

ALABAMA LEGISLATIVE COUNCIL FILED 1905-1900

3356 HJUD HB 467 - HB 472

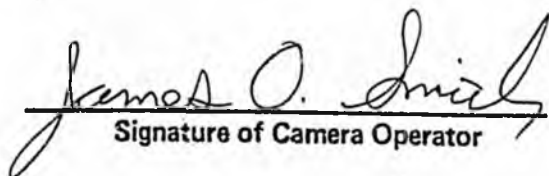
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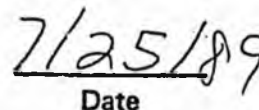


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Date

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# STATE OF ALASKA THE LEGISLATURE

## LEGISLATIVE AFFAIRS AGENCY

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JUNEAU, ALASKA 99811  
907.465.3800

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary	1/21/86	8:30 AM
" "	3/6/86	1:30 PM

**HOUSE  
COMMITTEE REPORT**

(7)  
Date referred: 2/12/86

FURTHER REFERRALS: FINANCE

DATE: \_\_\_\_\_

The JUDICIARY Committee has considered SSHB 467

"An Act relating to herding of fish."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with CS SSB 467 (JUD)  same title  
 new title

and recommends \_\_\_\_\_

further referral to the \_\_\_\_\_ Committee

- and attaches:
- letter of intent
  - first fiscal note
  - new fiscal note
  - zero fiscal note

SIGNING DO PASS:

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SIGNING OTHER RECOMMENDATIONS:

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\_\_\_\_\_

Michael  
Chairman

Original sponsor: Goll

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 467 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the herding of fish."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 \* Section 1. AS 16.10 is amended by adding a new section to read:

9 Sec. 16.10.135. HERDING FISH BY AIRCRAFT. (a) A person may not  
10 intentionally drive or herd fish by aircraft.

11 (b) A person who violates this section is guilty of a class B  
12 misdemeanor.

13 (c) Aircraft and equipment used in or in aid of a violation of  
14 this section may be seized and disposed of under AS 16.05.190.

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DEPARTMENT OF PUBLIC SAFETY

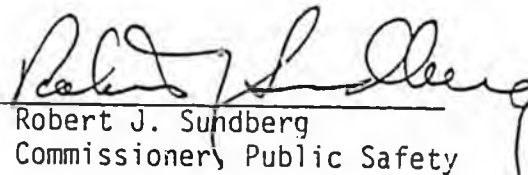
POSITION PAPER - CS SSHB 467 (FISH)

NEUTRAL

HB 467 - "An Act relating to the herding of fish."

The Division of Fish & Wildlife Protection is neutral on this bill. It would be difficult, in many cases, to obtain sufficient evidence to prove the elements of the crime that an aircraft did in fact drive or herd fish. The Division of Fish & Wildlife Protection would pursue the most obvious cases where sufficient evidence and witnesses are available to prove the elements of the crime. In conjunction with the Department of Law, marginal cases, lacking sufficient evidence to prove the elements of herding or driving fish by aircraft will not be prosecuted.

This bill does not specifically address safety. However, with the high number of aircraft presently being used as fish spotters, any measures that will decrease hazardous flying conditions and increase the safety margins for all participants is a positive approach.

  
Robert J. Sundberg  
Commissioner, Public Safety

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: 1/20/86

REQUEST

Bill/Resolution No.: CSSHB 467 (FISH)  
 Title: Relating to the herding  
of fish.  
 Sponsor: Gell  
 Requestor: H. Resources  
 Date of Request: 1/24/86

FISCAL DETAIL

Agency Affected: Dept. of Public Safety  
 Program Category Affected: Fish & Wildlife Protection  
 BRU, Program or Subprogram(s) Affected: Enforcement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0
<b>CAPITAL</b>	0	0	0	0	0	0
<b>REVENUE</b>	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	0	0	0	0	0	0

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: Attach a separate page if necessary

Prepared By: J. R. Nutgrass Phone: 269-5509  
 Division: Fish & Wildlife Protection Date: 1/26/86  
 Approved by Commissioner: [Signature] Date: 1/27/86  
 Agency: Public Safety

Distribution (by Agency preparing fiscal note):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

7/1/84



Official Business

# Alaska State Legislature

## House of Representatives

### Special Committee on Fisheries

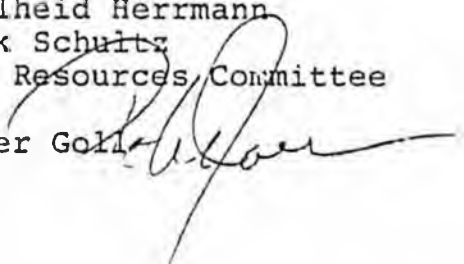
Pouch V  
Juneau, Alaska 99811

Phone:  
(907) 465-4924

#### M E M O R A N D U M

February 8, 1986

TO: Representative Adelheid Herrmann  
Representative Dick Schuitz  
Co-chairmen, House Resources Committee

FROM: Representative Peter Goll 

SUBJECT: SSHB 467

Sponsor Substitute for House Bill 467 is designed to clarify state policy regarding the use of aircraft in fishing operations.

It prohibits the use of aircraft to herd fish. The legislation was drafted at the request of commercial fishermen for statutory language to prevent what they consider to be a dangerous and unfair use of aircraft in fishing operations.

Allegations that a helicopter was successfully used to drive herring from shallow waters into a waiting seine last year and numerous questions to the Fisheries Committee as to the state of the law necessitated this bill to clarify the rights of pilots prior to the 1986 fishing season.

The Alaska Department of Fish and Game strongly supported the bill during testimony before the House Special Committee on Fisheries. A Department spokesman said fisheries managers are concerned that widespread use of aircraft in this manner could increase the fishing power of vessels to the point where they would be concerned about opening some fisheries.

This legislation was thoroughly discussed and strongly endorsed by the UFA's member organizations at their recent annual meeting.

Present law does not provide the state with the necessary legal tools to halt the herding of fish by aircraft. The language is patterned after a regulation prohibiting the use of aircraft to herd or drive wildlife. This regulation has been successfully used several times, the most recent conviction coming in a case where a big game guide used an airplane to drive brown bear toward his clients.

SSHB467

February 8, 1986

Page Two

One issue raised during hearings on the legislation is whether the state has the proper jurisdiction to enforce the restrictions. I posed that question to the Alaska headquarters of the Federal Aviation Administration, and was advised that the state has the proper authority. As examples, the FAA cited regulations relating to the herding of game, aerial wolf hunts and airborne hunting.

I respectfully request that you consider the attached letter of intent for the legislation. The purpose of the letter is to clarify that the legislation is not intended to restrict the use of spotter planes in any commercial fishery.

LETTER OF INTENT FOR HOUSE BILL 467

House Bill 467 is intended to prohibit the herding of fish by aircraft. It is not the intent of the legislature to otherwise restrict the legal uses of aircraft for spotting schools of fish in conjunction with commercial fishing operations.



Official Business

# Alaska State Legislature

## House of Representatives

### Special Committee on Fisheries

Pouch V  
Juneau, Alaska 99811

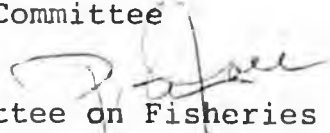
Phone:  
(907) 465-4924

MEMORANDUM

January 30, 1986

TO: Representative Mike Miller  
Chairman, House Judiciary Committee

Representative Adelheid Herrmann  
Co-Chairman, House Resources Committee

FROM: Representative Peter Goll   
Chairman, House Special Committee on Fisheries

SUBJECT: SSHB 467 (An Act relating to the herding of fish)

During hearings by the Special Committee on Fisheries on SSHB 467, two points were raised regarding the penalties proposed in this legislation. It was decided that these matters would be the most appropriately addressed by the Judiciary Committee.

Specifically, Representative Mike Navarre suggested that the \$1,000 fine allowed under the legislation may not provide a significant enough deterrent when such fishing operations might allow a fishermen to catch \$400,000 worth of fish in a single set of a seine. Representative Navarre said he would like to have the deterrent effect of higher fines examined more closely.

A second issue the Fisheries Committee decided to ask the Judiciary Committee to examine is whether specific language should be added to the legislation regarding confiscation of aircraft used in such violations.

I appreciate your consideration of these two issues.



Official Business

# Alaska State Legislature

## House of Representatives

### Special Committee on Fisheries

Pouch V  
Juneau, Alaska 99811

Phone:  
(907) 465-4924

#### M E M O R A N D U M

January 18, 1986

TO: Members  
House Special Committee on Fisheries

FROM: Representative Peter Goll *Peter Goll*  
Chairman

SUBJECT: SSHB 467

The first meeting this session of the House Special Committee on Fisheries will take place at 8:30 a.m. Tuesday, January, 21, 1986, in Room 17 of the Capitol Building. Up for consideration will be SSHB 467, An Act relating to the herding of fish.

This legislation is designed to prevent the use of aircraft in the herding of fish into commercial fishing gear. I drafted the legislation at the request of commercial fishermen who wished to halt what they considered to be a dangerous and unfair use of aircraft in fishing operations.

This concern was raised when a helicopter was successfully used to drive herring from shallow waters into a waiting seine during the Sitka herring fishery last spring. The estimated value of helicopter-aided haul of herring was \$400,000.

The fishermen who approached me contend the practice not only represented an unfair use of aircraft but endangered other vessels crowded into an extremely small fishing area. The Department of Fish and Game and Division of Fish and Wildlife Protection have voiced concern about the practice becoming more widespread.

As the attached correspondence from the Departments of Law and Fish and Game reveal, present law does not provide the state with the necessary legal tools to halt the herding of fish by aircraft. After discussing the matter with the Department of Law, I introduced the sponsor substitute to shift the focus of enforcement from the fisherman to the pilot.

House Bill 467  
January 18, 1986  
Page Two

The sponsor substitute is patterned after a regulation prohibiting the use of aircraft to herd or drive wildlife. This regulation has been successfully used several times, the most recent conviction coming in a case where a big game guide used an airplane to drive brown bear toward his clients.

Some attorneys in the Department of Law believe the actions of an aircraft in driving fish toward a fishing net will be easier to prove than the mental state of a fisherman.

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

P.O. BOX 3-2000  
JUNEAU, ALASKA 99802  
PHONE: 907 / 465-4100

June 11, 1985

The Honorable Peter Goll  
Alaska State House  
P. O. Box 581  
Haines, AK 99827

JUN 14 1985

Dear Representative Goll:

Thank you for your letter of May 28 regarding use of aircraft in fishing. We will be available to assist you in developing the recommendations, although, quite frankly, I am not sure what the "solution" will be.

