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**FILE**

CS HB 40 (JUD)  
House Finance Committee

HB 40

Amendment No. 1

Page 2, line 3

Delete: "a preponderance of the evidence"

Substitute: "clear and convincing evidence"

Page 2, lines 7-8

Delete: "(3) the violation of traffic laws by the person contributed to the accident."

Substitute: "(3) the violation of traffic laws by the person was a significant contributing cause of the accident."

Prepared by the Department of Law  
April 19, 2001

TONY KNOWLES  
GOVERNOR  
governor@state.ak.us

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

HB 40  
P.O. Box 110001  
Juneau, Alaska 99811-0001  
(907) 465-3500  
Fax (907) 465-3522  
www.state.ak.us

January 8, 2001

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

Dear Speaker Porter:

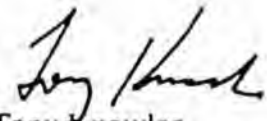
It may be surprising, but true, that many traffic accidents leading to deaths carry no criminal punishment. The driver may be guilty of a simple traffic violation carrying a maximum fine of \$300. At least 10 deaths a year on our state highways can fall into this category. Perhaps the driver fell asleep at the wheel or skidded on ice, and the consequences are deadly to a passing motorist or pedestrian.

Regardless of whether their conduct is criminal, drivers whose traffic violations contribute to a fatal accident pose a risk to people on the highways and cause much suffering to family and friends of their victims. I am re-introducing this bill that takes seriously these tragic deaths by requiring, under certain circumstances, revocation of driving privileges of a driver involved in a fatal traffic accident.

This bill requires the court to revoke for one year the driving privileges of a person who violated traffic laws which contributed to an accident that resulted in a death. The license revocation applies to drivers of all vehicles, including those for commercial use. The court would be allowed to grant limited license privileges if it determines driving is critical to the person's livelihood and will not pose a danger to the public.

When people drive in an unsafe way and cause the death of another, their privilege to drive should be revoked to protect other drivers, their passengers, and pedestrians on the roadways.

Sincerely,

  
Tony Knowles  
Governor

HB 40

shall grant a hearing delay if the person presents good cause for the delay. If a person fails to attend or appear for the hearing at the time and place stated by the appropriate department and if a hearing delay has not been granted, the person's failure to attend or appear is considered a waiver of the hearing and the appropriate department may take appropriate action with respect to the person.

(c) If at a hearing conducted by the Department of Administration under (a) of this section it appears that the record of the person sustains suspension, revocation, limitation, denial, or other remedial action, the hearing officer shall so order and the Department of Administration may suspend, revoke, limit, deny, or take other remedial action against that person's license, registration, or title and, if appropriate, the department shall adjust the person's point total accumulated under AS 28.15.231.

(d) A person aggrieved by the decision of the hearing officer may, within 30 days after a decision is mailed or delivered to the person, file an appeal in superior court for judicial review of the hearing officer's decision. The judicial review shall be on the record. The court may reverse the determination of the Department of Public Safety or of the Department of Administration if the court finds that the department making the determination misinterpreted the law, acted in an arbitrary and capricious manner, or made a determination unsupported by the evidence in the record. The respective department's decision suspending, revoking, canceling, limiting, restricting, or denying a license, registration, title, permit, or privilege is stayed and does not take effect during the pendency of an appeal. (§ 6 ch 178 SLA 1978; am § 2 ch 60 SLA 1986; am § 1 ch 158 SLA 1990; am § 2 ch 6 FSSLA 1996; am E.O. No. 99 § 40 (1997))

**Cross references.** — For rules of court relating to appeals from administrative proceedings, see App. Rules 601-611.

**Effect of amendments.** — The 1990 amendment rewrote subsection (d).

The 1996 amendment, effective July 4, 1996, in subsection (b), rewrote the first sentence and inserted "attend or" in two places in the last sentence.

The 1997 amendment, effective March 16, 1997, rewrote this section.

**NOTES TO DECISIONS**

This section does not apply to a revocation of a license under AS 28.35.032, relating to refusal to submit to a chemical test. *Graham v. State*, 633 P.2d 211 (Alaska 1981).

This section is inapplicable to license revocations for refusal to submit to a breathalyzer test. *Borrego v.*

*State*, Dep't of Pub. Safety, 815 P.2d 360 (Alaska 1991).

