

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

5572 SSTA HB 346 - HB 354

144

formal hearing has been concluded. (Eff. 3/25/83, Reg. 85)

Authority: AS 16.05.340 AS 16.05.460
AS 16.05.380 AS 43.05.080
AS 16.05.390 AS 44.25.020

15 AAC 116.070. FEES, REPORTS, AND LICENSE INVENTORY DUE WHEN LICENSE OFFICER APPOINTMENT EXPIRED, SUSPENDED, OR REVOKED. The reporting and accounting obligations of the license officer, all money collected, except the license officer's commission, and all license inventory are due by the last day of the month following the month during which the license officer appointment expired, was suspended, or was revoked. (Eff. 3/25/83, Reg. 85)

Authority: AS 16.05.340 AS 16.05.460
AS 16.05.380 AS 43.05.080
AS 16.05.390 AS 44.25.020

**ARTICLE 2.
LICENSING**

Section

- 100. Qualifications for license and proof of qualification
- 110. Persons exempt from licensing requirements
- 120. Refund of license fees
- 130. Lost or destroyed licenses

15 AAC 116.100. QUALIFICATIONS FOR LICENSE AND PROOF OF QUALIFICATION. (a) Only natural persons may be issued licenses under AS 16.05 and this chapter.

(b) An applicant claiming entitlement to a resident license or special status license has the burden of proving to the license officer that he is entitled to the license and shall take an oath administered by the license officer certifying the truthfulness of the applicant's status.

(c) The license officer shall accept as adequate proof of residency an Alaska driver's license, voter registration card, school records, proof of home ownership or rental receipts, tax records, employment records, or court or other governmental agency records, showing that the applicant is a resident. (Eff. 3/25/83, Reg. 85)

Authority: AS 16.05.330 AS 43.05.080
AS 16.05.360 AS 44.25.020
AS 16.05.450

15 AAC 116.110. PERSONS EXEMPT FROM LICENSING REQUIREMENTS. (a) A person who is 60 years of age or older and who has been a resident of Alaska for one year or more, and is currently a resident, may apply for a permanent identification card from the department for purposes of AS 16.05.400. In this subsection, "one year" means any 12-consecutive-month period preceding the date of application.

(b) A person who has lawfully obtained a permanent identification card under (a) of this section is not required to obtain hunting, fishing, or trapping licenses to engage in those activities.

(c) If a person who has been issued a permanent identification card ceases to be a resident of Alaska, that person must surrender the card to the department. (Eff. 3/25/83, Reg. 85; am 6/17/84, Reg. 90)

Authority: AS 16.05.400
AS 43.05.080
AS 44.25.020

15 AAC 116.120. REFUND OF LICENSE FEES. (a) License officers may not refund license fees. A person who wishes a refund of a license fee must apply directly to the department.

(b) A refund of a license fee will be granted by the department only if the licensee or his representative demonstrates that

(1) he or she was unable to make any use of the license as a result of death, or serious, disabling illness or injury occurring after purchase of the license and before the opening of any season for which the license could have been used; in the case of illness or injury, the illness or injury must have lasted until all seasons for which the license could be used are closed;

(2) the opening of all seasons to which the license applied were permanently cancelled, rendering the license unusable at any time during the year for which it was issued; or

(3) other extraordinary circumstances beyond the control and reasonable anticipation of the licensee exist, which the department determines to justify a refund.

STEVE COWPER, GOVERNOR

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

P.O. BOX 3-2000
JUNEAU, ALASKA 99802
PHONE (907) 465-4100

January 29, 1988

The Honorable Al Adams
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

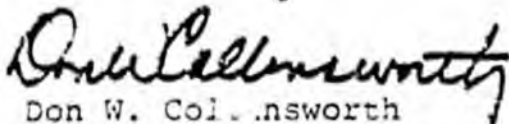
Dear Representative Adams:

The department has reviewed H.B. 346 authorizing the Board of Fisheries to establish noncommercial fishing seasons and areas for children and elderly persons, and have the following comments.

In the past, the board has received proposals to establish restricted areas and seasons for people in certain age groups, or for those with physical handicaps. The Attorney General's Office advised the board that those proposals were beyond the scope of their authority. This bill would clarify that authority. In addition, there have been questions about the constitutionality of such arrangements under the exclusive fisheries or equal protection clauses of the Alaska Constitution. To address these concerns, the Attorney General's Office has suggested that the legislation include a set of findings in the bill sufficient to justify the special treatment of these groups.

If the Legislature wishes to give the board this authority, I am certain that the board will consider any proposals it receives for these types of fisheries.

Sincerely,



Don W. Collinsworth
Commissioner

STATE OF ALASKA
THE LEGISLATURE

PO BOX 1 STATE CAPITOL
UNFAU ALASKA 995
1-7-88 15

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 26, 1988

SUBJECT: Constitutionality of HB 346
TO: Representative Al Adams
FROM: Edward H. Hein *EH*
 Legislative Counsel

You have asked whether HB 346 is constitutional. The bill authorizes the Board of Fisheries to establish restricted noncommercial fishing seasons and areas for children and elderly persons, if consistent with resource conservation goals and if necessary to assist these two groups to participate in sport, personal use, or subsistence fishing.

The authorization provided in the bill is consistent with the mandate of Art. VIII, secs. 1, 2, 4, and 5 of the Alaska Constitution. These sections provide (emphasis supplied):

SECTION 1. STATEMENT OF POLICY. It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest.

SECTION 2. GENERAL AUTHORITY. The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people.

SECTION 4. SUSTAINED YIELD. Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses.

SECTION 5. FACILITIES AND IMPROVEMENTS. The legislature may provide for facilities, improvements, and services to

Representative Al Adams

Page 2

January 26, 1988

assure greater utilization, development, reclamation, and settlement of lands, and to assure fuller utilization and development of the fisheries, wildlife, and waters.

In keeping with this constitutional mandate, the authority given to the Board of Fisheries is clearly for a public purpose and is very narrowly drawn. The exercise of the board's power is subject to two conditions: the establishment of restricted seasons and areas must be consistent with resource conservation goals, and must also be necessary in order to help children and the elderly to participate in noncommercial fishing. In other words, the circumstances must be such that these groups would not be able to participate adequately in fishing without this sort of assistance from the board.

It is envisioned that areas which would be set aside for children and elderly persons would be areas that otherwise would not be open to the public. These would be areas in which the fish stocks could not withstand extensive effort beyond that anticipated by children and the elderly. An example would be a creek in Anchorage that is not currently open to fishing, but which could serve nicely as a place for children to learn how to fish.

Finally, although virtually any law that allows a government agency to give special treatment to certain groups has a potential for abuse, the board is required to exercise its authority in a manner consistent with the constitution. The regulations adopted should not be any more restrictive or discriminatory than necessary to accomplish the goals of the legislation. It is assumed, moreover, that the board will act in accordance with the legal advice of the Attorney General's office.

EHH:bb
wkb2/005

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SENATE COMMITTEE REPORT

FURTHER L&C
TRANSPORTATION

2/18/88

DATE TURNED INTO OFFICE 3/29/88

Mr. President:

State Affairs Committee considered CSHB 349 (FIN) am

increasing the membership on the board of directors of the Alaska Railroad Corporation; efd

and recommended

replace with 5 CS CSHB 349 (SA) same title
 or adopt CS new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted _____

Committee attached or adopted fiscal note(s)

new updated or previous

zero fiscal impact

MEMBERS SIGNING DO PASS

[Signature]
[Signature]

OTHER RECOMMENDATIONS

[Signature] (No Rec)
[Signature] unless amended.

[Signature]
Chairman signature and recommendation

Committee Backup attached

*technical
(what?)*

Alaska State Legislature



House of Representatives

REPRESENTATIVE
BETTE CATO
DISTRICT 6
BOX 775
VALDEZ, ALASKA 99686
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WHILE IN JUNEAU
P O BOX V
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COMMITTEES
—
CHAIRMAN
HOUSE TRANSPORTATION
—
MEMBER
COMMUNITY AND
REGIONAL AFFAIRS
LEGISLATIVE COUNCIL
TRANSPORTATION
BUDGET SUBCOMMITTEE

March 21, 1988

TO: Senator Mitch Abood
FROM: Representative Bette Cato *BC*
SUBJECT: CSHB 349

I have spoken with Senator Coghill's office and Representative Menard's office regarding CSHB 349.

I feel the following changes will address all the concerns and requests discussed during the recent Senate State Affairs Committee meeting.

Page 2 - Line 7 is amended to read
(7) one member shall be a resident of Fairbanks.
[North Star Borough]

Page 2 - Line 9 add:
(8) one member shall be a resident of the
communities between Summit Station and Dunbar
Station on the Alaska Railroad.

Essentially, we are adding two new members to the current five members appointed by the governor. Of these seven members, five would have community designated seats.

I would be happy to provide you with additional information should you so desire. Thank you for considering CSHB 349.

ALASKA RAILROAD CORPORATION



Mr. Walter Dyer
F. G. Taylor

1901

1902

1903

1904

[Faint handwritten notes]

[Handwritten signature]

[Handwritten number 275]

ALASKA RAILROAD CORPORATION

P.O. Box 7-2111 • Anchorage, Alaska 99510-7069

January 19, 1988

Honorable Bette Cato, Chairman
Transportation Committee
House of Representatives
P.O. Box V
Juneau, Alaska 99811

Re: House Bill No. 349, An Act Increasing the Membership
on the Board of Directors of the Alaska Railroad
Corporation

Dear ^{Bette} Representative Cato,

Thank you for this opportunity to express our comments on HB 47 which proposes to add two additional directors to the Alaska Railroad Corporation ("ARRC") board.

We've carefully reviewed the bill and enclose our position paper and fiscal note.

Although we do not oppose this legislation, we respectfully request that consideration be given to adding one, not two, additional board members. As our paper explains, we fear that at nine members our board will become too large and unwieldy. By also changing the number of affirmative votes needed for board action from four to five, the problem with tie votes as you and I discussed some time ago will be avoided. This reduction of proposed appointees will also reduce our projected costs by half.

We've asked our legislative representative, Rick Urion, to attend tomorrow's hearing. Should questions or comments arise concerning our proposal which Rick cannot field, we will stand by here to supplement his responses.

Thank you very much.

Sincerely,



F. G. Turpin
President & CEO

cc: House Transportation Committee
James O. Campbell, Chairman, ARRC Board of Directors
Rick Urion

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RECEIVED
FEB 25 1988

January 19, 1988

HOUSE BILL NO. 349

An Act Increasing the Membership on the Board of Directors of the Alaska Railroad Corporation

I. Introduction

HB 349 proposes to add two members to the Alaska Railroad Corporation ("ARRC") Board of Directors, one from Seward and one from Fairbanks. The legislation is intended to provide additional representation for railbelt communities on the ARRC board. Although ARRC does not oppose HB 349, we respectfully request that consideration be given to adding one, not two, additional directors to the ARRC board.

II. Discussion

The powers of the Alaska Railroad Corporation are vested in its board of directors. To insure local control of the railroad's important transportation and governmental functions, ARRC's enabling legislation directs that the seven member panel primarily consist of Alaskan residents. The legislation envisions that the board collectively contain a wide range of skills and experience, including railroad management, business, and labor expertise. In addition, each judicial district directly served by the Alaska Railroad must be represented on the board. This provision ensures that railbelt representation will be broad based.

Nonetheless, concern has been raised that the current board does not include a Seward resident. ARRC and Seward community interests have been commercially, geographically, and financially intertwined for many years. Despite the participation of its representative on ARRC's Community Briefing Council which meets to consider railroad/railbelt concerns and common interests, Seward leaders have requested a permanent Seward seat on the ARRC board.

ARRC does not oppose a modification of the Alaska Railroad Corporation Act ("ARCA") which would provide smaller port communities in the railbelt a common representative on its Board of Directors. However, we request that HB 349 be amended as follows:

(7) one member shall be a resident of Seward, [.] Whittier, or Nenana.

This modification would allow other port communities located in the railbelt such as Whittier an opportunity to suggest residents for appointment.

We also request that subsection (6) be deleted. The provision would require that one board member be a resident of Fairbanks. The Fairbanks community is assured adequate representation by an existing provision which requires that all judicial districts served by the Alaska Railroad be represented. For example, Director Frank Chapados is a resident of that Interior city. We fear that at nine members the ARRC board will become too large and unwieldy. An attached fiscal note also demonstrates that the projected costs of two additional board members is \$25,400. These are not insignificant costs which can be reduced by half by amending the bill.

Without other ARCA modifications, a board of eight directors would find themselves at an impasse when tie votes prevent it from taking action. However, A.S. 42.40.160(b) provides that "(f)our affirmative votes are required for board action." By increasing the number of required affirmative votes for affirmative action from four to five, such impasses will never occur. This revision also seems prudent since the pool of available board members will be increased by one should this proposal be accepted.

III. Conclusion

ARRC is not opposed to the appointment of an additional member to its board. However, as discussed above, it respectfully requests that a single director from a port community in the railbelt be added.

March 15, 1988

DISCUSSION NOTES - HB 349

The purpose of this testimony is to impress upon all who hear that the Railroad holds a disproportionately important role in the economic well being of Seward citizens, and that a Seward Railroad board member is both vital to Seward and good for the Railroad and state in total.

Seward's role as the southern terminus of the Alaska Railroad has always been, and will continue to be, essential to the economic life of the community. The Railroad both controls key lands and operates the city's most advanced and important docks. The Railroad provides employment to a large and important segment of our population, namely our active and retired Seward longshoremen.

The city has a relatively small useable land area surrounded by steep fjord-like mountain walls. There are only four square miles of developable land within the city boundaries. We must make every inch count.

The Railroad controls over 190 acres of property in downtown Seward, and is by far the largest owner of industrial land in the central core area of our city. Of this, 35 acres are devoted to supporting the coal loading terminal, with the remaining lands generally vacant. The vacant lands are available for supporting railroad related industrial facilities. Additionally, the Railroad operates the city's most important docks. The first is the general cargo facility which is a

200' x 735' concrete and steel "H" pile general cargo dock suitable for ocean going vessels up to 300' in length and 39' in draft. The dock provides over 1,200' of berthing space and offers crane, fuel and other port services. The dock handled almost 400,000 tons of general cargo in 1978. Currently the dock is handling closer to 70,000 tons per year. The second major Railroad dock in Seward is a relatively new dry bulk loading dock suitable for handling coal and other dry bulk commodities. The dock offers over 1000' of berthing space dredged to -45' MLLW. The product loading system is operated on the dock by Sunco Alaska Corporation who recently shipped its two millionth ton of Alaska coal to Korea.

The Alaska Railroad controls a key jobs and economic activity producing asset - the docks, as well as the central developable acreage in downtown Seward.

