

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 86/2

4694 HJUD HB 247 - HB 261

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: HB 247
Publish Date: _____

REQUEST: _____

Revision Date: _____
Title: "An Act relating to certain
election materials."
Sponsor: Representative Davis
Requestor: House State Affairs

Agency Affected: Department of Law
BRU: Legal Services

Components: Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see attached analysis.

Richard I. Peque

Prepared by: Richard I. Peque, Director

Phone: 465-3672

Division: Administrative Services

Date: April 13, 1987

Approved by Commissioner: Richard I. Peque (FOR)
Grace Berg Schaible, Atty. Gen.

Date: April 13, 1987

Agency: Department of Law

Distribution (by preparer):

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

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version: HB 247
Publish Date: HOUSE 4/6/87

Revision Date: 4/13/87
Title: An Act relating to the readability
of certain election materials.
Sponsor: Davis and Koponen
Requestor: Representative Mike Davis

Agency Affected: Legislative Affairs Agency
BRU: Legislative Council
Components: Legal Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Pamela A. Stoops, Manager
Division: Administrative Services
Approved by: Warren W. Endicott
Agency: Legislative Affairs Agency

Phone: 465-3850
Date: 4/13/87
Date: 4/13/87

Distribution (by preparer):

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

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: HB 247
Publish Date: _____

Revision Date: _____
Title: "An Act relating to certain
election materials."
Sponsor: Representative Davis
Requestor: House State Affairs

Agency Affected: Department of Law
BRU: Legal Services
Components: Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see attached analysis.

Richard I. Peque

Prepared by: Richard I. Peque, Director
Division: Administrative Services

Phone: 465-3672
Date: April 13, 1987

Approved by Commissioner: Grace Berg Schaible, Atty. Gen.
Agency: Department of Law

Date: April 13, 1987

Distribution (by preparer):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 247

This bill amends AS 15.58 by adding a new section that provides a scoring methodology for the readability of the neutral summaries of ballot propositions that appear in the voter's pamphlet. Division of Elections and Department of Law staff responsible for preparing these summaries may have to hone their writing skills, but they will not require additional resources to implement this bill.

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: HB 247
Publish Date: HOUSE 4/6/87

Revision Date: 4/13/87
Title: An Act relating to the readability of certain election materials.
Sponsor: Davis and Koponen
Requestor: Representative Mike Davis

Agency Affected: Legislative Affairs Agency
ORU: Legislative Council
Components: Legal Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Pamela A. Stoops, Manager
Division: Administrative Services
Approved by: Warren W. Endicott
Agency: Legislative Affairs Agency

Phone: 465-3850
Date: 4/13/87
Date: 4/13/87

Distribution (by preparer):

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

HB

256

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

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

May, 1988

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

Mary Van Nimwegen

House Judiciary:

5-4-87

5-9-87



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

5MB 256

April 7, 1987

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that cures some serious technical problems with the penalty provisions in AS 19 (highway laws).

The bill establishes penalties for violating a provision in existing law which prohibits driving a vehicle within five miles of the James Dalton Highway (the North Slope haul road). Existing law, while prohibiting such conduct, does not specify a penalty for violation of the law. Because of this apparently inadvertent omission, there is no practical way to ensure compliance with the law.

The passage of motorized vehicles over the fragile terrain that surrounds the Dalton Highway can cause significant and long-term environmental damage. Recognizing this problem, this bill broadens the prohibition from "off-road vehicles" (a term that is not defined in AS 19) to all "motor vehicles" as defined under AS 28.40.100. The bill also clarifies, and slightly expands, the exceptions to the general prohibition.

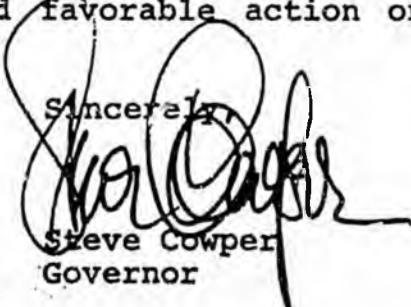
Because it may be difficult at times to prove a person's intent to violate this law, the attached bill makes violation of the statute a "strict liability" offense. This means that the state need not prove that the offender intended to break the law, only that he voluntarily committed an act that did violate the law. Under the bill, the offense is classified as a "violation," punishable by a maximum fine of \$300; no jail time may be imposed. If it can be proved that the offender acted with "criminal negligence," however -- that is, his conduct was a gross deviation from the standard of care that a reasonable person would observe in the situation (see AS 11.81.900(a)(4)) -- his conduct would constitute a class B misdemeanor offense, punishable by up to 90 days in jail, up to a \$1,000 fine, or both.

The bill also amends AS 19.45.002 to explicitly provide that the penalties set out in that section apply not only to violations of the designated chapters of the statute, but to regulations adopted under those chapters. This clarification is needed to allow the state to regain the ability to enforce existing regulations regarding commercial vehicle width, height, and weight. Although these regulations have been in effect for many years, and have been enforced under the authority of AS 19.45.002 since at least 1972, the new "bail schedule" contained in the "Vehicle and Traffic Offenses" booklet issued by the Alaska Court System on January 1, 1987 states that 17 AAC 25.020 -- 17 AAC 25.060 and 17 AAC 25.100, regarding vehicle width, height, load, road closures and restrictions, etc., "are not enforceable because there is no penalty in the statutes (AS 19) for violation of the regulations." Vehicle Booklet at 27. The new bail schedule does not include a bail amount for violations of these regulations, effectively precluding enforcement of the existing regulations. The absence of any enforceable vehicle weight, height, or width limits, or road closure provisions, will have a devastating effect on highway safety and the protection of the roadway surfaces in Alaska; this problem should be addressed as quickly as possible.

The language of AS 19.45.002 is also updated by making a violation of the designated provisions a "class B misdemeanor" offense, a cross-reference to the classification and penalty structures contained in Alaska's revised criminal code. The substance of new subsec. (b) was taken from existing AS 28.40.050(e), and makes clear that, notwithstanding the general penalty provision, the penalty for a violation of a vehicle weight limit is a fine of five cents for each pound of weight over the authorized limit.

To protect the state's roadway surfaces, the people who travel on them, and the fragile terrain along the Dalton Highway, I urge your prompt and favorable action on this measure.

Sincerely,



Steve Cowper
Governor

BILL NO: HB 256

DATE: 4/22/87

TITLE: "An Act relating to driving
motor vehicles in the vicinity
of the James Dalton Highway..."

CONTACT: James D. Vaden
Deputy Commissioner
465-4322

DEPARTMENT OF
PUBLIC SAFETY

The bill establishes penalties for violating a provision in existing law which prohibits driving a vehicle within five miles of the James Dalton Highway (the North Slope haul road). Existing law, while prohibiting such conduct, does not specify a penalty for violation of the law. Because of this apparently inadvertent omission, there is no practical way to ensure compliance with the law.

HB 256 broadens the prohibition from "off-road vehicles" (a term that is not defined in AS 19) to all "motor vehicles" as defined under AS 28.40.100. It further clarifies, and slightly expands, the exceptions to the general prohibition.

This bill makes violation of the statute a "strict liability" offense. This means that the state need not prove that the offender intended to break the law, only that he voluntarily committed an act that did violate the law. Under the bill, the offense is classified as a "violation," punishable by a maximum fine of \$300; no jail time may be imposed. If it can be proved that the offender acted with "criminal negligence," however -- that is, his conduct was a gross deviation from the standard of care that a reasonable person would observe in the situation (see AS 11.81.900(a)(4)) -- his conduct would constitute a class B misdemeanor offense, punishable by up to 90 days in jail, up to a \$1,000 fine, or both.

This bill also amends AS 19.45.002 to explicitly provide that the penalties set out in that section apply not only to violations of the designated chapters of the statute, but to regulations adopted under those chapters. This clarification is needed to allow the state to regain the ability to enforce existing regulations regarding commercial vehicle width, height, and weight. Although these regulations have been in effect for many years, and have been enforced under the authority of AS 19.45.002 since at least 1972, the new "bail schedule" contained in the "Vehicle and Traffic Offenses" booklet issued by the Alaska Court System on January 1, 1987 states that 17 AAC 25.020 -- 17 AAC 25.060 and 17 AAC 25.100, regarding vehicle width, height, load, road closures and restrictions, etc., "are not enforceable because there is no penalty in the statutes (AS 19) for violation of the regulations." Vehicle Booklet at 27. The new bail schedule does not include a bail amount for violations of these regulations, effectively precluding enforcement of the existing regulations. The absence of any enforceable vehicle weight, height, or width limits, or road closure provisions, will have a devastating effect on highway safety and the protection of the roadway surfaces in Alaska; this problem should be addressed as quickly as possible.

The language of AS 19.45.002 is also updated by making a violation of the designated provisions a "class B misdemeanor" offense, a cross-reference to the

Position Paper
HB 256
Page 2

classification and penalty structures contained in Alaska's revised criminal code. The substance of the new subsec. (b) was taken from existing AS 28.40.050(e), and makes clear that, notwithstanding the general penalty provision, the penalty for a violation of a vehicle weight limit is a fine of five cents for each pound of weight over the authorized limit.

Passage of this bill would help to protect the state's roadway surfaces and the frozen terrain along the Dalton Highway.

The Department of Public Safety supports this legislation.



Arthur English
Commissioner

HOUSE COMMITTEE REPORT

5/9
Ruled

(7)

Date referred: 4/27/87

FURTHER REFERRALS:

DATE: 5-9-87

The Judiciary Committee has considered HB 256

"An Act relating to driving motor vehicles in the vicinity of the James Dalton Highway; providing penalties for violations of motor vehicle laws; and providing for an effective date."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published 4-8-87 4-27-87
- zero with analysis

SIGNING DO PASS:

[Signature]

Joe Goh

SIGNING OTHER RECOMMENDATIONS:

[Signature]

Adin L. Taylor no rec

Mr. F. [Signature] no rec

Chairman's signature

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2

HOUSE BILL NO. 256

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to driving motor vehicles in the vicinity of the James Dalton Highway; providing penalties for violations of motor vehicle laws; and providing for an effective date."

7

8

9

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

11

* Section 1. AS 19.40.210 is amended to read:

12

Sec. 19.40.210. PROHIBITION OF MOTOR [OFF-ROAD] VEHICLES. A

13

person may not drive a motor vehicle, as defined in AS 28.40.100,

14

[OFF-ROAD VEHICLES ARE PROHIBITED] on land within five miles of the

15

[RIGHT-OF-WAY OF THE] highway. However, this prohibition does not

16

apply to

17

(1) motor [OFF-ROAD] vehicles necessary for oil and gas

18

exploration, development, production, or transportation;

19

(2) [OR TO] a person who holds an interest in land [A

20

MINING CLAIM] in the vicinity of the highway and who must use land

21

within five miles of the [RIGHT-OF-WAY OF THE] highway to gain access

22

to that person's interest in land [THE MINING CLAIM]; or

23

(3) motor vehicle use on another highway, road, easement,

24

or other valid right-of-way on land within five miles of the James

25

Dalton Highway.

26

* Sec. 2. AS 19.40.210 is amended by adding new subsections to read:

27

(b) Violation of this section is a strict liability offense.

28

Except as provided in (c) of this section, a person who violates this

29

section is guilty of a violation as defined in AS 11.81.900, and is

1 punishable under AS 12.55.035.

2 (c) A person who, with criminal negligence, violates this sec-
3 tion is guilty of a class B misdemeanor.

4 * Sec. 3. AS 19.45.002 is amended to read:

5 Sec. 19.45.002. PENALTIES. (a) A person who violates any
6 provision of AS 19.05 -- AS 19.25, or a regulation adopted under
7 AS 19.05 -- AS 19.25, is guilty of a class B misdemeanor [AND UPON
8 CONVICTION IS PUNISHABLE BY A FINE OF NOT LESS THAN \$10 NOR MORE THAN
9 \$500, OR BY IMPRISONMENT IN JAIL FOR A PERIOD NOT TO EXCEED ONE YEAR,
10 OR BY BOTH].

