

**ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672**

**8280 SENATE HEALTH EDUCATION & SOCIAL SERVICES**



# RECORDS



# CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

*Jerry Pearson*  
Signature of Camera Operator

10/4/97  
Date

**SJR**

**30**

**SPONSOR STATEMENT  
FOR  
SENATE JOINT RESOLUTION NO. 30**

The continued development and maintenance of Alaska's educational infrastructure has become an increasingly important issue in Alaska. Several approaches have been suggested to resolve our current problems in constructing and maintaining Alaska's schools, but all of these approaches sacrifice a long term solution in favor of short term spending plans. Senate Joint Resolution No. 30 is part of a three-bill package which proposes a long term solution to constructing and maintaining Alaska's educational infrastructure.

SJR 30 proposes the establishment of a constitutional school construction and maintenance fund. This fund would be managed by the Permanent Fund Corporation and its investment criteria would be in line with that of the Alaska Permanent Fund. The principal and interest from this fund are dedicated to School construction, maintenance, and repair.

There are two companion bills to SJR 30. Senate Bill No. 181 makes a number of key changes to the way school construction, maintenance, and repair projects are reviewed and selected for consideration by the legislature. Senate Bill No. 180 reestablishes reimbursement of school construction debt for a limited period of time with specific borrowing caps established for Alaskan communities.

FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. SJR30

Revision Date: \_\_\_\_\_  
Title: Amendment to the Constitution RE: School Maintenance and Construction Fund  
Sponsor: Senate Finance Committee  
Requestor: \_\_\_\_\_

Department Affected: Office of the Governor  
BRU: Division of Elections  
Component: General and Primary Elections  
COMPONENT SERIAL NO. 22

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	2.2*	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	2.2*	0	0	0	0	0

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

REVENUE FUND SOURCE:	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	2.2*	0	0	0	0	0
1005 GF/Program	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	2.2*	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 (FY93) impact: 0

ANALYSIS: (Attach a separate page if necessary.) \*This figure covers cost of inclusion of information about this issue in the Official Elections Pamphlet as required by AS 15.50, and programming for DataVote counting of votes cast on the measure. However, only 4 measures can be printed on a single ballot card. Should this measure require printing an additional ballot card, the fiscal impact would be 53.4.

Prepared by: Charlot E. Thickstun, Director Phone: 465-4611 Date: 4/12/93  
Division: Division of Elections

Approved by Commissioner: Lt. Governor John B. Coonill Date: 4/12/93  
Agency: Office of the Lt. Governor

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE  
For further distribution information call the Governor's Legislative Office

**SJR**

**48**



# SENATOR LOREN LEMAN

Northwest Anchorage

716 W 4th Ave, Ste 540, Anchorage AK 99501 258-8189

Session: State Capitol, Juneau AK 99801 465-2095

## SPONSOR STATEMENT

SJR 48: A Resolution relating to welfare reform.

SJR 48 asks the federal government to address the continuing problems that plague the current welfare system. The growing number of people dependent on welfare and the costs associated with these increases have been a strain on the economic health of Alaska. In a country as rich as ours, we are allowing too many low income Americans to become trapped by the bondage of welfare.

Welfare programs such as Aid to Families with Dependent Children, Food Stamps, and Medicaid have failed in their intent to provide the means for recipients to become self-supporting, strengthen family life, and strive for personal independence.

State sponsored welfare is a noble humanitarian effort. Yet in its present form, the administered cures are destroying the social morals of our country. Families are torn apart, children are denied a loving home, and dependency on a government check is substituted for a hard days work.

The federal government unnecessarily inhibits the progress of state welfare reform programs with a time consuming and expensive waiver process. This resolution asks the Secretary of Health and Human Services to allow Alaska and other states to experiment with reforms which are more effective than federally mandated changes. A new approach must be taken at the state level to correct current deficiencies. Alaska should be allowed to make necessary changes to welfare without waiting for permission from the federal government.

These proposed reform programs have succeeded in other states, and are designed to promote personal independence without the need for further welfare assistance. Alaska needs freedom to create an assistance program that will encourage employment. Employment and self-sufficiency are the keys to solving our welfare problems. Each individual should ultimately be responsible for their own well-being. The government has a duty to promote independence, not dependence.

Private foundations and organizations are more efficient and compassionate in dealing with many of societies problems, welfare is one of them. Government should not be in the welfare business--people should. It is time we moved toward this goal.

FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. SJR 48

Revision Date: \_\_\_\_\_ Dept. Affected: Health and Social Services  
 Title: A Resolution relating to welfare reform BRU: Assistance Payments  
 Component: AFDC  
 Sponsor: Leman  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 0220

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
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 EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGES IN REVENUES	0	0	0	0	0	0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	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 (FY94) impact: NONE

ANALYSIS: (Attach a separate page if necessary)

The bill would have no immediate impact on Alaska's AFDC program. The resolution supports the ideas advanced by the Governor in his March 1993 position paper calling for federal support of the states' welfare reform efforts. If the federal government acts to expand state flexibility in the operation of AFDC programs, Alaska will be better situated to achieve long-term reductions in welfare dependency and AFDC program costs.

Prepared by: Jan L. Hansen, Director  
 Division: Division of Public Assistance  
 Approved by Commissioner: Margaret R. Lowe  
 Agency: Department of Health & Social Services

Phone: 465-2680  
 Date: 3/10/94  
 Date: 3-21-94

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE  
 For further distribution information call the Governor's Legislative Office

**SENATE COMMITTEE REPORT**  
**FIRST COMMITTEE OF REFERRAL**

DATE: 2/14/94

FURTHER:

Date of 5-Day Notice: 4/7/94  
 (in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 4/19/94

HESS Committee considered SJR 48

Relating to welfare reform.

and recommends:

replace with \_\_\_\_\_ CS \_\_\_\_\_ ( )

attaches amendment(s)

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

do pass

do not pass

no recommendation

individual recommendations

same title  
 new title  
 technical title change  
 (HB only)

**FISCAL NOTE INFORMATION**

Department	Date	Zero	Fiscal
Health & Social Services	3/21/94	✓	

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

**DO PASS:**

\_\_\_\_\_  
 Mike Miller  
 \_\_\_\_\_  
 Drew D. Lemaw  
 \_\_\_\_\_  
 Best Sharp  
 \_\_\_\_\_  
 \_\_\_\_\_

**OTHER RECOMMENDATIONS:**

\_\_\_\_\_  
 J. A. Duncan - No Rec  
 \_\_\_\_\_  
 J. Williams No Rec  
 \_\_\_\_\_  
 Judith E. Salo (No Rec)  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 Chair: Signature and Recommendation

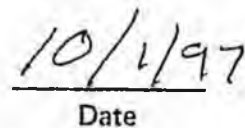


# RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

  
Signature of Camera Operator

  
Date

**SR**

**2**



Official Business

# Alaska State Legislature

SENATE

Senator Dave Douley

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

## SPONSOR STATEMENT

### Senate Resolution 2

#### Urging the Environmental Protection Agency to Suspend the Oxygenated Fuels Program in Anchorage

The purpose of this resolution is to ask the Environmental Protection Agency (EPA) to suspend the Anchorage oxygenated fuels program for 1993-94 unless it is proven completely safe and effective.

EPA began its oxy-fuel program November 1, and suspended the program on March 1. Many Anchorage residents complained of health problems related to oxy-fuels and nearly 18,000 residents signed a petition urging Governor Wally Hickel to end the program.

This resolution discusses alternatives to the oxygenated fuels program and allows for the continuance of the program if it works.

# STATE OF ALASKA

## DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF PUBLIC HEALTH  
SECTION OF EPIDEMIOLOGY

3601 "C" STREET, SUITE 576  
P.O. BOX 240249  
ANCHORAGE, ALASKA 99524-0249

WALTER J. HICKEL, GOVERNOR

INFECTIOUS DISEASES  
AIDS/STD  
TUBERCULOSIS  
IMMUNIZATION 561-4406  
CHRONIC DISEASES  
DIABETES  
INJURY CONTROL

### Preliminary Evaluation of Potential Illness Due to Exposure to Oxygenated Fuels Anchorage, Alaska

Bruce Chandler, M.D., M.P.H. *SPC*  
*John* John Middaugh, M.D.  
Section of Epidemiology  
December 23, 1992

#### Background

The Section of Epidemiology collaborated with the National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC) in an investigation of potential illness due to exposure of oxygenated fuels in Fairbanks, Alaska. Our findings were reported on December 11, 1992. On December 11, 1992 the oxygenated fuel program was suspended in Fairbanks but continued in Anchorage.

Because our initial health investigation was limited to Fairbanks, during the week of December 14-18, the Section of Epidemiology conducted a similar study in Anchorage.

#### Methods

We selected three groups for study: taxi cab drivers at the Anchorage International Airport, employees at the Anchorage Neighborhood Health Center, and employees at Providence Hospital. All persons were asked to complete a questionnaire similar to the one used in Fairbanks. All persons were asked if they experienced an increase in any of the following health complaints after November 1, 1992: red, watery, irritated or itchy eyes; nausea or vomiting; burning sensation in the nose or mouth; cough; headache; dizziness; and spaciness or disorientation. We also asked the amount of time spent traveling by motor vehicle in Anchorage, whether there was an increase in several symptoms of acute viral infection (diarrhea or loose stools; fever; sweats or chills; and muscle aches), and age and sex.

Taxi cab drivers were interviewed on December 18 at the Anchorage International Airport as they waited for fares. Employees of the Anchorage Neighborhood Health Center were interviewed on December 16 at the clinic. Employees of Providence Hospital completed questionnaires during their lunch break on December 17, and an epidemiologist reviewed questionnaires to ensure that all fields were completed.

We defined a possible oxyfuel-related case as a person who reported that after November 1, 1992 (the date that all gas stations in Anchorage were required to use oxyfuel) they experienced:

1. An increase in headaches; or
2. An increase in two or more of the following complaints:
  - nausea or vomiting
  - burning sensation in the nose or mouth
  - cough
  - dizziness
  - spaciness or disorientation
  - eye irritation

An individual who had any one (or more) of the following symptoms at any time was considered to possibly have an acute infection and therefore was not counted as a case:

- diarrhea or loose stools
- fever
- sweats or chills
- muscle aches

If an individual could not recall when their symptoms began, we included them as a case. If they mentioned onset as possibly at any time in October or earlier, they were excluded as a case.

### Results

The number of persons interviewed is shown in Table 1. Only one person refused to participate. The proportion of persons interviewed who met the case definition was highest in taxi cab drivers (48%) compared to health care employees (25%, 27%). The proportions of health care employees who met the case definition in Anchorage (26%) was almost identical to the proportion in Fairbanks (29%), while the proportion of taxi cab drivers in Anchorage (48%) was higher than taxi cab drivers in Fairbanks (33%).

Table 1. Persons interviewed and number of cases - Anchorage

	Number interviewed	Number of cases (%)
Taxi drivers	25	12 (46)
Anchorage Neighborhood Health Center employees	29	7 (25)
Providence Hospital employees	108	29 (27)

The symptoms of persons meeting the case definition are shown in Table 2. Headache was the most common complaint and was generally of short duration (less than 1 hour, or between 1 and 24 hours).

Table 2. Symptoms of cases of possible oxyfuel-associated illness - Anchorage

	Taxi drivers (n=12)	Anchorage Neighborhood Health Center employees (n=7)	Providence Hospital employees (n=29)
Headache	11	6	25
Cough	4	2	11
Nose or throat burning	5	2	11
Eye irritation	8	2	11
Nausea or vomiting	5	1	8
Dizziness	4	2	5
Spaciness	4	0	3

A higher proportion of cases in Anchorage reported headache, nose or throat burning, eye irritation, and nausea or vomiting. (Table 3)

Table 3. Comparison of Symptoms in Cases

Symptoms	Fairbanks (N=45)		Anchorage (N=48)	
	N	%	N	%
Headache	34	(76)	42	(88)
Cough	18	(40)	17	(35)
Nose or throat burning	13	(29)	18	(38)
Eye irritation	13	(29)	21	(44)
Nausea or vomiting	5	(11)	14	(29)
Spaciness	6	(13)	7	(15)

We examined the proportion of people who met the case definition who reported having symptoms while traveling in a motor vehicle or adding gasoline to a motor vehicle (Table 4)). Anchorage cases reported more symptoms while traveling than while fueling, a finding similar to cases in Fairbanks.

Table 4. Number of cases who reported symptoms while traveling in or adding fuel to a motor vehicle - Anchorage

	Number of cases	Symptoms while traveling	Symptoms while fueling
Taxi drivers	12	12	9
Anchorage Neighborhood Health Center employees	7	5	3
Providence Hospital employees	29	22	16

## Discussion

The results of this study in Anchorage are very similar to the results of our earlier study in Fairbanks. The proportion of health care workers in Anchorage who met our case definition

was almost identical to the proportion in Fairbanks. A higher proportion of taxi cab drivers in Anchorage met the case definition than in Fairbanks. In both cities, taxi cab drivers had a higher proportion of cases than health care employees.

Because the University of Alaska Anchorage does not have students living in dormitories on a campus as isolated as in Fairbanks, we did not attempt to interview University students in Anchorage. We could not identify a readily accessible group in Anchorage to use as controls.

The epidemiologists who administered the questionnaires judged that most persons who participated were sincere, concerned, and appeared to be providing honest information about their symptoms. Several Anchorage taxi cab drivers mentioned several peripheral issues that might have biased their reporting of symptoms including:

- "oxyfuels cost more"
- "my car is not running good"
- "my gas mileage is down"
- "the airport is charging us more so my profits are down"

As in Fairbanks, symptoms of illness were acute, mild, of short duration, and consisted primarily of headache, eye and throat irritation, and cough. Many persons related their symptoms to exposure either in or while fueling a motor vehicle. No persons were identified who had experienced severe symptoms.

There are many limitations to this investigation. The investigation was initiated with only modest goals--to try to determine if symptoms were occurring, if symptoms occurred in a consistent pattern, and if symptoms could be related to exposure to oxyfuel. No definitive result could be expected from our study.

We were especially interested to compare results in Anchorage with results from our earlier survey in Fairbanks. Compared to the widespread media coverage and public opposition to the oxyfuel program in Fairbanks, little organized protest or publicity occurred in Anchorage. Until this survey, we had only anecdotal information that Anchorage individuals were experiencing illness possibly due to exposure to oxyfuels.

Complaints of illness in Fairbanks occurred before typically arctic temperatures descended. The occurrence of symptoms in Anchorage is consistent with those in Fairbanks and is not able to be ascribed solely to the formidable arctic climatologic winter conditions usually seen in Fairbanks.

By necessity, our findings must be considered preliminary, requiring substantial additional investigation. Our limited study does not provide definitive evidence that symptoms are due to the oxyfuel program. Nevertheless, we believe that the findings of our investigation lend support to reports that both Anchorage and Fairbanks residents are experiencing illness associated with exposure to oxygenated fuel or motor vehicle exhaust. If we extrapolate from

the observed attack rate to the general population of Anchorage, then as many as 24,897 Anchorage residents may be experiencing symptoms due to exposure to oxyfuels.

Symptoms appear to be consistent with those reported elsewhere and are more prevalent among those more heavily exposed compared to a control group. Symptoms are mostly acute, mild, and of short duration. No serious illness is known to have occurred due to exposure.

Definitive studies to strengthen the evidence of the relationship between the oxyfuel program and illness will require substantial effort and time.

### Recommendations

We believe that the balance between expected health benefits from continuation of the current oxyfuel program compared to the very real possibility that illness is being caused by the program needs careful consideration.

No illness can be anticipated to occur from exposure to carbon monoxide in ambient air at the levels and frequency that have occurred in the past or could be expected to occur in Anchorage and Fairbanks, if the program were to be suspended.

We recommend that the oxyfuel program in Anchorage be suspended. Additional studies should be undertaken to provide definitive scientific information upon which to base decisions about use of oxyfuels in the future.

### Acknowledgement

Our thanks to Janet Cismoski, R.N., C.D.E.; Mike Beller, M.D., M.P.H.; Brad Gessner, M.D.; Mindy Schloss, R.N., M.P.H.; and Diane Ingle, B.A. for their assistance in conducting this investigation.

N E W S   R E L E A S E

Alaska Department of Environmental Conservation  
410 Willoughby Ave. Juneau, Alaska 99801-1795  
Phone: (907) 465-5060 Fax: 465-5097

February 8, 1993

Contact: Joe Ferguson

MTBE USE TO BE CONCLUDED MARCH 1 ON SCHEDULE

Juneau... Scientists and officials from State, federal, and Anchorage agencies conferred today to review scientific studies regarding possible negative health effects from the use of MTBE in Alaska. Officials agreed to conclude MTBE use in Anchorage on March 1 as scheduled. A decision whether to resume its use next fall will be made after studies are completed.

