

ALPHA INSTANT COMMUNICATIONS CORPORATION
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FACTS ON ALCOHOL AND HIGHWAY SAFETY

The Problem

Overview:

Drunk driving continues to be one of our nation's most serious public health and safety problems. Some 50 percent of all drivers killed each year have blood alcohol concentrations in excess of the legal limit, 0.10 percent. In single vehicle fatal crashes, where it is more certain who is at fault, upwards of 65 percent of those drivers who die were legally drunk. Over the past 10 years, the proportion of highway deaths involving alcohol has averaged a tragic 25,000 per year. Thus, a staggering one quarter of a million Americans have lost their lives in alcohol-related crashes in the last decade.

The cost of drunk driving has a high economic cost to this country as well. A conservative estimate of the total economic cost of drunk driving is put at 24 billion.

Alcohol and Crashes:

Alcohol is a major contributing factor to fatal (and serious injury) automobile crashes. According to a 1978 review of the literature, approximately 60 percent of fatal crashes involved a driver who had been drinking. Between 40 and 55 percent of such crashes involved a driver who had a blood alcohol concentration (BAC) greater than .10 percent (w/v).

With regard to alcohol and responsibility for fatal crashes, the drinking driver problem is even more significant. In one study drivers judged to be at fault in fatal crashes were six times more likely to have had BAC's greater than .10 percent (w/v) alcohol in their blood than drivers judged not at fault for their crashes (60 percent vs. 10 percent).

This strong relationship between crash responsibility and high alcohol levels is shown further in single vehicle crashes, where responsibility is apparent, and where between 60 and 75 percent (60-75%) of dead drivers have BACs greater than .10 percent (w/v).

The Driver Population:

What the high BAC figures in crashes suggest is that the majority of alcohol related fatal crashes are caused by heavy (problem) drinkers. Some portion of the approximately 15 percent of fatal crashes which involve drivers who have been drinking, but who do not have BACs greater than .10 percent, may be caused by less heavy, less chronic, "social" drinkers.

The majority of drivers are either abstainers or light to moderate (social) drinkers. Even quite liberal estimates suggest that only about 10 to 15 percent of the nation's drivers would be classified as being heavy (problem) drinkers.

Arrested Drunk Drivers:

The average proportion of licenses drivers arrested for drunk driving over a one-year period is estimated to be one percent (1%). This translates to approximately 1.3 million of approximately 130 million licensed drivers.

On a nightly basis, between one in five hundred (1/500) and one in two thousand (1/2000) drivers on the road with a BAC greater than .10 percent (w/v) are arrested for drunk driving. These estimates come from a number of roadside surveys conducted in conjunction with the Alcohol Safety Action Projects (ASAPs) funded by the NHTSA in the 1970's and from the Grand Rapids data reported by Borkenstein and others.

The average BAC of these drinking drivers is approximately .20 percent, double the level for presumed intoxication. Estimating an average period of alcohol consumption at 4-5 hours, this means that the average fatally injured drinking driver had about 15 drinks prior to becoming involved in the crash.

Blood Alcohol and Body Weight

KNOW YOUR LIMITS

CHART FOR RESPONSIBLE PEOPLE WHO MAY SOMETIMES DRIVE AFTER DRINKING!

APPROXIMATE BLOOD ALCOHOL PERCENTAGE

Drinks	Body Weight in Pounds								
	100	120	140	160	180	200	220	240	
1	.04	.03	.03	.02	.02	.02	.02	.02	Influenced Rarely
2	.08	.06	.06	.04	.04	.04	.03	.03	
3	.11	.08	.08	.06	.05	.05	.04	.04	
4	.15	.12	.11	.08	.07	.07	.06	.05	
5	.19	.16	.15	.12	.11	.10	.09	.08	
6	.23	.19	.18	.14	.13	.11	.10	.09	
7	.28	.22	.21	.16	.15	.13	.12	.11	
8	.30	.25	.24	.19	.17	.15	.14	.13	Definitely
9	.34	.28	.27	.21	.19	.17	.15	.14	
10	.38	.31	.29	.23	.21	.19	.17	.16	

Substrate .01% for each 60 minutes of drinking
One drink is 1 oz. of 100 proof liquor, 12 oz. of beer, or 4 oz. of table wine.

SUREST POLICY IS ... DON'T DRIVE AFTER DRINKING!

Past Approaches and Current Activities

Federal Action:

Over the last 12 years, the National Highway Traffic Safety Administration (NHTSA), an Agency within the U.S. Department of Transportation, has worked with the States to reduce alcohol related deaths on the highway. NHTSA initiated 35 Alcohol Safety Action Projects (ASAPs) throughout the country from 1971-1976 which resulted in the development of a coordinated systematic approach to deal with drunk driving.

In 12 of the 35 ASAPs, a statistically significant reduction in fatal crashes at night was achieved. Individual projects were able to double, and even triple driving while intoxicated arrests, using such new technology as roadside breath testing. Court procedures were streamlined to handle large caseloads. Roughly a quarter-of-a-million drinking drivers were referred for treatment.

Before the passage of the Highway Safety Act of 1966, few States specified a presumptive level of driving while intoxicated. The Federal standard for alcohol safety prescribed the 0.10 percent blood level that legally defines the legal intoxication limit. Now all the States have laws defining driving under the influence at the 0.10 percent level. The majority of the States now have made some improvements in their law enforcement, court, rehabilitation, and educational efforts.

State Action

Under the Section 402 grant program established by the Highway Safety Act the States are increasing the proportion of funds allocated to alcohol programs. In FY 1982 approximately 35 percent of 402 funds (\$27.8 of 78.6 million) were allocated to drunk driving programs (with an added 30 percent spent on alcohol enforcement activities under Police Traffic Services).

Responding to citizen interest, 21 States and a number of local jurisdictions have established special drunk driving task forces to revitalize State/local programs.

Fifteen States have raised the minimum legal drinking age to reduce alcohol related crashes among youth. Other States such as Maryland have introduced legislation to raise the drinking age during 1982.

Sixteen States have adopted statutes allowing preliminary roadside breath testing to assist officers in establishing probable cause for drunk driving arrests.

Twenty-one States have established illegal per se statutes designed to simplify and streamline the prosecution of drunk drivers by making it illegal simply to operate a motor vehicle with an illegal blood alcohol concentration (above 0.10%).

Ninety-seventh Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Monday, the twenty-fifth day of January, one thousand nine hundred and eighty-two

Joint Resolution

To provide for the designation of the week of December 12, 1982, through December 18, 1982, as "National Drunk and Drugged Driving Awareness Week".

Whereas traffic accidents cause more violent deaths in the United States than any other cause, over fifty thousand in 1980;

Whereas traffic accidents also play a substantial role in serious injuries in this country;

Whereas between 40 and 55 per centum of drivers who are fatally injured have alcohol concentrations in their blood above the legal limit and this figure rises to 55 to 65 per centum in single vehicle crashes;

Whereas the total societal cost of drunk driving has been estimated anywhere from \$5,000,000,000 to \$25,000,000,000 a year, which does not include the human suffering that cannot be measured;

Whereas there are increasing reports of driving after drug use and accidents involving drivers who have used marijuana or other illegal drugs;

Whereas more research is needed on the effects of drugs on driving ability and their impact on the incidence of traffic accidents, either alone or in combination with alcohol;

Whereas an increased public awareness of the gravity of the problem of drugged driving may warn drug users to refrain from driving and may stimulate interest in increased research on the effects of drugs on driving ability and the incidence of traffic accidents;

Whereas the public, particularly through the work of citizens groups such as Mothers Against Drunk Driving (MADD) and Remove Intoxicated Drivers (RID), is demanding a solution to the problem of drunk driving;

Whereas the President has appointed a Commission on Drunk Driving to heighten public awareness and stimulate the pursuit of solutions;

Whereas many States have appointed task forces to examine the existing drunk driving program and make recommendations for a renewed, comprehensive approach;

Whereas an increase in the national awareness of the problem of drunk and drugged driving may help to sustain current efforts to develop comprehensive solutions at the State and local levels; and

Whereas the Christmas and New Year's holiday period, with more drivers on the roads and an increased number of social functions, is a particularly appropriate time to focus national attention on this critical problem: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of December 12, 1982, through December 18, 1982, is designated as "National Drunk and Drugged Driving Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate activities.

Speaker of the House of Representatives

*Vice President of the United States and
President of the Senate*

DRUNK DRIVING FACTS

- o A blood alcohol concentration (BAC) of .10 percent or greater is the level at which a driver is considered legally intoxicated in most states.
- o Approximately 55 percent of fatal crashes involve a driver who has been drinking.
- o In single vehicle crashes, where responsibility is apparent, between 60 and 75 percent of dead drivers have BACs greater than .10 percent.
- o The average BAC of drivers arrested for drunk driving is approximately .20 percent, double the level for presumed intoxication.
- o Over the past 10 years, the proportion of highway deaths involving alcohol has averaged 25,000 per year; one quarter of a million Americans have lost their lives in alcohol-related crashes in the last decade.
- o A conservative estimate of the total economic cost of drunk driving is put at between five and six billion dollars a year.

Post 12/30/82

Nation's War on Drunk Driving

Is Paying Off in a Big Way

States Pass Tougher Laws, Step Up Their Enforcement

By Howard Kurtz
Washington Post Staff Writer

From Maine, where tougher penalties have cut the number of car accidents by 41 percent, to Florida, where 30 fewer people are dying each month on the highways, a nationwide campaign is making unprecedented progress against drunken driving.

For the first time in many holiday seasons, the dominant news is not the usual increase in highway deaths, but increasingly successful new laws and enforcement efforts to keep drunk

drivers off the road. In the most aggressive jurisdictions, including the Washington area, fewer people are dying in auto accidents.

Legislatures in 18 states, including Maryland and Virginia, passed tougher drunk driving laws this year, and similar bills are pending in 14 states. Maryland and New Jersey joined 23 other states in raising their drinking age to 21 for most alcoholic beverages, reversing the trend of the early 1970s toward a lower drinking age.

A growing number of states are resorting to mandatory jail terms, stiffer fines, more frequent arrests and highway checkpoints. Congress recently voted to provide \$125 million in grants to states that act aggressively against drunken drivers.

See DRIVING, A6, Col. 3

Anti-Drunk-Driving Effort Gains

DRIVING, From A1

The crackdown has not been as successful in some places. Minnesota officials, for example, say most offenders know the police do not have enough manpower to arrest more than one drunken driver in 300. Fatalities in California, which initially dropped by 42 percent after stricter penalties were adopted last January, have rebounded almost to 1981 levels.

There were 49,125 traffic deaths in the United States last year, about half related to alcohol. The effort to reduce these casualties has been spurred by the friends and relatives of accident victims and citizens' groups such as Mothers Against Drunk Driving.

Arizona legislators needed no such prodding. They voted overwhelmingly for stricter penalties after one of their colleagues, Sister Clare Dunn, 46, and another nun were killed by a drunken driver. Around the same time, a drunken man in Arizona crashed into a car full of boy scouts, killing several.

Since July, a first conviction for drunken driving in Arizona has cost a minimum of 24 hours in jail, a \$250 fine and a 90-day license suspension. A second offense carries at least a 60-day jail term, and a third conviction can bring as much as 2½ years in prison.

In Maine, half of last year's traffic deaths were rural, single-car crashes, which state police spokesman Kirk Moore described as "a person driving down the road and banging into a tree." Four-fifths of the victims had been drinking, and half were men in their twenties.

The state legislature responded in September 1981 by setting a minimum \$250 fine and a 45-day license suspension for a first drunken driving offense. If criminal charges are filed, it is at least 48 hours in jail. Refusal to take an alcohol test is punished by a six-month license suspension.

The result: 150 people have been killed in highway crashes this year, compared with 199 in the same period last year.

"It's a very tight law," Moore said. "People have to be prosecuted. You can't plea bargain down to reckless driving. There haven't been more arrests, so it's really the deterrence of the law. People are now thinking twice about having that extra drink."

Maine police have compiled a profile of the typical driver involved in a fatal accident: a single or divorced man in his 20s, a heavy beer drinker, driving an older-model car sometime after 10 p.m. on weekends.

Florida now requires first offenders to perform 50 hours of community service, sometimes in hospital emergency rooms where many accident victims are taken. Along with a 50-percent increase in arrests, these penalties have helped reduce this year's traffic deaths by 12 percent to 2,659, or 371 fewer than in 1981.

Maryland, which recently stopped 1,500 drivers during the first weekend of "sobriety checkpoints," has been the most aggressive enforcer of drunken driving laws. Its police expect to make 32,000 arrests this year for driving while intoxicated, compared with 15,575 in 1980.

While traffic deaths not related to drinking have decreased by only 3 to 4 percent from last year in Maryland, alcohol-related deaths have dropped 29 percent to bring the state's highway death toll down to its lowest level in 19 years. "We know in our hearts and in our statistical books that the crackdown in Maryland is really working," said state police spokesman Bill Clark.

The problem in Minnesota was that a driver whose license was revoked was allowed to stay on the road for a month or more as his case dragged on through appeals. Under a law passed this year, the offender's license is now revoked within seven days.

But public safety official Forst Lowery says the odds are still against the police. "Say a dog brings 300 of his friends into a room, they all dirty the carpet and we only punish one," Lowery said. "We have to make many more arrests before a deterrent is established."

Some officials say the key element is the certainty of punishment. New York, for example, has no mandatory jail term for drunken driving, but a new law requires judges to impose a \$350 fine and revoke the offender's license for six months. Fatal night crashes in New York are down 17 percent.

"You can't plead to speeding or bald tires or something anymore," said Marcus Salm, New York's assistant director of highway safety. "We had a lot of guys who would say, 'Look, if you charge me with drunken driving, my wife will leave me and I'll lose my job, and besides, I've got a good lawyer.'"

Still, Salm acknowledged, "There are ways of getting around the mandatory penalties. Judges don't like being told what to do, and they sometimes react by telling the state what to do. They can throw the case out."

Under congressional legislation sponsored by Rep. Michael D. Barnes (D-Md.), each state that makes drunken driving controls a priority is now eligible for an additional 50 percent of its federal highway safety grant. To qualify, a state must take such steps as raising the drinking age to 21, eliminating plea bargaining, setting up highway checkpoints and using preliminary breath tests.

A presidential commission recently urged the states to adopt similar measures. One recommendation, already in effect in many places, is to use a blood alcohol content of .10 as the legal standard of intoxication. For a 160-pound person, this would mean drinking either five beers, five glasses of wine or three shots of whiskey in an hour.

The commission also suggested that money collected in fines be given back to local authorities to finance enforcement and education programs. This is already being done in New York, where Salm said it provides a powerful incentive for county police to join the crackdown.

Staff researcher Carin Pratt contributed to this report.

Washington Area's War on Drunk Driving Pays Off in a Big Way

Area Traffic Deaths Drop; Arrests Are on Increase

By Blaine Harden
Washington Post Staff Writer

The highly publicized war against drunk driving—waged this past year by mothers, lawmakers, judges, juries and the police—has racked up impressive victories in the Washington area.

Highway deaths in 1982 declined in Virginia, Maryland and the District of Columbia, where laws against driving under the influence of alcohol were toughened. At the same time, arrests of drunk drivers have increased sharply.

In the District this year, 36 people—the lowest figure in at least a decade—had died in traffic accidents as of Tuesday. Alcohol-related deaths in Maryland fell 30 percent while arrests of drunk drivers were up 50 percent. Highway deaths in Virginia declined 14 percent.

During Christmas weekend, as police in all three jurisdictions beefed up patrols, there was one alcohol-related death in the Washington area, compared to seven over the 1981 Christmas weekend.

"The word is out. We are out there to get people and as a result we have reduced fatalities," says Robert M. Goldstein, director of the D.C. police alcohol countermeasures and traffic services.

See ALCOHOL, A7, Col. 1

ALCOHOL, From A1

Throughout the Washington area, there may never have been such a bad year to be drunk at the wheel.

In Northern Virginia, a drunk driver involved in a head-on collision that killed three persons was convicted in September of second-degree murder. The conviction was the first in the state on that serious charge in an alcohol-related traffic case.

In Maryland, a drunk driver involved in a crash that killed five members of a Montgomery County family was sentenced to 15 years in prison.

In the District, police began a first-in-the-nation mandatory breath test for all drivers stopped for moving violations. Any driver who refuses the test can be arrested.

Despite tough new laws and aggressive enforcement, some drivers continue to drink and drive. John T. Hanna, director of the Virginia Department of Transportation Safety, says only one in 2,000 drunk drivers is ever caught. One such driver slipped through the enforcement net last weekend in the Washington area.

Donald W. Jewell, 33, who ran an insect exterminating business, threw a party at his Manassas house on the night before Christmas Eve. Friends who saw him at the party described him as drunk and "having a hard time talking."

In the middle of the party, Jewell stormed outside and drove off in his black 1979 Chevrolet pickup truck. He headed south at 70 miles an hour on a 55-mile-an-hour, two-lane road, police said.

Jewell had a record of drinking and bad driving. In California in 1969 he was convicted of driving under the influence of alcohol. Near Hodges, S.C., in 1975 he ran a stop light and crashed into a car, killing three persons. A blood-alcohol test showed that Jewell was under the influence of alcohol at the time. He was convicted of involuntary manslaughter and sentenced to six years in prison.

