

ALASKA LEGISLATURE COMMITTEE FILES 1905-1900 00/2

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HB 505

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HB 552

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Vehicle Fleet Composition

There is a trend developing which is shifting the composition of the State's Equipment Fleet. As shown on Exhibit E in FY 81, 70% of the fleet was comprised of "wet" vehicles, in which user agencies paid HEWCF a monthly operating rate for gasoline and maintenance in addition to the monthly "fixed fee" replacement funds. In FY 85, 59% of the fleet comprised the "wet" category. Conversely, the number of "non" vehicles (those purchased by agencies outside of HEWCF) has risen from 23% in FY 81 to 32% in FY 85 as shown in the following schedule.

Vehicle Rental Type

<u>Fiscal Year</u>	<u>HEWCF Vehicles</u>				<u>Non-HEWCF Vehicles</u>		<u>Total</u>
	<u>Wet</u>		<u>Dry</u>		<u>No.</u>	<u>%</u>	
	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>			
1981	3,053	70%	309	7%	986	23%	4,348
1982	2,991	64%	442	9%	1,248	27%	4,681
1983	3,003	59%	457	9%	1,613	32%	5,073
1984	3,000	58%	449	9%	1,716	33%	5,165
1985	3,424	59%	523	9%	1,856	32%	5,803

## Report Conclusion

The historical method of planning and budgeting for State vehicle and equipment needs through the Highway Equipment Working Capital Fund has resulted in the following:

1. User agencies requesting capital replacement funds through the operating budget.
2. Reduced legislative oversight of agencies' capital requests.
3. HEWCF capital expenditure requests exceeding actual capital expenditures by approximately \$33 million in a five year period.
4. HEWCF replacement revenues exceeding replacement expenditures in excess of \$50 million in the same five year period.
5. Accumulation of a cash reserve of \$44 million by FY 86 despite legislative reappropriations in excess of \$37 million from FY 83 - FY 86.
6. Excessive HEWCF fees restricting the amount of General Funds that could be made available for other purposes.
7. Little management/performance information regarding vehicle condition and operating costs.
8. User agency dissatisfaction with HEWCF services and costs.
9. Loss of agency replacement fees paid previously when replacement of vehicles does not occur.
10. Decrease in State agency use of the fund.

We believe there are viable alternatives to the current system of meeting the State of Alaska's equipment needs and recommend the Legislature consider the following.

### Recommendation No. 1

Effective with Fiscal Year 1987, all agency vehicle and equipment needs should be requested and budgeted for on an as-needed basis through individual Department Capital Budget requests, and AS 44.74.010-.060 should be repealed.

We believe a preferable method to replacing State vehicles would be to require the agencies to budget for the replacement vehicle as they would budget for any other item. This would ensure the highest degree of legislative oversight since replacement purchases would be reviewed and defended

on an agency-by-agency basis rather than as a lump sum appropriation from HEWCF. It would also eliminate agency capital needs being requested in the operating budget. This method may result in fluctuations in fiscal year budgets, and if requests were not approved, the condition of state vehicles could deteriorate. However, this method of replacement budgeting should also create a higher degree of agency involvement by encouraging program vehicle need reevaluation and stimulating an agency's direct interest in the care and maintenance of their vehicles. Under this method, vehicle replacement would still be coordinated with HEWCF personnel to obtain quantity discounts through General Services and Supply. However, no excess funds would accumulate in the HEWCF and unneeded funds would remain with the General Fund.

Recommendation No. 2

Vehicle and equipment maintenance responsibility should remain with the Department of Transportation and Public Facilities (DOTPF); however, the use of maintenance shops should be at the option of the user agency.

The preferred method for vehicle and equipment maintenance and repair would be for each agency with vehicles to enter into a Reimbursable Services Agreement with DOTPF. During budget preparation, DOTPF should provide agencies with estimated costs for repairs, maintenance, and fuel, much as it now does for operating and fixed fees. However, it would be incumbent upon DOTPF to provide competitively priced services as user agencies would have the option to determine whether better alternatives are available elsewhere and to use those alternatives if they choose to do so.

Recommendation No. 3

The cash balance of the Highway Equipment Working Capital Fund should be transferred to the General Fund.

With the repeal of AS 44.74.010-.060 and agencies budgeting for their own vehicle and equipment requirements as recommended above, the cash remaining with HEWCF should be returned to the General Fund.

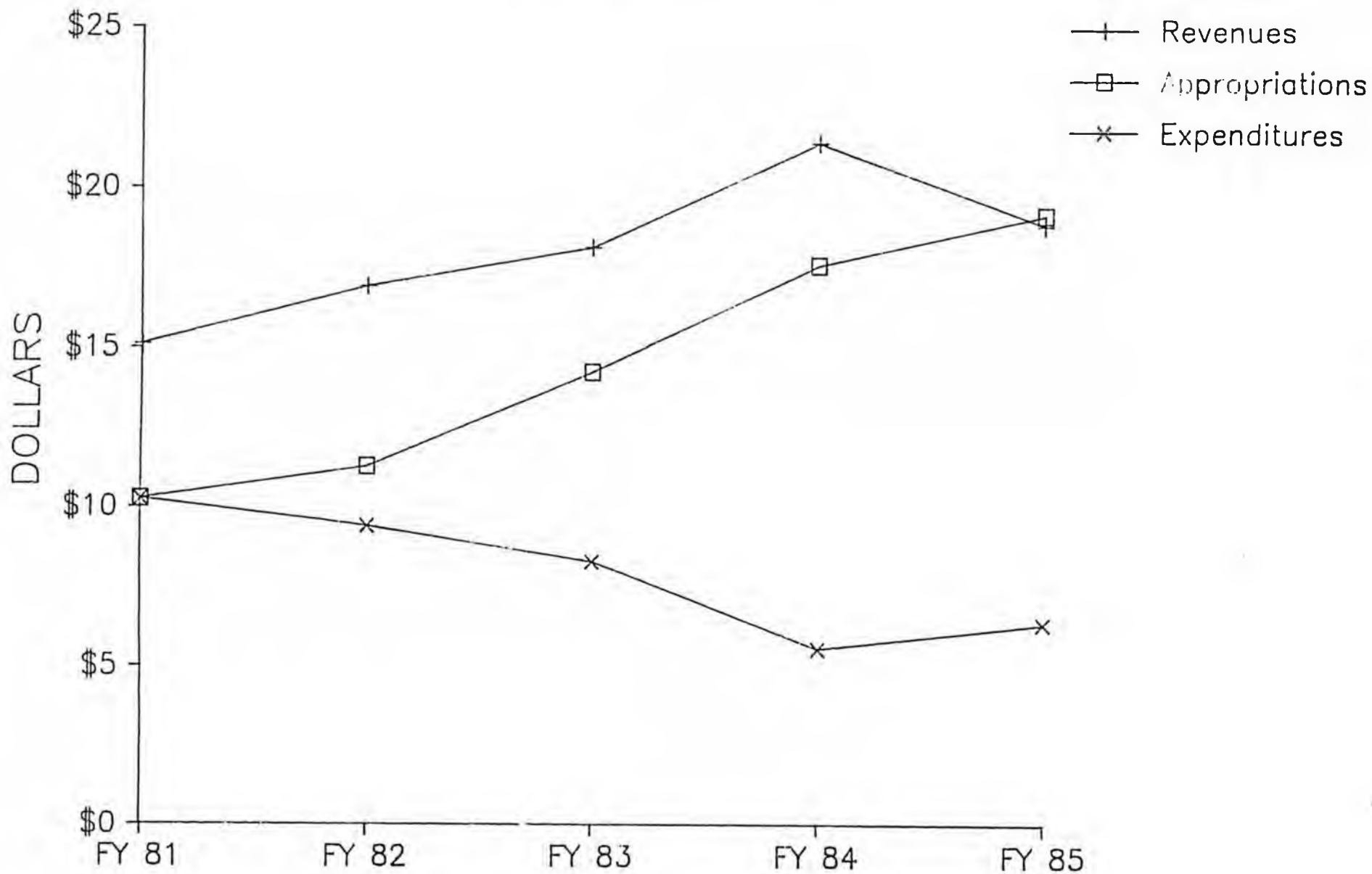
The cash balance at fiscal year end 1985 was approximately \$46 million. The projected cash balance at fiscal year end 1986 is estimated to be nearly \$44 million.

We recommend that HEWCF return \$35-40 million to the General Fund. Based on projections, this would leave \$3-8 million within the Fund, which at fiscal year end 1986, could be transferred to the General Fund to coincide with the recommended changes in budgeting for vehicles and equipment.

EXHIBITS

# Replacement Program Comparison

(Dollars in Millions)



# HEWCF FUNDING ADJUSTMENT TREND

(Dollars in Millions)

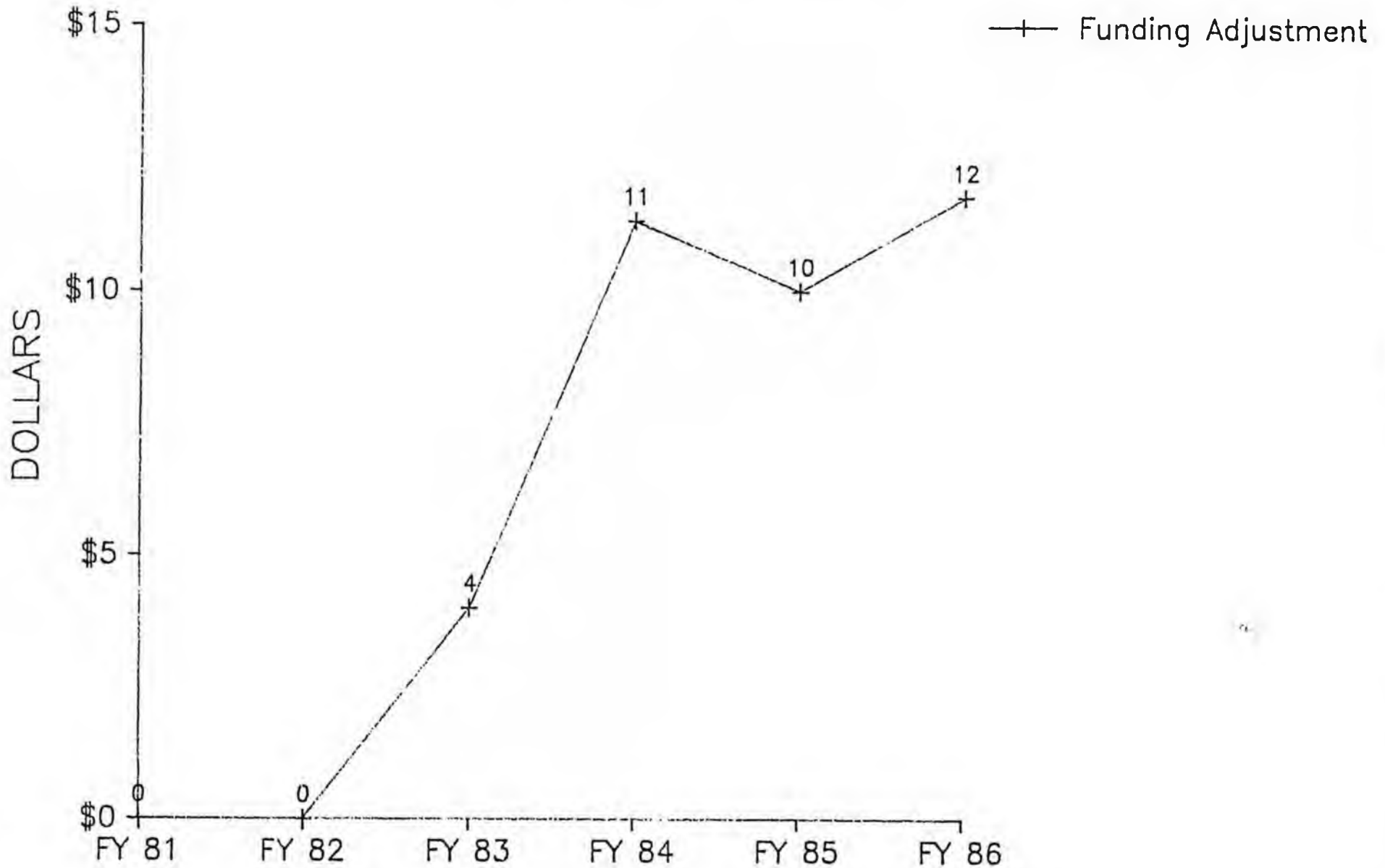
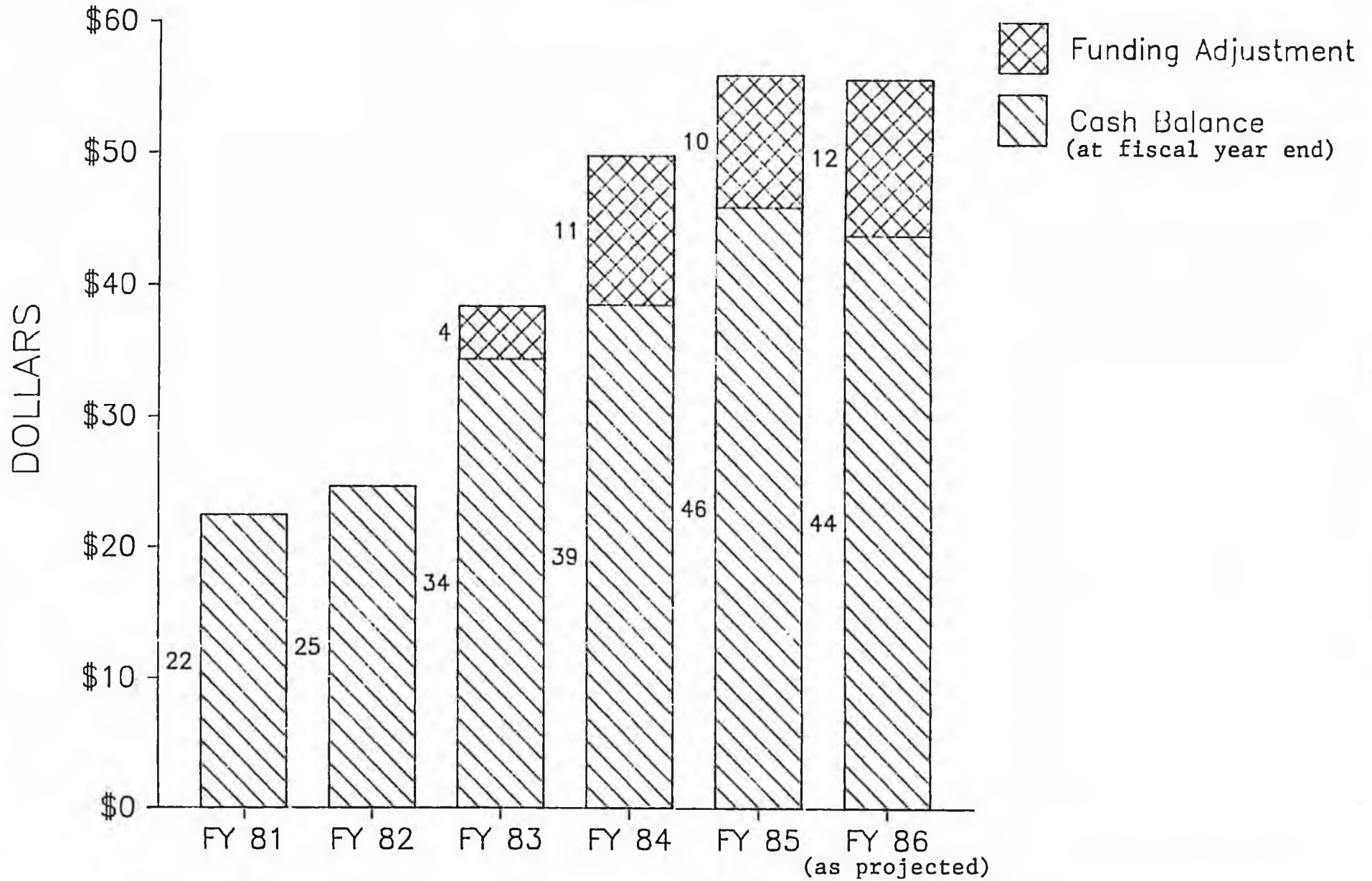


Exhibit C

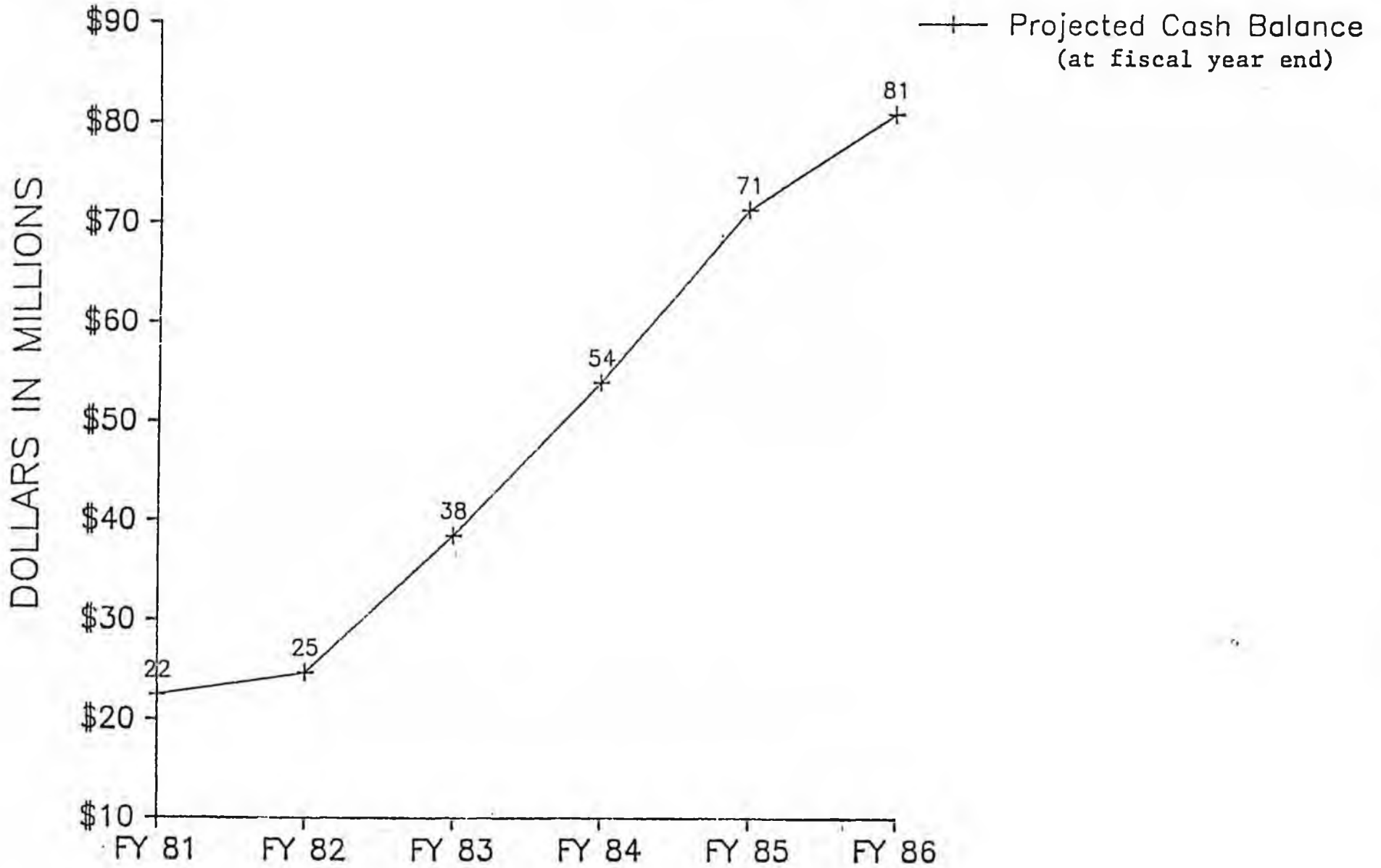
# HEWCF CASH TREND

(Dollars in Millions)



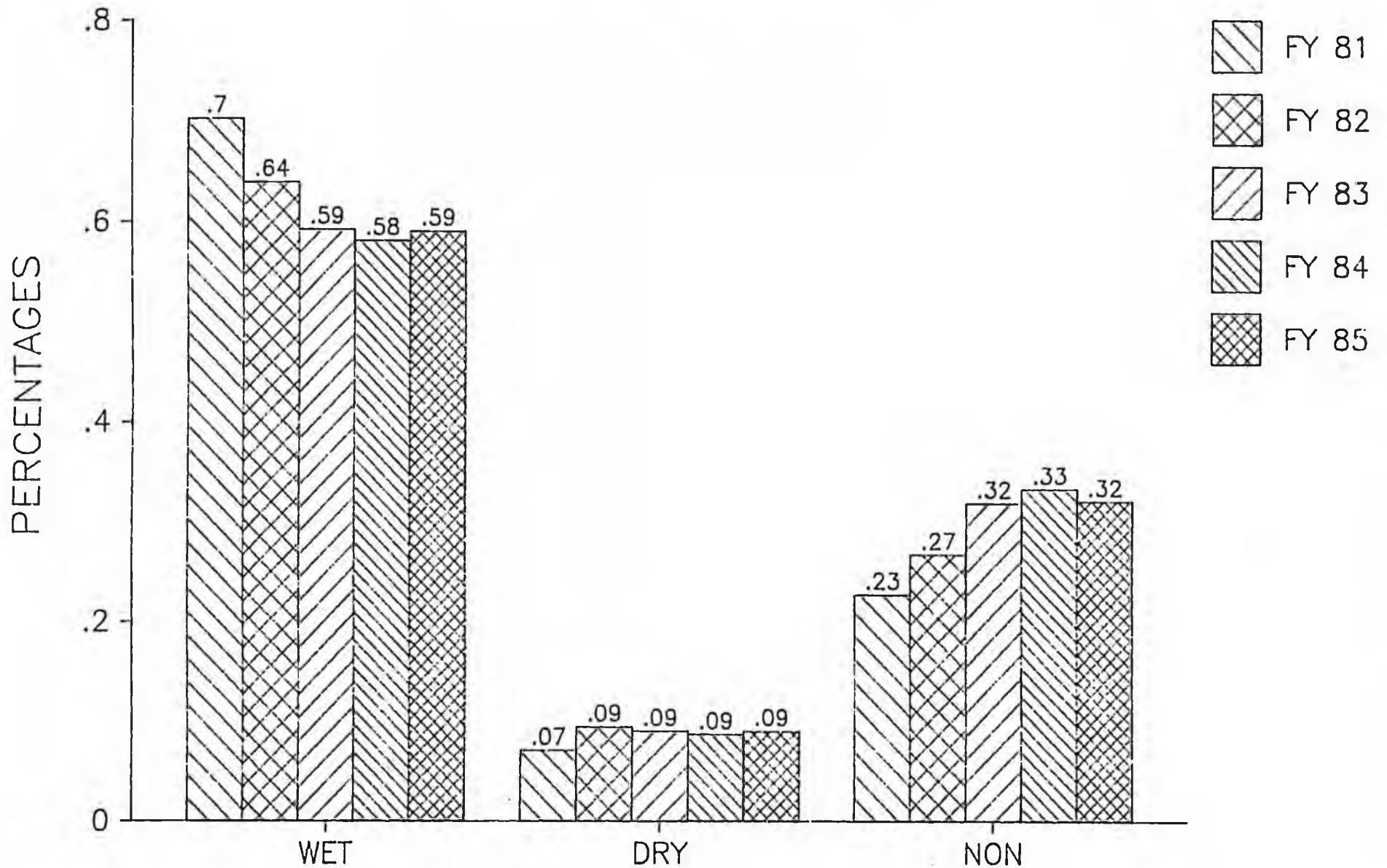
# HEWCF CASH TREND

(Without Funding Adjustments)



# HEWCF VEHICLE GROWTH

(by rental rate category)



# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

POUCH Z  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3900

OFFICE OF THE COMMISSIONER

December 31, 1985



Mr. Gerald L. Wilkerson, CPA  
Legislative Auditor  
Division of Legislative Audit  
P.O. Box W  
Juneau, AK 99811

Dear Mr. Wilkerson:

Thank you for the opportunity to again review your Performance Report on the Highway Equipment Working Capital Fund (HEWCF). Your audit report recommends not continuing the Highway Equipment Working Capital Fund concept. We strongly disagree with your main recommendation and, if implemented, we feel it will move this State backwards many years in the equipment field. Equipment which is in the HEWCF is typically in better condition, has a longer useful life, and is in a safer operating condition than equipment which is not in the HEWCF and is the responsibility of the user agency. We often receive complaints from legislators about the poor condition of equipment at remote airports and villages. Typically when we review the status of this equipment we find that it is already in the program you are proposing. It is not in the HEWCF and therefore does not have an organized review process for replacement or, even if it was recommended for replacement, a ready source of funding. In addition, your recommendation of turning the equipment over to each user agency for budgeting and choice of maintenance facility would cause the loss of cost information by vehicle and class of vehicle; if that information is not captured it would be difficult if not impossible to evaluate cost effectiveness of the various options.

