 and 1-5 yrs. jail

(Continued)

Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension ¹	Other Penalties
OREGON	161.615, <i>et seq.</i> ; 813.010, <i>et seq.</i>	.08% BAC	Mandatory complete exam by court approved agency/organization to determine whether individual has a problem condition involving alcohol or controlled substances; complete a treatment program if exam shows it necessary; if none necessary, then complete alcohol and drug information program.	1st: 1 yr.; 2nd within 5 yrs.; 3 yrs.; 3rd within 5 yrs.; 3 yrs.	1st: Class A misdemeanor, up to \$2500, up to 1 yr. jail fees for program.; 2nd impound vehicle in addition to above
PENNSYLVANIA	Tit. 75 1548; 1532; 3731	.10% BAC	2nd or subsequent offense within 5 yrs.: evaluation to determine if person needs or would benefit from treatment for alcohol or drug abuse; may order treatment if necessary	12 mos.	1st: min. \$300 and min. 48 hr. jail
RHODE ISLAND	27-21	.10% BAC	1st: attendance required at special course on DWI or under the influence of controlled substance and/or alcoholic or drug treatment for individual; 2nd: drug and alcohol treatment	1st: 3-6 mos.; 2nd: 1-2 yrs.	1st: \$100-300 and 10-60 hrs. community service and/or up to 1 yr. jail; 2nd within 5 yrs.: \$400 and 10 days to 1 yr. jail; 3rd: in addition to 2nd offense penalties, may have car seized and sold by State of Rhode Island and proceeds going to general fund; in addition anyone convicted under this section pays highway assessment fine of \$500
SOUTH CAROLINA	56-5-2930, <i>et seq.</i>	"Under influence of intoxicating liquors"	Successful completion of Alcohol and Drug Safety Action Program certified by South Carolina Commission on Alcohol and Drug Abuse prior to reinstatement of license	1st: 6 mos.; 2nd within 10 yrs.; 1 yr.; 3rd within 10 yrs.; 2 yrs.; 4th within 10 yrs.; 3 yrs.; 5th within 10 yrs.; permanent	1st: \$200 and 48 hrs. to 30 days jail or 48 hrs. public service; 2nd within 10 yrs.: \$2000-5000 and 48 hrs. to 1 yr. jail or min. 10 days public service; 3rd within 10 yrs.: \$3500-6000 and 60 days to 3 yrs. jail; 4th within 10 yrs.: 1-5 yrs. jail

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Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension?	Other Penalties
SOUTH DAKOTA	32-23-1 <i>et seq.</i>	10% BAC	1st: required if 17% BAC, court-ordered evaluation	1st: min. 30 days to 1 yr.; 2nd: min. 1 yr.; 3rd: min. 1 yr. (unconditional); 4th: min. 2 yrs.	1st: \$1000 and/or 1 yr. jail; 2nd within 5 yrs.: \$1000 and/or 1 yr. jail; 3rd within 5 yrs.: \$2000 and/or 2 yrs. jail; 4th: Class 5 felony, 5 yrs. jail and may impose fine of \$5000
TENNESSEE	55-10-401, 403	"Under the influence"	2nd offense: may be required to participate in court-approved inpatient alcohol and drug treatment program	1st: 1 yr.; 2nd: 2 yrs.; 3rd: 3-10 yrs.	1st: \$250-1000 and 48 hrs. to 11 mos., 29 days jail; 2nd within 10 yrs.: \$500-2500 and 45 days to 11 mos., 29 days jail; 3rd: \$1000-5000 and 120 days to 11 mos., 29 days jail
TEXAS	Tex. Rev. Civ. Stat. Art. 67011-1	10% BAC	Evaluation	1st: 90-365 days; 2nd or 3rd: 180 days to 2 yrs.	1st: \$100-2000 and 72 hrs. to 2 yrs. jail; 2nd: \$300-2000 and 15 days to 2 yrs. jail; 3rd: \$500-2000 and 30 days to 2 yrs. jail or 60 days to 5 yrs. state penitentiary
UTAH	41-6-44	.08% BAC	1st: assessment and educational series at a licensed alcohol rehab facility; 2nd: same as above and treatment at court's discretion; 3rd: same as above and treatment at alcohol rehab facility is mandatory; 4th: treatment required	1st: 90 days; subsequent within 6 yrs. of prior conviction: 1 yr.	1st: Class B misdemeanor, up to \$1000 and 48-240 hrs. jail or 24-50 hrs. community service; 2nd within 6 yrs.: up to \$1000 and 240-720 hrs. jail or 80-240 hrs. community service; 3rd within 6 yrs.: 720-2160 hrs. jail or 240-720 hrs. community service; if prior two convictions were both after 4/23/90, then: \$1000-2500 and 240-2160 hrs. jail or 240-720 hrs. community service; 4th within 6 yrs.: if all after 4/23/90, \$1000-5000 and 720-2160 hrs. jail or 240-720 hrs. community service
VERMONT	1201, <i>et seq.</i>	.08% BAC	1st: alcohol assessment screening-therapy program or driver rehab if necessary at court's discretion; 2nd completion of therapy program at court's discretion	1st: 90 days; 2nd: 18 months; 3rd: 3 yrs.; 4th: life	1st: max. \$750 and/or up to 2 yrs. jail; 2nd: up to \$1500 and/or 48 hrs. to 2 yrs. jail; 3rd: up to \$2500 and/or up to 5 yrs. jail

