

LEG. FINANCE - BILLS 1985 - 1986 2171

CSSB 69 cont. - SB 75 2171

1 (b) The lieutenant governor, whenever 35 percent of the regis-
2 tered voters residing within an established village petition the
3 lieutenant governor to do so, shall place upon a separate ballot at a
4 special election that question or combination of questions set out in
5 AS 04.11.490, 04.11.496. and [-] 04.11.500 which constitutes the
6 subject of the petition. The lieutenant governor shall conduct the
7 election in the general manner prescribed by the Alaska Election Code
8 (AS 15.05.010 - AS 15.60.020).

9 * Sec. 40. AS 04.11.506(b) is amended to read:

10 (b) If a majority of the voters vote "yes" on a question set out
11 in AS 04.11.496, the following actions, in addition to those pre-
12 scribed in (a) of this section, shall be undertaken before the date
13 the prohibition on importation becomes effective:

14 (1) the board shall notify by registered or certified mail
15 all holders of package store licenses of the prohibition;

16 (2) the municipality or established village shall post
17 notice of the prohibition in the municipality or village.

18 * Sec. 41. AS 04.11.510(a) is amended to read:

19 (a) Unless a legal action relating to the license, applicant or
20 premises to be licensed is pending, the board shall consider [DECIDE]
21 whether to grant or deny an application within 60 [90] days after [OF]
22 receipt of the completed application at the main office of the board.
23 [HOWEVER, THE DECISION MAY NOT BE MADE BEFORE THE 30 DAYS ALLOWED FOR
24 PROTEST UNDER AS 04.11.480 HAVE ELAPSED UNLESS WAIVED BY THE MUNICI-
25 PALITY.]

26 * Sec. 42. AS 04.11.510(b) is amended to read:

27 (b) The board may review an application for the issuance, renew-
28 al, transfer of location, or transfer to another person of a license
29 without affording the applicant notice or hearing, except

1 (1) if an application is denied, the notice of denial shall
2 be furnished the applicant immediately in writing stating the reason
3 for the denial in clear and concise language; the notice of denial
4 shall inform the applicant that the applicant [HE] is entitled to an
5 informal conference with either the director or the board, and that,
6 if not satisfied by the informal conference, the applicant [HE] is
7 then entitled to a formal hearing before the board; if the applicant
8 requests a formal hearing, the board shall adhere to AS 44.62.330 -
9 44.62.630 (Administrative Procedure Act); all interested persons may
10 be heard at the hearing and unless waived by the applicant and the
11 board, the formal hearing shall be held in the area for which the
12 application is requested;

13 (2) the board may, on its own initiative or in response to
14 an objection or protest, hold a hearing to ascertain the reaction of
15 the public or a local governing body to an application if a hearing is
16 not required under (1), (3), or (4) or this subsection;

17 (3) if a petition containing the signatures of 35 percent
18 of the adult residents having a permanent place of abode outside of
19 but within two miles of an incorporated city or an established village
20 is filed with the board, the board shall hold a public hearing on the
21 question of whether the issuance, renewal, or transfer of the license
22 in the city or village would be in the public interest;

23 (4) if a protest to the issuance, renewal, continuation,
24 transfer of location or transfer to another person of a license made
25 by a local governing body is based on a question of law, the board
26 shall hold a public hearing.

27 * Sec. 43. AS 04.11.510(d) is amended to read:

28 (d) The board may not accept an application for the issuance,
29 renewal, or transfer of a license within one year after a local option

1 election, other than an application for a temporary extension of a
2 license under AS 04.11.490(b), 04.11.492(b), 04.11.496(b), or 04.11.-
3 500(b).

4 * Sec. 44. AS 04.11.520 is repealed and reenacted to read:

5 Sec. 04.11.520. PROOF OF NOTICE TO LOCAL GOVERNING BODY. The
6 board may not grant an application for premises within an established
7 village, an incorporated city, an organized borough, or a unified
8 municipality without proof that the local governing body has been
9 given notice of the application under AS 04.11.310.

10 * Sec. 45. AS 04.11.540 is repealed and reenacted to read:

11 Sec. 04.11.540. LICENSE RENEWAL AND TERMINATION. (a) Notwith-
12 standing AS 04.11.600, an application for renewal of a license may be
13 submitted and the authority granted under the license may be exercised
14 until March 31 of the renewal year. The license terminates at 12:00
15 midnight March 31 unless the application for renewal and other re-
16 quired documents have been filed and the required license fees and the
17 penalty fees have been paid by that time. If March 31 falls on a
18 weekend or state holiday, the deadline in this section is extended to
19 the first business day following March 31.

20 (b) A new license may not be issued to the holder of a termi-
21 nated license for the same premises except on proof satisfactory to
22 the board of good cause for the failure to file and pay.

23 * Sec. 46. AS 04.11.550 is amended to read:

24 Sec. 04.11.550. NOTICE OF TERMINATION [EXPIRATION]. On or
25 before February 15, the director shall mail a notice of termination
26 [EXPIRATION] to each licensee who has not either (1) filed an applica-
27 tion to renew the [HIS] license, along with other required documents
28 [ANY APPLICABLE AFFIDAVITS] and all license fees due, or (2) notified
29 the director of the licensee's [HIS] intent not to do so. Failure of

1 the director to mail this notice of termination [EXPIRATION] does not
2 prevent the license from terminating on March 31 if the application
3 and other required documents are not filed, and the fees are not paid
4 [WAIVE THE REQUIREMENT THAT THE APPLICATION FOR RENEWAL BE FILED BY
5 FEBRUARY 28].

6 * Sec. 47. AS 04.11.610(a) is amended to read:

7 (a) Biennial [ANNUAL] license fees, excluding biennial [ANNUAL]
8 wholesale license fees, collected within a municipality shall be
9 refunded semi-annually to the municipality.

10 * Sec. 48. AS 04.11.680(a) is amended to read:

11 (a) Upon application and payment of one-half of the biennial
12 license [ANNUAL] fee, the board may issue a license under this title
13 that [WHICH] will be effective for two [A] continuous six-month per-
14 iods [PERIOD]. Otherwise, all licenses issued under this title other
15 than a retail stock sale license are effective for the two-year period
16 ending January 31 [CALENDAR YEAR ENDING DECEMBER 31], unless a shorter
17 period is prescribed by the board or by law.

18 * Sec. 49. AS 04.11 is amended by adding a new section to read:

19 ARTICLE 10. GENERAL PROVISIONS.

20 Sec. 04.11.900. DEFINITION. In this chapter, "renewal year"
21 means the calendar year in which a license issued under this chapter
22 expires if not timely renewed.

23 * Sec. 50. AS 04.21.080(b)(1) is amended to read:

24 (1) "alcoholic beverage" includes, but is not limited to,
25 whiskey, brandy, rum, gin, wine, ale, porter, beer, and all other
26 spirituous, vinous, malt and other fermented or distilled liquors
27 intended for human consumption and containing not less [MORE] than
28 one-half [ONE] percent alcohol by volume;

29 * Sec. 51. AS 04.21.080(b)(8) is amended to read:

1 (8) "established village" means [(A)] an unincorporated
2 community [THAT IS IN THE UNORGANIZED BOROUGH AND] that

3 (A) has 25 or more permanent residents; [OR]

4 (B) is within a circle, with a five-mile radius,
5 around a United States post office or, if there is no United
6 States post office, around another site centrally located in the
7 community and reasonably designated by the local governing body;
8 and

9 (C) if it [(B) AN UNINCORPORATED COMMUNITY THAT] is in
10 an organized borough, [HAS 25 OR MORE PERMANENT RESIDENTS, AND]

11 (i) is on a road system and is located more than
12 50 miles outside the boundary limits of a unified municipal-
13 ity, or

14 (ii) is not on a road system and is located more
15 than 15 miles outside the boundary limits of a unified
16 municipality;

17 * Sec. 52. AS 44.66.010(a)(1) is amended to read:

18 (1) Alcoholic Beverage Control Board (AS 04.06.010) --
19 June 30, 1990 [1986];

20 * Sec. 53. Notwithstanding the provisions of AS 04.06.020 as amended by
21 sec. 1 of this Act, the members of the Alcoholic Beverage Control Board on
22 the effective date of this section remain on the board until their terms
23 expire or the positions otherwise become vacant.

24 * Sec. 54. TRANSITIONAL PROVISIONS. (a) The authority granted under
25 licenses due to expire on December 31, 1986 is extended until January 31,
26 1987, to permit renewal of the licenses in accordance with this Act.

27 (b) Approximately one-half of the applicants for renewal in 1987, as
28 determined by the director of the Alcoholic Beverage Control Board, shall
29 be eligible for a one-year license. These licenses expire, unless renewed,

1 on January 31, 1988, and may be renewed biennially in even-numbered years
2 after that. The 1987 renewal fee for these licenses is $13/24$ of the bien-
3 nial license fee, rounded to the nearest dollar.

4 (c) The remaining approximately one-half of the 1987 renewal appli-
5 cants, as determined by the director, shall be eligible for a two-year
6 license. These licenses expire, unless renewed, on January 31, 1989, and
7 may be renewed biennially in odd-numbered years after that. The 1987
8 renewal fee for these licenses is the biennial license fee plus $1/24$ of the
9 biennial license fee, rounded to the nearest dollar.

10 (d) The director shall notify each licensee in writing as to whether
11 the licensee shall apply for renewal under (b) or (c) of this section, and
12 of the actual amount of the 1987 renewal fee. The notice must be given not
13 later than December 1, 1986. However, failure of the director to provide
14 the notice required in this subsection does not prevent a license from
15 terminating on March 31, 1987, in accordance with AS 04.11.540, as amended
16 in sec. 45 of this Act, if the renewal application is not filed on or
17 before that date.

18 * Sec. 55. The Alcoholic Beverage Control Board may adopt regulations,
19 under AS 04.06.100 and other relevant statutes to implement the changes
20 made by this Act. The regulations take effect in accordance with the
21 Administrative Procedure Act (AS 44.62), but not before the effective date
22 of the provisions of this Act that they implement.

23 * Sec. 56. Sections 1, 16, 28, 35 - 40, 43, 50 - 53, and 55 of this Act
24 take effect immediately in accordance with AS 01.10.070(c).

25 * Sec. 57. Section 54 of this Act takes effect November 1, 1986.

26 * Sec. 58. Sections 2 - 15, 17 - 27, 29 - 34, 41, 42, and 44 - 49 of
27 this Act take effect December 31, 1986.

Offered: 4/1/86
Referred: Judiciary and
Finance

Original sponsor: Rules/Governor

1 IN THE SENATE
2 HOUSE CS FOR CS FOR SENATE BILL NO. 69 (C&RA)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act relating to licensing and regulation of the
7 sale and distribution of alcoholic beverages; and
8 providing for an effective date."
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
10 * Section 1. AS 04.11.240(b) is amended to read:
11 (b) An application for a special events permit [MUST BE RECEIVED
12 IN THE MAIN OFFICE OF THE BOARD AT LEAST 10 DAYS BEFORE THE DATE FOR
13 WHICH THE PERMIT IS REQUESTED. THE APPLICATION] must be signed by
14 both the president and secretary of the organization applying for the
15 permit. A sworn affidavit showing the length of time the organization
16 has been in existence must accompany the application, together with a
17 certified copy of the resolution of the board of directors authorizing
18 the application. The written approval of the law enforcement agency
19 having jurisdiction over the designated premises of the occasion for
20 which the permit is sought must also be obtained and accompany the
21 application.
22 * Sec. 2. AS 04.11.330(a)(3) is amended to read:
23 (3) the applicant has not operated the licensed premises
24 for at least 60 [30] eight-hour days during the immediately preceding
25 calendar year, unless the board determines that the licensed premises
26 are under construction or cannot reasonably be operated through no
27 fault of the applicant;
28 * Sec. 3. AS 04.11.330(a) is amended by adding a new paragraph to read:
29 (10) the application contains false statements of material

1 fact.

