

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672

6629

SENATE STATE AFFAIRS

1033

Analysis:

The maximum number of license plates available representing each university campus will be 999. The figures used for this fiscal note are strictly estimates as we have no idea how many people will request the university plates.

It is estimated that in FY90 the following number of plates will be requested:

UAA - 600; UAF - 400; and UAS - 200; for a total of 1,200

In FY91 and subsequent years it is estimated there will be 100 new requests for UAA; 75 new requests for UAF; and 50 new requests for UAS; for a total of 225 new requests each fiscal year. After FY94 there would be few if any plates available for UAA.

CONTRACTUAL

1,200 special request plates @ \$3.55 per set	4.3
Postage for mailing @ \$1.76 per set x 1,200	<u>2.1</u>
	6.4

REVENUE

It should again be emphasized these are rough estimates only, as we have no idea how many people will request the university license plates.

1,200 special request university plates @ \$50 each for FY90 = \$60.0

225 special request university plates @ \$50 each for FY91 and subsequent years through FY94 - \$11.3 annually.

*have to order in groups of 50
- anticipate more orders than
this
- can have in stock for
many yrs.*

*very few } HOW
Pearl Harbor Seminar*

S B

127

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER SB 127

SPONSOR State Affairs Committee

BILL TITLE Homebrewing

NOTE
C.S. HAS
TITLE CHANGE

DATE REFERRED

HEARING SCHEDULED 1-25-89

FISCAL NOTE PREPARED ✓

SPONSOR CONTACTED (Parehot)

or Teleconference
(Londi)

INTERESTED PARTIES CONTACTED

Sen. Binkley
Dept. Revenue → Cliff Gosh
ABC → Pat Shurreck
SOADA

100A
message
✓ 12/23
10am

✓ Randall & Pat Oldenberg # 338-1472

W 279-1433
OAG Conservation Comm.

✓ Rick Helms 272-0621

✓ Rick Hemon-Webb 561-0008 (will call other people too)

OTHER

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 1-19-89
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035

DATE TURNED INTO OFFICE 1-25-89

1/19/89

Mr. President:

STATE AFFAIRS Committee considered SB 127

private manufacture of and the definition of an alcoholic beverage; efd

and recommended:

- replace with cs SB 127 (St Aff) same title
- attached amendment(s) and new title
- _____ letter of intent adopted
- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____

FISCAL NOTE(S) attached zero fiscal impact
 appropriation no FN attached Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

Jan Fuchs
Fair Kelly
[Signature]

OTHER RECOMMENDATIONS

[Signature]
 Chairman Signature and recommendation

Committee backup attached

STATE OF ALASKA

DEPARTMENT OF REVENUE

ALCOHOLIC BEVERAGE CONTROL BOARD

STEVE COWPER, GOVERNOR

550 W. 7TH AVE
ANCHORAGE, ALASKA 99501-6698

January 23, 1989

The Honorable Pat Pourchot, Chairman
Senate State Affairs Committee
Alaska State Senate
P.O. Box V
Juneau, AK 99811

RE: Position Paper - CSSB 127

Dear Senator Pourchot:

This letter intends to express the Alcoholic Beverage Control Board's position concerning CSSB 127. The board fully supports the legislation and believes the bill remedies problems in present law prohibiting private manufacture of beer and wine.

Thank you for this opportunity to comment. If you have any questions, please do not hesitate to call.

Sincerely,



Patrick L. Sharrock
Director
(907) 277-8638

PLS:cr

cc: Michael W. Gordon, Chairman
Alcoholic Beverage Control Board

Board Members

CTS: 89-18

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Department of Revenue
 Title: Private manufacture and derivation of alcoholic beverage. BRU: Alcoholic Beverage Control Board
 Sponsor: Senate State Affairs Committee Components: _____
 Requestor: Senate State Affairs Committee

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Patrick L. Sharrock, Director Phone: 277-8638
 Division: Alcoholic Beverage Control Board Date: January 25, 1989
 Approved by Commissioner: Hugh Malone Date: January 25, 1989
 Agency: Department of Revenue

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

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 24, 1989

SUBJECT: Private manufacture of alcohol -
CSSB 127(SA)

TO: Senator Pat Pourchot

FROM: Michael F. Ford *m. f.*
Legislative Counsel

The following is a sectional analysis of the above referenced bill:

Section 1 - Exempts private manufacture of an alcoholic beverage from the statutory provisions of title 4, except as provided in subsection (b) of Sec. 04.21.015. Under subsection (b) the exemption for private manufacture is not applicable to

- (1) the prohibition against a person under 21 possessing or consuming alcohol;
- (2) the prohibition against a person furnishing alcohol to a person under 21;
- (3) municipal regulation of private manufacture;
- (4) the civil immunity provisions of AS 04.21.020;
- (5) alcohol privately manufactured in excess of federal law;
or
- (6) an area that has adopted a local option law.

The exemption against regulation under title 4 would also not apply to the requirement contained in AS 28.35.029 that a person cannot drive a motor vehicle with an open container of alcohol in the vehicle.

Section 2 - Effective date.

MFF:gc
WKG6/036

Sandra 6-0483E
Ford ✓
1/24/89

Original sponsor: State Affairs
Committee

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR SENATE BILL NO. 127 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the private manufacture of an
7 alcoholic beverage; and providing for an effective
8 date."

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

10 * Section 1. AS 04.21 is amended by adding a new section to read:

11 Sec. 04.21.015. PRIVATE MANUFACTURE OF ALCOHOLIC BEVERAGES. (a)

12 Except as provided in (b) of this section, the provisions of this
13 title do not apply to the private manufacture of alcoholic beverages.

14 (b) This section does not apply to AS 04.16.050, 04.16.051;
15 AS 04.21.010, 04.21.020; alcoholic beverages manufactured in a quanti-
16 ty that exceeds the limit imposed on private manufacture under federal
17 law; or an area that has adopted a local option law under AS 04.11.-
18 490 - 04.11.500.

19 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

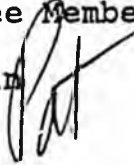


Official Business

Alaska State Legislature

P.O. Box V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: Senate State Affairs Committee Members
FROM: Senator Pat Pourchot, Chairman 
RE: January 25 Committee Hearing
DATE: January 24, 1989

On Wednesday, January 25 at 1:30 p.m. in the Beltz Room the Senate State Affairs Committee will hear the following bills:

SJR 1, Proposing an amendment to the Constitution of the State of Alaska relating to open meetings.

SJR 1 would place before the voters at the next general election a Constitutional amendment regarding open meetings. If the amendment were to pass, all private and substantive discussions and debates on legislation under its jurisdiction by a quorum of a house of the legislature or a committee would be prohibited. The exception to this would be executive sessions as authorized by statute. If the amendment were violated, the court could impose civil fines and other sanctions authorized by statute, but could not invalidate legislation.

In 1986 the League of Women Voters sued after a series of closed meetings by the legislature. The Supreme Court ruled that although the legislature had violated existing statute and its own Uniform Rules governing open meetings, the court could not enforce compliance because the statute and rule fall within the legislature's rule making authority. Adoption of a constitutional amendment would provide a basis for judicial enforcement.

A fiscal note, indicating a cost of \$2,200 to put the amendment on the ballot, is attached. Also attached is a summary sheet comparing SJR 1 to existing law and to SB 3.

SB 3, Relating to meetings held by the legislature or a committee of the legislature.

SB 3 proposes statutory amendments, rather than a Constitutional amendment, regarding open meetings. Other than this basic

Committee Memo
January 24, 1989

difference, many of its provisions are similar to those of SJR 1
(see attached chart).

SB 127, Relating to the private manufacture of and the definition
of an alcoholic beverage.

SB 127 would exempt privately produced alcoholic beverages
("homebrew") from most statutes governing alcohol, mainly those
related to licensing. Homebrewing would still be prohibited in
both "damp" and "dry" local option areas; municipalities would
continue to have the authority to regulate homebrewing; sale to
and possession or consumption by a person under age 21 would
still be prohibited.

The current definition of alcoholic beverage was rewritten in
1986 to encompass privately produced alcoholic beverages to
eliminate a perceived loophole in the local option statutes.
Although it is within the ABC Board's authority to issue a
license for homebrewing, the Board has declined to do so.

The Great Northern Brewers Club has requested the statute changes
contained in SB 127 in time for this year's annual Fur Rendezvous
wine and beer judging competition. The competition has been
temporarily cancelled awaiting statutory clarification.

As introduced, SB 127 included a change in the definition of
alcoholic beverage to exclude from state regulation beverages
that contain less than one-half percent of alcohol by volume.
This section has been dropped from the committee substitute due
to concerns that it would allow the manufacture and possession of
beverages such as "near beer" in local option areas.

remembers)
Kozel
court ruling
made the
clear the
prohibition
applied
statutes
not just
in local
option
areas

date - deadline 2/8

penalty
local option area -
felony
other area -
misdemeanor

Sharrock
says no
provision
to license!
no provision
to waive.

by Jeanne

1-24-89

Prior to adoption of Sec 11 Ch 80 SLA 86 the definition of "alcoholic beverage" was as follows:

"alcoholic beverage" includes but is not limited to whiskey, brandy, rum, gin, wine, ale, porter, beer, and all other spiritous, vinous, malt and other fermented or distilled liquors intended for human consumption and containing more than 1% alcohol by volume;"

Sec 11 Ch 80 SLA 86 (HB 700) rewrote the definition as follows:

"alcoholic beverage" means spiritous, vinous, malt or other fermented or distilled liquids, whatever the origin, that are intended for human consumption as a beverage and that contain alcohol whether produced commercially or privately;"

This amendment was specifically rewritten to include "homebrew" in the definition of an alcoholic beverage so that "homebrewing" would not be permitted in local option areas which prohibited possession of alcoholic beverages. (The section on the possession of alcoholic beverages in local option areas was adopted in Sec 2 Ch 80 SLA 86.)

The civil liability "shield" for homebrewers is included at the suggestion of legal services.

Under current law a person who provides alcoholic beverages (or homebrew under SB 127) to another person may not be held civilly liable for injuries resulting from the intoxication of that person unless the person who provides the alcoholic beverages (homebrew) holds a license...or is an agent or employee of such a licensee...and knowingly provides alcohol to a person under 21 or to an intoxicated person.

Since possession of a "license" is the determining factor as to whether a person may be held liable for certain actions, and since homebrewers are not licensed, the shield seems to be more perceived than real. However, Ford insists that the provision is necessary to protect homebrewers from frivolous suits.

per Sharnock testimony 1-25-89
Court ruling Kotzebue leg. intent did mean to prohibit homebrewing everywhere. -not just local option
effective Aug 3 - conviction = felony in local option areas for private manufacture (misdemeanor in wet areas)

SB 127, RELATING TO THE PRIVATE MANUFACTURE OF AN ALCOHOLIC BEVERAGE

TO TESTIFY:

PAT SHARROCK, A.B.C. BOARD

RICK HERRON-WEBB (HOMEBREWER -- ANCHORAGE TELECONFERENCE)

PAT OLDENBERG (HOMEBREWER -- ANCHORAGE TELECONFERENCE)

RICK HELMS (HOMEBREWER -- ANCHORAGE TELECONFERENCE)

OTHERS (SEE WITNESS LIST)

Mary Heldon - wine making
Mike Ford, Legislative Legal - to answer questions

FYI:

PRIOR TO 1986 STATUTE CHANGE, "ALCOHOLIC BEVERAGE" WAS DEFINED: WHISKEY, BRANDY, RUM, GIN, WINE, ALE, PORTER, BEER, AND ALL OTHER SPIRITOUS, VINOUS, MALT AND OTHER FERMENTED OR DISTILLED LIQUORS INTENDED FOR HUMAN CONSUMPTION AND CONTAINING MORE THAN 1% ALCOHOL BY VOLUME

DEFINITION AFTER 1986 STATUTE CHANGE (AS 04.21.080):

SPIRITOUS, VINOUS, MALT OR OTHER FERMENTED OR DISTILLED LIQUIDS, WHATEVER THE ORIGIN, THAT ARE INTENDED FOR HUMAN CONSUMPTION AS A BEVERAGE AND THAT CONTAIN ALCOHOL WHETHER PRODUCED COMMERCIALY OR PRIVATELY (EMPHASIS ADDED)

INTENT WAS TO PROHIBIT HOMEBREWING IN LOCAL OPTION AREAS; EFFECT WAS TO PROHIBIT HOMEBREWING PERIOD.

QUESTION: WHY IS THIS SUDDENLY AN ISSUE? NEW DEFINITION HAS BEEN ON BOOKS A COUPLE OF YEARS -- DID FUR RENDEVOUS HOLD THEIR HOMEBREWING COMPETITION LAST YEAR?

WE WILL HAVE FISCAL NOTE (ZERO) BY TIME OF MEETING.

→ Robert Waldman, microbrewer
Propose amendment on
brewpubs.

Federal Limits Imposed on Private Manufacture

23,172
Federal

Federal—Laws—Internal Revenue Code

759 11-88

[[23394]]

(e) **ILLEGALLY PRODUCED WINE.**—Notwithstanding subsection (a), any wine produced in the United States at any place other than the bonded premises provided for in this chapter shall (except as provided in section 5642 in the case of tax-free production) be subject to tax at the rate prescribed in subsection (b) at the time of production and whether or not removed for consumption or sale.

[Sec. 5041 as amended by Act of June 30, 1959, P. L. 86-75, 73 Stat. 157; Act of June 30, 1960, P. L. 86-564, 74 Stat. 290; Act of June 30, 1961, P. L. 87-72, 75 Stat. 194; Act of June 28, 1962, P. L. 87-508, 76 Stat. 114; Act of June 29, 1963, P. L. 88-52; Act of June 30, 1964, P. L. 88-348; Act of June 21, 1965, P. L. 89-44, 79 Stat. 136; Act of Oct. 26, 1974, P. L. 93-490, 88 Stat. 1466; Act of Oct. 4, 1976, P. L. 94-455, 90 Stat. 1520; Act of Nov. 10, 1988, P. L. 100-647, 102 Stat. 3342, applicable to wine removed after Dec. 31, 1988.]

[[23395]]

Sec. 5042. Exemption from Tax. (a) **TAX-FREE PRODUCTION.**—(1) **CIDER.**—Subject to regulations prescribed by the Secretary, the noneffervescent product of the normal alcoholic fermentation of apple juice only, which is produced at a place other than a bonded wine cellar and without the use of preservative methods or materials, and which is sold or offered for sale as cider and not as wine or as a substitute for wine, shall not be subject to tax as wine nor to the provisions of subchapter F.

