

SB

224

SENATE COMMITTEE REPORT

DATE: 2/25/04

FURTHER: Finance

DATE TURNED IN TO OFFICE: 4/28/04

State Affairs Committee considered **SENATE BILL NO. 224**

SB 224 LOWER DWI FOR MINORS TO .02

"An Act relating to lowering the legal level of intoxication for operating a motor vehicle, aircraft, or watercraft to .02 percent or the equivalent for persons under 21 years of age; relating to implied consent for purposes of determining consumption of alcohol; and providing for an effective date."

and recommends:

- be replaced with _____ CS SB 224 (STA)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input type="checkbox"/>	Same Title
<input checked="" type="checkbox"/>	New Title
House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	Indet.	FN#
DPS	4/27/04		✓		
H&SS	4/28/04		✓		
ACS	4/21/04			✓	
DOA	4/29/04		✓		
DOA	4/25/04			✓	

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	Indet.	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>John A. Conduff</i>	✓			
<i>Scott L. ...</i>			✓	
<i>Julia ...</i>			✓	
CHAIR: <i>[Signature]</i>	✓			

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB224CS(STA)-DHSS-DJJ-04-28-04

() Publish Date: _____

Revision Date/Time (Note if correction): _____

Dept. Affected: Health & Social Services

Title: LOWERING B.A.C. TO .02 OR THE EQUIVALENT FOR MINORS

RDU: Juvenile Justice

Component: Probation Services

Sponsor: COWDERY

Requester: SENATE (STA)

Component No. 2134

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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 (0)						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: _____
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 CS SB 224 (STA) is consistent with federal law and requirements and will not result in additional costs to the Division of Juvenile Justice.

Prepared by: Jana Heard
 Division: Juvenile Justice
 Approved by: Joel S. Gilbertson, Commissioner
 Agency: Department of Health and Social Services

Phone 465-1385
 Date/Time 03/17/2004
 Date 04/28/2004

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB224CS-ACS-TC-4-28-04
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Minor operating a vehicle after BRU Alaska Court System
consuming alcohol Component Trial Courts
 Sponsor Senator Cowdery
 Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

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--Do not abbreviate)						
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
 Committee Substitute for SB 224(STA) increases the fines and provides for mandatory community work service for the offenses of (1) minor operating a vehicle after consuming alcohol, (2) minor's refusal to submit to a chemical test and (3) driving during the 24 hours after being cited for alcohol or breath test offenses. Although these offenses remain infractions, the mandatory community work service triggers the right to appointed council and a jury trial. Because of these additional rights, passage of CSSB 224(STA) will impact the court system. At this time, however, the extent of that impact is too speculative to support a fiscal note.

Prepared by: Doug Wooliver Administrative Attorney Phone 463-4750
 Division: Alaska Court System Date/Time 4/28/04 12:03 PM
 Approved by: Stephanie Cole Administrative Director by Doug Wooliver Date 4/28/2004
 Agency: Alaska Court System

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB224CS-DPS-ASTD-4-27-04
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
Title Minors operating veh. after consuming alcohol RDU Alaska State Troopers
Component AST Detachments
Sponsor Sen. Cowdery
Requester (S) State Affairs Component No. 2325

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This proposed legislation will enhance the penalties for minors operating a vehicle after having consumed alcohol, refusal of a breath test, or operating a vehicle within 24 hours after being cited for minor operating a vehicle after consuming alcohol. The offenses under AS 28.35.280, AS 28.35.285, and AS 28.35.290 respectively, will remain infractions. Under current statute, a fine of not more than \$1000 can be assessed. With the proposed legislation, mandatory minimum fines will be established. The amount of the fine will be increased for each subsequent offense.

It is not anticipated that this legislation will have a fiscal impact on the Alaska State Troopers.

Prepared by: Lt. Allen Storey Phone 907-269-4532
Division: Alaska State Troopers Date/Time 4/27/04 4:41 PM
Approved by: Commissioner William Tandeske Date 4/27/2004
Agency: Department of Public Safety

AMENDMENT 1

CSSB 224 23-LS1037X

*Adopted w/o
08-7*

Page 4, line 2

(2) has been previously convicted **once** under this section, AS 28.35.280, or

Page 4, line 11

(3) has been previously convicted **two or more times** under this section, AS 28.35.290, or

23-LS1037X
Luckhaupt
4/21/04

CS FOR SENATE BILL NO. 224()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR COWDERY

A BILL
FOR AN ACT ENTITLED

1 **"An Act relating to a minor operating a vehicle after consuming alcohol, to a minor**
2 **refusing to submit to chemical tests, and to driving during the 24 hours after being cited**
3 **for one of those offenses; and providing for an effective date."**

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

5 *** Section 1. AS 28.35.280(d) is repealed and reenacted to read:**

6 (d) The offense of a minor operating a vehicle after consuming alcohol is an
7 infraction and if the minor

8 (1) has not been previously convicted under this section,
9 AS 28.35.285, or 28.35.290, upon conviction, the court shall impose a

10 (A) fine of \$500; and

11 (B) period of community work service of not less than 20 hours
12 nor more than 40 hours; the community work service under this subparagraph
13 must be related to education about or prevention or treatment of misuse of
14 alcohol if opportunities are available for that type of work service in the

1 community; if such opportunities are not available, the court shall make other
2 provisions for the work service;