11 (b) Notwithstanding the maximum fine provided under (a) of this
12 section, overweight penalties, for the violation of regulations or
13 special permits issued governing vehicle weight limits, shall be
14 imposed at the rate of five cents for each pound of weight over the
15 authorized weight limit for that vehicle.

16 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: 3-23-87

Bill Version: HB 256
Publish Date: HOUSE 4/8/87

Revision Date: _____

Agency Affected: _____

Title: Motor vehicles near Dalton Bay

BRU: _____

Sponsor: Administration

Components: _____

Requestor: Governor's Office

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

This proposed legislation would not have a fiscal impact on the Department of Transportation and Public Facilities.

Prepared by: H. Glenzer Jr. (signed)
Division: Regional Director, Northern Region

Phone: 451-2210
Date: 3/26/87

Approved by Commissioner: *M. L. S. III*
Agency: Transportation & Public Facilities

Date: 3/27/87

Distribution (by preparer):

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



H3256

Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

KARLA L. FORSYTHE
STAFF COUNSEL

303 K Street
Anchorage, Alaska 99501

(907) 264-8228

April 28, 1987

Joe Swanson
Director
Division of Measure Standards
Department of Commerce and Economic
Development
P. O. Box 111686
Anchorage, Alaska 99511

Dear Mr. Swanson:

Thank you for your letter of April 27, 1987. In response, it is the view of the court system that the appropriate way to resolve the issues you raise is to either (1) obtain an attorney general's opinion stating that AS 28.40.050 is a legally sound basis for enforcing weight violations, or (2) request the legislature to establish a clear basis for enforcement by adding a penalty for the 17AAC 25 regulation to Title 19 of the statutes.

It may be helpful to review the background of this matter from the court system's viewpoint. Prior to recent supreme court action, the statewide traffic bail schedule had not been revised since 1979. Both the bail forfeiture amounts and many of the offenses appeared to be out of date. One such offense was overweight violations, which had been listed on the bail schedule under the authority of 17 AAC 25.060, with a bail amount of five cents a pound. In April 1985 Joseph Balfe, Assistant Attorney General for Law Enforcement, concluded in response to a court system inquiry that regulations in 17 AAC do not fall under any public safety regulation under Title 28. He questioned whether any 17 AAC regulation is enforceable since AS 19.45.002 does not provide a penalty for violation of these regulations. The court system sought confirmation of this position from Commissioner Sundberg in July 1985, indicating that the court system proposed to eliminate all regulations under 17 AAC from the bail schedule, and asking if this approach created a problem or if the department wished to take a different approach to these offenses. Colonel Kolivosky responded for the department on August 7, 1985, and stated that "at this time it is still appropriate to eliminate the Traffic Bail Forfeiture Schedule under 17 AAC from the update."

Joe Swanson
April 28, 1987
Page Two

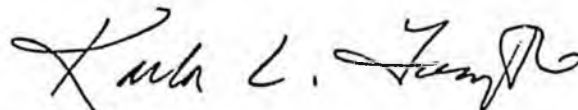
Although it could be argued that AS 28.40.050(e) provides a sufficient basis for enforcement, this particular statute has never appeared on the bail schedule as the authority for an overweight offense. There are strong arguments against viewing this section as authority for overweight penalties, given language in paragraphs (a) - (d) of AS 28.40.050, which refer to regulations adopted under Title 29. However, if the Department of Law takes the position that AS 28.40.050(e) provides adequate authority for enforcing overweight violations, the supreme court will give serious consideration to placing this offense on the bail schedule.

If the Department of Law does not believe that this provision contains adequate authority, the remaining way to resolve this matter is through legislation. As you know, the court system has brought this concern to the attention of the chairs of the Judiciary Committees in both the House and the Senate. With regard to Judge Stewart's administrative determination that the Anchorage court will no longer accept citations, I have spoken with Judge Stewart, and he has agreed that these citations may be filed with the court and money held in escrow until an attorney general's opinion is forthcoming on this issue.

As you point out, a decision that AS 28.40.050(e) does not provide sufficient authority for enforcement may have significant consequences. However, a determination about the legal authority to continue overweight enforcement under the provisions of AS 28 properly comes from the Department of Law or from the Legislature.

I hope this response is helpful. Please let me know if I can answer any questions.

Sincerely,



Karla L. Forsythe
Staff Counsel

KLF:bs

cc: Arthur H. Snowden, II Administrative Director
Susan Miller, Manager, Special Projects
Presiding Judges
Judge Dave Stewart
Judge Glen C. Anderson
Judge Natalie Finn
Magistrate Skip Slater
Magistrate Roy Williams
Sandy Ganong, Traffic
Robert G. Fisher, Fiscal Officer
Grace B. Schaible, Attorney General
Dean Guaneli, Assistant Attorney General
William Nix, Acting Public Safety Commissioner

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF MEASUREMENT STANDARDS

P.O. BOX 111686
ANCHORAGE, ALASKA 99511
PHONE: (907) 345-7750

April 27, 1987

Carla Forsythe, Staff Counsel
Alaska Court System
303 K Street
Anchorage, Alaska 99501

Dear Ms. Forsythe:

CSHB 586(FIN), effective July 1, 1982, transferred the operation of the motor vehicle weighing stations and the issuance of special permits authorizing the operation of overweight and oversize vehicles from the Department of Public Safety to the Department of Commerce and Economic Development.

We assumed that the authority existed for us to write citations for overweight violations (AS 28.40.050 (e) and size and permit violations under the same general authority. When we began the process to promulgate regulations for our new programs, we were informed that there were no sanctions for size and permit violations and that there was a question whether we in Commerce and Economic Development could use the Public Safety statute as our authority for the issuance of overweight citations.

Based on this information, we discontinued writing citations for size and permit violations and we continued to write citations for overweight, based on the Public Safety statute referring to a five cent per pound penalty.

In 1984, a piece of legislation was introduced into the Senate to correct this problem. The bill was passed out of the Senate late in the session and died in the house in 1985. In 1986, SB82 was introduced into the house to again correct this problem. SB82 was passed out of the Senate late in the session and was taken up by the House in 1986 and subsequently died again. In 1987, SB146 was introduced into the Senate, which should be scheduled for a floor vote very soon. A companion bill HB271 has been introduced in the House and referred to House transportation, where it should be heard soon.

In 1984, we had a discussion with, then Assistant Attorney General, Joe Balfe, who determined that the Alaska State Troopers had no authority to write citations for size or permit violations, due to the lack of sanction authority in Public Safety's statute and in Department of Transportation and Public Facility's statute. Joe Balfe subsequently wrote a memorandum confirming that determination, however, there was no discussion of the potential problem with overweight citations.

Carla Forsythe, Staff Counsel
April 27, 1987
Page 2

Approximately, January 1, 1987, the Alaska Supreme Court, in the process of developing an updated bail schedule, determined that there was no authority for the troopers or ourselves to write citations for overweight and therefore, did not include this item in the bail schedule.

The traffic court then informed us that they would not process our citations, however, they would accept them and hold any money collected in an escrow account until a final decision was made.

We have continued to write overweight citations pending this final decision.

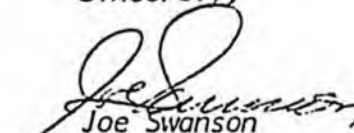
On Wednesday, April 22, 1987, we were informed by telephone that presiding District Judge Stewart had declared that all overweight citations written since January 1, 1987 were illegal and that we were not to file citations nor was the court to accept them and that the money held in escrow was to be deposited in the general fund.

We have a real problem, in that if, in fact, our citations and our enforcement actions are not legal, then we should close our weigh stations, rather than participate in an illegal activity. The closure of our weigh stations would create near chaos in the transportation industry, since there will be no size and weight enforcement. Further, we are advised by the Federal Highway Administration that closure of the weigh stations may very likely result in the loss of nearly \$15 million in Federal Highway Administration funding for our road system.

As mentioned before, there is legislation pending in both the House and the Senate to correct this problem, however, there are no guarantees that the legislation will pass.

We need a decision from the court system now, lest we jeopardize the integrity of our program, the credibility of our actions, \$15 million in highway funds, our own employees and the motoring public.

Sincerely,


Joe Swanson
Director

JS:cs/D.1.

4/28/87

Commentary On Proposed Bill
Providing Penalties For Violation
Of Vehicle Weight, Size And Load Regulations.

Section 1 of the proposed bill adds two new paragraphs to the general penalty statute for Title 19, AS 19.45.002. This penalty statute currently provides a penalty for violation of the statutes in Chapters 5-25 of Title 19, but does not provide a penalty for any of the regulations adopted under the authority of these statutes. The lack of such a penalty makes it questionable whether these regulations are enforceable. The specific regulations currently in question are the 17 AAC 25 regulations establishing limitations on weight, size and load of vehicles. These regulations were adopted under the authority of AS 19.10.060.

New paragraph (b) solves this problem by adding a specific penalty for violations of vehicle weight, size and load regulations. The penalty for a "violation" specified in AS 12.55.035(b)(5) is a fine of no more than \$300. A "violation" is the most minor type of offense in our criminal code. It does not require proof of a culpable mental state. AS 11.81.600. Under AS 11.81.900(b)(56), a "violation" is a non-criminal offense punishable only by a fine, but not by imprisonment or other penalty; conviction of a violation does not give rise to any disability or legal disadvantage based on conviction of a crime; and a person charged with a violation is not entitled to a trial by jury or to have a public defender or other counsel appointed at public expense to represent the person.

New paragraph (c) limits the penalty for overweight vehicles to \$.05 per pound of weight over the authorized limit. This paragraph repeats almost verbatim the provisions presently found in AS 28.40.050(e). The reason for moving this paragraph from AS 28.40.050 to AS 19.45.002 is that Title 28 is not an appropriate place for such a penalty limitation since (1) the overweight vehicle regulation is not promulgated under the authority of Title 28 and (2) the Department of Public Safety is no longer involved in the enforcement of these regulations. (See sec. 3, ch 77, SLA 1982.) Presumably the penalty for an overweight vehicle could exceed the \$300 maximum established in paragraph (b) only if the vehicle exceeds a weight limit by more than 6,000 pounds. It should be noted that the \$.05 per pound penalty has been in effect for over ten years. In that time period the penalties for other vehicle and traffic offenses have doubled (as shown by changes in the bail amounts listed on the traffic bail forfeiture schedule which the supreme court is required by AS 28.05.151 to promulgate). The legislature, therefore, may want to consider raising the \$.05 limit.

Section 2 of the proposed bill repeals AS 28.40.050(e) because this sub-paragraph has been moved to AS 19.45.002 as described above.

For an Act entitled: "An Act relating to penalties for vehicle weight, size and load regulations; and providing for an effective date."

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

Section 1. AS 19.45.002 is amended to read:

Sec. 19.45.002. Penalties. (a) A person who violates any provision of chs. 5-25 of this title is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$500, or by imprisonment in jail for a period not to exceed one year, or by both.

(b) A person who violates a regulation adopted under this title establishing limitations on weight, size and load of vehicles is guilty of a violation and is subject to the penalty specified in AS 12.55.035(b)(5).

(c) Notwithstanding the maximum fine provided for violations under (b) of this section, for the violation of regulations or special permits issued governing vehicle weight limits, overweight penalties shall be imposed at the rate of five cents for each pound of weight over the authorized weight limit for that vehicle.

Sec. 2. AS 28.40.050(e) is repealed.

Sec. 3. This Act takes effect immediately under AS 01.10.070.