(2) **WINE FOR PERSONAL OR FAMILY USE.**—Subject to regulations prescribed by the Secretary—

(A) **EXEMPTION.**—Any adult may, without payment of tax, produce wine for personal or family use and not for sale.

(B) **LIMITATION.**—The aggregate amount of wine exempt from tax under this paragraph with respect to any household shall not exceed—

(i) 200 gallons per calendar year if there are 2 or more adults in such household, or

(ii) 100 gallons per calendar year if there is only 1 adult in such household.

(C) **ADULTS.**—For purposes of this paragraph, the term "adult" means an individual who has attained 18 years of age, or the minimum age (if any) established by law applicable in the locality in which the

¶ 23394 26 U. S. C. 5041

household is situated at which wine may be sold to individuals, whichever is greater.

(3) **EXPERIMENTAL WINE.**—Subject to regulations prescribed by the Secretary, any scientific university, college of learning, or institution of scientific research may produce, receive, blend, treat, and store wine, without payment of tax, for experimental or research use but not for consumption (other than organoleptical tests) or sale, and may receive such wine spirits without payment of tax as may be necessary for such production.

[[23396]]

(b) CROSS REFERENCES.—

(1) For provisions relating to exemption of tax on losses of wine (including losses by theft or authorized destruction), see section 5370.

(2) For provisions exempting from tax samples of wine, see section 5372.

(3) For provisions authorizing withdrawals of wine free of tax or without payment of tax, see section 5363.

[Sec. 5042 as amended by Act of Oct. 4, 1976, P. L. 94-455, 90 Stat. 1520; Act of Oct. 13, 1978, P. L. 95-458, 92 Stat. 1255.]

[[23397]]

Sec. 5043. Collection of Taxes on Wines.

(a) **PERSONS LIABLE FOR PAYMENT.**—The taxes on wine provided for in this subpart shall be paid—

(1) **BONDED WINE CELLARS.**—In the case of wines removed from any bonded wine cellar, by the proprietor of such bonded wine cellar; except that—

(A) in the case of any transfer of wine in bond as authorized under the provisions of section 5362(b), the liability for payment of the tax shall become the liability of the transferee from the time of removal of the wine from the transferor's premises, and the transferor shall thereupon be relieved of such liability; and

(B) in the case of any wine withdrawn by a person other than such proprietor without payment of tax as authorized under the provisions of section 5362(c), the liability for payment of the tax shall become the liability of such person from the time of the removal of the wine from the bonded wine cellar, and such proprietor shall thereupon be relieved of such liability.

(2) **FOREIGN WINE.**—In the case of foreign wines, by the importer thereof.

(3) **OTHER WINES.**—Immediately, in the case of any wine produced, imported, received, removed, or possessed otherwise than as authorized by law, by any person

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wine



brewers under common control where one or more of the brewers is not a corporation.

(3) TOLERANCES.—Where the Secretary finds that the revenue will not be endangered thereby, he may by regulations prescribe tolerances for barrels and fractional parts of barrels, and, if such tolerances are prescribed, no assessment shall be made and no tax shall be collected for any excess in any case where the contents of a barrel or a fractional part of a barrel are within the limit of the applicable tolerance prescribed.

[[23412]

(b) ASSESSMENT ON MATERIALS USED IN PRODUCTION IN CASE OF FRAUD.—Nothing contained in this subpart or subchapter G shall be construed to authorize an assessment on the quantity of materials used in producing or purchased for the purpose of producing beer, nor shall the quantity of materials so used or purchased be evidence, for the purpose of taxation, of the quantity of beer produced; but the tax on all beer shall be paid as provided in section 5054, and not otherwise; except that this subsection shall not apply to cases of fraud, and nothing in this subsection shall have the effect to change the rules of law respecting evidence in any prosecution or suit.

[[23412A]

(c) ILLEGALLY PRODUCED BEER.—The production of any beer at any place in the United States shall be subject to tax at the rate prescribed in subsection (a) and such tax shall be due and payable as provided in section 5054(a)(3) unless—

(1) such beer is produced in a brewery qualified under the provisions of subchapter G, or

(2) such production is exempt from tax under section 5053(e) (relating to beer for personal or family use).

[Sec. 5051 as amended by Act of June 30, 1959, P. L. 86-75, 73 Stat. 157; Act of June 30, 1960, P. L. 86-564, 74 Stat. 290; Act of June 30, 1961, P. L. 87-72, 75 Stat. 194; Act of June 28, 1962, P. L. 87-508, 76 Stat. 114; Act of June 29, 1963, P. L. 88-52; Act of June 30, 1964, P. L. 88-348; Act of June 21, 1965, P. L. 89-44, 79 Stat. 136; Act of Oct. 4, 1976, P. L. 94-455, 90 Stat. 1520, effective Feb. 1, 1977; Act of Oct. 17, 1976, P. L. 94-529, 90 Stat. 2485; Act of Oct. 13, 1978, P. L. 95-458, 92 Stat. 1255.]

[[23413]

Sec. 5052. Definitions. (a) BEER.—For purposes of this chapter (except when used

¶ 23412 26 U. S. C. 5052

with reference to distilling or distilling material) the term "beer" means beer, ale, porter, stout, and other similar fermented beverages (including sake or similar products) of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor.

[[23414]

(b) GALLON.—For purposes of this subpart, the term "gallon" means the liquid measure containing 231 cubic inches.

[[23415]

(c) REMOVED FOR CONSUMPTION OR SALE.—Except as provided for in the case of removal of beer without payment of tax, the term "removed for consumption or sale," for the purposes of this subpart, means—

(1) SALE OF BEER.—The sale and transfer of possession of beer for consumption at the brewery; or

(2) REMOVALS.—Any removal of beer from the brewery.

[[23416]

(d) BREWER.—

For definition of brewer, see section 5002.

[Sec. 5052 as amended by Act of Jan. 12, 1971, P. L. 91-673, 84 Stat. 2056.]

[[23417]

Sec. 5053. Exemptions. (a) REMOVALS FOR EXPORT.—Beer may be removed from the brewery, without payment of tax, for export, in such containers and under such regulations, and on the giving of such notices, entries, and bonds and other security, as the Secretary may by regulations prescribe.

[[23418]

(b) REMOVALS WHEN UNFIT FOR BEVERAGE USE.—When beer has become sour or damaged, so as to be incapable of use as such, a brewer may remove the same from his brewery without payment of tax, for manufacturing purposes, under such regulations as the Secretary may prescribe.

[[23419]

(c) REMOVALS FOR LABORATORY ANALYSIS.—Beer may be removed from the brewery, without payment of tax, for laboratory analysis, subject to such limitations and under such regulations as the Secretary may prescribe.

[§ 23419A]

(d) **REMOVALS FOR RESEARCH, DEVELOPMENT, OR TESTING.**—Under such conditions and regulations as the Secretary may prescribe, beer may be removed from the brewery without payment of tax for use in research, development, or testing (other than consumer testing or other market analysis) of processes, systems, materials, or equipment relating to beer or brewery operations.

[§ 23419B]

(e) **BEER FOR PERSONAL OR FAMILY USE.**—Subject to regulation prescribed by the Secretary, any adult may, without payment of tax, produce beer for personal or family use and not for sale. The aggregate amount of beer exempt from tax under this subsection with respect to any household shall not exceed—

(1) 200 gallons per calendar year if there are 2 or more adults in such household, or

(2) 100 gallons per calendar year if there is only 1 adult in such household.

For purposes of this subsection, the term "adult" means an individual who has attained 18 years of age, or the minimum age (if any) established by law applicable in the locality in which the household is situated at which beer may be sold to individuals, whichever is greater.

[§ 23420]

(f) **REMOVAL AS SUPPLIES FOR CERTAIN VESSELS AND AIRCRAFT.**—

For exemption as to supplies for certain vessels and aircraft, see section 309 of the Tariff Act of 1930, as amended (19 U. S. C. 1309).

[Sec. 5053 as amended by Act of June 21, 1965, P. L. 89-44, 79 Stat. 130; Act of Jan. 12, 1971, P. L. 91-673; 84 Stat. 2056; Act of Oct. 4, 1976, P. L. 94-455, 90 Stat. 1520; Act of Oct. 13, 1978, P. L. 95-458, 92 Stat. 1255.]

[§ 23421]

Sec. 5054. **Determination and Collection of Tax on Beer.** (a) **TAX OF DETERMINATION.**—(1) **BEER PRODUCED IN THE UNITED STATES.**—Except as provided in paragraph (3), the tax imposed by section 5051 on beer produced in the United States shall be determined at the time it is removed for consumption or sale, and shall be paid by the brewer thereof in accordance with section 5061.

(2) **BEER IMPORTED INTO THE UNITED STATES.**—Except as provided in paragraph (4), the tax imposed by section 5051 on beer imported

into the United States shall be determined at the time of importation thereof, or, if entered for warehousing, at the time of removal from the 1st such warehouse.

(3) **ILLEGALLY PRODUCED BEER.**—The tax on any beer produced in the United States shall be due and payable immediately upon production unless—

(A) such beer is produced in a brewery qualified under the provisions of subchapter G, or

(B) such production is exempt from tax under sections 5053(a) (relating to beer for personal or family use).

(4) **UNLAWFULLY IMPORTED BEER.**—Beer smuggled or brought into the United States unlawfully shall, for purposes of this chapter, be held to be imported into the United States, and the internal revenue tax shall be due and payable at the time of such importation.

[§ 23422]

(b) **TAX ON RETURNED BEER.**—Beer which has been removed for consumption or sale and is thereafter returned to the brewery shall be subject to all provisions of this chapter relating to beer prior to removal for consumption or sale, including the tax imposed by section 5051. The tax on any such returned beer which is again removed for consumption or sale shall be determined and paid without respect to the tax which was determined at the time of prior removal of the beer for consumption or sale.

[§ 23424]

(c) **APPLICABILITY OF OTHER PROVISIONS OF LAW.**—All administrative and penal provisions of this title, insofar as applicable, shall apply to any tax imposed by section 5051.

[Sec. 5054 as amended by Act of Oct. 4, 1976, P. L. 94-455, 90 Stat. 1520; Act of Oct. 13, 1978, P. L. 95-458, 92 Stat. 1255; Act of Oct. 21, 1986, P. L. 99-509, 9100 Stat. 2786, applicable to removals during semimonthly periods ending on or after Dec. 31, 1986.]

[§ 23425]

Sec. 5055. **Drawback of Tax.** On the exportation of beer, brewed or produced in the United States, the brewer thereof shall be allowed a drawback equal in amount to the tax found to have been paid on such beer, to be paid on submission of such evidence, records and certificates indicating exportation, as the Secretary may by regula-

26 U. S. C. 5055 § 23425

beer



Sen Pouchot
(Jeanne)
1-24-89

CS SB 127 - "An Act relating to the private
manufacture of and the definition of
an alcoholic beverage."

Section 1 (a) would exempt "homebrewing" from Title 4 EXCEPT for the provisions listed in Section 1 (b) as follows:

- (1) possession or consumption by persons under the age of 21 (AS 04.16.050);
- (2) furnishing or delivery of alcoholic beverages to persons under the age of 21 (AS 04.16.051);
- (3) municipal regulation of alcoholic beverages (AS 04.21.010);
- (4) civil liability of persons providing alcoholic beverages (AS 04.21.020); and
- (5) local options areas:
 - prohibition of the sale of alcoholic beverages (AS 04.11.490);
 - community liquor license; complete prohibition on sales (AS 04.11.492);
 - prohibition of sale and importation of alcoholic beverages (AS 04.11.496);
 - prohibition of possession of alcoholic beverages (AS 04.11.498); and
 - prohibition of the sale of alcoholic beverages except by selected licenses (AS 04.11.500).

Section 2 provides for an immediate effective date.

Note: The proposed bill would prohibit the private manufacture of "homebrew" in both "damp" and "dry" local option areas. The bill has no mitigating effect on the state's open container law.

What is this?
source? date?
application?

BET

certain, or according as a question disputed between them is settled in one way or the other. *Coulter v. State*, 122 Tex.Cr.R. 9, 53 S.W.2d 477, 480.

A contract by which two or more parties agree that a sum of money, or other thing, shall be paid or delivered to one of them on the happening or not happening of an uncertain event. *Grooms v. Knox*, 25 Ala.App. 185, 142 So. 582.

In a "bet" or "wager" money belongs to the persons posting it, each of whom has a chance to win it, but, in the case of a "purse" or "premium," money belongs to the person offering it, who has no chance to win it, but is certain to lose it. *Toomey v. Penwell*, 76 Mont. 166, 245 P. 943, 945, 45 A.L.R. 993.

Bet and wager are synonymous terms. *Woodcock v. McQueen*, 11 Ind. 16; *Shumate v. Com.*, 15 Grat. (Va.) 660.

BETHLEHEM. See *Bedlam*.

BETTING BOOK. A book kept for registering bets on the result of a race as operated on race track. In a broader sense, the "betting book" is that book which enables the professional bettor to carry on his business, and to promote a race, and it includes the book, the making book and the bookmaker. *State v. Austin*, 142 La. 384, 76 So. 809, 810; *People v. Semmler*, 345 Ill. 272, 178 N.E. 100, 101.

BETRAYAL. A "betrayal," as of a professional secret on the part of a physician, signifies a wrongful disclosure in violation of the trust imposed by the patient. *Simonsen v. Swenson*, 104 Neb. 224, 177 N.W. 831, 832, 9 A.L.R. 1250.

BETROTHED. One who has exchanged promises to marry. The term may be synonymous with "intended wife." *Mace v. Grand Lodge, A. O. U. W. of Massachusetts*, 234 Mass. 299, 125 N.E. 569.

BETROTHMENT, BETROTHAL. Mutual promise of marriage; the plighting of troth; a mutual promise or contract between a man and woman competent to make it, to marry at a future time.

BETTER DESCRIBED. More fully delineated or more fully pictured or painted. *Katzin v. Kravant*, 99 N.J.Eq. 619, 133 A. 516, 517.

BETTER EQUITY. See *Equity*.

BETTERMENT. An improvement put upon an estate which enhances its value more than mere repairs. The improvement may be either temporary or permanent. *People v. Klee*, 282 Ill. 440, 118 N.E. 754, 757.

Also applied to denote the additional value which an estate acquires in consequence of some public improvement, as laying out or widening a street, etc., *Chase v. Sioux City*, 86 Iowa, 603, 53 N.W. 333.

BETTERMENT ACTS. Statutes which provide that a bona fide occupant of real estate making lasting improvements in good faith shall have a lien upon the estate recovered by the real owner to the extent that his improvements have increased the value of the land. Also called "occupying claimant acts." *Jones v. Hotel Co.*, 86 F. 388, 30 C.C.A. 108.