2 * Sec. 4. AS 04.11.490(c) is amended to read:

3 (c) If a majority of the voters vote "no" on the question set
4 out in (a) of this section or vote "yes" on a question set out in
5 AS 04.11.492 or 04.11.500 in an election conducted in accordance with
6 AS 04.11.502 after an election in which the voters voted "yes" on the
7 question set out in (a) of this section, the board shall be notified
8 immediately after certification of the results of the election.
9 Thereafter, the prohibitions imposed under (b) of this section on the
10 issuance, renewal, or transfer of licenses between holders and lo-
11 cation as a result of the earlier election are removed except insofar
12 as those prohibitions are imposed in accordance with the results of
13 the subsequent election and under AS 04.11.504(b) and AS 04.11.510(d).

14 * Sec. 5. AS 04.11.492(c) is amended to read:

15 (c) If a majority of the voters vote "no" on the question set
16 out in (a) of this section or vote "yes" on a question set out in
17 AS 04.11.490, 04.11.496, or 04.11.500 in an election conducted in
18 accordance with AS 04.11.502 after an election in which the voters
19 voted "yes" on the question set out in (a) of this section, the board
20 shall be notified immediately after a certification of the results of
21 the election. The prohibitions imposed under (b) of this section on
22 the issuance, renewal, or transfer of licenses between holders and
23 locations as a result of the earlier election are removed 90 days
24 after the results of the election are certified except insofar as
25 those prohibitions are imposed in accordance with the results of the
26 subsequent election and under AS 04.11.504(b) and AS 04.11.510(d).

27 * Sec. 6. AS 04.11.496(c) is amended to read:

28 (c) If a majority of the voters vote "no" on the question set
29 out in (a) of this section or vote "yes" on the questions set out in

1 AS 04.11.492 or 04.11.500 in an election conducted in accordance with
2 AS 04.11.502 after an election in which the voters voted "yes" on the
3 question set out in (a) of this section, the prohibition on the impor-
4 tation of alcoholic beverages and the prohibition on the issuance,
5 renewal, or transfers of licenses between holders and locations,
6 imposed as a result of the earlier election in which the voters voted
7 "yes" on the question set out in (a) of this section are removed
8 effective on the first day of the month following certification of the
9 results of the election except as those prohibitions continue to be
10 imposed in accordance with the results of the subsequent election and
11 under AS 04.11.504(b) and AS 04.11.510(d).

12 * Sec. 7. AS 04.11.500(c) is amended to read:

13 (c) If the majority of the voters vote "no" on the question set
14 out in (a) of this section or vote "yes" on the questions set out in
15 AS 04.11.490, 04.11.492, or 04.11.496 [, OR THIS SECTION IF DIFFERENT
16 TYPES OF LICENSES ARE LISTED ON THE BALLOT] in an election conducted
17 in accordance with AS 04.11.502 after an election in which the voters
18 voted "yes" on the question set out in (a) of this section, the board
19 shall be notified immediately after certification of the results of
20 the election. Licenses in effect in the municipality and [,] in the
21 unincorporated area outside of but within five miles of the boundaries
22 of the municipality or established village which were excepted from
23 the prohibition on sale in accordance with the results of the earlier
24 election are void 90 days after the results of the election are cer-
25 tified. Thereafter the board may not issue, renew, or transfer be-
26 tween holders or locations a license for licensed premises located
27 within the boundaries of the municipality, [OR] within the perimeter
28 of an established village, or in an unincorporated area within five
29 miles of the boundaries of the municipality, except a license which

1 may be issued to a municipality or to one of the types licenses
2 listed on the ballot as a result of a majority of the voters voting
3 "yes" on the question set out in AS 04.11.492 or this section, respec-
4 tively. A license which will expire during the 90 days after the
5 results of a local option election under this section are certified
6 may be extended, until it is void under this subsection, by payment of
7 a prorated portion of the annual license fee.

8 * Sec. 8. AS 04.11.502(b) is amended to read:

9 (b) The lieutenant governor, whenever 35 percent of the regis-
10 tered voters residing within an established village petition the
11 lieutenant governor to do so, shall place upon a separate ballot at a
12 special election that question or combination of questions set out in
13 AS 04.11.490, 04.11.496, and [-] 04.11.500 which constitutes the
14 subject of the petition. The lieutenant governor shall conduct the
15 election in the general manner prescribed by the Alaska Election Code
16 (AS 15.05.010 - AS 15.0.020).

17 * Sec. 9. AS 04.11.506(b) is amended to read:

18 (b) If a majority of the voters vote "yes" on a question set out
19 in AS 04.11.496, the following actions, in addition to those pre-
20 scribed in (a) of this section, shall be undertaken before the date
21 the prohibition on importation becomes effective:

22 (1) the board shall notify by registered or certified mail
23 all holders of package store licenses of the prohibition;

24 (2) the municipality or established village shall post
25 notice of the prohibition in the municipality or village.

26 * Sec. 10. AS 04.11.510(d) is amended to read:

27 (d) The board may not accept an application for the issuance,
28 renewal, or transfer of a license within one year after a local option
29 election, other than an application for a temporary extension of a

1 license under AS 04.11.490(b), 04.11.492(b), 04.11.496(b), or 04.11.-
2 500(b).

3 * Sec. 11. AS 04.21.080(b)(8) is amended to read:

4 (8) "established village" means [(A)] an unincorporated
5 community [THAT IS IN THE UNORGANIZED BOROUGH AND] that

6 (A) has 25 or more permanent residents; [OR]

7 (B) is within a circle, with a five-mile radius,
8 around a United States post office or, if there is no United
9 States post office, around another site centrally located in the
10 community and reasonably designated by the local governing body;
11 and

12 (C) if it [(B) AN UNINCORPORATED COMMUNITY THAT] is in
13 an organized borough, [HAS 25 OR MORE PERMANENT RESIDENTS, AND]

14 (i) is on a road system and is located more than
15 50 miles outside the boundary limits of a unified municipal-
16 ity, or

17 (ii) is not on a road system and is located more
18 than 15 miles outside the boundary limits of a unified
19 municipality;

20 * Sec. 12. Section 2 of this Act takes effect January 1, 1987.

21 * Sec. 13. Sections 1 and 3 - 11 of this Act take effect immediately in
22 accordance with AS 01.10.070(c).

Offered: 1/29/86
Referred: Rules

Original sponsor: Rules/Governor

1 IN THE SENATE BY THE JUDICIARY COMMITTEE
2 CS FOR SENATE BILL NO. 69 (Judiciary) am
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act relating to licensing and regulation of the
7 sale and distribution of alcoholic beverages; and
8 providing for an effective date."

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

10 * Section 1. AS 04.11.240(b) is amended to read:

11 (b) An application for a special events permit [MUST BE RECEIVED
12 IN THE MAIN OFFICE OF THE BOARD AT LEAST 10 DAYS BEFORE THE DATE FOR
13 WHICH THE PERMIT IS REQUESTED. THE APPLICATION] must be signed by
14 both the president and secretary of the organization applying for the
15 permit. A sworn affidavit showing the length of time the organization
16 has been in existence must accompany the application, together with a
17 certified copy of the resolution of the board of directors authorizing
18 the application. The written approval of the law enforcement agency
19 having jurisdiction over the designated premises of the occasion for
20 which the permit is sought must also be obtained and accompany the
21 application.

22 * Sec. 2. AS 04.11.330(a)(3) is amended to read:

23 (3) the applicant has not operated the licensed premises
24 for at least 45 [30] eight-hour days during the immediately preceding
25 calendar year, unless the board determines that the licensed premises
26 are under construction or cannot be operated through no fault of the
27 applicant;

28 * Sec. 3. AS 04.11.330(a) is amended by adding a new paragraph to read:

29 (10) the application contains false statements of material

1 fact.

2 * Sec. 4. AS 04.11.490(c) is amended to read:

3 (c) If a majority of the voters vote "no" on the question set
4 out in (a) of this section or vote "yes" on a question set out in
5 AS 04.11.492 or 04.11.500 in an election conducted in accordance with
6 AS 04.11.502 after an election in which the voters voted "yes" on the
7 question set out in (a) of this section, the board shall be notified
8 immediately after certification of the results of the election.
9 Thereafter, the prohibitions imposed under (b) of this section on the
10 issuance, renewal, or transfer of licenses between holders and lo-
11 cation as a result of the earlier election are removed except insofar
12 as those prohibitions are imposed in accordance with the results of
13 the subsequent election and under AS 04.11.504(b) and AS 04.11.510(d).

14 * Sec. 5. AS 04.11.492(c) is amended to read:

15 (c) If a majority of the voters vote "no" on the question set
16 out in (a) of this section or vote "yes" on a question set out in
17 AS 04.11.490, 04.11.496, or 04.11.500 in an election conducted in
18 accordance with AS 04.11.502 after an election in which the voters
19 voted "yes" on the question set out in (a) of this section, the board
20 shall be notified immediately after a certification of the results of
21 the election. The prohibitions imposed under (b) of this section on
22 the issuance, renewal, or transfer of licenses between holders and
23 locations as a result of the earlier election are removed 90 days
24 after the results of the election are certified except insofar as
25 those prohibitions are imposed in accordance with the results of the
26 subsequent election and under AS 04.11.504(b) and AS 04.11.510(d).

27 * Sec. 6. AS 04.11.496(c) is amended to read:

28 (c) If a majority of the voters vote "no" on the question set
29 out in (a) of this section or vote "yes" on the questions set out in

1 AS 04.11.492 or 04.11.500 in an election conducted in accordance with
2 AS 04.11.502 after an election in which the voters voted "yes" on the
3 question set out in (a) of this section, the prohibition on the impor-
4 tation of alcoholic beverages and the prohibition on the issuance,
5 renewal, or transfers of licenses between holders and locations,
6 imposed as a result of the earlier election in which the voters voted
7 "yes" on the question set out in (a) of this section are removed
8 effective on the first day of the month following certification of the
9 results of the election except as those prohibitions continue to be
10 imposed in accordance with the results of the subsequent election and
11 under AS 04.11.504(b) and AS 04.11.510(d).

12 * Sec. 7. AS 04.11.500(c) is amended to read:

13 (c) If the majority of the voters vote "no" on the question set
14 out in (a) of this section or vote "yes" on the questions set out in
15 AS 04.11.490, 04.11.492, or 04.11.496 [, OR THIS SECTION IF DIFFERENT
16 TYPES OF LICENSES ARE LISTED ON THE BALLOT] in an election conducted
17 in accordance with AS 04.11.502 after an election in which the voters
18 voted "yes" on the question set out in (a) of this section, the board
19 shall be notified immediately after certification of the results of
20 the election. Licenses in effect in the municipality and [,] in the
21 unincorporated area outside of but within five miles of the boundaries
22 of the municipality or established village which were excepted from
23 the prohibition on sale in accordance with the results of the earlier
24 election are void 90 days after the results of the election are cer-
25 tified. Thereafter the board may not issue, renew, or transfer be-
26 tween holders or locations a license for licensed premises located
27 within the boundaries of the municipality, [OR] within the perimeter
28 of an established village, or in an unincorporated area within five
29 miles of the boundaries of the municipality, except a license which

1 may be issued to a municipality or to one of the types of licenses
2 listed on the ballot as a result of a majority of the voters voting
3 "yes" on the question set out in AS 04.11.492 or this section, respec-
4 tively. A license which will expire during the 90 days after the
5 results of a local option election under this section are certified
6 may be extended, until it is void under this subsection, by payment of
7 a prorated portion of the annual license fee.

