

**ALASKA LEGISLATURE**

**1332**

**HOUSE and SENATE FINANCE COMMITTEE FILES, 1995-1996**

Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension <sup>1</sup>	Other Penalties
KENTUCKY	189A.010, <i>et seq.</i>	No limit per se. "while under the influence of alcohol"	1st offense: 90 day alcohol or substance abuse program can lessen driver suspension from 6 mos. to 30 days	1st: 6 mos.; 2nd: 1 yr.; 3rd: 2 yrs.	1st: \$250-500 or 48 hrs. to 30 days jail or 2-30 days community labor; 2nd within 5 yrs.: \$350-500 and 7 days to 6 mos. jail and may get 10 days to 6 mos. community labor in addition to jail term; 3rd within 5 yrs.: \$500-1000 and 30 days to 12 mos. jail and may get 10 days to 1 yr. community labor in addition to jail term
LOUISIANA	14.98; 32:414	.10% BAC	Rehabilitation provided for 1st and 2nd offense, includes screening procedure to determine portion of program which may be applicable and appropriate for individual offender	1st: 60 days	1st: \$125-500 and 10 days to 6 mos. jail; 2nd: \$300-500 and 30 days to 6 mos. jail; 3rd: up to \$1000 and 1-5 yrs. jail; 4th: hard labor 10-30 yrs.
MAINE	Tit. 29 §1312	.10% BAC	1st: Education program conducted by Dept. of Human Services; 2nd: education program conducted by Dept. of Human Services and where required by Dept. of Human Services, alcohol or rehab program	1st: 30 days or successful completion of educational program, whichever is longer; 2nd: 1 yr. (may be reduced to 6 mos. on successful completion of educational program)	1st: up to \$1000 and up to 90 days jail; 2nd: \$250-2000 and 24 hrs. to 6 mos. jail
MARYLAND	Transp. 16-205; 16-212; 21-902; 27-101	"While intoxicated or while under the influence of a controlled dangerous substance"	Driver Improvement Program and Alcohol Education Program required	1st: up to 60 days; 2nd within 3 yrs.: up to 120 days	1st: up to \$1000 and/or up to 1 yr. jail; 2nd within 3 yrs.: up to \$1000 and/or 48 hrs. to 2 yrs. jail, may also receive min. 80 hrs. community service; 3rd within 3 yrs.: up to \$2000 and/or up to 3 yrs. jail

(Continued)

Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension?	Other Penalties
MASSACHUSETTS	Ch. 90 §24	No limit per se	1st offense: appropriate to defendant with his/her consent as a condition of probation upon written finding that appropriate and adequate treatment is available to defendant and defendant would benefit and safety of public would not be endangered; minimum 14 days in residential alcohol treatment program	1st: 1 yr.; 2nd: 2 yrs.; 3rd: 5 yrs.; after 2 yrs. can apply for new license on limited basis on grounds of hardship and present/past violation dealt with and under control	1st: \$100-1000 and/or up to 2 yrs. jail; 2nd within 6 yrs.: \$300-1000 and 7 days to 2 yrs. jail; 3rd within 6 yrs.: \$500-1000 and 60 days to 2 yrs. jail
MICHIGAN	MCL 9.2325	.10% BAC	Screening and assessment to determine the likely benefit from rehabilitation. court may order person to participate and successfully complete one or more rehab programs	1st: 6 mos. to 2 yrs. (can get restricted license); 2nd: revoked; 3rd: revoked	1st: \$100-500 and/or up to 90 days jail and costs of prosecution and community service up to 45 days; 2nd within 7 yrs.: \$200-1000 and either 10-90 days community service and up to 1 yr. jail or up to 90 days community service and 48 hrs. to 1 yr. jail; 3rd within 10 yrs.: \$500-5000 and/or 1-5 yrs. jail
MINNESOTA	169.121, et seq.	.10% BAC within 2 hrs. of time of driving	Alcohol problem assessment in counties of more than 10,000 population and report made to court including recommendation as to treatment or rehab program	1st: min. 30 days; 2nd within 5 yrs.: min. 90 days and until court has certified treatment/rehabilitation has been successfully completed; 3rd within 5 yrs.: min. 1 yr. and until rehab completed; 4th within 5 yrs.: min. 2 yrs. and until rehab completed	2nd within 5 yrs.: gross misdemeanor. min. 30 days jail or 8 hrs. community service for each jail day; 3rd within 10 yrs.: gross misdemeanor. min. 30 days jail or 8 hrs. community service for each jail day
MISSISSIPPI	63-11-30	.10% BAC	1st: required alcohol safety education program; subsequent: may participate	1st: 90 days or successful completion of program, whichever is longer; 2nd: 2 yrs. (can be reduced after successful completion of program); 3rd: 5 yrs. (eligible for reinstatement after 3 yrs.); 4th: 5 yrs.	1st: \$250-1000 and/or up to 24 hrs. jail; 2nd within 5 yrs.: \$600-1000 and 48 hrs. to 1 yr. jail or 10 days to 1 yr. community service; 3rd within 5 yrs.: \$800-1000 and 30 days to 1 yr. jail; 4th within 5 yrs.: \$2000-5000 and 90 days to 5 yrs. jail

(Continued)

Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension?	Other Penalties
MISSOURI	577.012, (249)	.10% BAC	1st. Court may order participation and successful completion of alcohol or drug-related traffic offender education or rehab program which meets standards established by Dept. of Public Safety and Dept. of Mental Health	Upon failure to submit to breath test	1st: Class C misdemeanor, \$50 min. and/or up to 3 mos. jail; 2nd within 3 yrs.: Class A misdemeanor, 7 days to 6 mos. jail; 3rd within 3 yrs.: Class D felony, 45 days to 1 yr. jail
MONTANA	61-5-200, 205: 61-8-406, 722	.10% BAC	Defendant shall complete alcohol information course at alcohol treatment program approved by Dept. of Corrections & Human Services which may include alcohol or drug treatment or both if considered necessary by counselor conducting program	Up to 1 yr. per offense	1st: \$100-500 and up to 10 days jail; 2nd: \$300-500 and 48 hrs. to 30 days jail; 3rd: \$500-1000 and 48 hrs. to 6 mos. jail
NEBRASKA	28-106: 39-669.07, et seq.	.10% BAC	None	1st: 6 mos. (if judge orders suspension of sentence or probation, 60 days from time of order); 2nd within 10 yrs.: 1 yr. (if judge orders suspension of sentence or probation, 6 mos. from time of order); 3rd within 10 yrs.: 15 yrs. (if judge orders suspension of sentence or probation, 1 yr. from time of order)	1st: \$200-500 and 7-30 days jail; 2nd: \$500 and 30 days jail; 3rd: \$500 and 3-6 mos. jail

(Continued)

Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension?	Other Penalties
NEVADA	484.379, et seq.	.10% BAC	1st or 2nd within 7 yrs.: may apply to undergo program of treatment for alcoholism or drug abuse for at least one yr. if classified by physician/counselor as alcoholic or drug abuser; if defendant pays costs and has served jail sentence; 1st: must do educational course on alcohol and substance abuse		1st: \$200-1000 and 2 days to 6 mos. jail or 48 hrs. community service (jail sentence can be lessened if defendant participates in rehab program); 2nd within 7 yrs.: \$500-1000 and 10 days to 6 mos. jail; 3rd within 7 yrs.: \$2000-5000 and 1-6 yrs. jail; in addition to any penalty, civil penalty of \$35 paid to court
NEW HAMPSHIRE	263:65-a: 265.82	.10% BAC	Yes, Impaired Driver Intervention Program: must successfully complete to get license back: must be approved by director of Office of Alcohol and Drug Abuse Prevention and commissioner	1st: 60 days to 2 yrs.; 2nd: 3 yrs.; 3rd: Indefinite, min. 3 yrs.	1st: up to \$1000; 2nd within 7 yrs.: up to \$1000 and 7 days to 6 mos. jail; 3rd within 7 yrs.: up to \$1000 and 7 days to 6 mos. jail
NEW JERSEY	39:4-50	.10% BAC	Screening evaluation referral program and fee requirements of Div. of Alcoholism's Intoxicated Driving Programs Unit and 12-48 hrs. in two consecutive days in Intoxicated Driver Resource Center and a program of alcohol education and highway safety as proscribed by director of Div. of Motor Vehicles	6 mos. to 1 yr.; 2nd: 2 yrs.; 3rd: 10 yrs.	1st: \$250-400 and up to 30 days jail; 2nd within 10 yrs.: \$500-1000, 30 days community service, and 48 hrs. to 90 days jail; 3rd within 10 yrs.: \$1000 and min. 180 days jail; up to 90 days of jail can be exchanged for community service

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Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension?	Other Penalties
NEW MEXICO	66-5-29, 66-8-102	10% BAC	May be required by court to enroll in screening program to determine level of abuse and recommendation of treatment, if necessary; must complete any recommended treatment program required by court; 1st offense: can attend driver rehab program as a deferred sentence	1 yr. on 1st offense suspension can be avoided by attending driver rehab program)	1st: \$300, 500 and/or 30-90 days jail; 2nd within 5 yrs.: up to \$1000 and/or 90 days to 1 yr. jail; 3rd or more within 5 yrs.: up to \$1000 and min. 6 mos. jail
NEW YORK	VEH. & TRAF. 1192(2)	.10% BAC	Court may require attendance at single session of "victims impact program"	1st: 6 mos.; 2nd within 10 yrs.; 1 yr.	1st: \$350-500 and/or up to 1 yr. jail; 2nd: \$500-5000 and/or min. 1 yr. jail. Class E felony
NORTH CAROLINA	20-138.1, 179	10% BAC at time of test	Assessment may be required for alcoholism and substance abuse and appropriate treatment if necessary	1st: 1 yr.; 2nd within 3 yrs.; 4 yrs. (conditionally restored after 2 yrs.); 3rd with most recent within 5 yrs.; permanent (conditionally restored after 3 yrs.)	1st: up to \$1000 and 7 days to 12 mos. jail; subsequent within 7 yrs.: \$2000 and 14 days to 24 mos. jail
NORTH DAKOTA	39-06-31; 39-08-01	.10% BAC at time of test given within 2 hrs. of driving	Order for addiction evaluation by appropriate licensed addiction treatment program with appropriate treatment if necessary	1 yr. or period as recommended by trial court	1st: Class B misdemeanor, min. \$250; 2nd within 5 yrs.: Class B misdemeanor, min. \$500 and min. 4 days jail or 10 days community service; 3rd within 5 yrs.: Class A misdemeanor, \$1000 and min. 60 days jail; 4th within 7 yrs.: Class A misdemeanor, \$1000 and 180 days jail
OHIO	3793.10; 4507.16; 4511.19	.10% BAC	1st: Driver's Intervention Program (in suspended jail sentence); rehab may be required in sentences	1st: 60 days to 3 yrs.; 2nd within 5 yrs.; 120 days to 5 yrs.; 3rd within 5 yrs.; 180 days to 10 yrs.	1st: \$150-1000 and 3 days to 6 mos. jail; 2nd within 5 yrs.: \$150-1000, 10 days to 6 mos. jail; 3rd within 5 yrs.: \$150-1000 and 30 days to 1 yr. jail
OKLAHOMA	Tit. 47 §§6-205.1, 11-902	.10% BAC at time of test	Dept. of Mental Health Treatment Program may be required upon evaluation	1st: 90 days; 2nd within 5 yrs.; 1 yr.; 3rd within 5 yrs.; 3 yrs.	Up to \$1000 and 10 days to 1 yr. jail; subsequent within 10 yrs.: up to \$2500 and 1-5 yrs. jail

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Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension?	Other Penalties
OREGON	161.615, <i>et seq.</i> ; 813.010, <i>et seq.</i>	.08% BAC	Mandatory complete exam by court approved agency/organization to determine whether individual has a problem condition involving alcohol or controlled substances; complete a treatment program if exam shows it necessary; if none necessary, then complete alcohol and drug information program.	1st: 1 yr.; 2nd within 5 yrs.: 3 yrs.; 3rd within 5 yrs.: 3 yrs.	1st: Class A misdemeanor, up to \$2500, up to 1 yr. jail, fees for program; 2nd: impound vehicle in addition to above
PENNSYLVANIA	Tit. 75 1548; 1532; 3731	.10% BAC	2nd or subsequent offense within 5 yrs.: evaluation to determine if person needs or would benefit from treatment for alcohol or drug abuse; may order treatment if necessary	12 mos.	1st.: min. \$300 and min. 48 hr. jail
RHODE ISLAND	27-21	.10% BAC	1st: attendance required at special course on DWI or under the influence of controlled substance and/or alcoholic or drug treatment for individual; 2nd: drug and alcohol treatment	1st: 3-6 mos.; 2nd: 1-2 yrs.	1st: \$100-300 and 10-60 hrs. community service and/or up to 1 yr. jail; 2nd within 5 yrs.: \$400 and 10 days to 1 yr. jail; 3rd: in addition to 2nd offense penalties, may have car seized and sold by State of Rhode Island and proceeds going to general fund; in addition anyone convicted under this section pays highway assessment fine of \$500
SOUTH CAROLINA	56-5-2930, <i>et seq.</i>	"Under influence of intoxicating liquors"	Successful completion of Alcohol and Drug Safety Action Program certified by South Carolina Commission on Alcohol and Drug Abuse prior to reinstatement of license	1st: 6 mos.; 2nd within 10 yrs.: 1 yr.; 3rd within 10 yrs.: 2 yrs.; 4th within 10 yrs.: 3 yrs.; 5th within 10 yrs.: permanent	1st: \$200 and 48 hrs. to 30 days jail or 48 hrs. public service; 2nd within 10 yrs.: \$2000-5000 and 48 hrs. to 1 yr. jail or min. 10 days public service; 3rd within 10 yrs.: \$3500-6000 and 60 days to 3 yrs. jail; 4th within 10 yrs.: 1-5 yrs. jail

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Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required <sup>1</sup>	Driver's License Suspension <sup>1</sup>	Other Penalties
SOUTH DAKOTA	32-23-1, <i>et seq.</i>	10% BAC	1st: required if 17% BAC, court-ordered evaluation	1st: min. 30 days to 1 yr.; 2nd: min. 1 yr.; 3rd: min. 1 yr. (unconditional); 4th: min. 2 yrs.	1st: \$1000 and/or 1 yr. jail; 2nd within 5 yrs.: \$1000 and/or 1 yr. jail; 3rd within 5 yrs.: \$2000 and/or 2 yrs. jail; 4th: Class 5 felony, 5 yrs. jail and may impose fine of \$5000
TENNESSEE	55-10-401, 403	"Under the influence"	2nd offense: may be required to participate in court-approved inpatient alcohol and drug treatment program	1st: 1 yr.; 2nd: 2 yrs.; 3rd: 3-10 yrs.	1st: \$250-1000 and 48 hrs. to 11 mos., 29 days jail; 2nd within 10 yrs.: \$500-2500 and 45 days to 11 mos., 29 days jail; 3rd: \$1000-5000 and 120 days to 11 mos., 29 days jail
TEXAS	Tex. Rev. Civ. Stat. Art. 67011-1	10% BAC	Evaluation	1st: 90-365 days; 2nd or 3rd: 180 days to 2 yrs.	1st: \$100-2000 and 72 hrs. to 2 yrs. jail; 2nd: \$300-2000 and 15 days to 2 yrs. jail; 3rd: \$500-2000 and 30 days to 2 yrs. jail or 60 days to 5 yrs. state penitentiary
UTAH	41-6-44	.08% BAC	1st: assessment and educational series at a licensed alcohol rehab facility; 2nd: same as above and treatment at court's discretion; 3rd: same as above and treatment at alcohol rehab facility is mandatory; 4th: treatment required	1st: 90 days; subsequent within 6 yrs. of prior conviction: 1 yr.	1st: Class B misdemeanor, up to \$1000 and 48-240 hrs. jail or 24-50 hrs. community service; 2nd within 6 yrs.: up to \$1000 and 240-720 hrs. jail or 30-240 hrs. community service; 3rd within 6 yrs.: 720-2160 hrs. jail or 240-720 hrs. community service; if prior two convictions were both after 4/23/90, then: \$1000-2500 and 240-2160 hrs. jail or 240-720 hrs. community service; 4th within 6 yrs.: if all after 4/23/90, \$1000-5000 and 720-2160 hrs. jail or 240-720 hrs. community service
VERMONT	1201, <i>et seq.</i>	.08% BAC	1st: alcohol assessment screening-therapy program or driver rehab if necessary at court's discretion; 2nd completion of therapy program at court's discretion	1st: 90 days; 2nd: 18 months; 3rd: 3 yrs.; 4th: life	1st: max. \$750 and/or up to 2 yrs. jail; 2nd: up to \$1500 and/or 48 hrs. to 2 yrs. jail; 3rd: up to \$2500 and/or up to 5 yrs. jail

