

ALASKA LEGISLATURE

2191

HOUSE and SENATE FINANCE COMMITTEE FILES,

2001 - 2002

1 percent;

2 (6) Alaska ranks in the top 15 states in terms of alcohol-related traffic
3 fatalities;

4 (7) habitual offenders do most of the harm;

5 (8) district courts in Anchorage and Juneau have been applying therapeutic
6 court models to municipal offenders charged with driving while intoxicated and other alcohol-
7 related offenses;

8 (9) judges throughout Alaska have expressed interest in using therapeutic
9 court models to reduce recidivism amount alcoholic offenders.

10 (b) It is the intent of this Act to

11 (1) reduce the number of alcohol-related traffic accidents and fatalities;

12 (2) encourage the effort described under (1) of this subsection by creating a
13 therapeutic process to be used by the court system; courts that have adopted a therapeutic
14 model for alcohol- and drug-addicted offenders shall, to the extent feasible, consider or
15 require the following standards:

16 (A) early intervention to plan and begin treatment for recovery from
17 alcohol or drug addiction;

18 (B) emphasis on personal responsibility;

19 (C) in-court recognition of progress and quick sanctions for relapses;

20 (D) frequent appearances before the same judge to provide in-court
21 recognition of progress and quick sanctions for relapses;

22 (E) if the offender is living in a municipality or an area of the state
23 without a judge, frequent appearances before a person or persons designated by the
24 judge who will report progress and relapses to the judge;

25 (F) prompt payment of restitution to victims;

26 (G) completion of community work service as appropriate for
27 restoration of the community;

28 (H) pharmaceutical treatment of the physical addiction to alcohol or
29 drugs, as approved and prescribed by a physician;

30 (I) treatment addressing the psychosocial bases of the addiction;

31 (J) a strong monitoring program to enforce long-term abstinence;

- 1 (K) appropriate physical placement or housing;
- 2 (L) assistance in obtaining a constructive alcohol-free and drug-free
- 3 occupation and lifestyle;
- 4 (M) assistance from supportive friends and relatives;
- 5 (N) payment for all or a portion of treatment costs;
- 6 (O) adherence to all probation conditions;
- 7 (P) collection of data about and evaluation of the effectiveness of the
- 8 program;
- 9 (Q) the defendant shall execute releases to provide information and
- 10 reports to the court, the prosecutor, and all agencies involved in the defendant's
- 11 therapeutic court plan;
- 12 (R) case coordination in planning for and assisting offenders in
- 13 accomplishing the conditions set out in (A) - (Q) of this paragraph;
- 14 (3) assist the development and operation of therapeutic courts approved by the
- 15 presiding judge in the judicial district by using the existing Alaska nonprofit corporation that
- 16 currently funds and coordinates the noncourt, community-related functions for the existing
- 17 Anchorage Wellness Court for offenders charged with driving while intoxicated and other
- 18 alcohol-related offenses; these functions include case coordination, sobriety monitoring, and
- 19 community liaison to provide medical treatment and other services;
- 20 (4) modify the existing laws on impoundment and forfeiture of a motor
- 21 vehicle by following the municipal impoundment and forfeiture process established in
- 22 Anchorage and Fairbanks.

23 * Sec. 2. AS 09.60.070(c)(14) is amended to read:

24 (14) driving while under the influence of an alcoholic beverage,

25 inhalant, or controlled substance [INTOXICATED] or another crime resulting from

26 the operation of a motor vehicle, boat, or airplane when the offender is under the

27 influence of an alcoholic beverage, inhalant, or controlled substance

28 [INTOXICATED];

29 * Sec. 3. AS 12.25.033 is amended to read:

30 Sec. 12.25.033. Arrest without warrant for operating vehicle while under

31 the influence of an alcoholic beverage, inhalant, or controlled substance

1 [INTOXICATED]. A peace officer may arrest a person without a warrant, whether
2 or not the offense is committed in the presence of the officer, when the officer has
3 probable cause to believe that the person to be arrested has committed the crime of
4 operating a motor vehicle, an aircraft, or a watercraft in violation of AS 28.35.030 or a
5 similar city or borough ordinance, if the violation is alleged to have occurred less than
6 eight hours before the time of arrest.

7 * Sec. 4. AS 12.55.125(c) is amended to read:

8 (c) A defendant convicted of a class A felony may be sentenced to a definite
9 term of imprisonment of not more than 20 years, and shall be sentenced to the
10 following presumptive terms, subject to adjustment as provided in AS 12.55.155 -
11 12.55.175:

12 (1) if the offense is a first felony conviction and does not involve
13 circumstances described in (2) of this subsection, five years;

14 (2) if the offense is a first felony conviction

15 (A) other than for manslaughter and the defendant possessed a
16 firearm, used a dangerous instrument, or caused serious physical injury during
17 the commission of the offense, or knowingly directed the conduct constituting
18 the offense at a uniformed or otherwise clearly identified peace officer, fire
19 fighter, correctional employee, emergency medical technician, paramedic,
20 ambulance attendant, or other emergency responder who was engaged in the
21 performance of official duties at the time of the offense, seven years;

22 (B) for manslaughter and the conduct resulting in the
23 conviction was knowingly directed towards a child under the age of 16, seven
24 years;

25 (C) for manslaughter and the conduct resulting in the
26 conviction involved driving while under the influence of an alcoholic
27 beverage, inhalant, or controlled substance, seven years;

28 (3) if the offense is a second felony conviction, 10 years;

29 (4) if the offense is a third felony conviction and the defendant is not
30 subject to sentencing under (1) of this section, 15 years.

31 * Sec. 5. AS 18.67.101 is amended to read:

1 **Sec. 18.67.101. Incidents and offenses to which this chapter applies.** The
2 board may order the payment of compensation in accordance with the provisions of
3 this chapter for personal injury or death that resulted from

4 (1) an attempt on the part of the applicant to prevent the commission of
5 crime, or to apprehend a suspected criminal, or aiding or attempting to aid a police
6 officer to do so, or aiding a victim of crime; or

7 (2) the commission or attempt on the part of one other than the
8 applicant to commit any of the following offenses:

9 (A) murder in any degree;

10 (B) manslaughter;

11 (C) criminally negligent homicide;

12 (D) assault in any degree;

13 (E) kidnapping;

14 (F) sexual assault in any degree;

15 (G) sexual abuse of a minor;

16 (H) robbery in any degree;

17 (I) threats to do bodily harm; or

18 (J) driving while under the influence of an alcoholic
19 beverage, inhalant, or controlled substance [INTOXICATED] or another
20 crime resulting from the operation of a motor vehicle, boat, or airplane when
21 the offender is under the influence of an alcoholic beverage, inhalant, or
22 controlled substance [INTOXICATED].

23 * Sec. 6. AS 28.01 is amended by adding a new section to read:

24 **Sec. 28.01.015. Municipal impoundment and forfeiture.** (a)

25 Notwithstanding other provisions in this title, a municipality may adopt an ordinance
26 providing for the impoundment or forfeiture of a

27 (1) motor vehicle, watercraft, or aircraft involved in the commission of
28 an offense under AS 28.35.030, 28.35.032, or an ordinance with elements substantially
29 similar to AS 28.35.030 or 28.35.032;

30 (2) motor vehicle involved in the commission of an offense under
31 AS 28.15.291 or an ordinance with elements similar to AS 28.15.291; or

1 (3) motor vehicle used by a person whose license is suspended under
2 AS 28.22.041.

3 (b) An ordinance adopted under (a) of this section may

4 (1) include a fee for the administrative costs incurred by the
5 municipality; and

6 (2) be more stringent than or the same as but may not be less stringent
7 than applicable provisions under this title or regulations adopted under this title.

8 * Sec. 7. AS 28.10.041 is amended by adding a new subsection to read:

9 (d) The department shall refuse to register a vehicle if the applicant fails to
10 register the vehicle using the applicant's first, middle, and last name or a business
11 name.

12 * Sec. 8. AS 28.10 is amended by adding a new section to read:

13 **Sec. 28.10.453. Seizure of registration plates resulting from chemical**
14 **sobriety tests and refusals to submit to tests.** (a) If a law enforcement officer seizes
15 a driver's license under AS 28.15.165, the officer shall also seize the registration plates
16 for the motor vehicle the person was operating and shall deliver the registration plates
17 to the department if the person is a registered owner or co-owner of the vehicle.

18 (b) The law enforcement officer who seizes registration plates under this
19 section shall

20 (1) issue a temporary permit under which the vehicle may be operated
21 that expires seven days after it is delivered to the person; and

22 (2) give the person written notice that, unless the person, within seven
23 days, requests an administrative review under AS 28.15.166, the department shall
24 suspend the registration for the motor vehicle and retain possession of the motor
25 vehicle registration plates as provided under (d) of this section.

26 (c) Unless the person has obtained a stay of a departmental action under
27 AS 28.15.166, if the chemical test administered under AS 28.33.031(a) or
28 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2) or the
29 person refused to submit to a chemical test authorized under AS 28.33.031(a) or
30 AS 28.35.031(a) or (g), the department shall revoke the registration for the motor
31 vehicle. The department's action takes effect seven days after delivery to the person of

1 the notice required under (b) of this section, and after receipt of a sworn report of a
2 law enforcement officer as described under AS 28.15.165(c).

3 (d) The period of revocation of a motor vehicle registration under this section
4 shall be for the appropriate minimum period for driver's license revocations under
5 AS 28.15.181(c) or court disqualifications under AS 28.33.140. A department hearing
6 officer may grant limited motor vehicle registration privileges to a person whose
7 motor vehicle registration was revoked under this section in accordance with the
8 standards set out in AS 28.15.201 for granting limited driver's license privileges.

9 (e) The department shall allow a person who is an owner or co-owner of a
10 motor vehicle and who is not the person who was operating the motor vehicle when
11 the registration plates were seized under (a) of this section to register the motor
12 vehicle without the name of the person who was operating the vehicle when the
13 registration plates were seized under (a) of this section. If a person registers a motor
14 vehicle under this subsection, the department shall reissue the registration plates
15 seized under (a) of this section.

16 * Sec. 9. AS 28.15.046(d) is amended to read:

17 (d) The department may not issue a license to an applicant who has been
18 convicted of driving while under the influence of an alcoholic beverage, inhalant,
19 or controlled substance [INTOXICATED] under AS 28.35.030 within two years of
20 the time of application or to an applicant who has two or more convictions for driving
21 while under the influence of an alcoholic beverage, inhalant, or controlled
22 substance [INTOXICATED] within 10 years of the time of application.

23 * Sec. 10. AS 28.15.081(a) is amended to read:

24 (a) The department shall examine every applicant for a driver's license. The
25 examination must include a test of the applicant's (1) eyesight, (2) ability to read and
26 understand official traffic control devices, (3) knowledge of safe driving practices, (4)
27 knowledge of the effects of alcohol and drugs on drivers and the dangers of driving
28 under the influence of alcohol or drugs, (5) knowledge of the laws on driving while
29 under the influence of an alcoholic beverage, inhalant, or controlled substance
30 [INTOXICATED], (6) knowledge of the laws on financial responsibility and
31 mandatory motor vehicle liability insurance, and (7) knowledge of the traffic laws and

1 regulations of the state. The examination may include a demonstration of ability to
2 exercise ordinary and reasonable control in the driving of a motor vehicle of the type
3 and general class of vehicles for which the applicant seeks a license. However, an
4 applicant who has not been previously issued a driver's license by this or another
5 jurisdiction shall demonstrate ability and shall present medical information that the
6 department reasonably requires to determine fitness to safely drive a motor vehicle of
7 the type and general class of vehicles for which the applicant seeks a license.

8 * Sec. 11. AS 28.15.165(c) is amended to read:

9 (c) Unless the person has obtained a temporary permit or stay of a
10 departmental action under AS 28.15.166, if the chemical test administered under
11 AS 28.33.031(a) or AS 28.35.031(a) or (g) produced a result described in
12 AS 28.35.030(a)(2) or the person refused to submit to a chemical test authorized under
13 AS 28.33.031(a) or AS 28.35.031(a) or (g), the department shall revoke the person's
14 license, privilege to drive, or privilege to obtain a license, shall refuse to issue an
15 original license, and, if the chemical test administered under AS 28.33.031(a)
16 produced a result described in AS 28.33.030(a)(2) or the person refused to submit to a
17 chemical test authorized under AS 28.33.031(a), shall disqualify the person. The
18 department's action takes effect seven days after delivery to the person of the notice
19 required under (a) of this section, and after receipt of a sworn report of a law
20 enforcement officer

21 (1) that a chemical test administered under AS 28.33.031(a) or
22 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2), that a
23 chemical test administered under AS 28.33.031(a) produced a result described in
24 AS 28.33.030(a)(2), or that a person refused to submit to a chemical test authorized
25 under AS 28.33.031(a) or AS 28.35.031(a) or (g);

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

27 (3) describing the

28 (A) circumstances surrounding the arrest and the grounds for
29 the officer's belief that the person operated a motor vehicle, commercial motor
30 vehicle, or aircraft while under the influence of an alcoholic beverage,
31 inhalant, or controlled substance [INTOXICATED] in violation of

1 AS 28.33.030 or AS 28.35.030; or

2 (B) grounds for the officer's belief that the person operated a
3 motor vehicle or commercial motor vehicle that was involved in an accident
4 causing death or serious physical injury to another person.

5 * Sec. 12. AS 28.15.166(a) is amended to read:

6 (a) A person who has received a notice under AS 28.10.453(b) or
7 AS 28.15.165(a) may make a written request (1) for administrative review of the
8 department's action under AS 28.10.453(c) or AS 28.15.165(c); or for (2) limited
9 motor vehicle registration privileges under AS 28.10.453(d) or for limited license
10 privileges under AS 28.15.165(d). If the person's driver's license has not been
11 previously surrendered to the department, it shall be surrendered to the department at
12 the time the request for review is made.

13 * Sec. 13. AS 28.15.166(b) is amended to read:

14 (b) A request for review of the department's action under AS 28.10.453 or
15 AS 28.15.165 shall be made within seven days after receipt of the notice under
16 AS 28.10.453 or AS 28.15.165, or the right to review is waived and the action of the
17 department under AS 28.10.453(c) or AS 28.15.165(c) is final. If a written request for
18 a review is made after expiration of the seven-day period, and if it is accompanied by
19 the applicant's verified statement explaining the failure to make a timely request for a
20 review, the department shall receive and consider the request. If the department finds
21 that the person was unable to make a timely request because of lack of actual notice of
22 the department's action or because of factors of physical incapacity such as
23 hospitalization or incarceration, the department shall waive the period of limitation,
24 reopen the matter, and grant the review request. An initial request for limited license
25 privileges may be made at any time. Subsequent requests for limited license
26 privileges may not be made unless the applicant demonstrates a significant change in
27 circumstances.

28 * Sec. 14. AS 28.15.166(c) is amended to read:

29 (c) Upon receipt of a request for review, if it appears that the person holds a
30 valid driver's license or motor vehicle registration plates and that the driver's license
31 or motor vehicle registration plates have [HAS] been surrendered, the department

1 shall issue a temporary driver's permit or motor vehicle registration that is valid until
2 the scheduled date for the review. A person who has requested a review under this
3 section may request, and the department may grant for good cause, a delay in the date
4 of the hearing. If necessary, the department may issue additional temporary permits to
5 stay the effective date of its action under AS 28.15.165(c) until the final order after the
6 review is issued.

