

ALASKA LEGISLATURE

1026

HOUSE and SENATE FINANCE COMMITTEE FILES, 1993-1994

HVB

293

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/27/93

FURTHER:

DATE TURNED INTO OFFICE: 4-28-93

The Finance Committee considered HOUSE BILL NO. 293

"An Act extending the termination date of the Council on Domestic Violence and Sexual Assault."

and recommends:

replace with 5 CS HB 293 (FINANCE)
 or adopt previous _____ CS _____
 attaches amendment(s)

same title
 new title
 technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

CS to follow.

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
Dep. Public Safety	4/23/93	0	

Appropriation No Fiscal Note

DO PASS:

Tim Kelly
Steve Rice
Scott Sharp
[Signature]

OTHER RECOMMENDATIONS:

1. *APPROPRIATION DO PASS*
 Co-Chair Signature/Recommendation

2. *True/False: 10/293*
 Co-Chair Signature/Recommendation

STATE OF ALASKA
1993 LEGISLATIVE SESSION

No. 1
Bill Version: HB 293
(H) Publish Date: 4/26/93

Revision Date: _____ Dept. Affected: Public Safety
Title: "An Act extending the termination date of the BRU: Domestic Violence & Sexual Assault
Council on Domestic Violence and Sexual Assault" Component: Domestic Violence & Sexual Assault
Sponsor: Representative Parnell
Requestor: Representative Parnell COMPONENT SERIAL NO. 521

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
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 FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-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 (FY 93) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact is anticipated.

Prepared By: Marcia McKenzie Phone: 465-4356
Division: Council on Domestic Violence & Sexual Assault Date: 4/23/93
Approved by Commissioner: [Signature] Date: 4/23/93
Agency: Richard L. Burton Dept. of Public Safety

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COMMITTEE COPY further distribution information call the Governor's Legislative Office

4-28-93
DP
Adopted.

AMENDMENT

TO: HB 293

BY: _____

legal called
4/28/93 4:15 pm
for CS

Page 1, line 6

Delete "1997" and replace with "1998"

SENATE FINANCE
COMMITTEE (1)
Amendment Number: _____
Bill Number: HO 293
Sponsor: _____ Date: 4/28/93
Logged In By: (Signature)

HB

294

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 1/26/94

FURTHER:

DATE TURNED INTO OFFICE: 2-8-94

The Finance Committee considered HOUSE BILL NO. 294

"An Act extending the termination date of the Board of Pharmacy."

and recommends:

- replace with _____ CS _____ (FINANCE)
- or adopt previous 5 CS HB 294 (L & C)
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
DCFED #1844	1-24-94	<input checked="" type="checkbox"/>	

Appropriation No Fiscal Note

DO PASS:

Tim Kelly
Steve Hill
A. Kistner
Bob Sharp

OTHER RECOMMENDATIONS:

1. inmate release - 10/2/95
 Co-Chair: Signature/Recommendation

2. Do pass
 Co-Chair: Signature/Recommendation

FISCAL NOTE

No. 2

Bill Version: HB 294

(S) Publish Date: 1-26-94

**STATE OF ALASKA
1994 LEGISLATIVE SESSION**

Revision Date: 1/24/94
 Title: An Act extending the termination date of
the Board of Pharmacy.
 Sponsor: Rep. Parnell
 Requestor: Senate Labor & Commerce

Department: Commerce and Economic Dev.
 BRU: Occupational Licensing
 Component: Operations

COMPONENT SERIAL NO. 1844

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0
--------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 94) cost: \$ None

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

The bill extends the termination date of the Board of Pharmacy to June 30, 1997. Funding for the board is included in the FY 95 operating budget request; therefore, new funds are not required.

Average Annual Cost: \$61.2
 Average Annual Revenue: 56.1

Changes in CS HB 294 (LEC) have no fiscal impact. This fiscal note is appropriate.

1/26/94 /date
APF /Comte Aide (initial)

Prepared by: Jennifer Strickler, Administrative Officer
 Division: Occupational Licensing
 Approved by Commissioner: Paul Fuhs
 Agency: Commerce and Economic Development

Phone: 465-2144
 Date: 1-24-94
 Date: _____

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Alaska State Legislature

REPRESENTATIVE
SEAN R. PARNELL



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HOUSE OF REPRESENTATIVES

SPONSOR STATEMENT

HOUSE BILL 294

Extending the Termination Date of the "Board of Pharmacy"

This bill would extend the termination date of the Board of Pharmacy to June 30, 1999.

The Board of Pharmacy provides greatly needed oversight of State and Federal laws pertaining to the pharmaceutical industry and Alaskan's health and safety. The Board provides a very important service for the State of Alaska and is an integral part of Alaska's pharmacy licensing process.

During the Board of Pharmacy's review, the reviewing committee acknowledged the Pharmacy Board's self sufficiency and recommended its renewal.

Passage of House Bill 294 would maintain this valuable service for Alaskans.

Back-up

FISCAL NOTE

Bill Version: HB 294
 (H) Publish Date: 4/26/93

STATE OF ALASKA 1993 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Commerce & Economic Development
 Title: An Act extending the termination date BRU: Occupational Licensing
of the Board of Pharmacy. Component: Operations
 Sponsor: Rep. Parnell
 Requestor: House Rules COMPONENT SERIAL NO. 1844

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	.0	.0	.0	.0	.0	.0
CAPITAL						
REVENUE FUND SOURCE:	.0	.0	.0	.0	.0	.0

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	.0	.0	.0	.0	.0	.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 (FY 93) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)

The bill extends the termination date of the Board of Pharmacy to June 30, 1997. Funding for the board is included in the FY 94 operating budget; therefore, new funds are not required. Regulations adjusting fees to cover full program costs are under review in the Department of Law.

Average Annual Costs: \$61.2

Average Annual Revenue: 49.6

Prepared by: Jennifer Strickler, Administrative Officer
 Division: Occupational Licensing
 Approved by Commissioner: Paul Fuhs
 Agency: Commerce & Economic Development

Phone: 465-2144
 Date: 4/23/93
 Date: 4/23/93

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HOUSE OF REPRESENTATIVES

MEMORANDUM

DATE: January 27, 1994

TO: Senator Drue Pearce
Co-Chair of Senate Finance

FROM: Representative Sean Parnell *Sean*

RE: Request to schedule a hearing for SCS HB 294 (L&C) "An Act extending the termination date of the Board of Pharmacy."

This memo respectfully requests that House Bill 294 be scheduled for a hearing in the Senate Finance Committee at your earliest possible convenience.

This bill would extend the termination date of the Board of Pharmacy from June 30, 1993 to June 30, 1999.

Dear Legislators,

The Board of Pharmacy has a termination date of June 30, 1993. Legislation (HB110) was introduced earlier in this session to prevent our sunseting, however the omnibus approach has been slow. The committee which reviewed the regulatory boards acknowledged the Board of Pharmacy's self-sufficiency and recommended its renewal. HB 294 is now before you to ensure that the Board of Pharmacy continues its charge of protecting the public.

A recent example that illustrates the importance of Boards of Pharmacy occurred in the state of Washington in 1991. Tylenol capsules were adulterated with cyanide which killed several people. The Board of Pharmacy quickly embargoed all Tylenol products. This swift action was nationally recognized as a life-saving maneuver.

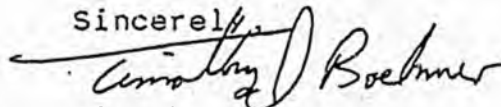
Fortunately, emergencies rarely occur. The use of medication, on the other hand, frequently occurs. The Board of Pharmacy protects the public by examining license applicants to ensure that they are qualified to practice pharmacy. We inspect pharmacies to ensure compliance with state and federal law. Current statutes and regulations that govern pharmacy in Alaska are woefully out-of-date and are being rewritten. This revision will address specific deficiencies in the law as well as enable the Board to regulate the rapidly changing role that pharmacy will play in solving the health care crisis.

Termination of the Board of Pharmacy would essentially prevent Alaska from licensing pharmacists. A pharmacist is licensed by credentials or by taking the National Association of Boards of Pharmacy (NABP) exam. Forty-nine states rely on NABP to test all pharmacy candidates and forty-eight states rely on NABP to serve as the national clearinghouse of all pharmacy licenses (exceptions are California and Florida). NABP requires each state to have a Board of Pharmacy in order to participate in the national testing process and to utilize its services as a clearinghouse.

The Board of Pharmacy promotes, preserves and protects the public by regulating the practice of pharmacy.

I urge you to support HB 294.

Sincerely,



Timothy J. Boehmer RPh.
Acting President
Board of Pharmacy

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P. O. Box 113300
Juneau, AK 99811-3300
(907) 465-3830
FAX (907) 465-2347

October 26, 1993

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT BOARD OF PHARMACY

October 26, 1993

Audit Control Number

08-1421-94

The objective of the audit was to determine whether the Board of Pharmacy should continue its existence. Alaska Statute 08.03.010(20) has scheduled the board for termination on June 30, 1993. As of the date of this report, the board is technically in its one-year "wrap up" period and, if no action is taken by the legislature, the board will be dissolved at June 30, 1994. We recommend that the legislature extend the board's termination date to June 30, 2003.

The audit was conducted in accordance with generally accepted government auditing standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are discussed in the Objectives, Scope, and Methodology section of this report.

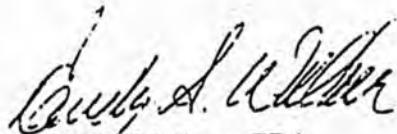

Randy S. Welker, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Pharmacy to determine if it should continue in existence.

As required by statute, the legislative committee of reference is to consider this report as part of the legislative oversight process in determining whether this board should be reestablished. The law currently specifies that the Board of Pharmacy will terminate on June 30, 1993 and will have one year from that date to conclude its affairs. As of the date of this report, the board is technically in its one-year "wrap up" period.

During the course of our examination, we reviewed and evaluated the following:

1. Applicable statutes and regulations.
2. Interviews with Department of Commerce and Economic Development, Division of Occupational Licensing personnel.
3. Minutes of board meetings.
4. Interviews with Board of Pharmacy board members.
5. Review of other states' boards compositions and duties.
6. Office of the Ombudsman closed case files.
7. Proposed revisions to Board of Pharmacy statutes and regulations.
8. Licensing files for pharmacists and pharmacies.
9. Investigation files.
10. Other documents considered pertinent.

ORGANIZATION AND FUNCTION

Alaska Statute 08.80.010 established the Board of Pharmacy as a regulatory board with seven members. Law requires that two members be public members having no direct financial interest in the health care industry and five members be professionals with three years practical experience and licensed in Alaska. The statute further states that whenever possible, each judicial district should be represented by a board member.

The board regulates six types of licenses: pharmacists, retail pharmacies, wholesale pharmacies, hospital pharmacies, drug rooms, and out-of-state pharmacies. Alaska Statute 08.80.040 establishes the duties of the board. They include:

1. Examining and issuing licenses to qualified applicants.
2. Establishing, amending, or eliminating licenses in accordance with the Administrative Procedures Act when a person has violated pharmacy statutes or regulations.
3. Adopting regulations insuring that renewal of licenses is contingent upon proof of continued competency.

Applicants for registration as a pharmacist are required to pass the National Association of the Boards of Pharmacy Licensing Examination and a jurisprudence examination covering Alaska pharmacy law and the Federal Controlled Substance Act.

Pharmacists licensed to practice in another state who apply for licensure in Alaska can be licensed by credentials, except for those applicants from California or Louisiana. These two states require applicants to pass a state exam, not the national exam. Consequently, these applicants must take the national examination when applying in Alaska.

The board may also issue temporary or emergency permits. Temporary permits allow qualified applicants to practice until the board can formally license them; emergency permits allow pharmacists licensed in another state to practice in Alaska in an emergency. Both permits are limited in their duration and application.

The board is assisted in its duties by Division of Occupational Licensing (OL) personnel. OL processes applications, maintains licensing files, answers board-related correspondence, and provides administrative support to the board. In addition, OL investigates any complaints involving pharmacists and pharmacies.