When I became Commissioner of DOT&PF I realized that a major overhaul of the accounting and rate establishment process for the HEWCF was required. I instituted a series of steps which would achieve greater efficiencies for the State, provide incentives for users to maximize the use of the equipment, and provide incentives for prudent care and use.

December 31, 1985

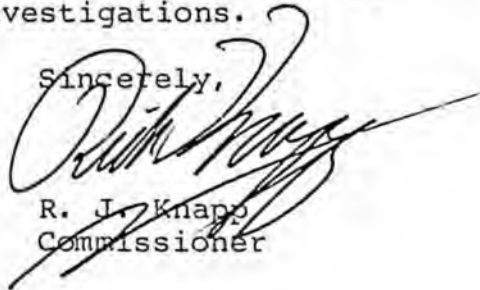
I believe that professional management of the State's vehicle equipment fleet is required if long term cost savings are going to be realized. We have instituted reduced fee schedules, substantial rental savings if vehicles are used longer than their "paper life" and agency specific operating rental rates. We have also instituted a program of more stringent review of equipment which is considered for replacement. One of the very immediate impacts of these management changes was the extension of the length of time vehicles were used. This reduced our replacement program significantly during 1984, 1985 and 1986. We are now being criticized for making better use of our equipment because we did not spend the funds appropriated for equipment replacement.

Another point which I feel should be made is that the General Fund does make use of what you call "excess cash balances" in the HEWCF. The General Fund receives all interest earned, can use any cash for its own cash flow needs and, if decided by the Legislature, appropriate amounts from the HEWCF into the General Fund.

Our additional comments are as noted in the enclosure which is keyed directly to your report conclusions as listed on page 9 and your recommendations on pages 9 and 10.

Again, thank you very much for your close working relationship with our department and the more than ample opportunity we have had to respond to your investigations.

Sincerely,



R. J. Knapp  
Commissioner

Enclosure

cc: Warren S. Sparks, Deputy Commissioner, Headquarters  
Douglass R. Goldbach, Management and Finance, Headquarters  
Robert W. Janes, Chief of Internal Review, Headquarters  
Daniel F. Malick, Director, Management and Finance, Headquarters  
Daryl Methvin, State Equipment Fleet, Headquarters

Comments to Legislative Audit Performance Report  
on the Highway Equipment Working Capital Fund

1. User agencies requesting capital replacement funds through the operating budget.

This department feels your comment is not an accurate reflection of the fiscal activity of agencies with respect to the HEWCF. Annual legislative appropriations through the operating budgets to agencies for fixed fees are not sufficient authorization to result in a capital expenditure for either the acquisition of an original vehicle or its replacement. Thus, while the fixed fee is designed to accumulate funds in the HEWCF for eventual vehicle replacement, it does not authorize vehicle replacement and therefore does not have the same effect as a capital appropriation. To characterize an operating budget appropriation of vehicle fixed fees as a capital item is inappropriate.

2. Reduced legislative oversight of agencies' capital requests.

The department also disagrees with this conclusion. Legislative oversight of expenditures by the State Equipment Fleet occur at three major points in the life cycle of the vehicle:

- a) A capital appropriation to the user agency for the vehicle's original acquisition.
- b) Annual appropriations to the user agency during each year of the vehicle's useful life for its fixed fee and operating costs.
- c) A capital appropriation to the State Equipment Fleet for the vehicles replacement if warranted.

Thus, legislative oversight on a vehicle-by-vehicle basis occurs twice throughout the capital budgeting process and annually (4 to 6 times depending upon the life of the vehicle) in the operating budget. We feel this is substantial legislative oversight activity on a vehicle-by-vehicle basis and can hardly be characterized as reflecting reduced legislative oversight.

3. HEWCF capital expenditure requests exceeding actual capital expenditures by approximately \$33 million in a five year period.

The department generally agrees with this conclusion, however we feel that the \$33 million not spent is a savings to the state over and above what standard paper-life estimates for the vehicles would require for replacement. The \$33 million reduction in expenditures over appropriations is a problem with HEWCF budgeting. The department has reduced rates and will continue to institute procedures to bring its annual budget request for vehicle replacement in-line with its replacement experience, rather than paper life estimates, to eliminate this budgeting issue.

4. HEWCF replacement revenues exceeding replacement expenditures in excess of \$50 million in the same five year period.

Again, the department agrees generally with your conclusions, however there is great potential for an "apples to pears" comparison here. Those replacement fees collected in any given year are rarely intended to be spent that same year. In other words, the replacement fees collected in the HEWCF account are intended to replace vehicles in two to five years in the future. With a relatively new fleet with vehicle life experience exceeding paper-life estimates one would reasonably expect HEWCF balance accumulations. A comparison of annual revenues to annual replacement expenses therefore is not valid.

However, the department does agree with the general conclusion that we are accumulating balances faster than necessary to meet expected replacement needs. It is the department's position, that we will be more than willing to request the legislature to reappropriate monies now in the HEWCF to the unrestricted General Fund if they prove to be in excess of reasonable replacement cost expectations. The department will provide an annual report to the legislature with the appropriate calculations. These calculations were not done within your audit and therefore we cannot fully support this finding.

5. Accumulation of a cash reserve of \$44 million by FY 86 despite legislative reappropriations in excess of \$37 million from FY 83 - FY 86.

This conclusion is similar to the one above. Our response is noted above.

6. Excessive HEWCF fees restricting the amount of General Funds that could be made available for other purposes.

In general we agree with this conclusion. The department has both supported the reappropriation of funds so as to minimize the adverse effects of holding unnecessary General Funds within the HEWCF and has adjusted rates downwards for both FY85 and again for FY86 to avoid future excess balances.

7. Little management/performance information regarding vehicle condition and operating costs.

As of last month, the HEWCF has installed an Equipment Management System (EMS) which tracks each vehicle's operating costs and condition throughout its life and will report that information directly to HEWCF management. While your observation may be correct for the operation of the fleet during the past year, it is not appropriate for any comments on the current condition of the fleet or its probable condition in near future.

8. User agency dissatisfaction with HEWCF services and costs.

We do not agree with this conclusion. Your analysis includes no statistically valid survey. Your interviews with user agencies are intended to uncover areas where improvement is needed and should not be construed by you as a statistical sampling of user satisfaction with our services. Indeed, the growth of the fleet and the increasing use of our wet-rental services by user agency should be indicative of the fact that the State Equipment Fleet is maturing and is becoming a more effective administrative service provided by this department to other user agencies. We would not like to see this conclusion taken any further in your legislative audit unless substantiated by statistical sampling of users.

9. Loss of agency replacement fees paid previously when replacement of vehicles does not occur.

Under some circumstances this conclusion is correct. However, during any given fiscal year, the State Equipment Fleet maintains an accounting of these excess fees and currently allows user agencies to use them as a credit against vehicle upgrades. The department agrees that this is one of the primary ways in which funds in excess of expected replacement needs are accumulated within the HEWCF. This department will take action to annually report these excess collections to the legislature and will recommend their reappropriation by the legislature from the HEWCF back into the General Fund.

10. Decrease in State agency use of the fund.

This conclusion can not be substantiated by the data. The size of the State Equipment Fleet has been increasing steadily over the years with more vehicles being brought into the fleet at the request of the user agencies. In our review of the analysis presented in your audit, we can find no place in which this particular conclusion can be substantiated.

In addition to commenting on your conclusions, I would also like to make a couple of notes concerning your recommendations.

Recommendation No. 1 - Effective with Fiscal Year 1987, all agency vehicle and equipment needs should be requested and budgeted for on an as-needed basis through individual Department Capital Budget requests, and AS 44.74.010 - .060 should be repealed.

The department does not agree with this recommendation. As you can see from our review of your conclusions above, the department feels there are many positive aspects to your observations and for those items that we agree need improvement, the department has already or is willing now, to commit itself to corrective action. The experience of many states,

has indicated that the revolving fund as authorized by current legislation is a key ingredient for assuring that the state continue to have adequate equipment available to provide essential services throughout our transportation system. This recommendation in our view is "throwing the baby out with the bath water."

Alaska's and other state's experience in the absence of a revolving fund clearly demonstrates that the annual appropriation process occurs too late to replace critical vehicles in a timely fashion. In addition, funding for critical vehicle replacement would compete with many other program and capital budget needs and the small size and sometimes apparently insignificant nature, of these requests often is over-looked, at the serious detriment to the states' commitment to provide critical services.

Our department's position is that it is unwise from a fiscal, safety, and public service standpoint to trade the potential of having excess funds accrue in the HEWCF for the almost certain probability that critical vehicle needs (e.g., snow removal equipment at airports) cannot be met. Excess funds in the HEWCF can, and have been annually reviewed, removed and made available for our other General Fund appropriations. Hardly would the benefits of avoiding this annual review justify the State of Alaska incurring higher costs, the deterioration and safety, and the failure of the state to provide critical services which most certainly would result from an annual review by the legislature of vehicle- y-vehicle requests for vehicle replacements.

In addition, the SEF's experience with over budgeting vehicle replacement would be duplicated by the user agencies and thereby increase the cost of vehicles to the state through early and unwarranted replacement and repairs. Your estimate of this cost is \$33 million over the past five years!

Recommendation No. 2 - Vehicle and equipment maintenance responsibility should remain with the Department of Transportation and Public Facilities; however, the use of maintenance shops should be at the option of the user agency.

In a minority of cases, user agencies utilize the option of leasing vehicles dry from the private sector and contract with the private sector for maintenance. We don't believe that we could be responsible for the maintenance yet let the users choose their own maintenance facility and schedule maintenance as they desired. Any process which allowed users to be responsible for all aspects of their maintenance should at least have requirements for periodic safety inspections to protect the State from liability claims.

The department does not agree with the recommendation that individual RSA agreements be negotiated between the State Equipment Fleet and user agencies on a vehicle-by-vehicle basis. The paperflow, the lack of uniform policy, and the inability for both the State Equipment Fleet and user agencies to plan for these expenditures would over-burden the State Equipment Fleet's administrative operations with no clear benefit to either party.

Recommendation No. 3 - The cash balance of the Highway Equipment Working Capital Fund should be transferred to the General Fund.

In general, we agree with your conclusion that portions of the HEWCF should be transferred to the General Fund, similarly to what has been accomplished in two prior fiscal years. However, your recommendation that the entire fund balance be transferred would be inconsistent with the concept of having a revolving fund. I'm sure that you are aware that failure to have not only the funds, but also the expenditure authority will preclude timely replacement of State Equipment Fleet vehicles. It should also be noted that all funds now in the cash balance of the HEWCF are already within the General Fund and earning interest for use as an unrestricted General Fund. The department proposes to annually report to the legislature the minimum fund balance needed to meet projected replacement needs based upon a far more realistic estimate of need and fixed replacement rates. We feel our proposal will fully meet all the objectives of your recommendation No. 3 while eliminating the highly likely potential of serious adverse impacts to the general public (e.g., no snow plow at the airport and therefore no aviation activity).

COOR.  
4/9/86 ✓

Original sponsor: Rules/Legislative Budget  
and Audit Committee

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 505 ( )  
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 state vehicles and equipment;  
7 eliminating the working capital fund; and providing  
8 for an effective date."

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

10 \* Section 1. AS 44.68 is amended by adding new sections to read:

11 Sec. 44.68.050. REPAIR AND MAINTENANCE OF VEHICLES. A state  
12 agency that obtains the use of a vehicle from the Department of Trans-  
13 portation and Public Facilities is responsible for the repair, mainte-  
14 nance, and an annual safety inspection of the vehicle. The agency may  
15 contract with persons in the private sector or with the Department of  
16 Transportation and Public Facilities for the repair, maintenance, and  
17 annual safety inspection. Each agency shall include in its annual  
18 budget a request for an amount necessary to repair, maintain, and  
19 annually inspect all vehicles it has obtained from the department.

20 Sec. 44.68.060. VEHICLE AND EQUIPMENT FUND. There is estab-  
21 lished in the Department of Transportation and Public Facilities the  
22 vehicle and equipment fund composed of money deposited in the fund  
23 each fiscal year by state agencies. Money from the fund shall be used  
24 by the department for the purchase of automotive and motorized vehi-  
25 cles, including construction equipment, for the use of state agencies.  
26 Any balance in the fund at the end of a fiscal year that exceeds 110  
27 percent of the expected replacement cost of state-owned vehicles to be  
28 purchased by the department during the next fiscal year lapses into  
29 the general fund.

1           Sec. 44.68.070. VEHICLE DEPRECIATION. (a) Each year the com-  
2 missioner of transportation and public facilities shall prepare a  
3 depreciation schedule for all state-owned vehicles purchased by the  
4 Department of Transportation and Public Facilities, including con-  
5 struction equipment. Annual depreciation reflected in the schedule  
6 shall be calculated by dividing the expected replacement cost by the  
7 expected number of years the vehicle will be in use. Total deprecia-  
8 tion for a vehicle may not exceed 100 percent of its expected replace-  
9 ment cost.

10           (b) The Department of Transportation and Public Facilities shall  
11 submit the annual depreciation calculation for each vehicle used by a  
12 state agency to that agency to be included in the agency budget as an  
13 appropriation for deposit by the agency to the vehicle and equipment  
14 fund. The agency shall separately list in the budget each vehicle for  
15 which a depreciation calculation is included in the appropriation.

16           Sec. 44.68.080. SALE OF OBSOLETE VEHICLES. Upon replacement of  
17 a vehicle, including a piece of construction equipment, by the Depart-  
18 ment of Transportation and Public Facilities for the use of a state  
19 agency, the obsolete vehicle shall be returned by the agency to the  
20 department. The department may sell, exchange, or otherwise dispose  
21 of obsolete vehicles, including construction equipment, returned under  
22 this section. Notwithstanding AS 19.05.060 and AS 35.20.060, money  
23 derived from the sale of a vehicle under this section shall be de-  
24 posited in the general fund.

25           \* Sec. 2. AS 44.42.020(a)(11) and AS 44.74.010 - 44.74.060 are repeal-  
26 ed.

27           \* Sec. 3. This Act takes effect July 1, 1986.  
28  
29

April 9, 1986

SECTIONAL ANALYSIS OF CSHB505

\*Section 1 adds a new section, .050, Repair and Maintenance, to Title 44.68 (State-Owned Vehicles). It gives state agencies the option of bringing their vehicles to local gas stations (private vendors) or to the State Equipment Fleet shop. The rationale is that agency managers should be allowed to seek the cheapest, most convenient maintenance provider.

Section 1 also adds a new section, 44.68.060, Vehicle and Equipment Fund. The fund receives money from state agencies in order to purchase replacement vehicles and equipment. The fund may not retain more than 110% of the expected replacement cost for the next fiscal year. Any amount in excess of 110% of the replacement cost lapses into the general fund at the end of the fiscal year.

Section 1 also adds a new section, 44.68.070, Vehicle Depreciation, which requires the commissioner of DOT/PF to prepare an annual depreciation schedule. The total depreciation for any vehicle may not exceed 100% of its expected replacement cost. User agencies will include their respective depreciation cost for each vehicle in their budget for expenditure to the Vehicle Equipment Fund.

Section 1 also adds a new section, 44.68.080, requiring that money from the sale of obsolete vehicles and equipment shall be deposited in the general fund instead of the Vehicle Equipment Fund.

\*Section 2 is the original HB505 which erases the HEWCF from statute.

\*Section 3 is an effective date coinciding with the start of FY87.

Original sponsor: Rules/Legislative Budget  
and Audit Committee

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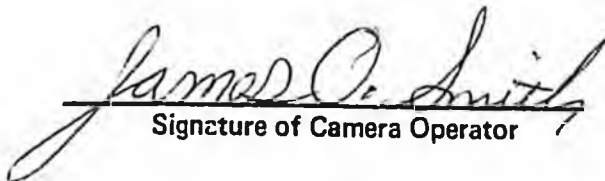
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# RECORDS CERTIFICATION

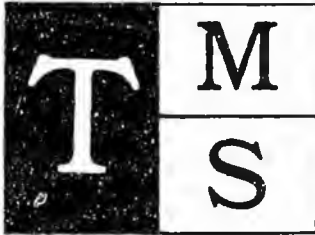
I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this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

  
Signature of Camera Operator

  
Date

H B

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# Transportation & Marketing Systems, Inc.

P.O. Box 770350 • Eagle River, Alaska 99577 • (907) 694-4865

April 3, 1986

The Honorable Dick Shultz  
Alaska State Legislature  
Box V  
Juneau, AK 99811

Dear Mr. Shultz:

I would like to thank the House Transportation Committee for the opportunity of testifying during the teleconference on April 2, 1986. By this letter, I would like to recap my comments during the teleconference as well as other thoughts that I held due to the shortness of time.

First of all, there is a serious question of whether seat belts and compartmentalization are compatible. Of the limited testing that has been done to date, the results have shown more serious complications to potential seat belt occupants versus unbelted occupants. The combination of 24" seat backs, limited seat spacing and belts show the potential for more severe injury in frontal collisions. Again, the concern of retrofitting a bus that wasn't designed with seat belts in mind brings grave doubts as to whether the bus components would be safe with the extra stress of belts.

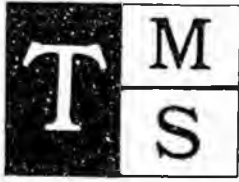
I would like to urge the legislature to consider two recommendations. The first is to urge the Federal Government to immediately implement a comprehensive testing program in two areas. One area would be the retrofitting of existing buses. What are the real safety issues of retrofitting and what would be the safest way of retrofitting an existing bus if a school district so chooses? To what standards would a retrofitting program adhere if a school district so chooses? The second area of testing with a resultant set of standards would be for newly manufactured buses. Again, as in the case of retrofitting, we have no standards established by the Federal Government for seat belts in large school buses.

I would hope that we would learn a lesson from our current insurance crisis. Before we go charging off and requiring seat belts in buses, let's make sure they are indeed safe and that if they are, we have standards that belts and buses must comply with together. Let's not suddenly wake up two years or more down the road and find that we are involved in a crisis situation because we didn't put enough thought into the situation at the time legislation was enacted.

"ALASKA'S TRANSPORTATION PROFESSIONALS"

Pupil Transportation      Marketing      Management  
Fleet Maintenance      Sales & Service      Charters.

*Give to Sandy's  
Staff for mtg's file  
on bus seat belts.*



Dick Shultz  
April 3, 1986  
HB 684

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Another aspect of the school bus seat belt issue is that of priorities. We (Alaska School Transportation Association, Alaska School Bus Safety Commission and other industry professionals) have for the last few years attempted to get a safe minimum standard for school bus driver training. We have also attempted to get funding for a state monitoring and training program for school bus driver training and school bus inspections. We are considering the appropriation and spending of millions of dollars for seat belts, yet we don't have but a minimum effort at best in the areas of school bus driver training and school bus inspections.

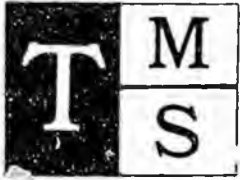
In this time of shrinking oil revenues and budgets, we must put items in order of priority. School districts are cutting elementary swim education programs and other type programs. How many children/adults die in Alaska annually because they don't know how to swim? How does that program stand up in comparison to seat belts in school buses? I'm a parent who has a child who came very close to drowning in one of Alaska's rivers. I can state categorically that I feel there is a much greater danger to my child in and around Alaska's waterways than in riding a "compartmentalized bus." My point is that we must take a strong, unemotional, objective look at our priorities and decide where our largest problems are and where our dollars will make the most significant impact.

I would like to make some comments concerning some of the statements made during the teleconference. The one comment concerning the use of seat belts on buses in the East End Road at Homer brought up an interesting problem. If those roads are so treacherous in the spring and the likelihood of rollovers/accidents is great, why are we allowing buses on the road? Don't the residents know the dangers they are exposing their children to? There is no way that a school bus operator can anticipate and prepare a driver or vehicle under those adverse conditions. I would submit that instead of installing seat belts in buses because the road conditions are particularly dangerous, that the buses should not be operating in those conditions, seat belts or not.

Another comment was made speculating that most accidents in Alaska were of the side impact or rollover type. That speaker obviously did not know what he was talking about. Being an operator in the industry for the last nine years, I can tell you that most of our accidents are either rear or front impacts, the highest percentage being rear impact.

One speaker commented about the seat belt movie "Room to Live" and then went further to state the only difference between buses and cars were that buses were yellow. The movie "Room to Live" does a good job of showing how seat belts enhance safety in cars, but there is little, if any, correlation between cars and buses during impacts. In cars, the mass of the vehicle is small and therefore transmits more of the force in a collision to the passengers. Most passengers are seated at a door and those in front have no padded barricade, just a dash and windshield.

Transportation & Marketing Systems, Inc.



Dick Shultz  
April 3, 1986  
HB 684

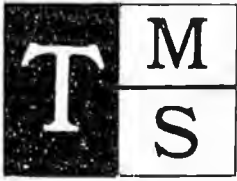
Page 3

In a bus, the passengers are in a padded seat area with little or no exposure to doors. The windows are designed to stay in place and to keep passengers inside. The center of gravity of the bus is higher than most vehicles which in most cases is a positive factor during collisions. And most importantly, the mass of the bus is much greater than an automobile. The bus is able to absorb more of the force in a collision, therefore passing on less force to its passengers. I could not count the number of times I have responded to an accident involving a school bus where the car hitting the back of the bus has extensive damage or had been totaled, yet the bus has no damage or simply a scraped bumper. There are significant differences between automobiles and school buses in collision situations.

The speaker from Fairbanks who referred to two accidents this year in which seat belts would have made a difference was, at best, misinformed. Transportation and Marketing Systems operates the Fairbanks buses and the accident investigation did not show that seat belts would have been a factor in any of our accidents. Unfortunately, we have had more than two accidents in Fairbanks, so it's hard to know which the speaker was talking about, but the highest incidence of accidents involve our buses being struck in the rear.

