

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8814 HOUSE TRANSPORTATION



20 March 1996

GLENCAREN
Fine Mobile Home Living

Location: 2221 Muldoon Road
ANCHORAGE, ALASKA 99504

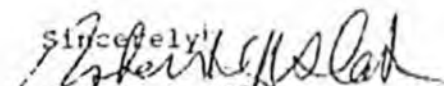
FAX: 1-907 337-2515

Phone: 1-907-337-9464

TO: REPRESENTATIVE TERRY MARTIN

RE: HOUSE BILL NO. 436

We fully support and urge passage of above referenced bill in its entirety. This ^{is} in the best interests of the Alaska public and the manufactured housing industry.

Sincerely,

Robert H. Slater

MEMORANDUM

March 19, 1996

TO: Representative Terry Martin
Alaska House of Representatives

FROM: John Bitney, Legislative Liaison
Alaska Housing Finance Corporation

SUBJECT: HB 436, an Act relating to mobile homes

Per your request, the following is information from the Alaska Housing Finance Corporation (AHFC) regarding HB 436, an Act relating to purchase of mobile homes by mobile home dealers or agents; to mobile home titles; and providing for an effective date:

Regarding the registration and bonding requirements for mobile home agents, AHFC acknowledges the consumer protection aspects of Section 1. Under HB 436, "a person who is engaged in the business of buying, selling, or dealing in new or used mobile homes and maintains an inventory of mobile homes for sale" must register with the Department of Commerce and Economic Development. The registration and bonding requirements will provide a better guarantee for mobile home purchasers of the integrity of the unit and the sale.

The state title requirement in Section 2 will provide for the availability of a deed of ownership on mobile homes. With AHFC's mobile home financing program (see below), a deed of ownership will offer better security for the corporation. Under current practice, a bill of sale is usually the only proof of ownership for a mobile home.

Under AHFC's current mobile home program, eligible properties are mobile home units located on rented or leased land or older mobile home units situated on fee simple properties. Certain mobile homes permanently affixed to real estate are financiaible under any of the standard loan programs offered through AHFC, such as taxable, tax-exempt, or veterans.

"Housing For All Alaskans"

ALASKA MANUFACTURED HOUSING ASSOCIATION

November 1, 1995

Rep. Terry Martin
355 Donna Drive
Anchorage, AK 99504

Dear Rep. Martin:

I have been asked by the Board of Directors of Alaska Manufactured Housing Association to write to you about the need for a consumer protection bill regulating the sale of mobile homes.

Even though mobile homes may be valued up to \$100,000.00, they are personal property and do not fall under the protection of real estate laws unless located on a private lot. Mobile home dealers are unlicensed, unbonded and unregulated. Real estate agents, of course, are strictly regulated and the public is protected by a surety fund, licensing requirements, the Real Estate Commission, etc.

In addition, the state does not require DMV to issue title certificates for mobile homes. DMV is authorized, but not required, to title mobile homes. Banks and other lending institutions normally insist on a certificate of title, but seller-financed sales and cash sales offer no protection for buyers or sellers. Long after a sale is completed a buyer's unit and seller's collateral can be claimed by an unknown title holder or lien holder.

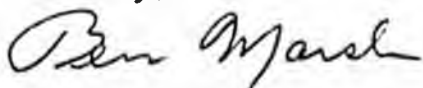
There is a need for some degree of professionalism in agents who broker sales of units, so that unknowledgable buyers and sellers may be protected from risk.

We recommend that you sponsor and introduce a bill that would:

1. Make it mandatory for DMV to issue certificates of title for mobile homes. There is already a \$100 fee for title certification.
2. That *dealers* in new or used mobile homes be required to be licensed by the Division of Occupational Licensing as a separate category.
3. That *agents* handling transfers of ownership also be licensed by the Division.
4. That licensees be required to furnish a bond in the amount of \$50,000 in order to do business in mobile home sales.

We hope you can arrange to have such a bill drafted, if you think it should be, also introduced in the Senate. We will cooperate with you fully in this effort.

Sincerely,



Bernard L. Marsh
Executive Secretary

BLM:ckf

cc: Dave Carey, President
Leonard Gross, V.P.
Ira Walker, B.O.D.

