



ALASKA LEGISLATURE COMMITTEE FILED 1900 1900
4345 SSTA SB 73 - SB 84 1224



RECORDS CERTIFICATION



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

James O. Smith
Signature of Camera Operator

11/24/89
Date

S B

7 3

COMMITTEE REPORT
SENATE

FURTHER: JUDICIARY
FINANCE

1/22/85

Date 2/2/85

Mr. President

The Committee on STATE AFFAIRS considered SB 73
identification of persons arrested when driving while intoxicated.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 73 (SA)
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

Bick Ray

MEMBERS HAVING
OTHER RECOMMENDATIONS

[Signature]
Chairman

[Signature]
Chairman recommendation

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - SB 73

Support

January 31, 1985

SB 73 - An Act relating to the identification of persons arrested when driving while intoxicated.

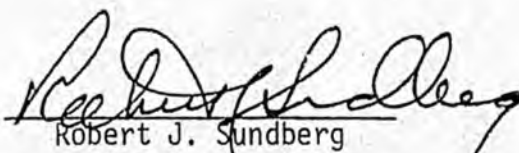
The purpose of this legislation is to require the photographing and fingerprinting of all suspects arrested for driving while intoxicated.

In most, but not all, Alaska State Troopers posts these suspects are processed through a booking facility which obtains both photographs and fingerprints. In other locations including Anchorage, the suspects are brought before a magistrate after video taping and intoximeter testing. They are usually released on their own recognizance or to a third party, thus avoiding photographing or fingerprinting which are the best means of identification.

The recent installation of the Automated Fingerprint Identification Network (AFIN) in the AST Crime Lab has provided the law enforcement community with the ability to quickly identify suspects based upon their fingerprints if they are suspects in other crimes. This identification can then be confirmed through the examination of photographs.

Passage of this legislation will enhance the effective use of AFIN and will increase the number of arrests in both misdemeanor and felony cases.

Section (b) of this proposed legislation requires that all law enforcement agencies forward a copy of the fingerprint cards to the Federal Bureau of Investigation. The Federal Bureau of Investigation will not accept these cards directly from all local law enforcement agencies. They should be forwarded through the Department of Public Safety. The following wording change is suggested: "shall forward two sets of fingerprints and information concerning the subject's arrest to the Alaska State Troopers, Scientific Crime Detection Laboratory."


Robert J. Sundberg
Commissioner

OK Paper

TO: Senator Abood

FROM: Catherine Zalewski

RE: SB 73 - "An Act relating to the identification of persons
arrested when driving while intoxicated."

DATE: January 31, 1985

On Monday, January 28th Craig Pease called (586-2008 or 586-3085) and suggested that we include video taping as mandatory in SB 73 along with photographing and fingerprinting.

On Tuesday, January 29th, I talked with Mr. Bill Brown from DMV and ask him the procedure dealing with the taping of DWI suspects. He stated that it was a departmental policy and as far as he knew that all the departments with video equipment did have the policy to video tape the suspects.

On Wednesday, January 30th, I talked with Mr. George Edwards of legal services. I asked him about the possibility of mandating the video taping. He said that he did not believe that it would be necessary, especially in this bill. SB 73 was drafted to make positive identification. Video taping is used as evidence of intoxication.

In addition, requiring the department to video tape would cause a few problems. One of financial impact. The departments that do not have the equipment would have to purchase it. There would also be the problem of what is a department to do when the equipment is broken down.

Therefore, I suggest that the issue of video taping not be addressed in SB 73 at this time.

SENATE BILL 73

"An Act relating to the identification of persons arrested when driving while intoxicated."

SB 73 will force law enforcement agencies to take photographs and fingerprints from a person arrested for DWI, negligent homicide or assault in connection with driving incidents. As DWI and related statutes around the country are given more meaningful penalties for repeated violators, it becomes more and more important to be able to prove in court that a particular offense on a person's criminal record printout was actually committed by that person. Fingerprints do not lie. In Alaska, where defendants are routinely released on their own recognizance by the court before they are even booked into jail (where the fingerprints are normally obtained), law officers do not normally perform these operations themselves; they can do it, however, and should be required to do so.

There are people who have actually killed their victims in traffic accidents and whose names are not in either the state or federal criminal records, simply because they were not arrested at the scene of the accident and were later brought into court voluntarily without being fingerprinted or arrested.

SENATE AMENDMENT

By _____

To: _____ SENATE BILL No. 73

To: _____ HOUSE BILL No. _____

PAGE:

LINE:

Sec

Sec. 12.25.240.

(b) A law enforcement agency that obtains fingerprints under this section shall forward two sets of fingerprints [a set of those fingerprints] and information concerning the subject's arrest to the Alaska State Troopers, Scientific Crime Detection Laboratory. [Federal Bureau of Investigation.]

STATE OF ALASKA, 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 73
 Title: "...identification of persons arrested for Driving While Intoxicated."
 Sponsor: Sen. Abood
 Requestor: Sen. State Affairs
 Date of Request: 2-6-85

FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Administration of Justice
 BRU, Program or Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES		5.0				
500 EQUIPMENT		25.0				
600 LAND & STRUCTURES						
700 CRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		30.0				

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS		30.0				
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

See attached analysis.

Prepared By: Francis C. Allan *F.C.A.* Phone: 269-5691
 Division: Alaska State Troopers Date: 2/1/85
 Approved by Commissioner: R. J. Sundberg Date: 2-6-85
 Agency: Department of Public Safety

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

7/1/84

SB 73
Fiscal Analysis

Ten of the Alaska State Trooper posts throughout the state do not have immediate access to a booking facility or which operate under procedures dictated by the Court System which do not provide for the suspect to be processed through a local booking facility. These locations are Anchorage, Yakutat, Deadhorse, Coldfoot, Seven Mile, Fort Yukon, Cantwell, Healy, Delta, and Tok.

At each of these locations a \$2,500.00 camera capable of taking pictures of the quality necessary to ascertain identity for booking purposes will need to be installed. No space requirements are anticipated since each location has areas used for Intoximeter Testing that can double for the picture taking and fingerprinting area. Minimal costs are anticipated for the initial film and fingerprint card supplies. Ongoing supply needs can be absorbed in future budgets. The additional Trooper time necessary to implement this system is felt to be minimal.

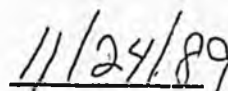


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Signature of Camera Operator


Date

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COMMITTEE REPORT
SENATE

1/22/85

FURTHER: JUDICIARY
FINANCE

Date 2/8/85

Mr. President

The Committee on STATE AFFAIRS considered SB 74
driving while intoxicated.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 74 (SH)
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Bill Kay

Chairman

Chairman recommendation

**STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 74
 Title: An Act relating to driving while intoxicated...
 Sponsor: Sen. Abood
 Requestor: Sen. State Affairs
 Date of Request: 2-6-85

FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Administration of Justice
 BRU, Program or Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Paul Conger Phone: 465-4338
 Division: Administrative Services Date: 2-6-85

Approved by Commissioner: Michael J. Jensen Date: 2-6-85
 Agency: Public Safety

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

DEPARTMENT OF PUBLIC SAFETY

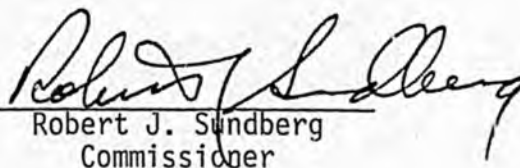
POSITION PAPER - SB 74

Support

February 1, 1985

SB 74 - "An Act relating to driving while intoxicated."

The intent of this legislation is to clarify the language in 28.35.030 to close loopholes through which suspects have been able to avoid prosecution.


Robert J. Sundberg
Commissioner

SENATE BILL 74

"An Act relating to driving while intoxicated"

Section 1

Would solve the problem created by defendants who drive under the influence of alcohol and drugs, or drugs alone, where the drug is one which affects the ability to drive, but which is not listed in the statutes set forth in AS 28.35.030(a)(1). In attempting to prohibit such conduct, the Legislature stated in AS 28.35.030(a)(3) that it was unlawful to drive under the influence of "alcohol and another substance." The Alaska Supreme Court found that subsection unconstitutionally vague in Williford v. State, 675 P.2d 1329 (Alaska 1983). The amendment, which is patterned after comparable subsections of the Uniform Vehicle Code, would solve this legal problem.