Alaska Board of Pharmacy Members

Registered Pharmacists

Timothy Boehmer
Chris Coursey
Stanley Thompson
Paul Gionet
Sally Sarber

Public Members

Charles Lastulka
Patricia Douglas

REPORT CONCLUSIONS

Alaska Statute 08.03.010(20) requires that the Board of Pharmacy be terminated on June 30, 1993. Alaska Statute 08.03.020 provides one year in which to conclude its affairs if the legislature does not enact legislation for the continuance of the board. As of the date of this report, the board is technically in its one year "wrap up" period and, if no action is taken by the legislature, the board will be dissolved June 30, 1994. We recommend that the legislature enact legislation that extends the board's termination date until June 30, 2003 (see Recommendation No. 1).

The Findings and Recommendations section describes areas where weaknesses or conflicts exist. We have made recommendations which, if implemented, will improve the efficiency and effectiveness of the board.

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The statutory provision for the Board of Pharmacy should be extended until June 30, 2003.

The regulation and licensing of qualified professionals is necessary to protect the public's health, safety, and welfare. The board provides this service by establishing minimum educational and experience requirements that provide reasonable assurance that persons licensed are qualified. Assurance that licensed professionals act in a competent manner is provided by active investigation of complaints and revocation or suspension of licenses when appropriate.

Alaska currently has the most restrictive time period for sunset reviews, with sunsets scheduled for every four years. In the 24 states with sunset laws, agency reestablishment has ranged from 4 to 13 years. The average review cycle is eight years with many states going to review cycles of ten years or longer.

The Board of Pharmacy is a well established board that consistently has been found to satisfy a public purpose. The board has demonstrated an ability to conduct business in an adequate manner and deficiencies have been relatively minor. Though the sunset review this year does reveal a few areas to be addressed (see following recommendations), there does not appear to be any need to review the Board of Pharmacy every four years.

Recommendation No. 2

Office of the Governor, Boards and Commissions should appoint Board of Pharmacy members in accordance with Alaska Statute.

Alaska Statute 08.80.010 says, in part, ". . . *Whenever possible, the board shall include at least one member from each judicial district.*" The board consists of seven members, six are from the Southcentral area and one from Southeast. The Interior (Fourth Judicial District) and Northwestern (Second Judicial District) regions of the State are not represented. According to Office of the Governor, Boards and Commissions, there have been no recent applicants from the Northwestern region, and only a few from the Interior.

Alaska Statute 08.80.030(3) gives the Board of Pharmacy the power to ". . . *assist the department in inspections and investigations.* . ." and board members seem to agree on the importance of regular pharmacy inspections. Though the Board of Pharmacy Annual Report lists these inspections as a goal for each coming year, the board has found it increasingly difficult to inspect pharmacies around the State. One reason for this difficulty is that the board has funds to cover travel only to board meetings. In recent history, the board has been able to rely on members to perform inspections in each of their own districts. Though all districts were not covered at all times, some pharmacies in each area were inspected at least

occasionally. The concentration of board members in only the Southcentral and Southeast regions has severely reduced the likelihood of inspections in other regions.

The concentration of board members in only two regions also affects the ease with which pharmacist candidates may become licensed. Pharmacist candidates are required to pass the Alaska Jurisprudence Examination, which must be administered by a board member. Each candidate must schedule the examination with a board member, generally in the board member's home town. Accordingly, candidates outside of the Southeast or Southcentral region must travel to take the jurisprudence examination. While requiring travel may not constitute a barrier to entry into the profession, it does add an inconvenience that would be unnecessary if the examination could be offered in a variety of locations.

Two Board of Pharmacy members report that they were recruited by the Office of the Governor to fill specific board positions. Boards and Commissions should develop an information program for non-participating portions of the State and direct recruitment efforts toward regions of the state for which little or no representation exists.

Recommendation No. 3

The Board of Pharmacy should review pharmacy inspection procedures to ensure that pharmacies inspected are impartially selected and evaluated.

Though board members acknowledge that inspecting competing pharmacies is a potentially awkward situation, little has been done to formalize the process or to limit potential charges of bias. The inspection selection process, the evaluation form, and any potential licensing action all may be subject to criticisms of partiality.

Historically, the board's selection process for pharmacies to be inspected has been relatively informal. Inspections were apparently done at the direction of the president and at the convenience of board members. The lack of formal criteria for selection may leave the board open to charges of favoritism; while some pharmacies are inspected regularly, others, often those in outlying areas, have not been inspected for years. The board should establish a maximum timeframe between pharmacy inspections, then develop a formal selection process to include each pharmacy in the State.

The board should also attempt to quantify inspection forms. The board has developed an extensive checklist for inspections, but it is unclear which or how many infractions would cause a pharmacy to "fail" an inspection or to require a reinspection. Because each pharmacy may be visited by a different team of inspectors, it is important to ensure that criteria for passing or failing a pharmacy are applied consistently. One way to reduce the subjectivity of the form would be to develop a rating scale with a numeric value for each checklist item.

The board has recently discussed the possibility of sanctions against pharmacies that are found, on inspection, to have severe infractions or that, on re-inspection have refused to

correct previously noted infractions. Though such sanctions may be necessary to protect the public, they will further complicate the inspection issue.

According to the Department of Law, a board member cannot be both an inspector and an adjudicator of a case. If licensing action is taken against a pharmacy as the result of an inspection, the board members that inspected the pharmacy should recuse themselves from the vote. The Board of Pharmacy, as described above, is comprised of only seven members. If the two of these members that formed the inspection team cannot vote, the board may find it difficult to secure a quorum.

Though statute gives the board the power to assist the department in inspections, it does not require board members to perform the inspections. In light of the difficulties the board has encountered in accomplishing impartial, supportable inspections, the board should consider the necessity of continuing to inspect pharmacies. If it appears that the inspection capacity of the board will impair the other board functions, the board, in conjunction with the Division of Occupational Licensing, should consider either revising the statute to eliminate inspections as a board responsibility or changing the way in which that responsibility is met.

After the board has developed a workable selection and evaluation process for pharmacy inspections, the mechanics of that process should be added to the board's regulations. Regulations associated with inspections should specify who does inspections, what is inspected, and how often inspections are done. Adding the inspection process to the regulations will benefit the board not only through formalization of the process, but as an educational tool as well. Because regulations are available for public comment, interested members of the general public and the profession would, through the public process, become aware of inspection criteria.

Recommendation No. 4

The Board of Pharmacy should revise these statutes to reflect current pharmacy practices.

Alaska Statute 08.80 describes State of Alaska pharmacy law. Though the statute has been amended slightly over the years, it has not kept pace with changes in the practice of pharmacy. One board member describes the present statute as "woefully out of date." Recent introductions of prescriptions by facsimile machine and home infusion, for example, are not presently covered by Alaska statute. The board has additionally identified the need for more board meetings per year, but has not yet been able to revise the statute to require additional meetings.

In recognition of the many recent changes in the practice of pharmacy, the National Association of Boards of Pharmacy has developed a model act for Boards of Pharmacy. The model act is designed to address changes in the practice of pharmacy and to give individual boards a starting point for drafting their own legislation. Though the model does provide a framework for drafting new legislation, it will require significant tailoring to ensure that the proposed bill is in compliance with the constitution.

The public should have the benefit of statutes that are current with professional practices. Some of the changes suggested by the model act have been necessary for several years and there is no certainty that the required bill to adopt these changes will be introduced this session. We recommend that the Board of Pharmacy statute revision process be initiated without further delay.

Recommendation No. 5

The Department of Commerce and Economic Development (DCED) should continue to work with the Office of the Governor, Office of Management and Budget (OMB) in establishing fee levels for occupational licensees that are more reflective of the actual regulatory cost of the occupation.

The Division of Occupational Licensing's (OL's) methodology for determining FY 93 fees allocates costs to a board or occupation in one of two ways. Some costs, termed direct costs by OL, are directly distributed to a specific licensing program. Direct costs include personnel assigned to one specific occupation, travel associated with board business, public notices of board proceedings, and printing of board applications and statute booklets. Other costs, termed indirect costs, are allocated based upon the percentage of licensees in each occupation compared to the total number of occupational licensees. These costs include the expenditures associated with licensing examiners', investigators', hearing officers', management's, and clerical staff's time.

Effective August 24, 1992, DCED was required to establish fee levels so that the total amount of fees collected for an occupation approximately equals the actual regulatory costs for that occupation [AS 08.01.065(c)]. Prior to FY 93, DCED could establish fees that reflected, but did not exceed, the actual costs of the activity for which the fee was charged and could establish a fee at less than full cost if they deemed it unreasonable to impose the full cost of the activity on the licensee.

Our office and OMB have both reviewed OL's cost allocation methodology to determine if it is sufficient to meet the requirements of AS 08.01.065(c). Both our office and OMB do not believe that OL's cost allocation methodology distributes costs reflective of the actual effort spent. The primary disparity involves the classification of licensing examiners', investigators', and hearing officers' time. The manner in which these three categories of employees' cost have been allocated prior to FY 94 can cause occupations with a large number of licensees to absorb costs that are not associated with the actual effort spent regulating their profession.

In addition to our concerns with OL's cost allocation methodology, we found problems in how they distributed costs in their calculation of a two-year average of expenditures used in determining FY 93 license fees. The percentages applied to allocate indirect costs were not always correct. These inconsistencies were caused by formula errors on spreadsheets prepared by OL staff. Also, documentation supporting some expenditures on the

spreadsheets has not been retained. As discussed with OL staff, we recommend that OL retain original supporting documentation in their future distributions of costs.

In their September 1993, *Occupational Licensing Fee-Setting Policy Assessment* report OMB made seven recommendations to OL on how to allocate costs so that the intent of AS 08.01.065(c) is met. According to OMB's report, "A follow-up review for this project will be scheduled for March 1994." DCED has recently indicated that, for the determination of the FY 94 fees, they will allocate costs for licensing examiners, investigators, and hearing officers based on estimated time spent by those employees, with periodic adjustments to actual time spent in accordance with our office and OMB's recommendations. As of October 1993, the allocation of direct and indirect costs using FY 93 expenditure data has not been performed.

DCED should continue to work with OMB in establishing fee levels for occupational licensees that are more reflective of actual regulatory cost of the occupation.

Recommendation No. 6

OL should, in conjunction with the Equal Employment Opportunity Office (EEO), review the Board of Pharmacy licensure application form to assure that personal questions of a potential discriminatory nature are essential for prudent licensure.

The pharmacy application requires a photograph of the candidate. EEO within the Department of Administration, Division of Personnel discourages agencies from asking applicants information on sex, height, weight, and hair and eye color. If an applicant were denied a license, the board or OL may find it difficult to prove that there was no discrimination involved if this type of information had been provided to the board members reviewing the application for licensure.

The pharmacist application form used by OL should be reviewed with EEO to make sure that a photograph is pertinent to the licensure of pharmacy candidates. OL indicated that one of the reasons photographs are required is to prevent fraud when a licensee moves from one state to another. If a photograph is considered necessary for identification, to prevent fraud or for other reasons, it should be separated from the application prior to review of the application for licensure.

Recommendation No. 7

OL should request statutory changes to AS 08.01.050 and AS 08.01.070 to clarify responsibilities for the taking of board meeting minutes and production of an annual report.

Alaska Statute 08.01.050 establishes DCED's administrative duties for professional licensing boards. Alaska Statute 08.01.070 identifies the administrative duties of the boards. Included in the board's responsibilities are the taking of minutes and records of all proceedings, forwarding of a draft of the minutes of proceedings to the department within 20 days after the proceedings, and submission of an annual performance report to the department before the end of the fiscal year. However, we found that OL rather than the board performed these duties.

For example, the licensing examiner is responsible for tape recording the board proceedings, recording votes, taking notes, and preparing the minutes. OL also compiles much of the information in the board's annual report. OL has the records needed to determine statistics such as the number of licenses issued and examinations given and passed.

We recommend that OL review the statutes and request changes that reflect actual responsibilities and timelines that are both practical and timely.

Recommendation No. 8

OL should develop and implement written policies and procedures for reporting potential violations of the Executive Branch Ethics Act to the Department of Law (Law).

The Alaska Executive Branch Ethics Act (AS 39.52) requires members of boards and commissions to disclose potential violations of that Act to their designated supervisor. The designated supervisor for members of a board is the chair or acting chair of the board. Functionally, OL staff advise the professional licensing boards as to the reporting necessary for compliance with the Ethics Act, as does Law. Disclosures by board members are compiled by OL for submission to Law. These reports are required to be submitted on a quarterly basis. Law reviews these submissions and makes available to the public a summary of the reports received with sufficient deletions to prevent disclosure of a person's identity.