Seward has a long and illustrious Alaska Railroad history dating back to the early 1900's. Seward was founded with the development of the Alaska Railroad as its primary goal. It has operated the state's only deep-water, ice-free port with rail and road transportation connections to the railbelt and interior. The Railroad dock has used as many as 400 longshoremen in its dock operations heyday and, at the time of the earthquake, was employing around 250 longshoremen. Currently the active longshore contingent stays around the 25 to 30 mark.

Commensurate with our history and the vital importance of railroad assets in Seward, Sewardites desire to see increasing use of Railroad docks and land within the community. Sometimes our desire for increased use of the Railroad dock does not fit with long-term profit maximization policies established by the Railroad Board of Directors, i.e., freight for road shipment to interior points. These conflicts, seemingly decided with minimal Seward involvement or interest, have created communications and relationship problems between the Alaska Railroad and the citizens of Seward.

Seward has an active Railroad/marine support constituency that can help bring ships and cargo to Seward and the Alaska Railroad. As evidence of the importance Seward places on maximizing its marine assets, the community has hired a full-time port marketing and development manager to help make the most of Seward's port assets.

Seward's interest in promoting HB 349 might be made to appear entirely self-serving, and, true, there is a community advancement issue at stake, but we would not have fought as hard as we have for this bill to become law if we did not truly believe that a Seward board member would be beneficial to the Railroad and the state as a whole.

We suggest that Seward can be an asset to Alaska and the Alaska Railroad by:

1. providing a small (rail-dependent) community perspective on Railroad policies that can't be achieved through the newly formed community action council;
- by 2. providing better communications to and from the community which has the greatest rail generated port tonnage and the greatest port potential for rail tonnage increases;
- by 3. reducing the "taxation without representation" feelings felt by small communities about Railroad use of key community lands and assets;
- by 4. allowing the Railroad to take advantage of the state's most experienced longshore and general cargo rail ports;
- by 5. allowing Seward to interact with a local rail carrier to minimize perception of:
 - inadequate port marketing
 - crane and dock safety issues
 - non-rail cargo dissonance
 - unimproved facilities

Seward has taken the lead in calling for small community/port communication improvements with the Railroad. We believe our April 20, 1987, meeting with the Railroad administration started the Railroad's improved focus towards both Seward's concerns, as well as other small community concerns.

A Seward board member can offer an immeasurable increase to the depth of state representation to the existing Alaska Railroad Board of Directors. For the first time a small, disproportionately dependent rail community will have a representative on the board to counter the unintentional, but inevitable, feelings of big city domination brought on by the heavy urban weighting of the existing board makeup (four out of the present six non-administration board members work or live in Anchorage). A small port/community representative will best present Railroad policies to railroad impacted communities. We believe that other communities will perceive the board to better represent all of Alaska by including a Seward member than if the present board makeup persists.

A Seward board member will be good for the Railroad, the state, the railbelt region and all small rail dependent communities that now suffer from lack of representation. Please approve and recommend for passage HB 349.

Harry E. Sussler
"moya"

CITY OF SEWARD

P.O. BOX 167
SEWARD, ALASKA 99664



JAN 22 1988

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- Harbor (907) 224-3138
- Fire (907) 224-3445
- Telecopier (907) 224-3248

January 19, 1988

THE HONORABLE BETTE CATO
CHAIRMAN, COMMITTEE ON TRANSPORTATION
HOUSE OF REPRESENTATIVES
P. O. Box V
Juneau, AK 99811

Dear Madam Chairman:

The city of Seward welcomes the opportunity to offer testimony on House Bill 349, which would expand the Alaska Railroad Corporation Board from five (5) to seven (7) members, with one member being a resident of Fairbanks and one member a resident of Seward.

As you are aware, since the state has owned the Alaska Railroad, Seward has expressed the wish to have a representative from Seward on the board of directors. It is the city's position that the board should be comprised of individuals who represent the major railbelt communities. As termini of the railroad, and communities that depend in a significant economic way on the activities of the railroad, it is important that Seward and Fairbanks be represented on the board.

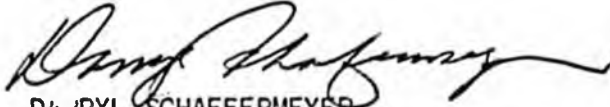
Your committee is aware of the wide degree of issues concerning the city of Seward relating to the Alaska Railroad Corporation. The recently published House Transportation Committee FY88 Interim Report on the Alaska Railroad Corporation summarizes the significant issues involving Seward and the Alaska Railroad. Paramount among these is Seward's lack of representation on the board of directors. The interim report well summarizes what we feel would be the benefits to Seward with direct board representation. Simply put, we would have a voice

CITY OF SEWARD, ALASKA
THE HONORABLE BETTE CATO
Page 2

and a vote, which we do not now have, on matters of extreme importance to Seward. We strongly recommend the committee's favorable recommendation on this Bill.

Sincerely,

CITY OF SEWARD, ALASKA



DARRYL SCHAEFERMEYER
INTERIM CITY MANAGER

DS:alm

Enclosures: Overview and Seward
sections of HTC FY88 Interim Report

cy: Council

OVERVIEW OF ALASKA RAILROAD CORPORATION

The Alaska Railroad has been operating in Alaska for 62 years. On January 5, 1985, it was transferred from federal to state ownership for \$22.3 million. This purchase price did not include any receivables or cash and, therefore, an additional \$10.0 million (\$4.9 million for operating and \$6 million for capital) was appropriated by the legislature to the corporation. Additional costs associated with the transfer totalled \$1.2 million.

Effective January 6, 1985, the Alaska Railroad Corporation became responsible for operating the Alaska Railroad. The powers of the corporation are vested in a seven member Board of Directors. Five of these members are appointed by the Governor and confirmed by the legislature. These members serve for staggered five year terms, each at the pleasure of the Governor. The Commissioner of the Department of Transportation and Public Facilities and the Commissioner of the Department of Commerce and Economic Development make up the remaining two board members.

ARRC is a "quasi-public" corporation. It operates along the lines of a private for profit corporation and, therefore, many of the decisions made by the corporation directors are made from a business/profit approach. According to the statutes enacted for guidelines under which the corporation operates (SEC:42.40.010), the corporation is also a public corporation and an instrumentality of the state within the Department of Commerce and Economic Development. The Corporation has a legal existence independent of and separate from the state.

In 1986, House Transportation staff completed an oversight report on the ARRC. This report (attached) addressed many of the concerns expressed by residents of the state regarding the operations of the corporation. Today, many questions and concerns still linger concerning the ARRC. As a result, the following report was prepared. It addresses the present concerns of community leaders along the railbelt. Perhaps the most confusing point surrounding the ARRC is its status. The Alaska Railroad Corporation Act established the corporation as a state agency while allowing it to run as a private corporation. Many residents feel very frustrated the ARRC does not comply with many of the requirements placed on other state agencies such as the budgeting process, and others are concerned the ARRC is exempt from many of the requirements placed on private industry such as property tax.

These exemptions and benefits were afforded the ARRC to enable the corporation to run smoothly and efficiently thus greatly reducing the amount of general funds dollars required each year to run the corporation. To date, the corporation has not requested any appropriation from the legislature and it does not foresee this happening in the near future.

While the corporation is sensitive to many of the community needs expressed in this report, it is also attempting to meet the mandates layed down in the Alaska Statutes. Corporation management feels it is very difficult to adequately address both of these concerns.

In an attempt to listen to community needs and concerns and be responsive to these concerns, the ARRC established a community advisory council. This is made up of representatives from each of the rail community. This advisory council met several times during the summer, corporation management feel the initial meetings have been very successful and hope this advisory council will provide an mechanism for the ARRC and the rail communities to communicate more effectively and work toward resolving many of the community concerns.

After spending many hours listening to all sides involved, it does appear many of the frustations expressed by both parties may be related to interpretation of the statutes and the questions surrounding the "private versus state" status of the corporation.

THE CITY OF SEWARD

Since the state has owned the Alaska Railroad Corporation, the city of Seward has corresponded with the Alaska Railroad Corporation on a regular basis. In fact, before the state actually took ownership of the ARRC, the city of Seward wrote a lengthy letter to the newly appointed railroad board members to outline the areas they hoped could be addressed and agreed upon by the city and the ARRC.

The attached letter written November 1, 1984 shows the City's concerns, suggestions and requests. Many of the points made in this letter are still the priorities expressed by the City of Seward today (3 years later)

1. Self determination
2. Seward Dock facility
3. Marketing - Seward Terminal Manager
4. Seward Board member
5. Philosophical approach of ARRC
6. Access to railroad information

All of the six points listed above are very closely intertwined. The city of Seward is a very aggressive and progressive community. Much of the development and growth in recent years is directly related to the aggressive attitude of local city government. Seward is one of the few Alaskan deepwater ports. The City has the additional benefit of having much of the infrastructure such as roads, easy access etc. already in place. Seward's major immediate and long range goals include encouraging economic activity, jobs and investment in Seward. Like many other smaller Alaska coastal communities, this is a MUST if the community is to continue to grow and thrive. The Alaska Railroad plays an important part in the overall achievement of these goals and the future economic growth of Seward. WHY?

The \$40 million Seward Coal dock facility is owned by the Alaska Railroad Corporation. Almost all the freight coming into Seward moves over this dock. With a superb deepwater port, lack of effort by the railroad to aggressively market or fully utilize this port greatly frustrates Sewardites who rely on ocean going trade for their livelihood. It is obvious there have been numerous lengthy meetings between the Corporation and the city over these concerns. The corporation realises Seward's wish to obtain the Coal dock, however, corporation management feel this transfer must be in the best interests of both parties. While Seward ownership of the dock would allow Seward to aggressively compete for business, much of the competition would be at the railroad's expense.

City of Seward (cont'd)

The city of Seward hired Mr. Chris Gates to assist Seward in the marketing and economic development of the City and the port. Mr. Gates has been working to encourage the Railroad to take advantage of its port assets in Seward. In discussions with Mr. Gates and city officials, there is a great deal of frustration expressed at the lack of cooperation by the railroad corporation.

Mr. Gates noted as an example that in January of this year Seward longshoremen themselves went to Seattle to attempt to spur interest in and business over the Alaska Railroad dock. Seward longshoremen president, Mr. Stanley Lemas was able to interest a general cargo carrier to call at the Port of Seward on a bimonthly basis. The success of this venture was assured when the Alaska Railroad representatives pledged assistance to the carrier in the form of reduced service charges and land lease rates. This inducement by the railroad put the solicitation "over the top" and the carrier committed to call at Seward.

Alaska Cargo Transport has called at Seward since January, however, the railroad has not followed through with its pledge for reduced service charges or reduced base rates. This has obviously created hardship on the carrier who has repeatedly asked the Railroad to follow through with its original promises.

Seward feels this "type" of lack of co-operation by the ARR placed Seward in an unfair economic disadvantage.

Railroad Response

Much of the frustration experienced by the residents of Seward is shared by the ARRC. Both parties feel the city of Seward and the corporation must work together in order to resolve issues whenever possible. To this end, ARRC management has agreed to provide passenger service to Seward in spite of the fact that it loses revenue. Freight services to and from Seward are continued even though they provide no profit and barely break even. Now the ARRC is being asked to provide carriers with reduced service charges and land lease rates. The question again arises, should ARRC management decisions be made by the corporation in their role as a private entity based primarily on economics and business criteria or, should decisions be made as a public entity giving first consideration to state and local issues and concerns?

1. Self-determination

Seward overwhelmingly supports self-determination. City officials and residents feel strongly that SEWARD should have control over their own future economic growth and activity, and not the Alaska Railroad.

Seward feels this one point is vital because they question whether the ARRC can promote Seward, or can avoid discouraging Seward tonnage that might produce greater incremental return if delivered through another port. For example, the question has been raised about the willingness of the Alaska Railroad to promote general cargo use of the Seward dock to a carrier who, if successful, might rob or "deplete" tonnage currently carried by major ARRC interline carriers (i.e. hydrotrain). Seward feels the railroad appears to be less interested in dock promotion if the cargoes carried by the vessels are not discharged to rail but use a competing mode of transportation from the dock.

Railroad Response

ARRC management is currently negotiating with the city of Seward to transfer management of the Seward coal dock facility to the city. The corporation agrees that self-determination for Seward would be in the best interests of both parties. Transferring the coal dock to Seward would allow the city to aggressively market the coal dock which would directly affect the future economic growth of the city. It would allow Seward to offer incentives to industry that would encourage new trade and business to locate there. However, the corporation does not support a transfer made at ARRC expense. The corporation is concerned about retaining existing business and does not want to be put in a position of directly competing for business with the city. At this time, ARRC management does not feel its concerns have been adequately addressed. The corporation would like some assurance that the transfer of the coal dock to the city of Seward would not negatively impact current ARRC operations while at the same time greatly benefiting Seward. Until those concerns are addressed, ARRC management questions the wisdom of supporting the transfer.

2. Seward Dock Facility

The city of Seward would like the coal dock facility and a small parcel of land located along the seaward edge of the city's small boat harbor transferred to the city of Seward. Since the coal dock terminal was financed by legislative monies (over \$2 million) appropriated to the city and by industrial development bonds issued by the city, Seward believes the coal dock has been improperly offered to the ARRC by the state of Alaska.

Seward feel a compromise regarding the ownership of the coal dock facilities might be reached if the ARRC would agree to a long term lease of these facilities to the city of Seward.

Railroad Response

ARRC management is currently negotiating with the city of Seward to transfer management of the Seward coal dock facility to the city. This issue of transfer of the coal dock facility is inseparably linked to the issue of self-determination for the city of Seward. Transferring the coal dock to Seward would allow the city to aggressively market the coal dock which would directly affect the future economic growth of the city. It would allow Seward to offer incentives to industry that would encourage new trade and business to locate there. However, the corporation does not support a transfer made at ARRC expense. The corporation is concerned about retaining existing business and does not want to be put in a position of directly competing for business with the city. At this time, ARRC management does not feel its concerns have been adequately addressed. The corporation would like some assurance that the transfer of the coal dock to the city of Seward would not negatively impact current ARRC operations while at the same time greatly benefiting Seward. Until those concerns are addressed, ARRC management questions the wisdom of supporting the transfer.

3. Marketing -Seward Terminal Manager

Along with the above concern, Seward is very frustrated with another "policy" type issue that directly affects the communities ability to attract new business and promote the Seward dock. The ARRC has pulled all management and supervisory people from Seward, telling the city to be satisfied instead with a zenith number for all communications to the ARRC. Seward states the ARRC has no "Seward specific" marketing plan, promotion or advertising.

When prospective new clients express an interest in Seward as a possible site for their venture, Seward officials cannot supply them with any information on shipping alternatives or freight rates, etc. Seward feel it is poor business and very negative for marketing to ask these clients to call a zenith number.

Another concern to Seward is the ARRC's recently released five year capital improvements plan. This plan contains no capital improvements for the city of Seward. With ports like Anchorage continually growing and expanding, Seward feels this shows the ARRC's intent for limited future growth of the Seward port.

