

LEG. FINANCE - BILLS 1983 - 1984 1791

HB 6 cont. 1791

1.	POSITION TITLE Attorney IV				RANGE/STEP 24A	BARG. UNIT X	FORM 12 PAGE/LINE	COV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 10	RP NUMBER	PCN NUMBER	DRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT	LEG.		

3.	CONTINUATION LEVEL	ADDITION	
4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary 4,469/month	44,690	
6.	Benefits	6,890	
7.	Supplemental Benefits	2,240	
8.	Fixed Benefits	2,400	
9.	TOTAL PERSONAL SERVICES	01	56,220
10.	Travel	02	5,000
11.	Contractual	03	8,000
12.	Commodities	04	3,500
13.	Equipment	05	1,500
14.	Other		
15.	TOTAL COST		74,220

JUSTIFICATION

This is one of two attorney positions required by the Department of Law in order to absorb the significant increase in workload which will result from new legislation authorizing the forfeiture of motor vehicles driven by persons arrested for driving while intoxicated. The new legislation requires a court hearing when a forfeiture is contested by the vehicle owner, or by someone who has a financial interest in the vehicle. It is anticipated that many of these hearings will involve representatives from banks or financing companies who retain a financial interest in the vehicle.

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	74,220
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

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AGENCY DEPARTMENT OF LAW
PROGRAM LEGAL SERVICES
BRU LEGAL SERVICES
COMPONENT LEGAL SERVICES OPERATIONS

FY 84

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Revised Date _____

13 REQUEST FOR NEW POSITION

1.	POSITION TITLE Legal Secretary I				RANGE/STEP 10B	BARG. UNIT CGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 10	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				ADDITION		JUSTIFICATION			
4.	TYPE OF EXPENDITURE				AMOUNT		<p>This is the second of two attorney positions required by the Department of Law in order to absorb the significant increase in workload which will result from new legislation authorizing the forfeiture of motor vehicles driven by persons arrested for driving while intoxicated. The new legislation requires a court hearing when a forfeiture is contested by the vehicle owner, or by someone who has a financial interest in the vehicle. It is anticipated that many of these hearings will involve representatives from banks or financing companies who retain a financial interest in the vehicle.</p>			
	1	2	3							
	PERSONAL SERVICES									
5.	Salary	1,817/month	18,170							
6.	Benefits		2,800							
7.	Supplemental Benefits		1,110							
8.	Fixed Benefits		2,400							
9.	TOTAL PERSONAL SERVICES		01	24,480						
10.	Travel		02	-0-						
11.	Contractual		03	2,200						
12.	Commodities		04	2,700						
13.	Equipment		05	14,500						
14.	Other									
15.	TOTAL COST			43,880						
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004		43,880						
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
FOR B&M USE ONLY				4A KEY NUMBER _____						

13 REQUEST FOR
NEW POSITION

AGENCY DEPARTMENT OF LAW
PROGRAM GENERAL GOVERNMENT
BRU LEGAL SERVICES
COMPONENT LEGAL SERVICES OPERATIONS

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Revised Date _____

1.	POSITION TITLE Attorney III				RANGE/STEP 22A	BARG. UNIT X	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.	
2.	TYPE OF POSITION PFT	STAFF MONTHS 10	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Fairbanks	ELECTION DISTRICT	LEG.			
3.	CONTINUATION LEVEL				JUSTIFICATION						
4.	TYPE OF EXPENDITURE				AMOUNT						
	1		2		3						
	PERSONAL SERVICES										
5.	Salary	4,469/month	44,690								
6.	Benefits		6,890								
7.	Supplemental Benefits		2,240								
8.	Fixed Benefits		2,400								
9.	TOTAL PERSONAL SERVICES		01	56,220							
10.	Travel		02	5,000							
11.	Contractual		03	8,000							
12.	Commodities		04	3,500							
13.	Equipment		05	1,500							
14.	Other										
15.	TOTAL COST			74,220							
	RECEIPT CODE	FUNDING SOURCE									
16.		Federal Receipts 1002									
17.		G.F. Match 1003									
18.		General Funds 1004			74,220						
19.		I-A Receipts 1005									
20.		Program Receipts 1028									
21.		Other									
FOR B&M USE ONLY 4A KEY NUMBER _____											

This is one of two secretary positions required to provide secretarial support for the two new attorney positions assigned to Anchorage and Fairbanks. This particular secretarial position will serve the needs of the new attorney assigned to Anchorage. Included in the duties of this position will be the responsibility of coordinating the activities of the Civil Division attorneys handling the forfeiture action with the attorneys and support staff of the criminal division who originally prosecuted the intoxicated operator of the motor vehicle.

13 REQUEST FOR
NEW POSITION

AGENCY DEPARTMENT OF LAW
PROGRAM LEGAL SERVICES
BRU LEGAL SERVICES
COMPONENT LEGAL SERVICES OPERATIONS

FY 84

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Revised Date _____

1.	POSITION TITLE Legal Secretary I				RANGE/STEP 10B	BARG. UNIT GGU	FORM 12 PAGE/LINE	COV.	APPROV.	DISAPP.	
2.	TYPE OF POSITION PPT	STAFF MONTHS 10	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Fairbanks	ON DISTRICT	LEG.			
3.	CONTINUATION LEVEL				JUSTIFICATION						
4.	TYPE OF EXPENDITURE				AMOUNT						
	1		2		3						
	PERSONAL SERVICES										
5.	Salary	2,048/month	20,480								
6.	Benefits		3,160								
7.	Supplemental Benefits		1,260								
8.	Fixed Benefits		2,400								
9.	TOTAL PERSONAL SERVICES		01	27,300							
10.	Travel		02	-0-							
11.	Contractual		03	2,200							
12.	Commodities		04	2,700							
13.	Equipment		05	14,500							
14.	Other										
15.	TOTAL COST			46,700							
	RECEIPT CODE	FUNDING SOURCE									
16.		Federal Receipts 1002									
17.		G.F. Match 1003									
18.		General Funds 1004		46,700							
19.		I-A Receipts 1005									
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NEW POSITION

AGENCY DEPARTMENT OF LAW
PROGRAM LEGAL SERVICES
BRU LEGAL SERVICES
COMPONENT LEGAL SERVICES OPERATIONS

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STATE OF ALASKA
FISCAL NOTE

Revision Date 1983

I. REQUEST

Bill/Resolution No.: CSHB6 (300)
 Title: "An Act...Driving a Motor Vehicle"
 Sponsor: Abood, Furnace, Lindauer
 Requestor: _____

II. FISCAL DETAIL

Agency Affected: Dept. of Administration
 Program Category Affected: Public Defender
 BRU, Program of Subprogram(s) Affected: Third District, Fourth District

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		177.2	187.8	199.1	211.0	223.7
200 TRAVEL						
300 CONTRACTUAL		15.0	15.9	16.9	17.9	19.0
400 COMMODITIES		4.5	4.8	5.1	5.4	5.7
500 EQUIPMENT		6.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		202.7	208.5	222.4	234.3	248.4
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		202.7	208.5	222.4	234.3	248.4
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		3.0	3.0	3.0	3.0	3.0
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

GENERAL FUND

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Bob Stokes, Admin. Officer

Phone: 279-7541

Division: for Dana Fabe, Public Defender *Eileen Anderson*

Date: April 13, 1983

Approved by Commissioner: Lisa Rudd *LR*

Date: April 14, 1983

Department: Administration

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

3/8/83

CSHB6
FISCAL NOTE BREAKDOWN

May 9, 1983

Public Defender Agency
 Dana Fabe, Public Defender

Anchorage:

2	Attorney III	\$44,568			
	SBS	2,240			
	Ben	7,220			
	Med	2,880			
		\$56,907	x 2=	\$113,816	113.8

Fairbanks:

1	Attorney III	\$51,012			
	SBS	2,240			
	Ben	8,263			
	Med	2,880			
		\$64,395			
				64.4	
				177.2	

100- Personal Services	177.2
300- Contractual	
(Experts, Space, etc.)	15.0
400- Supplies	4.5
500- Equipment	6.0
Total	202.7

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: CS HB 6 (Judiciary)
 Title: "Act Relating to Motor Vehicles"
 Sponsor: Abood
 Requestor: House Judiciary

II. FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Life & Prop. Pr
 BRU, Program of Subprogram(s) Affected: Driver/Vehicle Services & AST

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		26.6	28.2	29.9	31.7	33.6
200 TRAVEL						
300 CONTRACTUAL		10.5	6.6	7.0	7.4	7.8
400 COMMODITIES		.2	.2	.2	.2	.3
500 EQUIPMENT		41.7	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		80.7	35.0	37.1	39.3	41.7
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		80.7	35.0	37.1	39.3	41.7
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not identified by sponsor

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Michael Orellove Phone: 465-4349
 Division: Administrative Services Date: 4-26-83
 Approved by Commissioner: [Signature] Date: 4/26/83
 Department: Public Safety

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
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CSHB 6 (Judiciary)

Division of Motor Vehicles

ANALYSIS

Personal Services and Equipment breakdown is contained on attached Form 13 - Request for New Position.

\$4,300 of first year contractual is for new testing material and forms, and \$6,200 is for postage (all license actions must be sent via certified mail). Remaining years contractual is for postage only.

ASSUMPTIONS

1) Alaska Court System will handle "Revenue" fiscal note covering fines and vehicle forfeitures; 2) 98% of defendants who take breath test will have .08% or higher; and 3) Effective date is July, 1983.

Division of Alaska State Troopers

ANALYSIS

In order to comply with the "at the scene" provision in Section 13 of this Bill, 40.0 will be required to purchase 100 new portable breathalyzer units (\$400X100 = 40.0).

1.	POSITION TITLE Document Processing Clerk II				RANGE/STEP 8B	BARG. UNIT GG	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT 4	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT						
	1			7			3			
	PERSONAL SERVICES									
5.	Salary		19,176							
6.	Benefits		3,367							
7.	Supplemental Benefits		1,175							
8.	Fixed Benefits		2,880							
9.	TOTAL PERSONAL SERVICES		01		26,598					
10.	Travel		02							
11.	Contractual		03							
12.	Commodities		04		100					
13.	Equipment		05		1,724					
14.	Other									
15.	TOTAL COST				28,422					
	RECEIPT CODE		FUNDING SOURCE							
16.			Federal Receipts 1002							
17.			G.F. Hatch 1003							
18.			General Funds 1004		28,422					
19.			I-A Receipts 1005							
20.			Program Receipts 1028							
21.			Other							
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4A KEY NUMBER _____										

One Document Processing Clerk II will be required to handle administrative license actions and related work for individual defendants whose breath test results are .08% or higher. Will prepare and mail license actions (of which it is estimated there will be an increase of 3,500 to 4,000 annually based on 1982 statistics); enter data on computer; prepare certified copies for prosecutors, courts, etc.; process stays; maintain proof of insurance filings; and maintain records. Equipment breakdown for this position is as follows: Typewriter - \$1,245; File Cabinet - \$291; and Chair - \$188.

13 REQUEST FOR
NEW POSITION

AGENCY Public Safety

PROGRAM Life and Property Protection

BRU Driver/Vehicle Services

COMPONENT Driver Services

FY 84

Page _____ of _____
Revised Date _____

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: SCSHB 6 (State Affairs)
Title: "...driving a motor vehicle."
Sponsor: State Affairs (Orig. - Abood)
Requestor: Senate State Affairs

II. FISCAL DETAIL

Agency Affected: Department of Law
Program Category Affected: General Govt.
BRU, Program of Subprogram(s) Affected: Legal Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		164.2	208.9	221.4	234.7	248.8
200 TRAVEL		10.0	10.6	11.2	11.9	12.6
300 CONTRACTUAL		20.4	23.8	25.2	26.7	28.3
400 COMMODITIES		12.4	7.6	8.1	8.6	9.1
500 EQUIPMENT		32.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	239.0	250.9	265.9	281.7	298.8

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	239.0	250.9	265.9	281.7	298.8
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	4	4	4	4	4
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not specified by sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Division Date: May 16, 1983
 Approved by Commissioner: Norman C. Gorsuch, Attorney General Date: May 16, 1983
 Department: Department of Law

Distribution:

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SCSHB 6 (State Affairs)
Fiscal Note
Analysis

The committee substitute has eliminated impoundment of vehicles and retained modified and less restrictive provisions for forfeiture of vehicles. Likewise, the requirement to notify every person who has an ownership or security interest in vehicle within five days has been changed to simply notice prior to any hearing that would determine the disposition of any forfeited vehicle. Because of these changes, the fiscal impact on the department will be reduced. The requirement for court forfeiture hearings, however, still remains and the state must provide motions and answer intervenors' motions in order to invoke forfeiture. Consequently, the department's original estimate of four attorneys, and two clerical staff is being reduced to two attorneys and two clerical staff.

Fiscal Analysis - SCSHB 6

The impact of SCSHB 6 is expected to result in the addition of one Attorney IV position (SR 24) and one Attorney III position (SR 22). In addition to these attorney positions, two secretarial positions will provide support for the Anchorage and Fairbanks attorneys.

The first year of this analysis will cover 10 months of FY 84, allowing 2 months for these four positions to be established. The costs beyond FY 84 have been projected on a 12 month basis and include a 6% annual inflation factor.

1st Year (10 months)

	ANCHORAGE		FAIRBANKS		TOTAL
	AIV	LSI	AIII	LSI	
Personal Services	56.2	24.5	56.2	27.3	164.2
Travel	5.0	-0-	5.0	-0-	10.0
Contractual	8.0	2.2	8.0	2.2	20.4
Commod. - ongoing	1.5	1.5	1.5	1.5	6.0
Commod. - single time	2.0	1.2	2.0	1.2	6.4
Equip. - single time	1.5	14.5	1.5	14.5	32.0
					<hr/>
					239.0

2nd Year (12 months + 6% annual inflation)

Personal Services	71.5	31.2	71.5	34.7	208.9
Travel	5.3	-0-	5.3	-0-	10.6
Contractual	9.1	2.8	9.1	2.8	23.8
Commodities	1.9	1.9	1.9	1.9	7.6
					<hr/>
					250.9

1.	POSITION TITLE Attorney IV				RANGE/STEP 24A	DARG. UNIT X	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 10	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT	LEC.		

3.	CONTINUATION LEVEL	ADDITION	
4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	4,469/month	44,690
6.	Benefits		6,890
7.	Supplemental Benefits		2,240
8.	Fixed Benefits		2,400
	TOTAL PERSONAL SERVICES		01 56,220
	Travel		02 5,000
11.	Contractual		03 8,000
12.	Commodities		04 3,500
13.	Equipment		05 1,500
14.	Other		
15.	TOTAL COST		74,220

JUSTIFICATION

This is one of two attorney positions required by the Department of Law in order to absorb the significant increase in workload which will result from new legislation authorizing the forfeiture of motor vehicles driven by persons arrested for driving while intoxicated. The new legislation requires a court hearing when a forfeiture is contested by the vehicle owner, or by someone who has a financial interest in the vehicle. It is anticipated that many of these hearings will involve representatives from banks or financing companies who retain a financial interest in the vehicle.

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	74,220
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21.		Other	

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AGENCY DEPARTMENT OF LAW
PROGRAM LEGAL SERVICES
BRU LEGAL SERVICES
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13 REQUEST FOR NEW POSITION

1.	POSITION TITLE Legal Secretary I				RANGE/STEP 10B	ORG. UNIT GGU	FORM 12 PAGE/LINE	COV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 10	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT	LEG.		

3.	CONTINUATION LEVEL	ADDITION		
4.	TYPE OF EXPENDITURE			AMOUNT
	1	2		3
	PERSONAL SERVICES			
5.	Salary	1,817/month	18,170	
6.	Benefits		2,800	
7.	Supplemental Benefits		1,110	
8.	Fixed Benefits		2,400	
	TOTAL PERSONAL SERVICES		01	24,480
	Travel		02	-0-
11.	Contractual		03	2,200
12.	Commodities		04	2,700
13.	Equipment		05	14,500
14.	Other			
15.	TOTAL COST			43,880

JUSTIFICATION

This is the second of two attorney positions required by the Department of Law in order to absorb the significant increase in workload which will result from new legislation authorizing the forfeiture of motor vehicles driven by persons arrested for driving while intoxicated. The new legislation requires a court hearing when a forfeiture is contested by the vehicle owner, or by someone who has a financial interest in the vehicle. It is anticipated that many of these hearings will involve representatives from banks or financing companies who retain a financial interest in the vehicle.