HOUSE COMMITTEE REPORT

Date referred: 4/8/87

FURTHER REFERRALS: Judiciary

DATE: April 24, 1987

The Transportation Committee has considered HB 256

"An Act relating to driving motor vehicles in the vicinity of the James Dalton Highway; providing penalties for violations of motor vehicle laws; and providing for an effective date."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING TO PASS:

SIGNING OTHER RECOMMENDATIONS:

Bob Boucher

Bill Huds

Heinrich Springs

Bette Cato

Bette Cato
Chairman's signature

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST

Revision Date: _____
 Title: An Act relating to driving
in the vicinity of the James Dalton..
 Sponsor: Rules Comm./Governor
 Requestor: House Transportation

Bill Version: HB 256
 Publish Date: _____
 Agency Affected: Public Safety
 BRU: Fish & Wildlife Protection
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING:: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated.

Prepared by: K. Niles
 Division: Commissioner's Office
 Approved by Commissioner: [Signature]
 Agency: Public Safety

Phone: 465-4336
 Date: 4/22/87
 Date: 4/24/87

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)
 Senate Secretary

JM
4/24/87

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: 3-23-87
 Revision Date: _____
 Title: Motor vehicles near Dalton Hwy
 Sponsor: Administration
 Requestor: Governor's Office

Bill Version: HB 256
 Publish Date: HOUSE 4/8/87

Agency Affected: _____
 BRU: _____
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

This proposed legislation would not have a fiscal impact on the Department of Transportation and Public Facilities.

Prepared by: H. Glenzer Jr. (signed) Phone: 451-2210
 Division: Regional Director, Northern Region Date: 3/25/87

Approved by Commissioner: *M. P. S. H.* Date: 3/27/87
 Agency: Transportation & Public Facilities

- Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)
 Senate Secretary

HB

261

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907.465.3800

LEGISLATIVE AFFAIRS AGENCY
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May, 1988

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

Mary Van Nimwegen

House Judiciary:

2-12-88

2-16-88

2-17-88

5-0634X ✓

Ford
2/15/88

Original sponsors: Gruenberg, Barnes,
Donley, et-al.

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 261 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to ignition interlock devices; and
7 establishing a class C misdemeanor."

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

9 * Section 1. AS 09.50.250 is amended to read:

10 Sec. 09.50.250. ACTIONABLE CLAIMS AGAINST THE STATE. A person
11 or corporation having a contract, quasi-contract, or tort claim
12 against the state may bring an action against the state in the superi-
13 or court. A person who may present the claim under AS 44.77 may not
14 bring an action under this section except as set out in AS 44.77.-
15 040(c). A person who may bring an action under AS 36.30.560 -
16 36.30.695 may not bring an action under this section except as set out
17 in AS 36.30.685. However, an [NO] action may not be brought under
18 this section if the claim

19 (1) is an action for tort, and is based upon an act or
20 omission of an employee of the state, exercising due care, in the
21 execution of a statute or regulation, whether or not the statute or
22 regulation is valid; or is an action for tort, and based upon the
23 exercise or performance or the failure to exercise or perform a dis-
24 cretionary function or duty on the part of a state agency or an em-
25 ployee of the state, whether or not the discretion involved is abused;

26 (2) is for damages caused by the imposition or establish-
27 ment of a quarantine by the state;

28 (3) arises out of assault, battery, false imprisonment,
29 false arrest, malicious prosecution, abuse of process, libel, slander,

misrepresentation, deceit, or interference with contract rights; or
(4) arises out of the use of an ignition interlock device
certified under AS 33.30.020(c).

* Sec. 2. AS 11.76 is amended by adding a new section to read:

Sec. 11.76.140. AVOIDANCE OF IGNITION INTERLOCK DEVICE. (a) A person may not knowingly

(1) circumvent or tamper with an ignition interlock device in a manner intended to allow a person on probation under AS 12.55.102 to avoid using the device; or

(2) rent, loan, or lease a motor vehicle to a person on probation under AS 12.55.102, unless the vehicle is equipped with an ignition interlock device described in AS 12.55.102.

(b) A person convicted of violating this section is guilty of a class C misdemeanor.

* Sec. 3. AS 12.55.035(b) is amended to read:

(b) Upon conviction of an offense, a defendant who is not an organization may be sentenced to pay, unless otherwise specified in the provision of law defining the offense, a fine of no more than

(1) \$75,000 for murder in the first or second degree, sexual assault in the first degree, kidnapping, or misconduct involving a controlled substance in the first degree;

(2) \$50,000 for a class A, B, or C felony;

(3) \$5,000 for a class A misdemeanor;

(4) \$1,000 for a class B misdemeanor;

(5) \$500 for a class C misdemeanor;

(6) \$300 for a violation.

* Sec. 4. AS 12.55 is amended by adding a new section to read:

Sec. 12.55.102. ALCOHOL RELATED OFFENSES. (a) The court may order as a condition of probation that a defendant convicted of an

1 offense involving the use, consumption, or possession of an alcoholic
2 beverage may not operate a motor vehicle during the period of pro-
3 bation unless the vehicle is equipped with a properly functioning,
4 monitored, and maintained ignition interlock device. A condition of
5 probation imposed under this subsection takes effect after any period
6 of license revocation imposed under AS 28.15.165(d) or 28.15.181(c).

7 (b) The court, in imposing probation under (a) of this section,
8 may allow the defendant limited privileges to drive a motor vehicle
9 without an ignition interlock device if the court determines that the
10 defendant is required as a condition of employment to drive a motor
11 vehicle owned or leased by the defendant's employer and that the
12 defendant's driving will not create substantial danger. If the court
13 imposes probation described by this subsection, the court shall re-
14 quire the defendant to notify the defendant's employer of the proba-
15 tion, and shall require that the defendant, while driving the em-
16 ployer's vehicle, carry a letter from the employer authorizing the
17 defendant to drive that vehicle.

18 (c) A court imposing a condition of probation under this section
19 shall require the surrender of the driver's license and shall issue to
20 the defendant a certificate valid for the duration of the probation or
21 a copy of the defendant's judgment of conviction. The defendant shall
22 bear all costs associated with fulfilling the condition of probation,
23 including installation, repair, and monitoring of an ignition inter-
24 lock device.

25 (d) The court may include the cost of the ignition interlock
26 device as a part of the fine required to be imposed against the defen-
27 dant under AS 28.35.030(c) or 28.35.032(g).

28 (e) In this section, "ignition interlock device" means equipment
29 designed to prevent a motor vehicle from being operated by a person

1 who has consumed an alcoholic beverage, and that has been certified by
2 the commissioner of corrections under AS 33.05.020.

3 * Sec. 5. AS 12.55.135 is amended by adding a new subsection to read:

4 (f) A defendant convicted of a class C misdemeanor may be sen-
5 tenced to a definite term of imprisonment of not more than 30 days
6 unless otherwise specified in the provision of law defining the of-
7 fense.

8 * Sec. 6. AS 28.35.030(c) is amended to read:

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

1 with substantially similar elements; (2) refusal to submit to a chemi-
2 cal test under AS 28.35.032 or another law or ordinance with substan-
3 tially similar elements. The execution of sentence may not be sus-
4 pended nor may probation be granted except on condition that the
5 minimum imprisonment provided in this section is served. Probation
6 may be conditioned as provided in AS 12.55.102. Imposition of sen-
7 tence 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 shall be revoked in accordance with AS 28.-
10 15.181 and the vehicle used in commission of the offense may be for-
11 feited under AS 28.35.036. In addition, the court shall order, and a
12 person convicted under this section shall undertake, for a term spec-
13 ified by the court, that program of alcohol education or rehabilita-
14 tion that the court, after consideration of any information compiled
15 under (d) of this section, finds appropriate.

16 * Sec. 7. AS 28.35.030 is amended by adding a new subsection to read:

17 (h) Notwithstanding (c) of this section, if the court imposes
18 probation under AS 12.55.102 the court may reduce the fine required to
19 be imposed under (c) of this section by the cost of the ignition
20 interlock device.

21 * Sec. 8. AS 28.35.032(g) is amended to read:

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

1 court shall impose a minimum sentence of imprisonment of not less than
2 20 consecutive days and a fine of not less than \$500 if, within the
3 preceding 10 years, the person has been previously convicted once in
4 this or another jurisdiction of driving while intoxicated under
5 AS 28.35.030 or another law or ordinance with substantially similar
6 elements or refusal to submit to a chemical test under this section or
7 another law or ordinance with substantially similar elements. Upon
8 conviction under this section the court shall impose a minimum sen-
9 tence of imprisonment of not less than 30 consecutive days and a fine
10 of not less than \$1,000, if, within the previous 10 years, the person
11 has been previously convicted in this or another jurisdiction of more
12 than one of the following offenses or has more than once been previ-
13 ously convicted of one of the following offenses: (1) driving while
14 intoxicated under AS 28.35.030 or another law or ordinance with sub-
15 stantially similar elements; (2) refusal to submit to a chemical test
16 under this section or another law or ordinance with substantially
17 similar elements. The execution of sentence may not be suspended nor
18 may probation be granted except on condition that the minimum impris-
19 onment provided in this section is served. Probation may be condi-
20 tioned as provided in AS 12.55.102. Imposition of sentence may not be
21 suspended. If the offense involved driving a motor vehicle for which
22 a driver's license is required, the person's driver's license shall be
23 revoked under AS 28.15.181. In addition, the court shall order, and a
24 person convicted under this section shall undertake, for a term speci-
25 fied by the court, that program of alcohol education or rehabilitation
26 that the court, after consideration of any information compiled under
27 (h) of this section, finds appropriate. The sentence imposed by the
28 court under this subsection shall run consecutively with any other
29 sentence of imprisonment imposed on the committed person.

1 * Sec. 9. AS 28.35.032 is amended by adding a new subsection to read:

2 (k) Notwithstanding (g) of this section, if the court imposes
3 probation under AS 12.55.102 the court may reduce the fine required to
4 be imposed under (g) of this section by the cost of the ignition
5 interlock device.

6 * Sec. 10. AS 30.05.020 is amended by adding new subsections to read:

7 (c) The commissioner shall by regulation establish standards for
8 calibration, certification, maintenance, and monitoring of ignition
9 interlock devices required as a condition of probation under AS 12.-
10 55.102. The manufacturer of the interlock ignition device shall
11 reimburse the state for the cost of certification. The department
2 shall notify the manufacturer of the ignition interlock device when
3 the device is certified.

4 (d) The commissioner may not certify an ignition interlock
5 device unless the device displays a label warning that a person cir-
6 cumventing or tampering with the device in violation of AS 11.76.140
7 is guilty of a class C misdemeanor.
8
9
0
1
2
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4
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(7)

HOUSE COMMITTEE REPORT

Date referred: 1/22/88

FURTHER REFERRALS: Finance

DATE: 2-17-88

The Judiciary Committee has considered HB 261

"An Act relating to ignition interlock devices; and establishing a class C misdemeanor."

RECOMMENDS:

- replace with CS HB 261 (Jud) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published 1-22-88
- zero with analysis

SIGNING DO PASS:

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

SIGNING OTHER RECOMMENDATIONS:

[Signature] (No Rec)

Chairman's signature

Original sponsors: Gruenberg, Barnes,
Donley, et al.

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 261 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to ignition interlock devices."