The ARRC has not committed to maintaining safety and operation levels of the dock-mounted gantry cranes. Pilings, cranes and overall facility upgrading is necessary.

Railroad Response

Since the overwhelming percentage of freight moving through Seward currently passes over the coal dock, the ARRC believes that whoever controls the coal dock should address the issue of terminal manager. Should the coal dock transfer to the city of Seward, the ARRC believes it would be consistant with the city's long range goal of self-determination for the city to employ a terminal manager. If the coal dock were to remain under the auspices of the corporation, then ARRC would be willing to employ a terminal manager. ARRC management believes that until the question of transfer of the dock is resolved, the issue of establishing a terminal manager in Seward cannot be addressed.

4. ARR Board of Directors

Since the state has owned the Alaska Railroad Corporation, Seward has expressed a strong desire to have a local representative from Seward on the Board of Directors. With the lack of progress in many of the areas of concern, Seward residents feel that in order to have a listening ear they need either "representation on the Board" OR a change in what they determine as conflict of interest and board makeup.

Firstly, Seward feels one of the members of the Board has a definite conflict of interest with his appointment. Mr. Dickerson is the chairman of the Anchorage Port Commission. He is also a former member of the Anchorage Assembly and past president of the Anchorage Chamber of Commerce. Both Anchorage and Seward are competitive ports, attracting business means jobs in Anchorage or, jobs in Seward. While Seward is very quick to commend Mr. Dickerson for this past work, it does feel that asking any board member to serve two competing masters at the same time is unhealthy to the long term interests of both master and the individual. To have the chairman of the Anchorage Port Commission maintaining his office and responsibility to maximize the interest of the ARRC's chief competing port (Anchorage) while upholding his responsibility to the citizens of the state of Alaska to increase and maximize the profitability of the Alaska Railroad corporation is a definite conflict of interest.

The remaining board makeup is of concern to Seward. A majority of the members are from Anchorage, or, have previous strong ties to Anchorage. There is no representation by Whittier or Seward, and it is very difficult for Seward or Whittier to feel they have any access or input into the decisions made by the Corporation.

SOLUTION

As the board members serve for staggered five year terms, consideration could be given to filling one of the terms with a resident from Seward. ARRC management support this request.

A change in board makeup or the possible addition of two board members to the current seven member Board of Directors, has been offered as a solution by Seward.

Solution to this concern would go a long way in mending some of the damaged "bridges" of the past. Seward and Whittier would feel like they had some say in running the Corporation, and the question of lack of interest in Seward, its concerns, its resources and its residents would be alleviated. Local community members would have an avenue to pursue.

5. Philosophical Approach

The ARRC philosophical approach is an area of great concern to the city of Seward. Seward questions the ARRC "caretaker approach" to many vital issues affecting the city. Residents and city officials are extremely concerned because they feel very strongly that the future growth and development of the city of Seward is very closely tied to the growth and development of the ARRC. As has been stated repeatedly by Seward, the immediate short term and long range plan for the city is to increase economic development, diversify the local economy and work to promote tourism. Seward feel if the ARRC will not aggressively compete for all new business (truck, plane, ship or train), the city of Seward cannot diversify or grow. THIS IS TREMENDOUSLY FRUSTRATING TO SEWARD.

Seward officials feel the Board of Directors for the Corporation have a "caretaker approach" to running the corporation, particularly when it comes to marketing any area that does not directly benefit the corporation itself. When one considers the corporation does control the Seward coal dock facility then it becomes very clear that the corporation also largely controls the future economic development of Seward. Most new business, freight and industry to Seward will probably use the dock facility and, unless the corporation is willing to market this facility aggressively, the future of Seward is very limited.

Seward would like to see a consistent and well defined philosophical approach by the ARRC Board of Directors. City officials feel corporation management wears two hats, one as a "quasi" legal private corporation mandated by the legislature to make a profit and, the other as a state agency. While Seward understands the reasons for the legislature establishing the corporation Seward residents feel the ARRC management continually "change hats" to benefit the corporation instead of having a consistent management philosophy. Seward site as an example the fact that as a state agency the ARRC is exempt from payment of property taxes on land owned by the corporation in the city of Seward yet, as a private for profit corporation the ARRC states the corporation is mandated to make a profit and therefore must negotiate any leases with the city at fair market value. Seward feel the corporation has the best of both worlds, a private for profit corporation that is afforded all the exemptions of a state agency.

In summary Seward would like to see a clear, well defined philosophical approach adopted by the corporation. This approach should state what the corporation intends to do in the future. This would go a long way to answering Seward's concern that ARRC management and the state of Alaska's main objective is to have the financial records and books of the corporation look very positive to attract a buyer for the ARRC within the next five years. Seward feels that if continues to be the approach of the ARRC the future economic development of Seward looks very bleak.

Railroad response

Alaska Railroad Corporation management state the corporation is being run closely following the Alaska Statutes. 42.40 On several occasions ARRC management has asked questions regarding the legislatures intent for the ARRC. Management has also expressed its concern of not knowing what the future plans for the Corporation are. AS 42.40.260 (b) states every 5 years the annual report by the ARRC shall include an analysis and documentation of at least three offers to sell the corporation. Management state it is difficult to define long range plans when the future of the ARRC itself is unknown.

6. Accessibility to Railroad records

Seward officials feel that since the state has acquired the ARRC the records and information available from the corporation have been much less accessible.

On numerous occasions Seward has requested information from the railroad which has not been available. While the Alaska Railroad Corporation has by statute been given the authority to designate information as "confidential", the city of Seward feel the corporation has taken this authority to extremes. Under federal ownership information such as the amount of freight hauled on a monthly basis to and from Seward and other areas was available, under state ownership this is no longer available. Seward feel information such as this would be very beneficial in helping them assess the amount of freight movement to and from Seward and would greatly benefit prospective clients in estimating their freight costs.

In summary, Seward officials do not object to the corporations right to withhold information that is of a proprietary or privileged nature however, Seward does feel that as the corporation is an instrumentality within the state the records of the corporation, its budgets, finances and overall fiscal records should be much more accessible to individuals requesting this information.

Railroad response

AS 42.40.220 (b) states: Records of the corporation are, in general, public. However, the corporation may designate by rule and withhold public disclosure of material of a privileged or proprietary nature. These matters include personnel, records, communications with and work product of legal counsel, and, consistent with the standards and practices of the United States Interstate Commerce Commission for the protection of these matters, other information including proprietary information associated with specific shippers, divisions and contract rate agreements.

This is an area that has received a great deal of comment. Many complaints have arisen regarding competitive rates set by the Alaska Railroad Corporation.

While the state auditors must be allowed access to all ARRC financial records for the purpose of the audit, information designated by the corporation under the Public Disclosure section may not be released by the state auditors. The auditors report may include a summary and facts and findings however, no specific reference to any information designated to be withheld from public disclosure may be released.

REVISION DATE: 11/10/87

Railroad Corporation

MEMBER	APPT	REAPPT	TERM
James O. Campbell 526 Overlook Place Anchorage, Ak. 99501 (H) 274-4207 Public/Restricted - Chair	84/10/03		89/10/03
Frank X. Chapados 3060 Riverview Drive Fairbanks 99701 (W) 452-7913 (H) 474-0125 Public/Restricted	84/10/03		89/10/03
Myron M. Christy 36 Via Cheparro San Rafael, CA 94904 (W) (415) (H) 461-2828 Mgmt/Executive	84/11/26	86/10/31	91/10/03
Lewis E. Dickinson 4017 North Point Drive Anchorage 99502 (W) 562-2000 (H) 243-1079 Public/Restricted	84/10/03		88/10/03
Mark S. Hickey DOT/PF Juneau 99811 (W) 465-3900 (H) NONE Comm./Mandated	86/12/01		00/00/00
Tony Smith Commissioner, DCED Juneau 99811 (W) 465-2500 (H) NONE Comm./Mandated	87/01/06		00/00/00
Gerald D. Valinske 6910 Chad Street Anchorage 99518 (W) 265-2636 (H) 349-7005 Bargaining Unit	84/10/03	87/11/02	92/10/03

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

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

Mary Van Nimwegen

HOUSE Transportation

January 20, 1988 1:30pm

HOUSE COMMITTEE REPORT

Date referred: 1/11/88

FURTHER REFERRALS: Finance

DATE: January 20, 1988

The Transportation Committee has considered HB 349

"An Act increasing the membership on the board of directors of the Alaska Railroad Corporation; and providing for an effective date."

RECOMMENDS:

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

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

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

SIGNING TO PASS:

Bill Hurd

Robert Lewis

Pat A. Brasher

M.W. Miller

Heinrich Springer

Bette Cuth

SIGNING OTHER RECOMMENDATIONS:

Bette Cuth

 Chairman's signature

CORRECTION

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

HOUSE COMMITTEE REPORT

(7)

Date referred: 1/11/88

FURTHER REFERRALS: Finance

DATE: January 20, 1988

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"An Act increasing the membership on the board of directors of the Alaska Railroad Corporation; and providing for an effective date."

RECOMMENDS:

- replace with _____ the same title
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- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

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

SIGNING DO PASS:

Bette Cato
W. W. Miller
Heinrich Springer
Bette Cato

SIGNING OTHER RECOMMENDATIONS:

Bette Cato
 Chairman's signature



Matanuska-Susitna Borough

BOX B, PALMER, ALASKA 99645 • PHONE 745-9689

BOROUGH MANAGER

R
FEB 25 1988

HB 349

February 19, 1988

[Handwritten initials]

Mitchell Abood, Senator
State of Alaska
P.O. Box V, MS 3100
Juneau, Alaska, 99811

mits.
Dear Senator Abood:

On behalf of the Mayor, Assembly, and myself, I would like to ask for your support of HB349 as amended.

expand Alaska Railroad

With community representation on the Alaska Railroad Board of Directors, a great deal of the recently discussed communication concerns with the rail communities will be overcome.

Sincerely,

[Handwritten signature]
John Hale
Borough Manager

JH:nt

cc: Matanuska-Susitna Borough Mayor
Matanuska-Susitna Borough Assembly

*How is it going Mitch?
John
E*

5-1445X
Cook
3/22/88

Original sponsor: Cato

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE
2 SENATE CS FOR CS FOR HOUSE BILL NO. 349 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act relating to the membership on the board of
7 directors of the Alaska Railroad Corporation; and
8 providing for an effective date."

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

10 * Section 1. AS 42.40.020(a) is amended to read:

11 (a) The powers of the corporation are vested in the board of
12 directors. The board consists of the commissioner of commerce and
13 economic development, the commissioner of transportation and public
14 facilities, and seven [FIVE] members appointed by the governor. The
15 seven [FIVE] appointed members must be registered voters in the state
16 except as provided in (1) and (2) of this subsection. Except for the
17 commissioners and the member appointed under (5) of this subsection
18 [SECTION], a member may not be a state officer or employee. Appointed
19 members shall have the following qualifications:

20 (1) one member of the board shall be a person who has at
21 least 10 years of experience in railroad management; a person who is
22 not a resident of the state may be appointed under this paragraph;

23 (2) one member of the board shall be or have been an execu-
24 tive official of a United States railroad and shall be selected in
25 accordance with any requirements imposed under 49 U.S.C. (Interstate
26 Commerce Act); a person who is not a resident of the state may be
27 appointed under this paragraph;

28 (3) at least one member shall be from each judicial dis-
29 trict directly served by the Alaska Railroad;

1 (4) one member shall have at least five years of experience
2 as an owner or manager of a business in the state;

3 (5) one member shall be an employee who is a member of a
4 bargaining unit representing employees of the corporation;

5 (6) one member shall be a resident of the Matanuska-Susitna
6 Borough;

7 (7) one member shall be a resident of Fairbanks;

8 (8) one member shall be a resident of a community between
9 Summit Station and Dunbar Station on the railroad;

10 (9) one member shall be a resident of Seward;

11 (10) one member shall be a resident of Anchorage.

12 * Sec. 2. Within 30 days after the effective date of this Act the
13 governor shall appoint two members to the board of directors of the Alaska
14 Railroad Corporation under AS 42.40.020(a) amended by sec. 1 of this Act.
15 Notwithstanding the additional requirements for members of the board added
16 under AS 42.40.020(a)(6) - (10) by sec. 1 of this Act, members of the board
17 on the effective date of this Act continue in office until their terms
18 expire.

19 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).
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H B

3 5 3

SENATE COMMITTEE REPORT

FURTHER L&C
FINANCE

2/18/88

DATE TURNED INTO OFFICE 3-21-88

Mr. President:

State Affairs Committee considered HB 353

repurchase of retirement coverage after certain levies

and recommended

[] replace with _____ CS _____) [] same title
[] or adopt _____ CS _____) [] 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 [X] previous

[X] zero [] fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Joe Josephson
W. H. ...
Rich ...

L. ... No Rec

Joe ...
Chairman signature and recommendation

[X] Committee Backup attached

Alaska State Legislature

Committees:

Chair-State Affairs
V. Chair-Judiciary
Telecommunications
Special Ethics
Legislative Council
Finance Subcommittee
for the University of Alaska
Joint Committee
on Economic Recovery



P.O. Box V
Juneau, Alaska 99811
(907) 465-4947

REPRESENTATIVE FRAN ULMER

M E M O R A N D U M

February 26, 1988

TO: Senator Mitch Abood, Chair
Senate State Affairs Committee

FROM: Representative Fran Ulmer

SUBJECT: House Bill 353

I am requesting that you hold a hearing on House Bill 353, "An Act relating to repurchase of retirement of retirement coverage after certain levies". HB 353 was adopted by the House by a vote of 39-0. It has a zero fiscal note and no opposition.

House Bill 353 affects former members of the Teachers' Retirement System (TRS), the Judicial Retirement System (JRS), the Public Employees' Retirement System (PERS), and Elected Public Officers Retirement System (EPORS). The basic purpose of the bill is to preserve an individual's right to his retirement benefits. HB 353 would allow those former members to make repayments with interest to the retirement fund without having to be re-employed or in active service under the applicable retirement system. This would only be permitted if the entire retirement account balance was levied by a court or agency to pay a claim. Such claims include child support obligations and federal tax levies.

Presently, if a former member's retirement account is levied in total, the account is closed and the former member may not repay the amount refunded unless he/she becomes an active member again. House Bill 353 would allow a former member to repay his/her retirement funds without being re-employed under the system.

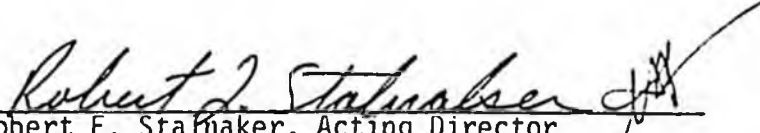
In these difficult economic times, there could be many Alaskans who may lose their future retirement benefits and House Bill 353 would provide the opportunity to repurchase those benefits at some time in the future.

Thank you very much for your prompt consideration of this bill.

