ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672
5529 SSTA SB 372 - SB 383

Alaska State Legislature

Please enter into the record my testimony to the Senate State Affairs committee name

committee on SB 372 bill/subject, dated February 17, 1988.

My name is Tim Beck, President of the Alaska Public Employees Assoc. I object to SB372 and urge its defeat. It is a strongly devisive issue usually not argued on merit or logic but emotion from its supporters. Historically public employees have foregone opportunities to better paying positions in return for the security offered through public employment. By delving into P.E.R.A. (AS23.40) SB372 is lending instability to local governments. It's a "quick fix" bill to allow budgets to be balanced on the backs of public employees. Nothing, I repeat, nothing, replaces the benefits achieved by proper management and planning of local goverments. Currently the local Borough Assembly and City Council have final approval of all contracts now. All this bill does is allow for continuation of poor management and policies, knowing if there's a problem, just take it from the employees. We object strongly to that stance.

See attached position statements from local government leaders, either elected or staff representatives.

Signed: _____
Testifier

Alaska Public Employees Association
Representing (Optional)

825 College Road
Address

Fairbanks, Alaska 99701 456-5412
Phone No.

City of Fairbanks

MEMORANDUM

TO: Honorable Mayor, and City Council Members,
City/FMUS Department Heads
Union Business Agents & Stewards

FROM: BRIAN C. PHILLIPS, City Manager

SUBJECT: Public Employment Relations Act (as23.40)

DATE: February 16, 1988

The City Council on January 25, 1988 defeated, by non-advancement, a resolution opposing the continuance of certain PERA provisions. I interpret this policy setting action to be the City Council's support, by majority, for a status quo relative to the provisions of PERA. Therefore, unless otherwise legislated by the Fairbanks City Council, this office and all department heads of the City will refrain from giving any new written or oral testimony, recommendations, or inceriews relative contrary to this pclicy position.

Over 60% of the City's $80.7 million dollar budget involves unionized personnel covered under this act; This directive affecting City employed personnel is intended to clarify this City's status quo position on PERA, re.ative to the recent action by ths Fairbanks City Council, and to once again build upon the positive working relationship between the City and our employees.

Brian C. Phillips

BRIAN C. PHILLIPS
City Manager

BCP/sam

cc: Interior Delegation

Introduced by: Council Member Cleworth
Date: January 25, 1988

failed 1-25-88

RESOLUTION NO.2936

A RESOLUTION OPPOSING CONTINUANCE OF PERA PROVISIONS FOR BINDING ARBITRATION FOR MUNICIPALITIES.

WHEREAS, THE CURRENT PROVISION IN THE ALASKA Public employees Act (PERA) providing for binding arbitration of labor disputes for certain classes of public employees applies to the City of Fairbanks; and

WHEREAS, said provision for binding arbitration takes away from local government the ability to determine its own future and goals with any degree of certainty, deprives the public of final authority over municipal labor terms and policies and gives the power of binding the public to important financial decisions and labor policies to a third party who is not answerable in any manner to the public; and

WHEREAS, it would be within the best interest of the city to be free of the binding arbitration provision of PERA.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, that it is opposed to the continuance of said binding arbitration provision and strongly recommends the amendment of PERA to delete this provision and its applicability to municipal governments.

PASSED and APPROVED this 25th day of January, 1988.

BILL WALLEY, Mayor

ATTEST:

NORMA J. MARKS, Acting City Clerk

bcc: Barry Haight

Fairbanks North Star Borough

809 Pioneer Road · P.O. Box 1267 · Fairbanks, Alaska 99707 · 907 452-4761

February 1, 1988

Honorable Mitch Abood
Chairman
Senate State Affairs Committee
P.O. Box V
Juneau, AK 99811

Dear Senator Abood:

I urge you to defeat SB 372. As a strong supporter of collective bargaining, I see this bill as the beginning of the end for public employee collective bargaining.

Sincerely,

Juanita Helms

Juanita Helms
Borough Mayor

JH:rlf

cc: Members, Senate State Affairs Committee
Interior Delegation

Alaska State Legislature

Please enter into the record my testimony to the Senate State Affairs committee name

committee on HB 372 (PERA) bill/subject, dated 1-26-88.

I am writing this letter as there was not time allotted for all to testify at the teleconference on Feb. 17,1988. I have been a police officer for 13years with the City of Fairbanks and have been under both programs (in PERA and out of PERA) during that time. The City of Fairbanks opted to go into PERA after the city allowed their employees to negotiate contracts with the City. Since that time binding arbitration wiht the police department has occured on two occassions. The city has won one of the cases and the employees have won a case. The remainder of the bargaining has been both fair and equitable to both sides, with contracts being signed without binding arbtration.

Since the City of Fairbanks has decided not to raise revenue, they have attacked the public employees as the "bad guys" who have caused all the revenue problems with in the city of Fairbanks. This is simply not the case at all. The city of Fairbanks has known for two years that they were going to be short revenues if they continued to sit back and do nothing while they paid out salaries to their employees. Concessions have been made with the city to alleviate the money crunch. The police department took a ten percent pay cut in wages to help out the city in the time of crisis. Since that time however; Brian phillips the City Manager for the City of Fairbanks has publicly stated that in order to balance the budget then PERA must be stricken from the books. While it would be nice to be able to trust the City of Fairbanks, realistically that is not possible as they have proven time and time again that they would take advantage of thier employees. With all the special interest groups that have formed since this issue began, I don't see how the City could be fair with out binding arbitration. Several groups have singled out the public employee as the problem that has caused the cities around the state of Alaska to face monitary problems. I don't see the public employee as the whole problem that the state is facing. State and local goverment employees spend their money within the state just like private employees. The more money there is the more money is spent. These special interest groups would like to see goverment employees work for "peanuts". When considering this bill please don't consider the selfish few but the vast majority of loyal goverment workers who are trying to make this state a better place to live and grow.

Signed:

Testifier: PAUL A. Keller PAK

Representing (Optional):

Address: 4448 STAFFORD DR.

Phone No.: 479-0764

STATE AFFAIRS

IN THE MATTER OF THE ARBITRATION MATTER CITY OF FAIRBANKS AND FAIRBANKS POLICE DEPARTMENT EMPLOYEES ASSOCIATION	ARBITRATOR'S OPINION AND AWARD

HEARING SITE: CITY COUNCIL CHAMBERS
410 Cushman Street
Fairbanks, Alaska 99701

HEARING DATE: 9:00 am October 16, 1986

ARBITRATOR: Dennis Geary
P.O. Box 1536
Fairbanks, AK 99707

APPEARING FOR THE CITY OF FAIRBANKS:

HOMER JONES, DEPUTY CITY ATTORNEY
410 Cushman Street
Fairbanks, Alaska 99701

APPEARING FOR THE FAIRBANKS POLICE DEPARTMENT EMPLOYEES ASSOCIATION:

Gerald Laparle, Esq.
100 Cushman Street
Fairbanks, AK 99701

INTRODUCTION

At a hearing in Fairbanks, Alaska on October, 14, 1986, the parties acknowledged that this Wage Reopener had been processed in accordance with the agreement between the City of Fairbanks (City) and the Fairbanks Police Department Employees Association (FPDEA). The Wage Reopener was properly in arbitration and within the jurisdiction of the arbitrator to make a

final and finding decision, as set forth in the Working Agreement between the City and FPDEA (Agreement). Accordingly, full opportunity was afforded both FPDEA and the City to present opening statements, offer exhibits, examine and cross-examine witnesses, and otherwise to make known the relevant evidence, their positions and arguments to the arbitrator. The arbitrator accepted seven (7) exhibits from FPDEA and thirteen (13) exhibits from the City. The record was reopened on October 28, 1986 by the arbitrator to obtain and enter into the record applicable portions of the Agreement. Those who testified included Norman Brake, President of FPDEA, and Paul Taylor, University of Alaska. The parties argued closing oral arguments and waived the submission of post hearing briefs. The arbitrator tape-recorded the proceedings to supplement his written notes.

ISSUE

The parties directed the arbitrator to determine what, if any, adjustments to compensation should be made for the period of January 1, 1986 through December 31, 1986.

APPLICABLE CONTRACT PROVISION

CITY - FPDEA WORKING AGREEMENT

1.1 This agreement shall become effective January 1, 1984 and shall remain in effect until December 31, 1986. Any retroaction contained herein will affect only those employees covered by this Agreement and actually employed by the City on the precise date this Agreement

is signed by the City and the Fairbanks Police Department Employee's Association. This Agreement shall be opened annually, on or before the 1st day of November of each calendar year. The purpose of such reopening shall be to determine adjustments to compensation only and matters mutually agreed upon.

POSITION OF FPDEA

FPDEA has asserted that it should receive a wage increase of 3.1% for the period January 1, 1986, through December 31, 1986. This position is essentially based upon three arguments. First, FPDEA points to a rise in the Consumer Price Index (CPI) of 3.1% covering the period of January, 1985 through January, 1986. Secondly, FPDEA contends that a wage comparison between FPDEA and the Anchorage Police Department (APD) reflects APD members are compensated 8% more than FPDEA members, exclusive of any geographic differential, for work of a similar nature. Finally, FPDEA alieges the City has the ability to pay for the requested wage increases, citing: the recent defeat of the tax cap initiative; mayorial veto of tax increases; public statements by the Mayor and the expert testimony of its witness.

POSITION OF CITY

The City has argued for a wage freeze during this third and final year of the contract with FPDEA. The City has proclaimed that the "state of the State" is not good and the City does not currently have the ability to pay wage increases. The City maintains FPDEA wage scales are in line with the other police agencies in the State and there are no "ancient

wrongs" to be righted. As this contract will expire on 12/31/86, the City has asked that a wage freeze be instituted, leaving all matters for consideration during negotiations on the new contract.

DISCUSSION & FINDINGS

Police and fire services are among the most critical services offered by government. The Alaska Legislature recognized this when it mandated binding arbitration for these groups of workers. Binding arbitration, a quid pro quo for a no strike provision, insures that there is no interruption in these services due to labor-management disputes. Arbitrator Carr (FPDEA Exhibit #4) correctly described the nature and character of "interest" arbitration in his 7/16/86 decision. The arbitrator's objective in interest arbitration is to determine what the parties should have agreed upon by negotiation. In addition however, the arbitrator must also consider the relative time frame in which the negotiations were intended to have occurred. In the instant case, negotiations began in the Fall of 1985, and theoretically should have been concluded prior to January 1, 1986. Whatever agreement the parties might have reached, would then have taken effect on that date. I have made my decision based upon these premises.

The Agreement provides that "adjustments to compensation" shall be examined/ negotiated annually. The Agreement does not specify the basis for these adjustments. FPDEA has suggested the CPI would be a valid basis for such adjustments. The City has also asked that I rely on the CPI, but that I consider data generated after 1/01/86. As I have already stated, this Wage

Alaska Department of Labor
Labor Standards & Safety Division
675 Seventh Avenue, Station J
Fairbanks, Alaska 99701

Reopener should have been decided by 1/01/86, and consideration of trends or data which occurred after 1/01/86 would not be proper. I have therefore determined that the CPI change for the period of January 1985 through January 1986, as submitted by FPDEA, is appropriate for consideration.

In reviewing criteria for determining wage adjustments, comparable worth evaluations are also a proper basis. Police officer's wages, as with any other skilled employee, should reflect the caliber of work expected from such workers. FPDEA and the City have both presented wage comparisons for consideration, and both rely on the comparisons to pursuade me their respective positions are at least partially justified. The City has asserted that while FPDEA members are not the highest paid police officers in the State, their pay is "in the ball park". Their graphs depicting initial hourly wages for patrol officers and sergeants, submitted in support of this contention, would tend to bear this out. However, FPDEA contends that a comparison of FPDEA with all other police agencies in the State is improper. FPDEA maintains that a comparison with APD is the proper one and is in keeping with the 1985 decision by Arbitrator Farr. I have also determined this to be the most proper comparison, but do not agree it is the only proper comparison. In this vein FPDEA, through expert testimony, has demonstrated that an approximate 8% wage disparity between APD and FPDEA exists, irrespective of any geographic differential. This disparity varies between job classifications and upon length of service, but is generally indicative of the relationship of wages between FPDEA and APD.

A pivotal consideration in deciding this issue is the City's ability to

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pay. The employer shoulders the burden of producing sufficient evidence to support an inability to pay. The evidence submitted in support of this position must also be something more than speculative. The City has argued that a source of income has been substantially reduced by the current oil price fluxation. While the City has reduced its expenditures and explored alternative funding sources, it has vacilated regarding a steadfast course of action to reduce the budget deficit. By illustration, FPDEA points to Mayor Bill Walley's veto of a proposed sales tax by the City Council, and his public statements (as recent as October 03, 1986) regarding the financial status of the city. The City argued in the hearing that reliance on Mr. Walley's statements while running for re-election, would be irresponsible. However, Mr. Walley's statements were intended to refute charges made by his opponents that the city is in a fiscal crisis. This is the same fiscal crisis alleged by the City in this arbitration. Mayor Walley has pointed to a surplus balance in the sales tax and other surplus funds, with which the City might balance its budget. Consequently, the City has only produced evidence of a temporary inability to pay, which is not sufficient in and of itself to eliminate or reduce an increase warranted by other criteria.

The City has presented no legal bar regarding the City's ability to generate new/additional revenues. FPDEA has pointed to the recent defeat of Tax Cap Initiatives by the voters, which would have presented a restriction to generate additional funds. Evidence submitted during the hearing, from FPDEA's expert witness, and statements from Mayor Walley, reflect

that the tax rate within the city in recent years has steadily declined at the same time the tax base has increased. The taxing power of the City needs public support, and while that support has not specifically been shown, the Tax Cap defeat is significant. I have therefore determined that the City has failed to demonstrate an inability to pay.

In view of the above, I make the following findings:

1. A change in the CPI is a valid consideration when determining "adjustments" to compensation.
2. The CPI data covering the period of January 1985 through January 1986 is 3.1% and the most appropriate CPI data in consideration of this issue.
3. Comparable worth studies are a valid consideration when determining "adjustments" to compensation.
4. APD is the most proper group with which to compare FPDEA regarding wage rates.
5. APD employees enjoy an approximate 8% advantage in wages over FPDEA employees.
6. The City failed to produce conclusive evidence that it does <u>not</u> have an ability to pay.
7. A wage increase of 3.1% for the period of January 1, 1986 through December 31, 1986 is appropriate for the reasons asserted by FPDEA.

Alaska Department of Labor
Labor Standards & Safety Division
675 Seventh Avenue, Station J
Fairbanks, Alaska 99701

AWARD

The adjustment to compensation (wages) applicable to all employees in the bargaining unit for the period of January 1, 1986 through December 31, 1986, shall be an increase of 3.1%.

NOVEMBER 12, 1986
DATED

Dennis Geary
DENNIS GEARY
ARBITRATOR

Alaska Department of Labor
Labor Standards & Safety Division
675 Seventh Avenue, Station J
Fairbanks, Alaska 99701

TESTIMONY TO SENATE STATE AFFAIRS COMMITTEE
SENATE BILL 372

April 6, 1988

My name is Barry Haight; I represent the Fairbanks Fire Fighters Association and the Interior Public Employees Coalition. Both organizations maintain strong opposition to Senate Bill 372, and challenge the stated reasons for the introduction of this legislation.

This committee has been told the bill is needed to provide relief for the City of Fairbanks; yet this past week, for a second time, the Fairbanks City Council has refused to support S.B. 372. Nonetheless, S.B. 372 remains before you along with the misleading claims and inaccurate assertions made by some of those who support the bill.

Mr. Chairman, I have a copy of a booklet prepared by the City of Fairbanks and mailed to city residents this past September. Also, a copy of the second and, most recent, arbitrator's decision rendered in a bargaining impasse between the City of Fairbanks and an employee group. I ask that they be entered into the record. I have copied several pages from the city booklet for committee members and would call your attention to certain facts.

On the first page is a graph demonstrating concessions and the percentage amount by bargaining unit. There is no relationship or meaning in the differing amounts nor should one be construed.

Every city union made concessions and dealt with city management independently. Furthermore, the percentage amounts do not tell the whole story. The percentile indicated includes not only base wage but overtime rates, fringe benefits, and, in some cases, contract language affecting work rules and subsequent cost to the city. It has been stated to this committee that because public safety employees did not give enough, further layoffs will be necessary. A look at the second page demonstrates that while the percentage amount given up by fire fighters is, as some would say, only 7% the dollar savings to the city is a substantial $16,301. per person; very close to the second highest per employee savings in any city department.

On that same page the city told the voter that "<u>These reductions far exceed any cost containment measures by the State, Borough, School District, or other municipalities in the State of Alaska.</u>" The following statement was also made: "The City and the employees have acted decisively and expeditiously to lower wage costs to Fairbanks residents."

It has been claimed that because of PERA and resultant wages that Fairbanks residents have been burdened with inordinately high taxes; however, the next graph shows that taxpayers paid only about 1/7 of the cost of all city services. The booklet was signed by the Mayor and five of six Council members.

Yet, this committee has been told lack of employee cooperation is causing otherwise unnecessary layoffs. The process of binding arbitration has been vilified and various assertions made, including:

binding arbitration has occurred numerous times;

arbitrators always find in favor of the union;

arbitrators come from out of state;

arbitrators do not take into account the employers' financial status or ability to pay.

In the first instance, the number of arbitration cases is answered by a summary provided this committee by the Labor Department. The summary reveals three cases. However, I would clarify that by pointing out that the first case listed was not a mandated arbitration, but was voluntarily agreed to by the union and city representatives. Of the remaining two arbitrations; the arbitrator agreed with the city's offer in a 1985 case.

As far as where arbitrators come from and what they take into account, we can find factual information in reading the arbitrator's decision in the last case involving the city--October 1986 with the Fairbanks Police Dept. Employees Association. On the front page of the arbitrator's opinion and award is the name and address of the arbitrator. He is Dennis Geary. He lives in Fairbanks and has done so for 10 years. Starting at the bottom of page 5 Mr. Geary states, and I quote: "A pivotal consideration in deciding this issue is the city's ability to pay."

Further reading of the arbitrator's findings are instructive and drive to the heart of what is really a local matter. I continue to quote: "The city has argued that a source of income has been substantially reduced by the current oil price fluctuation. While the city has reduced its expenditures and explored alternative funding sources, it has vacilated regarding a steadfast course of action to reduce the budget deficit. By illustration, FPDEA points to Mayor Bill Walley's veto of a proposed sales tax by the City Council, and his public statements (as recent as October 3, 1986) regarding the financial status of the city. The city argued in the hearing that reliance on Mr. Walley's statements while running for re-election, would be irresponsible. However, Mr. Walley's statements were intended to refute charges made by his opponents that the city is in a fiscal crisis. This is the same fiscal crisis alleged by the city in this arbitration." End quote. Some of those same people who denied a fiscal crisis now admit there is one; blame it on the employees and seek legislative relief by overturning 16 years of labor law. Meanwhile, they are also asking this legislature for more money and at the same time, vowing to fight any efforts to raise local revenues. They cap it all off by asking you and the employee to believe they still want to collectively bargain. We don't believe them, and ask you not to pass this bill.

Mayor Walley sees no reason to panic

By MARGARET NELSON
Staff Writer

While the city council is pressing for ways to make up a deficit in this year's spending, which latest estimates put at $4.2 million, Mayor Bill Walley says he doesn't see why everyone is in a panic.

Meanwhile, measures reducing the city council's and mayor's pay and per diem allowances by 20 percent are the first budget cutting measures the council will consider at its meeting Monday. The meeting takes place in city council chambers, 620 Fifth Avenue, beginning at 7 p.m.

Councilman Ted Lehne said today he's introducing those measures, as well as a proposal to increase the city's administrative charges to state grants, as an effort to start balancing the budget.

"We've got to get on with it," Lehne said. "We've known since we adopted the budget that there would be a deficit and we haven't done much constructive yet. It's way past time."

The projected deficit for this year, according to the latest city figures, could be as high as $4.2 million. However, City Manager Wally Droz said today it's really too soon to tell if that figure is high or low. Council members Monday asked Droz to give them some recommendations on budget trimming measures. Those recommendations may be forthcoming Monday.

Walley continues to say that the money needed to balance the budget can be raised by tapping un-

(See MAYOR, page 3)

MAYOR . . .

(Continued from page 1)

designated funds in an unappropriated surplus account totaling $5.7 million, $5 million in the Permanent Investment Fund and tax money of more than $1 million, and by cutting departments by 15 percent, taxing gambling and liquor and increasing bed taxes.

"I can't understand why people are in such a panic," Walley said.

However, there's some problems with using money in the funds Walley mentioned.

The $5.7 million unappropriated surplus account serves as the city's operating and cash reserve account, said Finance Director Bob Wolting. The city needs most of that reserve to cover, for example, the bi-monthly payroll and bills.

It would take a vote of the people before money could be taken out of Permanent Investment Fund.

CHEDULE . . .

FAIRBANKS, ALASKA, SATURDAY, JUNE 14, 1986 35¢ per copy ★ 48 pages

Mayor says it's too regressive

Walley vetoes sales tax

By SUSAN FISHER
Staff Writer

Lacking the five votes necessary to override Mayor Bill Walley's sales tax veto, the Fairbanks City Council is to meet at noon Wednesday to explore other options for balancing the city's 1986 budget.

Walley vetoed a 3 percent sales tax Friday, calling it "the most regressive tax that our people and economy can face" because it puts the most burden on the middle class family consumer.

The mayor, a candidate for governor, is in Anchorage campaigning, but called his instructions to City Clerk Carma Roberson Friday and was to send his signed veto message by express mail.

Within an hour of Walley's notification, Acting Mayor Ted Lehne called for the work session.

