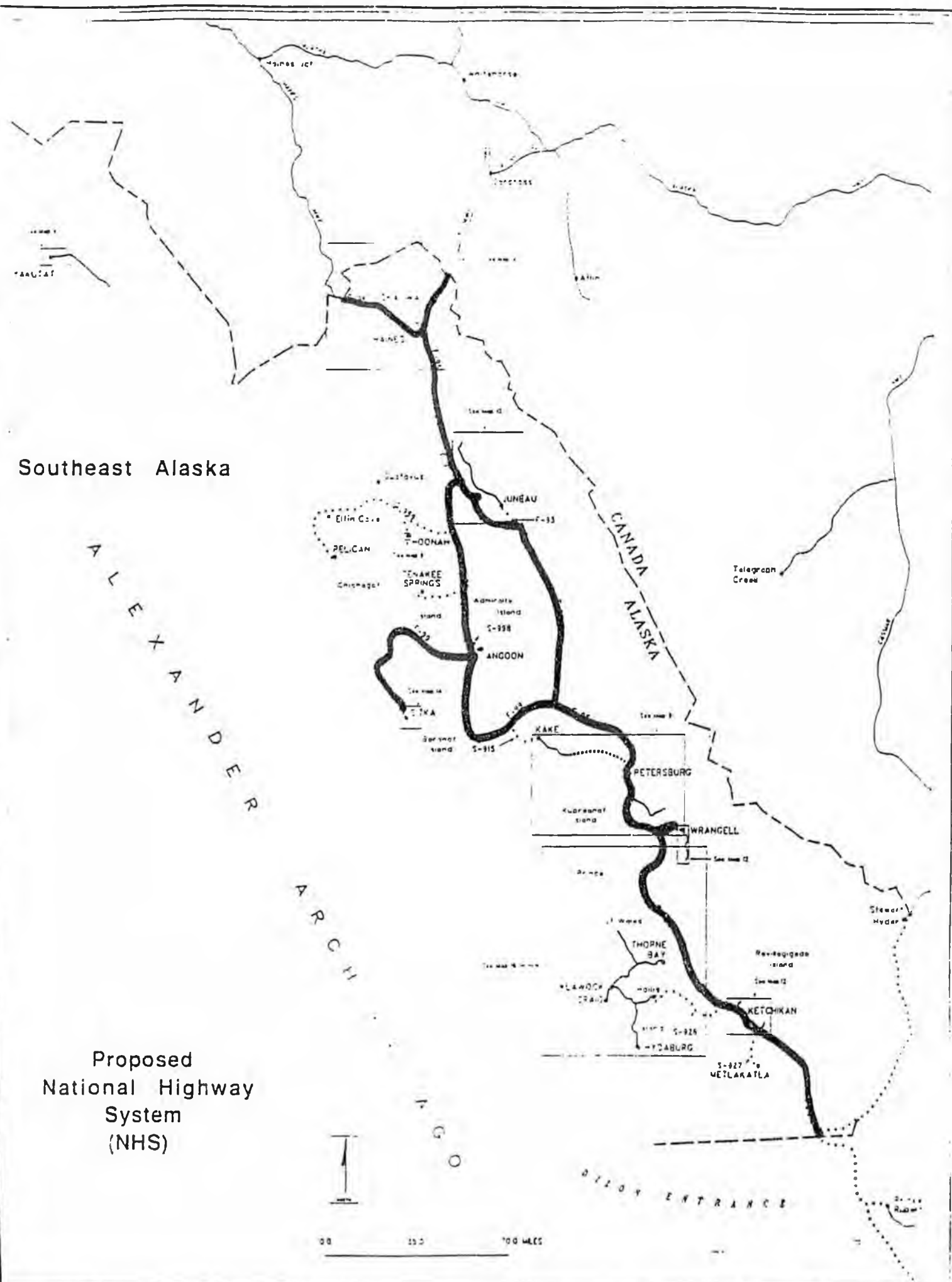


ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8307 SENATE JUDICIARY



Southeast Alaska

ALEXANDER

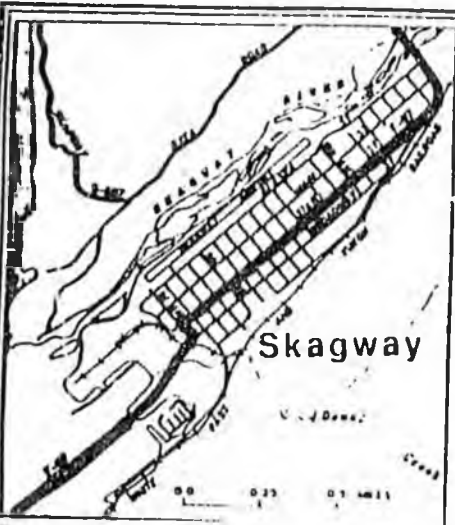
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(NHS)

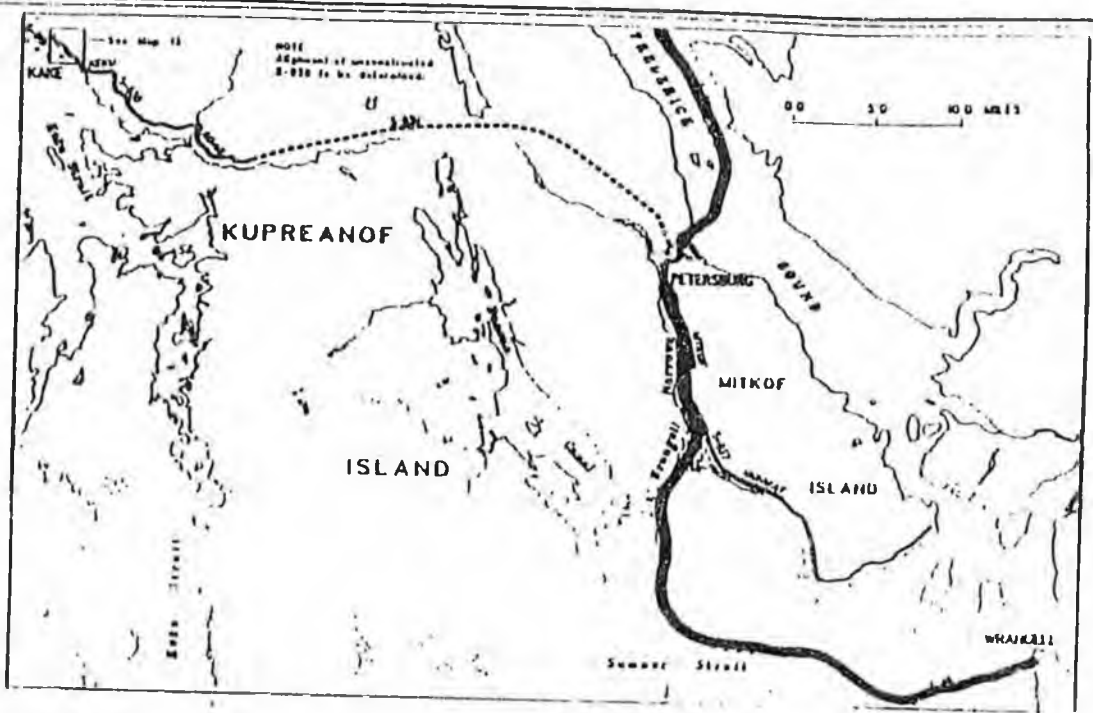


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BILLY ENTRANCE



Skagway



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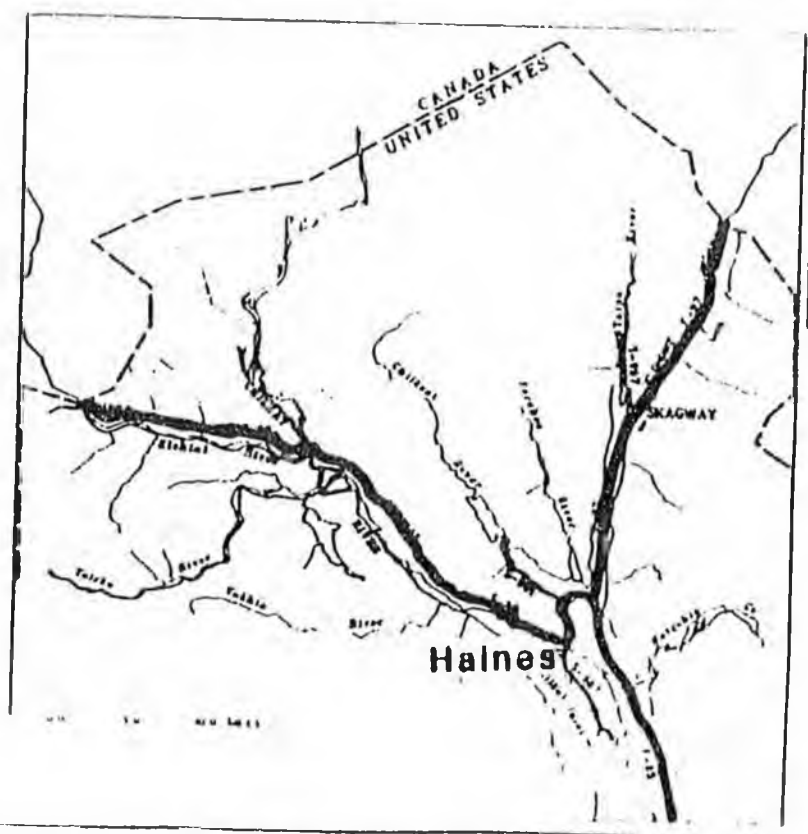
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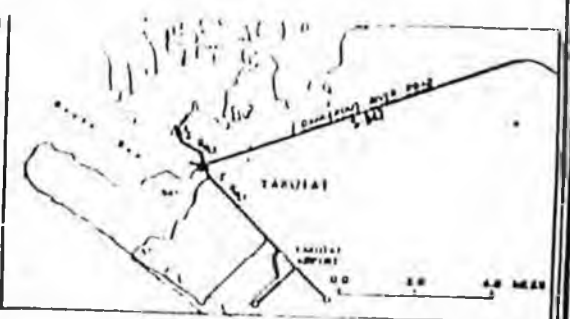


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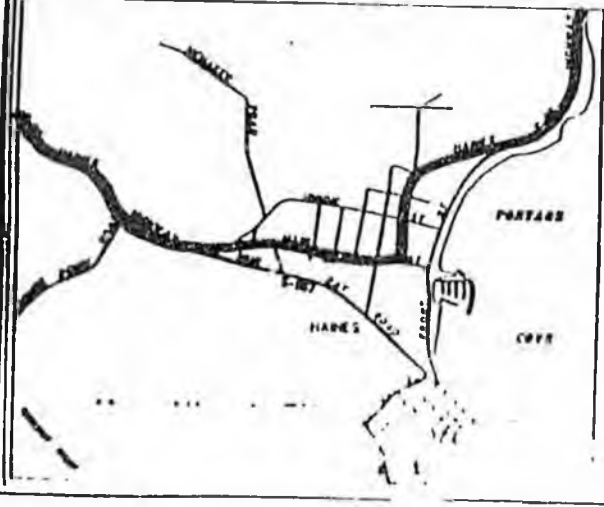
ISLAND



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Proposed NHS



HAINES

PORTAGE

COVE

SB

158



ALASKA COLLECTORS ASSOCIATION

A Unit Of
AMERICAN COLLECTORS ASSOCIATION, INC.



REPLY TO:

Transmitted via facsimile

March 23, 1993

Senator Loren Leman
Attn: Porita

Re: Senate Bill 158

Dear Senator Leman,

I am writing this letter to encourage your support of SB 158. On behalf of the Alaska Collectors Association we believe this legislation is vital to the credit industry. The current exemption level allows a majority of non paying consumers to remain virtually judgement proof, greatly restricting economic stimulation.

We would appreciate your support with SB 158.

Sincerely,

Will Fancher
President

WF/ml

EXEMPTION COMPARISON				
Exemption	Alaska	Washington	Oregon	<i>Proposed</i>
Home	\$62,100.00	\$30,000.00	\$15,000.00	\$36,000.00
Personal Property	\$3,450.00	\$3,700.00	\$1,450.00	\$2,100.00
Wages	\$402.50/wk	\$127.50/wk	\$160.00/wk	\$250.00/wk
	Prepared by Senate State Affairs Committee Staff			

EXEMPTION COMPARISON

6.13.020. What homestead may consist of

If the owner is married, the homestead may consist of the community or jointly owned property of the spouses or the separate property of either spouse: *Provided*, That the same premises may not be claimed separately by the husband and wife with the effect of increasing the net value of the homestead available to the marital community beyond the amount specified in RCW 6.13.030 as now or hereafter amended. When the owner is not married, the homestead may consist of any of his or her property.

Formerly § 6.12.020, amended by Laws 1973, 1st Ex.Sess.: ch. 154, § 6; Laws 1977, Ex.Sess., ch. 98, § 1, eff. May 28, 1977; Laws 1981, ch. 329, § 3. Recodified as § 6.13.020 and amended by Laws 1987, ch. 442, §§ 202, 1121.

Historical and Statutory Notes

Severability—Laws 1981, ch. 329: See Historical Note following § 6.21.020.

Severability—Laws 1973, 1st Ex. Sess., ch. 154: See Historical Note following § 2.12.030.

Notes of Decisions

For basic development of Notes of Decisions, see § 6.12.020 in Main Volume.

3. — By surviving spouse

Fact that homestead protection extended to heads of families by this section and § 6.12.290 encompasses certain

widowed persons not presently distinguishable from single persons in terms of providing for a family, does not indicate that latter group has been denied equal protection under the 14th Amendment. *In re Statham* (1973) 483 F.2d 436, certiorari denied 94 S.Ct. 578, 414 U.S. 1069, 38 L.Ed.2d 474.

6.13.030. Homestead exemption limited

A homestead may consist of lands, as described in RCW 6.13.010, regardless of area, but the homestead exemption amount shall not exceed the lesser of (1) the total net value of the lands, mobile home, and improvements as described in RCW 6.13.010, or (2) the sum of thirty thousand dollars, except where the homestead is subject to execution, attachment, or seizure by or under any legal process whatever to satisfy a judgment in favor of any state for failure to pay that state's income tax on benefits received while a resident of the state of Washington from a pension or other retirement plan, in which event there shall be no dollar limit on the value of the exemption.

Formerly § 6.12.050, amended by Laws 1971, Ex.Sess., ch. 12, § 1; Laws 1977, Ex.Sess., ch. 98, § 3, eff. May 28, 1977; Laws 1981, ch. 329, § 10; Laws 1983, 1st Ex.Sess., ch. 45, § 4. Recodified as § 6.13.030 and amended by Laws 1987, ch. 442, §§ 203, 1121. Amended by Laws 1991, ch. 123, § 2.

Historical and Statutory Notes

1991 Legislation

Laws 1991, ch.123, § 2, added the exemption.

Purpose—Laws 1991, ch. 123: "The legislature recognizes that retired persons generally are financially dependent on fixed pension or retirement benefits and passive income from investment property. Because of this dependency, retired persons are more vulnerable than others to inflation and depletion of their assets. It is the purpose of this act to increase the protection of income of re-

tired persons residing in the state of Washington from collection of income taxes imposed by other states." [Laws 1991, ch. 123, § 1.]

Severability—Laws 1981, ch. 329: See Historical Note following § 6.21.020.

Severability—Laws 1971, Ex.Sess., ch. 12: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [Laws

ENFORCEMENT OF JUDGMENTS

6.15.010

sworn to by the applicant, setting forth the name and age of the alleged incompetent or disabled husband or wife; a description of the premises constituting the homestead; the value of the same; the county in which it is situated; such facts necessary to show that the nonpetitioning husband or wife is incompetent or disabled to the degree required under RCW 6.13.210; and such additional facts relating to the circumstances and necessities of the applicant and his or her family as he or she may rely upon in support of the petition.

Formerly § 6.12.320, amended by Laws 1977, Ex.Sess., ch. 80, § 6. Recodified as § 6.13.230 and amended by Laws 1987, ch. 442, §§ 223, 1121.

Historical and Statutory Notes

Purpose—Intent—Severability—
Laws 1977, Ex.Sess., ch. 80: See Historical Note following § 4.16.190.

6.13.240. Order—Effect

If the court shall make the order provided for in RCW 6.13.210, the same shall be entered upon the minutes of the court, and thereafter any sale, conveyance, or mortgage made in pursuance of such order shall be as valid and effectual as if the property affected thereby was the absolute property of the person making such sale, conveyance, or mortgage in fee simple. Formerly § 6.12.330. Recodified as § 6.13.240 and amended by Laws 1987, ch. 442, §§ 224, 1121.

CHAPTER 6.15—PERSONAL PROPERTY EXEMPTIONS:

- Section
- 6.15.010. Exempt property specified.
- 6.15.020. Pension money exempt—Exceptions.
- 6.15.025. Exemption of pension or retirement plan benefits from execution for judgment for out-of-state income tax.
- 6.15.030. Fire insurance money on exempt property exempt.
- 6.15.035. Exemption of proceeds of life, disability insurance and annuities.
- 6.15.040. Separate property of spouse exempt.
- 6.15.050. Exemptions under RCW 6.15.010—Limitations on exemptions generally.
- 6.15.060. Manner of claiming exemptions—Appraisal—Appraiser's fee.
- 6.15.070. Procedure if value of property claimed exempt exceeds exemptible value.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

6.15.010. Exempt property specified

Except as provided in RCW 6.15.050, the following personal property shall be exempt from execution, attachment, and garnishment:

- (1) All wearing apparel of every individual and family, but not to exceed one thousand dollars in value in furs, jewelry, and personal ornaments for any individual.
- (2) All private libraries of every individual, but not to exceed fifteen hundred dollars in value; and all family pictures and keepsakes.
- (3) To each individual or, as to community property of spouses maintaining a single household as against a creditor of the community, to the community:

6.15.010

ENFORCEMENT OF JUDGMENTS

(a) The individual's or community's household goods, appliances, furniture, and home and yard equipment, not to exceed two thousand seven hundred dollars in value, said amount to include provisions and fuel for the comfortable maintenance of the individual or community;

(b) Other personal property, except personal earnings as provided under RCW 6.15.050(1), not to exceed one thousand dollars in value, of which not more than one hundred dollars in value may consist of cash, and of which not more than one hundred dollars in value may consist of bank accounts, savings and loan accounts, stocks, bonds, or other securities; and

(c) Two motor vehicles used for personal transportation, not to exceed two thousand five hundred dollars in aggregate value.

(4) To each qualified individual, one of the following exemptions:

(a) To a farmer, farm trucks, farm stock, farm tools, farm equipment, supplies and seed, not to exceed five thousand dollars in value;

(b) To a physician, surgeon, attorney, clergyman, or other professional person, the individual's library, office furniture, office equipment and supplies, not to exceed five thousand dollars in value;

(c) To any other individual, the tools and instruments and materials used to carry on his or her trade for the support of himself or herself or family, not to exceed five thousand dollars in value.