POSITION PAPER
HB 353 (State Affairs)

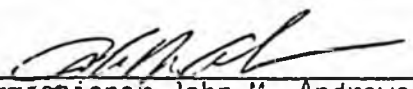
This bill would allow members participating in Public Employees' Retirement System (PERS), Teachers' Retirement System (TRS), Judicial Retirement System (JRS), or the Elected Public Officers' Retirement System (EPORS) to reinstate their retirement account without becoming reemployed under that system in the event they are forced to refund from that system to pay a tax levy, child support, or to comply with a qualified domestic relations order (QDRO). Currently, when a member refunds from the system, they forfeit their right to future benefits from that system. The current law allows members to reinstate refunded service only after they reemploy with an employer covered under the respective system.

The Administration supports this legislation. Passage would provide relief for those members who are forced from the system contrary to their desires and would provide the member with the ability to reinstate their right to a future benefit.



Robert F. Starnaker, Acting Director
Division of Retirement & Benefits

1/20/88
Date



Commissioner John M. Andrews
Department of Administration

1/21/88
Date

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

DIVISION OF RETIREMENT & BENEFITS

PLEASE REPLY TO:

P.O. BOX CR
JUNEAU, ALASKA 99811-0203
PHONE: (907)465-4460

2600 DENALI ST. SUITE 401
ANCHORAGE, ALASKA 99503-2740
PHONE: (907) 277-7504

Public Employees Retirement System
Teachers Retirement System
Judicial Retirement System
Elected Public Officers Retirement System
National Guard Retirement System
Territorial Retirement System
Retirees Voluntary Dental-Vision-Audio Plan
Supplemental Benefits System
Group Health-Life Insurance Benefits
Deferred Compensation Plan
Public Employers Social Security Contributions

STEVE COWPER, GOVERNOR

January 20, 1988

Honorable Fran Ulmer
Chair, House State Affairs Committee
Alaska State Legislature
P. O. Box V
Juneau, AK 99811

Dear Representative Ulmer:

Re: House Bill 353

In accordance with AS 24.08.036, I am providing the analysis below on House Bill 353. The analysis includes the long-term and short-term impact to the state if the bill is adopted and the impact the bill will have on the actuarial soundness of the Public Employees' Retirement System (PERS), Teachers' Retirement System (TRS), Judicial Retirement System (JRS), and the Elected Public Officers' Retirement System (EPORS) funds.

This legislation would allow a member to repay the amount refunded and reinstate their retirement standing without becoming reemployed in a position covered by that retirement system if they have been forced to refund from their retirement system to satisfy payment(s) for child support, comply with the provisions of a qualified domestic relations order (QDRO) or to comply with a federal tax levy. There will be no fiscal impact of this legislation on the state government or any impact on the retirement funds involved. This legislation will not increase the employer contributions rates.

Sincerely,


R. F. Stalnaker
Acting Director

RFS/DS/bb/9

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 22, 1988

SUBJECT: Sectional analysis of HB 353
(Repurchase of retirement coverage)

TO: Representative Fran Ulmer

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, I must advise you that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Secs. 1 and 2 permit a former member of the Teachers' Retirement System (TRS) who received a total refund of the contributions the member made to TRS because of a federal tax levy or a levy under AS 09.30.065 to pay back the amount levied against to TRS. The repayment has the effect of reinstating the former member's rights to retirement benefits. Under AS 09.38, contributions to the Teachers' Retirement System and the Public Employees' Retirement System are exempt from a creditor's efforts to levy against them. Under AS 09.38.065, that general exemption from creditors does not apply to certain kinds of debt, including child support, a limited amount of wages, and state or local taxes.

Sec. 3 permits a judge or justice whose contributions to the Judicial Retirement System (JRS) have been involuntarily refunded because of a levy of any kind to repay the amount levied together with interest to JRS to reinstate membership

Representative Fran Ulmer
Page 2
January 22, 1988

in the system. Contributions to JRS are not protected from levy under AS 09.38.

Sec. 4 permits a former member of the Public Employees' Retirement System (PERS) who received a total refund of contributions because of a levy under AS 09.38.065 or of a federal tax levy to repay the amount of the refund to the system and reinstate membership. Contributions to PERS are protected from levy for other kinds of debt.

Sec. 5 permits members of the Elected Public Officers Retirement System who have received an involuntary refund of the individual account because of a levy of any kind to repay the amount refunded and regain all rights terminated because of the refund.

If I may be of further assistance, please advise.

TBC:gc
WKG1:044

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Administration
 Title: An Act relating to repurchase of retirement coverage after certain levies. BRU: Retirement and Benefits
 Sponsor: Ulmer _____ Components: Retirement and Benefits
 Requestor: House State Affairs _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:	0	0	0	0	0	0
FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Attached Position Paper

Prepared By: Robert F. Stalnaker, Acting Director Phone: 465-4470
 Division: Retirement and Benefits Date: 1-20-88
 Approved by Commissioner: John M. Andrews Date: 1/21/88
 Agency: Department of Administration

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

H B

3 5 4

FISCAL NOTE

No. 3

REQUEST:

Revision Date: _____
Title: "An Act relating to driving while intoxicated."
Sponsor: Rep. Illmer, Koponen, Pearce
Requestor: Collins and Rieger

Agency Affected: Department of Corrections
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

See Attached.

Susan E. Knighton

Prepared by: Susan E. Knighton, Director Phone: 465-3376
Division: Administrative Services Date: 4/21/88
Approved by Commissioner: Susan Humphrey-Barnett Date: 4/21/88
Agency: Department of Corrections

Distribution (by preparer):

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

CONTINUATION
CSHB 354 (JUD)

ANALYSIS

This fiscal note reflects the increased cost of housing persons convicted of their 3rd, 4th, 5th, 6th and subsequent DWI offense. The note reflects placing the 3rd and 4th time offenders in community residential centers and the 5th, 6th and subsequent offenders in institutions.

The 3rd and 4th time offenders would serve an additional 3,720 mandays. The 5th, 6th and subsequent offenders would serve an additional 1,230 mandays.

The DWLS/DWLR offenders would serve 8,682 less mandays.

3rd and 4th DWI	3,720 mandays X \$30.00 =	\$111,600
5th and 6th DWI	+1,230 mandays X \$87.50 =	\$107,625
DWLS/DWLR	-8,682 mandays X \$30.00 =	<u>-\$260,460</u>
		<u>-\$ 41,235</u>

Current Law

	Estimated # persons	Current Proposal	Less GT	Days Served	Total Man Days
1st DWI	280# = 1680	3 days	0	3 days	5040
2nd DWI	124# = 744	20 days	-7	13 days	9672
3rd DWI	24# = 144	45 days	-15	30 days	4320
4th DWI	5# = 30	149 days	-49	100 days	3000
5th DWI	2# = 12	120 days	-40	80 days	960
6th & ...	1# = 6	180 days	-60	120 days	720
					----- 23712
DWLS A	354	10 days	-3	7 days	2478
DWLS B	78	30 days	-10	20 days	1560
DWLS C	168	90 days	-30	60 days	10080
					----- 14118 ----- 37830

CSHB 354 (Judiciary)

	Estimated # persons	DOC Proposal	Less GT	Days Served	Total Man Days
1st DWI	1680	3 days	0	3 days	5040
2nd DWI	744	20 days	-7	13 days	9672
3rd DWI	144	90 days	-30	60 days	8640
4th DWI	30	120 days	-40	80 days	2400
5th DWI	12	180 days	-60	120 days	1440
6th & ...	6	365 days	-120	245 days	1470
					----- 28662
DWLS A	354	3 days	0	3 days	1062
DWLS B	78	20 days	-7	13 days	1014
DWLS C	168	30 days	-10	20 days	3360
					----- 5436 ----- 34098

Summary

Man Days to Serve

Offense	Current	CS HB 354
1st DWI	5040	5040
2nd DWI	9672	9672
3rd DWI	4320	8640
4th DWI	3000	2400
5th DWI	960	1440
6th & ...	720	1470
	----- 23712	----- 28662
DWLS A	2478	1062
DWLS B	1560	1014
DWLS C	10080	3360
	----- 14118	----- 5436
Total	----- 37830	----- 34098

Alaska State Legislature

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Senator Mitch Abood
CHAIRMAN

Senate Committee on State Affairs

MEMORANDUM

DATE: May 4, 1988

TO: Senate State Affairs Committee Members

FROM: Senator Abood, Chairman
Senate State Affairs Committee *M.A.*

SUBJECT: Mandatory Insurance Provisions

Out of 34 states that have mandatory insurance provisions, Alaska is the only state with a mandatory minimum jail sentence (currently ten days) for driving while a license is suspended or revoked due to failure to obtain automobile insurance. New Jersey is the only other state which has the option of sending the offender to jail. However, "stiffer fines and longer suspensions are the most likely penalties". (New Jersey Division of Motor Vehicles)

The rest of the states either suspend the license for a longer period of time or assess fines from \$100 to \$1500, or both.

I have enclosed additional background material obtained from the Council of State Governments for your review.

Enclosure



**The
Council of
State
Governments**

Chairman
Senate President Pro Tem Mary McClure, South Dakota

President
Governor James G. Martin, North Carolina

Headquarters Office
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Lexington, KY 40578
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Executive Director
Carl W. Stenberg

May 4, 1988

Paula Scavera
Senate Advisory Council
Alaska Legislature
Juneau, AL

Dear Ms. Scavera:

Thank you for your interest in the Council of State Governments. You asked us what are state penalties for second offenders who drive with a license which has been revoked for lack of insurance. We contacted the American Automobile Association and American Association of Motor Vehicle Administrators. They did not have the information, so we contacted the following eight states:

New York -- For the first offense, either ticketed or through notification of termination of insurance by the insurer, the offender must provide proof of insurance. If there was a lapse in insurance of more than 15 days but fewer than 90 days, there is a choice of penalties including a \$4.00 per day fine for the number of days of the lapse. Over 90 days, the offender must surrender his/her plates and driver's license for the number of days he/she was without insurance. No automatic provision for jailing the offender; judges set the penalties for more serious offenses such as driving on a suspended license, generally fines and suspensions. (New York Department of Motor Vehicles)

New Jersey -- When a summons is issued for a first offense, there can be a 6 month loss of license and/or a fine of \$250.00 per year for each of three years. The judge on subsequent offenses does have the option of sending the offender to jail; stiffer fines and longer suspensions are the most likely penalties. (New Jersey Division of Motor Vehicles)

Connecticut -- Random checks of insurance or accident involvement can lead to a ticket for lack of insurance. In the case of a random check, the offender has 20 days to prove he/she had insurance at the time of the ticket or his/her license will be suspended; in the case of an accident, suspension of the license is automatic, with 20 days to prove insurance. For conviction, fines of \$100-1000 can be assessed, along with suspension of license for 30 days for the first offense, 6 months for the second. There is no highway statute providing for jail terms; judges of course have that option for repeat offenders. (Connecticut Motor Vehicles Department)

Florida -- State only requires personal injury coverage. First offense, suspension of license; suspensions get longer with subsequent offenses. If the driver is involved in a chargeable accident, convicted of driving while intoxicated, or has his/her license suspended for multiple driving offenses of any kind (too many "points"), then he/she can be required to carry general liability insurance. (Florida Highway Safety & Motor Vehicles Department)

Indiana -- If an uninsured motorist is involved in an accident, he/she must post bond or have his/her license suspended. Informal hearings are held for the offender to prove insurance or have his/her license revoked. Multiple offenses generally invoke longer suspensions from an official court. (Indiana Bureau of Motor Vehicles)

Kentucky -- First offense, \$500-1000 fine and/or revocation of license plates for one year and/or suspension of license for 6 months. Second and subsequent offenses result in larger fines and longer suspensions. Any jail term would be up to the court. The person at the licensing department did not remember anyone being sent to jail. (Kentucky Vehicle Regulation Department)

Kansas -- First offense, fine \$250-1000 and suspension of license until offender proves insurance. Offender must pay fees to reinstate his/her license and prove insurance for 3 years after the offense. Second and subsequent offenses generally invoke higher fines and longer suspensions; judges could theoretically send a chronic offender to jail. (Kansas Division of Vehicles)

Oklahoma -- First offense, automatic suspension, must prove 6 months of paid-up insurance and pay a \$100 fee. If the offender is caught driving on a suspended license, he/she is subject to arrest, a fine, or both. The judge has discretion, but the general penalty is increasingly larger fines and longer suspensions. (Oklahoma Department of Public Safety)

As indicated above, none of the states we contacted have a statutory provisions for jail terms for repeat offenders in this area.

We hope this information is helpful, if you have any questions, please let us know. Thank you again for contacting the Council of State Governments.

Sincerely,



Ruth E. Spencer
States Information Center

DWI ARREST STATISTICS

STATEWIDE LICENSE REVOCATION DATA
1984

Month	Number of Licenses Revoked					Total	30 Hard 60 Soft		Number of Revocat. Recinded				Total Arrests	Average Day From Violation				Recin	% of Revocat. Recinded	% of Limited Licenses
	1st	2nd	3rd	Ref.	Limit		1st	2nd	3rd	Ref.	1st	2nd		3rd	Ref.					
Nov84	455	107	30	72	594	141	15	4	0	1	20	614	27	18	8	21	3.3%	31.0%		
Dec	629	124	25	94	776	152	7	3	1	1	12	788	21	24	18	23	1.5%	24.2%		
Total	1084	233	55	166	1370	293	22	7	1	2	32	1402	24	21	13	22	2.3%	27.0%		

STATEWIDE LICENSE REVOCATION DATA
1983

Month	Number of Licenses Revoked					Total	30 Hard 60 Soft		Number of Revocat. Recinded				Total Arrests	Average Day From Violation				Recin	% of Revocat. Recinded	% of Limited Licenses
	1st	2nd	3rd	Ref.	Limit		1st	2nd	3rd	Ref.	1st	2nd		3rd	Ref.					
Jan83	596	117	37	81	660	230	20	1	0	0	21	691	21	19	18	12	3.1%	47.0%		
Feb	383	87	21	53	446	151	13	4	0	0	17	463	19	23	13	14	3.7%	44.7%		
Mar	494	110	24	65	628	125	17	6	0	5	23	656	23	16	16	11	4.3%	25.3%		
Apr	580	89	21	65	690	190	11	2	1	2	16	706	15	16	8	15	2.3%	32.4%		
May	419	110	23	78	555	111	12	3	3	1	19	574	18	15	16	11	3.3%	26.5%		
Jun	439	110	31	59	500	121	24	7	2	4	37	617	23	28	18	10	6.0%	27.6%		
Jul	390	97	21	81	500	143	8	2	1	1	12	520	17	15	19	12	2.3%	36.7%		
Aug	386	121	43	73	550	109	2	3	1	0	12	562	22	19	13	8	2.1%	28.2%		
Sep	364	92	40	38	516	111	11	6	0	2	19	555	20	22	27	6	3.6%	29.9%		
Oct	368	91	36	33	510	101	12	2	0	2	16	521	20	24	27	8	3.0%	26.0%		
Nov	296	84	28	60	418	93	5	4	0	1	10	426	19	20	26	8	2.5%	31.4%		
Dec	343	121	40	72	504	56	9	1	0	1	5	507	16	20	9	3	1.0%	16.3%		
Total	4965	1242	385	798	6570	1547	144	41	8	19	218	6702	19.58	17.3	17.9	10.4	3.1%	31.2%		