Four years later, after he'd moved north to Mathews, Va., Jewell was convicted of breaking and entering and sentenced to five years in prison. From prison, Jewell wrote Circuit

Court Judge John DeHardit: "I am an alcoholic and I need and want help with this so I can be a man. I also know that if I don't get help with my drinking I will be back in prison."

About 10:30 p.m. a week ago today, Jewell lost control of his pickup rounding a curve. Police said Jewell tried to pull his truck back on the road but it went into a roll, taking up both lanes of Rte. 234 near Manassas. It stopped rolling when it smashed into a pickup coming from the opposite direction.

"He had the whole highway covered. It looked like a wall coming at me. It scared the daylights out of me. I'm still scared," William E. Parker Jr., 39, the driver of the other pickup, said yesterday.

Parker, who escaped with a strained back from the crash that totaled his pickup said he was lucky.

"When I knew anything, he was rolling at me. If I hadn't got in the ditch, he'd a killed me too," Parker said.

GENERAL VIEW OF WHAT A MEDICAL EXAMINER called "multiple severe injuries."

To head off this kind of driver before an accident can occur, police in Maryland set up "sobriety roadblocks" over the Christmas weekend, and plan to do so again this weekend.

Under a three-month program authorized earlier this month by Maryland Gov. Harry Hughes, the roadblocks are set up to catch drunk drivers who "absolutely don't think they can be caught," said Sgt. Ray Cotton.

"State Police stopped 2,000 cars over the weekend and we arrested four drivers," Cotton said. "We don't consider this a defeat, however. We are making believers out of people. The fact that we aren't arresting that many people is a sign that awareness of drunk driving is working."

In Montgomery County, along a flare-brightened stretch of Montgomery Village Avenue, county police on one recent holiday night checked an estimated 350 drivers between 11 p.m. and 1 a.m. They arrested no one.

"I don't think anybody had visions of locking up hordes of people," said Sgt. Owen J. Lennon, surveying the line of backed-up holiday travelers. "This is primarily a deterrent."

The mood on both sides of the spot check remained friendly. Police officers asked drivers if they had had anything to drink, then told those who said "no" or "just one" to "get home safely and thank you for cooperating."

As the night grew later and colder, some officers became impatient.

One policeman asked a glamorously dressed young woman to pull off the road for a test. "Recite the alphabet," she was told.

"Are you serious? That's what I get for being honest with you guys and telling you I had two drinks," she said, shivering in her strapless, sequined top, and then passed the test.

Maryland police say they can do little about those drivers who choose to avoid roadblocks by turning around and driving away from them.

"As a general rule," says Sgt. Cotton, "we would not approach an individual who turns around from a checkpoint, unless he does it illegally."

When area police do arrest someone for drunk driving, new laws require stiffer penalties.

In the District, persons arrested with blood alcohol levels at 0.1 percent or higher can now be convicted of driving while intoxicated even without evidence of impaired driving ability. The law doubles penalties for those who refuse to take breath or blood tests and sharply increases fines for repeat drunk-driving offenders.

In Maryland, where the drinking age this year was raised from 18 to 21, second offenders no longer can avoid conviction by receiving probation. Blood tests are mandatory in fatal accidents, and police can confiscate for 120 days the license plates of any repeat drunk driver.

In Virginia, first offenders can no longer erase their convictions by entering a rehabilitation program. Second offenders face an automatic 48 hours in jail, and a third conviction requires a minimum of one month in jail and possibly lifetime revocation of a driver's license.

The target of this crackdown is drunk driving, not drunks. Accordingly, two local governments, one hospital and one volunteer group have come up with programs that permit tipplers to ride home—in a cab—for free.

Montgomery County's Dial-a-Ride program fielded 50 calls and sent out 45 cabs on Christmas Day. The big night, however, will be New Year's Eve when 400 calls and 300 pick-ups are expected, according to Jerry Freed at Dial-a-Ride.

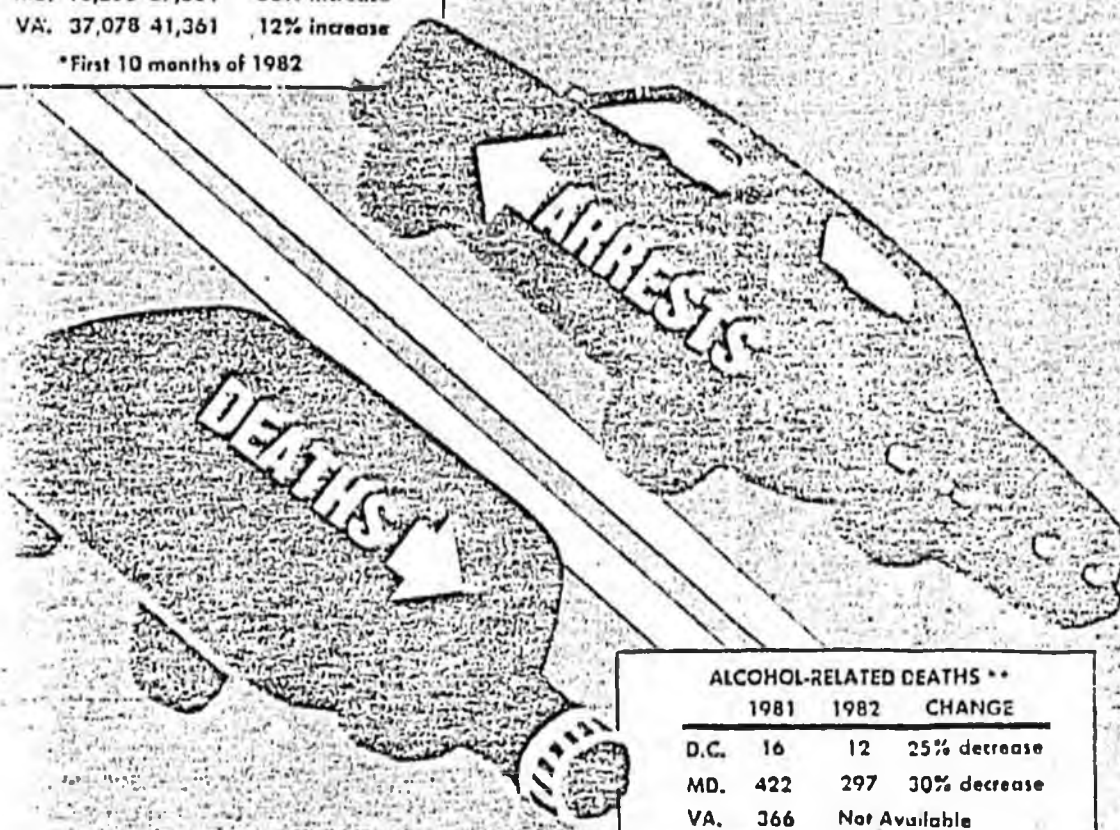
"We get people trying to make reservations before they go out and drink too much," Freed said. "We make them aware it's for people already in trouble."

Staff writers—Alma Guillermoprieto, Rosa Michnya and Joanne Ostrow contributed to this report.

CRACKDOWN ON DRUNK DRIVING

ARRESTS *			
	1981	1982	CHANGE
D.C.	2,690	3,061	14% increase
MD.	18,253	27,351	50% increase
VA.	37,078	41,361	12% increase

* First 10 months of 1982



ALCOHOL-RELATED DEATHS **			
	1981	1982	CHANGE
D.C.	16	12	25% decrease
MD.	422	297	30% decrease
VA.	366	Not Available	

** Through 12/28/82



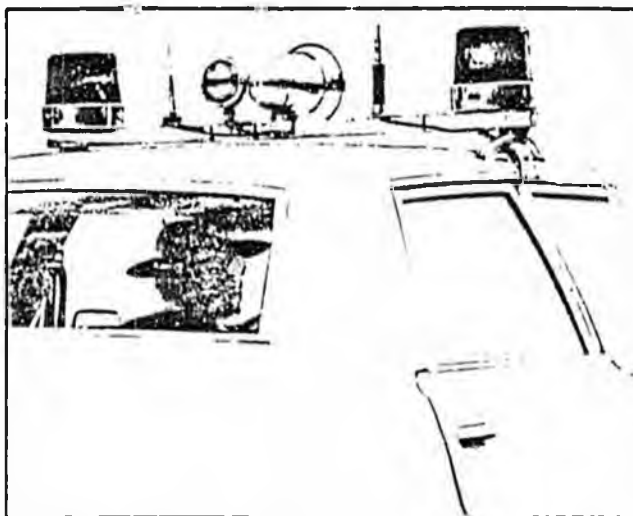
In order for a tougher drunk driving law to accomplish its purpose, it must not merely punish those arrested, it must deter those who might otherwise drive after drinking. Therefore public service advertising and news media coverage of new laws is extremely important. In Iowa, the Governor's Highway Safety Office hired an advertising agency to create a TV spot on the new law. That 30-second message, which is included in the ACAP video documentary, shows a young man in a small room. He begins talking to the camera:

"When they stopped me for drunk driving I thought 'No Big Deal.' It was my first time. Well, I lost my driver's license right then and there — gone for at least 120 days. And my insurance company says my rates are going to go up a thousand dollars a year. That's gonna hurt, bad. And now I'm here . . .

The camera pulls back to reveal that the man talking is actually behind bars.

" . . . for 48 hours. Iowa's new drunk driving law is for real, and it's tough, even if it's your first time."

The exposure given this spot by Iowa's TV stations has insured that virtually every motorist is aware of the new law.



Administrative License Revocation for Drunk Driving

Recommendation for legislative action

by the American Council on Alcohol Problems

Administrative Revocation for Drunk Driving

Public indignation continues to grow. Citizens have made it clear to lawmakers and public officials that they are no longer willing to tolerate the highway carnage caused by drunk drivers.

In 1982 this grass roots sentiment, widely expressed across the country, resulted in the appointment of the Presidential Commission on Drunk Driving. The Commission's interim report was issued in December 1982 so that states could act on its recommendations during 1983 legislative sessions.

Those recommendations cover a wide range of topics, including changes in state drunk driving laws. The Commission recommends enactment of a "per se offense" at .10% BAC, and a presumption of guilt at .08% BAC. It also supports raising the drinking age to 21 and adopting a system for administrative revocation of drivers' licenses.

Other recommendations pertain to minimum jail sentences and legal sanctions against drunk driving. Legal penalties, however, require county attorneys willing to prosecute and judges willing to hand down the sentences mandated by the legislatures. Unfortunately, some county attorneys grant deferred prosecution, allowing those apprehended by police to continue driving. Those who are tried and convicted, or who plead guilty, are often given deferred sentences by the judge.

In all but a handful of states, drivers' licenses are only suspended or revoked after court conviction, so those charged with drunk driving may keep their licenses for months after being apprehended. One of the Presidential Commission's recommendations addresses that problem.

Administrative Revocation, pioneered in Minnesota in 1976 and adopted by Iowa in 1982, means that the driver's license is confiscated by the arresting officer on behalf of the Department of Transportation. Hearing officers are empowered to grant work permits in some cases. Under the "implied consent" portion of the law, licenses are revoked for refusal to take the chemical test, as well as for test failure.

Under this "two-track" system the loss of driving privilege extends to all those apprehended with a blood alcohol level of .10%, regardless of court action or lack of it. Administrative Revocation accomplishes the most important task in the fight against drunk driving. It takes drunk drivers off the road immediately, and serves as a strong deterrent to others.

Because, in almost every state, prosecution and sentencing vary considerably from one county to another, Administrative Revocation is the only predictable penalty for drunk driving. The American Council on Alcohol Problems has produced an 18-minute video tape documentary on Administrative Revocation in Iowa. Below are quotations from the video presentation:

"By the time that bill reached the floor of the House it was pretty clear from sentiment in the Capitol that they had to vote out something. They had to do something in the way of legislation on drunk driving that year because of the clear public sentiment favoring that, and the national trend in that direction. . . . There was massive bipartisan sentiment. The first vote in the House was 97-0, and the first vote in the Senate was 45-0."

Don Mason, Attorney
Prosecuting Attorney's Counsel

"I think that the administrative revocation of a drivers' license for all persons above .10 BAC is extremely important. . . . I think it puts the responsibility for putting people back out on the road back where it belongs — that's back with the state agencies. Since they do the issuing of driver's licenses, they should be responsible for who's out on the road. That's not really a judicial responsibility."

Sven Sterner
Governor's Highway Safety Office

"This is the first time in the history of this ASAP program that people have actually, realistically lost their drivers' licenses when they were arrested for OMVI. . . . We're the ones that initiate the revocation. We take the license right on the spot."

Roger Sanders, Patrolman
Alcohol Safety Action Program
Des Moines Police Department

"In the four and a half months since the law took effect there have been 5,685 drivers' licenses revoked in Iowa."

Bill Kendall, Director
Driver Licensing, DOT

"In the first four months that this law has been on the books there have been 59 fewer alcohol-related fatalities. . . . In that period there were 189 total highway fatalities — 29% of that 189 were alcohol-related. Over the same period a year ago, that percentage was 46%. . . . The sanctions that are applied generally — the fine, community service, some hours in jail — do not carry the deterrent effect on the drinking driver that the sure, immediate loss of their license has."

Gordon Sweitzer, Director
Motor Vehicle Division, DOT

"The one advantage we do have in the acronym game in Iowa with MADD and SALD is that we have GLADD. Now we have Good Laws Against the Drunken Driver."

Col. Frank Metzger, Director
Iowa Highway Patrol

To order a copy of the video tape documentary on Administrative Revocation, complete the order form below and mail to the American Council on Alcohol Problems.

Please send me a copy of the ACAP video documentary on Administrative Revocation.

Check video format:

- 3/4-inch "U-Matic" cassette
 1/2-inch "Beta" cassette
 1/2-inch "VHS" cassette

I've enclosed remittance for:

- two-week rental (\$10.00)
 Purchase of cassette (\$50.00)

Mail to:

American Council on Alcohol Problems
2908 Patricia Drive
Des Moines, IA 50322

name

address

city

state

zip

States take tougher, quicker action to stop drunken drivers

On-the-spot suspension of licenses, more uniform laws bolster efforts across US

By George B. Merry

Staff writer of The Christian Science Monitor

Boston

Thousands of drunken drivers are now being pulled off the nation's highways — and with fewer questions asked.

• Lawmakers in at least 35 states passed tough new penalty or enforcement measures in 1982.

• Similar or even stricter statutes are pending, or expected to be filed, within the next few weeks in all but three states — Kansas, Kentucky, and Maine.

Particular attention is being focused on recommendations by the President's Commission on Drunk Driving, calling for speedier action. These include provisions that can be administered uniformly around the nation. Penalties currently vary widely from region to region, thus leading many judges and juries to refrain from punishing drunken drivers.

One especially appealing approach involves on-the-spot suspension of drivers' licenses by police. Four states — three in the past year and a half — have moved with considerable success in on-the-spot license revocation of those stopped for driving under the influence of liquor.

Similar instant tough drunk driver measures begin April 1 in a fifth state, and lawmakers in at least four others are considering following suit with the administrative revocation approach, one of the major recommendations of the presidential commission.

buoyed by the sharp reduction of liquor-related traffic deaths in his home state of Iowa, William N. Plymat, a member of the presidential

With administrative revocation, the driver retains the right to appeal, but during that often lengthy process the suspension holds.

panel, which was appointed last spring, is dedicating substantial energies to selling the idea elsewhere.

The retired insurance executive and former Republican state senator views the threat of immediate, lengthy suspension of a motorist's right to operate a vehicle as an effective curb on drunk driving.

Under the tough Iowa statute, first implemented last July 1, an arresting officer can seize a license if the driver refuses to take a breath test on the scene, or flunks it by having a blood alcohol content of 0.10 percent or more.

Revocation is 120 days for first offenders, 240 days for a second arrest, and one year for third. Also provided are tougher penalties for drunk driving — \$100 fines and the possibility of 30 days in jail now become up to \$1,000 and one year behind bars.

With administrative revocation, the driver retains the right to appeal the loss of his license, but during that often lengthy judicial process the suspension holds. In hardship cases, temporary permits to operate a vehicle to and from work can be granted, but even stiffer penalties are imposed should the motorist be picked up for drunk driving during the period of revocation.

The new law, during its first six months, cost 7,887 drivers their licenses — 6,383 for four months, 1,077 for eight months, and 427 for a full year, according to James Fellers, the driving improvements manager for Iowa's department of transportation.

During the same period, Iowa's liquor-related road death total was 97, or 59 fewer than during the corresponding period in 1981.

While a number of factors, including faster treatment and improved care of traffic accident victims, contributed to the improvement, state transportation safety officials attribute the better record substantially to the tougher curbs on drunk driving.

Of the 7,887 license-revoked drivers, 6,693 took the breath test and failed, with an average blood alcohol count of 0.19 percent. The level of intoxication of the remaining 1,194 is unknown, since they refused to submit to the test.

Similar on-site administrative revocations of licenses also appear to be working effectively in Minnesota, Delaware and West Virginia. Oklahoma drunk drivers, beginning in April, will be the next to face on-the-spot license suspensions for not less than 90 days.