7 * **Sec. 15.** AS 28.15.166(g) is amended to read:

8 (g) The hearing for review of action by the department under AS 28.15.165
9 shall be limited to the issues of whether the law enforcement officer had probable
10 cause [REASONABLE GROUNDS] to believe that the person was operating a motor
11 vehicle or commercial motor vehicle that was involved in an accident causing death or
12 serious physical injury to another, or that the person was operating a motor vehicle,
13 commercial motor vehicle, or aircraft while under the influence of an alcoholic
14 beverage, inhalant, or controlled substance [INTOXICATED] in violation of
15 AS 28.33.030 or AS 28.35.030 and whether

16 (1) the person refused to submit to a chemical test authorized under
17 AS 28.33.031(a) or AS 28.35.031(a) or (g) after being advised that refusal would
18 result in disqualification or the suspension, revocation, or denial of the person's
19 license, privilege to drive, or privilege to obtain a license, and that the refusal is a
20 misdemeanor;

21 (2) the chemical test administered under AS 28.33.031(a) or
22 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2); or

23 (3) the chemical test administered under AS 28.33.031(a) produced a
24 result described in AS 28.33.030(a)(2).

25 * **Sec. 16.** AS 28.15.181(a) is amended to read:

26 (a) Conviction of any of the following offenses is grounds for the immediate
27 revocation of a driver's license, privilege to drive, or privilege to obtain a license:

28 (1) manslaughter or negligent homicide resulting from driving a motor
29 vehicle;

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

31 (3) failure to stop and give aid as required by law when a motor

1 vehicle accident results in the death or personal injury of another;

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

4 (5) operating a motor vehicle or aircraft while under the influence of
5 an alcoholic beverage, inhalant, or controlled substance [INTOXICATED];

6 (6) reckless driving;

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

9 (8) refusal to submit to a chemical test authorized under
10 AS 28.33.031(a) or AS 28.35.031(a) while under arrest for operating a motor vehicle,
11 commercial motor vehicle, or aircraft while under the influence of an alcoholic
12 beverage, inhalant, or controlled substance [INTOXICATED], or authorized under
13 AS 28.35.031(g);

14 (9) driving while license, privilege to drive, or privilege to obtain a
15 license, canceled, suspended, or revoked, or in violation of a limitation;

16 (10) vehicle theft in the first degree in violation of AS 11.46.360 or
17 vehicle theft in the second degree in violation of AS 11.46.365.

18 * **Sec. 17.** AS 28.15.181(c) is amended to read:

19 (c) A court convicting a person of an offense described in (a)(5) or (8) of this
20 section arising out of the operation of a motor vehicle, commercial motor vehicle, or
21 aircraft shall revoke that person's driver's license, privilege to drive, or privilege to
22 obtain a license. The revocation may be concurrent with or consecutive to an
23 administrative revocation under AS 28.15.165. The court may not, except as provided
24 in AS 28.15.201, grant limited license privileges during the minimum period of
25 revocation. Except as provided under AS 28.35.030(n)(3) and 28.35.032(p)(3), the
26 [THE] minimum periods of revocation are [:]

27 (1) not less than 90 days if the person has not been previously
28 convicted;

29 (2) not less than one year if the person has been previously convicted
30 once;

31 (3) not less than 3 years if the person has been previously convicted

1 twice;

2 (4) not less than 5 years if the person has been previously convicted
3 more than twice.

4 * **Sec. 18.** AS 28.15.191(a) is amended to read:

5 (a) A court that convicts a person of an offense under this title or a regulation
6 adopted under this title, or another law or regulation of this state, or a municipal
7 ordinance that regulates the driving of vehicles, shall forward a record of the
8 conviction to the department within five working days. A conviction of a standing or
9 parking offense need not be reported.

10 * **Sec. 19.** AS 28.15.201(d) is amended to read:

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

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

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

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

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

27 (5) the court or the department determines that the person has met [IS
28 ENROLLED IN AND IS IN COMPLIANCE WITH, OR HAS SUCCESSFULLY
29 COMPLETED, AN] alcoholism screening, evaluation, referral, and [EDUCATION
30 AND REHABILITATION TREATMENT] program requirements of the
31 Department of Health and Social Services under AS 28.35.030(h).

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

2 (d) At the end of a period of revocation or limitation following a revocation, a
3 person whose driver's license has been revoked may apply to the department for the
4 issuance of a new license, but shall submit to reexamination, pay all required fees
5 including a reinstatement fee, and, if the license was revoked under
6 AS 28.15.181(a)(5) or (8), submit proof to the court or the department that the
7 person has met the alcoholism screening, evaluation, referral, and program
8 requirements of the Department of Health and Social Services under
9 AS 28.35.030(h) [OF

10 (1) ENROLLMENT IN AND COMPLIANCE WITH OR
11 COMPLETION OF AN ALCOHOLISM EDUCATION AND REHABILITATION
12 TREATMENT PROGRAM APPROVED UNDER AS 47.37 IF THE PERSON WAS
13 SENTENCED UNDER AS 28.15.181(c)(1); OR

14 (2) COMPLETION OF AND PAYMENT FOR AN ALCOHOLISM
15 EDUCATION AND REHABILITATION TREATMENT PROGRAM APPROVED
16 UNDER AS 47.37 IF THE PERSON WAS CONVICTED UNDER
17 AS 28.15.181(c)(2) - (4)].

18 * Sec. 21. AS 28.15.271(b) is amended to read:

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

20 (1) a person who renews a driver's license by mail shall pay a fee of
21 \$1;

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

24 (3) a person who applies for reinstatement of a driver's license under
25 AS 28.15.211 shall pay a fee of

26 (A) \$100 if the person's driver's license has, within the 10 years
27 preceding the application, been suspended, revoked, or limited under the
28 provisions of this chapter, except as provided by (C) of this paragraph, only
29 once; [OR]

30 (B) \$250 if the person's driver's license has, within the 10 years
31 preceding the application, been suspended, revoked, or limited under the

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provisions of this chapter, except as provided by (D) of this paragraph, two or more times;

(C) \$200 if the person's driver's license has, within the 10 years preceding the application, been revoked under AS 28.35.030 or 28.35.032 only once; or

(D) \$500 if the person's driver's license has, within the 10 years preceding the application, been revoked under AS 28.35.030 or 28.35.032 two or more times.

* Sec. 22. AS 28.15.291(b) is amended to read:

(b) Upon conviction under (a) of this section, the court

(1) shall impose a minimum sentence of imprisonment

(A) if the person has not been previously convicted, of not less than 10 days with 10 days suspended, including a mandatory condition of probation that the defendant complete not less than 80 hours of community work service;

(B) if the person has been previously convicted, of not less than 10 days;

(C) if the person's driver's license, privilege to drive, or privilege to obtain a license was revoked under circumstances described in AS 28.15.181(c)(1), or if the person was driving in violation of a limited license issued under AS 28.15.201(d) following that revocation, of not less than 20 days with 10 days suspended, and a fine of not less than \$500, including a mandatory condition of probation that the defendant complete not less than 80 hours of community work service;

(D) if the person's driver's license, privilege to drive, or privilege to obtain a license was revoked under circumstances described in AS 28.15.181(c)(2), (3), or (4) or if the person was driving in violation of a limited license issued under AS 28.15.201(d) following that revocation, of not less than 30 days and a fine of not less than \$1,000;

(2) may impose additional conditions of probation;

(3) may not



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(A) suspend execution of sentence or grant probation except on condition that the person serve a minimum term of imprisonment and perform required community work service as provided in (1) of this subsection;

(B) suspend imposition of sentence; [AND]

(4) shall revoke the person's license, privilege to drive, or privilege to obtain a license, and the person may not be issued a new license or a limited license nor may the privilege to drive or obtain a license be restored for an additional period of not less than 90 days after the date that the person would have been entitled to restoration of driving privileges;

(5) may order that the motor vehicle that was used in commission of the offense be forfeited under AS 28.35.036; and

(6) shall, if the person has been previously convicted under this section

** not in amendment*

(A) ~~once~~ order the motor vehicle used in the commission of the offense forfeited under AS 28.35.036 or may order the motor vehicle taken to the owner's residence or property and immobilized for the period of time that the person's driver's license is revoked; the court shall also require the person to pay any administrative costs of keeping the motor vehicle immobilized; or

(B) two or more times, order the motor vehicle used in the commission of the offense forfeited under AS 28.35.036.

* Sec. 23. AS 28.33.030 is amended to read:

Sec. 28.33.030. Operating a commercial motor vehicle while under the influence of an alcoholic beverage, inhalant, or controlled substance [INTOXICATED]. (a) A person commits the crime of operating a commercial motor vehicle while under the influence of an alcoholic beverage, inhalant, or controlled substance [INTOXICATED] if the person operates a commercial motor vehicle

(1) while under the influence of an alcoholic beverage, inhalant, [INTOXICATING LIQUOR] or any controlled substance;

(2) when, as determined by a chemical test taken within four hours

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1 after the alleged offense was committed, there is 0.04 percent or more by weight of
2 alcohol in the person's blood or 40 milligrams or more of alcohol per 100 milliliters of
3 blood, or when there is 0.04 grams or more of alcohol per 210 liters of the person's
4 breath; or

5 (3) while under the combined influence of an alcoholic beverage,
6 inhalant, [INTOXICATING LIQUOR] and a controlled substance.

7 (b) Operating a commercial motor vehicle while under the influence of an
8 alcoholic beverage, inhalant, or controlled substance [INTOXICATED] is a class
9 A misdemeanor.

10 (c) The sentencing of a person convicted under this section shall be in
11 accordance with the minimum periods of imprisonment, fines, rehabilitative treatment,
12 and other provisions of AS 28.35.030, as if the person had been convicted of a
13 violation of AS 28.35.030. For purposes of sentencing, convictions for operating a
14 commercial motor vehicle while under the influence of an alcoholic beverage,
15 inhalant, or controlled substance [INTOXICATED] under this section, and for
16 refusal to submit to a chemical test under AS 28.33.032, if arising out of a single
17 transaction, are considered one previous conviction.

18 * Sec. 24. AS 28.33.031(a) is amended to read:

19 (a) A person who operates a commercial motor vehicle in this state is
20 considered to have given consent to a chemical test or tests

21 (1) of the person's breath if lawfully arrested for an offense arising out
22 of acts alleged to have been committed when the person was operating the commercial
23 motor vehicle while under the influence of an alcoholic beverage, inhalant, or
24 controlled substance [INTOXICATED]; the test or tests may be administered at the
25 direction of a law enforcement officer who has probable cause [REASONABLE
26 GROUNDS] to believe that the person was operating a commercial motor vehicle
27 while under the influence of an alcoholic beverage, inhalant, or controlled
28 substance [INTOXICATED] in violation of AS 28.33.030 or AS 28.35.030;

29 (2) of the person's breath and blood for the purpose of determining the
30 alcoholic content of the person's breath and blood and is considered to have given
31 consent to a chemical test or tests of the person's blood and urine for the purpose of

1 determining the presence of controlled substances in the person's blood and urine if
2 the person is involved in a motor vehicle accident that causes death or serious physical
3 injury to another person; the test or tests may be administered at the direction of a law
4 enforcement officer who has probable cause [REASONABLE GROUNDS] to
5 believe that the person was operating a commercial motor vehicle that was involved in
6 an accident causing death or serious physical injury to another person.

7 * Sec. 25. AS 28.33.031(c) is amended to read:

8 (c) A person who operates a commercial motor vehicle is considered to have
9 given consent to a preliminary breath test, at the direction of a law enforcement
10 officer, for the purpose of determining the alcoholic content of the person's blood or
11 breath. A law enforcement officer may administer a preliminary breath test if the
12 officer has probable cause [REASONABLE GROUNDS] to believe that the person's
13 ability to operate a commercial motor vehicle is impaired by the ingestion of alcoholic
14 beverages and that

15 (1) the commercial motor vehicle caused injury to person or property;

16 (2) the person violated the provisions of AS 28.33.130(a) or violated
17 the terms of an out-of-service order issued under AS 28.33.130; or

18 (3) the person unlawfully operated a commercial motor vehicle; in this
19 paragraph, "unlawfully" means in violation of any federal, state, or municipal statute,
20 regulation, or ordinance.

21 * Sec. 26. AS 28.33.033(a) is amended to read:

22 (a) Upon the trial of a civil or criminal action or proceedings arising out of
23 acts alleged to have been committed by a person operating a commercial motor
24 vehicle while under the influence of an alcoholic beverage [INTOXICATED] in
25 violation of AS 28.33.030, the following rules apply with regard to the amount of
26 alcohol in the person's blood or breath at the time alleged:

27 (1) if there was less than 0.04 percent by weight of alcohol in the
28 person's blood, or less than 40 milligrams of alcohol per 100 milliliters of the person's
29 blood, or less than 0.04 grams of alcohol per 210 liters of the person's breath, that fact
30 does not give rise to a presumption that the person was or was not under the influence
31 of an alcoholic beverage [INTOXICATING LIQUOR], but that fact may be

1 considered with other competent evidence in determining whether the person was
2 under the influence of an alcoholic beverage [INTOXICATING LIQUOR];

3 (2) if there was 0.04 percent or more by weight of alcohol in the
4 person's blood, or 40 milligrams or more of alcohol per 100 milliliters of the person's
5 blood, or 0.04 grams or more of alcohol per 210 liters of the person's breath, it is
6 presumed that the person was under the influence of an alcoholic beverage
7 [INTOXICATING LIQUOR].

8 * Sec. 27. AS 28.33.033(c) is amended to read:

9 (c) The provisions of (a) of this section may not be construed to limit the
10 introduction of any other competent evidence bearing upon the question of whether
11 the person was or was not under the influence of an alcoholic beverage
12 [INTOXICATING LIQUOR].

13 * Sec. 28. AS 28.33.140(a) is amended to read:

14 (a) In addition to the court action provided in AS 28.15.181, conviction of any
15 of the following offenses is grounds for immediate disqualification from driving a
16 commercial motor vehicle for the periods set out in this section:

17 (1) operating a commercial motor vehicle while under the influence
18 of an alcoholic beverage, inhalant, or controlled substance [INTOXICATED] in
19 violation of AS 28.33.030;

20 (2) refusal to submit to a chemical test in violation of AS 28.35.032;

21 (3) operating a motor vehicle while under the influence of an
22 alcoholic beverage, inhalant, or controlled substance [INTOXICATED] in
23 violation of AS 28.35.030;

24 (4) leaving the scene of an accident in violation of AS 28.35.060, or
25 failing to file, or providing false information in, an accident report in violation of
26 AS 28.35.110;

27 (5) a felony under state or federal law, which was facilitated because
28 the person used a commercial motor vehicle;

29 (6) a serious traffic violation; or

30 (7) driving after being placed out of service in violation of regulations
31 adopted under AS 28.05.011.

1 * Sec. 29. AS 28.35.030(a) is amended to read:

2 (a) A person commits the crime of driving while under the influence of an
3 alcoholic beverage, inhalant, or controlled substance [INTOXICATED] if the
4 person operates or drives a motor vehicle or operates an aircraft or a watercraft

5 (1) while under the influence of an alcoholic beverage, intoxicating
6 liquor, inhalant, or any controlled substance;

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

12 (3) while the person is under the combined influence of an alcoholic
13 beverage, an intoxicating liquor, an inhalant, and a controlled substance.