(Continued)



Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension?	Other Penalties
VIRGINIA	18.2-266(i), et seq.	.10% BAC	Alcohol Safety Action Program for 1st or 2nd offense at court's discretion	1st: 1 yr.; 2nd within 10 yrs.: 3 yrs.; 3rd within 10 yrs.: 3 yrs	2nd within 10 yrs.: \$200-2500 and 1 mo. to 1 yr. jail; 3rd: \$500-2500 and 2 mos. to 1 yr. jail
WASHINGTON	46.61.502 (1), 515	.10% BAC	1st: alcohol information course or more intensive treatment program as determined by court; 2nd: diagnostic evaluation by alcoholism agency approved by Dept. of Social & Health Services	1st: 90 days; 2nd within 5 yrs.: 1 yr.; 3rd within 5 yrs.: 2 yrs.	1st: \$250-1000 and 24 hrs. to 1 yr. jail; 2nd within 5 yrs.: \$500-2000 and 7 days to 1 yr. jail
WEST VIRGINIA	17C-5-2	.10% BAC	Motor Vehicle Alcohol Test and lock program upon revocation of license	1st: min. 6 mos.; 2nd: 10 yrs.; 3rd: life	1st: \$100-500 and 1 day to 6 mos. jail; 2nd: \$1000-3000 and/or 6 mos. to 1 yr. jail; 3rd: \$3000-5000 and/or 1-3 yrs. jail
WISCONSIN	343.30; 346.63	.10% BAC	Not mentioned	1st: 6-9 mos.; 2nd within 5 yrs.: 1 yr. to 18 mos.; 3rd or more within 5 yrs.: 2-3 yrs.	1st: \$150-300; 2nd within 5 yrs.: \$300-1000 and 5 days to 6 mos. jail; 3rd within 5 yrs.: \$600-2000 and 30 days to 1 yr. jail; 4th within 5 yrs.: \$600-2000 and 60 days to 1 yr. jail; 5th within 5 yrs.: \$600-2000 and 6 mos. to 1 yr. jail
WYOMING	31-5-233; 31-7-127	.10% BAC	No	3rd conviction within 5 yrs.: 3 yrs.	1st: up to \$750 and/or up to 6 mos. jail; 2nd within 5 yrs.: \$200-750 and 7 days to 6 mos. jail

*STATE OF ALASKA*

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**IMPAIRED DRIVING ASSESSMENT**  
**October 2 - October 8, 1994**

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*National Highway Traffic Safety Administration*  
*Technical Assistance Team*

William S. Ethridge  
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## INTRODUCTION

Motor vehicle crashes are the leading cause of death for individuals between the ages of one and thirty-four. Nationwide, alcohol is involved in nearly one-half of these fatalities.

In pursuit of the goal to reduce alcohol-related traffic fatalities and injuries, the National Highway Traffic Safety Administration (NHTSA) developed a Technical Assistance Team evaluation program. This approach provides states the opportunity to use federal highway safety funds to support an administrative evaluation of existing and proposed alcohol and drug-impaired driving countermeasures.

NHTSA staff facilitates the process by assembling a team of individuals who, through their immediate involvement with national and state programs, have demonstrated their competence in impaired driving program development, implementation and evaluation. Selection of the Technical Assistance Team reflects experience in special areas identified by the state. These areas correlate with the components of a comprehensive impaired driving program as defined in the Highway Safety Program Advisory that was published by NHTSA. Examples of program and systems expertise among the Alaska Technical Assistance Team members include program management (both state and local levels), prevention, enforcement, prosecution, adjudication, evaluation, traffic records, driver licensing, treatment and rehabilitation.

The State of Alaska requested NHTSA's assistance in reviewing its alcohol and drug impaired driving countermeasures program. On August 3, 1994, NHTSA met with Department of Public Safety and Alaska Highway Safety Planning Agency staff members who helped to define key issues of concern to the state. NHTSA agreed to facilitate the technical review.

The Alaska Alcohol and Drug Impaired Driving Program Assessment was conducted in Anchorage from October 2 - 8, 1994. Alaska Highway Safety Planning Administrator, Lorn Campbell, arranged for State and local program experts (see Section 7, Agenda) to deliver briefings and provide support and materials to the Team on a wide variety of topics related to impaired driving. Forty-five presentations were made to the Technical Assistance Team over a period of three and one-half days.

According to 1993 statistics, the State of Alaska has a population of nearly 600,000 located across 580,000 square miles of diverse land. More than one-half of the population resides in three major communities: 300,000 in Anchorage, 40,000 in Fairbanks, and 35,000 in Juneau. The remaining population resides in smaller communities over a vast and remote area. Alaska is not divided into counties but rather has a combination of municipalities, towns, villages and very remote "bush" areas. The demographic complexion of the state is made up of approximately 74 percent Whites, 15.6 percent Native Alaskans, 4.1 percent African Americans; 3.2 percent Hispanic, and 3.1 percent Asian Pacific Americans. The median income for Alaskan residents is \$45,000 as compared to \$31,000 in the lower 48 states.

Alaska's economy has suffered due to dwindling oil and fishing revenues. The state is faced with the challenge of maintaining adequate services for its residents while reducing government spending and decreasing state government personnel. In addition, Alaska's citizens routinely reject government efforts to increase taxes on alcohol or enact other revenue raising laws including tapping into the \$14 billion reserve which could alleviate its perceived economic recession. The economic situation along with the challenges of designing programs appropriate for its geographic composition and meeting the requirements the realities for establishing a comprehensive DWI program in the State of Alaska may seem overwhelming. However, the Team believes that the recommendations contained in this report present viable options to overcoming the situation.

In addition, the following 1993 data pertaining to motor vehicle and traffic safety in Alaska were provided:

523,158	Registered vehicles
393,931	Licensed drivers
39.19	Billion vehicle miles travelled
\$ .01	Crash deaths per 100 million vehicle miles travelled
14,509	Motor vehicle crashes
88	Fatal Crashes
37	Alcohol-related Fatal Crashes
49	Alcohol-related Crash Deaths
\$31,995,638	Total annual cost of alcohol-related motor vehicle crashes

The Technical Assistance Team's analysis of Alaska's Alcohol and Drug Impaired Driving Program is based solely on written and oral information provided to the team during the assessment process. The Team used this information to develop recommendations after considering what could be reasonably accomplished within the state. The Team believes that enactment of the proposed recommendations will result in a comprehensive program to prevent impaired driving and will set the framework for expansion to meet future needs in the system.

## 8. DRUNK DRIVING

Penalties for drunk driving have become tougher over the years as the cost of this dangerous behavior rises. Reckless alcohol consumption among young people has also risen markedly, and it has been met with sharp intolerance.

Drunk driving, or driving while intoxicated (DWI) or driving under the influence (DUI), is typically determined by the alcohol content found in the driver's blood. Blood alcohol content (BAC) may be determined in two ways: through breath analysis or urinalysis. Most states have set the legal limit of blood alcohol content at 0.10 percent. Six states have no set amount of blood alcohol to presume intoxication. In these states it is still illegal to drive while drunk, but blood alcohol content is merely one piece of evidence of intoxication.

Penalties for drunk driving are severe in most states.

Virtually every state suspends the driver's license on a first offense, and the length of suspension increases sharply with each successive offense. There is, however, a great deal of variation in the lengths of suspension of driving privileges among the states. A few only impose suspension for as little as one year for multiple offenses. Michigan, however, revokes the driver's license on the second offense. Several states include revocation on the third or fourth offense.

The newest development in the laws of drunk driving concern court-ordered attendance at an alcohol abuse rehabilitation program upon conviction for driving while intoxicated. Six states still do not have rehabilitation requirements for offenders, while the rest have some sort of rehabilitation requirement for problem drinkers and drivers.



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Table 8: Drunk Driving

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension?	Other Penalties
ALABAMA	32-5A-191	10% BAC per se at time of driving	Yes on first offense; DUI court referral program approved by state	1st offense, 90 days; 2nd: 1 yr.; 3rd: 3 yrs.	1st offense: imprisonment up to 1 yr. and/or \$250-1000; 2nd within 5 yrs.: up to 1 yr. and \$500-2500; 3rd within 5 yrs.: up to 1 yr. and \$1000-\$5000
ALASKA	28.35.030; 28.15.181	10% BAC as determined by test taken within 4 hours	Yes, program of alcohol education or rehabilitation that court finds appropriate for term specified by court	1st: 90 days min.; 2nd: 1 yr. min.; 3rd: 10 yrs. min.	1st: min. 72 hrs. and min. \$250; 2nd within 10 yrs.: min. 20 days and min. \$500; 3rd within 10 yrs.: min. 30 days and min. \$1000
ARIZONA	28-692, <i>et seq.</i>	10% BAC at time of offense	Yes, alcohol abuse screening session by screening or treatment facility approved by health services; alcohol abuse classes or treatment facility if necessary; habitual abuse	1st: 90 days; 2nd within 5 yrs.; revocation; 3rd within 5 yrs.; revocation min. 3 yrs.	1st: min. 24 hrs. and min. \$250 and 8-24 hrs. community service; 2nd within 5 yrs.: min. 60 days and min. \$500; 3rd within five yrs.: min. 6 mos.
ARKANSAS	5-65-103, <i>et seq.</i>	10% BAC as determined by test	Alcohol Education Program prescribed and approved of by Arkansas Highway Safety Program or alcohol treatment program approved by Office on Alcohol and Drug Abuse Prevention	1st: 90-120 days; 2nd: 12-16 mos.; 3rd: 24-30 mos.; 4th: 3 yrs.	1st: 1 day to 1 yr. prison, court can order public service in lieu of jail and \$150-1000; 2nd within 3 yrs.: 7 days to 1 yr. and \$400-3000; 3rd within 3 yrs.: 90 days to 1 yr. and \$900-5000; 4th within 3 yrs.: felony, 1-6 yrs.; fine only for 2nd and 3rd offenses within 5 yrs.
CALIFORNIA	Veh. §§23152, <i>et seq.</i>	0.10% BAC at time of driving (rebuttably presumed that percentage at time of driving was more than at time of test); if test is less than .05% BAC, BAC presumed not .10% when driving; if test is .05-.10%, not presumption but evidence of .10%; .10% at time of test equals .10% at time of driving	1st: if probation, must participate in alcohol or drug education program designated by court if programs approved of are available in that county; 2nd: if probation, 1 yr. in program acceptable to court	1st: 6 mos., or if probation granted, could be 90 days with exception of traveling to work and rehab program; 2nd: restricted to necessary travel (work and rehab) for 1 yr.; 3rd: 3 yrs.	1st: 96 hrs. to 6 mos. prison and \$390-1000; 2nd within 5 yrs.: 90 days to 1 yr. and \$390-1000; 3rd within 5 yrs.: 120 days to 1 yr. and \$390-\$1000

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Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension	Other Penalties
COLORADO	42-2-122.1; 42-4-1202	.15 g. of alcohol per 100 mm. of blood while driving or .15 g. of alcohol per 200 mm. of blood at time of test	Court's discretion up to 2 yrs.; drug and alcohol driving safety program	1 yr.	1st: 5 days to 1 yr. and court may fine \$300-1000 and 48-96 hrs. useful community service; 2nd within 5 yrs.: 90 days to 1 yr. and court may fine \$500-1500 and 60-120 hrs. useful community service
CONNECTICUT	14-227a	.10% BAC at time of offense	Court may order participation in alcohol education and treatment program in addition to any fine or sentence	1st: 1 yr. (court's discretion); 2nd: 2 yrs.; 3rd: 3 yrs.; 4th: permanently	1st: \$500-1000 and jail up to 6 mos. or 100 hrs. community service; 2nd within 5 yrs.: \$500-2000 and jail up to 1 yr.; 3rd within 5 yrs.: \$1000-4000 and jail up to 2 yrs.; 4th within 5 yrs.: \$2000-8000 and jail up to 3 yrs.
DELAWARE	Tit. 21 §4177	.10% BAC as shown by test taken within 4 hours of offense	1st: required program of rehabilitation or course of instruction which may include inpatient up to 6 mos.; 2nd: program of education or rehabilitation which may include inpatient treatment up to 15 mos.	1st or 2nd: 1 yr.; 3rd or more: 18 mos.	1st: \$200-1000 or jail 60 days-6 mos.; for each subsequent offense within 5 yrs. of former offense: \$500-2000 and jail 2-18 mos.
DISTRICT OF COLUMBIA	40-716	.10% BAC; .13% alcohol in urine	No	Yes for unspecified time	1st: up to \$300 and/or 90 days; 2nd within 15 yrs.: up to \$5000 and/or up to 1 yr.; 3rd within 15 yrs.: up to \$10,000 and/or up to 1 yr.