Mr. Plymat, who pledges to continue his crusade in behalf of such measures, is enthusiastic about the prospects for early passage in Utah, where Gov. Scott M. Matheson solidly backs the effort.

Within the past few days a proposed administrative revocation law has been introduced into the California Assembly. Legislative committees in at least two other states — Alaska and North Carolina — also are expected to take up such measures during the next few weeks.

Several papers in Iowa, including the Cedar Rapids Gazette, regularly print the names and addresses of those whose licenses are revoked for drunk driving. Arrests for operating a motor vehicle under the influence of liquor similarly are publicized in a number of other dailies around the US, including the St. Louis Globe Democrat, Plymat notes.

Learning from Iowa

The Monitor's view Thursday, January 27, 1983

For years, states and municipalities have tried just about every legal stratagem to help curb the drunken driving problem in the United States. Yet in many communities judges and juries are loath to impose severe penalties, in part because of a recognition that the drinking driver is often as not in need of special counseling. Now, thanks to the experience of a few states, it is clear that there is one step that could be taken at the state level to quickly reduce liquor-related traffic accidents: swift administrative license revocation — right at the scene of the arrest.

Minnesota pioneered administrative revocation in 1976. Today similar laws are on the books in Iowa, West Virginia, and Delaware. Oklahoma will join the list later this spring. Utah is now considering such a measure. Alaska, California, and North Carolina are also expected to take up the issue this year.

How does it work? Take Iowa, where such a law was enacted after unanimous passage in both houses of the legislature last year. Persons stopped for suspected drunken driving are asked to take a sobriety test on the spot. If they refuse, they face a substantial penalty. If they take the test, and fail, their license is suspended right then and there. Revocation for first offenders is 120 days; for second offenders, 240 days; for subsequent offenders, one year. The driver has the right to appeal the loss of the license or contest the administering of the sobriety test. But during the period of appeal the suspension remains in effect. Exceptions are made for revocation in cases of extreme hardship.

In the six months since the law has been in place in Iowa, close to 8,000 persons have had their licenses suspended for varying periods

of time. In the great majority of cases, blood alcohol readings were found to be especially high, indicating that law-enforcement authorities were not abusing their right to stop a motorist for a sobriety check. It might also be noted that the alcohol-related accident rate fell sharply during the same period.

The President's Commission on Drunk Driving endorsed such a proposal in its interim report. The issue is not one of severely penalizing the drinking driver. Indeed, what is good about the revocation concept is that it is uniform, applying equally to all motorists. Under such a law, no motorist apprehended for drinking in one locality would face a punishment more — or less — severe than a motorist in another jurisdiction. The law also puts the responsibility back where it belongs in the hands of each motorist.

State legislatures meeting this year might well consider Iowa's experience.

POSITION PAPER

SCSCS for House Bill No. 6 (Judiciary)

"An Act relating to driving a motor vehicle."

House Bill No. 6 amended would increase the penalties for alcohol related driving offenses. Specifically:

Section 11 AS 28.15.291 sets the penalty for first offense driving with a suspended license as the result of a conviction of driving a motor vehicle while intoxicated at 30 days. The penalty for second or third offense driving with a suspended license as the result of a conviction of driving a motor vehicle while intoxicated would be 90 days.

Section 14 AS 28.35.030 (c) raises the penalty for second offense operating a motor vehicle while intoxicated to 20 consecutive days. The penalty for a third conviction would be raised to 30 consecutive days.

Section 20 AS 28.35.032 (g) sets the penalty for second offense of refusing to submit to chemical test at 20 days; third offense 30 days.

If CS for House Bill No. 6 is enacted, the increases in penalties set out in Sections 11, 14, and 20 would result in the need for 22 additional minimum security beds.

Recommended by:

Walter B. Enderl for
Roger V. Enderl, Director
Division of Adult Corrections

Date:

June 7, 1983

Approved by:

Robert London Smith
Robert London Smith, Ph.D.
Commissioner

Date:

6/9/83

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: SCSCSHB 6 (Jud.)
Title: Act relating to driving a m.v.
Sponsor: Judiciary Committee
Requestor: Finance Committee

II. FISCAL DETAIL

Agency Affected: Health & Social Services
Program Category Affected: Justice
BRU, Program of Subprogram(s) Affected: Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES				419.7	444.9	471.6
200 TRAVEL		2.0	2.1	2.2	2.4	2.5
300 CONTRACTUAL		39.6	42.0	76.7	81.3	86.2
400 COMMODITIES		68.6	72.7	80.7	85.6	90.7
500 EQUIPMENT		-	-	4.5	-	-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC		6.9	7.3	7.7	8.2	8.7
TOTAL OPERATING	-0-	117.1	124.1	591.5	622.4	659.7
CAPITAL	-0-	2,860.0	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	2,977.1	124.1	591.5	622.4	659.7
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	9	9	9
PART-TIME						
TEMPORARY						

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

The source of funds to offset the fiscal impact of this bill has not been identified by the sponsor

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange
Division: Adult Corrections

Phone: 465-3376
Date: June 7, 1983

Approved by Commissioner: Robert London Smith, M.D.
Department: Health & Social Services

Date: 6/9/83

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)

3/8/83

IV. ANALYSIS:

A. Assumptions

1. Bed Impact

The passage of this bill will result in the need for 22 additional minimum security beds within the Alaska correctional system. The sections of the bill which affect increased inmate population projections are:

a. Section 11

Statistics furnished by the Department of Public Safety show 181 persons were convicted in 1982 for driving with a suspended or revoked license where the original offense resulting in the loss of license was driving while intoxicated (DWI) or implied consent (refusal to take a breathalyzer test). For purposes of this fiscal note, that number was used for calculating the increased person days of incarceration resulting from increased sentences to 30 or 90 days. It was assumed that 80% of the offenders would have been convicted only once in the previous 15 years and 20% convicted more than once in the previous 15 years.

The following calculations also consider that the offender would have been given a minimum sentence of 10 days previously, and it is assumed that every offender will earn all good time for which they are eligible. Therefore, 145 offenders would serve an additional 15 days and 36 offenders would serve an additional 60 days. This results in the need for an additional 11.88 beds.

b. Section 14

This section of the bill increases the minimum sentence for second time drunk drivers from 10 days to 20 days and third and subsequent time drunk drivers from 10 days to 30 days. It is estimated that would be 450 repeat offenders affected by this legislation, 425 second offenders and 25 third offenders. The additional sentence length to be served, assuming all good time will be earned is 12 days for second time offenders and 20 days for third offenders. This increased sentence length results in the need for 9 additional minimum security beds.

c. Section 20

This section provides new penalties for refusal to take a chemical test similar to the sentences to be imposed for driving while intoxicated. Statistical data for this offense was not available. Therefore, it was assumed that 20 individuals would be convicted with one

prior and 7 individuals would be convicted with 2 or more prior offenses. This would result in the need for 1.1 additional beds.

- d. The summary of a, b, and c above is 21.98 beds, which were rounded to 22 beds.
2. All persons convicted would receive the minimum sentence and all persons would earn all good time for which they would be eligible.
3. Inflation of 6% per year was used for the entire period of the fiscal note.
4. The new beds would not be available for occupancy until July 1, 1985. This will result in further overcrowding of the existing facilities for two years.
5. One additional position is needed for every 2.5 prison beds. Therefore, 9 correctional officers are needed to provide the security and supervision of the inmates. These positions would be requested for FY 86.

B. Program Summary:

1. Positions

- 1 - Correctional Officer III
- 8 - Correctional Officer II's

These positions are needed to provide for the security of the institution where the beds will be constructed and for the supervision of the additional 22 persons (full-time equivalents) within the Alaska corrections system.

2. Other Expenditures

The fiscal impact will be experienced as soon as the bill becomes law. Therefore, the incremental costs directly related to inmate care are identified in FY 84. Position costs and costs related to building operations are not included until FY 86.

- a. Travel - \$2000. Inmate transportation to point of arrest when released from custody.
- b. Contractual - \$39,600. Medical expenses for 22 full-time equivalent inmates at \$1800 per inmate per year.
- c. Commodities - \$69,600. Food, clothing, bedding, etc. for 8,085 inmate days at \$8.48 per day.

Grants - \$6,900. Inmate gratuities paid for persons working in the kitchen, or janitorial/maintenance crews, etc.

e. Capital Expenditures

22 beds @ \$130,000 per bed = \$2,860,000

D. Economic Impact:

Passage of this bill should not significantly impact the State's economy.

E. Impact on Local Governments:

There would be no fiscal impact on local governments unless they changed local ordinances related to DWI to include the same penalties contained in this bill. The fiscal impact would occur for local government units who contract with the State for the care of prisoners for local offenses.

POSITION TITLE Correctional Officer II (8)				RANGE/STEP 13/8	BARG. UNIT G	FORM 12	PAGE/LINE	GOV.	AFRAC	DISAPT.
TYPE OF POSITION PFT	STAFF MONTHS 96	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT		LEG.		

CONTINUATION LEVEL	ADDITION	
TYPE OF EXPENDITURE		AMOUNT
1	2	3
PERSONAL SERVICES		
5. Salary	223,608	OT 26,968
6. Benefits	69,167	Shift Diff.
7. Supplemental Benefits	15,857	8,088
8. Fixed Benefits	25,888	
9. TOTAL PERSONAL SERVICES	01	369,576
10. Travel	02	
11. Contractual	03	
12. Commodities	04	1,600
13. Equipment	05	4,000
14. Other		
15. TOTAL COST		375,176

JUSTIFICATION

These positions will provide security coverage for the minimum security beds resulting from enactment of CS for House Bill No. 6 (Judiciary).

Single position costs:

Salary	\$27,951
Overtime	3,371
Shift Diff.	1,011
Benefits	13,864
	\$46,197

RECEIPT CODE	FUNDING SOURCE	
16.	Federal Receipts 1002	
17.	G.F. Match 1003	
18.	General Funds 1004	375,176
19.	I-A Receipts 1005	
20.	Program Receipts 1020	
21.	Other	

FOR DSM USE ONLY
4A KEY NUMBER _____

13 REQUEST FOR
NEW POSITION

AGENCY Corrections
Offender Confinement, Reformation,
& Supervision

PROGRAM _____

BRU Adult Confinement

COMPONENT _____

FY 84

Page _____ of _____
 Revised Date _____

1.	POSITION TITLE Correctional Officer III			RANGE/STEP 15/A	BARG. UNIT G	FORM 12 PAGE/LINE	COV.	APPROV.	DISC.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.	

3.	CONTINUATION LEVEL	X	ADDITION	
4.	TYPE OF EXPENDITURE		AMOUNT	
	1	2	3	
	PERSONAL SERVICES			
5.	Salary	30,944	OT \$ 3371	
6.	Benefits	9,446	Shift Diff. \$ 1011	
7.	Supplemental Benefits	2,165		
8.	Fixed Benefits	3,236		
9.	TOTAL PERSONAL SERVICES	01	50,173	
10.	Travel	02		
11.	Contractual	03		
12.	Commodities	04	200	
13.	Equipment	05	500	
14.	Other			
15.	TOTAL COST		50,873	

JUSTIFICATION

These positions will provide supervision of security staff for the new minimum security beds resulting from the passage of CS for House Bill No. 6 (Judiciary).

Single position costs:

Salary	\$ 30,944
Overtime	3,371
Shift Diff.	1,011
Benefits	14,847
	\$ 50,173

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	50,873
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

FOR BSM USE ONLY
4A KEY NUMBER _____

13 REQUEST FOR
NEW POSITION

AGENCY Corrections
Offender Confinement, Reformation,
PROGRAM & Supervision

BRU Adult Confinement

COMPONENT _____

Page _____ of _____
Revised Date _____

FY 84

ANALYSIS OF C.S.H.B. 6

There are several provisions within this bill which will require a substantial increase in the attorney time necessary to handle DWI and refusal of breathalyzer cases.

First, the increase in mandatory minimum penalties for second and subsequent offenders to 20 and 30 days respectively, as well as the increase in fines, will mean that a much higher number of defendants will exercise their right to a jury trial. Preparation for jury trial requires extensive interviews with the client and prospective witnesses, and the court time for the case is greatly increased, since a DWI change of plea in court may take 15 minutes while a jury trial in such a case usually lasts 1 - 2 days. We handle a high volume of not only State prosecuted DWI's but Municipally prosecuted DWI's as well. This increase in attorney time necessary for handling each drunk-driving case, given our already staggering misdemeanor caseloads, will require two additional attorneys for the Anchorage office, and one for the Fairbanks office.

Second, a drastic increase to a 90-day mandatory penalty for a first offender charged with driving with a suspended license will increase the number of jury trials which this office is required to handle.

Third, provisions in the statute which allow a police officer upon probable cause to seize the defendant's driver's license or impound his vehicle for a substantial period of time at the time of arrest will also require increased attorney time, due to the defendant's right to schedule a court hearing within 7 days to obtain return of his license or vehicle. Although the defendant may not have a right to an attorney to handle the hearing which he initiates to have his car or license returned, he will need an attorney's assistance at that hearing to the extent that it impacts his criminal case. Because anything that the defendant might say at that hearing regarding the facts of his case could be used against him at the subsequent criminal trial, he would need the assistance of counsel at that hearing. The attorney would have to obtain the immunity which would be due the client under the Alaska Supreme Court decision of McCracken v. Corey, as well as limit the scope of cross-examination at the hearing.

Because of the volume of DWI cases handled by this agency and the substantially increased attorney time necessary to comply with the provisions of the Statute, two additional attorneys for Anchorage and one for Fairbanks are requested.

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: HB6/SB61
 Title: Drunk Driving
 Sponsor: _____
 Requestor: _____

II. FISCAL DETAIL

Agency Affected: Alaska Court System
 Program Category Affected: Admin. of Justice
 BRU, Program of Subprogram(s) Affected: Trial Courts

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		482.8	614.2	651.1	690.2	731.6
200 TRAVEL						
300 CONTRACTUAL		12.5	15.9	16.9	17.9	19.0
400 COMMODITIES		12.5	15.9	16.9	17.9	19.0
500 EQUIPMENT		31.2				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		539.0	646.0	684.9	726.0	769.6
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		539.0	646.0	684.9	726.0	769.6
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		12	12	12	12	12
PART-TIME						
TEMPORARY						

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

IV. ANALYSIS: Attach a separate page for an Analysis

Prepared By: Richard Barrier *[Signature]* Phone: 264-0545
 Division: Alaska Court System/Administration Date: 4/13/83
 Approved by Commissioner: _____ Date: _____
 Department: _____

Distribution:

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 Copy to Office of Management and Budget (for Legislature introduced bills)
 Copy to Department (for Governor introduced bills)
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3/8/83

ANALYSIS OF FISCAL IMPACT OF SB 61/HB 6:

The Court System currently disposes of approximately 6,000 DWI cases each year. Presently, 8.6% of these cases are disposed of at trial, or approximately 500 trials per year. This legislation will increase the number of cases proceeding to trial, since individuals faced with stiffer penalties and forfeiture of motor vehicles will be more likely to take their cases to trial than to plead guilty as they have in the past. Assuming that 5% of those individuals presently pleading guilty opted for a trial under the new statutes, the Court System would experience an increase of approximately 250 trials per year.

This legislation provides that individuals issued temporary licenses upon arrest on DWI have seven days in which to schedule a court hearing regarding extension of their temporary license. If 25% of the individuals charged with DWI ask the court for this seven day hearing, the court would experience an increase of approximately 1,500 hearings per year.

Once a motor vehicle has been forfeited to the state, the court must notice any interested party regarding this forfeiture and permit interested parties to submit a petition for remission of interest in the motor vehicle. Each petition filed will require a court hearing. It is estimated that this would lead to approximately 500 hearings per year.

Statewide, the major impact of this legislation would be an increase of approximately 250 DWI trials and 2,000 hearings per year. Along with the judicial manpower required to conduct the trials and hearings, the court needs supporting staff for the judges and clerical staff to process the case files, calendar and notice the participants in hearings, and perform other new clerical functions under this legislation related to impoundment of vehicles and forfeiture of vehicles.

The impact of this legislation will be felt in each court location in the state, though the major impact will be in the larger metropolitan areas. Both Anchorage and Fairbanks currently have a heavy caseload of DWI cases, with Anchorage reporting approximately 30% of the state's caseload and Fairbanks 25% of the caseload. In each of these locations the district courts are working at capacity, and would therefore need increased resources to handle the projected number of new trials and hearings to be held under this legislation. In each location, the minimal staffing required to implement this legislation would be one district court judge, with a support staff of a secretary and in-court clerk, and two court clerk II positions in the criminal sections to deal with the new clerical demands created by this legislation.

In addition to Anchorage and Fairbanks, both Palmer and Kenai have significant DWI caseloads, with each having nearly 10% of

the state's caseload. While these courts may be able to get by without additional judicial resources, each would need at a minimum one additional court clerk II position.

A detailed breakdown of the cost associated with this legislation is provided below.

