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information furnished by technicians -- a number of the bullets tested, in addition to the KTW, defeated the body armor. The armor used in that demonstration has been submitted to the Subcommittee for inspection and we will, of course, be pleased to furnish additional information regarding the February demonstration so long as we can do so without publicly disclosing the varieties of bullets which defeated the armor.

Based upon this and other information, we commenced development of a legislative response to the problem of armor-piercing bullets. Because an early discussion draft of a proposed armor-piercing bullet bill was somehow disclosed to the media and published in a firearms publication, it is no secret that our initial proposals in this area were very similar to H.R. 5437 introduced by Representative Biaggi. As the Treasury Department indicated in its testimony before this Subcommittee earlier this year, however, our continuing study of this issue revealed that there are serious flaws in the broad ban on armor-piercing handgun ammunition proposed in early Department legislative proposals and in H.R. 5437.

First, to date we have been unable to describe armor-piercing handgun ammunition in a way which reaches all rounds capable of defeating soft body armor without including a number of popular handgun bullets which have long been widely used for legitimate sporting and recreational purposes. The simple fact is that some bullets with a legitimate use will defeat soft body armor. Moreover, in certain handgun calibers, the effect of a ban on armor-piercing bullets would effectively deprive firearms owners of the use of

their weapons by rendering illegal all presently available commercially manufactured ammunition.

Given the fact that we are aware of no instance in which an armor-clad law enforcement official has been attacked with armor-piercing handgun ammunition, we cannot justify legislation banning all ammunition capable of penetrating the type of soft body armor worn by law enforcement officials. Put simply, we cannot recommend legislation so seriously disrupting the firearms and ammunition industry and so clearly impinging upon the interests of legitimate gun owners where the basis is solely a potential rather than a demonstrated threat. Furthermore, I should note that the Department of the Treasury has negotiated agreements with several ammunition manufacturers which will reduce the potential that handgun bullets designed for penetration will be available to anyone other than law enforcement and military agencies. Treasury reports that ammunition manufacturers are sensitive to the problem and have responded in a responsible manner to our requests for limitations on armor-piercing bullets.

A second serious problem with H.R. 5437 is that it would produce unjust results. This difficulty arises from the fact that ammunition performs differently depending upon the type of firearm from which it is fired. A particular round fired from a revolver with a four-inch barrel, for example, might not penetrate body armor whereas the same ammunition, if fired from a revolver with a six-inch barrel might defeat the same armor. This is because increased barrel length affects projectile velocity thus enhancing penetration power. We believe, therefore, that it would be impossible to justify,

for example, imposition of a minimum mandatory prison sentence under H.R. 5437 when it could be demonstrated that the ammunition, although classified as "armor-piercing" under the definition in the bill, would in fact not penetrate soft body armor when fired from the handgun possessed by the defendant at the time of the underlying criminal offense.

In addition to these difficulties, there are others which have been discussed by the Department of Treasury which I will not dwell on today including the cost of testing all commercially available ammunition, the problem posed by ammunition which can be fired interchangeably from either handguns or long guns and so forth. Suffice it to say that we do not believe the ban proposals presently before the Subcommittee are appropriate.

Nevertheless, we see no legitimate reason for private use or possession of handgun bullets, such as the KTW, that are designed specifically for the purpose of armor penetration. Therefore, we will continue to work with the Department of the Treasury and with the Subcommittee to develop a workable definition of such bullets. Our clear objective is to prevent criminals from having access to handgun bullets designed specifically to penetrate armor. In the meantime, however, we believe that immediate action in this area is needed and have submitted to the Subcommittee a draft bill designed to fill the existing gap in federal law. We believe this stopgap proposal would provide a meaningful disincentive to use of armor-piercing bullets during the course of federal crimes. Our proposal would establish a minimum, mandatory prison sentence of five years for the use of armor-piercing handgun ammunition during

the course of a federal crime of violence. By contrast with other similar proposals, our bill would provide for imposition of this minimum mandatory sentence only where it can be proved that the ammunition would penetrate Type IIA body armor -- the most popular armor for law enforcement use -- when fired from the firearm in the possession of the defendant. This approach avoids the anomaly described above where a person could be subjected to enhanced sentencing even though a bullet classified as "armor-piercing" would not, in fact, penetrate body armor if fired from his weapon.

Our proposal covers only federal crimes committed with armor-piercing handgun ammunition as we believe that the state interest in prosecuting perpetrators of state offenses outweighs the federal interest. If our bill is enacted by the Congress, we will notify the 50 states and urge enactment of similar state laws to protect state and local law enforcement officials.

We believe that this legislation would provide a significant deterrent to the use of armor-piercing handgun ammunition and that, where such ammunition is used during the course of a federal crime, would insure that the offender is imprisoned for a lengthy period thereby incapacitating that individual from the further commission of such offenses. In this regard, our proposal makes clear that the minimum mandatory sentence is to be served consecutively with the sentence imposed for the underlying crime of violence, that the sentence is not subject to probation or suspension, and that a person so sentenced is not eligible for parole.

Finally, we recommend against the enactment of the various proposals before the Subcommittee to authorize detailed testing of

handgun ammunition and body armor. Although we do not have solid test data on every one of the hundreds of different types of handgun ammunition manufactured here and abroad in recent years, we do have extensive information on bullet characteristics and armor capabilities and do not feel that further elaborate testing such as that proposed in H.R. 2280 is necessary. Rather, we believe we have sufficient information upon which to base legislation along the lines of our proposal.

Mr. Chairman, we believe that handgun ammunition designed to penetrate armor must be kept out of the hands of criminals and we look forward to working with your Subcommittee toward that end. We also believe that the legislation we have proposed today -- although modest by comparison with some other bills -- would fill a gap in existing law by recognizing that certain types of handgun ammunition are particularly dangerous and that the commission of a crime involving such ammunition should result in harsher penalties than would otherwise be applicable. In essence, our proposal recognizes varying ammunition threat levels in determining sentencing just as do existing laws which provide for enhanced sentencing for use of a firearm during the course of a felony. This legislation would provide new and needed protection for law enforcement officials and others who use soft body armor. We will appreciate your attention to this proposal. Of course, we will be pleased to work closely with you and your staff in refining this proposal should you feel that further adjustments are needed.

# STATE OF ALASKA

DEPARTMENT OF PUBLIC SAFETY

DIVISION OF STATE TROOPERS

JAY S. HAMMOND, GOVERNOR

P.O. BOX 6188 ANNEX  
ANCHORAGE, ALASKA 99502

PHONE:

September 21, 1982

The Honorable Joe L. Hayes  
625 W. 5th Ave., Suite 1  
Anchorage, AK 99501

Dear Mr. Hayes:

Thank you for your inquiry into the KTW projectile. This matter has received a great deal of national attention.

These cartridges are available in Alaska. Due to national publicity on their ability to penetrate soft body armour, we in the law enforcement profession are concerned.

It is not practical to wear a vest which would stop these projectiles. We, therefore, would support any legislation prohibiting the sale and possession of KTW bullets.

Again, thank you for your interest.

Sincerely,



Colonel T. R. Anderson  
Director



The Library of Congress  
Congressional Research Service  
Washington, D.C. 20540

**BULLET THREATS TO PROTECTIVE BODY ARMOR**

November 27, 1979

Updated

March 25, 1982

William C. Boesman  
Specialist in Science and Technology  
Science Policy Research Division

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INTRODUCTION AND SUMMARY

INTRODUCTION

Since about 1975, law enforcement officers have been using protective body armor of the "soft" or "lightweight" variety to an increasing extent. This type of body armor, unlike the heavy flak jackets worn by the military and by special police units on dangerous tactical assignments, is designed to be lightweight and soft enough to be worn comfortably under law enforcement officers' uniforms or under plain clothes officers' outer garments.

This type of soft or lightweight body armor has been developed to the extent that it quite effectively "defeats" (stops the penetration of) many types of handgun bullets and some rifle bullets. It is the purpose of this report to analyze the characteristics of bullets which are most likely to defeat soft, lightweight body armor. The following section discusses various types of bullets and the purposes for which bullets are designed. The third section discusses recent law enforcement officer fatalities and the related use of soft body armor. The fourth section discusses recent developments in, and characteristics of, soft body armor. The last section presents a brief analysis of bullet characteristics, particularly those that can defeat currently available soft body armor.

SUMMARY

Existing, commercially available soft, lightweight body armor apparently can effectively stop most of the handgun bullets which pose a threat to law enforcement officers today. However, there is a class of handgun

such armor. These types of bullets are: generally constructed of steel-jacketed lead or hard metal alloys; often pointed in shape rather than being flat, rounded, or hollow-pointed; and generally high velocity. Smaller handgun and rifle bullets (for example, .22 caliber) with the above characteristics are generally more effective in penetrating soft body armor than larger bullets (for example, .45 caliber) with the same characteristics.

BULLETSTYPES

There are many ways to classify the various types of bullets that have been or are in use. 1/ For purposes of this analysis, bullets will be discussed according to the following characteristics:

- For use mainly in handguns, rifles, or machine guns, or in more than one type of weapon;
- Velocity (low, for example, 730 feet per second, to high, for example, 1800 feet per second);
- Caliber (small, for example, .22 caliber, to large, for example, .45 caliber);
- "Hardness" (soft nosed lead bullet, or partially jacketed, to full metal jacketed (with copper or steel) to hard metal alloy bullet); and
- Shape (round or hollow point to pointed nose).

Sometimes bullets are classified according to either their "stopping power"—their ability to knock down or disable a human being—or their "armor-or metal-piercing" ability. These two types of characteristics, however, may be somewhat mutually exclusive. For example, one bullet designed for high "stopping power" is the .357 caliber magnum hollow point bullet. Upon impact, this bullet expands (because of its hollow point) and converts a large percentage of its (high) velocity to kinetic energy within the wounded body—thus knocking down, stopping, or disabling the person.

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1/ There may be as many as 10,000 different bullets that have been manufactured since the development of the bullet cartridge around the time of the U.S. Civil War.

This type of bullet, however, may be effectively stopped by soft body armor without body penetration and hence without wounding, except for "blunt trauma". 1/ On the other hand, an armor-piercing bullet which will penetrate soft body armor may, because it is hard and retains its shape, pass through a body with relatively little damage if it does not hit a bone, other hard substance, or vital organ. Obviously, bullet wounding capabilities are not completely predictable because of the exceedingly complex structure of the human body, and even the relatively less devastating bullets can and often do kill. In fact, more law enforcement officers were killed with .38 caliber weapons in 1976 through 1980 2/ than with any other weapon, mainly because these weapons are in more common use than other, more devastating bullets like the various magnum and armor-piercing bullets.

#### PURPOSES

It can be seen from the above discussion that many, if not most, bullet characteristics derive from the purpose or purposes which the ammunition designers had in mind. Thus, expanding bullets, particularly hollow point bullets, were designed for the purpose of more effectively transmitting kinetic energy to the wounded body than do ordinary bullets.

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1/ Blunt trauma is injury caused by bullets which do not penetrate armor. It is injury caused by the force of the blow itself, as when a person is hit in the chest by a hard swung baseball bat.

2/ Federal Bureau of Investigation. Law Enforcement Officers Killed 1976. Washington, U.S. Department of Justice, 1976. p. 24.

Also for 1977, p. 13; 1978, p. 13; 1979, p. 13; and 1980, p. 12.

Protective body armor, including the soft or lightweight variety, has been and is being designed to defeat many types of bullets, including many of the relatively more devastating (high velocity, hollow point) bullets. However, certain types of high velocity bullets made entirely of hard metal alloys, or which are fully covered with steel jackets, can defeat the currently available soft body armor. Thus, certain bullets of the armor- or metal-piercing variety, whether or not designated as such by bullet manufacturers, pose a threat to existing body armor which can effectively defeat most "ordinary" bullet threats.

LAW ENFORCEMENT OFFICER FATALITIESCURRENT STATISTICS

A number of law enforcement officers are killed and wounded each year by handguns, rifles, shotguns, and other weapons. Recent statistics from the Federal Bureau of Investigation (FBI) indicate that this number, while still large, has decreased rather significantly from 1974 and 1975 to 1978. The following table shows statistics for law enforcement officers killed by firearms and other weapons for this period:

Law Enforcement Officers Killed, by Type of Weapon

WEAPON USED	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	TOTAL
HANDGUN	97	77	93	95	93	66	59	67	76	69	792
RIFLE	16	16	21	12	21	12	13	13	18	13	155
SHOTGUN	11	18	13	21	13	16	11	11	6	13	133
TOTAL FIREARMS	124	111	127	128	127	94	83	91	100	95	1,080
KNIFE	2	3	2	1	--	5	--	--	4	3	20
BOMB	--	1	--	--	--	4	--	--	1	--	6
PERSONAL WEAPONS	2	--	--	--	--	--	1	1	--	--	4
OTHER (CLUBS, ETC.)	1	1	5	3	2	8	9	1	1	6	37
GRAND TOTAL	129	116	134	132	129	111	93	93	106	104	1,147

Source: Federal Bureau of Investigation. Law Enforcement Officers Killed 1980.- Washington, U.S. Department of Justice, 1980. p. 11.