THUNDER MOUNTAIN MOBILE PARK AND SALES
8479 THUNDER MOUNTAIN ROAD
JUNEAU, AK 99801
(907)789-7555

3/26/96

Representative Gary Davis
Transportation Commissioner Chairman
State Capitol Building
Juneau, Ak 99801

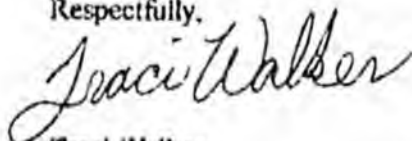
Re: House Bill No. 436

Dear Chairman

As an active Licensed Mobile Home Dealership in Alaska, I would like to express my support for House Bill No. 436. I urge you to pass this bill. Not only does this bill clarify licensing and bonding requirements for Home Dealers, it will protect the consumers of Manufactured and Mobile Homes. There are currently homes being shipped to Alaska that do not meet H.U.D.'s "Alaska Package" requirements and homes that are not being warranted because of this.

It is with regrets, I will not be in town to attend the committee meeting in person, but would be happy to speak with you and/or the committee upon my return, the first of April. Again, I request that you pass House Bill No. 436, it is in the public's best interest. Thank you for your time.

Respectfully,



Traci Walker

TW/lm

cc: Representative Terry Martin

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: January 19, 1996

FURTHER REFERRALS: Labor and Commerce
Finance

Date of Committee Action: 3/27/94

The TRANSPORTATION Committee considered:

HB 436

HOUSE BILL NO. 436

MOBILE HOME DEALERS & TITLES

"An Act relating to purchase and sale of mobile homes by mobile home dealers or agents; to mobile home titles; and providing for an effective date."

recommends it be replaced with the following committee substitute CS HB 436 (TRA) the same title a new title

additional referral to _____ Committee

attached amendment(s)

ADOPTS: _____ Letter of Intent

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

APPROVES PREVIOUS: (Dept/Date) _____

fiscal note(s) Commerce

fiscal note(s) _____

zero fiscal note(s) Public Safety

zero fiscal note(s) _____

| SIGNING WITH RECOMMENDATIONS | DP | DNP | NR | AM |
|------------------------------|----|-----|----|----|
| <u>Beverly Mason</u> | | | ✓ | |
| <u>[Signature]</u> | | | X | |
| <u>[Signature]</u> | | | X | |
| <u>[Signature]</u> | | | ✓ | |
| <u>[Signature]</u> | | | X | |
| <u>[Signature]</u> | X | | | |
| | | | | |
| | | | | |
| | | | | |

CHAIR'S SIGNATURE

[Signature]

HB

440

CS FOR HOUSE BILL NO. 440(TRA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE TRANSPORTATION COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVE KOTT

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to motor vehicle registration and motor vehicle registration fees;
2 and providing for an effective date."

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

4 * Section 1. AS 28.10.021 is amended by adding a new subsection to read:

5 (d) The department shall establish procedures that allow a person who renews
6 registration for a commercial or noncommercial vehicle to renew registration by mail.

7 * Sec. 2. AS 28.10.108(b) is amended to read:

8 (b) Subject to the provisions of (f) of this section, a vehicle subject to
9 registration

10 (1) under AS 28.10.011 and 28.10.421(b)(3) and (4) and (c)(1) - (4)
11 shall have its initial registration, and may have its annual registration, renewed during
12 the month of December;

13 (2) under AS 28.10.181, 28.10.411 and 28.10.421(d)(3) and (8) [(9)]
14 shall have its initial registration, and may have its annual registration, renewed during

1 the month of January.

2 * Sec. 3. AS 28.10.421(a) is amended to read:

3 (a) Unless otherwise provided by law,

4 (1) the fees prescribed in this section shall be paid to the department
5 at the times provided under AS 28.10.108 and 28.10.111; and

6 (2) [AN ADDITIONAL FEE OF \$10 SHALL BE ADDED TO] the
7 registration fee set out in this section shall be reduced by \$5 when [FOR] registration
8 is [NOT] conducted by mail and may be reduced by \$5 when registration is
9 conducted by electronic transmission [; THE DEPARTMENT MAY WAIVE THIS
10 ADDITIONAL FEE FOR A GOOD CAUSE BASED ON CRITERIA ESTABLISHED
11 IN REGULATIONS ADOPTED BY THE DEPARTMENT].

