

LEG. FINANCE - BILLS 1983 - 1984 1794

CSHB 6 cont.

1794

1.	POSITION TITLE Correctional Officer II (8)				RANGE/STEP 13/B	BARG. UNIT G	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. 8,088							
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 1028								
21.		Other								
FOR BSM 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
PROGRAM Offender Confinement, Reformation,
& Supervision
BRU Adult Confinement
COMPONENT _____

FY 84

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Revised Date _____

1.	POSITION TITLE Correctional Officer III			RANGE/STEP 15/A	DARG. UNIT G	FORM 12 PAGE/LINE	GOV.	APPROV.	DISCIP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.	
3.	CONTINUATION LEVEL	<input checked="" type="checkbox"/>	ADDITION		JUSTIFICATION				
4.	TYPE OF EXPENDITURE			AMOUNT					
	1	2	3						
	PERSONAL SERVICES			OT \$ 3371					
5.	Salary	30,944		Shift Diff.					
6.	Benefits	9,446		\$ 1011					
7.	Supplemental Benefits	2,165							
8.	Fixed Benefits	3,236							
9.	TOTAL PERSONAL SERVICES	01		50,173					
10.	Travel	02							
11.	Contractual	03							
12.	Commodities	04		200					
13.	Equipment	05		500					
14.	Other								
15.	TOTAL COST			50,873					
	RECEIPT CODE	FUNDING SOURCE							
16.		Federal Receipts	1002						
17.		G.F. Match	1003						
18.		General Funds	1004	50,873					
19.		I-A Receipts	1005						
20.		Program Receipts	1028						
21.		Other							
FOR B&M USE ONLY									
4A KEY NUMBER _____									

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	14,847
	<u>\$ 50,173</u>

13 REQUEST FOR NEW POSITION

AGENCY Corrections
Offender Confinement, Reformation,
& Supervision

PROGRAM _____

BRU Adult Confinement

COMPONENT _____

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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. Maitland *Arthur J. Maitland* 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)

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

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 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.

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	BARG. UNIT G	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	ADDITION	
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

JUSTIFICATION

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.	1,010
Benefits	13,866
	\$46,197

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		C.F. Match 1003	
18.		General Funds 1004	375,176
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

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13 REQUEST FOR
NEW POSITION

AGENCY Corrections
Offender Confinement, Reformation,
PROGRAM & Supervision

BRU Adult Confinement

COMPONENT _____

FY 84

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Revised Date _____

1.	POSITION TITLE Correctional Officer III			RANGE/STEP 15/A	DARG. UNIT G	FORM 12 PAGE/LINE	GOV.	APPROV.	DIS/PT.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	DRU PRIORITY	LOCATION	ELECTION DISTRICT	LEC.	

3.	CONTINUATION LEVEL	<input checked="" type="checkbox"/>	ADDITION	
4.	TYPE OF EXPENDITURE		AMOUNT	
	1		2	3
	PERSONAL SERVICES			
5.	Salary		30,944	OT \$ 3371
6.	Benefits		9,446	Shift Diff. \$ 1011
7.	Supplemental Benefits		2,165	
8.	Fixed Benefits		3,236	
9.	TOTAL PERSONAL SERVICES	01		50,173
10.	Travel	02		
11.	Contractual	03		
12.	Commodities	04		200
13.	Equipment	05		500
14.	Other			
15.	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	14,847
	\$ 50,173

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

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AGENCY Corrections
PROGRAM Offender Containment, Reformation, & Supervision
BRU Adult Confinement
COMPONENT _____

13 REQUEST FOR
NEW POSITION

FY 84

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STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: SCSCSHB 6 (SA)
 Title: Related to Driving a Motor Vehicle
 Sponsor: Rep. Abood
 Requestor: Senate State Affairs

II. FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Protection
 BRU, Program of Subprogram(s) Affected: Driver Services and AST

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		116.4	148.1	157.0	166.4	176.4
200 TRAVEL		5.3	3.1	3.3	3.5	3.7
300 CONTRACTUAL		51.7	43.2	45.8	48.5	51.4
400 COMMODITIES		.7	.7	.7	.8	.9
500 EQUIPMENT		52.4				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		226.5	195.1	206.8	219.2	232.4
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		226.5	195.1	206.8	219.2	232.4
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		4	4	4	4	4
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
 Approved by Commissioner: X [Signature]
 Department: Public Safety

Phone: 465-4349
 Date: 5-13-83
 Date: 5/16/83

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3/8/83

Division of Motor Vehicles

FISCAL NOTE DETAIL

SCSCSHB 6 (SA)

Page 1

ASSUMPTIONS:

This fiscal note based on following assumptions: 1) SCSCSHB 6 (State Affairs) will be identical to CS HB 6 (Judiciary) with one exception. That exception being a person whose license is revoked under AS 28.15.165 could ask for an administrative hearing by the department rather than a court review. This includes requests for a limited license following an administrative revocation under AS 28.15.165, however, not in instances where the court takes the license action under AS 28.15.181. I have not seen a draft of the proposed committee substitute as it has not been prepared at the time of this writing; 2) 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; 3) 99% of defendants who take breath test will have .10% or higher results; 4) Effective date is October 1, 1983, with staff coming on board September 1, 1983, for training.

COMMENTS:

The present office space for the Driver Improvement Office in Anchorage, which includes all the hearing officers, will not accommodate 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.

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 - Contractural		
310 - Postage	7.9	
320 - Printing	.8	
330 - Lease Space (1,000 sq. ft.)	28.5	
360 - Equipment Rental (One ADIS terminal)	8.0	
380 - Professional Services (New Slides for written tests)	3.8	
382a- DP Chargeback (Program & Maintenance)	2.0	
390 - Tuition	.5	
		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	
		<u>12.4</u>
	SUBTOTAL	185.5

<u>DIVISION OF ALASKA STATE TROOPERS</u>		<u>40.0</u>
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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	225.5
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1.	POSITION TITLE Driver Improvement Specialist II				RANGE/STEP 16A	BARG. UNIT GG	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PMT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT 7-15	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT	<p>This position would hold administrative hearings in the Anchorage area under driver license administrative suspension/revocation programs. This would include hearings on requests to grant a limited license on administrative license actions resulting from chemical sobriety tests, and refusals to submit to tests. Considerable time is necessary to properly prepare for each hearing.</p> <p>Travel is based on two trips to Southeastern annually, two trips to Kodiak annually, and other outlying areas in the Second and Third Judicial Districts as required. \$1,200 in travel, and \$300 in contractual is to cover a one week course for administrative hearing officers at the National Judicial College at the University of Nevada.</p> <p>Equipment breakdown for this position is as follows: Typewriter - \$1,245; Desk \$426; File Cabinet \$235; Chair \$163; and Recording equipment \$900.</p> <p>Prepared showing full year costs. Only ten month cost reflected on fiscal note for FY84.</p>					
	1	2	3							
	PERSONAL SERVICES									
5.	Salary	30,876								
6.	Benefits	5,422								
7.	Supplemental Benefits	1,893								
8.	Fixed Benefits	2,880								
9.	TOTAL PERSONAL SERVICES	01	41,071							
10.	Travel	02	3,100							
11.	Contractual	03	300							
12.	Commodities	04	100							
13.	Equipment	05	2,969							
14.	Other									
15.	TOTAL COST		47,540							
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts	1002							
17.		G.F. Match	1003							
18.		General Funds	1004	47,540						
19.		I-A Receipts	1005							
20.		Program Receipts	1028							
21.		Other								
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4A KEY NUMBER _____										

13 REQUEST FOR
NEW POSITION

AGENCY Public Safety

PROGRAM Life and Property Protection

BRU Driver/Vehicle Services

COMPONENT Driver Services

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Revised Date _____

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1.	POSITION TITLE Clerk Typist II			RANGE/STEP 7B	BARG. UNIT GC	FORM 12 PAGE/LINE	GOV.	APPRDV.	DISAPP.
2.	TYPE OF POSITION PPT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT 7-15	LEG.	
3.	CONTINUATION LEVEL			JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT					
	1	2	3						
	PERSONAL SERVICES								
5.	Salary	18,120							
6.	Benefits	3,182							
7.	Supplemental Benefits	927							
8.	Fixed Benefits	2,880							
9.	TOTAL PERSONAL SERVICES	01	25,109						
10.	Travel	02							
11.	Contractual	03							
12.	Commodities	04	100						
13.	Equipment	05	2,947						
14.	Other								
15.	TOTAL COST		28,156						
16.	RECEIPT CODE	FUNDING SOURCE							
17.		Federal Receipts 1002							
18.		G.F. Match 1003							
19.		General Funds 1004		28,156					
20.		I-A Receipts 1005							
21.		Program Receipts 1028							
		Other							
FOR B&M USE ONLY 4A KEY NUMBER _____									

This person would handle necessary paperwork for scheduling hearings, notifying individuals of hearing date, time and location, and keep appropriate records.

Would transcribe hearing records as requested, and prepare certified copies for courts, prosecutors, private attorneys, etc, when necessary. Update computer files reflecting when license action is stayed and/or limited driving privileges granted.

Equipment breakdown for this position is as follows: Typewriter - \$1,245; Desk - \$426; File Cabinet - \$235; Chair - \$141; Transcriber - \$900.

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

FY 84

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1.	POSITION TITLE Document Processing Clerk II				RANGE/STEP 8B	BARG. UNIT GG	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAB.
2.	TYPE OF POSITION PFT	STATE PRIORITIES 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT 4	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE									
	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						
16.	RECEIPT CODE	FUNDING SOURCE								
17.		Federal Receipts	1002							
18.		G.F. Match	1003							
19.		General Funds	1004	28,422						
20.		I-A Receipts	1005							
21.		Program Receipts	1028							
		Other								
FOR O&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 - \$1,265; File Cabinet - \$291; and Chair - \$188.

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

FY 84

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Revised Date

1.	POSITION TITLE Driver Improvement Specialist II			RANGE/STEP 16A	BARG. UNIT GG	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION	STAFF MONTHS	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Fairbanks	ELECTION DISTRICT 18-21	LEG.	
3.	CONTINUATION LEVEL			ADDITION	JUSTIFICATION				
4.	TYPE OF EXPENDITURE			AMOUNT					
	1			2					
	PERSONAL SERVICES			3					
5.	Salary	35,580							
6.	Benefits	6,248							
7.	Supplemental Benefits	2,181							
8.	Fixed Benefits	2,880							
9.	TOTAL PERSONAL SERVICES	01		46,889					
10.	Travel	02		2,200					
11.	Contractual	03		300					
12.	Commodities	04		100					
13.	Equipment	05		3,269					
14.	Other								
15.	TOTAL COST			52,758					
16.	RECEIPT CODE	FUNDING SOURCE							
17.		Federal Receipts 1002							
18.		G.F. Match 1003							
19.		General Funds 1004		52,758					
20.		I-A Receipts 1005							
21.		Program Receipts 1028							
		Other							
FOR B&M USE ONLY 4A KEY NUMBER _____									

This position would hold all administrative hearings for the department in Fairbanks and outlying areas in the Fourth Judicial District. This includes hearings on requests to grant a limited license on administrative license actions resulting from chemical sobriety tests and refusals to submit to tests. Considerable time is necessary to prepare for each hearing.