There reportedly is a consensus that at least 400 U.S. law enforcement officers have been protected from death or injury through the use of bulletproof vests from 1975 to the present. 1/ Although such a consensus cannot be confirmed with existing data, it is interesting that the approximately 20 percent decrease in firearm-related deaths indicated in the above table since 1974 could be accounted for partially by increased use of soft body armor by law enforcement officers.

The following table shows the size of bullets and types of firearms which caused the deaths of the 95 law enforcement officers in 1980. The handgun bullets shown in that table are all of a class which can be defeated by existing soft body armor unless they are of the hard metal alloy or steel-jacketed, armor-piercing variety. Soft body armor cannot defeat high velocity, metal jacketed rifle bullets either, some of which may be represented in the "rifle" column of the table.

#### OFFICER FATALITIES WHILE WEARING ARMOR

In 1980, the first year such data were collected uniformly by the FBI, 14 law enforcement officers in the United States were killed in the line of duty while wearing protective vests. 2/ Seven of the officers were shot

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1/ Conversations with a Department of Justice official and a representative of the International Association of Chiefs of Police on March 24, 1982.

2/ These cases are taken from Federal Bureau of Investigation. Law Enforcement Officers Killed 1980. Washington, U.S. Department of Justice, 1980. This report does not include information sufficient to determine whether the "protective vests" were soft body armor or other types, nor is that information currently available from the FBI.

1980  
**LAW ENFORCEMENT OFFICERS KILLED**  
**TYPE AND SIZE OF FIREARM**

SIZE OF WEAPON	TYPE OF WEAPON			
	HANDGUN	OFFICER'S OWN WEAPON	RIFLE	SHOTGUN
<b>Total</b>	69	13*	13	13
<b>Handgun size</b>				
.22 Caliber	4			
.25 Caliber	2			
.32 Caliber	8			
9 Millimeter	2			
.357 Magnum	16	7		
.380 Caliber	1	1		
.38 Caliber	30	4		
.44 Magnum	2			
.45 Caliber	1			
Caliber Not Reported	3			
<b>Rifle size</b>				
.22 Caliber			4	
.223 Caliber			3	
7 Millimeter			1	
.30-06 Caliber			1	
.30-30 Caliber			1	
.303 Caliber			1	
.308 Caliber			1	
.444 Magnum			1	
<b>Shotgun size</b>				
20 Gauge				3
12 Gauge		1		10
*Included in appropriate category.				

Source: Federal Bureau of Investigation. Law Enforcement Officers Killed 1980. Washington, U.S. Department of Justice, 1980, p. 12.

in the head and five received fatal gunshot wounds to areas of the upper torso not protected by the vests. One officer was struck by a vehicle. The remaining officer was shot in the back with a bullet that penetrated his vest, but this was a .30-06 caliber rifle bullet fired from about 50 yards away. Soft body armor is not designed to prevent the penetration of most rifle bullets, such as .30-06 caliber bullets. 1/

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1/ Id. at p. 28, 30, 32, 33, 34, 36, 37, 38, 40, 42, 43, and 44.

BODY ARMORRECENT DEVELOPMENTS

Since at least the early 1970s, there has been considerable interest among law enforcement support agencies in developing effective soft body armor that would be comfortable and unobtrusive enough to be worn continuously by law enforcement officers while on duty. Organizations like the National Institute of Law Enforcement and Criminal Justice (NILECJ) of the Law Enforcement Assistance Administration (LEAA) of the U.S. Department of Justice, and the International Association of Chiefs of Police, have sponsored several studies of soft body armor. <sup>1/</sup> Research programs on soft body armor and weapons threats have been administered and carried out by the Law Enforcement Standards Laboratory of the National Bureau of Standards, Department of Commerce; Edgewood Arsenal, Aberdeen Proving Grounds, Department of the Army; the FBI Quantico Test Base; and several private weapons testing laboratories. About 25 to 30 manufacturers of soft body armor are now producing units commercially for sale to an increasing number of U.S. law enforcement organizations.

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<sup>1/</sup> For example, Montanarelli, Nicholas, Clarence E. Hawkins, and Lester D. Snubin. *Body Armor: Lightweight Body Armor for Law Enforcement Officers*. Washington, U.S. Department of Justice, LEAA, NILECJ, May 1976. p. 113; Goldfarb, Michael A. et al. *Body Armor: Medical Assessment*. Washington, U.S. Department of Justice, LEAA, NILECJ, May 1976. p. 30; National Institute of Law Enforcement and Criminal Justice. *NILECJ Standard for the Ballistic Resistance of Police Body Armor*. Washington, U.S. Department of Justice, LEAA, NILECJ, December 1978. p. 10; and International Association of Chiefs of Police. *Police Armor Testing and Summary of Performance Testing Data*. Gaithersburg, Maryland, International Association of Chiefs of Police, December 1978. p. 23.

COMMERCIALLY AVAILABLE SOFT BODY ARMOR

Most, if not all, soft body armor commercially available today is made of differing numbers of layers of Kevlar, a synthetic (aramid) fiber produced by the Du Pont Company. In addition to the number of layers of Kevlar used, the weaving and other processes used in the production of the final protective vest affects the strength of the product.

In the early 1970s, protective body armor generally was classified as to whether it was made of 7, 12, 16, 24, or other numbers of layers of Kevlar. Currently, manufacturers and police departments often designate certain threats (types of bullets) that the vests are to protect against, regardless of the numbers of layers of Kevlar involved.

In 1982 it is estimated that approximately half (about 250,000) of the Nation's law enforcement officers own or have access to soft body armor. 1/

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1/ Conversations with a Department of Justice official and a representative of the International Association of Chiefs of Police on March 24, 1982.

The state of the art of protective body armor, which today is largely based upon the use of Kevlar, involves a trade off between the thickness of the protective vest versus the types of bullets which the vest can defeat. Certain commercially available bullets, like .357 caliber magnum hard metal alloy bullets, and some foreign-made nine millimeter steel jacketed bullets, can defeat commercially available soft body armor.

#### PROTECTION AVAILABLE

A side-by-side comparison of the handgun weapons used to fatally injure law enforcement officers in 1980 (shown above and repeated for convenience here) and handgun bullets required to be defeated by soft body armor in the equipment purchase specifications of a number of U.S. cities indicates that currently available soft body armor apparently can protect against the large majority of bullet threats facing law enforcement officers today.

<u>Handgun Weapons Used to Fatally Injure Law Enforcement Officers in 1978</u>	<u>Deaths in 1980 From Weapons in Column One</u>	<u>Handgun Bullets Required to be Defeated by Representative Police Department Soft Body Armor Specifications 1/</u>
.22 caliber	4	S, M, N (all also include .22 magnum)
.25 caliber	2	—
.32 caliber	8	N
9 millimeter	2	S, M, N
.357 magnum	16	S, M, N
.380 caliber	1	N
.38 caliber	30	S, M, N
.41 magnum	0	S, M, N (N does not indicate magnum)
.44 magnum	2	S
.45 caliber	1	S, M, N
caliber not reported	3	—

1/ From 1979 soft body armor specifications of Milwaukie, Oregon (M); Nashville, Tenn. (N); and San Diego, Calif. (S). The San Diego specification has apparently been adopted by about 40 other U.S. cities.

While most commonly used bullets apparently can be defeated by existing soft body armor, there is a class of bullets which can defeat it. This subject is discussed in the following paragraphs.

#### POSSIBLE REMAINING THREATS

##### Bullet Characteristics

Although a number of bullets can be defeated by currently available soft body armor, a number of threats remain. Most, if not all, types of metal- or armor-piercing bullets will apparently defeat existing soft body armor, whether these bullets are hard, metal alloy bullets, or lead bullets which are steel jacketed. Other types of non-armor- or metal-piercing bullets which might defeat soft body armor are bullets which are small caliber (for example, .22 caliber) or high velocity (particularly magnum) bullets. Bullets which combine these latter two characteristics (small caliber plus high velocity) are more likely to defeat some types of soft body armor (depending upon its thickness and construction) even if these bullets are not of hard metal alloy or steel jacketed construction. Thus, there currently exist several specific bullets, and a class of bullets having certain characteristics, that can, or could be designed to, defeat currently available soft body armor.

##### Blunt Trauma

Even if bullets do not penetrate soft body armor, lethal wounds could be caused by "blunt trauma." This type of wounding effect can be described as being similar to being hit on the body by a hard swung baseball bat. Because this phenomenon currently does not appear to be a

major wounding cause, it is not discussed further here. However, it is conceivable that, were higher powered bullets used or developed to defeat soft body armor, blunt trauma effects might be a major cause of concern to body armor researchers, developers, and manufacturers, as well as medical practitioners.

BODY-ARMOR DEFEATING BULLETS: THREAT CHARACTERISTICS

This section describes some bullet characteristics that are important to a consideration of what types of bullets can defeat, or can be designed to defeat, existing soft body armor.

VELOCITY

Handgun bullets typically range in muzzle velocities from about 730 feet per second (fps) (low velocity) to over 1,800 fps (high velocity), depending upon the powder charge of the cartridge and the length of the handgun barrel. Eleven hundred fps (roughly the speed of sound in air) may be a convenient point to differentiate between low and high velocity bullets, although it is unlikely that a consensus could be obtained that significantly different wounding effects occur above and below this velocity for a given type of bullet.

It is clear, however, that high velocity bullets are more likely to defeat soft body armor than low velocity bullets, all other characteristics remaining constant.

CALIBER AND WEIGHT

Caliber measures the diameter of bullets, that is, a .45 caliber bullet has a diameter of .45 inch. Caliber is thus a measure of size. A .45 caliber bullet is considerably larger than a .22 caliber bullet. The most common police bullet, and the most common bullet causing police fatalities, is the .38 caliber, intermediate in size between the .22 caliber and the .45 caliber.

Weights of bullets are measured in grains. The larger the caliber, the more a bullet weighs, given a constant shape.

The smaller caliber bullets, for example, the .22 caliber, are more likely to penetrate the commercially available body armor than larger caliber bullets, other bullet characteristics remaining constant.

#### SHAPE AND HARDNESS

Bullets are produced in several shapes--including round or ball nosed; flat-nosed, pointed, and hollow pointed. Round, flat-nosed (some of which are called wadcutters or semi-wadcutters) and hollow point bullets are often constructed as lead or semi-jacketed bullets which expand upon contact. The hollow point bullets are generally the most effective of these "expanding" bullets. Pointed bullets generally are constructed of lead with metal jackets, which are usually of copper. If such bullets are jacketed with steel, they generally have armor- or metal-piercing capabilities. Another class of bullets is constructed of hard metal alloys and are also armor- or metal-piercing bullets.

Thus, the harder and more pointed a bullet is, the more likely it is to penetrate commercialy available body armor, other bullet characteristics remaining constant.

#### SUMMARY OF BULLET THREAT CHARACTERISTICS

Given the characteristics of the most successful, currently available soft body armor, bullet threat characteristics can be summarized in the following way:

<u>Bullet Characteristics</u>	<u>Lowest Level of Threat</u>	<u>Highest Level of Threat</u>
Velocity	Low velocity	High velocity
Caliber, weight	Large caliber, heavy	Small caliber, light
Shape	Round or flat nose, hollow point	Pointed
"Hardness"	Lead, or copper semi- jacketed lead	Full steel jacketed lead, or hard metal alloy bullet

Thus, the bullet type with the highest probability of penetrating soft body armor, and with a proven capability of penetrating many layers of existing soft body armor, is a high velocity, small caliber, pointed, steel jacketed lead or metal alloy bullet. Such bullets may be handgun bullets, rifle bullets, or bullets which can be used in either handguns or rifles.

#### POSSIBLE RAMIFICATIONS OF "PERFECT" BODY ARMOR

Commercially available soft body armor is not perfect, that is, it can be defeated by certain bullets of the hard metal alloy or steel-jacketed armor- or metal-piercing types. Assuming that "perfect" body armor could be developed to meet current threat conditions, there is at least one positive and one negative ramification of such a development:

##### Possible Positive Ramification

Decreased wounding and death of law enforcement officers under current conditions, that is, continued use by criminals of existing types of bullets which, to a considerable extent, can be defeated by existing soft, light-weight body armor.