FY 84 COST OF IMPLEMENTING HB 6/SB 61

PERSONAL SERVICES:

SALARIES:

ANCHORAGE

District Court Judge	\$ 60,600
Secretary (Range 12B)	23,352
In-Court Clerk (Range 12B)	23,352
Court Clerk II (2 @ Range 10B)	41,424

FAIRBANKS

District Court Judge	69,084
Secretary (Range 12B)	26,616
In-Court Clerk (Range 12B)	26,616
Court Clerk II (2 @ Range 10B)	46,706

PALMER

Court Clerk II (Range 10B)	21,384
----------------------------	--------

KENAI

Court Clerk II (Range 10B)	<u>21,984</u>
----------------------------	---------------

\$361,118

BENEFITS:

Judges	139,659
Classified	<u>78,582</u>

Total Personal Services 579,359

CONTRACTUAL 15,000

COMMODITIES 15,000

EQUIPMENT (one time costs) 31,200

TOTAL COST \$640,559

FIRST YEAR ADJUSTMENT:

Less two months recruitment time (101,560)

TOTAL COST FIRST YEAR \$538,999

(Subsequent years' costs include inflation at 6%.)

AMENDED TITLE & SPONSOR SUMMARY
AMENDED TITLE:
AN ACT RELATING TO DRIVING A MOTOR VEHICLE

08:21 3/02/83 PAGE 1 OF 2

PRIME SPONSOR: ABOOD.
CO-SPONSORS: FURNACE, LINDAUER, COWDERY, SZYMANSKI, PESTINGER, BETTISWORTH,
CATO, UEHLING.
CURRENT STATUS: 2/28/83 IN (H) JUDICIARY

HE 6 HOUSE ACTION
DATE SEQ PAGE

08:21 3/02/83 PAGE 2 OF 2

LEGISLATIVE ACTION

01/17/83	01	0018	FIRST READING -- COMMITTEE REPORTS
02/28/83	02	0361	S.A. -- CS04, NR02, OTHER01
02/28/83	03	0361	S.A. F/NOTE HSE SUPPL #17 JUDICIARY RULES

**

**

SPONSOR: House Judiciary
 (leg) non-leg pub hear work sess inv hear
 SUBJECT: HB 6 Alaska
 MAILING ADDRESS: _____

DATE TON/BY Wh - 3/18
 T/C DATE/DAY Wed. March 23
 TIME: 7-9 PACIFIC
 _____ YUKON
5-7 ALASKA
 _____ BERING

PHONE 4990 CONTACT Athena

SITES PARTICIPATING:

- | | | | | |
|--|--|--|--|--|
| <u>North Slope</u>
Anaktuvuk Pass
* Barrow
Kaktovik
Point Hope
Wainwright | <u>NANA</u>
Ambler
* Kotzebue
Noorvik
Selawik

<u>Norton Sound</u>
Gambell
Hooper Bay
* Nome
Savoonga
Shishmaref
** Unalakleet | <u>Bristol Bay</u>
<u>Aleutians</u>
* Bethel
* Dillingham
St. Paul
Sand Point
** Unalaska

<u>Interior</u>
* Delta Junction
* Fairbanks
** Fort Yukon
Galena | <u>South Central</u>
* <u>Anchorage</u>
Homer
* Kenai (Sol)
* Kodiak
* Mat-Su
Seward
* Valdez | <u>Southeast</u>
Cordova
Haines
Hoonah
* Juneau
* Ketchikan
* Petersburg
* Sitka
Wrangell
Yakutat |
|--|--|--|--|--|

Chairing Site/Person Pen Bussell Special Offnet _____
 Location/Phone# _____

 Signature of Sponsor/Contact Person Pen Bussell Date 3/18/83

-----TELECONFERENCE OFFICE USE ONLY-----

2-Wire 4-Wire _____
 Bridges: #1 (206)447-0620
 #2 (206)447-1534
 #3 (206)447-5027
 #4 (206)447-9479
 Bridge operator (800)426-3232
 JNU trouble #'s 580-062
 460-3836
 Publicity:
 _____ Local calls/list attached
 _____ Media/P.S./.. attached
 Can expect:
 _____ Longday back-up
 _____ Bill summary
 _____ Participants list

POST TELECONFERENCE NOTES

Site/Date: _____
 Local Moderator _____
 T/C Started: _____ T/C Ended _____
 T/C Recorded: _____
 Testified/Participated: _____
 Unable to Testify: _____
 Observers: _____
 Total Number: _____

POSITION PAPER

CS for House Bill No. 6 (State Affairs)

"An Act relating to driving a motor vehicle."

House Bill No. 6 amends existing state law by increasing the length of sentence for first offense of driving with license suspended from 10 days to 90 days; second offense of operating a motor vehicle while intoxicated from 10 days to 20 days; third offense of operating a motor vehicle while intoxicated from 10 days to 30 days. It is estimated that the net effect of increasing the penalties for the specified offenses would increase the prison population by 80 beds.

Enactment of this bill would have significant impact upon prison population.

Recommended by:

Roger V. Endell

Roger V. Endell, Director
Division of Adult Corrections

Date:

3/11/83

Approved by:

Robert London Smith

Robert London Smith, Ph.D.
Commissioner

Date:

3/14/83

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Page 1 of 2

Bill No: Committee Substitute HB 6 (SA) Date on Bill: Not available
 Title: "An Act relating to driving a motor vehicle."
 Sponsor: Rep. Abood
 Requestor: Rep. Abood

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
Capital		11,570.0	-0-	-0-		
Operating		549.2	2,006.4	2116.1		
Total	-0-	12,119.2	2,006.4	2116.1		

b. Revenues:

Revenue	-0-	-0-	-0-	-0-		
---------	-----	-----	-----	-----	--	--

2. Source of funds to offset fiscal impact of bill:

The funding source has not been identified by the bill sponsor.

3. Assumptions:

The Committee Substitute for House Bill No. 6 increases the mandating jail time for individuals who drive while the operator's license is cancelled, suspended, or revoked. The amendment increases the sentence for that offense from 14 consecutive days to 90 consecutive days.

It is estimated based on statistical data available, that there would be approximately 650 convictions annually for the offenses specified in the amendment. Because of the significant increase in sentence length, it is assumed that 25% of the current offenders would be deterred from driving while their license was cancelled,

Prepared By: Roger C. Lange *Roger C. Lange* Phone: 465-3376
 Division: Adult Corrections Date: Feb. 24, 1983

Approved by Commissioner: Robert London Smith Date: 2/24/83
 Department: _____

5. Distribution:

- Original to Legislative Finance
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page 2 of 2

3. Assumptions: (continued)

suspended or revoked. Therefore, it would be anticipated that there 487 persons would be convicted of this offense annually.

The current sentence for these offenses results in 8 days served in jail (14 days less good time). Under the new penalty 68 days would be served (90 days less good time). Time served would increase 60 days; therefore, the increased number of beds required to implement this amendment would be:

$$487 \text{ persons} \times 60 \text{ days} \div 365 \text{ days per year}$$

$$487 \times 60 \div 365 = 80 \text{ new beds}$$

Cost of minimum security beds are estimated to be \$130,000 per bed.

$$\text{Capital costs} = 80 \times \$130,000 = \$10,400,000$$

Additional costs for commodities, contractual services, and inmate gratuities only are included for FY 1984, as the construction could not be reasonably completed until July 1984. At that time, personnel services costs would start for 36 positions.

Costs previously identified for the original bill have been combined with the new costs identified, and are reflected in the total estimated costs.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

(7)

COMMITTEE REPORT

2/28

HOUSE

1/17/83

FURTHER JUDICIARY

Date: 2/25/83

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 6

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 State Affairs HB6(SA) same title
and recommend: do pass new title

[] AND attaches a "Letter of Intent" ~~Zero~~ Fiscal Note Sup 17
 Zero Fiscal Note Attached

[] reports it back without recommendation

[] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Steve Wood
Mr. M. Wille
John A. Cavallari
Walt Furnace

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Anthony Koska No Rec
Ronald J. Farnsworth - Do Pass if
Dick Smith Amended!
No Rec.

Steve Wood
CHAIRMAN

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: CS HB 6 (SA)
 Title: _____
 Sponsor: Abood
 Requestor: House Judiciary

II. FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Justice/PIIB PROT
 BRU, Program of Subprogram(s) Affected: AST-Det. & CIB/DMV-Driver Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		53.2	56.4	59.8	63.4	67.2
200 TRAVEL		3.0	3.2	3.4	3.6	3.8
300 CONTRACTUAL		87.1	87.8	93.0	98.6	104.5
400 COMMODITIES		.2	.2	.2	.2	.2
500 EQUIPMENT		3.8	-			
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		147.3	147.6	156.4	165.8	175.7
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		147.3	147.6	156.4	165.8	175.7
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

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

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

The funding source has not been identified by the bill sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Michael Orelove Phone: 465-4349
 Division: Administrative Services Date: 3/14/83
 Approved by Commissioner: [Signature] Date: 3/15/83
 Department: Public Safety

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)

3/8/83

CS HB 6 (State Affairs)

Assumptions:

Division of Motor Vehicles:

1) Arresting agencies, not DMV, will handle costs of impound & storage if vehicle is released under AS 28.35.036(c) or (d); 2) Alaska Court System will handle "Revenue" fiscal note covering fines and vehicle forfeitures; 3) Hearing officer will cover areas outside Anchorage and Fairbanks quarterly; 4) 96% of defendants who take breath test will have .10% or higher; 5) For 26% of impounds an individual will ask for hearing; and 6) Effective date is July, 1983.

Fiscal Impact:

Division of Alaska State Troopers:

Expenditures	FY 84	FY 85	FY 86
300 Contractual Services	77.5	82.2	87.1

Analysis:

The only impact that is anticipated from this Bill relates to the costs that will be incurred when vehicles are impounded under Section 28.35.036. We have estimated that one thousand vehicles will be impounded, of which five hundred will require towing and storage fees to be paid by the Department due to the person operating the vehicle not being the owner and operating the vehicle without the owner's consent, driver not being charged within the prescribed period, dismissed charge or where the driver is acquitted of the charge. Wrecker fees are estimated at \$80.00 per occurrence and a \$5.00 per pay storage fee for fifteen days required. Inflation is estimated at 6% for each year after FY 84. No increase in personnel is anticipated.

Division of Motor Vehicles:

EXPENDITURES

	FY 84	FY 85	FY 86
100 Personal Services	53.2	56.4	59.8
200 Travel	3.0	3.2	3.4
300 Contractual	9.6	5.6	5.9
400 Commodities	.2	.2	.2
500 Equipment	3.8	-0-	-0-
TOTAL	69.8	65.4	69.3

ANALYSIS

One Documents Processing Clerk II will be required in Juneau to handle administrative license actions, and related work for individual defendants whose breath results are .10% or higher. Will prepare and mail license actions (of which it is estimated there will be an increase of 2,700 to 3,000 annually, based on 1981 statistics); enter data on computer; prepare certified copies for prosecutors, courts, etc.; process stays; maintain proof of insurance filings; and maintain records. Equipment breakdown for this position is as follows: Typewriter - \$1,245; File Cabinet - \$291; and Chair - \$188.

One Clerk Typist III in Anchorage is proposed to handle data relating to hearings requested by individuals whose vehicle was impounded. Will send hearings notices to those requesting a hearing, maintain current computer records concerning hearings, and maintain tape file for all hearings. Will type hearing transcripts from tape as required for appeals, and other court action. Equipment breakdown for this position is as follows: Typewriter - \$1,245; Desk - \$426; File Cabinet - \$235; and Chair - \$163.

Travel is for hearing officer when hearings are outside the Anchorage or Fairbanks areas.

\$4,300 of first year contractual is for new testing material and forms, and \$5,300 is for postage (all license actions and hearing notices must be sent via certified mail). Remaining years contractual is for postage only.

We basically know what the increased workload will be as a result of increased license actions, and that one clerical position in Juneau will be necessary if we are to process this increase. However, at this point it is only an estimate as to how many defendants and/or vehicle owners will ask for a hearing after impoundment of a motor vehicle. Figures released by the Court System in 1981 reflect a 75% conviction rate between 1978 and 1980 for DWI cases. It is estimated 75% of those not convicted will ask for a hearing in an effort to determine who will pay impound and storage costs; plus 10% of the remaining for other various reasons. If there is this large of an increase in hearings one clerical position will be needed in Anchorage to handle the workload.

5. Amendments Proposed:

A. Sec. 5, Page 3 (AS 28.15.201(c)), change to read as follows:

(c) After the termination of the limitation as shown on the certificate issued under (b) of this section, the license of a person on whom a limitation was imposed will become suspended unless the person has complied with AS 28.20.240. [IS NO LONGER BOUND BY THE LIMITATION AND MAY APPLY FOR A DUPLICATE LICENSE UNDER AS 28.15.141.....]

The reason for this recommended change is because at the present time, and in the proposed new law, it states a person may apply for a duplicate license at the end of the limitation period, which is in conflict with AS 28.20.240. That section reflects the limitation will continue until the individual files proof of insurance. Also under AS 28.20.240, the limitation may continue for the three year period a person is otherwise required to file proof of insurance, thus circumventing the insurance requirement. This amendment would prevent that.

B. Sec. 9, Page 8 (AS 28.35.031(e)), and Sec. 12, Page 11 (AS 28.35.032(d)), change "90 days" to "3 months".

Only reason for this request is that it would be easier for the department to administer.

C. Sec. 14, Page 13 (AS 28.35.034), replace first sentence with language similar to the following. "A person whose license or permit to operate or drive a motor vehicle has been revoked under the provisions of AS 28.35.031 or AS 28.35.032 shall surrender the license or permit to the law enforcement officer who delivers to him a copy of the suspension or revocation notice. The law enforcement officer shall forward the license, and a copy of the revocation notice, to the department."

Reason for this recommendation is so it doesn't conflict with Sec. 9 and 10, which reflect the law enforcement officer shall seize the person's driver's license. It also specifies what the officer is to do with the license.

D. Sec. 9, Page 7, lines 6 thru 10 (AS 28.35.031(c)), and Sec. 11, Page 10, line 1 thru 5 (AS 28.35.032(b)): "the Department of Public Safety shall revoke or suspend [NOTIFY THE PERSON THAT] the person's license or nonresident privilege to drive or operate a motor vehicle in the state. [IS REVOKED OR SUSPENDED, OR THAT NO ORIGINAL LICENSE OR PERMIT WILL BE ISSUED] The revocation is effective upon expiration of the temporary....."

Reason: Allow the notice given by the law enforcement officer as mentioned in Sec. 9 and 10 suffice for notice, and not require additional notice via mail. This would save mailing costs on approximately 4,000 notices annually at current price of \$1.55 each, plus clerical time to process.

Amendments Proposed (cont')

- E. A section of Title 28 not addressed in this bill, however, is related in some ways, is AS 28.15.221(a). May want to look at amending that section by adding "or another law or ordinance with substantially similar elements if committed in another jurisdiction."

Reason: As presently written an out-of-state violation cannot be included as a violation against an Alaska driver's license, and be counted in the point total. Appears from this bill the intent is to count a DWI conviction in another jurisdiction the same as if it occurred in Alaska. The above change would allow entry of out-of-state DWI, or any other traffic violation, for people who possess an Alaska driver's license, and thus equal treatment for all violations, regardless of where the offense occurred.

1.	POSITION TITLE DOCUMENTS PROCESSING CLERK				RANGE/STEP	BARG. UNIT	FORM 12	PAGE/LINE	GOV.	APPRDV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION JUNEAU	ELECTION DISTRICT		LEC.		
3.	CONTINUATION LEVEL				ADDITION		JUSTIFICATION				
4.	TYPE OF EXPENDITURE				AMOUNT						
	1		2		3						
	PERSONAL SERVICES										
5.	Salary										
6.	Benefits										
7.	Supplemental Benefits										
8.	Fixed Benefits										
9.	TOTAL PERSONAL SERVICES		01		26.6						
10.	Travel				02						
11.	Contractual				03						
12.	Commodities				04						
13.	Equipment				05		1.5				
14.	Other										
15.	TOTAL COST				28.3						
	RECEIPT CODE				FUNDING SOURCE						
16.					Federal Receipts 1002						
17.					G.F. Match 1003						
18.					General Funds 1004		28.3				
19.					I-A Receipts 1005						
20.					Program Receipts 1028						
21.					Other						
FOR B&M USE ONLY											
4A KEY NUMBER _____											

One Documents Processing Clerk II will be required in Juneau to handle administrative license actions, and related work for individual defendants whose breath results are .10% or higher. Will prepare and mail license actions (of which it is estimated there will be an increase of 2,700 to 3,000 annually, based on 1981 statistics); enter data on computer; prepare certified copies for prosecutors, courts, etc.; process stays; maintain proof of insurance filings; and maintain records. Equipment breakdown for this position is as follows: Typewriter - \$1,245; File Cabinet - \$291; and chair - \$188.