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

8 * Section 1. AS 09.50.250 is amended to read:

9 Sec. 09.50.250. ACTIONABLE CLAIMS AGAINST THE STATE. A person
10 or corporation having a contract, quasi-contract, or tort claim
11 against the state may bring an action against the state in the superi-
12 or court. A person who may present the claim under AS 44.77 may not
13 bring an action under this section except as set out in AS 44.77.-
14 040(c). A person who may bring an action under AS 36.30.560 -
15 36.30.695 may not bring an action under this section except as set out
16 in AS 36.30.685. However, an [NO] action may not be brought under
17 this section if the claim

18 (1) is an action for tort, and is based upon an act or
19 omission of an employee of the state, exercising due care, in the
20 execution of a statute or regulation, whether or not the statute or
21 regulation is valid; or is an action for tort, and based upon the
22 exercise or performance or the failure to exercise or perform a dis-
23 cretionary function or duty on the part of a state agency or an em-
24 ployee of the state, whether or not the discretion involved is abused;

25 (2) is for damages caused by the imposition or establish-
26 ment of a quarantine by the state;

27 (3) arises out of assault, battery, false imprisonment,
28 false arrest, malicious prosecution, abuse of process, libel, slander,
29 misrepresentation, deceit, or interference with contract rights; or

1 (4) arises out of the use of an ignition interlock device
2 certified under AS 33.30.020(c).

3 * Sec. 2. AS 11.76 is amended by adding a new section to read:

4 Sec. 11.76.140. AVOIDANCE OF IGNITION INTERLOCK DEVICE. (a) A
5 person may not knowingly

6 (1) circumvent or tamper with an ignition interlock device
7 in a manner intended to allow a person on probation under AS 12.55.102
8 to avoid using the device; or

9 (2) rent, loan, or lease a motor vehicle to a person on
10 probation under AS 12.55.102, unless the vehicle is equipped with an
11 ignition interlock device described in AS 12.55.102.

12 (b) A person convicted of violating this section is guilty of a
13 violation.

14 * Sec. 3. AS 12.55 is amended by adding a new section to read:

15 Sec. 12.55.102. ALCOHOL RELATED OFFENSES. (a) The court may
16 order as a condition of probation that a defendant convicted of an
17 offense involving the use, consumption, or possession of an alcoholic
18 beverage may not operate a motor vehicle during the period of pro-
19 bation unless the vehicle is equipped with a properly functioning,
20 monitored, and maintained ignition interlock device. A condition of
21 probation imposed under this subsection takes effect after any period
22 of license revocation imposed under AS 28.15.165(d) or 28.15.181(c).

23 (b) The court, in imposing probation under (a) of this section,
24 may allow the defendant limited privileges to drive a motor vehicle
25 without an ignition interlock device if the court determines that the
26 defendant is required as a condition of employment to drive a motor
27 vehicle owned or leased by the defendant's employer and that the
28 defendant's driving will not create substantial danger. If the court
29 imposes probation described by this subsection, the court shall

1 require the defendant to notify the defendant's employer of the proba-
2 tion, and shall require that the defendant, while driving the em-
3 ployer's vehicle, carry a letter from the employer authorizing the
4 defendant to drive that vehicle.

5 (c) A court imposing a condition of probation under this section
6 shall require the surrender of the driver's license and shall issue to
7 the defendant a certificate valid for the duration of the probation or
8 a copy of the defendant's judgment of conviction. The defendant shall
9 bear all costs associated with fulfilling the condition of probation,
10 including installation, repair, and monitoring of an ignition inter-
11 lock device.

12 (d) The court may include the cost of the ignition interlock
13 device as a part of the fine required to be imposed against the defen-
14 dant under AS 28.35.030(c) or 28.35.032(g).

15 (e) In this section, "ignition interlock device" means equipment
16 designed to prevent a motor vehicle from being operated by a person
17 who has consumed an alcoholic beverage, and that has been certified by
18 the commissioner of corrections under AS 33.05.020.

19 * Sec. 4. AS 28.35.030(c) is amended to read:

20 (c) Upon conviction under this section the court shall impose a
21 minimum sentence of imprisonment of not less than 72 consecutive hours
22 and a fine of not less than \$250 if the person has not been previously
23 convicted in this or another jurisdiction of driving while intoxicated
24 under this or another law or ordinance with substantially similar
25 elements or refusal to submit to a chemical test under AS 28.35.032 or
26 another law or ordinance with substantially similar elements. Upon
27 conviction under this section the court shall impose a minimum sen-
28 tence of imprisonment of not less than 20 consecutive days and a fine
29 of not less than \$500 if, within the preceding 10 years, the person

1 has been previously convicted once in this or another jurisdiction of
2 driving while intoxicated under this or another law or ordinance with
3 substantially similar elements or refusal to submit to a chemical test
4 under AS 28.35.032 or another law or ordinance with substantially
5 similar elements. Upon conviction under this section the court shall
6 impose a minimum sentence of imprisonment of not less than 30 consecu-
7 tive days and a fine of not less than \$1,000 if, within the preceding
8 10 years, the person has been previously convicted in this or another
9 jurisdiction of more than one of the following offenses or has more
10 than once been previously convicted of one of the following offenses:
11 (1) driving while intoxicated under this or another law or ordinance
12 with substantially similar elements; (2) refusal to submit to a chemi-
13 cal test under AS 28.35.032 or another law or ordinance with substan-
14 tially similar elements. The execution of sentence may not be sus-
15 pended nor may probation be granted except on condition that the
16 minimum imprisonment provided in this section is served. Probation
17 may be conditioned as provided in AS 12.55.102. Imposition of sen-
18 tence may not be suspended. In addition, if the offense involved
19 driving a motor vehicle for which a driver's license is required, the
20 person's driver's license shall be revoked in accordance with AS 28.-
21 15.181 and the vehicle used in commission of the offense may be for-
22 feited under AS 28.35.036. In addition, the court shall order, and a
23 person convicted under this section shall undertake, for a term spec-
24 ified by the court, that program of alcohol education or rehabilita-
25 tion that the court, after consideration of any information compiled
26 under (d) of this section, finds appropriate.

27 * Sec. 5. AS 28.35.030 is amended by adding a new subsection to read:

28 (h) Notwithstanding (c) of this section, if the court imposes
29 probation under AS 12.55.102 the court may reduce the fine required to

1 be imposed under (c) of this section by the cost of the ignition
2 interlock device.

3 * Sec. 6. AS 28.35.032(g) is amended to read:

4 (g) Upon conviction of a person under this section, the court
5 shall impose a minimum sentence of imprisonment of not less than 72
6 consecutive hours and a fine of not less than \$250 if the person has
7 not been previously convicted in this or another jurisdiction of
8 driving while intoxicated under AS 28.35.030 or another law or ordi-
9 nance with substantially similar elements or refusal to submit to a
10 chemical test under this section or another law or ordinance with
11 substantially similar elements. Upon conviction under this section the
12 court shall impose a minimum sentence of imprisonment of not less than
13 20 consecutive days and a fine of not less than \$500 if, within the
14 preceding 10 years, the person has been previously convicted once in
15 this or another jurisdiction of driving while intoxicated under
16 AS 28.35.030 or another law or ordinance with substantially similar
17 elements or refusal to submit to a chemical test under this section or
18 another law or ordinance with substantially similar elements. Upon
19 conviction under this section the court shall impose a minimum sen-
20 tence of imprisonment of not less than 30 consecutive days and a fine
21 of not less than \$1,000, if, within the previous 10 years, the person
22 has been previously convicted in this or another jurisdiction of more
23 than one of the following offenses or has more than once been previ-
24 ously convicted of one of the following offenses: (1) driving while
25 intoxicated under AS 28.35.030 or another law or ordinance with sub-
26 stantially similar elements; (2) refusal to submit to a chemical test
27 under this section or another law or ordinance with substantially
28 similar elements. The execution of sentence may not be suspended nor
29 may probation be granted except on condition that the minimum

1 imprisonment provided in this section is served. Probation may be
2 conditioned as provided in AS 12.55.102. Imposition of sentence may
3 not be suspended. If the offense involved driving a motor vehicle for
4 which a driver's license is required, the person's driver's license
5 shall be revoked under AS 28.15.181. In addition, the court shall
6 order, and a person convicted under this section shall undertake, for
7 a term specified by the court, that program of alcohol education or
8 rehabilitation that the court, after consideration of any information
9 compiled under (h) of this section, finds appropriate. The sentence
10 imposed by the court under this subsection shall run consecutively
11 with any other sentence of imprisonment imposed on the committed
12 person.

13 * Sec. 7. AS 28.35.032 is amended by adding a new subsection to read:

14 (k) Notwithstanding (g) of this section, if the court imposes
15 probation under AS 12.55.102 the court may reduce the fine required to
16 be imposed under (g) of this section by the cost of the ignition
17 interlock device.

18 * Sec. 8. AS 33.05.020 is amended by adding new subsections to read:

19 (c) The commissioner shall by regulation establish standards for
20 calibration, certification, maintenance, and monitoring of ignition
21 interlock devices required as a condition of probation under AS 12.-
22 55.102. The manufacturer of the interlock ignition device shall
23 reimburse the state for the cost of certification. The department
24 shall notify the manufacturer of the ignition interlock device when
25 the device is certified.

26 (d) The commissioner may not certify an ignition interlock
27 device unless the device displays a label warning that a person cir-
28 cumventing or tampering with the device in violation of AS 11.76.140
29 is guilty of a violation.

5-0634X ✓

Ford
2/15/88

Original sponsors: Gruenberg, Barnes,
Donley, et al.

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 261 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to ignition interlock devices; and
7 establishing a class C misdemeanor."

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

9 * Section 1. AS 09.50.250 is amended to read:

0 Sec. 09.50.250. ACTIONABLE CLAIMS AGAINST THE STATE: A person
1 or corporation having a contract, quasi-contract, or tort claim
2 against the state may bring an action against the state in the superi-
3 or court. A person who may present the claim under AS 44.77 may not
4 bring an action under this section except as set out in AS 44.77.-
5 040(c). A person who may bring an action under AS 36.30.560 -
6 36.30.695 may not bring an action under this section except as set out
7 in AS 36.30.685. However, an [NO] action may not be brought under
8 this section if the claim

9 (1) is an action for tort, and is based upon an act or
0 omission of an employee of the state, exercising due care, in the
1 execution of a statute or regulation, whether or not the statute or
2 regulation is valid; or is an action for tort, and based upon the
3 exercise or performance or the failure to exercise or perform a dis-
4 cretionary function or duty on the part of a state agency or an em-
5 ployee of the state, whether or not the discretion involved is abused;

6 (2) is for damages caused by the imposition or establish-
7 ment of a quarantine by the state;

8 (3) arises out of assault, battery, false imprisonment,
9 false arrest, malicious prosecution, abuse of process, libel, slander,

1 misrepresentation, deceit, or interference with contract rights; or
2 (4) arises out of the use of an ignition interlock device
3 certified under AS 33.30.020(c).

4 * Sec. 2. AS 11.76 is amended by adding a new section to read:

5 Sec. 11.76.140. AVOIDANCE OF IGNITION INTERLOCK DEVICE. (a) A
6 person may not knowingly

7 (1) circumvent or tamper with an ignition interlock device
8 in a manner intended to allow a person on probation under AS 12.55.102
9 to avoid using the device; or

10 (2) rent, loan, or lease a motor vehicle to a person on
11 probation under AS 12.55.102, unless the vehicle is equipped with an
12 ignition interlock device described in AS 12.55.102.

13 (b) A person convicted of violating this section is guilty of a
14 violation class C misdemeanor.

15 * Sec. 3. AS 12.55.035(b) is amended to read:

16 (b) Upon conviction of an offense, a defendant who is not an
17 organization may be sentenced to pay, unless otherwise specified in
18 the provision of law defining the offense, a fine of no more than

19 (1) \$75,000 for murder in the first or second degree,
20 sexual assault in the first degree, kidnapping, or misconduct involv-
21 ing a controlled substance in the first degree;

22 (2) \$50,000 for a class A, B, or C felony;

23 (3) \$5,000 for a class A misdemeanor;

24 (4) \$1,000 for a class B misdemeanor;

25 (5) \$500 for a class C misdemeanor;

26 (6) \$300 for a violation.