Possible Negative Ramification

An "arms and ammunition race" by the criminal segment of society for even more powerful bullets and other weapons to defeat existing armor, and increased use by criminals of such armor. This possible negative ramification could be precluded to some extent by controlling, by law and enforcement, the manufacture, distribution, sale, possession, and international trade of all bullets of the armor- or metal-piercing type and, perhaps body armor.

DON YOUNG  
CONGRESSMAN FOR ALL ALASKA

COMMITTEES:  
INTERIOR AND INSULAR  
AFFAIRS  
MERCHANT MARINE AND  
FISHERIES

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July 27, 1982

Mr. Francis C. Allan  
President  
The Alaska Cartridge Club  
S.R.A. Box 4247  
Anchorage, Ak. 99502

Dear Mr. Allan,

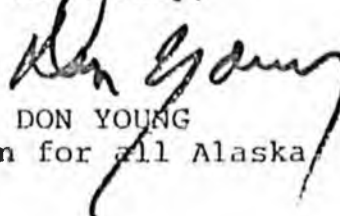
Thank you for your letter regarding the draft legislation concerning armor-piercing ammunition. I read the language of the legislation you sent, and I agree it is far too loosely worded to accomplish what the authors hope to.

As a result, I plan to oppose and will work to defeat any such legislation. The language is not the only reason I will oppose it. Now that armor-piercing ammunition has been developed, no act of Congress is going to prevent a person with criminal intentions from acquiring and using it. It is the same principle that applies to gun control. No matter what laws are passed, a criminally minded person will acquire a gun and ammunition. Therefore, only the legitimate and honest gun users will be hurt. Like you, I want to assist law enforcement officers, but it appears to me someone is going to have to invent another vest to stop these bullets.

Thank you for bringing this to my attention, and please inform your organization that I will oppose this legislation.

Best wishes,

Sincerely,



DON YOUNG  
Congressman for all Alaska

DY:lv

T H E

# ALASKA CARTRIDGE CLUB

S.R.A. Box 4247, Anchorage. Alaska 99502

A Division of  
THE ALASKA GUN COLLECTORS ASSOCIATION, INC.

Senator Ted Stevens  
U S Senate  
Washington, D.C. 20510

21 June 1982

Dear Senator Stevens,

Attached to this letter is a copy of draft legislation, S929 (Title 18 USC), which deals with the restriction of manufacture, importation and even possession of armor-piercing handgun ammunition which the Alaska Cartridge Club vehemently opposes. The subject was brought up by a television segment of the NBC-TV Magazine program which dealt with the ability of the "KTW" brand of ammunition to penetrate bullet-proof clothing. While the laudable intent of the proposed legislation is to protect law enforcement officers who wear such clothing on duty, it is so badly worded that it creates problems rather than solves them.

The language in the bill is all-inclusive and would certainly be detrimental to the hobby that is enjoyed by our organization. The term "armor-piercing" is not even properly defined. It is stated that ammunition will be classified after testing only. No guidelines of any value are given to the testing agency. It might be determined that any fully-jacketed bullet would be considered armor-piercing. Additionally, "body armor" is also not defined. Certainly, there are different grades of this material, some of which can be penetrated by normal "off-the-shelf" handgun ammunition at close range.

A section of the bill that we fully support is paragraph (b), which deals with the use of this type of ammunition by a criminal and the additional felony charge that would be brought as a result of its use. Regrettably, this is the only section that appears to be beneficial. The other sections will not help law enforcement officers to any measurable degree. Several brands of armor-piercing ammunition have been available for so many years that it would be nearly impossible to end their circulation. The "KTW" brand has been available for fifteen years, long before the protective clothing was in general use.

To illustrate the potential for abuse of this poorly-worded legislation, take my own situation as an example. I collect two types of ammunition, one of which is 9mm Luger (Parabellum) pistol ammunition. In my collection of more than four hundred examples, I have one round of KTW armor-piercing ammunition. Under this legislation, if I were to be caught with this one round in my possession, I could be fined \$250,000 even though I do not own a 9mm handgun in which it could be fired!

Page 2  
Senator Stevens  
S929

I have also enclosed with this letter an article that I wrote on KTW ammunition for our newsletter. It appeared in our May 1981 issue—long before the current flap over armor-piercing ammunition. It provides an indication of the interest on the part of the serious collector in these cartridges, irrespective of their high penetrability.

I request that you or your staff look into the wording of this legislation, and, if it cannot be clarified or altered to make provision for legitimate collectors, that the proposed legislation be defeated. If we felt that the legislation would provide a degree of safety for peace officers, we would be willing to accept the negative impact on our hobby. However, this legislation simply does not provide the protection desired. Its only accomplishment is to restrict the activities of lawful citizens.

Our organization will be looking forward to hearing from you concerning this legislation and your intentions toward it. Thank you for your attention to this matter.

Sincerely,

*Frank Allan*

Francis C Allan  
President

FRANK H. MURKOWSKI  
ALASKA

COMMITTEE ON ENERGY AND  
NATURAL RESOURCES  
COMMITTEE ON ENVIRONMENT  
AND PUBLIC WORKS  
COMMITTEE ON VETERANS'  
AFFAIRS

## United States Senate

WASHINGTON, D.C. 20510

WASHINGTON OFFICE  
(202) 224-4543  
ANCHORAGE OFFICE  
701 C STREET, BOX 1  
(907) 271-3735  
JUNEAU OFFICE  
FEDERAL BUILDING, BOX 1647  
(907) 586-7463  
FAIRBANKS OFFICE  
101 12TH AVENUE, BOX 7  
(907) 452-6227

July 12, 1982

Mr. Francis C. Allan, Pres.  
Alaska Cartridge Club  
SRA Box 4247  
Anchorage, Alaska 99502

Dear Mr. Allan:

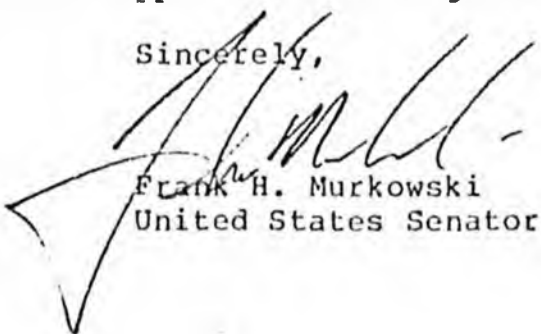
This is in response to your letter expressing your opposition to legislation to restrict the distribution and use of armor-piercing handgun ammunition.

Two bills are pending in the Senate Judiciary Committee which deal with this issue. They are S. 2017, introduced by Senator Hawkins, and S. 2128 introduced by Senator Moynihan. S. 2017 would require the Secretary of the Treasury to conduct a study of handgun bullets to determine which have the capacity to penetrate bulletproof vests. S. 2128 would limit the availability and use of handgun bullets that are capable of penetrating certain body armor.

I have noted your comments about the lack of a proper definition of "armor-piercing." You may be assured that I will have your concerns in mind as I review these two bills. At the same time, I think it is important to review S. 2017 and S. 2128 to see if they are necessary in order to ensure the safety of our law enforcement officials.

Thank you for bringing your concerns to my attention. If you have further comments I would appreciate hearing from you.

Sincerely,

  
Frank H. Murkowski  
United States Senator

Purpose: To establish minimum mandatory sentences for the use of armor-piercing handgun ammunition during the course of a violent crime.

IN THE SENATE OF THE UNITED STATES--97th Cong., 2d Sess.

S. 2572

To strengthen law enforcement in the areas of violent crime and drug trafficking, and for other purposes.

-----

Referred to the Committee on \_\_\_\_\_ and ordered to be printed

Ordered to lie on the table and to be printed

Amendment intended to be proposed by Mr. Schmitt (for himself and Mr. Percy)

Viz:

1 At the end of the bill add the following:

2 Part P

3 Sec. 924. (a) Chapter 44 of title 18, United States Code,  
4 is amended by adding at the end thereof the following:

5 "§ 929. Use of restricted ammunition

6 "(a) Whoever, during and in relation to the commission  
7 of a crime of violence for which he may be prosecuted in a  
8 court of the United States, including a felony which provides  
9 for an enhanced punishment if committed by the use of a  
10 dangerous weapon or device, uses or carries any handgun  
11 loaded with armor-piercing ammunition as defined in  
12 subsection (b), shall, in addition to the punishment provided  
13 for the commission of such felony, be sentenced to a term of  
14 imprisonment for not less than five years. Notwithstanding  
15 any other provision of law, the court shall not suspend the  
16 sentence of any person convicted of a violation of this  
17 subsection, nor place him on probation, nor shall the term of  
18 imprisonment run concurrently with any other term of  
19 imprisonment including that imposed for the felony in which  
20 the armor-piercing handgun ammunition was used or carried. No  
21 person sentenced under this subsection shall be eligible for

2       “(b) For purposes of this section--

3               “(1) ‘handgun’ means any firearm, including a pistol  
4 or revolver, originally designed to be fired by the use  
5 of a single hand;

6               “(2) ‘armor-piercing ammunition’ means ammunition  
7 which, when or if fired from any handgun used or carried  
8 in violation of subsection (a), under the test procedure  
9 of the National Institute of Law Enforcement and Criminal  
10 Justice Standard for the Ballistics Resistance of Police  
11 Body Armor promulgated December, 1978, is determined to  
12 be capable of penetrating bullet-resistant apparel or  
13 body armor meeting the requirements of Type IIA of  
14 Standard NILECJ-STD-0101.01 as formulated by the United  
15 States Department of Justice and published in December of  
16 1978; and

17               “(3) ‘crime of violence’ means--

18               “(1) an offense, other than a misdemeanor that  
19 consists solely of damage to property and that does  
20 not place another person in danger of death or  
21 serious bodily injury, that has as an element of the  
22 offense the use, attempted use, or threatened use of  
23 physical force against the person or property of  
24 another; or

25               “(11) any other offense that is a felony and  
26 that, by its nature, involves a substantial risk that  
27 physical force against the person or property of  
28 another may be used in the course of committing the  
29 offense.”.

30       (b) The table of sections for chapter 44 of title 18,  
31 United States Code, is amended by adding at the end thereof  
32 the following:

    “929. Use of restricted ammunition.”.

HB 2--Re: Penalties for use of Restricted Ammunition -- Hayes, Flood, Lindauer  
in commission of a Crime

1. This adds to AS 12.55.125, dealing with sentences of imprisonment for felonies

(If, in commission of a felony, convict uses handgun loaded with armor-piercing ammo, convict to be sentenced to no less than 5 years in addition to other sentence for commission of the felony itself...i.e. 5 years in addition for use of the described ammo in the handgun).

2. This is similar to bills introduced in U.S. Senate.

3. Reference to AS 12.55.080 and 12.55.085 refers to statutes that deal with probation and Suspended Imposition of Sentence, respectively.

(j)(3) in this bill bars probation being granted or the handing down of a suspended imposition of sentence if such ammo is used in the handgun. Prescribed minimum term can't be reduced, and no convict would be eligible for parole.

IMPACT:

WITNESSES:

CHANGES:

COMMENTS: If enacted, this likely would be challenged in courts as too severe, in light of the convict being sentenced on the felony-in-chief and again having 5 years added for type of ammunition used.

Should such an act be struck down by courts, it might be construed as rewarding a convict for his efficiency in using this described kind of ammunition.

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill 2  
 Title An Act relating to the penalties for the use of restricted ammunition  
 Requested by Representative Hayes Date 1-17-83  
commission of a crime.

II. FISCAL DETAIL

Agency Affected Health & Social Services  
 Program Category Affected Offender Confinement, Reformation & Supervision  
 BRU, Program or Subprogram(s) Affected Adult Confinement  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS ETC.						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>			

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-			
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Assumption

House Bill No. 2 amends AS 12.55.125 to provide penalties where the offender carries or uses a handgun loaded with armor-piercing ammunition.

RECEIVED

FEB 3 1983

LEGISLATIVE FINANCE

IV. DATE 1-20-83 PREPARED BY Roger C. Lange  
 AGENCY Division of Adult Corrections  
 PHONE 465-3376

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named) *[Signature]*

THE LEGISLATURE OF THE STATE OF ALASKA  
THIRTEENTH LEGISLATURE

FISCAL NOTE

Expenditure Type  
 Revenue Type

I. REQUEST

Bill/Resolution No. HB 2  
Title A.P. Ammunition  
Requested by House Judiciary Date \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected Department of Public Safety  
Program Category Affected Administration of Justice  
BRU, Program, Or Subprogram(s) Affected A S T  
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

No fiscal impact is anticipated.