Travel is based on 10 days per diem, and transportation costs within Fourth Judicial District. \$1,200 in travel, and \$300 in contractual is to cover a one week course for administrative hearing officers at the National Judicial College at the University of Nevada.

Equipment breakdown for this position is as follows: Typewriter - \$1,245; Desk - \$646; File Cabinet - \$291; Chair - \$187; and Recording equipment - \$900.

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

FY 84

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STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: SCSCSHB 6 (SA)
 Title: Related to Driving a Motor Vehicle
 Sponsor: Rep. Abood
 Requestor: Senate State Affairs

II. FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Protection
 BRU, Program of Subprogram(s) Affected: Driver Services and AST

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		116.4	148.1	157.0	166.4	176.4
200 TRAVEL		5.3	3.1	3.3	3.5	3.7
300 CONTRACTUAL		51.7	43.2	45.8	48.5	51.4
400 COMMODITIES		.7	.7	.7	.8	.9
500 EQUIPMENT		52.4				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		226.5	195.1	206.8	219.2	232.4
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		226.5	195.1	206.8	219.2	232.4
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		4	4	4	4	4
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
 Approved by Commissioner: X [Signature]
 Department: Public Safety

Phone: 465-4349
 Date: 5-13-83
 Date: 5/16/83

Distribution:

Original to Legislative Finance
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3/8/83

Division of Motor Vehicles

FISCAL NOTE DETAIL

SCSCSHB 6 (SA)

Page 1

ASSUMPTIONS:

This fiscal note based on following assumptions: 1) SCSCSHB 6 (State Affairs) will be identical to CS HB 6 (Judiciary) with one exception. That exception being a person whose license is revoked under AS 28.15.165 could ask for an administrative hearing by the department rather than a court review: This includes requests for a limited license following an administrative revocation under AS 28.15.165, however, not in instances where the court takes the license action under AS 28.15.181. I have not seen a draft of the proposed committee substitute as it has not been prepared at the time of this writing; 2) 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; 3) 99% of defendants who take breath test will have .10% or higher results; 4) Effective date is October 1, 1983, with staff coming on board September 1, 1983, for training.

COMMENTS:

The present office space for the Driver Improvement Office in Anchorage, which includes all the hearing officers, will not accommodate 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.

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 - Contractural		
310 - Postage	7.9	
320 - Printing	.8	
330 - Lease Space (1,000 sq. ft.)	28.5	
360 - Equipment Rental (One AJIS terminal)	8.0	
380 - Professional Services (New Slides for written tests)	3.8	
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	
		<u>12.4</u>
	SUBTOTAL	185.5
<u>DIVISION OF ALASKA STATE TROOPERS</u>		<u>40.0</u>

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
-------	-------

1.	POSITION TITLE Driver Improvement Specialist II				RANGE/STEP 16A	BARG. UNIT GG	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAP.
2.	TYPE OF POSITION PPT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT 7-15	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE				AMOUNT					
	1		2		3					
	PERSONAL SERVICES									
5.	Salary		30,876							
6.	Benefits		5,422							
7.	Supplemental Benefits		1,893							
8.	Fixed Benefits		2,880							
9.	TOTAL PERSONAL SERVICES		01		41,071					
10.	Travel		02		3,100					
11.	Contractual		03		300					
12.	Commodities		04		100					
13.	Equipment		05		2,969					
14.	Other									
15.	TOTAL COST				47,540					
16.	RECEIPT CODE	FUNDING SOURCE								
17.		Federal Receipts 1002								
18.		G.F. Match 1003								
19.		General Funds 1004		47,540						
20.		I-A Receipts 1005								
21.		Program Receipts 1028								
		Other								
FOR B&M USE ONLY										
4A KEY NUMBER _____										

This position would hold administrative hearings in the Anchorage area under driver license administrative suspension/revocation programs. This would include hearings on requests to grant a limited license on administrative license actions resulting from chemical sobriety tests, and refusals to submit to tests. Considerable time is necessary to properly prepare for each hearing.

Travel is based on two trips to Southeastern annually, two trips to Kodiak annually, and other outlying areas in the Second and Third Judicial Districts as required. \$1,200 in travel, and \$300 in contractual is to cover a one week course for administrative hearing officers at the National Judicial College at the University of Nevada.

Equipment breakdown for this position is as follows: Typewriter - \$1,245; Desk \$426; File Cabinet \$235; Chair \$163; and Recording equipment \$900.

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

FY 84

Page _____ of _____
Revised Date _____

1.	POSITION TITLE Clerk Typist II				RANGE/STEP 7B	BARG. UNIT GG	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PPT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT 7-15	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE				AMOUNT					
	1		2		3					
	PERSONAL SERVICES									
5.	Salary		18,120							
6.	Benefits		3,182							
7.	Supplemental Benefits		927							
8.	Fixed Benefits		2,880							
9.	TOTAL PERSONAL SERVICES		01		25,109					
10.	Travel		02							
11.	Contractual		03							
12.	Commodities		04		100					
13.	Equipment		05		2,947					
14.	Other									
15.	TOTAL COST				28,156					
16.	RECEIPT CODE	FUNDING SOURCE								
17.		Federal Receipts 1002								
18.		G.F. Match 1003								
19.		General Funds 1004		28,156						
20.		I-A Receipts 1005								
21.		Program Receipts 1020								
		Other								
FOR B&M USE ONLY										
4A KEY NUMBER										

This person would handle necessary paperwork for scheduling hearings, notifying individuals of hearing date, time and location, and keep appropriate records.

Would transcribe hearing records as requested, and prepare certified copies for courts, prosecutors, private attorneys, etc, when necessary. Update computer files reflecting when license action is stayed and/or limited driving privileges granted.

Equipment breakdown for this position is as follows:
 Typewriter - \$1,245; Desk - \$426; File Cabinet - \$235;
 Chair - \$141; Transcriber - \$900.

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

FY 84

Page of
 Revised Date

1.	POSITION TITLE Document Processing Clerk II				RANGE/STEP 8B	BARG. UNIT GG	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAP.
2.	TYPE OF POSITION PET	STAFF PHOTOS 12	RP NUMBER	PCN NUMBER	DRU PRIORITY	LOCATION Jumeau	ELECTION DISTRICT 4	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	ADDITION									
5.	TYPE OF EXPENDITURE				PERSONAL SERVICES					
	1		2		3					
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					
16.	RECEIPT CODE	FUNDING SOURCE								
17.		Federal Receipts 1002								
18.		G.F. Match 1003								
19.		General Funds 1004		28,422						
20.		I-A Receipts 1005								
21.		Program Receipts 1020								
		Other								
FOR D&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.

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
 DRU Driver/Vehicle Services
 COMPONENT Driver Services

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 Revised Date _____

FY 84

1.	POSITION TITLE Driver Improvement Specialist II			RANGE/STEP 16A	BARG. UNIT CG	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION	STAFF MONTHS	RP NUMBER	PCN NUMBER	BRJ PRIORITY	LOCATION Fairbanks	ELECTION DISTRICT 18-21	LEG.	
3.	CONTINUATION LEVEL			ADDITION	JUSTIFICATION				
4.	TYPE OF EXPENDITURE			AMOUNT	<p>This position would hold all administrative hearings for the department in Fairbanks and outlying areas in the Fourth Judicial District. This includes hearings on requests to grant a limited license on administrative license actions resulting from chemical sobriety tests and refusals to submit to tests. Considerable time is necessary to prepare for each hearing.</p> <p>Travel is based on 10 days per diem, and transportation costs within Fourth Judicial District. \$1,200 in travel, and \$300 in contractual is to cover a one week course for administrative hearing officers at the National Judicial College at the University of Nevada.</p> <p>Equipment breakdown for this position is as follows: Typewriter - \$1,245; Desk - \$646; File Cabinet - \$291; Chair - \$187; and Recording equipment - \$900.</p> <p>Prepared showing full year costs. Only ten month cost reflected on fiscal note for FY84.</p>				
	1	2	3						
	PERSONAL SERVICES								
5.	Salary	35,580							
6.	Benefits	6,248							
7.	Supplemental Benefits	2,181							
8.	Fixed Benefits	2,880							
9.	TOTAL PERSONAL SERVICES	01	46,889						
10.	Travel	02	2,200						
11.	Contractual	03	300						
12.	Commodities	04	100						
13.	Equipment	05	3,269						
14.	Other								
15.	TOTAL COST		52,758						
	RECEIPT CODE	FUNDING SOURCE							
16.		Federal Receipts 1002							
17.		G.F. Match 1003							
18.		General Funds 1004	52,758						
19.		I-A Receipts 1005							
20.		Program Receipts 1028							
21.		Other							
FOR U&M USE ONLY									
4A KEY NUMBER _____									

13 REQUEST FOR NEW POSITION

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

Page _____ of _____
Revised Date _____

FY 84

CORRECTION

Discard SCS CS HB 6 (S.A.)
and retain this corrected version.

Offered: 5/19/83
Referred: Judiciary

Original sponsors: Abood, Furnace,
Lindauer, et al

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

5 A BILL

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

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

8 * Section 1. AS 28.05.051(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 to a person driving a motor vehicle for which a
8 driver's license is required produces a result described under AS 28.-
9 35.030(a)(2) or if a person under arrest for driving a motor vehicle
10 for which a driver's license is required refuses to submit to a chemi-
11 cal test under AS 28.35.031(a), the law enforcement officer shall read
12 a notice and deliver a copy to the person. The notice shall meet the
13 requirements of AS 44.62.360 and 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 in a
19 hearing conducted by the department under the Administrative Procedure
20 Act (AS 44.62);

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

23 (4) revocation of the person's driver's license or nonresi-
24 dent privilege to drive, or a determination not to issue an original
25 license shall take effect upon expiration of the temporary driver's
26 license unless the person requests an administrative review under
27 AS 28.15.166.

28 (b) After reading the notice under (a) of this section, the law
29 enforcement officer shall seize the person's driver's license if it is

1 in the person's possession and shall deliver it to the department with
2 a sworn report describing the circumstances under which it was seized.