Section 2

Adds a new paragraph to specify the meaning of "drug".

Section 3 and 4

Would make clear the Legislature's intent that all persons convicted of DWI or breath test refusal should serve time in jail, not just those who could not afford some type of residential alcohol treatment program. Under the court cases of Nygren v. State, 658 P.2d 141 (Alaska 1983), and Lock v. State, 609 P.2d 539 (Alaska App. 1980), if a defendant is required to spend time in a residential alcohol program prior to sentencing, as a condition of bail, then he or she must receive credit for that time spent in the program against the total jail time to be served. At least one district judge in Anchorage has held that, under a variation of this concept, the defendant may enter the treatment program after sentencing and still receive credit against the jail sentence. These new subsections will clarify that the time spent in a residential alcohol treatment or rehabilitation program cannot be credited towards part or all of a mandatory sentence.

Section 5

Would cure a defect in the wording of AS 28.35.035 which, in some cases, permits uncooperative DWI defendants to avoid conviction for either DWI or refusal. An example is a DWI defendant who is injured, but who did not injure any other person, in an accident; if he is held at the hospital emergency room for treatment and will not take a blood alcohol test, the police are often unable to obtain any evidence of blood alcohol concentration. Adding the words or at a location would make it clear that, if a person is at a medical facility and, for that reason alone, cannot be offered a breath test (the court-approved instruments are not portable), the person may be subjected to an involuntary blood test because he is "at a location rendering that person incapable of providing a breath sample." There is not constitutional impediment to this procedure. Schmerber v. California, 384 U.S. 757, 86 S.Ct. 1826, 16 L.Ed.2d 908 (1966).



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James O. Smith
Signature of Camera Operator

11/24/89
Date

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COMMITTEE REPORT
SENATE

1/22/85

FURTHER: JUDICIARY
FINANCE

Date 2/27/85

Mr. President

The Committee on STATE AFFAIRS considered SB 75
suspension of the privilege to obtain a driver's license.

and (a majority of the committee) (the committee) reports it back with
the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 75 CS 11
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

T. Kelly

[Signature]

V. [Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS

[Signature]
Chairman

[Signature]
Chairman recommendation

Edwards
2/20/85 ✓

Original sponsor: Abood

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR FOR SENATE BILL NO. 75 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - FIRST SESSION
5 A BILL

6 For an Act entitled: "An Act relating to suspension of the privilege to
7 obtain a driver's license."

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

9 * Section 1. AS 22.15.100 is amended to read:

10 Sec. 22.15.100. FUNCTIONS AND POWERS OF DISTRICT JUDGE AND
11 MAGISTRATE. Each district judge and magistrate has the power

12 (1) to issue writs of habeas corpus for the purpose of
13 inquiring into the cause of restraint of liberty, returnable before a
14 judge of the superior court, and the same proceedings shall be had on
15 the writ as if it had been granted by the superior court judge under
16 the laws of the state in such cases;

17 (2) of a notary public;

18 (3) to issue marriage licenses and to solemnize marriages;

19 (4) to issue warrants of arrest, summons and search war-
20 rants according to manner and procedure prescribed by law and the
21 supreme court;

22 (5) to act as an examining judge or magistrate in prelimi-
23 nary examinations in criminal proceedings; to set, receive and forfeit
24 bail and to order the release of defendants under bail;

25 (6) to act as a referee in matters and actions referred to
26 the judge or magistrate by the superior court, with all powers con-
27 ferred upon referees by laws;

28 (7) of the superior court in all respects including but not
29

1 (8) to order the temporary detention of a minor, or take
2 other action authorized by law or rules of procedure, in cases arising
3 under AS 47.10, when the minor is in a condition or surrounding dan-
4 gerous or injurious to the welfare of the minor or others which re-
5 quires immediate action; the action may be continued in effect until
6 reviewed by the superior court in accordance with rules of procedure
7 governing these cases;

8 (9) to issue a temporary order for emergency injunctive
9 relief in cases involving domestic violence as provided in AS 25.35.-
10 020;

11 (10) to review an administrative revocation of a person's
12 driver's license, [OR] nonresident privilege to drive, or privilege to
13 obtain a driver's license, and an administrative refusal to issue an
14 original license, when designated as a hearing officer by the commis-
15 sioner of public safety and with the consent of the administrative
16 director of the state court system.

17 * Sec. 2. AS 28.15.061(b) is amended to read:

18 (b) An application under (a) of this section shall

19 (1) contain the applicant's full name, date and place of
20 birth, sex, and mailing and residence addresses;

21 (2) state whether the applicant has been previously li-
22 censed as a driver and, if so, when and by what jurisdiction;

23 (3) state whether any previous driver's license issued to
24 the applicant has ever been suspended or revoked, [OR] whether an
25 application for a driver's license has ever been refused, or whether
26 the applicant's privilege to obtain a driver's license has ever been
27 revoked by a court or the department or a similar agency in another
28 state and, if so, the date of and reason for the suspension, revoca-
29 tion or refusal; and

1 (4) contain other information which the department may
2 reasonably require to determine the applicant's identity, competency,
3 and eligibility.

4 * Sec. 3. AS 28.15.165(a) is amended to read:

5 (a) If a chemical test administered under AS 28.35.031(a) to a
6 person driving a motor vehicle for which a driver's license is re-
7 quired produces a result described in AS 28.35.030(a)(2) or if a
8 person under arrest for driving a motor vehicle for which a driver's
9 license is required refuses to submit to a chemical test under AS 28.-
10 35.031(a), a law enforcement officer shall read a notice and deliver a
11 copy to the person. The notice shall advise that

12 (1) the department intends to revoke the person's driver's
13 license or nonresident privilege to drive, or refuse to issue an
14 original license to the person;

15 (2) the person has the right to administrative review of
16 the revocation or determination not to issue an original license;

17 (3) the notice itself is a temporary driver's license, for
18 persons then holding a valid license, that expires seven days after it
19 is delivered to the person;

20 (4) revocation of the person's driver's license or nonresi-
21 dent privilege to drive, or a determination not to issue an original
22 license shall take effect upon expiration of the temporary driver's
23 license unless the person within seven days requests an administrative
24 review.

25 * Sec. 4. AS 28.15 is amended by adding a new section to read:

26 Sec. 28.15.176. SUSPENSION OR REVOCATION OF PRIVILEGE TO OBTAIN
27 A LICENSE. (a) A court or the department may suspend or revoke a
28 person's privilege to obtain a driver's license in the same manner and
29 for the same reasons as a driver's license issued under this chapter.

1 (b) If a court or the department is required by statute or
2 regulation to suspend or revoke a person's driver's license, then the
3 privilege to obtain a driver's license shall be suspended or revoked
4 if the person does not have a driver's license.

5 (c) Procedures and references in AS 28 relating to the suspen-
6 sion or revocation of a driver's license are equally applicable to the
7 suspension or revocation of the privilege to obtain a driver's li-
8 cense.

9 * Sec. 5. AS 28.15.291 is amended to read:

10 Sec. 28.15.291. DRIVING WHILE LICENSE OR PRIVILEGE TO OBTAIN A
11 LICENSE CANCELLED, SUSPENDED, REVOKED OR IN VIOLATION OF LIMITATION.

12 (a) A person may not drive a motor vehicle on a highway or vehicular
13 way or area at a time when that person's driver's license, privilege
14 to obtain a driver's license, or privilege to drive has been canceled,
15 suspended or revoked in this or another jurisdiction, or when driving
16 in violation of a limitation placed upon that person's license or
17 privilege to drive in this or another jurisdiction. Except as provid-
18 ed in (c) of this section, upon conviction of a violation of this
19 section, the court shall impose a sentence of imprisonment of not less
20 than 10 days. The execution of sentence may not be suspended nor may
21 probation or parole be granted until the minimum imprisonment provided
22 in this section has been served; nor may imposition of sentence be
23 suspended. In addition, the person's license, privilege to obtain a
24 license, or privilege to drive shall be revoked, and the person may
25 not be issued a new license nor may the privilege to drive be restored
26 for an additional period of not less than one year after the date that
27 the person would have been entitled to restoration of driving privi-
28 leges or issuance of a license.