For purposes of this section, "value" means the reasonable market value of the debtor's interest in an article or item at the time it is selected for exemption, exclusive of all liens and encumbrances thereon.

Formerly § 6.16.020, amended by Laws 1965, ch. 89, § 1; Laws 1973, 1st Ex.Sess., ch. 154, § 13; Laws 1979, Ex.Sess., ch. 65, § 1; Laws 1983, 1st Ex.Sess., ch. 45, § 8. Renodified as § 6.15.010 and amended by Laws 1987, ch. 442, §§ 301, 1121. Amended by Laws 1988, ch. 231, § 5, eff. March 23, 1988; Laws 1991, ch. 112, § 1.

Historical and Statutory Notes

1991 Legislation

Laws 1991, ch. 112, § 1, throughout the section, increased the maximum value allowed for personal property exemptions; in subsec. (3)(b), inserted "and of which not more than one hundred dollars in value may consist of"; in subsec. (3)(c), increased the number of exempt

automobiles from one to two; and preceding "value" inserted "aggregate".

Severability—Laws 1988, ch. 231: See Historical Note following § 6.01.050.

Severability—Laws 1973, 1st Ex. Sess., ch. 154: See Historical Note following § 2.12.030.

Cross References

Earnings as defined in § 7.33.010(3) not exempt from garnishment under this section, see § 7.33.280.

United States Supreme Court

Bankruptcy lien avoidance, judicial liens impairing state law exemptions, see

Owen v. Owen, 1991, 111 S.Ct. 1833, 114 L.Ed.2d 350.

Notes of Decisions

Corporation's potential legal negligence claim against its former attorney was property subject to execution. *Iku-no v. Yip*, C.A.9 (Wash.) 1990, 912 F.2d 306.

Former § 6.16.020 (see, now, this section) providing for exemption of house-

hold goods, appliances, furniture, and home and yard equipment encompassed ping-pong table, lawnmower, picnic table and benches, desk top adding machine, bowling ball and bag, tents and camping equipment, golf clubs and bag, telephones, antique stand-up radio, color

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ATTACHMENT & GARNISHMENT

29.225

29.220 (Repealed by 1981 c.898 §53)

29.225 Form of notice of exemptions.

(1) The notice of exemptions referred to in ORS 29.215 shall be in substantially the form set forth in this subsection. Nothing in the notice form described under this subsection is intended either to expand or restrict the law relating to exempt property. Whether property is exempt from execution, attachment and garnishment shall be determined by reference to other law. The form may be modified either to provide more complete information or to update the notice based on subsequent changes in exemption laws. However, any such modification shall not be required. The following form is for notice of exemption:

NOTICE OF EXEMPT PROPERTY

Property belonging to you may have been taken or held in order to satisfy a claim or judgment which has been asserted or entered against you. Important legal papers are enclosed.

YOU MAY BE ABLE TO GET YOUR PROPERTY BACK, SO READ THIS NOTICE CAREFULLY.

State and federal law say certain property may not be taken. Some of the property which may not be taken is listed below.

(1) Wages or a salary as described in ORS 23.175 and 23.185 (whichever of the following amounts is more: (a) 75 percent of your take-home wages; (b) For wages payable before June 30, 1992, \$150; (c) For wages payable before June 30, 1993, \$160; or (d) For wages payable on or after July 1, 1993, \$170).

(2) Social security (including SSI).

(3) Public assistance (welfare).

(4) Unemployment benefits.

(5) Disability benefits.

(6) Workers' compensation benefits.

(7) Exempt wages, social security, welfare, unemployment benefits and disability benefits when placed in a checking or savings account (up to \$5,000).

(8) Spousal support, child support, or separate maintenance to the extent reasonably necessary for your support or the support of any of your dependents.

(9) A homestead (home, farm, manufactured dwelling, houseboat) if you live in it, to the value of \$13,000 (\$15,000, if land is included) or proceeds from its sale for one (1) year:

(10) Household goods, furniture, radios, a television set and utensils to \$1,450.

*(11) Automobile, truck, trailer or other vehicle to \$1,200.

*(12) Tools, implements, apparatus, team, harness or library necessary to carry on your occupation to \$750. Food for such team for 60 days.

*(13) Books, pictures and musical instruments to \$300.

*(14) Wearing apparel, jewelry and other personal items to \$900.

(15) Domestic animals and poultry for family use to \$1,000 and their food for 60 days.

(16) Provisions (food) and fuel for your family for 60 days.

(17) One rifle or shotgun and one pistol.

(18) Public or private pensions.

(19) Veterans benefits and loans.

(20) Medical assistance benefits.

(21) Health insurance proceeds and disability proceeds of life insurance policies.

(22) Cash surrender value of life insurance policies not payable to your estate.

(23) Federal annuities.

(24) Other annuities to \$250 per month, excess over \$250 per month subject to same exemption as wage.

(25) Professionally prescribed health aids for you or any of your dependents.

*(26) A tax refund allowed pursuant to ORS 310.635 or 310.640 as set forth in ORS 310.637.

*(27) Your right to receive, or property traceable to:

*(a) An award under any crime victim reparation law.

*(b) A payment, not exceeding \$7,500, on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of you or an individual of whom you are a dependent.

*(c) A payment in compensation of loss of future earnings of you or an individual of whom you are or were a dependent, to the extent reasonably necessary for your support and the support of any of your dependents.

(28) Interest in personal property to the value of \$400, but this cannot be used to increase the amount of any other exemption.

(29) The difference between what you actually owe the creditor and the total amount due listed in the writ of garnishment, if the amount listed in the writ is larger.

Note: If two or more people in your household owe the claim or judgment, each of them may claim the exemptions marked by *.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO : SB 158

Revision Date: _____
 Title: Reducing Exemption Amounts
 Sponsor: Senate Judiciary
 Requestor: Senate State Affairs

Department Affected: Labor
 BRU: Administrative Services
 Component: Labor Market Information
 COMPONENT SERIAL NO. 336

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

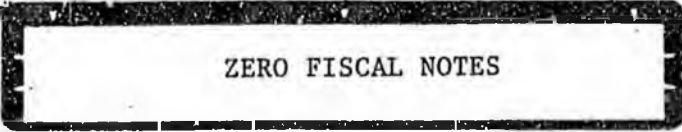
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)

Prepared by: David Teal, Director Phone: 465-2720
 Division: Administrative Services Date: 3/23/93
 Approved by Commissioner: Charles W. Mahler
 Agency: Department of Labor Date: 3/23/93

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Bill No. SB 158

Revision Date: _____ Department Affected: Alaska Court System
 Title: An Act relating to exemption amounts BRU: Trial Courts
 Components: _____
 Sponsor: Senate Judiciary
 Requestor: _____ COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE FUND SOURCE						
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FUNDING: (Thousands of Dollars)

1002 FEDERAL RECEIPTS						
1003 GF MATCH						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/PROGRAM RECEIPTS						
1006 GF/MHTIA						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY 93) impact: None

ANALYSIS: (Attach a separate page if necessary)
 No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel *CS* Phone: 264-8228
 Division: Alaska Court System Date: 03/24/93

Approved by: Arthur H. Snowden, II, Administrative Director *AS* *CS*
 Agency: Alaska Court System Date: 03/24/93

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

SB

161

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SB 161

Revision Date: January 3, 1994
 Title: Rates of Interest on Judgements and Tax Overpayments

Dept. Affected: Revenue
 BRU: Revenue Operations
 Component: Oil & Gas & Income & Excise Audit

Sponsor: Governor
 Requestor: Senate Judiciary

COMPONENT SERIAL NO. 115 & 113

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ 0.0

ANALYSIS: (Attach a separate page if necessary.)

SEE ATTACHED

Prepared by: Larry E. Meyers
 Division: Income and Excise Audit Division
 Approved by Commissioner: Darrel J. Rexwinkel
 Agency: Department of Revenue

Phone: 465-2320
 Date: January 3, 1994
 Date: January 3, 1994

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ANALYSIS OF REDUCED INTEREST FOR OVERPAYMENT OF TAXES, ROYALTIES AND NET PROFIT SHARE

This legislation would reduce the interest rate paid by the State for overpayment of taxes, royalty or net profit shares. The interest rate currently paid is 5 percentage points above the federal reserve discount rate to member banks or 11%, whichever is greater. This legislation would reduce that to 2 percentage points above the federal reserve rate. This bill also repeals a minimum rate of 11 percent paid on overpayment.

The revenue impact of this legislation would be determined by the savings that will result from the difference which would be paid under the lower market interest rates rather than the previously prescribed minimum interest rate. The current minimum interest paid could be considered an attractive investment in today's economy. The savings in interest payments on a \$1 million overpayment for a single fiscal year could range from \$32.2 to \$129.3 depending upon the interest rates at the time.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSSB 161 (STA)

Revision Date: _____
Title: An Act relating to interest rates and calculation of interest under certain judgements
Sponsor: Rules Committee
Requestor: (S) JUD

Department Affected: Administration
BRU: Risk Management
Component: Risk Management
COMPONENT SERIAL NO. 71

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL EXPENDITURES	0	0	0	0	0	0
CHANGE IN REVENUES ()	0	0	0	0	0	0

FUNDING SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	0	0	0	0	0	0

Estimate of any current year (FY 94) cost: \$ 0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

See attached.

Prepared by: J. Brad Thompson, Director
Division: Risk Management

Phone: 465-5723
Date: _____

Approved by Commissioner: Nancy Bar Usera
Agency: Department of Administration

Date: 3/14/94

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSSB 161 (STA)

ANALYSIS: (continued)

Amending the rate of prejudgment interest from the present 10.5 percent rate to the market rate for fifty-two week United State Treasury bills will reduce future settlements and judgments paid by Risk Management on tort claims filed against state agencies.

The extent of future interest savings on tort claims not yet filed is not possible to predict. Setting the interest rate to prevailing market conditions will also remove any economic incentives to either party to delay the ultimate resolution of the claim or civil action.

Risk Management loss funding is collected through interagency receipts of premiums assessed each agency. In future years, Risk Management liability premium assessments will reflect the savings realized as our premiums are based on actual claims expenses incurred.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSSB 161 (STA)

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act relating to interest rates and calculation
of interest under certain judgments" BRJ: Finance
 Component: Finance
 Sponsor: Rules Committee
 Requestor: (S) Jud COMPONENT SERIAL NO. 59

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	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
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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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

Estimate of current year (FY94) cost: none

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Don Wanie, Director Phone: 465-2240
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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 12, 1993

161

*The Honorable Rick Halford
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182*

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to statutory interest rates. This bill would change the rate of prejudgment interest and interest paid on judgments and decrees, issued by Alaska courts, from 10.5 percent to the market rate for certain investments. The bill would also lower the rate of interest payable by the state on overpayments of taxes under AS 43 and royalty and net profit shares under AS 38. Both changes should have substantial cost savings for the state.

As to interest on court judgments and decrees, AS 09.30.070 presently requires that the rate of interest is 10.5 percent a year, unless a different lawful rate was established by written contract between the parties. Additionally, prejudgment interest is also paid at the 10.5 percent rate. Currently, these statutory rates substantially exceed the present market rate for investments. The result is a bonanza for individuals who receive a favorable judgment. Also, with the statutory interest rate being fixed, the rate does not automatically respond to market rate increases during periods of high inflation, exceeding the 10.5 percentage rate. The result is that the individual who prevails suffers an additional loss when a judgment or decree is not timely paid or is paid in installments.

Section 1 of the bill remedies these problems by requiring that interest rates on judgments and prejudgment interest be set at the market rate for the sale of federal

*The Honorable Rick Halford
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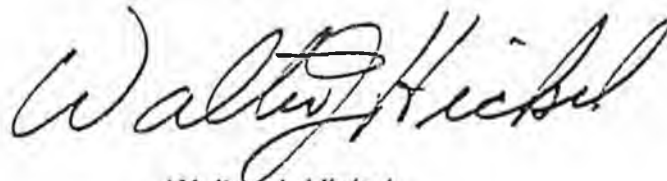
treasury bills. The bill would continue to allow individuals to establish a different interest rate on judgment by agreement, so long as the rate is not usurious, under state law. Section 1 of the bill also makes changes relating to the calculation of interest.

Section 2 of the bill changes the interest rate payable by the state on refunds of overpaid taxes under AS 43 and natural resources royalties and net profit shares under AS 38. The bill amends AS 38.05.135(e) and AS 43.05.280(a) by reducing the interest rate payable by the state on refunds of these overpaid taxes, royalties, and net profit shares from five points to two points over the quarterly Federal Reserve discount rate. The present five percentage points over the Federal Reserve discount rate for both underpayment and overpayment was designed as an across-the-board interest rate increase to discourage underpayment of these sums by those obligated to make those payments. While having that intended effect, it is also establishing the state as a favorable depository of investment funds yielding a much higher rate of interest than any other savings in banking institutions. The payment of those high yields is coming directly out of the state treasury and is not a prudent use of state resources in these years of declining available state revenue.

This bill would leave in place the provisions that discourage underpayment to the state, while removing the incentive to achieve high yields by overpaying. Also, the bill protects taxpayers in that if the overpayment was made in response to a correction made by the applicable department, the state would pay a higher interest rate, as already provided in statute.

I urge your prompt consideration and passage of this bill.

Sincerely,

A handwritten signature in cursive script, reading "Walter J. Hickel". The signature is written in dark ink and is positioned above the printed name and title.

*Walter J. Hickel
Governor*

SB

164

SECTIONAL ANALYSIS

CSSB 164(CRA)

A bill for an act entitled, "An Act relating to municipal incorporation, reclassification, and dissolution, and municipal school districts."

Sectional analysis prepared January 27, 1994 by Dan Bockhorst, Local Boundary Commission Staff, Department of Community & Regional Affairs, telephone 269-4500

Section 1 simply recognizes under AS 14.12.010 what is already provided by AS 29.35.260(b) – that a home rule city in the Unorganized Borough is a city school district.

Section 2 makes the following changes:

1. It permits a first class or home rule city to reclassify as a second class city.¹
2. It provides State oversight in the reclassification of any city government.²

Sections 3 - 5 amend procedures for municipal reclassification to further implement State review of reclassification proposals. **Section 3** requires a petition to the Local Boundary Commission to initiate a reclassification proposal. **Section 4** requires the Local Boundary Commission to notify the city upon approval of a reclassification petition, thereby triggering a municipal election on the matter. **Section 5** eliminates references to particular classes of city government, thereby acknowledging that any class of city may be reclassified.

Section 6 allows incorporation of a home rule city.³

Section 7 allows incorporation of a unified municipality.⁴

¹ Currently, this can be done only in effect by dissolving the home rule city or first class city and incorporating a second class city – a lengthy and difficult process.

² The State has legitimate interests in any city reclassification. Such interests are particularly significant in cases involving the reclassification of second class cities in the Unorganized Borough, since such automatically creates new municipal school districts. Yet, under current law the State has no provision to regulate municipal reclassification. There are a total of 27 second class cities in the Unorganized Borough that could reclassify as first class cities. Some are currently exploring the possibility of doing so. There are also 11 unincorporated communities in the Unorganized Borough that could incorporate as second class cities and subsequently reclassify as first class cities. Collectively, those 38 communities represent a potential 70 percent increase in the number of school districts in Alaska. CSSB 164(CRA) assigns responsibility to the Local Boundary Commission to oversee reclassification.

³ Under current law, forming a home rule city generally requires that a community first become a first class city and then undertake a separate process to adopt a home rule charter. Some communities have shown strong interest in allowing direct incorporation as a home rule city. State law was amended in 1985 to allow direct incorporation of home rule boroughs. Three of the four boroughs incorporated since then have incorporated as home rule boroughs. [Note: the Northwest Arctic Borough is not counted among the four. The Northwest Arctic Borough prepared its petition for incorporation before the 1985 law took effect. However, the Northwest Arctic Borough subsequently reclassified as a home rule borough.]

⁴ There are presently three unified municipalities in Alaska – Anchorage, Juneau and Sitka. Under current law, in order to form a unified municipality, there must be both an organized borough and at least one city government. Interest has been expressed in allowing other regions of the state to form unified municipalities. These include areas which may have neither a city government nor an organized borough, or only one of the two.

Sections 8, 10 - 13 and 19 provide procedures for the incorporation of home rule cities and unified municipalities. **Section 8** amends the law specifying the contents of a petition in the case of proposals for incorporation of home rule cities and unified municipalities. **Section 10** acknowledges that if voters approve incorporation of a home rule city or unified municipality, the home rule charter is adopted. **Section 11** adds a new section providing that incorporation of a unified municipality dissolves all other municipal governments within the boundaries of the unified municipality. **Section 12** extends organizational grants to newly formed unified municipalities, except those that occupy the area formerly occupied by an organized borough.⁵ **Section 13** extends transitional assistance to newly incorporated unified municipalities, again, except those that occupy the area formerly occupied by an organized borough. **Section 19** amends current law to acknowledge that any of the following may incorporate as a unified municipality: a) an area which has neither a city government nor an organized borough; b) an area which has one or more city governments, but no organized borough; or c) an area which has an organized borough, but no city governments.

Sections 9, 14, 17 and 21 confirm that the Local Boundary Commission has discretion in the approval of all petitions that come before it.⁶ The referenced sections also confirm that the Commission has broad power to amend such petitions.⁷ **Section 9** does so with respect to municipal incorporation, **Section 14** concerns municipal annexation and detachment, **Section 17** addresses merger and consolidation, and **Section 21** confirms the Commission's discretion and authority to amend a dissolution petition; and expressly extends requisite "best interests" determinations to all dissolutions.

Section 15 confirms that a home rule city or home rule borough may be formed through merger or consolidation.

Sections 16 and 18 amend existing procedures for merger or consolidation relating to home rule cities and home rule boroughs. **Section 16** provides that a home rule charter must be included with a petition to form a home rule city or home rule borough through merger or consolidation. **Section 18** states that a charter for a home rule city or home rule

⁵ Boroughs would remain eligible for organizational grants under this bill. The term "municipality" which is substituted for the term "borough" currently used under AS 29.05.190(a) and (b) does not mean only a unified municipality, but includes both boroughs and unified municipalities.

⁶ The Local Boundary Commission has explicit discretion in acting on petitions for annexation and detachment. However, the statutes do not expressly recognize the Commission's discretion in other matters. This may create unintended consequences. For example, it is widely interpreted that AS 29.06.500 may not give the Commission any discretion in dealing with a proposal presently being developed to dissolve the City of Seldovia. This is so even if the Kenai Peninsula Borough were to refuse to form a service area to assume any responsibility in terms of succeeding to the assets, duties, powers, functions and liabilities of the City of Seldovia. Under those circumstances, AS 29.06.520 dictates that the State of Alaska would be burdened with such responsibilities.