RECEIVED

FEB 8 1983

LEGISLATIVE FINANCE

IV. DATE January 19, 1983 PREPARED BY Francis C. Allan Phone 269-5691

Original: Legislative Finance DIVISION State Troopers Initials mcK  
cc: Budget and Management DEPARTMENT OF PUBLIC SAFETY Initials gmb'83  
Prime Sponsor (First Legislator Named) gmb'83

33-001 (Rev. 12/82)

CMB Reviewed by: Eric Laschever

THE LEGISLATURE OF THE STATE OF ALASKA  
THIRTEENTH LEGISLATURE

RECEIVED

FISCAL NOTE

FEB 7 1983

I. REQUEST

Bill/Resolution No. HB 2

Title "An Act relating to penalties for the use of restricted ammunition in the  
Requested by House Judiciary Committee Date 1/28/83 commission of  
crime."

II. FISCAL DETAIL

Agency Affected Department of Law

Program Category Affected Administration of Justice

BRU, Program, Or Subprogram(s) Affected Prosecution

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		-0-	-0-	-0-		

FUNDING (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
		-0-	-0-	-0-		

POSITIONS

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

This bill requires that a person who uses or carries a handgun loaded with armor-piercing ammunition during the commission of a crime of violence be sentenced to five years imprisonment in addition to the seven, ten or fifteen year presumptive term he would receive for possessing a handgun during the commission of the crime. It is not expected to require the commitment of additional prosecution staff or resources. Proof of the type of ammunition a defendant carried in his gun should not unduly complicate or prolong the trial on the underlying offense.

IV. DATE 1/28/83

PREPARED BY Daniel W. Hickey, Chief Prosecutor  
AGENCY Department of Law

Original: Legislative Finance PHONE 465-3428

cc: Budget and Management  
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/82)

GHB Reviewed by: Guy Bell



H B

6

## Anchorage Daily News

Winner, 1976 Pulitzer Prize Gold Medal for Public Service

Katherine Fanning  
Editor and Publisher



Gerald E. Grilly  
General Manager

Howard Weaver  
Managing Editor

Steve Lindber  
Editorial Page

Lawrence Fanning, Editor and Publisher 1967 to 1971  
Alaska's Only Morning Newspaper • Founded in 1946 by Norman C. Brown

## Drunken driving: a reckoning looms

11/18/83  
A community reckoning is building on the issue of drunken driving — and none too soon. The trick now is to channel Alaska's energies appropriately.

Last week District Court Judge Elaine Andrews issued an appeal from the bench concerning the lack of treatment programs for repeat drunken driving offenders. Later she ordered the first confiscation of an offender's vehicle under Anchorage's new drunken driving ordinance.

The very next day, a local businessman with a history of drunken driving offenses was involved in an accident that killed the other driver. And this week more facts — painful facts — began to emerge about the incident:

- the man faced a pending charge for driving while drunk and an arrest warrant for failing to appear;
- hospital tests after the accident showed that he had a blood alcohol count more than three times higher than the legal standard for drunken driving — a count that would render most individuals unconscious;
- the man's wife, aware of the warrant and believing him to be drunk behind the wheel, had phoned police that day to ask that he be picked up;
- even after being involved in a serious accident and receiving hospital treatment the man went free until his wife once more called police to ask why he had not been apprehended on the outstanding warrant; and
- for more than a year — during which the man was involved in a minor accident, told police he was "totally smashed" at the time, and received a 30-day suspended sentence and \$200 fine — the man's wife had sought help for his drinking problem. "He's an alcoholic," she said Wednesday. "He needs the kind of help you can't get at home or from friends."

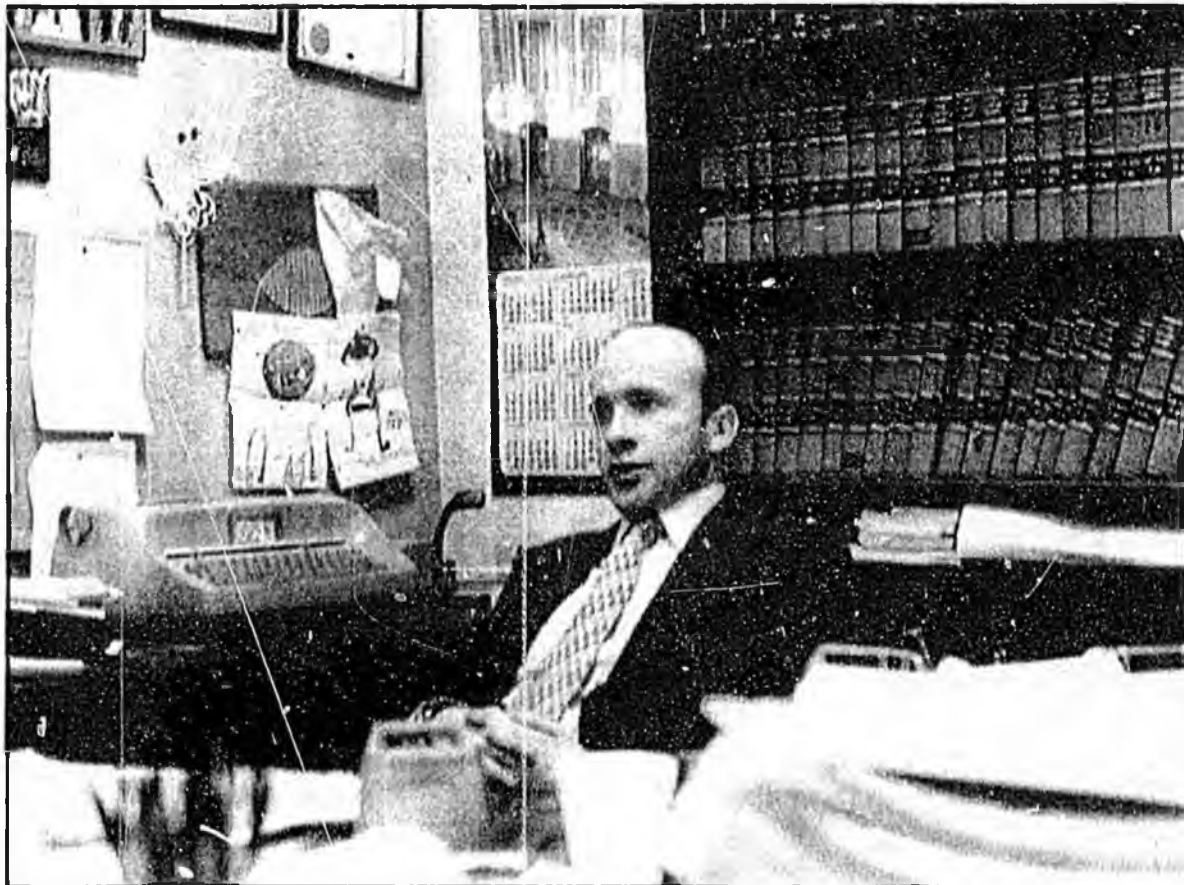
What is pertinent about this tragedy is the contradictions it reveals: the awful need for community action against drunken driving, yet the crying lack of appropriate treatment options; the public demand — and it is swelling — for effective protection, yet the official difficulties in making sanctions stick; the realization that mayhem is at risk every time a drunken driver takes the wheel, yet an ingrown tendency — in society as well as its institutions — to treat the matter lightly until that mayhem occurs.

In the aftermath of a growing consensus on the seriousness of drunken driving there is no room for scapegoating or blindness. The test of appropriate policy now must be to overcome those contradictions; to provide mandatory treatment options that can — not always, but often — keep the offender from repeating the crime; to remove dangerous implements — moving vehicles — from known dangerous hands; to take the offense itself — not just violent outcomes — as seriously as the community demands.

Judge Andrews struck an important blow in ordering confiscation of the vehicle of a multiple repeat offender. The sentence is a demonstration both that the law can work and that society is not powerless to protect itself. Confiscating a vehicle deprives the offender of the means of destruction even as it imposes a real penalty against unacceptable behavior. Yet that is not society's only possible response.

The Senate State Affairs Committee, chaired by Sen. Vic Fischer, D-Anchorage, will hold public hearings Saturday on three major bills related to issues of drunken driving and alcohol abuse. One bill would raise the drinking age from 19 to 21; another would stiffen penalties — including making provision for vehicle confiscation statewide; a third would deal with possible curfews for drivers under age 18.

The hearings begin at 9 a.m. in Anchorage Assembly chambers, 3500 East Tudor Road. A community concerned with the proposed legislation, other potential remedies, and the gathering storm over atrocities on its roads and highways, should be there to speak its piece.



Associated Press

District Judge James Hornaday of Homer says the state needs to enact tougher laws against drunken drivers

## Judge urges tougher drunken driving laws

by Ralph Nichols  
Times Writer

A District Court judge under fire for the tough sentences he gives drunken drivers told the Senate State Affairs Committee the legislature must increase the minimum penalties for that crime.

Judge James Hornaday of Homer told the committee Monday during a statewide teleconference hearing chaired by Sen. Vic Fischer, D-Anchorage, that the sentencing of drunken drivers can't be left to judges alone.

"Drunk driver cases are the most serious problem facing the Alaska court system today," Hornaday said.

"You must take discretion away from the judges because experience has shown the judges will generally only impose the statutory minimums," he said.

Hornaday has been transferred to Anchorage effective June 1 by presiding Superior Court Judge Mark Rowland because he is frequently disqualified by defense attorneys from hearing cases.

Many of those cases involve drunken drivers. Hornaday is known for sentencing first-time offenders to more than the mandatory 72 hours in jail.

The minimum sentence doesn't have to be the average sentence, he told the lawmakers. "In Maine, we are told, judges are giving on the average four times the minimum jail time."

Speaking in support of bills to toughen drunken driving laws, Hornaday called for an increase in the mandatory jail sentences faced by persons convicted of driving while intoxicated and driving with a suspended license.

Hornaday said the legislature should consider adopting:

- Forfeiture of the driver's vehicle upon his second drunk driving conviction, or his first con-

viction if a person is injured.

- Longer mandatory driver's license revocations.
- Required mandatory community work by convicted drunken drivers.
- Raising the drinking age and earlier bar-closing hours.
- Mandatory alcohol abuse programs in jails for all second-time offenders.

The judge also advocated creation of a state task force on drunken driving to address the problem.

"Over half of all the jury trials in the (state) are drunk driving cases. More are arrested for drunk driving than any other offense. Over two-thirds of the traffic fatalities involve drinking," he said.

Noting the Alaska Supreme Court has affirmed a 90-day jail sentence for a first-time deer poaching conviction, Hornaday asked the committee, "Why is it that hardly anyone bats an eye over these sentences, and yet there is such an uproar about sentencing above the bare minimum for drunk driving?"

He added that people argue "you shouldn't put drunk drivers in jail because you are just overcrowding the jails with non-criminals.

"Well, maybe we ought to be concerned about the overcrowded hospitals, and overcrowded wheelchairs and overcrowded cemeteries caused by drunk drivers."

Hornaday last week filed suit in U.S. District Court and state Superior Court, charging Rowland lacked the authority to transfer him and charging the action violated his civil rights.

Hornaday also challenged the constitutionality of pre-emptory challenges with no reason stated, saying they violate a judge's right to the due process of law.

## McCarthy murder trial postponed

The trial of Louis Hastings, accused of murdering six McCarthy residents, has been postponed until July and will likely be postponed again. Defense attorney John Salemi told Superior Court Judge Ralph Moody Wednesday that he will need until late August to prepare Hasting's defense.

From Daily News staff reports

## police report

### Bullet hits assemblyman's home

Police pulled a .22-caliber bullet from the outside of Assemblyman Fred Chiel's South Anchorage home Monday after random shots were apparently fired by teen-agers from the Oceanview beach late that morning. The slug was embedded backwards in an outside corner of the Chiel home, indicating it probably ricocheted from another spot and was not fired directly at the assemblyman's home. A neighbor told police she saw two teens earlier that morning on the beach with a small caliber rifle, but they were too far away for her to identify. No injuries were reported.

### Man charged with assault

An Anchorage man who allegedly threatened his ex-girlfriend's new boyfriend with a gun was arrested by Anchorage police. Chapaula Ayers, 25, of Anchorage was charged with third-degree assault and held in lieu of \$1,000. According to police reports, Ayers was talking with his ex-girlfriend in a parked car when another man ordered him out of the vehicle. Ayers then allegedly chased the man with a handgun and fired one shot into the ground.

### Drunken driving charged in accident

A man who allegedly struck a woman with his car as she walked down the road has been charged with drunken driving by Alaska State Troopers. The woman, who suffered minor injuries, told troopers she was hit Saturday night while walking along the Alyeska Highway. At Mile 112 of the Seward Highway, troopers stopped and arrested Timothy R. Mountfort, 23, of Fort Richardson. Mountfort was charged with driving while intoxicated and released.