29 (b) When a person's license or privilege to obtain a license is

1 canceled, limited, suspended or revoked, that person shall be informed
2 by the department or the court that takes the action at the time of
3 the action that, upon a conviction of driving on a highway or vehicu-
4 lar way or area in this state at a time when that person's driver's
5 license, [OR] privilege to drive or privilege to obtain a driver's
6 license in this state has been canceled, suspended or revoked, or upon
7 a conviction of driving in violation of a limitation of the license,
8 that person will be subject to the mandatory minimum sentence of
9 imprisonment under this section.

10 (c) The court shall impose a sentence of imprisonment of not
11 less than 30 days and a fine of not less than \$500 upon conviction of
12 a violation of this section if the person's driver's license or privi-
13 lege to obtain a driver's license was revoked under circumstances
14 described in AS 28.15.181(c)(1). The court shall impose a sentence of
15 imprisonment of not less than 90 days and a fine of not less than
16 \$1,000 upon conviction of a violation of this section if the person's
17 driver's license or privilege to obtain a driver's license was revoked
18 under circumstances described in AS 28.15.181(c)(2) or (3). The
19 execution of sentence may not be suspended nor may probation or parole
20 be granted until the minimum imprisonment provided in this subsection
21 has been served. Imposition of sentence may not be suspended. In
22 addition, the person's privilege to drive and to obtain a driver's
23 license shall be revoked for an additional period of not less than one
24 year after the date that the person would have been entitled to resto-
25 ration of driving privileges or to obtain a driver's license if the
26 person had not been convicted under this section.

27 (d) A person convicted of a violation of this section is guilty
28 of a class A misdemeanor.
29

1 IN THE SENATE

BY ABOOD

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 75
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to suspension of the privilege to
7 obtain a driver's license."

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

9 * Section 1. AS 22.15.100 is amended to read:

10 Sec. 22.15.100. FUNCTIONS AND POWERS OF DISTRICT JUDGE AND
11 MAGISTRATE. Each district judge and magistrate has the power

12 (1) to issue writs of habeas corpus for the purpose of
13 inquiring into the cause of restraint of liberty, returnable before a
14 judge of the superior court, and the same proceedings shall be had on
15 the writ as if it had been granted by the superior court judge under
16 the laws of the state in such cases;

17 (2) of a notary public;

18 (3) to issue marriage licenses and to solemnize marriages;

19 (4) to issue warrants of arrest, summons and search war-
20 rants according to manner and procedure prescribed by law and the
21 supreme court;

22 (5) to act as an examining judge or magistrate in prelimi-
23 nary examinations in criminal proceedings; to set, receive and forfeit
24 bail and to order the release of defendants under bail;

25 (6) to act as a referee in matters and actions referred to
26 the judge or magistrate by the superior court, with all powers con-
27 ferred upon referees by laws;

28 (7) of the superior court in all respects including but not
29 limited to contempts, attendance of witnesses and bench warrants;

1 (8) to order the temporary detention of a minor, or take
2 other action authorized by law or rules of procedure, in cases arising
3 under AS 47.10, when the minor is in a condition or surrounding dan-
4 gerous or injurious to the welfare of the minor or others which re-
5 quires immediate action; the action may be continued in effect until
6 reviewed by the superior court in accordance with rules of procedure
7 governing these cases;

8 (9) to issue a temporary order for emergency injunctive
9 relief in cases involving domestic violence as provided in AS 25.35.-
10 020;

11 (10) to review an administrative revocation of a person's
12 driver's license, [OR] nonresident privilege to drive, or privilege to
13 obtain a driver's license, and an administrative refusal to issue an
14 original license, when designated as a hearing officer by the commis-
15 sioner of public safety and with the consent of the administrative
16 director of the state court system.

17 * Sec. 2. AS 28.05.141(c) is amended to read:

18 (c) If at the hearing under (a) of this section it appears that
19 the record of the person sustains suspension, revocation, limitation,
20 denial, or other remedial action, the hearing officer shall so order
21 and the department may suspend, revoke, limit, deny, or take other
22 remedial action against that person's license or privilege to obtain a
23 license and, if appropriate, the department shall adjust the person's
24 point total accumulated under AS 28.15.231.

25 * Sec. 3. AS 28.15.031(b) is amended to read:

26 (b) The department may not issue an original or duplicate
27 driver's license to, nor renew or reinstate the driver's license of, a
28 person

29 (1) whose license or privilege to obtain a license is

1 suspended or revoked, except as otherwise provided in this chapter;

2 (2) who fails to appear in court for the adjudication of a
3 certain vehicle, driver or traffic offense when the person's appear-
4 ance is required by statute, regulation or court rule;

5 (3) who is an habitual user of alcohol or another drug to
6 such a degree that the person is incapable of safely driving a motor
7 vehicle;

8 (4) who has previously been adjudged to be afflicted with,
9 or suffering from, a mental disability or a disease and who has not,
10 at the time of application for the license, been restored to compe-
11 tency by the methods provided by law;

12 (5) when the department, based upon medical evidence, has
13 determined that because of the person's physical or mental disability
14 the person is not able to drive a motor vehicle safely;

15 (6) who is unable to understand official traffic control
16 devices as displayed in this state or who does not have a fair knowl-
17 edge of traffic laws and regulations, as demonstrated by an examina-
18 tion;

19 (7) who has knowingly made a false statement in the per-
20 son's application for a license or has committed fraud in connection
21 with the person's application for, or in obtaining or attempting to
22 obtain, a license, or who has not applied under oath on the form
23 provided for the purpose of obtaining or attempting to obtain a li-
24 cense or permit; or

25 (8) who is required under AS 28.20 to furnish proof of
26 financial responsibility and who has not done so.

27 * Sec. 4. AS 28.15.061(b) is amended to read:

28 (b) An application under (a) of this section shall

29 (1) contain the applicant's full name, date and place of

1 birth, sex, and mailing and residence addresses;

2 (2) state whether the applicant has been previously li-
3 censed as a driver and, if so, when and by what jurisdiction;

4 (3) state whether any previous driver's license issued to
5 the applicant has ever been suspended or revoked, [OR] whether an
6 application for a driver's license has ever been refused, or whether
7 the applicant's privilege to obtain a driver's license has ever been
8 revoked by a court or the department or a similar agency in another
9 state and, if so, the date of and reason for the suspension, revoca-
10 tion, or refusal; and

11 (4) contain other information which the department may
12 reasonably require to determine the applicant's identity, competency,
13 and eligibility.

14 * Sec. 5. AS 28.15.165(a) is amended to read:

15 (a) If a chemical test administered under AS 28.35.031(a) to a
16 person driving a motor vehicle for which a driver's license is re-
17 quired produces a result described in AS 28.35.030(a)(2) or if a
18 person under arrest for driving a motor vehicle for which a driver's
19 license is required refuses to submit to a chemical test under AS 28.-
20 35.031(a), a law enforcement officer shall read a notice and deliver a
21 copy to the person. The notice shall advise that

22 (1) the department intends to revoke the person's driver's
23 license or nonresident privilege to drive, or refuse to issue an
24 original license to the person;

25 (2) the person has the right to administrative review of
26 the revocation or determination not to issue an original license;

27 (3) the notice itself is a temporary driver's license, for
28 persons then holding a valid license, that expires seven days after it
29 is delivered to the person;

1 (4) revocation of the person's driver's license or nonresi-
2 dent privilege to drive, or a determination not to issue an original
3 license shall take effect upon expiration of the temporary driver's
4 license unless the person within seven days requests an administrative
5 review.

6 * Sec. 6. AS 28.15 is amended by adding a new section to read:

7 Sec. 28.15.176. SUSPENSION OR REVOCATION OF PRIVILEGE TO OBTAIN
8 A LICENSE. (a) A court or the department may suspend or revoke a
9 person's privilege to obtain a driver's license in this state in the
10 same manner and for the same reasons as a court or the department may
11 suspend or revoke a driver's license issued under this chapter.

12 (b) This section applies to a person who

13 (1) has not been issued a driver's license under this
14 chapter, whether or not the person is eligible to apply for a license;
15 and

16 (2) does not have a privilege to drive in this state.

