

Leg. Finance-House & Senate Finance Comte Files (1991-1992) 735

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 102

This bill amends AS 28.35.030(a) and AS 28.35.033(a) to lower the blood/alcohol limit for the crime of driving while under the influence of intoxicating liquor from 0.10 percent or more by weight alcohol in a person's blood to 0.08 percent.

Other jurisdictions, most notably California and Maryland, experienced about a ten percent increase in DWI arrests in the year immediately following their lowering of the limit to 0.08 percent. However, Oregon, which lowered its limit in 1983, saw a small decrease in arrests. It is not known why their results differed, or what impact enforcement and public information efforts may have had on them. Consequently, we cannot predict the result in Alaska, but some increase in arrests may occur if the bill is approved.

During the last fiscal year 4,106 DWI complaints were referred to Department of Law prosecutors. If Alaska follows the California example, a ten percent increase would result in 411 new DWI cases statewide. If they occur, the largest number of new cases would be experienced in the Anchorage and Matsu Valley areas. Because the Governor's revised budget includes adding new prosecutors in Anchorage, where the current caseload has nearly overwhelmed the existing staff, the department is not going to request fiscal note funds at this time. We continue to caution, however, that adding new or increased agency responsibilities should be avoided at a time when agency resources have been stretched as thin as our's have been. Therefore, if the bill results in a heavier caseload than we have anticipated, it will be necessary to seek additional funding next year.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

No. 5
Bill Version: HB 102
(H) Publish Date: 3/22/91

Revision Date: _____ Department Affected: Corrections
Title: "An Act relating to the offense of operating a motor vehicle...while intoxicated..." BRU: Statewide Operations
Component: All Institutions
Sponsor: Rep. Donley
Requestor: Rep. Donley COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS. CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: No significant impact on Department operations.

ANALYSIS: (Attach a separate page if necessary.)

See attached page.

Prepared By: Tom Sutton, Director Phone: 465-3376
Division: Administrative Services Date: 03-19-91
Approved by Commissioner: _____
Agency: Department of Corrections Date: 03-19-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Fiscal Note Dept of Corrections

Department of Corrections
Division of Administrative Services

House Bill No. 102, lowers the blood alcohol level for drunk driving from .10 percent to .08 percent.

The Department contacted three police departments, Anchorage, Fairbanks and Juneau. We asked each Department if data was available for us to determine the blood alcohol level of those who have been charged for drunk driving. Fairbanks and Anchorage police departments did not have that information readily available. However, for both cities, the staff stated it would be their best estimate that there would be few instances where the blood level would fall within the .08 to .10 percentage rate.

Fortunately, the Juneau Police department was able to provide us with records for testing on the intoximeter for the entire year of 1990. Our review of 148 charged with a DWI provided us with the following information:

Average Blood Alcohol Level	=	.1998
Blood Alcohol Level below .100	=	2
Blood Alcohol Level above .100	=	146
Blood Alcohol Level between .080 - .100%	=	0
Blood Alcohol Level between .050 - .080	=	2

The Department of Corrections reviewed its own records relative to DWI offenders and found the following admission rates and sentenced offenders in our institutions:

Calendar Year	1986	1987	1988	1989	1990
Admissions for DWI (A)	3536	3686	3603	3539	4033
Sentenced for DWI	3560	3081	2603	2584	2544

(A) Admission into facilities relates to those who are in an unsentenced status.

Considering the zero frequency rate of the number of offenders whose test results fall into .08 and .10; and the declining impact of sentenced DWI offenders into our system, it is my opinion that HB 102 will not have a significant fiscal impact upon the Department.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Bill No. HB 102

Revision Date: _____ Department Affected: Alaska Court System
 Title: An Act relating to the offense of BRU: Trial Courts
operating a motor vehicle, ... while intoxicated... Components: _____
 Sponsor: Donlay
 Requestor: Judiciary COMPONENT SERIAL NO.

000 000	000 768
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

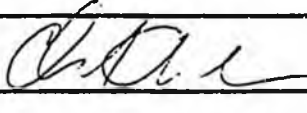
POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact. However, the court system is concerned that this legislation may increase municipal prosecutions. The court system will monitor its workload and may request funding if the impact cannot be absorbed with existing resources.

Prepared by: C. S. Christensen III, Staff Counsel  Phone: 264-8228
 Division: Alaska Court System Date: 04/03/91

Approved by: Arthur H. Snowden, II, Administrative Director  Date: 04/03/91
 Agency: Alaska Court System

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

REPRESENTATIVE DAVE DONLEY

ALASKA STATE LEGISLATURE
DISTRICT ELEVEN
SEAT A

3111 "C" STREET, SUITE 450
ANCHORAGE, ALASKA 99503
(907) 561-7629 (FAX) 562-4376

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JUDICIARY COMMITTEE

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REGULATION REVIEW COMMITTEE

MEMBER
RULES COMMITTEE
LABOR AND COMMERCE COMMITTEE

MEMORANDUM

TO: Representative Eileen MacLean, Co-Chair
Representative Mike Navarre, Co-Chair
Finance Committee

FROM: Representative Dave Donley 

RE: HB 102 - Lowering Blood Alcohol Level for DWI

DATE: April 3, 1991

I would greatly appreciate if a Finance hearing could be scheduled at the earliest possible opportunity on HB 102, which reduces the legal definition of intoxication for DWI from .10% to .08% blood alcohol content. A number of states, Canada, and all European nations have lowed their legal definition of intoxication from .10% based on medical evidence that shows driving ability is significantly impaired at the lower blood alcohol level.

Since it was introduced, HB 102 has received an overwhelming amount of public support. In addition to the support of many, many individual Alaskans, HB 102 is endorsed by:

National Transportation Safety Board
Department of Law
Division of Insurance
Department of Public Safety
Department of Health and Social Services
Alaska State Medical Association
Surgeon General of the United States
American College of Emergency Physicians
American Medical Association
Alaska State Medical Examiner (Dr. Michael Propst)
Association for the Advancement of Automotive Medicine
Anchorage Daily News
Fairbanks Daily News Minor
Alaska Council on Prevention of Alcohol and Drug Abuse
Fairbanks Chapter, Mothers Against Drunk Drivers
Anchorage Chapter Mothers Against Drunk Drivers
National Committee on Uniform Traffic Laws and Ordinances
National Conference of Insurance Legislators

Thank you in advance for your help and assistance in scheduling this important bill for a hearing.

DD:lc



JUNEAU OFFICE
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P.O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3892 (FAX) 463-5661



REPRESENTATIVE DAVE DONLEY

ALASKA STATE LEGISLATURE
DISTRICT ELEVEN • SPENARD
SEAT A

3111 "C" STREET, SUITE 450
ANCHORAGE, ALASKA 99503
(907) 561-7629 (FAX) 562-4376

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SPONSOR STATEMENT

House Bill 102 reduces the legal definition of intoxication for the crime of driving while intoxicated from .10% to .08% blood alcohol content. This means that it would be illegal for a person to be in control of a motor vehicle with a blood alcohol level of .08% or greater.

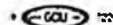
Four states have already lowered their legal definition of intoxication to .08%: California, Oregon, Utah, and Maine. All of Canada has a .08% blood alcohol threshold. All European nations prohibit driving with a .08% or lower blood alcohol level. (.08% results from 4 drinks in an hour's time for the average-size adult.)

Scientific evidence persuasively establishes that the risk of a driver being involved in a serious or fatal crash increases as the alcohol concentration in the body increases. Many studies have shown that measurable impairment to operate a motor vehicle begins in most drivers at or below .05% percent blood alcohol level, and that all drivers are impaired at a blood alcohol level of .08%.

Setting the allowable blood alcohol level at .08% will greatly increase the probability of obtaining convictions for drunk driving. Because the law will increase the certainty of conviction, it will also be more effective than current law in deterring drunk driving and in reducing the number of alcohol-related crashes. In fact, after Maine reduced its legal blood alcohol level to .08%, the percentage of alcohol-related motor vehicle fatalities decreased significantly.



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HOUSE BILL 102

BACKGROUND

HB 102 lowers the blood alcohol content from 0.10 to 0.08 for a charge of driving while intoxicated.

California lowered the BAC standard for 0.10 to 0.08 in 1990. The Highway Patrol showed a 13.6% increase in DWI arrests with the lower BAC, and accident investigations decreased .71%. The lower BACs seemed to have the effect of lowering the accident rate.

Alaska may or may not experience a similar increase in DWI arrests. The impact on the Alcohol Safety Action Programs (ASAP) in the states which have lowered their DWI levels has varied. For planning purposes, we estimate the impact on the current ASAPs would be approximately 10 percent. This is a significant increase. The Anchorage ASAP would realize an increase of approximately 250 cases.

We know that ASAP programs are one of the most effective ways of intervening with problem drinkers early in the disease process.

Numerous studies have found that behavior change is more likely to occur if there is some consequence to the individual for modifying the behavior. The force of court intervention provides that incentive. Maine, California, Utah, Oregon and Vermont have already passed similar legislation; and Arkansas, Arizona, Florida, Indiana, Texas and Washington are some of the other states currently considering similar legislation.

Lowering the BAC to 0.08 would allow more drivers to be charged with DWI, and consequently more individuals would be screened for alcohol problems.

POSITION

The Department of Health and Social Services, Division of Alcoholism and Drug Abuse is very supportive of HB 102. We believe lowering the legal limit to 0.08 will allow more problem drinkers to access the treatment system earlier and treatment will be more cost effective as these individuals may not require costly residential care.

BILL NO: CSHB 102(JUD)

DATE: 4/26/91

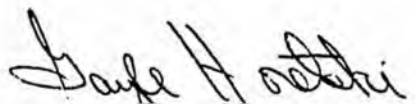
TITLE: An Act relating to the offense of operating a motor vehicle, aircraft, or watercraft while intoxicated. . .

CONTACT: Gayle A. Horetski
Deputy Commissioner
465-4322

DEPARTMENT OF
PUBLIC SAFETY

This bill would amend Alaska's DWI law to lower the prohibited breath or blood alcohol level from .10 to .08. The bill also requires the Department of Public Safety, Division of Motor Vehicles (DMV), and the courts to revoke the driver's license or driving privileges of individuals arrested or convicted of DWI at an alcohol concentration level of .08 percent.

The effect of the adoption of a .08 alcohol level is difficult to predict, and will depend to a great extent upon the level of enforcement of the new law. This bill has the potential to reduce alcohol-related traffic accidents in general, however, and particularly alcohol-related traffic deaths. It also promotes the safety of the motoring public. The department supports CSHB 102(JUD).


for Richard L. Burton
Commissioner

ALASKA DEPARTMENT OF PUBLIC SAFETY



National Transportation Safety Board

Washington, D.C. 20594

Office of the Chairman

March 6, 1991

Honorable Dave Donely
Chairman, House Judiciary Committee
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Chairman Donely:

It is my understanding that the House Judiciary Committee is considering legislation to lower the blood alcohol concentration (BAC) at which a driver is presumed to be intoxicated from 0.10 percent to 0.08 percent. I would like to offer my strong support and share with you the conclusions of the National Transportation Safety Board based on its research and accident investigation experience.

Considerable research demonstrates measurable adverse effects of alcohol on performance, even at low BACs. Degradation of performance at a BAC as low as 0.035 percent was shown in a Coast Guard study completed in 1975 (CGD-134-75). This finding is supported by research completed in 1950 by K. Bjerver and L. Goldberg, documenting that the impairment threshold of expert drivers' driving ability is at BACs. of 0.035 to 0.040 percent. This study concluded that performance decrements were significant when the BAC was around 0.035 percent ("Effects of Alcohol Ingestion on Driving Ability: Results of Practical Road Tests and Laboratory Experiments," Quarterly Journal, Studies on Alcohol, Vol. 11, No. 1, 1950). In yet another study by Goldberg, "Alkohol och Trafikrisker" (published in 1970 in Sweden), it was shown that in an emergency, a BAC of 0.02 to 0.04 percent can have a critical effect. Goldberg found detrimental effects and performance impairment in subjects with BAC of 0.02 to 0.04 percent.

The 1977 study by H. Laurell, "Effects of Small Doses of Alcohol on Driver Performance in Emergency Traffic Situations," found effects on driver performance at BACs below 0.05 percent, studied in two contexts: (1) in a critical car-driving situation involving emergency braking and evasive maneuvers, and (2) in a "surprise" situation that followed the first situation and involved the sudden appearance of a human-shaped obstacle blocking the roadway. Overall, detrimental effects of alcohol at an average BAC as low as 0.042 percent were found.

Other studies substantiate performance impairment at very low BACs. For example, in an article published in 1970, "Alcohol Disturbance of Visual Acuity for Moving Objects," H. Honneger stated that the ability to distinguish close, but separated, moving objects seems to be consistently impaired at BACs sometimes as low as 0.03 percent. C. E. Billings and R. L. Wicks, in a

Honorable Dave Donely
page 2

report prepared for the FAA ("Effects of Alcohol on Pilot Performance during Instrument Flight," FAA-AM-72-4), stated that the ability to divide attention between tasks can be impaired at very low BACs (0.02 percent). Earlier (1964) findings by O. Gruner et. al., also concluded that very low BACs impair the ability to divide attention between tasks. Further studies (H. Franks et. al., "The Relationship Between Alcohol Dosage and Performance Decrement in Humans," Journal of Studies on Alcohol, 1976) indicate that the ability to stand upright without swaying begins to decrease significantly at a BAC as low as 0.04 percent.

