

HB

4

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

BILL NO. CSHB 4 (FIN) am

Revision Date/Time (Note if correction) Amended 5/01/2001 Dept. Affected _____
 Title Omibus DWI Bill BRU Alaska Court System
 Component Trial Courts
 Sponsor Representative Rokeberg
 Requester Senate Judiciary Committee 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	75.5	81.6	89.2	95.3	102.8	102.8
Travel						
Contractual	16.6	24.8	35.1	43.4	53.8	53.8
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	92.1	106.4	124.3	138.7	156.6	156.6

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	92.1	106.4	124.3	138.7	156.6	156.6
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	92.1	106.4	124.3	138.7	156.6	156.6

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

Two provisions in CSHB 4 (FIN) am will have an impact on the court system. Section 28 amends AS 28.35.030(a) so that a person commits the crime of driving while intoxicated if that person has a BAC of .08 or higher. National studies suggest that other states that have made this reduction have seen a 10% increase in the number of cases brought before the court. This would mean an additional 500 misdemeanor filings a year and an additional 28 felony filings a year. This note reflects five months of district court judge and clerk time for the additional misdemeanors and the superior court judge and clerk time and jury costs for three three-day jury trials for the felony cases.

Sections 33 and 47 impose a five-year phase-in of a new 10-year look-back for felony DWI offenses. The Department of Law estimates that the phase-in will result in 45 new felony filings in year one, 90 in year two, 135 in year three, 180 in year four, and 225 in year five. This fiscal note is based on those estimates and on a 10% felony trial rate.

Prepared by: Douglas Wooliver, Administrative Attorney Phone 463-4750
 Division: Alaska Court System Date/Time 5/01/2001 2:30 p.m.
 Approved by: Stephanie Cole, Administrative Director Date _____
 Agency: Alaska Court System

For distribution information, call the Governor's Legislative Office

Alaska Court System

Fiscal Note Calculations for CSHB 4 (FIN) AM

5/1/01

	FY02	FY03	FY04	FY05	FY06
<u>Superior Court Lookback Provision:</u>					
50 Jurors 1.0 Days for Selection	1,250	1,250	1,250	1,250	1,250
14 Jurors for 1.5 Days of Court	525	525	525	525	525
12 Jurors for .5 Days of Deliberation	150	150	150	150	150
Deliberation Meal \$11/12 jurors + bailiff	143	143	143	143	143
Total per Superior Court Trial	2,068	2,068	2,068	2,068	2,068
Proposed # Superior Court Trials	5	9	14	18	23
Est. Jury Cost of Superior Court Trials	10,340	18,612	28,952	37,224	47,564
Superior Court Judge (Pro Tems)	5,760	10,368	16,128	20,736	26,496
In-Court Clerk (NPP)	1,831	3,296	5,127	6,592	8,424
Est. Personal Services	7,591	13,664	21,255	27,328	34,920
Subtotal Lookback Provision	17,931	32,276	50,207	64,552	82,484
<u>Superior Court .08 Provision:</u>					
50 Jurors 1.0 Days for Selection	1,250	1,250	1,250	1,250	1,250
14 Jurors for 1.5 Days of Court	525	525	525	525	525
12 Jurors for .5 Days of Deliberation	150	150	150	150	150
Deliberation Meal \$11/12 jurors + bailiff	143	143	143	143	143
Total per Superior Court Trial	2,068	2,068	2,068	2,068	2,068
Proposed # Superior Court Trials	3	3	3	3	3
Est. Jury Cost of Superior Court Trials	6,204	6,204	6,204	6,204	6,204
District Court Judge (5 months PFT)	50,419	50,419	50,419	50,419	50,419
In-Court Clerk (5 months PFT)	17,499	17,499	17,499	17,499	17,499
	67,918	67,918	67,918	67,918	67,918
Subtotal .08 Provision	74,122	74,122	74,122	74,122	74,122
HB132 Personal Services Costs	75,509	81,582	89,173	95,246	102,837
HB132 Contractual Services Costs	16,544	24,816	35,156	43,428	53,768
Total Estimated Costs	92,053	106,398	124,329	138,674	156,605

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

BILL NO. CSHB 4 (FIN) am

Revision Date/Time (Note if correction) 4/30/01 Dept. Affected _____
 Title Omnibus DWI Bill BRU Alaska Court System
 Component Trial Courts
 Sponsor Representative Rokeberg
 Requester Senate Judiciary Committee 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	81.7	87.8	95.4	101.5	109.0	109.0
Travel						
Contractual	16.6	24.8	35.1	43.4	53.8	53.8
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	98.3	112.6	130.5	144.9	162.8	162.8

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	98.3	112.6	130.5	144.9	162.8	162.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	98.3	112.6	130.5	144.9	162.8	162.8

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

Two provisions in CSHB 4 (FIN) am will have an impact on the court system. Section 28 amends AS 28.35.030(a) so that a person commits the crime of driving while intoxicated if that person has a BAC of .08 or higher. National studies suggest that other states that have made this reduction have seen a 10% increase in the number of cases brought before the court. This would mean an additional 500 misdemeanor filings a year and an additional 28 felony filings a year. This note reflects five months of district court judge and clerk time for the additional misdemeanors and the superior court judge and clerk time and jury costs for three three-day jury trials for the felony cases.

