

ALASKA LEGISLATURE

2242

HOUSE and SENATE FINANCE COMMITTEE FILES, 2001 - 2002

HB

179

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CS HB 179 (FIN)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Health & Social Services
 Title: An Act relating to underage drinking and BRU: Alcohol & Drug Abuse Svcs
drug offenses Component: Alcohol/Drug Abuse Grants
 Sponsor: House (JUD)
 Requester: House (FIN) Component Number: 1239

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	400.0	400.0	400.0	400.0	400.0	400.0
Miscellaneous						
TOTAL OPERATING	400.0	400.0	400.0	400.0	400.0	400.0

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

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

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 179 creates a class B misdemeanor crime of "habitual minor consuming." Upon conviction the court is to require the individual to receive treatment specified under AS 28.35.030(h). AS 28.35.030(h) is geared toward the sentencing of adult DWI offenders. ASAP is responsible for the screening, referral and subsequent monitoring of persons who need substance abuse education or treatment. Those persons needing treatment would be referred to existing treatment providers in their community. This fiscal note would fund the necessary treatment expansion to meet the demand.

The existing service system for youth is under capacity and this new demand must be met with increased service capacity. The need to provide treatment to the expected 410 new cases requires expansion of the treatment capacity for youth.

Prepared by: Ernie Turner Phone 465-2071
 Division: Alcohol and Drug Abuse Date/Time 4/25/01 9:14 AM
 Approved by: Elmer A. Lindstrom, Special Assistant Date 4/25/01 9:14 AM
 Agency: Department of Health & Social Services

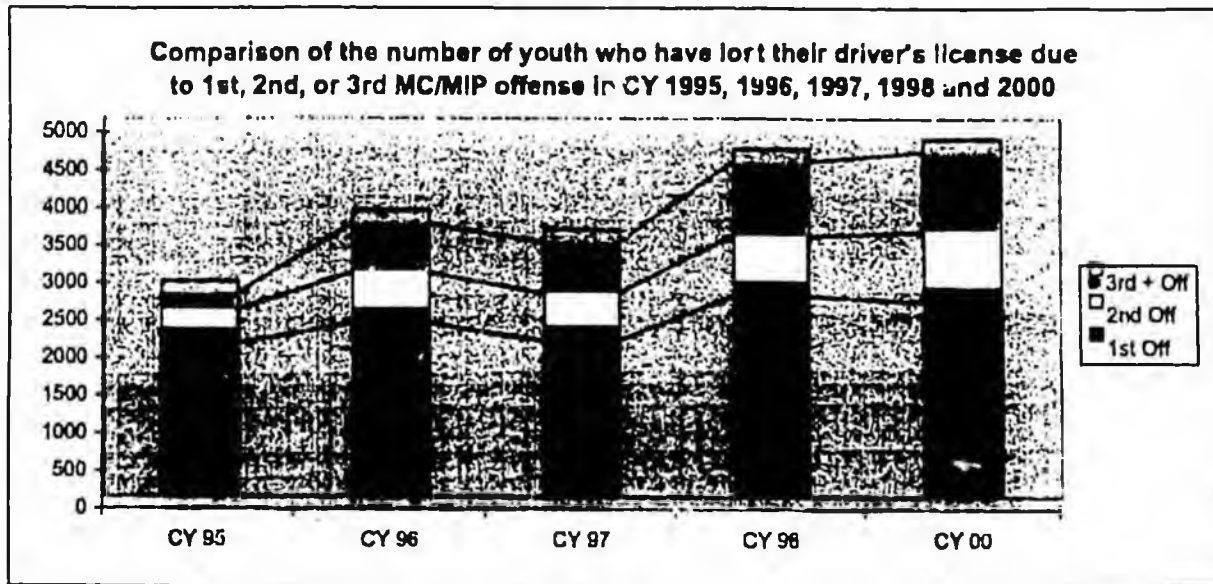
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ANALYSIS: (continued)

For youth who have committed their third offense, after the fines and community work services sanction from the first and second offenses, must be considered to be at high risk. Thus all should be referred to some level of treatment. For many youth this may only require brief interventions and for some possible residential placement. It is difficult to predict what the level of care required would be for the expected number of persons. In the Division presentation to the Judiciary committee on HB 4, the Division indicated that the costs per adult treated was \$1,854. This would include care from detox to brief interventions averaged across all levels of care. No similar figures exist for treatment of youth. This request is based on our estimate that we could provide appropriate levels of care for these persons by using an average that would be a little more than half the adult costs. This estimate results in the need for \$975 per youth estimated to be affected by this bill. Thus for the estimated 410 new persons needing some level of treatment (third offenses), a total treatment cost of \$400,000 is projected. This will provide treatment services at four pilot sites; Ketchikan, Fairbanks, Kotzebue and Juneau.

The Division of Motor Vehicles has been keeping records of the number of youth who lose their driver's license under existing statutes since CY 95. As review of this data indicates that in CY 2000 1,048 youth lost their driver's license due to having had their third minor consuming or minor in possession offense. Since the number of youth with a third offense has grown each year since CY 95 we would project that under this crime we could expect to see that many youth being sent to ASAP under this bill.

As can be seen by the data from the Division of Motor Vehicles (shown in the chart below), it indicates that over the past years the number of youth losing their driving licenses for minor consuming has been increasing. The number that have lost their license for second and third or more offenses has also risen. The chart below is from this data and clearly shows that the number of youth that could be determined to be guilty of "habitual minor consuming" would be high.



FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB 179 (JUD)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
Title: "An Act relating to underage drinking and drug offenses; and providing for an effective date." BRU: Criminal Division
Sponsor: House Judiciary Committee Component: 3rd Judicial Dist: Anchorage
Requester: House Judiciary Committee Component No.: 2261

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	34.8	34.8	34.8	34.8	34.8	34.8
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	7.0	7.0	7.0	7.0	7.0	7.0
Supplies	1.0	1.0	1.0	1.0	1.0	1.0
Equipment	6.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	49.3	42.8	42.8	42.8	42.8	42.8

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	49.3	42.8	42.8	42.8	42.8	42.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	49.3	42.8	42.8	42.8	42.8	42.8

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)
CSHB 179 (JUD) would change the minor consuming or in possession statutes by increasing fines and creating a series of graduated sanctions for repeat offenses. Under this version, only second and subsequent underage drinking offenses would entitle the minor to a jury trial and public counsel. The first offense would be handled similar to a traffic citation.

The Division of Motor Vehicles reports that prior to the *Niedermeyer* decision, they revoked about 4,800 drivers' licenses per year for alcohol violations by minors. Not all these violations were pursued in court, because many police officers believed it was better and easier to simply refer the matter to DMV for license revocation. We will assume, however, that now all such violations will result in a citation being filed in court.

The citations for second and subsequent offenses would come to the Department of Law, and a file would be opened. Based on Division of Juvenile Justice historical data, we estimate approximately 1,300 such citations would be filed annually. We believe that

Prepared by: Joan M. Kasson Phone: 465-5370
Division: Attorney General's Office Date/Time: 4/24/01 11:30 AM
Approved by: Kathryn Daughettee for Bruce M. Botelho, Attorney General Date: 4/24/01
Agency: Department of Law

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FISCAL NOTE

**STATE OF ALASKA
2001 LEGISLATIVE SESSION**

BILL NO. CSHB 179 (JUD)

ANALYSIS CONTINUATION

In approximately 1 percent of the cases the defendant would request a jury trial. The estimated 13 new jury trials per year statewide could be handled within existing Criminal Division resources.

The division could not, however, absorb the increased clerical duties associated with opening more than 1,300 new files each year, and dealing with the paperwork and pleadings in all those cases. We would need to add one Administrative Clerk II position in Anchorage, where we anticipate the most citations will be filed, for a first-year cost of \$49,344, including one-time equipment costs of \$6,500.

FISCAL NOTE

**STATE OF ALASKA
2001 LEGISLATIVE SESSION**

BILL NO. CSHB 179 (JUD)

Revision Date/Time (Note if correction) _____ Dept. Affected _____
 Title Minor Consuming BRU Alaska Court System
 Component Trial Courts
 Sponsor Rep. Rokeberg
 Requester House Finance Component No. 768

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	27.2	27.2	27.2	27.2	27.2	27.2
Travel						
Contractual	13.5	13.5	13.5	13.5	13.5	13.5
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	40.7	40.7	40.7	40.7	40.7	40.7

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	40.7	40.7	40.7	40.7	40.7	40.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	40.7	40.7	40.7	40.7	40.7	40.7

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

Committee Substitute for HB 179 (JUD) makes several changes to the minor consuming alcohol (MCA) laws. Section 1 of the bill increases penalties for first-time offenders and allows for alternative sentencing. Section 2 increases penalties and includes provisions for license suspension and community work service for those convicted of their 2nd offenses and misdemeanor penalties for those convicted of their 3rd and subsequent offenses.

Under the terms of this bill, those charged with a second or subsequent offense will be entitled to appointed counsel and a jury trial. The Department of Law estimates that approximately 1300 cases with those rights will come through the district court annually.

Because MCA cases already require a court appearance, the only significant difference for the court system between a MCA violation and a MCA with a right to an attorney and a jury trial is the costs associated with jury trials. The misdemeanor trial rate is approximately 1%. This note, therefore, reflects the costs associated with 13 misdemeanor jury trials.

Prepared by: Douglas Wooliver, Administrative Attorney Phone 463-4750
 Division Alaska Court System Date/Time 4/24/01 @ 9:30 A.M.
 Approved by: Stephanie J. Cole, Administrative Director Date _____
 Agency Alaska Court System

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Alaska Court System
 Fiscal Note Calculations for 13 New Misdemeanors Trials

<u>District Court:</u>	FY02	FY03	FY04	FY05	FY06
25 Jurors 1.0 Days for Selection	625	625	625	625	625
7 Jurors for 1.5 Days of Court	263	263	263	263	263
6 Jurors for .5 Days of Deliberation	75	75	75	75	75
Deliberation Meal \$11/12 jurors + bailiff	77	77	77	77	77
Total per District Court Trial	1,040	1,040	1,040	1,040	1,040
Proposed # District Court Trials	13	13	13	13	13
Estimated Cost of District Court Trials	13,514	13,514	13,514	13,514	13,514
District Court Judge (2 months*)	20,168	20,168	20,168	20,168	20,168
In-Court Clerk (2 months*)	7,000	7,000	7,000	7,000	7,000
Personnel Costs	27,167	27,167	27,167	27,167	27,167
Total Jury and Personnel costs for 13 Misdemeanor Trials	40,681	40,681	40,681	40,681	40,681

*13 trials X 3 days/trial =39 work days/20 workdays per month = 2 months

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB 179(JUD)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title: "An Act relating to underage drinking and BRU: Legal & Advocacy Service
drug offenses; and providing for..." Component: Public Defender Agency
Sponsor: House Judiciary Committee
Requester: House Finance Committee Component Number: 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	128.3	128.3	128.3	128.3	128.3	128.3
Travel	5.3	5.3	5.3	5.3	5.3	5.3
Contractual	39.5	39.5	39.5	39.5	39.5	39.5
Supplies	2.9	2.9	2.9	2.9	2.9	2.9
Equipment	13.0	1.3	1.3	1.3	1.3	1.3
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	189.0	177.3	177.3	177.3	177.3	177.3

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	189.0	177.3	177.3	177.3	177.3	177.3
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	189.0	177.3	177.3	177.3	177.3	177.3

Estimate of any current year (FY2001) 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)

This bill would increase the penalties for the offense of Minor Consuming or in Possession of Alcohol (MCA). Under current law, MCA is a violation punishable by a \$100 fine. A minor cited for MCA was also subject to an administrative drivers license revocation under AS 28.15.183 (the "use it, lose it" law). However, in a recent Alaska Supreme Court case, State v. Niedermeyer, the "use it, lose it" law was found to violate due process. The court decided that a minor has a right to a jury trial and court-appointed counsel before a license can be revoked for MCA.

Under this bill, for a first offense, the court can place the person on probation and refer the case to a "community diversion panel." Alternatively, the court shall impose a fine of at least \$200 but not more than \$600.

Continued on Page Two

Prepared by: Barbara Brink, Director Phone 907 334-4414
Division: Public Defender Agency Date/Time April 24, 2001
Approved by: Jim Duncan, Commissioner Date 4/24/01
Agency: Department of Administration

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CS HB 179 (JUD) ANALYSIS: (continued)

For a second offense (repeat MCA), the mandatory fine is \$1,000. But \$500 can be suspended if the defendant completes probation. There is a mandatory minimum community work service of 48 hours.

A third offense (habitual MCA) would be a class B misdemeanor. A mandatory minimum of 96 hours of community work service must be imposed. The court also must revoke a minor's drivers license or privilege to drive for six months. The juvenile delinquency statutes would be amended so that habitual (third offense) MCA would be handled by the Division of Juvenile Justice and juvenile courts.

The Public Defender Agency will have a substantial fiscal impact from this bill. As the bill is currently drafted, we would be appointed to represent people charged with both repeat and habitual MCA.

Repeat MCA (second offense) is a violation. The Public Defender Agency does not generally represent people on violations. However, the Alaska Court of Appeals in *Booth v. State*, 903 P.2d 1079 (Alaska App. 1995) decided that before community work service can be imposed a defendant has a right to a jury trial and court-appointed counsel. Therefore, the Public Defender Agency would be appointed in these cases as well as the habitual (third offense) MCA's.

According to Division of Motor Vehicles and Department of Health and Social Services (DHSS) statistics, there will be about 1330 second and subsequent MCA offenses. Of these 738 will be repeat MCA and 592 will be habitual MCA.

It is difficult to estimate how many of these cases the Public Defender Agency will be appointed to. The repeat MCA is a violation. But, with the prospect of a \$500 mandatory minimum fine and 48 hours of community work service, there will be a significant percentage of defendants who will request an attorney. Even if only 40% of the repeat MCA defendants request a court-appointed attorney, the Public Defender Agency will have 295 new cases. Habitual MCA is a class B misdemeanor with a mandatory 96 hours community service and loss of a drivers license for six months. We estimate we will be appointed in 75% of these cases. The result will be 444 additional misdemeanor cases.