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Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required <sup>1</sup>	Driver's License Suspension <sup>2</sup>	Other Penalties
FLORIDA	316-195	.10% BAC	Substance abuse course specified by the court	Revocation/suspension upon conviction	1st: \$250-500 and jail up to 6 mos.; 2nd within 5 yrs.: \$500-1000 and jail up to 9 mos.; 3rd within 3 yrs.: \$1000-2500 and jail up to 12 mos.; 4th within 3 yrs.: 3rd degree felony, prison up to 5 yrs.; if first offense BAC exceeds .20%: 1st: \$500-1000 and jail up to 9 mos.; 2nd within 3 yrs.: \$1000-2000 and jail up to 12 mos.; 3rd within 3 yrs.: \$2000-5000 and jail up to 12 mos.; additional penalties: 1st: probation up to 1 yr. and community service of 50 hrs. minimum or \$10 fine per hour not worked
GEORGIA	40-5-63; 40-6-391	.10% BAC at time of test		1st: 1 yr.; 2nd within 5 yrs.; 3 yrs.; 3rd within 5 yrs.; considered habitual offender, 5 yrs.	1st: \$300-1000 and 10 days to 12 mos.; 2nd within 5 yrs.: \$600-1000 and 90 days to 12 mos.; 3rd: \$1000-5000 and 120 days to 12 mos. mandatory
HAWAII	291-4	.10% BAC	1st: 14 hr. minimum alcohol abuse rehab program including education and counseling or comparable program approved by court; subsequent: may be required pending evaluation by substance abuse counselor	1st: 90 days (court can make it 30 days total prohibition and 60 days only for work and rehab); 2nd: 1 yr. absolute prohibition; 3rd: 1-5 yrs.	1st: \$150-1000 and/or min. 48 hrs. jail and/or 72 hrs. community service; 2nd within 5 yrs.: \$500-1000 and min. 48 hrs. jail or min. 80 hrs. community service; 3rd within 5 yrs.: \$500-1000 and 10-180 days jail
IDAHO	18-8004, <i>et seq.</i>	.10% BAC	Alcoholic evaluation (own expense) approved facility; if necessary, an alcoholic treatment program best suited for individual	1st: mandatory up to 180 days (defendant may request for necessary privilege-work and family health needs); 2nd: mandatory 6 mos. after getting out of jail and possibly an additional time up to 1 yr.; 3rd: 1-5 yrs. (no privileges at all)	1st: up to \$1000 and/or up to 6 mos.; 2nd within 5 yrs.: mandatory fine up to \$2000 and jail 10 days to 1 yr.; 3rd within 5 yrs.: felony, jail up to 5 yrs. and may be fined up to \$5000

(Continued)



Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension?	Other Penalties
ILLINOIS	625 ILCS 5/11-501, et seq.	.10% BAC, less than .05% at test: presumed not to have required BAC at time of driving; .05%- .10% at test: no presumption of guilt but take it with other evidence; .10% at test: guilty	Professional evaluation to determine if there is abuse problem and extent; defendant pays cost; program must be approved/licensed by Dept. of Alcohol and Substance Abuse	Up to 1 yr.	1st: Class A misdemeanor; jail up to 1 yr.; 2nd within 5 yrs.: mandatory min. 48 hrs. jail or min. 10 days community service; 3rd: Class 4 felony, 1-3 yrs. prison
INDIANA	9-30-5-1, et seq.	.10% BAC	No	1st: 90 days to 2 yrs.; 2nd 10 or more yrs. ago: 90 days to 2 yrs.; 2nd 5-10 yrs. ago: 6 mos. to 2 yrs.; 2nd within 5 yrs.: 1-2 yrs.	1st: Class A misdemeanor; jail up to 1 yr.; 2nd within 5 yrs.: min. 5 days jail or min. 80 hrs. community service in addition to Class D felony (min. 2 yrs.) and may be fined up to \$10,000
IOWA	3213.1, et seq.	.10% BAC	2nd offense: must undergo substance abuse evaluation prior to sentencing; 3rd offense or if evaluation recommends treatment: may be required to commit to treatment	1st: 180 days; 2nd within 6 yrs.: 1 yr.	1st: serious misdemeanor, \$500-1000 and min. 48 hrs. jail, may perform up to 200 hrs. community service in lieu of fine if court allows; 2nd: aggravated misdemeanor, min. \$750 and min. 7 days jail; 3rd: Class D felony, min. \$750 and 30 days to 1 yr. jail
KANSAS	8-1008, 1014, 1557	.10% BAC at time of test	Presentence alcohol and drug evaluation conducted by community-based alcohol and drug safety action program; supervision and monitoring of all convicted persons	1st: 30 days or upon completion of required treatment program (whichever is longer); subsequent: 1 yr. or upon completion of required treatment program (whichever is longer)	1st: \$200-500 and 48 hrs. to 6 mos. jail or 100 hrs. community service; 2nd: \$500-1000 and 90 days to 1 yr. jail; 3rd: \$1000-2500 and 90 days to 1 yr. jail

(Continued)

Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension <sup>1</sup>	Other Penalties
KENTUCKY	189A.010, <i>et seq.</i>	No limit per se. "while under the influence of alcohol"	1st offense: 90 day alcohol or substance abuse program can lessen driver suspension from 6 mos. to 30 days	1st: 6 mos.; 2nd: 1 yr.; 3rd: 2 yrs.	1st: \$250-500 or 48 hrs. to 30 days jail or 2-30 days community labor; 2nd within 5 yrs.: \$350-500 and 7 days to 6 mos. jail and may get 10 days to 6 mos. community labor in addition to jail term; 3rd within 5 yrs.: \$500-1000 and 30 days to 12 mos. jail and may get 10 days to 1 yr. community labor in addition to jail term
LOUISIANA	14:98; 32:414	.10% BAC	Rehabilitation provided for 1st and 2nd offense, includes screening procedure to determine portion of program which may be applicable and appropriate for individual offender	1st: 60 days	1st: \$125-500 and 10 days to 6 mos. jail; 2nd: \$300-500 and 30 days to 6 mos. jail; 3rd: up to \$1000 and 1-5 yrs. jail; 4th: hard labor 10-30 yrs.
MAINE	Tit. 29 §1312	.10% BAC	1st: Education program conducted by Dept. of Human Services; 2nd: education program conducted by Dept. of Human Services and where required by Dept. of Human Services, alcohol or rehab program	1st: 30 days or successful completion of educational program, whichever is longer; 2nd: 1 yr. (may be reduced to 6 mos. on successful completion of educational program)	1st: up to \$1000 and up to 90 days jail; 2nd: \$250-2000 and 24 hrs. to 6 mos. jail
MARYLAND	Transp. 16-205; 16-212; 21-02; 27-101	"While intoxicated or while under the influence of a controlled dangerous substance"	Driver Improvement Program and Alcohol Education Program required	1st: up to 60 days; 2nd within 3 yrs.: up to 120 days	1st: up to \$1000 and/or up to 1 yr. jail; 2nd within 3 yrs.: up to \$1000 and/or 48 hrs. to 2 yrs. jail, may also receive min. 80 hrs. community service; 3rd within 3 yrs.: up to \$2000 and/or up to 3 yrs. jail

(Continued)

Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension?	Other Penalties
MASSACHUSETTS	Ch. 90 §24	No limit per se	1st offense: appropriate to defendant with his/her consent as a condition of probation upon written finding that appropriate and adequate treatment is available to defendant and defendant would benefit and safety of public would not be endangered; minimum 14 days in residential alcohol treatment program	1st: 1 yr.; 2nd: 2 yrs.; 3rd: 5 yrs.; after 2 yrs. can apply for new license on limited basis on grounds of hardship and present/past violation dealt with and under control	1st: \$100-1000 and/or up to 2 yrs. jail; 2nd within 6 yrs.: \$300-1000 and 7 days to 2 yrs. jail; 3rd within 6 yrs.: \$500-1000 and 60 days to 2 yrs. jail
MICHIGAN	MCL 9.2325	.10% BAC	Screening and assessment to determine the likely benefit from rehabilitation; court may order person to participate and successfully complete one or more rehab programs	1st: 6 mos. to 2 yrs. (can get restricted license); 2nd: revoked; 3rd: revoked	1st: \$100-500 and/or up to 90 days jail and costs of prosecution and community service up to 45 days; 2nd within 7 yrs.: \$200-1000 and either 10-90 days community service and up to 1 yr. jail or up to 90 days community service and 48 hrs. to 1 yr. jail; 3rd within 10 yrs.: \$500-5000 and/or 1-5 yrs. jail
MINNESOTA	169.121, et seq.	.10% BAC within 2 hrs. of time of driving	Alcohol problem assessment in counties of more than 10,000 population and report made to court including recommendation as to treatment or rehab program	1st: min. 30 days; 2nd within 5 yrs.; min. 90 days and until court has certified treatment/rehabilitation has been successfully completed; 3rd within 5 yrs.; min. 1 yr. and until rehab completed; 4th within 5 yrs.; min. 2 yrs. and until rehab completed	2nd within 5 yrs.: gross misdemeanor, min. 30 days jail or 8 hrs. community service for each jail day; 3rd within 10 yrs.: gross misdemeanor, min. 30 days jail or 8 hrs. community service for each jail day
MISSISSIPPI	63-11-30	.10% BAC	1st: required alcohol safety education program; subsequent: may participate	1st: 90 days or successful completion of program, whichever is longer; 2nd: 2 yrs. (can be reduced after successful completion of program); 3rd: 5 yrs. (eligible for reinstatement after 3 yrs.); 4th: 5 yrs.	1st: \$250-1000 and/or up to 24 hrs. jail; 2nd within 5 yrs.: \$600-1000 and 48 hrs. to 1 yr. jail or 10 days to 1 yr. community service; 3rd within 5 yrs.: \$800-1000 and 30 days to 1 yr. jail; 4th within 5 yrs.: \$2000-5000 and 90 days to 5 yrs. jail

(Continued)

Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension?	Other Penalties
MISSOURI	577.012, (b)9	10% BAC	1st. Court may order participation and successful completion of alcohol or drug-related traffic offender education or rehab program which meets standards established by Dept. of Public Safety and Dept. of Mental Health	Upon failure to submit to breath test	1st: Class C misdemeanor, \$50 min. and/or up to 3 mos. jail; 2nd within 3 yrs.: Class A misdemeanor, 7 days to 6 mos. jail; 3rd within 3 yrs.: Class D felony, 45 days to 1 yr. jail
MONTANA	61-5-200, 205, 61-8-406, 722	10% BAC	Defendant shall complete alcohol information course at alcohol treatment program approved by Dept. of Corrections & Human Services which may include alcohol or drug treatment or both if considered necessary by counselor conducting program	Up to 1 yr. per offense	1st: \$100-500 and up to 10 days jail; 2nd: \$300-500 and 48 hrs. to 30 days jail; 3rd: \$500-1000 and 48 hrs. to 6 mos. jail
NEBRASKA	28-106: 39-669.07, et seq.	10% BAC	None	1st: 6 mos. (if judge orders suspension of sentence or probation, 60 days from time of order); 2nd within 10 yrs.: 1 yr. (if judge orders suspension of sentence or probation, 6 mos. from time of order); 3rd within 10 yrs.: 15 yrs. (if judge orders suspension of sentence or probation, 1 yr. from time of order)	1st: \$200-500 and 7-30 days jail; 2nd: \$500 and 30 days jail; 3rd: \$500 and 3-6 mos. jail

(Continued)

Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension?	Other Penalties
NEVADA	484.379, et seq.	.10% BAC	1st or 2nd within 7 yrs.: may apply to undergo program of treatment for alcoholism or drug abuse for at least one yr. if classified by physician/counselor as alcoholic or drug abuser; if defendant pays costs and has served jail sentence; 1st: must do educational course on alcohol and substance abuse		1st: \$200-1,000 and 2 days to 6 mos. jail or 48 hrs. community service (jail sentence can be lessened if defendant participates in rehab program); 2nd within 7 yrs.: \$500-1000 and 10 days to 6 mos. jail; 3rd within 7 yrs.: \$2000-5000 and 1-6 yrs. jail; in addition to any penalty, civil penalty of \$35 paid to court
NEW HAMPSHIRE	263:65-a; 265.82	.10% BAC	Yes, Impaired Driver Intervention Program: must successfully complete to get license back: must be approved by director of Office of Alcohol and Drug Abuse Prevention and commissioner	1st: 60 days to 2 yrs.; 2nd: 3 yrs.; 3rd: Indefinite, min. 3 yrs.	1st: up to \$1000; 2nd within 7 yrs.: up to \$1000 and 7 days to 6 mos. jail; 3rd within 7 yrs.: up to \$1000 and 7 days to 6 mos. jail
NEW JERSEY	39:4-50	.10% BAC	Screening evaluation referral program and fee requirements of Div. of Alcoholism's Intoxicated Driving Programs Unit and 12-48 hrs. in two consecutive days in Intoxicated Driver Resource Center and a program of alcohol education and highway safety as proscribed by director of Div. of Motor Vehicles	6 mos. to 1 yr.; 2nd: 2 yrs.; 3rd: 10 yrs.	1st: \$250-400 and up to 30 days jail; 2nd within 10 yrs.: \$500-1000, 30 days community service, and 48 hrs. to 90 days jail; 3rd within 10 yrs.: \$1000 and min. 180 days jail; up to 90 days of jail can be exchanged for community service

(Continued)

Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension?	Other Penalties
NEW MEXICO	66-5-29, 66-8-102	.10% BAC	May be required by court to enroll in screening program to determine level of abuse and recommendation of treatment, if necessary; must complete any recommended treatment program required by court; 1st offense: can attend driver rehab program as a deferred sentence	1 yr. (on 1st offense suspension can be avoided by attending driver rehab program)	1st: \$300-500 and/or 30-90 days jail; 2nd within 5 yrs.: up to \$1000 and/or 90 days to 1 yr. jail; 3rd or more within 5 yrs.: up to \$1000 and min. 6 mos. jail
NEW YORK	VEH. & TRAF. 1192(2)	.10% BAC	Court may require attendance at single session of "victims impact program"	1st: 6 mos.; 2nd within 10 yrs.: 1 yr.	1st: \$350-500 and/or up to 1 yr. jail; 2nd: \$500-5000 and/or min. 1 yr. jail, Class E felony
NORTH CAROLINA	20-138.1, 179	.10% BAC at time of test	Assessment may be required for alcoholism and substance abuse and appropriate treatment if necessary	1st: 1 yr.; 2nd within 3 yrs.: 4 yrs. (conditionally restored after 2 yrs.); 3rd with most recent within 5 yrs.: permanent (conditionally restored after 3 yrs.)	1st: up to \$1000 and 7 days to 12 mos. jail; subsequent within 7 yrs.: \$2000 and 14 days to 24 mos. jail
NORTH DAKOTA	39-06-31; 39-08-01	.10% BAC at time of test given within 2 hrs. of driving	Order for addiction evaluation by appropriate licensed addiction treatment program with appropriate treatment if necessary	1 yr. or period as recommended by trial court	1st: Class B misdemeanor, min. \$250; 2nd within 5 yrs.: Class B misdemeanor, min. \$500 and min. 4 days jail or 10 days community service; 3rd within 5 yrs.: Class A misdemeanor, \$1000 and min. 60 days jail; 4th within 7 yrs.: Class A misdemeanor, \$1000 and 180 days jail
OHIO	3793.10; 4507.16; 4511.19	.10% BAC	1st: Driver's Intervention Program (in suspended jail sentence); rehab may be required in sentences	1st: 60 days to 3 yrs.; 2nd within 5 yrs.: 120 days to 5 yrs.; 3rd within 5 yrs.: 180 days to 10 yrs.	1st: \$150-1000 and 3 days to 6 mos. jail; 2nd within 5 yrs.: \$150-1000, 10 days to 6 mos. jail; 3rd within 5 yrs.: \$150-1000 and 30 days to 1 yr. jail
OKLAHOMA	Tit. 47 §§6- 205.1, 11- 902	.10% BAC at time of test	Dept. of Mental Health Treatment Program may be required upon evaluation	1st: 90 days; 2nd within 5 yrs.: 1 yr.; 3rd within 5 yrs.: 3 yrs.	Up to \$1000 and 10 days to 1 yr. jail; subsequent within 10 yrs.: up to \$2500 and 1-5 yrs. jail

(Continued)

Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension <sup>1</sup>	Other Penalties
OREGON	161.615, <i>et seq.</i> ; 813.010, <i>et seq.</i>	.08% BAC	Mandatory complete exam by court approved agency/organization to determine whether individual has a problem condition involving alcohol or controlled substances; complete a treatment program if exam shows it necessary; if none necessary, then complete alcohol and drug information program.	1st: 1 yr.; 2nd within 5 yrs.; 3 yrs.; 3rd within 5 yrs.; 3 yrs.	1st: Class A misdemeanor, up to \$2500, up to 1 yr. jail fees for program.; 2nd impound vehicle in addition to above
PENNSYLVANIA	Tit. 75 1548; 1532; 3731	.10% BAC	2nd or subsequent offense within 5 yrs.: evaluation to determine if person needs or would benefit from treatment for alcohol or drug abuse; may order treatment if necessary	12 mos.	1st: min. \$300 and min. 48 hr. jail
RHODE ISLAND	27-21	.10% BAC	1st: attendance required at special course on DWI or under the influence of controlled substance and/or alcoholic or drug treatment for individual; 2nd: drug and alcohol treatment	1st: 3-6 mos.; 2nd: 1-2 yrs.	1st: \$100-300 and 10-60 hrs. community service and/or up to 1 yr. jail; 2nd within 5 yrs.: \$400 and 10 days to 1 yr. jail; 3rd: in addition to 2nd offense penalties, may have car seized and sold by State of Rhode Island and proceeds going to general fund; in addition anyone convicted under this section pays highway assessment fine of \$500
SOUTH CAROLINA	56-5-2930, <i>et seq.</i>	"Under influence of intoxicating liquors"	Successful completion of Alcohol and Drug Safety Action Program certified by South Carolina Commission on Alcohol and Drug Abuse prior to reinstatement of license	1st: 6 mos.; 2nd within 10 yrs.; 1 yr.; 3rd within 10 yrs.; 2 yrs.; 4th within 10 yrs.; 3 yrs.; 5th within 10 yrs.; permanent	1st: \$200 and 48 hrs. to 30 days jail or 48 hrs. public service; 2nd within 10 yrs.: \$2000-5000 and 48 hrs. to 1 yr. jail or min. 10 days public service; 3rd within 10 yrs.: \$3500-6000 and 60 days to 3 yrs. jail; 4th within 10 yrs.: 1-5 yrs. jail

(Continued)

Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension?	Other Penalties
SOUTH DAKOTA	32-23-1 <i>et seq.</i>	10% BAC	1st: required if 17% BAC, court-ordered evaluation	1st: min. 30 days to 1 yr.; 2nd: min. 1 yr.; 3rd: min. 1 yr. (unconditional); 4th: min. 2 yrs.	1st: \$1000 and/or 1 yr. jail; 2nd within 5 yrs.: \$1000 and/or 1 yr. jail; 3rd within 5 yrs.: \$2000 and/or 2 yrs. jail; 4th: Class 5 felony, 5 yrs. jail and may impose fine of \$5000
TENNESSEE	55-10-401, 403	"Under the influence"	2nd offense: may be required to participate in court-approved inpatient alcohol and drug treatment program	1st: 1 yr.; 2nd: 2 yrs.; 3rd: 3-10 yrs.	1st: \$250-1000 and 48 hrs. to 11 mos., 29 days jail; 2nd within 10 yrs.: \$500-2500 and 45 days to 11 mos., 29 days jail; 3rd: \$1000-5000 and 120 days to 11 mos., 29 days jail
TEXAS	Tex. Rev. Civ. Stat. Art. 67011-1	10% BAC	Evaluation	1st: 90-365 days; 2nd or 3rd: 180 days to 2 yrs.	1st: \$100-2000 and 72 hrs. to 2 yrs. jail; 2nd: \$300-2000 and 15 days to 2 yrs. jail; 3rd: \$500-2000 and 30 days to 2 yrs. jail or 60 days to 5 yrs. state penitentiary
UTAH	41-6-44	.08% BAC	1st: assessment and educational series at a licensed alcohol rehab facility; 2nd: same as above and treatment at court's discretion; 3rd: same as above and treatment at alcohol rehab facility is mandatory; 4th: treatment required	1st: 90 days; subsequent within 6 yrs. of prior conviction: 1 yr.	1st: Class B misdemeanor, up to \$1000 and 48-240 hrs. jail or 24-50 hrs. community service; 2nd within 6 yrs.: up to \$1000 and 240-720 hrs. jail or 80-240 hrs. community service; 3rd within 6 yrs.: 720-2160 hrs. jail or 240-720 hrs. community service; if prior two convictions were both after 4/23/90, then: \$1000-2500 and 240-2160 hrs. jail or 240-720 hrs. community service; 4th within 6 yrs.: if all after 4/23/90, \$1000-5000 and 720-2160 hrs. jail or 240-720 hrs. community service
VERMONT	1201, <i>et seq.</i>	.08% BAC	1st: alcohol assessment screening-therapy program or driver rehab if necessary at court's discretion; 2nd completion of therapy program at court's discretion	1st: 90 days; 2nd: 18 months; 3rd: 3 yrs.; 4th: life	1st: max. \$750 and/or up to 2 yrs. jail; 2nd: up to \$1500 and/or 48 hrs. to 2 yrs. jail; 3rd: up to \$2500 and/or up to 5 yrs. jail

(Continued)



Table 8: Drunk Driving—Continued

State	Code Section	BAC Legal Limit	Rehabilitation Required?	Driver's License Suspension?	Other Penalties
VIRGINIA	18.2-266(i), et seq.	.10% BAC	Alcohol Safety Action Program for 1st or 2nd offense at court's discretion	1st: 1 yr.; 2nd within 10 yrs.: 3 yrs.; 3rd within 10 yrs.: 3 yrs.	2nd within 10 yrs.: \$200-2500 and 1 mo. to 1 yr. jail; 3rd: \$500-2500 and 2 mos. to 1 yr. jail
WASHINGTON	46.61.502 (1), 515	.10% BAC	1st: alcohol information course or more intensive treatment program as determined by court; 2nd: diagnostic evaluation by alcoholism agency approved by Dept. of Social & Health Services	1st: 90 days; 2nd within 5 yrs.: 1 yr.; 3rd within 5 yrs.: 2 yrs.	1st: \$250-1000 and 24 hrs. to 1 yr. jail; 2nd within 5 yrs.: \$500-2000 and 7 days to 1 yr. jail
WEST VIRGINIA	17C-5-2	.10% BAC	Motor Vehicle Alcohol Test and lock program upon revocation of license	1st: min. 6 mos.; 2nd: 10 yrs.; 3rd: life	1st: \$100-500 and 1 day to 6 mos. jail; 2nd: \$1000-3000 and/or 6 mos. to 1 yr. jail; 3rd: \$3000-5000 and/or 1-3 yrs. jail
WISCONSIN	343.30; 346.63	.10% BAC	Not mentioned	1st: 6-9 mos.; 2nd within 5 yrs.: 1 yr. to 18 mos.; 3rd or more within 5 yrs.: 2-3 yrs.	1st: \$150-300; 2nd within 5 yrs.: \$300-1000 and 5 days to 6 mos. jail; 3rd within 5 yrs.: \$600-2000 and 30 days to 1 yr. jail; 4th within 5 yrs.: \$600-2000 and 60 days to 1 yr. jail; 5th within 5 yrs.: \$600-2000 and 6 mos. to 1 yr. jail
WYOMING	31-5-233; 31-7-127	.10% BAC	No	3rd conviction within 5 yrs.: 3 yrs.	1st: up to \$750 and/or up to 6 mos. jail; 2nd within 5 yrs.: \$200-750 and 7 days to 6 mos. jail

DEPARTMENT OF PUBLIC SAFETY/DIVISION OF MOTOR VEHICLES 2/13/95						
JUANITA HENSLEY/465-2650						
NUMBER OF DWI AND REFUSAL CONVICTION WITHIN A 5 YEAR PERIOD						
				1992	1993	1994
1ST OFFENSE				3801	3903	3449
2ND OFFENSE				970	1094	962
3RD OFFENSE				250	274	257
4TH OFFENSE				47	69	46
5TH AND SUBSEQUENT OFFENSE				16	17	18
TOTAL				5084	5357	4732
AVERAGE NUMBER OF 3RD AND SUBSEQUENT OFFENDERS OVER A FIVE YEAR PERIOD IS 330 PER YEAR.						
MANDATORY SENTENCES FOR 3RD AND SUBSEQUENT OFFENDERS						
				UNDER PRESENT LAW	SSSB4	HB159
3RD OFFENSE	60 DAYS				360	120
4TH OFFENSE	120 DAYS				360	240
5TH OFFENSE	240 DAYS				360	240
6TH OFFENSE	360 DAYS				360	240
DEPARTMENT OF LAW ESTIMATION BASED ON CONVICTION OVER A 5 YEAR PERIOD						
400 ARRESTED AND REFERRED TO DEPARTMENT OF LAW						
380 WILL GO TO GRAND JURY						
330 WILL BE CONVICTED OF DWI OR REFUSAL						

TONY KNOWLES, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER

P.O. BOX 111200  
JUNEAU, ALASKA 99811-1200  
PHONE: (907) 465-4322  
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January 20, 1995

The Honorable Robin Taylor  
Alaska State Legislature  
State Capitol, Room 30  
Juneau, AK 99801-1182

The Honorable Brian Porter  
Alaska State Legislature  
State Capitol, Room 118  
Juneau, AK 99801-1182

Dear Senator Taylor and Representative Porter:

I received your request for information regarding the prior DWI convictions of those individuals who were involved in alcohol-related fatal motor vehicle crashes.

Juanita Hensley, Chief of Driver Services for the Division of Motor Vehicles, reviewed the complete driving records of the at-fault drivers involved in all fatal motor vehicle crashes for 1992 and 1993. The results are as follows:

In 1992, a total of 14 at-fault drivers had prior DWI convictions on their records. Of the 14, 10 had one prior DWI conviction; three had two prior DWI convictions; one had three prior DWI convictions; and one had four prior DWI convictions.

In 1993, a total of 10 at-fault drivers had prior DWI convictions on their records. Of the 10, four had one prior DWI conviction; four had two prior DWI convictions; and two had three prior DWI convictions.

I have enclosed for your review a chart on the average breath alcohol concentrations in fatal crashes for 1992 and 1993. This chart was compiled by the Alaska Highway Safety Planning Agency from information they received in the Fatal Accident Report System.

Senator Taylor and Representative Porter  
January 20, 1995  
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Feel free to contact my office or Ms. Hensley, if you need additional information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ronald L. Otte".

Ronald L. Otte  
Commissioner

Enclosures

# Alaska State Legislature

## Representative Brian S. Porter

CHAIRMAN  
HOUSE JUDICIARY COMMITTEE

MEMBER  
HOUSE LABOR & COMMERCE COMMITTEE  
HOUSE STATE AFFAIRS COMMITTEE  
INTERNATIONAL TRADE & TOURISM  
COMMITTEE

MEMBER  
FINANCE SUBCOMMITTEES  
DEPARTMENT OF LAW  
DEPARTMENT OF EDUCATION  
COURTS



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### DISTRICT 20

#### Sponsor Statement for CSHB 159 DWI LAWS

It's a crime drunk driving remains a misdemeanor in our state no matter how many times a person is convicted. At some point - a repeat conviction should become a felony.

CSHB 159 *DWI/minor in Possession* provides the criminal justice system with the tools needed to combat this crime: (1) allows a peace officer, in any municipality, to arrest without a warrant minors who drink alcohol; (2) renders drunk driving a felony on the third offense within a five year period with a minimum sentence of 120 days with a \$5,000 fine upon conviction; (3) grants prosecution the ability to convict prior offenses of lower BAC levels than is provided for in current statute.

CSHB 159 allows the court the option of ordering a person to take Antabuse or a similar drug as a condition of parole or probation. Secondly, this bill requires a person convicted of a felony DWI to be evaluated by an alcohol screening agency before the person is sentenced. Thirdly, the court is to impose any suspended jail time on a person convicted of felony DWI who fails to complete the alcohol treatment ordered by the court.

The most frequent violent crime in the country is drunk driving. A study published by the Alaska Department of Transportation and Public Facilities stated alcohol was a factor in 982 Accidents statewide in 1993. In the same year, 49 Alaskans died in 37 alcohol or drug related accidents.

Repeat offenders account for a disproportionate number of fatal accidents, in spite of licenses suspended and jail time served. In fatal accidents in which the driver is drunk, people with a prior conviction for drunk driving are almost five times more likely to be involved than those with no record, according to the National Highway Transportation Safety Administration.

Driving is a privilege not a right. CSHB 159 gives Alaska one of the toughest drunk driving statutes in the nation. CSHB 159 will send a clear message that Alaskans will no longer tolerate persons who drive drunk.

**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**

April 12, 1995

**SUBJECT:** Sectional Summary of CSHB 159(JUD).  
**TO:** Representative Brian Porter  
**FROM:** Michael F. Ford  
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.** Allows a person under age 21 to be arrested by a peace officer, without a warrant, for illegal possession, consumption, or control of an alcoholic beverage in violation of state law or a municipal ordinance.

**Section 2.** Allows a court to include the cost of an ignition interlock device as a part of a fine imposed for convictions of driving while intoxicated or refusal to take a breath test.

**Section 3.** Technical amendment

**Section 4.** Requires evaluation for rehabilitation treatment before sentencing, if the person is convicted of felony driving while intoxicated.

**Section 5.** Requires the court to impose the remaining portion of any suspended sentence, if the person is convicted of felony D.W.I.

**Section 6.** Amends the definition of "previous conviction" for purposes of determining the penalty applicable to a driving while intoxicated or refusal to take a breath test conviction.

**Section 7.** Makes a third driving while intoxicated conviction a class C felony, if it is the person's third or greater conviction within five years. Imposes a minimum fine, minimum jail time, and prohibits probation or suspended imposition of sentence unless the minimum imprisonment is served. Requires revocation of the offender's driver's license, allows

Representative Brian Porter  
April 12, 1995  
Page 2

imposition of certain probation or parole conditions and allows forfeiture of the motor vehicle or aircraft used in the offense.

Section 8. Technical amendment.

Section 9. Technical amendment.

Section 10. Requires evaluation for rehabilitation treatment before sentencing if the person is convicted of felony breath test refusal.

Section 11. Requires the court to impose the remaining portion of any suspended sentence, if the person is convicted of felony breath test refusal.

Section 12. Makes a third refusal to take a breath test conviction a class C felony, if it is the person's third or greater conviction within five years. Imposes a minimum fine, a minimum jail time, and prohibits probation or suspended imposition of sentence unless the minimum imprisonment is served. Requires revocation of the offender's driver's license, allows imposition of certain probation or parole conditions and allows forfeiture of the motor vehicle or aircraft used in the offense.

Section 13. Applicability section.

Section 14. Effective date.

MFF:klb  
95-260.klb

# SENATE COMMITTEE REPORT

DATE: 5/1/95

FURTHER: Finance

DATE TURNED INTO OFFICE: \_\_\_\_\_

State Affairs Committee considered CS FOR HOUSE BILL NO. 159(JUD)

Allowing a person under age 21 to be arrested by a peace officer without a warrant for illegal possession, consumption, or control of alcohol; efd.

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

Senate Bill:  
same title  
new title  
House Bill:  
same title  
technical change  
new: SCR<sup>a</sup> \_\_\_\_\_

<i>SIGNING DO PASS</i>	<i>DP</i>	<i>OTHER RECOMMENDATIONS</i>	<i>NR</i>	<i>DNP</i>	<i>AM</i>

CHAIR:

### NEW FISCAL NOTE(S):

Department Date Zero Fiscal

Department	Date	Zero	Fiscal

### PREVIOUS FISCAL NOTE(S):\*

Department Date Zero Fiscal

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill



04/29/95

HOUSE JOURNAL

PAGE 1666

PLACED ON FINAL PASSAGE. THERE BEING NO OBJECTION, IT WAS SO ORDERED.

CSHB 159(JUD) WAS READ THE THIRD TIME.

\*\*THE PRESENCE OF REPRESENTATIVE NAVARRE WAS NOTED.

