

LEG. FINANCE - BILLS 1983 - 1984 1793

CSHB 6 cont. 1793

300 - Contractual (cont')			
382a- DP Chargeback (Program & Maintenance		2.0	
390 - Tuition		.6	
			51.7
400 - Commodities			
480 - Normal office supplies, including tapes to			
record hearings.		.7	.7
500 - Equipment			
520 - Video player and monitor to review arresting			
agency video tapes at time of breath test, or			
refusal.		1.5	
550 - Office equipment (itemized on Forms 13)		10.9	
			12.4
		SUBTOTAL	186.5

DIVISION OF ALASKA STATE TROOPERS 40.0

Analysis: In order to comply with the provisions of this bill that requires the breathalyzer test to be administered at the scene of the incident, \$40,000 will be required to purchase 100 new portable breathalyzer units.

TOTAL 226.5

Division of Motor Vehicles

FISCAL NOTE DETAIL

SCSCSHB 6 (Finance)

Page 1

COMMENTS:

Under present law the department does not handle any reviews or hearings when administrative license action is taken for refusal to take a breath test. Therefore, the department currently does not have the staff to conduct the administrative reviews required in this bill. Three of the four positions requested are to handle the administrative review portion. Without the requested positions the reviews could not be conducted.

The present office space for the Driver Improvement Office in Anchorage, which will include two of the positions requested, will not accomodate any expansion. Therefore, the fiscal note provides for relocation and lease of new space for that section, which is currently within the Division of Motor Vehicles field office in Anchorage. Space can be made available within the Public Safety Building in Fairbanks for the hearing officer requested for that area. We currently have no hearing officers in Fairbanks.

ASSUMPTIONS:

This fiscal note is based on the following assumptions: 1) In 1982 there were approximately 4,755 arrests for DWI. Of those who refused to take the breathalyzer test approximately 19% filed appeals in the district court, mostly to request limited driving privileges. The fiscal note is based on the assumption there will be 5,000 arrests for DWI in FY84, of which 99% will receive administrative license action under the proposed law. It is assumed 20% of those will ask for a hearing, mostly to request limited driving privileges; 2) 99% of defendants who take breath test will have .10% or higher results; 3) Effective date is October 1, 1983, with staff coming on board September 1, 1983, for training.

DETAIL:

100 - Personal Services		
1 Driver Improvement Specialist II, Anchorage	34.2	
1 Driver Improvement Specialist II, Fairbanks	39.1	
1 Clerk Typist II, Anchorage	20.9	
1 Document Processing Clerk II, Juneau	22.2	
		116.4
200 - Travel		
210 - Field Travel	2.9	
230 - Training	2.4	5.3
300 - Contractual		
310 - Postage	7.9	
320 - Printing	.8	
330 - Lease Space (1,000 sq. ft.)	28.6	
360 - Equipment Rental (One AJIS terminal)	8.0	
380 - Professional Services (New slides for written tests)	3.8	

STATE OF ALASKA  
FISCAL NOTE

Revision Date                     , 1983

I. REQUEST

Bill/Resolution No.: CSHB 6 (Judiciary)  
Title: "...driving a motor vehicle."  
Sponsor: Judiciary Committee (Abood-Orig.)  
Requestor: House Finance Committee

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
<b>OPERATING</b>						
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						
<b>TOTAL OPERATING</b>	-0-	239.0	250.9	265.9	281.7	298.8
<b>CAPITAL</b>						
<b>REVENUE</b>						

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

Division: Administrative Services Division

Phone: 465-3672

Date: May 5, 1983

Approved by Commissioner: Norman C. Gorsuch, Attorney General

Department: Department of Law

Date: May 5, 1983

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

CSHB 6 (Judiciary)

Fiscal Note

Analysis

±1

287

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 - CSHB 6 #1      387

The impact of CSHB 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	<u>164.2</u>
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
					<u>239.0</u>

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
					<u>250.9</u>

1. POSITION TITLE Attorney IV				RANGE/STEP 24A	BARG. UNIT X	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.						
2. TYPE OF POSITION PFT		STAFF MONTHS 10	RP NUMBER	PCN NUMBER	DRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT	LEG.							
3. CONTINUATION LEVEL				JUSTIFICATION											
4. TYPE OF EXPENDITURE				<p>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.</p>											
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					
0. Travel			02							5,000					
1. Contractual			03							8,000					
2. Commodities			04			3,500									
3. Equipment			05			1,500									
4. Other															
5. TOTAL COST						74,220									
RECEIPT CODE				FUNDING SOURCE											
16.				Federal Receipts 1002											
17.				G.F. Match 1003											
18.				General Funds 1004											
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 LEGAL SERVICES  
DRU LEGAL SERVICES  
COMPONENT LEGAL SERVICES OPERATIONS

FY 84

Page 4 of 7

Revised Date

1.	POSITION TITLE Legal Secretary I				RANGE/STEP 10B	ORG. UNIT CGU	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		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 1020								
21.		Other								
FOR D&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

# 1  
Page 5 of 7  
Revised Date \_\_\_\_\_

**FY 84**

1.	POSITION TITLE Attorney III				RANGE/STEP 22A	ORG. UNIT X	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.	
2.	TYPE OF POSITION PPT	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							
JUSTIFICATION											
<p>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.</p>											
	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 1020									
21.		Other									
FOR B&M USE ONLY											
4A KEY NUMBER _____											

**13** REQUEST FOR  
NEW POSITION

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

**FY 84**

Page 10 of 7  
Revised Date \_\_\_\_\_

1.	POSITION TITLE Legal Secretary I				RANGE/STEP 10B	DARG. UNIT CCU	FORM 12 PAGE/LINE	COV.	APPROV.	DISAPP.	
2.	TYPE OF POSITION PPT	STAFF MONTHS 10	RP NUMBER	PCN NUMBER	DRU PRIORITY	LOCATION Fairbanks	ELECTION 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									
20.		Program Receipts 1028									
21.		Other									
FOR B&M USE ONLY											
4A KEY NUMBER _____											

This is the second 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 Fairbanks. 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  
DRU LEGAL SERVICES  
COMPONENT LEGAL SERVICES OPERATIONS

**FY 84**

Page 1 of 1  
Revised Date \_\_\_\_\_

Original sponsors: Abood, Furnace,  
Lindauer, et al

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 6 (Finance)

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 28.05.051(b) is amended to read:

9 (b) The commissioner, officers and employees of the department  
10 designated by the commissioner, judges and employees of a court, and  
11 all peace officers, may take possession of a certificate of title,  
12 [OR] registration or license issued by this jurisdiction that [WHICH]  
13 has been revoked, canceled, limited or suspended, or [WHICH] is ficti-  
14 tious, stolen or altered.

15 \* Sec. 2. AS 28.15.081(a) is amended to read:

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

1 reasonably requires to determine [HIS] fitness to safely drive a motor  
2 vehicle of the type and general class of vehicles for which the appli-  
3 cant [HE] seeks a license.

4 \* Sec. 3. AS 28.15 is amended by adding new sections to read:

5 . Sec. 28.15.165. ADMINISTRATIVE REVOCATIONS RESULTING FROM CHEMI-  
6 CAL SOBRIETY TESTS AND REFUSALS TO SUBMIT TO TESTS. (a) If a chemi-  
7 cal test administered under AS 28.35.031(a) to a person driving a  
8 motor vehicle for which a driver's license is required produces a  
9 result described in AS 28.35.030(a)(2) or if a person under arrest for  
10 driving a motor vehicle for which a driver's license is required  
11 refuses to submit to a chemical test under AS 28.35.031(a), a law  
12 enforcement officer shall read a notice and deliver a copy to the  
13 person. The notice shall advise that

14 (1) the department intends to revoke the person's driver's  
15 license or nonresident privilege to drive, or refuse to issue an  
16 original license to the person;

17 (2) the person has the right to administrative review of  
18 the revocation or determination not to issue an original license;

19 (3) the notice itself is a temporary driver's license that  
20 expires seven days after it is delivered to the person;

21 (4) revocation of the person's driver's license or nonresi-  
22 dent privilege to drive, or a determination not to issue an original  
23 license shall take effect upon expiration of the temporary driver's  
24 license unless the person within seven days requests an administrative  
25 review.

26 (b) After reading the notice under (a) of this section, the law  
27 enforcement officer shall seize the person's driver's license if it is  
28 in the person's possession and shall deliver it to the department with  
29 a sworn report describing the circumstances under which it was seized.

1 (c) Upon receipt of a sworn report of a law enforcement officer  
2 that a chemical test under AS 28.35.031(a) produced a result described  
3 in AS 28.35.030(a)(2) or that a person refused to submit to a chemical  
4 test under AS 28.35.031(a), that notice under (a) of this section was  
5 provided to the person, and that contains a statement of the circum-  
6 stances surrounding the arrest and the grounds upon which the offi-  
7 cer's belief that the person was driving while intoxicated a motor  
8 vehicle for which a driver's license is required was based, the de-  
9 partment shall revoke the person's license or nonresident privilege to  
10 drive a motor vehicle in the state, or refuse to issue an original  
11 license effective upon expiration of the temporary driver's license  
12 issued under (a) of this section.

13 (d) The period of revocation of a driver's license by the de-  
14 partment under this section shall be for the appropriate minimum  
15 period for court revocations under AS 28.15.181(c).

16 Sec. 28.15.166. ADMINISTRATIVE REVIEW OF REVOCATION. (a) A  
17 person who has received a notice under AS 28.15.165(a) may make a  
18 written request for administrative review of the department's action  
19 under AS 28.15.165(c). If the person's driver's license has not been  
20 previously surrendered to the department, it shall be surrendered to  
21 the department at the time the request for review is made.

22 (b) A request for review shall be made within seven days after  
23 receipt of the notice under AS 28.15.165 or the right to review is  
24 waived and the action of the department under AS 28.15.165(c) is  
25 final. If a written request for a review is made after expiration of  
26 the seven-day period, and if it is accompanied by the applicant's  
27 verified statement explaining the failure to make a timely request for  
28 a review, the department shall receive and consider the request. If  
29 the department finds that the person was unable to make a timely

1 request because of lack of actual notice of the revocation or because  
2 of factors of physical incapacity such as hospitalization or incarcer-  
3 ation, the department shall waive the period of limitation, reopen the  
4 matter, and grant the review request.

5 (c) Upon receipt of a request for review, if it appears that the  
6 person holds a valid driver's license and that the driver's license  
7 has been surrendered, the department shall issue a temporary driver's  
8 permit that is valid until the scheduled date for the review. A  
9 person who has requested a review under this section may request, and  
10 the department may grant for good cause, a delay in the date of the  
11 hearing. If necessary, the department may issue additional temporary  
12 permits to stay the effective date of its action under AS 28.15.165(c)  
13 until the final order after the review is issued.

14 (d) A person who has requested a hearing under this section and  
15 who fails to appear at the hearing, for reasons other than lack of  
16 actual notice of the hearing or physical incapacity such as hospitali-  
17 zation or incarceration, waives the right to a hearing. The deter-  
18 mination of the department that is based upon the enforcement offi-  
19 cer's report becomes final.

20 (e) Notwithstanding AS 28.05.141(b), the hearing under this  
21 section shall be held at the office of the department nearest to the  
22 residence of the person requesting the hearing unless a district court  
23 judge or a magistrate has been designated as a hearing officer in the  
24 matter by the commissioner or the department and the person agree that  
25 the hearing is to be held elsewhere.

26 (f) A review under this section shall be held before a hearing  
27 officer designated by the commissioner. Upon the consent of the  
28 administrative director of the state court system, the commissioner  
29 may designate a district court judge or a magistrate to serve as the

1 hearing officer. The hearing officer shall have authority to

2 (1) administer oaths and affirmations;

3 (2) examine witnesses and take testimony;

4 (3) receive relevant evidence;

5 (4) issue subpoenas, take depositions, or cause depositions  
6 or interrogatories to be taken;

7 (5) regulate the course and conduct of the hearing;

8 (6) make a final ruling on the issue.

9 (g) The hearing under this section shall be limited to the  
10 issues of whether the arresting officer had reasonable grounds to  
11 believe that the person was driving a motor vehicle while intoxicated  
12 and whether

13 (1) the person refused to submit to a chemical test under  
14 AS 28.35.031(a) after being advised that refusal would result in the  
15 suspension, revocation, or denial of the person's license or nonresi-  
16 dent privilege to drive and that the refusal is a misdemeanor; or

17 (2) the chemical test authorized under AS 28.35.031(a) and  
18 administered to the person produced a result described in AS 28.35.-  
19 030(a)(2).

20 (h) The determination of the hearing officer may be based upon  
21 the sworn report of a law enforcement officer. The law enforcement  
22 officer need not be present at the hearing unless the person request-  
23 ing the hearing or the hearing officer requests in writing before the  
24 hearing that the officer be present. If in the course of the hearing  
25 it becomes apparent that the testimony of the law enforcement officer  
26 is necessary to enable the hearing officer to resolve disputed issues  
27 of fact, the hearing may be continued to allow the attendance of the  
28 law enforcement officer.

29 (i) Testimony given by the person at the hearing is not

1 admissible against the person in a criminal trial unless the person's  
2 testimony at the trial is inconsistent with that given at the hearing.

3 (j) If the issues set out in (g) of this section are determined  
4 in the affirmative by a preponderance of the evidence, the hearing  
5 officer shall sustain the action of the department. If one or more of  
6 the issues is determined in the negative, the department's action  
7 shall be rescinded.

8 (k) If the action of the department in revoking a nonresident's  
9 privilege to drive a motor vehicle is not administratively contested  
10 by the nonresident driver or if the departmental action is sustained  
11 by the hearing officer, the department shall give written notice of  
12 action taken to the motor vehicle administrator of the state of the  
13 person's residence and to any state in which that person has a driv-  
14 er's license.

15 (l) A hearing officer revoking a driver's license because a  
16 chemical test administered to the person produced a result described  
17 in AS 28.35.030(a)(2) may grant limited license privileges if the  
18 person has not been previously convicted within the preceding 10 years  
19 of an offense (A) described in AS 28.15.181(a)(5) or (8); or (B) under  
20 a law or ordinance in another jurisdiction with elements substantially  
21 similar to an offense described in AS 28.15.181(a)(5) or (8). The  
22 privileges may be granted for the final 60 days during which the  
23 license is revoked if the hearing officer determines that the person's  
24 ability to earn a livelihood would be severely impaired and a limita-  
25 tion under AS 28.15.201 can be placed on the license that will enable  
26 the person to earn a livelihood without excessive danger to the pub-  
27 lic. A hearing officer may not grant limited license privileges when  
28 revoking a driver's license because the person refused to submit to a  
29 chemical test.