Under national standards, a Public Defender attorney should handle no more than 400 new misdemeanor cases per year. The repeat MCA cases will be less difficult than the average misdemeanor, so we will increase this number to 600 new repeat MCA's per year per attorney. With the addition of a half-time attorney, the Public Defender Agency will be able to handle the increased caseload due to repeat MCA. An additional full-time attorney will be needed to handle the additional caseload due to habitual MCA.

According to the DHSS statistics, the majority of these cases are filed in Anchorage, Fairbanks, and Palmer. We would place the half-time attorney in Anchorage because it would be easier to hire a part-time attorney for Anchorage. The other attorney would be placed in Palmer.

The cost per attorney includes clerical support and one-time equipment costs in the initial year.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 179(JUD)
(H) Publish Date: 4/20/01

Revision Date/Time(Note if Correction): _____ Dept. Affected: Corrections
Title: An Act relating to underage drinking and drug BRU: Administration & Operations
offenses; and providing for an effective date. Component: Institutions
Sponsor: House Judiciary Committee
Requester: House Judiciary Committee Component Number: 1381

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Liabilities & Claims						
Other 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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would make a 3rd time conviction for minor consuming or in possession or control a class B Misdemeanor. It also provides graduated sanctions for 1st and 2nd time offenders and requires treatment for 3rd time offenders. It is anticipated that the first year, the Department of Corrections would be able to absorb any incarceration associated with this legislation since the bill will not encompass those with convictions prior to the effective date of the legislation.

It is the Department of Corrections' position that providing JSAP and making it a requirement of probation, in concert with graduated sanctions, will lessen the ultimate fiscal impact on the Department. Early intervention is believed to aid in prevention of further drinking and concomitant dependence. If the treatment component is not required/available, it is likely that Corrections will be taxed in subsequent years and may require additional funding. It is unclear at this time what that impact would be but court records indicate that there were 1,744 unduplicated individuals who were 18 or older as of 1/1/01 and had 2 convictions for MCA and 1,427 who had 3 or more convictions. Depending on what sanctions the court

Prepared by: Candace Brower
Division: Commissioner's Office
Approved by: Margaret Puri
Agency: Department of Corrections

Phone 465-4652
Date/Time 3/29/01/4:30 pm
Date 3/29/01

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3/29/01

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would impose for these B misdemeanants, there could become a serious influx of these offenders who were previously dealt with by violations/citations. It is hoped that graduated sanctions and education/treatment will provide the deterrence necessary to prevent incarceration in the future.

FISCAL NOTE

**STATE OF ALASKA
2001 LEGISLATIVE SESSION**

Fiscal Note Number: 5
 Bill Version: CSHB 179(JUD)
 (H) Publish Date: 4/20/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Health & Social Services
 Title: An Act relating to underage drinking and BRU: Alcohol & Drug Abuse Svcs
drug offenses Component: Alcohol Safety Action Program
 Sponsor: House (JUD) Component Number: 305
 Requester: House (JUD)

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	63.5	63.5	63.5	63.5	63.5	63.5
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	63.5	63.5	63.5	63.5	63.5	63.5

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	63.5	63.5	63.5	63.5	63.5	63.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	63.5	63.5	63.5	63.5	63.5	63.5

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)
 HB 179 creates a class B misdemeanor crime of "habitual minor consuming." Upon conviction the court is to require the individual to receive treatment specified under AS 28.35.030(h). AS 28.35.030(h) is geared toward the sentencing of adult DWI offenders. The existing Alcohol Safety Action Program (ASAP) program does not serve minors (persons under 18). ASAP functions not as treatment but as the monitor of compliance with conditions of the court as part of the sentence. The ASAP office in Anchorage provides the ASAP services in Anchorage as well as providing oversight and technical assistance to other grantee ASAP statewide. This position will work on establishing new standards for dealing with youth under this program for both Anchorage and other programs statewide. These standards would establish how the ASAP programs will make certain that the screening and referral process is appropriate for these person convicted under this new crime.

Prepared by: Emie Turner, Phone 465-2071
 Division: Alcohol and Drug Abuse Date/Time 3/26/01 1:08 PM
 Approved by: Elmer A. Lindstrom, Special Assistant Date 3/26/01 1:08 PM
 Agency: Department of Health & Social Services

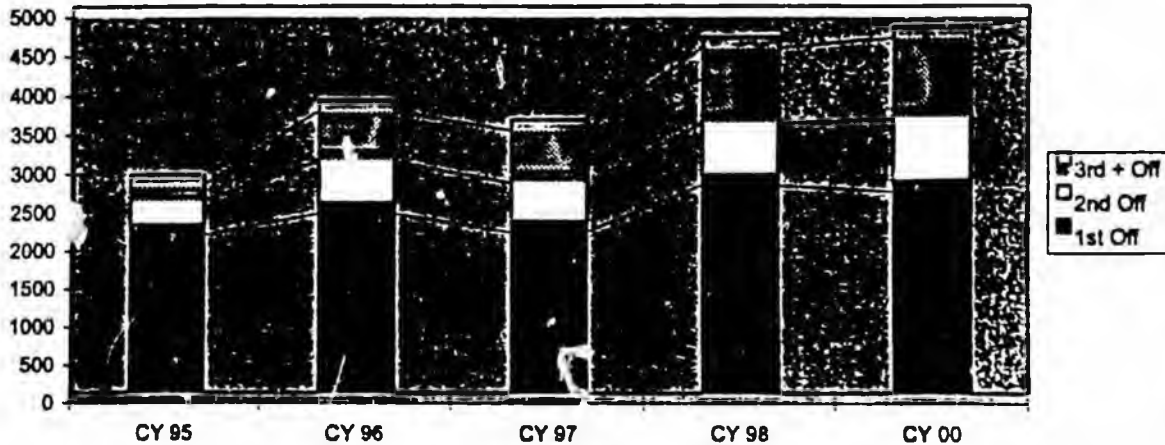
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ANALYSIS: (continued)

The Division of Motor Vehicles has been keeping records of the number of youth who lose their driver's license under existing statutes since CY 95. As review of this data indicates that in CY 2000 1,048 youth lost their driver's license due to having had their third minor consuming or minor in possession offense. Since the number of youth with a third offense has grown each year since CY 95 we would project that under this crime we could expect to see that many youth being sent to ASAP under this bill.

As can be seen by the data from the Division of Motor Vehicles (shown in the chart below), it indicates that over the past years the number of youth losing their driving licenses for minor consuming has been increasing. The number that have lost their license for second and third or more offenses has also risen. The chart below is from this data and clearly shows that the number of youth that could be determined to be guilty of "habitual minor consuming" would be high.

Comparison of the number of youth who have lost their driver's license due to 1st, 2nd, or 3rd MC/MIP offense in CY 1995, 1996, 1997, 1998 and 2000



FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 6
Bill Version: CSHB 179(JUD)
(H) Publish Date: 4/20/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Health & Social Services
Title: An Act relating to underage drinking and BRU: Alcohol & Drug Abuse Svcs
drug offenses Component: CAASA Grants
Sponsor: House (JUD)
Requester: House (JUD) Component Number: 1413

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	426.0	426.0	426.0	426.0	426.0	426.0
Miscellaneous						
TOTAL OPERATING	426.0	426.0	426.0	426.0	426.0	426.0

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	426.0	426.0	426.0	426.0	426.0	426.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	426.0	426.0	426.0	426.0	426.0	426.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 179 creates a class B misdemeanor crime of "habitual minor consuming." Upon conviction the court is to require the individual to receive treatment specified under AS 28.35.030(h). AS 28.35.030(h) is geared toward the sentencing of adult DWI offenders. Alcohol Safety Action Program (ASAP) functions not as treatment but as the monitor of compliance with conditions of the court as part of the sentence. The existing ASAP program does not serve minors (persons under 18). Based on DMV data about youth that lose their driver's license due to MC/MIP, we are projecting that an additional 1,048 person statewide would be found guilty under this bill and referred to ASAP programs. Current ASAP programs are under funded and could not absorb this increase without increased funding. These funds would allow the Division to fund programs that would be specific for the person guilty of "habitual minor consuming."

Prepared by: Emie Turner Phone 465-2071
Division: Alcohol and Drug Abuse Date/Time 3/26/01 1:12 PM
Approved by: Elmer A. Lindstrom, Special Assistant Date 3/26/01 1:12 PM
Agency: Department of Health & Social Services

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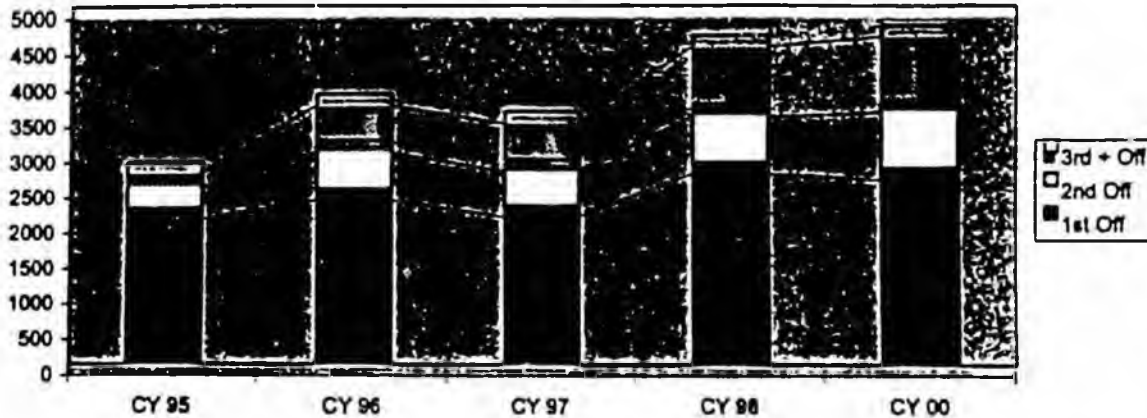
ANALYSIS: (continued)

AS 47.37.045 established the Community Action Against Substance Abuse program. Under this program 47.37.045(7) allows for the funding of "youth assessment and referral programs that provide substance abuse screening services to and monitor compliance with a minor required to participate in..." alcohol or drug education or treatment. As such these funds are requested under that grant component.

The Division of Motor Vehicles has been keeping records of the number of youth who lose their driver's license under existing statutes since CY 95. As review of this data indicates that in CY 2000 1,048 youth lost their driver's license due to having had their third minor consuming or minor in possession offense. Since the number of youth with a third offense has grown each year since CY 95 we would project that under this crime we could expect to see that many youth being sent to ASAP under this bill.

As can be seen by the data from the Division of Motor Vehicles (shown in the chart below), it indicates that over the past years the number of youth losing their driving licenses for minor consuming has been increasing. The number that have lost their license for second and third or more offenses has also risen. The chart below is from this data and clearly shows that the number of youth that could be determined to be guilty of "habitual minor consuming" would be high.

Comparison of the number of youth who have lost their driver's license due to 1st, 2nd, or 3rd MC/MIP offense in CY 1995, 1996, 1997, 1998 and 2000



adopted

#1

4/27/01

Amendment to CSHB 179 (JUD)

Page 2, line 3, following the word "group" through line 4:

Delete all material and replace with "selected by the court to serve as a sentencing option for persons convicted of a violation under this section."

4/24/01

adopted

AMENDMENT

H2

OFFERED IN THE HOUSE
TO: CS HB 179 (JUD)

BY

Page 6, Lines 5-6

Delete all language.

adopted
conceptual

4/24/01

AMENDMENT H3

OFFERED IN THE HOUSE

To: CSHB 179 (JUD)

417 Page 3, line 5, following "program"

Insert: ", if one is available"

415 Page 9, line 29:

Delete "The"

Insert" "Except as provided under AS 28.15.183(h), the"

Page 12, lines 13-4: only insert a new Bul section

NO Delete "AS 47.37.040 is amended by adding a new paragraph to read:

(20)"

415 Insert: "The uncodified law of the State of Alaska is amended by adding a new section to read:

~~PILOT JUVENILE ALCOHOL SAFETY ACTION PROGRAM.~~ ^{Treatment} The Department of Health and Social Services, beginning July 1, 2001, and ending June 30, 2003, shall, in Fairbanks, ^{Seward,} Ketchikan, and Kotzebue," ~~for treatment only.~~

NO Page 12, line 15, following "a":

Insert: "pilot"

Amendment #3

Offered in the House

To: CSHB 179 (JUD)

Page 3, line 5, following "program"

Insert: ", if one is available"

Page 9, line 29:

Delete "The"

Insert "Except as provided under AS 28.15.183(h), the"

Page 12, line 13:

Insert a new section: The uncodified law of the State of Alaska is amended by adding a new section to read:

PILOT JUVENILE ALCOHOL TREATMENT PROGRAM. The Department of Health and Social Services, beginning July 1, 2001 and ending June 30, 2003, shall, in Fairbanks, Juneau, Ketchikan and Kotzebue, establish a pilot alcohol treatment program.

TALKING POINTS HB179, MINOR CONSUMING

The introduction of House Bill 179 was necessitated by the difficulties encountered in the courts with the "use it lose it" law passed previously by the Legislature. In addition, this bill was introduced resulting from the alarming increase in habitual minor consumers across the state. As you can see from the information supplied to you, both the number of minor consumer cases and more importantly, the number of repeat offenses have increased dramatically. We believe that these increases will continue without quality Juvenile Alcohol Safety Action Programs and increased education and outpatient services across the state.

Passage of this legislation, in its current form will increase monitoring, education and access to treatment services for this underserved population. The adult ASAP program has been successful in reducing repeat offenses for a population that is much harder to work with and therefore the Department feels that we can successfully reduce the number of repeat offenders among the youthful offenders in the state. Passage of this legislation has the potential to reduce the number of adult offenders as well as treating youth prevents them from becoming adult offenders.

