

ALASKA LEGISLATURE

1759

HOUSE and SENATE FINANCE COMMITTEE FILES, 1997-1998



Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

Phone: 907-463-3366

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Twentieth Legislature ~ First Session

SB 56: "An Act relating to tourist oriented directional signs that are 90 inches in width and 18 inches in height, relating to penalties for violations related to outdoor advertising, and annulling a regulation of the Department of Transportation and Public Facilities"

The Alaska Environmental Lobby opposes this bill that provides for tourist oriented directional signs (TODS) outside the state right-of-way and on private property throughout Alaska's highways for the following reasons:

- This bill is not necessary. The Department of Transportation and Public Facilities (DOTPF) is already working on a program to provide signs to benefit business owners, thus fulfilling this bill's primary function to assist small businesses,
- This bill imposes a size restriction of 18 inches in height and 90 inches in width which creates signs that are difficult to read at highway speeds. As a result, further legislation that lifts or alters these restrictions inevitably will be introduced in the future,
- This bill makes it more difficult to enforce sign regulations, and it reduces the penalty from a misdemeanor to a violation with a fine not to exceed \$1,000 and as low as \$50. For a corporation like Princess Cruise Lines, this fine is hardly a deterrent for disregarding regulations.

In essence, this bill, which provides a benefit to small businesses that can be met with much less negative impact by DOTPF's program, is the first step towards billboards along our highways. Alaska's greatest natural resource and most valuable capital asset, our wondrous scenery, should not be subjected to the visual degradation these TODS will create.

Jody Kennedy, Volunteer
Alaska Environmental Lobby

February 19, 1997



adopted NO/OBJ

2/21/97 - Attachment #1

(1)

AMENDMENT

amended N/O

TO: SB 56

DAVIES

Page 1

line 1 ~~after one~~ insert "up to"

line 2 ~~after~~ and insert "up to"

page 3

line 14 insert [insert] may be up to 90 inches ...

line 15 after width and insert "up to"

ALASKA STATE LEGISLATURE



Interim

600 East Railroad Avenue
Wasilla, Alaska 99654
(907) 376-3370
(907) 376-3157 Fax

Session

State Capitol
Juneau, Alaska 99801-1182
(907) 465-6000
Fax (907) 465-3805

SENATOR LYDA GREEN
SENATE DISTRICT N

Sponsor Statement

Senate Bill 56

Senate Bill 56 amends Alaska Statute Title 19 to allow certain restricted exceptions to current outdoor advertising law in order to better serve the traveling public and provide increased opportunity for Alaskan businesses.

SB 56 establishes a category of outdoor advertising for business entities of significant interest to the traveling public and allows their placement in zoned/unzoned commercial or industrial areas along a state highway, subject to stringent restrictions.

SB 56 provides these directional signs be consistent with format and size standards established by the Department of Transportation and limits their placement as to proximity to the business thereby further mitigating any potential impact on the scenery visible from Alaska's highways.

Other provisions of SB 56 would codify in statute the existing DOT Tourist Oriented Directional Signs (TODS) program and clarify language providing municipal authority to enact by ordinance standards for directional signs adopted by the DOT or standards more restrictive than those provided by this measure.

Passage of SB 56 would provide long sought assistance to Alaska businesses dependent on trade with the traveling public as well as enhance the state's ability to be user-friendly for its tourists further promoting a responsive visitor industry. Identical legislation, SB 181 was passed by both bodies (vote was 33-3 in the House, 13-6 in the Senate, an override failed by just one vote) in the 19th Legislature. I respectfully request your support of SB 56.

MEMORANDUM

State of Alaska

Department of Transportation & Public Facilities
Office of the Commissioner

TO: Boyd Brownfield, PE
Deputy Commissioner

DATE: 18 February 1997

TELEPHONE NO: 465-3904

TEXT TELEPHONE: 465-3652

FAX NUMBER: 586-8365

FROM: Sam S. Kito III, PE
~~Special Assistant~~

SUBJECT: SB 56

The department opposes Senate Bill 56 for the following reasons:

First, the department does not support establishing a category of sign over which the state does not have adequate jurisdictional control. Establishing a category of sign outside of state right-of-way, even if it is modeled after the existing TODS policy, is not in the state's best interest. Enforcement of sign restrictions outside of state right-of-way would be extremely difficult and could potentially cost the department in additional legal and administrative costs.

Second, the department does not support changing the penalty for an offense relating to an outdoor advertising sign from a misdemeanor to a violation. The concern being that a sign owner could continue to construct illegal signs with no consequence other than a fine of not more than \$1,000. The department has limited enforcement capability and in some areas, it can take as long as four years to return to a stretch of highway to enforce sign restrictions. If the only penalty is a fine, the state would have no potential for additional recourse in the case of multiple violations.

Third, the department already has statutory authority to establish regulations governing TODS. We are currently in the process of establishing regulations which will provide a variety of sign options for roadside businesses. The additional statutory authority provided by SB 56 is redundant and unnecessary.

The bill is in the same form as SB 181 which was passed by the 19th Alaska Legislature and vetoed by the Governor. SB 56 does the following:

- Provides the department with funding to establish regulations implementing the existing TODS policy.

The department recognizes that business owners should have some method of informing the traveling public of their location. Within the right-of-way, we have the TODS policy which is the only FHWA approved program for signs within the right-of-way. Between the right-of-way and the 660 foot threshold, there is currently no approved method of providing directional information on business activities.

A brief sectional analysis is included with this memo.

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services
Department of Education
State of Alaska

MEMORANDUM

State of Alaska

Department of Transportation & Public Facilities
Office of the Commissioner

TO: Boyd Brownfield, PE
Deputy Commissioner

DATE: 18 February 1997

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Second, the department does not support changing the penalty for an offense relating to an outdoor advertising sign from a misdemeanor to a violation. The concern being that a sign owner could continue to construct illegal signs with no consequence other than a fine of not more than \$1,000. The department has limited enforcement capability and in some areas, it can take as long as four years to return to a stretch of highway to enforce sign restrictions. If the only penalty is a fine, the state would have no potential for additional recourse in the case of multiple violations.

Third, the department already has statutory authority to establish regulations governing TODS. We are currently in the process of establishing regulations which will provide a variety of sign options for roadside businesses. The additional statutory authority provided by SB 56 is redundant and unnecessary.

The bill is in the same form as SB181 which was passed by the 19th Alaska Legislature and vetoed by the Governor. SB 56 does the following:

- Provides the department with funding to establish regulations implementing the existing TODS policy.

- Annuls 17 AAC 20.010 which prohibits outdoor advertising within state right-of-way.
- Directs the department to establish a category of sign which has previously not existed in the state. That being TODS type advertising signs measuring 90 inches in width by 18 inches in height which would be placed between the edge of state right-of-way (typically 50 feet from the centerline of the highway) and 660 feet from the edge of the state right-of-way. The department is concerned that we would have inadequate resources to police violations of the proposed category of sign. The department is also concerned that the size of the sign will not be easily read from a vehicle traveling at highway speed. If the bill is passed, it is likely that the size limitation will not be maintained for long and that statutory changes increasing the size of the sign would soon follow.
- Downgrades the penalty for an offense of the outdoor advertising provisions of AS 19.25 from misdemeanor to a violation. This will decrease the incentive for the public to comply with the restrictions on outdoor advertising along state highways.

A short history of the issue follows:

In 1994, HB 367 was introduced which opened up the outdoor advertising issue. While HB 367 did pass the 18th Alaska Legislature, then Governor Hickel vetoed it stating that the bill was inconsistent with his goal to "upgrade Alaska's road system to National Scenic Highway standards."

Another bill, SB 181 was introduced during the 19th Alaska legislature. The bill passed the legislature but was vetoed by Governor Knowles in the interests of preserving Alaska's scenic beauty.

The constituencies involved in this issue are, business owners along state highways who would like to have greater a opportunity for advertising, and travelers on state highways who are concerned that we will end up with billboards all along the highway system.

The department does have a program in place by which a business can receive a standard sign within the state right-of-way. The program is called "Tourist Oriented Directional Signs" or TODS. The TODS policy is included as a part of the DOT&PF right-of-way Manual. The department does need to establish regulations to provide for the collection of the TODS permit fee.

The department has initiated the regulation process to implement the TODS program as well as two other programs, specific service signs (LOGO), and informational kiosks. The department hopes to have regulations in place for this comprehensive sign program by April 15, 1997.

The department recognizes that business owners should have some method of informing the traveling public of their location. Within the right-of-way, we have the TODS policy which is the only FHWA approved program for signs within the right-of-way. Between the right-of-way and the 360 foot threshold, there is currently no approved method of providing directional information on business activities.

A brief sectional analysis is included with this memo.

SB 56 Sectional Analysis

- Sec. 1 -** LEGISLATIVE FINDINGS AND INTENT.
- Sec. 2 -** Amends AS19.25.105(a) which provides exemptions to the prohibition of outdoor advertising within 660 feet of the nearest edge of state right-of-way. The section is amended by adding sub-paragraph (a)(6) which permits erection of outdoor advertising if the signs comply with Section 4 of this Act.
- Sec. 3 -** Amends AS19.25.105(d) which provides exemptions to the prohibition of outdoor advertising within state right-of-way. The section is amended by adding sub-paragraph (d)(2) which permits erection of outdoor advertising if the signs comply with Section 4 of this Act.
- Sec. 4 -** Adds a new section to AS 19.25.105(e) which directs the department to establish a Tourist Oriented Directions Sign (TODS) program. The program will include signs both within and outside of state right-of-way. The signs must be 90 inches in width and 18 inches in height and may contain only the name of the attraction or the business providing the attraction of service, an icon representing the attraction or service, the distance to the attraction or service, and a directional arrow. The section states that the department will retain control over the location of directional signs. The department will have to establish regulations to enforce the provisions of this section.
- Sec. 5 -** Amends AS 19.25.130 changing an offense of the provisions of the Outdoor Advertising portion of AS 19.25 from a misdemeanor to a violation.
- Sec. 6 -** Amends AS 19.25.002 to exempt the Outdoor Advertising portion of AS 19.25 from misdemeanor penalties.
- Sec. 7 -** Section 6 annuls 17 AAC 20.010 which states "It shall be unlawful to place, erect, or maintain any outdoor advertising sign within the right-of-way of any highway or highway land, nor shall any permit be issued for the placement or erection of the sign. (Eff. 6/25/69, Register 30)" The department is already in violation of this regulation with respect to "airspace permits" which we issue on a regular basis. Annulment of this regulation will not permit any new activity, and it will invalidate existing activity.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH 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

February 4, 1997

SUBJECT: Fees for tourist oriented directional signs (SB 56)

TO: Senator Lyda Green
Attn: Janie Winegar

FROM: George Utermohle *GU*
Legislative Counsel

You have asked whether the Department of Transportation and Public Facilities may charge the same fee for a tourist oriented directional (TOD) sign placed on state property as for a TOD sign placed on private property.

The answer to your question depends on the purpose for which the fee is charged. The Department of Transportation and Public Facilities may charge fees under three separate provisions of law:

ONE: under AS 19.05.040(11)¹ the department may charge fees for the use of state roads, highways, and rights-of-way;

TWO: under AS 44.42.020(b)(5)², the department may charge reasonable fees for

¹ AS 19.05.040 states:

Powers of department. The department [of Transportation and Public Facilities] may

....
(11) establish, levy, and collect tolls, fees, charges, and rentals for the use of state roads, highways, bridges, tunnels, crossings, and causeways; and

² AS 44.42.020(b) states:

(b) The department [of Transportation and Public Facilities] may

....
(5) charge reasonable fees to cover the costs of issuing easements, licenses, and permits and to cover the costs of reproduction, printing, mailing, and

(continued...)

Senator Lyda Green

February 4, 1997

Page 2

the cost of issuing permits, easements, and licenses; and

THREE: under AS 44.42.020(b)(6)³, the department may charge and collect fees for technical assistance provided by department personnel.

Fees charged for the use of state highways and rights-of-way under AS 19.05.040(11) may only be charged for that purpose and may not be extended to apply to the use of private land adjacent to the right-of-way of a state highway. Similarly, a fee for an easement to use state right-of-way land under AS 44.42.020(b)(5) may only be charged for use of state land. The department does not have any authority to charge a fee for the use of private land. Under these provisions, the department cannot charge a fee related to a TOD sign that would be applicable to private property.

However, the department may charge a fee for the costs of issuing a permit for a TOD sign under AS 44.42.020(b)(5) that would be the same regardless of whether the sign was located on state land or private land. Likewise the department may charge a fee for the services provided by department employees who provide technical assistance in the design or location of a TOD sign under AS 44.42.020(b)(6) without regard for the location of the sign. The state incurs these costs regardless of whether the sign is located on state land or private land. In these two instances, the fee charged covers the expenses incurred by the department in considering, approving, or assisting in the location of the TOD sign and thus the fee could be the same for signs located on state land and for signs located on private land.

If I may be of further assistance, please advise.

GU:jdr

97-079.jdr

²(...continued)

distribution of contract and bid documents and design and construction standards manuals;

³ AS 44.42.020(b) states:

(b) The department [of Transportation and Public Facilities] may

(6) charge and collect fees for training services and technical assistance provided by department personnel.

MEMORANDUM

State of Alaska

Department of Transportation and Public Facilities
Engineering and Operations

TO: Boyd Brownfield, P.E.
Deputy Commissioner

DATE: February 4, 1997

THRU: Mike Downing, P.E. *AMD*
Director Engineering & Operations

FILE NO:

TELEPHONE NO: 465-2985

FAX NUMBER: 465-2490

TEXT TELEPHONE: 465-3652

FROM: Mark D. Kasberg *mk*
Right of Way

SUBJECT: TODS Fees

Per the commissioner's office request, I have estimated the total funds received from the Tourist Oriented Directional Signing program to date.

Approximately 160 permits statewide x \$300 (\$100 application fee and \$200 permit fee) for total of \$48,000.

Please advise if I can be of further assistance.

sideway

CHAPTER 20. MAINTENANCE.

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Section

- 10. Outdoor advertising
- 20. Closure and restriction

Section

- 30. Transfer or excess equipment
- 40. General

17 AAC 20.010. OUTDOOR ADVERTISING. It shall be unlawful to place, erect, or maintain any outdoor advertising sign within the right-of-way of any highway or highway lands, nor shall any permit be issued for the placement or erection of the sign. (Eff. 6/25/69, Register 30)

Authority: AS 19.05.020

Editor's note: The source of this section is former 14 AAC 2.391.2.

17 AAC 20.020. CLOSURE AND RESTRICTION. (a) The department may restrict the use of, or close, any highway whenever the department considers such closing or restriction of use necessary

- (1) for the protection of the public; or
- (2) for the protection of such highway from damage during storms, floods, thawing conditions or during construction or maintenance operations.

(b) The department will provide traffic guidance in case of restriction or provide suitable detour as soon as possible to minimize traffic delay.

(c) To notify the public that a highway is closed, or its use has been restricted, the department may

- (1) erect suitable barriers or obstructions at such locations upon the highway as will best serve the purpose;
- (2) post warnings or notices of the condition of any such highway;
- (3) post signs for the direction of traffic upon it, or to or upon other highway or detour open to public travel;
- (4) place warning devices upon such highways;
- (5) assign a flagman to warn, detour or direct traffic on such highway.

(d) Nothing within the above shall be construed to create any liability upon the state or any officer, employee, agent, or contractor of the state for failure to provide any or all of the above notices; however, willful failure or neglect to provide the notice shall be the subject of disciplinary action.

(e) Except in sudden emergencies, the department shall notify the nearest state police unit before closing or restricting the use of any highway, or before diverting traffic to any other highway or detour, in the manner provided in the preceding sections; whenever possible, such notice shall be in writing.

Title 19. Highways and Ferries.