A hearing officer must be impartial; however, it is appropriate for an officer to question witnesses. *Lollerud v. State*, Dep't of Pub. Safety, 929 P.2d 1283 (Alaska 1997).

**Article 4. Disposition of Certain Vehicle and Traffic Offenses.**

**Section**

101. Citations for scheduled vehicle and traffic offenses

155. Court and collection costs

**Sec. 28.05.151. Citations for scheduled vehicle and traffic offenses.** (a) The supreme court shall determine by rule or order those motor vehicle and traffic offenses, except for offenses subject to a scheduled municipal fine, that are amenable to disposition without court appearance and shall establish a scheduled amount of bail, not to exceed fines prescribed by law, for each offense. A municipality shall determine by ordinance the municipal motor vehicle and traffic offenses that may be disposed of without court appearance and shall establish a fine schedule for each offense.

(b) The supreme court shall establish a scheduled amount of bail allowing disposition of a citation for a violation of AS 28.05.095 without court appearance.

(c) The supreme court shall require as a condition of the disposition of an offense without appearance that a person charged with any offense for which a bail forfeiture amount has been adopted shall pay the surcharge prescribed in AS 12.55.039 in addition

to the bail forfeiture to be paid under this section for under AS 37.05.:

(d) The supreme court and each municipal court shall provide for the amount of the bail or fine for each zone. (§ 6 ch 178 SLA 1994; am § 110 SLA 1994; am § 110 SLA 1994)

**Cross references.** — For purpose in connection with this section, see § 1, ch. 119, and Special Acts.

**Effect of amendments.** — The 1994 amendment added subsection (b).

The 1994 amendment added subsection (c).

**Sec. 28.05.155.** This section is attached to pay court shall increase  
 (1) \$25 for court  
 (2) \$10 for collection

**Effective dates.** — This section which enacted this section 1996.

**Chapter**

**Article**

1. Registration (§§ 28.05.010-28.05.015)
2. Title (§§ 28.10.201-28.10.205)
3. Transfer of Vehicle
4. Filing Documents
5. Fees and Charges
6. Registration and Title
7. General Provisions

Cited in *Newell v. State* (Alaska 1982); *Anderson v. State*, 645 P.2d 205 (Alaska 1982)

**Collateral references.** — *Alaska Highway Traffic*

**Section**

11. Vehicles subject to
21. Application for

lay. If a person fails by the appropriate failure to attend or partment may take

on under (a) of this ension, revocation. ll so order and the take other remedial if appropriate, the AS 28.15.231.

within 30 days after or court for judicial on the record. The ic Safety or of the tment making the pricious manner, or rd. The respective icting, or denying a t take effect during 1986; am § 1 ch 158

ffective July 4, 1996, in at sentence and inserted he last sentence. fective March 16, 1997,

, 815 P.2d 360 (Alaska

ne impartial; however, it r to question witnesses. b. Safety, 929 P.2d 1283

**ffic Offenses.**

> offenses. (a) The and traffic offenses, enable to disposition of bail, not to exceed ine by ordinance the ed of without court

allowing disposition ce.

osition of an offense icht a bail forfeiture 2.55.039 in addition

to the bail forfeiture amount established by the supreme court. The surcharge required to be paid under this subsection shall be deposited in'0 the general fund and accounted for under AS 37.05.142.

(d) The supreme court, in establishing scheduled amounts of bail under this section, and each municipality that establishes or has established a fine schedule under this section shall provide that the scheduled amount of bail or fine, as applicable, for a motor vehicle or traffic offense that is committed in a highway work zone shall be double the amount of the bail or fine for the offense if it had not been committed in a highway work zone. (§ 6 ch 178 SLA 1978; am § 8 ch 76 SLA 1987; am § 4 ch 98 SLA 1990; am § 5 ch 119 SLA 1994; am § 6 ch 56 SLA 1998; am § 1 ch 64 SLA 1998)

**Cross references.** — For legislative findings and purpose in connection with the enactment of this section, see § 1, ch. 119, SLA 1994 in the Temporary and Special Acts.

**Effect of amendments.** — The 1990 amendment added subsection (b).

The 1994 amendment, effective January 1, 1996, added subsection (c).

The first 1998 amendment, effective August 27, 1998, substituted "pay the surcharge prescribed in AS 12.55.039" for "pay a surcharge of \$70" in the first sentence in subsection (c).

The second 1998 amendment, effective April 30, 1999, added subsection (d).

