

HB

179

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT

MAY 06 2001

SENATE FINANCE
COMMITTEE

DATE: 5/6/01

FURTHER:

DATE TURNED
IN TO OFFICE:

6 May 2001

Finance Committee considered CS FOR HOUSE BILL NO. 179(FIN)

"An Act relating to underage drinking and drug offenses; and providing for an effective date."

and recommends:

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

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
Corrections	7/2/01		✓	#2
#255/Alcohol Safety	3/26/01	63.5		#5
#255/CAASA	7/26/01	426.0		#6
Admin/PDF	4/21/01	189.0		#8
Cart	4/21/01	40.7		#9
#255/Alcohol + Drug Abuse	4/25/01	4000		#10
Low	4/24/01	49.3		#11

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>John Green</i>			✓	
<i>John Custer</i>			✓	
<i>John Hill</i>			x	
<i>John Hill</i>			(x)	
<i>Ernie Hill</i>	✓			
<i>John Hill</i>			✓	
<i>John Hill</i>	✓			
COCHAIR: <i>John Hill</i>			✓	
COCHAIR: <i>John Hill</i>			✓	

fixal/fes number

MAY 06 2001

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 11
Bill Version: CSHB 179 (FIN)
(H) Publish Date: 4/25/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
Title: "An Act relating to underage drinking and drug offenses; and providing for an effective date." BRJ: Criminal Division
Sponsor: House Judiciary Committee Component: 3rd Judicial Dist: Anchorage
Requester: House Judiciary Committee Component No.: 2261

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	34.8	34.8	34.8	34.8	34.8	34.8
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	7.0	7.0	7.0	7.0	7.0	7.0
Supplies	1.0	1.0	1.0	1.0	1.0	1.0
Equipment	6.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	49.3	42.8	42.8	42.8	42.8	42.8

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	49.3	42.8	42.8	42.8	42.8	42.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	49.3	42.8	42.8	42.8	42.8	42.8

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

CSHB 179 (JUD) would change the minor consuming or in possession statutes by increasing fines and creating a series of graduated sanctions for repeat offenses. Under this version, only second and subsequent underage drinking offenses would entitle the minor to a jury trial and public counsel. The first offense would be handled similar to a traffic citation.

The Division of Motor Vehicles reports that prior to the *Niedermeyer* decision, they revoked about 4,800 drivers' licenses per year for alcohol violations by minors. Not all these violations were pursued in court, because many police officers believed it was better and easier to simply refer the matter to DMV for license revocation. We will assume, however, that now all such violations will result in a citation being filed in court.

The citations for second and subsequent offenses would come to the Department of Law, and a file would be opened. Based on Division of Juvenile Justice historical data, we estimate approximately 1,300 such citations would be filed annually. We believe that

Prepared by: Joan M. Kasson Phone 465-5370
Division: Attorney General's Office Date/Time 4/24/01 11:30 AM
Approved by: Kathryn Daughhete for Bruce M. Botelho, Attorney General Date 4/24/01
Agency: Department of Law

For distribution information, call the Governor's Legislative Office

COMMITTEE COPY

FISCAL NOTE No. 11

STATE OF ALASKA
2001 LEGISLATIVE SESSION

BILL NO. CSHB 179 (FIN)

ANALYSIS CONTINUATION

in approximately 1 percent of the cases the defendant would request a jury trial. The estimated 13 new jury trials per year statewide could be handled within existing Criminal Division resources.

The division could not, however, absorb the increased clerical duties associated with opening more than 1,300 new files each year, and dealing with the paperwork and pleadings in all those cases. We would need to add one Administrative Clerk II position in Anchorage, where we anticipate the most citations will be filed, for a first-year cost of \$49,344, including one-time equipment costs of \$6,500.

MAY 06 2001

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 10
Bill Version: CSHB 179 (FIN)
(H) Publish Date: 4/25/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Health & Social Services
Title: An Act relating to underage drinking and BRU: Alcohol & Drug Abuse Svcs
drug offenses Component: Alcohol/Drug Abuse Grants
Sponsor: House (JUD)
Requester: House (FIN) Component Number: 1239

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	400.0	400.0	400.0	400.0	400.0	400.0
Miscellaneous						
TOTAL OPERATING	400.0	400.0	400.0	400.0	400.0	400.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	400.0	400.0	400.0	400.0	400.0	400.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	400.0	400.0	400.0	400.0	400.0	400.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 179 creates a class B misdemeanor crime of "habitual minor consuming." Upon conviction the court is to require the individual to receive treatment specified under AS 28.35.030(h). AS 28.35.030(h) is geared toward the sentencing of adult DWI offenders. ASAP is responsible for the screening, referral and subsequent monitoring of person who need substance abuse education or treatment. Those persons needing treatment would be referred to existing treatment providers in their community. This fiscal note would fund the necessary treatment expansion to meet the demand.