27 * Sec. 4. AS 12.55 is amended by adding a new section to read:

28 Sec. 12.55.102. ALCOHOL RELATED OFFENSES. (a) The court may
29 order as a condition of probation that a defendant convicted of an

1 offense involving the use, consumption, or possession of an alcoholic
2 beverage may not operate a motor vehicle during the period of pro-
3 bation unless the vehicle is equipped with a properly functioning,
4 monitored, and maintained ignition interlock device. A condition of
5 probation imposed under this subsection takes effect after any period
6 of license revocation imposed under AS 28.15.165(d) or 28.15.181(c).

7 (b) The court, in imposing probation under (a) of this section,
8 may allow the defendant limited privileges to drive a motor vehicle
9 without an ignition interlock device if the court determines that the
10 defendant is required as a condition of employment to drive a motor
11 vehicle owned or leased by the defendant's employer and that the
12 defendant's driving will not create substantial danger. If the court
13 imposes probation described by this subsection, the court shall re-
14 quire the defendant to notify the defendant's employer of the proba-
15 tion, and shall require that the defendant, while driving the em-
16 ployer's vehicle, carry a letter from the employer authorizing the
17 defendant to drive that vehicle.

18 (c) A court imposing a condition of probation under this section
19 shall require the surrender of the driver's license and shall issue to
20 the defendant a certificate valid for the duration of the probation or
21 a copy of the defendant's judgment of conviction. The defendant shall
22 bear all costs associated with fulfilling the condition of probation,
23 including installation, repair, and monitoring of an ignition inter-
24 lock device.

25 (d) The court may include the cost of the ignition interlock
26 device as a part of the fine required to be imposed against the defen-
27 dant under AS 28.35.030(c) or 28.35.032(g).

28 (e) In this section, "ignition interlock device" means equipment
29 designed to prevent a motor vehicle from being operated by a person

1 who has consumed an alcoholic beverage, and that has been certified by
2 the commissioner of corrections under AS 33.05.020.

3 * Sec. 5. AS 12.55.135 is amended by adding a new subsection to read:

4 (f) A defendant convicted of a class C misdemeanor may be sen-
5 tenced to a definite term of imprisonment of not more than 30 days
6 unless otherwise specified in the provision of law defining the of-
7 fense.

8 * Sec. 6. AS 28.35.030(c) is amended to read:

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

1 with substantially similar elements; (2) refusal to submit to a chemi-
2 cal test under AS 28.35.032 or another law or ordinance with substan-
3 tially similar elements. The execution of sentence may not be sus-
4 pended nor may probation be granted except on condition that the
5 minimum imprisonment provided in this section is served. Probation
6 may be conditioned as provided in AS 12.55.102. Imposition of sen-
7 tence 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 shall be revoked in accordance with AS 28.-
10 15.181 and the vehicle used in commission of the offense may be for-
11 feited under AS 28.35.036. In addition, the court shall order, and a
12 person convicted under this section shall undertake, for a term spec-
13 ified by the court, that program of alcohol education or rehabilita-
14 tion that the court, after consideration of any information compiled
15 under (d) of this section, finds appropriate.

16 * Sec. 7. AS 28.35.030 is amended by adding a new subsection to read:

17 (h) Notwithstanding (c) of this section, if the court imposes
18 probation under AS 12.55.102 the court may reduce the fine required to
19 be imposed under (c) of this section by the cost of the ignition
20 interlock device.

21 * Sec. 8. AS 28.35.032(g) is amended to read:

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

7

5 shall impose a minimum sentence of imprisonment of not less than
6 consecutive days and a fine of not less than \$500 if, within the
7 preceding 10 years, the person has been previously convicted once in
8 this or another jurisdiction of driving while intoxicated under
9 AS 28.35.030 or another law or ordinance with substantially similar
10 elements or refusal to submit to a chemical test under this section or
11 another law or ordinance with substantially similar elements. Upon
12 conviction under this section the court shall impose a minimum sen-
13 tence of imprisonment of not less than 30 consecutive days and a fine
14 of not less than \$1,000, if, within the previous 10 years, the person
15 has been previously convicted in this or another jurisdiction of more
16 than one of the following offenses or has more than once been previ-
17 ously convicted of one of the following offenses: (1) driving while
18 intoxicated under AS 28.35.030 or another law or ordinance with sub-
19 stantially similar elements; (2) refusal to submit to a chemical test
20 under this section or another law or ordinance with substantially
21 similar elements. The execution of sentence may not be suspended nor
22 may probation be granted except on condition that the minimum impris-
23 onment provided in this section is served. Probation may be condi-
24 tioned as provided in AS 12.55.102. Imposition of sentence may not be
25 suspended. If the offense involved driving a motor vehicle for which
26 a driver's license is required, the person's driver's license shall be
27 revoked under AS 28.15.181. In addition, the court shall order, and a
28 person convicted under this section shall undertake, for a term speci-
29 fied by the court, that program of alcohol education or rehabilitation
that the court, after consideration of any information compiled under
(h) of this section, finds appropriate. The sentence imposed by the
court under this subsection shall run consecutively with any other
sentence of imprisonment imposed on the committed person.

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

1 court shall impose a minimum sentence of imprisonment of not less than
2 20 consecutive days and a fine of not less than \$500 if, within the
3 preceding 10 years, the person has been previously convicted once in
4 this or another jurisdiction of driving while intoxicated under
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6 elements or refusal to submit to a chemical test under this section or
7 another law or ordinance with substantially similar elements. Upon
8 conviction under this section the court shall impose a minimum sen-
9 tence of imprisonment of not less than 30 consecutive days and a fine
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14 intoxicated under AS 28.35.030 or another law or ordinance with sub-
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26 that the court, after consideration of any information compiled under
27 (h) of this section, finds appropriate. The sentence imposed by the
28 court under this subsection shall run consecutively with any other
29 sentence of imprisonment imposed on the committed person.

AS

* Sec. 9. AS 28.35.032 is amended by adding a new subsection to read:

(k) Notwithstanding (g) of this section, if the court imposes probation under AS 12.55.102 the court may reduce the fine required to be imposed under (g) of this section by the cost of the ignition interlock device.

* Sec. 10. AS 33.05.020 is amended by adding new subsections to read:

(c) The commissioner shall by regulation establish standards for calibration, certification, maintenance, and monitoring of ignition interlock devices required as a condition of probation under AS 12.-55.102. The manufacturer of the interlock ignition device shall reimburse the state for the cost of certification. The department shall notify the manufacturer of the ignition interlock device when the device is certified.

(d) The commissioner may not certify an ignition interlock device unless the device displays a label warning that a person circumventing or tampering with the device in violation of AS 11.76.140 is guilty of a class B misdemeanor.

5-0634X ✓

Ford
2/15/88

*Accepted
2-16*

Original sponsors: Gruenberg, Barnes,
Donley, et-al.

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR HOUSE BILL NO. 261 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to ignition interlock devices; and
7 ~~establishing a class C misdemeanor."~~

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

9 * Section 1. AS 09.50.250 is amended to read:

10 Sec. 09.50.250. ACTIONABLE CLAIMS AGAINST THE STATE. A person
11 or corporation having a contract, quasi-contract, or tort claim
12 against the state may bring an action against the state in the superi-
13 or court. A person who may present the claim under AS 44.77 may not
14 bring an action under this section except as set out in AS 44.77.-
15 040(c). A person who may bring an action under AS 36.30.560 -
16 36.30.695 may not bring an action under this section except as set out
17 in AS 36.30.685. However, an [NO] action may not be brought under
18 this section if the claim

19 (1) is an action for tort, and is based upon an act or
20 omission of an employee of the state, exercising due care, in the
21 execution of a statute or regulation, whether or not the statute or
22 regulation is valid; or is an action for tort, and based upon the
23 exercise or performance or the failure to exercise or perform a dis-
24 cretionary function or duty on the part of a state agency or an em-
25 ployee of the state, whether or not the discretion involved is abused;

26 (2) is for damages caused by the imposition or establish-
27 ment of a quarantine by the state;

28 (3) arises out of assault, battery, false imprisonment,
29 false arrest, malicious prosecution, abuse of process, libel, slander,
30

1 misrepresentation, deceit, or interference with contract rights; or
2 (4) arises out of the use of an ignition interlock device
3 certified under AS 33.30.020(c).

4 * Sec. 2. AS 11.76 is amended by adding a new section to read:

5 Sec. 11.76.140. AVOIDANCE OF IGNITION INTERLOCK DEVICE. (a) A
6 person may not knowingly

7 (1) circumvent or tamper with an ignition interlock device
8 in a manner intended to allow a person on probation under AS 12.55.102
9 to avoid using the device; or

10 (2) rent, loan, or lease a motor vehicle to a person on
11 probation under AS 12.55.102, unless the vehicle is equipped with an
12 ignition interlock device described in AS 12.55.102.

13 (b) A person convicted of violating this section is guilty of a
14 class C misdemeanor.

15 * Sec. 3. AS 12.55.035(b) is amended to read:

16 (b) Upon conviction of an offense, a defendant who is not an
17 organization may be sentenced to pay, unless otherwise specified in
18 the provision of law defining the offense, a fine of no more than

19 (1) \$75,000 for murder in the first or second degree,
20 sexual assault in the first degree, kidnapping, or misconduct involv-
21 ing a controlled substance in the first degree;

22 (2) \$50,000 for a class A, B, or C felony;

23 (3) \$5,000 for a class A misdemeanor;

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26 (6) \$300 for a violation.

27 * Sec. 4. AS 12.55 is amended by adding a new section to read:

28 Sec. 12.55.102. ALCOHOL RELATED OFFENSES. (a) The court may
29 order as a condition of probation that a defendant convicted of an

1 offense involving the use, consumption, or possession of an alcoholic
2 beverage may not operate a motor vehicle during the period of pro-
3 bation unless the vehicle is equipped with a properly functioning,
4 monitored, and maintained ignition interlock device. A condition of
5 probation imposed under this subsection takes effect after any period
6 of license revocation imposed under AS 28.15.165(d) or 28.15.181(c).

7 (b) The court, in imposing probation under (a) of this section,
8 may allow the defendant limited privileges to drive a motor vehicle
9 without an ignition interlock device if the court determines that the
10 defendant is required as a condition of employment to drive a motor
11 vehicle owned or leased by the defendant's employer and that the
12 defendant's driving will not create substantial danger. If the court
13 imposes probation described by this subsection, the court shall re-
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16 ployer's vehicle, carry a letter from the employer authorizing the
17 defendant to drive that vehicle.

18 (c) A court imposing a condition of probation under this section
19 shall require the surrender of the driver's license and shall issue to
20 the defendant a certificate valid for the duration of the probation or
21 a copy of the defendant's judgment of conviction. The defendant shall
22 bear all costs associated with fulfilling the condition of probation,
23 including installation, repair, and monitoring of an ignition inter-
24 lock device.

25 (d) The court may include the cost of the ignition interlock
26 device as a part of the fine required to be imposed against the defen-
27 dant under AS 28.35.030(c) or 28.35.032(g).

28 (e) In this section, "ignition interlock device" means equipment
29 designed to prevent a motor vehicle from being operated by a person

1 who has consumed an alcoholic beverage, and that has been certified by
2 the commissioner of corrections under AS 33.05.020.

3 * Sec. 5. AS 12.55.135 is amended by adding a new subsection to read:

4 (f) A defendant convicted of a class C misdemeanor may be sen-
5 tenced to a definite term of imprisonment of not more than 30 days
6 unless otherwise specified in the provision of law defining the of-
7 fense.