The first decision point is: what are the problems and what needs to be done about it. The use of aircraft has its advantages and disadvantages. In some locations, for example, the Togiak herring fishery, the use of spotters makes the fishery operate efficiently. On the flip side, driving herring with a helicopter in a very fast-paced fishery, like Sitka herring, can cause management problems. These two factors will most likely have to be considered in any piece of legislation which is drafted. Also, in some cases, restricted use of aircraft could have allocative overtones, i.e., big boat vs. small boat, local vs. nonlocal, and seine vs. gill net. The department will have to be careful to not appear to favor one side over the other as we assist you and then testify before the various legislative committees.

An equally difficult task is going to be the forging of something that is enforceable. The major problem the Board of Fisheries has had with requests to restrict the use of aircraft is that its authorities are limited in the field. I expect the Legislature will have the same problem. While both bodies can restrict the use of aircraft in fishing operations, the state cannot control the airspace; only the federal government has the authority. So, what happens is a situation where if restrictions are in place, the pilot and fishermen can avoid citation by saying the aircraft was used for supplies or navigation, and the state must prove otherwise. This is the experience we had when spotter aircraft were prohibited in the Kodiak herring fishery.

The Honorable  
Peter Goll

-2-

June 11, 1985

My staff will be glad to contribute our past experience regarding regulations relative to the use of aircraft in fishing operations to your drafting process. I will ask Bob Clasby to work directly with Rodger Painter on this.

Sincerely,



Don W. Collinsworth  
Commissioner

cc: Bob Clasby  
Rodger Painter  
Larri Spengler

# MEMORANDUM

State of Alaska

TO: Steven Pennoyer  
Deputy Commissioner  
Dept. of Fish & Game

DATE: May 29, 1985

FILE NO.

Norman C. Gorsuch  
Attorney General

TELEPHONE NO. 465-3600

FROM: By: Larri Irene Spengler <sup>PL</sup>  
Assistant Attorney General  
Department of Law

SUBJECT: helicopter herring  
herding

Attached is a copy of a letter I recently prepared in response to questions from Representative Ben Grussendorf on the herding of herring by helicopter. It sounds as though he and Representative Goll are concerned about the same episode. As you can see, I agree with your analysis, and have added more information, in response to the specific questions put by Representative Grussendorf.

LIS:dlu

Attachment

cc w/attachment: Representative Peter Goll ✓  
Ken Parker, ADF&G

SILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE  
SUITE 200  
ANCHORAGE, ALASKA 99501  
PHONE: (507) 276-3550

NATIONAL CENTER  
100 CUSHMAN ST  
SUITE 400  
FAIRBANKS, ALASKA 99701  
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99911  
PHONE: (907) 465-3600

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

May 29, 1985

The Honorable Ben Grussendorf  
Speaker of the House  
P.O. Box 928  
Sitka, Alaska 99335

Re: helicopter herring herding

Dear Representative Grussendorf:

You have asked several questions based on an incident which apparently occurred during the Sitka herring sac roe fishery in April, involving the herding of herring by a helicopter. The activity as you described it involved a helicopter hovering near the beach a few feet above the water, frightening the herring away from the aircraft. This is probably not illegal under current statutes and regulations. It is fairly clear that the helicopter would be exempt from vessel licensing requirements, since vessel is defined in AS 16.05.940(27) as a floating craft. However, the pilot of the helicopter would probably have to have a commercial fishing license, since commercial fisherman is defined in AS 16.05.940(4) as individuals who participate directly or indirectly in the taking of fish.

The activity you described probably does not constitute waste of herring, which would be prohibited by AS 16.10.173. That statute defines waste as the failure to use the flesh of commercially-taken herring for certain specified purposes, which does not seem on its face to apply. In any event, there would be a factual question. Further, the prohibition on wanton waste in AS 16.30.010 applies only to specified game animals.

The Board of Fisheries technically has the authority to prohibit the use of helicopters or aircraft in fishing, under the general regulatory powers set out in AS 16.05.251(a). However, it has been the experience of the Department of Public Safety, Division of Fish and Wildlife Protection, in the past that such prohibitions are very hard to enforce, if not virtually impossible. The board does not have the authority to prohibit helicopters or airplanes from flying at certain heights or speeds, nor from entering certain areas. That authority is preempted by the

Hon. Ben F. Grussendorf  
Speaker of the House

May 29, 1965  
Page 2

federal government through the FAA. Therefore, if helicopters or airplanes are present above an area where fishing is going on, it is necessary to prove that the helicopter or airplane was participating in the fishing, in association with a vessel or set of gear below. It might be helpful for you to contact the Division of Fish and Wildlife Protection about the enforcement problems.

Of course, putting aside the enforcement problems, any individual may submit a regulatory proposal to the Board of Fisheries under 5 AAC 96.610. Interested people could contact the Department of Fish and Game, Division of Boards, 465-4110, about the time frame for submitting such proposals. Of course, simply because a proposal is submitted does not mean the board will automatically adopt it in regulation, since the board must weigh all factors, including enforceability.

If you have any further questions, please give me a call.

Sincerely,

NORMAN C. GORSUCH  
ATTORNEY GENERAL

By: *LS/*  
Larri Irene Spengler  
Assistant Attorney General

LIS:dln

cc: Elizabeth A. Stewart  
Director  
Division of Boards  
Department of Fish & Game

Captain Jack Jordan  
Division of Fish & Wildlife Protection  
Department of Public Safety

# MEMORANDUM

State of Alaska

TO: Larri I. Spengler  
Assistant Attorney General  
Department of Law

DATE: May 22, 1985

FILE NO:

TELEPHONE NO: 465-4100

FROM: Steven Pennoyer *S Pennoyer*  
Deputy Commissioner  
Department of Fish and Game

SUBJECT: Commercial  
Fishing--Aircraft

Representative Goll sent two of his constituents over to talk to us about an incident that occurred during the 1985 Sitka Sound herring sac-roe fishery. The two, who are participants in that fishery, observed a helicopter being used to herd herring into a seine. They felt that type of activity was illegal, and that both the aircraft and the pilot should be licensed. We told them that as far as we could determine, there are no laws that prohibit the harassing of fish or the use of aircraft to take fish. It did seem clear that AS 16.05.940(27) would exempt such aircraft from the vessel licensing requirements, and that since the pilot's activities were a direct participation in the taking of fish, he would have to have a Commercial Fisheries Entry Commission permit or a crew member's license.

Representative Goll requested that if we determined that the helicopter's activities were not prohibited by law, we would ask you for your determination. If you agree with us, I think Representative Goll will plan on introducing some type of legislation to prohibit or restrict the activity.

cc: The Honorable Peter Goll  
Ken Parker

commodity bidding business." In other words, a crab stick is a crab stick is a crab stick.

While some experts claim "the end of the boom is nowhere in sight" and suggest that the market could hit a billion pounds by 1990, Berelson offers a more sobering vision. "Once the novelty wears off," he said, "the consumer will be disenchanted if quality slips. People have too many options today, and low quality gets lost in the backwater."

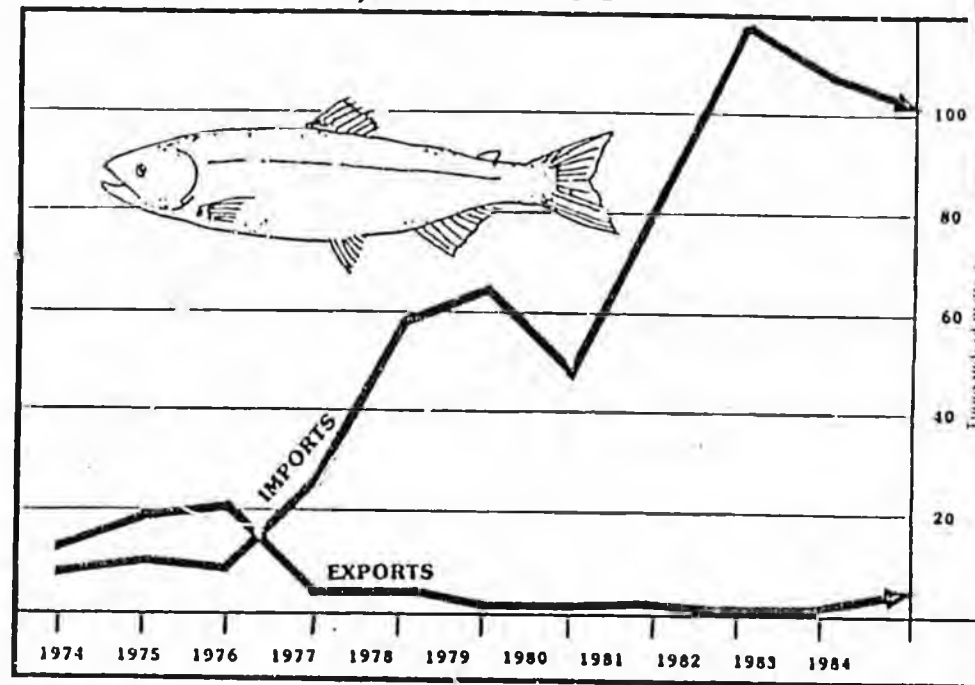
Hopefully, Berelson's boom and doom scenario is premature, but it'll be up to the industry to see that quality and value stay high. Seafood analogs don't have to go the way of the fish stick.

Fish sticks don't even have to go the way of the fish stick, judging from the new products in John Oaksmith's freezer case at Fisherman's Terminal. How about minced pollock nuggets or reformed pollock fillets from the 'Arctic Trawler?' Solves the problem of portioning small fillets and you'd be surprised how they hang together. Breaded or not, here they come. Good, too!

If you've got a helicopter, here's a tip for next year: Sitka herring. One enterprising skipper reportedly nailed 400 tons by stretching his net across the mouth of a bay filled with herring and seiners trying to catch them. When the herring saw the helicopter hovering overhead like a giant eagle, they split for deep water, right into the waiting purse seine. Now who would ever have thought of that?