The existing service system for youth is under capacity and this new demand must be met with increased service capacity. The need to provide treatment to the expected 410 new cases requires expansion of the treatment capacity for youth.

Prepared by: Ernie Turner Phone 465-2071
Division: Alcohol and Drug Abuse Date/Time 4/25/01 9:14 AM
Approved by: Elmer A. Lindstrom, Special Assistant Date 4/25/01 9:14 AM
Agency: Department of Health & Social Services

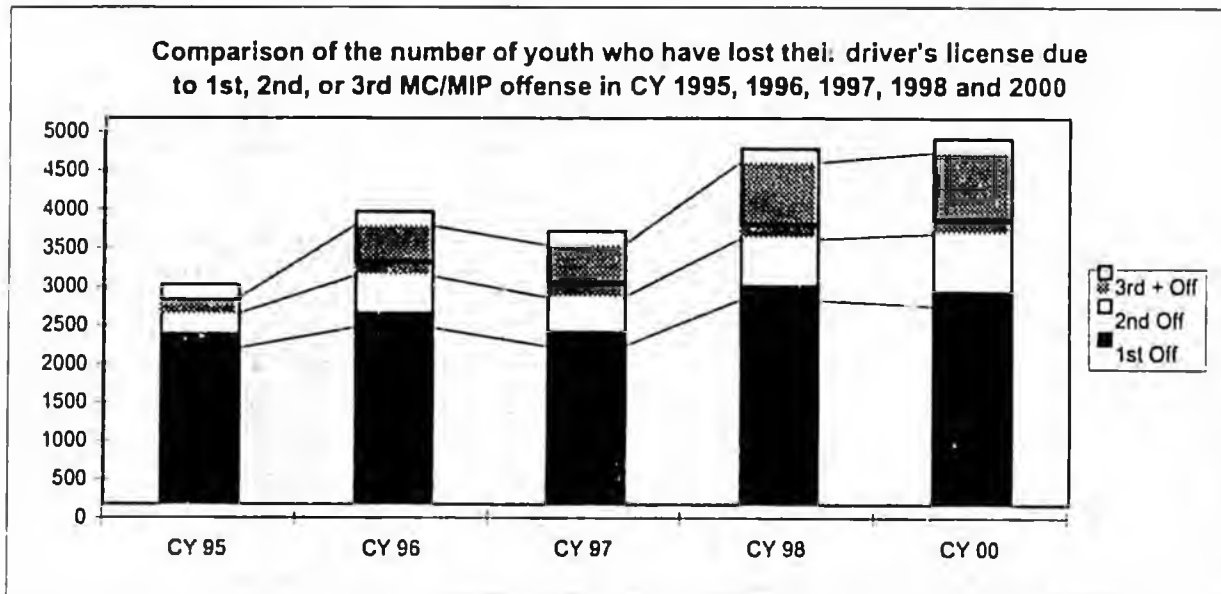
For distribution information, call the Governor's Legislative Office

ANALYSIS: (continued)

For youth who have committed their third offense, after the fines and community work services sanction from the first and second offenses, must be considered to be at high risk. Thus all should be referred to some level of treatment. For many youth this may only require brief interventions and for some possible residential placement. It is difficult to predict what the level of care required would be for the expected number of persons. In the Division presentation to the Judiciary committee on HB 4, the Division indicated that the costs per adult treated was \$1,854. This would include care from detox to brief interventions averaged across all levels of care. No similar figures exist for treatment of youth. This request is based on our estimate that we could provide appropriate levels of care for these persons by using an average that would be a little more than half the adult costs. This estimate results in the need for \$975 per youth estimated to be affected by this bill. Thus for the estimated 410 new persons needing some level of treatment (third offenses), a total treatment cost of \$400,000 is projected. This will provide treatment services at four pilot sites; Ketchikan, Fairbanks, Kotzebue and Juneau.

The Division of Motor Vehicles has been keeping records of the number of youth who lose their driver's license under existing statutes since CY 95. As review of this data indicates that in CY 2000 1,048 youth lost their driver's license due to having had their third minor consuming or minor in possession offense. Since the number of youth with a third offense has grown each year since CY 95 we would project that under this crime we could expect to see that many youth being sent to ASAP under this bill.