(Continued)

Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension?	Other Penalties
VIRGINIA	18.2-266(i), et seq.	.10% BAC	Alcohol Safety Action Program for 1st or 2nd offense at court's discretion	1st: 1 yr.; 2nd within 10 yrs.: 3 yrs.; 3rd within 10 yrs.: 3 yrs.	2nd within 10 yrs.: \$200-2500 and 1 mo. to 1 yr. jail; 3rd: \$500-2500 and 2 mos. to 1 yr. jail
WASHINGTON	46.61.502 (1), 515	.10% BAC	1st: alcohol information course or more intensive treatment program as determined by court; 2nd: diagnostic evaluation by alcoholism agency approved by Dept. of Social & Health Services	1st: 90 days; 2nd within 5 yrs.: 1 yr.; 3rd within 5 yrs.: 2 yrs.	1st: \$250-1000 and 24 hrs. to 1 yr. jail; 2nd within 5 yrs.: \$500-2000 and 7 days to 1 yr. jail
WEST VIRGINIA	17C-5-2	.10% BAC	Motor Vehicle Alcohol Test and lock program upon revocation of license	1st: min. 6 mos.; 2nd: 10 yrs.; 3rd: life	1st: \$100-500 and 1 day to 6 mos. jail; 2nd: \$1000-3000 and/or 6 mos. to 1 yr. jail; 3rd: \$3000-5000 and/or 1-3 yrs. jail
WISCONSIN	343.30; 346.63	.10% BAC	Not mentioned	1st: 6-9 mos.; 2nd within 5 yrs.: 1 yr. to 18 mos.; 3rd or more within 5 yrs.: 2-3 yrs.	1st: \$150-300; 2nd within 5 yrs.: \$300-1000 and 5 days to 6 mos. jail; 3rd within 5 yrs.: \$600-2000 and 30 days to 1 yr. jail; 4th within 5 yrs.: \$600-2000 and 60 days to 1 yr. jail; 5th within 5 yrs.: \$600-2000 and 6 mos. to 1 yr. jail
WYOMING	31-5-233; 31-7-127	.10% BAC	No	3rd conviction within 5 yrs.: 3 yrs.	1st: up to \$750 and/or up to 6 mos. jail; 2nd within 5 yrs.: \$200-750 and 7 days to 6 mos. jail