17 * Sec. 7. AS 28.15.181(a) is amended to read:

18 (a) Conviction of any of the following offenses is grounds for
19 the immediate revocation of a driver's license or the privilege to
20 obtain a driver's license:

21 (1) manslaughter or negligent homicide resulting from
22 driving a motor vehicle;

23 (2) a felony in the commission of which a motor vehicle is
24 used;

25 (3) failure to stop and give aid as required by law when a
26 motor vehicle accident results in the death or personal injury of
27 another;

28 (4) perjury or making a false affidavit or statement under
29 oath to the department under a law relating to motor vehicles;

- 1 (5) driving a motor vehicle while intoxicated;
2 (6) reckless driving;
3 (7) using a motor vehicle in unlawful flight to avoid
4 arrest by a peace officer;
5 (8) refusal to submit to a chemical test under AS 28.-
6 35.032;
7 (9) driving while license or privilege to obtain a license
8 is canceled, suspended, revoked or in violation of a limitation.

9 * Sec. 8. AS 28.15.181(b) is amended to read:

10 (b) A court convicting a person of an offense described in
11 (a)(1) - (4), (6), or (7) of this section shall revoke that person's
12 driver's license or privilege to obtain a driver's license for not
13 less than 30 days for the first conviction, unless the court deter-
14 mines that the person's ability to earn a livelihood would be severely
15 impaired and a limitation under AS 28.15.201 can be placed on the
16 license that will enable the person to earn a livelihood without
17 excessive danger to the public. If a court limits a person's license
18 under this subsection, it shall do so for not less than 60 days. Upon
19 a subsequent conviction of a person for any offense described in
20 (a)(1) - (4), (6), (7) of this section occurring within 10 years after
21 a prior conviction, the court shall revoke the person's license or
22 privilege to obtain a driver's license and may not grant the person
23 limited license privileges for the following periods:

- 24 (1) not less than one year for the second conviction; and
25 (2) not less than three years for a third or subsequent
26 conviction.

27 * Sec. 9. AS 28.15.181(c) is amended to read:

28 (c) A court convicting a person of an offense described in
29 (a)(5) or (8) of this section arising out of the operation of a motor

1 vehicle for which a driver's license is required shall revoke that
2 person's driver's license or privilege to obtain a driver's license.
3 The revocation may be concurrent with or consecutive to an administra-
4 tive revocation under AS 28.15.165. The court may not, except as
5 provided in (e) of this section, grant limited license privileges for
6 the following periods:

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

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

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

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

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

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

19 (3) not less than 10 years if, within the preceding 10
20 years, the person has been previously convicted of more than one of
21 the following offenses or has more than once been previously convicted
22 of one of the following offenses:

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

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

28 * Sec. 10. AS 28.15.211(a) is amended to read:

29 (a) Except for a point system suspension or revocation under

1 AS 28.15.221 - 28.15.241 and unless provided otherwise by law, and
2 unless the suspension or revocation was for a cause that has been
3 removed, a person whose driver's license, privilege to obtain a driv-
4 er's license, or privilege to drive a motor vehicle in this state has
5 been suspended or revoked may not apply for a new license nor may the
6 person's driving privilege be restored until the expiration of

7 (1) one month from the date on which the license or privi-
8 lege to obtain a license was suspended or revoked for a first convic-
9 tion of the particular offense from which the suspension or revocation
10 resulted;

11 (2) three months from the date on which the license or
12 privilege to obtain a license was suspended or revoked for a second
13 conviction within 12 consecutive months of the same offense from which
14 the suspension or revocation resulted;

15 (3) one year from the date on which the license or privi-
16 lege to obtain a license was suspended or revoked for a third or
17 subsequent conviction within 12 consecutive months of the same offense
18 from which the suspension or revocation resulted.

19 * Sec. 11. AS 28.15.291 is amended to read:

20 Sec. 28.15.291. DRIVING WHILE LICENSE OR PRIVILEGE TO OBTAIN A
21 LICENSE CANCELED, SUSPENDED, REVOKED OR IN VIOLATION OF LIMITATION.

22 (a) A person may not drive a motor vehicle on a highway or vehicular
23 way or area at a time when that person's driver's license, privilege
24 to obtain a driver's license, or privilege to drive has been canceled,
25 suspended or revoked in this or another jurisdiction, or when driving
26 in violation of a limitation placed upon that person's license or
27 privilege to drive in this or another jurisdiction. Except as provid-
28 ed in (c) of this section, upon conviction of a violation of this
29 section, the court shall impose a sentence of imprisonment of not less

1 than 10 days. The execution of sentence may not be suspended nor may
2 probation or parole be granted until the minimum imprisonment provided
3 in this section has been served; nor may imposition of sentence be
4 suspended. In addition, the person's license, privilege to obtain a
5 license, or privilege to drive shall be revoked, and the person may
6 not be issued a new license nor may the privilege to drive be restored
7 for an additional period of not less than one year after the date that
8 the person would have been entitled to restoration of driving privi-
9 leges or issuance of a license.

10 (b) When a person's license or privilege to obtain a license is
11 canceled, limited, suspended or revoked, that person shall be informed
12 by the department or the court that takes the action at the time of
13 the action that, upon a conviction of driving on a highway or vehicu-
14 lar way or area in this state at a time when that person's driver's
15 license, [OR] privilege to drive or privilege to obtain a driver's
16 license in this state has been canceled, suspended or revoked, or upon
17 a conviction of driving in violation of a limitation of the license,
18 that person will be subject to the mandatory minimum sentence of
19 imprisonment under this section.

20 (c) The court shall impose a sentence of imprisonment of not
21 less than 30 days and a fine of not less than \$500 upon conviction of
22 a violation of this section if the person's driver's license or privi-
23 lege to obtain a driver's license was revoked under circumstances
24 described in AS 28.15.181(c)(1). The court shall impose a sentence of
25 imprisonment of not less than 90 days and a fine of not less than
26 \$1,000 upon conviction of a violation of this section if the person's
27 driver's license or privilege to obtain a driver's license was revoked
28 under circumstances described in AS 28.15.181(c)(2) or (3). The
29 execution of sentence may not be suspended.

1 be granted until the minimum imprisonment provided in this subsection
2 has been served. Imposition of sentence may not be suspended. In
3 addition, the person's privilege to drive and to obtain a driver's
4 license shall be revoked for an additional period of not less than one
5 year after the date that the person would have been entitled to resto-
6 ration of driving privileges or to obtain a driver's license if the
7 person had not been convicted under this section.

8 (d) A person convicted of a violation of this section is guilty
9 of a class A misdemeanor.

10 * Sec. 12. AS 28.20.090(a) is amended to read:

11 (a) If a person required to deposit security under this chapter
12 fails to deposit security within 10 days after the department sends
13 notice, the department shall suspend

14 (1) the license of each driver involved in the accident;

15 (2) the privilege of operating a vehicle subject to regis-
16 tration if the driver is a nonresident;

17 (3) the privilege of the owner to operate or permit the
18 operation within this state of a vehicle subject to registration if
19 the owner is a nonresident;

20 (4) the privilege to obtain a driver's license if the
21 person has not been issued a license under this title and does not
22 have a privilege to drive in this state.

23 * Sec. 13. AS 28.22.240(a) is amended to read:

24 (a) If a person fails to provide proof that motor vehicle lia-
25 bility insurance or a certificate of self-insurance was in effect at
26 the time of an accident or when the person was charged with a viola-
27 tion of a traffic law described in AS 28.22.210, the department shall
28 suspend the driver's license or privilege to obtain a driver's license

1 (1) not less than 90 days if, within the preceding 10
2 years, the person has not previously had a driver's license or privilege
3 to obtain a driver's license suspended for violation of AS 28.-
4 22.200;

5 (2) not less than one year if, within the preceding 10
6 years, the person has previously had a driver's license or privilege
7 to obtain a driver's license suspended one or more times for violation
8 of AS 28.22.200.