Chapter

- 05. Administration (§§ 19.05.010 — 19.05.125)
- 10. State Highway System (§§ 19.10.010 — 19.10.270)
- 15. Financial Provisions (§§ 19.15.010 — 19.15.040)
- 20. Cooperation by and with the State (§§ 19.20.010 — 19.20.080)
- 22. Landscaping and Scenic Enhancement (§§ 19.22.010 — 19.22.030)
- 25. Protection and Use of State Highways and Roads (§§ 19.25.010 — 19.25.250)
- 27. Junk Yards (§§ 19.27.010 — 19.27.140)
- 30. Access Roads (§§ 19.30.020 — 19.30.320)
- 40. James Dalton Highway (§§ 19.40.010 — 19.40.290)
- 45. Miscellaneous Provisions: Definitions and Penalties (§§ 19.45.001, 19.45.002)
- 60. Ferry Terminal Facilities
- 65. Alaska Marine Highway System (§§ 19.65.011 — 19.65.100)

Revisor's notes. — In 1977, "commissioner of transportation and public facilities" and "Department of Transportation and Public Facilities" were substituted for "commissioner of highways" and "Department of Highways" throughout the title in order to implement § 11, Executive Order No. 39 (1977). The provisions of this title were reworded in 1988 to remove personal pronouns pursuant to § 4, ch. 53, SLA 1982 and in 1988 and 1996 to make minor word changes under AS 01.05.031.

Chapter 05. Administration.

Article

- 1. Department of Transportation and Public Facilities (§§ 19.05.010 — 19.05.070)
- 2. Acquisition of Property (§§ 19.05.080 — 19.05.123)
- 3. General Provisions (§ 19.05.125)

Cross references. — For definitions and penalties applicable to this chapter, see AS 19.45.001 and 19.45.002.

Article 1. Department of Transportation and Public Facilities.

Section

- 10. Department to supervise highway system
- 20. Regulations
- 30. Duties of department
- 40. Powers of department

Section

- 50. Roads in tourist and trailer camps
- 60. Sale of obsolete equipment and material
- 70. Vacating and disposing of land and rights in land

Sec. 19.05.010. Department to supervise highway system. The department is responsible for the planning, construction, maintenance, protection, and control of the state highway system. (§ 1 art III title I ch 152 SLA 1957)

Cross references. — See note to AS 19.05.030.
Opinions of attorney general. — Although there is no specific grant of authority to the Department of Transportation and Public Facilities to transfer highways to a municipality, the power to effectuate such a

transfer may be considered as implicit through the operation of AS 19.05.040, 19.05.060, 19.05.070, 19.10.020 and this section. January 1, 1987 Op. Att'y Gen.

The Department of Transportation and Public Fa-

Article 3. Encroachments In Highways.

Section
200. Encroachment permits
210. Relocation or removal of encroachment
220. Unauthorized encroachments

Section
230. Notice of removal
240. Summary removal
250. Removal after noncompliance: removal expense

Opinions of attorney general. — Encroachment under this article covers any intrusion into the highway right of way, including signs, or infringement of the limitations on use of the right of way. January 3, 1984 Op. Att'y Gen.

The Department of Transportation and Public Facilities may not collect the cost of removal of a sign or other object unless

the owner has had an opportunity to remove the object and save the cost. The department may use a fee payment schedule instead of figuring the actual removal cost in every case, as long as the schedule is based upon and reflects actual removal costs incurred by the department; and it may charge a reasonable fee for storing the sign. January 3, 1984 Op. Att'y Gen.

Sec. 19.25.200. Encroachment permits. (a) An encroachment may be constructed, placed, changed, or maintained across or along a highway, but only in accordance with regulations adopted by the department. An encroachment may not be constructed, placed, maintained, or changed until it is authorized by a written permit issued by the department, unless the department provides otherwise by regulation. The department may charge a fee for a permit issued under this section. The commissioner of administration shall separately account for encroachment permit fees that the department deposits in the general fund. The annual estimated balance in the account may be used by the legislature to make appropriations to the department to carry out the purposes of this section.

(b) The provisions under (a) of this section do not apply to a mailbox or a newspaper box attached to a mailbox. (§ 2 ch 64 SLA 1971; am § 41 ch 138 SLA 1986; am § 4 ch 142 SLA 1986)

Effect of amendments. — The first 1986 amendment added the third, fourth and fifth sentences and made grammatical changes in the second sentence.

The second 1986 amendment designated the existing language as subsection (a), in the second sentence of subsection (a) deleted "only" preceding "authorized"

and added the language "unless the department provides otherwise by regulation" and added subsection (b).

Collateral references. — 1 Am. Jur. 2d, Advertising, §§ 2, 7, 11, 24-26, 39 Am. Jur. 2d, Highways, Streets and Bridges, § 238.

40 C.J.S., Highways, §§ 217-231.

Sec. 19.25.210. Relocation or removal of encroachment. If, incidental to the construction or maintenance of a state highway, the department determines and orders that an encroachment previously authorized by written permit must be changed, relocated, or removed, the owner of the encroachment shall change, relocate, or remove it at no expense to the state (except as provided in AS 19.25.020), within a

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reasonable time set by the department. If the owner does not change, relocate, or remove an encroachment within the time set by the department, the encroachment shall be considered an unauthorized encroachment and subject to the provisions of AS 19.25.220 — 19.25.250. (§ 2 ch 64 SLA 1971)

Sec. 19.25.220. Unauthorized encroachments. If an unauthorized encroachment exists in, on, under, or over a state highway, the department may require the removal of the encroachment in the manner provided in AS 19.25.230 — 19.25.250. (§ 2 ch 64 SLA 1971)

Sec. 19.25.230. Notice of removal. Except as otherwise provided in AS 19.25.200, 19.25.210 and 19.25.240, notice shall be given the owner, occupant, or person in possession of the encroachment or to any other person causing or permitting the encroachment to exist, by serving upon any of them a notice demanding the removal of the encroachment. The notice must describe the encroachment complained of with reasonable certainty as to its character and location. Service of the notice may be made by certified mail. (§ 2 ch 64 SLA 1971)

Sec. 19.25.240. Summary removal. The department may at any time remove from a state highway or road an encroachment that obstructs or prevents the use of the highway or road by the public. (§ 2 ch 64 SLA 1971)

Opinions of attorney general. — The safety of persons using the road is of overriding importance when weighed against the interest of a sign owner who has illegally placed a sign where it threatens public safety. January 3, 1984 Op. Att'y Gen.

An encroachment which obstructs anyone's view of the road is one which "obstructs ... the highway or road" and also

presents a serious danger to the public. January 3, 1984 Op. Att'y Gen.

The Department of Transportation and Public Facilities may summarily remove a sign or other object it determines to be a visual obstruction or a safety hazard; so long as it protects the sign or other object upon removal, the department is protecting the owner's only recognizable interest. January 3, 1984 Op. Att'y Gen.

Sec. 19.25.250. Removal after noncompliance; removal expense. After a failure of the owner of an encroachment to comply with a notice or demand of the department under the provisions of AS 19.25.200, 19.25.210 and 19.25.230, the department may remove, or cause to be removed, the encroachment, and the owner of the encroachment shall pay to the department

- 1) the expenses of the removal of the encroachment;
- 2) all costs and expenses paid by the state as a result of a claim or claims filed against the state by third parties for damages due to delays because the encroachment was not changed, removed, or relocated according to the order of the department; and

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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

RECEIVED

JAN 06 1995

Ans'd.....

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

MEMORANDUM

December 29, 1995

SUBJECT: Experimental Tourist Oriented Directional Sign Program
(Work Order No. 9-LS1412)

TO: Senator Lyda Green
Attn: Brett Huber

FROM: George Utermohle *GU*
Legislative Counsel

This memorandum is in response to your inquiry as to legal status of the experimental tourist oriented directional sign (TODS) program of the Department of Transportation and Public Facilities (DOTPF).

DOTPF has established a limited TODS program on an experimental basis. The experimental TODS program allows organized groups and businesses to have signs installed in the right-of-way of certain roads in the state. The signs inform the traveling public of the name of a business or organization, the services that it provides, and the direction and distance to its location. One of the purposes of the experimental program is to provide DOTPF with information necessary to develop regulations for a full scale TODS program. The TODS program is an element of the federal aid highway programs. The Congress has directed the Secretary of the federal Department of Transportation to encourage states to provide for tourist oriented directional signs along interstate and federal aid primary roads. P.L. 102-240, Title I, Part A, §1059; 105 Stat. 2003.

DOTPF has implicit authority to implement a TODS program under AS 19.05.010, 19.05.030(1), 19.05.040, and AS 44.42.020(a)^{1/} and explicit authority under AS 19.10.040^{2/}.

^{1/} Alaska Statutes 19.05.010 states:

The department is responsible for the planning, construction, maintenance, protection, and control of the state highway system.

Alaska Statutes 19.05.030(1) states:

The department has the following duties:

(1) direct approved highway planning and construction and maintenance, protection and
(continued...)

The procedures and standards for issuance of a permit to install a tourist oriented directional sign are set out in a document entitled "Policy for Experimental Tourist Oriented Directional Signing" (dated April 1991). DOTPF has not adopted regulations to implement the procedures and policies outlined in the Policy statement.

Under AS 19.05.020, AS 44.42.030, and AS 44.62 (Administrative Procedure Act), DOTPF must adopt regulations in accordance with the procedures set out in AS 44.62. A regulation is a "rule, regulation, order, or standard of general application" including " 'manuals,' 'policies,' 'instructions,' 'guides to enforcement,' 'interpretive bulletins,' 'interpretations,' and the like that have the effect of rules, orders, regulations or standards of general application". AS 44.62.640(a)(3); emphasis added. The Alaska Supreme Court has identified two indicia of a regulation. First, a regulation implements, interprets, or makes specific the law enforced

^{1/}(...continued)

control of highways;

...

Alaska Statutes 19.05.040 states:

Sec. 19.05.040. POWERS OF DEPARTMENT. The department may

...

(4) acquire rights-of-way for present or future use;

(5) control access to highways;

(6) regulate roadside development;

(7) preserve and maintain the scenic beauty along state highways;

... ; and

(12) exercise any other power necessary to carry out the purpose of AS 19.05 - AS 19.25.

Alaska Statutes 44.42.020(a) states:

(a) The department shall

(1) plan, design, construct and maintain all state modes of transportation and transportation facilities and all docks, floats, breakwaters, buildings and similar facilities;

...

(6) cooperate and coordinate with and enter into agreements with federal, state and local government agencies and private organizations and persons in exercising its powers and duties;

(7) manage, operate, and maintain state transportation facilities and all docks, floats, breakwaters and buildings, including all state highways, vessels, railroads, pipelines, airports, and aviation facilities;

...

^{2/} Alaska Statutes 19.10.040 states:

Sec. 19.10.040. UNIFORM SYSTEM OF MARKING AND POSTING. The department shall classify, designate, and mark highways under its jurisdiction and shall provide a uniform system of marking and posting these highways. The system of marking and posting must correlate with and, as far as possible, conform to the recommendations of the Manual on Traffic Control Devices as adopted by the American Association of State Highway Officials.

Senator Lyda Green

December 29, 1995

Page 3

or administered by the agency. Kenai Peninsula Fisherman's Cooperative Association, Inc. v. State, 628 P.2d 897, 905 (Alaska 1981). The standards utilized by DOTPF for the issuance of a permit under the experimental TODS program do implement and make specific the law enforced by the department under AS 19 and AS 44.42. Second, a regulation affects the public or is used by the agency in dealing with the public. Id. The standards for the experimental TODS program clearly affect the public and are used by DOTPF in its dealings with the public regarding tourist oriented directional signs. The DOTPF policy for the experimental TODS program has the effect of a regulation and is a standard of general application. Thus, the policy is a regulation and must be adopted as a regulation in accordance with AS 44.62.²⁷

"The failure of an agency to substantially comply with [AS 44.62] in adopting regulatory changes renders the action invalid." Turpin v. North Slope Borough, 879 P.2d 1009, 1014 (Alaska 1994). A policy that has not been adopted as regulations is invalid and unenforceable. Kenai Peninsula, 628 P.2d at 906; Gilbert v. State Department of Fish and Game, 803 P.2d 391, 397 (Alaska 1990). DOTPF cannot rely upon the policy as a basis for operating the experimental TODS program until the department has complied with the regulation adoption procedures of AS 44.62. Kenai Peninsula, 628 P.2d at 906. If a person challenges the TODS policy, such as a person who is denied participation in the program or who objects to a competitor being allowed to install a sign, the courts can be expected to invalidate the experimental TODS program and require DOTPF to adopt the necessary regulations.

CONCLUSION

The procedures and standards set out in the policy for the experimental TODS program are consistent with DOTPF's authority to regulate use of highway rights-of-way under AS 19 and AS 44. The department has the necessary statutory authority to adopt the experimental TODS program policy as regulations. However, unless DOTPF adopts the TODS policy as a regulation by complying with AS 44.62, DOTPF runs the risk that a court will invalidate policy and suspend operation of the program until the department complies with the rule making procedures of AS 44.62.

If I may be of further assistance, please advise.

GU:lmb
95-297.lmb

²⁷ Policies governing the internal matters and operation of an agency are outside of the scope of the Administrative Procedure Act and are not required to be adopted as regulations. Messerli v. Department of Natural Resources, 768 P.2d 1112 (Alaska 1987). However, the TODS policy of DOTPF does not qualify for the internal management exception to the Administrative Procedure Act, because the TODS policy directly affects the departments relationship with the public and expands upon the statutory law governing signs along highways.



ALASKA CAMPGROUND OWNERS' ASSOCIATION

P.O. Box 84884 Fairbanks, Alaska 99708 (907) 474-8088

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Copper River Region

Linda Jernigan

Tok RV Village

Tok

Southeast Region

Arnie Olsson

Port Chitoot

Haines

Central Peninsula Region

Paul Vassar

Lookout RV Park

Kanai

February 22, 1996

Senator Lyda Green
State Capitol
Juneau, Ak. 99801

Dear Senator Green:

I am writing on behalf of the Alaska Campground Owners Association in support of the 2/19/96 draft of SB 181, relating to tourist oriented directional signs. This legislation has a long history, as you know, and we believe that the current language will meet the needs of our members and the traveling public without interfering with the natural beauty of this state.

The ACOA identified several years ago a need for better information on the highways for the traveling public. This is particularly true for those campgrounds and other small businesses that are located off the highway. Legislation in prior years would have allowed larger signs and more locations to place them. The ACOA is willing, however, to support this bill, since it does place the TODS program into statute and creates some additional sites for placing the standard TODS-type signs.

I appreciate the opportunity to address this important piece of legislation, and I also appreciate your continuing support of the small business community.

Sincerely,

Rick Barrier, President

cc: Senate State Affairs Committee
Senators Pearce, Halford, Frank, Miller, Sharp



ALASKA VISITORS ASSOCIATION

3201 C Street, Suite 403 • Anchorage, Alaska 99503

Tel: (907) 561-5733 • Fax: (907) 561-5727

1995-96

Executive Officers

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Juneau, Alaska

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Alaska Campground

Owners Association

Terry Latham

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Gery Odie

Alaska Highway Cruises

Arne Olsson

Travel International

Bill Pedlar

Holland America Line

Westours, Inc.

Brad Phillips

Phillips Cruises & Tours

Justin Ripley

Windong Alaska Properties

Mitch Unibelli

Sourdough Cabins

Tina Lindgren

Executive Director

February 23, 1996

Senator Lyda Green
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Senator Green:

On behalf of the Alaska Visitors Association, I would like to thank you and Senate co-sponsors Drue Pearce, Rick Halford, Steve Frank, Mike Miller and Bert Sharp for your continued work on legislation to address existing problems with directional sign prohibitions. As the statewide trade association representing the visitor industry in Alaska, we agree that Alaska's highways need to be more user friendly to the visitor, while maintaining the scenic quality of the highway experience.

We have reviewed the most recent draft of Senate Bill 181, and approve of the its approach to limit the scope of changes to Alaska's sign statutes for directional sign purposes only. We also applaud the addition of language that restricts signage size to 90 inches by 18 inches, therefore eliminating the potential for being labeled as billboard-type advertising.

