

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672
7010 HOUSE JUDICIARY

The Honorable Rick Halford
February 8, 1991
Page 2

As drafted, SB 101 would make the following changes to existing law:

Section 1. Amends AS 09.50.250, relating to sovereign immunity. The existing statute requires that a contract, quasi-contract or tort claim against the state be brought in superior court. This section deletes that requirement.

Section 2. Amends AS 22.15.050, relating to the jurisdiction of the district court. The existing statute provides that the jurisdiction of that court does not extend to cases in which the state is a defendant. This section deletes that restriction on jurisdiction.

Please feel free to contact me if you have any questions or comments.

Very truly yours,



C. S. Christensen III
Staff Counsel

CSC:bh

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Bill No. SB 101

Revision Date: _____ Department Affected: Alaska Court System
 Title: An Act relating to the jurisdiction of BRU: Trial Courts
the District Court Components: _____
 Sponsor: Judiciary
 Requestor: Judiciary Committee COMPONENT SERIAL NO.

000 000	000 768
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel *CSC* Phone: 264-8228
 Division: Alaska Court System Date: 02/08/91

Approved by: Arthur H. Snowden, II, Administrative Director *Stephanie Cole, for*
 Agency: Alaska Court System Date: 02/08/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).



Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

CHARLES S. CHRISTENSEN III
Staff Counsel

303 K Street
Anchorage, AK 99501
(907) 264-8228

January 29, 1991

The Honorable Rick Halford
Chairman, Senate Judiciary Committee
Capitol Building - Room 103
Juneau, Alaska 99811

Dear Senator Halford:

The court system has requested introduction of a bill relating to claims against the state; a bill draft was provided to your office last week.

As you know, current law requires that all actions against the state be brought in superior court, regardless of the size of the claim. This bill proposes to treat the state like any other litigant, by making it subject to the jurisdiction of the district court when the matter in controversy does not exceed \$50,000.

As drafted, the bill proposes the following changes to existing law:

Section 1. Amends AS 09.50.250, relating to sovereign immunity. The existing statute requires that a contract, quasi-contract or tort claim against the state be brought in superior court. This section deletes that requirement.

Section 2. Amends AS 22.15.050, relating to the jurisdiction of the district court. The existing statute provides that the jurisdiction of that court does not extend to cases in which the state is a defendant. This section deletes that restriction on jurisdiction.

The Honorable Rick Halford
January 29, 1991
Page 2

Please feel free to contact me if you have any questions or comments. Thank you for your courtesy in this matter.

Very truly yours,



C. S. Christensen III
Staff Counsel

CSC:bh

SB

105

JUDICIARY COMMITTEE REPO.

(7)

Date Referred: April 24, 1991

FURTHER REFERRALS:

Finance

Date of Committee Action: 5-11-91

The JUDICIARY Committee considered:

CSSB 105(JUD)

CS FOR SENATE BILL NO. 105 (JUDICIARY)

MINIMUM PENALTY FOR JOYRIDING

"An Act amending the penalty for the crime of criminal mischief in the third degree involving the unauthorized taking of a propelled vehicle."

RECOMMENDATIONS:

be replaced with HCS CSSB 105 (Jud) the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) LAW 4-17-91

zero fiscal note _____

zero fiscal note(s) Corrections 4-17-91

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Terry Mastus</i>	<input checked="" type="checkbox"/>				
<i>Mark Stanley</i>	<input checked="" type="checkbox"/>				
<i>N. Amundson</i>	<input checked="" type="checkbox"/>				
<i>Kevin Paul Hamel</i>	<input checked="" type="checkbox"/>				
<i>Dave Donley</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>			<input checked="" type="checkbox"/>

Dave Donley
 CHAIRMAN'S SIGNATURE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

No. 1

bill Version: SA 105

(S) Publish Date: 4/17/91

Revision Date: _____ Department Affect: _____

Title: "An Act amending the penalty... crime of criminal mischief...propelled vehicle." BRU: Statewide Operations

Sponsor: Senators Jones, Halford,

Requestor: Uehling

COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

Changes in CS 53/05 (JUD) have no fiscal impact. This fiscal note is appropriate.

ANALYSIS: (Attach a separate page if necessary.)

W. Bail date April 17, 1991
Comte Aide (initial)

Prepared By: Tom Sutton, Director

Tom Sutton

Phone: (907) 465-3376

Division: Administrative Services

Date: 04/03/91

Approved by Commissioner: _____

Agency: Department of Corrections

Date: 04/03/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

No. 2

Bill Version: SB 105

(S) Publish Date: 4/17/91

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Department of Law

Title: "...amending the penalty..." BRU: Prosecution

Unauthorized taking of a propelled vehicle Component: All

Sponsor: Senator Jones

Requestor: Senate Judiciary COMPONENT SERIAL NO.

			8	9
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Changes in CSSB 105 (JUD) reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.

4/17/91 date Don Bailey Comte Aide (Initial) JMB

Prepared By: Richard I. Pegues, Director Phone: 465-3672

Division: Administrative Services Date: March 29, 1991

Approved by Commissioner: Charles E. Cole, Attorney General

Agency: Department of Law Date: March 29, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 105

This bill amends AS 11.46.484 by adding a new subsection that imposes a mandatory minimum sentence for joyriding of a term of imprisonment of not less than 72 hours, a fine of not less than \$250, and restitution. These sentencing provisions will not have a fiscal impact on the Department of Law. It should be noted that some additional prosecutor time will be needed because defendants can be expected to offer a more vigorous defense in the face of a mandatory jail term, in some first offense cases where jail time is not currently imposed. Because this bill amends a sentencing provision the department recommends that it be located in Title 12 rather than Title 11. Finally, to the extent that additional imprisonment occurs, there will be a fiscal impact for the Department of Corrections.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB 105

Revision Date: _____ Department Affected: Department of Law

Title: "...amending the penalty..." BRU: Prosecution

Unauthorized taking of a propelled vehicle Component: All

Sponsor: Senator Jones

Requestor: Senate Judiciary COMPONENT SERIAL NO.

		8	9
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared By: Richard I. Pegues, Director Phone: 465-3672

Division: Administrative Services Date: March 29, 1991

Approved by Commissioner: Charles E. Cole, Attorney General

Agency: Department of Law Date: March 29, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 105

This bill amends AS 11.46.484 by adding a new subsection that imposes a mandatory minimum sentence for joyriding of a term of imprisonment of not less than 72 hours, a fine of not less than \$250, and restitution. These sentencing provisions will not have a fiscal impact on the Department of Law. It should be noted that some additional prosecutor time will be needed because defendants can be expected to offer a more vigorous defense in the face of a mandatory jail term, in some first offense cases where jail time is not currently imposed. Because this bill amends a sentencing provision the department recommends that it be located in Title 12 rather than Title 11. Finally, to the extent that additional imprisonment occurs, there will be a fiscal impact for the Department of Corrections.

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. S.B. 105

Revision Date: _____ Department Affected: Corrections

Title: "An Act amending the penalty... crime of criminal mischief...propelled vehicle." BRU: Statewide Operations
Component: _____

Sponsor: Senators Jones, Halford,

Requestor: Uehling COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS. CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Tom Sutton, Director *Tom Sutton* Phone: (907)465-3376

Division: Administrative Services Date: 04/03/91

Approved by Commissioner: _____

Agency: Department of Corrections Date: 04/03/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Alaska State Legislature

Chair, Resources Committee
Vice-chair, Transportation Committee
Member, Rules Committee
Member, Committee on Committees



P.O. Box V
Juneau, AK 99811
907 465-3743
Fax: 907 465-3922

District A
Ketchikan, Wrangell, Petersburg,
Hyder, Myers Chuck, Kupreanof

Senator Lloyd Jones

352 Front Street
Ketchikan, AK 99901
907 225-9082
Fax: 907 225-8546

MEMORANDUM

To: Rep. Dave Donley, Chairman
House Judiciary Committee

From: Senator Lloyd Jones

Date: April 26, 1991

Subject: SB 105: Amending the penalty for Joyriding

Joyriding continues to be a problem in Alaska. This crime involves first offense auto theft with less than \$500 damage to the vehicle. Under current law there is no assurance that those found guilty of joyriding (Criminal Mischief III), will pay any penalty whatsoever. In fact, statistics show that of the 132 convicted cases in FY 88, 48 offenders served no jail time at all (36.4%), and nearly 100 of these offenders paid no monetary fine (75%). As shown in the statement of Assistant Attorney General Dean Guanelli, there is no reason to believe these statistics vary significantly from year to year.

Senate Bill 105 imposes a mandatory "floor", or minimum sentence for those convicted of misdemeanor joyriding. SB 105 imposes a mandatory jail time of three days once convicted. In addition to the jail time that will be served, the legislation makes restitution to the victim of the crime mandatory along with a mandatory minimum fine of \$250.

It is irrational that an individual can break into a house and steal a \$450 television set and be convicted of a felony and serve jail time, while the same individual can break into and steal a \$20,000 automobile, incur \$450 damages and be charged with a misdemeanor and no tangible penalty. As the back-up in your files show, both the public and law enforcement officials often feel powerless when faced with the theft of an automobile. A car is one of the major investments an individual makes, and to be involuntarily deprived of its use for any length of time is wrong. Such action must have tangible consequences. SB 105 will insure that those individuals found guilty of this crime will be held accountable. It also insures that those individuals impacted by the same crime will be made whole financially, and will have the peace of mind that the criminal will pay.

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF LAW

CRIMINAL DIVISION

REPLY TO.

CRIMINAL DIVISION CENTRAL OFFICE
P.O. BOX KC
JUNEAU, ALASKA 99811-0310
PHONE: (907) 465-3428

OFFICE OF SPECIAL PROSECUTIONS
AND APPEALS
1031 WEST 4TH AVENUE, SUITE 318
ANCHORAGE, ALASKA 99501-5993
PHONE: (907) 279-7424

April 9, 1991

The Honorable Lloyd Jones
Alaska State Senate
P.O. Box V
Juneau, AK 99811

Dear Senator Jones:

I was requested by your office staff to provide you with updated statistics on cases involving the offense of joyriding (criminal mischief in the third degree). The previous report for your office on this subject was prepared in January, 1989, and showed the following approximate percentages of joyriding convictions that resulted in jail sentences of certain lengths.

less than three days	38%
three to nine days	10%
10 to 30 days	30%
over 30 days	22%

I do not envision any significant change in either the overall number of such cases or in the sentences imposed.