The American Medical Association and the National Safety Council's Committee on Tests for Intoxication, have developed a table that places the effects of a BAC of 0.03 percent in the "euphoria" range. The behavioral symptoms of this level of intoxication include increased self-confidence, decreased inhibitions, loss of efficiency in finer performance tests, and diminution of attention, judgment, and control. These symptoms were expressly characterized as not compatible with the safe operation of motor vehicles.

Further, a 1985 study by Dr. Herbert Moskowitz shows evidence of impairment on divided attention and information processing tasks beginning at a BAC as low as 0.015 percent. At a 1987 international conference, Dr. Moskowitz reported on an exhaustive review of research on low BAC effects he conducted for the National Highway Traffic Safety Administration. Based on this review of more than 200 research articles, Dr. Moskowitz stated that there is no lower limit or threshold concentration below which alcohol is not impairing to some aspect of human behavior.

Additional research completed in late 1987 by the National Academy of Sciences provided further information on the effects of low levels of alcohol. In enacting the Commercial Motor Vehicle Safety Act of 1986, the Congress requested the Academy to study the effect of various alcohol levels on the performance of truck drivers. The Academy's Transportation Research Board brought together a group of nationally recognized experts on the effects of alcohol, who concluded that "performance of driving related tasks decreases at any BAC above zero and crash risk increases sharply as BAC rises." The National Academy of Sciences recommended, and Federal Highway Administration regulations established, 0.04 BAC as the level at which commercial drivers would have an illegal alcohol level. Any alcohol ingestion can result in the commercial driver being put out of service for 24 hours. The Safety Board has recommended that States enact legislation setting 0.01 percent as the functional equivalent of a zero BAC for commercial drivers.

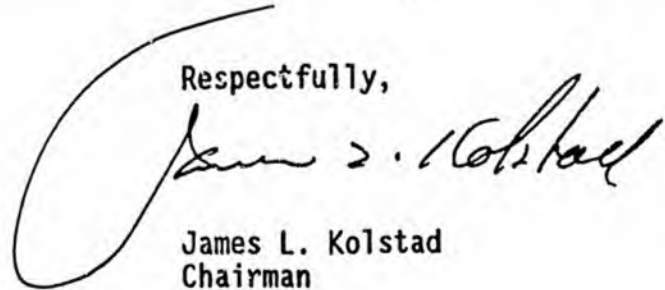
Similarly, Federal regulations prohibit aircraft crews from ingesting alcohol in the eight hours prior to flight operations and they may not have an alcohol level of 0.04 percent or above. The Safety Board has recommended that the alcohol level for air crews be the lowest level that can be reliably measured.

Honorable Dave Donely
page 3

When combined with the impairing effects of other potential stressors found in highway operations, such as complex traffic response demands, fatigue, vibration and noise, the presence of alcohol even at very low blood alcohol concentrations must be considered a clear and definite risk to safe highway operations. Therefore, legislation to lower the definition of intoxication to 0.08 percent would be a most moderate step.

Please let us know if there is any way we can be of additional assistance.

Respectfully,

A handwritten signature in cursive script, appearing to read "James L. Kolstad". The signature is written in dark ink and is positioned above the printed name and title.

James L. Kolstad
Chairman

STATE OF ALASKA

DEPARTMENT OF LAW

CRIMINAL DIVISION

WALTER J. HICKEL, GOVERNOR

REPLY TO:

CRIMINAL DIVISION CENTRAL OFFICE
P.O. BOX KC
JUNEAU, ALASKA 99811-0310
PHONE: (907) 465-3428

OFFICE OF SPECIAL PROSECUTIONS
AND APPEALS
1031 WEST 4TH AVENUE, SUITE 318
ANCHORAGE, ALASKA 99501-5993
PHONE: (907) 279-7424

February 26, 1991

The Honorable Dave Donley, Chair
House Judiciary Committee
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Re: HB 102 (Reducing Necessary BAC for DWI Offenses)

Dear Representative Donley:

By letter dated January 31, 1991, you have asked whether we believe there are any problems with the above-referenced bill and whether we support it or not. Please be advised that we support this legislation and are not aware of any legal problems with it.

Alcohol-related offenses continue to dominate the dockets of our state courts. Any law that restricts alcohol consumption or penalizes its abuse will help make Alaska a safer place to live.

Thank you for the opportunity to comment on this bill. If you have any further questions that we may be able to answer, please do not hesitate to call upon us.

Very truly yours,

CHARLES E. COLE
ATTORNEY GENERAL

By: _____

Margot O. Knuth
Margot O. Knuth
Assistant Attorney General

MOK:mm-026

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE

WALTER J. HICKEL, GOVERNOR

P. O. BOX D
JUNEAU, ALASKA 99811-0800
PHONE: (907) 465-2515

March 19, 1991

Honorable Dave Donley
Chairman, House Judiciary Committee
Alaska House of Representatives
P. O. Box V
Juneau, Alaska 99811

Dear Representative Donley:

Re: HB 102
Blood Alcohol Concentration

You have asked for our opinion concerning the proposal to revise the blood alcohol concentration measure of impairment from the current 0.10% to 0.08%. We have reviewed comments by John Krizay, author of the book "The Fifty Million Dollar Drain," in which he notes that with the current BAC level of 0.10%, an average driver is six to seven times more likely to have an accident if driving. He also notes that at 0.15% the ratio is 25 to 1. He further notes that the American Medical Association recommends a much lower level contending that even professional drivers display signs of impairment at levels of 0.05% and 0.06%. The evidence suggests that the 0.10% level is an inadequate measure of impairment. Your efforts to address a more appropriate level of impairment has our support.

Very truly yours,



David J. Walsh
Director

910319 06 DD1



Association for the Advancement of Automotive Medicine

An international multidisciplinary organization for crash injury control

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EXECUTIVE DIRECTOR

Elaine Petrucelli

RECEIVED FEB 14 1991

February 11, 1991

Representative Dave Donley
Chairman
House Judiciary Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Chairman Donley:

On behalf of the Membership of this Association (AAAM), I write to support enthusiastically H.B. 102, which proposes to reduce the level limit of blood alcohol concentration from 0.10 g/dl to 0.08 g/dl.

The AAAM, in 1987, adopted its position in support of .08 as illegal per se evidence to operate a motor vehicle, and .05 as presumptive evidence of driving impairment. This position was taken after a thorough review of both experimental and empirical data, and in recognition of the enforceability of laws reflecting this position. A copy of the position and its background statement are enclosed.

We commend you for your leadership in introducing this measure to reduce alcohol-impaired driving. If I can help your effort in any other way, please contact me.

Sincerely,

Elaine Petrucelli
Executive Director

EP/bz/enclosure



Association for the Advancement of Automotive Medicine

An international multidisciplinary organization for crash injury control

BLOOD ALCOHOL CONCENTRATION AND DRIVING

POSITION STATEMENT

Epidemiologic and experimental data persuasively establish that the risk of a driver being involved in a serious or fatal crash increases as the alcohol concentration in the body increases, that measurable impairment to operate a motor vehicle begins in most drivers at or below .05g/dl, and that all drivers are impaired at a blood alcohol concentration of .08g/dl.

It is therefore the position of the Association for the Advancement of Automotive Medicine that a BAC of .05g/dl be considered as presumptive evidence of driving impairment, and that a BAC of .08g/dl be considered illegal per se to operate a motor vehicle.

The Association for the Advancement of Automotive Medicine urges the enactment of legislation prohibiting alcohol-impaired driving that reflects these statements.

Adopted 23 November 1987



Association for the Advancement of Automotive Medicine

An international multidisciplinary organization for crash injury control

BLOOD ALCOHOL CONCENTRATION AND DRIVING

BACKGROUND PAPER

Traditionally, about one half of the total road casualties in the United States have implicated alcohol use. While there has been a downward shift between 1982-1986 in both the proportion of legally intoxicated drivers (BAC > .10g/dl*) among all drivers (from 30% to 26%) and fatally injured drivers who were legally intoxicated (from 44% to 39%), the inappropriate use of alcohol in relation to driving still remains a significant social, legal and public health problem.

A substantial scientific literature, both experimental¹⁻⁸ and epidemiologic,⁹⁻¹⁴ documents the effects of alcohol upon the body and the consequences upon driving. Laboratory studies have shown that although performance of simple tasks does not deteriorate markedly with low blood alcohol concentrations (< .05g/dl BAC), complex tasks such as driving which requires divided attention are noticeably affected at lower BACs.

In general, epidemiologic data show an increase in crash risk at BACs above .05g/dl. At .08g/dl there is about a 3 fold increase in crash risk over that with no alcohol, which rises about 6 fold at .10g/dl and 25 fold or more at .15g/dl (Figure 1).

While the results of experimental research cannot necessarily be extrapolated to the actual circumstances of each individual drinking driver, laboratory studies do provide another dimension to monitoring skills and behavior under controlled conditions and are complementary to epidemiologic research which focuses on relative crash risks at various BACs. Both types of research show that by .08g/dl BAC, all persons are significantly impaired regardless of factors such as experience with drinking.

Forty three states have enacted illegal per se laws; the remaining states rely on presumptive laws.¹⁵ Per se laws make it illegal to drive with a BAC at or above a specified level, whether or not there are observable behavioral effects. Presumptive laws, on the other hand, only "presume" guilt of impaired driving at a specified BAC which is rebuttable, with the burden of proof upon the arresting officer. Per se law assumes that all persons with a BAC exceeding the limit will have had their ability to drive impaired by alcohol and will have had an increased risk of crash involvement.

Any discussion of the alcohol and driving issue will always involve social and political considerations. It is fundamental, however, that public policy on this subject be based on documented scientific evidence.

* .10g/dl = one tenth of a gram of alcohol per one tenth of a liter of blood.

References

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2. Moskowitz H, and Sharma S. Effects of alcohol on peripheral vision as a function of attention. *Human Factors*, 1974, 16, 174-180.
3. Wilson G, and Mitchell R. The effect of alcohol on the visual and ocular motor systems. *Australian Journal of Ophthalmology*, 1983, 11, 315-319.
4. Gruner O. Alkohol und aufmerksamkeit. *Deutsche Zeitschrift fuer die Gesamte Gerichliche Medizin*, 1955, 44, 187-195.
5. Franks HM, Hensley VR, Hensley WJ, Starmer GA, and Teo RKC. The relationship between alcohol dosage and performance decrement in humans. *Journal of Studies on Alcohol*, 1976, 37, 284-297.
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DRIVERS WITH A BAC OF .15% ARE
25 TIMES AS LIKELY TO BE INVOLVED IN A CRASH
AS DRIVERS WITH A .00% BAC

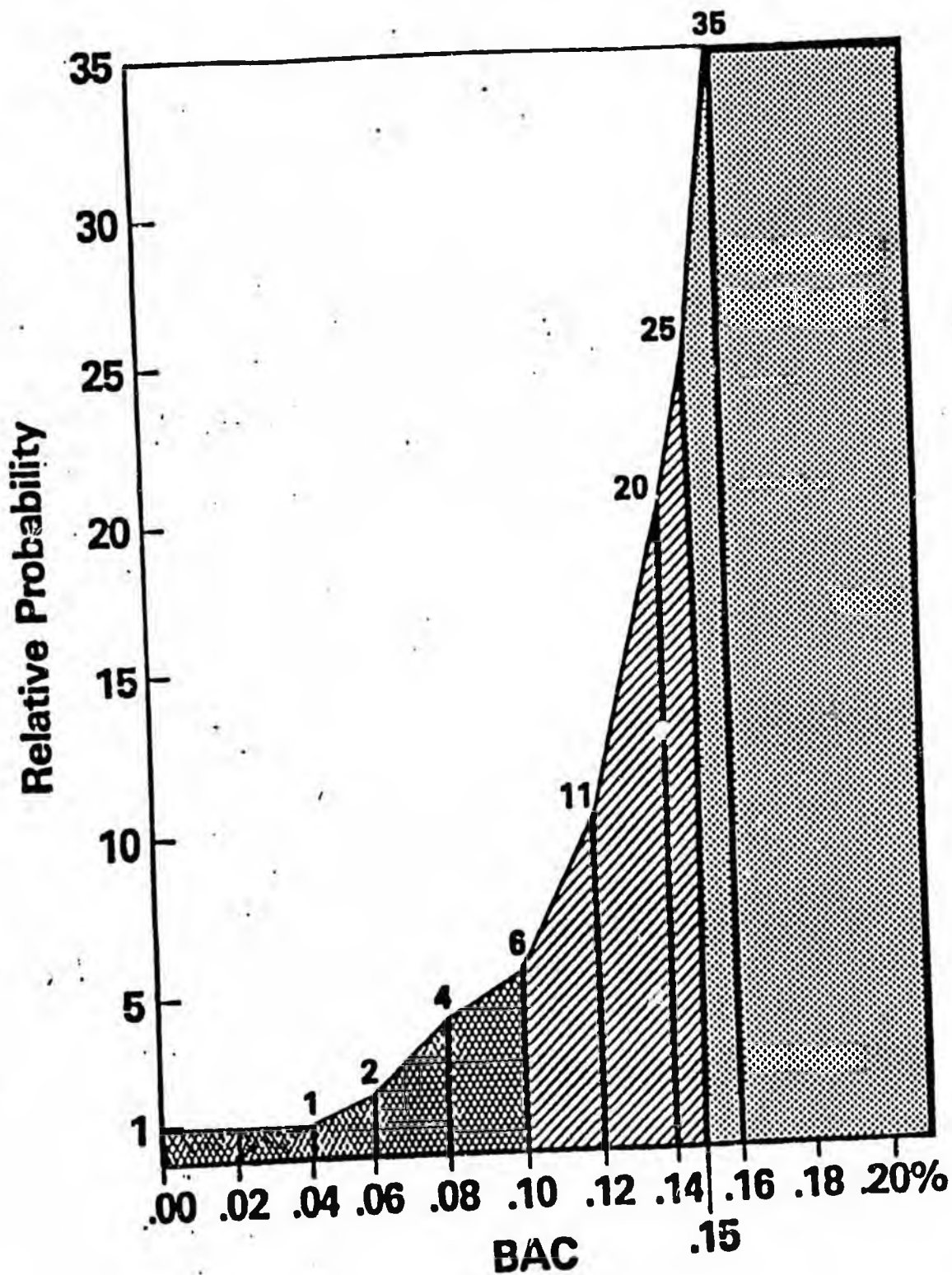


Figure 1. Aggregated probability of crash involvement by driver BAC levels

RECEIVED MAR 20 1991



ALASKA COUNCIL ON

PREVENTION

OF ALCOHOL AND DRUG ABUSE, INC.