Both Lehne and Councilman Lowell Purcell told the Daily News-Miner they informed Walley they would not vote to override his veto, and Councilman Jerry Norum is expected to miss the June 23 meeting. The six-member council passed the sales tax measure Monday on a 4-2 vote, with Lehne and Norum opposing it.

The council has a number of choices, but the challenge facing it is to find a common ground and a plan that will escape another veto, Lehne said.

Since January, the city has been operating under a $23 million calendar-year budget that is expected to exceed income by $5-6 million. Only half a year remains to close the gap.

But the city also holds some $6.8 million in its unappropriated fund and has a $5 million permanent fund, which only voters can approve spending.

In a lengthy veto message, Walley again suggested a gambling tax on bingo games and raffles and a tax on luxury items. He endorsed Lehne's suggested approach of limited taxes, digging into the surplus fund and cutting expenses.

Prior to Monday's sales tax vote, Lehne had proposed alternatives including limited taxes on such items as cigarettes and tobacco products, gasoline and restaurant meals, and raising city garbage collection fees, digging into the unappropriated fund and cutting some expenses.

Friday Lehne had another proposal. He said he would like the council to consider dropping the 4 percent franchise fee charged to Fairbanks Municipal Utilities System, and move instead to a 4 percent

(See VETO, back page)

VETO . . .

(Continued from page 1)

electricity tax. Half the city's electric customers are served by Golden Valley Electric Association, and the electricity tax on customers of both utilities would raise more money than the MUS franchise fee does, he said.

Lowell Purcell voted for the sales tax, but said he won't vote to override the veto.

He said the tobacco tax appeals to him, but he can't go along with a gasoline tax at a time when gas prices are so competitive it could drive business outside the city, and he's also reluctant about a restaurant/fast food tax.

"Gambling, I would support a tax like that, although I understand public pressure pretty well shut that one down last time," he said.

Another option is raising city property taxes. In passing the sales tax, the council Monday set the 1986 mill levy at 2.8 mills.

Walley spoke to that issue in his veto message. If the council can't agree on a plan, he said, "then maybe we should just ask the voter to settle once and for all whether the people would prefer a 3 mill property tax increase or a sales tax."

The mayor pointed to a 1985 advisory vote in which 86 percent of city voters said no to sales tax, and said the sales tax is a burden on businesses, is difficult to collect and drives up costs to consumers.

FAIRBANKS, ALASKA, TUESDAY, OCTOBER 29, 1985 35¢ Per Copy 24 pages

Walley would veto 9-mill levy plan

By MARGARET NELSON
Staff Writer

The city's property tax rate would have to more than triple to fund next year's proposed city budget, City Manager Wally Droz told council members in his annual budget message.

But Mayor Bill Walley says there's no way he'll allow property taxes to increase that much and that he'll seek cuts in Droz's $23.8-million spending proposal.

Droz is recommending the city set 1986 spending at $23,871,507, up about 6 percent from this year's approved budget of $22.5 million. No deficit is projected, using the projected assessed valuation and 9-mill levy, in Droz's 1986 proposal.

Property taxes for 1986 would pay $9.6 million of the city's costs.

"It is going to initially take 9 mills to fund this proposed 1986 budget," Droz said in a message included with the budget made available to the six council members and the mayor late last week.

This year city residents paid 2.8 mills in property taxes plus 7.3 mills in borough taxes. The highest city's mill rate was in 1960 when the city levied 18 mills. During the pipeline years of 1973 to 1976 the city's mill rate ranged from 12 to 10 mills. One mill equals $1 in taxes for each $1,000 in property value.

Droz this morning said the 6.2-mill increase is needed to cover the proposed budget increase of 6 percent, because of the big drops in city revenues. Chief among those funding sources now drying up are state and federal revenues, plus less interest earned on investments because of the smaller revenue.

In 1984, the city got $3 million interest on investments; Droz projects the 1986 interest at $1.5 million. The city expects state municipal assistance to drop $600,000 next year, leaving $4.2 million. State-shared revenue, estimated at $3.5 million this year, is expected to drop to $1.4 million.

"I don't think I'm going to allow a 9-mill levy," Walley said Monday. "I'd veto it in a minute.

"I'm not too happy with that

(See BUDGET, back page)

BUDGET . . .

(Continued from page 1)

budget, Walley said, adding he believes [illegible] and the council can cut another 10 percent in spending from the budget proposal.

Walley plans to announce a schedule of budget meetings at the council's next meeting Monday. In the meantime he says he'll meet with Droz this week to seek ways to cut spending. The council, under state law, must approve the budget by Dec. 15.

In introducing the 1986 budget to the council Droz pointed out several statistics:

- 74 percent of the proposed $23.8-million budget goes to pay the salaries, wages and benefits of 281 employees. This year's budget included 284.5 employees.
- All employees, with the exception of top management, are now represented by a union or association and have contracts with the city.
- Income investments were expected to receive $2.2 million this year. However, in September the city had only received 55 percent of that figure.
- It was estimated that the city's assessed value would reach more than $1 billion this year. But the city's value only reached $998 million, resulting in less income for the city.
- The city's busy construction season resulted in the city selling $286,593 in building permits through the first eight months of 1985. The city had only projected receiving $250,000 for all of 1985.

Droz said in his budget message that from 1974 to 1980 the city experienced some "slack periods of tough-to-get revenue" and "tough budgets." He pointed out that from 1974 to 1980 the city levied a property tax ranging up to 11 mills while at the same time levying a 3 percent sales tax.

The most expensive department in the city is the police department, according to the budget document. Police spending is proposed at nearly $5.7 million, up from this year's $5.4 million. If property taxes alone funded that department it would take 5.5 mills, Droz estimates.

The next most expensive service the city provides is fire protection. Spending in that department is proposed at $4.75 million, down from this year's $4.8 million.

Other major departments are public works with proposed spending at $3.86 million and engineering with spending at $1.9 million.

Sec. 01.10.050. Tense, number, and gender.

NOTES TO DECISIONS

Quoted in D.A.W. v. State, Sup. Ct. Op. No. 2935 (File No. S-169), 699 P.2d 340 (1985).

Cited in Dunlop v. State, Sup. Ct. Op. No. 3068 (File Nos. S-923, S-1163), 721 P.2d 604 (1986).

Sec. 01.10.055. Residency. (a) A person establishes residency in the state by being physically present in the state with the intent to remain in the state indefinitely and to make a home in the state.

(b) A person demonstrates the intent required under (a) of this section

(1) by maintaining a principal place of abode in the state for at least 30 days or for a longer period if a longer period is required by law or regulation; and

(2) by providing other proof of intent as may be required by law or regulation, that may include proof that the person is not claiming residency outside the state or obtaining benefits under a claim of residency outside the state.

(c) A person who establishes residency in the state remains a resident during an absence from the state unless during the absence the person establishes or claims residency in another state, territory or country, or performs other acts or is absent under circumstances that are inconsistent with the intent required under (a) of this section to remain a resident of this state. (§ 1 ch 67 SLA 1983)

Sec. 01.10.060. Definitions. In the laws of the state, unless the context otherwise requires,

(1) "action" includes any matter or proceeding in a court, civil or criminal;

(2) "daytime" means the period between sunrise and sunset;

(3) "month" means a calendar month unless otherwise expressed;

(4) "municipality" means a political subdivision incorporated under the laws of the state that is a home rule or general law city, a home rule or general law borough, or a unified municipality;

(5) "nighttime" means the period between sunset and sunrise;

(6) "oath" includes affirmation or declaration;

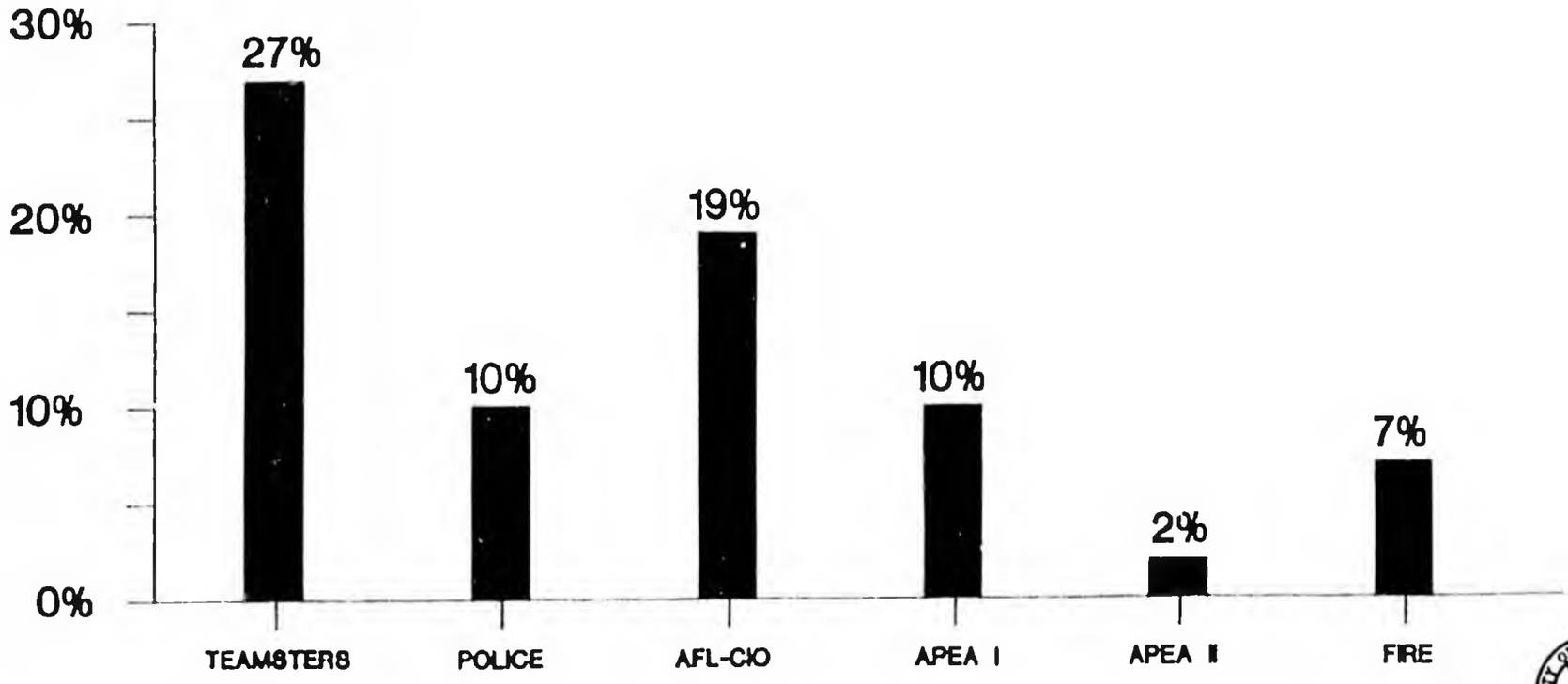
(7) "peace officer" means any officer of the state troopers, members of the police force of any incorporated city or borough, United States marshals and their deputies, and other officers whose duty it is to enforce and preserve the public peace;

(8) "person" includes a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person;

(9) "personal property" includes money, goods, chattels, things in action, and evidences of debt;

(10) "property" includes real and personal property;

1987 WAGE RATE REDUCTIONS (AVE.)
BY UNION/ASSOCIATION AFFILIATION



NOTE: THESE REDUCTIONS WERE EFFECTIVE BEGINNING FROM JULY TO OCTOBER DEPENDING ON COMPLETION OF AGREEMENT.

Prepared by
City of Fairbanks
Engineering Department

WR1 9.04

1987 - 1990 WAGE AND BENEFIT REDUCTIONS

CITY OF FAIRBANKS

Wage rates have been reduced for City employees, significantly insome cases. New hires will likewise he compensated less. Due to the City's fiscal crisis, the five associations and unions representing City employees offered to reduce their wages, a total of $1,497,554.00. These reduction far exceed any cost containment measu es by the State, Borough, School District, or other municipalities in the ' ta'e of Alaska. The City and the employees nave acted decisively and expeditiously to lower wage costs to Fairbanks residents.

# OF EMPLOYEES	ASSOCIATION/UNION	1987	1988	1989	1990	TOTAL WAGE REDUCTION	WAGE REDUCTIONS PER PERSON
5	Teamsters	$33,797.00	$31,246.00	$23,116.00	$-:--	$88,159.00	$17,632.00
35	Police Dept Assoc.	$49,280.00	$32,860.00	$-:--	$-:--[3]	$82,140.00	$2,347.00
39	AFL-CIO	$197,272.00	$442,969.00	$-:--[3]	$-:--	$640,241.00	$16,416.00
8	APEA I	$26,713.00	$10,686.00	$-:--	$-:--	$37,400.00	$4,675.00
33	APEA II	$4,308.00	$25,852.00	$-:--	$-:--	$30,160.00	$914.00
38	Fire Fighters Assoc.	$121.156.00	$193,347.00	$193,347.00	$111,196.00	$619,454.00	$16,301.00
158[1]		$432,934.00	$736,960.00	$216,463.00	$111,196.00	$1,497,554.00[2]	

1. There are sixteen (16) non-union administrative employees in addition to the 158 organized employees. The City Manager and his staff have taken a 10% wage reduction.

2. TOTAL WAGE REDUCTIONS BY CITY EMPLOYEE GROUPS: $1,497,554.00

Note: These reductions were effective beginning from July to October depending on completion of agreement.

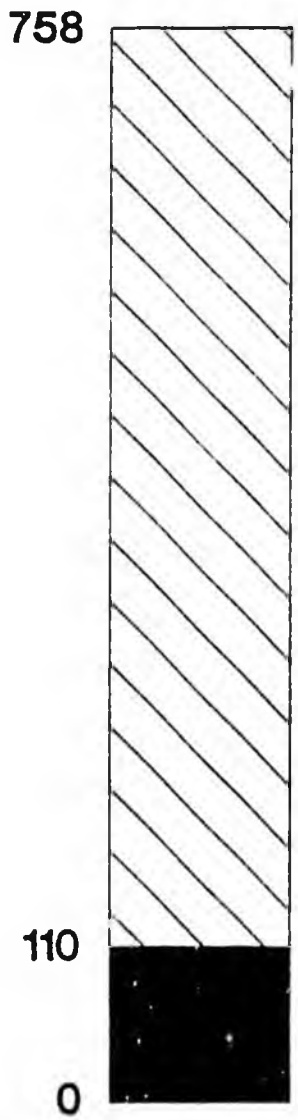
3. Contracts expire in years 1989 and 1990, therefore future wages are not predetermined in 1987.

Take pride in our City of Fairbanks. These wage reductions were given by long tenured City employees, Police officers, Fire fighters, Public Works personnel, all residents of Fairbanks for many years. They have given wage reductions for the opportunity to continue serving and protecting the public's general health, safety, and welfare. It's SERIOUS BUSINESS to them.

September 28, 1987

PROPERTY TAX SUPPORT

1986



THE TOTAL COST PER RESIDENT FOR ALL SERVICES WAS $758

RESIDENTS PAID $110 IN PROPERTY TAX

Prepared by
City of Fairbanks
Engineering Department

PTI 9.04

CITY OF FAIRBANKS

410 CUSHMAN ST.
FAIRBANKS, ALASKA 99701

September 29, 1987

Dear Fellow Citizens:

Over the past few weeks we have received numerous calls from you requesting information regarding the state of our city as we begin to review the City's proposed 1988 budget. You have raised questions, voiced concerns and expressed opinions on the level of law enforcement, fire suppression, road work, snow removal, and related inquiries. We have attempted with the attached information to address some of those concerns and answer some of the questions.

Please take time to read the attached information which has been prepared with your concerns in mind.

Along with us, please vote on October 6.

Thank you for your time, interest and support of your City of Fairbanks.

Very truly yours,
Honorable Mayor and City Council Members
City of Fairbanks, Alaska

Mayor Bill Walley

Council Member Whitney

Council Member Parcell

Council Member Halvarson

Council Member Immel

Council Member Norum

SB

383

SENATE COMMITTEE REPORT

FURTHER Judiciary

DATE TURNED INTO OFFICE 3/14/88

2/1/88

Mr. President:

State Affairs Committee considered SB 383

suspension and revocation of a minor's license to drive and the definition of driver's license; efd

and recommended

[X] replace with ___ CS SB 383 (SA)) [ ] same title
[ ] or adopt ___ CS) [X] new title

[ ] attached amendment(s) and

[X] do pass

[ ] do not pass

[ ] no recommendation

[ ] individual recommendations

[ ] further referral to _____

[ ] letter of intent adopted _____

Committee [X] attached or [ ] adopted fiscal note(s)
[ ] new [ ] updated or [ ] previous
[ ] zero [X] fiscal impact

MEMBERS SIGNING ~~DO~~ PASS

OTHER RECOMMENDATIONS

Chairman signature and recommendation

[ ] Committee Backup attached

Senator Johne Binkley

Senate Finance Committee
P.O. Box V • Juneau, Alaska 99811 • (907) 465-4985

Finance Committee
Co-Chairman

MEMORANDUM February 24, 1988

TO: Senator Mitch Abood

FROM: Senator Johne Binkley

RE: SB 383/Revocation of a Minor's License to Drive

Attached please find a blank committee substitute for the above-referenced bill as you requested. The changes are as follows:

First, the title has been changed to remove the reference to "suspension" of the licence. Second, the old Section 1 has been removed and replaced with what was Section 2. Both of these changes were requested by Bill Brown at Motor Vehicles.

The final change requested by Mr. Brown was that the records not be sealed when the minor reaches the age of 18. His reasoning was that if a minor was in a revocation period on his 18th birthday, the sealing of the record would not allow the revocation to survive his turning 18. This has been discussed with the attorney at Legal Services who drafted the bill. I have attached a copy of his memorandum to me for your information. Basically, existing law is sufficient to extend the court's jurisdiction over the minor until his revocation period ends. At that time, the records will be sealed.

We have also changed the ages in the bill. First, the age group covered under this legislation is now 12 (rather than 13) to the end of the 17th year. Second, the first revocation shall last until the minor is 16-1/2 (it was 14-1/2), or 6 months, whichever is longer. Last, the second and subsequent revocations shall last for one year or until the minor reaches the age of 17 (it was 16), whichever is longer.

The final change to this bill was added at the suggestion of the drafter who, upon giving it further thought, decided that it would be cleaner to point out that the provisions in AS 47.10 relating to juvenile court procedures do not apply to actions taken under this legislation. This change is found in Section 3 of the attached bill.

If you have any questions at all, please do not hesitate to call. I also want to thank you for your attention to this bill and for your willingness to squeeze it into your Committee's busy agenda.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM February 23, 1988

SUBJECT: CSSB 383( )
(Work Order No. 5-1593)

TO: Senator Johne Binkley

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

You have requested that AS 47.10.090(a) be amended to allow a record of driver's license revocation under AS 28.15.185 to remain open past a minor's 18th birthday until the period of revocation is completed, and then to require the records be sealed. Under AS 47.10.100 the court retains jurisdiction of a juvenile case for two years, but not longer than the minor's 19th birthday. For the purposes of CSSB 383( ), this existing jurisdiction should be more than adequate to cover any period of license revocation imposed under AS 28.15.185. I have added new language to AS 47.10.090(a) to make certain that the record of proceedings under AS 28.15.185 are sealed after the minor turns 18, or after the court relinquishes jurisdiction of the case, if the proceedings extend beyond the minor's 18th birthday.

You should also note that in sec. 3 of the draft I have added new language to provide that the existing procedures of AS 47.10.020 - 47.10.085 do not apply to a driver's license revocation action under AS 28.15.185. As a practical matter the court will probably handle the underlying offenses and the license revocation in the same proceeding. By excepting the license revocation proceeding from the procedural requirements of AS 47.10.020 - 47.10.085, further amendment to these sections is not required.

MFF:bb
wkb3/018

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: SB 383
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to suspension and revocation of a minor's license to drive..
Sponsor: Binkley
Requestor: Senate State Affairs

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		5.4	7.5	7.9	8.3	8.7
TRAVEL						
CONTRACTUAL		.2	.2	.2	.2	.2
SUPPLIES		.1	.1	.1	.1	.1
EQUIPMENT		2.3				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	8.0	7.8	8.2	8.6	9.0
CAPITAL						
REVENUE	-0-	2.5	20.0	30.0	30.0	30.0

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	8.0	7.8	8.2	8.6	9.0
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	8.0	7.8	8.2	8.6	9.0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

One part-time clerical position will be necessary to handle additional workload, including preparing file, entry of license action on computer, preparing certified copies, notifying individual, preparation of record for microfilm, entry of data on microfilm retrieval system, etc. Cost breakdown attached.

JMR 2/4/88

Prepared by: Bill Brown
Division: Motor Vehicles
Phone: 465-4335
Date: 2-4-88

Approved by Commissioner: Dave Hostetler, Dep. Comm.
Agency: Public Safety
Date: 2-4-88

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 383

DETAIL

100 Personal Services			
One Document Processing Clerk II Part-Time, 2 hours per day	5.4		5.4
300 Contractual			
Postage and tolls	.2		.2
400 Commodities			
Normal office supplies	.1		.1
500 Equipment			
1 typewriter	1.2		
1 desk	.6		
1 chair	.2		
1 file cabinet	.3		2.3
		TOTAL	8.0

INFORMATION

It has been learned that of the total number of youth ages 13 to 17 who are arrested for offenses outlined in AS 28.15.185, an estimated 300 to 400 will be convicted or adjudicated by a juvenile court. It is felt a part-time position will be required to process the additional workload.

With the effective date being September 1, 1988, documents will not start being received from the Court until around October 1, 1988. Therefore, personal services for FY89 reflect a nine month period with the employee being hired October 1, 1988. Other items are budgeted accordingly with the first full year being FY90.