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

15 (d) The period of revocation of a driver's license by the de-
16 partment under this section shall be determined in accordance with
17 guidelines for court revocations under AS 28.15.181(c).

18 Sec. 28.15.166. ADMINISTRATIVE REVIEW OF REVOCATION. (a) A
19 person who has received a notice under AS 28.15.165(a) may make a
20 written request for administrative review of the department's action
21 under AS 28.15.165(c) in a hearing conducted by the department under
22 the Administrative Procedure Act (AS 44.62). If the person's driver's
23 license has not been previously surrendered to the department, it
24 shall be surrendered to the department at the time the request for
25 review is made.

26 (b) A request for review shall be made in accordance with
27 AS 44.62.390, except that if the request is not made within seven days
28 after receipt of the notice under AS 28.15.165, then the right to
29 review is waived and the action of the department under AS 28.15.-

1 165(c) is final. However, if the person shows that the person for
2 good cause was unable to make a timely request, the department may
3 waive the period of limitation, reopen the matter, and grant the
4 hearing requested.

5 (c) Upon receipt of a request for a hearing, if it appears that
6 the person holds a valid driver's license and that the driver's li-
7 cense has been surrendered, the department shall issue a temporary
8 driver's permit that is valid until the scheduled date for the hear-
9 ing. The department may issue additional temporary permits if neces-
10 sary to stay the effective date of its action under AS 28.15.165(c)
11 until the final order after the hearing is issued.

12 (d) The hearing under this section shall be limited to the
13 issues of whether there was probable cause to believe that the person
14 was driving a motor vehicle while intoxicated and whether

15 (1) the person refused to submit to a chemical test under
16 AS 28.35.031(a); or

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

19 (e) If the issues set out in (d) of this section are determined
20 in the affirmative by a preponderance of the evidence, the hearing
21 officer shall sustain the action of the department. If one or more of
22 the issues are determined in the negative, the department's action
23 shall be rescinded.

24 (f) If the action of the department in revoking a nonresident's
25 privilege to drive a motor vehicle is sustained by the hearing offi-
26 cer, the department shall give written notice of action taken to the
27 motor vehicle administrator of the state of the person's residence and
28 to any state in which that person has a driver's license.

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

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

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

6 (2) a felony in the commission of which a motor vehicle is
7 used;

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

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

14 (5) [OPERATING OR] driving a motor vehicle while intoxi-
15 cated;

16 (6) reckless driving; [OR]

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

19 (8) refusal to submit to a chemical test under AS 28.35.-
20 032.

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

22 (b) A court convicting a person of an offense under (a)(1) -
23 (4), (6), or (7) of this section shall revoke that person's driver's
24 license for [A PERIOD OF] not less than 30 days for the first convic-
25 tion, unless the court determines that the person's ability to earn a
26 livelihood would be severely impaired and a limitation under AS 28.-
27 15.201 can be placed on the license that [WHICH] will enable the
28 person to earn a livelihood without excessive [RISK OR] danger to the
29 public. If a court limits a person's license under this subsection,

1 it shall do so for [A PERIOD OF] not less than 60 [30] days. Upon a
2 subsequent conviction of a person for any offense under (a)(1) - (4),
3 (6), or (7) of this section occurring within 10 years after a prior
4 conviction, the court shall revoke the person's license and may not
5 grant the person [ANY] limited license privileges for the following
6 periods:

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

8 (2) not less than three years for a third or subsequent
9 conviction.

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

11 (c) A court convicting a person of an offense under (a)(5) or
12 (8) of this section arising out of the operation of a motor vehicle
13 for which a driver's license is required shall revoke that person's
14 driver's license and may not, except as provided in (d) of this sec-
15 tion, grant limited license privileges for the following periods:

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

18 (A) under (a)(5) or (8) of this section; or

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

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

24 (A) under (a)(5) or (8) of this section; or

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

28 (3) not less than 10 years if, within the preceding 10
29 years, the person has been previously convicted of more than one of

1 the following offenses or has more than once been previously convicted
2 of one of the following offenses:

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

7 * Sec. 7. AS 28.15.181 is amended by adding a new subsection to read:

8 (d) A court revoking a driver's license under (c)(1) of this
9 section may grant limited license privileges for the final 60 days
10 during which the license is revoked if the court determines that the
11 person's ability to earn a livelihood would be severely impaired and a
12 limitation under AS 28.15.201 can be placed on the license that will
13 enable the person to earn a livelihood without excessive danger to the
14 public.

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

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

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

20 (c) After the termination of a limitation as shown on the certi-
21 ficate issued under (b) of this section, the license of a person on
22 whom a limitation was imposed is revoked until the person receives a
23 new [NO LONGER BOUND BY THE LIMITATION AND MAY APPLY FOR A DUPLICATE]
24 license in accordance with AS 28.20.240 [UNDER AS 28.15.141 OR, IF
25 OTHERWISE ELIGIBLE, FOR A NEW LICENSE IF THE LICENSE WAS REVOKED FOR
26 CONVICTION OF AN OFFENSE UNDER AS 28.15.181(a)(5) AND LIMITED LICENSE
27 PRIVILEGES WERE GRANTED UNDER AS 28.15.181(c)].

28 * Sec. 10. AS 28.15.291 is amended to read:

29 Sec. 28.15.291. DRIVING WHILE LICENSE CANCELED, SUSPENDED,

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

22 (b) When a person's license is canceled, limited, suspended or
23 revoked, that person [HE] shall be informed by the department or the
24 court that [WHICH] takes the action at the time of the action that,
25 upon a conviction of driving on a highway or vehicular way or area in
26 this state at a time when that person's [HIS] driver's license or
27 privilege to drive in this state has been canceled, suspended or
28 revoked, or upon a conviction of driving in violation of a limitation
29 of the [HIS] license, that person [HE] will be subject to the manda-

1 tory minimum sentence of [10-DAY] imprisonment under [(a) OF] this
2 section.

3 * Sec. 11. AS 28.15.291 is amended by adding a new subsection to read:

4 (c) The court shall impose a sentence of imprisonment of not
5 less than 30 days and a fine of not less than \$500 upon conviction of
6 a violation of this section if the person's driver's license was
7 revoked under AS 28.15.181(c)(1). The court shall impose a sentence
8 of imprisonment of not less than 90 days and a fine of not less than
9 \$1,000 upon conviction of a violation of this section if the person's
10 driver's license was revoked under AS 28.15.181(c)(2) or (3). The
11 execution of sentence may not be suspended nor may probation or parole
12 be granted until the minimum imprisonment provided in this subsection
13 has been served. Imposition of sentence may not be suspended. In
14 addition, the person's privilege to drive shall be suspended for an
15 additional period of not less than one year after the date that the
16 person would have been entitled to restoration of driving privileges
17 if the person had not been convicted under this section.

18 * Sec. 12. AS 28.20.240 is amended to read:

19 Sec. 28.20.240. PROOF REQUIRED WHEN DRIVING PRIVILEGE [USE OF
20 LICENSE] IS RESTRICTED. Whenever under a law of this state the li-
21 cense of a person is suspended, revoked, limited under AS 28.15.201,
22 or canceled for any reason, the department may not issue to that
23 person a new or renewal of license [IN HIS NAME] until permitted to do
24 so under the motor vehicle laws of this state. A period of suspen-
25 sion, revocation, [LIMITATION,] or cancellation [UNDER THIS SECTION]
26 continues until proof of financial responsibility for the future is
27 provided. Upon expiration of a period of limitation, the license
28 remains revoked until proof of financial responsibility for the future
29 is provided.

1 * Sec. 13. AS 28.35 is amended by adding new sections to read:

2 Sec. 28.35.028. SOBRIETY CHECKPOINTS. (a) The department
3 shall enforce the provisions of this title regarding driving while
4 intoxicated and in its enforcement efforts may use preliminary
5 breath tests under AS 28.35.031(b) at sobriety checkpoints on a
6 highway.

7 (b) In this section, "sobriety checkpoint" means a temporary
8 location on the highway used by peace officers and selected as a safe
9 place for detecting and apprehending intoxicated drivers.

10 (c) Nothing in this section prevents a person approaching a
11 sobriety checkpoint from avoiding the checkpoint by lawfully driving
12 in another direction.

13 Sec. 28.35.029. OPEN CONTAINER. (a) A person may not operate a
14 motor vehicle when there is an open bottle, can or other receptacle
15 containing an alcoholic beverage in the passenger compartment of the
16 vehicle.

17 (b) In this section,

18 (1) "motor vehicle" means a vehicle for which a driver's
19 license is required;

20 (2) "open" includes having a broken seal;

21 (3) "passenger compartment" means the area of a motor
22 vehicle normally occupied by the driver and passengers and includes a
23 utility or glove compartment accessible to the driver or a passenger
24 while the vehicle is being operated.

25 (c) A person who violates (a) of this section is guilty of an
26 infraction.

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

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

1 sition of sentence may not be suspended [, EXCEPT UPON THE CONDITION
2 THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN THE MINIMUM PERIOD
3 PROVIDED IN THIS SECTION]. In addition, if the offense involved
4 driving a motor vehicle for which a driver's license is required, the
5 person's driver's [HIS OPERATOR'S] license shall be revoked in accor-
6 dance with AS 28.15.181 and the vehicle used in commission of the
7 offense may be forfeited under AS 28.35.036. In addition, the court
8 shall order, and a person convicted under this section [STATUTE] shall
9 undertake, treatment or education commensurate with the person's needs
10 and the resources of the community where the person lives [FOR A TERM
11 SPECIFIED BY THE COURT, THAT PROGRAM OF ALCOHOL EDUCATION OR REHABILI-
12 TATION WHICH THE COURT, AFTER CONSIDERATION OF ANY INFORMATION COM-
13 PILED UNDER (d) OF THIS SECTION, FINDS APPROPRIATE].