8 * Sec. 6. AS 28.35.030(c) is amended to read:

9 (c) Upon conviction under this section the court shall impose a
0 minimum sentence of imprisonment of not less than 72 consecutive hours
1 and a fine of not less than \$250 if the person has not been previously
2 convicted in this or another jurisdiction of driving while intoxicated
3 under this or another law or ordinance with substantially similar
4 elements or refusal to submit to a chemical test under AS 28.35.032 or
5 another law or ordinance with substantially similar elements. Upon
6 conviction under this section the court shall impose a minimum sen-
7 tence of imprisonment of not less than 20 consecutive days and a fine
8 of not less than \$500 if, within the preceding 10 years, the person
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6 may be conditioned as provided in AS 12.55.102. Imposition of sen-
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8 driving a motor vehicle for which a driver's license is required, the
9 person's driver's license shall be revoked in accordance with AS 28.-
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12 person convicted under this section shall undertake, for a term spec-
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15 under (d) of this section, finds appropriate.

16 * Sec. 7. AS 28.35.030 is amended by adding a new subsection to read:

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20 interlock device.

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Amd #1

DEPARTMENT OF LAW

PROPOSED AMENDMENT TO CSHB 261 (HESS)

Page 2, line 28, following (a):
Insert "Subject to AS 28.15.165(d)
and AS 28.15.181(c),"

5-0634X

Ford
2/13/88

Original sponsors: Gruenberg, Barnes,
Donley, et al.

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 261 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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15 040(c). A person who may bring an action under AS 36.30.560 -
16 36.30.695 may not bring an action under this section except as set out
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21 execution of a statute or regulation, whether or not the statute or
22 regulation is valid; or is an action for tort, and based upon the
23 exercise or performance or the failure to exercise or perform a dis-
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25 ployee of the state, whether or not the discretion involved is abused;

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29 false arrest, malicious prosecution, abuse of process, libel, slander,

1 misrepresentation, deceit, or interference with contract rights; or
2 (4) arises out of the use of an ignition interlock device
3 certified under AS 33.30.020(c).

4 * Sec. 2. AS 11.76 is amended by adding a new section to read:

5 Sec. 11.76.140. AVOIDANCE OF IGNITION INTERLOCK DEVICE. (a) A
6 person may not knowingly

7 (1) circumvent or tamper with an ignition interlock device
8 in a manner intended to allow a person on probation under AS 12.55.102
9 to avoid using the device; or

10 (2) rent, loan, or lease a motor vehicle to a person on
11 probation under AS 12.55.102, unless the vehicle is equipped with an
12 ignition interlock device described in AS 12.55.102.

13 (b) A person convicted of violating this section is guilty of a
14 class C misdemeanor.

15 * Sec. 3. AS 12.55.035(b) is amended to read:

16 (b) Upon conviction of an offense, a defendant who is not an
17 organization may be sentenced to pay, unless otherwise specified in
18 the provision of law defining the offense, a fine of no more than

19 (1) \$75,000 for murder in the first or second degree,
20 sexual assault in the first degree, kidnapping, or misconduct involv-
21 ing a controlled substance in the first degree;

22 (2) \$50,000 for a class A, B, or C felony;

23 (3) \$5,000 for a class A misdemeanor;

24 (4) \$1,000 for a class B misdemeanor;

25 (5) \$500 for a class C misdemeanor;

26 (6) \$300 for a violation.

27 * Sec. 4. AS 12.55 is amended by adding a new section to read:

28 Sec. 12.55.102. ALCOHOL RELATED OFFENSES. (a) The court may
29 order as a condition of probation that a defendant convicted of an

1 offense involving the use, consumption, or possession of an alcoholic
2 beverage may not operate a motor vehicle during the period of pro-
3 bation unless the vehicle is equipped with a properly functioning,
4 monitored, and maintained ignition interlock device. A court imposing
5 a condition of probation under this subsection shall impose the condi-
6 tion after any period of license revocation imposed under
7 AS 28.15.165(d) or 28.15.181(c).

8 (b) The court, in imposing probation under (a) of this section,
9 may allow the defendant limited privileges to drive a motor vehicle
10 without an ignition interlock device if the court determines that the
11 defendant is required as a condition of employment to drive a motor
12 vehicle owned or leased by the defendant's employer and that the
13 defendant's driving will not create substantial danger. If the court
14 imposes probation described by this subsection, the court shall re-
15 quire the defendant to notify the defendant's employer of the proba-
16 tion, and shall require that the defendant, while driving the em-
17 ployer's vehicle, carry a letter from the employer authorizing the
18 defendant to drive that vehicle.

19 (c) A court imposing a condition of probation under this section
20 shall require the surrender of the driver's license and shall issue to
21 the defendant a certificate valid for the duration of the probation or
22 a copy of the defendant's judgment of conviction. The defendant shall
23 bear all costs associated with fulfilling the condition of probation,
24 including installation, repair, and monitoring of an ignition inter-
25 lock device.

26 (d) The court may include the cost of the ignition interlock
27 device as a part of the fine required to be imposed against the defen-
28 dant under AS 28.35.030(c) or 28.35.032(g).

29 (e) In this section, "ignition interlock device" means equipment

1 designed to prevent a motor vehicle from being operated by a person
2 who has consumed an alcoholic beverage, and that has been certified by
3 the commissioner of corrections under AS 33.05.020.

4 * Sec. 5. AS 12.55.135 is amended by adding a new subsection to read:

5 (f) A defendant convicted of a class C misdemeanor may be sen-
6 tenced to a definite term of imprisonment of not more than 30 days
7 unless otherwise specified in the provision of law defining the of-
8 fense.

9 * Sec. 6. 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 consec-
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. Probation
7 may be conditioned as provided in AS 12.55.102. Imposition of sen-
8 tence may not be suspended. In addition, if the offense involved
9 driving a motor vehicle for which a driver's license is required, the
10 person's driver's license shall be revoked in accordance with AS 28.-
11 15.181 and the vehicle used in commission of the offense may be for-
12 feited under AS 28.35.036. In addition, the court shall order, and a
13 person convicted under this section shall undertake, for a term spec-
14 ified by the court, that program of alcohol education or rehabilita-
15 tion that the court, after consideration of any information compiled
16 under (d) of this section, finds appropriate.

17 * Sec. 7. AS 28.35.030 is amended by adding a new subsection to read:

18 (h) Notwithstanding (c) of this section, if the court imposes
19 probation under AS 12.55.102 the court may reduce the fine required to
20 be imposed under (c) of this section by the cost of the ignition
21 interlock device.

22 * Sec. 8. AS 28.35.032(g) is amended to read:

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

1 substantially similar elements. Upon conviction under this section the
2 court shall impose a minimum sentence of imprisonment of not less than
3 20 consecutive days and a fine of not less than \$500 if, within the
4 preceding 10 years, the person has been previously convicted once in
5 this or another jurisdiction of driving while intoxicated under
6 AS 28.35.030 or another law or ordinance with substantially similar
7 elements or refusal to submit to a chemical test under this section or
8 another law or ordinance with substantially similar elements. Upon
9 conviction under this section the court shall impose a minimum sen-
10 tence of imprisonment of not less than 30 consecutive days and a fine
11 of not less than \$1,000, if, within the previous 10 years, the person
12 has been previously convicted in this or another jurisdiction of more
13 than one of the following offenses or has more than once been previ-
14 ously convicted of one of the following offenses: (1) driving while
15 intoxicated under AS 28.35.030 or another law or ordinance with sub-
16 stantially similar elements; (2) refusal to submit to a chemical test
17 under this section or another law or ordinance with substantially
18 similar elements. The execution of sentence may not be suspended nor
19 may probation be granted except on condition that the minimum impris-
20 onment provided in this section is served. Probation may be condi-
21 tioned as provided in AS 12.55.102. Imposition of sentence may not be
22 suspended. If the offense involved driving a motor vehicle for which
23 a driver's license is required, the person's driver's license shall be
24 revoked under AS 28.15.181. In addition, the court shall order, and a
25 person convicted under this section shall undertake, for a term speci-
26 fied by the court, that program of alcohol education or rehabilitation
27 that the court, after consideration of any information compiled under
28 (h) of this section, finds appropriate. The sentence imposed by the
29 court under this subsection shall run consecutively with any other

1 sentence of imprisonment imposed on the committed person.

2 * Sec. 9. AS 28.35.032 is amended by adding a new subsection to read:

3 (k) Notwithstanding (g) of this section, if the court imposes
4 probation under AS 12.55.102 the court may reduce the fine required to
5 be imposed under (g) of this section by the cost of the ignition
6 interlock device.

7 * Sec. 10. AS 33.05.020 is amended by adding new subsections to read:

8 (c) The commissioner shall by regulation establish standards for
9 calibration, certification, maintenance, and monitoring of ignition
10 interlock devices required as a condition of probation under AS 12.-
11 55.102. The manufacturer of the interlock ignition device shall
12 reimburse the state for the cost of certification. The department
13 shall notify the manufacturer of the ignition interlock device when
14 the device is certified.

15 (d) The commissioner may not certify an ignition interlock
16 device unless the device displays a label warning that a person cir-
17 cumventing or tampering with the device in violation of AS 11.76.140
18 is guilty of a class C misdemeanor.
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STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

September 2, 1987

SUBJECT: CSHB 261 - Ignition interlock devices
TO: Representative Max Gruenberg
FROM: Michael F. Ford *M.F.*
Legislative Counsel

The attached draft contains the changes requested in your letter dated July 20, 1987. You indicated that you wanted the court to be able to reduce the minimum fine imposed under AS 28.35.030 and 28.35.032 by the cost of the ignition interlock device. Under present law, the court does not have the authority to substitute the cost of an ignition interlock device for the minimum fine required by law. Therefore I have amended these sections to allow the court to reduce the fine in this manner. I have also added language regarding certification of the device, payment of costs by the manufacturer, and requiring a warning label. Finally, I have added a new section regarding the liability of the state for certifying the device, under AS 09.50.250.

Please contact me if you have questions or wish further changes to the draft.

MFF:mkr
m12/109

Attachment

5-0634L ✓
Ford
9/3/87

Original sponsors: Gruenberg, Barnes,
Donley, et al.

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 261 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to ignition interlock devices; and
7 establishing a class C misdemeanor."

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

9 * Section 1. AS 09.50.250 is amended to read:

10 Sec. 09.50.250. ACTIONABLE CLAIMS AGAINST THE STATE. A person
11 or corporation having a contract, quasi-contract, or tort claim
12 against the state may bring an action against the state in the superi-
13 or court. A person who may present the claim under AS 44.77 may not
14 bring an action under this section except as set out in AS 44.77.-
15 040(c). A person who may bring an action under AS 36.30.560 -
16 36.30.695 may not bring an action under this section except as set out
17 in AS 36.30.685. However, an [NO] action may not be brought under
18 this section if the claim

19 (1) is an action for tort, and is based upon an act or
20 omission of an employee of the state, exercising due care, in the
21 execution of a statute or regulation, whether or not the statute or
22 regulation is valid; or is an action for tort, and based upon the
23 exercise or performance or the failure to exercise or perform a dis-
24 cretionary function or duty on the part of a state agency or an em-
25 ployee of the state, whether or not the discretion involved is abused;

26 (2) is for damages caused by the imposition or establish-
27 ment of a quarantine by the state;

28 (3) arises out of assault, battery, false imprisonment,
29 false arrest, malicious prosecution, abuse of process, libel, slander,

1 misrepresentation, deceit, or interference with contract rights; or
2 (4) arises out of the use of an ignition interlock device
3 certified under AS 33.30.020(c).

4 * Sec. 2. AS 11.76 is amended by adding a new section to read:

5 Sec. 11.76.140. AVOIDANCE OF IGNITION INTERLOCK DEVICE. (a) A
6 person may not knowingly

7 (1) circumvent or tamper with an ignition interlock device
8 in a manner intended to allow a person on probation under AS 12.55.102
9 to avoid using the device; or

10 (2) rent, loan, or lease a motor vehicle to a person on
11 probation under AS 12.55.102, unless the vehicle is equipped with an
12 ignition interlock device described in AS 12.55.102.