AVA has long supported legislation that would allow directional signs on private property that is zoned or designated as commercial or industrial by use patterns as allowed by federal law. We further appreciate SB 181's intent to bring state signage restrictions in line with more flexible federal law. At the same time, AVA also agrees with the stipulation that sign location, design, and content be consistent with standards approved by the Federal Highway Administration.

Thank you again for your time and attention to this important issue affecting hundreds of tourism businesses along Alaska's highways.

Sincerely,

Tina Lindgren
Executive Director

cc: SB181 co-sponsors: Drue Pearce, Rick Halford, Steve Frank, Mike Miller, Bert Sharp
DOT/PF Commissioner Joe Perkins

RECEIVED

FEB 23 1996

Ans'd.....

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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

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

MEMORANDUM

March 26, 1996

SUBJECT: Tourist Oriented Directional Sign Program (SB 181)

TO: Senator Lyda Green
Attn: Brett Huber

FROM: George Utermohle *GU*
Legislative Counsel

You have asked whether the State of Alaska may establish a tourist oriented directional program in the Department of Transportation and Public Facilities to serve as an umbrella program for a tourist oriented directional sign program within highway rights-of-way and for an analogous program on land adjacent to highway rights-of-way.

Based on a review of the scant references to tourist oriented directional signs in the United States Code (23 U.S.C. 131 note) and the Code of Federal Regulations, I found nothing to indicate that the state is prohibited from establishing a program for tourist oriented directional signs within highway rights-of-way and on land adjacent to highway rights-of-way. According to the information that I have received, tourist oriented directional signs within the highway right-of-way may be installed under the auspices of a program administered by the Federal Highway Administration. The federal tourist oriented directional sign program does not extend to lands outside of the right-of-way.

There is no apparent prohibition against the state establishing a program comparable to the federal tourist oriented directional sign program, but which is applicable to land adjacent to highway rights-of-way. However, signs outside of the highway right-of-way are subject to the restrictions imposed under the federal programs regarding outdoor advertising. The state must be careful that its program for tourist oriented directional signs on land adjacent to highway rights-of-way complies with federal regulations regarding outdoor advertising adjacent to federal aid highways.

I am unaware of any federal restriction or prohibition that would preclude the state from establishing a bifurcated tourist oriented directional sign program that complies with the federal tourist oriented directional sign program for such signs within highway rights-of-way and with the federal outdoor advertising program for such signs on lands outside of the highway rights-of-way.

If I may be of further assistance, please advise.

GU:glc:klb
96-185.glc



U.S. Department
of Transportation
**Federal Highway
Administration**

Alaska Division

P.O. Box 21648
Juneau, Alaska 99802

RECEIVED

MAR 26 1996

Ans'd.....

March 25, 1996

HRW-AK
ROW-04

Senator Lyda Green
Alaska State Senate
Room 423, State Capital
Juneau, Alaska 99801-1182

Dear Senator Green:

Outdoor Advertising Control

Brett Huber, of your staff, recently asked if 18" X 90" traveler information signs, located outside of the highway right-of-way, in zoned or unzoned commercial or industrial areas would conform to federal requirements. Signs of the type described would be considered outdoor advertising devices subject to the provisions of 23 CFR 750 Subpart G - Outdoor Advertising Control. Signs erected and maintained in compliance with the provisions of this Subpart and approved State implementing regulations would be in conformance with Federal requirements.

Such signs could be erected within 660 feet of the right-of-way in commercial or industrial zones and in unzoned commercial or industrial areas, as defined in the agreement between the U.S. Secretary of Transportation (Secretary) and the State. Signs erected would have to comply with the size, lighting and spacing criteria contained in the agreement between the Secretary and the State.

The Alaska Agreement was signed March 29, 1968. It provides the following criteria which would apply to the situation in question.

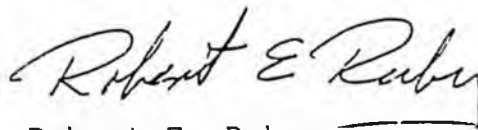
Size: A maximum area of 650 square feet with a maximum height of 20 feet and a maximum length of 50 feet.

Spacing: Not located where they would obscure official traffic control devices or obstruct the drivers view of traffic. Not less than 100 feet apart in villages and cities. Not less than 300 feet apart in rural areas. Not less than 500 feet apart adjacent to controlled access facilities or within 2000 feet their interchanges or intersections.

Lighting: No flashing intermittent or moving lights. No lighting that would interfere with driver's operation of a motor vehicle.

We are available to meet with you or your staff to further discuss or clarify our position regarding this subject or other concerns with outdoor advertising or motorist information systems.

Sincerely yours,

A handwritten signature in cursive script that reads "Robert E. Ruby". The signature is written in dark ink and is positioned above the typed name.

Robert E. Ruby
Division Administrator

cc: Rick Halford, Co-Chair Senate Finance Committee (Room 508)

TOURIST & BUSINESS ORIENTED

SIGN TASK FORCE

REPORT TO:

JOSEPH L. PERKINS, P.E., COMMISSIONER

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

Date of Report

JANUARY 15, 1997

Task Force Members

Mark Kasberg, DOT & PF Headquarters ROW, Chairperson

Linda Anderson, Member Alaska Campground Owners Association

Sandi Anderson, DOT & PF, Statewide Planning Section

James Bryson, Federal Highway Administration

Stephanie Gordor, Kenai Peninsula Tourist and Marketing Council

Margaret Holland, DOT & PF, Central Region Director's Office

John Stein, Member Mat-Su Visitors Association

Ron Tanner, DOT & PF, N. Region Traffic Engineer

Tyson Verse, Haines Visitors Association

Wendy Wolf, Division of Tourism

TABLE OF CONTENTS

	Page
INTRODUCTION.....	1
SUMMARY OF RECOMMENDATIONS.....	2
TOURIST ORIENTED DIRECTIONAL SIGNS	3
RECREATIONAL AND CULTURAL INTEREST AREA SIGNS.....	3
LOGO SIGNING.....	4
GENERAL SERVICE SIGNS.....	4
INFORMATIONAL PLAZAS (KIOSK)	5
SIGN REVIEW.....	5
REVIEW BOARD	5
OTHER SUGGESTIONS AND COMMENTS.....	6
FUNDING FOR RECOMMENDATIONS.....	7

INTRODUCTION

A ten member sign task force was appointed by Deputy Commissioner Boyd Brownfield in November of 1996. The membership is comprised of representatives from the tourism industry, various visitors associations, Federal Highway Administration, and Department of Transportation and Public Facilities.

The goal of the task force was to suggest ways of addressing Alaska's tourist and business related signage needs while avoiding sign proliferation. We acknowledge that off-premise advertising sign programs will never address the perceived needs of all business owners. We hope to accomplish our goal by the recommendation of measures that will be beneficial to businesses, residents, and visitors to the State of Alaska.

Members of the task force reviewed the programs currently being used by the Department of Transportation and Public Facilities for tourist related activities and businesses. A matrix was suggested, and a preliminary draft developed showing the programs available for different road classes (controlled access and conventional road) as well as rural and urban environments.

The Current Programs Reviewed Include:

- TOURIST ORIENTED DIRECTIONAL SIGNAGE POLICY (TODS)
 - Individual TODS Signs
 - Community Service Signs
- GENERAL SERVICE SIGNS (Policy for their use is contained in the Alaska supplement to the federal Manual On Uniform Traffic Control Devices [MUTCD])
- RECREATIONAL & CULTURAL INTEREST AREA SIGNS (Draft Policy)
- SEEKER PANEL (Requirements for use are in the Alaska Supplement to the MUTCD)

New Programs Considered:

- A) Specific Service Signs (LOGO) are available for Camping, Lodging, Food, and Gas services. (It is possible that Tourist Activities may be included in the future.) This program is available and in compliance with the federal Manual on Uniform Traffic Control Devices (MUTCD). A Specific Service (LOGO) program is recommended in order to address areas where no policy exists. Guidelines would need to be developed before this signing program could be implemented.
- B) An Informational Plaza (Kiosk) system for the highway system, harbor facilities, and rural airports is one type of program being recommended.

SUMMARY OF RECOMMENDATIONS

1. The Department of Transportation and Public Facilities should develop comprehensive sign regulations which will cover existing and proposed tourist and business related signing programs. These programs include:
 - A. Tourist Oriented Directional Signing (TODS)
 - B. Recreational and Cultural Interest Area Signs
 - C. Specific Service Signs (LOGO)
 - D. General Service Signs
 - E. Informational Plazas (Kiosk)
2. Develop and fund a Sign Review, Replacement and Removal program for the National Highway System and those highways designated as State Scenic Highways
3. Create a review board to ensure the consistency of program implementation
4. Other suggestions and comments

COMPREHENSIVE SIGN REGULATIONS

There are five subsections to the proposed comprehensive sign regulations. Many of these subsections have sign programs that overlap each other. The existing and new programs need to be consistent amongst themselves. It will be necessary to review them as a package to insure consistency and priority.

Revise Existing Tourist Oriented Directional Signing (TODS)



TODS has proven itself to be a program that works well in rural environments. Many businesses which may be of interest or service to tourists are not visible from the main through-routes, and federal/state laws severely restrict off-premise outdoor advertising. The TODS program functions as a means to allow signing for businesses in these areas.

Recommendation: When incorporating TODS into the proposed comprehensive sign regulation, the Task Force recommends the following:

- Adding a cancellation clause to the TODS permit
- Establish a duration for the TODS permit (Five years, then reevaluate)
- Set annual fees for TODS
- Review the Specific Eligibility Requirements
- Review the list of areas excluded from TODS participation (i.e., congested areas)
- Add further clarification in some areas of the current policy
- Better integration of the other programs which will become available

Recreational and Cultural Interest Area Signs



The tourism industry in Alaska has experienced significant expansion over the last several years. This has resulted in both increased development and demand for recreational and cultural facilities along our highway system. A number of current facilities and locations lack adequate directional signing, and can only be located by motorists through word of mouth, highway maps, and travel publications such as The Milepost.

DOT&PF has a "draft" policy for the Recreational and Cultural Interest Area Signs. The task force has reviewed this policy.

Recommendation: DOT&PF adopt and incorporate a Recreational and Cultural Interest Area Sign Policy in the proposed comprehensive sign regulation.

Specific Service Signing (LOGO)



A Specific Service (LOGO) sign consists of a main panel with from one to six individual logo panels. A business logo may consist of the business identification symbol, name, brand, trademark, or combination. The logo should have a blue background with a white legend and border. Where business identification symbols or trademarks are used alone for a logo, the border may be omitted, the symbol or trademark shall be reproduced in the colors and general shape consistent with customary use, and any internal legend shall be in proportionate size. Messages, symbols, and trademarks which resemble any official traffic control device shall not be used.

Currently DOT/PF has no LOGO program. LOGO signing could provide travelers with business identification and directional information for essential motorist services (gas, food, lodging, camping and possibly tourist attractions). **Unlike most other types of programs, LOGO signs may be used on any class of highway and in urban areas under special circumstances.**

Recommendation: DOT/PF develop a LOGO Signing Policy

General Service Signs



General Service Signing is the oldest of the programs utilized to inform motorist of the services that are available. The signs are generally not necessary where the service or facility is readily visible from the roadway; is marked by other signing; or is located within or immediately adjacent to the built-up part of an urbanized area. The signs typically cover the following types of services: Gas, Diesel, Food, Lodging, Camping, Rest Areas, Parking Areas, Scenic Viewpoints, Phone, Hospital, Emergency Services, Police or Troopers, Disposal Sites, and Tourist Information. The signs usually allowed within urban areas are Camping, Hospital, Emergency Medical Services, Disposal Site, and Tourist Information. Currently neither business or location names are allowed with this type of signing.

The Policy for these signs is contained in the Alaska Supplement to the MUTCD.

Recommendation: DOT&PF incorporate the General Service Signing in the proposed comprehensive regulation.

Informational Plazas (Kiosk)

A kiosk system could function in five ways:

1. An inexpensive and practical solution to the problem of providing tourist information at the approaches to built-up areas
2. A single, central information center in areas where there would otherwise be a heavy demand for individual signs
3. Information and orientation devices at harbor facilities, airports, and downtown areas
4. Emergency shelters at rural airports (If designed in such a manner)
5. A possible location for emergency phone service (call boxes)

Recommendation: Develop an informational plaza (Kiosk system) design that could be used statewide. The design should be made available to the public and private sector.

SIGN REVIEW

There are many state and federal sign designations for highways and cultural/recreational locations that have been addressed with sign programs such as Watchable Wildlife, the Forest Service Scenic Highway, State and Federal Parks, etc.. As the Scenic Highway designation is granted/awarded to state highways, DOT&PF should take it upon itself to review all existing signs and those being requested. To preserve the natural beauty of the roadway, DOT&PF will want to consider the elimination of as many unnecessary signs as possible.

Recommendation: Develop and fund a Sign Review, Replacement and Removal program for the National Highway System, and those highways designated as State Scenic Highways.

REVIEW BOARD

Currently the regional traffic sections handle the majority of the sign programs. Regional Right Of Way sections handle TODS and right of way leasing. With six different sections handling the signing functions statewide, there exists a possibility for inconsistency in the interpretation of the signing programs. It was felt that a review board would help to eliminate inconsistencies. It will still be necessary for the Traffic Section to review the application to make sure the existing regulatory, warning, and guide signs are not compromised by the installation of the new signs.

Recommendation: A review board would help ensure statewide consistency of the proposed comprehensive signing regulations.

OTHER SUGGESTIONS AND COMMENTS:

The task force recognizes that there are many sign-related issues that are important, but not necessarily addressed by the recommendations in the preceding pages. The following suggestions and comments may not warrant regulation, but should be addressed nonetheless:

- Signs which identify or designate special routes, areas, or sites such as scenic highways signs, the watchable wildlife logo, and the seeker panel, are exceptions to existing programs. Provisions need to be made to accommodate these non-standard signs within existing programs.
- DOT&PF should inform the traveling public about official business / tourist related signs on official state maps, and in publications such as The Milepost.
- DOT should review existing icons (and possibly logos) which are utilized in the media and literature distributed to Alaskan visitor, and to the extent possible, utilize those established features. When it is necessary to support new programs or signs for visitor activities, the Department should work with the media to facilitate a high recognition of the new programs.
- Many of the milepost markers are missing, and should be reinstalled as the traveling public uses The Milepost and other highway publications as part of their reference system. A separate evaluation should be made of those roads which do not currently have milepost markers, and determine which of them would benefit from having them installed.
- When comprehensive sign regulations are enacted, develop a brochure for businesses which explains (in laymen's terms) the sign programs available and discusses requirements and qualifications for each program.
- Emergency phones (call boxes) are needed along our transportation system. These could be incorporated into the proposed Informational Plazas (Kiosk) wherever possible.
- The task force supports the concept of an "intranet" for the Alaska Marine Highway System (AMHS). The onboard system would allow visitors to preview services and attractions available at the various ports of call. The system would have the look and feel of the internet, but would in fact be an "intranet", a closed system created specifically for the AMHS.

FUNDING FOR RECOMMENDATIONS

Please note that the Task Force has not researched the cost of these recommendations.

Recommendation number 1

"The Department of Transportation and Public Facilities should develop a comprehensive sign regulation which outlines the various existing and proposed tourist and business related signing programs. These programs include: Tourist Oriented Directional Signing (TODS); Recreational and Cultural Interest Area Signs; Specific Service Signs (LOGO); and Informational Plazas (Kiosk)."

Once this proposed comprehensive sign regulation is implemented, the cost of administration, materials, labor and maintenance could be passed on to the applicant who is directly benefiting from the sign.

Recommendation number 2

"Develop and fund a Sign Review, Replacement and Removal program for the National Highway System and those highways designated as State Scenic Highways."

Possible source(s) of funding will have to be identified.

Recommendation number 3

The creation of a review board.

This should consist of existing DOT&PF personnel, who would reserve the option of inviting other individuals with outside expertise into the process.

amendment #1

SENATE BILL NO. 56

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY SENATORS GREEN, Pearce

Introduced: 1/21/97

Referred: Transportation, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to tourist oriented directional signs that are 90 inches in width
2 and 18 inches in height, relating to penalties for violations related to outdoor
3 advertising, and annulling a regulation of the Department of Transportation and
4 Public Facilities."