DEPARTMENT OF PUBLIC SAFETY/DIVISION OF MOTOR VEHICLES 2/13/95						
JUANITA HENSLEY/465-2650						
NUMBER OF DWI AND REFUSAL CONVICTION WITHIN A 5 YEAR PERIOD						
				1992	1993	1994
1ST OFFENSE				3801	3903	3449
2ND OFFENSE				970	1094	962
3RD OFFENSE				250	274	257
4TH OFFENSE				47	69	46
5TH AND SUBSEQUENT OFFENSE				16	17	18
TOTAL				5084	5357	4732
AVERAGE NUMBER OF 3RD AND SUBSEQUENT OFFENDERS OVER A FIVE YEAR PERIOD IS 330 PER YEAR.						
MANDATORY SENTENCES FOR 3RD AND SUBSEQUENT OFFENDERS						
				UNDER PRESENT LAW	SSSB4	HB159
3RD OFFENSE	60 DAYS				360	120
4TH OFFENSE	120 DAYS				360	240
5TH OFFENSE	240 DAYS				360	240
6TH OFFENSE	360 DAYS				360	240
DEPARTMENT OF LAW ESTIMATION BASED ON CONVICTION OVER A 5 YEAR PERIOD						
400 ARRESTED AND REFERRED TO DEPARTMENT OF LAW						
380 WILL GO TO GRAND JURY						
330 WILL BE CONVICTED OF DWI OR REFUSAL						

TONY KNOWLES, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER

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

January 20, 1995

The Honorable Robin Taylor
Alaska State Legislature
State Capitol, Room 30
Juneau, AK 99801-1182

The Honorable Brian Porter
Alaska State Legislature
State Capitol, Room 118
Juneau, AK 99801-1182

Dear Senator Taylor and Representative Porter:

I received your request for information regarding the prior DWI convictions of those individuals who were involved in alcohol-related fatal motor vehicle crashes.

Juanita Hensley, Chief of Driver Services for the Division of Motor Vehicles, reviewed the complete driving records of the at-fault drivers involved in all fatal motor vehicle crashes for 1992 and 1993. The results are as follows:

In 1992, a total of 14 at-fault drivers had prior DWI convictions on their records. Of the 14, 10 had one prior DWI conviction; three had two prior DWI convictions; one had three prior DWI convictions; and one had four prior DWI convictions.

In 1993, a total of 10 at-fault drivers had prior DWI convictions on their records. Of the 10, four had one prior DWI conviction; four had two prior DWI convictions; and two had three prior DWI convictions.

I have enclosed for your review a chart on the average breath alcohol concentrations in fatal crashes for 1992 and 1993. This chart was compiled by the Alaska Highway Safety Planning Agency from information they received in the Fatal Accident Report System.

Senator Taylor and Representative Porter
January 20, 1995
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Feel free to contact my office or Ms. Hensley, if you need additional information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ronald L. Otte".

Ronald L. Otte
Commissioner

Enclosures

Alaska State Legislature

Representative Brian S. Porter

CHAIRMAN
HOUSE JUDICIARY COMMITTEE

MEMBER
HOUSE LABOR & COMMERCE COMMITTEE
HOUSE STATE AFFAIRS COMMITTEE
INTERNATIONAL TRADE & TOURISM
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DEPARTMENT OF EDUCATION
COURTS



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DISTRICT 20

Sponsor Statement for CSHB 159 DWI LAWS

It's a crime drunk driving remains a misdemeanor in our state no matter how many times a person is convicted. At some point - a repeat conviction should become a felony.

CSHB 159 *DWI/minor in Possession* provides the criminal justice system with the tools needed to combat this crime: (1) allows a peace officer, in any municipality, to arrest without a warrant minors who drink alcohol; (2) renders drunk driving a felony on the third offense within a five year period with a minimum sentence of 120 days with a \$5,000 fine upon conviction; (3) grants prosecution the ability to convict prior offenses of lower BAC levels than is provided for in current statute.

CSHB 159 allows the court the option of ordering a person to take Antabuse or a similar drug as a condition of parole or probation. Secondly, this bill requires a person convicted of a felony DWI to be evaluated by an alcohol screening agency before the person is sentenced. Thirdly, the court is to impose any suspended jail time on a person convicted of felony DWI who fails to complete the alcohol treatment ordered by the court.