FY90 and subsequent years reflect a 5% inflation factor.

REVENUE

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

Position Title	Document Processing Clerk II	No. of Positions	Range/Step	Barg. Unit
		1	8b	GGU
Time Status	Staff Months	Location	Election District	
PPT	12	Juneau	4	

Type of Expenditure		Amount
1	2	3
Salary	4.3	
Benefits	1.1	
Premium Pay		
Other		
Total Personal Services		5.4
Travel		
Contractual		.2
Commodities		.1
Equipment		2.3
Other		
Total Cost		8.0

Funding Source for Total Cost		
Federal Receipts	1002	
G. F. Match	1003	
General Fund	1004	8.0
GF Program Receipts	1005	
Other		

Justification

This legislation will require action against the driving privileges of an estimated 300 to 400 individuals who are convicted of, or adjudicated for offenses which do not currently require action. This position will prepare files, establishing beginning and ending dates of the action; enter the license action on the individual's driving record; change the status on the individual's record; send a notice to the individual concerning the action and requirements for reinstatement; prepare certified copies for prosecutors when individual is arrested for driving while revoked; change status on driving record when license action is over; prepare record for microfilm; enter data on microfilm retrieval system; and assist in correspondence concerning the license action.

This form prepared reflecting nine months cost. Position to begin October 1, 1988.

Request For New Position

Agency: Public Safety

BRU: Motor Vehicles

Component: Driver Services

Revised Date

FY 89

Senator Johne Binkley

Senate Finance Committee
P.O. Box V • Juneau, Alaska 99811 • (907) 465-4985

Finance Committee
Co-Chairman

MEMORANDUM February 8, 1988

TO: Senator Mitch Abood

FROM: Senator Johne Binkley

RE: SB 383, Revocation of a Minor's License to Drive

Thank you for the courtesy extended to Janice Adair of my staff today by your committee on State Affairs. I apologize for being unable to personally attend and testify on the bill. I appreciate your willingness to allow me to comment on the proposed changes.

I would agree to the first two amendments proposed by Bill Brown of Motor Vehicles. The first few drafts we had done on this bill did deal with convictions for DWI and refusal to submit to a chemical test. Those provisions were eliminated since, under current State law, minors so convicted are treated as adults.

Mr. Brown also proposed that we not allow these convictions to be sealed with the rest of the minor's record when they reach 18. I understand his concerns and did discuss this point in particular with Mike Ford, the attorney at Legal Services who drafted the bill, while we were working on it. It was my intention to make certain an active revocation survived the 18th birthday. I would agree to keeping the records opened past the age of 18 if a revocation were still in effect. That is to say, an amendment to Page 4, line 23 which would add after "offenses" something to the effect: "However, if a minor's license has been revoked under AS 28.15.185 and the revocation period has not elapsed upon the minor reaching the age of 18, then the record of the revocation shall not be sealed until the revocation period is over." That way, the Division's concerns are met and the revocation will not automatically end upon the minor reaching 18 and we won't run into the concern of making lifelong "criminals" out of minors.

Finally, I have received numerous comments that this bill is not strong enough. I have considered these comments and would not be opposed to making the penalties stronger - specifically, changing the age when the revocation begins. I would have no problem with changing the age on Page two, line 23 to 16-1/2 and the age on line 26 on that same page to 17 years of age. My intent with these changes is to prevent a minor who has been convicted of the two offenses covered under this bill from obtaining either his license or his permit until he is at least 16-1/2 years of age. My concern with making the first conviction a year long revocation is that it will be simply

too long to be meaningful to many kids. However, if they get convicted a second time, then the sentence should most definitely be strong.

It has also been suggested that the minors be evaluated by the Alcohol Safety Action Program and referred for treatment if deemed necessary by ASAP. It is my understanding that such a requirement would not increase the fiscal note. I would be agreeable to such a requirement for second and subsequent convictions.

Again, thank you for allowing me to respond to the amendments proposed by the Division of Motor Vehicles. I am pleased to know that you want to move the bill quickly from the Committee. Please call if you have any questions.

BILL NO: SB 383

DATE: March 1, 1988

TITLE: An Act relating to suspension and revocation of a minor's license to drive...

CONTACT: Bill Brown 465-4335

This bill will require revocation of driving privileges for persons who are 13 thru 17 years of age and who are convicted, or "adjudicated delinquent" in juvenile court, for certain criminal offenses involving alcohol or other drugs. This will generate an additional workload for DMV to maintain the revocation files for each individual whose license is revoked under provisions of this bill.

This version of the bill is preferred over two versions currently pending in the House (HB 336 and HB 361) because of proposed 28.15.185(d) which would exempt those convicted or adjudicated of a non-traffic offense from having to maintain proof of financial responsibility (SR22 insurance).

The Department of Public Safety proposes the following amendments:

1) Delete words "suspension and" from the first line of the bill title, as the bill only addresses revocation.

2) On page 4, line 23, after word offenses, add "and driver's license action taken under AS 28.15.185". If we are required to seal the record when the individual becomes 18 years of age, it would prevent enforcement of revocation at that time. The result would be that a 17-year-old convicted or adjudicated for a second or subsequent offense would never be revoked for the full time period outlined in proposed AS 28.15.185(b)(2), because the record of the revocation would no longer appear and the individual could obtain a driver's license.

J. A. Hostak

for Arthur English
Commissioner

LAW OFFICE OF
COUNCIL & CROSBY
A PROFESSIONAL CORPORATION
424 NORTH FRANKLIN STREET
JUNEAU, ALASKA 99801

WILLIAM T. COUNCIL
DAVID C. CROSBY

(907) 586-1780

February 19, 1988

The Honorable John E. Binkley
Alaska House of Representatives
Room 318 Capitol Building
Juneau, Alaska 99801

Re: Senate Bill No. 383 (Minor Consuming and Driving Privileges -- "Use and Lose")

Dear Senator Binkley:

Thank you for notifying me of the hearings on SB 383. Thank you also for your kind letter of February 11, 1988.

Enclosed is a supplement to the testimony I submitted to you under cover letter of February 10, 1988.

Due to time constraints, I was unable to run off copies for all committee members. I would appreciate it if you would have your staff make copies and distribute them accordingly.

Sincerely yours,

COUNCIL & CROSBY

David C. Crosby

Enc.

SUPPLEMENTAL TESTIMONY OF DAVID C. CROSBY

SENATE BILL 383 (MINOR CONSUMING AND DRIVING PRIVILEGES -- "USE AND LOSE")

I would like to supplement my testimony submitted under cover letter of February 10, 1988, to Senator Binkley, with the following information:

1. H. W. Smith, "Oregon says "No" to Driving by Minors Who Use Drugs," The Challenge magazine. Attached to my testimony of February 10, 1988, was page 19 of an article printed in The Challenge magazine. This is a United States Department of Education publication. I am sorry that I cannot provide the volume number or date. The article appeared, however, within the last year. The author, H. Wesley Smith, is generally regarded to be the father of the "Use and Lose" laws. The additional materials submitted provide statistical confirmation that Oregon's Use and Lose law (which is virtually identical to H.B. 361 and similar to S.B. 383, with the exception of the penalty provision) has been effective in reducing alcohol and drug use by minors, including use in connection with driving. The law is credited with reducing juvenile drug arrests by nearly 30% in the four years since its enactment.

2. State of Oregon, interoffice memo dated April 8, 1987. This memorandum provides statistical information similar to that recited in the Smith article, covering the years 1982 through 1984. (The Oregon statute was passed in 1983.)

3. State of Oregon v. Day, 84 Or. App. 291, 733 P.2d 937 (1987), Petition for Review denied, ___ P.2d.___ (1987). This case upheld the Oregon statute against contentions that it denied equal protection (including a contention that it created a suspect classification of minors) and a contention that the law violated the prohibition against cruel and unusual punishment. In the course of its opinion, the Oregon Court of Appeals had the following to say:

> The legislative history reveals that the law was intended to meet two goals: Deterrence of drug and alcohol possession and use among young people and promotion of highway safety. Both goals are legitimate. The legislature considered the sanction appropriate to meet these goals because of the lack of other meaningful penalties for the group and the recognition that driving is a privilege young people do not want to lose.
>
> . . . .
>
> We conclude that the interest in possessing an operator's license, although an important entitlement, is outweighed by the State's goals of promoting highway safety and deterring drug and alcohol possession and use by those between the ages of 13 and 17.

4. Praete v. Commonwealth, 722 S.W.2d 602 (Ky App. 1987). In this case the Kentucky Court of Appeals held that the legislature could constitutionally impose more stringent penalties upon minors than others in connection with drug and alcohol use and driving. The Court of Appeals quoted the lower court's statement:

> Those between the ages of 16 and 18 . . . are still deemed to be minors and the legislature may reasonably regard them as a class requiring closer supervision than those over the age of 18. More importantly, the legislature may properly decide that members of the general public are entitled to greater protection from those minors who have demonstrated a lack of maturity in both the consumption of alcohol and the operation of a motor vehicle upon the highways of the State.

5. SOADA Statistics and Bar Graph. In my testimony of February 10, 1988, I represented to you that "drivers under 21 constitute 7% of the driving public, but account for 14% of the serious drug and alcohol related accidents." Attachment 5 is the supporting documentation for this statement.

6. Adolescent Drug-Taking Behavior Follow-up Study, Juneau: Grades 7 through 12 (University of Alaska, 1987). This is a five-year follow-up study on drug and alcohol use among Juneau school students, highlighting changes from 1982 through 1987. The study is marked "Confidential." The

Juneau School District, however, has elected to release the report to the public.

There are two significant findings in this report. The first appears on page 6:

> Prese .ly, 58.4% of those surveyed, over half of the sample, reported having tried one or more of the chemical substances listed in the questionnaire during their lifetime. The number of students reported having tried one or more drugs in 1982 was 42.6%. The difference between the two statistics represents an increase of 15.8% (over a five year period).

This statistic should be contrasted with the Oregon statistics set forth in Attachment 1. While the two studies do not purport to measure precisely the same behavior (drug and alcohol violations, as opposed to reports of lifetime experiences with drugs and alcohol), one would logically expect statistics regarding violations to have some logical correspondence to usage. Without attempting to draw any conclusions from the magnitude of change in either study, it is significant to note that Oregon and Alaska appear to be headed in quite different directions concerning the extent of drug and alcohol usage among minors.

The second significant finding appears on page 12:

> Previous research suggested that age 13 was the peak year for initiation into drugs, but the present findings indicate that age 12 now appears to be the critical year for initiation into drugs.

I cited this finding to you on page 6 of my original testimony. I wanted the Committee to have the supporting documentation.

Thank you for the opportunity to present these additional materials to you.

Oregon Says "No" To Driving By Minors Who Use Drugs

By H. Wesley Smith

When H. Wesley Smith was a school principal in Albany, Oregon, he led the movement to enact the 1983 Oregon law that suspended the driving privileges of teenagers who violated alcohol and drug laws.

In 1983 I was principal of a school that was considered to have an outstanding drug education program. And yet, the students were still using drugs.

I felt there had to be a way to motivate young people to stop using drugs. I thought that students might be encouraged to stay away from drugs to protect their privilege of driving. Receiving a driver's license is important to a teenager.

With this in mind, I exercised my right as an Oregonian to submit a proposal to the state legislature. My proposal stipulated that 13- to 17-year-olds found in violation of any drug or alcohol laws would lose their driving privileges for 1 year or until age 17, whichever was longer. The violator would be unable to apply for a license during the penalty period. In the case of a 13-year-old violator, the youth would have to wait until age 17 to apply, invoking the 1-year penalty after the youth became eligible at the age of 16. This penalty would be imposed whether or not a motor vehicle was involved. A second violation would require the suspension of driving privileges for 2 years or until age 18, whichever was longer. The proposal also provided an appeals procedure.

After much deliberation, the "Oregon Denial Law" was passed in 1983. The law was credited with

Denial Law Causes Sharp Decline in Drug Use

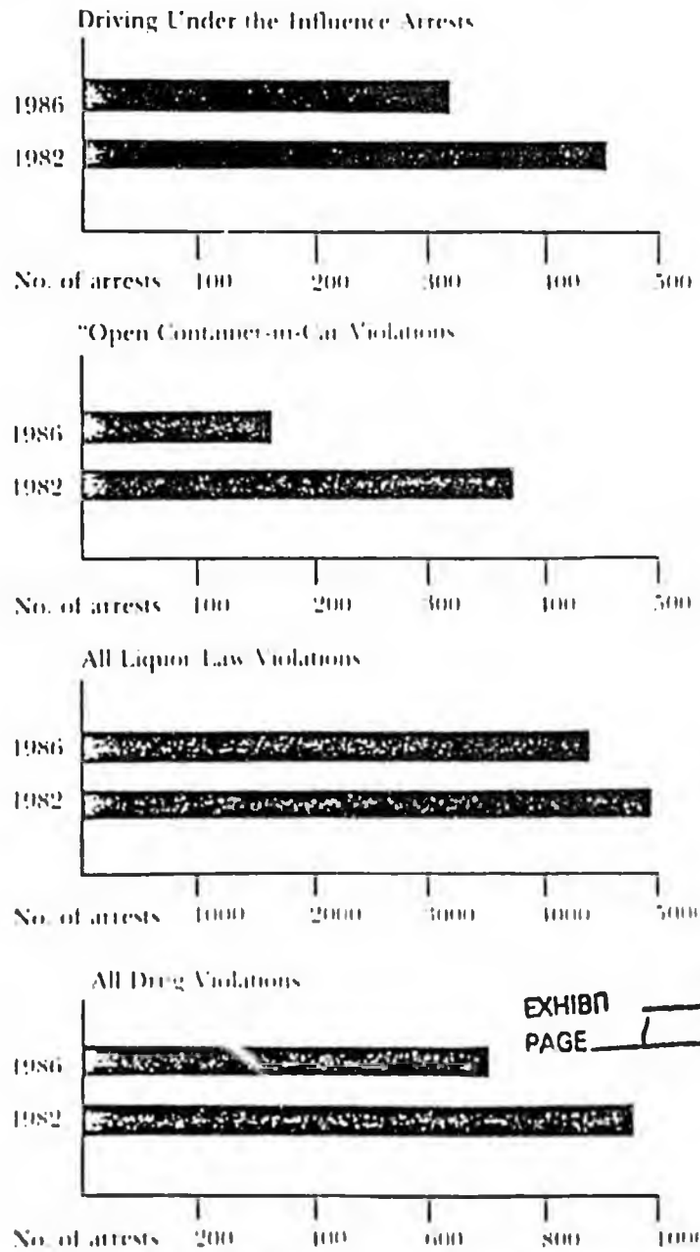


EXHIBIT 1
PAGE 1 OF 2

reducing juvenile drug arrests 22 percent by the end of 1984 and an additional 7 percent by the end of 1986. Open-container-in-vehicle violations were reduced 45 percent by the end of 1984 and an additional 19 percent by the end of 1986.

The most persuasive arguments in favor of the law's concept were:

- It helped youth by giving them a reason to say "no" which was acceptable to their peers.
- It gave judges an effective tool to use in responding to drug violators.
- In contrast to traditional prevention programs, this penalty program was nearly cost-free to the state.
- It provided positive reinforcement to drug-free teenagers by maintaining their eligibility to drive.
- It demonstrated society's commitment to fight drug use by taking firm legal action.
- It provided an absolute consequence to drug violations.
- The law supported parents, schools, and others fighting drug abuse.

Passage of the law was not without struggle. Although opponents of the bill criticized it as harsh, and possibly in violation of the state constitution, we answered those criticisms. Oregon courts have upheld the law.

Public response to the law has been overwhelmingly positive. To obtain more information about the law, write to H. Wesley Smith, Assistant to the Superintendent, Greater Albany Public Schools, 718 Seventh Avenue, S.W., Albany, OR 97321 or telephone (503) 967-4515.

Oregon Denial Law Upheld

In April 1987, the Oregon Court of Appeals upheld that state's "Denial Law," which had been challenged on state constitutional grounds. In affirming the constitutionality of the statute, the court held that:

- The law meets its two intended goals—deterrence of drug and alcohol possession and use and promotion of highway safety; and
- A teenager's interest in possessing a driver's license is outweighed by the state's goals in this instance.

The court also rejected the claim that enforcement of the law constituted cruel and unusual punishment, that it treated minors unconstitutionally as a "suspect class," and that the license suspension penalty is out of proportion to more serious conduct.

The statute also survived an earlier court challenge based on arguments that it denied students their rights to equal protection under the state constitution.

States Follow Oregon's Lead

Several states have been actively considering proposals similar to Oregon's "denial" law. Here's a progress report from around the country:

New Jersey's new anti-drug law, effective since July 1987, contains provisions that relate drug use to driving privileges. New Jersey minors face a $550 fine and a 6-month license suspension if caught with even one marijuana cigarette. Students found in possession of drugs before receiving a driver's license will have to wait 6 months past the normal date of eligibility before applying for a driver's license.

Missouri students will be subject to provisions of that state's new "abuse and lose" law scheduled to take effect on September 28, 1987. In Missouri, students under age 21 who are convicted of drunk driving or drug violations stand to lose their driving privilege for 1 year. Those under 16 would face a 1 year suspension beginning on their 16th birthday. These strict penalties also apply to students convicted of falsifying identification cards or carrying such cards.

The **California** legislature is considering a bill that would suspend or delay driving privileges of residents under 21 who are convicted of drug violations. Conviction for any drug or alcohol violation would result in a mandatory 1-year suspension of driving privileges for those with licenses. Students under 16 would be penalized by delaying their eligibility to drive for 1 year. The bill passed the California Senate by a vote of 21 to 4 and has been forwarded to the Assembly for further consideration.

In **Georgia**, Representative Thomas E. Wilder has introduced a bill in the General Assembly to deny auto licenses until the age of 17 to persons convicted of misdemeanors while under the influence of alcohol or drugs.

Wilder plans to seek passage of the bill in the next session of the General Assembly.

EXHIBIT 1
PAGE 2 OF 2

STATE OF OREGON INTEROFFICE MEMO

TO: Catherine Webber
House Judiciary Committee

DATE: April 8, 1987
04098702C

FROM: Gil Bellamy GB
Administrator

SUBJECT: 13 to 18 Year Old Driver's License Denial Law

The 13-18 year old driver's license denial law took effect October 15, 1983. Under the terms of this law, a person between the ages 13 and 18 who is found to have violated alcohol or drug laws loses their privilege to drive for one year or until age 17 whichever is longer. A second offense results in a denial for one year or until 18, whichever is longer. A judge can end the denial period after 90 days.

This law was proposed by school officials, particularly Wes Smith (967-4515), to reduce the consumption of alcohol and other drugs by students. The law was backed by traffic safety advocates because juveniles who illegally consume alcohol and other drugs inevitably either drive while under the influence or aid and abet other young people in doing so.

This law is virtually cost-free and has been a more effective deterrent than the sponsors of the legislation hoped. The driver's license is the equivalent of a right of passage in America and is highly prized.

Since the law took effect during 1983, a relevant evaluation is to compare 1982 with 1984 data. The following table contains the number of ARRESTS for juveniles (persons under 18) for offenses which result in a denial of the driver's license.

Offense Category	# Juveniles Arrested		% Change '82-'84
	1982	1984	
DUI	456	378	-17%
Open Container	373	205	-45%
All Liquor Law Violations	4,496	3,970	-12%
All Drug Violations	969	755	-22%

There were 1,760 driver's license denials for alcohol offenses in 1986. Of this number, 207 were second denials, 27 were third denials, 4 were fourth denials and one person was denied a driver's license five times.

EXHIBIT 2
PAGE 1 OF 1

GB:cek

bcc: Wes Smith

law and those people apparently is not the same, and in each of those cases they said, 'In this case, the trial judge abused his discretion.' So I would suggest that you be very optimistic."

There was no discretion for the trial court to abuse in this instance. The judgment should have been set aside as having been granted in violation of ORCP 69B(2), which provides, in part:

> "If the party against whom judgment by default is sought has appeared in the action or if the party seeking judgment has received notice that the party against whom judgment is sought is represented by an attorney in the pending proceeding, the party against whom judgment is sought (or, if appearing by representative, such party's representative) shall be served with written notice of the application for judgment at least 10 days, unless shortened by the court, prior to the hearing on such application."

In *Denkers v. Durham Leasing Co.*, 299 Or 544, 704 P2d 114 (1985), the Supreme Court held that there is no notice requirement for the entry of an order of default. That entry is a purely ministerial act, which may be done by the clerk. The ten-day notice to a represented party required by ORCP 69B(2) is a notice of an application for a *judgment* by default, which presupposes an *existing* order of default. *See also Morrow Co. Sch. Dist. v. Oreg. Land and Water Co.*, 78 Or App 296, 716 P2d 766 (1986).

Here, defendant's motion was to set aside the judgment, not the order of default. The motion was well taken because of plaintiff's failure to give the notice required by ORCP 69B(2) *after an order of default is taken*. Entry of the judgment was therefore erroneous, and the court should have set it aside.

Reversed and remanded.

IN THE COURT OF APPEALS OF THE
STATE OF OREGON

STATE OF OREGON,
Respondent,
v.
PAULA MARIE DAY,
Appellant.
(M81-1158; CA A39279)

84 Or App 241
733 P2d 947

Appeal from District Court, Douglas County.

Robert H. Anderson, Judge.

Argued and submitted September 11, 1986.

Philip M. Suarez, Roseburg, argued the cause and filed the brief for appellant.

Carol Munson, Assistant Attorney General, Salem, argued the cause for respondent. With her on the brief were Dave Frohnmayer, Attorney General, and Virginia L. Linder, Solicitor General, Salem.

Before Buttler, Presiding Judge, and Warren and Rossman, Judges.

ROSSMAN, J.

Affirmed.