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

6 * Section 1. LEGISLATIVE FINDINGS; INTENT. (a) The Alaska State Legislature finds
7 that

8 (1) the scenic beauty of Alaska is unquestionably unique and is revered by
9 residents of the state as well as visitors to Alaska;

10 (2) it is imperative that the State of Alaska maintain its scenic highway system
11 throughout the state for the benefit of residents of Alaska and visitors to Alaska;

12 (3) it is also imperative that residents of Alaska and visitors to Alaska travel in
13 a safe manner on the state highway system and that the safety of the residents of Alaska and
14 visitors to Alaska be assured by a system of directional signing for traveler oriented attractions.

1 and services.

2 (b) It is the intent of the Alaska State Legislature to provide better information to
 3 motorists by authorizing a well planned and regulated system of directional signing for traveler
 4 oriented attractions and services in a manner similar to the current tourist oriented directional
 5 sign program that has been established under policies of the Department of Transportation and
 6 Public Facilities and in a manner consistent with standards established by the Federal Highway
 7 Administration and the Manual of Uniform Traffic Control Devices.

8 * Sec. 2. AS 19.25.105(a) is amended to read:

9 (a) Outdoor advertising may not be erected or maintained within 660 feet of
 10 the nearest edge of the right-of-way and visible from the main-traveled way of the
 11 interstate, primary, or secondary highways in this state except the following:

12 (1) directional and other official signs and notices which include, but
 13 are not limited to, signs and notices pertaining to natural wonders, scenic and historic
 14 attractions, which are required or authorized by law, and which shall conform to
 15 federal standards for interstate and primary systems;

16 (2) signs, displays, and devices advertising the sale or lease of property
 17 upon which they are located or advertising activities conducted on the property;

18 (3) signs determined by the state, subject to concurrence of the United
 19 States Department of Transportation, to be landmark signs, including signs on farm
 20 structures, or natural surfaces, of historic or artistic significance, the preservation of
 21 which would be consistent with the provisions of this chapter;

22 (4) directional signs and notices pertaining to schools;

23 (5) advertising on bus benches or bus shelters, and adjacent trash
 24 receptacles, if the state determines that the advertising conforms to local, state, and
 25 federal standards for interstate and primary highways;

26 (6) tourist oriented directional signs erected under (e) of this
 27 section.

28 * Sec. 3. AS 19.25.105(d) is amended to read:

29 (d) Outdoor advertising may not be erected or maintained within the right-of-
 30 way of an interstate, primary, or secondary highway except that outdoor advertising
 31 is allowed on

32 (1) bus benches and bus shelters, and adjacent trash receptacles, located

1 within the right-of-way under the authority of a permit issued under AS 19.25.200, if
 2 the bus benches or bus shelters are located within a borough or unified municipality
 3 and the buses that stop at that location operate during the entire year; and
 4 (2) tourist oriented directional signs erected under (e) of this
 5 section.

6 * Sec. 4. AS 19.25.105 is amended by adding a new subsection to read:

7 (e) The department shall establish a tourist oriented directional sign program.

8 The department shall erect, or permit the erection of, directional signs for traveler
 9 oriented attractions and services within and outside of the rights-of-way of interstate,
 10 primary, and secondary highways in areas zoned industrial or commercial or in
 11 unzoned areas determined to be commercial or industrial areas. The signs may be
 12 erected on private land adjacent to the rights-of-way of interstate, primary, and
 13 secondary highways in this state if permission for the erection of the sign is granted
 14 by the owner of the private land. The sign, excluding posts, must be 90 inches in
 15 width and 18 inches in height and may contain only the name of the attraction or the
 16 business providing the attraction or service, an icon representing the attraction or
 17 service, the distance to the attraction or service, and a directional arrow. The location
 18 of directional signs within a right-of-way and the design and content of directional
 19 signs must be consistent with standards approved by the Federal Highway
 20 Administration. The department shall retain control over the location of directional
 21 signs. In scenic areas, the department shall control the location of directional signs in
 22 a manner that maintains the quality of scenic areas.

23 [* Sec. 5.] AS 19.25.130 is amended to read:

24 Sec. 19.25.130. **Penalty for violation.** A person who violates AS 19.25.080
 25 - 19.25.180, or a regulation adopted under AS 19.25.080 - 19.25.180 [THEM], is guilty
 26 of a violation [MISDEMEANOR] and upon conviction is punishable by a fine of not
 27 less than \$²⁵⁰⁰50 nor more than \$⁵⁰⁰⁰1,000.

28 [* Sec. 6.] AS 19.45.002 is amended to read:

29 Sec. 19.45.002. **Penalties.** A person who violates a [ANY] provision of
 30 AS 19.05 - AS 19.25, other than a provision of AS 19.25.080 - 19.25.180, is guilty
 31 of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor

- 1 more than \$500, or by imprisonment in jail for a period not to exceed one year, or by
- 2 both.
- 3 * Sec. 7. 17 AAC 20.010 is annulled.

[Section 8 - section 7 is effective
Sept 1 1997]

SB

56

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 1/29/97

FURTHER: .

DATE TURNED
IN TO OFFICE: _____

Finance Committee considered SENATE BILL NO. 56

"An Act relating to tourist oriented directional signs that are 90 inches in width and 18 inches in height, relating to penalties for violations related to outdoor advertising, and annulling a regulation of the Department of Transportation and Public Facilities."

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>Robert E. Kelly</i>	✓	<i>Al Adams</i>	✓		
<i>Sam Pinell</i>	✓				
<i>John Torquato</i>	✓				
<i>D. C. Conley</i>	✓				
<i>George...</i>	✓				
Co-Chair: <i>[Signature]</i>	✓	Co-Chair:			
Co-Chair: <i>[Signature]</i>	✓	Co-Chair:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
DOTPF	1/28		21.5

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

REPORTED OUT OF

SFC 2-5-97

No. 1

BILL NO. SB56
 (S) Publish Date: 1/29/97

STATE OF ALASKA
 1997 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: DOT&PF
 Title: Business Signs/Outdoor Advertizing BRU: Engineering and Operations
 Component: Engineering and Operations
 Sponsor: Senator Green
 Requester: Senate Transportation COMPONENT SERIAL NO. 547

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	10.5	10.5	10.5	10.5	10.5	10.5
TRAVEL	1.0	1.0	1.0	1.0	1.0	1.0
CONTRACTUAL SUPPLIES	10.0					
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	21.5	11.5	11.5	11.5	11.5	11.5

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
----------------------	-----	-----	-----	-----	-----	-----

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
------------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	21.5	11.5	11.5	11.5	11.5	11.5
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	21.5	11.5	11.5	11.5	11.5	11.5

Estimate of any current year (FY97) 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)

It is assumed that owners of the businesses will be responsible for sign purchase, installation, permits, easments, other rental agreements and maintenance of the signs should this bill become law. It is also assumed that all andministrative and organizational costs will rest with the business erecting the sign.

Currently, no other state allows placement of official directional signs on private property due to the difficulties in controlling and enforcing sign placement on private property

One technical engineer will be required to spend approximately one month to review and administer the state aspects of the program. Estimated cost on \$10,500 plus \$1000 for travel

Writing regulations is estimated to cost \$10,000, \$5,000 to write regulations and \$5,000 for public hearings.

Prepared by: Sam Kito III Special Assistant Phone: 465-3900
 Division: Office of the Commissioner Date: 1/28/97
 Approved by: Joseph L. Puh Commissioner Date: 1/28/97
 Agency: Department of Transportation and Public Facilities

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Sen. Donley moved w/
acc. F/N, no objection
reported out
10-LS0371A

SENATE BILL NO. 56

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY SENATORS GREEN, Pearce

Introduced: 1/21/97

Referred: Transportation, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to tourist oriented directional signs that are 90 inches in width
2 and 18 inches in height, relating to penalties for violations related to outdoor
3 advertising, and annulling a regulation of the Department of Transportation and
4 Public Facilities."

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

6 * Section 1. LEGISLATIVE FINDINGS; INTENT. (a) The Alaska State Legislature finds
7 that

8 (1) the scenic beauty of Alaska is unquestionably unique and is revered by
9 residents of the state as well as visitors to Alaska;

10 (2) it is imperative that the State of Alaska maintain its scenic highway system
11 throughout the state for the benefit of residents of Alaska and visitors to Alaska;

12 (3) it is also imperative that residents of Alaska and visitors to Alaska travel in
13 a safe manner on the state highway system and that the safety of the residents of Alaska and
14 visitors to Alaska be assured by a system of directional signing for traveler oriented attractions

1 and services.

2 (b) It is the intent of the Alaska State Legislature to provide better information to
3 motorists by authorizing a well planned and regulated system of directional signing for traveler
4 oriented attractions and services in a manner similar to the current tourist oriented directional
5 sign program that has been established under policies of the Department of Transportation and
6 Public Facilities and in a manner consistent with standards established by the Federal Highway
7 Administration and the Manual of Uniform Traffic Control Devices.

8 * Sec. 2. AS 19.25.105(a) is amended to read:

9 (a) Outdoor advertising may not be erected or maintained within 660 feet of
10 the nearest edge of the right-of-way and visible from the main-traveled way of the
11 interstate, primary, or secondary highways in this state except the following:

12 (1) directional and other official signs and notices which include, but
13 are not limited to, signs and notices pertaining to natural wonders, scenic and historic
14 attractions, which are required or authorized by law, and which shall conform to
15 federal standards for interstate and primary systems;

16 (2) signs, displays, and devices advertising the sale or lease of property
17 upon which they are located or advertising activities conducted on the property;

18 (3) signs determined by the state, subject to concurrence of the United
19 States Department of Transportation, to be landmark signs, including signs on farm
20 structures, or natural surfaces, of historic or artistic significance, the preservation of
21 which would be consistent with the provisions of this chapter;

22 (4) directional signs and notices pertaining to schools;

23 (5) advertising on bus benches or bus shelters, and adjacent trash
24 receptacles, if the state determines that the advertising conforms to local, state, and
25 federal standards for interstate and primary highways;

26 (6) tourist oriented directional signs erected under (e) of this
27 section.

28 * Sec. 3. AS 19.25.105(d) is amended to read:

29 (d) Outdoor advertising may not be erected or maintained within the right-of-
30 way of an interstate, primary, or secondary highway except that outdoor advertising
31 is allowed on

32 (1) bus benches and bus shelters, and adjacent trash receptacles, located

1 within the right-of-way under the authority of a permit issued under AS 19.25.200, if
 2 the bus benches or bus shelters are located within a borough or unified municipality
 3 and the buses that stop at that location operate during the entire year; and

4 (2) tourist oriented directional signs erected under (e) of this
 5 section.

6 * Sec. 4. AS 19.25.105 is amended by adding a new subsection to read:

7 (e) The department shall establish a tourist oriented directional sign program.

8 The department shall erect, or permit the erection of, directional signs for traveler
 9 oriented attractions and services within and outside of the rights-of-way of interstate,
 10 primary, and secondary highways in areas zoned industrial or commercial or in
 11 unzoned areas determined to be commercial or industrial areas. The signs may be
 12 erected on private land adjacent to the rights-of-way of interstate, primary, and
 13 secondary highways in this state if permission for the erection of the sign is granted
 14 by the owner of the private land. The sign, excluding posts, must be 90 inches in
 15 width and 18 inches in height and may contain only the name of the attraction or the
 16 business providing the attraction or service, an icon representing the attraction or
 17 service, the distance to the attraction or service, and a directional arrow. The location
 18 of directional signs within a right-of-way and the design and content of directional
 19 signs must be consistent with standards approved by the Federal Highway
 20 Administration. The department shall retain control over the location of directional
 21 signs. In scenic areas, the department shall control the location of directional signs in
 22 a manner that maintains the quality of scenic areas.

23 * Sec. 5. AS 19.25.130 is amended to read:

24 **Sec. 19.25.130. Penalty for violation.** A person who violates AS 19.25.080
 25 - 19.25.180, or a regulation adopted under AS 19.25.080 - 19.25.180 [THEM], is guilty
 26 of a violation [MISDEMEANOR] and upon conviction is punishable by a fine of not
 27 less than \$50 nor more than \$1,000.

28 * Sec. 6. AS 19.45.002 is amended to read:

29 **Sec. 19.45.002. Penalties.** A person who violates a [ANY] provision of
 30 AS 19.05 - AS 19.25, other than a provision of AS 19.25.080 - 19.25.180, is guilty
 31 of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor

1 more than \$500, or by imprisonment in jail for a period not to exceed one year, or by
2 both.

3 * Sec. 7. 17 AAC 20.010 is annulled.

ALASKA STATE LEGISLATURE



Interim:

600 East Railroad Avenue
Wasilla, Alaska 99654
(907) 376-3370
(907) 376-3157 Fax

Session:

State Capitol
Juneau, Alaska 99801-1152
(907) 465-6000
Fax (907) 465-3805

SENATOR LYDA GREEN
SENATE DISTRICT N

Sponsor Statement

Senate Bill 56

Senate Bill 56 amends Alaska Statute Title 19 to allow certain restricted exceptions to current outdoor advertising law in order to better serve the traveling public and provide increased opportunity for Alaskan businesses.

SB 56 establishes a category of outdoor advertising for business entities of significant interest to the traveling public and allows their placement in zoned/unzoned commercial or industrial areas along a state highway, subject to stringent restrictions.

SB 56 provides these directional signs be consistent with format and size standards established by the Department of Transportation and limits their placement as to proximity to the business thereby further mitigating any potential impact on the scenery visible from Alaska's highways.

Other provisions of SB 56 would codify in statute the existing DOT Tourist Oriented Directional Signs (TODS) program and clarify language providing municipal authority to enact by ordinance standards for directional signs adopted by the DOT or standards more restrictive than those provided by this measure.

Passage of SB 56 would provide long sought assistance to Alaska businesses dependent on trade with the traveling public as well as enhance the state's ability to be user-friendly for its tourists further promoting a responsive visitor industry. Identical legislation, SB 181 was passed by both bodies (vote was 33-3 in the House, 13-6 in the Senate, an override failed by just one vote) in the 19th Legislature. I respectfully request your support of SB 56.

Legislative Priorities . . .

(continued from page 1)

which the governor reduced by \$50,000 from last year's funding levels. This is a true success story in the face of the House and Senate's commitment to cut Governor Knowles' proposed operating budget. In the end, ATMC will receive \$5.3 million of general fund and industry dollars in FY97.

The ATMC funding issue is a difficult one for both the legislature and the tourism trade. Even though legislators were aware that ATMC's budget had been cut in half by the Hickel administration, we heard comments and questions regarding the council's future funding, including discussion of tourism taxes. Of significant concern were assertions by legislative leaders that the first priority for use of any additional tourism tax revenue would be to "fund the budget gap," rather than to restore the ATMC to previous funding levels. Several legislators seemed to appreciate the difficulty in devising an industry-wide tax mechanism that would be fair and equitable, given the diversity of tourism businesses. Consequently, neither the industry nor our elected public officials have been able to propose a plan to adequately fund ATMC without using general fund dollars.

Many legislators support AVA's position that any tourism tax revenue should be returned to the tourism marketing program, not to the general fund. They referred back to the Hickel administration's work with the seafood industry to develop a fish tax, with proceeds used as the private sector's contribution to the Alaska Seafood Marketing Institute (ASMI). This year, however, the legislature reduced state dollars for ASMI, and replaced them with fish tax receipts. This action effectively forces the seafood industry to help "fill the budget gap."

AVA has supported the concept of a broad-based industry tax only if it is fair and equitable, and constitutionally protected so that revenues do not become a general fund revenue stream. While this position has met with legislative and executive branch criticism, the ASMI example certainly gives credence to tourism concerns. We can expect this to be an issue during the 1997 legislative session.

Division of Tourism Budget

While House and Senate budget versions differed significantly, the Division of Tourism received \$2.7 for FY97, a 12% reduction from last year. However, in terms of actual general fund dollars, the DoT budget lost 18% of its state funding. The division hopes to make up some of the loss by generating \$205,000 in private sector program receipts -- i.e. money tourism businesses spend to participate in such

programs as trade shows and publications.