If I can provide additional information, please contact me.

Very truly yours,

CHARLES E. COLE
ATTORNEY GENERAL

By: 

Dean J. Guaneli
Assistant Attorney General

DJG:ma

Department of Law
Proposed Amendment to HB 123/SB 105
April 2, 1991

Whenever possible, sentencing provisions appear in AS 12.55, rather than as part of the statute defining the criminal offense. In accordance with this policy, this bill should amend AS 12.55.135 ("sentences of imprisonment for misdemeanors"), rather than AS 11.46.484.

It could do so by moving existing AS 12.55.135(e) to (f) and adding a new (e), which would read:

A defendant convicted of criminal mischief in the third degree in violation of AS 11.46.484(a)(2), whose conviction is not a felony, shall be sentenced to a minimum term of imprisonment of not less than 72 hours, payment of a fine of not less than \$250, and restitution.

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY

STATE OF ALASKA

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029

Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

M O R A N D U M

April 9, 1991

SUBJECT: Department of Law's proposed changes to SB 105
TO: Senator Lloyd Jones

FROM: John B. Gaguine *JBG*
Legislative Counsel

The Department of Law's proposed revision of SB 105 - putting the change to the law in AS 12.55.135 instead of in AS 11.46.484 - made sense to me. Accordingly I have prepared a blank CS making the change. It is enclosed.

If I may be of further assistance, please advise.

JBG:gc
91-197.glc

Enclosure

7-LS0590ND ✓
Gaguinc
4/9/91

CS FOR SENATE BILL NO. 105 ()
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsors: SENATORS JONES, Halford, Uehling

A BILL
FOR AN ACT ENTITLED

1 "An Act amending the penalty for the crime of criminal mischief in the third degree
2 involving the unauthorized taking of a propelled vehicle."

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

4 * Section 1. AS 12.55.135(e) is amended to read:

5 (e) The execution of a sentence under (c), (d), or (f) [OR (d)] of this section may not
6 be suspended and probation or parole may not be granted until the minimum term of
7 imprisonment has been served. Imposition of a sentence under (c), (d), or (f) [OR (d)] of this
8 section may not be suspended, except upon condition that the defendant be imprisoned for no less
9 than the minimum term of imprisonment provided in (c), (d), or (f) [OR (d)] of this section, and
10 the minimum sentence provided for in (c), (d), or (f) [OR (d)] this section may not be otherwise
11 reduced.

12 * Sec. 2. AS 12.55.135 is amended by adding a new subsection to read:

13 (f) A defendant convicted of criminal mischief in the third degree in violation of
14 AS 11.46.484(a)(2), whose conviction is not a felony under AS 11.46.484(c), shall be sentenced

- 1 to a minimum term of imprisonment of not less than 72 hours, payment of a fine of not less than
- 2 \$250, and restitution.

DIVISION OF LEGAL SERVICES

JAN 31 1991

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029

Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

January 30, 1991

SUBJECT: Amending the penalty for misdemeanor
joyriding (W. O. 7LS0590\A)

TO: Senator Lloyd Jones

FROM: John B. Gaguine *JBG*
Legislative Counsel

The legislation imposes a mandatory minimum sentence for a first conviction for the offense of misdemeanor joyriding ("criminal mischief in the third degree") involving the taking of a propelled vehicle in which the damage or expenses are less than \$500. A first conviction for the offense is defined as a class A misdemeanor, with normal maximum penalties of a \$5000 fine and one year in jail. Under this bill, one convicted would face a mandatory sentence of

- imprisonment for a minimum of 72 hours;
- a minimum fine of \$250; and
- payment of restitution as the court may order.

The court would be precluded from suspending imposition or execution of sentence and would be precluded from admitting the convicted defendant to probation unless the minimum sentence was served.

In essence, the penalty incorporates the content of the penalty for first offense Driving While Intoxicated (AS 28.35.030(c)).

Although this bill suggests a "go to jail" approach, under AS 33.30.151 - 33.30.161, the mandatory sentence required by the bill may be served in a correctional restitution center.

Senator Lloyd Jones
January 30, 1991
Page 2

The penalty for felony joyriding, involving damage to the vehicle of \$500 or more--a class C felony--is unchanged: a maximum fine of \$50,000 and maximum term of imprisonment of five years.

JBG:pl
91-040.plm

ALASKA PEACE OFFICERS ASSOCIATION

State APOA Office P.O. Box 240106 Anchorage, Alaska 99524-0106 (907) 277-0515

April 9, 1991

Senator Lloyd Jones
Alaska State Legislature
Pouch V
Juneau, Alaska

Dear Senator Jones,

The Alaska Peace Officers Association is very much in favor of Senate Bill 105, amending the penalty for joyriding.

When the bill was introduced, and passed, a couple of years ago making a second conviction of joyriding a felony, we had expressed a very real concern. That concern was that so many times a first time offender is given a suspended imposition of sentence; no record is made on the first offense; and the offender could realistically become a repeat offender with no deterrence from this act.

This bill would alleviate that from ever occurring. The Anchorage Police Department receives 1,500 cases per year which fit under the statute of Criminal Mischief in the Third Degree. Approximately 85% of these are repeat offenders.

We frequently handle cases where cars worth \$20,000 or more are stolen. Since it is a misdemeanor, the offender is merely given a suspended imposition of sentence. Thefts in these amounts is a Class C felony and have been recognized for their seriousness. This amendment will certainly send a clear message that we are serious about the theft of our citizens' vehicles and create a stronger deterrent for the true first time offender.

Sincerely,

John Shover
R. John Shover
President, APOA

RJS:rlc



EXECUTIVE DIRECTOR

Edward T. Harter

BOARD OF DIRECTORS

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Fairbanks

Dale Floran, Vice Pres.
Fairbanks

Don Oils, Member
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Breg Russell, Member
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Ketchikan
LaRoy Meas



**National
Car Rental**

National Car Rental
Alaska Sales and Service, Inc.
1300 East Fifth Avenue
Anchorage, Alaska 99501
(907) 274-3695

April 8, 1991

Alaska State Legislature
Ray Matiashowski
Assistant to Senator Lloyd Jones
P.O. Box V
Juneau, Ak 99811

Dear Mr. Matiashowski,

In regard to SB 105, Joyriding Legislation.

National Car Rental is the largest car rental in the state of Alaska. We are pleased to support SB 105 which amends the penalty of joyriding.

National can cite many cases in which our vehicles have been used for "joyriding" and we are then left helpless because of a lean joyride law.

We strongly urge a stiff sentence to those individuals who use an automobile for joyriding purposes. It costs everyone in the long run and it seems the person who is not affected is the joyrider himself.

Please do what you can to pass SB 105.

Sincerely,

A handwritten signature in cursive script that reads "Debra L. Hulien".

Debra L. Hulien
Assistant General Manager
National Car Rental.

AVIS RENT A CAR SYSTEM

BOX 180028, ANCHORAGE, ALASKA 99518-0028

(807) 243-4300

FAX (807) 243-2294



LICENSEE

Number of Pages: One (including cover page)

Date: April 8, 1991 FAX: 465-3922

To: Senator Lloyd Jones LOC: Juneau

From: Gary Zimmerman LOC: Anchorage

Transmitting from: 907-243-2294

April 8, 1991

The Honorable Senator Jones
P.O. Box V
Juneau, Alaska 99811

Dear Senator Jones:

AVIS RENT A CAR of Alaska would like to take this opportunity to express our support of Senate Bill 105 (increasing the penalty for "joyriding" in the State of Alaska).

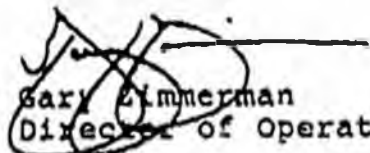
We are sure our experience with stolen vehicles is similar to many - not only to other businesses but also to the general public. Frustration and a sense of helplessness is felt each time one of our vehicles is involved in a "joyriding" incident. Frustration because the vehicle is usually returned to our inventory damaged from abuse; a sense of helplessness because it is extremely hard to obtain restitution; and knowing that the people involved will walk away with barely a slap on the wrist even though in many instances the perpetrators had no intention of ever returning the vehicle.

For many people an automobile is their largest investment. The average cost of a new automobile has reached \$15,000. This is a lot of money. People are sitting in jail for stealing far less.

The time has come to act on this. We believe by increasing the penalty for the unauthorized taking of a vehicle there would be a clear message to would-be thieves that the State of Alaska is getting tough on crime.

Sincerely,

AVIS/ALASKA


Gary Zimmerman
Director of Operations

S B

1 1 2

1 JUSE COMMITTEE REPO. :

(7)

Date Referred: May 15, 1991

FURTHER REFERRALS:

Date of Committee Action: 5-19-91

The JUDICIARY Committee considered:

CSSB 112(JUD)

CS FOR SENATE BILL NO. 112 (JUDICIARY)

ANATOMICAL GIFTS

"An Act relating to anatomical gifts."

RECOMMENDATIONS:

the same title

be replaced with _____ a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note: _____

2 zero fiscal note(s) Hess 4-3-91 Pub Sat 3/6/91

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Wanda Rowley</i>	<input checked="" type="checkbox"/>	<i>Terry Martin</i>		<input checked="" type="checkbox"/>	
<i>Ed Kennedy</i>	<input checked="" type="checkbox"/>				
<i>Mark Staley</i>	<input checked="" type="checkbox"/>				
<i>Mike Miller</i>	<input checked="" type="checkbox"/>				
		<i>J. Ellis</i>		<input checked="" type="checkbox"/>	

Wanda Rowley
CHAIRMAN'S SIGNATURE

STATE OF ALASKA
 1991 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Public Safety
 Title: An Act relating to anatomical BRU: Alaska State Troopers
gifts. Component: Detachments
 Sponsor: Senator Fahrenkamp
 Requestor: Senate HESS

COMPONENT SERIAL NO.