The engineer from Fairbanks spoke to the conclusion that the parameters for the Canadian testing were set up against seat belts. Specifically he stated that the dummies used were the size that would have the greatest likelihood of hitting the seat with their head and the seat belts weren't necessarily tight across the lap. The seat backs weren't high enough nor were they padded sufficiently. All these factors were supposedly loaded against seat belts. Unfortunately, they were the best representation of the average size of a child. The seat back height was 24", which is the situation you face with virtually every bus in the country if you consider retrofitting and not replacing the seats with 28" backs. The padding on the seats is what we have on virtually every post-1977 bus; that's the federal standard. And as far as the complaint that the belts were not tight, thus enabling the dummies to slide forward, if that was the case, again, welcome to real world situations. How is a bus driver going to insure that every one of his 65 to 71 elementary passengers have their belts snugly around their hips?

In conclusion, there seems to me to be two basic issues. First of all, is there conclusive and comprehensive evidence that seat belts in large buses enhance the total safety environment? If conclusive evidence is presented, then what do manufacturers use to construct new buses?



Dick Shultz  
April 3, 1986  
HB 684

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The second issue is that of priority. Unfortunately, our state and school districts do not have money to satisfy everybody's needs and wants. If we have extra money to spend, our state is in dire need of funds for school bus driver training programs and inspection programs. I also feel that there are other priorities that come far ahead of seat belts on large capacity school buses.

Cordially yours,

A handwritten signature in cursive script, appearing to read "Thomas F. Hyatt", written in black ink over a light background.

Thomas F. Hyatt  
General Manager - TMSI  
Member - Alaska School Bus Safety Commission  
President - Alaska School Transportation Association

TFH/cp

CSHB 477(Fin)

A message dated May 1, 1986, was read stating the Senate has passed COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 477 (Finance) (making, amending, and repealing appropriations for energy programs; effective date) with the following amendment:

Page 4, line 19: after "5," insert "6, 7,"

And so, CSHB 477(Fin)amS is transmitted for consideration.

CSHB 477(Fin) will be taken up under Unfinished Business.

CSHB 552(Fin)am *full*

A message dated May 1, 1986, was read stating the Senate has passed:

COMMITTEE SUBSTITUTE FOR HOUSE BILL  
NO. 552 (Finance) amended  
Relating to setting speed limits and  
neighborhood speed zones.

CSHB 552(Fin)am was referred to the Chief Clerk for enrollment.

REPORTS OF STANDING COMMITTEESSCR 43

(Re: HB 382)

The Rules Committee has submitted a zero fiscal note for SENATE CONCURRENT RESOLUTION NO. 43 (suspending Uniform Rules (41(b), 24(c), and 35 of the Alaska State Legislature concerning House Bill No. 382).

SCR 43 appears on today's calendar.

SJR 45

The Labor & Commerce Committee has considered SENATE JOINT RESOLUTION NO. 45 (relating to compensation for injuries to commercial fishermen) and reports it back as follows: Navarre (Chairman), Koponen, Hanley, Pearce, Boucher and Davis recommend do pass.

SJR 45 was referred to the Rules Committee for placement on the calendar.

CSSB 309(Rls)

The Resources Committee has considered COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 309 (Rules) (relating to royalty gas contracts; effective date), recommends it be replaced with HOUSE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 309 (Resources) (same title) and reports it back as follows: Shultz (Co-chairman), M.W. Miller, Jenkins, Pearce, Cato and Thompson recommend do pass; Wallis recommends do not pass; Herrmann recommends do not pass and signed "not enough time spent in Resources on bill".

CSSB 309(Rls) was referred to the Finance Committee.

CSSB 341(Jud)am

The State Affairs Committee has considered COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 341 (Judiciary) amended (relating to state procurement practices and procedures; effective date), recommends it be replaced with HOUSE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 341 (State Affairs) (same title) and reports it back as follows: Hurley (Chairman) and Boucher recommend do pass; Collins recommends do not pass; Navarre and Jenkins have no recommendation.

CSSB 341(Jud)am was referred to the Judiciary Committee.

CSSB 442(Fin)

The Labor and Commerce Committee has considered COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 442 (Finance) (relating to reciprocal insurers that provide marine insurance; effective date) and reports it back as follows: Navarre (Chairman), Koponen, Boucher, Hanley and Davis recommend do pass; Pearce and Collins have no recommendation.

CSSB 442(Fin) was referred to the Finance Committee.

HB 314

The Finance Committee has considered HOUSE BILL NO. 314 (extending the termination date of the Alaska Public Utilities Commission; effective date), recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 314 (Finance):

"An Act relating to the Alaska Public Utilities Commission Act; and providing for an effective date."

and reports it back as follows: Adams (Chairman), Ringstad, Uehling, Rieger, Frank and Cotten recommend do pass; Szymanski, Duncan, Larson, Pourchot and Binkley have no recommendation.

SB 477 cont'd

CS FOR SENATE BILL NO. 477 (FIN), entitled:

"An Act making a special appropriation to the Alaska Power Authority for reviewing and evaluating Railbelt electric power alternatives; and providing for an effective date."

Senator Faiks, Co-Chairman and Senators Ferguson and Sackett signed "do pass". Senators Kerttula and Paul Fischer signed "no recommendation".

SENATE BILL NO. 477 was referred to the Rules Committee.

HB 552 *file*

The Transportation Committee considered CS FOR HOUSE BILL NO. 552 (FIN) am (setting speed limits and neighbor speed zones) and a majority of the committee recommended do pass. The report was signed by Senator Coghill, Chairman and concurred in by Senators Faiks, Josephson and Paul Fischer.

CS FOR HOUSE BILL NO. 552 (FIN) am was referred to the Rules Committee.

HB 697

The Community and Regional Affairs Committee considered CS FOR HOUSE BILL NO. 697 (HESS) (prohibiting municipal sales tax on purchases made with food stamps; efd). Senator DeVries, Chairman and Senator Coghill signed "no recommendation". Senators Vic Fischer and Sturgulewski signed "do pass".

CS FOR HOUSE BILL NO. 697 (HESS) was referred to the Health, Education and Social Services Committee.

HB 699

The Finance Committee considered HOUSE BILL NO. 699 (Railbelt energy fund; efd) and a majority of the committee recommended do pass. The report was signed by Senator Faiks, Co-Chairman and concurred in by Senators Kerttula, Paul Fischer and Sackett. Senator Ferguson signed "no recommendation".

SB 408 cont'd

V. State aid for each district is determined by multiplying the basic need from Step IV by each district's equalized percentage (AS 14.17.021(c)). Equalized percentage for each district is equal to  $1 - ((1 - 97\%) \times Vi/Vs)$ . Vi equals the full and true value of taxable real and personal property per ADM within a city/borough district and Vs equals the average valuation per ADM for all city/borough districts. State aid must equal at least 97% of basic need. Thus Vi/Vs is effectively capped at 1.00.

General Methodological Procedures: All ADM's and all Instructional Units were rounded upward.

Further, it is the intent of the legislature that the Department of Education exercise its statutory authority to require school districts to submit to the department any information or reports which are reasonably necessary to assist the department in the establishment of a management information system for public schools to provide accurate and consistent data on numbers of students, personnel, revenues, and expenditures for each district.

Further, it is the intent of the legislature that funds remaining in the secondary formula account after the allocation required under AS 14.17.023(a) be used to cover emergency, unique and special education circumstances. For example, the Lake and Peninsula School District faces unique circumstances in providing basic education in its 14 schools. These 14 schools are scattered over a wide area, as large as some states in the lower 48. The schools are not serviced by regular transportation services. The cost of getting basic supplies to the schools can run as high as 300% greater than adjacent school districts, and as much 1000% greater than Alaska school districts which are located in the State's road system.

Further, it is the intent of the legislature that special education circumstances that have an enormous financial impact like Kake School District with three multiple handicapped children should receive funding through AS 14.17.023(b).

Further, it is the intent of the legislature that the Department of Education draft regulations to accommodate these types of unique and special education situations.

SENATE BILL NO. 408 was referred to the Finance Committee.

SB 477

The Finance Committee considered SENATE BILL NO. 477 (special appropriation to the Alaska Power Authority for the Devil Canyon dam project; eid) and recommended it be replaced with

CSHB 552(Fin)

Amendment No. 1 by Phillips:

Page 2, line 2:

Delete "arterial" and add "other"

Page 2, line 3:

Delete "neighborhood" and add "community"

Page 2, line 4:

Delete "neighborhood" and add "community"

Page 2, line 8:

Delete "neighborhood" and add "community"

Representative Phillips moved and asked unanimous consent that Amendment No. 1 be adopted. There being no objection, it was so ordered.

CSHB 552(Fin)am

Representative Clocksin moved and asked unanimous consent that CSHB 552(Fin)am be considered engrossed, advanced to third reading and placed on final passage. There being no objection, it was so ordered.

CSHB 552(Fin)am was read the third time.

The question being: "Shall CSHB 552(Fin)am pass the House?"  
The roll was taken with the following result:

CSHB 552(FIN)AM

Yeas: 39 Adams, Binkley, Boucher, Cato,  
Clocksin, Collins, Cotten, Davis,  
Duncan, Frank, Fuller, Furnace,  
Goll, Gruenberg, Grussendorf,  
Hanley, Herrmann, Hurley, Jenkins,  
Koponen, Larson, Marrou, Martin,  
Miller, M.M., Miller, M.W., Navarre,  
Pettyjohn, Phillips, Pignalberi,  
Pourchot, Rieger, Ringstad,  
Shultz, Sund, Szymanski, Taylor,  
Thompson, Uehling, Wallis

Nays: 1 Pearce

CSHB 552(Fin)am

Excused: 0

Absent: 0

And so, CSHB 552(Fin)am passed the House and was referred to the Chief Clerk for engrossment.

HB 561

HOUSE BILL NO. 561 (relating to public use cabins; effective date) was read the second time with the Resources Committee report (page 2375) and the Finance Committee report (page 2524).

Representative Clocksin moved and asked unanimous consent that COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 561 (Finance) (same title) be adopted in lieu of the original bill. There being no objection, it was so ordered.

CSHB 561(Fin)

Amendment No. 1 by Clocksin and Szymanski:

Page 3, line 9:

Delete "may" and replace with "shall"

Representative Clocksin moved and asked unanimous consent that Amendment No. 1 be adopted. There being no objection, Amendment No. 1 was adopted.

CSHB 561(Fin)am

Representative Clocksin moved and asked unanimous consent that CSHB 561(Fin)am be considered engrossed, advanced to third reading and placed on final passage. There being no objection, it was so ordered.

CSHB 561(Fin)am was read the third time.

The question being: "Shall CSHB 561(Fin)am pass the House?"  
The roll was taken with the following result:

HB 578

The Resources Committee has considered HOUSE BILL NO. 578 (establishing fish and game resource management regions and regional fish and game advisory councils), recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 578 (Resources):

"An Act providing for the establishment of fish and game resource management regions and the establishment and operation of regional fish and game advisory councils."

and reports it back as follows: Herrmann (Co-chairman), Wallis, Pearce, Jenkins, Cato and Sund recommend do pass; Shultz, M.W. Miller and Thompson have no recommendation.

A zero fiscal note was attached.

HB 578 was referred to the Finance Committee.

HB 579

The Resources Committee has considered HOUSE BILL NO. 579 (relating to financing of fish processors by the Commercial Fishing and Agriculture Bank), recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 579 (Loans) (page 2283) and reports it back as follows: Herrmann (Co-chairman), Wallis, M.W. Miller, Cato and Sund recommend do pass; Pearce recommends do not pass; Thompson, Jenkins and Shultz have no recommendation.

HB 579 was referred to the Finance Committee.

HB 625

The Health, Education & Social Services Committee has considered HOUSE BILL NO. 625 (making a special appropriation relating to mental health trust land; effective date), recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 625 (HESS):

"An Act making a special appropriation implementing Weiss v. State; and providing for an effective date."

and reports it back as follows: Koponen and Gruenberg (Co-chairs), Taylor and Hurley recommend do pass; Thompson and Hanley have no recommendation.

HB 625 was referred to the Judiciary Committee.

INTRODUCTION OF CITATIONS

The following citation was received:

In Memoriam - Jessie L. Dodson  
by Representatives Jenkins, Boucher,  
Collins, Furnace, Gruenberg, Hanley,  
Martin, Pearce, Pignalberi, Uehling,  
Rieger and Clocksin; and Senators  
Sturgulewski, Abood and Rodey

The citation was referred to the Rules Committee for placement on the calendar.

INTRODUCTION, FIRST READING AND REFERENCE  
OF HOUSE RESOLUTIONSHJR 73

HOUSE JOINT RESOLUTION NO. 73 by the Labor and Commerce Committee:

Relating to national regulation of the insurance industry.

was read the first time and referred to the Labor & Commerce and Judiciary Committees.

CONSIDERATION OF THE DAILY CALENDARSECOND READING OF HOUSE BILLSHB 552

*file*  
HOUSE BILL NO. 552 (relating to setting speed limits and neighborhood speed zones) was read the second time with the State Affairs Committee report (page 2469), the Transportation Committee report (page 2490) and the Finance Committee report (page 2623).

Representative Clocksin moved and asked unanimous consent that COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 552 (Finance) (same title) be adopted in lieu of the original bill. There being no objection, it was so ordered.

HB 477 cont'd

Senator Halford moved and asked unanimous consent that CS FOR HOUSE BILL NO. 477 (FIN) am S be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

CS FOR HOUSE BILL NO. 477 (FIN) am S was read the third time.

The question being: "Shall CS FOR HOUSE BILL NO. 477 (FIN) am S (making, amending, and repealing appropriations for energy programs; efd) pass the Senate?" The roll was taken with the following result:

CSHB 477 FIN AM S 3RD

Yeas: 17 Abood, Bennett, Coghill, DeVries,  
Eliason, Fahrenkamp, Faiks,  
Ferguson, Fischer Paul,  
Fischer Vic, Halrord, Josephson,  
Kelly, Kerrettula, Rodey,  
Sturgulewski, Zharoff

Nays: 1 Ray

Absent: 2 Sackett, Ziegler

and so, CS FOR HOUSE BILL NO. 477 (FIN) am S passed the Senate.

Senator Halford moved and asked unanimous consent that the vote on the passage of the bill be considered the vote on the effective date clauses. Without objection, it was so ordered.

CS FOR HOUSE BILL NO. 477 (FIN) am S was referred to the Secretary for engrossment.

## SECOND READING OF SENATE BILLS

SB 486

SENATE BILL NO. 486 (transferring and appropriating certain loans to the power development fund, transferring and appropriating obligations to the power development fund; efd) was read the second time.

Senator Kelly moved and asked unanimous consent that SENATE BILL NO. 486 be returned to the Finance Committee. Without objection, it was so ordered.

HB 440

The Resources Committee considered CS FOR HOUSE BILL NO. 440 (FIN) (a recreation management plan implementing the Bristol Bay area plan; efd) and a majority of the committee recommended it be replaced with

## SENATE CS FOR CS FOR HOUSE BILL NO. 440 (RES)

and do pass. The report was signed by Senator Sturgulewski, Chairman and concurred in by Senators Eliason, Zharoff and Vic Fischer. Senator Coghill signed "no recommendation" and Senator Fahrenkamp signed "no recommendation until amended".

CS FOR HOUSE BILL NO. 440 (FIN) was referred to the Finance Committee.

HB 601

The State Affairs Committee considered HOUSE BILL NO. 601 (abolishing inactive boards, councils, commissions, and centers) and recommended do pass. The report was signed by Senator Abood, Chairman and concurred in by Senators DeVries, Vic Fischer, Kelly and Ray.

HOUSE BILL NO. 601 was referred to the Finance Committee.

HB 627

The Resources Committee considered CS FOR HOUSE BILL NO. 627 (RULES) (title am) (appropriation of water) and a majority of the committee recommended it be replaced with

## SENATE CS FOR CS FOR HOUSE BILL NO. 627 (RES)

and do pass. The report was signed by Senator Sturgulewski, Chairman and concurred in by Senators Coghill, Fahrenkamp, Eliason and Zharoff. Senator Vic Fischer signed "no recommendation".

CS FOR HOUSE BILL NO. 627 (RULES) (title am) was referred to the Rules Committee.

SB 356

The Rules Committee considered SENATE BILL NO. 356 (election campaign financing; efd) and a majority of the committee recommended calendar May 1. The report was signed by Senator Kelly, Chairman and concurred in by Senators Bennett, Coghill and Faiks. Senator Josephson signed "no recommendation".

SB 356 cont'd

SENATE BILL NO. 356 is on the calendar.

SB 466

The Rules Committee considered SENATE BILL NO. 466 (extending the termination date of the Alcoholic Beverage Control Board; efd) and a majority of the committee recommended calendar May 1. The report was signed by Senator Kelly, Chairman and concurred in by Senators Coghill, Bennett and Faiks.

SENATE BILL NO. 466 is on the calendar.

SB 486

The Rules Committee considered SENATE BILL NO. 486 (transferring and appropriating certain loans to the power development fund, transferring and appropriating obligations to the power development fund; efd) and a majority of the committee recommended calendar May 1. The report was signed by Senator Kelly, Chairman and concurred in by Senators Coghill, Bennett and Faiks.

SENATE BILL NO. 486 is on the calendar.

HB 477

The Rules Committee considered CS FOR HOUSE BILL NO. 477 (FIN) (making, amending, and repealing appropriations for energy programs; efd) and a majority of the committee recommended calendar May 1. The report was signed by Senator Kelly, Chairman and concurred in by Senators Coghill, Bennett and Faiks.

CS FOR HOUSE BILL NO. 477 (FIN) is on the calendar.

HB 552

The Rules Committee considered CS FOR HOUSE BILL NO. 552 (FIN) am (setting speed limits and neighborhood speed zones) and a majority of the committee recommended calendar May 1. The report was signed by Senator Kelly, Chairman and concurred in by Senators Coghill, Bennett and Faiks.

CS FOR HOUSE BILL NO. 552 (FIN) am is on the calendar.

## CONSIDERATION OF THE CALENDAR

## SECOND READING OF HOUSE BILLS

HB 552

CS FOR HOUSE BILL NO. 552 (FIN) am (setting speed limits and neighborhood speed zones) was read the second time.

Senator Halford moved and asked unanimous consent that CS FOR HOUSE BILL NO. 552 (FIN) am be advanced to third reading and placed on final passage. Without objection, it was so ordered.

CS FOR HOUSE BILL NO. 552 (FIN) am was read the third time.

The question being: "Shall CS FOR HOUSE BILL NO. 552 (FIN) am (setting speed limits and neighborhood speed zones) pass the Senate?" The roll was taken with the following result:

CSHB 552 FIN AM 3RD

Yeas: 17 Abood, Bennett, Coghill, DeVries, Eliason, Fahrenkamp, Faiks, Ferguson, Fischer Paul, Fischer Vic, Halford, Josephson, Kelly, Ray, Rodey, Sturgulewski, Zharoff

Nays: 0

Absent: 3 Kerttula, Sackett, Ziegler

and so, CS FOR HOUSE BILL NO. 552 (FIN) am passed the Senate, was signed by the President and Secretary and returned to the House.

HB 477

CS FOR HOUSE BILL NO. 477 (FIN) (making, amending, and repealing appropriations for energy programs; efd) was read the second time.

The Finance Committee offered Amendment No. 1 (page 2536).

Senator Faiks moved and asked unanimous consent for the adoption of Amendment No. 1. Without objection, Amendment No. 1 was adopted.

HB 587

and reports it back as follows: Goll (Chairman), Gruenberg and Koponen recommend do pass; Phillips and Marrou have no recommendation. A zero fiscal note and a fiscal note were attached.

The fiscal note appears in House Journal Supplement No. 101.

HB 587 was referred to the Finance Committee.

HB 647

The State Affairs Committee has considered HOUSE BILL NO. 647 (requiring municipalities to establish reporting and inspection programs for hazardous materials and hazardous waste; effective date), recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 647 (State Affairs):

"An Act establishing requirements for warning placards and for municipal reporting programs for hazardous materials and hazardous waste; and providing for an effective date."

and reports it back as follows. Hurley (Chairman), Navarre, M.M. Miller, Jenkins, Boucher, Collins and Cato recommend do pass.

A fiscal note appears in House Journal Supplement No. 101.

HB 647 was referred to the Finance Committee.

INTRODUCTION OF CITATIONS

The following citation was received:

In Memoriam - F.H. Green  
by Representatives Sund and Taylor;  
and Senator Ziegler

The citation was referred to the Rules Committee for placement on the calendar.

INTRODUCTION. FIRST READING AND REFERENCEOF HOUSE BILLSHB 702

HOUSE BILL NO. 702 by the Labor & Commerce Committee, entitled:

"An Act relating to insurance; and providing for an effective date."

was read the first time and referred to the Judiciary and Finance Committees.

HB 494

The Labor & Commerce Committee has considered HOUSE BILL NO. 494 (relating to liens for labor or materials furnished), recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 494 (L&C):

"An Act relating to liens for labor or material furnished."

and reports it back as follows: Navarre (Chairman) recommends do pass; Davis, Pearce and Hanley have no recommendation; Boucher signed "no recommendation without amendments". A zero fiscal note was attached.

HB 494 was referred to the Judiciary Committee.

HB 520

The Health, Education & Social Services Committee has considered HOUSE BILL NO. 520 (relating to public school construction; effective date), recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 520 (HESS) (same title) and reports it back as follows: Koponen and Gruenberg (Co-chairs), Hurley and Hanley recommend do pass; Thompson, Taylor and Pettyjohn have no recommendation.

A fiscal note appears in House Journal Supplement No. 101.

HB 520 was referred to the Community & Regional Affairs Committee.

HB 552 *file*

The State Affairs Committee has considered HOUSE BILL NO. 552 (relating to setting speed limits and neighborhood speed zones), recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 552 (State Affairs) (same title) and reports it back as follows: Hurley (Chairman), Navarre, Boucher, Collins and Jenkins recommend do pass. A zero fiscal note was attached.

HB 552 was referred to the Transportation Committee.

HB 587

The Community & Regional Affairs Committee has considered HOUSE BILL NO. 587 (relating to municipal land entitlements; effective date), recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 587 (C&RA):

"An Act relating to general grant land entitlements; and providing for an effective date."

*File*

HB 552

**REQUEST**

Bill/Resolution No.: CSHB 552 - FIN 1  
Title: Re: Setting speed limits  
and neighborhood speed zones

**FISCAL DETAIL**

Agency Affected: DOT&PF  
BRU: Design & Construction  
Engineering & Operations Standards

Sponsor: Uehling, Martin, Ringstad, et al  
Requestor: House Finance Committee  
Date of Request: 4/7/86

Components: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

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

CAPITAL		0	0	0	0	0
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REVENUE		0	0	0	0	0
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**FUNDING : (Thousands of Dollars)**

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS		0	0	0	0	0
OTHER		0	0	0	0	0
TOTAL		0	0	0	0	0

**POSITIONS :**

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

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

The Governor's proposed FY 87 budget for DOT&PF is \$166 million. The funds needed to hold the public hearings provided for in this bill can be absorbed within that level of appropriation.