13 (b) A person convicted of violating this section is guilty of a
14 class C misdemeanor.

15 * Sec. 3. AS 12.55.035(b) is amended to read:

16 (b) Upon conviction of an offense, a defendant who is not an
17 organization may be sentenced to pay, unless otherwise specified in
18 the provision of law defining the offense, a fine of no more than

19 (1) \$75,000 for murder in the first or second degree,
20 sexual assault in the first degree, kidnapping, or misconduct involv-
21 ing a controlled substance in the first degree;

22 (2) \$50,000 for a class A, B, or C felony;

23 (3) \$5,000 for a class A misdemeanor;

24 (4) \$1,000 for a class B misdemeanor;

25 (5) \$500 for a class C misdemeanor;

26 (6) \$300 for a violation.

27 * Sec. 4. AS 12.55 is amended by adding a new section to read:

28 Sec. 12.55.102. ALCOHOL RELATED OFFENSES. (a) The court may
29 order as a condition of probation that a defendant convicted of an

1 offense involving the use, consumption, or possession of an alcoholic
2 beverage may not operate a motor vehicle during the period of pro-
3 bation unless the vehicle is equipped with a properly functioning,
4 monitored, and maintained ignition interlock device.

5 (b) The court, in imposing probation under (a) of this section,
6 may allow the defendant limited privileges to drive a motor vehicle
7 without an ignition interlock device if the court determines that the
8 defendant is required as a condition of employment to drive a motor
9 vehicle owned or leased by the defendant's employer and that the
10 defendant's driving will not create substantial danger. If the court
11 imposes probation described by this subsection, the court shall re-
12 quire the defendant to notify the defendant's employer of the proba-
13 tion, and shall require that the defendant, while driving the em-
14 ployer's vehicle, carry a letter from the employer authorizing the
15 defendant to drive that vehicle.

16 (c) A court imposing a condition of probation under this section
17 shall require the surrender of the driver's license and shall issue to
18 the defendant a certificate valid for the duration of the probation or
19 a copy of the defendant's judgment of conviction. The defendant shall
20 bear all costs associated with fulfilling the condition of probation,
21 including installation, repair, and monitoring of an ignition inter-
22 lock device.

23 (d) The court may include the cost of the ignition interlock
24 device as a part of the fine required to be imposed against the defen-
25 dant under AS 28.35.030(c) or 28.35.032(g).

26 (e) In this section, "ignition interlock device" means equipment
27 designed to prevent a motor vehicle from being operated by a person
28 who has consumed an alcoholic beverage, and that has been certified by
29 the commissioner of corrections under AS 33.05.020.

1 * Sec. 5. AS 12.55.135 is amended by adding a new subsection to read:

2 (f) A defendant convicted of a class C misdemeanor may be sen-
3 tenced to a definite term of imprisonment of not more than 30 days
4 unless otherwise specified in the provision of law defining the of-
5 fense.

6 * Sec. 6. AS 28.35.030(c) is amended to read:

7 (c) Upon conviction under this section the court shall impose a
8 minimum sentence of imprisonment of not less than 72 consecutive hours
9 and a fine of not less than \$250 if the person has not been previously
10 convicted in this or another jurisdiction of driving while intoxicated
11 under this or another law or ordinance with substantially similar
12 elements or refusal to submit to a chemical test under AS 28.35.032 or
13 another law or ordinance with substantially similar elements. Upon
14 conviction under this section the court shall impose a minimum sen-
15 tence of imprisonment of not less than 20 consecutive days and a fine
16 of not less than \$500 if, within the preceding 10 years, the person
17 has been previously convicted once in this or another jurisdiction of
18 driving while intoxicated under this or another law or ordinance with
19 substantially similar elements or refusal to submit to a chemical test
20 under AS 28.35.032 or another law or ordinance with substantially
21 similar elements. Upon conviction under this section the court shall
22 impose a minimum sentence of imprisonment of not less than 30 consecu-
23 tive days and a fine of not less than \$1,000 if, within the preceding
24 10 years, the person has been previously convicted in this or another
25 jurisdiction of more than one of the following offenses or has more
26 than once been previously convicted of one of the following offenses:
27 (1) driving while intoxicated under this or another law or ordinance
28 with substantially similar elements; (2) refusal to submit to a chemi-
29 cal test under AS 28.35.032 or another law or ordinance with

1 substantially similar elements. The execution of sentence may not be
2 suspended nor may probation be granted except on condition that the
3 minimum imprisonment provided in this section is served. Probation
4 may be conditioned as provided in AS 12.55.102. Imposition of sen-
5 tence may not be suspended. In addition, if the offense involved
6 driving a motor vehicle for which a driver's license is required, the
7 person's driver's license shall be revoked in accordance with AS
8 28.15.181 and the vehicle used in commission of the offense may be
9 forfeited under AS 28.35.036. In addition, the court shall order, and
10 a person convicted under this section shall undertake, for a term
11 specified by the court, that program of alcohol education or reha-
12 bilitation that the court, after consideration of any information
13 compiled under (d) of this section, finds appropriate.

14 * Sec. 7. AS 28.35.030 is amended by adding a new subsection to read:

15 (h) Notwithstanding (c) of this section, if the court imposes
16 probation under AS 12.55.102 the court may reduce the fine required to
17 be imposed under (c) of this section by the cost of the ignition
18 interlock device.

19 * Sec. 8. AS 28.35.032(g) is amended to read:

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

1 preceding 10 years, the person has been previously convicted once in
2 this or another jurisdiction of driving while intoxicated under
3 AS 28.35.030 or another law or ordinance with substantially similar
4 elements or refusal to submit to a chemical test under this section or
5 another law or ordinance with substantially similar elements. Upon
6 conviction under this section the court shall impose a minimum sen-
7 tence of imprisonment of not less than 30 consecutive days and a fine
8 of not less than \$1,000, if, within the previous 10 years, the person
9 has been previously convicted in this or another jurisdiction of more
10 than one of the following offenses or has more than once been previ-
11 ously convicted of one of the following offenses: (1) driving while
12 intoxicated under AS 28.35.030 or another law or ordinance with sub-
13 stantially similar elements; (2) refusal to submit to a chemical test
14 under this section or another law or ordinance with substantially
15 similar elements. The execution of sentence may not be suspended nor
16 may probation be granted except on condition that the minimum impris-
17 onment provided in this section is served. Probation may be condi-
18 tioned as provided in AS 12.55.102. Imposition of sentence may not be
19 suspended. If the offense involved driving a motor vehicle for which
20 a driver's license is required, the person's driver's license shall be
21 revoked under AS 28.15.181. In addition, the court shall order, and a
22 person convicted under this section shall undertake, for a term speci-
23 fied by the court, that program of alcohol education or rehabilitation
24 that the court, after consideration of any information compiled under
25 (h) of this section, finds appropriate. The sentence imposed by the
26 court under this subsection shall run consecutively with any other
27 sentence of imprisonment imposed on the committed person.

28 * Sec. 9. AS 28.35.032 is amended by adding a new subsection to read:

29 (k) Notwithstanding (g) of this section, if the court imposes

1 probation under AS 12.55.102 the court may reduce the fine required to
2 be imposed under (g) of this section by the cost of the ignition
3 interlock device.

4 * Sec. 10. AS 33.05.020 is amended by adding new subsections to read:

5 (c) The commissioner shall by regulation establish standards for
6 calibration, certification, maintenance, and monitoring of ignition
7 interlock devices required as a condition of probation under AS 12.-
8 55.102. The manufacturer of the interlock ignition device shall
9 reimburse the state for the cost of certification. The department
10 shall notify the manufacturer of the ignition interlock device when
11 the device is certified.

12 (d) The commissioner may not certify an ignition interlock
13 device unless the device displays a label warning that a person
14 circumventing or tampering with the device in violation of AS 11.76.-
15 140 is guilty of a class C misdemeanor.
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State of Alaska

House Majority Leader

COMMITTEES

HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES
HOUSE JUDICIARY
HOUSE RULES



P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3718
465-4968/4986

914 CLAY COURT
ANCHORAGE, ALASKA 99503
(907) 276-6844

Representative Max F. Gruenberg, Jr.
District 11
Spenard, Upper Midtown Anchorage

M E M O R A N D U M

TO: Members of the House Judiciary Committee

FROM: Max F. Gruenberg, Jr. *MF*

DATE: February 8, 1988

RE: HB 261, "An Act relating to ignition interlock devices: and establishing a class C misdemeanor."

As explained in the enclosed Time Magazine article, HB 261 will allow judges to require persons convicted of alcohol-related offenses to install, at their expense, an "ignition interlock device" on their motor vehicles. This "mini-breathalyzer" prevents the car from starting unless the driver "blows clean."

Courts around the country have started to require these devices. Nineteen other state legislatures are presently considering ignition interlock legislation. Four states have already enacted laws establishing an interlock program. Four states have started ignition interlock programs through their court systems without statutes and two states have passed resolutions to start study programs.

Nationwide studies show that multiple DWI offenders sentenced to an ignition interlock program are three times less likely to be reconvicted than are those sentenced under conventional DWI sentencing practices. Moreover, a survey of offenders who have installed the device shows that most believe this is an effective method of preventing DWI's.

The cost to the defendant is about \$500.00 per year for installation and maintenance of the interlock device. The judge may deduct this cost from the defendant's fine.

If we can keep persons with known alcohol-related problems from driving while intoxicated, we can save many lives. I hope you will support the bill.

Enclosure

American Notes



Mayor Washington at a rally with senior citizens



The doomed Atlas-Centaur



If she had one for the road, her car won't start

CRIME

Etta Smith's Fatal Vision

For Etta Louise Smith, the nightmare began shortly before Christmas 1980, when she claims to have had a vision of something white, covered by brush. A Lockheed aerospace worker in Burbank, Calif., Smith does not consider herself a psychic. Yet after she heard radio reports about Nurse Melanie Uribe, 31, who had vanished on her way to work, Smith was convinced she knew where the body could be found. She took her information to the police, who put her off.

Smith then organized a search with two of her young children and a 20-year-old niece. In remote Lopez Canyon, 18 miles north of Los Angeles, her daughter spotted a white heap that turned out to be Uribe—robbed, raped and beaten to death. Smith told police of her discovery and was arrested for the murder.

While she was held in jail for four days, the killers—three men with prior arrest records—turned up. Smith, 39, filed a suit for false arrest. Last week Los Angeles County Superior Court Judge Joel Rudof ruled that despite Smith's detailed account of the murder of a woman she never knew or saw, police did not have probable cause to lock her up. Smith's attorney has asked for \$750,000 in damages; the jury's verdict is expected this week.

SPACE

A Bolt In the Blue

Atlas-Centaur rockets have been launching U.S. satellites into orbit for the past 25 years, but last week the sturdy workhorse suffered a rare failure. Less than a minute after lift-off from Pad 36B at Cape Canaveral in threatening weather, a \$78 million, 137-ft. rocket disappeared into rain-swollen thunderheads and went out of control. A range safety officer hit the destruct button, and the rocket exploded along with its payload, an \$83 million communications satellite. For NASA, struggling to recover from the loss of the *Challenger* shuttle 14 months ago, the aborted flight broke a string of seven successful launches since September. The cause was not immediately known, although a leading suspect was lightning.

INVENTIONS

Drunkproofing Automobiles

The crusade against drunk driving has gained an ingenious new weapon: the breath-test ignition lock. The auto's ignition is linked to a breath-alcohol measuring device, and it becomes impossible to start a car unless the driver is sober. Already used in some states, in-

cluding Ohio, Maryland and Michigan, and pending in a dozen or so others, the locks will undergo their first systematic trial in California by summer.

