

**HB**

**179**

# 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." BRU 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						
<b>TOTAL OPERATING</b>	<b>49.3</b>	<b>42.8</b>	<b>42.8</b>	<b>42.8</b>	<b>42.8</b>	<b>42.8</b>

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

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

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 Daughhotee for Bruce M. Botelho, Attorney General Date 4/24/01  
Agency: Department of Law

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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.

# 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						
<b>TOTAL OPERATING</b>	<b>400.0</b>	<b>400.0</b>	<b>400.0</b>	<b>400.0</b>	<b>400.0</b>	<b>400.0</b>

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

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

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 persons 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

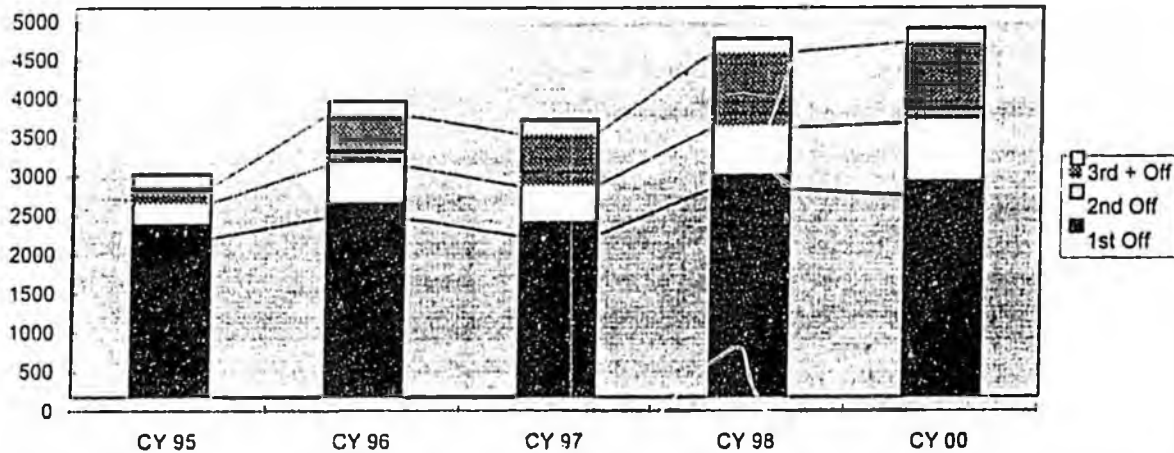
ANALYSIS: (continued)

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.

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



# 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) \_\_\_\_\_ Dept. Affected \_\_\_\_\_  
 Title Minor Consuming 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						
<b>TOTAL OPERATING</b>	<b>40.7</b>	<b>40.7</b>	<b>40.7</b>	<b>40.7</b>	<b>40.7</b>	<b>40.7</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	40.7	40.7	40.7	40.7	40.7	40.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>40.7</b>	<b>40.7</b>	<b>40.7</b>	<b>40.7</b>	<b>40.7</b>	<b>40.7</b>

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

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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 + balliff	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	<u>27,167</u>	<u>27,167</u>	<u>27,167</u>	<u>27,167</u>	<u>27,167</u>
	<u>40,681</u>	<u>40,681</u>	<u>40,681</u>	<u>40,681</u>	<u>40,681</u>
Total Jury and Personnel cos's for 13 Misdemeanor Trials					

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

# 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 Service  
 Component: Public Defender Agency  
 Sponsor: House Judiciary Committee  
 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						
<b>TOTAL OPERATING</b>	<b>189.0</b>	<b>177.3</b>	<b>177.3</b>	<b>177.3</b>	<b>177.3</b>	<b>177.3</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	189.0	177.3	177.3	177.3	177.3	177.3
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>189.0</b>	<b>177.3</b>	<b>177.3</b>	<b>177.3</b>	<b>177.3</b>	<b>177.3</b>

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

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.