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AGENCY DEPARTMENT OF LAW
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1.	POSITION TITLE Attorney III			RANGE/STEP 22A	ORG. UNIT X	FORM 12 PAGE/LINE	GOV.	APPRDV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 10	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Fairbanks	ELECTION DISTRICT	LEG.	
3.	CONTINUATION LEVEL	ADDITION		JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT					
	1	2	3						
	PERSONAL SERVICES								
5.	Salary	4,469/month	44,690						
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	Travel		02	5,000					
11.	Contractual		03	8,000					
12.	Commodities		04	3,500					
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14.	Other								
15.	TOTAL COST			74,220					
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Revised Date

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2.	TYPE OF POSITION PFT	STAFF MONTHS 10	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Fairbanks	ELECTION DISTRICT	LEG.		

3.	CONTINUATION LEVEL			ADDITION	
4.	TYPE OF EXPENDITURE			AMOUNT	
	1	2	3		
	PERSONAL SERVICES				
5.	Salary	2,048/month	20,480		
6.	Benefits		3,160		
7.	Supplemental Benefits		1,260		
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	Travel		02	-0-	
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12.	Commodities		04	2,700	
13.	Equipment		05	14,500	
14.	Other				
15.	TOTAL COST			46,700	

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21.		Other	

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NEW POSITION

AGENCY DEPARTMENT OF LAW
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The following individuals are expected to testify on CS HB 6
(Judiciary):

Representative Mitch Abood, prime sponsor

Roger Lange and Amy Zollo, Division of Corrections

Gail Huretsky, Office of the Chief Prosecutor, Department of Law

A representative of the Public Defender's Office

Karla Forsythe, General Counsel, Alaska Court System

Bill Brown, Division of Motor Vehicles, Department of Public
Safety

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 24, 1983

SUBJECT: Driving while intoxicated
(HB 6) *State Affairs CS*

TO: Representative Mitchell E. Abood, Jr.

FROM: Tamara Brandt Cook
Legislative Counsel
TBC

You have asked me to indicate the changes contained in the draft CSHB 6 as compared to HB 6. I have done this in the form of a sectional analysis of CSHB 6 and the section numbers contained in the headings refer to CSHB 6.

Section 1. This is the same as sec. 1 of HB 6.

Section 2. This is the same as sec. 2 of HB 6.

Section 3. The language "arising out of the operation of a type of motor vehicle for which a driver's license is required" is inserted into subsection (c). The change limits the application of provisions dealing with revocation of a driver's license to situations involving the use of a vehicle, such as an automobile, for which a driver's license is required. The crime of driving while intoxicated under AS 28.35.030 can be committed by a person driving any type of motor vehicle, defined under AS 28.35.260(7) to mean any self-propelled vehicle, or an aircraft or watercraft. Without the added language a person convicted of driving while intoxicated in a case involving an airplane or boat would, under the strict terms of the provision, lose his license to drive an automobile, a somewhat puzzling result. This, however, is the situation under existing AS 28.15.-181(c) which requires revocation of a driver's license, for an automobile, for the crime of driving while intoxicated despite the fact that the crime may have involved a vehicle of a type for which no driver's license is required, such as an airplane or boat.

Section 4. This is the same as sec. 4 of HB 6.

Section 5. This is the same as sec. 5 of HB 6.

Section 6. This prohibits driving while a driver's license is canceled, suspended, revoked or in violation of a limitation placed on the license whether the curtailment of the privilege to drive occurred in this state or another jurisdiction. The change was adopted by the House ~~Community and Regional Affairs Committee~~ ^{S.A.} as Amendment No. 2. The minimum term of imprisonment for driving without a license has been increased from 14 to 90 days in subsection (a) pursuant to Amendment No. 5 adopted by the House ~~Community and Regional Affairs Committee~~ ^{S.A.}. In subsection (b) the notice given by the department to a person whose license is curtailed of the consequences of driving without a license is altered to reflect the new 90-day imprisonment provision.

Section 7. This is the same as sec. 7 of HB 6.

Section 8. At the bottom of page 5 and the top of page 6, the language "if the offense arises out of driving a type of motor vehicle for which a driver's license is required" is inserted, since this provision has to do with revocation of a driver's license and impoundment and forfeiture of a motor vehicle. The reason for the change is the same as that indicated under sec. 3. In addition, this makes it clear that the impoundment and forfeiture provisions are to be applied to vehicles for which a driver's license is required such as automobiles, but not to other vehicles such as boats or planes.

Section 9. This contains the material from sec. 13 of HB 6. It was moved to a new section number at the request of the revisor of statutes, who has authority in any case to renumber sections. The language "to a person driving a motor vehicle of a type for which a driver's license is required" has been inserted in subsection (b) and (c)(1), so that the provisions dealing with administrative revocation of a driver's license apply only if a person is driving a vehicle such as an automobile. A chemical test under the implied consent statute can be given to a person driving any type of motor vehicle, including an aircraft or watercraft. Without this change, a driver's license, for an automobile, could be revoked on the basis of a test given in conjunction with the operation of a plane or boat. Under paragraphs (1), (2) and (4), the provision for suspension and for refusal to issue an original license have been included as possible department actions along with the provision for

revocation now contained in HB 6. In subsection (3) the word "suspension" is used in connection with curtailment of the privilege to drive for a limited period of time. The word "revocation" is used to refer only to permanent denial of the privilege to drive. Under existing statutes these terms are used interchangeably. The first sentence in (e) is inserted pursuant to Amendment No. 1 adopted by the House ~~Community and Regional Affairs Committee. S.A.~~

Section 10. This contains material found in sec. 9 of HB 6. As in the previous section, limiting language is inserted so that provisions dealing with curtailment of a driver's license apply only if a person is arrested while driving a vehicle such as an automobile, for which a driver's license is required. Under paragraphs (1), (2), and (4), the provision for suspension and for refusal to issue an original license have been included as possible department actions along with the provision for revocation now contained in HB 6.

Section 11. This contains material found in sec. 10 of HB 6. Limiting language is inserted so that provisions dealing with curtailment of a driver's license apply only if a person refusing to submit to a chemical test was arrested while driving a vehicle, such as an automobile, for which a driver's license is required.

Section 12. This contains material found in sec. 11 of HB 6. The word "suspension" is used in connection with curtailment of the privilege to drive for a limited period of time. The word "revocation" is used to refer only to permanent denial of the privilege to drive.

Section 13. This contains material found in sec. 12 of HB 6.

Section 14. This contains material found in sec. 14 of HB 6. "Suspension" is used in connection with curtailment of the privilege to drive for a limited period of time. "Revocation" refers to permanent denial of the privilege to drive.

Section 15. The language "of a type for which a driver's license is required" is inserted in (a) to limit this section to impoundment of vehicles, such as automobiles for which a driver's license is required. An offense under AS 28.35.030 may involve other types of motor vehicles, such

Representative Mitchell E. Abood, Jr.

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as airplanes. Without this change these might also be impounded.

Section 16. The language "arising out of driving a motor vehicle of a type for which a driver's license is required" is added to Sec. 28.35.037(a) to limit forfeiture to vehicles such as automobiles or motorcycles. An offense under AS 28.35.030 or AS 28.35.032 may involve other types of motor vehicles, such as airplanes or boats for which no driver's license is issued. Without this change these might also be forfeited. Paragraph (3) is added to Sec. 28.35.038(b) and in (c) "may" is changed to "shall" pursuant to Amendment No. 4 adopted by the House ~~Community and Regional Affairs Committee.~~ S.A.

Section 17. This is the same as sec. 17 of HB 6.

TBC:ljb

STATE OF ALASKA
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
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907-465-3800

MEMORANDUM

January 31, 1983

SUBJECT: Drunk Driving -- HB 6
(Work Order No. 13-0676)

TO: Representative Mitchell E. Abood, Jr.

FROM:  Russ Josephson
Legislative Counsel

Following is the sectional analysis of HB 6 which you requested:

Section 1 amends AS 28.15.081(a) by adding the new requirements for the driver's license and application examination: (1) that the applicant know the effects of alcohol and drugs on drivers and the related dangers of driving under their influence; and (2) that the applicant know the laws relating to driving while intoxicated.

Section 2 amends AS 28.15.181(a) by adding a new basis for the immediate suspension or revocation of a driver's license: the refusal to submit to a chemical test of breath under AS 28.35.032, Refusal to Submit to Chemical Test.

Section 3 amends AS 28.15.181(c) by repealing and reenacting it. Please refer to the accompanying penalties chart for comparison between the current law and HB 6.

Section 4 amends AS 28.15.201(b)(1) by removing the reference to the revocation of the license of a person convicted of operating or driving a motor vehicle while intoxicated. The revocation of the license of such a person is handled in Sec. 3 of this bill.

Section 5 amends AS 28.15.201(c) by removing the references to the issuance of a new driver's licenses for persons convicted of operating or driving a motor vehicle while intoxicated, after a limited license period has expired because, under Sec. 3 of this bill no limited license privileges may be granted.

January 31, 1983

Section 6 amends AS 28.15.291 by changing the penalty for violation of the prohibition against driving while a license is canceled, suspended, or revoked, or in violation of a limitation on the license. The penalty is increased from 10 days to 14 consecutive days and a fine of \$500 - \$1000 is added. In addition, the provision allowing the sentence to be suspended after the defendant has been imprisoned for no less than the minimum period has been removed.

Section 7 amends AS 28.35.030(a)(2), the "DWI" section by inserting the language to indicate that the alcohol levels referred to in the existing statute are to be determined by a chemical test given within four hours after the alleged offense was committed. Note that the broader term "a chemical test" is used here, not "a chemical test of breath".

Section 8 amends the "DWI" section further by changing the penalties for conviction. In addition, the five-year period used for calculating the numbers of convictions on a person's record has been eliminated, thus making all convictions count. The section also has been amended by the use of new language that indicates that a conviction under another law or ordinance, in this or another jurisdiction, is counted as a conviction in Alaska for purposes of determining how many convictions a person has and thus for determining what the penalty should be, if the elements of the law or ordinance are substantially similar. The effect of this amendment is to close a "loophole" if there were minor differences between the law under which a prior conviction had been obtained and the law under which a subsequent conviction was obtained. Also, the provision for suspension of sentence after the minimum sentence is served has been eliminated, as it was in Sec. 6. A person with multiple convictions for driving while intoxicated or for refusal to submit to a chemical test of breath, or for a combination of those two offenses (or another law or ordinance with substantially similar elements), may have the vehicle used in the commission of the latest offense impounded and forfeited.

Section 9 amends AS 28.35.032(a) by adding to the existing language on the refusal to submit to a chemical test of breath a new provision for the seizure of the driver's license by the law enforcement officer after reading the driver a notice and delivering the driver a copy of the notice. The notice explains the revocation procedure and

the right of court review. The notice is a temporary driver's license, as well.

Section 10 amends AS 28.35.032(b) to provide that the notice of revocation or suspension of a driver's license, as now required, indicate that the action will be effective after the temporary driver's license provided for in Sec. 9 has expired. Also, the section is amended to stay the revocation or suspension action if the person initiates a court action to rescind the Department of Public Safety's action. The three months' suspension or revocation period is eliminated from this section. Some additional technical changes were also made in this section.

Section 11 amends AS 28.35.032(d) to provide new penalties for the refusal to submit to a chemical test of breath under the implied consent statute. The penalties parallel those for conviction for "DWI" in several ways, including the calculation of the number of offenses. Provision is made for permanent suspension or revocation of the driver's license or the nonresident privilege to drive, and for the denial of an original license -- if multiple offenses are involved.

Section 12 amends AS 28.35.032(g) adding fines to the penalties for refusal to submit to a chemical test of breath, eliminates the five-year period used in calculating numbers of convictions, and increases the penalties for convictions. The sentence for multiple conviction cases may not be suspended under the amendments of this section.

Section 13 adds new subsections to AS 28.35.033, Chemical Analysis of Blood. This section provides for driver's license seizure if a chemical test produces results specified in subsection (a)(2). The procedure is the same as that in Sec. 9. In addition, the new language limits the court proceeding in which the driver's action to rescind the suspension or revocation of the driver's license is heard to two issues: (1) whether or not the arrest for driving while intoxicated was valid; and (2) whether the chemical test produced the results specified in subsection (a)(2). The penalties for administrative suspension or revocation for "DWI" or refusal to submit to a chemical test of breath are also set forth.

Section 14 amends AS 28.35.034. The section, formerly named "Period of Revocation", is renamed "Surrender of License or

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Permit". The section is amended by the removal of the provisions allowing the district court to find extenuating circumstances and to modify or nullify the suspension or revocation of a driver's license or permit for refusing to submit to a chemical test of breath. Additional minor technical changes also were made.

Section 15 adds new sections to AS 28.35 for the impoundment and forfeiture of automobiles used in the commission of an offense under AS 28.35.030 (Operating a Vehicle, Aircraft or Watercraft While Intoxicated), and also for an offense under AS 28.35.032(f) (Refusal to Submit to a chemical Test of Breath) in the case of the forfeiture. In addition, provision is made for the remission of forfeitures, a procedure to allow persons with ownership or security interests in a forfeited motor vehicle to claim the vehicle through court proceedings.

Section 16 repeals AS 28.35.211(a)(4), a provision concerning suspension, revocation, or limitation of licenses for three months. The repealed provision has been replaced by other provisions throughout this bill.

RJ:ljb

POSITION PAPER

CS for House Bill No. 6 (Judiciary)

"An Act relating to driving a motor vehicle."

House Bill No. 6 amended would increase the penalties for alcohol related driving offenses. Specifically:

Section 11 AS 28.15.291 sets the penalty for first offense driving with a suspended license as the result of a conviction of driving a motor vehicle while intoxicated at 30 days. The penalty for second or third offense driving with a suspended license as the result of a conviction of driving a motor vehicle while intoxicated would be 90 days.

Section 13 AS 28.35.030 (c) raises the penalty for second offense operating a motor vehicle while intoxicated to 20 consecutive days. The penalty for a third conviction would be raised to 30 consecutive days.

Section 16 AS 28.35.032 (g) sets the penalty for second offense of refusing to submit to chemical test at 20 days; third offense 30 days.

If CS for House Bill No. 6 is enacted, the increases in penalties set out in Sections 11, 13, and 16 would result in the need for 22 additional minimum security beds.

Recommended by:

Roger V. Endell

Roger V. Endell, Director
Division of Adult Corrections

Date:

May 6, 1983

Approved by:

Robert L. Smith
Robert London Smith, Ph.D.
Commissioner

Date:

May 6, 1983

FACTS ON ALCOHOL AND HIGHWAY SAFETY

The Problem

Overview:

Drunk driving continues to be one of our nation's most serious public health and safety problems. Some 50 percent of all drivers killed each year have blood alcohol concentrations in excess of the legal limit, 0.10 percent. In single vehicle fatal crashes, where it is more certain who is at fault, upwards of 65 percent of those drivers who die were legally drunk. Over the past 10 years, the proportion of highway deaths involving alcohol has averaged a tragic 25,000 per year. Thus, a staggering one quarter of a million Americans have lost their lives in alcohol-related crashes in the last decade.

The cost of drunk driving has a high economic cost to this country as well. A conservative estimate of the total economic cost of drunk driving is put at 24 billion.

Alcohol and Crashes:

Alcohol is a major contributing factor to fatal (and serious injury) automobile crashes. According to a 1978 review of the literature, approximately 60 percent of fatal crashes involved a driver who had been drinking. Between 40 and 55 percent of such crashes involved a driver who had a blood alcohol concentration (BAC) greater than .10 percent (w/v).