MTBE is a "fuel oxygenate" mixed with gasoline to help reduce carbon monoxide in car exhausts.

MTBE was earlier removed from the gasoline supplies in Fairbanks after State and federal officials concluded that further cold climate studies should be conducted before use in Fairbanks unique climate. The group of officials and scientists meeting today agreed that MTBE should be resumed in Anchorage or Fairbanks only after further studies show that continuing to require the MTBE will have a net positive health effect.

Studies including blood sampling and measurements of ambient indoor and outdoor air have been done in Fairbanks in a joint project by the Centers for Disease Control and Prevention, the Alaska Department of Health and Social Services, the Alaska Department of Labor and the Alaska Department of Environmental Conservation. These studies are continuing, and full and complete data and correlation results of original measurements are not yet finished.

At this point, results are not sufficient to conclude that there are ill health effects from the use of MTBE, but the substance was traceable in blood samples taken during the recent studies. Further work is needed to determine whether any negative health effects result from chronic exposure to MTBE. Scientists said that finding the substance in blood samples does not necessarily mean that it causes health problems. Trace amounts of chemicals from the environment are commonly found in blood and tissue samples.

For further information, contact: Len Verrelli, DEC Juneau, 907-465-5128.

###

United States  
Environmental Protection  
Agency

Region 10  
1701 Sixth Avenue  
Seattle WA 98101

Alaska  
Idaho  
Oregon  
Washington

# EPA News Release

92-105

Contact: Bub Jacobson  
EPA/Seattle  
(800) 424-4372...toll-free  
from within Alaska  
or  
(206) 553-1203...direct line  
(206) 285-3916...home phone

December 11, 1992

## FOR IMMEDIATE RELEASE

The Environmental Protection Agency has received notification of Governor Hickel's intention to suspend temporarily the requirement for the use of oxygenated fuels in Fairbanks. EPA understands the reasons that caused the Governor to take such action. EPA remains convinced that the oxygenated fuels program is an effective way to reduce carbon monoxide and has the added advantage of reducing other gasoline additives that are potentially harmful.

However, the concerns of the citizens of Fairbanks have been and must continue to be taken seriously. EPA will conduct additional studies of oxygenated fuels in arctic conditions. In the meantime, EPA and the Alaska Department of Environmental Conservation will work together to continue the progress toward attainment of the carbon monoxide standard.

EPA supports the Governor's decision to retain the oxygenated fuels program in Anchorage, since geography and climate are more like other successful programs in the lower 48 states.

f

3/7/93

## Researcher to speak on oxyfuel issue

The nationally acclaimed university researcher who invented an instrument to measure carbon monoxide emissions from moving vehicles will speak about the pros and cons of oxyfuel during a free public lecture at 7 p.m. Tuesday in the borough's Noel Wien Library.

The talk is sponsored by the Geophysical Institute of the University of Alaska Fairbanks.

University of Denver Professor Donald Stedman gained national attention when he proved that a one-second test conducted with a simple infrared beam could identify cars that produce too much carbon monoxide, the suffocating gas that reaches peak levels during cold weather.

Stedman's remote automobile measuring device was set up and tested in a busy intersection in Provo, Utah. The device shot an infrared beam at about 10,000 moving vehicles to find out which were emitting gross amounts of carbon monoxide. Those emitting high amounts of carbon monoxide were brought into service stations for tune-ups. Initial research indicates air in Provo was cleaner a month later.

Researchers have shown that only about 10 percent of the cars in a given area put out more than 50 percent of the pollution. If the major polluters are forced to clean up, blanket requirements that affect all drivers in an area may not be necessary, some researchers say.

Last November, the Environmental Protection Agency required gas stations in Fairbanks and 39 other metropolitan areas nationwide to sell gasoline with added oxygen. The Fairbanks oxygenated fuel program lasted less than two months. Opponents argued the fuel, which added 14 cents to a gallon of gas, made them physically ill, caused mechanical problems, and drastically reduced gas mileage.

No research was available to show how oxyfuel performed at temperatures below 20 degrees, according to Geophysical Institute Assistant Professor Richard Benner. Benner and research assistant Dave Veasey are currently conducting a variety of tests to find out the best means of reducing carbon monoxide emissions in the Fairbanks North Star Borough.

Carbon monoxide emissions in the borough have exceeded air quality standards this winter and indications are EPA will probably require oxyfuel to be sold in Fairbanks again next winter unless suitable alternatives to reducing carbon monoxide emissions are found, Benner said.

The EPA tested Stedman's device in Fairbanks earlier this winter. No results have been released yet.

## Oxy-fuel, cold weather

By MICHAEL O'CALLAGHAN

There are three strong reasons most Alaskans oppose the use of fuel oxygenated with MTBE.

1) It causes health problems with a substantial portion of people who breathe its fumes — 10 percent of those in Anchorage, according to the state epidemiologist, Dr. John Middaugh. In his recent study, 2) Oxy-fuel causes mechanical problems in many Alaska vehicles and reduces miles per gallon for drivers. 3) MTBE costs four times as much here as in the Lower 48.

What would any country think if an enemy placed a poison in the air that caused 30 percent of its population to become ill and somehow was able to take money from the people while doing it? At a minimum, the country would consider it: an act of war.

### HEALTH

A person's health is one of his most precious assets. There is no doubt oxy-fuels diminish Alaskans' health.

### COMPASS

Dr. Middaugh also coordinated with the federal Centers for Disease Control and National Center for Environmental Health to study health effects of oxy-fuel in Fairbanks. They found 30 percent of those with moderate to heavy exposure to MTBE automobile exhaust suffered health problems. Oxy-fuel is a sick idea, and it causes illness.

The additive MTBE causes nausea, vomiting and shortness of breath. When emitted from an internal combustion engine it forms many by-products. Few have been identified — of the ones that have, little is known about their toxic or carcinogenic (cancer-causing) abilities. The most is known about aldehydes, the most common known as formaldehyde. There are many types of formaldehyde. They cause cancer, coughs, phlegm, asthma, chronic bronchitis and chest colds.

Another known by-prod-

uct is acetaldehyde. It is also a poison, suspected cancer causer and known irritant to humans. We are guinea pigs.

Scientists have found that acetaldehyde lasts for about 12 hours, formaldehyde, four hours at 74 degrees Fahrenheit. They deteriorate because of sunlight and above-freezing temperatures. It is known that their lifetime is extended with cold and darkness, maybe causing them to last two or three times longer.

When Denver introduced 6 percent oxy-fuel (ours is 13 percent) their aldehydes jumped 36 percent, and they exceeded National Institute of Safety and Health safety levels several times. Anchorage doesn't test for aldehydes. Feel safe?

The cold-start phenomenon accounts for the bulk of Anchorage's air pollution (CO) problem. Oxy-fuel is supposed to reduce CO emissions. In a Denver cold-start study comparing oxy- and non-oxy-fuels there was a one-third increase in CO.

Meanwhile, Anchorage and Mat-Su people suffer diminished health because of M.D.E. gasoline.

# Study finds gas additive in blood

## Stevens seeks fuel exemption

By DAVID WHITNEY

Daily News reporter

WASHINGTON — U.S. Sen. Ted Stevens said he would seek legislation exempting the state from having to use oxygenated gasoline after the Centers for Disease Control told Congress Wednesday that a study found the pollution-control additive MTBE in the blood of Fairbanks drivers.

The additive methyl tertiary butyl ether is intended to cut carbon monoxide emissions from cars in cities where pollution levels during the winter exceed federal standards.

Although pollution levels are excessive in Fairbanks and Anchorage only a few days a year, the two cities

■ **A WINTER HEADACHE**  
Consumers in Montana, Colorado and New Jersey are also complaining about oxy-fuel. B-3

were among 39 urban areas nationally that were required to use oxygenated gasoline under 1990 amendments to the Clean Air Act.

The program took effect in mid-October, and within two weeks several hundred Fairbanks residents had complained of health problems including vomiting, dizziness, headaches and eye irritation.

Based on those complaints, Gov. Wally Hickel suspended the program in Fairbanks; but gasoline con-

Please see Page E-3. GAS

3/11/93

# GAS: Senator wants additive out of Alaska

Continued from Page B-1

taining MTBE continued to be sold in the Anchorage area until March 1.

CDC Director William L. Roper told a Senate Appropriations Committee panel Wednesday that its tests on 18 Fairbanks drivers and automotive workers found minute amounts of the chemical present in their blood.

Roper said the study results "suggest a possible relationship" between the additive and the health complaints but "we strongly recommend further investigation."

Stevens, R-Alaska, said he doesn't want to wait that long.

"I intend to introduce a bill that prohibits use of all oxygenated fuels in Alaska until they are proven safe," Stevens said.

MTBE has been used for years as a substitute for lead to improve gasoline octane

levels. As a pollution-control additive, however, it represents 15 percent of each gallon of gasoline, many times higher than its concentrations when used as an octane booster.

After Wednesday's hearing, the nation's leading manufacturer of MTBE, Arco Chemical Americas Co., said it believes the additive is safe but that the industry is working with the CDC and the Environmental Protection Agency on additional studies that it hopes can be completed this summer.

The MTBE industry also released a report dated Tuesday by the Colorado Department of Health saying that use of MTBE gasoline there in the 1991-92 winter season had reduced pollution by 23 percent.

The state began using the oxygenated gasoline in 1987 and reported receiving "only a handful" of health-related complaints.

5/11/93 Fairbanks News Miner

# Oxyfuel leaves trace here

By STACEY JOYCE  
States News Service

WASHINGTON—Government scientists have found traces of a controversial chemical in the blood of Fairbanks residents, but aren't sure if it caused a rash of minor health problems this winter.

Dr. William Roper, retiring director of the Centers for Disease Control and Prevention, told federal lawmakers Tuesday that there could be a possible relationship between exposure to a gasoline additive known as MTBE and complaints about headaches and nausea.

There is insufficient evidence however, to characterize MTBE as

a health risk, Roper told the Labor, Health and Human Services Subcommittee of the Senate Appropriations Committee. He recommended further study of the issue.

Last December, Gov. Walter Hickel halted the use of MTBE-enhanced gasoline in Fairbanks after more than 200 residents complained of various symptoms, including headaches, dizziness and nausea. MTBE, which stands for methyl tertiary butyl ether, increases the oxygen content of gasoline. This "oxygenated fuel" helps to reduce automotive pollution.

Thirty-nine American cities must use oxygenated fuels during the winter months to reduce carbon monoxide emissions.

Republican Sen. Ted Stevens contends that Alaska should not have to use oxygenated fuels, because the state only violates national air quality standards a few days each year. Stevens pledged to introduce legislation that would prohibit the use of oxygenated fuels in Alaska until they are proven to be safe.

The fuel program also provoked public outcry in Fairbanks because it boosted the cost of gasoline 14 cents.

The use of MTBE-enhanced gasoline "was such a political issue (in Fairbanks). It was hard to separate out people's emotional and health reactions," said Richard Wilson, director of the Environ-

See OXYFUEL on Back Page

ARGO Chemical, which produces about 2 million gallons of MTBE a day, was not surprised to find traces of MTBE in blood. "A red flag would occur with exposure to any chemical," said Bill Whitney, business manager for ARCO Chemical.

The level of MTBE found in Fairbanks residents was "30,000 times below the level needed to cause any adverse health effects," Whitney said.

Scientists will conduct another battery of tests around the country to determine if MTBE is harmful to humans. While researchers collect more data and crunch numbers, CDC's preliminary results remain open to interpretation.

Roper told the panel that preliminary findings show measurable levels of MTBE in the blood of Fairbanks workers and commuters, exposed to auto exhaust, fumes from gasoline, made with MTBE.

Since November 1992, the CDC and the EPA have been trying to determine if there is a link between the health complaints, Alaska's extremely cold weather and the use of MTBE.

Roper told the panel that preliminary findings show measurable levels of MTBE in the blood of Fairbanks workers and commuters, exposed to auto exhaust, fumes from gasoline, made with MTBE.

OXYFUEL

# Complaints spur oxy-fuel study

## Research under way, though EPA says additive doesn't affect health

By MICHAEL PARRISH  
Los Angeles Times

An additive mixed into gasoline this past winter is giving consumers headaches and making them nauseous, some public-interest groups and environmentalists say.

So far there is no scientific basis for the fear, says the Environmental Protection Agency and Arco Chemical Co., the world's largest maker of the substance. The EPA had required the additive.

Even so, in response to consumer complaints, producers of the additive and the American Petroleum Association joined the EPA last month to finance a study by Rutgers University of commuter exposure.

Consumer complaints of nausea and headaches from gasoline containing 15 percent methyl tertiary butyl ether began last fall in Fairbanks and Anchorage and have surfaced more recently

in Missoula, Mont., and parts of Colorado and New Jersey.

"I have seen customers gagging and turning away" at gasoline stations in Southern California, commuter Paul Christensen said Friday.

The EPA and producers of MTBE say a decade's experience with the additive has shown no such harmful effects. And the new research should answer any remaining questions before the additive is required again.

"This (Rutgers) test program is well under way," said William S. Whitney, business manager for oxygenated fuels at Philadelphia-based Arco Chemical. The study will be finished by August, Whitney said. "So this should be understood before the program begins next fall. The only reason we haven't addressed this health issue before is

because we haven't observed it."

The 1990 federal Clean Air Act required additives such as MTBE in gasolines distributed in 39 urban areas of the United States beginning Nov. 1, 1992.

Such additives, known as oxygenates, alter the combustion of gasoline to reduce an automobile's emission of carbon monoxide. Winter weather, with its temperature inversions and slower auto-engine warmup, increases the output of carbon monoxide, which can harm people, particularly those with existing respiratory ailments.

The two additives available — MTBE and ethanol, a grain alcohol usually made from corn — could have their own adverse health effects, some environmentalists and consumers worry. During combustion, both create formaldehyde.

Some concern also has been raised that MTBE could be a low-level cancer-causing agent over long exposure. Though studies so far show little likelihood of this, according to the EPA, the agency still is studying the matter. An EPA spokesman said the Clean Air Act does not specify which oxygenate should be added to winter gasoline.

Concern over consumer complaints of nausea and headaches also has caught the attention of the federal Centers for Disease Control and Prevention. An early CDC report found traces of MTBE in the blood of several Fairbanks residents.

Richard D. Wilson, director of the EPA's office of mobile air-pollution sources, sees the issue muddled by factors beyond science. "People will blame anything new for anything that happens to their cars."

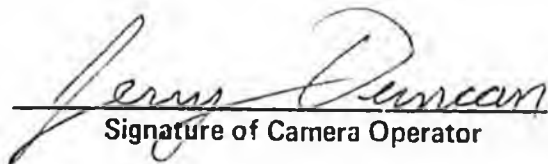


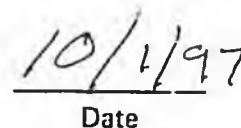
# RECORDS



# CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

  
Signature of Camera Operator

  
Date

**HB**

**2**

62.030

n shall  
justice  
e infor-

follow-  
ated to  
ored in

§ 30 ch

n (b) and  
lasses of  
stems is  
ng to the  
commis-  
be used  
vful pur-  
of other  
gulations  
ay not be  
ines the

qualified  
gulations  
de proce-  
of individ-

e informa-  
mation to  
quest the  
records to  
o do so, or  
nsatisfac-

tory, the person may in writing request review by the commission within 60 days of the decision of the agency. The commission, its representative or agent shall, in a case in which it finds a basis for complaint, conduct a hearing at which the person may appear with counsel, present evidence, and examine and cross-examine witnesses. Written findings and conclusions shall be issued. If the record in question is found to be inaccurate, incomplete, or misleading, the commission shall order it to be appropriately purged, modified, or supplemented by an explanatory notation. An agency or person in the state with custody, possession, or control of the record shall promptly have every copy of the record altered in accordance with the commission's order. Notification of a deletion, amendment, and supplementary notation shall be promptly disseminated by the commission to persons or agencies to which records in question have been communicated, as well as to the person whose records have been altered.

(d) An agency holding or receiving criminal justice information shall maintain, for a period determined by the commission to be appropriate, a listing of the agencies to which it has released or communicated the information. These listings shall be reviewed from time to time by the commission or staff members of the commission to determine whether the provisions of this chapter or any applicable regulations have been violated.