**Sec. 28.05.155. Court and collection costs.** If a person's permanent fund dividend is attached to pay the bail or fine for an offense involving a moving motor vehicle, the court shall increase the bail or fine of that person by at least

- (1) \$25 for court costs; and
- (2) \$10 for collection costs. (§ 4 ch 47 SLA 1996)

**Effective dates.** — Section 4, ch. 47, SLA 1996, which enacted this section, took effect on August 27, 1996.

## Chapter 10. Vehicle Registration and Title.

### Article

- 1. Registration (§§ 28.10.011 — 28.10.181)
- 2. Title (§§ 28.10.201 — 28.10.261)
- 3. Transfer of Vehicle (§§ 28.10.271 — 28.10.361)
- 4. Filing Documents Evidencing Liens or Encumbrances (§§ 28.10.371 — 26.10.401)
- 5. Fees and Charges (§§ 28.10.411 — 28.10.441)
- 6. Registration and Title Violations (§§ 28.10.451 — 28.10.493)
- 7. General Provisions (§§ 28.10.495 — 28.10.661)

### NOTES TO DECISIONS

Cited in *Newell v. National Bank*, 646 P.2d 224 (Alaska 1982); *Anderson v. Municipality of Anchorage*, 645 P.2d 205 (Alaska Ct. App. 1982).

**Collateral references.** — 7A Am. Jur. 2d, *Automobiles and Highway Traffic*, § 51 et seq. 60 C.J.S., *Motor Vehicles*, § 58 et seq.

## Article 1. Registration.

### Section

- 11. Vehicles subject to registration
- 21. Application for registration

### Section

- 31. Temporary permits
- 41. Grounds for refusing registration

of the vehicle. (§ 1 ch

wrecked or abandoned on streets  
728.

person or company who  
an employee under AS  
described for the giving of  
owner of record and to  
location of the place of  
state or the name and  
ascertained, notice shall  
the court for service of  
A 1978)

be not reclaimed by the  
owner of the vehicle within  
state or, if a municipal  
ordinance is appropriate. However,  
61 SLA 1976; am § 13

primary proof of ownership  
is chapter at any time  
towing, storage, notice,  
by law. (§ 1 ch 61 SLA

on satisfaction of the  
vehicle may be disposed  
of by public auction  
of general circulation in  
summed abandoned. The  
date, and time at which  
to the department.  
must be titled under AS  
of title issued by the

person who disposes of an  
against a person named  
owner of the vehicle. (§ 1  
LA 1997)

subsection (b), inserted "by  
registered and" following

**Sec. 28.11.08C. Disposal facilities.** (a) The department may negotiate with an appropriate state or municipal agency in an effort to designate and acquire land for the temporary storage of vehicles before sale under AS 28.11.070, or for the final disposal of unsold abandoned vehicles.

(b) A municipality that adopts an ordinance under AS 28.11.100 shall designate appropriate areas within its jurisdiction for the disposal of abandoned vehicles. (§ 1 ch 61 SLA 1976; am § 16 ch 178 SLA 1978)

**Sec. 28.11.090. Towing and storage lien on abandoned vehicle.** A person authorized by contract or other official order to remove an abandoned vehicle has a lien upon a vehicle towed, moved, or stored by and in the possession of the person in accordance with AS 28.10.502. (§ 1 ch 61 SLA 1976; am § 17 ch 178 SLA 1978)

**Collateral references.** — 38 Am. Jur. 2d, Garages, and Parking and Filling Stations, §§ 140, 144 to 151. 61A C.J.S., Motor Vehicles, §§ 725, 748(d), (e). Lien for towing or storage, ordered by public officer, of motor vehicle, 85 ALR3d 199.

**Sec. 28.11.100. Municipal abatement procedure.** A municipality may adopt an ordinance establishing procedures for the abatement and removal from private or public property, as a public nuisance or a health or safety hazard, a wrecked, dismantled, or inoperative vehicle or a vehicle otherwise presumed to be abandoned. An ordinance adopted under this section must contain provisions for (1) notice to owners and lienholders of record and persons known to be lawfully entitled to possession of the vehicles, of their right to a hearing which shall be conducted by the municipality in the manner provided for by municipal ordinance; (2) notice to owners and lienholders as provided in AS 28.11.040; and (3) disposal of abandoned vehicles as provided in AS 28.11.070. (§ 1 ch 61 SLA 1976; am § 18 ch 178 SLA 1978; am § 6 ch 108 SLA 1997)

**Effect of amendments.** — The 1997 amendment, effective September 30, 1997, substituted "provided for by municipal ordinance" for "provided for the department under AS 28.05.131 — 28.05.141" near the end of the second sentence.