⁷ The Department of Law has concluded that the Local Boundary Commission implicitly possesses such authority. For example, with respect to incorporations, the Department of Law noted, "[the statutes] do not bind the commission to either accept or reject the petition in its entirety . . . the commission is exercising a delegated fact finding function when it considers the creation of a new municipal government. The commission stands in the shoes of the state legislature when it considers these matters. Absent an express limitation on the powers of the commission, the commission should be presumed to possess the same powers as the legislature in this area." (Assistant Attorney General James L. Baldwin, inf. op. July 7, 1987; see also Assistant Attorney General James L. Baldwin, inf. op. May 30, 1984.)

borough proposed to be formed through merger or consolidation is adopted upon voter approval of the merger or consolidation proposition.

Section 20 makes the statutes consistent in the use of the last regular election of a municipality as the basis for determining the number of signatures needed to file a petition to dissolve that municipality. This is currently the case in all instances except AS 29.06.470(a)(3), which bases the requirement on the last [State] general election.

Sections 22 - 28 make amendments relating to the creation of a home rule city or home rule borough through merger or consolidation, or the incorporation of a home rule city or unified municipality. **Section 22** acknowledges that a home rule charter may be adopted through merger or consolidation, or as a result of the incorporation of a home rule city or unified municipality. **Section 23** provides that a proposed charter for a home rule municipal government is to be filed with the petition for incorporation, merger or consolidation. **Section 24** requires the Department of Community and Regional Affairs to prepare a model charter for a home rule city and a unified municipality. **Section 25** provides that the proposed charter for a home rule municipality to be formed by incorporation, merger or consolidation must be submitted to the voters for approval. **Section 26** stipulates that, upon certification of favorable election results, the charter becomes the organic law of a home rule municipal government formed by incorporation, merger or consolidation. **Section 27** states that if the voters reject a proposal to incorporate, merge or consolidate as a home rule municipal government the charter is rejected. **Section 28** requires a home rule municipality to file a copy of any amendments to its charter with certain officials.⁸

Section 29 removes any question that the Local Boundary Commission has legislative authority to adopt regulations providing standards and procedures for municipal incorporation and dissolution.⁹

Section 30 makes the following changes:

1. It repeals the requirement that a city council hold a public hearing on a proposed reclassification of the city.¹⁰
2. It repeals the provision that allows a second class city with a population of at least 3,500 permanent residents and jurisdictional boundaries encompassing at least 35 square miles to adopt a home rule charter.¹¹

⁸ AS 29.10.080 presently requires a home rule municipal government to file a charter only upon its adoption. Current law requires no filing of amendments.

⁹ Superior Court Judge Michael A. Thompson ruled on June 7, 1993 (case No. 1JU-92-1126 CI), that the Commission has legislative authority to adopt regulations for annexation, detachment, merger and consolidation. However, he concluded that the Commission has only interpretative authority to adopt regulations concerning municipal incorporation. The ruling never addressed the Commission's authority to adopt regulations concerning dissolution. In making his ruling, Judge Thompson noted that courts need not give the same level of deference to interpretative regulations as it must give to legislative regulations.

¹⁰ Section 2 of CSSB 164(CRA) requires the Local Boundary Commission to conduct such a hearing.

¹¹ The current law applies to only one of Alaska's 116 second class cities.

8-LS08370

Cook

2/4/94

CS FOR SENATE BILL NO. 164(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to municipal incorporation, reclassification, merger, consolidation,
2 annexation, detachment, and dissolution, and to municipal school districts."

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

4 * Section 1. AS 14.12.010 is amended to read:

5 Sec. 14.12.010. DISTRICTS OF STATE PUBLIC SCHOOL SYSTEM. The
6 districts of the state public school system are as follows:

7 (1) each home rule and first class city in the unorganized borough is
8 a city school district;

9 (2) each organized borough is a borough school district;

10 (3) the area outside organized boroughs and outside home rule and
11 first class cities is divided into regional educational attendance areas.

12 * Sec. 2. AS 29.04.040(a) is amended to read:

13 (a) A second class city may be reclassified as a first class city. A first class
14 or home rule city may be reclassified as a second class city. Reclassification is

1 proposed by filing a petition with the department. The department shall
2 investigate the proposal and report its findings to the Local Boundary
3 Commission with its recommendations. The commission shall hold at least one
4 public hearing in the city on the proposal. If the commission determines that the
5 city meets the standards for incorporation under AS 29.05.011 for the class of city
6 proposed in the reclassification petition and that reclassification is in the best
7 interests of the state, it may accept or amend and accept the petition. If the
8 commission determines that the city does not meet the standards or that
9 reclassification is not in the best interests of the state, it shall reject the petition.
10 The commission shall notify the city of its decision. The decision may be appealed
11 under AS 44.62 (Administrative Procedure Act) [BY HOLDING AN ELECTION
12 ON THE QUESTION, IF THE DEPARTMENT DETERMINES FROM THE BEST
13 FIGURES AVAILABLE THAT THE POPULATION OF THE CITY HAS REACHED
14 400 PERMANENT RESIDENTS].

15 * Sec. 3. AS 29.04.040(b) is amended to read:

16 (b) A petition proposing [AN ELECTION ON THE QUESTION OF]
17 reclassification may be filed by [INITIATED IN TWO WAYS:]

18 (1) a number of voters equal to 15 percent of the number of votes cast
19 in the city at the preceding regular election [MAY FILE A PETITION WITH THE
20 COUNCIL]; or

21 (2) the council [MAY PROPOSE RECLASSIFICATION].

22 * Sec. 4. AS 29.04.040(d) is amended to read:

23 (d) The council shall, within 30 days after receiving notification from the
24 Local Boundary Commission that a petition has been accepted [ITS FINDINGS
25 HAVE BEEN MADE PUBLIC], order an election on the question of reclassification.
26 The election shall be held at least 30 days after the order and not later than the next
27 regular election occurring after the 30-day period. If more than one question is to be
28 voted on at the election, each shall appear separately on the ballot.

29 * Sec. 5. AS 29.04.040(e) is amended to read:

30 (e) The council shall certify the election results to the department. If the
31 majority of votes cast is favorable, the city is [SHALL BE CONSIDERED] reclassified

1 [TO FIRST CLASS STATUS] 30 days after certification of the election results.

2 * Sec. 6. AS 29.05.011(a) is amended to read:

3 (a) A community that meets the following standards may incorporate as a first
4 class or home rule city:

5 (1) the community has 400 or more permanent residents;

6 (2) the boundaries of the proposed city include all areas necessary to
7 provide municipal services on an efficient scale;

8 (3) the economy of the community includes the human and financial
9 resources necessary to provide municipal services; in considering the economy of the
10 community, the Local Boundary Commission shall consider property values, economic
11 base, personal income, resource and commercial development, anticipated functions,
12 and the expenses and income of the proposed city, including the ability of the
13 community to generate local revenue;

14 (4) the population of the community is stable enough to support city
15 government;

16 (5) there is a demonstrated need for city government.

17 * Sec. 7. AS 29.05.031(a) is amended to read:

18 (a) An area that meets the following standards may incorporate as a home rule,
19 first class, or second class borough, or as a unified municipality:

20 (1) the population of the area is interrelated and integrated as to its
21 social, cultural, and economic activities, and is large and stable enough to support
22 borough government;

23 (2) the boundaries of the proposed borough or unified municipality
24 conform generally to natural geography and include all areas necessary for full
25 development of municipal services;

26 (3) the economy of the area includes the human and financial resources
27 capable of providing municipal services; evaluation of an area's economy includes land
28 use, property values, total economic base, total personal income, resource and
29 commercial development, anticipated functions, expenses, and income of the proposed
30 borough or unified municipality;

31 (4) land, water, and air transportation facilities allow the

1 communication and exchange necessary for the development of integrated borough
2 government.

3 * Sec. 8. AS 29.05.060 is amended to read:

4 Sec. 29.05.060. PETITION. Municipal incorporation is proposed by filing a
5 petition with the department. The petition must [SHALL] include the following
6 information about the proposed municipality:

7 (1) class;

8 (2) name;

9 (3) boundaries;

10 (4) maps, documents, and other information required by the department;

11 (5) composition and apportionment of the governing body;

12 (6) a proposed operating budget for the municipality projecting sources
13 of income and items of expenditure through the first full fiscal year of operation;

14 (7) for a borough or unified municipality, based on the number who
15 voted in the respective areas in the last general election, the signature and resident
16 address of 15 percent of the voters in

17 (A) home rule and first class cities in the area of the proposed
18 borough or unified municipality; and

19 (B) the area of the proposed borough or unified municipality
20 outside home rule and first class cities;

21 (8) for a first class borough or unified municipality, a designation of
22 areawide powers to be exercised;

23 (9) for a second class borough, a designation of areawide and
24 nonareawide powers to be exercised;

25 (10) for a first class, [OR] second class, or home rule city, a
26 designation of the powers to be exercised;

27 (11) for a first class or home rule city, based on the number who voted
28 in the area in the last general election, the signatures and resident addresses of 50
29 voters in the proposed city or of 15 percent of the voters in the proposed city,
30 whichever is greater;

31 (12) for a second class city, based on the number who voted in the area

1 in the last general election, the signatures and resident addresses of 25 voters in the
2 proposed city or of 15 percent of the voters in the proposed city, whichever is greater,
3 (13) for a home rule city, home rule borough, or unified municipality
4 a proposed home rule charter.

5 * Sec. 9. AS 29.05.100(a) is amended to read:

6 (a) If the Local Boundary Commission determines that a proposed municipality
7 fails to meet the standards for incorporation, it shall reject the petition. If the
8 commission determines that the proposed municipality meets the standards, it may
9 [SHALL] accept the petition or amend [. IF THE COMMISSION DETERMINES
10 THAT THE PROPOSED MUNICIPAL BOUNDARIES CAN BE ALTERED TO
11 MEET THE STANDARDS, IT MAY ALTER THE BOUNDARIES] and accept the
12 petition.

13 * Sec. 10. AS 29.05.110(d) is amended to read:

14 (d) A home rule charter included in an incorporation petition under
15 AS 29.05.060(13) is considered to be part of the incorporation question. The home
16 rule charter is adopted if the voters approve incorporation of the city, borough, or
17 unified municipality.

18 * Sec. 11. AS 29.05.140 is amended by adding a new subsection to read:

19 (e) Upon incorporation, the home rule charter of a unified municipality
20 operates to dissolve all municipalities in the area unified in accordance with the
21 charter.

22 * Sec. 12 AS 29.05.190 is amended to read:

23 Sec. 29.05.190. ORGANIZATION GRANTS TO BOROUGHS AND
24 UNIFIED MUNICIPALITIES. (a) For the purpose of defraying the cost of
25 transition to borough government and to provide for interim governmental operations,
26 each borough or unified municipality incorporated after December 31, 1985, is
27 entitled to organization grants as follows:

- 28 (1) \$300,000 for the municipality's [BOROUGH'S] first full or partial
29 fiscal year,
30 (2) \$200,000 for the municipality's [BOROUGH'S] second fiscal year,
31 and

1 (3) \$100,000 for the municipality's [BOROUGH'S] third fiscal year.

2 (b) The department shall disburse the first organization grant to a borough or
3 unified municipality within 30 days after certification of the [INCORPORATION]
4 election favoring incorporation [OF A BOROUGH], or as soon after that as money is
5 appropriated and available for the purpose. The second grant shall be disbursed within
6 30 days after the beginning of the municipality's [BOROUGH'S] second fiscal year,
7 or as soon after that as money is appropriated and available for the purpose. The third
8 grant shall be disbursed within 30 days after the beginning of the municipality's
9 [BOROUGH'S] third fiscal year, or as soon after that as money is appropriated and
10 available for the purpose.

11 (c) This section does not apply to a borough incorporated by consolidation or
12 to a unified municipality that occupies the area formerly occupied by a borough.

13 * Sec. 13. AS 29.05.210 is amended to read:

14 Sec. 29.05.210. TRANSITIONAL ASSISTANCE TO BOROUGH AND
15 UNIFIED MUNICIPALITIES. (a) Within 30 days after the date of incorporation
16 of a borough or unified municipality incorporated after December 31, 1985, the
17 department shall determine the population of the borough or unified municipality.

18 (b) The department shall provide assistance to each borough and unified
19 municipality incorporated after December 31, 1985, in

20 (1) establishing the initial sales and use tax assessment and collection
21 department if the borough or unified municipality has adopted a sales or use tax;

22 (2) determining the initial property tax assessment roll if the borough
23 or unified municipality has adopted a property tax, including contracting for
24 appraisals of property needed to complete the initial assessment.

25 (c) This section does not apply to a borough incorporated by consolidation or
26 to a unified municipality that occupies the area formerly occupied by a borough.

27 * Sec. 14. AS 29.06.040(a) is amended to read:

28 (a) The Local Boundary Commission may consider any proposed municipal
29 boundary change. It may reject the proposed change, accept the proposed change, or
30 amend [ALTER THE BOUNDARIES] and accept the proposal [AS ALTERED]. A
31 Local Boundary Commission decision under this subsection may be appealed under

1 AS 44.62 (Administrative Procedure Act).

2 * Sec. 15. AS 29.06.090(a) is amended to read:

3 (a) Two or more municipalities may merge or consolidate to form a single
4 general law or home rule municipality, except a third class borough may not be
5 formed through merger or consolidation.

6 * Sec. 16. AS 29.06.100(b) is amended to read:

7 (b) The petition includes

- 8 (1) the name and class of each existing municipality;
9 (2) the name and class of the proposed municipality;
10 (3) the proposed composition and apportionment of the governing body;
11 (4) maps, documents, and other information that shows that the
12 proposed municipality meets the standards for municipal incorporation;
13 (5) for a home rule municipality, a proposed home rule charter.

14 * Sec. 17. AS 29.06.130(a) is amended to read:

15 (a) If the Local Boundary Commission determines that the proposed
16 municipality fails to meet the standards for incorporation, it shall reject the merger or
17 consolidation petition. If the commission determines that the proposed municipality
18 meets these standards, it may [SHALL] accept the petition or amend [. IF THE
19 COMMISSION DETERMINES THAT THE PROPOSED BOUNDARIES OR THE
20 COMPOSITION AND APPORTIONMENT OF THE GOVERNING BODY CAN BE
21 ALTERED TO MEET THE STANDARDS, IT MAY ALTER THE PROPOSAL] and
22 accept the petition.

23 * Sec. 18. AS 29.06.140(b) is amended to read:

24 (b) A home rule charter in a merger or consolidation petition submitted
25 under AS 29.06.100(b)(5) is part of the merger or consolidation question. The
26 charter is adopted if the voters approve the merger or consolidation. The director
27 of elections shall supervise the election in the general manner prescribed by AS 15
28 (Election Code). The state shall pay all election costs.

29 * Sec. 19. AS 29.06.190 is amended by adding a new subsection to read:

30 (b) An area that is not incorporated as a borough, including any cities in the
31 area, may incorporate as a unified municipality under AS 29.05.031.

1 * Sec. 20. AS 29.06.470(a) is amended to read:

2 (a) Except as provided in (b) of this section, voters of a municipality may
3 petition for dissolution when the municipality is free of debt, or, if in debt, each of its
4 creditors is satisfied with a method of repayment and

5 (1) the municipality no longer meets the minimum standards prescribed
6 for incorporation by AS 29.05, or former AS 29.18.030 if it is a third class borough;

7 (2) the municipality ceases to use each of its mandatory powers; or

8 (3) the dissolution petition filed under AS 29.06.460 is signed by a
9 number of voters of the municipality proposed to be dissolved greater than 50 percent
10 of the number of votes cast in the last regular [GENERAL] election in that
11 municipality.

12 * Sec. 21. AS 29.06.500(a) is amended to read:

13 (a) If the Local Boundary Commission determines that a municipality fails to
14 meet the standards for dissolution, it shall reject the petition. [IF THE COMMISSION
15 DETERMINES THAT THE MUNICIPALITY MEETS THE STANDARDS UNDER
16 AS 29.06.470(A)(1) OR (2), IT SHALL ACCEPT THE PETITION.] If the
17 commission determines that the petition meets the standards under AS 29.06.470(a)(1),
18 (2), or (3) [AS 29.06.470(a)(3)] and that dissolution of the municipality is in the best
19 interest of the state, it shall accept the petition. The commission may amend the
20 proposal and accept the petition.

21 * Sec. 22. AS 29.06.520 is amended to read:

22 Sec. 29.06.520. SUCCESSION TO ASSETS AND LIABILITIES. A
23 municipality succeeding to a dissolved municipality succeeds to all rights, powers,
24 duties, assets, and liabilities of the dissolved municipality. Otherwise, the state
25 succeeds to those rights, powers, duties, assets, and liabilities. If the state succeeds
26 to a dissolved municipality, the state may enter into a contract for the performance of
27 duties or powers in the area of the dissolved municipality. However, a contract with
28 an organization for the performance of duties or powers entered into under this section
29 does not constitute recognition by the state of governmental powers of that
30 organization.

31 * Sec. 23. AS 29.10.010(c) is amended to read:

1 (c) At an incorporation, merger, or consolidation election a municipality
 2 [FOR BOROUGH INCORPORATION, AN AREA IN THE UNORGANIZED
 3 BOROUGH] may adopt a charter for its own government and incorporate, merge, or
 4 consolidate as a home rule city, borough, or unified municipality.

5 * Sec. 24. AS 29.10.010(f) is amended to read:

6 (f) The proposed charter for a home rule municipality to be formed by
 7 incorporation, merger, or consolidation [AN AREA OF THE UNORGANIZED
 8 BOROUGH] shall be prepared by the petitioners and filed [UNDER AS 29.05.060]
 9 with the petition to incorporate, merge, or consolidate a home rule city, borough, or
 10 unified municipality.

11 * Sec. 25. AS 29.10.020 is amended to read:

12 Sec. 29.10.020. MODEL CHARTERS. The department shall prepare at least
 13 one model home rule charter for a city, borough, and unified municipality. The
 14 model charters [CHARTER] shall be made available to persons interested in filing a
 15 petition to form [INCORPORATE] a home rule municipality [BOROUGH] under
 16 AS 29.05.060 or AS 29.06.090.

17 * Sec. 26. AS 29.10.070 is amended to read:

18 Sec. 29.10.070. CHARTER ELECTION. The proposed home rule charter for
 19 an existing municipality shall be submitted to the voters at an election held not less
 20 than 30 days or more than 90 days after the proposed charter is published. The
 21 proposed home rule charter for a home rule municipality to be formed by
 22 incorporation, merger, or consolidation [AN AREA IN THE UNORGANIZED
 23 BOROUGH] shall be submitted to the voters at an [INCORPORATION] election held
 24 under AS 29.05.110 or AS 29.06.140.