14 * Sec. 30. AS 28.35.030(b) is amended to read:

15 (b) Except as provided under (n) of this section, driving while under the
16 influence of an alcoholic beverage, inhalant, or controlled substance
17 [INTOXICATED] is a class A misdemeanor. Except as provided under (r) of this
18 section, upon [UPON] conviction,

19 (1) the court shall impose a minimum sentence of imprisonment of

20 (A) not less than 72 consecutive hours and a fine of not less
21 than \$1,500 [~~\$250~~] if the person has not been previously convicted;

22 (B) not less than 30 days, or not less than 20 days if the court
23 orders the person to perform 10 days of community service as authorized
24 under AS 12.55.055, and a fine of not less than \$3,000 [~~\$500~~] if the person
25 has been previously convicted once;

26 (C) not less than 60 days and a fine of not less than \$4,000
27 [~~\$1,000~~] if the person has been previously convicted twice and is not subject to
28 punishment under (n) of this section;

29 (D) not less than 120 days and a fine of not less than \$5,000
30 [~~\$2,000~~] if the person has been previously convicted three times and is not
31 subject to punishment under (n) of this section;

1 (E) not less than 240 days and a fine of not less than \$6,000
2 [\$3,000] if the person has been previously convicted four times and is not
3 subject to punishment under (n) of this section;

4 (F) not less than 360 days and a fine of not less than \$7,000
5 [\$4,000] if the person has been previously convicted more than four times and
6 is not subject to punishment under (n) of this section;

7 (2) the court may not

8 (A) suspend execution of sentence or grant probation except on
9 condition that the person serve the minimum imprisonment under (1) of this
10 subsection;

11 (B) suspend imposition of sentence;

12 (3) the court shall revoke the person's driver's license, privilege to
13 drive, or privilege to obtain a license under AS 28.15.181, and may order that the
14 motor vehicle, [OR] aircraft, or watercraft that was used in commission of the
15 offense to be forfeited under AS 28.35.036;

16 (4) the court shall, if the person has been previously convicted

17 (A) order the motor vehicle, aircraft, or watercraft used in
18 the commission of the offense forfeited under AS 28.35.036 or may order
19 the motor vehicle, aircraft, or watercraft taken to the owner's residence or
20 property and immobilized for the period of time that the person's driver's
21 license is revoked; the court shall also require the person to pay any
22 administrative costs of keeping the motor vehicle, aircraft, or watercraft
23 immobilized; or

24 (B) two or more times, order the motor vehicle, aircraft, or
25 watercraft used in the commission of the offense forfeited under
26 AS 28.35.036; and

27 (5) the court may order that the person, while incarcerated or as a
28 condition of probation or parole, take a drug or combination of drugs intended to
29 prevent the consumption of an alcoholic beverage; a condition of probation or
30 parole imposed under this paragraph is in addition to any other condition
31 authorized under another provision of law

1 * Sec. 31. AS 28.35.030(d) is amended to read:

2 (d) Except as prohibited by federal law or regulation, every provider of
3 treatment programs to which persons are ordered under [(h) OF] this section shall
4 supply the judge, prosecutor, defendant, and an agency involved in the
5 defendant's treatment with information and reports concerning the defendant's
6 past and present assessment, treatment, and progress [ALASKA COURT
7 SYSTEM WITH THE INFORMATION REGARDING THE CONDITION AND
8 TREATMENT OF THOSE PERSONS AS THE SUPREME COURT MAY
9 REQUIRE BY RULE]. Information compiled under this subsection is confidential
10 and may only be used in connection with court proceedings involving the
11 defendant's treatment, including use by a court in sentencing a person convicted #6
12 under this section, or by an officer of the court in preparing a presentence report for
13 the use of the court in sentencing a person convicted under this section.

14 * Sec. 32. AS 28.35.030(h) is amended to read:

15 (h) The court shall order a person convicted under this section to satisfy the
16 screening, evaluation, referral, and program requirements of an alcohol safety action
17 program if such a program is available in the community where the person resides, or
18 a private or public treatment facility approved by the division of alcoholism and drug
19 abuse, of the Department of Health and Social Services, under AS 47.37 to make
20 referrals for rehabilitative treatment or to provide rehabilitative treatment. If a person
21 is convicted under (n) of this section, the court shall order the person to be evaluated
22 as required by this subsection before the court imposes sentence for the offense.
23 Treatment required under this subsection shall occur, as much as possible, when
24 the person is incarcerated. The cost of treatment required under this subsection
25 shall be paid to the state by the person being treated. The cost of treatment
26 required to be paid to the state under this subsection may not exceed \$10,000;
27 however, the cost of treatment must include at least \$150 for the cost of an
28 alcohol safety action program if the program is available. Upon the person's
29 conviction, the court shall include reimbursement of the cost of treatment as a
30 part of the sentence. Except for reimbursement from a permanent fund dividend
31 as provided in this subsection, payment of the cost of treatment is not required if

1 the court determines the person is indigent. For costs of treatment that are not
2 paid by the person as required by this subsection, the state shall seek
3 reimbursement from the person's permanent fund dividend as provided in
4 AS 43.23.065. This subsection does not apply to costs of treatment incurred by a
5 person if the cost is incurred as a result of treatment not required under this
6 subsection.

7 * Sec. 33. AS 28.35.030(k) is amended to read:

8 (k) Imprisonment required under (b)(1)(A) [OR (B)] of this section shall be
9 served at a community residential center or, if a community residential center is not
10 available, at another appropriate place determined by the commissioner of corrections.
11 Imprisonment required under (b)(1)(B) - (F) of this section may be served at a
12 community residential center or at a private residence if approved by the
13 commissioner of corrections. Imprisonment served at a private residence must
14 include electronic monitoring. The cost of imprisonment resulting from the sentence
15 imposed under (b)(1) of this section shall be paid to the state by the person being
16 sentenced provided, however, that the cost of imprisonment required to be paid under
17 this subsection may not exceed \$2,000 [\$1,000]. Upon the person's conviction, the
18 court shall include the costs of imprisonment as a part of the judgment of conviction.
19 Except for reimbursement from a permanent fund dividend as provided in this
20 subsection, payment of the cost of imprisonment is not required if the court determines
21 the person is indigent. For costs of imprisonment that are not paid by the person as
22 required by this subsection, the state shall seek reimbursement from the person's
23 permanent fund dividend as provided under AS 43.23.065. While at the community
24 residential center or other appropriate place, a person sentenced under (b)(1)(A) of this
25 section shall perform at least 24 hours of community service work. A [AND A]
26 person sentenced under (b)(1)(B) of this section shall perform at least 160 hours of
27 community service work, as required by the director of the community residential
28 center or other appropriate place, or as required by the commissioner of corrections
29 if the sentence is being served at a private residence. In this subsection,
30 "appropriate place" means a facility with 24-hour on-site staff supervision that is
31 specifically adapted to provide a residence, and includes a correctional center,

1 residential treatment facility, hospital, halfway house, group home, work farm, work
2 camp, or other place that provides varying levels of restriction.

3 * Sec. 34. AS 28.35.030(n) is amended to read:

4 (n) A person is guilty of a class C felony if the person is convicted under (a) of
5 this section and has been previously convicted two or more times since January 1,
6 1996, and within the 10 years preceding the date of the present offense. For purposes
7 of determining minimum sentences based on previous convictions, the provisions of
8 (o)(4) of this section apply. Except as provided under (r) of this section, upon
9 [UPON] conviction, the court

10 (1) shall impose a fine of not less than \$10,000 [\$5,000] and a
11 minimum sentence of imprisonment of not less than

12 (A) 180 [120] days if the person has been previously convicted
13 twice;

14 (B) 360 [240] days if the person has been previously convicted
15 three times;

16 (C) 440 [360] days if the person has been previously convicted
17 four or more times;

18 (2) may not

19 (A) suspend execution of sentence or grant probation except on
20 condition that the person serve the minimum imprisonment under (1) of this
21 subsection; or

22 (B) suspend imposition of sentence;

23 (3) shall permanently revoke the person's driver's license, privilege to
24 drive, or privilege to obtain a license subject to restoration of the license under (p)
25 of this section [UNDER AS 28.15.181(c)];

26 (4) may order [AS A CONDITION OF PROBATION OR PAROLE]
27 that the person, while incarcerated or as a condition of probation or parole, take a
28 drug or combination of drugs, intended to prevent the consumption of an alcoholic
29 beverage; a condition of probation or parole imposed under this paragraph is in
30 addition to any other condition authorized under another provision of law; [AND]

31 (5) shall [MAY] also order forfeiture under AS 28.35.036 of the #6

1 vehicle, watercraft, or aircraft used in the commission of the offense, subject to
2 remission under AS 28.35.037; and

3 (6) shall order the department to revoke the registration for any
4 vehicle registered by the department in the name of the person convicted under
5 this subsection; if a person convicted under this subsection is a registered co-
6 owner of a vehicle or is registered as a co-owner under a business name, the
7 department shall reissue the vehicle registration and omit the name of the person
8 convicted under this subsection.

9 * Sec. 35. AS 28.35.030(o) is amended to read:

10 (o) In this section,

11 (1) "inhalant" has the meaning given to the phrase "hazardous
12 volatile material or substance" in AS 47.37.270; [REPEALED]

13 (2) "operate an aircraft" means to navigate, pilot, or taxi an aircraft in
14 the airspace over this state, or upon the land or water inside this state;

15 (3) "operate a watercraft" means to navigate a vessel used or capable
16 of being used as a means of transportation on water for recreational or commercial
17 purposes on all waters, fresh or salt, inland or coastal, inside the territorial limits or
18 under the jurisdiction of the state;

19 (4) "previously convicted" means having been convicted in this or
20 another jurisdiction of any of the following offenses; however, convictions for any of
21 these offenses, if arising out of a single transaction and a single arrest, are considered
22 one previous conviction:

23 (A) operating a motor vehicle, aircraft, or watercraft while
24 under the influence of an alcoholic beverage, inhalant, or controlled
25 substance [INTOXICATED,] in violation of this section or in violation of
26 another law or ordinance with similar elements, except that the other law or
27 ordinance may provide for a lower level of alcohol in the person's blood or
28 breath than imposed under (a)(2) of this section;

29 (B) refusal to submit to a chemical test in violation of
30 AS 28.35.032 or in violation of another law or ordinance with similar
31 elements; or

1 (C) operating a commercial motor vehicle while under the
2 influence of an alcoholic beverage, inhalant, or controlled substance
3 [INTOXICATED] in violation of AS 28.33.030 or in violation of another law
4 or ordinance with similar elements, except that the other law or ordinance may
5 provide for a lower level of alcohol in the person's blood or breath than
6 imposed under AS 28.33.030(a)(2).

7 * Sec. 36. AS 28.35.030 is amended by adding new subsections to read:

8 (p) Upon request, the department shall review a driver's license revocation
9 imposed under (n)(3) of this section and may restore the driver's license if

10 (1) the license has been revoked for a period of at least 10 years;

11 (2) the person has not been convicted of a criminal offense since the
12 license was revoked; and

13 (3) the person provides proof of financial responsibility.

14 (q) If a person is convicted under this section and has been previously
15 convicted, the court shall order the person to surrender the registration plates for any
16 vehicle registered or co-registered in the person's name. The person shall surrender
17 the registration plates to the department by the close of the next business day. A
18 person other than the person convicted under this section who applies to register a
19 motor vehicle that has registration plates that were required to be surrendered under
20 this section but that were not surrendered as required by this subsection may not
21 register the vehicle unless the person registering the vehicle provides proof
22 satisfactory to the department that the person did not know that the registration plates
23 were required to be surrendered under this subsection or the person pays twice the
24 applicable registration fee required under AS 28.10.421.

25 (r) If the court determines that the person has successfully completed a
26 therapeutic court program, the court may suspend

27 (1) a portion of the mandatory minimum sentence required under
28 (b)(1) or (n)(1) of this section; and

29 (2) up to 50 percent of the minimum fines required under (b)(1) or
30 (n)(1) of this section.

31 (s) For purposes of this section, the director of the division within the

1 department responsible for administration of this section or a person designated by the
2 director may request and receive criminal justice information available under
3 AS 12.62. In this subsection, "criminal justice information" has the meaning given in
4 AS 12.62.900.

5 * Sec. 37. AS 28.35.031(a) is amended to read:

6 (a) A person who operates or drives a motor vehicle in this state or who
7 operates an aircraft as defined in AS 28.35.030(o) [AS 28.35.030(o)(2)] or who
8 operates a watercraft as defined in AS 28.35.030(o) [AS 28.35.030(o)(3)] shall be
9 considered to have given consent to a chemical test or tests of the person's breath for
10 the purpose of determining the alcoholic content of the person's blood or breath if
11 lawfully arrested for an offense arising out of acts alleged to have been committed
12 while the person was operating or driving a motor vehicle or operating an aircraft or a
13 watercraft while under the influence of an alcoholic beverage, inhalant, or
14 controlled substance [INTOXICATED] or if lawfully arrested under AS 28.35.280
15 for the offense of minor operating a vehicle after consuming alcohol. The test or tests
16 shall be administered at the direction of a law enforcement officer who has probable
17 cause [REASONABLE GROUNDS] to believe that the person was operating or
18 driving a motor vehicle or operating an aircraft or a watercraft in this state while
19 under the influence of an alcoholic beverage, inhalant, or controlled substance
20 [INTOXICATED] or that the person was a minor operating a vehicle after consuming
21 alcohol.

22 * Sec. 38. AS 28.35.031(b) is amended to read:

23 (b) A person who operates or drives a motor vehicle in this state or who
24 operates an aircraft or watercraft shall be considered to have given consent to a
25 preliminary breath test for the purpose of determining the alcoholic content of the
26 person's blood or breath. A law enforcement officer may administer a preliminary
27 breath test at the scene of the incident if the officer has probable cause
28 [REASONABLE GROUNDS] to believe that a person's ability to operate a motor
29 vehicle, aircraft, or watercraft is impaired by the ingestion of alcoholic beverages and
30 that the person

31 (1) was operating or driving a motor vehicle, aircraft, or watercraft that

1 is involved in an accident;

2 (2) committed a moving traffic violation or unlawfully operated an
3 aircraft or watercraft; in this paragraph, "unlawfully" means in violation of any
4 federal, state, or municipal statute, regulation, or ordinance, except for violations that
5 do not provide reason to believe that the operator's ability to operate the aircraft or
6 watercraft was impaired by the ingestion of alcoholic beverages; or

7 (3) was operating or driving a motor vehicle in violation of
8 AS 28.35.029(a).

9 * Sec. 39. AS 28.35.031(g) is amended to read:

10 (g) A person who operates or drives a motor vehicle in this state shall be
11 considered to have given consent to a chemical test or tests of the person's breath and
12 blood for the purpose of determining the alcoholic content of the person's breath and
13 blood and shall be considered to have given consent to a chemical test or tests of the
14 person's blood and urine for the purpose of determining the presence of controlled
15 substances in the person's blood and urine if the person is involved in a motor vehicle
16 accident that causes death or serious physical injury to another person. The test or
17 tests may be administered at the direction of a law enforcement officer who has
18 probable cause [REASONABLE GROUNDS] to believe that the person was
19 operating or driving a motor vehicle in this state that was involved in an accident
20 causing death or serious physical injury to another person.

21 * Sec. 40. AS 28.35.032(a) is amended to read:

22 (a) If a person under arrest for operating a motor vehicle or aircraft while
23 under the influence of an alcoholic beverage, inhalant, or controlled substance
24 [INTOXICATED] refuses the request of a law enforcement officer to submit to a
25 chemical test authorized under AS 28.33.031(a)(1) or AS 28.35.031(a), or if a person
26 involved in a motor vehicle accident that causes death or serious physical injury to
27 another person refuses the request of a law enforcement officer to submit to a
28 chemical test authorized under AS 28.33.031(a)(2) or AS 28.35.031(g), after being
29 advised by the officer that the refusal will result in the denial or revocation of the
30 driver's license, privilege to drive, or privilege to obtain a license, that the refusal may
31 be used against the person in a civil or criminal action or proceeding arising out of an

1 act alleged to have been committed by the person while operating a motor vehicle or
2 aircraft while under the influence of an alcoholic beverage, inhalant, or controlled
3 substance [INTOXICATED], and that the refusal is a crime, a chemical test may not
4 be given, except as provided by AS 28.35.035. If a person under arrest for operating a
5 watercraft while under the influence of an alcoholic beverage, inhalant, or
6 controlled substance [INTOXICATED] refuses the request of a law enforcement
7 officer to submit to a chemical test authorized under AS 28.35.031(a), after being
8 advised by the officer that the refusal may be used against the person in a civil or
9 criminal action or proceeding arising out of an act alleged to have been committed by
10 the person while operating a watercraft while under the influence of an alcoholic
11 beverage, inhalant, or controlled substance [INTOXICATED], and that the refusal
12 is a crime, a chemical test may not be given, except as provided by AS 28.35.035.