8 * Sec. 8. AS 04.11.502(b) is amended to read:

9 (b) The lieutenant governor, whenever 35 percent of the regis-
10 tered voters residing within an established village petition the
11 lieutenant governor to do so, shall place upon a separate ballot at a
12 special election that question or combination of questions set out in
13 AS 04.11.490, 04.11.496, and [-] 04.11.500 which constitutes the
14 subject of the petition. The lieutenant governor shall conduct the
15 election in the general manner prescribed by the Alaska Election Code
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19 in AS 04.11.496, the following actions, in addition to those pre-
20 scribed in (a) of this section, shall be undertaken before the date
21 the prohibition on importation becomes effective:

22 (1) the board shall notify by registered or certified mail
23 all holders of package store licenses of the prohibition;

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25 notice of the prohibition in the municipality or village.

26 * Sec. 10. AS 04.11.510(d) is amended to read:

27 (d) The board may not accept an application for the issuance,
28 renewal, or transfer of a license within one year after a local option
29 election, other than an application for a temporary extension of a

1 license under AS 04.11.490(b), 04.11.492(b), 04.11.496(b), or 04.11.-
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4 (8) "established village" means [(A)] an unincorporated
5 community [THAT IS IN THE UNORGANIZED BOROUGH AND] that

6 (A) has 25 or more permanent residents; [OR]

7 (B) is within a circle, with a five-mile radius,
8 around a United States post office or, if there is no United
9 States post office, around another site reasonably designated by
10 the local governing body or, if there is no local governing body,
11 by the board; and

12 (C) if it [(B) AN UNINCORPORATED COMMUNITY THAT] is in
13 an organized borough, [HAS 25 OR MORE PERMANENT RESIDENTS, AND]

14 (i) is on a road system and is located more than
15 50 miles outside the boundary limits of a unified municipal-
16 ity, or

17 (ii) is not on a road system and is located more
18 than 15 miles outside the boundary limits of a unified
19 municipality;

20 * Sec. 12. Section 2 of this Act takes effect January 1, 1987.

21 * Sec. 13. Sections 1 and 3 - 11 of this Act take effect immediately in
22 accordance with AS 01.10.070(c).

Introduced: 1/21/85
Referred: Community and Regional
Affairs and Judiciary

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2

SENATE BILL NO. 69

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to licensing and regulation of the
7 sale and distribution of alcoholic beverages; and
8 providing for an effective date."

9

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

10

* Section 1. AS 04.11.240(b) is amended to read:

11

(b) An application for a special events permit [MUST BE RECEIVED

12

IN THE MAIN OFFICE OF THE BOARD AT LEAST 10 DAYS BEFORE THE DATE FOR

13

WHICH THE PERMIT IS REQUESTED. THE APPLICATION] must be signed by

14

both the president and secretary of the organization applying for the

15

permit. A sworn affidavit showing the length of time the organization

16

has been in existence must accompany the application, together with a

17

certified copy of the resolution of the board of directors authorizing

18

the application. The written approval of the law enforcement agency

19

having jurisdiction over the designated premises of the occasion for

20

which the permit is sought must also be obtained and accompany the

21

application.

22

* Sec. 2. AS 04.11.330(a)(3) is amended to read:

23

(3) the applicant has not operated the licensed premises

24

for at least 90 [30] eight-hour days during the immediately preceding

25

calendar year, unless the board determines that the licensed premises

26

are under construction or cannot be operated through no fault of the

27

applicant;

28

* Sec. 3. AS 04.11.330(a) is amended by adding a new paragraph to read:

29

(10) the application contains false statements of material

1 fact.

2 * Sec. 4. AS 04.11.490(c) is amended to read:

3 (c) If a majority of the voters vote "no" on the question set
4 out in (a) of this section or vote "yes" on a question set out in
5 AS 04.11.492 or 04.11.500 in an election conducted in accordance with
6 AS 04.11.502 after an election in which the voters voted "yes" on the
7 question set out in (a) of this section, the board shall be notified
8 immediately after certification of the results of the election.
9 Thereafter, the prohibitions imposed under (b) of this section on the
10 issuance, renewal, or transfer of licenses between holders and lo-
11 cation as a result of the earlier election are removed except insofar
12 as those prohibitions are imposed in accordance with the results of
13 the subsequent election and under AS 04.11.504(b) and AS 04.11.510(d).

14 * Sec. 5. AS 04.11.492(c) is amended to read:

15 (c) If a majority of the voters vote "no" on the question set
16 out in (a) of this section or vote "yes" on a question set out in
17 AS 04.11.490, 04.11.496, or 04.11.500 in an election conducted in
18 accordance with AS 04.11.502 after an election in which the voters
19 voted "yes" on the question set out in (a) of this section, the board
20 shall be notified immediately after a certification of the results of
21 th election. The prohibitions imposed under (b) of this section on
22 the issuance, renewal, or transfer of licenses between holders and
23 locations as a result of the earlier election are removed 90 days
24 after the results of the election are certified except insofar as
25 those prohibitions are imposed in accordance with the results of the
26 subsequent election and under AS 04.11.504(b) and AS 04.11.510(d).

27 * Sec. 6. AS 04.11.496(c) is amended to read:

28 (c) If a majority of the voters vote "no" on the question set
29 out in (a) of this section or vote "yes" on the questions set out in

1 AS 04.11.492 or 04.11.500 in an election conducted in accordance with
2 AS 04.11.502 after an election in which the voters voted "yes" on the
3 question set out in (a) of this section, the prohibition on the impor-
4 tation of alcoholic beverages and the prohibition on the issuance,
5 renewal, or transfers of licenses between holders and locations,
6 imposed as a result of the earlier election in which the voters voted
7 "yes" on the question set out in (a) of this section are removed
8 effective on the first day of the month following certification of the
9 results of the election except as those prohibitions continue to be
10 imposed in accordance with the results of the subsequent election and
11 under AS 04.11.504(b) and AS 04.11.510(d).

12 * Sec. 7. AS 04.11.500(c) is amended to read:

13 (c) If the majority of the voters vote "no" on the question set
14 out in (a) of this section or vote "yes" on the questions set out in
15 AS 04.11.490, 04.11.492, or 04.11.496[, OR THIS SECTION IF DIFFERENT
16 TYPES OF LICENSES ARE LISTED ON THE BALLOT] in an election conducted
17 in accordance with AS 04.11.502 after an election in which the voters
18 voted "yes" on the question set out in (a) of this section, the board
19 shall be notified immediately after certification of the results of
20 the election. Licenses in effect in the municipality and [,] in the
21 unincorporated area outside of but within five miles of the boundaries
22 of the municipality or established village which were excepted from
23 the prohibition on sale in accordance with the results of the earlier
24 election are void 90 days after the results of the election are cer-
25 tified. Thereafter the board may not issue, renew, or transfer be-
26 tween holders or locations a license for licensed premises located
27 within the boundaries of the municipality, [OR] within the perimeter
28 of an established village, or in an unincorporated area within five
29 miles of the boundaries of the municipality, except a license which

1 may be issued to a municipality or to one of the types of licenses
2 listed on the ballot as a result of a majority of the voters voting
3 "yes" on the question set out in AS 04.11.492 or this section, respec-
4 tively. A license which will expire during the 90 days after the
5 results of a local option election under this section are certified
6 may be extended, until it is void under this subsection, by payment of
7 a prorated portion of the annual license fee.

8 * Sec. 8. AS 04.11.502(b) is amended to read:

9 (b) The lieutenant governor, whenever 35 percent of the regis-
10 tered voters residing within an established village petition the
11 lieutenant governor to do so, shall place upon a separate ballot at a
12 special election that question or combination of questions set out in
13 AS 04.11.490, 04.11.496, and [--] 04.11.500 which constitutes the
14 subject of the petition. The lieutenant governor shall conduct the
15 election in the general manner prescribed by the Alaska Election Code
16 (AS 15.05.010 -- AS 15.60.020).

17 * Sec. 9. AS 04.11.506(b)(1) is amended to read:

18 (1) the board shall notify by registered or certified mail
19 all holders of package store licenses of the prohibition;

20 * Sec. 10. AS 04.11.510(d) is amended to read:

21 (d) The board may not accept an application for the issuance,
22 renewal, or transfer of a license within one year after a local option
23 election, other than an application for a temporary extension of a
24 license under AS 04.11.490(b), 04.11.492(b), 04.11.496(b), or 04.11.-
25 500(b).

26 * Sec. 11. AS 04.16.030(3) is amended to read:

27 (3) allow a drunken person to enter or [AND] remain within
28 licensed premises or to consume an alcoholic beverage within licensed
29 premises;

1 * Sec. 12. AS 04.21.080(b)(8) is amended to read:

2 (8) "established village" means [(A)] an unincorporated
3 community [" IS IN THE UNORGANIZED BOROUGH AND] that

4 (A) has 25 or more permanent residents; [OR]

5 (B) is within a circle, with a five-mile radius,
6 around a United States post office or, if there is no United
7 States post office, around another site reasonably designated by
8 the local governing body or, if there is no local governing body,
9 by the board; and

10 (C) if it [(B) AN UNINCORPORATED COMMUNITY THAT] is in
11 an organized borough, [HAS 25 OR MORE PERMANENT RESIDENTS, AND]

12 (i) is on a road system and is located more than
13 50 miles outside the boundary limits of a unified municipal-
14 ity, or

15 (ii) is not on a road system and is located more
16 than 15 miles outside the boundary limits of a unified
17 municipality;

18 * Sec. 13. Section 2 of this Act takes effect January 1, 1986.

19 * Sec. 14. Sections 1 and 3 -- 12 of this Act take effect immediately
20 in accordance with AS 01.10.070(c).

COMMITTEE REPORT SENATE

FURTHER:

Date 12/13/76

Mr. President

The Committee on FINANCE considered SB 76
driving while intoxicated.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 76 (2)
- new title " "
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation - SFC
< 68.8 > H&SS
68.8 Pub Safety
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

[Signature]

[Signature]

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS

Chairman _____

Chairman recommendation _____

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 4/4/85

REQUEST

Bill/Resolution No.: CSSB 74 (Jud)
 Title: An Act relating to driving while intoxicated
 Sponsor: Abood
 Requestor: Senate Finance Committee
 Date of Request: April 4, 1985

FISCAL DETAIL

Public Safety
 Agency Affected: Health and Social Services
 Program Category Affected: State Health Services and Administration of Justice
 BRU, Program or Subprogram(s) Affected: Alaska State Troopers/State Health Services, Laboratories

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-				

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND		-0-				
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

The legislation transfers responsibility for the blood/breath alcohol program from DHSS to Public Safety. DHSS currently has 1 full time position at a cost of 68.8 (47.2 personal services, 2.5 travel, 14.3 contractual, 4.8 commodities) which will be transferred to Public Safety. The net result is zero.