25 * Sec. 27. AS 29.10.080(a) is amended to read:

26 (a) If a majority of those voting in an existing municipality favor the proposed
 27 charter or if a majority of those voting to form a home rule municipality by
 28 incorporation, merger, or consolidation [IN AN AREA IN THE UNORGANIZED
 29 BOROUGH] favor incorporation, merger, or consolidation [OF A HOME RULE
 30 BOROUGH], the proposed charter becomes the organic law of the municipality
 31 effective on the date the election is certified. Thereafter, a court shall take judicial

1 notice of the charter. The new home rule municipality shall file the indicated number
2 of copies of the charter with

- 3 (1) the lieutenant governor - two copies;
- 4 (2) the department - two copies;
- 5 (3) the district recorder - one copy;
- 6 (4) the municipal clerk - one copy.

7 * Sec. 28. AS 29.10.090(b) is amended to read:

8 (b) If incorporation, merger, or consolidation of a home rule municipality
9 [BOROUGH] is rejected by the voter; [IN AN AREA IN THE UNORGANIZED
10 BOROUGH], the proposed charter is rejected.

11 * Sec. 29. AS 29.10.100 is amended by adding a new subsection to read:

12 (c) If a charter is amended, the municipality shall file the indicated number of
13 copies of the revised charter with

- 14 (1) the lieutenant governor - two copies;
- 15 (2) the department - two copies;
- 16 (3) the district recorder - one copy;
- 17 (4) the municipal clerk - one copy.

18 * Sec. 30. AS 44.47.567(a) is amended to read:

19 (a) The local boundary commission shall

20 (1) make studies of local government boundary problems;

21 (2) adopt regulations providing [DEVELOP PROPOSED] standards
22 and procedures for municipal incorporation, annexation, detachment, merger,
23 consolidation, reclassification, and dissolution [CHANGING LOCAL BOUNDARY
24 LINES];

25 (3) consider a local government boundary change requested of it by the
26 legislature, the commissioner of community and regional affairs, or a political
27 subdivision of the state; and

28 (4) develop standards and procedures for the extension of services and
29 ordinances of incorporated cities into contiguous areas for limited purposes upon
30 majority approval of the voters of the contiguous area to be annexed and prepare
31 transition schedules and prorated tax mill levies as well as standards for participation

- 1 by voters of these contiguous areas in the affairs of the incorporated cities furnishing
- 2 services.
- 3 * Sec. 31. AS 29.04.040(c) and AS 29.10.010(b) are repealed.

STATE COMMITTEE REPORT

DATE: 4/26/93

FURTHER:

DATE TURNED INTO OFFICE: 2/25/94

JUDICIARY Committee considered SENATE BILL NO. 164

"An Act relating to municipal incorporation, reclassification, and dissolution."

and recommends:

replace with _____ CS SB 164 (JUD)

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
<u>Lawrence Reg. Aff.</u>	<u>1/31/94</u>	<input checked="" type="checkbox"/>	

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

DO PASS:

OTHER RECOMMENDATIONS:

David Donly (NO REC)
Suzanne Little no rec
Greg Taylor

Adrian L. Taylor 0-1/93
 Chair: Signature and Recommendation

SUMMARY OF PRINCIPAL PROVISIONS OF CSSB 164(CRA)*

A bill for an act entitled, "An Act relating to municipal incorporation, reclassification, and dissolution, and municipal school districts."

*Summary prepared January 27, 1994 by Dan Bockhorst, Local Boundary Commission Staff,
Department of Community & Regional Affairs, telephone 269-4500*

- ❖ **Establishes mechanism for first class and home rule cities to reclassify as second class cities.** Under current law, such can only be done by dissolving the first class or home rule city and incorporating a second class city.
- ❖ **Provides State oversight concerning all municipal reclassifications.** The State has legitimate interests in any city reclassification. Such interests are particularly significant in cases involving the reclassification of second class cities in the Unorganized Borough because it automatically creates new municipal school districts. There are 27 second class cities in the Unorganized Borough that could unilaterally reclassify to first class cities. That represents a potential 50% increase in the number of school districts. Communities which are presently unincorporated could add to that number.
- ❖ **Permits direct incorporation of home rule cities and unified municipalities, and confirms that home rule cities and home rule boroughs may be created through merger and consolidation.** Interest in such options is strong. In 1985, the law was amended to allow direct incorporation of home rule boroughs. Three of the four boroughs formed since that law took effect were home rule boroughs.
- ❖ **Confirms the discretion of the Local Boundary Commission in approving, denying or amending petitions.** The Local Boundary Commission has explicit discretion in acting on petitions for annexation and detachment. However, the statutes do not expressly recognize the Commission's discretion in dealing with other petitions. This may create unintended consequences. For example, it is widely interpreted that AS 29.06.500 may not give the Commission any discretion in dealing with a proposal presently being developed to dissolve the City of Seldovia. This is so even if the Kenai Peninsula Borough were to refuse to form a service area to assume any responsibility in terms of succeeding to the assets, duties, powers, functions and liabilities of the City of Seldovia. Under those circumstances, AS 29.06.520 dictates that the State of Alaska would be burdened with such responsibilities.
- ❖ **Confirms that the Local Boundary Commission has legislative authority to adopt regulations for incorporation and dissolution.** A superior court judge recently ruled that the Commission has legislative authority to adopt regulations for annexation, detachment, merger and consolidation. However, he concluded that the Commission has only interpretative authority to adopt regulations concerning municipal incorporation. The ruling never addressed the Commission's authority to adopt regulations concerning dissolution. In making his ruling, the judge noted that courts need not give the same level of deference to interpretative regulations as they must give to legislative regulations.

* For further analysis and details concerning the effects of CSSB 164(CRA), see the three-page "Sectional Analysis of CSSB 164(CRA)" prepared by DCRA on January 27, 1994.

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Discard Earlier Pocket Supplement

1991 POCKET SUPPLEMENT

ISSUED IN JANUARY, 1991

COVERING LEGISLATION THROUGH THE 1990
SESSION OF THE 1989-90 LEGISLATURE

DEERING'S VEHICLE CODE

ANNOTATED

OF THE STATE OF CALIFORNIA

§§ 1-9839

Annotated and Indexed by the Publisher's Editorial Staff

Note—An updated analysis of the Vehicle Code
appears at the beginning of this supplement.

FEB 26 1991

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ITEM-146

CALIFORNIA
VEHICLE CODE

the registration card and potential specified in Section 9265 shall not

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ber 25, 1990, operative July 1, 1990, operative

§ 4750. (First of two; operative term contingent) Grounds requiring refusal
The department shall refuse registration or renewal or transfer of registration upon any of the following grounds:

- (a) That the application contains any false or fraudulent statement.
- (b) That the required fee has not been paid.
- (c) That the registration or renewal or transfer of registration is prohibited by the requirements of Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code.

Enacted Stats 1959 ch 3; Amended Stats 1959 ch 1021 § 1; Stats 1st Ex Sess 1960 ch 23 § 3 p 351; Stats 1968 ch 764 § 13.5 p 1482; Stats 1975 ch 957 § 26. Repealed Stats 1985 ch 245 § 1, operative date contingent. See note to 2nd version following.

§ 4750. (Second of two; operative term contingent) Grounds requiring refusal

The department shall refuse registration, or renewal or transfer of registration, upon any of the following grounds:

- (a) The application contains any false or fraudulent statement.
- (b) The required fee has not been paid.
- (c) The registration, or renewal or transfer of registration, is prohibited by the requirements of Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code.
- (d) The owner of a heavy vehicle, which is subject to the heavy vehicle use tax imposed pursuant to Section 4481 of Title 26 of the United States Code, has not presented sufficient evidence, as determined by the department, that the tax for the vehicle has been paid pursuant to that section.

Added Stats 1985 ch 245 § 2.

Note—Stats 1985 ch 245 provides:

SEC. 3. Sections 1 and 2 of this act shall become operative when the Secretary of the Treasury prescribes the forms for the proof of payment of the heavy vehicle use tax, pursuant to subsection (d) of Section 141 of Title 23 of the United States Code.

§ 4760. Failure to deposit bail for parking offenses

(a) Except as provided in subdivision (b), the department shall refuse to renew the registration of any vehicle if the registered owner or lessee has been mailed a notice of delinquent parking violation relating to standing or parking, the processing agency has filed or electronically transmitted to the department an itemization of unpaid parking penalties, including administrative fees pursuant to Section 40220, and the owner or lessee has not paid the parking penalty and administrative fee pursuant to Section 40211, unless he or she pays to the department, at the time of application for renewal, the full amount of all outstanding parking penalties and administrative fees, as shown by records of the department.

(b) The department shall not refuse to renew the registration of any vehicle owned by a renter or lessor if the applicant provides the department with the abstract or notice of disposition of parking violation issued pursuant to subdivision (c) for clearing all outstanding parking penalties and administrative fees as shown by the records of the department.

(c) The court or designated processing agency shall issue an abstract or notice of disposition of parking violation to the renter or lessor of a vehicle issued a notice of delinquent parking violation relating to standing or

parking, if the renter or lessor provides the court or processing agency with the name, address, and driver's license number of the rentee or lessee at the time of occurrence of the parking violation.

Amended Stats 1986 ch 939 § 3. Amended Stats 1989 ch 750 sec 1.

Amendments:

1986 Amendment: (1) Added subdivision designation (a); (2) substituted all that part of subd (a) following "or lessee has been" for "sent or given a notice of violation relating to standing or parking pursuant to paragraph (2) of Section 41103 and has not complied with paragraph (2) of Section 41103, unless he pays to the department, at the time he applies for renewal, the full amount of bail for offenses relating to standing or parking which he has failed to deposit as required by law, as shown by records of the department"; and (3) amended subd (b) by substituting (a) "all outstanding parking penalties and administrative fees" for "bail for offenses relating to standing or parking which have not been deposited as required by law"; and (b) "parking violation for which the full amount of parking penalties is not enclosed and the name, address, and driver's license number of the rentee or lessee" for "offenses relating to standing or parking for which the full amount of bail is not enclosed".

1989 Amendment: (1) Amended subd (a) by (a) deleting ", rentee," after "registered owner"; (b) adding "the processing agency has filed of electronically transmitted to the department"; and (c) substituting "pursuant to Section 40220, and the owner or lessee" for ", has been filed with, or electronically transmitted to, the department under Section 40220, and that person"; (2) substituted subd (b) for former subd (b) which read: "(b) The department shall not refuse to renew the registration of any vehicle owned by a renter or lessor when the renter or lessor applies for renewal without paying to the department, at the time of submitting the application for renewal, the full amount of all outstanding parking penalties and administrative fees as shown by records of the department, if the application for renewal is accompanied by an affidavit of the applicant in a form acceptable to the department stating that the vehicle was in the possession of the rentee or lessee at the time of occurrence of the parking violation for which the full amount of parking penalties is not enclosed and the name, address, and driver's license number of the rentee or lessee."; and (3) added subd (c).

§ 4761. Amount of bail on potential registration card

The department shall include on each potential registration card issued for use at the time of renewal, or on an accompanying document, an itemization of unpaid parking penalties, including administrative fees, showing the amount thereof and the jurisdiction which issued the notice of parking violation relating thereto, which the registered owner or lessee is required to pay pursuant to Section 4760.

Amended Stats 1986 ch 939 § 9.

Amendments:

1986 Amendment: (1) Substituted "unpaid parking penalties, including administrative fees" for "undeposited bail"; and (2) added "parking" after "notice of".

§ 4762. Remitting bail collected

The department shall remit all parking penalties and administrative fees collected, after deducting the administrative fee authorized by Section 4763, for each notice of delinquent parking violation for which parking penalties and administrative fees have been collected pursuant to Section 4760, to each jurisdiction in the amounts due to each jurisdiction according to its unadjudicated notices of delinquent parking violation. Within 45 days from the time penalties are recorded by the department, the department shall inform each jurisdiction which of its notices of delinquent parking violation have been discharged.

Amended Stats 1985 ch 1008 § 1, ch 1289 § 1; Stats 1986 ch 939 § 10.

Amendments:

1985 Amendment: (1) Added the comma after "Section 4763"; and (2) divided the section into the present first and second sentences by substituting ". Within 45 days from the time bail is recorded by the department, the department" for ", and". (As amended by Stats 1985, ch 1289, compared to the section

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within a period of not more than 10 days after the arrest, the notice to appear shall contain, in addition to the above, a statement notifying the person arrested that the person may appear before such a night session of the court.

Amended Stats 1980 ch 1299 § 3; Stats 1984 ch 400 § 1.

Amendments:

1980 Amendment: Added the second paragraph.

1984 Amendment: In addition to making technical changes, (1) substituted "any of the following" for "either" in the introductory clause; and (2) amended subd (b) by (a) deleting "or before a magistrate in the judicial district in which the offense is alleged to have been committed" at the end of the first sentence; and (b) adding the second sentence.

Cal Jur 3d (Rev) Courts §§ 36, 135, Criminal Law § 1677.

In a traffic prosecution for a violation of Veh. Code, § 22406, subd. (a), in which defendant was driving a semitruck within the territory of a judicial district outside the county seat when he was stopped by a California Highway Patrol officer for driving in excess of 55 miles an hour, and in which defendant, pursuant to Veh. Code, § 40502, subd. (b), requested trial at the county seat, the trial court did not err in denying defendant's motion to dismiss the case for lack of jurisdiction, although the trial was brought in a branch court of the municipal court for the city which comprised the county seat rather than in the central branch of the municipal court, since the entire municipal court regardless of where it was sitting within such city's judicial district, was the court

servicing the county seat. Although defendant, having been cited for a traffic violation in a judicial district outside the county seat was entitled, upon his request, to be tried at the county seat, trial at any such branch court satisfied § 40502, subd. (b), considering Cal. Const., art. VI, § 5, subd. (a), providing that a city may not be divided into more than one municipal court district, since each of the municipal court branches must therefore be treated as integral parts of a single municipal district court. In any event, defendant's appropriate remedy, were his contention correct, was transfer of the case to the proper court, not dismissal. *People v Beltran* (1981, 2d Dist) 124 Cal App 3d 33 5, 177 Cal Rptr 262.

§ 40504. Delivery of notice

Cal Jur 3d (Rev) Criminal Law § 1677.

A police officer who has stopped a motorist for a traffic violation for which the offender cannot be taken into custody and has already detained him for the period necessary to perform his functions arising from the violation, cannot thereafter lawfully detain the offender for an additional period of time solely for the purpose of conducting a warrant check. Veh C § 40504 subd (a), plainly and unequivocally provides that when a traffic offender gives his written promise to appear by signing two copies of the citation, the arresting officer shall "forthwith" release the person arrested from custody, and that rule is equally applicable when the officer has completed his investigation of the incident and gives a warning rather than a citation. The statute, moreover, implements constitutional doctrine. Just as a search which is reasonable at its inception may violate U.S. Const.

Fourth Amend., by virtue of its intolerable intensity and scope, so may an investigatory detention exceed constitutional bounds when extended beyond what is reasonably necessary under the circumstances which made its initiation permissible. Thus, a police officer's detention of a motorist stopped for driving the wrong way on a one-way street, for an additional period of approximately 10 minutes after completion of his duties with respect to the violation, for the purpose of seeking out unrelated arrest warrants in the name of the motorist or his passenger was not reasonably necessary to the initial detention process, and hence exceeded constitutional limitations. (Per Mosk, Clark, and Manuel, JJ.) *People v McLaughran* (1979) 25 C3d 577, 159 Cal Rptr 191, 601 P2d 207.

§ 40508. Violation of promise to appear

(a) Any person willfully violating his or her written promise to appear or a lawfully granted continuance of his or her promise to appear in court or before a person authorized to receive a deposit of bail is guilty of a misdemeanor regardless of the disposition of the charge upon which he or she was originally arrested.

(b) Any person willfully failing to pay a lawfully imposed fine for a violation of any provision of this code or a local ordinance adopted pursuant

After the arrest, the notice to appear, a statement notifying the defendant before such a night session of court.

(b) substituted "any of the following" for (a) deleting "or before a magistrate in a court which has been committed" at the end of the first sentence.

the county seat. Although defendant was cited for a traffic violation in a district outside the county seat was entitled, on his request, to be tried at the county seat. (b) at any such branch court satisfied subd. (b), considering Cal. Const., art. IV, § 5, subd. (a), providing that a city may not be more than one municipal court district. Each of the municipal court branches shall be treated as integral parts of a municipal district court. In any event, defendant shall be given the appropriate remedy, where his contention was transfer of the case to the proper court for dismissal. *People v Beltran* (1981, 2d Cal App 3d 33 5, 177 Cal Rptr 262.

Amend., by virtue of its intolerable intrusiveness, so may an investigatory detention exceed constitutional bounds when extended beyond what is reasonably necessary under the circumstances which made its initiation permissible. A police officer's detention of a motorist for driving the wrong way on a one-way street for an additional period of approximately 15 minutes after completion of his duties with respect to the violation, for the purpose of seeking a delayed arrest warrant in the name of the motorist or his passenger was not reasonably necessary under the initial detention process, and hence not within the constitutional limitations. (Per Mosk and Manuel, JJ.) *People v McGaughran* (1981, 53 Cal 3d 577, 159 Cal Rptr 191, 601 P2d 1000).

written promise to appear or a promise to appear in court or a deposit of bail is guilty of a violation of the charge upon which he or she was arrested.

lawfully imposed fine for a violation of a local ordinance adopted pursuant to this code within the time authorized by the court and without lawful excuse having been presented to the court on or before the date the fine is due is guilty of a misdemeanor regardless of the full payment of the fine after such time.

to this code within the time authorized by the court and without lawful excuse having been presented to the court on or before the date the fine is due is guilty of a misdemeanor regardless of the full payment of the fine after such time.

(c) If a person convicted of an infraction fails to pay a fine or any installment thereof within the time authorized by the court, the court may, except as otherwise provided in this subdivision, impound the person's driver's license and order the person not to drive for a period not to exceed 30 days. Before returning the license to the person, the court shall endorse on the reverse side of the license that the person was ordered not to drive, the period for which that order was made, and the name of the court making the order. If a defendant with a class 3 or 4 driver's license satisfies the court that impounding his or her driver's license and ordering the defendant not to drive will affect his or her livelihood, the court shall order that the person limit his or her driving for a period not to exceed 30 days to driving that is essential in the court's determination to the person's employment, including the person's driving to and from his or her place of employment if other means of transportation are not reasonably available. The court shall provide for the endorsement of the limitation on the person's license. The impounding of the license and ordering the person not to drive or the order limiting the person's driving does not constitute a suspension of the license, but a violation of the order constitutes contempt of court.

Enacted Stats 1959 ch 3; Amended Stats 1961 ch 1653 § 2; Stats 1968 ch 1192 § 15, operative January 1, 1969; Stats 1979 ch 235 § 2. Amended Stats 1987 ch 726 § 10, operative July 1, 1988.

Amendments:

1987 Amendment: In addition to making technical changes, added "with a class 3 or 4 driver's license" in the third sentence of subd (c).

Note—Stats 1987 ch 726 provides:

SEC. 11. This act shall become operative on July 1, 1988.

Suspension of driving privileges for violation of promise to appear: Veh C § 13365.