1 (m) Notwithstanding AS 28.05.141(d), within 30 days of the issu-  
2 ance of the final determination of the department, a person aggrieved  
3 by the determination may file an appeal in superior court for judicial  
4 review of the hearing officer's determination. The judicial review  
5 shall be on the record, without taking additional testimony. The  
6 court may reverse the department's determination if the court finds  
7 that the department misinterpreted the law, acted in an arbitrary and  
8 capricious manner, or made a determination unsupported by the evidence  
9 in the record.

10 (n) The filing of an appeal under (m) of this section does not  
11 automatically stay the department's revocation order. The court may  
12 grant a stay of the order only upon a motion and hearing, and upon a  
13 finding that there is a reasonable probability that the petitioner  
14 will prevail on the merits and that the petitioner will suffer irrepa-  
15 rable harm if the order is not stayed.

16 \* Sec. 4. AS 28.15.181(a) is amended to read:

17 (a) Conviction of any of the [THE] following offenses is [ARE]  
18 grounds for the immediate [SUSPENSION OR] revocation of a driver's  
19 license:

20 (1) manslaughter or negligent homicide resulting from [THE]  
21 driving [OF] a motor vehicle;

22 (2) a felony in the commission of which a motor vehicle is  
23 used;

24 (3) failure to stop and give aid as required by law [UNDER  
25 THE LAWS OF THIS STATE] when a motor vehicle accident results in the  
26 death or personal injury of another;

27 (4) perjury or [THE] making [OF] a false affidavit or  
28 statement under oath to the department under a law relating to motor  
29 vehicles;

(5) [OPERATING OR] driving a motor vehicle while

1 intoxicated;

2 (6) reckless driving; [OR]

3 (7) using a motor vehicle in unlawful flight to avoid  
4 arrest by a peace officer;

5 (8) refusal to submit to a chemical test under AS 28.35.-  
6 032;

7 (9) driving while license canceled, suspended, revoked or  
8 in violation of a limitation.

9 \* Sec. 5. AS 28.15.181(b) is amended to read:

10 (b) A court convicting a person of an offense described in  
11 [UNDER] (a)(1) - (4), (6), or (7) of this section shall revoke that  
12 person's driver's license for [A PERIOD OF] not less than 30 days for  
13 the first conviction, unless the court determines that the person's  
14 ability to earn a livelihood would be severely impaired and a limita-  
15 tion under AS 28.15.201 can be placed on the license that [WHICH] will  
16 enable the person to earn a livelihood without excessive [RISK OR]  
17 danger to the public. If a court limits a person's license under this  
18 subsection, it shall do so for [A PERIOD OF] not less than 60 [30]  
19 days. Upon a subsequent conviction of a person for any offense de-  
20 scribed in [UNDER] (a)(1) - (4), (6), or (7) of this section occurring  
21 within 10 years after a prior conviction, the court shall revoke the  
22 person's license and may not grant the person [ANY] limited license  
23 privileges for the following periods:

24 (1) not less than one year for the second conviction; and

25 (2) not less than three years for a third or subsequent  
26 conviction.

27 \* Sec. 6. AS 28.15.181(c) is repealed and reenacted to read:

28 (c) A court convicting a person of an offense described in  
29 (a)(5) or (8) of this section arising out of the operation of a motor

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

vehicle for which a driver's license is required shall revoke that person's driver's license. The revocation may be concurrent with or consecutive to an administrative revocation under AS 28.15.165. The court may not, except as provided in (e) of this section, grant limited license privileges for the following periods:

(1) not less than 90 days if, within the preceding 10 years, the person has not previously been convicted of an offense

- (A) described in (a)(5) or (8) of this section; or
- (B) under a law or ordinance in another jurisdiction with elements substantially similar to an offense described in (a)(5) or (8) of this section;

(2) not less than one year if, within the preceding 10 years, the person has been previously convicted of one offense

- (A) described in (a)(5) or (8) of this section; or
- (B) under a law or ordinance in another jurisdiction with elements substantially similar to an offense described in (a)(5) or (8) of this section;

(3) not less than 10 years if, within the preceding 10 years, the person has been previously convicted of more than one of the following offenses or has more than once been previously convicted of one of the following offenses:

- (A) an offense described in (a)(5) or (8) of this section; or
- (B) an offense under another law or ordinance in another jurisdiction with elements substantially similar to an offense described in (a)(5) or (8) of this section.

\* Sec. 7. AS 28.15.181 is amended by adding new subsections to read:  
(d) A court convicting a person of an offense described in (a)(9) of this section shall revoke that person's driver's license for

1 not less than the minimum period under AS 28.15.291(c).

2 (e) A court revoking a driver's license under (c) of this sec-  
3 tion, or sustaining the action of the department under AS 28.15.-  
4 165(c), may grant limited license privileges for the final 60 days  
5 during which the license is revoked if the

6 (1) revocation was for driving while intoxicated but not if  
7 the revocation was for refusal to submit to a chemical test of breath  
8 under AS 28.35.032;

9 (2) person has not been previously convicted within the  
10 preceding 10 years of an offense

11 (A) described in (a)(5) or (8) of this section; or

12 (B) under a law or ordinance in another jurisdiction  
13 with elements substantially similar to an offense described in  
14 (a)(5) or (8) of this section;

15 (3) court determines that the person's ability to earn a  
16 livelihood would be severely impaired; and

17 (4) court determines that a limitation under AS 28.15.201  
18 can be placed on the license that will enable the person to earn a  
19 livelihood without excessive danger to the public.

20 (f) For purposes of this section, convictions for both driving  
21 while intoxicated and for refusal to submit to a chemical test of  
22 breath under AS 28.35.031(a), if arising out of a single transaction  
23 and a single arrest, are considered one previous conviction.

24 \* Sec. 8. AS 28.15.201(b)(1) is amended to read:

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

28 \* Sec. 9. AS 28.15.201(c) is amended to read:

29 (c) After the termination of a limitation as shown on the

1 certificate issued under (b) of this section, the license of a person  
2 on whom a limitation was imposed is revoked until the person receives  
3 a new [NO LONGER BOUND BY THE LIMITATION AND MAY APPLY FOR A DUPLI-  
4 CATE] license in accordance with AS 28.20.240 [UNDER AS 28.15.141 OR,  
5 IF OTHERWISE ELIGIBLE, FOR A NEW LICENSE IF THE LICENSE WAS REVOKED  
6 FOR CONVICTION OF AN OFFENSE UNDER AS 28.15.181(a)(5) AND LIMITED  
7 LICENSE PRIVILEGES WERE GRANTED UNDER AS 28.15.181(c)].

8 \* Sec. 10. AS 28.15.291 is amended to read:

9 Sec. 28.15.291. DRIVING WHILE LICENSE CANCELED, SUSPENDED,  
10 REVOKED OR IN VIOLATION OF LIMITATION. (a) A [NO] person may not  
11 drive a motor vehicle on a highway or vehicular way or area [IN THIS  
12 STATE] at a time when that person's [HIS] driver's license, or privi-  
13 lege to drive [IN THIS STATE IF HE IS LICENSED IN ANOTHER JURISDIC-  
14 TION,] has been canceled, suspended or revoked in this or another  
15 jurisdiction, or when [HE IS] driving in violation of a limitation  
16 placed upon that person's [HIS] license or privilege to drive in this  
17 or [, EVEN WHEN HE IS DRIVING UNDER A LICENSE ISSUED IN] another  
18 jurisdiction. Except as provided in (c) of this section, upon [UPON]  
19 conviction of a violation of this section, the court shall impose a  
20 [MINIMUM] sentence of imprisonment of not less than 10 days. The exe-  
21 cution of sentence may not be suspended nor may probation or parole be  
22 granted until the minimum imprisonment provided in this section has  
23 been served; nor may imposition of sentence be suspended [, EXCEPT  
24 UPON THE CONDITION THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN  
25 THE MINIMUM PERIOD PROVIDED FOR IN THIS SECTION]. In addition, the  
26 person's [HIS] license or privilege to drive shall be revoked, and the  
27 person [HE] may not be issued a new license nor may the [HIS] privi-  
28 lege to drive be restored for an additional period of not less than  
29 one year after the date that the person [HE] would have been entitled

1 to restoration of [HIS] driving privileges.

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

12 \* Sec. 11. AS 28.15.291 is amended by adding new subsections to read:

13 (c) The court shall impose a sentence of imprisonment of not  
14 less than 30 days and a fine of not less than \$500 upon conviction of  
15 a violation of this section if the person's driver's license was  
16 revoked under circumstances described in AS 28.15.181(c)(1). The  
17 court shall impose a sentence of imprisonment of not less than 90 days  
18 and a fine of not less than \$1,000 upon conviction of a violation of  
19 this section if the person's driver's license was revoked under cir-  
20 cumstances described in AS 28.15.181(c)(2) or (3). The execution of  
21 sentence may not be suspended nor may probation or parole be granted  
22 until the minimum imprisonment provided in this subsection has been  
23 served. Imposition of sentence may not be suspended. In addition, the  
24 person's privilege to drive shall be revoked for an additional period  
25 of not less than one year after the date that the person would have  
26 been entitled to restoration of driving privileges if the person had  
27 not been convicted under this section.

28 (d) A person convicted of a violation of this section is guilty  
29 of a class A misdemeanor.

1 \* Sec. 12. AS 28.20.240 is amended to read:

2       Sec. 28.20.240.     PROOF REQUIRED WHEN DRIVING PRIVILEGE [USE OF  
3 LICENSE] IS RESTRICTED. Whenever under a law of this state the li-  
4 cense of a person is suspended, revoked, limited under AS 28.15.201,  
5 or canceled for any reason, the department may not issue to that  
6 person a new or renewal of license [IN HIS NAME] until permitted to do  
7 so under the motor vehicle laws of this state. A period of suspen-  
8 sion, revocation, [LIMITATION,] or cancellation [UNDER THIS SECTION]  
9 continues until proof of financial responsibility for the future is  
10 provided. Upon expiration of a period of limitation, the license  
11 remains revoked until proof of financial responsibility for the future  
12 is provided.

13 \* Sec. 13. AS 28.35.030(a)(2) is amended to read:

14       (2) when, as determined by a chemical test taken within  
15 four hours after the alleged offense was committed, there is 0.10  
16 percent or more by weight of alcohol in the person's blood or 100  
17 milligrams or more of alcohol per 100 milliliters of blood, or when  
18 there is 0.10 grams or more of alcohol per 210 liters of the person's  
19 breath; or

20 \* Sec. 14. AS 28.35.030(c) is amended to read:

21       (c) Upon conviction under this section the court shall impose a  
22 minimum sentence of imprisonment of not less than 72 consecutive hours  
23 and a fine of not less than \$250 if the person has not been previously  
24 convicted in this or another jurisdiction of driving while intoxicated  
25 under this or another law or ordinance with substantially similar  
26 elements or refusal to submit to a chemical test under AS 28.35.032  
27 or another law or ordinance with substantially similar elements. Upon  
28 [A SUBSEQUENT] conviction under this section the court shall impose a  
29 minimum sentence of imprisonment of not less than 20 consecutive days

1 and a fine of not less than \$500 if, within the preceding 10 years,  
2 the person has been previously convicted once in this or another  
3 jurisdiction [WITHIN FIVE YEARS AFTER A CONVICTION] of driving while  
4 intoxicated under this or another law or ordinance with substantially  
5 similar elements or [IN THIS OR ANY OTHER STATE OR CONVICTION OF]  
6 refusal to submit to a chemical test under AS 28.35.032 or another law  
7 or ordinance with substantially similar elements. Upon conviction  
8 under this section [OF BREATH UNDER AS 28.35.032,] the court shall  
9 impose a minimum sentence of imprisonment of not less than 30 [10]  
10 consecutive days and a fine of not less than \$1,000 if, within the  
11 preceding 10 years, the person has been previously convicted in this  
12 or another jurisdiction of more than one of the following offenses or  
13 has more than once been previously convicted of one of the following  
14 offenses: (1) driving while intoxicated under this or another law or  
15 ordinance with substantially similar elements; (2) refusal to submit  
16 to a chemical test under AS 28.35.032 or another law or ordinance with  
17 substantially similar elements [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 except on condition that [UNTIL] the minimum  
22 imprisonment provided in this section is [HAS BEEN] served. Impo-  
23 sition of sentence may not be suspended [, EXCEPT UPON THE CONDITION  
24 THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN THE MINIMUM PERIOD  
25 PROVIDED IN THIS SECTION]. In addition, if the offense involved  
26 driving a motor vehicle for which a driver's license is required, the  
27 person's driver's [HIS OPERATOR'S] license shall be revoked in accor-  
28 dance with AS 28.15.181 and the vehicle used in commission of the  
29 offense may be forfeited under AS 28.35.036. In addition, the court

1 shall order, and a person convicted under this section [STATUTE] shall  
2 undertake, for a term specified by the court, that program of alcohol  
3 education or rehabilitation that [WHICH] the court, after considera-  
4 tion of any information compiled under (d) of this section, finds  
5 appropriate.

6 \* Sec. 15. AS 28.35.030 is amended by adding a new subsection to read:

7 (g) For purposes of this section, convictions for both driving  
8 while intoxicated and for refusal to submit to a chemical test of  
9 breath under AS 28.35.031(a), if arising out of a single transaction  
10 and a single arrest, are considered one previous conviction.

11 \* Sec. 16. AS 28.35.031 is amended by adding new subsections to read:

12 (b) A person who operates or drives a motor vehicle in this  
13 state shall be considered to have given consent to a preliminary  
14 breath test for the purpose of determining the alcoholic content of  
15 the person's blood or breath. A law enforcement officer may adminis-  
16 ter a preliminary breath test at the scene of the incident if the  
17 officer has reasonable grounds to believe that a person's ability to  
18 operate a motor vehicle is impaired by the ingestion of alcoholic  
19 beverages and that the person

20 (1) was driving a motor vehicle that is involved in an  
21 accident; or

22 (2) committed a moving traffic violation.