(e) Reasonable hours and places of inspection, and any additional restrictions, including fingerprinting, that are reasonably necessary both to assure the record's security and to verify the identities of those who seek to inspect them may be prescribed by published rules. Fingerprints taken under this subsection may not be transferred to another agency or used for any other purpose.

(f) A person or agency aggrieved by an order or decision of the commission under (c) of this section may appeal the order or decision to the superior court. The court shall in each case conduct a de novo hearing and may order the relief it determines to be necessary. If a person about whom information is maintained by an agency challenges that information in an action under this subsection as being inaccurate, incomplete, or misleading, the burden is on the agency to prove that the information is not inaccurate, incomplete, or misleading. (§ 1 ch 161 SLA 1972; am § 1 ch 66 SLA 1983)

~~HP 3 SECTION 21~~

Sec. 12.62.035. Access to certain crime information. (a) An interested person may request from the Department of Public Safety records of all felony convictions, convictions involving contributing to the delinquency of a minor, and convictions involving any sex crimes of a person who holds or applies for a position of employment in which the person has or would have supervisory or disciplinary power over a minor or dependent adult. The Department of Public Safety shall disclose the information to the requesting interested person and shall

provide a copy of the information to the person who is the subject of the request.

(b) A request for records under (a) of this section must include within it the fingerprints of the person who is the subject of the request and any other data specified in regulations adopted by the commission. The request must be on a form approved by the commission, and the commission may charge a fee to be paid by the requesting interested person for the actual cost of processing the request. The commission shall destroy an application within six months after the requested information is sent to the requesting interested person and the person who is the subject of the request.

(c) The commission shall adopt regulations to implement the provisions of this section.

(d) If an individual is denied employment as a result of the disclosure of inaccurate or incomplete records under this section, an action may be brought against the state. No other action may be brought against the state, or an agency or employee of the state, as a result of disclosing or failing to disclose criminal justice information.

(e) The Department of Education shall request and receive records under (a) of this section for a person seeking initial certification as a teacher or administrator.

(f) In this section

(1) "contributing to the delinquency of a minor" means a conviction for a violation or attempted violations of AS 11.51.130(a)(1), (3), or (5); former AS 11.40.130; or the laws of another jurisdiction if the offense would have been a crime in this state under AS 11.51.130(a)(1), (3), or (5) or former AS 11.40.130 if committed in the state;

(2) "dependent adult" means an adult with a physical or mental disability who requires assistance or supervision with the activities of daily living;

(3) "interested person" means a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person, that employs or solicits the employment of a person to serve with or without compensation in a position in which the person has or would have supervisory or disciplinary power over a minor or dependent adult;

(4) "sex crime" means a conviction for a violation or attempted violation of AS 11.41.410 — 11.41.470, AS 11.61.110(a)(7), or AS 11.66.100 — 11.66.130; former AS 11.15.120, 11.15.134, or 11.15.160; former AS 11.40.080, 11.40.110, 11.40.130, or 11.40.200 — 11.40.420; or the laws of another jurisdiction if the offense would have been a crime in this state under one of the sections listed in this paragraph if committed in the state. (§ 2 ch 66 SLA 1983; am § 44 ch 6 SLA 1984; am §§ 1 — 3 ch 7 SLA 1990)

§ 47.10.220

nitment. A juve-  
vidence of having  
ditions and regu-  
ears to the satis-  
probability that  
the law. (§ 10 art

requirement in Chil-  
a disposition hearing  
dered revocation of a  
t's administratively  
C. v. State, 625 P.2d

nnexion with a juve-  
probation revocation  
n merely determining  
probation conditions  
State, 625 P.2d 839

ment may employ  
the duties of pro-  
ations for the  
er duties in the  
with the intent of  
peace officer with  
sts of minors who  
rders of the court  
ist and advise the  
of minors under  
957)

ct may accept  
foundations and  
of this chapter.  
A 1971)

are  
sts

§ 47.10.230 WELFARE, SOCIAL SERVICES & INSTITUTIONS § 47.10.230

HP 3-SECTION 3

Sec. 47.10.230. Powers and duties of department over care of child. (a) Subject to (e) and (f) of this section, the department shall arrange for the care of every child committed to its custody by placing the child in a foster home or in the care of an agency or institution providing care for children inside or outside the state. The department may place a child in a suitable family home, with or without compensation, and may place a child released to it, in writing verified by the parent, or guardian or other person having legal custody, for adoptive purposes, in a home for adoption in accordance with existing law.

(b) The department may pay the costs of maintenance that are necessary to assure adequate care of the child, and may accept funds from the federal government that are granted to assist in carrying out the purposes of this chapter, or that are paid under contract entered into with a federal department or agency. A child under the care of the department may not be placed in a family home or institution that does not maintain adequate standards of care.

(c) The department may receive, care for, and make appropriate placement of minors accepted for care for a period of up to six months on the basis of an individual voluntary written agreement between the minor's parent, legal guardian, or other person having legal custody and the department. The agreement must include provisions for payment of fees under AS 44.29.022 to the department for the minor's care and treatment. The agreement entered into may not prohibit a minor's parent, legal guardian, or other person who had legal custody from regaining care of the minor at any time.

(d) In addition to money paid for the maintenance of foster children under (b) of this section, the department

(1) shall pay the costs of caring for physically or mentally handicapped foster children, including the additional costs of medical care, habilitative and rehabilitative treatment, services and equipment, special clothing, and the indirect costs of medical care, including child care and transportation expenses;

(2) may pay for respite care; in this paragraph "respite care" means child care for the purpose of providing

(A) temporary relief from the stresses of caring for a foster child who has a physical or mental disability or a physical or mental impairment; in this subparagraph

(i) "physical or mental disability" has the meaning given in AS 18.80.300(12)(A), (B), and (D); and

(ii) "physical or mental impairment" has the meaning given in AS 18.80.300; and

(B) protection for the child when the foster parent is

(i) away from the home because of an emergency and other care is not available for the child; or

(ii) on vacation and the child, because of age or infirmity, cannot be placed in any other type of temporary care facility; and

(3) may pay a subsidized guardianship payment under AS 25.23.210 when a foster child's foster parents or other persons approved by the department become court-appointed legal guardians of the child.

(e) A child may not be placed in a foster home or in the care of an agency or institution providing care for children if a blood relative exists who requests custody of the child. However, the department may retain custody of the child and provide for its placement in the same manner as for other children if it makes a determination, supported by clear and convincing evidence, that the custody of the child by the blood relative will result in physical or emotional damage. In making that determination, poverty, including inadequate or crowded housing, on the part of the blood relative, is not considered prima facie evidence that physical or emotional damage to the child will occur. This determination may be appealed to the superior court to hear the matter de novo.

(f) If a blood relative of the child specified under (e) of this section exists and agrees that the child should be placed elsewhere, before placement elsewhere the department shall fully communicate the nature of the placement proceedings to the relative. Communication under this subsection shall be made in the relative's native language, if necessary. Nothing in this subsection or in (e) of this section applies to child placement for adoptive purposes.

(g) The department may enter into agreements with Alaska Native villages or Native organizations under 25 U.S.C. 1919 (Indian Child Welfare Act of 1978) respecting the care and custody of Native children and jurisdiction of Native child custody proceedings. (§ 1 art III ch 145 SLA 1957; am § 5 ch 100 SLA 1971; am § 6 ch 104 SLA 1971; am § 1 ch 76 SLA 1976; am §§ 36, 37 ch 126 SLA 1977; am § 132 ch 6 SLA 1984; am § 1 ch 127 SLA 1986; am § 90 ch 138 SLA 1986; am § 1 ch 48 SLA 1988; am § 6 ch 204 SLA 1990)

**Cross references.** — For legislative intent in enacting (e) and (f) of this section, see § 35, ch. 126, SLA 1977 in the Temporary and Special Acts. For duties of custody review panels in connection with custody decisions made under (c) of this section, see AS 47.10.440.

**Effect of amendments.** — The first 1986 amendment added subsection (g).

The second 1986 amendment in subsection (c), substituted "must include provisions for payment of fees under AS 44.29.022" for "may include provisions for payment, in whole or in part" in the second sentence and substituted "may not prohibit" for "shall not operate to prohibit" in the third sentence.

The 1988 amendment, in subsection (d),

divided the formerly undivided language into an introductory paragraph and paragraphs (1) and (2). The amendment also substituted "and transportation expenses; and" for "transportation expenses, and" in paragraph (d)(1); and, in paragraph (d)(2), divided the formerly undivided language into an introductory paragraph and subparagraph (B), rewrote the introductory paragraph, inserted item (A), divided the formerly undivided language in subparagraph (B) into an introductory paragraph and items (i) and (ii), deleted "not to exceed 12 hours in any 30-day period; it also means child care for a period not to exceed seven days in a year for the purpose of providing emergency" at the beginning of the introductory paragraph of subpara-

§ 47.21.020

ols and equipment,  
aving, crown proof-

care, preventative  
e care;  
: exercises, and fire

minimal equipment;  
dividual and group  
lls;  
odes of subsistence  
s and communities

on, community ser-  
ums shall be estab-  
gional Affairs and

a Outward Bound,  
similar wilder-  
nce;  
LA 1979)

ent Agency.

7.900.]

ersons and

ulation of nursing or  
24th 689.

§ 47.24.010 WELFARE, SOCIAL SERVICES & INSTITUTIONS § 47.24.010

Article 1. Protection of the Elderly.

Section

- 10. Reports of harm
- 20. Action on reports
- 30. Protective services
- 40. Review and referral
- 50. Confidentiality of reports

Section

- 60. Authority of the department
- 70. Regulations
- 75. Quarterly report
- 100. Definitions

---

Cross references. — For statement of SLA 1983, in the Temporary and Special legislative purpose in enacting AS Acts. 47.24.010 — 47.24.100, see § 1, ch. 36.

---

Sec. 47.24.010. Reports of harm. (a) The following persons who, in the performance of their professional duties, have reasonable cause to believe that an elderly person has suffered harm shall, not later than 24 hours after first having cause for the belief, report the harm to the Department of Health and Social Services:

- (1) a physician or other licensed health care provider;
- (2) a mental health professional as defined in AS 47.30.915(11);
- (3) a pharmacist;
- (4) an administrator of a nursing home, residential care or health care facility;
- (5) a guardian or conservator;
- (6) a police officer;
- (7) a village public safety officer;
- (8) a village health aide;
- (9) a social worker;
- (10) a member of the clergy;
- (11) a staff employee of a project funded by the Older Alaskans Commission;
- (12) an employee of a homemaker program or home health aide program;
- (13) an emergency medical technician or a paramedic in the mobile intensive care program.

(b) A report of harm made under this section may include the name and address of the person reporting the harm and shall include

- (1) the name and address of the elderly person;
- (2) information relating to the nature and extent of the harm;
- (3) other information that the person reporting the harm believes might be helpful in an investigation of the case or in providing protection for the elderly person.

(c) A person who fails to comply with this section is guilty of a violation as defined in AS 11.81.900(b).

(d) This section does not prohibit a person listed in (a) of this section from reporting cases of economic or physical harm to an elderly person that have come to the person's attention in a nonprofessional capacity. This section does not prohibit any other person from reporting economic harm to an elderly person that the person has reasonable cause to believe is a result of theft, fraud, or coercion by a caretaker of the elderly person, or physical harm to an elderly person that the person has reasonable cause to believe is a result of abuse, neglect, or abandonment.

(e) If immediate action is necessary to protect the elderly person from imminent harm, the person shall make the report of harm to a police officer or a village public safety officer. The police officer or village public safety officer shall take immediate action to protect the elderly person and shall, at the earliest opportunity, notify the department.

(f) A person who, in good faith makes a report of economic or physical harm to an elderly person under AS 47.24.010 — 47.24.100, or who participates in judicial proceedings related to the submission of reports under AS 47.24.010 — 47.24.100, is immune from any civil or criminal liability that might otherwise be incurred or imposed.

(g) Failure to make a report under subsections (a) and (d) of this section is not the basis of civil liability unless otherwise provided by law.

(h) If a person makes a good faith report of harm under this section, an employer or supervisor of the person, or a public or private agency or entity that provides benefits, services, or housing to the person, may not discharge, demote, transfer, reduce the pay or benefits or work privileges of, prepare a negative work performance evaluation of, deny or withhold benefits or services, evict, or take other detrimental action against the person because of the report. The person making the report may bring a civil action for compensatory and punitive damages against an employer, supervisor, agency, or entity that violates this subsection. In the civil action there is a rebuttable presumption that the detrimental action was retaliatory if it was taken within 90 days after the report of harm was made. (§ 2 ch 36 SLA 1983; am § 4 ch 108 SLA 1988)

Effect of amendments. — The 1988 amendment added subsection (h).

Sec. 47.24.020. Action on reports. (a) Upon receiving a report of harm, the department shall promptly initiate an investigation to determine the economic or physical condition of the elderly person named in the report and whether action or services are needed for the protection of the elderly person. The department shall personally interview the elderly person during the investigation unless the elderly

of this section  
elderly person  
onal capacity.  
reporting eco-  
sonable cause  
retaker of the  
at the person  
lect, or aban-

lderly person  
of harm to a  
lice officer or  
to protect the  
fy the depart-

omic or physi-  
4.100, or who  
mission of re-  
any civil or  
imposed.

nd (d) of this  
e provided by

his section,  
ivate agency  
o the person,  
r benefits or  
e evaluation  
er detrimen-  
erson making  
and punitive  
ity that vio-  
ble presump-  
taken within  
LA 1983; am

ig a report of  
gation to de-  
derly person  
eeded for the  
ersonally in-  
is the elderly

person is unconscious or otherwise physically or mentally impaired to such an extent as to be unable to respond to questions.

(b) The department shall prepare a written report of the investigation, including findings, recommendations, and a determination of whether and what kind of protective services are to be offered to the elderly person. Upon request, the person who reported harm to the elderly person shall be notified of the status of the investigation. The department shall provide to the Department of Law a copy of each report of an investigation of harm to an elderly person if the report of harm is confirmed to be true.

(c) The department shall immediately terminate an investigation under this section upon the request of an elderly person who is the subject of a report of harm. However, if the department has reasonable cause to believe that the elderly person is incapacitated, the department may petition the superior court under AS 13.26 for appointment of a guardian or temporary guardian for the elderly person for the purpose of obtaining consent to continue the investigation. (§ 2 ch 36 SLA 1983)

Sec. 47.24.030. Protective services. (a) The department shall provide available protective services to a harmed elderly person if and to the extent to which the elderly person consents. If the department has reasonable cause to believe that the elderly person lacks the capacity to consent to receiving protective services, it may petition the superior court under AS 13.26 for appointment of a guardian or temporary guardian for the elderly person for the purpose of obtaining consent.

(b) If an elderly person who has consented to receiving protective services is prevented by a caretaker from receiving the services, the department may assist the elderly person to petition the superior court for an injunction restraining the caretaker from interfering with the provision of protective services to the elderly person. (§ 2 ch 36 SLA 1983)

Sec. 47.24.040. Review and referral. The department shall, not later than 90 days after initiating the provision of protective services to an elderly person, initiate a review of the case to determine whether continuation or modification of protective services that are being provided is warranted. The department shall reevaluate the case every 90 days thereafter until the case is closed. (§ 2 ch 36 SLA 1983)

HS 3 SECTION 4

Sec. 47.24.050. Confidentiality of reports. (a) Investigation reports and reports of harm filed under AS 47.24.010 — 47.24.100 are confidential and are not subject to public inspection and copying under AS 09.25.110 — 09.25.125. However, in accordance with AS 47.24.010 — 47.24.100 and regulations adopted under AS 47.24.010 — 47.24.100, investigation reports may be used by appropriate governmental agencies inside and outside the state, in connection with investigations or judicial proceedings involving harm to an elderly person.