Notice of Delinquent Parking Violation will not serve as basis for issuance of warrant of arrest for violation of Veh C § 40508. (1988) 71 Ops Atty Gen 1.

§ 40508.5. Penalty assessments; Violation of promise to appear

(a) In addition to the fees authorized or required by any other provision of law, a county may, by resolution of the board of supervisors, authorize the courts of that county to impose an assessment of seven dollars (\$7) upon every person convicted under Section 40508, whether or not a fine is imposed.

(b) The courts authorized pursuant to subdivision (a) shall increase the bail schedule amounts to reflect the amount of the assessment imposed by this section.

(c) If bail is returned, the amount of the assessment shall also be returned.

(d) The clerk of the court shall deposit the amounts collected under this section in the county treasury. All money so deposited shall be used exclusively for the development and operation of an automated county warrant system.

Added Stats 1986 ch 151 § 2.

§ 40509. Violation of promise to appear

(a) Whenever any person has for a period of 15 or more days violated his or her written promise to appear or a lawfully granted continuance of his or

her promise to appear in court or before the person authorized to receive a deposit of bail or violated an order to appear in court, the magistrate or clerk of the court may give notice of the fact to the department for any violation of this code, except violations not required to be reported pursuant to paragraphs (1), (2), (3), (6), and (7) of subdivision (b) of Section 1803. The notice shall be given within 60 days of the failure to appear. Whenever thereafter the case in which the promise was given is adjudicated or the person who has violated the court order appears in court or otherwise satisfies the order of the court, the magistrate or clerk of the court hearing the case shall sign and file with the department a certificate to that effect.

(b) Whenever any person has for a period of 15 or more days willfully failed to pay a lawfully imposed fine within the time authorized by the court or to pay a fine pursuant to subdivision (a) of Section 42003, the magistrate or clerk of the court may give notice of the fact to the department for any violation, except violations not required to be reported pursuant to paragraphs (1), (2), (3), (6), and (7) of subdivision (b) of Section 1803. Whenever thereafter the fine is fully paid, the magistrate or clerk of the court shall issue and file with the department a certificate showing that the fine has been paid.

(c) This section is applicable to any court which has not elected to be subject to the notice requirements of subdivision (c) of Section 40509.5.

(d) Any violation subject to Section 40001, which is the responsibility of the owner of the vehicle, shall not be reported under this section.

Amended Stats 1981 ch 584 § 3, operative July 1, 1982; Stats 1984 ch 858 § 2, operative July 1, 1985; Stats 1985 ch 1008 § 4; Stats 1986 ch 953 § 14; Stats 1989 ch 126 sec 1; Stats 1990 ch 472 § 2 (SB 1826).

Amendments:

1981 Amendment: (1) Added "or her" wherever it appears in the first sentence of subd (a); (2) generally eliminated "such"; (3) substituted "within 60 days of the failure to appear" for "not less than 30 days nor more than 60 days after issuance of a warrant" in the second sentence of subd (a); and (4) added the last paragraph.

1984 Amendment: (1) Substituted "the" for "such" before "promise" in the last sentence of subd (a); (2) deleted the former second paragraph of subd (b) which read: "This section shall become operative on July 1, 1982."; and (3) added subd (c).

1985 Amendment: (1) Amended the first sentence of subd (a) by (a) deleting "or to pay a fine pursuant to subdivision (a) of Section 42003" after "appear in court"; and (b) adding "for any violation of this code which is required to be reported pursuant to Section 1803" at the end; and (2) added "or to pay a fine pursuant to subdivision (a) of Section 42003" in the first sentence of subd (b).

1986 Amendment: Substituted "issue" for "sign" after "court shall" in the second sentence of subd (b).

1989 Amendment: (1) Substituted ", except violations not" for "which is" wherever it appears; (2) added "paragraphs (1), (2), (3), (4), (5), (6), (7), and (8) of subdivision (b) of" wherever it appears; and (3) added subd (d).

1990 Amendment: Substituted "paragraphs (1), (2), (3), (6) and (7)" for "paragraphs (1), (2), (3), (6), (7) and (8)" in the first sentences in subds (a) and (b).

Suspension for violation: § 13365.

Cal Jur.3d (Rev) Criminal Law § 1678.

Review of Selected 1981 Legislation. 13 Pacific LJ 799.

Review of Selected 1985 Legislation. 17 Pacific LJ 806.

§ 40509.5. Failure to appear; Warning notice; Issuance or arrest warrant

(a) Whenever, with respect to an offense described in subdivision (d), any person has for a period of 15 or more days violated his or her written promise to appear or a lawfully granted continuance of his or her promise to appear in court or before the person authorized to receive a deposit of bail or violated an order to appear in court, the magistrate or clerk of the

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re the person authorized to receive a deposit appear in court, the magistrate or clerk of the court hearing the case shall sign and file with the department a certificate to that effect.

of 15 or more days willfully failed to pay a lawfully imposed fine within the time authorized by the court or to pay a fine pursuant to subdivision (a) of Section 42003, the magistrate or clerk of the court shall issue and file with the department a certificate showing that the fine has been paid.

court which has not elected to be bound by subdivision (c) of Section 40509.5.

1, which is the responsibility of the defendant under this section.

Stats 1984 ch 858 § 2, operative July 1, 1985; Stats 1990 ch 472 § 2 (SB 1826).

in the first sentence of subd (a); (2) generally "failure to appear" for "not less than 30 days" in the second sentence of subd (a); and (4) added the

"promise" in the last sentence of subd (a); (2) added: "This section shall become operative on

a) by (a) deleting "or to pay a fine pursuant to subdivision (a) of Section 42003" after "appear in court"; and (b) adding "for any violation of this code" at the end; and (2) added "or to pay a fine pursuant to subdivision (a) of Section 42003" at the end of subd (b).

shall" in the second sentence of subd (b). for "which is" wherever it appears; (2) added "subdivision (b) of" wherever it appears; and (3)

and (7)" for "paragraphs (1), (2), (3), (6), (7)

§ Issuance or arrest warrant

described in subdivision (d), any person who willfully fails to pay a lawfully imposed fine within the time authorized by the court or to pay a fine pursuant to subdivision (a) of Section 42003, the magistrate or clerk of the

court may give notice of the fact to the department for any violation of this code, except violations not required to be reported pursuant to paragraphs (1), (2), (3), (6), and (7) of subdivision (b) of Section 1803. The notice shall be given within 60 days of the failure to appear. Whenever thereafter the case in which the promise was given is adjudicated or the person who has violated the court order appears in court or otherwise satisfies the order of the court, the magistrate or clerk of the court hearing the case shall sign and file with the department a certificate to that effect.

(b) Whenever, with respect to an offense described in subdivision (d), any person has for a period of 15 or more days willfully failed to pay a lawfully imposed fine within the time authorized by the court or to pay a fine pursuant to subdivision (a) of Section 42003, the magistrate or clerk of the court may give notice of the fact to the department for any violation, except violations not required to be reported pursuant to paragraphs (1), (2), (3), (6), and (7) of subdivision (b) of Section 1803. Whenever thereafter the fine is fully paid, the magistrate or clerk of the court shall issue and file with the department a certificate showing that the fine has been paid.

(c) The court shall mail a courtesy warning notice to the defendant by first-class mail at the address shown on the notice to appear, at least 10 days before sending a notice to the department under this section.

(d) If the court notifies the department of a failure to appear or pay a fine pursuant to this section, no arrest warrant shall be issued for an alleged violation of subdivision (a) or (b) of Section 40508 or of a court order issued pursuant to subdivision (a) of Section 42003, unless one of the following criteria is met:

(1) The alleged underlying offense is a misdemeanor or felony.

(2) The alleged underlying offense is a violation of any provision of Division 12 (commencing with Section 24000), Division 13 (commencing with Section 29000), or Division 15 (commencing with Section 35000), required to be reported pursuant to Section 1803.

(3) The driver's record does not show that the defendant has a valid California driver's license.

(4) The driver's record shows an unresolved charge that the defendant is in violation of his or her written promise to appear for one or more other alleged violations of the law.

(e) This section is applicable to courts which have elected to provide notice pursuant to subdivision (c). The method of commencing or terminating an election to proceed under this section shall be prescribed by the department.

(f) Any violation subject to Section 40001, which is the responsibility of the owner of the vehicle, shall not be reported under this section.

Added Stats 1984 ch 858 § 3, operative July 1, 1985. Amended Stats 1985 ch 1008 § 5; Stats 1989 ch 126 sec 2; Stats 1990 ch 472 § 3 (SB 1826).

Amendments:

1985 Amendment: (1) Amended the first sentence of subd (a) by (a) deleting "or to pay a fine pursuant to subdivision (a) of Section 42003" after "appear in court"; and (b) adding "for any violation of this code which is required to be reported pursuant to Section 1803" at the end; and (2) added ", required to be reported pursuant to Section 1803" at the end of subd (c)(2).

1989 Amendment: (1) Substituted ", except violations not" for "which is" near the end of the first sentence of subd (a); (2) added "paragraphs (1), (2), (3), (4), (5), (6), (7), and (8) of subdivision (b) of" in subd (a); and (3) added subd (e).

1990 Amendment: (1) Amended the first sentence in subd (e) by substituting (a) "subdivision (d)" for "subdivision (c)" after "offense described in"; and (b) "paragraphs (1), (2), (3), (6) and (7)" for "paragraphs (1), (2), (3), (6), (7) and (8)"; (2) added subd (b); (3) redesignated former subs (b)-(c) to be

subds (c)-(f); (4) amended the introductory clause of subd (d) by (a) adding "or pay a fine" after "failure to appear"; and (b) substituting "subdivision (a) or (b)" for "subdivision (a)"; (5) substituted "driver's" for "driver" after "The" at the beginning of subds (d)(3) and (d)(4); and (6) substituted "subdivision (c)" for "subdivision (b)" in subd (a).

Review of Selected 1985 Legislation, 17 Pacific LJ 806.

§ 40510. Deposit of bail

(a) Prior to the date upon which a defendant promised to appear, or prior to the time to appear contained on a notice of filing of a complaint on a notice of delinquent parking violation pursuant to subdivision (a) of Section 40215 or on a process issued after filing with the court under Section 40230, or prior to the expiration of any lawful continuance of that date, or upon receipt of information that an action has been filed and prior to the scheduled court date, the defendant may deposit bail or a parking penalty with the magistrate or the person authorized to receive a deposit of bail or parking penalties.

(b) For any offense which is not declared to be a felony, a deposit of bail or a parking penalty may be by a personal check meeting the criteria established in accordance with subdivision (c).

(c) Each court, sheriff, or other agency which regularly accepts deposits of bail or parking penalties, shall adopt a written policy governing the acceptance of personal checks in payment of bail or parking penalty deposits. The policy shall permit clerks and other appropriate officers to accept personal checks under conditions which tend to assure the validity of the checks.

(d) The written policy governing the acceptance of personal checks adopted pursuant to subdivision (c) shall provide that the payee of the deposit made by personal check shall be the agency accepting the deposit.

Amended Stats 1981 ch 775 § 3; Stats 1984 ch 481 § 4; Stats 1986 ch 939 § 18.

Amendments:

1981 Amendment: Amended subd (a) by (1) substituting "a defendant" for "he"; (2) adding the commas after "promised to appear" and after "that date"; (3) adding "time to appear contained on a notice of a parking violation, or prior to the"; and (4) substituting "that" for "such" after "continuance of";
1984 Amendment: Added subd (d).

1986 Amendment: (1) Added all references to parking penalty or parking penalties; (2) amended subd (a) by (a) substituting "filing of a complaint on a notice of delinquent parking violation pursuant to subdivision (a) of Section 40215 or on a process issued after filing with the court under Section 40230" for "a parking violation"; and (b) deleting the comma after "has been filed"; and (3) substituted "a" for "such" after "be a felony," in subd (b).

Payment of fee, fine, or bail deposit by check: CRC Rule 805.

Cal Jur 3d (Rev) Criminal Law § 1679.

§ 40512. Forfeiture of bail

(a) If at the time when the case is called for arraignment before the magistrate the defendant does not appear, either in person or by counsel, the magistrate may declare the bail forfeited and may in his or her discretion order that no further proceedings be had in the case, unless the defendant has been charged with violation of Section 23111 or 23112, or subdivision (a) of Section 23113, and he or she has been previously convicted of the same offense, except in cases where the magistrate finds that undue hardship will be imposed upon the defendant by requiring him or her to appear, the magistrate may declare the bail forfeited and order that no further proceedings shall be had in the case.

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1991
**OREGON
REVISED
STATUTES**

INCLUDING

All material affected by Acts of the 1990 special session of the Sixty-fifth Legislative Assembly on May 7, 1990; Acts of the 1991 regular session of the Sixty-sixth Legislative Assembly; and Acts approved by the electors at the General Election on November 6, 1990

Volume 12

Containing, with some exceptions, the statute laws of Oregon of a general, public and permanent nature in effect on September 29, 1991, the normal effective date of Acts passed by the regular session of the Sixty-sixth Legislative Assembly, which adjourned June 30, 1991

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STATE OF OREGON

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judgment and parties sufficiently for identification if:

(a) The judgment is settled in the manner required under ORS 809.470; and

(b) The judgment debtor or the judgment debtor's attorney makes a written request for forwarding to the division a certificate stating the judgment has been settled as described in ORS 809.470.

(3) The notice made to the division under this section shall be given by the clerk of the court or, if the court has no clerk, by the judge. [1983 c.338 §391; 1985 c.16 §208]

809.140 Administrative review of suspension, revocation or cancellation. (1) Unless otherwise specifically provided by law, a person whose vehicle registration or driving privileges are suspended, revoked or canceled by the division on the basis of a conviction is entitled to administrative review of the action rather than to a formal hearing by the division.

(2) Actions by the division based on something other than a conviction may be subject to administrative review rather than a formal hearing if specifically provided by law. [1991 c.702 §2]

DRIVING PRIVILEGES

(Court-ordered or Recommended)

809.200 [1983 c.338 §389; repealed by 1987 c.730 §23]

809.210 Suspension or restriction of driving privileges for failure to pay fine or obey court order; exceptions. (1) A court may do any of the following if the defendant is convicted of any traffic offense and fails or refuses to pay a fine imposed by the judge or to comply with any condition upon which payment of the fine or any part of it was suspended:

(a) Issue notice to the Motor Vehicles Division to implement procedures under ORS 809.290.

(b) Order a defendant's driving privileges restricted.

(2) The authority granted in this section is in addition to or instead of any other method authorized by law for enforcing a court order.

(3) If a court places restrictions on driving privileges under this section:

(a) The judge shall immediately advise the division of the restrictions in writing.

(b) Upon removal of such restriction, the court shall notify the division in writing that the restriction is ended.

(c) The restriction shall remain in effect until ended by the court.

(d) The division shall take action as provided under ORS 807.120 on restrictions imposed under this section.

(e) The restrictions may include any restriction, condition or requirement.

(f) Violation of the restriction is punishable as provided under ORS 807.010.

(4) If a judge issues notice to implement procedures under ORS 809.290 as provided under this section:

(a) The judge shall immediately send to the division notice upon payment of the fine as ordered.

(b) The division shall take action on the suspension as provided under ORS 809.290.

(5) A court shall not issue notice under this section to implement procedures under ORS 809.290 for failure to pay a fine relating to any parking offense, pedestrian offense or bicycling offense. [1983 c.338 §387; 1985 c.16 §203; 1985 c.569 §13; 1991 c.702 §5]

809.220 Failure to appear; suspension or other procedures. This section establishes procedures that are applicable if a person fails to comply with ORS 153.540. All of the following apply to this section:

(1) If a defendant fails to comply with ORS 153.540, a court:

(a) Shall issue notice to the division to suspend for failure to appear if the defendant has not complied with ORS 153.540 (1). If a court issues notice under this paragraph, the division shall suspend the driving privileges of the person as provided under ORS 809.280.

(b) Shall issue notice to the Motor Vehicles Division to implement procedures under ORS 809.290 if the defendant has not complied with ORS 153.540 (2). If a court issues notice under this paragraph, the division shall implement procedures under ORS 809.290.

(2) In any notice to the division under this section, a court shall certify that the defendant failed to comply with ORS 153.540.

(3) Subject to subsection (4) of this section, at any time within five years from the date of a notice to suspend for failure to appear given to the division under this section, a court shall give a second notice to the division to terminate a suspension resulting from the original notice if any of the following occur:

(a) The bail or fine set by the court is paid.

(b) The court finds the defendant not guilty or orders a dismissal of the case.

(c) The court determines that the suspension for failure to pay or appear should be terminated for good cause.

(4) If a court takes any action under this section, the court shall not issue a notice terminating the action until the person pays the court or the clerk of the court a \$15 reinstatement fee. All fees paid under this subsection shall be disposed of as provided in ORS 153.630 (1) for the disposition of costs.

(5) Notifications by a court to the division under this section shall be in a form prescribed by the division.

(6) A court shall not notify the division under this section for failure to appear on any parking, pedestrian or bicyclist offense. [1983 c.338 §393; 1985 c.16 §209; 1985 c.669 §15; 1989 c.161 §1; 1991 c.702 §6]

809.230 Court suspension or revocation of nonresident driving privileges. A court may suspend or revoke the driving privileges to operate a motor vehicle in this state of any nonresident for any cause for which the driving privileges of a resident of this state may be suspended or revoked. [1983 c.338 §394]

809.240 Court imposition of suspension or revocation; taking possession of license or permit; temporary permit. (1) If a person is convicted of an offense that will result in mandatory suspension or revocation under ORS 809.410, 813.400 or 813.403, the trial judge shall:

(a) Impose the revocation or suspension at the time of conviction for the required period; and

(b) Comply with the requirements under ORS 809.250 to take possession of the license or driver permit of the person.

(2) When necessary to give full effect to this section, a court shall issue a temporary driver permit under ORS 807.320. [1983 c.338 §395; 1985 c.16 §210; 1991 c.185 §5]

809.250 Court to take possession of license or permit; effective date of suspension or revocation. (1) A court shall take immediate possession of any license or driver permit held by a defendant that is issued by any jurisdiction if the court imposes a suspension under ORS 809.120, 809.240 or 809.270.

(2) Upon taking possession of a license or permit under this section, a court shall immediately forward to the division the license or permit and a copy of the suspension or revocation order.

(3) A suspension or revocation of driving privileges becomes effective on the date a court takes possession of a license or permit under this section or orders the suspension or revocation. [1983 c.338 §396; 1985 c.669 §14; 1987 c.730 §14]

809.260 Denial of driving privileges for convicted juvenile. (1) Whenever a person

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

(2) If a court has issued an order of denial of driving privileges under this section, the court, upon petition of the person, may review the order and may withdraw the order at any time the court deems appropriate except as provided in the following:

(a) A court may not withdraw an order for a period of 90 days following the issuance of the order if it is the first such order issued with respect to the person.