As can be seen by the data from the Division of Motor Vehicles (shown in the chart below), it indicates that over the past years the number of youth losing their driving licenses for minor consuming has been increasing. The number that have lost their license for second and third or more offenses has also risen. The chart below is from this data and clearly shows that the number of youth that could be determined to be guilty of "habitual minor consuming" would be high.



MAY 06 2001

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 9
Bill Version: CSHB 179 (FIN)
(H) Publish Date: 4/25/01

Revision Date/Time (Note if correction) _____
Title Minor Consuming
Dept. Affected BRU Alaska Court System
Component Trial Courts
Sponsor Rep. Rokeberg
Requester House Finance Component No. 768

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	27.2	27.2	27.2	27.2	27.2	27.2
Travel						
Contractual	13.5	13.5	13.5	13.5	13.5	13.5
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	40.7	40.7	40.7	40.7	40.7	40.7

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	40.7	40.7	40.7	40.7	40.7	40.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	40.7	40.7	40.7	40.7	40.7	40.7

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time	2	2	2	2	2	2
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Committee Substitute for HB 179 (JUD) makes several changes to the minor consuming alcohol (MCA) laws. Section 1 of the bill increases penalties for first-time offenders and allows for alternative sentencing. Section 2 increases penalties and includes provisions for license suspension and community work service for those convicted of their 2nd offenses and misdemeanor penalties for those convicted of their 3rd and subsequent offenses.

Under the terms of this bill, those charged with a second or subsequent offense will be entitled to appointed counsel and a jury trial. The Department of Law estimates that approximately 1300 cases with those rights will come through the district court annually.

Because MCA cases already require a court appearance, the only significant difference for the court system between a MCA violation and a MCA with a right to an attorney and a jury trial is the costs associated with jury trials. The misdemeanor trial rate is approximately 1%. This note, therefore, reflects the costs associated with 13 misdemeanor jury trials.

Prepared by: Douglas Wooliver, Administrative Attorney Phone 463-4750
Division Alaska Court System Date/Time 4/24/01 @ 9:30 A.M.
Approved by: Stephanie J. Cole, Administrative Director Date _____
Agency Alaska Court System

For distribution information, call the Governor's Legislative Office

Alaska Court System
 Fiscal Note Calculations for 13 New Misdemeanors Trials

Fiscal Note #9, CSHB 179(FIN)

<u>District Court:</u>	FY02	FY03	FY04	FY05	FY06
25 Jurors 1.0 Days for Selection	625	625	625	625	625
7 Jurors for 1.5 Days of Court	263	263	263	263	263
6 Jurors for .5 Days of Deliberation	75	75	75	75	75
Deliberation Meal \$11/12 jurors + bailiff	77	77	77	77	77
	<u>1,040</u>	<u>1,040</u>	<u>1,040</u>	<u>1,040</u>	<u>1,040</u>
Total per District Court Trial					
Proposed # District Court Trials	13	13	13	13	13
	<u>13,514</u>	<u>13,514</u>	<u>13,514</u>	<u>13,514</u>	<u>13,514</u>
Estimated Cost of District Court Trials					
District Court Judge (2 months*)	20,168	20,168	20,168	20,168	20,168
In-Court Clerk (2 months*)	7,000	7,000	7,000	7,000	7,000
Personnel Costs	27,167	27,167	27,167	27,167	27,167
	<u>40,681</u>	<u>40,681</u>	<u>40,681</u>	<u>40,681</u>	<u>40,681</u>
Total Jury and Personnel costs for 13 Misdemeanor Trials					

*13 trials X 3 days/trial =39 work days/20 workdays per month = 2 months

MAY 06 2001

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 8
Bill Version: CSHB 179(FIN)
(H) Publish Date: 4/25/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title: "An Act relating to underage drinking and drug offenses, and providing for..." BRU: Legal & Advocacy Services
Sponsor: House Judiciary Committee Component: Public Defender Agency
Requester: House Finance Committee 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	128.3	128.3	128.3	128.3	128.3	128.3
Travel	5.3	5.3	5.3	5.3	5.3	5.3
Contractual	39.5	39.5	39.5	39.5	39.5	39.5
Supplies	2.9	2.9	2.9	2.9	2.9	2.9
Equipment	13.0	1.3	1.3	1.3	1.3	1.3
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	189.0	177.3	177.3	177.3	177.3	177.3

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	189.0	177.3	177.3	177.3	177.3	177.3
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	189.0	177.3	177.3	177.3	177.3	177.3

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time	1	1	1	1	1	1
Part-time	1	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would increase the penalties for the offense of Minor Consuming or in Possession of Alcohol (MCA). Under current law, MCA is a violation punishable by a \$100 fine. A minor cited for MCA was also subject to an administrative drivers license revocation under AS 28.15.183 (the "use it, lose it" law). However, in a recent Alaska Supreme Court case, *State v. Niedermeyer*, the "use it, lose it" law was found to violate due process. The court decided that a minor has a right to a jury trial and court-appointed counsel before a license can be revoked for MCA.