	7	9	9
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EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not Included)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES	Changes in <u>CSSB</u> (AD) have no fiscal impact. This fiscal note is appropriate.			Changes in <u>CSSB112</u> (HES) have no fiscal impact. This fiscal note is appropriate.		
EQUIPMENT						
LAND & STRUCTURES	Ap: <u>13.1991</u> date			Comte Aide (initial) <u>DBB</u>		
GRANTS, CLAIMS	date			date		
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER/PROG RCPT						
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

Estimate of current year impact None

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact on Alaska State Troopers.

Prepared by: Gavle A. Horetski Phone: 465-4322
 Division: Commissioner's Office Date: 3/5/91
 Approved by Commissioner: Richard L. Burton Richard L. Burton
 Agency: Department of Public Safety Date: 3/5/91

COMM.

No. 2

STATE OF ALASKA
1991 LEGISLATIVE SESS

Bill Versio
Publish Da

Version: CSSB 112 (JUD)
(S) Publish Date: 4/3/91

REQUEST: FISCAL NOTE

Revision Date:		Agency Affect:	<u>Health & Social Services</u>
Title:	<u>Anatomical Gifts</u>	BRU:	<u>State Health Services</u>
Sponsor:	<u>Fahrenkamp</u>	Components:	<u>Public Health Administration</u>
Requester:	<u>Senate HESS</u>		

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

General Funds	0.0	0.0	0.0	0.0	0.0	0.0
Federal Funds						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS

Full-Time		0				
Part-Time		0				
Temporary		0				

ANALYSIS: (attach a separate page if necessary)

No fiscal impact.

Changes in CSSB 112 (JUD)
have no fiscal impact. This
fiscal note is appropriate.
date Apr 13 1991 W.S. Saito
Comte Aide (initial)

Prepared By: Alfred G. Zangri
Division: PUBLIC HEALTH

Approved By Commissioner: Theodore Mala, M.D., MPH
Agency: HEALTH & SOCIAL SERVICES

Phone: 465-3090
Date: 02/27/91
Date: 3-5-91

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

REQUEST: FISCAL NOTE

Revision Date: _____ Agency Affected: Health & Social Services
 Title: Anatomical Gifts BRU: State Health Services
 Sponsor: Fahrenkamp Components: Public Health Administration
 Requester: Senate HESS

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

General Funds	0.0	0.0	0.0	0.0	0.0	0.0
Federal Funds						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS

Full-Time		0				
Part-Time		0				
Temporary		0				

ANALYSIS: (attach a separate page if necessary)

No fiscal impact.

Prepared By: Alfred G. Zangri
 Division: PUBLIC HEALTH

Phone: 465-3090
 Date: 02/27/91

Approved By Commissioner: Theodore Mala, M.D., MPH
 Agency: HEALTH & SOCIAL SERVICES

Date: 3-5-91

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

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Bills No. SB 112

Revision Date: _____ Department Affected: Public Safety
Title: An Act relating to anatomical BRU: Alaska State Troopers
gifts. Component: Detachments

Sponsor: Senator Fahrenkamp
Requestor: Senate HESS

COMPONENT SERIAL NO. -

	7	9	9
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EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not Included)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER/PROG RCPT						
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

Estimate of current year impact None

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact on Alaska State Troopers.

Prepared by: Gavle A. Horetski Phone: 465-4322
Division: Commissioner's Office Date: 3/5/91

Approved by Commissioner: Richard L. Burton Richard L. Burton
Agency: Department of Public Safety Date: 3/5/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Alaska State Legislature

SENATOR BETTYE FAHRENKAMP
CHAIRMAN, LEGISLATIVE COUNCIL
CHAIRMAN, ADMINISTRATIVE REGULATION
REVIEW COMMITTEE
119 N. CUSHMAN STREET, SUITE 201
FAIRBANKS, ALASKA 99701
OFFICE (907) 452-4882
HOME (907) 456-2899



WHILE IN JUNEAU
P.O. BOX V
JUNEAU, ALASKA 99811
CAPITOL, ROOM 125
OFFICE (907) 465-3834
HOME (907) 780-6027

MEMORANDUM

TO: Representative Donley, Chair
House Judiciary Committee

FROM: Senator Bettye Fahrenkamp

DATE: May 10, 1991

SUBJECT: Senate Bill 112
"An act relating to anatomical gifts."

The intent of SB 112 is to ensure that hospitals comply with the wishes of the organ donor. Hospitals currently require the consent of the next of kin before they will accept an organ donation. If the next of kin refuse to honor an organ donor's wishes, hospitals and organ procurement centers may be withholding medical care from transplant recipients.

This bill requires that hospitals honor a donor's wishes, without the consent of any other individual. Also, that persons such as law enforcement or medical personnel, make a reasonable search for documentation that may show whether or not the person is a donor. Hospitals that are not equipped to accept an organ donation are required to contact a donor bank if a deceased person at the hospital has consented to an anatomical gift.

SB 112 is currently scheduled for a hearing in House Health, Education and Social Services Committee for May 16th at 8:00 a.m. with House Judiciary as the next committee of referral.

In the Senate, SB 112 has a unanimous "do pass" record. As there has been no opposition to the bill, there is a strong chance that it will be moved out of House (HESS) without a hitch.

Therefore, I urge you to consider scheduling SB 112 for May 17th <pending referral>. Thank you.

Alaska State Legislature



SENATOR BETTYE FAHRENKAMP
CHAIRMAN, LEGISLATIVE COUNCIL
CHAIRMAN, ADMINISTRATIVE REGULATION
REVIEW COMMITTEE
119 N. CUSHMAN STREET, SUITE 201
FAIRBANKS, ALASKA 99701
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Senate

WHILE IN JUNEAU
P.O. BOX V
JUNEAU, ALASKA 99811
CAPITOL, ROOM 125
OFFICE (907) 465-3834
HOME (907) 780-6027

TO: Representative Donley, Chair
House Judiciary Committee

FROM: Senator Bettye Fahrenkamp

DATE: May 10, 1991

SUBJECT: Senate Bill 112
"An act relating to anatomical gifts."

A constituent of mine, upon renewing his driver's license this summer, decided to become an organ donor. He was then advised that hospital policy still required the consent of next of kin or they would not accept the donation.

By accepting next of kin's refusal to honor an organ donor's wishes, hospitals and organ procurement centers may be withholding medical care from transplant recipients. This would hold particularly true in the instance where a recipient is on hand and the next of kin cannot be reached to ask for consent. No one should interfere with an individual's right to make the final decision on organ donation.

BILL SUMMARY

- * Reinforces that an individual's decision to donate body organs does not require the consent or concurrence of any individual after the donor's death.
- * Requires that a reasonable search must be made for documentation that identifies the individual as a donor or as someone who has refused to make an anatomical gift. Failure to do so may result in administrative sanctions.
- * Law enforcement or medical personnel and hospitals located in areas where hospitals don't have the provisions to accept an organ donation, are exempt from being required to make a reasonable search for documentation. But the hospital is required to make an effort to contact a donor bank if they are aware that the individual is a donor.

Page 2
April 18, 1991

FISCAL IMPACT: Zero fiscal notes from HESS and Dept. of Public Safety.

PREVIOUS COMMITTEE ACTION:

HESS: DO PASS Sturgulewski, Cotten and Menard.
JUDICIARY: DO PASS Halford, Collins, Adams and Frank.
SENATE FLOOR: UNANIMOUS DO PASS

DEPARTMENT POSITION: Supported by the Department of Public Safety.

ABOUT THE BILL:

Currently hospitals require the consent of the next of kin before accepting an organ donation. SB 112 requires that hospitals and organ procurement centers comply with the wishes of the individual to make a gift upon their death and not require the consent of any other person. Hospitals that are not equipped to accept a donation are required to make a reasonable effort to contact a donor bank if the individual is an organ donor.

As Joel Swerdlow of the Annenberg Washington Program wrote in Matching Needs, Saving Lives, "By letting donors themselves decide, we protect two basic values: First, we protect our right to decide, which is already granted by law. Second, we can save lives: when health-care institutions accept the next of kin's refusal to honor an organ donor's wishes, they may be withholding medical care from transplant candidates."

I urge your early scheduling and favorable consideration of this measure. I would be happy to answer any questions you may have and provide further information upon request.

HOUSE COMMITTEE REPORT

(7)
 Date Referred: April 17, 1991 FURTHER REFERRALS: Judiciary

Date of Committee Action: 5-15-91

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered: CSSB 112(JUD)

CS FOR SENATE BILL NO. 112 (JUDICIARY) ANATOMICAL GIFTS

"An Act relating to anatomical gifts."

RECOMMENDATIONS:
 be replaced with CSSB 112 (JUD) the same title
 a new title

- have attached amendments(s)
- do pass
- do not pass
- no recommendations
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date)
 fiscal impact _____ fiscal note(s) _____
 zero fiscal note _____ (x2) zero fiscal note(s) DPS 3/6/91
DNSS 4/3/91

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Choni Davis</i>	✓				
<i>William E. ...</i>	✓	(CARNEY)			
<i>James ...</i>	✓	(LINCOLN)			
<i>John ...</i>	✓	(GONZALEZ)			
<i>Betty Davis</i>	✓	(DAVIS)			

James ...
 CO-CHAIRMAN'S SIGNATURE (LINCOLN)

Alaska State Legislature

SENATOR BETTYE FAHRENKAMP
CHAIRMAN, LEGISLATIVE COUNCIL
CHAIRMAN, ADMINISTRATIVE REGULATION
REVIEW COMMITTEE
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Senate

WHILE IN JUNEAU
P.O. BOX V
JUNEAU, ALASKA 99811
CAPITOL, ROOM 125
OFFICE (907) 465-3834
HOME (907) 780-6027

TO: Representative Georgianna Lincoln
Representative Pat Carney
Co-chairs, House Health, Education
and Social Services Committee

FROM: Senator Bettye Fahrenkamp

DATE: April 18, 1991

SUBJECT: Senate Bill 112
"An act relating to anatomical gifts."

A constituent of mine, upon renewing his driver's license this summer, decided to become an organ donor. He was then advised that hospital policy still required the consent of next of kin or they would not accept the donation.

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BILL SUMMARY

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Sponsor stmt

Page 2
April 18, 1991

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As Joel Swerdlow of the Annenberg Washington Program wrote in Matching Needs, Saving Lives, "By letting donors themselves decide, we protect two basic values: First, we protect our right to decide, which is already granted by law. Second, we can save lives: when health-care institutions accept the next of kin's refusal to honor an organ donor's wishes, they may be withholding medical care from transplant candidates."