Speaking of herring, you already know the Southeast prices, \$1000 a ton for seine and \$1350 for gillnet. Beats the pants off of last year, and bodes well for the next herring stops. No doubt you'll know the halibut price by the time the issue hits the streets. At press time all we know is that last year's cold storage fish have been spoken for and everyone's waiting for

## JAPAN SALMON IMPORTS AND EXPORTS, 1974-1984 (PRODUCT WEIGHT)



*Prior to passage of the Magnuson Act, Japan caught 65% of its salmon on the high seas and exported more than it imported. Since then imports have grown steadily along with demand, and by 1983 the high seas catch represented only 15% of the total supply.*

the fresh again. Prices should start high for them and drop like a rock when the rest hits the wharf.

U.S. Customs law requires that some species, including rockfish, taken by a Canadian vessel must be caught within their territorial waters (12-miles) if direct delivery is made to U.S. ports. Under the provisions of the IPHC, however, a Canadian fisherman is allowed to deliver halibut directly to ports in the United States. "As far as we know he does

## GENERAL PROVISIONS

**5 AAC 39.175. USE OF LIGHTS PROHIBITED.** It is unlawful to use artificial lights to attract salmon out of closed waters for the purpose of a commercial taking.

Authority: AS 16.05.251(a)(4),(7),(8)

**5 AAC 39.180. TIME LIMIT FOR PRESERVATION OF SALMON.** It is unlawful to preserve for sale as food any salmon, unless it has been canned, salted, iced, frozen, brine chilled, smoked or dried within 48 hours after being killed.

Authority: AS 16.05.250(3)

**5 AAC 39.185. POLICY ON CLOSURES DUE TO ILLEGAL FISHING.** (a) Some fisheries have had a documented history of illegal commercial fishing dating back to 1968. Enforcement efforts by the Department of Public Safety have been largely ineffective in controlling this recurring problem on a long-term basis. The Board recognizes the difficulty of enforcement in some areas of the state, and, although the current regulations are sufficient to protect fish stocks, they may be ineffective due to special enforcement problems.

(b) In the interest of the conservation of valuable renewable fish resources, the Board of Fisheries directs the commissioner, or his authorized designee, to take the following actions given the specified circumstances. If illegal fishing activities develop to the point that regulations pertaining to protection of fish stocks become ineffective, the commissioner shall consider closing the affected fishery by emergency order for a period of up to one week. When the fishery reopens and illegal fishing continues to be a problem, the appropriate fishery may be closed for an additional period of time. Continued violations may result in additional closures of the fishery.

Authority: AS 16.05.060  
AS 16.05.251(a)(2) and (7)

**5 AAC 39.190. DRIVING SALMON PROHIBITED.** It is unlawful to drive or attempt to drive salmon from waters closed to salmon fishing.

Authority: AS 16.05.251(7) and (8)  
AS 16.10.010

**5 AAC 39.195. ANNOUNCEMENT OF EMERGENCY ORDERS.** Announcement of emergency orders will be publicized and made known to interested persons, fishermen, buyers, packers and canneries by one or more of the following means if possible:

- (1) radio transmission by department stations;
- (2) notice posted at canneries and public places;
- (3) press releases and announcements in local newspapers and commercial radio stations;
- (4) telegrams and commercial radio facilities.

Authority: AS 16.05.060

**5 AAC 39.197. UNLAWFUL POSSESSION OF FISH.** No person may possess, purchase, sell, barter or transport fish within the state or within waters subject to the jurisdiction of the state if that person knows or has reason to know that the fish were taken or possessed in contravention of chs. 3-39 of this title.

Authority: AS 16.05.251(a)(10)

## GENERAL PROVISIONS

**5 AAC 39.198. FOREIGN FISH PROCESSING PERMITS.** (a) Except as provided in this chapter, a foreign fishing vessel is prohibited from engaging in fish processing in the internal waters of Alaska.

(b) A foreign fishing vessel may engage in fish processing in the internal waters of Alaska if

(1) the foreign nation under which it is flagged will be a party to an agreement or a treaty, as required by 16 U.S.C. § 1855(c), and during the time the vessel will engage in the fish processing;

(2) the owner or operator of the foreign fishing vessel, or a person representing the owner or operator, applies to the governor for, and is granted, a foreign processing permit for the vessel to engage in fish processing in the internal waters of Alaska.

(c) The governor will not grant a permit under (b)(2) of this section if he determines that fish processors in Alaska have adequate capacity, and will use that capacity to process all of the United States harvested fish from the fishery concerned that are landed in Alaska.

(d) In determining whether or not fish processors in Alaska have adequate capacity, and will use that capacity, to process all of the United States harvested fish from the fishery, the governor will, in his discretion, consider the following factors:

(1) the total allowable catch expected in the fishery;

(2) availability and capability of harvesting vessels in Alaska, seasonal fish and processing schedules, and marketing and other similar conditions in the fishery concerned and in alternative fisheries;

(3) availability of labor, adequacy and condition of processing machine freezers, and cold storage facilities of fish processors in Alaska, and the ability, intent and plans of those processors to process particular species;

(4) economic considerations, including contracts, agreements, and negotiations for the purchase of United States harvested fish by processors in Alaska;

(5) geographical considerations including proximity of harvest areas to facilities of fish processors in Alaska; and

(6) the extent to which fish processors in Alaska have processed particular species.

(e) An owner or operator of a foreign fishing vessel who submits an application for a permit to engage in fish processing in the internal waters of Alaska must

(1) state the reasons why fish processors in Alaska do not have adequate capacity, or will not use their capacity, to process all of the United States harvested fish from the fishery concerned that are landed;

(2) provide the following information

(A) vessel description and identification;

(B) names and descriptions of the vessels, if known, from which the applicant will purchase fish;

- 110. Unclassified game
- 115. Waterfowl, snipe, and cranes
- 120. (Repealed)
- 125. Control of predation by wolves
- 126. Wolf predation control programs

5 AAC 81.070. BIG GAME. Repealed 4/5/81.

5 AAC 81.072. GENERAL GAME PROVISIONS. The following methods and means of taking game are prohibited:

(1) by shooting from, on, or across a highway;

(2) with the use of poisons except with the written consent of the Board of Game;

(3) with the use of helicopter or rotorcraft in any manner, including transportation either to or from the field of any unprocessed game or parts of game, hunters or hunting gear, or any equipment used in the pursuit or retrieval of game; this paragraph does not apply to transportation of hunters, hunting gear, or game during emergency rescue operations in a life-threatening situation;

(4) unless otherwise provided in this chapter, from any mechanical vehicle or from a motor-driven boat unless the motor has been completely shut off and the boat's progress from the motor's power has ceased; however, a motor-driven boat underway may be used in taking wolves and coyotes in all units, and in taking caribou in Unit 23;

(5) with use of an aircraft, snowmachine, motor-driven boat, or other motorized vehicle for the purpose of driving, herding, or molesting game;

(6) with the use or aid of a machine gun, set gun, or a shotgun larger than 10 gauge;

6/30/81, Reg. 76; am 7/17/82, Reg. 83; 6/30/83, Reg. 86; am 6/30/84, Reg. 90)

Authority: AS 16.05.2

Editor's Note: The text of 5 AAC 81.072 is based on 5 AAC 81.120 which was in effect before 1980.

5 AAC 81.075. BIG GAME. (a) The following methods and means of taking big game are prohibited, in addition to the prohibitions listed 5 AAC 81.072:

(1) with the aid or use of a dog, except the dogs may be used to hunt black bear under the terms of a permit issued by the commission; under 5 AAC 81.040;

(2) with the use of traps, snares, or barbed arrows;

(3) while big game animals are swimming except that swimming caribou may be taken in Unit 23;

(4) a person who has been airborne may not take or assist in taking big game until after 3:00 a.m. following the day in which the flying occurred; however, this subsection does not apply to the following:

(A) taking or assisting in taking Sitka black-tailed deer in Units 1 - 6 and 8;

(B) repealed 6/23/85;

(5) from any boat in Units 1 - 5, except that wolves may be taken in Units 1 - 5 from a boat;

(6) repealed 6/28/85.

(b) The following methods and means of taking big game are authorized:

(1) with a shotgun, muzzle-loading rifle, or rifle or pistol using center-firing cartridges;

**HOUSE  
COMMITTEE REPORT**

(9)  
Date referred: 1/22/86

JUDICIARY

FURTHER REFERRALS: FINANCE

DATE: 2/12/86

The RESOURCES Committee has considered SSHB 467

"An Act relating to the herding of fish."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with \_\_\_\_\_  same title
- replace with \_\_\_\_\_  new title

and recommends \_\_\_\_\_

further referral to the \_\_\_\_\_ Committee

and attaches:  letter of intent  
 first fiscal note  
 new fiscal note  
 zero fiscal note

SIGNING DO PASS:

Herrmann Adelheid Herrmann  
Sundt [Signature]  
Thompson [Signature]  
Cato Bette Cato  
Pearce [Signature]  
Wallis F. Kaywell

SIGNING OTHER RECOMMENDATIONS:

M.W. Miller No Rec. M.W. Miller  
Roger Jenkins No Rec. Jenkins

Adelheid Herrmann  
Chairman

LETTER OF INTENT FOR HOUSE BILL 467

House Bill 467 is intended to prohibit the herding of fish by aircraft. It is not the intent of the legislature to otherwise restrict the legal uses of aircraft for spotting schools of fish in conjunction with commercial fishing operations.