Prepared by: Al Adams, Chair *AAA* Phone: 465-3706  
Division: House Finance Committee Date: 4/7/86

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
Agency: \_\_\_\_\_

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

## REQUEST

## FISCAL DETAIL.

Bill/Resolution No: CSHB 589 (LAC)  
Title: Relating to disability insurance.Agency Affected: Commerce & Economic Development  
BRU: InsuranceSponsor: Labor & Commerce CommitteeComponents: Public Protection

Requester: \_\_\_\_\_

Date of Request: \_\_\_\_\_

## EXPENDITURES / REVENUES: (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL	-0-	10.0	2.0	2.8	3.2	4.0
CONTRACTUAL	-0-	25.0	25.0	25.0	25.0	25.0
SUPPLIES	-0-	2.0	1.0	1.0	1.0	1.0
EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
GRANTS CLAIMS	-0-	-0-	-0-	-0-	-0-	-0-
MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING	-0-	37.0	28.0	28.6	29.2	30.0

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

## FUNDING: (Thousands of dollars)

GENERAL FUND	-0-	37.0	28.0	28.6	29.2	30.0
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	37.0	28.0	28.6	29.2	30.0

## POSITIONS:

FULLTIME	-0-	-0-	-0-	-0-	-0-	-0-
PARTTIME						
TEMPORARY						

## ANALYSIS: Attach a separate page if necessary.

While there is an increase of the duties of the Director in this legislation, additional positions will not be necessary. Start-up costs cause a higher fiscal impact than subsequent years. The formative needs require more attention by the Director in the form

Prepared by: John L. George, DirectorPhone: 465-2515Division: Division of InsuranceDate: April 7, 1956Approved by Commissioner: Orin H. ...Date: April 7, 1956Agency: Commerce and Economic Development

HB 430 cont'd

"An act regulating audiologists, hearing aid dealers and the dispensing of hearing aids."

was read the first time and referred to the Labor and Commerce Committee and the Finance Committee.

HB 552 *file*

CS FOR HOUSE BILL NO. 552 (FIN) am by the Finance Committee, entitled:

"An Act relating to setting speed limits and neighborhood speed zones."

was read the first time and referred to the Transportation Committee.

HB 561

CS FOR HOUSE BILL NO. 561 (FIN) am by the Finance Committee, entitled:

"An Act relating to public use cabins; and providing for an effective date."  
(with House Letter of Intent)

was read the first time and referred to the Resources Committee.

HB 605

CS FOR HOUSE BILL NO. 605 (FIN) by the Finance Committee, entitled:

"An Act establishing the Shuyak State Game Refuge."

was read the first time and referred to the Resources Committee.

HB 627

CS FOR HOUSE BILL NO. 627 (RULES) (title am) by the Rules Committee, entitled:

HB 627 cont'd

"An Act relating to the appropriation of water."

was read the first time and referred to the Resources Committee.

## COMMUNICATIONS

Posted 4/10:

PROPOSED CHANGES IN THE REGULATIONS OF THE ALASKA STATE BOARD OF DENTAL EXAMINERS dealing with the grading of the clinical examination to implement AS 08.36.190 (supplements March 4 notice of proposed changes)

## STANDING COMMITTEE REPORTS

SCR 41

The Rules Committee considered SENATE CONCURRENT RESOLUTION NO. 41 (Suspending Uniform Rules 41(b), 24(c) and 35 of the Alaska State Legislature concerning Senate Bill 386) and a majority of the committee recommended calendar April 10. The report was signed by Senator Kelly, Chairman and concurred in by Senators Coghill and Faiks. Senator Kelly further signed "do pass".

SENATE CONCURRENT RESOLUTION NO. 41 is on the calendar.

SJR 45

The Labor and Commerce Committee considered SENATE JOINT RESOLUTION NO. 45 (compensation for injuries to commercial fishermen) and a majority of the committee recommended do pass. The report was signed by Senator Zharoff, Chairman and concurred in by Senators Sackett and Ray.

Fiscal note is zero.

SENATE JOINT RESOLUTION NO. 45 was referred to the Rules Committee.

Alaska State Legislature

ANCHORAGE  
DOWNTOWN  
DISTRICT TWELVE

AIRPORT HEIGHTS  
CITY VIEW  
DOWNTOWN  
FAIRVIEW  
GOVERNMENT HILL  
INLET VIEW  
SOUTH ADDITION



House of Representatives

Representative

RICK UEHLING

MEMBER

HOUSE FINANCE COMMITTEE

HOUSE SPECIAL COMMITTEE  
ON STATE LOANS

HOUSE FINANCE SUBCOMMITTEE ON  
ADMINISTRATION, REVENUE  
AND THE GOVERNOR'S OFFICE

To: Rep. Bette Cato  
Chair, House Transportation Committee  
From: Rep. Rick Uehling  
Subject: HB 552, "An Act relating to setting speed limits and  
neighborhood speed zones"  
Date: March 24, 1986

I have asked staff to provide the following background and information regarding HB 552, "An Act relating to setting speed limits and neighborhood speed zones":

HB 552 would require DOT to consider the presence of neighborhoods, schools, parks, and pedestrian traffic when setting speed limits. I refer to this concept as Neighborhood Speed Zones.

Our State law charges DOT with setting speed limits but the Legislature has never given DOT any indication of what factors it should consider when setting speed limits. As a result, speed limits are decided according to DOT internal policies called policies and procedures. With the State spending hundreds of millions of dollars on new roads across the State, it is more important now than ever that there be some protections built into the system for our neighborhoods.

This legislation is the outgrowth of work spent over the interim trying to get DOT to respond to traffic problems in our Downtown district. It was extremely frustrating to realize we had no protections built into the system for our neighborhoods. Local residents have no where to turn in statute or regulation to support their attempts to get DOT engineers to respond to neighborhood concerns about the safety of streets. Neighborhood Speed Zones (HB552) will be an important protection, not just for the safety of our Streets in Anchorage, but throughout the state as well.

Changes were made by the House State Affairs Committee to insure that DOT responds to the concerns of local government and neighborhood organizations by providing for public notice and the holding of public hearings.

The House Transportation Committee Substitute reorganizes the structure of the House State Affairs Committee in a clarifying manner. I support the House Transportation Committee Substitute and would ask that the Committee adopt amendment number one. This amendment allows the title to be returned to it's original form after Legal affairs changed it without consulting anyone.

Amendment 1 to CS HB 552 (Transportation)  
by Uehling

Ins. 6 and 7

Delete "safe " and insert "neighborhood"

"An Act relating to setting speed limits and [safe] neighborhood  
speed zones"

This amendment returns the title to its original form. It was  
changed by Legal services without the concurrence of the sponsor  
or committee staff.

Ln. 15 and 16

Delete "Safety Factors" and insert "Speed Zones"

Sec. 19.10.072. Neighborhood [Safety Factors] Speed Zones And  
Local Hearing Process

2,

BILL SHEFFIELD, GOVERNOR

P.O. Box Z  
Juneau, Alaska 99811

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES  
ENGINEERING AND OPERATIONS STANDARDS DIVISION

PHONE (907) 465-2951

Elaboration on DOT&PF Position Paper on House Bill No. 552,  
"An Act Relating to Setting Speed Limits  
and Neighborhood Speed Zones"

The DOT&PF "Position Paper" on HB 552 cites several authoritative sources which explain the traffic and safety engineering concepts nationally accepted for the establishment of safe speed zones. The DOT&PF policy (P&P 70-7003) summarizes the accepted criteria, and further elaborates on the reasons that these principles insure the safest and most efficient movement of traffic.

Numbers 1 and 2 of the proposed Section 19.10.072 contain criteria that are indirectly addressed through special consideration of these factors in the requisite speed profile study (see paragraph two of Section 2.b., page 2, of P&P 70-7003).

Number 4 of the amendment is exactly what the traffic and safety engineering techniques are designed to insure. The body of engineering knowledge available indicates that a speed zone set according to our policy produces the condition indicated in Number 4. (See second and third full paragraphs of page 3 of the P&P.)

It does not appear practicable to rationally alter speed limits based on some judgement of enforcement effectiveness as recommended in Number 3. And as stated in the last paragraph on page 2 of P&P 70-7003, a limit set other than by scientific means would be difficult to enforce. Nevertheless, properly set speed limits need enforcement to control that small percent of drivers who are not reasonable and prudent as pointed out in the last paragraph of Section 2 on page 3 of the P&P.

There is no way to quantify the effects of the specific criteria in the amendment, and therefore the application of these considerations would be subject to individual judgement and ambiguous interpretation.

As the Position Paper points out, the essentials of the proposed amendment to AS 19.10 are already covered in our policy which, by complying to accepted safety engineering principles, provides the best protection to the public and the best defense for the State against tort claims actions.

FISCAL NOTE?

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - HB 552

NEUTRAL

March 3, 1986

HB 552 - "An act relating to setting speed limits and neighborhood speed zones."

This legislation is considered unnecessary as current laws and regulations provide specific criteria for determining safe speed limits and safe speed zones. Regulations established by 13 AAC 02.275 mandate that unless otherwise posted, maximum speed limits shall be as follows:

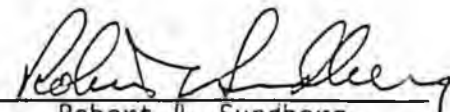
- 1) 15 miles per hour in an alley
- 2) 20 miles per hour in a business district
- 3) 25 miles per hour in a residential district
- 4) 55 miles per hour on any other roadway

Alterations of speed limits by the State and municipalities are provided for in 13 AAC 02.280 and based upon engineering and traffic investigations.

The speed limit for school, park and playground zones is established through 13 AAC 02.325.

Traffic engineer studies conducted by the Department of Transportation and Public Facilities in determining safe speed limits for a specific roadway include the already established regulations as well as the geophysical characteristics of that roadway and the presence of driveways, multi-turn locations and roadside obstacles.

Moreover, the amendment in Section 19.10.070 is redundant in that all posted highways are safe speed zones. A 55 MPH posted roadway is a speed zone that is determined as a safe speed limit for that particular highway, just as a speed zone for a school area of 20 MPH is considered a safe speed limit based upon the presence of schools, parks, crosswalks and pedestrian traffic.

  
 Robert J. Sundberg

HOUSE  
COMMITTEE REPORT

(:)

Date referred: 3/24/86

FURTHER REFERRALS: FINANCE

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

The TRANSPORTATION Committee has considered HB 552

"An Act relating to setting speed limits and neighborhood speed zones."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with CS HB 552 (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:

Betty Cato

Mr. Liguori

W. F. W. Mace

A. V. M. MARROU

Dick Shultz

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

SIGNING OTHER RECOMMENDATIONS:

Michael

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Betty Cato

Chairman



STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

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

**REQUEST**

Bill/Resolution No. : CSHB No. 552 (SA)  
 Title : An Act Relating to Setting  
Speed Limits and Neighborhood Speed  
Zones  
 Sponsor : Uehling, Martin, Ringstad, et. al.  
 Requestor : \_\_\_\_\_  
 Date of Request : February 24, 1986

**FISCAL DETAIL**

Agency Affected : DOT&PF  
 BRU : Design and Construction  
Engineering and Operations Standards  
 Components : Traffic and Safety

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

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

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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**FUNDING : (Thousands of Dollars)**

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

**POSITIONS :**

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

On-site engineering studies of varying complexity are already required in the appropriate establishment of all speed zones. Therefore, no significant impact on expenditures can be anticipated.

*John Johnson, Director 2/21/86*

Prepared by : Gordon G. Hayes Phone : 465-2968  
 Division : Engineering & Operations Standards Date : February 21, 1986

Approved by Commissioner : [Signature] Date : 2/25/86  
 Agency : Transportation and Public Facilities

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

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



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

Pouch Y, State Capitol  
Juneau, Alaska 99811  
(907) 465-3991

February 24, 1986

MEMORANDUM

TO: Representative Rick Uehling  
ATTN: David Cobb  
FROM: Mary Jennings *mg*  
Legislative Analyst  
RE: Speed Limits in Other States  
Research Request 86-113

You requested information regarding regulations and policies in other states which guide how speed limits are set, specifically, in parks, schools, and neighborhoods with children. You requested we examine policies in Arizona, California, Connecticut, Massachusetts, New York, Oregon, and Virginia.

Conclusions

Arizona, California, Massachusetts, Oregon, Virginia, and Washington have statutes that set speed limits in business, residential, and school areas.<sup>1</sup> In Connecticut and New York, the speed limit for state highways in these areas is set by the State Department of Transportation (DOT). Oregon was the only state that had a statute specifically applying to state highways in parks.

Arizona. According to statute, the speed limit for state highways in business or residential districts is 25 miles per hour (mph) and in school zones with children present the limit is 15 mph. Local authorities set the limits for roads within their jurisdiction, but cannot raise or lower speed limits by increments of more than 10 mph.

California. Speed limits are addressed in the California Vehicle Code. For state highways in residential or business districts the speed limit

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<sup>1</sup>For various state definitions of these areas see Attachment A.

Representative Uehling  
February 24, 1986  
Page Two

is 25 mph and the limit in school zones with children present is 25 mph. Local authorities may determine a different speed for roads in their jurisdiction under procedures set forth in the Vehicle Code.

Connecticut. In Connecticut, the DOT has the authority to set speed limits on state highways in residential, business, and school areas. Roads under the jurisdiction of local authorities must have speed limits approved by the DOT.

Oregon. For state highways in residential and business districts and state roads in parks and beaches, Oregon statute sets the speed limit at 25 mph. In school zones with children present the limit is 20 mph. The Oregon State Speed Control Board approves speed limits set by local authorities for roads under local jurisdiction.

Massachusetts. According to statute, the speed limit for state highways inside a residential or business district is 30 mph. In a school zone, the limit is 20 mph. Roads under the jurisdiction of local authorities must have speed limits approved by the DOT and the Registry of Motor Vehicles.

New York. The DOT sets speed limits for state highways in business, residential, and school areas. Roads under the jurisdiction of local authorities must have speed limits approved by the DOT.

Virginia. According to statute, the speed limit for state highways in business or residential districts is 25 mph. In schools zones with children present, the limit is 25 mph. Speed limits for roads under the jurisdiction of local authorities are set by the local authorities.

Washington. The Standard Speed Statute in Washington sets a limit of 25 mph for state highways in cities or towns. In school zones with children present, the limit is 20 mph. Speed limits for roads under the jurisdiction of local authority must be approved by the State Maintenance Engineer of the DOT.

I have attached pertinent statutes from California, Connecticut, Massachusetts, and Virginia. For your interest, I have also attached pertinent statutes from Indiana, Hawaii, Louisiana, and Pennsylvania. I hope you find this information useful. If you have any questions or if we can be of further assistance, please contact our office.

MJ

Attachments

## Attachment A

Definitions from various states of business, residential and school areas.

### Business

The California Vehicle Code defines business district as, "that portion of highway and the property contiguous thereto (a) upon one side of which highway, for distance of 600 feet, 50 percent or more of the contiguous property fronting thereon is occupied by buildings in use for business, or (b) upon both sides of which highway, collectively, for a distance of 300 feet, 50 percent or more of the contiguous property fronting thereon is so occupied. A business district may be longer than the distances specified in this section if the above ratio of buildings in use for business to the length of the highway exists."

### Residential

The California Vehicle Code defines residence district as, "that portion of highway and the property contiguous thereto, other than a business district (a) upon one side of which highway, within a distance of a quarter of a mile, the contiguous property fronting thereon is occupied by 13 or more separate dwelling houses or business structures, or (b) upon both sides of which highway, collectively, within a distance of a quarter of a mile, the contiguous property fronting thereon is occupied by 16 or more separate dwelling houses or business structures. A residence district may be longer than one-quarter of a mile if the above ratio of separate dwelling houses or business structures to length of the highway exists."

Massachusetts statute defines residential area as, "a thickly settled district."

Oregon statute defines a residential area as, "highway that has solid residential type dwellings for 300 feet on both sides of the highway."

### School Zone

Virginia statute defines school zone as, "between portable signs, tilt-over signs, or fixed blinding signs placed in or along any highway bearing the word 'school' or 'school crossing'."

The California Vehicle Code defines school zone as, "When passing a school building or the grounds thereof, contiguous to a highway and posted with a standard 'SCHOOL' warning sign, while children are going to or leaving the school either during school hours or during the noon recess period...when passing any school grounds which are not separated from the highway by fence, gate or other physical barrier while the grounds are in use by children and the highway is posted with a standard 'SCHOOL' warning sign."

Attachment B

Statutes pertaining to the setting of speed limits.

# California Vehicle Code

§ 22102

— 424 —

Div. 11

movement, in which event notice as applicable to such additional traffic lane shall be given by any official traffic control device.

(c) When right- or left-hand turns are prohibited at an intersection notice of such prohibition shall be given by erection of a sign.

(d) When official traffic control devices are placed as required in subdivisions (b) or (c), it shall be unlawful for any driver of a vehicle to disobey the directions of such official traffic control devices.

Amended Ch. 481, Stats. 1963. Effective September 20, 1963.

Amended Ch. 545, Stats. 1974. Effective January 1, 1975.

## **U-Turn in Business District**

22102. No person in a business district shall make a U-turn, except at an intersection, or on a divided highway where an opening has been provided in accordance with Section 21651.

Amended Ch. 1312, Stats. 1961. Effective September 15, 1961.

Amended Ch. 622, Stats. 1970. Effective November 23, 1970.

## **U-Turn in Residence District**

22103. No person in a residence district shall make a U-turn when any other vehicle is approaching from either direction within 200 feet, except at an intersection when the approaching vehicle is controlled by an official traffic control device.

Amended Ch. 255, Stats. 1963. Effective September 20, 1963.

Amended Ch. 622, Stats. 1970. Effective November 3, 1970.

## **Turning Near Fire Stations**

22104. No person shall make a U-turn in front of the driveway entrance or approaches to a fire station. No person shall use the driveway entrance or approaches to a fire station for the purpose of turning a vehicle so as to proceed in the opposite direction.

Amended Ch. 622, Stats. 1970. Effective November 23, 1970.

## **Unobstructed View Necessary for U-Turn**

22105. No person shall make a U-turn upon any highway where the driver of such vehicle does not have an unobstructed view for 200 feet in both directions along the highway and of any traffic thereon.

Amended Ch. 622, Stats. 1970. Effective November 23, 1970.

Amended Ch. 64, Stats. 1972. Effective March 7, 1973.

## **Starting Parked Vehicles or Backing**

22106. No person shall start a vehicle stopped, standing, or parked on a highway, nor shall any person back a vehicle on a highway until such movement can be made with reasonable safety.

## **Turning Movements and Required Signals**

22107. No person shall turn a vehicle from a direct course or move right or left upon a roadway until such movement can be made with reasonable safety and then only after the giving of an appropriate signal in the manner provided in this chapter in the event any other vehicle may be affected by the movement.

Amended Ch. 1996, Stats. 1959. Effective September 18, 1959.

## **Duration of Signal**

22108. Any signal of intention to turn right or left shall be given continuously during the last 100 feet traveled by the vehicle before turning.

## **Signal When Stopping**

22109. No person shall stop or suddenly decrease the speed of a vehicle on a highway without first giving an appropriate signal in the manner provided in this chapter to the driver of any vehicle immediately to the rear when there is opportunity to give the signal.

**Method of Signaling**

22110. The signals required by this chapter shall be given either by means of the hand and arm or by a signal lamp, but when the body or load on any vehicle or combination of vehicles projects 24 inches or more to the left of the center of the steering wheel so that a hand and arm signal would not be visible both to the front and rear of such vehicle or combination of vehicles, or under any condition when a hand and arm signal would not be visible both to the front and rear of the vehicle or vehicles, then the vehicle or vehicles shall be equipped with, and signals shall be given by, a signal lamp, except that implements of husbandry need not be equipped with signal lamps, but drivers of implements of husbandry shall give a hand and arm signal when required by this chapter.

Amended Ch. 118, Stats. 1961. Effective September 15, 1961.

Amended Ch. 1012, Stats. 1965. Effective September 17, 1965.

Amended Ch. 859, Stats. 1967. Effective November 8, 1967.

**Hand Signals**

22111. All required signals given by hand and arm shall be given from the left side of a vehicle in the following manner:

(a) Left turn—hand and arm extended horizontally beyond the side of the vehicle.

(b) Right turn—hand and arm extended upward beyond the side of the vehicle, except that a bicyclist may extend the right hand and arm horizontally to the right side of the bicycle.

(c) Stop or sudden decrease of speed signal—hand and arm extended downward beyond the side of the vehicle.

Amended Ch. 153, Stats. 1963. Effective September 20, 1963.

Amended Ch. 751, Stats. 1976. Effective January 1, 1977.

**Schoolbus Signal**

22112. The driver of a schoolbus shall operate the flashing red signal lamps required on the schoolbus at all times when children are unloading from the schoolbus to cross a highway or private road or when the schoolbus is stopped for the purpose of loading children who must cross a highway or private road to board the schoolbus, except that the signal lamps shall not be operated at any place where traffic is controlled by a traffic officer or official traffic control signal. The schoolbus signal lamps shall not be operated at any other time.

Amended Ch. 553, Stats. 1977. Effective January 1, 1978.

Amended Ch. 813, Stats. 1981. Effective January 1, 1982.

**Local Authorities**

22113. This chapter does not prevent local authorities, by ordinance, from prohibiting the making of any turning movement by any vehicle at any intersection or between any designated intersections.

**CHAPTER 7. SPEED LAWS****Article 1. Generally****Temporary Maximum Speed Limit**

22348. (a) Notwithstanding Section 22349, 22356, or any other provision of this chapter ( )<sup>1</sup>, no person shall drive a vehicle upon a highway at a speed greater than 55 miles per hour.

(b) Any person who ( )<sup>2</sup> drives a vehicle upon a highway at a speed greater than 100 miles per hour is guilty of an infraction punishable, as follows:

(1) Upon a first conviction of a violation of this subdivision, by a fine of not to exceed five hundred dollars (\$500). The court may also suspend the privilege of the person to operate a motor vehicle for a period not to exceed 5 days pursuant to Section 13200.5.

(2) Upon a conviction under this subdivision of an offense which occurred within three years of a prior offense resulting in a conviction of an offense under this subdivision, by a fine of not to exceed five hundred dollars (\$500). The person's privilege to operate a motor vehicle shall be suspended by the Department of Motor Vehicles pursuant to subdivision (a) of Section 13355.

(3) Upon a conviction under this subdivision of an offense which occurred within five years of two or more prior offenses resulting in convictions of offenses under this subdivision, by a fine of not to exceed five hundred dollars (\$500). The person's privilege to operate a motor vehicle shall be suspended by the Department of Motor Vehicles pursuant to subdivision (b) of Section 13355.

(c) Any vehicle subject to Section ( )<sup>3</sup> 22406 shall be driven in a lane designated pursuant to Section 21655, or if no lane has been so designated, in the right-hand lane for traffic or as close as practicable to the right-hand edge or curb. When overtaking and passing another vehicle proceeding in the same direction, ( )<sup>4</sup> the drivers shall use either the designated lane, the lane to the immediate left of the right-hand lane, or the right-hand lane for traffic as permitted under ( )<sup>3</sup> this code. If, however, specific lane or lanes have not been designated on a divided highway having four or more clearly marked lanes for traffic in one direction, any such vehicle may also be driven in the lane to the immediate left of ( )<sup>4</sup> the right-hand lane, unless otherwise prohibited under ( )<sup>3</sup> this code. This subdivision ( )<sup>5</sup> does not apply to a driver who is preparing for a left- or right-hand turn or who is in the process of entering into or exiting from a highway or to a driver who ( )<sup>6</sup> is required necessarily to drive in a lane other than the right-hand lane to continue on his intended route.

(d) This section shall remain in effect 120 days from the date that the 55-mile-per-hour national maximum speed limit, as specified in Section 154 of Title 23 of the United States Code, is repealed.

Added Ch. 1218, Stats. 1973. Operative January 1, 1974.

Amended Ch. 153, Stats. 1975. Effective June 28, 1975 by terms of an urgency clause.