12 * Sec. 4. AS 28.10.421(b) is amended to read:

13 (b) The annual registration fees under this subsection are imposed within the
14 following classifications for:

15 (1) a passenger vehicle or motor home not used or maintained for the
16 transportation of persons or property for hire or for other commercial use
17 \$40 [~~\$35~~];

18 (2) a pick-up truck or a van not exceeding 6,000 pounds unladen
19 weight and not used or maintained for the transportation of persons or property for hire
20 or for other commercial use \$45 [~~\$40~~];

21 (3) a taxicab \$75 [~~\$70~~];

22 (4) a motor bus with a seating capacity for 20 or more persons and
23 used exclusively for commercial purposes in the transporting of visitors or tourists
24 \$90 [~~\$85~~];

25 (5) a motorcycle or a motor-driven cycle \$25 [~~\$20~~];

26 (6) a trailer not used or maintained for the transportation of persons
27 or property for hire or for other commercial use, including, but not limited to, a boat
28 trailer, baggage trailer, box trailer, utility trailer, house trailer, travel trailer, or a trailer
29 rented or offered for rent \$10 [~~\$ 5~~].

30 * Sec. 5. AS 28.10.421(c) is amended to read:

31 (c) The annual registration fees under this subsection are imposed and are

1 based upon the actual unladen weight as established by the manufacturer's advertised
2 weight or upon the actual weight which the owner shall furnish, subject to the approval
3 of the commissioner or the commissioner's representative, for a vehicle, including a
4 motor vehicle pulling a trailer or semi-trailer, that is registered in the name of a
5 company or business, or is used or maintained for the transportation of passengers for
6 hire, excepting taxicabs and buses under (b) of this section, or for the transportation
7 of property for hire or for other commercial purposes, including a trailer, semi-trailer,
8 truck, wrecker, tow car, hearse, ambulance, and tractor, as follows:

- 9 (1) up to and including 5,000 pounds \$56 [\$51];
10 (2) more than 5,000 pounds to and including 12,000 pounds
11 \$91 [\$86];
12 (3) more than 12,000 pounds to and including 18,000 pounds
13 \$161 [\$156];
14 (4) more than 18,000 pounds \$226 [\$221].

15 * Sec. 6. AS 28.10.421(d) is amended to read:

16 (d) The special registration fees under this subsection are imposed annually,
17 unless otherwise specified, for:

- 18 (1) an historic vehicle (one time only upon initial registration under
19 AS 28.10.181) \$10;
20 (2) special request plates for
21 (A) Alaska National Guard personnel \$30;
22 (B) veterans or retired veterans \$30;
23 (C) recipients of the Purple Heart \$30;
24 (D) owners of custom collector vehicles \$55 [\$50];
25 (E) other special request plates \$35 [\$30];

26 plus the fee required for that vehicle under (b) of this section; the fee required
27 by this paragraph shall be collected only on the first issuance and on the
28 replacement of special request plates;

29 (3) a vehicle owned by a disabled veteran or other handicapped person,
30 and registered under AS 28.10.181 or a resident 65 years of age or older who files a
31 written application for an exemption on a form prescribed by the department

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

..... none;
(4) a vehicle owned by the state none;
(5) a vehicle owned by an elected state official the fee
required for that vehicle under (b) of this section;
(6) [REPEALED]
(7) a vehicle owned by a rancher, farmer, or dairyman and registered
under AS 28.10.181 \$40 [\$35];
(7) [(8)] a snowmobile or off-highway vehicle \$10 [\$ 5];
(8) [(9)] an amateur mobile radio station vehicle,
(A) with transceiver capable of less than 5-band operation
... the fee required for that vehicle under (b) or (c) of this section;
(B) in recognition of service to the public: a mobile amateur
radio station owned by an amateur with general class or higher license,
provided the station must be satisfactorily proved capable of operating on at
least five bands from 160 through 10 meters, must have an antenna, and must
have a power supply and wiring as a permanent part of the vehicle; the
transmitting unit may be removed from the car for service or dry storage ...
..... none
for a mobile amateur radio station vehicle included in (b)(1) or (2) of this
section;
(9) [(10)] dealer registration plates,
(A) the initial set of plates \$50 [\$45];
(B) each subsequent set of plates \$30 [\$25];
(10) [(11)] a vehicle owned by a municipality or charitable organization
meeting the requirements of AS 28.10.181(e) \$10 [\$ 5];
[(12) REPEALED]
(11) [(13)] a vehicle owned by a Pearl Harbor survivor or a former
prisoner of war none;
(12) [(14) REPEALED]
(15)] special request university plates \$50 plus the fee
required for that vehicle under (b) (1) or (2) of this section; the fee required by this

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

paragraph shall be collected only on the first issuance and on the replacement of special request plates; the commissioner of administration shall separately account by university campus designation for the fees received under this paragraph that the department deposits in the general fund; the annual estimated balance in the accounts that is in excess of the cost of issuing special request university plates may be appropriated by the legislature for the support of programs at each campus.