With regard to alcohol and responsibility for fatal crashes, the drinking driver problem is even more significant. In one study drivers judged to be at fault in fatal crashes were six times more likely to have had BAC's greater than .10 percent (w/v) alcohol in their blood than drivers judged not at fault for their crashes (60 percent vs. 10 percent).

This strong relationship between crash responsibility and high alcohol levels is shown further in single vehicle crashes, where responsibility is apparent, and where between 60 and 75 percent (60-75%) of dead drivers have BACs greater than .10 percent (w/v).

The Driver Population:

What the high BAC figures in crashes suggest is that the majority of alcohol related fatal crashes are caused by heavy (problem) drinkers. Some portion of the approximately 15 percent of fatal crashes which involve drivers who have been drinking, but who do not have BACs greater than .10 percent, may be caused by less heavy, less chronic, "social" drinkers.

The majority of drivers are either abstainers or light to moderate (social) drinkers. Even quite liberal estimates suggest that only about 10 to 15 percent of the nation's drivers would be classified as being heavy (problem) drinkers.

Arrested Drunk Drivers:

The average proportion of licenses drivers arrested for drunk driving over a one-year period is estimated to be one percent (1%). This translates to approximately 1.3 million of approximately 130 million licensed drivers.

On a nightly basis, between one in five hundred (1/500) and one in two thousand (1/2000) drivers on the road with a BAC greater than .10 percent (w/v) are arrested for drunk driving. These estimates come from a number of roadside surveys conducted in conjunction with the Alcohol Safety Action Projects (ASAPs) funded by the NHTSA in the 1970's and from the Grand Rapids data reported by Borkenstein and others.

The average BAC of these drinking drivers is approximately .20 percent, double the level for presumed intoxication. Estimating an average period of alcohol consumption at 4-5 hours, this means that the average fatally injured drinking driver had about 15 drinks prior to becoming involved in the crash.

Blood Alcohol and Body Weight

CHART FOR RESPONSIBLE PEOPLE WHO MAY SOMETIMES DRIVE AFTER DRINKING!

APPROXIMATE BLOOD ALCOHOL PERCENTAGE

Drinks	Body Weight in Pounds								Influenced Rarely
	100	120	140	150	180	200	220	240	
1	.04	.03	.03	.02	.02	.02	.02	.02	Definitely
2	.08	.06	.05	.04	.04	.04	.03	.03	
3	.11								Definitely
4	.15	.12	.11						
5	.19	.16	.13	.12	.11				
6	.23	.19	.16	.14	.13	.11	.10		
7	.26	.22	.19	.16	.15	.13	.12	.11	
8	.30	.25	.21	.19	.17	.15	.14	.13	
9	.34	.28	.24	.21	.19	.17	.15	.14	
10	.38	.31	.27	.23	.21	.19	.17	.16	

Subtract .01% for each 30 minutes of drinking.
One drink is 1 oz. of 100 proof liquor, 12 oz. of beer, or 4 oz. of table wine.

SUREST POLICY IS ... DON'T DRIVE AFTER DRINKING!

Past Approaches and Current Activities

Federal Action:

Over the last 12 years, the National Highway Traffic Safety Administration (NHTSA), an Agency within the U.S. Department of Transportation, has worked with the States to reduce alcohol related deaths on the highway. NHTSA initiated 35 Alcohol Safety Action Projects (ASAPs) throughout the country from 1971-1976 which resulted in the development of a coordinated systematic approach to deal with drunk driving.

In 12 of the 35 ASAPs, a statistically significant reduction in fatal crashes at night was achieved. Individual projects were able to double, and even triple driving while intoxicated arrests, using such new technology as roadside breath testing. Court procedures were streamlined to handle large caseloads. Roughly a quarter-of-a-million drinking drivers were referred for treatment.

Before the passage of the Highway Safety Act of 1966, few States specified a presumptive level of driving while intoxicated. The Federal standard for alcohol safety prescribed the 0.10 percent blood level that legally defines the legal intoxication limit. Now all the States have laws defining driving under the influence at the 0.10 percent level. The majority of the States now have made some improvements in their law enforcement, court, rehabilitation, and educational efforts.

State Action

Under the Section 402 grant program established by the Highway Safety Act the States are increasing the proportion of funds allocated to alcohol programs. In FY 1982 approximately 35 percent of 402 funds (\$27.8 of 78.6 million) were allocated to drunk driving programs (with an added 30 percent spent on alcohol enforcement activities under Police Traffic Services).

Responding to citizen interest, 21 States and a number of local jurisdictions have established special drunk driving task forces to revitalize State/local programs.

Fifteen States have raised the minimum legal drinking age to reduce alcohol related crashes among youth. Other States such as Maryland have introduced legislation to raise the drinking age during 1982.

Sixteen States have adopted statutes allowing preliminary roadside breath testing to assist officers in establishing probable cause for drunk driving arrests.

Twenty-one States have established illegal per se statutes designed to simplify and streamline the prosecution of drunk drivers by making it illegal simply to operate a motor vehicle with an illegal blood alcohol concentration (above 0.10%).

Ninety-seventh Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Monday, the twenty-fifth day of January, one thousand nine hundred and eighty-two

Joint Resolution

To provide for the designation of the week of December 12, 1982, through December 18, 1982, as "National Drunk and Drugged Driving Awareness Week".

Whereas traffic accidents cause more violent deaths in the United States than any other cause, over fifty thousand in 1980;

Whereas traffic accidents also play a substantial role in serious injuries in this country;

Whereas between 40 and 55 per centum of drivers who are fatally injured have alcohol concentrations in their blood above the legal limit and this figure rises to 55 to 65 per centum in single vehicle crashes;

Whereas the total societal cost of drunk driving has been estimated anywhere from \$5,000,000,000 to \$25,000,000,000 a year, which does not include the human suffering that can never be measured;

Whereas there are increasing reports of driving after drug use and accidents involving drivers who have used marijuana or other illegal drugs;

Whereas more research is needed on the effects of drugs on driving ability and their impact on the incidence of traffic accidents, either alone or in combination with alcohol;

Whereas an increased public awareness of the gravity of the problem of drugged driving may warn drug users to refrain from driving and may stimulate interest in increased research on the effects of drugs on driving ability and the incidence of traffic accidents;

Whereas the public, particularly through the work of citizens groups such as Mothers Against Drunk Driving (MADD) and Remove Intoxicated Drivers (RID), is demanding a solution to the problem of drunk driving;

Whereas the President has appointed a Commission on Drunk Driving to heighten public awareness and stimulate the pursuit of solutions;

Whereas many States have appointed task forces to examine the existing drunk driving program and make recommendations for a renewed, comprehensive approach;

Whereas an increase in the national awareness of the problem of drunk and drugged driving may help to sustain current efforts to develop comprehensive solutions at the State and local levels; and

Whereas the Christmas and New Year's holiday period, with more drivers on the roads and an increased number of social functions, is a particularly appropriate time to focus national attention on this critical problem: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of December 12, 1982, through December 18, 1982, is designated as "National Drunk and Drugged Driving Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate activities.

Speaker of the House of Representatives

*Vice President of the United States and
President of the Senate*

DRUNK DRIVING FACTS

- o A blood alcohol concentration (BAC) of .10 percent or greater is the level at which a driver is considered legally intoxicated in most states.
- o Approximately 55 percent of fatal crashes involve a driver who has been drinking.
- o In single vehicle crashes, where responsibility is apparent, between 60 and 75 percent of dead drivers have BACs greater than .10 percent.
- o The average BAC of drivers arrested for drunk driving is approximately .20 percent, double the level for presumed intoxication.
- o Over the past 10 years, the proportion of highway deaths involving alcohol has averaged 25,000 per year; one quarter of a million Americans have lost their lives in alcohol-related crashes in the last decade.
- o A conservative estimate of the total economic cost of drunk driving is put at between five and six billion dollars a year.

Post 12/30/82

Nation's War on Drunk Driving

Is Paying Off in a Big Way

States Pass Tougher Laws, Step Up Their Enforcement

By Howard Kurtz
Washington Post Staff Writer

From Maine, where tougher penalties have cut the number of car accidents by 41 percent, to Florida, where 30 fewer people are dying each month on the highways, a nationwide campaign is making unprecedented progress against drunken driving.

For the first time in many holiday seasons, the dominant news is not the usual increase in highway deaths, but increasingly successful new laws and enforcement efforts to keep drunk

drivers off the road. In the most aggressive jurisdictions, including the Washington area, fewer people are dying in auto accidents.

Legislatures in 18 states, including Maryland and Virginia, passed tougher drunk driving laws this year, and similar bills are pending in 14 states. Maryland and New Jersey joined 23 other states in raising their drinking age to 21 for most alcoholic beverages, reversing the trend of the early 1970s toward a lower drinking age.

A growing number of states are resorting to mandatory jail terms, stiffer fines, more frequent arrests and highway checkpoints. Congress recently voted to provide \$125 million in grants to states that act aggressively against drunken drivers.

See DRIVING, A6, Col. 3

Anti-Drunk-Driving Effort Gains

DRIVING, From A1

The crackdown has not been as successful in some places. Minnesota officials, for example, say most offenders know the police do not have enough manpower to arrest more than one drunken driver in 300. Fatalities in California, which initially dropped by 42 percent after stricter penalties were adopted last January, have rebounded almost to 1981 levels.

There were 49,125 traffic deaths in the United States last year, about half related to alcohol. The effort to reduce these casualties has been spurred by the friends and relatives of accident victims and citizens' groups such as Mothers Against Drunk Driving.

Arizona legislators needed no such prodding. They voted overwhelmingly for stricter penalties after one of their colleagues, Sister Clare Dunn, 46, and another nun were killed by a drunken driver. Around the same time, a drunken man in Arizona crashed into a car full of boy scouts, killing several.

Since July, a first conviction for drunken driving in Arizona has cost a minimum of 24 hours in jail, a \$250 fine and a 90-day license suspension. A second offense carries at least a 60-day jail term, and a third conviction can bring as much as 2½ years in prison.

In Maine, half of last year's traffic deaths were rural, single-car crashes, which state police spokesman Rick Moore described as "a person driving down the road and hanging into a tree." Four-fifths of the victims had been drinking, and half were men in their twenties.

The state legislature responded in September 1981 by setting a minimum \$250 fine and a 45-day license suspension for a first drunken driving offense. If criminal charges are filed, it means at least 48 hours in jail. Refusal to take an alcohol test is punished by a six-month license suspension.

The result: 150 people have been killed in highway crashes this year, compared with 199 in the same period last year.

"It's a very tight law," Moore said. "People have to be prosecuted. You can't plea bargain down to reckless driving. There haven't been more arrests, so it's really the deterrence of the law. People are now thinking twice about having that extra drink."

Maine police have compiled a profile of the typical driver involved in a fatal accident: a single or divorced man in his 20s, a heavy beer drinker, driving an older-model car sometime after 10 p.m. on weekends.

Florida now requires first offenders to perform 50 hours of community service, sometimes in hospital emergency rooms where many accident victims are taken. Along with a 50-percent increase in arrests, these penalties have helped reduce this year's traffic deaths by 12 percent to 2,659, or 371 fewer than in 1981.

Maryland, which recently stopped 1,500 drivers during the first weekend of "sobriety checkpoints," has been the most aggressive enforcer of drunken driving laws. Its police expect to make 32,000 arrests this year for driving while intoxicated, compared with 15,575 in 1980.

While traffic deaths not related to drinking have decreased by only 3 to 4 percent from last year in Maryland, alcohol-related deaths have dropped 29 percent to bring the state's highway death toll down to its lowest level in 19 years. "We know in our hearts and in our statistical books that the crackdown in Maryland is really working," said state police spokesman Bill Clark.

The problem in Minnesota was that a driver whose license was revoked was allowed to stay on the road for a month or more as his case dragged on through appeals. Under a law passed this year, the offender's license is now revoked within seven days.

But public safety official Forst Lowery says the odds are still against the police. "Say a dog brings 300 of his friends into a room, they all dirty the carpet and we only punish one," Lowery said. "We have to make many more arrests before a deterrent is established."

Some officials say the key element is the certainty of punishment. New York, for example, has no mandatory jail term for drunken driving, but a new law requires judges to impose a \$350 fine and revoke the offender's license for six months. Fatal night crashes in New York are down 17 percent.

"You can't plead to speeding or bald tires or something anymore," said Marcus Salm, New York's assistant director of highway safety. "We had a lot of guys who would say, 'Look, if you charge me with drunken driving, my wife will leave me and I'll lose my job, and besides, I've got a good lawyer.'"

Still, Salm acknowledged, "There are ways of getting around the mandatory penalties. Judges don't like being told what to do, and they sometimes react by telling the state what to do. They can throw the case out."

Under congressional legislation sponsored by Rep. Michael D. Barnes (D-Md.), each state that makes drunken driving controls a priority is now eligible for an additional 50 percent of its federal highway safety grant. To qualify, a state must take such steps as raising the drinking age to 21, eliminating plea bargaining, setting up highway checkpoints and using preliminary breath tests.

A presidential commission recently urged the states to adopt similar measures. One recommendation, already in effect in many places, is to use a blood alcohol content of .10 as the legal standard of intoxication. For a 160-pound person, this would mean drinking either five beers, five glasses of wine or three shots of whiskey in an hour.

The commission also suggested that money collected in fines be given back to local authorities to finance enforcement and education programs. This is already being done in New York, where Salm said it provides a powerful incentive for county police to join the crackdown.

Staff researcher Carin Pratt contributed to this report.

Washington Area's War on Drunk

Driving Pays Off in a Big Way

Area Traffic Deaths Drop; Arrests Are on Increase

By Blaine Harden
Washington Post Staff Writer

The highly publicized war against drunk driving—waged this past year by mothers, lawmakers, judges, juries and the police—has racked up impressive victories in the Washington area.

Highway deaths in 1982 declined in Virginia, Maryland and the District of Columbia, where laws against driving under the influence of alcohol were toughened. At the same time, arrests of drunk drivers have increased sharply.

In the District this year, 36 people—the lowest figure in at least a decade—had died in traffic accidents as of Tuesday. Alcohol-related deaths in Maryland fell 30 percent while arrests of drunk drivers were up 50 percent. Highway deaths in Virginia declined 14 percent.

During Christmas weekend, as police in all three jurisdictions beefed up patrols, there was one alcohol-related death in the Washington area, compared to seven over the 1981 Christmas weekend.

"The word is out. We are out there to get people and as a result we have reduced fatalities," says Robert M. Goldstein, director of the D.C. police alcohol countermeasures and traffic services.

See ALCOHOL, A7, Col. 1

ALCOHOL, From A1

Throughout the Washington area, there may never have been such a bad year to be drunk at the wheel.

In Northern Virginia, a drunk driver involved in a head-on collision that killed three persons was convicted in September of second-degree murder. The conviction was the first in the state on that serious charge in an alcohol-related traffic case.

In Maryland, a drunk driver involved in a crash that killed five members of a Montgomery County family was sentenced to 15 years in prison.

In the District, police began a first-in-the-nation mandatory breath test for all drivers stopped for moving violations. Any driver who refuses the test can be arrested.

Despite tough new laws and aggressive enforcement, some drivers continue to drink and drive. John T. Hanna, director of the Virginia Department of Transportation Safety, says only one in 2,000 drunk drivers is ever caught. One such driver slipped through the enforcement net last weekend in the Washington area.

Donald W. Jewell, 33, who ran an insect exterminating business, threw a party at his Manassas house on the night before Christmas Eve. Friends who saw him at the party described him as drunk and "having a hard time talking."

In the middle of the party, Jewell stormed outside and drove off in his black 1979 Chevrolet pickup truck. He headed south at 70 miles an hour on a 55-mile-an-hour, two-lane road, police said.

Jewell had a record of drinking and bad driving. In California in 1969 he was convicted of driving under the influence of alcohol. Near Hodges, S.C., in 1975 he ran a stop light and crashed into a car, killing three persons. A blood-alcohol test showed that Jewell was under the influence of alcohol at the time. He was convicted of involuntary manslaughter and sentenced to six years in prison.

Four years later, after he'd moved north to Mathews, Va., Jewell was convicted of breaking and entering and sentenced to five years in prison. From prison, Jewell wrote Circuit

Court Judge John DeHardit: "I am an alcoholic and I need and want help with this so I can be a man. I also know that if I don't get help with my drinking I will be back in prison."