Sections 33 and 47 impose a five-year phase-in of a new 10-year look-back for felony DWI offenses. The Department of Law estimates that the phase-in will result in 45 new felony filings in year one, 90 in year two, 135 in year three, 180 in year four, and 225 in year five. This fiscal note is based on those estimates and on a 10% felony trial rate.

Prepared by: Douglas Wooliver, Administrative Attorney Phone 463-4750
 Division: Alaska Court System Date/Time 5/01/2001 9:30 a.m.
 Approved by: Stephanie Cole, Administrative Director Date _____
 Agency: Alaska Court System

For distribution information, call the Governor's Legislative Office

Alaska Court System
 Fiscal Note Calculations for CSHB 4 (FIN) AM
 5/1/01

	FY02	FY03	FY04	FY05	FY06
<u>Superior Court Lookback Provision:</u>					
50 Jurors 1.0 Days for Selection	1,250	1,250	1,250	1,250	1,250
14 Jurors for 1.5 Days of Court	525	525	525	525	525
12 Jurors for .5 Days of Deliberation	150	150	150	150	150
Deliberation Meal \$11/12 jurors + bailiff	143	143	143	143	143
Total per Superior Court Trial	2,068	2,068	2,068	2,068	2,068
Proposed # Superior Court Trials	5	9	14	18	23
Est. Jury Cost of Superior Court Trials	10,340	18,612	28,952	37,224	47,564
Superior Court Judge (Pro Tems)	5,760	10,368	16,128	20,736	26,496
In-Court Clerk (NPP)	1,831	3,296	5,127	6,592	8,424
Est. Personal Services	7,591	13,664	21,255	27,328	34,920
Subtotal Lookback Provision	17,931	32,276	50,207	64,552	82,484
<u>Superior Court .08 Provision:</u>					
50 Jurors 1.0 Days for Selection	1,250	1,250	1,250	1,250	1,250
14 Jurors for 1.5 Days of Court	525	525	525	525	525
12 Jurors for .5 Days of Deliberation	150	150	150	150	150
Deliberation Meal \$11/12 jurors + bailiff	143	143	143	143	143
Total per Superior Court Trial	2,068	2,068	2,068	2,068	2,068
Proposed # Superior Court Trials	3	3	3	3	3
Est. Jury Cost of Superior Court Trials	6,204	6,204	6,204	6,204	6,204
District Court Judge (5 months PFT)	50,419	50,419	50,419	50,419	50,419
In-Court Clerk (5 months PFT)	17,499	17,499	17,499	17,499	17,499
	67,918	67,918	67,918	67,918	67,918
Subtotal .08 Provision	74,122	74,122	74,122	74,122	74,122
HB132 Personal Services Costs	81,713	87,786	95,377	101,450	109,041
HB132 Contractual Services Costs	16,544	24,816	35,156	43,428	53,768
Total Estimated Costs	98,257	112,602	130,533	144,878	162,809

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 5
Bill Version: CSHB 4(TRA)
(H) Publish Date: 2/28/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Health & Social Services
Title: An Act relating to offenses involving operating a motor vehicle BRU: Alcohol & Drug Abuse Svcs
Sponsor: Rep Rokeberg Component: Alcohol Safety Action Program
Requester: House (TRA) 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	60.0	60.0	60.0	60.0	60.0	60.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	52.4	52.4	52.4	52.4	52.4	52.4
Miscellaneous						
TOTAL OPERATING	112.4	112.4	112.4	112.4	112.4	112.4

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	112.4	112.4	112.4	112.4	112.4	112.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	112.4	112.4	112.4	112.4	112.4	112.4

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)

Section 26 lowers the blood alcohol content from .10 to .08. It is estimated that this will result in a 10% increase in number of DUI cases resulting in convictions and mandatory referral to Alcohol Safety Action Programs (ASAP) and subsequently for treatment. Of these additional cases DHSS estimates that 100% would be referred to an ASAP. The costs to handle these additional cases is \$112.4. We estimate that 65-70% of these cases will be handled by the ASAP office in Anchorage, which is operated by employees of the Division of Alcoholism and Drug Abuse.