Current Situation

There are currently two sites in the state that provide Juvenile Alcohol Safety Action Programs, in Juneau and more recently in Fairbanks. These programs have attempted to deal with the needs in those communities without adequate available treatment resources and have had some success. Both of the programs have no promise of funding beyond June 30, 2001.

Fiscal Notes

There are three fiscal notes attached to this bill. Two of these notes together provide the resources for the development of eight sites for Juvenile Safety Action Programs and the third will provide treatment services in those communities. The ASAP fiscal notes are separated as the Anchorage ASAP monitors, collects data and provides technical assistance for all ASAP sites and is run by the State. Funds for the other sites come through the grant in aid process.

Education services are monitored by the ASAP offices and do not require funding beyond the development of curriculum and monitoring completion for the court system.

The \$1,010, 500 fiscal note for treatment is based upon the need for treatment services for 1,048 habitual offenders @ \$964 each. That is not the actual cost of services but is an estimate of services that could not be paid for by the families of the offenders. The fiscal note would establish the infrastructure for youth treatment in 8 communities that currently have ASAP services that would be enhanced through passage of this bill.

Performance Measures

As with the inception of any new program, baseline data and performance measures are needed to determine the viability of future funding. Fortunately we have excellent records on both the number of first time and repeat minor consuming offenses. We have provided you with benchmark data and current status in your packets. The intervention proposed in this legislation would target the number of repeat offenders. Our objective will be to reduce repeat offenses. We believe that the strategies that we will employ will reduce the alarming increases in habitual minor consuming offenses in the State. By tracking the performance of these programs we can make adjustments that will insure success.

Pilot Site Amendment

The amendment that would reduce the number of sites from 8 to three would reduce the fiscal note for treatment from \$1,010,500 to \$261,244 (total offenders=1085x.25=271x\$964=\$261,244)

The reduction in the JASAP fiscal note from 8 sites to three sites would reduce the fiscal note for grants to ASAP from ~~\$426,000~~ to \$183,180. The Anchorage ASAP from \$63,500 to \$31,750 (monitoring and technical assistance would still be required).

If the pleasure of the committee were to reduce the scope of this project to three pilot sites the Department would strongly recommend that the JASAP portion of the fiscal note be retained at \$426,000 and \$63,500. This would insure that ASAP services are available in more communities and would at least offer those services to the court and to what treatment services are currently available. This would fall far short of need but would be significantly better in administering this statewide law.

Handwritten calculations:

$$\begin{array}{r} 426,000 \\ + 63,500 \\ \hline 489,500 \\ - 228,256 \\ \hline 261,244 \end{array}$$

75. ASAP

$$\begin{array}{r} 8 \\ \times 600,000 \text{ ASAP} \\ \hline 4,800,000 \\ - 4,538,756 \\ \hline 261,244 \end{array}$$

861,244

$$\begin{array}{r} 426 \\ + 635 \\ \hline 1089500 \\ - 828256 \\ \hline 261244 \end{array}$$

179

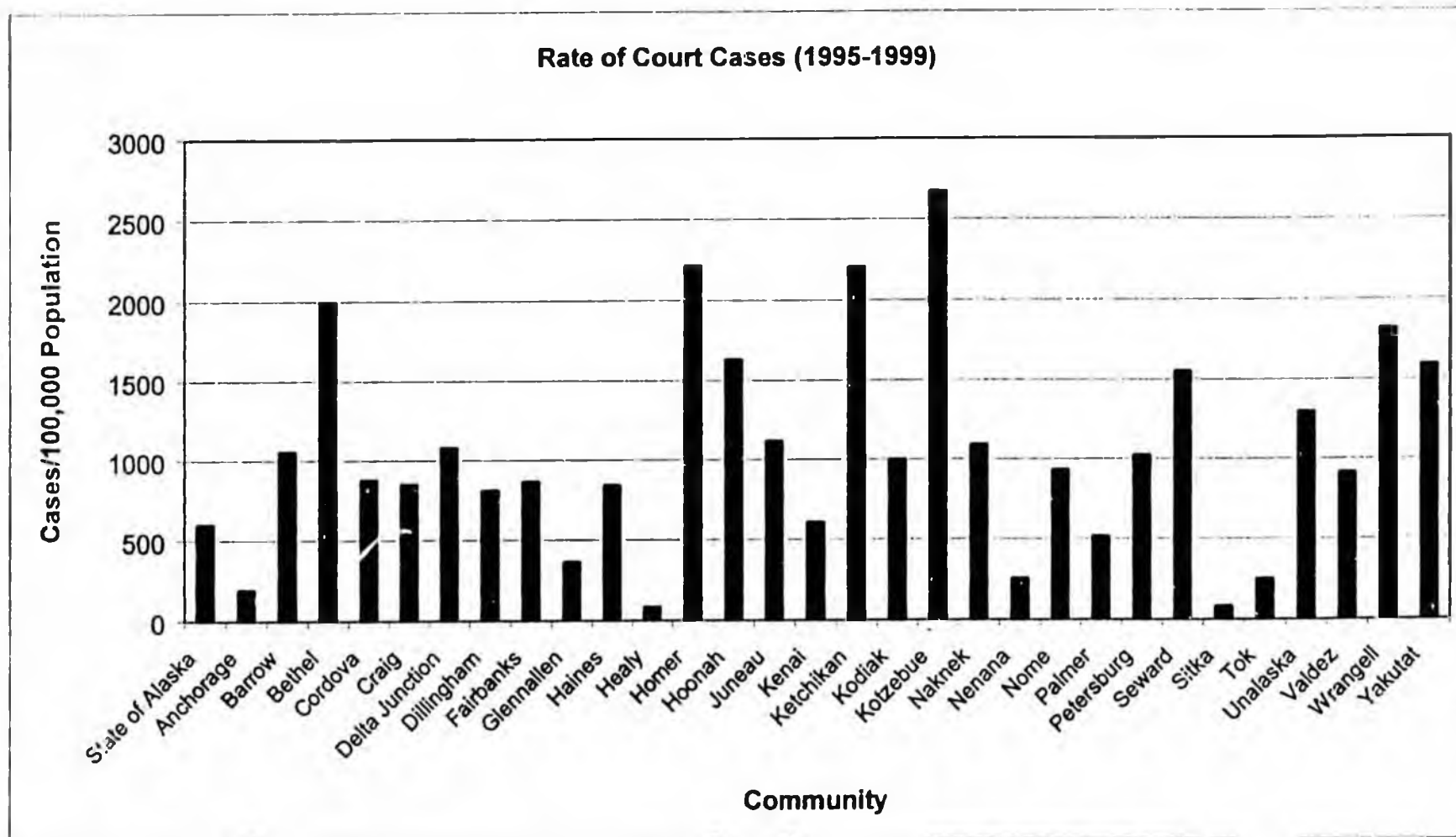


Figure 3 – Rate of Court Cases by Community (1995 – 1999); Data Source: Court Case Data – Alaska Court System; Population Data – Alaska Department of Labor and Workforce Development

	First Offense	Second Offense	Third+ Offense (Age 18 or older)	Third+ Offense (Under Age 18)
Fine	SIS and referral to community diversion panel -or- \$200-\$600 fine	\$1000, with up to \$500 suspended	up to \$1000, all can be suspended	Referred to Juvenile Court
Jail	not available	not available	up to 90 days, all can be suspended	Referred to Juvenile Court
License Revocation	not available	6 months, but only if treatment is not completed or community work is not performed	6 months upon conviction, plus 6 more months if treatment is not completed or community work is not performed	
Community Work	not available	48 hours	96 hours	
Referral to Juvenile Alcohol Safety Action Program	Yes, offender must pay for screening and any education or treatment	Yes, offender must pay for screening and any education or treatment	Yes, offender must pay for screening and any education or treatment	

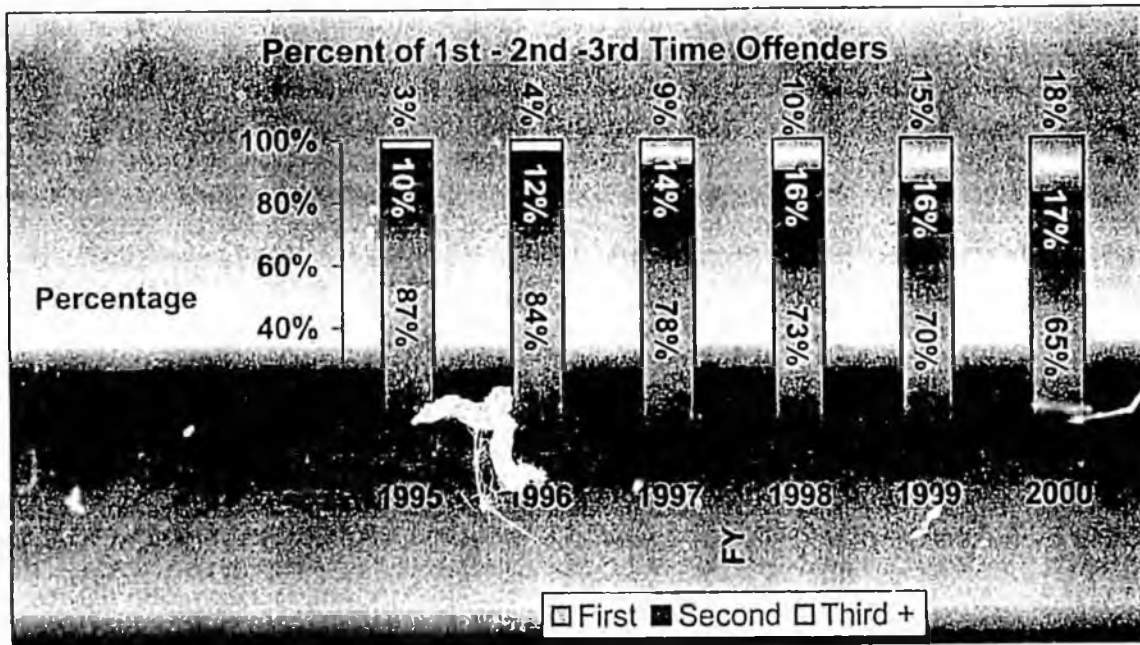
Note: This proposal "wipes the slate clean" and only applies to minor consuming offenses after the effective date of the Act.

The Division of Alcoholism and Drug Abuse

Measure

The number of new and repeat convictions for minor consuming or minor in possession of alcohol.

Current Status	We have the number of convictions for Fiscal Years 1995 through 2000. From this we can compute the percentage of those convictions that represent repeat offense.
Benchmark	For the period FY 95 – FY 2000 27% of all convictions were for second or subsequent offenses. For just FY 2000 35% of all convictions were for second or subsequent offenses.
Background And Strategies	<p>HB 179 changes the penalty structure for minor consuming and minor in possession convictions. Since 1995 these offenses have been violations and the major penalty has been loss of driver's license. Due to court rulings, this penalty could no longer occur unless the offender had the ability to request a jury trial.</p> <p>The only statistical measure we would have upon passage of HB 179 would be conviction data from the Court system. The Division of Juvenile Justice has been working with the court system to be able to obtain the data in a consistent manner so that we can follow these statistics over the years.</p> <p>HB 179, however, wipes the slate clean, so that once adopted any conviction from that point becomes the first offense, even if there were previous convictions under the current law. Using data from past studies with new data we would be able to estimate repeat offenses. However, from the effective date of HB 179 we would be able to replicate the chart below and would target the repeat offenses both as a percentage of the total number of convictions as well as the rate of growth of repeat offense based on the baseline set in the FY 1995 – FY 2000 period.</p> <p>In addition we will monitor the data reported in "Underage Drinking Needs Assessment" report completed in October 2000 related to motor vehicle accidents and alcohol-related injuries requiring hospitalization.</p>



Under Violations

UNDER 21 VIOLATIONS 2000													
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	ANNUAL
ANCHORAGE													
PD	67	71	79	52	82	191	131	168	100	106	104	156	1307
AST	1						4						5
TOTAL	68	71	79	52	82	191	135	168	100	106	104	156	1312
ANCH AIR PATROL													
PD						1		3	2	4	1		11
AST													0
TOTAL	0	0	0	0	0	1	0	3	2	4	1	0	11
BETHEL													
PD	3		3		2		3				3		14
AST													0
TOTAL	3	0	3	0	2	0	3	0	0	0	3	0	14
CORDOVA													
PD	2	23		6	1	10		9	2				53
AST													0
TOTAL	2	23	0	6	1	10	0	9	2	0	0	0	53
CRAIG													
PD	1	2	4	6	8	10	18	11	4	1	4	2	71
AST													0
TOTAL	1	2	4	6	8	10	18	11	4	1	4	2	71
DILLINGHAM													
PD	1		1		2	1		3		1		1	10
AST													0
TOTAL	1	0	1	0	2	1	0	3	0	1	0	1	10
FAIRBANKS													
PD	13	39	33	18	26	70	42	32	25	18	29	22	367
AST	21	15	33	59	21	29	33	35	20	10	11	12	290
TOTAL	34	54	66	68	47	99	75	67	45	28	40	34	657

Under 2 Relations

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	ANNUAL
FBK AIR PATROL													
PD					3	4		2	1			1	11
AST													0
TOTAL	0	0	0	0	3	4	0	2	1	0	0	1	11
HAINES													
PD	1	4						2	1	5	1	7	21
AST									3		2	1	6
TOTAL	1	4	0	0	0	0	0	2	4	5	3	8	27
HOMER													
PD	2	2	5	1	9	2	5	3	6	6	7	9	57
AST					5	1		2	1	1	3	1	14
TOTAL	2	2	5	1	14	3	5	5	7	7	10	10	71
JUNEAU													
PD	26	20	18	16	21	39	13	33	20	11	13	35	265
AST				1									1
TOTAL	26	20	18	17	21	39	13	33	20	11	13	35	266
KENAI													
PD	3	7	1	5	9	4	5	15	2	3	2	2	58
AST													0
TOTAL	3	7	1	5	9	4	5	15	2	3	2	2	58
KETCHIKAN													
PD	26	13	24	16	14	19	43	28	16	21	18	9	247
AST			2	7		2	4	2					17
TOTAL	26	13	26	23	14	21	47	30	16	21	18	9	264
KODIAK													
PD	19	13	7	8	7	4	2	16	20	15	5	10	126
AST	7			1	1	6	6	5	35	17	10	3	91
TOTAL	26	13	7	9	8	10	8	21	55	32	15	13	217
KOTZEBUE													
PD	5	3	12	9	18	31	21	8	13	18	9	17	164
AST													0
TOTAL	5	3	12	9	18	31	21	8	13	18	9	17	164
NOME													
PD			1				2			3		2	8