*Adelheid Herrmann* 2/12/86  

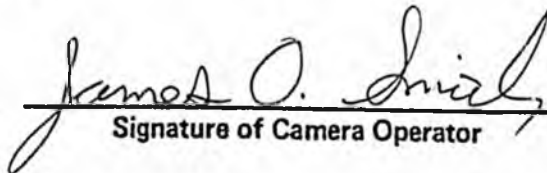
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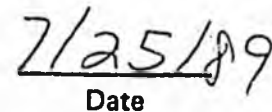
Co- Chair Adelheid Herrmann



# RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

  
Signature of Camera Operator

  
Date

HB

471

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE REFERENCE LIBRARY

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

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary

3/13/86

1:30 pm

HOUSE  
COMMITTEE REPORT

(7)

Date referred: 1/31/86

FURTHER REFERRALS:

DATE: \_\_\_\_\_

The JUDICIARY Committee has considered CSSSH B 471 (HESS)

"An Act relating to the abuse and neglect of children."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with CSSSH B 471 (JUD)  same title
- new title

and recommends \_\_\_\_\_

further referral to the \_\_\_\_\_ Committee

- and attaches:
- letter of intent
  - first fiscal note
  - new fiscal note
  - zero fiscal note

SIGNING DO PASS:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 BOB E. SP...  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

SIGNING OTHER RECOMMENDATIONS:

\_\_\_\_\_ *pass if amended*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 Chairman

Original sponsors: Gill and Gruenberg

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 471 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the abuse and exploitation of  
7 children."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 47.17.020 is amended by adding a new subsection to  
10 read:

11 (e) A person listed in (a) of this section, who in the perfor-  
12 mance of the person's occupational duties has cause to believe that a  
13 child has suffered harm as a result of abuse, shall promptly report  
14 the harm to the nearest law enforcement agency if the person making  
15 the report (1) has cause to believe that the harm was caused by a  
16 person who is not responsible for the child's welfare; or (2) is  
17 unable to determine (A) who caused the harm to the child; or (3)  
18 whether the person who is believed to have caused the harm has respon-  
19 sibility for the child's welfare. If a person making a report under  
20 this subsection cannot reasonably contact the nearest law enforcement  
21 agency, and immediate action appears necessary for the well-being of  
22 the child, the person shall make the report to the nearest office of  
23 the department. The department shall take immediate action to protect  
24 the child and shall, at the earliest opportunity, notify the nearest  
25 law enforcement agency. In this subsection, "abuse" means the phys-  
26 ical injury, sexual abuse, sexual exploitation, or maltreatment of a  
27 child by any person under circumstances that indicate that the child's  
28 health or welfare is harmed or threatened.

29 \* Sec. 2. AS 47.17.070(10) is amended to read:

1 (10) "sexual exploitation" includes [MEANS]

2 (A) allowing, permitting, or encouraging [PERMISSION  
3 OR ENCOURAGEMENT TO] a child to engage in [FOR] prostitution  
4 prohibited by AS 11.66.100 - 11.66.150, by a person responsible  
5 for the child's welfare;

6 (B) allowing, permitting, encouraging, or engaging in  
7 [PERMISSION, ENCOURAGEMENT, OR] activity [INVOLVED IN THE UNLAW-  
8 FUL EXPLOITATION OF A MINOR] prohibited by AS 11.41.455(a)  
9 [11.41.455], by a person responsible for the child's [MINOR'S]  
10 welfare.

Offered: 1/31/86  
Referred: Judiciary

Original sponsors: Goll and Gruenberg

1 IN THE HOUSE BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 471 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the abuse and neglect of chil-  
7 dren."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 47.17.020 is amended by adding a new subsection to  
10 read:

11 (e) A person listed in (a) of this section, who in the perfor-  
12 mance of the person's occupational duties has cause to believe that a  
13 child has suffered harm as a result of abuse or neglect, shall prompt-  
14 ly report the harm to the nearest law enforcement agency if the person  
15 making the report (1) has cause to believe that the harm was caused by  
16 a person who is not responsible for the child's welfare; or (2) is  
17 unable to determine (A) who caused the harm to the child; or (B)  
18 whether the person who is believed to have caused the harm has respon-  
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3 OR ENCOURAGEMENT TO] a child to engage in [FOR] prostitution  
4 prohibited by AS 11.66.100 - 11.66.150, by a person responsible  
5 for the child's welfare;  
6                   (B) allowing, permitting, encouraging, or engaging in  
7 [PERMISSION, ENCOURAGEMENT, OR] activity [INVOLVED IN THE UNLAW-  
8 FUL EXPLOITATION OF A MINOR] prohibited by AS 11.41.455(a)  
9 [11.41.455], by a person responsible for the child's [MINOR'S]  
10 welfare.

# STATE OF ALASKA

## DEPARTMENT OF PUBLIC SAFETY

### COUNCIL ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

BILL SHEFFIELD, GOVERNOR

POUCH N  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-4356

OFFICE ADDRESS: 450 WHITTIER STREET

October 31, 1985

The Honorable Mike Miller, Chair  
House Judiciary Committee  
Alaska State Legislature  
Capitol Building  
Pouch V  
Juneau, Alaska 99811

Dear Representative Miller:

I've learned about your interim hearings to address legislation to further protect children. Thank you for the attention your committee has and continues to pay to these issues. I cannot attend the hearings on November 21-23, so I am writing this letter to provide input to your process.

The Council on Domestic Violence and Sexual Assault is grateful for the legislation regarding child protection that passed last session. It clarified and closed gaps in existing legislation. One section of HB88 that did not pass, which we feel is important, required reporting of child abuse committed by an individual who is not responsible for the child's welfare. Section 18 of the original HB88 amended AS 47.17 to address what we consider a major gap in the existing system.

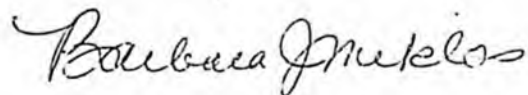
AS 47.17.02 requires reporting to the Department of Health and Social Services if "in the performance of their professional duties", a person listed in statute has "cause to believe that a child has suffered harm as a result of abuse or neglect". Section 47.17.070(i) defines child abuse or neglect as "the physical injury or neglect, sexual abuse, sexual exploitation or maltreatment of a child...by a person who is responsible for the child's welfare..." Therefore, there is no existing mandate for a professional to report abuse by a non-caretaker. For instance, a teacher who has reason to believe that another teacher is harming a child is not mandated to report.

Although, national statistics show that most abuse occurs in the home, it is obvious from talking to Alaskan professionals and reading the newspaper and police reports that there are many non-family incidences in our state. Often parents can and do take action if a non-family member is abusing the child. However, they may not know that abuse is occurring or where to turn if it does. Reporting these crimes will further protect children.

Representative Mike Miller  
October 31, 1985  
Page Two

We also feel it is necessary for the system to address the emotional needs of the child victims and families when abuse is by a person who is not responsible for the child's welfare. Presently, in Alaska, there are insufficient support and treatment resources for these cases. Domestic violence and sexual assault programs provide support, assistance and, in some cases, counseling to victims and their families. However, these services are severely limited due to insufficient funding. In order to address the needs of all victims and their families, legislation must address child protection adequately and resources must be provided so children throughout the state are given the services they need to grow up to be healthy adults.

Sincerely,



Barbara Miklos  
Executive Director

cc: Members, Council on Domestic  
Violence & Sexual Assault

Council funded programs

POSITION PAPER

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 471 (HESS)

For an Act entitled: "An Act relating to the abuse and neglect of children."

The bill as originally proposed would add to and clarify the responsibility of persons now required to report instances of suspected child abuse or neglect. It would make reporting mandatory in suspected instances of child abuse or neglect involving perpetrators who are not responsible for the child's welfare or in situations in which the perpetrator is unknown. The current statute requires that specified persons report only when it is suspected that the person responsible for the child's welfare is the perpetrator.

The amendment also requires that reports of abuse or neglect of this nature be reported to the nearest law enforcement agency, as distinguished from reports involving perpetrators within the family, which are reported to the Department of Health and Social Services.

The HESS Committee Substitute also added a new section two which would amend AS 47.17.070(10) to broaden the definition of sexual exploitation. Our goal is to meet the federal model language for defining sexual exploitation and, thereby, close a possible loophole in the present definition. Under the current definition, a caretaker could be aware that a child was involved in sexually exploitative activities, but still not be held liable because, although aware, the caretaker did not actually give permission for the child to engage in the activity. Suggested language would not require affirmative action by the caretaker, and the department supports section two.

The department continues to support this bill.

RECOMMENDED:

Michael L. Price  
Michael L. Price, Director  
Division of Family  
and Youth Services

DATE:

March 12, 1986

APPROVED:

John R. Pugh  
John R. Pugh, Commissioner  
Department of Health  
and Social Services

DATE:

March 12, 1986

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No. : CS SS HB471(HESS)  
 Title : "An Act relating to the  
 abuse and neglect of children"  
 Sponsor : Goll and Gruenberg  
 Requestor : H. Judiciary  
 Date of Request : \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected : Public Safety  
 BRU : Council on Domestic Violence  
 and Sexual Assault  
 Components : \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

**FUNDING : (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS :**

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS      Attach a separate page if necessary

*K. B.*

Prepared by : Barbara Miklos, Exec. Director  
 Division : Council on DV/SA

Phone : 465-4356  
 Date : 2/10/86

Approved by Commissioner : *[Signature]*  
 Agency : Dept. of Public Safety

Date : 2/13/86

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No. : SSHB471  
 Title : "An Act Relating to the Abuse and Neglect of Children"  
 Sponsor : Rep. Peter Goll & Rep. Gruenberg  
 Requestor : H Judiciary  
 Date of Request : \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected : Public Safety  
 BRU : Council on Domestic Violence and Sexual Assault  
 Components : \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

**FUNDING : (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS :**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

Prepared by : Barbara Miklos, Exec. Dir.  
 Division : Council on DV & SA

Phone : 465-4356  
 Date : 1/31/86

Approved by Commissioner : *hms*  
 Agency : Dept. of Public Safety

Date : 2/3/86

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - SSHB 471

January 31, 1986

Support

HB 471 - "An Act relating to the abuse and neglect of children."

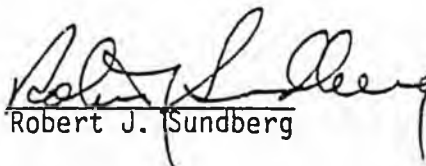
The Council on Domestic Violence and Sexual Assault supports HB 471 which adds a new section requiring that reports of harm to children caused by persons not responsible for the child's welfare be reported to law enforcement agencies. Existing legislation requires only reporting child abuse committed by persons responsible for a child's welfare.

Recent cases in Alaska and national studies show that non-familial child sexual assault is a major problem. In a study of child sexual abuse conducted by Dr. Anne Russell, an expert on adult and child sexual assault, 11 percent of the perpetrators were total strangers, 29 percent were relatives and 60 percent were known but unrelated to the victim.

It has been assumed that people accept their responsibility to report crimes against children to law enforcement agencies. However, this has not always proven to be the case. People may be reluctant to become involved with the criminal justice system because of the time required for the process. This reluctance is exacerbated in small communities where the alleged perpetrator is a peer and possibly a friend. This legislation provides a needed incentive to assure reporting of all assaults against children.

In order to more fully guarantee protection of children, all suspicions of child abuse should be investigated so the abuse can be stopped and the child and her/his family can receive the necessary support and treatment to overcome the trauma.

A suggested change to be made in the bill is to make the language in the bill that refers to the "nearest law enforcement agency" consistent with the language in the existing statute 47.17.020(c), to make reports to "a peace officer".