* Sec. 7. AS 28.10.431(b)(7) is amended to read:

(7) vehicles specified 66 55 44 33 22 17 11 8

in AS 28.10.421(d)(8) [AS 28.10.421(d)(9)]

* Sec. 8. AS 28.10.431(b)(9) is amended to read:

(9) vehicles eligible for 44

dealer plates under AS 28.10.421(d)(9)

[AS 28.10.421(d)(10)].

* Sec. 9. AS 28.10.431(h) is amended to read:

(h) A vehicle owned by a former prisoner of war exempted from registration fees under AS 28.10.431(d)(11) [AS 28.10.421(d)(13)] is subject to a motor vehicle registration tax under this section.

* Sec. 10. This Act takes effect July 1, 1996.

L

Alaska State Legislature House of Representatives

COMMITTEE ASSIGNMENTS:

LABOR & COMMERCE, CHAIRMAN
MILITARY & VETERANS AFFAIRS, CHAIRMAN
COMMUNITY & REGIONAL AFFAIRS
RESOURCES
INTERNATIONAL TRADE / TOURISM
LEGISLATIVE COUNCIL



INTERIM:
10928 EAGLE RIVER ROAD, SUITE 141
EAGLE RIVER, AK 99577
PHONE (907) 694-8944
FAX 694-8949

SESSION
STATE CAPITOL
JUNEAU, AK 99801-1182
PHONE (907) 465-3777
FAX (907) 465-2819

SPONSOR STATEMENT HB 440 - VEHICLE REGISTRATION FEES

In an era of decreasing state revenues, Alaskans have to begin looking for additional sources of revenue wherever possible. This bill raises all motor vehicle registration fees by a modest \$5.00. This is far less than the doubling of such fees recommended by the Long Range Financial Planning Commission, but it still increases the revenue stream without placing too onerous a cost increase on drivers. Certainly, the fee adjustment included in the 1993 Act was overdue, because the vehicle registration fees prior to that had not been increased since 1978.

Besides a modest raising of fees, HB 440 would repeal the motor vehicle registration fee for walk-in customers imposed by an Act of this legislature in 1993. Instead of charging \$10 extra for those who wanted to pay their fees in person, this bill would allow a \$5 reduction in fee costs if the person paid by mail or paid electronically. The current system of charging \$10 has imposed a hardship on those who, for whatever reason, prefer to conduct their business with the state in person.

Full and unhindered access to state government is an important element of a free society. An individual who desires to conduct business with the state in a face-to-face meeting rather than through the mail should not be penalized \$10 for that decision. The current fee structure for vehicle registration renewal imposes such a penalty. This bill would place the focus instead on giving a \$5 fee reduction to those who do not come to do their business in person.

Besides meeting the philosophical concern of keeping government more open, this bill shows a net revenue gain, and it should reduce the waiting lines at DMV, or at least not appreciably change them.



Representative Pete Kott

SPONSOR STATEMENT



LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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

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

MEMORANDUM

January 31, 1996

SUBJECT: Sectional Summary of HB 440.

TO: Representative Pete Kott
Attn: Roger

FROM: Michael F. Ford *M.F. Ford*
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Requires the Department of Public Safety to establish procedures that allow a person who renews registration for a commercial or noncommercial vehicle to renew registration by mail.

Section 2. Technical amendment.

Section 3. Allows a \$5 reduction in registration fees when registration is conducted by mail or electronic transmission.

Section 4. Increases registration fees for certain vehicles by \$5.

Section 5. Increases registration fees for certain commercial vehicles by \$5.

Section 6. Increase special registration fees for certain vehicles by \$5.

Section 7. Technical amendment.

Section 8. Technical amendment.

Section 9. Technical amendment.

Section 10. Effective date.

