

SB

164

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SB 164

Revision Date: _____
Title: Authority of EMTs at accident scene
Sponsor: Senator Wilken
Requestor: Senate HESS

Dept. Affected: Health and Social Services
BRU: State Health Services
Component: Community Health/EMS Grants
COMPONENT SERIAL NO. 2079
See also (SN#): _____

Expenditures/Revenues:

(Thousands of Do'lars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY97) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

4/14/97
Prepared by: Peter M. Nakamura, MD, MPH
Division: Public Health
Approved by Commissioner: Karen Perdue, Commissioner
Agency: Department of Health & Social Services

Phone: (907) 465-3090
Date: 04/11/97
Date: 4/14/97

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SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 4/9/97

FURTHER:

Date of 5-Day Notice: 4/10/97
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 4/18/97

Health, Education and Social Services Committee considered SENATE BILL NO. 164

"An Act relating to the authority of an emergency medical technician at the scene of an accident or emergency."

and recommends:

- be replaced with _____ CS SB 164 (HES)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical title
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
CHAIR: <i>[Signature]</i>	-	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
Health & Social Services	4/14/97	✓	

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

CS FOR SENATE BILL NO. 164(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered:
Referred:

Sponsor(s): **SENATOR WILKEN**

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the authority of an emergency medical technician at the
2 scene of an accident or emergency."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * Section 1. AS 18.08 is amended by adding a new section to read:

5 **Sec. 18.08.075. Authority of emergency medical technician.** (a) An
6 emergency medical technician who responds to an emergency with an ambulance
7 service or first responder service, who has in the technician's possession ^{current} an emergency
8 medical technician identification card, and who provides emergency medical care or
9 other emergency medical service, has the authority to

10 (1) control and direct activities at the accident site or emergency until
11 the arrival of law enforcement personnel;

12 (2) order a person to leave a building or place in the vicinity of the
13 accident or other emergency for the purpose of protecting the person from injury;

14 (3) temporarily block a public highway, street, or private right-of-way

1 while at the scene of an accident, illness, or emergency;

2 (4) trespass upon property at or near the scene of an accident, illness,
3 or emergency at any time of day or night;

4 (5) enter a building, including a private dwelling, or premises where
5 a report of an injury or illness has taken place or where there is a reasonable cause to
6 believe an individual has been injured or is ill to render emergency medical care; and

7 (6) direct the removal or destruction of a motor vehicle or other thing
8 that the emergency medical technician determines is necessary to prevent further harm
9 to injured or ill individuals.

10 (b) A person who knowingly refuses to comply with an order of an emergency
11 medical technician authorized under (a) of this section is, upon conviction, guilty of
12 a class B misdemeanor. In this subsection, "knowingly" has the meaning given in
13 AS 11.81.900(a).

GARY WILKEN

SENATOR
Districts 29 & 30
West Fairbanks

Senate Standing Committees

Chairman: Health, Education,
and Social Services (HESS)
Vice Chairman: Transportation
Vice Chairman: Community and
Regional Affairs

Special Committee

Member: Administrative Regulation Review



During Session:
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Juneau, Alaska 99801-1112
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www: akrepublicans.org/wilken.htm
E-mail: Senator_Gary_Wilken@legis.state.ak.us

Interior:
119 N. Cushman St., Room 212
Fairbanks, Alaska 99701
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SPONSOR STATEMENT

SB 164 - Authority of Emergency Medical Technicians

Senate Bill 164 repairs a long overdue shortcoming in our public safety network. Specifically, it provides EMT's with appropriate and relevant authority at the scene of an accident as well as during responses to medical emergencies in homes, without creating potential conflict between emergency personnel. SB 164 is intended to protect EMT's who arrive first on the scene of an accident or medical emergency, or who are the only emergency responders to arrive for some time, as is the case in many rural areas.

Currently, we ask emergency medical technicians to perform actions necessary to their duties such as:

- controlling and directing activities at the scene of an accident;
- temporarily blocking or redirecting traffic to avoid the scene of an accident;
- trespassing upon property in order to respond to an emergency call;
- entering a building, including a private residence, or premises where report of an injury or illness has taken place; and
- directing the removal or destruction of a motor vehicle or other thing in order to prevent further harm to injured or ill individuals;

without giving them the proper legal authority to do so. By taking for granted that EMT's are expected to perform these duties in the absence of any legal authority, we leave hundreds of men and women vulnerable to lack of cooperation on the part of the public and potential liable suits.