23 (c) Before administering a preliminary breath test under (b) of  
24 this section, the officer shall advise the person that refusal may be  
25 used against the person in a civil or criminal action arising out of  
26 the incident and that refusal is an infraction. If the person refuses  
27 to submit to the test, the test shall not be administered.

28 (d) The result of the test under (b) of this section may be used  
29 by the law enforcement officer to determine whether the driver should

1 be arrested.

2 (e) Refusal to submit to a preliminary breath test at the re-  
3 quest of a law enforcement officer is an infraction.

4 (f) If a driver is arrested, the provisions of AS 28.35.031(a)  
5 apply. The preliminary breath test authorized in this section is in  
6 addition to any tests authorized under AS 28.35.031(a).

7 \* Sec. 17. AS 28.35.032(a) is amended to read:

8 (a) If a person under arrest refuses the request of a law en-  
9 forcement officer to submit to a chemical test under AS 28.35.031(a)  
10 [OF BREATH AS PROVIDED IN AS 28.35.031], after being advised by the  
11 officer that the refusal will, if that person was arrested while  
12 operating or driving a motor vehicle for which a driver's license is  
13 required, result in the [SUSPENSION,] denial or revocation of the  
14 license or nonresident privilege to drive, that the refusal may be  
15 used against the person in a civil or criminal action or proceeding  
16 arising out of an act alleged to have been committed by the person  
17 while operating or driving a motor vehicle or operating an aircraft or  
18 a watercraft while intoxicated, and that the refusal is a misdemeanor,  
19 a chemical test shall not be given, except as provided by AS 28.35.-  
20 035.

21 \* Sec. 18. AS 28.35.032(f) is amended to read:

22 (f) Refusal to submit to the chemical test of breath authorized  
23 by AS 28.35.031(a) [AS 28.35.031] is a class A misdemeanor.

24 \* Sec. 19. AS 28.35.032(g) is amended to read:

25 (g) Upon conviction of a person under this section, the court  
26 shall impose a minimum sentence of imprisonment of not less than 72  
27 consecutive hours and a fine of not less than \$250 if the person has  
28 not been previously convicted in this or another jurisdiction of  
29 driving while intoxicated under AS 28.35.030 or another law or

1 ordinance with substantially similar elements or refusal to submit to  
2 a chemical test under this section or another law or ordinance with  
3 substantially similar elements. Upon [A SUBSEQUENT] conviction under  
4 this section the court shall impose a minimum sentence of imprisonment  
5 of not less than 20 consecutive days and a fine of not less than \$500  
6 if, within the preceding 10 years, the person has been previously con-  
7 victed once in this or another jurisdiction [WITHIN FIVE YEARS AFTER A  
8 CONVICTION UNDER THIS SECTION OR] of driving while intoxicated under  
9 AS 28.35.030 or another law or ordinance with substantially similar  
10 elements or refusal to submit to a chemical test under this section or  
11 another law or ordinance with substantially similar elements. Upon  
12 conviction under this section the court shall impose a minimum sen-  
13 tence of imprisonment of not less than 30 consecutive days and a fine  
14 of not less than \$1,000 if, within the previous 10 years, the person  
15 has been previously convicted in this or another jurisdiction of more  
16 than one of the following offenses or has more than once been pre-  
17 viously convicted of one of the following offenses: (1) driving while  
18 intoxicated under AS 28.35.030 or another law or ordinance with sub-  
19 stantially similar elements; (2) refusal to submit to a chemical test  
20 under this section or another law or ordinance with substantially  
21 similar elements [IN THIS OR ANY OTHER STATE, THE COURT SHALL IMPOSE A  
22 MINIMUM SENTENCE OF IMPRISONMENT OF NOT LESS THAN 10 CONSECUTIVE DAYS  
23 UNLESS THE SUBSEQUENT CONVICTION IS WITHIN ONE YEAR OF THE PREVIOUS  
24 CONVICTION, IN WHICH CASE THE COURT SHALL IMPOSE A MINIMUM SENTENCE OF  
25 IMPRISONMENT OF NOT LESS THAN 20 CONSECUTIVE DAYS]. The execution of  
26 sentence may not be suspended nor may probation be granted except on  
27 condition that [UNTIL] the minimum imprisonment provided in this  
28 section is [HAS BEEN] served. Imposition of sentence may not be  
29 suspended. If the offense involved driving a motor vehicle for which

1 a driver's license is required, the person's driver's license shall be  
2 revoked under AS 28.15.181 [, EXCEPT UPON THE CONDITION THAT THE  
3 DEFENDANT BE IMPRISONED FOR NO LESS THAN THE MINIMUM PERIOD PROVIDED  
4 IN THIS SECTION]. In addition, the court shall order, and a person  
5 convicted under this section shall undertake, for a term specified by  
6 the court, that program of alcohol education or rehabilitation that  
7 the court, after consideration of any information compiled under (h)  
8 of this section, finds appropriate. The sentence imposed by the court  
9 under this subsection shall run consecutively with any other sentence  
10 of imprisonment imposed on the committed person.

11 \* Sec. 20. AS 28.35.032 is amended by adding a new subsection to read:

12 (j) For purposes of this section, convictions for both driving  
13 while intoxicated and for refusal to submit to a chemical test of  
14 breath under AS 28.35.031(a), if arising out of a single transaction  
15 and a single arrest, are considered one previous conviction.

16 \* Sec. 21. AS 28.35.034 is amended to read:

17 Sec. 28.35.034. SURRENDER OF LICENSE OR PERMIT [PERIOD OF REVO-  
18 CATION]. A person whose license or permit to operate or drive a motor  
19 vehicle has been [SUSPENDED OR] revoked under AS 28.15.165 or AS 28.-  
20 15.181 [THE PROVISIONS OF AS 28.35.032] shall surrender the [HIS]  
21 license or permit to the department on receipt of notice of the revo-  
22 cation. [SUCH A PERSON IS INELIGIBLE FOR AN OPERATOR'S LICENSE OR  
23 PERMIT FOR THREE MONTHS FOLLOWING THE DATE ON WHICH THE LICENSE OR  
24 PERMIT WAS RECEIVED BY THE DEPARTMENT, UNLESS THE DISTRICT COURT FINDS  
25 THAT EXTENUATING CIRCUMSTANCES EXIST WHICH WOULD CAUSE EXTREME HARD-  
26 SHIP, IN WHICH CASE THE SUSPENSION OR REVOCATION MAY BE MODIFIED OR  
27 NULLIFIED.] After the [THREE MONTHS'] period of revocation has ex-  
28 pired, the person may make application for a new license as provided  
29 by law.

1 \* Sec. 22. AS 28.35.035 is amended to read:

2 Sec. 28.35.035. ADMINISTRATION OF CHEMICAL TESTS WITHOUT CON-  
3 SENT. (a) If a person is under arrest for an offense arising out of  
4 acts alleged to have been committed while the person was driving a  
5 motor vehicle [THE CRIME OF DRIVING] while intoxicated, and that  
6 arrest results from an accident that causes death or physical injury  
7 to another person, a chemical test may be administered without the  
8 consent of the person arrested to determine the amount of alcohol in  
9 that person's breath or blood.

10 (b) A person who is unconscious or otherwise in a condition  
11 rendering that person incapable of refusal is considered not to have  
12 withdrawn the consent provided under AS 28.35.031(a) [AS 28.35.031]  
13 and a chemical test may be administered to determine the amount of  
14 alcohol in that person's breath or blood. A person who is unconscious  
15 or otherwise incapable of refusal need not be placed under arrest  
16 before a chemical test may be administered.

17 (c) If a chemical test is administered to a person under (a) or  
18 (b) of this section, that person is not subject to the penalties for  
19 refusal to submit to a chemical test provided by AS 28.35.032 and  
20 28.35.034.

21 \* Sec. 23. AS 28.35 is amended by adding new sections to read:

22 Sec. 28.35.036. FORFEITURE OF MOTOR VEHICLE. (a) After convic-  
23 tion of an offense under AS 28.35.030 or AS 28.35.032 involving a  
24 motor vehicle of a type for which a driver's license is required, the  
25 state may move the court to order the forfeiture of the motor vehicle  
26 involved in the commission of the offense if the convicted person has  
27 been previously convicted in this or another jurisdiction of more than  
28 one of the following offenses or has more than once been previously  
29 convicted of one of the following offenses:

1 (1) driving while intoxicated under AS 28.35.030 or another  
 2 law or ordinance with substantially similar elements; or

3 (2) refusal to submit to a chemical test under AS 28.35.032  
 4 or another law or ordinance with substantially similar elements.

5 (b) For purposes of this section, convictions for both driving  
 6 while intoxicated and for refusal to submit to a chemical test of  
 7 breath under AS 28.35.031(a), if arising out of a single transaction  
 8 and a single arrest, are considered one previous conviction.

9 (c) Upon receipt of a motion for forfeiture, the court shall  
 10 schedule a hearing on the matter and shall notify the state and the  
 11 convicted person of the time and place set for the hearing. At the  
 12 hearing, the court may order the forfeiture of the motor vehicle if  
 13 the court, sitting without a jury, determines by a preponderance of  
 14 the evidence that the forfeiture of the motor vehicle will serve one  
 15 or more of the following purposes:

16 (1) deterrence of the convicted person from the commission  
 17 of future offenses under AS 28.35.030;

18 (2) protection of the safety and welfare of the public;

19 (3) deterrence of other persons who are potential offenders  
 20 under AS 28.35.030; or

21 (4) expression of public condemnation of the serious or  
 22 aggravated nature of the convicted person's conduct.

23 (d) Upon forfeiture of a motor vehicle the court shall require  
 24 the surrender of the registration and certificate of title of that  
 25 motor vehicle. The registration and certificate of title shall be  
 26 delivered to the department.

27 (e) If not released under AS 28.35.037, a motor vehicle for-  
 28 feited under this section may be disposed of at the discretion of the  
 29 department.

1           Sec. 28.35.037. REMISSION OF FORFEITURES. (a) Upon receiving  
2 notice from the court of the time and place set for a hearing under  
3 AS 28.35.036, the state shall provide to every person who has an  
4 ascertainable ownership or security interest in the motor vehicle  
5 written notice that includes

- 6           (1) a description of the motor vehicle;
- 7           (2) the time and place of the forfeiture hearing;
- 8           (3) the legal authority under which the motor vehicle may  
9 be forfeited;
- 10          (4) notice of the right to intervene to protect the inter-  
11 est in the motor vehicle.

12           (b) At the hearing, a person who claims an ownership or security  
13 interest in the motor vehicle must establish by a preponderance of the  
14 evidence that

- 15          (1) the petitioner has an interest in the motor vehicle  
16 acquired in good faith;
- 17          (2) a person other than the petitioner was convicted of the  
18 offense that resulted in the forfeiture; and
- 19          (3) before parting with the motor vehicle, the petitioner  
20 did not know or have reasonable cause to believe that it would be used  
21 in the commission of an offense.

22           (c) If a person satisfies the requirements of (b) of this sec-  
23 tion, the court shall order that an amount equal to the value of the  
24 petitioner's interest in the motor vehicle be paid to the petitioner  
25 or the court shall order that the motor vehicle be released to the  
26 petitioner together with title to the motor vehicle.

27           (d) Forfeiture of a motor vehicle under AS 28.35.036 is without  
28 prejudice to the rights, and does not extinguish the claims, of a  
29 creditor with an interest in the motor vehicle.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

Sec. 28.35.038. MUNICIPAL IMPOUNDMENT AND FORFEITURE. Notwith-  
standing other provisions in this title, a municipality may adopt an  
ordinance providing for the impoundment or forfeiture of a motor  
vehicle involved in the commission of an offense under AS 28.35.030,  
28.35.032, or an ordinance with elements substantially similar to  
AS 28.35.030 or AS 28.35.032. An ordinance adopted under this section  
is not required to be consistent with this title or regulations adopt-  
ed under this title.

\* Sec. 24. AS 22.15.100 is amended by adding a new paragraph to read:

(10) to review an administrative revocation of a person's  
driver's license or nonresident privilege to drive, and an administra-  
tive refusal to issue an original license, when designated as a hear-  
ing officer by the commissioner of public safety and with the consent  
of the administrative director of the state court system.

\* Sec. 25. AS 28.15.211(a)(4) and AS 28.35.032(b),(c), and (d) are re-  
pealed.



From The  
**SENATE  
FINANCE COMMITTEE**

---

These fiscal  
notes came attached  
to CS HB 6 (Jud)  
when it arrived in  
Committee. Remaining  
F. Notes relate to  
Senate SA & Jud.  
versions.

*Jud 4/30*

STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1983

Page 1 of 2

I. REQUEST

Bill/Resolution No.: CSHB6 (Jud) # 1  
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: Dana Fabe, Public Defender

Date: April 13, 1983

Approved by Commissioner: Lisa Rudd

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

There are several provisions within this bill which will require a substantial increase in the attorney time necessary to handle DWI and refusal of breathalyzer cases.

First, the increase in mandatory minimum penalties for second and subsequent offenders to 20 and 30 days respectively, as well as the increase in fines, will mean that a much higher number of defendants will exercise their right to a jury trial. Preparation for jury trial requires extensive interviews with the client and prospective witnesses, and the court time for the case is greatly increased, since a DWI change of plea in court may take 15 minutes while a jury trial in such a case usually lasts 1 - 2 days. We handle a high volume of not only State prosecuted DWI's but Municipally prosecuted DWI's as well. This increase in attorney time necessary for handling each drunk-driving case, given our already staggering misdemeanor caseloads, will require two additional attorneys for the Anchorage office, and one for the Fairbanks office.

Second, a drastic increase to a 90-day mandatory penalty for a first offender charged with driving with a suspended license will increase the number of jury trials which this office is required to handle.

Third, provisions in the statute which allow a police officer upon probable cause to seize the defendant's driver's license or impound his vehicle for a substantial period of time at the time of arrest will also require increased attorney time, due to the defendant's right to schedule a court hearing within 7 days to obtain return of his license or vehicle. Although the defendant may not have a right to an attorney to handle the hearing which he initiates to have his car or license returned, he will need an attorney's assistance at that hearing to the extent that it impacts his criminal case. Because anything that the defendant might say at that hearing regarding the facts of his case could be used against him at the subsequent criminal trial, he would need the assistance of counsel at that hearing. The attorney would have to obtain the immunity which would be due the client under the Alaska Supreme Court decision of McCracken v. Corey, as well as limit the scope of cross-examination at the hearing.