These reports have not been submitted in a timely manner. In 1991, no reports were submitted to Law. In 1992, reports were submitted three to six months after the end of the quarter. In 1993, the first two quarters' reports were submitted in July. In addition, division personnel have indicated that there is some confusion as to what should be reported. While staff at Law believe that OL understands what should be reported, written policies and procedures governing the reporting of potential ethical violations would benefit OL as well as board members. There would be clear criteria for OL staff to follow as to what should be reported as well as when it should be reported.

ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analyses of board activities relate to the public need factors defined in the "sunset" law, Alaska Statute 44.66.050. These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

The extent to which the board, commission, or program has operated in the public interest.

According to the board's annual reports for the fiscal years 1990 through 1993, the board has licensed more than 100 new pharmacists and 62 pharmacies and drug rooms. In addition, the board has inspected a number of retail and wholesale pharmacies. During the last two years, the board had added to its licensing responsibilities, by adding the categories of Out-of-State pharmacies and Related Facility Drug Rooms. The board has also administered the National Association of the Boards of Pharmacy Examination for five candidates in the last three years.

The board has developed goals and objectives. One of the major accomplishments of the board is the draft of new statutes and regulations. Some of the areas included in the drafted legislation, such as an increase in the number of annual meetings, address items that the board has listed as goals for several years. Unfortunately, the proposed bill has not yet been presented to the legislature and many of the new regulations cannot take effect until after the statute is amended (see Recommendation No. 4).

Another goal described in several annual reports is the inspection of pharmacies. The board believes that on-site inspections of pharmacies are necessary to protect the health of the consumer, but has been unable to conduct these inspections for rural pharmacies. The board does not receive funding for travel to remote areas and does not currently have a board member from those areas (see Recommendations No. 2 and 3). Many pharmacies that are inspected have minor infractions that require follow-up visits to ensure that problems have been corrected. This follow-up rarely occurs as the board has neither the staff nor the time to do them.

The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters.

Over the last three years, the board has consisted of members from three major geographic areas of the State: Southeast, Southcentral, and Interior. The distribution of board members has not completely met the requirements of the statute creating the board (AS 08.80.010) which says, in part: "Whenever possible, the board shall include at least one member from

each judicial district." The Northwest region of the State has traditionally not been represented on the Board of Pharmacy. Over the last few years, however, board members from various areas around the State have been replaced with new members from the Southcentral area. The board is now comprised of six members from the Southcentral area and one from the Southeast area. Boards and Commissions reports that, for the last round of appointments, there were applicants from the Interior region, but none from the Northwest region.

Board members are chosen based on a variety of qualifications ranging from job experience to letters of support. Because the statutory regional representation is worded as "*whenever possible. . .*", Boards and Commissions has interpreted regional representation as an optional consideration.

The concentration of board members in the southcentral region affects not only the ability of the board to do inspections, but board members' availability to the public and to pharmacist candidates, who must take the jurisprudence examination from a board member before they can be licensed (see Recommendation No. 2).

The extent to which the board, commission, or agency has recommended statutory changes that are generally of benefit to the public interest.

As discussed above, the board has recommended significant changes to Board of Pharmacy statutes and regulations. Board members report that these changes are necessary to address current pharmacy practices and concerns. Some of the issues addressed by proposed legislation are prescription by facsimile machine, home infusion, and the number of annual meetings. Board members have also commented that the existing statute covers some issues more appropriately found in regulations. Accordingly, the board has worked extensively on both statute and regulations revisions.

The extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service that it has provided.

The Division of Occupational Licensing has published public notices of all examinations, meetings and regulation changes. A period of time for public comment has also been available at each public meeting.

The extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.

Each board meeting has time allotted for public comment. The public has been encouraged to use these public comment periods to express concerns and obtain information from the

board. The public comment period for regulations changes also assures that the public has the opportunity to participate in the regulatory process.

The efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the Office of the Ombudsman have been processed and resolved.

During FY 90 through FY 93, the Division of Occupational Licensing investigative unit investigated 20 cases against pharmacies, pharmacists, and unlicensed pharmacists. Of these, all but one were handled in a timely and efficient manner. There were no complaints at the Office of the Ombudsman.

The extent to which the board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public.

According to the board's June 30, 1993 Annual Report, 409 pharmacists are licensed by the State. Of these, 20 were licensed in FY 93. The board ensures the qualifications of these members through screening of applications, examination and continuing education requirements. In testing of the licensure procedures, we found no instances of the licensure of unqualified applicants.

The extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity or interest.

The application form for the Board of Pharmacy contains several questions which have been questioned by EEO (see Recommendation No. 6).

The extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

As discussed above and in Recommendation No. 4, the few statutory and regulatory changes made in the last few years have not kept pace with changing practices in the profession. The board has reviewed and approved a Model Pharmacy Act provided by The National Association of Boards of Pharmacy. The bill stemming from the model act would address many of the changes in the profession as well as the need for more meetings annually. At this point, the bill has neither been reviewed by legal counsel nor introduced by the administration or the legislature. Please also refer to the previous section, Findings and Recommendations.

APPENDICES

APPENDIX A

Department of Commerce and Economic Development
Board of Pharmacy
Schedule of Revenues Compared with Expenditures
(Unaudited)
(Note 1)

Revenues (Note 2)	\$49,630
Expenditures (Note 3)	<u>61,222</u>
Excess of Expenditures over Revenues (Note 3)	<u>\$(11,592)</u>

Note 1

The Schedule of Revenues Compared with Expenditures was prepared from discussions with Division of Occupational Licensing (OL) personnel and from OL prepared documents comparing revenue and expenditures for fee determination. The records were not audited by us and, accordingly, we do not express an opinion on the Board's Schedule of Revenues Compared with Expenditures.

Note 2

A significant portion of revenues is comprised of license renewal fees. For the current fee structure, see Appendix B. Licenses are renewed biennially. Because of the renewals, revenues vary substantially year-to-year. Therefore, OL combined revenues collected in FY 90 and FY 91 and calculated an average in order to obtain a representative amount of annualized revenues collected for comparison with expenditures.

Note 3

Expenditures consist of direct costs resulting from board member activities, (i.e., travel and per diem) and an allocation of overhead costs of OL. Our understanding of the allocation methodology is discussed in Recommendation No. 5 of this report and is the subject of a September 1993 Office of Management and Budget (OMB), Division of Audit and Management Services report entitled *Occupational Licensing Fee-Setting Policy Assessment*. Both our office and OMB do not believe that OL's method of allocating costs to a professional licensing board distributes costs reflective of the actual effort spent regulating their profession.

APPENDIX B
Department of Commerce and Economic Development
Board of Pharmacy
Application, License, and Other Fees¹

Application and Other Fees²

Type of Fee	Amount
Application	\$50
Examination fee	150
Temporary license	50
Emergency permit	90

License Fees

License Category	Initial and Biennial Renewal Fee ³
Pharmacist	\$180
Wholesale drug dealer	200
Retail pharmacy	200
Hospital pharmacy	200
Hospital drug room	200
Nursing home and related facilities for in-patient dispensing	200
Registered pharmacy located outside of the State	100
Pharmacy Intern	50

¹The licensing fees charged by the Division of Occupational Licensing for the Board of Pharmacy are set out in the Alaska Administrative Code at § 12 AAC 02.310. The last fee change for this board was effective May 28, 1993. According to Division of Occupational Licensing staff, at this time there are no planned fee changes for this board.

²The Division of Occupational Licensing is also authorized to charge administrative fees. Administrative fees include: duplicate license fee, photocopying fee, and penalty for reinstatement of a registration, license, permit or certificate which remains lapsed for more than 60 days.

³The next biennial renewal period for the Board of Pharmacy is June 30, 1994.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

November 15, 1993

Mr. Randy S. Welker
Legislative Auditor
Division of Legislative Audit
P.O. Box 113300
Juneau, AK 99811-3300

Dear Mr. Welker:

I am responding to your request for a written response to preliminary audit report 08-1421-93 Department of Commerce and Economic Development, Board of Pharmacy dated October 26, 1993.

Three corrections to the report are as follows:

Page 7, Recommendation No. 2, 1st paragraph:

- 1) In the last three years, there have been no applicants from the Second Judicial District, and only one applicant from the Fourth Judicial District.
- 2) The previous board member from Fairbanks did not apply for reappointment to a second term.

Page 8, Recommendation No. 2, continued, 3rd paragraph:

3) No Board of Pharmacy members were recruited by the Office of the Governor to fill specific Board of Pharmacy positions. Members of the public were provided information about vacancies on boards and commissions, and individuals chose to apply for specific seats on specific boards. The Office of the Governor, Boards and Commissions, is pleased to continue statewide informational programs about participation on boards and commissions, and will continue to strive for balanced geographical representation on all statewide boards.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in cursive script that reads "Kristie Leaf".

Kristie D. Leaf
Director, Boards and Commissions

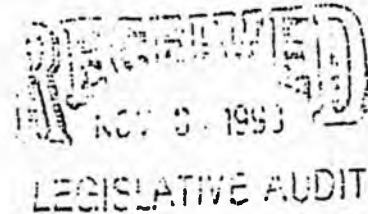
DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

P.O. BOX 110800
JUNEAU, ALASKA 99811-0800
PHONE: (907) 465-2500
FAX: (907) 463-3841

November 29, 1993

Mr. Randy Welker
Legislative Auditor
Legislative Budget & Audit Committee
Division of Legislative Audit
P.O. Box 113300
Juneau, AK 99811



Dear Mr. Welker:

This is written in response to the Audit Division's (hereinafter "Audit") preliminary audit report of its sunset performance review of the Board of Pharmacy (hereinafter "Board"). Below is the Department of Commerce and Economic Development's (hereinafter "Department") comments on Audit's preliminary findings and recommendations.

Response to Recommendation No. 1

The statutory provision for the Board of Pharmacy should be extended until June 30, 2003.

The Department concurs with this recommendation. The regulation and licensing of qualified professionals is necessary to protect the public's health, safety and welfare.

Response to Recommendation No. 2

Office of the Governor, Boards and Commissions should appoint Board of Pharmacy members in accordance with Alaska Statute.

The Department concurs with this recommendation. However, it is out of the Department's control to see that this recommendation is implemented.

Response to Recommendation No. 3

The Board of Pharmacy should review pharmacy inspection procedures to ensure that pharmacies inspected are impartially selected and evaluated.

The Department concurs that pharmacies selected for inspection must be impartially selected and evaluated. If the Board is going to continue inspecting pharmacies, the Board should have the proper tools for such an inspection, i.e., standardized forms (checklist), guidelines for a pass or fail inspection, etc. The Board is in the process of rewriting their entire set of regulations, and in that rewrite has clarified that anytime there is a change of ownership or change in location of a pharmacy, an inspection would be required. Again, these are simply proposed regulations and have not even been put out for public comment.

An important question is whether the Board should continue with inspections. The Board continues to address this topic at board meetings, and the Department concurs that once a workable solution has been determined, that all steps must be clarified in regulation. However, there are many variables in considering a statewide inspection program, i.e., the vast size of the state, the location of board members, and the cost to inspect each pharmacy. The Department believes that it will be some time before this issue is fully settled, but strongly recommends that the inspection function be separated from the board's responsibility so that the board can act as an impartial body if and when licensing action is required.

Response to Recommendation No. 4

The Legislature should revise Board of Pharmacy statutes to reflect current pharmacy practices.

The Department concurs with this recommendation.

Response to Recommendation No. 5

The Department of Commerce and Economic Development (DCED) should continue to work with the Office of the Governor, Office of Management and Budget (OMB) in establishing fee levels for occupational licensees that are more reflective of the actual regulatory cost of the occupation.

During 1993, the division accomplished fee revisions for all program areas to reflect program expenses. The calculations were based upon all available data regarding direct and indirect program costs.

Concerns were voiced by various boards regarding their fee increases/program costs. Based on these concerns, the department requested an independent review by OMB of the procedures used in calculating expenses by the Office of Management and Budget. The OMB audit was completed early October. OMB's recommendations for defining direct costs, including the implementation of timekeeping records for licensing staff, investigators and hearing officers has been implemented effective July 1, 1993 by the division.