MFF:glc
96-075.glc

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO: HB 440

Revision Date: 3/19/96
 Title: An act relating to motor vehicle registration and motor vehicle registration fees.....
 Sponsor: Rep Kott
 Requestor: H. Transportation

Dept. Affected: Public Safety
 BRU: Motor Vehicles
 Component: Field Services
 COMPONENT SERIAL NO. 0502

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

| | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 | FY 02 |
|----------------------------------|-------|-------|-------|-------|-------|-------|
| OPERATING | | | | | | |
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | 22.5 | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 22.5 | | | | | |
| CAPITAL EXPENDITURES | -0- | -0- | -0- | -0- | -0- | -0- |
| CHANGE IN REVENUES (1005) | 698.6 | 698.6 | 698.6 | 698.6 | 698.6 | 698.6 |
|) Revenue Code | | | | | | |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|--------------------------|------|--|--|--|--|--|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | 22.5 | | | | | |
| 1006 GF/MHTIA | | | | | | |
| Other | | | | | | |
| TOTAL | | | | | | |

Estimate of current year (FY 96) impact: \$ _____

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: Charles R. Hosack Phone: 269-5559
 Division: Motor Vehicles Date: 3-19-96
 Approved by Commissioner: *Ronald L. Otte* Date: 3/19/96
 Agency: Ronald L. Otte, Dept. of Public Safety

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

For further distribution information call the Governor's Legislative Office

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services
Department of Education
State of Alaska

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO: HB 440

Revision Date: 3/19/96 Dept. Affected: Public Safety
 Title: An act relating to motor vehicle registration and BRU: Motor Vehicles
motor vehicle registration fees..... Component: Field Services
 Sponsor: Rep Kott
 Requestor: H. Transportation COMPONENT SERIAL NO. 0502

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

| OPERATING | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 | FY 02 |
|--|--------------|--------------|--------------|--------------|--------------|--------------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | 22.5 | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 22.5 | | | | | |
| CAPITAL EXPENDITURES | -0- | -0- | -0- | -0- | -0- | -0- |
| CHANGE IN REVENUES (1005) Revenue Code | 698.6 | 698.6 | 698.6 | 698.6 | 698.6 | 698.6 |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|--------------------------|------|--|--|--|--|--|
| 1002 Federal Receipts | | | | | | |
| 1003 GE Match | | | | | | |
| 1004 GE | | | | | | |
| 1005 GE/Program Receipts | 22.5 | | | | | |
| 1006 GE/MHTIA | | | | | | |
| Other | | | | | | |
| TOTAL | | | | | | |


Estimate of current year (FY 96) impact: \$ _____

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: Charles R. Hosack Phone: 269-5559
 Division: Motor Vehicles Date: 3-19-96
 Approved by Commissioner:  Date: 3/19/96
 Agency: Ronald L. Otte, Dept. of Public Safety

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

For further distribution information call the Governor's Legislative Office

Revenue

This bill raises annual registration fees by \$5.00 and it provides for a \$5.00 reduction if the registration is conducted by mail or electronic transmission. The current \$10.00 fee for registration renewals not conducted by mail is eliminated. The bill also increases the one-time fee for special request plates such as personalized plates, veteran plates, and custom collector plates by \$5.00.

In 1994 DMV processed 139,000 new registrations and 425,000 renewal registrations. Prior to FY 94 only 30% of vehicle owners used the mail to renew their registrations and the remainder renewed in person at a DMV office. With the implementation of the \$10.00 fee for in person renewals the use of the mail for registration renewal increased to 60%. With this program over 130,000 customers were eliminated from the busy DMV lines and those customers who did not choose to use the mail generated approximately \$870,000 in additional revenue which would be reduced under this bill.

All new registrations which includes new vehicles sold in the state and used vehicles from another state registering in Alaska would pay an additional \$5.00 more than the current registration fees. The 139,000 new registrations would generate an additional \$695,000 in revenue. For purposes of this analysis it is assumed that the 60% use of the mail or electronic transmission will continue. Therefore, 40% of the 425,000 renewals will pay the additional \$5.00. These 170,000 renewals will generate \$850,000 in additional revenue.

The total additional new revenue from the registration change will be \$1,545,000 (\$695,000 + \$850,000). The revenue loss from the elimination of the \$10 fee will be \$870,000, leaving a net revenue change of \$675,000.

Annually the division issues approximately 4,200 personalized plates, 500 veteran plates, and 20 custom collector plates. The additional revenue from the \$5.00 increase in the one-time fee for these 4,720 registrations is \$23,600.