**Sec. 28.11.110. Abandoned motor vehicle fund.** (a) There is created in the department an abandoned motor vehicle fund, to be composed of appropriations by the legislature and proceeds from the sale of abandoned motor vehicles.

(b) The proceeds from the sale of an abandoned motor vehicle under this chapter, after deducting the cost of impounding, advertising, and selling the vehicle, shall be deposited in the fund set out in (a) of this section.

(c) Money in the fund shall be disbursed to the department and to each of the municipalities bound by the provisions of this chapter upon presentation of a voucher for payment of services rendered in compliance with this chapter. (§ 1 ch 61 SLA 1976)

## Chapter 15. Drivers' Licenses.

### Article

1. Issuance, Expiration and Renewal of Licenses (§§ 28.15.011 — 28.15.151)
2. Cancellation, Suspension, Revocation or Limitation of Drivers' Licenses (§§ 28.15.161 — 28.15.219)
3. Point System (§§ 28.15.221 — 28.15.261)
4. Fees (§ 28.15.271)
5. Driver License Violations (§§ 28.15.281, 28.15.291)

**Collateral references.** — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 96 et seq. 60 C.J.S., Motor Vehicles, §§ 146 to 164.50.

NOTES TO DECISIONS

Applied in *Uhde v. State*, 654 P.2d 1323 (Alaska Ct. App. 1982); *Smith v. State*, 756 P.2d 913 (Alaska Ct. App. 1988).  
 Cited in *State v. Robertson*, 749 P.2d 902 (Alaska Ct. App. 1988).

**Sec. 28.15.219. Definitions.** In AS 28.15.161 — 28.15.219,  
 (1) "disqualification" has the meaning given in AS 28.33.190;  
 (2) "disqualified" has the meaning given in AS 28.33.190;  
 (3) "disqualify" means that a person's privilege to drive a commercial motor vehicle is withdrawn. (§ 13 ch 3 SLA 1992)

**Revisor's notes.** — Reorganized upon enactment to alphabetize the defined terms.

*Sec. 28.15.220. Discretionary suspension, etc. [Repealed, § 19 c' 178 SLA 1978.]*

**Article 3. Point System.**

<b>Section</b>	<b>Section</b>
221. Point system	253. Driver improvement or alcohol information courses
231. Assessment of points, driver improvement interview	255. Proof of financial responsibility
241. Reduction of points	261. Definitions for AS 28.15.221 — 28.15.261
251. Suspension, revocation, limitation, denial	

NOTES TO DECISIONS

Applied in *McClain v. State*, 641 P.2d 1265 (Alaska Ct. App. 1982).

**Sec. 28.15.221. Point system.** (a) For the purpose of identifying habitually reckless or negligent drivers and habitual or frequent violators of traffic laws, the commissioner shall adopt regulations establishing a uniform system for the suspension, revocation, limitation, or denial of a driver's license, privilege to drive, or privilege to obtain a license by assigning demerit points for convictions for violations of traffic laws that are required to be reported to the department under AS 28.15.191 and AS 28.37.130.

(b) The regulations adopted under (a) of this section shall include a designated level of point accumulation which identifies drivers who are habitually reckless or negligent or who are habitual or frequent violators of traffic laws, so as to show a disrespect for traffic laws and a disregard for the safety of other persons. In formulating the point system authorized by this section, the commissioner shall, in the interest of interstate uniformity, provide for suspension, revocation or denial of a driver's license, privilege to drive, or privilege to obtain a license for an accumulation of 12 or more points as a result of offenses committed during any consecutive 12-month period or 18 or more points as a result of offenses committed during any 24-month period. (§ 19 ch 178 SLA 1978; am § 14 ch 60 SLA 1986; am § 21 ch 119 SLA 1990)

**Effect of amendments.** — The 1990 amendment, effective January 1, 1991, substituted "privilege to drive, or privilege to obtain a license" for "or driving privilege" and "or privilege", respectively, in subsections (a) and (b).

NOTES TO DECISIONS

Cited in *Gregory v. State*, 717 P.2d 428 (Alaska Ct. App. 1986).