  
Robert J. Sundberg

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - SSHB 471

January 31, 1986

Support

HB 471 - "An Act relating to the abuse and neglect of children."

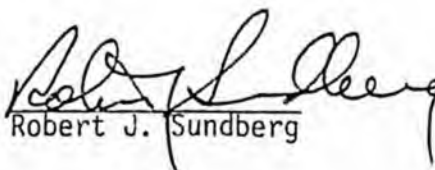
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A suggested change to be made in the bill is to make the language in the bill that refers to the "nearest law enforcement agency" consistent with the language in the existing statute 47.17.020(c), to make reports to "a peace officer".

  
Robert J. Sundberg

# ALASKA WOMEN'S LOBBY

POST OFFICE BOX 10-1571, ANCHORAGE, ALASKA 99510

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March 6, 1986

Honorable Mike M. Miller, Chairman  
House Judiciary Committee

Mr. Chairman and members of the committee:

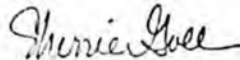
The Alaska Women's Lobby would like to express it's strong support for HB 471 which addresses a serious loophole in the state's reporting statute on child abuse and neglect.

The flaw requires that the person who recognizes that a child has suffered harm must first make a determination of who caused the harm and is only required to report if they believe the harm was caused by a person responsible for the child's welfare.

This legislation addresses that flaw by requiring that all suspected cases of child abuse and neglect must be reported regardless of who may have caused the harm. It also clarifies the definition of child sexual exploitation.

We believe the changes provided by HB 471 will benefit the welfare of Alaskan children and we urge it's passage.

Thank you for your consideration.



Sherrie Goll  
Alaska Women's Lobby



# RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith  
Signature of Camera Operator

7/25/89  
Date

H B

4 7 2

STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

**REQUEST**

Bill/Resolution No.: CS HB 472 (Trans.)  
 Title: An Act relating to suspension  
 and revocation of a minor's  
 license to drive...  
 Sponsor: Taylor  
 Requestor: House Transportation  
 Date of Request: 2-11-86

**FISCAL DETAIL**

Agency Affected: Public Safety  
 BRU: Motor Vehicles  
 Components: Driver Services

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		5.4	7.5	7.9	8.3	8.7
TRAVEL						
CONTRACTUAL		.2	.2	.2	.2	.2
SUPPLIES		.1	.1	.1	.1	.1
EQUIPMENT		2.3				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>8.0</b>	<b>7.8</b>	<b>8.2</b>	<b>8.6</b>	<b>9.0</b>

CAPITAL						
---------	--	--	--	--	--	--

REVENUE		1.0	9.5	18.0	34.0	34.0
---------	--	-----	-----	------	------	------

**FUNDING : (Thousands of Dollars)**

GENERAL FUND		8.0	7.8	8.2	8.6	9.0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		<b>8.0</b>	<b>7.8</b>	<b>8.2</b>	<b>8.6</b>	<b>9.0</b>

**POSITIONS :**

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

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

One part-time clerical position will be necessary to handle additional work-load, including preparing file, entry of license action on computer, preparing certified copies, notifying individual, maintaining proof of insurance file, preparator records for microfilm, entry of data on microfilm retrieval system, etc. Cost breakdown attached.

Prepared by: Bill Brown Phone: 465-2650

Division: Motor Vehicles Date: 2-11-86

Approved by Commissioner: [Signature] Date: 2/11/86

Agency: Public Safety

**Distribution (by Agency preparing fiscal note):**

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

*K. H. [unclear]*

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CS HB 472 (Trans.)

DETAIL

100	Personal Services		
	One Document Processing Clerk II		
	Part-Time, 2 hours per day	5.4	5.4
300	Contractual		
	Postage and tolls	.2	.2
400	Commodities		
	Normal office supplies	.1	.1
500	Equipment		
	1 typewriter	1.2	
	1 desk	.6	
	1 chair	.2	
	1 file cabinet	.3	
	TOTAL		8.0

INFORMATION

It has been learned that of the total number of youth ages 13 to 17 who are arrested for offenses outlined in AS 28.15.185(a)(1) and (2), an estimated 300 to 400 will be convicted or adjudicated by a juvenile court. Therefore, a full time position will not be required to process the additional workload, and the fiscal note has been revised downward for a part-time position only.

With the effective date being September 1, 1986, documents will not start being received from the Court until around October 1, 1986. Therefore, personal services for FY87 reflect a nine month period with the employee being hired October 1, 1986. Other items are budgeted accordingly with the first full year being FY88.

FY88 and subsequent years reflect a 5% inflation factor.

REVENUE

Statutes require payment of a \$100.00 reinstatement fee prior to issuance of a driver's license following a suspension or revocation. The revenue indicated is based on an estimation of the number of minor's whose driving privileges were taken away under this legislation who would not have otherwise lost those privileges, and who will apply for a license and pay the \$100.00 fee. If the offense is for AS 28.15.185(a)(2), and the person does not apply for a license prior to the sealing of the record at age 18, the \$100 fee will not be collected.

Position Title Document Processing Clerk II			No. of Positions 1	Range/Step 8b	Barg. Unit GGU	Gov.	Approv.	Disapp.
Time Status PPT	Staff Months 12	RP Number	Location Juneau		Election District 4	Leg.		
Type of Expenditure			Justification					
		Amount	<p>This legislation will require action against the driving privileges of an estimated 300 to 400 individuals who are convicted of, or adjudicated for offenses which do not currently require action. This position will prepare files, establishing beginning and ending dates of the action; enter the license action on the individual's driving record; change the status on the individual's record; send a notice to the individual concerning the action and requirements for reinstatement; prepare certified copies for prosecutors when individual is arrested for driving while revoked; maintain proof of insurance file after reinstatement; change status on driving record when license action is over; prepare record for microfilm; enter data on microfilm retrieval system; and assist in correspondence concerning the license action.</p> <p>This form prepared reflecting nine months cost. Position to begin October 1, 1986.</p>					
1	2	3						
Salary	4.3							
Benefits	1.1							
Premium Pay								
Other								
Total Personal Services		5.4						
Travel								
Contractual		.2						
Commodities		.1						
Equipment		2.3						
Other								
Total Cost		8.0						
Receipt Code		Funding Source						
		Federal Receipts 1002						
		G. F. Match 1003						
		General Funds 1004	8.0					
		I-A Receipts 1005						
		Program Receipts 1028						
		CIP Receipts 1061						
		Other						
For B&M Use Only Key Number _____								

**Request For  
New Position**

Agency Public Safety  
 BRU Motor Vehicles  
 Component Driver Services

**FY 87**

Page 3 of 3  
 Revised Date

STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: 2/11/86

REQUEST

Bill Resolution No. : CSHB 472 (TRSP)  
 Title: An Act relating to suspension and revocation of a minor's license to drive  
 Sponsor: Taylor  
 Requestor: N/A  
 Date of Request: N/A

FISCAL DETAIL

Agency Affected: Health & Social Services  
 BRU: Alcoholism & Drug Abuse  
 Components: Alcohol Abuse Grant

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by: House Transportation Committee  
 Division: \_\_\_\_\_

Phone: 465-4858

Date: 2/11/86

Approved by Commissioner: *Bette Cato*  
 Agency: \_\_\_\_\_

Date: 2/11/86

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - HB 472

Neutral

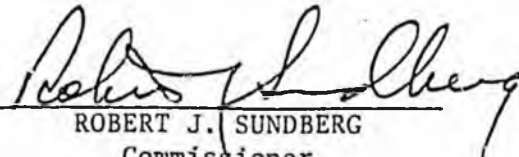
January 20, 1986

HB 472. An Act relating to suspension and revocation of a minor's license to drive and the definition of driver's license.

It appears the bill was drafted by using Oregon law as a model, and not taking into account the difference in how the Courts and DMV operate in the two states. In Alaska the Court is generally empowered with the authority to revoke a driver's license at the time of sentencing for a criminal offense (ie: DWI, Hit & Run, etc.). It is recommended Section 1 of the bill be deleted, and the data be incorporated in Section 2. The bill would then specify the court imposes the revocation, whether it be 90 days, one year, or until a specific age. This would be more in line with current Alaska law, and would eliminate the need for DMV to offer an administrative hearing before the administrative suspension is imposed.

Lines 10 and 11 of Section 5 indicate information concerning the license action could not be disclosed. This would prevent enforcement of the action, thus making it meaningless. In order to allow DMV to enter the license action on the defendant's record line 23 of Section 5 should be amended to reflect ".... except for traffic offenses or license action taken under AS 28.15.163 or AS 28.15.185.".

As a point of information, current law (AS 28.20.240) will require the individual to file and maintain proof of financial responsibility for the future (SR-22 insurance) for three years. If the SR-22 is not filed the license action will continue for that additional three year period.

  
ROBERT J. SUNDBERG  
Commissioner

STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No. : HB 472  
 Title : An Act relating to suspension  
and revocation of a minor's  
license to drive....  
 Sponsor : Taylor  
 Requestor : \_\_\_\_\_  
 Date of Request : \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected : Public Safety  
 BRU : Motor Vehicles  
 Components : Driver Services

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		21.2	29.6	31.1	32.7	34.3
TRAVEL						
CONTRACTUAL		6.8	8.4	8.8	9.2	9.7
SUPPLIES		.5	.6	.6	.7	.7
EQUIPMENT		8.2				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>36.7</b>	<b>38.6</b>	<b>40.5</b>	<b>42.6</b>	<b>44.7</b>

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE</b>		10.0	70.0	150.0	170.0	180.0
----------------	--	------	------	-------	-------	-------

**FUNDING : (Thousands of Dollars)**

GENERAL FUND		36.7	38.6	40.5	42.6	44.7
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS :**

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

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

*K. Miller*

One clerical position will be necessary to handle additional work load, including preparing file, entry of license action on computer, preparing certified copies, notifying individual, maintaining proof of insurance file, preparation of records for microfilm, entry of data on microfilm retrieval system, etc. Cost breakdown attached.