13 * Sec. 41. AS 28.35.032(e) is amended to read:

14 (e) The refusal of a person to submit to a chemical test authorized under
15 AS 28.33.031(a) or AS 28.35.031(a) or (g) is admissible evidence in a civil or criminal
16 action or proceeding arising out of an act alleged to have been committed by the
17 person while operating or driving a motor vehicle or operating an aircraft or watercraft
18 while under the influence of an alcoholic beverage, inhalant, or controlled
19 substance [INTOXICATED].

20 * Sec. 42. AS 28.35.032(g) is amended to read:

21 (g) Except as provided under (i) of this section, upon [UPON] conviction
22 under this section,

23 (1) the court shall impose a minimum sentence of imprisonment of

24 (A) not less than 72 consecutive hours and a fine of not less
25 than \$1,500 [\$250] if the person has not been previously convicted;

26 (B) not less than 30 days, or not less than 20 days if the court
27 orders the person to perform 10 days of community service as authorized
28 under AS 12.55.055, and a fine of not less than \$3,000 [\$500] if the person
29 has been previously convicted once;

30 (C) not less than 60 days and a fine of not less than \$4,000
31 [\$1,000] if the person has been previously convicted twice and is not subject to

1 punishment under (p) of this section;

2 (D) not less than 120 days and a fine of not less than \$5,000
3 [\$2,000] if the person has been previously convicted three times and is not
4 subject to punishment under (p) of this section;

5 (E) not less than 240 days and a fine of not less than \$6,000
6 [\$3,000] if the person has been previously convicted four times and is not
7 subject to punishment under (p) of this section;

8 (F) not less than 360 days and a fine of not less than \$7,000
9 [\$4,000] if the person has been previously convicted more than four times and
10 is not subject to punishment under (p) of this section;

11 (2) the court may not

12 (A) suspend execution of the sentence required by (1) of this
13 subsection or grant probation, except on condition that the person serve the
14 minimum imprisonment under (1) of this subsection; or

15 (B) suspend imposition of sentence;

16 (3) the court shall revoke the person's driver's license, privilege to
17 drive, or privilege to obtain a license under AS 28.15.181, and may order that the
18 motor vehicle, [OR] aircraft, or watercraft that was used in commission of the
19 offense be forfeited under AS 28.35.036; [AND]

20 (4) the court shall, if the person has been previously convicted

21 (A) order the motor vehicle, aircraft, or watercraft used in
22 the commission of the offense forfeited under AS 28.35.036 or may order
23 the motor vehicle, aircraft, or watercraft taken to the owner's residence or
24 property and immobilized for the period of time that the person's driver's
25 license is revoked; the court shall also require the person to pay any
26 administrative costs of keeping the motor vehicle, aircraft, or watercraft
27 immobilized; or

28 (B) two or more times, order the motor vehicle, aircraft, or
29 watercraft used in the commission of the offense forfeited under
30 AS 28.35.036;

31 (5) the court may order that the person, while incarcerated or as a

1 condition of probation or parole, take a drug or combination of drugs intended to
2 prevent the consumption of an alcoholic beverage; a condition of probation or
3 parole imposed under this paragraph is in addition to any other condition
4 authorized under another provision of law; and

5 (6) the sentence imposed by the court under this subsection shall run
6 consecutively with any other sentence of imprisonment imposed on the person.

7 * Sec. 43. AS 28.35.032(h) is amended to read:

8 (h) Except as prohibited by federal law or regulation, every provider of
9 treatment programs to which persons are ordered under [(l) OF] this section shall
10 supply the judge, prosecutor, defendant, and an agency involved in the
11 defendant's treatment with information and reports concerning the defendant's
12 past and present assessment, treatment, and progress [ALASKA COURT
13 SYSTEM WITH THE INFORMATION REGARDING THE CONDITION AND
14 TREATMENT OF THOSE PERSONS AS THE SUPREME COURT MAY
15 REQUIRE BY RULE]. Information compiled under this subsection is confidential
16 and may only be used in connection with court proceedings involving the
17 defendant's treatment, including use by a court in sentencing a person convicted
18 under this section, or by an officer of the court in preparing a pre-sentence report for
19 the use of the court in sentencing a person convicted under this section. #6

20 * Sec. 44. AS 28.35.032(j) is amended to read:

21 (j) For purposes of this section, convictions for operating or driving while
22 under the influence of an alcoholic beverage, inhalant, or controlled substance
23 [INTOXICATED] under AS 28.33.030 or AS 28.35.030 and for refusal to submit to a
24 chemical test under this section, if arising out of a single transaction and a single
25 arrest, are considered one previous conviction.

26 * Sec. 45. AS 28.35.032(l) is amended to read:

27 (l) The court shall order a person convicted under this section to satisfy the
28 screening, evaluation, referral, and program requirements of an alcohol safety action
29 program if such a program is available in the community where the person resides, or
30 a private or public treatment facility approved by the division of alcoholism and drug
31 abuse, of the Department of Health and Social Services, under AS 47.37 to make

1 referrals for rehabilitative treatment or to provide rehabilitative treatment. If a person
2 is convicted under (p) of this section, the court shall order the person to be evaluated
3 as required by this subsection before the court imposes sentence for the offense.
4 Treatment required under this subsection shall occur, as much as possible, when
5 the person is incarcerated. The cost of treatment required under this subsection
6 shall be paid to the state by the person being treated. The cost of treatment
7 required to be paid to the state under this subsection may not exceed \$10,000;
8 however, the cost of treatment must include at least \$150 for the cost of an
9 alcohol safety action program if the program is available. Upon the person's
10 conviction, the court shall include reimbursement of the cost of treatment as a
11 part of the sentence. Except for reimbursement from a permanent fund dividend
12 as provided in this subsection, payment of the cost of treatment is not required if
13 the court determines the person is indigent. For costs of treatment that are not
14 paid by the person as required by this subsection, the state shall seek
15 reimbursement from the person's permanent fund dividend as provided in
16 AS 43.23.065. This subsection does not apply to costs of treatment incurred by a
17 person if the cost is incurred as a result of treatment not required under this
18 subsection.

19 * Sec. 46. AS 28.35.032(o) is amended to read:

20 (o) Imprisonment required under (g)(1)(A) [OR (B)] of this section shall be
21 served at a community residential center, or if a community residential center is not
22 available, at another appropriate place determined by the commissioner of corrections.
23 Imprisonment required under (g)(1)(B) - (F) of this section may be served at a
24 community residential center or at a private residence if approved by the
25 commissioner of corrections. Imprisonment served at a private residence must
26 include electronic monitoring. The cost of imprisonment resulting from the sentence
27 imposed under (g)(1) of this section shall be paid to the state by the person being
28 sentenced provided, however, that the cost of imprisonment required to be paid under
29 this subsection may not exceed \$2,000 [\$1,000]. Upon the person's conviction, the
30 court shall include the costs of imprisonment as a part of the judgment of conviction.
31 Except for reimbursement from a permanent fund dividend as provided in this

1 subsection, payment of the cost of imprisonment is not required if the court determines
 2 the person is indigent. For costs of imprisonment that are not paid by the person as
 3 required by this subsection, the state shall seek reimbursement from the person's
 4 permanent fund dividend as provided under AS 43.23.065. While at the community
 5 residential center or other appropriate place, a person sentenced under (g)(1)(A) of this
 6 section shall perform at least 24 hours of community service work. A [AND A]
 7 person sentenced under (g)(1)(B) of this section shall perform at least 160 hours of
 8 community service work, as required by the director of the community residential
 9 center or other appropriate place, or as required by the commissioner of corrections
 10 if the sentence is being served at a private residence. In this subsection,
 11 "appropriate place" means a facility with 24-hour on-site staff supervision that is
 12 specifically adapted to provide a residence, and includes a correctional center,
 13 residential treatment facility, hospital, halfway house, group home, work farm, work
 14 camp, or other place that provides varying levels of restriction.

15 * Sec. 47. AS 28.35.032(p) is amended to read:

16 (p) A person is guilty of a class C felony if the person is convicted under this
 17 section and has been previously convicted two or more times since January 1, 1996,
 18 and within the 10 years preceding the date of the present offense. For purposes of
 19 determining minimum sentences based on previous convictions, the provisions of
 20 AS 28.35.032(o)(4) apply. Except as provided under (t) of this section, upon
 21 [UPON] conviction,

22 (1) the court shall impose a fine of not less than \$10,000 [\$5,000] and
 23 a minimum sentence of imprisonment of not less than

24 (A) 180 [120] days if the person has been previously convicted
 25 twice;

26 (B) 360 [240] days if the person has been previously convicted
 27 three times;

28 (C) 440 [360] days if the person has been previously convicted
 29 four or more times;

30 (2) the court may not

31 (A) suspend execution of the sentence required by (1) of this

1 subsection or grant probation, except on condition that the person serve the
2 minimum imprisonment under (1) of this subsection; or

3 (B) suspend imposition of sentence;

4 (3) the court shall permanently revoke the person's driver's license,
5 privilege to drive, or privilege to obtain a license subject to restoration under (r) of
6 this section [UNDER AS 28.15.181(c)];

7 (4) the court may order [AS A CONDITION OF PROBATION OR
8 PAROLE] that the person, while incarcerated or as a condition of probation or
9 parole, take a drug, or combination of drugs, intended to prevent consumption of an
10 alcoholic beverage; a condition of probation or parole imposed under this paragraph
11 is in addition to any other condition authorized under another provision of law;

12 (5) the sentence imposed by the court under this subsection shall run
13 consecutively with any other sentence of imprisonment imposed on the person; [AND]

14 (6) the court shall [MAY] also order forfeiture under AS 28.35.036, of #6
15 the motor vehicle, [OR] aircraft, or watercraft used in the commission of the offense,
16 subject to remission under AS 28.35.037; and

17 (7) the court shall order the department to revoke the registration #6
18 for any vehicle registered by the department in the name of the person convicted
19 under this subsection; if a person convicted under this subsection is a registered
20 co-owner of a vehicle, the department shall reissue the vehicle registration and
21 omit the name of the person convicted under this subsection.

22 * Sec. 48. AS 28.35.032 is amended by adding new subsections to read:

23 (r) Upon request, the department shall review a driver's license revocation
24 imposed under (p)(3) of this section and may restore the driver's license if

25 (1) the license has been revoked for a period of at least 10 years;

26 (2) the person has not been convicted of a criminal offense since the
27 license was revoked; and

28 (3) the person provides proof of financial responsibility.

29 (s) If a person is convicted under this section and has been previously
30 convicted, the court shall order the person to surrender the registration plates for any
31 vehicle registered or co-registered in the person's name. The person shall surrender

1 the registration plates to the department by the close of the next business day. A
2 person other than the person convicted under this section who applies to register a
3 motor vehicle that has registration plates that were required to be surrendered under
4 this section but that were not surrendered as required by this subsection may not
5 register the vehicle unless the person registering the vehicle provides proof
6 satisfactory to the department that the person did not know that the registration plates
7 were required to be surrendered under this subsection or the person pays twice the
8 applicable registration fee required under AS 28.10.421.

9 (t) If the court determines that the person has successfully completed a
10 therapeutic court program, the court may suspend

11 (1) a portion of the mandatory minimum sentence required under
12 (g)(1) or (p)(1) of this section; and

13 (2) up to 50 percent of the minimum fine required under (g)(1) and
14 (p)(1) of this section.

15 * Sec. 49. AS 28.35.033(a) is amended to read:

16 (a) Upon the trial of a civil or criminal action or proceeding arising out of acts
17 alleged to have been committed by a person while operating or driving a motor vehicle
18 or operating an aircraft or a watercraft while under the influence of an alcoholic
19 beverage, inhalant, or controlled substance [INTOXICATED], the amount of
20 alcohol in the person's blood or breath at the time alleged shall give rise to the
21 following presumptions:

22 (1) If there was 0.04 percent or less by weight of alcohol in the
23 person's blood, or 40 milligrams or less of alcohol per 100 milliliters of the person's
24 blood, or 0.04 grams or less of alcohol per 210 liters of the person's breath, it shall be
25 presumed that the person was not under the influence of an alcoholic beverage
26 [INTOXICATING LIQUOR].

27 (2) If there was in excess of 0.04 percent but less than 0.08 percent by
28 weight of alcohol in the person's blood, or in excess of 40 but less than 80 milligrams
29 of alcohol per 100 milliliters of the person's blood, or in excess of 0.04 grams but less
30 than 0.08 grams of alcohol per 210 liters of the person's breath, that fact does not give
31 rise to any presumption that the person was or was not under the influence of an

1 alcoholic beverage [INTOXICATING LIQUOR], but that fact may be considered
2 with other competent evidence in determining whether the person was under the
3 influence of an alcoholic beverage [INTOXICATING LIQUOR].

4 (3) If there was 0.08 percent or more by weight of alcohol in the
5 person's blood, or 80 milligrams or more of alcohol per 100 milliliters of the person's
6 blood, or 0.08 grams or more of alcohol per 210 liters of the person's breath, it shall be
7 presumed that the person was under the influence of an alcoholic beverage
8 [INTOXICATING LIQUOR].

9 * Sec. 50. AS 28.35.033(e) is amended to read:

10 (e) The person tested may have a physician, or a qualified technician, chemist,
11 registered nurse, or other qualified person of the person's own choosing administer a
12 chemical test in addition to the test administered at the direction of a law enforcement
13 officer. The failure or inability to obtain an additional test by a person does not
14 preclude the admission of evidence relating to the test taken at the direction of a law
15 enforcement officer; the fact that the person under arrest sought to obtain such an
16 additional test, and failed or was unable so to do, is likewise admissible in evidence.
17 The person who administers the chemical test shall clearly and expressly inform
18 the person tested of that person's right to an independent test described under
19 this subsection, and, if the person being tested requests an independent test, the
20 department shall make reasonable and good-faith efforts to assist the person
21 being tested in contacting a person qualified to perform an independent chemical
22 test of the person's breath or blood.

23 * Sec. 51. AS 28.35.035(a) is amended to read:

24 (a) If a person is under arrest for an offense arising out of acts alleged to have
25 been committed while the person was operating a motor vehicle, aircraft, or watercraft
26 while under the influence of an alcoholic beverage, inhalant, or controlled
27 substance [INTOXICATED], and that arrest results from an accident that causes
28 death or physical injury to another person, a chemical test may be administered
29 without the consent of the person arrested to determine the amount of alcohol in that
30 person's breath or blood or to determine the presence of controlled substances in that
31 person's blood and urine.

* Sec. 52. AS 28.35.036 is repealed and reenacted to read:

Sec. 28.35.036. Forfeiture of vehicle, aircraft, or watercraft. (a) After conviction of an offense under AS 28.15.291(b), AS 28.35.030, or 28.35.032, a motor vehicle, aircraft, or watercraft involved in the commission of the offense is subject to forfeiture as provided under AS 28.15.291(b), AS 28.35.030, and 28.35.032.