Founded 1962

March 18, 1991

Representative Dave Donley
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Donley:

On behalf of the Alaska Council on Prevention of Alcohol and Drug Abuse, I would like to offer our support of House Bill 102 relating to the offense of operating a motor vehicle, aircraft, or watercraft while intoxicated. The Alaska Council wholeheartedly supports your proposal to lower the legal blood alcohol content (BAC) from .10 to .08. As the prime sponsor of this legislation, you are to be commended for proposing changes to our current law which would result in a decrease in injuries and loss of lives in our state.

As you are undoubtedly aware, many studies have been conducted in recent years with common results showing that the risk of being involved in an alcohol-related crash or fatality increases after about 0.08 BAC. The effects of alcohol on a driver's mental and physical processes increase dramatically with each incremental change in blood alcohol. While many states have set .10 percent as the definition of drunk driving, much lower blood alcohol levels have been found to severely affect performance including factors such as judgment, concentration, reaction time and vision.

With the passage of HB 102, Alaska would join progressive states such as Oregon, California, Utah, Maine and Vermont which have lowered their legal BAC to .08 and reduced the risk of tragedies which can result from drinking and driving. Thank you for working to save the lives of Alaskans by proposing this necessary change to the laws of our state.

Sincerely,

Bette O'Moor
Executive Director

MOTHERS AGAINST DRUNK DRIVING

TO: Fairbanks Daily News-Miner
P.O. Box 70710
Fairbanks, AK 99707

FROM: Peri-Ann McIlroy
Mothers Against Drunk Driving
227 Woodridge, #12
Fairbanks, AK 99709

DATE: February 24, 1991

SUBJ: News Release - For Immediate Release

House Bill 102

The Fairbanks Chapter of Mothers Against Drunk Driving announces its support for House Bill 102 introduced by Representative Dave Donley, (D) Anchorage. This bill, designed to lower the blood alcohol standard for driving while intoxicated, is seen as a crucial link in the defense against DWI in Alaska.

Glenn Hackney, President of the Fairbanks Chapter of MADD said that passage of this bill will help deter drunken driving by making convictions easier to obtain and cases harder to lose through technicalities.

The bill would lower the per se standard for intoxicated driving from the current .10 to .08, a level at which it has been proven virtually everyone suffers dangerous driving impairment. At the current state level, law enforcement officials find it frustrating to arrest drivers with BACs of near .10 because convictions are difficult to obtain at such levels. However, experience in Oregon since passage of .08 per se there has shown that under the lower standard, both arrests and convictions have gone up, especially at .10 - .14 levels.

"Passage of this bill will make the state BAC legal limit more closely coincide with actual impairment and make Alaska highways safer," said Glenn Hackney.

RECEIVED MAR 21 1991



ALASKA STATE MEDICAL ASSOCIATION

4107 Laurel Street • Anchorage, Alaska 99508-5334 • (907) 562-2662

March 18, 1991

Honorable Dave Donley
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, Alaska 99811

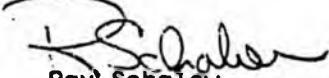
Dear Representative Donley:

The Alaska State Medical Association strongly supports your efforts in addressing the serious matter of alcohol-related accidents and fatalities through House Bill 102.

It is our belief that imposing a more restrictive legal limit on alcohol consumption for drivers does reduce the number accidents and fatalities. We applaud your efforts in reducing the amount of blood alcohol to 0.08 percent by weight of alcohol in the blood. The Alaska State Medical Association had drafted legislation to reduce the percentage to 0.05 and was prepared to introduce this legislation when your bill appeared.

If we can be a resource or assist you in any manner, please do not hesitate to call.

Sincerely,



Ray Schalow
Executive Director

RECEIVED

1991

Michael T. Propst, M.D.

A PROFESSIONAL CORPORATION

4335 LAUREL

ANCHORAGE, ALASKA 99508

(907) 563-8899

March 7, 1991

Representative Dave Donley
Chairman, House Judiciary Committee
P.O. Box V
Juneau, Alaska, 99811

Dear Representative Donley:

I write in strong support of House Bill 102 regarding the lowering of the legal blood alcohol or breath alcohol to .08%. There is strong scientific documentation of impairment for operating a motor vehicle at this concentration and above. I have testified in many cases to the effect that in my expert medical opinion Alaska's drunk driving law should reflect this concentration.

Sincerely,


Michael T. Propst, M.D.

enc.

MTP:sp

SCOTT & WESLEY GERRISH
MEMORIAL

M A D D

ANCHORAGE, ALASKA
CHAPTER

MAILING ADDRESS:
733 West 4th Avenue, Box 821
Anchorage, AK 99501

(907) 258-MADD

BUSINESS ADDRESS
733 West 4th Avenue, Suite 304
Anchorage, AK 99501

February 25, 1991

Representative Dave Donley
P.O.Box V
Juneau, Alaska 99811

Dear Representative Donley:

The Anchorage Chapter of Mothers Against Drunk Driving is pleased to support HB 102. As you know, a driver with a blood alcohol level of .08 is six times more likely to have an accident than a driver with a blood alcohol level of zero.

In 1989 there were a total of twenty traffic fatalities in Anchorage; six of those were alcohol-related. That same year there were a total of 371 alcohol-related traffic accidents which did not result in fatalities. By lowering the legal blood alcohol level to .08, we hope both of these statistics could be lowered significantly.

Nationwide, the chances of being a victim of a handgun-related crime are one in five; the chances of being a victim of an alcohol-related traffic accident are one in two, according to the National Highway Traffic Safety Administration.

Every 23 minutes, someone in the United States dies because of a drunk driver. Within the last decade, over 250,000 Americans have died because of drunk drivers. This is more than five times the number of U.S. combat deaths in Vietnam. Clearly, drunk driving is one of the major causes of accidental death in this country. MADD commends you in your efforts to reduce the impact of drunk driving here in Alaska.

A major issue in conjunction with this legislative change would be to provide a monetary incentive to municipalities to change their ordinances to conform with state law by increasing municipal assistance enough to cover the increased costs of the bill. I don't believe the costs would greatly increase, but I know, for example, that the municipality of Anchorage needs additional prosecutors now, and this change would only make that need more acute.

We urge the passage of this bill with the appropriate resources to ensure its enforcement.

Sincerely,

Susan Humphrey-Barnett / by lsr
Susan Humphrey-Barnett, President
Anchorage Chapter MADD

MODIFYING
ATTITUDES
TOWARDS
DRIVING AND
DRINKING

.08 Per Se .05 Presumptive Legal Blood Alcohol Content Limit

POSITION

MADD supports setting the legal Blood Alcohol Content (BAC) limits for drivers at .08 per se and .05 presumptive.

BACKGROUND

The "illegal per se" concept is that operation of a vehicle by a person with a BAC at or above a legally defined numerical threshold (e.g. 0.08) constitutes an offense per se of drunk driving. Illegal per se is not rebuttable, except on grounds such as illegal arrest procedure or breath analysis machine error.

The "presumptive" concept states that a BAC between the numerical threshold and the per se level may be considered with other competent facts in determining whether a person was under the influence of alcohol. It is rebuttable.

Even though impairment theoretically begins with the first bit of alcohol, research has clearly shown measurable impairment occurs in most people at .05 BAC.¹ A recent study by the Transportation Research Board supported lowering the BAC limit for commercial drivers to .04 or lower.²

Reliable studies show that for all people, important driving skills are impaired at .08 BAC.³

Because measurable impairment in most people occurs at .05 BAC and because everyone is impaired at .08, MADD believes that states should enact drunk driving laws making a BAC of .05 presumptive evidence of intoxication and a .08 BAC per se evidence of intoxication.

In most industrialized nations, the legal BAC is lower than the 0.10 level which prevails in the United States. MADD believes that lowering the BAC to .05 presumptive and .08 per se will reduce drunk driving by:

- Increasing the likelihood of convicting suspected drunk drivers.
- Increasing a person's perceptions that he or she will get caught for driving after drinking, and
- Expanding the universe of arrestable impaired drivers.

1. Moscovitz and Robinson, "Effects of Low Doses of Alcohol on Driving Skills: A Review of the Evidence," July 1987.

2. Zero Alcohol and Other Options: Limits for Truck and Bus Drivers, Special Report 216, Transportation Research Board, National Research Council, Washington, DC, August 1987.

3. Moscovitz et al.

MADD

.08 Illegal Per Se Laws

What is an illegal per se law?

An "illegal per se" law makes it illegal to drive or to be in control of a motor vehicle with an illegal alcohol concentration, as prescribed by State law. Unlike most driving while intoxicated (DWI) statutes wherein alcohol concentration, along with other factors such as slurred speech, unsteady gait, etc., are used as evidence to prove that a driver was intoxicated, with an "illegal per se" law, driving while at or above a specified alcohol concentration constitutes the violation in and of itself.

"Illegal per se" laws are similar to (but should not be confused with) administrative license suspension laws which are frequently called "administrative per se" laws. An "illegal per se" law specifies the violation of driving or being in control of a vehicle while at or above a specified alcohol concentration. This charge is a criminal charge which would normally be adjudicated in a court of law and a conviction would be followed by a number of appropriate sanctions or combinations of sanctions.

An "administrative per se" license suspension law provides that if a person drives or is in control of a vehicle while at or above a prescribed alcohol concentration, an administrative (as opposed to a judicial) license suspension or revocation will result. Such a law is similar to an "illegal per se" law in that it is based solely on the alcohol concentration of the driver. It differs from an "illegal per se" law in that it invokes an "administrative," rather than a "judicial" process and prescribes specifically what the administrative penalty (e.g. a 90-day license suspension) will be.

Why is an "illegal per se" law needed?

Illegal per se laws greatly increase the probability of conviction for an alcohol-related offense. They increase the certainty of conviction and reduce litigation time and costs. Because they increase the certainty of conviction (and therefore the certainty of punishment), illegal per se laws are more effective in deterring drunk driving and in reducing alcohol-related crashes.

This is because under an "illegal per se" law, the definition of the offense is not driving while intoxicated (a less than precise term). Rather, it is driving (or being in physical control of a vehicle) while having an illegal alcohol concentration which the law defines. In such case, the prosecutor is significantly less burdened to establish additional evidence (usually behavioral) which demonstrates intoxication or impairment. Therefore, the "burden of proof" for a conviction is less for the prosecutor under a "per se" law than under a "presumptive" law where alcohol concentration is only one of several factors used to establish guilt.

It should be noted that often the police officer must collect the same type of evidence (e.g. behavioral signs of intoxication) required under a "presumptive" law in order to show the "articulable suspicion" necessary for making the stop and the "probable cause" necessary for making the arrest. Still, however, the "illegal per se" law increases the probability of a conviction and decreases the prosecutor's requirement to provide additional, less objective evidence.

How do we know that intoxication or impairment is directly related to alcohol concentration? At what level is a person impaired?

Scores of laboratory studies have been conducted over the past three decades to determine the extent to which alcohol impairs the skills and/or judgment which are related to driving (e.g. reaction time, vision, risk taking behavior, etc.).

Such studies have indicated that impairment effects are seen in some persons at alcohol concentrations below .04 and that all persons are impaired to some extent at .08 percent (Moskowitz and Robinson, 1987). Complex tracking tasks, complex reaction time and divided attention tasks, where subjects must attend to multiple stimuli at the same time, appear to show the most degradation and onset appears to begin at very low alcohol concentrations.