(b) The department shall disclose a report of harm if the elderly person who is the subject of the report consents in writing. The department shall, upon request, disclose the number of verified reports of harm that occurred at an institution for care of the elderly. (§ 2 ch 36 SLA 1983)

Sec. 47.24.060. Authority of the department. In performing its duties under AS 47.24.010 — 47.24.100, the department may, subject to the elderly person's consent, initiate actions necessary to assure the health, safety and welfare of an elderly person, including the transfer of the elderly person from a nursing home, residential care or health care facility. (§ 2 ch 36 SLA 1983)

Sec. 47.24.070. Regulations. Regulations to implement AS 47.24.010 — 47.24.100 shall be approved by the Older Alaskans Commission (AS 44.21.200) before adoption by the department. (§ 2 ch 36 SLA 1983)

Sec. 47.24.075. Quarterly report. The department shall submit to the Older Alaskans Commission each quarter a statistical report of the department's activities related to the protection of elderly persons in the state. The report may not disclose the identity of victims or perpetrators of the harm. (§ 2 ch 36 SLA 1983)

HS 3 SECTION 5

Sec. 47.24.100. Definitions. In AS 47.24.010 — 47.24.100

(1) "abandonment" means desertion of an elderly person by a caretaker;

(2) "abuse" means the infliction of physical pain or injury, the infliction of mental anguish that requires medical attention, or the deprivation by a caretaker of services that are necessary to maintain the physical and mental health of an elderly person;

(3) "caretaker" means a person who is responsible for the care of an elderly person as a result of a family relationship, or who has assumed responsibility for the care of an elderly person voluntarily, by contract, or by court order;

(4) "department" means the Department of Health and Social Services;

§ 47.24.110 WELFARE, SOCIAL SERVICES & INSTITUTIONS § 47.24.110

(5) "economic harm" means intentional economic exploitation of an elderly person resulting from theft, fraud, or coercion by a caretaker of the elderly person;

(6) "elderly person" means a resident of Alaska who is 65 years of age or older;

(7) "harm" means physical harm or economic harm;

(8) "incapacitated" means a person's ability to receive and evaluate information or to communicate decisions is impaired for reasons other than minority to the extent that the person lacks the ability to obtain the essential requirements for physical health or safety without court-ordered assistance;

(9) "neglect" means the failure by the caretaker of an elderly person to provide services necessary to maintain the physical and mental health of the elderly person;

(10) "physical harm" means injury to the person of an elderly person resulting from abuse, neglect or abandonment;

(11) "police officer" has the meaning given in AS 18.65.290;

(12) "protective services" means services intended to prevent or alleviate harm resulting from abuse, neglect, exploitation, or abandonment. (§ 2 ch 36 SLA 1983)

Article 2. Protection of Disabled Adults.

Section

110. Reports of physical or sexual assault

120. Immunity from liability; retaliation prohibited

Sec. 47.24.110. Reports of physical or sexual assault. (a) The following persons who, in the performance of their professional duties, have reasonable cause to believe that a disabled adult is a victim of assault under AS 11.41.200 — 11.41.230 or sexual assault under AS 11.41.410 — 11.41.420, and that the disabled adult is unable to report the crime, shall promptly report the crime to the nearest law enforcement agency:

- (1) a physician or other licensed health care provider;
- (2) a mental health professional as defined in AS 47.30.915;
- (3) a pharmacist;
- (4) an administrator or employee of a nursing home, residential care, or health care facility;
- (5) a caretaker of the disabled adult;
- (6) a guardian or conservator of the disabled adult;
- (7) a police officer as defined in AS 18.65.290;
- (8) a village public safety officer;
- (9) a village health aide;
- (10) a social worker;
- (11) a member of the clergy;

(12) a staff employee of a program or project serving disabled adults;

(13) a licensed foster care provider;

(14) a paid employee of a domestic violence and sexual assault program or a crisis intervention and prevention program as defined in AS 18.66.900;

(15) an employee of a homemaker program or home health aide program;

(16) an emergency medical technician or paramedic in the mobile intensive care program.

(b) A person who knowingly fails or refuses to make a report required under (a) of this section is guilty of a class B misdemeanor.

(c) In this section, "disabled adult" means a person 18 years of age or older who has a physical or mental disability, or physical or mental impairment, as defined in AS 18.80.300. (§ 3 ch 42 SLA 1988)

**Sec. 47.24.120. Immunity from liability; retaliation prohibited.** (a) A person who in good faith makes a report under AS 47.24.110, regardless of whether the person is required to do so, is immune from civil or criminal liability that might otherwise be incurred or imposed for making the report.

(b) An employer or supervisor of a person who in good faith makes a report under AS 47.24.110 may not discharge, demote, transfer, reduce pay or benefits or work privileges of, prepare a negative work performance evaluation of, or take other detrimental action against the person because the person made the report. The person making the report may bring a civil action for compensatory and punitive damages against an employer or supervisor who violates this subsection. In the civil action there is a rebuttable presumption that the detrimental action by the employer or supervisor was retaliatory if it was taken within 90 days after the report was made. (§ 3 ch 42 SLA 1988)

## Chapter 25. Public Assistance.

### Article

1. General Relief Assistance (§§ 47.25.120 — 47.25.300)
2. Aid to Families with Dependent Children Act (§§ 47.25.310 — 47.25.420)
3. Job Opportunity and Basic Skills Program (JOBS) (§§ 47.25.421 — 47.25.429)
4. Adult Public Assistance (§§ 47.25.430 — 47.25.615)
5. Food Stamp Program (§§ 47.25.975 — 47.25.990)

the Attorney General at 1980 Senate Journal page 1764 and 1980 House Journal page 2221.

Article 1. Service Programs for Older Alaskans.

Section	Section
10. Older Alaskans service programs account	30. Pilot project grants
20. Grants for community service programs	40. Required contribution by sponsor
	50. Administrative requirements

**Sec. 47.65.010. Older Alaskans service programs account.** The older Alaskans service programs account is established in the Department of Administration. An amount to carry out the provisions of AS 47.65.010 — 47.65.050 may be appropriated annually by the legislature to the account. The amount appropriated to the account shall be fully distributed by the Older Alaskans Commission to sponsors of older Alaskans service programs in accordance with the provisions of AS 47.65.010 — 47.65.050. (§ 1 ch 152 SLA 1980; am § 5 ch 79 SLA 1981; am § 1 ch 37 SLA 1990)

**Effect of amendments.** — The 1990 amendment substituted "AS 47.65.010 — 47.65.050" for "this chapter" in the first and second sentences.

**Sec. 47.65.020. Grants for community service programs.** Not less than 60 percent of the amount appropriated by the legislature to the account established in AS 47.65.010 shall be allocated annually by the commission as community program grants to sponsors of older Alaskans service programs. Payments shall be made on the basis of applications submitted to the commission by sponsors of community programs. (§ 1 ch 152 SLA 1980; am § 6 ch 79 SLA 1981)

**Sec. 47.65.030. Pilot project grants.** (a) The balance of the amount appropriated to the account established in AS 47.65.010 not allocated under AS 47.65.020 shall be allocated annually by the commission as grants to support pilot projects for the benefit of older Alaskans under this section.

(b) The commission shall adopt standards for pilot project grants and, after adoption of the standards as regulations, in accordance with the Administrative Procedure Act (AS 44.62), shall apply the standards to determine eligibility of applicants for pilot project grants. In awarding pilot project grants, the commission shall

(1) enter into agreements with the project sponsor to operate one or more of the selected pilot projects consistent with the standards adopted;

(2) monitor and evaluate, in a written report, each pilot project; the report must include

- (A) a description of the project and of the persons served by it;
- (B) the problems presented by the persons served by the project;
- (C) a description of the problems most effectively handled by the project; and

(D) an estimate of projected cost of operation of the project for the next three succeeding years. (§ 1 ch 152 SLA 1980; am § 7 ch 79 SLA 1981)

Sec. 47.65.040. Required contribution by sponsor. (a) A sponsor receiving a grant under AS 47.65.010 — 47.65.050 shall contribute to the total cost of the program or project. The contribution may be in cash or in-kind services. The amount of the sponsor's required contribution is determined by the application of the following formula: average per capita full and true value of all property in the municipality or community in which the project or program takes place divided by the average per capita full and true value of all property in the state, and then multiplied by the contribution percentage to the estimated total program or project cost as determined by the commission at the time of approval of a grant application. However, the amount of the sponsor's contribution may not amount to more than 10 percent of the total program or project cost.

(b) For purposes of this section

(1) the contribution percentage for

(A) a program or project in a municipality or community having a population of 5,000 or less is 10 percent of the total program or project cost;

(B) a program or project in a municipality or community having a population of 5,001 to 10,000 is 20 percent of the total program or project cost; and

(C) a program or project in a municipality or community having a population of more than 10,000 is 30 percent of the total program or project cost.

(c) If an application is submitted for a program or project in a municipality or community for which no average per capita full and true property value determination has been made,

(1) if the population of the municipality or community is 750 or more, the commission shall request the state assessor to compute the average per capita full and true property value of that municipality or community and report it;

(2) if the population is less than 750, the commission may substitute for the average per capita full and true value of property in the municipality or community an amount equal to the average per capita full and true value of property in the smallest municipality for which that amount has been determined by the state assessor.

is.

by sponsor  
ments

ount. The  
e Depart-  
ons of AS  
e legisla-  
 shall be  
sponsors of  
visions of  
 79 SLA

in the first

ams. Not  
signature to  
nually by  
 of older  
e basis of  
community  
31)

se of the  
5.010 not  
the com-  
 of older

ect grants  
ance with  
the stan-  
grants. In

ate one or  
standards

(d) The required contribution rate of the sponsor may not exceed the contribution percentage established in (b) of this section;

(e) The grant awarded by the commission may not exceed the estimated total program or project cost as determined by the commission less the contribution by the sponsor determined in accordance with this section. (§ 1 ch 152 SLA 1980; am § 8 ch 79 SLA 1981; am § 2 ch 37 SLA 1990)

Revisor's notes. — In 1984, subsection amendment made a minor stylistic designations were added to this section. change in subsection (a).  
Effect of amendments. — The 1990

~~HB 3 SECTION 61~~

Sec. 47.65.050. Administrative requirements. Payments received by a sponsor under AS 47.65.010 — 47.65.050 may be used only to meet costs of services which the commission has determined directly benefit older Alaskans. A payment may not be made by the commission under this section unless the commission determines that the sponsor

(1) meets accepted standards of fiscal accountability for public funds;

(2) can demonstrate, when requested, the actual cost of services that it is providing for the benefit of older Alaskans; and

(3) agrees to make available, upon request, all fiscal information relating to service for which payments are provided under AS 47.65.010 — 47.65.050. (§ 1 ch 152 SLA 1980; am § 9 ch 79 SLA 1981; am § 3 ch 37 SLA 1990)

Effect of amendments. — The 1990 amendment made minor stylistic changes.

Article 2. Adult Day Care and Family Respite Care.

Section  
100. Adult day care and family respite care

~~HB 3 SECTION 71~~

Sec. 47.65.100. Adult day care and family respite care. (a) In addition to administering grants for adult day care programs and family respite care services for older Alaskans under AS 47.65.010 — 47.65.050, the commission may make grants under this section from funds otherwise available to it for adult day care programs and family respite care services for frail older persons and other similarly disabled adults.

(b) In order to fund grants under this section, the commission and the Department of Administration may seek and enter into contracts or grants with any party, including reimbursable service agreements with other state agencies.

§ 47.65.290 WELFARE. SOCIAL SERVICES & INSTITUTIONS § 47.65.290

(c) The commission shall, by regulation, set fees for services provided under this section. The fees must be based on a sliding scale formula that takes into account the client's income.

(d) Fees established under (c) of this section may not exceed the cost of the service. A person may not be denied service based solely on inability to pay a fee established under this section.

(e) In this section

(1) "frail older person" means a state resident who is at risk of institutional placement and

(A) is age 55 or older; or

(B) has Alzheimer's disease or a related disorder;

(2) "similarly disabled adult" means a state resident who is 18 years of age or older who is at risk of institutional placement but who is not a frail older person or an older Alaskan. (§ 4 ch 37 SLA 1990)

Revisor's notes. — Enacted as AS  
47.65.055. Renumbered in 1990.

Article 3. General Provisions.

Section  
290. Definitions

AS 3 SECTION 81

Sec. 47.65.290. Definitions. In this chapter,

(1) "adult day care" means nonresidential care for a group of persons that offers supervision, custodial care, and other appropriate social, indoor and outdoor recreational, physical, medical, or psychological services for persons at risk of institutional placement;

(2) "at risk of institutional placement" means that a person is either already a resident of an adult foster home or is likely to need placement in a 24-hour care residential or nursing facility, not including a mental health hospital;

(3) "commission" means the Older Alaskans Commission established in AS 44.21.200;

(4) "family respite care" means intermittent and substitute care that provides relief for a family caregiver or adult foster home provider by providing intermittent care in the form of companionship, temporary supervision, and minor personal care to a person who is at risk of institutional placement; the service may be provided either in the home of the client or the caregiver, including in an adult foster care home if that is the client's residence.

(5) "older Alaskan" means a resident of Alaska who is 60 years of age and older;

(6) "service program" means the following general categories of services to older Alaskans, including reasonable costs of administration:

(A) nutritional programs;

(B) volunteer programs;

- (C) adult day care programs and family respite care services;
  - (D) health services;
  - (E) housing services;
  - (F) legal services and assistance;
  - (G) home health and homemaker services;
  - (H) counseling;
  - (I) information and referral services;
  - (J) programs which train persons to work with or assist older Alaskans;
  - (K) transportation services;
  - (L) educational activities; and
  - (M) employment services;
- (7) "sponsor" means the provider of one or more service programs or pilot projects for the benefit of older Alaskans, including
- (A) a municipality of the state;
  - (B) a nonprofit corporation organized under the laws of the state; and
  - (C) an educational institution. (§ 1 ch 152 SLA 1980; am §§ 10-12 ch 79 SLA 1981; §§ 5, 6 ch 37 SLA 1990)

Revisor's notes. — Formerly AS 47.65.060. Renumbered in 1990. Reorganized in 1984 and 1990 to alphabetize the terms defined.

Effect of amendments. — The 1990 amendment rewrote present subparagraph (6)(C) and added present paragraphs (1), (2) and (4).

## Chapter 70. Interstate Compact on the Placement of Children.

<p>Section</p> <p>10. Compact enacted</p> <p>20. Financial responsibility</p> <p>30. Designation of authority</p> <p>40. Agreements</p>	<p>Section</p> <p>50. Delegation by agreement</p> <p>60. Executive head</p> <p>70. Violations of compact</p> <p>80. Short title</p>
---	---

**Sec. 47.70.010. Compact enacted.** The Interstate Compact on the Placement of Children as contained in this section is enacted into law and entered into on behalf of the state with any and all other states legally joining in it in a form substantially as follows:

### INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN.

#### ARTICLE I. PURPOSE AND POLICY

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

- (a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or

# SENATE COMMITTEE REPORT

DATE: 4/13/93

FURTHER: JUDICIARY  
FINANCE

DATE TURNED INTO OFFICE: 3/16/94

HES Committee considered CS FOR HOUSE BILL NO. 2(RLS)

"An Act requiring drug and alcohol tests for school bus drivers."

and recommends:

replace with \_\_\_\_\_ CS \_\_\_\_\_ ( )

or  adopt previous \_\_\_\_\_ CS \_\_\_\_\_ ( )

attaches amendment(s)

same title  
 new title  
 technical title change (HB only)

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

do pass

do not pass

no recommendation

individual recommendations

**NEW FISCAL NOTES**

Department	Date	Zero	Fiscal
Education	12/17/93		84.0

**PREVIOUS FISCAL NOTES**

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

**DO PASS:**

Make Miller  
Loren A. Luman  
Bryant Skarp  
[Signature]

**OTHER RECOMMENDATIONS:**

[Signature] - notes  
Judy Salt No Rec

[Signature]  
Chair: Signature and Recommendation

# Alaska State Legislature

## House of Representatives

Official Business



State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-3718

### House Majority Leader

#### SPONSOR'S STATEMENT - CSHB2(RLS) DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS MARCH 16 - SENATE HESS COMMITTEE

Current Alaska law makes no provision for the routine testing of school bus drivers for improper drug and alcohol use. This bill will provide for such testing.

The need for this measure arose from incidents that occurred in my district on the Kenai Peninsula. I feel we must do all that we can to protect Alaska's children while they are traveling to and from school. Other states are already doing this. The committee is in possession of background material that shows similar laws are already in place or proposed in Arizona, Maryland, Louisiana, Illinois and Missouri. Within Alaska, the North Slope borough has such a policy for all employees.

The federal government is in the process of adopting regulations that will mandate testing for those who are required to have commercial drivers licenses for the operation of intra-state school buses. HB2 is needed at this time because the effective date, and degree of state implementation of the federal regulations is uncertain. The federal regulations may also not apply to school buses with a capacity less than 15 passengers, which do not require a commercial license for operation.

There is a memo from Leg Legal dated February 8, 1993, addressing the constitutional question of privacy rights as it relates to random testing. A review of the decision in *International Brotherhood of Teamsters vs. DOT* reveals that public interest must be greater than the expectation of individual privacy in sustaining random testing statutes. It is my view that providing safety for our school children meets that requirement, and represents the highest public interest.

Language in Section 1 stresses this compelling interest. The House Judiciary Committee added a Letter of Intent relating to the non-predictable nature of the random testing, and the care to be taken in safeguarding the rights of the innocent.