14 * Sec. 15. AS 28.35.031 is amended by adding a new subsection to read:

15 (b) A person who drives a motor vehicle that is involved in an
16 accident or who has committed a moving traffic violation shall be
17 considered to have given consent to a preliminary breath test for the
18 purpose of determining the alcoholic content of the person's blood or
19 breath. The test shall be administered at the scene of the incident
20 at the direction of a law enforcement officer who has reasonable
21 grounds to believe that the person's ability to operate a motor vehi-
22 cle is impaired by the ingestion of alcoholic beverages, drugs or a
23 combination of drugs and alcohol, and that the person was driving a
24 motor vehicle that is involved in an accident or has committed a
25 moving traffic violation. The result of the test may be used by the
26 law enforcement officer to determine whether the driver should be
27 arrested. Before administering the test, the officer shall advise the
28 person that refusal may be used against the person in a civil or
29 criminal action arising out of the incident and that refusal is an

1 and a fine of not less than \$250 if the person has not been previously
2 convicted in this or another jurisdiction of driving while intoxicated
3 under this or another law or ordinance with substantially similar
4 elements or refusal to submit to a chemical test under AS 28.35.032
5 or another law or ordinance with substantially similar elements. Upon
6 [A SUBSEQUENT] conviction under this section the court shall impose a
7 minimum sentence of imprisonment of not less than 20 consecutive days
8 and a fine of not less than \$500 if, within the preceding 10 years,
9 the person has been previously convicted once in this or another
10 jurisdiction [WITHIN FIVE YEARS AFTER A CONVICTION] of driving while
11 intoxicated under this or another law or ordinance with substantially
12 similar elements or [IN THIS OR ANY OTHER STATE OR CONVICTION OF]
13 refusal to submit to a chemical test under AS 28.35.032 or another law
14 or ordinance with substantially similar elements. Upon conviction
15 under this section [OF BREATH UNDER AS 28.35.032,] the court shall
16 impose a minimum sentence of imprisonment of not less than 30 [10]
17 consecutive days and a fine of not less than \$1,000 if, within the
18 preceding 10 years, the person has been previously convicted in this
19 or another jurisdiction of more than one of the following offenses or
20 has more than once been previously convicted of one of the following
21 offenses: (1) driving while intoxicated under this or another law or
22 ordinance with substantially similar elements; (2) refusal to submit
23 to a chemical test under AS 28.35.032 or another law or ordinance with
24 substantially similar elements [UNLESS THE SUBSEQUENT CONVICTION IS
25 WITHIN ONE YEAR OF THE PREVIOUS CONVICTION, IN WHICH CASE THE COURT
26 SHALL IMPOSE A MINIMUM SENTENCE OF IMPRISONMENT OF NOT LESS THAN 20
27 CONSECUTIVE DAYS]. The execution of sentence may not be suspended nor
28 may probation be granted except on condition that [UNTIL] the minimum
29 imprisonment provided in this section is [HAS BEEN] served. Impo-

CORRECTION

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

1 and a fine of not less than \$250 if the person has not been previously
2 convicted in this or another jurisdiction of driving while intoxicated
3 under this or another law or ordinance with substantially similar
4 elements or refusal to submit to a chemical test under AS 28.35.032
5 or another law or ordinance with substantially similar elements. Upon
6 [A SUBSEQUENT] conviction under this section the court shall impose a
7 minimum sentence of imprisonment of not less than 20 consecutive days
8 and a fine of not less than \$500 if, within the preceding 10 years,
9 the person has been previously convicted once in this or another
10 jurisdiction [WITHIN FIVE YEARS AFTER A CONVICTION] of driving while
11 intoxicated under this or another law or ordinance with substantially
12 similar elements or [IN THIS OR ANY OTHER STATE OR CONVICTION OF]
13 refusal to submit to a chemical test under AS 28.35.032 or another law
14 or ordinance with substantially similar elements. Upon conviction
15 under this section [OF BREATH UNDER AS 28.35.032,] the court shall
16 impose a minimum sentence of imprisonment of not less than 30 [10]
17 consecutive days and a fine of not less than \$1,000 if, within the
18 preceding 10 years, the person has been previously convicted in this
19 or another jurisdiction of more than one of the following offenses or
20 has more than once been previously convicted of one of the following
21 offenses: (1) driving while intoxicated under this or another law or
22 ordinance with substantially similar elements; (2) refusal to submit
23 to a chemical test under AS 28.35.032 or another law or ordinance with
24 substantially similar elements [UNLESS THE SUBSEQUENT CONVICTION IS
25 WITHIN ONE YEAR OF THE PREVIOUS CONVICTION, IN WHICH CASE THE COURT

26 SHALL IMPOSE A MINIMUM SENTENCE OF IMPRISONMENT OF NOT LESS THAN 20

27 CONSECUTIVE DAYS]. The execution of sentence may not be suspended nor

28 may probation be granted except on condition that [UNTIL] the minimum

29 imprisonment provided in this section is [HAS BEEN] served. Impo-

1 sition of sentence may not be suspended [, EXCEPT UPON THE CONDITION
2 THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN THE MINIMUM PERIOD
3 PROVIDED IN THIS SECTION]. In addition, if the offense involved
4 driving a motor vehicle for which a driver's license is required, the
5 person's driver's [HIS OPERATOR'S] license shall be revoked in accor-
6 dance with AS 28.15.181 and the vehicle used in commission of the
7 offense may be forfeited under AS 28.35.036. In addition, the court
8 shall order, and a person convicted under this section [STATUTE] shall
9 undertake, treatment or education commensurate with the person's needs
10 and the resources of the community where the person lives [FOR A TERM
11 SPECIFIED BY THE COURT, THAT PROGRAM OF ALCOHOL EDUCATION OR REHABILI-
12 TATION WHICH THE COURT, AFTER CONSIDERATION OF ANY INFORMATION COM-
13 PILED UNDER (d) OF THIS SECTION, FINDS APPROPRIATE].

14 * Sec. 15. AS 28.35.031 is amended by adding a new subsection to read:

15 (b) A person who drives a motor vehicle that is involved in an
16 accident or who has committed a moving traffic violation shall be
17 considered to have given consent to a preliminary breath test for the
18 purpose of determining the alcoholic content of the person's blood or
19 breath. The test shall be administered at the scene of the incident
20 at the direction of a law enforcement officer who has reasonable
21 grounds to believe that the person's ability to operate a motor vehi-
22 cle is impaired by the ingestion of alcoholic beverages, drugs or a
23 combination of drugs and alcohol, and that the person was driving a
24 motor vehicle that is involved in an accident or has committed a
25 moving traffic violation. The result of the test may be used by the
26 law enforcement officer to determine whether the driver should be
27 arrested. Before administering the test, the officer shall advise the
28 person that refusal may be used against the person in a civil or
29 criminal action arising out of the incident and that refusal is an

1 infraction. If the person refuses to submit to the test, the test
2 shall not be administered. Refusal to submit to a preliminary breath
3 test at the request of a law enforcement officer is an infraction.

4 * Sec. 16. AS 28.35.032(a) is amended to read:

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

18 * Sec. 17. AS 28.35.032(g) is amended to read:

19 (g) Upon conviction of a person under this section, the court
20 shall impose a minimum sentence of imprisonment of not less than 72
21 consecutive hours and a fine of not less than \$250 if the person has
22 not been previously convicted in this or another jurisdiction of
23 driving while intoxicated under AS 28.35.030 or another law or ordi-
24 nance with substantially similar elements or refusal to submit to a
25 chemical test under this or another law or ordinance with substan-
26 tially similar elements. Upon [A SUBSEQUENT] conviction under this
27 section the court shall impose a minimum sentence of imprisonment of
28 not less than 20 consecutive days and a fine of not less than \$500 if,
29 within the preceding 10 years, the person has been previously con-

1 victed once in this or another jurisdiction [WITHIN FIVE YEARS AFTER A
2 CONVICTION UNDER THIS SECTION OR] of driving while intoxicated under
3 AS 28.35.030 or another law or ordinance with substantially similar
4 elements or refusal to submit to a chemical test under this or another
5 law or ordinance with substantially similar elements. Upon conviction
6 under this section the court shall impose a minimum sentence of im-
7 prisonment of not less than 30 consecutive days and a fine of not less
8 than \$1,000 if, within the previous 10 years, the person has been
9 previously convicted in this or another jurisdiction of more than one
10 of the following offenses or has more than once been previously con-
11 victed of one of the following offenses: (1) driving while intoxi-
12 cated under AS 28.35.030 or another law or ordinance with substan-
13 tially similar elements; (2) refusal to submit to a chemical test
14 under this or another law or ordinance with substantially similar
15 elements [IN THIS OR ANY OTHER STATE, THE COURT SHALL IMPOSE A MINIMUM
16 SENTENCE OF IMPRISONMENT OF NOT LESS THAN 10 CONSECUTIVE DAYS UNLESS
17 THE SUBSEQUENT CONVICTION IS WITHIN ONE YEAR OF THE PREVIOUS CONVIC-
18 TION, IN WHICH CASE THE COURT SHALL IMPOSE A MINIMUM SENTENCE OF
19 IMPRISONMENT OF NOT LESS THAN 20 CONSECUTIVE DAYS]. The execution of
20 sentence may not be suspended nor may probation be granted except on
21 condition that [UNTIL] the minimum imprisonment provided in this
22 section is [HAS BEEN] served. Imposition of sentence may not be
23 suspended. If the offense involved driving a motor vehicle for which
24 a driver's license is required, the person's driver's license shall be
25 revoked under AS 28.15.181 [, EXCEPT UPON THE CONDITION THAT THE
26 DEFENDANT BE IMPRISONED FOR NO LESS THAN THE MINIMUM PERIOD PROVIDED
27 IN THIS SECTION]. In addition, the court shall order, and a person
28 convicted under this section shall undertake, treatment or education
29 commensurate with the person's needs and the resources of the communi-

1 ty where the person lives [FOR A TERM SPECIFIED BY THE COURT, THAT
2 PROGRAM OF ALCOHOL EDUCATION OR REHABILITATION THAT THE COURT, AFTER
3 CONSIDERATION OF ANY INFORMATION COMPILED UNDER (h) OF THIS SECTION,
4 FINDS APPROPRIATE]. The sentence imposed by the court under this
5 subsection shall run consecutively with any other sentence of im-
6 prisonment imposed on the committed person.

7 * Sec. 18. AS 28.35.034 is amended to read:

8 Sec. 28.35.034. SURRENDER OF LICENSE OR PERMIT [PERIOD OF REVO-
9 CATION]. A person whose license or permit to operate or drive a motor
10 vehicle has been [SUSPENDED OR] revoked under AS 28.15.165 or AS 28.-
11 15.181 [THE PROVISIONS OF AS 28.35.032] shall surrender the [HIS]
12 license or permit to the department on receipt of notice of the revo-
13 cation. [SUCH A PERSON IS INELIGIBLE FOR AN OPERATOR'S LICENSE OR
14 PERMIT FOR THREE MONTHS FOLLOWING THE DATE ON WHICH THE LICENSE OR
15 PERMIT WAS RECEIVED BY THE DEPARTMENT, UNLESS THE DISTRICT COURT FINDS
16 THAT EXTENUATING CIRCUMSTANCES EXIST WHICH WOULD CAUSE EXTREME HARD-
17 SHIP, IN WHICH CASE THE SUSPENSION OR REVOCATION MAY BE MODIFIED OR
18 NULLIFIED.] After the [THREE MONTHS'] period of revocation has ex-
19 pired, the person may make application for a new license as provided
20 by law.