Prepared By: Jan Faiks, Co-Chairman
 Division: Senate Finance Committee

Phone: 465-4523
 Date: April 4, 1985

Approved by Commissioner: _____
 Agency: _____

Date: April 4, 1985

Distribution (by Agency preparing fiscal note):

Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CS SB 74
Title: Driving while Intoxicated

Sponsor: Judiciary
Requestor: _____
Date of Request: 3/21/85

FISCAL DETAIL

Agency Affected: Health & Social Services
Program Category Affected: Public Health

BRU, Program or Subprogram(s) Affected: _____
State Health Services, Laboratories

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		<47.2>				
200 TRAVEL		<2.5>				
300 CONTRACTUAL		<14.3>				
400 SUPPLIES		<4.8>				
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		<68.8>				

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND		<68.8>				
FEDERAL FUNDS						
OTHER						
TOTAL		<68.8>				

POSITIONS:

FULL-TIME		<1.0>				
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

In FY 77 and 78 attempts were made to fund a support position in the Section Chiefs office; however, the requests were never approved. The Section of Laboratories obtained some General Fund monies mid-year in FY 77 to fund an Administrative Assistant. However, only a small amount of the time was devoted to the blood/breath alcohol program, the major portion of time being spent on budgetary, fiscal (Cont.)

Prepared By: Robert I. Fraser, M.D. ^{RI/ED}
Division: Public Health

Phone: 465-3090
Date: March 28, 1985

Approved by Commissioner: J.R.G.
Agency: Dept. of Health & Social Services

Date: 4-1-85 *JCC*

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

FISCAL NOTE

CS SB 74 (Continued)

and purchasing of laboratory supplies. As this position was not funded for DWI activities, it is not appropriate to transfer any portion.

The Chemist III position located at the Southeast Regional Public Health laboratory has for the last year been used primarily for DWI related activities. Although the majority of the chemist's time has been devoted to supporting the DWI program, plans are well underway to expand the laboratory capability as the DWI activities taper down. Should the Public Health Laboratories lose the Chemist position, there will be no one on our staff to operate and maintain scientific equipment purchased for the purpose of assessing and monitoring compounds that may have significant impact on the public's health. We have been expanding our testing capabilities for analysis of pesticides in food and water. Chlorinated hydrocarbon analysis would monitor the impact upon individual health as well as community health during episodes of acute contamination resulting from accidental spills. Example: transformer contamination in the community of Kake that occurred several years back, samples could not be analyzed in state. The Section of Laboratories also uses Chemist positions in a consulting capacity to medical laboratories engaged in clinical chemistry. Chemists are also used to speciate anaerobic bacteria using fatty acid analysis techniques. Significant improvements in identification of other microorganisms are also in the initial planning stages. Public Health Laboratory operations could support the Department of Labor by developing testing activities related to contaminants in the work place. A recent example of the need for additional support activity in this area was in monitoring ethylene oxide levels in medical laboratories. Our Public Health Laboratory also has a need to monitor heavy metal contamination found in drinking water, as well as monitoring these contaminants in our food chain.

It should be noted, the removal of the Chemist III position eliminates any ability for our laboratory system to perform any Public Health Toxicology activities.

This reduction includes a Chemist III and supporting funding. The original amount was authorized in CH 139 SLA 82 p. 11, ln. 8, and has been adjusted to reflect the Legislature's annual appropriation. This includes personal services funding at 3.1% V&T, a travel reduction of 21.8%, contractual services increase of 2.1% and commodities reduction of 3.2%.

We expect equipment transfers to be minimal. Very little line 500 equipment was purchased specifically for the DWI program. For example, a gas chromatograph used from time to time in the DWI area is a device intended for use primarily in the general microbiology area and would not be transferred with other equipment obtained for DWI work.

POSITION PAPER

CS FOR SENATE BILL NO. 74 (Judiciary)

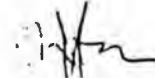
For "An act relating to driving while intoxicated; and providing for an effective date."

Under the existing statute, the Department of Health and Social Services is authorized to approve satisfactory techniques, methods, and standards of training necessary to ascertain the qualifications of individual's to conduct the analysis of the amount of alcohol in an individuals breath or blood.

This bill in part provides for the transfer of this overview function from the Department of Health and Social Services to the Department of Public Safety.

The Department of Health and Social Services supports the passage of this bill.

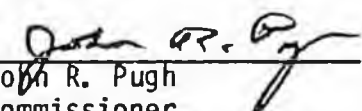
Recommended by:


Robert I. Fraser, M.D.
Director
Division of Public Health

Date:

3/28/85

Approved by:


John R. Pugh
Commissioner
Department of Health and
Social Services

Date:

4-1-85

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSSB 74 (Jud)
 Title: "An Act relating to driving while intoxicated....."
 Sponsor: Sen. Abood
 Requestor: Sen. Finance Committee
 Date of Request: 4-3-85

FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Administration of Justice
 BRU, Program or Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		47.2	50.0	53.0	56.2	59.6
200 TRAVEL		2.5	2.7	2.9	3.1	3.3
300 CONTRACTUAL		14.3	15.2	16.1	17.1	18.1
400 SUPPLIES		4.8	5.1	5.4	5.7	6.0
500 EQUIPMENT						
500 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		68.8	73.0	77.4	82.1	87.0

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND		68.8	73.0	77.4	82.1	87.0
FEDERAL FUNDS						
OTHER						
TOTAL		68.8	73.0	77.4	82.1	87.0

POSITIONS:

FULL-TIME		1.0	1.0	1.0	1.0	1.0
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

This fiscal note reflects the transfer of the breath test program from the Department of Health & Social Services to the Department of Public Safety. 6% inflation factor included in fiscal note.

Prepared By: James D. Vaden Phone: 465-4322
 Division: Deputy Commissioner Date: 4-3-85

Approved by Commissioner: James D. Vaden Date: 4-3-85
 Agency: Public Safety

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

DEPARTMENT OF PUBLIC SAFETY
POSITION PAPER - CSSB 74 (JUD)

Support

CSSB74(JUD) - "An Act relating to driving while intoxicated; and providing for an effective date."

The Department of Public Safety supports passage of this bill. It is needed to provide and support a unified cohesive breath test program in Alaska.

Analysis

Several problems have plagued the breath test program since its inception in 1964.

The majority of the problems relate to the administration of the program and the priority level assigned to resolve the problem.

At present, The Department of Public Safety provides the instruments and training to both Troopers and local Police Departments. Health and Social Services provides program administration, instrument certification and officer certification.

However, as with the training, most instruments are certified by police officers trained as technicians.

When problems occur, the agencies charged with operation are not always advised. This is also true of the Department of Law. If everyone was current, possibly appeals and adverse decisions by the Court could be avoided through a change in procedures, training or expert forensic testimony.

The Attorney General and Commissioners of Health & Social Services and Public Safety met and agreed this program could best be administered by Public Safety.

Public Safety has moved the administration of the Alaska Crime Laboratory from the Division of State Troopers to the Commissioner's office.

A director of the Crime Laboratory, Mr. George Taft, has been appointed. Mr. Taft was in charge of the Texas Department of Public Safety Crime Laboratory for years and has the expertise and resources to administer this program.

The one Chemist III assigned to this program at H&SS has numerous other responsibilities. (See analysis H&SS CSSB 74).

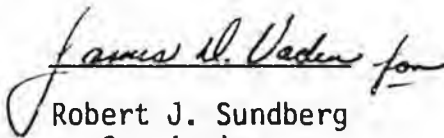
The State Crime Laboratory has other chemists that can assist and be consulted with to resolve problems. Other chemists in the State Crime Laboratory will be available to provide expert forensic testimony when the primary chemist is not available.

Most importantly, there will be a one window concept for maintenance, training, certification and procedures that comply with the court's requirements for introduction of intoximeter results into evidence.

The Department of Public Safety and the Department of Law have an excellent line of communications which will keep both agencies and users current in regard to operational changes or training needs.

The relationship between local police and Troopers will insure that instruments which are not currently certified will not be used and that training will be delivered as needed.

This program will be a priority of the Department of Public Safety.


Robert J. Sundberg
Commissioner

Offered: 3/20/85
Referred: Finance

Original sponsor: Abood

1 IN THE SENATE BY THE JUDICIARY COMMITTEE
2 CS FOR SENATE BILL NO. 74 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to driving while intoxicated; and
7 providing for an effective date."

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

9 * Section 1. AS 28.35.033(d) is amended to read:

10 (d) To be considered valid under the provisions of this section
11 the chemical analysis of the person's breath or blood shall have been
12 performed according to methods approved by the Department of Public
13 Safety [HEALTH AND SOCIAL SERVICES]. The Department of Public Safety
14 [HEALTH AND SOCIAL SERVICES] is authorized to approve satisfactory
15 techniques, methods, and standards of training necessary to ascertain
16 the qualifications of individuals to conduct the analysis. If it is
17 established at trial that a chemical analysis of breath or blood was
18 performed according to approved methods by a person trained according
19 to techniques, methods and standards of training approved by the
20 Department of Public Safety [HEALTH AND SOCIAL SERVICES], there is a
21 presumption that the test results are valid and further foundation for
22 introduction of the evidence is unnecessary.

23 * Sec. 2. AS 28.35.035(b) is amended to read:

24 (b) A person who is unconscious, injured, or otherwise in a
25 condition rendering that person incapable of providing a breath sample
26 [REFUSAL] is considered not to have withdrawn the consent provided
27 under AS 28.35.031(a) and a chemical test may be administered to
28 determine the amount of alcohol in that person's breath or blood. A
29 person who is unconscious, injured, or otherwise incapable of

1 providing a breath sample [REFUSAL] need not be placed under arrest
2 before a chemical test may be administered.

3 * Sec. 3. TRANSITION. Regulations adopted by the Department of Health
4 and Social Services under authority of AS 28.35.033(d) remain in effect
5 until revoked or ~~repealed~~ by the Department of Public Safety.

6 * Sec. 4. This Act takes effect July 1, 1985.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSSB 74(JUD)AM
 Title: "An Act relating to driving while intoxicated..."
 Sponsor: Sen. Abood
 Requestor: House State Affairs
 Date of Request: 4-16-85

FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Administration of Justice
 BRU, Program or Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		47.2	50.0	53.0	56.2	59.6
200 TRAVEL		2.5	2.7	2.9	3.1	3.3
300 CONTRACTUAL		14.3	15.2	16.1	17.1	18.1
400 SUPPLIES		4.8	5.1	5.4	5.7	6.0
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		68.8	73.0	77.4	82.1	87.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		68.8	73.3	77.4	82.1	87.0
FEDERAL FUNDS						
OTHER						
TOTAL		68.8	73.3	77.4	82.1	87.0

POSITIONS:

FULL-TIME		1.0	1.0	1.0	1.0	1.0
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

This fiscal note reflects the transfer of the breath test program from the Department of Health & Social Services to the Department of Public Safety. 6% inflation factor included in fiscal note.

Prepared By: James D. Vaden Phone: 465-4322
 Division: Deputy Commissioner Date: 4-16-85

Approved by Commissioner: *Robert J. Shery* Date: 4-17-85
 Agency: Public Safety

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Rec'd 4/18/85
after SB 74
RO

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 74
 Title: An Act relating to driving while intoxicated...
 Sponsor: Sen. Abood
 Requestor: Sen. State Affairs
 Date of Request: 2-6-85

FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Administration of Justice
 BRU, Program or Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Paul Conger
 Division: Administrative Services

Phone: 465-4338
 Date: 2-6-85

Approved by Commissioner: [Signature]
 Agency: Public Safety

Date: 2-6-85

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

SECTIONAL ANALYSIS FOR SENATE BILL 74 (Judiciary)

An Act relating to driving while intoxicated

Section 1

This section amends existing law and transfers the responsibility for breath or blood analysis tests in drunk driving arrests from the Department of Health and Social Services to the Department of Public Safety.