3 (2) has been previously convicted once under this section,
4 AS 28.35.285, or 28.35.290, upon conviction, the court shall impose a

5 (A) fine of \$1,000; and

6 (B) period of community work service of not less than 40 hours
7 nor more than 60 hours; the community work service under this subparagraph
8 must be related to education about or prevention or treatment of misuse of
9 alcohol if opportunities are available for that type of work service in the
10 community; if such opportunities are not available, the court shall make other
11 provisions for the work service;

12 (3) has been previously convicted two or more times under this
13 section, AS 28.35.285, or 28.35.290, upon conviction, the court shall impose a

14 (A) fine of \$1,500; and

15 (B) period of community work service of not less than 60 hours
16 nor more than 80 hours; the community work service under this subparagraph
17 must be related to education about or prevention or treatment of misuse of
18 alcohol if opportunities are available for that type of work service in the
19 community; if such opportunities are not available, the court shall make other
20 provisions for the work service.

21 * **Sec. 2.** AS 28.35.285(d) is repealed and reenacted to read:

22 (d) Refusal to submit to a chemical test or tests of the person's breath
23 requested under AS 28.35.280 is an infraction and if the minor

24 (1) has not been previously convicted under this section,
25 AS 28.35.280, or 28.35.290, upon conviction, the court shall impose a

26 (A) fine of \$500; and

27 (B) period of community work service of not less than 20 hours
28 nor more than 40 hours; the community work service under this subparagraph
29 must be related to education about or prevention or treatment of misuse of
30 alcohol if opportunities are available for that type of work service in the
31 community; if such opportunities are not available, the court shall make other

1 provisions for the work service;

2 (2) has been previously convicted once under this section,
3 AS 28.35.280, or 28.35.290, upon conviction, the court shall impose a

4 (A) fine of \$1,000; and

5 (B) period of community work service of not less than 40 hours
6 nor more than 60 hours; the community work service under this subparagraph
7 must be related to education about or prevention or treatment of misuse of
8 alcohol if opportunities are available for that type of work service in the
9 community; if such opportunities are not available, the court shall make other
10 provisions for the work service.

11 (3) has been previously convicted two or more times under this
12 section, AS 28.35.280, or 28.35.290, upon conviction, the court shall impose a

13 (A) fine of \$1,500; and

14 (B) period of community work service of not less than 60 hours
15 nor more than 80 hours; the community work service under this subparagraph
16 must be related to education about or prevention or treatment of misuse of
17 alcohol if opportunities are available for that type of work service i the
18 community; if such opportunities are not available, the court shall make other
19 provisions for the work service.

20 * Sec. 3. AS 28.35.290(b) is repealed and reenacted to read:

21 (b) Operating a motor vehicle during the 24 hours after being cited for minor
22 operating a vehicle after consuming alcohol or for minor's refusal to submit to a
23 chemical test is, an infraction and if the minor

24 (1) has not been previously convicted under this section,
25 AS 28.35.230, or 28.35.285, upon conviction, the court shall impose a

26 (A) fine of \$500; and

27 (B) period of community work service of not less than 20 hours
28 nor more than 40 hours; the community work service under this subparagraph
29 must be related to education about or prevention or treatment of misuse of
30 alcohol if opportunities are available for that type of work service in the
31 community; if such opportunities are not available, the court shall make other

1 provisions for the work service;

2 (2) has been previously convicted under this section, AS 28.35.280, or
3 28.35.285, upon conviction, the court shall impose a

4 (A) fine of \$1,000; and

5 (B) period of community work service of not less than 40 hours
6 nor more than 60 hours; the community work service under this subparagraph
7 must be related to education about or prevention or treatment of misuse of
8 alcohol if opportunities are available for that type of work service in the
9 community; if such opportunities are not available, the court shall make other
10 provisions for the work service;

11 (3) has been previously convicted under this section, AS 28.35.280, or
12 28.35.285, upon conviction, the court shall impose a

13 (A) fine of \$1,500; and

14 (B) period of community work service of not less than 60 hours
15 nor more than 80 hours; the community work service under this subparagraph
16 must be related to education about or prevention or treatment of misuse of
17 alcohol if opportunities are available for that type of work service in the
18 community; if such opportunities are not available, the court shall make other
19 provisions for the work service.

20 * Sec. 4. Sections 14 - 16 and 23, ch. 143, SLA 1996, are repealed.

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

23 APPLICABILITY. The changes made to AS 28.35.280, 28.35.285, and 28.35.290 by
24 this Act apply to offenses committed on or after the effective date of this Act. References to
25 prior convictions under AS 28.35.280, 28.35.285, and 28.35.290, as amended by this Act,
26 apply to convictions occurring before, on, or after the effective date of this Act.

27 * Sec. 6. This Act takes effect July 1, 2004.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 224
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title "...minor operating a vehicle after RDU Division of Motor Vehicles
consuming alcohol..." Component Motor Vehicles
 Sponsor Sen. Cowdery
 Requester (S) Finance Component No. 2348

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
 DMV does not anticipate an increase in workload. The number of arrests will remain relatively constant unless law enforcement increases their staffing dramatically. DMV has a system in place for handling these cases and an additional criminal charge will not substantially change the workload.