9 * Sec. 14. AS 28.35.030(c) is amended to read:

10 (c) Upon conviction under this section the court shall impose a
11 minimum sentence of imprisonment of not less than 72 consecutive hours
12 and a fine of not less than \$250 if the person has not been previously
13 convicted in this or another jurisdiction of driving while intoxicated
14 under this or another law or ordinance with substantially similar
15 elements or refusal to submit to a chemical test under AS 28.35.032 or
16 another law or ordinance with substantially similar elements. Upon
17 conviction under this section the court shall impose a minimum sen-
18 tence of imprisonment of not less than 20 consecutive days and a fine
19 of not less than \$500 if, within the preceding 10 years, the person
20 has been previously convicted once in this or another jurisdiction of
21 driving while intoxicated under this or another law or ordinance with
22 substantially similar elements or refusal to submit to a chemical test
23 under AS 28.35.032 or another law or ordinance with substantially
24 similar elements. Upon conviction under this section the court shall
25 impose a minimum sentence of imprisonment of not less than 30 consecu-
26 tive days and a fine of not less than \$1,000 if, within the preceding
27 10 years, the person has been previously convicted in this or another
28 jurisdiction of more than one of the following offenses or has more
29 than once been previously convicted of one of the following offenses:

1 (1) driving while intoxicated under this or another law or ordinance
2 with substantially similar elements; (2) refusal to submit to a chemi-
3 cal test under AS 28.35.032 or another law or ordinance with substan-
4 tially similar elements. The execution of sentence may not be sus-
5 pended nor may probation be granted except on condition that the
6 minimum imprisonment provided in this section is served. Imposition of
7 sentence may not be suspended. In addition, if the offense involved
8 driving a motor vehicle for which a driver's license is required, the
9 person's driver's license or privilege to obtain a driver's license
10 shall be revoked in accordance with AS 28.15.181 and the vehicle used
11 in commission of the offense may be forfeited under AS 28.35.036. In
12 addition, the court shall order, and a person convicted under this
13 section shall undertake, for a term specified by the court, that
14 program of alcohol education or rehabilitation that the court, after
15 consideration of any information compiled under (d) of this section,
16 finds appropriate.

17 * Sec. 15. AS 28.35.032(g) is amended to read:

18 (g) Upon conviction of a person under this section, the court
19 shall impose a minimum sentence of imprisonment of not less than 72
20 consecutive hours and a fine of not less than \$250 if the person has
21 not been previously convicted in this or another jurisdiction of
22 driving while intoxicated under AS 28.35.030 or another law or ordi-
23 nance with substantially similar elements or refusal to submit to a
24 chemical test under this section or another law or ordinance with
25 substantially similar elements. Upon conviction under this section the
26 court shall impose a minimum sentence of imprisonment of not less than
27 20 consecutive days and a fine of not less than \$500 if, within the
28 preceding 10 years, the person has been previously convicted once in
29 this or another jurisdiction of driving while intoxicated under

1 AS 28.35.030 or another law or ordinance with substantially similar
2 elements or refusal to submit to a chemical test under this section or
3 another law or ordinance with substantially similar elements. Upon
4 conviction under this section the court shall impose a minimum sen-
5 tence of imprisonment of not less than 30 consecutive days and a fine
6 of not less than \$1,000 if, within the previous 10 years, the person
7 has been previously convicted in this or another jurisdiction of more
8 than one of the following offenses or has more than once been previ-
9 ously convicted of one of the following offenses: (1) driving while
10 intoxicated under AS 28.35.030 or another law or ordinance with sub-
11 stantially similar elements; (2) refusal to submit to a chemical test
12 under this section or another law or ordinance with substantially
13 similar elements. The execution of sentence may not be suspended nor
14 may probation be granted except on condition that the minimum impris-
15 onment provided in this section is served. Imposition of sentence may
16 not be suspended. If the offense involved driving a motor vehicle for
17 which a driver's license is required, the person's driver's license or
18 privilege to obtain a driver's license shall be revoked under AS 28.-
19 15.181. In addition, the court shall order, and a person convicted
20 under this section shall undertake, for a term specified by the court,
21 that program of alcohol education or rehabilitation that the court,
22 after consideration of any information compiled under (h) of this
23 section, finds appropriate. The sentence imposed by the court under
24 this subsection shall run consecutively with any other sentence of
25 imprisonment imposed on the committed person.

26 * Sec. 16. AS 28.40.050(b) is amended to read:

27 (b) A person convicted of a misdemeanor for a violation of a
28 provision of this title for which another penalty is not specifically
29 provided is punishable by a fine of not more than \$500, or by

1 imprisonment for not more than 90 days, or by both. In addition, the
2 privilege to drive or to obtain a license or the registration of
3 vehicles may be suspended or revoked.
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STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 75
 Title: An Act relating to suspension
of the privilege to obtain a driver's
 Sponsor: Abood
 Requestor: Sen. Abood
 Date of Request: 1-25-85

FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Life and Property Protection
 BRU, Program or Subprogram(s) Affected: Division of Motor Vehicles

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Bill Brown Phone: 465-4335
 Division: Motor Vehicles Date: 1-30-85

Approved by Commissioner: Michael J. Clemens Date: 1-30-85
 Agency: Public Safety

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

TO: Committee Members
FROM: Senator Abood, Chairman
RE: CS for SB 75 (SA)

The changes made in SB 75 are as follows:

Added a new section (Sec. 6) which defines when a person's privilege to obtain a driver's license may be suspended or revoked and who the suspension, revocation applies to.

Sec. 12 of the bill amends AS 28.20.090(a), which deals with security deposits, to include the authority to suspend the privilege to obtain a driver's license.

Sec. 13 of the bill amends AS 28.22.240(a), which deals with the ability to provide proof of motor vehicle liability insurance or a certificate of self-insurance, to include the language of privilege to obtain a driver's license.

Each of these changes were made at the recommendation of the Department of Public Safety.

2

SENATE AMENDMENT

BY State Affairs Committee

To: _____ SENATE BILL No. 75

To: _____ HOUSE BILL No. _____

PAGE:

LINE:

* Sec 11. AS 28.20.090(a) is amended to read:

(a) If a person required to deposit security under this chapter fails to deposit security within 10 days after the department sends notice, the department shall suspend

(1) the license of each driver involved in the accident;

(2) the privilege of operating a vehicle subject to registration if the driver is a nonresident;

(3) the privilege of the owner to operate or permit the operation within this state of a vehicle subject to registration if the owner is a nonresident;

(4) the ability to apply for a driver's license if the person has not been issued a license under this title and does not have a privilege to drive in this state.

3

SENATE AMENDMENT

By _____

To: _____ SENATE BILL No. SB 75

To: _____ HOUSE BILL No. _____

PAGE:

LINE:

AS 28.22.240(a) is amended to read:

(a) If a person fails to provide proof that motor vehicle liability insurance or a certificate of self-insurance was in effect at the time of an accident or when the person was charged with a violation of a traffic law described in AS 28.22.210, the department shall suspend the driver's license or privilege to obtain a driver's license of that person for the following periods:

(1) not less than 90 days if, within the preceding 10 years, the person has not previously had a driver's license or privilege to obtain a driver's license suspended for violation of AS 28.22.200;

(2) not less than one year if, within the preceding 10 years, the person has previously had a driver's license or privilege to obtain a driver's license suspended one or more time for violation of AS 28.22.200.

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - SB 75

Support with Amendments

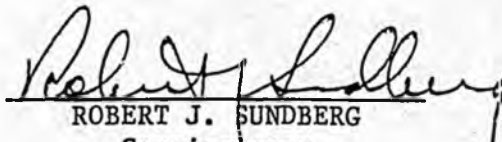
January 30, 1985

SB 75, An Act relating to suspension of the privilege to obtain a driver's license.

This bill addresses a problem brought to our attention by the Alaska Court of Appeals decision in the case of Francis vs Municipality of Anchorage in 1982. That decision held that a person who had never applied for a driver's license could not be charged with driving while license suspended if stopped for driving after the Division of Motor Vehicles had issued him a suspension following an accident for which he failed to establish financial responsibility. The court held that since the defendant had never had a license, there was nothing for the Division of Motor Vehicles to suspend. The most the defendant could be charged with was for driving without a valid license.

This problem has been discussed with the Department of Law. Their responses as to how it could be solved are contained in Sections 8, 13, and 15 of SB 84.

Public Safety supports the sponsor's intent but would like the bill amended by adding the wording "or privilege to obtain a license" to AS 28.20.090(a) and AS 28.22.240(a). As written, the bill would cover license actions by the court, and administrative license actions imposed after an arrest for DWI, however, not administrative license actions under the Mandatory Insurance or Financial Responsibility laws following an uninsured accident. The proposed amendments would cover these two instances.


ROBERT J. SUNDBERG
Commissioner

RECEIVED
JAN 31 1985

SENATE BILL 75

"An Act relating to suspension of the privilege
to obtain a driver's license"

SB 75 will solve a problem brought about by the Court of Appeals decision in Francis v. Municipality of Anchorage, 641 P.2d 226 (Alaska App. 1983). The gist of that decision is that a person who has never held a driver's license cannot be convicted of driving on a revoked license, even if the "revocation" was the result of a DWI conviction. Because of a standing order by the presiding judge in Anchorage, such a person can only receive a maximum sentence of a \$300 fine and be convicted of driving without a valid license.