About 10:30 p.m. a week ago today, Jewell lost control of his pickup rounding a curve. Police said Jewell tried to pull his truck back on the road but it went into a roll, taking up both lanes of Rte. 234 near Manassas. It stopped rolling when it smashed into a pickup coming from the opposite direction.

"He had the whole highway covered. It looked like a wall coming at me. It scared the daylights out of me. I'm still scared," William E. Parker Jr., 39, the driver of the other pickup, said yesterday.

Parker, who escaped with a strained back from the crash that totaled his pickup said he was lucky.

"When I knew anything, he was rolling at me. If I hadn't got in the ditch, he'd a killed me too," Parker said.

Administrative Revocation for Drunk Driving

Public indignation continues to grow. Citizens have made it clear to lawmakers and public officials that they are no longer willing to tolerate the highway carnage caused by drunk drivers.

In 1982 this grass roots sentiment, widely expressed across the country, resulted in the appointment of the Presidential Commission on Drunk Driving. The Commission's interim report was issued in December 1982 so that states could act on its recommendations during 1983 legislative sessions.

Those recommendations cover a wide range of topics, including changes in state drunk driving laws. The Commission recommends enactment of a "per se offense" at .10% BAC, and a presumption of guilt at .08% BAC. It also supports raising the drinking age to 21 and adopting a system for administrative revocation of drivers' licenses.

Other recommendations pertain to minimum jail sentences and legal sanctions against drunk driving. Legal penalties, however, require county attorneys willing to prosecute and judges willing to hand down the sentences mandated by the legislatures. Unfortunately, some county attorneys grant deferred prosecution, allowing those apprehended by police to continue driving. Those who are tried and convicted, or who plead guilty, are often given deferred sentences by the judge.

In all but a handful of states, drivers' licenses are only suspended or revoked after court conviction, so those charged with drunk driving may keep their licenses for months after being apprehended. One of the Presidential Commission's recommendations addresses that problem.

Administrative Revocation, pioneered in Minnesota in 1976 and adopted by Iowa in 1982, means that the driver's license is confiscated by the arresting officer on behalf of the Department of Transportation. Hearing officers are empowered to grant work permits in some cases. Under the "implied consent" portion of the law, licenses are revoked for refusal to take the chemical test, as well as for test failure.

Under this "two-track" system the loss of driving privilege extends to all those apprehended with a blood alcohol level of .10%, regardless of court action or lack of it. Administrative Revocation accomplishes the most important task in the fight against drunk driving. It takes drunk drivers off the road immediately, and serves as a strong deterrent to others.

Because, in almost every state, prosecution and sentencing vary considerably from one county to another, Administrative Revocation is the only predictable penalty for drunk driving. The American Council on Alcohol Problems has produced an 18-minute video tape documentary on Administrative Revocation in Iowa. Below are quotations from the video presentation:

"By the time that bill reached the floor of the House it was pretty clear from sentiment in the Capitol that they had to vote out something. They had to do something in the way of legislation on drunk driving that year because of the clear public sentiment favoring that, and the national trend in that direction. . . . There was massive bipartisan sentiment. The first vote in the House was 97-0, and the first vote in the Senate was 45-0."

Don Mason, Attorney
Prosecuting Attorney's Counsel

"I think that the administrative revocation of a drivers' license for all persons above .10 BAC is extremely important. . . . I think it puts the responsibility for putting people back out on the road back where it belongs — that's back with the state agencies. Since they do the issuing of driver's licenses, they should be responsible for who's out on the road. That's not really a judicial responsibility."

Sven Sterner
Governor's Highway Safety Office

"This is the first time in the history of this ASAP program that people have actually, realistically lost their drivers' licenses when they were arrested for OMVI. . . . We're the ones that initiate the revocation. We take the license right on the spot."

Roger Sanders, Patrolman
Alcohol Safety Action Program
Des Moines Police Department

"In the four and a half months since the law took effect there have been 5,685 drivers' licenses revoked in Iowa."

Bill Kendall, Director
Driver Licensing, DOT

"In the first four months that this law has been on the books there have been 59 fewer alcohol-related fatalities. . . . In that period there were 189 total highway fatalities — 29% of that 189 were alcohol-related. Over the same period a year ago, that percentage was 46%. . . . The sanctions that are applied generally — the fine, community service, some hours in jail — do not carry the deterrent effect on the drinking driver that the sure, immediate loss of their license has."

Gordon Sweitzer, Director
Motor Vehicle Division, DOT

"The one advantage we do have in the acronym game in Iowa with MADD and SADD is that we have GLADD. Now we have Good Laws Against the Drunken Driver."

Col. Frank Metzger, Director
Iowa Highway Patrol

To order a copy of the video tape documentary on Administrative Revocation, complete the order form below and mail to the American Council on Alcohol Problems.

Please send me a copy of the ACAP video documentary on Administrative Revocation.

Check video format:

- 3/4-inch "U-Matic" cassette
 1/2-inch "Beta" cassette
 1/2-inch "VHS" cassette

I've enclosed remittance for:

- two-week rental (\$10.00)
 Purchase of cassette (\$50.00)

Mail to:

American Council on Alcohol Problems
2908 Patricia Drive
Des Moines, IA 50322

name

address

city

state

zip

States take tougher, quicker action to stop drunken drivers

On-the-spot suspension of licenses, more uniform laws bolster efforts across US

By George H. Merry
Staff writer of The Christian Science Monitor

Thousands of drunken drivers are now being pulled off the nation's highways and with fewer questions asked.

● Lawmakers in at least 25 states passed tough new penalty or enforcement measures in 1982.

● Stricter or even stiffer statutes are pending, or expected to be filed, within the next few weeks in all but three states — Kansas, Kentucky, and Maine.

Particular attention is being focused on recommendations by the President's Commission on Drunk Driving, calling for speedier action. These include provisions that can be administered uniformly around the nation. Penalties currently vary widely from region to region, thus leading many judges and juries to refrain from punishing drunken drivers.

One especially appealing approach involves on-the-spot suspension of drivers' licenses by police. Four states — three in the past year and a half — have moved with considerable success in on-the-spot license revocation of those stopped for driving under the influence of liquor.

Similar instant tough drunk driver measures began April 1 in a fifth state, and lawmakers in at least four others are considering following suit with the administrative revocation approach, one of the major recommendations of the presidential commission.

Invited by the sharp reduction of liquor-related traffic deaths in his home state of Iowa, William R. Flynn, a member of the presidential

With administrative revocation, the driver retains the right to appeal, but during that often lengthy process the suspension holds.

panel, which was appointed last spring, is dedicating substantial efforts to solve the ills elsewhere.

The retired insurance executive and former Republican state senator views the threat of immediate, lengthy suspension of a motorist's right to operate a vehicle as an effective curb on drunk driving.

Under the tough Iowa statute, first implemented last July 1, an arresting officer can seize a license if the driver refuses to take a breath test on the scene, or flunks it by having a blood alcohol content of 0.10 percent or more.

Revocation is 120 days for first offenders, 240 days for a second arrest, and one year for the third. Also provided are tougher penalties for drunk driving — \$100 fines and the possibility of 30 days in jail now becomes up to \$1,000 and one year behind bars.

With administrative revocation, the driver retains the right to appeal the loss of his license, but during that often lengthy judicial process the suspension holds. In hardship cases, temporary permits to operate a vehicle to and from work can be granted, but even stiffer penalties are imposed should the motorist be picked up for drunk driving during the period of revocation.

The new law, during its first six months, cost 7,887 drivers their licenses — 6,381 for four months, 1,077 for eight months, and 427 for a full year, according to James Fetters, the driving improvements manager for Iowa's department of transportation.

During the same period, Iowa's liquor-related road death total was 97, or 59 fewer than during the corresponding period in 1981.

While a number of factors, including faster treatment and improved care of traffic accident victims, contributed to the improvement, state transportation safety officials attribute the better record substantially to the tougher curbs on drunk driving.

Of the 7,887 license-revoked drivers, 6,691 took the breath test and failed, with an average blood alcohol count of 0.19 percent. The level of intoxication of the remaining 1,191 is unknown, since they refused to submit to the test.

Similar on-site administrative revocations of licenses also appear to be working effectively in Minnesota, Delaware, and West Virginia.

● Oklahoma drunk drivers, beginning in April, will be next to face on-the-spot license suspensions for not less than 90 days.

Mr. Flynn, who pledges to continue his crusade in behalf of such measures, is enthusiastic about the prospects for early passage in Utah, where Gov. Scott M. Matheson solidly backs the effort.

Within the past few days a proposed administrative revocation law has been introduced into the California Assembly. Legislative committees in at least two other states — Alaska and North Carolina — also are expected to take up such measures during the next few weeks.

Several papers in Iowa, including the Cedar Rapids Gazette, regularly print the names and addresses of those whose licenses are revoked for drunk driving. Arrests for operating a motor vehicle under the influence of liquor similarly are publicized in a number of other dailies around the US, including the St. Louis Globe Democrat, Flynn notes.

Learning from Iowa

The Monitor's view Thursday, January 27, 1983

For years states and municipalities have tried just about every legal stratagem to help curb the drunken driving problem in the United States. Yet in many communities judges and juries are loath to impose severe penalties, in part because of a recognition that the drinking driver is often as not in need of special counseling. Now, thanks to the experience of a few states, it is clear that there is one step that could be taken at the state level to quickly reduce liquor-related traffic accidents: swift administrative license revocation — right at the scene of the arrest.

Minnesota pioneered administrative revocation in 1976. Today similar laws are on the books in Iowa, West Virginia, and Delaware. Oklahoma will join the list later this spring. Utah is now considering such a measure. Alaska, California and North Carolina are also expected to take up the issue this year.

How does it work? Take Iowa, where such a law was enacted after unanimous passage in both houses of the legislature last year. Persons stopped for suspected drunken driving are asked to take a sobriety test on the spot. If they refuse, they face a substantial penalty. If they take the test, and fail, their license is suspended right then and there. Revocation for first offenders is 120 days; for second offenders, 240 days; for subsequent offenders, one year. The driver has the right to appeal the loss of the license or contest the administering of the sobriety test. But during the period of appeal the suspension remains in effect. Exceptions are made for revocation in cases of extreme hardship.

In the six months since the law has been in place in Iowa, close to 8,000 persons have had their licenses suspended for varying periods

of time. In the great majority of cases, blood alcohol readings were found to be especially high, indicating that law-enforcement authorities were not abusing their right to stop a motorist for a sobriety check. It might also be noted that the alcohol-related accident rate fell sharply during the same period.

The President's Commission on Drunk Driving endorsed such a proposal in its interim report. The issue is not one of severely penalizing the drinking driver. Indeed, what is good about the revocation concept is that it is uniform, applying equally to all motorists. Under such a law, no motorist apprehended for drinking in one locality would face a punishment more — or less — severe than a motorist in another jurisdiction. The law also puts the responsibility back where it belongs, in the hands of each motorist.

State legislatures meeting this year might well consider Iowa's experience

ACCIDENTS IN ALASKA

In 1975, alcohol-related highway accidents cost \$19.5 million.

In 1977, 62 Alaskans died in alcohol-related highway accidents. About 80% of highway fatalities in Anchorage are alcohol-related.

OMVI ARRESTS IN ALASKA

The drivers being arrested are very heavy drinkers - had to have had ten drinks in an hour to reach the blood alcohol levels recorded. Most have so much alcohol in their system that they are still drunk when they go to work the next day.

Most people never drink enough to reach the illegal BAC level. Most people arrested for OMVI regularly drink large amounts.

At most one out of four arrested for OMVI are "normal" drinkers who have had too much just this night. The rest are used to drinking and driving - in fact one out of three people arrested for OMVI has previously been convicted.

Few of the arrests for OMVI are borderline cases - the average blood alcohol concentration is twice the level proscribed by law.

REASONS FOR RECOMMENDED STATUTORY CHANGES SB 608, 609, 610

PARTLY DONE

a. Clean up statutes so that courts can spend time on real evidence instead of legal technicalities.

PRESENT

b. OMVI arrests are expected to increase by as much as 50% in the near future.

PARTLY DONE

c. Either help the courts by changing the statutes or by providing money for more courtrooms, judges, prosecutors.

d. OMVI arrests - largest single category of arrests and court caseload - 22% of all adult arrests; 28% of caseload of the misdemeanor courts; 50% of the trial time spent by the courts.

e. Changes will not stop drinking-driving but will help us handle the problem through the courts.

BEING WORKED ON

f. We have definite evidence that the people who refuse breath-tests tend to be the most drunken and the most dangerous drivers - really experienced drinkers (average BAC: 0.27%). We are not helping them by keeping it easy to avoid the evidence of their dangerousness.

g. Using the traditional psychomotor tests, even experienced police are right only one out of two times about how drunk a person is - blood alcohol concentration (BAC) is objective and fair evidence, rather than just an opinion.

SB 551, 552

REASON FOR ALCOHOL SCREENING

- a. Trying to separate the people out so that we can do what's right by the person who just has an attitude probelm, by the bad drivers, and by the alcoholics.
- b. Trying to get an early identification of problem drinkers so that they can be encouraged to get help before they are far gone.
- c. Trying to standardize court practices throughout the state.

*KELSO'S JOB
ON A STATEWIDE
BASIS*

PROBLEM DRINKING DRIVERS

1. The Problem Drinking Driver is someone who *regularly* drives while seriously impaired.
2. In the typical jurisdiction, about two-thirds of persons arrested for DWI are identifiable as Problem Drinkers, either clearly or marginally.
3. Problem Drinking Drivers usually have a high BAC (0.15 percent or above) when arrested. Of course, the BAC on any occasion may be lower.
4. Drivers with a high BAC (0.10 percent or above) are likely to be involved in at least
 - Twice as many crashes
 - Twice as many property damage crashes
 - Five times as many personal injury crashes
 - Twelve times as many fatal crashes
 - Twice as many traffic violations
 - Three times as many license suspensions

as the average driver.

5. Social Drinkers rarely achieve the high BAC (0.10 percent or above) which problem drinkers achieve very often.
6. A person can learn to "drive while drunk" i.e., to compensate partially for the impairment caused by alcohol up to a point. The learning takes a lot of practice.

Social Drinkers don't get that much practice. They are likely to judge themselves "too drunk to drive," or to drive very badly at lower BACs.

Therefore, a person who drives reasonably well at a high BAC, or who can drive at all at a very high BAC (0.20 percent or above), is likely to be a Problem Drinker.

7. Problem Drinking Drivers tend to lead troubled lives, as is shown in:
 - The probability of their having previous and subsequent DWI arrests.
 - The frequency of their contacts with social agencies.
 - Their emotional profiles.
 - The frequency of their family and economic problems.

This makes it possible to identify them by record checks and personality tests.

REALISTIC EXPECTATIONS

Problem Drinkers:

Regardless of what we do with problem drinkers, approximately 1 of 5 will be re-arrested for a drinking-driving offense within one year, 2 of 5 in three years.

Social Drinkers:

Without rehabilitation, 3 of 10 social drinkers will be re-arrested within three years. However, only 2 of 10 entering rehabilitation of some type will be re-arrested.

Source: University of South Dakota,
Program Level Evaluation of ASAP
Diagnosis Referral and Rehabilitation
Efforts, Sept. 1975.



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouss. Y. State Capitol
Juneau, Alaska 99811
(907) 465-1991

January 29, 1981

MEMORANDUM

TO: Representative Mitch Abood
Attention: Carol Horos

FROM: Christine Johnson, Research Staff *Christine Johnson*

SUBJECT: Research Request No. 82-5
Drunk Driving Statistics

Carol Horos of your staff has asked for the following information regarding drunk driving:

- (1) statewide data on the number of arrests and convictions for drunk driving for a sufficient number of years to show the current trend;
- (2) statewide data on the number of arrests and convictions for other traffic violations where the driver was also intoxicated;
- (3) a comparison between the incidence of drunk driving in Alaska and the national rate.