Prepared by: Ernest Turner, Director
Division: Alcoholism and Drug Abuse
Approved by: Elmer A. Lindstrom, Special Assistant
Agency: Department of Health & Social Services

Phone 465-2071
Date/Time 2/26/01 4:30 PM
Date 3/1/01 8:40 AM

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 6
Bill Version: CSHB 4 (TRA)
(H) Publish Date: 2/28/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Health & Social Services
Title: An Act relating to offenses involving operating BRU: Alcohol & Drug Abuse Svcs
a motor vehicle Component: Alcohol/Drug Abuse Grants
Sponsor: Rep Rokeberg
Requester: House (TRA) 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	582.2	582.2	582.2	582.2	582.2	582.2
Miscellaneous						
TOTAL OPERATING	582.2	582.2	582.2	582.2	582.2	582.2

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	582.2	582.2	582.2	582.2	582.2	582.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	582.2	582.2	582.2	582.2	582.2	582.2

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)

Section 26 lowers the blood alcohol content from .10 to .08. It is estimated that this will result in a 10% increase in number of DUI cases resulting in convictions and mandatory referral to Alcohol Safety Action Programs and subsequently for treatment. Of these additional cases DHSS estimates that 75% would be treated in a public program. Due to existing wait capacity and waitlist an additional \$582.2 is required to fund the capacity required to provide the mandated treatment required.

Prepared by: Ernest Turner, Director Phone 465-2071
Division: Alcoholism and Drug Abuse Date/Time 2/26/01 4:30 PM
Approved by: Elmer A. Lindstrom, Special Assistant Date 3/1/01 8:45 AM
Agency: Department of Health & Social Services

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 11
 Bill Version: CSHB 4 (JUD)
 (H) Publish Date: 4/5/01

Revision Date/Time (Note if correction): March 6, 2001 Dept. Affected: Health & Social Services
 Title: Relating to operating motor vehicles under the BRU: Juvenile Justice
influence Component: Johnson Youth Facility
 Sponsor: Representative Rokeberg
 Requester: House (TRA) Component Number: 267

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	0.0	0.0	0.0	0.0	0.0

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						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	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)

Section 33 of the bill was amended to delete a provision which would have required an additional six month period of incarceration for persons convicted of driving under the influence. With this provision deleted from the H-TRA committee substitute, there would be a zero fiscal impact on DJJ through CSHB4(TRA).

Prepared by: George Buhite, Director Phone 465-2212
 Division: Juvenile Justice Date/Time 3/6/01 4:33 PM
 Approved by: Elmer A. Lindstrom, Special Assistant Date 3/6/01 4:33 PM
 Agency: Department of Health & Social Services

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 11
 Bill Version: CSHB 4 (JUD)
 (H) Publish Date: 4/5/01

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 Title: Relating to operating motor vehicles under the BRU: Juvenile Justice
influence Component: Johnson Youth Facility
 Sponsor: Representative Rokeberg
 Requester: House (TRA) Component Number: 267

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	0.0	0.0	0.0	0.0	0.0

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						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	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)

Section 33 of the bill was amended to delete a provision which would have required an additional six month period of incarceration for persons convicted of driving under the influence. With this provision deleted from the H-TRA committee substitute, there would be a zero fiscal impact on DJJ through CSHB4(TRA).

Prepared by: George Buhite, Director Phone 465-2212
 Division: Juvenile Justice Date/Time 3/6/01 4:33 PM
 Approved by: Elmer A. Lindstrom, Special Assistant Date 3/6/01 4:33 PM
 Agency: Department of Health & Social Services

For distribution information, call the Governor's Legislative Office

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

JUDICIARY COMMITTEE, CHAIRMAN
LABOR & COMMERCE COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT &
TOURISM, MEMBER

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Representative Norman Rokeberg

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SPONSOR STATEMENT

CSHB 4 (FIN) am

Omnibus Drunk Driving Legislation

Alaska has one of the toughest drunk driving laws in the United States, but many of our state's habitual drunk drivers are not getting the message. CSHB 4 (FIN) am creates the toughest set of driving under the influence ("DUI") laws in the country.

Poor judgment and chemical dependency are the primary causes of habitual drinking and driving. These people *kill, injure, and maim* Alaskans causing untold grief, pain, suffering, and economic loss. Estimates show that the average 1998 alcohol-related fatality in Alaska cost \$5.1 million (\$1.7 million in monetary costs and \$3.4 million in quality of life losses) while the average 1998 injured survivor experienced approximated \$126,000 in costs (\$52,000 in monetary costs and \$74,000 in quality of life losses). These figures are from the Public Services Research Institute and were produced under a National Highway Traffic Safety Administration Partners in Progress Cooperative Agreement and are figures for Alaska.

Over the past year, Alaska has witnessed a rash of tragic deaths and injuries. A public outcry resulted in the establishment of the Municipality of Anchorage's DUI Task Force. Many recommendations of this Task Force are embodied in CSHB 4 (FIN) am.