13 REQUEST FOR
NEW POSITION

AGENCY Public Safety

PROGRAM Life & Property Protection

BRU Driver/Vehicle Services

COMPONENT Driver Services

Page _____ of _____

Revised Date _____

FY 84

1.	POSITION TITLE CLERK TYPIST III				RANGE/STEP	BARG. UNIT	FORM 12	PAGE/LINE	GOV.	APPRDV.	DISAPP.					
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION ANCHORAGE	ELECTION DISTRICT		LEC.							
3.	CONTINUATION LEVEL				ADDITION		JUSTIFICATION									
4.	TYPE OF EXPENDITURE				AMOUNT		<p>One Clerk Typist III in Anchorage is proposed to handle data relating to hearings requested by individuals whose vehicle was impounded. Will send hearings notices to those requesting a hearing, maintain current computer records concerning hearings, and maintain tape file for all hearings. Will type hearing transcripts from tape as required for appeals, and other court action. Equipment breakdown for this position is as follows: Typewriter - \$1,245; Desk - \$426; File Cabinet - \$235; and Chair - \$163.</p>									
	1		2	3												
	PERSONAL SERVICES															
5.	Salary															
6.	Benefits															
7.	Supplemental Benefits															
8.	Fixed Benefits															
9.	TOTAL PERSONAL SERVICES		01	26.6												
10.	Travel				02											
11.	Contractual				03											
12.	Commodities				04											
13.	Equipment				05							2.1				
14.	Other															
15.	TOTAL COST				28.7											
	RECEIPT CODE	FUNDING SOURCE														
16.		Federal Receipts 1002														
17.		G.F. Match 1003														
18.		General Funds 1004		28.7												
19.		I-A Receipts 1005														
20.		Program Receipts 1028														
21.		Other														
FOR B&M USE ONLY																
4A KEY NUMBER _____																

13 REQUEST FOR
NEW POSITION

AGENCY Public Safety

PROGRAM Life & Property Protection

BRU Driver/Vehicle Services

COMPONENT Driver Services

FY 84

Page _____ of _____

Revised Date _____

POSITION PAPER
House Bill No. 6



"An Act relating to driving a motor vehicle."

House Bill No. 6 amends existing state law by increasing the length of sentence for first offense of driving with license suspended from 10 days to 14 days; second offense of operating a motor vehicle while intoxicated from 10 days to 20 days; third offense of operating a motor vehicle while intoxicated from 10 days to 30 days. It is estimated that the net effect of increasing the penalties for the specified offenses would increase the prison population by nine beds.

This bill would not significantly affect program objectives of the Division of Adult Corrections; however, it would have fiscal impact.

Recommended by: *for* Roger V. Endell
Roger V. Endell, Director
Division of Adult Corrections

Date: 2/8/83

Approved by: *Robert London Smith*
Robert London Smith, Ph.D.
Commissioner

Date: 2/9/83

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: House Bill No. 6 Date on Bill: January 17, 1983
 Title: "An Act relating to driving a motor vehicle."
 Sponsor: Abood, Furnace, Lindauer, Cowdery, and Szymanski
 Requestor: State Officers

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
Capital		1170.0				
Operating		56.7	59.9	63.4		
Total		1226.7	59.9	63.4		

b. Revenues:

Revenue		-0-	-0-	-0-		
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2. Source of funds to offset fiscal impact of bill:

The funding source to implement this bill, if enacted, has not been identified by the author of the bill.

3. Assumptions:

The impact of HB 6 upon the Division of Adult Corrections would be additional bed space for 9 full time equivalent inmates in minimum custody status. These beds would cost \$130,000 per bed to construct for a total of \$1,170,000.

Costs for inmates food, clothing, etc., for the 3,285 person days were computed by taking current costs with a 6% per year inflation factor. Present costs are \$8/day for food and clothing and \$7.69/day for medical and counseling. As these inmates would have minimum custody classification, they would be utilized in institutional jobs such as clearing, food service, etc., for which they would be reimbursed.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: Roger C. Lange *Roger C. Lange* Phone: 465-3376
 Division: Division of Adult Corrections Date: Jan. 31, 1983

Approved by Commissioner: Robert Gordon Smith, Ph.D. *Robert Gordon Smith* Date: 2/15/83
 Department: Health & Social Services

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

Judiciary
Referral



District Court
State of Alaska
THIRD JUDICIAL DISTRICT
941 FOURTH AVENUE
ANCHORAGE, ALASKA
99501



March 31

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.

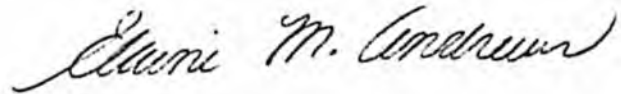
Although not directly a court concern, the problems of storage, insurance and potential civil liability for both proper and improper impoundment are enormous.

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

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

*Return to
Bussell's office*

POUCH Y - STATE CAPITOL
JUNEAU ALASKA 99811
907-465-3800

M E M O R A N D U M

April 28, 1983

SUBJECT: Driving a motor vehicle while intoxicated
(CSHB 6 (Judiciary))

TO: Representative Mitchell E. Abood, Jr.

FROM: Tamara Brandt Cook
Legislative Counsel

TBC

Here is the sectional analysis of the draft of CSHB 6 (Judiciary) that you requested. It only highlights the major changes to existing law.

Section 1 makes it clear that a judge or employee of the court, in addition to other named persons, may take possession of a title, registration, or license that is revoked, canceled, limited or suspended. This is not a substantive change to existing law.

Section 2 adds new requirements for a driver's license application examination: (1) that the applicant know the effects of alcohol and drugs on drivers and the related dangers of driving under their influence; and (2) that the applicant know the laws relating to driving while intoxicated.

Section 3 authorizes, on refusal to submit to a chemical test of breath or if a test indicates an alcohol concentration of 0.10 or more, the seizure of the driver's license by the law enforcement officer and revocation of the license by the Department of Public Safety. The officer reads the driver a notice and gives him a copy of the notice. The notice explains the revocation procedure and the right of court review. The notice itself is a temporary driver's license that expires in seven days unless the driver initiates court proceedings to rescind the revocation of license. The revocation periods are the same as those imposed by a court after conviction of the same offenses under Sec. 6 of this draft. A revocation is stayed if the person initiates a court action to rescind the Department of

Public Safety's action. Procedures for court review of an administrative revocation are set out.

Section 4 adds a new basis for the immediate revocation of a driver's license by a court: the refusal to submit to a chemical test of breath.

Section 5 extends the period limited license privileges from 30 to 60 days for offenses that are grounds for immediate revocation of a license. This does not apply to driving while intoxicated or refusal to submit to a chemical test of breath. Adds a requirement that a prior offense must occur within 15 years before longer periods of license revocation will be imposed.

Section 6 requires a court convicting a person of driving while intoxicated or refusal to submit to a chemical test of breath to revoke the person's driver's license. The period of revocation depends upon whether the person has been previously convicted in this or another jurisdiction of either offense within the preceding 15 years. If the person has not been previously convicted, the period of revocation is 90 days. If the person has been convicted once, the period is one year. If the person has been convicted more than once, the period of revocation is 10 years. Under existing law the court shall revoke the license of a person for not less than 30 days for the first conviction. The court shall revoke the license for not less than one year for a second conviction. The court shall revoke the license for not less than three years for a third or subsequent conviction.

Section 7 allows a court to grant limited license privileges for the final 60 days a license is revoked for driving while intoxicated or refusal to submit to a chemical test if the person has not been previously convicted. Existing law also provides for limited license privileges only for first offenders.

Section 8 removes the reference to a person convicted of driving a motor vehicle while intoxicated with reference to limited license privileges, since periods of revocation are established under Sec. 6 of this bill.

Section 9 provides that the license of a person on whom a limitation was placed is revoked after the period of limitation until the person provides proof of financial responsibility and receives a new license.

Representative Mitchell E. Abood, Jr.

Page 3

April 28, 1983

Section 10 limits the penalties imposed under existing law for driving while a license is canceled, suspended, revoked or in violation of limitation to situations involving loss of driving privileges for reasons other than driving while intoxicated or refusal to submit to a chemical test. Those situations are dealt with under Sec. 11 of this bill.

Section 11 provides a minimum penalty of 30 days imprisonment and a fine of \$500 for driving when driving privileges have been revoked for driving while intoxicated or refusal to submit to a chemical test if the person has been convicted only once within the previous 15 years. If the person has been convicted more than once of driving while intoxicated or refusal to submit to a chemical test and drives while driving privileges have been revoked, the minimum penalty is 90 days imprisonment and a fine of \$1,000.

Section 12 provides that upon expiration of a period of limitation the driver's license remains revoked until the person furnishes proof of financial responsibility. Under existing law the period of limitation continues and the person may continue to drive, subject to the limitation, until proof of financial responsibility is furnished.

Section 13 changes the penalties for conviction of driving while intoxicated. If a person has not been previously convicted within the preceding 15 years of driving while intoxicated or refusal to submit to a chemical test, the minimum sentence of imprisonment is 72 hours, and a fine of not less than \$250 imposed. If a person has been previously convicted once, the minimum sentence of imprisonment is not less than 20 consecutive days and a fine of not less than \$500 is imposed. If a person has been previously convicted more than once, the minimum sentence of imprisonment is 30 days and a fine of not less than \$1,000 is imposed. The five-year period used for calculating the number of convictions required to increase the penalty has been eliminated, so that all previous convictions occurring within the preceding 15 years are considered. A conviction in this or another jurisdiction, if the elements are substantially similar, is counted for purposes of determining enhanced penalties. The provision for suspension of sentence after the minimum sentence is served has been eliminated. The vehicle used in commission of the offense may be forfeited.

Representative Mitchell E. Abood, Jr.

Page 4

April 28, 1983

Section 14 requires a person involved in an accident or who commits certain serious traffic offenses, or drives in a manner that creates risk to a person or property to submit to a preliminary breath test that may be used by an officer in determining whether to arrest the person. Refusal to submit to the test is a violation punishable by a fine.

Section 15 makes it clear that refusing to submit to a chemical test after being arrested constitutes the crime of refusing to submit to a chemical test. Refusing to submit to the preliminary breath test provided for in Sec. 13 of this bill is a separate offense.

Section 16 provides new penalties for refusal to submit to a chemical test which are similar to the fines and terms of imprisonment imposed for driving while intoxicated under this bill.

Section 17 removes provisions allowing the district court to find extenuating circumstances and to modify or nullify the suspension or revocation of a driver's license or permit for refusing to submit to a chemical test of breath.

Section 18 adds new sections providing for the forfeiture of a motor vehicle used in the commission of an offense under AS 28.35.030 (Operating a Vehicle, Aircraft or Watercraft While Intoxicated), and also for the forfeiture of a motor vehicle used in the commission of an offense under AS 28.-35.032 (Refusal to Submit to a chemical Test of Breath). In addition, provision is made for the remission of forfeitures, a procedure to allow a person with ownership or security interests in a forfeited motor vehicle to claim the vehicle or interest in the vehicle through court proceedings. A municipality is granted authority to provide for impoundment and forfeiture of a motor vehicle in similar circumstances.

Section 19 repeals provisions that have been replaced by other provisions throughout this bill.

TBC:ljb
17/002

H

B

7

M E M O R A N D U M

TO: Rep. Charlie Bussell, Chairman, House Judiciary
Committee
Rep. John J. Liska, Vice-Chairman
Rep. Ramona Barnes
Rep. Don Clocksin
Rep. Joe L. Hayes
Rep. Hugh Malone
Rep. Ron Wendte

FROM: Karla Forsythe, ^{KLF} General Counsel, Alaska Court System

DATE: April 29, 1983

SUBJECT: CS for SS for HB 7, "An Act relating to motor vehicles"

The above-entitled act is scheduled for hearing before the House Judiciary Committee on Monday, May 2, 1983.

The court system has several concerns with the proposed legislation, all of a technical nature.

Proposed AS 28.22.500 provides that it is a class B misdemeanor for a person to drive or permit to be driven a vehicle for which a liability policy is not in effect. The enforcement scheme set forth in proposed subsections (b) and (c) raises problems because it inappropriately combines existing procedures for issuance of citations with procedures for submitting proof of compliance with traffic laws, and with procedures for bail forfeiture. Specifically, subsection (b) cross-references AS 28.05.151. That statute authorizes the supreme court to adopt by order a bail forfeiture schedule for those traffic offenses amenable to non-judicial disposition. The rationale behind a bail forfeiture system is that certain minor offenses are adequately punished with a mail-in fine upon a plea of guilty, a procedure which frees the court calendar for judicial disposition of serious offenses. Only minor offenses appear on the traffic bail schedule.

The sentencing procedures set forth in subsections (c) and (d) make it clear that driving without insurance is a major offense. Moreover, since license suspension is required, defendants will be entitled to a jury trial. Use of bail forfeiture procedures does not meet the legislative intent nor the legal requirements for processing a serious offense such as driving without insurance.

MEMORANDUM
House Judiciary Committee
CS for SS for HB 7
Page Two

The legislation also provides that when proof of insurance is submitted to the court, the charge shall be dismissed. There are several types of offenses under current law for which a charge will be dismissed upon showing proof of compliance. Two examples are driving without a license (AS 28.15.131) and equipment violations (13 AAC 04.008). Proof of compliance (either by showing a driver's license or by showing that the defective equipment has been repaired) shall be given either to the law enforcement agency, or, in the case of a driver's license, to the court.

Requiring that the court alone shall accept proof of compliance adds to the court system a task which duplicates procedures of other agencies in many areas of the state, and adds to the court's clerical burden.

The following language would eliminate the problems created by the existing proposal, while still meeting the legislative intent:

(b) If a peace officer has probable cause to believe a motor vehicle was used in the commission of an offense under (a) of this section, a citation will be issued. The charge will be dismissed if evidence is presented within five days showing insurance policy coverage as required by AS 28.22.010 was in effect at the time the citation was issued.

This language is more workable because it eliminates a reference to the bail forfeiture procedure, and because it allows sufficient flexibility for proof of compliance to be submitted either to a court or to the appropriate enforcement agency, as convenience warrants in different locations throughout the state.

The Department of Law in its fiscal note has estimated that several hundred new prosecutions will be commenced as a result of this legislation. It is difficult to quantify the impact on the court, particularly since the Department of Law believes there will be no fiscal impact on its operations. However, any new hearings will add to the already considerable workload of the district court, particularly in Anchorage, and may require additional judicial and clerical resources, depending on the volume of cases filed.

MEMORANDUM
House Judiciary Committee
CS for SS for HB 7
Page Three

Finally, proposed AS 28.22.530 requires that if the court orders forfeiture of a vehicle, the court shall within five days provide notice of the forfeiture to all persons with ownership or security interests. Requiring the court to give notice is inconsistent with the court's traditional role as impartial adjudicator, and is a requirement more appropriately placed with the moving party. Should this function remain with the court, additional clerical resources will be required in proportion to the number of forfeitures ordered.

Since the Department of Law has agreed to make a change along these lines to a similarly-worded section of HB 6, an amendment to require the state rather than the court to provide notice appears in order.

If the committee has any questions regarding these comments, or if additional information is needed, the court system will be glad to respond.

HOUSE STATE AFFAIRS
STANDING COMMITTEE
March 21, 1983
1:00 p.m.

Members Present: Rep. Abood, Chairman
Rep. Cowdery, Vice-Chairman
Rep. Furnace (late)
Rep. Shultz (late)
Rep. M.M. Miller (late)
Rep. Veska
Rep. Larson

COMMITTEE CALENDAR

Teleconference and Hearing

Re: "The Residency Issue"

WITNESS REGISTER

Dove Kull
Older Alaskans Commission
Juneau, Alaska 99801

Position Statement: Recommended the committee consider the low-income and poverty levels the elderly are faced with when they address the longevity and Pioneer Home Programs.

Red Swanson
Legislative Committee For The Pioneers Of Alaska
Juneau, Alaska

Position Statement: Felt that 99% of older Alaskans wanted the state to go to court over the ruling of the Longevity Bonus Program brought before the U.S. Supreme Court.

Marge Gray
Teleconference
Homer, Alaska

Position Statement: She said that no other state gave to their old timers like Alaskans do.

Robert Gray
Teleconference
Homer, Alaska

Position Statement: He felt the House State Affairs should compare our residency laws to other state laws.

Brian Merrit
Teleconference

Wrangell, Alaska

Position Statement: He felt that the 2-year requirement to obtain a student loan should remain intact.

Lenore Gunderson

Teleconference

Wrangell, Alaska

Position Statement: She felt the proof of eligibility to prove you're an Alaskan should be more stringent.

John Dapcevich

Mayor

Box 1081

Sitka, Alaska 99835

747-8383

Position Statement: Referred to the class action suit filed by Alaskan Students paying high tuition rates for attending school outside Alaska.

Merl Thomas

Teleconference

Pioneers of Alaska

Fairbanks, Alaska 99707

Position Statement: He endorsed Red Swanson's testimony.

Ellisa Demattio

Teleconference

816 Irwin #A

Anchorage, Alaska

277-0285

Position Statement: Felt that a requirement to have an Alaskan high school diploma was unfair to attend college.

Edna Hale

Teleconference

Haines, Alaska

Position Statement: Demonstrated her support for the Student Loan Program.

Alaska Linck

Pioneers of Alaska

Fairbanks, Alaska 99707

Position Statement: She found no fault with previous residency requirements.

Jo Jones

Teleconference

P & D Inc.

Anchorage, Alaska 99501

Position Statement: Urged her support to strengthen residency requirement.

Betty Huffman

Teleconference
Pioneers of Alaska
Fairbanks, Alaska 99501
Position Statement: Concurred with Red Swanson's testimony.

Leo Land
Teleconference
Haines, Alaska
Position Statement: Felt proof of eligibility requirements should be more stringent.