Section 2

This section corrects a defect in current law relating to the administering of a chemical test without consent. Currently, an unwilling DWI defendant can avoid conviction for either a DWI or refusal because he or she is injured. This section corrects that problem.

Section 3

During the transfer of responsibility from the Department of Health and Social Services to the Department of Public Safety, regulations of DHSS remain in effect until revoked by DPS.

Section 4

Effective date of July 1, 1985.

FISCAL NOTE

CS SB 74 (Continued)

and purchasing of laboratory supplies. As this position was not funded for DWI activities, it is not appropriate to transfer any portion.

The Chemist III position located at the Southeast Regional Public Health laboratory has for the last year been used primarily for DWI related activities. Although the majority of the chemist's time has been devoted to supporting the DWI program, plans are well underway to expand the laboratory capability as the DWI activities taper down. Should the Public Health Laboratories lose the Chemist position, there will be no one on our staff to operate and maintain scientific equipment purchased for the purpose of assessing and monitoring compounds that may have significant impact on the public's health. We have been expanding our testing capabilities for analysis of pesticides in food and water. Chlorinated hydrocarbon analysis would monitor the impact upon individual health as well as community health during episodes of acute contamination resulting from accidental spills. Example: transformer contamination in the community of Kake that occurred several years back, samples could not be analyzed in state. The Section of Laboratories also uses Chemist positions in a consulting capacity to medical laboratories engaged in clinical chemistry. Chemists are also used to speciate anaerobic bacteria using fatty acid analysis techniques. Significant improvements in identification of other microorganisms are also in the initial planning stages. Public Health Laboratory operations could support the Department of Labor by developing testing activities related to contaminants in the work place. A recent example of the need for additional support activity in this area was in monitoring ethylene oxide levels in medical laboratories. Our Public Health Laboratory also has a need to monitor heavy metal contamination found in drinking water, as well as monitoring these contaminants in our food chain.

It should be noted, the removal of the Chemist III position eliminates any ability for our laboratory system to perform any Public Health Toxicology activities.

This reduction includes a Chemist III and supporting funding. The original amount was authorized in CH 139 SLA 82 p. 11, ln. 8, and has been adjusted to reflect the Legislature's annual appropriation. This includes personal services funding at 3.1% V&T, a travel reduction of 21.8%, contractual services increase of 2.1% and commodities reduction of 3.2%.

We expect equipment transfers to be minimal. Very little line 500 equipment was purchased specifically for the DWI program. For example, a gas chromatograph used from time to time in the DWI area is a device intended for use primarily in the general microbiology area and would not be transferred with other equipment obtained for DWI work.

POSITION PAPER

CS FOR SENATE BILL NO. 74 (Judiciary)

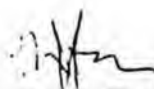
For "An act relating to driving while intoxicated; and providing for an effective date."

Under the existing statute, the Department of Health and Social Services is authorized to approve satisfactory techniques, methods, and standards of training necessary to ascertain the qualifications of individual's to conduct the analysis of the amount of alcohol in an individuals breath or blood.

This bill in part provides for the transfer of this overview function from the Department of Health and Social Services to the Department of Public Safety.

The Department of Health and Social Services supports the passage of this bill.

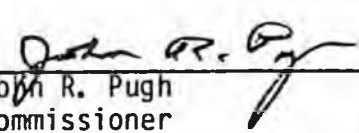
Recommended by: _____


Robert I. Fraser, M.D.
Director
Division of Public Health

Date: _____

3/28/85

Approved by: _____


John R. Pugh
Commissioner
Department of Health and
Social Services

Date: _____

4-1-85

DEPARTMENT OF PUBLIC SAFETY
POSITION PAPER - CSSB 74 (JUD)

Support

CSSB74(JUD) - "An Act relating to driving while intoxicated; and providing for an effective date."

The Department of Public Safety supports passage of this bill. It is needed to provide and support a unified cohesive breath test program in Alaska.

Analysis

Several problems have plagued the breath test program since its inception in 1964.

The majority of the problems relate to the administration of the program and the priority level assigned to resolve the problem.

At present, The Department of Public Safety provides the instruments and training to both Troopers and local Police Departments. Health and Social Services provides program administration, instrument certification and officer certification.

However, as with the training, most instruments are certified by police officers trained as technicians.

When problems occur, the agencies charged with operation are not always advised. This is also true of the Department of Law. If everyone was current, possibly appeals and adverse decisions by the Court could be avoided through a change in procedures, training or expert forensic testimony.

The Attorney General and Commissioners of Health & Social Services and Public Safety met and agreed this program could best be administered by Public Safety.

Public Safety has moved the administration of the Alaska Crime Laboratory from the Division of State Troopers to the Commissioner's office.

A director of the Crime Laboratory, Mr. George Taft, has been appointed. Mr. Taft was in charge of the Texas Department of Public Safety Crime Laboratory for years and has the expertise and resources to administer this program.

The one Chemist III assigned to this program at H&SS has numerous other responsibilities. (See analysis H&SS CSSB 74).

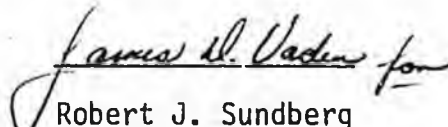
The State Crime Laboratory has other chemists that can assist and be consulted with to resolve problems. Other chemists in the State Crime Laboratory will be available to provide expert forensic testimony when the primary chemist is not available.

Most importantly, there will be a one window concept for maintenance, training, certification and procedures that comply with the court's requirements for introduction of intoximeter results into evidence.

The Department of Public Safety and the Department of Law have an excellent line of communications which will keep both agencies and users current in regard to operational changes or training needs.

The relationship between local police and Troopers will insure that instruments which are not currently certified will not be used and that training will be delivered as needed.

This program will be a priority of the Department of Public Safety.


Robert J. Sundberg
Commissioner

Alaska Association Chiefs of Police



APR 02 1985

DEPT. OF LAW
CRIMINAL DIVISION

March 29, 1985

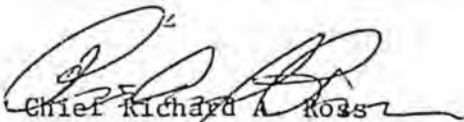
Commissioner Robert Sundberg
Department of Public Safety
Pouch N
Juneau, Alaska 99811

Dear Commissioner Sundberg,

The Alaska Association of Chiefs of Police supports the adoption of the Judiciary Committee substitute for Senate Bill 74. The association strongly supports the placing of the breath testing program under the Department of Public Safety.

It is our understanding that with the adoption of the bill that the program will be operated as part of the State Crime Lab. This will consolidate both the authority and responsibility for the programs operation. This will make enforcement, prosecution, and program administration much more efficient than in the past.

Please keep us advised as to the status of the bill and if further input from the Association would be helpful in obtaining its passage.


Chief Richard A. Ross
Kenai Police Department
President AACOP

RAR/lo

SECTIONAL ANALYSIS FOR SENATE BILL 74 (Judiciary)

An Act relating to driving while intoxicated

Section 1

This section amends existing law and transfers the responsibility for breath or blood analysis tests in drunk driving arrests from the Department of Health and Social Services to the Department of Public Safety.

Section 2

This section corrects a defect in current law relating to the administering of a chemical test without consent. Currently, an unwilling DWI defendant can avoid conviction for either a DWI or refusal because he or she is injured. This section corrects that problem.

Section 3

During the transfer of responsibility from the Department of Health and Social Services to the Department of Public Safety, regulations of DHSS remain in effect until revoked by DPS.

Section 4

Effective date of July 1, 1985.

SCOTT & WESLEY GERRISH
MEMORIAL

M A D D

RECEIVED MAR 25 1985

ANCHORAGE, ALASKA
CHAPTER

MAILING ADDRESS:
711 H Street, Box 108
Anchorage, Alaska 99501

(907) 279-MADD

BUSINESS ADDRESS
733 West 4th Avenue
Anchorage, Alaska 99501

March 21, 1985

Senator Jan Faiks
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

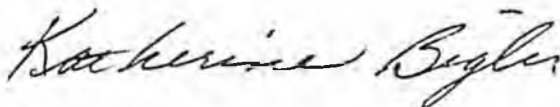
Dear Senator Faiks,

MADD supports the enclosed bills that have been introduced in the legislature this year.

Singly and collectively, these bills will contribute to reducing the incidence of drunken driving. While there has been a reduction in the number of drunk driving fatalities, we have a long way to go.

You may recall that in the decision in the case of State of Alaska vs Erickson, the state Supreme Court commented that alcohol is more dangerous than cocaine. Because of several laws passed by the legislature in recent years, Alaska is establishing itself as a progressive state in matters relating to reducing alcohol abuse. We urge you to continue this fine record by passing these bills.

Sincerely,



Katherine Bigler, President
Anchorage Chapter MADD

MOTHERS
AGAINST
DRUNK
DRIVERS

1985 Legislative Bills
Supported by MADD

House Bill No.3 - Open alcoholic containers in motor vehicles.

House Bill No.55 - Licensed premises.

Senate Bill No.69 - Licensing and regulation of the sale and distribution of alcoholic beverages; and providing for an effective date.

Senate Bill No.73 - Identification of persons arrested for D.W.I.

Senate Bill No.74 - Driving while intoxicated.

Senate Bill No.75 - Suspension of the privilege to obtain a driver's license.

Senate Bill No.76 - Rights of prisoners and amending Rule 5 (b).

Senate Bill No.136 - Increasing the membership of the A.B.C. Board.

Senate Bill No.138 - Pricing and promotion of alcoholic beverages.

MEMORANDUM

State of Alaska

TO: Senator Mitch Abood
Alaska State Senate

DATE: March 23, 1985

See me please
ny

FILE NO:

TELEPHONE NO:

FROM: Gayle Horetski *Gayle*
Assistant Attorney General

SUBJECT: CSSB 74 (Jud)

I am attaching a revised "Commentary" to CSSB 74 (Jud), which you may wish to pass along to the Senate Finance Committee and other committees which will consider the bill. I will be out of town this next week, but can be reached through the Office of Special Prosecutions and Appeals in Anchorage, 279-7424.

You may be interested to know that the Alaska Association of Chiefs of Police considered this bill at its meeting in Anchorage yesterday, and voted overwhelmingly to support the bill. The association secretary will be sending a letter to the legislature expressing that support.

Thanks so much for your interest and support on this important issue. Please call me or DPS Deputy Comm. James Vaden if we can be of any further assistance to you.

RECEIVED
MAR 26 1985

Commentary: CSSB 74 (Jud)

Section 1 of CSSB 74 (Jud) transfers administrative and regulatory authority for the state's alcohol breath testing program from the Department of Health and Social Services (DHSS) to the Department of Public Safety (DPS). This transfer would improve the administration of Alaska's breath testing program by eliminating unnecessary confusion, expense, and duplication of effort, and would help to ensure that the state's breath test program is conducted in the most efficient and legally defensible manner.