I urge your early scheduling and favorable consideration of this measure. I would be happy to answer any questions you may have and provide further information upon request.

BILL NO: SB 112

DATE: 3/5/91

TITLE: An Act relating to anatomical gifts.

CONTACT: Gayle A. Horetski
Deputy Commissioner
465-4322

DEPARTMENT OF
PUBLIC SAFETY

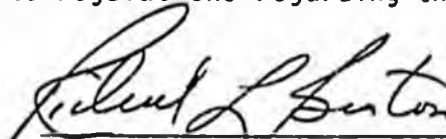
SB 112 modifies the existing anatomical gift statute in the following ways:

1. Unless a gift is revoked before death by the donor, the gift becomes irrevocable and does not require the consent or concurrence of any person after the donor's death.
2. Requires hospital administrators and employees to make a reasonable search for a document or other information, identifying the deceased as a donor, or as a person who has refused to make an anatomical gift.
3. Requires law enforcement officers to make a "reasonable search" for a document of gift or other information identifying the bearer as a donor, or as a person who has refused to make an anatomical gift, and to inform hospital personnel of the intended gift.
4. The bill establishes that failure of either hospital administrators or police officers to make a reasonable search may subject the administrator or police office to "appropriate administrative sanctions".

The Department of Public Safety interprets the requirement that law enforcement personnel at the scene of a death make a "reasonable search" for an anatomical gift document to mean that the officer must take an extra moment or two to search the person of the deceased for documents proclaiming him or her as a donor.

The Department of Public Safety supports this bill, as it has the laudable goal of encouraging Alaskans to donate their organs, upon their death, to other persons in dire need of those organs.

The Department proposes one change in the bill. In Section 3, at page 2, line 13, the word "administrative" should be changed to "disciplinary", and a period should be placed after "sanctions", ending the sentence. Line 14 should be omitted entirely. Disciplinary actions against State Troopers are taken under authority of the Department's Operating Procedures Manual (OPM), state personnel rules, bargaining unit contracts, and other applicable provisions. The Department of Public Safety does not have separate regulations regarding this subject.



Richard L. Burton
Commissioner

This article appeared in the March 13, 1991, edition of the Wall Street Journal.

MEDICINE

Trying to Cure Shortage of Organ Donors

By GLENN RUFFENACH

Staff Reporter of THE WALL STREET JOURNAL

A rapidly growing gap between the number of people waiting for organ transplants and the supply of organs has educators and researchers searching for ways to increase organ donations.

Some studies suggest that the timing of a physician's or nurse's request to surviving family members can raise consent rates substantially. Other proposals call for some type of federal tax benefit to a donor's estate or assistance with funeral expenses. A physician writing in today's *Journal of the American Medical Association* broaches the once-heretical notion of paying families outright—say, \$1,000—for an organ donation.

Though physicians, medical ethicists and patients differ, sometimes sharply, over the effectiveness of these strategies, there is little dispute about the need for added measures to procure organs.

More people are being recommended for transplants, reflecting soaring success rates for these operations, but organ donations "haven't kept up with demand," says Wanda Bond, a spokeswoman for the United Network for Organ Sharing, a national clearinghouse that maintains the waiting list for organs and matches organs with recipients.

The number of people in the U.S. waiting for a kidney, heart, liver, pancreas, lung, or heart and lung has jumped about 40% in the past two years. Moreover, 2,206 people died in 1990 while awaiting a transplant, 26% more than in 1988.

Altruism — the motivating force on which patients and physicians have long depended for donations — "just doesn't look like it's doing too much" to meet the grow-

Waiting for Transplants

The number of people in the U.S., as of March 4, awaiting a:

Kidney	18,163
Heart	1,984
Liver	1,344
Pancreas	516
Lung	394
Heart/Lung	182

Source: United Network for Organ Sharing

ing demand, says Ms. Bond.

The shortages have even sparked debate over which patients are most "worthy" to receive organs. A second article in the current *Journal of the American Medical Association* proposes that patients who develop liver disease through no fault of their own should have a higher priority for receiving a liver transplant than those whose disease results from failure to obtain treatment for alcoholism.

Public-opinion polls traditionally indicate that a large majority of Americans would be willing to donate their organs. But a study in five states in 1988 and 1989 by the Center for Biomedical Ethics at the University of Minnesota found that only 25% to 30% of families actually gave their consent to remove an organ from a family member who had died.

Respondents to polls often "want to impress [the questioner] with their altruism," says Arthur Caplan, the center's director. But when people are actually confronted with death and the thought of removing organs from a loved one, other issues crowd

in. "People think [a patient] might not get aggressive care because of the transplant system's 'pursuit of parts,'" Mr. Caplan says. "Or they're angry about stories they've heard about people buying their way into a transplant, or they think the body will be mutilated."

In addition, physicians and nurses who approach families about organ donation often botch it. Margaret Verble, president of a consulting company in Lexington, Ky., that has held workshops for hospitals on the subject, recalls one physician who asked a new widow: "You don't want to give away any of your husband's parts, do you?" Requests for organs, she says, "have been screwed up every way you can possibly imagine."

A partial remedy for that problem may come from a study completed last year by the Kentucky Organ Donor Affiliates, the state's organ-procurement agency, based in Louisville. Researchers found that if a request for organ donation isn't made at the same moment that a family learns of a relative's death, the family is much more likely to agree to donate.

R. Neal Garrison, medical director of the state agency and professor of surgery at the University of Louisville, says the pause "allows the family to accept the fact of death. Then they can start dealing with other options, including the possibility that some good could come from this."

The study found that when an organ request was made separately from a notification of death, 65% of families agreed to donate. When the two were made at the same time, only 18% agreed to the request.

Perhaps the most radical proposals for increasing donations involve some type of

Please Turn to Page B1, Column 5

Shortage of Organs For Transplants Spurs Search for Remedies

Continued From Page B1

reimbursement. (The purchase or sale of human organs is currently a felony, under the National Organ Transplant Act of 1984.) In today's AMA Journal, Thomas Peters, a physician at the Jacksonville, Fla., Transplant Center, calls for a pilot program to determine whether payments of \$1,000 to families from procurement groups might increase the organ supply—without sparking a process of "organ brokerage or commercialization."

If a family is staunchly opposed to donation, writes Dr. Peters, \$1,000 "would not be so great a financial temptation to deter strongly held beliefs." Conversely, if a family is opposed to donation because of "superstition, reaction to the 'Establishment' or belief that the disadvantaged in society are again being exploited," \$1,000 might be enough to prompt a donation.

But while many people are starting to view reimbursement as "an option we have to pursue," says Ms. Bond at the United Network for Organ Sharing, resistance to the idea remains substantial.

Trust in the transplant system—not reimbursement—is what's needed, says Mr. Caplan in Minneapolis: "People won't be altruistic if they think their gifts are going to the rich."

A less-divisive possibility might be some form of federal assistance. Felix T. Rapaport, chairman of surgery and director of transplantation services at the State University of New York at Stony Brook, says Congress should subsidize burial costs of organ donors or offer an estate-tax abatement or grant. The key, he says, "is to make it a federally sponsored program that would be standard for all donors."

The management and staff of the space station welcome your cooperation to ensure the safety of all children and to comply with the wishes of parents.

This letter appeared in the February 27, 1991 edition of the Anchorage Times letters to the editor.

Gift of life from Anchorage

Dear Editor:

It is with a heart full of thanks that I write this letter. My granddaughter, Alishia, is recovering very rapidly from a kidney transplant. This 20-month-old child suffered from a kidney ailment from birth. The only way to provide her a normal life, or any life at all, was a transplant.

A call came at 3 a.m., Sunday morning, Dec. 30, saying a kidney was available in Anchorage. My

waiting for trains, but the normal reaction is to leave the automobile running. My engine idled about five minutes before I turned it off.

I wouldn't mind waiting if these trains were carrying supplies for our troops in the Middle East, but this train was hauling, among other things, scrap automobiles. I think trains with this kind of cargo can be rescheduled without disruption.

John Westover
Anchorage



son, Raymond Puzio, and his wife, Tonya, traveled with Alishia from their home in West Palm Beach, Fla., to Children's Hospital in Pittsburgh, Pa., for the operation.

The operation was completed shortly after the donated kidney arrived from Anchorage and it was very successful. Alishia has recovered quickly. She was released from the hospital in just two weeks. Recovery time is normally a month. She is back home in Florida now with a chance to live a long life thanks to people in Anchorage I don't even know, but would like to thank from the bottom of my heart.

My feelings are bittersweet. There is a great joy knowing my granddaughter will live, but I know it came at the cost of another life. We received no details about the donor or the donor's family. I almost lost my sweet granddaughter and can understand the sorrow of their loss. I want them to know that their loss was not in vain. I want them to take whatever solace they can in the fact that Alishia is alive as a result.

If members of the family read this letter and would like to get in touch with me, I encourage them to write me at 1035 Adams St., No. 2, New Castle, Pa. 16101. My telephone number is (412) 652-2859.

I have faith in God. I don't pretend to understand his will. Why should Alishia's life be spared through your loss? All I can do is offer thanks in my prayers and ask God to sooth your sorrow.

Chris Carran
New Castle, Pa.

Kindness of strangers

Dear Editor:

Wasilla Area Seniors would like to thank Staff Sgt. Paul Jordan and Mrs. Jordan of Elmendorf Air Force Base, Spc. Doug Embree and Mrs. Embree and Pfc. Rod Smith of Fort Richardson for providing first aid and comfort for one of our seniors who fell and suffered serious injury at the Fur Rondy ice sculptures.

These people are an example of the good neighbors we have at the military bases. We thank them and wish them every good fortune during their tours of duty in Alaska.

We also thank Kevin Brown of Anchorage for his aid in keeping our senior warm until the ambulance arrived. Human kindness is alive and well in Alaska.

Louise G. Harris
President, Wasilla Area Seniors

The Anchorage Times welcomes letters to the editor from readers on issues of the day. Letters must include signatures, addresses and telephone numbers that can be verified during daytime hours. Letters that cannot be verified and copies of letters sent to other papers will not be published. All letters should be as brief as possible and are subject to editing. Send to: Letters to the Editor, The Anchorage Times, 820 W. Fourth Ave., Anchorage, AK 99501.