BETWEEN. A space which separates. *Hobson v. Postal Telegraph-Cable Co.*, 161 Tenn. 419, 32 S.

W.2d 1046. Strictly applicable only with reference to two things, but this may be understood as including cases in which a number of things are discriminated collectively as two wholes, or as taken in pairs, or where one thing is set off against a number of others. In *re McShane's Will*, 288 N.Y.S. 680, 682, 158 Misc. 777. Sometimes used synonymously with "among". In *re Moore's Estate*, 157 Pa.Super. 296, 43 A.2d 359.

As a measure or indication of distance, this word has the effect of excluding the two termini. *Morris & E. R. Co. v. Central R. Co.*, 31 N.J.Law. 212.

If an act is to be done "between" two certain days, it must be performed before the commencement of the latter day. In computing the time in such a case, both the days named are to be excluded. *Hodges v. Filstrup*, 94 Fla. 943, 114 So. 521, 522. But a clause in a contract of sale to the effect that the purchaser could require the vendor to repurchase between the fifth and sixth year from a certain date means during the sixth year. *Van Demark v. California Home Extension Ass'n*, 43 Cal.App. 685, 185 P. 866, 868.

In case of a devise to A. and B. "between them," these words create a tenancy in common. *Lashbrook v. Cock*, 2 Mer. 70.

Between equal equities the law must prevail. This is hardly of general application.

BEVERAGE. A liquor or liquid for drinking. *Burnstein v. U. S.*, C.C.A.Cal., 55 F.2d 599, 603. Especially pleasant or refreshing drink, or a habitual one. *Tennant v. F. C. Whitney & Sons*, 133 Wash. 581, 234 P. 666, 670.

This term is properly used to distinguish a sale of liquors to be drunk for the pleasure of drinking, from liquors to be drunk in obedience to a physician's advice, *Falstaff Corporation v. Allen*, D.C.Mo., 278 F. 643, 645; or from a liquid which it is possible to swallow, but which is not reasonably palatable or fit for drinking, *Tennant v. F. C. Whitney & Sons*, 133 Wash. 581, 234 P. 666. Thus, it is held that pure alcohol is not a "beverage" but a violent irritant. *Chas. L. Joy & Co. v. Carlson*, 28 Idaho 445, 154 P. 640, 641.

This term sometimes has a narrower meaning signifying a drink artificially prepared. *Climax Dairy Co. v. Mulder*, 78 Colo. 407, 242 P. 666, 669. *United States v. Robason*, D.C.Kan., 38 F.Supp. 991, 992.

BEWARED. O. Eng. Expended. Before the Britons and Saxons had introduced the general use of money, they traded chiefly by exchange of wares. *Wharton*.

BEYOND A REASONABLE DOUBT. In evidence means fully satisfied, entirely convinced, satisfied to a moral certainty; *State v. Harris*, 28 S.E.2d 232, 237, 223 N.C. 697; and phrase is the equivalent of the words clear, precise and indubitable. *Ferguson Packing Co. v. Mihalic*, 99 Pa.Super. 158, 162.

An accused's guilt must be established "beyond a reasonable doubt," which means that facts proven must, by virtue of their probative force, establish guilt. *People ex rel. Schubert v. Pinder*, 9 N.Y.S.2d 311, 312, 170 Misc. 345.

BEYOND SEA. Beyond the limits of the kingdom of Great Britain and Ireland; outside the United States; out of the state.

Beyond sea, beyond the four seas, beyond the sea, and out of the realm, are synonymous. Prior to the union of the two crowns of England and Scotland, on the accession of James I., the phrases "beyond the four seas," "beyond the seas," and "out of the realm," signified out of the



Official Business

Alaska State Legislature

Senate

P.O. BOX V
State Capitol
Juneau, Alaska 99811

January 9, 1989

Brenda Horn
P.O. Box 91922
Anchorage, AK 99509

Dear Brenda:

I wanted to let you know that I've received your letter regarding homebrewing for home use.

It is my understanding that the amendment to the statutes which prohibits homebrewing of alcoholic beverages was really aimed at preventing homebrewing in areas that had adopted local option laws. Unfortunately, the issue was not clarified at the time the bill was being considered, so we are now faced with a statewide prohibition on homebrewing.

I've checked with Senator Binkley (the sponsor of the original legislation) and with the Department of Revenue. Neither has any plans to introduce modifying legislation this year.

I will continue to pursue some acceptable means of getting the statute changed. But, in all honesty, it appears unlikely that legislation could be introduced and passed through the committee process in time for this year's Fur Rendezvous competition.

Brenda, again I appreciate your letting me know your concern.

Sincerely,



Senator Pat Pourchot

Randall and Pat Oldenburg
7601 E. 34th
Anchorage, Alaska
99504

The Honorable Pat Pourchot, Representative
P.O. Box 104836
Anchorage, Alaska
99510

1/10/84 JAN 9 1984
Talked to Randall
explained our position.

Dear Representative Pourchot:

We are Alaskan homebrewers who are very concerned about the current interpretation of the law regarding homebrewing for home use.

AS 04.11.010 states "a person may not manufacture, sell, offer for sale, possess for sale or barter, traffic in, or barter an alcoholic beverage unless under license or permit issued under this title." We know there is no permit for this activity and the ABC Board has indicated it does not intend to start issuing them.

This section was further clarified in AS 04.21.080.b.1 that states a definition of alcoholic beverage: "alcoholic beverage means spirituous, vinous, malt or other fermented or distilled liquids, whatever the origin, that are intended for human consumption as a beverage and that contain alcohol, whether produced commercially or privately."

We would like your support in clarifying the language, or introduce legislation that will enable a simple permitting process for homebrewers, so we can brew at home without breaking the law.

We are the officer's of a homebrewer's club in Anchorage called Great Northern Brewers, with a membership of about 90 members. If you would like to call us concerning this matter, please phone 338-1472. If we are not home we will return your message immediately upon our return.

Your prompt attention to his matter will be greatly appreciated as the Fur Rendezvous competition is rapidly approaching (which we are the Chairpersons for) and we would like to be part of it.

Sincerely,

Randall and Pat Oldenburg

Randall and Pat Oldenburg
Sno-Top Fermenters and
Great Northern Brewers

gone - he doesn't need a call back. Just
wanted Pat to know his position. I asked
for his address. ^{in case you wanted to keep him} informed.

MESSAGE
Date 1-17-89 Time 1:05 pm S.

For: _____

From: Rick Herron-Webb
of 3605 Arctic Blvd #531 99503

Phone No. 561-0008

Telephoned correct (X) Called to see you ()
Please call () Will Call Again ()
Returned your call () Urgent ()

RE: Homebrewing is a
Message homebrewer - it's his right; he'll
continue. Wants amendment to
statute: In "wet" communities, no
restrictions on homebrewing. + wants

Operator J. message to
LAA-16 get to Furber



Official Business

Alaska State Legislature

Senate

P.O. BOX V
State Capitol
Juneau, Alaska 99811

January 9, 1989

Rick Helms
P.O. Box 100916
Anchorage, AK 99510

Dear Rick:

I wanted to let you know that I've received your letter regarding homebrewing for home use.

It is my understanding that the amendment to the statutes which prohibits homebrewing of alcoholic beverages was really aimed at preventing homebrewing in areas that had adopted local option laws. Unfortunately, the issue was not clarified at the time the bill was being considered, so we are now faced with a statewide prohibition on homebrewing.

I've checked with Senator Binkley (the sponsor of the original legislation) and with the Department of Revenue. Neither has any plans to introduce modifying legislation this year.

I will continue to pursue some acceptable means of getting the statute changed. But, in all honesty it appears unlikely that legislation could be introduced and passed through the committee process in time for this year's Fur Rendezvous competition.

Rick, again I appreciate your letting me know your concern.

Sincerely,



Senator Pat Pourchot

6. Homebrewing

Rick Harris - 272-0621

P.O. 100916

Check to Brubley - Janice Adams went to the airport
They have something blended (Janice will know)

The Honorable Pourchot, Pat

311 C Street Suite 506

Anchorage, Alaska

99 503

Dear Honorable Pourchot:

We are Alaskan homebrewers who are very concerned about the current interpretation of the law regarding homebrewing for home use.

AS 04.11.010 states "a person may not manufacture, sell, offer for sale, possess for sale or barter, traffic in, or barter an alcoholic beverage unless under license or permit issued under this title." We know there is no permit for this activity and the ABC Board has indicated it does not intend to start issuing them.

This section was further clarified in AS 04.21.080.b.1 that states a definition of alcoholic beverage: "alcoholic beverage means spirituous, vinous, malt or other fermented or distilled liquids, whatever the origin, that are intended for human consumption as a beverage and that contain ^{more than 1/2%} alcohol, whether produced commercially, or privately." ^{in an area which adopted a restriction on the sale of}

We would like your support in clarifying the language, or introduce ^{in the state} legislation that will enable a simple permitting process for homebrewers, so we can brew at home without breaking the law. ^{alcoholic beverage}

Your prompt attention to his matter will be greatly appreciated as the Fur Rendezvous competition is rapidly approaching and we would like to be part of it.

Sincerely,

Brenda S. [Signature]

AS 04.11.010

AS 04.11.496

AS 04.11.498

or in other cases in a quantity in excess of limitations on private manufacture under federal law.

filed reg
copy to
11/20
Thru out 28
in copy
people

alcoholic beverage

Sandra



Alaska State Legislature

SENATE

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

January 16, 1989

Marilyn Hedlund
1727 West 15th Avenue
Anchorage, AK 99501

Dear Marilyn:

Thank you for your letter regarding homebrewing for home use.

It is my understanding that the amendment to the statutes which prohibited homebrewing of alcoholic beverages was really aimed at preventing homebrewing in areas that had adopted local option laws. Unfortunately, the issue was not clarified at the time the bill was being considered, so we are now faced with a statewide prohibition on homebrewing.

After making several inquiries, I have found that there does not appear to be major objection to allowing homebrewing for personal use. However, because alcohol abuse is such a problem in our state, neither the Governor, the Department of Revenue nor individual legislators wish to introduce a bill which could be perceived as being soft on alcohol consumption.

However, there may be a way out of this dilemma. As chair of the Senate State Affairs Committee I have had a draft committee bill prepared. If I can obtain the support of the other committee members, the bill should be ready for introduction next week by the Senate State Affairs Committee. Unfortunately, it is unlikely that the bill could pass both houses and obtain the Governor's signature in time for this year's Fur Rondy.

A copy of the draft bill and a summary is enclosed for your review and comment.

Sincerely,


Senator Pat Pourchot, Chair
Senate State Affairs Committee

Draft Legislation Relating to "Homebrew"

The attached draft bill would exempt homebrewing from Title 4 provisions EXCEPT for current statutory provisions relating to:

- (1) furnishing or delivery of alcoholic beverages to persons under the age of 21 (AS 04.16.051);
- (2) municipal regulation of alcoholic beverages (AS 04.21.010);
- (3) civil liability of persons providing alcoholic beverages (AS 04.21.020); and
- (4) local options areas:
 - prohibition of the sale of alcoholic beverages (AS 04.11.490);
 - community liquor license; complete prohibition on sales (AS 04.11.492);
 - prohibition of sale and importation of alcoholic beverages (AS 04.11.496);
 - prohibition of possession of alcoholic beverages (AS 04.11.498); and
 - prohibition of the sale of alcoholic beverages except by selected licenses (AS 04.11.500).

The proposed bill would prohibit the private manufacture of "homebrew" in both "damp" and "dry" local option areas. In addition, the bill would redefine "alcoholic beverage" in accordance with federal law and would have no mitigating effect on the state's open container law.

CORRECTION

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

Sandra



Alaska State Legislature

SENATE

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

January 16, 1989

Marilyn Hedlund
1727 West 15th Avenue
Anchorage, AK 99501

Dear Marilyn:

Thank you for your letter regarding homebrewing for home use.

It is my understanding that the amendment to the statutes which prohibited homebrewing of alcoholic beverages was really aimed at preventing homebrewing in areas that had adopted local option laws. Unfortunately, the issue was not clarified at the time the bill was being considered, so we are now faced with a statewide prohibition on homebrewing.

After making several inquiries, I have found that there does not appear to be major objection to allowing homebrewing for personal use. However, because alcohol abuse is such a problem in our state, neither the Governor, the Department of Revenue nor individual legislators wish to introduce a bill which could be perceived as being soft on alcohol consumption.

However, there may be a way out of this dilemma. As chair of the Senate State Affairs Committee I have had a draft committee bill prepared. If I can obtain the support of the other committee members, the bill should be ready for introduction next week by the Senate State Affairs Committee. Unfortunately, it is unlikely that the bill could pass both houses and obtain the Governor's signature in time for this year's Fur Rondy.

A copy of the draft bill and a summary is enclosed for your review and comment.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Pat".

Senator Pat Pourchot, Chair
Senate State Affairs Committee

From:

Marilyn Hedlund

1727 W 15th Ave.

Anchorage, Alaska

99501

The Honorable

Pat Pouchot

P.O. Box V

Juneau, Alaska

99811

Dear Rep. Pouchot:

We are Alaskan homebrewers who are very concerned about the current interpretation of the law regarding homebrewing for home use.

AS 04.11.010 states "a person may not manufacture, sell, offer for sale, possess for sale or barter, traffic in, or barter an alcoholic beverage unless under license or permit issued under this title." We know there is no permit for this activity and the ABC Board has indicated it does not intend to start issuing them.

This section was further clarified in AS 04.21.080.b.1 that states a definition of alcoholic beverage: "alcoholic beverage means spirituous, vinous, malt or other fermented or distilled liquids, whatever the origin, that are intended for human consumption as a beverage and that contain alcohol, whether produced commercially or privately."

We would like your support in clarifying the language, or introduce legislation that will enable a simple permitting process for homebrewers, so we can brew at home without breaking the law.

Your prompt attention to this matter will be greatly appreciated as the Fur Rondzvous competition is rapidly approaching and we would like to be part of it.