Prepared by: Duane Bannock Phone 269 5008
 Division: Motor Vehicles Date/Time 4/29/04 7:08 AM
 Approved by: Kevin Jardell, Deputy Commissioner Date 4/29/2004
 Agency: Department of Administration

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CS SB 224 ()
 () Publish Date: 4/21/2004 Version X

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act relating to a minor operating a vehicle BRU Legal and Advocacy Services
after consuming alcohol... Component Office of Public Advocacy
 Sponsor Senator Cowdery
 Requester (S) State Affairs Component No. 43

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	*	*	*	*	*	*
Travel	*	*	*	*	*	*
Contractual	*	*	*	*	*	*
Supplies	*	*	*	*	*	*
Equipment	*	*	*	*	*	*
Land & Structures						
Grants & Claims						
Miscellaneous						*
TOTAL OPERATING	*	*	*	*	*	*

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--Do not abbreviate)						
	*	*	*	*	*	*

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

This bill will have a fiscal impact on the operations of the Office of Public Advocacy, though the impact will be indeterminate. Amending the minor operating a vehicle after consuming alcohol(MOVAC) offense and related refusal and driving 24 hours after citation offenses to further increase the penalties by setting mandatory fines and mandatory minimum community work service for 1st, 2nd, and multiple offenders will increase the caseload and workload of the Agency. Minors charged with these offenses will be entitled to a jury trial and court-appointed counsel. See Auliye v. State, 57 P3d 711 (Alaska App. 2002); Booth v. State, 903 P.2d 1079, 1087-88 (Alaska App. 1995). More cases involving juveniles charged with these offense will be assigned to the Agency. There were approximately 387 minors in FY03 who had their licenses administratively revoked for driving after consuming alcohol. Of that number approximately 155 were charged with DUI for over .08 alcohol content. As a result, it is conservatively anticipated that there will be over 200 more cases a year assigned public counsel for these offenses because of the increased penalties. The workload on these cases will also increase because of the more severe penalties.

Prepared by: Joshua P. Fink, Director
 Division Office of Public Advocacy
 Approved by: Kevin Jardell, Deputy Commissioner
 Agency Administration

Phone (907) 269-3500
 Date/Time 4/28/04 12:00 AM
 Date 4/29/2004

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CS SB224(STA)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act relating to lowering the legal BRU Legal and Advocacy Services
level of intoxication Component Public Defender Agency
 Sponsor Senator Cowdery
 Requester (S) State Affairs Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	97.4	97.4	97.4	97.4	97.4	97.4
Travel	4.8	4.8	4.8	4.8	4.8	4.8
Contractual	23.1	23.1	23.1	23.1	23.1	23.1
Supplies	2.7	2.7	2.7	2.7	2.7	2.7
Equipment	6.7	0.7	0.7	0.7	0.7	0.7
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	134.7	128.7	128.7	128.7	128.7	128.7

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	134.7	128.7	128.7	128.7	128.7	128.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	134.7	128.7	128.7	128.7	128.7	128.7

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)
 This bill will have a fiscal impact on the operations of the Public Defender Agency. Amending the minor operating a vehicle after consuming alcohol(MOVAC) offense and related refusal and driving 24 hours after citation offenses to further increase the penalties by setting mandatory fines and mandatory minimum community work service for 1st, 2nd, and multiple offenders will increase the caseload and workload of the Agency. Minors charged with these offenses will be entitled to a jury trial and court-appointed counsel. See *Auliya v. State*, 57 P3d 711 (Alaska App. 2002); *Booth v. State*, 903 P.2d 1079, 1087-88 (Alaska App. 1995). More cases involving juveniles charged with these offense will be assigned to the Agency. There were approximately 387 minors in FY03 who had their licenses administratively revoked for driving after consuming alcohol. Of that number approximately 155 were charged with DUI for over .08 alcohol content. As a result, it is conservatively anticipated that there will be over 200 more cases a year assigned to the Agency for these offenses because of the increased penalties. The workload on these cases will also increase because of the more severe penalties. Since most of these offenses occur in Anchorage or Palmer, the Agency will need one full time attorney in one of these locations to handle this increased caseload.

Prepared by: Linda K. Wilson, Deputy Director Phone (907)-334-4416
 Division Public Defender Agency Date/Time 4/28/04 12:00 AM
 Approved by: Kevin Jardell, Deputy Commissioner Date _____
 Agency Administration

23-LS1037V
Luckhaupt
4/19/04

CS FOR SENATE BILL NO. 224()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR COWDERY

A BILL
FOR AN ACT ENTITLED

1 **"An Act relating to a minor operating a vehicle after consuming alcohol, to a minor**
2 **refusing to submit to chemical tests, and to driving during the 24 hours after being cited**
3 **for one of those offenses; and providing for an effective date."**

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

5 *** Section 1.** AS 28.35.280(d) is repealed and reenacted to read:

6 (d) The offense of a minor operating a vehicle after consuming alcohol is
7 (1) if the minor has not been previously convicted under this section,
8 AS 28.35.285, or 28.35.290, an infraction, and, upon conviction, the court shall
9 impose a

10 (A) fine of not more than \$1,000; and

11 (B) period of community work service of not less than 20 hours
12 nor more than 40 hours; the community work service under this subparagraph
13 must be related to education about or prevention or treatment of misuse of
14 alcohol if opportunities are available for that type of work service in the

1 community; if such opportunities are not available, the court shall make other
2 provisions for the work service;

3 (2) if the minor has been previously convicted under this section,
4 AS 28.35.285, or 28.35.290, a class B misdemeanor punishable as provided in
5 AS 12.55, and, upon conviction, the court may impose a term of imprisonment and
6 shall impose a

7 (A) fine of not more than \$2,000; and

8 (B) period of community work service of not less than 40 hours
9 nor more than 60 hours; the community work service under this subparagraph
10 must be related to education about or prevention or treatment of misuse of
11 alcohol if opportunities are available for that type of work service in the
12 community; if such opportunities are not available, the court shall make other
13 provisions for the work service.