(b) A court may not withdraw an order for a period of one year following the issuance of the order if it is the second or subsequent such order issued with respect to the person.

(3) Upon receipt of an order under this section the Motor Vehicles Division shall take action as directed under ORS 809.280. [1985 c.16 §206]

Note: The amendments to 809.260 by section 3, chapter 835, Oregon Laws 1991, take effect October 1, 1992. See section 9, chapter 835, Oregon Laws 1991. The text in effect on and after October 1, 1992, is set forth for the user's convenience.

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

(2) If a court has issued an order of denial of driving privileges under this section, the court, upon petition of the person, may review the order and may withdraw the order at any time the court deems appropriate except as provided in the following:

(a) A court may not withdraw an order for a period of 90 days following the issuance of the order if it is the first such order issued with respect to the person.

(b) A court may not withdraw an order for a period of one year following the issuance of the order if it is the second or subsequent such order issued with respect to the person.

(c) Notwithstanding paragraph (a) of this subsection, a court may not withdraw an order for a period of six months if the order is based on a determination or conviction involving controlled substances.

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is any error in the application it may be returned to the county auditor or other agent to effectively secure the correction of such error, who shall return the same corrected to the director.

(2) Application for the renewal of a vehicle license shall be made to the director or his agents, including county auditors, by the registered owner on a form prescribed by the director. The application must be accompanied by the certificate of registration for the last registration period in which the vehicle was registered in Washington unless the applicant submits a preprinted application mailed from Olympia, and the payment of such license fees and excise tax as may be required by law. Such application shall be handled in the same manner and the fees transmitted to the state treasurer in the same manner as in the case of an original application. Any such application which upon validation becomes a renewal certificate need not have entered upon it the name of the lien holder, if any, of the vehicle concerned.

(3) Persons expecting to be out of the state during the normal forty-five day renewal period of a vehicle license may secure renewal of such vehicle license for a period of thirty days prior thereto and have license plates or tabs preissued by making application to the director or his agents upon forms prescribed by the director. The application must be accompanied by the certificate of registration for the last registration period in which the vehicle was registered in Washington and be accompanied by such license fees, including a special handling fee of two dollars; one dollar to be retained by the issuing agency, and one dollar to be deposited in the highway safety fund, and excise tax as may be required by law.

(4) Application for the annual renewal of a vehicle license number plate to the director or his agents shall not be required for those vehicles owned, rented, or leased by the state of Washington, or by any county, city, town, school district, or other political subdivision of the state of Washington. [1977 c 8 § 1; Prior: 1975 1st ex.s. c 169 § 6; 1975 1st ex.s. c 118 § 8; 1969 ex.s. c 75 § 1; 1961 c 12 § 46.16.210; prior: 1957 c 273 § 5; 1955 c 89 § 2; 1953 c 252 § 3; 1947 c 164 § 11; 1937 c 188 § 34; Rem. Supp. 1947 § 6312-34.]

Effective date—Severability—1975 1st ex.s. c 118: See notes following RCW 46.16.006.

46.16.212 Notice of liability insurance requirement.

The department of licensing shall notify the public of the requirements of RCW 46.30.020 through 46.30.040 at the time of new vehicle registration and when the department sends a registration renewal notice. [1989 c 353 § 10.]

Severability—Effective date—1989 c 353: See RCW 46.30.900 and 46.30.901.

46.16.216 Payment of parking fines required for renewal. (1) To renew a vehicle license, an applicant shall satisfy all listed standing, stopping, and parking violations for the vehicle incurred while the vehicle was registered in the applicant's name and forwarded to the department pursuant to RCW 46.20.270(3). For the purposes of this section, "listed" standing, stopping, and parking violations include only those violations for which notice has been

received from local agencies by the department one hundred twenty days or more before the date the vehicle license expires and that are placed on the records of the department. Notice of such violations received by the department later than one hundred twenty days before that date that are not satisfied shall be considered by the department in connection with any applications for license renewal in any subsequent license year. The renewal application may be processed by the department or its agents only if the applicant:

(a) Presents a preprinted renewal application showing no listed standing, stopping, and parking violations, or in the absence of such presentation, the agent verifies the information that would be contained on the preprinted renewal application; or

(b) If listed standing, stopping, and parking violations exist, presents proof of payment and pays a fifteen dollar surcharge.

(2) The surcharge shall be allocated as follows:

(a) Ten dollars shall be deposited in the motor vehicle fund to be used exclusively for the administrative costs of the department of licensing; and

(b) Five dollars shall be retained by the agent handling the renewal application to be used by the agent for the administration of this section.

(3) If there is a change in the registered owner of the vehicle, the department shall forward the information regarding the change to the local charging jurisdiction and release any hold on the renewal of the vehicle license resulting from parking violations incurred while the certificate of license registration was in a previous registered owner's name.

(4) The department shall send to all registered owners of vehicles who have been reported to have outstanding listed parking violations, at the time of renewal, a statement setting out the dates and jurisdictions in which the violations occurred as well as the amounts of unpaid fines and penalties relating to them and the surcharge to be collected. [1990 2nd ex.s. c 1 § 401; 1984 c 224 § 1.]

Severability—1990 2nd ex.s. c 1: See note following RCW 82.14.300.

Severability—1984 c 224: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1984 c 224 § 5.]

Effective date—1984 c 224: "This act shall take effect on July 1, 1984." [1984 c 224 § 6.]

46.16.220 Time of renewal of licenses—Duration.

Vehicle licenses and vehicle license number plates may be renewed for the subsequent registration year on and after the forty-fifth day prior to the end of the current registration year and must be used and displayed from the date of issue or from the day of the expiration of the preceding registration year, whichever date is later. [1991 c 339 § 20; 1975 1st ex.s. c 118 § 9; 1969 ex.s. c 170 § 9; 1961 c 12 § 46.16.220. Prior: 1957 c 261 § 8; 1955 c 89 § 1; 1953 c 252 § 4; 1947 c 164 § 12; 1937 c 188 § 35; Rem. Supp. 1947 § 6312-35; 1921 c 96 § 7, part; RRS § 6318, part; 1921 c 6 § 1, part; 1916 c 142 § 7, part.]

Effective date—Severability—1975 1st ex.s. c 118: See notes following RCW 46.16.006.

(6) Any person licensed as a driver under this chapter may exercise the privilege thereby granted upon all streets and highways in this state and shall not be required to obtain any other license to exercise such privilege by any county, municipal or local board, or body having authority to adopt local police regulations. [1991 c 293 § 3; 1991 c 73 § 1; 1990 c 250 § 33; 1988 c 88 § 1; 1985 c 302 § 2; 1979 ex.s. c 136 § 53; 1965 ex.s. c 121 § 2.]

Rules of court: Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.

Reviser's note: (1) This section was amended by 1991 c 73 § 1 and by 1991 c 293 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

(2) Throughout chapter 46.20 RCW the phrases "this 1965 amendatory act" and "this act" have been changed to "this chapter." The 1965 amendatory act [1965 ex.s. c 121] consisted of RCW 46.20.021 through 46.20.055, 46.20.091, 46.20.161 through 46.20.181, 46.20.205, 46.20.207, 46.20.215, 46.20.285, 46.20.291, 46.20.305 through 46.20.315, 46.20.322 through 46.20.336, 46.20.342 through 46.20.344, 46.20.900, 46.20.910, and 46.64.025, the 1965 amendments to RCW 46.20.102 through 46.20.106, 46.20.120 through 46.20.140, 46.20.190, 46.20.200, 46.20.270, and 46.20.340 and 1965 ex.s. c 121 § 1, footnoted after RCW 46.20.021.

Severability—1990 c 250: See note following RCW 46.16.301.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Purpose—Construction—1965 ex.s. c 121: "With the advent of greatly increased interstate vehicular travel and the migration of motorists between the states, the legislature recognizes the necessity of enacting driver licensing laws which are reasonably uniform with the laws of other states and are at the same time based upon sound, realistic principles, stated in clear explicit language. To achieve these ends the legislature does hereby enact this 1965 amendatory act relating to driver licensing modeled after the Uniform Vehicle Code subject to such variances as are deemed better suited to the people of this state. It is intended that this 1965 amendatory act be liberally construed to effectuate the purpose of improving the safety of our highways through driver licensing procedures within the framework of the traditional freedoms to which every motorist is entitled." [1965 ex.s. c 121 § 1.] For application of this section see reviser's note above.

Impoundment of vehicle for driver's license violations—Release, when—Court hearing: RCW 46.20.435.

License plates and registration, confiscation and marking: RCW 46.16.710.

46.20.022 Unlicensed drivers—Subject to all provisions of Title 46 RCW. Any person who operates a motor vehicle on the public highways of this state without a driver's license or nonresident privilege to drive shall be subject to all of the provisions of Title 46 RCW to the same extent as a person who is licensed. [1975-'76 2nd ex.s. c 29 § 1.]

Allowing unauthorized person to drive: RCW 46.16.011, 46.20.344.

46.20.025 Persons exempt from licensing requirement. The following persons are exempt from license hereunder:

(1) Any person in the service of the army, navy, air force, marine corps, or coast guard of the United States, or in the service of the national guard of this state or any other state, when furnished with a driver's license by such service when operating an official motor vehicle in such service;

(2) A nonresident who is at least sixteen years of age and who has in his immediate possession a valid driver's license issued to him in his home state;

(3) A nonresident who is at least sixteen years of age and who has in his immediate possession a valid driver's license issued to him in his home country may operate a

motor vehicle in this state for a period not to exceed one year;

(4) Any person operating special highway construction equipment as defined in RCW 46.16.010;

(5) Any person while driving or operating any farm tractor or implement of husbandry which is only incidentally operated or moved over a highway;

(6) Any person while operating a locomotive upon rails, including operation on a railroad crossing over a public highway; and such person is not required to display a driver's license to any law enforcement officer in connection with the operation of a locomotive or train within this state. [1979 c 75 § 1; 1965 ex.s. c 121 § 3.]

46.20.027 Licenses of persons serving in armed forces to remain in force—Duration. A Washington state motor vehicle driver's license issued to any person serving in the armed forces of the United States, if valid and in force and effect while such person is serving in the armed forces, shall remain in full force and effect so long as such service continues unless the same is sooner suspended, canceled, or revoked for cause as provided by law and for not to exceed ninety days following the date on which the holder of such driver's license is honorably separated from service in the armed forces of the United States. [1967 c 129 § 1.]

46.20.031 Persons ineligible to be licensed. The department shall not issue a driver's license hereunder:

(1) To any person who is under the age of sixteen years;

(2) To any person whose license has been suspended during such suspension, nor to any person whose license has been revoked, except as provided in RCW 46.20.311;

(3) To any person when the department has been notified by a court that such person has violated his written promise to appear in court, unless the department has received a certificate from the court in which such person promised to appear, showing that the case has been adjudicated. The deposit of bail by a person charged with a violation of any law regulating the operation of motor vehicles on highways shall be deemed an appearance in court for the purpose of this section;

(4) To any person who has been evaluated by a program approved by the department of social and health services as being an alcoholic, drug addict, alcohol abuser and/or drug abuser: PROVIDED, That a license may be issued if the department determines that such person has been granted a deferred prosecution, pursuant to chapter 10.05 RCW, or is satisfactorily participating in or has successfully completed an alcohol or drug abuse treatment program approved by the department of social and health services and has established control of his or her alcohol and/or drug abuse problem;

(5) To any person who has previously been adjudged to be mentally ill or insane, or to be incompetent due to any mental disability or disease, and who has not at the time of application been restored to competency by the methods provided by law: PROVIDED, HOWEVER, That no person so adjudged shall be denied a license for such cause if the superior court should find him able to operate a motor vehicle with safety upon the highways during such incompetency;

(6) To any person who is required by this chapter to take an examination, unless such person shall have successfully passed such examination;

(7) To any person who is required under the laws of this state to deposit proof of financial responsibility and who has not deposited such proof;

(8) To any person when the department has good and substantial evidence to reasonably conclude that such person by reason of physical or mental disability would not be able to operate a motor vehicle with safety upon the highways; subject to review by a court of competent jurisdiction. [1985 c 101 § 1; 1977 ex.s. c 162 § 1; 1965 ex.s. c 121 § 4.]

Allowing unauthorized person to drive: RCW 46.16.011, 46.20.344.

Juvenile driving privileges, alcohol or drug violations: RCW 66.44.365, 69.50.420.

46.20.041 Physically or mentally disabled persons—Procedure—Restrictions—Violations—Penalty. (1) The department shall permit any person suffering from any physical or mental disability or disease which may affect that person's ability to drive a motor vehicle, to demonstrate personally that notwithstanding such disability or disease he or she is a proper person to drive a motor vehicle. The department may in addition require such person to obtain a certificate showing his or her condition signed by a licensed physician or other proper authority designated by the department. The certificate shall be for the confidential use of the director and the chief of the Washington state patrol and for such other cognizant public officials as may be designated by law. It shall be exempt from public inspection and copying notwithstanding the provisions of chapter 42.17 RCW. The certificate may not be offered as evidence in any court except when appeal is taken from the order of the director suspending, revoking, canceling, or refusing a vehicle driver's license. However, the certificate may be made available to the director of the department of retirement systems for use in determining eligibility for or continuance of disability benefits and it may be offered and admitted as evidence in any administrative proceeding or court action concerning such disability benefits.

(2) The department may issue a driver's license to such a person imposing restrictions suitable to the licensee's driving ability with respect to the special mechanical control devices required on a motor vehicle or the type of motor vehicle which the licensee may operate or such other restrictions applicable to the licensee as the department may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(3) The department may either issue a special restricted license or may set forth such restrictions upon the usual license form.

(4) The department may upon receiving satisfactory evidence of any violation of the restrictions of such license suspend or revoke the same but the licensee shall be entitled to a driver improvement interview and a hearing as upon a suspension or revocation under this chapter.

(5) It is a traffic infraction for any person to operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to him or her. [1986 c 176 § 1; 1979 ex.s. c 136 § 54; 1979 c 61 § 2; 1965 ex.s. c 121 § 5.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.20.045 Age limit for school bus drivers and drivers of for hire vehicles. No person who is under the age of eighteen years shall drive any school bus transporting school children or shall drive any motor vehicle when in use for the transportation of persons for compensation. [1971 ex.s. c 292 § 43; 1965 ex.s. c 121 § 6.]

Severability—1971 ex.s. c 292: See note following RCW 26.28.010.

46.20.055 Instruction permits and temporary licenses. (1) Any person who is at least fifteen and a half years of age may apply to the department for an instruction permit for the operation of any motor vehicle except a motorcycle. Any person sixteen years of age or older, holding a valid driver's license, may apply for an instruction permit for the operation of a motorcycle. 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 a driver's or motorcyclist's instruction permit.

(a) A driver's instruction permit entitles the permittee while having the permit in immediate possession to drive a motor vehicle upon the public highways for a period of one year when accompanied by a licensed driver who has had at least five years of driving experience and is occupying a seat beside the driver. Except as provided in subsection (c) of this subsection, only one additional permit, valid for one year, may be issued.

(b) A motorcyclist's instruction permit entitles the permittee while having the permit in immediate possession to drive a motorcycle upon the public highways for a period of ninety days as provided in *RCW 46.20.510(3). Except as provided in subsection (c) of this subsection, only one additional permit, valid for ninety days, may be issued.

(c) The department after investigation may issue a third driver's or motorcyclist's instruction permit when it finds that the permittee is diligently seeking to improve driving proficiency.

(2) The department may waive the examination, except as to eyesight and other potential physical restrictions, for any applicant who is enrolled in either a traffic safety education course as defined by RCW 28A.220.020(2) or a course of instruction offered by a licensed driver training school as defined by RCW 46.82.280(1) at the time the application is being considered by the department. The department may require proof of registration in such a course as it deems necessary.

(3) The department upon receiving proper application may in its discretion issue a driver's instruction permit to an applicant who is at least fifteen years of age and is enrolled in a traffic safety education program which includes practice driving and which is approved and accredited by the superintendent of public instruction. Such instruction permit shall entitle the permittee having the permit in immediate possession to drive a motor vehicle only when an approved instructor or other licensed driver with at least five years of driving experience, is occupying a seat beside the permittee.

(4) The department may in its discretion issue a temporary driver's permit to an applicant for a driver's license permitting the applicant to drive a motor vehicle for a period

for any offense or violation except either when the offense or violation is committed in his or her presence or when a person may be arrested pursuant to RCW 10.31.100, as now or hereafter amended. The detention arising from an arrest under this section may not be for a period of time longer than is reasonably necessary to issue and serve a citation and notice, except that the time limitation does not apply under any of the following circumstances:

(1) Where the arrested person refuses to sign a written promise to appear in court as required by the citation and notice provisions of this section;

(2) Where the arresting officer has probable cause to believe that the arrested person has committed any of the offenses enumerated in RCW 10.31.100(3), as now or hereafter amended;

(3) When the arrested person is a nonresident and is being detained for a hearing under RCW 46.64.035. [1987 c 345 § 2; 1985 c 303 § 11; 1979 ex.s. c 28 § 2; 1975-'76 2nd ex.s. c 95 § 2; 1975 c 56 § 1; 1967 c 32 § 70; 1961 c 12 § 46.64.015. Prior: 1951 c 175 § 1.]

46.64.018 Arrest without warrant for certain traffic offenses. See RCW 10.31.100.

46.64.020 Nonappearance after written promise—Penalty—Response by mail, when. (1) The legislature finds that:

(a) Traffic laws are necessary for the safe and expeditious flow of motor vehicle traffic.

(b) For traffic laws to be effective, they must be judiciously and fairly enforced. This enforcement includes the issuance of notices of infraction and citations and the assessment of fines and penalties.

(c) The adjudication of notices of infraction through a written and signed promise to respond, and of citations through a written and signed promise to appear, as provided in this title is an integral and important part of the traffic law system.

(d) Approximately twenty percent of all people issued notices of infraction and citations violate their written and signed promise to respond or appear and obtain notices of failure to respond or appear on their driving records. Through their actions, these people are destroying the effectiveness of the traffic law system and undermining the department of licensing regulatory control of drivers' licenses.

(e) Notices of failure to respond or appear accumulated on a person's driving record shall be considered if they were issued after July 25, 1987.

(2) Any person violating his or her written and signed promise to appear in court or his or her written and signed promise to respond to a notice of traffic infraction, as provided in this title, is guilty of a misdemeanor regardless of the disposition of the charge upon which he or she was originally arrested or the disposition of the notice of infraction: PROVIDED, That a written promise to appear in court or a written promise to respond to a notice of traffic infraction may be complied with by an appearance by counsel: PROVIDED FURTHER, That a person charged under RCW 46.20.021 with driving with an expired driver's license may respond by mailing to the court within fifteen days of the

violation, a copy of the person's currently valid driver's license. Any person who has been issued a notice of infraction pursuant to RCW 46.63.030(3) and who fails to respond as provided in this title is guilty of a misdemeanor regardless of the disposition of the notice of infraction. [1992 c 32 § 1; 1990 c 250 § 61; 1990 c 210 § 1; 1988 c 38 § 1; 1987 c 345 § 1; 1986 c 213 § 1; 1980 c 128 § 8; 1961 c 12 § 46.64.020. Prior: 1937 c 189 § 146; RRS § 6360-146.]