Under 2 olations

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	ANNUAL
AST													0
TOTAL	0	0	1	0	0	0	2	0	0	3	0	2	8
NORTH POLE													
PD	13	2	10	5	2	14	3		1	1	6	3	60
AST													0
TOTAL	13	2	10	5	2	14	3	0	1	1	6	3	60
NORTH SLOPE (BARROW)													
PD	3	3	1	5	3	4	11	2	14	17	4	5	72
AST													0
TOTAL	3	3	1	5	3	4	11	2	14	17	4	5	72
PALMER													
PD	1		4	6	10	4	5	11	17	1	1	7	67
AST	1	10	22	17	38	89	55	42	36	14	23	7	354
TOTAL	2	10	26	23	48	93	60	53	53	15	24	14	421
PETERSBURG													
PD	1	4	3	5	2	4	7	7	1	1	1	1	37
AST													0
TOTAL	1	4	3	5	2	4	7	7	1	1	1	1	37
SEWARD													
PD	1	1	6	3	3	3	5	2	2	3	8	6	43
AST	1			2	1		3		1	2	4		14
TOTAL	2	1	6	5	4	3	8	2	3	5	12	6	57
SITKA													
PD	33	14	37	33	27	42	42	37	21	16	15	9	326
AST													0
TOTAL	33	14	37	33	27	42	42	37	21	16	15	9	326
SOLDOTNA													
PD		14	9	4	9	13	7	8	6	23	7	6	106
AST	6	6	5	1	2	16	4	8	2	6	3	1	60
TOTAL	6	20	14	5	11	29	11	16	8	29	10	7	166
UNIVERSITY - ANCHORAGE													
PD	9	13	18	3	10		3		15	11	32	10	124
AST													0
TOTAL	9	13	18	3	10	0	3	0	15	11	32	10	124

Under 21 Violations

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	ANNUAL
UNIVERSITY - FAIRBANKS													
PD	3	23	14	15	12	3	2	4	14	25	18	3	136
AST													0
TOTAL	3	23	14	15	12	3	2	4	14	25	18	3	136
US MILITARY													
PD	8	1	2	10	4	5	7	12	11	11	7	9	87
AST													0
TOTAL	8	1	2	10	4	5	7	12	11	11	7	9	87
VALDEZ													
PD	2		5	7	1	5	13	4	15	1	6	2	61
AST													0
TOTAL	2	0	5	7	1	5	13	4	15	1	6	2	61
WASILLA													
PD	6	5	12	16	5	19	11	8	8	23	7	8	128
AST			1										1
TOTAL	6	5	13	16	5	19	11	8	8	23	7	8	129
WRANGELL													
PD	3	8	8	3	15	8	17	6	5	4	2	4	83
AST													0
TOTAL	3	8	8	3	15	8	17	6	5	4	2	4	83
OTHER													
PD	13	7	15	10	5	31	25	32	12	3	13	9	175
AST	15	7	4	14	20	25	21	10	7	15	20	5	163
TOTAL	28	14	19	24	25	56	46	42	19	18	33	14	338
TOTALS													
PD	265	292	332	262	310	541	443	466	354	352	323	355	4295
AST	52	38	67	93	88	168	130	104	105	65	77	30	1017
GRAND TOTAL	317	330	399	355	398	709	573	570	459	417	400	385	5312
OFFENSES:ALCOHOL													
FIRST	135	167	214	176	208	390	288	324	261	204	193	192	2752
SECOND	56	58	55	75	73	136	105	93	76	67	74	69	937
THIRD + UP	71	58	88	69	82	137	140	72	78	97	85	71	1048
TOTAL	262	283	357	320	363	663	533	489	415	368	352	332	4737

Under 2 Citations

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	ANNUAL
OFFENSES: DRUG													
FIRST	17	24	29	26	12	32	22	36	9	42	31	29	309
SECOND	2	9	7	8	13	5	5	5	5	5	9	4	77
THIRD + UP	0	4	3	6	2	5	4	5	6	6	3	5	49
TOTAL	19	37	39	40	27	42	31	46	20	53	43	38	435
OFFENSES: FRAUDULENT USE													
FIRST	10	2	3	2	5	11	8	6	7	3	5	6	68
SECOND							1						1
THIRD + UP													0
TOTAL	10	2	3	2	5	11	9	6	7	3	5	6	69
OFFENSES: ZERO TOLERANCE AND REFUSAL													
FIRST	12	8	12	20	14	22	21	24	11	10	10	15	179
SECOND	4	1	5	9	7	8	5	22	5	3	4	3	76
THIRD + UP	2	6	6	4	2	3	4	2	7	3	4	7	50
TOTAL	18	15	23	33	23	33	30	48	23	16	18	25	305
TOTAL OFFENSES	309	337	422	395	418	749	603	589	465	440	418	401	5546
* Discrepancy between citation totals and offense totals due to multiple charges stemming from single incidents.													
TOTAL DUI'S				14	18	22	12	3	3	32			

ALASKA STATE LEGISLATURE

HOUSE JUDICIARY COMMITTEE

Representative Norman Rokeberg, Chairman
Representative Scott Ogan, Vice-Chairman
Representative John Cahill
Representative Jeanette James
Representative Kevin Meyer
Representative Ethan Berkowitz
Representative Albert Kookesh



State Capitol
Juneau, AK 99801-1182
Telephone: (907) 465-4990
Fax: (907) 465-2040

Heather M. Nobrega
Counsel to Committee

Sponsor Statement for HB 179 (JUD)

In 1994, the Legislature enacted the "Use It, Lose It" law (AS 28.15.183) for minors who are caught possessing or using alcohol. If a minor is caught using alcohol, his/her driver's license would be administratively revoked for a period of time.

In December, in a case called *State v. Niedermeyer*, the Alaska Supreme Court found that taking away a minor's driver's license for possession or consumption of alcohol or a controlled substance, without giving them a trial, was in violation of a minor's constitutional right to due process.

If a minor is caught using alcohol or drugs, they are sent a letter from the DMV stating that the DMV will not revoke their license until there has been a court conviction for the offense. At present, the district attorney's office is not prosecuting minors caught for consumption of alcohol, because the court system is not prepared to handle jury trials for this type of case.

The effect of the *Niedermeyer* decision is that minors now go virtually unpunished for possessing or consuming alcohol. The maximum penalty that may currently be enforced on minors who are caught consuming or possessing alcohol is a \$100 fine.

This law will impose appropriate punishments on minors who use alcohol, and will be a deterrent to minors when they consider drinking. Statistics show that the earlier a person begins drinking, the more likely they are to have problems with alcohol later in life. By sending a message early to minors that their actions will not go unpunished, we hope to deter alcohol problems in the future.

This bill will establish a graduated system of punishment for minors who are caught consuming, possessing or controlling alcohol. On a minor's first offense, he/she would be subject to a fine of between \$200-600, must attend alcohol information school, and will be placed on probation. On a minor's second offense, the minor would be guilty of repeat minor consuming and would be subject to a fine of \$1000, at least 48 hours of community work service, a three-month license revocation, and probation. A minor's third offense would cause them to be guilty of habitual minor consuming. This is a class B misdemeanor, which results in up to a \$1000 fine and 90 days in jail. In addition, the minor will lose his/her license for a period of six months, will be required to complete at least 96 hours of community work service, and will be placed on probation.

The committee urges your support of this bill.

ALASKA STATE LEGISLATURE

HOUSE JUDICIARY COMMITTEE

Representative Norman Rokeberg, Chairman
Representative Scott Ogan, Vice-Chairman
Representative John Coghill
Representative Jeannette James
Representative Kevin Meyer
Representative Ethan Berkowitz
Representative Albert Kookesh



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Heather M. Nobrega
Counsel to Committee

Sectional Analysis for HB 179 (JUD)

- Section 1:** Establishes penalty for first-time minors caught consuming, possessing or controlling alcohol. Penalty: \$200-600 fine, alcohol information school and probation. Allows court to divert minor into a community diversion panel.
- Section 2:**
- Subsection (c):* Establishes penalty for minors caught consuming, possessing or controlling alcohol for a second time. Penalty: \$1000 fine (\$500 of which is suspended), 48 hours community work service, revocation of driver's license for three months, and probation.
- Subsection (d):* Establishes penalty for minors caught consuming, possessing or controlling alcohol three or more times. Penalty: class B misdemeanor, 96 community work service, revocation of driver's license for six months, and probation.
- Subsection (e):* Probation last for one year, or until the person is 21 years of age, whichever is later. The defendant cannot refuse probation. The court may order the defendant to pay for and enroll in a juvenile alcohol safety action program (JSAP). Conditions of probation are then listed.
- Subsection (f):* Requires that any community work service imposed be performed within 120 days of the entry of judgment for a conviction. Requires defendant to prove completion of work service.
- Subsection (g):* Treatment recommended by JSAP may include inpatient treatment.
- Subsection (h):* Failure to complete any JSAP evaluation or requirements, treatment, education, or community work service may lead to a reinstatement of any suspended fines or

incarceration. In addition, a minor who has had his/her license revoked shall continue to do so for an additional six months.

Subsection (i): Requires the court to also look to the financial resources of the parent in determining eligibility for court-appointed counsel.

Subsection (j): Sets forth when a license revocation is consecutive vs. concurrent.

Subsection (k): Definition section

- Section 3:** Conforms statute reference.
- Section 4:** Conforms statute references.
- Section 5:** Creates a statute, AS 28.15.176, that allows for administrative revocation of licenses for minors who consume or possess alcohol or drugs.
- Section 6:** Requires the court convicting a minor of repeat or habitual consuming to revoke the minor's license.
- Section 7:** Removes possession or use of a controlled substance, and possession or consumption of alcohol from the current administrative revocation of license statute, AS 28.15.183.
- Section 8:** Same as Section 6.
- Section 9:** Once a license has been revoked under AS 28.15.183(g), the license may not be reinstated unless, if required to do so, the minor has successfully completed any education or treatment required by JSAP.
- Section 10:** Deletes the requirement of immediate renewal of a license if there is no prosecution, the prosecution results in a dismissal, or the person is found not guilty.
- Section 11:** Removes possession or use of a controlled substance, and possession or consumption of alcohol from the administrative hearing process for revocations under AS 28.15.183.

- Section 12:** Amends the ages when a court can revoke a minor's license for misconduct involving a controlled substance, or for an offense involving illegal use or possession of a firearm.
- Section 13:** Adds repeat and habitual minor consuming, possessing or control to the list of offenses that require the court to revoke a minor's license.
- Section 14:** Prohibits the DMV from issuing or renewing a minor's revoked driver's license, unless, if required to do so, the minor has successfully completed any education or treatment required by JSAP.
- Section 15:** Exempts minor consuming, possessing or controlling alcohol from the juvenile justice system. Habitual minor consumers are excluded from this exemption, however, and are to be placed in the juvenile justice system on their third or subsequent offense.
- Section 16:** Requires that when making an informal adjustment of a delinquent minor, the informal adjustment:
- (1) must be made with the agreement and consent of the minor and minor's parents
 - (2) must give the minor's foster parents an opportunity to be heard
 - (3) must include notice that restitution will be necessary
 - (4) for a violation of habitual consuming, possession or control, must include an agreement that the minor perform 96 hours of community work service, and have this/her license revoked for six months
 - (5) for an offense described in AS 28.15.185 (a)(1), must include an agreement that the minor's license be revoked as if the minor has been adjudicated delinquent.
- Section 17:** Requires the court adjudicating a delinquent minor for repeat or habitual possession, consumption or control of alcohol, for an offense involving a controlled substance, or involving a firearm to revoke the minor's license.
- Section 18:** Requires the Dept. of Health & Social Services to develop and implement a juvenile alcohol safety action program.

Section 19: Makes this act applicable to offenses committed on or after the effective date, except that references to previous convictions includes convictions occurring before, on or after the effective date.

Section 20: Effective date is July 1, 2001.

FASAP MISDEMEANOR SERVICES

911 CUSHMAN, Suite 205

FAIRBANKS, AK. 99701

Phone 907-452-6144
 Fax 907-452-7845

Minor Consuming/Possession Pilot Program**Static's for FY 2000 and to date for FY 2001**

	*FY2000	**FY2001
New Cases Open	317	319
Cases Completed	192	225
No Priors	82%	78%
One Prior	13%	13%
Two Priors	3%	6%
Three or more Priors	2%	3%
Caucasian	73%	72%
Black	5%	7%
Indian	10%	11%
Eskimo	6%	3%
Other	6%	2%
Male	72%	53%
Female	28%	47%
Type of Treatment Completed		
AIS	78%	78%
Outpatient	21%	21%
Residential	1%	2%

* FY2000 - September 1999 - June 2000

** FY2001 - July 2000 - February 2001

- 66% - 70% have completed some form of treatment
- Out of 417 completion 4 have re-offended for Minor Consuming
- Out of 417 completions 2 have re-offended with the charge of DWI

Without funding, it makes a program like this difficult if not impossible to operate.



Mothers Against Drunk Driving • Juneau Chapter
211 Fourth St. Suite 102 • Juneau, AK 99801

April 18, 2001

MADD thanks the Judiciary committee for sponsoring HB 179 and we wish to speak in support of it.

MADD believes there should be more effective and stringent enforcement of the minimum drinking age law, by means of administrative, civil and criminal measures, to further limit illegal underage access to alcohol and thus reduce youthful involvement in alcohol and other drug-related traffic crashes.