This problem is solved by adding the language "privilege to obtain a driver's license."

S B

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X

COMMITTEE REPORT
SENATE

FURTHER: JUDICIARY
FINANCE

1/22/85

Date 2/18/85

Mr. President

The Committee on STATE AFFAIRS considered SB 76
rights of prisoners; and amending Rule 5(b) of the Alaska Rules of
Criminal Procedure.

and (a majority of the committee) (the committee) reports it back with
the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 76
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Bill Kay

Chairman

Chairman recommendation

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - SB 76

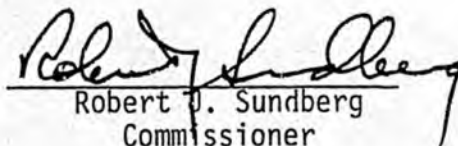
Support

February 1, 1985

SB 76 - "An Act relating to rights of prisoners; and amending Rule 5(b) of the Alaska Rules of Criminal Procedure."

The purpose of this legislation is to clarify the rights of Driving While Intoxicated suspects during the period they are to be tested.

Occasionally suspects have been able to delay the implementation of Driving While Intoxicated testing by demanding to speak to their attorney prior to the admission of the test. This statute establishes the priority of the testing without interfering with the rights of the suspects. This will allow for smoother processing of Driving While Intoxicated suspects by law enforcement officers and thus improve their efficiency.


Robert J. Sundberg
Commissioner

SENATE BILL 76

"An Act relating to rights of prisoners: and amending Rule 5(b) of the Alaska Rules of Criminal Procedure."

SB 76 modifies AS 12.25.150(b) and Alaska Criminal Rule 5(b) thus eliminating the difficulties caused police officers who are attempting to give breath alcohol test to DWI suspects. Since it would force a change in a rule promulgated by the Alaska Supreme Court, it must be passed by a two-thirds majority of each house of the Alaska Legislature.

The amendment would allow officers to wait until after they have given breath tests to drunk drivers to permit the suspects to call their attorneys. There is no constitutional impediment to this change, as the constitution already permits the gathering of such evidence without a search warrant, or giving the defendant access to an attorney, as a search incident to an arrest. (Schmerber v. California, 384 U.S. 757, 86 S.Ct. 1826, 16 L.Ed.2d 908(1966); Burnett v. Municipality of Anchorage, 678 P.2d 1364 (Alaska App. 1984), cert. den. 36 Cr.L. 2001)

Even though there is no right to refuse a breath test under Alaska law (Palmer v. State, 604 P.2d 1106 (Alaska 1979, and Jensen v. State, 667 P.2d 188 (Alaska App. 1983)), the Supreme Court of Alaska in Copelin v. State, 659 P.2d 1206 (Alaska 1983), stated that AS 12.25.150(b) and Criminal Rule 5(b) required that a DWI suspect be given access to a telephone, if he request it, before taking a breath test or videotaped sobriety test. This causes delay of 15 to 30 minutes, or longer, in giving the breath test--a test for a substance that is quickly disappearing from the defendant's body.

This change would also be in response to the recommendation of the Presidential Commission on Drunk Driving "That an individual's right to consult his attorney may not be permitted to unreasonably delay administration of the test." A common defense tactic in drunk driving trials is to suggest that the defendant may have been intoxicated at the time of the breath test, but that his breath alcohol concentration at the time of his driving was not over the legal limit. It is therefore imperative that there be as little delay as possible prior to the breath test.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 76
 Title: Rights of prisoners.....
 Sponsor: Sen. Abood
 Requestor: Sen. State Affairs
 Date of Request: 2-6-85

FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Administration of Justice
 BRU, Program or Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Paul Conger Phone: 465-4338
 Division: Administrative Services Date: 2-6-85

Approved by Commissioner: Michael J. Cleary Date: 2-6-85
 Agency: Public Safety

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



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James A. Smith
Signature of Camera Operator

11/24/89
Date

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8 1

COMMITTEE REPORT
SENATE

FURTHER: FINANCE

1/22/85

Date 2/5/85

Mr. President

The Committee on STATE AFFAIRS considered SB 81
definition of veteran for purposes of veterans' employment preference
rights.

and (a majority of the committee) (the committee) reports it back with
the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]
[Signature]
[Signature]
[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS

[Signature]
Chairman
[Signature]
Chairman recommendation

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 81

Title: Veterans Employment

Preference

Sponsor: _____

Requestor: Military & Vets Affairs

Date of Request: 30 August 1984

FISCAL DETAIL

Agency Affected: Military & Veterans Affairs

Program Category Affected: Public

Protection

BRU, Program or Subprogram(s) Affected: _____

Veterans Affairs

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Would conform Alaska's definition of veterans to that used by the federal government in the administration of the Veteran's Preference Program.

Prepared By: Richard L. Rountree

Phone: 465-4600

Division: Administrative and Support Services

Date: 8 January 1984

Approved by Commissioner: Major General E. G. Pagano

Date: 8 January 1984

Agency: Military & Veterans Affairs

Distribution (by Agency preparing fiscal note):

Legislative Finance

Legislative Sponsor

Requestor

Office of Management and Budget

Impacted Agency(ies)

7/1/84

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 22, 1985

The Honorable Don Bennett
President of the Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Bennett:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the definition of "veteran" for purposes of veterans' preference rights for state employment. This bill conforms the current definition of veteran found in AS 39.25.150(19)(A) to the federal definition in 5 U.S.C. sec. 2108.

In essence, the bill extends the period of time of active duty in the United States armed forces which qualifies an individual as a veteran for employment preference. The Alaska statute currently sets November 7, 1975 as the service cut-off date for qualifying as a veteran, while federal law establishes October 14, 1976 as the date. The bill amends AS 39.25.150(19)(A) to reflect the October 14, 1976 date, thereby conforming the federal and state periods of service for being considered a veteran to receive employment preference rights.

Sincerely,



Bill Sheffield
Governor



RECORDS CERTIFICATION



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

James O. Smith
Signature of Camera Operator

11/24/89
Date

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COMMITTEE REPORT
SENATE

1/22/85

FURTHER: JUDICIARY
FINANCE

Date 2/21/85

Mr. President

The Committee on STATE AFFAIRS considered SB 84
motor vehicle laws.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 84 (SA)
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" [] NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

John McVie

Tom Kelly

V. Fischer

MEMBERS HAVING
OTHER RECOMMENDATIONS

[Signature]

Chairman

[Signature]

Chairman recommendation

Original sponsor: Rules/Governor

1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR SENATE BILL NO. 84 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to motor vehicle laws."

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

8 * Section 1. AS 28.05.091 is amended to read:

9 Sec. 28.05.091. VEHICLE IMPOUNDMENT [SEIZURE OF UNSAFE OR DE-
10 FECTIVELY EQUIPPED VEHICLE]. A motor vehicle which is driven on a
11 highway or vehicular way or area, and which has been determined to be
12 defective in equipment so as to be unsafe for driving, or on which the
13 vehicle identification number has been removed, defaced, or otherwise
14 altered, is an unlawful vehicle and may be impounded by a peace offi-
15 cer or an employee of the department officially designated for that
16 purpose. The owner or person in lawful possession of a vehicle that
17 is driven on a highway or vehicular way or area and that is so defec-
18 tive in equipment as to be unsafe for driving [THE VEHICLE] shall pay
19 the necessary costs of impounding and storing the vehicle. The im-
20 pounding of a vehicle is in addition to any other penalty. Nothing in
21 this section prevents the driving or moving of a defective vehicle in
22 the manner directed by the peace officer or employee to a place for

23 (1) the correction of a defect in the equipment;

24 (2) dismantling or wrecking; or

25 (3) storage without repair.

26 * Sec. 2. AS 28.05.141(c) is amended to read:

27 (c) If at the hearing under (a) of this section it appears that
28 the record of the person sustains suspension, revocation, limitation,
29 denial, or other remedial action, the hearing officer shall so order

1 and the department may suspend, revoke, limit, deny, or take other
2 remedial action against that person's license, registration, or title
3 and, if appropriate, the department shall adjust the person's point
4 total accumulated under AS 28.15.231.