THE QUESTION BEING: "SHALL CSHB 159(JUD) PASS THE HOUSE?" THE ROLL WAS TAKEN WITH THE FOLLOWING RESULT:

CSHB 159(JUD)  
THIRD READING  
FINAL PASSAGE

YEAS: 36 NAYS: 0 EXCUSED: 4 ABSENT: 0

YEAS: ~~FINCH~~ MUSTERMAN, BRICE, BROWN, BUNDE, B.DAVIS, G.DAVIS, ELTON,  
FINCH, FOSTER, GREEN, GRUBENDORF, HANLEY, IVAN, JONES, KELLY,  
KOHRING, KOTT, MACKIE, MARTIN, MASEK, MOSES, MULDER, NAVARRE,  
NICHOLIA, OGAN, PARNELL, PHILLIPS, PORTER, ROBINSON, ROKEBERG, SANDERS,  
THERRIAULT, TOOHEY, VEZEY, WILLIAMS, WILLIS

EXCUSED: BARNES, DAVIES, KUBINA, MACLEAN

AND SO, CSHB 159(JUD) PASSED THE HOUSE.

REPRESENTATIVE VEZEY MOVED AND ASKED UNANIMOUS CONSENT THAT THE ROLL CALL ON THE PASSAGE OF THE BILL BE CONSIDERED THE ROLL CALL ON THE EFFECTIVE DATE CLAUSE. THERE BEING NO OBJECTION, IT WAS SO ORDERED.

REPRESENTATIVE BROWN GAVE NOTICE OF RECONSIDERATION OF HER VOTE ON CSHB 159(JUD).

SELECTION=>							B005-LAST PAGE				
PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP		EXIT	MENU		PRINT	BWD	FWD		FIRST	LAST	QUIT

ALASKA STATE LEGISLATURE  
LEGISLATIVE BUDGET AND AUDIT COMMITTEE  
Division of Legislative Finance



P.O.Box 113200  
Juneau, AK 99811-3200  
(907) 465-3795  
FAX (907) 463-4885

MEMORANDUM

DATE: May 6, 1995  
TO: Senator Rick Halford, Co-Chair,  
Senate Finance Committee  
FROM: Kathryn Daughhetee, Fiscal Analyst *Kathryn*  
SUBJECT: HB 159

If adopted, this bill, which makes several changes to state laws regarding alcoholic beverages, driving while intoxicated, driving while license suspended, and refusal to submit to a chemical test, will take effect on July 1, 1995.

I have been asked to verify whether the data used in the fiscal notes prepared for this bill is comparable between the various agencies; and additionally, whether a revenue stream can be expected in the Department of Public Safety, Motor Vehicles, and the Court System.

The following fiscal note amounts were submitted for HB 159:

***Expenditures***

Public Defender	\$297,500
Corrections	\$1,080,700
Court System	\$131,600
Public Safety	\$59,400
Law	\$294,100
Total	\$1,863,300

***Revenues*** 0

I have reviewed the fiscal notes submitted by each agency for consistency with respect to underlying assumptions. The Department of Law's analysis provided the basis from which other agencies developed cost information. A three year average indicates that 330 defendants have been convicted of three or more DWI/Refusal violations within a period of five years. The fiscal notes prepared by the Departments of Corrections, the Court System, Public Safety (Detachments), and the Department of Administration (Public Defender) were consistent in their application of the 330 case average in arriving at the estimated expenditures. There were no mathematical errors of any kind in the fiscal notes, nor were there any obvious cost data errors with respect to annualizing incarceration costs, or arriving at new position costs, etc. Given the short deadline for preparation of this analysis, I was unable to locate the attorney at the Department of Law who provided the average caseload data used in all of the fiscal notes. Consequently, I was unable to determine whether the 330 case average would be applicable in the first year of HB 159 implementation. If it becomes apparent that the first year should reflect some reduced number of cases, it will be simple to divide the fiscal note amounts into monthly costs and prorate them over whatever should prove to be a more appropriate timeline.

I have discussed whether the fiscal notes should include a revenue stream with both the Court System and the Department of Public Safety's Motor Vehicle Division. The Court System has determined that an estimated \$760,000 in new fines could be assessed by the Courts as a result of this bill. However, between 80% and 90% of this amount will be uncollectable for lack of financial resources on the part of the defendants. The Public Defender fiscal note estimates that they will handle 80% of the prosecutions under this law. Therefore, all but between \$76,000 and \$152,000 of the assessed fines cannot be relied upon to defray the costs of this legislation. If SB 135, related to Permanent Fund Dividend eligibility, becomes law, dividend funds will not be available for garnishment in many cases. Conservatively, \$114,000 could be expected to be collected by the Court System if the 330 case average is accurate.

The Motor Vehicle division will not realize additional revenue because of this bill, as there is no impact to the existing fees for relicensing following DWI convictions.

As additional information becomes available to me, I will forward it to you for consideration. If I can assist you further, please contact me.

cc: Representative Brian Porter

**HB**

**169**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

TO FINANCE FROM THE FLOOR

DATE: 4/20/95

FURTHER:

DATE TURNED INTO OFFICE: 5-2-95

The Finance Committee considered CS FOR HOUSE BILL NO. 169(RES)

Defining the scope of the responsibility of the Department of Natural Resources for regulating the mineral resources of the state, and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

- Senate Bill:**
- same title
  - new title
- House Bill:**
- same title
  - technical change
  - new: SCR? \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Steve King</i>	✓	<i>Paul H. Stung</i>	✓		
<i>Bill E. Lee</i>	✓				
<i>W. Don Stanley</i>	✓				
<i>Bob Bishop</i>	✓				
Co-Chair: <i>Sharr</i>	✓				
Co-Chair: <i>Rick Halford</i>	✓				

**NEW FISCAL NOTE(S):**

Department                      Date    Zero    Fiscal

Department	Date	Zero	Fiscal

**PREVIOUS FISCAL NOTE(S):\***

Department                      Date    Zero    Fiscal

#	Department	Date	Zero	Fiscal
#1	DNR	2/6/95	⊖	
#2	DEC	2/4/95	⊖	
#3	Governor	2/4/95	⊖	
#4	DFGR	2/4/95	⊖	

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

FISCAL NOTES

HB 169 - DEPT. NAT RES. IS LEAD AGENCY FOR MINING

	<u>CSHB(Res)</u>	<u>SCS(Res)</u>
1. DNR, 2/1/95 (Mining)	0	
2. DEC, 2/24/95 (Admin.)	0	
3. GOV. 2/24/95 (Gov.Coord)	0	
4. DF&G, 2/24/95 (Habitat)	0	
<hr/> New DF&G, 4/14/95 (Nat.Res.)	67.0	
New Gov., 4/19/95 (Gov.Coord)		39.0
New DEC, 4/25/95 (Environ.Quality)		96.5

Senate Finance  
Updated 4/27/95

# FISCAL NOTE

J. 4

Bill Version: CS HB 169 (RES)

(H) Publish Date: 2/27/95

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

Revision Date: _____	Dept. Affected: <u>Fish and Game</u>
Title: <u>Defining the scope of the responsibility of DNR for regulating the development of the mineral resources of the state.</u>	BRU: <u>Habitat and Restoration</u>
Sponsor: <u>Rep.(s) Kott, Williams, Kelly, MacLean</u>	Component: <u>Habitat</u>
Requester: <u>Resources</u>	COMPONENT SERIAL NO. <u>486</u>

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY95) cost: \$ 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

**ANALYSIS:** (Attach a separate page if necessary)

If amended as proposed by ADF&G, the legislation simply confirms by law ADF&G's established practice of consulting with other state agencies prior to adopting, repealing, or modifying regulations. Traditionally, ADF&G also has consulted with other affected agencies and constituencies prior to adopting major policy revisions. Confirming this consultation by law will not increase ADF&G's fiscal costs.

If the intent of the legislation, however, is to require ADF&G to coordinate each and every permitting decision with the DNR prior to permit issuance, the department will incur additional time delays and staffing requirements. A revised fiscal note will need to be prepared once the intent of this legislation is clarified.

Prepared by: Ellen Fritts, Acting Director  
 Division: Habitat and Restoration  
 Approved by Commissioner: Geison Bruce for Frank Rue  
 Agency: \_\_\_\_\_

Phone: 465-4105  
 Date: 2/23/95  
 Date: 2/24/95

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# FISCAL NOTE

J. 3  
 Bill Version: CS HB 169 (RES)  
 (H) Publish Date: 2/27/95

STATE OF ALASKA  
 1995 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Office of the Governor  
 Title: Relating to the scope of responsibility of the Dept. of Natural Resources for regulating development of mineral resources BRU: Office of Management and Budget  
 Sponsor: Representative Kott Component: Governmental Coordination  
 Requester: \_\_\_\_\_ COMPONENT SERIAL NO. 18

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY95) cost: \$ 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

**ANALYSIS:** (Attach a separate page if necessary)

The Division of Governmental Coordination (DGC) coordinates the consistency review of projects that require federal permits or permits from 2 or more State agencies. If a proposed mining project required these type of permits, DGC would coordinate the State's consistency review. For mining projects, DGC routinely seeks the input from the Department of Natural Resources, as required by this bill. Current review procedures meet the intent of the bill, therefore DGC anticipates no fiscal impact.

Prepared by: Kerry Howard, Acting  
 Division: Governmental Coordination  
 Approved by Commissioner: Constance McInnis  
 Agency: Gov. Leg. Dept.

Phone: 465-3562  
 Date: 2/24/95  
 Date: 2/24/95

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# FISCAL NOTE

No. 2

Bill Version: CS HB 169(RES)

BILL NO.

(H) Publish Date: 2/27/95

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
Title: ...responsibility of DNR for regulating the development of mineral resources...  
Sponsor: Rep Kott  
Requestor: Hs (RES)

Department Affected: Environmental Conservation  
BRU: Administration  
Component: Commissioner's Office  
COMPONENT SERIAL NO. 633

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0
------------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF Program Receipt	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 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

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Larry Jones  
Division: Director, Information and Administrative Services

Phone: 465-5010  
Date: 2/24/95

Approved by Commissioner: Larry Jones  
Agency: Department of Environmental Conservation

Date: 2/27/95

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# FISCAL NOTE

No. 1

Bill Version: CS HB 169(RES)

(H) Publish Date: 2/27/95

**STATE OF ALASKA**  
**1995 LEGISLATIVE SESSION**

Revision Date: Original Dept Affected: Natural Resources  
 Title: An Act delining the scope of the responsibility of the BRU: Resource Development  
Department of Natural Resources for regulating ....mineral resources... Component: Mining Development  
 Sponsor: Reopresentative(s) Kott, Williams  
 Requestor: \_\_\_\_\_ Component Serial No. 442

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
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<b>CHANGE IN REVENUES ( )</b>	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ None

POSITIONS	FY96	FY97	FY98	FY99	FY00	FY01
FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

**ANALYSIS:** (Attach a separate page if necessary)

There is no anticipated fiscal impact for the Department of Natural Resources with implementation of this legislation.

Prepared by: Jules Tileston, Director *[Signature]* Phone: 745-2165  
 Division: Mining & Water Management Date: 16-Feb-95  
 Approved by Commissioner: *[Signature]* Date: 2-16-95  
 Agency: Natural Resources

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A M E N D M E N T

OFFERED IN THE SENATE

TO: CSHB 169(RES)

- 1 Page 1, lines 10 - 11:
- 2 Delete "and draw upon the mining expertise of the department."
- 3 Insert "the department and draw upon and give due deference to the department's
- 4 mining expertise."

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSHB 169(RES)

1 Page 1, line 4:

2 Delete "a new subsection"

3 Insert "new subsections"

4 Page 1, following line 11:

5 Insert a new subsection to read:

6 "(c) Subsection (b) of this section does not alter or diminish the authority of  
7 another state agency, a state corporation, the University of Alaska, or a municipality  
8 under its laws and regulations."

# FISCAL NOTE

STATE OF ALASKA  
**1995 LEGISLATIVE SESSION**

BILL NO. SCS CSHB 169 (RES)

Revision Date: 24-Apr-95  
 Title: An Act defining the scope of responsibility of the DNR for regulating the mineral resources.  
 Sponsor: Rep. Kott, Williams, Kelly, Maclean, James, Rice  
 Requestor: \_\_\_\_\_

Department Affected: Environmental Conservation  
 BRU: Environmental quality  
 Compose: Director's Office

**COMPONENT SERIAL NO.**

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	75.0	75.0	75.0	75.0	75.0	75.0
TRAVEL	5.0	2.0	2.0	2.0	2.0	2.0
CONTRACTUAL	10.0	10.0	10.0	10.0	10.0	10.0
SUPPLIES	0.5	0.5	0.5	0.5	0.5	0.5
EQUIPMENT	6.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>96.5</b>	<b>87.5</b>	<b>87.5</b>	<b>87.5</b>	<b>87.5</b>	<b>87.5</b>

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0
------------------------	-----	-----	-----	-----	-----	-----

**FUND SOURCE**

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	96.5	87.5	87.5	87.5	87.5	87.5
1005 GF/Program Receipt	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>96.5</b>	<b>87.5</b>	<b>87.5</b>	<b>87.5</b>	<b>87.5</b>	<b>87.5</b>

Estimate of any current year (FY95) cost: \$ \_\_\_\_\_

**POSITIONS:**

FULL-TIME	1	0	0	0	0	0
PART-TIME	1	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

**ANALYSIS:** (Attach a separate page if necessary.)

See Attachment.

Prepared by: Decna Henkins  
 Division: Environmental Quality

Phone: 465-5312  
 Date: 4/25/95

Approved by Commissioner: *[Signature]*  
 Agency: Department of Environmental Conservation Date: 4/26/95

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*4/27  
 New fiscal  
 note*

**SCSCSHB 169 (RES)**  
**FISCAL NOTE ANALYSIS**

**Assumptions:**

- 1) DNR has to sign off or concur with permitting, plan review and enforcement actions regarding mining, listed below:

Permits involved

1. Air Quality Permit to Operate (10/yr)
2. Prevention of Significant Deterioration review (1/yr)
3. Solid Waste
4. Domestic and Industrial Wastewater (or certification of NPDES permit) (50/yr)
5. Certification of Corps permits (50/yr)
6. Food service

Plan reviews involved

1. Domestic and industrial wastewater collection/treatment/disposal
2. Food service
3. Public drinking water treatment and distribution
4. Oil spill contingency plans

Other regulatory decisions

1. Waivers of public water supply monitoring
  2. Surface water treatment rule waivers
  3. Enforcement actions for all programs including Notice of Violation, compliance order, civil or criminal referral
- 2) DNR will hear appeals of permit and plan review decisions
  - 3) DNR will need copies of the DEC files on each proposed action or DNR will require an extensive decision document supporting the proposed decision.
  - 4) The first FY DEC will have to have a staff person to work with DNR and other effected agencies to establish procedures and documentation requirements. This person will continue as the DEC liaison with DNR on mining regulation to assist DEC programs to give DNR the information they need to make reasonably timely decisions. This person will be making trips to other cities (Juneau/Fairbanks or Anchorage/Fairbanks) to set up procedures and assist DEC permit/review offices.
  - 5) The equivalent of a half-time clerical position (possibility part-time student interns in Juneau, Anchorage and Fairbanks) will be required to maintain and copy records for DNR to make final determinations.