# 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						
<b>TOTAL OPERATING</b>	<b>426.0</b>	<b>426.0</b>	<b>426.0</b>	<b>426.0</b>	<b>426.0</b>	<b>426.0</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	426.0	426.0	426.0	426.0	426.0	426.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>426.0</b>	<b>426.0</b>	<b>426.0</b>	<b>426.0</b>	<b>426.0</b>	<b>426.0</b>

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

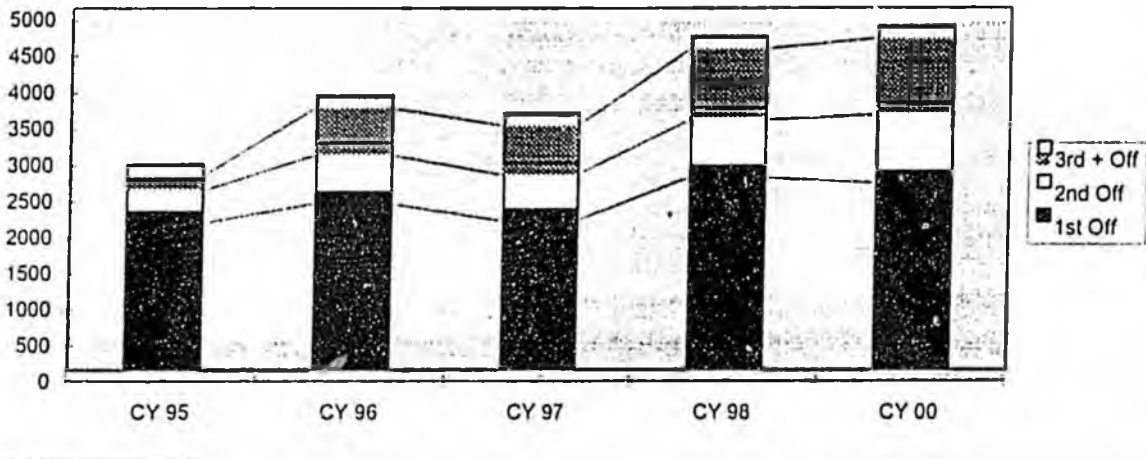
ANALYSIS: (continued)

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



# 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 (JUC)  
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						
<b>TOTAL OPERATING</b>	<b>63.5</b>	<b>63.5</b>	<b>63.5</b>	<b>63.5</b>	<b>63.5</b>	<b>63.5</b>

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

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

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 an 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

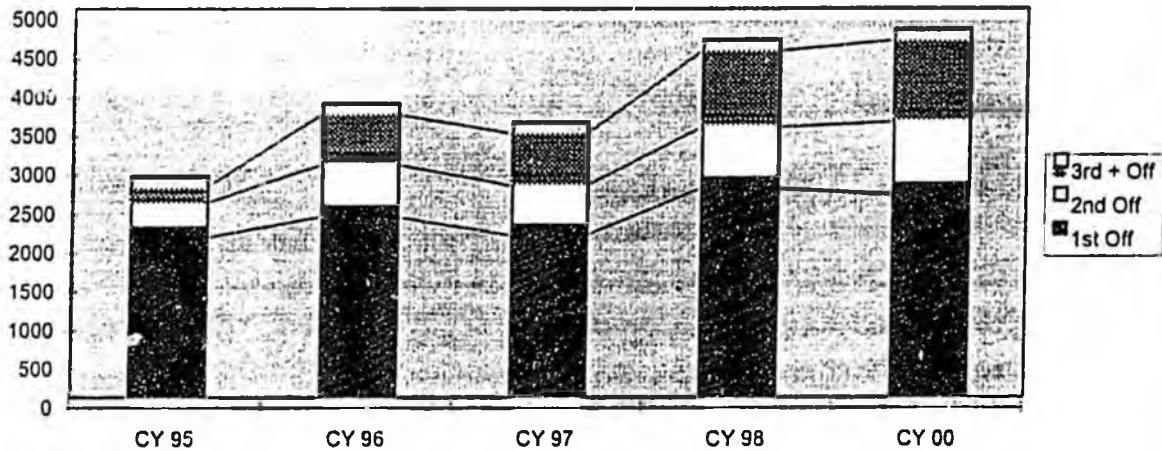
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ANALYSIS: (continued)