21 * Sec. 19. AS 28.35.035 is amended to read:

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

1 (b) A person who is unconscious or otherwise in a condition
2 rendering that person incapable of refusal is considered not to have
3 withdrawn the consent provided under AS 28.35.031 and a chemical test
4 may be administered to determine the amount of alcohol in that per-
5 son's breath or blood. A person who is unconscious or otherwise
6 incapable of refusal need not be placed under arrest before a chemical
7 test may be administered.

8 (c) If a chemical test is administered to a person under (a) or
9 (b) of this section, that person is not subject to the penalties for
10 refusal to submit to a chemical test provided by AS 28.35.032 and
11 28.35.034.

12 * Sec. 20. AS 28.35 is amended by adding new sections to read:

13 Sec. 28.35.036. FORFEITURE OF MOTOR VEHICLE. (a) After convic-
14 tion of an offense under AS 28.35.030 or AS 28.35.032 involving a
15 motor vehicle of a type for which a driver's license is required and
16 upon motion by the state, the court shall hold a forfeiture hearing
17 and may order the forfeiture of the motor vehicle involved in the
18 commission of the offense if the person has been previously convicted
19 in this or another jurisdiction of more than one of the following
20 offenses or has more than once been previously convicted of one of the
21 following offenses:

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

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

26 (b) Upon forfeiture of a motor vehicle the court shall require
27 the surrender of the registration and certificate of title of that
28 motor vehicle. The registration and certificate of title shall be
29 delivered to the department.

1 (c) If not released under AS 28.35.037, a motor vehicle for-
2 feited under this section may be disposed of at the discretion of the
3 department.

4 Sec. 28.35.037. REMISSION OF FORFEITURES. (a) Upon moving for
5 forfeiture of a motor vehicle under AS 28.35.036, the state shall
6 provide to every person who has an ascertainable ownership or security
7 interest in the motor vehicle written notice that includes

8 (1) a description of the motor vehicle;

9 (2) the time and place of the forfeiture hearing;

10 (3) the legal authority under which the motor vehicle may
11 be forfeited;

12 (4) notice of the right to intervene to protect the inter-
13 est in the motor vehicle.

14 (b) Upon receipt of a motion to intervene in a forfeiture hear-
15 ing the court shall order the satisfaction of the interest from the
16 proceeds of the sale of the motor vehicle or order the motor vehicle
17 to be released to the petitioner together with title to the motor
18 vehicle if the petitioner shows by a preponderance of the evidence
19 that

20 (1) the petitioner has an interest in the motor vehicle
21 acquired in good faith;

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

24 (3) the petitioner was not negligent in parting with the
25 motor vehicle.

26 Sec. 28.35.038. MUNICIPAL IMPOUNDMENT AND FORFEITURE. Notwith-
27 standing other provisions in this title, a municipality may adopt an
28 ordinance providing for the impoundment or forfeiture of a motor
29 vehicle involved in the commission of an offense under AS 28.35.030,

1 28.35.032, or an ordinance with elements substantially similar to
2 AS 28.35.030 or AS 28.35.032. An ordinance adopted under this section
3 is not required to be consistent with this title or regulations adopt-
4 ed under this title.

5 * Sec. 21. AS 28.15.211(a)(4) and AS 28.35.032(b),(c), and (d) are re-
6 pealed.

SFC-83
6/7/83

June 7, 1983

M E M O R A N D U M

TO: Sen. Don Bennett, Co-chairman
Senate Finance Committee
Sen. John Sackett, Co-chairman
Senate Finance Committee
Sen. Frank Ferguson
Sen. Joe Josephson
Sen. Jan Faiks
Sen. Vic Fischer
Sen. Bob Mulcahy

FROM: Karla L. Forsythe *KLF*
General Counsel, Alaska Court System

SUBJECT: Senate CS for CS for House Bill No. 6 (Judiciary)
"An Act relating to driving a motor vehicle"

Thank you for the opportunity to submit comments regarding the above-entitled act.

The proposed bill impacts the courts in two ways. First, penalties for DWI are increased. Based on past experience, the court system anticipates more contested hearings, because defendants will go to trial in an attempt to avoid harsher penalties. New resources (primarily part-time judges and clerical staff) will be required to process these cases, particularly in urban areas where DWI filings are heaviest and where courts are already working at capacity.

The second area of impact relates to a feature of this legislation not found in current law. Presently, an intoxicated driver's license is not revoked until the driver is sentenced by the court. The proposed bill requires immediate revocation on the scene by the law enforcement officer. If an officer has probable cause to believe a driver is intoxicated, and the driver refuses a chemical test or the test indicates the requisite blood alcohol content, the officer must take the person's license. The officer gives the driver a notice which serves as a 7-day driving permit. During that time, the driver can ask for review of the revocation, and the revocation must be stayed.

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Previous versions of this bill have incorporated one of two different approaches to the revocation review. One way is to have the review handled by the courts, which results in scheduling delays because of crowded court calendars. Alternatively, the hearing can be handled administratively by the department of public safety. The latter approach is recommended by the National Traffic Highway Safety Administration as a means of avoiding inevitable court delays, and was incorporated in the version of the bill from Senate State Affairs. Both the House bill and the Senate Judiciary Committee version require the court to handle these hearings, based in part on a DPS concern that the department would have to hire new hearing officers. However, the court would also have to hire new staff, including two judges, at a greater cost than that incurred by hiring hearing officers.

The department of public safety, the department of law, and the court system have analyzed the revocation procedure to determine if there is a way to resolve these concerns. The court system believes a mutually satisfactory approach has been developed, which places the hearing responsibility within the department of public safety, but permits the use of court system magistrates as hearing officers in outlying areas, which saves travel costs.

This new approach differs from the current version of the bill in several respects. First, the revocation procedure, including the administrative paperwork, would be handled under the auspices of the department of public safety. However, upon consent of the administrative director of the Alaska Court System, the commissioner of public safety would be authorized to designate magistrates to serve as hearing officers.

Practically speaking, this means that in the more urban locations where DPS can readily provide hearing officers, such as Anchorage and Fairbanks, DPS will handle the hearings. However, in outlying areas, such as Unalaska and Cordova, the local magistrate would be designated as the hearing officer. This approach saves state money, because it would be costly to transport a hearing officer to outlying communities in which revocation reviews rarely arise.

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It is also proposed that the hearing officer should be able to grant limited licenses, using the same standard as would the court. Since most appeals to court under current law are for the purpose of obtaining a limited license rather than appealing legal issues, this procedure should avoid duplicative effort and reduce the number of appeals. Any appeal from a hearing officer's decision would not be conducted as a de novo hearing, as is the case under current law, but instead as an appeal on the record without new evidence.

The major advantage to an approach which uses both DPS and court system resources is that hearings in urban areas can be scheduled apart from the court calendar, resulting in speedier revocation of licenses. However, the costs of the procedure will be minimized by use of existing court system positions.

The court system has attached proposed revisions to the bill which incorporate these changes. In the sections which outline the revocation procedure, the word "court" has been stricken, or the word "department" substituted. New language authorized the commissioner to designate a magistrate to serve as a hearing officer upon consent of the administrative director of the court system. New proposed sections also authorize the hearing officer to grant a limited license, and set forth the procedure for judicial review of the revocation hearing. Finally, an amendment to Title 22 includes the duties of hearing officer as one of the functions of a district judge and magistrate.

The court system suggests re-drafting two other sections of the legislation. First, the bill should clearly define the relationship between the immediate revocation by an officer, the revocation review hearing, and any concurrent or consecutive revocation which the court imposes as part of the DWI sentence. Second, the present version of the bill contains separate sections for review of a revocation based on refusal to submit to a chemical test, and for review of a revocation based on the requisite blood alcohol content. These sections should be combined, and any inconsistencies resolved. Although it is not appropriate for the court system to propose substantive changes in these areas, clarification will aid the court in following the legislative intent.

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The court system will be glad to provide additional information about these comments, or to answer any questions relating to the court's role in implementing the proposed bill.

cc:
Rep. Mitch Abood
Chief Justice Edmond W. Burke
Arthur H. Snowden, II
Gayle Horetski, Department of Law

Offered: 6/1/83
Referred: Finance

Original sponsors: Abood, Furnace,
Lindauer, et al

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 SENATE CS FOR CS FOR HOUSE BILL NO. 6 (Judiciary)
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), the 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 obtain [court] review of the
18 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 initiates [court] proceed-
25 ings to rescind the action.

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
9 department shall revoke the person's license or nonresident privilege
10 to 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 determined in accordance with
15 guidelines for court revocations under AS 28.15.181(c).

16 Sec. 28.15.166. ~~[COURT]~~ REVIEW OF REVOCATION. (a) A person who
17 has received a notice under AS 28.15.165(a) may make a written request
18 for ~~[court]~~ review of the department's action under AS 28.15.165(c). If
19 the person's driver's license has not been previously surrendered to
20 the department, it shall be surrendered ~~[to the court]~~ at the time the
21 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 ~~[court]~~ ^{department} shall receive and consider the request. If the
29 ~~[court]~~ ^{department} finds that the person was unable to make a timely request due to

1 lack of actual notice of the revocation or due to factors of physical
2 incapacity such as hospitalization or incarceration, the [court] shall
3 waive the period of limitation, reopen the matter, and grant the
4 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 [court] shall issue a temporary driver's
8 permit that is valid until the scheduled date for the review. If
9 necessary, the [court] may issue additional temporary permits to stay
10 the effective date of the action of the department under AS 28.15.-
11 165(c) until the final order after the review is issued.

(d) The review shall be heard before a hearing officer designated by the commissioner. Upon the request of the administrative director of the Alaska court system, the commissioner may designate a district judge or magistrate to serve as the hearing officer. The hearing officer shall have authority to administer oaths and affirmations; to examine witnesses and take testimony; to receive relevant evidence; to issue subpoenas, take depositions, or cause depositions or interrogatories to be taken; to regulate the course and conduct of the hearing; and to make a final ruling on the issue. If the person who requested the hearing fails to appear without just cause, the right to a hearing shall be waived, and the determination of the department which is based upon the enforcement officer's report becomes final.

12 ^(e)
13 ~~[(d)]~~ The ~~[court]~~ review under this section shall be limited to the
14 issues of whether there was probable cause to believe that the person
15 was driving a motor vehicle while intoxicated and whether

16 (1) the person refused to submit to a chemical test under
17 AS 28.35.031(a); or

18 (2) the chemical test authorized under AS 28.35.031(a) and
19 administered to the person produced a result described in
20 AS 28.35.030(a)(2).