Under this bill, for a first offense, the court can place the person on probation and refer the case to a "community diversion panel." Alternatively, the court shall impose a fine of at least \$200 but not more than \$600.

Continued on Page Two

Prepared by: Barbara Brink, Director Phone 907 334-4414
Division: Public Defender Agency Date/Time April 24, 2001
Approved by: Jim Duncan, Commissioner Date: 4/24/01
Agency: Department of Administration

For distribution information, call the Governor's Legislative Office

COMMITTEE COPY

CS HB 179 (FIN), FN#8 ANALYSIS: (continued)

For a second offense (repeat MCA), the mandatory fine is \$1,000. But \$500 can be suspended if the defendant completes probation. There is a mandatory minimum community work service of 48 hours.

A third offense (habitual MCA) would be a class B misdemeanor. A mandatory minimum of 96 hours of community work service must be imposed. The court also must revoke a minor's drivers license or privilege to drive for six months. The juvenile delinquency statutes would be amended so that habitual (third offense) MCA would be handled by the Division of Juvenile Justice and juvenile courts.

The Public Defender Agency will have a substantial fiscal impact from this bill. As the bill is currently drafted, we would be appointed to represent people charged with both repeat and habitual MCA.

Repeat MCA (second offense) is a violation. The Public Defender Agency does not generally represent people on violations. However, the Alaska Court of Appeals in *Booth v. State*, 903 P.2d 1079 (Alaska App. 1995) decided that before community work service can be imposed a defendant has a right to a jury trial and court-appointed counsel. Therefore, the Public Defender Agency would be appointed in these cases as well as the habitual (third offense) MCA's.

According to Division of Motor Vehicles and Department of Health and Social Services (DHSS) statistics, there will be about 1330 second and subsequent MCA offenses. Of these 738 will be repeat MCA and 592 will be habitual MCA.

It is difficult to estimate how many of these cases the Public Defender Agency will be appointed to. The repeat MCA is a violation. But, with the prospect of a \$500 mandatory minimum fine and 48 hours of community work service, there will be a significant percentage of defendants who will request an attorney. Even if only 40% of the repeat MCA defendants request a court-appointed attorney, the Public Defender Agency will have 295 new cases. Habitual MCA is a class B misdemeanor with a mandatory 96 hours community service and loss of a drivers license for six months. We estimate we will be appointed in 75% of these cases. The result will be 444 additional misdemeanor cases.

Under national standards, a Public Defender attorney should handle no more than 400 new misdemeanor cases per year. The repeat MCA cases will be less difficult than the average misdemeanor, so we will increase this number to 600 new repeat MCA's per year per attorney. With the addition of a half-time attorney, the Public Defender Agency will be able to handle the increased caseload due to repeat MCA. An additional full-time attorney will be needed to handle the additional caseload due to habitual MCA.

According to the DHSS statistics, the majority of these cases are filed in Anchorage, Fairbanks, and Palmer. We would place the half-time attorney in Anchorage because it would be easier to hire a part-time attorney for Anchorage. The other attorney would be placed in Palmer.

The cost per attorney includes clerical support and one-time equipment costs in the initial year.

MAY 06 2001

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 6
Bill Version: CSHB 179(JUD)
(H) Publish Date: 4/20/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Health & Social Services
Title: An Act relating to underage drinking and BRU: Alcohol & Drug Abuse Svcs
drug offenses Component: CAASA Grants
Sponsor: House (JUD)
Requester: House (JUD) Component Number: 1413

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	426.0	426.0	426.0	426.0	426.0	426.0
Miscellaneous						
TOTAL OPERATING	426.0	426.0	426.0	426.0	426.0	426.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	426.0	426.0	426.0	426.0	426.0	426.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	426.0	426.0	426.0	426.0	426.0	426.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
HB 179 creates a class B misdemeanor crime of "habitual minor consuming." Upon conviction the court is to require the individual to receive treatment specified under AS 28.35.030(h). AS 28.35.030(h) is geared toward the sentencing of adult DWI offenders. Alcohol Safety Action Program (ASAP) functions not as treatment but as the monitor of compliance with conditions of the court as part of the sentence. The existing ASAP program does not serve minors (persons under 18). Based on DMV data about youth the lose their driver's license due to MC/MIP, we are projecting that an additional 1,048 person statewide would be found guilty under this bill and referred to ASAP programs. Current ASAP programs are under funded and could not absorb this increase without increased funding. These funds would allow the Division to fund programs that would be specific for the person guilty of "habitual minor consuming."