Intended as an alternative to jail terms and suspended licenses for drunk drivers, the locks have mouthpieces into which drivers must exhale to measure their breath-alcohol level. The manufacturers, Guardian Interlock Systems of Denver and Safety Interlock of Carmel, Calif., claim that built-in safeguards make it difficult for drivers to use compressed air or borrow a breath of fresh air from a friend. One unsolved problem: how to prevent a tipsy driver from borrowing a car that has not been drunkproofed.

CALIFORNIA

What's Yours Is Mine

Mount Pico Blanco near Big Sur contains 600 million tons of limestone, one of the largest deposits in the U.S. The Granite Rock Co. wants to quarry the scenic mountain, which is on federal land, while the California coastal commission wants to protect it. Last week the Supreme Court ruled 5 to 4 for the coastal commission, upholding the right of states to enforce environmental requirements even on federal property. California can require the mining company to obtain a state permit, even

though it had received a federal go-ahead. Fully 19 states, along with the National Governors' Association, had filed briefs as friends of the court on behalf of the coastal commission.

CHICAGO

Dishonorable Opponents

Chicago has never been known for civics-textbook politics, but this year's mayoral race amounts to a demolition derby. After winning February's Democratic primary, black Mayor Harold Washington has been challenged by two white opponents from his own party for the April 7 election, although both are running under minor-party labels. Yet Cook County Tax Assessor Thomas Hynes and Alderman Edward Vrdolyak are spending most of their time attacking each other.

After Vrdolyak accused Hynes of using his office as county tax assessor to gain more business for his law firm, Hynes was quoted in the *Chicago Sun Times* suggesting that Vrdolyak had met with a Mafia boss. Vrdolyak sued for libel and accused Hynes of being a "liar and a sleaze." Even Washington, who leads Hynes by 35% and Vrdolyak by 39%, could not resist stooping for a shot at his longtime enemy Vrdolyak. Said the mayor: "He's slime."

M E M O R A N D U M

TO: Members of the House Judiciary Committee

FROM: Max F. Gruenberg, Jr.

DATE: February 8, 1988

RE: Sectional Analysis for CSHB 261 (HESS) "An Act relating to sentencing in criminal actions involving alcohol; and establishing Class C misdemeanor."

Section 1

AS.09.50.250 (4) Provides the state with immunity in civil actions arising from the use of an ignition interlock system which has been certified by the Department of Corrections.

Section 2

AS 11.76.130 Makes it a Class C misdemeanor to tamper with an ignition interlock system or rent or loan a motor vehicle with the knowledge that to do so would help someone violate their probation.

Section 3

AS 12.55.035 (b) Sets the maximum fine for conviction of a Class C misdemeanor at \$500.00.

Section 4

AS 12.55.102 (a) Allows the court to require, as a condition of probation, that a person convicted of any alcohol-related offense, only drive a vehicle equipped with a certified ignition interlock system.

AS 12.55.102 (b) Allows the court to permit a limited exemption for a person to drive their employer's vehicle on the job.

AS 12.55.102 (c) Requires the surrender of the driver's license and the issuing of a special driver's certificate or a copy of the defendant's judgment of a conviction while the ignition interlock driving restriction applies. The defendant must bear all costs of installing and maintaining the device.

AS 12.55.120 (c) Defines ignition interlock device as a device certified by the Commissioner of Corrections that will prevent a motor vehicle from starting if the driver has consumed alcohol.

AS 12.55.120 (d) Allows a court to deduct the cost of an ignition interlock device as part of the fine imposed against the defendant.

Section 5

AS 12.55.135 (f) Sets the maximum term of imprisonment for a Class 'C' misdemeanor at 30 days.

Section 6

AS 28.35.030 Amends the DWI statute to allow the imposition of an ignition interlock restriction as a condition of probation.

Section 7

AS 28.35.030 (h) Amends the statute that sets minimum fines for a DWI conviction in order to allow the court to deduct the cost of an ignition interlock device from the fine imposed.

Section 8

AS 28.35.032 (g) Amends the statute that sets minimum fines for refusal to submit to a chemical test to allow the imposition of an ignition interlock restriction as a condition of probation.

Section 9

AS 28.35.032 (k) Amends the statute that sets the minimum fines for refusal to submit to a chemical test in order to allow the court to deduct the cost of an ignition interlock device from the fine imposed.

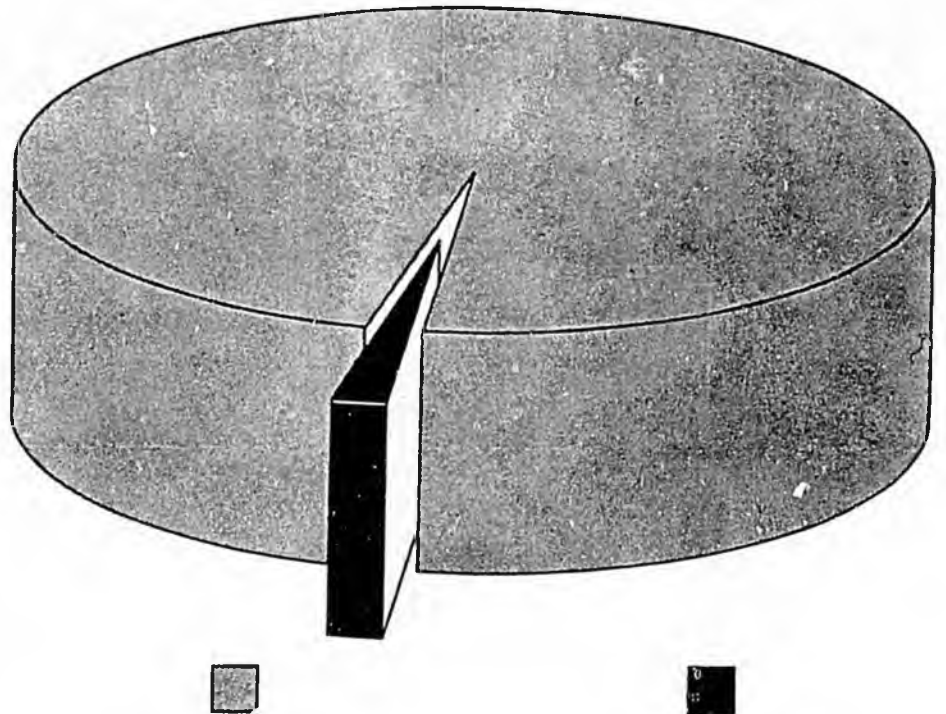
Section 10

AS 33.05.020 (c) Requires the Commissioner of Corrections to adopt regulations for the certification, maintenance, and monitoring of ignition interlock devices. Requires the manufacturer of the interlock device to bear the cost of the certification.

AS 33.05.020 (d) Requires that a warning label that states the penalties for circumventing or tampering with an ignition interlock device be affixed to the device as a condition of certification.

RESULTS

Guardian Interlock Responsible Driver ProgramSM significantly reduces risk of repeat drunken driving



A STATISTICAL ANALYSIS OF DUI/DWI* offenders in the Guardian Interlock Responsible Driver ProgramSM shows that only 4.6% were rearrested for drunken driving within the 12 months ending December, 1987.

In comparison, many jurisdictions nationwide report that approximately 15% of multiple DUI/DWI offenders subject to only conventional sentencing are rearrested within one year.

The statistics indicate that court officials who sentence offenders to the Responsible Driver Program are three times more likely to reduce the number of repeat drunken driving offenses in their jurisdictions than those who do not use the program.

The analysis involved a sample population of mostly multiple offenders sentenced for at least one year to the program typically as a condition of probation for drunken driving.

THE RESPONSIBLE DRIVER PROGRAM provides for installation of the Guardian InterlockTM in an offender's vehicle and monitors his or her use of the computerized device. Guardian Technologies, Inc., manufacturer of the device, reports the results

GUARDIAN INTERLOCK
RESPONSIBLE DRIVER PROGRAM
SAMPLE POPULATION
OVER
12 MONTH PERIOD

REARREST RATE 4.6%

of these monitoring checks to the court every 60 days.

More than 100 courts in eight states are including the program in their sentencing of offenders to deter further drunken driving offenses. The program can be used as an alternative to traditional sentencing or to supplement and enhance such measures as alcohol treatment.

The Guardian Interlock, which requires a breath test before a vehicle will start, is tamper-resistant. As an

added safeguard, it features technology which can detect attempted tampering and circumvention.

For more information on the Guardian Interlock Responsible Driver Program, call toll-free (800) 457-0001; In Colorado, call (303) 831-6333. Or write: Program Development, Guardian Technologies, Inc., 1009 Grant Street, Denver, CO 80203. Results on the program will be updated periodically.

*Driving-Under-the-Influence/Driving-While-Intoxicated



**GUARDIAN
TECHNOLOGIES, INC.**

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IRG-88122

The following paragraphs detail a description of our products and services.

First, the ankle bracelet and field monitor device (FMD) are the items used by the defendant. These are made by B.I., Inc., in Boulder, Colorado. We feel this is the best ankle bracelet system on the market. The strong points are:

1. Completely tamper proof. If the bracelet is cut it sends a violation signal to the central computer; as well as sending a violation signal when or if the device is removed from the body.
2. Waterproof - not water resistant. Defendants can take a bath, swim or sit in a hot tub and it will not damage the unit.
3. The FMD has battery backup if power fails, and notifies the central computer.
4. The FMD has a range of 150 feet and that can be extended if needed.
5. Each transmitter (bracelet) and receiver (FMD) must be a matched pair with specific coding. This prevents the confusion of two different offenders being able to make the same receiver send in an "enter" message. So more than one person can be on home detention in the same home.

Second, Guardian Home Arrest Technologies has the ability to add an alcohol monitoring system.

1. This alcohol system remotely monitors breath alcohol levels with evidential quality breath alcohol analyzers and transmits the data over normal voice quality telephone lines.
2. This system is able to identify the individual taking the test and prevents others from accessing the system.
3. Computer software is password protected offering selected entry to operators and supervisors.

Third, Guardian Home Arrest Technologies offers a 24 hour monitoring service. The main points of this service are:

1. The monitoring service will provide 24 hour staffed monitoring center for all those defendants on home detention. Personnel will be screened and background checks will be available for inspection.
2. We will present an audited financial statement demonstrating sufficient operation capital to insure completion of contract.
3. Guardian presently carries \$10 million liability insurance.
4. All equipment will be continuously updated to insure state of the art systems are in place at all times. This is at no additional cost.

Fourth is cost. We work on a lease basis in which we put all the "upfront" equipment in at no initial cost. This is about \$90,000.00 worth of equipment.

If a remote terminal is requested (and it is recommended), the cost is \$1,850 plus a designated phone line. It does not need to be a WATTS line. Cost to the client is:

1. \$7.00 per day for transmitter and receiver.
2. \$2.00 per day for 24 hour monitoring.
3. \$4.00 per day for alcohol monitoring.

So the tops in cost to the client is \$ 3.00 per day. Not all clients will need this intense of a monitoring program so most will be on the \$7.00 - \$9.00 a day, depending on your monitoring needs.

There are no additional cost to the client. All he needs is a working phone line. He can have push-button or rotary and he will not have any extra phone bills.

Lastly, for your information, listed below are names and phone numbers of programs that are using our system.

Paulette Hatchette
Michigan Dept. of Corrections
517/373-0273
Perry Johnson
Dept. Dir. Field Service
(2 years)

Julie Hall, Exco Dir.
Indianapolis, Indiana
317/236-3297
(Since July 1986)

Mrs. Reather Brothers
Supervisor, Home Arrest
804/441-5136 (Oct. 1986)
Norfolk, Virginia
Sheriff's work release

Kim Allen
Direct ISP Supervisor
801/394-6606 (1 year)
Utah

More programs will be furnished upon request.

GUARDIAN HOME CONFINEMENT SYSTEM

Breath Alcohol Testing With Voice Analysis

* One time enter of approximately 30 words. Voice analyzer requests sample. Make a voice print of approximately 30 words.