MADD advocates that it be illegal for those under 21 to drive with any measurable level of blood alcohol. Zero tolerance shall establish as a maximum legal limit, a blood alcohol level of .02 BAC.

MADD advocates that each state adopt and implement laws which provide driver's license sanctions for underage persons convicted of purchasing or possession of alcoholic beverages.

MADD advocates that each state adopt laws providing that persons under 21 receive driver's licenses which are more restrictive than full licenses, under which violations would result in driver improvement actions and license revocation and civil sanctions in addition to any criminal sanctions and penalties. MADD advocates that each state adopt laws providing for graduated licensing privileges to persons under 21. Early driving experiences must be acquired in lower risk environment through extended restriction of no alcohol use, primary belt enforcement, limitation on night time driving and teenage passengers. Appropriate restriction should be lifted in stages, base in clean driving records.

MADD feels HB 179 addresses some of the above statements and therefore would make a difference in preventing underage drinking as well as drinking & driving in the #2 state in the nation for drunk driving fatalities.



**Volunteers
of America**
Alaska

441 W. 5th Ave., Suite 301
Anchorage, AK 99501

Phone: (907) 279-9634
Fax: (907) 276-5489
Email: lauragoss@ak.net

Fax Transmittal Form

To:

Name: *State of AK*
Organization Name/Dept: *Legislative Ofc*
Phone number:
Fax number: *269-0229*

- Urgent
- For Review
- Please Comment
- Please Reply

Message:

From:

Laura J. Goss
Community Outreach Coordinator
and VCG Advisor

Phone: (907) 279-9634
Fax: (907) 276-5489
Email: lauragoss@ak.net

Date sent: *3-30-01*

Time sent: *4:10pm*

Number of pages including cover page: *3*

Here is the testimony of Volunteers of America Alaska regarding House Bill 179 - underage drinking. I have included the statistics Chairman requested after I testified this afternoon.

(H)Jud



Volunteers of America®
Alaska

My name is Laura Goss and I am the Community Outreach Coordinator for Volunteers of America Alaska's Adolescent Alcohol and other Drug Treatment Programs. Volunteers of America Alaska offers a Youth Intervention Program for first time offenders aged 13-21, Outpatient and Intensive Outpatient Treatment Programs in Anchorage for youths aged 12 - 18, and a Residential Treatment Center serving adolescents aged 12 - 18 from statewide.

Thank you for allowing me this opportunity to convey our opinions on House Bill 179.

House Bill 179 does not go far enough. It is attempting to get tougher on underage drinking, but it fails to address the underlying issues that lead to that behavior. Youths who are misusing alcohol and other substances need to be screened for dependency and educated about the choices they are making early on, before they develop into problem drinkers, before they escalate and become a danger to those around them on the roads and in their homes.

It is imperative for the well being of each individual in the community to intervene on youth that are engaging in high-risk behaviors. To allow a known substance abuser to continue in life without the benefit of learning just how consequential his or her behavior can be is nothing but irresponsible. Not only is it irresponsible toward that youth, but it is irresponsible toward the entire community.

We would like to see a provision added to the Act that would allow the courts to offer first and second time violators an incentive for participating in alcohol screening and any education or treatment recommendations indicated. Incentives would include fine reduction or offset screening costs and citation dismissal, if appropriate. Such a provision would allow the courts to respond to the problem of underage drinking in a more flexible manner, and would help to ensure that the youth appearing before them received appropriate intervention at an earlier, more treatable stage.

For youth charges with driving under the influence or driving while intoxicated, it is further proposed that the individual's driving privileges not be reinstated until the youth complies with the assessment process and follows through on the subsequent recommendation.

In addition, we would ask that you consider the impact of the community work service component upon the first and second time offenders. As written, it is an unenforceable consequence. There is little or no recourse in those instances where the youth fail to comply. That sends the wrong message to youth that have already shown a disregard for the law. Should it be left in the act, we encourage you to consider the creation of a

juvenile monitoring program, similar to the adult monitoring program, to track compliance and report back to the court.

The importance of consistent imposition of sanctions and adequate monitoring cannot be emphasized enough. We as a community have the responsibility to clearly and consistently convey the message that substance abuse is a high-risk behavior that has potentially deadly consequences and will not be tolerated as simply a matter of "kids will be kids". We want our kids to be kids, and we want them to grow up to be happy, functional, and productive adults. We certainly do not want our children's behavior to be the factor in the loss of life in our community.

In summary, we believe that intervention and education are of paramount importance in combating the problem of underage drinking and should be included at an earlier stage. We also urge you to include a diversion provision into the act.

Thank you.

* Mr. Chairman, you asked me some statistical and financial information about our programs after my testifying. I'd like to accurately address that information:

- Volunteers of America Alaska is a non-profit organization funded by grants from the State of AK Division of Alcoholism and Drug Abuse, and by private donations. Assessments for all of our programs are FREE of charge.
- ARCH, our residential treatment program, served 46 youths in fiscal year 2000. It is a 16-bed facility, with 12 male beds and 4 female beds. The length of stay ranges from 4 - 6 months. Monthly cost varies from \$5,500 to \$6,500 depending on activities client and parents participate in. We bill insurance, Medicaid/Denali Kid Care, offer a sliding fee scale, and do not turn anyone away for the inability to pay for services.
- Assist, our Outpatient and Intensive Outpatient programs, served 152 clients in fiscal year 2000. The average length of treatment for Outpatient is 12 weeks and for Intensive Outpatient it is 24 weeks (6 months). Average cost of Outpatient treatment per month is about \$650 and average cost of Intensive Outpatient per month is about \$2,400, depending on activities the client and parents participate in. We bill insurance, Medicaid/Denali Kid Care, offer a sliding fee scale, and do not turn anyone away for the inability to pay for services.
- Youth Intervention Program is a 10-hour reality and experiential-based substance abuse education class and served 256 youth in fiscal year 2000. It costs \$125.00. Scholarships are available to those who cannot afford the course fee.

March 27, 2001

Representative Norm Rokeberg
Chairman of House Judiciary Committee
Juneau, Alaska

MAR 27 2001

Representative Rokeberg,

I am writing in response to HB 179 "relating to underage drinking... " I have been coordinating a very committed group of judicial officers, social workers, parents, DMV administrators, Division of Alcohol and Drug Abuse for *2 years and 7 months* because we know that underage drinking is a precursor to all future alcohol related problems. We have followed legislation and its impact on minor consuming since 1996, when the "Use it and Loose It" legislation was passed. Recent Alaska studies report that minor consuming continues to increase.

Though this bill tries to build on increasing monetary sanctions, it does not go far enough for 1st and/or 2nd alcohol infractions. We would like to see a provision that allows the therapeutic model to be offered right away. Magistrates, statewide, need to be able to offer incentives to youth who agree to comply with an alcohol screening, specific for adolescents, and treatment or education recommendations. Recommendations may include an approved adolescent alcohol education/intervention program or treatment if so recommended. Recommendations can be flexible to allow for regional differences. A Juvenile Monitoring Program, like we have for adults, is needed to communicate compliance back to the courts. Incentives should include the option of allowing for a reduction in the fine to offset the costs screening and treatment or education and, in appropriate cases, dismissal of the charges upon proof of compliance with the screening recommendations.

We have personally seen the escalation of young people, who drink before 15 years, never held accountable, and become the problem drinkers who drive and assault the people around them. We encourage some changes to the bill that reflect a mandatory screening (specific for adolescents) and compliance with recommendations that include monitoring of effective education/intervention and/or treatment.

Attached is a list of people who are involved on the Teenage Alcohol Infractions Working Committee. We will be available at the hearing on March 28, 2001 at 1:00PM.

Sincerely,

Joan Diamond
Public Health, Injury Prevention, 343-6583
Anchorage, Alaska 99519

Teenage Alcohol Infractions Working Group

<u>Name</u>	<u>Organization</u>	<u>Phone</u>	<u>Fax</u>	<u>Email</u>
Joan Diamond Box 19-6650 Anchorage, AK.99519	MOA/DHHS Injury Prevention	343-6583	343-6564	diamondjw@ci.anchorage.ak.us
Mark New	APD, Deputy Chief	786-8552	786-8638	munew@ci.anchorage.ak.us
Tamra Venator 441 W. 5 th Ave. #201 Anchorage, Alaska 99501	Youth Rest. Program (VOA)	279-9686	276-5489	yvp@alaska.net
Bill Hitchcock 303 K. St., Rm 280 Anchorage, AK. 99501	Juvenile Master	264-0421	264-0522	whitchcock@courts.state.ak.us
Kerry Hennings 2150 E. Dowling Rd. Anchorage, Alaska 99505	DMV	269-3771	269-3774	kerry_hennings@admin.state.ak.us
Karen Schaft (McAllister) Kate Howl 441 W. 5 th Ave. Suite 201 Anchorage, Alaska 99501-2340	VOA	279-9634 279-9677	279-5489	
Bruce Roberts, JR Richards 420 L. St. Ste. 100 Anchorage, AK. 99501	Municipal attorneys, MOA, prosecution	343-6445	274-6689	
Susan Soule Tony Piper PO 240249 3601 C. St. Ste.352 Anchorage, AK. 99524	Alcoholism/Drug Abuse	269-3792 269-3781	269-3786	susan_soule@health.state.ak.us tpiper@health.state.ak.us

Jennifer Wells	Standing Masters			jwells@courts.state.ak.us
Suzanne Cole	Standing Masters	264-0691	264-0522	srcole@courts.state.ak.us
Wendy Lyford	Court Admin.	264-0415		wlyford@courts.state.ak.us
Cynthia Cooper	Attorney General's	269-6379		<u>cynthia_cooper@law.state.ak.us</u>
Braut McGee	Office of Public Advocacy	269-3501		
Ron Taylor/Harvey Hornum 303 K. St. Anchorage, AK. 99501	Alcohol Safety Action Program	264-0776 264-0779	264-0786	ronald_taylor@health.state.ak.us
Linda Moffitt 2600 Providence Dr. Anchorage, AK. 99508	Juvenile Intake	261-4527	261-4555	linda_moffitt@health.state.ak.us
Sharon Leon 310 K. St. Anchorage, AK. 99501	Youth Court Director	274-5986	272-0491	ayc@alaska.net
Peter Ashman 825 W. 4 th St. Anchorage, AK 99501-2004	District Court Judge	264-0643	264-0503	pashman@courts.state.ak.us
Marty Gressen 3600 Arctic Blvd. Anchorage, AK 99503	MADD	522-6233	562-6896	<u>madd@corecon.net</u>

Subject: [Fwd: HB 179]
Date: Wed, 11 Apr 2001 12:15:05 -0800
From: Representative Norman Rokeberg <Representative_Norman_Rokeberg@legis.state.ak.us>
Organization: Alaska State Legislature
To: Heather_Nobrega@legis.state.ak.us

For your information.

Janet

Subject: HB 179
Date: Wed, 11 Apr 2001 12:03:27 -0800
From: "Diamond, Joan W." <DiamondJW@ci.anchorage.ak.us>
To: "'Representative_Norman_Rokeberg@legis.state.ak.us'" <Representative_Norman_Rokeberg@l

To Norm Rokeberg,

I have been following most of the Alcohol control legislation this session in hopes that more conservative bills would come out of the House. So far, the legislation continues to support very liberal measures that will do very little to reduce the tragedies from drinking and driving.

As to HB 179, underage drinking, I am hoping to see a bill where the magistrates will have the flexibility to offer sanctions for first time offenders of alcohol infractions, to be screened (less costly than an assessment) and comply with the recommendations instead of paying a fine and getting an alcohol education class. For some, alcohol education is ok but education is not standardized to adolescents and is ineffective as a preventive tool to reduce underage drinking by itself. Most teenagers need to be screened in some standard way so that early diagnosis and followup is completed. We have so much to gain in the way of school success etc. by picking up the early problems before they interfere in school performance and community crime.

Joan Diamond
Public Health
343-6583

HB

179

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
MAY 06 2001
SENATE FINANCE
COMMITTEE

DATE: 5/6/01

FURTHER:

DATE TURNED IN TO OFFICE: 6 May 2001

Finance Committee considered CS FOR HOUSE BILL NO. 179(FIN)

"An Act relating to underage drinking and drug offenses; and providing for an effective date."

and recommends:

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

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
Corrections	7/2/01		✓	#2
#255/Alcohol Safety	3/26/01	63.5		#5
#255/CAASA	7/26/01	426.0		#6
Admin/PDF	4/21/01	189.0		#8
Cart	4/21/01	40.7		#9
#255/Alcohol + Drug Abuse	4/25/01	4000		#10
Low	4/24/01	49.3		#11

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>John Green</i>			✓	
<i>John Custer</i>			✓	
<i>John Hill</i>			X	
<i>John Hill</i>			⊗	
<i>John Hill</i>	✓			
<i>John Hill</i>			✓	
<i>John Hill</i>	✓			fixal/fes number
COCHAIR: <i>John Hill</i>			✓	
COCHAIR: <i>John Hill</i>			✓	

MAY 06 2001

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 11
Bill Version: CSHB 179 (FIN)
(H) Publish Date: 4/25/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
Title "An Act relating to underage drinking and drug offenses; and providing for an effective date." BRJ Criminal Division
Sponsor House Judiciary Committee Component 3rd Judicial Dist: Anchorage
Requester House Judiciary Committee Component No. 2261

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	34.8	34.8	34.8	34.8	34.8	34.8
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	7.0	7.0	7.0	7.0	7.0	7.0
Supplies	1.0	1.0	1.0	1.0	1.0	1.0
Equipment	6.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	49.3	42.8	42.8	42.8	42.8	42.8

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	49.3	42.8	42.8	42.8	42.8	42.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	49.3	42.8	42.8	42.8	42.8	42.8

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

CSHB 179 (JUD) would change the minor consuming or in possession statutes by increasing fines and creating a series of graduated sanctions for repeat offenses. Under this version, only second and subsequent underage drinking offenses would entitle the minor to a jury trial and public counsel. The first offense would be handled similar to a traffic citation.