5 * Sec. 3. AS 28.05.141(d) is amended to read:

6 (d) A person aggrieved by the decision of the hearing officer
7 may, within 30 days, initiate a proceeding in district court to re-
8 scind the department's action by filing a notice of appeal in accor-
9 dance with the applicable rules of court governing appeals in civil
10 matters. The district court shall base its review on the record of
11 the hearing, without taking additional testimony. The court may re-
12 verse the department's determination if the court finds that the hear-
13 ing officer misinterpreted the law, acted in an arbitrary and capri-
14 cious manner, or made a determination unsupported by the evidence in
15 the record. The filing of an appeal under this section does not auto-
16 matically stay the hearing officer's order. The court may grant a
17 stay of the order only upon a motion and hearing, and upon a finding
18 that there is a reasonable probability that the petitioner will pre-
19 vail on the merits and that the petitioner will suffer irreparable
20 harm if the order is not stayed [THE COURT SHALL CONDUCT A HEARING DE
21 NOVO. THE DECISION OF THE DEPARTMENT SUSPENDING, REVOKING, CANCELING,
22 LIMITING, RESTRICTING OR DENYING A LICENSE, REGISTRATION, TITLE,
23 PERMIT OR PRIVILEGE IS STAYED AND DOES NOT TAKE EFFECT DURING THE
24 PENDENCY OF AN APPEAL].

25 * Sec. 4. AS 28.10.051 is amended to read:

26 Sec. 28.10.051. DEPARTMENT MAY SUSPEND OR REVOKE REGISTRATION.
27 The department may suspend or revoke the registration of a vehicle,
28 the certificate of registration or registration plates for a vehicle,
29 or a special permit when

1 (1) the department determines [IS SATISFIED] that the reg-
2 istration or certificate, plate or permit was fraudulently procured or
3 erroneously issued;

4 (2) the department determines that a registered vehicle is
5 mechanically unsafe to be driven or moved on a highway, vehicular way
6 or area, or other public property in this state and the vehicle has
7 been seized or impounded under AS 28.05.091;

8 (3) a registered vehicle has been scrapped, dismantled or
9 destroyed beycnd repair;

10 (4) the department determines that a required fee or tax
11 has not been paid and the fee or tax is not paid upon reasonable
12 notice and demand;

13 (5) a registration plate, permit, or certificate is know-
14 ingly displayed upon a vehicle other than the vehicle for which is-
15 sued;

16 (6) the department determines that the owner of a vehicle
17 has committed an offense under this chapter involving the registration
18 or the certificate, plate, or permit to be suspended or revoked;

19 (7) the vehicle has been reported to the department as
20 stolen or unlawfully converted; or

21 (8) the department is otherwise required to do so under the
22 laws of this state.

23 * Sec. 5. AS 28.10.105(f) is amended to read:

24 (f) The registration period of a [EVERY] vehicle registered un-
25 der this section and AS 28.10.107 may, at the option of the owner, be
26 [HAVE ITS REGISTRATION PERIOD] extended in monthly increments by pay-
27 ment of the proportionate prorated applicable fees to allow annual
28 registration to occur in any month of the owner's choice. The regis-
29 tered owner of a vehicle may exercise this option only once for each

1 vehicle.

2 * Sec. 6. AS 28.10.411(c) is amended to read:

3 (c) A resident 65 years of age or older on the date that the tax
4 is due is entitled to an exemption from the tax under AS 28.10.431(b)
5 and the registration fee [TAX] under this section for one motor vehi-
6 cle subject to registration under AS 28.10.421(b)(1), (2), (5), or
7 (6). An exemption may not be granted except upon written application
8 for the exemption on a form prescribed by the department.

9 * Sec. 7. AS 28.10.421(d) is amended to read:

10 (d) The special registration fees under this subsection are
11 imposed annually, unless otherwise specified, for:

12 (1) an historic vehicle (one time only upon initial regis-
13 tration under AS 28.10.181).....\$10;

14 (2) special request plates.....\$20;
15 plus the fee required for that vehicle under (b)(1) or (2) of this
16 section; the fee required by this paragraph shall be collected only on
17 the first issuance and on the replacement of special request plates;

18 (3) a vehicle owned by a disabled veteran or other handi-
19 capped person, and registered under AS 28.10.181 [OR A RESIDENT 65
20 YEARS OF AGE OR OLDER WHO COMPLIES WITH AS 28.10.411(c)].....none;

21 (4) a vehicle owned by the state.....none;

22 (5) a vehicle owned by an elected state official.....the
23 fee required for that vehicle under (b) of this section;

24 (6) a vehicle owned by a consular officer, unless waived
25 under AS 28.10.181.....\$30;

26 (7) a vehicle owned by a rancher, farmer, or dairyman and
27 registered under AS 28.10.181.....\$30;

28 (8) a snowmobile or off-highway vehicle.....\$ 5;

29 (9) an amateur mobile radio station vehicle,

1 (A) with a transceiver capable of less than 5-band
2 operation.....the
3 fee required for that vehicle under (b) or (c) of this section;

4 (B) in recognition of service to the public: a mobile
5 amateur radio station owned by an amateur with general class or
6 higher license, provided the station must be satisfactorily
7 proved capable of operating on at least five bands between 160
8 through 10 meters, must have an antenna, and must have a power
9 supply and wiring as a permanent part of the vehicle; the trans-
10 mitting unit may be removed from the car for service or dry
11 storage.....none
12 for a mobile amateur radio station vehicle included in (b)(1) or
13 (2) of this section;

14 (10) dealer registration plates,

15 (A) the initial set of plates.....\$40;

16 (B) each subsequent set of plates.....\$20;

17 (11) a vehicle owned by a municipality or charitable orga-
18 nization meeting the requirements of AS 28.10.181(c).....\$ 5;

19 (12) an occasional use vehicle under AS 28.10.181(k)....\$15;

20 (13) a vehicle owned by a former prisoner of war.....none.

21 * Sec. 8. AS 28.15.051(d) is amended to read:

22 (d) The department may issue a special driver's permit to a per-
23 son who is at least 14 years of age with the consent of the person's
24 parents, [OR] guardians, or spouse who is 18 years of age or older,
25 for the purpose of driving a motor-driven cycle. This permit may be
26 issued upon application and successful completion of all prescribed
27 tests and fees, and is valid for the same period of time as a driver's
28 license. The permit is not valid in a municipality which by ordinance
29 prohibits the driving of a motor-driven cycle by a person under the

1 age of 16 years; a borough may adopt the ordinance on a nonareawide
2 basis only, unless the power to adopt it on an areawide basis is
3 acquired under AS 29.33.250 - 29.33.290.

4 * Sec. 9. AS 28.15.071(a) is amended to read:

5 (a) The application of a person under the age of 18 years for an
6 instruction permit or driver's license must be signed by the father,
7 mother, [OR] guardian, or spouse who is 18 years of age or older, or
8 if there is no parent, [OR] guardian, or spouse, then by another re-
9 sponsible adult who is willing to assume the obligation imposed under
10 this section upon a person signing the application. The application
11 must be signed and verified before a person authorized to administer
12 oaths, or be signed in the presence of an authorized representative of
13 the department.

14 * Sec. 10. AS 28.15.071(c) is amended to read:

15 (c) If a minor deposits, or there is deposited on behalf of the
16 minor, proof of financial responsibility for the minor's driving of a
17 motor vehicle, in the form and amount required in AS 28.20, then the
18 department may accept the application of the minor signed as required
19 under (a) of this section, and, while proof of financial responsibil-
20 ity is maintained, the parent, guardian, spouse, or other responsible
21 adult is not subject to the liability imposed under (b) of this sec-
22 tion.

23 * Sec. 11. AS 28.15.171(a) is amended to read:

24 (a) The privilege of driving a motor vehicle on a highway or
25 vehicular way or area of this state given to a person licensed in an-
26 other jurisdiction is subject to suspension, [OR] revocation, or limi-
27 tation by the department or a court in the same manner and for the
28 same reasons as a driver's license issued under this chapter.

29 * Sec. 12. AS 28.15.231 is amended by adding a new subsection to read:

1 (f) The notice required under (a) of this section may be given
2 by first class mail.