Because of the volume of DWI cases handled by this agency and the substantially increased attorney time necessary to comply with the provisions of the Statute, two additional attorneys for Anchorage and one for Fairbanks are requested.

STATE OF ALASKA  
FISCAL NOTE

Revision Date                     , 1983

I. REQUEST

Page 1 of 3

Bill/Resolution No.: HB6/SB61 # 2  
 Title: Drunk Driving  
 Sponsor:                                       
 Requestor:                                     

II. FISCAL DETAIL

Agency Affected: Alaska Court System  
 Program Category Affected: Admin. of Justice  
 BRU, Program of Subprogram(s) Affected: Trial Courts

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		482.8	614.2	651.1	690.2	731.6
200 TRAVEL						
300 CONTRACTUAL		12.5	15.9	16.9	17.9	19.0
400 COMMODITIES		12.5	15.9	16.9	17.9	19.0
500 EQUIPMENT		31.2				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		539.0	646.0	684.9	726.0	769.6

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND		539.0	646.0	684.9	726.0	769.6
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		12	12	12	12	12
PART-TIME						
TEMPORARY						

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

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard Barrier *[Signature]* Phone: 264-0545  
 Division: Alaska Court System/Administration Date: 4/13/83

Approved by Commissioner:                                      Date:                                       
 Department:                                     

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

The Court System currently disposes of approximately 6,000 DWI cases each year. Presently, 8.6% of these cases are disposed of at trial, or approximately 500 trials per year. This legislation will increase the number of cases proceeding to trial, since individuals faced with stiffer penalties and forfeiture of motor vehicles will be more likely to take their cases to trial than to plead guilty as they have in the past. Assuming that 5% of those individuals presently pleading guilty opted for a trial under the new statutes, the Court System would experience an increase of approximately 250 trials per year.

This legislation provides that individuals issued temporary licenses upon arrest on DWI have seven days in which to schedule a court hearing regarding extension of their temporary license. If 25% of the individuals charged with DWI ask the court for this seven day hearing, the court would experience an increase of approximately 1,500 hearings per year.

Once a motor vehicle has been forfeited to the state, the court must notice any interested party regarding this forfeiture and permit interested parties to submit a petition for remission of interest in the motor vehicle. Each petition filed will require a court hearing. It is estimated that this would lead to approximately 500 hearings per year.

Statewide, the major impact of this legislation would be an increase of approximately 250 DWI trials and 2,000 hearings per year. Along with the judicial manpower required to conduct the trials and hearings, the court needs supporting staff for the judges and clerical staff to process the case files, calendar and notice the participants in hearings, and perform other new clerical functions under this legislation related to impoundment of vehicles and forfeiture of vehicles.

The impact of this legislation will be felt in each court location in the state, though the major impact will be in the larger metropolitan areas. Both Anchorage and Fairbanks currently have a heavy caseload of DWI cases, with Anchorage reporting approximately 30% of the state's caseload and Fairbanks 25% of the caseload. In each of these locations the district courts are working at capacity, and would therefore need increased resources to handle the projected number of new trials and hearings to be held under this legislation. In each location, the minimal staffing required to implement this legislation would be one district court judge, with a support staff of a secretary and in-court clerk, and two court clerk II positions in the criminal sections to deal with the new clerical demands created by this legislation.

In addition to Anchorage and Fairbanks, both Palmer and Kenai have significant DWI caseloads, with each having nearly 10% of

the state's caseload. While these courts may be able to get by without additional judicial resources, each would need at a minimum one additional court clerk II position.

A detailed breakdown of the cost associated with this legislation is provided below.

FY 84 COST OF IMPLEMENTING HB 6/SB 61

PERSONAL SERVICES:

SALARIES:

ANCHORAGE

District Court Judge	\$ 60,600
Secretary (Range 12B)	23,352
In-Court Clerk (Range 12B)	23,352
Court Clerk II (2 @ Range 10B)	41,424

FAIRBANKS

District Court Judge	69,084
Secretary (Range 12B)	26,616
In-Court Clerk (Range 12B)	26,616
Court Clerk II (2 @ Range 10B)	46,706

PALMER

Court Clerk II (Range 10B)	21,384
----------------------------	--------

KENAI

Court Clerk II (Range 10B)	<u>21,984</u>
----------------------------	---------------

\$361,118

BENEFITS:

Judges	139,659
Classified	<u>78,582</u>

Total Personal Services 579,359

CONTRACTUAL 15,000

COMMODITIES 15,000

EQUIPMENT (one time costs) 31,200

TOTAL COST \$640,559

FIRST YEAR ADJUSTMENT:

Less two months recruitment time (101,560)

TOTAL COST FIRST YEAR \$538,999

(Subsequent years' costs include inflation at 6%.)

STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1983

I. REQUEST

Bill/Resolution No.: <sup>#2 107</sup> CS for HB 6 (Jud.)  
Title: Act relating to driving a m.v.  
Sponsor: Judiciary Committee  
Requestor: Finance Committee

II. FISCAL DETAIL

Agency Affected: Health & Social Services  
Program Category Affected: Justice  
BRU, Program of Subprogram(s) Affected: Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES				419.7	444.9	471.6
200 TRAVEL		2.0	2.1	2.2	2.4	2.5
300 CONTRACTUAL		39.6	42.0	76.7	81.3	86.2
400 COMMODITIES		68.6	72.7	80.7	85.6	90.7
500 EQUIPMENT		-	-	4.5	-	-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC		6.9	7.3	7.7	8.2	8.7
TOTAL OPERATING	-0-	117.1	124.1	591.5	622.4	659.7
CAPITAL	-0-	2,860.0	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	2,977.1	124.1	591.5	622.4	659.7
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	9	9	9
PART-TIME						
TEMPORARY						

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

The source of funds to offset the fiscal impact of this bill has not been identified by the sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange *Roger C. Lange* Phone: 465-3376  
Division: Adult Corrections Date: May 5, 1983

Approved by Commissioner: *Jan A. Eyr* Date: May 6, 1983  
Department: Health & Social Services

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

IV. ANALYSIS:

A. Assumptions

1. Bed Impact

The passage of this bill will result in the need for 22 additional minimum security beds within the Alaska correctional system. The sections of the bill which affect increased inmate population projections are:

a. Section 11

Statistics furnished by the Department of Public Safety show 181 persons were convicted in 1982 for driving with a suspended or revoked license where the original offense resulting in the loss of license was driving while intoxicated (DWI) or implied consent (refusal to take a breathalyzer test). For purposes of this fiscal note, that number was used for calculating the increased person days of incarceration resulting from increased sentences to 30 or 90 days. It was assumed that 80% of the offenders would have been convicted only once in the previous 15 years and 20% convicted more than once in the previous 15 years.

The following calculations also consider that the offender would have been given a minimum sentence of 10 days previously, and it is assumed that every offender will earn all good time for which they are eligible. Therefore, 145 offenders would serve an additional 15 days and 36 offenders would serve an additional 60 days. This results in the need for an additional 11.88 beds.

b. Section 13

This section of the bill increases the minimum sentence for second time drunk drivers from 10 days to 20 days and third and subsequent time drunk drivers from 10 days to 30 days. It is estimated that would be 450 repeat offenders affected by this legislation, 425 second offenders and 25 third offenders. The additional sentence length to be served, assuming all good time will be earned is 12 days for second time offenders and 20 days for third offenders. This increased sentence length results in the need for 9 additional minimum security beds.

c. Section 16

This section provides new penalties for refusal to take a chemical test similar to the sentences to be imposed for driving while intoxicated. Statistical data for this offense was not available. Therefore, it was assumed that 20 individuals would be convicted with one

FISCAL NOTE

CS for House Bill No. 6 (Judiciary)

Page 3

#2 376

prior and 7 individuals would be convicted with 2 or more prior offenses. This would result in the need for 1.1 additional beds.

- d. The summary of a, b, and c above is 21.98 beds, which were rounded to 22 beds.
2. All persons convicted would receive the minimum sentence and all persons would earn all good time for which they would be eligible.
3. Inflation of 6% per year was used for the entire period of the fiscal note.
4. The new beds would not be available for occupancy until July 1, 1985. This will result in further overcrowding of the existing facilities for two years.
5. One additional position is needed for every 2.5 prison beds. Therefore, 9 correctional officers are needed to provide the security and supervision of the inmates. These positions would be requested for FY 1986.

B. Program Summary:

1. Positions

- 1 - Correctional Officer III
- 8 - Correctional Officers II

These positions are needed to provide for the security of the institution where the beds will be constructed and for the supervision of the additional 22 persons (full-time equivalents) within the Alaska corrections system.

2. Other Expenditures

The fiscal impact will be experienced as soon as the bill becomes law. Therefore, the incremental costs directly related to inmate care are identified in FY 1984. Position costs and costs related to building operations are not included until FY 1986.

- a. Travel - \$2000. Inmate transportation to point of arrest when released from custody.
- b. Contractual - \$39,600. Medical expenses for 22 full-time equivalent inmates at \$1800 per inmate per year.
- c. Commodities - \$68,600. Food, clothing, bedding, etc. for 8,085 inmate days at \$8.48 per day.
- d. Grants - \$6,900. Inmate gratuities paid for persons working in the kitchen, or janitorial/maintenance crews, etc.

FISCAL NOTE

CS for House Bill No. 6 (Judiciary)

Page 4 #2 496

e. Capital Expenditures

22 beds @ \$130,000 per bed = \$2,860,000

D. Economic Impact:

Passage of this bill should not significantly impact the State's economy.

E. Impact on Local Governments:

There would be no fiscal impact on local governments unless they changed local ordinances related to DWI to include the same penalties contained in this bill. The fiscal impact would occur for local government units who contract with the State for the care of prisoners for local offenses.

1.	POSITION TITLE Correctional Officer II (8)				RANGE/STEP 13/B	ORG. UNIT. 3	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 96	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT						
	1	2		3						
	PERSONAL SERVICES									
5.	Salary	223,608		OT 26,968						
6.	Benefits	69,167		Shift Diff. 8,000						
7.	Supplemental Benefits	15,857								
8.	Fixed Benefits	25,888								
9.	TOTAL PERSONAL SERVICES		01	369,576						
10.	Travel	02								
11.	Contractual	03								
12.	Commodities	04		1,600						
13.	Equipment	05		4,000						
14.	Other									
15.	TOTAL COST			375,176						
RECEIPT CODE      FUNDING SOURCE										
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004		375,176						
19.		I-A Receipts 1005								
20.		Program Receipts 1020								
21.		Other								
FOR O&M USE ONLY 4A KEY NUMBER _____										

These positions will provide security coverage for the minimum security beds resulting from enactment of CS for House Bill No. 6 (Judiciary).

Single position costs:

Salary	\$27,951
Overtime	3,371
Shift Diff.	1,011
Benefits	13,864
	\$46,197

13 REQUEST FOR  
NEW POSITION

AGENCY Corrections  
Offender Confinement, Reformation,  
& Supervision  
PROGRAM  
BRU Adult Confinement  
COMPONENT \_\_\_\_\_

#2  
Page 5 of 6

Revised Date \_\_\_\_\_

FY 84

POSITION TITLE Correctional Officer III				RANGE/STEP 1:5/A	BARG. UNIT G.	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.		

CONTINUATION LEVEL	<input checked="" type="checkbox"/> ADDITION	
TYPE OF EXPENDITURE		AMOUNT
1	2	3
PERSONAL SERVICES		
Salary	30,944	OT \$ 3371
Benefits	9,446	Shift Diff
Supplemental Benefits	2,165	\$ 1011
Fixed Benefits	3,236	
TOTAL PERSONAL SERVICES		50,173
Travel	02	
Contractual	03	
Commodities	04	200
Equipment	05	500
Other		
TOTAL COST		50,873

JUSTIFICATION

These positions will provide supervision of security staff for the new minimum security beds resulting from the passage of CS for House Bill No. 6 (Judiciary).

Single position costs:

Salary	\$ 30,944
Overtime	3,371
Shift Diff.	1,011
Benefits	<u>14,847</u>
	\$ 50,173

RECEIPT CODE	FUNDING SOURCE	
	Federal Receipts 1002	
	G.F. Match 1003	
	General Funds 1004	50,873
	I-A Receipts 1005	
	Program Receipts 1028	
	Other	

FOR D&M USE ONLY  
4A KEY NUMBER \_\_\_\_\_

AGENCY Corrections  
Offender Confinement, Reformation,  
& Supervision

PROGRAM \_\_\_\_\_

BRU Adult Confinement

COMPONENT \_\_\_\_\_

**FY 84**

**13 REQUEST FOR NEW POSITION**

Page 6 of 6  
 Revised Date \_\_\_\_\_

STATE OF ALASKA  
FISCAL NOTE

Revision Date 1983

# 3 Page 1 of 3

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. Pro  
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 Orelve  
Division: Administrative Services

Phone: 465-4349  
Date: 4-26-83

Approved by Commissioner: *[Signature]*  
Department: Public Safety

Date: 4/26/83

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)

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	DARG. UNIT CG	FORM 12 PAGE/LINE	GOV.	APPRDV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT 4	LCC.		

3.	CONTINUATION LEVEL	ADDITION	
4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	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

JUSTIFICATION

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.

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	28,422
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

FOR B&M USE ONLY  
4A KEY NUMBER \_\_\_\_\_

**3** REQUEST FOR  
NEW POSITION

AGENCY Public Safety

PROGRAM Life and Property Protection

BRU Driver/Vehicle Services

COMPONENT Driver Services

CSHB 6 (Jud) # 3

Page 3 of 3

Revised Date \_\_\_\_\_

**FY 84**

Josephson

6/16/83

Original sponsors: Abood, Furnace,  
Lindauer, et al

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 6 (Finance)

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 28.05.051(b) is amended to read:

9 (b) The commissioner, officers and employees of the department  
10 designated by the commissioner, judges and employees of a court, and  
11 all peace officers, may take possession of a certificate of title,  
12 [OR] registration or license issued by this jurisdiction that [WHICH]  
13 has been revoked, canceled, limited or suspended, or [WHICH] is ficti-  
14 tious, stolen or altered.