#4

#4

(b) Before forfeiture of a motor vehicle, aircraft, or watercraft, the court shall schedule a hearing on the matter and shall notify the state and the convicted person of the time and place set for the hearing. Except for a motor vehicle, aircraft, or watercraft that is required to be forfeited under AS 28.15.291(b), AS 28.35.030, or 28.35.032, the court may order the forfeiture of the motor vehicle if the court, sitting without a jury, determines, by a preponderance of the evidence, that the forfeiture of the motor vehicle, aircraft, or watercraft will serve one or more of the following purposes:

#4

(1) deterrence of the convicted person from the commission of future offenses under AS 28.15.291(b) or AS 28.35.030;

#4

(2) protection of the safety and welfare of the public;

(3) deterrence of other persons who are potential offenders under AS 28.15.291(b) or AS 28.35.030; or omitted but included in CS Workdraft - M

#4

(4) expression of public condemnation of the serious or aggravated nature of the convicted person's conduct.

(c) Upon forfeiture of a motor vehicle, aircraft, or watercraft, the court shall require the

(1) surrender of the registration and certificate of title of that motor vehicle; the registration and certificate of title shall be delivered to the department;

#7

(2) owner of the motor vehicle, aircraft, or watercraft to pay all administrative costs incurred by the state in forfeiting the motor vehicle, aircraft, or watercraft, including costs incurred by the department, law enforcement personnel, or the court system.

(d) If not released under AS 28.35.037, a motor vehicle, aircraft, or watercraft forfeited under this section may be disposed of at the discretion of the Department of Public Safety.

1 (e) Disposal under this subsection includes, by way of example and not of
2 limitation,

3 (1) sale, as a unit or in parts, including sale at an auction, and the
4 proceeds deposited into the general fund;

5 (2) transfer to a state or municipal law enforcement agency;

6 (3) being declared surplus and transferred to the Department of
7 Administration; or

8 (4) being destroyed.

9 * Sec. 53. AS 28.35.037 is amended to read:

10 Sec. 28.35.037. **Remission of forfeitures.** (a) Upon receiving notice from
11 the court of the time and place set for a hearing under AS 28.35.036, the state shall
12 provide to every person who has an ascertainable ownership or security interest in the
13 motor vehicle, [OR] aircraft, or watercraft written notice that includes

14 (1) a description of the motor vehicle, [OR] aircraft, or watercraft;

15 (2) the time and place of the forfeiture hearing;

16 (3) the legal authority under which the motor vehicle, [OR] aircraft, or
17 watercraft, may be forfeited;

18 (4) notice of the right to intervene to protect the interest in the motor
19 vehicle, [OR] aircraft, or watercraft.

20 (b) At the hearing, a person who claims an ownership or security interest in
21 the motor vehicle, [OR] aircraft, or watercraft, must establish by a preponderance of
22 the evidence that

23 (1) the petitioner has an interest in the motor vehicle, [OR] aircraft, or
24 watercraft, acquired in good faith;

25 (2) a person other than the petitioner was convicted of the offense that
26 resulted in the forfeiture; and

27 (3) before parting with the motor vehicle, [OR] aircraft, or watercraft,
28 the petitioner did not know or have reasonable cause to believe that it would be used
29 in the commission of an offense.

30 (c) If a person satisfies the requirements of (b) of this section, the court shall
31 order that an amount equal to the value of the petitioner's interest in the motor vehicle,

1 [OR] aircraft, or watercraft be paid to the petitioner, or the court shall order that the
2 motor vehicle, [OR] aircraft, or watercraft be released to the petitioner together with
3 title to the motor vehicle, [OR] aircraft or watercraft.

4 (d) Forfeiture of a motor vehicle, [OR] aircraft, or watercraft under
5 AS 28.35.036 is without prejudice to the rights [,] and does not extinguish the claims
6 of a creditor with an interest in the motor vehicle, [OR] aircraft, or watercraft.

7 * Sec. 54. AS 28.35.039(2) is amended to read:

8 (2) "alcohol safety action program" means a program for alcohol and
9 substance abuse screening, referral, and monitoring developed and implemented
10 or approved by the Department of Health and Social Services under AS 47.37
11 [DESIGNATED BY THE COMMISSIONER OF HEALTH AND SOCIAL
12 SERVICES AS AN ALCOHOL SAFETY ACTION PROGRAM].

13 * Sec. 55. AS 47.37.040(14) is amended to read:

14 (14) cooperate with the Department of Public Safety and the
15 Department of Transportation and Public Facilities in establishing and conducting
16 programs designed to deal with the problem of persons operating motor vehicles while
17 under the influence of an alcoholic beverage, inhalant, or controlled substance
18 [INTOXICATED OR UNDER THE INFLUENCE OF DRUGS], and develop and
19 approve alcohol information courses required to be taken by drivers under AS 28.15 or
20 made available to drivers to reduce points assessed for violation of traffic laws;

21 * Sec. 56. AS 47.37.040 is amended by adding a new paragraph to read:

22 (21) develop and implement, or designate, in cooperation with other
23 state or local agencies, an alcohol safety action program that provides alcohol and
24 substance abuse screening, referral, and monitoring services to persons who have been
25 referred by a court in connection with a charge or conviction of a misdemeanor
26 involving the use of a motor vehicle, aircraft, or watercraft and alcohol or a controlled
27 substance, or referred by an agency of the state with the responsibility for
28 administering motor vehicle laws in connection with a driver's license action involving
29 the use of alcohol or a controlled substance.

30 * Sec. 57. AS 47.37.130(b) is amended to read:

31 (b) The program of the division must include

1 (1) emergency treatment provided by a facility affiliated with or part of
2 the medical service of a general hospital;

3 (2) inpatient treatment;

4 (3) intermediate treatment; [AND]

5 (4) outpatient and follow-up treatment; and

6 (5) standards for alcohol safety action programs; the standards
7 may vary in their requirements and stringency according to the population, price
8 level, remoteness, access to transportation, and availability of ancillary services of
9 the area to be served; a program must meet the applicable standards before it is
10 approved by the division as an alcohol safety action program; the standards
11 required under this paragraph shall be established in a manner that provides
12 protection of the health, safety, and well-being of clients of the affected programs
13 and protection for the affected programs from exposure to malpractice and
14 liability actions.

15 * Sec. 58. AS 47.37.130 is amended by adding new subsections to read:

16 (h) The division shall

17 (1) inspect, on a regular basis, approved public and private alcohol
18 safety action programs at reasonable times and in a reasonable manner; and

19 (2) maintain a list of approved public and private alcohol safety action
20 programs.

21 (i) An approved public and private alcohol safety action program shall file
22 with the division on request data, statistics, schedules, and information that the
23 division reasonably requires. An approved program that fails without good cause to
24 furnish any data, statistics, schedules, or information as requested, or files fraudulent
25 returns of them, shall be removed from the list of approved programs.

26 (j) The director, after holding a hearing under the provisions of AS 44.62
27 (Administrative Procedure Act), may suspend, revoke, limit, restrict, or refuse to grant
28 an approval for an alcohol safety action program for failure to meet standards
29 established under (b) of this section.

30 * Sec. 59. AS 28.35.038 is repealed.

31 * Sec. 60. The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 APPLICABILITY. (a) Section 7 of this Act applies to registration of a motor vehicle
3 that occurs on or after the effective date of this Act.

4 (b) This Act applies to offenses committed on or after the effective date of this Act,
5 except that references to previous convictions include convictions occurring before, on, or
6 after the effective date of this Act.

7 * Sec. 61. This Act takes effect July 1, 2002.

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR DONLEY

TO: SCS CSHB 4(JUD)

1 Page 12, following line 7:

2 Insert a new bill section to read:

3 **** Sec. 21.** AS 28.15.291(b) is amended to read:

4 (b) Upon conviction under (a) of this section, the court

5 (1) shall impose a minimum sentence of imprisonment

6 (A) [IF THE PERSON HAS NOT BEEN PREVIOUSLY
7 CONVICTED, OF NOT LESS THAN 10 DAYS WITH 10 DAYS
8 SUSPENDED, INCLUDING A MANDATORY CONDITION OF
9 PROBATION THAT THE DEFENDANT COMPLETE NOT LESS THAN 80
10 HOURS OF COMMUNITY WORK SERVICE;

11 (B) IF THE PERSON HAS BEEN PREVIOUSLY
12 CONVICTED,] of not less than 10 days;

13 ~~(B)~~ [(C)] if the person's driver's license, privilege to drive, or
14 privilege to obtain a license was revoked under circumstances described in
15 AS 28.15.181(c)(1), or if the person was driving in violation of a limited
16 license issued under AS 28.15.201(d) following that revocation, of not less
17 than 20 days with 10 days suspended, and a fine of not less than \$500,
18 including a mandatory condition of probation that the defendant complete not
19 less than 80 hours of community work service;

20 ~~(C)~~ [(D)] if the person's driver's license, privilege to drive, or
21 privilege to obtain a license was revoked under circumstances described in
22 AS 28.15.181(c)(2), (3), or (4) or if the person was driving in violation of a
23 limited license issued under AS 28.15.201(d) following that revocation, of not
24 less than 30 days and a fine of not less than \$1,000;

1 (2) may impose additional conditions of probation;

2 (3) may not

3 (A) suspend execution of sentence or grant probation except on
4 condition that the person serve a minimum term of imprisonment and perform
5 required community work service as provided in (1) of this subsection;

6 (B) suspend imposition of sentence; and

7 (4) shall revoke the person's license, privilege to drive, or privilege to
8 obtain a license, and the person may not be issued a new license or a limited license
9 nor may the privilege to drive or obtain a license be restored for an additional period
10 of not less than 90 days after the date that the person would have been entitled to
11 restoration of driving privileges."

12

13 Renumber the following bill sections accordingly.

SENATE FINANCE
COMMITTEE

Amendment Number: #2
Bill Number: HB 4
Sponsor: Donley Date: 3/15/02
Logged In By: J. Mindy

22-LS0046\W.3
Ford
1/25/02

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR DONLEY

TO: SCS CSHB 4(JUD)

1 Page 12, following line 15:

2 Insert a new bill section to read:

3 ** Sec. 22. AS 28.20.230 is amended by adding a new subsection to read:

4 (c) Notwithstanding any other provisions of this chapter, a person convicted of
5 driving under the influence of an alcoholic beverage, inhalant, or controlled substance
6 in violation of AS 28.35.030 shall maintain proof of financial responsibility for the
7 future for (1) five years if the person has not been previously convicted; (2) 10 years if
8 the person has been previously convicted once; (3) 20 years if the person has been
9 previously convicted twice; (4) for as long as the person is licensed to drive under
10 AS 28.15 if the person has been previously convicted three or more times. In this
11 subsection, "previously convicted" has the meaning given in AS 28.35.030(o).
12

13 Renumber the following bill sections accordingly.

SENATE FINANCE
COMMITTEE
Amendment Number: #3
Bill Number: HB 4
Sponsor: Donley Date: 3/13/04
Logged In By: J. Mindy

22-LS0046\W.4
Ford
1/31/02

A M E N D M E N T

OFFERED IN THE SENATE
TO: SCS CSHB 4(JUD)

BY SENATOR DONLEY

1 Page 6, following line 6:

2 Insert a new bill section to read:

3 **** Sec. 10. AS 28.15.111(a) is amended to read:**

4 (a) Upon successful completion of the application and all required
5 examinations, and upon payment of the required fee, the department shall issue to
6 every qualified applicant a driver's license indicating the type or general class of
7 vehicles that the licensee may drive. The license must display (1) a distinguishing
8 number assigned to the license; (2) the licensee's full name, address, date of birth,
9 brief physical description, and color photograph; (3) either a facsimile of the signature
10 of the licensee or a space upon which the licensee must write the licensee's usual
11 signature with pen and ink; (4) a holographic symbol intended to prevent illegal
12 alteration or duplication; [AND] (5) for a qualified applicant who is under age 21, the
13 words "UNDER 21"; and (6) for a qualified applicant who has been convicted
14 more than once of operating a motor vehicle, aircraft, or watercraft while under
15 the influence of an alcoholic beverage, inhalant, or controlled substance in
16 violation of AS 28.35.030, a large red letter "X" across the face of the license; this
17 paragraph does not apply to a qualified applicant if more than 10 years have
18 elapsed since the applicant's last conviction under AS 28.35.030. A license may
19 not display the licensee's social security number and is not valid until signed by the
20 licensee. If facilities are not available for the taking of the photograph required under
21 this section, the department shall endorse on the license [,] the words "valid without
22 photograph.""

23
24 Renumber the following bill sections accordingly.

SENATE FINANCE
COMMITTEE

Withdrawn

Amendment Number: #5

Bill Number: HB 4

22-LS0046V.2

Sponsor: Donley Date: 3/15/02

Ford

Logged In By: Mindy

2/21/02

AMENDMENT

Sponsored by
Senator Donley

OFFERED IN THE SENATE

TO: SCS CSHB 4(), Draft Version "V"

- 1 Page 14, lines 9 - 16:
- 2 Delete all material.
- 3
- 4 Renumber the following bill sections accordingly.

SENATE FINANCE COMMITTEE
3/15/2002 COMMITTEE ACTION

Bill Number	HB 4		
Amendment	#5		
Motion	2bpt		
<u>Motion by</u>	Leman		
<u>Objection by</u>			
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Wilken			
Senator Austerman			
Senator Green			
Senator Hoffman			
Senator Leman			
Senator Olson			
Senator Ward			
Co-Chair Donley			
Co-Chair Kelly			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Withdrawn		

SENATE FINANCE
COMMITTEE
Amendment Number: #8
Bill Number: HB 4
Sponsor: Donley Date: 4/9/02
Logged In By: U Mindy

22-LS0046\M.3
Ford
4/8/02

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR DONLEY

TO: SCS CSHB 4(), Draft Version "M"

1 Page 7, following line 4:

2 Insert a new bill section to read:

3 **** Sec. 10.** AS 28.15.111(a) is amended to read:

4 (a) Upon successful completion of the application and all required
5 examinations, and upon payment of the required fee, the department shall issue to
6 every qualified applicant a driver's license indicating the type or general class of
7 vehicles that the licensee may drive. The license must display (1) a distinguishing
8 number assigned to the license; (2) the licensee's full name, address, date of birth,
9 brief physical description, and color photograph; (3) either a facsimile of the signature
10 of the licensee or a space upon which the licensee must write the licensee's usual
11 signature with pen and ink; (4) a holographic symbol intended to prevent illegal
12 alteration or duplication; [AND] (5) for a qualified applicant who is under age 21, the
13 words "UNDER 21"; and (6) for a qualified applicant who has been convicted
14 more than once of operating a motor vehicle, aircraft, or watercraft while under
15 the influence of an alcoholic beverage, inhalant, or controlled substance in
16 violation of AS 28.35.030, a distinguishing mark on the face of the license. A
17 license may not display the licensee's social security number and is not valid until
18 signed by the licensee. If facilities are not available for the taking of the photograph
19 required under this section, the department shall endorse on the license [,] the words
20 "valid without photograph."

21

22 Renumber the following bill sections accordingly.

SENATE FINANCE
COMMITTEE

Amendment Number: #9

Bill Number: HB

Sponsor: Donley Date: 4/8/02

Logged In By: U Mindy

22-LS0046\M.2

Ford

4/8/02

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR DONLEY

TO: SCS CSHB 4(), Draft Version "M"

1 Page 14, following line 17:

2 Insert a new bill section to read:

3 "* Sec. 23. AS 28.20.230 is amended by adding a new subsection to read:

4 (c) Notwithstanding any other provisions of this chapter, a person convicted of
5 driving under the influence of an alcoholic beverage, inhalant, or controlled substance
6 in violation of AS 28.35.030 shall maintain proof of financial responsibility for the
7 future for (1) five years if the person has not been previously convicted; (2) 10 years if
8 the person has been previously convicted once; (3) 20 years if the person has been
9 previously convicted twice; (4) for as long as the person is licensed to drive under
10 AS 28.15 if the person has been previously convicted three or more times. In this
11 subsection, "previously convicted" has the meaning given in AS 28.35.030."

