

**HB**

**149**

<TARGET><BILL>HB 149</BILL><SUBJECT>HB  
149</SUBJECT><COMM>HSTA27</COMM></TARGET>



## Alaska State Legislature

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### Representative Anna Fairclough – House District 17

#### House Bill 149

**“An Act relating to drivers’ licenses and to immunity for person who report persons who have a medical or other condition that may impair the ability to operate a motor vehicle.”**

Driving is a privilege and with that privilege is the responsibility of an applicant or person licensed to report medical conditions that could impair their driving ability. The decision to self report can be a difficult decision to make. Family members worried about the safety of their family and the public often shoulder the burden of reporting loved one’s medical conditions to the Department of Motor Vehicles when they are unable to convince them to stop driving. Often doctors are asked to assist when the family has difficulty convincing loved ones that their medical condition or impairment will affect their driving performance.

House Bill 149 would provide immunity to physicians and any other person that choose to report to the Department of Motor Vehicles a person who applies for a license that has been diagnosed with disorders characterized by lapses of consciousness or other conditions that may impair a person’s ability to operate a motor vehicle.

A person who is licensed by the Board of Medicine is not subject to discipline by the board if the person makes a report in good faith to the Department of Administration.

The bill provides confidentiality for reporting and is exempt from disclosure. In addition, a physician or person who makes a good faith report is not liable for civil damages.

Thank you for your consideration of this legislation. I appreciate your support of House Bill 149.



# Alaska State Legislature

## Representative Anna Fairclough – House District 17

### House Bill 149

**“An Act relating to drivers’ licenses and to immunity for person who report persons who have a medical or other condition that may impair the ability to operate a motor vehicle.”**

### Sectional Analysis

**Section 1.** Amends AS 08.64.326

To provide that a person who is licensed by the Board of Medicine is not subject to discipline by the board if the person makes a report in good faith to the Department of Administration (department) under AS 28.15.156 (added by sec. 2 of the bill).

**Section 2.** Amends AS 28.15

By adding a new section with a subsection (a), which requires that a person who has a driver’s license, or who applies for a driver’s license, shall disclose to the Department of Administration “if the person has been diagnosed as having a disorder characterized by lapses of consciousness or any other condition that may impair a person’s ability to operate a motor vehicle.” Subsections (b) and (c) authorize a physician, and any other person, to make reports to the department concerning a person who has a medical or other condition that may impair the person’s ability to operate a motor vehicle. Subsection (d) makes reports received confidential. Subsection (e) provides immunity from civil damages for physicians and others who have made reports under subsections (b) and (c) in good faith. Finally, subsection (f) provides a criminal penalty for a person who holds a driver’s license or who is applying for a driver’s license to fail to make the disclosure required under (a).

# FISCAL NOTE

**STATE OF ALASKA**  
**2011 LEGISLATIVE SESSION**

Fiscal Note Number \_\_\_\_\_  
 Bill Version HB 149\M  
 () Publish Date \_\_\_\_\_

Identifier (file name) HB149-DOA-DMV-04-13-11 Dept. Affected Administration  
 Title Driver's Licensing; reporting medical conditions Appropriation Motor Vehicles  
 Allocation Motor Vehicles  
 Sponsor Representatives Fairclough and Olson  
 Requester House State Affairs OMB Component Number 2348

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

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

OPERATING EXPENDITURES	Appropriation Required	Information					
	FY 2012	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants							
Miscellaneous							
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other (please identify)							
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2011) cost \_\_\_\_\_

**POSITIONS**

Full-time							
Part-time							
Temporary							

Why this fiscal note differs from previous version (if initial version, please note as such)

Not applicable; initial version

Prepared by Whitney Brewster, Director  
 Division Motor Vehicles  
 Approved by John Cramer, Deputy Commissioner  
Department of Administration

Phone 907-269-5574  
 Date/Time 4/13/11 12:00 PM  
 Date 4/13/2011

**FISCAL NOTE**

**STATE OF ALASKA  
2011 LEGISLATIVE SESSION**

**BILL NO. HB 149M**

**Analysis**

This bill has no fiscal impact on the Division of Motor Vehicles .