More importantly, a number of "real world" (epidemiological) studies have been conducted

which have attempted to relate involvement in (and causation of) alcohol-related crashes to factors such as alcohol concentration. All such studies have shown an increased risk of involvement and causation of such crashes which is directly correlated with alcohol concentration. Most of such studies (Perrine, 1976, Borkenstein, 1968) have indicated that the risk of crash involvement begins to rise after .04 alcohol concentration and rises rapidly after .08 alcohol concentration.

What is the current status of "illegal per se" laws in the U.S.?

As of January 1, 1988, 44 States had passed "illegal per se" laws. Most such laws have been enacted since 1980 and most (41) have established .10 as the illegal alcohol concentration. Two States, Idaho and Oregon, established .08 as the illegal concentration. Two States established a higher level (i.e. Colorado @ .15 and Georgia @ .12).

During the 1988 legislative session, several States have already changed their "per se" laws. Maryland passed such a law for the first time and established the illegal concentration at .10 and Maine lowered its illegal concentration from .10 to .08.

Thus, as of July 1, 1988, there were 45 states plus D.C. with illegal per se laws, 41 States with a .10 limit; 3 states with a .08 limit and two states with a limit greater than .10.

Five states remain without a per se law. They are: Wyoming, Kentucky, Tennessee, Massachusetts and South Carolina. Colorado and Georgia have illegal per se laws but an alcohol concentration greater than 0.10.

How effective have "illegal per se" laws been?

Illegal per se laws are only part of a total system of laws, enforcement, license actions, prosecution, adjudication, sanctioning, education and treatment that contribute to significant reductions in alcohol-related crashes. Very often such laws have been passed and enacted as a part of comprehensive legislative packages. This has made it difficult to evaluate the effectiveness of such laws, in and of themselves.

In 1988, however, the Insurance Institute for Highway Safety (IIHS) released the results of a study which evaluated the effectiveness of "illegal per se" laws, "administrative per se" laws and mandatory jail/community service laws. The study revealed that il-

legal per se laws significantly reduced fatal crashes. Since more States had enacted "illegal per se" laws, more lives had been saved due to such laws than by either of the other types of laws.

Why use .08 rather than .10 as the illegal alcohol concentration for "illegal per se" laws?

As has already been pointed out, laboratory research has indicated that virtually all drivers are impaired to some extent at an alcohol concentration of .08. Most persons show impairment in some critical tasks such as divided attention at much lower levels. Furthermore, epidemiological studies have shown that the risk of crash involvement begins to rise significantly after an alcohol concentration of .05.

A summary of both laboratory and epidemiological research can be found in the resource materials. The report entitled *Alcohol and Highway Safety 1984: A Review of the State of Knowledge*, and the report entitled *Low BAC Impairment* (Moskowitz and Robinson, 1987) should be reviewed for a thorough understanding of the effects of alcohol at low alcohol concentrations.

Most foreign nations have alcohol concentrations at .08 or lower. These include Canada, Great Britain, the Scandinavian countries, Australia and New Zealand.

Who supports lowering the alcohol concentration limit below .10?

The National Safety Council's (NSC) Committee on Alcohol and Drugs has thoroughly reviewed the evidence regarding driving impairment and the epidemiology of crashes relative to alcohol concentration. It has resolved that all persons are impaired at an alcohol concentration of .08 and supports the lowering of "per se" limits to that level.

The American Medical Association (AMA) advocates an even lower .05 alcohol concentration limit.

The National Committee on Uniform Traffic Laws and Ordinances (NCUTLO) advocates an illegal per se limit of .08 in its most recent edition of the Uniform Vehicle Code (UVC).

Other organizations which advocate illegal per se laws at levels below .10 include: The American Spinal Injury Association (ASIA) and the States of Utah, Maine and Oregon, which have .08 per se limits.

What provisions of an illegal per se law are desirable?

Immediately following this section is a copy of the provisions of the new Uniform Vehicle Code (UVC) which relate to an "illegal per se" law.

As is apparent, the primary provision in Section 11-902 is that:

"(a) A person shall not drive or be in actual physical control of any vehicle while:

1. The alcohol concentration in his blood or breath is 0.08 or more..."

Note that the (new) term "alcohol concentration" means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath. This definition of alcohol concentration replaces the (old) term of blood alcohol concentration (BAC) which was expressed in terms of a percent (e.g. .08% BAC). The new term is simply "an alcohol concentration of 0.08." This definition is appropriate whether blood or breath tests are taken with no need to convert one to the other (i.e. no need to convert breath alcohol concentration [BAC] to blood alcohol concentration [BAC]).

Are illegal per se laws constitutional?

Yes, they are constitutional. Although the U.S. Supreme Court has consistently refused to hear "illegal per se" cases, every State appellate or high court which has ruled on illegal per se laws has found such laws to be constitutional so long as adequate notice is given as to what constitutes the illegal behavior.

In order to be clearer as to what constitutes illegal behavior, some states have written in their legislation requirements for providing alcohol concentration information to the public.

Are there any other changes that should be made to illegal per se laws?

Besides lowering the alcohol concentration limits of existing per se laws, it is important to review the "presumptive" laws which may also exist within the State which, in some cases, state that a person is "presumed not to be under the influence of alcohol at an alcohol concentration of .05 or less." Such a provision should be removed. Given recent research findings, it is clear that there is no positive (non-zero) alcohol concentration level where it can be presumed that a person is not under the influence of alcohol.

Points Often Raised

How many lives will be saved by lowering the limit from 0.10 to 0.08?

There are no scientific research studies which show the impact of reducing an illegal per se limit from 0.10 to 0.08. However, Scandinavian countries which have lower alcohol concentration limits also have fewer drivers on the road at high alcohol concentrations and a lower portion of their fatally-injured drivers have high alcohol concentrations. These lower levels are likely due to a combination of factors such as enhanced enforcement, use of roadside sobriety checkpoints, swift and sure license and jail penalties, as well as lower alcohol concentration limits. Such a (lower) limit must be viewed as an element of a total package aimed at reducing impaired driving.

In addition to the foreign experience, those states which have had lower alcohol concentration limits in the U.S. are among the states with the lowest nighttime proportion of fatal crashes and the lowest alcohol-related proportion of fatal crashes. Again, there are many factors in operation in such states. However, the lower illegal per se limits are considered to be an important such factor.

One researcher (Hurst) re-analyzed the data from the classic Grand Rapids, Michigan, study (Borkenstein, 19). Hurst developed a procedure for estimating what the impact of a complete enforcement of various alcohol concentration limits would be (i.e. the effect of keeping all persons above a specified alcohol concentration off the road). He estimated that a complete enforcement of a 0.08 limit would be significantly more effective in reducing serious alcohol-related crashes than a complete enforcement of a 0.10 limit. Although a complete enforcement effort may not be realistic, Hurst's analysis indicated that significant potential gains are available by reducing the alcohol concentration limit from 0.10 to 0.08.

Will reducing the limit from 0.10 to 0.08 likely make a difference?

If the police and the courts actually carry out the intent of the law, such a reduction can make an im-

portant difference. Currently, many drivers apprehended at borderline alcohol concentrations (e.g., 0.11) are not vigorously prosecuted and may be allowed to plead to a reduced charge. Lowering the limit to .08 should increase the frequency of prosecution of this group. It should also result in the more frequent arrest and conviction of persons at .08 and .09 who are at least 2 to 3 times as likely to be involved in a serious crash as someone at .06.

Isn't it fairer and more accurate to use appearance and behavior as an indicator of impairment or intoxication than to use an alcohol concentration?

No, it is not. Alcohol concentration is the most scientific and objective measure we can use to determine impairment or increased probability of involvement in a serious or fatal crash. That is because nearly all impairment which has been measured in laboratory situations and all risk estimates from "real world" epidemiological studies have been established relative to alcohol concentration levels.

Appearance is often misleading. Individuals who show little evidence of intoxication may still be significantly impaired in their ability to react to complex situations on the roadway.

We must rely on what we have learned from laboratory and real world studies to estimate what impact alcohol is likely to have in driving situations. Furthermore, studies have shown that both physicians and police fail to identify up to half of the drivers who are above 0.10 alcohol concentrations (NSC, 1970; NHTSA, 1984). Yet, research demonstrates that at these alcohol concentrations the ability of all drivers to react to complex situations is significantly impaired and evidence from epidemiological studies indicates that the probability of involvement in a serious injury or fatal crash is 5-6 times that of a person with a 0.00 alcohol concentration.

The most accurate and objective indicator of increased crash risk is a measure of alcohol concentration.

If a State enacts an "illegal per se" law, should the old law(s), which are based on behavioral evidence, as well as on alcohol concentration, be discarded?

No, the older driving while intoxicated (DWI) or driving under the influence (DUI) laws should be retained for those cases in which no chemical test is available. This can occur either when an offender refuses to take a chemical test or when some problem develops with the test result. Often, an offender is charged under both the "per se" and "presumptive" laws and one of the charges is dropped at a later date.

With all the current emphasis being placed on alcohol concentration as measured by breath testing devices, how accurate are such devices in measuring alcohol concentration?

Modern breath test devices are extremely accurate and reliable when maintained and operated according to State guidelines. All States have detailed requirements for

- (1) the qualifications of breath testing equipment.
- (2) the training of breath test operators and
- (3) the procedures to be used in conducting breath tests.

Only when all of these requirements are met are tests admitted as evidence.

Most of the errors which can be made in collecting breath tests provide a result which is favorable to the accused (e.g., the devices are calibrated to read lower, rather than higher).

The principal risk in administering a breath test is failure to wait 15-20 minutes before administering the test. This must be done to ensure that any alcohol residue in the mouth from the person's last drink is gone. Such "mouth alcohol" could result in an erroneously high alcohol concentration reading. All States require at least a 15-20 minute wait before an evidential breath test can be conducted.

Isn't blood alcohol, rather than breath alcohol, a more accurate measure on which to base impairment?

No. Most of the laboratory research which has measured impairment relative to alcohol concentrations has employed the use of breath test devices to measure alcohol concentration. In addition, most of

the evidence gathered from roadside surveys (a critical element of epidemiological studies) has been based on the administration of breath tests.

Since it is alcohol in the brain which, presumably causes impairment, perhaps the best measure of alcohol impairment would be the alcohol concentration of the brain. Such a measure, however, is not practical to collect.

There is no evidence that blood alcohol concentration provides any better measure of impairment than does breath alcohol concentration. Defense lawyers would like to make a judge and jury believe that blood is a better measure, but it is not.

The dependence on blood alcohol concentration (BAC) began decades ago when blood provided the primary means for determining alcohol concentration. When breath test devices were first developed, they were based on a conversion factor (i.e. 2100:1) to convert the breath alcohol readings to blood alcohol equivalents. That was unfortunate and defense lawyers began to challenge the 2100:1 conversion ratio. Newer State legislation is progressing beyond that stage by defining violations in terms of the more general term "alcohol concentration" (not blood alcohol concentration) which means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

Isn't it unfair to define an alcohol-related (per se) offense in terms of alcohol concentration when an individual has no direct way of determining what his or her alcohol concentration is?

It is true that a precise measure of one's alcohol concentration is difficult to obtain unless the person has his or her own breath test device. However, a person can use simple guidelines such as no more than a drink in an hour or "know your limit" cards to estimate his or her alcohol concentration. Furthermore, the legal limit of .08 is sufficiently high that more than just a moderate amount of drinking is necessary to reach the legal limit.

A person would have to drink more than just a drink an hour to reach such a limit. An average 160 lb. male would have to drink more than 3 drinks in the first hour to reach that limit and could have nearly one additional drink for each additional hour of drinking without exceeding the limit.

MADD

Illegal Per Se at .08% Law

Uniform Vehicle Code

I. Criminal offenses

§ 11-902--Driving while under the influence of alcohol or drugs

(a) A person shall not drive or be in actual physical control of any vehicle while:

1. The alcohol concentration in his blood or breath is 0.08 or more based on the definition of blood and breath units in § 11-903(a)(5); (New, 1971; Revised, 1979, 1984.)
2. Under the influence of alcohol; (Revised, 1971.)
3. Under the influence of any other drug or combination of other drugs to a degree which renders him incapable of safely driving; or (Formerly § 11-902.1; Revised, 1971, 1979, & 1984.)
4. Under the combined influence of alcohol and any other drug or drugs to a degree which renders him incapable of safely driving. (Formerly § 11-902.1; Revised, 1971, 1979, & 1984.)

(b) The fact that any person charged with violating this section is or has been legally entitled to use alcohol or other drug shall not constitute a defense against any charge of violating this section. (Formerly § 11-902.1; Revised, 1971, 1984.)

(c) In addition to the provisions of § 11-904, every person convicted of violating this section shall be punished by imprisonment for not less than 10 days or more than one year, or by fine of not less than \$100 nor more than \$1,000, or by both such fine and imprisonment and on a second or subsequent conviction, he shall be punished by imprisonment for not less than 90 days nor more than one year, and, in the discretion of the court, a fine of not more than \$1,000. (Formerly § 11-902.2; Revised, 1971, 1984.)