Bert Sharp
Teleconference
Pioneers of Alaska
Fairbanks, Alaska 99707
Position Statement: Felt the Longevity Bonus Program should be the Legislature's top priority.

Bob Anderson
Teleconference
Yakutat, Alaska
Position Statement: Concurred with Mayor Dapcevich's testimony.

Louis Odsather
Teleconference
Mat Su, Alaska
Position Statement: Urged committee to establish what a residency requirement is as soon as possible.

William Richardson
Teleconference
Sitka, Alaska
Position Statement: Referred to Susan Burke, Attorney, to investigate an issue.

Bob Gore
Teleconference
119 Austin #911
Ketchikan, Alaska
Position Statement: Felt that if Montana, Idaho and Utah could have strict residency issues; we should be able to do as well.

Bob Perry
Teleconference
Mat Su, Alaska
Position Statement: Supported the Longevity Bonus Program.

Norma Lundy
Teleconference
Anchorage, Alaska

Position Statement: No position stated.

Susan Burke
Attorney
424 N. Franklin
Juneau, Alaska
586-2777

Position Statement: Reviewed her job description for House State
Affairs.

PREVIOUS ACTION

Re: "The Residency Issue"

AS 08.04.280

AS 08.24.110

AS 08.42.110

AS 08.54.100

AS 08.54.110

AS 08.54.120

AS 08.54.140

AS 08.54.142

AS 08.60.030

AS 08.88.171

AS 21.27.090

AS 21.06.250

AS 21.27.220

Bar Rule 5(1)(a)

ACTION NARRATIVE

TAPE#A, Side A
Recording
Number 0001

Chairman Abood called the meeting to order
and indicated the members present.

Number 0047

Chairman Abood said, "the performance
requirements stipulated in Mr. Hudson's
contract were necessarily broad in nature

and general in tone. The extent of application and even more important the cope of the problems simply were not known at the time.

He said the employment of a Non-Attorney to conduct this search was, "to produce a plain language action plan that can be understood by the common man".

Chairman Abood said, because the question of "constitutionality" required professional counsel from attorneys with experience and knowledge in the complex arena, he felt that House State Affairs should go directly to the attorneys with the most recent experience expertise. Ron Zobel, former Attorney General Avrum Gross and his assistant Susan Burke.

Chairman Abood said that it was invaluable to obtain the perspectives of three persons, who only recently had argued both sides of a major case before the U.S. Supreme Court and more so since that decision centered largely around the use of Durational Residence as a requirement for disbursement of millions of dollars to the Alaska public and felt surely their input was relevant.

Chairman stated it was also deemed necessary to receive input from the general public. Questionnaires were sent to select persons and groups with a vested interest in major programs under study due to the residency question.

Chairman Abood added that with the aid of Attorney Susan Burke, the House State Affairs hoped to present a full picture of what the problem is, what needs fixing, what should be left alone and hopefully, will leave a guide for future Lawmakers to use in determining how to employ the use of, as a requirement, in a manner that should minimize litigation and comply with the U.S. Constitution."

Number 0124

Chairman Abood announced that Susan Burke was present and that she would be the attorney assisting us with residency. He pointed out that she handled the case that went before the U.S. Supreme Court.

Number 0146

Chairman Abood said the use of durational residence as a requirement in Alaska Statutes have been found in 53 separate authorities. Durational residence exists in Statutes pertaining to HOLDING PUBLIC OFFICE, NUMEROUS LOAN PROGRAMS, SOME REGULATORY AND ADVISORY BOARDS AND COMMISSIONS, FOR SOME OCCUPATIONAL LICENSES, TO VOTE IN ALASKA, TO OBTAIN A RESIDENT FISHING AND HUNTING LICENSE, TO SELL ALCOHOLIC BEVERAGES, TO OBTAIN AND GAIN PREFERENCE FOR LOW COST HOUSING, TO PARTICIPATE IN LAND LOTTERIES, TO RECEIVE PARTIAL FORGIVENESS OF DEBT OWED THE STATE FOR LOANS ON LAND PURCHASED AND STUDENT AID GIVEN, TO OBTAIN RESIDENCE IN ONE OF THE FIVE PIONEER'S HOMES AND TO RECEIVE THE LONGEVITY BONUS AND FINALLY THE DIVIDEND FROM THE PERMANENT FUND EARNINGS.

Number 0151

Chairman Abood made note that the length of residency is used throughout the Statutes and vary from 30 days to 30 years. The benefits authorized by these laws represent millions of dollars and affect the lives of thousands of Alaska's citizens.

Number 0168

Chairman Abood said when the ZOBEL v WILLIAMS U.S. Supreme Court decision came down last June 14, 1982, many doubts surfaced over the fate of other state Statutes that used durational residence as a prime requirement.

He added that the House State Affairs Committee had been given the task to review all such Statutes and to recommend changes that are needed to reduce or minimize the states potential liability in these residence based matters.

Number 0172

Chairman Abood said he had contracted the services of Mr. Hudson to assist the committee to determine what statutes use durational residency to develop a methodology, to use as a measure of each statute against the U.S. Constitution; and to recommend action required to bring the laws in conformance with the Constitution of the United States of America.

He said that Attorney Susan Burke had been hired under a separate contract to prepare a draft bill on bona fide residence.

Number 0183

Chairman Abood told committee members that he had not hired Avrum Gross, or Ron or Penny Zobel. He said that Bill Hudson and Susan Burke were the only two hired to assist the committee.

Number 0223

Representatives Shultz and Furnace joined the meeting at 1:30 p.m.

Number 0250

Dove Kull comes to the stand. She said she was an older Alaskan and a member of the Older Alaskan Commission, although she was speaking for herself. She recommended we use the cogut housing formula, using 1/4 of your income for payment and work out a formula. She was disappointed that she did not receive the longevity bonus and felt that many older Alaskans were counting on that money. Ms. Kull said that those older Alaskans that lived here earlier had hardships to endure. She told the members of the committee that 60% of the elderly in Alaska are low income or poverty and to keep that in mind when the Longevity and Pioneers' Home Program come up.

Red Swanson, Legislative Committee for the Pioneers of Alaska came to the stand. He said that 2,000 people responded to a survey he sent out and that results of the survey indicated that 99% wanted to go to court over the longevity bonus. He said that his committee was preparing a position paper on the subject. He said they were willing as a committee to work with anyone to protect the rights of older Alaskans.

Number 0394

Chairman Abood instructed Mr. Swanson that if he had an input to bring it to the committee as soon as possible, because time was a factor. He told Mr. Swanson that his committee was not responsible for funding and that the purpose of the hearing today was to define what makes a Pioneer. He suggested that Mr. Swanson meet with Mr. Hudson on his concerns.

Number 0430

Marge Gray of Homer comes on the teleconference network. She asked some questions of the committee. She said that no other state gives to their old timers like Alaska. Chairman Abood agreed that we were the most lenient with our programs to older Alaskans.

Number 0483

Robert Gray of Homer comes on the network. He told the committee that after reviewing the questionnaire it was his assessment that the issue at hand was the time frame requirements be examined and compared with other state laws.

Number 0540

Chairman Abood reviewed the following Durational Residency Requirements with members of the committee:

ACTIONS

1. PUBLIC OFFICERS

(A) FINDINGS: That substantial reason exists to justify the use of longer terms of residence in determining qualifications to hold major Public Office.

RECOMMENDATIONS: Take no action, the Statutes and Constitutional references are likely in compliance with the U.S. Constitution.

2. BOARDS AND COMMISSIONS

(B) FINDINGS: That the durations currently used are inconsistent with the Purpose stated in several of these Statutes and serve no valid public interest. Further that any duration beyond one year could be challenged and may be found invalid.

RECOMMENDATIONS: That you consider repealing the existing durational residence requirements in all of these laws and substitute the Bona Fide residence required to be prepared by Attorney Susan Burke.

That the Statutes be amended to require Bona Fide residence and a reasonable number of years experience in the two laws relating to the Board of Registration for Architects, Engineers and Land Surveyors and the Guides Licensing and Control Board. Some exceptional experience appears useful and defensible.

Number 0556

Brian Merrit of Wrangell talked about the student loan. He said he felt 2 years for residency should be maintained as it is currently. He said that if we lower it, students from outside will ruin it for other

students who reside here.

Number 0573

Rep. M.M. Miller arrived at 2:35 p.m.

Number 0600

Lenore Gunderson of Wrangell said she was the City Clerk. She found fault with the residency requirements and said that she knew of people who are registered voters, vote absentee continually and live outside the state. She felt we should require more proof in residency.

Number 0618

John Dapcevich, Mayor of Sitka, said he was a strong believer in the State's rights. He talked of the class action suit that our students filed for having to pay high tuition rates for attending school outside of Alaska. He recommended it be referred to the Department of Law.

Number 0645

Merl Thomas of Fairbanks endorsed Red Swanson's testimony and concurred with Mayor Dapcevich.

Tape A, Side B
Recording
Number 0045

Chairman Abood referred back to Durational Residency Requirements:

3. OCCUPATIONAL LICENSES

FINDINGS: The courts have already ruled against the use of any duration of residence as a requirement for an attorney's license (NOLL v BAR ASSOCIATION), and only simple resident is permitted. A thorough review of the records indicated little tolerance by the courts in the use of any specific length of residence that might bar the employment of an individual's occupational skill between different states.

RECOMMENDATION: Amend the statutes dealing with the following occupations as listed below. Repeal the present residence requirements and substitute a simple residence in its place.

TITLE	DURATION (PRESENT)	AUTHORITY
1. Public Accountant	1 yr	AS 08.04.280
2. Attorney	Residence	Bar Rule 5(1)(a)

- | | | | |
|----|---|--------------------------------|--|
| 3. | Collection Agencies | 1 yr | AS 08.24.110 |
| 4. | Morticians | 1 yr
state appren. | AS 08.42.110 |
| 5. | Guides... | | |
| | Master | Residence plus
hunting exp. | AS 08.54.100 |
| | Registered | Resident | AS 08.54.110 |
| | Class A Asst. | 20 yr exp.
in district | AS 08.54.120 |
| | Assistant | Resident | AS 08.54.140 |
| | Transporter | Resident | AS 08.54.142 |
| 6. | Junk Dealer | Resident def. | AS 08.60.030 |
| 7. | Real Estate Brokers
and Salesman | Resident | AS 08.88.171 |
| 8. | Insurance Brokers,
Agents & Solicitors | 1 yr | AS 21.27.090
AS 21.06.250
AS 21.27.220 |

For other licenses listed under this category such as the Alcoholic Beverage License and the Resident Fish & Game License, he recommended to repeal the present durational residence requirement and substitute as follows:

1. Alcoholic beverage license - replace with simple residence. There appears to be no reason for duration in the state except to serve as a prohibition in receiving a license.

2. Resident Fish & Game License - he recommended the Committee substitute bona fide residence.

4. PUBLIC RIGHTS & BENEFITS

FINDINGS: The 30-day requirement to vote in Alaska is most probably constitutional and should stand.

That the one year requirement for the following programs appears excessive, especially the Low-Cost Housing Preference program which the courts would likely construe as a "basic necessity of life" wherein no durational residency has been permitted before in the courts.

1. Annulment of Marriage.
2. Low-Cost Housing Preference Program
3. Vocational Substitute Program
4. Industrial Incentive Tax Credits
5. Bounties for Certain Animals

RECOMMENDATION: No change is necessary for AS 15.05.010 (Voting), unless the Committee chooses to substitute simple residence and require 30 days in which to handle the registration process.

That the other laws be modified to simple residence.

That the Legislature consider the repeal of AS 43.26.095 (b)(3) and AS 16.35.130, which are the Industrial Incentive Tax Credit and Bounties for Certain Animals; neither of these programs have been active in years.

Number 0082

Ellisa Demattio of Anchorage said she didn't like the requirement of having to have an Alaskan diploma to attend school. She was concerned about older Alaskans who did not graduate in the state. Rep. Furnace informed her that it was only proposed to given Alaskan students first, but the proposal was dropped by Sen. Sackett. She felt that 2 year residency requirement should stay as it is currently.

Number 0190

Edna Hale of Haines said that she has three children that have attended college under the student loan program, because otherwise they would not have been able to go to college. She felt that 1 to 2 year residency requirement was all right.

Number 0204

Chairman Abood referred back to the Durational Residency Requirements:

5. LAND DISPOSAL PROGRAMS

FINDINGS: The State is awaiting the ruling on the Kenai Borough Land Disposal Program and should probably make no changes pending settlement of the matter.

RECOMMENDATION: That the Committee takes no action until the decision of the court in the Kenai case.

Number 0218

Alaska Linck of Fairbanks said she was a 65 year plus residency of Alaska. She said older Alaskans have very little time left in their lives and found no fault with the past requirements that were challenged in court.

Chairman Abood referred back to the Durational Residency Requirement.

Number 0292

6. SPECIAL OLD AGE PROGRAMS

FINDINGS: The greatest problem with durational residence before the Legislature rests with the twin Pioneer's programs; the Alaska Longevity Bonus Program and the Pioneer's Home Program.

The settlement reached in the Vest case on August 25, 1982 is a mandate to the Legislature to take corrective action immediately. Clearly, with regard to the Longevity Bonus, maintaining the 25 year pre-statehood residency requirement is a lost cause. A one year duration of residence appears to be an acceptable replacement.

Number 0301

Chairman Abood said that mandate for the Legislature to take corrective action or the Courts will. Clearly with regards to the ALB the 25 year durational residence with the requirement that it commence before Statehood is lost. A one year duration of residence appears to be an acceptable replacement.

With regards to the PIONEERS' HOME PROGRAM, he concurred with the opinion rendered by former Attorney General Wilson Condon that the program is probably defensible with its unique 15 year residency requirement. It is not established as a welfare home and it does not deny anyone needing such care from

receiving it through other programs offered by the State.

Number 0326

Chairman Abood said that fifteen years was reasonable to use as a measure of attachment to the state by citizens who must be 65 years old and the average age of which is 82 years old. The Homes are just that Homes for elderly Alaskans who would likely be forced to leave their state were it not for the Pioneers' Home. He said a measure of attachment and Allegiance for these category folds would not be met with a simple one or two year requirement.

Number 0338

Chairman Abood said he had found that the SPECIAL ASSESSMENT AND FISHING LICENSE EXEMPTIONS ARE probably not well founded and would not stand up under a test.

RECOMMENDATIONS: That you call for the repeal of the 25 year, Pre-Statehood eligibility requirements and substitute the Bona Fide residence requirements in Susan Burke's Bill draft.

That the Legislature consider carefully the future of this important program. I believe there may be other FUNDING SCENARIOS beyond those listed in Jon Tillinghast's report to the Senate Judiciary Committee. I have ideas that may aid in finding a good long term solution. Though it falls outside the terms of my contract, I would be pleased to work with whatever body is designated to handle this problem and opportunity.

Number 0372

Chairman Abood said he recommended no immediate changes to the PIONEERS' HOME Program. Rather the need to develop a fall back plan in case it suffers from some action by the courts similar to the ALB.

That the ASSESSMENT AND FISHING LICENSE exemptions be determined by Bona Fide Residence requirements being developed by Susan Clark.

Number 0363

Jo Jones of Anchorage said he was in support to do something about the need to strengthen our residency requirements, with emphasis on Small Business and employer. He said that it worked in other states so it is possible to work in Alaska.

Chairman Abood referred back to the
Durational Residency Requirements:

7. LOAN AND GRANT PROGRAMS (G)

FINDINGS: That there is a great deal of inconsistency in the established requirements for residency in these 41 programs. That many programs require no residency, that one even states that it is open to nonresidents and that I was not able to find documentation to affirm the justification for many of these varying durations of residence.

That the STUDENT LOAN PROGRAM is pending in ANDRESS v BAXTER and should be left alone until the courts are done with the case. However, I will present a separate paper on these issues as relate to the forgiveness clause and application of the low interest provisions. This will be outside of this report.

Number 0413

That THE FISHING LOAN PROGRAMS now probably require excessive, non-defensible durations of residence, but that the one year Bona Fide residence requirement may not provide adequate measure of these MIGRATORY applicants. I tend to agree with the Director of Legislative Legal Council, that a more rational duration would be two years.

Number 0417

Chairman Abood said that the programs listed in No. 4,5,6,7,8 and 10 will and likely be best served to use the Bona Fide Residence Requirement. That residence requirements for REFUND OF POLITICAL CONTRIBUTION AND CHILD CARE EXPENSES most likely fall in SIMPLE RESIDENCE requirement, since they fall under the category of POLITICAL RIGHTS AND BASIC NECESSITIES OF LIFE, and the courts do not support durational residency in these matters...

Number 0425

RECOMMENDATIONS: 1. That no action be taken on the Student Loan programs until courts conclude.

2. That you consider repealing the present 5 year residence requirements in the Fisheries Loan programs and substitute a 2 year residence requirement.

3. That you consider applying a Bona Fide requirement for all other loan programs as a normal course of action, except where the program relates to "Basic Necessities" or "Political Rights".

Number 0438

Betty Huffman of Fairbanks said she supported Red Swanson's testimony. She wanted to see the residency requirement continued. She said many older Alaskans need longevity bonus' to live in the state.