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101


State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

April 11, 2011

**SUBJECT:** Physician Reports to DMV and HIPAA Confidentiality Laws  
(HB 149; Work Order No. 27-LS0275\M)

**TO:** Representative Anna Fairclough  
Attn: Kim Skipper

**FROM:** Gerald P. Luckhaupt   
Assistant Revisor

You have asked how laws on physician reporting of impaired drivers to the motor vehicle authorities interact with the privacy provisions of the Health Insurance Portability and Accountability Act (HIPAA). While I am not an expert on HIPAA I will attempt to provide some guidance. It might be wise to contact the U.S. Department of Health and Human Services, the Department of Law, or some other source for further information.

The HIPAA Privacy Rule generally requires covered entities from disclosing patient health information without the consent of the patient. Various exceptions are provided, including when the disclosure is: (1) required by law, including state law; (2) made to public health entities to prevent or control disease, injury, or disability; and (3) necessary to prevent a serious threat to a person or the public. States with mandatory physician disclosure laws would clearly come under the first exception. At least two mandatory disclosure states, Pennsylvania and Oregon, provide that disclosures to DMV also meet the second exception.

It would appear that states with nonmandatory physician disclosure laws would also meet the second exception and may meet the third, depending upon the information available to the physician and the nature of the impairment of the driver. It is unclear to me if a permissive physician disclosure law would meet the first exception I listed.

I have included a number of materials relating to this section, including several discussions of how HIPAA relates to physician disclosure laws.

GPL:ljlw  
11-242.ljlw

Enclosures



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Anchorage

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Thecla LaLonde, President  
Wrangell Chapter  
Wrangell

PO Box 240106  
Anchorage AK 99524

t 907 277 0515  
f 907 272 5355

March 9, 2011

Representative Anna Fairclough  
House of Representatives  
State Capitol  
Juneau AK 99801-1182

Dear Representative Fairclough:

On behalf of the Alaska Peace Officers Association (APOA), I would like to thank you for introducing HB 149, an act relating to drivers' licenses and to immunity for persons who report persons who have a medical or other condition that may impair the ability to operate a motor vehicle.

The APOA Executive Board's Legislative Committee recently reviewed this proposed legislation and decided to unanimously support this bill.

We thank you for addressing this issue. Please contact the APOA office in Anchorage at 277-0515, if there is anything our organization can do to assist in the passage of this bill.

Sincerely,

John Lucking, Jr.  
State President

Making A Difference In The Last Frontier





# Alaska State Legislature

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**Representative Anna Fairclough – House District 17**

## MEMORANDUM

**Date:** March 18, 2011  
**To:** Representative Bob Lynn, Chair  
House State Affairs  
**From:** Representative Anna Fairclough  
**Re:** HB 149 Hearing Request

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I am requesting a hearing for HB 149 "An Act relating to drivers' licenses and to immunity for person who report persons who have a medical or other condition that may impair the ability to operate a motor vehicle."

Thank you in advance for your consideration.

### **Attachments:**

- I. Sponsor Statement
- II. HB 149
- III. Sectional Analysis



# Alaska State Legislature

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**Representative Anna Fairclough** — House District 17

**DATE:** February 28, 2012

**TO:** Representative Bob Lynn  
Chair, House State Affairs Committee

**FROM:** Representative Anna Fairclough *Anna*

**RE:** Hearing Request

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I am requesting a hearing for House Bill 149- "An Act relating to drivers' licenses and to immunity for persons who report persons who have a medical or other condition that may impair the ability to operate a motor vehicle."

This bill had a hearing on April 14, 2011 and was held over until this legislative session. I have received several letters of support and no opposition to the legislation.

I've attached a new packet for your reference.

Thank you for your consideration and attention to my legislation. Should you have any questions please contact Tally Teal in my office at 465-3777.



# Alaska State Legislature

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## Representative Anna Fairclough — House District 17

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### Sponsor Statement

#### House Bill 149

"An Act relating to drivers' licenses and to immunity for person who report persons who have a medical or other condition that may impair the ability to operate a motor vehicle."

Driving is a privilege and with that privilege is the responsibility of an applicant or person licensed to report medical conditions that could impair their driving ability. The decision to self report can be a difficult decision to make. Family members worried about the safety of their family and the public often shoulder the burden of reporting loved one's medical conditions to the Department of Motor Vehicles when they are unable to convince them to stop driving. Often doctors are asked to assist when the family has difficulty convincing loved ones that their medical condition or impairment will affect their driving performance.

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Thank you for your consideration of this legislation. I appreciate your support of House Bill 149.