**Collateral references:** *Motor Vehicle and Highway Traffic Regulations* establish safeguards suspension or revocation

*Sec. 28.15.225. L*

*Sec. 28.15.230. R*

**Sec. 28.15.231. L**  
 (a) Notice of each point accumulation: denial is required unless accumulation shall problem driver to: interview is to assist substandard driving informal manner. A to improve the drive

(b) Points may not a municipal ordinance points be assessed violations of provisions devices on the highway permits relating only

(c) If a licensee is occasion, the licensee involved have different the greater point value

(d) The time period based upon the date either upon a plea of for violation of the law

(e) The points are department under provisions of this chapter

(f) The notice required ch 178 SLA 1978; am

**Failure of the Department to send a midpoint notice (a) of this section cannot**

*Sec. 28.15.240. S*

**Sec. 28.15.241. L**  
 licensee's assessed that occurred during licensee was convicted  
 (b) In addition to total upon the driver's completion, within

# FISCAL NOTE

**STATE OF ALASKA  
2001 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB 40  
 (H) Publish Date: 1/10/01

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title: License Revocation for Fatal Accidents BRU: Motor Vehicles  
 Component: \_\_\_\_\_  
 Sponsor: Rules Committee  
 Requester: Governor Component Number: 2348

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	<b>1.0</b>	<b>1.0</b>	<b>1.0</b>	<b>1.0</b>	<b>1.0</b>	<b>1.0</b>
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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 (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

There will be approximately 10 revocations per year and the reinstatement fee for each driver is \$100. The 10 revocations are only a small fraction of the total revocation workload and will not require extra expenditure.

Prepared by: Charles R. Hosack Phone 269-5559  
 Division: Motor Vehicles Date/Time 11/1/00 12:00 AM  
 Approved by: Alison Elgee, Deputy Commissioner Date 11/8/00  
 Agency: Department of Administration

For distribution information, call the Governor's Legislative Office

# FISCAL NOTE

**STATE OF ALASKA**  
**2001 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: HB 40  
 (H) Publish Date: 1/10/01

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title: License Revocation fro Fatal Accidents BRU: Legal and Advocacy Ser  
 Component: Public Defender Agency  
 Sponsor: Rules Committee  
 Requester: Governor Component Number: 1631

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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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 (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

The Public Defender Agency's operations may be affected by this bill. Drivers generally do not have a right to a court-appointed attorney in traffic violation proceedings. However, the Alaska Supreme Court has held that a person has a right to a jury trial (and court-appointed counsel) for offenses which may result in loss of valuable license such as a driver's license. Baker v. City of Fairbanks, 471 P. 2d 366 (Alaska 1970). The Public Defender Agency does not anticipate many of these cases and does not have a reliable way of estimating the costs. Therefore, the fiscal impact is indeterminate.

Prepared by: Barbara K. Brink, Director Phone: (907) 334-4414  
 Division: Public Defender Agency Date/Time: 11/07/00 3PM  
 Approved by: Allison Elgee, Deputy Commissioner Date: 11/8/00  
 Agency: Department of Administration

For distribution information, call the Governor's Legislative Office

# FISCAL NOTE

**STATE OF ALASKA  
2001 LEGISLATIVE SESSION**

Fiscal Note Number: 3  
 Bill Version: HB 40  
 (H) Publish Date: 1/10/01

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Law  
 Title: "An Act relating to revocation of driving privileges  
by a court . . . in connection with a fatal motor vehicle accident . . ." BRU Criminal Division  
 Sponsor: Rules Committee Component: 1st-4th Judicial Districts; Criminal  
Appeals/Special Litigation  
 Requester: Governor Component No.: 2198-99; 201/03/61/79

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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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 (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill would require the revocation of driving privileges of a person who drives a vehicle, including a commercial vehicle, that is involved in a fatal traffic accident if the person is convicted of a violation of traffic laws in connection with the accident, and the violation of the traffic laws contributed to the accident that resulted in the death of another person.

Because conviction of the traffic offense may result in loss of a valuable license, the person has a right to a jury trial. However, a jury trial on traffic matters is a relatively short time commitment. The Department of Law estimates no more than a dozen of these trials will occur statewide per year, and does not anticipate a measurable fiscal impact from passage of this legislation.