The most frequent violent crime in the country is drunk driving. A study published by the Alaska Department of Transportation and Public Facilities stated alcohol was a factor in 982 Accidents statewide in 1993. In the same year, 49 Alaskans died in 37 alcohol or drug related accidents.

Repeat offenders account for a disproportionate number of fatal accidents, in spite of licenses suspended and jail time served. In fatal accidents in which the driver is drunk, people with a prior conviction for drunk driving are almost five times more likely to be involved than those with no record, according to the National Highway Transportation Safety Administration.

Driving is a privilege not a right. CSHB 159 gives Alaska one of the toughest drunk driving statutes in the nation. CSHB 159 will send a clear message that Alaskans will no longer tolerate persons who drive drunk.

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 12, 1995

SUBJECT: Sectional Summary of CSHB 159(JUD).
TO: Representative Brian Porter
FROM: Michael F. Ford
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Allows a person under age 21 to be arrested by a peace officer, without a warrant, for illegal possession, consumption, or control of an alcoholic beverage in violation of state law or a municipal ordinance.

Section 2. Allows a court to include the cost of an ignition interlock device as a part of a fine imposed for convictions of driving while intoxicated or refusal to take a breath test.

Section 3. Technical amendment

Section 4. Requires evaluation for rehabilitation treatment before sentencing, if the person is convicted of felony driving while intoxicated.

Section 5. Requires the court to impose the remaining portion of any suspended sentence, if the person is convicted of felony D.W.I.

Section 6. Amends the definition of "previous conviction" for purposes of determining the penalty applicable to a driving while intoxicated or refusal to take a breath test conviction.

Section 7. Makes a third driving while intoxicated conviction a class C felony, if it is the person's third or greater conviction within five years. Imposes a minimum fine, minimum jail time, and prohibits probation or suspended imposition of sentence unless the minimum imprisonment is served. Requires revocation of the offender's driver's license, allows

Representative Brian Porter
April 12, 1995
Page 2

imposition of certain probation or parole conditions and allows forfeiture of the motor vehicle or aircraft used in the offense.

Section 8. Technical amendment.

Section 9. Technical amendment.

Section 10. Requires evaluation for rehabilitation treatment before sentencing if the person is convicted of felony breath test refusal.

Section 11. Requires the court to impose the remaining portion of any suspended sentence, if the person is convicted of felony breath test refusal.

Section 12. Makes a third refusal to take a breath test conviction a class C felony, if it is the person's third or greater conviction within five years. Imposes a minimum fine, a minimum jail time, and prohibits probation or suspended imposition of sentence unless the minimum imprisonment is served. Requires revocation of the offender's driver's license, allows imposition of certain probation or parole conditions and allows forfeiture of the motor vehicle or aircraft used in the offense.

Section 13. Applicability section.

Section 14. Effective date.

MFF:klb
95-260.klb

04/29/95

HOUSE JOURNAL

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PLACED ON FINAL PASSAGE. THERE BEING NO OBJECTION, IT WAS SO ORDERED.

CSHB 159(JUD) WAS READ THE THIRD TIME.

**THE PRESENCE OF REPRESENTATIVE NAVARRE WAS NOTED.

THE QUESTION BEING: "SHALL CSHB 159(JUD) PASS THE HOUSE?" THE ROLL WAS TAKEN WITH THE FOLLOWING RESULT:

CSHB 159(JUD)
THIRD READING
FINAL PASSAGE

YEAS: 36 NAYS: 0 EXCUSED: 4 ABSENT: 0

YEAS: ~~FINCHAM~~ MUSTERMAN, BRICE, BROWN, BUNDE, B.DAVIS, G.DAVIS, ELTON,
FINCHAM, FOSTER, GREEN, GRUBENDORF, HANLEY, IVAN, JONES, KELLY,
KOHRING, KOTT, MACKIE, MARTIN, MASEK, MOSES, MULDER, NAVARRE,
NICHOLIA, OGAN, PARNELL, PHILLIPS, PORTER, ROBINSON, ROKEBERG, SANDERS,
THERRIAULT, TOOHEY, VEZEY, WILLIAMS, WILLIS

EXCUSED: BARNES, DAVIES, KUBINA, MACLEAN

AND SO, CSHB 159(JUD) PASSED THE HOUSE.