14 * **Sec. 2.** AS 28.35.280 is amended by adding a new subsection to read:

15 (f) Notwithstanding another provision of law, the commissioner of
16 corrections, when designating a correctional facility under AS 33.30.061 for a minor
17 sentenced to a term of imprisonment under this section, shall order the minor to serve
18 the term in an institution operated or used by the commissioner of health and social
19 services for the commitment of juveniles under AS 47.

20 * **Sec. 3.** AS 28.35.285(d) is repealed and reenacted to read:

21 (d) Refusal to submit to a chemical test or tests of the person's breath
22 requested under AS 28.35.280 is

23 (1) if the minor has not been previously convicted under this section,
24 AS 28.35.280, or 28.35.290, an infraction, and, upon conviction, the court shall
25 impose a

26 (A) fine of not more than \$1,000; and

27 (B) period of community work service of not less than 20 hours
28 nor more than 40 hours; the community work service under this subparagraph
29 must be related to education about or prevention or treatment of misuse of
30 alcohol if opportunities are available for that type of work service in the
31 community; if such opportunities are not available, the court shall make other

1 provisions for the work service;

2 (2) if the minor has been previously convicted under this section,
3 AS 28.35.280, or 28.35.290, a class B misdemeanor punishable as provided in
4 AS 12.55, and, upon conviction, the court may impose a term of imprisonment and
5 shall impose a

6 (A) fine of not more than \$2,000; and

7 (B) period of community work service of not less than 40 hours
8 nor more than 60 hours; the community work service under this subparagraph
9 must be related to education about or prevention or treatment of misuse of
10 alcohol if opportunities are available for that type of work service in the
11 community; if such opportunities are not available, the court shall make other
12 provisions for the work service.

13 * Sec. 4. AS 28.35.285 is amended by adding a new subsection to read:

14 (e) Notwithstanding another provision of law, the commissioner of
15 corrections, when designating a correctional facility under AS 33.30.061 for a minor
16 sentenced to a term of imprisonment under this section, shall order the minor to serve
17 the term in an institution operated or used by the commissioner of health and social
18 services for the commitment of juveniles under AS 47.

19 * Sec. 5. AS 28.35.290(b) is repealed and reenacted to read:

20 (b) Operating a motor vehicle during the 24 hours after being cited for minor
21 operating a vehicle after consuming alcohol or for minor's refusal to submit to a
22 chemical test is,

23 (1) if the minor has not been previously convicted under this section,
24 AS 28.35.280, or 28.35.285, an infraction, and, upon conviction, the court shall
25 impose a

26 (A) fine of not more than \$1,000; and

27 (B) period of community work service of not less than 20 hours
28 nor more than 40 hours; the community work service under this subparagraph
29 must be related to education about or prevention or treatment of misuse of
30 alcohol if opportunities are available for that type of work service in the
31 community; if such opportunities are not available, the court shall make other

1 provisions for the work service;

2 (2) if the minor has been previously convicted under this section,
3 AS 28.35.280, or 28.35.285, a class B misdemeanor punishable as provided in
4 AS 12.55, and, upon conviction, the court may impose a term of imprisonment and
5 shall impose a

6 (A) fine of not more than \$2,000; and

7 (B) period of community work service of not less than 40 hours
8 nor more than 60 hours; the community work service under this subparagraph
9 must be related to education about or prevention or treatment of misuse of
10 alcohol if opportunities are available for that type of work service in the
11 community; if such opportunities are not available, the court shall make other
12 provisions for the work service.

13 * Sec. 6. AS 28.35.290 is amended by adding a new subsection to read:

14 (d) Notwithstanding another provision of law, the commissioner of
15 corrections, when designating a correctional facility under AS 33.30.061 for a minor
16 sentenced to a term of imprisonment under this section, shall order the minor to serve
17 the term in an institution operated or used by the commissioner of health and social
18 services for the commitment of juveniles under AS 47.

19 * Sec. 7. Sections 14 - 16 and 23, ch. 143, SLA 1996, are repealed.

20 * Sec. 8. The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 APPLICABILITY. The changes made to AS 28.35.280, 28.35.285, and 28.35.290 by
23 this Act apply to offenses committed on or after the effective date of this Act. References to
24 prior convictions under AS 28.35.280, 28.35.285, and 28.35.290, as amended by this Act,
25 apply to convictions occurring on or after the effective date of this Act.