CSHB 4 (FIN) am increases fines and jail time; lowers the blood alcohol content limit from .10 to .08; mandates treatment for prisoners; deletes the five-year lookback provision while phasing in a ten-year lookback; provides for discretionary immobilization or forfeiture of the vehicle on the second offense and forfeiture on third and subsequent offenses; requires seizure of license plates; and increases fees, fines and cost caps in various areas of the law to enhance revenue to offset associated costs.

CSHB 4 (FIN) am contains both the "stick" (punitive revision of law) in the House Majority's alcohol package and the "carrot" (flexibility for the judicial system to in giving out sentences and fines). It also contains several enhancements for the treatment of offenders. Enactment of this legislation will send a strong and clear message: **DO NOT DRINK AND DRIVE.**

The fiscal impacts are significant. However, if this bill saves one life, or saves one Alaskan from injury -- isn't it worth the investment?

Your support of this important legislation would be appreciated.

ED 5:04/29/J1

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

JUDICIARY COMMITTEE, CHAIRMAN
LABOR & COMMERCE COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT &
TOURISM, MEMBER

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Representative Norman Rokeberg

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SECTIONAL ANALYSIS

CSHB 4 (FIN) am

**An Act relating to motor vehicles and to operating a motor vehicle, aircraft, or watercraft;
and providing for an effective date.**

Prepared by Representative Norman Rokeberg

- Section 1:** Finding and intent section.
- Section 2:** Changes references from driving while "intoxicated" to driving while "under the influence of an alcoholic beverage, inhalant or controlled substance."
- Section 3:** Changes references from driving while "intoxicated" to driving while "under the influence of an alcoholic beverage, inhalant or controlled substance"
- Section 4:** Adds new subsection setting forth that the presumptive sentence for manslaughter as a result of driving while under the influence of an alcoholic beverage, inhalant or controlled substance is seven years.
- Section 5:** Changes references from driving while "intoxicated" to driving "while under the influence of an alcoholic beverage, inhalant or controlled substance"
- Section 6:** Requires the department of administration to refuse to register a vehicle if the applicant fails to register the vehicle using the applicant's first, middle, and last name or a business name.
- Section 7:** Adds new subsection concerning seizure of registration plates resulting from chemical sobriety tests and refusals to submit to tests. Such seizure tracks with driver's license suspension or revocation. Also contains provisions for co-owner to obtain registration plates for vehicles. Protects leased, rented, or borrowed vehicles from license plate seizure.

- Section 8:** Changes references from driving while "intoxicated" to driving while "under the influence of an alcoholic beverage, inhalant or controlled substance"
- Section 9:** Changes references from driving while "intoxicated" to driving while "under the influence of an alcoholic beverage, inhalant or controlled substance."
- Section 10:** Changes references from driving while "intoxicated" to driving while "under the influence of an alcoholic beverage, inhalant or controlled substance."
- Section 11:** Adds references to motor vehicle plate seizure to notice provisions.
- Section 12:** Adds references to motor vehicle plate seizure to request for review of department's action provisions.
- Section 13:** Adds reference to motor vehicle registration plate provisions to temporary permit provisions.
- Section 14:** Changes references from driving while "intoxicated" to driving while "under the influence of an alcoholic beverage, inhalant or controlled substance." Repeals the phrase "reasonable grounds" and replaces it with "probable cause" for purposes of the commercial motor vehicle implied consent law.
- Section 15:** Changes references from driving while "intoxicated" to driving while "under the influence of an alcoholic beverage, inhalant or controlled substance."
- Section 16:** Amends minimum periods of license revocation to reflect references to new provisions in AS 28.35.030(n)(3) and 28.35.032(p)(3).
- Section 17:** Requires that the court shall furnish the Division of Motor Vehicles with information on a driving conviction within five working days.
- Section 18:** Technical amendment relating to the authority of the court to grant limited driver's license privileges following a conviction for DUI
- Section 19:** Requires a person who loses their driver's license for DUI or refusal to take a breath test to meet the alcoholism screening, evaluation, referral, and program requirements under AS 28.35.030(h) imposed under AS 28.15.181(a)(5) or (8) in order to have license reissued.
- Section 20:** Doubles driver's license reinstatement fees for those convicted of DUI or refusal.
- Section 21:** Amends the current statutes concerning persons who knowingly permit a motor vehicle to be driven by a person not validly licensed so that persons in fear of perpetrator of domestic violence may not be charged under this statute.