Reconsid. Denied 04/24/87
Pet'n. for Rev'w. by Supr. Ct.
Denied 06/16/87

EXHIBIT 3 PAGE 1 OF 3

ROSSMAN, J.

Defendant appeals her conviction for driving while suspended, contending that the statute under which her driver's license was suspended is unconstitutional under the Oregon Constitution. She was found to have violated ORS 471.430, which prohibits persons under 21 years of age from possessing alcohol. Because she was 17 years old,[1] her driver's license was suspended pursuant to *former* ORS 482.593(1),[2] which provided:

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

EXHIBIT 3 PAGE 2 OF 3

Defendant first contends that that statute violates Article I, section 20, of the Oregon Constitution:

> "No law shall be passed granting to any citizen or class of citizens privileges, or immunities, which, upon the same terms, shall not equally belong to all citizens."

She does not challenge the legal authority of the legislature to pass legislation controlling alcohol possession or motor vehicle operation, *see State v. Freeland*, 295 Or 367, 667 P2d 509 (1983), but challenges the content of the statute as constituting a constitutionally impermissible classification. She contends that it violates Oregon's Privileges and Immunities Clause, either because its classification is a "suspect class" or because the statute impinges on a "fundamental right," either of which requires the court to apply the strict scrutiny test.

We turn first to defendant's suspect class argument. Here, the state has granted the privilege of driving, which,

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[1] In *State ex rel Juv. Dept. v. White*, 83 Or App 225, 730 P2d 1279 (1986), we held that *former* ORS 482.593 applied to persons up to their eighteenth birthdays.

[2] *Former* ORS 482.593 was repealed by Or Laws 1983, ch 16, § 475, and replaced by ORS 809.260, Or Laws 1985, ch 16, § 206 (which became effective January 1, 1986, Or Laws 1985, ch 16, § 476).

under Article I, section 20, must be available to all citizens "upon the same terms," unless a denial can be reasonably justified. *Former* ORS 482.593 denies driving privileges (or the ability to apply for the privilege) to persons who are 13 through 17 years old and are guilty of being a minor in possession. The group to whom the privilege is denied is not based on an immutable personal characteristic that can be suspected of reflecting "invidious" social or political premises, *i.e.*, "prejudice or stereotyped prejudgments," and therefore it is not a suspect classification. *See Hewitt v. SAIF*, 294 Or 33, 45, 653 P2d 970 (1982).

Because the classification is not suspect, the question is whether the legislative distinction "bears a rational relationship to some legitimate state interest." *Ritchie v. Board of Parole*, 35 Or App 711, 717, 583 P2d 1 (1978), *adhered to as modified* 37 Or App 385, 587 P2d 1036 (1978). *See Olsen v. State ex rel Johnson*, 276 Or 9, 19, 554 P2d 139 (1976). We will not hold it invalid "if any state of facts reasonably may be conceived to justify it." *Brown v. Portland School Dist. #1*, 48 Or App 571, 576, 617 P2d 665 (1980), *rev'd on other grounds* 291 Or 77, 628 P2d 1183 (1981).

The legislative history reveals that the law was intended to meet two goals: deterrence of drug and alcohol possession and use among young people and promotion of highway safety. Both goals are legitimate. The legislature considered the sanction appropriate to meet these goals because of the lack of other meaningful penalties for the group and the recognition that driving is a privilege young people do not want to lose. We hold that *former* ORS 482.593 is rationally related to legitimate state interests.

As a separate challenge, defendant argues that the ability to drive is a "fundamental right" and that, under Article I, section 20, any infringement of that right must be subjected to strict scrutiny. This federal "fundamental rights" analysis does not apply to privileges and immunities challenges under the Oregon Constitution. In *Olsen v. State ex rel Johnson, supra*, the court instead balanced the interest involved against the state's justification for denying the interest to a certain group.

Thus, we balance the privilege of driving against the justification for denying it to persons 13 to 17 years of age who

are convicted of minor in possession. We conclude that the interest in possessing an operator's license, although an important entitlement, is outweighed by the state's goals of promoting highway safety and deterring drug and alcohol possession and use by those between the ages of 13 and 17. Accordingly, we hold that *former* ORS 482.593 does not violate Article I, section 20.

Defendant also argues that the statute violates Article I, section 16, of the Oregon Constitution, which provides in pertinent part:

> "Cruel and unusual punishments shall not be inflicted, but all penalties shall be proportioned to the offense."

She contends that the license suspension penalty is out of proportion to other penalties for more serious conduct. Juveniles are subject to legal consequences in the juvenile system, including detention or other loss of personal freedom, for misconduct that would not constitute a crime if committed by an adult, *e.g.*, the status offense of being a runaway. A loss of driving privileges for conviction of minor in possession is not a disproportionate penalty when compared to the loss of liberty that can be imposed for other offenses.[1]

Affirmed.

EXHIBIT 3 PAGE 3 OF 3

[1] Defendant also contends that the statute violates Article I, section 16, because the penalty is not related to the offense. It is.

Michael D. PRAETE, Movant,

v.

COMMONWEALTH of Kentucky, Respondent.

Jon T. EMNETT, Movant,

v.

COMMONWEALTH of Kentucky, Respondent.

Court of Appeals of Kentucky.

Jan. 9, 1987.

On discretionary review from orders of the Circuit Court, Taylor County, William M. Hall, J., and the Circuit Court, Fayette County, Armand Angelucci, J., the Court of Appeals, Wilhoit, J., held that statute relating to revocation of driver's license upon conviction for driving under the influence, by providing for potentially harsher penalties for drivers under age 18, did not violate equal protection, did not constitute special legislation and did not contravene prohibition against cruel and unusual punishment.

Affirmed.

1. Constitutional Law ⇐230.5

Automobile drivers under age of 18 do not constitute suspect class for purposes of equal protection analysis. U.S.C.A. Const. Amend. 14.

2. Automobiles ⇐132
Constitutional Law ⇐230.5
Criminal Law ⇐1213.2(1)
Statutes ⇐77(1)

Statute relating to revocation of driver's license upon conviction for driving under the influence, by providing for potentially harsher penalties for drivers under age 18, did not violate equal protection, did not constitute special legislation and did not contravene prohibition against cruel and unusual punishment. KRS 189A.070, 189A.070(1, 2); U.S.C.A. Const.Amends. 8, 14; Const. § 17.

Phil Allan Bertram, Bertram & Cox, Campbellsville, for movant Michael D. Praete.

Jim M. Alexander, Alexander & Schreiner, Lexington, for movant Jon T. Emnett.

David L. Armstrong, Atty. Gen., Kay Winebrenner, Asst. Atty. Gen., Frankfort, for respondent Com.

Before CLAYTON, HAYES and WILHOIT, JJ.

WILHOIT, Judge.

These two cases are before the Court on discretionary review from an opinion and order of the Fayette Circuit Court and of the Taylor Circuit Court which affirmed orders of the respective district courts. The only question presented is whether KRS 189A.070 is unconstitutional.

Section (1) of KRS 189A.070 provides that if a person 18 years of age or older is convicted of operating a motor vehicle while under the influence of alcohol or other impairing substance, that person's driver's license shall be revoked for six months for the first offense, 12 months for the second, and 24 months for subsequent offenses. Section (2) of the statute provides that if a person under the age of eighteen is convicted of such an offense, his driver's license shall be revoked until he reaches the age of 18 or for the period of time set out in Section (1), whichever is longer.

The movants contend that the statute's disparate treatment of drivers under the age of 18 and those over that age offends both the Constitution of the United States and the Constitution of Kentucky. They maintain that the equal protection guarantee of the Fourteenth Amendment to the United States Constitution is violated because the statute has created a "suspect classification" (drivers who have not yet reached the age of majority), which requires strict scrutiny by the courts, and that there is no rational basis for not imposing the same penalty upon all drivers who are under the legal age for drinking

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EXHIBIT 4
PAGE 1 OF 2

(21), rather than singling out those who are under 18 for potentially harsher treatment.

[1] We do not believe that automobile drivers under the age of 18 constitute a suspect class for purposes of equal protection analysis. *See Massachusetts Board of Retirement v. Murgia*, 427 U.S. 307, 96 S.Ct. 2562, 49 L.Ed.2d 520 (1976); hence, we must consider only whether the statute's treatment of those under 18 is so unrelated to the achievement of any legitimate purpose that we can only conclude that the legislature's actions were irrational. *See Vance v. Bradley*, 440 U.S. 93, 99 S.Ct. 939, 59 L.Ed.2d 171 (1979).

[2] The opinion of Judge Angelucci of the Fayette Circuit Court points out as well as could we why the statute does not fail the "rational basis test." That opinion held as follows:

> While it is true that individuals between the ages of eighteen and twenty-one cannot legally purchase alcoholic beverages in Kentucky, under KRS 2.015 they are deemed to be adults for all other purposes unless they are handicapped. Those between the ages of sixteen and eighteen, on the other hand, are still deemed to be minors and the legislature may reasonably regard them as a class requiring closer supervision than those over the age of eighteen. More importantly, the legislature may properly decide that members of the general public are entitled to greater protection from those minors who have demonstrated a lack of maturity in both the consumption of alcohol and the operation of a motor vehicle upon the highways of the state.

For these same reasons the statute does not constitute special legislation in contravention of Section 59 of the Kentucky Constitution. The statute applies equally to all drivers who have not attained the age of majority, and as pointed out by Judge Angelucci, there are distinctive and natural reasons, based upon a consideration of maturity, or rather a lack thereof, for making such a classification. As also pointed out, the classification bears a reasonable relationship to the legislative purpose of protecting public safety. *See Schoo v. Rose*, Ky., 270 S.W.2d 940 (1954). Likewise, the statute does not violate Section 3 of the Kentucky Constitution. *See Markendorf v. Friedman*, 280 Ky. 484, 133 S.W.2d 516, 127 A.L.R. 416 (1939).

Finally, we do not believe that the statute contravenes the prohibition against cruel and unusual punishment found in the Eighth Amendment to the United States Constitution, or Section 17 of the Kentucky Constitution. For one thing, the penalty imposed upon those under 18 does not shock the conscience, neither is it greatly disproportionate to the offense, nor does it go beyond what is necessary to achieve the legislative intent. *See Workman v. Commonwealth*, Ky., 429 S.W.2d 374, 33 A.L.R.3d 326 (1968).

The judgments of the trial courts are affirmed.

All concur.

EXHIBIT 4
PAGE 1 OF 2

ACCIDENTS BY DRIVER AGE GROUPS
1986

DRIVER AGE	DRIVERS INJURY ACC	DRIVERS FATAL ACC	DRIVERS TOTAL ACC	% OF TOTAL INJURY	% OF TOTAL FATAL	% OF TOTAL ACC	DRIVERS ALC INJ ACC	DRIVERS ALC FAT ACC	DRIVERS TOTAL ALC ACC	% OF ALC INJ ACC	% OF ALC FAT ACC	% OF TOTAL ALC ACC	TOTAL DRIVER LICENSES	% OF LICENSED DRIVERS
0-20	1,010	25	3,585	16.6%	18.0%	14.5%	96	1	207	14.1%	14.6%	13.9%	25,875	8.7%
21-30	2,115	53	8,075	34.7%	38.1%	32.7%	360	19	636	45.4%	46.3%	42.7%	103,935	26.8%
31-40	1,551	32	6,137	25.5%	23.0%	24.9%	170	11	344	26.9%	26.8%	23.1%	135,906	32.7%
41-50	696	12	2,884	11.4%	8.6%	11.7%	44	4	129	6.7%	23.5%	8.7%	69,502	16.1%
51-60	338	13	1,435	5.5%	9.4%	5.8%	15	0	44	2.3%	0.0%	3.0%	36,015	9.4%
61-70	179	0	654	2.9%	0.0%	2.6%	9	0	22	1.4%	0.0%	1.5%	18,047	4.7%
70+	66	2	245	1.1%	1.4%	1.0%	2	0	6	0.3%	0.0%	0.4%	6,056	1.6%
UNK	139	2	1,670	2.3%	1.4%	6.8%	26	1	103	3.0%	2.4%	6.9%	0	0.0%
TOTAL	6,094	139	24,725	24.8%			661	41	1,491	44.3%	2.7%	6.0%	385,186	

EXHIBIT S
PAGE 1 OF 2

PERCENT OF DRIVER BY AGE GROUP

INVOLVED IN ALCOHOL ACCIDENTS

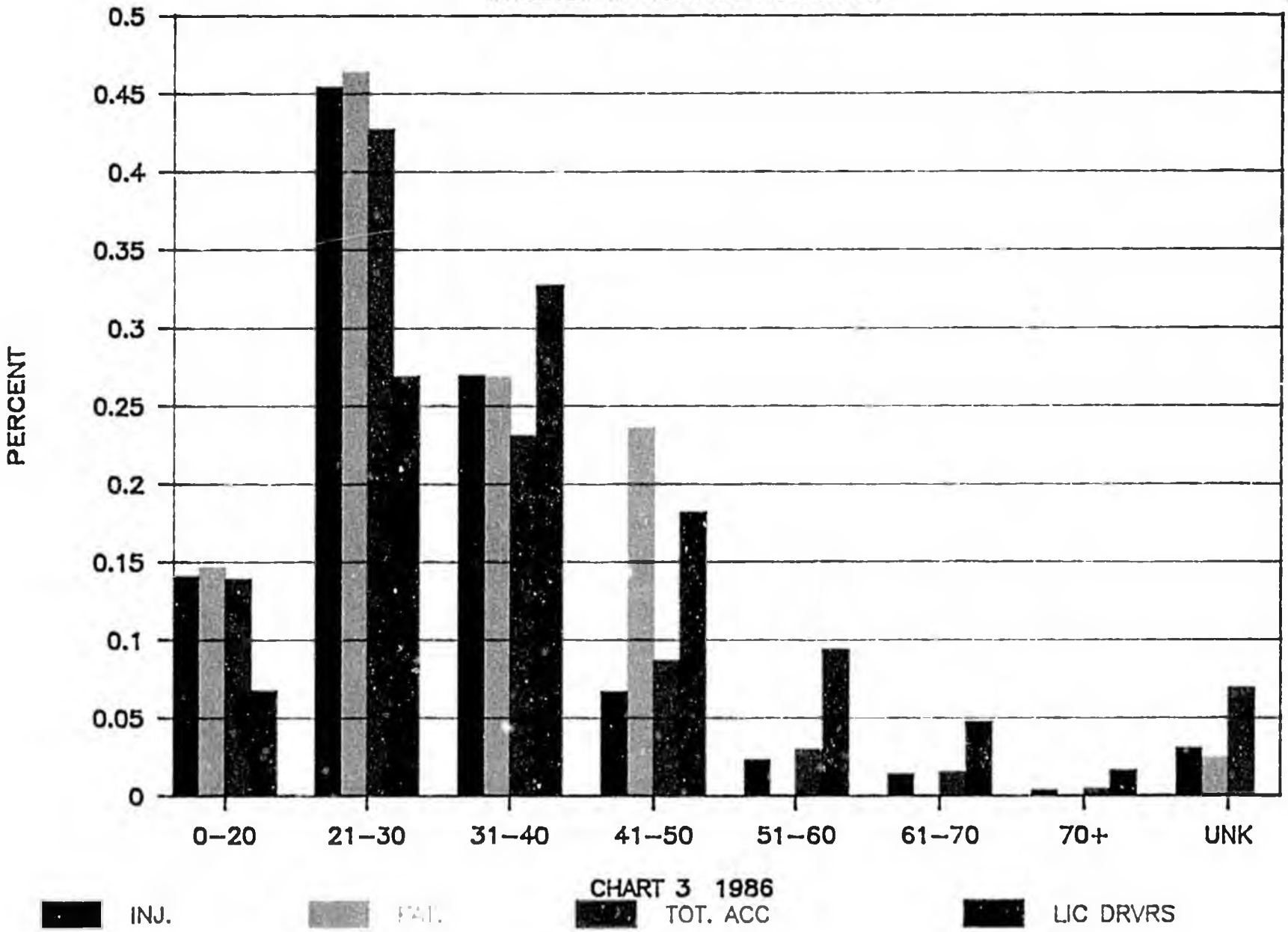

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EXHIBIT S-2 OF 2
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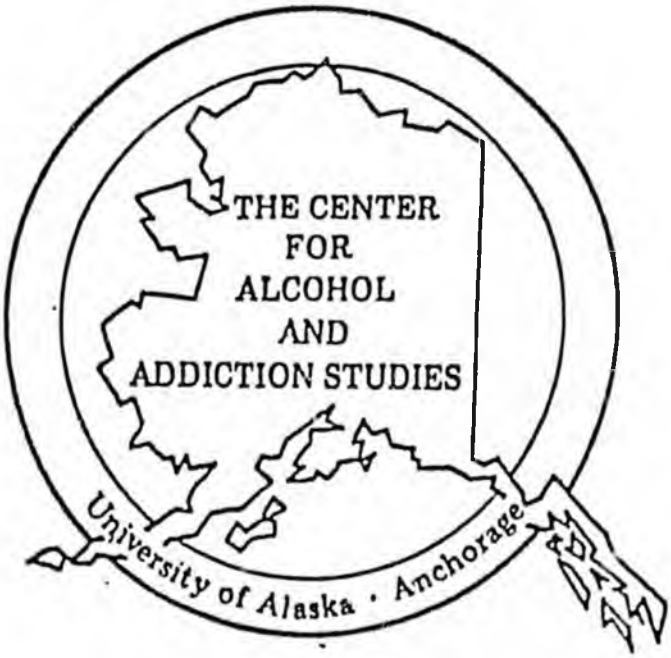
Adolescent Drug-Taking Behavior Followup Study

- Juneau: Grade 7 thru 12



Bernard Segal, Ph.D.
The Center for Alcohol and Addiction Studies
University of Alaska Anchorage
October, 1987

Put him down here

Funded by a grant from the State Office of Alcoholism and Drugs Abuse,
Depaerment of Health and Social Services

Segal working on general conclusions for all districts

EXHIBIT 6
PAGE 1 OF 19

Preface

Adolescent Drug-Taking Behavior Followup Study (Preliminary Findings)

During 1981 and 1982 an extensive statewide study, sponsored by the State Office of Alcoholism and Drug abuse (SOADA), was undertaken by the Center for Alcohol and Addiction Studies (CAAS) to estimate the prevalence of drug-taking behavior among Alaskan youth. A comprehensive report of the findings was released in 1983 (Segal et al., 1983). That research involved eight widely separated urban and rural school districts representative of the different regions of Alaska, except for the Aleutian chain. The locations were Anchorage, Juneau, Bethel, Fairbanks, Juneau, Kotzebue, Nome, and Sitka. These sites were selected in order to obtain a representative sample of the state's junior and senior high school students. This research also served to establish baseline information about drug-taking behavior among Alaskan youth so that comparisons could be made with subsequent studies.

The present research, also under the auspices of a grant from SOADA, is a follow-up study of the initial study undertaken during 1981-1982. The overall aims of the current study are: (1) to assess the nature and extent of current drug-taking behavior among Alaskan youth, (2) to compare the current findings with the initial study of drug-taking behavior, (3) to examine psychosocial characteristics associated with use and nonuse of chemical substances, and (4) to explore some of the implications that the findings have for prevention of substance abuse. Some of the specific objectives are:

(1) To obtain demographic and socialization information about adolescents in grades 7 - 12 relative to use or nonuse of chemical substances.

(2) To obtain information on the prevalence of specific chemical substances, including alcohol and tobacco.

(3) To obtain data relating to the patterns of drug-taking behavior, including alcoholic beverages and tobacco products.

(4) To obtain data relating to actual or perceived peer group use of specific drugs, including alcohol and tobacco.

(5) To obtain information on the consequences of drug-taking behavior

(6) To obtain information about which factors serve to contribute to or mitigate against drug-taking behavior.

The preliminary results of the study pertaining to Juneau students is presented as a confidential report to the Juneau Borough School District. The findings will not be made public in any manner by CAAS, and will not be presented in any way that will allow Juneau to be identified in published documents. If the school district chooses to make the findings public, only then will the information be in the public domain.

This document presents a summary of the major findings, specifically focusing on substance use, alcohol, and tobacco. Comparisons will be made with previous findings and with findings from other Alaska communities. A complete report of the findings will be released by SOADA upon the study's completion. Additional findings pertaining to Juneau will be forwarded after further analysis of the data is completed.

I would like to express my appreciation to the Juneau Borough Schools for enabling me to include Juneau in this follow-up study.

Bernard Segal, Ph.D.
Principal Researcher and,
Director, Center for Alcohol and Addiction Studies

EXHIBIT 6
PAGE 2 OF 19

Introduction

The apparent ongoing use of mind-altering substances in the United States, particularly by youth, has continued to challenge the efforts of educators, health professionals, law enforcement agencies, and governmental authorities, to deal with the problem. Despite significant efforts at prevention of drug abuse, it is patently clear that some youth will try drugs, and that a few will continue to use them to the point where they become substance abusers. From large surveys conducted in the United States, we have seen that there was an upward trend in the use of illicit drugs that began during the 1970s, which reached its peak in the 1980s. There is still considerable concern that while the use of many illicit psychoactive substances is beginning to decline, others such as cocaine are just beginning to stabilize, or even show modest increases in use.

This study provides an opportunity to review what is happening within Alaska with respect to the use of illicit psychoactive substances and about drinking and use of tobacco products among the state's adolescent population. It is envisioned that these findings will be useful to both the state and school districts in their efforts to address the continuing problem of drug use among adolescents.