Prepared by : Bill Brown Phone : 465-2650  
 Division : Motor Vehicles Date : 1-16-86  
 Approved by Commissioner : [Signature] Date : 1-16-86  
 Agency : \_\_\_\_\_

**Distribution (by Agency preparing fiscal note) :**

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 472

DETAIL

100	Personal Services		
	One Document Processing Clerk II	21.2	21.2
300	Contractual		
	310 Postage	2.9	
	382a DP line charges - 1 CRT	1.7	
	DP data circuit - 1 CRT	1.3	
	Maintenance - 1 CRT	.5	
	Maintenance - 1 printer	.4	
		6.8	6.8
400	Commodities		
	Normal office supplies	.5	.5
500	Equipment		
	1 CRT terminal	3.0	
	1 CRT feature board	.8	
	1 printer	1.8	
	1 typewriter	1.2	
	1 desk	.6	
	1 chair	.2	
	1 file cabinet	.3	
	1 CRT table	.3	
		8.2	
	TOTAL		36.7

INFORMATION

With the effective date being September 1, 1986, documents will not start being received from the Court until around October 1, 1986. Therefore, personal services for FY87 reflect a nine month period with the employee being hired October 1, 1986. Other items are budgeted accordingly with the first full year being FY88.

FY88 and subsequent years reflect a 5% inflation factor.

REVENUE:

Statutes require payment of a \$100.00 reinstatement fee prior to issuance of a driver's license following a suspension or revocation. The revenue indicated is based on an estimation of the number of minor's whose driving privileges were taken away under this legislation who would not have otherwise lost those privileges, and who will apply for a license and pay the \$100.00 fee.

Position Title Document Processing Clerk II			No. of Positions 1	Range/Step 8b	Barq. Unit GGU	Gov.	Approv.	Disapp
Time Status PFT	Staff Months 12	RP Number	Location Juneau		Election District 4	Leg.		
Type of Expenditure			Justification					
1		2	3					
Salary			<p>This legislation will require action against the driving privileges of approximately 1,800 individuals who are convicted of, or adjudicated for offenses which do not currently require action. This position will prepare files, establishing beginning and ending dates of the action; enter the license action on the individual's driving record; change the status on the individual's record; send a notice to the individual concerning the action and requirements for reinstatement; prepare certified copies for prosecutors when individual is arrested for driving while suspended or revoked; maintain proof of insurance file after reinstatement; change status on driving record when license action is over; prepare record for microfilm; enter data on microfilm retrieval system; and assist in correspondence concerning the license action.</p> <p>This form prepared reflecting nine months cost. Position to begin October 1, 1986.</p>					
Benefits								
Premium Pay								
Other								
Total Personal Services		21.2						
Travel								
Contractual		6.8						
Commodities		.5						
Equipment		8.2						
Other								
Total Cost		36.7						
Receipt Code			Funding Source					
			Federal Receipts 1002					
			G. F. Match 1003					
			General Funds 1004					
			I-A Receipts 1005					
			Program Receipts 1028					
			CIP Receipts 1061					
			Other					
			36.7					
For B&M Use Only								
Key Number								

**Request For  
New Position**

Agency Public Safety  
 BRU Motor Vehicles  
 Component Driver Services

Page 3 of 3  
 Revised Date

**FY 87**

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No. : CSHB472 (TRANS)  
 Title : "An Act relating to the suspension and revocation of a minor's license..(etc)..."  
 Sponsor : Transportation Committee  
 Requestor : House Judiciary  
 Date of Request : \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected : Public Safety  
 BRU : Alaska State Troopers  
 Components : Detachments & CI8

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>REVENUE</b>	-0-	-0-	-0-	-0-	-0-	-0-

**FUNDING : (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

**POSITIONS :**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

*K. Allen*  
 Prepared by : Francis C. Allan *F.C.A.* Phone : 269-5691  
 Division : Alaska State Troopers Date : 2-19-86  
 Approved by Commissioner : *[Signature]* Date : 2/21/86  
 Agency : Department of Public Safety

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

POSITION PAPER

HOUSE BILL 472

"An Act relating to suspension and revocation of a minor's license to drive and the definition of driver license; and providing for an effective date."

Discussion

House Bill 472 will attempt to reduce drinking and drug use by minors, persons under age eighteen, by placing time restrictions on the minor's privilege to obtain or retain a driver's license, if the minor is convicted of misconduct involving a controlled substance or possession or consumption of alcohol. The suspension period for a first offense is one year or until a person reaches the age of 17, whichever is longer, and the suspension period for a second offense is one year or until a person reaches the age of 18, whichever is longer.

This bill is patterned after an Oregon law that was enacted in July, 1983. In 1985, 1510 Oregon youths were denied driving privileges under the provision of this law. Of this number, 94% or 1414 denials were for the offense of possession of alcohol or drugs; 46 denials were for open container violations, 14 for driving under the influence, and 36 were for miscellaneous offenses. Of the 1510 convictions, 1352 were first offenses. 1985 was the second year of experience with this law. It has been reported in the Oregon press that judges in metropolitan areas have been ignoring this law because of heavy case loads or a belief that the penalty is too harsh for the offense.

Drinking and drug use among youth is a serious problem in Alaska. In the six year period of 1979-1984, 42 youths 0-18 years of age have died as a result of alcohol related motor vehicle accidents. According to the 1983 Crime in Alaska report, 1146 minors were arrested for liquor law violations; 336 for drug offenses; 234 for vandalism; and 97 for driving under the influence. Drinking and drug use account for a high number of school suspensions and family discord.

Position

The Department of Health and Social Services is supportive of the approach taken in HB 472 towards the prevention of drinking and drug use by Alaska youth. The privilege to obtain or retain a driver's license is held in high regard by this age group and it is hoped that this strategy will be an effective deterrent to indiscriminate use of chemicals. The Department recognizes that the majority of youth drinking and drug use is experimental in nature, nevertheless the strong influence of "peer pressure" upon this age group often results in unplanned use during social interaction. This legislation may serve as a constant reminder that the privilege of driving must be earned through responsible behavior. There are statistical indications that a number of Alaska youth have serious problems with chemicals. In 1985, 682 youth 17 years of age and younger had diagnosed problems severe enough to warrant treatment for alcoholism and drug abuse in State funded programs. The Department would like the committee to consider one

possible addition to the bill, a provision that convicted youth be required to undergo a screening process to determine the need for education or treatment. A process similar to the present Alcohol Safety Action Program (ASAP) and state treatment system could be used for this purpose. This process would impact the high risk youth with a more intensive response while providing relevant education to an offender.

The Department will be pleased to provide additional information on drinking and drug use among youth upon request.

Recommended by:

*Matthew Felix*  
*George M. ...*  
Matthew C. Felix  
Coordinator  
Office of Alcoholism/  
Drug Abuse

Date:

1/20/86

Approved by:

*John R. Pugh*  
John R. Pugh  
Commissioner  
Department of Health  
& Social Services

Date:

1/22/86

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No. : House Bill 472  
 Title : An Act relating to suspension and revocation of a minor's license to drive  
 Sponsor : Taylor  
 Requestor : N/A  
 Date of Request : N/A

**FISCAL DETAIL**

Agency Affected : Health & Social Services  
 BRU : Alcoholism & Drug Abuse  
 Components : Alcohol Abuse Grant

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>REVENUE</b>	-0-	-0-	-0-	-0-	-0-	-0-

**FUNDING : (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS :**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

Prepared by : Matthew C. Felix *Matthew C. Felix*  
 Division : Alcoholism/Drug Abuse

Phone : 586-6201  
 Date : 1/20/86 *JCC 1/21/86*

Approved by Commissioner : *Jan R. Boy*  
 Agency : Health and Social Services

Date : 1/22/86

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA  
THE LEGISLATURE

STONY STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3600

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 28, 1986

SUBJECT: Sectional Analyses  
HB 453, HB 472, and HB 473

TO: Representative Robin Taylor

FROM: Michael F. Ford *M.F.*  
Legislative Counsel

The following are sectional analyses of the above referenced house bills, requested by your staff:

HB 453

Section 1 - Requires the Legislative Budget and Audit Committee to present a summary of reports received under section 2 of this bill, to the legislature.

Section 2 - Requires a grantee who accepts funds for construction or repair of a public facility to comply with certain competitive bidding requirements listed in AS 37.05.230(1), before expending grant funds. If a bid is accepted and a contract awarded, the grantee is required to notify Legislative Budget and Audit of any change orders or modifications to the contract.

HB 472

Section 1 - Establishes administrative suspension for a minor's license to drive, on conviction or adjudication of certain offenses listed in section 2.

Section 2 - Provides for court revocation of a minor's license to drive if convicted or adjudicated of certain offenses. Also provides for specific periods of revocation, and for restoration of the license upon petition to the court.

Representative Robin Taylor

Page 2

January 28, 1986

Section 3 - Amends the definition of "driver's license" to include the privilege to obtain a license. A person without a license could lose the privilege to obtain their license.

Section 4 - Amends the statute regarding adjudication of a minor, to clearly provide that for purposes of driver's licensing, a minor is treated as an adult in sentencing.

Section 5 - Requires the court to forward a record of adjudication of a violation of an offense listed in section 2, to the Department of Public Safety. This record would trigger the administrative suspension process.

HB 473

Section 1 - Narrows the exception concerning providing alcoholic beverages to a person under age 21, by requiring that the person under 21 receive the alcohol in a private residence, and that they do not leave the residence while under the influence of alcohol.

Please contact me if you have any questions.