Expenditure

This bill will require changes to DMV's computer system to remove programming associated with the \$10 fee and replace it with the new fees and to provide a mechanism to reduce the fees if the registration renewal is conducted by mail. All fees are calculated by the computer system so that there is no likelihood of error or abuse by any employee. These changes will require 300 hours of contract programming time at \$75 per hour for a total expenditure of \$22,500.00. Contract programmers are used since all authorized programmers are committed to existing programs.

January 7, 1994

JAN 12 1994
LIEUTENANT GOVERNOR'S OFFICE

Office Of The Lieutenant Governor
John B. "Jack" Coghill, Lieutenant Governor
Third Floor, State Capitol
P O Box 110015, Juneau 99811

Dear Lieutenat Governor Coghill:

Perhaps you can tell me why I am being penalized for paying my bills in person. I refer to the \$10.00 fee required when registering a vehicle in person at the DMV in Fairbanks. The DMV prefers that the registration be mailed to Juneau. Since I pay all my bills in cash and have no checking account this means that I now have to purchase a money order or bank check to register my vehicle or pay the additional \$10.00 for over the counter registration. In the past I could take time off from work to schedule an I/M test then go to DMV and register. Now I have to take time off from work for the I/M test and then go to a bank to buy the money order then buy postage for the letter to Juneau.

When did it become a problem for the employees in Fairbanks to do the job they were hired for so that they must be paid an additional \$10.00 to do it? This, along with the I/M test, which on brand new vehicles is another dandy idea that costs tax payers extra money for nothing, is another fine example of how our state government is protecting the rights of the individuals.

On a new vehicle the manufacturer has to comply with federal regulations so I suggest that the dealer selling the vehicle should be required to provide the I/M free of charge for the duration of that vehicle's warrantee. If an individual tampers with the emission system it automatically voids the warrantee and the dealer then no longer provides a certificate and the perpetrator is liable for prosecution. After the vehicle warrantee expires then annual I/M test would be reasonable. The current system of requiring annual I/M tests on all new vehicles is one more case of common sense missing from government.

Just who does the government represent in Alaska? I am writing to you because I believe that you actually care about the welfare of Alaska and Alaskans. With a few exceptions the quality of government in Alaska and the United States is in a sorry condition. Where has all the common sense gone?

Sincerely,

Ken Lohr
740 Goldvein Rd
Fairbanks AK 99712

Ken Lohr

The OFFICE

CONCERNING HOUSE BILL #328

FEB. 3, 1994

AS A SMALL BUSINESS, I DON'T FEEL THAT THE BIENNIAL REGISTRATION WOULD HARM OUR BUSINESS. HOWEVER, BECAUSE THE \$10.00 SURCHARGE IS ALSO MENTIONED IN THE BILL, PLEASE READ THE FOLLOWING.....

MY UNDERSTANDING IS THAT OUR OFFICE IS THE ONLY PRIVATE CONTRACT LEFT THAT DOES VEHICLE TITLE AND REGISTRATION IN THE STATE. AS A SMALL BUSINESS THIS \$10.00 SURCHARGE HAS TAKEN BUSINESS AND MONEY DIRECTLY AWAY FROM US. FOR THE MONTH OF JANUARY WE TOOK IN \$4,387.00, THE SAME MONTH LAST YEAR, BEFORE THE SURCHARGE, WE TOOK IN \$8,357.00. THIS DIFFERENCE OF \$3,970.00 DRASTICALLY REDUCED OUR COMMISSION.

WE'RE ALSO CONCERNED ABOUT THE PUBLIC'S INCONVENIENCE HAVING TO PAY FOR MONEY ORDERS, IF THEY DON'T HAVE A BANK ACCOUNT. OR FISHERMEN THAT AREN'T IN TOWN WHEN THE RENEWAL COMES IN THE MAIL AND THEY HAVE NO CHOICE BUT TO BE PENALIZED BY COMING INTO OUR OFFICE.

WE ALSO SERVE PEOPLE FROM WRANGELL AND KAKE WHO THINK THEY'RE DOING THE RIGHT THING BY SENDING THE REGISTRATION THROUGH THE MAIL. TO US. WE HAVE TO TURN AROUND AND SEND IT BACK TO THEM SAYING THAT THEY NEED TO SEND IT TO ANCHORAGE OR SEND US MORE MONEY. BY THAT TIME IT'S TOO LATE TO SEND IT TO ANCHORAGE SO THEY, AGAIN, HAVE NO CHOICE BUT TO GO THROUGH OUR OFFICE.