Transfer of the breath test program to the DPS was one of the secondary recommendations made by the Governor's Task Force on Drunk Driving in January of this year. In the interests of consolidation of resources and administrative efficiency, both DPS Commissioner Robert Sundberg and DHSS Commissioner John Pugh have recommended that the transfer be made. This change is also supported by the Department of Law.

Under existing law, DHSS possesses regulatory authority for the state's breath test program. Much of the responsibility for the actual administration and day-to-day functioning of the program rests with DPS, however. Historically, DPS has purchased and distributed the breath test instruments, repaired the instruments, purchased and distributed necessary supplies, and conducted the training of breath test operators and supervisor-instructors. This defacto division of functions between the two departments has led to some unfortunate difficulties in the administration of the present program. Since there is no one office or agency with clear administrative oversight authority over the breath test program, some uncertainty about areas of responsibility and lines of authority has developed. Occasionally some necessary duties have "fallen between the cracks." As a direct result of this lack of a centralized oversight authority prosecutors have had to dismiss numerous DWI prosecutions and have had to defend scores of DWI cases on appeal.

Alaska's first "implied consent" statute (requiring all persons suspected of drunken driving to consent to a chemical test to determine blood alcohol content) was adopted in 1969. AS 28.35.033(d) made the Department of Health and Social Services (at that time called the Department of Health and Welfare) responsible for approving "satisfactory techniques, methods, and standards of training" for analysis of the alcohol content of a DWI arrestee's breath sample. This responsibility was given to DHSS at that time because there was no other state agency which had

either the facilities or the technical expertise to perform this function.

In 1978 a state forensic crime laboratory was established in the Department of Public Safety to provide essential scientific support services to local law enforcement officers and state troopers throughout the state. Since that time the state crime laboratory has performed a steadily increasing array of scientific functions and analyses. The laboratory now employs four full time chemists who routinely analyze suspected controlled substances and have testified in numerous criminal trials. In recent years laboratory personnel have begun conducting analyses of diverse crime scene evidence, including physical evidence in arson cases, urine and blood testing, foot print comparisons, and some limited fiber, trace, and serological analyses.

In 1983 and 1984 the legislature appropriated 5½ million dollars to DPS to build and equip a sophisticated new crime laboratory facility in Anchorage. Construction of that facility is underway, and is expected to be complete by September of this year. The new laboratory will provide expanded testing capabilities in the areas of forensic chemistry, serology, toxicology, firearms identification, and trace evidence identification.

In light of this expansion of the public safety laboratory, it makes administrative and public policy sense to transfer the responsibility for administration of Alaska's alcohol breath testing program to the DPS laboratory. Transfer of this function to the DPS laboratory would be consistent with the national trend in DWI law enforcement and breath testing. Currently, over half of the states in the country have placed full administrative responsibility for their alcohol breath test programs with their departments of public safety. Several of these states, such as Texas, Minnesota, New York, New Jersey, and Michigan, have sophisticated programs which serve as models for other states. In only about ¼ of the states does administrative oversight authority for the state breath test program remain in the department of public health.

Section 3 of CSSB 74 (Jud) provides that existing breath test regulations will remain in effect until new regulations are adopted by the Department of Public Safety, and section 4 establishes a special effective date of July 1, 1985. This special effective date has been included because it will be necessary to transfer some resources from DHSS to DPS when the bill takes effect. July 1st is the beginning of the new fiscal year, and a convenient point at which to transfer positions.

Section 2 of the bill addresses a problem which has surfaced as a result of the Court of Appeals decision in Bass v. Municipality of Anchorage, Op. No. 429 (Alaska Ct. App., December 14, 1984). Bass overturned his car in a one-car accident in September of 1983. When the police arrived at the scene of the accident Bass appeared to be extremely intoxicated. Bass had been injured in the accident, and so was immediately taken to a hospital. Because Bass was required to remain at the hospital for several hours, he could not be taken to the police station for a breath test.

After consulting with the municipal prosecutor, the investigating officer asked Bass to provide a sample of his blood for analysis to determine alcohol content. Bass refused, but a blood sample was taken over his objections. The sample was taken under the authority of AS 28.35.-035(b), which allows a blood alcohol test to be administered to a DWI suspect who is "unconscious or otherwise in a condition rendering that person incapable" of refusing a breath test.

The appellate court held that Bass, who was injured and hospitalized but not unconscious, did not fall under the "narrow language" of AS 28.35.035 and therefore suppressed the result of the defendant's blood alcohol test (0.243). The amendment to AS 28.35.035(b) contained in section 2 of this bill would plug this "loophole" and allow collection of essential evidence of the blood alcohol level of a DWI suspect who cannot be transported to the police station for a breath test.

COMMITTEE REPORT
SENATE

FURTHER:

JUDICIARY
FINANCE

1/22/85

Date 2/8/84

Mr. President

The Committee on STATE AFFAIRS considered SB 74
driving while intoxicated.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

do pass

do pass with attached amendment(s)

replace with/or adopt CS for SB 74 (SA)
 new title
 same title and recommends

and attached a "LETTER OF INTENT"

NEW FISCAL NOTE

reports it back without recommendation

recommends referral to _____ Committee

MEMBERS SIGNING
DC PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Edm De Vries
Geo Ray

[Signature]
Chairman
[Signature]
Chairman recommendation

COMMITTEE REPORT
SENATE

FURTHER: FINANCE

2/8/85

Date 3-19-85

Mr. President

The Committee on JUDICIARY considered SB 74
driving while intoxicated.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB74 (Jud)
 new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

Tom Fark
Tom Kelly

MEMBERS HAVING
OTHER RECOMMENDATIONS

3 in, No/Res

Bill Jay
 Chairman
DO PASS
 Chairman recommendation

Introduced: 1/22/85
Referred: State Affairs, Judiciary
and Finance

1 IN THE SENATE

BY ABOOD

2

SENATE BILL NO. 74

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to driving while intoxicated."

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

8 * Section 1. AS 28.35.030(a) is amended to read:

9 (a) A person commits the crime of driving while intoxicated if
10 the person operates or drives a motor vehicle or operates an aircraft
11 or a watercraft

12 (1) while under the influence of intoxicating liquor, or
13 any controlled substance listed in AS 11.71.140 - 11.71.190, or a
14 combination of intoxicating liquor and a controlled substance;

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

21 (3) while the person is under the combined influence of
22 intoxicating liquor and a drug or another substance that acts as a
23 central nervous system depressant, hallucinogen or stimulant; or

24 (4) while the person is under the influence of a drug or
25 another substance that acts as a central nervous system depressant,
26 hallucinogen or stimulant.

27 * Sec. 2. AS 28.35.030(g) is amended by adding a new paragraph to read:

28 (3) "drug" has the meaning given in AS 11.71.900.

29 * Sec. 3. AS 28.35.030 is amended by adding a new subsection to read:

1 (h) A person convicted under this section may not receive credit
2 toward all or part of a mandatory sentence for time spent in a
3 residential alcohol treatment or rehabilitation program.

4 * Sec. 4. AS 28.35.032 is amended by adding a new subsection to read:

5 (k) A person convicted under this section may not receive credit
6 toward all or part of a mandatory sentence for time spent in a
7 residential alcohol treatment or rehabilitation program.

8 * Sec. 5. AS 28.35.035(b) is amended to read:

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

Offered: 2/8/85
Referred: Judiciary and Finance

Original sponsor: Abood

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR SENATE BILL NO. 74 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to driving while intoxicated."

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

8 * Section 1. AS 28.35.030(a) is amended to read:

9 (a) A person commits the crime of driving while intoxicated if
10 the person operates or drives a motor vehicle or operates an aircraft
11 or a watercraft

12 (1) while under the influence of intoxicating liquor, or
13 any controlled substance listed in AS 11.71.140 - 11.71.150, or a
14 combination of intoxicating liquor and a controlled substance;

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

21 (3) while the person is under the combined influence of
22 intoxicating liquor and a drug or another substance that acts as a
23 central nervous system depressant, hallucinogen or stimulant; or

24 (4) while the person is under the influence of a drug or
25 another substance that acts as a central nervous system depressant,
26 hallucinogen or stimulant.

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3 residential alcohol treatment or rehabilitation program.

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7 residential alcohol treatment or rehabilitation program.

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

Offered: 2/22/85
Referred: Judiciary and Finance

Original sponsor: Abood

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR SENATE BILL NO. 75 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to suspension of the privilege to
7 obtain a driver's license."

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

9 * Section 1. AS 22.15.100 is amended to read:

10 Sec. 22.15.100. FUNCTIONS AND POWERS OF DISTRICT JUDGE AND
11 MAGISTRATE. Each district judge and magistrate has the power

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

17 (2) of a notary public;

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

19 (4) to issue warrants of arrest, summons and search war-
20 rants according to manner and procedure prescribed by law and the
21 supreme court;

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

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

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

1 (8) to order the temporary detention of a minor, or take
2 other action authorized by law or rules of procedure, in cases arising
3 under AS 47.10, when the minor is in a condition or surrounding dan-
4 gerous or injurious to the welfare of the minor or others which re-
5 quires immediate action; the action may be continued in effect until
6 reviewed by the superior court in accordance with rules of procedure
7 governing these cases;

8 (9) to issue a temporary order for emergency injunctive
9 relief in cases involving domestic violence as provided in AS 25.35.-
10 020;

11 (10) to review an administrative revocation of a person's
12 driver's license, [OR] nonresident privilege to drive, or privilege to
13 obtain a driver's license, and an administrative refusal to issue an
14 original license, when designated as a hearing officer by the commis-
15 sioner of public safety and with the consent of the administrative
16 director of the state court system.

17 * Sec. 2. AS 28.15.061(b) is amended to read:

18 (b) An application under (a) of this section shall

19 (1) contain the applicant's full name, date and place of
20 birth, sex, and mailing and residence addresses;

21 (2) state whether the applicant has been previously li-
22 censed as a driver and, if so, when and by what jurisdiction;

23 (3) state whether any previous driver's license issued to
24 the applicant has ever been suspended or revoked, [OR] whether an
25 application for a driver's license has ever been refused, or whether
26 the applicant's privilege to obtain a driver's license has ever been
27 revoked by a court or the department or a similar agency in another
28 state and, if so, the date of and reason for the suspension, revoca-
29 tion, or refusal; and

1 (4) contain other information which the department may
2 reasonably require to determine the applicant's identity, competency,
3 and eligibility.

4 * Sec. 3. AS 28.15.165(a) is amended to read:

5 (a) If a chemical test administered under AS 28.35.031(a) to a
6 person driving a motor vehicle for which a driver's license is re-
7 quired produces a result described in AS 28.35.030(a)(2) or if a
8 person under arrest for driving a motor vehicle for which a driver's
9 license is required refuses to submit to a chemical test under AS 28.-
10 35.031(a), a law enforcement officer shall read a notice and deliver a
11 copy to the person. The notice shall advise that

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

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

17 (3) the notice itself is a temporary driver's license, for
18 persons then holding a valid license, that expires seven days after it
19 is delivered to the person;

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

25 * Sec. 4. AS 28.15 is amended by adding a new section to read:

26 Sec. 28.15.176. SUSPENSION OR REVOCATION OF PRIVILEGE TO OBTAIN
27 A LICENSE. (a) A court or the department may suspend or revoke a
28 person's privilege to obtain a driver's license in the same manner and
29 for the same reasons as a driver's license issued under this chapter.

1 (b) If a court or the department is required by statute or
2 regulation to suspend or revoke a person's driver's license, then the
3 privilege to obtain a driver's license shall be suspended or revoked
4 if the person does not have a driver's license.