- Section 22:** Changes references from driving while "intoxicated" to driving while "under the influence of an alcoholic beverage, inhalant or controlled substance."
- Section 23:** Repeals the phrase "reasonable grounds" and replaces it with "probable cause" for purposes of the commercial motor vehicle implied consent law. Also changes references to "driving while intoxicated" to while "under the influence of an alcoholic beverage, inhalant or controlled substance."
- Section 24:** Repeals the phrase "reasonable grounds" and replaces it with "probable cause" for the purposes of the commercial motor vehicle implied consent law.
- Section 25:** In commercial motor vehicle section, changes "intoxicated" to "under the influence of an alcoholic beverage". Changes references from "intoxicating liquor" to "alcoholic beverage".
- Section 26:** Changes "intoxicating liquor" to "alcoholic beverage".
- Section 27:** Changes references from "intoxicated" to while "under the influence of an alcoholic beverage, inhalant or controlled substance".
- Section 28:** Changes references to driving while "intoxicated" to driving while "under the influence of an alcoholic beverage, inhalant or controlled substance." Adds "an alcoholic beverage" and "inhalant" to list of items that constitutes crime of driving while "under the influence of an alcoholic beverage, inhalant or controlled substance". Reduces the legal limit for being intoxicated from 0.10 to 0.08 percent of alcohol in a person's blood.
- Section 29:** Changes references to driving while "intoxicated" to driving while "under the influence of an alcoholic beverage, inhalant or controlled substance." Changes the penalties (sentence and fine) for misdemeanor DUI. Adds watercraft to list of items that may be forfeited. On second offense provides discretionary vehicle forfeiture OR immobilization. On third and subsequent, provides discretionary vehicle forfeiture.
- Section 30:** Changes law to establish that treatment providers must provide the judge, prosecutor, defendant, and an agency involved in the defendant's treatment with information and reports concerning the defendant's past and present assessment, treatment, and progress. Such information may only be used in connection with court proceedings involving the defendant's treatment and is otherwise confidential.
- Section 31:** Establishes limit imposed on cost of treatment required to be paid by a person convicted of DUI. Specifies that, as much as possible, treatment shall occur while incarcerated. Establishes that the cost of treatment must include at least \$150 for cost of alcohol safety action program if available. Permits

state to seek reimbursement for treatment costs from permanent fund dividend. Establishes that subsection does not apply to costs of treatment incurred by a person as a result of treatment not required under this subsection.

- Section 32:** Increases the limit imposed on the cost of imprisonment required to be paid by a person convicted of DUI
- Section 33:** Felony DUI section. Eliminates 5-year lookback and phases in a 10-year look back period and establishes that a person is guilty of a class C felony if convicted a third time since January 1, 1996, and within 10 years preceding the date of the offense. Increases the penalties for a conviction under this section, including jail time, fine, loss of driver's license, and forfeiture of the vehicle, watercraft or aircraft used in the offense. Revokes vehicle registration for all vehicles owned by the person convicted. Permits a co-owner to register the vehicle in that person's name.
- Section 34:** Adds definition for "inhalant". Changes references to driving while "intoxicated" to driving while "under the influence of an alcoholic beverage, inhalant or controlled substance."
- Section 35:** Adds provisions relating to restoration of a driver's license following a D.U.I conviction and relating to failure to satisfy alcoholism treatment requirements. Establishes procedure for surrender of registration plate for any vehicle registered or co-registered in convicted person's name. Establishes that court may suspend: (1) a portion of mandatory minimum sentence if persons successfully completes a therapeutic court program; and (2) up to 50% of the minimum fines. Designates the Director of the Division of Motor Vehicles or designee as a person eligible to request and receive criminal justice information.
- Section 36:** Makes technical amendments relating to implied consent law. Changes references to driving while "intoxicated" to driving while "under the influence of an alcoholic beverage, inhalant or controlled substance." Repeals the phrase "reasonable grounds" and replaces it with "probable cause" for the purposes of the implied consent law.
- Section 37:** Repeals the phrase "reasonable grounds" and replaces it with "probable cause" for the purposes of administering a breath test under the implied consent law.
- Section 38:** Repeals the phrase "reasonable grounds" and replaces it with "probable cause" for purposes of administering a breath or blood test under the implied consent law when there is a motor vehicle accident that causes death or serious physical injury.