REPRESENTATIVE VEZEY MOVED AND ASKED UNANIMOUS CONSENT THAT THE ROLL CALL ON THE PASSAGE OF THE BILL BE CONSIDERED THE ROLL CALL ON THE EFFECTIVE DATE CLAUSE. THERE BEING NO OBJECTION, IT WAS SO ORDERED.

REPRESENTATIVE BROWN GAVE NOTICE OF RECONSIDERATION OF HER VOTE ON CSHB 159(JUD).

SELECTION=>							B005-LAST PAGE				
PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP		EXIT	MENU		PRINT	BWD	FWD		FIRST	LAST	QUIT

ALASKA STATE LEGISLATURE
LEGISLATIVE BUDGET AND AUDIT COMMITTEE
Division of Legislative Finance



P.O.Box 113200
Juneau, AK 99811-3200
(907) 465-3795
FAX (907) 463-4885

MEMORANDUM

DATE: May 6, 1995
TO: Senator Rick Halford, Co-Chair,
Senate Finance Committee
FROM: Kathryn Daughhetee, Fiscal Analyst *Kathryn*
SUBJECT: HB 159

If adopted, this bill, which makes several changes to state laws regarding alcoholic beverages, driving while intoxicated, driving while license suspended, and refusal to submit to a chemical test, will take effect on July 1, 1995.

I have been asked to verify whether the data used in the fiscal notes prepared for this bill is comparable between the various agencies; and additionally, whether a revenue stream can be expected in the Department of Public Safety, Motor Vehicles, and the Court System.

The following fiscal note amounts were submitted for HB 159:

Expenditures

Public Defender	\$297,500
Corrections	\$1,080,700
Court System	\$131,600
Public Safety	\$59,400
Law	\$294,100
Total	\$1,863,300

Revenues 0

I have reviewed the fiscal notes submitted by each agency for consistency with respect to underlying assumptions. The Department of Law's analysis provided the basis from which other agencies developed cost information. A three year average indicates that 330 defendants have been convicted of three or more DWI/Refusal violations within a period of five years. The fiscal notes prepared by the Departments of Corrections, the Court System, Public Safety (Detachments), and the Department of Administration (Public Defender) were consistent in their application of the 330 case average in arriving at the estimated expenditures. There were no mathematical errors of any kind in the fiscal notes, nor were there any obvious cost data errors with respect to annualizing incarceration costs, or arriving at new position costs, etc. Given the short deadline for preparation of this analysis, I was unable to locate the attorney at the Department of Law who provided the average caseload data used in all of the fiscal notes. Consequently, I was unable to determine whether the 330 case average would be applicable in the first year of HB 159 implementation. If it becomes apparent that the first year should reflect some reduced number of cases, it will be simple to divide the fiscal note amounts into monthly costs and prorate them over whatever should prove to be a more appropriate timeline.

I have discussed whether the fiscal notes should include a revenue stream with both the Court System and the Department of Public Safety's Motor Vehicle Division. The Court System has determined that an estimated \$760,000 in new fines could be assessed by the Courts as a result of this bill. However, between 80% and 90% of this amount will be uncollectable for lack of financial resources on the part of the defendants. The Public Defender fiscal note estimates that they will handle 80% of the prosecutions under this law. Therefore, all but between \$76,000 and \$152,000 of the assessed fines cannot be relied upon to defray the costs of this legislation. If SB 135, related to Permanent Fund Dividend eligibility, becomes law, dividend funds will not be available for garnishment in many cases. Conservatively, \$114,000 could be expected to be collected by the Court System if the 330 case average is accurate.

The Motor Vehicle division will not realize additional revenue because of this bill, as there is no impact to the existing fees for relicensing following DWI convictions.

As additional information becomes available to me, I will forward it to you for consideration. If I can assist you further, please contact me.

cc: Representative Brian Porter