MATCHING NEEDS, SAVING LIVES

BUILDING A COMPREHENSIVE
NETWORK FOR TRANSPLANTATION
AND BIOMEDICAL RESEARCH
A REPORT ON POLICY OPTIONS

BY JOEL L. SWEDLOW

THE ANNENBERG
WASHINGTON PROGRAM

Communication Policy Studies
Northwestern University

DEDICATION

About a year ago I read a newspaper story about how a 49-year-old woman in Wisconsin had saved the life of a six-year-old girl in Raleigh, N.C., who was dying of leukemia. The girl needed a bone marrow transplant and had no siblings whose antigens matched hers. But the woman in Wisconsin was a perfect match—a computer search that cost pennies brought the two of them together.

The story made me think of my brother, Paul H. Swerdlow. He was full of life and love, a Ph.D. in nuclear physics and a board-certified radiologist—a man with much to give. In late 1984 he lay dying of leukemia.

Paul's hope for life was that either our sister or I would be a match. Technicians took our blood. We all tried to keep busy with other things while we waited for the results. When the telephone rang, however, the lab reported that neither of us matched Paul. Seven months later, at the age of 42, he died.

Paul lived in Boston. In just that area, according to medical experts, there were about 100 people who might have saved him. In all of America, as many as 25,000 people might have saved my brother's life—if society had set up the necessary communications system. It could have been so simple, but ultimately it was impossible. And, as this report shows, the need goes far beyond my brother's particular illness.

My brother lived in the world of medicine and

science; my work involves politics and public policy. "We should write something together," he often said. "The people in your world have to better understand the great advances in mine."

During the past six months I've visited in Paul's world. I've interviewed hundreds of health care providers, read medical journals and transcripts of congressional hearings, and attended conventions of transplant specialists. Although I was sometimes the only nonmedical person at the meetings, few participants seemed surprised to see me. The transplantation community knows the outside world will eventually pay more attention. Some expect the attention to come in the form of scandal, bred by the lack of regulation in tissue recovery and the huge dollar flow in the processing and distribution of organs and tissues. Others expect that the public will some day demand to know why more sick and injured people don't benefit from transplants.

I repeatedly heard one message from professionals who work long hours, receive little recognition and make miracles: To accept the status quo, given today's capabilities, is inexcusable.

This report is dedicated to all the people who would have helped my brother if given the chance; to all who now suffer for lack of a transplant; and to those who will make possible the happy endings yet to come.

JOEL L. SWERDLOW

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INTRODUCTION

This report is worthy of attention for its fresh, comprehensive look at the issues in the critical field of human organ and tissue transplantation, and, in particular, for its emphasis on improving communications within the field and coordination of efforts to increase organ and tissue availability.

The shortage of organs and tissues is often the factor that most severely limits physicians' ability to treat patients who need a transplant. The patients' life-or-death situation and the present scarcity of available organs demand the most efficient use of present resources and intensification of efforts to increase supply.

We are making progress in increasing supply through such measures as state required-request laws for organ donation, the Uniform Anatomical Gift Act and federal requirements that hospitals develop written protocols for identification of potential organ donors. Despite these important steps, however, we are still unable to provide lifesaving organs to even a majority of individuals who need transplants.

Innovative means of increasing supply should be both encouraged and subjected to thoughtful scrutiny by patients, physicians and other health care personnel, ethicists, legal experts, hospital administrators and those involved in organ procurement and distribution. Improvements in supply are likely to be achieved by involving all parties concerned with improving patient care.

M. ROY SCHWARZ, M.D.
Assistant Executive Vice President,
Medical Education and Science
American Medical Association

propose a comprehensive National Human Organ and Tissue Policy. The task force would both initiate and coordinate demonstration projects in the medical community and propose legislation. It would consider and recommend plans for initiatives such as these, built on existing institutions:

- a comprehensive national computer-based communications network to coordinate the recovery and allocation of donated tissues as well as organs under consistent, equitable ground rules,
- a continuous, intensive public education campaign to promote donation and family discussion of donation options,
- experimentation with a statewide electronic donor registry and other mechanisms that would let donors themselves (instead of their next of kin) make the final decision to donate,
- training and incentives for hospital personnel to increase the recognition of potential donors and improve requests for donation,
- streamlined systems on the local level for more extensive recovery of donated organs and tissues,
- an expanded computer registry of living Americans who volunteer to donate lifesaving bone marrow,
- a 24-hour database of medical literature and a telephone hotline to make available the latest techniques and data to health care providers,
- a coordinated system of national databases, linked with all tissue and organ transplantation centers and procurement organizations, to collect data on treatment, cost and outcomes for evaluation,

- assessment of public attitudes about and the desirability of expanding "presumed-consent" laws, which would increase donation by declaring that everyone has given consent to donation unless they explicitly withhold it (registering their refusal with a national databank), and

- a medical consensus conference on the desirability of beginning kidney recovery from non-heart-beating donors, which would greatly increase the supply of the most frequently transplanted organ.

Many people still think of transplantation as a high-technology luxury. In fact, investing in the measures described above would save money for taxpayers and society as a whole, because transplantation is often less costly than alternative treatments.

More importantly, the lives saved and suffering ended give us tens of thousands of human reasons for action.

OPTIONS: TO INCREASE DONATION

In the Dan Smith scenario, Dan was able to donate because he and his wife had talked about donation long before his fatal accident and because hospital personnel were prepared to respond to his wish. These things seem simple, but they are not the norm in the United States today. As long as patients are waiting for organ transplants, the failure to recover a single suitable donated organ is tantamount to withholding medical care. A concerted effort is needed, including any or all of the following policy options, before we can expect more people to give or receive "the gift of life."

FULLY IMPLEMENT THE "REQUIRED-REQUEST" LAWS

In the mid- to late 1980s, public policymakers took what they hoped would be a major step to increase donation: federal regulations and "required-request" laws in 41 states and the District of Columbia obligate hospitals to ask next of kin whether they wish to donate the organs and tissues of a recently deceased family member.²³

In practice, however, state agencies make little effort (or have little authority) to enforce required-request laws, and many hospitals—including major transplant centers—have done nothing to implement them, according to hospital officials. Short-staffed hospitals frequently lack the resources to perform the time-consuming, demanding tasks necessary to acquire donated tissue and organs.

The first task is for physicians to identify medically eligible donors and alert the appropriate hospital personnel. This is not so likely to be done as

one might expect. A recent sample of 195 physicians and nurses found that only 35 percent "correctly identified the legal and medical criteria for determining" brain-death.²⁴ The leader of one of the nation's most successful organ procurement organizations says the hospitals in his area often do not call when they have potential donors because they do not properly identify them. "We sit around and wait far more than we should," he says.

Second; a hospital or organ procurement worker must approach the family to request donation—a delicate task. When the health-care worker assigned to request donation doesn't want to do so or doesn't know how, says University of Minnesota ethicist Arthur Caplan, "the consent rate is . . . zero."²⁵ In some states, furthermore, the required-request laws do not apply to tissue donation and do nothing to encourage donation of human material for medical research.²⁶

It is too soon to know how well required-request laws work. Caplan, their principal proponent, remains optimistic that "the supply of organs and tissues will significantly increase once all protocols are in place and people are more comfortable with required request."²⁷ However, evidence about the effects of the laws is conflicting. Tissue bank officials indicate that tissue donations have increased perhaps by as much as 300 percent.²⁸ The Eye Bank Association of America reports only a 4 percent increase in 1985.²⁹ A recent UNOS study reveals a marked upturn trend for the 15-month period ending in December 1988,³⁰ although some transplant surgeons question this finding.

Experience indicates that donations surge in hospitals where trained professionals have adequate time to communicate with donor families.³¹ At the

same time, reports from some localities, including a statewide Ohio survey, show no change in the donation rate after passage of required-request laws.⁴² Whatever the success of required-request laws, experts agree that there is little reason to believe that these laws alone will produce an adequate supply.

INCENTIVES AND TRAINING TO PROMOTE REQUIRED-REQUEST

Requesting donations is a difficult, labor-intensive task that demands sensitivity and special skills. Yet it often falls upon hospital personnel who are already overworked and underpaid. Thus, money for training and incentives is needed: public/private-sector mechanisms could pay for training of personnel to implement required-request. Hospitals could be motivated by more consistent enforcement of existing required-request statutes and by linking their accreditation or tax-exempt status to effective donor-recruitment efforts.

When the House of Representatives was considering transplantation legislation in 1984, then-Congressman Albert Gore predicted that the bill would inspire "educational and training programs in every hospital and medical community throughout this country in order to greatly increase the rate of organ donation."⁴³ But no organization received the mandate or the money necessary to conduct such an effective nationwide training program. Training has been sporadic, and varies significantly from hospital to hospital.

BUILD A CONTINUING PUBLIC EDUCATION CAMPAIGN

Despite extraordinary dedication of the OPOs and voluntary organizations, current efforts to spread the word about donation have been underfunded.⁴⁴ For various reasons the health community has not yet fully enlisted the communications media in this cause as effectively as it has put out messages about smoking, seat belts, drunk driving, illegal drugs and AIDS.

By not volunteering to donate their own or their relatives' organs and tissues, too many people opt to permit avoidable suffering and death without knowing they are making the choice.

Today, the major effort to educate the donation decision-maker occurs immediately after the death of a relative, when a health-care worker sits down with the grieving next of kin. It is not the ideal time for either one. A concerted public education program would at least lay the groundwork for such sensitive discussions.

Teaching people about donation when they are in a learning setting can be very effective; therefore, donor-awareness programs could well be expanded in schools, churches, synagogues and civic organizations. Other mechanisms, some already in use, are also appropriate—among them, public service advertisements and dramatizations of the donation theme in popular television programs.⁴⁵

Other health-related campaigns have shown that sustained effort can change behavior, particularly when the message taps into preexisting public support. According to public opinion polls, transplantation has such support. If campaigns are to promote complex changes in behavior, however, they must be continuous. Sporadic campaigns yield sporadic results.

The ideal campaign would encourage people to consider universal donation—all tissues and organs for medical research as well as transplantation. As a complement to in-depth efforts, it would also offer a 24-hour "800" Human Organ and Tissue (HOT) hotline, similar to the service the OPTN now operates (dial 800-24-DONOR), that anyone could call to ask questions.