- Section 39:** Adds new section providing that the implied consent statute was not intended to prevent the police search warrants.
- Section 40:** Changes references to driving while "intoxicated" to driving while "under the influence of an alcoholic beverage, inhalant or controlled substance."
- Section 41:** Changes references to driving while "intoxicated" to driving while "under the influence of an alcoholic beverage, inhalant or controlled substance."
- Section 42:** Changes refusal section to mirror DUI section on fines and penalties for misdemeanors. Provides for discretionary forfeiture or immobilization for second offense. Provides for discretionary forfeiture for third offense.
- Section 43:** Changes refusal section to mirror DUI section on treatment. Changes law to establish that treatment providers must provide the judge, prosecutor, defendant, and an agency involved in the defendant's treatment with information and reports concerning the defendant's past and present assessment, treatment, and progress. Such information may only be used in connection with court proceedings involving the defendant's treatment and is otherwise confidential.
- Section 44:** Changes refusal section to mirror DUI section. Changes driving while "intoxicated" to driving while "under the influence of an alcoholic beverage, inhalant, or controlled substance".
- Section 45:** Changes refusal section on treatment language to mirror DUI section. Establishes limit imposed on cost of treatment required to be paid by a person convicted of DUI. Specifies that, as much as possible, treatment shall occur while incarcerated. Establishes that the cost of treatment must include at least \$150 for cost of alcohol safety action program if available. Permits state to seek reimbursement for treatment costs from permanent fund dividend. Establishes that subsection does not apply to costs of treatment incurred by a person as a result of treatment not required under this subsection.
- Section 46:** Changes refusal section on imprisonment costs to mirror DUI section. Increases the limit imposed on the cost of imprisonment required to be paid by a person convicted of refusal.
- Section 47:** Changes refusal section on felony charges to mirror DUI section. Phases in a 10-year lookback period and establishes that a person is guilty of a class C felony if convicted a third time since January 1, 1996, and within 10 years preceding the date of the offense. Increases the penalties for a conviction under this section, including jail time, fine, loss of driver's license, and forfeiture of the vehicle, watercraft or aircraft used in the offense.

Revokes vehicle registration for all vehicles owned by the person convicted. Permits a co-owner to register the vehicle in that person's name.

- Section 48:** Changes refusal section on driver's license revocation to mirror DUI section. Adds provisions relating to restoration of a driver's license following a DUI conviction and relating to failure to satisfy alcoholism treatment requirements. Establishes procedure for surrender of registration plate for any vehicle registered or co-registered in convicted person's name. Establishes that court may suspend: (1) a portion of mandatory minimum sentence if persons successfully completes a therapeutic court program; and (2) up to 50% of the minimum fines.
- Section 49:** Changes references to driving while "intoxicated" to driving while "under the influence of an alcoholic beverage or controlled substance." Also changes certain presumptions applicable to civil or criminal action involving a person alleged to have driven while under the influence of an alcoholic beverage or controlled substance.
- Section 50:** Requires the police to inform a person undergoing a chemical test for intoxication of their right to have an independent chemical test and requires the department to make reasonable and good-faith efforts to assist the person to obtain an independent test.
- Section 51:** Changes reference to driving while "intoxicated" to driving while "under the influence of an alcoholic beverage, inhalant or controlled substance."
- Section 52:** Requires the court to order forfeiture of motor vehicle, aircraft, or watercraft used in committing a DUI, or refusal offense if this is a third conviction. Changes reference to driving while "intoxicated" to driving while "under the influence of an alcoholic beverage, inhalant or controlled substance."
- Section 53:** Sets forth some examples of how the Department of Public Safety may dispose of a forfeited motor vehicle, watercraft or aircraft under the forfeiture provisions.
- Section 54:** Permits municipal ordinances concerning impoundment and forfeiture to include a fee for administrative costs.
- Section 55:** Amends definition of "alcohol safety action program".
- Section 56:** Changes driving while "intoxicated" to driving while "under the influence of an alcoholic beverage, inhalant, or controlled substance".
- Section 57:** Permits the Department of Health and Social Services to develop, implement, and designate an alcohol safety action program.

Section 58: Adds standards for alcohol safety action programs to current statute.

Section 59: Adds requirements concerning approval of and inspection of alcohol safety action programs.

Section 60: Applicability section.

Section 51: Effective date is July 1, 2001.

ED 5:04/29/01

ALASKA STATE LEGISLATURE

House of Representatives

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LABOR & COMMERCE COMMITTEE, MEMBER
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CSHB 4 (FIN) am HIGHLIGHTS