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. SCS CSHB169(Res)

Revision Date: 4/19/95 Dept. Affected: Office of the Governor  
 Title: Relating to the scope of responsibility of DNR BRU: Office of Management and Budget  
 for regulating development of mineral resources. Component: Governmental Coordination  
 Sponsor: Representative Kott  
 Requester: \_\_\_\_\_ COMPONENT SERIAL NO. 18

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	34.0	34.0	34.0	34.0	34.0	34.0
TRAVEL	5.0	5.0	5.0	5.0	5.0	5.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>39.0</b>	<b>39.0</b>	<b>39.0</b>	<b>39.0</b>	<b>39.0</b>	<b>39.0</b>

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	39.0	39.0	39.0	39.0	39.0	39.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>39.0</b>	<b>39.0</b>	<b>39.0</b>	<b>39.0</b>	<b>39.0</b>	<b>39.0</b>

Estimate of any current year (FY95) cost: \$ 0.0

**POSITIONS**

FULL-TIME	1/2	1/2	1/2	1/2	1/2	1/2
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

New fiscal  
Note from  
DGC for Senate CS

Prepared by: Diane Mayer, Director *DM*  
 Division: Governmental Coordination

Phone: 465-3562  
 Date: 4/19/95

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

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

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Division of Governmental Coordination  
Position Paper on HB 169

April 19, 1995

This paper concerns HB 169: An act defining the scope of the responsibility of the Department of Natural Resources (DNR) for regulating the mineral resources of the State. The present version of HB 169, (SCS)CS HB 169 (Res), requires the Department of Natural Resources (DNR) to "make the final determination on all regulatory matters concerning the mineral resource exploration and development and the management of mining and associated activities." As written, DNR would be given the authority and responsibility to make the final determination regardless of the statutory authority of other state agencies. Senate CS

The Division of Governmental Coordination opposes this legislation because it will not satisfy the intent of the original legislation to simplify the permitting process. Instead, the bill will:

- Require more time to complete mining project reviews by adding a new,
- Make the State more vulnerable to appeals and other legal delays if an agency is required to make decisions on matters outside its area of expertise, and
- Increase costs to mining companies and the State.

#### Intent of the Original Bill

The original bill implements a recommendation by the Alaska Minerals Commission in its January 1995 report. The Commission recommended that the DNR be designated as the lead agency for regulatory matters concerning mining. The purpose of the recommendation was to simplify permitting and reduce costs.

The original version of HB 169 would designate DNR as the lead state agency for mineral exploration, development, and management without diminishing the regulatory authority of other state agencies. The original bill would provide a coordinating mechanism for all regions of Alaska. Currently, a coordinated review process regularly occurs only in the coastal zone.

The Minerals Commission report cited the Ft. Knox project near Fairbanks as an example of successful permitting. Funded by the applicant, the DNR coordinated the interagency review using a process similar to the one routinely used for large projects in the coastal zone of Alaska. Unlike other projects currently in review, such as the A-J and Kensington Mine proposals, the Ft. Knox project design did not have any discharges of wastewater. A zero-discharge project does not require state or federal discharge permits. The project was not controversial, it received local support, and the federal agencies had minor roles since no environmental impact statement was required.

### Effect of the Bill

*The Senate CS*  
The current version of the bill will make the permitting process more complex, make the State more vulnerable to appeals, and raise the total costs of obtaining approvals. Requiring the DNR to make determinations for all regulatory matters regarding mining will increase the time the State takes to make mining-related decisions. To show that the DNR properly exercised its authority, it will have to develop a new process to review and approve all preliminary permitting decisions recommended by other agencies. This process would delay projects because it would be necessary to meet with other agency personnel to ensure that final permitting decisions meet state and federal standards.

If HB 169 is passed into law, the State will be more vulnerable to law suits and other appeals. The legislation would require the DNR to make the final decision on all regulatory matters regarding a mining project, even those matters outside its area of expertise such as air and water quality and fish and wildlife habitat considerations. Requiring one agency to make regulatory decisions for another will invite administrative appeals and law suits.

The present legislation increase costs of permitting to government and applicants. Under the original version of HB 169, state agencies presented fiscal notes with zero increases. The current bill would increase costs for several reasons.

- 1) The Departments of Law, Fish and Game, and Environmental Conservation and the Division of Governmental Coordination would have to assign more staff to work with DNR at the final approval stage. The Division of Governmental Coordination estimates it would need an increase of up to a half-time position to work with DNR concerning final decisions regarding consistency determinations and some travel funds.
- 2) Additional personnel would be needed in DNR to facilitate interagency coordination and to ensure it has an understanding of the regulatory basis for agency recommendations related to specific mining projects.
- 3) A likely increase in administrative appeals and litigation would increase costs to applicants and state agencies including government agencies including the Department of Law and other state resource agencies.

### Increase in Mining Projects

While in the recent past, only a few major projects have been reviewed each year, an increase in reviews can be expected in the next few years. Initial project approvals will likely occur for the following mines: A-J, Kensington, Jualin, Tulselquah Chief, and Illinois Creek. Renewals of permits for existing mines, such as the Red Dog Mine and Greens Creek, will have to be reviewed by the State because of changes to state water quality standards. Recent release of state geophysical maps of the Fairbanks districts is also

expected to initiate an increased rate of mining activities in that region.

### Summary

In summary, the objectives of the original bill were to ensure a coordinated state review of mining proposals to reduce permitting complexity, to reduce the time it takes to obtain a permit, and to reduce the costs related to obtaining permits. The current version of this bill is not likely to satisfy any of these objectives. Instead, the legislation would increase the time it takes to approve mining projects, increase the likelihood of appeals, and increase costs to the applicant and state agencies.

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. CSHB169(Res)

Revision Date: \_\_\_\_\_ Dept. Affected: Fish and Game  
 Title: Defining the scope of the responsibility of DNR for BRU: Natural Resources  
regulating the development of the mineral resources of the state. Component: Habitat and Restoration  
 Sponsor: Rep.(s) Kott, Williams, Kelly, MacLean, James, Brice  
 Requester: Senate Resources COMPONENT SERIAL NO. 486

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	52.0	28.0	26.0	26.0	26.0	28.0
TRAVEL	5.0	2.0	2.0	2.0	2.0	2.0
CONTRACTUAL	10.0	3.0	3.0	3.0	3.0	3.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>67.0</b>	<b>31.0</b>	<b>31.0</b>	<b>31.0</b>	<b>31.0</b>	<b>31.0</b>

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	67.0	31.0	31.0	31.0	31.0	31.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>67.0</b>	<b>31.0</b>	<b>31.0</b>	<b>31.0</b>	<b>31.0</b>	<b>31.0</b>

Estimate of any current year (FY95) cost: \$ 0.0

**POSITIONS**

FULL-TIME	1	1	1	1	1	1
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: Ellen Fritts  
 Division: Habitat and Restoration  
 Approved by Commissioner: Frank  
 Agency: \_\_\_\_\_

Phone: 465-4105  
 Date: 4/14/95

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BILL NO. CSHB169  
 Title: Defining the scope of the responsibility  
of DNR for regulating the mineral resources of the state.  
 Sponsor: Rep.(s) Kott, Williams, Kelly, MacLean, James, Brics  
 Requester: Resources

ANALYSIS Continued:

This measure designates DNR as lead agency for all matters relating to the exploration, development, and management of mining and vests it with final regulation, management and enforcement authority. It is unclear whether (1) actual statutory authority or (2) authority to veto or overrule another agency's proposed actions would be transferred. Assuming the latter, the measure significantly increases ADF&G's workload and procedural timelines for issuance of Fish Habitat Permits for mining operations.

In FY 94, ADF&G reviewed over 700 placer mining operations in addition to numerous major hard rock mine proposals and several dozen mining-related applications (e.g., cross-country access, water withdrawals). The average review time for all applications was 8 days. Approximately 400 Fish Habitat permits were issued for these activities. At a minimum, the proposed measure would require ADF&G to forward all of the draft Fish Habitat Permits to ADNR for comment and approval before issuance of the permits. In light of ADNR's already critical staffing shortage, we estimated the additional review loop will add 2 to 4 weeks to each permit's review time. Since a large number of applications are not received until just prior to the summer field season, the increased review time could delay start-up for many applicants. An estimated 2 weeks annually of staff time will be dedicated to additional copying and mail out.

During the first year of implementation, it will be necessary for ADF&G to commit significant staff resources simply to bring DNR up to speed on ADF&G permitting requirements and the rationale for specific permit conditions. We estimate this will require four to six additional staff months statewide. Joint field reviews will be needed in many instances to fully communicate permitting needs to DNR.

In subsequent years, some additional time (two months annually) will be needed for further discussions as (1) permit conditions change, (2) new site considerations require modified approaches and (3) to help defend DNR from final permit challenges and appeals. Annually, we estimate that 10 to 20 applications will be sufficiently controversial to be elevated to the directors and/or resource cabinet for final resolution. Annual staff commitments to fully prepare and brief these elevations may total one month.

We support establishment of integrated project review teams for large, complex developments. Similar approaches in the past have benefited both the state and mine proponents. It must be recognized, however, that all previous successful project review teams simply integrated the statutory functions of each resource agency -- they did not consolidate final authority in a single agency.

It must also be recognized that establishment of joint project review teams will result in increased agency staff commitments and costs to the applicant and the state. For major, complex projects, these additional costs and staff requirements may be warranted. For routine placer mining applications, however, establishment of joint review teams will significantly increase the cost and timeline for obtaining necessary authorizations, with no known benefit for either the applicant or the state.

*New Analysis of fiscal note  
 from ADF&G for Senate CS*

# SENATE RULES COMMITTEE REPORT

DATE: 4/10/95

DATE TURNED INTO OFFICE: 4.19.95

The Rules Committee considered CS FOR HOUSE BILL NO. 169(RES)

Defining the scope of the responsibility of the Department of Natural Resources for regulating the mineral resources of the state.

and recommends it be placed on the calendar:

replace with \_\_\_\_\_ CS \_\_\_\_\_ (RULES)

attaches amendment(s)

adopts \_\_\_\_\_ Letter of intent

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

**NEW FISCAL NOTES**

Department	Date	Zero	Fiscal

**PREVIOUS FISCAL NOTES**

Department:	Date	Zero	Fiscal

Appropriation No Fiscal Note

**MEMBERS SIGNING FOR PLACEMENT ON THE CALENDAR**

*[Handwritten Signature]*  
 \_\_\_\_\_  
*[Handwritten Signature]*  
 \_\_\_\_\_  
*[Handwritten Signature]*  
 \_\_\_\_\_  
*[Handwritten Signature]*  
 \_\_\_\_\_

Chair: Signature and Recommendation

**OTHER RECOMMENDATIONS:**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Calendar on: 4.19.95 (Wed)

Approved by: *[Handwritten Signature]*

SENATE COMMITTEE REPORT

DATE: 3/6/95

FURTHER: *has no further*

DATE TURNED INTO OFFICE: 4-10-95

*pass*

Resources Committee considered CS FOR HOUSE BILL NO. 169(RES)

"An Act defining the scope of the responsibility of the Department of Natural Resources for regulating the mineral resources of the state."

*4 § 1301-*

and recommends:

- be replaced with SENATE CS HB 169 (RES)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

- Senate Bill:
  - same title
  - new title
- House Bill:
  - same title
  - technical change
  - new: SCR# \_\_\_\_\_

<u>SIGNING DO PASS</u>	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Wm. Pearce</i>	<input checked="" type="checkbox"/>	<i>Department of Natural Resources</i>			
<i>Arthur T. Taylor</i>	<input checked="" type="checkbox"/>	<i>Ag. Hoff</i>	<input checked="" type="checkbox"/>		
CHAIR: <i>Arwen A. Lemen</i>	<input checked="" type="checkbox"/>				

NEW FISCAL NOTE(S):

Department      Date      Zero      Fiscal

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):\*

Department      Date      Zero      Fiscal

Department	Date	Zero	Fiscal
DF+G	2/27	<input checked="" type="checkbox"/>	
OMB	2/27	<input checked="" type="checkbox"/>	
DEC	2/27	<input checked="" type="checkbox"/>	
DNR- MINING	2/27	<input checked="" type="checkbox"/>	

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

**HB**

**172**



**HFIN**

**FILE**

# HOUSE COMMITTEE REPORT

(11)

Date Referred: April 18, 1995

FURTHER REFERRALS:

Date of Committee Action: 4/27/95

The FINANCE Committee considered:

HB 172

HOUSE BILL NO. 172

KINDERGARTEN & MISC. EDUC

"An Act relating to kindergarten programs and compulsory education; to identification required upon enrollment in a public school; to those grades that constitute elementary, junior, and secondary school; and providing for an effective date."

recommends it be replaced with the following committee substitute HB 172  the same title  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_ APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_  
 fiscal note(s) \_\_\_\_\_  fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_  zero fiscal note(s) EDUCATION 4/18/95

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Richard Foster</i>	FOSTER			X	
<i>Paul Parnell</i>	PARNELL			X	
<i>Mark Mulder</i>	MULDER			X	
<i>Terry Martin</i>	MARTIN			X	
<i>Pat Kelly</i>	KELLY			X	
<i>Gene Thernmark</i>	Thernmark			X	
<i>Vic Kohmy</i>	Kohmy			X	

CO-CHAIR'S SIGNATURE *Richard Foster*  
 -FOSTER-

# HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES

STATE CAPITOL, JUNEAU 99801  
(907) 465-3759



## SPONSOR STATEMENT

### HB 172

"An Act relating to kindergarten programs and compulsory education; to identification required upon enrollment in a public school; to those grades that constitute elementary, junior, and secondary school; and providing for an effective date."

Research indicates that kindergarten is an important part of a public school education. Thirty-five states and territories have mandated that kindergarten be offered as a grade. All school districts in Alaska are already providing kindergarten as a part of the educational curriculum of their school districts. HB 172 recognizes the importance of kindergarten as part of the instructional program and would insure that all districts would continue to offer kindergarten in the future.

By current law, a secondary school consists of grades seven through 12 or any appropriate combination of grades within this range. Grades seven through eight, nine, and ten or any appropriate combination of grades within this range may be organized as a junior high. Enacting this legislation would add middle school to the definition of secondary school and allow for the sixth grade to be included as a part of junior high or middle school.

According to the 1990 State Education Indicators, 27 states currently mandate the age students must enter school at age six or less; and, in 43 of the 50 states, including Alaska, students generally enter school at age five.

This bill also adds a new section that anyone enrolling a child in a public school shall, not more than 30 days after enrollment, provide to the public school a copy of the child's birth certificate or other proof of the child's identity if the child has not previously been enrolled in a public school.

# FISCAL NOTE

No. 1  
 Bill Version: HB 172  
 (H) Publish Date: 4/18/95

STATE OF ALASKA

1995 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
 Title: An Act relating to kindergarten programs and  
compulsory education; to identification required upon...  
 Sponsor: House HESS by request  
 Requester: House HESS

Department Affected: Education  
 BRU: K-12  
 Component: Foundation

COMPONENT SERIAL NO. 141

Expenditures/Revenues:	(Thousands of Dollars)					
OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING:	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

POSITIONS:						
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY95) impact: \$ 0

**ANALYSIS:** (Attach a separate page if necessary.) Section 1 amends AS 14.03.040 "Day in Session" to include kindergarten and sets the minimum number of hours a child must attend school at 2.5 hours. This bill does not amend the foundation statute. AS 14.17.041(c) states that "kindergarten students who attend less than four hours will be counted at .5 ADM under (a) and (b) of this section", (AS 14.03.041). Sections 2 through 4 address elementary, secondary and middle schools. These sections do not have a fiscal impact because school construction grants are based on grade levels within a building and not the classification of the school building. Section 5 amends AS 14.03.070 "School Age" from six to five years of age. Section 6 amends AS 14.03.080(d) to delete language which refers to a five year old "who is under school age". Section 7 amends AS 14.30.010(a) to lower the age for compulsory education from seven to six. Section 8 amends AS 14.30.710 by adding a new section requiring the parent to provide proof of the child's identity within 30 days of enrollment.

Prepared by: Duane Guiley Phone: \_\_\_\_\_  
 Division: \_\_\_\_\_ Date: February 28, 1995  
 Approved by Commissioner: Mike Maher  
 Agency: Education Date: February 28, 1995

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"(B) the school board has submitted an acceptable plan under which students will receive the approximate educational equivalent of a 180-day term."