The Department of Education has submitted an \$84,000 fiscal note for the operation of this program. This includes pre-employment testing and random testing which would cover all school bus drivers in a two-year cycle. That is, the number of random tests conducted each year would be equivalent to half the number of drivers. The specifics of the testing program would be worked out by the administering agency in the course of developing appropriate regulations.

In your folder is a letter of support from the Alaska Truckers Association and a positive position paper from the Department of Education. The bill passed out of the House on a 30-0 vote. I ask for your favorable consideration of HB2.

# FISCAL NOTE

STATE OF ALASKA

BILL NO. CSHB 2 (RLS)

1994 LEGISLATIVE SESSION

Revision Date: December 17, 1993

Department Affected: Education

Title: Drug and Alcohol Testing for School Bus Drivers

BRU: Executive Administration

Sponsor: Representative Gail Phillips

Component: Administrative Services

Requestor: \_\_\_\_\_

COMPONENT SERIAL NO. 157

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL	3.0	3.0	3.0	3.0	3.0	3.0
CONTRACTUAL	79.0	79.0	79.0	79.0	79.0	79.0
SUPPLIES	2.0	2.0	2.0	2.0	2.0	2.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>84.0</b>	<b>84.0</b>	<b>84.0</b>	<b>84.0</b>	<b>84.0</b>	<b>84.0</b>

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE FUND SOURCE:</b>	GF	GF	GF	GF	GF	GF
-----------------------------	----	----	----	----	----	----

**FUNDING:**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	84.0	84.0	84.0	84.0	84.0	84.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>84.0</b>	<b>84.0</b>	<b>84.0</b>	<b>84.0</b>	<b>84.0</b>	<b>84.0</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ \_\_\_\_\_

**ANALYSIS:** (Attach a separate page if necessary.)

This is an update to the fiscal note prepared 4/14/93.

Prepared by: Karen J. Rehtfeld *Karen J. Rehtfeld*  
 Division: Administrative Services

Phone: 465-8650  
 Date: December 17, 1993

Approved by Commissioner: \_\_\_\_\_  
 Agency: Education

*Jerry Covey*  
 Date: December 17, 1993

**PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE**

For further distribution information call the Governor's Legislative Office

## POSITION PAPER: DEPARTMENT OF EDUCATION

Division Administrative Services Bill Number CSHB 2 (RLS)

Bill Title Drug and Alcohol Tests for School Bus Drivers

Sponsor Representative Gail Phillips

Position Statement: Explain briefly what the bill does, its impacts and Department's position, i.e., a) support, b) do not support, c) neutral or d) oppose.

The Department of Education supports the concept of drug and alcohol tests for school bus drivers. At a minimum we believe that all drivers should be tested prior to employment, and be subject to random testing. Random tests would be conducted in a nonpredictable manner throughout the school year, and the number of tests administered each year would approximate 50% of the total number of persons employed as school bus drivers. Additional testing would be done after an accident and when reasonable cause exists.

This frequency is consistent with mandatory testing requirements in the states of Delaware and Arizona, and comparable to federal requirements for drivers of school buses in interstate commerce. Drivers of school buses within Alaska are not currently affected by federal drug testing requirements.

APPROVED:

Director Karen J. Rehfeld Division Administrative Services

Signature  Date 12/10/93

Commissioner/Deputy Jerry Covey

Signature  Date 12-17-93

# Alaska State Legislature



House of Representatives  
House Judiciary Committee

State Capitol, Room 120  
Juneau, Alaska 99801-1182  
(907) 465-4990

## HOUSE JUDICIARY COMMITTEE LETTER OF INTENT FOR H. B. 2

It is the intent of the House Judiciary Committee in passing HB 2, that the random testing for drugs and alcohol called for in the bill be done in a non-predictable manner. That is, merely because a person is tested today does not mean they may not be tested again tomorrow. The legislature does not want to create a situation where someone subject to this act feels that, once tested, they will not be tested again until the next annual cycle.

In addition, the Committee has special concerns that the regulations promulgated to implement H. B. 2 should provide for careful attention to the handling of samples and other testing procedures to preclude the possibility of someone becoming falsely incriminated in the use of drugs or alcohol.

**DIVISION OF LEGAL SERVICES**

**LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA**

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

MEMORANDUM

April 13, 1993

**SUBJECT:** Sectional Summary of CSHB 2 (RULES)(Drug and alcohol tests for school bus drivers)

**TO:** Representative Gail Phillips

**FROM:** Teresa B. Cramer *TBC*  
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill is not considered an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

**Section 1** states the legislative findings and purpose.

**Sec. 2** requires school districts and regional educational attendance areas to require school bus drivers to submit to testing for the use of drugs and alcohol. The testing program must include random testing. A driver who tests positive for the improper use of drugs or alcohol may be disciplined, including termination from employment.

Subsection (b) requires the department to adopt regulations, including procedures for hearings. Subsection (c) defines "improper use of drugs or alcohol."

TC:mi  
93-069.mai

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2150  
FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

### MEMORANDUM

February 8, 1993

**SUBJECT:** Drug and alcohol testing for school bus drivers (HB 2)

**TO:** Representative Gail Phillips

**FROM:** Teresa B. Cramer *TBC*  
Legislative Counsel

You have asked whether there are legal questions raised in HB 2, requiring drug and alcohol testing for school bus drivers.

In my opinion, implementation of this program could be subject to legal challenge as a government-required search for which the school district had not established probable cause that a violation of law had occurred or as an invasion of the bus driver's privacy.

Many courts have required individualized suspicion before a urinalysis is conducted. However, some courts have been willing to allow random drug searches without probable cause where the employee's expectation of privacy is lessened because of the type of employment and where the public interest was sufficiently great. In Internat'l Broth. of Teamsters v. Department of Transportation, 932 F.2d 1292 (9th Cir. 1991), the court examined a drug testing program that required commercial motor vehicle operators to submit to a pre-employment, post-accident, and biennial drug testing program for drivers operating certain interstate motor vehicles. The court considered the seriousness of harm if those vehicles were operated while the driver was impaired by drugs, the extent of government regulation already present in the industry, and the extent of government monitoring of the drivers health and qualifications, which includes a required urinalysis already. The court concluded that the additional intrusion of the drug testing procedure was constitutionally tolerable.

In Amalgamated Transit Union, 1277 v. Sunline Transit Agency, 663 F.Supp 1560 (C.D. Cal. 1987), the plaintiff union asked the District Court to issue a preliminary injunction against the defendant's proposed alcohol and drug testing program which included random drug testing. The court awarded the preliminary injunction noting that the evidence did not disclose a single documented case of alcohol or drug abuse, nor were there allegations of accidents caused by alcohol or drug abuse. The court

Representative Gail Phillips

February 8, 1993

Page 2

ruled that drug testing that was not based on a reasonable suspicion that the employee was under the influence of alcohol or drugs was an unreasonable search.

Implementation of the drug testing program could also be challenged as an invasion of privacy. However, Luedtke v. Nabors Alaska Drilling, Inc., 768 P.2d 1123 (Alaska 1989), the Alaska supreme court considered a private company's implementation of a drug testing program and found that the invasion of the employee's privacy was outweighed by the safety considerations inherent in the work performed. The court did not rely on the constitutional right to privacy,<sup>1/</sup> holding that it applies only to government action and not to private action. The court did analyze the constitutional right when considering the public policy against invasion of privacy. The court found that urine testing was a minimal invasion of privacy, that the employer already required urine testing as part of the annual physical examination requirement, and that the seriousness of harm that could result from an accident on an oil drill rig was sufficient to outweigh the employee's privacy interest. Since legislation necessarily involves government action, a bus driver could clearly claim that his or her constitutional right to privacy had been invaded. The analysis in Luedtke suggests how the state might answer that challenge.

Under the Teamster and Luedtke analyses, in determining whether the testing program proposed by HB 2 could survive a constitutional challenge either as an unconstitutional search or as an invasion of privacy, a court would weigh how extensively school bus drivers are regulated now, including the intrusiveness of the current regulation on their expectation of privacy, the history of drug or alcohol abuse by and accidents involving school bus drivers, and the seriousness of harm that could result if a school bus were involved in a motor vehicle accident. Whether the law would survive the legal challenge depends on the persuasiveness of the facts presented. The requirement in HB 2 for random drug testing would require particularly strong evidence to uphold.

Please let me know if I can be of further assistance.

TC:pl  
93-070.plm

---

<sup>1/</sup>Art. 1, sec. 22, Constitution of the State of Alaska, states

The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section.

**ALASKA TRUCKING ASSOCIATION, INC.**3443 Minnesota Drive • Anchorage, Alaska 99503 • PHONE (907) 276-1149 • FAX (907) 274-1946

---

April 16, 1993

Steve Rieger  
Alaska State Legislature  
State Capitol (MS 3100)  
Juneau, Alaska 99801-1182

Dear Senator Rieger:

On behalf of Alaska Trucking Association's membership I respectfully urge your support of House Bill 2, which mandates a drug testing program for Alaska's school bus drivers.

The trucking industry has been drug testing its drivers for the past three years and believes the program to be effective and beneficial in helping assure a driver's qualification.

If it makes good safety sense for commercial drivers hauling freight to be tested, it makes even more sense to test commercial drivers who transport the most precious and valuable of "freight", our children.

I believe passage of this bill is important this session and would ask your help and support to make it happen.

Thank you for your attention and consideration.

Support H.B. 2!

Yours truly,



Frank J. Dillon  
Executive Director

FJD/pch



CFR - 1993

MEMORANDUM

State of Alaska  
Department of Education

To: John Peterson  
Aide  
Rep. Gail Phillips  
Thru: *Mahe* Mike Maher  
Deputy Commissioner

Date: February 10, 1993

Phone: 465-2800

File:

From: Romaine Kareen  
Pupil Transportation  
Coordinator

Subject: Drug\Alcohol  
Testing for  
School Bus Drivers

Below is the information you requested from the Department of Education regarding drug and alcohol testing for school bus drivers.

*What is the present role of the Federal government in drug\alcohol testing of school bus drivers?*

The Federal government currently requires drug testing of school bus drivers who are involved in interstate transportation. School bus drivers who do not cross state lines are not required to be tested. Therefore, school bus drivers who transport students to and from school, solely within Alaska, are not subject to the testing requirements.

*What is being proposed at the Federal level for drug\alcohol testing of school bus drivers?*

The Federal government has issued a Notice of Proposed Rulemaking requiring that all operators of commercial motor vehicles subject to Commercial Driver's License requirements be tested for controlled substances and alcohol. In Alaska, drivers of school buses with more than 15 passenger capacity, including the driver, are required to possess a Commercial Driver's License. These drivers would therefore be subject to the proposed drug\alcohol testing requirement. Comments on the proposed rulemaking are due by April 14, 1993. Depending upon comments received, it may be some time before the rules are finalized and become effective - possible 1994 or even 1995.

In Alaska, drivers of school buses with a capacity of 15 passengers or less, including the driver, are not required to possess a Commercial Driver's License. These drivers would not be subject to the proposed drug\alcohol testing.

Subtitle 17 MOTOR VEHICLE  
ADMINISTRATION — DRIVER LICENSING AND  
IDENTIFICATION DOCUMENTS

11.17.13 Point System: Definition of Moving  
Violation and Assessment of Points

Authority: Transportation Article, §18-402,  
Annotated Code of Maryland

Notice of Proposed Action  
(92-019-P)

The Administrator of the Motor Vehicle Administration proposes to amend Regulation .02 under COMAR 11.17.13 Point System: Definition of Moving Violation and Assessment of Points.

Statement of Purpose

When COMAR 11.17.13 was originally promulgated, the violation "failing to yield to an emergency vehicle" was a one point violation. Chapter 431 of the Acts of 1981 changed this to a two-point offense, "passing an emergency or police vehicle", so the original offense is being deleted from these regulations. In addition, Chapter 179 of the Acts of 1991 establishes a new offense "exceeding speed limit within highway work zone", and exceeding this limit by 1 - 2 miles per hour automatically becomes a 1-point violation under Transportation Article, §18-402(a)(1), Annotated Code of Maryland. Speeds in excess of 9 miles per hour over the limit are also assigned points under Transportation Article, §18-402, Annotated Code of Maryland.

Estimate of Economic Impact

The proposed action has no economic impact.

Opportunity for Public Comment

Written comments may be sent to Victoria D. Whitlock, Director, Division of Driver Control and Records, 8801 Ritchie Highway, N.E., Glen Burnie, Maryland, 21062 or by telephoning (410) 788-7681, Monday through Friday, 8:30 a.m. to 4:30 p.m. These comments must be received by February 11, 1992. No public hearing has been scheduled.

.02 Assessment of Points.

A. (text unchanged)

B. Section Moving Violation

(1) - (25) (text unchanged)

[(26) 21-405 Failure to yield right-of-way to emergency vehicle]

[(27)] (26) - [(46)] (45) (text unchanged)

(46) 21-802.1 Exceeding maximum speed limit by 1 - 9 miles per hour in a highway work zone

(47) - (73) (text unchanged)

C. (text unchanged)

W. MARSHALL RICKERT  
Administrator  
Motor Vehicle Administration

Title 13A  
STATE BOARD OF EDUCATION

Subtitle 06 SUPPORTING PROGRAMS

13A.06.07 Student Transportation

Authority: Education Article, §§2-203(b), 5-201, 5-203, 9-411 - 8-412,  
Annotated Code of Maryland

Notice of Proposed Action  
(92-012-P)

The State Board of Education proposes to repeal current Regulations .01 - .12 and to adopt new Regulations .01 - .17 under COMAR 13A.06.07 Student Transportation.

Statement of Purpose

These new regulations govern the safe transportation of students by the local school systems. Many of the current regulations have been in effect since 1981. Language throughout the chapter has been changed to reflect the current terminology in use in specific areas ("handicapped student" replaced with "student with disabilities," "Level V" replaced with "Intensity V," etc.). Regulations that were considered redundant to other State or federal regulations have been repealed.

The proposed new regulations include drug testing requirements for school vehicle drivers. The tests include mandatory pre-service, random, and probable cause testing, and post-accident testing at the discretion of the local supervisor.

The psychophysical tests for school bus drivers have been replaced by performance tests for both drivers and attendants. Most of the equipment used to perform and score the psychophysical tests is old and no longer available from the manufacturers; the one piece that is still available has been modified so that the former method of scoring the tests is no longer valid (the new scoring requires scaling for age and sex of the individual taking the test). The performance tests are more objective, clearly demonstrating that the driver and attendant either can or cannot perform the tasks required by the job.

In the instructional area, the proposed new regulations require that each school bus driver and attendant be certified each year in cardio-pulmonary resuscitation (CPR).

Estimate of Economic Impact

I. Summary of Economic Impact. These proposed new regulations are expected to result in increased expenditures by the local school systems ranging from negligible to moderate. A slight to moderate benefit to medical laboratories is expected to result from the drug testing requirement. Although difficult to quantify, a moderate to significant benefit should accrue to the public through increased confidence in the drug-free status of the school bus drivers and attendants who have responsibility for the daily transportation of the public school students.

II. Types of  
Economic Impacts.

	Revenue (+) Expense (-)	Magnitude
A. On issuing agency	NONE	
B. On other State or local agencies		
Local school systems:		
1. Driver skills tests	(-)	Slight
2. CPR for school bus drivers and attendants	(-)	\$1,059,336
3. Drug testing for school bus drivers	(-)	\$187,125

	Benefit (+) Cost (-)	Magnitude
C. On regulated industries or trade groups:		
1. Drug testing laboratories	(+)	Moderate
2. American Red Cross	(+)	\$35,000
D. On other industries or trade groups:	NONE	
E. Direct and indirect effects on public:	(-)	Moderate

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

B.1. The driver skill tests are expected to impact negligibly on the local school systems. The equipment needed to perform these tests will likely cost less than \$50 per local school system, and no more time will be required to perform these tests than is currently used to perform the psychophysical tests.

B.2. Certification in CPR for school bus drivers and attendants will require a considerable expenditure for the local school systems. The figure shown includes the training of one or more school bus driver instructors to become certified CPR instructors, training time and costs for all regular and substitute school bus drivers; and training time and costs for all regular and substitute school bus attendants. The cost to certify school bus driver instructors to become CPR instructors is a one-time cost, as long as they continue teaching the course, they retain the certification. For school bus drivers and attendants, however, the certification is only good for one year; thus, it must be given to every individual every year.