In-depth research on Americans' current knowledge and attitudes about donation would help in fine-tuning the donor-options message, perhaps building on the familiar "Give the Gift of Life" theme now employed. Surveys and anecdotal evidence suggest, for instance, that many fear that organ and tissue donation disfigures the body before burial and in the afterlife. (Polls show that a vast majority of the American people believes in an afterlife.⁴⁶) Outreach could reassure people that the major religions in this country encourage donation and could clarify the poorly understood concept of brain-death.

LET DONORS DECIDE FOR THEMSELVES

Federal and state laws give adults the right to decide whether to donate their tissues and organs.

Indeed, many people carry signed consent forms or fill in pledges on their drivers licenses. Many assume that their wishes will be automatically respected, but often they are wrong. Hospitals contend that family values must be protected and fear negative publicity and legal challenges by displeased survivors. Therefore, they almost always let the next of kin make the final decision, regardless of the wishes of the deceased.

ONLY ABOUT 5% OF ELIGIBLE
ADULTS DONATE BLOOD. IF
THE SAME PERCENTAGE
DONATED TISSUE, THE
NATION'S TISSUE NEEDS
COULD BE MET.

By letting donors themselves decide, we protect two basic values: First, we protect our right to decide, which is already granted by law. Second, we can save lives: when health-care institutions accept the next of kin's refusal to honor an organ donor's wishes, they may be withholding medical care from transplant candidates. This is particularly true in cases when a potential organ donor has just died, a recipient is at hand and the next of kin cannot be reached to be asked for consent.

Letting the donor decide would also clarify in the public mind who is making the decision and give donors a measure of personal satisfaction while they are still living.

Various kinds of legislation could put the decision back in donors' own hands. New laws could, for example, strengthen and more clearly define the protection against liability afforded hospital officials and physicians who act on the basis of signed donor cards. States could obligate hospitals and OPOs to recover organs and tissues for which there is a donor card and a demonstrated need. States could also more diligently enforce existing administrative penalties or allow civil liability to be im-

posed against institutions that fail to act on the basis of donor cards.

A DONOR REGISTRY

A communications option that would help return the donation decision to the donor is a computerized donor registry,⁴⁷ which medical personnel would consult shortly before or after the death of a person medically eligible to donate. With information from the registry, personnel could act promptly to recover organs and tissues during the brief period of time in which they are most useful for transplantation and research. For people who register as donors and then change their minds, the registry would permit easy updates.

In 1984, the Senate committee responsible for the National Organ Transplant Act reported its belief "that one important and appropriate new action to include in the national computer registry is to provide a centralized list of individuals who have voluntarily agreed to donate organs. . . ."

To avoid pitting the health care community against the family, donor registries (and nonelectronic alternatives such as consent forms and living wills) could include certification that the donor had discussed the decision with family members and, as appropriate, that the family had endorsed the decision. The registry could also bring in medical history data vital for screening for AIDS, hepatitis and other infectious diseases (and helpful in locating particular types of diseased tissues needed for research).

Great Britain briefly tested in-hospital donor registries with some success in the mid-1980s.⁴⁸ Twenty-one hospitals were connected in a system listing more than a quarter-million donors and volunteers. Britain is now considering a system that would allow people to sign up as donors through a computer network with terminals in every physician's office. This would have the dual advantage of placing the discussion of donation in the context of the patient-physician relationship and removing it from the family's time of grief.

Georgetown University bioethicist Robert Veatch suggests that the government could increase the percentage of Americans making the donation decision themselves, and encourage family discussion of the decision, by adding donation questions to income tax forms.⁴⁹ For example, the terms could

ask the taxpayer. "Do you wish to be an organ/tissue donor? With any limitations?" If a central registry were created, those who consented would have their names entered.

Opponents argue that donor registries are too expensive and difficult to keep up to date, that registries cannot guarantee confidentiality,³¹ and that reliance on a registry might inadvertently contradict family wishes. Furthermore, critics say, hospitals might still leave the actual decision to next of kin, disregarding a donor registry just as they now ignore notations on donor drivers' licenses.

A MEDICAL ARGUMENT FOR LETTING DONORS DECIDE

Changing medical practice may increase the number of cases when doctors must determine quickly whether they have consent for donation. Kidneys recovered as late as one hour after coronary death can be transplanted, if certain medical steps are taken.³² American transplant teams now almost always take kidneys only from brain-dead donors whose hearts are beating with support from ventilators, but recovering from non-heart-beating donors in addition would greatly increase the supply of kidneys—by far the most frequently transplanted organ. By the end of the century, says transplant surgeon David Anaise of the State University of New York at Stony Brook, livers and other organs may also be recovered from non-heart-beating donors.

Anaise estimates that the practice would increase the supply of kidneys tenfold if proper medical procedures are followed. It is, he says, "the only solution to the supply problem."³³

Although the practice arouses opposition from parts of the medical community, many surgeons agree that "non-heart-beating donors can be a reasonable approach to help alleviate the shortage of kidneys."³⁴ Animal studies and advances in drugs that inhibit tissue death also suggest the practice may be productive.³⁵

Each year, tens of thousands of Americans medically eligible to donate organs suffer coronary death from some form of heart attack or trauma.³⁶ Use of a donor registry, for rapid identification of those patients who have already consented to donate, would enable hospitals to coordinate rescue squads, emergency room personnel and organ recovery

teams to recover the kidneys without delay.

States could adopt laws making it unnecessary to seek permission from next of kin before taking medical steps to protect the transplantability of organs from the deceased, thereby keeping their options open for later donation.³⁷ (Hospitals already perform a number of routine nondeforming procedures on cadavers for which permission is not requested.³⁸)

EXAMINE THE DESIRABILITY OF EXPANDING PRESUMED-CONSENT

More than a dozen countries—including France, Israel and Italy—have adopted "presumed-consent" laws, under which everyone is designated a donor unless they register their refusal.³⁹ These laws may not have had much effect, however, because most physicians still seek family permission.

The prevailing view among U.S. health care professionals is that presumed consent would never attract public support. However, given the new capability of computer/communications systems to register declarations, presumed-consent laws may be consistent with our basic values.⁴⁰

Such a suggestion may seem startling, but limited presumed-consent laws are already on the books. Twenty-one states—double the number of only a few years ago—have such laws for corneas obtained from bodies under the jurisdiction of a medical examiner; unless the next of kin objects, the medical examiner may remove the corneas of the deceased during autopsy. Seventeen states have similar provisions for pituitary glands.⁴¹ Many states also have presumed-consent laws for unclaimed bodies. These laws could be expanded to provide tissues for research.

Presumed consent seems to be attracting support within the medical community for use in areas other than transplantation. Medical leaders, for example, are discussing mandatory autopsies and application of presumed consent to "intubation training" for physicians, which does not disfigure the body and is necessary for sound medical training.

In Britain, furthermore, there is reportedly substantial public support for laws under which doctors [can] remove organs from dead patients for transplant unless they had specifically refused before death.⁴²

SB

146

(7)
Date Referred: March 20, 1992

JUDICIARY COMMITTEE REPORT
FURTHER REFERRALS:

Date of Committee Action: 5/7/92

The JUDICIARY Committee considered: CSSB 146(JUD)

CS FOR SENATE BILL NO. 146 (JUD) LIMITED PRIVILEGES FOR REVOKED LICENSES

"An Act relating to limited driving privileges for a person whose driver's license is suspended for failure to have motor vehicle liability insurance."

- RECOMMENDATIONS: the same title
 be replaced with _____ a new title
- have attached amendments(s)
 do pass
 do not pass
 no recommendations
 individual recommendations
 additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____ fiscal note(s) _____

zero fiscal note _____ zero fiscal note(s) JPS 3-11-92

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
		<i>David Conley</i>		<input checked="" type="checkbox"/>	
<i>JL Ellis</i>	<input checked="" type="checkbox"/>	<i>Terry Martin</i>		<input checked="" type="checkbox"/>	
<i>KA Shunk</i>	<input checked="" type="checkbox"/>				

David Conley
 CHAIRMAN'S SIGNATURE

FISCAL NOTE

BILL NO. CSSB 146(JUD)

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Revision Date: 3/10/92 Department Affected: Public Safety
 Title: An Act relating to limited driving BRU: Motor Vehicles
privileges Component: Driver Services
 Sponsor: Senator Menard
 Requestor: House Transportation COMPONENT SERIAL NO.

5	0	0
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EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

 No fiscal impact anticipated.

Prepared By: Juanita Hensley Phone: 465-4335
 Division: Motor Vehicles Date: 3/10/92
 Approved by Commissioner: Richard L. Burton
 Agency: Department of Public Safety Date: 3/10/92

Handwritten:
3/10/92

(7)
Date Referred: March 11, 1992

HOUSE COMMITTEE REPORT
FURTHER REFERRALS:

Judiciary

Date of Committee Action: 3/18/92

The STATE AFFAIRS Committee considered:

CSSB 146(JUD)

CS FOR SENATE BILL NO. 146 (JUD)

LIMITED PRIVILEGES FOR REVOKED LICENSES

"An Act relating to limited driving privileges for a person whose driver's license is suspended for failure to have motor vehicle liability insurance."

RECOMMENDATIONS:

be replaced with CSSB 146 (STA) the same title a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) Dept of Public Safety 3-11-92

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Eugene G. Kubera</i>	<input checked="" type="checkbox"/>				
<i>Tom Sawyer</i>	<input checked="" type="checkbox"/>				
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
<i>Mike Miller</i>	<input checked="" type="checkbox"/>				
<i>[Signature]</i>	<input checked="" type="checkbox"/>				

Eugene G. Kubera
CHAIRMAN'S SIGNATURE



Alaska State Legislature

Senator Curt Menard



While in Session:
P.O. Box V
Juneau, Alaska
99811
(907)465-2679

Interim:
165 E. Parks
Highway
Wasilla, Alaska
99687
(907)373-2878

Senate
District
E

MEMORANDUM

TO: REPRESENTATIVE GENE KUBINA
CHAIR, HOUSE STATE AFFAIRS

FROM: SEN. CURT MENARD *Curt Menard*

DATE: MARCH 10, 1992

SUBJ: REQUEST FOR HEARING
CSSB 146(JUD)
LIMITED PRIVILEGES FOR REVOKED LICENSES

Please schedule a hearing for CSSB 146(JUD) at your earliest convenience.