OMB audit recommended a cap on incremental fee increases of no more than 10-25 percent per licensing period. This is problematic inasmuch as it places a limit on recovering the actual cost of licensing the profession. OMB budget

reviewers placed an even more restrictive cap of seven percent on the license fee this fiscal year. Unpredictable and unforeseen program expenses occur due to investigations, litigation and legal challenges which are not controlled by the board or the division. Limiting expenditures in order to comply with these caps is anticipated to have serious effects on the board's abilities to comply with their statutory mandates. Under the present scheme, once a program has expended its "acceptable" limit for fee increase adjustments under the OMB recommendations and in accordance with 08.01.065, the board will effectively be shut down for the remainder of the fiscal year. The consequences have potential health and safety risks as well as economic hardships for licensees who may wish to renew their licenses, etc. The division will make requests for additional spending allocation to LB&A to alleviate these harsh consequences, but failing favorable consideration must control its expenditures.

The division does not fully concur with the audit findings that errors were made in the calculation of a two-year average of expenditures used to determine the FY 93 license fees, and as a result, license fees did not truly reflect the cost of providing regulatory services to each occupation. Detailed expenditure information used in calculating a two-year average was based on information obtained from the state accounting system. It is a real possibility that data generated from the state accounting system for the purposes of this audit has changed from data obtained by division staff at the end of the fiscal year. Since appropriate division staff was not consulted regarding specific financial information, the division cannot agree with this finding until both audit and division staffs have had the opportunity to discuss this matter.

The recommendation of estimating time spent by certain job classes of employees stated in the OMB fee-setting policy assessment audit was implemented on July 1, 1993; and at the start of FY 94, the division prepared an FY 94 budget allocation for each licensing program.

In conclusion, DCED has attempted to work with the OMB auditor regarding this issue, but we have been informed that the audit is over and no more time will be allocated to this issue.

Response to Recommendation No. 6

OL should, in conjunction with the Equal Employment Office (EEO), review the Board of Pharmacy licensure application to assure that personal qualifications of a potential discriminatory nature are essential for prudent licensure.

The Department has been working towards updating all of its licensing applications with emphasis towards the American with Disabilities Act and also EEO concerns. Because of the many considerations involved in revising our applications and the number of professions affected, the Department is not rushing through this project to satisfy immediate concerns, but rather making a concerted effort to give this review the quality of thoroughness it deserves.

EEO's concerns that it may be difficult to prove that discrimination was not a factor in the denial of licensure (because the board had been provided a picture of an applicant) may be unnecessary. Specifically, license denials must be based upon a provision in the board's statutes or regulations. Denial notices must list the specific authority for rejection. We believe the procedures for denying an applicant, and the practice of listing the specific reasons for denial in the notice to the applicant provides adequate protection for the board from being subject to discrimination complaints. Further, your suggestion of separating the photo from an application prior to board review is questionable since licensing applications are public documents and we believe it would be inappropriate for division staff to withhold public information from the board.

Response to Recommendation No. 7

OL should request statutory changes in AS 08.01.050 and AS 08.01.070 to clarify responsibilities for the taking of board meetings and production of an annual report.

The Department concurs with Recommendation No. 6. A rewrite of AS 08.01 makes numerous revisions including amendments to the statutes cited in this recommendation. The rewrite includes revisions which make drafting minutes a Department responsibility. It also provides for annual report deadline submission of August 1. The annual report deadline revision is necessary as many statistics needed for the annual report are not available until June 30, thus making it impossible for the boards to meet the existing deadline of submission by June 30.

The Department strongly disagrees that the annual report authority should be amended to make annual report submission a Department responsibility. We recognize that Division staff are instrumental in assisting boards when completing reports. Staff provide statistical and clerical assistance, however, this report must be reflective of the board's position on various matters involving the profession regulated including legislative and regulatory needs, budget requests, and upcoming goals. These are areas which the board is solely responsible for developing.

Response to Recommendation No. 8

OL should develop and implement written policies and procedures for reporting potential violations of the Executive Branch Ethics Act to the Department of Law (Law)

The Department agrees and will comply with this recommendation. A written procedure developed by staff will be limited to include directives for staff follow-up at each meeting with collection of ethic reports as well as clarifying dates which quarterly reports must be compiled and forwarded to the Attorney General's Office. We concur that staff is responsible for the timely submission to the Department of Law. This is the limit of responsibility recognized on behalf of the Department.

Mr. Randy Welker

-5-

November 29, 1993

All other policy, procedures, interpretations, and written directives for what must be reported must come from the Department of Law. Guidance on when a member must report a conflict, what should be reported, confirmation of what constitutes a conflict and who has authority to rule/override a decision made by a designated supervisor are all matters which are beyond the scope of DCED staff expertise. Consequently, the Department disagrees with the statement in the text of recommendation no. 8 which states: "Functionally, OL staff advise the professional licensing boards as to the reporting necessary for compliance with the Ethics Act"

The Department has asked for a written directive from the Department of Law, in layman's terms, which clarifies these matters. Any forthcoming directives from the Department of Law will be distributed to board members.

Thank you for this opportunity to respond. If my department can assist you in any other way, please let me know.

Sincerely,


Paul Fuhs
Commissioner

PF/JW/dgl5294D
112993b

cc: Karl Luck, Director, Division of Occupational Licensing

HB

299

HFIN

FILE

HOUSE COMMITTEE REPORT

3/23/94
Rules

(11)
Date Referred: March 9, 1994

FURTHER REFERRALS:

Date of Committee Action: 3/23/94 am

The FINANCE Committee considered:

HB 299

HOUSE BILL NO. 299

DRIVER'S LIC REVOCATION;ALCOHOL/DRUGS

"An Act relating to education programs on consumption of alcohol and to revocation of a driver's license for illegal consumption of alcohol; and providing for an effective date."

- RECOMMENDATIONS: the same title
 be replaced with CS HB 299 (FIN) a new title
 have attached amendments(s)
 do pass
 do not pass
 no recommendations
 individual recommendations
 additional referral to the _____ Committee

ADOPTS: HFC letter of Intent letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact DPS

fiscal note(s) ~~_____~~

~~MA~~ zero fiscal note ~~_____~~

zero fiscal note(s) CAW 3/9

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<u>Ronald J. Larson</u>	X	<u>Eileen Maclean</u> Maclean		✓	
		<u>Mark Hayney</u> Hayney		X	
		<u>San & Paul Parnell</u> Parnell		X	
		<u>Perry Martin</u> Martin		X	
		<u>Mike Nasarre</u> Nasarre		✓	
		<u>Jay Brown</u> Brown		✓	
		<u>Jan Gussendorf</u> Gussendorf		X	
	(1)			(7)	

Ronald J. Larson Eileen Maclean
 CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO: CSHB 299(FIN)

Revision Date: 3/24/94 Dept. Affected: Public Safety
 Title: An Act relating to revocation of a driver's license...and providing for an effective date. BRU: Motor Vehicles
 Component: Driver Services/Field Services
 Sponsor: Representative Toohy
 Requestor: (H) FIN COMPONENT SERIAL NO. 500, 502

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	126.1	126.1	126.1	126.1	126.1	126.1
TRAVEL	1.5	0	0	0	0	0
CONTRACTUAL	23.4	16.1	16.1	16.1	16.1	16.1
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	42.0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	194.0	143.2	143.2	143.2	143.2	143.2
CAPITAL EXPENDITURES						
CHANGE IN REVENUES (1005) <small>Revenue Code</small>	622.5	622.5	622.5	622.5	622.5	622.5

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	194.0	143.2	143.2	143.2	143.2	143.2
1006 GF/MHTIA						
Other						
TOTAL	194.0	143.2	143.2	143.2	143.2	143.2

Estimate of current year (FY 94) impact: \$ _____

POSITIONS:

FULL-TIME	3	3	3	3	3	3
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)
See Attached

Prepared By: Juanita M. Hensley Phone: 465-2650
 Division: Motor Vehicles Date: 03/24/94
 Approved by Commissioner: *[Signature]* Date: 03/24/94
 Agency: Richard L. Burton, Dept. of Public Safety

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Rev 01/94

MJH
3/24/94

This bill will require the Division of Motor Vehicles to administratively revoke the driver's license of any person between the ages of 14 through 20 who has consumed or who is in possession of drugs or alcohol. The Division of Family and Youth Services (DFYS) reports approximately 1,200 youths between the ages of 14 through 17 are referred to their agency by police authorities for alcohol or drug offenses yearly. The Department of Public Safety Uniform Crime Report for 1992 shows approximately 1,300 persons between the ages of 18 through 20 are arrested or charged with drug and alcohol offenses (other than DWI) each year. The total number of youths whose driver's license or privilege to drive would be revoked is approximately 2,500. The Department of Public Safety Uniform Crime Report does not include 37 cities or rural communities.

In order to handle the additional 2,500 license revocations a year, and provide due process for the minor, one full-time Driver Improvement Specialist/Hearing Officer, and two full-time Motor Vehicle Representative I/II's would be required. The cost for personal services for a Driver Improvement Specialist/Hearing Officer is 52.8; the cost for two Motor Vehicle Representative I/II's is 73.3. The total for personal services is 126.1. The Driver Improvement Specialist and one Motor Vehicle Representative will be located in the Juneau Driver Services office and will handle the paperwork and hearings associated with administering the revocation of the driver's license. The second Motor Vehicle Representative will be located in the Anchorage Field Services section and will be used in the Motor Vehicle Field office to handle the reinstatement and issuance of a driver's license.

To revoke 2,500 additional driver's licenses a year takes over 30 processing steps per revoked license. It takes approximately 20 minutes to one hour to conduct an administrative hearing. Each processing step varies in the time it takes to complete. Complete accuracy is essential, as an error of entry onto a driving record could result in civil liability to the State. It takes approximately 20 minutes per applicant to reinstate a revoked driver's license; this time is exclusive of the time it takes a person to take the required tests; the person must make a new application for the driver's license or permit, take all of the required tests, and if the person is under the age of 18 a parent or legal guardian must give consent for the driver's license or permit and pay the reinstatement fee. Travel and per diem requested is to send the hearing officer to the National Judicial College for professional training in the fair hearing process.

Under existing law, each person whose license has been revoked must pay a \$100 fee when applying for reinstatement of his or her driver's license. This bill amends current law by requiring a reinstatement fee of \$250 for anyone who has had their driver's license suspended, revoked or limited more than one time. Assuming 90 percent of the minors who are eligible for reinstatement will comply with the reinstatement requirements and pay the \$100 fee, approximately \$225.0 will be generated annually as new program receipts/general fund revenue.

In FY93 the division reinstated approximately 5,300 driver's licenses where the person paid a fee of \$100. It is estimated that 50 percent or 2,650 have first time actions against their record and will continue to pay the \$100 fee and 50 percent or 2,650 of these drivers have prior actions against their record and will be required to pay the \$250 fee. The 2,650 drivers will be required to pay an additional \$150 which will generate an additional \$397.5 in new program receipt/general fund revenue. The total new program receipts/general fund revenue is \$622.5.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 299 (JUD)

Revision Date: March 9, 1994
Title: "...revocation of a driver's license for illegal possession or use of a controlled substance...alcohol..."
Sponsor: Representative Toohy
Requestor: Representative Toohy

Department Affected: Department of Law
BRU: Prosecution
Component: All
COMPONENT SERIAL NO. 0085 through 0090

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND &						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING:

1002 Federal						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year (FY94) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)
Please see the attached analysis.

Prepared by: Richard I. Peques, Director
Division: Administrative Services Division

Phone: 465-3672
Date: March 9, 1994

Approved by Commissioner: Bruce M. Botelho, Attorney General
Agency: Department of Law

Date: March 9, 1994

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 299 (JUD)

ANALYSIS CONTINUATION:

The House Judiciary Committee version of HB 299 adds a new section to AS 28.15 that provides for the revocation of a driver's license of a person that is at least 14 years of age, but not yet 21 years of age, for the possession or use of a controlled substance in violation of AS 11.17, or the possession or use of alcohol in violation of AS 04.16.050.