Amended Ch. 217, Stats. 1978. Effective June 8, 1978 by terms of an urgency clause.

Amended Ch. 980, Stats. 1983. Effective January 1, 1984.

Amended Ch. 276, Stats. 1984. Effective January 1, 1985.

The 1984 amendment added the italicized material and at the point(s) indicated deleted the following:

<sup>1</sup> "to the contrary"

<sup>2</sup> "violates subdivision (a) by driving"

<sup>3</sup> "to the provision of"

<sup>4</sup> "such"

<sup>5</sup> "shall"

<sup>6</sup> "must"

#### Basic Speed Law

22350. No person shall drive a vehicle upon a highway at a speed greater than is reasonable or prudent having due regard for weather, visibility, the traffic on, and the surface and width of, the highway, and in no event at a speed which endangers the safety of persons or property.

Amended Ch. 252, Stats. 1963. Effective September 20, 1963.

#### Speed Law Violations

22351. (a) The speed of any vehicle upon a highway not in excess of the limits specified in Section 22352 or established as authorized in this code is lawful unless clearly proved to be in violation of the basic speed law.

(b) The speed of any vehicle upon a highway in excess of the prima facie speed limits in Section 22352 or established as authorized in this code is prima facie unlawful unless the defendant establishes by competent evidence that the speed in excess of said limits did not constitute a violation of the basic speed law at the time, place and under the conditions then existing.

#### Prima Facie Speed Limits

22352. The prima facie limits are as follows and the same shall be applicable unless changed as authorized in this code and, if so changed, only when signs have been erected giving notice thereof:

(a) Fifteen miles per hour:

(1) When traversing a railway grade crossing, if during the last 100 feet of the approach to the crossing the driver does not have a clear and unobstructed view of the crossing and of any traffic on the railway for a distance of 400 feet in both directions along such railway. This subdivision does not apply in the case of any railway grade crossing where a human flagman is on duty or a clearly visible electrical or mechanical railway crossing signal device is installed but does not then indicate the immediate approach of a railway train or car.

(2) When traversing any intersection of highways if during the last 100 feet of his approach to the intersection the driver does not have a clear and unobstructed view of the intersection and of any traffic upon all of the highways entering the intersection for a distance of 100 feet along all such highways, except at an intersection protected by stop signs or yield right-of-way signs or controlled by official traffic control signals.

(3) On any alley.

(b) Twenty-five miles per hour:

(1) On any highway other than a state highway, in any business or residence district unless a different speed is determined by local authority under procedures set forth in this code.

(2) When passing a school building or the grounds thereof, contiguous to a highway and posted with a standard "SCHOOL" warning sign, while children are going to or leaving the school either during school hours or during the noon recess period. Such prima facie limit shall also apply when passing any school grounds which are not separated from the highway by a fence, gate or other physical barrier while the grounds are in use by children and the highway is posted with a standard "SCHOOL" warning sign.

Amended Ch. 1996, Stats. 1959. Effective September 18, 1959. Supersedes Ch. 11.

Amended Ch. 330, Stats. 1961. Effective September 15, 1961.

Amended Ch. 409, Stats. 1963. Effective September 20, 1963. Supersedes Ch. 397.

Amended Ch. 813, Stats. 1981. Effective January 1, 1982.

#### Decrease of State Highway Limits

22354. Whenever the Department of Transportation determines upon the basis of an engineering and traffic survey that the limit of 65 miles per hour is more than reasonable or safe upon any portion of a state highway where the limit of 65 miles is applicable, the department may determine and declare a prima facie speed limit of 60, 55, 50, 45, 40, 35, 30 or 25 miles per hour, whichever is found most appropriate to facilitate the orderly movement of traffic and is reasonable and safe, which declared prima facie speed limit shall be effective when appropriate signs giving notice thereof are erected upon the highway.

Amended Ch. 11, Stats. 1959. Effective September 18, 1959.

Amended Ch. 545, Stats. 1974. Effective January 1, 1975.

#### Variable Speed Limits

22355. Whenever the Department of Transportation determines upon the basis of an engineering and traffic survey that the safe and orderly movement of traffic upon any state highway which is a freeway will be facilitated by the establishment of variable speed limits, the department may erect, regulate, and control signs upon the state highway which is a freeway, or any portion thereof, which signs shall be so designed as to permit display of different speed limits at various times of the day or night. Such signs need not conform to the standards and specifications established by regulations of the Department of Transportation pursuant to Section 21400, but shall be of sufficient size and clarity to give adequate notice of the applicable speed limit. The speed limit upon the freeway at a particular time and place shall be that which is then and there displayed upon such sign.

Amended Ch. 11, Stats. 1959. Effective September 18, 1959.

Amended Ch. 78, Stats. 1973. Effective January 1, 1974.

**Increase of Freeway Limit**

22356. Whenever the Department of Transportation, after consultation with the Department of the California Highway Patrol, determines upon the basis of an engineering and traffic survey on existing freeway segments, or upon the basis of ( )<sup>1</sup> appropriate design standards and projected traffic volumes in the case of newly constructed freeway segments, that a speed greater than 65 miles per hour would facilitate the orderly movement of vehicular traffic and would be reasonable and safe upon any state highway, or portion thereof, which is a freeway with full control of access and without crossings at grade otherwise subject to a maximum speed limit of 65 miles per hour, the ( )<sup>2</sup> Department of Transportation, with the approval of the Department of the California Highway Patrol, may declare a higher maximum speed of 70 miles per hour, and shall cause appropriate signs to be erected giving notice thereof.

No person shall drive a vehicle upon ( )<sup>3</sup> that highway at a speed greater than 70 miles per hour.

Repealed Ch. 11, Stats. 1959. Effective September 18, 1959.  
 Added Ch. 1735, Stats. 1963. Effective September 20, 1963.  
 Amended Ch. 78, Stats. 1967. Effective November 8, 1967.  
 Amended Ch. 632, Stats. 1969. Effective November 10, 1969. Supersedes Ch. 91 and Ch. 138.  
 Amended Ch. 545, Stats. 1975. Effective January 1, 1975.  
 Amended Ch. 579, Stats. 1984. Effective January 1, 1985.  
 The 1984 amendment added the italicized material and at the point(s) indicated deleted the following:

- <sup>1</sup> "approaching"
- <sup>2</sup> "Secretary of the Business and Transportation Agency"
- <sup>3</sup> "such"

**Increase of Local Limits**

22357. Whenever a local authority determines upon the basis of an engineering and traffic survey that a speed greater than 25 miles per hour would facilitate the orderly movement of vehicular traffic and would be reasonable and safe upon any street other than a state highway otherwise subject to a prima facie limit of 25 miles per hour, the local authority may by ordinance determine and declare a prima facie speed limit of 30, 35, 40, 45, 50, 55, or 60 miles per hour or a maximum speed limit of 65 miles per hour, whichever is found most appropriate to facilitate the orderly movement of traffic and is reasonable and safe. The declared prima facie or maximum speed limit shall be effective when appropriate signs giving notice thereof are erected upon the street and shall not thereafter be revised except upon the basis of an engineering and traffic survey. The provisions of this section shall not apply in respect to any 25-mile-per-hour prima facie limit which is applicable when passing a school building or the grounds thereof.

Amended Ch. 11, Stats. 1959. Effective September 18, 1959.  
 Amended Ch. 631, Stats. 1969. Effective November 10, 1969.

**Decrease of Local Limits**

22358. Whenever a local authority determines upon the basis of an engineering and traffic survey that the limit of 65 miles per hour is more than is reasonable or safe upon any portion of any street other than a state highway where the limit of 65 miles per hour is applicable, the local authority may by ordinance determine and declare a prima facie speed limit of 60, 55, 50, 45, 40, 35, 30 or 25 miles per hour, whichever is found most appropriate to facilitate the orderly movement of traffic and is reasonable and safe, which declared prima facie limit shall be effective when appropriate signs giving notice thereof are erected upon the street.

Amended Ch. 11, Stats. 1959. Effective September 18, 1959.

**Decrease on Narrow Street**

22358.3. Whenever a local authority determines upon the basis of an engineering and traffic survey that the prima facie speed limit of 25 miles per hour in a business or residence district or in a public park on any street having a roadway not exceeding 25 feet in width, other than a state highway, is more than is reasonable or safe, the local authority may, by ordinance or

resolution determine and declare a prima facie speed limit of 20 or 15 miles per hour, whichever is found most appropriate and is reasonable and safe. The declared prima facie limit shall be effective when appropriate signs giving notice thereof are erected upon the street.

Added Ch. 1614, Stats. 1963. Effective September 17, 1963.  
 Amended Ch. 1095, Stats. 1972. Effective March 7, 1973. Supersedes Ch. 372.

**Decrease of Local Limits Near Schools**

22358.4. Whenever a local authority determines upon the basis of an engineering and traffic survey that the prima facie speed limit of 25 miles per hour established by paragraph (2) of subdivision (b) of Section 22352 is more than is reasonable or safe, the local authority may, by ordinance or resolution, determine and declare a prima facie speed limit of 20 or 15 miles per hour, whichever is justified as the appropriate speed limit by such survey. No such ordinance or resolution shall be effective until appropriate signs giving notice thereof are erected upon the highway nor, in the case of a state highway, until such ordinance is approved by the Department of Transportation and such signs are erected upon the highway.

Added Ch. 102, Stats. 1974. Effective January 1, 1975.

**Downward Speed Zoning**

22358.5. It is the intent of the Legislature that physical conditions such as width, curvature, grade and surface conditions, or any other condition readily apparent to a driver, in the absence of other factors, would not require special downward speed zoning, as the basic rule of Section 22350 is sufficient regulation as to such conditions.

Added Ch. 11, Stats. 1959. Effective September 18, 1959.

**Boundary Line Streets**

22359. With respect to boundary line streets and highways where portions thereof are within different jurisdictions, no ordinance adopted under Sections 22357 and 22358 shall be effective as to any such portion until all authorities having jurisdiction of the portions of the street concerned have approved the same. This section shall not apply in the case of boundary line streets consisting of separate roadways within different jurisdictions.

Amended Ch. 209, Stats. 1963. Effective April 29, 1963.

**Linking Districts on Local Highways**

22360. Whenever a local authority determines upon the basis of an engineering and traffic survey that the limit of 65 miles per hour is more than is reasonable or safe upon any portion of a highway other than a state highway for a distance of not exceeding 2,000 feet in length between districts, either business or residence, the local authority may determine and declare a reasonable and safe prima facie limit thereon lower than 65 miles per hour, but not less than 25 miles per hour, which declared prima facie speed limit shall be effective when appropriate signs giving notice thereof are erected upon said street or highway.

Amended Ch. 11, Stats. 1959. Effective September 18, 1959.

**Multiple-Lane Highways**

22361. On multiple-lane highways with two or more separate roadways different prima facie speed limits may be established for different roadways under any of the procedures specified in Sections 22354 to 22359, inclusive.

Amended Ch. 209, Stats. 1963. Effective April 29, 1963.

**Speed Limit Where Persons at Work**

22362. It is prima facie a violation of the basic speed law for any person to operate a vehicle in excess of the posted speed limit upon any portion of a highway where officers or employees of the agency having jurisdiction of the same, or any contractor of the agency or his employees, are at work on the roadway or within the right-of-way so close thereto as to be endangered by passing traffic. This section applies only when appropriate signs,

indicating the limits of the restricted zone, and the speed limit applicable therein, are placed by such agency within 400 feet of each end of such zone. The signs shall display the figures indicating the applicable limit, which shall not be less than 25 miles per hour, and shall indicate the purpose of the speed restriction. Nothing in this section shall be deemed to relieve any operator of a vehicle from complying with the basic speed law.

Amended Ch. 515, Stats. 1970. Effective November 23, 1970.

#### **Restrictions Because of Snow or Ice Conditions**

22363. Notwithstanding any speed limit that may be in effect upon the highway, the Department of Transportation in respect to state highways, or a local authority with respect to highways under its jurisdiction, may determine and declare a prima facie speed limit of 40, 35, 30, or 25 miles per hour, whichever is found most appropriate and is reasonable and safe based on the prevailing snow or ice conditions upon such highway or any portion thereof. Signs may be placed and removed as snow or ice conditions vary.

Amended Ch. 515, Stats. 1970. Effective November 23, 1970.

Amended Ch. 545, Stats. 1974. Effective January 1, 1975.

#### **Lane Speed Limits**

22364. Whenever the Department of Transportation determines, upon the basis of an engineering and traffic survey, that the safe and orderly movement of traffic upon any state highway will be facilitated by the establishment of different speed limits for the various lanes of traffic, the department may place signs upon the state highway, or any portion thereof. The signs shall designate the speed limits for each of the lanes of traffic.

Added Ch. 1542, Stats. 1965. Effective September 17, 1965.

Amended Ch. 545, Stats. 1974. Effective January 1, 1975.

Amended Ch. 681, Stats. 1982. Effective January 1, 1983.

### **Article 2. Other Speed Laws**

#### **Minimum Speed Law**

22400. (a) No person shall drive upon a highway at such a slow speed as to impede or block the normal and reasonable movement of traffic, unless the reduced speed is necessary for safe operation, because of a grade, or in compliance with law.

No person shall bring a vehicle to a complete stop upon a highway so as to impede or block the normal and reasonable movement of traffic unless the stop is necessary for safe operation or in compliance with law.

(b) Whenever the Department of Transportation determines on the basis of an engineering and traffic survey that slow speeds on any part of a state highway consistently impede the normal and reasonable movement of traffic, the department may determine and declare a minimum speed limit below which no person shall drive a vehicle, except when necessary for safe operation or in compliance with law, when appropriate signs giving notice thereof are erected along the part of the highway for which a minimum speed limit is established.

Subdivision (b) of this section shall apply only to vehicles subject to registration.

Amended Ch. 1304, Stats. 1959. Effective September 18, 1959.

Amended Ch. 545, Stats. 1974. Effective January 1, 1975.

Amended Ch. 364, Stats. 1979. Effective January 1, 1980.

#### **Traffic Signals**

22401. Local authorities in timing traffic signals may so regulate the timing thereof as to permit the movement of traffic in an orderly and safe manner at speeds slightly at variance from the speed otherwise applicable under this code.

#### **Bridges and Structures**

22402. The Department of Transportation may, in the manner provided in Section 22404 determine the maximum speed, not less than five miles per hour, which can be maintained with safety to any bridge, elevated structure, tube, or tunnel on a state highway. Said department may also make a determination with reference to any other highway, upon receiving a request therefor from the board of supervisors or road commissioner of the county, the governing body of the local authority having jurisdiction over the bridge, elevated structure, tube, or tunnel.

Amended Ch. 545, Stats. 1974. Effective January 1, 1975.

#### **Local Bridges and Structures**

22403. Any local authority may, in the manner provided in Section 22404, determine the maximum speed, not less than five miles per hour, which can be maintained with safety to any bridge, elevated structure, tube, or tunnel under its jurisdiction, or may request the Department of Transportation to make such determination.

Amended Ch. 545, Stats. 1974. Effective January 1, 1975.

#### **Revision of Speed Limit on Bridges and Structures**

22404. The Department of Transportation or local authority making a determination of the maximum safe speed upon a bridge, elevated structure, tube, or tunnel shall first make an engineering investigation and shall hold a public hearing.

Notice of the time and place of the public hearing shall be posted upon the bridge, elevated structure, tube, or tunnel at least five days before the date fixed for the hearing. Upon the basis of the investigation and all evidence presented at the hearing, the department or local authority shall determine by order in writing the maximum speed which can be maintained with safety to the bridge, elevated structure, tube or tunnel. Thereupon, the authority having jurisdiction over the bridge, elevated structure, tube, or tunnel shall erect and maintain suitable signs specifying the maximum speed so determined at a distance of not more than 500 feet from each end of the bridge, elevated structure, tube, tunnel, or any approach thereto.

Amended Ch. 545, Stats. 1974. Effective January 1, 1975.

#### **Violations on Bridges and Structures**

22405. (a) No person shall drive a vehicle on any bridge, elevated structure, tube, or tunnel constituting a part of a highway, at a speed which is greater than the maximum speed which can be maintained with safety to such structure.

(b) Upon the trial of any person charged with a violation of this section with respect to a sign erected under Section 22404, proof of the determination of the maximum speed by the Department of Transportation or local authority and the erection and maintenance of the speed signs shall constitute prima facie evidence of the maximum speed which can be maintained with safety to the bridge, elevated structure, tube, or tunnel.

Amended Ch. 545, Stats. 1974. Effective January 1, 1975.

#### **Maximum Speed for Designated Vehicles**

22406. No person shall drive any of the following vehicles on a highway at a speed in excess of 55 miles per hour:

- (a) A motortruck or truck tractor having three or more axles or any motortruck or truck tractor drawing any other vehicle.
- (b) A passenger vehicle or bus drawing any other vehicle.
- (c) A schoolbus transporting any school pupil.
- (d) A farm labor vehicle when transporting passengers.
- (e) A vehicle transporting explosives.

Amended Ch. 2134, Stats. 1959. Effective September 18, 1959.

Amended Ch. 62, Stats. 1961. Effective September 15, 1961.

Amended Ch. 376, Stats. 1963. Effective September 30, 1963.

Repealed and added Ch. 78, Stats. 1967. Effective November 8, 1967.

Amended Ch. 676, Stats. 1980. Effective January 1, 1981.

**Decreasing Truck Speed Limit**

22407. Whenever the Department of Transportation or local authority determines upon the basis of engineering studies and a traffic survey that the speed of 55 miles per hour is more than is reasonable or safe for vehicles mentioned in subdivision (a) of Section 22406 which have a manufacturer's gross vehicle weight rating of 10,000 pounds or more, in descending a grade upon any portion of a highway, the department or local authority, with respect to highways under their respective jurisdiction, may determine and declare a speed limit of 50, 45, 40, 35, 30, 25 or 20 miles per hour, whichever is found most appropriate to facilitate the orderly movement of traffic and is reasonable and safe, which declared speed limit shall be effective for such vehicles when appropriate signs giving notice thereof are erected upon the highway.

Amended Ch. 1210, Stats. 1965. Effective September 17, 1965. Superseded Ch. 184.  
Amended Ch. 78, Stats. 1967. Effective November 8, 1967.  
Amended Ch. 82, Stats. 1973. Effective January 1, 1974.

**Solid Tire**

22409. No person shall operate any vehicle equipped with any solid tire when such vehicle has a gross weight as set forth in the following table at any speed in excess of the speed set forth opposite such gross weight:

When gross weight of vehicle and load is:	Maximum speed in miles per hour:
10,000 lbs. or more but less than 16,000 lbs. ....	25
16,000 lbs. or more but less than 22,000 lbs. ....	15
22,000 lbs. or more .....	12

**Metal Tires**

22410. No person shall operate any vehicle equipped with any metal tire in contact with the surface of the highway at a speed in excess of six miles per hour.

**Decreasing Speed Limit on Grades**

22413. Whenever a local authority determines upon the basis of an engineering and traffic survey that the prima facie limit of 25 miles per hour is more than is reasonable and safe on any portion of a street having a grade in excess of 10 percent, the local authority may by ordinance determine and declare a maximum limit of 20 or 15 miles per hour, whichever is found most appropriate and is reasonable and safe. The declared maximum speed shall be effective when appropriate signs giving notice thereof are erected upon the street.

Added Ch. 318, Stats. 1969.

**CHAPTER 8. SPECIAL STOPS REQUIRED****Stop Requirements**

22450. The driver of any vehicle approaching a stop sign at the entrance to, or within, an intersection, or railroad grade crossing shall stop at a limit line, if marked, otherwise before entering the crosswalk on the near side of the intersection.

If there is no limit line or crosswalk, the driver shall stop at the entrance to the intersecting roadway or railroad grade crossing.

Amended Ch. 364, Stats. 1969. Effective November 10, 1969.

**Stops for Train Signals**

22451. (a) The driver of any vehicle approaching a railroad grade crossing shall stop not less than 15 feet from the nearest rail and shall not proceed until he can do so safely, whenever the following conditions exist:

(1) A clearly visible electric or mechanical signal device or a flagman gives warning of the approach or passage of a train or car.

(2) An approaching train or car is plainly visible or is emitting an audible signal and, by reason of its speed or nearness, is an immediate hazard.

(b) No driver shall proceed through, around or under any railroad crossing gate while such gate is closed.

Amended Ch. 530, Stats. 1961. Effective September 15, 1961.

Repealed and added Ch. 406, Stats. 1967. Effective November 8, 1967.

Amended Ch. 608, Stats. 1970. Effective November 23, 1970.

**Railroad Crossings**

22452. (a) The provisions of subdivisions (b) and (c) of this section shall apply to the operation of the following vehicles:

Any bus carrying passengers.

Any motortruck transporting employees in addition to those riding in the cab.

Any schoolbus and any school pupil activity bus transporting school pupils, except as otherwise provided in paragraph (4) of subdivision (c).

Any vehicle carrying explosive substances as a cargo or part of a cargo.

Any tank vehicle as defined in Section 34003 whether loaded or empty.

Any vehicle transporting more than 120 gallons of flammable liquids or liquefied petroleum gas in containers having a capacity of more than 20 gallons as a cargo or major portion of a cargo.

(b) Before traversing a railroad grade crossing, the driver of any vehicle described in subdivision (a) shall stop such vehicle not less than 15 nor more than 50 feet from the nearest rail of the track and while so stopped shall listen, and look in both directions along the track, for any approaching train and for signals indicating the approach of a train, and shall not proceed until he can do so safely. Upon proceeding, the gears shall not be shifted manually while crossing the tracks.

(c) No stop need be made at any crossing:

(1) Of railroad tracks running along and upon the roadway within a business or residence district.

(2) Where a traffic officer or an official traffic control signal directs traffic to proceed.

(3) Where an exempt sign was authorized by the Public Utilities Commission prior to January 1, 1978.

(4) Where an official railroad crossing stop exempt sign in compliance with Section 21400 has been placed by the Department of Transportation or a local authority pursuant to Section 22452.5. This paragraph shall not apply with respect to any schoolbus or to any school pupil activity bus.

Amended Ch. 1881, Stats. 1969. Effective September 18, 1969.

Amended Ch. 828, Stats. 1963. Effective September 20, 1963.

Amended Ch. 406, Stats. 1967. Effective November 8, 1967.

Amended Ch. 26, Stats. 1969. Effective November 10, 1969.

Amended Ch. 608, Stats. 1970. Effective November 23, 1970.

Amended Ch. 1063, Stats. 1977. Effective January 1, 1978.

Amended Ch. 813, Stats. 1981. Effective January 1, 1982.

**Signs; Stop Not Required**

22452.5. The Department of Transportation and local authorities, with respect to highways under their respective jurisdictions, may place signs at railroad grade crossings permitting any vehicle described in subdivision (a) of Section 22452 to traverse such crossings without stopping. Such signs shall be placed in accordance with criteria adopted by the Public Utilities Commission. Prior to placing such signs, the Department of Transportation or local authority shall consult with the Department of the California Highway Patrol, railroad corporations involved, and the operators involved and shall secure the permission of the Public Utilities Commission if a railroad corporation under the jurisdiction of the Public Utilities Commission is affected. Prior to permitting the placement of such signs, the

prima facie evidence that such speed is not reasonable, but the fact that the speed of a vehicle is lower than such limits shall not relieve the operator from the duty to decrease speed when a special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(b) Any person who operates a motor vehicle at a greater rate of speed than is reasonable, other than speeding, as provided for in section 14-219, shall commit the infraction of traveling unreasonably fast.

(P.A. 75-577, S. 7, 126; P.A. 77-103; 77-340, S. 4; P.A. 84-429, S. 65.)