AVA strongly supported restoration money to fund the Alaska Visitors Statistics Program (AVSP), which has generated important visitor arrival and trend information since 1985. However, division cuts will result in drastically scaled back AVSP efforts, so that the industry can expect only a secondary arrival study for summer 1996, and fall/winter 1996/1997. In-depth studies on visitor arrivals, expenditures and patterns/opinions will not be funded. Also, the FY97 DoT budget includes a \$75,000 allocation to fund the Anchorage and Fairbanks Alaska Public Land Information Centers. This is part of a three-year phase out of state support for the APLIC program.

Highway Signage

Senator Lyda Green sponsored legislation modifying tourism directional signage laws, which passed both the House and the Senate. Despite rewrites meant to alleviate concerns, the governor vetoed Senate Bill 181. A legislative attempt to override the veto failed by one vote.

AVA had taken the lead this session, on behalf of our highway-based tourism members and the Alaska Campground Owners Association, to ensure that proposed legislation would preserve Alaska's scenic value, while providing desperately needed directional signage. The bill underwent several revisions, with the final version placing the current state Tourism Oriented Directional Sign (TODS) program into statute, and limiting the size (90 inches by 18 inches) and location of signage. The bill further required the Department of Transportation and Public Facilities to approve each sign application to avoid an unsightly proliferation.

Recreational Liability

Tort reform legislation, House Bill 158, gained support in the legislature, and passed both the Senate and House. At press time, HB158 had not yet been sent to the governor's office for action.

During the 1994 legislative session AVA worked to introduce and pass House Bill 300 relating to recreational liability limits for tourism businesses. The House passed this bill with a wide margin. Unfortunately, the bill met its demise in the Senate Judiciary Committee chaired by Senator Robin Taylor.

Given little hope of getting a similar bill through Senator Taylor, AVA focused efforts on existing Tort Reform legislation, House Bill 158, which had also passed the House during the prior legislative session. With strong encouragement from Senate leadership, Senator Taylor agreed to pass HB158 from his committee for a vote on the floor.

AVA lobbyists and executive committee members met with Senate leadership to seek support for amending the bill to include recreational liability language from HB300. In the last week of the 1996 session, Senator Miller, along with strong support from Senator Pearce, led the Senate Floor debate. This effort led to the bill's passage with the amendment intact.

Transportation Priorities

AVA's increased focus and work with the administration and legislature with regard to transportation project funding paid off this year. All of AVA's transportation priorities were included in the state's Six-Year Federal Highway Improvement Plan. More importantly, 1996-97 funding for many of these AVA priorities was approved by the legislature.

Speaker of the House addresses AVA Board

With just 12 days left in the legislative session, Speaker of the House Gail Phillips took time out of her busy schedule to address the board during the April 26 meeting in Juneau. "The House is committed to a \$70 million decrease in the state general fund budget this session," Representative Phillips told the board. "We have a goal of increasing revenue to the state through means other than the oil and gas industry. Generating more revenue from the forest industry has been a struggle, given the federal administration's policy that is restricting more and more timber harvest. At this point, we are not prepared to impose any new taxes, but this may happen at some point in the future."

The legislature is also committed to improving the state's infrastructure, according to Representative Phillips. "Alaska really needs to spend about \$300 to \$350 million each year on the capital budget just to keep the basic infrastructure going," she said. "But due to revenue decline, we are not able to do this. About \$100 million has been earmarked for the capital budget this year."


"This year's cuts are part of a five-year plan to eliminate the state's fiscal gap. Next year, cuts to the state budget will not be as severe," said Representative Phillips. "The caucus philosophy is to focus on industries that produce wealth. The legislature needs to support industries like tourism that bring back dollars to the state. Government does not produce wealth; private industry provides wealth."

RECEIVED

DEC - 3 1996

Ans'd..

Edwin S. Warfle
35021 Kenai Spur Highway
Soldotna, AK 99669


November 26, 1996

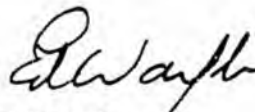
Representative Gail Camps ()
126 W. Pioneer
Homer, AK 99603

Dear Gail,

As the election is over, I would like to request that you bring up the Sign Bill in hopes that we have the votes for passage. I hope this can be accomplished as soon as possible so that small businesses can take advantage of it this coming summer season.

Thank you for your support.

Respectfully,


Ed Warfle

Alaska State Legislature

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Official Business
Fax: (907) 465-3472



State Capitol
Juneau, AK. 99801-1182
(907) 465-3720
(907) 465-2689

Speaker of the House of Representatives

December 18, 1996

Mr. Edwin S. Warfle
35021 Kenai Spur highway
Soldotna, Ak 99669

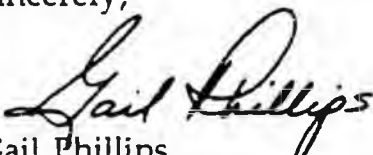
Dear Mr. Warfle::

Thank you for your letter regarding a "sign bill" which would allow advertising along the highway. Since my first session in the legislature in 1991, several bills have been introduced to allow at least limited advertising along the rights-of-way on state roads; and I have consistently supported them. However, only one of three bills passed by the legislature became law. The other two were vetoed by the Governor. Each of the three bills we passed would have allowed certain types of advertising, but each also allowed a municipality to override the sign allowance by passing stricter ordinances.

As you are most probably aware, the only bill which became law allows tourist businesses to advertise on trash receptacles adjacent to bus benches or shelters. Senator Lyda Green -- sponsor of last year's vetoed bill which would have allowed business advertising in highway rights-of-way -- is planning to reintroduce her bill, but she is not certain just when.

Again, I appreciate hearing from you and hope you will continue to share with me those issues of importance to you. I will forward your letter to Senator Green to include in her file of testimony in favor of a sign bill, and encourage her to introduce her bill soon. I feel confident that such a bill will make it through the legislature again; and, hopefully, the Governor will see its benefits to our economy and not veto it again.

Sincerely,


Gail Phillips
SPEAKER OF THE HOUSE

GP:jmj

cc: Senator Lyda Green, 600 E Railroad Avenue, Wasilla, AK 99654

TODS

SB

58

SFIN

FILE

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. SB 58

Revision Date: 01/26/98 Dept. Affected: Health and Social Services
 Title: Relating to the privilege to drive of minors BRU: Alcohol and Drug Abuse Services
and penalties for consuming alcohol Component: ASAP
 Sponsor: Sen. Taylor COMPONENT SERIAL NO. 305
 Requestor: Senate FIN Sec also (SN#): _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY99	FY00	FY01	FY02	FY03	FY04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGES IN REVENUES ()						
-------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY98) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal cost to this bill.

Prepared by: Loren Jones
 Division: Alcoholism and Drug Abuse

Phone: 465-2071
 Date: 01/26/98

Approved by Commissioner: Karen Perdue
 Agency: Department of Health & Social Services

Date: 1/28/98

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. 5
Bill Verson: SB 58
(S) Publish Date: 3-26-97

Revision Date: 02/03/97
Title: Relating to the privilege to drive of minors and penalties for-consuming alcohol
Sponsor: Sen. Taylor
Requestor: (S) HESS

Dept. Affected: Health and Social Services
BRU: Alcohol and Drug Abuse Services
Component: ASAP
COMPONENT SERIAL NO. 305
See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGES IN REVENUES ()						
--------------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY98	FY99	FY00	FY01	FY02	FY03
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

POSITIONS	FY98	FY99	FY00	FY01	FY02	FY03
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY97) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal cost to this bill.

Prepared by: Loren Jones
Division: Alcoholism and Drug Abuse
Approved by Commissioner: Karen Perdue, Commissioner
Agency: Department of Health & Social Services

Phone: 465-2071
Date: 02/03/97
Date: 2/3/97

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. CS SB 58 (HES)

Revision Date: 01/26/98 Dept. Affected: Health and Social Services
 Title: Relating to issuance, suspension, limitation BRU: Alcohol and Drug Abuse Services
revocation, and reinstatement of driver's license... Component: CAASA
 Sponsor: Sen. Taylor COMPONENT SERIAL NO. _____
 Requestor: Senate FIN See also (SN#): #1413

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY99	FY00	FY01	FY02	FY03	FY04
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						
GRANTS, CLAIMS	400.0	400.0	400.0	400.0	400.0	400.0
MISCELLANEOUS						
TOTAL OPERATING	400.0	400.0	400.0	400.0	400.0	400.0

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

CHANGES IN REVENUES						
---------------------	--	--	--	--	--	--

FUND SOURCE

1002 Federal Receipts						
1003 GF Match						
1004 GF	400.0	400.0	400.0	400.0	400.0	400.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	400.0	400.0	400.0	400.0	400.0	400.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY98) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

See attached

Prepared by: Loren A. Jones Phone: 465-2071
 Division: Alcoholism and Drug Abuse Date: 01/26/98
 Approved by Commissioner: Karen Perdue Date: 1/28/98
 Agency: Department of Health & Social Services

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ANALYSIS (cont.):

This bill would transfer to the Division of Alcoholism and Drug Abuse the responsibility for the approval of alcohol information courses (Alcohol Information Schools (AIS)) for all persons needing such a course as a result of alcohol related crimes, primarily minor consuming, minor in possession and driving while intoxicated. Currently all such AIS classes also contain a driver improvement section and are targeted primarily at adults.

The current curriculum being used has not been reviewed and updated in many years. There are no outcomes or expectations for the AIS (other than to not have repeated the criminal behavior) or for the impact on the individual. It is time that this was updated and specific outcomes and expectations be established.

With the passage of the "Use It and Lose It" law there has been a dramatic increase in the number of minors losing their drivers license and being required to complete an AIS or treatment in order to have their license re-instated. This new law has shown a significant gap in our ability to respond appropriately and to assure that the education received is of value and will result in positive outcomes for the youth. We have attached several charts which shows the number of revocations for the last two calendar years.

A number of these youth, like adults, may need more than an AIS to address their needs. In reviewing the number of minors losing their driver's license the number of second or more offenders is about equal to the first time loss. This would indicate that the law, in and of itself is not stopping repeat offenses. An age appropriate AIS will have an impact but we know that for some persons additional services may be needed.

The Division also feels that to provide appropriate AIS a different curriculum and teaching method is needed for minors. The Division will locate and/or develop an appropriate model for adult and youth Alcohol/Drug Information School (AIS). These courses would be age appropriate and meet the needs of DMV for driving related issues. There will be a different response for the 18-20 year olds than for those under age 18. One major difference will be information on inhalants for the under 18 age group.

The Division of Alcoholism and Drug Abuse would establish a set of policy guidelines and outcomes for communities to use in developing a local approach to establishing the appropriate entry program for these minors. This would include policies on defining appropriate assessment, referral, defining compliance and completion of appropriate services, and evaluation standards for the program. Thus those who need only AIS would be sent in the correct direction and those who need additional services would also get those.

These policies would include the role of partnership with schools for alternative to suspension programs, for working with courts, working with youth probation, and with local treatment agencies. We would need to address differences for rural villages. We would need to address development of a community based prevention and intervention services.

The Division would require two new positions consisting of 1 probation officer and 1 clerical staff for program & policy development, quality assurance of the AIS classes and staff support. This staff would write the P&P, Regulations and monitor compliance of the AIS providers and the local agencies providing the services.

The Division would propose using the \$400,000 to fund local programs via a competitive process under AS 47.30.470 - AS 47.30.500, which is our grant-in-aid process. In the competitive process we would seek to reach three main objectives: award funds to communities that have a collaborative plan to address the specific needs in their community; assure that the agency receiving the grant will be able to achieve the stated goals; and assure that the funds went to communities with the greatest need.

Data from the Division of Motor Vehicles (CY 1995, 96 and 97) show the large majority of minors losing their driver's license occurred in Anchorage, Fairbanks, Juneau, Soldotna, Ketchikan, Sitka and Mat-Su (Palmer and Wasilla). These would be areas in which we would target funding if the other goals are met.

All Requests for Proposals for substance abuse services should require proposers to specifically discuss prevention strategies either available in the program or in the community. These strategies need to reflect a community-based, risk reduction model and incorporate "best practice" models as supported by the research.

ANALYSIS (cont.):

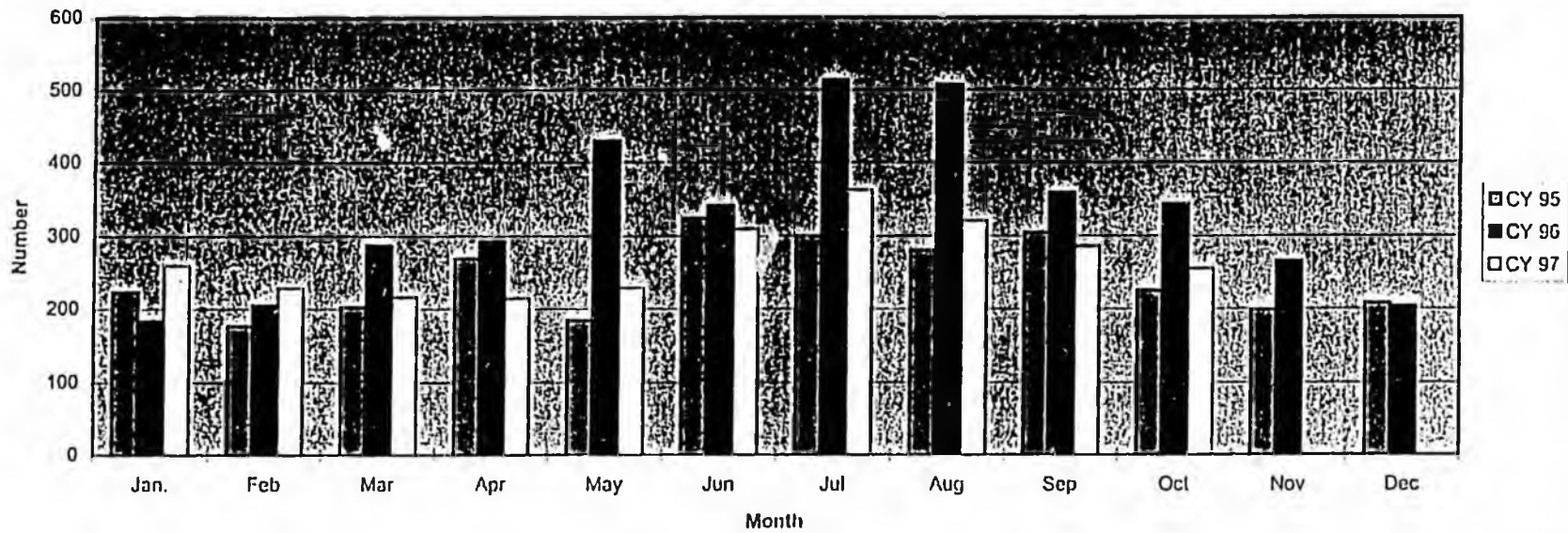
There needs to be a targeted prevention effort in rural areas of Alaska dealing with inhalant abuse. This would help us get a prevention message out about alcohol and drugs as inhalants tend to be used by youth at an age prior to first use of alcohol or drugs.

The revenue generated from the increase in the mandatory fines would provide the increase in funds to pay for this new service. In discussions with the Alaska Court System and the Department of Public Safety and Division of Motor Vehicles It is estimated that 2,000 youth would actually be convicted of minor consuming or minor in possession. This would generate the revenue needed to put in place programs that would reduce the number of offenders.