5 (c) Procedures and references in AS 28 relating to the suspen-
6 sion or revocation of a driver's license are equally applicable to the
7 suspension or revocation of the privilege to obtain a driver's li-
8 cense.

9 * Sec. 5. AS 28.15.291 is amended to read:

10 Sec. 28.15.291. DRIVING WHILE LICENSE OR PRIVILEGE TO OBTAIN A
11 LICENSE CANCELLED, SUSPENDED, REVOKED OR IN VIOLATION OF LIMITATION.

12 (a) A person may not drive a motor vehicle on a highway or vehicular
13 way or area at a time when that person's driver's license, privilege
14 to obtain a driver's license, or privilege to drive has been canceled,
15 suspended or revoked in this or another jurisdiction, or when driving
16 in violation of a limitation placed upon that person's license or
17 privilege to drive in this or another jurisdiction. Except as provid-
18 ed in (c) of this section, upon conviction of a violation of this
19 section, the court shall impose a sentence of imprisonment of not less
20 than 10 days. The execution of sentence may not be suspended nor may
21 probation or parole be granted until the minimum imprisonment provided
22 in this section has been served; nor may imposition of sentence be
23 suspended. In addition, the person's license, privilege to obtain a
24 license, or privilege to drive shall be revoked, and the person may
25 not be issued a new license nor may the privilege to drive be restored
26 for an additional period of not less than one year after the date that
27 the person would have been entitled to restoration of driving privi-
28 leges or issuance of a license.

29 (b) When a person's license or privilege to obtain a license is

1 canceled, limited, suspended or revoked, that person shall be informed
2 by the department or the court that takes the action at the time of
3 the action that, upon a conviction of driving on a highway or vehicu-
4 lar way or area in this state at a time when that person's driver's
5 license, [OR] privilege to drive or privilege to obtain a driver's
6 license in this state has been canceled, suspended or revoked, or upon
7 a conviction of driving in violation of a limitation of the license,
8 that person will be subject to the mandatory minimum sentence of
9 imprisonment under this section.

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

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

Introduced: 1/22/85
Referred: State Affairs, Judiciary
and Finance

1 IN THE SENATE

BY ABOOD

2

SENATE BILL NO. 75

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to suspension of the privilege to
7 obtain a driver's license."

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

9 * Section 1. AS 22.15.100 is amended to read:

10 Sec. 22.15.100. FUNCTIONS AND POWERS OF DISTRICT JUDGE AND
11 MAGISTRATE. Each district judge and magistrate has the power

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

17 (2) of a notary public;

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

19 (4) to issue warrants of arrest, summons and search war-
20 rants according to manner and procedure prescribed by law and the
21 supreme court;

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

25 (6) to act as a referee in matters and actions referred to
26 the judge or magistrate by the superior court, with all powers con-
27 ferred upon referee by laws;

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

1 (8) to order the temporary detention of a minor, or take
2 other action authorized by law or rules of procedure, in cases arising
3 under AS 47.10, when the minor is in a condition or surrounding dan-
4 gerous or injurious to the welfare of the minor or others which re-
5 quires immediate action; the action may be continued in effect until
6 reviewed by the superior court in accordance with rules of procedure
7 governing these cases;

8 (9) to issue a temporary order for emergency injunctive
9 relief in cases involving domestic violence as provided in AS 25.35.-
10 020;

11 (10) to review an administrative revocation of a person's
12 driver's license, [OR] nonresident privilege to drive, or privilege to
13 obtain a driver's license, and an administrative refusal to issue an
14 original license, when designated as a hearing officer by the commis-
15 sioner of public safety and with the consent of the administrative
16 director of the state court system.

17 * Sec. 2. AS 28.05.141(c) is amended to read:

18 (c) If at the hearing under (a) of this section it appears that
19 the record of the person sustains suspension, revocation, limitation,
20 denial, or other remedial action, the hearing officer shall so order
21 and the department may suspend, revoke, limit, deny, or take other
22 remedial action against that person's license or privilege to obtain a
23 license and, if appropriate, the department shall adjust the person's
24 point total accumulated under AS 28.15.231.

25 * Sec. 3. AS 28.15.031(b) is amended to read:

26 (b) The department may not issue an original or duplicate
27 driver's license to, nor renew or reinstate the driver's license of, a
28 person

29 (1) whose license or privilege to obtain a license is

1 suspended or revoked, except as otherwise provided in this chapter;

2 (2) who fails to appear in court for the adjudication of a
3 certain vehicle, driver or traffic offense when the person's appear-
4 ance is required by statute, regulation or court rule;

5 (3) who is an habitual user of alcohol or another drug to
6 such a degree that the person is incapable of safely driving a motor
7 vehicle;

8 (4) who has previously been adjudged to be afflicted with,
9 or suffering from, a mental disability or a disease and who has not,
10 at the time of application for the license, been restored to compe-
11 tency by the methods provided by law;

12 (5) when the department, based upon medical evidence, has
13 determined that because of the person's physical or mental disability
14 the person is not able to drive a motor vehicle safely;

15 (6) who is unable to understand official traffic control
16 devices as displayed in this state or who does not have a fair knowl-
17 edge of traffic laws and regulations, as demonstrated by an examina-
18 tion;

19 (7) who has knowingly made a false statement in the per-
20 son's application for a license or has committed fraud in connection
21 with the person's application for, or in obtaining or attempting to
22 obtain, a license, or who has not applied under oath on the form
23 provided for the purpose of obtaining or attempting to obtain a li-
24 cense or permit; or

25 (8) who is required under AS 28.20 to furnish proof of
26 financial responsibility and who has not done so.

27 * Sec. 4. AS 28.15.061(b) is amended to read:

28 (b) An application under (a) of this section shall

29 (1) contain the applicant's full name, date and place of

1 birth, sex, and mailing and residence addresses;

2 (2) state whether the applicant has been previously li-
3 censed as a driver and, if so, when and by what jurisdiction;

4 (3) state whether any previous driver's license issued to
5 the applicant has ever been suspended or revoked, [OR] whether an
6 application for a driver's license has ever been refused, or whether
7 the applicant's privilege to obtain a driver's license has ever been
8 revoked by a court or the department or a similar agency in another
9 state and, if so, the date of and reason for the suspension, revoca-
10 tion, or refusal; and

11 (4) contain other information which the department may
12 reasonably require to determine the applicant's identity, competency,
13 and eligibility.

14 * Sec. 5. AS 28.15.165(a) is amended to read:

15 (a) If a chemical test administered under AS 28.35.031(a) to a
16 person driving a motor vehicle for which a driver's license is re-
17 quired produces a result described in AS 28.35.030(a)(2) or if a
18 person under arrest for driving a motor vehicle for which a driver's
19 license is required refuses to submit to a chemical test under AS 28.-
20 35.031(a), a law enforcement officer shall read a notice and deliver a
21 copy to the person. The notice shall advise that

22 (1) the department intends to revoke the person's driver's
23 license or nonresident privilege to drive, or refuse to issue an
24 original license to the person;

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

27 (3) the notice itself is a temporary driver's license, for
28 persons then holding a valid license, that expires seven days after it
29 is delivered to the person;

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

6 * Sec. 6. AS 28.15.181(a) is amended to read:

7 (a) Conviction of any of the following offenses is grounds for
8 the immediate revocation of a driver's license or the privilege to
9 obtain a driver's license:

10 (1) manslaughter or negligent homicide resulting from
11 driving a motor vehicle;

12 (2) a felony in the commission of which a motor vehicle is
13 used;

14 (3) failure to stop and give aid as required by law when a
15 motor vehicle accident results in the death or personal injury of
16 another;

17 (4) perjury or making a false affidavit or statement under
18 oath to the department under a law relating to motor vehicles;

19 (5) driving a motor vehicle while intoxicated;

20 (6) reckless driving;

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

23 (8) refusal to submit to a chemical test under AS 28.-
24 35.032;

25 (9) driving while license or privilege to obtain a license
26 is canceled, suspended, revoked or in violation of a limitation.

27 * Sec. 7. AS 28.15.181(b) is amended to read:

28 (b) A court convicting a person of an offense described in
29 (a)(1) - (4), (6), or (7) of this section shall revoke that person's

1 driver's license or privilege to obtain a driver's license for not
2 less than 30 days for the first conviction, unless the court deter-
3 mines that the person's ability to earn a livelihood would be severely
4 impaired and a limitation under AS 28.15.201 can be placed on the
5 license that will enable the person to earn a livelihood without
6 excessive danger to the public. If a court limits a person's license
7 under this subsection, it shall do so for not less than 60 days. Upon
8 a subsequent conviction of a person for any offense described in
9 (a)(1) - (4), (6), (7) of this section occurring within 10 years after
10 a prior conviction, the court shall revoke the person's license or
11 privilege to obtain a driver's license and may not grant the person
12 limited license privileges for the following periods:

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

14 (2) not less than three years for a third or subsequent
15 conviction.

16 * Sec. 8. AS 28.15.181(c) is amended to read:

17 (c) A court convicting a person of an offense described in
18 (a)(5) or (8) of this section arising out of the operation of a motor
19 vehicle for which a driver's license is required shall revoke that
20 person's driver's license or privilege to obtain a driver's license.
21 The revocation may be concurrent with or consecutive to an administra-
22 tive revocation under AS 28.15.165. The court may not, except as
23 provided in (e) of this section, grant limited license privileges for
24 the following periods:

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

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

28 (B) under a law or ordinance in another jurisdiction
29 with elements substantially similar to an offense described in

1 (a)(5) or (8) of this section;

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

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

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

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

12 (A) an offense described in (a)(5) or (8) of this
13 section; or

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

17 * Sec. 9. AS 28.15.211(a) is amended to read:

18 (a) Except for a point system suspension or revocation under
19 AS 28.15.221 - 28.15.241 and unless provided otherwise by law, and
20 unless the suspension or revocation was for a cause that has been
21 removed, a person whose driver's license, privilege to obtain a
22 driver's license, or privilege to drive a motor vehicle in this state
23 has been suspended or revoked may not apply for a new license nor may
24 the person's driving privilege be restored until the expiration of

25 (1) one month from the date on which the license or privi-
26 lege to obtain a license was suspended or revoked for a first convic-
27 tion of the particular offense from which the suspension or revocation
28 resulted;

29 (2) three months from the date on which the license or

1 privilege to obtain a license was suspended or revoked for a second
2 conviction within 12 consecutive months of the same offense from which
3 the suspension or revocation resulted;

4 (3) one year from the date on which the license or privi-
5 lege to obtain a license was suspended or revoked for a third or
6 subsequent conviction within 12 consecutive months of the same offense
7 from which the suspension or revocation resulted.

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

9 Sec. 28.15.291. DRIVING WHILE LICENSE OR PRIVILEGE TO OBTAIN A
10 LICENSE CANCELED, SUSPENDED, REVOKED OR IN VIOLATION OF LIMITATION.

11 (a) A person may not drive a motor vehicle on a highway or vehicular
12 way or area at a time when that person's driver's license, privilege
13 to obtain a driver's license, or privilege to drive has been canceled,
14 suspended or revoked in this or another jurisdiction, or when driving
15 in violation of a limitation placed upon that person's license or
16 privilege to drive in this or another jurisdiction. Except as provid-
17 ed in (c) of this section, upon conviction of a violation of this
18 section, the court shall impose a sentence of imprisonment of not less
19 than 10 days. The execution of sentence may not be suspended nor may
20 probation or parole be granted until the minimum imprisonment provided
21 in this section has been served; nor may imposition of sentence be
22 suspended. In addition, the person's license, privilege to obtain a
23 license, or privilege to drive shall be revoked, and the person may
24 not be issued a new license nor may the privilege to drive be restored
25 for an additional period of not less than one year after the date that
26 the person would have been entitled to restoration of driving privi-
27 leges or issuance of a license.