From Daily News staff reports

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# Courtroom drama

DR

A DRUNK DRIVER who was responsible for the death of a child last June in Eagle River was sentenced to prison here this week, despite testimony from numerous witnesses as to her good character and upstanding citizenship.

The judge gave her five years in prison and an additional five years of probation.

HE ALSO told the woman he wished he could put a photo of the mangled child she killed on the wall of her cell as a daily reminder of why she is sitting in prison.

At one point in the sentenc-

ing, the judge clapped his hands together to demonstrate how the drunk woman's car smashed into the victim.

THE COURTROOM scene, witnessed by the family of the dead child and many members of the Mothers Against Drunk Driving (MADD) organization, was filled with emotion and drama.

It wouldn't be a bad idea for attendance at these sentencing to be part of the rehabilitation process for those convicted drunk drivers who were fortunate enough not to have killed someone.

## Lawmakers disregard MADD

I am very mad and so are the members of MADD.

When we were in Juneau the end of January, we received very warm welcomes and we were told to keep up the good work. We really felt we were doing some good on the laws about drunk drivers. Now, we know we are not very experienced in the field of lobbying, but all our hard work is coming from our honest-to-goodness hearts.

We really want to save people from the drunk drivers. I am now beginning to believe that in order to really get anything done, you have to have lots of money to pass around.

Unfortunately, I do feel that if some of our lawmakers lost a loved one or had been involved themselves as a victim, we would get a lot more done. I hope nothing like this does happen, but it does strike one out of two families.

The accident on March 17th really got to us. If this person would have been taken care of on his first offense, two people would not be dead today. Since our first visit to Juneau, there has been one 20-year-old boy killed; one 17-year-old badly hurt; one 9-year-old with two broken legs; two separate accidents with no injuries, but demolished cars. These are to just mention a few. This is senseless.

We need help to get through to these lawmakers.

I wonder how many people realize that if the excise tax is raised the money would go for rehabilitation, education and awareness. MADD is 100 percent for this program. We still maintain that if people know they will get a stiff sentence on their first offense, there would be many people who would be afraid to drive drunk and take the chance. They wouldn't take a second chance which unlike the victims in many cases, do not get a second chance.

It has been said that we in MADD want to put everyone in jail. This is not true; we want to make people aware that if they do drink and drive then they deserve to be put in jail and fined.

We want to stop this slaughter on the highways!

— June Gerrish, president

**THEODORE HUGO GOODMAN**

Memorial services for Theodore "Ted" H. Goodman, 40, will be at 1 p.m. today at the Witzleben Funeral Home and Crematory, Sixth Avenue Chapel with the Rev. Bob Thwing of St. Mary's Episcopal Church officiating. A private graveside service was conducted yesterday at the Anchorage Municipal Cemetery. His body was found April 15 and his death is under investigation by the Alaska State Troopers. Born Jan. 28, 1943, in Bonn, West Germany, he had lived in Alaska for 10 years and was working with a privately owned jewelry business. He was a veteran of the U.S. Army. He is survived by his mother, Benita Gutmann of Bonn, West Germany; one brother and one sister; and his companion, Dorothy Kabaker of Anchorage.

**JOHN ROBERT VOSGIEN**

Private services for John R. Vosgien, 37, will be later this week in Kodiak. He died May 5 in Kodiak. Born Nov. 22, 1945, in Seattle, Wash., he had lived in Alaska 34 years and was a laborer on Kodiak Island. He is survived by his father, Arthur L. Vosgien of Snohomish, Wash.; two sisters, Cathy Magnusen of Kodiak and Patricia Wilson of Redding, Calif.; and his brother, David Vosgien of Kodiak. Local arrangements by Witzleben Funeral Home and Crematory, Sixth Avenue Chapel.

**ROBBIE JANE CHISM**

Funeral arrangements for Robbie J. Chism, 31, are pending at Witzleben Funeral Home and Crematory, Sixth Avenue Chapel. She died May 11 at Providence Hospital. Born June 22, 1951, in Corpus Christi, Texas, she had lived in Anchorage for the last 17 years. She is survived by her husband, Clifton Chism of

**DEBORAH L. SCARDINA**

Funeral services will be held next week in Blaine, Wash., for Deborah L. Scardina, 29. She died May 12 at her Anchorage residence. Born April 28, 1954, in Long Beach, Calif., she had lived in Alaska for 2½ years. She leaves her mother and step-father, Mr. and Mrs. Robert Hansen of Blaine, Wash.; her brother, Michael Lebecki of Texas; her father, Thomas Lebecki of San Francisco, Calif.; and her maternal grandmother, Florence King of Bellingham, Wash. Burial will be at the Enterprise Cemetery in Ferndale, Wash. Arrangements by Evergreen Memorial Chapel.

**THOMAS SIDNEY BENTLEY**

Services for Thomas S. Bentley, 83, who died Wednesday at his residence, will be held Saturday, 2 p.m., at Evergreen Memorial Chapel. Officiating will be Bishop William Parks of the Church of Jesus Christ of Latter-day Saints, Anchorage Third Ward. A visitation will be held at 1 p.m. He has been an Anchorage resident for 1½ years. Born July 30, 1899, in Providence, R.I., he lived most of his life in Dracut, Mass., where he attended school. He worked in the knitting industry in Lowell, Mass., prior to moving to Ossining, N.Y., where he was foreman of the knit shop at Sing Sing prison, from which he retired. He leaves his sister, Irene Stuart of Norwich, Conn.; four children, Barbara Kemp of Aiken, S.C., Rosemary Poussard of Anchorage, Thomas Bentley of Wappingers Falls, N.Y. and Rita Rice of Wichita, Kans.; eight grandchildren and three great-grandchildren. Burial will be at Angelus Memorial Park on Klatt Road following the funeral. Funeral arrangements by Evergreen Memorial Chapel.

**BERNARD W. GOGIEN**

# COMMITTEE REPORT

## HOUSE

FURTHER: FINANCE

2/28/83

Date: 4-29-83

Mr. Speaker:

The Committee on JUDICIARY has had HB 6

An Act relating to driving a motor vehicle.

under consideration and reports it back as follows:

do pass  do not pass

do pass with attached amendments(s)

replace with CS for HB 6 (JUD)  same title  
 new title  
and recommends \_\_\_\_\_

AND attaches a "Letter of Intent"  New Fiscal Note  
 reports it back without recommendation  Zero Fiscal Note Attached

referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

Ramon Barnes  
Kim R. Lister  
James H. ...  
...  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

H. Maloe No Rec  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
H. L. ...  
\_\_\_\_\_

CHAIRMAN

POUCH V  
JUNEAU, ALASKA 99811  
465-4990  
P.O. Box 4-1325  
ANCHORAGE, ALASKA 99509  
248-1515



JR  
CHAIRMAN  
HOUSE JUDICIARY COMMITTEE  
MEMBER  
HOUSE RESOURCES COMMITTEE

## Representative Charlie Bussell

ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES

March 24, 1983

Robert J. Sinnett  
2001 Salem Court  
Anchorage, Alaska 99504

Dear Mr. Sinnett:

Thank you for taking the time to inform me of your support of HB 6 regarding driving a motor vehicle.

Representative Abood, HB 6's sponsor, is preparing some amendments to the bill. As soon as this has been completed, the House Judiciary Committee will be hearing the bill.

Again, thank you for your time and for becoming a part of the legislative process.

Sincerely,

A handwritten signature in black ink, appearing to be "C. Bussell", written over a circular stamp or mark.

Representative Charlie Bussell  
Chairman, Committee on Judiciary

CB:lyn



JR

3-19-83

Charlie Russell, Representative  
Pouch V  
Juneau, Alaska, 99811

Dear Mr. Russell,

This letter is to let you know that HB6 has my full support and I would demand that this bill be passed immediately.

I have lost one son to a wanton killer, a drinking driver and I want to prevent the same thing happening to my other two children and or to your wife, your children, if any, or to yourself.

You are in Juneau where the job has to be done prevention of future deaths of this nature rests with you.

Sincerely  
Robert J. Sennitt  
2001 Salem Court  
Anchorage, Alaska 99504

*Judiciary Referral*

2526 Arlington Drive  
Anchorage, AK 99503  
April 14, 1983



Mr. Charles Bussell, Chairman  
House Judiciary Committee  
State of Alaska  
Pouch V  
Juneau, Alaska 99811

Dear Mr. Bussell:

My son died on April 4, 1983, as a result of an auto accident caused by a drunken driver. I urge you to support the proposed new laws raising the drinking age from 19 to 21, and providing stiff penalties for persons convicted of drunken driving.

A drunk behind the wheel of a vehicle is a disaster waiting to happen and stiff penalties are needed to stop this. Drunk driving laws and penalties should be set up to follow laws related to carrying and/or using dangerous weapons. Penalties for causing injuries should be stricter than the laws governing illegal hunting and fishing; right now they are not.

Drunk drivers should be required to --

- (a) Permanently forfeit their vehicle upon the second conviction, or first conviction if another person is injured,
- (b) Pay fines big enough to cover the cost of alcohol treatment,
- (c) Have licenses revoked for a year or more.

Additionally, the laws should --

- (a) Provide minimum penalties to take some discretion away from judges, and
- (b) in the event of a death, jail terms should equal those which apply to murder.

At hearings conducted by Senator Fisher on April 9, 1983, impressive statistical evidence of the reduction in auto accidents associated with raising the legal drinking age to 21 was presented by Dr. Kelso. These data cannot be ignored and should be sufficient justification for raising the legal drinking age.

Concurrent with a stricter drunk driving law should be the provision of resources to the court system for judges and clerical staff, and for additional jail facilities. Better enforcement of the laws must be provided as a deterrent. One method for improving enforcement is use of roadblocks. This approach may require added State Troopers; if so, funds should be appropriated.

I am circulating this letter among a substantial number of friends and co-workers; some are residents of your election district. I plan to circulate your reply to them also.

Sincerely,

*Stuart G. Bigler*  
Stuart G. Bigler

HB 6  
JUDICIARY  
Referral

April 11, 1983

Representative Charlie Russell  
Alaska State Legislature  
Panel V (H.S. 3100)  
Juneau, AK 99811



Dear Representative Russell,

I work with Helma Seintz. Her letter (copy enclosed) amply states the love she has for her son Sean. If there was ever a young Alaskan with a future, Sean was he. But he's gone.

Please, now is the time to stop such senseless waste. Drunk driving is against the law. Why can't we enforce it? Why can't we commit enough to cause this to cease?

Would you please do what you can to support whatever bill you feel will prevent another tragedy as Helma's?

Sincerely,

Russell R. Cunningham, Jr.

2448 Sprucewood St  
Anchorage, AK 99508

## Drag racers and drunk drivers

Dear Editor:

My son is gone. Never again will he come through the front door and say "Hi Mom," nor will he even call me on the phone to see how I am.

He was run down by a car on one of Anchorage's busiest streets. He was hit with enough force to demolish his car which was impelled 300 feet from the initial point of impact. His near lifeless body had to be removed from the passenger side of the wreckage because access from the driver's side was impossible.

Fourteen hours after the accident my husband and I were taken into the operating room to see our child whose condition was so critical he could not be moved. I truly hope none of you will ever have to know the agony of holding your child's hand while being told there is no brain activity and literally no hope for him

to survive.

Night after night our streets are used as drag strips and raceways with little if anything being done to prevent it. If you drive in Anchorage after 9 p.m., you are taking your life in your own hands!

Until, and only until, the public outcry against this carnage perpetrated by drunk drivers reaches monolithic proportions and our legislators in Juneau react responsibly to enact adequate legislation, deaths like my son's will continue to happen.

Help me save the children I have left. Help save your children, your spouse — it can happen to you! Write your legislators and tell them you want tougher laws and most of all tell them you want them enforced. Join M.A.D.D. and get involved before you lose a loved one.

We are a close family. We

loved this child so deeply. The loss of our son, our brother, has left such an emptiness that we will never, ever be whole again.

I can only say the words aloud that my child is gone but my mind won't believe it. Every night I sit and wait for him to come home again. I love him so much.

Thelma Sinnett  
Anchorage  
Mother of Robert Sean Sinnett

## 'Stop the mayhem,' says Sen. Fischer

A public hearing on three drunk driving bills now awaiting action in the legislature is scheduled for Saturday morning at the Anchorage Assembly chambers at 3500 Tudor Road.

The meeting is scheduled to run from 9 a.m. to 4 p.m.

The hearings are being hosted by the State Senate Affairs Committee, which is chaired by Sen. Vic Fischer, D-Anchorage.