As we have explained to Ms. Horos, the second category of data required a special computer run by the Alaska Court System, and we have not yet received the information. We will forward it to you as soon as it arrives.

Arrests

Table I on the following page shows the number of arrests for drunk driving during 1978, 1979, and 1980. This data indicates that arrests for drunk driving are declining. Data for 1980 shows a 21% decrease in the number of arrests for this offense over the arrests reported in 1978. This decline may be related to the stiffer penalties for drunk driving which went into effect in the fall of 1978.

Representative Abood
January 29, 1981
Page No. 3

Between 1978 and 1980, approximately 75% of the individuals charged with drunk driving were convicted. The conviction rate declined slightly in 1980, but no downward trend can logically be inferred from this information.

TABLE III
Drunk Driving Cases Filed with the Alaska Court System
and Rate of Conviction
1978 - 1980

	<u>1978</u>	<u>1979</u>	<u>1980</u>
No. of Cases Filed	3,581	3,545	3,096
No. of Convictions	2,765	2,591	2,224
Conviction Rate	75%	75%	72%

Source: Alaska Court System.

* We were unable to locate any information on the national conviction rate for drunk drivers. We did learn from the State Highway Safety Planning Commission that nationwide 50% of all fatal accidents in 1979 involved a drunk driver. This figure was closer to 75% for Alaska.

We hope this information is of use to you. Again, we will deliver the other material you requested as soon as it arrives. If we can provide any further assistance, please don't hesitate to contact us.

CJ/cj

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Room 5, State Capitol
Juneau, Alaska 99811
(907) 465-3991

January 29, 1981

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Attention: Carol Horos

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TABLE I
Statewide Arrests for Drunk Driving
1978 - 1980

	<u>1978</u>	<u>1979</u>	<u>1980</u>
Number of Arrests	3,265	3,006	2,575
Rate of Arrest per 100,000 people	815.3	750.6	643.0

Source: House Research Agency, January 1982, from data provided by the Criminal Justice Planning Agency, Alaska Department of Law, Crime in Alaska - 1980.

Table II below compares Alaska's 1980 arrest rate for drunk driving with the national rate for that year. The data indicates that the state's arrest rate for drunk driving is only slightly higher than the national rate.

TABLE II
State and National Arrest Rates for Drunk Driving - 1980
(Rate per 100,000 people)

<u>Alaska</u> <u>Arrest</u> <u>Rate</u>	<u>National</u> <u>Arrest</u> <u>Rate</u>
643.0	525.3

Source: House Research Agency, January 1982, from data provided in Crime in Alaska - 1980, and Federal Bureau of Investigation, U.S. Department of Justice, Crime in the United State, September 1981.

Convictions

Table III on the following pages shows both the number of cases involving drunk driving which were filed with the Alaska Court System during the three year period and the number of convictions which resulted. This information provides the best indication of the conviction rate for drunk drivers, as the data regarding arrests comes from another source and is not comparable to the Court's statistics on convictions.

Representative Abood
January 29, 1981
Page No. 3

Between 1978 and 1980, approximately 75% of the individuals charged with drunk driving were convicted. The conviction rate declined slightly in 1980, but no downward trend can logically be inferred from this information.

TABLE III
Drunk Driving Cases Filed with the Alaska Court System
and Rate of Conviction
1978 - 1980

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No. of Convictions	2,765	2,691	2,224
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Source: Alaska Court System.

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We hope this information is of use to you. Again, we will deliver the other material you requested as soon as it arrives. If we can provide any further assistance, please don't hesitate to contact us.

CJ/cj



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-1991

February 4, 1982

TO: Representative Mitch Abood
Attention: Carol Horos

FROM: Christine Johnson, Research Staff *Christine Johnson*

SUBJECT: Research Request No. 82-5
Arrests and Convictions for Drunk Driving: Additional Information

This memorandum should fulfill your request for data regarding arrests and convictions for driving while intoxicated (DWI). We have been waiting for a computer run from the Court System in order to respond to your question regarding the number of other traffic violations committed by drunk drivers.

Unfortunately, we have found that the Court System's data will only partially answer your question. On the Court's computer system, cases involving multiple offenses are listed by the primary, or the most serious, offense; the number of other lesser offenses is noted, but these offenses are not specifically named. Consequently, while the data indicates the number of cases where an individual was charged with DWI and other lesser offenses, it does not show the number of people charged with drunk driving and other more serious violations.

The Court System's data for 1980 is summarized on the table on the following page. This information indicates that drunk drivers were responsible for a minimum of 236 other traffic offenses in 1980. Ninety percent of these drivers were ultimately convicted of drunk driving. Eighty-nine percent of those convicted served time in jail, 77% were fined, and 69% were both fined and jailed.

We hope this information is of use to you. We sincerely apologize for the delay in delivering it, but tabulating the data from the Court System took significantly longer than we anticipated. If we can provide any further information, please don't hesitate to contact us.

CJ

Attachment

1980 Court Cases Involving a DWI Offense and Other Lesser Offenses
By Disposition of Case

	NO. OF CASES WHICH INVOLVE A DWI OFFENSE AND ANOTHER OFFENSE	CONVICTIONS		PENALTIES											
		No.	%	Jail No.	% ¹	Fine No.	%	Both No.	%	License Revoked No.	%	Restitution Required No.	%	Probation No.	
ONE OTHER OFFENSE	164	146	89%	131	90%	111	76%	100	68%						
TWO OTHER OFFENSES	22	22	100%	20	91%	17	77%	16	73%						
THREE OR MORE OTHER OFFENSES	9 ²	8	89%	6	75%	7	86%	5	63%						
TOTAL	195	176	90%	157	89%	135	77%	121	69%	70	40%	23	13%	63	36%

¹Percentage of convictions.

²Eight cases involve three other offenses and one case involves four other offenses.

Source: House Research Agency from data provided by the Alaska Court System, February, 1982.

RANGE OF JAIL SENTENCES

	No.	%
1- 5 days	82	52%
6- 10 days	32	20
11- 25 days	24	15
26- 50 days	8	5
51-100 days	7	5
101-200 days	3	2
over 200 days	1	1

TOTAL 157 100%

RANGE OF FINES

	No.	%
less than \$100	2	2%
\$100-199	24	18
\$200-299	56	41
\$300-399	27	20
\$400-499	10	7
\$500-750	14	10
over \$750	2	2

TOTAL 135 100%



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Fourth State Capitol
Juneau, Alaska 99801
(907) 465-3991

March 16, 1982

MEMORANDUM

TO: Representative Mitch Abood
Attention: Carol Horos

FROM: Christine Johnson, Research Staff *Christine Johnson*

RE: Research Request No. 82-63
Drunk Driving Statistics

Attached please find several charts which should at least partially address your questions regarding (1) the recidivism rate for drunk drivers; and (2) the number of other offenses which drunk drivers commit. Major findings from the data are summarized below:

- In the last five fiscal years, approximately 15,700 individuals were booked into Alaska correctional facilities on charges of drunk driving. Of these, 7,100 or 42% had been booked for drunk driving on at least one other occasion since 1972.
- Between FY 77 and FY 80, the percentage of drunk drivers who were repeat offenders increased steadily from 33% to 48%. The percentage of repeat offenders declined slightly in FY 81 to 44%; however, it is impossible to say whether this represents a one-time fluctuation or the beginnings of a downward trend.
- Over the five-year period, drunk drivers were charged with a total of 2,500 other offenses, including 1,500 other traffic violations. Forty-nine percent of these other offenses were attributed to drivers who had been picked up for drunk driving on at least one other occasion.

We can provide a more detailed breakdown of this data by geographic location, and by age, sex, or race of the offender, if you desire. Please call if you have any questions.

CJ/bf

TABLE I
 Number of Persons Booked in Alaska Correctional Facilities for OWVI Offenses
 Who Had Been Booked Previously on the Same Charge
 FY 77 - FY 81

Year	Total No. of Persons Booked for OWVI	No. of These Who Were OWVI Repeaters	No. of Other OWVI Offenses Since 1972												
			1	2	3	4	5	6	7	8	9	10	11	12	
FY 77	3,340	1,096 33%	709	190	74	24	12	3	2	2					
FY 78	3,297	1,385 42%	949	266	95	46	16	0	4	1					
FY 79	3,775	1,693 45%	1010	356	160	82	44	16	9	7	1				
FY 80	3,004	1,456 48%	803	324	161	77	37	27	13	7	5	2			
FY 81	3,350	1,484 44%	863	295	140	77	35	23	14	10	8	5	4	2	
5-Year Total	16,766	7,114 42%	4422	1431	630	306	144	77	42	27	14	7	4	2	

SOURCE: House Research Agency, March 1982, from Alaska Dept. of Health and Social Services, Division of Corrections, Corrections Master Plan.

TABLE II
 Number of Other Offenses For Which Drunk Drivers Were Charged
 FY 77 - FY 81

Other Offense	No. of Bookings for OVI and Other Offense				
	FY 77	FY 78	FY 79	FY 80	FY 81
Murder & Negl. Mansl.					1
Non-Negl. Manslaughter				1	1
Robbery	1	1	1	2	1
Aggravated Assault	25	21	20	11	5
Burglary		2			2
Larceny/Theft	4	3	8	4	4
Joyriding	20	21	20	7	5
Assault, Other	3			1	5
Fraud	1			4	1
Embezzlement			1		
Stolen Property			2	1	
Vandalism	6	8	9	1	5
Weapons	12	13	22	7	10
Sex Offenses				1	
Sale/Distribution of Controlled Substances	6		2		2
Liquor Laws	22	7	7	5	6
Drunkenness	15	7	14	1	6
Disorderly Conduct	11	11	3	9	12
Disord. Conduct, Other	17	13	15	17	52
Suspicion	1	3		1	6

(CONTINUED)

TABLE II (CONTINUED)

Other Offense	No. of Bookings for OMVI and Other Offense				
	FY 77	FY 78	FY 79	FY 80	FY 81
Traffic-M.V.	233	250	334	332	375
Offense Against Court	11	25	37	92	108
Probation Violation	1	1	6	5	3
Parole Violation					2
Search Warrant	19	15	5	35	42
Bail Violation	1				
Escape	1	2	4	2	
AWOL-Fugitive	1		1	1	3
Contributing to Delinquency			1	2	1
Possession/Use of Controlled Substance	33	25	17	11	11
Juvenile Status Offense	1	1			
Other or Unknown		10	6	2	
TOTAL	446	440	535	556	571

Source: House Research Agency, March 1982, from Alaska Department of Health and Social Services, Division of Corrections, Corrections Master Plan.

TABLE III
 Number of Other Offenses For Which Drunk Drivers Were Charged
 Cumulative Total for FY 77 - FY 81

Other Offense	No. of Bookings for OMI and this Offense	No. of These Which Involved OMI Repeater		No. of Other OMI Bookings Since 1972				
				1	2	3	4	5+
Murder & Negl. Mansl.	1							
Non-Negl. Mansl.	2							
Robbery	6	1	17%	1				
Aggravated Assault	84	27	32%	17	9			1
Burglary	4	2	50%	2				
Larceny-Theft	23	9	39%	5	2	1	1	
Joyriding	74	30	41%	15	7	1	3	4
Assault, Other	9	2	22%	1	1			
Fraud	6	2	33%		2			
Embezzlement	1							
Stolen Property	3	1	33%	1				
Vandalism	29	12	41%	7	4	1		
Weapons	64	11	17%	10	1			
Sex Offenses	1							
Sale/Distribution of Controlled Substances	10	3	30%	1	1	1		

(CONTINUED)

Other Offenses	No. of Bookings for OVI and This Offense	No. of These Involving OVI Repeater		No. of Other OVI Bookings Since 1972				
				1	2	3	4	5+
Liquor Laws	47	7	15%	4	3			
Drunkness	43	14	33%	9	2	1	1	1
Disorderly Conduct	46	23	50%	13	3	6	1	
Disord. Conduct, Other	114	47	41%	22	11	9	4	1
Suspicion	11	6	55%	2	3		1	
Traffic-M.V.	1,524	825	54%	318	200	112	73	122
Offense Against Court	273	167	61%	70	48	24	10	15
Probation Violation	16	10	63%	3	1	2	2	2
Parole Violation	2	2	100%	1	1			
Bench Warrant	117	66	56%	27	18	6	6	9
Bail Violation	1	1	100%	1				
Escape	9	4	44%	1	2	1		
AWOL-Fugitive	6	1	17%	1				
Contributing to Delinq.	4	1	25%	1				
Possession/Use of Controlled Substance	98	29	30%	23	3	2		1
Juvenile Status Offense	2							
Other or Unknown	18	7	39%	6	1			
TOTAL	2,640	1,310	49%	562	323	167	102	156

Source: House Research Agency, March 1982, from Alaska Department of Health and Social Services, Division of Corrections, Corrections Master Plan.

PRESENT LAW

HOUSE BILL 6

CSHB 6 (JUDICIARY)

GROUNDS FOR IMMEDIATE REVOCATION OF DRIVER'S LICENSE

Refusal of chemical test of breath was not included.

Adds the refusal to submit to a chemical test of breath to the grounds for the immediate revocation of a driver's license.

Same as HB 6

LICENSE SUSPENSIONS, REVOCATIONS AND LIMITATIONS FOR REFUSAL OF BREATH TEST

1st offense: Ineligible for a driver's license or permit for a three months' period unless the court finds hardship and nullifies or modifies the suspension or revocation.
2nd offense: If there is a prior conviction for DWI or refusal of breath test, suspension or revocation of license is for one year.

All penalties for refusal to submit to a chemical test of breath are identical to the following penalties for driving while intoxicated.

All penalties for refusal to submit to a chemical test of breath are identical to the following penalties for driving while intoxicated.

LICENSE SUSPENSIONS, REVOCATIONS, AND LIMITATIONS FOR DWI

1st conviction: License revoked for 30 days minimum, or limited license and revocation for 60 days minimum.
2nd conviction: License is revoked for one year minimum. No limited license privileges.
3rd or subsequent conviction: License is revoked for 3 years. No limited license privileges.

1st conviction: Driver's license is seized at the time of arrest if driving a motor vehicle. License is revoked or suspended for 90 days. No limited license privileges.
2nd conviction: Driver's license is seized at the time of arrest. License is revoked for one year. No limited license privileges.
3rd or subsequent conviction: Driver's license is seized at the time of arrest. License is revoked permanently.

1st conviction: Driver's license is seized at the time of arrest. License is revoked for 90 days. Limited license privileges may be granted for the last 60 days.
2nd conviction: Same as HB 6
3rd or subsequent conviction: Driver's license is seized at time of arrest. License is revoked for 10 years. No limited license privileges.

IMPRISONMENT FOR DWI OR REFUSAL OF BREATH TEST

1st conviction: Not less than 72 consecutive hours.
2nd conviction: Not less than 10 consecutive days if the offense was committed within 2 years of previous conviction.
3rd or subsequent conviction: Not less than 20 consecutive days if the offense was committed within one year of previous conviction.

1st conviction: Same as present law.
2nd conviction: Not less than 20 consecutive days.
3rd or subsequent conviction: Not less than 30 consecutive days.

1st conviction: Same as HB 6
2nd conviction: Same as HB 6
3rd or subsequent conviction: Same as HB 6

Conviction under AS 28.15.032 also requires participation in a program of alcohol rehabilitation for a term which the court finds appropriate.

The five-year period for calculation of the number of offenses a person has committed, for purposes of determining a penalty, has been eliminated in this bill.

A 15-year period for calculation of the number of offenses a person has committed in this or another jurisdiction of either DWI or refusal of the breath test, for the purposes of determining a penalty, has been included in this bill.

Alcohol program participation requirements are unchanged.

Alcohol program participation requirements are unchanged.

PRESENT LAW

HOUSE BILL 6

CSHB 6 (JUDICIARY)

FINES FOR DWI OR REFUSAL OF BREATH TEST
Not more than \$1,000.

1st conviction: Not less than \$250 nor more than \$500.
2nd conviction: Not less than \$500 nor more than \$1,000.
3rd or subsequent conviction: Not less than \$1,000 nor more than \$2,500.