Number 0460

Leo Land of Haines felt that you should prove your residency with a birth certificate, letters of affidavits, or church records; rather than with a voter's registration card.

Number 0501

Bert Sharp of Fairbanks felt that challenging the residency requirement has resulted in the destruction of the fine programs for the Pioneers of Alaska. He said longevity bonus should be top priority with the legislature.

Number 0532

Bob Anderson of Yakutat concurred with Mayor Dapceovich's testimony. He felt that Pioneer's Home should run 65 years or older and should be a resident of Alaska for 25 years.

Number 0559

Louis Odsather of Mat Su Valley said that we should establish a residency requirement so that any results will not bankrupt the State.

Number 0690

William Richardson of Sitka, said he wanted to draw to Susan Burke's attention that the state of Colorado has a 35 year eligibility program requirement.

Number 0616

Robert Gore of Ketchikan said that Arizona Pioneer Home residency requirement was 30 years. In Montana, Idaho and Utah, it is 20 years. He felt that we should be able to do the same here.

Tape 2, Side A
Recording
Number 0049

Mr. Perry of Mat Su Valley said he sympathizes with the legislature, but believed that Alaskans who had lived in the territory or state before statehood should have longevity bonus.

Number 0087

Norma Lundy of Anchorage wanted to know if other members of the Older Alaskans Commission had testified, because she arrived late. Chairman Abood said yes.

Number 0228

Susan Burke said she viewed her job as advising the legislature if a particular ruling would be held unconstitutional in a court of law.

Number 0294

There being no further business to come before the committee, Chairman Abood adjourned the meeting at 3:00 p.m.

Alaska State Legislature



Speaker of the House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3720

Official Business

May 1, 1983

MANDATORY AUTO INSURANCE: THE OTHER SIDE

by Jeff Day

In the book, "The Invisible Bankers," author Andrew Tobias wrote:

Insurance lobbyists outnumber all others in virtually every state. "Our strength?" pondered one. "It comes from having a group of people who tell a story that is logical and reasonable to a group of people who don't have the slightest idea what you're talking about."

This report is to try and provide the information not often volunteered by the industry in the hopes that those who act on this legislation will begin with at least the slightest idea of what we are talking about and why the sponsors believe a mandatory insurance law is needed.

This report is based on a review of approximately 200 newspaper articles published between 1978 and 1982, industry publications, prior research reports and interviews with insurance and public safety officials conducted in April 1983 in a half dozen states with mandatory laws.

THE INDUSTRY SIDE

The insurance industry has traditionally opposed the imposition of a mandatory insurance law. Yet 32 states have enacted such a law beginning with Massachusetts in 1927. Some of the newest laws are those in Arizona which went into effect January 1, 1983, Nevada, Wyoming and Texas January 1, 1980 and Oregon January 1, 1979.

The opposition from the insurance industry is usually summed up in three broad statements:

1. You can't achieve 100% compliance with the law
2. It's costly to administer
3. It raises insurance premiums

The insurance industry has done an excellent job projecting that message to legislatures that consider such a law. Letters to legislators on the subject are basically no more than a regurgitation of a position paper published several years ago by State Farm, the largest insurance conglomerate in the nation. But that report relies on generalities, quotes that are 20 years old and information which is extremely outdated.

THE ALASKA SITUATION

While definite statistics are impossible to come by, it is estimated the number of uninsured drivers in the state is between 11% and 40%. A survey of accidents over a two year period in 1980 and 81 showed that 20% of those involved in an accident were uninsured. Alaska has about 380,000 registered vehicles.

In the 1982 report from the Division of Insurance, Insurance Markey analyst Norm Cheney wrote:

"Even with the inherent inadequacies of this system... we estimate 59.5% were insured (in 1980). We have re-evaluated the data base used in previous reports and find that the statistics for the total number of autos were misstated. We have corrected the deficiencies and now have what we believe to be the most accurate possible estimation of the number of uninsured motorists." (emph added)

That number of uninsured was 40%!

Cheney wrote, "The thought that approximately 40% of Alaskans on the highways are uninsured is unsettling at best. Reasons for the large numbers of uninsured drivers are illusive. There does not appear to be a lack of available markets, and rates, in general, are not excessive."

In October 1980 a newspaper story noted that 40% drove uninsured in Alaska...a 12 % increase over five years. Division of Insurance director Ken Moore was quoted as saying, "The horror story isn't over. These figures are not unlike those in other states with no mandatory automobile insurance laws."

Moore also added, "I'm not necessarily opposed to compulsory insurance, but because of the bad record of states with it, it makes me gun shy."

DMV Commissioner William Nix was also quoted in 1980 as saying that states with mandatory insurance only achieved a compliance rate of 90-95%. Remember, this statement was made when Alaska was thought to have a 40% uninsured population.

Nix also stated that he thought Alaska's financial responsibility laws were among the toughest in the nation and that the penalty of a three year license suspension was an "inducement to have people meet their obligations."

With a 40% uninsured population, that evidently wasn't much of an inducement. Nor have financial responsibility laws alone provided inducement in other states. That is why over 30 states have adopted mandatory insurance laws.

Mandatory insurance has been proposed in Alaska before. One of the reasons mandatory insurance failed before is because of the very reason Tobias stated above at the outset of this report.

Road and weather conditions in Alaska tend to make the potential for an accident fairly great. The requirement of insurance is not only intended to keep poor drivers off the road and ensure that drivers at fault compensate victims but also to protect responsible drivers.

There are probably many marginal drivers who would buy insurance if they were forced to. Some accidents don't result from specific negligence. Sliding through an icy intersection in winter is one example. The result can be hundreds or thousands of dollars of damage that the generally good driver would have to pay, in addition to meeting the requirements of our current financial responsibility laws which are aimed at the problem driver.

It makes sense to provide the added incentive this bill will provide to encourage the good driver to buy insurance to protect both himself and others.

LAWS IN OTHER STATES

Insurance laws enacted in other states are basically variations on a theme. When the consumer awareness movement reached a peak in the mid 1970's, no fault insurance became "in." A number of states now have mandatory no fault laws or a combination mandatory no fault/fault requirement. Some states have only mandatory auto liability such as SSHB 7 proposes to enact. There are likely inequities in both fault and no fault insurance. This report does not intend to compare the two but rather to focus on the mandatory requirements in states regardless of the type of insurance.

Massachusetts became the first state to enact a law. It requires proof of insurance at time of registration. It is also mandatory that uninsured and underinsured insurance are carried. In most states it is only mandatory that insurance companies offer this coverage as would be done under HB 7.

New York and North Carolina followed with mandatory laws in 1957. New York added a no fault law in 1974. The New York law requires the insured to have two cards as proof of insurance. One is out in a file when the car is registered. The other must be kept in the vehicle at all times just as the registration is kept in the vehicle.

North Carolina, considered to have one of the most effective laws requires proof of financial responsibility to be shown at time of registration.

Some states tie both the registration and license to proof of insurance. Montana and Louisiana require proof of insurance in this manner.

Several states don't require actual proof of financial responsibility but rather that the applicant sign an affidavit certifying he is insured and will be insured when driving a motor vehicle. Such states also impose rather severe penalties for falsifying the certification in addition to driving without insurance. Arizona and Connecticut are examples of this variation. False certification in Connecticut brings a fine up to \$1000 and a jail term up to five years.

Most states also require insurance companies to issue a card which must be kept in a vehicle which states the type and limits of insurance carried.

Overall, the general procedures of mandatory laws are the same. Proof must be shown at time of registration or licensure. Cards are issued by companies to be kept in cars. The key to the system working is the method of enforcement.

ENFORCEMENT

The most repeated claim by the insurance industry is that the laws cannot be enforced. In one sense that is true. No one claims to have removed 100% of the uninsured from the road. But proponents in states which have enacted such laws knew in advance they would not achieve 100% compliance. However, it has been the potential to dramatically decrease the number of uninsured which prompted the laws. And I have found no example where the law has failed to reduce the number of uninsured motorists.

In states where the law is less successful than in others, it is usually because the enforcement mechanism is not as tight as those with lower uninsured populations.

The major criticism by the industry is that someone will get insurance just long enough to renew the registration and then cancel the insurance and keep the card which is good for a year. To get around that some states have required insurance companies to notify the Department of Motor Vehicles when a policy is cancelled by an insured. DMV must then notify the motorist who is given a chance to prove that insurance is in effect. This has the potential of creating a lot of paperwork depending on limits imposed upon the notification procedure.

Some states began with a law that required notification by companies anytime a policy was cancelled. North Carolina did this and became backlogged by notices. Most states which have tried this ran into the same problems.

To correct the problem, laws were changed to require notification by insurance companies of a cancellation only during the initial six months after a policy was issued. North Carolina has 4.8 million registered vehicles. Jim Stamey of North Carolina's DMV said this change cut the number of persons involved in enforcing the law from over 100 to about 5 troopers and 4 hearing of

ficers. He also added that it's believed if a person is going to cancel, they will do so in that first six months.

Delaware changed it's law in 1979 to require notification by insurance companies only during the first year following issuance of a policy. Insurance Commissioner David Elliott noted, "Now we can concentrate on the first year people who cancel. We think they're the ones trying to beat the system."

New York requires notification of cancellation at anytime. With 6 million cars, the result became a large backlog. A new computer system is now being installed which should help ease this problem. It is interesting to note most states now implementing the law do utilize computers to a large degree which cuts the amount of staff needed and expedites the enforcement process.

Oregon adopted a law with unlimited notification provisions but changed it the following year. Currently a random sampling process is in effect. Each month about 1% of the motorists are checked for proof of insurance. There is no notification by insurance companies required. This process appears to work... so far.

Tony Dilorenzo of Oregon's DMV noted that the law originally cost about \$1 million to enforce. The changes he said reduced the cost to about \$100,000 for clerks and computer time.

Other states have not had such good luck simply going on a random sampling basis. Nevada easily passed a mandatory law in 1979 but even proponents were worried it would not be effective since it lacked a notification provision. Michigan did not adopt the notification procedures and reports indicate there were problems obtaining as high a level of compliance with the law as other states had achieved. Connecticut had similar problems.

But, in general it appears that those who adopted a notification procedure as proposed in HB 7 achieved the highest compliance rates with the least amount of paper work and cost.

Most states also require a motorist to show proof of insurance when stopped for a traffic violation. This is why the card is important, and it's important to ensure the card is legitimate through enforcement by notification of DMV by insurance companies.

If a policy is cancelled, DMV can flag it on a computer. It is relatively simple, then, when a driver is stopped to verify the legitimacy of the insurance card.

PENALTIES

The penalties for driving without insurance differ. Generally, they include fines and revocation of license and registration.

Michigan and Nevada impose a \$100-500 fine. Wyoming has a maximum \$750 fine plus revocation of registration. Oregon imposes a fine of \$100 unless insurance is obtained within 15 days after a citation is issued. False certification at time of registration will bring a \$1000 fine and up to a year in jail. In Connecticut, that offense brings a \$1000 fine and up to 5 years in jail.

Georgia provides for a 60 day suspension of a driver's license and registration with a \$25 fee to get it back. Louisiana imposes a loss of a license for 6-18 months, a fine of \$125 and up to 30 days in jail.

Hawaii imposes fines of at least \$100 and impounds the vehicle. Delaware allows 24 hours to prove insurance after a citation and then imposes a fine between \$200 and \$1000. Conviction results in revocation of driving privileges until proof of insurance is shown. Indiana imposes a \$500 fine and 60 days in jail.

Arizona mandates a \$250 fine for the first offense. New Jersey imposes a \$200 fine and up to 90 days in jail for the first offense.

In Minnesota a rather comprehensive approach is taken on any offense. As Patrolman Ray Schmidt explained, "We request that the driver park his car. We book the person with no insurance, take him to jail and have the car towed." Eventual penalties are a \$500 fine, up to 90 days in jail and revocation of license and registration.

The penalties in these states are typical of those in other states.

EFFECTIVENESS

The insurance industry says compulsory laws have not been effective in removing the uninsured population. The results show just the opposite. In reviewing these statistics, it should be noted that Alaska's uninsured population is estimated to be as high as 40% at the current time.

North Carolina completed a study within the past year. DMV spokesman Jim Stamey said the results showed that 2-3% of the motoring public are uninsured...in a state of over 4 million vehicles.

Stamey said, "We consider the law to be the most effective in the nation."

In Oregon it was estimated 15-20% were uninsured before the law took effect in 1979. The figure after 7 months was 4.5%. DMV Administrator Harold Grover said, "The overall implementation appears to be pretty smooth. It is succeeding better than we expected."

Insurance industry representative Richard Clement even conceded the law was having beneficial effects. He said, "We've always been opposed to compulsory auto insurance. There have been some problems, but, quite frankly, it's gone quite smooth. So far our fears haven't been borne out."

In Louisiana, the administrator of the State Insurance rating commission noted that 65% were insured before the law took effect in July 1978. By the day the law became effective 80% were insured and the number was growing.

Minnesota has achieved a 5% uninsured population out of 3 million vehicles.

Before New Jersey adopted it's law in 1973, 7.4% of motorists involved in accident were uninsured. By 1976 the number had declined to 3.7%.

In New York, it was estimated that 10% of motorists were uninsured when the law went into effect in 1957. During early years of enactment that fell to 5%. New York has 6 million vehicles. It's estimated that about 6% are now uninsured. The lack of a computer system and the number of vehicles has made enforcement a problem. But Insurance division spokesman Stan Dorf noted there have been few bills introduced to amend or repeal the program.

Dorf said, "Even if premiums increased slightly as a result of such a law, which I don't believe they should, the program is worth it from a social standpoint."

DMV spokesman Joe Donovan said the current unenforceability of the New York system stems mostly from the number of vehicles. Legislation is now proposed that would require insurance companies to notify DMV only in the first six months after issuance of a policy.

Massachusetts has had some enforcement problems again because of the sheer number of vehicles but the estimated number of uninsured motorists is about 5%.

Montana enacted its law in 1979. The County Commissioner calls it "a good one."

In general, those states which have implemented a mandatory law in some form have achieved about a 95% insured population. And that is the goal many states had in mind when these laws were passed. 95% compliance would be a substantial improvement in Alaska just as it was envisioned to be in other states such as Texas which passed a law because 25-45% were estimated to be uninsured. Washington D.C. considered such a law in 1980 because 40-60% drove uninsured. Nevada passed legislation because 30-40% were uninsured according to Insurance Commissioner Don Heath.

Wyoming's Commissioner, John Langdon said the law was needed because 25-35% were uninsured. Connecticut passed a law in 1973 because 8% were uninsured. Florida considered the law because 45% were uninsured. West Virginia recently enacted mandatory insurance laws. Indiana enacted the law in 1982 because 13% were uninsured.

Arizona was the last state to enact such legislation because 40% were uninsured. Representative Bill English, who sponsored the bill said, " We need to take a firm grip on this. It's totally irresponsible to be driving on the streets without adequate insurance."

The conclusion is that 32 states have enacted such laws to achieve lower percentages of uninsured drivers despite vigorous opposition by the insurance industry. Only 2 have ever been repealed. This attests to the fact that the laws work because even states with enforcement snags don't advocate repeal of the law. The laws do work.

EFFECT ON PREMIUMS

In all the material researched for this report, no statement in fact was found that simply the introduction of compulsory insurance laws directly raised premiums. Even those that acknowledged the possibility that rates might rise slightly, encouraged passage of a mandatory law.

New Jersey assistant Motor Vehicle Director Seymour Blaustein said in 1979, "There's no getting away from the fact that as insurance costs go up, some people are dropping their coverage, but I think we've got good verification procedures that catch a lot of people without insurance."

Nevada Insurance Commissioner Don Heath said, "Rate increases are a reflection of the national economy. The mandatory law should bring a price downtrend for preferred customers."

When Texas adopted the law several years ago, Houston Representative Gene Green commented, "It's estimated insurance rates might go up 5-10% at most. If the insurance companies use this as grounds for raising rates, they're barking up the wrong tree because they have already increased rates every year I've been in the Legislatyre."

Generally, rates rise simply because of inflation. As Richard B. Neiley of the Insurance Company of North America explained, "Insurance rates are future cost projections. The means the insurance cycle is out of phase with the rest of the economy. When prices for general goods and services are rising, insurance rates are often stable. By the time the rate of increase in the price of other goods and services diminishes, data is becoming available showing insurance rates have not kept up with underlying costs. Insurance rates then increase rapidly and profits improve."

It is somewhat ridiculous to compare rate increases and premiums in one state to another. Dozens of considerations go into rate establishment and no state is identical to another. First, a rate has to be determined that will cover potential future losses and expenses and allow for a profit. Consideration is given to the trend in dollar cost per claim, the trend in number of claim payments showing the change, if any, in the number of accidents that occur, expenses and how large a profit margin a company wants. The industry specifically makes this point:

Rates among the various 50 states can be widely different because of variations in the cost of repairs, medical care, weather patterns, and other geographic and demographic factors such as population density and traffic congestion.

Some states prohibit rating differences on the basis of age, gender, marital status. Assigned risk pools are different in many states in operation. The risk pool is the classification that so called high risk drivers are placed into. This pool is covered by all insurers. Some states subsidize the pool through fee charges on insurance or licenses. Some states have instituted a reinsurance plan which basically mandates companies to write policies at reasonable rates to all drivers again based on surcharges of everyones policies. Technical differences in any number of these areas can be the cause for distinct rate differences between states.