15 \* Sec. 2. AS 28.15.081(a) is amended to read:

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

1 reasonably requires to determine [HIS] fitness to safely drive a motor  
2 vehicle of the type and general class of vehicles for which the appli-  
3 cant [HE] seeks a license.

4 \* Sec. 3. AS 28.15 is amended by adding new sections to read:

5 Sec. 28.15.165. ADMINISTRATIVE REVOCATIONS RESULTING FROM CHEMI-  
6 CAL SOBRIETY TESTS AND REFUSALS TO SUBMIT TO TESTS. (a) If a chemi-  
7 cal test administered under AS 28.35.031(a) to a person driving a  
8 motor vehicle for which a driver's license is required produces a  
9 result described in AS 28.35.030(a)(2) or if a person under arrest for  
10 driving a motor vehicle for which a driver's license is required  
11 refuses to submit to a chemical test under AS 28.35.031(a), a law  
12 enforcement officer shall read a notice and deliver a copy to the  
13 person. The notice shall advise that

14 (1) the department intends to revoke the person's driver's  
15 license or nonresident privilege to drive, or refuse to issue an  
16 original license to the person;

17 (2) the person has the right to administrative review of  
18 the revocation or determination not to issue an original license;

19 (3) the notice itself is a temporary driver's license that  
20 expires seven days after it is delivered to the person;

21 (4) revocation of the person's driver's license or nonresi-  
22 dent privilege to drive, or a determination not to issue an original  
23 license shall take effect upon expiration of the temporary driver's  
24 license unless the person within seven days requests an administrative  
25 review.

26 (b) After reading the notice under (a) of this section, the law  
27 enforcement officer shall seize the person's driver's license if it is  
28 in the person's possession and shall deliver it to the department with  
29 a sworn report describing the circumstances under which it was seized.

1 (c) Upon receipt of a sworn report of a law enforcement officer  
2 that a chemical test under AS 28.35.031(a) produced a result described  
3 in AS 28.35.030(a)(2) or that a person refused to submit to a chemical  
4 test under AS 28.35.031(a), that notice under (a) of this section was  
5 provided to the person, and that contains a statement of the circum-  
6 stances surrounding the arrest and the grounds upon which the offi-  
7 cer's belief that the person was driving while intoxicated a motor  
8 vehicle for which a driver's license is required was based, the de-  
9 partment shall revoke the person's license or nonresident privilege to  
10 drive a motor vehicle in the state, or refuse to issue an original  
11 license effective upon expiration of the temporary driver's license  
12 issued under (a) of this section.

13 (d) The period of revocation of a driver's license by the de-  
14 partment under this section shall be for the appropriate minimum  
15 period for court revocations under AS 28.15.181(c).

16 Sec. 28.15.166. ADMINISTRATIVE REVIEW OF REVOCATION. (a) A  
17 person who has received a notice under AS 28.15.165(a) may make a  
18 written request for administrative review of the department's action  
19 under AS 28.15.165(c). If the person's driver's license has not been  
20 previously surrendered to the department, it shall be surrendered to  
21 the department at the time the request for review is made.

22 (b) A request for review shall be made within seven days after  
23 receipt of the notice under AS 28.15.165 or the right to review is  
24 waived and the action of the department under AS 28.15.165(c) is  
25 final. If a written request for a review is made after expiration of  
26 the seven-day period, and if it is accompanied by the applicant's  
27 verified statement explaining the failure to make a timely request for  
28 a review, the department shall receive and consider the request. If  
29 the department finds that the person was unable to make a timely

1 request because of lack of actual notice of the revocation or because  
2 of factors of physical incapacity such as hospitalization or incarcer-  
3 ation, the department shall waive the period of limitation, reopen the  
4 matter, and grant the review request.

5 (c) Upon receipt of a request for review, if it appears that the  
6 person holds a valid driver's license and that the driver's license  
7 has been surrendered, the department shall issue a temporary driver's  
8 permit that is valid until the scheduled date for the review. A  
9 person who has requested a review under this section may request, and  
10 the department may grant for good cause, a delay in the date of the  
11 hearing. If necessary, the department may issue additional temporary  
12 permits to stay the effective date of its action under AS 28.15.165(c)  
13 until the final order after the review is issued.

14 (d) A person who has requested a hearing under this section and  
15 who fails to appear at the hearing, for reasons other than lack of  
16 actual notice of the hearing or physical incapacity such as hospitali-  
17 zation or incarceration, waives the right to a hearing. The deter-  
18 mination of the department that is based upon the enforcement offi-  
19 cer's report becomes final.

20 (e) Notwithstanding AS 28.05.141(b), the hearing under this  
21 section shall be held at the office of the department nearest to the  
22 residence of the person requesting the hearing unless a district court  
23 judge or a magistrate has been designated as a hearing officer in the  
24 matter by the commissioner or the department and the person agree that  
25 the hearing is to be held elsewhere.

26 (f) A review under this section shall be held before a hearing  
27 officer designated by the commissioner. Upon the consent of the  
28 administrative director of the state court system, the commissioner  
29 may designate a district court judge or a magistrate to serve as the

1 hearing officer. The hearing officer shall have authority to

- 2 (1) administer oaths and affirmations;
- 3 (2) examine witnesses and take testimony;
- 4 (3) receive relevant evidence;
- 5 (4) issue subpoenas, take depositions, or cause depositions
- 6 or interrogatories to be taken;
- 7 (5) regulate the course and conduct of the hearing;
- 8 (6) make a final ruling on the issue.

9 (g) The hearing under this section shall be limited to the

10 issues of whether the arresting officer had reasonable grounds to

11 believe that the person was driving a motor vehicle while intoxicated

12 and whether

13 (1) the person refused to submit to a chemical test under

14 AS 28.35.031(a) after being advised that refusal would result in the

15 suspension, revocation, or denial of the person's license or nonresi-

16 dent privilege to drive and that the refusal is a misdemeanor; or

17 (2) the chemical test authorized under AS 28.35.031(a) and

18 administered to the person produced a result described in AS 28.35.-

19 030(a)(2).

20 (h) The determination of the hearing officer may be based upon

21 the sworn report of a law enforcement officer. The law enforcement

22 officer need not be present at the hearing unless the person request-

23 ing the hearing or the hearing officer requests in writing before the

24 hearing that the officer be present. If in the course of the hearing

25 it becomes apparent that the testimony of the law enforcement officer

26 is necessary to enable the hearing officer to resolve disputed issues

27 of fact, the hearing may be continued to allow the attendance of the

28 law enforcement officer.

29 (i) Testimony given by the person at the hearing is not

1 admissible against the person in a criminal trial unless the person's  
2 testimony at the trial is inconsistent with that given at the hearing.

3 (j) If the issues set out in (g) of this section are determined  
4 in the affirmative by a preponderance of the evidence, the hearing  
5 officer shall sustain the action of the department. If one or more of  
6 the issues is determined in the negative, the department's action  
7 shall be rescinded.

8 (k) If the action of the department in revoking a nonresident's  
9 privilege to drive a motor vehicle is not administratively contested  
10 by the nonresident driver or if the departmental action is sustained  
11 by the hearing officer, the department shall give written notice of  
12 action taken to the motor vehicle administrator of the state of the  
13 person's residence and to any state in which that person has a driv-  
14 er's license.

15 (l) A hearing officer revoking a driver's license because a  
16 chemical test administered to the person produced a result described  
17 in AS 28.35.030(a)(2) may grant limited license privileges if the  
18 person has not been previously convicted within the preceding 10 years  
19 of an offense (A) described in AS 28.15.181(a)(5) or (8); or (B) under  
20 a law or ordinance in another jurisdiction with elements substantially  
21 similar to an offense described in AS 28.15.181(a)(5) or (8). The  
22 privileges may be granted for the final 60 days during which the  
23 license is revoked if the hearing officer determines that the person's  
24 ability to earn a livelihood would be severely impaired and a limita-  
25 tion under AS 28.15.201 can be placed on the license that will enable  
26 the person to earn a livelihood without excessive danger to the pub-  
27 lic. A hearing officer may not grant limited license privileges when  
28 revoking a driver's license because the person refused to submit to a  
29 chemical test.

1 (m) Notwithstanding AS 28.05.141(d), within 30 days of the issu-  
2 ance of the final determination of the department, a person aggrieved  
3 by the determination may file an appeal in superior court for judicial  
4 review of the hearing officer's determination. The judicial review  
5 shall be on the record, without taking additional testimony. The  
6 court may reverse the department's determination if the court finds  
7 that the department misinterpreted the law, acted in an arbitrary and  
8 capricious manner, or made a determination unsupported by the evidence  
9 in the record.

10 (n) The filing of an appeal under (m) of this section does not  
11 automatically stay the department's revocation order. The court may  
12 grant a stay of the order only upon a motion and hearing, and upon a  
13 finding that there is a reasonable probability that the petitioner  
14 will prevail on the merits and that the petitioner will suffer irrepa-  
15 rable harm if the order is not stayed.

16 \* Sec. 4. AS 28.15.181(a) is amended to read:

17 (a) Conviction of any of the [THE] following offenses is [ARE]  
18 grounds for the immediate [SUSPENSION OR] revocation of a driver's  
19 license:

20 (1) manslaughter or negligent homicide resulting from [THE]  
21 driving [OF] a motor vehicle;

22 (2) a felony in the commission of which a motor vehicle is  
23 used;

24 (3) failure to stop and give aid as required by law [UNDER  
25 THE LAWS OF THIS STATE] when a motor vehicle accident results in the  
26 death or personal injury of another;

27 (4) perjury or [THE] making [OF] a false affidavit or  
28 statement under oath to the department under a law relating to motor  
29 vehicles;

(5) [OPERATING OR] driving a motor vehicle while

1 intoxicated;

2 (6) reckless driving; [OR]

3 (7) using a motor vehicle in unlawful flight to avoid  
4 arrest by a peace officer;

5 (8) refusal to submit to a chemical test under AS 28.35.-  
6 032;

7 (9) driving while license canceled, suspended, revoked or  
8 in violation of a limitation.

9 \* Sec. 5. AS 28.15.181(b) is amended to read:

10 (b) A court convicting a person of an offense described in  
11 [UNDER] (a)(1) - (4), (6), or (7) of this section shall revoke that  
12 person's driver's license for [A PERIOD OF] not less than 30 days for  
13 the first conviction, unless the court determines that the person's  
14 ability to earn a livelihood would be severely impaired and a limita-  
15 tion under AS 28.15.201 can be placed on the license that [WHICH] will  
16 enable the person to earn a livelihood without excessive [RISK OR]  
17 danger to the public. If a court limits a person's license under this  
18 subsection, it shall do so for [A PERIOD OF] not less than 60 [30]  
19 days. Upon a subsequent conviction of a person for any offense de-  
20 scribed in [UNDER] (a)(1) - (4), (6), or (7) of this section occurring  
21 within 10 years after a prior conviction, the court shall revoke the  
22 person's license and may not grant the person [ANY] limited license  
23 privileges for the following periods:

24 (1) not less than one year for the second conviction; and

25 (2) not less than three years for a third or subsequent  
26 conviction.

27 \* Sec. 6. AS 28.15.181(c) is repealed and reenacted to read:

28 (c) A court convicting a person of an offense described in  
29 (a)(5) or (8) of this section arising out of the operation of a motor

1 vehicle for which a driver's license is required shall revoke that  
2 person's driver's license. The revocation may be concurrent with or  
3 consecutive to an administrative revocation under AS 28.15.165. The  
4 court may not, except as provided in (e) of this section, grant lim-  
5 ited license privileges for the following periods:

6 (1) not less than 90 days if, within the preceding 10  
7 years, the person has not previously been convicted of an offense

8 (A) described in (a)(5) or (8) of this section; or

9 (B) under a law or ordinance in another jurisdiction  
10 with elements substantially similar to an offense described in  
11 (a)(5) or (8) of this section;

12 (2) not less than one year if, within the preceding 10  
13 years, the person has been previously convicted of one offense

14 (A) described in (a)(5) or (8) of this section; or

15 (B) under a law or ordinance in another jurisdiction  
16 with elements substantially similar to an offense described in  
17 (a)(5) or (8) of this section;

18 (3) not less than 10 years if, within the preceding 10  
19 years, the person has been previously convicted of more than one of  
20 the following offenses or has more than once been previously convicted  
21 of one of the following offenses:

22 (A) an offense described in (a)(5) or (8) of this sec-  
23 tion; or

24 (B) an offense under another law or ordinance in  
25 another jurisdiction with elements substantially similar to an  
26 offense described in (a)(5) or (8) of this section.

27 \* Sec. 7. AS 28.15.181 is amended by adding new subsections to read:

28 (d) A court convicting a person of an offense described in  
29 (a)(9) of this section shall revoke that person's driver's license for

1 not less than the minimum period under AS 28.15.291(c).

2 (e) A court revoking a driver's license under (c) of this sec-  
3 tion, or sustaining the action of the department under AS 28.15.-  
4 165(c), may grant limited license privileges for the final 60 days  
5 during which the license is revoked if the

6 (1) revocation was for driving while intoxicated but not if  
7 the revocation was for refusal to submit to a chemical test of breath  
8 under AS 28.35.032;

9 (2) person has not been previously convicted within the  
10 preceding 10 years of an offense

11 (A) described in (a)(5) or (8) of this section;

12 (B) under a law or ordinance in another jurisdiction  
13 with elements substantially similar to an offense described in  
14 (a)(5) or (8) of this section;

15 (3) court determines that the person's ability to earn a  
16 livelihood would be severely impaired; and

17 (4) court determines that a limitation under AS 28.15.201  
18 can be placed on the license that will enable the person to earn a  
19 livelihood without excessive danger to the public.

20 (f) For purposes of this section, convictions for both driving  
21 while intoxicated and for refusal to submit to a chemical test of  
22 breath under AS 28.35.031(a), if arising out of a single transaction  
23 and a single arrest, are considered one previous conviction.

24 \* Sec. 8. AS 28.15.201(b)(1) is amended to read:

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

28 \* Sec. 9. AS 28.15.201(c) is amended to read:

29 (c) After the termination of a limitation as shown on the

1 certificate issued under (b) of this section, the license of a person  
2 on whom a limitation was imposed is revoked until the person receives  
3 a new [NO LONGER BOUND BY THE LIMITATION AND MAY APPLY FOR A DUPLI-  
4 CATE] license in accordance with AS 28.20.240 [UNDER AS 28.15.141 OR,  
5 IF OTHERWISE ELIGIBLE, FOR A NEW LICENSE IF THE LICENSE WAS REVOKED  
6 FOR CONVICTION OF AN OFFENSE UNDER AS 28.15.181(a)(5) AND LIMITED  
7 LICENSE PRIVILEGES WERE GRANTED UNDER AS 28.15.181(c)].