II. Admissibility of chemical tests for intoxication

§ 11-903--Chemical and breath tests

(a) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a vehicle while under the influence of alcohol or other drugs, evidence of the concentration of alcohol or other drugs in a person's blood or breath at the time alleged, as determined by analysis of the person's blood, urine, breath or other bodily substance, shall be admissible. Where such a test is made the following provisions shall apply; (New, 1971; Revised, 1979, 1984.)

1. Chemical analyses of the person's blood, urine, breath, or other bodily substance to be considered valid under the provisions of this section shall have been performed according to methods approved by the (State department of health) and by an individual possessing a valid permit issued by the (State department of health) for this purpose. The (State department of health) is authorized to approve satisfactory techniques or methods, to ascertain the qualifications and competence of individuals to conduct such analyses, and to issue permits which shall be subject to termination or revocation at the discretion of the (State department of health). (Formerly § 11-902 (c).)
2. When a person shall submit to a blood test at the request of a law enforcement officer under the provisions of § 6-207 or § 6-209, only a physician or a registered nurse (or other qualified person) may withdraw blood for the purpose of determining the alcoholic or other drug content therein. This limitation shall not apply to the taking of breath or urine specimens. (Formerly § 11-902 (d).)
3. The person tested may have a physician, or a qualified technician, chemist, registered nurse,

or other qualified person of his own choosing administer a chemical test or tests in addition to any administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test or tests taken at the direction of a law enforcement officer. (Formerly §112-902(e).)

4. Upon the request of the person who shall submit to a chemical test or tests at the request of a law enforcement officer, full information concerning the test or tests shall be made available to him or his attorney. (Formerly §11-902 (f).)

III. Definition of alcohol concentration

5. Alcohol concentration shall mean either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath. (Formerly §11-902(b); Revised, 1979.)

IV. Presumptions for under the influence alcohol offense

- (b) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a vehicle while under the influence of alcohol, the concentration of alcohol in the person's blood or breath at the time alleged as shown by analysis of the person's blood, urine,

breath, or other bodily substance shall give rise to the following presumptions: (Revised, 1979.)

1. If there was at that time an alcohol concentration of 0.05 or less, it shall be presumed that the person was not under the influence of alcohol. (Revised, 1979.)
 2. If there was at that time an alcohol concentration in excess of 0.05 but less than 0.08, such fact shall not give rise to any presumption that the person was or was not under the influence of alcohol. (Revised, 1979, 1984.)
 3. If there was at that time an alcohol concentration of 0.08 or more, it shall be presumed that the person was under the influence of alcohol. (Revised, 1979, 1984.)
 4. The foregoing provisions of this subsection shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was under the influence of alcohol. (Formerly § 11-902(b).)
- (c) If a person under the arrest refuses to submit to a chemical test under the provisions of §6-207, evidence of refusal shall be admissible in any civil or criminal action or proceeding arising out of acts alleged to have been committed while the person was driving or in actual physical control of a motor vehicle while under the influence of alcohol or other drugs. (Formerly §11-902 (g). Revised, 1984; Section Renumbered, 1986.)

MADD

.08 Per Se

In Rapid City, South Dakota, a young resident was engaged to be married when he was struck by a car whose driver had been drinking, but whose blood alcohol test was below the legal intoxication limit.

Even though Ricky was hospitalized five months and in a coma more than a month, no charges were filed. Because of this paralysis, he will live in a nursing home for the rest of his life.

Arlene Feuerback had just celebrated her 40th wedding anniversary in August, 1987, reflecting on her years of happiness. She had recently been named one of five "Master Homemakers" in Iowa. She was a hospital volunteer, a leader in her church, an active Farm Bureau woman, and coordinator of a food pantry for the needy.

As she rode her bicycle along the highway she was hit and killed by an offender who fell asleep at the wheel. Because his blood alcohol level tested at .053, he was charged only with reckless driving and fined \$30 plus court costs.

A study was made of 388 drunk driving cases dropped by the State Attorney's office in West Palm Beach. Florida revealed that 75 (19%) were dropped because of blood alcohol levels of less than .10. Officers say they continue to file charges against offenders who register below .10 because they fear the offenders will have fatal crashes if let go.

MADD

.08 Per Se Resources

Agencies

National Transportation Safety Board
Washington, DC 20594
(202) 382-6572

**National Highway Traffic Safety
Administration**
Office of Alcohol and State Programs
400 - 7th Street, S.W., Suite 5130
Washington, DC 20590
(202) 366-9550

National Safety Council
Committee on Alcohol and Drugs
444 N. Michigan Ave.
Chicago, IL 60616
(312) 527-4800

**National Committee on Uniform Traffic
Laws and Ordinances**
The Traffic Institute -
Northwestern University
405 Church Street
Evanston, IL 60201
(312) 491-5280

Mothers Against Drunk Driving
National Office
669 Airport Freeway, Suite 310
Hurst, TX 76053
(817) 268-6233

Consultants

John H. Lacey
UNC Highway Safety Research Center
CTP. 197A
Chapel Hill, NC 27514

John V. Moulden, Advisory
National Transportation Safety Board
Washington, DC 20594

Robert B. Voas, PhD.
Pyramid Planning
7315 Wisconsin Avenue
Bethesda, MD 20814

References

"Effects of Low Doses of Alcohol on Driving Skills: A Review of the Evidence," Moscovitz, Herbert and Robinson, Christopher D., National Technical Information Service, Springfield, VA, for the U.S. Department of Transportation, July 1987.

Zero Alcohol and Other Options, Special Report 216, Transportation Research Board, National Research Council, Washington, DC, 1987.

"A Study of the Feasibility of Establishing Lower Blood Alcohol Content Limits in Sections of the Wisconsin Statutes Related to Operating a Vehicle While Intoxicated," contract study for Council on Highway Safety, Wisconsin Department of Transportation, 1984.

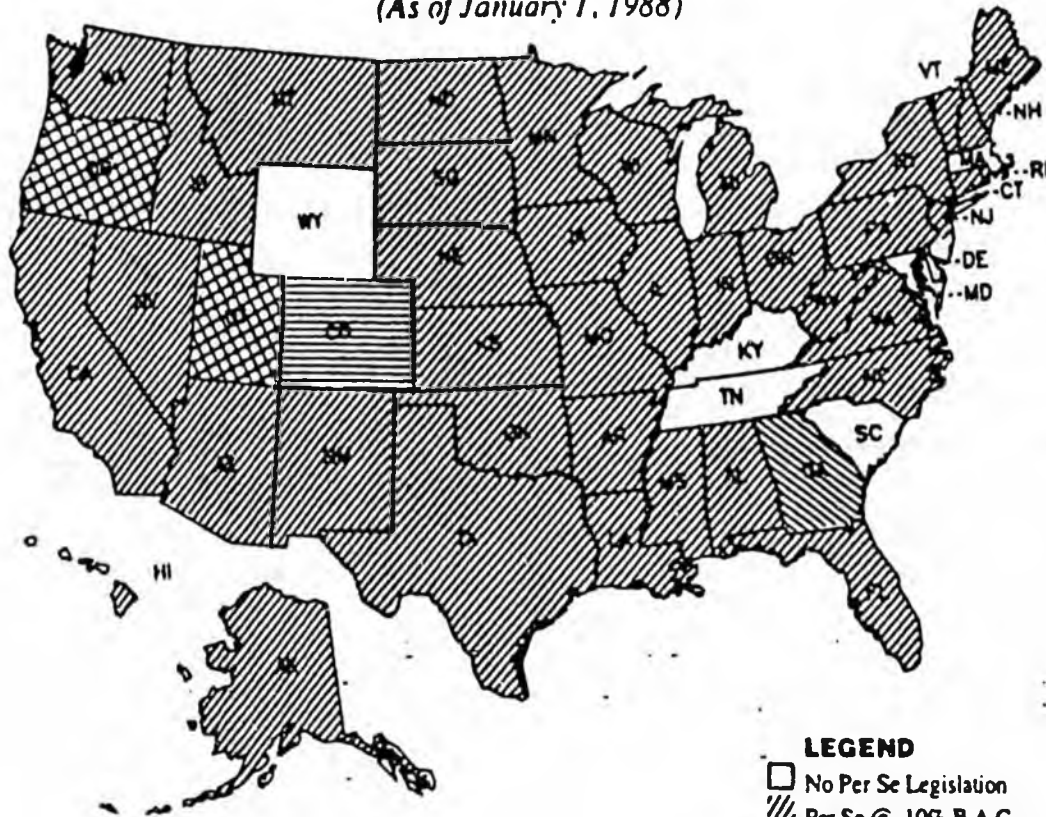
"Fatal Crash Involvement and Laws Against Alcohol-Impaired Driving," Zador, P. L.; Lund, A. K.; Fields, M.; and Weinberg, K.; Insurance Institute for Highway Safety, Washington, D.C., February, 1988.

MADD

States With Illegal PerSe Laws

44 States and Washington, D.C.

(As of January 1, 1988)



LEGEND

- No Per Se Legislation
- ▨ Per Se @ .10% B.A.C.
- ▩ Per Se @ .12% B.A.C.
- ▬ Per Se @ .15% B.A.C.
- ▧ Per Se @ .08% B.A.C.

Source: NHTSA Legislative Digest

Alabama
Alaska
Arizona
California
Colorado*
Connecticut
Delaware
District of Columbia
Florida
Georgia**
Hawaii
Idaho

Illinois
Indiana
Iowa
Kansas
Louisiana
Maine***
Michigan
Minnesota
Mississippi
Montana
Nebraska
Nevada

New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma
Oregon***
Pennsylvania
Rhode Island
South Dakota

Texas
Utah***
Vermont
Virginia
Washington
West Virginia
Wisconsin

Total = 44
*BAC = 0.15
**BAC = 0.12
***BAC = 0.08

HB102

SENATE FINANCE COMMITTEE REPORT

DATE: 5/14/91

FURTHER:

DATE TURNED INTO OFFICE: 5-19-91

The Finance Committee considered CS FOR HOUSE BILL NO. 102 (JUDICIARY)

"An Act relating to the offense of operating a motor vehicle, aircraft, or watercraft while intoxicated; and providing for an effective date."

and recommended:

- replace with _____ CS _____
- or adopt _____ CS _____
- attached amendment(s)
- _____ letter of intent adopted
- same title
- new title
- technical title change (HB only)

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):
Dept/Date:

fiscal note(s) _____

zero fiscal note(s) _____

appropriation-no fiscal note

SIGNING DO PASS:

1. [Signature]

APPROVES PREVIOUS:
Dept/Date:

fiscal note(s) _____
DPS 12.5 4/3/91

zero fiscal note(s) _____
DOLAW 3/20/91
Corrections 3/19/91
DHSS 5/1/91

OTHER RECOMMENDATIONS:

[Signature] - No Rec
Al Adams - DO NOT PASS
[Signature] - No Rec
[Signature] - Do Not Pass
[Signature] (NO RE)

2. _____

Co-Chairs: Signatures and Recommendations

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Nr. 6
Version: CSHB 102 (JUD)
(H) Publish Date: 4/5/91

Revision Date: 4/3/91
Title: Lowering the DWI Blood Alcohol to .08
Sponsor: Representative Donley
Requestor: House Judiciary

Department Affected: Public Safety
BRU: Alaska State Troopers
Component: Detachments

COMPONENT SERIAL NO.		7	9	9
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EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not Included)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	12.5	12.5	-0-	-0-	-0-	-0-
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	12.5	12.5	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	12.5	12.5	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER/PROG RCPT						
TOTAL	12.5	12.5	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact none

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: Gayle A. Horetski Phone: 465-4322
Division: Commissioner's Office Date: 4/3/91
Approved by Commissioner: Richard L. Burton Richard L. Burton
Agency: Department of Public Safety Date: 4/3/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Statistics show that "lower level" or "borderline" DWI offenders are not being apprehended now. The average breath alcohol concentration (BAC) of DWI arrestees in 1989 was .19 percent--well over the legal limit of .10. Concerted, long-term training will be needed to assist law enforcement officers to detect and apprehend DWI offenders at lower BAC levels. The need for such training, and for more effective enforcement efforts will be an issue addressed in the Department's FY 93 budget request. In the meantime, \$25,000 in contractual funding is needed to develop and implement a concentrated public information program to educate the public about the dangers of drinking and driving and about the content of the new law.

This education campaign would begin 7/1/91, six months before the new law is scheduled to take effect, and would continue on after 1/1/92.

COMMITTEE COPY

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

No. 4
Bill Version: HB 102
(H) Publish Date: 3/22/91

Revision Date: _____ Department Affected: Department of Law
Title: "...relating...to operating a motor vehicle...while intoxicated..." BRU: Prosecution
Sponsor: Representative Donley Component: All
Requestor: House Judiciary COMPONENT SERIAL NO.

		8	9
--	--	---	---

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: March 20, 1991
 Approved by Commissioner: Charles E. Cole, Attorney General
 Agency: Department of Law Date: March 20, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Fiscal Note Dept of Law
COMMITTED COPY

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 102

This bill amends AS 28.35.030(a) and AS 28.35.033(a) to lower the blood/alcohol limit for the crime of driving while under the influence of intoxicating liquor from 0.10 percent or more by weight alcohol in a person's blood to 0.08 percent.