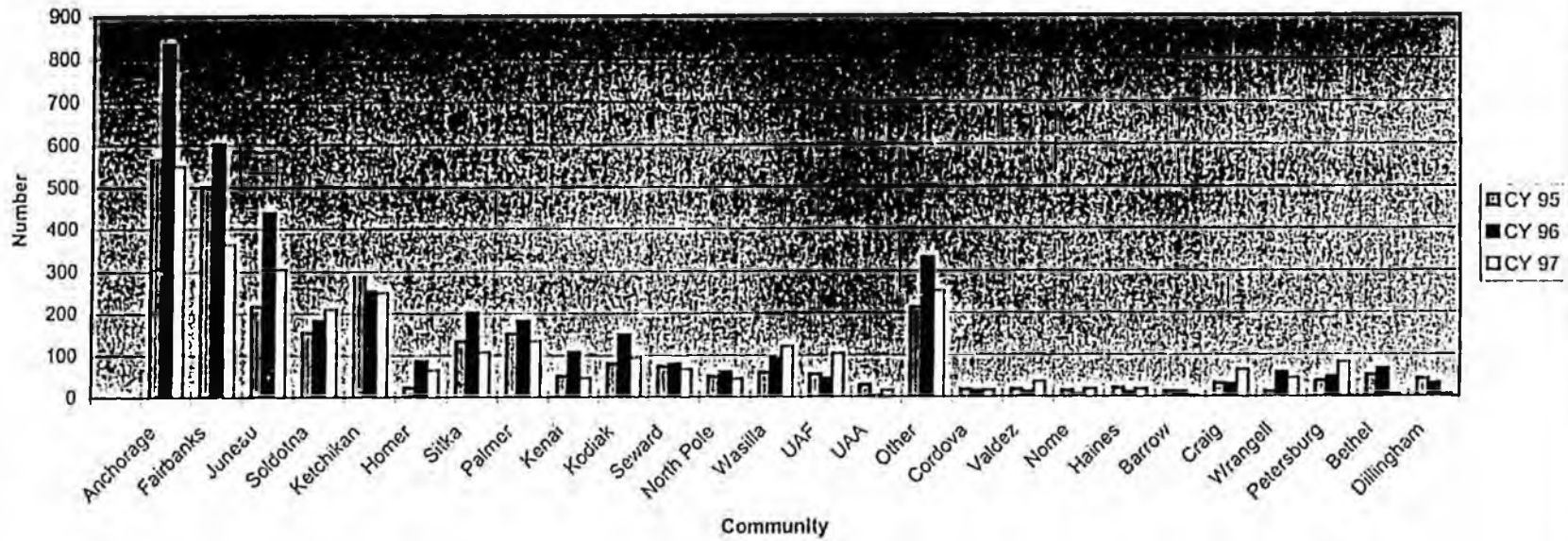
The data on the attached charts are taken from the Division of Motor Vehicles administrative revocation of the driver's license. Not all these youth have been convicted in court of the offenses as the loss of the driver's license is an administrative procedure.

Driver's license loss due to alcohol or drug consumption or possession													
	Jan.	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
CY 95	223	176	202	269	184	324	299	280	304	225	198	207	2891
CY 96	183	205	287	292	430	341	514	508	358	343	265	203	3929
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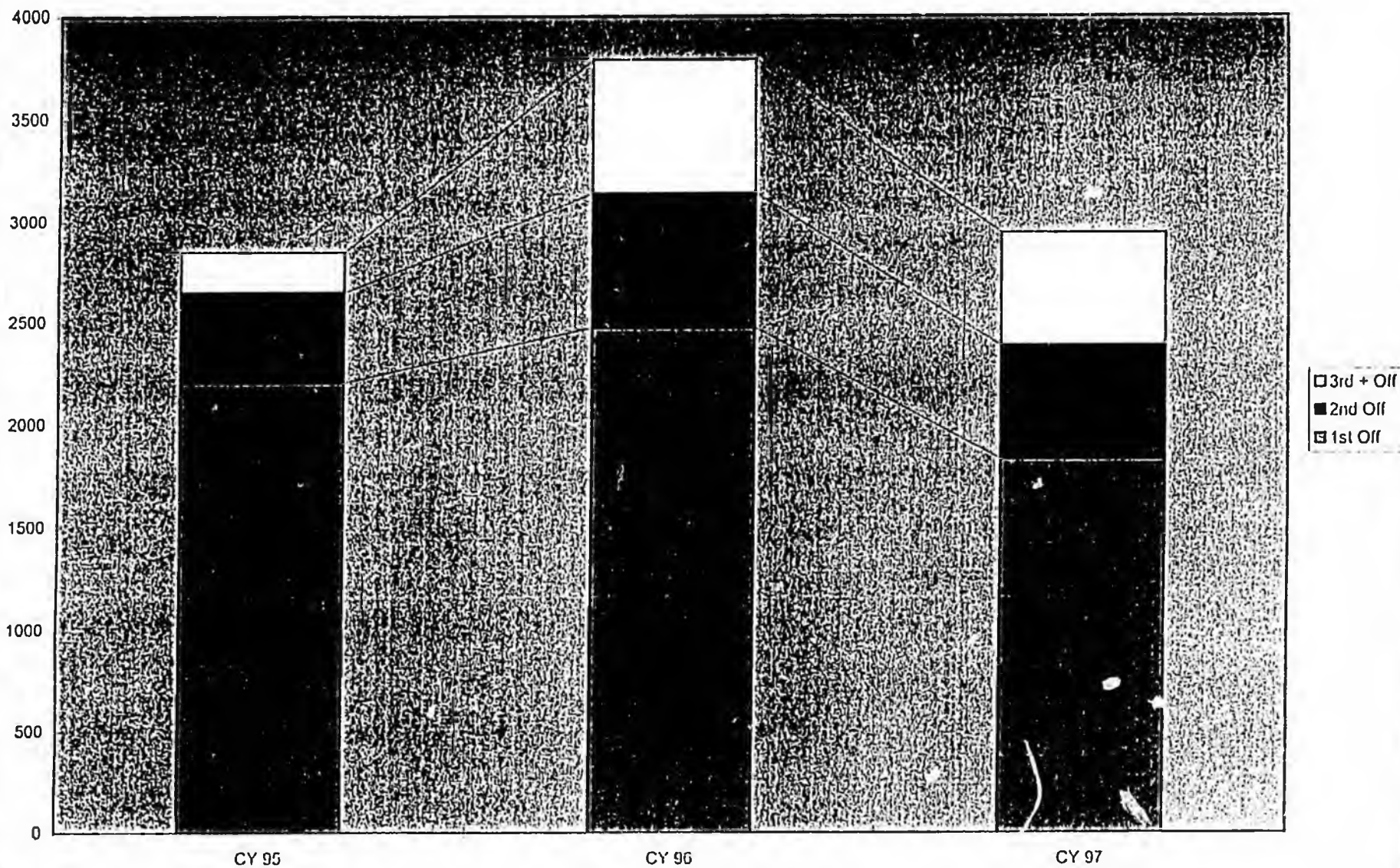
Number Youth Who Lost Drivers License Due to "Use It and Lose It" Law by Month for CY 1995, 1996, 1997



Number of Youth Who Lost Drivers License Due to "Use It and Lose It" Law by Community for CY 1995, 1996, 1997



Comparison of the number of Repeat Offenses in CY 1995, 1996, 1997



FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

C. 6
Bill Verson: CSB 58 (HES)
(S) Publish Date: 3-26-97

Revision Date: 03/17/97
Title: Relating to issuance, suspension, limitation
revocation, and reinstatement of driver's license...
Sponsor: Sen. Taylor
Requestor: Senate HES

Dept. Affected: Health and Social Services
BRU: Alcohol and Drug Abuse Services
Component: CAASA
COMPONENT SERIAL NO. _____
See also (SN#): #1413

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
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						
GRANTS, CLAIMS	400.0	400.0	400.0	400.0	400.0	400.0
MISCELLANEOUS						
TOTAL OPERATING	400.0	400.0	400.0	400.0	400.0	400.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES						
---------------------	--	--	--	--	--	--

FUND SOURCE

1002 Federal Receipts						
1003 GF Match						
1004 GF	400.0	400.0	400.0	400.0	400.0	400.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	400.0	400.0	400.0	400.0	400.0	400.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY97) cost: 30.0

ANALYSIS: (Attach a separate page if necessary)

SEE ATTACHED.

Prepared by: *Loren A. Jones*
 Division: Alcoholism and Drug Abuse
 Approved by Commissioner: *Karen Perdue*
 Agency: Department of Health & Social Services

Phone: 465-2071
 Date: 03/17/97
 Date: 3/18/97

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ANALYSIS (cont.):

This bill would transfer to the Division of Alcoholism and Drug Abuse the responsibility for the approval of alcohol information courses (Alcohol Information Schools (AIS)) for all persons needing such a course as a result of alcohol related crimes, primarily minor consuming, minor in possession and driving while intoxicated. Currently all such AIS classes also contain a driver improvement section and are targeted primarily at adults.

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The Division of Alcoholism and Drug Abuse would establish a set of policy guidelines and outcomes for communities to use in developing a local approach to establishing the appropriate entry program for these minors. This would include policies on defining appropriate assessment, referral, defining compliance and completion of appropriate services, and evaluation standards for the program. Thus, those who need only AIS would be sent in the correct direction and those who need additional services would also get those.

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The Division would require two new positions consisting of 1 probation officer and 1 clerical staff for program & policy development, quality assurance of the AIS classes and staff support. This staff would write the P&P, Regulations and monitor compliance of the AIS providers and the local agencies providing the services.

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All Requests for Proposals for substance abuse services should require proposers to specifically discuss prevention strategies either available in the program or in the community. These strategies need to reflect a community-based, risk reduction model and incorporate "best practice" models as supported by the research.

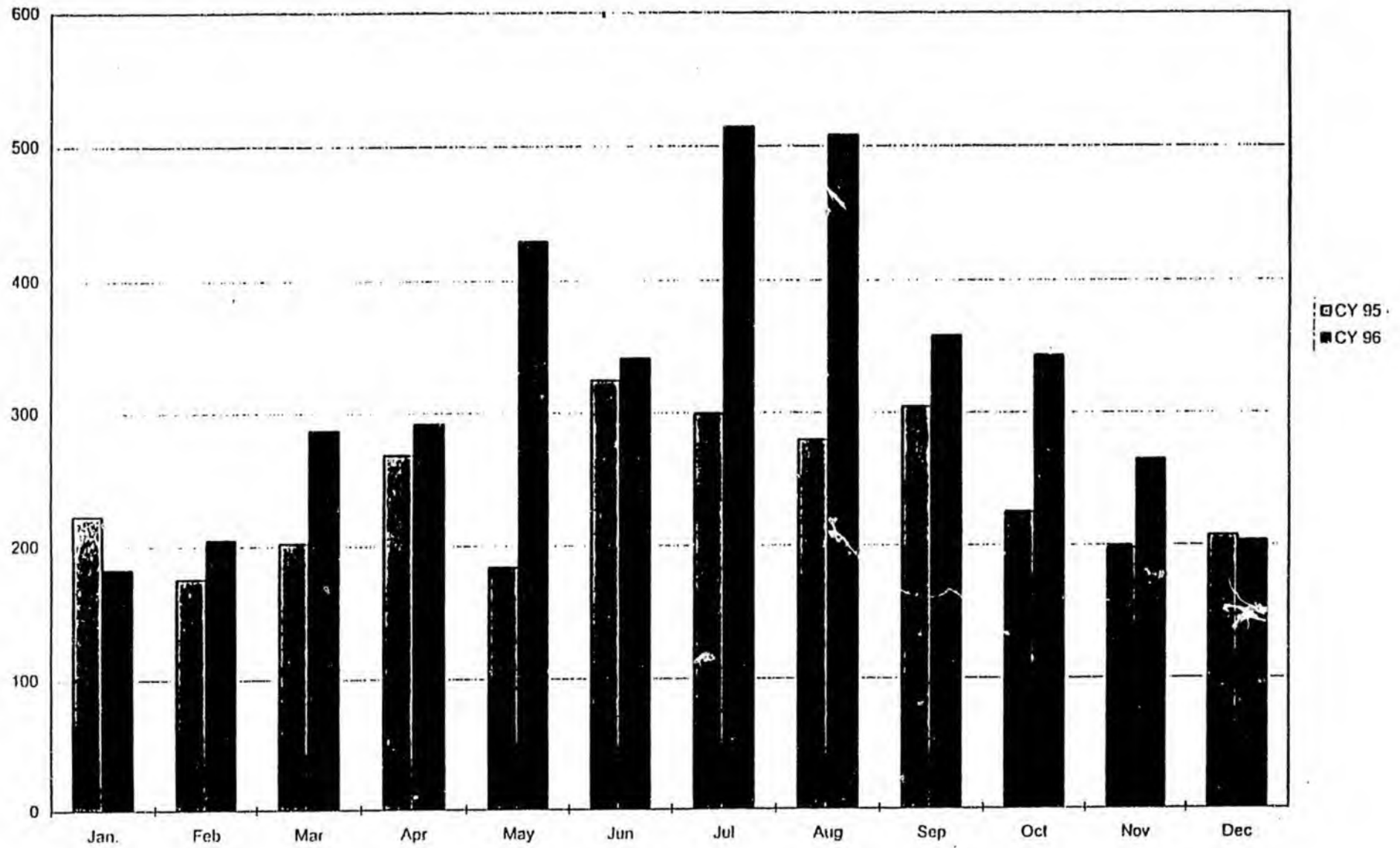
ANALYSIS (cont.):