1st conviction: Not less than \$250.
2nd conviction: Not less than \$500.
3rd or subsequent conviction: Not less than \$1,000.

IMPOUNDMENT OF VEHICLE
No provision

1st offense: 15 days impoundment.
2nd offense: 90 days impoundment.

The Impoundment section has been deleted.

FORFEITURE OF VEHICLE
No provision

If a person has been convicted more than once of driving while intoxicated or refusing to submit to a chemical test of breath, the court may order the forfeiture of a motor vehicle.

Adds new sections. An additional provision is made for the remission of forfeitures, a procedure to allow a person with ownership or security interests in a forfeited motor vehicle to claim the vehicle or interest in the vehicle through court proceedings. A municipality is granted authority to provide for impoundment and forfeiture of a motor vehicle in similar circumstances.

ADMINISTRATIVE REVOCATION OF DRIVER'S LICENSE
No provision

On refusal to submit to a chemical test for breath or if a test indicates an alcohol concentration of 0.10 or more, the law enforcement officer shall seize a person's driver's license. The officer reads the driver a notice and gives him a copy of the notice. The notice explains the revocation procedure. The notice itself is a temporary driver's license that expires in 7 days unless the driver initiates court proceedings to rescind the revocation of the license.

Adds additional language which will stay a revocation if the person initiates a court action to rescind the Department of Public Safety's action. Procedures for court review of an administrative revocation are set out.

USE OF PRELIMINARY BREATH TESTING (PBT)
No provision

No provision for PBT.

Section 15 in CSHB 6 (Judiciary) requires a person involved in an accident or who commits certain serious traffic offenses, or who drives in a manner that creates a risk to a person or property to submit to a preliminary breath test that may be used by an officer in determining whether to arrest the person. Refusal to submit to the test is a violation punishable by a fine.

PRESENT LAW

HOUSE BILL 6

CSHB 6 (JUDICIARY)

DRIVING WHILE LICENSE IS CANCELED, SUSPENDED, REVOKED OR IN VIOLATION OF LIMITATION

Not less than 10 days. No provision for a fine.

Sentence - not less than 14 consecutive days.
Fine - not less than \$500 nor more than \$1,000.

Section 11 in CSHB 6 (Judiciary) provides a minimum penalty of 30 days imprisonment and a fine of \$500 for driving when driving privileges have been revoked for driving while intoxicated or refusal to submit to a chemical test if the person has been convicted once within the previous 15 years. If the person has been convicted more than once of driving while intoxicated or refusal to submit to a chemical test and continues to drive while driving privileges have been revoked, the minimum penalty is 90 days imprisonment and a fine of \$1,000.

PLACEMENT OF QUESTIONS RELATING TO DWI ON DRIVER'S LICENSE EXAMINATIONS

No provision.

Adds new requirements for the driver's license and application examination: (1) that the applicant know the effects of alcohol and drugs on drivers and the related dangers of driving while under the influence; and (2) that the applicant know the laws relating to driving while intoxicated.

Same as HB 6

ADDITIONAL PROVISIONS CONTAINED IN CSHB 6 (JUDICIARY)

Section 1 makes it clear that a judge or employee of the court, in addition to other named persons, may take possession of a title, registration, or license that is revoked, canceled, limited or suspended. This is not a substantive change to existing law.

Section 5 extends the period of limited license privileges from 30 to 60 days for offenses that are grounds for the immediate revocation of a license. This does not apply to driving while intoxicated or refusal to submit to a chemical test of breath. Adds a requirement that a prior offense must occur within 15 years before longer periods of license revocation will be imposed.

Section 8 removes the reference to a person convicted of driving a motor vehicle while intoxicated with reference to limited license privileges, since periods of revocation are established under Sec. 6 of this bill.

Section 9 provides that the license of a person on whom a limitation was placed is revoked after the period of limitation until the person provides proof of financial responsibility and receives a new license.

Section 10 limits the penalties imposed under existing law for driving while a license is canceled, suspended, revoked or in violation of limitation to situations involving loss of driving privileges for reasons other than driving while intoxicated or refusal to submit to a chemical test of breath. Those situations are dealt with under Sec. 11 of this bill.

Section 12 provides that upon expiration of a period of limitation the driver's license remains revoked until the person furnishes proof of financial responsibility. Under existing law the period of limitation continues and the person may continue to drive, subject to the limitation, until proof of financial responsibility is furnished.

Section 15 makes it clear that refusing to submit to a chemical test after being arrested constitutes the crime of refusing to submit to a chemical test. Refusing to submit to the preliminary breath test provided for in Sec. 13 of this bill is a separate offense.

Section 17 removes provisions allowing the district court to find extenuating circumstances and to modify or nullify the revocation of a driver's license or permit for refusing to submit to a chemical test of breath.

Section 19 repeals provisions that have been replaced by other provisions throughout this bill.

This chart was prepared by the staff of Rep. Mitch Abood.

Offered: 2/28/83
Referred: Judiciary

Original sponsors: Abood, Furnace,
Lindauer, et al

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR HOUSE BILL NO. 6 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION
5 A BILL

6 For an Act entitled: "An Act relating to driving a motor vehicle."

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

8 * Section 1. AS 28.15.081(a) is amended to read:

9 (a) The department shall examine every applicant for a driver's
10 license. The examination shall include (1) a test of the applicant's
11 eyesight, (2) a test of the applicant's [HIS] ability to read and
12 understand official traffic control devices, (3) the applicant's [HIS]
13 knowledge of safe driving practices, (4) the applicant's knowledge of
14 the effects of alcohol and drugs on drivers and the dangers of driving
15 under the influence of alcohol or drugs, (5) the applicant's knowledge
16 of the laws relating to driving while intoxicated, and the traffic
17 laws and regulations of this state. The examination [, AND] may
18 include a demonstration of ability to exercise ordinary and reasonable
19 control in the driving of a motor vehicle of the type and general
20 class of vehicles for which the applicant seeks a license. However,
21 an applicant who has not been previously issued a driver's license by
22 this or another jurisdiction must demonstrate [HIS] ability, and must
23 present medical information that [WHICH] the department reasonably
24 requires to determine [HIS] fitness to safely drive a motor vehicle of
25 the type and general class of vehicles for which the applicant [HE]
26 seeks a license.

27 * Sec. 2. AS 28.15.181(a) is amended by adding a new paragraph to read:

28 (8) refusal to submit to a chemical test of breath under
29 A 28.35.032.

1 * Sec. 3. AS 28.15.181(c) is repealed and reenacted to read:

2 (c) A court convicting a person of an offense under (a)(5) or
3 (a)(8) of this section arising out of the operation of a type of motor
4 vehicle for which a driver's license is required shall suspend or
5 revoke that person's driver's license and may not grant limited li-
6 cense privileges for the following periods:

7 (1) not less than 90 days if the person has not previously
8 been convicted of an offense

9 (A) under (a)(5) of this section;

10 (B) under (a)(8) of this section;

11 (C) in another jurisdiction with elements substan-
12 tially similar to an offense under (a)(5) of this section; or

13 (D) in another jurisdiction with elements substan-
14 tially similar to an offense under (a)(8) of this section;

15 (2) not less than one year if the person has been previous-
16 ly convicted of one offense

17 (A) under (a)(5) of this section;

18 (B) under (a)(8) of this section;

19 (C) in another jurisdiction with elements substan-
20 tially similar to an offense under (a)(5) of this section; or

21 (D) in another jurisdiction with elements substan-
22 tially similar to an offense under (a)(8) of this section;

23 (3) permanently if the person has been previously convicted
24 of more th one of the following offenses or has more than once been
25 previously nvicted of one of the following offenses:

26 (A) an offense under (a)(5) of this section;

27 (B) an offense under (a)(8) of this section;

28 (C) an offense in another jurisdiction with elements
29 substantially similar to an offense under (a)(5) of this section;

1 or

2 (D) an offense in another jurisdiction with elements
3 substantially similar to an offense under (a)(8) of this section.

4 * Sec. 4. AS 28.15.201(b)(1) is amended to read:

5 (1) require the surrender of the driver's license [AND, IF
6 THE PERSON IS CONVICTED OF AN OFFENSE UNDER AS 28.15.181(a)(5), REVOKE
7 THAT PERSON'S LICENSE FOR A PERIOD OF NOT LESS THAN 60 DAYS]; and

8 * Sec. 5. AS 28.15.201(c) is amended to read:

9 (c) After the termination of a limitation as shown on the certi-
10 ficate issued under (b) of this section, a person on whom a limitation
11 was imposed is no longer bound by the limitation and may apply for a
12 duplicate license under AS 28.15.141 [OR, IF OTHERWISE ELIGIBLE, FOR A
13 NEW LICENSE IF THE LICENSE WAS REVOKED FOR CONVICTION OF AN OFFENSE
14 UNDER AS 28.15.181(a)(5) AND LIMITED LICENSE PRIVILEGES WERE GRANTED
15 UNDER AS 28.15.181(c)].

16 * Sec. 6. AS 28.15.291 is amended to read:

17 Sec. 28.15.291. DRIVING WHILE LICENSE CANCELED, SUSPENDED,
18 REVOKED OR IN VIOLATION OF LIMITATION. (a) A [NO] person may not
19 drive a motor vehicle on a highway or vehicular way or area [IN THIS
20 STATE] at a time when that person's [HIS] driver's license, or privi-
21 lege to drive that type of motor vehicle [IN THIS STATE IF HE IS
22 LICENSED IN ANOTHER JURISDICTION,] has been canceled, suspended or
23 revoked in this or another jurisdiction, or when [HE IS] driving in
24 violation of a limitation placed upon that person's [HIS] license or
25 privilege to drive in this or [, EVEN WHEN HE IS DRIVING UNDER A
26 LICENSE ISSUED IN] another jurisdiction. Upon conviction of a viola-
27 tion of this section, the court shall impose a minimum sentence of
28 imprisonment of not less than 90 consecutive days and a fine of not
29 less than \$500 nor more than \$1,000 [10 DAYS]. The execution of

1 sentence may not be suspended nor may probation or parole be granted
2 until the minimum imprisonment provided in this section has been
3 served; nor may imposition of sentence be suspended [, EXCEPT UPON THE
4 CONDITION THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN THE MINI-
5 MUM PERIOD PROVIDED FOR IN THIS SECTION]. In addition, the person's
6 [HIS] license or privilege to drive shall be suspended or revoked, and
7 the person [HE] may not be issued a new license nor may the [HIS]
8 privilege to drive be restored for an additional period of one year
9 after the date that the person [HE] would have been entitled to resto-
10 ration of [HIS] driving privileges.

11 (b) When a person's license is canceled, limited, suspended or
12 revoked, that person [HE] shall be informed by the department or the
13 court that [WHICH] takes the action at the time of the action that,
14 upon a conviction of driving on a highway or vehicular way or area in
15 this state at a time when that person's [HIS] driver's license or
16 privilege to drive in this state has been canceled, suspended or
17 revoked, or upon a conviction of driving in violation of a limitation
18 of the [HIS] license, that person [HE] will be subject to the manda-
19 tory 90-day [10-DAY] imprisonment under (a) of this section.

20 * Sec. 7. AS 28.35.030(a)(2) is amended to read:

21 (2) when, as determined by a chemical test given within
22 four hours after the alleged offense was committed, there is 0.10
23 percent or more by weight of alcohol in that person's [HIS] blood or
24 100 milligrams or more of alcohol per 100 milliliters of that person's
25 [HIS] blood, or when there is 0.10 grams or more of alcohol per 210
26 liters of that person's [HIS] breath; or

27 * Sec. 8. AS 28.35.030(c) is amended to read:

28 (c) Upon conviction under this section the court shall impose a
29 minimum sentence of imprisonment of not less than 72 consecutive hours

1 and a fine of not less than \$250 nor more than \$500 if the person has
2 not been previously convicted in this or another jurisdiction of
3 driving while intoxicated or of refusal to submit to a chemical test
4 of breath under AS 28.35.032 or another law or ordinance with substan-
5 tially similar elements. Upon [A SUBSEQUENT] conviction under this
6 section the court shall impose a minimum sentence of imprisonment of
7 not less than 20 consecutive days and a fine of not less than \$500 nor
8 more than \$1,000 if the person has been previously convicted once in
9 this or another jurisdiction [WITHIN FIVE YEARS AFTER A CONVICTION] of
10 driving while intoxicated [IN THIS OR ANY OTHER STATE] or [CONVICTION]
11 of refusal to submit to a chemical test of breath under AS 28.35.032
12 or another law or ordinance with substantially similar elements. Upon
13 conviction under this section [,] the court shall impose a minimum
14 sentence of imprisonment of not less than 30 [10] consecutive days and
15 a fine of not less than \$1,000 nor more than \$2,500 if the person has
16 been previously convicted in this or another jurisdiction of more than
17 one of the following offenses or has more than once been previously
18 convicted of one of the following offenses: (1) driving while intoxi-
19 cated; or (2) refusal to submit to a chemical test of breath under
20 AS 28.35.032 or another law or ordinance with substantially similar
21 elements [UNLESS THE SUBSEQUENT CONVICTION IS WITHIN ONE YEAR OF THE
22 PREVIOUS CONVICTION, IN WHICH CASE THE COURT SHALL IMPOSE A MINIMUM
23 SENTENCE OF IMPRISONMENT OF NOT LESS THAN 20 CONSECUTIVE DAYS]. The
24 execution of sentence may not be suspended nor may probation be
25 granted until the minimum imprisonment provided in this section has
26 been served. Imposition of sentence may not be suspended [, EXCEPT
27 UPON THE CONDITION THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN
28 THE MINIMUM PERIOD PROVIDED IN THIS SECTION]. In addition, if the
29 offense arises out of driving a type of motor vehicle for which a

1 driver's license is required, the person's driver's [HIS OPERATOR'S]
2 license shall be suspended or revoked in accordance with AS 28.15.181
3 and the vehicle used in commission of the offense shall be impounded
4 under AS 28.35.036 and may be forfeited under AS 28.35.037. In addi-
5 tion, a person convicted under this section [STATUTE] shall undertake,
6 for a term specified by the court, that program of alcohol education
7 or rehabilitation that [WHICH] the court, after consideration of any
8 information compiled under (d) of this section, finds appropriate.

9 * Sec. 9. AS 28.35.031 is amended by adding new subsections to read:

10 (b) If a chemical test administered under this section to a
11 person driving a motor vehicle of a type for which a driver's license
12 is required produces results described under AS 28.35.030(a)(2) and
13 the person has a driver's license, the law enforcement officer shall
14 seize the person's driver's license. The law enforcement officer
15 shall read a notice and deliver a copy to the person. The notice
16 shall advise that

17 (1) the state intends to revoke or suspend the person's
18 driver's license, or no original license will be issued to the person;

19 (2) the person has the right to obtain court review of the
20 revocation, suspension, or determination not to issue an original
21 license;

22 (3) the notice itself is a temporary driver's license that
23 expires seven days after receipt of the notice by the person;

24 (4) revocation or suspension of the person's driver's
25 license or a determination not to issue an original license shall take
26 effect upon expiration of the temporary driver's license unless the
27 person within seven days initiates court proceedings to rescind the
28 action.

29 (c) Upon receipt of a sworn report of a law enforcement officer

1 that a chemical test administered under this section produced results
2 described under AS 28.35.030(a)(2), containing a statement of the
3 circumstances surrounding the arrest and the grounds upon which the
4 law enforcement officer's belief was based that the person was driving
5 while intoxicated a motor vehicle of a type for which a driver's
6 license is required, the Department of Public Safety shall notify the
7 person that the person's license or nonresident privilege to drive or
8 operate a motor vehicle in the state is revoked or suspended, or that
9 no original license or permit will be issued effective upon expiration
10 of the temporary driver's license issued under (b) of this section.
11 The department's action under this subsection shall be stayed if the
12 person before expiration of the temporary driver's license initiates a
13 proceeding in the court to rescind the department's action. The court
14 proceeding shall be without jury and shall be limited to the issues of
15 whether

16 (1) the person was validly arrested for driving while
17 intoxicated a motor vehicle of a type for which a driver's license is
18 required;

19 (2) the chemical test administered to the person produced
20 the result described under AS 28.35.030(a)(2).