Prepared by: Joan M. Kasson Phone 465-5370  
 Division: Attorney General's Office Date/Time 1/5/01 1:36 PM  
 Approved by: Kathryn Duaghete for Bruce M. Botelho, Attorney General Date 1/5/01  
 Agency: Department of Law

For distribution information, call the Governor's Legislative Office

22-LS0349\P  
Utermohle  
4/20/01

*Adopted*

**CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 76(FIN)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-SECOND LEGISLATURE - FIRST SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

**Offered:**

**Referred:**

**Sponsor(s): REPRESENTATIVE ROKEBERG**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act providing for and relating to the issuance of certificates of participation to  
 2 finance construction of a new facility to be known as the Alaska Psychiatric Institute;  
 3 giving notice of and approving the entry into and the issuance of certificates of  
 4 participation in a lease-purchase agreement for construction of a new facility to be  
 5 known as the Alaska Psychiatric Institute; giving notice of the intent and approval to  
 6 retain investment income from pertinent appropriations to be applied to the cost of  
 7 construction of a new facility to be known as the Alaska Psychiatric Institute; relating to  
 8 the construction of a facility to be known as the Alaska Psychiatric Institute; and  
 9 providing for an effective date."

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

11 \* Section 1. The uncodified law of the State of Alaska is amended by adding a new section  
 12 to read:

1 FINDINGS AND INTENT. (a) The legislature previously appropriated money for  
2 the construction or the purchase of facilities to replace the existing Alaska Psychiatric  
3 Institute. Construction of a replacement within the appropriated amount proved impossible  
4 when all bids received for the designed replacement were substantially higher than estimated  
5 and exceeded the money available for the project. At present, \$19,200,000 has been  
6 appropriated and is available for the purpose of replacing the existing Alaska Psychiatric  
7 Institute facility. It is the intent of the legislature that the money previously appropriated,  
8 along with the proceeds of certificates of participation to be issued by the state bond  
9 committee under sec. 5 of this Act, including any investment income earned on or after July 1,  
10 2000, be used to construct a new facility to be known as the Alaska Psychiatric Institute.

11 (b) To assist in replacing the existing Alaska Psychiatric Institute facility, the Alaska  
12 Mental Health Trust Authority has set aside money in the amount of \$2,000,000, with an  
13 additional \$1,000,000 to be available July 1, 2002, that will be used for the construction of a  
14 new facility to be known as the Alaska Psychiatric Institute. In addition, it is the intent of the  
15 legislature, with the concurrence of the Alaska Mental Health Trust Authority, that the  
16 investment income earned on the money set aside for construction of the new facility to be  
17 known as the Alaska Psychiatric Institute will also be applied to the costs of constructing the  
18 new facility.

19 (c) It is the intent of the legislature that the amount of money to be used for  
20 construction of, acquisition of, and equipping a new facility to be known as the Alaska  
21 Psychiatric Institute is \$41,744,000. Of that amount, \$22,200,000 would be from the sources  
22 described in (a) and (b) of this section and \$16,000,000 would be from the proceeds of  
23 certificates of participation to be issued by the state bond committee under sec. 5 of this Act,  
24 and \$3,544,000 would be from the estimated investment income earned on the money  
25 described in (a) and (b) of this section and on the proceeds of the sale of certificates of  
26 participation described in sec. 5 of this Act.

27 (d) The legislature finds that the Shared Vision, which is memorialized in a  
28 Memorandum of Understanding signed in April of 2001 by the Alaska Mental Health Trust  
29 Authority, the Department of Health and Social Services, the University of Alaska, and  
30 Providence Alaska Medical Center, provides the framework for land exchanges and other  
31 commitments that will facilitate the replacement of the Alaska Psychiatric Institute. The

1 Memorandum of Understanding contemplates a road extension through the property presently  
2 occupied by the Alaska Psychiatric Institute facility. The road construction will be addressed  
3 separately, possibly through federal funding.

4 \* Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to  
5 read:

6 **REPLACEMENT OF THE ALASKA PSYCHIATRIC INSTITUTE.** The  
7 commissioner of health and social services shall provide for the construction of a new facility  
8 to be known as the Alaska Psychiatric Institute. The replacement facility must include a  
9 forensic psychiatric unit.

10 \* Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to  
11 read:

12 **DELEGATION OF AUTHORITY FOR LEASE-PURCHASE AGREEMENT.** The  
13 Department of Health and Social Services is delegated the Department of Administration's  
14 authority under AS 36.30.085 to enter into a lease-purchase agreement for a new facility to be  
15 known as the Alaska Psychiatric Institute.