Costs were calculated as follows: For a school bus driver instructor to become a certified CPR instructor, 26 hours of instruction is necessary. An average of \$15 per hour was used times 26 hours; the number of school bus driver instructors to be certified was determined by using one instructor for each 50 classes (number of classes determined by dividing the total number of regular and substitute drivers and regular and substitute attendants by 10, the maximum allowed per class). The cost to certify instructors was \$12,480.

CPR instruction for school bus drivers and attendants requires an 8-hour course every year. Costs for this instruction were calculated by assuming an average hourly salary of \$12 for drivers and \$10 for attendants. This provided a cost of \$762,326 for driver instruction and \$133,200 for attendant instruction.

Also included in the cost is \$36,000 for purchase of "Resusc-A-Annle" mannequins necessary to CPR instruction. The American Red Cross recommends 1 mannequin for every 3 students in a class, therefore, 3 mannequins have been assumed for each local school system based on a maximum class size of 10.

B.3. The expense shown for drug testing for school bus drivers includes only the actual amount necessary to perform the preservice and random tests. It does not include the cost for probable cause tests, since it would be impossible to quantify these; nor does it include the cost for post-accident testing, since this type of test is left to the supervisor's discretion. It also does not include the administrative costs involved in establishing a drug testing program in the school systems. The calculations were derived by calculating the total number of regular and substitute drivers, dividing it in half (since the regulation requires that 50 percent be tested every year), and adding 10 percent to allow for turnover. This figure was then multiplied by \$36, the anticipated cost per test.

C.1. The laboratories certified to perform drug tests will benefit from the regulation.

C.2. The American Red Cross is the sole source for the "Resusc-A-Annle" mannequin used for CPR training and would be the beneficiary of this amount of money for purchasing the mannequins.

E. With an additional 7,000 people trained in CPR as a result of these regulations, there could be a nonquantifiable benefit to the public in the event of an emergency requiring the presence of someone so trained. There should be improved public confidence in the school bus drivers and school bus attendants as a result of the drug testing regulation.

Opportunity for Public Comment

Pursuant to State Government Article, §10-506(c), Annotated Code of Maryland, the State Board of Education will hold a hearing concerning the repeal and new regulations on January 29, 1992 at 1:30 p.m. in the Maryland State Education Building, 200 West Baltimore Street, Baltimore, Maryland. All interested persons are invited to attend and give their views.

Written comments may be sent to Nancy S. Grazmick, State Superintendent of Schools, Maryland State Education Building, 200 West Baltimore Street, Baltimore, Maryland 21201. These comments must be received not later than February 11, 1992.

Open Meeting

Action on the repeal and new regulations proposed below will be considered by the State Board of Education during a public meeting to be held February 26, 1992, in the Maryland State Education Building, 200 West Baltimore Street, Baltimore, Maryland, pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

.01 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Accident" means an occurrence or action involving a driver of a school vehicle operated by or under contract to a local school system which results in an injury or fatality to an individual or damage to a motor vehicle or property. Buses not registered as school buses or school charter vehicles are excluded from this definition.

(2) "Appreciable damage" means property damage in excess of \$500.

(3) "Incapacitating injury" means an injury, other than fatal, that prevents the injured individual from walking, driving, or normally continuing the activities that the individual was capable of performing prior to the accident.

(4) "Loading zone" means an area on or adjacent to a highway, but not on the roadway, where a school vehicle stops to load or unload passengers.

(5) "Personal injury" means an injury treated by a physician, dentist, or nurse, or in a hospital.

(6) "Preventable accident" means an accident in which the driver failed to do everything the driver reasonably could have done to prevent it according to accepted standards of the National Safety Council.

(7) "School charter vehicle" means a vehicle as described in Transportation Article, §19-420(c), Annotated Code of Maryland.

(8) "School vehicle" means a vehicle as defined in Transportation Article, §11-154, Annotated Code of Maryland.

(9) "Type I vehicle" means a vehicle as described in Transportation Article, §11-173, Annotated Code of Maryland.

.02 Program.

Each local school system is responsible for the safe operation of its student transportation systems and shall conform to the regulations promulgated by the State Board of Education and the procedures and guidelines established by the State Department of Education. Local school systems may adopt policies and procedures which do not conflict with existing federal and State rules, regulations, policies, and procedures. Local policies and procedures may exceed the minimum requirements established in these regulations.

- (a) At least 1 hour shall be instruction in first aid;
- (b) 8 hours shall be for certification in CPR; and
- (c) 1 hour shall be instruction appropriate to the duties of the school vehicle attendant.

(2) In-service. A school vehicle attendant shall complete 10 hours of in-service instruction annually, as follows:

- (a) 8 hours shall be for certification in CPR; and
- (b) 2 hours shall be in topics appropriate to the duties of the school vehicle attendant.

(3) At least 1 hour of instruction in first aid shall be provided every 3 years.

D. *Instructional Records.* Each local school system shall maintain attendance records of all pre-service and in-service instructional sessions. The attendance school records shall contain all of the following information:

- (1) Name of trainee, driver, or attendant;
- (2) Name of instructor;
- (3) Dates of instruction;
- (4) Number of hours of classroom instruction and topics of instruction; and
- (5) Number of hours of behind-the-wheel instruction.

#### .08 Drug Testing Program.

A. Each local school system shall implement a drug testing program for school vehicle drivers by July 1, 1993. The drug testing procedures shall meet or exceed the standards established by the U.S. Department of Transportation in 49 CFR Part 40, which is incorporated by reference. A local school system may also adopt the guidelines for testing conditions established by the U.S. Department of Transportation in 49 CFR §§391.81-391.115, so long as they also meet the requirements of this regulation.

##### B. Conditions for Testing for Illegal Use of Drugs.

(1) A school bus driver trainee shall pass a drug test before being permitted to transport any student in a school vehicle.

(2) Random drug tests shall be administered to school vehicle drivers as follows:

(a) The number of tests administered annually shall equal at least 50 percent of the total number of driver names provided by the local school system to the Motor Vehicle Administration on its October roster;

(b) During each of the testing time periods in §B(2)(c), the pool of names from which the selection is made shall include the names of all drivers, including those previously tested; and

(c) Approximately 20 percent of the tests are to be administered in each of the following periods:

- (i) July - October,
- (ii) November - December,
- (iii) January - February,
- (iv) March - April, and
- (v) May - June.

(3) A drug test is to be administered as soon as practicable when a supervisor of transportation has reasonable cause to believe that a school vehicle driver is using an illegal drug.

(4) A drug test may be administered following any school vehicle accident.

C. A school vehicle driver may not be given more than 24 hours notification of the drug test. A driver who fails to take a drug test within 24 hours of notification is permanently disqualified from operating a school vehicle unless the supervisor of transportation determines and documents in writing that the driver had good and sufficient reason not to take the test within 24 hours. In this case, the driver may not operate a school vehicle until the driver has passed a drug test, which is to be administered at a time determined by the supervisor of transportation.

D. A school vehicle driver or trainee who tests positive for illegal drugs is permanently disqualified from operating a school vehicle.

#### .09 General Standards.

A. A school vehicle or school charter vehicle may not be used to transport students unless a Vehicle Acceptance Sheet as required by the State Department of Education has been completed by the supervisor of transportation and is on file in the local transportation office.

B. Type I vehicles shall be used to transport students to and from school. Vehicles other than Type I shall be used only when special approval in writing has been given by the Chief of Pupil Transportation, State Department of Education, unless:

- (1) The vehicle is a taxicab; or
- (2) Only one student is transported.

C. Vehicles used to transport students on regular routes shall be:

- (1) New; or
- (2) Previously registered school vehicles originally used to transport Maryland public school students.

##### D. Spare Vehicles.

(1) Spare vehicles shall be available during the time route vehicles are in operation.

(2) Spare vehicles shall be either:

- (a) New;
- (b) Previously registered regular route vehicles; or
- (c) Vehicles purchased new after July 6, 1983, and verified in writing by the Motor Vehicle Administration as originally used in Maryland to transport private or parochial school students.

E. An electric-powered wheelchair may be transported in a school vehicle if it meets all of the following conditions:

- (1) The battery is not of the liquid-acid type;
- (2) The battery is encased in an impact-resistant container;
- (3) The battery container is securely fastened to the wheelchair;
- (4) The battery container lid is securely fastened to the battery container; and
- (5) All electrical terminals not inside the battery container are protected from accidental contact.

F. At least twice during each school year, each student who is transported in a school vehicle shall participate in emergency school vehicle evacuation drills.

#### .10 Vehicle Inspections.

A. Three safety inspections and a preventive maintenance inspection shall be conducted on each public school vehicle annually in accordance with Motor Vehicle Administration regulations and inspection standards.

B. The supervisor of transportation or the Chief of Pupil Transportation, State Department of Education, may require additional inspections of individual vehicles at any time.

C. A preoperational check of each vehicle shall be performed at a designated time each day the vehicle is operated.

D. A vehicle that is found at any time to be mechanically unsafe shall be immediately discontinued from use until made safe and authorized to be placed in service again by the supervisor of transportation.

#### .11 Routing and Scheduling.

A. The prime consideration is the safety of riders.

B. Stops shall be approximately 1/4 mile apart. This does not apply to routes exclusively designated for students with disabilities.

SECOND REGULAR SESSION

# SENATE BILL NO. 572

86TH GENERAL ASSEMBLY

---

---

INTRODUCED BY SENATOR TREPTLER

Printed December 2, 1981, and 1,000 copies ordered printed.

TERRY L. SMELER, Secretary

2126-LSB

---

---

## AN ACT

Relating to drug testing of school bus operators.

---

---

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section 1. As used in this act, the following words and  
2 phrases shall mean:

3 (1) "Approved laboratory," a facility approved by the  
4 department of health for the taking and collecting of specimens  
5 to be tested pursuant to this act;

6 (2) "Confirmation test," a drug test on a specimen to  
7 substantiate the results of an initial drug test on the specimen.  
8 The confirmation test shall use an alternate method of equal or  
9 greater sensitivity than that used in the previous drug test;

10 (3) "Drug," for the purposes of this act only, any controlled  
11 substance as defined in section 195.010, RSMo, or ethyl alcohol  
12 in a concentration in a person's blood or breath of eight-  
13 hundredths of one percent or more by weight of alcohol in the  
14 blood;

15 (4) "Drug test," a chemical test administered for the

SECOND REGULAR SESSION  
**SENATE BILL NO. 572**  
86TH GENERAL ASSEMBLY

---

INTRODUCED BY SENATOR TREPTLER

Passed December 2, 1961, and 1,000 copies ordered printed.

TERRY L. STELER, Secretary.

2126-1634

---

**AN ACT**

Relating to drug testing of school bus operators.

---

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

- Section 1. As used in this act, the following words and
- 2 phrases shall mean:
- 3 (1) "Approved laboratory," a facility approved by the
- 4 department of health for the taking and collecting of specimens
- 5 to be tested pursuant to this act;
- 6 (2) "Confirmation test," a drug test on a specimen to
- 7 substantiate the results of an initial drug test on the specimen.
- 8 The confirmation test shall use an alternate method of equal or
- 9 greater sensitivity than that used in the previous drug test;
- 10 (3) "Drug," for the purposes of this act only, any controlled
- 11 substance as defined in section 195.010, RSMo, or ethyl alcohol
- 12 in a concentration in a person's blood or breath of eight-
- 13 hundredths of one percent or more by weight of alcohol in the
- 14 blood;
- 15 (4) "Drug test," a chemical test administered for the

16 purpose of determining the presence or absence of a drug or drug  
17 metabolites in a person's blood, urine, saliva or breath;

18 (5) "Employer," for the purposes of this act only, any board  
19 of education of a local school district, the state board of  
20 education or any corporation, partnership, proprietorship or  
21 association which provides transportation for pupils pursuant to  
22 contract or agreement with any local board of education or the  
23 state board of education;

24 (6) "Initial test," the first drug test to determine the  
25 presence or absence of drugs or drug metabolites in test  
26 specimens;

27 (7) "Job applicant," a person seeking employment from an  
28 employer as defined in this act, for a position in which the duties  
29 involve the operation of a school bus. Such job applicant may  
30 or may not possess a school bus operator's permit pursuant to  
31 section 302.272, RSMo;

32 (8) "Neutral selection basis," a mechanism for selecting  
33 school bus operators for drug tests that:

34 (a) Results in an equal probability that any operator from  
35 a group of operators subject to the selection mechanism will be  
36 selected; and

37 (b) Does not give an employer discretion to waive the  
38 selection of any operator selected under the mechanism;

39 (9) "Prescription or non-prescription medication," a drug  
40 prescribed for use by a duly licensed physician, dentist or other  
41 medical practitioner licensed to issue prescriptions or a drug  
42 that is authorized pursuant to federal or state law for general  
43 distribution and use without a prescription in the treatment of  
44 human diseases, ailments or injuries;

45 (10) "Reasonable suspicion drug testing," drug testing based  
46 on a belief that a school bus operator is using or has used drugs  
47 in violation of the employer's policy drawn from specific,  
48 objective and articulable facts and reasonable inferences drawn  
49 from those facts in light of experience, and may be based upon,  
50 among other things:

51 (a) Observable phenomena, such as direct observation of  
52 drug use or the physical symptoms or manifestations of being  
53 under the influence of a drug;

54 (b) Abnormal conduct or erratic behavior while at work or  
55 deterioration in work performance;

56 (c) A report of drug use provided by reliable and credible  
57 sources and which has been independently corroborated;

58 (d) Evidence that an individual has tampered with a drug  
59 test, during his employ with the current employer;

60 (e) Information that a school bus operator has caused or  
61 contributed to an accident while at work;

62 (f) Evidence that a school bus operator is involved in the  
63 use, possession, sale, solicitation or transfer of drugs while  
64 working or while on the employer's premises or operating the  
65 employer's school bus;

66 (11) "School bus operator," a person who holds a school bus  
67 operator's permit pursuant to section 302.272, RSMo;

68 (12) "Specimen," human blood, urine, saliva or breath in a  
69 quantity capable of chemically revealing the presence of drugs  
70 in the human body.

Section 2. 1. Any employer, as defined in this act, may  
2 test or cause to be tested for the presence of drugs a specimen  
3 obtained from any school bus operator holding a permit under  
4 the provisions of section 302.272, RSMo, or from a job applicant  
5 as defined in section 1 of this act.

6 2. Any local board of education or the state board of  
7 education in contracting with any corporation, partnership,  
8 proprietorship or association for the provision of pupil  
9 transportation services may require as part of the contract or  
10 agreement the implementation of a drug testing program as  
11 provided by sections 1 to 15 of this act.

Section 3. 1. Any school bus operator who may be  
2 required to submit to a drug test pursuant to sections 1 to 15  
3 of this act shall be provided, at least thirty days prior to the  
4 implementation of a drug testing program, a written policy

5 statement from the employer which contains:

6 (1) A general statement of the policy on school bus operator  
7 drug use which will include identifying both the grounds on  
8 which a school bus operator may be required to submit to a drug  
9 test and the actions which may be taken on the basis of a  
0 positive confirmed drug test result;

1 (2) A statement advising the school bus operator of the  
2 existence of sections 1 to 15 of this act;

3 (3) A general statement concerning confidentiality;

4 (4) Procedures for school bus operators to confidentially  
5 report the use of prescription or non-prescription medications  
6 prior to being tested;

7 (5) Circumstances under which drug testing may occur, and  
8 a description of which operators will be subject to testing on a  
9 reasonable suspicion, neutral selection or other basis;

0 (6) The consequences of refusing to submit to a drug test;

1 (7) A statement that a school bus operator who receives a  
2 positive confirmed drug test result may contest the accuracy of  
3 that result or explain it;

4 (8) A list of all drugs for which the test may be conducted.  
5 Each drug shall be described by its brand name or common  
6 name, as applicable, as well as its chemical name;

7 (9) A statement regarding any applicable collective  
8 bargaining agreement or contract.

9 2. An employer shall post the notice in an appropriate and  
0 conspicuous location on the employer's premises and copies of  
1 the policy will be available for inspection during regular  
2 business hours by school bus operators in the employer's  
3 personnel office or other suitable locations.

4 3. The department of health shall develop standard  
5 language for those sections of drug testing notices described in  
6 subsection 1 of this section.

7 4. An employer who conducts job applicant drug testing  
8 shall notify the applicant, in writing, upon application and prior  
9 to the collection of the specimen for the drug test, that the

10 applicant may be tested for the presence of drugs or drug  
11 metabolites.