Rules of court: Bail in criminal traffic offense cases—Mandatory appearance—CrRLJ 3.2.

Severability—1990 c 250: See note following RCW 46.16.301.

Effective date—Severability—1980 c 128: See notes following RCW 46.63.060.

46.64.025 Nonappearance after written promise—Notice to department. Whenever any person has for a period of fifteen or more days violated his written promise to appear in court, the court in which the defendant so promised to appear shall forthwith give notice of such fact to the department of licensing. Whenever thereafter the case in which such promise was given is adjudicated the court hearing the case shall file with the department a certificate showing that the case has been adjudicated. [1979 c 158 § 175; 1967 c 32 § 71; 1965 ex.s. c 121 § 23.]

Severability—1965 ex.s. c 121: See RCW 46.20.910.

Purpose—Construction—1965 ex.s. c 121: See note following RCW 46.20.021.

46.64.027 Failure to comply. (1) A person who drives a motor vehicle within the state and has accumulated two or more notices of failure to appear or respond on his or her driving record maintained by the department of licensing in a five-year period as a result of noncompliance with the traffic laws in a jurisdiction or court within Washington, or in a jurisdiction or court within other states that are signatories with Washington in a nonresident violator compact or reciprocal agreement under chapter 46.23 RCW, is guilty of failure to comply, a gross misdemeanor. A person is not subject to this section for failure to pay a penalty for a pedestrian, bicycling, or parking offense.

(2) Probable cause for arrest under this section is established by the officer obtaining, orally or in writing, information from the department of licensing that two or more notices of failure to appear or respond are on the person's driving record. For purposes of this chapter, failure to satisfy a penalty imposed under this title is considered equivalent to failure to appear or respond.

(3) Venue for prosecution is in the court with jurisdiction in the area of apprehension. [1992 c 32 § 2.]

46.64.030 Procedure governing arrest and prosecution. The provisions of this title with regard to the apprehension and arrest of persons violating this title shall govern all police officers in making arrests without a warrant for violations of this title for offenses either committed in their presence or believed to have been committed based on probable cause pursuant to RCW 10.31.100, but the procedure prescribed herein shall not otherwise be exclusive of any other method prescribed by law for the arrest and prosecution of a person for other like offenses. [1979 ex.s.

VOLUME 1
Titles 1 through 17

1992
REVISED CODE OF WASHINGTON

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Containing all laws of a general and permanent nature through the 1992 regular session, which adjourned sine die March 12, 1992.

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at the discretion of the judge in the criminal proceeding. To award these reasonable costs the trier of fact must find that the defendant's claim of self-defense was sustained by a preponderance of the evidence: PROVIDED, HOWEVER, That nothing shall preclude the legislature from granting a higher award through the sundry claims process.

(3) Whenever the issue of self defense under this section is decided by a judge or whenever a judge exercises the discretion authorized under subsection (2) of this section in determining an award, the judge shall consider the same questions as must be answered in the special verdict under subsection (4) of this section.

(4) Whenever the issue of self defense under this section has been submitted to a jury, and the jury has found the defendant not guilty, and the judge has submitted an award determination to the jury, the court shall instruct the jury to return a special verdict in substantially the following form:

- | | | |
|--------------------------------------------------------------------------------|-----------|--|
| | answer | |
| | yes or no | |
| 1. Was the finding of not guilty based upon self defense? | | |
| 2. If your answer to question 1 is no, do not answer the remaining question. | | |
| 3. If your answer to question 1 is yes, was the defendant: | | |
| a. Protecting himself or herself? | | |
| b. Protecting his or her family? | | |
| c. Protecting his or her property? | | |
| d. Coming to the aid of another who was in imminent danger of a heinous crime? | | |
| e. Coming to the aid of another who was the victim of a heinous crime? | | |

[1989 c 94 § 1; 1977 ex.s. c 206 § 8. Formerly RCW 9.01.200.]

Use of deadly force—Legislative recognition: See note following RCW 9A.16.040.

**Chapter 9A.20
CLASSIFICATION OF CRIMES**

Sections

- 9A.20.010 Classification and designation of crimes.
- 9A.20.020 Authorized sentences for crimes committed before July 1, 1984.
- 9A.20.021 Maximum sentences for crimes committed July 1, 1984, and after.
- 9A.20.030 Alternative to a fine—Restitution.
- 9A.20.040 Prosecutions related to felonies defined outside Title 9A RCW.

Assessments required of convicted persons
offender supervision: RCW 9.54A.270.
parolees: RCW 72.04A.120.
probationers: RCW 10.64.120.

9A.20.010 Classification and designation of crimes.
 (1) Classified Felonies. (a) The particular classification of each felony defined in Title 9A RCW is expressly designated in the section defining it.

(b) For purposes of sentencing, classified felonies are designated as one of three classes, as follows:

- (i) Class A felony; or

- (ii) Class B felony; or
- (iii) Class C felony.

(2) Misdemeanors and Gross Misdemeanors. (a) Any crime punishable by a fine of not more than one thousand dollars, or by imprisonment in a county jail for not more than ninety days, or by both such fine and imprisonment is a misdemeanor. Whenever the performance of any act is prohibited by any statute, and no penalty for the violation of such statute is imposed, the committing of such act shall be a misdemeanor.

(b) All crimes other than felonies and misdemeanors are gross misdemeanors. [1984 c 258 § 808; 1975 1st ex.s. c 260 § 9A.20.010.]

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

9A.20.020 Authorized sentences for crimes committed before July 1, 1984. (1) Felony. Every person convicted of a classified felony shall be punished as follows:

(a) For a class A felony, by imprisonment in a state correctional institution for a maximum term fixed by the court of not less than twenty years, or by a fine in an amount fixed by the court of not more than fifty thousand dollars, or by both such imprisonment and fine;

(b) For a class B felony, by imprisonment in a state correctional institution for a maximum term of not more than ten years, or by a fine in an amount fixed by the court of not more than twenty thousand dollars, or by both such imprisonment and fine;

(c) For a class C felony, by imprisonment in a state correctional institution for a maximum term of not more than five years, or by a fine in an amount fixed by the court of not more than ten thousand dollars, or by both such imprisonment and fine.

(2) Gross Misdemeanor. Every person convicted of a gross misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than one year, or by a fine in an amount fixed by the court of not more than five thousand dollars, or by both such imprisonment and fine.

(3) Misdemeanor. Every person convicted of a misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars, or by both such imprisonment and fine.

(4) This section applies to only those crimes committed prior to July 1, 1984. [1982 c 192 § 9; 1981 c 137 § 37; 1975-'76 2nd ex.s. c 38 § 2; 1975 1st ex.s. c 260 § 9A.20.020.]

Severability—1981 c 137: See RCW 9.94A.910.

Effective date—Severability—1975-'76 2nd ex.s. c 38: See notes following RCW 9A.08.020.

Penalty assessments in addition to fine or bail forfeiture—Crime victim and witness programs in county: RCW 7.69.035.

9A.20.021 Maximum sentences for crimes committed July 1, 1984, and after. (1) Felony. No person convicted of a classified felony shall be punished by confinement or fine exceeding the following:

(a) For a class A felony, by confinement in a state correctional institution for a term of life imprisonment, or by a fine in an amount fixed by the court of fifty thousand dollars, or by both such confinement and fine;

(b) For a class B felony, by confinement in a state correctional institution for a term of ten years, or by a fine in an amount fixed by the court of twenty thousand dollars, or by both such confinement and fine;

(c) For a class C felony, by confinement in a state correctional institution for five years, or by a fine in an amount fixed by the court of ten thousand dollars, or by both such confinement and fine.

(2) Gross misdemeanor. Every person convicted of a gross misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than one year, or by a fine in an amount fixed by the court of not more than five thousand dollars, or by both such imprisonment and fine.

(3) Misdemeanor. Every person convicted of a misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars, or by both such imprisonment and fine.

(4) This section applies to only those crimes committed on or after July 1, 1984. [1982 c 192 § 10.]

Penalty assessments in addition to fine or bail forfeiture—Crime victim and witness programs in county: RCW 7.68.035.

9A.20.030 Alternative to a fine—Restitution. (1) If a person has gained money or property or caused a victim to lose money or property through the commission of a crime, upon conviction thereof or when the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement, the court, in lieu of imposing the fine authorized for the offense under RCW 9A.20.020, may order the defendant to pay an amount, fixed by the court, not to exceed double the amount of the defendant's gain or victim's loss from the commission of a crime. Such amount may be used to provide restitution to the victim at the order of the court. It shall be the duty of the prosecuting attorney to investigate the alternative of restitution, and to recommend it to the court, when the prosecuting attorney believes that restitution is appropriate and feasible. If the court orders restitution, the court shall make a finding as to the amount of the defendant's gain or victim's loss from the crime, and if the record does not contain sufficient evidence to support such finding the court may conduct a hearing upon the issue. For purposes of this section, the terms "gain" or "loss" refer to the amount of money or the value of property or services gained or lost.

(2) Notwithstanding any other provision of law, this section also applies to any corporation or joint stock association found guilty of any crime. [1982 1st ex.s. c 47 § 12; 1979 c 29 § 3, 1975 1st ex.s. c 260 § 9A.20.030.]

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.190.

Restitution

condition of probation: RCW 9.95.210.

condition to suspending sentence: RCW 9.92.060.

(1992 Ed.)

disposition when victim dead or not found: RCW 7.68.290.

9A.20.040 Prosecutions related to felonies defined outside Title 9A RCW. In any prosecution under this title where the grade or degree of a crime is determined by reference to the degree of a felony for which the defendant or another previously had been sought, arrested, charged, convicted, or sentenced, if such felony is defined by a statute of this state which is not in Title 9A RCW, unless otherwise provided:

(1) If the maximum sentence of imprisonment authorized by law upon conviction of such felony is twenty years or more, such felony shall be treated as a class A felony for purposes of this title;

(2) If the maximum sentence of imprisonment authorized by law upon conviction of such felony is eight years or more, but less than twenty years, such felony shall be treated as a class B felony for purposes of this title;

(3) If the maximum sentence of imprisonment authorized by law upon conviction of such felony is less than eight years, such felony shall be treated as a class C felony for purposes of this title. [1975 1st ex.s. c 260 § 9A.20.040.]

Chapter 9A.28

ANTICIPATORY OFFENSES

Sections

- 9A.28.010 Prosecutions based on felonies defined outside Title 9A RCW.
 9A.28.020 Criminal attempt.
 9A.28.030 Criminal solicitation.
 9A.28.040 Criminal conspiracy.

9A.28.010 Prosecutions based on felonies defined outside Title 9A RCW. In any prosecution under this title for attempt, solicitation, or conspiracy to commit a felony defined by a statute of this state which is not in this title, unless otherwise provided:

(1) If the maximum sentence of imprisonment authorized by law upon conviction of such felony is twenty years or more, such felony shall be treated as a class A felony for purposes of this title;

(2) If the maximum sentence of imprisonment authorized by law upon conviction of such felony is eight years or more but less than twenty years, such felony shall be treated as a class B felony for purposes of this title;

(3) If the maximum sentence of imprisonment authorized by law upon conviction of such felony is less than eight years, such felony shall be treated as a class C felony for purposes of this title. [1975 1st ex.s. c 260 § 9A.28.010.]

9A.28.020 Criminal attempt. (1) A person is guilty of an attempt to commit crime if, with intent to commit a specific crime, he does any act which is a substantial step toward the commission of that crime.

(2) If the conduct in which a person engages otherwise constitutes an attempt to commit a crime, it is no defense to a prosecution of such attempt that the crime charged to have

CS FOR SENATE BILL NO. 166(TRA)
 IN THE LEGISLATURE OF THE STATE OF ALASKA
 EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE TRANSPORTATION COMMITTEE

Offered: 4/13/94
 Referred: JUD. FIN

Sponsors: SENATE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to registration of a motor vehicle and suspension of a driver's
 2 license for failure to appear in court or failure to pay a fine."

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

4 * Section 1. AS 12.25.200(b) is amended to read:

5 (b) A citation issued under AS 12.25.180 must indicate the amount of bail or
 6 fine applicable to the offense, the procedure a person must follow in responding to the
 7 citation. [AND] that if the person fails to pay the bail or fine the person must appear
 8 in court. and that failure to pay the bail or fine or appear in court for an offense
 9 involving a moving motor vehicle may result in suspension of the person's driver's
 10 license. In addition, a citation must indicate that the person has a right to

- 11 (1) a trial;
 12 (2) engage counsel;
 13 (3) confront and question witnesses;
 14 (4) testify; and

1 (5) subpoena witnesses on the person's behalf.

2 * Sec. 2. AS 28.10.041 is amended by adding a new subsection to read:

3 (d) If an applicant has received actual notice of a required payment of a fine
4 for a parking offense and has failed to pay the fine, the department shall refuse to
5 register the applicant's vehicle until the applicant provides proof that the fine has been
6 paid. An agency of the state or a municipality may report a person's failure to pay a
7 fine to the department on a form prescribed by the department. The department may
8 require electronic reporting.

9 * Sec. 3. AS 28.15.181 is amended by adding a new subsection to read:

10 (h) The court may suspend the driver's license, privilege to drive, or privilege
11 to obtain a license of a person who fails to appear in court as required by a citation
12 for an offense involving a moving motor vehicle, or who fails to pay a fine as required
13 by the court for an offense involving a moving motor vehicle. If the court suspends
14 a driver's license under this subsection, the court shall also provide notice of the
15 suspension to the department. Suspension imposed under this subsection shall remain
16 in effect until the person appears in court as required by the citation, or pays the fine
17 as required by the court. When the person appears in court or pays the required fine,
18 the court shall terminate the suspension imposed under this subsection and provide the
19 person with written notice of the termination.

20 * Sec. 4. AS 28.15.211(c) is amended to read:

21 (c) At the end of a period of suspension or limitation, when that limitation
22 follows a suspension, the person whose license has been suspended or limited may
23 apply to the department and, upon payment of the proper fees, including a
24 reinstatement fee of \$100, be issued a duplicate driver's license if the person is
25 otherwise entitled to the license under this title. The reinstatement fee required
26 under this section is not required for a suspension imposed under AS 28.15.181(h).

27 * Sec. 5. AS 28.15.211(e) is amended to read:

28 (e) Except for a suspension under AS 28.15.181(h), at [AT] the end of a
29 period of limitation, suspension, or revocation under this chapter, the department may
30 not issue a driver's license or a duplicate driver's license to the licensee until the
31 licensee has complied with AS 28.20 relating to proof of financial responsibility.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SB 166

Revision Date: _____ Dept. Affected: Alaska Court System
 Title: Driver's License Revocation BRU: Trial Courts
 Components: _____
 Sponsor: Senate Judiciary
 Requestor: _____ COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES (Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	39.0	39.0	39.0	39.0	39.0	39.0
TRAVEL						
CONTRACTUAL	13.8	13.8	13.8	13.8	13.8	13.8
SUPPLIES	2.1	2.1	2.1	2.1	2.1	2.1
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	54.9	54.9	54.9	54.9	54.9	54.9

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

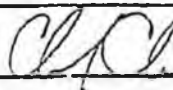

1002 Federal Receipts						
1003 GF Match						
1004 GF	54.9	54.9	54.9	54.9	54.9	54.9
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	54.9	54.9	54.9	54.9	54.9	54.9

POSITIONS

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

Estimate of current year (FY 94) cost: \$ None

ANALYSIS: (Attach a separate page if necessary)
See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel  Phone: 264-8228
 Agency: Alaska Court System Date: 04/04/94
 Approved by: Arthur H. Snowden, II, Administrative Director  Date: 04/04/94
 Agency: Alaska Court System

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

Alaska Court SystemFiscal AnalysisSB 166

This bill will require preparation, mailing and tracking of 3 new forms for certain traffic offenses. The notices will be mailed to persons who fail to pay fines in traffic-related offenses and to persons who fail to appear at the court for moving violations. The three new forms are (1) a notice of pending license revocation, (2) a notice of license revocation and (3) a notice of termination of license revocation. During FY 93, the court system processed over 68,500 traffic offenses, of which nearly 39,000 involved moving violations. For purposes of this fiscal note, we have used the following assumptions:

<u>Estimated Number of Warrants Issued for Failure to Satisfy (25% of all traffic citations)</u>		<u>17,100</u>
100% of warrant recipients will receive Notice of Pending Revocation	17,100	
60% of warrant recipients will receive Notice of Revocation	10,300	
50% of warrant recipients will receive Notice of Termination of Revocation	8,600	
 <u>Estimated Number of Warrants Issued for Failure to Appear (20% of moving violation citations)</u>		 <u>7,800</u>
100% of warrant recipients will receive Notice of Pending Revocation	7,800	
40% of warrant recipients will receive Notice of Revocation	3,100	
10% of warrant recipients will receive Notice of Termination of Revocation	800	
 Total number of notices processed by the courts		 <u>47,700</u>

It is assumed that each notice will require 3 minutes of clerical time for preparation, mailing and tracking. Statewide clerical staffing needs are estimated at 1.2 new clerks.

Personal Services

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Court Clerk I, range 8A, Anchorage, PFT, 12 months	\$21,336	\$10,715	\$32,051
Court Clerk I, range 8A, Fairbanks, PPT, 2.4 months	4,802	2,114	<u>6,916</u>
Total Personal Services			38,967

Contractual

Postage - mail 47,700 notices at 29¢ each	13,833
-------------------------------------------	--------

Supplies

Cost of paper and envelopes for printing and mailing notices	<u>2,069</u>
Total Cost	<u>\$54,869</u>

HAWAII REVISED STATUTES

1992 SUPPLEMENT

VOLUME 5

TITLES 16-19, CHAPTERS 281-344

FOR USE WITH THE 1985 REPLACEMENT VOLUME



PUBLISHED BY AUTHORITY

HAWAII
REVISED STATUTES

(g) No driver's license shall be renewable by mail for more than two consecutive renewals whether the license expires, under section 286-106, on the fourth birthday after issuance or on the second birthday after issuance; provided that this subsection shall not apply to a resident military person or that person's immediate family if the resident military person resides outside the State on official military orders.

[am L 1986, c 232, §1; am L 1987, c 318, §1]

Revision Note

Only the subsections amended are compiled in this Supplement.

§286-108 Examination of applicants. (a) The examiner of drivers shall examine every applicant for a driver's license, except as otherwise provided in this part. [The examination] shall include a test of the applicant's eyesight and such further physical examination as the examiner of drivers finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways; the applicant's ability to understand highway signs regulating, warning, and directing traffic; the applicant's knowledge of the rules of the road based on the traffic laws of the State and the traffic ordinances of the county where the applicant resides or where the applicant intends to operate a motor vehicle; and actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle. The examinations shall be appropriate to the operation of the category of motor vehicle for which the applicant seeks to be licensed and shall be conducted as required by the state director of transportation. At the time of examination, an application for voter registration by mail shall be made available to every applicant.