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



# 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 offenses; and providing for an effective date. BRU: Administration & Operations  
 Sponsor: House Judiciary Committee Component: Institutions  
 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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</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>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>

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

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22<sup>nd</sup> 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.

ED3: 04/24/01

# ALASKA STATE LEGISLATURE

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### Sectional Analysis for HB 179 (JUD)

**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:** 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 20:** Effective date is July 1, 2001.



**Volunteers of America**  
Alaska

My name is Laura Goss and I am the Community Outreach Coordinator for Volunteers of America Alaska's Adolescent Alcohol and other Drug Treatment Programs. Volunteers of America Alaska offers a Youth Intervention Program for first time offenders aged 13-21, Outpatient and Intensive Outpatient Treatment Programs in Anchorage for youths aged 12 - 18, and a Residential Treatment Center serving adolescents aged 12 - 18 from statewide.

Thank you for allowing me this opportunity to convey our opinions on House Bill 179.

House Bill 179 does not go far enough. It is attempting to get tougher on underage drinking, but it fails to address the underlying issues that lead to that behavior. Youths who are misusing alcohol and other substances need to be screened for dependency and educated about the choices they are making early on, before they develop into problem drinkers, before they escalate and become a danger to those around them on the roads and in their homes.

It is imperative for the well being of each individual in the community to intervene on youth that are engaging in high-risk behaviors. To allow a known substance abuser to continue in life without the benefit of learning just how consequential his or her behavior can be is nothing but irresponsible. Not only is it irresponsible toward that youth, but it is irresponsible toward the entire community.

We would like to see a provision added to the Act that would allow the courts to offer first and second time violators an incentive for participating in alcohol screening and any education or treatment recommendations indicated. Incentives would include fine reduction or offset screening costs and citation dismissal, if appropriate. Such a provision would allow the courts to respond to the problem of underage drinking in a more flexible manner, and would help to ensure that the youth appearing before them received appropriate intervention at an earlier, more treatable stage.

For youth charges with driving under the influence or driving while intoxicated, it is further proposed that the individual's driving privileges not be reinstated until the youth complies with the assessment process and follows through on the subsequent recommendation.

In addition, we would ask that you consider the impact of the community work service component upon the first and second time offenders. As written, it is an unenforceable consequence. There is little or no recourse in those instances where the youth fail to comply. That sends the wrong message to youth that have already shown a disregard for the law. Should it be left in the act, we encourage you to consider the creation of a

Volunteers of America Alaska  
441 W. 5th Avenue, Suite 301, Anchorage, AK 99501-2340, Tel: 907-279-9634, Fax: 907-279-0148  
E-Mail: voak@ak.net

**INFORMATION  
STATEMENT**

juvenile monitoring program, similar to the adult monitoring program, to track compliance and report back to the court.

The importance of consistent imposition of sanctions and adequate monitoring cannot be emphasized enough. We as a community have the responsibility to clearly and consistently convey the message that substance abuse is a high-risk behavior that has potentially deadly consequences and will not be tolerated as simply a matter of "kids will be kids". We want our kids to be kids, and we want them to grow up to be happy, functional, and productive adults. We certainly do not want our children's behavior to be the factor in the loss of life in our community.

In summary, we believe that intervention and education are of paramount importance in combating the problem of underage drinking and should be included at an earlier stage. We also urge you to include a diversion provision into the act.

Thank you.