16 \* Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to  
17 read:

18 **LEASE-PURCHASE PAYMENTS.** The lease payments owed under a lease-purchase  
19 agreement executed under sec. 5 of this Act are subject to annual appropriation by the  
20 legislature.

21 \* Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section to  
22 read:

23 **NOTICE OF ENTRY INTO AND FINANCING OF LEASE-PURCHASE**  
24 **AGREEMENT.** (a) Subject to annual appropriation, the Department of Health and Social  
25 Services is authorized to enter into a lease-purchase agreement for a facility to be known as  
26 the Alaska Psychiatric Institute.

27 (b) The state bond committee is authorized to provide for the issuance of certificates  
28 of participation in one or more series in the aggregate principal amount of \$16,000,000 for the  
29 construction of a facility to be known as the Alaska Psychiatric Institute, with the remaining  
30 balance of the construction costs, in the amount of \$25,744,000, to be paid from the other  
31 money sources described in sec. 1 of this Act, including \$3,544,000 of investment income

1 earned on the other money sources described in sec. 1 of this Act and on the proceeds of the  
2 sale of the certificates of participation. The estimated total cost of construction, acquisition,  
3 and equipping the project is \$41,744,000. The estimated annual amount of rental obligations  
4 under the lease-purchase agreement is \$1,640,000. The estimated total lease payments for the  
5 full term of the lease-purchase agreement is \$24,600,000. In this subsection, "cost of  
6 construction" includes credit enhancement and underwriting expenses, rating agency fees,  
7 bond counsel fees, financial advisor fees, printing fees, advertising fees, capitalized interest,  
8 and interest earnings used for lease payments.

9 (c) Under terms approved by the Department of Health and Social Services, upon the  
10 payment of all principal and interest payments under the certificates of participation, title to  
11 the new facility known as Alaska Psychiatric Institute shall vest in the State of Alaska.

12 (d) The state bond committee may contract for credit enhancement, underwriting,  
13 credit ratings, bond counsel, financial advisor, printing, advertising, and trustee services that  
14 the committee considers necessary in financing the project described in this section.

15 \* Sec. 6. The uncodified law of the State of Alaska is amended by adding a new section to  
16 read:

17 APPROVAL OF AGREEMENT. Section 5 of this Act constitutes the approval  
18 required by AS 36.30.085.

19 \* Sec. 7. This Act takes effect immediately under AS 01.10.070(c).



# FISCAL NOTE

STATE OF ALASKA  
2001 LEGISLATIVE SESSION

Fiscal Note Number: 3  
Bill Version: HB 40  
(H) Publish Date: 1/10/01

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Law  
Title "An Act relating to revocation of driving privileges 3RU Criminal Division  
by a court . . . in connection with a fatal motor vehicle accident . . ." Component 1st-4th Judicial Districts; Criminal  
Sponsor Rules Committee Appeals/Special Litigation  
Requester Governor Component No. 2198-99.2201/03/61/79

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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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 (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill would require the revocation of driving privileges of a person who drives a vehicle, including a commercial vehicle, that is involved in a fatal traffic accident if the person is convicted of a violation of traffic laws in connection with the accident, and the violation of the traffic laws contributed to the accident that resulted in the death of another person.

Because conviction of the traffic offense may result in loss of a valuable license, the person has a right to a jury trial. However, a jury trial on traffic matters is a relatively short time commitment. The Department of Law estimates no more than a dozen of these trials will occur statewide per year, and does not anticipate a measurable fiscal impact from passage of this legislation.

Prepared by: Joan M. Kasson Phone 465-5370  
Division Attorney General's Office Date/Time 1/5/01 1:36 PM  
Approved by: Kathryn Duaghetea for Bruce M. Botelho, Attorney General Date 1/5/01  
Agency Department of Law

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# FISCAL NOTE

**STATE OF ALASKA**  
**2001 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
Bill Version: HB 40  
(H) Publish Date: 1/10/01

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
Title: License Revocation fro Fatal Accidents BRU: Legal and Advocacy Ser.  
Sponsor: Rules Committee Component: Public Defender Agency  
Requester: Governor Component Number: 1631

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

FUND SOURCE	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

The Public Defender Agency's operations may be affected by this bill. Drivers generally do not have a right to a court-appointed attorney in traffic violation proceedings. However, the Alaska Supreme Court has held that a person has a right to a jury trial (and court-appointed counsel) for offenses which may result in loss of valuable license such as a driver's license. Baker v. City of Fairbanks, 471 P. 2d 386 (Alaska 1970). The Public Defender Agency does not anticipate many of these cases and does not have a reliable way of estimating the costs. Therefore, the fiscal impact is indeterminate.