MFF:mkr

M2:093

HOUSE

COMMITTEE REPORT

JUDICIARY

Date referred: 1/14/86

FURTHER REFERRALS: FINANCE

DATE: 2-16-86

The TRANSPORTATION Committee has considered HB 472

"An Act relating to suspension and revocation of a minor's license to drive and the definition of a driver's license; and providing for an effective date."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with CSHB 472(TRSP)  same title
- new title

and recommends \_\_\_\_\_

further referral to the \_\_\_\_\_ Committee

- and attaches:
- letter of intent
  - first fiscal note
  - new fiscal note
  - zero fiscal note

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

*Dick Skelly*  
*W. H. ...*  
*Peter Cato*

*Mike ...*  
*Charles Herrmann No. Rec*  
*A. M. MARCOU Do Not Pass*  
 DISCRIMINATES AGAINST YOUNG PEOPLE

*Peter Cato*  
Chairman

Ford ✓  
2/4/86

Original sponsor: Taylor By Request

1 IN THE HOUSE

BY THE TRANSPORTATION COMMITTEE

2 CS FOR HOUSE BILL NO. 472 (Transportation)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to suspension and revocation of a  
7 minor's license to drive and the definition of driv-  
8 er's license; and providing for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. AS 28.15.181(c) is amended to read:

11 (c) Except for court revocation of a minor's license to drive  
12 under AS 28.15.185, a [A] court convicting a person of an offense  
13 described in (a)(5) or (8) of this section arising out of the opera-  
14 tion of a motor vehicle for which a driver's license is required shall  
15 revoke that person's driver's license as provided in this subsection.  
16 The revocation may be concurrent with or consecutive to an administra-  
17 tive revocation under AS 28.15.165. The court may not, except as  
18 provided in (e) of this section, grant limited license privileges for  
19 the following periods:

20 (1) not less than 90 days if, within the preceding 10  
21 years, the person has not previously been convicted of an offense

22 (A) described in (a)(5) or (8) of this section; or

23 (B) under a law or ordinance in another jurisdiction  
24 with elements substantially similar to an offense described in  
25 (a)(5) or (8) of this section;

26 (2) not less than one year if, within the preceding 10  
27 years, the person has been previously convicted of one offense

28 (A) described in (a)(5) or (8) of this section; or

29 (B) under a law or ordinance in another jurisdiction

1 with elements substantially similar to an offense described in  
2 (a)(5) or (8) of this section;

3 (3) not less than 10 years if, within the preceding 10  
4 years, the person has been previously convicted of more than one of  
5 the following offenses or has more than once been previously convicted  
6 of one of the following offenses:

7 (A) an offense described in (a)(5) or (8) of this  
8 section; or

9 (B) an offense under another law or ordinance in  
10 another jurisdiction with elements substantially similar to an  
11 offense described in (a)(5) or (8) of this section.

12 \* Sec. 2. AS 28.15 is amended by adding a new section to read:

13 Sec. 28.15.185. COURT REVOCATION OF A MINOR'S LICENSE TO DRIVE.

14 (a) A person who is at least 13 years of age, but not older than 17  
15 years of age who is convicted, or adjudicated by a juvenile court, of  
16 having committed one of the following offenses shall have the person's  
17 driver's license revoked:

18 (1) misconduct involving a controlled substance (AS 11.71);

19 (2) possession or consumption of alcohol (AS 04.16.050);

20 (3) driving a motor vehicle while intoxicated (AS 28.35.-  
21 030);

22 (4) refusal to submit to a chemical test (AS 28.35.032).

23 (b) The court shall impose the revocation as follows:

24 (1) for a first conviction or adjudication, the revocation  
25 shall be for one year or until the person reaches 17 years of age,  
26 whichever is longer;

27 (2) for a second or subsequent conviction or adjudication,  
28 the revocation shall be for one year or until the person reaches 18  
29 years of age, whichever is longer.

1 (c) Upon conviction or adjudication of an offense listed in (a)  
2 of this section the court may, upon petition of the person, review the  
3 revocation and may restore the driver's license, except a court may  
4 not restore the driver's license for a period of

5 (1) 90 days for the first conviction or adjudication;

6 (2) one year for second or subsequent convictions or adju-  
7 dications.

8 \* Sec. 3. AS 28.40.100(a)(5) is amended to read:

9 (5) "driver's license" or "license" when used in relation  
10 to driver licensing, means a license, permit or privilege to obtain a  
11 driver's license, whether or not a person holds a valid license issued  
12 in this or another jurisdiction, to drive a motor vehicle under the  
13 laws of this state;

14 \* Sec. 4. AS 47.10.080(g) is amended to read:

15 (g) Except for purposes of driver's licensing under AS 28.15.-  
16 163, an [NO] adjudication under this chapter upon the status of a  
17 child may not operate to impose any of the civil disabilities ordi-  
18 narily imposed by conviction upon a criminal charge, nor may a minor  
19 afterward be considered a criminal by the adjudication, nor may the  
20 adjudication be afterward deemed a conviction, nor may a minor be  
21 charged with or convicted of a crime in a court, except as provided in  
22 this chapter. The commitment and placement of a child and evidence  
23 given in the court are not admissible as evidence against the minor in  
24 a subsequent case or proceedings in any other court, nor does the  
25 commitment and placement or evidence operate to disqualify a minor in  
26 a future civil service examination or appointment in the state.

27 \* Sec. 5. AS 47.10.090(a) is amended to read:

28 (a) The court shall make and keep records of all cases brought  
29 before it. The court's official records may be inspected only with

1 the court's permission and only by persons having a legitimate inter-  
2 est in them. All information and social records pertaining to a minor  
3 and prepared by an employee of the court or by a federal, state or  
4 city agency in the discharge of the employee's or agency's official  
5 duty, are privileged and may not be disclosed directly or indirectly  
6 to anyone without the court's permission, except for traffic offenses  
7 and driver's license action taken under AS 28.15.185. Traffic  
8 offenses and driver's license action may not be disclosed without the  
9 court's permission, except as specified in AS 28.15.151. However, a  
10 state or city law-enforcement agency shall disclose information  
11 regarding a case which is needed by the person or agency charged with  
12 making a preliminary investigation for the information of the court.  
13 The court shall forward a record of adjudication of a violation of an  
14 offense listed in AS 28.15.185(a) to the Department of Public Safety.  
15 Within 30 days of the date of a minor's 18th birthday or, if the court  
16 retains jurisdiction of a minor past the minor's 18th birthday, within  
17 30 days of the date on which the court relinquishes jurisdiction over  
18 the minor, the court shall order sealed all the court's official  
19 records, information and social records pertaining to that minor, as  
20 well as records of all criminal proceedings against the minor and  
21 punishments assessed against the minor except for traffic offenses and  
22 driver's license action taken under AS 28.15.185. A person may not  
23 use these sealed records for any purpose except that the court may  
24 order their use for good cause shown or may order their use by an  
25 officer of the court in making a presentencing report for the court.

26 \* Sec. 6. This Act takes effect September 1, 1986.  
27  
28  
29

# Alaska State Legislature

## House of Representatives

### Committee on Transportation



Rep. Bette Cato, Chairman

Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4858

DATE: 10 FEBRUARY 1986  
TO: COMMITTEE MEMBERS  
FROM: STAFF  
RE: CSHB 472 DATED 2/6/86

The following changes have been made to CSHB 472:

Page 4, lines 22 and 23 - add (a)(1), (a)(3), or (a)(4).

AS 28.15.185(a)(1) misconduct involving a controlled substance  
(3) driving a motor vehicle while intoxicated  
(4) refusal to submit to a chemical test

Thus, the court will seal all official records, information and social records pertaining to possession or consumption of alcohol, which was the committee's main concern. Misconduct involving a controlled substance, driving a motor vehicle while intoxicated and refusal to submit to a chemical test becomes permanent record.

For your information attached is a history of CSHB 472 (TRSP) to date.

House Bill 472 "An Act relating to suspension and revocation of a minor's license to drive and the definition of driver's license; and providing for an effective date."

A minor between the ages of 13 and 17 who is convicted or adjudicated by a juvenile court of misconduct involving a controlled substance or possession or consumption of alcohol would automatically have their driver's license revoked. The Department of Public Safety would be required to suspend the minor's license for one year or until the minor turns 17 whichever is longer for the first offense. For the second or subsequent conviction or adjudication, the suspension would be for a year or until the minor turns 18, whichever is longer.

A court could review the revocation and could restore the driver's license, but not for 90 days after the first conviction or adjudication or one year for the second or subsequent convictions or adjudications.

The Department of Public Safety suggested two changes to HB 472 which were accepted by the committee as amendments to the bill. The first CSHB 472 draft deleted a section contained in original version relating to administrative suspension of a minor's driver's license. That section would have allowed the Department of Public Safety to cancel, suspend or revoke a minor's driver's license upon receipt of a record of conviction or adjudication or a drinking or drug violation.

Under the new version, the court could revoke a minor's license if the minor were convicted or adjudicated in juvenile court of driving while intoxicated, or for refusal to submit to a chemical test. The court would be required to revoke the license for one year or until the person reached 17, whichever was longer, and for a second conviction or adjudication the revocation would be for one year or until the person reached 18, whichever is longer. Information on a minor's driver's license action could be disclosed in the same manner as traffic offenses.

It was the disclosure of information on a minor's driver's license regarding possession or consumption of alcohol which was of grave concern to the committee.

A new CSHB 475 (TRSP) dated February 6, 1986 addresses and hopefully answers those concerns. This draft adds language which means that the court will seal all official records, information and social records pertaining to possession or consumption of alcohol but, misconduct involving a controlled substance, driving a motor vehicle while intoxicated and refusal to submit to a chemical test becomes permanent record.

The following testimony which was taken and the committee's action in relationship to that testimony:

Matt Felix, Office of Alcoholism and Drug Abuse, Department of Health and Social Services said that the department is very supportive of the bill but at the same time wanted to let members know that the bill will probably not impact all of those youth cited for various liquor and drug violations because of the system. He went on to explain how the system works.

Mr. Felix suggested an addition to the bill which was a provision that convicted youth be required to undergo a screening process to determine the need for education and treatment, a process similar to the one they have with adults and the Alcohol Safety Action program. Should the committee have adopted this idea as an amendment, a new fiscal note from the department would have gone from zero to \$108,000.

Rep. Taylor pointed out to the committee that this suggestion was discussed in the Senate (companion bill CSSB 323) and as yet the department does not know what the impact is going to be with this legislation. He preferred to see this legislation tried for a year and then if the department does find that it is impacted, to justify that impact with actual numbers.

Bill Brown, Department of Public Safety, addressed the section dealing with an administrative hearing. At the present time, if somebody goes to court of a specific offense for a driving offense, that court is the one that evokes the driving privileges, whether it be a hit and run, reckless driving, drunk driving, etc. As far as section 1, the administrative suspension, if it was done by Public Safety, then the department as a result of other law, would have to offer an administrative hearing to that individual. Where they've already had their hearing in court, the department would then have to offer another hearing in order to withdraw their driving privileges. The Department recommends deleting section 1 and incorporate it in with section 2 so that when a person has been adjudicated in court at the time of that adjudication, the court would pass down as part of their sentence the revocation of driving privileges. The department's recommendation is that there be no administrative hearing, that it all be handled as a court revocation at the time for conviction.

Brown said that "we feel that at that time as part of the sentence being passed down by the court, the license action can be part of that sentence, then we would no longer have to offer an administrative hearing to impose the license action."

The sponsor pointed out that the court system is presently handling these same cases, this just enhances the penalty provisions.