WE'VE ALSO HAD QUITE A FEW SITUATIONS WHERE EITHER ANCHORAGE WAS BEHIND, NO PLANE BECAUSE OF WEATHER OR THE TAGS GET LOST IN THE MAIL. AT THAT TIME, ANCHORAGE TELLS US TO REISSUE AT NO CHARGE, AND FOR THAT WE GET NOTHING.

THE MAIN CONCERN SEEMS TO BE 1. MONEY...WITH US THEY ARE COMPETING WITH OUR BUSINESS. 2. LONG LINES...WE DON'T HAVE MORE THAN 2 OR 3 PEOPLE AT A TIME AND THEY WOULD RATHER WAIT IN OUR LINE FOR TWO TO THREE MINUTE THEN TO WAIT FOR ANCHORAGE AND THE MAIL FOR WEEKS.

WE'RE IN BUSINESS TO SERVE THE PUBLIC AND THE STATE IS NOW SAYING THAT WE HAVE TO CHARGE MORE MONEY FOR THAT. I DON'T THINK THAT'S FAIR.

THANK-YOU

Jan Hill
JAN HILL

(7)

HOUSE COMMITTEE REPORT

Date Referred to Committee: January 22, 1996

FURTHER REFERRALS:

Finance

Date of Committee Action: 3/13/96

The TRANSPORTATION Committee considered:

HB 440

HOUSE BILL NO. 440

VEHICLE REGISTRATION & REGISTRATION FEES

"An Act relating to motor vehicle registration and motor vehicle registration fees; and providing for an effective date."

recommends it be replaced with the following committee substitute CS HB 440 (TRA) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) Public Safety fiscal note(s) _____

zero fiscal note(s) _____ zero fiscal note(s) _____

| SIGNING WITH RECOMMENDATIONS | DP | DNP | NR | AM |
|------------------------------|-------------------------------------|-----|-------------------------------------|----|
| <u>W.K. William</u> | <input checked="" type="checkbox"/> | | | |
| <u>Jim Sanders</u> | <input checked="" type="checkbox"/> | | | |
| <u>Tom Bice</u> | | | <input checked="" type="checkbox"/> | |
| <u>Henry L. Jani</u> | | | <input checked="" type="checkbox"/> | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

CHAIR'S SIGNATURE Henry L. Jani

HB

462

Alaska State Legislature

Representative Brian S. Porter



CHAIRMAN
HOUSE JUDICIARY COMMITTEE

MEMBER
HOUSE LABOR & COMMERCE COMMITTEE
HOUSE STATE AFFAIRS COMMITTEE
INTERNATIONAL TRADE & TOURISM
COMMITTEE

MEMBER
FINANCE SUBCOMMITTEES
DEPARTMENT OF LAW
DEPARTMENT OF EDUCATION
COURTS

SESSION
STATE CAPITOL, ROOM 118
JUNEAU, ALASKA 99801-1112
PHONE (907) 465-4930
FAX (907) 465-4534

INTERIM
716 W. 4TH AVE., SUITE 640
ANCHORAGE, AK 99501-2111
PHONE (907) 258-4197
FAX (907) 254-5510

DISTRICT 20

Sponsor Statement

HB 462, Drunk Driving: Evidence & Sentencing

The bill would change a part of the sentencing scheme for persons convicted of felony driving while intoxicated or refusal to take a breath test. A sentencing court may order a defendant convicted of DWI or breath test refusal to receive inpatient treatment as a condition of the sentence.

Normally, if the defendant fails to complete treatment the court may impose some or all of the suspended jail time. However, in creating the felony driving while intoxicated and refusal offenses last session, the law was inadvertently changed to require the court to automatically impose all suspended time on felony offenders who fail to complete treatment (ch. 80, SLA 1995). This automatic imposition of all suspended time for those offenders creates legal and practical problems.

Legally, mandating that all suspended time be imposed for only one class of criminal offenders may violate the constitutional guarantee of Equal Protection of the Law. Practically, the ultimate goal is to curtail the practice of people drinking and driving. Some offenders require more than one exposure to a treatment program before it becomes effective. This is often accomplished by imposing a portion of the suspended jail time followed by a forced return to treatment. This bill amends the law to give the sentencing court the discretion to decide how much of the suspended term the defendant should serve for failure to complete a treatment program.