12 5. A school bus operator or job applicant required to submit  
13 to a drug test may be requested by an employer to sign a  
14 statement indicating that he has read and understands the  
15 employer's drug testing policy and notice. A school bus operator's  
16 or job applicant's refusal to sign such a statement shall not  
17 invalidate the results of any drug test, or bar the employer from  
18 administering the drug test or from taking action consistent  
19 with the terms of an applicable collective bargaining agreement  
20 or the employer's drug testing policy, or from refusing to hire  
21 the job applicant.

22 Section 4. 1. All drug testing conducted by employers  
23 shall be in conformity with the standards established in this  
24 section, other applicable provisions of sections 1 to 15 of this act,  
25 and all applicable regulations promulgated pursuant to sections  
26 1 to 15 of this act.

27 2. An employer may require that the following types of drug  
28 tests be administered to school bus operators or job applicants:

29 (1) Employers may require job applicants to submit to a  
30 drug test as a condition of the employment application and may  
31 use a refusal to submit to a test or may use a positive confirmed  
32 test result as a basis for refusal to hire;

33 (2) An employer may require all school bus operators to  
34 submit to reasonable suspicion drug testing;

35 (3) An employer may require a school bus operator to  
36 submit to a drug test on a neutral selection basis;

37 (4) An employer may require a school bus operator to  
38 submit to a drug test if the test is conducted as part of a  
39 routinely scheduled employee fitness for duty medical  
40 examination that is part of the employer's established policy and  
41 which is scheduled routinely for all school bus operators  
42 employed by the employer;

43 (5) An employer may require a school bus operator to  
44 submit to neutral selection or routine drug tests if the test is

24 conducted in accordance with the terms of an applicable  
25 collective bargaining agreement or contract that permits the  
26 employer to administer drug tests on a neutral selection or  
27 routine basis.

Section 5. All specimen collection and testing for drugs  
2 under this act shall be performed in accordance with the  
3 regulations promulgated by the department of health. Such  
4 regulations shall provide standards and procedures with respect  
5 to the following:

6 (1) The collection of specimens shall be performed under  
7 reasonable and sanitary conditions. Individual dignity shall be  
8 preserved to the extent practicable;

9 (2) Specimens shall be collected in a manner reasonably  
10 calculated to prevent substitution of specimens and interference  
11 with the collection or testing of specimens;

12 (3) Specimen collection shall be documented, and the  
13 documentation procedures shall include:

14 (a) Labeling of specimen containers so as to reasonably  
15 preclude the likelihood of erroneous identification of test results;  
16 and

17 (b) An opportunity for the school bus operator or job  
18 applicant to provide any information that he considers relevant  
19 to the test, including identification of currently or recently used  
20 prescription or non-prescription drugs, or other relevant medical  
21 information. The provision of this information shall not preclude  
22 the administration of the drug test, but shall be taken into  
23 account in interpreting any positive confirmed results,

24 (4) Specimen collection, storage and transportation to the  
25 testing site shall be performed in a manner which shall  
26 reasonably preclude specimen contamination or adulteration;

27 (5) Specimen testing for drugs shall conform to scientifically  
28 accepted analytical methods and procedures;

29 (6) Each confirmation test conducted under sections 1 to 15  
30 of this act, not including the taking or collecting of a specimen  
31 to be tested, shall be conducted by a laboratory approved by the

32 department of health for this purpose;

33 (7) A specimen for a drug test may be taken or collected  
34 by any of the following persons:

35 (a) A physician, a registered professional nurse or a licensed  
36 practical nurse;

37 (b) Any person deemed qualified by the department of  
38 health;

39 (8) The department of health may establish a program to  
40 train and certify persons to collect specimens and conduct on-  
41 site drug tests in the workplace. Employers may designate  
42 employees for this training and certification, or may utilize any  
43 person so trained and certified;

44 (9) A person who collects or takes a specimen for a drug  
45 test conducted pursuant to sections 1 to 15 of this act shall  
46 collect an amount sufficient for three drug tests as defined by  
47 the department of health;

48 (10) Any drug testing conducted or requested by an  
49 employer shall occur during the regular work period of current  
50 school bus operators and shall be deemed to be performed during  
51 work time for purposes of determining compensation and  
52 benefits for current school bus operators;

53 (11) Every specimen that produces a positive confirmed  
54 result shall be preserved by the approved laboratory that  
55 conducts the confirmation test for a period of ninety days from  
56 the time the results of the positive confirmed test are mailed  
57 or otherwise delivered to the employer. During this period, the  
58 school bus operator or job applicant who has provided the  
59 specimen shall be permitted by the employer to have a portion  
60 of the specimen retested, at the school bus operator's or  
61 applicant's expense, at an approved laboratory chosen by the  
62 school bus operator or applicant. The approved laboratory that  
63 has performed the test for the employer shall be responsible for  
64 the transfer of the portion of the specimen to be retested, and  
65 for the integrity of the chain of custody during such transfer;

66 (12) Within five working days after receipt of a positive

67 confirmed test result report from the testing laboratory, an  
 68 employer shall, in writing, inform a school bus operator or job  
 69 applicant of such positive confirmed test result and inform the  
 70 school bus operator or applicant, in writing, of the consequences  
 71 of such a report and the options available to him;

72 (13) A school bus operator or job applicant may request and  
 73 receive from the employer a copy of the test result report;

74 (14) An employer may not discharge, discipline, refuse to  
 75 hire or discriminate against a school bus operator or job  
 76 applicant on the basis of a positive test result that has not been  
 77 verified by a confirmatory test; and

78 (15) An employer who performs on-site drug tests or  
 79 specimen collection shall establish chain-of-custody procedures  
 80 to ensure proper recordkeeping, handling, labeling and  
 81 identification of all specimens to be tested.

Section 6. 1. The employer shall pay the costs of all drug  
 82 tests required, or requested, of a school bus operator or job  
 83 applicant. The school bus operator or job applicant shall pay the  
 84 costs of any additional drug tests requested by the school bus  
 85 operator or job applicant.

86 2. Any local board of education which undertakes a drug  
 87 testing program or which pays an employer's drug testing costs  
 88 shall pay for such program out of local revenues and shall not  
 89 be reimbursed by the state.

Section 7. Only approved laboratories shall conduct  
 90 confirmation drug tests. All confirmation tests shall use an  
 91 alternate method of equal or greater sensitivity than that used  
 92 on the initial drug test. If an initial drug test is negative, there  
 93 shall be no confirmation drug test.

Section 8. 1. A school bus operator or job applicant whose  
 94 drug test result is confirmed as positive in accordance with the  
 95 provisions of sections 1 to 15 of this act shall not, by virtue of  
 96 the result alone, be defined as a person with a "handicap."

97 2. An employer who discharges or disciplines a school bus  
 98 operator on the basis of a positive confirmed drug test in

99 accordance with sections 1 to 15 of this act shall be considered  
 100 to have discharged or disciplined the employee for good cause.

101 3. A physician-patient relationship is not created between  
 102 a school bus operator or job applicant, and an employer or any  
 103 person performing or evaluating the drug test, solely by the  
 104 establishment or implementation of a drug testing program.

105 4. Sections 1 to 15 of this act shall not prevent an employer  
 106 from establishing reasonable work rules related to employee  
 107 possession, use, sale or solicitation of drugs, including  
 108 convictions for drug-related offenses and from taking action  
 109 based upon a violation of any of those rules.

110 5. Sections 1 to 15 of this act shall not be retroactive and  
 111 shall not abrogate any right of an employer under state law to  
 112 conduct drug tests prior to the effective implementation date  
 113 sections 1 to 15 of this act. A drug test conducted by an employer  
 114 before the effective date is not subject to sections 1 to 15 of this  
 115 act.

116 6. An employer may temporarily suspend a school bus  
 117 operator or may transfer a school bus operator to another  
 118 position which does not involve operation of a school bus after  
 119 obtaining the results of a positive on-site initial test or positive  
 120 confirmed test.

Section 9. 1. All information, interviews, reports,  
 121 statements, memoranda and test results, written or otherwise  
 122 received by the employer through its drug testing program are  
 123 confidential communications and may not be used or received  
 124 in evidence, obtained in discovery, or disclosed in any public or  
 125 private proceedings, except in accordance with sections 1 to 15  
 126 of this act.

127 2. Any information obtained by an employer pursuant to  
 128 sections 1 to 15 of this act shall be the property of the employer.

129 3. An employer shall not release to any person other than  
 130 the school bus operator or job applicant, except as provided by  
 131 section 14 of this act, information related to drug test results  
 132 unless:

14 (1) The school bus operator or job applicant has expressly,  
15 in writing, subsequent to the testing and with knowledge of its  
16 results, granted permission for the employer to release such  
17 information; or

18 (2) It is necessary to introduce a positive confirmed test  
19 result into an arbitration proceeding pursuant to a collective  
20 bargaining agreement, an administrative hearing under  
21 applicable state law, or a judicial proceeding, provided that  
22 information is relevant to the hearing or proceeding to cancel  
23 the school bus operator's permit, or the information must be  
24 disclosed to a federal agency or other unit of United States  
25 government as required under law, regulation or order, or in  
26 accordance with compliance requirements of a federal  
27 government contract.

Section 10. No laboratory may be approved by the  
2 department of health for confirmation drug tests unless the  
3 laboratory follows proper quality control procedures, including,  
4 but not limited to:

5 (1) The use of internal quality controls including the use of  
6 samples of known concentrations which are used to check the  
7 performance and calibration of testing equipment, and periodic  
8 use of blind samples for overall accuracy;

9 (2) An internal review and certification process for test  
10 results, conducted by a person qualified to perform that function  
11 in the testing laboratory;

12 (3) Security measures implemented by the testing  
13 laboratory to preclude adulteration of specimens and test  
14 results; and

15 (4) Other necessary and proper actions are taken to ensure  
16 reliable and accurate test results.

Section 11. 1. A laboratory shall disclose to the employer  
2 a written test result report within five working days after the  
3 test.

4 2. All laboratory reports of a test result shall, at a  
5 minimum, state:

6 (1) The name and address of the laboratory that performed  
7 the test and the positive identification of the person tested;

8 (2) Any positive confirmed drug test results on a specimen  
9 which tested positive on an initial test, or a negative drug test  
10 result on a specimen. Reports should not refer to initial or  
11 confirmatory tests when reporting positive or negative results;

12 (3) A list of the drugs tested for;

13 (4) The type of tests conducted for both initial and  
14 confirmation tests and the cutoff levels of the tests;

15 (5) The report shall not disclose the presence or absence of  
16 any physical or mental condition or of any drug other than the  
17 specific drug and its metabolites that an employer requests to  
18 be identified.

Section 12. The department of health shall adopt rules  
2 concerning:

3 (1) Standards for approval of drug testing laboratories;

4 (2) Methods of analysis and procedures to ensure reliable  
5 drug testing results, including standards for initial tests and  
6 confirmatory tests;

7 (3) Guidelines on how to establish cutoff detection levels for  
8 drugs or their metabolites for the purposes of determining a  
9 positive test result;

10 (4) Chain-of-custody procedures to ensure proper  
11 identification, labeling and handling of specimens being tested;  
12 and

13 (5) Retention and storage procedures to ensure reliable  
14 results on confirmation tests and retests.

Section 13. 1. Any employer who exercises the provisions  
2 of sections 1 to 15 of this act shall be without liability from all  
3 civil actions arising from any drug testing programs or  
4 procedures performed in compliance with sections 1 to 15 of this  
5 act.

6 2. No cause of action for defamation of character, libel,  
7 slander or damage to reputation arises in favor of any person  
8 against an employer who has established a program of drug

9 testing in accordance with sections 1 to 15 of this act, unless:

10 (1) Information regarded as confidential is released not in  
11 accordance with an information release form signed by the  
12 person or otherwise not in accordance with sections 1 to 15 of  
13 this act; and

14 (2) The incorrect test result was disclosed with malice; and

15 (3) All other elements of an action for defamation of  
16 character, libel, slander or damage to reputation as established  
17 by statute or common law, are satisfied.

18 3. No cause of action shall arise in favor of any person based  
19 upon the failure of an employer to establish a program or policy  
20 for drug testing.

Section 14. 1. Any local board of education and the state  
2 board of education shall report to the director of revenue any  
3 confirmed positive drug test result for any school bus operator  
4 employed by the board or for any job applicant.

5 2. Any corporation, partnership, proprietorship or  
6 association which provides transportation for pupils pursuant to  
7 contract or agreement with any local board of education or the  
8 state board of education shall report to the director of revenue  
9 and to the board with whom it has a contract or agreement any  
10 confirmed positive drug test result for any school bus operator  
11 whom it employs if that school bus operator transports pupils  
12 for that board. Any such corporation, partnership,  
13 proprietorship, or association shall report to the director of  
14 revenue the confirmed positive drug test result of any job  
15 applicant.

Section 15. 1. The director of the department of revenue  
2 shall immediately cancel the school bus operator's permit held  
3 by any person upon receipt of notice that such person has had  
4 a confirmed positive drug test according to the provisions of  
5 sections 1 to 15 of this act. The cancellation shall be in effect  
6 for a one-year period, after which the operator may re-apply for  
7 a permit if he or she has successfully completed a drug  
8 rehabilitation program approved by the director of revenue. A

9 second cancellation for a confirmed positive drug test shall be  
10 permanent.

11 2. Whenever the director of revenue becomes aware that a  
12 holder of a school bus operator's permit is not eligible for  
13 issuance or renewal of such permit pursuant to section 302.272,  
14 RSMo, the director shall immediately cancel such permit.

15 3. The director of revenue shall notify by registered mail  
16 any such school bus operator of such cancellation.

17 a. Upon notice of such cancellation, if any such school bus  
18 operator shall neglect or refuse to surrender his school bus  
19 operator's permit, the director shall direct the state highway  
20 patrol or any police officer to secure possession thereof and  
21 return it to the director.

22 5. In the event that the permit of any school bus operator  
23 is canceled pursuant to this section, the school bus operator may  
24 appeal to the circuit court of the county of his residence as  
25 provided in section 302.311, RSMo.

26 6. Any person who wishes to re-apply for a permit under  
27 subsection 1 shall pay the director a reinstatement fee of twenty  
28 dollars in addition to all other fees provided by law.

WEST'S  
LOUISIANA STATUTES  
ANNOTATED

REVISED STATUTES

*Official Classification*

Sections 49:1 to 51:470

Volume 27A

1991

**Cumulative Annual Pocket Part**

Replacing 1990 pocket part in back of volume

**Includes laws through the 1990  
Regular Session**

ST. PAUL, MINN.  
WEST PUBLISHING CO.

B. No cause of action for defamation of character, libel, slander, or damage to reputation or privacy arises in favor of any person against an employer or testing entity who has established a program of drug or alcohol testing in accordance with this Chapter, unless:

(1) The results of that test were disclosed to any person other than the employer or testing entity, an authorized employee or agent of the employer or testing entity, the tested employee, or the tested prospective employee;

(2) The information disclosed was based on a false test result or a failure to comply with the provisions of this Chapter;

(3) All elements of an action for defamation of character, libel, slander, or damage to reputation or privacy as established by statute or civil law, are satisfied.

C. Any provision of this Chapter held to be prohibited by the laws of the state of Louisiana shall be ineffective to the extent of such prohibition without invalidating the remaining provisions of this Chapter.

Added by Acts 1990, No. 1036, § 1, eff. Jan. 1, 1991.

**Historical and Statutory Notes**      was redesignated as R.S. 49:1012; and in subsec. C, "Act" was twice changed to "Chapter", both on authority of R.S. 24:253.  
This section, enacted as R.S. 49:1122 by Acts 1990, No. 1036, § 1 effective January 1, 1991,

#### PART IV. PUBLIC EMPLOYEE DRUG TESTING

##### ★ § 1015. Public employee drug testing

A. A public employer may require, as a condition of continued employment, samples from his employees to test for the presence of drugs following an accident during the course and scope of his employment, under other circumstances which result in reasonable suspicion that drugs are being used, or as a part of a monitoring program established by the employer to assure compliance with terms of a rehabilitation agreement.

B. A public employer may require samples from prospective employees, as a condition of hiring, to test for the presence of drugs.

C. A public employer may implement a program of random drug testing of those employees who occupy safety-sensitive or security-sensitive positions.

D. Any public employee drug testing shall occur pursuant to a written policy, duly promulgated, and shall comply with the provisions of this Chapter.

E. In the event the Louisiana State Racing Commission shall require or conduct drug testing on its employees, agents, and representatives, the Commission shall comply with the provisions of this Part and the Louisiana Administrative Procedure Act as well as seek prior approval of the procedures of the drug testing by the appropriate legislative oversight committee. The failure of the State Racing Commission to receive the required legislative approval shall negate all test results conducted under the non-approved procedures. Any drug testing program or procedure required or conducted by the State Racing Commission shall be applicable and include the members of the State Racing Commission.