8 \* Sec. 10. AS 28.15.291 is amended to read:

9 Sec. 28.15.291. DRIVING WHILE LICENSE CANCELED, SUSPENDED,  
10 REVOKED OR IN VIOLATION OF LIMITATION. (a) A [NO] person may not  
11 drive a motor vehicle on a highway or vehicular way or area [IN THIS  
12 STATE] at a time when that person's [HIS] driver's license, or privi-  
13 lege to drive [IN THIS STATE IF HE IS LICENSED IN ANOTHER JURISDIC-  
14 TION,] has been canceled, suspended or revoked in this or another  
15 jurisdiction, or when [HE IS] driving in violation of a limitation  
16 placed upon that person's [HIS] license or privilege to drive in this  
17 or [, EVEN WHEN HE IS DRIVING UNDER A LICENSE ISSUED IN] another  
18 jurisdiction. Except as provided in (c) of this section, upon [UPON]  
19 conviction of a violation of this section, the court shall impose a  
20 [MINIMUM] sentence of imprisonment of not less than 10 days. The exe-  
21 cution of sentence may not be suspended nor may probation or parole be  
22 granted until the minimum imprisonment provided in this section has  
23 been served; nor may imposition of sentence be suspended [, EXCEPT  
24 UPON THE CONDITION THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN  
25 THE MINIMUM PERIOD PROVIDED FOR IN THIS SECTION]. In addition, the  
26 person's [HIS] license or privilege to drive shall be revoked, and the  
27 person [HE] may not be issued a new license nor may the [HIS] privi-  
28 lege to drive be restored for an additional period of not less than  
29 one year after the date that the person [HE] would have been entitled

1 to restoration of [HIS] driving privileges.

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

12 \* Sec. 11. AS 28.15.291 is amended by adding new subsections to read:

13 (c) The court shall impose a sentence of imprisonment of not  
14 less than 30 days and a fine of not less than \$500 upon conviction of  
15 a violation of this section if the person's driver's license was  
16 revoked under circumstances described in AS 28.15.181(c)(1). The  
17 court shall impose a sentence of imprisonment of not less than 90 days  
18 and a fine of not less than \$1,000 upon conviction of a violation of  
19 this section if the person's driver's license was revoked under cir-  
20 cumstances described in AS 28.15.181(c)(2) or (3). The execution of  
21 sentence may not be suspended nor may probation or parole be granted  
22 until the minimum imprisonment provided in this subsection has been  
23 served. Imposition of sentence may not be suspended. In addition, the  
24 person's privilege to drive shall be revoked for an additional period  
25 of not less than one year after the date that the person would have  
26 been entitled to restoration of driving privileges if the person had  
27 not been convicted under this section.

28 (d) A person convicted of a violation of this section is guilty  
29 of a class A misdemeanor.

1 \* Sec. 12. AS 28.20.240 is amended to read:

2       Sec. 28.20.240.     PROOF REQUIRED WHEN DRIVING PRIVILEGE [USE OF  
3 LICENSE] IS RESTRICTED. Whenever under a law of this state the li-  
4 cense of a person is suspended, revoked, limited under AS 28.15.201,  
5 or canceled for any reason, the department may not issue to that  
6 person a new or renewal of license [IN HIS NAME] until permitted to do  
7 so under the motor vehicle laws of this state. A period of suspen-  
8 sion, revocation, [LIMITATION,] or cancellation [UNDER THIS SECTION]  
9 continues until proof of financial responsibility for the future is  
10 provided. Upon expiration of a period of limitation, the license  
11 remains revoked until proof of financial responsibility for the future  
12 is provided.

13 \* Sec. 13. AS 28.35.030(a)(2) is amended to read:

14       (2) when, as determined by a chemical test taken within  
15 four hours after the alleged offense was committed, there is 0.10  
16 percent or more by weight of alcohol in the person's blood or 100  
17 milligrams or more of alcohol per 100 milliliters of blood, or when  
18 there is 0.10 grams or more of alcohol per 210 liters of the person's  
19 breath; or

20 \* Sec. 14. AS 28.35.030(c) is amended to read:

21       (c) Upon conviction under this section the court shall impose a  
22 minimum sentence of imprisonment of not less than 72 consecutive hours  
23 and a fine of not less than \$250 if the person has not been previously  
24 convicted in this or another jurisdiction of driving while intoxicated  
25 under this or another law or ordinance with substantially similar  
26 elements or refusal to submit to a chemical test under AS 28.35.032  
27 or another law or ordinance with substantially similar elements. Upon  
28 [A SUBSEQUENT] conviction under this section the court shall impose a  
29 minimum sentence of imprisonment of not less than 20 consecutive days

1 and a fine of not less than \$500 if, within the preceding 10 years,  
2 the person has been previously convicted once in this or another  
3 jurisdiction [WITHIN FIVE YEARS AFTER A CONVICTION] of driving while  
4 intoxicated under this or another law or ordinance with substantially  
5 similar elements or [IN THIS OR ANY OTHER STATE OR CONVICTION OF]  
6 refusal to submit to a chemical test under AS 28.35.032 or another law  
7 or ordinance with substantially similar elements. Upon conviction  
8 under this section [OF BREATH UNDER AS 28.35.032,] the court shall  
9 impose a minimum sentence of imprisonment of not less than 30 [10]  
10 consecutive days and a fine of not less than \$1,000 if, within the  
11 preceding 10 years, the person has been previously convicted in this  
12 or another jurisdiction of more than one of the following offenses or  
13 has more than once been previously convicted of one of the following  
14 offenses: (1) driving while intoxicated under this or another law or  
15 ordinance with substantially similar elements; (2) refusal to submit  
16 to a chemical test under AS 28.35.032 or another law or ordinance with  
17 substantially similar elements [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 except on condition that [UNTIL] the minimum  
22 imprisonment provided in this section is [HAS BEEN] served. Impos-  
23 sition of sentence may not be suspended [, EXCEPT UPON THE CONDITION  
24 THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN THE MINIMUM PERIOD  
25 PROVIDED IN THIS SECTION]. In addition, if the offense involved  
26 driving a motor vehicle for which a driver's license is required, the  
27 person's driver's [HIS OPERATOR'S] license shall be revoked in accor-  
28 dance with AS 28.15.181 and the vehicle used in commission of the  
29 offense may be forfeited under AS 28.35.036. In addition, the court

1 shall order, and a person convicted under this section [STATUTE] shall  
2 undertake, for a term specified by the court, that program of alcohol  
3 education or rehabilitation that [WHICH] the court, after considera-  
4 tion of any information compiled under (d) of this section, finds  
5 appropriate.

6 \* Sec. 15. AS 28.35.030 is amended by adding a new subsection to read:

7 (g) For purposes of this section, convictions for both driving  
8 while intoxicated and for refusal to submit to a chemical test of  
9 breath under AS 28.35.031(a), if arising out of a single transaction  
10 and a single arrest, are considered one previous conviction.

11 \* Sec. 16. AS 28.35.031 is amended by adding new subsections to read:

12 (b) A person who operates or drives a motor vehicle in this  
13 state shall be considered to have given consent to a preliminary  
14 breath test for the purpose of determining the alcoholic content of  
15 the person's blood or breath. A law enforcement officer may adminis-  
16 ter a preliminary breath test at the scene of the incident if the  
17 officer has reasonable grounds to believe that a person's ability to  
18 operate a motor vehicle is impaired by the ingestion of alcoholic  
19 beverages and that the person

20 (1) was driving a motor vehicle that is involved in an  
21 accident; or

22 (2) committed a moving traffic violation.

23 (c) Before administering a preliminary breath test under (b) of  
24 this section, the officer shall advise the person that refusal may be  
25 used against the person in a civil or criminal action arising out of  
26 the incident and that refusal is an infraction. If the person refuses  
27 to submit to the test, the test shall not be administered.

28 (d) The result of the test under (b) of this section may be used  
29 by the law enforcement officer to determine whether the driver should

1 be arrested.

2 (e) Refusal to submit to a preliminary breath test at the re-  
3 quest of a law enforcement officer is an infraction.

4 (f) If a driver is arrested, the provisions of AS 28.35.031(a)  
5 apply. The preliminary breath test authorized in this section is in  
6 addition to any tests authorized under AS 28.35.031(a).

7 \* Sec. 17. AS 28.35.032(a) is amended to read:

8 (a) If a person under arrest refuses the request of a law en-  
9 forcement officer to submit to a chemical test under AS 28.35.031(a)  
10 [OF BREATH AS PROVIDED IN AS 28.35.031], after being advised by the  
11 officer that the refusal will, if that person was arrested while  
12 operating or driving a motor vehicle for which a driver's license is  
13 required, result in the [SUSPENSION,] denial or revocation of the  
14 license or nonresident privilege to drive, that the refusal may be  
15 used against the person in a civil or criminal action or proceeding  
16 arising out of an act alleged to have been committed by the person  
17 while operating or driving a motor vehicle or operating an aircraft or  
18 a watercraft while intoxicated, and that the refusal is a misdemeanor,  
19 a chemical test shall not be given, except as provided by AS 28.35.-  
20 035.

21 \* Sec. 18. AS 28.35.032(f) is amended to read:

22 (f) Refusal to submit to the chemical test of breath authorized  
23 by AS 28.35.031(a) [AS 28.35.031] is a class A misdemeanor.

24 \* Sec. 19. AS 28.35.032(g) is amended to read:

25 (g) Upon conviction of a person under this section, the court  
26 shall impose a minimum sentence of imprisonment of not less than 72  
27 consecutive hours and a fine of not less than \$250 if the person has  
28 not been previously convicted in this or another jurisdiction of  
29 driving while intoxicated under AS 28.35.030 or another law or

1 ordinance with substantially similar elements or refusal to submit to  
2 a chemical test under this section or another law or ordinance with  
3 substantially similar elements. Upon [A SUBSEQUENT] conviction under  
4 this section the court shall impose a minimum sentence of imprisonment  
5 of not less than 20 consecutive days and a fine of not less than \$500  
6 if, within the preceding 10 years, the person has been previously con-  
7 victed once in this or another jurisdiction [WITHIN FIVE YEARS AFTER A  
8 CONVICTION UNDER THIS SECTION OR] of driving while intoxicated under  
9 AS 28.35.030 or another law or ordinance with substantially similar  
10 elements or refusal to submit to a chemical test under this section or  
11 another law or ordinance with substantially similar elements. Upon  
12 conviction under this section the court shall impose a minimum sen-  
13 tence of imprisonment of not less than 30 consecutive days and a fine  
14 of not less than \$1,000 if, within the previous 10 years, the person  
15 has been previously convicted in this or another jurisdiction of more  
16 than one of the following offenses or has more than once been pre-  
17 viously convicted of one of the following offenses: (1) driving while  
18 intoxicated under AS 28.35.030 or another law or ordinance with sub-  
19 stantially similar elements; (2) refusal to submit to a chemical test  
20 under this section or another law or ordinance with substantially  
21 similar elements [IN THIS OR ANY OTHER STATE, THE COURT SHALL IMPOSE A  
22 MINIMUM SENTENCE OF IMPRISONMENT OF NOT LESS THAN 10 CONSECUTIVE DAYS  
23 UNLESS THE SUBSEQUENT CONVICTION IS WITHIN ONE YEAR OF THE PREVIOUS  
24 CONVICTION, IN WHICH CASE THE COURT SHALL IMPOSE A MINIMUM SENTENCE OF  
25 IMPRISONMENT OF NOT LESS THAN 20 CONSECUTIVE DAYS]. The execution of  
26 sentence may not be suspended nor may probation be granted except on  
27 condition that [UNTIL] the minimum imprisonment provided in this  
28 section is [HAS BEEN] served. Imposition of sentence may not be  
29 suspended. If the offense involved driving a motor vehicle for which

1 a driver's license is required, the person's driver's license shall be  
2 revoked under AS 28.15.181 [, EXCEPT UPON THE CONDITION THAT THE  
3 DEFENDANT BE IMPRISONED FOR NO LESS THAN THE MINIMUM PERIOD PROVIDED  
4 IN THIS SECTION]. In addition, the court shall order, and a person  
5 convicted under this section shall undertake, for a term specified by  
6 the court, that program of alcohol education or rehabilitation that  
7 the court, after consideration of any information compiled under (h)  
8 of this section, finds appropriate. The sentence imposed by the court  
9 under this subsection shall run consecutively with any other sentence  
10 of imprisonment imposed on the committed person.

11 \* Sec. 20. AS 28.35.032 is amended by adding a new subsection to read:

12 (j) For purposes of this section, convictions for both driving  
13 while intoxicated and for refusal to submit to a chemical test of  
14 breath under AS 28.35.031(a), if arising out of a single transaction  
15 and a single arrest, are considered one previous conviction.

16 \* Sec. 21. AS 28.35.034 is amended to read:

17 Sec. 28.35.034. SURRENDER OF LICENSE OR PERMIT [PERIOD OF REVO-  
18 CATION]. A person whose license or permit to operate or drive a motor  
19 vehicle has been [SUSPENDED OR] revoked under AS 28.15.165 or AS 28.-  
20 15.181 [THE PROVISIONS OF AS 28.35.032] shall surrender the [HIS]  
21 license or permit to the department on receipt of notice of the revo-  
22 cation. [SUCH A PERSON IS INELIGIBLE FOR AN OPERATOR'S LICENSE OR  
23 PERMIT FOR THREE MONTHS FOLLOWING THE DATE ON WHICH THE LICENSE OR  
24 PERMIT WAS RECEIVED BY THE DEPARTMENT, UNLESS THE DISTRICT COURT FINDS  
25 THAT EXTENUATING CIRCUMSTANCES EXIST WHICH WOULD CAUSE EXTREME HARD-  
26 SHIP, IN WHICH CASE THE SUSPENSION OR REVOCATION MAY BE MODIFIED OR  
27 NULLIFIED.] After the [THREE MONTHS'] period of revocation has ex-  
28 pired, the person may make application for a new license as provided  
29 by law.