STATEWIDE LICENSE REVOCATION DATA
1986

Month	Number of Licenses Revoked					Total	30 Hard 60 Soft		Number of Revocat. Recinded				Total Arrests	Average Day From Violation				Recin	% of Revocat. Recinded	% of Limited Licenses
	1st	2nd	3rd	Ref.	Limit		1st	2nd	3rd	Ref.	1st	2nd		3rd	Ref.					
Jan86	350	116	42	45	516	113	10	2	0	1	13	527	25	27	21	16	2.3%	31.6%		
Feb	292	105	46	49	443	114	5	2	3	2	13	456	17	22	22	15	2.9%	29.4%		
Mar	171	86	27	55	289	73	9	0	0	0	5	291	31	17	12	16	1.0%	54.4%		
Apr	255	72	36	63	350	95	2	1	1	1	5	363	21	22	20	17	1.4%	37.3%		
May	267	82	36	62	331	75	9	1	0	1	7	360	17	18	15	15	1.6%	35.3%		
Jun	215	105	41	54	457	125	3	1	0	0	4	461	13	16	7	15	0.9%	39.9%		
Jul	296	70	42	64	405	70	3	0	0	0	3	400	17	16	14	15	0.7%	24.5%		
Aug	327	65	34	56	451	55	2	1	2	1	10	451	17	20	15	16	2.2%	16.7%		
Sep	315	74	43	62	432	65	4	1	0	1	6	430	13	13	14	7	1.4%	21.0%		
Oct	311	102	40	62	453	83	5	0	1	0	6	459	10	17	16	15	1.3%	23.3%		
Nov	264	67	30	36	301	35	5	2	0	1	0	309	20	16	22	16	2.1%	19.3%		
Dec	382	107	37	63	548	83	4	1	1	0	6	554	15	17	12	22	1.1%	21.7%		
Total	3545	1077	471	733	5113	1032	52	15	8	9	84	5197	17.25	18.6	16.1	15.5	1.6%	29.1%		

Submitted by the Senate Committee on State Affairs

Prepared by the Highway Safety Planning Agency

DWI ARREST STATISTICS

STATEWIDE LICENSE REVOCATION DATA
1987

Month	Number of Licenses Revoked				30 Hard 60 Soft		Number of Revocat. Recinded				Total Arrests	Average Day From Violation				% of Revocat. Recinded Licenses	% of Limited Licenses			
	1st	2nd	3rd	Ref.	Total	Limit	1st	2nd	3rd	Ref.		Total	1st	2nd	3rd			Ref.		
Jan 87	275	75	32	41	292	44	1	0	0	0	1	383	20	16	13	15	0.3%	16.0%		
Feb	231	81	35	49	347	101	2	1	1	4	8	355	23	29	25	24	2.2%	43.7%		
Mar	254	82	39	62	375	73	4	2	1	0	7	392	19	17	23	16	1.8%	28.7%		
Apr	238	94	32	62	364	54	5	2	0	0	7	371	19	15	15	0	1.9%	22.7%		
May	290	87	34	57	411	80	10	2	1	0	13	424	20	12	14	11	3.1%	27.6%		
Jun	267	109	49	71	425	62	7	2	0	1	10	435	23	22	27	17	2.3%	23.2%		
Jul	250	97	42	55	371	59	1	1	0	0	2	373	17	17	9	13	0.5%	23.2%		
Aug	273	59	38	49	405	77	0	1	0	0	1	406	23	21	18	17	0.2%	27.7%		
Sep	196	77	50	57	343	33	5	0	1	0	6	347	20	17	12	15	1.7%	16.8%		
Oct	207	92	50	54	351	54	2	0	0	0	2	353	16	20	12	15	3.6%	25.8%		
Nov	175	67	59	29	261	73	2	0	0	0	2	283	17	19	13	16	0.7%	41.7%		
Dec	177	82	59	52	318	65	0	2	0	2	7	325	17	21	14	15	2.2%	33.0%		
Total	2260	1054	479	660	4379	774	42	13	4	7	66	4457	17	53	18	3	16.2	15.3	1.5%	27.1%

Alaska State Legislature

Committees:

Chair-State Affairs
V. Chair-Judiciary
Telecommunications
Special Ethics
Legislative Council
Finance Subcommittee
for the University of Alaska
Joint Committee
on Economic Recovery



P.O. Box V
Juneau, Alaska 99801
(907) 465-4947

REPRESENTATIVE FRAN ULMER

M E M O R A N D U M

May 2, 1988

TO: Senator Mitch Abood, Chair
Senate State Affairs Committee

FROM: Representative Fran Ulmer

SUBJECT: House Bill 354, "An Act relating to the privilege to drive and obtain a license; to penalties for driving while that license or privilege is suspended, cancelled, or revoked, or driving in violation of a limitation; and increasing the penalties for certain persons convicted of driving while intoxicated or refusing to submit to a chemical test; and providing for an effective date"

CS for HB 354(Jud) corrects several problems with Alaska's present driving laws. Specifically, the bill:

- Makes the sixth and subsequent DWI's a felony and increases jail sentences for repeat drunk drivers.
- Allows those convicted of DWI to earn back a limited license through their good conduct after their release from prison.
- Makes the penalties for someone who never gets a driver's license and then commits crimes the same as the penalties for someone who has a driver's license and commits crimes--this eliminates the incentive created by current law to never get a driver's license.
- Brings the penalties for the major driving crimes into balance by treating driving while intoxicated as a more serious offense than driving while license suspended.

The major thrust of this proposed legislation is to target the worst drunk drivers. HB 354 increases penalties for repeat DWI offenses to reflect the seriousness of the crime. The proposal raises the mandatory minimum jail sentence for a third DWI from 30 to 100 days; for fourth DWI to 120 days; and a fifth DWI would result in a minimum sentence of 180 days. A sixth conviction within 10 years would be a Class C felony.

The treatment of repeat DWI offenders is presently far too lenient. Alaska law is inconsistent with the trend in other states, inconsistent with our own more severe treatment of less serious crimes and less dangerous offenders, and inconsistent with public protection from dangerous people. Several states have made repeat DWI convictions felonies. Texas and Oklahoma make the second DWI conviction a felony, while Nevada, South Dakota, West Virginia and South Carolina make the third conviction a felony. South Carolina has a three-year minimum sentence for the third offense and a five-year minimum for the fifth offense.

Alaska law already makes felonies out of conduct which is less dangerous than driving while intoxicated.

- Unlicensed guiding is a felony which carries a one-year minimum jail sentence (AS 08.54.210)
- Joyriding in which the car is damaged to \$500 or more is a felony (AS 11.46.482)
- Possession of brass knuckles, a switchblade, or a gravity knife in plain sight is a felony (AS 11.61.200)
- Running a big-time gambling operation is a felony (AS 11.66.210)

A sixth-time drunk driver is a hard-core alcoholic who cannot stop driving and cannot be deterred by another misdemeanor conviction. Someone who has been convicted a sixth time for DWI has not been deterred by misdemeanor jail sentences or reformed by outpatient alcohol treatment. That person has instead continued to endanger the public over and over again. Such a dangerous repeat offender needs the stiffer jail sentences, long-term in-patient treatment, and more intense probation available for felons.

This bill also raises the penalties for a third or subsequent refusal to take a breathalyzer to track DWI penalties. This follows the practice of current law and is necessary to eliminate any incentive for someone arrested for DWI to refuse the required breath test.

This proposal also affords to all those convicted of DWI the opportunity to earn back a limited driver's license that current law gives to first offenders. The person would have to "earn back" a limited license by maintaining good conduct. A person convicted of a second DWI could apply to the judge for a limited license for the last 60 days of a one-year revocation. A person convicted of a third or subsequent DWI could apply after five years of the mandatory minimum 10-year revocation.

Driving while license revoked/driving while license suspended (DWLR/DWLS).

Under current law, someone who never gets a driver's license can never have his or her license suspended or revoked. This person thus escapes the relatively heavy mandatory minimum penalties for DWLS (driving while license suspended) or DWLR (driving while license revoked). HB 354 corrects this anomaly and applies the penalties for DWLS and DWLR to those who never get driver's licenses. This eliminates the incentive to never get a driver's license.

Finally, this bill proposes to bring into proper perspective the penalties for DWI and DWLR/DWLS. Under current law there are three mandatory minimum penalties for DWLR/DWLS, depending on the basis for revocation or suspension when someone is caught driving.

1) If someone is caught driving after his or her license has been suspended for being caught driving without insurance, the mandatory minimum jail sentence is 10 days and the mandatory minimum license revocation is one year. HB 354 changes these mandatory minimum penalties to three days in jail and a 90-day license revocation (which would be the same as DWI penalty for first time offense). For a second offense within 10 years, the court shall impose a sentence of not less than 10 consecutive days, and for a third, not less than 20 consecutive days.

2) If someone is caught driving while his or her license is suspended by a court for a first DWI conviction, the mandatory minimum is 30 days in jail and a one-year loss of license. HB 354 changes these mandatory minimum penalties to 10 days in jail and a 90-day loss of license.

3) If a person is caught driving while his or her license is suspended by a court for a second or subsequent DWI conviction, the mandatory minimum penalty is 90 days in jail and a one-year loss of license. HB 354 proposes to change this to 30 days in jail and a 90-day loss of license.

Current law makes it more than three times as serious to drive after having your license suspended for lack of insurance than it does to drive while intoxicated. DWI is obviously a much more dangerous crime than DWLS--particularly insurance-based DWLS. Current law understates the severity of DWI and overstates the severity of DWLS; it needs to be changed to reflect the relative seriousness of the two offenses.

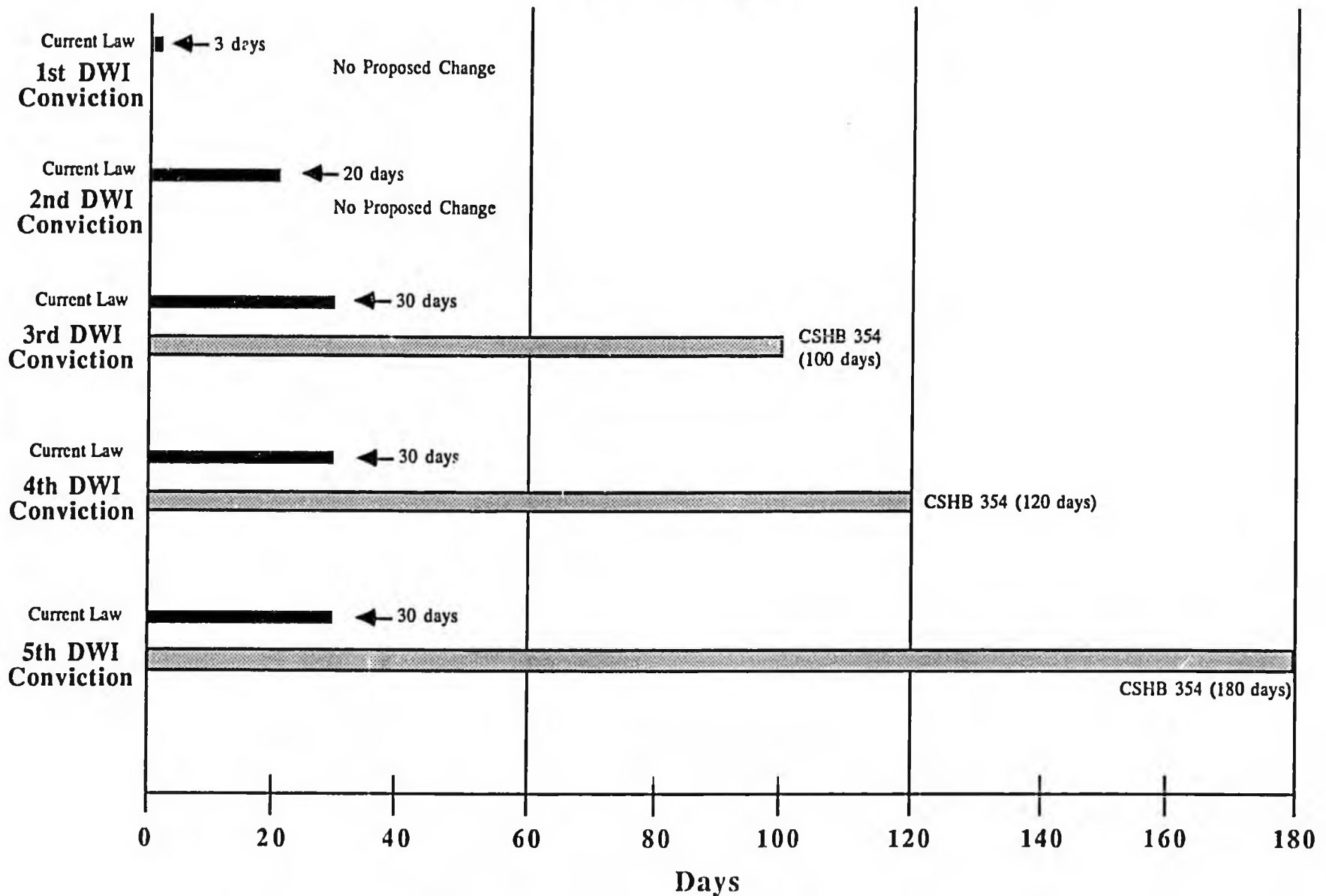
How To Increase Penalties For the Worst Drunk Drivers

<u>Crime</u>	<u>Current Law</u> Jail Time/Driver's License Revocation (Mandatory Minimum)	<u>CS for HB 354 (Jud)</u> Jail Time/Driver's License Revocation (Mandatory Minimum)
1st DWI	3 days in jail/90-day loss of license (possible to earn back limited license for last 60 days)	3 days in jail/90-day loss of license (possible to earn back limited license for last 60 days)
	--no change	
2nd DWI	20 days in jail/1-year loss of license	20 days in jail/1-year loss of license (possible to earn back limited license for last 60 days)
3rd DWI	30 days in jail/10-year loss of license	100 days in jail/10-year loss of license (possible to earn back limited license for last 5 years)
4th DWI	30 days in jail/10-year loss of license	120 days in jail/10-year loss of license (possible to earn back limited license for last 5 years)
5th DWI	30 days in jail/10-year loss of license	180 days in jail/10-year loss of license (possible to earn back limited license for last 5 years)
6th and subsequent DWI	30 days in jail/10-year loss of license	Class C Felony/10-year loss of license (possible to earn back limited license after 5 years)
DWLR/DWLS based on insurance suspension	10 days in jail/1-year loss of license	1st--3 days in jail/90-day loss of license 2nd--10 days in jail/90- day loss of license 3rd--20 days in jail/90- day loss of license
DWLR/DWLS based on court ordered revocation for 1st DWI	30 days in jail/1-year loss of license	10 days in jail/90-day loss of license
DWLR/DWLS based on court ordered revocation after 2nd or subsequent DWI	90 days in jail/1-year loss of license	20 days in jail/90-day loss of license