Prepared by: Ernie Turner Phone 465-2071
Division: Alcohol and Drug Abuse Date/Time 3/26/01 1:12 PM
Approved by: Elmer A. Lindstrom, Special Assistant Date 3/26/01 1:12 PM
Agency: Department of Health & Social Services

For distribution information, call the Governor's Legislative Office

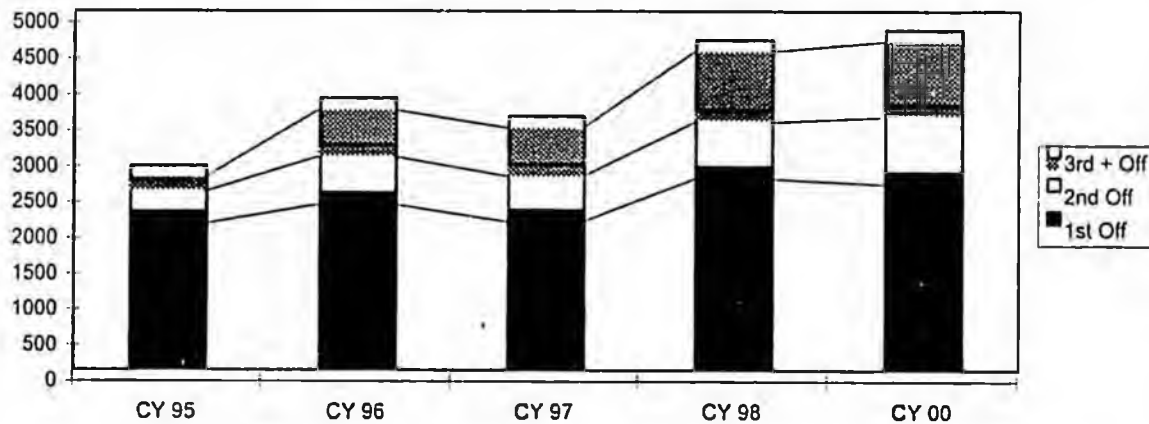
ANALYSIS: (continued)

AS 47.37.045 established the Community Action Against Substance Abuse program. Under this program 47.37.045(7) allows for the funding of "youth assessment and referral programs that provide substance abuse screening services to and monitor compliance with a minor required to participate in..." alcohol or drug education or treatment. As such these funds are requested under that grant component.

The Division of Motor Vehicles has been keeping records of the number of youth who lose their driver's license under existing statutes since CY 95. As review of this data indicates that in CY 2000 1,048 youth lost their driver's license due to having had their third minor consuming or minor in possession offense. Since the number of youth with a third offense has grown each year since CY 95 we would project that under this crime we could expect to see that many youth being sent to ASAP under this bill.

As can be seen by the data from the Division of Motor Vehicles (shown in the chart below), it indicates that over the past years the number of youth losing their driving licenses for minor consuming has been increasing. The number that have lost their license for second and third or more offenses has also risen. The chart below is from this data and clearly shows that the number of youth that could be determined to be guilty of "habitual minor consuming" would be high.

Comparison of the number of youth who have lost their driver's license due to 1st, 2nd, or 3rd MC/MIP offense in CY 1995, 1996, 1997, 1998 and 2000



MAY 16 2001

SENATE FINANCE COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 5
Bill Version: CSHB 179(JUD)
(H) Publish Date: 4/20/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Health & Social Services
Title: An Act relating to underage drinking and BRU: Alcohol & Drug Abuse Svcs
drug offenses Component: Alcohol Safety Action Program
Sponsor: House (JUD)
Requester: House (JUD) Component Number: 305

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	63.5	63.5	63.5	63.5	63.5	63.5
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	63.5	63.5	63.5	63.5	63.5	63.5

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	63.5	63.5	63.5	63.5	63.5	63.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	63.5	63.5	63.5	63.5	63.5	63.5

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 179 creates a class B misdemeanor crime of "habitual minor consuming." Upon conviction the court is to require the individual to receive treatment specified under AS 28.35.030(h). AS 28.35.030(h) is geared toward the sentencing of adult DWI offenders. The existing Alcohol Safety Action Program (ASAP) program does not serve minors (persons under 18). ASAP functions not as treatment but as the monitor of compliance with conditions of the court as part of the sentence. The ASAP office in Anchorage provides the ASAP services in Anchorage as well as providing oversight and technical assistance to other grantee ASAP statewide. This position will work on establishing new standards for dealing with youth under this program for both Anchorage and other programs statewide. These standards would establish how the ASAP programs will make certain that the screening and referral process is appropriate for these person convicted under this new crime.