The Division of Motor Vehicles reports that prior to the *Niedermeyer* decision, they revoked about 4,800 drivers' licenses per year for alcohol violations by minors. Not all these violations were pursued in court, because many police officers believed it was better and easier to simply refer the matter to DMV for license revocation. We will assume, however, that now all such violations will result in a citation being filed in court.

The citations for second and subsequent offenses would come to the Department of Law, and a file would be opened. Based on Division of Juvenile Justice historical data, we estimate approximately 1,300 such citations would be filed annually. We believe that

Prepared by: Joan M. Kasson Phone 465-5370
Division: Attorney General's Office Date/Time 4/24/01 11:30 AM
Approved by: Kathryn Daughhete for Bruce M. Botelho, Attorney General Date 4/24/01
Agency: Department of Law

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COMMITTEE COPY

FISCAL NOTE No. 11

STATE OF ALASKA
2001 LEGISLATIVE SESSION

BILL NO. CSHB 179 (FIN)

ANALYSIS CONTINUATION

in approximately 1 percent of the cases the defendant would request a jury trial. The estimated 13 new jury trials per year statewide could be handled within existing Criminal Division resources.

The division could not, however, absorb the increased clerical duties associated with opening more than 1,300 new files each year, and dealing with the paperwork and pleadings in all those cases. We would need to add one Administrative Clerk II position in Anchorage, where we anticipate the most citations will be filed, for a first-year cost of \$49,344, including one-time equipment costs of \$6,500.

MAY 06 2001

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 10
Bill Version: CSHB 179 (FIN)
(H) Publish Date: 4/25/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Health & Social Services
Title: An Act relating to underage drinking and BRU: Alcohol & Drug Abuse Svcs
drug offenses Component: Alcohol/Drug Abuse Grants
Sponsor: House (JUD)
Requester: House (FIN) Component Number: 1239

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	400.0	400.0	400.0	400.0	400.0	400.0
Miscellaneous						
TOTAL OPERATING	400.0	400.0	400.0	400.0	400.0	400.0

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 179 creates a class B misdemeanor crime of "habitual minor consuming." Upon conviction the court is to require the individual to receive treatment specified under AS 28.35.030(h). AS 28.35.030(h) is geared toward the sentencing of adult DWI offenders. ASAP is responsible for the screening, referral and subsequent monitoring of person who need substance abuse education or treatment. Those persons needing treatment would be referred to existing treatment providers in their community. This fiscal note would fund the necessary treatment expansion to meet the demand.

The existing service system for youth is under capacity and this new demand must be met with increased service capacity. The need to provide treatment to the expected 410 new cases requires expansion of the treatment capacity for youth.

Prepared by: Ernie Turner Phone 465-2071
Division: Alcohol and Drug Abuse Date/Time 4/25/01 9:14 AM
Approved by: Elmer A. Lindstrom, Special Assistant Date 4/25/01 9:14 AM
Agency: Department of Health & Social Services

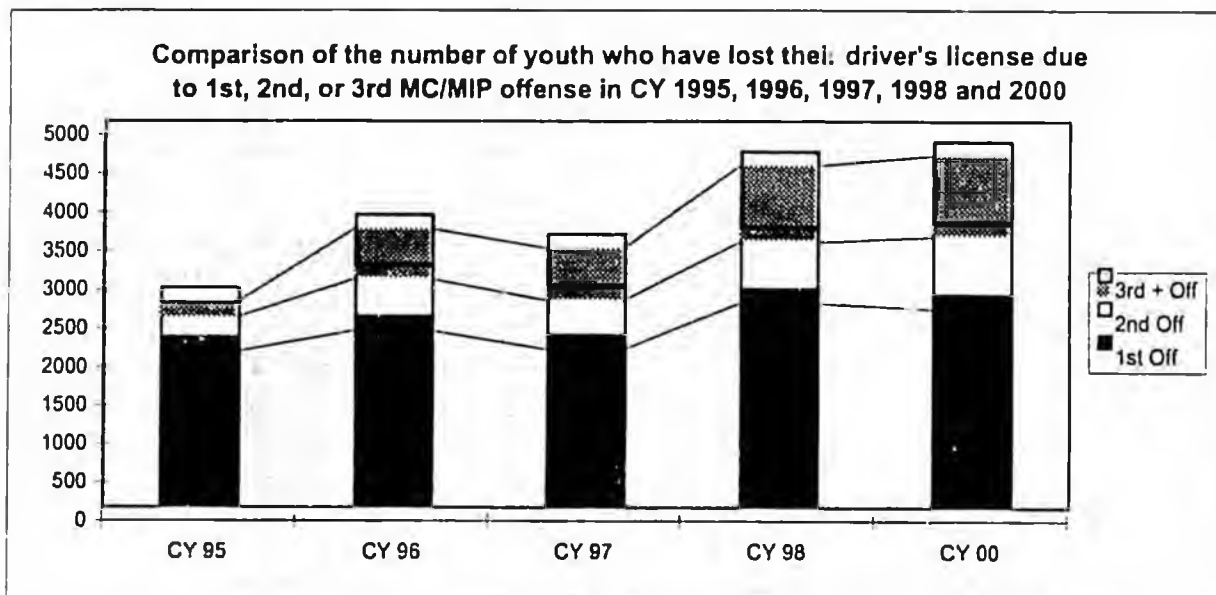
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ANALYSIS: (continued)

For youth who have committed their third offense, after the fines and community work services sanction from the first and second offenses, must be considered to be at high risk. Thus all should be referred to some level of treatment. For many youth this may only require brief interventions and for some possible residential placement. It is difficult to predict what the level of care required would be for the expected number of persons. In the Division presentation to the Judiciary committee on HB 4, the Division indicated that the costs per adult treated was \$1,854. This would include care from detox to brief interventions averaged across all levels of care. No similar figures exist for treatment of youth. This request is based on our estimate that we could provide appropriate levels of care for these persons by using an average that would be a little more than half the adult costs. This estimate results in the need for \$975 per youth estimated to be affected by this bill. Thus for the estimated 410 new persons needing some level of treatment (third offenses), a total treatment cost of \$400,000 is projected. This will provide treatment services at four pilot sites; Ketchikan, Fairbanks, Kotzebue and Juneau.

The Division of Motor Vehicles has been keeping records of the number of youth who lose their driver's license under existing statutes since CY 95. As review of this data indicates that in CY 2000 1,048 youth lost their driver's license due to having had their third minor consuming or minor in possession offense. Since the number of youth with a third offense has grown each year since CY 95 we would project that under this crime we could expect to see that many youth being sent to ASAP under this bill.

As can be seen by the data from the Division of Motor Vehicles (shown in the chart below), it indicates that over the past years the number of youth losing their driving licenses for minor consuming has been increasing. The number that have lost their license for second and third or more offenses has also risen. The chart below is from this data and clearly shows that the number of youth that could be determined to be guilty of "habitual minor consuming" would be high.



MAY 06 2001

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 9
Bill Version: CSHB 179 (FIN)
(H) Publish Date: 4/25/01

Revision Date/Time (Note if correction) _____
Title Minor Consuming
Dept. Affected BRU
Alaska Court System
Component Trial Courts
Sponsor Rep. Rokeberg
Requester House Finance
Component No. 768

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	27.2	27.2	27.2	27.2	27.2	27.2
Travel						
Contractual	13.5	13.5	13.5	13.5	13.5	13.5
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	40.7	40.7	40.7	40.7	40.7	40.7

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	40.7	40.7	40.7	40.7	40.7	40.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	40.7	40.7	40.7	40.7	40.7	40.7

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

Committee Substitute for HB 179 (JUD) makes several changes to the minor consuming alcohol (MCA) laws. Section 1 of the bill increases penalties for first-time offenders and allows for alternative sentencing. Section 2 increases penalties and includes provisions for license suspension and community work service for those convicted of their 2nd offenses and misdemeanor penalties for those convicted of their 3rd and subsequent offenses.

Under the terms of this bill, those charged with a second or subsequent offense will be entitled to appointed counsel and a jury trial. The Department of Law estimates that approximately 1300 cases with those rights will come through the district court annually.

Because MCA cases already require a court appearance, the only significant difference for the court system between a MCA violation and a MCA with a right to an attorney and a jury trial is the costs associated with jury trials. The misdemeanor trial rate is approximately 1%. This note, therefore, reflects the costs associated with 13 misdemeanor jury trials.

Prepared by: Douglas Wooliver, Administrative Attorney Phone 463-4750
Division Alaska Court System Date/Time 4/24/01 @ 9:30 A.M.
Approved by: Stephanie J. Cole, Administrative Director Date _____
Agency Alaska Court System

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Alaska Court System
 Fiscal Note Calculations for 13 New Misdemeanors Trials

Fiscal Note #9, CSHB 179(FIN)

<u>District Court:</u>	FY02	FY03	FY04	FY05	FY06
25 Jurors 1.0 Days for Selection	625	625	625	625	625
7 Jurors for 1.5 Days of Court	263	263	263	263	263
6 Jurors for .5 Days of Deliberation	75	75	75	75	75
Deliberation Meal \$11/12 jurors + bailiff	77	77	77	77	77
	<u>1,040</u>	<u>1,040</u>	<u>1,040</u>	<u>1,040</u>	<u>1,040</u>
Total per District Court Trial					
Proposed # District Court Trials	13	13	13	13	13
	<u>13,514</u>	<u>13,514</u>	<u>13,514</u>	<u>13,514</u>	<u>13,514</u>
Estimated Cost of District Court Trials					
District Court Judge (2 months*)	20,168	20,168	20,168	20,168	20,168
In-Court Clerk (2 months*)	7,000	7,000	7,000	7,000	7,000
Personnel Costs	27,167	27,167	27,167	27,167	27,167
	<u>40,681</u>	<u>40,681</u>	<u>40,681</u>	<u>40,681</u>	<u>40,681</u>
Total Jury and Personnel costs for 13 Misdemeanor Trials					

*13 trials X 3 days/trial =39 work days/20 workdays per month = 2 months

MAY 06 2001

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 8
Bill Version: CSHB 179(FIN)
(H) Publish Date: 4/25/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title: "An Act relating to underage drinking and drug offenses, and providing for..." BRU: Legal & Advocacy Services
Sponsor: House Judiciary Committee Component: Public Defender Agency
Requester: House Finance Committee Component Number: 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	128.3	128.3	128.3	128.3	128.3	128.3
Travel	5.3	5.3	5.3	5.3	5.3	5.3
Contractual	39.5	39.5	39.5	39.5	39.5	39.5
Supplies	2.9	2.9	2.9	2.9	2.9	2.9
Equipment	13.0	1.3	1.3	1.3	1.3	1.3
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	189.0	177.3	177.3	177.3	177.3	177.3

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	189.0	177.3	177.3	177.3	177.3	177.3
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	189.0	177.3	177.3	177.3	177.3	177.3

Estimate of any current year (FY2001) 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)

This bill would increase the penalties for the offense of Minor Consuming or in Possession of Alcohol (MCA). Under current law, MCA is a violation punishable by a \$100 fine. A minor cited for MCA was also subject to an administrative drivers license revocation under AS 28.15.183 (the "use it, lose it" law). However, in a recent Alaska Supreme Court case, *State v. Niedermeyer*, the "use it, lose it" law was found to violate due process. The court decided that a minor has a right to a jury trial and court-appointed counsel before a license can be revoked for MCA.

Under this bill, for a first offense, the court can place the person on probation and refer the case to a "community diversion panel." Alternatively, the court shall impose a fine of at least \$200 but not more than \$600.

Continued on Page Two

Prepared by: Barbara Brink, Director Phone 907 334-4414
Division: Public Defender Agency Date/Time April 24, 2001
Approved by: Jim Duncan, Commissioner Date: 4/24/01
Agency: Department of Administration

For distribution information, call the Governor's Legislative Office

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CS HB 179 (FIN), FN#8 ANALYSIS: (continued)

For a second offense (repeat MCA), the mandatory fine is \$1,000. But \$500 can be suspended if the defendant completes probation. There is a mandatory minimum community work service of 48 hours.

A third offense (habitual MCA) would be a class B misdemeanor. A mandatory minimum of 96 hours of community work service must be imposed. The court also must revoke a minor's drivers license or privilege to drive for six months. The juvenile delinquency statutes would be amended so that habitual (third offense) MCA would be handled by the Division of Juvenile Justice and juvenile courts.

The Public Defender Agency will have a substantial fiscal impact from this bill. As the bill is currently drafted, we would be appointed to represent people charged with both repeat and habitual MCA.

Repeat MCA (second offense) is a violation. The Public Defender Agency does not generally represent people on violations. However, the Alaska Court of Appeals in *Booth v. State*, 903 P.2d 1079 (Alaska App. 1995) decided that before community work service can be imposed a defendant has a right to a jury trial and court-appointed counsel. Therefore, the Public Defender Agency would be appointed in these cases as well as the habitual (third offense) MCA's.

According to Division of Motor Vehicles and Department of Health and Social Services (DHSS) statistics, there will be about 1330 second and subsequent MCA offenses. Of these 738 will be repeat MCA and 592 will be habitual MCA.

It is difficult to estimate how many of these cases the Public Defender Agency will be appointed to. The repeat MCA is a violation. But, with the prospect of a \$500 mandatory minimum fine and 48 hours of community work service, there will be a significant percentage of defendants who will request an attorney. Even if only 40% of the repeat MCA defendants request a court-appointed attorney, the Public Defender Agency will have 295 new cases. Habitual MCA is a class B misdemeanor with a mandatory 96 hours community service and loss of a drivers license for six months. We estimate we will be appointed in 75% of these cases. The result will be 444 additional misdemeanor cases.

Under national standards, a Public Defender attorney should handle no more than 400 new misdemeanor cases per year. The repeat MCA cases will be less difficult than the average misdemeanor, so we will increase this number to 600 new repeat MCA's per year per attorney. With the addition of a half-time attorney, the Public Defender Agency will be able to handle the increased caseload due to repeat MCA. An additional full-time attorney will be needed to handle the additional caseload due to habitual MCA.