Jail Sentences for Drunk Drivers

(Mandatory Minimum)

Current Law vs. CSHB 354

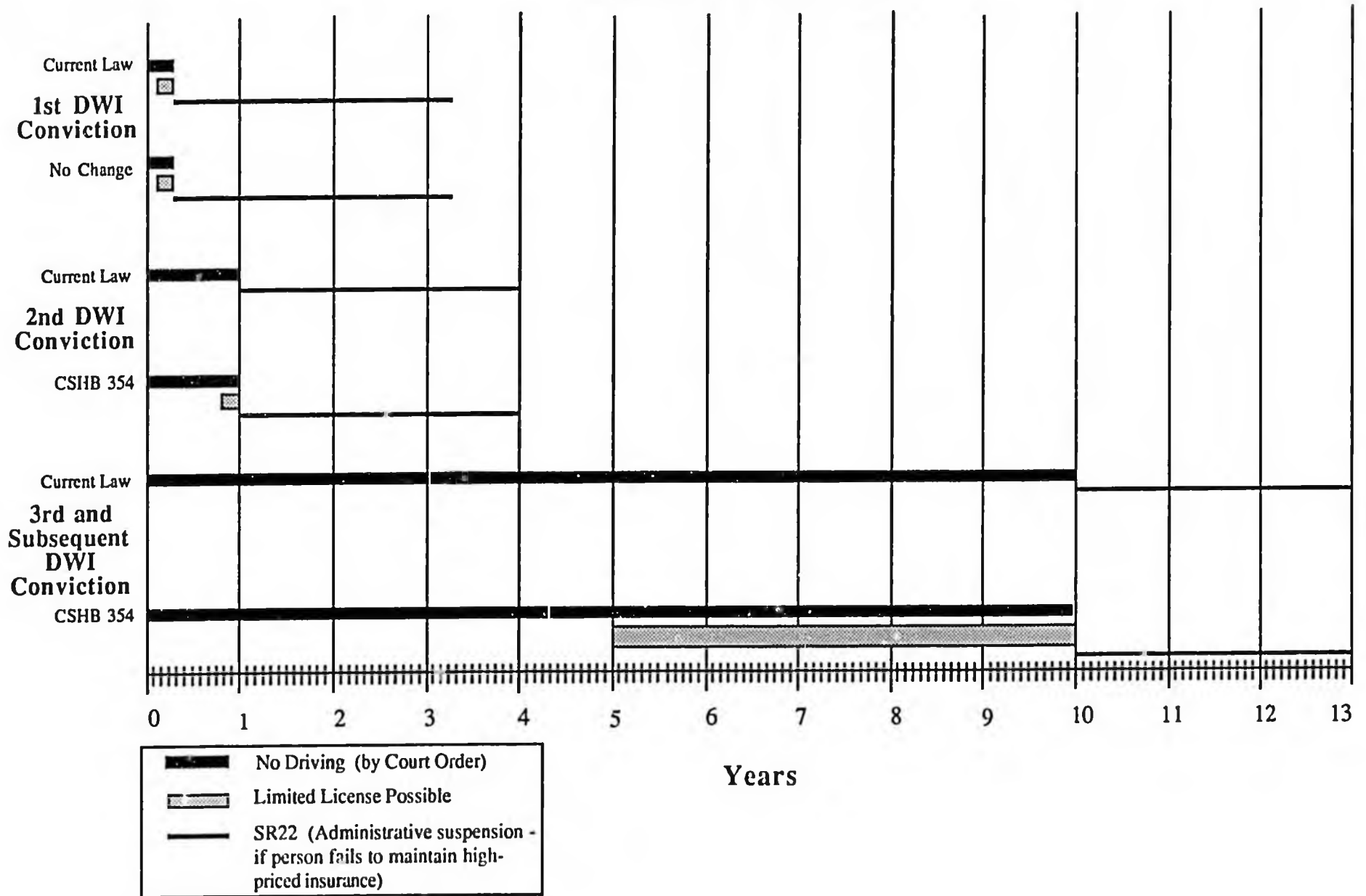


Note: 6th and subsequent DWI's are Class C felonies.

Length of License Suspensions for Drunk Drivers

(Mandatory Minimum)

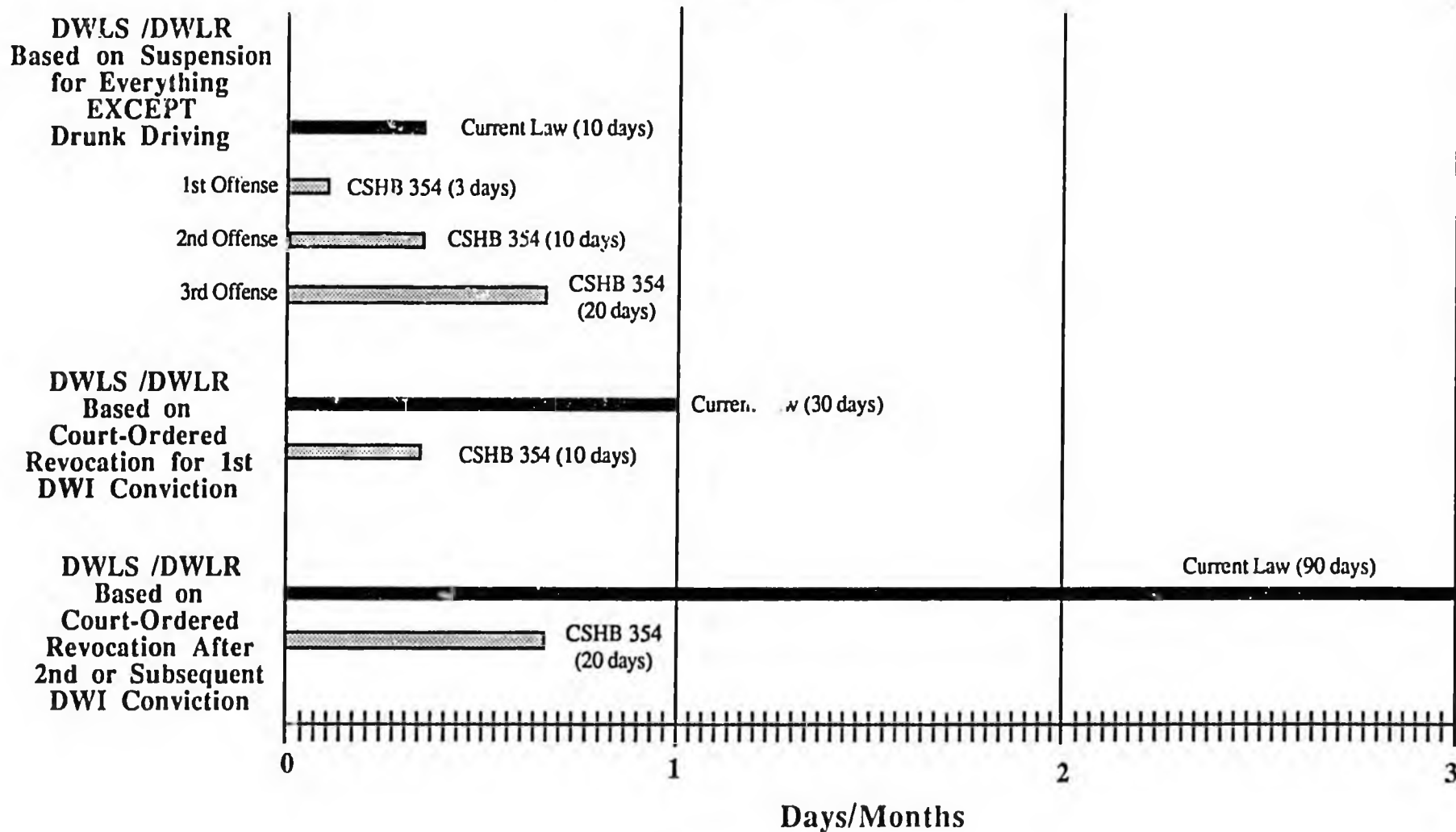
Current Law vs. CSHB 354



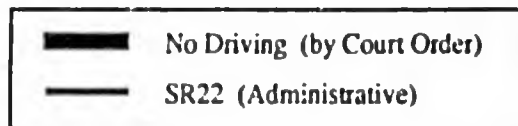
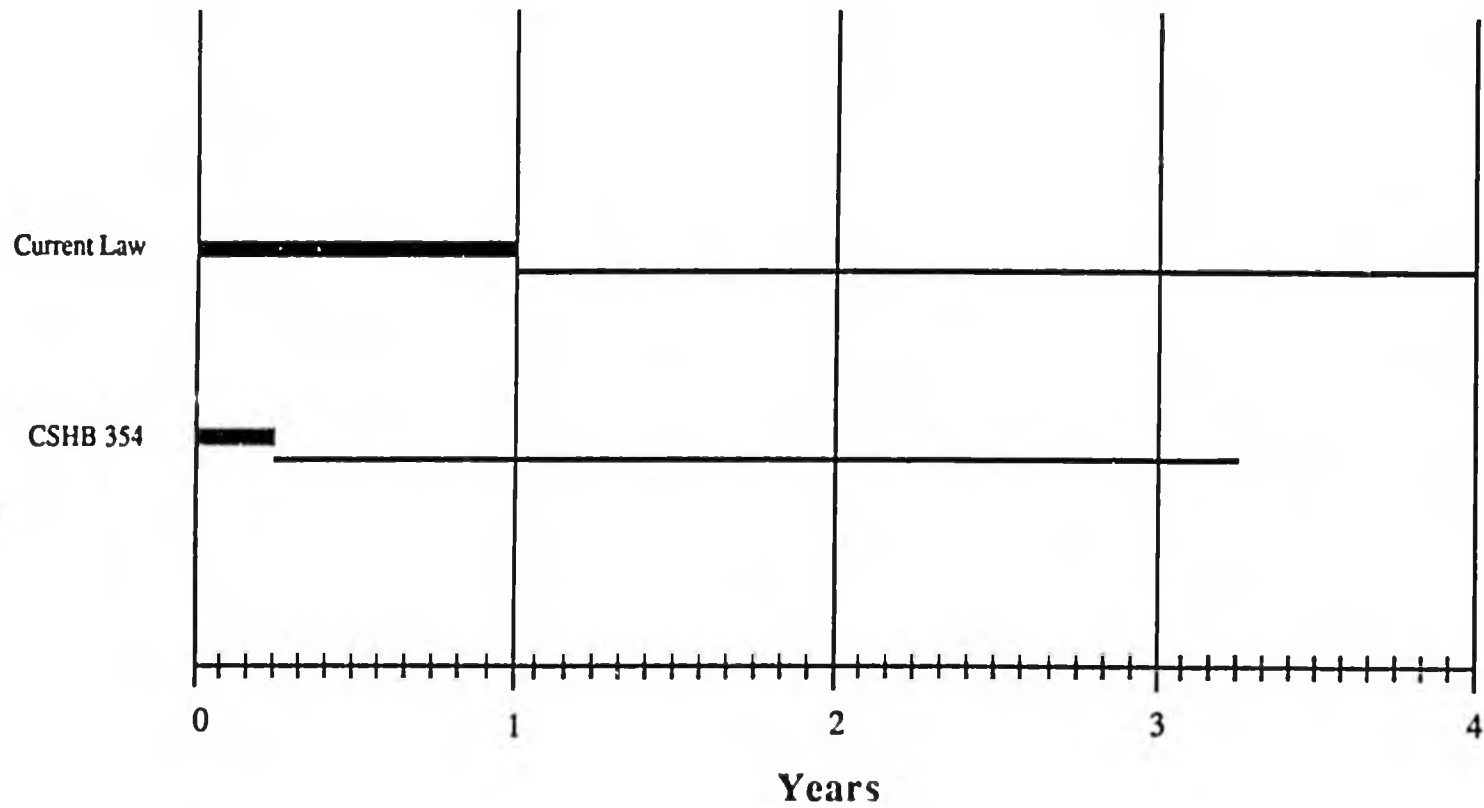
Jail Sentences for People Convicted of Driving with a Suspended License

(Mandatory Minimum)

Current Law vs. CSHB 354



Length of License Suspensions for Anyone Convicted of Driving with a Suspended License (Mandatory Minimum)



M E M O R A N D U M

TO: John Sund, Chairman
House Judiciary Committee

Date: April 21, 1988

FROM: Dana Pabe
Public Defender

I have reviewed the proposed CS for HB 354, relating to drunk driving.

I have no problem with the new mandatory minimum penalties for repeat drunk driving misdemeanors, nor do I object to elevating the offense to a felony after many repeated incidents in misdemeanor court.

The only concern which I have with the bill is setting a mandatory minimum for the first offense felony drunk driving. Although I understand the argument that persons convicted of felony drunk driving should certainly receive more jail time than they would have received for previous drunk driving convictions in district court, this issue must be examined not only within the context of other drunk driving convictions, but also of other first felony convictions. To set a mandatory minimum jail term for a first offense drunk driving felony raises concerns when potentially more serious first offense felonies such as assaults with dangerous weapons have no mandatory minimum. In all likelihood, a sentencing judge would give more jail time on a first felony drunk driving than was received for the last misdemeanor drunk driving charge. However, to set a mandatory minimum jail term for any first offense class C or B felony creates an anomaly within the felony sentencing code.

It should also be noted that first conviction of a first felony carries many collateral consequences which are not involved in misdemeanor convictions. A convicted felon cannot carry a firearm, can be placed on supervised probation and required to submit to drug and alcohol tests at will and report to a probation officer on a monthly basis. A convicted felon cannot vote until he or she is off probation and has had civil rights restored. Felony convictions can prohibit bonding, licensing for certain professions, and the ability to obtain employment. Because of these additional collateral consequences, the seriousness of a first felony drunk driving charge is accurately reflected without a statutory requirement of mandatory minimum jail time. Again, it is realistic to expect that a trial judge would give more jail time than for the last drunk driving offense in any event.

Thank you for requesting my input on this bill. As noted above, with the exception of the mandatory jail term for a first felony, I have no other problem with the bill.

Stiff DWI laws do save lives

I personally think that the stronger the penalty for drunk driving, the better for our community. I speak from experience when I say a lesser penalty only hurts the drunk driver.

I have been arrested for driving while intoxicated three times. The first two times the court system slapped my hand, ordered me to pay a fine and sent me on my way. I continued to drink abusively and thought nothing of driving my car when I was drunk.