Alaska relies heavily on its emergency medical personnel, especially in rural areas where law enforcement and fire personnel are relatively few in numbers. Just as we expect EMT's to protect our safety in an emergency situation, we should reciprocate this service, and give EMT's the proper legal authority to do their jobs without compromising their personal safety.



ALASKA EMERGENCY MEDICAL SERVICES ASSOCIATION



April 15, 1997


The Honorable Gary Wilken
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Dear Senator Wilken:

The Alaska Emergency Medical Services Association strongly supports and endorses SB 164 granting certain authority to Emergency Medical Technicians (EMT's) at accident scenes as well as during medical emergencies in homes.

Alaska's prehospital care is primarily provided by volunteers. This is particularly true in rural settings. Over the years, the legislature has recognized the extraordinary service of Alaska's volunteer EMTs by providing medical liability protection, workers compensation for volunteers not otherwise covered and by making no cost hepatitis B vaccinations available. It is extremely timely to now recognize the one thing overlooked - that being authority to protect the patient and the public at the scene of an accident or during a medical emergency in a residence. SB 164 does not replace or compete with the power already authorized for law enforcement (troopers) or fire fighters. It simply recognizes that medical emergencies and accidents requiring emergency medical attention can and do happen in isolated areas where there are no fire fighters and where law enforcement response is lengthy or non existent. At such times, EMT's need to have a legal basis for doing the things they have been from the beginning. SB 164 provides it.

Again, thank you for introducing the legislation. Alaska is indeed fortunate to have volunteer EMT's who give thousands of hours each year protecting and rendering aid to their neighbors and visitors. Please do not hesitate to contact me if I can be of further assistance.

Sincerely,

Craig R. Lewis
President

CRL/crl





INTERIOR REGION EMERGENCY MEDICAL SERVICES COUNCIL, INC.



3522 INDUSTRIAL AVE. • FAIRBANKS, ALASKA 99701
PHONE (907) 456-3978 • FAX (907) 456-3970

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MAR 11 1997

February 27, 1997

The Honorable Gary Wilken
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

Dear Senator Wilken:

Thank you for taking the time to meet with me last week. You have definitely hit the ground running with things already beginning to get exciting. Like other legislative sessions, I expect that this one will be filled with many opportunities to excel. Please do not hesitate to contact me should you need any additional information regarding the Emergency Medical Services (EMS) Grant. This is a deciding year for EMS in Alaska. Without additional funding, EMS as the constituents expect it, will simply not be there. Volunteers are a good investment in our future.

As we also spoke, there are a couple of legislative items that need attention this year. The purpose of this letter is to request your assistance regarding EMT authority at the scene of an accident.

BACKGROUND:

EMT Authority at the Scene of an Accident:

Examples have been appearing in Emergency Medical Journals that suggest that states without specific Laws granting EMS personnel authority at accident scenes are placing these individuals in jeopardy. A relatively recent court ruling found an EMT, who had stopped to render aid at the scene of an accident, liable for the damage caused to an oncoming car who struck the EMT while the EMT was rendering care to an injured patient. In effect, the court ruled that he had no authority to impede traffic or exercise scene control even through there were no law enforcement personnel present. As such the EMT was found to have been illegally impeding traffic.

I have been advised that Alaska scene authority is limited to law enforcement and in certain cases, fire fighters. While I agree that law enforcement and firefighters should have scene authority, I believe that EMTs should also. EMT's, particularly in rural settings and given the many miles of road with no immediately available law enforcement coverage, need to be able to order people to move their cars, legally divert or stop traffic, maintain scene control and many other things to make the accident site safe from additional harm until the arrival of law enforcement people. Having no authority at the scene is not only dangerous, but also an extraordinary personal liability. As far as I know, empowering EMTs is not controversial.

I would be happy to assist in drafting language but do not know where to recommend amending the many statutes that deal with this type of issue.

Thank you for your assistance.