26 * Sec. 9. This Act takes effect July 1, 2004.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB224
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act relating to lowering the legal BRU Legal and Advocacy Services
level of intoxication Component Public Defender Agency
 Sponsor Senator Cowdery
 Requester (S) State Affairs Component No. 1831

Expenditures/Revenues (Thousands of Dollars)
 Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	97.4	97.4	97.4	97.4	97.4	97.4
Travel	4.8	4.8	4.8	4.8	4.8	4.8
Contractual	23.1	23.1	23.1	23.1	23.1	23.1
Supplies	2.7	2.7	2.7	2.7	2.7	2.7
Equipment	6.7	0.7	0.7	0.7	0.7	0.7
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	134.7	128.7	128.7	128.7	128.7	128.7

CAPITAL EXPENDITURES

CHANGE IN REVENUES ()

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	134.7	128.7	128.7	128.7	128.7	128.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
TOTAL	134.7	128.7	128.7	128.7	128.7	128.7

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)
 This bill will have a fiscal impact on the operations of the Public Defender Agency. Amending the minor operating a vehicle after consuming alcohol offense to make it a jailable offense and further increasing the penalties will increase the caseload and workload of the Agency. More cases involving juveniles charged with this offense will be assigned to the Agency. There were approximately 387 minors in FY03 who had their licenses administratively revoked for driving after consuming alcohol. Of that number approximately 155 were charged with DUI for over .08 alcohol content. As a result, it is conservatively anticipated that there will be over 200 more cases a year assigned to the Agency for these offenses. The workload on these cases will also increase beyond what a minor consuming charge would normally generate, because of the more severe penalties, and the fact that the low level of alcohol content of .02 determined by a chemical test will likely be challenged for its reliability. Since most of these offenses occur in Anchorage or Palmer, the Agency will need one full time attorney in one of these locations to handle this increased caseload.

Prepared by: Linda K. Wilson, Deputy Director Phone (907)-334-4416
 Division Public Defender Agency Date/Time 4/8/04 12:00 AM
 Approved by: Kevin Jardell, Assistant Commissioner Date _____
 Agency Administration

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____

Bill Version: _____

() Publish Date: _____

Revision Date/Time (Note if correction): _____

Dept. Affected: Health & Social Services

Title LOWERING B.A.C. TO .02 OR THE
EQUIVALENT FOR MINORS

RDU Juvenile Justice

Component Probation Services

Sponsor COWDERY

Requester SENATE (STA)

Component No. 2134

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	100.0	100.0	100.0	100.0	100.0	100.0
Miscellaneous						
TOTAL OPERATING	100.0	100.0	100.0	100.0	100.0	100.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	100.0	100.0	100.0	100.0	100.0	100.0
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0

Estimate of any current year (FY2004) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Reclassifying all three offenses conflicts with the federal Juvenile Justice and Delinquency Prevention Act. Any sentences to a juvenile institution would have to be performed in an unlocked setting. Estimates based on Division of Motor Vehicles data for FY03 are that this legislation could result in the need for 3-5 non-secure shelters at an approximate cost of \$15,000 to \$25,000 each, depending on location, for an approximate total cost of \$100,000. Proposed legislation conflicts with efforts related to HB 487 and SB 340, both relating to the detention of juveniles. Proposed changes in HB 487 and SB 340 will put the state in compliance with the federal Juvenile Justice and Delinquency Act (JJDP) formula grant program.

Prepared by: Jana Heard

Phone 465-1385

Division: Juvenile Justice

Date/Time 03/17/2004

Approved by: Joel S. Gilbertson, Commissioner

Date 03/18/2004

Agency: Department of Health and Social Services

23-LS1037\S
Luckhaupt
3/23/04

CS FOR SENATE BILL NO. 224()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR COWDERY

A BILL
FOR AN ACT ENTITLED

1 **"An Act relating to a minor operating a vehicle after consuming alcohol, to a minor**
2 **refusing to submit to chemical tests, and to driving during the 24 hours after being cited**
3 **for one of those offenses; and providing for an effective date."**

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

5 *** Section 1.** AS 28.35.280(d) is repealed and reenacted to read:

6 (d) The offense of a minor operating a vehicle after consuming alcohol is a
7 class B misdemeanor punishable as provided in AS 12.55. Upon conviction,

8 (1) if the minor has not been previously convicted under this section,
9 AS 28.35.285, or 28.35.290, the court may not impose a term of imprisonment but
10 shall impose a

11 (A) fine of not more than \$1,000; and

12 (B) period of community work service of not less than 20 hours
13 nor more than 40 hours; the community work service under this subparagraph
14 must be related to education about or prevention or treatment of misuse of

1 alcohol;

2 (2) if the minor has been previously convicted under this section,
3 AS 28.35.285, or 28.35.290, the court may impose a term of imprisonment and shall
4 impose a

5 (A) fine of not more than \$2,000; and

6 (B) period of community work service of not less than 40 hours
7 nor more than 60 hours; the community work service under this subparagraph
8 must be related to education about or prevention or treatment of misuse of
9 alcohol.

10 * **Sec. 2.** AS 28.35.285(d) is repealed and reenacted to read:

11 (d) Refusal to submit to a chemical test or tests of the person's breath
12 requested under AS 28.35.280 is a class B misdemeanor punishable as provided in
13 AS 12.55. Upon conviction,

14 (1) if the minor has not been previously convicted under this section,
15 AS 28.35.280, or 28.35.290, the court may not impose a term of imprisonment but
16 shall impose a

17 (A) fine of not more than \$1,000; and

18 (B) period of community work service of not less than 20 hours
19 nor more than 40 hours; the community work service under this subparagraph
20 must be related to education about or prevention or treatment of misuse of
21 alcohol;

22 (2) if the minor has been previously convicted under this section,
23 AS 28.35.280, or 28.35.290, the court may impose a term of imprisonment and shall
24 impose a

25 (A) fine of not more than \$2,000; and

26 (B) period of community work service of not less than 40 hours
27 nor more than 60 hours; the community work service under this subparagraph
28 must be related to education about or prevention or treatment of misuse of
29 alcohol.