Prepared by: Ernie Turner, Phone 465-2071
Division: Alcohol and Drug Abuse Date/Time 3/26/01 1:08 PM
Approved by: Elmer A. Lindstrom, Special Assistant Date 3/26/01 1:08 PM
Agency: Department of Health & Social Services

For distribution information, call the Governor's Legislative Office

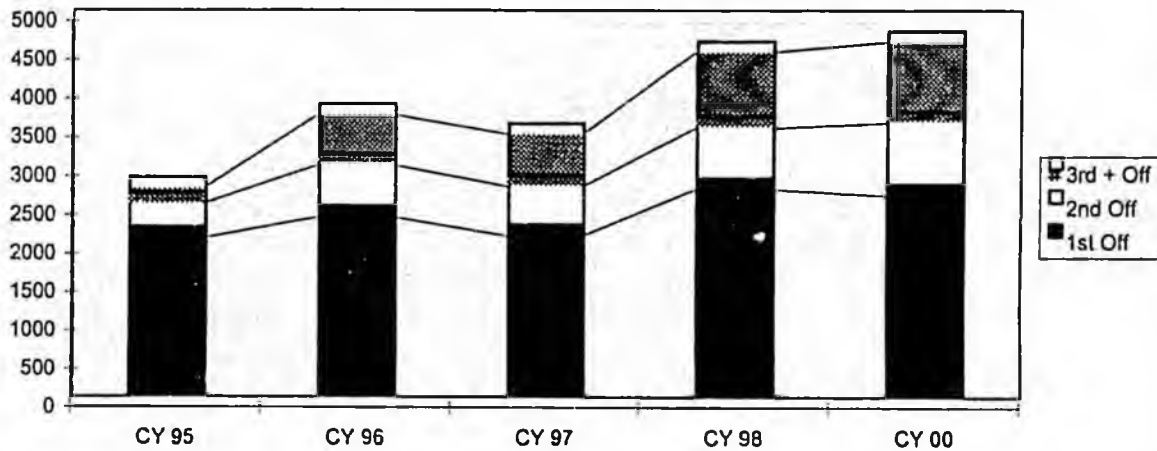
COMMITTEE COPY

ANALYSIS: (continued)

The Division of Motor Vehicles has been keeping records of the number of youth who lose their driver's license under existing statutes since CY 95. As review of this data indicates that in CY 2000 1,048 youth lost their driver's license due to having had their third minor consuming or minor in possession offense. Since the number of youth with a third offense has grown each year since CY 95 we would project that under this crime we could expect to see that many youth being sent to ASAP under this bill.

As can be seen by the data from the Division of Motor Vehicles (shown in the chart below), it indicates that over the past years the number of youth losing their driving licenses for minor consuming has been increasing. The number that have lost their license for second and third or more offenses has also risen. The chart below is from this data and clearly shows that the number of youth that could be determined to be guilty of "habitual minor consuming" would be high.

Comparison of the number of youth who have lost their driver's license due to 1st, 2nd, or 3rd MC/MIP offense in CY 1995, 1996, 1997, 1998 and 2000



MAY 06 2001

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 179(JUD)
(H) Publish Date: 4/20/01

Revision Date/Time(Note if Correction): _____ Dept. Affected: Corrections
Title: An Act relating to underage drinking and drug BRU: Administration & Operations
offenses; and providing for an effective date. Component: Institutions
Sponsor: House Judiciary Committee
Requester: House Judiciary Committee Component Number: 1381

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						
TOTAL OPERATING	0.0	***	***	***	***	***

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	***	***	***	***	***

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would make a 3rd time conviction for minor consuming or in possession or control a class B Misdemeanor. It also provides graduated sanctions for 1st and 2nd time offenders and requires treatment for 3rd time offenders. It is anticipated that the first year, the Department of Corrections would be able to absorb any incarceration associated with this legislation since the bill will not encompass those with convictions prior to the effective date of the legislation.