# Alaska State Legislature

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## Representative Anna Fairclough — House District 17

### Sectional Analysis

#### House Bill 149

**"An Act relating to drivers' licenses and to immunity for person who report persons who have a medical or other condition that may impair the ability to operate a motor vehicle."**

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**Section 2.** Amends AS 28.15

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# FISCAL NOTE

STATE OF ALASKA  
2012 LEGISLATIVE SESSION

cost # codes

Bill Version HB149  
Fiscal Note Number \_\_\_\_\_  
Publish Date \_\_\_\_\_

Identifier (file name) HB149-DOA-DMV-12-6-2011 Dept. Affected Administration  
Title Driver's Licensing; medical conditions Appropriation Motor Vehicles  
Allocation Motor Vehicles  
Sponsor Representatives Fairclough, Olson  
Requester House State Affairs OMB Component Number 2348

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

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

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
<b>OPERATING EXPENDITURES</b>	<b>FY13</b>	<b>FY13</b>	<b>FY14</b>	<b>FY15</b>	<b>FY16</b>	<b>FY17</b>	<b>FY18</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**FUND SOURCE** (Thousands of Dollars)

1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
<b>TOTAL</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS**

Full-time							
Part-time							
Temporary							

**CHANGE IN REVENUES**

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Estimated **SUPPLEMENTAL (FY12) operating costs** \_\_\_\_\_ (separate supplemental appropriation required)  
(discuss reasons and fund source(s) in analysis section)

Estimated **CAPITAL (FY13) costs** \_\_\_\_\_ (separate capital appropriation required)  
(discuss reasons and fund source(s) in analysis section)

**Why this fiscal note differs from previous version (if initial version, please note as such)**

**Update for session**

Prepared by Whitney Brewster, Director  
Division Motor Vehicles  
Approved by John Cramer, Deputy Commissioner  
Department of Administration

Phone 907-269-5559  
Date/Time 12/1/11 4:30 PM  
Date 12/6/2011

**FISCAL NOTE**

**STATE OF ALASKA  
2012 LEGISLATIVE SESSION**

**BILL NO. HB149**

**Analysis**

This bill has no fiscal impact on the Division of Motor Vehicles (DMV).



## Alaska Association of Chiefs of Police

February 10, 2012

Representative Anna FAIRCLOUGH  
Mailstop: 3100 Room 501  
State Capitol,  
Juneau AK 99801-1182

RE: HB 149 An Act relating to drivers' licenses and to immunity for persons who report persons who have a medical or other condition that may impair the ability to operate a motor vehicle

Dear Representative Fairclough,

The Alaska Association of Chiefs of Police, Inc. (AACOP) represents Criminal Justice executives across Alaska; from Anchorage to Annette Island, Barrow to Bethel and Kotzebue to Ketchikan. Our 120 Members direct local, state and federal criminal justice agencies. We collaborate and work together toward one goal: making our state and communities safer.

AACOP leadership recently met to evaluate the impact on public safety of pending legislation before the 27<sup>th</sup> Alaska Legislature. One of the bills evaluated was HB 149 *An Act relating to drivers' licenses and to immunity for persons who report persons who have a medical or other condition that may impair the ability to operate a motor vehicle*, first introduced in the 26<sup>th</sup> legislative session. **We are writing to express our unreserved support for this bill as it is currently drafted.**

If you have need of testimony from any of our members as the bill proceeds through the committee process, please do not hesitate to contact us.

Respectfully,

Chief Tom Clemons,  
President, AACOP  
(907) 224-3338

Jonathan Sladko  
19327 Cherni Circle  
Eagle River, AK 99577

Tuesday, April 26, 2011

The Honorable Anna Fairclough  
10928 Eagle River Rd. Suite 238  
Eagle River AK, 99577

Dear Representative Fairclough:

My name is Jonathan. I am in the seventh grade and am home schooled here in Eagle River. I am attending Teen Pact, a student government training course, next week.

I am writing to support your work with Bill HB 149. I think that it is a very good law. People with medical conditions that hinder their ability to drive should not be allowed to drive themselves. It could cause an accident if someone passed out while driving. Animals loose in vehicles can be dangerous as well.

I appreciate your help and ask that you please send me a response letting me know if you are able to pass Bill HB 149. Pardon me for revealing the obvious up there.

Thank you for your time and considering my request.

Sincerely,  
Jonathan R. Sladko



**Business Manager**

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Anchorage

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Wrangell

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Anchorage AK 99524

t 907 277 0515  
f 907 272 5355

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State Capitol  
Juneau AK 99801-1182

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State President

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