30 * **Sec. 3.** AS 28.35.290(b) is repealed and reenacted to read:

31 (b) Operating a motor vehicle during the 24 hours after being cited for minor

1 operating a vehicle after consuming alcohol or for minor's refusal to submit to a
2 chemical test is a class B misdemeanor punishable as provided in AS 12.55. Upon
3 conviction,

4 (1) if the minor has not been previously convicted under this section,
5 AS 28.35.280, or 28.35.285, the court may not impose a term of imprisonment but
6 shall impose a

7 (A) fine of not more than \$1,000; and

8 (B) period of community work service of not less than 20 hours
9 nor more than 40 hours; the community work service under this subparagraph
10 must be related to education about or prevention or treatment of misuse of
11 alcohol;

12 (2) if the minor has been previously convicted under this section,
13 AS 28.35.280, or 28.35.285, the court may impose a term of imprisonment and shall
14 impose a

15 (A) fine of not more than \$2,000; and

16 (B) period of community work service of not less than 40 hours
17 nor more than 60 hours; the community work service under this subparagraph
18 must be related to education about or prevention or treatment of misuse of
19 alcohol.

20 * **Sec. 4.** Sections 14 - 16 and 23, ch. 143, SLA 1996, are repealed.

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

23 **APPLICABILITY.** The changes made to AS 28.35.280, 28.35.285, and 28.35.290 by
24 this Act apply to offenses committed on or after the effective date of this Act. References to
25 prior convictions under AS 28.35.280, 28.35.285, and 28.35.290, as amended by this Act,
26 apply to convictions occurring before, on, or after the effective date of this Act.

27 * **Sec. 6.** This Act takes effect July 1, 2004.

23-LS1037^Q
Luckhaupt
3/15/04

CS FOR SENATE BILL NO. 224()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR COWDERY

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a minor operating a vehicle after consuming alcohol, to a minor
2 refusing to submit to chemical tests, and to driving during the 24 hours after being cited
3 for one of those offenses; and providing for an effective date."

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

5 * Section 1. AS 28.35.280(d) is repealed and reenacted to read:

6 (d) The offense of a minor operating a vehicle after consuming alcohol is a
7 class B misdemeanor punishable as provided in AS 12.55. Upon conviction, the court
8 may impose a term of imprisonment and the court shall,

9 (1) if the minor has not been previously convicted, impose a

10 (A) fine of not more than \$1,000; and

11 (B) period of community work service of not less than 20 hours
12 nor more than 40 hours; the community work service under this subparagraph
13 must be related to education about or prevention or treatment of misuse of
14 alcohol;

1 (2) if the minor has been previously convicted under this section,
2 impose a

3 (A) fine of not more than \$2,000; and

4 (B) period of community work service of not less than 40 hours
5 nor more than 60 hours; the community work service under this subparagraph
6 must be related to education about or prevention or treatment of misuse of
7 alcohol.

8 * Sec. 2. AS 28.35.285(d) is repealed and reenacted to read:

9 (d) Refusal to submit to a chemical test or tests of the person's breath
10 requested under AS 28.35.280 is a class B misdemeanor punishable as provided in
11 AS 12.55. Upon conviction, the court may impose a term of imprisonment and the
12 court shall,

13 (1) if the minor has not been previously convicted, impose a

14 (A) fine of not more than \$1,000; and

15 (B) period of community work service of not less than 20 hours
16 nor more than 40 hours; the community work service under this subparagraph
17 must be related to education about or prevention or treatment of misuse of
18 alcohol;

19 (2) if the minor has been previously convicted under this section,
20 impose a

21 (A) fine of not more than \$2,000; and

22 (B) period of community work service of not less than 40 hours
23 nor more than 60 hours; the community work service under this subparagraph
24 must be related to education about or prevention or treatment of misuse of
25 alcohol.

26 * Sec. 3. AS 28.35.290(b) is repealed and reenacted to read:

27 (b) Operating a motor vehicle during the 24 hours after being cited for minor
28 operating a vehicle after consuming alcohol or for minor's refusal to submit to a
29 chemical test is a class B misdemeanor punishable as provided in AS 12.55. Upon
30 conviction, the court may impose a term of imprisonment and the court shall,

31 (1) if the minor has not been previously convicted, impose a

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(A) fine of not more than \$1,000; and
(B) period of community work service of not less than 20 hours
nor more than 40 hours; the community work service under this subparagraph
must be related to education about or prevention or treatment of misuse of
alcohol;
(2) if the minor has been previously convicted under this section,
impose a
(A) fine of not more than \$2,000; and
(B) period of community work service of not less than 40 hours
nor more than 60 hours; the community work service under this subparagraph
must be related to education about or prevention or treatment of misuse of
alcohol.

- * Sec. 4. Sections 14 - 16 and 23, ch. 143, SLA 1996, are repealed.
- * Sec. 5. This Act takes effect July 1, 2004.