Sincerely,



Craig R. Lewis
Executive Director

CRL/crl

CC File

GW
3/29/97



INTERIOR REGION EMERGENCY MEDICAL SERVICES COUNCIL, INC.



3522 INDUSTRIAL AVE. • FAIRBANKS, ALASKA 99701
PHONE (907) 456-3978 • FAX (907) 456-3970

April 15, 1997

Ms. Beth Hagevig, Legislative Aide
Alaska State Legislature
Alaska State Capitol
Juneau, Alaska 99801-1182

Dear Beth:

Thank you for the opportunity to address some of your questions regarding EMT qualifications for certification, practices and procedures.

The EMS qualifications for certification both as providers and as ambulance services are as stated within 7 AAC 26.010 - 210. Clearly, EMTs and ambulance services must meet rigorous training and continuing medical education mandates to be certified and maintain certification by the Department of Health and Social Services. The EMT credentialing program has few equals with regard to quality assurance, education and demonstrated proficiency. It is the intent of the legislation to grant these highly trained and certified individuals certain authority at the scene of an accident or other medical emergency.

It is customary for each EMS response to have one individual in charge of the event. It would be that individual who would be authorized to deal with scene management until the arrival of a law enforcement officer, or, in cases where law enforcement does not arrive, until the departure of the medical providers. The (unwritten) hierarchy of scene control has been established for some time - specifically, law enforcement is in overall charge followed by fire personnel in circumstances concerning fires and fire suppression and EMS in circumstances where medical care is of concern. Unfortunately, EMS "authority" has been omitted from statute. The legislation as proposed does not appear to impact negatively on already existing fire departments, police departments or troopers. It does not amend or change already existing statutes regarding law enforcement or fire fighting. It is specifically intended to address those circumstances requiring EMS response where law enforcement can not or does not respond immediately and in circumstances where fire suppression personnel are either not available or would not customarily respond since not all EMS responses require fire suppression service.

The difference between this legislation and already existing liability protection for EMTs is the scope. Already existing legislation addresses rendering patient care and exists to protect the EMT against suits for inappropriate care (malpractice.) The current legislation provides "authority" to make scene safety decisions at the accident or medical emergency site. It does not address medical care liability. EMT's need authority to command actions at the scene when law enforcement is absent for the

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protection of the patient as well as travelers. An example of what can happen surfaced as a case in Illinois, where a rural EMS responder was extricating a patient from an automobile and was struck by an oncoming vehicle causing damage to the oncoming vehicle, seriously injuring the EMT and further injuring the patient being extricated. A subsequent suit found the EMT liable for illegally blocking the road way and being an impediment to road traffic. The fact that an ambulance was on scene, lights flashing, flares out and so forth, were not mitigating. The EMT had no authority to impede traffic by law. Illinois now has an authority law for EMT's.

I hope that you find this substantive. Please call if I can be of further assistance. Again, thank you for assisting in this important legislation.

Sincerely,



Craig R. Lewis
Executive Director

CRL/crl

EMT Levels in Alaska

Although the EMT/EMT-Instructor certification regulations mandate a core curriculum, in some cases, the emergency medical service's physician medical director has chosen to add procedures and/or medications to the EMT's arsenal of treatment methods. The ability of the physician medical director to tailor emergency care practices to the community's needs (and the EMT's capabilities) results in a higher level of care than would be possible otherwise. In most parts in Alaska, emergency medical responders are trained to the EMT-II level or above.

Emergency Trauma Technician (ETT)

An ETT is trained in a 40 hour program to provide basic life support, including splinting, bandaging, bleeding control, and the use of free flow oxygen. This level of training is prevalent in small communities and industrial settings in Alaska.

Emergency Medical Technician-I (EMT-I)

The Emergency Medical Technician-I is equivalent to the National Standard EMT-Basic, as described in the United States Department of Transportation (USDOT) curriculum. The EMT provides basic life support such as splinting, hemorrhage control, oxygen therapy, suction, & CPR.

Defibrillator Technician (ETT-D, EMT-D)

Defibrillator technicians are typically Emergency Medical Technicians and first responders who are trained to use defibrillators. Some defibrillator technicians are authorized to use manual defibrillators. Most are trained and authorized to use automated external defibrillators.