According to the DHSS statistics, the majority of these cases are filed in Anchorage, Fairbanks, and Palmer. We would place the half-time attorney in Anchorage because it would be easier to hire a part-time attorney for Anchorage. The other attorney would be placed in Palmer.

The cost per attorney includes clerical support and one-time equipment costs in the initial year.

MAY 06 2001

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 6
Bill Version: CSHB 179(JUD)
(H) Publish Date: 4/20/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Health & Social Services
Title: An Act relating to underage drinking and BRU: Alcohol & Drug Abuse Svcs
drug offenses Component: CAASA Grants
Sponsor: House (JUD)
Requester: House (JUD) Component Number: 1413

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	426.0	426.0	426.0	426.0	426.0	426.0
Miscellaneous						
TOTAL OPERATING	426.0	426.0	426.0	426.0	426.0	426.0

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	426.0	426.0	426.0	426.0	426.0	426.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	426.0	426.0	426.0	426.0	426.0	426.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
HB 179 creates a class B misdemeanor crime of "habitual minor consuming." Upon conviction the court is to require the individual to receive treatment specified under AS 28.35.030(h). AS 28.35.030(h) is geared toward the sentencing of adult DWI offenders. Alcohol Safety Action Program (ASAP) functions not as treatment but as the monitor of compliance with conditions of the court as part of the sentence. The existing ASAP program does not serve minors (persons under 18). Based on DMV data about youth the lose their driver's license due to MC/MIP, we are projecting that an additional 1,048 person statewide would be found guilty under this bill and referred to ASAP programs. Current ASAP programs are under funded and could not absorb this increase without increased funding. These funds would allow the Division to fund programs that would be specific for the person guilty of "habitual minor consuming."

Prepared by: Ernie Turner Phone 465-2071
Division: Alcohol and Drug Abuse Date/Time 3/26/01 1:12 PM
Approved by: Elmer A. Lindstrom, Special Assistant Date 3/26/01 1:12 PM
Agency: Department of Health & Social Services

For distribution information, call the Governor's Legislative Office

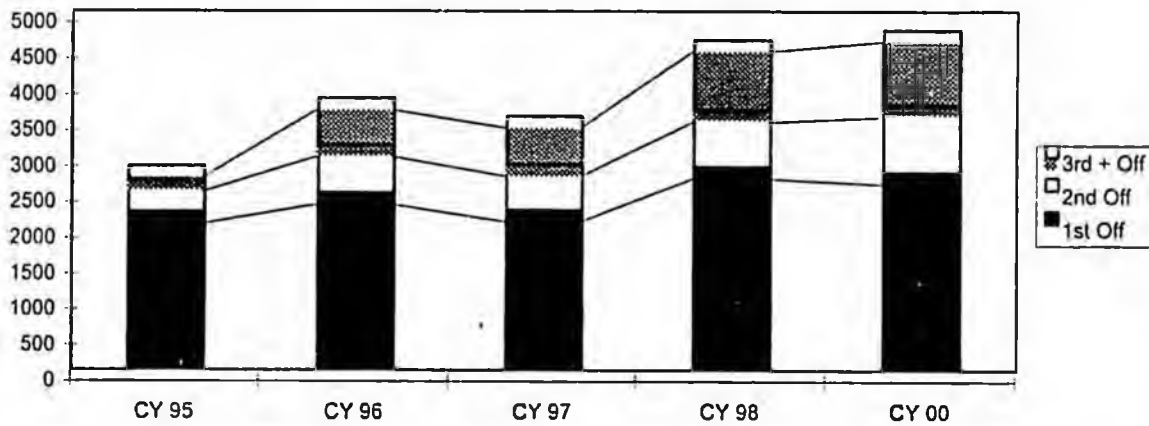
ANALYSIS: (continued)

AS 47.37.045 established the Community Action Against Substance Abuse program. Under this program 47.37.045(7) allows for the funding of "youth assessment and referral programs that provide substance abuse screening services to and monitor compliance with a minor required to participate in..." alcohol or drug education or treatment. As such these funds are requested under that grant component.

The Division of Motor Vehicles has been keeping records of the number of youth who lose their driver's license under existing statutes since CY 95. As review of this data indicates that in CY 2000 1,048 youth lost their driver's license due to having had their third minor consuming or minor in possession offense. Since the number of youth with a third offense has grown each year since CY 95 we would project that under this crime we could expect to see that many youth being sent to ASAP under this bill.

As can be seen by the data from the Division of Motor Vehicles (shown in the chart below), it indicates that over the past years the number of youth losing their driving licenses for minor consuming has been increasing. The number that have lost their license for second and third or more offenses has also risen. The chart below is from this data and clearly shows that the number of youth that could be determined to be guilty of "habitual minor consuming" would be high.

Comparison of the number of youth who have lost their driver's license due to 1st, 2nd, or 3rd MC/MIP offense in CY 1995, 1996, 1997, 1998 and 2000



MAY 16 2001

SENATE FINANCE COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 5
Bill Version: CSHB 179(JUD)
(H) Publish Date: 4/20/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Health & Social Services
Title: An Act relating to underage drinking and drug offenses BRU: Alcohol & Drug Abuse Svcs
Sponsor: House (JUD) Component: Alcohol Safety Action Program
Requester: House (JUD) Component Number: 305

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	63.5	63.5	63.5	63.5	63.5	63.5
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	63.5	63.5	63.5	63.5	63.5	63.5

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	63.5	63.5	63.5	63.5	63.5	63.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	63.5	63.5	63.5	63.5	63.5	63.5

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

HB 179 creates a class B misdemeanor crime of "habitual minor consuming." Upon conviction the court is to require the individual to receive treatment specified under AS 28.35.030(h). AS 28.35.030(h) is geared toward the sentencing of adult DWI offenders. The existing Alcohol Safety Action Program (ASAP) program does not serve minors (persons under 18). ASAP functions not as treatment but as the monitor of compliance with conditions of the court as part of the sentence. The ASAP office in Anchorage provides the ASAP services in Anchorage as well as providing oversight and technical assistance to other grantee ASAP statewide. This position will work on establishing new standards for dealing with youth under this program for both Anchorage and other programs statewide. These standards would establish how the ASAP programs will make certain that the screening and referral process is appropriate for these person convicted under this new crime.

Prepared by: Ernie Turner, Phone 465-2071
Division: Alcohol and Drug Abuse Date/Time 3/26/01 1:08 PM
Approved by: Elmer A. Lindstrom, Special Assistant Date 3/26/01 1:08 PM
Agency: Department of Health & Social Services

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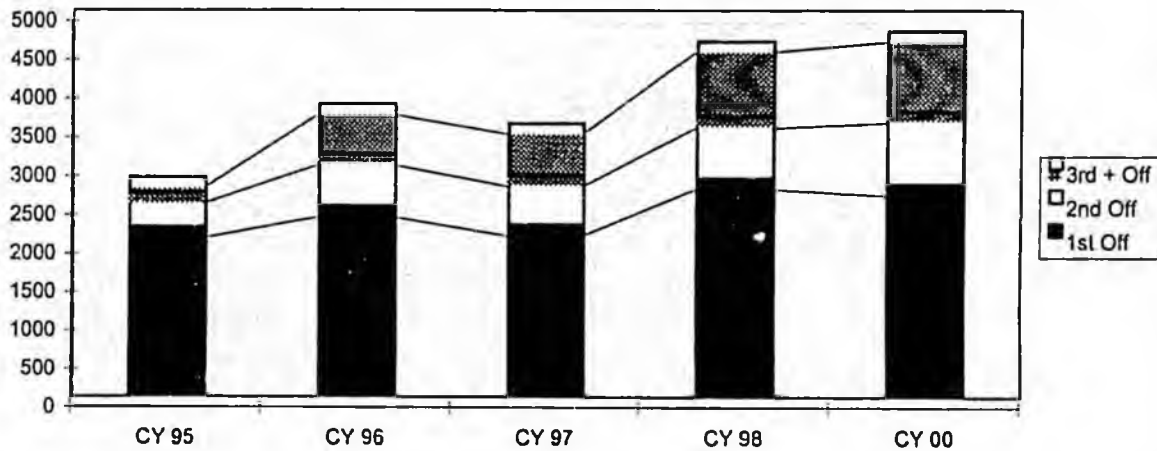
COMMITTEE COPY

ANALYSIS: (continued)

The Division of Motor Vehicles has been keeping records of the number of youth who lose their driver's license under existing statutes since CY 95. As review of this data indicates that in CY 2000 1,048 youth lost their driver's license due to having had their third minor consuming or minor in possession offense. Since the number of youth with a third offense has grown each year since CY 95 we would project that under this crime we could expect to see that many youth being sent to ASAP under this bill.

As can be seen by the data from the Division of Motor Vehicles (shown in the chart below), it indicates that over the past years the number of youth losing their driving licenses for minor consuming has been increasing. The number that have lost their license for second and third or more offenses has also risen. The chart below is from this data and clearly shows that the number of youth that could be determined to be guilty of "habitual minor consuming" would be high.

Comparison of the number of youth who have lost their driver's license due to 1st, 2nd, or 3rd MC/MIP offense in CY 1995, 1996, 1997, 1998 and 2000



MAY 06 2001

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 179(JUD)
(H) Publish Date: 4/20/01

Revision Date/Time(Note if Correction): _____ Dept. Affected: Corrections
Title: An Act relating to underage drinking and drug BRU: Administration & Operations
offenses; and providing for an effective date. Component: Institutions
Sponsor: House Judiciary Committee
Requester: House Judiciary Committee Component Number: 1381

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	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)						
TOTAL	0.0	***	***	***	***	***

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would make a 3rd time conviction for minor consuming or in possession or control a class B Misdemeanor. It also provides graduated sanctions for 1st and 2nd time offenders and requires treatment for 3rd time offenders. It is anticipated that the first year, the Department of Corrections would be able to absorb any incarceration associated with this legislation since the bill will not encompass those with convictions prior to the effective date of the legislation.

It is the Department of Corrections' position that providing JSAP and making it a requirement of probation, in concert with graduated sanctions, will lessen the ultimate fiscal impact on the Department. Early intervention is believed to aid in prevention of further drinking and concomitant dependence. If the treatment component is not required/available, it is likely that Corrections will be taxed in subsequent years and may require additional funding. It is unclear at this time what that impact would be but court records indicate that there were 1,744 unduplicated individuals who were 18 or older as of 1/1/01 and had 2 convictions for MCA and 1,427 who had 3 or more convictions. Depending on what sanctions the court

Prepared by: Candace Brower Phone 465-4652
Division: Commissioner's Office Date/Time 3/29/01/4:30 pm
Approved by: Margaret Pugh Date 3/29/01
Agency: Department of Corrections

For distribution information, call the Governor's Legislative Office

22nd Legislative Session

HB 179 cont.

3/29/01

Page 2, FN #2

would impose for these B misdemeanants, there could become a serious influx of these offenders who were previously dealt with by violations/citations. It is hoped that graduated sanctions and education/treatment will provide the deterrence necessary to prevent incarceration in the future.

ALASKA STATE LEGISLATURE

HOUSE JUDICIARY COMMITTEE

Representative Norman Rokeberg, Chairman
Representative Scott Ogan, Vice-Chairman
Representative John Coghill
Representative Jeannette James
Representative Kevin Meyer
Representative Ethan Berkowitz
Representative Albert Kookesh



State Capitol
Juneau, AK 99801-1182
Telephone: (907) 465-4990
Fax: (907) 465-2040

Heather M. Nobrega
Counsel to Committee

Sponsor Statement for HB 179 (FIN)

In 1994, the Legislature enacted the "Use It, Lose It" law (AS 28.15.183) for minors who are caught possessing or using alcohol. If a minor is caught using alcohol, his/her driver's license would be administratively revoked for a period of time.

In December, in a case called *State v. Niedermeyer*, the Alaska Supreme Court found that taking away a minor's driver's license for possession or consumption of alcohol or a controlled substance, without giving them a trial, was in violation of a minor's constitutional right to due process.

If a minor is caught using alcohol or drugs, they are sent a letter from the DMV stating that the DMV will not revoke their license until there has been a court conviction for the offense. At present, the district attorney's office is not prosecuting minors caught for consumption of alcohol, because the court system is not prepared to handle jury trials for this type of case.

The effect of the *Niedermeyer* decision is that minors now go virtually unpunished for possessing or consuming alcohol. The maximum penalty that may currently be enforced on minors who are caught consuming or possessing alcohol is a \$100 fine.

This law will impose appropriate punishments on minors who use alcohol, and will be a deterrent to minors when they consider drinking. Statistics show that the earlier a person begins drinking, the more likely they are to have problems with alcohol later in life. By sending a message early to minors that their actions will not go unpunished, we hope to deter alcohol problems in the future.

This bill will establish a graduated system of punishment for minors who are caught consuming, possessing or controlling alcohol. On a minor's first offense, he/she would be subject to a fine of between \$200-600, must attend alcohol information school, and will be placed on probation. On a minor's second offense, the minor would be guilty of repeat minor consuming and would be subject to a fine of \$1000, at least 48 hours of community work service, a three-month license revocation, and probation. A minor's third offense would cause them to be guilty of habitual minor consuming. This is a class B misdemeanor, which results in up to a \$1000 fine and 90 days in jail. In addition, the minor will lose his/her license for a period of six months, will be required to complete at least 96 hours of community work service, and will be placed on probation.

The committee urges your support of this bill.