1 \* Sec. 22. AS 28.35.035 is amended to read:

2       Sec. 28.35.035. ADMINISTRATION OF CHEMICAL TESTS WITHOUT CON-  
3 SENT. (a) If a person is under arrest for an offense arising out of  
4 acts alleged to have been committed while the person was driving a  
5 motor vehicle [THE CRIME OF DRIVING] while intoxicated, and that  
6 arrest results from an accident that causes death or physical injury  
7 to another person, a chemical test may be administered without the  
8 consent of the person arrested to determine the amount of alcohol in  
9 that person's breath or blood.

10       (b) A person who is unconscious or otherwise in a condition  
11 rendering that person incapable of refusal is considered not to have  
12 withdrawn the consent provided under AS 28.35.031(a) [AS 28.35.031]  
13 and a chemical test may be administered to determine the amount of  
14 alcohol in that person's breath or blood. A person who is unconscious  
15 or otherwise incapable of refusal need not be placed under arrest  
16 before a chemical test may be administered.

17       (c) If a chemical test is administered to a person under (a) or  
18 (b) of this section, that person is not subject to the penalties for  
19 refusal to submit to a chemical test provided by AS 28.35.032 and  
20 28.35.034.

21 \* Sec. 23. AS 28.35 is amended by adding new sections to read:

22       Sec. 28.35.036. FORFEITURE OF MOTOR VEHICLE. (a) After convic-  
23 tion of an offense under AS 28.35.030 or AS 28.35.032 involving a  
24 motor vehicle of a type for which a driver's license is required, the  
25 state may move the court to order the forfeiture of the motor vehicle  
26 involved in the commission of the offense if the convicted person has  
27 been previously convicted in this or another jurisdiction of more than  
28 one of the following offenses or has more than once been previously  
29 convicted of one of the following offenses:

1 (1) driving while intoxicated under AS 28.35.030 or another  
2 law or ordinance with substantially similar elements; or

3 (2) refusal to submit to a chemical test under AS 28.35.032  
4 or another law or ordinance with substantially similar elements.

5 (b) For purposes of this section, convictions for both driving  
6 while intoxicated and for refusal to submit to a chemical test of  
7 breath under AS 28.35.031(a), if arising out of a single transaction  
8 and a single arrest, are considered one previous conviction.

9 (c) Upon receipt of a motion for forfeiture, the court shall  
10 schedule a hearing on the matter and shall notify the state and the  
11 convicted person of the time and place set for the hearing. At the  
12 hearing, the court may order the forfeiture of the motor vehicle if  
13 the court, sitting without a jury, determines by a preponderance of  
14 the evidence that the forfeiture of the motor vehicle will serve one  
15 or more of the following purposes:

16 (1) deterrence of the convicted person from the commission  
17 of future offenses under AS 28.35.030;

18 (2) protection of the safety and welfare of the public;

19 (3) deterrence of other persons who are potential offenders  
20 under AS 28.35.030; or

21 (4) expression of public condemnation of the serious or  
22 aggravated nature of the convicted person's conduct.

23 (d) Upon forfeiture of a motor vehicle the court shall require  
24 the surrender of the registration and certificate of title of that  
25 motor vehicle. The registration and certificate of title shall be  
26 delivered to the department.

27 (e) If not released under AS 28.35.037, a motor vehicle for-  
28 feited under this section may be disposed of at the discretion of the  
29 department.

1           Sec. 28.35.037. REMISSION OF FORFEITURES. (a) Upon receiving  
2 notice from the court of the time and place set for a hearing under  
3 AS 28.35.036, the state shall provide to every person who has an  
4 ascertainable ownership or security interest in the motor vehicle  
5 written notice that includes

- 6           (1) a description of the motor vehicle;  
7           (2) the time and place of the forfeiture hearing;  
8           (3) the legal authority under which the motor vehicle may  
9 be forfeited;  
10           (4) notice of the right to intervene to protect the inter-  
11 est in the motor vehicle.

12           (b) At the hearing, a person who claims an ownership or security  
13 interest in the motor vehicle must establish by a preponderance of the  
14 evidence that

- 15           (1) the petitioner has an interest in the motor vehicle  
16 acquired in good faith;  
17           (2) a person other than the petitioner was convicted of the  
18 offense that resulted in the forfeiture; and  
19           (3) before parting with the motor vehicle, the petitioner  
20 did not know or have reasonable cause to believe that it would be used  
21 in the commission of an offense.

22           (c) If a person satisfies the requirements of (b) of this sec-  
23 tion, the court shall order that an amount equal to the value of the  
24 petitioner's interest in the motor vehicle be paid to the petitioner  
25 or the court shall order that the motor vehicle be released to the  
26 petitioner together with title to the motor vehicle.

27           (d) Forfeiture of a motor vehicle under AS 28.35.036 is without  
28 prejudice to the rights, and does not extinguish the claims, of a  
29 creditor with an interest in the motor vehicle.

1           Sec. 28.35.038. MUNICIPAL IMPOUNDMENT AND FORFEITURE. Notwith-  
 2 standing other provisions in this title, a municipality may adopt an  
 3 ordinance providing for the impoundment or forfeiture of a motor  
 4 vehicle involved in the commission of an offense under AS 28.35.030,  
 5 28.35.032, or an ordinance with elements substantially similar to  
 6 AS 28.35.030 or AS 28.35.032. An ordinance adopted under this section  
 7 is not required to be consistent with this title or regulations adopt-  
 8 ed under this title.

9 \* Sec. 24. AS 22.15.100 is amended by adding a new paragraph to read:

10           (10) to review an administrative revocation of a person's  
 11 driver's license or nonresident privilege to drive, and an administra-  
 12 tive refusal to issue an original license, when designated as a hear-  
 13 ing officer by the commissioner of public safety and with the consent  
 14 of the administrative director of the state court system.

15 \* Sec. 25. AS 28.15.211(a)(4) and AS 28.35.032(b),(c), and (d) are re-  
 16 pealed.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29



Official Business

# Alaska State Legislature

## Senate

Pouch V  
State Capitol  
Juneau, Alaska 99811

SECTIONAL ANALYSIS - SCS SCHB 6 (JUD)

JUNE 9, 1983

Sec. 1.

Adds judges and employees of the court to the list of those persons who may physically take a license which has been revoked, canceled, limited, or suspended or is fictitious, stolen or altered.

Sec. 2.

Adds the subject of alcohol and drug abuse to the required topics of testing on the written portion of the driver's license examination.

Sec. 3.

Provides for administrative license revocation for refusal to submit to a chemical breath test and for an illegal breath-alcohol level; outlines procedures for the revocation, and provides for review of the revocation.

- Notice includes - Dept notice of intent to revoke or refusal to issue original license.
- right to obtain court review of revocation.
  - notice itself is temporary license.
  - actual revocation effective after expiration of temporary license.

Court review limited to issues of probable cause to believe driver was intoxicated and whether driver refused to take chemical test or test was taken and proved driver to be under the influence. The standard of review is be a preponderance of the evidence.

Sec. 4.

Conviction of refusal to submit to a chemical test and driving while license canceled, suspended, revoked or in violation of a limitation are added to the list of offenses of grounds for immediate revocation of a driver's license.

Sec. 5.

Outlines license revocation periods for persons convicted of certain driving offenses listed in section 4. The period of revocation is not less than 30 days for the first conviction. Limited licenses may be granted at the discretion of the court. Consideration of prior conviction in adjudicating offenses is limited to 10 years.

Sec. 6.

Outlines license revocation for persons convicted of DWI and refusal to submit to a chemical sobriety test. The period of revocation would be not less than 90 days for the first conviction. Upon a second

conviction for a period of not less than one year. Upon a third conviction, for a period of not less than ten years.

Sec. 7.

Conviction of driving while license canceled, suspended, revoked or in violation of a limitation shall result in a penalty of:

i. not less than 30 days and a fine of not less than \$500.

ii. not less than 90 days and a fine of not less than \$1000.

the above applies to offense under AS 28.15.181(c) (2) or (3).

Sec. 8.

Amendment removing the penalty that is now increased in AS 28.15.181 (c)(1)(A).

Sec. 9.

States that a person may not receive a new license until proof of financial responsibility is shown. (AS 28.20.240)

Sec. 10.

A person convicted of driving in violation of a license revocation, suspension or cancellation shall be subject to a mandatory minimum sentence of not less than 10 days.

Sec. 11.

Sets out the penalties for violation of the statute.

Sec. 12.

Upon expiration of period of limitation, the license remains revoked until proof of financial responsibility for the future is provided.

Sec. 13.

A chemical test to determine blood alcohol level must be taken within four hours after the alleged offense is committed.

Sec. 14.

Outlines fines and incarceration periods for those convicted of DWI and refusal of chemical sobriety tests. Also states that the court shall order treatment for the above offenses.

Sec. 15.

A person who drives or operates a motor vehicle in this state shall be considered to have given consent to a preliminary breath test. Refusal to take the test is an infraction.

Sec. 16.

A chemical test shall not be given, if a person is advised of the consequences, unless the arrest is predicated upon AS 28.35.035 (sec. 22 of this analysis)

Sec. 17.

Outlines the penalties of refusing to submit to preliminary sobriety tests. The driver has the right to appeal the department's license revocation to district court.

Sec. 18.

A person who refuses to submit to the chemical test, and has been convicted of DWI or refusal in this or another state, shall be denied driving privileges for one year.

Sec. 19.

Refusal to submit to a chemical test of breath is a class A misdemeanor.

Sec. 20.

Outlines the penalties for conviction of DWI or refusal to take chemical test.

Sec. 21.

After notice, a person must surrender license or permit to department. Application for new license may be made after period of revocation.

Sec. 22.

A chemical test may be administered without the consent of a person who is arrested for an offense of DWI that results in death or physical injury to another.

An unconscious person is considered not to have withdrawn consent. An unconscious person need not be placed under arrest before a chemical test may be administered.

Sec. 23.

Outlines the reasons and procedures for forfeiture of a motor vehicle.

Third parties with interest in vehicle to be forfeited shall be provided notice and opportunity to reclaim vehicle.

Home rule clause acknowledging municipality's right to establish impoundment or forfeiture of motor vehicle.

There is not effective date clause.

SCSCS HB 6  
SUMMARY OF FISCAL NOTES

	<u>FY 84</u>	<u>FY 85</u>	<u>FY 86</u>	<u>FY 87</u>	<u>FY88</u>
Alaska Court System (6/8/83)	245.5	237.0	251.3	266.4	282.3
Dept. of Administration Public Defender Agency (6/6/83)	202.7	208.5	222.4	234.3	248.4
Dept. of H&SS (5/17/83)	117.1	124.1	591.5	622.4	659.7
Capital (22 beds x 130,000 ea.)	2860.0				
Dept. of Law General Government (5/5/83)	239.0	250.9	265.9	281.7	298.8
Dept. of Public Safety Life & Property Protect. (6/6/83)	<u>75.1</u>	<u>35.5</u>	<u>37.6</u>	<u>39.8</u>	<u>42.2</u>
OPERATING TOTAL	<u>877.4</u>	<u>856.0</u>	<u>1368.7</u>	<u>1444.6</u>	<u>1531.4</u>
CAPITAL TOTAL	<u>2860.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
FY TOTAL	3737.4	856.0	1368.7	1444.6	1531.4

STATE OF ALASKA  
FISCAL NOTE

Revision Date June 8, 1983

I. REQUEST

Bill/Resolution No.: SCSCSHB 6 (Finance)  
 Title: Act Relating to Driving a Motor Vehicle  
 Sponsor: \_\_\_\_\_  
 Requestor: \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected: Alaska Court System  
 Program Category Affected: Admin. of Justice  
 BRU, Program of Subprogram(s) Affected: Trial Courts

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
<b>OPERATING</b>						
100 PERSONAL SERVICES		208.5	221.0	234.3	248.4	263.3
200 TRAVEL						
300 CONTRACTUAL		7.5	8.0	8.5	9.0	9.5
400 COMMODITIES		7.5	8.0	8.5	9.0	9.5
500 EQUIPMENT		22.1				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
<b>TOTAL OPERATING</b>		245.6	237.0	251.3	266.4	282.3

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE</b>						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		245.6	237.0	251.3	266.4	282.3
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		6	6	6	6	6
PART-TIME		2	2	2	2	2
TEMPORARY		4	4	4	4	4

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

RECEIVED

JUN 12 1983

Josephson

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard P. Barrier

Division: Alaska Court System/Administration

Phone: 264-0545

Date: June 8, 1983

Approved by Commissioner: \_\_\_\_\_

Department: \_\_\_\_\_

Date: \_\_\_\_\_

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

## ANALYSIS OF FISCAL IMPACT OF SCSCSHB 6 (Finance)

The court system currently disposes of approximately 6,000 DWI cases each year. Presently, 8.6% of these cases are disposed of at trial, or approximately 500 trials per year. The bill will increase the number of cases proceeding to trial, since individuals faced with stiffer penalties and forfeiture of motor vehicles will be more likely to take their cases to trial than to plead guilty as they have in the past. Assuming that 5% of those individuals presently pleading guilty opted for a trial under the new statutes, the court system would experience an increase of approximately 250 trials per year. It is anticipated that this increase could be handled by use of retired judges on a part-time basis.

The Senate Judiciary Committee substitute provides that individuals issued temporary licenses upon arrest on DWI have seven days in which to schedule a court hearing regarding extension of their temporary license. If 25% of the individuals charged with DWI asked the court for this seven day hearing, the court would experience an increase of approximately 1,500 hearings per year. However, the proposed Senate Finance Committee substitute incorporates an administrative rather than a judicial license revocation review, resulting in a substantially decreased cost to the court, since judicial involvement will be limited to appeals on the record and use of magistrates as hearing officers in outlying areas.

Along with the judicial resources required to conduct the trials and appeals, the court needs supporting staff for the judges and clerical staff to process the case files, calendar and notice the participants.

The impact of this legislation will be felt in each court location in the state, although the major impact will be in the larger metropolitan areas. Both Anchorage and Fairbanks currently have a heavy caseload of DWI cases, with Anchorage reporting approximately 30% of the state's caseload and Fairbanks 25% of the caseload. In each of these locations the district courts are working at capacity, and would therefore need increased resources to handle the projected number of new trials and hearings to be held under this legislation. In each location, the minimal staffing required to implement the revised legislation would be one part-time retired district court judge, and an in-court clerk, and two court clerk II positions in the criminal sections to deal with the new clerical demands created by this legislation.