12

13 Renumber the following bill sections accordingly.

SENATE FINANCE
COMMITTEE
Amendment Number: #10
Bill Number HB 4
Sponsor: LEMAN Date: 4/9/02
Logged In By: Robin

AMENDMENT

Offered in the Senate

To: SCS CSHB 4 (), 22-LS0046M, Ford, 4/8/02

Page 6, line 11:

After "applicant's"
Insert "full"

Page 6, line 12:

Delete: "An applicant may not use initials when registering a vehicle."

SENATE FINANCE
COMMITTEE

Amendment Number: #11

Bill Number: HB 4

Sponsor: Donley Date: 4/9/02

Logged by: [unclear] Mindy

By Sen Donley

by sponsors request

Offered in the Senate

TO: SCS CSHB 4 (), 22-LS0046M, Ford, 4/8/02

Conceptual amendment to remove new language concerning limitation of driver's license, including the following:

Page 11, line 1, through Page 12, line 6

Delete changes made in M version and return to language in H version

Page 23, lines 6-8

After "section", delete: "; and" and all language through end of line 8.
Insert after "section", ","

Page 30, lines 6-8

After "section", delete: "; and" and all language through end of line 8.
Insert after "section", ","

And other changes in order to implement this amendment.

SENATE FINANCE COMMITTEE
Amendment Number: #12
Bill Number: HB 4
Sponsor: Donkey Date: 4/8/02
Logged In By: U Mindy

B. Sew Douley
by sponsor's request
22-LS0046M.1
Ford
4/8/02

AMENDMENT

OFFERED IN THE SENATE
TO: SCS CSIB 4(), Draft Version "M"

- 1 Page 35, following line 23.
- 2 Insert a new bill section to read:
- 3 ** Sec. 58. The uncodified law of the State of Alaska is amended by adding a new section to
- 4 read:
- 5 PILOT DRUNK DRIVER PROGRAM IN THE DEPARTMENT OF
- 6 CORRECTIONS; REPORT. (a) In addition to a rehabilitation program established under
- 7 AS 33.30.011(3), the commissioner of corrections may, beginning July 1, 2002, and ending
- 8 June 30, 2007, provide a drug or combination of drugs intended to prevent the consumption
- 9 of an alcoholic beverage to a prisoner committed to the commissioner's custody if the prisoner
- 10 has been convicted of violating AS 28.35.030 or 28.35.032, and voluntarily agrees to take the
- 11 drug or combination of drugs.
- 12 (b) The commissioner of corrections shall report back to the legislature by January 1,
- 13 2005, with a summary of the program described under (a) of this section, including the
- 14 number of prisoners in the program and statistics on how many prisoners in the program
- 15 reoffended after being released."
- 16
- 17 Renumber the following bill sections accordingly.

HB

4

(File 2)

SFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SCSCSHB 4 (FIN)
 () Publish Date: Z Version 4/26/02

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Motor Vehicles and Drunk Driving BRU Alaska Court System
 Component Trial Courts
 Sponsor Representative Rokeberg
 Requester Senate Finance Component No. 768

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Work Draft Z for SCS CSHB 4(FIN) requires the mandatory forfeiture of a motor vehicle, aircraft, or watercraft used in the commission of a felony DWI/refusal offense. It also states that before forfeiture can occur the court system must hold a hearing on the matter. The Department of Law estimates that these sections will result in 250-300 hearings a year. Because the cost associated with these hearings was captured through other legislation last year, the court system does not anticipate any additional fiscal impact from these provisions.

Work Draft Z also lowers the BAC for multiply DUI offenders to .04. The Department of Law estimates that this provision will result in 10 new felonies and 5 new misdemeanors a year. The costs associated with these new cases can be absorbed by the court system without any additional revenues.

Prepared by: Douglas Wooliver Phone 463-4750
 Division: Alaska Court System Date/Time 4/26/02 10:13 AM
 Approved by: Stephanie Cole Date 4/26/2002
 Agency: Alaska Court System

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SCS CSHB 4(FIN)\ Z
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
Title Registration of Motor Vehicle, Operating Motor BRU AST Detachment
Vehicle, Aircraft, Watercraft while intoxicated & Drivers Lic. Component AST Detachment
Sponsor Representative Rokeberg
Requester Senate Finance Component No. 2325

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	47.6	47.6	47.6	47.6	47.6	47.6
Travel	7.5	7.5	7.5	7.5	7.5	7.5
Contractual	53.6	53.6	53.6	53.6	53.6	53.6
Supplies	2.5	2.5	2.5	2.5	2.5	2.5
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	111.2	111.2	111.2	111.2	111.2	111.2

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	59.2	59.2	59.2	59.2	59.2	59.2
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	111.2	111.2	111.2	111.2	111.2	111.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	111.2	111.2	111.2	111.2	111.2	111.2

Estimate of any current year (FY2002) cost: 00
Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See page 2 for details regarding operating costs

Estimated revenues were calculated at 260 convictions x \$220 each (based upon Anchorage Police Dept fee) Revenue also includes 9 convictions under the new 04 BAC provision

Prepared by: LT Julia Grimes Phone 269-4542
Division: Division of Alaska State Troopers Date/Time 4/25/02 4:28 PM
Approved by: Commissioner Glenn G. Godfrey Date 4/25/2002
Agency: Department of Public Safety

Program Operational Costs

Procurement Specialist I, Range 14, Anchorage	47,600
Travel for Auctions	7,500
Contractual Cost for One Position (phones, computer, postage, DP Svc)	\$ 8,700
Office and DP Supplies for One Position	\$ 2,500
Total Pgm Operational Costs	66,300

Vehicle Forfeited on 3rd Offense/Refusal

Type	Location	Vendor	Shipment or Annual Cost	Est. Annual #	Cost
Vehicle	Long Distance (25% of 55)	AK Veh Tran	\$ 900	14	\$ 12,375
Vehicle	Short Distance (75% of 55)	Towing Co.	\$ 50	41	\$ 2,063
Vehicle Storage	Anch, Palmer, Fbx	Auto / RV	\$ 450	55	\$ 24,750
Total 3rd Offense Costs					\$ 39,188

Assumptions:

260 convictions & 15% of total are snowmachines (221 vehicles & 39 snowmachines w/in AST jurisdiction).

100% of forfeited snowmachines disposed to charity, non-profit corporations and/or local governments

75% of forfeited vehicles disposed to Charity, Non-Profit Corporations and/or local governments; 25% disposed to AST for their use or storage for public auction, FN contains AST costs only.

Analysis does not include: 1. Sale of Vehicle 5% Admin Fee. 2. Vehicle Loan Payoff - forfeited vehicles.

Vehicle Forfeited on 3rd Offense for .04 BAC provision

Type	Location	Vendor	Shipment or Annual Cost	Est. Annual #	Cost
Vehicle	Long Distance (25% of 55)	AK Veh Tran	\$ 900	2	\$ 1,800
Vehicle	Short Distance (75% of 55)	Towing Co.	\$ 50	6	\$ 300
Vehicle Storage	Anch, Palmer, Fbx	Auto / RV	\$ 450	8	\$ 3,600
Total 3rd Offense Costs					\$ 5,700

Assumptions:

9 convictions & 15% of total are snowmachines (8 vehicles & 1 snowmachine w/in AST jurisdiction).

100% of forfeited snowmachines disposed to charity, non-profit corporations and/or local governments

75% of forfeited vehicles disposed to Charity, Non-Profit Corporations and/or local governments; 25% disposed to AST for their use or storage for public auction, FN contains AST costs only.

Analysis does not include: 1. Sale of Vehicle 5% Admin Fee 2. Vehicle Loan Payoff - forfeited vehicles

total 111,188

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SCSCSHB 4 (FIN) Z
() Publish Date: _____

Revision Date/Time 04/24/01 10:36 am Dept. Affected: Corrections
Title "An Act relating to motor vehicles and BRU Administration & Operations
operating a motor vehicle, aircraft, or watercraft; ... Component All
Sponsor Rep. Rokeberg
Requester Senate Finance Committee Component No. 694

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous	186.0	199.6	234.8	410.1	499.1	499.1
TOTAL OPERATING	186.0	199.6	234.8	410.1	499.1	499.1

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	186.0	199.6	234.8	410.1	499.1	499.1
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	186.0	199.6	234.8	410.1	499.1	499.1

Estimate of any current year (FY2002) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Sec. 4. Changes the presumptive sentencing regarding Manslaughter by adding a provision for Manslaughter as a result of DWI. It will increase the presumptive sentence from 5 to 7 years. This change adds another 488 days of incarceration for the offender after the statutory 1/3rd good time is applied. Based on the Department of Law's estimate that there will be 5 convictions a year for Manslaughter as a result of DWI, this legislation will increase the costs of incarceration as follows: In FY2005 an additional \$14,842.80 will be needed. In FY 2006 - \$183,341.60, in FY 2007 - \$279,061.80 and in FY 2008 - \$279,504.91 (Leap Year). Currently, offenders get 5 years or 1,826 days. With 1/3rd good time applied, the offender will serve 1,217 days. Under this new legislation, offenders would get 7 years or 2,557 days. With 1/3rd good time applied, the offender will serve 1705 days or an increase of 488 days. The increased costs for holding prisoners longer will begin to impact the Department in the

Prepared by: Candace Brower Phone 465-4652
Division: Commissioner's Office Date/Time 4/25/02 6:08 PM
Approved by: Margaret Pugh, Commissioner Date 4/25/02
Agency: Department of Corrections

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. SCSCSHB 4 (FIN)

ANALYSIS CONTINUATION

3rd year (FY2005) as offenders are kept in an institution rather than being transferred to a Community Residential Center (CRC). Offenders would not be going to the CRC until the 5th year (FY2007). In the 4th year (FY2006), offenders will begin "stacking" as new offenders' extended incarcerations start stacking. Starting in FY 2007, 15 offenders will be incarcerated annually in institutions or CRC's under this legislation.

A provision has been added to this legislation which makes .04 the pro se level for Driving Under the Influence. The Department of Law estimates this will result in an additional 9 felony convictions per year and 4 misdemeanor convictions. The mandatory minimum sentence for DUI felonies is 120 days. If we reduce that by 1/3 for good time, there will be 9 offenders a year serving 80 days. Averaging the cost of prison and CRC beds, that will be \$90/day for each offender for a total of \$64,800 per year. The 4 misdemeanants will receive at least 60 days resulting in 40 days @ the same rate for a total of \$14,400 per year. Additionally, those felony offenders will likely receive 3 years probation. The rate of probation for each offender is \$4.15/day. The cost per year for someone on probation is \$1515/year, or \$13,600 for 9 offenders. The first year it would cost approximately \$6800 since not everyone would be placed on probation the first year. The probationers will then begin to stack each year until the 5th year when the cost levels out because there will be approximately 27 offenders on probation each year for the .04 provision.

Sec. 56 This section would create a Drunk Driver Pilot Program in the Department of Corrections. Beginning July 1, 2002, and ending June 30, 2007, the commissioner of corrections would establish a program within the Department utilizing a drug or combination of drugs in conjunction with rehabilitation programs for offenders convicted of violating AS 28.35.030 or 28.35.032. Offenders would voluntarily agree to participate in the program. The commissioner would report back to the legislature by January 1, 2005 with a program summary to include statistics and reoffenses. The proposal would include \$100,000 operating costs.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SCS CSHB 4 (FIN) wd/Z
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title "An Act relating to motor vehicles and to BRU Criminal Division
operating a motor vehicle, aircraft, or watercraft; and ..." Component 3rd Judicial District: Anchorage
 Sponsor Representative Rokeberg 3rd Judicial District: Outside Anch
 Requester Senate Finance Committee Component No. 2201;2279

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	152.4	152.4	152.4	152.4	152.4	152.4
Travel	0.4	0.4	0.4	0.4	0.4	0.4
Contractual	29.0	29.0	29.0	29.0	29.0	29.0
Supplies	2.6	2.6	2.6	2.6	2.6	2.6
Equipment	19.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	203.9	184.4	184.4	184.4	184.4	184.4

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	203.9	184.4	184.4	184.4	184.4	184.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	203.9	184.4	184.4	184.4	184.4	184.4

Estimate of any current year (FY2002) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time	3	3	3	3	3	3
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
 SCS CSHB 4 (FIN) WD "Z" makes numerous changes to the state's laws relating to driving under the influence of alcoholic beverages or controlled substances. These changes include renaming driving while intoxicated (DWI) as driving while under the influence (DUI); increasing administrative and criminal penalties for DUI offenses; lowering the blood alcohol content for DUI to 0.04 if the person has had two or more prior DUI convictions; and requiring vehicle forfeiture for felony DUI and refusal to submit to a chemical test.

 The changes in the bill which will have a fiscal impact on the Department of Law are requiring vehicle forfeiture for felony DUI and refusal. In addition, the department anticipates an increase in the number of driving with a suspended or revoked driver's license misdemeanor charges will occur as a result of the increased fines and license revocation penalties and the increased periods for maintaining proof of insurance under section 19 of the bill; however, the

Prepared by: Joan M. Kasson Phone (907) 465-5370
 Division: Attorney General's Office Date/Time 4/25/02 5:13 PM
 Approved by: Joan Kasson for Bruce M. Botelho, Attorney General Date 4/25/2002
 Agency: Department of Law

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. SCS CSHB 4 (FIN) wd/Z

ANALYSIS CONTINUATION

impact is too speculative to quantify. Based on DPS statewide arrest data, we estimate that section 33 (s) which lowers the BAC for multiple DUI offenders to 0.04 will generate approximately 15 new cases per year: 5 misdemeanors and 10 felonies. This increase in caseload can be handled by existing staff.

Upon conviction of a felony DUI or refusal, the bill would require the court to order forfeiture of the motor vehicle, watercraft, or aircraft used in the commission of the offense. Forfeiture proceedings require a motion for forfeiture be filed with the court, and a hearing date set by the court upon receipt of the motion. Once the hearing date is set, the state must notify anyone who might have an ascertainable ownership or security interest in the vehicle or aircraft about the proceeding. A person claiming an ownership or security interest may then intervene and appear at the hearing in order to prove to the court they should be paid for their interest.

The Criminal Division estimates there will be 250 to 300 forfeiture hearings per year as a result of enactment of the felony DUI/refusal provisions. Preparation for these hearings will involve research on ownership interests and paperwork. The Criminal Division estimates it will need to add two new FTE paraprofessional positions, one each in Anchorage and Palmer. (Although the Municipality of Anchorage prosecutes misdemeanor DUI, the Department of Law prosecutes all felonies.) In addition, 1 new law office assistant position will be necessary in Palmer.