Sincerely,

Marilyn Hedlund

P.S. Beer-making has been a hobby of mine for 2 years and I also enjoy teaching others the art. I was looking forward to entering the Fur Rondzvous competition for the first time, and I would appreciate any help you could give to enable a... of the... event

Draft Legislation Relating to "Homebrew"

The attached draft bill would exempt homebrewing from Title 4 provisions EXCEPT for current statutory provisions relating to:

- (1) furnishing or delivery of alcoholic beverages to persons under the age of 21 (AS 04.16.051);
- (2) municipal regulation of alcoholic beverages (AS 04.21.010);
- (3) civil liability of persons providing alcoholic beverages (AS 04.21.020); and
- (4) local options areas:
 - prohibition of the sale of alcoholic beverages (AS 04.11.490);
 - community liquor license; complete prohibition on sales (AS 04.11.492);
 - prohibition of sale and importation of alcoholic beverages (AS 04.11.496);
 - prohibition of possession of alcoholic beverages (AS 04.11.498); and
 - prohibition of the sale of alcoholic beverages except by selected licenses (AS 04.11.500).

The proposed bill would prohibit the private manufacture of "homebrew" in both "damp" and "dry" local option areas. In addition, the bill would redefine "alcoholic beverage" in accordance with federal law and would have no mitigating effect on the state's open container law.

6-0483A ✓
Ford
1/17/89

1 IN THE SENATE

BY POURCHOT

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the private manufacture of and
7 the definition of an alcoholic beverage."

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

9 * Section 1. AS 04.21 is amended by adding a new section to read:

10 Sec. 04.21.015. PRIVATE MANUFACTURE OF ALCOHOLIC BEVERAGES. (a)

11 Except as provided in (b) of this section, the provisions of this
12 title do not apply to the private manufacture of alcoholic beverages.

13 (b) This section does not apply to AS 04.16.051; AS 04.21.010,

14 .020, alcoholic beverages manufactured in a quantity that exceeds

15 the limit imposed on private manufacture under federal law or an area
16 that has adopted a local option law under AS 04.11.490 - 04.11.500.

17 * Sec. 2. AS 04.21.080(b)(1) is amended to read:

18 (1) "alcoholic beverage" means spirituous, vinous, malt or
19 other fermented or distilled liquids, whatever the origin, that are
20 intended for human consumption as a beverage and that contain one-half
21 percent or more of alcohol by volume, whether produced commercially or
22 privately;

23 + imm. efd
24
25

RECEIVED JAN 17 1989

Alaska State Legislature
House of Representatives



P.O. BOX 783
GIRDWOOD, ALASKA 99587
(907) 783-2905

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-2693/2719

REPRESENTATIVE
JIM ZAWACKI
DISTRICT 7

MEMBER
COMMUNITY & REGIONAL
AFFAIRS COMMITTEE
LEGISLATIVE BUDGET &
AUDIT COMMITTEE
FINANCE SUBCOMMITTEE

January 16, 1989

Senator John Binkley
P.O. Box V
Juneau, Alaska 99811

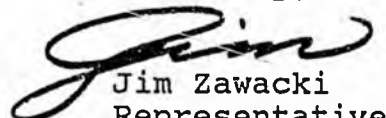
Dear John:

I'm not sure if you've received the attached letter, or others like it, but I thought I'd check with you to see if something is being done to rectify the problem. I seem to recall you referring to the situation in the media.

The specific area that concerns me immediately, is the possibility that the Beer and Wine competition for the Anchorage Fur Rendezvous will be eliminated. As a board member of Rony, I believe it will have a very adverse effect on a popular part of the Fur Rendezvous.

John, whatever I can do to help, please let me know. This problem needs to be resolved as soon as possible. Your assistance is appreciated.

Sincerely,


Jim Zawacki
Representative

JZ:pb

cc: David Yanoshek;
Rosie McDonald-Budd,
Anchorage Fur Rendezvous

From: David Yanoshek
Box 110429
Anchorage, Alaska 99511

January 5, 1989

copy

The Honorable Jim Zawacki, Representative
P.O. Box V Mail Stop 3100
Anchorage, Alaska 99811
Juror

Dear Representative Zawacki:

We are Alaskan homebrewers who are very concerned about the current interpretation of the law regarding homebrewing for home use.

AS 04.11.010 states "a person may not manufacture, sell, offer for sale, possess for sale or barter, traffic in, or barter an alcoholic beverage unless under license or permit issued under this title." We know there is no permit for this activity and the ABC Board does not intend to start issuing them.

This section was further clarified in AS 04.21.080.b.1 that states a definition of alcoholic beverage: "alcoholic beverage means spirituous, vinous, malt or other fermented or distilled liquids, whatever the origin, that are intended for human consumption as a beverage and that contain alcohol, whether produced commercially or privately."

We would like your support in clarifying the language, or introduce legislation that will enable citizens to brew beer or wine at home as long as they live in an area that allows the consumption of alcohol.

Your prompt attention to this matter will be greatly appreciated as the Fur Rendezvous competition is rapidly approaching and beer and wine competitions are in jeopardy as the law is presently written.

Sincerely,

David Yanoshek
David Yanoshek



Alaska State Legislature

SENATE

Official Business

SENATE STATE AFFAIRS COMMITTEE

P.O. Box V
State Capitol
Juneau, Alaska 99811

January 25, 1989

Randall and Pat Oldenburg
7601 East 34th Avenue
Anchorage, AK 99504

robo is attached

Dear Randall and Pat:

Just a short note to thank you for your testimony this afternoon on the "homebrew bill," SB 127. Your comments helped convey the broad support this bill has received so far.

As you know, the bill passed the Senate State Affairs Committee and will now be scheduled for a vote by the full Senate. It is possible that the Senate could vote on the bill as early as this Friday. Barring any unforeseen difficulties, the bill should go to the House early next week.

I will urge my colleagues in the House to move the bill as quickly as possible - but it's going to be close.

Thanks again for your testimony.

Sincerely,

Pat
Senator Pat Pourchot, Chair
Senate State Affairs Committee

P.S. I would be most appreciative if you could send me a copy of the membership list of the Great Northern Brewers Club.

Randall and Pat Oldenburg
7601 East 34th Avenue
Anchorage, AK 99504

Mary Helms
3307 Boniface #190
Anchorage, AK 99504

Richard Helms
P.O. Box 100916
Anchorage, AK 99510

Gary Koski
1430 A Street #4
Anchorage, AK 99501

Rick Herron-Webb
3605 Arctic #531
Anchorage, AK 99503

John Craig
8757 Jade Street
Anchorage, AK 99502

Dave Yanoshek
P.O. Box 110429
Anchorage, AK 99511

Barbara Paratrovich
2208 Lincoln Avenue
Anchorage, AK 99517

Brian Looney
1901 Waldron Drive
Anchorage, AK 99507

Bill Lund
Box 98
Eagle River, AK 99577

CONSIDERATION OF THE CALENDAR

SECOND READING OF SENATE BILLS

SB 127

SENATE BILL NO. 127 (An Act relating to the private manufacture of and the definition of an alcoholic beverage; and providing for an effective date) was read the second time.

Senator Pourchot moved and asked unanimous consent for the adoption of the State Affairs Committee Substitute offered on page 209. Without objection, CS FOR SENATE BILL NO. 127 (State Affairs) (An Act relating to the private manufacture of an alcoholic beverage; and providing for an effective date) was adopted.

CS FOR SENATE BILL NO. 127 (State Affairs) was read the second time.

Senator Halford moved and asked unanimous consent that CS FOR SENATE BILL NO. 127 (State Affairs) be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

CS FOR SENATE BILL NO. 127 (State Affairs) was read the third time.

The question being: "Shall CS FOR SENATE BILL NO. 127 (State Affairs) (An Act relating to the private manufacture of an alcoholic beverage; and providing for an effective date) pass the Senate?" The roll was taken with the following result:

CS SB 127 SA 3RD

Yeas: 19 Adams, Binkley, Coghill, Duncan,
Fahrenkamp, Faiks, Ficcher, Frank,
Halford, Jones, Kelly, Kerttula,
Pearce, Pourchot, Rodey,
Sturgulewski, Szymanski, Uehling,
Zharoff

Nays: 0

Excused: 1 Eliason

and so, CS FOR SENATE BILL NO. 127 (State Affairs) passed the Senate.

file SB 127

SB 127 cont'd

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

CS FOR SENATE BILL NO. 127 (State Affairs) was referred to the Secretary for engrossment.

SECOND READING OF SENATE RESOLUTIONS

SJR 6

SENATE JOINT RESOLUTION NO. 6 (Relating to the interception of Alaska salmon on the high seas) was read the second time.

Senator Fahrenkamp moved and asked unanimous consent for the adoption of the Resources Committee Substitute offered on page 208. Without objection, CS FOR SENATE JOINT RESOLUTION NO. 6 (Resources) (Relating to the interception of Alaska salmon and steelhead on the high seas) was adopted.

CS FOR SENATE JOINT RESOLUTION NO. 6 (Resources) was read the second time.

Senator Halford moved and asked unanimous consent that CS FOR SENATE JOINT RESOLUTION NO. 6 (Resources) be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

CS FOR SENATE JOINT RESOLUTION NO. 6 (Resources) was read the third time.

The question being: "Shall CS FOR SENATE JOINT RESOLUTION NO. 6 (Resources) (Relating to the interception of Alaska salmon and steelhead on the high seas) pass the Senate?" The roll was taken with the following result:

CS SJR 6 RES 3RD

Yeas:	19	Adams, Binkley, Coghill, Duncan, Fahrenkamp, Faiks, Fischer, Frank, Halford, Jones, Kelly, Kerttula, Pearce, Pourchot, Rodey, Sturgulewski, Szymanski, Uehling, Zharoff
-------	----	--

Nays:	0	
-------	---	--

Excused:	1	Eliason
----------	---	---------

Brewpub Licenses

5-1136L

Offered: 3/28/88
Referred: Rules

1st choice

Rob Waldman

PO Box 22437

JNU 99802

H 463-5898 W 465-2671

Original sponsor: Fahrenkamp

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2

CS FOR SENATE BILL NO. 276 (Finance)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

microbrewery - retail sale of fresh beer on premises where beer is made

6

For an Act entitled: "An Act relating to brewpub, brewery, and beverage

7

dispensary liquor licenses; and to prohibited finan-

8

cial interests in a licensed liquor business; and

9

providing for an effective date."

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

11

* Section 1. AS 04.11.080 is amended by adding a new paragraph to read:

12

(20) brewpub license.

13

* Sec. 2. AS 04.11.130(b) is amended to read:

14

(b) A brewery license authorizes the holder to sell beer in

15

quantities of more than five [WINE] gallons to persons licensed to

16

sell beer under this title, or in another state or country.

17

* Sec. 3. AS 04.11 is amended by adding a new section to read:

18

* Section 1. AS is amended to read:

19

Sec. 04.11.139 [^] BREWPUB LICENSE. (a) A brewpub license author-

20

izes the holder of a ~~beverage dispensary~~ ^(hard liquor) license to

21

(1) manufacture on ^{the licensed} premises licensed ~~under the beverage~~

22

dispensary license not more than ^{94,500} ~~16,000~~ gallons of beer in a calendar

23

year; ~~and~~

24

(2) sell beer manufactured on ^{the licensed} premises licensed ~~under the~~

25

~~beverage dispensary license~~ ^{and wine} for consumption only on the licensed

26

premises.

27

(b) Except as provided under AS 04.11.360(12), the brewpub

28

license is not transferable, shall remain the property of the state,

29

and is not subject to any form of alienation. REPEAL

30

(c) The annual brewpub license fee is \$250.

1 * Sec. 4. AS 04.11.360 is amended by adding a new paragraph to read:
2 (12) the license was issued under AS 04.11.135, unless the
3 transferor is also applying to transfer the beverage dispensary li-
4 cense required under AS 04.11.135 to the same transferee. REPEAL

5 * Sec. 5. AS 04.11.450(b) is amended to read:
6 (b) A person who is a representative or owner of a wholesale
7 business, brewery, winery, bottling works, or distillery may not be
8 issued, solely or together with others, a beverage dispensary license
9 or package store license. A holder of a beverage dispensary license
10 may be issued a brewpub license, subject to the provisions of AS 04.-
11 11.135.

12 * Sec. 6. AS 04.11.450(c) is amended to read:
13 (c) In this section, "direct or indirect financial interest"
14 means holding a legal or equitable interest in the operation of a
15 business licensed under this title. However, credit extended by a
16 distiller, a brewery, or a winery to a wholesaler, or credit extended
17 by a wholesaler to persons licensed under this title, or a consulting
18 fee received from a person licensed under this title, is not consid-
19 ered a financial interest in a business licensed under this title.

20 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).

2
2nd
choice

Original sponsor: Fahrenkamp

1 IN THE SENATE BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 276 (Finance)

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 brewpub, brewery, and beverage
7 dispensary liquor licenses; and to prohibited finan-
8 cial interests in a licensed liquor business; and
9 providing for an effective date."

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

11 * Section 1. AS 04.11.080 is amended by adding a new paragraph to read:
12 (20) brewpub license.

13 * Sec. 2. AS 04.11.130(b) is amended to read:

14 (b) A brewery license authorizes the holder to sell beer in
15 quantities of more than five [WINE] gallons to persons licensed to
16 sell beer under this title, or in another state or country.

17 * Sec. 3. AS 04.11 is amended by adding a new section to read:

18 * Sec. 1. AS is amended to read:

18 Sec. 04.11.135(a) BREWPUB LICENSE. (a) A brewpub license author-
19 izes the holder of a beverage dispensary or restaurant or eating place license

20 (1) manufacture on premises licensed under ^a the beverage
21 dispensary license not more than ~~16,000~~ ^{94,500} gallons of beer in a calendar
22 year; and

23 (2) sell beer manufactured on premises licensed under ^a the
24 beverage dispensary license for consumption only on the licensed
25 premises.

26 (b) Except as provided under AS 04.11.360(12) the brewpub
27 license is not transferable, shall remain the property of the state,
28 and is not subject to any form of alienation. REPEAL

29 (c) ~~The annual brewpub license fee is \$250.~~

1 * Sec. 4. AS 04.11.360 is amended by adding a new paragraph to read:
2 (12) the license was issued under AS 04.11.135, unless the
3 transferor is also applying to transfer the beverage dispensary li-
4 cense required under AS 04.11.135 to the same transferee. REPEAL
5 * Sec. 5. AS 04.11.450(b) is amended to read:
6 (b) A person who is a representative or owner of a wholesale
7 business, brewery, winery, bottling works, or distillery may not be
8 issued, solely or together with others, a beverage dispensary license
9 or package store license. A holder of a beverage dispensary license
10 may be issued a brewpub license, subject to the provisions of AS 04.-
11 11.135.
12 * Sec. 6. AS 04.11.450(c) is amended to read:
13 (c) In this section, "direct or indirect financial interest"
14 means holding a legal or equitable interest in the operation of a
15 business licensed under this title. However, credit extended by a
16 distiller, a brewery, or a winery to a wholesaler, or credit extended
17 by a wholesaler to persons licensed under this title, or a consulting
18 fee received from a person licensed under this title, is not consid-
19 ered a financial interest in a business licensed under this title.
20 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).