Lines 10 and 11 of section 5 indicate information concerning the license action could not be disclosed. This would prevent enforcement of the action, thus making it meaningless. In order to allow DMV to enter the license action on the defendant's record, line 23 of section 5 should be amended to reflect ...except for traffic offenses or license action taken under S 28. 15.163 or AS 28.15.185. With present law, information on a minor or youth's non-traffic offense is confidential and this would have to be changes so that a license is evoked, that "information can be disseminate to law enforcement personnel"

These recommendation was adopted and the committee adopted CSSB 323 (State Affairs) as their work draft for the next meeting.

At the next meeting, the committee discussed their concern regarding the fact that the offenses committed listed in this bill would be on a juveniles record permanently just as any traffic offense in on record permanently.

After much discussion regarding the sealing of records, legal services was able to provide a new committee substitute which leaves the records pertaining to possession or consumption of alcohol sealed, but the offenses pertaining to misconduct involving a controlled substance, driving a motor vehicle while intoxicated or a refusal to submit to a chemical test becomes permanent record.

To date, the committee needs to adopt the new committee substitute before continuing on with further action.

# Wrangell Council on Alcoholism and Related Drug Dependencies

P.O. Box 1108-Wrangell, Alaska 99929  
(907) 874-3338

August 27, 1985

Representative Robin Taylor  
Alaska State Legislature  
Pouch #  
Juneau, Alaska 99811

Dear Representative Taylor:

I have written you before concerning a law adopted in Oregon to deal with young people arrested on the charge of MINOR IN POSSESSION BY CONSUMPTION, the famous "MIPC". The feedback I received from some folks who talked to other legislators about this bill was that it is "too harsh". To say the least, Robin, I was "flabbergasted" to think that these people who are elected to represent our State and to represent us are so naive about alcohol and drug abuse and especially in our young people. I wonder if these same people think that the Army is too harsh because they won't take a kid who has two MIPCs on his record. And I wonder if these same people think it's too harsh when some kid finally ends up overdosing because it wasn't stopped before it got started.

I know this law isn't going to save all of the kids, but I bet it will cut it to half in the first two years. These kids are laughing at the law. They're laughing at the adults and for sure, some of us have set beautiful examples for our young ones to follow. Parents are still hiding their heads. Some just don't care because they are so deep in their own hell-hole, they can't be bothered by anyone else's problems. Other parents think we're just picking on their kids. But remember how folks made fun of the Drinking/Driving Law when it first went into effect? It wasn't long until they learned to respect this law. The same thing will happen to our teenagers. Kids who still haven't made the decision to drink ... won't and alot of the kids who are drinking just to be part of the crowd will no longer take the risk if there is a law with teeth in it that they have to answer to.

We have got to do something for our kids before they're destroyed by the dreaded disease of alcoholism and the disastrous results of other drug abuse. Wrangell is terribly small, Robin, but from January to date, I've had 42 kids sent to me on MIPC and some up to three times and they are laughing. 12-19 years olds and most of them under the age of 16. I can't save these kids by myself.....as much as I care. As my representative, I'm begging you for help, Robin. We've got to do something. The problem isn't going to go away and it isn't just kid stuff anymore.

Sincerely yours,

*Murry Warner*

Charter Member • National Council on Alcoholism • Alaska Region



*Murry Warner*

# 600 denied privileges

More than 600 Oregon youths between the ages of 13 and 17 were denied driving privileges during the first six months in 1985, according to Motor Vehicles Division.

Denials are based on court convictions involving alcohol or drug

possession, use or abuse. Courts then order DMV to deny licenses.

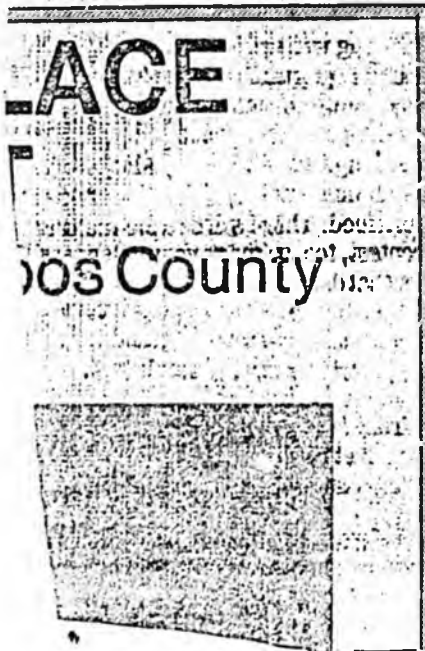
Most of the 627 denials ordered during the first six months of this year were for alcohol offenses. Minors in possession of alcohol or drugs accounted for 577, or 92 percent of the total. Twenty-seven denials were for having an open container or drinking alcohol in a motor vehicle, and eight were for driving under the influence.

Fifteen denials were ordered for miscellaneous alcohol and drug offenses, such as theft, delivery or manufacturing of a controlled substance.

Males accounted for 74 percent of the 627 total.

Denials of driving privileges for first offenders is one year or until the person becomes 17, whichever is longer. Repeat offenders are suspended for a year or until the person becomes 18, whichever is longer.

DMV statistics show 62 second denials and four third denials (all males) during the first six months of 1985.



*Alley*

Enrolled

# House Bill 2975

Sponsored by Representatives LOMBARD, AGRONS, ANDERSON, BELLAMY, BROGOITTI, CALOURI, DeBOER, FARMER, FORD, HARPER, MARKHAM, MILLER, PARKINSON, VAN VLIET, VanLEEuwEN, YOUNG, ZAJONC, Senator THORNE, Representatives BURROWS, JOHNSON, D. JONES, Senators HANNON, HEARD (at the request of Wes Smith, Principal, Ashland Jr. High School)

CHAPTER.....

## AN ACT

Relating to driving privileges; creating new provisions; and amending ORS 482.470.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) Whenever a person who is 17 years of age or younger, but not younger than 13 years of age, is convicted of any offense described in this subsection or determined by a juvenile court to have committed one of the described offenses, the court in which the person is convicted shall prepare and send to the Motor Vehicles Division, within 24 hours of the conviction or determination, an order of denial of driving privileges for the person so convicted. This section applies to any crime, violation, infraction or other offense involving the possession, use or abuse of alcohol or controlled substances.

(2) If a court has issued an order of denial of driving privileges under this section, the court, upon petition of the person, may review the order and may withdraw the order at any time the court deems appropriate except as provided in the following:

(a) A court may not withdraw an order for a period of 90 days following the issuance of the order if it is the first such order issued with respect to the person.

(b) A court may not withdraw an order for a period of one year following the issuance of the order if it is the second or subsequent such order issued with respect to the person.

SECTION 2. Section 3 of this Act is added to and made a part of ORS chapter 482.

SECTION 3. (1) In addition to any other authority to suspend driving privileges under this chapter, the division shall suspend all driving privileges of any person upon receipt of an order of denial of driving privileges under section 1 of this 1983 Act. The suspension shall be imposed without hearing. The driving privileges of the person shall be suspended as provided in the following:

(a) Upon receipt of the first order denying driving privileges, the division shall impose a suspension for one year, or until the person so suspended reaches 17 years of age, whichever is longer.

(b) Upon receipt of a second or subsequent order denying driving privileges, the division shall suspend for one year or until the person reaches 18 years of age, whichever is longer.

(2) If the division receives notice from a court that it has withdrawn an order issued under section 1 of this 1983 Act, the division shall immediately reinstate any driving privileges that have been suspended under this section because of the issuance of the order.

SECTION 4. ORS 482.470 is amended to read:

482.470. (1) The division shall not suspend a license for a period of more than one year except:

- (a) As provided in ORS 482.430 (3) and (4) and section 3 of this 1983 Act;
- (b) As provided in ORS 482.440 in the case of offenses which, if committed by a driver under ORS 482.430, would result in mandatory suspension or revocation for more than one year;
- (c) When the suspension results from failure to obtain medical clearance when requested to do so under ORS 482.260 (1)(d)(B);
- (d) When the driver fails to complete reexamination as required under ORS 482.260 (4); or
- (e) When the driver fails to complete a requirement of ORS 482.850.

(2) When the operator's or chauffeur's license of any person has been suspended, the division shall not issue an operator's or chauffeur's license to the person prior to the expiration of the suspension period, except as otherwise provided in this chapter.

(3) When any license is suspended or revoked it shall be surrendered to and retained by the division. Upon the conviction of any operator or chauffeur for any offense which by this chapter is cause for mandatory suspension or revocation, the court in which the conviction was had shall issue an order of suspension or revocation, take up the operator's or chauffeur's license and immediately forward the license and a copy of the order to the division. When necessary to give full effect to this section, the court shall issue a temporary operator's permit, on a form provided by the division, to the convicted person which shall be valid until midnight of the day of the conviction. At the end of the period of suspension upon a license so surrendered, it shall be returned to the licensee upon request being made to the division by the licensee. However, the division may require the licensee to furnish evidence to the effect that the licensee is qualified to continue as an operator or chauffeur under this chapter, before returning the license.

SECTION 5. Section 6 of this Act is added to and made a part of ORS chapter 482.

SECTION 6. Notwithstanding any suspension of driving privileges under section 3 of this 1983 Act, the division may issue a special temporary permit described under ORS 482.160 (2) to a person whose driving privileges are suspended under section 3 of this 1983 Act if the person qualifies for the special temporary permit. For purposes of this section an emergency situation that leaves the applicant with no alternative means to travel to and from school is an emergency for purposes of ORS 482.160 (2) in addition to other emergency situations.

SECTION 7. If House Bill 2965 becomes law, section 6 of this Act is repealed and section 8 of this Act is enacted in lieu thereof.

SECTION 8. Notwithstanding any suspension of driving privileges under section 3 of this 1983 Act or ORS 165.805 or 471.430, the division may issue a special temporary permit described under ORS 482.160 (2) to a person whose driving privileges are suspended under section 3 of this 1983 Act or under ORS 165.805 or 471.430 if the person qualifies for the special temporary permit. For purposes of this section an emergency situation that leaves the applicant with no alternative means to travel to and from school is an emergency for purposes of ORS 482.160 (2) in addition to other emergency situations.

Passed by House June 16, 1983

Received by Governor:

Repassed by House July 15, 1983

..... M., ..... 1983

Approved:

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Chief Clerk of House

..... M., ..... 1983

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Speaker of House

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Governor

Filed in Office of Secretary of State:

Passed by Senate July 11, 1983

..... M., ..... 1983

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President of Senate

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Secretary of State