History: P.A. 77-103 clarified proviso re effective date of speed limits; P.A. 77-340 replaced first reference to parking areas for ten or more cars with parking areas as defined in Sec. 14-219a and specified infraction in Subsec. (b) as infraction "of traveling unreasonably fast"; P.A. 84-429 made technical changes for statutory consistency.

See chapter 881b.

Cited. 181 C. 515, 516, 519.

Cited. 38 CS 426, 431, 434, 435, 445. Cited. 39 CS 313, 314.

Sec. 14-219. Speeding. Absolute limits. (a) No person shall operate any motor vehicle (1) upon any highway, road or any parking area for ten cars or more, at such a rate of speed as to endanger the life of any occupant of such motor vehicle, but not the life of any other person than such an occupant; or (2) at a rate of speed greater than fifty-five miles per hour upon any highway.

(b) Any person who operates a motor vehicle (1) on a multiple lane, limited access highway at a rate of speed greater than fifty-five miles per hour but not greater than seventy miles per hour or (2) on any other highway at a rate of speed greater than fifty-five miles per hour but not greater than sixty miles per hour, shall commit an infraction provided any such person operating a truck, as defined in section 14-260n, shall have committed a violation and shall be fined not less than one hundred dollars nor more than one hundred fifty dollars.

(c) Any person who violates any provision of subdivision (1) of subsection (a) of this section or who operates a motor vehicle (1) on a multiple lane, limited access highway at a rate of speed greater than seventy miles per hour or (2) on any other highway at a rate of speed greater than sixty miles per hour shall be fined not less than one hundred dollars nor more than one hundred fifty dollars, provided any such person operating a truck, as defined in section 14-260n, shall be fined not less than one hundred fifty dollars nor more than two hundred dollars.

(d) No person shall be subject to prosecution for a violation of both subsection (a) of this section and subsection (a) of section 14-222 because of the same offense.

(1949 Rev., S. 2407; 1961, P.A. 379, S. 2; 517, S. 15; 1963, P.A. 289; 595; February, 1965, P.A. 92; P.A. 73-253, S. 1; P.A. 75-577, 6, 126; P.A. 79-609, S. 1; P.A. 80-276, S. 1, 6; P.A. 84-372, S. 5, 9.)

History: 1961 acts amended Subsec. (a) to add parking areas for ten cars or more and deleted exception for Merrill Parkway from first sentence of Subsec. (b); 1963 acts established maximum speed limits in Subsec. (a)(2) and added roads of specially chartered municipal associations; 1965 act added district roads to Subsec. (a); P.A. 73-253 prohibited operation of vehicle at greater than reasonable speed on school property; P.A. 75-577 deleted provisions of Subsec. (a) re operation at greater than reasonable speed, deleted Subsec. (b) re determination of speed limits and relettered former Subsec. (c) as Subsec. (b); P.A. 79-609 reduced speed limit from seventy to fifty-five miles per hour with limit being generally applicable, special limit provisions were deleted; P.A. 80-276 inserted new Subsec. (b) re offenses deemed infractions and expanded Subsec. (c) re speeding offenses and replaced one hundred dollar maximum fine with one hundred dollar minimum fine and one hundred fifty dollar maximum fine; P.A. 84-372 established higher penalties for person operating a truck.

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more than two feet above the road at a distance of thirty feet from the vehicle, except that such a spot light may be used for the purpose of reading signs, and as an auxiliary light in cases of necessity when the other lights required by law fail to operate.

No person, except a duly authorized person driving an emergency fire vehicle, shall operate a motor vehicle equipped with metal studded tires upon a public way between May the first and November the first; provided, however, the registrar may authorize the use of such tires before November the first, if weather conditions require the use thereof. Whoever violates the provisions of this paragraph shall be punished by a fine of not more than fifty dollars.

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§16A. Stopped motor vehicles.

No person shall cause, suffer, allow or permit the unnecessary operation of the engine of a motor vehicle while said vehicle is stopped for a foreseeable period of time in excess of five minutes. This section shall not apply to (a) vehicles being serviced, provided that operation of the engine is essential to the proper repair thereof, or (b) vehicles engaged in the delivery or acceptance of goods, wares, or merchandise for which engine assisted power is necessary and substitute alternate means cannot be made available, or (c) vehicles engaged in an operation for which the engine power is necessary for an associate power need other than movement and substitute alternate power means cannot be made available provided that such operation does not cause or contribute to a condition of air pollution. Whoever violates any provision of this section shall be punished by a fine of not more than one hundred dollars for the first offense, nor more than five hundred dollars for each succeeding offense.

§17. Speed limits.

No person operating a motor vehicle on any way shall run it at a rate of speed greater than is reasonable and proper, having regard to traffic and the use of the way and the safety of the public. Unless a way is otherwise posted in accordance with the provisions of section eighteen, it shall be prima facie evidence of a rate of speed greater

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than is reasonable and proper as aforesaid (1) if a motor vehicle is operated on a divided highway outside a thickly settled or business district at a rate of speed exceeding fifty miles per hour for a distance of a quarter of a mile, or (2) on any other way outside a thickly settled or business district at a rate of speed exceeding forty miles per hour for a distance of a quarter of a mile, or (3) inside a thickly settled or business district at a rate of speed exceeding thirty miles per hour for a distance of one-eighth of a mile, or (4) within a school zone established in conformance with standards of the department of public works at a rate of speed exceeding twenty miles per hour. Operation of a motor vehicle at a speed in excess of fifteen miles per hour within one-tenth of a mile of a vehicle used in hawking or peddling merchandise and which displays flashing amber lights shall likewise be prima facie evidence of a rate of speed greater than is reasonable and proper. If a speed limit has been duly established upon any way, in accordance with the provisions of said section, operation of a motor vehicle at a rate of speed in excess of such limit shall be prima facie evidence that such speed is greater than is reasonable and proper; but, notwithstanding such establishment of a speed limit, every person operating a motor vehicle shall decrease the speed of the same when a special hazard exists with respect to pedestrians or other traffic, or by reason of weather or highway conditions. Except on a limited access highway, no person shall operate a school bus at a rate of speed exceeding forty miles per hour, while actually engaged in carrying school children. (Chgd. eff. 6/17/78; L. 1978, chap. 171).

### \*§18. Special regulations as to speed.

The city council, the traffic and parking commission of the city of Boston, the selectmen, park commissioners, a traffic commission or traffic director, or the department, on ways within their control, may make special regulations as to the speed of motor vehicles and as to the use of such vehicles upon particular ways, and may prohibit the use of such vehicles altogether on certain ways; provided, that except in the case of a speed regulation no such special regulation shall be effective unless it shall have been published in one or more newspapers, if there be any, published in the town in which the way is situated otherwise in one or more newspapers published in the county in which the town is situated; nor until after the department, and in the case of a speed regulation the department and the registrar, acting jointly. (Chgd. by L. 1984, chap. 84, eff. 9/13/84.)

(rev.85)

§ 46.1-193

POLICE, CRIMES AND OFFENSES, ETC.

§ 46.1-193

§ 46.1-193. **Maximum and minimum speed limits.** — The maximum and minimum speed limits on highways of this State shall be as hereinafter prescribed.

(1) Maximum limits.

(a) Fifty-five miles per hour on the Interstate System of Highways or other limited access highways with divided roadways.

(b) Fifty-five miles per hour on nonlimited access highways having four or more lanes and on all State primary highways.

(c) Fifty-five miles per hour on highways not included in (a) or (b) if the vehicle is a passenger motor vehicle, passenger bus, United States post office bus, pickup or panel truck or a motorcycle; and forty-five miles per hour on such highways if the vehicle is a truck, road tractor ~~tractor-truck~~ or combination of vehicles designed to transport property, or is a motor vehicle being used to tow a vehicle designed for self-propulsion, or a house trailer.

(d) Thirty-five miles per hour or the minimum speed allowable, whichever is greater, on any highway other than an interstate highway, if the vehicle is being used as a school bus carrying children, and forty-five miles per hour on interstate highways; provided, however, that for any such vehicle which neither takes on nor discharges children between its point of origin and point of destination, the speed limit shall be forty-five miles per hour.

(e) Forty-five miles per hour on any highway if the vehicle or combination of vehicles is operating under a special permit issued by the State Highway and Transportation Commission in accordance with §§ 46.1-330 and 46.1-343. The State Highway and Transportation Commission may, however, prescribe a speed limit of less than forty-five miles per hour on any permit issued in accordance with §§ 46.1-330 and 46.1-343.

(f) Twenty-five miles per hour between portable signs, tilt-over signs, or fixed blinking signs placed in or along any highway bearing the word "school" or "school crossing." Such word or words shall indicate that school children are present in the vicinity. Any signs erected under this section shall be placed not more than six hundred feet from the limits of the school property or crossing in the vicinity of the school, which is used by children going to and from the school; provided that "school crossing" signs may be placed in any location if the Department of Highways and Transportation or the council of the city or town or the board of supervisors of a county maintaining its own system of secondary roads approves the said crossing for such signs. If the portion of the highway to be posted is within the limits of a city or town, such portable signs shall be furnished and delivered by such city or town. If the portion of highway to be posted is outside the limits of a city or town, such portable signs shall be furnished and delivered by the State Highways and Transportation Department. It shall be the duty of the principal or chief administrative officer of each school or some responsible person designated by the school board, preferably not a classroom teacher, to place such portable signs in the highway at a point not more than six hundred feet from the limits of the school property and remove such signs when their presence is no longer required by this subsection. Such portable signs, tilt-over signs, or fixed blinking signs shall be placed in a position plainly visible to vehicular traffic approaching from either direction but shall not be placed so as to obstruct the roadway. Such portable signs, tilt-over signs, or blinking signals shall be in a position, or be turned on, for thirty minutes preceding regular school hours and for thirty minutes thereafter and during such other times as the presence of children on such school property or going to and from school reasonably requires a special warning to motorists. Provided, however, that the governing body of any city or town may, if the portion of the highway to be posted is within the limits of such city or town, increase or decrease the speed limit provided in this subsection only after justification for such increase or decrease has been shown by an

engineering and traffic investigation, and provided further that no such increase or decrease in speed limit shall be effective unless such increased or decreased speed limit is conspicuously posted upon the portable signs, tilt-over signs, or fixed blinking signs required by this subsection.

(g) Twenty-five miles per hour on highways in a business or residential district, except upon interstate or other limited access highways with divided roadways.

(h) Thirty-five miles per hour on highways in any city or town, except upon interstate or other limited access highways with divided roadways and except in business or residence districts.

(i) Notwithstanding the provisions of subdivisions (a), (b) and (c) of this subsection, the speed limits for passenger motor vehicles while towing utility, camping or boat trailers not exceeding an actual gross weight of twenty-five hundred pounds shall be the same as that for passenger motor vehicles.

(2) Minimum speed limits.

(a) No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

(b) Whenever the State Highway and Transportation Commissioner or local authorities within their respective jurisdictions determine on the basis of a traffic engineering and traffic investigation that slow speeds on any part of a highway consistently impede the normal and reasonable movement of traffic, the Commissioner or such local authority may determine and declare a minimum speed limit to be set forth on signs posted on such highway below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law.

(3) Notwithstanding the foregoing provisions, the State Highway and Transportation Commissioner or other authority having jurisdiction over highways may decrease the speed limits set forth in subsections (1) (a) through (1) (c) of this section and may increase or decrease the speed limits set forth in subsections (1) (f) through (1) (h) of this section on any highway under its jurisdiction; and may establish differentiated speed limits for daytime and nighttime by decreasing for nighttime driving the speed limits set forth in subsections (1) (a) through (1) (c) of this section and by increasing for daytime or decreasing for nighttime the speed limits set forth in subsections (1) (f) through (1) (h) of this section on any highway under its jurisdiction. Such increased or decreased speed limits and such differentiated speed limits for daytime and nighttime driving shall be effective only when prescribed after a traffic engineering and traffic investigation and when indicated upon the highway by signs; provided, the increased or decreased speed limits over highways under the control of the State Highway and Transportation Commissioner shall be effective only when prescribed in writing by the Highway and Transportation Commissioner and kept on file in the Central Office of the Department of Highways and Transportation.

Any person violating this section shall be guilty of a traffic infraction and upon conviction shall be punished as provided in § 46.1-16.01. (Code 1950, § 46-212; 1950, p. 881; 1952, c. 666; 1954, c. 244; 1956, c. 364; 1958, c. 541; 1960, c. 153; 1962, c. 307; 1964, cc. 118, 408; 1966, c. 85; 1968, c. 641; 1972, cc. 89, 546, 553, 608; 1974, c. 528; 1977, c. 577; 1978, c. 605; 1980, c. 347.)

**Cross references.** — For definition of business district, see § 46.1-1 (1). For definition of residence district, see § 46.1-1 (24). As to additional penalty when violation occurs while transporting explosives or inflammable gas or liquid, see § 46.1-424.

**This section applies to United States employee.** — The provisions of this section, fixing the speed limit for automobiles on public highways, must be obeyed by a United States employee while engaged in transporting United States mail in a United States owned automono-

# Indiana

## 139. Reckless driving

IC 9-4-1-56.1

A person operating a vehicle who recklessly:

- (1) drives at such an unreasonably high rate of speed, or at such an unreasonably low rate of speed, under the circumstances, as to endanger the safety or the property of others, or as to block the proper flow of traffic;
- (2) passes another vehicle from the rear while on a slope or on a curve where vision is obstructed for a distance of less than five hundred (500) feet ahead;
- (3) drives in and out of a line of traffic, except as otherwise permitted; or
- (4) speeds up or refuses to give one-half (1/2) of the roadway to a driver overtaking and desiring to pass;

commits a Class B misdemeanor, and, if the offense results in damage to the property of another person, the court shall recommend the suspension of the current driving license of the person for a fixed period of not less than thirty (30) days nor more than one (1) year.

## 140. Failure to dim headlights

IC 9-4-1-56.2

A person operating a vehicle who fails to dim bright or blinding lights when meeting another vehicle or pedestrian commits a Class B infraction.

## 141. Basic speed law

IC 9-4-1-57

(a) No person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. In every event speed shall be so restricted as may be necessary to avoid colliding with any person, or vehicle or other conveyance on or near, or entering a highway in compliance with legal requirements and with the duty of all persons to use due care.

(b) Except when a special hazard exists that requires lower speed for compliance with subsection (a), the limits specified in this section or established as authorized by this section shall be maximum lawful speeds, and no person shall drive a vehicle on a highway at a speed in excess of such maximum limits:

- (1) Thirty (30) miles per hour in any urban district.
- (2) Fifty-five (55) miles per hour on the interstate defense network of dual highways and in other locations.

(c) The maximum speed limits set forth in this section may be altered as authorized in sections 58 and 61 of this chapter.

(d) The driver of every vehicle shall, consistent with the requirements in subsection (a), drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(e) In addition to the other limitations in this section, in section 58, and in any oversize vehicle permit issued under IC 9-8-1 and IC 9-8-1.6, no vehicle that exceeds:

- (1) a width of eight (8) feet, six (6) inches;
- (2) a height of thirteen (13) feet, six (6) inches; or
- (3) a length of eighty (80) feet;

may be operated at a speed greater than forty-five (45) miles per hour.

## 142. Speed; local authorities, adjustment of limits IC 9-4-1-58

(a) Whenever local authorities in their respective jurisdictions determine on the basis of an engineering and traffic investigation that the maximum speed permitted under this chapter is greater or less than reasonable and safe under the conditions found to exist on a highway or part of a highway, the local authority may determine and declare a reasonable and safe maximum limit thereon which:

1. decreases the limit within urban districts but not to less than twenty (20) miles per hour; or

2. increases the limit within an urban district but not to more than sixty (60) miles per hour during daytime and fifty (50) miles per hour during nighttime; or

3. decreases the limit outside an urban district, but not to less than thirty-five (35) miles per hour.

(b) Local authorities in their respective jurisdictions shall determine by an engineering and traffic investigation the proper maximum speed for all local streets and shall declare a reasonable and safe maximum speed permitted under this chapter for an urban district.

(c) Any altered limit established as hereinabove authorized shall be effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice thereof are erected on such street or highway.

(d) Local authorities shall not have power to alter speed limits on any highway or extension thereof in the state highway system except that incorporated cities and towns may establish speed limits on state highways upon which a school is located. Provided, That such limit shall only be valid if (1) the limit is not less than twenty (20) miles per hour, (2) the limit is imposed only in the immediate vicinity of the school, (3) children are present, (4) if the speed zone is properly signed, and (5) the department of highways has been notified of the limit imposed, by registered or certified mail.

#### 143. Minimum speed law—operating trucks on interstate

IC 9-4-1-59

Sec. 59. (a) No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with the law. Any person who is driving at such slow speed and under such circumstances that three (3) or more other vehicles are blocked and can not pass on the left around this vehicle, shall give right-of-way to such vehicle by pulling off to the right of the right lane at the earliest reasonable opportunity and allowing the blocked vehicles to pass.

(b) Whenever the department of highways or local authorities within their respective jurisdictions determine, on the basis of an engineering and traffic investigation that slow speeds on any part of a highway consistently impede the normal and reasonable movement of traffic, the respective department of highways or such local authority may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law. A limit so determined and declared by appropriate resolution, regulation or ordinance becomes effective when appropriate sign or signals giving notice of the limit of speed are erected along such part of a highway.

(c) All vehicles that travel at a speed less than the established maximum shall travel in the right lanes to provide for better flow of traffic on interstate defense network of dual highways.

(d) No person shall operate a truck, truck tractor, road tractor, trailer, semitrailer or pole trailer on the interstate defense network of dual highways in any lane except the far right lane, provided that, such vehicles may use the left lane for the purpose of passing a slower moving vehicle, entering or leaving the highway, or where a special hazard exists that requires for safety reasons, the use of an alternate lane.

(e) No person shall operate a truck, truck tractor, road tractor, trailer, semitrailer or pole trailer on any interstate highway consisting of three (3) or more lanes in one (1) direction, in any lane other than the two (2) far right lanes, provided that such vehicles may use an alternate lane where necessary to enter or leave a highway or where a special hazard exists that requires, for safety reasons, the use of an alternate lane.

(f) For the purpose of enforcing this section, the term "trailer" as used in subsections (d) and (e) shall mean the combination of any motor vehicle towing another vehicle or trailer.

(g) The department of highways shall complete the placement of signs or signals on all appropriate roadways no later than January 1, 1975.

**144. Speed; state highways; maximum limits** IC 9-4-1-61

Whenever the department of highways shall determine on the basis of an engineering and traffic investigation that any maximum speed hereinbefore set forth is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or on any part of the state highway system, the department of highways may determine and declare a reasonable and safe maximum limit thereon, which shall be effective when appropriate signs giving notice thereof are erected. Such a maximum speed limit may be declared to be effective at all times or at such times as are indicated on said signs; and differing limits may be established for differing times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds, which shall be effective when posted on appropriate fixed or variable signs.

**145. Motorized bicycles (mopeds)—operation of** IC 9-4-1-61.1

A motorized bicycle may not be operated by any person under the age of fifteen (15) years, and may not be operated on the interstate defense network of highways or on sidewalks.

**146. Speed—form of summons** IC 9-4-1-62

(a) In every charge of violation of any speed regulation in this act, the complaint or affidavit, and the summons, warrant or notice to appear, shall specify the speed at which the defendant is alleged to have driven, and the prima facie or fixed speed applicable within the district or at the location.

(b) The provisions of this act declaring or providing for fixed and prima facie speed limitations shall not be construed to relieve the plaintiff in any civil action from the burden of proving negligence on the part of the defendant as the proximate cause of the damage alleged.

**147. Driving left of center—when permitted** IC 9-4-1-63

Upon all roadways of sufficient width, a vehicle shall be driven upon the right half of the roadway except as follows:

1. When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;

2. When the right half of a roadway is closed to traffic under construction or repair;

3. Upon a roadway divided into three (3) marked lanes for traffic under the rules applicable thereon; or

4. Upon a roadway designated and sign-posted for one-way traffic.

5. Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place under the conditions then existing shall be driven in the right-hand lane then available for traffic or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

**148. Trucks; lane restrictions; state highways** IC 9-4-1-64

(a) As used in this section, the term "truck" shall mean any motor vehicle designed, used or maintained primarily for the transportation of property. The term "truck" shall include any motor vehicle designed and used primarily for drawing another vehicle and so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn, and any motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry.

(b) The department of highways is hereby authorized and empowered to restrict, by rule or regulation, the operation of any truck to a certain lane or lanes

Hawaii

Sec. 291C-101 MOTOR AND OTHER VEHICLES

every person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazards exist with respect to pedestrians or other traffic, or by reason of weather or highway conditions. [L 1971, c 150, pt of §1; am L 1977, c 8, §1]

\*Exhibitor  
defendant a

Amendment Note

L 1977 rephrased first sentence and substituted "curve" for "curb".

Case Notes

For conviction, there must be evidence that the speed was unreasonable under the actual and potential hazards and conditions then existing. 1 H. App. 403, 619 P.2d 1102.

**§291C-102 Noncompliance with speed limit prohibited.** (a) No person shall drive a vehicle at a speed greater than a maximum speed limit and no person shall drive a motor vehicle at a speed less than a minimum speed limit established by county ordinance.

(b) The director of transportation with respect to highways under his jurisdiction may place signs establishing maximum speed limits or minimum speed limits. Such signs shall be official signs and no person shall drive a vehicle at a speed greater than a maximum speed limit and no person shall drive a motor vehicle at a speed less than a minimum speed limit stated on such signs. [L 1971, c 150, pt of §1; am L 1984, c 273, §8]

Amendment Note

L 1984 amended section generally.

Case Notes

In prosecution under this section, prosecutor has burden of proving that speed limit was established in one of ways specified in this section. 57 H. 277, 554 P.2d 767.

**§291C-103 Racing on highways.** (a) Except as provided in section 291C-149, no person shall drive any vehicle in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration, or for the purpose of making a speed record, and no person shall in any manner participate in any such race, competition, contest, test, or exhibition.

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[am L 1984, c 273, §9]

Revision Note

Only the subsection amended is included in this Supplement.

Amendment Note

L 1984 amended subsection (a).

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the forwarding court exercising jurisdiction shall immediately notify the Department of Public Safety thereof. Upon such notification and payment of an additional twenty-five dollars to the Department of Public Safety, the operator's license of the arrested person shall be renewed or reissued for the purpose of this Section. One-half of the additional fine imposed by this Section shall be forwarded by the Department of Public Safety to the forwarding court exercising jurisdiction, to be deposited in that court's criminal court fund and to be used in the same manner as the other sums deposited in said fund.

C. Repealed by Acts 1984, No. 763, § 1.

Added by Acts 1978, No. 301, § 2. Amended by Acts 1980, No. 779, § 1.

1984 Amendment: Added the "A." designating subsec. A. and in that subsection substituted "on" for "upon" before "his written"; substituted "fee" for "fine" following "fifty dollar"; and substituted "had" for "has" before "honored"; in subsec. B, substituted "dollars" for "dollar fine"; and added "to be deposited in that court's criminal court fund and to be used in the same manner as the other sums deposited in said fund"; and added subsec. C.

1984 Legislation: Acts 1984, No. 763, § 1 repealed subsec. C which read "C. The provisions of this Section shall not apply in Orleans Parish."

#### Library References

Automobiles § 144.111  
Bail § 40, 75.  
C.J.S. Motor Vehicles §§ 164.16, 164.17.  
C.J.S. Bail §§ 32, 81, 82.