On Oct. 22, 1983, I was arrested for my third DWI. The penalties were much stronger at this point. I was immediately sent to jail. When sobering up enough after several hours to realize where I was and why I was there, I was horrified! I had reached the lowest of low spots in my life. Today I have been sober for over four years.

The officer who arrested me was off duty and on his way home with two other off-duty officers in his car. Because those three off-duty Anchorage police officers were willing to take their own time to get a drunk driver off the streets and send her to jail Anchorage streets are a little safer today.

I can't stress enough how important the stiffer drunk driving laws have been to my life and our community. The statistics prove that harsher laws save lives.

— Veoletta Hayward

2/16/88 News

QUALITY SERVICES

File DWI letter

Date FEB 12 1988

Anchorage Times

Client No. 0615

Stay tough on DWI

Dear Editor: *0150 0590 255 0615*

How shortsighted! How illogical! To weaken the present DWI program which has been so effective would cost lives, maybe yours or mine.

Let us support the improved legislation obtained through the efforts of Mothers Against Drunk Driving (MADD), our legislators, and concerned citizens, and continue to enforce the penalties for DWI.

We can cut the budget on less vital programs. For this cause I would even be willing to tap the Permanent Fund.

Pauline V. Burkher
341 W. 11th Ave.

CORRECTION

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

M E M O R A N D U M

TO: John Sund, Chairman
House Judiciary Committee

Date: April 21, 1988

FROM: Dana Fabe
Public Defender

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I have no problem with the new mandatory minimum penalties for repeat drunk driving misdemeanors, nor do I object to elevating the offense to a felony after many repeated incidents in misdemeanor court.

The only concern which I have with the bill is setting a mandatory minimum for the first offense felony drunk driving. Although I understand the argument that persons convicted of felony drunk driving should certainly receive more jail time than they would have received for previous drunk driving convictions in district court, this issue must be examined not only within the context of other drunk driving convictions, but also of other first felony convictions. To set a mandatory minimum jail term for a first offense drunk driving felony raises concerns when potentially more serious first offense felonies such as assaults with dangerous weapons have no mandatory minimum. In all likelihood, a sentencing judge would give more jail time on a first felony drunk driving than was received for the last misdemeanor drunk driving charge. However, to set a mandatory minimum jail term for any first offense class C or B felony creates an anomaly within the felony sentencing code.

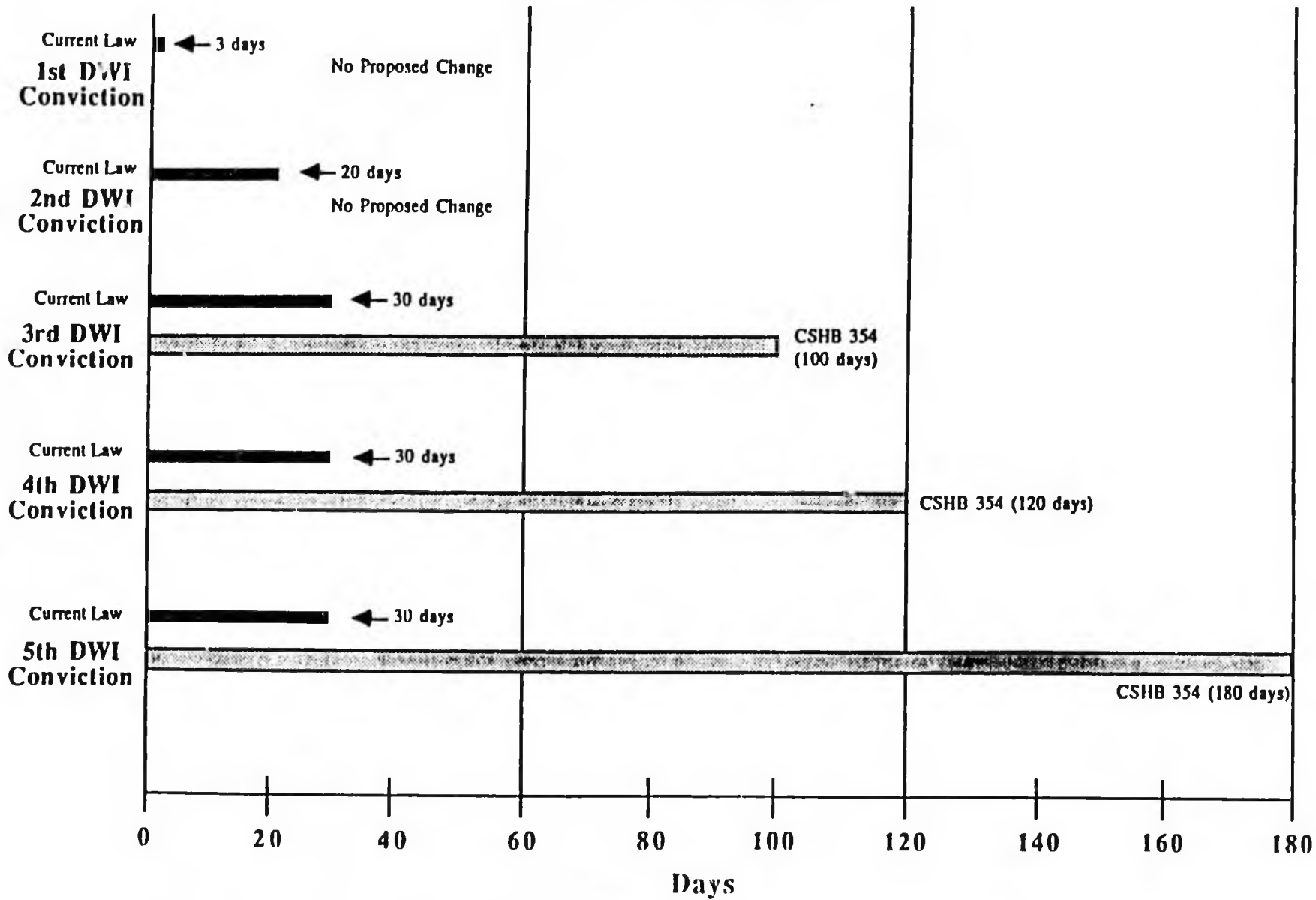
It should also be noted that first conviction of a first felony carries many collateral consequences which are not involved in misdemeanor convictions. A convicted felon cannot carry a firearm, can be placed on supervised probation and required to submit to drug and alcohol tests at will and report to a probation officer on a monthly basis. A convicted felon cannot vote until he or she is off probation and has had civil rights restored. Felony convictions can prohibit bonding, licensing for certain professions, and the ability to obtain employment. Because of these additional collateral consequences, the seriousness of a first felony drunk driving charge is accurately reflected without a statutory requirement of mandatory minimum jail time. Again, it is realistic to expect that a trial judge would give more jail time than for the last drunk driving offense in any event.

Thank you for requesting my input on this bill. As noted above, with the exception of the mandatory jail term for a first felony, I have no other problem with the bill.

Jail Sentences for Drunk Drivers

(Mandatory Minimum)

Current Law vs. CSHB 354



Note: 6th and subsequent DWI's are Class C felonies.

Stiff DWI laws do save lives

I personally think that the stronger the penalty for drunk driving, the better for our community. I speak from experience when I say a lesser penalty only hurts the drunk driver.

I have been arrested for driving while intoxicated three times. The first two times the court system slapped my hand, ordered me to pay a fine and sent me on my way. I continued to drink abusively and thought nothing of driving my car when I was drunk.

On Oct. 22, 1983, I was arrested for my third DWI. The penalties were much stronger at this point. I was immediately sent to jail. When sobering up enough after several hours to realize where I was and why I was there, I was horrified! I had reached the lowest of low spots in my life. Today I have been sober for over four years.

The officer who arrested me was off duty and on his way home with two other off-duty officers in his car. Because those three off-duty Anchorage police officers were willing to take their own time to get a drunk driver off the streets and send her to jail Anchorage streets are a little safer today.

I can't stress enough how important the stiffer drunk driving laws have been to my life and our community. The statistics prove that harsher laws save lives.

— Violetta Hayward

2/16/88 News

QUALITY SERVICES

File # 245-1000

Date FEB 12 1988

Anchorage Times

Client No. 0615

Stay tough on DWI

Dear Editor: *0150 0590 255 0615*

How shortsighted! How illogical! To weaken the present DWI program which has been so effective would cost lives, maybe yours or mine.

Let us support the improved legislation obtained through the efforts of Mothers Against Drunk Driving (MADD), our legislators, and concerned citizens, and continue to enforce the penalties for DWI.

We can cut the budget on less vital programs. For this cause I would even be willing to tap the Permanent Fund.

Pauline V. Burkher
341 W. 11th Ave.

Drunken driving arrests up 220 percent since 1970: Arrests for driving under the influence of alcohol rose more than 220 percent from 1970 to 1986, while the number of licensed drivers increased by just 42 percent in that period, a government report says.

In 1986, some 1.8 million people were arrested for driving under the influence, compared to 556,000 in 1970, said a report issued Sunday by the Bureau of Justice Statistics. In 1983, the peak year, there were 1.9 million such arrests, one for every 80 drivers.

The study also found that rates for driving under the influence were highest among 21-year-olds, reaching a peak in 1983 with a rate of one arrest for every 39 licensed drivers of that age.

My Friend

Brett is intensely curious about the rapidly enlarging world about him. His probing curiosity about life stimulates the adults around him to inquire more actively about their own lives. He is like most other 3-year-olds, I think: full of delightful mischief, granting smiles without hesitation and rapidly retreating to tears at those times when life is just too much bigger than he is. And, like many children, he cannot conceal a certain charming, if smug, satisfaction as he masters each new developmental task. Those tasks often come hard for Brett.

Brett has many other friends. Some, such as I, are new friends. Others, such as Grandma, Grandpa, and Daddy, go way back to before the accident that he now pretends not to remember. The accident? Brett's mother and baby brother, Matthew, were killed by a drunk driver in a violent accident on a softly beautiful starlit evening last summer. I did not know the driver, but I know he had spent the day enjoying a party with friends and relatives. It was a day of happiness and sharing, of warmth and comradeship. It was also a day of drinking.

I grew up in a home in which the consumption of alcohol was uncommon, but not condemned. Nevertheless, the importance of responsibility and the possible adverse consequences of drinking and driving were emphasized. I can still easily recite a litany of facts about alcohol consumption and driving: a quarter of a million Americans have died in alcohol-related accidents in the last decade; one American life is lost every 20 minutes in an alcohol-related accident; half of all Americans will be involved in an alcohol-related accident during their lifetimes; alcohol-related crashes are the leading cause of death among Americans between the ages of 16 and 24 years; 2000 persons are injured each day in alcohol-related accidents; 2 million drunk-driving collisions occur each year; 80% of Americans drive after drinking; drunk drivers cost US taxpayers in excess of \$20 billion annually; only about one in 1000 drunk drivers on the road is arrested. I knew all this, but I really did not know anything about the human cost of drunk driving until I met my new friend Brett.

At least one person told the drunk driver he ought not drive, but the warning was waved off. No one stopped him and no one tried to save his life by preventing him from driving while he was so obviously drunk. He also died in the fiery crash, burned alive in the first few minutes after he wove repeatedly across the center line and crashed at 60 mph into the car carrying Brett.

Some might say that Brett is lucky: he suffered no brain damage. Intellectually he is quite alive—I believe he will go to college one day. But Brett is paralyzed below the level of his second cervical vertebra. His arms and legs will never move. He cannot breathe at all on his own, nor will he—ever.

As a specialist in pediatric intensive care medicine, I see and care for many very severely ill and injured children. The jarring horror of my first moments with Brett ripped a still-unrepaired hole in the wall of objectivity that usually protects me from the pain of seeing a seriously injured child.

"He's not breathing," shouted the flight nurse over the scream of the engine as we unloaded the child from the helicopter and rushed into the emergency department. The neurosurgeon and I examined the form below us. The cherub was motionless, save for a grimace when we ventilated him by

mask. "Can you open your eyes?" urged my colleague. When he did promptly open his eyes we both gasped, staring almost incomprehendingly at one another, then back to the figure on the table. The frightened young eyes reached out so powerfully in their panic that we felt ourselves pulled to the child. The reality of the nearly unimaginable injury was upon us.

"Oh, God, it's his C-spine—this kid's a quad." The words were whispered. They would have been wholly unbearable if spoken any louder. Even gently whispered, those words conveyed a sentence of harsh finality known to all in the room, save one. A few slow, deep breaths and physicians and nurses resumed control and function: "We're sorry, Brett. You've been in a car accident. This is the hospital. We're doctors and nurses—we're going to help you, honey. Don't you have the most handsome blonde hair we've seen today? This is Tickles, our stuffed bear. Can he snuggle close by you? He loves little boys." Later, Brett and his father would cry together, as one generation struggled to be brave for the next, unable to soften the story that had to be shared.

A portable ventilator now breathes for Brett. The annual cost of providing his necessary medical and nursing care exceeds \$180 000. The man who caused the accident was uninsured. The cost in anguish and emotional pain for Brett's family and for the family of the drunk driver cannot be guessed. The lives of all involved will never be the same.

Although the police report assigned the responsibility for the accident to only one man, we are all to blame. Why do we share this burden? Because we have driven after drinking. Because we have welcomed friends into our homes, entertained them with alcohol, then waved them warmly into the night. Because we have laughed at and accepted public intoxication. Because we have tolerated weak and inconsistent enforcement of drunk driving laws. Because we have accepted lenient sentences for drunk drivers. Because we have conveniently ignored signs of alcoholism in our patients.

Perhaps we can only truly know that which we have experienced. My friendship with Brett has added much to my understanding of the realities of drunk driving and of life. Few intend to hurt or kill others, yet it happens, and the consequences fill our forevers.

I grieve with Brett for the mommy who can no longer kiss and hug away the hurts of childhood, and for the little brother who will not play with him. I share with him the emptiness of a football lying unthrown by the fireplace, of the unopened bag of marbles on the table beside his bed, of the laughing horseshoe and the flirtations of young manhood that may never come.

Yet life goes on. I will not demean the resilience of man or child by ascribing to Brett extraordinary bravery or superhuman determination. He is, after all, a little boy. He still laughs and he still cries. He manipulates people and he likes french fries with lots of ketchup. He uses a computer masterfully with a mouth control that also enables him to drive his own wheelchair. Such is our nature, about which Brett has taught me so much: given the slightest toehold, we dig in and we grow and survive. That is our nature. Yet with the joy remains the sadness and a certain loss of innocence—even for the physicians who thought they already had the big picture. We survive, but the shocking ease with which beautiful things can be broken haunts us. Twenty-five thousand Americans die each year in auto accidents involving alcohol. Two of them are missed a great deal by my little friend Brett.

Thomas J. Poulton, MD
Omaha

Drunk Driving: The Highway Killer is Back

By Barbara Bellomo

After steadily declining since 1982, deaths caused by drunk drivers are on the rise again.