- ◆ Separates repeat offender drunk drivers from vehicles
- ◆ Lowers BAC to .08
The federal law mandates that we lower our BAC.
If the .08 law is passed and in effect prior to July 15, 2001, Alaska will be eligible to receive approximately \$848,000 in incentive payments for states with .08 BAC.
If we do not lower our BAC to .08 and have it in effect by 1 October 2003, we will actually lose \$3,580,967 in the first year up to \$14,323,867 in the last year.
If we adopt .08 prior to Federal Fiscal Year 2007, we would regain any funds lost.
- ◆ Eliminate 5-year look back and phases in a 10-year look back
Currently a third DUI offense in five years is a felony. After the five-year window, charges then go back to misdemeanors.
This bill phases in a ten-year window.
- ◆ Raises fines and sentences (see attached table)
- ◆ Raises reimbursement cap for incarceration costs from \$1,000 to \$2,000
- ◆ Establishes reimbursement cap for treatment costs reimbursed to state: \$10,000
- ◆ Raises reinstatement fees for driver's licensing due to DUI and/or refusal to take chemical test
- ◆ Lowers impairment from .05 to .04
- ◆ Provides for permanent driver's license revocation for worst offenders
- ◆ After ten years, these worst offenders may apply for reinstatement if meet certain conditions
- ◆ Discretionary vehicle forfeiture or immobilization on 2nd misdemeanor. Offender pays for immobilization costs.
- ◆ Discretionary vehicle forfeiture on 3rd misdemeanor and all felonies
- ◆ Increases presumptive sentence for first felony manslaughter caused by DUI from 5 years to 7 years
- ◆ License plates of offenders will be confiscated along with driver's license and revocation will run concurrent with driver's license revocation or suspension. Co-owners, lienholders, and owner of "borrowed" vehicles are protected and may regain registration plates. Temporary "plate" issued along with temporary driver's license. Current provisions on driver's license review and appeal are offered for license plate confiscation.
- ◆ Changes DWI to DUI

**COMPARISON
CURRENT FINES AND SENTENCES TO THOSE PROPOSED UNDER CSHB 4 (FIN) am
Prepared by Representative Norman Rokeberg
April 29, 2001**

Description	Current Minimum Fine/Sentence	Proposed Minimum Fine/Sentence	Comment
1 st time misdemeanor DUI or Refusal	\$250/72 consecutive hours	\$1500/72 consecutive hours	Section 29 (DUI) Section 42 (Refusal)
2 nd time misdemeanor DUI	\$500/20 days	\$3,000/30 days or 20 days plus 10 days community service at court's discretion	Section 29 (DUI) Section 42 (Refusal)
3 rd time misdemeanor DUI	\$1,000/60 days	\$4,000/60 days	Section 29 (DUI) Section 42 (Refusal)
4 th time misdemeanor DUI	\$2,000/120 days	\$5,000/120 days	Section 29 (DUI) Section 42 (Refusal)
5 th time misdemeanor DUI	\$3,000/240 days	\$6,000/\$240 days	Section 29 (DUI) Section 42 (Refusal)
6 th + time misdemeanor DUI	\$4,000/360 days	\$7,000/360 days	Section 29 (DUI) Section 42 (Refusal)
Driver's license	Court shall revoke	Court shall revoke	No change
Forfeiture	Court May	Court may forfeit or immobile on 2 nd offense; may forfeit third or subsequent	Adds watercraft to items that may be forfeited.

Description	Current Minimum Fine/Sentence	Proposed Minimum Fine/Sentence	Comment
Other costs - applicable to misdemeanor & felony, DUI and refusal	Imprisonment up to \$1,000 Driver's license reinstatement \$100 if one DUI or refusal conviction or \$250 if more than once within 10 years	Treatment up to \$10,000 ASAP fee, \$150 Imprisonment up to \$2,000 Reinstatement fees doubled	Also must consider impact on insurance
1 st time Class C felony	\$5,000/120 days	\$10,000/180 days	Section 33 (DUI), Section 47 (Refusal)
2 nd time Class C felony	\$5,000/240 days	\$10,000/360 days	Section 33 (DUI), Section 47 (Refusal)
3 rd or subsequent time Class C felony	\$5,000/360 days	\$10,000/440 days	Section 33(DUI), Section 47 (Refusal)
License revocation	Shall revoke with time limits	Permanent Revocation but ability to reapply after 10 years	Section 33, Section 35 for reinstatement
Vehicle forfeiture	May order	May forfeit	Section 33 (DUI), Section 47 (refusal)
Vehicle registration		Revoked for all vehicles owned or co-owned	Section 33 (DUI), Section 47 (refusal)
Imprisonment - misdemeanor & felony		Portion may be suspended if successfully completes therapeutic court	Section 35
Fines - misdemeanor & felony		Up to 50% may be suspended	Section 35

Reader's Digest Version of CSHB 4 (FIN) am
 Prepared by Representative Norman Rokeberg
 April 29, 2001

TOPIC	SECTION(S) FOUND	COMMENTS
New name: change "DWI" to "DUI" and include inhalants	2, 3, 4, 5, 8, 9, 10, 14, 15, 22, 23, 27, 28, 34, 36, 40, 41, 49, 51, 52, 56	Changes "driving while intoxicated" to "driving under the influence of an alcoholic beverage, inhalant, or controlled substance"
First felony manslaughter DUI	4	Increase presumptive sentence from five to seven years.
Vehicle Registration Plate Seizure	7, 11, 12, 13	Procedure same as current procedure for driver's license: Officer seizes plates at time of seizure of driver's license; issues temporary distinctively colored "plates" (similar to what is now issued for newly registered car permits but in a different distinct color). Person has right of administrative review. Provides owner or co-owner who is not subject of charge to register vehicle.
"Reasonable Cause" changed to "Probable Cause"	14, 23, 24, 37, 38,	Conform to court decision in Alaska Supreme Court <u>Leslie v. State</u> , 711 P.2d 575 (Alaska App. 1986)
Treatment of offenders	31 (DUI), 45 (refusal)	To occur as much as possible when incarcerated.