Prepared by: Barbara K. Brink, Director Phone (907) 334-4414  
Division: Public Defender Agency Date/Time 11/07/00 3PM  
Approved by: Alison Elgee, Deputy Commissioner Date 11/8/00  
Agency: Department of Administration

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# FISCAL NOTE

**STATE OF ALASKA**  
**2001 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB 40  
 (H) Publish Date: 11/10/01

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title: License Revocation for Fatal Accidents BRU: Motor Vehicles  
 Component: \_\_\_\_\_  
 Sponsor: Rules Committee  
 Requester: Governor Component Number: 2348

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	<b>1.0</b>	<b>1.0</b>	<b>1.0</b>	<b>1.0</b>	<b>1.0</b>	<b>1.0</b>
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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 (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

There will be approximately 10 revocations per year and the reinstatement fee for each driver is \$100. The 10 revocations are only a small fraction of the total revocation workload and will not require extra expenditure.

Prepared by: Charles R. Hosack Phone 269-5559  
 Division: Motor Vehicles Date/Time 11/1/00 12:00 AM  
 Approved by: Alicia Elgee, Deputy Commissioner Date 11/8/00  
 Agency: Department of Administration

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bitual," "persistent," or "frequent" violations of traffic regulations, 48 ALR4th 367.

**Sec. 28.15.253. Driver improvement or alcohol information courses.** Upon conviction of a violation of a traffic law that results in a driver accumulating six or more points from offenses committed during any consecutive 12-month period or nine or more points from offenses committed during any 24-month period, (1) on request of the department, the court may, in addition to any other penalty authorized by law, require the driver to successfully complete a driver improvement course approved by the department or an alcohol information course approved by the Department of Health and Social Services within a period of time prescribed by the court; and (2) the department shall require a person licensed under a provisional license to complete a driver improvement course approved by the department within a time period prescribed by the department. A driver improvement course approved under this section for a person who is under 21 years of age must be a course that is designed to benefit persons under 21 years of age and must be certified by a national organization. The department may suspend, revoke, or deny the driver's license of a person who fails to successfully complete the driver improvement course or the alcohol information course required by the court under this section within the prescribed time period. (§ 1 ch 78 SLA 1982; am § 10 ch 93 SLA 1998)

**Effect of amendments.** — The 1998 amendment, effective January 1, 1999, rewrote this section.

**Sec. 28.15.255. Proof of financial responsibility.** (a) The department may not reinstate a driver's license that has been revoked or suspended under AS 28.15.221 — 28.15.261 until the person whose license has been revoked or suspended provides proof of financial responsibility for the future.

(b) If a driver accumulates six or more points under AS 28.15.221 — 28.15.261 during a 12-month period, the department may require the driver to provide proof of financial responsibility for the future as a condition of retaining a driver's license, and may suspend the driver's license until proof of financial responsibility is provided.

(c) In this section, the term "proof of financial responsibility" has the meaning given in AS 28.20.630 and may be established as provided in AS 28.20. (§ 2 ch 78 SLA 1982; am § 26 ch 108 SLA 1989)

*Sec. 28.15.260. Period of suspension. [Repealed, § 19 ch 178 SLA 1978.]*

**Sec. 28.15.261. Definitions for AS 28.15.221 — 28.15.261.** In AS 28.15.221 — 28.15.261

(1) "licensee" includes, but is not limited to, an applicant for a new driver's license if the applicant's license was revoked under AS 28.15.221 — 28.15.261;

(2) "traffic laws" means statutes, regulations, and municipal ordinances governing the driving or movement of vehicles. (§ 19 ch 178 SLA 1978)

**Revisor's notes.** — The paragraphs were renumbered in 1984 to achieve alphabetical order.

**NOTES TO DECISIONS**

Quoted in *Anderson v. Municipality of Anchorage*, 645 P.2d 205 (Alaska Ct. App. 1982).

*Sec. 28.15.270. Surrender of license. [Repealed, § 19 ch 178 SLA 1978.]*