"We have got to act now to stop the mayhem being caused by drunk drivers in Alaska," Fischer said. "We must stop drunks from driving and drivers from drinking."

The three bills now pending before the senate committee are:

- Senate Bill 61 which would increase the penalties for those convicted of drunk driving and authorize confiscation of vehicles driven by drunks.

- House Bill 17 which would raise the legal drinking age in Alaska from 19 years to 21 years. This has already been approved by the House and is awaiting Senate action.

- Senate Bill 226 which would limit the driving hours for persons under 18 years old on weekends. This bill was introduced last week by Fischer, who said he did so because other states that have established such driving curfews have seen "dramatic decreases in the number of auto accidents involv-



VIC FISCHER

Says act now to end mayhem  
ing young people."

"In tackling drunk driving problems, the Senate State Affairs Committee will take a look at every possible measure that could be applied in Alaska," Fischer said. "No single, simplistic solution will eliminate the problem. We must carefully examine all potentially effective measures."

Fischer praised District Court Judge Elaine Andrews for her recent order to confiscate the car driven by a man who had five earlier drunken driving convictions and two license revocations.

"It's about time we took such drastic action," he said.

People who want to testify at Saturday's hearing should call the Anchorage Legislative Information Office at 278-2668.

A-8 The Anchorage Times, Friday, April 8, 1983

W A / E A T I M E S

Mrs. Dianne Cunningham  
7217 Foxridge Circle  
Anchorage, Alaska 99502

April 8, 1983

An Open Letter To: Senator Patrick Rodey  
Senator Arliss Sturgulewski  
Representative Charlie Bussell  
Representative John Lindauer



I'm a wife, mother and I'm M.A.D.D.!

In my 37 years I've lived all over the world and I can honestly say I have never lived anywhere where I've feared more for my life and the lives of my loved ones than I do in Anchorage.

Anchorage has few major arteries and many of the existing roadways are in extremely poor condition. Driving, even in good weather, is for the most part hazardous. Add to this the drunken driver and you've got a lethal situation.

Our first week in Anchorage my daughter and I were witness to the death of a woman at the hands of an inebriated lady driving a large van. She ran a red light at a high rate of speed and broadsided the victim who was driving a small foreign car. I understand the deceased woman had a young daughter who was orphaned by this incident.

Since that first week there seems to be at least one, often more, fatal accident every week. Most of them are alcohol related. I've noticed that many of the drunk drivers involved are awaiting trial on previous alcohol related charges.

On a daily basis the News lists the judgments meted out by our courts against the drunken driver. I am sickened by their light fines and even lighter jail sentences. Why aren't the penalties for this type of crime more prohibitive???

Were I to get drunk, shoot and kill a perfect stranger I would have committed a serious crime and would be punished accordingly (I trust). However, if I get drunk and run someone down with my car it's not a crime, it's an accident and I'll probably get no more than a "hand slapping". I can't see the difference. An innocent victim is dead because of my inability to control my own actions. A car is every bit as much a lethal weapon as a handgun!

My little girl is 11 years old, in 7th grade, a cheerleader, a member of the National Junior Honor Society and, in general, an outstanding little person with lots of potential. If current penalties are not toughened and drunk drivers made painfully aware that they will not be tolerated by society, I'm afraid my daughter will never get the chance to grow into the fine young woman she appears destined to become. I find that thought unbearable.

I feel certain that if our elected legislators don't soon do something to rectify this intolerable situation the people will get angry enough to elect others who will. The hazard is real and getting more serious daily. It demands prompt attention. )

Why do so many people have to die before our elected officials take this seriously? Drunk drivers commit violent crimes and kill many completely innocent people. Wake up, it may be your spouse or children next.

Thanks for listening.

Sincerely,

*Dianne Cunningham*

Mrs. Dianne Cunningham

CC: Governor Bill Sheffield  
M.A.D.D

JR

3/30/83, SHIRLEE ANC LIO, 4598

TO: REPRESENTATIVES RUSSELL, LISKA, HAYES, BARNES, MALONE,  
CLOCK SIN AND WENDTE

FROM: WILLIAM CASLER, 268 GRAND LARRY, ANCHORAGE 99504  
H 333-0272 W 274-2662

REQUEST YOU SUPPORT HOUSE BILL 6.

\*\*\*\*\*

JR



3/31/83, SHIRLEE ANC LIO, 4856

TO: ALL MEMBERS, ALASKA HOUSE OF REPRESENTATIVES

FROM: TOM FITZKE, 3840 PATRICIA LANE, ANCHORAGE 99504  
337-7335

I WAS HOPING THE HOUSE WOULD HAVE PASSED BY NOW SOME  
MEANINGFUL LEGISLATION DEALING WITH DRUNK DRIVING. AS  
PER THE LETTER TO THE EDITOR OF JUNE GERRISH, IT IS  
APPALLING THAT YOU HAVE PASSED NONE. HOW MANY MORE  
PEOPLE HAVE TO DIE ON OUR STREETS AND HIGHWAYS BECAUSE  
OF DRUNK DRIVING BEFORE SOMETHING IS DONE.

\*\*\*\*\*





MSG 93-00013391 PRY 1 03/07/83 16:26:27 ORIG: LR00 IN= 0010 OUT= 0092  
FROM: FLORENCE IN BARROW TO: JUNEAU INFORMATION  
TARGET: LJHL SUBJ: P.O.M.

-----  
TO: REPRESENTATIVES BUSSELL, LISKA, WENDTE, HAYES, BARNES, MALONE, CLOCKSIN

FROM: STEPHEN KRAJCIR  
BOX 689  
BARROW, ALASKA 99723  
852-3985 (HOME)



RE: HB 6

I SUPPORT PASSAGE OF THIS LEGISLATION.

\*\*\*\*\*  
3/7/83 FLORENCE, BARROW LIO 13391

03/23/83 12:55:44 ORIG. LF20 IN= 0001 OUT= 0050  
FROM LYNDIA/FRX TO JRU INFO  
TARGET LURL SUBJ: FOM

TO: REP ~~BOSSAULT~~, CH., WFE JUD

JR

FROM INGEBORG WILLEDA, 285 "C" ST., FBX. 09701 #456-7032

RE: HB 6, DRIVING A MOTOR VEHICLE

MSG: UNABLE TO UNDERSTAND WHY HEARING OF HOUSE BILL 6 WAS PUT OFF. PLEASE ADVISE WHEN YOU PLAN TO RESCHEDULE.

EQM

TO: ALL MEMBERS, ALASKA LEGISLATURE

FROM: THOMAS PITZKE, 3940 PATRICIA LANE, ANCHORAGE 99504 337-7335

I AM STRONGLY SUPPORTIVE OF TOUGHER DRUNK DRIVING LAWS. HOW MANY MORE HERMAN ANDREWS AND AGNES PASSANIMAS HAVE TO DIE BEFORE WE GET MUCH TOUGHER? ESPECIALLY BECAUSE THIS MAN HAD ALREADY HAD TWO PREVIOUS DWI'S IN LESS THAN A YEAR. HE WAS LAST ARRESTED FEBRUARY 11 THIS YEAR. IT'S SICKENING THAT A PERSON LIKE THAT IS ALLOWED OUT ON THE STREETS.

HB6  
JR

WARMEST REGARDS.

MSG 83-00007126 PRTY 1 02/09/83 09:30 45 ORIG: LJ04 IN= 0005 OUT= 0005  
FROM: SUE TO: JUNEAU  
TARGET: LJHL SUBJ: POH

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TO: ALL LEGISLATORS .

FROM: HANCY FAWTHROP  
119 SEWARD ST. RM. 9  
JUNEAU, ALASKA 99801  
586-6234

I SUPPORT HB 6.

COMM \*\*\*\*\*

REP. RUSSELL, GUY, HOUSE AND SENATE

GUY HACKETT, M.A.D.D., FILE SUBJECT DP, FR 22701 RA. 458 4610

OF HR 6 (88)

WHEN ARE HEARINGS SLATED ON THIS BILL? WILL THEY BE TELECONFERENCED.  
PLEASE LET ME KNOW IN TIME FOR A REPORT TO M.A.D.D. TUESDAY EVENING.

-----EOM

*Adana to Teleconfer.*

X



Judiciary  
Referral



District Court

State of Alaska

THIRD JUDICIAL DISTRICT

941 FOURTH AVENUE

ANCHORAGE, ALASKA

99501

March 31, 1983

CHAMBERS OF  
ELAINE ANDREWS, JUDGE

(907) 264-0663

Representative Charlie Bussell  
Chairman, House Judiciary Committee  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Representative Bussell:

I am writing to express some court related concerns over House Bill No. 6, a bill pertaining to criminal penalties for driving while intoxicated and driving while license suspended.

At the outset it is important to understand not only the intended impact of legislation that raises or establishes a mandatory minimum penalty, but also the predictable, but unintended, consequences. Certainly deterrence of the illegal conduct is a paramount goal. However, there are obstacles toward reaching that goal. Substantial mandatory minimum penalties can cause prosecutors to review cases more severely than they might otherwise, leading to reduced charging. Jurors, who quickly become educated in such matters, are reluctant to convict in cases where they know significant mandatory penalties will be imposed. Further, defendants who face loss of freedom, and financial security through loss of employment, will litigate these cases to the fullest, taxing the already understaffed prosecutorial and defense agencies, not to mention the court which is struggling to process the skyrocketing caseload.

Larger considerations aside, I discern several critical problems with the proposed legislation.

1. AS 28.15.181(c) - Driving While License Suspended Penalty Prerequisite

It will require significant time on behalf of the prosecutor and the court to obtain information about "essentially similar" past convictions. Hearings will have to be held to determine what is a "substantially similar" offense. I would

estimate that at least 10-20% of the cases which involve Alaska's highly transient population would require such hearings.

2. AS 28.15.291 - Driving While License Suspended Mandatory Penalties

(a) There are essentially two ways that a driver's license can be revoked. The first is a court ordered revocation or suspension. This occurs usually at sentencing after the defendant is convicted of reckless driving or driving while intoxicated. The judge personally advises the defendant that his license is revoked and that mandatory penalties will be imposed if he drives.

The second method of revocation is an administrative revocation which occurs if the defendant has accumulated too many points on his license or if he is the registered owner of a car involved in a property damage accident of at least \$500. These "administrative" suspensions are determined by hearing officers. Usually the driver is notified through the mail that his license will be suspended. The vast majority of administrative suspension charges coming before the court are due to the defendant's failure to comply with the SR-22 financial responsibility requirements.

Under the proposed legislation the type of suspension, whether court ordered or administrative is irrelevant. The defendants are treated as equally culpable. One defendant is likely a DWI offender who has been ordered not to drive. The other defendant may have a blameless record but be fiscally irresponsible as to a single accident. Mandatory minimum penalties may be wise as to the first offender but not as to the fiscally irresponsible offender. Financial responsibility should be approached through compulsory insurance or some more realistic and less costly avenue.

(b) Any kind of mandatory fine legislation is not a cost effective approach to punishment. Oftentimes the court and related enforcement agencies spend five or ten times the amount of the fine trying to collect it. If a person is arrested for failure to pay a fine and he agrees to pay the fine then the court must release the offender from custody. The "bench-warrant-release-for-payment" merry-go-round is a losing proposition. Fines should be left to the discretion of the court which can fashion other means, such as community service, to equally penalize indigent defendants.

(c) I assume that throughout the legislation language referring to "minimum sentence served" properly credits goodtime as required by statute.

3. AS 28.35.030(a)(2) - Chemical Tests

The language should be amended to reflect that the chemical test may be within four hours of the defendant's operation of the vehicle but that the test must show .10 or more at the time of operation. There have been a surprising number of cases in which the defendant claimed to be driving sober, slid off the road, walked to the bar, drank to intoxication and was arrested for DWI hours after the car was abandoned. The Municipality of Anchorage proposed a similar ordinance in the past and much litigation was generated over simiarly vague language.

4. AS 28.35.031 - Immediate Operator License Revocation

This proposed legislation creates absolutely nightmarish consequences for the court, prosecution and police. A court review to be scheduled within seven days of arrest would require the establishment of a sub-bureaucracy to coordinate court scheduling, witness subpoenas, proper notice to necessary parties, etc. The current court calendar could not accommodate such hearings. A new judicial officer, an in-court clerk to record proceedings, and clerical staff, not to mention hearing room, which we do not have, would be required.

5. AS 28.35.032(a)(b)(d)(g)

Does a person who refuses a breathalyzer test but agrees to a blood test, which would accomplish the same result, suffer the same consequences as the person who refuses all chemical tests?

6. AS 28.05.045 - Impoundment of Vehicles

A cursory review of the entire scheme of impound legislation suggest some problems in the proposed legislation.