3 * Sec. 13. AS 28.35.032(a) is amended to read:

4 (a) If a person under arrest refuses the request of a law en-
5 forcement officer to submit to a chemical test under AS 28.35.031(a),
6 after being advised by the officer that the refusal will, if that per-
7 son was arrested for [WHILE] operating or driving a motor vehicle for
8 which a driver's license is required, result in the denial or revoca-
9 tion of the license or nonresident privilege to drive, that the refus-
10 al may be used against the person in a civil or criminal action or
11 proceeding arising out of an act alleged to have been committed by the
12 person while operating or driving a motor vehicle or operating an air-
13 craft or a watercraft while intoxicated, and that the refusal is a
14 misdemeanor, a chemical test shall not be given, except as provided by
15 AS 28.35.035.
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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

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The Honorable Don Bennett
President of the Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Bennett:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which makes many badly needed amendments to the motor vehicle laws contained in AS 28. These amendments address a variety of issues. The bill alters existing statutes to more accurately reflect the current practices of the division of motor vehicles (DMV) in the Department of Public Safety, to allow DMV to adopt more efficient procedures, and to address some inadvertent omissions in current law.

Section 1 of the bill amends AS 28.05.091 to make it clear that a peace officer may impound a motor vehicle if the vehicle's identification number has been altered or removed. Law enforcement officers often must impound such vehicles in order to investigate whether the vehicle has been stolen, but the language of the current impoundment statute does not clearly authorize a seizure of this sort. Under the proposed language, the owner of an impounded vehicle would not be required to pay any costs associated with impoundment or storage of the vehicle. The owner of an impounded vehicle would be entitled to request a hearing to contest the impoundment. See existing AS 28.05.131.

Section 2 of the bill amends a general provision regarding DMV administrative hearings to make it clear that a hearing officer may take appropriate action against a person's vehicle title or registration as well as against the person's driver's license. This amendment would bring the language of AS 28.05.141(c) into conformity with AS 28.05.131(a), with current administrative practices, and with common sense interpretation.

Section 3 of the bill amends AS 28.05.141(d), which deals with a motorist's right to appeal from an administrative

hearing officer's decision. The new language would allow a motorist to appeal a hearing officer's decision to the district court, and specifies the scope of appellate review. Existing law allows a hearing de novo -- a complete new hearing on the same issues which were decided at the administrative hearing. In many cases, this makes the entire administrative hearing process superfluous. A motorist dissatisfied with a hearing officer's decision will commonly request a de novo hearing in district court, and DMV personnel and their witnesses are forced to present the entire case over again. This is not an efficient use of either administrative or judicial resources. The new language is modelled upon the provisions adopted by the legislature in 1983 regarding the appeal rights granted to a person whose driver's license has been administratively revoked because he drove while intoxicated or refused to take a breath test. See AS 28.15.166(m) and (n).

The amendment contained in sec. 4 of the bill clarifies AS 28.10.051(1), which authorizes DMV to suspend or revoke a motor vehicle certificate of registration if it was fraudulently obtained. Unless an emergency requires immediate action, a motorist has the right to request a hearing under AS 28.05.131 before DMV suspends or revokes a registration certificate.

For the convenience of vehicle owners, current AS 28.10.105(f) allows an owner to register a vehicle for a portion of a year so that annual registration fees for all vehicles owned by that person will be due at the same time under the state's staggered registration system. This privilege has been abused by some owners who have repeatedly registered and paid fees on a vehicle for only part of a year, rather than for the entire year. AS 28.10.105 was never intended to allow a vehicle to be routinely registered for a period of less than a year. The amendment to the statute contained in sec. 5 of the bill states that an owner may exercise this partial-year payment option only once per motor vehicle.

The changes made in secs. 6 and 7 of the bill correct an ambiguity in current law. AS 28.10.411 establishes a state motor vehicle registration fee. AS 28.10.431 authorizes municipalities to levy a motor vehicle registration tax, which may be collected by DMV on behalf of the municipality at the same time that state registration fees are collected. Present AS 28.10.411(c) exempts a resident 65 years of age or older from payment of "tax under this section" for one motor vehicle. This language does not make sense, as AS 28.10.411 levies a fee. A tax is

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authorized under AS 28.10.431. The new language makes it clear that a resident aged 65 years or older on the date the tax is due is exempt from payment of both the registration fee and the tax. This is in accord with DMV's present interpretation of the existing language. The amendment specifies that the exemption applies to one personal vehicle, but not to commercial vehicles. This would fulfill the original intent of the provision, which was to excuse senior citizens from paying the costs of registering one personal vehicle, rather than to benefit commercial businesses.

Sections 8, 13, and 15 of this bill provide that a person's "ability to apply for a license" may be suspended or revoked in the same manner and under the same conditions as a person's driver's license may be suspended or revoked under existing law. In the case of Francis v. Municipality of Anchorage, 641 P.2d 226 (Alaska App. 1982), the Alaska Court of Appeals held that a person who had never applied for a driver's license could not be charged with the misdemeanor crime of driving while license suspended (DWLS) for driving after DMV had suspended his "privilege to drive" following an accident for which he failed to establish financial responsibility. The court held that since the defendant had never had a license, there was nothing for DMV to suspend, and the most that the defendant could be charged with was driving without a valid license.

Driving without a valid license in violation of AS 28.15.011 carries a maximum penalty of 90 days in jail, a \$500 fine, or both. See AS 28.35.230(a) and (b). In contrast, DWLS carries a maximum penalty of one year in jail, a \$5,000 fine, or both. See AS 28.15.291(d). Additionally, a conviction for driving without a valid license does not require the mandatory minimum sentences which must be imposed following a conviction for DWLS. See AS 28.15.291(a) and (c).

In a very real sense, persons such as defendant Francis are more blatant violators of the motor vehicle laws than the "average" DWLS offender. Not only did Francis drive after receiving a suspension notice from DMV, he drove (and was involved in an accident) without ever obtaining a license in the first place. Such blatant disregard of the licensing laws should not be rewarded with lesser criminal penalties. The amendments included in this bill will make offenders like Francis subject to the general DWL laws and their more serious penalties.

Under current law, a person under age 18 may not apply for a driving instruction permit or a motorcycle driver's permit unless a parent or guardian signs the application and agrees to assume responsibility for damage caused by the negligence or willful misconduct of the minor. In the case of a minor who is married, however, a parent may be unavailable or unwilling to assume this responsibility. The language contained in secs. 9, 10, and 11 of this bill allows a spouse 18 years of age or older to sign the necessary application forms and assume this responsibility on behalf of the minor.

AS 28.15.171 presently provides that DMV may suspend or revoke a nonresident's privilege to drive in this state in the same manner and for the same reasons that an Alaska driver's license may be suspended or revoked. Section 12 of the bill amends AS 28.15.171 to clarify that a court also has this authority, and allows the court or DMV to place a limitation on the non-resident's privilege to drive.

Section 14 of the bill specifically authorizes DMV to use first class mail to notify a driver that he is half-way to losing his license because of the accumulation of points resulting from traffic law violations. Existing AS 28.05.121 is a general provision which requires notice to be made by personal delivery, or by registered or certified mail, "unless a different method of giving notice is otherwise expressly provided." "Half-way" notices are currently being sent by first class mail in accordance with 13 AAC 08.220(c). The proposed amendment is intended to meet the requirements of AS 28.05.121 and to bring the statutory language in line with existing regulations and procedures.

The amendment contained in sec. 16 of the bill is a minor one which is intended only to clarify AS 28.35.032(a), which established the misdemeanor crime of refusal to take a breath test. The new language provides that a person's license may be revoked if he was "arrested for operating or driving a motor vehicle for which a driver's license is required." The current law contains the language "arrested while operating" Obviously, a DWI offender would never be arrested while he was driving. The arrest always occurs after the offender's vehicle has been stopped.

Adoption of these amendments to AS 28 will clarify some imprecise language contained in the current law, and will

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enable DMV to more efficiently administer the state's motor vehicle laws. I therefore urge your prompt action on this bill.

Sincerely,



Bill Sheffield
Governor

STATE OF ALASKA '1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: 28884
 Title: An Act relating to motor vehicle laws.
 Sponsor: Rules by request of Governor
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Life and Property Protection
 BRU, Program or Subprogram(s) Affected: Motor Vehicles

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Bill Brown Phone: 465-4335
 Division: Motor Vehicles Date: 12-10-84

Approved by Commissioner: [Signature] Date: 12/11/84
 Agency: _____

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