It is important to note that the findings reported herein are based on self-report questionnaires. Although the research literature continues to indicate that such data are valid, a note of caution should be introduced. The findings can only reflect what the adolescent respondents say they <u>think they have taken</u>, and not what was actually used. It is well known that counterfeit and lookalike drugs exist, and that youngsters may have taken such substances thinking that they were the "real thing." In this instance what is important is that drug-taking behavior occurred, and that it was reported as having had occurred. Furthermore, it is always possible that some adolescents who may have tried a chemical substance may not have reported such use, or that some students may have either over- or under-reported their use. Each questionnaire was reviewed for consistency of responses to attempt to obtain reliable and valid data.

<u>Confidentiality and Anonymity</u>

The purpose of this research was to gain an understanding of drug-taking behavior among Alaskan Adolescents, and not to identify those who use or have tried a drug. Considerable effort was undertaken to obtain the most reliable and valid responses from the students choosing to participate in the study by ensuring their anonymity and confidentiality. The student's names were not asked for in any phase of the research, nor were any identifying measures used except to identify the community in which surveying was undertaken. The only

identifying information on the questionnaire was age, gender, grade, and ethnicity, none of which could be used to identify any single student.

Method

Questionnaire

The questionnaire used in the 1987 study was similar to the one used in the previous study, but with a different format. The questionnaire was designed to be self-administered and restricted to an administration time of one class period (about 50 minutes). The types of data items outlined below were collected through the questionnaire shown in Appendix A.

(1) Demographic

This section included question that inquired about: gender, ethnic background, age, participation in drug education programs, grades obtained, and length of time lived in community.

(2) Drug Usage

Information on drug usage included an extensive set of question on nonprescriptive or social/recreational use of marijuana , cocaine, crack, stimulants, hallucinogens, depressants, heroin, inhalants, and tranquilizers, with specific reference to recency and frequency of use, problems from use, age of first use, and level of peer use.

(3) Alcohol

This section includes information about the quantity and frequency of consumption, and about some adverse consequences of drinking.

(4) Tobacco

Information on cigarette smoking and on use of smokeless tobacco products, including the quantity and frequency of use.

(5) Personality Items

The use or nonuse of drugs is in part influenced by personality characteristics. The incorporation of a measure of personality attributes facilitates an evaluation of what personality traits are related or unrelated to nonuse of drugs and to differing pattern of drug use.

The Sample

Sampling within the Juneau schools was undertaken by the School District itself, utilizing the method of stratified random sampling to obtain a representative sample of students in grades 7-12. Stratification was based on class and gender. A total of 418 completed questionnaires were obtained. A response rate cannot be provided because the total number of students asked to complete the questionnaire is not known. Additionally, since the total

number of students in grades 7-12 is not known, it is not possible to report what percentage of the total population of students in grades 7-12 is represented in the sample. A description of the samples follows.

Characteristics of the Juneau Student Sample

Gender	N	%
Males	199	47.6
Females	218	52.2
Unreported	1	.2
Total	146	

Ethnicity	N	%
Alaska Native	41	10.0
White	317	75.8
Am. Indian	11	2.6
Asian-Pacific	21	5.0
Black	10	2.4
Hispanic	6	1.4
Other	6	1.4
Not reported	6	1.4

Grade	N	%
7	86	20.6
8	88	21.1
9	70	16.7
10	66	15.8
11	78	18.7
12	29	6.9
NR*	1	.2

*Not reported

Participation by School, Gender*, and Grade*

Grade	7	8	9	10	11	12	Total
School							
Drake							
Males	21	22					43
Females	22	27					49
Dryden							
Males	20	17					37
Females	23	21					44
J. Alternative							
Males		1	19	1			21
Females			15	0			15
Juneau-Douglas H.S.							
Males			11	37	37	13	98
Females			25	28	41	16	110
Total:	86	88	70	66	78	29	417
Males							199
Females							218

*One student did not report gender, and one did not indicate grade.

The extent to which this sample is representative of the school district's student population cannot be estimated because the actual class sizes and

representation by gender are unknown. What is evident, however, is that the sample is that seniors are underrepresented and, overall, more females than males are represented in the sample.

Results

Part I. Chemical Substances

Opportunity to Try and Trying Drugs

Trying mood-altering drugs does not occur without an opportunity to be exposed to such substances. After exposure, a choice is then made to try or not try a given drug. Table 1, which is represented graphically in Figure 1, presents the findings with respect to the number of students who indicated that they had an opportunity to try one or more of the different mood-altering substances listed in the questionnaire. A comparison with the 1982 findings is also presented.

Inspection of the findings indicate that some changes in students' opportunity to try, or exposure to, chemical substances has occurred since 1982. Most noticeable is the increase in opportunities to try inhalants (+18.9%), which is almost doubled since 1982. A large increase in opportunities to try tranquilizers (+11.0%) has also taken place. In contrast, opportunities to try cocaine decreased since 1982 (-4.5%). Although some other changes have also occurred, the nature of these shifts suggest that exposure to these substances has remained fairly constant. Overall, what these findings suggest is that adolescents may be trying to keep up with current drug trends or "fads." It is thus possible that an actual increase in the actual available of these substances has not occurred, but that the changes reported by the students reflects a shift in their pattern of use.

Lifetime Experience (Prevalence)

(1) Prevalence of Use: Trying One or More Drugs

Figure 2A shows how many respondents reported actually having tried one or more chemical substances. Presently, 58.4 percent of those surveyed, over half of the sample, reported having tried one or more of the chemical substances listed in the questionnaire during their lifetime. The number of students reported having tried one or more drugs in 1982 was 42.6 percent. The difference between the two statistics represents an increase of 15.8 percent (over a five year period). Table 2 shows the patterns of use reported by the students.

(2) Lifetime Prevalence: (Ever vs. Never Trying a Chemical Substance)

Table 2, accompanied by Figure 2B, indicates how many adolescents in the

Table 1
Opportunity to Try and Trying Drugs:
Comparison of 1982 and 1987 Findings
Juneau Schools
Grades 7-12

Drug	1987 (n=418) Percent of Sample Having a Chance to Try	1982 (n=298) Percent of Sample Having a chance to Try
Marijuana	69.4	68.7
Hallucinogens	25.1	26.5
Cocaine	30.1	34.6
Heroin	8.6	9.1
Inhalants	47.4	28.5
Stimulants	46.2	44.6
Depressants	22.7	18.1
Tranquilizers	24.2	13.4
Crack	1.4	--

Figure 1
Juneau Schools
Opportunity to Try Chemical Substances
Comparison of 1987 and 1982 Findings
Grades 7-12

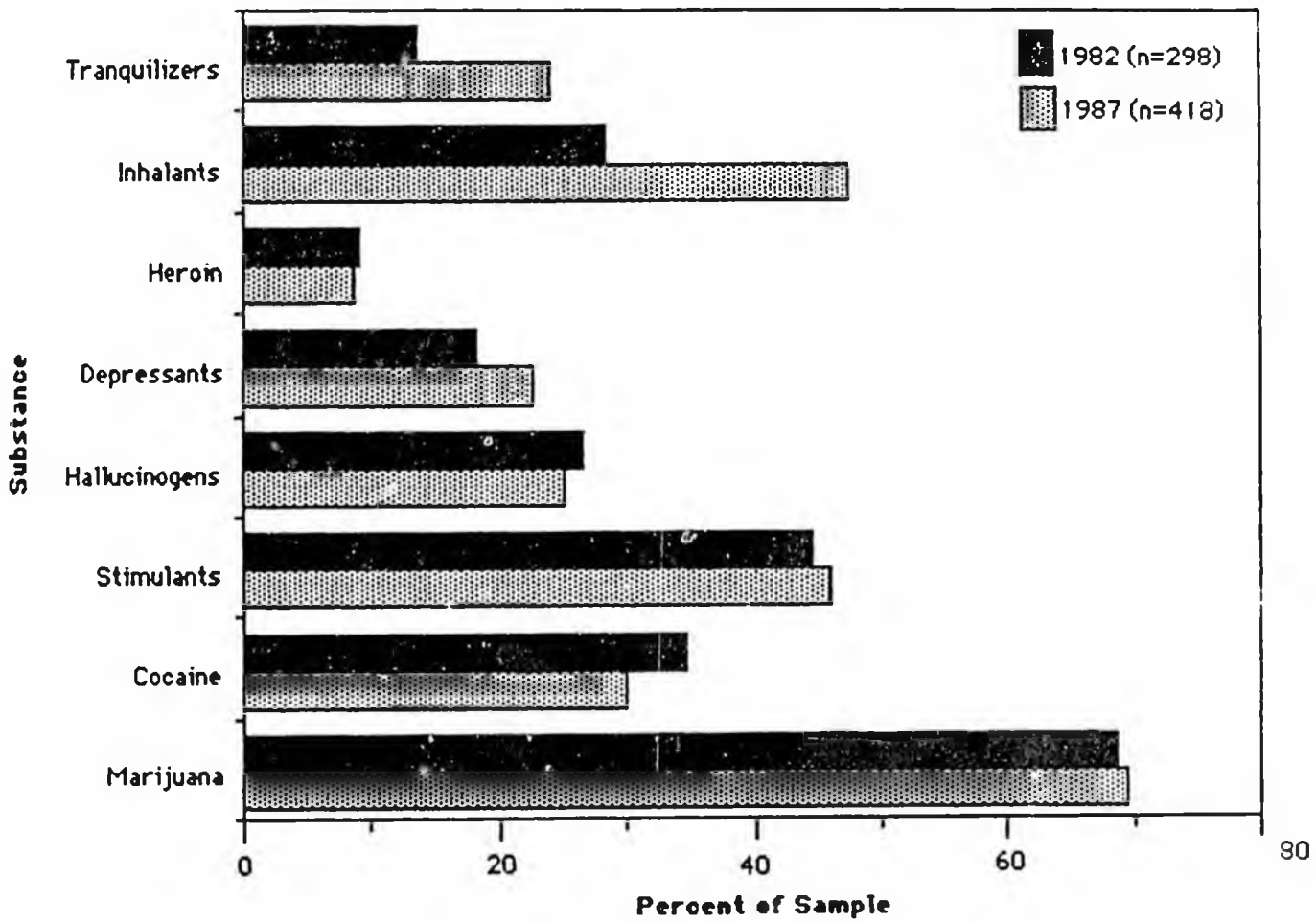


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Figure 2A
Juneau Schools
Lifetime Experience with One or More Chemical Substances
Grades 7-12

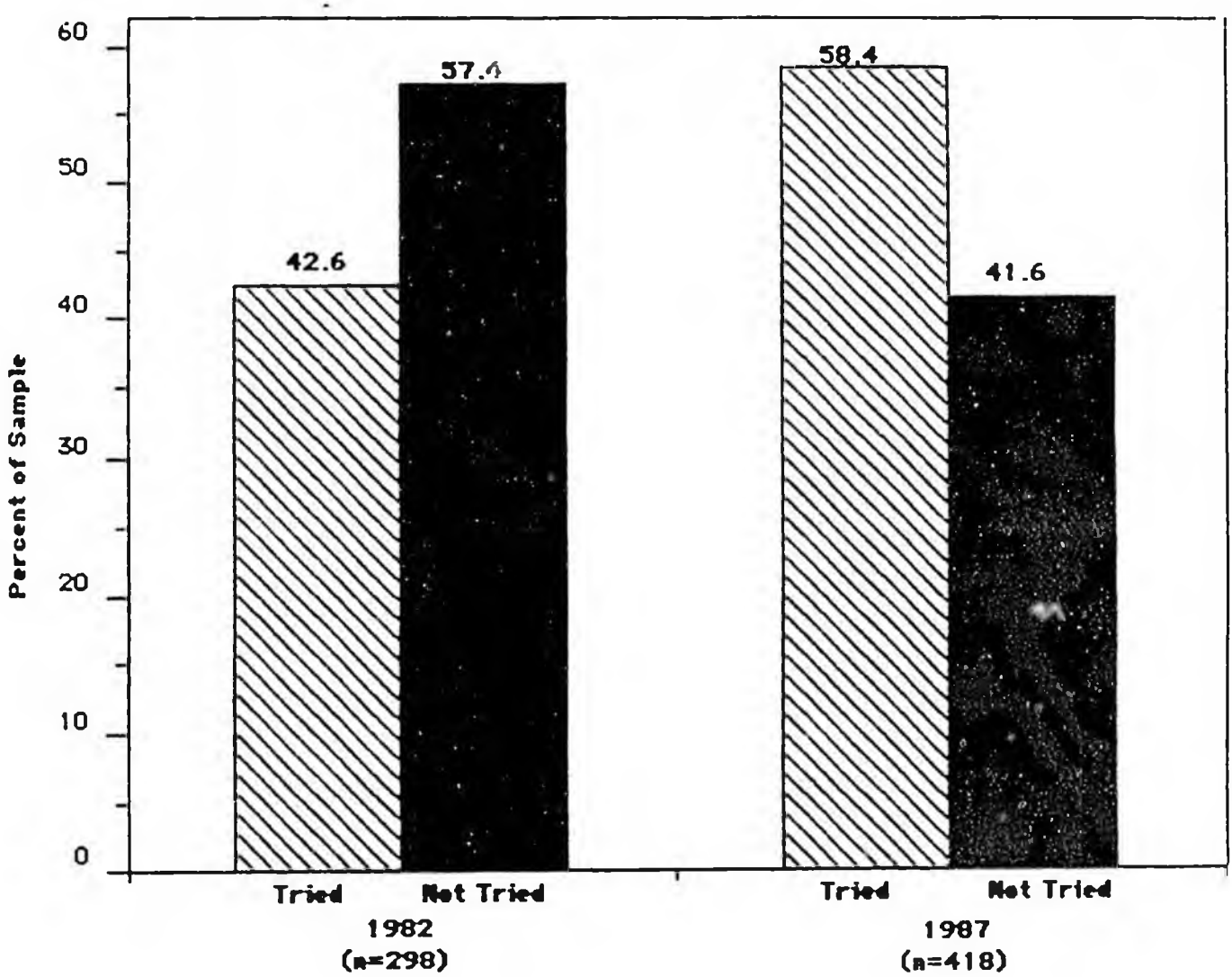

Table 2
Lifetime Experience with One or More Chemical Substances
1982 and 1987
Juneau Schools
Grades 7-12

Drug	Lower* Limit	1987 (n=418)	Upper* Limit	1982 (n=298)	Change
Marijuana	48.5	53.3	58.1	51.7	+ 1.6%
Hallucinogens	10.6	13.9	17.2	8.1	+ 5.8%
Cocaine	9.5	12.7	15.9	18.8	- 6.1%
Heroin	0.8	2.2	3.6	2.7	- .5%
Inhalants	18.2	22.2	26.2	20.8	+ 1.4%
Stimulants	25.0	29.4	33.8	32.2	- 2.8%
Depressants	8.2	11.2	14.2	12.8	-1.6%
Tranquilizers	9.5	12.7	15.9	9.4	- 3.3%
Crack	0.3	1.4	2.5	--	--

*95% Condifence Interval. These figures repesent the lower and upper confidence intervals within which the true population value lies (95 out of 100 times).

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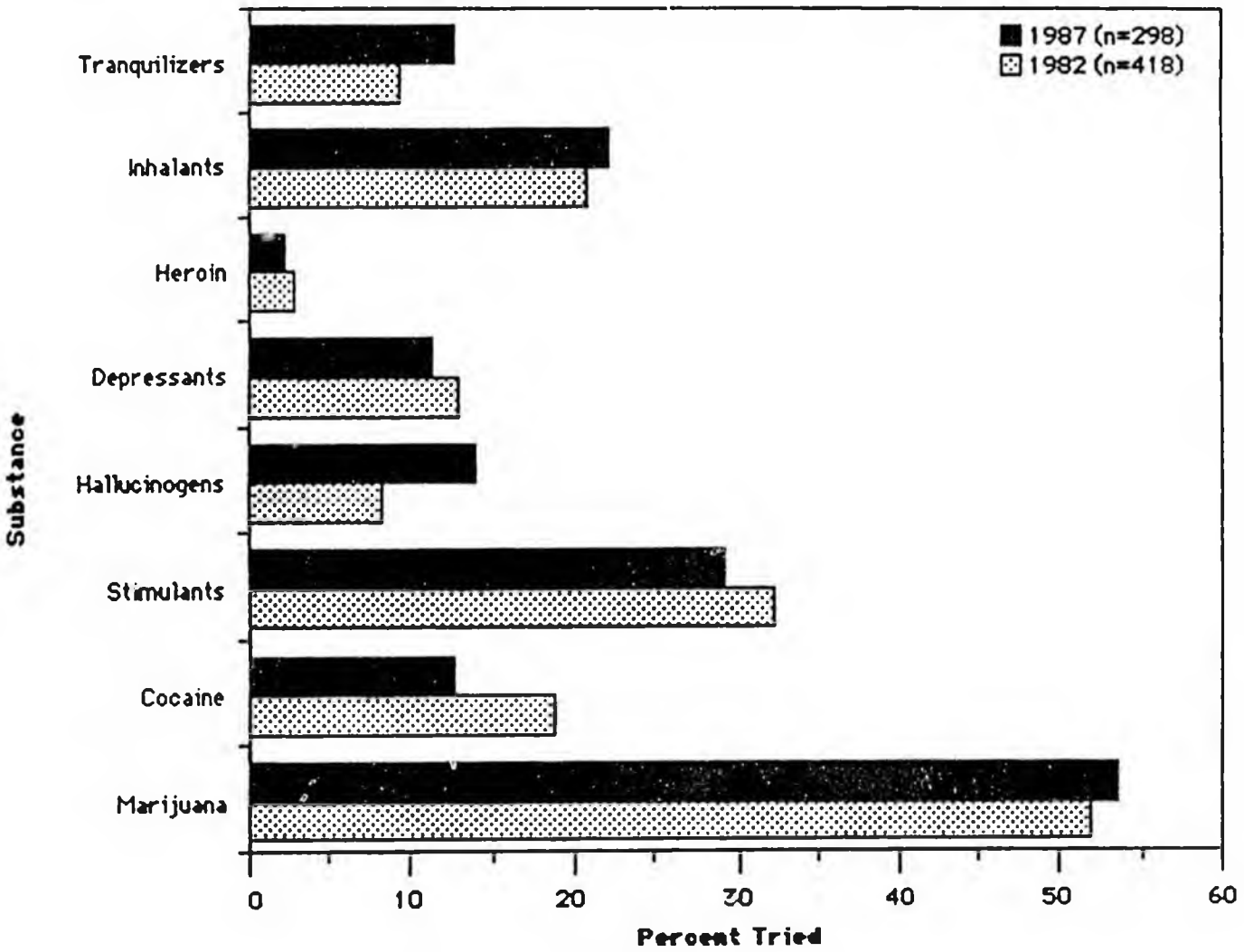
Figure 28
Juneau Schools
Lifetime Experience with One or
More Chemical Substances
Comparison of 1982 and 1987 Findings
Grades 7-12



sample indicated having tried one or more of the different substances during their lifetime. (Also incorporated in Table 2 are the upper and lower confidence levels for the statistics obtained from the 1987 sample. These figures represent the range within which the true population value would be found 95 out of 100 times.) Based on these findings it is clear that marijuana was the most commonly experienced drug, but that the number of adolescents trying it has increased very slightly since 1982 (+1.6%). The largest increase in lifetime experience was for hallucinogens (+5.8%). Experiences with cocaine have shown a decrease (-6.1%), and stimulant use has also declined (-2.8%). Inhalants have shown a modest increase of 1.4%.

The overall pattern of use, however, has generally remained the same since the initial study. Marijuana, stimulants, and inhalants, continue to be the top three drugs tried, respectively. Cocaine, which was fourth in 1982, is presently tied for fifth place with tranquilizers. The decline in the prevalence of cocaine is consistent with national trends indicating a decrease in its use among youth (NIDA, 1987).

Number of Drugs Tried

Figure 3 shows the number of drugs tried by gender. The largest number of students tried only one drug, with males exceeding females by 14.2%, but more females tried two or three drugs than males. An equal number of males and females have tried four drugs (50%), after which the pattern varies between males and females as to who had tried more drugs. After four drugs, however, as the number of drugs tried increases, the numbner of students trying five or more drugs decreases.

Experience With Drugs by Grade

Figure 4A provides a report of drug use according to grade and gender. What this table describes is the percentage of students who have tried one or more drugs by the time they have reached their current grade level. Inspection of the data shows that as grade level increases there is a corresponding increase in drug-taking behavior. The increase between grades 7 - 10 is particularly striking, increasing at what appears to be a consistent rate of about 6 percent per year. Although there is a slight decrease in the number of students who tried drugs by the 11th grade, this decline is offset by a slight increase in drug use among seniors (12th grade).