Added by Acts 1990, No. 1036, § 1, eff. Jan. 1, 1991.

**Historical and Statutory Notes**      was redesignated as R.S. 49:1015 on authority of R.S. 24:253.  
This section, enacted as R.S. 49:1125 by Acts 1990, No. 1036, § 1, effective January 1, 1991,

#### CHAPTER 16. NAMING STATE STATUTORY ENTITIES, AGENCIES, DEPARTMENTS, OFFICES AND BUDGET UNITS

##### § 1101. Naming state statutory entities, agencies, departments, offices, or budget units

A. Except as designated by the Constitution of Louisiana or as provided in R.S. 49:215(E) or Subsection B of this Section, no statutory entity, as defined in R.S. 49:190, or

SMITH-HURD  
ILLINOIS ANNOTATED  
STATUTES

Chapters 111<sup>2</sup>/<sub>3</sub> to 119

---

Chapter 111<sup>2</sup>/<sub>3</sub>  
Public Utilities  
¶ 601 to End  
to  
Records

1991  
Cumulative Annual Pocket Part

*For Use In 1991-1992*

Replacing 1990 Pocket Part in back of volume

Under same classification as  
ILLINOIS REVISED STATUTES  
STATE BAR ASSOCIATION EDITION

Includes laws through P.A. 36-1490,  
approved Jan. 14, 1991

ST. PAUL, MINN.  
WEST PUBLISHING CO.

111<sup>2</sup>/<sub>3</sub> ¶ 699.15

PUBLIC UTILITIES

deficits as the Department determines to have been incurred in conformity with this Section.

P.A. 78-1109, Art. IV, § 4-4, added by P.A. 86-16, Art. III, § 1, eff. June 30, 1989.  
1 49 U.S.C.A. § 1607a.

699.16. Termination of grant program

§ 4-5. The grant program established under this Article shall be terminated when UMTA Section 9<sup>1</sup> funds cease to be available to the State from the federal government.

P.A. 78-1109, Art. IV, § 4-5, added by P.A. 86-16, Art. III, § 1, eff. June 30, 1989.  
1 49 U.S.C.A. § 1607a.

REGIONAL TRANSPORTATION AUTHORITY ACT

ARTICLE II. POWERS

★ 702.24. Comprehensive drug testing program

§ 2.24. Beginning January 1, 1990, the Regional Transportation Authority, and all of the Service Boards subject to the Authority, including the Chicago Transportation Authority, shall be responsible for the establishment, maintenance, administration and enforcement of a comprehensive drug testing program which is in absolute conformity with Federal statutes and regulations currently in effect.

P.A. 78-5, 3rd Sp.Sess., Part I, Art. II, § 2.24, added by P.A. 86-906, § 2, eff. Sept. 11, 1989.

ARTICLE III. ORGANIZATION

703.03. Terms, vacancies

§ 3.03. Terms, vacancies. Each Director, including the Chairman, shall be appointed for an initial term as provided for in Section 3.10 of this Act.<sup>1</sup> Thereafter, each Director shall hold office for a term of 5 years, and until his successor has been appointed and has qualified. A vacancy shall occur upon resignation, death, conviction of a felony, or removal from office of a Director. Any Director may be removed from office upon concurrence of not less than 9 Directors, on a formal finding of incompetence, neglect of duty, or malfeasance in office. Within 30 days after the office of any member becomes vacant for any reason, the appointing authorities of such member shall make an appointment to fill the vacancy. A vacancy shall be filled for the unexpired term.

After October 1, 1984, whenever a vacancy for a Director, except as to those Directors appointed by the Governor or the Mayor of the City of Chicago, exists for longer than 4 months, the new Director shall be chosen by election by all legislative members in the General Assembly representing the affected area. In order to qualify as a voting legislative member in this matter, the affected area must be more than 50% of the geographic area of the legislative district.

Amended by P.A. 86-1475, Art. 3, § 3-58, eff. Jan. 10, 1991.

<sup>1</sup> Paragraph 703.10 of this chapter.

Historical and Statutory Notes

P.A. 86-1475, Art. 3, of the Second 1990 Revisory Act, amends various Acts to delete obsolete text, to correct patent and technical errors, and to revise cross-references. For provisions of Art. 1,

§ 1-2, relating to intent and Art. 6, § 6-1, relating to effective dates and acceleration of Acts with later effective dates or extension or revival of repealed Acts, see Historical and Statutory Notes following ch. 17, § 302.

PUBLIC UTILITIES

703.05. Meetings

Notes of Decisions

1. Contracts  
South Suburban Safeway Lines, Inc.  
Transp. Authority, App. 1 Dist. 1988

704.01. Budget and program

§ 4.01. Budget and Program Authority. It shall by ordinance purposes and provide for each year the Authority shall prepare program document describing forthcoming fiscal year the expenditures as the Authority intends to finance them. The amount of the funds estimated to be rec- funds estimated to be on hand at first Five-Year Program, the program and budget shall be amended program deviates giving the reasons for such on January 1st and end on that began October 1, 1982, 1st of each year thereafter submit to the Authority a collected from the taxes in the Public Transportation and Use Tax Replacer 1988, the Board shall report General Assembly and the January 1, 1984, and then General Assembly and the Before the proposed budget least one public hearing the least one meeting for con county board of each of conducting such hearings in the proposed program shall adopt its annual budget the affirmative votes of such sums of money as obligations of the Authority which appropriations are program. Additional app such ordinance may be n votes of 9 of its then Di

(b) The budget shall sources and anticipated discharge of encumbrance interest when due, and promptness all obligation

The annual budget a charges for mass transp contracts of, the Service fare revenues from suc least 50% of the aggregate fiscal year. "Fare rev

ARIZONA  
REVISED STATUTES

ANNOTATED

1991

Cumulative Pocket Part

*For Use In 1991-1992*

Replacing 1990 Pocket Part in back of volume

Volume 9A

Title 28

LEGISLATIVE AFFAIRS §§ 28-101 to 28-1300  
Reference Library

Including Legislation Enacted In The First Regular  
And The First and Second Special Sessions Of  
The Fortieth Legislature (1991)

ST. PAUL, MINN.

WEST PUBLISHING CO.

§ 28-413. What persons shall not be licensed

A. The department shall not issue a license:

1. To a person, for a class D or M license, who is under the age of sixteen years, except that the department may issue a restricted class D license as provided by this chapter to a person who is at least fifteen years of age.
2. To a person, for a class A, B or C license, who is under the age of twenty-one years, except that the department may issue a class A, B or C license which is restricted to intrastate driving only to a person who is at least eighteen years of age.
3. To a person whose license has been suspended, during such suspension, nor to a person whose license has been revoked, except as provided in § 28-448.
4. To a person, for a class A, B or C license, who has been disqualified from obtaining a commercial driver's license.
5. To a person who is an habitual drunkard or is addicted to the use of narcotic drugs.
6. To a person who has previously been adjudged to be incapacitated pursuant to § 14-5304 and who has not at the time of application obtained a termination of incapacity by the methods provided by law.
7. To a person who is required by the provisions of this chapter to take an examination, unless the person has successfully passed the examination.
8. To a person who is required under the provisions of the motor vehicle financial responsibility laws of this state to deposit proof of financial responsibility and who has not deposited such proof.
9. To a person when the department has good cause to believe that the operation of a motor vehicle on the highways by the person would be inimical to public safety or welfare.

E. The department shall not issue to or renew a driver's license for any person when the department has been notified by a court that the licensee has violated his written promise to appear in court when charged with a violation of the motor vehicle code until the department has received notification in a manner approved by the motor vehicle division that the person has appeared either voluntarily or involuntarily, or the case has been adjudicated, is being appealed or has otherwise been disposed of as provided by law. If notified pursuant to § 28-1080, the department shall not issue a driver's license to or renew the license of any person who has failed to pay a civil sanction as provided in § 28-1080, except a parking violation, until the department receives notification in a manner approved by the motor vehicle division that the person has paid the sanction or the case is being appealed or has otherwise been disposed of as provided by law. The magistrate or the clerk of the court shall provide such notification to the department in all cases affected by this subsection.

Amended by Laws 1989, Ch. 220, § 21, eff. Jan. 1, 1990.

**Historical and Statutory Notes**

The 1989 amendment, in subsec. A, rewrote par. 1, inserted new pars. 2 and 4 and renumbered other paragraphs accordingly.

Laws 1989, Ch. 220, § 64 provides:

"This act is effective from and after December 31, 1989."

The 1989 amendment of this section by Ch. 220 explicitly amended the 1987 amendment of this section by Ch. 148.

**1989 Reviser's Note:**

In subsection A, paragraph 4 a comma following "C" was transposed to follow "license" pursuant to authority of § 41-1304.02.

§ 28-414.01. School bus drivers; requirements

A. A person shall not operate a school bus transporting school children unless he possesses the appropriate license class for the size of school bus being operated, a bus endorsement and a school bus certificate issued by the department.

B. In order to be certified as a school bus driver a person shall do all of the following:

1. Meet and maintain the minimum standards prescribed by this section and rules adopted by the department.

2. Complete an initial instructional course on school bus driver safety and training including behind the wheel training.

C. The department shall, by rule, establish minimum standards for the certification of school bus drivers and provide, in cooperation with local school districts or the department of education, for school bus driver safety and training courses. The standards established shall include requirements concerning moral character, knowledge of school bus operation, pupil and motor vehicle safety, physical impairments which might affect the applicant's ability to safely operate a school bus or which might endanger the health or safety of school bus passengers, knowledge of first aid, establishment of school bus safety and training courses and a refresher course to be completed on at least a biennial basis, and such other matters as the department may prescribe for the protection of the public. The standards shall provide that tests shall be performed to detect the presence of alcohol or the use of a drug in violation of title 13, chapter 34<sup>1</sup> that may adversely affect the ability of the applicant to safely operate a school bus and that hearing tests may be performed with or without the use of a hearing aid and that the hearing tests be performed as provided in title 49, code of federal regulations, part 391.41.

D. In carrying out the provisions of this section the department shall require applicants to furnish fingerprints, and the department shall obtain criminal history record information pursuant to § 41-1750. The applicant for certification for the purposes of this subsection shall pay a fee which is payable to the department of public safety to reimburse the department of public safety for the cost of obtaining the applicant's criminal history record information required by this section. The fee which is payable to the department of public safety shall not exceed the actual cost of obtaining the applicant's criminal history record information.

E. The department shall issue a school bus driver certificate to an applicant who fully meets the requirements of this section which is valid if the applicant maintains the minimum standards established by this section. The department may cancel the certificate if the person's license to drive is suspended, cancelled, revoked or disqualified. The department shall cancel the certificate if the person fails to maintain minimum standards established pursuant to subsection C of this section. A person whose application for a certificate is refused or whose certificate is cancelled for failure to meet or maintain minimum standards may request and receive a hearing.

Amended by Laws 1989, Ch. 220, § 22, eff. Jan. 1, 1990; Laws 1990, Ch. 324, § 2.

<sup>1</sup> Section 13-3401 et seq.

#### Historical and Statutory Notes

The 1989 amendment, effective January 1, 1990, rewrote subsecs. A and E (redesignated from "F"); and deleted former subsec. E.

Laws 1989, Ch. 220, § 64 provides:

"This act is effective from and after December 31, 1989."

The 1989 amendment of this section by Ch. 220 explicitly amended the 1987 amendment of this section by Ch. 148.

The 1990 amendment inserted provisions relating to alcohol or drug tests in the last sentence of subsec. C.

#### § 28-415. Instruction permits and temporary licenses

A. Any person who is at least fifteen years and seven months of age may apply to the department for an instruction permit for a class D license. The department may in its discretion, after the applicant has successfully passed all parts of the examination other than the driving test, issue to the applicant an instruction permit which shall entitle the applicant, while having the permit in his immediate possession, to drive a motor vehicle requiring a class D license upon the public highways for a period of twelve months when accompanied by a person who possesses the same class or higher class of license and who is occupying a seat beside the driver, except in the event the permittee is operating a motorcycle.

B. The department upon receiving proper application may in its discretion issue a restricted instruction permit for a class D license effective for a school year or more restricted period to an applicant who is enrolled in a driver training program approved by the department and is at least fifteen years of age. After the applicant has successfully

NORTH SLOPE BOROUGH  
ORDINANCE SERIAL NO. 91-07

AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT  
OF A DRUG TESTING PROGRAM FOR NORTH SLOPE  
BOROUGH EMPLOYEES

WHEREAS, the North Slope Borough has a compelling interest in assuring the safety and security of all Borough employees and all citizens of the Borough as they go about their daily business, and

WHEREAS, the North Slope Borough, as the largest employer in the Borough and as a matter of public policy, has a critical interest in securing a safe workplace, and

WHEREAS, citizens and communities throughout the North Slope Borough have indicated that substance abuse in the workplace is a continuing and growing concern, and

WHEREAS, numerous Borough employees are currently subject to Federal regulations governing drug use in the workplace which require drug testing of said employees, and

WHEREAS, the Drug and Alcohol Policy of the North Slope Borough was adopted to address the problem of drug and alcohol abuse by Borough employees, and

WHEREAS, the ultimate concern of the Borough is the protection of workplace and public safety, it is in the best interest of the Borough and the citizens of the North Slope Borough to extend drug testing to all Borough employees to ensure the safety of all.

NOW THEREFORE, BE IT ENACTED:

SECTION 1. Classification. This ordinance is of a general and permanent nature and shall become part of the Borough code.

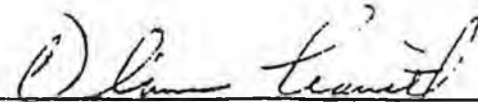
SECTION 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

SECTION 3. Effectiveness. This ordinance shall become effective upon adoption.

SECTION 4. Adoption of Section. Title 2, Chapter 20, Section 440 is hereby adopted as annexed hereto as part of Title 2 of the Code of Ordinances of the North Slope Borough.

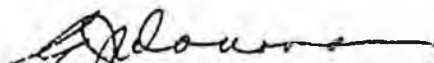
INTRODUCED: August 13, 1991

ADOPTED: Sept. 10, 1991

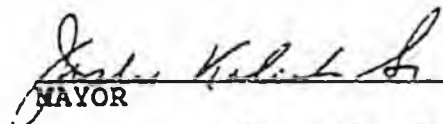
  
PRESIDENT

Date: 9-26-91

ATTEST:

  
BOROUGH CLERK

Date: 9-26-91

  
MAYOR

Date: 9-26-91

2.20.440 Provision for establishment of a drug and alcohol testing program for borough employees.

A. The Mayor, with the assistance of the Law Department, shall prescribe drug and alcohol testing rules and regulations that govern all Borough employees regardless of position, classification or location of employment.

B. The drug and alcohol testing rules and regulations shall:

1. Become effective upon approval by the Mayor and review and ratification by the North Slope Borough Assembly.

2. Be comprehensive in nature and contain provisions covering the following:

a. Development of an employee handbook incorporating the drug and alcohol policy statements, testing requirements and detailed penalties for violation of the drug and alcohol testing rules and regulations.

b. Assessment of local drug and alcohol rehabilitation programs and existing policies relating to Employee Assistance Programs as described in the North Slope Borough Drug and Alcohol Policy.

c. Provide for professional services contract(s) for drug and alcohol testing and analyses of specimens. Specific services to include:

1. Confirmatory testing by gas chromatography/mass spectrometry when initial screenings are positive.

2. Documented procedures for chain of custody.

3. Timeliness of analyses of specimens and report of results.

4. Computer based random number generator or similar system to ensure true random selection.

5. Competitive price for services.

d. Establish procedures for taking specimens.

e. Develop a supervisory report form for drug and alcohol incidents.

f. Establish a filing system for all drug and alcohol testing information and incident reports, confidential and separate from regular personnel files.

g. Notify and train supervisors on the drug and alcohol policy and train supervisors in recognizing the symptoms of drug and alcohol abuse.

h. Notify employees and prospective employees of the drug and alcohol testing policy of the North Slope Borough.

i. Organize a drug and alcohol testing policy orientation for all employees to be held prior to implementation of the testing program, and thereafter as part of the orientation of new employees.

j. Notify all contractors and other service providers by ordinance that compliance with the Drug and Alcohol testing policy will be a contractual condition for performing work for the North Slope Borough.

D. Notwithstanding any provision in this chapter or any personnel rule and regulation adopted under it, the rules and procedures prescribed and approved under this section shall apply to all Borough employees and if in conflict with any existing provision shall supersede it.

ord\91-07.clk