ALASKA STATE LEGISLATURE

HOUSE JUDICIARY COMMITTEE

Representative Norman Rokeberg, Chairman
Representative Scott Ogan, Vice-Chairman
Representative John Coghill
Representative Jeannette James
Representative Kevin Meyer
Representative Ethan Berkowitz
Representative Albert Kookesh



State Capitol
Juneau, AK 99801-1182
Telephone: (907) 465-4990
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Heather M. Nobrega
Counsel to Committee

Sectional Analysis for HB 179 (FIN)

- Section 1:** Establishes penalty for first-time minors caught consuming, possessing or controlling alcohol. Penalty: \$200-600 fine, alcohol information school and probation. Allows court to divert minor into a community diversion panel.
- Section 2:**
- Subsection (c):* Establishes penalty for minors caught consuming, possessing or controlling alcohol for a second time. Penalty: \$1000 fine (\$500 of which is suspended), 48 hours community work service, revocation of driver's license for three months, and probation.
- Subsection (d):* Establishes penalty for minors caught consuming, possessing or controlling alcohol three or more times. Penalty: class B misdemeanor, 96 community work service, revocation of driver's license for six months, and probation.
- Subsection (e):* Probation last for one year, or until the person is 21 years of age, whichever is later. The defendant cannot refuse probation. The court may order the defendant to pay for and enroll in a juvenile alcohol safety action program (JSAP). Conditions of probation are then listed.
- Subsection (f):* Requires that any community work service imposed be performed within 120 days of the entry of judgment for a conviction. Requires defendant to prove completion of work service.
- Subsection (g):* Treatment recommended by JSAP may include inpatient treatment.
- Subsection (h):* Failure to complete any JSAP evaluation or requirements, treatment, education, or community work service may lead to a reinstatement of any suspended fines or

incarceration. In addition, a minor who has had his/her license revoked shall continue to do so for an additional six months.

Subsection (i): Requires the court to also look to the financial resources of the parent in determining eligibility for court-appointed counsel.

Subsection (j): Sets forth when a license revocation is consecutive vs. concurrent.

Subsection (k): Definition section

Section 3: Conforms statute reference.

Section 4: Conforms statute references.

Section 5: Creates a statute, AS 28.15.176, that allows for administrative revocation of licenses for minors who consume or possess alcohol or drugs.

Section 6: Requires the court convicting a minor of repeat or habitual consuming to revoke the minor's license.

Section 7: Removes possession or use of a controlled substance, and possession or consumption of alcohol from the current administrative revocation of license statute, AS 28.15.183.

Section 8: Same as Section 6.

Section 9: Once a license has been revoked under AS 28.15.183(g), the license may not be reinstated unless, if required to do so, the minor has successfully completed any education or treatment required by JSAP.

Section 10: Deletes the requirement of immediate renewal of a license if there is no prosecution, the prosecution results in a dismissal, or the person is found not guilty.

Section 11: Removes possession or use of a controlled substance, and possession or consumption of alcohol from the administrative hearing process for revocations under AS 28.15.183.

- Section 12:** Amends the ages when a court can revoke a minor's license for misconduct involving a controlled substance, or for an offense involving illegal use or possession of a firearm.
- Section 13:** Adds repeat and habitual minor consuming, possessing or control to the list of offenses that require the court to revoke a minor's license.
- Section 14:** Prohibits the DMV from issuing or renewing a minor's revoked driver's license, unless, if required to do so, the minor has successfully completed any education or treatment required by JSAP.
- Section 15:** Exempts minor consuming, possessing or controlling alcohol from the juvenile justice system. Habitual minor consumers are excluded from this exemption, however, and are to be placed in the juvenile justice system on their third or subsequent offense.
- Section 16:** Requires that when making an informal adjustment of a delinquent minor, the informal adjustment:
- (1) must be made with the agreement and consent of the minor and minor's parents
 - (2) must give the minor's foster parents an opportunity to be heard
 - (3) must include notice that restitution will be necessary
 - (4) for a violation of habitual consuming, possession or control, must include an agreement that the minor perform 96 hours of community work service, and have this/her license revoked for six months
 - (5) for an offense described in AS 28.15.185 (a)(1), must include an agreement that the minor's license be revoked as if the minor has been adjudicated delinquent.
- Section 17:** Requires the court adjudicating a delinquent minor for repeat or habitual possession, consumption or control of alcohol, for an offense involving a controlled substance, or involving a firearm to revoke the minor's license.
- Section 18:** Requires the Dept. of Health & Social Services to develop and implement a juvenile alcohol safety action program.
- Section 19:** A pilot juvenile alcohol treatment program shall be established by the Department of Health & Social Services in Fairbanks, Juneau,

Ketchikan and Kotzebue. The program shall begin July 1, 2001 and end June 30, 2003.

Section 20: Makes this act applicable to offenses committed on or after the effective date, except that references to previous convictions includes convictions occurring before, on or after the effective date.

Section 21: Effective date is July 1, 2001.

SENATE COMMITTEE REPORT

DATE: 4/30/01

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 5-5-01

Judiciary Committee considered CS FOR HOUSE BILL NO. 179(FIN)

"An Act relating to underage drinking and drug offenses; and providing for an effective date."

and recommends:

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

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
LAW	4/24/01	✓		11
H+SS	4/25/01	✓		10
ACS	4/25/01	✓		9
H+SS	4/24/01	✓		8
H+SS	3/26/01	✓		6
H+SS	3/26/01	✓		5
...CORRECTIONS	3/29/01	✓		2

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	X			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>				
<i>[Signature]</i>				
CHAIR: <i>[Signature]</i>	✓			

HB

182

HFIN

FILE

LEGAL SERVICES

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

(907) 465-3867 or 465-2450
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
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 22, 2002

SUBJECT: Sectional summary of CSHB 182() relating to certain vehicles
(Work Order No. 22-LS0239\B)

TO: Representative Lisa Murkowski, Chair
House Labor and Commerce Committee
Attn: Amy

FROM: 
Theresa L. Bannister
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Makes changes to conform to the definition of certain terms provided by sec. 8 of the bill.

Section 2. Makes changes to conform to the definitions provided by sec. 8 of the bill and the repealer in sec. 13 of the bill. Makes some stylistic changes.

Section 3. Makes a change to conform to the addition of a definition of "department" in sec. 8 of the bill.

Section 4. Makes a change to conform to the repealer in sec. 13 of the bill.

Section 5. Rewrites AS 08.66.060 relating to the bond to be filed by a dealer, conditions on the bond, cancellation of the bond, liability on the bond, and application of the bond to dealer registration renewals.

Section 6. Expands the types of violations that give a person a right of action against a dealer and the dealer's bond surety. Makes a change to conform the statutory reference to the repealer in sec. 13 of the bill and makes some stylistic changes.

Section 7. Makes changes to conform to the repealer in sec. 13 of the bill.

Section 8. Defines certain terms used in AS 08.66.

Section 9. Adds a new chapter, AS 45.25, relating to motor vehicle transactions.

Sec. 45.25.010. Indicates the applicability of secs. 45.25.020 - 45.25.320 of the new chapter.

Sec. 45.25.020. States that the courts of this state have jurisdiction over, and the law of this state governs, a legal dispute between manufacturers, whether in this state or outside this state, and new motor vehicle dealers located in this state.

Sec. 45.25.030. Prohibits a manufacturer from using other entities and persons to do what is prohibited to the manufacturer under this chapter. States that this section does not limit the rights of certain persons to engage in reasonable and appropriate business practices that are consistent with an existing trade practice not prohibited by this chapter.

Sec. 45.25.100. States that the terms in an agreement between a manufacturer and a new motor vehicle dealer in this state that are inconsistent with this state's law do not have any force or effect in this state.

Sec. 45.25.110. Prohibits a manufacturer from terminating a franchise unless certain requirements are met. Prohibits a manufacturer from terminating a franchise agreement because of the death or incapacity of certain owners.

Sec. 45.25.120. Requires a manufacturer terminating a franchise to provide a notice of termination meeting certain requirements to the new motor vehicle dealer.

Sec. 45.25.130. Prohibits a manufacturer or a manufacturer's representative from coercing a new motor vehicle dealer to enter into an agreement or to do another act unfair to the dealer by threatening to terminate a franchise agreement.

Sec 45.25.140. Establishes the manufacturer's and distributor's repurchase obligations when a franchise agreement is terminated by the manufacturer or distributor.

Sec. 45.25.150. Establishes the compensation to be paid to a new motor vehicle dealer for dealer facilities when a manufacturer or distributor terminates a franchise. Exempts certain terminations.

Sec. 45.25.160. Prohibits a manufacturer from unreasonably preventing or refusing to honor a transfer of ownership of a new motor vehicle dealership.

Sec. 45.25.170. Prohibits a manufacturer or distributor from preventing or refusing to honor the succession to a franchise of certain persons. Establishes certain conditions and exceptions to this prohibition. Gives a proposed successor a right to superior court review on whether approval has been unreasonably withheld.

Sec. 45.25.180. Requires a manufacturer or distributor to give notice before establishing new or relocated dealers within a relevant market area where the same line make is

represented. Permits a dealer to bring a declaratory judgment action in the superior court to determine whether good cause exists for the establishment or relocation. Prohibits the establishment or relocation until the court decision is made. Lists certain activities that are not prohibited by the section. Lists certain factors that the court is to consider when determining whether good cause exists.

Sec. 45.25.190. States that neither the manufacturer nor the new motor vehicle dealer is required to submit a controversy to arbitration. If the parties do agree to arbitration, states that arbitration is to be conducted under the state's Uniform Arbitration Act and establishes how the arbitrators are to be selected.

Sec. 45.25.300. Prohibits a manufacturer from requiring or coercing a new motor vehicle dealer to change the location of the dealership or to make substantial alterations to the dealership premises or facilities under certain circumstances.

Sec. 45.25.310. Prohibits a manufacturer from unfairly discriminating among new motor vehicle dealers regarding warranty reimbursements and warranty adjustment authority.

Sec. 45.25.320. Prohibits a manufacturer or distributor from taking certain actions relating to a claim after 18 months from submission of the claim by the new motor vehicle dealer.

Sec. 45.25.400. Prohibits a dealer from using certain terms in advertisements. Allows a dealer to use certain terms in advertisements under certain conditions.

Sec. 45.25.410. Prohibits dealers from advertising vehicles and related goods and services at specified dealer prices without intending to supply reasonably expected demand, unless the advertisement discloses the number of vehicles in stock at the advertised price.

Sec. 45.25.420. Requires a dealer to display all advertised vehicles during the sale period in a conspicuous and clearly visible location on the dealer's premises. Requires that the advertised sale price be clearly marked on the vehicle.

Sec. 45.25.430. Prohibits a dealer from refusing to sell a vehicle on the advertised terms and conditions, except in certain circumstances.

Sec. 45.25.440. Prohibits a dealer selling a motor vehicle from charging certain fees and costs unless the fees and costs are included in the advertised price.

Sec. 45.25.450. Prohibits a dealer from making price comparisons, price reductions, or price discounts in an advertisement unless they comply with this section.

Sec. 45.25.460. Lists certain advertising and selling practices that a dealer may not engage in. Requires a dealer to disclose beginning and ending dates in all motor vehicle sale advertisements.

Sec. 45.25.470. Establishes certain requirements for a dealer to satisfy before selling a used motor vehicle, including reasonable inquiries and inspections, and certain follow-up inspections, if required. Requires a dealer to make all information obtained by the dealer under this section available to sales staff and in writing to prospective buyers before sale, including all information relating to repairs made by the dealer.

Sec. 45.25.480. Requires a dealer to disclose in writing before sale whether a vehicle was originally manufactured for sale in a foreign country.

Sec. 45.25.490. Prohibits a dealer from knowingly buying or selling a vehicle with an altered or removed identification number plate or to alter or remove a vehicle identification number plate.

Sec. 45.25.500. Prohibits a dealer from selling or offering to sell a vehicle unless the dealer holds a manufacturer's statement of origin, a title, or another properly executed document reasonably necessary to obtain the statement of origin or title for transfer of the vehicle to the buyer.

Sec. 45.25.510. Prohibits a dealer from transferring the title of or performing repairs or reconditioning on a trade-in vehicle before the sales transaction is completed.

Sec. 45.25.520. Requires a new motor vehicle dealer, before entering into a new motor vehicle sale contract, to make a written disclosure to the buyer of any known damage and repair to the vehicle that exceed a specific amount. Provides that if disclosure is not required under this section, a buyer may not revoke or rescind a sale due to damage or repair of the vehicle before completion of the sale.

Sec. 45.25.530. Establishes the form for advertisement disclosures required by this chapter.

Sec. 45.25.590. Defines certain terms for secs. 45.25.400 - 45.25.590.

Sec. 45.25.600. Prohibits a dealer from transferring a vehicle title to a buyer before all of the sale documents, including any finance contract arranged by the seller, are complete and signed.

Sec. 45.25.610. Establishes certain requirements that a motor vehicle sales contract must satisfy. Requires the contract to be completed as to all essential provisions before the buyer signs and before the vehicle is delivered to the buyer. Prohibits a dealer from obtaining a signed sales contract until any financing terms reflected in the installment contract are final and complete. Allows a dealer who arranges financing to deliver the

vehicle before final approval by the financing entity if certain conditions are met. Requires the dealer to return the entire down payment and any trade-in if the sales transaction is not completed because the financing is not approved within seven business days of the separate agreement.

Sec. 45.25.620. Establishes certain requirements for vehicle service contracts. Prohibits a dealer from disclaiming or limiting implied warranties for a vehicle for which the dealer is a maker of a service contract sold for that vehicle. Allows disclaimers or limiting implied warranties under certain conditions if the dealer is merely the seller of the service contract.

Sec. 45.25.900. States that if a provision of this chapter conflicts with another provision of AS 45, this chapter controls.

Sec. 45.25.910. States that this chapter is remedial.

Sec. 45.25.990. Defines certain terms for the chapter.

Section 10. Adds a violation of AS 08.66 to the list of prohibited practices under the state's unfair trade practices act.

Section 11. Adds a violation of AS 45.25.400 - 45.25.590 to the list of prohibited practices under the state's unfair trade practices act.

Section 12. States that the state's monopoly and restraint of trade provisions do not apply to actions that a person takes or refrains from taking in order to comply with the new chapter

Section 13. Repeals certain statutes.

Section 14. States that secs. 9, 11, and 12 of this Act apply to a franchise entered into on or after the effective date of this Act.

Section 15. Gives the Act an effective date of July 1, 2002.

If I may be of further assistance, please advise.

TLB:med
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