Other jurisdictions, most notably California and Maryland, experienced about a ten percent increase in DWI arrests in the year immediately following their lowering of the limit to 0.08 percent. However, Oregon, which lowered its limit in 1983, saw a small decrease in arrests. It is not known why their results differed, or what impact enforcement and public information efforts may have had on them. Consequently, we cannot predict the result in Alaska, but some increase in arrests may occur if the bill is approved.

During the last fiscal year 4,106 DWI complaints were referred to Department of Law prosecutors. If Alaska follows the California example, a ten percent increase would result in 411 new DWI cases statewide. If they occur, the largest number of new cases would be experienced in the Anchorage and Matsu Valley areas. Because the Governor's revised budget includes adding new prosecutors in Anchorage, where the current caseload has nearly overwhelmed the existing staff, the department is not going to request fiscal note funds at this time. We continue to caution, however, that adding new or increased agency responsibilities should be avoided at a time when agency resources have been stretched as thin as our's have been. Therefore, if the bill results in a heavier caseload than we have anticipated, it will be necessary to seek additional funding next year.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

No. 5
Bill Version: HB 102
(H) Publish Date: 3/22/91

Revision Date: _____ Department Affected: Corrections
Title: "An Act relating to the offense of operating a motor vehicle... while intoxicated..." BRU: Statewide Operations
Component: All Institutions
Sponsor: Rep. Donley
Requestor: Rep. Donley COMPONENT SERIAL NO.

--	--	--	--

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: No significant impact on Department operations.

ANALYSIS: (Attach a separate page if necessary.)

See attached page.

Prepared By: Tom Sutton, Director Phone: 465-3376
Division: Administrative Services Date: 03-19-91
Approved by Commissioner: _____ Date: 03-19-91
Agency: Department of Corrections

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Fiscal Note DEPT of Corrections

Department of Corrections
Division of Administrative Services

House Bill No. 102, lowers the blood alcohol level for drunk driving from .10 percent to .08 percent.

The Department contacted three police departments, Anchorage, Fairbanks and Juneau. We asked each Department if data was available for us to determine the blood alcohol level of those who have been charged for drunk driving. Fairbanks and Anchorage police departments did not have that information readily available. However, for both cities, the staff stated it would be their best estimate that there would be few instances where the blood level would fall within the .08 to .10 percentage rate.

Fortunately, the Juneau Police department was able to provide us with records for testing on the intoximeter for the entire year of 1990. Our review of 148 charged with a DWI provided us with the following information:

Average Blood Alcohol Level	=	.1998
Blood Alcohol Level below .100	=	2
Blood Alcohol Level above .100	=	146
Blood Alcohol Level between .080 - .100%	=	0
Blood Alcohol Level between .050 - .080	=	2

The Department of Corrections reviewed its own records relative to DWI offenders and found the following admission rates and sentenced offenders in our institutions:

Calendar Year	1986	1987	1988	1989	1990
Admissions for DWI (A)	3536	3686	3603	3539	4033
Sentenced for DWI	3560	3081	2603	2584	2544

(A) Admission into facilities relates to those who are in an unsentenced status.

Considering the zero frequency rate of the number of offenders whose test results fall into .08 and .10; and the declining impact of sentenced DWI offenders into our system, it is my opinion that HB 102 will not have a significant fiscal impact upon the Department.

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Revision Date: _____
Title: "An Act relating to offense of operating a motor vehicle... while intoxicated."

Department Affected: Health & Social Services
BRU: Alcohol Safety Action Program
Component: Alcohol & Drug Abuse Grants

Sponsor: Representative Donley
Requestor: HOUSE FINANCE COMMITTEE

COMPONENT SERIAL NO.

--	--	--	--

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Representative Mike Navarre, Co-Chair *Mike Navarre* 465-3706
Representative Eileen MacLean, Co-Chair *Eileen MacLean* Phone: 465-3722
Division: _____ Date: May 1, 1991

Approved by Commissioner: _____
Agency: _____ Date: _____

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

CS FOR HOUSE BILL NO. 102 (JUDICIARY)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/5/91
 Referred: Finance

Sponsor(s): REPRESENTATIVES DONLEY, Ulmer, Finkelstein, Parnell, Barnes, G.Phillips, Martin, Boyer, Leman, C.Davis, M.A.Miller, B.Davis, M.W.Miller

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the offense of operating a motor vehicle, aircraft, or watercraft while
 2 intoxicated; and providing for an effective date."

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

4 * **Section 1. FINDINGS AND PURPOSE.** (a) The legislature finds that the number of persons who
 5 are drinking and driving in an impaired condition is a matter of serious concern, and that there is a
 6 rational relationship between establishing a lower limit of alcohol consumption and reducing the number
 7 of alcohol-related accidents and fatalities.

8 (b) It is the purpose of this Act to promote the general welfare and public safety by imposing
 9 a more restrictive legal limit on alcohol consumption above which the person will lose the privilege to
 10 drive.

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

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

14 (1) while under the influence of intoxicating liquor, or any controlled substance

1 listed in AS 11.71.140 - 11.71.190;

2 (2) when, as determined by a chemical test taken within four hours after the
3 alleged offense was committed, there is 0.08 [0.10] percent or more by weight of alcohol in the
4 person's blood or 80 [100] milligrams or more of alcohol per 100 milliliters of blood, or when
5 there is 0.08 [0.10] grams or more of alcohol per 210 liters of the person's breath; or

6 (3) while the person is under the combined influence of intoxicating liquor and
7 a controlled [ANOTHER] substance.

8 * Sec. 3. AS 28.35.033(a) is amended to read:

9 (a) Upon the trial of a civil or criminal action or proceeding arising out of acts alleged
10 to have been committed by a person while operating or driving a motor vehicle or operating an
11 aircraft or a watercraft while intoxicated, the amount of alcohol in the person's blood or breath
12 at the time alleged shall give rise to the following presumptions:

13 (1) If there was 0.04 [0.05] percent or less by weight of alcohol in the person's
14 blood, or 40 [50] milligrams or less of alcohol per 100 milliliters of the person's blood, or 0.04
15 [0.05] grams or less of alcohol per 210 liters of the person's breath, it shall be presumed that the
16 person was not under the influence of intoxicating liquor.

17 (2) If there was in excess of 0.04 [0.05] percent but less than 0.08 [0.10] percent
18 by weight of alcohol in the person's blood, or in excess of 40 [50] but less than 80 [100]
19 milligrams of alcohol per 100 milliliters of the person's blood, or in excess of 0.04 [0.05] grams
20 but less than 0.08 [0.10] grams of alcohol per 210 liters of the person's breath, that fact does not
21 give rise to any presumption that the person was or was not under the influence of intoxicating
22 liquor, but that fact may be considered with other competent evidence in determining whether
23 the person was under the influence of intoxicating liquor.

24 (3) [REPEALED]

25 (4) If there was 0.08 [0.10] percent or more by weight of alcohol in the person's
26 blood, or 80 [100] milligrams or more of alcohol per 100 milliliters of the person's blood, or 0.08
27 [0.10] grams or more of alcohol per 210 liters of the person's breath, it shall be presumed that
28 the person was under the influence of intoxicating liquor.

29 * Sec. 4. This Act takes effect January 1, 1992.

REPRESENTATIVE DAVE DONLEY



ALASKA STATE LEGISLATURE
DISTRICT ELEVEN • SPENARD
SEAT A

3111 "C" STREET, SUITE 450
ANCHORAGE, ALASKA 99503
(907) 561-7629 (FAX) 562-4376

ALASKA: ANCHORAGE • GENTZEN • BRUSHWOOD • CHESTER CREEK • HEATHER MEADOWS • LINCOLN PARK • MIDTOWN • NORTHSTAR
NORTHWOOD • ROMIG • ROOSEVELT PARK • SPENARD • THOMPSON • TURNAGAIN • WINDEMERE • WOODLAND PARK

SPONSOR STATEMENT

House Bill 102 reduces the legal definition of intoxication for the crime of driving while intoxicated from .10% to .08% blood alcohol content. This means that it would be illegal for a person to be in control of a motor vehicle with a blood alcohol level of .08% or greater.

Four states have already lowered their legal definition of intoxication to .08%: California, Oregon, Utah, and Maine. All of Canada has a .08% blood alcohol threshold. All European nations prohibit driving with a .08% or lower blood alcohol level. (.08% results from 4 drinks in an hour's time for the average-size adult.)

Scientific evidence persuasively establishes that the risk of a driver being involved in a serious or fatal crash increases as the alcohol concentration in the body increases. Many studies have shown that measurable impairment to operate a motor vehicle begins in most drivers at or below .05% percent blood alcohol level, and that all drivers are impaired at a blood alcohol level of .08%.

Setting the allowable blood alcohol level at .08% will greatly increase the probability of obtaining convictions for drunk driving. Because the law will increase the certainty of conviction, it will also be more effective than current law in deterring drunk driving and in reducing the number of alcohol-related crashes. In fact, after Maine reduced its legal blood alcohol level to .08%, the percentage of alcohol-related motor vehicle fatalities decreased significantly.



STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE

WALTER J. HICKEL, GOVERNOR

P. O. BOX D
JUNEAU, ALASKA 99811-0800
PHONE: (907) 465-2515

March 19, 1991

Honorable Dave Donley
Chairman, House Judiciary Committee
Alaska House of Representatives
P. O. Box V
Juneau, Alaska 99811

Dear Representative Donley;

Re: HB 102
Blood Alcohol Concentration

You have asked for our opinion concerning the proposal to revise the blood alcohol concentration measure of impairment from the current 0.10% to 0.08%. We have reviewed comments by John Krizay, author of the book "The Fifty Million Dollar Drain," in which he notes that with the current BAC level of 0.10%, an average driver is six to seven times more likely to have an accident if driving. He also notes that at 0.15% the ratio is 25 to 1. He further notes that the American Medical Association recommends a much lower level contending that even professional drivers display signs of impairment at levels of 0.05% and 0.06%. The evidence suggests that the 0.10% level is an inadequate measure of impairment. Your efforts to address a more appropriate level of impairment has our support.

Very truly yours,



David J. Walsh
Director

910319 06 DD1

BILL NO: HB 102

DATE: 3/20/91

TITLE: An Act relating to the offense of operating a motor vehicle, aircraft, or watercraft while intoxicated. . .

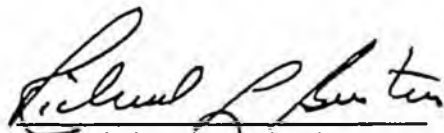
CONTACT: Gayle A. Horetski
Deputy Commissioner
465-4322

DEPARTMENT OF
PUBLIC SAFETY
P
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This bill would amend Alaska's DWI law to lower the prohibited breath or blood alcohol level from .10 to .08. The Alaska State Troopers and local police agencies would enforce the law through enhanced detection and arrest efforts. The bill also requires the Department of Public Safety, Division of Motor Vehicles (DMV), and the courts to revoke the driver's license or driving privileges of individuals arrested or convicted of DWI at an alcohol concentration level of .08 percent.

The effect of the adoption of a .08 alcohol level is difficult to predict, and will depend to a great extent upon the level of enforcement of the new law. The State of California adopted such a change effective January 1, 1990; the number of DWI arrests in that state increased 13.6 percent in the first year of enforcement. Maine adopted a similar law in 1988; the number of DWI arrests increased 20 percent in 1989, the first full year the law was in effect. Oregon adopted a .08 law in 1983. The arrest rate went up slightly in 1984, then declined for several years. As of 1989 (the latest year for which we have statistics), the number of DWI arrests is about two percent higher in Oregon than it was in 1983. In the first year of enforcement of Utah's .08 law, there was a 30% increase in the number of DWI arrests. For purposes of estimating fiscal, administrative, and enforcement impact, the Department of Public Safety estimates that there will be approximately 10 percent more DWI arrests statewide after the .08 law takes effect.

The department supports HB 102. This bill has the potential to reduce alcohol-related traffic accidents in general, and particularly alcohol-related traffic deaths. It also promotes the safety of the motoring public. In order to be effective, however, the new law must be accompanied by concerted enforcement and public education efforts. Adequate funding for these efforts is essential.



Richard L. Burton
Commissioner

214

Blood Alcohol Concentration and Driving

American College of
Emergency Physicians
Dallas, Texas

Address for reprints: American College of
Emergency Physicians, PO Box 619911,
Dallas, Texas 75261-9911

[This position statement was approved by the Board of Directors on June 6, 1988. American College of Emergency Physicians: Blood alcohol concentration and driving. Ann Emerg Med November 1988;17:1252.]

BLOOD ALCOHOL CONCENTRATION AND DRIVING

Epidemiologic and experimental data persuasively establish that the risk of a driver being involved in a serious or fatal crash increases as the alcohol concentration in the body increases, that measurable impairment to operate a motor vehicle begins in most drivers at or below .05 g/dL, and that all drivers are impaired at a blood alcohol concentration (BAC) of .08 g/dL.

It is therefore the position of the American College of Emergency Physicians that a BAC of .05 g/dL be considered as presumptive evidence of driving impairment and that a BAC of .08 g/dL be considered illegal *per se* to operate a motor vehicle.