A dramatic increase in alcohol-related traffic fatalities in 1986 could force states to consider once again passage of even stricter laws to get drunks off the road.

In the early '80s, the states rushed to pass more than 900 laws aimed at reducing what had become an alarming and continuous increase in alcohol-related deaths on the country's streets and highways.

The result of this increased public awareness of the national menace of drunks behind the wheel—spawned in large part by such groups as Mothers Against Drunk Driving (MADD)—was a decline in alcohol-related traffic deaths from 1982 to 1985.

But in 1986, fatalities related to drinking and driving rose by 7 percent, causing concern among traffic safety experts and anti-drunk-driving groups, some of which urge wider enactment of laws that have proven effective and others who call for stricter law enforcement and tougher sentencing.

"We've made inroads in reducing drunk driving, but now we're slipping back," says Barry Sweedler of the National Transportation Safety Board (NTSB). "The issue has lost the glamour it had in the early '80s."

Dr. Ralph Hingson of Boston University's School of Public Health believes that public pressure is essential in keeping the issue alive in legis-

latures in light of the sharp increase in drunk-driving-related deaths.

"There's no doubt that there was tremendous progress in the early '80s. It was unprecedented," he said. "The drunk driving laws and all the public discussion surrounding them were great, but it's almost like we found the key and now we're throwing it out. We have to stay on top of it."

How effective have those tough drunk driving laws been?

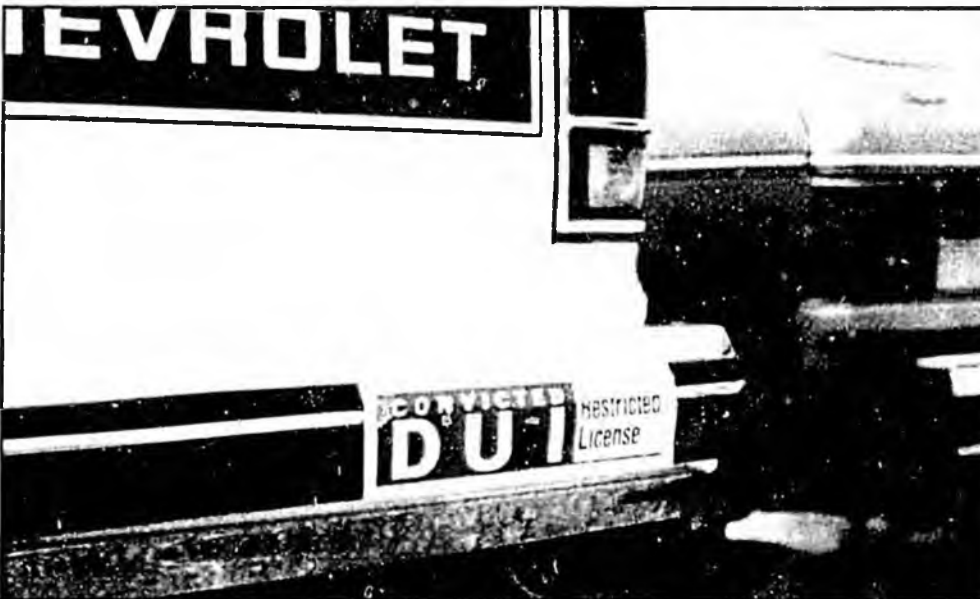
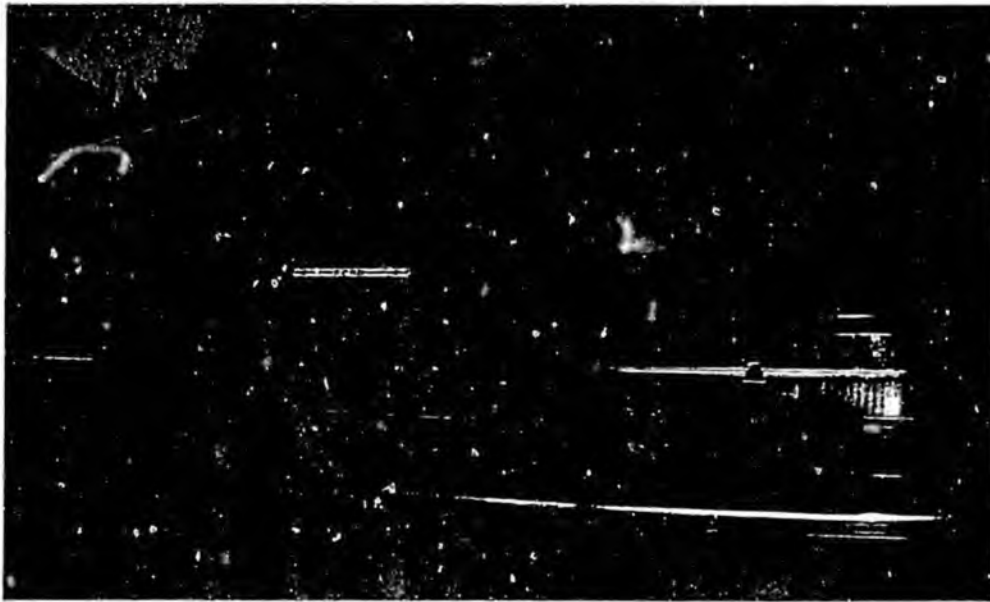
The American Bar Association and the National Transportation Safety Board recently evaluated state laws to determine what works most effectively to keep drunk drivers off the road. Successful initiatives include:

- Allowing police officers to confiscate drunk drivers' licenses at the time of arrest;
- Requiring judges to impose mandatory sentences for first and multiple offenders;
- Restricting or eliminating plea bargaining;
- Sobriety checkpoints;
- Raising the minimum drinking age to 21; and
- Enacting dram shop laws.

The most effective deterrent, according to the studies, is "roadside administrative revocation," which allows law enforcement officers to take away a drunk driver's license on the spot. Nearly half the states have such laws.

The NTSB acknowledges that while some people will continue to drive even without their license, most will

Barbara Bellomo is a staff writer for State Legislatures.



Some judges are using public humiliation as a tactic for reducing drunk driving. In Tuscarawas County, Ohio, Judge Edward O'Farrell issues special-colored license plates to first-time DUI offenders. And in Sarasota County, Fla., Judge Becky Titus requires offenders to place bright red and gray bumper stickers on their cars, so that other drivers know that they have been convicted of driving drunk.

drive less, or at least sober, until their court date. Many DUI offenders, before they even get to court, are arrested a second time for the same offense. Yet in states that don't have automatic revocation laws the second arrest will often show up as the driver's first offense.

License revocation in all 50 states continues to be one of MADD's national goals. Norma Phillips, national president, says, "Most citizens value their drivers' licenses. [Revocation] also has a psychological effect on people. It hits home that what they've done is unacceptable behavior."

John Grant, executive director of the National Commission on Drunk Driving, believes that tougher drunk-driving legislation—including automatic revocation—has had the greatest impact on social drinkers, who understand the consequences of drinking and driving. And Senator Rod Monroe of Oregon says that while repeat offenders in his state sometimes continue to drive under suspension, the new laws have had an effect on social drinkers. "It has produced an awareness. Even at political functions you see lots of non-alcoholic drinks being served now."

Most criminal justice specialists agree that automatic revocation is a tool in fighting drunk driving, but they argue that it does little to deter hardcore repeat offenders who often are alcoholics. They believe that the emphasis of the anti-drunk-driving campaign should focus on problem drinkers instead of the social and moderate imbibers who may get in a scrape only once, if ever.

Sweedler believes that repeat offenders pose the biggest challenge to law enforcement. Revocation legislation is important because "it still reduces their driving if not their drink-

ing problem." But he adds that the Safety Board urges states to require an evaluation of an offender's drinking problem before sentencing.

"If he's an alcoholic, sending him to an alcohol education program isn't going to work, and committing someone who went out one night and had a little too much fun to a six-month program is inappropriate as well. We must match treatment with the problem," he says.

While evaluation is key to handing down an appropriate sentence, both the bar association and the National Transportation Safety Board agree that mandatory sentencing of repeat offenders is critical in getting drunk drivers off the roads.

MADD members regularly monitor courtroom proceedings in drunk driving cases, because, according to Phillips. "When we are present in court to offer the victim support, you see judges handing down stricter sentences."

Ohio Judge Edward O'Farrell, who recently appeared on ABC's Nightline with Ted Koppel, is one judge who consistently is hard on drunk drivers.

O'Farrell achieved notoriety for his practice of ordering first-time offenders to sport canary yellow plates on their cars that help to alert police that they are DUI offenders. In addition, he imposes a mandatory 15-day sentence, six-month license suspension and a \$750 fine. If the offense involves an accident or injury the penalty goes up considerably. O'Farrell says his intent in the beginning was "to shock the hell out of people."

"The number of people dying in my county has plummeted because of my intractable position that no matter who you are, you're going to jail if you drink and drive," he says. Last year, there was one alcohol-related traffic fatality among the 85,000 residents of Tuscarawas County, O'Farrell's jurisdiction.

Phillips believes "the laws on the books aren't worth the ink they're

written in if they are not enforced. Judges still have discretion (with mandatory sentences). But they must hand down more swift and sure penalties because only the threat of jail will deter drunk driving."

Senator Monroe says his primary focus is to see that the drunk driving legislation he has sponsored in the past "is properly enforced." He attributes the leniency of many judges to their view that "DUI cases are minor offenses" that clog already overburdened courts.

"Drinking is part of the macho West—a test of manhood in some people's eyes. When judges grew up, everyone drank and drove," he said. "Some are very strict, but others don't feel it is that serious. They have a tendency to wink at it and impose minimal fines."

Monroe charges that judges in his district routinely refer teen-agers arrested for drunken driving to a two-hour alcohol education program, even though a law he authored gives them the latitude to confiscate the licenses of drunken drivers under 18.

Mandatory sentencing can get drunks off the road and into treatment or behind bars, but only when states restrict or eliminate plea bargaining in drunk-driving cases, the NTSB and bar association studies state. When plea bargaining is allowed, the association argues, there is often no record of a driver's first DUI offense, allowing repeat offenders to continually receive lighter sentences.

In addition, the ABA's report found that, "It (plea bargaining) eliminates many options for appropriate action by the justice system to reduce future risk. By failing to charge an offender with drunk driving, the system is prevented from accurately identifying the risk that individual presents if he commits a subsequent offense."

While some critics believe the criminal justice system is slacking off on drunk drivers, in many states there simply is not enough room in jails to hold them.

"Judges are frustrated because there

are very few meaningful sanctions for second offenders—jail space is very precious in this state," says Oregon Representative Dick Springer.

A number of criminal experts believe that incarceration can be an effective deterrent, but alcohol treatment must be provided to effectively reduce drunk driving. Jailing drunk drivers with criminals is inappropriate, they argue.

Arizona and Massachusetts are among a few states where lawmakers have appropriated funds to their corrections departments to build minimum security facilities strictly for DUI offenders. Other states are looking at alternative punishments to relieve overcrowded prisons and jails and to respond to the concern that jail is a place for criminals, not alcoholics.

One of the tougher alternative punishments for repeat offenders is automobile forfeiture, already on the books in Alaska and New York. Alaska Representative Niilo Koponen has sponsored legislation that would make forfeiture mandatory. Although New York also has a forfeiture law, judges there rarely invoke it. But the state has generated \$22 million through a statewide program that collects county fines from DUI offenders. The revenue is used to provide funding for the state's anti-drunk-driving campaign.

Five states have enacted legislation allowing judges to require repeat offenders to install a breathalyzer device in their cars that locks the ignition if the driver's alcohol level is over a specified limit. Oregon is the most recent. Its one-year experiment, the Ignition Interlock Pilot Program, requires judges in 11 counties to order the device for repeat offenders who need to drive. To obtain an occupational or hardship license, the driver must have previously received alcohol treatment, carry insurance and have the breath tester.

"It's an electronic probation officer," Representative Springer, the law's sponsor, says of the device.



Another effective deterrent, according to the NTSB and the ABA, are sobriety checkpoints. Twenty-five states have established them, and a number have landed in court as a result. Civil liberties groups, arguing that checkpoints are unconstitutional, have successfully brought suit against them in California, Oregon and Pennsylvania. The California Supreme Court later reversed its ruling, stipulating that law enforcement agencies must give the public advance notice of the checkpoint's location and must use systematic selection criteria.

The Pennsylvania Supreme Court recently outlawed random sobriety roadblocks, saying they were set up at

"such unlikely times and places" that citizens were being stopped unjustifiably by police. But like California, the court upheld their legality, imposing similar restrictions on law enforcement departments. Last September, Oregon banned the use of checkpoints.

Despite constitutional challenges, the NTSB maintains that roadblocks are cost effective and a strong deterrent to drinking and driving.

Alcohol-related fatalities among teen-agers 15 to 19 are a real concern. Deaths in this age group were significantly higher in 1986 than in 1985, according to John Grant of the National Commission on Drunk Driving. He attributes the increase to the fact that

automobiles are more accessible, fuel is cheaper and "kids drive with more abandon and less responsibility."

However, Boston University's Hingson theorizes that the anti-drinking movement had little impact on this group because "it was before their time. The number of new laws geared toward drunk driving reached its zenith in 1985 and evidence shows it may be tapering off. That's a bad sign for a high risk group such as teen-agers who are just entering the driving pool."

Preventing alcohol-related fatalities among teen-agers has spurred many states to enact legislation targeted specifically to those under 21. With the exception of Wyoming, every state has



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raised the drinking age to 21 (some with a nudge from Congress, which threatened a loss of federal highway funds without it). State troopers across the country say the laws have already saved many lives.

Maine recently lowered its maximum permissible blood alcohol content to .02 percent for drivers under 21. The new law deals a double blow—a fine is imposed for drinking under age and driving privileges are suspended for one year. Rhode Island has introduced legislation that would lower its legal blood alcohol limit to .04 percent for teen-agers.

As part of its national lobbying effort, MADD is urging all states to lower their maximum blood alcohol limit to .10 percent. But the American Medical Society says that even at .05 percent a person is too impaired to drive. Forty-two states have .10 percent maximum levels and Oregon and Utah have lowered their limits to .08 percent. Colorado recently introduced a bill that would lower the legal limit from .15 percent to .10 percent.

To date, half the states have enacted strong liability legislation—which the studies consider to be effective—aimed at bars and restaurants that serve drinks to intoxicated patrons, and Maine, Oklahoma and Texas are among several states that require or encourage training programs for bartenders to learn how to identify customers who have had too much to drink.

Grant says that drunk-driving legislation in and of itself is not a panacea. He theorizes that the key to getting drunk drivers off the streets and highways lies in a coordinated approach by states.

"Enforcement and implementation of the laws has been the biggest challenge. We don't need any new laws. We need to implement the ones we have.

"Everyone must do their part from judges to more active police enforcement to better court interpretation of what the law says. Education and prevention in the work place and the schools are a big part of it, too. And it's vital that the media keep the issue alive," he says.