Experience with Drugs by Gender Within Grade Levels

Figure 4B expands the data in Table 4A by including gender. As can be observed, in the early grades (7 and 8) males tend to have tried more drugs than females, but that by the 9th and 10th grades, females begin to exceed males with respect to experiences with chemical substances. These two grades also appear to be the grades levels during which drug-taking behavior

Figure 3
Number of Drugs tried by Gender
Juneau Schools
Grades 7-12
1987

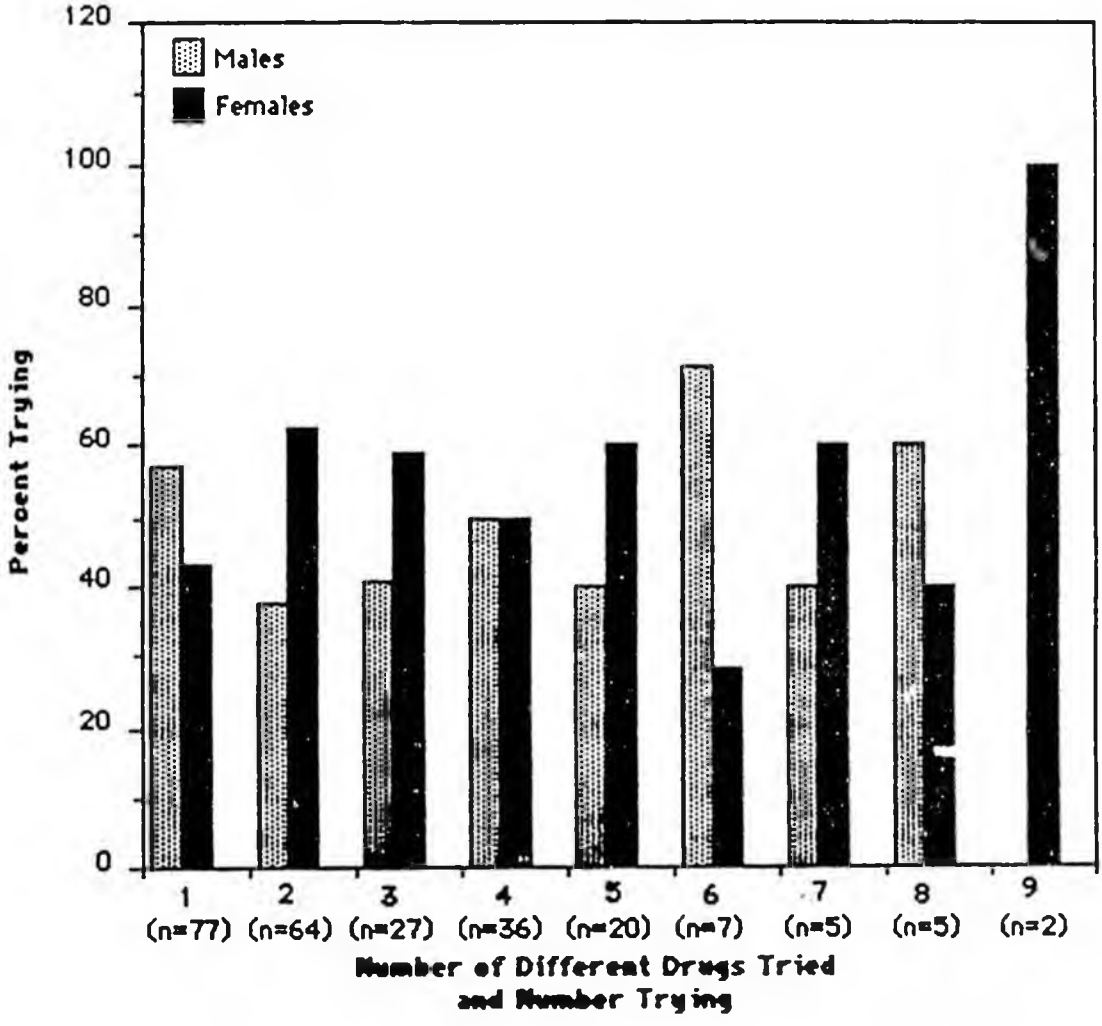


Figure 4A
Experience with Drugs by Grade
Juneau Schools
Grades 7-12
1987

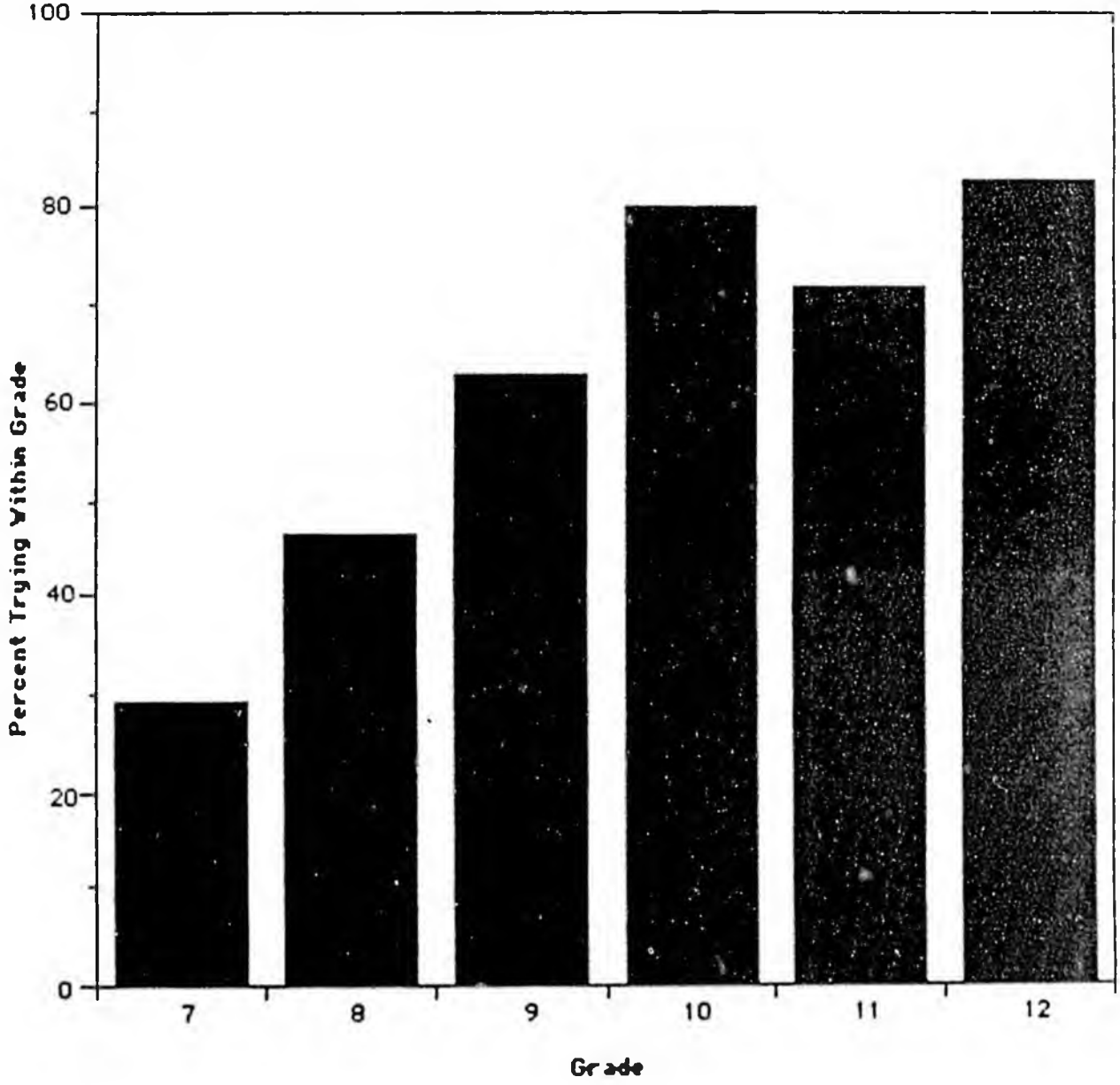


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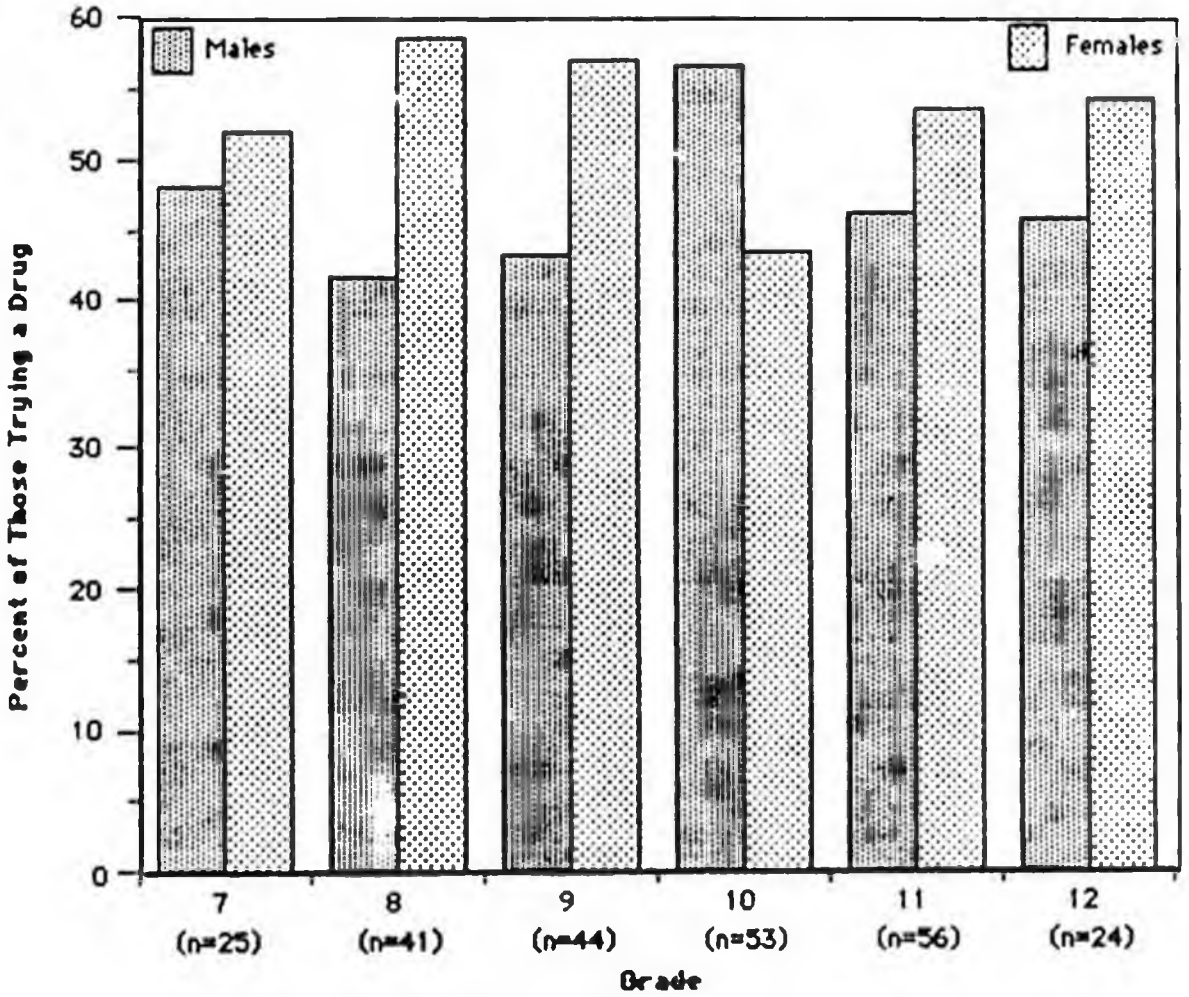
Figure 48
Experience with Drugs by Gender and Grade
Juneau Schools
Grades 7-12
1987



begins to peak. By the 11th and 12th grades drugs-taking behavior begins to decline, with more females having experienced drugs in the 11th grade than males. This process is dramatically reversed in the 12th grade where females exceeded the number of males with respect to drug- taking behavior.

Frequency and Recency of Use

The report thus far has described data pertaining to lifetime experience with drugs, that is, ever having tried one or more drugs without respect to the number of times tried or how recently a drug may have been taken. This section focuses on how may times respondents reported having used a drug during the month prior to sampling (past month), during past year, and during their lifetime. The data is based on an analysis of the reports of use by those adolescents who have indicated that they have tried any substance. Both crack and heroin were not included because of their low prevalence rates. It should be noted that the reports of lifetime experience, past year, and past month experiences may not have been treated as mutually exclusive categories by the respondents. Therefore the data presented may reflect a summation of experiences, in which an individual reported that he or she tried a substance once during their lifetime, which occurred either during the past year or past month or both. It is imperative to recognize that the following seven figures (5A-5G) depict three unique percentages (lifetime, past year, past month) derived from the total number of students who ever tried each of the substances. The number of students who have ever tried each substance for the given time period is included in the legend within each figure.

1. Marijuana

Figure 5A shows the distribution of reports of frequency and recency of use of marijuana. What is evident is that the prevalence of marijuana has been high, and that both experimental and regular use has occurred. Experimental use (1-2 times) was highest during the past month, suggesting ongoing infrequent or experimental use. In contrast to this pattern, a large number of students have used marijuana more extensively. Over 30% of those having used marijuana did so 40 or more times during their lifetime, over 20 percent did so during the past year, and slightly over 5 percent reported having used marijuana forty or more times during the past month. Overall, many students have apparently tried and continue to use marijuana, following a pattern that ranges from infrequent to what may be termed "regular" use.

2. Cocaine

Table 5B shows that of those adolescents who have indicated having tried cocaine at some point in their life, the clear majority do so experimentally or infrequently (five times or less). Of these, 80 percent had tried it during the past month, over 50 percent reported having tried it during the past year, and over 40 percent had tried it at some point during their lifetime. A small

Figure 5A
Frequency and Recency of Marijuana Use
Juneau Schools
Grades 7-12
1987

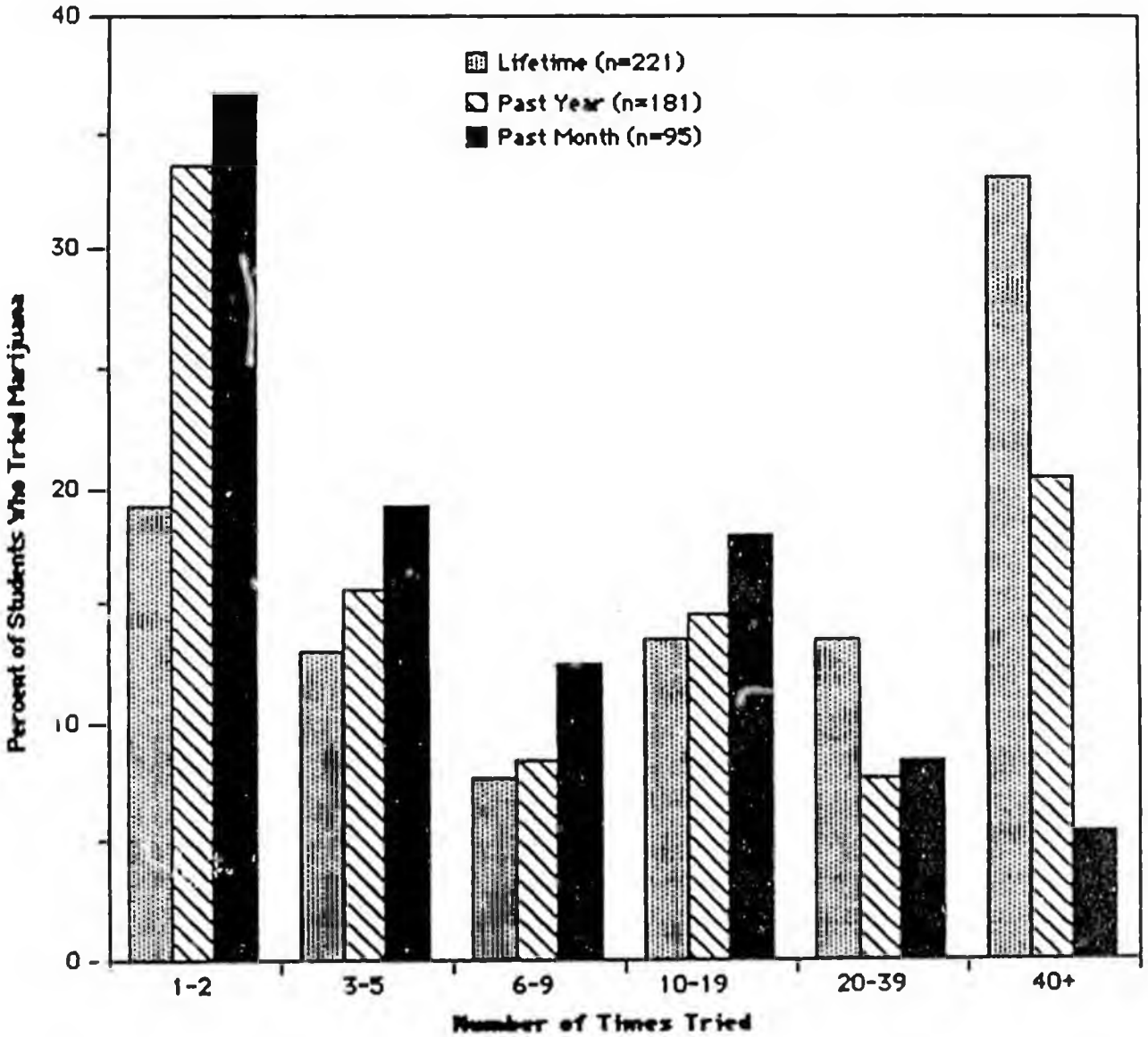
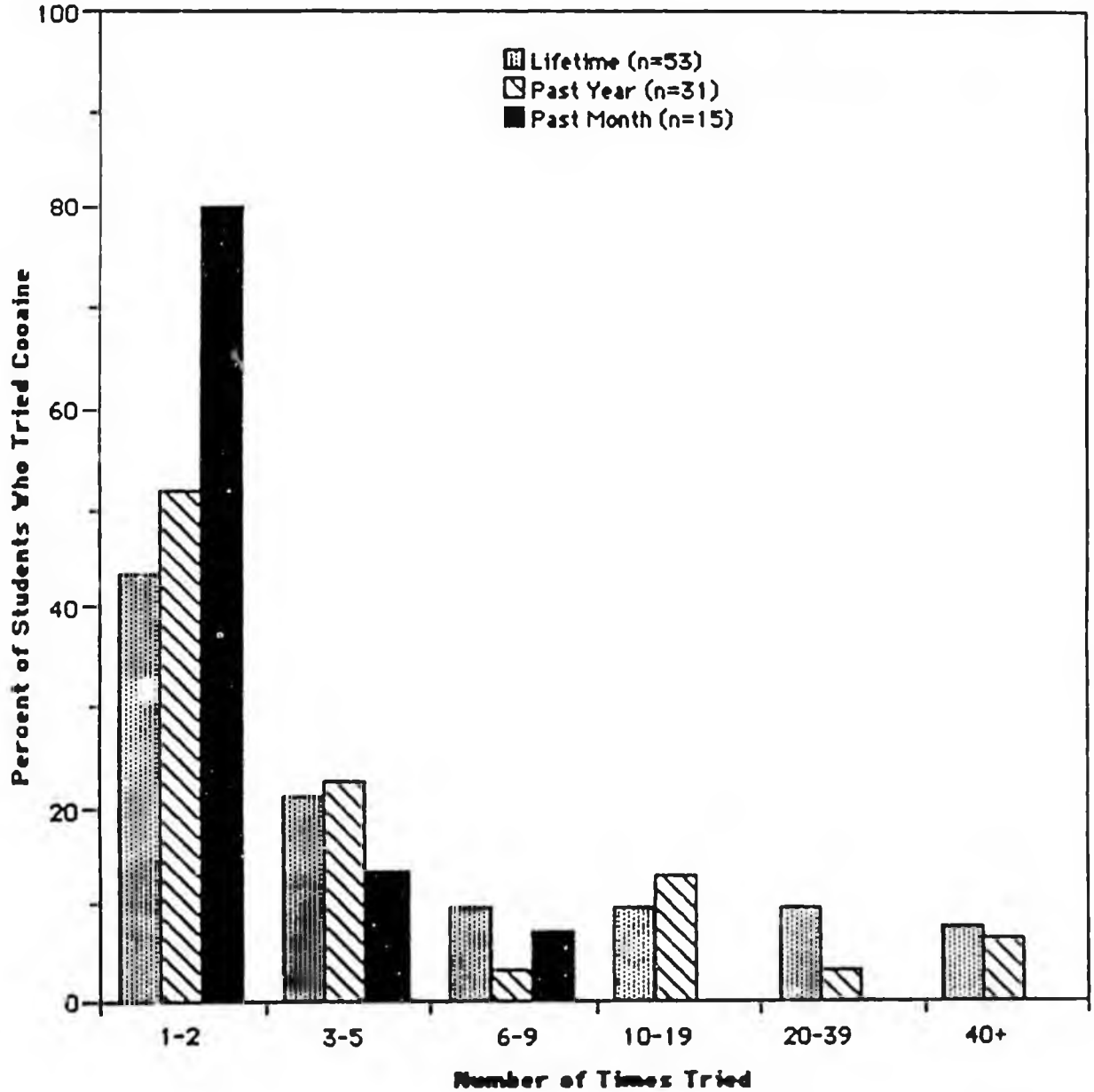


Figure 5B
Frequency and Recency of Cocaine Use
Juneau Schools
Grades 7-12
1987



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number of students (6.7%) have indicated that they used cocaine 6-9 times during the past month. More frequent use of cocaine has occurred among a small number of students one or more years ago.

3. Stimulants

Figure 5C reports on the pattern of stimulant use. As can be observed, among those who indicated having tried stimulants a large percentage of have done so experimentally (less than five times) during the past month and year. More recent and frequent is also reported by a small number of students, some of which occurred during the past month.

4. Hallucinogens

An active pattern of hallucinogen use is evident among the number of students who reported having tried a hallucinogenic substance. The results, shown in Figure 5D, indicate that the predominant level of use has been one or two times, but 75% of those who have tried it did so during the past month. More recent and frequent use is also reported, with 6.3 percent having used such substances 10-19 times during the past month. More extensive use has also occurred, but this has taken place a year or more ago.

5. Depressants

The predominate mode of experience with depressant substances, as shown in Table 5E, appears to be primarily experimental (1-2 or 3-5 times), but some students have used depressants more extensively.

6. Inhalants

Inhalant use, as revealed in Table 5F, shows a varying pattern of use, ranging from infrequent (1-2 times) during the past month to more frequent (40+ times) during the past month. The overall pattern suggests that an active involvement with inhalant substances is occurring.