\* Mr. Chairman, you asked me some statistical and financial information about our programs after my testifying. I'd like to accurately address that information:

- Volunteers of America Alaska is a non-profit organization funded by grants from the State of AK Division of Alcoholism and Drug Abuse, and by private donations. Assessments for all of our programs are FREE of charge.
- ARCII, our residential treatment program, served 46 youths in fiscal year 2000. It is a 16-bed facility, with 12 male beds and 4 female beds. The length of stay ranges from 4 - 6 months. Monthly cost varies from \$5,500 to \$6,500 depending on activities client and parents participate in. We bill insurance, Medicaid/Denali Kid Care, offer a sliding fee scale, and do not turn anyone away for the inability to pay for services.
- Assist, our Outpatient and Intensive Outpatient programs, served 152 clients in fiscal year 2000. The average length of treatment for Outpatient is 12 weeks and for Intensive Outpatient it is 24 weeks (6 months). Average cost of Outpatient treatment per month is about \$650 and average cost of Intensive Outpatient per month is about \$2,400, depending on activities the client and parents participate in. We bill insurance, Medicaid/Denali Kid Care, offer a sliding fee scale, and do not turn anyone away for the inability to pay for services.
- Youth Intervention Program is a 10-hour reality and experiential-based substance abuse education class and served 256 youth in fiscal year 2000. It costs \$125.00. Scholarships are available to those who cannot afford the course fee.

**FASAP MISDEMEANOR SERVICES**

811 CUSHMAN, Suite 205

FAIRBANKS, AK. 99701

Phone 907-452-6144  
Fax 907-452-7845**Minor Consuming/Possession Pilot Program****Static's for FY 2000 and to date for FY 2001**

	*FY2000	**FY2001
New Cases Open	317	319
Cases Completed	192	225
No Priors	82%	78%
One Prior	13%	13%
Two Priors	3%	6%
Three or more Priors	2%	3%
Caucasian	73%	72%
Black	5%	7%
Indian	10%	11%
Eskimo	6%	3%
Other	6%	2%
Male	72%	53%
Female	28%	47%
Type of Treatment Completed		
AIS	78%	78%
Outpatient	21%	20%
Residential	1%	2%

\* FY2000 - September 1999 - June 2000

\*\* FY2001 - July 2000 - February 2001

- 66% - 70% have completed some form of treatment
- Out of 417 completion 4 have re-offended for Minor Consuming
- Out of 417 completions 2 have re-offended with the charge of DWI

Without funding, it makes a program like this difficult if not impossible to operate.



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**Mothers Against Drunk Driving • Juneau Chapter**

211 Fourth St. Suite 102 • Juneau, AK 99801

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April 18, 2001

MADD thanks the Judiciary committee for sponsoring HB 179 and we wish to speak in support of it.

MADD believes there should be more effective and stringent enforcement of the minimum drinking age law, by means of administrative, civil and criminal measures, to further limit illegal underage access to alcohol and thus reduce youthful involvement in alcohol and other drug-related traffic crashes.

MADD advocates that it be illegal for those under 21 to drive with any measurable level of blood alcohol. Zero tolerance shall establish as a maximum legal limit, a blood alcohol level of .02 BAC.

MADD advocates that each state adopt and implement laws which provide driver's license sanctions for underage persons convicted of purchasing or possession of alcoholic beverages.

MADD advocates that each state adopt laws providing that persons under 21 receive driver's licenses which are more restrictive than full licenses, under which violations would result in driver improvement actions and license revocation and civil sanctions in addition to any criminal sanctions and penalties. MADD advocates that each state adopt laws providing for graduated licensing privileges to persons under 21. Early driving experiences must be acquired in lower risk environment through extended restriction of no alcohol use, primary belt enforcement, limitation on night time driving and teenage passengers. Appropriate restriction should be lifted in stages, base in clean driving records.

MADD feels HB 179 addresses some of the above statements and therefore would make a difference in preventing underage drinking as well as drinking & driving in the #2 state in the nation for drunk driving fatalities.