TOPIC	SECTION(S) FOUND	COMMENTS
Treatment costs - reimbursement	31 (DUI), 45 (refusal)	Up to \$10,000 reimbursed to state that must include \$150 ASAP fee. Reimbursement from PFD to be sought. Subsection does not apply to costs incurred by treatment not required under this subsection.
Treatment records (verifying past treatment)	30 (DUI), 43 (refusal)	Within constraints provided by federal law or regulation, treatment providers are to provide judge, prosecutor, defendant, and treatment agency involved with defendant's treatment with information and reports concerning defendants past and present assessment, treatment, and progress. Information is confidential. This is so that adequate information is available for future treatment considerations.
Imprisonment costs recouped	32 (DUI), 45 (refusal)	Increases reimbursement from \$1,000 to \$2,000.
Increased drivers license reinstatement fees	20	Current is \$100 fee if, within 10 years, previously convicted once; new fee is \$200. Current is \$250 fee, if within 10 years, previously convicted two or more times; new fee is \$500.
Domestic Violence Victims	21	Adds protection for dv victims to current statutes concerning persons who knowingly allow another person not validly licensed to operate a motor vehicle.

TOPIC	SECTION(S) FOUND	COMMENTS
Misdemeanor DUI - increased fines and sentences.	29, 35 for suspensions and/or reductions	See attached comparison table
Vehicle forfeiture DUI - misdemeanor	29 (DUI), 52 (refusal)	Second offense - discretionary forfeiture or impoundment; third or subsequent offense - discretionary forfeiture.
Increased look back provisions	33 (DUI), 47 (refusal)	Currently, a third offense within five years becomes a felony. This deletes the five-year lookback and phases in a ten- year time period so that a third offense within ten years will be a felony.
Felony DUI - increased fines and sentences	33, 35 for suspensions and/or reductions	See attached comparison table
Vehicle forfeiture DUI - felony	33 (DUI) , 52 (DUI and refusal)	All felony offenses - discretionary
License revocation DUI - felony	33	Permanent (see also Section 35 for procedure to request reinstatement under certain conditions after ten years)
Vehicle registration - Felony DUI	33	Revoked
Inhalant defined	34	
License reinstatement procedure after permanent revocation for felony DUI	35	
Refusal sections which are changed to mirror DUI sections	Misdemeanor - 42; treatment - 43, 45; imprisonment costs - 46; felony - 47; driver's license revocation - 48	Mirrors provisions above for misdemeanor and/or felony DUI including fines, sentences, treatment, imprisonment costs, etc.

TOPIC	SECTION(S) FOUND	COMMENTS
.08 Blood Alcohol Content ("BAC")	49	Lowers BAC from .10 to .08; lowers other assumptions from .05 to .04, and from .05 to less than .10 to .04 to less than .08
Right to independent test	50	Person administering test is to inform person being tested of right to independent test. If person being tested requests independent test, reasonable efforts shall be made to assist person being tested in receiving independent test. Clarifies current law.
State disposal of forfeited motor vehicle, aircraft or watercraft	53	By way of example, state may: sell at auction, transfer to state or municipal law enforcement agency; declare surplus and transfer to Department of Administration; destroy.
Municipal ability to charge administrative fee for impoundment and forfeiture	54	Specifically sets forth in statute ability of municipality to charge administrative fee for costs incurred. Suggested by some local governmental representatives.
ASAP	56, 57, 58	Defines Alcohol Safety Action Program and sets forth ability of H&SS to develop standards, review, and monitor programs
Search Warrants	39	Adds a new section providing that the implied consent statute was not intended to prevent police search warrants. This makes it clear that the legislature has adopted the view expressed by Justice Compton in his dissenting opinion in <i>Pena v. State</i> , 684 P. 2d 684, 868 (Alaska 1984). Justice Compton said: "There simply is nothing in the [implied consent] statutes to indicate that the

		legislature contemplated restricting searches pursuant to warrant, which derive from the statutory authority of the court, rather than the power of an officer to search an individual at the time of arrest."
Applicability	60	Section 6 (using full name when registering vehicle) applies to registrations occurring on or after effective date; act applies to offenses committed on or after effective date, except that references to previous convictions including convictions occurring before, on or after effective date.
Effective Date	61	July 1, 2001