7. Tranquilizers

Figure 5G shows that use of tranquilizer type drugs has been chiefly experimental, but that students have used it within the past month, and that a small number have also used such substances extensively.

In summarizing the findings pertaining to recency and frequency of drug-taking behavior, it appears that there is a mixed pattern of ongoing experimental and more sustained use of most substances. The substances used most recently and with greater frequency are marijuana, cocaine, stimulants, hallucinogens, and inhalants.

<u>Age of First Experience With Marijuana, Stimulants, and Inhalants</u>

Figure 6 shows the ages with which respondents indicated having first tried

Figure 5C
Frequency and Recency of Stimulant Use
Juneau Schools
Grades 7-12
1987

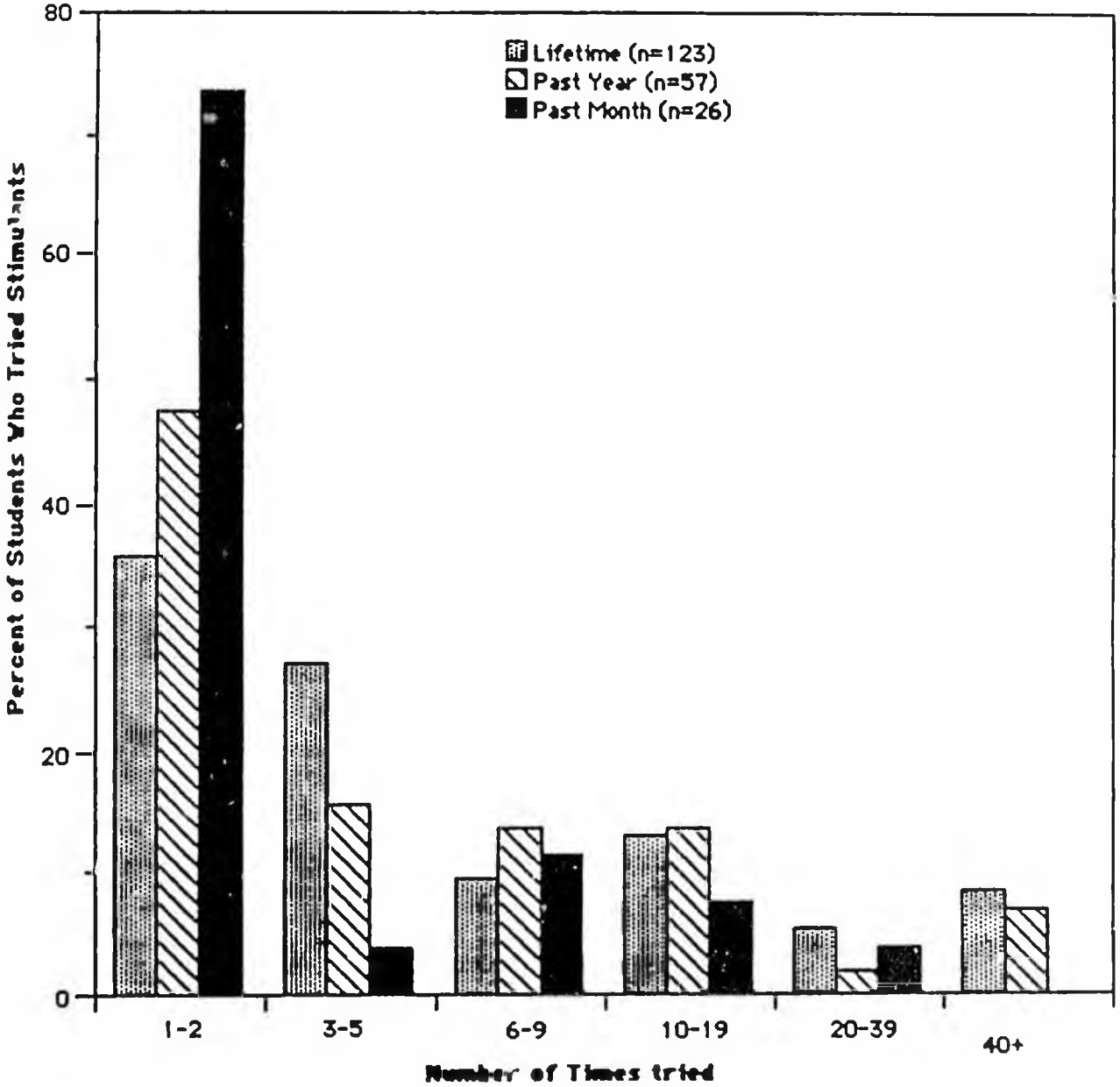

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Figure 5D
Frequency and Recency of Hallucinogen Use
Juneau Schools
Grades 7-12
1987

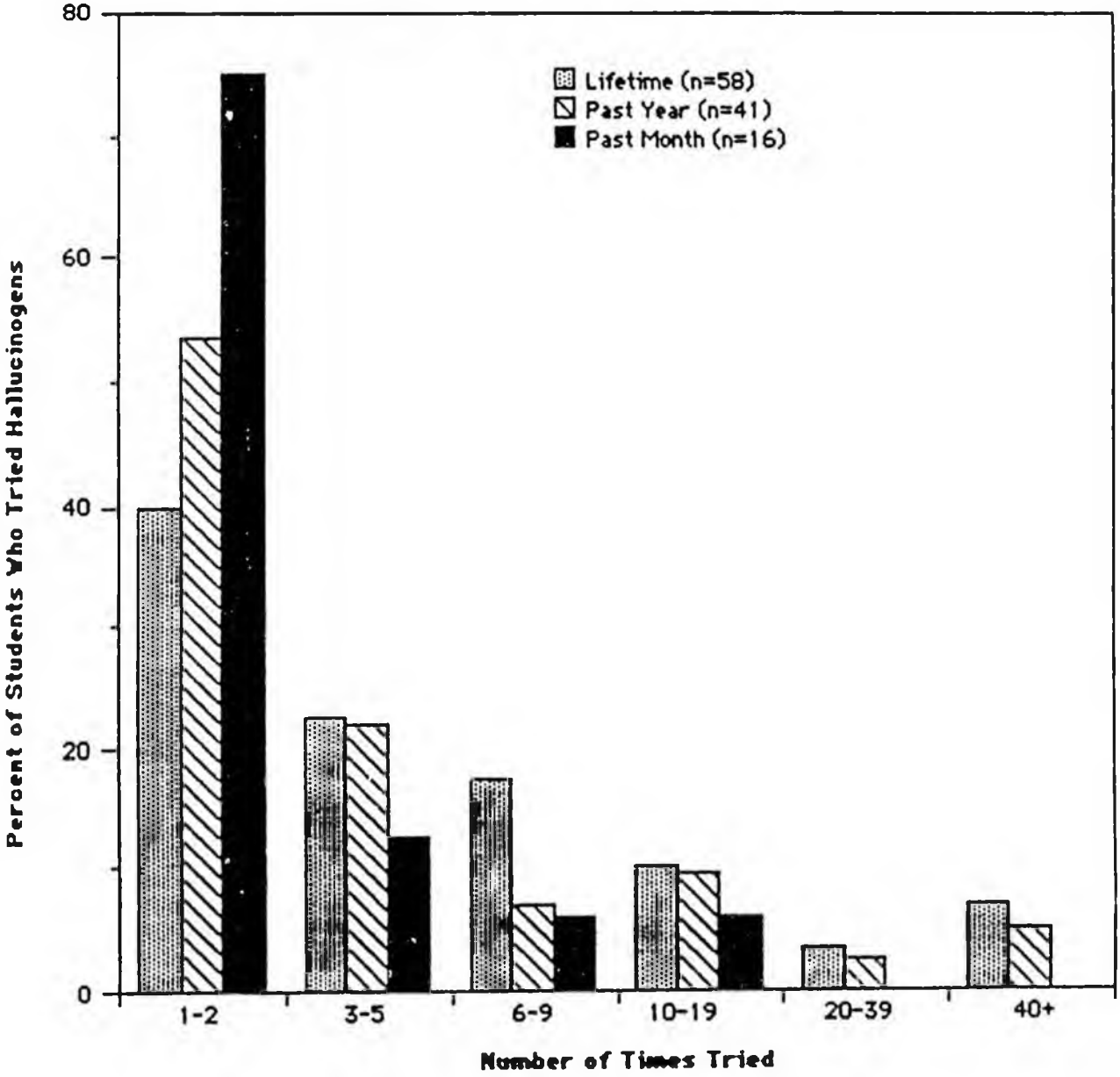


Figure 5E
Frequency and Recency of Depressant Use
Juneau Schools
Grades 7-12
1987

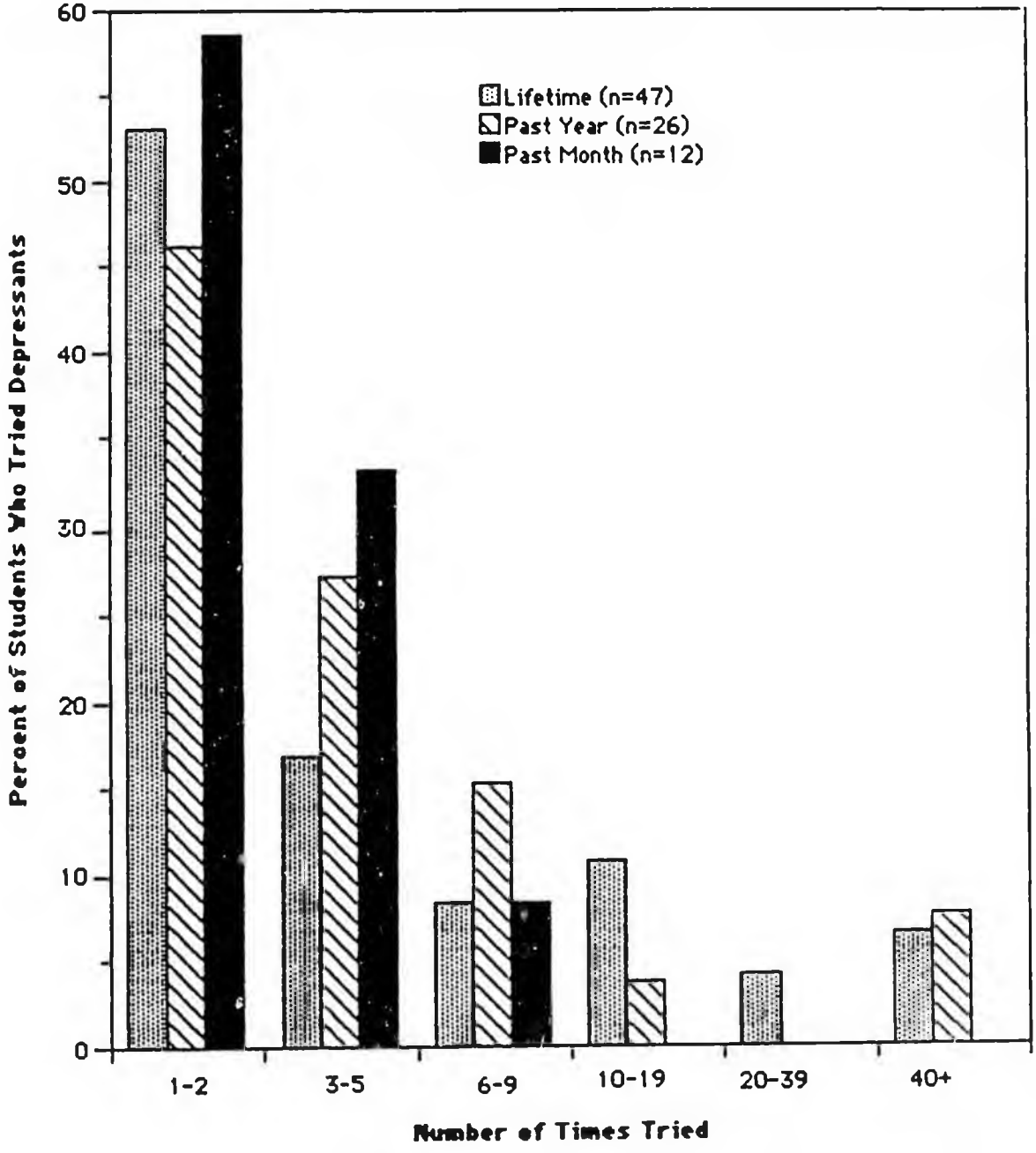


Figure 5F
Frequency and Recency of Inhalants Use
Juneau Schools
Grades 7-12
1987

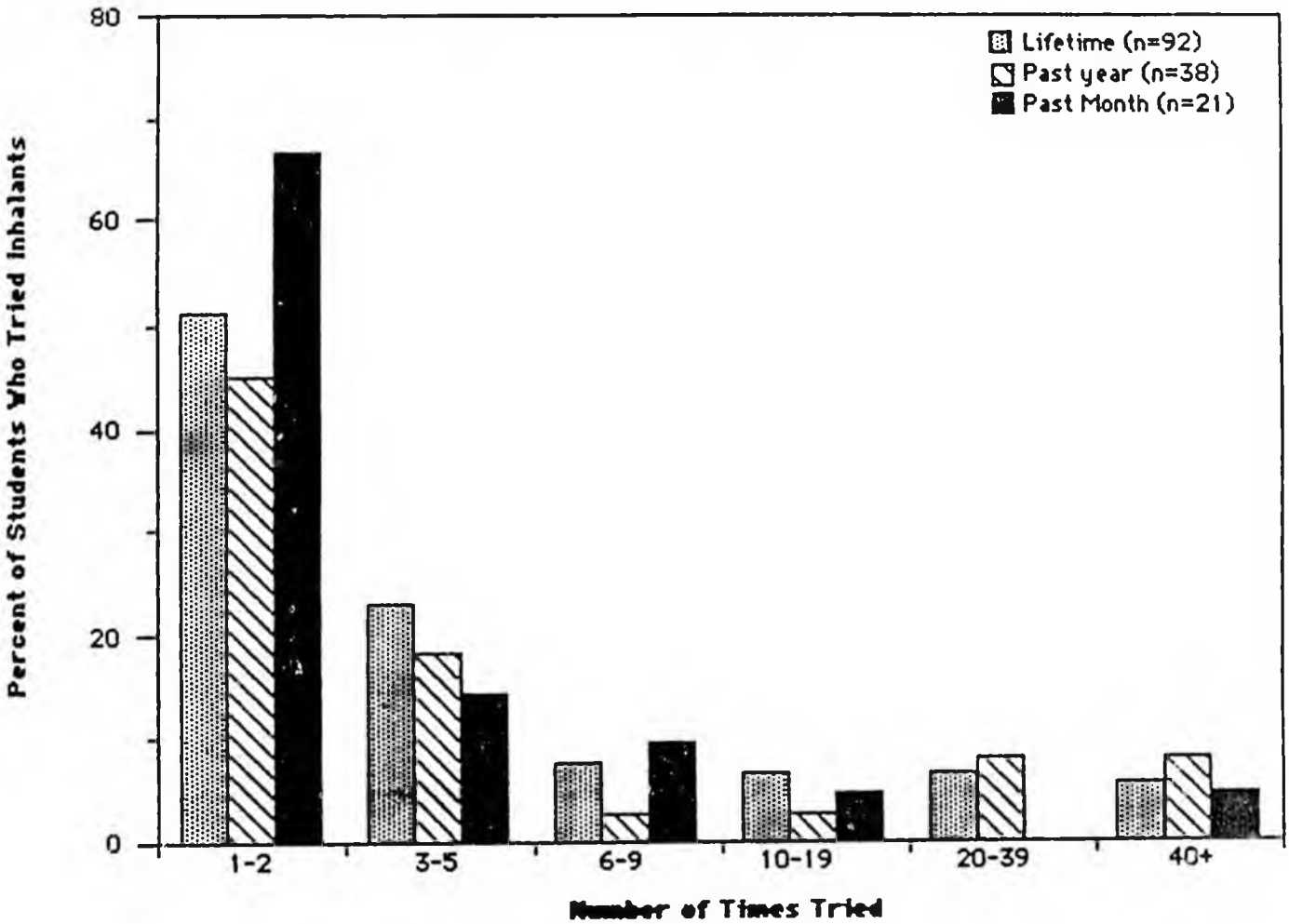
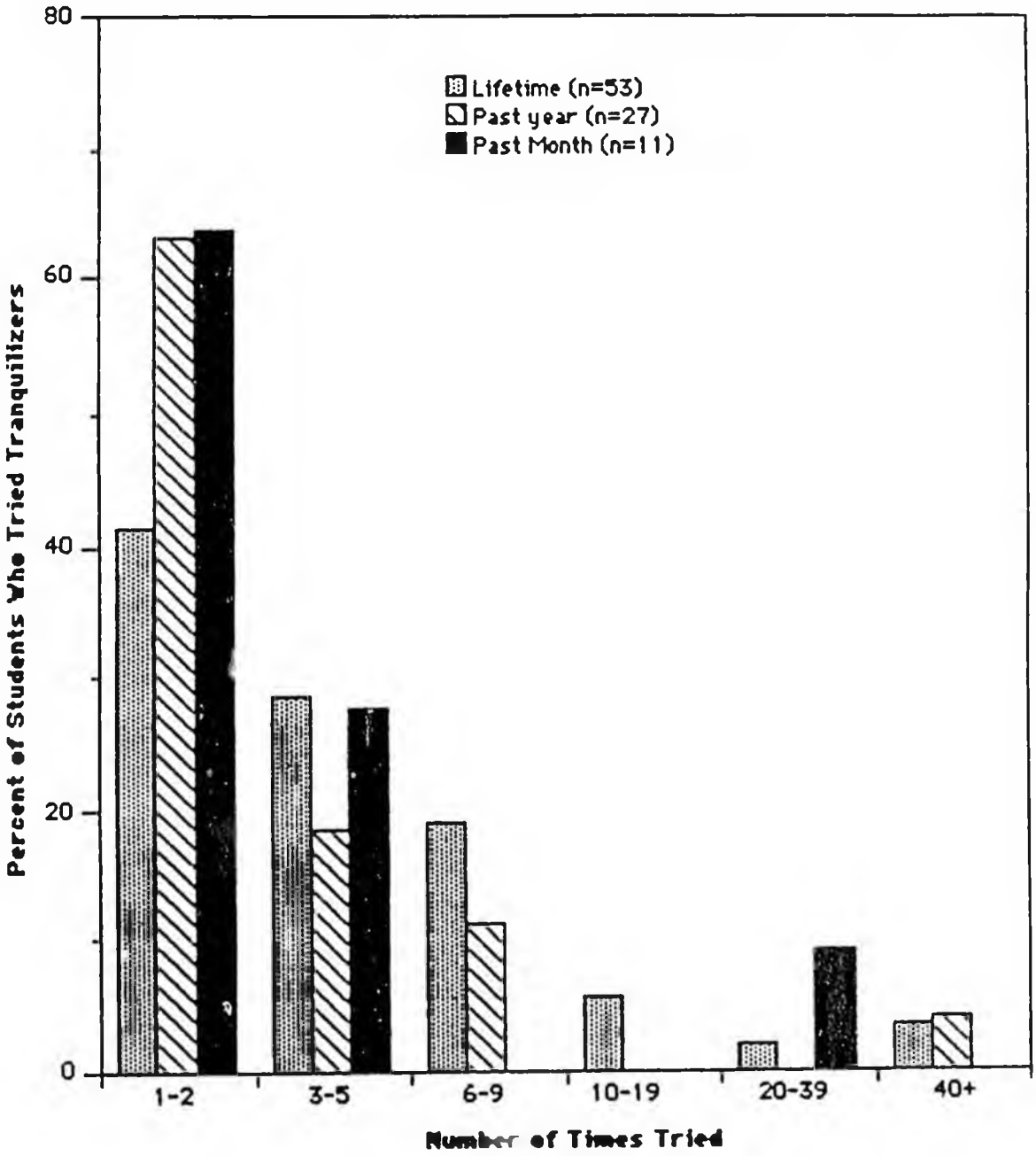


Figure 5G
Frequency and Recency of Tranquilizers Use
Juneau Schools
Grades 7-12
1987



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marijuana, stimulants, and inhalants, the three drugs tried most frequently by the sample. At nine years years or less a small number of students have been initiated into substance use, with the highest number trying an inhalant type substance. Subsequent to nine years there is a decrease in initiation until age 12, where the first major peak occurs for all three substances. This high initiation level then drops sharply for inhalants, increases slightly for marijuana, and remains stable for stimulants at age 13. Subsequent to this point initiation into marijuana declines sharply. By age 14 initiation into stimulants peaks again at age 14, then drops sharply. Initiation into inhalants also increases, and then declines.

What the configuration of these three curves suggests is that inhalants tended to be used more than marijuana and stimulants at an early age, but that as age increases, interest shifts to experiencing marijuana and stimulants. Twelve years appears to correspond to a "critical period" of initiation into tying marijuana, inhalants, and stimulants. Subsequent to age 12 initiation to these substances declines, except for stimulants, which seems to attract the attention of 14 year olds. The data also suggests that if these substances were not tried by or before age before age 17, initiation into their use declines.

Part II. Alcohol

Lifetime Prevalence of Experience with Alcohol

Figure 7 shows the number of students who reported ever having tried alcohol in 1987 and 1982. (The lower confidence limit for the statistic pertaining to the number of students who drank is 64.7; the upper limit is 73.5.) As can be observed, the prevalence of lifetime experience with alcohol has decreased very slightly (1.4%) since 1982. The difference, however, is sufficiently small to conclude that the number of students who tried alcohol in 1982 and in 1987 remains at a consistent level.

Frequency of Drinking During the Past 30 Days

Figure 8 reports the frequency of alcohol consumption among students who indicated having consumed alcohol during the past 30 days. Of those, over 30% indicated that they did not drink during the past 30 days. Among those who did report that they consumed alcohol, the largest number reported drinking 2-3 times a week. What seems evident from the data is that alcohol is being consumed, and its use ranges from infrequent for a majority of respondents, to more frequently (more than 3-4 times a week) for a smaller number of students.