Position costs are based on the department's FY03 cost allocation plan, and include 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 per position is included. Proportionate support position funding is included in the standard paraprofessional cost schedule at a rate of approximately one support position for every three professional positions. Position authorizations for the support positions are required, however, and the one FTE law office assistant position discussed above is requested along with \$6,500 for one-time equipment costs. A summary of line-item costs by component follows:

Component	Position	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Criminal Division: 3rd Judicial District: Anchorage (2261)							
	100 1 FTE Paraprofessional	76.2	76.2	76.2	76.2	76.2	76.2
	200	0.2	0.2	0.2	0.2	0.2	0.2
	300	14.5	14.5	14.5	14.5	14.5	14.5
	400	1.3	1.3	1.3	1.3	1.3	1.3
	500	6.5					
	Total 1004 General Fund	98.7	92.2	92.2	92.2	92.2	92.2
Criminal Division: 3rd Judicial District: Outside Anchorage (2279)							
	100 1 FTE Paraprofessional	76.2	76.2	76.2	76.2	76.2	76.2
	200 1 PFT Law Office Asst	0.2	0.2	0.2	0.2	0.2	0.2
	300	14.5	14.5	14.5	14.5	14.5	14.5
	400	1.3	1.3	1.3	1.3	1.3	1.3
	500	13.0					
	Total 1004 General Fund	105.2	92.2	92.2	92.2	92.2	92.2
Forfeiture Total	1004 General Fund	203.9	184.4	184.4	184.4	184.4	184.4

SCS CSHB 4 (FIN) WD "Z" increases the minimum fines for DUI and refusal convictions. Unfortunately, there is no way to calculate a reliable estimate of the increased revenues that would result from increasing the fines for DUI and refusal. There are simply too many variables.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. SCS CSHB 4 (FIN) wd/Z

ANALYSIS CONTINUATION

The criminal fines are minimum fines for each type of offense. The fines may be set higher. They may also be set lower in certain circumstances. For example, sections 33 and 44 permit suspending up to 50 percent of the fine for successful completion of a court-ordered treatment program. Given these factors, we have no way of estimating what the average fine would be for each level of offense.

Even if you assume that the minimum fine is the average, and multiply times the number of estimated convictions for that offense, it is impossible to know how much revenue may actually be collected in any given year. We have no idea how many defendants would pay their criminal fines voluntarily. If they do not pay voluntarily, after 60 days the judgment for the criminal fine would be transferred to the Department of Law for collection.

The department's primary means of collecting debts is through attachment of the Permanent Fund Dividend, assuming the defendant is eligible for one. The amount that can be garnished from an annual dividend to pay criminal fines is limited by the size of the fine, the size of the dividend, and by what other debts are owed the state or a victim by the defendant. This latter factor is important because AS 43.23.065 prioritizes the order of debts for which a dividend may be seized. So, if the defendant also owes child support and/or restitution, the state cannot start collecting the criminal fine until those other obligations are fulfilled, as they hold a higher priority. This could take some years. Even if there are no other debts with a higher priority, if the fine is larger than the dividend amount, it again may take more than one dividend cycle to complete. It is impossible to predict how these factors would impact future revenues from criminal fines.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SCS CSHB4 (FIN)wd/Z
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title "An Act relating to offenses involving BRU Legal and Advocacy Services
operating a motor vehicle..." Component Public Defender Agency
Sponsor Representative Rokeberg
Requester (S) Finance Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	97.7	97.7	97.7	97.7	97.7	97.7
Travel	4.7	4.7	4.7	4.7	4.7	4.7
Contractual	20.7	20.7	20.7	20.7	20.7	20.7
Supplies	2.5	2.5	2.5	2.5	2.5	2.5
Equipment	10.1	1.0	1.0	1.0	1.0	1.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	135.6	126.6	126.6	126.6	126.6	126.6

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

FUND SOURCE	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
1002 Federal Receipts						
1003 GF Match						
1004 GF	135.6	126.6	126.6	126.6	126.6	126.6
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	135.6	126.6	126.6	126.6	126.6	126.6

Estimate of any current year (FY2002) cost: 0.0

POSITIONS

POSITIONS	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Full-time	1	1	1	1	1	1
Part-time	1	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

SCS CSHB4 (FIN) WD "Z" makes numerous changes to the driving while intoxicated (DWI) and refusal laws, and some relating to the driving while license revoked, suspended or cancelled (DWLR) laws. These changes include renaming driving while intoxicated to driving while under the influence (DUI); increasing criminal penalties and fines, as well as adding administrative and treatment costs; requiring mandatory vehicle forfeiture for felony DUI and Refusals, and lowering the BAC for DUI to 0.04 for people who drive while under the influence and have two or more prior DUI convictions.

The changes in the bill that will have a fiscal impact on the Public Defender Agency are Secs.31, 43, & 48 (Mandating vehicle forfeiture for felony DUI and Refusals) and the various Sections that increase fines and license revocation periods, and lower the BAC to 0.04 for certain offenses.

Prepared by: Barbara Brink, Director Phone (907) 334-4416
Division Public Defender Agency Date/Time 4/26/02 8:32 AM
Approved by: Jim Duncan, Commissioner Date 4/26/2002
Agency Department of Administration

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. SCS CSHB4(FIN)Z

ANALYSIS CONTINUATION

DUI and Refusal Mandatory Vehicle Forfeiture.

Under Sections 31, 43, and 48 vehicle forfeiture would be mandatory after a felony conviction for DUI or Refusal. Under Sections 18, 28, 39, and 48 forfeiture would be on option at sentencing after a misdemeanor conviction of DWLR, DUI or Refusal. These hearings would be part of the sentencing in the criminal case, so defendants would have a right to assistance of counsel. Unlike most of the work the Public Defender Agency currently does, these hearings involve complicated issues of ownership and security interests. Forfeitures require separate hearings. Department of Law estimates that there will be 250-300 forfeiture hearings statewide per year just for the felony DUI and Refusal forfeitures mandated in this bill. This does not include the discretionary forfeiture hearings pursued by the prosecutor or court in misdemeanor DUI and Refusal cases or DWLR cases. The Public Defender Agency estimates that we would be appointed in 75% of the mandatory vehicle forfeiture cases. The Agency will need one full-time Attorney in Anchorage and one part-time paralegal in Palmer to effectively represent defendants if this provision is enacted. These offices have the greatest number of DUI and Refusal cases.

Various Sections Increasing Fines, Penalties, and License Revocation Periods.

There are a number of sections that increase fines and license revocation periods, as well as the requirements for obtaining a license after conviction. For example, in Sections 28, 31, 39, and 43, the mandatory minimum fines for DUIs and Refusals are increased to \$1,500 for a first offense from \$250.00, to \$3,000 for a second offense, and \$10,000 for a felony DUI or Refusal. Also in Sections 31 and 43 is the permanent license revocation for felony DUI or Refusal. (Although, under Sections 33 and 44 the license can be restored in 10 years if the defendant does not have additional criminal violations and provides proof of financial responsibility.)

A number of Public Defender Agency clients will not be able to pay these large fines, therefore making it more likely that they will face petitions to revoke their probation or parole. This will likely increase the workload and caseload of the Agency. In addition, increasing the period of license revocation will also likely have a fiscal impact on the Agency. Some people will choose to drive even though they do not have a license. Therefore, we are certain that there will be more DWLR cases filed for which the Agency will be appointed to represent these people. More DWLR cases also may trigger an increase in discretionary vehicle forfeiture proceedings involving Agency participation.

Although the Public Defender Agency cannot quantify the fiscal impact of these provisions increasing fines and periods of revocation, we are certain that there will be a significant, albeit indeterminate, impact.

Lower BAC for third DUI Offenses

Section 33(s) provides that a person commits the crime of driving while under the influence if after having been previously convicted of DUI two or more times, the person operates or drives with a BAC of 0.04 or more. Based on Department of Public Safety data, the Department of Law estimates that this provision will generate 15 new cases per year, 10 felonies and 5 misdemeanors. Accepting Law's estimates, the increased caseload to the Public Defender Agency could be handled by existing staff.

4/25/02 11:06 AM

Corrected version

Fiscal Notes to move with SCSCSHB 4 (FIN) -- version Q

	Note Date	Expense	Revenue
Courts	04/15/02	0.0	
Public Safety	4/10/02	105.5	57.2
Corrections	4/24/02	100.0	
Health and Social Services	4/1/02	0.0	
Law (BY SENATE FINANCE)	4/24/02	138.0	*****
Administration			
Motor Vehicles	4/24/02	59.4	347.5
Public Defender	4/24/02	135.6	
			404.7
TOTAL		538.5	*****

**** with the Indeterminate revenue projected by Department of Law and the projected revenue of 347.5 by the Division of Motor Vehicles and the 57.2 from Public Safety, HB 4 will not only tighten the drunk driving laws in the State of Alaska, but will also generate more revenues than the 404.7 shown in the notes.

by Senator Kelly

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SCSCSHB 4 (FIN)
() Publish Date: E Version 4/10/02

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
Title Motor Vehicles and Drunk Driving BRU Alaska Court System
Component Trial Courts
Sponsor Representative Rokeberg
Requester Senate Finance Component No. 768

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
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						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

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

Sections 31 and 43 of Work Draft E for SCS CSHB 4(FIN) require the mandatory forfeiture of a motor vehicle, aircraft, or watercraft used in the commission of a felony DWI/refusal offense. Section 48 states that before forfeiture can occur the court system must hold a hearing on the matter. The Department of Law estimates that these sections will result in 250-300 hearings a year. Because the cost associated with these hearings was captured through other legislation last year, the court system does not anticipate any additional fiscal impact from the passage of this work draft.

Prepared by: Douglas Wooliver Phone 463-4750
Division: Alaska Court System Date/Time 4/15/02 8:31 AM
Approved by: Stophanio Colo Date 4/15/2002
Agency: Alaska Court System

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SCS CSHB 4(FIN)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
Title: Registration of Motor Vehicle, Operating Motor BRU AST Detachment
Vehicle, Aircraft, Watercraft while intoxicated & Drivers Lic Component AST Detachment
Sponsor: Representative Rokeberg
Requester: Senate Finance Component No. 2325

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	47.6	47.6	47.6	47.6	47.6	47.6
Travel	7.5	7.5	7.5	7.5	7.5	7.5
Contractual	47.9	47.9	47.9	47.9	47.9	47.9
Supplies	2.5	2.5	2.5	2.5	2.5	2.5
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	105.5	105.5	105.5	105.5	105.5	105.5

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	57.2	57.2	57.2	57.2	57.2	57.2
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	105.5	105.5	105.5	105.5	105.5	105.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	105.5	105.5	105.5	105.5	105.5	105.5

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See page 2 for details regarding operating costs

Estimated revenues were calculated at 260 convictions x \$220 each (based upon Anchorage Police Dept fee)

Prepared by: Lt. Julia Grimes Phone 269-4542
Division: Division of Alaska State Troopers Date/Time 4/10/02 2:48 PM
Approved by: Commissioner Glenn G. Godfrey Date 4/10/2002
Agency: Department of Public Safety

Program Operational Costs

Procurement Specialist I, Range 14, Anchorage	47,600
Travel for Auctions	7,500
Contractual Cost for One Position (phones, computer, postage, DP Svc)	\$ 8,700
Office and DP Supplies for One Position	\$ 2,500
Total Pgm Operational Costs	66,300

Vehicle Forfeited on 3rd Offense/Refusal

Type	Location	Vendor	Shipment or Annual Cost	Est. Annual #	Cost
Vehicle	Long Distance (25% of 55)	AK Veh Tran	\$ 900	14	\$ 12,375
Vehicle	Short Distance (75% of 55)	Towing Co.	\$ 50	41	\$ 2,063
Vehicle Storage	Anch. Palmer, Fbx	Auto / RV	\$ 450	55	\$ 24,750
Total 3rd Offense Costs					\$ 39,188

Assumptions:

260 convictions & 15% of total are snowmachines (221 vehicles & 39 snowmachines w/in AST jurisdiction).

100% of forfeited snowmachines disposed to charity, non-profit corporations and/or local governments

75% of forfeited vehicles disposed to Charity, Non-Profit Corporations and/or local governments; 25% disposed to AST for their use or storage for public auction, FN contains AST costs only.

Analysis does not include: 1. Sale of Vehicle 5% Admin Fee. 2. Vehicle Loan Payoff - forfeited vehicles.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SCSCSHB 4 (FIN) Q
() Publish Date: _____

Revision Date/Time 04/24/01 10:36 am Dept. Affected: Corrections
Title "An Act relating to motor vehicles and BRU Administration & Operations
operating a motor vehicle, aircraft, or watercraft; Component All
Sponsor Rep. Rokeberg
Requester Senate Finance Committee Component No. 694

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous	100.0	100.0	114.8	283.3	379.1	379.5
TOTAL OPERATING	100.0	100.0	114.8	283.3	379.1	379.5

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	100.0	100.0	114.8	283.3	379.1	379.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	100.0	100.0	114.8	283.3	379.1	379.5

Estimate of any current year (FY2002) cost: 00
Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Sec. 4. Changes the presumptive sentencing regarding Manslaughter by adding a provision for Manslaughter as a result of DWI. It will increase the presumptive sentence from 5 to 7 years. This change adds another 488 days of incarceration for the offender after the statutory 1/3rd good time is applied. Based on the Department of Law's estimate that there will be 5 convictions a year for Manslaughter as a result of DWI, this legislation will increase the costs of incarceration as follows: In FY2005 an additional \$14,842.80 will be needed. In FY 2006 - \$183,341.60, in FY 2007 - \$279,061.80 and in FY 2008 - \$279,504.91 (Leap Year). Currently, offenders get 5 years or 1,826 days. With 1/3rd good time applied, the offender will serve 1,217 days. Under this new legislation, offenders would get 7 years or 2,557 days. With 1/3rd good time applied, the offender will serve 1705 days or an increase of 488 days. The increased costs for holding prisoners longer will begin to impact the Department in the

Prepared by: Candace Brower Phone 465-4652
Division: Commissioner's Office Date/Time 4/24/02 9:37 AM
Approved by: Margaret Pugh, Commissioner Date 4/24/02
Agency: Department of Corrections

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. SCSCSHB 4 (FIN)

ANALYSIS CONTINUATION

3rd year (FY2005) as offenders are kept in an institution rather than being transferred to a Community Residential Center (CRC). Offenders would not be going to the CRC until the 5th year (FY2007). In the 4th year (FY2006), offenders will begin "stacking" as new offenders' extended incarcerations start stacking. Starting in FY 2007, 15 offenders will be incarcerated annually in institutions or CRC's under this legislation.

Sec. 56 This section would create a Drunk Driver Pilot Program in the Department of Corrections. Beginning July 1, 2002, and ending June 30, 2007, the commissioner of corrections would establish a program within the Department utilizing a drug or combination of drugs in conjunction with rehabilitation programs for offenders convicted of violating AS 28.35.030 or 28.35.032. Offenders would voluntarily agree to participate in the program. The commissioner would report back to the legislature by January 1, 2005 with a program summary to include statistics and reoffenses. The proposal would include \$100,000 operating costs.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SCS CS HB 4 (FIN)
() Publish Date: _____

Revision Date/Time (No. if correction): _____ Dept. Affected: Health & Social Services
Title: RELATING TO OPERATING MOTOR VEHICLES UNDER THE BPU: Alcohol & Drug Abuse Svcs
INFLUENCE Component: Alcohol Safety Action Program
Sponsor: ROKEBERG
Requestor: _____ Component Number: 305

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
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						
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CHANGE IN REVENUES (0)						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--do not abbrevia						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: _____

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This amendment adds language that the court may order the person, while incarcerated or as a condition of probation or parole, take a drug or combination of drugs intended to prevent the consumption of an alcoholic beverage. This has no fiscal impact on Alcohol Safety Action Program.

Prepared by: Marilee Fletcher Phone 465-2071
Division: Alcoholism & Drug Abuse Date/Time: 04/01/2002
Approved by: Elmer A. Lindstrom, Deputy Commissioner Date: 04/02/2002
Agency: Department of Health & Social Services

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SCS CSHB 4 (FIN) - Q
(S) Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
Title: Motor Vehicles and Drunk Driving BRU: Criminal Division
Component: 3rd Judicial District
Sponsor: Representative Rokeburg Component Number: 2201;2279
Requester: Senate Finance Committee

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	93.0	93.0	93.0	93.0	93.0	93.0
Travel	0.4	0.4	0.4	0.4	0.4	0.4
Contractual	29.0	29.0	29.0	29.0	29.0	29.0
Supplies	2.6	2.6	2.6	2.6	2.6	2.6
Equipment	13.0					
Land & Structures						
Grants & Claims						
Miscellaneous*						
TOTAL OPERATING	138.0	125.0	125.0	125.0	125.0	125.0

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	138.0	125.0	125.0	125.0	125.0	125.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	138.0	125.0	125.0	125.0	125.0	125.0

Estimate of any current year (FY2002) cost: 0.0

POSITIONS

Full-time	2	2	2	2	2	2
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Provides for one paralegal for Anchorage and Palmer. (A paralegal performs the same duties for the Municipality of Anchorage with a higher caseload) All other expenditures reflect Department of Law's assumptions.