28 (b) When a person's license or privilege to obtain a license is
29 canceled, limited, suspended or revoked, that person shall be informed

1 by the department or the court that takes the action at the time of
2 the action that, upon a conviction of driving on a highway or vehicu-
3 lar way or area in this state at a time when that person's driver's
4 license, [OR] privilege to drive or privilege to obtain a driver's
5 license in this state has been canceled, suspended or revoked, or upon
6 a conviction of driving in violation of a limitation of the license,
7 that person will be subject to the mandatory minimum sentence of
8 imprisonment under this section.

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

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

28 * Sec. 11. 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 or
6 another law or ordinance with substantially similar elements. Upon
7 conviction under this section the court shall impose a minimum sen-
8 tence of imprisonment of not less than 20 consecutive days and a fine
9 of not less than \$500 if, within the preceding 10 years, the person
10 has been previously convicted once in this or another jurisdiction of
11 driving while intoxicated under this or another law or ordinance with
12 substantially similar elements or refusal to submit to a chemical test
13 under AS 28.35.032 or another law or ordinance with substantially
14 similar elements. Upon conviction under this section the court shall
15 impose a minimum sentence of imprisonment of not less than 30 consecu-
16 tive days and a fine of not less than \$1,000 if, within the preceding
17 10 years, the person has been previously convicted in this or another
18 jurisdiction of more than one of the following offenses or has more
19 than once been previously convicted of one of the following offenses:
20 (1) driving while intoxicated under this or another law or ordinance
21 with substantially similar elements; (2) refusal to submit to a chemi-
22 cal test under AS 28.35.032 or another law or ordinance with substan-
23 tially similar elements. The execution of sentence may not be sus-
24 pended nor may probation be granted except on condition that the
25 minimum imprisonment provided in this section is served. Imposition of
26 sentence may not be suspended. In addition, if the offense involved
27 driving a motor vehicle for which a driver's license is required, the
28 person's driver's license or privilege to obtain a driver's license
29 shall be revoked in accordance with AS 28.15.181 and the vehicle used

1 in commission of the offense may be forfeited under AS 28.35.036. In
2 addition, the court shall order, and a person convicted under this
3 section shall undertake, for a term specified by the court, that
4 program of alcohol education or rehabilitation that the court, after
5 consideration of any information compiled under (d) of this section,
6 finds appropriate.

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

8 (g) Upon conviction of a person under this section, the court
9 shall impose a minimum sentence of imprisonment of not less than 72
10 consecutive hours and a fine of not less than \$250 if the person has
11 not been previously convicted in this or another jurisdiction of
12 driving while intoxicated under AS 28.35.030 or another law or ordi-
13 nance with substantially similar elements or refusal to submit to a
14 chemical test under this section or another law or ordinance with
15 substantially similar elements. Upon conviction under this section the
16 court shall impose a minimum sentence of imprisonment of not less than
17 20 consecutive days and a fine of not less than \$500 if, within the
18 preceding 10 years, the person has been previously convicted once in
19 this or another jurisdiction of driving while intoxicated under AS 28.
20 35.030 or another law or ordinance with substantially similar elements
21 or refusal to submit to a chemical test under this section or another
22 law or ordinance with substantially similar elements. Upon conviction
23 under this section the court shall impose a minimum sentence of impris-
24 onment of not less than 30 consecutive days and a fine of not less
25 than \$1,000 if, within the previous 10 years, the person has been
26 previously convicted in this or another jurisdiction of more than one
27 of the following offenses or has more than once been previously con-
28 victed of one of the following offenses: (1) driving while intoxicated
29 under AS 28.35.030 or another law or ordinance with substantially

1 similar elements; (2) refusal to submit to a chemical test under this
2 section or another law or ordinance with substantially similar ele-
3 ments. The execution of sentence may not be suspended nor may proba-
4 tion be granted except on condition that the minimum imprisonment
5 provided in this section is served. Imposition of sentence may not be
6 suspended. If the offense involved driving a motor vehicle for which
7 a driver's license is required, the person's driver's license or
8 privilege to obtain a driver's license shall be revoked under AS 28.-
9 15.181. In addition, the court shall order, and a person convicted
10 under this section shall undertake, for a term specified by the court,
11 that program of alcohol education or rehabilitation that the court,
12 after consideration of any information compiled under (h) of this
13 section, finds appropriate. The sentence imposed by the court under
14 this subsection shall run consecutively with any other sentence of
15 imprisonment imposed on the committed person.

16 * Sec. 13. AS 28.40.050(b) is amended to read:

17 (b) A person convicted of a misdemeanor for a violation of a
18 provision of this title for which another penalty is not specifically
19 provided is punishable by a fine of not more than \$500, or by impris-
20 onment for not more than 90 days, or by both. In addition, the privi-
21 lege to drive or to obtain a license or the registration of vehicles
22 may be suspended or revoked.

Alaska State Legislature

INTERIM OFFICE
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-2843

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4714



Senator Mitch Aboud
CHAIRMAN

Senate Committee on State Affairs

LETTER OF INTENT

February 22, 1985

The Honorable Don Bennett
Senate President
Pouch V
Juneau, Alaska 99811

Dear Senator Bennett:

The State Affairs CS for SB 75 is drafted to provide that a person's "privilege to obtain a license" may be suspended or revoked in the same manner and under the same conditions as a person's driver's license may be suspended or revoked under existing law.

In the case of Francis v. Municipality of Anchorage, 641 P.2d 226 (Alaska App. 1982), the Alaska Court of Appeals held that a person who had never applied for a driver's license could not be charged with the misdemeanor crime of driving while license suspended (DWLS) for driving after the Department of Motor Vehicles (DMV) had suspended a person's "privilege to drive" following an accident for which the person failed to establish financial responsibility. The court held that since the defendant had never had a license, there was nothing for DMV to suspend, and the most that the defendant could be charged with was driving without a valid license.

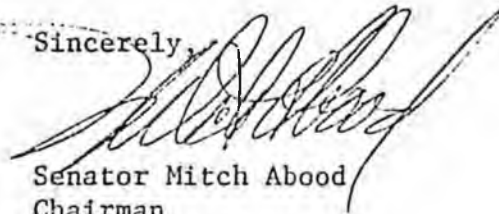
Driving without a valid license in violation of AS 28.15.011 carries a maximum penalty of 90 days in jail, a \$500 dollar fine, or both (see AS 28.35.320(a) and (b)). In contrast, DWLS carries a maximum penalty of one year in jail, a \$5,000 dollar fine, or both (see AS 28.15.291(d)). Additionally, a conviction for driving without a valid license does not require the mandatory minimum sentences which must be imposed following a conviction for DWLS (see AS 28.15.291(a) and (c)).

The intent of this legislation is fulfilled, in the most part, by section 4. This section provides that all court or department actions relating to a suspension or revocation of a driver's license, all Title 28 procedures relating to a suspension or revocation of a driver's license, and all Title 28 references to the suspension or revocation of a license also apply to the "privilege to obtain a driver's license." This method was chosen in preference to adding or privilege to obtain a license in each of the 70 odd places where "revocations" or "suspension" of a "license" or "driver's license" is mentioned throughout Title 28.

Letter to the Honorable Don Bennett
February 22, 1985
Page 2

The only place in Title 28 where the language "or privilege to obtain a license" is added is in the section establishing the crime or driving while license suspended or revoked (AS 28.15.291). The Committee felt that special notice should be given in this section because it is a criminal statute concerning the offense in question.

Sincerely,

A handwritten signature in cursive script, appearing to read "M. Abood", written in dark ink.

Senator Mitch Abood
Chairman

MA/eb

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSSB75(SA)
 Title: An Act relating to sus-
pension of the privilege to obtain
a driver's license
 Sponsor: Abood
 Requestor: Sen. Judiciary
 Date of Request: 2-27-85

FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Life and
Property Protection
 BRU, Program or Subprogram(s) Affected: Division of Motor Vehicles

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Bill Brown Phone: 465-2650
 Division: Motor Vehicles Date: 2-27-85
 Approved by Commissioner: Michael J. Jensen Date: 2-27-85
 Agency: Public Safety

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 75
Title: An Act relating to suspension of the privilege to obtain a driver's
Sponsor: Abood
Requestor: Sen. Abood
Date of Request: 1-25-85

FISCAL DETAIL

Agency Affected: Public Safety
Program Category Affected: Life and Property Protection
BRU, Program or Subprogram(s) Affected: Division of Motor Vehicles

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
500 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Bill Brown Phone: 465-4335
Division: Motor Vehicles Date: 1-30-85

Approved by Commissioner: Mitchell Clemens Date: 1-30-85
Agency: Public Safety

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - SB 75

Support with Amendments

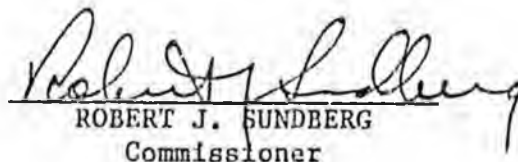
January 30, 1985

SB 75, An Act relating to suspension of the privilege to obtain a driver's license.

This bill addresses a problem brought to our attention by the Alaska Court of Appeals decision in the case of Francis vs Municipality of Anchorage in 1982. That decision held that a person who had never applied for a driver's license could not be charged with driving while license suspended if stopped for driving after the Division of Motor Vehicles had issued him a suspension following an accident for which he failed to establish financial responsibility. The court held that since the defendant had never had a license, there was nothing for the Division of Motor Vehicles to suspend. The most the defendant could be charged with was for driving without a valid license.

This problem has been discussed with the Department of Law. Their responses as to how it could be solved are contained in Sections 8, 13, and 15 of SB 84.

Public Safety supports the sponsor's intent but would like the bill amended by adding the wording "or privilege to obtain a license" to AS 28.20.090(a) and AS 28.22.240(a). As written, the bill would cover license actions by the court, and administrative license actions imposed after an arrest for DWI, however, not administrative license actions under the Mandatory Insurance or Financial Responsibility laws following an uninsured accident. The proposed amendments would cover these two instances.


ROBERT J. SUNDBERG
Commissioner

COMMITTEE REPORT
SENATE

FINANCE

FURTHER:

2/22/85

Date 3-14-85

Mr. President

JUDICIARY

SB 75

The Committee on _____ considered _____
suspension of the privilege to obtain a driver's license.

and (a majority of the committee) (~~the committee~~) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s) *State Affairs CS*
- replace with/or adopt CS for SB 75 (SA)
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" [] NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]
[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS

2 [Signature] - N/A

[Signature]
Chairman
DO PASS
Chairman recommendation

COMMITTEE REPORT
SENATE

1/22/85

FURTHER: JUDICIARY
FINANCE

Date 2/2/85

Mr. President

The Committee on STATE AFFAIRS considered SB 75
suspension of the privilege to obtain a driver's license.

and (a majority of the committee) (the committee) reports it back with
the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 75 CSA
new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
Zero
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

Edu De Vries
Tim Kelly
Eric Ray
V. J. ...

MEMBERS HAVING
OTHER RECOMMENDATIONS

[Signature]
 Chairman
[Signature]
 Chairman recommendation