21 ^(f)
22 ~~[(e)]~~ If the issues set out in (d) of this section are determined
23 in the affirmative by a preponderance of the evidence, the ~~[court]~~ ^{hearing officer} shall
24 sustain the action of the department. If one or more of the issues is
25 determined in the negative, the department's action shall be
26 rescinded.

27 ^(g)
28 ~~[(f)]~~ If the action of the department in revoking a nonresident's
29 privilege to drive a motor vehicle is sustained by the ~~[court]~~ ^{hearing officer}, the
department shall give written notice of action taken to the motor
vehicle administrator of the state of the person's residence and to
any state in which that person has a driver's license.

(h) A hearing officer revoking a driver's license on the basis that a chemical test administered to the person produced a result described in AS 28.35.030(a)(2) may grant limited license privileges. The privileges may be granted for the final 60 days during which the license is revoked if the hearing officer determines that the person's ability to earn a livelihood would be severely impaired and a limitation under AS 28.15.201 can be placed on the license that will enable the person to earn a livelihood without excessive danger to the public. A hearing officer revoking a driver's license on the basis that the person refused to submit to a chemical test may not grant limited license privileges.

(i) Within 30 days of the issuance of the final determination of the department, a person aggrieved by the determination shall have the right to file an appeal for judicial review in superior court. The review shall

be on the record, without taking additional testimony. If the court finds that the department made an erroneous interpretation of the law, acted in an arbitrary and capricious manner, or made a determination which is unsupported by the evidence in the record, the court may reverse the department's determination. The filing of an appeal shall not result in an automatic stay of the revocation order. The court may grant a stay of the order only upon motion and hearing, and upon a finding that there is a reasonable probability that the petitioner will prevail upon the merits, and that the petitioner will suffer irreparable harm if the order is not stayed.

Sections 4 - 16. No changes.

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

4 * Sec. 16. AS 28.35.032(a) is amended to read:

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

18 * Sec. 17. AS 28.35.032(b) is amended to read:

19 (b) Upon receipt of a sworn report of a law enforcement officer
20 that a person has refused to submit to a chemical test authorized
21 under AS 28.35.031(a) [AS 28.35.031], containing a statement of the
22 circumstances surrounding the arrest and the grounds upon which the
23 law enforcement officer's belief was based that the person was
24 operating or driving a motor vehicle in violation of AS 28.35.030, the
25 Department of Public Safety shall notify the person that the person's
26 license or nonresident privilege to drive or operate a motor vehicle
27 in the the state is revoked or suspended, or that no original license
28 or permit will be issued for 90 days [THREE MONTHS]. In the same
29 notice the department shall inform the person that the person may

1 initiate a proceeding [~~in the district court~~] to ^{review} ~~rescind~~ the
2 department's action. The court proceeding shall be ~~without jury~~ and
3 shall be limited to the issues of whether

4 (1) the arresting officer had reasonable grounds to believe
5 the arrested person had been operating or driving a motor vehicle in
6 the state while intoxicated;

7 (2) the arrested person refused to submit to the breath
8 test upon request of the officer after being advised that refusal
9 would result in the suspension, revocation, or denial of the person's
10 license or nonresident privilege to drive and that the refusal is a
11 misdemeanor; and

12 (3) the accused defendant was informed fairly of the nature
13 of the tests, the accuracy of the methods, machines, equipment
14 involved, the expertise of the person administering the tests, or
15 operator of the machines, and the accused given such other reasonable
16 information as may be requested by the accused.

17 * Sec. 18. AS 28.35.032(d) is amended to read:

18 (d) If the person who refuses to submit to the chemical test
19 authorized by AS 28.35.031(a) [AS 28.35.031] has been convicted in
20 this or any other state of operating or driving a motor vehicle while
21 intoxicated or of refusal to submit to a chemical test of breath under
22 this section, the period of suspension or revocation for the person's
23 license, nonresident privilege to drive, or denial of original license
24 shall be one year.

25 * Sec. 19. AS 28.35.032(f) is amended to read:

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

28 * Sec. 20. AS 28.35.032(g) is amended to read:

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

* Sec. 20 - 24. No changes.

* Sec. 25. AS 22.15.100 is amended to read:

Sec. 22.15.100. Functions and powers of district judge and magistrate. Each district judge and magistrate has the power

(1) to issue writs of habeas corpus for the purpose of inquiring into the cause of restraint of liberty, returnable before a judge of the superior court, and the same proceedings shall be had on the writ as if it had been granted by the superior court judge under the laws of the state in such cases;

(2) of a notary public;

(3) to issue marriage licenses and to solemnize marriages;

(4) to issue warrants of arrest, summons and search warrants according to manner and procedure prescribed by law and the supreme court;

(5) to act as an examining judge or magistrate in preliminary examinations in criminal proceedings; to set, receive and forfeit bail and to order the release of defendants under bail;

(6) to act as a referee in matters and actions referred to the judge or magistrate by the superior court, with all powers conferred upon referees by laws;

(7) of the superior court in all respects including but not limited to contempt, attendance of witnesses and bench warrants;

(8) to order the temporary detention of a minor, or take other action authorized by law or rules of procedure, in cases arising under AS 47.10, when the minor is in a condition or surrounding dangerous or injurious to the welfare of the minor or others which requires immediate action; the action may be continued in effect until reviewed by the superior court in accordance with rules of procedure governing these cases.

(9) to issue a temporary order for emergency injunctive relief in cases involving domestic violence as provided in AS 09.55.610.

(10) to review administrative revocation of a person's driver's license or nonresident privilege to drive, and administrative refusal to issue an original license, when designated by the commissioner of public safety and upon the consent of the administrative director of the Alaska court system.

Offered: 4/30/83
Referred: Finance

Original sponsors: Abood, Furnace,
Lindauer, et al

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 6 (Judiciary)

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
14 fictitious, 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 or 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 to a person driving a motor vehicle for which a
8 driver's license is required produces a result described under AS 28.-
9 35.030(a)(2) or if a person under arrest for driving a motor vehicle
10 for which a driver's license is required refuses to submit to a chemi-
11 cal test under AS 28.35.031(a), the law enforcement officer shall read
12 a notice and deliver a copy to the person. The notice shall advise
13 that

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

17 (2) the person has the right to obtain court review of the
18 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 initiates court proceed-
25 ing to rescind the action.

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

1 which it was seized.

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

14 (d) The period of revocation of a driver's license by the De-
15 partment of Public Safety under this section shall be determined in
16 accordance with guidelines for court revocations under
17 AS 28.15.181(c).

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

24 (b) A request for review shall be made within seven days after
25 the person receives the notice under AS 28.15.165(a) or the right to
26 review is waived and the action of the Department of Public Safety
27 under AS 28.15.165(c) is final. However, if the person shows that the
28 person for good cause was unable to make a timely request, the court
29 may waive the period of limitation, reopen the matter, and grant the

1 review requested.

2 (c) Upon receipt of a request for review, if it appears that the
3 person holds a valid driver's license and that the driver's license
4 has been surrendered, the court shall issue a temporary driver's
5 permit that is valid until the scheduled date for the review. The
6 court may issue additional temporary permits if necessary to stay the
7 effective date of the action of the Department of Public Safety under
8 AS 28.15.165(c) until the final order after the review is issued.

9 (d) The court review under this section shall be without jury
10 and shall be limited to the issues of whether there was probable cause
11 to believe that the person was driving a motor vehicle while intoxi-
12 cated and whether

13 (1) the person refused to submit to a chemical test under
14 AS 28.35.031(a); or

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

17 (e) If the issues set out in (d) of this section are determined
18 in the affirmative by a preponderance of the evidence, the court shall
19 sustain the action of the Department of Public Safety. If one or more
20 of the issues are determined in the negative, the department's action
21 shall be rescinded.

22 (f) If the action of the Department of Public Safety in revoking
23 a nonresident's privilege to drive a motor vehicle is sustained by the
24 court, the department shall give written notice of action taken to the
25 motor vehicle administrator of the state of the person's residence and
26 to any state in which that person has a driver's license.

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

28 (a) Conviction of any of the [THE] following offenses is [ARE]
29 grounds for the immediate [SUSPENSION OR] revocation of a driver's

1 license:

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

4 (2) a felony in the commission of which a motor vehicle is
5 used;

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

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

12 (5) [OPERATING OR] driving a motor vehicle while intoxi-
13 cated;

14 (6) reckless driving; [OR]

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

17 (8) refusal to submit to a chemical test under AS 28.35.-
18 032.

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

20 (b) A court convicting a person of an offense under (a)(1) -
21 (4), (6), or (7) of this section shall revoke that person's driver's
22 license for [A PERIOD OF] not less than 30 days for the first convic-
23 tion, unless the court determines that the person's ability to earn a
24 livelihood would be severely impaired and a limitation under AS 28.-
25 15.201 can be placed on the license that [WHICH] will enable the
26 person to earn a livelihood without excessive [RISK OR] danger to the
27 public. If a court limits a person's license under this subsection,
28 it shall do so for [A PERIOD OF] not less than 60 [30] days. Upon a
29 subsequent conviction of a person for any offense under (a)(1) - (4),

1 (6), or (7) of this section occurring within 15 years after a prior
2 conviction, the court shall revoke the person's license and may not
3 grant the person [ANY] limited license privileges for the following
4 periods:

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

6 (2) not less than three years for a third or subsequent
7 conviction.

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

9 (c) A court convicting a person of an offense under (a)(5) or
10 (8) of this section arising out of the operation of a motor vehicle
11 for which a driver's license is required shall revoke that person's
12 driver's license and may not, except as provided in (d) of this sec-
13 tion, grant limited license privileges for the following periods:

14 (1) not less than 90 days if, within the preceding 15
15 years, the person has not previously been convicted of an offense

16 (A) under (a)(5) or (8) of this section; or

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

20 (2) not less than one year if, within the preceding 15
21 years, the person has been previously convicted of one offense

22 (A) under (a)(5) or (8) of this section; or

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

26 (3) not less than 10 years if, within the preceding 15
27 years, the person has been previously convicted of more than one of
28 the following offenses or has more than once been previously convicted
29 of one of the following offenses:

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

5 * Sec. 7. AS 28.15.181 is amended by adding a new subsection to read:

6 (d) A court revoking a driver's license under (c)(1) of this
7 section may grant limited license privileges for the final 60 days
8 during which the license is revoked if the court determines that the
9 person's ability to earn a livelihood would be severely impaired and a
10 limitation under AS 28.15.201 can be placed on the license that will
11 enable the person to earn a livelihood without excessive danger to the
12 public.