It is the Department of Corrections' position that providing JSAP and making it a requirement of probation, in concert with graduated sanctions, will lessen the ultimate fiscal impact on the Department. Early intervention is believed to aid in prevention of further drinking and concomitant dependence. If the treatment component is not required/available, it is likely that Corrections will be taxed in subsequent years and may require additional funding. It is unclear at this time what that impact would be but court records indicate that there were 1,744 unduplicated individuals who were 18 or older as of 1/1/01 and had 2 convictions for MCA and 1,427 who had 3 or more convictions. Depending on what sanctions the court

Prepared by: Candace Brower Phone 465-4652
Division: Commissioner's Office Date/Time 3/29/01/4:30 pm
Approved by: Margaret Pugh Date 3/29/01
Agency: Department of Corrections

For distribution information, call the Governor's Legislative Office

22nd Legislative Session

HB 179 cont.
3/29/01
Page 2, FN #2

would impose for these B misdemeanants, there could become a serious influx of these offenders who were previously dealt with by violations/citations. It is hoped that graduated sanctions and education/treatment will provide the deterrence necessary to prevent incarceration in the future.

ALASKA STATE LEGISLATURE

HOUSE JUDICIARY COMMITTEE

Representative Norman Rokeberg, Chairman
Representative Scott Ogan, Vice-Chairman
Representative John Coghill
Representative Jeannette James
Representative Kevin Meyer
Representative Ethan Berkowitz
Representative Albert Kookesh



State Capitol
Juneau, AK 99801-1182
Telephone: (907) 465-4990
Fax: (907) 465-2040

Heather M. Nobrega
Counsel to Committee

Sponsor Statement for HB 179 (FIN)

In 1994, the Legislature enacted the "Use It, Lose It" law (AS 28.15.183) for minors who are caught possessing or using alcohol. If a minor is caught using alcohol, his/her driver's license would be administratively revoked for a period of time.

In December, in a case called *State v. Niedermeyer*, the Alaska Supreme Court found that taking away a minor's driver's license for possession or consumption of alcohol or a controlled substance, without giving them a trial, was in violation of a minor's constitutional right to due process.

If a minor is caught using alcohol or drugs, they are sent a letter from the DMV stating that the DMV will not revoke their license until there has been a court conviction for the offense. At present, the district attorney's office is not prosecuting minors caught for consumption of alcohol, because the court system is not prepared to handle jury trials for this type of case.

The effect of the *Niedermeyer* decision is that minors now go virtually unpunished for possessing or consuming alcohol. The maximum penalty that may currently be enforced on minors who are caught consuming or possessing alcohol is a \$100 fine.

This law will impose appropriate punishments on minors who use alcohol, and will be a deterrent to minors when they consider drinking. Statistics show that the earlier a person begins drinking, the more likely they are to have problems with alcohol later in life. By sending a message early to minors that their actions will not go unpunished, we hope to deter alcohol problems in the future.

This bill will establish a graduated system of punishment for minors who are caught consuming, possessing or controlling alcohol. On a minor's first offense, he/she would be subject to a fine of between \$200-600, must attend alcohol information school, and will be placed on probation. On a minor's second offense, the minor would be guilty of repeat minor consuming and would be subject to a fine of \$1000, at least 48 hours of community work service, a three-month license revocation, and probation. A minor's third offense would cause them to be guilty of habitual minor consuming. This is a class B misdemeanor, which results in up to a \$1000 fine and 90 days in jail. In addition, the minor will lose his/her license for a period of six months, will be required to complete at least 96 hours of community work service, and will be placed on probation.

The committee urges your support of this bill.

ALASKA STATE LEGISLATURE

HOUSE JUDICIARY COMMITTEE

Representative Norman Rokeberg, Chairman
Representative Scott Ogan, Vice-Chairman
Representative John Coghill
Representative Jeannette James
Representative Kevin Meyer
Representative Ethan Berkowitz
Representative Albert Kookesh



State Capitol
Juneau, AK 99801-1182
Telephone: (907) 465-4990
Fax: (907) 465-2040

Heather M. Nobrega
Counsel to Committee

Sectional Analysis for HB 179 (FIN)