**Effect of amendments.** — The 1991 amendment, effective September 10, 1991, rewrote the section.

**Sec. 14.03.040. Day in session.** Each day within the school term is a day in session except Saturdays, Sundays, and days designated as holidays by or according to AS 14.03.050. A school board may approve Saturdays as a day in session. The day in session in every school shall be at least four hours long, exclusive of intermissions, for the first, second, and third grades and five hours, exclusive of intermissions, for all other grades. The commissioner may approve a shorter day in session for any grade. The period of the day in session shall be devoted to the instruction of pupils or to study periods for the pupils. (§ 1 ch 98 SLA 1966; am § 2 ch 137 SLA 1976)

**Sec. 14.03.050. School holidays.** (a) Public schools may not be in session on school holidays, which are Labor Day, Thanksgiving Day, the day immediately following Thanksgiving Day, Christmas Day, New Years Day, Memorial Day, and the Fourth of July. If one of these holidays falls on a Saturday, the Friday immediately preceding is a school holiday. If one of these holidays falls on a Sunday, the Monday immediately following is a school holiday. A teacher may not be required to perform employment services on these holidays, nor may the salary of a teacher be diminished because the teacher does not perform employment services on a school holiday.

(b) The public schools shall be in session on all other holidays falling upon school days and shall conduct appropriate exercises in recognition of the day.

(c) The governing body of the school district may declare additional holidays. (§ 1 ch 98 SLA 1966)

**Sec. 14.03.060. Elementary, junior high, and secondary schools.** (a) An elementary school consists of grades kindergarten through grade eight or any appropriate combination of grades within this range.

(b) A secondary school consists of grades seven through 12 or any appropriate combination of grades within this range. The establishment of one or two grades beyond the 12th grade is optional with the governing body of the school district.

(c) Grades seven through eight, nine, and ten or any appropriate combination of grades within this range may be organized as a junior high school.

(d) This section does not prevent a high school from issuing a diploma to a student who has completed the 12th grade. (§ 1 ch 98 SLA 1966)

**Collateral references.** — Kindergartens or specialized departments. power and duty of school authorities to maintain. 70 ALR 1313.

Zoning regulations as applied to public elementary and high schools. 74 ALR3d 136.

**Sec. 14.03.070. School age.** A child who is six years of age before August 15 following the beginning of the school year, and who is under the age of 20 and has not completed the 12th grade, is of school age. (§ 1 ch 98 SLA 1966; am § 1 ch 1 FSSLA 1987; am § 19 ch 85 SLA 1988)

**Effect of amendments.** — The 1988 amendment, effective July 1, 1988, substituted "before August 15 following" for "or who will become six years of age before August 15 preceding."

(Jud)), see 1988 House & Senate Joint Journal Supplement No. 18, May 10, 1988 p. 5.

**Legislative history reports.** — For an analysis of the amendments to this section by § 19, ch. 85, SLA 1988 (HCS CSSB 413

**Collateral references.** — Power of public school authorities to set minimum or maximum age requirements for pupils in absence of specific statutory authority. 78 ALR2d 1021.

**Sec. 14.03.080. Free education.** (a) A child of school age is entitled to attend public school without payment of tuition during the school term in the school district in which the child is a resident subject to the provisions of AS 14.14.110 and AS 14.14.120.

(b) A person over school age may be admitted to the public school in the school district in which the person is a resident at the discretion of the governing body of the school district. A person over school age may be charged tuition by the governing body of the school district.

(c) A child under school age may be admitted to the public school in the school district of which the child is a resident at the discretion of the governing body of the school district if the child meets minimum standards prescribed by the board evidencing that the child has the mental, physical, and emotional capacity to perform satisfactorily for the educational program being offered.

(d) A child who is five years of age before August 15 following the beginning of the school year, and who is under school age, may enter a public school kindergarten.

(e) A child under school age shall be admitted to school in the district of which the child is a resident if immediately before the child became a resident of the district, the child was legally enrolled in the public schools of another district or state. (§ 1 ch 98 SLA 1966; am § 1 ch 64 SLA 1972; am § 2 ch 1 FSSLA 1987; am § 20 ch 85 SLA 1988)

**Effect of amendments.** — The 1988 amendment, effective July 1, 1988, substituted "following" for "preceding" in subsection (d).

CSSB 413 (Jud)), see 1988 House & Senate Joint Journal Supplement No. 18, May 10, 1988 p. 5.

**Legislative history reports.** — For an analysis of the amendment to (d) of this section by § 20, ch. 85, SLA 1988 (HCS

**Opinion of attorney general.** — A school district must permit a child who is temporarily hospitalized or attending a treatment facility in the district to enroll

making attendant at such school a compliance with compulsory school attendance law. 65 ALR3d 1222.

Student's right to compel school officials to issue degree, diploma, or the like. 11 ALR4th 1182.

**Sec. 14.30.010. When attendance compulsory.** (a) Every child between seven and 16 years of age shall attend school at the public school in the district in which the child resides during each school term. Every parent, guardian or other person having the responsibility for or control of a child between seven and 16 years of age shall maintain the child in attendance at a public school in the district in which the child resides during the entire school term, except as provided in (b) of this section.

(b) This section does not apply if a child

(1) is provided an academic education comparable to that offered by the public schools in the area, either by

(A) attendance at a private school in which the teachers are certificated according to AS 14.20.020;

(B) tutoring by personnel certificated according to AS 14.20.020; or

(C) attendance at an educational program operated in compliance with AS 14.45.100 — 14.45.200 by a religious or other private school;

(2) attends a school operated by the federal government;

(3) has a physical or mental condition that a competent medical authority determines will make attendance impractical;

(4) is in the custody of a court or law enforcement authorities;

(5) is temporarily ill or injured;

(6) has been suspended or denied admittance according to AS 14.30.045;

(7) resides more than two miles from either a public school or a route on which transportation is provided by the school authorities, except that this subsection does not apply if the child resides within two miles of a federal or private school that the child is eligible and able to attend;

(8) is excused by action of the school board of the district at a regular meeting or by the district superintendent subject to approval by the school board of the district at the next regular meeting;

(9) has completed the 12th grade;

(10) is enrolled in

(A) the state boarding school established under AS 14.16; or

(B) a full-time program of correspondence study approved by the department; in those school districts providing an approved correspondence study program, a student may be enrolled either in the district correspondence program or in the centralized correspondence study program;

(11) is equally well-served by an educational experience approved by the school board as serving the child's educational interests despite

an absence from school, the request for excuse is made in writing by the child's parents or guardian, and approved by the principal or administrator of the school that the child attends. (§ 37-7-1 ACLA 1949; am § 36 ch 98 SLA 1966; am § 5 ch 71 SLA 1972; am § 5 ch 190 SLA 1975; am § 1 ch 30 SLA 1976; am § 1 ch 10 SLA 1977; am § 4 ch 126 SLA 1978; am § 3 ch 11 SLA 1984; am § 1 ch 78 SLA 1987; am § 4 ch 73 SLA 1988)

**Effect of amendments.** — The 1988 amendment, in subsection (b)(10), divided the formerly undivided language into an introductory paragraph and subparagraph (B), and inserted subparagraph (A).

#### NOTES TO DECISIONS

Quoted in *L.A.M. v. State*, 547 P.2d 827 (Alaska 1976).

Stated in *In re S.D.*, 549 P.2d 1190 (Alaska 1976).

Cited in *Matthews v. Quinton*, 362 P.2d 932 (Alaska 1961); *D.R.C. v. State*, 646 P.2d 252 (Alaska Ct. App. 1982).

**Collateral references.** — Extent of legislative power with respect to attendance and curriculum. 39 ALR 477; 53 ALR 832.

Inmates of charitable institutions as residents entitled to school privileges. 48 ALR 1098.

Constitutionality, construction, and effect of statutes in relation to admission of nonresident pupils to school privileges. 72 ALR 499; 113 ALR 177.

Religious beliefs of parents as defense to prosecution for failure to comply with compulsory attendance law. 3 ALR2d 1401.

Applicability of compulsory attendance

law covering children of a specified age, with respect to a child who has passed the anniversary date of such age. 73 ALR2d 874.

Power of public school authorities to set minimum or maximum age requirements for pupils in absence of specific statutory authority. 78 ALR2d 1021.

Residence for purpose of admission to public school. 83 ALR2d 497; 56 ALR3d 641.

What constitutes a private, parochial, or denominational school within statute making attendance at such school a compliance with compulsory school attendance law. 65 ALR3d 1222.

**Sec. 14.30.020. Violations.** A person who knowingly fails to comply with AS 14.30.010 is guilty of a violation. Each five days of unlawful absence under AS 14.30.010 is a separate violation. (§ 37-7-2 ACLA 1949; am § 37 ch 98 SLA 1966; am § 2 ch 78 SLA 1987)

**Cross references.** — For fines for violations, see AS 12.55.035.

**Sec. 14.30.030. Report of violations and procedures.** The chief administrative officer of a district school or regional educational attendance area shall report all apparent violations of AS 14.30.010 to the governing body of the district. The governing body shall, on receiving the report or on the complaint of any person, provide for a full and impartial investigation of all charges of violation. In private or federal schools, the chief administrative officer shall make a full and





Lawrence A. Wiget, Ed.D.  
Director, Government Relations/Legislative Liaison  
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Anchorage, Alaska 99519-6614  
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---

TO: HOUSE HEALTH, EDUCATION & SOCIAL SERVICES  
COMMITTEE

SUBJECT: LETTER OF SUPPORT: HB 172, " AN ACT RELATING TO  
KINDERGARTEN PROGRAMS AND COMPLSORY  
EDUCATION...

DATE: FEBRUARY 23, 1995

The Anchorage School District strongly supports the passage of HB 172, " An Act relating to kindergarten programs and compulsory education; to identification required upon enrollment in a public school; to those grades that constitute elementary, junior, and secondary school; and providing for an effective date."

Research indicates that kindergarten is an important part of a public school education. Thirty-five states and territories have mandated that kindergarten be offered as a grade. All school districts in Alaska are already providing kindergarten as a part of the educational curriculum of their school districts. HB 172 recognizes the importance of kindergarten as part of the instructional program and would insure that all districts would continue to offer kindergarten in the future.

By current law, a secondary school consists of grades seven through 12 or any appropriate combination of grades with this range, and that grades seven through eight, nine, and ten or any appropriate combination of grade within this range may be organized as a junior high. Enacting this legislation would add middle school to the definition of secondary school and allow for the sixth grade to be included as a part of a junior high or middle school.

According to the 1990 State Education Indicators, 27 states currently mandate the age students must enter school at age six or less; and, in 43 of the 50 states, including Alaska, students generally enter school at age five. The District supports changing the compulsory school age from age in Alaska from seven to six.

Finally, the Anchorage School District currently requires that a person who enrolls a child in our public school shall provide to the District a copy of the child's birth certificate or other proof of the child's identify if the child has not previously been enrolled in a public school. We support this practice statewide.

SUPPORT



# NEA-ALASKA

*Affiliated with the National Education Association*

## NEA-ALASKA POSITION STATEMENT

### HB 172 - KINDERGARTEN PROGRAMS

It is our understanding that every school district in Alaska offers kindergarten programs for five year olds. The value of kindergarten programs has been demonstrated. Kindergarten is a critical link to a successful elementary experience for a child.

Research has shown that much of what a child will learn is acquired before the child enters the first grade. The kindergarten experience offers children an opportunity to develop social skills along with some academic skills. During their first year in the public schools, kindergarten children experience many developmental opportunities which reduce the need for remedial programs later.

Kindergarten offers each child an opportunity to enter the public schools on an equal footing. Children from all economic backgrounds, cultures and geographic areas benefit directly from kindergarten experiences.

We also recognize and support the opportunity for districts to organize middle school opportunities for children. We encourage the HESS Committee to support HB 172.

3-2-95

**HB**

**175**

**HFIN**

**FILE**

(11)

# HOUSE COMMITTEE REPORT

Date Referred to Committee: March 8, 1996

FURTHER REFERRALS:

Date of Committee Action: 4/16/96

The FINANCE Committee considered:

HB 175

HOUSE BILL NO. 175

SPORT FISH GUIDE LICENSING

"An Act relating to sport fish guides; and providing for an effective date."

recommends it be replaced with the following committee substitute CS HB 175 (Fin)  the same title  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_ APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_  
 fiscal note(s) F + G  fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_  zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<u>Don Mulder</u> Mulder	X			
<u>Tony Martin</u> Martin				✓
<u>John L. Kohring</u> Kohring			X	
<u>John R. Parnell</u> Parnell			X	
<u>Gene Therriault</u> Therriault			X	
<u>Pete Kelly</u> Kelly			X	
<u>Tan Brown</u> Brown			X	
<u>Mike Sabone</u> Sabone	X			
<u>Mark Sanders</u> Sanders			X	

CO CHAIR'S SIGNATURE Mark Sanders

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. CSHB 175(FIN)

Revision Date: 4/16/96 Dept. Affected: Fish and Game  
 Title: Sport fish guide licensing BRU: Sport Fish  
 Component: Sport Fish  
 Sponsor: Rep. Austerman  
 Requester: House Finance COMPONENT SERIAL NO. 464

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	58.5	65.2	65.2	65.2	65.2	65.2
TRAVEL	2.0	2.0	2.0	2.0	2.0	2.0
CONTRACTUAL	6.0	6.0	6.0	6.0	6.0	6.0
SUPPLIES	4.3	4.3	4.3	4.3	4.3	4.3
EQUIPMENT	4.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS	50.0	100.0	100.0	100.0	100.0	100.0
<b>TOTAL OPERATING</b>	<b>122.8</b>	<b>177.5</b>	<b>177.5</b>	<b>177.5</b>	<b>177.5</b>	<b>177.5</b>

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES (1024)	181.7	181.7	181.7	181.7	181.7	181.7
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Fish and Game Fund-1024)	181.7	181.7	181.7	181.7	181.7	181.7
<b>TOTAL</b>	<b>181.7</b>	<b>181.7</b>	<b>181.7</b>	<b>181.7</b>	<b>181.7</b>	<b>181.7</b>

Estimate of any current year (FY98) cost: \$ 0

**POSITIONS**

FULL-TIME	0	0	0	0	0	0
PART-TIME	3	3	3	3	3	3
TEMPORARY	0	0	0	0	0	0

**ANALYSIS:** (Attach a separate page if necessary)

See attached page.

Prepared by: Kevin Delaney *Kevin Bruce for* Phone: 267-2224  
 Division: Sport Fish Date: 4/16/96  
 Approved by Commissioner: Frank Rue *Kevin Bruce for* Date: 4/16/96  
 Agency: Fish and Game

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**FISCAL NOTE Continuation**  
**Bill Number HB 175**  
**Title: Sport fish guide licensing**

Page 2 of 3

## 1.) Operational Expenditures to Administer License Sales:

• Personal Services	1) Admin Clerk I for 6 months	\$15.7
• Contractual:	1) Postage	
	a) mail out applications (0.32 times 4000)	\$1.2
	b) mail out licenses (0.32 times 4000)	\$1.2
	2) Telephone (50/month)	\$0.6
• Supplies:	1) License forms (4000)	\$1.0
	2) letterhead, envelopes, application forms, etc.	\$0.3
	<b>Total</b>	<b>\$20.0</b>

- The majority of these licenses will be sold in the first half of the calendar year.
- It is estimated that a total of 2050 licenses will be sold annually. For the first year of a program such as this we should be prepared to handle almost double that number of applications and licenses. In future years the program will be streamlined.