21 (d) If the issues set out in (c) of this section are determined
22 in the affirmative, the court shall sustain the action of the depart-
23 ment. If one or more of the issues are determined in the negative,
24 the department's action shall be rescinded. If the action of the
25 department in suspending or revoking a nonresident's privilege to
26 drive a motor vehicle is sustained by the court, the department shall
27 give information in writing of the action taken to the motor vehicle
28 administrator of the state of the person's residence and to any state
29 in which that person has a license.

1 (e) If the person has not been previously convicted in this or
2 another jurisdiction of driving while intoxicated or of refusal to
3 submit to a chemical test of breath under this or another law or
4 ordinance with substantially similar elements, the period of suspen-
5 sion of license, nonresident privilege to drive, or denial of original
6 license shall be 90 days. If the person has been previously convicted
7 once in this or another jurisdiction of driving while intoxicated or
8 of refusal to submit to a chemical test of breath under AS 28.35.032
9 or another law or ordinance with substantially similar elements, the
10 period of suspension of license, nonresident privilege to drive, or
11 denial of original license shall be one year. Revocation of license,
12 nonresident privilege to drive, or denial of original license shall be
13 permanent if the person has been previously convicted in this or
14 another jurisdiction of more than one of the following offenses or has
15 more than once been previously convicted of one of the following
16 offenses:

17 (1) driving while intoxicated; or

18 (2) refusal to submit to a chemical test of breath under
19 AS 28.35.032 or another law or ordinance with substantially similar
20 elements.

21 * Sec. 10. AS 28.35.032(a) is amended to read:

22 (a) If a person under arrest refuses the request of a law en-
23 forcement officer to submit to a chemical test of breath as provided
24 in AS 28.35.031, after being advised by the officer that the refusal
25 will, if that person was arrested while operating or driving a motor
26 vehicle of a type for which a driver's license is required, result in
27 the suspension, denial or revocation of the license or nonresident
28 privilege to drive, that the refusal may be used against the person in
29 a civil or criminal action or proceeding arising out of an act alleged

1 to have been committed by the person while operating or driving a
2 motor vehicle or operating an aircraft or a watercraft while intoxica-
3 ted, and that the refusal is a misdemeanor, a chemical test shall not
4 be given, except as provided by AS 28.35.035. If the person was
5 arrested while driving a motor vehicle of a type for which a driver's
6 license is required, refuses to submit to the chemical test, and has a
7 driver's license, the law enforcement officer shall seize that per-
8 son's driver's license. The law enforcement officer shall read a
9 notice and deliver a copy to the person. The notice shall advise that

10 (1) the state intends to revoke or suspend the person's
11 driver's license, or no original license will be issued to the person;

12 (2) the person has the right to obtain court review of the
13 revocation, suspension, or determination not to issue an original
14 license;

15 (3) the notice itself is a temporary driver's license that
16 expires seven days after receipt of the notice by the person;

17 (4) revocation or suspension of the person's driver's
18 license or a determination not to issue an original license shall take
19 effect upon expiration of the temporary driver's license unless the
20 person within seven days initiates court proceedings to rescind the
21 action.

22 * Sec. 11. AS 28.35.032(b) is amended to read:

23 (b) Upon receipt of a sworn report of a law enforcement officer
24 that a person has refused to submit to a chemical test authorized
25 under AS 28.35.031, containing a statement of the circumstances sur-
26 rounding the arrest and the grounds upon which the law enforcement
27 officer's belief was based that the person was [OPERATING OR] driving
28 while intoxicated a motor vehicle of a type for which a driver's
29 license is required [IN VIOLATION OF AS 28.35.030], the Department of

1 Public Safety shall notify the person that the person's license or
2 nonresident privilege to drive or operate a motor vehicle in the state
3 is revoked or suspended, or that no original license or permit will be
4 issued effective upon expiration of the temporary driver's license
5 issued under (a) of this section. The department's action under this
6 subsection shall be stayed if the person before expiration of the
7 temporary driver's license initiates [FOR THREE MONTHS IN THE SAME
8 NOTICE THE DEPARTMENT SHALL INFORM THE PERSON THAT THE PERSON MAY
9 INITIATE] a proceeding in the district court to rescind the depart-
10 ment's action. The court proceeding shall be without jury and shall
11 be limited to the issues of whether

12 (1) the arresting officer had reasonable grounds to believe
13 the arrested person had been [OPERATING OR] driving [A MOTOR VEHICLE
14 IN THE STATE] while intoxicated a motor vehicle of a type for which a
15 driver's license is required;

16 (2) the arrested person refused to submit to the breath
17 test upon request of the officer after being advised that refusal
18 would result in the suspension, revocation, or denial of the person's
19 license or nonresident privilege to drive and that the refusal is a
20 misdemeanor; and

21 (3) the accused defendant was informed fairly of the nature
22 of the tests, the accuracy of the methods, instruments [MACHINES],
23 equipment involved, the expertise of the person administering the
24 tests, or operator of the instruments [MACHINES], and the accused
25 given such other reasonable information as may be requested by the
26 accused.

27 * Sec. 12. AS 28.35.032(d) is amended to read:

28 (d) If the person who refuses to submit to the chemical test
29 authorized by AS 28.35.031 has not been previously convicted in this

1 or another jurisdiction of driving while intoxicated or of refusal to
2 submit to a chemical test of breath under this or another law or
3 ordinance with substantially similar elements, the period of suspen-
4 sion of license, nonresident privilege to drive, or denial of original
5 license shall be 90 days. If the person who refuses to submit to the
6 chemical test [AUTHORIZED BY AS 28.35.031] has been previously con-
7 victed once in this or another jurisdiction [ANY OTHER STATE] of
8 [OPERATING OR] driving [A MOTOR VEHICLE] while intoxicated or of
9 refusal to submit to a chemical test of breath under this or another
10 law or ordinance with substantially similar elements [SECTION], the
11 period of suspension of [OR REVOCATION FOR HIS] license, nonresident
12 privilege to drive, or denial of original license shall be one year.
13 Revocation of license, nonresident privilege to drive, or denial of
14 original license shall be permanent if the person who refuses to
15 submit to the chemical test has been previously convicted in this or
16 another jurisdiction of more than one of the following offenses or has
17 been more than once previously convicted of one of the following
18 offenses:

19 (1) driving while intoxicated; or

20 (2) refusal to submit to a chemical test of breath under
21 this or another law or ordinance with substantially similar elements.

22 * Sec. 13. AS 28.35.032(g) is amended to read:

23 (g) Upon conviction of a person under this section, the court
24 shall impose a minimum sentence of imprisonment of not less than 72
25 consecutive hours and a fine of not less than \$250 nor more than \$500
26 if the person has not been previously convicted in this or another
27 jurisdiction of driving while intoxicated or of refusal to submit to a
28 chemical test of breath under this or another law or ordinance with
29 substantially similar elements. Upon [A SUBSEQUENT] conviction under

1 this section the court shall impose a minimum sentence of imprisonment
2 of not less than 20 consecutive days and a fine of not less than \$500
3 nor more than \$1,000 if the person has been previously convicted once
4 in this or another jurisdiction [WITHIN FIVE YEARS AFTER A CONVICTION
5 UNDER THIS SECTION OR] of driving while intoxicated or of refusal to
6 submit to a chemical test of breath under this or another law or
7 ordinance with substantially similar elements. Upon conviction under
8 this section the court shall impose a minimum sentence of imprisonment
9 of not less than 30 consecutive days and a fine of not less than
10 \$1,000 nor more than \$2,000 if the person has been previously con-
11 victed in this or another jurisdiction of more than one of the follow-
12 ing offenses or has more than once been previously convicted of one of
13 the following offenses: (1) driving while intoxicated; or (2) refusal
14 to submit to a chemical test of breath under this or another law or
15 ordinance with substantially similar elements [IN THIS OR ANY OTHER
16 STATE, THE COURT SHALL IMPOSE A MINIMUM SENTENCE OF IMPRISONMENT OF
17 NOT LESS THAN 10 CONSECUTIVE DAYS UNLESS THE SUBSEQUENT CONVICTION IS
18 WITHIN ONE YEAR OF THE PREVIOUS CONVICTION, IN WHICH CASE THE COURT
19 SHALL IMPOSE A MINIMUM SENTENCE OF IMPRISONMENT OF NOT LESS THAN 20
20 CONSECUTIVE DAYS]. The execution of sentence may not be suspended nor
21 may probation be granted until the minimum imprisonment provided in
22 this section has been served. Imposition of sentence may not be
23 suspended [, EXCEPT UPON THE CONDITION THAT THE DEFENDANT BE IMPRI-
24 SONED FOR NO LESS THAN THE MINIMUM PERIOD PROVIDED IN THIS SECTION].
25 In addition, a person convicted under this section shall undertake,
26 for a term specified by the court, that program of alcohol education
27 or rehabilitation that the court, after consideration of any informa-
28 tion compiled under (h) of this section, finds appropriate. The
29 sentence imposed by the court under this subsection shall run

1 consecutively with any other sentence of imprisonment imposed on the
2 committed person.

3 * Sec. 14. AS 28.35.034 is amended to read:

4 Sec. 28.35.034. SURRENDER OF LICENSE OR PERMIT [PERIOD OF REVO-
5 CATION]. A person whose license or permit to operate or drive a motor
6 vehicle has been suspended or revoked under the provisions of AS 28.-
7 35.032 shall surrender the [HIS] license or permit to the department
8 on receipt of notice of the suspension or revocation. [SUCH A PERSON
9 IS INELIGIBLE FOR AN OPERATOR'S LICENSE OR PERMIT FOR THREE MONTHS
10 FOLLOWING THE DATE ON WHICH THE LICENSE OR PERMIT WAS RECEIVED BY THE
11 DEPARTMENT, UNLESS THE DISTRICT COURT FINDS THAT EXTENUATING CIRCUM-
12 STANCES EXIST WHICH WOULD CAUSE EXTREME HARDSHIP, IN WHICH CASE THE
13 SUSPENSION OR REVOCATION MAY BE MODIFIED OR NULLIFIED.] Unless the
14 license is permanently revoked and after [AFTER] the [THREE MONTHS"]
15 period of suspension has expired, the person may make application for
16 a new license as provided by law.

17 * Sec. 15. AS 28.35 is amended by adding new sections to read:

18 Sec. 28.35.036. IMPOUNDMENT OF MOTOR VEHICLE; EXCEPTIONS. (a)
19 If a peace officer has probable cause to believe a motor vehicle of a
20 type for which a driver's license is required was used in the commis-
21 sion of an offense under AS 28.35.030, that motor vehicle shall be
22 impounded by the peace officer. Unless the motor vehicle is released
23 under (c) or (d) of this section, the owner or person with the right
24 to possess the motor vehicle shall pay the necessary costs of impound-
25 ing and storing the vehicle before it may be released.

26 (b) Impoundment of a motor vehicle under this section is for

27 (1) 15 days if the driver has not previously been convicted
28 in this or another jurisdiction of

29 (A) driving while intoxicated; or

1 (B) refusal to submit to a chemical test of breath
2 under AS 28.35.032 or another law or ordinance with substantially
3 similar elements;

4 (2) 90 days if the driver has been previously convicted in
5 this or another jurisdiction of

6 (A) driving while intoxicated; or

7 (B) refusal to submit to a chemical test of breath
8 under AS 28.35.032 or another law or ordinance with substantially
9 similar elements.

10 (c) Upon impoundment of a motor vehicle under this section an
11 opportunity for a hearing under AS 28.05.131 shall be provided to the
12 driver of the motor vehicle at the time of the impoundment, to the
13 person with the right to possess the motor vehicle, and to any other
14 person who has an ownership interest in the motor vehicle. The motor
15 vehicle shall be released to the owner or person with the right to
16 possess the motor vehicle if it is determined after the hearing that
17 the impoundment was improper or that at the time of impoundment the
18 motor vehicle was being driven

19 (1) by a person other than the owner or person with the
20 right to possess the motor vehicle; and

21 (2) without the consent of the owner or person with the
22 right to possess the motor vehicle.

23 (d) A motor vehicle impounded under this section shall be re-
24 leased to the owner or person with the right to possess the motor
25 vehicle if

26 (1) the driver is not charged within 10 days of impoundment
27 with an offense under AS 28.35.030 or AS 28.35.032(f) related to the
28 impoundment;

29 (2) the charge of an offense under AS 28.35.030 or

1 AS 28.35.032(f) related to the impoundment is dropped or dismissed; or
2 (3) the driver is acquitted of all offenses under AS 28.-
3 35.030 or AS 28.35.032(f) related to the impoundment.

4 Sec. 28.35.037. FORFEITURE OF MOTOR VEHICLE. (a) Upon convic-
5 tion of an offense under AS 28.35.030 or AS 28.35.032(f) arising out
6 of driving a motor vehicle of a type for which a driver's license is
7 required the court may order the forfeiture of the motor vehicle
8 involved in the commission of the offense if the convicted person was
9 previously convicted in this or another jurisdiction of

10 (1) driving while intoxicated; or

11 (2) refusal to submit to a chemical test of breath under
12 AS 28.35.032 or another law or ordinance with substantially similar
13 elements.

14 (b) Upon forfeiture of a motor vehicle the court shall require
15 the surrender of the registration and certificate of title of that
16 motor vehicle.

17 (c) If not released under AS 28.35.038(c), a motor vehicle
18 forfeited under this section may be disposed of at the discretion of
19 the department.

20 Sec. 28.35.038. REMISSION OF FORFEITURES. (a) Upon ordering
21 forfeiture of a motor vehicle under AS 28.35.037, the court shall
22 within five days provide to every person who has an ownership or
23 security interest in the motor vehicle written notice of the forfei-
24 ture that includes

25 (1) a description of the motor vehicle;

26 (2) the time and place of the forfeiture;

27 (3) the legal authority under which the motor vehicle was
28 forfeited;

29 (4) notice of the right to file a petition for remission of

1 interest in the forfeited motor vehicle.

2 (b) Upon receipt of a petition for remission of interest in a
3 forfeited motor vehicle the court shall hold a hearing on the question
4 and shall order remission of the interest if the petitioner shows that

5 (1) the petitioner has an interest in the motor vehicle
6 acquired in good faith;

7 (2) a person other than the petitioner was convicted of the
8 offense that resulted in the forfeiture;

9 (3) the petitioner was not negligent in parting with the
10 motor vehicle.

11 (c) An order for remission under this section shall provide for

12 (1) reimbursement of the petitioner's interest in the motor
13 vehicle; or

14 (2) delivery to the petitioner of the motor vehicle toge-
15 ther with title to the motor vehicle.

16 * Sec. 16. AS 28.15.211(a)(4) is repealed.

Introduced: 1/17/83
Referred: State Affairs and
Judiciary

BY ABOOD, FURNACE, LINDAUER
COWDERY AND SAYMANSKI

1 IN THE HOUSE

2

HOUSE BILL NO. 6

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to driving a motor vehicle."

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

8 * Section 1. AS 28.15.081(a) is amended to read:

9 (a) The department shall examine every applicant for a driver's
10 license. The examination shall include (1) a test of the applicant's
11 eyesight, (2) a test of the applicant's [HIS] ability to read and
12 understand official traffic control devices, (3) the applicant's [HIS]
13 knowledge of safe driving practices, (4) the applicant's knowledge of
14 the effects of alcohol and drugs on drivers and the dangers of driving
15 under the influence of alcohol or drugs, (5) the applicant's knowledge
16 of the laws relating to driving while intoxicated, and the traffic
17 laws and regulations of this state. The examination [, AND] may
18 include a demonstration of ability to exercise ordinary and reasonable
19 control in the driving of a motor vehicle of the type and general
20 class of vehicles for which the applicant seeks a license. However,
21 an applicant who has not been previously issued a driver's license by
22 this or another jurisdiction must demonstrate [HIS] ability, and must
23 present medical information that [WHICH] the department reasonably
24 requires to determine [HIS] fitness to safely drive a motor vehicle of
25 the type and general class of vehicles for which the applicant [HE]
26 seeks a license.