S B

131

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER SB 131

SPONSOR Uehling

BILL TITLE Railbelt Economic Assistance & Recovery
Fund

DATE REFERRED 1-20-89

HEARING SCHEDULED

FISCAL NOTE PREPARED ✓

SPONSOR CONTACTED

INTERESTED PARTIES CONTACTED

OTHER

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Railbelt Economic Assistance and Recovery Act
Sponsor: Uehling, Sturqulewski and Rodey
Requestor: _____

Agency Affected: Administration
BRU: Central Administration
Components: Administrative Services
Municipal Grants

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		36.4	37.3	38.4	39.4	40.6
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		36.4	37.3	38.4	39.4	40.6

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND		36.4	37.3	38.4	39.4	40.6
FEDERAL FUNDS						
OTHER						
TOTAL		36.4	37.3	38.4	39.4	40.6

POSITIONS:

FULL-TIME		1.0	1.0	1.0	1.0	1.0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Depending on the magnitude of reporting requirements imposed on this program, at least one permanent full-time Accounting Technician, Range 12, would be necessary to monitor financial reports.

Prepared by: Mike Maher *Mike Maher 2/16/89*
Division: Administrative Services

Phone: 465-2277
Date: 2-17-89

Approved by Commissioner: John M. Anderson
Agency: Dept. Admin.

Date: 2/17/89

Distribution (by preparer):

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

Senator Rick Uehling

Downtown, Elmendorf, Northeast Anchorage



Co-Chairman, Senate Finance Committee
International Trade & Tourism Committee
State Affairs Committee

February 28, 1989

Senator Pat Pourchot
Post Office Box V
Juneau, Alaska 99811

Dear Pat:

As a legislator who represents communities in the Railbelt region, I would like to have your input regarding what you consider the best use of the Railbelt Energy Fund. Last year there was legislation passed which would have used \$50 million of the Fund on operating expenses of the state had there been a "cash flow" shortage during this fiscal year. There are numerous plans floating around this year which would use some or all of the Railbelt Energy Fund to balance next year's budget. I feel that this would be a mistake and that we need to work together to see that the Railbelt Energy Fund is protected and used only in the Railbelt region.

I have been talking to community leaders throughout the railbelt and the support for keeping the money in the region is very strong. The Municipality of Anchorage, the Fairbanks North Star Borough, the Kenai Peninsula Borough and the Matanuska-Susitna Borough all passed a joint resolution which said that the Fund should be distributed "for projects exclusively within the Railbelt area." The priority use suggested was for energy related projects and primarily power interties.

Earlier this session I introduced SB130 which made an appropriation of \$80 million from the Railbelt Energy Fund for the Southern Electrical Intertie, from Bradley Lake to Anchorage. This bill is now in Senate Finance and includes a number of other energy projects. I plan to have a hearing on this bill at 9:00 a.m. on Tuesday, March 7th. I hope to build a consensus among the 41 Railbelt legislators regarding the best use of the Fund and then use this bill as a vehicle to implement those suggestions.

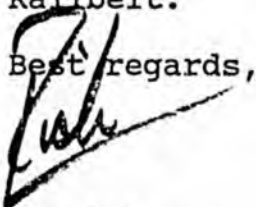
February 28, 1989
Page 2

Many of the suggested uses of the Fund are energy related. These include the Southern Intertie, the Northern Intertie which would cost about \$120 million and upgrade the line between Anchorage and Fairbanks, the Northeast Intertie costing \$155 million and running from Palmer through Glennallen to Delta Junction, the Seward Intertie costing \$15 million, and various smaller power line projects. A possible loan for a coal powered electrical generation project in Healy and financing for a natural gas pipeline have also been suggested. Some railbelt communities have expressed interest in using the Fund for non-energy capital projects, while others are interested in some type of per capita revenue sharing.

It is my hope that through your suggestions and through hearings on the bill, we can put together a package that will provide for the energy needs and help the economies of communities in the Railbelt. I would appreciate it if you could get your suggested projects and any backup to my office sometime this week. Also, please let me know if you would like to testify on the bill. I am open to any suggested uses of the Railbelt Energy Fund, as long as they benefit Railbelt communities.

If you have any questions or comments, please contact my office. I look forward to working with you to craft a bill which will provide the most benefit to communities in the Railbelt.

Best regards,



Senator Rick Uehling

6-0582A

Cramer
1/18/89

Funding Information

General Fund	\$80,000,000
Other Funds	-0-
	<u>\$80,000,000</u>

1 IN THE SENATE

BY UEHLING

2 SENATE BILL NO. 130

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act making a special appropriation to the Alaska
7 Power Authority for Bradley Lake Intertie; and pro-
8 viding for an effective date."

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

10 * Section 1. The sum of \$80,000,000 is appropriated from the Railbelt
11 energy fund in the general fund (AS 37.05.520) to the Alaska Power Author-
12 ity for the design and construction of the Bradley Lake Intertie to Anchor-
13 age.

14 * Sec. 2. The appropriation made by sec. 1 of this Act is for a capital
15 project and is subject to AS 37.25.020.

16 * Sec. 3. Section 1 of this Act takes effect immediately under AS 01.-
17 10.070(c).

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Official Business

Alaska State Legislature

Senate

230- take out
160
80- initiative
80- CIP- Railbelt

P.O. BOX V
State Capitol
Juneau, Alaska 99811

TO: Interested Senators

FROM: Senator Rick Uehling *RU*

DATE: Thursday, January 19, 1989

RE: Co-sponsoring the "Railbelt Economic Assistance & Recovery Act"

Tomorrow, I will introduce three bills which comprise what I call the "Railbelt Economic Assistance & Recovery Act." There are two basic parts to the Act.

The first would make an appropriation of \$80 million from the Railbelt Energy Fund to the Alaska Power Authority to complete the southern electrical intertie from Bradley Lake to Anchorage. This project is needed if the power from Bradley Lake is to be fully and effectively utilized. It will also provide economic activity in an area of the state where it is sorely needed.

The second part of the Act also makes an appropriation of \$80 million from the Railbelt Energy Fund. It is my hope to have Railbelt legislators convene as a Railbelt Caucus and work together to determine the best use of this appropriation. My suggestion would be to split this \$80 million between capital projects and a per capita revenue sharing distribution in the Railbelt region. The capital projects would help create jobs and take care of capital needs, while the per capita distribution would allow local communities to use the funds where they are needed most in their area.

I hope we can work together as Railbelt legislators to guarantee that the Railbelt Energy Fund is used to help Railbelt communities. If you would like to co-sponsor any of these bills, or if you have any questions or concerns regarding this legislation, please contact my office.

S B

137

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER SB 137

SPONSOR Governor

BILL TITLE Commercial vehicle driver licensing

DATE REFERRED 1-23-89

HEARING SCHEDULED 2-6-89

FISCAL NOTE PREPARED ✓ (0)

SPONSOR CONTACTED DPS

INTERESTED PARTIES CONTACTED

Linda Darity (703)620-6003
State of Virginia
Wants clarification that recreational vehicles aren't included in commercial vehicle driver licensing regulations.

yes
may not testify
✓ Resa Jemel, AGC 586-1740

✓ Nail Horetski, DPS 4322

(yes)
Diana Kelw 4345

(yes)
Wanda Fritag
DOT
2957
on DPS Task Force

AK Truckers Assoc. ✓ Bill Fitch ^{Exec. Dir.} not Jnu → 276-1149
no lobbyist

FHWA ~~Steve Moreno~~ 586-7418
to answer 75 ✓ *Steve Moreno, Jerry Bergdahl

789-0950
✓ Steve Magnusson Fax 789-0972
Lynette Trucking
Goshen Sand & Gravel 780-4300
Dorey Godfrey
Cathy Morrison

• Charlie Miller 4335

OTHER

Alaska State Legislature

Sen. Pat Pourchot, Chairman

Sen. Jan Faiks, Vice Chairman
Sen. Al Adams
Sen. Tim Kelly
Sen. Rick Uehling



P.O. Box V
State Capitol
Juneau, Alaska 99811

907-465-3712

Senate State Affairs Committee

MEMORANDUM

TO: Senate State Affairs Committee Members
FROM: Senator Pat Pourchot
RE: Wednesday, March 21 Committee Hearing
DATE: March 20, 1990

On Wednesday, March 20 at 1:30 p.m. in the Beltz Room the Senate State Affairs Committee will hear the following bills:

Intra-state Telephone Competition:

SB 206, An Act relating to intrastate competition in telecommunications; continuing the existence of the APUC and providing for an effective date.
SB 242, An Act relating to certification of certain telecommunications utilities and to intrastate toll services agreements

The Committee will take testimony on the latest draft on Intrastate Telephone Competition. The draft is intended as compromise legislation which would remove GCI and Alascom initiatives from the November 1990 ballot. Key provisions of the draft are:

- the APUC would be required to authorize competition in intrastate long distance competition by March 31, 1991.
- universal service would be preserved through an access charge mechanism and mandatory geographically averaged rates for retail services.
- competitive long distance telephone service would be allowed statewide by resellers.
- the APUC would have authority to limit facility based competition to high traffic areas.
- the legislation would distinguish between dominant and non-dominant carriers but all carriers would have the same flexibility to lower rates.
- the legislation would remove the exemption under state anti-trust statutes for intrastate long distance carriers.
- the legislation would be declared void if it is ultimately not found to be substantially similar to both the GCI and the Alascom initiatives.

Proposed CS for SB 137, An Act relating to drivers' license fees, to commercial motor vehicles, and to transportation of persons for compensation. SB 137 would bring Alaska into compliance with the Federal Motor Vehicle Safety Act (CMVSA) of 1986. The CMSVA requires that all states have a licensing system for drivers of commercial vehicles. The system must include written and road tests for the size vehicle being operated and all drivers must be licensed by April 1, 1992. The penalty for noncompliance is the withholding of 10% of federal highway funding. The draft contains technical changes, as proposed by the Department of Public Safety, that are required for Alaska to meet federal requirements on licensing of commercial vehicle drivers, places the requirements in Chapter 33 instead of Chapter 15 and includes the new program of charging fees for licensing and testing.

SB 137, Commercial Vehicle Driver Licensing

TO TESTIFY:

Bill Brown: Motor Vehicles: Deputy Commissioner
Frank Dillon: Truckers Association* He hopes to testify, they are strongly
in support.

NOTIFIED;

Lynden Transport

Bill Fritch: Trucker's Association

Resa Jerrel: Assoc. Gen. Contractors

Recreational Vehicle Industry Assoc.: They support the CS since it
clarifies that RV's are not included.

NOTES;

1. The question and answer page that follows this memo should address any
concerns previously stated by the committee.

go0269sE
Ford
3/20/90

Original sponsor(s): Rules/Governor

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR SENATE BILL NO. 137 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to drivers' license fees, to commer-
7 cial motor vehicles, and to transportation of persons
8 for compensation."

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

10 * Section 1. AS 28.15.271(a) is amended to read:

11 (a) The fees for drivers' licenses and permits, including but
12 not limited to renewals, and all related driver skills tests are as
13 follows:

14 (1) all noncommercial vehicles and motor-driven cycles
15 each license fee [CLASSES OF DRIVERS' LICENSES] \$10;
16 each driver skills test \$ 15;

17 (2) all commercial motor vehicles each license fee .. \$100;
18 each driver skills test \$ 25
19 [MOTOR-DRIVEN CYCLES\$10];

20 (3) instruction permit \$ 3;
21 (4) duplicate of driver's license or instruction
22 permit \$ 3;

23 (5) temporary license and renewal of permit \$ 3;

24 (6) school bus driver's endorsement renewal [PERMIT] . \$ 3.

25 * Sec. 2. AS 28.15.271 is amended by adding new subsections to read:

26 (c) The fee for a driver skills test must be paid at the time an
27 appointment for the skills test is made or before the skills test is
28 given, whichever is earlier. The department may not refund a driver
29 skills test fee if the applicant cancels the appointment, fails to

1 appear at the appointed day and time, or fails to pass the skills
2 test.

3 (d) The fees collected by the department under this section
4 shall be deposited in the general fund. The Department of Adminis-
5 tration shall separately account for the fees collected under this
6 section and deposited in the general fund. The annual estimated
7 balance in the account may be used by the legislature to make appro-
8 priations for the administration of this chapter.

9 * Sec. 3. AS 28.33 is amended by adding new sections to read:

10 ARTICLE 2. COMMERCIAL VEHICLE OPERATORS.

11 Sec. 28.33.100. LICENSE TO OPERATE COMMERCIAL MOTOR VEHICLE.

12 (a) A person may not operate a commercial motor vehicle until the
13 person applies for and is issued a license for that purpose under
14 AS 28.15.041. The department may not issue a license to operate a
15 commercial motor vehicle unless the applicant

16 (1) is at least 19 years of age;

17 (2) has held a valid driver's license at least one year
18 before the date of application;

19 (3) has successfully completed all required driving tests
20 and written and physical examinations;

21 (4) either does not have a driver's license issued by
22 another jurisdiction or surrenders all driver's licenses issued by
23 other jurisdictions.

24 (b) In addition to the information required under AS 28.15.111,
25 a commercial driver's license shall include information determined by
26 the United States Secretary of Transportation to be appropriate to
27 identify the licensee, including the licensee's social security num-
28 ber.

29 (c) A person who has been a state resident for 30 days or longer

1 may not drive a commercial motor vehicle under the authority of a
2 commercial driver's license issued by another jurisdiction.

3 (d) The licensing requirements of this section are in addition
4 to the requirements imposed on a school bus driver under AS 28.15.046.

5 Sec. 28.33.110. NOTIFICATION REQUIREMENTS FOR DRIVERS OF COMMER-
6 CIAL MOTOR VEHICLES. (a) A driver of a commercial motor vehicle
7 holding a commercial driver's license issued by the state who is
8 convicted of violating a federal or state law or local ordinance
9 relating to motor vehicle traffic control in this or another state, or
10 a federal, provincial, territorial, or municipal law relating to motor
11 vehicle traffic control in Canada, other than parking violations,
12 shall notify the driver's employer, in writing, of the conviction
13 within 30 days after the date of conviction.

14 (b) A driver whose operating privilege is suspended, revoked, or
15 canceled by a state, who loses the privilege to operate a commercial
16 motor vehicle in a state for any period, or who is disqualified from
17 operating a commercial motor vehicle for any period, shall notify the
18 driver's employer of that fact before the end of the business day
19 following the day the driver received notice of the suspension, revo-
20 cation, cancellation, loss, or disqualification.