#### § 58. Reasonable and proper control of vehicles

It shall be unlawful for the driver of any vehicle to negligently fail to maintain reasonable and proper control of said vehicle while operating the vehicle on the public roads of this state.

Added by Acts 1972, No. 567, § 1.

#### Library References

Automobiles § 331.  
C.J.S. Motor Vehicles § 641 et seq.

#### Notes of Decisions

##### Arrest 4

Construction and application 1

Guilt plea 2

Negligence 3

Validity 4

##### 4. Validity

Person of ordinary reasonable intelligence can be expected to know what is "reasonable" and "proper" in control of his vehicle while operating it on public road in conforming his conduct thereto; therefore, this section proscribing failure to maintain reasonable and proper control of vehicle provided fair notice of prohibited conduct and was not unconstitutionally vague on theory that words "reasonable" and "proper" were vague and indefinite. *State v. Jackson*, Sup 1981, 404 So.2d 952.

##### 1. Construction and application

Finding of negligence on part of driver of vehicle who was traveling at approximately 55 miles per hour in rainstorm and who subsequently pleaded guilty to failure to maintain reasonable and proper control of vehicle was not error.

control, and officer could not be held liable for false arrest. *Richard v. State*, Through Dept of Public Safety, App 1 Cir 1983, 436 So.2d 1265, writ denied 441 So.2d 1223.

## PART IV. TRAFFIC REGULATIONS

### SUBPART A. SPEED RESTRICTIONS

#### Law Review Commentaries

Contributory negligence as a matter of law—auto collisions in smoke, fog and dust. 28 La L. Rev. 674 (1968)

#### § 61. Maximum speed limit

*Text effective if Congress does not repeal penalties for violating the fifty-five mile-per-hour speed limit.*

No person shall operate or drive a vehicle on any highway of this state in excess of fifty-five miles per hour; however, if national speed limits are increased to an amount in excess of fifty-five miles per hour, the secretary is authorized to increase the maximum speed limit provided in this Section to a speed limit not in excess of such national speed limit.

Amended by Acts 1964, No. 369, § 1; Acts 1974, No. 521, § 1; Acts 1977, No. 113, § 1, eff. June 22, 1977.

*For text effective only if Congress repeals penalties for violating the fifty-five mile-per-hour speed limit, see § 61, post.*

#### § 61. Maximum speed limit

*Text effective only if Congress repeals penalties for violating the fifty-five mile-per-hour speed limit.*

A. No person shall operate or drive a vehicle on any highway of this state, excluding Interstate highways, in excess of fifty-five miles per hour; however, if national speed limits are increased to an amount in excess of fifty-five miles per hour, the secretary is authorized to increase the maximum speed limit provided in this Section to a speed limit not in excess of such national speed limit.

B. No person shall operate or drive a vehicle on any Interstate highways of this state in excess of sixty-five miles per hour.

Amended by Acts 1964, No. 369, § 1; Acts 1974, No. 521, § 1; Acts 1977, No. 113, § 1, eff. June 22, 1977; Acts 1982, No. 191, § 1, eff. Jan. 1, 1983, only if Congress has repealed penalties for violating 55 mile-per-hour speed limit (eff. date suspended until sixty days after 1984 Regular Session by H.C.R. No. 4 of 1983)

*For text effective if Congress does not repeal penalties for violating the fifty-five mile-per-hour speed limit, see § 61, ante.*

#### Effective Date—1982 Amendment

Section 2 of Acts 1982, No. 191 provided:

"This Act shall become effective on January 1, 1983, if, and only if, Congress has repealed penalties for violating the fifty-five mile per-hour speed limit provided in Title 22, Section 154, of the United States Code."

between 40 and 45 miles per hour, with her eyes closed, defendants failed to sustain burden of proof of excessive speed on part of motorcycle operator. *Freeman v. Liberty Mut. Ins. Co.*, App. 1965, 175 So.2d 659.

#### 7. Proximate cause

Evidence supported finding that driver of truck which collided with automobile and subsequently struck second automobile, the occupant of which had received medical and workmen's compensation benefits under plaintiff's policy and collision benefits under plaintiff's automobile liability policy, was driving at an excessive rate of speed prior to collision with the first automobile and that the excessive speed was a proximate cause of the second collision. *Fidelity & Cas. Co. of New York v. Aetna Life & Cas. Co.*, App. 1971, 244 So.2d 255.

Testimony of investigating officer and out-bound motorist supported finding in personal injury action by passenger in inbound car that out-bound motorist was not negligent in crossing inbound lane when reentering highway after stopping at roadside telephone booth, and that excessive speed of inbound car was sole proximate cause of collision. *Necaise v. Norris*, App. 1970, 242 So.2d 282.

Violation of a speed law does not render a motorist liable unless the infraction is a cause in fact of the accident. *McDaniel v. Welsh*, App. 1970, 234 So.2d 833.

#### 8. Last clear chance

Where defendant motorist observed 12-year-old pedestrian running toward highway at distance of 300 feet and recognized pedestrian to be child and defendant did not sound horn or slow his vehicle, defendant could reasonably have taken action to stop or slow vehicle so as to permit pedestrian to cross safely, and last clear chance doctrine was applicable even though 12-year-old pedestrian was contributorily negligent in running onto heavily traveled highway with but momentary hesitation. *Tate v. Hill*, App. 1967, 197 So.2d 107, writ denied 250 La. 911, 199 So.2d 919.

Where operator of plaintiff's automobile approached intersection from right at about 15 to 20 miles per hour and observed defendant's vehicle when it was 25 to 30 feet from intersection and immediately applied brakes but collided with right rear fender of defendant's vehicle, operator of plaintiff's vehicle was engaged in exercise of reasonable care and accident was precipitated by gross negligence of operator of defendant's vehicle and doctrine of last clear chance was not applicable. *Kevlin v. Demarest*, App. 1967, 196 So.2d 336.

In order to invoke doctrine of last clear chance it must be proved that person invoking doctrine was in position of peril of which he was unaware or from which he was unable to extricate him-

self, that person against whom doctrine is invoked actually discovered or was in position where he could have discovered such other person's peril and that person against whom doctrine is invoked could have avoided accident with exercise of reasonable care. *Id.*

The doctrine of last clear chance did not apply to a case wherein preceding driver was struck from behind after driving onto highway where visibility had been reduced to a few feet because of low-lying, dense smoke mixed with heavy fog. *Walden v. Employers Liability Assur. Corp.*, App. 1967, 195 So.2d 350.

#### 9. Intersections

Evidence in action arising out of collision which occurred at blind intersection of two gravel roads in rural area established that driver of southbound truck and trailer which was struck by eastbound truck was negligent in entering intersection in front of approaching preferred motorist when it was not safe to do so. *Ernst v. O'Bannon*, App. 1973, 278 So.2d 830, writ denied 281 So.2d 749.

Driver of truck which entered intersection at moderate speed on light which had been favorable from 75 to 100 feet before truck reached intersection was not negligent in not according right-of-way and opportunity of completing movement through intersection to automobile which entered intersection at higher rate of speed on unfavorable light where there was little difference in the time the two vehicles entered the intersection, notwithstanding that automobile traveled further into the intersection than truck prior to collision. *Meek v. State Farm Mut. Auto. Ins. Co.*, App. 1971, 244 So.2d 661.

Southbound motorist who collided with northbound motorist who was executing left turn at intersection was negligent in going too fast and failing to keep a proper lookout under evidence that prior to collision northbound motorist had been stopped and was signaling for a left turn, that yellow caution light was on at intersection where 25 m.p.h. speed limit was in effect, that automobile of southbound motorist who testified that he did not remember his speed at time of collision left 61 feet of skid marks and that substantial damage occurred to both automobiles indicating a severe impact. *Nelson v. State Farm Mut. Auto. Ins. Co.*, App. 1971, 244 So.2d 303.

In view of length of defendant's northbound tractor-trailer rig, slow rate of speed at which it must have entered intersection, and length of time it took to cross intersection, plaintiff, no matter what speed his westbound vehicle was traveling, should have seen trailer rig in time to avoid collision and having failed to see what he should have seen, his negligence was a proximate cause of accident precluding recovery. *Thomas v. Lee*, App. 1970, 243 So.2d 516, writ denied 257 La. 991, 244 So.2d 860.

Evidence in intersection collision case was insufficient to establish that northbound motorist was speeding and thus contributorily negligent at time of collision with eastbound motorist who entered favored street after stopping at stop sign. *Hill v. Main Ins. Co.*, App. 1970, 242 So.2d 623.

#### 10. Hills and curves

Evidence that motorist who collided with state trooper's vehicle while the two vehicles were attempting to negotiate a blind curve on a narrow gravel road was familiar with the road, that he entered the blind curve at 35 miles per hour driving well to his left on the narrow road, and that when the collision occurred, the left portion of each of the two vehicles was beyond the center line sustained determination that the motorist was causally negligent and thus could not recover from parish which maintained the road. *Tezeno v. St. Landry Parish Police Jury*, App. 1977, 343 So.2d 452.

Evidence sustained finding that truck driver's negligence in attempting to enter highway having 60 m.p.h. speed limit in a long, slow moving truck and trailer within 200 feet of curve in that highway was sole cause of accident in which driver of automobile swerved to avoid striking truck, left highway, skidded on wet grass and ultimately struck building. *Hebert v. Hanover Ins. Co.*, App. 1971, 244 So.2d 55.

#### 16. Turning

Leading motorist, who was struck from behind in multiple vehicle accident, was not negligent in stopping in inner lane of four-lane highway, giving required signal for left turn at intersection with break in neutral ground designed to permit left turns. *Henderson v. Ancona*, App. 1967, 197 So.2d 150.

#### § 62. Maximum speed limit; certain vehicles

*Text of subsec. A effective if Congress does not repeal penalties for violating the fifty-five mile-per-hour speed limit. For text of subsec. A effective only if Congress does repeal penalties for violating the fifty-five mile-per-hour speed limit, see subsec. A, post.*

A. No person shall operate any freight carrying vehicle upon the highways of this state at a speed in excess of fifty-five miles per hour; however, if national speed limits are increased to an amount in excess of fifty-five miles per hour, the secretary is authorized to increase the maximum speed limit provided in this Subsection to a speed limit not in excess of such national speed limit.

Amended by Acts 1970, No. 150, § 1; Acts 1974, No. 521, § 2; Acts 1977, No. 113, § 1, eff. June 22, 1977.

*Text of subsec. A effective only if Congress repeals penalties for violating the fifty-five mile-per-hour speed limit. For text of subsec. A effective if Congress does not repeal penalties for violating the fifty-five mile-per-hour speed limit, see subsec. A, ante.*

#### 19. Radar

Where defendant raised no objections to admissibility of radar and speedometer evidence at trial for speeding, alleged error or irregularity at trial could not be reviewed by the Supreme Court. *State v. Kennedy*, Sup. 1981, 358 So.2d 1082.

#### 20. Failure to prosecute

One-year time limitation for commencement of misdemeanor trial after institution of prosecution was not interrupted by defendant's failure to appear as directed by arresting officer, inasmuch as she was a 16-year resident at same address, which address was reflected on driver's license seized by arresting officer, and her testimony that she was not long absent from her home in two years following the offense and that no efforts were made to serve a warrant on her went uncontradicted, thus, since the time allowed for institution of prosecution had run without interruption, she was entitled to have charges against her dismissed. *City of Baton Rouge v. Wheat*, Sup. 1979, 377 So.2d 1234.

#### 21. Review

Where pro se defendant failed to object to admissibility of radar and speedometer evidence claimed error relating to admission thereof was not before reviewing court. *State v. Allford*, Sup. 1980, 384 So.2d 761.

#### 22. Trial

Defendant who was tried on counts of driving while intoxicated, second offense, illegally carrying a weapon, resisting arrest, and speeding at same time without mention of consolidation of charges would be considered as if joint and total possible punishment, which would be sum of maximum possible for each charge, was greater than six months imprisonment, was entitled to a jury trial. *State v. Thompson*, App. 1 Cir. 1984, 446 So.2d 557.

A. (1) No person shall operate any freight carrying vehicle upon the highways of this state, excluding Interstate highways, at a speed in excess of fifty-five miles per hour, however, if national speed limits are increased to an amount in excess of fifty-five miles per hour, the secretary is authorized to increase the maximum speed limit provided in this Section to a speed limit not in excess of such national speed limit.

(2) No person shall operate any freight carrying vehicle upon the Interstate highways of this state at a speed in excess of sixty miles per hour.

Amended by Acts 1970, No. 150, § 1, Acts 1974, No. 521, § 2, Acts 1977, No. 113, § 1, eff. June 22, 1977; Acts 1982, No. 191, § 1, eff. Jan. 1, 1983 only if Congress has repealed penalties for violating the 55 mile-per-hour speed limit (eff. date suspended until sixty days after 1984 Session by H.C.R. No. 4 of 1983).

B. Forty-five miles per hour shall be the maximum speed at which a person shall be permitted to drive a vehicle which is towing a mobile home, however, when any such mobile home is not less than fifteen feet or more than thirty-two feet in length and is equipped with brakes or when such a mobile home is less than fifteen feet in length and is not equipped with brakes, a person may drive a vehicle towing any such mobile home at a speed not in excess of fifty-five miles per hour at any time between sunrise and sunset and not in excess of fifty miles per hour at any time between sunset and sunrise, however, if national speed limits are increased to an amount in excess of fifty-five miles per hour, the secretary is authorized to increase the maximum speed limit provided in this Subsection to a speed limit not in excess of such national speed limit.

Amended by Acts 1968, No. 181, § 1, Acts 1974, No. 521, § 2, Acts 1977, No. 113, § 1, eff. June 22, 1977.

*(See main volume for text of C)*

D. No person shall operate a school bus at a speed in excess of 55 miles per hour when transporting children, provided however, that the driver of a school bus transporting children under conditions which require frequent stops to receive and discharge such children shall not operate such school bus at a speed in excess of 35 miles per hour.

Amended by Acts 1966, No. 217, § 2

#### Effective Date—1982 Amendment

Section 2 of Acts 1982, No. 191 (§ 1 of which amended subsec. A of this section) provided:

"This Act shall become effective on January 1, 1983, if, and only if, Congress has repealed penalties for violating the fifty-five mile-per-hour speed limit provided in Title 23, Section 154, of the United States Code."

#### Suspension of Acts 1982, No. 191, § 2

House Concurrent Resolution No. 4 of the 1983 Regular Session provided:

"WHEREAS, Act No. 191 of the 1982 Regular Session of the Legislature established a sixty-five mile per hour speed limit on Interstate highways in Louisiana; and

"WHEREAS, Section 2 of Act No. 191 of the 1982 Regular Session has the effective date of January 1, 1983; and

"WHEREAS, such effective date would apply if, and only if, Congress repeals the penalties for violating the fifty-five mile-per-hour speed limit provided in Title 23, Section 154, of the United States Code; and

"WHEREAS, Congress has not repealed these provisions, and

"WHEREAS, the present law is ineffective unless Congress repeals the penalties for violating the fifty-five mile-per-hour speed limit.

"THEREFORE, BE IT RESOLVED by the House of Representatives of the Legislature of Louisiana, the Senate thereof concurring, that the effective date of Section 2 of Act No. 191 of the 1982 Regular Session is hereby suspended until sixty days after the 1984 Regular Session of the Legislature."

1982 Amendment: Designated the previous text of subsec. A as par. A(1), in par. A(1), added, "excluding Interstate highways," and substituted "Section" for "Subsection", and added par. A(2).

#### Notes of Decisions

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#### 3. Freight carrying vehicles—In general

In absence of evidence in action for wrongful death establishing legal speed limit on portion of highway on which pickup truck struck pedestrian, it would be concluded that 55-mile per hour speed of truck was within speed limit, in view of this section setting speed limit, for pickup trucks which do not exceed 6,000 pounds gross weight at 60 miles per hour. *Demandre v. Robinson*, App. 1969, 220 So.2d 542.

#### 4. Evidence, freight carrying vehicles

Where witnesses had only glimpse of vehicle before accident, little weight can be given to their estimates of speed. *Scruggs v. McCraney*, App. 1970, 231 So.2d 262.

60 feet of skid marks before impact made it obvious that vehicle was traveling at high rate of speed. *Id.*

Evidence established that truck involved in collision with automobile that had entered highway from dirt road was traveling at speed in excess of rate of 50 miles per hour prescribed for that type of vehicle, as claimed by witness who watched truck go by about three-quarters of a mile before it came to the intersection. *McQuillin v. Travelers-Indem. Co.*, App. 1965, 171 So.2d 691, writ denied 247 La. 623, 172 So.2d 703.

#### § 63. Establishing of speed zones

Acts 1972, No. 311, § 1 provides: "The Department of Highways is authorized, urged and requested to study the speed limits of the state system as presently existing and to adopt higher limits than the present statutory limits where safe to do so and to consider the imposition of minimum limits on interstate highways."

#### Notes of Decisions

#### 1. In general

In absence of evidence in action for wrongful death establishing legal speed limit on portion of

#### § 64. General speed law

*(See main volume for text of A and B)*

Text of subsec. C effective only if Congress repeals penalties for violating the fifty-five mile per hour speed limit.

#### 5. Intersections

In view of length of defendant's northbound tractor-trailer rig, slow rate of speed at which it must have entered intersection, and length of time it took to cross intersection, plaintiff, no matter what speed his westbound vehicle was traveling, should have seen trailer rig in time to avoid collision and having failed to see what he should have seen, his negligence was a proximate cause of accident precluding recovery. *Thomas v. Lee*, App. 1970, 243 So.2d 536, writ denied 257 La. 991, 244 So.2d 860.

#### 16. Skidding

Evidence sustained finding that truck driver's negligence in attempting to enter highway having 60 m.p.h. speed limit in a long, slow moving truck and trailer within 200 feet of curve in that highway was sole cause of accident in which driver of automobile swerved to avoid striking truck, left highway, skidded on wet grass and ultimately struck building. *Herbert v. Hanover Ins. Co.*, App. 1971, 244 So.2d 55.

#### 17. Motorcycles

In case in which motorcycle passenger testified that she estimated speed of motorcycle at between 40 and 45 miles per hour, with her eyes closed, defendant failed to sustain burden of proof of excessive speed on part of motorcycle operator. *Freeman v. Liberty Mut. Ins. Co.*, App. 1965, 175 So.2d 659.

#### 18. Negligence

Evidence was sufficient to support determination that both motorists involved in intersection automobile collision were negligent, one in driving at excessive speed and the second in not taking proper care in executing a left turn. *Agency Rent A-Car, Inc. v. Hamm*, App. 1970, 401 So.2d 1259.

highway on which pickup truck struck pedestrian, it would be concluded that 55 mile per hour speed of truck was within speed limit, in view of R.S. 32:62 setting speed limit for pickup trucks which do not exceed 6,000 pounds gross weight at 60 miles per hour. *Demandre v. Robinson*, App. 1969, 220 So.2d 542.

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that driver of first automobile involved in collision had been negligent in engaging in passing maneuver at high rate of speed and that drivers of third and fourth vehicles involved were also guilty of negligence in driving too closely to vehicles in front of them at speeds of 50 to 60 miles an hour, but evidence established that driver of second vehicle which was lead automobile of group of automobiles overtaken by first automobile was not negligent. *Felt v. Price*, 1941, 240 La. 966, 156 So.2d 340.

Evidence that motorist attempted to pass truck with which he collided while traveling at 35 to 45 miles per hour through an unincorporated village of 600 inhabitants and that there was a sign a quarter of a mile from the village limits stating that the speed limit was 45 miles per hour and no other sign slowing any necessary for reduction of speed and that the weather condition was good and the road was straight and level, did not show that motorist's speed was illegal so as to provide recovery for damages sustained on ground that motorist was guilty of contributory negligence. *Federal Ins. Co. v. Employers' Liability Ins. Corporation*, App. 1941, 4 So.2d 620.

Evidence showed bus driver at fault in attempting to pass car in curve at excessive speed. *Griffin v. Teshe Transfer Co.*, 1932, 49 La.App. 157, 140 So. 113.

### 15. Parking

Evidence established that defendant's loaded truck upon crossing levee near center of highway became uncontrollable and collided with vehicle in which plaintiff was sitting, while the vehicle was stopped on the side of the highway, as a result of negligence of the truck driver in failing to keep the truck under proper control and to drive at proper speed. *McDunnell v. Hargrove*, App. 1940, 197 So. 202.

Collision between truck and automobile, stopping on wrong side of road in darkness after steering gear was broken and lights extinguished when struck in rear by another truck, was due to negligence of driver of former truck in proceeding at excessive speed, rather than automobile driver's intervening negligence. *Penton v. Fisher*, App. 1934, 175 So. 35.

When driver of plaintiff's truck when signaled by lights of approaching automobile was negligent in not reducing speed, contributory negligence barred recovery for damages sustained in collision with unlighted parked truck. *Safe-Tire Service v. Mutay*, 1937, 19 La. App. 623, 140 So. 870.

If automobile driver was prevented from seeing unlighted parked motor-truck because of contour of road and within 20 feet of it, he could not recover because of his excessive speed. *Seaton v. Stiles*, 1930, 15 La.App. 118, 130 So. 821.

### 16. Turning

Where defendant motorist left gas-line filling station on right hand side of street and made left turn on main street of village without signaling and his automobile was damaged on its right hand side by oncoming automobile which was traveling at a speed not in excess of 25 miles per hour, defendant was negligent and his negligence was proximate cause of collision and fact that two automobiles were parked in front of defendant's own as he began left turn did not excuse him from consequences of his carelessness. *Zutich Fire Ins. Co. of N. Y. v. Thomas*, App. 1951, 49 So.2d 404.

Excessive speed of automobile, striking rear of car making left turn into highway, which driver entered after looking to right without seeing any car within 85 yards, was sole proximate cause of accident. *Pontamille v. Ducote*, App. 1934, 153 So. 46.

## § 62. Maximum speed limit; certain vehicles

- A. No person shall operate any freight carrying vehicles upon the highways of this state at a speed in excess of 50 miles per hour;
- B. No person shall drive a vehicle which is towing a house trailer at a speed in excess of 45 miles per hour;
- C. No person pulling or towing upon any highway of this State, with another vehicle, any vehicle designed, equipped or intended to operate under its own power shall operate the towing vehicle at a speed in excess of 45 miles per hour;
- D. No person shall operate a school bus at a speed in excess of 45 miles per hour when transporting children, provided however, that the driver of a school bus transporting children under conditions which

### 17. Sudden emergency

A motorist who was traveling through unincorporated village at speed in excess of legal rate at time he struck pedestrian was negligent in his driving, but such negligence was not actionable, where it appeared that it was not a proximate cause of the accident, in view of fact that pedestrian jumped in front of automobile when it was only 10 or 15 feet away. *Hopson v. Neighbors*, App. 1910, 107 So. 282.

### 18. Right of way

Even though defendant had the right of way at an intersection over the plaintiff's automobile he was not justified in entering the intersection in the path of plaintiff's automobile, since he lost the benefit of the right of way when he suddenly decided that he could resume sufficient speed to cross the half of the road on which plaintiff's automobile was approaching in time for defendant to get out of the path thereof. *Singley v. Thomas*, App. 1951, 49 So.2d 465.

Evidence established that fatal automobile collision at road intersection was result of decedent's fast or reckless driving, though he had right of way. *Watson v. Mundinger*, App. 1932, 141 So. 620.

### 19. Radar

It is legal to check speed of automobiles by radar timing on only one street by school bounded by four streets without checking speed on the other three streets. *Op. Atty. Gen.*, 1936-38, p. 547.