In addition to Anchorage and Fairbanks, both Palmer and Kenai have significant DWI caseloads, with each having nearly 10% of the state's caseload. Each would need at a minimum one additional court clerk II position.

Once the legislation comes into effect, the court system will monitor closely its impact on clerical and judicial resources. If the impact is substantially greater than anticipated, the court system will consider the need for a supplemental appropriation.

A detailed breakdown of the cost associated with the Senate Finance Committee substitute is provided below.

FY 84 COST OF IMPLEMENTING SCSCSHB 6 (Finance)

Personal Services:	<u>Revised</u>
Salaries:	
<u>Anchorage</u>	
Pretem retired district court judge (4 mos)	\$ 5,050
In-court clerk (Range 12B) (4 mos)	7,784
Court clerk II (2 @ Range 10B) (12 mos)	41,424
<u>Fairbanks</u>	
Pretem retired district court judge (2 mos)	2,879
In-court clerk (Range 12B) (2 mos)	4,436
Court clerk II (2 @ Range 10 B) (12 mos)	46,706
<u>Palmer</u>	
Court clerk II (Range 10B) (12 mos)	21,384
<u>Kenai</u>	
Court clerk II (Range 10B) (12 mos)	<u>21,984</u>
	151,647
Benefits:	
Judges	10,011
Classified	<u>46,808</u>
Total Personal Services	\$208,466
Contractual	7,500
Commodities	7,500
Equipment (one time costs)	<u>22,100</u>
Total Cost	<u>\$245,566</u>

(Subsequent years' costs include inflation at 6%)

STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1983

I. REQUEST

Bill/Resolution No.: SCSCSHB 6 (Jud)  
 Title: Act relating to driving a motor vehicle  
 Sponsor: Rep. Abood  
 Requestor: Senate Finance

II. FISCAL DETAIL

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		22.2	28.2	29.9	31.7	33.6
200 TRAVEL		-0-	-0-	-0-	-0-	-0-
300 CONTRACTUAL		9.0	7.1	7.5	7.9	8.3
400 COMMODITIES		.2	.2	.2	.2	.3
500 EQUIPMENT		41.7	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		73.1	35.5	37.6	39.8	42.2

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND		73.1	35.5	37.6	39.8	42.2
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 Orelove  
 Division: Administrative Services

Phone: 465-4349  
 Date: 6-6-83

Approved by Commissioner: [Signature]  
 Department: Public Safety

Date: 6/5/83

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

FISCAL NOTE DETAIL

SCSCSHB6 (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 \$4,700 is for postage (all license actions must be sent via certified mail). Remaining years contractual is for postage and printing only.

ASSUMPTIONS:

- 1) 99% of defendants who take breath test will have .10% or higher;
- 2) Effective date is October 1, 1983, with new position coming on board September 1, 1983, for training.
- 3) Reviews are handled by the Alaska Court System rather than the department.

COMMENTS:

Section 17 and Section 18 of this bill should be eliminated. The statute numbers referred to in these two sections are repealed under Section 24 of the bill, and the topics are addressed in Section 3.

Division of Alaska State Troopers

ANALYSIS:

In order to comply with the provisions of this bill allowing for breathalyzer tests to be administered at the scene of the incident, \$40,000 will be required to purchase 100 new portable breathalyzer units.

1.	POSITION TITLE Document Processing Clerk II				RANGE/STEP 8B	BARG. UNIT GG	FORM 12 PAGE/LINE	GOV.	APPRDV.	DISAPP
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT 4	LEC.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE									
	1		2		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. Match 1003								
18.		General Funds 1004		28,422						
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
FOR H&M USE ONLY										
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 .10% 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.

This form prepared showing full year costs. Only ten month cost reflected on fiscal note for FY84.

**13** REQUEST FOR NEW POSITION

AGENCY Public Safety  
PROGRAM Life and Property Protection  
BRU Driver/Vehicle Services  
COMPONENT Driver Services

Page \_\_\_\_\_ of \_\_\_\_\_  
Revised Date \_\_\_\_\_

**FY 84**

STATE OF ALASKA  
FISCAL NOTE

Revision Date 6/6, 1983

I. REQUEST

Bill/Resolution No.: SCSCSHB6  
Title: "Driving a Motor Vehicle"  
Sponsor: Senator Fischer  
Requestor: Senate Judiciary

II. FISCAL DETAIL

Agency Affected: Dept. of Admin.  
Program Category Affected: Public Defen  
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:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Bob Stokes, Admin. Officer  
Division: Dana Rabe, Public Defender with table  
Approved by Commissioner: Lisa Rudd  
Department: Administration

Phone: 279.7543  
Date: June 6, 1983  
Date: 6/6/83

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)

## ANALYSIS OF SCSCSHB 6

There are several provisions within this bill which will require a substantial increase in the attorney time necessary to handle DWI and refusal of breathalyzer cases.

First, the increase in mandatory minimum penalties for second and subsequent offenders to 20 and 30 days respectively, as well as the increase in fines, will mean that a much higher number of defendants will exercise their right to a jury trial. Preparation for jury trial requires extensive interviews with the client and prospective witnesses, and the court time for the case is greatly increased, since a DWI change of plea in court may take 15 minutes while a jury trial in such a case usually last 1 - 2 days. We handle a high volume of not only State prosecuted DWI's but Municipally prosecuted DWI's as well. This increase in attorney time necessary for handling each drunk-driving case, given our already staggering misdemeanor case-loads, will require two additional attorneys for the Anchorage office and one for the Fairbanks office.

Second, an increase in mandatory minimum penalties to 30 or 90 days for a conviction of driving with a suspended license where the offender has a prior history of DWI will greatly increase the number of jury trials which this office is required to handle.

Third, provisions in the statute which allow a police officer upon probable cause to seize the defendant's driver's license or impound his vehicle for a substantial period of time at the time of arrest will also require increased attorney time, due to the defendant's right to schedule a hearing within a short time to obtain return of his license or vehicle. Although the defendant may not have a right to an attorney to handle the hearing which he initiates to have his car or license returned, he will need an attorney's assistance at that hearing to the extent that it impacts his criminal case. Because anything that the defendant might say at that hearing regarding the facts of his case could be used against him at the subsequent criminal trial, he would need the assistance of counsel at that hearing. The attorney would have to obtain the immunity which would be due the client under the Alaska Supreme Court decision of McCracken v. Corey, as well as limit the scope of cross-examination at the hearing.

Because of the volume of DWI cases handled by this agency and the substantially increased attorney time necessary to comply with the provisions of the Statute, two additional attorneys for Anchorage and one for Fairbanks are requested.

STATE OF ALASKA  
FISCAL NOTE

Revision Date 6.6, 1983

I. REQUEST

Bill/Resolution No.: SCSCSHB6  
 Title: "Driving a Motor Vehicle"  
 Sponsor: Senator Fischer  
 Requestor: Senate Judiciary

II. FISCAL DETAIL

Agency Affected: Dept. of Admin.  
 Program Category Affected: Public Defen  
 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
<b>OPERATING</b>						
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						
<b>TOTAL OPERATING</b>		202.7	208.5	222.4	234.3	248.4
<b>CAPITAL</b>						
<b>REVENUE</b>						

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:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Bob Stokes, Admin. Officer Phone: 279.7541  
 Division: Dana Pace, Public Defender H. 1111-1111 Date: June 6, 1983  
 Approved by Commissioner: Lisa Rudd Date: 6/6/83  
 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)

## ANALYSIS OF SCSCSHB 6

There are several provisions within this bill which will require a substantial increase in the attorney time necessary to handle DWI and refusal of breathalyzer cases.

First, the increase in mandatory minimum penalties for second and subsequent offenders to 20 and 30 days respectively, as well as the increase in fines, will mean that a much higher number of defendants will exercise their right to a jury trial. Preparation for jury trial requires extensive interviews with the client and prospective witnesses, and the court time for the case is greatly increased, since a DWI change of plea in court may take 15 minutes while a jury trial in such a case usually last 1 - 2 days. We handle a high volume of not only State prosecuted DWI's but Municipally prosecuted DWI's as well. This increase in attorney time necessary for handling each drunk-driving case, given our already staggering misdemeanor case-loads, will require two additional attorneys for the Anchorage office and one for the Fairbanks office.

Second, an increase in mandatory minimum penalties to 30 or 90 days for a conviction of driving with a suspended license where the offender has a prior history of DWI will greatly increase the number of jury trials which this office is required to handle.

Third, provisions in the statute which allow a police officer upon probable cause to seize the defendant's driver's license or impound his vehicle for a substantial period of time at the time of arrest will also require increased attorney time, due to the defendant's right to schedule a hearing within a short time to obtain return of his license or vehicle. Although the defendant may not have a right to an attorney to handle the hearing which he initiates to have his car or license returned, he will need an attorney's assistance at that hearing to the extent that it impacts his criminal case. Because anything that the defendant might say at that hearing regarding the facts of his case could be used against him at the subsequent criminal trial, he would need the assistance of counsel at that hearing. The attorney would have to obtain the immunity which would be due the client under the Alaska Supreme Court decision of McCracken v. Corey, as well as limit the scope of cross-examination at the hearing.

Because of the volume of DWI cases handled by this agency and the substantially increased attorney time necessary to comply with the provisions of the Statute, two additional attorneys for Anchorage and one for Fairbanks are requested.

STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1983

I. REQUEST

Bill/Resolution No.: SCSCSHB 6 (S.A.)  
 Title: Act relating to driving a m.v.  
 Sponsor: Judiciary Committee  
 Requestor: Finance Committee

II. FISCAL DETAIL

Agency Affected: Health & Social Services  
 Program Category Affected: Justice  
 BRU, Program of Subprogram(s) Affected: Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES				419.7	444.9	471.6
200 TRAVEL		2.0	2.1	2.2	2.4	2.5
300 CONTRACTUAL		39.6	42.0	76.7	81.3	86.2
400 COMMODITIES		68.6	72.7	80.7	85.6	90.7
500 EQUIPMENT		-	-	4.5	-	-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC		6.9	7.3	7.7	8.2	8.7
TOTAL OPERATING	-0-	117.1	124.1	591.5	622.4	659.7
CAPITAL	-0-	2,860.0	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	2,977.1	124.1	591.5	622.4	659.7
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	9	9	9
PART-TIME						
TEMPORARY						

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

The source of funds to offset the fiscal impact of this bill has not been identified by the sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange *Roger C. Lange* Phone: 465-3376  
 Division: Adult Corrections Date: May 17, 1983  
 Approved by Commissioner: Arthur J. ... Date: 18 May 83  
 Department: Health & Social Services

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)

IV. ANALYSIS:

A. Assumptions

1. Bed Impact

The passage of this bill will result in the need for 22 additional minimum security beds within the Alaska correctional system. The sections of the bill which affect increased inmate population projections are:

a. Section 11

Statistics furnished by the Department of Public Safety show 181 persons were convicted in 1982 for driving with a suspended or revoked license where the original offense resulting in the loss of license was driving while intoxicated (DWI) or implied consent (refusal to take a breathalyzer test). For purposes of this fiscal note, that number was used for calculating the increased person days of incarceration resulting from increased sentences to 30 or 90 days. It was assumed that 80% of the offenders would have been convicted only once in the previous 15 years and 20% convicted more than once in the previous 15 years.

The following calculations also consider that the offender would have been given a minimum sentence of 10 days previously, and it is assumed that every offender will earn all good time for which they are eligible. Therefore, 145 offenders would serve an additional 15 days and 36 offenders would serve an additional 60 days. This results in the need for an additional 11.88 beds.

b. Section 13

This section of the bill increases the minimum sentence for second time drunk drivers from 10 days to 20 days and third and subsequent time drunk drivers from 10 days to 30 days. It is estimated that would be 450 repeat offenders affected by this legislation, 425 second offenders and 25 third offenders. The additional sentence length to be served, assuming all good time will be earned is 12 days for second time offenders and 20 days for third offenders. This increased sentence length results in the need for 9 additional minimum security beds.

c. Section 16

This section provides new penalties for refusal to take a chemical test similar to the sentences to be imposed for driving while intoxicated. Statistical data for this offense was not available. Therefore, it was assumed that 20 individuals would be convicted with one

prior and 7 individuals would be convicted with 2 or more prior offenses. This would result in the need for 1.1 additional beds.

- d. The summary of a, b, and c above is 21.98 beds, which were rounded to 22 beds.
2. All persons convicted would receive the minimum sentence and all persons would earn all good time for which they would be eligible.
3. Inflation of 6% per year was used for the entire period of the fiscal note.
4. The new beds would not be available for occupancy until July 1, 1985. This will result in further overcrowding of the existing facilities for two years.
5. One additional position is needed for every 2.5 prison beds. Therefore, 9 correctional officers are needed to provide the security and supervision of the inmates. These position would be requested for FY 86.

B. Program Summary:

1. Positions

- 1 - Correctional Officer III
- 8 - Correctional Officer II's

These positions are needed to provide for the security of the institution where the beds will be constructed and for the supervision of the additional 22 persons (full-time equivalents) within the Alaska corrections system.

2. Other Expenditures

The fiscal impact will be experienced as soon as the bill becomes law. Therefore, the incremental costs directly related to inmate care are identified in FY 84. Position costs and costs related to building operations are not included until FY 86.

- a. Travel - \$2000. Inmate transportation to point of arrest when released from custody.
- b. Contractual - \$39,600. Medical expenses for 22 full-time equivalent inmates at \$1800 per inmate per year.
- c. Commodities - \$68,600. Food, clothing, bedding, etc. for 8,085 inmate days at \$8.48 per day.
- d. Grants - \$6,900. Inmate gratuities paid for persons working in the kitchen, or janitorial/maintenance crews, etc.

FISCAL NOTE

SCSCS House Bill No. 6 (State Affairs)

Page 4

e. Capital Expenditures

22 beds @ \$130,000 per bed = \$2,860,000

D. Economic Impact:

Passage of this bill should not significantly impact the State's economy.

E. Impact on Local Governments:

There would be no fiscal impact on local governments unless they changed local ordinances related to DWI to include the same penalties contained in this bill. The fiscal impact would occur for local government units who contract with the State for the care of prisoners for local offenses.