21 (c) A person who applies for employment as a commercial motor
22 vehicle driver shall

23 (1) provide the person's prospective employer, at the time
24 of application for employment, with the following information for the
25 10 years preceding the date of application:

26 (A) a list of the names and addresses of employers for
27 which the applicant was a driver of a commercial motor vehicle;

28 (B) the dates between which the applicant drove for
29 each employer;

- 1 (C) the reason for leaving each employer;
- 2 (2) certify that the information provided under this sub-
- 3 section is true and complete; and
- 4 (3) provide additional information required by the employ-
- 5 er.

6 Sec. 28.33.120. RESPONSIBILITIES OF EMPLOYERS OF COMMERCIAL

7 MOTOR VEHICLE DRIVER. An employer of a commercial motor vehicle

8 driver

9 (1) shall require an applicant for employment to provide

10 the information required under AS 28.33.110(c);

11 (2) may not knowingly allow, require, permit, or authorize

12 a driver to operate a commercial motor vehicle during a period in

13 which

14 (A) the driver's license is suspended, revoked, or

15 canceled by a state;

16 (B) the driver has lost the privilege to operate a

17 commercial motor vehicle in a state;

18 (C) the driver has been disqualified from operating a

19 commercial motor vehicle; or

20 (D) the driver has more than one driver's license.

21 Sec. 28.33.300. DEFINITIONS. In this chapter,

22 (1) "disqualification" means a withdrawal of the privilege

23 to drive a commercial motor vehicle;

24 (2) "disqualified" means that a person's privilege to drive

25 a commercial motor vehicle has been withdrawn.

26 * Sec. 4. AS 28.40.100(a) is amended by adding new paragraphs to read:

27 (19) "commercial motor vehicle" means a motor vehicle or a

28 combination of a motor vehicle and one or more other vehicles used for

29 commercial purposes and

1 (A) used to transport passengers or property;
 2 (B) used upon a land highway or vehicular way connect-
 3 ed to

4 (i) the land connected state highway system; or
 5 (ii) a land highway or vehicular way with an
 6 average daily traffic volume greater than 499; and

7 (C) that

8 (i) has a gross vehicle weight rating or gross
 9 combination weight rating greater than 26,000 pounds;

10 (ii) is designed to transport more than 15 passen-
 11 gers, including the driver; or

12 (iii) is used in the transportation of materials
 13 found by the United States Secretary of Transportation to be
 14 hazardous for purposes of 49 U.S.C. 1801 - 1813 (Hazardous
 15 Materials Transportation Act);

16 (D) except that the following vehicles meeting the
 17 criteria in (A) - (C) of this paragraph are not commercial vehi-
 18 cles:

19 (i) emergency or fire equipment that is necessary
 20 to the preservation of life or property;

21 (ii) farm vehicles that are controlled and operat-
 22 ed by a farmer; used to transport agricultural products,
 23 farm machinery, or farm supplies to or from that farmer's
 24 farm; not used in the operations of a common or contract
 25 motor carrier; and used within 150 miles of the farmer's
 26 farm; and

27 (iii) recreational vehicles used exclusively for
 28 purposes other than commercial purposes;

29 (20) "commercial purposes" means activities for which a

1 person receives direct monetary compensation or activities for which a
2 person receives no direct monetary compensation but that are inci-
3 dental to and done in furtherance of the person's primary business;

4 (21) "gross combination weight rating" means the value
5 specified by the manufacturer as the loaded weight of a combination
6 vehicle, except that if a value has not been specified by the manufac-
7 turer, the gross combination weight rating is determined by adding the
8 gross vehicle weight rating of the power unit and the total weight of
9 the towed unit and the load on the towed unit;

10 (22) "gross vehicle weight rating" means the value specified
11 by the manufacturer as the loaded weight of a single vehicle.

12 * Sec. 5. AS 28.15.041(b) and 28.15.041(c) are repealed.
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FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Public Safety
 Title: Commercial vehicle driver BRU: Motor Vehicles
licensing
 Sponsor: Governor/Senate Rules Component: Driver Services, Field
 Requestor: Senate State Affairs Services

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	153.1	239.7	239.7	239.7	239.7	239.7
TRAVEL	16.8	16.8	14.3	14.3	14.3	14.3
CONTRACTUAL	66.4	44.5	16.3	16.3	16.3	16.3
SUPPLIES	2.0	.5	.5	.5	.5	.5
EQUIPMENT	180.0	1.0	1.0	1.0	1.0	1.0
LAND & STRUCTURES	195.0	195.0	97.5	97.5	97.5	97.5
GRANTS, CLAIMS	-0-	-0-	-0-	-0-	-0-	-0-
MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING	613.3	497.5	369.3	369.3	369.3	369.3

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	695.0	695.0	287.5	287.5	287.5	687.5
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	81.8	81.8	81.8	-0-
FEDERAL FUNDS	60.0	71.0	-0-	-0-	-0-	-0-
OTHER/PROG RCPT	553.3	426.5	287.5	287.5	287.5	-0-
TOTAL	613.3	497.5	369.3	369.3	369.3	369.3

POSITIONS:

FULL-TIME	7	7	7	7	7	7
PART-TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

ANALYSIS: (Attach a separate page if necessary)

(See attached)

Prepared by: Jay Dulany
 Division: Motor Vehicles

Phone: 269-5551
 Date: 02/28/90

Approved by Commissioner: Arthur English
 Agency: Department of Public Safety

Date: 2-28-90
 page 1 of 15

Handwritten:
2/28/90

Current Alaska law [AS 28.15.041 (c)] requires issuance of a driver's license for operation of commercial motor vehicles. This section has never been implemented due to lack of funding. However, the federal Commercial Motor Vehicle Safety Act (CMVSA) of 1986 now requires all states to have uniform commercial driver licensing systems which include knowledge and road tests for the size and configuration of commercial vehicle to be operated. The main purpose of SB 137 is to reword current Alaska law to bring the State into compliance with the Federal CMVSA of 1986.

The development of a Commercial Driver License (CDL) Program in Alaska is now in the planning process. This fiscal note is based on the best possible estimate of numbers of persons who will need to be examined prior to issuance of a license to operate a commercial motor vehicle. Start-up year (FY91) figures for this fiscal note reflect full costs for equipment, which will not carry forward to the following years. Staff will be hired several months into FY91.

—Staff—

Six Motor Vehicle Representative IIIs (MVR IIIs) are necessary to carry out the CDL testing and licensing activities. Plans are to begin hiring the MVR IIIs in November 1990 to allow two months' training and orientation time prior to the planned testing and licensing start-up date of January 1, 1991. These MVR IIIs need to be experienced in licensing procedures and law as well as trained in the highly specialized area of testing in a variety of commercial vehicles.

In order to maintain uniformity in testing procedures, examiner training is being provided at the national level, with two representatives from each state attending the two-week sessions. These representatives, in turn, will return to their home states to conduct training workshops with the MVR IIIs who will be doing the hands-on skills tests. These representatives and their in-state trainers will need adequate travel funds to conduct the necessary training.

The increased volume of licenses that will be issued will greatly affect the records management workload. An additional staff member, a Documents Processing Clerk II, will need to be hired at the start-up of the testing and licensing program to perform this function and additional requirements in regard to the exchange of records among states.

—Testing—

Three separate classes of commercial licenses and six different endorsements will be issued. The CDL basic knowledge test is estimated to require up to an hour to complete. Additionally, specialized tests of lesser duration are required for the six endorsements: double/triple trailer, tank vehicle, hazardous material, passenger vehicle, school bus, and hazardous materials in a tank vehicle. To expedite administration of the knowledge tests, many states are using Automated Testing Devices, in which traffic situations are simulated on a video screen and multiple choice answers are selected on a keyboard. Alaska now has these test machines, but CDL testing requirements have created a need for more

sophisticated machines, plus monitors for scoring purposes. These test machines will save valuable examiner time which will be already over-taxed by the lengthy and complex skills test.

The road test requires about 1 and 1/2 hours to administer, provided that highway conditions to perform the requisite maneuvers can be found within a reasonable proximity. Additional land areas will be needed to conduct off-road maneuvers, and in some areas structures, such as loading docks, will need to be constructed, rented, or simulated. The minimal number of land areas needed to provide any reasonable convenience to driver applicants is ten sites of approximately 1/2 football field in size.

—Costs—

The Division of Motor Vehicles (DMV) estimates approximately 10,000 drivers statewide will need to be licensed by the federally-mandated deadline of April 1992. This requires placing DMV staff in key geographic areas (Anchorage, Fairbanks, Soldotna, Juneau, and Mat-Su) and periodic testing/monitoring trips to outlying areas in these regions. The CDL tests are demanding, and it is anticipated that many drivers will need retesting before they pass. California began its testing program January 1, 1989; the initial failure rate on both the skills and knowledge test was 57 percent.

To help cover costs of planning and implementing the CDL Program, the federal government has provided some grant monies to each state. Some of these monies have been reflected in the operating budget, and the remainder is reflected in this fiscal note.

Although implementing the CDL Program will require approximately \$600,000 to start up, and over half that much to maintain, the penalty for noncompliance is the forfeiture of five percent (for Alaska about \$6.1 million) of a state's federal highway funds the first year and ten percent for every year of noncompliance thereafter. Implementation will also make our highways safer for the general motoring public.

—Revenues—

Using the current license fee structure, unrestricted revenues for the first two years of issuing commercial licenses are expected to average \$50,000 annually (5,000 licenses/year x \$10.00/license). Unrestricted revenues for ensuing years are expected to bring in \$10,000 annually (1,000 new licenses/year x \$10.00/license).

The DMV believes that commercial driver license fees should be raised to a level that would fund this program. If commercial driver license fees were increased to \$100.00/license, the revenues for the first two years of issuing commercial licenses would average \$500,000 annually (5,000 licenses/year x \$100.00/license). Revenues for ensuing years would then bring in \$100,000 annually (1,000 new licenses/year x \$100.00/license). Renewals of CDLs five years after the initial licensing (FY96) will bring in additional revenues. The higher license fees would be consistent with what other states are charging, and is still for less than the State currently charges for licenses in other professions.

In addition to the \$100.00 fee for the CDL, a \$25.00 fee for the skills test will need to be assessed because the test is so time-consuming and in many cases will need to be attempted more than once. The DMV intends to "grandfather" all qualified drivers through the skills test, but estimates approximately 1,500 drivers per year will remain to be tested in each of the first two years of issuing commercial licenses. This would amount to an additional \$37,500 annually in revenues for each of those first two years (1,500 skills tests/year x \$25.00/test). Revenues for ensuing years would then bring in \$22,500 (900 skills tests/year x \$25.00/test).

Since driver license activity is increasing at all of the licensing offices, the DMV believes there is a need to assess skills test fees for all driver applicants. Those seeking a license to drive a private automobile, light truck or motorcycle would be assessed \$15.00/test for the 30-45 minute test. An estimated 10,500 regular skills tests would be administered during each of those first two start-up years. This would bring in an additional \$157,500 in revenues for each of those two years (10,500 regular skills tests/year x \$15.00/skills test). Revenues for ensuing years would then bring in \$165,000 (11,000 regular skills tests/year x \$15.00/test), since it is anticipated the number of new drivers seeking licenses will increase.

Part of the increase in revenue indicated above will be used as program receipts to fund the program.

—Revenues—

FY91/92

5,000 CDL's @ \$100/ea	\$500,000
1,500 CDL skills testes @ \$25/ea	37,500
10,500 regular skills tests @ \$15/ea	<u>157,500</u>
Total	\$695,000

FY93/94/95

1,000 CDL's @ \$100/ea	\$100,000
900 CDL skills tests @ \$25/ea	22,500
11,000 regular skills tests @ \$15/ea	<u>165,000</u>
Total	\$287,500

FY96

5,000 CDL's @ \$100/ea	\$500,000
900 CDL skills tests @ \$25/ea	22,500
11,000 regular skills tests @ \$15/ea	<u>165,000</u>
Total	\$687,500

FY91 (July 1990-June 1991)

PERSONAL SERVICES

\$153,105

1 Documents Processing Clerk II (6 months)
Step A) \$15,117

6 Motor Vehicle Representative IIIs \$137,988
(Average of Steps A & B) (8 mos., 11/1/90-7/1/91)
1 Southeast (Juneau)
2 Anchorage
1 Fairbanks
1 Soldotna
1 Mat-Su

TRAVEL

\$16,340

Examiner Training (3 staff to national training program;
local training in-State) \$13,640

Testing/Monitoring \$ 3,200
(3 trips/region/6 mos. to other DMV offices.)

CONTRACTUAL SERVICES

\$66,400

Telephone/postage \$ 3,200

Liaison & Support Services \$10,000

Fall Marketing Campaign (1990) \$ 5,000

Printing (Tests, Manuals, license aps.) \$15,000

CDLIS user fees (5,000 records @\$4.00/record)
(1/1/91-6/30/91) \$20,000

Polaroid \$ 4,200
(5,000 licenses @\$0.83/license photo)

Truck rental for examiner training \$ 9,000

SUPPLIES

\$2,000

EQUIPMENT

\$180,000

Automated testing devices:

14 automated testing devices @ \$10,000 ea. \$140,000
5 master controls @ \$7,500 ea. \$ 37,500

(Automated testing devices are necessary for administration of the knowledge test in major offices.)