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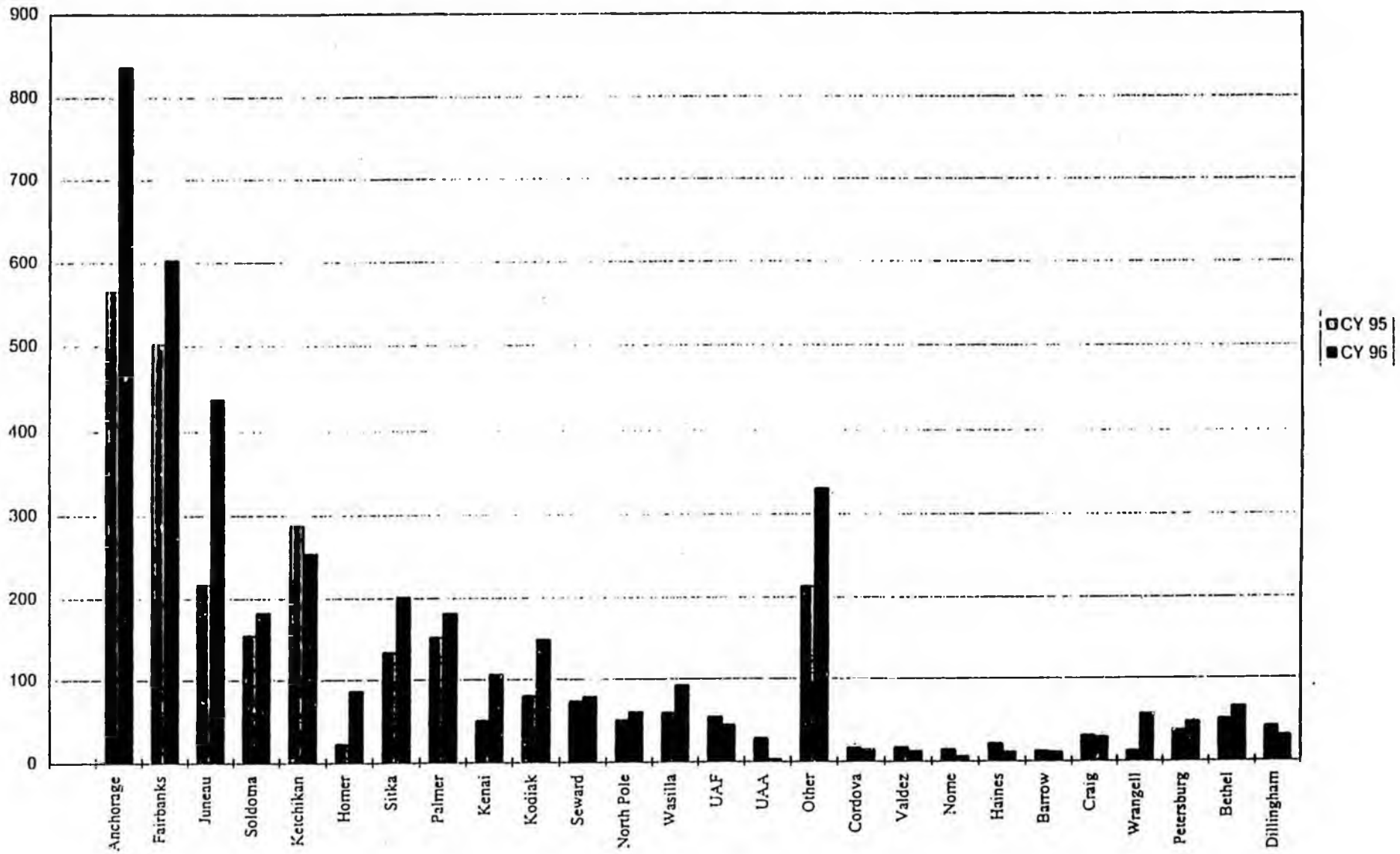
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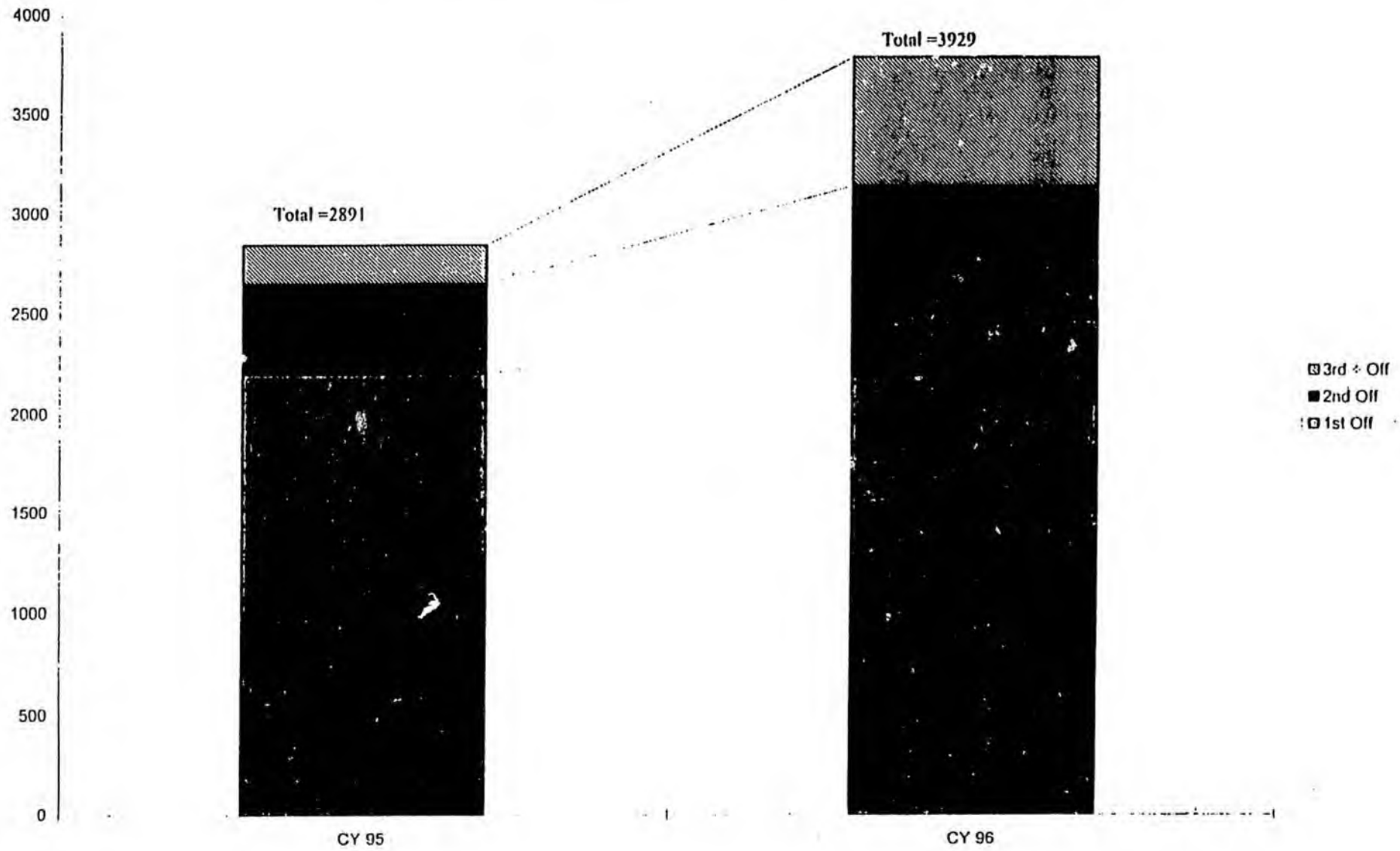
Number Youth Who Lost Drivers License Due to "Use It and Lose It" Law by Month for CY 1995 and CY 1996



Number of Youth Who Lost Drivers License Due to "Use It and Lose It" Law by Community for CY 1995 and CY 1996



Comparison of the Number of Repeat Offenses In CY 95 and CY 96



FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. CSSB 58 (HESS)

Revision Date: 1/9/98 Dept. Affected: Department of Law
 Title: " . . . relating to the penalty for the consumption
or possession of alcoholic beverages by persons under 21 . . ." BRU: Criminal Division
 Sponsor: Senator Taylor Component: 3rd Judicial District: Anchorage
 Requester: Senate Finance Committee COMPONENT SERIAL NO. 2261

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	112.0	112.0	112.0	112.0	112.0	112.0
TRAVEL	1.5	1.5	1.5	1.5	1.5	1.5
CONTRACTUAL	18.0	18.0	18.0	18.0	18.0	18.0
SUPPLIES	2.4	2.4	2.4	2.4	2.4	2.4
EQUIPMENT	6.5					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	140.4	133.9	133.9	133.9	133.9	133.9

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	140.4	133.9	133.9	133.9	133.9	133.9
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	140.4	133.9	133.9	133.9	133.9	133.9

Estimate of any current year (FY98) cost: \$ 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

CSSB 58 (HESS) provides that a minor convicted for the first time of minor consuming alcohol in violation of AS 04.16.050 must pay a fine of \$250. The committee substitute amends SB 58, lowering the proposed penalty for the second and subsequent offenses of minor consuming alcohol in violation of AS 04.16.050 from a class A to a class B misdemeanor, and limits the effect by requiring the prior conviction have happened within the preceding two years. The bill repeals the provision for court revocation of a driver's license upon conviction of minor consuming alcoholic beverages under state or municipal law. Administrative revocation would remain unaffected. The committee substitute further provides for the development and approval by the Department of Health and Social Services of alcohol information classes targeted at juveniles.

Criminalizing minor consuming by making it a misdemeanor for the second and subsequent offenses of minor consuming alcoholic beverages gives rise to the right to a jury trial and court appointed counsel. Information

Prepared by: Joan M. Kasson *Joan M. Kasson*
 Division: Attorney General's Office
 Approved by Commissioner: Bruce M. Botelho, Attorney General
 Agency: Department of Law

Phone: 465-5370
 Date: 1/9/98
 Date: 1/9/98

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ANALYSIS CONTINUATION:

contained in the fiscal note to the bill which decriminalized minor consuming, indicates that in FY 94 there were 3,500 minors who lost their operator's license as a result of minor consuming of alcohol. We estimate that about 1,200 or one-third of those cases of minor consuming will be filed for second or subsequent offenses. We further estimate that about 5 percent of that number of cases will be tried. The resulting 60 jury trials will require one new Attorney III position, to be placed in the Anchorage District Attorney's Office.

Using the department's FY98 standard attorney cost, the fiscal impact from this legislation would be \$133,900. This cost includes clerical support, communications, space, supplies, data processing, and other normal overhead expenses. The standard cost does not include one-time new equipment purchases, and \$6,500 is added for this purpose in FY 99. Please note that although no clerical support position is being added, proportionate support position funding is included in the standard attorney cost schedule to reduce clerical support vacancy so that the new attorney's clerical burden can be handled.

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. 3
 BILL NO: Bill Version: SB 58
 (S) Publish Date: 3-26-97

Revision Date: _____ Dept. Affected: Public Safety
 Title: Minor Consuming BRU: Alaska State Troopers
 Component: Detachments
 Sponsor: Sen. Taylor
 Requestor: S. HESS COMPONENT SERIAL NO. 0799

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

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
Revenue Code						

FUNDING: (Thousands of Dollars)

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

Estimate of current year (FY 97) impact: \$ _____

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.)

This bill may cause some increase in the number of minor consuming cases that go to trial and may cause some additional paperwork to be required in some cases, however, it is not expected to a significant fiscal impact on AST.

Prepared By: Capt. Ted M. Bachman Phone: 269-5650
 Division: Alaska State Troopers Date: 03/05/97
 Approved by Commissioner: Ronald L. Otte *Dee Smith* Date: 3/5/97
 Agency: Department of Public Safety

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

Bill Verson: CS9B 58 (HES)
(S) Publish Date: 3-26-97

Revision Date: 03/17/97
Title: Relating to issuance, suspension, limitation
revocation, and reinstatement of driver's license...
Sponsor: Sen. Taylor
Requestor: Senate HES

Dept. Affected: Health and Social Services
BRU: Alcohol and Drug Abuse Services
Component: ADA Admin
COMPONENT SERIAL NO. _____
See also (SN#): #302

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES	92.0	95.0	98.0	101.0	104.0	107.0
TRAVEL	4.0	4.0	4.0	4.0	4.0	4.0
CONTRACTUAL	2.0	2.0	2.0	2.0	2.0	2.0
SUPPLIES	2.0	2.0	2.0	2.0	2.0	2.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS						
TOTAL OPERATING	100.0	103.0	106.0	109.0	112.0	115.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES						
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FUND SOURCE

1002 Federal Receipts						
1003 GF Match						
1004 GF	100.0	103.0	106.0	109.0	112.0	115.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	100.0	103.0	106.0	109.0	112.0	115.0

POSITIONS:

FULL-TIME	2	2	2	2	2	2
PART-TIME						
TEMPORARY						

Estimate of any current year (FY97) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

XXXXXXXXXX SEE IDENTICAL ANALYSIS AND CHARTS FROM FISCAL NOTE NO. 6.
See attached.

Prepared by: Loren A. Jones
Division: Alcoholism and Drug Abuse
Approved by Commissioner: Karen Perdue, Commissioner
Agent: Department of Health & Social Services

Phone: 465-2071
Date: 03/17/97
Date: 3/18/97

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. CS SC 58 (HES)

Revision Date: 01/26/98 Dept. Affected: Health and Social Services
 Title: Relating to issuance, suspension, limitation BRU: Alcohol and Drug Abuse Services
revocation, and reinstatement of driver's license... Component: ADA Admin
 Sponsor: Sen. Taylor COMPONENT SERIAL NO. _____
 Requestor: Senate FIN See also (SN#): #302

Expenditures/Revenues: (Thousands of Dollars)

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EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
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CAPITAL EXPENDITURES						
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CHANGES IN REVENUES						
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POSITIONS:

FULL-TIME	2	2	2	2	2	2
PART-TIME						
TEMPORARY						

Estimate of any current year (FY98) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

See attached.

Prepared by: Loren A. Jones Phone: 465-2071
 Division: Alcoholism and Drug Abuse Date: 01/26/98
 Approved by Commissioner: Karen Perdue Date: 1/28/98
 Agency: Department of Health & Social Services

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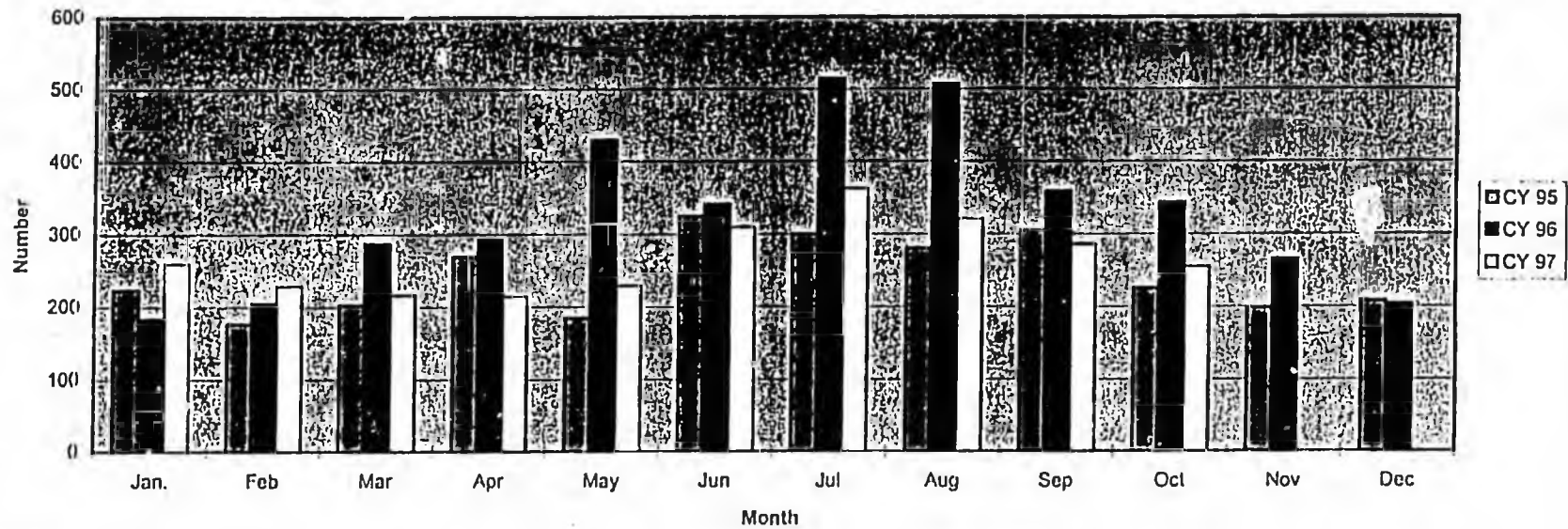
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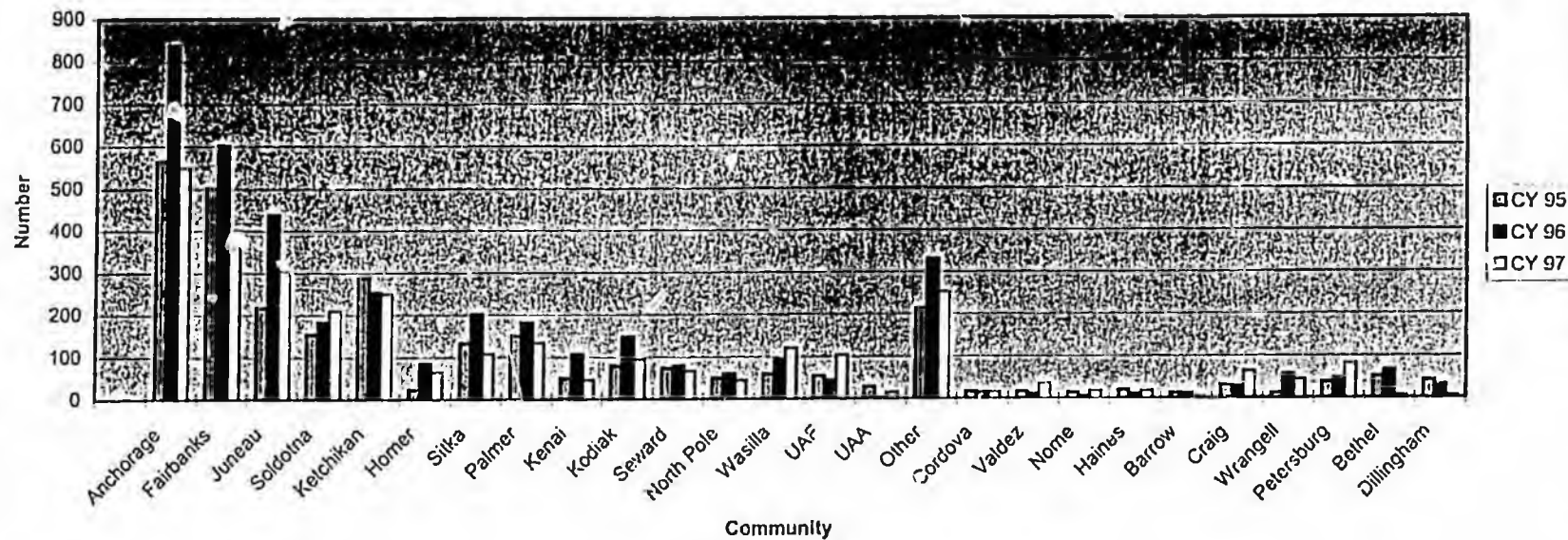
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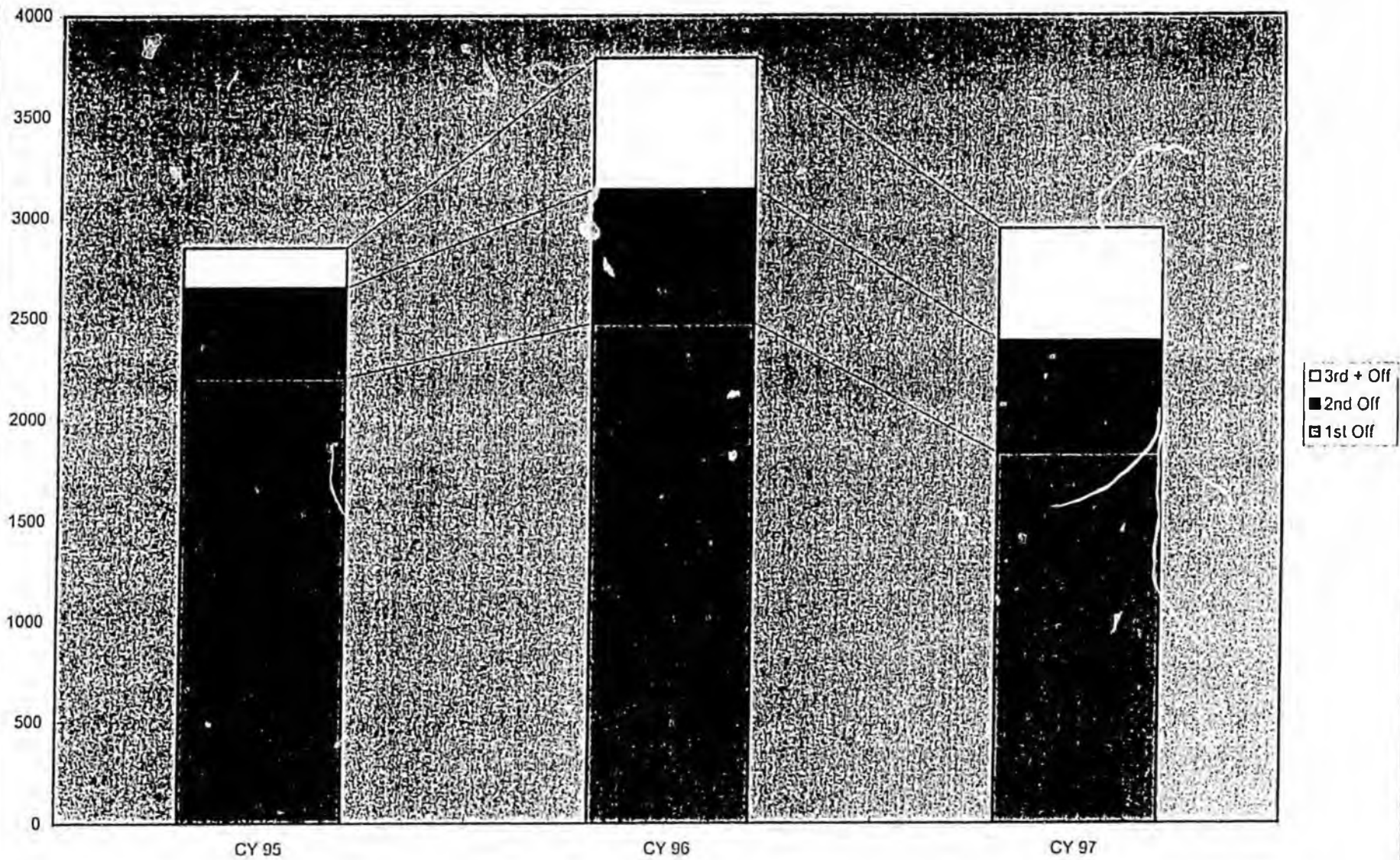
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Comparison of the number of Repeat Offenses in CY 1995, 1996, 1997