ALASKA STATE LEGISLATURE
SENATE DISTRICT 0

Interim:
716 West 4th Ave.
Anchorage, AK 99501
Phone: 907-269-0222
Fax: 907-269-0223
Toll Free: 1-888-269-3879



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State Capitol Building
Juneau, AK 99801
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John J. Cowdery
Senate Rules, Chair
Senate Transportation Committee, Chair
World Trade State & Federal Relations, Chair
State Affairs, Legislative Council

SPONSOR STATEMENT CSSB224

“An Act relating to a minor operating a vehicle after consuming alcohol, to a minor refusing to submit to chemical tests, and to driving during the 24 hours after being cited for one of those offenses; and providing for an effective date.”

The purpose of CSSB224 is to change Alaska's law to allow for stiffer penalties to apply when a person under the legal drinking age drives after consuming any amount of alcohol.

Under current Alaska law, a person under 21 who drives with a BAC of below .08 will receive a charge of minor consuming and/or minor operating a vehicle after consuming, both of which are infractions. Typically, infractions can be given for minor matters such as jaywalking.

SB224 makes it a Class B Misdemeanor for minors not complying with zero tolerance laws and increases those penalties for repeat offenders. A minor with no prior convictions will receive a fine up to \$1000.00 and/or community service. Someone coming in with a prior conviction faces fines up to \$2000.00, a minimum of 40 hours of community service. Because the offense is a Class B Misdemeanor, the minor may receive up to 90 days in jail.

If 21 is of age to legally drink alcohol, why should it be acceptable for any person under the legal drinking age to drink and drive? Drivers between the ages of 15 and 20 years old make up roughly 7% of the total driving population. That 7% constitutes 14% of the alcohol related fatalities. Zero Tolerance laws can act as a deterrent and dramatically help change this deadly pattern of behavior.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB224-ACS-TC-3-4-04
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Lower DUI for Minors to .02 BRU Alaska Court System
 Component Trial Courts
 Sponsor Senator Cowdery
 Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	16.6	16.6	16.6	16.6	16.6	16.6
Travel						
Contractual	17.3	17.3	17.3	17.3	17.3	17.3
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	33.9	33.9	33.9	33.9	33.9	33.9

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	33.9	33.9	33.9	33.9	33.9	33.9
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	33.9	33.9	33.9	33.9	33.9	33.9

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)
 Senate Bill 224 lowers to .02 the BAC level sufficient to charge a person under the age of 21 with the crime of DUI. According to information provided by the Division of Motor Vehicles, in 2003 232 persons under the age of 21 with BAC levels below .08 had their licenses suspended for the offense of minor operating a vehicle after consuming alcohol. This note assumes that, had SB 224 been the law at that time, approximately 200 of those offenses would have charged as DUIs. The Alaska State Troopers, the Public Defender Agency and the Office of Public Advocacy have all raised concerns about the number of these cases that would be challenged due to concerns about the accuracy of BAC tests at such low levels. Additional concerns have been raised about litigation over probable cause issues. Given those concerns, this fiscal note conservatively assumes a 5% trial rate for 200 new DUI cases a year. The note covers juror fees and judicial and clerical time.

Prepared by: Doug Wooliver Administrative Attorney Phone 463-4750
 Division Alaska Court System Date/Time 3/4/04 8:20 AM
 Approved by: Stephanie Cole Administrative Director by Doug Wooliver Date 3/4/2004
 Agency Alaska Court System

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 4
 Bill Version: SB 224
 (S) Publish Date: 2/25/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
 Title "Act Lowering the Limits for DUI for those under 21 years of age....." RDU Administration & Operations
 Component: Institution Director's Office
 Sponsor Senator Cowdery
 Requester _____ Component No. 1381

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	*	*	*	*	*	*
Travel	*	*	*	*	*	*
Contractual	*	*	*	*	*	*
Supplies	*	*	*	*	*	*
Equipment	*	*	*	*	*	*
Land & Structures	*	*	*	*	*	*
Grants & Claims	*	*	*	*	*	*
Miscellaneous	*	*	*	*	*	*
TOTAL OPERATING	*	*	*	*	*	*

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--Do not abbreviate)	*	*	*	*	*	*
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: *(Attach a separate page if necessary)*
 This legislation if passed would amend AS 28.35.030 making it a criminal offense to drive under the influence if the person is under 21 years of age, and has a blood alcohol content of .02 or more.

 The fiscal impact to the Department of Corrections is indeterminate at this time for several reasons:

 Based on data provided to the Department of Public Safety by DMV, there were approximately 82 individuals who may have been subjected to the provisions of this bill had it been law in 2003. It is not known how many of those 82 individuals would have been convicted and sentenced as adults.

Prepared by: Jerry D. Burnett, Director Phone (907) 465-3339
 Division: Administrative Services Date/Time 2/24/04 10:04 AM
 Approved by: Portia C.K. Parker, Deputy Commissioner Date 2/24/2004
 Agency: Department of Corrections

ANALYSIS CONTINUATION

DMV's data also reports that there were about 144 other individuals contacted by law enforcement officers, but the officer determined that there was insufficient probable cause to arrest them and obtain a blood alcohol sample. It could be assumed that some of these persons would have had a blood alcohol level of .02 to .079.