Office equipment (furnishings for 5 positions; desk, chair, file cabinet)	\$1,000
Miscellaneous	\$1,500
Eg., 32 parking cones (2-4 per each test site) @ approx. 16.00/ea	\$500
Other	\$1,000

LAND AND STRUCTURES \$195,000

Lease space for off-road testing; approx. 1/2 football field in size at 10 sites statewide for 2 days/week. \$195,000

TOTAL \$613,345

FY92 (July 1991-June 1992)

<u>PERSONAL SERVICES</u>		<u>\$239,666</u>
1 Documents Processing Clerk II (Average of Steps A & B)	\$30,593	
6 Motor Vehicle Representative IIIs (Average of Steps A & B)	\$209,073	
1 Southeast (Juneau)		
2 Anchorage		
1 Fairbanks		
1 Soldotna		
1 Mat-Su		
<u>TRAVEL</u>		<u>\$16,800</u>
In-service training	\$10,000	
Testing/Monitoring (6 trips/region/year to other DMV offices)	\$6,400	
Mileage	400	
<u>CONTRACTUAL SERVICES</u>		<u>\$44,500</u>
Liaison & Support Services	\$10,000	
Public Information	\$5,000	
Printing (Tests & Manuals)	\$5,000	
Commercial Driver License Information System (CDLIS) user fees, 5,000 records @\$4.00/record	\$20,000	
Polaroid, 5,000 licenses @ \$.90/document	\$4,500	
<u>SUPPLIES</u>		<u>\$ 500</u>
<u>EQUIPMENT</u>		<u>\$1,000</u>
<u>LAND AND STRUCTURES</u>		<u>\$195,000</u>
<u>TOTAL</u>		<u>\$497,466</u>

FY93 and future fiscal years

<u>PERSONAL SERVICES</u>		<u>\$239,666</u>
1 Documents Processing Clerk II (Average of Steps A & B)	\$30,597	
6 Motor Vehicle Representative IIIs (Average of Steps A & B)	\$209,073	
2 Southeast (Juneau, Ketchikan)		
4 Anchorage		
2 Fairbanks		
1 Kenai		
1 Mat-Su		
<u>TRAVEL</u>		<u>\$14,300</u>
In-service training	\$7,500	
Testing/Monitoring	\$6,400	
(6 trips/region/year to other DMV offices)		
Mileage	400	
<u>CONTRACTUAL SERVICES</u>		<u>\$16,280</u>
Liaison & Support Services	\$5,000	
Public Information	\$2,000	
Printing (Tests & Manuals)	\$5,000	
CDLIS user fees, 200 records @\$4.00/record	\$800	
Polaroid, 200 licenses @ \$.90/ license document	\$180	
Training--1 week, trainer and truck time	\$3,300	
<u>SUPPLIES</u>		<u>\$500</u>
<u>EQUIPMENT</u>		<u>\$1,000</u>
<u>LAND AND STRUCTURES</u>		<u>\$97,500</u>
<hr/>		
<u>TOTAL</u>		<u>\$369,246</u>

Position Title Motor Vehicle Representative III			No. of Positions 1	Range/Step 10A	Barg. Unit GGU
Time Status Perm. FT	Staff Months 8		Location Juneau		Election District 4
Type of Expenditure			Amount		
1			2		3
Salary*			22,020		////////////////////
Benefits*			11,324		////////////////////
Premium Pay (Included in Above)			////////////////////		////////////////////
Other			////////////////////		////////////////////
Total Personal Services			////////////////////		22,007
Travel					2,473
Contractual					1,200
Commodities					182
Equipment					1,000
Other					-0-
Total Cost					26,862
Funding Source for Total Cost					
Federal Receipts 1002					-0-
G.F. Match 1003					-0-
General Fund 1004					26,862
Program Receipts/GF 1005					-0-
I-A Receipts 1007					-0-
CIP Receipts 1061					-0-
Other					-0-
* Personal Services Salary and Benefits Costs are from PACS.					
			<p>Justification</p> <p>This position will administer road tests and knowledge examinations to drivers of highly specialized classes of commercial vehicles. The MVR III will conduct the road tests in the type of commercial vehicle which the driver will be operating under the license for which he is applying. Three classes of commercial licenses will be issued with six additional endorsements. The MVR III will be thoroughly familiar with the operation of the vehicles for which these licenses and endorsements will be issued.</p> <p>Pertinent facts related to the testing and licensing procedure include:</p> <p>The basic road test and pre-trip inspection require 1.5 hours to administer. 10,000 drivers will need to be licensed by April 1992. The first state to conduct commercial driver tests had a failure rate of 57%, necessitating extensive retesting.</p> <p>The MVR III will also conduct vehicle safety inspections prior to administering the road test. After the test has been completed, the MVR III will determine whether applicants should receive operator's licenses and any endorsements for which they are applying.</p> <p>In addition to testing and licensing duties, the MVR III also monitors quality control and error correction in the administration of these duties. Inquiries from citizens and public agencies regarding commercial driver's licenses and safety will be responded to by the MVR III where appropriate.</p>		

REQUEST FOR
NEW POSITION

AGENCY Department of Public Safety
 BRU Motor Vehicles
 COMPONENT Driver Services

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 Revised Date

FY 91

Position Title Motor Vehicle Representative III		No. of Positions 2	Range/Step 10B	Barg. Unit GGU
Time Status Perm. FT	Staff Months 2 positions @ 8 months each = 16	Location Anchorage		Election District 7-15
Type of Expenditure		Justification		
		This position will administer road tests and knowledge examinations to drivers of highly specialized classes of commercial vehicles. The MVR III will conduct the road tests in the type of commercial vehicle which the driver will be operating under the license for which he is applying. Three classes of commercial licenses will be issued with six additional endorsements. The MVR III will be thoroughly familiar with the operation of the vehicles for which these licenses and endorsements will be issued.		
Amount		Pertinent facts related to the testing and licensing procedure include:		
1	2	3	The basic road test and pre-trip inspection require 1.5 hours to administer.	
Salary*	45,532	//////////	10,000 drivers will need to be licensed by April 1992.	
Benefits*	23,025	//////////	The first state to conduct commercial driver tests had a failure rate of 57%, necessitating extensive retesting.	
Premium Pay (Included in Above)	//////////	//////////	The MVR III will also conduct vehicle safety inspections prior to administering the road test. After the test has been completed, the MVR III will determine whether applicants should receive operator's licenses and any endorsements for which they are applying.	
Other	//////////	//////////	In addition to testing and licensing duties, the MVR III also monitors quality control and error correction in the administration of these duties. Inquiries from citizens and public agencies regarding commercial driver's licenses and safety will be responded to by the MVR III where appropriate.	
Total Personal Services	//////////	45,181		
Travel		4,946		
Contractual		2,400		
Commodities		364		
Equipment		2,000		
Other		-0-		
Total Cost		54,891		
Funding Source for Total Cost				
Federal Receipts	1002	-0-		
G.F. Match	1003	-0-		
General Fund	1004	54,891		
Program Receipts/GF	1005	-0-		
I-A Receipts	1007	-0-		
CIP Receipts	1061	-0-		
Other		-0-		
* Personal Services Salary and Benefits Costs are from PACS.				

REQUEST FOR
NEW POSITION

AGENCY Department of Public Safety
 BRU Motor Vehicles
 COMPONENT Field Services

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Position Title Motor Vehicle Representative III		No. of Positions 1	Range/Step 10B	Barg. Unit GGU
Time Status Perm. FT	Staff Months 8	Location Fairbanks		Election District 18-21
Type of Expenditure		Amount		
1	2	3		
Salary*	25,620	////////////////////		
Benefits* 12,297	12,297	////////////////////		
Premium Pay (Included in Above)	////////////////////	////////////////////		
Other -0-	////////////////////	////////////////////		
Total Personal Services	////////////////////	25,025		
Travel		2,473		
Contractual		1,200		
Commodities		182		
Equipment		1,000		
Other		-0-		
Total Cost		29,880		
Funding Source for Total Cost				
Federal Receipts 1002		-0-		
G.F. Match 1003		-0-		
General Fund 1004		29,880		
Program Receipts/GF 1005		-0-		
I-A Receipts 1007		-0-		
CIP Receipts 1061		-0-		
Other		-0-		
* Personal Services Salary and Benefits Costs are from PACS.				

Justification
This position will administer road tests and knowledge examinations to drivers of highly specialized classes of commercial vehicles. The MVR III will conduct the road tests in the type of commercial vehicle which the driver will be operating under the license for which he is applying. Three classes of commercial licenses will be issued with six additional endorsements. The MVR III will be thoroughly familiar with the operation of the vehicles for which these licenses and endorsements will be issued.

Pertinent facts related to the testing and licensing procedure include:
The basic road test and pre-trip inspection require 1.5 hours to administer.
10,000 drivers will need to be licensed by April 1992.
The first state to conduct commercial driver tests had a failure rate of 57%, necessitating extensive retesting.

The MVR III will also conduct vehicle safety inspections prior to administering the road test. After the test has been completed, the MVR III will determine whether applicants should receive operator's licenses and any endorsements for which they are applying.

In addition to testing and licensing duties, the MVR III also monitors quality control and error correction in the administration of these duties. Inquiries from citizens and public agencies regarding commercial driver's licenses and safety will be responded to by the MVR III where appropriate.

REQUEST FOR
NEW POSITION

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Position Title Motor Vehicle Representative III			No. of Positions 1	Range/Step 10B	Barg. Unit GGU
Time Status Perm FT	Staff Months 8		Location Kenai/Soldotna		Election District 5
Type of Expenditure			Justification		
			This position will administer road tests and knowledge examinations to drivers of highly specialized classes of commercial vehicles. The MVR III will conduct the road tests in the type of commercial vehicle which the driver will be operating under the license for which he is applying. Three classes of commercial licenses will be issued with six additional endorsements. The MVR III will be thoroughly familiar with the operation of the vehicles for which these licenses and endorsements will be issued.		
Amount			Pertinent facts related to the testing and licensing procedure include:		
1	2	3	The basic road test and pre-trip inspection require 1.5 hours to administer.		
Salary*	24,120	////////////////////	10,000 drivers will need to be licensed by April 1992.		
Benefits*	11,892	////////////////////	The first state to conduct commercial driver tests had a failure rate of 57%, necessitating extensive retesting.		
Premium Pay (Included in Above)	////////////////////	////////////////////	The MVR III will also conduct vehicle safety inspections prior to administering the road test. After the test has been completed, the MVR III will determine whether applicants should receive operator's licenses and any endorsements for which they are applying.		
Other -0-	////////////////////	////////////////////	In addition to testing and licensing duties, the MVR III also monitors quality control and error correction in the administration of these duties. Inquiries from citizens and public agencies regarding commercial driver's licenses and safety will be responded to by the MVR III where appropriate.		
Total Personal Services	////////////////////	23,767			
Travel		2,473			
Contractual		1,200			
Commodities		182			
Equipment		1,000			
Other		-0-			
Total Cost		28,622			
Funding Source for Total Cost					
Federal Receipts	1002	-0-			
G.F. Match	1003	-0-			
General Fund	1004	28,622			
Program Receipts/GF	1005	-0-			
I-A Receipts	1007	-0-			
CIP Receipts	1061	-0-			
Other		-0-			
* Personal Services Salary and Benefits Costs are from PACS.					

REQUEST FOR
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Position Title Motor Vehicle Representative III			No. of Positions 1	Range/Step 10A	Barg. Unit GGU
Time Status Perm FT	Staff Months 8		Location Mat-Su		Election District 16
Type of Expenditure			Amount		
1			2		3
Salary*			22,716		////////////////////
Benefits*			11,512		////////////////////
Premium Pay (Included in Above)			////////////////////		////////////////////
Other			////////////////////		////////////////////
Total Personal Services			////////////////////		22,591
Travel					2,473
Contractual					1,200
Commodities					182
Equipment					-0-
Other					-0-
Total Cost					26,446
Funding Source for Total Cost					-0-
Federal Receipts 1002					-0-
G.F. Match 1003					-0-
General Fund 1004					26,446
Program Receipts/GF 1005					-0-
I-A Receipts 1007					-0-
CIP Receipts 1061					-0-
Other					-0-
* Personal Services Salary and Benefits Costs are from PACS.					

Justification

This position will administer road tests and knowledge examinations to drivers of highly specialized classes of commercial vehicles. The MVR III will conduct the road tests in the type of commercial vehicle which the driver will be operating under the license for which he is applying. Three classes of commercial licenses will be issued with six additional endorsements. The MVR III will be thoroughly familiar with the operation of the vehicles for which these licenses and endorsements will be issued.

Pertinent facts related to the testing and licensing procedure: 1) The basic road test and pre-trip inspection require 1.5 hrs to administer. 2) 10,000 drivers will need to be licensed by April 1992. 3) The first state to conduct commercial driver tests had a failure rate of 57%, necessitating extensive retesting.

The MVR III will also conduct vehicle safety inspections prior to administering the road test. After the test has been completed, the MVR III will determine whether applicants should receive operator's licenses and any endorsement for which they are applying.

In addition to testing and licensing duties, the MVR III also monitors quality control and error correction in the administration of these duties. Inquiries from citizens and public agencies regarding commercial driver's licenses and safety will be responded to by the MVR III where appropriate.

REQUEST FOR
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Position Title Document Processing Clerk II			No. of Positions 1	Range/Step 8A	Barg. Unit GGU
Time Status Perm. FT	Staff Months 6		Location Juneau		Election District 4
			Justification		
Type of Expenditure			Amount		
1			2		3
Salary*			19,572		////////////////////
Benefits*			10,663		////////////////////
Premium Pay (Included in Above)			////////////////////		////////////////////
Other -0-			////////////////////		////////////////////
Total Personal Services			////////////////////		15,117
Travel					-0-
Contractual					1,200
Commodities					182
Equipment					1,000
Other					-0-
Total Cost					17,499
Funding Source for Total Cost					
Federal Receipts 1002					-0-
G.F. Match 1003					-0-
General Fund 1004					17,499
Program Receipts/GF 1005					-0-
I-A Receipts 1007					-0-
CIP Receipts 1061					-0-
Other					-0-
* Personal Services Salary and Benefits Costs are from PACS.					

For an estimated 10,000 licenses which need to be issued within a 15-month time span beginning in January 1991, the Documents Processing Clerk will perform the following:

- Send appropriate letter to licensee when necessary.
- Prepare documents for microfilming.
- Data entry of documents onto retrieval index system after microfilming.
- Data entry of driver licenses returned from another state to maintain records as required by Commercial Motor Vehicle Safety Act of 1986 for one license/one record concept.
- Send record to new licensing state when necessary.

REQUEST FOR
NEW POSITION

AGENCY Department of Public Safety
 BRU Motor Vehicles
 COMPONENT Field Services

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FY 91

REQUEST: FISCAL NOTE

Revision Date:
Title: An Act relating to commercial vehicle driver licensing

Agency Affected: DOT&PF
BRU:

Sponsor:
Requestor:

Components:

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTURAL	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:

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

ANALYSIS: This bill establishes a requirement for a holders of commercial drivers licenses to include their social security number in order that these persons may be cross referenced by other states. The Federal Highway Administration has mandated that the states failing to comply with the Commercial Driver License Program by October 1993 be subject to a 5% forfeiture of federal-aid, increasing to 10% the following and subsequent years.