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

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

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

18 (c) After the termination of a limitation as shown on the certi-
19 ficate issued under (b) of this section, the license of a person on
20 whom a limitation was imposed is revoked until the person receives a
21 new [NO LONGER BOUND BY THE LIMITATION AND MAY APPLY FOR A DUPLICATE]
22 license in accordance with AS 28.20.240 [UNDER AS 28.15.141 OR, IF
23 OTHERWISE ELIGIBLE, FOR A NEW LICENSE IF THE LICENSE WAS REVOKED FOR
24 CONVICTION OF AN OFFENSE UNDER AS 28.15.181(a)(5) AND LIMITED LICENSE
25 PRIVILEGES WERE GRANTED UNDER AS 28.15.181(c)].

26 * Sec. 10. AS 28.15.291 is amended to read:

27 Sec. 28.15.291. DRIVING WHILE LICENSE CANCELED, SUSPENDED,
28 REVOKED OR IN VIOLATION OF LIMITATION. (a) A [NO] person may not
29 drive a motor vehicle on a highway or vehicular way or area [IN THIS

1 STATE] at a time when that person's [HIS] driver's license, or privi-
2 lege to drive [IN THIS STATE IF HE IS LICENSED IN ANOTHER JURISDIC-
3 TION,] has been canceled, suspended or revoked in this or another
4 jurisdiction, or when [HE IS] driving in violation of a limitation
5 placed upon that person's [HIS] license or privilege to drive in this
6 or [, EVEN WHEN HE IS DRIVING UNDER A LICENSE ISSUED IN] another
7 jurisdiction. Except as provided in (c) of this section, upon [UPON]
8 conviction of a violation of this section, the court shall impose a
9 [MINIMUM] sentence of imprisonment of not less than 10 days. The exe-
10 cution of sentence may not be suspended nor may probation or parole be
11 granted until the minimum imprisonment provided in this section has
12 been served; nor may imposition of sentence be suspended [, EXCEPT
13 UPON THE CONDITION THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN
14 THE MINIMUM PERIOD PROVIDED FOR IN THIS SECTION]. In addition, the
15 person's [HIS] license or privilege to drive shall be revoked, and the
16 person [HE] may not be issued a new license nor may the [HIS] privi-
17 lege to drive be restored for an additional period of one year after
18 the date that the person [HE] would have been entitled to restoration
19 of [HIS] driving privileges.

20 (b) When a person's license is canceled, limited, suspended or
21 revoked, that person [HE] shall be informed by the department or the
22 court that [WHICH] takes the action at the time of the action that,
23 upon a conviction of driving on a highway or vehicular way or area in
24 this state at a time when that person's [HIS] driver's license or
25 privilege to drive in this state has been canceled, suspended or
26 revoked, or upon a conviction of driving in violation of a limitation
27 of the [HIS] license, that person [HE] will be subject to the manda-
28 tory minimum sentence of [10-DAY] imprisonment under [(a) OF] this
29 section.

1 * Sec. 11. AS 28.15.291 is amended by adding a new subsection to read:

2 (c) The court shall impose a sentence of imprisonment of not
3 less than 30 days and a fine of not less than \$500 upon conviction of
4 a violation of this section if the person's driver's license was
5 revoked under AS 28.15.181(c)(1). The court shall impose a sentence
6 of imprisonment of not less than 90 days and a fine of not less than
7 \$1,000 upon conviction of a violation of this section if the person's
8 driver's license was revoked under AS 28.15.181(c)(2) or (3). The
9 execution of sentence may not be suspended nor may probation or parole
10 be granted until the minimum imprisonment provided in this subsection
11 has been served. Imposition of sentence may not be suspended. In
12 addition, the person's privilege to drive may not be restored for an
13 additional period of one year after the date that the person would
14 have been entitled to restoration of driving privileges if the person
15 had not been convicted under this section.

16 * Sec. 12. AS 28.20.240 is amended to read:

17 Sec. 28.20.240. PROOF REQUIRED WHEN DRIVING PRIVILEGE [USE OF
18 LICENSE] IS RESTRICTED. Whenever under a law of this state the li-
19 cense of a person is suspended, revoked, limited under AS 28.15.201,
20 or canceled for any reason, the department may not issue to that
21 person a new or renewal of license [IN HIS NAME] until permitted to do
22 so under the motor vehicle laws of this state. A period of suspen-
23 sion, revocation, [LIMITATION,] or cancellation [UNDER THIS SECTION]
24 continues until proof of financial responsibility for the future is
25 provided. Upon expiration of a period of limitation, the license
26 remains revoked until proof of financial responsibility for the future
27 is provided.

28 * Sec. 13. AS 28.35.030(c) is amended to read:

29 (c) Upon conviction under this section the court shall impose a

1 minimum sentence of imprisonment of not less than 72 consecutive hours
2 and a fine of not less than \$250 if the person has not been previously
3 convicted in this or another jurisdiction of driving while intoxicated
4 under this or another law or ordinance with substantially similar
5 elements or refusal to submit to a chemical test under AS 28.35.032
6 or another law or ordinance with substantially similar elements. Upon
7 [A SUBSEQUENT] conviction under this section the court shall impose a
8 minimum sentence of imprisonment of not less than 20 consecutive days
9 and a fine of not less than \$500 if, within the preceding 15 years,
10 the person has been previously convicted once in this or another
11 jurisdiction [WITHIN FIVE YEARS AFTER A CONVICTION] of driving while
12 intoxicated under this or another law or ordinance with substantially
13 similar elements or [IN THIS OR ANY OTHER STATE OR CONVICTION OF]
14 refusal to submit to a chemical test under AS 28.35.032 or another law
15 or ordinance with substantially similar elements. Upon conviction
16 under this section [OF BREATH UNDER AS 28.35.032,] the court shall
17 impose a minimum sentence of imprisonment of not less than 30 [10]
18 consecutive days and a fine of not less than \$1,000 if, within the
19 preceding 15 years, the person has been previously convicted in this
20 or another jurisdiction of more than one of the following offenses or
21 has more than once been previously convicted of one of the following
22 offenses: (1) driving while intoxicated under this or another law or
23 ordinance with substantially similar elements; (2) refusal to submit
24 to a chemical test under AS 28.35.032 or another law or ordinance with
25 substantially similar elements [UNLESS THE SUBSEQUENT CONVICTION IS
26 WITHIN ONE YEAR OF THE PREVIOUS CONVICTION, IN WHICH CASE THE COURT
27 SHALL IMPOSE A MINIMUM SENTENCE OF IMPRISONMENT OF NOT LESS THAN 20
28 CONSECUTIVE DAYS]. The execution of sentence may not be suspended nor
29 may probation be granted except on condition that [UNTIL] the minimum

1 imprisonment provided in this section is [HAS BEEN] served. Impo-
2 sition of sentence may not be suspended [, EXCEPT UPON THE CONDITION
3 THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN THE MINIMUM PERIOD
4 PROVIDED IN THIS SECTION]. In addition, if the offense involved
5 driving a motor vehicle for which a driver's license is required, the
6 person's driver's [HIS OPERATOR'S] license shall be revoked in accor-
7 dance with AS 28.15.181 and the vehicle used in commission of the
8 offense may be forfeited under AS 28.35.036. In addition, a person
9 convicted under this section [STATUTE] shall undertake, for a term
10 specified by the court, that program of alcohol education or rehabili-
11 tation that [WHICH] the court, after consideration of any information
12 compiled under (d) of this section, finds appropriate.

13 * Sec. 14. AS 28.35.031 is amended by adding a new subsection to read:

14 (b) A person who drives a motor vehicle that is involved in an
15 accident, has committed an offense under AS 28.15.181(a), or drives a
16 motor vehicle in a manner that creates an unjustifiable risk to a
17 person or to property shall be considered to have given consent to a
18 preliminary breath test for the purpose of determining the alcoholic
19 content of the person's blood or breath. The test shall be adminis-
20 tered at the scene of the incident at the direction of a law enforce-
21 ment officer who has reasonable grounds to believe that the person was
22 driving a motor vehicle that is involved in an accident, has committed
23 an offense under AS 28.15.181(a), or is driving in a manner that
24 creates an unjustifiable risk to a person or to property. The result
25 of the test may be used by the law enforcement officer to determine
26 whether the driver should be arrested. Before administering the test,
27 the officer shall advise the person that refusal may be used against
28 the person in a civil or criminal action arising out of the incident
29 and that refusal is an infraction. If the person refuses to submit to

1 the test, the test shall not be administered. Refusal to submit to a
2 preliminary breath test at the request of a law enforcement officer is
3 an infraction.

4 * Sec. 15. AS 28.35.032(a) is amended to read:

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

18 * Sec. 16. AS 28.35.032(g) is amended to read:

19 (g) Upon conviction of a person under this section, the court
20 shall impose a minimum sentence of imprisonment of not less than 72
21 consecutive hours and a fine of not less than \$250 if the person has
22 not been previously convicted in this or another jurisdiction of
23 driving while intoxicated under AS 28.35.030 or another law or ordi-
24 nance with substantially similar elements or refusal to submit to a
25 chemical test under this or another law or ordinance with substan-
26 tially similar elements. Upon [A SUBSEQUENT] conviction under this
27 section the court shall impose a minimum sentence of imprisonment of
28 not less than 20 consecutive days and a fine of not less than \$500 if,
29 within the preceding 15 years, the person has been previously

1 convicted once in this or another jurisdiction [WITHIN FIVE YEARS
2 AFTER A CONVICTION UNDER THIS SECTION OR] of driving while intoxicated
3 under AS 28.35.030 or another law or ordinance with substantially
4 similar elements or refusal to submit to a chemical test under this or
5 another law or ordinance with substantially similar elements. Upon
6 conviction under this section the court shall impose a minimum sen-
7 tence of imprisonment of not less than 30 consecutive days and a fine
8 of not less than \$1,000 if, within the previous 15 years, the person
9 has been previously convicted in this or another jurisdiction of more
10 than one of the following offenses or has more than once been pre-
11 viously convicted of one of the following offenses: (1) driving while
12 intoxicated under AS 28.35.030 or another law or ordinance with sub-
13 stantially similar elements; (2) refusal to submit to a chemical test
14 under this or another law or ordinance with substantially similar
15 elements [IN THIS OR ANY OTHER STATE, THE COURT SHALL IMPOSE A MINIMUM
16 SENTENCE OF IMPRISONMENT OF NOT LESS THAN 10 CONSECUTIVE DAYS UNLESS
17 THE SUBSEQUENT CONVICTION IS WITHIN ONE YEAR OF THE PREVIOUS CONVIC-
18 TION, IN WHICH CASE THE COURT SHALL IMPOSE A MINIMUM SENTENCE OF
19 IMPRISONMENT OF NOT LESS THAN 20 CONSECUTIVE DAYS]. The execution of
20 sentence may not be suspended nor may probation be granted except on
21 condition that [UNTIL] the minimum imprisonment provided in this
22 section is [HAS BEEN] served. Imposition of sentence may not be
23 suspended. If the offense involved driving a motor vehicle for which
24 a driver's license is required, the person's driver's license shall be
25 revoked under AS 28.15.181 [, EXCEPT UPON THE CONDITION THAT THE
26 DEFENDANT BE IMPRISONED FOR NO LESS THAN THE MINIMUM PERIOD PROVIDED
27 IN THIS SECTION]. In addition, a person convicted under this section
28 shall undertake, for a term specified by the court, that program of
29 alcohol education or rehabilitation that the court, after

1 consideration of any information compiled under (h) of this section,
2 finds appropriate. The sentence imposed by the court under this
3 subsection shall run consecutively with any other sentence of im-
4 prisonment imposed on the committed person.