What does impoundment of a vehicle accomplish that confiscation of license plates would not? An offender intent on driving will beg, borrow or otherwise obtain a car to drive. A borrowed car driven by a license-suspended driver is much more difficult to detect than a car driven down the road without license plates.

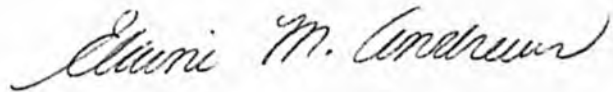
Although not directly a court concern, the problems of storage, insurance and potential civil liability for both proper and improper impoundment are enormous.

Court involvement in the proposed forfeiture legislation is significant. At minimum, in Anchorage, a judge and support staff would be required. Further the court is not the moving party in the forfeiture and therefore has no responsibility to ascertain parties who may have ownership or security interests in the vehicle in order to notify them of the forfeiture action. That burden is upon the prosecution.

My review of the legislation has been at best, brief. I urge you to carefully consider the total impact of the proposed legislation. The impact on the Anchorage district court, which is struggling to meet an increasing caseload, will be severe if this legislation is passed without adequate attention to the needs of the court which must faithfully and fully carry out the legislature's dictates.

I will be pleased to respond to any questions you may have and assist you in any manner you deem appropriate.

Sincerely,



Elaine Andrews  
Assistant Presiding Judge  
Anchorage District Court

EA:smh

cc: Chief Justice Edmond Burke  
Arthur H. Snowden, II  
Presiding Judge Mark Rowland

# Alaska Native Health Board

1689 C STREET, SUITE 230, ANCHORAGE ALASKA 99501

PHONE (907) 276 8989

Reference #A83-0335

March 29, 1983

Representative Charles Bussell  
Alaska State Legislature  
Pouch V (MS 3100)  
Juneau, Alaska 99811



Dear Representative Bussell:

The Alaska Native Health Board wishes to go on record as endorsing the following pieces of legislation proposed this session:

H.B. 6 "An Act Relating to Driving a Motor Vehicle"

The ANHB favors the inclusion of a section in the examination given to applicants for a driver's license to test the applicant's knowledge of the effects of alcohol and drugs on drivers, the dangers of driving under the influence of alcohol or drugs, and the applicant's knowledge of the laws relating to driving while intoxicated. The ANHB also favors stricter penalties for intoxicated while driving offenses and refusals to submit to chemical tests of breath.

H.B. 10 "An Act Relating to Imitation Controlled Substances"

The ANHB favors legislation which would make it unlawful for a person to manufacture, distribute, or possess with intent to distribute, an imitation controlled substance, except as provided in AS 17.14.040.

H.B. 17 "An Act Relating to Age Limit Under Title 4, Alcoholic Beverages"

The ANHB endorses restoration of the legal minimum age for drinking alcoholic beverages in Alaska to age 21.

Your consideration in supporting and insuring passage of the above legislation will be very much appreciated. Thank you in advance.

Sincerely,

*Bonnie Gabaldon*

Bonnie Gabaldon  
(Interim) Executive Director

BG:be

**WHILE YOU WERE AWAY**

FOR WYNDY DATE 9/14 TIME 1:45  A.M.  P.M.

M Rebecca Birch  
OF \_\_\_\_\_

PHONE \_\_\_\_\_ TELEPHONED  
AREA CODE NUMBER EXTENSION

MESSAGE 2200 RETURNED YOUR CALL  
motifs when HB 6 PLEASE CALL

is scheduled again WILL CALL AGAIN  
CAME TO SEE YOU

SIGNED \_\_\_\_\_ WANTS TO SEE YOU  
TOPS FORM 4002

TO: ALL LEGISLATORS

FR: ARNOLD PERRY  
GEN DEL  
WASILLA 99687

HB 6

FOR YOUR INFORMATION, THERE ARE THREE PEOPLE IN AN ANCHORAGE HOSPITAL THAT MAY NOT LIVE ALL BECAUSE OF ANOTHER DRUNK DRIVER. EACH AND EVERY ONE OF THESE INCIDENTS THAT INVOLVE A DRUNK DRIVER TAKES AWAY SOMEONE'S LOVED ONE. IT IS MY OPINION AND, I AM SURE THE OPINION OF EVERY OTHER ALASKAN RESIDENT, THAT IT IS WAY PAST TIME SOMETHING SHOULD BE DONE.

MSG 83-00010620 PRTY 1 04/20/83 19:10:33 ORIG: LM00 IN= 0012 OUT= 0199  
FROM: MARY/MATSU TO: JNU INFO  
TARGET: LJHL SUBJ: P.O.M.

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TO: ALL LEGISLATORS

FR: ALEX CONNORS  
P O BOX 3404  
PALMER 99645

PH: 376-4141

HB6

I STRONGLY SUPPORT THE LOBBYING EFFORTS AND THE EFFORTS IN GENERAL OF  
M.A.D.D. I STRONGLY ENCOURAGE YOU TO WORK ON LEGISLATION TO ELIMINATE  
DRUNK DRIVERS.



I. REQUEST

Bill/Resolution No.: CSHB 6 (Judiciary)  
 Title: "...driving a motor vehicle."  
 Sponsor: Judiciary Committee (Aboud-Orig.)  
 Requestor: House Finance Committee

II. FISCAL DETAIL

Agency Affected: Department of Law  
 Program Category Affected: General Govt.  
 BRU, Program of Subprogram(s) Affected: Legal Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		164.2	208.9	221.4	234.7	248.8
200 TRAVEL		10.0	10.6	11.2	11.9	12.6
300 CONTRACTUAL		20.4	23.8	25.2	26.7	28.3
400 COMMODITIES		12.4	7.6	8.1	8.6	9.1
500 EQUIPMENT		32.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	239.0	250.9	265.9	281.7	298.8
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	239.0	250.9	265.9	281.7	298.8
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	4	4	4	4	4
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not specified by sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard I. Pegues Director Phone: 465-3672  
 Division: Administrative Services Division Date: May 5, 1983  
 Approved by Commissioner: Norman C. Gorsuch, Attorney General Date: May 5, 1983  
 Department: Department of Law

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

CSHB 6 (Judiciary)  
Fiscal Note  
Analysis

The committee substitute has eliminated impoundment of vehicles and retained modified and less restrictive provisions for forfeiture of vehicles. Likewise, the requirement to notify every person who has an ownership or security interest in vehicle within five days has been changed to simply notice prior to any hearing that would determine the disposition of any forfeited vehicle. Because of these changes, the fiscal impact on the department will be reduced. The requirement for court forfeiture hearings, however, still remains and the state must provide motions and answer intervenors' motions in order to invoke forfeiture. Consequently, the department's original estimate of four attorneys, and two clerical staff is being reduced to two attorneys and two clerical staff.

Fiscal Analysis - CSHB 6

The impact of CSHB 6 is expected to result in the addition of one Attorney IV position (SR 24) and one Attorney III position (SR 22). In addition to these attorney positions, two secretarial positions will provide support for the Anchorage and Fairbanks attorneys.

The first year of this analysis will cover 10 months of FY 84, allowing 2 months for these four positions to be established. The costs beyond FY 84 have been projected on a 12 month basis and include a 6% annual inflation factor.

1st Year (10 months)

	ANCHORAGE		FAIRBANKS		TOTAL
	AIV	LSI	AIII	LSI	
Personal Services	56.2	24.5	56.2	27.3	164.2
Travel	5.0	-0-	5.0	-0-	10.0
Contractual	8.0	2.2	8.0	2.2	20.4
Commod. - ongoing	1.5	1.5	1.5	1.5	6.0
Commod. - single time	2.0	1.2	2.0	1.2	6.4
Equip. - single time	1.5	14.5	1.5	14.5	32.0
					<hr/>
					239.0

2nd Year (12 months + 6% annual inflation)

Personal Services	71.5	31.2	71.5	34.7	208.9
Travel	5.3	-0-	5.3	-0-	10.6
Contractual	9.1	2.8	9.1	2.8	23.8
Commodities	1.9	1.9	1.9	1.9	7.6
					<hr/>
					250.9



POSITION TITLE Legal Secretary I				RANGE/STEP 10B	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
TYPE OF POSITION PFT	STAFF MONTHS 10	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT	LEG.		

CONTINUATION LEVEL	ADDITION	
TYPE OF EXPENDITURE		AMOUNT
1	2	3
PERSONAL SERVICES		
Salary	1,817/month	18,170
Benefits		2,800
Supplemental Benefits		1,110
Fixed Benefits		2,400
TOTAL PERSONAL SERVICES	01	24,480
Travel	02	-0-
Contractual	03	2,200
Commodities	04	2,700
Equipment	05	14,500
Other		
TOTAL COST		43,880

JUSTIFICATION

This is the second of two attorney positions required by the Department of Law in order to absorb the significant increase in workload which will result from new legislation authorizing the forfeiture of motor vehicles driven by persons arrested for driving while intoxicated. The new legislation requires a court hearing when a forfeiture is contested by the vehicle owner, or by someone who has a financial interest in the vehicle. It is anticipated that many of these hearings will involve representatives from banks or financing companies who retain a financial interest in the vehicle.

RECEIPT CODE	FUNDING SOURCE	
	Federal Receipts 1002	
	G.F. Match 1003	
	General Funds 1004	43,880
	I-A Receipts 1005	
	Program Receipts 1028	
	Other	

FOR B&M USE ONLY  
4A KEY NUMBER \_\_\_\_\_

AGENCY DEPARTMENT OF LAW

PROGRAM GENERAL GOVERNMENT

BRU LEGAL SERVICES

COMPONENT LEGAL SERVICES OPERATIONS

**FY 84**

Page \_\_\_\_\_ of \_\_\_\_\_

Revised Date \_\_\_\_\_

**3 REQUEST FOR NEW POSITION**

POSITION TITLE  
Attorney III

RANGE/STEP  
22A

BARG. UNIT  
X

FORM 12 PAGE/LINE

GOV. APPRVD. DISAPP.

TYPE OF POSITION STAFF MONTHS RP NUMBER PCN NUMBER  
PFT 10

BRU PRIORITY

LOCATION  
Fairbanks

ELECTION DISTRICT

LEG.

CONTINUATION LEVEL ADDITION

JUSTIFICATION

TYPE OF EXPENDITURE AMOUNT

1 2 3

PERSONAL SERVICES

Salary	4,469/month	44,690	
Benefits		6,890	
Supplemental Benefits		2,240	
Fixed Benefits		2,400	
TOTAL PERSONAL SERVICES	01	56,220	
Travel	02	5,000	
Contractual	03	8,000	
Commodities	04	3,500	
Equipment	05	1,500	
Other			
TOTAL COST		74,220	

This is one of two secretary positions required to provide secretarial support for the two new attorney positions assigned to Anchorage and Fairbanks. This particular secretarial position will serve the needs of the new attorney assigned to Anchorage. Included in the duties of this position will be the responsibility of coordinating the activities of the Civil Division attorneys handling the forfeiture action with the attorneys and support staff of the criminal division who originally prosecuted the intoxicated operator of the motor vehicle.

RECEIPT CODE

FUNDING SOURCE

6.	Federal Receipts	1002	
7.	G.F. Match	1003	
8.	General Funds	1004	74,220
9.	I-A Receipts	1005	
0.	Program Receipts	1028	
1.	Other		

FOR B&M USE ONLY  
4A KEY NUMBER

AGENCY DEPARTMENT OF LAW

PROGRAM LEGAL SERVICES

BRU LEGAL SERVICES

COMPONENT LEGAL SERVICES OPERATIONS

FY 84

Page of

Revised Date

3 REQUEST FOR  
NEW POSITION

POSITION TITLE Legal Secretary I				RANGE/STEP 10B	DARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
TYPE OF POSITION PFT	STAFF MONTHS 10	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Fairbanks	ELECTION DISTRICT	LEC.		

CONTINUATION LEVEL.		ADDITION	
TYPE OF EXPENDITURE			AMOUNT
1	2	3	
PERSONAL SERVICES			
Salary	2,048/month	20,480	
Benefits		3,160	
Supplemental Benefits		1,260	
Fixed Benefits		2,400	
TOTAL PERSONAL SERVICES		01	27,300
Travel		02	-0-
Contractual		03	2,200
Commodities		04	2,700
Equipment		05	14,500
Other			
TOTAL COST			46,700

JUSTIFICATION

This is the second of two secretary positions required to provide secretarial support for the two new attorney positions assigned to Anchorage and Fairbanks. This particular secretarial position will serve the needs of the new attorney assigned to Fairbanks. Included in the duties of this position will be the responsibility of coordinating the activities of the Civil Division attorneys handling the forfeiture action with the attorneys and support staff of the criminal division who originally prosecuted the intoxicated operator of the motor vehicle.