Revocation would be handled administratively by the Department of Public Safety if a police officer had probable cause based on personal observation that the possession or use occurred. The administrative process includes a provision for an administrative appeals hearing, as well as providing for subsequent judicial review. A police officer would be required to read a notice and to deliver a copy to the person advising that revocation will occur in seven days, unless the person requests an administrative review within the seven days. The written notice would serve as a temporary seven day license or permit, and the police officer would seize the person's license or permit if it is in the person's possession. Revocation would include the person's driver's license, permit, privilege to drive, or privilege to obtain a license or permit. A first revocation would result in a revocation for a period of 90 days; a second revocation would result in a revocation for a period of one year; and a third revocation would result in revocation for a period of three years. The bill also provides that the Department of Public Safety may not issue a new license or reissue a license to a person whose driver's license, permit, or privilege to drive has been revoked, under these provisions, unless the person is enrolled in or in compliance with, or has successfully completed and paid for (1) an alcoholism education and rehabilitation program, if the revocation resulted from the possession or use of alcohol, or (2) a drug rehabilitation treatment program if the revocation resulted from the possession or use of a controlled substance. Finally, the bill increases the amount of the reinstatement fee, from \$100 to \$250, for any person who seeks a driver's license at the end of the revocation period.

Current statute (AS 28.15.185) contains similar penalties for the same offense; however, the existing statute is limited to youths ages 13 through 17, and the penalties can be invoked only if the person is adjudicated by a juvenile court of misconduct involving a controlled substance or alcohol.

Because the revocation process will be handled administratively within the Department of Public Safety, the bill is unlikely to have a direct fiscal impact on the Department of Law. However, we are concerned that there will be a secondary impact caused by youthful offenders who drive while their license is revoked or who cannot obtain a license or permit during a revocation period. We also expect that there will be a larger number of revocations than now occurs under the existing statute, because the age span covered by the bill is greater and because revocation will not require an adjudication. Thus it appears that the incidence of DWLS offenses will increase. However, data is not available that would give any clear idea on the amount of increase that will result if the bill is approved. Consequently, fiscal impact costs have not been shown. We therefore caution that increasing prosecutor caseload at a time when revenues are decreasing, and at a time when the existing caseload is already increasing, will result in prosecutors being forced to decline prosecution of certain offenses in favor of prosecuting more serious offenses.

Finally, we note that the bill includes well-reasoned findings in respect to the dangers involved in mixing alcohol and driving and the particular danger to youths under the age of 21. However, no findings have been included in respect to controlled substances and the dangers they present to youths under the age of 21.

CS FOR HOUSE BILL NO. 299(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 3/9/94

Referred: Finance

Sponsor(s): REPRESENTATIVES TOOHEY, Bunde, Mulder

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to revocation of a driver's license for illegal possession or use
2 of a controlled substance or illegal possession or consumption of alcohol; to fees
3 for reinstatement of a driver's license; and providing for an effective date."

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

5 * Section 1. FINDINGS. The legislature finds that

6 (1) drinking alcohol is a factor in approximately one-half of all fatal motor
7 vehicle accidents;

8 (2) any blood alcohol level affects driving ability and increases the likelihood
9 of accidents;

10 (3) youthful drivers who consume alcohol are far more likely than sober
11 teenage drivers to be killed in single vehicle accidents;

12 (4) drinking and driving is a leading killer of youths in this country;

13 (5) youths under the age of 21 are twice as likely as any other age group to
14 be involved in an alcohol-related automobile accident; and

#1
DELETED - PASSED
-pannell

1 (6) schools in this state should conduct educational programs to teach youths
2 about the dangers of drinking or using controlled substances and driving.]

3 * Sec. 2. AS 28.15 is amended by adding new sections to read:

4 Sec. 28.15.183. ADMINISTRATIVE REVOCATION OF A MINOR'S
5 LICENSE TO DRIVE. (a) If a peace officer has probable cause based on personal
6 observation that a person who is at least 14 years of age but not yet 21 years of age
7 has possessed or used a controlled substance in violation of AS 11.71, or possessed or
8 consumed alcohol in violation of AS 04.16.050, the peace officer shall read a notice
9 and deliver a copy to the person. The notice must advise that

10 (1) the department intends to revoke the person's driver's license or
11 permit, privilege to drive, or privilege to obtain a license or permit;

12 (2) the person has the right to administrative review of the revocation;

13 (3) if the person has a driver's license or permit, the notice itself is a
14 temporary driver's license or permit that expires seven days after it is delivered to the
15 person;

16 (4) revocation of the person's driver's license or permit, privilege to
17 drive, or privilege to obtain a license or permit, takes effect seven days after delivery
18 of the notice to the person unless the person, within seven days, requests an
19 administrative review.

20 (b) After reading the notice under (a) of this section, the peace officer shall
21 seize the person's driver's license or permit if it is in the person's possession and shall
22 deliver it to the department with a sworn report describing the circumstances under
23 which it was seized.

24 (c) Unless the person has requested an administrative review, the department
25 shall revoke the person's driver's license or permit, privilege to drive, or privilege to
26 obtain a license or permit, effective seven days after delivery to the person of the
27 notice required under (a) of this section, upon receipt of a sworn report of a peace
28 officer

29 (1) that the officer had probable cause based on personal observations
30 that the person is at least 14 years of age but not yet 21 years of age and has
31 possessed or used a controlled substance in violation of AS 11.71, or possessed or

1 consumed alcohol in violation of AS 04.16.050;

2 (2) that notice under (a) of this section was provided to the person; and

3 (3) describing the circumstances surrounding the violation of the
4 controlled substances provisions of AS 11.71 or the alcoholic beverages provisions of
5 AS 04.16.050.

6 (d) The department shall impose the revocation required under this section

7 (1) for a first revocation, for a period of 90 days;

8 (2) for a second revocation, for a period of one year; or

9 (3) for a third or subsequent revocation, for a period of three years.

10 (e) Notwithstanding the provisions of AS 28.20.240 and 28.20.250, the
11 department may not require proof of financial responsibility before restoring a driver's
12 license, permit, or privilege that is revoked under this section.

13 (f) A revocation imposed under this section shall be consecutive to a
14 revocation imposed under another provision of law, except that a revocation imposed
15 under this section shall be concurrent with a revocation imposed under AS 28.15.185
16 that is based on the same incident. A department hearing officer may grant limited
17 license privileges in accordance with the standards set out in AS 28.15.201 to a person
18 whose driver's license, permit, or privilege was revoked under this section.

19 (g) The department may not issue a new license or reissue a license to a
20 person whose driver's license, permit, or privilege to drive has been revoked under this
21 section unless the person is enrolled in and is in compliance with, or has successfully
22 completed and paid for

23 (1) an alcoholism education and rehabilitation treatment program, if the
24 revocation resulted from possession or consumption of alcohol in violation of
25 AS 04.16.050; or

26 (2) a drug rehabilitation treatment program, if the revocation resulted
27 from possession or use of a controlled substance in violation of AS 11.71.

28 (h) In this section, "peace officer" does not include a person employed by the
29 Department of Corrections.

30 Sec. 28.15.134. ADMINISTRATIVE REVIEW OF REVOCATION OF A
31 MINOR'S LICENSE. (a) A person who has received a notice under AS 28.15.183(a)

1 may make a written request for administrative review of the department's action. If
2 the person's driver's license or permit has not been previously surrendered to the
3 department, it shall be surrendered to the department at the time the request for review
4 is made.

5 (b) A request for review of the department's revocation under AS 28.15.183
6 shall be made within seven days after receipt of the notice under AS 28.15.183 or the
7 right to review is waived and the action of the department under AS 28.15.183(c) is
8 final. If a written request for a review is made after expiration of the seven-day
9 period, and if it is accompanied by the applicant's verified statement explaining the
10 failure to make a timely request for a review, the department shall receive and consider
11 the request. If the department finds that the person was unable to make a timely
12 request because of lack of actual notice of the revocation or because of factors of
13 physical incapacity such as hospitalization or incarceration, the department shall waive
14 the period of limitation, reopen the matter, and grant the review request.

15 (c) Upon receipt of a request for review, if it appears that the person holds a
16 valid driver's license or permit and that the driver's license or permit has been
17 surrendered, the department shall issue a temporary driver's permit that is valid until
18 the scheduled date for the review. A person who has requested a review under this
19 section may request, and the department may grant for good cause, a delay in the date
20 of the hearing. If necessary, the department may issue additional temporary permits
21 to stay the effective date of its action under AS 28.15.183(c) until the final order after
22 the review is issued.

23 (d) A person who has requested a hearing under this section and who fails to
24 appear at the hearing, for reasons other than lack of actual notice of the hearing or
25 physical incapacity such as hospitalization or incarceration, waives the right to a
26 hearing. The determination of the department that is based upon the officer's report
27 becomes final.

28 (e) Notwithstanding AS 28.05.141(b), the hearing under this section may be
29 held telephonically at the discretion of the hearing officer.

30 (f) A review under this section shall be held before a hearing officer
31 designated by the commissioner. The hearing officer may

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

8 (g) The hearing for review of a revocation by the department under
9 AS 28.15.183 shall be limited to the issues of whether the person was at least 14 years
10 of age but not yet 21 years of age and whether the person possessed or used a
11 controlled substance in violation of AS 11.71 or possessed or consumed alcohol in
12 violation of AS 04.16.050.

13 (h) The determination of the hearing officer may be based upon the sworn
14 report of a peace officer, if the sworn report is supported by probable cause based on
15 personal observations as required under AS 28.15.183(a). The peace officer need not
16 be present at the hearing unless either the person requesting the hearing or the hearing
17 officer requests in writing before the hearing that the officer be present. If in the
18 course of the hearing it becomes apparent that the testimony of the peace officer is
19 necessary to enable the hearing officer to resolve disputed issues of fact, the hearing
20 shall be continued to allow the attendance of the peace officer.

21 (i) Testimony given at the hearing is not admissible in a criminal trial unless
22 the testimony given at the trial is inconsistent with testimony given at the hearing.

23 (j) If the issues set out in (g) of this section are determined in the affirmative
24 by a preponderance of the evidence, the hearing officer shall sustain the action of the
25 department. If one or more of the issues is determined in the negative, the
26 department's revocation action shall be rescinded.

27 (k) If the action of the department in revoking a nonresident's privilege to
28 drive a motor vehicle is not administratively contested by the nonresident driver or if
29 the departmental action is sustained by the hearing officer, the department shall give
30 written notice of action taken to the motor vehicle administrator of the state of the
31 person's residence and to any state in which that person has a driver's license.

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

8 (m) The filing of an appeal under (l) of this section or a petition for review
9 does not automatically stay the department's order or revocation. The court may grant
10 a stay of the order or revocation under the applicable rules of court, after a motion and
11 hearing, and upon a finding that there is a reasonable probability that the petitioner
12 will prevail on the merits and that the petitioner will suffer irreparable harm if the
13 order is not stayed.

14 * Sec. 3. AS 28.15.211(c) is amended to read:

15 (c) At the end of a period of suspension or limitation, when that limitation
16 follows a suspension, the person whose license has been suspended or limited may
17 apply to the department and, upon payment of the proper fees, including a
18 reinstatement fee [OF \$100], be issued a duplicate driver's license if the person is
19 otherwise entitled to the license under this title.

20 * Sec. 4. AS 28.15.211(d) is amended to read:

21 (d) At the end of a period of revocation or limitation following a revocation,
22 a person whose driver's license has been revoked may apply to the department for the
23 issuance of a new license, but shall submit to reexamination, pay all required fees
24 including a reinstatement fee [OF \$100], and if the license was revoked under
25 AS 28.15.181(a)(5) or (8), submit proof of

26 (1) enrollment in and compliance with or completion of an alcoholism
27 education and rehabilitation treatment program if the person was sentenced under
28 AS 28.15.181(c)(1); or

29 (2) completion of and payment for an alcoholism education and
30 rehabilitation treatment program if the person was convicted under AS 28.15.181(c)(2)
31 - (4).

1 * Sec. 5. AS 28.15.271(b) is amended to read:

2 (b) In addition to the fees under (a) of this section,

3 (1) a person who renews a driver's license by mail shall pay a fee of
4 \$1; [AND]

5 (2) a person who applies for a limited driver's license under
6 AS 28.15.201 shall pay a fee of \$100; and

7 (3) a person who applies for reinstatement of a driver's license
8 under AS 28.15.211 shall pay a fee of \$250.