5 * Sec. 17. AS 28.35.034 is amended to read:

6 Sec. 28.35.034. SURRENDER OF LICENSE OR PERMIT [PERIOD OF REVO-
7 CATION]. A person whose license or permit to operate or drive a motor
8 vehicle has been [SUSPENDED OR] revoked under AS 28.15.165 or AS 28.-
9 15.181 [THE PROVISIONS OF AS 28.35.032] shall surrender the [HIS]
10 license or permit to the department on receipt of notice of the revo-
11 cation. [SUCH A PERSON IS INELIGIBLE FOR AN OPERATOR'S LICENSE OR
12 PERMIT FOR THREE MONTHS FOLLOWING THE DATE ON WHICH THE LICENSE OR
13 PERMIT WAS RECEIVED BY THE DEPARTMENT, UNLESS THE DISTRICT COURT FINDS
14 THAT EXTENUATING CIRCUMSTANCES EXIST WHICH WOULD CAUSE EXTREME HARD-
15 SHIP, IN WHICH CASE THE SUSPENSION OR REVOCATION MAY BE MODIFIED OR
16 NULLIFIED.] After the [THREE MONTHS'] period of revocation has ex-
17 pired, the person may make application for a new license as provided
18 by law.

19 * Sec. 18. AS 28.35 is amended by adding new sections to read:

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

29 (1) driving while intoxicated under AS 28.35.030 or another

1 law or ordinance with substantially similar elements; or

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

4 (b) Upon forfeiture of a motor vehicle the court shall require
5 the surrender of the registration and certificate of title of that
6 motor vehicle. The registration and certificate of title shall be
7 delivered to the Department of Public Safety.

8 (c) If not released under AS 28.35.037, a motor vehicle for-
9 feited under this section may be disposed of at the discretion of the
10 department.

11 Sec. 28.35.037. REMISSION OF FORFEITURES. (a) Upon moving for
12 forfeiture of a motor vehicle under AS 28.35.036, the state shall
13 provide to every person who has an ascertainable ownership or security
14 interest in the motor vehicle written notice that includes

15 (1) a description of the motor vehicle;

16 (2) the time and place of the forfeiture hearing;

17 (3) the legal authority under which the motor vehicle may
18 be forfeited;

19 (4) notice of the right to intervene to protect the inter-
20 est in the motor vehicle.

21 (b) Upon receipt of a motion to intervene in a forfeiture hear-
22 ing the court shall order the satisfaction of the interest from the
23 proceeds of the sale of the motor vehicle or order the motor vehicle
24 to be released to the petitioner together with title to the motor
25 vehicle if the petitioner shows by a preponderance of the evidence
26 that

27 (1) the petitioner has an interest in the motor vehicle
28 acquired in good faith;

29 (2) a person other than the petitioner was convicted of the

1 offense that resulted in the forfeiture;

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

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

12 * Sec. 19. AS 28.15.211(a)(4) and AS 28.35.032(b),(c), and (d) are re-
13 pealed.

Offered: 6/1/83
Referred: Finance

Original sponsors: Abood, Furnace,
Lindauer, et al

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 SENATE C~~O~~ FOR CS FOR HOUSE BILL NO. 6 (Judiciary)
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), the 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 obtain court review of the
18 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 initiates court proceed-
25 ings to rescind the action.

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
9 department shall revoke the person's license or nonresident privilege
10 to 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 determined in accordance with
15 guidelines for court revocations under AS 28.15.181(c).

16 Sec. 28.15.166. COURT REVIEW OF REVOCATION. (a) A person who
17 has received a notice under AS 28.15.165(a) may make a written request
18 for court review of the department's action under AS 28.15.165(c). If
19 the person's driver's license has not been previously surrendered to
20 the department, it shall be surrendered to the court at the time the
21 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 court shall receive and consider the request. If the
29 court finds that the person was unable to make a timely request due to

1 lack of actual notice of the revocation or due to factors of physical
2 incapacity such as hospitalization or incarceration, the court shall
3 waive the period of limitation, reopen the matter, and grant the
4 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 court shall issue a temporary driver's
8 permit that is valid until the scheduled date for the review. If
9 necessary, the court may issue additional temporary permits to stay
10 the effective date of the action of the department under AS 28.15.-
11 165(c) until the final order after the review is issued.

12 (d) The court review under this section shall be limited to the
13 issues of whether there was probable cause to believe that the person
14 was driving a motor vehicle while intoxicated and whether

15 (1) the person refused to submit to a chemical test under
16 AS 28.35.031(a); or

17 (2) the chemical test authorized under AS 28.35.031(a) and
18 administered to the person produced a result described in
19 AS 28.35.030(a)(2).

20 (e) If the issues set out in (d) of this section are determined
21 in the affirmative by a preponderance of the evidence, the court shall
22 sustain the action of the department. If one or more of the issues is
23 determined in the negative, the department's action shall be
24 rescinded.

25 (f) If the action of the department in revoking a nonresident's
26 privilege to drive a motor vehicle is sustained by the court, the
27 department shall give written notice of action taken to the motor
28 vehicle administrator of the state of the person's residence and to
29 any state in which that person has a driver's license.

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
9 department shall revoke the person's license or nonresident privilege
10 to 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 determined in accordance with
15 guidelines for court revocations under AS 28.15.181(c).

16 Sec. 28.15.166. COURT REVIEW OF REVOCATION. (a) A person who
17 has received a notice under AS 28.15.165(a) may make a written request
18 for court review of the department's action under AS 28.15.165(c). If
19 the person's driver's license has not been previously surrendered to
20 the department, it shall be surrendered to the court at the time the
21 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 court shall receive and consider the request. If the
29 court finds that the person was unable to make a timely request due to

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

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

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

7 (2) a felony in the commission of which a motor vehicle is
8 used;

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

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

15 (5) [OPERATING OR] driving a motor vehicle while intoxi-
16 cated;

17 (6) reckless driving; [OR]

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

20 (8) refusal to submit to a chemical test under AS 28.35.-
21 032;

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

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

25 (b) A court convicting a person of an offense described in
26 [UNDER] (a)(1) - (4), (6), or (7) of this section shall revoke that
27 person's driver's license for [A PERIOD OF] not less than 30 days for
28 the first conviction, unless the court determines that the person's
29 ability to earn a livelihood would be severely impaired and a

1 limitation under AS 28.15.201 can be placed on the license that
2 [WHICH] will enable the person to earn a livelihood without excessive
3 [RISK OR] danger to the public. If a court limits a person's license
4 under this subsection, it shall do so for [A PERIOD OF] not less than
5 60 [30] days. Upon a subsequent conviction of a person for any
6 offense described in [UNDER] (a)(1) - (4), (6), or (7) of this section
7 occurring within 10 years after a prior conviction, the court shall
8 revoke the person's license and may not grant the person [ANY] limited
9 license privileges for the following periods:

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

11 (2) not less than three years for a third or subsequent
12 conviction.

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

14 (c) A court convicting a person of an offense described in
15 (a)(5) or (8) of this section arising out of the operation of a motor
16 vehicle for which a driver's license is required shall revoke that
17 person's driver's license and may not, except as provided in (e) of
18 this section, grant limited license privileges for the following
19 periods:

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

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

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

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

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

29 (B) under a law or ordinance in another jurisdiction

1 with elements substantially similar to an offense described in
2 (a)(5) or (8) of this section;

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

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

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

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

13 (d) A court convicting a person of an offense described in
14 (a)(9) of this section shall revoke that person's driver's license for
15 not less than the minimum period under AS 28.15.291(c).

16 (e) A court revoking a driver's license under (c)(1) of this
17 section, or sustaining the action of the department under AS 28.15.-
18 165(c), may grant limited license privileges for the final 60 days
19 during which the license is revoked if the

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

23 (2) court determines that the person's ability to earn a
24 livelihood would be severely impaired; and

25 (3) court determines that a limitation under AS 28.15.201
26 can be placed on the license that will enable the person to earn a
27 livelihood without excessive danger to the public.

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

29 (1) require the surrender of the driver's license [AND, IF

1 THE PERSON IS CONVICTED OF AN OFFENSE UNDER AS 28.15.181(a)(5), REVOKE
2 THAT PERSON'S LICENSE FOR A PERIOD OF NOT LESS THAN 60 DAYS]; and

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

4 (c) After the termination of a limitation as shown on the certi-
5 ficate issued under (b) of this section, the license of a person on
6 whom a limitation was imposed is revoked until the person receives a
7 new [NO LONGER BOUND BY THE LIMITATION AND MAY APPLY FOR A DUPLICATE]
8 license in accordance with AS 28.20.240 [UNDER AS 28.15.141 OR, IF
9 OTHERWISE ELIGIBLE, FOR A NEW LICENSE IF THE LICENSE WAS REVOKED FOR
10 CONVICTION OF AN OFFENSE UNDER AS 28.15.181(a)(5) AND LIMITED LICENSE
11 PRIVILEGES WERE GRANTED UNDER AS 28.15.181(c)].

12 * Sec. 10. AS 28.15.291 is amended to read:

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

1 person's [HIS] license or privilege to drive shall be revoked, and the
2 person [HE] may not be issued a new license nor may the [HIS] privi-
3 lege to drive be restored for an additional period of not less than
4 one year after the date that the person [HE] would have been entitled
5 to restoration of [HIS] driving privileges.

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

16 * Sec. 11. AS 28.15.291 is amended by adding a new subsection to read:

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