(b) The examiner of drivers may waive the actual demonstration of ability to operate a motor vehicle for any person who is at least eighteen years of age and who possesses a valid driver's license issued to the applicant in any other state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, a province of the Dominion of Canada, or the Commonwealth of the Northern Mariana Islands for the operation of vehicles in categories 1 through 3 of section 286-102.

(c) As part of the examination required by this section the applicant for a driver's license shall produce and display a valid no-fault or liability insurance identification card for the motor vehicle required by section 431:10C-107 and section 431:10G-106, when the applicant demonstrates the ability to operate a motor vehicle to the satisfaction of the examiner of drivers. If no valid no-fault or liability insurance identification card is displayed, the examiner of drivers shall not issue a driver's license to the applicant. [L 1937, c 234, §11; RL 1945, §7312; RL 1955, §160-42; am L 1967, c 214, §9; HRS §286-108; am L 1975, c 194, §3; am L Sp 1977 1st, c 20, §12; am L 1978, c 91, §11; am L 1985, c 26, §1; am L 1986, c 224, §1; am L 1990, c 45, §10; am L 1991, c 60, §1]

§286-108.5 REPEALED. L 1989, c 320, §7; L 1990, c 342, §16.

§286-109 General provision governing the issuance of licenses. Upon payment of the required fee and upon demonstrating the ability to operate a certain category or categories of motor vehicles to the satisfaction of the examiner of drivers, an applicant for a driver's license shall be issued a single license of a design approved by the director of transportation upon which is made a notation of the category or

categories of motor vehicles the applicant may operate, any restrictive provisions to which the license is subject, and, where the license is issued to a person under twenty-one years of age, a statement, in clearly legible print that shall contrast with the other information appearing on the license, which indicates the date on which the person will attain the age of twenty-one years.

Statutes of limitations and other provisions of this chapter notwithstanding, no driver's license or instruction permit shall be issued or renewed under this section, where the examiner of drivers is notified by the district judge, traffic violations bureaus of the district courts, or the judge of the circuit court that the applicant has failed to respond to a traffic citation or summons for the violation of any traffic laws of a county, this chapter or chapters 286G, 287, 290, 291, or 291C, and the same remains delinquent and outstanding, or the applicant, having timely responded initially, has as of the time of the application, failed to comply in full with all orders of the court. [L 1967, c 214, pt of §2; HRS §286-109; am L 1970, c 164, §3; am L 1975, c 24, §7; am L Sp 1977 1st, c 20, §12; am L 1985, c 107, §1; am L 1990, c 9, §1]

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§286-111 Application for license or instruction permit; fees. (a) Every application for an instruction permit or for a driver's license shall be made upon a form furnished by the examiner of drivers and shall be verified by the applicant before a person authorized to administer oaths. The examiner of drivers and officers serving under the examiner are hereby authorized to administer such oaths without charge. Each application for an instruction permit for a category (1), (2), (3), or (4) license shall be accompanied by a fee to be determined by the council of each county and each application for a driver's license shall be accompanied by the fee; unless the applicant has already paid the fee upon application for an instruction permit in the same county, in which event no fee shall be chargeable. An additional fee to be determined by the council of each county shall be charged and collected upon the issuance of a driver's license. All the foregoing fees shall become county realizations.

(b) The director of transportation shall establish a fee schedule for all commercial driver's licensing examinations. The fees collected for a commercial driver's license shall become state realizations and deposited in the state highway fund. The State shall reimburse the counties all costs for administering the commercial driver's licensing program. The amount of reimbursement shall be determined by the director of transportation.

(c) Every application shall state the full name, date of birth, sex, occupation, the residence address and business address, if any, of the applicant, and shall briefly describe the applicant, and shall state whether the applicant has theretofore been licensed as a driver, and, if so, when and in what state or country, and whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and if so, the date of and reason for the suspension, revocation, or refusal. [L 1937, c 234, §7; am L Sp 1941, c 6, §1; RL 1945, §7308; RL 1955, §160-38; HRS §286-111; am L 1968, c 48, §5; am L 1970, c 164, §3; am imp L 1984, c 90, §1; am L 1990, c 342, §20]

PART XV. PENALTIES AND PROCEDURE ON ARREST;
RESPECTIVE POWERS OF STATE AND COUNTIES

Note

Part heading amended by L 1978, c. 111, §1.

§291C-161 Penalties. (a) It is a violation for any person to violate any of the provisions of this chapter except as otherwise specified in subsection (c) of this section and unless the violation is by other law of this State declared to be a felony, misdemeanor, or petty misdemeanor.

(b) Except as provided in subsection (c) of this section, every person who violates any provision of this chapter for which another penalty is not provided, shall for a first conviction thereof be fined not more than \$100; for conviction of a second offense committed within one year after the date of the first offense, the person shall be fined not more than \$200; for conviction of a third or subsequent offense committed within one year after the date of the first offense, the person shall be fined not more than \$500 provided that upon a conviction for a violation of section 291C-12, the person shall be sentenced in accordance with section 291C-12.

(c) Every person who violates section 291C-13, 291C-14, 291C-18, 291C-37, 291C-43, 291C-44, 291C-45, 291C-46, 291C-47, 291C-48, 291C-50, 291C-51, 291C-65, 291C-72, 291C-73, 291C-74 or 291C-95 of this chapter shall for a first conviction thereof be fined not more than \$100 or imprisoned not more than ten days; for conviction of a second offense committed within one year after the date of the first offense, the person shall be fined not more than \$200 or imprisoned not more than twenty days, or by both fine and imprisonment; for conviction of a third or subsequent offense committed within one year after the date of the first offense, the person shall be fined not more than \$500 or imprisoned not more than six months, or by both fine and imprisonment.

(d) The courts may assess a sum not to exceed \$25 for the cost of issuing a penal summons upon any person who fails to appear at the place within the time specified in the citation issued to the person for any traffic violation. [L 1971, c 150, pt of §1; am L 1976, c 44, §1; am L 1978, c 222, §2; am imp L 1984, c 90, §1]

Cross References

Classification of offense and authorized punishment, see §§701-107, 706-640, 663.

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- (1) Regulating or prohibiting stopping, standing, or parking except as provided in section 291C-111;

SB

168

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SB 166

Revision Date: _____ Dept. Affected: Alaska Court System
 Title: Driver's License Revocation BRU: Trial Courts
 Components: _____
 Sponsor: Senate Judiciary
 Requestor: _____ COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	39.0	39.0	39.0	39.0	39.0	39.0
TRAVEL						
CONTRACTUAL	13.8	13.8	13.8	13.8	13.8	13.8
SUPPLIES	2.1	2.1	2.1	2.1	2.1	2.1
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	54.9	54.9	54.9	54.9	54.9	54.9

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	54.9	54.9	54.9	54.9	54.9	54.9
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	54.9	54.9	54.9	54.9	54.9	54.9

POSITIONS

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

Estimate of current year (FY 94) cost: \$ None

ANALYSIS: (Attach a separate page if necessary)
See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel *CSC* Phone: 264-8228
 Agency: Alaska Court System Date: 04/04/94

Approved by: Arthur H. Snowden, II, Administrative Director *AS* Date: 04/04/94
 Agency: Alaska Court System

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

Alaska Court SystemFiscal AnalysisSB 166

This bill will require preparation, mailing and tracking of 3 new forms for certain traffic offenses. The notices will be mailed to persons who fail to pay fines in traffic-related offenses and to persons who fail to appear at the court for moving violations. The three new forms are (1) a notice of pending license revocation, (2) a notice of license revocation and (3) a notice of termination of license revocation. During FY 93, the court system processed over 68,500 traffic offenses, of which nearly 39,000 involved moving violations. For purposes of this fiscal note, we have used the following assumptions:

<u>Estimated Number of Warrants Issued for Failure to Satisfy (25% of all traffic citations)</u>		<u>17,100</u>
100% of warrant recipients will receive Notice of Pending Revocation	17,100	
60% of warrant recipients will receive Notice of Revocation	10,300	
50% of warrant recipients will receive Notice of Termination of Revocation	8,600	
<u>Estimated Number of Warrants Issued for Failure to Appear (20% of moving violation citations)</u>		<u>7,800</u>
100% of warrant recipients will receive Notice of Pending Revocation	7,800	
40% of warrant recipients will receive Notice of Revocation	3,100	
10% of warrant recipients will receive Notice of Termination of Revocation	800	
Total number of notices processed by the courts	<u>47,700</u>	

It is assumed that each notice will require 3 minutes of clerical time for preparation, mailing and tracking. Statewide clerical staffing needs are estimated at 1.2 new clerks.

Personal Services

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Court Clerk I, range 8A, Anchorage, PFT, 12 months	\$21,336	\$10,715	\$32,051
Court Clerk I, range 8A, Fairbanks, PPT, 2.4 months	4,802	2,114	<u>6,916</u>
Total Personal Services			38,967

Contractual

Postage - mail 47,700 notices at 29¢ each	13,833
-------------------------------------------	--------

Supplies

Cost of paper and envelopes for printing and mailing notices	<u>2,069</u>
Total Cost	<u>\$54,869</u>

SENATE BILL NO. 166

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Introduced: 3/16/93
 Referred: TRA, JUD, FIN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to registration of a motor vehicle, and issuance, renewal,
 2 reinstatement, and revocation of a driver's license for failure to appear in court
 3 or failure to pay a fine."

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

5 * Section 1. AS 28.10.041 is amended by adding a new subsection to read:

6 (d) If an applicant has received actual notice of a required court appearance
 7 or of a fine for a parking offense and has failed to appear in court as required by law
 8 or failed to pay a fine for a parking offense, the department shall refuse to register the
 9 applicant's vehicle until the applicant makes the required court appearance or provides
 10 proof that the fine has been paid.

11 * Sec. 2. AS 28.15.181 is amended by adding a new subsection to read:

12 (g) After the court has provided at least 10 days written notice of the
 13 impending license revocation, the court may revoke the driver's license of a person
 14 licensed in this state who fails to appear in court as required by a citation for an

1 offense involving a moving motor vehicle, or who fails to pay a fine as required by
2 the court for an offense involving a moving motor vehicle. If the court revokes a
3 driver's license under this subsection, the court shall also provide written notice of the
4 revocation to the department and to the person whose license is revoked. Notice of
5 the impending license revocation and notice to the person after a license is revoked
6 shall be mailed to the address indicated on the driver's license records of the
7 department. Revocation imposed under this subsection shall remain in effect until the
8 person appears in court as required by the citation, or pays the fine as required by the
9 court. When the person appears in court or pays the required fine, the court shall
10 terminate the revocation imposed under this subsection and provide notice of the
11 court's action to the department.

12 * Sec. 3. AS 28.15.191(a) is amended to read:

13 (a) A court that convicts a person of an offense under this title or a regulation
14 adopted under this title, or another law or regulation of this state, or a municipal
15 ordinance that regulates the driving of vehicles, shall forward a record of the
16 conviction to the department. [A CONVICTION OF A STANDING OR PARKING
17 OFFENSE NEED NOT BE REPORTED.]

18 * Sec. 4. AS 28.15.191(f) is amended to read:

19 (f) A municipality that accepts a fine payment after a plea of no contest to a
20 charge of a violation of a municipal ordinance for which a scheduled fine has been
21 established shall forward a record of the payment to the department [; HOWEVER, A
22 CONVICTION FOR A STANDING OR PARKING OFFENSE NEED NOT BE
23 REPORTED].

CS FOR SENATE BILL NO. 166(TRA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE TRANSPORTATION COMMITTEE

Offered: 4/13/94
Referred: JUD, FIN

Sponsor(s): SENATE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to registration of a motor vehicle and suspension of a driver's
2 license for failure to appear in court or failure to pay a fine."

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

4 * Section 1. AS 12.25.200(b) is amended to read:

5 (b) A citation issued under AS 12.25.180 must indicate the amount of bail or
6 fine applicable to the offense, the procedure a person must follow in responding to the
7 citation, [AND] that if the person fails to pay the bail or fine the person must appear
8 in court, and that failure to pay the bail or fine or appear in court for an offense
9 involving a moving motor vehicle may result in suspension of the person's driver's
10 license. In addition, a citation must indicate that the person has a right to

- 11 (1) a trial;
- 12 (2) engage counsel;
- 13 (3) confront and question witnesses;
- 14 (4) testify; and

1 (5) subpoena witnesses on the person's behalf.

2 * Sec. 2. AS 28.10.041 is amended by adding a new subsection to read:

3 (d) If an applicant has received actual notice of a required payment of a fine
4 for a parking offense and has failed to pay the fine, the department shall refuse to
5 register the applicant's vehicle until the applicant provides proof that the fine has been
6 paid. An agency of the state or a municipality may report a person's failure to pay a
7 fine to the department on a form prescribed by the department. The department may
8 require electronic reporting.

9 * Sec. 3. AS 28.15.181 is amended by adding a new subsection to read:

10 (h) The court may suspend the driver's license, privilege to drive, or privilege
11 to obtain a license of a person who fails to appear in court as required by a citation
12 for an offense involving a moving motor vehicle, or who fails to pay a fine as required
13 by the court for an offense involving a moving motor vehicle. If the court suspends
14 a driver's license under this subsection, the court shall also provide notice of the
15 suspension to the department. Suspension imposed under this subsection shall remain
16 in effect until the person appears in court as required by the citation, or pays the fine
17 as required by the court. When the person appears in court or pays the required fine,
18 the court shall terminate the suspension imposed under this subsection and provide the
19 person with written notice of the termination.

20 * Sec. 4. AS 28.15.211(c) is amended to read:

21 (c) At the end of a period of suspension or limitation, when that limitation
22 follows a suspension, the person whose license has been suspended or limited may
23 apply to the department and, upon payment of the proper fees, including a
24 reinstatement fee of \$100, be issued a duplicate driver's license if the person is
25 otherwise entitled to the license under this title. The reinstatement fee required
26 under this section is not required for a suspension imposed under AS 28.15.181(h).

27 * Sec. 5. AS 28.15.211(e) is amended to read:

28 (e) Except for a suspension under AS 28.15.181(h), at [AT] the end of a
29 period of limitation, suspension, or revocation under this chapter, the department may
30 not issue a driver's license or a duplicate driver's license to the licensee until the
31 licensee has complied with AS 28.20 relating to proof of financial responsibility.

HAWAII REVISED STATUTES

1992 SUPPLEMENT

VOLUME 5

TITLES 16-19, CHAPTERS 281-344

FOR USE WITH THE 1985 REPLACEMENT VOLUME



PUBLISHED BY AUTHORITY

HAWAII
REVISED STATUTES

(g) No driver's license shall be renewable by mail for more than two consecutive renewals whether the license expires, under section 286-106, on the fourth birthday after issuance or on the second birthday after issuance; provided that this subsection shall not apply to a resident military person or that person's immediate family if the resident military person resides outside the State on official military orders.

[am L 1986, c 232, §1; am L 1987, c 318, §1]

Revision Note

Only the subsections amended are compiled in this Supplement.

§286-108 Examination of applicants. (a) The examiner of drivers shall examine every applicant for a driver's license, except as otherwise provided in this part. [The examination] shall include a test of the applicant's eyesight and such further physical examination as the examiner of drivers finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways; the applicant's ability to understand highway signs regulating, warning, and directing traffic; the applicant's knowledge of the rules of the road based on the traffic laws of the State and the traffic ordinances of the county where the applicant resides or where the applicant intends to operate a motor vehicle; and actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle. The examinations shall be appropriate to the operation of the category of motor vehicle for which the applicant seeks to be licensed and shall be conducted as required by the state director of transportation. At the time of examination, an application for voter registration by mail shall be made available to every applicant.

(b) The examiner of drivers may waive the actual demonstration of ability to operate a motor vehicle for any person who is at least eighteen years of age and who possesses a valid driver's license issued to the applicant in any other state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, a province of the Dominion of Canada, or the Commonwealth of the Northern Mariana Islands for the operation of vehicles in categories 1 through 3 of section 286-102.

(c) As part of the examination required by this section the applicant for a driver's license shall produce and display a valid no-fault or liability insurance identification card for the motor vehicle required by section 431:10C-107 and section 431:10G-106, when the applicant demonstrates the ability to operate a motor vehicle to the satisfaction of the examiner of drivers. If no valid no-fault or liability insurance identification card is displayed, the examiner of drivers shall not issue a driver's license to the applicant. [L 1937, c 234, §11; RL 1945, §7312; RL 1955, §160-42; am L 1967, c 214, §9; HRS §286-108; am L 1975, c 194, §3; am L Sp 1977 1st, c 20, §12; am L 1978, c 91, §11; am L 1985, c 26, §1; am L 1986, c 224, §1; am L 1990, c 45, §10; am L 1991, c 60, §1]

§286-108.5 REPEALED. L 1989, c 320, §7; L 1990, c 342, §16.

§286-109 General provision governing the issuance of licenses. Upon payment of the required fee and upon demonstrating the ability to operate a certain category or categories of motor vehicles to the satisfaction of the examiner of drivers, an applicant for a driver's license shall be issued a single license of a design approved by the director of transportation upon which is made a notation of the category or

categories of motor vehicles the applicant may operate, any restrictive provisions to which the license is subject, and, where the license is issued to a person under twenty-one years of age, a statement, in clearly legible print that shall contrast with the other information appearing on the license, which indicates the date on which the person will attain the age of twenty-one years.

Statutes of limitations and other provisions of this chapter notwithstanding, no driver's license or instruction permit shall be issued or renewed under this section, where the examiner of drivers is notified by the district judge, traffic violations bureaus of the district courts, or the judge of the circuit court that the applicant has failed to respond to a traffic citation or summons for the violation of any traffic laws of a county, this chapter or chapters 286G, 287, 290, 291, or 291C, and the same remains delinquent and outstanding, or the applicant, having timely responded initially, has as of the time of the application, failed to comply in full with all orders of the court. [L 1967, c 214, pt of §2; HRS §286-109; am L 1970, c 164, §3; am L 1975, c 24, §7; am L Sp 1977 1st, c 20, §12; am L 1985, c 107, §1; am L 1990, c 9, §1]

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Discard Earlier Pocket Supplement

1991 POCKET SUPPLEMENT

ISSUED IN JANUARY, 1991

COVERING LEGISLATION THROUGH THE 1990
SESSION OF THE 1989-90 LEGISLATURE

DEERING'S VEHICLE CODE

ANNOTATED

OF THE STATE OF CALIFORNIA

§§ 1-9839

Annotated and Indexed by the Publisher's Editorial Staff

Note—An updated analysis of the Vehicle Code
appears at the beginning of this supplement.

FEB 25 1991

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