The number of convictions is unknown therefore the fiscal impact to the Department of Corrections is indeterminate.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: SB 224
(S) Publish Date: 2/25/04

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title "An Act relating to lowering the legal level c RDU CRIMINAL
intoxication for operating a motor vehicle, aircraft, or watercraft to .02 Component Criminal Justice Litigation
Sponsor Senator Cowdery
Requester Senate Transportation Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

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--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0
	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill changes the Driver's License Act by including as an offense of operating a vehicle or aircraft while under the influence of an alcoholic beverage, inhalant or controlled substance, a person with a blood alcohol content of .02 who is less than 21 years of age.

Passage of this legislation will have a fiscal impact on the Department of Law as it will, if enforced, result in a much larger number of DUI charges filed. How many of those will be referred to the state for prosecution is not determinable. It is also likely to result in more legal challenges to driver's license revocations, but we are similarly unable to quantify the impact.

Prepared by: Kathryn A. Daughhete, Director Phone 465-3673
Division Administrative Services Date/Time 2/23/04 4:48 PM
Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 2/23/2004
Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: SB 224
(S) Publish Date: 2/25/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
Title Act Lowering the Limits for DUI for those under RDU Alaska State Troopers
21 years of age Component AST Detachments
Sponsor Sen. Cowdery
Requester Senate Transportation Component No. 2325

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

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--Do not abbreviate)						
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY2004) cost: _____
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

SB 224, if passed, will amend AS 28.35.030 to make it a criminal offense to drive under the influence if the person is under 21 years of age, and has a blood alcohol content of .02 or more.

The fiscal impact to the Department of Public Safety is indeterminable for several reasons.

Based on data provided by DMV, there were about 82 individuals who may have been subjected to the provisions of this bill had it been law in 2003. It is not known how many of those 82 individuals would have been handled by the Alaska State Troopers.

(see page 2)

Prepared by: Lt Al Storey Phone 269-4532
Division: Alaska State Troopers Date/Time 2/20/04 9:30 AM
Approved by: Commissioner William Tandeske Date 2/20/2004
Agency: Department of Public Safety

FISCAL NOTE #2

**STATE OF ALASKA
2004 LEGISLATIVE SESSION**

BILL NO. SB 224

ANALYSIS CONTINUATION

DMV's data also reports that there were about 144 other individuals contacted by law enforcement officers, but the officer determined that there was insufficient probable cause to arrest them and obtain a blood alcohol sample. It could be assumed that some of these persons would have had a blood alcohol level of .02 to .079. Processing the increased number of suspects in accordance with this proposed bill would be time consuming for law enforcement officers.

As written, SB 224 will be challenged repeatedly in the adjudication process. This is especially true for the lower blood alcohol levels. The defense will target the accuracy of the blood alcohol measuring instruments, the probable cause that led to the contact, and the process that the officer used to determine the individual was under the influence prior to asking for a breath sample. All of this will cost additional court time in order to make the officers available for testimony. It will require additional testimony from the Crime Lab technicians regarding the accuracy of the instruments used to measure blood alcohol.

The amount of time that will be required to achieve a conviction, and the time needed to handle arrestees under the age of 18 (juveniles), is unknown. Therefore, the fiscal impact to the Department of Public Safety is indeterminate.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 224
 (S) Publish Date: 2/25/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act relating to lowering the legal BRU Legal and Advocacy Services
level of intoxication Component Office of Public Advocacy
 Sponsor Senator Cowdery
 Requester (S) Transportation Component No. 43

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	48.7	48.7	48.7	48.7	48.7	48.7
Travel	2.4	2.4	2.4	2.4	2.4	2.4
Contractual	11.5*	11.5*	11.5*	11.5*	11.5*	11.5*
Supplies	1.4	1.4	1.4	1.4	1.4	1.4
Equipment	3.4	0.4	0.4	0.4	0.4	0.4
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	67.4*	64.4*	64.4*	64.4*	64.4*	64.4*

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	67.4*	64.4*	64.4*	64.4*	64.4*	64.4*
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	67.4*	64.4*	64.4*	64.4*	64.4*	64.4*

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

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

ANALYSIS: *(Attach a separate page if necessary)*
 The Office of Public Advocacy will be fiscally impacted by this legislation. Expanding the crime of DUI to include persons under 21 whose blood or breath alcohol level is more than .02, instead of over .08, will increase the caseload and workload of OPA staff, and increase contractual costs for areas not served by OPA staff attorneys and conflict counsel. More cases involving juveniles charged with this offense will be assigned to OPA. There were approximately 387 minors in FY03 who had their licenses administratively revoked for driving after consuming alcohol. Of that number approximately 155 were charged with DUI for over .08 alcohol content, leaving 232 cases where the minor was under .08. Moreover, experience in the field has shown that many officers only cite minors for minor consuming rather than driving after consuming. All of the aforementioned cases would henceforth be prosecuted as DUI and the defendant would be entitled to counsel. As a result, it is conservatively anticipated that there will be between 400-600 new DUI cases a year, a good portion of which will come to OPA. Because of the more severe penalties, and the fact that the reliability of the Intoximeter as such low levels is highly questionable, these cases will be fully litigated (evidentiary hearings and trials). OPA will need an additional 1/2 time position, and contract costs will increase, though the amount is indeterminate.

Prepared by: Joshua P. Fink, Director Phone (907) 269-3500
 Division: Office of Public Advocacy Date/Time 2/24/04 12:00 AM
 Approved by: Mike Miller, Commissioner Date _____
 Agency: Administration