New York Division of Insurance spokesman Stan Dorf said, "Compulsory laws will not raise the premiums as the industry would lead you to believe. There are no more accidents even though more people are insured. It's also logical and proven that if more drivers are insured, the uninsured motorist premiums will, in fact, decrease.

Massachusetts Insurance rating bureau spokesman Howard Mahler noted that premium increases in policies tend to result as a result of inflation rather than a compulsory law. Despite some enforcement problems in that state, Mahler said the Registry of Motor Vehicles has expressed no desire to repeal the law.

COST OF ENFORCEMENT

Just a brief comment on the proposed cost.

Other states which have imposed the law usually note it costs between \$1 and 1.5 million to enforce properly. The states saying this are those with 2 million, 4 million, 4.5 million or more vehicles.

Alaska DMV has given us a comparable fiscal note for a state with 380,000 registered vehicles.

It must again be noted that North Carolina has over 4 million vehicles. 4 hearing officers and 5 troopers are needed to enforce the program which has achieved 2-3% uninsured.

There is no dispute the program will cost money. It is hard to believe that enforcement for 380,000 vehicles will cost as much as that in a state with several million..even with a cost of living difference.

DMV spokesman Jim Stamey from North Carolina said in an interview that Alaska was in the best position of any state wishing to enact such a law because of the low population and the computer technology available.

Those states now adopting the law have made good use of computer time to lessen the need for clerical staff. Howard Mahler of Massachusetts encouraged the state to use computers to a great extent if we adopt a program.

MORE ON INDUSTRY OPPOSITION

The research indicates that the insurance companies opposition to mandatory insurance does not really hold up. The law can and has been enforced to an excellent degree in many states. Premiums don't rise simply as a result of a compulsory law. The provisions in this law make it less costly and bureaucratic than laws in other states.

So if these arguments are largely countered, and insurance companies stand to do more business as a result of this law what could be the opposition?

Some potential insight was provided in a statement by Insurance industry representative Richard Clement when he commented on Oregon's law shortly after enactment. He said, "We've always been opposed to compulsory insurance. We're afraid the Legislature is going to get into the business of establishing rates and that the state can form an insurance company."

The insurance industry is not federally regulated. It does not want any regulation. The move to adopt compulsory insurance is likely seen as an intrusion into an industry which wishes to be exempt from all regulation. Past history in other states has shown the need for regulation to maintain realistic rates. And, indeed, there are programs which have been enacted and which could be enacted in Alaska with the result of lower premiums but which would be opposed by the insurance industry.

Perhaps, the other reason the industry opposes mandatory insurance is because it might decrease profits.

It must be noted that, in statistics provided by the Alaska Division of Insurance for 1981, the top 30 companies doing business in the state earned \$31.2 million in premiums for automobile liability coverage. Incurred losses totalled \$19.6 million for a profit of over \$11 million.

According to the July 19, 1982 edition of Best's Insurance Management Report, Alaska had the lowest loss ratio of ANY state for all automobile insurance, 56.1%. Nationally the loss ratio was 70.7%. Basically, this means insurance companies earned greater profits on a comparable amount of business in Alaska than they did outside.

The 1982 report from the Division of Insurance reported:

"We are quite happy with the state of the market in Alaska. Over the past 3 years, we have seen an increase in the number of companies pursuing a share of the market. We now have a very active non standard market helping to make insurance available at competitive prices to those drivers with numerous or serious violations on their driving records."

It might be suggested that more insurers are seeking to enter the Alaska marketplace because the profit margins are higher here. The auto insurance market has consistently been profitable for the past five years.

CONCLUSIONS

Research has indicated that the arguments put forward by the industry are at best, half truths. It does cost money to run an effective program. But it has proven effective in states with uninsured populations both greater and lesser than the uninsured population in Alaska.

Legislation can be passed that will result in a significantly higher number of insured drivers. CSHB 7 would do this. It incorporates notification procedures from other states which have proven effective and cost efficient. It provides strong incentives to buy insurance or find alternative modes of transportation.

Simply requiring insurance after the fact of an accident has not proved sufficient in this or in other states. I also suggest that our current financial responsibility law needs stricter provisions as well. This will be researched and proposed in the near future. In any case, the law as is or even as amended is not a strong enough incentive. Alabama does not have a mandatory law. It does have financial responsibility laws similar to Alaska's. Deputy State Insurance Commissioner Tharpe Forrester noted that 30% do not carry insurance despite the law although, as he said, "We strongly encourage them to carry it."

Research on this subject will continue in an effort to propose additional legislation at a future date which could result in lower premiums. A number of states have passed mandatory laws and then changed other insurance provisions to implement no fault or a reinsurance facility or changes in assigned risk pooling....BUT the mandatory law came FIRST.

That is what is proposed here. A mandatory law would be a significant step forward in attempting to decrease our 40% uninsured population. But it should be considered as one step in a multi faceted approach that should be continually pursued after the law takes effect.

This report will be updated as additional material becomes available.

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1982 - STATISTICAL ANALYSIS
PRIVATE PASSENGER AUTOMOBILE INSURANCE

- SUMMARY -

In 1981, the majority of companies writing private passenger automobile liability and physical damage insurance in Alaska garnered a profit. The overall loss ratio for all admitted companies writing private passenger automobile insurance was 56.8%, 4.6% higher than the 52.2% ratio enjoyed in 1980.

According to the July 19, 1982 edition of "Best's Insurance Management Report" Alaska had, for the fourth consecutive year, the lowest loss ratio of any state for all automobile insurance, 56.1%. This includes commercial automobile and private passenger automobile insurance. The loss ratio nationally was 70.7%, 14.6 percentage points higher. A consistently profitable automobile insurance market is something few states have been able to maintain in recent years. We are quite happy with the state of the market in Alaska. Over the past three years, we have seen an increase in the number of companies pursuing a share of the market. We now have a very active non-standard market helping to make insurance available at competitive prices to those drivers with numerous or serious violations on their driving records. Good drivers have many different companies and a wide variation of prices from which to choose. On the negative side, we still find ourselves striving to overcome misconceptions and trepidations underwriting by many companies. Being the largest of the United States, yet having a population of only just over 400,000 people does cause problems from a statistical credibility standpoint. Too often the negative results from other states have an influence on our market conditions. When profit conditions indicate a need for a company to tighten their underwriting, Alaska has in the past felt first the tightening rope of reduced availability. We sincerely hope that the consistent profitability of the Alaska automobile insurance market will cause the industry to consider us a desirable market in which to do business.

We have again divided this portion of the "Personal Lines Statistical Analysis" into two sections. First, is a review of the private passenger automobile insurance market in Alaska. The second section is a display of the rates charged for five different risks by numerous companies writing private passenger automobile insurance in Alaska.

Exhibit I ranks the 1981 market shares of the 30 leading writers in Alaska by line of automobile insurance and compares those shares to the 1980, 1979 and 1978 figures for those 30 companies.

The first chart of Exhibit I shows us that State Farm Mutual Automobile Insurance Company is the leading writer of private passenger auto liability insurance in this State. During 1981, State Farm Mutual Auto increased its written premium for this line by 7.8% despite dropping its market share by .15% to 22.15%, nearly a full percentage below its 23.1% share in 1979. Ranked number two, Allstate gained an additional .3% of the market and now holds a 20.5% market share, an increase of 2.6% over 1979's 17.9% share. Allstate's premium volume went up 10.1% in 1981. Third place Criterions market share remained about the same, 7.04%, up from 7% in 1980, premium volume was up 9.2%. United Services Automobile Association lost .3% of its share down to 4.19% from 4.5% in 1980, but they increased their premium volume 1.2%. Number five, State Farm Fire and Casualty gained a full percentage point of the market from 2.9% in 1980 to 3.92% in 1981 and had 49.4% more premium than 1980. Elsewhere in the top ten, four companies increased their market share and premium volume. Number seven, Leader National, lost 1.43% of its share down to 3.47% from 4.9%, while writing 22.5% less premium than 1980. The cumulative market share for the top ten is 74.8%, this compares to 74.7% in 1980. The top 30 companies accounted for 98.62% of the market, while the 30 top companies in 1980 had 98.9% of the market. Of the 30 companies, 13 increased their market share, 17 lost share. Written premiums were up for 17 companies and down for 13 companies. For all companies writing private passenger automobile liability in Alaska, written premiums were up 8.4% to \$32,408,000 from \$29,900,000 in 1980.

Exhibit I, Chart 2 shows that State Farm Mutual Auto has 22.5% of the private passenger auto physical damage market, an increase of .4% from 1980 and 3% from 1979. Written premiums for State Farm Mutual were up 23.1%. Allstate lost about .1% of its share down to 17.73% from 17.8% in 1980, but still up 1% over the 1979 share. Premiums for Allstate increased 10.1% from 1980. Criterion retains third place with a 1% increase in market share, 7.1% compared to 6.1% in 1980, premiums were up 29.6% since 1980. United Services Automobile Association moved into fourth place with a 5.42% share; 1.42% over 1980, premiums were up 50.9%. Foremost dropped to fifth, losing over 1.1% of its share and 15.2% in written premiums. The remainder of the top ten are led by State Farm Fire and Casualty in sixth place which now hold 3.22% of the market; up from 2.0% or 14th place in 1980, premium jumped 9.1% during the year. Nationwide Mutual joined the top ten in 1981 with a .5% increase in share, to 3.0%. The ten top writers account for 3.5% more of the market of 1981, 71.44% opposed to 67.9% in 1980. 95.95% of the private passenger auto physical damage business was written by the 30 companies, up 1.35% over 1980. Fourteen companies gained market share while 16 lost, but 19 increased premium volume and only 11 wrote less premium. Written premium volume for all companies was up 11.6% to \$26,896,000.

Chart 3 of the first exhibit displays the market shares of the top 30 companies based on their combined written premiums for liability and physical damage. Again, State Farm Mutual Auto leads with 22.31%, Allstate remains second with a 19.24% share of the market a slight drop from 1980. Of more significance is the fact that Allstate has fallen 3% behind State Farm. In 1978 and 1979, Allstate trailed State Farm by about 4%, closing the gap to 2.2% in 1980 and now falling back to 3%. Criterion has 7.1% of the market up .4% from 1980. United Services Automobile Association is up .45% over 1980 to 4.75%. In 1981, State Farm Fire and Casualty increased its share 1.1% to 3.6%. All of the top ten this year increased their premium volume and only one company from last year dropped out of the top ten, Leader National falling from 5th in 1980, a 3.3% share, to 11th in 1981 with a 2.41% share. Of these 30 writers, 13 companies increased their market share, 15 declined and two remained about the same. Nineteen companies wrote more premium in 1981 and 11 wrote less. Cumulatively, the 30 companies accounted for 96.39% of all private passenger auto premiums, whereas the 30 top writers in 1980 represented 96.6% of the market. Premium volume for all admitted companies writing private passenger automobile insurance in 1981 was \$59,304,000 up 10.5% over the 1980 figure of \$53,666,000

Exhibit 2, Chart 1 shows us that liability business was not as profitable in 1981 as in years past. The loss ratio for the top 30 writers and the overall market was the same in 1981, 62.8%. This is a substantial increase from the 51.5% loss ratio experienced by the total private passenger auto liability market in 1980. Of the top 30 companies, 10 had better experience, 18 worse and two were new markets in 1981. Eleven of the 18 companies with loss ratios worse than last year had loss ratios in excess of 60%, eight had in excess of 70%, three companies experienced a loss ratio greater than 80%. Eleven of the 30 companies had loss ratios below 50%, seven of these were below 40%.

The second chart of Exhibit 2 shows that the private passenger automobile physical damage market had a good year in 1981. The loss ratio for all companies was 49.5% compared to 53% in 1980. Fifteen of the top 30 companies improved their loss ratios in 1981. Only five of the 30 companies had loss ratios in excess of 60%, eight of the 30 had loss ratios less than 40%.

Chart 3 has the loss ratios for the top 30 writers of both liability and physical damage coverages and again we see generally profitable results. Of the 30 companies, four had loss ratios in excess of 70%, 14 had loss ratios less than 50% and the overall loss ratios for all companies was 56.8%, 4.6% higher than 1980 but still low enough for profit.

The two charts of Exhibit III further illustrate the profitability of the private passenger auto market in Alaska. Here we have the top 30 writers of liability and physical damage auto coverages and their expense exhibits. We have calculated the loss ratios, which should indicate a company's break-even point--permissible loss ratio (PLR)--(the ratios do not provide for investment income, reserves or the traditional 5% profit percentages). In the liability arena 14 companies had actual

loss ratios that exceeded their PLR, up from seven in 1980. Four of these companies had expense ratios in excess of that normally allowed by this division. An expense factor (including profit) greater than 45% is in most cases considered excessive. Thirteen companies had actual loss ratios 15% below their PLR in 1981 compared to 17 in 1980. The average PLR for the 30 companies was 61.2%. The expense exhibits for physical damage evidenced five companies whose loss ratios exceeded their PLR. Four of these companies had expense ratios in excess of the normally allowed 45%. Twelve companies had actual loss ratios 20% or more below their permissible loss ratios. The average PLR for the 30 companies was 61.9%, compared to actual loss ratios for the 30 companies of 49.5%, leaving 12.4% for incurred but not reported claims and profit requirements.

Writers of private passenger automobile insurance in Alaska have experienced five consecutive years of profitability a condition that's rare in today's automobile market. In many markets in the "Lower 48" states, combined ratios of 100% or more are common. Over the next 12 months we will be urging some companies to lower their rates and/or bring their expenses into line with accepted standards.

Exhibit IV is an illustration of the total private passenger automobiles registered in the State versus the insured car years, a comparison which provides a means of approximating the percent of uninsured motorists in this State. We have reevaluated the data base used in previous reports and find that statistics for the total number of autos were misstated. We have corrected the deficiencies and now have what we believe to be the most accurate possible estimation of the number of uninsured motorists. It is impossible to determine precisely the percentage uninsured. Even with the inherent inadequacies of this system, we can see that the number of insured drivers increased somewhat in 1980, we estimate 59.5% were insured up 1.6% over 1979 and 6.3% over 1978. While this increase is welcome, the thought that approximately 40% of Alaskans on the highways are uninsured is unsettling at best. Reasons for the large numbers of uninsured drivers are illusive. There does not appear to be a lack of available markets, and rates, in general, are not excessive.

Exhibit V concerns the Automobile Insurance Plan (assigned risk plan). Part A shows that in 1980, 2.6% of all insureds in the State were written through the Plan. This is 1% less than in 1979, 3.1% less than in 1978 and 5.2% less than 1977. 6.5% of the insureds countrywide were written through a plan of some sort in 1980, this is compared to 3.9% in 1979, an increase of 67%. In part B we see that the population of the plan continues to decline. At the end of 1980 there were 3,564 insureds in the plan, 24.1% less than in December 1979. 2,627 were in the plan at the end of 1981, a 26.3% drop from 1980 and 70.2% less than the 9,447 at the end of 1977. The depopulation of the plan is continuing in 1982 as shown in part C. Through September of 1982 only 1,009 policies had been assigned, 37.8% less than September 1981. The number of policies assigned each month has declined for 57 straight months. Part D charts the percentage of private passenger automobile liability premiums attributable to the Automobile Insurance Plan. The percentage in 1980 was 4.3%, down 2% from the 6.3% in 1979.

This division remains concerned about the population of the plan. While the population continues to decrease, the division feels that many insureds being placed in the plan could be written by companies on a voluntary basis. In conversations with agents around the State who utilize the plan extensively, we have heard that one of the main reasons for their use of the plan is price. We agree that for some types of risks the plan rates are low in comparison to voluntary market, but these rates are low because the experience of the plan has been favorable. The preponderance of clean risks or certainly risks that would be acceptable to companies on a voluntary basis are, to some degree, responsible for this good experience. The Alaska Automobile Insurance Plan Advisory Committee has been exploring various methods of depopulating the plan. One method receiving consideration is the requirement that agents give insureds a brochure explaining the plan and advising that by shopping, they may find companies willing to write voluntarily at lower rates or with improved coverage and better service.

For several years we have closed this narrative summary with a statement to the effect that the private passenger automobile insurance market in Alaska is profitable; this year is no exception. We are of the opinion that this profitability will continue. While this division continues to push for reduced insurance rates, we are not going to hinder the right of a company to make a reasonable profit. We will continue our efforts to assure that auto insurance rates in Alaska are neither excessive, inadequate nor unfairly discriminatory.

Norm Cheney
Insurance Market Analyst

EXHIBIT IV

TOTAL PRIVATE PASSENGER AUTOS
VERSUS INSURED CAR YEARS

<u>YEAR</u>	<u>TOTAL NUMBER OF AUTOS*</u>	<u>INSURED CAR YEARS+</u>	<u>PERCENTAGE INSURED</u>
1975	199,536	117,355	58.8
1976	221,386	120,964	54.6
1977	226,329	121,635	53.7
1978	232,425	123,581	53.2
1979	229,403	132,391	57.7
1980	230,040	136,895	59.5

* Based on data supplied by Alaska Department of Transportation and Public Facilities

+ Automobile Insurance Plans Service Office