Prepared by: Jeffery C. Ottesen
Division: Engineering and Operations Standards

Phone: 465-2951
Date: February 22, 1989

Approved by Commissioner: *[Signature]*
Agency: Department of Transportation and Public Facilities

Date: 3/6/89

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



*Department of Transportation
and Public Facilities*

POSITION PAPER

BILL NO: SB 137

APPROVED: 

TITLE: An Act relating to commercial
vehicle driver licensing

DATE: March 8, 1989

The Department of Transportation and Public Facilities supports this legislation as proposed by the Department of Public Safety. The basic thrust of this legislation is to ban the possession of more than one commercial driver's license. At issue is the practice of individuals with bad driving records obtaining several driver's licenses and then hiding their poor performance by distributing traffic violations among them. By requiring that each state, when issuing a commercial driver license, include the individual's social security number, it will be possible to establish a national clearinghouse which will contain the complete driving records of commercial drivers.

The bill further places special qualifications on operators of vehicles transporting hazardous materials that require placarding under federal regulations.

1. It is a mandatory requirement of the Federal Highway Administration. Following October, 1993 states not in compliance with the Commercial Driver License Program risk forfeiting 5% of their federal-aid highway funding in the first year and 10% in subsequent years.
2. It promotes a higher degree of safety on Alaska's roadways by assuring that every licensed driver of large trucks and buses has an acceptable pattern of driving behavior, as well as assuring that drivers transporting hazardous materials are competent.

Passage of this bill would not create any know fiscal burdens on the department.

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2

SENATE BILL NO. 137

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to commercial vehicle driver licens-
7 ing."

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

9 * Section 1. AS 28.15.021 is amended to read:

10 Sec. 28.15.021. PERSONS EXEMPT FROM DRIVER LICENSING. The
11 following persons are exempt from driver licensing under this chapter:

12 (1) an employee of the United States government while
13 operating a motor vehicle owned by or leased to the United States
14 government and being operated on official business, unless the employ-
15 ee is required by the United States government or an agency of that
16 government to have a state driver's license;

17 (2) a nonresident who is at least 16 years of age and who
18 has a valid driver's license issued by another jurisdiction; however,
19 an Alaska driver's license must be obtained by the end of a 90-day
20 period after entry into the state;

21 (3) a member of the armed forces of the United States who
22 has a valid driver's license issued by another jurisdiction if [WHEN]
23 the permanent residence of the member is maintained in that jurisdic-
24 tion;

25 (4) a person when driving an implement of husbandry, as
26 defined by regulation, which is only temporarily driven or moved on a
27 highway unless that vehicle is a commercial motor vehicle.

28 * Sec. 2. AS 28.15.041(c) is amended to read:

29 (c) A person may not drive a commercial motor vehicle until the

1 person applies for and is issued a license for that purpose under (a)
2 of this section. The department may not issue a license under this
3 subsection unless the applicant is at least 19 years of age, has held
4 a valid driver's license at least one year, and has successfully
5 completed all required driving tests and written and physical examina-
6 tions. In this subsection, "commercial motor vehicle" has the meaning
7 given in AS 28.40.100 [AS 28.32.900].

8 * Sec. 3. AS 28.15.111(a) is amended to read:

9 (a) Upon successful completion of the application and all
10 required examinations, and upon payment of the required fee, the
11 department shall issue to every qualified applicant a driver's license
12 indicating the type or general class of vehicles which the licensee
13 may drive. The license shall display

14 (1) a distinguishing number assigned to the license;

15 (2) the licensee's full name, address, date of birth, brief
16 physical description, and color photograph; [AND]

17 (3) either a facsimile of the signature of the licensee or
18 a space upon which the licensee must write the licensee's usual signa-
19 ture with pen and ink. A license is not valid until signed by the
20 licensee. If facilities are not available for the taking of the
21 photograph required under this section, the department shall endorse
22 on the license, the words "valid without photograph; [.]" and

23 (4) if the license is to drive a commercial motor vehicle,
24 information determined by the United States Secretary of Transporta-
25 tion to be appropriate to identify the licensee, including the per-
26 son's social security number.

27 * Sec. 4. AS 28.40.100(a) is amended by adding a new paragraph to read:

28 (20) "commercial motor vehicle" means a motor vehicle or a
29 combination of a motor vehicle and other vehicles

1 (A) used in commerce to transport passengers or prop-
2 erty;
3 (E) used upon a land highway or vehicular way connect-
4 ed to
5 (i) the land-connected state highway system; or
6 (ii) a land highway or vehicular way with an
7 average daily traffic volume greater than 499; and
8 (C) which
9 (i) has a gross vehicle weight rating greater
10 than 26,000 pounds;
11 (ii) is designed to transport more than 15 passen-
12 gers, including the driver; or
13 (iii) is used in the transportation of materials
14 found by the United States Secretary of Transportation to be
15 hazardous for purposes of 49 U.S.C. 1801 -- 1813 (Hazardous
16 Materials Transportation Act);
17 (D) except that the following vehicles meeting the
18 criteria in (A) -- (C) of this paragraph are not commercial
19 vehicles:
20 (i) emergency or fire equipment that is necessary
21 to the preservation of life or property; and
22 (ii) farm vehicles that are controlled and operat-
23 ed by a farmer; used to transport agricultural products,
24 farm machinery, or farm supplies to or from that farmer's
25 farm; not used in the operations of a common or contract
26 motor carrier; and used within 150 miles of the farmer's
27 farm.

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SEC. 12003. NOTIFICATION REQUIREMENTS.

(a) NOTIFICATION OF VIOLATIONS.—

(1) TO STATES.—Effective July 1, 1987, each person who operates a commercial vehicle, who has a driver's license issued by a State, and who violates a State or local law relating to motor vehicle traffic control (other than a parking violation) in any other State shall notify a State official designated by the State which issued such license of such violation, within 30 days after the date such person is found to have committed such violation.

(2) TO EMPLOYERS.—Effective July 1, 1987, each person who operates a commercial vehicle, who has a driver's license issued by a State, and who violates a State or local law relating to motor vehicle traffic control (other than a parking violation) shall notify his or her employer of such violation, within 30 days after the date such person is found to have committed such violation.

(b) NOTIFICATION OF SUSPENSIONS.—Effective July 1, 1987, each employee who has a driver's license suspended, revoked, or cancelled by a State, who loses the right to operate a commercial motor vehicle in a State for any period, or who is disqualified from operating a commercial motor vehicle for any period shall notify his or her employer of such suspension, revocation, cancellation, lost right, or disqualification, within 30 days after the date of such suspension, revocation, cancellation, lost right, or disqualification.

(c) NOTIFICATION OF PREVIOUS EMPLOYMENT.—

(1) GENERAL RULE.—Effective July 1, 1987, subject to paragraph (2) of this subsection, each person who operates a commercial motor vehicle and applies for employment as an operator of a commercial motor vehicle with an employer shall notify at the time of such application the employer of his or her previous employment as an operator of a commercial motor vehicle.

(2) PERIOD OF PREVIOUS EMPLOYMENT.—The Secretary shall establish by regulation the period for which previous employment must be notified under paragraph (1), except that such period shall not be less than a 10-year period ending on the date of application for employment.

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SEC. 12004. EMPLOYER RESPONSIBILITIES.

Effective July 1, 1987, no employer shall knowingly allow, permit, or authorize an employee to operate a commercial motor vehicle in the United States during any period—

(1) in which such employee has a driver's license suspended, revoked, or cancelled by a State, has lost the right to operate a commercial motor vehicle in a State, or has been disqualified from operating a commercial motor vehicle; or

(2) in which such employee has more than 1 driver's license, except during the 10-day period beginning on the date such employee is issued a driver's license and except whenever a State law enacted on or before June 1, 1986, requires such employee to have more than one driver's license.

The second exception in paragraph (2) shall not be effective after December 31, 1989.

SEC. 12005. TESTING OF OPERATORS.

(a) ESTABLISHMENT OF MINIMUM FEDERAL STANDARDS.—Not later than July 15, 1988, the Secretary shall issue regulations to establish

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minimum Federal standards for testing and ensuring the fitness of persons who operate commercial motor vehicles. Such regulations—

(1) shall establish minimum Federal standards for written tests and driving tests of persons who operate such vehicles;

(2) shall require a driving test of each person who operates or will operate a commercial motor vehicle in a vehicle which is representative of the type of vehicle such person operates or will operate;

(3) shall establish minimum Federal testing standards for operation of commercial motor vehicles and, if the Secretary considers appropriate to carry out the objectives of this title, may establish different minimum testing standards for different classes of commercial motor vehicles;

(4) shall ensure that each person taking such tests has a working knowledge of (A) regulations pertaining to safe operation of a commercial motor vehicle issued by the Secretary and contained in title 49 of the Code of Federal Regulations, and (B) any safety system of such vehicle;

(5) in the case of a person who operates or will operate a commercial motor vehicle carrying a hazardous material, shall ensure—

(A) that such person is qualified to operate a commercial motor vehicle in accordance with all regulations pertaining to motor vehicle transportation of such material issued by the Secretary under the Hazardous Materials Transportation Act; and

(B) that such person has a working knowledge of—

(i) such regulations,

(ii) handling of such material,

(iii) the operation of emergency equipment used in response to emergencies arising out of the transportation of such material, and

(iv) appropriate response procedures to be followed in such emergencies;

(6) shall establish minimum scores for passing such tests;

(7) shall ensure that each person taking such tests is qualified to operate a commercial motor vehicle under the regulations issued by the Secretary and contained in title 49 of the Code of Federal Regulations to the extent such regulations are applicable to such person; and

(8) may require—

(A) issuance of a certification of fitness to operate a commercial motor vehicle to each person who passes such tests; and

(B) such person to have a copy of such certification in his or her possession whenever such person is operating a commercial motor vehicle.

(b) REQUIREMENT FOR OPERATION OF CMV.—

(1) GENERAL RULE.—Except as provided under paragraph (2), no person may operate a commercial motor vehicle unless such person has taken and passed a written and driving test to operate such vehicle which meets the minimum Federal standards established by the Secretary under subsection (a).

(2) EXCEPTION.—The Secretary may issue regulations which provide that a person—

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(A) who passes a driving test for operation of a commercial motor vehicle in accordance with the minimum standards established under subsection (a), and

(B) who has a driver's license which is not suspended, revoked, or cancelled,

may operate such a vehicle for a period not to exceed 90 days.

(3) **EFFECTIVE DATE.**—Paragraph (1) shall take effect on such date as the Secretary shall establish by regulation. Such date shall be as soon as practicable after the date of the enactment of this title but not later than April 1, 1992.

(c) **BASIC GRANT PROGRAM.**—

(1) **ELIGIBILITY FOR FISCAL YEARS 1987, 1988, AND 1989.**—The Secretary may make a grant to a State in any of fiscal years 1987, 1988, and 1989—

(A) if the State enters into an agreement with the Secretary to develop a program for testing and ensuring the fitness of persons who operate commercial motor vehicles; and

(B) if the State has in effect and enforces in such fiscal year a law which provides that any person with a blood alcohol concentration of 0.10 percent or greater when operating a commercial motor vehicle is deemed to be driving while under the influence of alcohol.

(2) **ELIGIBILITY AFTER FISCAL YEAR 1989.**—The Secretary may make a grant to a State in a fiscal year beginning after September 30, 1989—

(A) if the State enters into an agreement with the Secretary—

(i) to adopt and administer in such fiscal year a program for testing and ensuring the fitness of persons who operate commercial motor vehicles in accordance with all of the minimum Federal standards established by the Secretary under subsection (a); and

(ii) to require that operators of commercial motor vehicles have passed written and driving tests which comply with such minimum standards; and

(B) if the State has in effect and enforces in such fiscal year a law which provides that any person with a blood alcohol concentration of 0.10 percent or greater when operating a commercial motor vehicle is deemed to be driving while under the influence of alcohol.

(3) **ADMINISTRATION OF DRIVING TEST.**—A State—

(A) may administer driving tests referred to in paragraph (2) and section 12009(a); or

(B) may enter into an agreement, approved by the Secretary, to administer such tests with a person (including a department, agency or instrumentality of a local government) which meets such minimum standards as the Secretary shall establish by regulation—

(i) if the agreement allows the Secretary and the State each to conduct random examinations, inspections, and audits of such testing without prior notification; and

(ii) if the State conducts at least annually one onsite inspection of such testing.

(4) **MINIMUM AMOUNT OF GRANT.**—The Secretary shall determine the amount of grants in a fiscal year to be made under this

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subsection to a State eligible to receive such grants in the fiscal year; except that—

(A) such State shall not be granted less than \$100,000 under this subsection in the fiscal year; and

(B) to the extent that any States are granted more than \$100,000 per State in the fiscal year under this subsection, the Secretary shall ensure that such States are treated equitably.

(5) **LIMITATION ON USE OF FUNDS.**—

(A) **IN FISCAL YEARS 1987, 1988, AND 1989.**—A State receiving a grant under this subsection in fiscal year 1987, 1988, or 1989 may only use the funds provided under such grant for developing a program for testing and ensuring the fitness of persons who operate commercial motor vehicles.

(B) **THEREAFTER.**—A State receiving a grant under this subsection in any fiscal year beginning after September 30, 1989, may only use the funds provided under such grant for testing operators of commercial motor vehicles.

(6) **DEVELOPMENT OF TESTING PROGRAM DESCRIBED.**—For purposes of this subsection and subsection (d), development of a program for testing and ensuring the fitness of persons who operate commercial motor vehicles includes but is not limited to studies of the number of vehicles which will need to be tested under such program in a calendar year, studies of facilities at which testing of such persons could be conducted, and studies of additional resources (including personnel) which will be necessary to conduct such testing.

(7) **FUNDING.**—There shall be available to the Secretary to carry out this subsection \$5,000,000 from funds made available to carry out section 404 of the Surface Transportation Assistance Act of 1982 for each of fiscal years 1987, 1988, 1989, 1990, and 1991.

(d) **SUPPLEMENTAL GRANT PROGRAM.**—

(1) **ELIGIBILITY AND PURPOSES.**—The Secretary may make in a fiscal year grants to States eligible to receive grants under subsection (c) in such fiscal year. A grant made under this subsection in fiscal year 1987, 1988, or 1989 shall be used for developing a program for testing and ensuring the fitness of persons who operate commercial motor vehicles. A grant made under this subsection in any fiscal year beginning after September 30, 1989, shall be used for testing operators of commercial motor vehicles.

(2) **DISTRIBUTION.**—Funds granted under this subsection in a fiscal year beginning after September 30, 1989, shall be distributed among the States eligible to receive grants under subsection (c) in such fiscal year on the basis of the number of written and driving tests administered, and the number of drivers' licenses for operation of commercial motor vehicles, issued in the preceding fiscal year.

(3) **FUNDING.**—There shall be available to the Secretary to carry out this subsection—

(A) \$3,000,000 from funds made available to carry out section 402 of title 23, United States Code, by the National Highway Traffic Safety Administration for each of fiscal years 1987, and 1988;

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