FISCAL NOTE

No. 8
 Bill Verson: 0498 58 (HESS)
 (S) Publish Date: 3-26-97

STATE OF ALASKA
 1997 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Department of Law
 Title: "... relating to the penalty for the consumption
or possession of alcoholic beverages by persons under 21 ..." BRU: Criminal Division
 Component: Criminal Division
 Sponsor: Senator Taylor
 Requester: Senate HESS Committee COMPONENT SERIAL NO. 2085

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	107.5	107.5	107.5	107.5	107.5	107.5
TRAVEL	1.4	1.4	1.4	1.4	1.4	1.4
CONTRACTUAL	16.0	16.0	16.0	16.0	16.0	16.0
SUPPLIES	2.1	2.1	2.1	2.1	2.1	2.1
EQUIPMENT	6.5					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	133.5	127.0	127.0	127.0	127.0	127.0

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	133.5	127.0	127.0	127.0	127.0	127.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	133.5	127.0	127.0	127.0	127.0	127.0

Estimate of any current year (FY97) cost: \$ 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

CSSB 58 (HESS) provides that a minor convicted for the first time of minor consuming alcohol in violation of AS 04.16.050 must pay a fine of \$250. The committee substitute amends SB 58, lowering the proposed penalty for the second and subsequent offenses of minor consuming alcohol in violation of AS 04.16.050 from a class A to a class B misdemeanor, and limits the effect by requiring the prior conviction have happened within the preceding two years. The bill repeals the provision for court revocation of a driver's license upon conviction of minor consuming alcoholic beverages under state or municipal law. Administrative revocation would remain unaffected. The committee substitute further provides for the development and approval by the Department of Health and Social Services of alcohol information classes targeted at juveniles.

Criminalizing minor consuming by making it a misdemeanor for the second and subsequent offenses of minor consuming alcoholic beverages gives rise to the right to a jury trial and court appointed counsel. Information

Prepared by: Joan M. Kasson
 Division: Administrative Services Division
 Approved by Commissioner: Bruce M. Botelho, Attorney General
 Agency: Department of Law

Phone: 465-5370
 Date: 3/24/97
 Date: 3/24/97

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ANALYSIS CONTINUATION:

contained in the fiscal note to the bill which decriminalized minor consuming, indicates that in FY 94 there were 3,500 minors who lost their operator's license as a result of minor consuming of alcohol. We estimate that about 1,200 or one-third of those cases of minor consuming will be filed for second or subsequent offenses. We further estimate that about 5 percent of that number of cases will be tried. The resulting 60 jury trials will require one new Attorney III position, to be placed in the Anchorage District Attorney's Office.

Using the department's standard attorney cost, the fiscal impact from this legislation would be \$127,000. This cost includes clerical support, communications, space, supplies, data processing, and other normal overhead expenses. The standard cost does not include one-time new equipment purchases, and \$6,500 is added for this purpose in FY 98. Please note that although no clerical support position is being added, proportionate support position funding is included in the standard attorney cost schedule to reduce clerical support vacancy so that the new attorney's clerical burden can be handled.

FISCAL NOTES. 1

STATE OF ALASKA
1997 LEGISLATIVE SESSION

Bill Version: SB 58
(C) Publish Date: 3-26-97

Revision Date: _____ Dept. Affected: Department of Law
 Title: "... relating to the privilege to drive of BRU: Criminal Division
minors ... penalties for the consumption ... of alcoholic beverage Component: Criminal Division
 Sponsor: Senator Taylor
 Requester: Senate HESS Committee COMPONENT SERIAL NO. 2085

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	107.5	107.5	107.5	107.5	107.5	107.5
TRAVEL	1.4	1.4	1.4	1.4	1.4	1.4
CONTRACTUAL	16.0	16.0	16.0	16.0	16.0	16.0
SUPPLIES	2.1	2.1	2.1	2.1	2.1	2.1
EQUIPMENT	6.5					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	133.5	127.0	127.0	127.0	127.0	127.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	133.5	127.0	127.0	127.0	127.0	127.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	133.5	127.0	127.0	127.0	127.0	127.0

Estimate of any current year (FY97) cost: \$ 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

SB 58 provides that a minor convicted for the first time of minor consuming alcohol in violation of AS 04.16.050 must pay a fine of \$250. SB 58 also provides that it is a class A misdemeanor for the second and subsequent offenses of minor consuming alcohol in violation of AS 04.16.050. The bill repeals the provision for court revocation of a driver's license upon conviction of minor consuming alcoholic beverages under state or municipal law. Administrative revocation would remain unaffected.

Making it a class A misdemeanor for the second and subsequent offenses of minor consuming alcoholic beverages gives rise to the right to a jury trial and court appointed counsel. Information contained in the fiscal note to the bill which decriminalized minor consuming, indicates that in FY 94 there were 3,500 minors who lost their operator's license as a result of minor consuming of alcohol. We estimate that about 1,200 or one-third of those cases of minor consuming will be filed for second or subsequent offenses. We further estimate that about 5 percent of that number of cases will be tried. The resulting 60 jury trials will require one new Attorney III position, to be placed in the Anchorage District Attorney's

Prepared by: Joan M. Kasson *Joan M. Kasson* Phone: 465-5370
 Division: Administrative Services Division Date: 3/4/97
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 3/4/97
 Agency: Department of Law

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SB 58

ANALYSIS CONTINUATION:

Office.

Using the department's standard attorney cost, the fiscal impact from this legislation would be \$127,000. This cost includes clerical support, communications, space, supplies, data processing, and other normal overhead expenses. The standard cost does not include one-time new equipment purchases, and \$6,500 is added for this purpose in FY 98. Please note that although no clerical support position is being added, proportionate support position funding is included in the standard attorney cost schedule to reduce clerical support vacancy so that the new attorney's clerical burden can be handled.

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. 9
Bill Verson: CS9B 58 (HES)
(S) Publish Date: 3-26-97

Revision Date: _____
Title: "An Act relating to the privilege to drive of minors and to the penalty for the consumption or possession of alcoholic beverages by persons under 21 years of age."
Sponsor: Sen. Taylor
Requestor: (S) HES

Department Affected: Administration
BRU: Public Defender Agency
Component: Public Defender Agency
COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	201.2	201.2	201.2	201.2	201.2	201.2
TRAVEL	8.1	8.1	8.1	8.1	8.1	8.1
CONTRACTUAL	35.1	35.1	35.1	35.1	35.1	35.1
SUPPLIES	3.6	3.6	3.6	3.6	3.6	3.6
EQUIPMENT	0.0	1.5	1.5	1.5	1.5	1.5
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	248.0.0	249.5	249.5	249.5	249.5	249.5

CAPITAL EXPENDITURES	15.0	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	263.0	249.5	249.5	249.5	249.5	249.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	263.0	249.5	249.5	249.5	249.5	249.5

Estimate of any current year (FY 97) cost: \$ 0.0

POSITIONS:

FULL-TIME	3.0	3.0	3.0	3.0	3.0	3.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill would impose a mandatory fine of \$250 for a first offense of minor consuming alcohol. A second or subsequent offense committed within two years of the first offense would be a class B misdemeanor. This would result in an increased caseload for the Public Defender Agency. Currently, minor consuming alcohol is a violation, and the defendant does not have a right to a public defender. Under this change a minor would have a right to an attorney when minor consuming alcohol is charged as a misdemeanor. Assuming 1200 new misdemeanor cases per year, three additional attorneys would be required as well as necessary travel, contractual, supplies, and equipment.

Replies # 2

Prepared by: Barbara K. Brink, Director Phone: (907) 264-4414
Division: Public Defender Agency Date: _____

Approved by Commissioner: Mark Bover *Alison M. Elger*
Agency: Department of Administration Date: 3/25/97

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. CSSB 58(HESS)

Revision Date: 2/23/98
 Title: "An Act relating to the privilege to drive of minors and to the penalty for the consumption or possession of alcoholic bev.."
 Sponsor: Senator Taylor
 Requestor: (S) FIN

Department Affected: Administration
 BRU: Legal and Advocacy Services
 Component: Public Defender Agency
 COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	164.6	164.6	164.6	164.6	164.6	164.6
TRAVEL	8.8	8.8	8.8	8.8	8.8	8.8
CONTRACTUAL	38.4	38.4	38.4	38.4	38.4	38.4
SUPPLIES	3.0	3.0	3.0	3.0	3.0	3.0
EQUIPMENT	15.0	1.0	1.0	1.0	1.0	1.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	229.8	215.8	215.8	215.8	215.8	215.8

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	229.8	215.8	215.8	215.8	215.8	215.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	229.8	215.8	215.8	215.8	215.8	215.8

Estimate of any current year (98) cost: \$ none

POSITIONS:

FULL-TIME	2	2	2	2	2	2
PART-TIME	1	1	1	1	1	1
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill would make a second or subsequent minor consuming alcohol a Class B Misdemeanor. This would result in an increased caseload for the Public Defender Agency. Currently, minor consuming alcohol is a violation, and the minor does not have a right to a public defender. (However, it should be noted that the Alaska Court of Appeals in State v. District Court, Opinion No. 1504 (December 6, 1996), decided that the drivers license revocation penalties for minor consuming made the offense "criminal," and the defendant had a right to court-appointed counsel.) Assuming 900 new misdemeanor cases per year, 2.5 additional attorneys would be required as well as necessary travel, contractual, supplies, and equipment.

Prepared by: Barbara Brink, Director
 Division: Public Defender Agency

Phone: (907) 264-4414
 Date: _____

Approved by Commissioner: Mark Bover
 Agency: Department of Administration

Date: 2/23/98

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. 2
Bill Verson: SB 58
(S) Publish Date: 3-26-97

Revision Date: _____
Title: "An Act relating to the privilege to drive of minors and to the penalty for the consumption or possession of alcoholic beverages by persons under 21 years of age."

Department Affected: Administration

Sponsor: Sen Taylor
Requestor: (S)HESS

BRU: Public Defender Agency
Component: Public Defender Agency

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	201.2	201.2	201.2	201.2	201.2	201.2
TRAVEL	8.1	8.1	8.1	8.1	8.1	8.1
CONTRACTUAL	35.1	35.1	35.1	35.1	35.1	35.1
SUPPLIES	3.6	3.6	3.6	3.6	3.6	3.6
EQUIPMENT	0.0	1.5	1.5	1.5	1.5	1.5
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	248.0.0	249.5	249.5	249.5	249.5	249.5

CAPITAL EXPENDITURES	15.0	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	263.0	249.5	249.5	249.5	249.5	249.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	263.0	249.5	249.5	249.5	249.5	249.5

Estimate of any current year (FY 97) cost: \$ 0.0

POSITIONS:

FULL-TIME	3.0	3.0	3.0	3.0	3.0	3.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill would make a second or subsequent minor consuming alcohol a Class A Misdemeanor. This would result in an increased caseload for the Public Defender Agency. Currently, minor consuming alcohol is a violation, and the minor does not have a right to a public defender. (However, it should be noted that the Alaska Court of Appeals in State v. District Court, Opinion No. 1504 (December 6, 1996), decided that the drivers license revocation penalties for minor consuming made the offense "criminal," and the defendant had a right to court-appointed counsel.) Assuming 1200 new misdemeanor cases per year, 3 additional attorneys would be required as well as necessary travel, contractual, supplies, and equipment.

Prepared by: Barbara K. Brink, Director Phone: (907) 264-4414
Division: Public Defender Agency Date: _____

Approved by Commissioner: Mark Boyer *Alison M. Glave*
Agency: Department of Administration Date: 3/5/97

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