ACEP urges the enactment of state legislation prohibiting alcohol-impaired driving that reflects these statements where such do not exist.

group. Some suggestive research indicates that drinking/driving populations contain drinking/driving/crash-prone subpopulations in whom the influence of alcohol on emotions and attitudes may be an important causative factor. The influence of alcohol on an emotionally charged driving style may be as important as its influence on driving skill.

Social and cultural factors that influence the magnitude, characteristics and persistence of the drinking/driving problem are not yet defined. Whether sustained shifts in social norms related to drinking and driving can be brought about - as they were in relation to littering, smoking and diet/fitness/heart disease - is a question yet to be answered.

CONCLUSIONS

1. Alcohol causes deterioration of driving skills beginning at 0.05 percent BAC (50 mg ethanol/100 ml blood). Deterioration progresses rapidly with rising BAC to serious impairment of driving skills at BACs of 0.10 percent and above, according to scientific consensus.
2. Drivers with BACs of 0.05 percent to 0.10 percent are significantly represented in road-crash statistics.
3. Drivers aged 16 to 21 have the highest rate of alcohol-involved fatal crashes per mile, with lower average BACs than older drivers.

The Council on Scientific Affairs recommends that the AMA:

1. Direct public information and education against any drinking by drivers, and encourage other organizations to do the same.
2. Adopt a position supporting 0.05 percent BAC as per se illegal for driving, and urge incorporation of that position in all state drunk driving laws.
3. Reaffirm the position supporting 21 as the legal drinking age, support strong penalties for providing alcohol to persons younger than 21, and stronger penalties for providing alcohol to drivers younger than 21.
4. Urge adoption by all states of an administrative suspension or revocation of drive licenses, after Driving Under the Influence (DUI) conviction, and mandatory revocation after a specified number of repeat offenses.
5. Encourage automobile industry efforts to develop a safety module that thwarts operation of a car by an intoxicated person.
6. Adopt this report in lieu of Resolutions 18, 64 and 83 (A-84).

(References pertaining to Report A of the Council on Scientific Affairs are available from the Office of the Assistant Vice President for Science.)

RECEIVED APR 20 1991



ALASKA COUNCIL ON

PREVENTION

OF ALCOHOL AND DRUG ABUSE, INC.

Founded 1962

March 18, 1991

Representative Dave Donley
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Donley:

On behalf of the Alaska Council on Prevention of Alcohol and Drug Abuse, I would like to offer our support of House Bill 102 relating to the offense of operating a motor vehicle, aircraft, or watercraft while intoxicated. The Alaska Council wholeheartedly supports your proposal to lower the legal blood alcohol content (BAC) from .10 to .08. As the prime sponsor of this legislation, you are to be commended for proposing changes to our current law which would result in a decrease in injuries and loss of lives in our state.

As you are undoubtedly aware, many studies have been conducted in recent years with common results showing that the risk of being involved in an alcohol-related crash or fatality increases after about 0.08 BAC. The effects of alcohol on a driver's mental and physical processes increase dramatically with each incremental change in blood alcohol. While many states have set .10 percent as the definition of drunk driving, much lower blood alcohol levels have been found to severely affect performance including factors such as judgment, concentration, reaction time and vision.

With the passage of HB 102, Alaska would join progressive states such as Oregon, California, Utah, Maine and Vermont which have lowered their legal BAC to .08 and reduced the risk of tragedies which can result from drinking and driving. Thank you for working to save the lives of Alaskans by proposing this necessary change to the laws of our state.

Sincerely,

Bette O'Moor
Executive Director

HB 103

HOUSE COMMITTEE REPORT

(11)

Date Referred: February 27, 1991

FURTHER REFERRALS:

Date of Committee Action: 3/4/91

The FINANCE Committee considered:

HB 103

HOUSE BILL NO. 103

FINGERPRINTING OF MINORS

"An Act relating to fingerprinting of minors."

RECOMMENDATIONS:

be replaced with CS HB 103 (FIN) the same title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

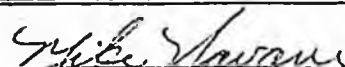
fiscal impact _____

fiscal note(s) Public Safety 2/20/91

zero fiscal note _____

zero fiscal note(s) LAW 2/20/91

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
Mike Spawane		Mike Spawane		<input checked="" type="checkbox"/>	
Mike Spawane		William F. MacEachern		<input checked="" type="checkbox"/>	
James A. Barnes		Jan Brown		<input checked="" type="checkbox"/>	
Rec. Sec.	<input checked="" type="checkbox"/>				
Gregory					
Chris Harris	<input checked="" type="checkbox"/>				
Ronald J. Lee	<input checked="" type="checkbox"/>				
Mark Boyer	<input checked="" type="checkbox"/>				
Raymond	<input checked="" type="checkbox"/>				
Raymond	<input checked="" type="checkbox"/>				


 CHAIRMAN'S SIGNATURE

CS FOR HOUSE BILL NO. 103 (FINANCE)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES DONLEY, Ulmer, Larson, Parnell, Barnes, Sharp, Martin, Leman, Zawacki,
B.Davis, R.Phillips, M.A.Miller

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to fingerprinting of minors."

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

3 * Section 1. AS 44.41.025(c) is amended to read:

4 (c) The department may enter into the Alaska automated fingerprint identification system
5 the fingerprints of a minor whose fingerprints are taken under AS 47.10.097. The commissioner
6 of public safety shall assure that fingerprints entered into the Alaska automated fingerprint
7 system under AS 47.10.097 are not cross-referenced with a record showing that the minor
8 has been arrested or adjudicated a delinquent.

9 * Sec. 2. AS 47.10.097(a) is amended to read:

10 (a) Except as provided in (b) of this section, a minor in the custody of the department
11 or of a law enforcement agency may not be fingerprinted for reference to or entry into the Alaska
12 automated fingerprint system without a court order upon good cause shown. Good cause exists
13 if the minor is in custody for a criminal offense or if identification of the minor is necessary
14 for the safety of the minor or of another person.

1 * Sec. 3. AS 47.10.097(b) is amended to read:

2 (b) A law enforcement officer may fingerprint a minor who is 14 [16] years of age or
3 older for reference to or entry into the Alaska automated fingerprint system without a court order
4 when the minor is arrested [CONVICTED OF, OR ADJUDICATED A DELINQUENT] for a
5 criminal [, AN] offense [THAT IS A FELONY].

STATE OF ALASKA
1991 LEGISLATIVE SESSION

No. 1

Bill Version: HB 103

(H) Publish Date: 2/20/91

Revision Date: _____
Title: An Act Relating to the
Fingerprinting of Minors
Sponsor: Rep. Donley
Requestor: House Judiciary

Department Affected: Public Safety
BRU: DPS Statewide Support
Component: AK Criminal Records & ID

COMPONENT SERIAL NO.

1	1	9	0
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EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not Included)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	10.0	10.0	10.0	10.0	10.0	10.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	10.0	10.0	10.0	10.0	10.0	10.0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	10.0	10.0	10.0	10.0	10.0	10.0
FEDERAL FUNDS						
OTHER/PROG RCPT						
TOTAL	10.0	10.0	10.0	10.0	10.0	10.0

POSITIONS:

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

Estimate of current year impact _____

ANALYSIS: (Attach a separate page if necessary)

(See attached).

Prepared by: Ken Bischoff Phone: 465-4336
Division: Administrative Services Date: 1/25/91

Approved by Commissioner: Richard L. Burton
Agency: Department of Public Safety Date: 2/07/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

ANALYSIS:

This bill would allow the fingerprinting of juveniles age 14 or older who are arrested for criminal offenses. These fingerprints would be compared with latent (crime scene) prints contained in the Alaska Automated Fingerprint Identification System (AAFIS). The DPS Records and Identification Section operates the Alaska Automated Fingerprint Identification System (AAFIS) and maintains criminal history record information used by police and other criminal justice agencies.

This bill would have a positive impact on the ability of police to solve cases involving juvenile offenders. Over 40% of all persons arrested for burglary and theft are juveniles. Many other crimes remain unsolved, however, as fingerprint evidence frequently found at the scene is not matched to any suspect because juveniles are not fingerprinted. AAFIS records indicate that 22% of the crime scene prints identified by the system since 1985 have been from first-time adult arrests which matched latent prints taken from crimes committed when the offender was a juvenile. Of these cases 86% were for burglary and theft offenses. Had these persons been fingerprinted as juvenile offenders they could have been identified, solving additional cases, and enabling the court to consider the offender's complete conduct when deciding the disposition of a case.

Existing AAFIS staff are not able to keep current with their present work load. Additional funding is required in Personal Services to increase the staff months of a part-time position approved for this unit for FY91 under a fiscal note for HB 52 (Chp 7 SLA 1990). The increased work load expected as a result of this bill is estimated as follows:

Estimated number of juvenile fingerprint cards	-	2700
Total time to complete 15 processing steps	-	504 hrs
Clk IV - Range 9A (4.0 months)		

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

No. 2
Bill Version: HB 103
(H) Publish Date: 2/20/91

Revision Date: _____ Department Affected: Department of Law
Title: "An Act relating to BRU: Prosecution/Legal Services
fingerprinting." Component: Prosecution/Criminal Justice Litigation
Sponsor: Representative Donley Legal Services/Operations
Requestor: House Judiciary COMPONENT SERIAL NO.

		8	9
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9 3

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

This bill involves fingerprinting of minors in custody, which is a concern of law enforcement agencies and the Division of Family and Youth Services. There will not be a fiscal impact for the Department of Law.

Prepared By: Richard I. Pegues, Director Phone: 465-3672
Division: Administrative Services Date: February 15, 1991
Approved by Commissioner: Charles E. Cole, Attorney General
Agency: Department of Law Date: February 15, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Alaska State Legislature



House of Representatives House Judiciary Committee

P. O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-4990
(907) 465-4712

SPONSOR STATEMENT

House Bill 103 allows law enforcement authorities to place the fingerprints of minors who are arrested for committing a crime in the state fingerprint computer. The legislation will help prevent criminal behavior by giving police officers the tools necessary to solve crimes and by allowing the early apprehension of repeat juvenile offenders.

One of the single most important investigative tools available to law enforcement officers is the ability to match unidentified fingerprints taken from a crime scene with known fingerprints that are stored in the state fingerprint computer. This tool increases the ability of police to protect the public, and helps ensure that people who have committed criminal acts are identified, apprehended, and convicted. However, because the fingerprints of minors are rarely allowed to be placed in the state fingerprint computer, this tool is not available to solve crimes committed by juveniles. Since the majority of burglary arrests in Alaska are of juveniles between the ages of 14 and 18, the restriction on placing minors' fingerprints in the computer significantly hinders the ability of police to solve crimes.

From 1984 through 1989, the fingerprints of 124 persons arrested for the first time as adults were matched with unidentified latent fingerprints taken from the scenes of unsolved crimes that were committed when the arrestee was a juvenile. It is likely that these offenders could have been identified and arrested earlier, and before they committed criminal acts as adults, if authority existed to place the fingerprints of minors in the state fingerprint computer.

The legislation has been a priority of the Alaska Peace Officers' Association for many years, and is strongly supported by the Alaska Association of Chiefs of Police, the Department of Public Safety, and the Department of Law.

Alaska Association Chiefs of Police



February 2, 1991

Representative Dave Donley
Alaska State Legislature
P. O. Box V (MS 3100)
Juneau, AK 99811

Dear Representative Donley,

On behalf of the Alaska Association of Chiefs of Police I want to express our whole hearted support for House Bill 103. The ability to Fingerprint juveniles would be an important law enforcement tool.

We know that the majority of property offenses are committed by juveniles. House Bill 103 would help apprehend juveniles while still young. This would greatly aid efforts to correct their behavior before they become adult career criminals. It would also help us recover stolen property and return it to victims.

If we can do anything to assist you in the passage of this bill, please contact me.

Sincerely,

A handwritten signature in cursive script, reading "Duane S. Udland".

Duane S. Udland
President

BILL NO: HB 103

DATE: February 7, 1991

TITLE: An Act Relating to the Fingerprinting of Minors

CONTACT: Gayle A. Horetski
Deputy Commissioner

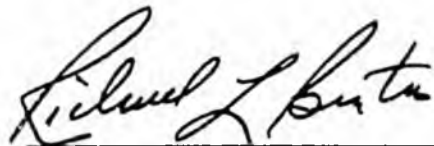
DEPARTMENT OF
PUBLIC SAFETY

POSITION PAPER

This bill would allow the fingerprinting of juveniles age 14 and older who are arrested for criminal offenses. The fingerprints would be taken for comparison with latent (crime scene) prints contained in the Alaska Automated Fingerprint Identification System (AAFIS).

This bill should have a positive impact on the ability of police to solve cases involving juvenile offenders. Over 40% of all persons arrested for theft and burglary offenses are juveniles (see attached chart). Fingerprint evidence is frequently found at crime scenes, but is not matched to any suspect because juveniles are not fingerprinted. A large number of theft and burglary offenses are "cleared" when adults are arrested and their fingerprints matched to latents from crimes committed when the offender was a juvenile. AAFIS records indicate that 22% of the crime scene prints identified by the system since 1985 have been from first-time adult arrests which matched latent prints taken from the scenes of crimes committed when the offender was a juvenile. See attached graph. Had these persons been fingerprinted as juvenile offenders they could have been identified, solving additional cases, and enabling the court to consider the offender's complete conduct when deciding the disposition of a case.