Department of Law states there is "no way to calculate a reliable estimate of the increased revenues from increasing the fines for DUI and refusal."

Prepared by: SENATE FINANCE COMMITTEE

Phone 465-2327

Sonator: /s/ [Signature]
Senator Pete Kelly

Date 4/24/2002

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SCS CSHB4(Fin)wdQ
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An act relating to motor vehicles and BRU Motor Vehicles
to operating a motor vehicle..... Component _____
 Sponsor Representative Rokeberg
 Requester S (FIN) Component No. 2348

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	40.3	40.3	40.3	40.3	40.3	40.3
Travel						
Contractual	13.5	1.5	1.5	1.5	1.5	1.5
Supplies						
Equipment	5.6	0.0	0.0	0.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	59.4	41.8	41.8	41.8	41.8	41.8

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1005)	347.5	347.5	347.5	347.5	347.5	347.5
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	59.4	41.8	41.8	41.8	41.8	41.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	59.4	41.8	41.8	41.8	41.8	41.8

Estimate of any current year (FY2002) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal: _____

POSITIONS

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Under this bill the court will order DMV to revoke the registration of any vehicle owned by a felony DWI offender. If there is a co-owner, DMV may delete the name of the offender from the registration and allow the co-owner to re-register the vehicle. Since there is no direct link between the driver and vehicle records DMV must research each case individually. There are estimated to be 250-300 felony convictions per year with each offender having an average of 2 vehicles. 70% of these will have a co-owner. The administrative work to research, revoke, and re-register vehicles will require 1 PFT position.

(Con't on page 2)

Prepared by: Mary Marshburn, Director Phone 269-5559
 Division: Motor Vehicles Date/Time 04/24/02
 Approved by: Jim Duncan, Commissioner Date 4/24/2002
 Agency: Department of Administration

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO.

SCS CSHB4 (FIN)
work draft Q

ANALYSIS CONTINUATION

This bill also extends the period of SR-22 financial responsibility from three years for all offenders to 5 years for a first offense, 10 years for a second offense, 20 years for a third offense and the lifetime of the driver for four or more offenses. This will require 110 hours of programming at a contract rate of \$110 per hour.

Revenue

The license reinstatement fees for DWI offenders are increased by \$100 for first time offenders and by \$250 for repeat offenders. On average there are 3200 first and 1500 repeat offenders each year. Approximately 50% of these will reinstate the license. The remainder either leave the state or find the cost of insurance unaffordable. The combined revenue for those that do reinstate is estimated to be \$347,500 annually.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SCS CSHB4 (FIN)wd/Q
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title "An Act relating to offenses involving BRU Legal and Advocacy Services
operating a motor vehicle..." Component Public Defender Agency
Sponsor Representative Rokeberg
Requester (S) Finance Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	97.7	97.7	97.7	97.7	97.7	97.7
Travel	4.7	4.7	4.7	4.7	4.7	4.7
Contractual	20.7	20.7	20.7	20.7	20.7	20.7
Supplies	2.5	2.5	2.5	2.5	2.5	2.5
Equipment	10.1	1.0	1.0	1.0	1.0	1.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	135.6	126.6	126.6	126.6	126.6	126.6

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	135.6	126.6	126.6	126.6	126.6	126.6
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	135.6	126.6	126.6	126.6	126.6	126.6

Estimate of any current year (FY2002) cost: 0.0

POSITIONS

Full-time	1	1	1	1	1	1
Part-time	1	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

SCS CSHB4 (FIN) WD "E" makes numerous changes to the driving while intoxicated (DWI) and refusal laws, and some relating to the driving while license revoked, suspended or cancelled (DWLR) laws. These changes include renaming driving while intoxicated to driving while under the influence (DUI); increasing criminal penalties and fines, as well as adding administrative and treatment costs; and requiring mandatory vehicle forfeiture for felony DUI and Refusals.

The changes in the bill that will have a fiscal impact on the Public Defender Agency are Secs.30, 42, & 47 (Mandating vehicle forfeiture for felony DUI and Refusals) and the various Sections that increase fines and license revocation periods.

(Analysis continued on attached page)

Prepared by: Barbara Brink, Director Phone (907) 334-4416
Division: Public Defender Agency Date/Time 4/23/02 4:13 PM
Approved by: Jim Duncan, Commissioner Date 4/23/2002
Agency: Department of Administration

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. SCS CSHB4(FIN)Q

ANALYSIS CONTINUATION

DUI and Refusal Mandatory Vehicle Forfeiture.

Under Sections 30, 42, and 47 vehicle forfeiture would be mandatory after a felony conviction for DUI or Refusal. Under Sections 18, 27, 38, and 47 forfeiture would be on option at sentencing after a misdemeanor conviction of DWLR, DUI or Refusal. These hearings would be part of the sentencing in the criminal case, so defendants would have a right to assistance of counsel. Unlike most of the work the Public Defender Agency currently does, these hearings involve complicated issues of ownership and security interests. Forfeitures require separate hearings. Department of Law estimates that there will be 250-300 forfeiture hearings statewide per year just for the felony DUI and Refusal forfeitures mandated in this bill. This does not include the discretionary forfeiture hearings pursued by the prosecutor or court in misdemeanor DUI and Refusal cases or DWLR cases. The Public Defender Agency estimates that we would be appointed in 75% of the mandatory vehicle forfeiture cases. The Agency will need one full-time Attorney in Anchorage and one part-time paralegal in Palmer to effectively represent defendants if this provision is enacted. These offices have the greatest number of DUI and Refusal cases.

Various Sections Increasing Fines, Penalties, and License Revocation Periods.

There are a number of sections that increase fines and license revocation periods, as well as the requirements for obtaining a license after conviction. For example, in Sections 27, 30, 38, and 42, the mandatory minimum fines for DUIs and Refusals are increased to \$1,500 for a first offense from \$250.00, to \$3,000 for a second offense, and \$10,000 for a felony DUI or Refusal. Also in Sections 30 and 42 is the permanent license revocation for felony DUI or Refusal. (Although, under Sections 32 and 43 the license can be restored in 10 years if the defendant does not have additional criminal violations and provides proof of financial responsibility.)

A number of Public Defender Agency clients will not be able to pay these large fines, therefore making it more likely that they will face petitions to revoke their probation or parole. This will likely increase the workload and caseload of the Agency. In addition, increasing the period of license revocation will also likely have a fiscal impact on the Agency. Some people will choose to drive even though they do not have a license. Therefore, we are certain that there will be more DWLR cases filed for which the Agency will be appointed to represent these people. More DWLR cases also may trigger an increase in discretionary vehicle forfeiture proceedings involving Agency participation.

Although the Public Defender Agency cannot quantify the fiscal impact of these provisions increasing fines and periods of revocation, we are certain that there will be a significant, albeit indeterminate, impact.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SCS CSHB 4 (FIN) wd/Q
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title "An Act relating to motor vehicles and to BRU Criminal Division
operating a motor vehicle, aircraft, or watercraft; and ..." Component 3rd Judicial District: Anchorage
 Sponsor Representative Rokeberg 3rd Judicial District: Outside Anch
 Requester Senate Finance Committee Component No. 2201;2279

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	152.4	152.4	152.4	152.4	152.4	152.4
Travel	0.4	0.4	0.4	0.4	0.4	0.4
Contractual	29.0	29.0	29.0	29.0	29.0	29.0
Supplies	2.6	2.6	2.6	2.6	2.6	2.6
Equipment	19.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	203.9	184.4	184.4	184.4	184.4	184.4

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	203.9	184.4	184.4	184.4	184.4	184.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	203.9	184.4	184.4	184.4	184.4	184.4

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time	3	3	3	3	3	3
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

SCS CSHB 4 (FIN) WD "Q" makes numerous changes to the state's laws relating to driving under the influence of alcoholic beverages or controlled substances. These changes include renaming driving while intoxicated (DWI) as driving while under the influence (DUI); increasing administrative and criminal penalties for DUI offenses; and requiring vehicle forfeiture for felony DUI and refusal to submit to a chemical test.

The changes in the bill which will have a fiscal impact on the Department of Law are requiring vehicle forfeiture for felony DUI and refusal. In addition, the department anticipates an increase in the number of driving with a suspended or revoked driver's license misdemeanor charges will occur as a result of the increased fines and license revocation penalties and the increased periods for maintaining proof of insurance under section 19 of the bill; however, the impact is too speculative to quantify.

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

Phone: (907) 465-5370
 Date/Time: 4/24/02 2:27 PM
 Date: 4/24/2002

FISCAL NOTE

**STATE OF ALASKA
2002 LEGISLATIVE SESSION**

BILL NO. SCS CSHB 4 (FIN) wd/Q

ANALYSIS CONTINUATION

Upon conviction of a felony DUI or refusal, the bill would require the court to order forfeiture of the motor vehicle, watercraft, or aircraft used in the commission of the offense. Forfeiture proceedings require a motion for forfeiture be filed with the court, and a hearing date set by the court upon receipt of the motion. Once the hearing date is set, the state must notify anyone who might have an ascertainable ownership or security interest in the vehicle or aircraft about the proceeding. A person claiming an ownership or security interest may then intervene and appear at the hearing in order to prove to the court they should be paid for their interest.

The Criminal Division estimates there will be 250 to 300 forfeiture hearings per year as a result of enactment of the felony DUI/refusal provisions. Preparation for these hearings will involve research on ownership interests and paperwork. The Criminal Division estimates it will need to add two new FTE paraprofessional positions, one each in Anchorage and Palmer. (Although the Municipality of Anchorage prosecutes misdemeanor DUI, the Department of Law prosecutes all felonies.) In addition, 1 new law office assistant position will be necessary in Palmer.

Position costs are based on the department's FY03 cost allocation plan, and include 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 per position is included. Proportionate support position funding is included in the standard paraprofessional cost schedule at a rate of approximately one support position for every three professional positions. Position authorizations for the support positions are required, however, and the one FTE law office assistant position discussed above is requested, along with \$6,500 for one-time equipment costs. A summary of line-item costs by component follows:

Component	Position	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Criminal Division: 3rd Judicial District: Anchorage (2261)							
	100 1 FTE Paraprofessional	76.2	76.2	76.2	76.2	76.2	76.2
	200	0.2	0.2	0.2	0.2	0.2	0.2
	300	14.5	14.5	14.5	14.5	14.5	14.5
	400	1.3	1.3	1.3	1.3	1.3	1.3
	500	6.5					
	Total 1004 General Fund	98.7	92.2	92.2	92.2	92.2	92.2
Criminal Division: 3rd Judicial District: Outside Anchorage (2279)							
	100 1 FTE Paraprofessional	76.2	76.2	76.2	76.2	76.2	76.2
	200 1 PFT Law Office Asst	0.2	0.2	0.2	0.2	0.2	0.2
	300	14.5	14.5	14.5	14.5	14.5	14.5
	400	1.3	1.3	1.3	1.3	1.3	1.3
	500	13.0					
	Total 1004 General Fund	105.2	92.2	92.2	92.2	92.2	92.2
Forfeiture Total	1004 General Fund	203.9	184.4	184.4	184.4	184.4	184.4

SCS CSHB 4 (FIN) WD "Q" increases the minimum fines for DUI and refusal convictions. Unfortunately, there is no way to calculate a reliable estimate of the increased revenues that would result from increasing the fines for DUI and refusal. There are simply too many variables.

The criminal fines are minimum fines for each type of offense. The fines may be set higher. They may also be set lower in certain circumstances. For example, sections 32 and 43 permit suspending up to 50 percent of the fine for successful completion of a court-ordered treatment program. Given these factors, we have no way of estimating what the average fine would be for each level of offense.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. SCS CSHB 4 (FIN) wd/Q

ANALYSIS CONTINUATION

Even if you assume that the minimum fine is the average, and multiply times the number of estimated convictions for that offense, it is impossible to know how much revenue may actually be collected in any given year. We have no idea how many defendants would pay their criminal fines voluntarily. If they do not pay voluntarily, after 60 days the judgment for the criminal fine would be transferred to the Department of Law for collection.

The department's primary means of collecting debts is through attachment of the Permanent Fund Dividend, assuming the defendant is eligible for one. The amount that can be garnished from an annual dividend to pay criminal fines is limited by the size of the fine, the size of the dividend, and by what other debts are owed the state or a victim by the defendant. This latter factor is important because AS 43.23.065 prioritizes the order of debts for which a dividend may be seized. So, if the defendant also owes child support and/or restitution, the state cannot start collecting the criminal fine until those other obligations are fulfilled, as they hold a higher priority. This could take some years. Even if there are no other debts with a higher priority, if the fine is larger than the dividend amount, it again may take more than one dividend cycle to complete. It is impossible to predict how these factors would impact future revenues from criminal fines.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. SCS CSHB 4 (FIN)

ANALYSIS CONTINUATION

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SCSCSHB 4 (FIN)
() Publish Date: E Version 4/10/02

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
Title Motor Vehicles and Drunk Driving BRU Alaska Court System
Component Trial Courts
Sponsor Representative Rokeberg
Requester Senate Finance Component No. 768

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
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						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Sections 31 and 43 of Work Draft E for SCS CSHB 4(FIN) require the mandatory forfeiture of a motor vehicle, aircraft, or watercraft used in the commission of a felony DWI/refusal offense. Section 48 states that before forfeiture can occur the court system must hold a hearing on the matter. The Department of Law estimates that these sections will result in 250-300 hearings a year. Because the cost associated with these hearings was captured through other legislation last year, the court system does not anticipate any additional fiscal impact from the passage of this work draft.

Prepared by: Douglas Wooliver
Division: Alaska Court System
Approved by: Stephanie Colo
Agency: Alaska Court System

Phone 463-4750
Date/Time 4/15/02 8:31 AM
Date 4/15/2002

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SCS CSHB4(Fin)WD(E)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title An act relating to motor vehicles and BRU Motor Vehicles
to operating a motor vehicle..... Component Motor Vehicles
Sponsor Representative Rokeberg
Requester S (FIN) Component No. 2348

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	40.3	40.3	40.3	40.3	40.3	40.3
Travel						
Contractual	43.5	3.5	3.5	3.5	3.5	3.5
Supplies						
Equipment	5.6	0.0	0.0	0.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	89.4	43.8	43.8	43.8	43.8	43.8

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1005)	347.5	347.5	347.5	347.5	347.5	347.5
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	89.4	43.8	43.8	43.8	43.8	43.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	89.4	43.8	43.8	43.8	43.8	43.8

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Under this bill the court will order DMV to revoke the registration of any vehicle owned by a felony DWI offender. If there is a co-owner, DMV may delete the name of the offender from the registration and allow the co-owner to re-register the vehicle. Since there is no direct link between the driver and vehicle records DMV must research each case individually. There are estimated to be 250-300 felony convictions per year with each offender having an average of 2 vehicles. 70% of these will have a co-owner. The administrative work to research, revoke, and re-register vehicles will require 1 PFT position.

(Con't on page 2)

Prepared by: Charles R. Hosack Phone 269-5559
Division Motor Vehicles Date/Time 4/16/02
Approved by: Jim Duncan, Commissioner Date 4/16/2002
Agency Department of Administration