This bill allows the Department of Motor Vehicles an important additional factor in the consideration of granting a limited license to persons who have had licenses suspended for failure to have liability insurance.

This bill applies to licenses suspended for failure to have the proper motor vehicle insurance. It does not apply to any other issue with regard to suspended operators license.

If I may be of assistance to the committee, please call either myself, or my staff aide, Steve Richards.

Thank you for your prompt attention to this request.



SPONSOR STATEMENT

It's against the law to drive without liability insurance. If someone who does not have insurance or some proof of financial responsibility, is involved in an accident, whether they are at fault or not, their driving priveleges are suspended. After the offender who was not at fault has rectified the situation, by obtaining SR 22 insurance, they are then eligible for a limited license--for work purposes only.

If a driver who is at fault in the accident does not have insurance--that driver's license is suspended twice: once for not having insurance and once for not proving financial responsibility. The second suspension can be lifted in five different ways. Generally it is done by paying for the damage or posting a bond as required by the state. Until this second, accident related, suspension is lifted the driver is not eligible for a limited license.

In either case--at fault and not having insurance or not at fault and not having insurance--limited licenses of any kind are not issued until the entire situation is rectified.

Once the offender has "fixed" the problem, they can get a limited license for work purposes only. I've introduced the legislation before you today to add one other circumstance that can be considered by the Department of Public Safety as a reason to grant a limited license. That reason is:

because the driver or the driver's dependent has specific medical care needs that cannot otherwise be met.

This wording in the bill is very tight. It is a humanitarian means to allow for instances like taking a child to radiation treatments, it does not allow the offender to get a limited license just because they would be inconvenienced or made uncomfortable.

There are three major points I want to emphasize:

* . this bill applies only to offenders who did not have liability insurance--it does not apply to DWI offenses or to suspensions due to excessive points

* . only after the reason for the suspension has been rectified--the offender has obtained insurance, and has paid for any damage they may have caused--are they eligible for a limited license

* . the added consideration is very limited in scope--to receive medical care.

SB 146 is supported by the Department of Public Safety and has a zero fiscal note. I urge your support of this legislation.

During calendar year 1990 more than 6200 drivers were cited for not having liability insurance. Of those 6200 more than 3000 were able to provide proof of insurance and 3066 were actually suspended for being uninsured.

Of those 3,066 just 436 applied for limited licenses. There were 221 issued and 215 that were not for a variety of reasons.

DEPARTMENT OF
PUBLIC SAFETY
POSITION PAPER

BILL NO: SB 146

DATE: 3/6/91

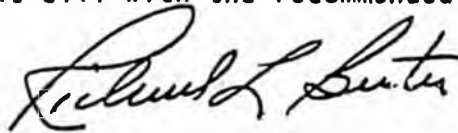
TITLE: Limited Licenses for
Mandatory Insurance

CONTACT: Juanita Hensley
465-4335

This bill requires the Department to issue a "limited license" to persons whose licenses are suspended for not having motor vehicle liability insurance. Under this bill, limited licenses could be issued for "medical reasons, to avoid family hardship, or for work purposes".

The Department's position is that the wording "to avoid a family hardship" is too broad, and should be deleted. The bill does not give any guidance as to what "a family hardship" is. Any family which would be inconvenienced by losing the services of an adult driver would feel that they are experiencing a hardship. Suspension of a drivers license is a punitive sanction, imposed because the motorist violated state law. There isn't much point in suspending a driver's license for not having motor vehicle insurance if an individual can be issued a limited license to drive for any reason.

The Department supports this bill with the recommended amendment.



Richard L. Burton
Commissioner



Palmer Police Department

423 SOUTH VALLEY WAY
PALMER, ALASKA 99645



RONALD L. OTTE
CHIEF OF POLICE

PHONE: (907) 745-4811

TO: Senator Curt Menard

FROM: Ron Otte
Chief of Police - Palmer

DATE: March 4, 1991

RE: SB 146
"Limited driving privileges for a person whose driver's
license is suspended for failure to have liability insurance."

ATTENTION: Iola Young

I have reviewed the proposed amendments to AS 28.22.041 (c). I have no objections and, in fact, would support the concept of allowing limited driving privileges for medical reasons to avoid family hardship once a person has filed proof of financial responsibility. SB 146 provides balance and common sense when legitimate human needs dictates.

***** TRANSMITTAL MEMO *****

TO: Sen. Menard

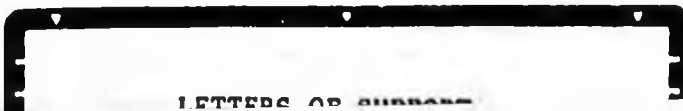
DEPT: _____ FAX #: 465-3756

FROM: Palmer PD PHONE: 745-4011

CC: Chief Otte FAX #: 746-4314

NO. OF PAGES: 1

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3-2-91

To whom it May Concern:

I support the new bill Curt Menard has introduced.

I am a single father (7 years) of an 11 year old boy. I lost my license because of an un-

insured accident, which was not my fault.

I received a limited license to go to and

from work. However, this license does not permit

me to go to the store, post office or bank.

Because I live in the Mat-Su Valley, where

city transit is non-existent and postal service is

not available, not to mention grocery stores which

are 5 miles away, I have no choice but to break

the law nearly daily.

I was stopped recently by the Alaska Troopers

coming from the post office. I was ticketed for

violation of my limited license. Now I face a mandatory

10 days in jail and another years suspension.

When I get out in sure I will be ticketed again.

The law, the way it stands, has made a

downward spiral out of me

Sincerely,

Craig J. Neal

SB

153

HOUSE COMMITTEE REPORT

(7) Date Referred: May 8, 1992 FURTHER REFERRALS: Finance

Date of Committee Action: 5/10/92

The JUDICIARY Committee considered: CSSB 153(RULES)

CS FOR SENATE BILL NO. 153 (RULES) RIGHTS OF MENTAL HEALTH PATIENTS
 "An Act relating to mental health treatment and evaluation facilities and patients or former patients of those facilities."

RECOMMENDATIONS: the same title
 be replaced with _____ a new title
 have attached amendments(s)
 do pass
 do not pass
 no recommendations
 individual recommendations
 additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date)
 fiscal impact _____ fiscal note(s) ^{Law 4-15-92} _{Comds 5-1-92}
 zero fiscal note _____ zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>		<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>		<input checked="" type="checkbox"/>	
		<i>[Signature]</i>		<input checked="" type="checkbox"/>	

[Signature]
 CHAIRMAN'S SIGNATURE

SB

154

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. HCS CSSB 154 (R88)

Revision Date: 5/6/92
 Title: Limiting Lender Liability/Oil and Hazardous Substance Releases
 Sponsor: Senator Rodey
 Requestor: (H) JUDICIARY

Department Affected: Environmental Conservation
 BRU: Spill Prevention and Response
 Component: Contaminated Sites

COMPONENT SERIAL NO.

1	4	3	1
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EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Janice Adair
 Division: Commissioner's Office

Phone: 465-5010
 Date: 5/6/92

Approved by Commissioner: *Deuce Ware for John Sander*
 Agency: Environmental Conservation

Date: 5/6/92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. CSSB 154 (JUD)

Revision Date: 4/23/92
 Title: Limiting Lender Liability/Oil and Hazardous Substance Releases
 Sponsor: Senator Rodey
 Requestor: _____

Department Affected: Environmental Conservation
 BRU: Spill Prevention and Response
 Component: Contaminated Sites

COMPONENT SERIAL NO. 1 | 4 | 3 | 1

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
FUND SOURCE:						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Janice Adair
 Division: Commissioner's Office

Phone: 465-5010
 Date: _____

Approved by Commissioner: Janice Adair for John Sandor
 Agency: Environmental Conservation Date: 4/23/92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Alaska State Legislature



Senate

PATRICK M. RODEY
SENATOR

3111 C. St., Suite 510
Anchorage, Alaska 99503
(907) 561-7618

During Session:
State Capitol
Juneau, Alaska 99801-1182
(907) 465-3793

M E M O R A N D U M

DATE: May 6, 1992

TO: Members, House Judiciary Committee

FROM: Senator Pat Rodey

SUBJ: HCSSB 154 (RES) - Liability of lenders involving contaminated property

Attached is a summary of the above-referenced bill which is in committee. Under the time constraints of the end of session, I am circulating this in order to give you more information prior to the committee hearing. Anticipating any questions you may have, please call Tim Benintendi of my staff at 3793.

SB 154 will be before you soon. It addresses the needs of lenders, both commercial and individual, including those who choose to owner-finance the sale of their homes.

Its intention is to limit the liability of security interest holders (creditors) in certain hazardous contamination clean-up situations. Those situations are where lenders, as innocent third parties who did not initiate or contribute to a contamination, are currently held liable beyond their borrowers for any or all costs of containment or clean-up under our strict liability laws.

Lender liability can exceed the value of the loan or its collateral, and in some cases, place other company or personal assets at risk. Through SB 154, lender liability would be limited, but not eliminated, in certain cases.

The two chief reasons for this bill are to provide lenders with a clearer picture of potential liability so as to more realistically assess loan risk and collateral value; and two, to insure reasonable and consistent credit availability for Alaska business, especially small and mid-sized businesses.

Development of the bill has included assistance from DEC and the AG, both of whose offices support the bill. A zero fiscal note was issued by DEC, and remains effective through the House Resources CS.

The need for the provisions of SB 154 are not unique to Alaska. The impact of strict liability laws are being reviewed nationally. The Environmental Protection Agency has, in the past ten days, adopted regulations which would provide some limits to lender liability. In 1991, fifteen other states passed legislation similar to SB 154.

The objective of this bill is to address a specific problem in strict liability law where lenders, as innocent third parties who did not cause or contribute to a contamination on property they hold as collateral, are currently liable beyond their interest in the property. Some lenders have begun to react to unknown limits of potential liability by failing to make loans, failing to foreclose on property, and scrutinizing anew, the potential risks of otherwise solid and well-established borrowers. The implication for jobs, and viable economic activity, especially in smaller communities, is obvious.

I invite your support of HCSSB 154 (RES) as a measure which fairly addresses an excess in Alaska's strict liability laws. It does not unduly impact on the substance, intent, or effectiveness of those laws.