Drinking by Gender

Figure 9 reports on use of alcohol by gender, comparing lifetime and past year experience with alcohol. Interestingly, more females than males showed

Figure 7
Lifetime Experience With Alcohol
Comparison of 1982 and 1987
Juneau Schools
Grades 7-12

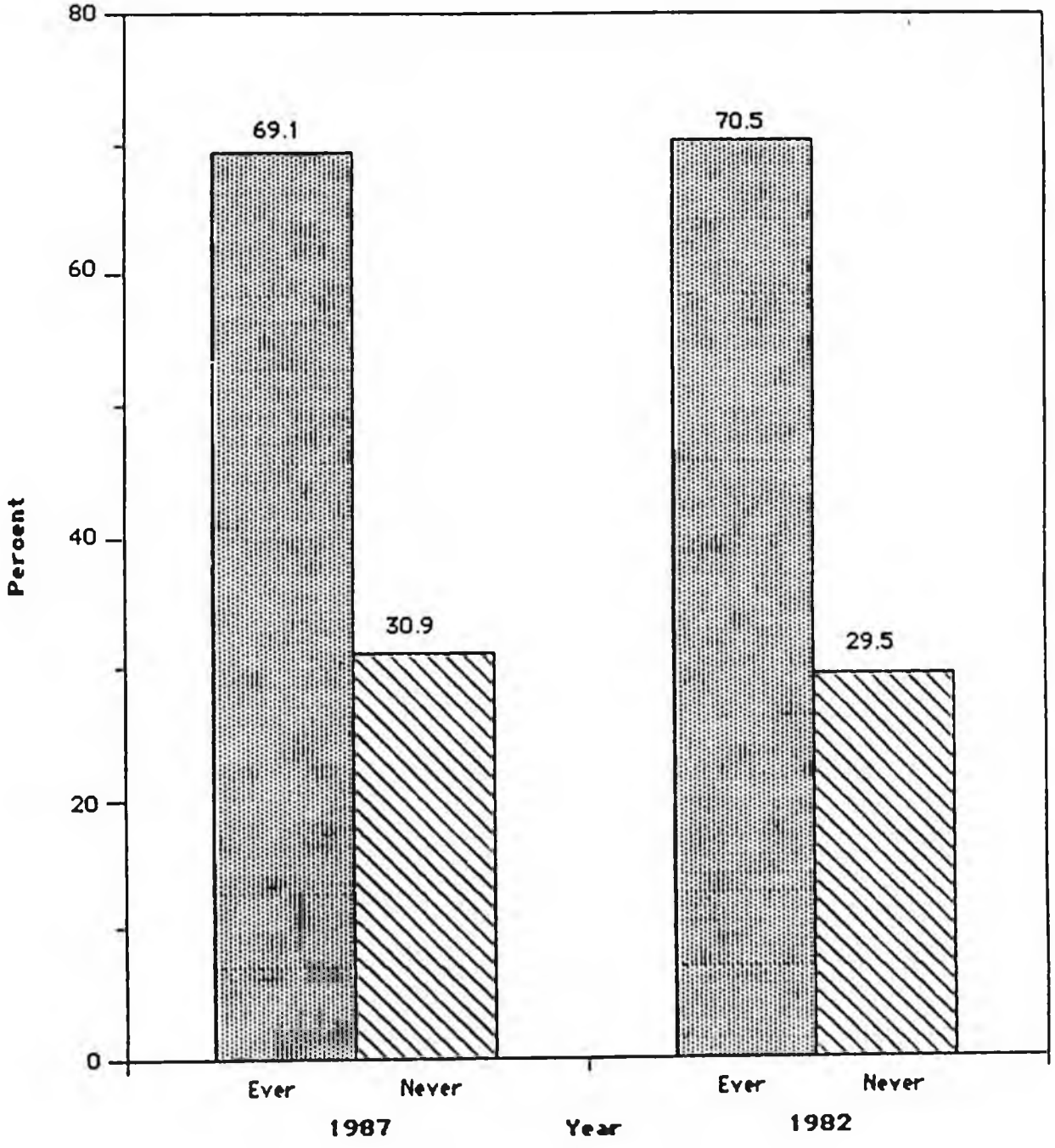


Figure 8
Frequency of Drinking Past 30 Days
Juneau Schools Grades 7-12
1987
(n=289)

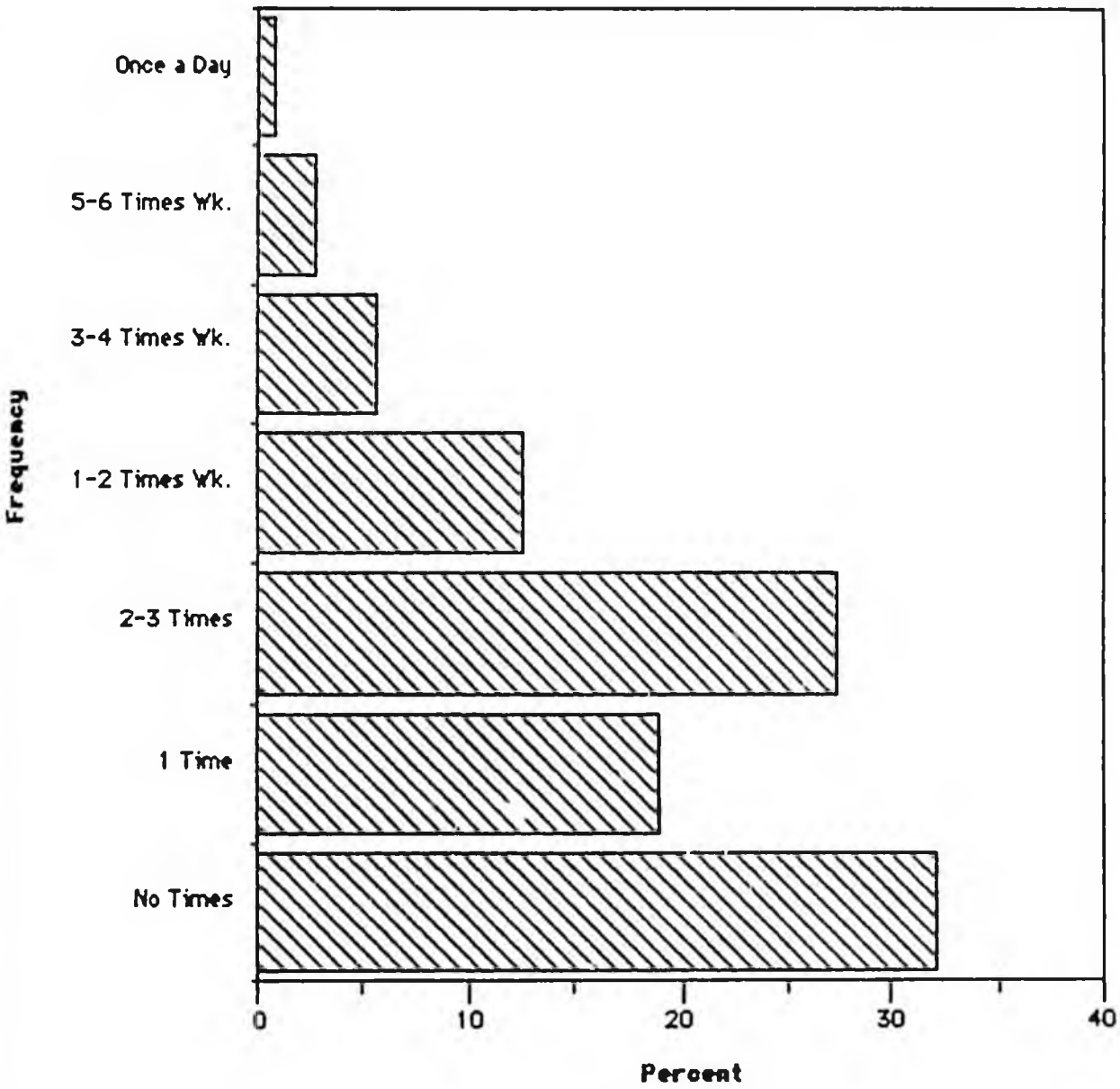
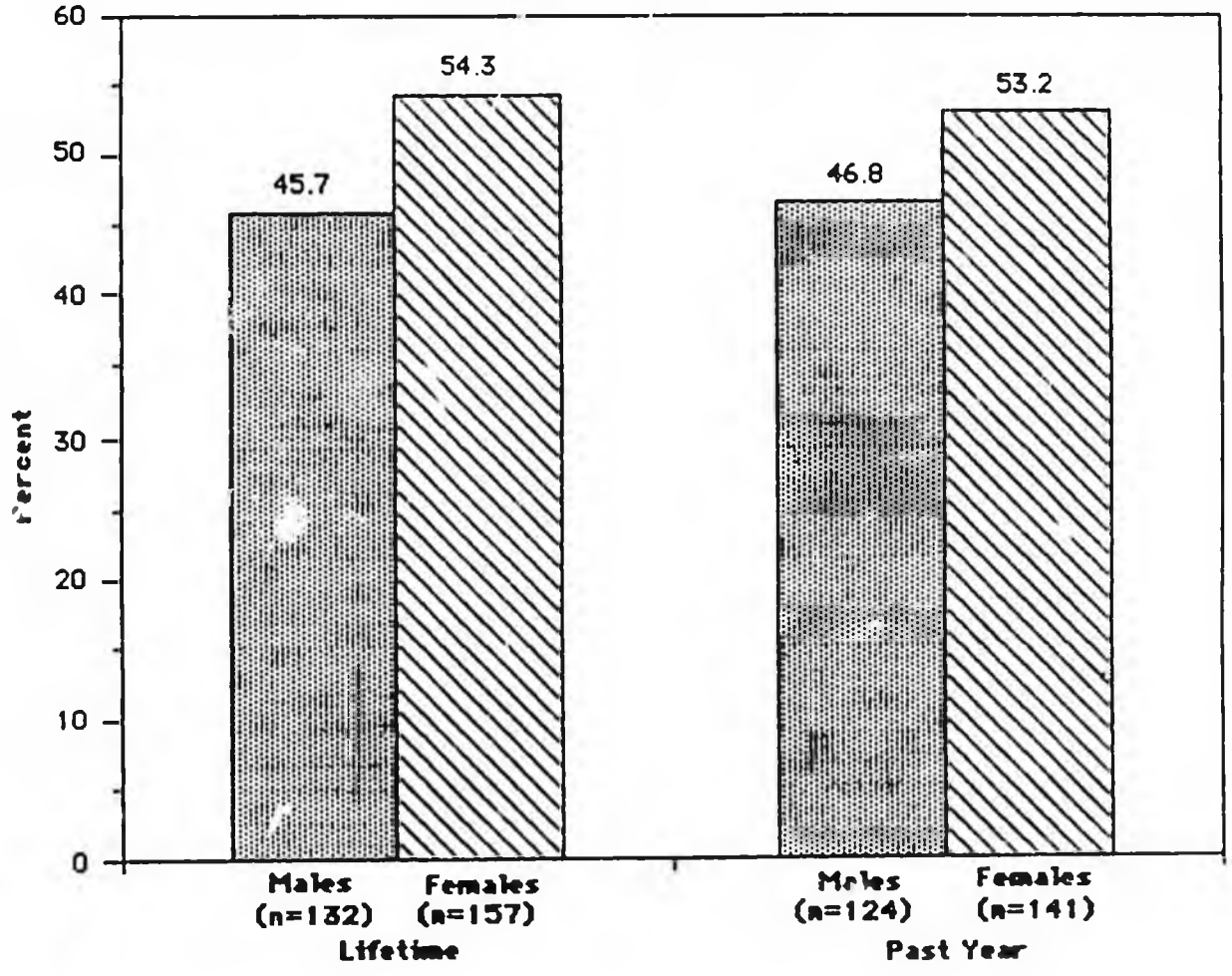


Figure 9
Alcohol Use by Gender During
Lifetime and Past Year
Juneau Schools
1987



both higher rates of lifetime prevalence and use during the past year

Consequences of Drinking

Figure 10 shows how many respondents reported the frequency with which their drinking resulted in either feeling high, getting drunk or very high, or in having gotten sick during the past year. Inspection of the findings indicate that most of the students who drank did so to get high, but many of those who did drink experienced drunkenness or became sick one or more times. There are some students, however, who report more frequent incidents of adverse consequences associated with their drinking, and if these self-reports are accurate, these occurrences meet established criteria representative of "problem drinking" among adolescents (Rachel et al., 1980).

Part III. Tobacco

Smoking and Chewing/Smokeless Tobacco

Figure 11 provides a description of the prevalence rates for lifetime use of tobacco (ever tried), and a comparison of the present findings with those obtained in 1982. Data for comparing the prevalence rates from the 1982 sample for chewing/smokeless tobacco were unavailable. As can be noted, the prevalence of cigarette smoking has increased (by 24.7 percent) since 1982. Over a third of those sampled have also indicated having used smokeless or chewing tobacco.

Part IV. Students' Perception of Increase or Decrease in Drug Use

Figure 12 presents the summarized results of questions that asked students to report whether they thought use of any of the substances had increased or decreased in their school during the past year. The students' perception of the level of use, for the most part, appears to be consistent with the pattern of drug use observed with respect to the reports of recency and frequency of substance use. Marijuana, cocaine, hallucinogens, and stimulants, which showed a recent and frequent pattern of use, are all perceived by the students as having increased in use during the past year. Surprisingly inhalants, which shoed a recent and frequent pattern of use, was perceived as having decreased in use by the students. The students also report that alcohol and tobacco use have increased during the past year, and this perception is almost universal.

Part V. Comparison with Other Alaska Communities

Figure 13 provides a comparison of the findings for reports of lifetime experience with chemical substances from Juneau with two other Alaskan communities surveyed in the spring of 1987. As can be observed Juneau, except for lifetime experiences with stimulants, either shows the lowest, or second lowest, prevalence rate among the three communities.

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Figure 10
Consequences of Drinking During
the Past Year
Juneau Schools
Grades 7-12
1987

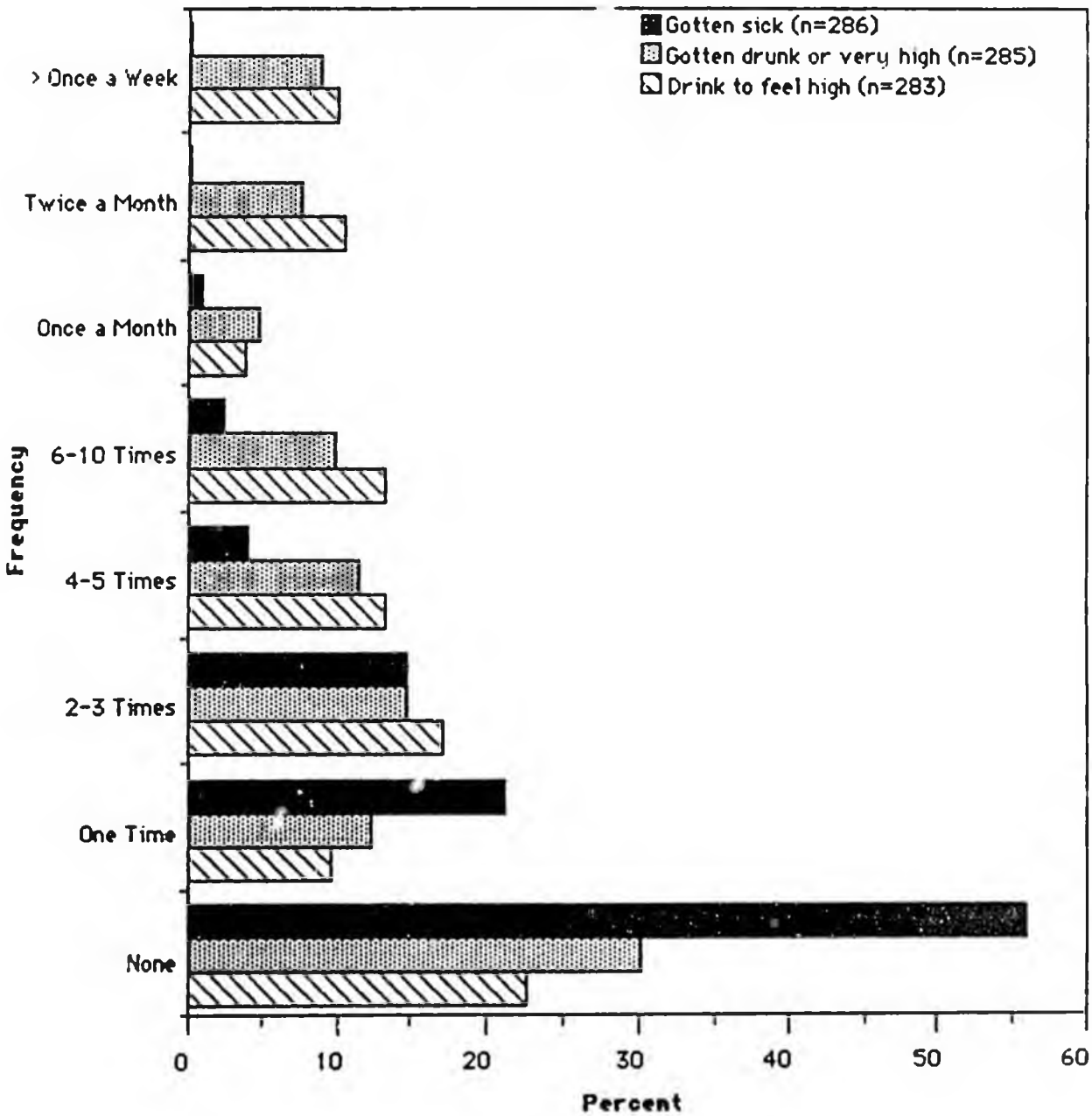

Figure 11
Use of Tobacco Products
Lifetime Experience
Juneau Schools

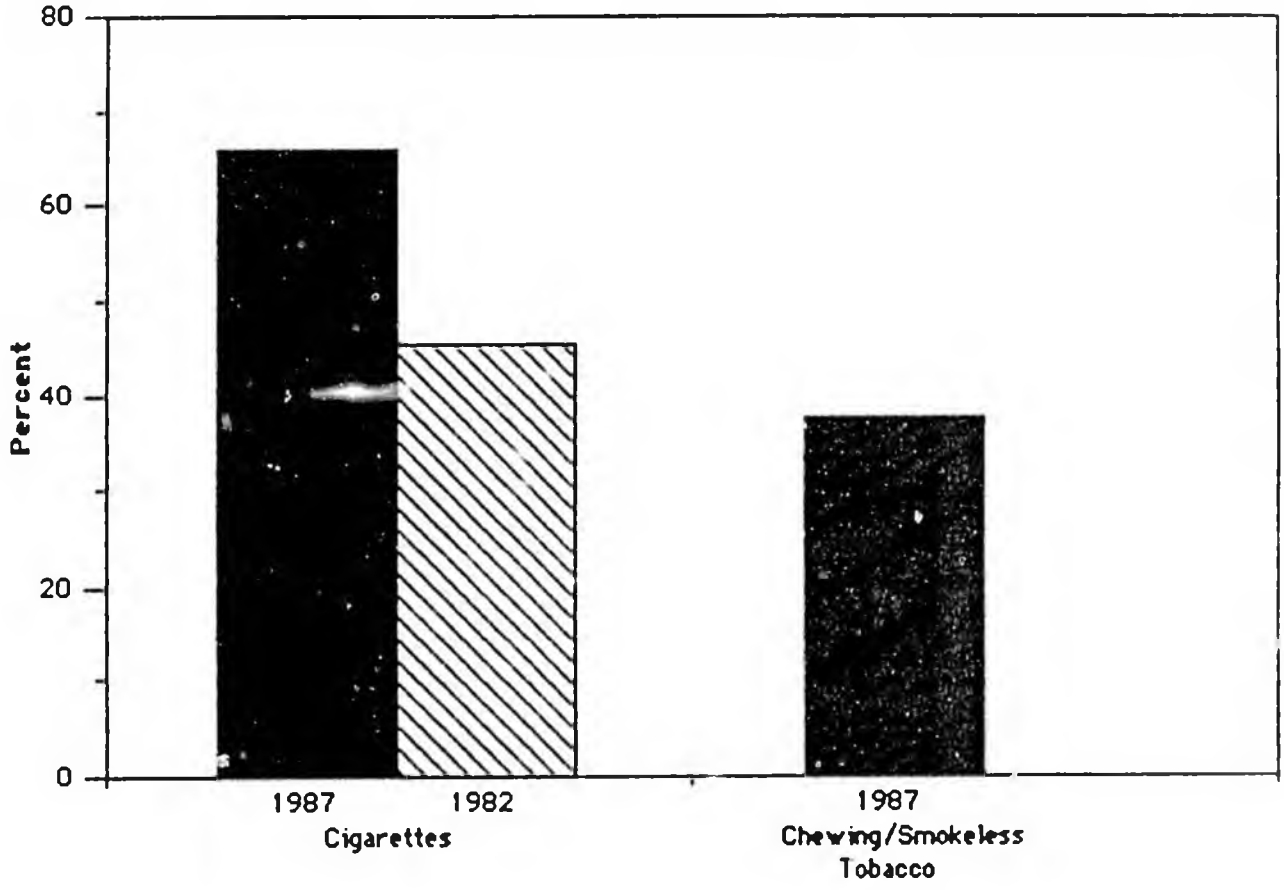

Figure 13
Lifetime Prevalence
Comparison of Experiences with Chemical
Substances Among Three Alaska Communities
1987