27 * Sec. 2. AS 28.15.181(a) is amended by adding a new paragraph to read:

28 (8) refusal to submit to a chemical test of breath under
29 AS 28.35.032.

1 * Sec. 3. AS 28.15.181(c) is repealed and reenacted to read:

2 (c) A court convicting a person of an offense under (a)(5) or
3 (a)(8) of this section shall revoke that person's driver's license and
4 may not grant limited license privileges for the following periods:

5 (1) not less than 90 days if the person has not previously
6 been convicted of an offense

7 (A) under (a)(5) of this section;

8 (B) under (a)(8) of this section;

9 (C) in another jurisdiction with elements substan-
10 tially similar to an offense under (a)(5) of this section; or

11 (D) in another jurisdiction with elements substan-
12 tially similar to an offense under (a)(8) of this section;

13 (2) not less than one year if the person has been previous-
14 ly convicted of one offense

15 (A) under (a)(5) of this section;

16 (B) under (a)(8) of this section;

17 (C) in another jurisdiction with elements substan-
18 tially similar to an offense under (a)(5) of this section; or

19 (D) in another jurisdiction with elements substan-
20 tially similar to an offense under (a)(8) of this section;

21 (3) permanently if the person has been previously convicted
22 of more than one of the following offenses or has more than once been
23 previously convicted of one of the following offenses:

24 (A) an offense under (a)(5) of this section;

25 (B) an offense under (a)(8) of this section;

26 (C) an offense in another jurisdiction with elements
27 substantially similar to an offense under (a)(5) of this section;

28 or

29 (D) an offense in another jurisdiction with elements

1 substantially similar to an offense under (a)(8) of this section.

2 * Sec. 4. AS 28.15.201(b)(1) is amended to read:

3 (1) require the surrender of the driver's license [AND, IF
4 THE PERSON IS CONVICTED OF AN OFFENSE UNDER AS 28.15.181(a)(5), REVOKE
5 THAT PERSON'S LICENSE FOR A PERIOD OF NOT LESS THAN 60 DAYS]; and

6 * Sec. 5. AS 28.15.201(c) is amended to read:

7 (c) After the termination of a limitation as shown on the certi-
8 ficate issued under (b) of this section, a person on whom a limitation
9 was imposed is no longer bound by the limitation and may apply for a
10 duplicate license under AS 28.15.141 [OR, IF OTHERWISE ELIGIBLE, FOR A
11 NEW LICENSE IF THE LICENSE WAS REVOKED FOR CONVICTION OF AN OFFENSE
12 UNDER AS 28.15.181(a)(5) AND LIMITED LICENSE PRIVILEGES WERE GRANTED
13 UNDER AS 28.15.181(c)].

14 * Sec. 6. AS 28.15.291 is amended to read:

15 Sec. 28.15.291. DRIVING WHILE LICENSE CANCELED, SUSPENDED,
16 REVOKED OR IN VIOLATION OF LIMITATION. (a) A [NO] person may not
17 drive a motor vehicle on a highway or vehicular way or area in this
18 state at a time when that person's [HIS] driver's license, or privi-
19 lege to drive in this state if [HE IS] licensed in another jurisdic-
20 tion, has been canceled, suspended or revoked, or when [HE IS] driving
21 in violation of a limitation placed upon that person's [HIS] license,
22 even when [HE IS] driving under a license issued in another jurisdic-
23 tion. Upon conviction of a violation of this section, the court shall
24 impose a minimum sentence of imprisonment of not less than 14 consecu-
25 tive days and a fine of not less than \$500 nor more than \$1,000 [10
26 DAYS]. The execution of sentence may not be suspended nor may proba-
27 tion or parole be granted until the minimum imprisonment provided in
28 this section has been served; nor may imposition of sentence be sus-
29 pended [, EXCEPT UPON THE CONDITION THAT THE DEFENDANT BE IMPRISONED

1 FOR NO LESS THAN THE MINIMUM PERIOD PROVIDED FOR IN THIS SECTION]. In
2 addition, the person's [HIS] license or privilege to drive shall be
3 revoked, and the person [HE] may not be issued a new license nor may
4 the [HIS] privilege to drive be restored for an additional period of
5 one year after the date that the person [HE] would have been entitled
6 to restoration of [HIS] driving privileges.

7 (b) When a person's license is canceled, limited, suspended or
8 revoked, that person, [HE] shall be informed by the department or the
9 court that [WHICH] takes the action at the time of the action that,
10 upon a conviction of driving on a highway or vehicular way or area in
11 this state at a time when that person's [HIS] driver's license or
12 privilege to drive in this state has been canceled, suspended or
13 revoked, or upon a conviction of driving in violation of a limitation
14 of the [HIS] license, that person [HE] will be subject to the manda-
15 tory 14-day [10-DAY] imprisonment under (a) of this section.

16 * Sec. 7. AS 28.35.030(a)(2) is amended to read:

17 (2) when, as determined by a chemical test given within
18 four hours after the alleged offense was committed, there is 0.10
19 percent or more by weight of alcohol in that person's [HIS] blood or
20 100 milligrams or more of alcohol per 100 milliliters of that person's
21 [HIS] blood, or when there is 0.10 grams or more of alcohol per 210
22 liters of that person's [HIS] breath; or

23 * Sec. 8. AS 28.35.030(c) is amended to read:

24 (c) Upon conviction under this section the court shall impose a
25 minimum sentence of imprisonment of not less than 72 consecutive hours
26 and a fine of not less than \$250 nor more than \$500 if the person has
27 not been previously convicted in this or another jurisdiction of
28 driving while intoxicated or of refusal to submit to a chemical test
29 of breath under AS 28.35.032 or another law or ordinance with

1 substantially similar elements. Upon [A SUBSEQUENT] conviction under
2 this section the court shall impose a minimum sentence of imprisonment
3 of not less than 20 consecutive days and a fine of not less than \$500
4 nor more than \$1,000 if the person has been previously convicted once
5 in this or another jurisdiction [WITHIN FIVE YEARS AFTER A CONVICTION]
6 of driving while intoxicated [IN THIS OR ANY OTHER STATE] or [CONVIC-
7 TION] of refusal to submit to a chemical test of breath under AS 28.-
8 35.032 or another law or ordinance with substantially similar ele-
9 ments. Upon conviction under this section [,] the court shall impose
10 a minimum sentence of imprisonment of not less than 30 [10] consecu-
11 tive days and a fine of not less than \$1,000 nor more than \$2,500 if
12 the person has been previously convicted in this or another jurisdic-
13 tion of more than one of the following offenses or has more than once
14 been previously convicted of one of the following offenses: (1)
15 driving while intoxicated; or (2) refusal to submit to a chemical test
16 of breath under AS 28.35.032 or another law or ordinance with substan-
17 tially similar elements [UNLESS THE SUBSEQUENT CONVICTION IS WITHIN
18 ONE YEAR OF THE PREVIOUS CONVICTION, IN WHICH CASE THE COURT SHALL
19 IMPOSE A MINIMUM SENTENCE OF IMPRISONMENT OF NOT LESS THAN 20 CONSECU-
20 TIVE DAYS]. The execution of sentence may not be suspended nor may
21 probation be granted until the minimum imprisonment provided in this
22 section has been served. Imposition of sentence may not be suspended
23 [, EXCEPT UPON THE CONDITION THAT THE DEFENDANT BE IMPRISONED FOR NO
24 LESS THAN THE MINIMUM PERIOD PROVIDED IN THIS SECTION]. In addition,
25 the person's driver's [HIS OPERATOR'S] license shall be revoked in
26 accordance with AS 28.15.181 and the vehicle used in commission of the
27 offense shall be impounded and may be forfeited in accordance with
28 AS 28.35.036. In addition, a person convicted under this section
29 [STATUTE] shall undertake, for a term specified by the court, that

1 program of alcohol education or rehabilitation that [WHICH] the court,
2 after consideration of any information compiled under (d) of this
3 section, finds appropriate.

4 * Sec. 9. AS 28.35.032(a) is amended to read:

5 (a) If a person under arrest refuses the request of a law en-
6 forcement officer to submit to a chemical test of breath as provided
7 in AS 28.35.031, after being advised by the officer that the refusal
8 will, if that person was arrested while operating or driving a motor
9 vehicle, result in the suspension, denial or revocation of the license
10 or nonresident privilege to drive, that the refusal may be used
11 against the person in a civil or criminal action or proceeding arising
12 out of an act alleged to have been committed by the person while
13 operating or driving a motor vehicle or operating an aircraft or a
14 watercraft while intoxicated, and that the refusal is a misdemeanor, a
15 chemical test shall not be given, except as provided by AS 28.35.035.
16 If the person under arrest refuses to submit to the chemical test and
17 has a driver's license, the law enforcement officer shall seize that
18 person's driver's license. The law enforcement officer shall read a
19 notice and deliver a copy to the person. The notice shall advise that

20 (1) the state intends to revoke the person's driver's
21 license;

22 (2) the person has the right to obtain court review of the
23 revocation;

24 (3) the notice itself is a temporary driver's license that
25 expires seven days after receipt of the notice by the person;

26 (4) revocation of the person's driver's license shall take
27 effect upon expiration of the temporary driver's license unless the
28 person within seven days initiates court proceedings to rescind the
29 revocation.

1 * Sec. 10. AS 28.35.032(b) is amended to read:

2 (b) Upon receipt of a sworn report of a law enforcement officer
3 that a person has refused to submit to a chemical test authorized
4 under AS 28.35.031, containing a statement of the circumstances sur-
5 rounding the arrest and the grounds upon which the law enforcement
6 officer's belief was based that the person was [OPERATING OR] driving
7 while intoxicated [A MOTOR VEHICLE IN VIOLATION OF AS 28.35.030], the
8 Department of Public Safety shall notify the person that the person's
9 license or nonresident privilege to drive or operate a motor vehicle
10 in the state is revoked or suspended, or that no original license or
11 permit will be issued effective upon expiration of the temporary
12 driver's license issued under (a) of this section. The department's
13 action under this subsection shall be stayed if the person before
14 expiration of the temporary driver's license initiates [FOR THREE
15 MONTHS IN THE SAME NOTICE THE DEPARTMENT SHALL INFORM THE PERSON THAT
16 THE PERSON MAY INITIATE] a proceeding in the district court to rescind
17 the department's action. The court proceeding shall be without jury
18 and shall be limited to the issues of whether

19 (1) the arresting officer had reasonable grounds to believe
20 the arrested person had been [OPERATING OR] driving [A MOTOR VEHICLE
21 IN THE STATE] while intoxicated;

22 (2) the arrested person refused to submit to the breath
23 test upon request of the officer after being advised that refusal
24 would result in the suspension, revocation, or denial of the person's
25 license or nonresident privilege to drive and that the refusal is a
26 misdemeanor; and

27 (3) the accused defendant was informed fairly of the nature
28 of the tests, the accuracy of the methods, instruments [MACHINES],
29 equipment involved, the expertise of the person administering the

1 tests, or operator of the instruments [MACHINES], and the accused
2 given such other reasonable information as may be requested by the
3 accused.

4 * Sec. 11. AS 28.35.032(d) is amended to read:

5 (d) If the person who refuses to submit to the chemical test
6 authorized by AS 28.35.031 has not been previously convicted in this
7 or another jurisdiction of driving while intoxicated or of refusal to
8 submit to a chemical test of breath under this or another law or
9 ordinance with substantially similar elements, the period of suspen-
10 sion or revocation of license, nonresident privilege to drive, or
11 denial of original license shall be 90 days. If the person who re-
12 fuses to submit to the chemical test [AUTHORIZED BY AS 28.35.031] has
13 been previously convicted once in this or another jurisdiction [ANY
14 OTHER STATE] of [OPERATING OR] driving [A MOTOR VEHICLE] while intoxi-
15 cated or of refusal to submit to a chemical test of breath under this
16 or another law or ordinance with substantially similar elements [SEC-
17 TION], the period of suspension or revocation of [FOR HIS] license,
18 nonresident privilege to drive, or denial of original license shall be
19 one year. Suspension or revocation of license, nonresident privilege
20 to drive, or denial of original license shall be permanent if the
21 person who refuses to submit to the chemical test has been previously
22 convicted in this or another jurisdiction of more than one of the
23 following offenses or has been more than once previously convicted of
24 one of the following offenses:

25 (1) driving while intoxicated; or

26 (2) refusal to submit to a chemical test of breath under
27 this or another law or ordinance with substantially similar elements.

28 * Sec. 12. AS 28.35.032(g) is amended to read:

29 (g) Upon conviction of a person under this section, the court

1 shall impose a minimum sentence of imprisonment of not less than 72
2 consecutive hours and a fine of not less than \$250 nor more than \$500
3 if the person has not been previously convicted in this or another
4 jurisdiction of driving while intoxicated or of refusal to submit to a
5 chemical test of breath under this or another law or ordinance with
6 substantially similar elements. Upon [A SUBSEQUENT] conviction under
7 this section the court shall impose a minimum sentence of imprisonment
8 of not less than 20 consecutive days and a fine of not less than \$500
9 nor more than \$1,000 if the person has been previously convicted once
10 in this or another jurisdiction [WITHIN FIVE YEARS AFTER A CONVICTION
11 UNDER THIS SECTION OR] of driving while intoxicated or of refusal to
12 submit to a chemical test of breath under this or another law or
13 ordinance with substantially similar elements. Upon conviction under
14 this section the court shall impose a minimum sentence of imprisonment
15 of not less than 30 consecutive days and a fine of not less than
16 \$1,000 nor more than \$2,000 if the person has been previously con-
17 victed in this or another jurisdiction of more than one of the follow-
18 ing offenses or has more than once been previously convicted of one of
19 the following offenses: (1) driving while intoxicated; or (2) refusal
20 to submit to a chemical test of breath under this or another law or
21 ordinance with substantially similar elements [IN THIS OR ANY OTHER
22 STATE, THE COURT SHALL IMPOSE A MINIMUM SENTENCE OF IMPRISONMENT OF
23 NOT LESS THAN 10 CONSECUTIVE DAYS UNLESS THE SUBSEQUENT CONVICTION IS
24 WITHIN ONE YEAR OF THE PREVIOUS CONVICTION, IN WHICH CASE THE COURT
25 SHALL IMPOSE A MINIMUM SENTENCE OF IMPRISONMENT OF NOT LESS THAN 20
26 CONSECUTIVE DAYS]. The execution of sentence may not be suspended nor
27 may probation be granted until the minimum imprisonment provided in
28 this section has been served. Imposition of sentence may not be
29 suspended [, EXCEPT UPON THE CONDITION THAT THE DEFENDANT BE

1 IMPRISONED FOR NO LESS THAN THE MINIMUM PERIOD PROVIDED IN THIS SEC-
2 TION]. In addition, a person convicted under this section shall
3 undertake, for a term specified by the court, that program of alcohol
4 education or rehabilitation that the court, after consideration of any
5 information compiled under (h) of this section, finds appropriate.
6 The sentence imposed by the court under this subsection shall run
7 consecutively with any other sentence of imprisonment imposed on the
8 committed person.

9 * Sec. 13. AS 28.35.030 is amended by adding new subsections to read:

10 (g) If a chemical test administered under this section produces
11 results described under AS 28.35.030(a)(2) and the person has a
12 driver's license, the law enforcement officer shall seize the person's
13 driver's license. The law enforcement officer shall read a notice and
14 deliver a copy to that person. The notice shall advise that

15 (1) the state intends to revoke the person's driver's
16 license;

17 (2) the person has the right to obtain court review of the
18 revocation;

19 (3) the notice itself is a temporary driver's license that
20 expires seven days after receipt of the notice by the person;

21 (4) revocation of the person's driver's license shall take
22 effect upon expiration of the temporary driver's license unless the
23 person within seven days initiates court proceedings to rescind the
24 revocation.

25 (h) Upon receipt of a sworn report of a law enforcement officer
26 that a chemical test administered under this section produced results
27 described under AS 28.35.030(a)(2), containing a statement of the
28 circumstances surrounding the arrest and the grounds upon which the
29 law enforcement officer's belief was based that the person was driving