9 * Sec. 6. APPLICABILITY. This Act applies to violations of AS 04.16.050 or AS 11.71
10 that occur on or after the effective date of this Act.

11 * Sec. 7. This Act takes effect July 1, 1994.

AMENDMENT

withdrawn

1a

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: HB 299(JUD):

Page 1, line 14 after " , ":

Delete "and"

Page 2, line 2 after "driving":

Delete "."

Insert "; and'

Page 2, after line 2:

Insert "(7) because studies show increases in alcohol excise taxes are a substantial deterrent to youths abusing alcohol, the Alaska State Legislature should increase the state alcohol excise tax."

AMENDMENT 2

part OFFERED IN THE HOUSE BY REPRESENTATIVE BROWN
TO: CSHB 299(JUD)

#1 *adopted* Page 2, line 8, after "AS 04.16.050":
Insert "and the peace officer has cited the person or arrested the person for a violation of AS 11.71 or AS 04.16.050"

~~#5~~ Page 3, line 19:
Delete "The"
Insert "Except as provided under (h) of this section, the"

~~with~~ Page 3, line 22:
Delete "and paid for"

#2 Page 3, line 23:
Delete "an"
Insert "a state approved"

Page 3, line 26, after "a":
Insert "state approved"

Page 3, after line 27:
Insert a new subsection to read:

#3 *Amended #5* "(h) The provisions of (g) of this section do not apply to a person who is ^{when drug rehab or alcohol education is} required to obtain drug or alcoholism treatment and who resides in an area that does ^{is} not offer the required state approved drug rehabilitation or alcoholism education and ^{is} unavailable rehabilitation program."

Reletter the following subsection accordingly.

*#3 Hqg
deleted*

Page 7, line 8:

Delete "\$250"

Insert "\$100"

#3

adopted

Maclean

AMENDMENT

OFFERED IN THE HOUSE .
TO: CSHB 299(JUD)

BY REPRESENTATIVE ~~DARSON~~

Page 7, line 8:

Delete "\$250"

Insert new subparagraphs to read:

"(A) \$100 if the person's driver's license has, within the 10 years preceding the application, been suspended, ^{or limited} or revoked, under the provisions of this chapter only once: or

(B) \$250 if the person's driver's license has, within the 10 years preceding the application, been suspended, ^{or limited} or revoked, under the provisions of this chapter two or more times"

~~6250~~

AMENDMENT 4 withdraw

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: HB 299(JUD):

Page 1, line 5 after "FINDINGS":

Delete "."

Insert "AND INTENT."

Page 2, after line 2:

HFC
let of JW
CS(299) Au)

"It is the intent of the Alaska Legislature that new general fund program receipts provided by increases in the driver's license reinstatement fee be divided equally between the Department of Public Safety and the Department of Health and Social Services. The new program receipts received by the Department of Health and Social Services should be used for alcohol and drug abuse prevention and treatment programs specifically targeted at youth."

SLO DATE _____
SLO DATE

#5

A M E N D M E N T

OFFERED IN THE HOUSE
TO: CSHB 299(JUD)

BY REPRESENTATIVE BROWN

adopted

Page 2, line 8, after "AS 04.16.050":

Insert "and the peace officer has cited the person or arrested the person for a violation of AS 11.71 or AS 04.16.050"

#5
passing
w/drawn

Page 3, line 19:

Delete "The"

Insert "Except as provided under (h) of this section, the"

Page 3, line 22:

Delete "and paid for"

40 or \$45 fee

B

Page 3, line 23:

Delete "an"

Insert "a state approved"

the dept
may waive
this if

Page 3, line 26, after "a":

Insert "state approved"

Page , after line 27:

Insert a new subsection to read:

~~(h)~~ ^{The department may waive if} The provisions of (g) of this section ~~do not apply to~~ a person who is required to obtain drug or alcoholism treatment ~~and who~~ ^{where} resides in an area ~~that does~~ ^{is unavailable} not offer the required state approved drug rehabilitation or alcoholism education and rehabilitation program."



Alaska State Legislature

HOUSE OF REPRESENTATIVES

Committee on Finance

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

HOUSE FINANCE COMMITTEE

LETTER OF INTENT

FOR

CS HB 299 (FIN)

"It is the intent of the Alaska Legislature that new general fund program receipts provided by increases in the driver's license reinstatement fee be divided equally between the Department of Public Safety and the Department of Health and Social Services. The new program receipts received by the Department of Health and Social Services should be used for alcohol and drug abuse prevention and treatment programs specifically targeted at youth."

Ronald L. Larson 3/23/94
Co-Chair Larson Date

EP MacLean 3/23/94
Co-Chair MacLean Date



Official Business

Alaska State Legislature

HOUSE OF REPRESENTATIVES

REPRESENTATIVE CYNTHIA TOOHEY

State Capitol
Juneau, AK 99801-1182

DISTRICT 13

SPONSOR STATEMENT

House Bill 299

"An Act relating to revocation of a driver's license for illegal possession or use of a controlled substance or illegal possession or consumption of alcohol; and providing for an effective date."

House Bill 299 is referred to as *"Use It-Lose It"* legislation.

There is no doubt that the dangerous association of controlled substances and alcohol with driving begins at an early age. It cannot be stressed enough that usage of alcohol or controlled substances causes a reduction of mental and physical capabilities and can severely impair one's ability to drive in a responsible manner. HB299 would provide the Department of Public Safety with a tool to help discourage youth from starting the dangerous and often fatal association of controlled substances and alcohol with driving.

Driving is a privilege looked forward to by all youngsters. Loss of this privilege can be a powerful deterrent. The intent of this bill is to provide the strongest possible incentive for our children to say "no" to controlled substances or alcohol. It gives youth a reason, that is acceptable to their peers, to say "no," while providing positive reinforcement to alcohol and drug-free teenagers by maintaining their eligibility to drive.

Under HB299, a minor who is old enough to have either a permit or license to drive would lose that license, permit, or privilege if said minor possessed, used, or consumed a controlled substance or alcohol. Revocation would be through an administrative proceeding.

This bill is supported by the Department of Public Safety, the Alaska Medical Association, the Alaska Council on Prevention of Alcohol and Drug Abuse, Alaskans for Drug-Free Youth, Mothers Against Drunk Driving, the Alaska Peace Officers Association, the Governor's Advisory Board on Alcoholism and Drug Abuse, the Ketchikan Mayor's Task Force on Substance Abuse, and the Alaska Association of Chiefs of Police. It has a fiscal note from the Department of Public Safety, but it is anticipated the revenue generated would more than cover the cost of the implementation. It would also enable the State to access additional federal funds. There is a zero fiscal note from the Department of Law. Your support would be appreciated.

Back-up

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

March 7, 1994

SUBJECT: Sectional Summary of CSHB 299(JUD)
(Work Order No. 8-LS0961\X)

TO: Representative Cynthia Toohey

FROM: Michael F. Ford *M.F.*
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Findings.

Section 2.

Sec. 28.15.183. Requires administrative revocation of a driver's license of a person who is at least 14, but not yet 21 years old, who has illegally consumed or possessed alcohol or a controlled substance. Establishes periods of mandatory revocation. Provides that revocation under this section is consecutive to revocation under another provision of law, except for a revocation under AS 28.15.185. Allows for the Department of Public Safety to grant limited license privileges.

Sec. 28.15.184. Provides for review of the administrative revocation before a hearing officer. If the illegal possession or consumption is proven by a preponderance of the evidence the revocation is required to be sustained. Provides for appeal of the hearing officer's decision to superior court.

Section 3. Technical amendment to remove a specified fee for reinstatement of a driver's license.

Representative Cynthia Toohey
March 7, 1994
Page 2

Section 4. Technical amendment to remove a specified fee for reinstatement of a driver's license.

Section 5. Imposes a fee of \$250 for reinstatement of a driver's license under AS 28.15.211.

Section 6. Applicability.

Section 7. Effective date.

MFF:gc
94-171.glc



ALASKA STATE MEDICAL ASSOCIATION

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

February 15, 1994

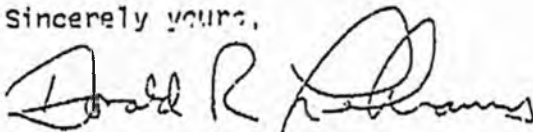
Representative Cynthia Tohey
Alaska State Legislature
P. O. Box V (MS 3100)
Juneau, AK 99811

Dear Representative Tohey:

On behalf of the Alaska State Medical Association I would like to offer you our organization's strongest support for your committee substitute for House Bill #299. As physicians we are well aware of the trauma alcohol and drugs inflict upon Alaskans. These problems often begin while our youth are in their teens and this bill will serve as a ringing wake-up call that substance abuse has serious consequences and will not be tolerated. This bill is elegant in its simplicity and will be eloquent in its message once under-age drivers realize that substance abuse is incompatible with driving privileges. When enacted, this bill will be a model for other states to deal with this problem.

I thank you and your staff for your hard and thoughtful work on this bill. If I can be of any assistance to you in its passage, do not hesitate to contact me. If my testimony would ever be helpful, I would be happy to assist you.

Sincerely yours,



Donald R. Lehmann, M.D., A.B.F.P.
President, Alaska State Medical Association

DRL:bj

Alaska Association Chiefs of Police



February 15, 1994

Representative Cynthia Toohey
Room 104
State Capital Building
Juneau, Alaska, 99801-1182

Dear Representative Toohey:

On behalf of the Alaska Association of Chiefs of Police I would like to offer our support for CSHB 299 (work draft of 2/11/94).

The number of teenagers killed while drinking and driving is an endless and ever increasing tragedy in today's society. In Alaska, where the illegal use of drugs and alcohol by minors is significantly higher than other parts of the country, the number of dysfunctional teens seems to be growing at an alarming rate.

The standard law enforcement approach of arrest and incarceration for possession or consumption has not solved or reduced this growing problem. (In the case of teens under the age of eighteen (18) it is simply a ride home with a later court appearance.) Education and counseling, along with innovative incentives is the only hope for reducing this behavior. Revocation of a minor's drivers license for any illegal possession or consumption, regardless of whether a vehicle was involved, is an extremely innovative approach to a very old problem. Because driving is such a cherished past time with most young people, the threat of losing this privilege may be the catalyst needed for some to finally "just say no".

If we can be of any assistance in the passage of this bill please let me know.

Very truly yours,

A handwritten signature in black ink, appearing to read "Ronald L. Otte". The signature is fluid and cursive, with a large initial "R" and "O".

Ronald L. Otte
President

RLO/lp

DRUG FREE YOUTH



WILL MAKE
A STRONG AMERICA

Alaskans For Drug-Free Youth

Statewide Headquarters

2417 Tongass, Suite #114, Ketchikan, Alaska 99901
Phone: 907-247-2273, 1-800-478-2273, fax 907-247-2232

February 15, 1994

EXECUTIVE DIRECTOR
Lynda Adams

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The Honorable Cynthia Toohey
State Capitol
Juneau, AK 99801-1182

Dear Representative Toohey:

Thank you for sending us the latest draft of HB 299. Our organization fully supports the "Use It - Lose It" administrative revocation of minors' permits and licenses. We believe this will be a very cost effective tool for law enforcement and more importantly, will provide our young people with a reason not to drink and use other drugs.

If there is one thing teenagers have in common, it is that they are all anxious to have a drivers license. The threat of losing it should make them think twice about taking a drink.

We are also interested in incorporating a .00 BAC for those under 21 years old. If it is possible to amend this bill to include that provision, we would appreciate it. We will continue to advocate for it in any case.

Thank you for being responsive to our suggestions for changes to your bill. If there is anything else we can do to help, please let us know. Lynda Adams will be back in the office next week and will be happy to answer any questions you may have.

Sincerely,

Cheri Davis,
Development Director





ALASKA COUNCIL ON

PREVENTION

OF ALCOHOL AND DRUG ABUSE, INC.