Emergency Medical Technician-II (EMT-II)

The Emergency Medical Technician II level exceeds the National Standard Training Program EMT-Intermediate, developed by the USDOT. The EMT-II class prepares the student to initiate intravenous lines and administer fluids and certain medications, such as 50% dextrose.

Emergency Medical Technician-III (EMT-III)

The EMT-III program is designed to add some advanced cardiac care skills to those the EMT has learned already. Also included in the training program is the use of morphine, lidocaine, atropine, and epinephrine.

Mobile Intensive Care Paramedic (MICP)

Mobile Intensive Care Paramedics are licensed by the Alaska Department of Commerce and Economic Development through the Alaska State Medical Board. MICP's provide care in excess of the EMT-III level and function under the direct or indirect supervision (standing orders, etc.) of a physician. Generally, paramedics are found in the most populous areas of Alaska, including Anchorage, Fairbanks, Kenai, Soldotna, Nikiski, Juneau and Ketchikan. In some of these communities, all pre-hospital emergency medical care is provided by Mobile Intensive Care Paramedics. In others, the MICP may act as a supervisor or EMS director.

7 AAC 26.030. QUALIFICATIONS FOR CERTIFICATION. (a) A person applying for certification as an EMT-I must

- (1) be 18 years of age or older;
- (2) repealed 10/23/92;
- (3) repealed 10/23/92;
- (4) have successfully completed a department-approved EMT-I training course;
- (5) pass, within one year after completing the training course, the written and practical examination for EMT-I administered by the department; and
- (6) provide evidence of valid CPR certification.

(b) A person applying for certification as an EMT-II must

- (1) have a valid certification as an EMT-I;
- (2) have successfully completed a department-approved EMT-II training course;
- (3) as part of the EMT-II training course or within 30 days after successful course completion perform 10 venipunctures, of which eight must be with catheter covered needles; all venipunctures must be witnessed by an individual who is delegated that responsibility by the course medical director and who is certified or licensed to perform venipunctures;
- (4) pass, within one year after completing the training course the written and practical examination for EMT-II administered by the department;
- (5) have six months' experience as a state-certified EMT-I or six months of other related experience such as military medical training;
- (6) be under the sponsorship of a medical director, approved by the department, who accepts the responsibilities set out in 7 AAC 26.640; and
- (7) provide evidence of valid CPR certification.

(c) A person applying for certification as an EMT-III must

- (1) have a valid certification as an EMT-II;
- (2) have successfully completed a department-approved EMT-III training course;

- (3) pass, within one year after completing the training course, the written and practical examination for EMT-III administered by the department;
- (4) have six months' experience as a state-certified EMT-II, or six months of other related experience such as military medical training;
- (5) be under the sponsorship of a medical director, approved by the department, who accepts the responsibilities set out in 7 AAC 26.640; and
- (6) provide evidence of valid CPR certification.

TCN: 70662

written testimony

Copper River Emergency Medical Services
 P.O. Box 529
 Mile 111 Richardson Highway
 Glennallen, Alaska 99588-0529

907.822.3671 phone 907.822.5170 fax

RECEIVED

APR 18 1997

Facsimile TransmittalTo: SENATE HESS RE SB164Fax #: VIA GLN LIO 822.5591

From: Lilly Muir-Delaney
 Box 341 Glennallen, AK 99588
 Fax #: 907.822.5170

Date: 18 APR 97Total Pages Transmitted, including this sheet: 1

PLEASE CONTACT THIS OFFICE IF YOU DO NOT RECEIVE ALL PAGES!

PLEASE CONSIDER THIS A LETTER OF SUPPORT FOR SB164, WHICH GIVES EMT'S ADDITIONAL AUTHORITY AT THE SCENE OF AN ACCIDENT OR EMERGENCY. THIS BILL IS ESPECIALLY IMPORTANT TO THOSE OF US WHO LIVE IN THE COPPER RIVER BASIN, AS WE HAVE A VERY LIMITED NUMBER OF TROOPERS AND NO OTHER LAW ENFORCEMENT OFFICERS, AND WOULD ORDINARILY BE FORCED TO WAIT FOR A TROOPER BEFORE PERFORMING OUR DUTIES.

COPPER RIVER EMS URGES YOUR SUPPORT FOR SB164!