SPONSOR SUMMARY

HCS Senate Bill 154 (RES)

HCSSB 154 (RES) is intended to address inequities in strict liability laws where innocent third parties are held liable for unpermitted hazardous substance contamination. Specifically, the bill limits (but does not eliminate) the liability of security interest holders (creditors), and fiduciaries.

Originally intended to address the concerns of the state's commercial lenders, the bill was broadened in Senate Judiciary to include individual lenders, including those who own finance property.

Section 1 adds an environmental risk assessment as a document to be filed with the Office of the Recorder. The House Resources Committee added provisions for the risk assessments in this bill.

Section 2 adds to the definition of "owner" and "operator" the need for certain security interest holders to file environmental risk assessments IF they are to be exempted from being an "owner" or "operator".

Section 3 defines circumstances where limited liability is, and is not, applicable.

Section 4 requires the preparation and recording of environmental risk assessments in order to qualify for the limitations to strict liability. Requires the assessment to be recorded within 90 days after the loan is created.

Section 5 (f) limits a person's property which may be subject to the state's lien for cleanup costs; states that a person's liability is limited to the difference, if any, in the positive fair market value before the state's cleanup action, and FMV after the conclusion of cleanup action.

(g) provides that the state's lien is subject to prior parties' perfected liens.

Senate Bill 154 rectifies shortcomings in the original strict liability laws enacted in 1989, but does not unduly impact on the substance, intent, or effectiveness of those laws.

The bill enjoys the support of DEC, the AG, and continues with a zero fiscal note.

(9)
Date Referred: March 20, 1992

HOUSE COMMITTEE REPORT
FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 5/1/92

The RESOURCES Committee considered: CSSB 154(JUD)

CS FOR SENATE BILL NO. 154(JUD) LIABILITY FOR ENVIRONMENTAL DAMAGE/LIENS

"An Act relating to the liability of certain security interest holders arising out of an unpermitted release of a hazardous substance or the substantial threat of an unpermitted release of a hazardous substance, and to liens on the property of certain security interest holders resulting from an oil or hazardous substance spill or the threat of an oil or hazardous substance spill."

RECOMMENDATIONS:
be replaced with HCS CS SB 154 (RES) the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ALOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) DEC

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	N ^o	AM
<i>[Signature]</i> <u>LEMAN</u>	<input checked="" type="checkbox"/>	<u>LINCOLN</u>			<input checked="" type="checkbox"/>
<i>[Signature]</i> <u>MOYER</u>	<input checked="" type="checkbox"/>	<u>DAVIDSON</u>		<input checked="" type="checkbox"/>	
<i>[Signature]</i> <u>IWAN</u>	<input checked="" type="checkbox"/>	<u>FINKELSTEIN</u>			
		<u>CARNEY</u>	<input checked="" type="checkbox"/>		

[Signature]
CHAIRMAN'S SIGNATURE



Senate

During Session:
P.O. Box V
Juneau, Alaska 99811
(907) 465-3793

M E M O R A N D U M

DATE: April 13, 1992
TO: Members, House Resources Committee
FROM: Senator Pat Rodey *Pat*
SUBJ: CSSB 154 (JUD) Liability of Security Interest Holders

This bill will be before you on Tuesday, April 14th. It addresses the needs of lenders, both commercial and individual, including those who choose to owner-finance the sale of their homes.

Its intention is to limit the liability of security interest holders (creditors) in certain hazardous contamination clean-up situations. Those situations are where lenders, as innocent third parties who did not initiate or contribute to a contamination, are currently held liable beyond their borrowers for any or all costs of containment or clean-up under our strict liability laws.

Lender liability can exceed the value of the loan or its collateral, and in some cases, place other company or personal assets at risk. Through SB 154, lender liability would be limited, but not eliminated, in certain cases.

Reasons for SB 154 are as follows:

1. To provide lenders with a clearer picture of potential liability so as to more realistically assess loan risk and collateral value.
2. To insure reasonable and consistent credit availability for Alaska business, especially small and mid-sized businesses.

To assist with questions regarding the implications of SB 154, several individuals will be on hand to testify. Ms. Janice Adair will appear for DEC to address regulatory concerns. Mr. Robert Regis, an assistant AG who litigates strict liability

cases for the state, will be available. Both of these individuals have contributed significantly to the current version of the bill. In addition, Mr. Gerard Diemer, Environmental Risk Officer for the National Bank of Alaska will be present.

The need for the provisions of SB 154 are not unique to Alaska. The impact of strict liability laws are being reviewed nationally. The Environmental Protection Agency has regulations pending which would provide some limits to lender liability. Several other states have passed legislation similar to this bill (see Diemer letter attached).

I invite your support of CSSB 154 (JUD) as a measure which fairly addresses an excess in Alaska's strict liability laws. This bill has been crafted to limit, but not eliminate, lender liability.



DENALI STATE BANK

119 N. Cushman Street • (907) 456-1400 • FAX (907) 456-2140 • P.O. Box 74568 • Fairbanks, Alaska 99707-4568

March 18, 1992

Representative Donley
House of Representatives
State Capitol
Juneau, AK 99801-1182

RE: SB154 "An Act Relating to the Liability of Financial Institutions Arising Out of an Unpermitted Release of a Hazardous Substance or the Substantial Threat of an Unpermitted Release of a Hazardous Substance, and to Liens on the Property of Financial Institutions Resulting From an Oil or Hazardous Substance Spill or the Threat of an Oil or Hazardous Substance Spill"

Dear Representative Donley:

This letter is being written both as President of Denali State Bank and in my current capacity as President of the Alaska Bankers Association.

I am asking you to support SB154 as it has passed the Alaska State Senate. The passage of this bill is vitally important to financial institutions in the State of Alaska and the borrowing customers that we serve. Much effort has been put into this bill by Senator Rodey and his staff, the Department of Environmental Conservation, and the Alaska Bankers Association. I am confident that it will fulfill the needs of all parties concerned.

Your support of this bill will be sincerely appreciated. Please do not hesitate to contact the undersigned if you have any questions.

Sincerely yours,

Gary Roth
President and Chief Executive Officer

GR/bf



DENALI STATE BANK

119 N. Cushman Street • (907) 456-1400 • FAX (907) 456-2140 • P.O. Box 74568 • Fairbanks, Alaska 99707-4568

March 18, 1992

Representative Martin
House of Representatives
State Capitol
Juneau, AK 99801-1182

RE SB154 "An Act Relating to the Liability of Financial Institutions Arising Out of an Unpermitted Release of a Hazardous Substance or the Substantial Threat of an Unpermitted Release of a Hazardous Substance, and to Liens on the Property of Financial Institutions Resulting From an Oil or Hazardous Substance Spill or the Threat of an Oil or Hazardous Substance Spill"

Dear Representative Martin:

This letter is being written both as President of Denali State Bank and in my current capacity as President of the Alaska Bankers Association.

I am asking you to support SB154 as it has passed the Alaska State Senate. The passage of this bill is vitally important to financial institutions in the State of Alaska and the borrowing customers that we serve. Much effort has been put into this bill by Senator Rodey and his staff, the Department of Environmental Conservation, and the Alaska Bankers Association. I am confident that it will fulfill the needs of all parties concerned.

Your support of this bill will be sincerely appreciated. Please do not hesitate to contact the undersigned if you have any questions.

Sincerely yours,

A handwritten signature in cursive script that reads "Gary Roth". The signature is written in dark ink and is positioned above the printed name.

Gary Roth
President and Chief Executive Officer

GR/bf

Key Bank of Alaska

A KeyCorp Bank



Post Office Box 100420
Anchorage, Alaska 99510-0420
(907) 562-6100

Dan Mogck
Vice President

Direct Line: (907) 584-0446
Fax: (907) 584-0200

March 12, 1992

Representative David Donley
Alaska State Legislator
122 Capital Building
Juneau, Alaska 99801-1182

Re: SB 154

Dear Representative Donley:

I represent the Alaska Bankers Association in our efforts to clarify the security interest exemption in the state environmental strict liability law. As a member of the House Judiciary committee, you will likely be hearing of SB 154 soon. I would like to take this opportunity to briefly outline the problem, and to educate you as to what we feel is a partial solution. I have enclosed a copy of the bill for your reference.

The state strict liability law, AS 46.03.822 - 828, is patterned after the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, aka Superfund). In both state and federal law there was a security interest exemption for lenders and other security holders. Over all the years, because of ambiguities in the in the wording, court cases have eroded the exemption. Lenders have been held to be liable as owners by foreclosing on a property, even though the lender had nothing to do with causing the problem and was only acting to protect a security interest. Courts have gone so far as to suggest that a lender may be liable as an operator if, in the words of the court, " the lender had the capability to influence hazardous waste decisionmaking through financial relationships". Because lenders may be the only deep pocket left after a clean up, they are easy targets for enforcement agencies.

The lending industry is very alarmed at the situation. The law and case decisions greatly increase the risks of lending money. Lenders, in many cases, are unable to lend money into the communities we serve, because of the environmental risks. Not being able to lend is very unsettling to our industry, as this is the primary way we invest in our communities. However, under current law, the risks of lending into a situation with any

Representative David Donley
Page Two

potential environmental liability, particularly in the case of someone requesting funds to perform a clean up and also in the case of small loans, far outweigh the rewards.

As a partial solution, we have proposed SB 154, legislation that would clarify the security interest exemption. The clarification would allow a lender to hold indicia of ownership, which may include full legal title through foreclosure or equivalent, as long as the lender is holding primarily to protect a security interest, and does not participate in the management of a vessel or facility. Participating in management is also clarified, so that a lender will not risk liability unless there is actual participation in the management or operational affairs.

A second section of the bill addresses the state's lien for clean up and the ability of the state to recover on its lien from a property owner not otherwise liable, to the extent of an increase in the value of the property resulting from the state's clean up.

The Alaska Department of Environmental Conservation and the Office of the Attorney General have considered the bill, and in fact the present draft of the bill is their version. We certainly appreciate their involvement and hope for their continued support of this legislation.

Please call me if you or your staff have any questions regarding the bill. I ask for your support of the bill, as it will be crucial if we are to pass the bill this session.

Thank you.

Sincerely,



Dan Mogck
Vice President