Founded 1962

February 15, 1994

Representative Cynthia Toohey
House of Representatives
State Capitol, Room 104
Juneau, AK 99801-1182

Dear Representative Toohey,

Thank you for informing me about C.S. House Bill 299 draft dated February 11, 1994. The data you are about to read comes from the Robert Wood Johnson Foundation report dated October 1993. Prepared by the Institute for Health Policy, Brandeis University entitled *Substance Abuse the Nations Number One Health Problem, Key Indicators for Policy*. I am in support of this bill for the following reasons:

- Adolescent is a period of experimentation with substance use and teenagers are particularly at risk for being involved with alcohol and drug related vehicle injuries.
- Traffic crashes remain the single greatest cause of death among American youth and young adults and almost half of all traffic fatalities are alcohol-related.
- Diverse efforts under way in communities across the country including prompt license suspension, sobriety police checks, zero tolerance for underage drivers and public education have had an impact on alcohol impaired driving decline.
- The public supports stringent sanctions against driving while intoxicated and according to a national poll would like to see tougher enforcement of drinking age laws (64%) automatic license suspension for the first offense (89%) and automatic confiscation of plates for the second offense (89%).

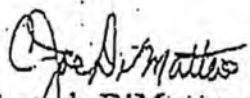
Representative Tooley
February 15, 1994
Page two

- Alcohol in any quantity is a risk factor for young drivers and nearly 40% of 16 to 19 year old drivers in alcohol involved fatal crashes had a B.A.C. level under 0.10%.
- Early use is related to later problems. By the eighth grade 70% of adolescents have consumed alcohol.

The above statistics show that any intervention we create as a community for young people will save many lives. Tougher laws and higher prices on alcohol and tobacco have proven to be effective deterrents for substance use and abuse among young people.

I wish you success in getting House Bill 299 approved. If there is anything that I can do to help, please feel free to call me.

Sincerely,


Joseph DiMatteo
Executive Director

/JDM

ALASKA PEACE OFFICERS ASSOCIATION

State APOA Office • P.O. Box 240106 • Anchorage, Alaska 99524-0106 • (907) 277-0515



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February 23, 1994

MAR 2 1994

Representative Cynthia Toohey
State Capitol
Juneau, AK 99801-1182

Dear Representative Toohey,

The Alaska Peace Officers Association supports HB 299. We feel that drinking and driving under the influence of drugs or alcohol continues to be a matter of grave concern to the citizens of Alaska. People have come to understand and realize the high price we pay for such excesses. Finally, attitudes toward underage drinking and driving are becoming more critical. It is no longer a "rite of passage" for a young person to consume alcohol.

We agree with the intent of this legislation--to thwart underage drinking by limiting their privilege to drive if they possess or consume alcohol. The loss of this privilege will act as a strong deterrent to such acts.

Sincerely,

Michael A. Grimes
Statewide President
Alaska Peace Officers Association

LOTT & WESLEY GERRISH
MEMORIAL

M A D D

ANCHORAGE, ALASKA
CHAPTER

MAILING ADDRESS:
130 W. International Airport Rd., Suite J
Anchorage AK 99518

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BUSINESS ADDRESS
130 W. International Airport Rd., Suite J
Anchorage AK 99518

March 3, 1994

Rep. Toohey
State Capitol
Rm #104
Juneau, AK 99801-1182

RE: "Bill #299 - Use It - Lose It"

Dear Representative Toohey:

The Anchorage Chapter of Mothers Against Drunk Driving supports the legislation to establish immediate license revocation for those juveniles who use controlled substances or consume alcohol.

Administrative license revocation has proven effective in reducing Driving Under the Influence offenses. It is constitutional, the U. S. Supreme Court, in "Mackey vs. Montrym: 2612,2620-21 (1979), has recognized that suspension of a drivers license prior to an administrative hearing is not a violation of due process so long as provisions are made for a swift post-suspension hearing.

MADD notes that an overloaded court system too often delays the judicial response to juvenile consumption or possession of a controlled substance. While awaiting their court date, many continue their actions with sometimes fatal results. On Labor Day, 1986, three (3) young people in Worcester County, Massachusetts, were killed by a 19-year old drunk driver who had been allowed to keep his license, even though he had more than .10% on a breath test a few days before. MADD chapters in Massachusetts united to help write a tough drunk driving bill in Massachusetts which became effective the following year.

The NHTSA, 1993 report on Drinking, Driving and other Drugs states that more than 43% of all 16- to -20 year-old deaths result from motor vehicle crashes. About half of these fatalities were alcohol-related crashes. Estimates are that 2,314 teenagers 16-20 years old died in alcohol related crashes in 1992.

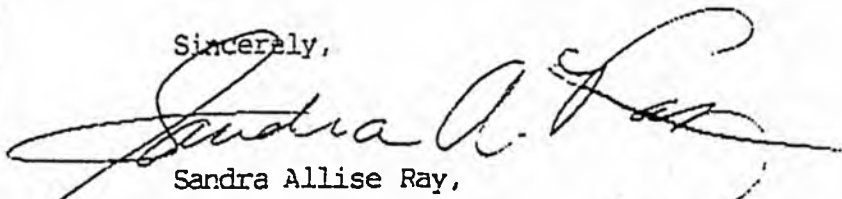
MODIFYING
ATTITUDES
TOWARDS
DRIVING AND

March 3, 1994
Page Two

NHTSA, 1993 report states that approximately 60% of pedestrians 16 years and older killed in nighttime crashes had a BAC of .10 or greater. The statistics are alarming. Youthful drinking in Alaska and drug usage is not the exception, it is so ordinary that students I have personally spoken with, have advised me that our area high schools are actually the easiest place to buy drugs in the state. They report that they not only buy drugs in plain view, but they use in plain view.

As a retired police officer from the State of Florida and now the Executive Director of the Anchorage Chapter of MADD, I strongly urge the passage of this "Use It-Lose It" legislation. More stringent laws are needed to reduce the numbers of youthful consumption of alcohol and drugs. If we say it's illegal to possess it, we need a counter-measure which will effectively reduce the incidence. We must do more to prevent such needless loss of life and health. I sincerely believe that this law would constitute the strongest deterrent available to youthful drivers in Alaska. The best payoff is the contribution this legislation will make to our safety as we drive from place to place within Alaska.

Sincerely,



Sandra Allise Ray,
Executive Director
Scott & Wesley Gerrish Memorial Chapter
Mothers Against Drunk Driving
Anchorage, Alaska



Alaska Federation of Natives
*Sobriety Movement

March 10, 1994

Representative Toohey
Alaska State Legislature
House of Representatives
State Capitol
Juneau, AK 99801-1182

Dear Representative Toohey,

The AFN Sobriety Movement focuses on sobriety as the solution for many problems facing our people. The passage of House Bill 299 may well be an opportunity for early intervention with young people who are experiencing an alcohol or other drug addiction, thereby giving them a better chance for a successful treatment experience and hopefully saving them and the people around them from some of the devastating effects of alcohol and other drug abuse.

I believe that with the passage of House Bill 299, it will encourage sobriety*, as it requires youth offending for the first time to participate in a treatment program for license reinstatement; and I support the passage of this bill.

Sincerely,

Greg Nothstine, Coordinator
AFN Sobriety Movement

RVH

Sec. 04.16.050. Possession or consumption by persons under the age of 21. A person under the age of 21 years may not knowingly consume, possess, or control alcoholic beverages except those furnished persons under AS 04.16.051(b). (§ 3 ch 131 SLA 1980; am § 8 ch 109 SLA 1983)

Effect of amendments. — The 1983 amendment substituted "21" for "19."

NOTES TO DECISIONS

Cited in *M.O.W. v. State*, Ct. App. Op. No. 95 (File No. 4846), 645 P.2d 1229 (1982).

Sec. 28.20.240. Proof required when driving privilege is restricted. Whenever under a law of this state the license of a person is suspended, revoked, limited under AS 28.15.201, or canceled for any reason, the department may not issue to that person a new or renewal of license until permitted to do so under the motor vehicle laws of this state. A period of suspension, revocation, or cancellation continues until proof of financial responsibility for the future is provided. Upon expiration of a period of limitation, the license remains revoked until proof of financial responsibility for the future is provided. (§ 26 ch 163 SLA 1959; am § 7 ch 78 SLA 1982; am § 12 ch 77 SLA 1983)

NOTES TO DECISIONS

A person convicted of operating a motor vehicle while under the influence of intoxicating liquor is required to furnish proof of his financial responsibility for the future. Paulson v. National Indem. Co., 498 P.2d 731 (Alaska 1972). Cited in Manderson v. State, 655 P.2d 1320 (Alaska Ct. App. 1983).

bility for the future. Paulson v. National Indem. Co., 498 P.2d 731 (Alaska 1972). Cited in Manderson v. State, 655 P.2d 1320 (Alaska Ct. App. 1983).

Sec. 28.20.250. Action in respect to unlicensed person. (a) If a person does not have a license, but by final order or judgment is convicted of, or forfeits bail or collateral deposited to secure an appearance for trial for an offense requiring the suspension or revocation of license, or for driving a motor vehicle upon the highways without being licensed to do so, or for driving an unregistered vehicle upon the highways, a license may not be issued to the person unless the person gives and thereafter maintains proof of financial responsibility for the future.

(b) Whenever the department suspends or revokes a nonresident's operating privilege for conviction or forfeiture of bail, the privilege remains suspended or revoked unless the person has previously given or immediately gives proof of financial responsibility for the future. (§ 27 ch 163 SLA 1959)

NOTES TO DECISIONS

Effect of application. — AS 28.20.160 and this section provide simply that the unlicensed driver subject to those laws "may not be licensed" until certain conditions are met; they do not use the lan-

guage of "suspending" or refer to any "privilege" the unlicensed driver may have had. Francis v. Municipality of Anchorage, 641 P.2d 226 (Alaska Ct. App. 1982).

Sec. 28.15.185. Court revocation of a minor's license to drive.

(a) A person who is at least 13 years of age but not older than 17 years of age who is adjudicated by a juvenile court of misconduct involving a controlled substance under AS 11.71 or possession or consumption of alcohol under AS 04.16.050 is subject to revocation of the person's driver's license under (b) of this section.

(b) The court shall impose the revocation for an offense described in (a) of this section as follows:

(1) for a first conviction or adjudication, the revocation may be for a period not to exceed 90 days;

(2) for a second or subsequent conviction or adjudication, the revocation may be for a period not to exceed one year.

(c) Upon conviction or adjudication of an offense listed in (a) of this section the court may, upon petition of the person, review the revocation and may restore the driver's license, except a court may not restore the driver's license until

(1) at least one-half of the period of revocation imposed under this section has expired; and

(2) the person has taken and successfully completed a state approved program of drug rehabilitation if convicted of misconduct involving a controlled substance under AS 11.71, or alcohol rehabilitation if convicted of possession or consumption of alcohol under AS 04.16.050; this paragraph does not apply to a person who resides in an area that does not offer a state approved drug or alcohol rehabilitation program or a person that the court determines does not need alcohol or drug rehabilitation.

(d) Notwithstanding the provisions of AS 28.20.240 and 28.20.250, upon conviction of an offense specified in (a) of this section, the department may not require proof of financial responsibility before restoring or issuing the person's driver's license. (§ 1 ch 130 SLA 1988)

Sec. 28.05.141. Hearings and appeals. (a) Unless otherwise specifically provided, all hearings required under this title or regulations adopted under this title shall be conducted by the department under regulations adopted by the commissioner governing practice and procedure and consistent with due process of law. Hearings must be informal, and technical rules of evidence do not apply. A person who requests a hearing may retain an attorney. The hearing officer shall be appointed by the commissioner and may be appointed from the department. A hearing officer need not be an attorney, but must be impartial and may not have participated in the decision that is under review. The hearing officer does not have to file a full opinion or make formal findings of fact or conclusions of law, but the hearing officer must state the reasons for the determination and indicate the evidence relied upon. The proceedings at the hearing shall be recorded.

* (b) A hearing ordered under (a) of this section shall be held at the office of the department nearest to the residence of the person requesting the hearing unless the department and the person agree that the hearing is to be held elsewhere. The department shall grant a hearing delay if the person presents good cause for the delay. If a person fails to appear for the hearing at the time and place stated by the department and if a hearing delay has not been granted, the person's failure to appear is considered a waiver of the hearing and the department may take appropriate action with respect to the person.