- Section 1:** Establishes penalty for first-time minors caught consuming, possessing or controlling alcohol. Penalty: \$200-600 fine, alcohol information school and probation. Allows court to divert minor into a community diversion panel.
- Section 2:**
- Subsection (c):* Establishes penalty for minors caught consuming, possessing or controlling alcohol for a second time. Penalty: \$1000 fine (\$500 of which is suspended), 48 hours community work service, revocation of driver's license for three months, and probation.
- Subsection (d):* Establishes penalty for minors caught consuming, possessing or controlling alcohol three or more times. Penalty: class B misdemeanor, 96 community work service, revocation of driver's license for six months, and probation.
- Subsection (e):* Probation last for one year, or until the person is 21 years of age, whichever is later. The defendant cannot refuse probation. The court may order the defendant to pay for and enroll in a juvenile alcohol safety action program (JSAP). Conditions of probation are then listed.
- Subsection (f):* Requires that any community work service imposed be performed within 120 days of the entry of judgment for a conviction. Requires defendant to prove completion of work service.
- Subsection (g):* Treatment recommended by JSAP may include inpatient treatment.
- Subsection (h):* Failure to complete any JSAP evaluation or requirements, treatment, education, or community work service may lead to a reinstatement of any suspended fines or

incarceration. In addition, a minor who has had his/her license revoked shall continue to do so for an additional six months.

Subsection (i): Requires the court to also look to the financial resources of the parent in determining eligibility for court-appointed counsel.

Subsection (j): Sets forth when a license revocation is consecutive vs. concurrent.

Subsection (k): Definition section

Section 3: Conforms statute reference.

Section 4: Conforms statute references.

Section 5: Creates a statute, AS 28.15.176, that allows for administrative revocation of licenses for minors who consume or possess alcohol or drugs.

Section 6: Requires the court convicting a minor of repeat or habitual consuming to revoke the minor's license.

Section 7: Removes possession or use of a controlled substance, and possession or consumption of alcohol from the current administrative revocation of license statute, AS 28.15.183.

Section 8: Same as Section 6.

Section 9: Once a license has been revoked under AS 28.15.183(g), the license may not be reinstated unless, if required to do so, the minor has successfully completed any education or treatment required by JSAP.

Section 10: Deletes the requirement of immediate renewal of a license if there is no prosecution, the prosecution results in a dismissal, or the person is found not guilty.

Section 11: Removes possession or use of a controlled substance, and possession or consumption of alcohol from the administrative hearing process for revocations under AS 28.15.183.

- Section 12:** Amends the ages when a court can revoke a minor's license for misconduct involving a controlled substance, or for an offense involving illegal use or possession of a firearm.
- Section 13:** Adds repeat and habitual minor consuming, possessing or control to the list of offenses that require the court to revoke a minor's license.
- Section 14:** Prohibits the DMV from issuing or renewing a minor's revoked driver's license, unless, if required to do so, the minor has successfully completed any education or treatment required by JSAP.
- Section 15:** Exempts minor consuming, possessing or controlling alcohol from the juvenile justice system. Habitual minor consumers are excluded from this exemption, however, and are to be placed in the juvenile justice system on their third or subsequent offense.
- Section 16:** Requires that when making an informal adjustment of a delinquent minor, the informal adjustment:
- (1) must be made with the agreement and consent of the minor and minor's parents
 - (2) must give the minor's foster parents an opportunity to be heard
 - (3) must include notice that restitution will be necessary
 - (4) for a violation of habitual consuming, possession or control, must include an agreement that the minor perform 96 hours of community work service, and have this/her license revoked for six months
 - (5) for an offense described in AS 28.15.185 (a)(1), must include an agreement that the minor's license be revoked as if the minor has been adjudicated delinquent.
- Section 17:** Requires the court adjudicating a delinquent minor for repeat or habitual possession, consumption or control of alcohol, for an offense involving a controlled substance, or involving a firearm to revoke the minor's license.
- Section 18:** Requires the Dept. of Health & Social Services to develop and implement a juvenile alcohol safety action program.
- Section 19:** A pilot juvenile alcohol treatment program shall be established by the Department of Health & Social Services in Fairbanks, Juneau,

Ketchikan and Kotzebue. The program shall begin July 1, 2001 and end June 30, 2003.

- Section 20:** Makes this act applicable to offenses committed on or after the effective date, except that references to previous convictions includes convictions occurring before, on or after the effective date.
- Section 21:** Effective date is July 1, 2001.

SENATE COMMITTEE REPORT

DATE: 4/30/01

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 5-5-01

Judiciary Committee considered CS FOR HOUSE BILL NO. 179(FIN)

"An Act relating to underage drinking and drug offenses; and providing for an effective date."

and recommends:

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

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
LAW	4/24/01	✓		11
H+SS	4/25/01	✓		10
ACS	4/25/01	✓		9
H+SS	4/24/01	✓		8
H+SS	3/26/01	✓		6
H+SS	3/26/01	✓		5
...CORRECTIONS	3/29/01	✓		2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	X			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>				
<i>[Signature]</i>				
CHAIR: <i>[Signature]</i>				