THANK YOU!

Lilly Muir-Delaney

TOTAL P.01

TOTAL P.01

Talking Points on the CS for SB 164

Issue 1: For those who were concerned that this legislation would give authority to too many people, and create a risk for disorganization at a scene where EMT's who all had equal authority were arguing amongst themselves as how best to organize the scene, we changed the language to only include EMT's who are officially part of an ambulance service or a first responder service. This automatically entrenches EMT's within a formal command structure, and eliminates this concern--since one person is always in charge of an ambulance squad.

Issue 2: In response to the question, is there a penalty for those who do not follow the directives of EMT's at the scene, the answer is yes. We added language in (b) page 2, line 10, clarifying that anyone who does not follow the directives given by an EMT, may be subject to a class B misdemeanor (up to \$1000 fine or 90 days in jail or both). This is consistent with the fire fighter authority legislation. However, EMT's will not be the party enforcing this penalty. It is not customarily their practice, nor do many EMT's wish to do so. In a tense situation, if they are unable to talk a disruptive party out of a disruptive action, the EMT will only record the information such as the party's name or license plate number and pass this information on to a law enforcement officer to investigate and act on. This protects the public from unfair penalty and releases EMT's from the duty of enforcing.

Possible concerns:

EMT's who are compelled to or required to stop at a scene, but are not covered by this legislation will not have authority to do certain duties, and consequently will not be held harmless for their actions. This is true, but to solve this we need to break up the concern into the authority issue and the hold harmless issue.

Solution 1: If an EMT stops and begins helping an official EMS squad organize a scene, then they should be included in this legislation as defacto members of that ambulance service, even though they are technically not registered as members of the squad. This is only if 1) they are working in concert with and under the command structure; 2) their help is accepted by the head of the command structure; and 3) they have proof of current certification on their person, such as their identification card. (WE CAN AMEND OUR BILL TO SAY THIS)

Solution 2: If an EMT stops and begins rendering aid and performing duties as described in this bill to organize a scene, they should be held harmless from liability, but should not be given authority and consequently the implicit ability to penalize. This protects both the EMT and the public. (THIS REQUIRES ANOTHER STATUTE OR THE AMENDMENT OF THE GOOD SAMARITAN LAW TO INCLUDE HOLDING HARMLESS FOR SCENE CONTROL ACTIVITIES.)

NOTES TO DECISIONS

Stated in *Neitzel v. State*, 655 P.2d 325 (Alaska Ct. App. 1987); *Cole v. State*, 828 P.2d 175 (Alaska Ct. App. 1992).
Cited in *Brown v. State*, 739 P.2d 182 (Alaska Ct. App. 1992).

Article 6. Definitions.**Section**
900. Definitions

Sec. 11.81.900. Definitions. (a) For purposes of this title, unless the context requires otherwise,

(1) a person acts "intentionally" with respect to a result described by a provision of law defining an offense when the person's conscious objective is to cause that result; when intentionally causing a particular result is an element of an offense, that intent need not be the person's only objective;

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

(3) a person acts "recklessly" with respect to a result or to a circumstance described by a provision of law defining an offense when the person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation; a person who is unaware of a risk of which the person would have been aware had that person not been intoxicated acts recklessly with respect to that risk;

(4) a person acts with "criminal negligence" with respect to a result or to a circumstance described by a provision of law defining an offense when the person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

(b) In this title, unless otherwise specified or unless the context requires otherwise,

(1) "affirmative defense" means that

(A) some evidence must be admitted which places in issue the defense; and

(B) the defendant has the burden of establishing the defense by a preponderance of the evidence;

(2) "benefit" means a present or future gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary;

(3) "building", in addition to its usual meaning, includes any propelled vehicle or structure adapted for overnight accommodation of persons or for carrying on business; when a building consists of separate units, including apartment units, offices, or rented rooms, each unit is considered a separate building;

(4) "cannabis" has the meaning ascribed to it in AS 11.71.900(10), (11), and (14);

(5) "conduct" means an act or omission and its accompanying mental state;

(6) "controlled substance" has the meaning ascribed to it in AS 11.71.900(4);

(7) "correctional facility" means premises, or a portion of premises, used for the confinement of persons under official detention;