(c) If at the hearing under (a) of this section it appears that the record of the person sustains suspension, revocation, limitation, denial, or other remedial action, the hearing officer shall so order and the department may suspend, revoke, limit, deny, or take other remedial action against that person's license, registration, or title and, if appropriate, the department shall adjust the person's point total accumulated under AS 28.15.131.

(d) A person aggrieved by the decision of the hearing officer may, within 30 days, initiate a proceeding in district court to rescind the department's action by filing a notice of appeal in accordance with the applicable rules of court governing appeals in civil matters. The court shall conduct a hearing de novo. The decision of the department suspending, revoking, canceling, limiting, restricting, or denying a license, registration, title, permit, or privilege is stayed and does not take effect during the pendency of an appeal. (§ 6 ch 178 SLA 1978; am § 2 ch 60 SLA 1986)

Cross references. — For rules of court relating to appeals from administrative proceedings, see App. Rules 601-611.

Effect of amendments. — The 1986 amendment in subsection (c) inserted ", registration, or title."

NOTES TO DECISIONS

This section does not apply to a revocation of a license under AS 28.35.032. *Graham v. State*, 633 P.2d 211 (Alaska 1981).

Sec. 28.15.201. Limitation of driver's license. (a) A court of competent jurisdiction revoking a person's driver's license, privilege to drive, or privilege to obtain a license under AS 28.15.181(b) may, for good cause, impose limitations upon the driver's license of a person that will enable the person to earn a livelihood without excessive risk or danger to the public. A limitation may not be placed upon a driver's license until after a review has been made of the person's driving record and other relevant information, and a limitation may not be imposed when a statute specifically prohibits the limitation of a license for a violation of its provisions.

(b) A court imposing a limitation under (a) of this section shall

- (1) require certification of employment;
- (2) require proof of enrollment in and compliance with or completion of an alcoholism treatment program when appropriate;
- (3) require the surrender of the driver's license; and
- (4) issue to the licensee a certificate valid for the duration of the limitation.

(c) After the termination of a limitation as shown on the certificate issued under (b) of this section, the license of a person on whom a limitation was imposed is revoked until the person receives a new license meeting the requirements set out in AS 28.15.211.

(d) A court revoking a driver's license, privilege to drive, or privilege to obtain a license under AS 28.15.181(c), or the department when revoking a driver's license, privilege to drive, or privilege to obtain a license under AS 28.15.165(c), may grant limited license privileges for the final 60 days during which the license is revoked if

(1) the revocation was for a violation of AS 28.15.181(a)(5) and not for a violation of AS 28.15.181(a)(8);

(2) the person has not been previously convicted; in this paragraph, "previously convicted" has the meaning given in AS 28.35.030 and also includes convictions based on laws presuming that the person was under the influence of intoxicating liquor if there was 0.08 percent or more by weight of alcohol in the person's blood;

(3) the court or the department determines that the person's ability to earn a livelihood would be severely impaired without a limited license;

(4) the court or the department determines that a limitation under (a) of this section can be placed on the license that will enable the person to earn a livelihood without excessive danger to the public; and

(5) the court or the department determines that the person is enrolled in and is in compliance with, or has successfully completed, an alcoholism education and rehabilitation treatment program. (§ 19 ch 178 SLA 1978; am §§ 10, 11 ch 117 SLA 1982; am §§ 8, 9 ch 77 SLA 1983; am §§ 16 — 18 ch 119 SLA 1990; am § 12 ch 3 SLA 1992; am § 4 ch 59 SLA 1993)

Revisor's notes. — In 1990, the word "five" was substituted for "six" in the last sentence of (d) of this section to correct a manifest error in § 18, ch. 119, SLA 1990.

Effect of amendments. — The 1990 amendment, effective January 1, 1991, inserted "or a hearing officer under AS 28.15.165" in the first sentence and added the provision relating to considerations in determining whether to grant limited license privileges in subsection (a); inserted "or hearing officer" in subsection (b); and added subsections (d)-(f).

July 1, 1993." Section 12(b), ch. 59, SLA 1993 provides that "[s]tatutes amended or added by this Act that refer to previous convictions apply according to

The 1992 amendment, effective April 1, 1992, rewrote subsection (f).

The 1993 amendment, effective July 1, 1993, rewrote this section.

Editor's notes. — Section 30, ch. 3, SLA 1992 provides that for the purposes of the amendment made to (f) of this section by § 12, ch. 3, SLA 1992, convictions for offenses committed before April 1, 1992 are considered previous convictions.

Section 12(a), ch. 59, SLA 1993 provides that the 1993 amendment of this section "applies to offenses that are committed af-

ter the terms of those statutes whether the previous convictions occurred before, on, or after July 1, 1993."

NOTES TO DECISIONS

Issuance of limited licenses. — This section affirmatively vests the courts with ongoing power to issue a limited license, provided that issuance of such license is not prohibited under a provision of law in effect when the limited license is requested. *Howell v. State*, 834 P.2d 1254 (Alaska Ct. App. 1992).

Although subsections (d) and (e) specifically authorize the issuance of limited licenses to drivers whose license is revoked for DWI/refusal convictions, nothing in subsection (a) restricts the issuance of limited licenses only to such drivers. *Howell v. State*, 834 P.2d 1254 (Alaska Ct. App. 1992).

Application held not retroactive. — Where defendant, whose driver's license

had been revoked, moved for the issuance of a limited license, in reliance on newly amended language in this section, and did so within the time limitations of R. Crim. P. 35(a), it was error for the trial court to rule the issuance of such license was precluded by AS 01.10.101 (relating to effect of repeals or amendments) because defendant had been sentenced prior to the amended provision's effective date. Application of this provision prior to the effective date of the amendment was not a retroactive application of an amendment to the sentencing scheme promulgated under AS 28.15.181(d) and 28.15.291(c). *Howell v. State*, 834 P.2d 1254 (Alaska Ct. App. 1992).

Sec. 28.15.211. Periods of limitation, suspension or revocation; opportunity for hearing and surrender of license. (a) Except for a point system suspension or revocation under AS 28.15.221 — 28.15.241 and unless provided otherwise by law, and unless the suspension or revocation was for a cause that has been removed, a person whose driver's license, privilege to drive, or privilege to obtain a license has been suspended or revoked may not apply for a new license, and the person's driving privilege may not be restored, until the expiration of

(1) one month from the date on which the license, privilege to drive, or privilege to obtain a license was suspended or revoked for a first conviction of the particular offense from which the suspension or revocation resulted;

(2) three months from the date on which the license, privilege to drive, or privilege to obtain a license was suspended or revoked for a second conviction within 12 consecutive months of the same offense from which the suspension or revocation resulted;

(3) one year from the date on which the license, privilege to drive, or privilege to obtain a license was suspended or revoked for a third or subsequent conviction within 12 consecutive months of the same offense from which the suspension or revocation resulted.

(b) A limitation, suspension, or revocation of a driver's license, privilege to drive, or privilege to obtain a license imposed by a court takes effect on the date of final judgment, except that if another limitation, suspension, or revocation is in effect on the date of final judgment, the effective date of the last imposed limitation, suspension, or revocation is at the end of the last day of the previous limitation, suspension, or revocation unless the court specifies otherwise.

(c) At the end of a period of suspension or limitation, when that limitation follows a suspension, the person whose license has been suspended or limited may apply to the department and, upon payment of the proper fees, including a reinstatement fee of \$100, be issued a duplicate driver's license if the person is otherwise entitled to the license under this title.

(d) At the end of a period of revocation or limitation following a revocation, a person whose driver's license has been revoked may apply to the department for the issuance of a new license, but shall submit to reexamination, pay all required fees including a reinstatement fee of \$100, and if the license was revoked under AS 28.15.181(a)(5) or (8), submit proof of

(1) enrollment in and compliance with or completion of an alcoholism education and rehabilitation treatment program if the person was sentenced under AS 28.15.181(c)(1); or

(2) completion of and payment for an alcoholism education and rehabilitation treatment program if the person was convicted under AS 28.15.181(c)(2) — (4).

(e) At the end of a period of limitation, suspension, or revocation under this chapter, the department may not issue a driver's license or a duplicate driver's license to the licensee until the licensee has complied with AS 28.20 relating to proof of financial responsibility.

(f) Unless otherwise provided by law, periods of limitation shall be made at the discretion of the court. (§ 19 ch 178 SLA 1978; am § 12 ch 117 SLA 1982; am § 25 ch 77 SLA 1983; am § 7 ch 70 SLA 1984; am §§ 19, 20 ch 119 SLA 1990; am § 5 ch 59 SLA 1993)

Effect of amendments. — The 1990 amendment, effective January 1, 1991, substituted "or privilege to obtain a license" for "a motor vehicle in this state" in the first sentence in subsection (a); inserted "privilege to drive, or privilege to obtain a license" in paragraphs (a)(1)-(a)(3) and in subsection (b); and made minor stylistic changes.

The 1993 amendment, effective July 1, 1993, in subsection (d), added "and if the license was revoked under AS 28.15.181(a)(5) or (8), submit proof of" to

the end of the introductory language and added paragraphs (1) and (2).

Editor's notes. — Section 12(a), ch. 59, SLA 1993 provides that the 1993 amendment to (d) of this section "applies to offenses that are committed after July 1, 1993." Section 12(b), ch. 59, SLA 1993 provides that "[s]tatutes amended or added by this Act that refer to previous convictions apply according to the terms of those statutes whether the previous convictions occurred before, on, or after July 1, 1993."

Sec. 28.15.271. Fees. (a) The fees for drivers' licenses and permits, including but not limited to renewals, and all related driver skills tests are as follows:

- (1) all noncommercial vehicles and motor-driven cycles
 - (A) each license fee \$ 15;
 - (B) each driver skills test \$ 15;
- (2) all commercial motor vehicles
 - (A) each license fee \$100;
 - (B) each driver skills test \$ 25;
- (3) instruction permit \$ 5;
- (4) duplicate of driver's license or instruction permit \$ 10;
- (5) temporary license and renewal of permit \$ 5;
- (6) school bus driver's endorsement renewal \$ 5.

(b) In addition to the fees under (a) of this section,

(1) a person who renews a driver's license by mail shall pay a fee of \$1; and

(2) a person who applies for a limited driver's license under AS 28.15.201 shall pay a fee of \$100.

(c) The fee for a driver skills test must be paid at the time an appointment for the skills test is made or before the skills test is given, whichever is earlier. The department may not refund a driver skills test fee if the applicant cancels the appointment, fails to appear at the appointed day and time, or fails to pass the skills test.

(d) *[Repealed, § 28 ch 90 SLA 1991.]* (§ 19 ch 178 SLA 1978; am § 16 ch 60 SLA 1986; am § 3 ch 32 SLA 1988; am §§ 1, 2 ch 53 SLA 1990; am § 28 ch 90 SLA 1991; am § 4 ch 50 SLA 1993; am § 6 ch 59 SLA 1993)

Effect of amendments. — The 1990 amendment, effective January 1, 1991, inserted "and all related driver skills tests" in the introductory paragraph of subsection (a); rewrote paragraphs (a)(1) and (a)(2); substituted "driver's endorsement renewal" for "driver's permit" in paragraph (a)(6); and added subsections (c) and (d).

The 1991 amendment, effective July 3, 1991, repealed subsection (d).

The first 1993 amendment, effective July 1, 1993, increased the fees listed in subsection (a).

The second 1993 amendment, effective July 1, 1993, in subsection (b), added the paragraph (1) designation, substituted "pay" for "be charged" in that paragraph, added paragraph (2), and made a related stylistic change.

HB

299

SFIN

FILE



Ala ka State Legis' iture

HOUSE OF REPRESENTATIVES

Committee on Finance

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

HOUSE FINANCE COMMITTEE

LETTER OF INTENT

FOR

CS HB 299 (FIN)

"It is the intent of the Alaska Legislature that new general fund program receipts provided by increases in the driver's license reinstatement fee be divided equally between the Department of Public Safety and the Department of Health and Social Services. The new program receipts received by the Department of Health and Social Services should be used for alcohol and drug abuse prevention and treatment programs specifically targeted at youth."

Ronald J. Larson 3/23/94
Co-Chair Larson Date

E. P. MacLean
Co-Chair MacLean

3/23/94
Date

Adopted by the HOUSE 3/29/94