RECEIPT CODE		FUNDING SOURCE	
5.		Federal Receipts	1002
7.		G.F. Match	1003
8.		General Funds	1004
9.		I-A Receipts	1005
0.		Program Receipts	1028
1.		Other	
			46,700

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4A KEY NUMBER \_\_\_\_\_

AGENCY DEPARTMENT OF LAW

PROGRAM LEGAL SERVICES

BRU LEGAL SERVICES

COMPONENT LEGAL SERVICES OPERATIONS

**FY 84**

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Revised Date \_\_\_\_\_

**3 REQUEST FOR  
NEW POSITION**

MSG 83-00012292 PRTY 1 04/26/83 14:02:26 ORIG: LA05 IN= 0001 OUT= 0786  
FROM: SHIRLEE, ANC INFO TO: POM, JUNEAU INFO  
TARGET: LJHL SURJ: P O H

TO: SENATORS V. FISCHER, JOSEPHSON, AND KELLY  
REPRESENTATIVES CLOCKSIN, UENLING, AND **BUSSELL**

JK

FROM: DUANE HENSON, 901 WEST 1ST AVENUE, ANC 99501  
279-4025 W 272-7344 H

THE STATE OF ALASKA GLEANS THE PROFITS FROM THE SALE OF ALCOHOL. THE STATE SHOULD ASSUME THE RESPONSIBILITY TO PROVIDE COMPENSATION TO THE SURVIVORS OF THE 'VICTIMS OF 'DRUNK DRIVERS'. LEGISLATION SHOULD BE INTRODUCED TO MANDATE AUTOMATIC PAYMENT OF \$ 500,000.00 TO THE HEIR/S OF THE VICTIM FROM THE STATE AS COMPENSATION.

\*\*\*\*\*

64

# Liquor store held liable for crash injuries

Associated Press

11/15/83 3-5-83

A liquor store that sells alcohol to a minor may be liable for injuries suffered by the minor even though the buyer broke the law by making the purchase, the Alaska Supreme Court has ruled.

The ruling came in a lawsuit filed by the estates of Randy

Hanson and Elizabeth Morris. The two minors were killed in an automobile crash on Dec. 31, 1977.

Hanson had bought a fifth of tequila at the Pines Liquor Store in Anchorage earlier that night. He shared the bottle with the four other minors in a car includ-

ing driver David Anderson.

Hanson and Morris were killed when Anderson made an illegal left turn and collided with another car, the Supreme Court noted.

The court said that under an Alaska statute in effect at the time but repealed in 1980, the liq-

uor store was responsible for injuries to customers served in violation of the law.

That Hanson broke the law by making the purchase and by later serving Anderson does not relieve the liquor store of liability, the court held.

HB  
6  
JR



## The constitutional breath test

By G. Kent Edwards

**OUR COURTS** are at it again! Creating more constitutional rights out of thin air. This time the air is the alcoholic breath of accused drunk drivers.

Judge Beverly Cutler and our appellate court have decided that the state should buy new breath-testing equipment capable of saving a sample of defendant's breath for possible future testing by the defendant. It seems that our current Breathalyzers don't have all the features that modern technology makes possible.

She thinks that the benefits of those additional features justify their acquisition. Judges Bryner, Singleton and Coats agreed. Of course, everyone is entitled to his opinion.

**UNFORTUNATELY,** the judges have characterized their opinion as being everyone's constitutional right, thereby depriving the other branches of our government from reaching their own opinions on the subject.

The decision has caused evidence in several hundred criminal cases to be suppressed. Not because the evidence was gathered illegally. Not because the evidence was unreliable. Not because the defendants were unable to cross-examine those who gathered the evidence. No, in the words of Judge Cutler, the evidence was suppressed "to remedy the careless disregard shown by prosecution to promptly fulfill the duties of investigating, developing, purchasing and implementing a breath sample saving system. The state and city should have done this immediately upon learning of the technology."

**HER COMPLAINT** is that the police did not take rapid enough steps to acquire necessary materials to enable the saving of defendant's breath for later testing by the defendant in the event the defendant wanted to have it tested. Alaska's Breathalyzer used up the entire sample in the course of the test.

The system Judge Cutler seemingly prefers isn't even foolproof. In fact, in the words of the court, it is a "proposed system" for which Alaska "lacks expertise" to use at this time. "It needs retesting with live subjects to assure its viability".

What so-called constitutional rights are being violated? The defendant's right to cross-examine "tests." Cross-examining the operator of the test apparently is not good enough! How could we have been so shortsighted for so many years? Machines don't talk, you say? Shows what little you know about the law and what can be done with a little extra "breath" in the hands of an aggressive, imaginative defense attorneys and judges.

**AS ONE MIGHT** expect in a decision this controversial, Judge Cutler had a difficult time determining whether she had in fact discovered a new constitutional right. First she said she did, but a few months later she decided that she had not, only to change her mind a second time. During this period she was receiving evidence as to such things as whether saving breath samples was technologically possible, the extent of its cost and the amount of effort being taken by government officials to improve the new system. Conflict-

ing evidence kept causing the scale to tip differently each time. Surely the existence or non-existence of our constitutional rights are not so precariously balanced.

Not too surprising, the courts' opinions were completely devoid of any finding that the taking and saving of a separate breath sample for use by a defendant has ever, even once, helped show that a defendant was not drunk or that it is probable that a second test would result in such a conclusion. But then, such things are not supposedly relevant when dealing with constitution rights.

It is one thing to save evidence favorable to the defendant; it is another to require that evidence be created for the defendant with equipment that doesn't exist in the state.

Where is the line to be drawn? Must all tests leave a part of the evidence unspoiled for subsequent viewing by defendant's experts? Cut a fiber in half before testing and give one to the defendants; otherwise, a mass murderer such as Atlanta's Wayne Williams goes free? Do not use chemicals on a crucial blood stain? Do not deplete all of the confiscated narcotic in a test to determine its identity?

Must police chemists be constantly on top of the latest advances in the state of the art of a particular testing apparatus? Are they now placed in a situation where, unless they have the most advanced systems for making tests without destroying all of the evidence being tested, they could be jeopardizing the prosecution of a criminal case?

If it doesn't make sense to you, don't worry; you are in good company.

*G. Kent Edwards was attorney general for the state of Alaska from 1968 to 1970. From 1971 to 1977 he was U.S. attorney for Alaska. Edwards, a Republican, is now in private practice.*

# Tough drunk driving bill clears House, 33-4

By The Associated Press

**JUNEAU**—The House on Thursday approved on a 33-4 vote a measure to substantially toughen the drunken driving laws in Alaska.

Rep. Mitch Abood, R-Anchorage, opened defense of his bill (HB6) by saying, "Politics has no place or home in this bill."

But it was politics as the proposed amendments—ranging from mandating alcohol rehabilitation to reducing the time a drunken driving conviction affects later convictions—were pressed by Assistant Minority Leader Don Clocksin, D-Anchorage.

Abood said he didn't want the issues addressed by the amendments in the bill because they would defeat the bill's purpose: to get the drunk drivers off the street.

While Clocksin's eight amendments were defeated, a fellow minority Democrat, Rep. Peter Goll of Haines, raised a question that may bring the issue back to the House floor today.

Goll and others pointed out the bill says that after one or more convictions a person could forfeit his vehicle. Goll said he was unsure if that was what was intended. Abood said the possibility of vehicle forfeiture would deter repeat offenders.

Other provisions of the bill would mandate more jail time and large monetary penalties for second and third drunk driving offenses.

A first-time offender also would lose license privileges for 30 days, and could have limited driving rights for 60 days. Current law allows a judge to give a limited license for 60 days, if the license isn't revoked for 30 days.

A second offense would mandate a one-year license revocation, while a third conviction would result in a 10-year license loss.

The first-time offender would have a minimum fine of at least \$



**REP. MITCH ABOOD**  
*Off the street*

second offense means a \$500 fine, and a third offense \$1,000. Current law mandates a maximum fine of \$1,000.

The measure follows current statutes of 72 hours jail time for a first offense, but increases from 10 to 29 days the time a person convicted for a second offense would have to spend in jail. A third offense mandates at least 30 days in jail.

But the recommendation must first be accepted by House Finance Chairman Al Adams, D-Kotzebue, and agreed to by the full Finance Committee.

Meanwhile, a letter of intent to be placed in the House-proposed operating budget mandates that the division look at cheaper alternatives to provide service.

The finance committee, at the urging of Rep. John Lindauer, R-Anchorage, earlier had deleted \$1.45 million from the telecommunications budget. Deputy Commissioner of Administration Julianna Guy told Rep. Jim Duncan, D-Juneau, that the action could have cut service to rural communities and possibly meant the end of the Alaska Television Project.

Duncan contended the cuts would have possibly sliced live programming, such as "Monday Night Football." Guy said the Legislature would have to decide which villages wouldn't have programming.

She said the state would have to seek lower tariffs charged by Alascom to plug the deficit and provide Alaska with television service. Duncan said that proposal would be com-

pleted if the act's tariffs are set by the Federal Communications Commission.



POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-4990

Alaska State Legislature  
HOUSE OF REPRESENTATIVES

REPRESENTATIVE  
CHARLIE BUSSELL  
CHAIRMAN

# Committee on Judiciary

May 2, 1983

Ms. June Gerrish  
MADD - Mothers Against Drunk Drivers  
5800 Glenn Highway  
Anchorage, Alaska 99504

Dear Ms. Gerrish:

The House Judiciary Committee passed HB 6, the "drunk driving" bill, out of Committee on Friday, April 29, 1983. I think it is an excellent and comprehensive item of legislation.

The Committee put considerable thought and effort into its creation and fine-tuning. Representative Mitch Abood's staff, the Committee staff, and the bill drafters for the Legislative Affairs Agency and the Department of Law worked very hard and diligently expending many long hours on this bill.

The Committee really appreciates the way the original sponsor, Rep. Abood of Anchorage, spent so much time working with the bill and with us. Rep. Abood testified before the Committee each time the bill was scheduled for hearing. He "rode herd" on the bill from its inception to the final product that passed out of the Committee.

I sincerely hope that this bill will not be substantially altered or amended in a way that weakens or destroys it.

The bill provides for seizure of a driver's license upon arrest as well as increased penalties upon conviction. While the minimum of 72 hours in jail is mandated for a first offense in keeping with the existing law, a second offense requires a minimum of no less than 20 days in jail and the third offense would result in at least 30 days in jail and a 10-year license revocation."

*Charlie - see page 457 "EMERITUS" Webster's New World dictionary - "retired from active service, USUALLY FOR AGE, But retaining one's rank or title"*

*I guess this is appropriate*

MEMBERS:  
REP. JOHN LISKA, VICE CHAIRMAN; REP. RAMONA BARNES, EMERITUS;  
REP. JOE HAYES; REP. HUGH MALONE; REP. DON CLOCKSIN; REP. BOB WENDTE

*Rep. Mitch Abood, ONIPILOT*

Ms. June Gerrish  
May 2, 1983  
Page No. ?

Fines based on the number of absence of prior convictions, carry mandatory minimums of \$250 for a first offense, \$500 for the second offense and not less than \$1,000 for a third offense. Courts will be required, under the proposed bill, to consider prior offenses over the preceding 15 years in this or another jurisdiction, rather than going back only five years under the existing law to find prior convictions.

The bill also maintains as a crime the refusal to submit to a chemical test following arrest, as does existing law, except penalties are more stringent under the new bill.

In addition, law enforcement officers are authorized to require a breath test on the spot when the driver is first stopped. Refusal to submit to a preliminary breath test, prior to arrest, is classed as an infraction in the measure.

The House Judiciary Committee moved HB 17, the bill to raise the drinking age to 21, on the House Finance Committee back in February. The Chief Prosecutor of the State, Dan Hickey, testified before that group and the Finance Committee Substitute substantially weakened the bill. One wonders if Mr. Hickey initiated the amendments to that bill.

It is known that HB 6, the so-called "drunk driving bill," was not classed as one of the Chief Prosecutor's priorities when we were waiting for suggestions from the Department of Law. It is to be hoped that HB 6 will receive swift action in the House Finance Committee and not be weakened in the same manner HB 17 was. In fact, one wonders who is running the apparently leaderless Department of Law during this part of the Sheffield administration.

The Governor, after all, during his campaign told folks he was in favor of raising the drinking age to 21. Recently, he said he was not in favor of this. A crystal ball would be helpful, maybe, to see what his views are on driving while intoxicated.

Very truly yours,

Representative Charlie Bussell  
Chairman, Committee on Judiciary

CB:lyn