The Department of Public Safety supports HB 103.



Richard L. Burton
Commissioner

Pub. Safety. Position Paper

JUVENILE ARRESTS*

	1987	%	1988	%	1989	%
MAJOR FELONIES**						
Total Arrests	990		1100		2090	
Juveniles	96	9.7%	97	9%		
BURGLARY						
Total Arrests	1041		960		1004	
Juveniles	475	46.0%	509	49%	527	52.5%
LARCENY						
Total Arrests	4934		4398		4487	
Juveniles	1754	36.0%	1624	37%	1761	39.2%
MOTOR VEHICLE THEFT						
Total Arrests	331		481		512	
Juveniles	166	50.0%	214	44%	272	53.0%

*Data obtained from the 24 agencies submitting UCR figures to DPS.

**Major Felonies - Combined figures for Murder, Manslaughter, Rape, Robbery and Aggravated Assault.

HB 103

SENATE FINANCE COMMITTEE REPORT

DATE: 4/8/91

FURTHER:

DATE TURNED INTO OFFICE: 5-1-91

The Finance Committee considered CS FOR HOUSE BILL NO. 103 (FINANCE)
"An Act relating to fingerprinting of minors."

and recommended:

- replace with _____ CS
 - or adopt 5 CS CS HB 103 (Jud)
 - attached amendment(s)
 - _____ letter of intent adopted
- same title
 - new title
 - technical title change (HB only)

- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____

ATTACHES NEW FISCAL NOTE(S):

- fiscal note(s) _____ Dept/Date: _____
- zero fiscal note(s) _____

APPROVES PREVIOUS:

- fiscal note(s) DPS 10.0 2/9/91 Dept/Date: _____
- zero fiscal note(s) Dolan 2/15/91

appropriation-no fiscal note

SIGNING DO PASS:

Al Adams

Tom Hagan

Dick Stucky

OTHER RECOMMENDATIONS:

Jalunan - No Rec

Kiel Uff (NO RE)

1.

Pat Kuntz

2.

J. Kuntz No. Rec

Co-Chairs: Signatures and Recommendations

Revision Date: _____
 Title: An Act Relating to the
Fingerprinting of Minors
 Sponsor: Rep. Donley
 Requestor: House Judiciary

Department Affi: _____
 BRU: DPS State
 Component: AK Criminal Records & ID

(S) Publish Date: 2/20/91

COMPONENT SERIAL NO.

1	1	9	0
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EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not Included)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	10.0	10.0	10.0	10.0	10.0	10.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	10.0	10.0	10.0	10.0	10.0	10.0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	10.0	10.0	10.0	10.0	10.0	10.0
FEDERAL FUNDS						
OTHER/PROG RCPT						
TOTAL	10.0	10.0	10.0	10.0	10.0	10.0

POSITIONS:

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

Estimate of current year impact _____

ANALYSIS: (Attach a separate page if necessary)

(See attached).

Changes in SCS CS HR 103 (JUD) reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.

4-11/91 date DBS Comte Aide (initial)

Prepared by: Ken Bischoff Phone: 465-4336
 Division: Administrative Services Date: 1/25/91
 Approved by Commissioner: Richard L. Burton
 Agency: Department of Public Safety Date: 2/07/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

ANALYSIS:

This bill would allow the fingerprinting of juveniles age 14 or older who are arrested for criminal offenses. These fingerprints would be compared with latent (crime scene) prints contained in the Alaska Automated Fingerprint Identification System (AAFIS). The DPS Records and Identification Section operates the Alaska Automated Fingerprint Identification System (AAFIS) and maintains criminal history record information used by police and other criminal justice agencies.

This bill would have a positive impact on the ability of police to solve cases involving juvenile offenders. Over 40% of all persons arrested for burglary and theft are juveniles. Many other crimes remain unsolved, however, as fingerprint evidence frequently found at the scene is not matched to any suspect because juveniles are not fingerprinted. AAFIS records indicate that 22% of the crime scene prints identified by the system since 1985 have been from first-time adult arrests which matched latent prints taken from crimes committed when the offender was a juvenile. Of these cases 86% were for burglary and theft offenses. Had these persons been fingerprinted as juvenile offenders they could have been identified, solving additional cases, and enabling the court to consider the offender's complete conduct when deciding the disposition of a case.

Existing AAFIS staff are not able to keep current with their present work load. Additional funding is required in Personal Services to increase the staff months of a part-time position approved for this unit for FY91 under a fiscal note for HB 52 (Chp 7 SLA 1990). The increased work load expected as a result of this bill is estimated as follows:

Estimated number of juvenile fingerprint cards	-	2700
Total time to complete 15 processing steps	-	504 hrs
Clk IV - Range 9A (4.0 months)		

FISCAL NOTE

No. 2

Bill Version: CSHB 103(FIN)

(S) Publish Date: 2/20/91

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Department of Law
 Title: "An Act relating to fingerprinting." BRU: Prosecution/Legal Services
 Sponsor: Representative Donley Component: Prosecution/Criminal Justice Litigation
 Requestor: House Judiciary Legal Services/Operations
 COMPONENT SERIAL NO.

		8	9
		9	3

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Changes in CSHB 103 (Jud) have no fiscal impact. This fiscal note is appropriate.

Estimate of current year impact: _____

April 5, 1991 OB/Sail
date Comte Aide (initial)

ANALYSIS: (Attach a separate page if necessary.)

This bill involves fingerprinting of minors in custody, which is a concern of law enforcement agencies and the Division of Family and Youth Services. There will not be a fiscal impact for the Department of Law.

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: February 15, 1991
 Approved by Commissioner: Charles E. Cole, Attorney General
 Agency: Department of Law Date: February 15, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

SENATE CS FOR CS FOR HOUSE BILL NO. 103 (JUDICIARY)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/8/91
Referred: Finance

Sponsor(s): REPRESENTATIVES DONLEY, Ulmer, Larson, Parnell, Barnes, Sharp, Martin, Leman, Zawacki, B.Davis, R.Phillips, M.A.Miller

SENATOR Fischer

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to fingerprinting of minors."

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

3 * Section 1. AS 47.10.097 is repealed and reenacted to read:

4 Sec. 47.10.097. FINGERPRINTING OF MINORS. (a) A peace officer may fingerprint
5 a minor under the same circumstances as an adult may be fingerprinted.

6 (b) Fingerprint records taken under this section are not subject to AS 47.10.090.

7-LS0055J
Gaguine
5/1/91

SENATE CS FOR CS FOR HOUSE BILL NO. 103 ()

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVES DONLEY, Ulmer, Larson, Parnell, Barnes, Sharp, Martin, Leman, Zawacki,
P.Davis, R.Phillips, M.A. Miller, Hanley, Bruckman, Fischer

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to fingerprinting of minors."

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

3 * Section 1. AS 44.41.025(c) is amended to read:

4 (c) The department may enter into the Alaska automated fingerprint identification system
5 the fingerprints of a minor whose fingerprints are taken under AS 47.10.097. The commissioner
6 of public safety shall assure that fingerprints entered into the Alaska automated fingerprint
7 system under AS 47.10.097 are not cross-referenced by the automated system with a record
8 showing that the minor has been arrested or adjudicated a delinquent.

9 * Sec. 2. AS 47.10.097(a) is amended to read:

10 (a) Except as provided in (b) of this section, a minor in the custody of the department
11 or of a law enforcement agency may not be fingerprinted for reference to or entry into the Alaska
12 automated fingerprint system without a court order upon good cause shown. Good cause exists
13 if the minor is in custody for a criminal offense or if identification of the minor is necessary
14 for the safety of the minor or of another person.

1 * Sec. 3. AS 47.10.097(b) is amended to read:

2 (b) A law enforcement officer may fingerprint a minor who is 14 [16] years of age or
3 older for reference to or entry into the Alaska automated fingerprint system without a court order
4 when the minor is arrested [CONVICTED OF, OR ADJUDICATED A DELINQUENT] for a
5 criminal [, AN] offense [THAT IS A FELONY].

POSITION PAPER

CSHB NO. 103

For an act entitled: "An Act relating to fingerprinting of minors."

This bill would allow the fingerprinting of all youth fourteen years of age or older upon arrest for a criminal offense. It would continue the present practice requiring prior court approval before fingerprinting of arrested youth under the age of fourteen. It would also preclude the entry of a minor's delinquent record into the automated fingerprint system.

Analysis

Law enforcement agencies desire access to and use of fingerprint records of arrested youth for investigative purposes. These agencies believe that additional crimes will be solved by matching the fingerprints of arrested youth with those taken at crime scenes.

Present law allows fingerprinting of minors sixteen years of age if convicted of or adjudicated a delinquent for a felony offense, and the fingerprinting of any minor with a prior court order for good cause shown.

CSHB 103 would allow the fingerprinting of all youth fourteen years of age or older upon arrest for a criminal offense. It would also continue the practice requiring prior court approval for the fingerprinting of all youth under fourteen years of age. This bill delineates the standard for good cause which is used by the court in determining approval for fingerprinting. Good cause would exist if the minor is in custody for a criminal offense, or if the identification of the minor is necessary for protection of the minor or another person.

Department Position

The Department supports CSHB 103, with the assumption that the taking of fingerprints will be conducted by law enforcement personnel. The involvement of Department personnel in the taking, tracking, or compiling of fingerprints would require a fiscal note to cover processing costs.

POSITION PAPER/Department of Health & Social Services

CSHB 103
Page 2

Recommended: Michael L. Price
Michael L. Price, Director
Division of Family and Youth
Services

Date: April 2, 1991

Approved: Theodore A. Mala
Theodore A. Mala MD, MPH
Commissioner
Department of Health and
Social Services

Date: 2 April 91

BILL NO: HB 103

DATE: February 7, 1991

TITLE: An Act Relating to the
Fingerprinting of Minors


CONTACT: Gayle A. Horetski
Deputy Commissioner

POSTION PAPER / DEPARTMENT OF PUBLIC SAFETY

This bill would allow the fingerprinting of juveniles age 14 and older who are arrested for criminal offenses. The fingerprints would be taken for comparison with latent (crime scene) prints contained in the Alaska Automated Fingerprint Identification System (AAFIS).

This bill should have a positive impact on the ability of police to solve cases involving juvenile offenders. Over 40% of all persons arrested for theft and burglary offenses are juveniles (see attached chart). Fingerprint evidence is frequently found at crime scenes, but is not matched to any suspect because juveniles are not fingerprinted. A large number of theft and burglary offenses are "cleared" when adults are arrested and their fingerprints matched to latents from crimes committed when the offender was a juvenile. AAFIS records indicate that 22% of the crime scene prints identified by the system since 1985 have been from first-time adult arrests which matched latent prints taken from the scenes of crimes committed when the offender was a juvenile. See attached graph. Had these persons been fingerprinted as juvenile offenders they could have been identified, solving additional cases, and enabling the court to consider the offender's complete conduct when deciding the disposition of a case.

The Department of Public Safety supports HB 103.



Richard L. Burton
Commissioner

REPRESENTATIVE DAVE DONLEY

ALASKA STATE LEGISLATURE
DISTRICT ELEVEN
SEAT A

3111 "C" STREET, SUITE 450
ANCHORAGE, ALASKA 99503
(907) 561-7629 (FAX) 562-4376

ALASKA LANDINGS • BENTZEN • BIRCHWOOD • CHESTER CREEK • HEATHER MEADOWS • LINCOLN PARK • MIDTOWN • NORTHSTAR
NORTHWOOD • ROMIG • ROOSEVELT PARK • SPENARD • THOMPSON • TURNAGAIN • WYNDEMERE • WOODLAND PARK




CHAIRMAN
JUDICIARY COMMITTEE

VICE CHAIRMAN
REGULATION REVIEW COMMITTEE

MEMBER
RULES COMMITTEE
LABOR AND COMMERCE COMMITTEE

MEMORANDUM

TO: Senator Pat Pourchot, Co-Chair
Senator Jay Kerttula, Co-Chair
Senate Judiciary Committee

FROM: Representative Dave Donley 

RE: SCSCSHB 103 (Jud) - Fingerprinting Minors

DATE: April 10, 1991

APR 11 1991

I would greatly appreciate if SCSCSHB 103 (Jud) could be scheduled for a hearing at the earliest possible opportunity. The bill broadens current law to expand the circumstances under which a minor can be fingerprinted.

In addition, I respectfully request that the Senate Finance Committee consider adopting a committee substitute for the bill that returns it to the form that passed the House of Representatives. I believe that CSHB 103 (Fin) appropriately balances the needs of the law enforcement community to take the fingerprints of minors against the concerns raised by those who believe that minors should only have their fingerprints taken in a limited number of circumstances.

The following chart describes the two significant differences between CSHB 103 (Fin) and SCSCSHB 103 (Jud):

	CSHB 103	SCSCSHB 103
Court order needed to fingerprint minors under 14?	YES	NO
Express prohibition on cross-referencing fingerprints and records showing minor has been arrested or adjudicated a delinquent?	YES	NO