C. Rolling roadblocks shall be prohibited from operating on all Interstate highways in the state.

Added by Acts 1982, No. 191, § 1, eff. Jan. 1, 1983, only if Congress repeals the 55 mile-per-hour speed limit (eff. date suspended until sixty days after 1984 Regular Session by H.C.R. No. 4 of 1983)

#### Effective Date—Subsec. C

Section 2 of Act 1982, No. 191 (§ 1 of which enacted subsec. C of this section) provided:

"This Act shall become effective on January 1, 1983, if, and only if, Congress has repealed penalties for violating the fifty-five mile-per-hour speed limit provided in Title 23, Section 154, of the United States Code."

#### Suspension of Act 1982, No. 191, § 2

House Concurrent Resolution No. 4 of the 1981 Regular Session provided:

"WHEREAS, Act No. 191 of the 1982 Regular Session of the Legislature established a sixty-five mile per hour speed limit on Interstate highways in Louisiana; and

"WHEREAS, Section 2 of Act No. 191 of the 1982 Regular Session has the effective date of January 1, 1983; and

"WHEREAS, such effective date would apply if, and only if, Congress repeals the penalties for violating the fifty-five mile-per-hour speed limit provided in Title 23, Section 154, of the United States Code; and

"WHEREAS, Congress has not repealed these provisions; and

"WHEREAS, the present law is ineffective unless Congress repeals the penalties for violating the fifty-five mile-per-hour speed limit.

"THEREFORE, BE IT RESOLVED by the House of Representatives of the Legislature of Louisiana, the Senate thereof concurring, that the effective date of Section 2 of Act No. 191 of the 1982 Regular Session is hereby suspended until sixty days after the 1984 Regular Session of the Legislature."

Acts 1972, No. 314, § 1 provides: "The Department of Highways is authorized, urged and requested to study the speed limits of the state system as presently existing and to adopt higher limits than the present statutory limits where safe to do so, and to consider the imposition of minimum limits on interstate highways."

1982 Amendment: Added subsec. C

#### Law Review Commentaries

Last clear chance and the inattentive plaintiff in Louisiana—John Michael Cumberland, 12 Loyola L. Rev. (La) 1 (1967-68)

Last clear chance doctrine in Louisiana—An analysis and critique—27 La L. Rev. (La) 209 (1967)

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#### 1. In general

Even though gore area and guardrail on highway did not meet standards that were existing at time of automobile accident, where both items met proper standards that were in existence at time highway was constructed, driver was speeding at time of accident, had blood alcohol level of 14 milligrams, driving pattern chosen by driver was in violation of this section and R.S. 32:61, 32:79, 32:82 regulating operation of motor vehicle, including improper lane change, and improper use of median, and of 88,000 vehicles which traversed that area every day there were only 24 accidents in that area in year immediately preceding driver's accident, gore area and guardrail did not create unreasonable risk of injury to driver. *Ury v. Louisiana Dept. of Highways*, App. 1981, 402 So.2d 240, writ denied 404 So.2d 1259, reconsideration denied 406 So.2d 610, writ denied 406 So.2d 613

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Where statistics as to number and types of accidents in area of highway in which fatal accident occurred indicated that signs, guardrails and gore area in existence at time of accident were adequate for motorist exercising ordinary care, and driver killed in accident was violating this section and R.S. 32:61, 32:79, 32:82 governing regulation of motor vehicle traffic at time of accident, wife of driver who was killed in accident failed to carry burden of establishing that hazardous conditions complained of, inadequate signs, defective guardrails, and gore area, were patently or obviously dangerous to reasonably careful and ordinarily prudent driver. 1d

Generally, a motorist may assume that a road is safe for travel even at night, but this rule does not apply where a motorist has actual knowledge of defect or hazard. *Martin v. State*, Through Dept. of Highways, App. 1975, 322 So.2d 827.

This section prohibiting operation of motor vehicle upon highway at such slow speed as to impede normal and reasonable movement of traffic was inapplicable where preceding motorist had just entered highway from a controlled access ramp, was in process of accelerating and changing gears, was traveling at 15 to 20 miles per hour and one lane of dual lane bridge was unobstructed. *Smiley v. Ellis*, App. 1974, 307 So.2d 150, application denied 310 So.2d 643.

The maximum speed limit of 65 miles per hour at point of collision was conditional under R.S. 32:64 providing that no person shall drive at speed greater than reasonable and prudent under the conditions and potential hazards existing, having due regard to the surface and width of highway and the weather. *Beauregard v. Salmon*, App. 1967, 205 So.2d 634.

#### 2. Negligence, in general

Evidence established that black man wearing dark clothing was lying motionless in middle of traffic lane on rural, unlighted highway at 3:30 a.m. on foggy night, and that truck driver was proceeding at safe speed and at safe distance behind other truck, relative to his speed, and thus, failed to establish that driver was negligent in failing to observe victim in time to avoid accident. *Rayford v. Suisa Motor Freight Lines, Inc.*, App. 1 Cir. 1983, 442 So.2d 548, writ denied 444 So.2d 1242.

There was no manifest error in trial court's determination of gross negligence of driver of automobile which struck preceding vehicle from behind where there were 71 feet of skid marks left by this automobile, impact of collision propelled preceding vehicle into two vehicles which were immediately in front of it and where all other vehicles in vicinity were able to stop without causing collision. *Anderson v. Craig*, App. 1981, 401 So.2d 1022

Oncoming motorist, whose vehicle hydroplaned on water that had accumulated on unresurfaced portion of old highway and skidded into path of plaintiff's oncoming vehicle, was operating his vehicle in a negligent manner where he had traversed several miles over a portion of highway before the accident and was operating his vehicle at a speed greater than reasonable and prudent under the circumstances. *Bush v. State*, Through Dept. of Highways, App. 1981, 395 So.2d 916, writ denied 399 So.2d 609.

Even if motorist had violated this section and R.S. 32:141, relating to obstruction of more than one-half of road bed, that did not automatically constitute negligence. *Comeaux v. Sims*, App. 1976, 328 So.2d 816.

Approach of police vehicle from opposite direction with blue flashing lights indicated to plaintiff truck driver that potentially dangerous situation existed so that plaintiff properly reduced his speed on overpass and was not negligent with respect to collision with following tank truck. *Eubanks v. Brassel*, Sup. 1975, 310 So.2d 550, on remand 318 So.2d 79.

Evidence that pickup truck driver was driving at approximately 45 miles per hour on wet rainy night when he apparently lost control of the truck, which bounced off a bridge railing and collided with oncoming automobile, sustained finding that driver of the pickup truck was negligent and that his negligence caused the accident, which resulted in automobile passenger's death. *Wilson v. Pittman*, App. 1975, 307 So.2d 804.

Where road was straight and dry, visibility was unobstructed and following motorist had ample room in which to maneuver around preceding vehicle, if it were seen, following motorist was negligent in failing to observe preceding vehicle in time to avoid accident. *Smiley v. Ellis*, App. 1974, 307 So.2d 150, application denied 310 So.2d 643.

Where semitrailer truck driver took no action to slow vehicle except to remove foot from accelerator upon noticing increasingly thickening layer of gravel on highway, low beam headlights provided visibility of only 50 to 60 feet, truck struck three-foot pile of gravel in roadway, and veered into opposite lane striking oncoming vehicle, truck driver was negligent. *Tillman v. Canal Ins. Co.*, App. 1974, 305 So.2d 602, writ denied 307 So.2d 630.

Driver of pickup truck was negligent in not taking necessary precautions to insure that 12-year-old child in rear of pickup truck was safely seated and in driving at excessive rate of speed in light of his knowledge that the child was seated on truck's tailgate and was liable for injuries sustained when child was thrown from the truck. *Freeman v. Wilcox*, App. 1974, 303 So.2d 840, writ denied 307 So.2d 630.

Though defendant truck driver pled guilty to charge of prima facie speeding in connection

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Note 16

In a bridge, evidence for bus company was insufficient to rebut prima facie case in favor of passenger. *Fernandez v. Tri-State Transit Co. of Louisiana*, App. 1040, 194 So. 84.

In action against bus company for injuries sustained by passenger, evidence warranted conclusion that bus operator was operating bus in an illegal manner and was not free of negligence, at time of accident, in view of damage resulting when bus struck a bridge, and operator's knowledge concerning wet condition of highway, narrowness of bridge, and wear

tread of tires on rear wheels of bus. *Id.*

That truck skidded on somewhat steep approach to bridge considered extremely hazardous to automobile traffic did not raise presumption that driver was negligent. *Siren v. Montague*, App. 1932, 142 So. 100.

Hurdon was on defendant motorist sued for damages sustained in collision to establish defense that his automobile was uncontrollable only because floor of bridge was slick as result of rain. *McNabb v. Dugue*, App. 1932, 142 So. 114.

§ 63. Establishing of speed zones

A. Whenever the department shall determine upon the basis of an engineering and traffic investigation that any maximum speed set forth in this Chapter is greater or less than is reasonable or safe under the conditions found to exist upon any highway of this state, or any part thereof, the department may determine and declare a reasonable and safe maximum speed limit thereat, which, when appropriate signs giving notice thereof are erected, shall be effective at all times or at such specific times as may be determined by the department.

B. Whenever the department determines on the basis of an engineering and traffic investigation that slow speeds on any highway of this state, or part thereof, consistently impede the normal and reasonable movement of traffic, the department may determine and declare a minimum speed limit thereat, below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law. Minimum speeds so determined shall become effective upon the erection of signs giving notice thereof. Acts 1962, No. 310, § 1.

Library references: Automobiles § 514, 168, 331; C. J. S. Motor Vehicles §§ 27, 29, 35, 290 et seq., 441 et seq.

History and Source of Law

Source:

Uniform Vehicle Code §§ 11-502, 11-804.

Law Review Commentaries

Admissibility in evidence of radar speed meter readings. 26 Tulane Law Rev. 308 (April 1951).

§ 64. General speed law

A. No person shall drive a vehicle on the highway within this state at a speed greater than is reasonable and prudent under the condi-

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tions and potential hazards then existing, having due regard for the traffic on, and the surface and width of, the highway, and the condition of the weather, and in no event at a speed in excess of the maximum speeds established by this Chapter or regulation of the department made pursuant thereto.

B. Except when a special hazard exists that requires lower speed for compliance with paragraph A of this section, no person shall operate or drive a motor vehicle upon the highways of this state at such a slow speed as to impede the normal and reasonable movement of traffic. Acts 1962, No. 310, § 1.

History and Source of Law

Source:

Acts 1938, No. 256, § 3.  
Acts 1948, No. 502, H 4, 5.  
R.S. 1950, § 32:227.  
Acts 1950, 2nd Ex Sess., No. 3, § 1.

R.S. 1950, § 32:227 provided:

"In addition to the specific speed limitations of this Chapter, no person shall operate any vehicle upon the highways of this state at other than a reasonable and proper speed under the circumstances, or at a speed endangering the persons or property of others.

"Whoever operates a vehicle in violation of the speed limitations of this Chapter shall be prima facie at fault and responsible for any accident proximately caused by such operation.

"In addition, whoever violates the speed limitations of R.S. 32:223, or the general speed limit of this Section while operating or driving a motor vehicle to which R.S. 32:223 applies, shall be fined not more than two hundred dollars or imprisoned for not more than ninety days, or both. A subsequent offense shall be punished by a fine of not less than twenty-five dollars, nor more than five hundred dollars, or imprisonment for not less than ten days nor more than six months or both.

"In addition, whoever violates the speed limitations of R.S. 32:225, 32:226, or the general speed limit of this section while operating or driving a motor vehicle to which R.S. 32:225 or R.S. 32:226 applies, shall for the first offense be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned for not less than thirty days nor more than six months, or both;

a second offense shall be punished by a fine of not less than two hundred dollars nor more than one thousand dollars or imprisonment for not less than sixty days nor more than one year, or both, and in addition the Department of Public Safety shall forthwith revoke for a period of not less than sixty days nor more than one year, the chauffeur's or driver's license, or both, of the person convicted of a second offense upon receiving satisfactory evidence of such conviction or of the entry of a plea of guilty and sentence thereon, or of the forfeiture of bail of any such person charged with a second offense; a third or subsequent offense shall be punished by a fine of not less than five hundred dollars nor more than two thousand dollars and imprisonment for not less than six months nor more than one year, and in addition the Department of Public Safety shall forthwith revoke, for a period of not less than sixty days nor more than one year, the chauffeur's or driver's license, or both, of the person convicted of a third or subsequent offense upon receiving satisfactory evidence of such conviction or of the entry of a plea of guilty and sentence thereon, or of the forfeiture of bail of any such person charged with a third or subsequent offense.

"No sentence imposed under the authority of this Section shall be suspended."

The general speed limitation, and presumption of fault, in R.S. 1950, § 32:227, were based on Acts 1938, No. 280, § 3, rule 4. The penalty provisions were based on Acts 1948, No. 502, H 4, 5.

Pennsylvania

Ch. 33 RULES OF THE ROAD IN GENERAL 75 § 3362

SUBCHAPTER F  
SPEED RESTRICTIONS

- Sec.
- 3361. Driving vehicle at safe speed.
- 3362. Maximum speed limits.
- 3363. Alteration of maximum limits.
- 3364. Minimum speed regulation.
- 3365. Special speed limitations.
- 3366. Charging speed violations.
- 3367. Racing on highways.
- 3368. Speed timing devices.

**Cross References.** Subchapter F is referred to in section 6109 of this title.

§ 3361. **Driving vehicle at safe speed.**

No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing, nor at a speed greater than will permit the driver to bring his vehicle to a stop within the assured clear distance ahead. Consistent with the foregoing, every person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions.

**Cross References.** Section 3361 is referred to in sections 1535, 3362, 3366 of this title.

§ 3362. **Maximum speed limits.**

(a) **General rule.**—Except when a special hazard exists that requires lower speed for compliance with section 3361 (relating to driving vehicle at safe speed), the limits specified in this subsection or established under this subchapter shall be maximum lawful speeds and no person shall drive a vehicle at a speed in excess of the following maximum limits:

- (1) 35 miles per hour in any urban district.
- (2) 55 miles per hour in other locations.
- (3) Any other maximum speed limit established under this subchapter.

(b) Posting of speed limit.—No maximum speed limit established under subsection (a)(1) or (3) shall be effective unless posted on fixed or variable official traffic-control devices erected in accordance with regulations adopted by the department which regulations shall require posting at the beginning and end of each speed zone and at intervals not greater than one-half mile.

(c) Penalty.—Any person violating this section is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of \$35. Any person exceeding the maximum speed limit by more than five miles per hour shall pay an additional fine of \$2 per mile for each mile in excess of five miles per hour over the maximum speed limit.

*Cross References.* Section 3362 is referred to in section 1535 of this title.

**§ 3363. Alteration of maximum limits.**

The department or local authorities on highways under their respective jurisdictions, upon the basis of an engineering and traffic investigation, may determine that the maximum speed permitted under this subchapter is greater or less than is reasonable and safe under the conditions found to exist upon any such highway or part thereof and establish a reasonable and safe maximum limit. The maximum speed limit may be made effective at all times or at times indicated and may vary for different weather conditions and other factors bearing on safe speeds. No maximum speed greater than 55 miles per hour shall be established under this section.

**§ 3364. Minimum speed regulation.**

(a) Impeding movement of traffic prohibited.—Except when reduced speed is necessary for safe operation or in compliance with law, no person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic.

(b) Slow moving vehicle to drive off roadway.—Except when reduced speed is necessary for safe operation or in compliance with law, whenever any person drives a vehicle upon a roadway having width for not more than one lane of traffic in each direction at less than the maximum posted speed and at such a slow speed as to impede the normal and reasonable movement of traffic, the driver shall, at the first opportunity when and where it is reasonable and safe to do so and after giving appropriate signal, drive completely off the roadway and onto the berm or shoulder of the highway. The driver may return to the roadway after giving appropriate signal only when the movement can be made in safety and so as not to impede the normal and reasonable movement of traffic.

(c) Establishment of minimum speed limits.—At any other time when the department or local authorities under their respective jurisdictions determine on the basis of an engineering and traffic investigation that slow speeds on any highway or part of a highway impede the normal and reasonable movement of traffic, the department or such local authority may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in com-

pliance with law. The minimum limit shall be effective when posted upon appropriate fixed or variable signs.

**Cross References.** Section 3364 is referred to in sections 4305, 6109 of this title.

**§ 3365. Special speed limitations.**

**(a) Bridges and elevated structures.—**

(1) No person shall drive a vehicle over any bridge or other elevated structure constituting a part of a highway at a speed which is greater than the maximum speed which can be maintained with safety to the bridge or structure when the structure is posted with signs as provided in this subsection.

(2) The department and local authorities on highways under their respective jurisdictions may conduct a traffic and engineering investigation of any bridge or other elevated structure constituting a part of a highway, and if it shall thereupon find that the structure cannot safely withstand vehicles traveling at the speed otherwise permissible under this title, the department or local authority shall determine and declare the maximum speed of vehicles which the structure can safely withstand, and shall cause or permit official traffic-control devices stating the maximum speed to be erected and maintained before each end of the structure.

(3) Upon the trial of any person charged with a violation of this subsection, proof of the determination of the maximum speed by the department and the existence of the signs shall constitute conclusive evidence of the maximum speed which can be maintained with safety to the bridge or structure.

**(b) School zones.—**When passing a school zone as defined and established under regulations of the department, no person shall drive a vehicle at a speed greater than 15 miles per hour. An official traffic-control device shall indicate the beginning and end of each school zone to traffic approaching in each direction. Establishment of a school zone, including its location and hours of operation, shall be approved by the department.

**(c) Hazardous grades.—**The department and local authorities on highways under their respective jurisdictions may conduct traffic and engineering investigations on grades which are considered hazardous. If the grade is determined to be hazardous, vehicles having a gross weight in excess of a determined safe weight may be further limited to a maximum speed and may be required to stop before proceeding downhill. The restrictions shall be indicated by official traffic-control devices erected and maintained according to regulations established by the department.

**(d) Penalty.—**Any person violating any provision of this section is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of \$35. Any person exceeding a maximum speed limit established under this section by more than five miles per hour shall pay an additional fine of \$2 per mile for each mile in excess of five miles per hour in excess of the maximum speed limit.

(Oct. 10, 1980, No.147, eff. imd.)

MAR 3 1986



NO, WE HAVEN'T MOVED, BUT  
OUR MAILING ADDRESS IS NOW  
BOX 128 STERLING.  
(New Post Office)

## WALT & ELSA PEDERSEN

Star-Route Box #222 • Sterling, Alaska 99672

128

February 27, 1986

Representative Rick Uehling  
Box V  
Juneau, AK 99811

Dear Representative Uehling:

Thank you very much for your letter of February 22nd and the enclosures regarding speed limits. I have read them and I agree that the DOT's methods leave much to be desired as far as common sense is involved.

I have tried for years to get the speed limit lowered through Sterling, but the best they would do is lower it to 45 -- which means that the big trucks are hitting around 50 through town.

Now we have a brand new Post Office right in the center of town at one of our main intersections, instead of 3 miles out of town at its former location. There are 1,180 post office boxes here, serving almost 3,000 people. It is located on a curve of the Sterling Highway and approximately 600 feet from the location of a fatal accident last year.

Representatives Marrou and Navarre have been helping us in this matter and have convinced the DOT to have their annual speed limit review for late July (tourist season) rather than in March as they did last year.

I did not have time to submit written testimony for the February 26th hearing on HB 552 as your letter took four days to get here (wonderful Postal Service), but will send a copy of this letter to the addresses you gave me.

We greatly appreciate your help in this matter even though we are not in your district.

Sincerely,

*Walt Pedersen*  
Walt Pedersen

cc: Representative Katie Hurley, Chair, House State Affairs Committee

→ Representative Bette Cato, Chair, House Transportation Committee

Representative Andre Marrou

Representative Mike Navarre

## ADMINISTRATION

### Purpose and Scope of System:

There is a need to establish guidelines within which the system is operated, expanded and managed that reflect the state's responsibility to meet the needs of Alaskans for surface transportation via the Alaska Marine Highway System (AMHS) between Alaska coastal points and out-of-state connection.

The original concept of the system limited operations to transportation of people, freight and personal vehicles via vessel between ports in Southeast Alaska and to Prince Rupert. This system connected areas where highways did not exist and the cost of highway construction was prohibitive or impossible. As the system developed, service was expanded to points other than those covered by the above criteria (for example: the Seattle run and creation of the Southwest system). Today we have an expanded system that has evolved without "in depth" planning which does not meet reasonable tests for efficiency when viewed from the standpoint of effective use of capital equipment and personnel.

We recommend that guidelines be established to provide criteria covering future expansion of service and quality of service so as to meet the state's responsibility to provide basic marine highway service to the traveling public. In recognition of the

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We recommend that guidelines be established to provide criteria covering future expansion of service and quality of service so as to meet the state's responsibility to provide basic marine highway service to the traveling public. In recognition of the

need for subsidy to continue operations and in recognition that seasonal traffic (primarily visitors to Alaska) does make a substantial contribution to subsidy reduction, we suggest that the criteria covering selection of expanded routes and service include consideration of maximizing revenue by allowing tourism to underwrite a larger share of the cost.

Organization:

We find that there is a need to review and consider alternatives to current placement of the AMHS Division within the Department of Transportation and Public Facilities (DOT/PF) where continuity of purpose and management has suffered due to the impact of periodic changes of administration in past years. Lack of continuity and changes of perspective from administration to administration has had a harmful and continuing impact on the system.

We recognize that the newly implemented reorganization of the Division is an improvement over the previous structure. However, considerable criticism from the public and within the System has been called to our attention pointing out what appears to be a topheavy arrangement consisting of four directors under a Deputy Commissioner.

In recognition that changes in State government administration has had a harmful impact on continuity of purpose and management of the system, transfer of AMHS to an organizational structure

less subject to political pressures and designed to provide continuity is necessary. Three possible alternatives in order of their priority are:

1. Creation of a purely independent public corporation to operate the AMHS.
2. Operation and management of AMHS to be transferred from DOT/PF to an organizational structure similar to that being considered for the Alaska Railroad in HB 512.
3. Continuation of present arrangement under DOT/PF with a policy-making commission at its head with power to select top personnel similar to that now provided for in the Departments of Fish and Game and Education.

In either of the three recommendations above, the policy-making group should consist of seven members; one from the transportation industry, one from the maritime industry, one from the tourism industry, and four members at large. Of the above seven, at least two must be from Region 1, and one each from Regions 2, 3, and 4.

At least six of the above seven must be residents of Alaska. No more than one member may be appointed from outside of Alaska, this non-Alaskan resident member must have at least ten years

experience in maritime management in order to be considered for appointment. These seven members would be appointed by the governor for staggered three year terms.

When assessing the above recommendations, reference should be made to the 1982 Report to The Legislative Budget and Audit Committee, Alaska State Legislature, "Alaska's Public Corporations--A Framework for Assessment," prepared by the Institute of Public Administration, 55 West 44th Street, New York, New York.

Criticism of the new organizational plan as "top-heavy" appears to be justified. The Director designation (unclassified) is recognized as an attempt, when necessary, to simplify personnel actions as opposed to similar actions when dealing with classified personnel. We suggest that a strong executive be selected as deputy commissioner or manager, who has extensive maritime commercial experience in marine system logistics, operations, and management. This person should be given authority to select and supervise the division heads who have the responsibility for Operations, Administration, Marketing and Facility Construction. Similar qualifications should be a mandatory requirement for division heads. Likewise, the facility and construction division heads and engineers employed by these divisions should be experienced in their respective specialized fields of marine engineering.