## 2.) Operational Expenditures for Program Oversight:

The bill stipulates that the department "*shall collect inseason information from sport fishing services operators on the number of king salmon, sockeye salmon, coho salmon, chum salmon, and halibut taken by clients and fishing guides during the provision of fishing guide services.*" To comply with the mandated reporting requirements, the Department feels it will be necessary to develop a log book, or similar, program for licensed businesses. The Department estimates that it will cost approximately \$118,200 to implement this reporting requirement and comply with the inseason reporting intent of the language. A breakdown of these costs follows:

• Personal Services	1) Accounting Clerk III for 5 months	\$15.1
	2) Fishery Biologist II for 8 months	\$34.4
• Travel		\$ 2.0
• Contractual		\$ 3.0
• Supplies:		\$ 3.0
• Equipment		\$ 4.0
	<b>Total</b>	<b>\$61.5</b>

- For FY 97 only 6 months of funding will be provided for the fishery biologist position.

## 3.) Operational Expenditures for Enforcement:

The bill establishes penalties for failure to comply with the provisions of the bill. To assure compliance, the Department feels it is necessary to provide adequate enforcement. Thus, \$100,000 will be given to the Department of Public Safety through a RSA to fund one full-time enforcement officer to police the guide industry. Only \$50,000 will be RSA'd in FY 97. These moneys are listed under Miscellaneous operating expenses. It must be noted that Public Safety may have to add an additional position if this bill is passed.

**FISCAL NOTE Continuation**  
**Bill Number HB 175**  
**Title: Sport fish guide licensing**

Page 3 of 3

## 4.) Assumptions Used for License Sales Revenue Calculations:

- Under this bill, three types of licenses will be sold. Expected revenues to the Fish and Game fund from these licenses is:

	Estimated Number	License Cost	Estimated Revenue
<i>Service Licenses:</i>			
Resident	275	75	\$20,625
Non-resident	125	225	<u>\$28,125</u>
Subtotal	400		\$48,750
<i>Guide Licenses:</i>			
Resident	600	25	\$15,000
Non-resident	<u>150</u>	75	<u>\$11,250</u>
Subtotal	750		\$26,250
<i>Combined Service/Guide License:</i>			
Resident	625	75	\$46,875
Non-resident	<u>275</u>	225	<u>\$61,875</u>
Subtotal	900		\$108,750

- Since the guide license will be sold through the existing vendor system, 5% of the revenues generated from the sale of the guides licenses will be retained by the vendors, plus \$1 per license. Thus, \$2,062 must be subtracted from total.
- Revenues will be received in the first half of a calendar year.

**Total expected revenues to the Fish and Game fund would be approximately \$181.7.**



# FISCAL NOTE

J. 1

Bill Version: CSHB 175(FSH)

(H) Publish Date: 2/23/96

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Fish and Game  
 Title: Sport fish guide licensing BRU: Sport Fish  
 Component: Sport Fish  
 Sponsor: Reopresenative Austerman  
 Requester: Soocial Committee on Fisheries COMPONENT SERIAL NO. 464

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 100	FY 01	FY 02
PERSONAL SERVICES	81.6	121.9	121.9	121.9	121.9	121.9
TRAVEL	2.0	2.0	2.0	2.0	2.0	2.0
CONTRACTUAL	56.0	106.0	106.0	106.0	106.0	106.0
SUPPLIES	4.3	4.3	4.3	4.3	4.3	4.3
EQUIPMENT	4.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>147.9</b>	<b>234.2</b>	<b>234.2</b>	<b>234.2</b>	<b>234.2</b>	<b>234.2</b>

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ( 1024 )	181.7	181.7	181.7	181.7	181.7	181.7
-----------------------------	-------	-------	-------	-------	-------	-------

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other /Fish and Game Fund 1024)	181.7	181.7	181.7	181.7	181.7	181.7
<b>TOTAL</b>	<b>181.7</b>	<b>181.7</b>	<b>181.7</b>	<b>181.7</b>	<b>181.7</b>	<b>181.7</b>

Estimate of any current year (FY96) cost: \$ 0.0

**POSITIONS**

FULL-TIME	1	1	1	1	1	1
PART-TIME	3	3	3	3	3	3
TEMPORARY	0	0	0	0	0	0

**ANALYSIS:** (Attach a separate page if necessary)

Expenditures included in this bill result from purchase of necessary license stock, postage, telephone, and personnel costs.

Sport Fish Headquarters staff would be required to administer this license program. The additional work involved in sending out applications, issuing licenses, and answering questions will be covered by six months of salary for an Administrative Clerk I. This would be a new position. One new full-time Fishery Biologist II position, one new ten month Fishery Biologist I position, and one new six month Accounting Clerk III position would also be required for program oversight, data analysis, and data entry.

See attached pages for assumptions made in revenue and operational expenditure calculations.

Prepared by: Kevin Delaney *KPB for*  
 Division: Sport Fish  
 Approved by Commissioner: *Brian Bruce*  
 Agency: Fish and Game

Phone: 465-4180  
 Date: 2/22/96  
 Date: 2/23/96

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1.) Operational Expenditures to Administer License Sales:

• Personal Services	1) Admin Clerk I for 6 months	\$15.7
• Contractual:	1) Postage	\$1.2
	a) mail out applications (0.32 times 4000)	\$1.2
	b) mail out licenses (0.32 times 4000)	\$0.6
	2) Telephone (50/month)	\$1.0
• Supplies:	1) License forms (4000)	\$0.3
	2) letterhead, envelopes, application forms, etc.	\$20.0
	Total	

- The majority of these licenses will be sold in the first half of the calendar year.
- It is estimated that a total of 2050 licenses will be sold annually. For the first year of a program such as this we should be prepared to handle almost double that number of applications and licenses. In future years the program will be streamlined.

2.) Operational Expenditures for Program Oversight:

The bill stipulates that the department "shall collect inseason information from sport fishing services operators on the number of king salmon, sockeye salmon, coho salmon, chum salmon, and halibur taken by clients and fishing guides during the provision of fishing guide services." To comply with the mandated reporting requirements, the Department feels it will be necessary to develop a log book, or similar, program for licensed businesses. The Department estimates that it will cost approximately \$118,200 to implement this reporting requirement and comply with the inseason reporting intent of the language. A breakdown of these costs follows:

• Personal Services	1) Accounting Clerk III for 6 months	\$18.1	- 15.1
	2) Fishery Biologist II full-time	\$50.7	- 34.4
	<del>3) Fishery Biologist I for 10 months</del>	\$37.4	
• Travel		\$2.0	
• Contractual		\$3.0	
• Supplies:		\$3.0	
• Equipment		\$4.0	
	Total	<del>\$118.2</del>	86,615

- For FY 97 only 6 months of funding will be provided for each of the fishery biologist positions.

3.) Operational Expenditures for Enforcement:

The bill establishes penalties for failure to comply with the provisions of the bill. To assure compliance, the Department feels it is necessary to provide adequate enforcement. Thus, \$100,000 will be given to the Department of Public Safety through a RSA to fund one full-time enforcement officer to police the guide industry. Only \$50,000 will be RSA'd in FY 97. It must be noted that Public Safety may have to add an additional position if this bill is passed.

4.) Assumptions Used for License Sales Revenue Calculations:

- Under this bill, three types of licenses will be sold. Expected revenues to the Fish and Game fund from these licenses is:

	Estimated Number	License Cost	Estimated Revenue
<i>Service Licenses:</i>			
Resident	275	75	\$20,625
Non-resident	<u>125</u>	225	<u>\$28,125</u>
Subtotal	400		\$48,750
<i>Guide Licenses:</i>			
Resident	600	25	\$15,000
Non-resident	<u>150</u>	75	<u>\$11,250</u>
Subtotal	750		\$26,250
<i>Combined Service/Guide License:</i>			
Resident	625	75	\$46,875
Non-resident	<u>275</u>	225	<u>\$61,375</u>
Subtotal	900		\$108,750

- Since the guide license will be sold through the existing vendor system, 5% of the revenues generated from the sale of the guides licenses will be retained by the vendors, plus \$1 per license. Thus, \$2,062 must be subtracted from total.
- Revenues will be received in the first half of a calendar year.

Total expected revenues to the Fish and Game fund would be approximately \$181.7.

Withdrawn

9-LS0664U.3  
Utermohle  
4/13/96

AMENDMENT |

OFFERED IN THE HOUSE

BY REPRESENTATIVE MULDER

TO: CSHB 175(RES)

1 Page 1, line 2, following "guides;":

2 Insert "relating to compensation of vendors of fish and game licenses and tags;"

3 Page 2, following line 9:

4 Insert a new bill section to read:

5 \*\* Sec. 3. AS 16.05.390(c) is amended to read:

6 (c) On March 31, June 30, September 30, and December 31 of each year the  
7 commissioner shall calculate the compensation earned by an agent under (a)(2) of this  
8 section, minus the penalties assessed under (g) of this section. If the compensation  
9 due exceeds \$50, the commissioner shall pay the compensation not later than 30 days  
10 after the date for which the compensation was calculated. If the compensation due  
11 is \$50 or less, the commissioner shall pay the compensation not later than January 30  
12 of the year following the year in which the compensation was earned. The  
13 commissioner shall pay compensation only for sales of licenses or tags for which the  
14 commissioner has received the report and proceeds required to be transmitted under  
15 (b) of this section. An agent may assign to a nonprofit fish or game association  
16 all or part of the compensation earned by the agent under (a)(2) of this section  
17 and due under this subsection. The commissioner shall pay assigned  
18 compensation to the assignee as directed by the agent."

19 Renumber the following bill sections accordingly.

Am. 2

W. withdrawn

: and (3) information contained in reports filed by individual sport fishing services operators with the department under AS 16.40.370, however, records or reports received by the department which do not identify individual sport fishing services operators or the specific locations where fish have been taken are public information.

pg 2 line 17 -

TO: House Finance Committee  
From: Kevin Delaney, ADF+G  
RE: HB 175

no/obj

9-LS0664\U.6  
Utermohle  
4/16/96

AMENDMENT

2A

OFFERED IN THE HOUSE

TO: CSHB 175(RES)

- 1 Page 2, line 18, following "AS 16.40.370":
- 2       Insert "that identifies the sport fishing services operator or fishing guide who
- 3 provides the report or that identifies specific locations where fish have been taken"
  
- 4 Page 5, following line 13:
- 5       Insert
- 6               "(c) Except as provided under AS 16.05.815, information received by the
- 7       department under this section is public information."
  
- 8 Reletter the following subsections accordingly.

AMENDMENT

3 *Withdrawn*

OFFERED IN THE HOUSE

BY REPRESENTATIVE KELLY

TO: CSHB 175(RES)

- 1 Page 1, line 2, following "guides":  
2       Insert "and to outdoor wilderness activity guides"
- 3 Page 1, line 10:  
4       Delete "or"
- 5 Page 1, line 12, following "fisherman":  
6       Insert "; or  
7                       (6) providing outdoor wilderness activity guide services"
- 8 Page 1, line 13:  
9       Delete "a new paragraph"  
10      Insert "new paragraphs"
- 11 Page 2, line 9:  
12      Delete the period following "225"
- 13 Page 2, following line 9:  
14      Insert a new paragraph to read:  
15                       "(26) Outdoor wilderness activity guide license  
16                               (A) Resident ..... \$75  
17                               (B) Nonresident ..... 225."
- 18 Page 6, following line 29:  
19      Insert a new section to read:

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"ARTICLE 5. OUTDOOR WILDERNESS  
ACTIVITY GUIDE SERVICES.

Sec. 16.40.400. OUTDOOR WILDERNESS ACTIVITY GUIDE LICENSE.

(a) The department shall issue an annual outdoor wilderness activity guide license to a person who pays the license fee prescribed by AS 16.05.340(a).

(b) A person who holds a current outdoor wilderness activity guide license may provide outdoor wilderness activity guide services.

(c) Except as otherwise provided by this section, a person may not provide outdoor wilderness activity guide services unless the person holds a current outdoor wilderness activity guide license.

(d) A person who holds a sport fishing services operator license or fishing guide license under this chapter or who holds any class of big game guide license or transporter license under AS 08.54 is exempt from this section.

(e) Notwithstanding other provisions of this section, activities conducted on a cruise ship or aircraft are exempt from this section.

(f) Receipt of an outdoor wilderness activity guide license does not exempt the licensee from additional licensing, education, training, land use permitting, or other requirements applicable to the licensee or the outdoor wilderness activity guide services provided by the licensee.

(g) In this section,

(1) "activity" means hiking, camping, climbing, boating, photography, wildlife related activity, and similar activity; "activity" does not include hunting or fishing;

(2) "guide services" means to assist or accompany, for compensation or with the intent to receive compensation, a person who is engaged in an outdoor wilderness activity;

(3) "outdoor wilderness" has the meaning given "field" under AS 16.40.390."



AMENDMENT

4 Withdrawn

OFFERED IN THE HOUSE

BY REPRESENTATIVE NAVARRE

TO: CSHB 175(RES)

1 Page 4, after line 3:

2 Insert a new paragraph to read:

3 "(4) has during three of the preceding five years either

4 (A) held an annual Alaska sport fishing license;

5 (B) lawfully engaged in sport fishing in the state while exempt

6 from the sport fishing license requirement; or

7 (C) a combination of (A) and (B) of this paragraph;"

8 Renumber the following paragraphs accordingly.

Withdrawn

9-LS0664U.1  
Utermohle  
4/11/96

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE MULDER

TO: CSHB 175(RES)

- 1 Page 5, line 5:
- 2 Delete "in-season"



**REPRESENTATIVE ALAN AUSTERMAN** Alaska State Legislature

P.O. Box 2368, Kodiak, Alaska 99615 (907) 486-5930 • Session: State Capitol, Juneau, Alaska 99801 465-2487

**SPONSOR STATEMENT**

**CSHB 175 - "SPORT FISH GUIDE LICENSING"**

**FEBRUARY 21, 1996**

The guided sportfishery is an important and rapidly growing industry in the Alaskan economy. The ability of the state to provide for the sustainable development and sound, sensible management of the resource is dependent upon the availability of complete information upon which to base decisions. The goal of HB 175 is to provide for the collection of this data.

There is an incredible lack of hard data available regarding the guided sportfishery in Alaska. In some parts of the state regulation requires vessels engaged in sportfish guiding to be registered. Registration of the guides themselves is required on a few rivers, but not everywhere. No uniform licensing procedure exists in Alaska. Thus, we do not have complete information about who is actively engaged in sportfish guiding, how many clients are served, what the catch rates are, and what rivers, streams, and marine waters are being utilized.

Without a means for gathering dependable information, it is impossible to monitor the activity or growth of the fisheries on a statewide basis. It is imperative for the state to have solid information to ensure the sustainable development of the industry and to ensure the sound

management of the fishery resources upon which the industry depends. It is time to acknowledge this important growing industry and make sure that management decisions can be based on complete information.

The bill establishes three options of guide licensure: (1) A sport fishing services operator license costs \$75 for sport fish guide business owners and is obtainable from the department. An Alaska business license and proof of insurance are the only requirements. (2) A fishing guide license costs \$25 for sport fish guides and will be readily available through ADFG's vendor licensing system. This is modeled after how commercial crew licenses are obtained. Requirements for the guide license include U.S. citizenship, a first aid/CPR card, 6-pack license and a current sport fishing license. (3) We have also provided a third alternative in response to earlier versions of HB 175 in which an individual could obtain both guide and operator licenses as one combined license for \$75 from the department to accommodate many small operators.

Each person who plans to engage in sportfish guiding, both on fresh and salt water, from a vessel or otherwise, will be required to purchase the license. The sportfish division of ADFG will develop reports which license holders will be required to submit. This will enable the state to build a data bank regarding the guided sportfishery.

The cost of guide licensing, data gathering and analysis will be funded by the revenues generated from the license fees. Therefore, this program will be fiscally self-sustaining.