The bill additionally amends Rule 6(r)(1) of the Alaska Rules of Criminal Procedure to allow prior convictions of driving while intoxicated and breath test refusal to be presented at the grand jury proceedings by hearsay evidence. Because grand jury presentations must occur within 10 days after arrest, there is not sufficient time to obtain certified judgments of prior convictions, particularly if the convictions are from another jurisdiction. This court rule amendment is necessary in order to ensure that repeat offenders from out of state are not treated more leniently than Alaskans.

Finally, the bill amends Rule 32.1 of the Alaska Rules of Criminal Procedure to provide that a presentence investigation by the Department of Corrections is not required in most cases in which a person is convicted of felony driving while intoxicated or breath test refusal. Offenders convicted of driving while intoxicated and breath test refusal have been sentenced successfully for many years without the benefit of a presentence investigation. The bill would require that a presentence report be prepared for a repeat felony offender convicted of driving while intoxicated or breath test refusal.

(3) The presentment shall not mention the names of individuals. The presentment shall not be filed with the court, nor shall it be kept by the court beyond the time that the grand jury is discharged.

(4) When the presentment is made the court shall give such instructions on the law as it considers necessary.

(p) **Defense Witnesses.** Although the grand jury has no duty to hear evidence on the behalf of the defendant, it may do so.

(q) **Sufficiency of Evidence.** When the grand jury has reason to believe that other available evidence will explain away the charge, it shall order such evidence to be produced and for that purpose may require the prosecuting attorney to subpoena witnesses. An indictment shall not be found nor a presentment made upon the statement of a grand juror unless such grand juror is sworn and examined as a witness. The grand jury shall find an indictment when all the evidence taken together, if unexplained or uncontradicted, would warrant a conviction of the defendant.

(r) **Admissibility of Evidence.**

(1) Evidence which would be legally admissible at trial shall be admissible before the grand jury. In appropriate cases, however, witnesses may be presented to summarize admissible evidence if the admissible evidence will be available at trial. Except as stated in subparagraphs (2) and (3), hearsay evidence shall not be presented to the grand jury absent compelling justification for its introduction. If hearsay evidence is presented to the grand jury, the reasons for its use shall be stated on the record.

(2) In a prosecution for an offense under AS 11.41.410 — 11.41.440 or 11.41.455, hearsay evidence of a statement related to the offense, not otherwise admissible, made by a child who is the victim of the offense may be admitted into evidence before the grand jury if

(i) the circumstances of the statement indicate its reliability;

(ii) the child is under 10 years of age when the hearsay evidence is sought to be admitted;

(iii) additional evidence is introduced to corroborate the statement; and

(iv) the child testifies at the grand jury proceeding or the child will be available to testify at trial.

(3) Hearsay evidence related to the offense, not otherwise admissible, may be admitted into evidence before the grand jury if

(i) the individual presenting the hearsay evidence is a peace officer involved in the investigation; and

(ii) the hearsay evidence consists of the statement and observations made by another peace officer in the course of an investigation; and

(iii) additional evidence is introduced to corroborate the statement.

(4) If the testimony presented by a peace officer under paragraph (3) of this section is inaccurate because of intentional, grossly negligent, or negligent misstatements or omissions, then the court shall dismiss an indictment resulting from the testimony if the defendant shows that the inaccuracy prejudices substantial rights of the defendant.

(5) In this section "statement" means an oral or written assertion or nonverbal conduct if the nonverbal conduct is intended as an assertion.

(s) **Discharge and Excuse.** A grand jury shall serve until discharged by the presiding superior court judge of the judicial district but no grand jury may serve more than 4 months, unless for good cause such period is extended. At any time for cause shown the presiding judge may excuse a juror either temporarily or permanently and may impanel an alternate juror in place of the juror excused. In order to vote on the proposed bill, the alternate juror must be present during the presentation of all evidence related to that case.

(t) **Delegation of Duties.** Whenever a superior court is sitting other than where the presiding judge is sitting, or the presiding judge is unavailable, the presiding judge may delegate duties under this rule to another judicial officer. However, the presiding judge may delegate duties under Criminal Rule 6.1 only to another superior court judge.

(u) **Telephonic Testimony.**

(1) A witness may participate telephonically in grand jury proceedings if the witness is not a victim and the witness:

(A) would be required to travel more than 50 miles to the situs of the grand jury; or

(B) lives in a place from which people customarily travel by air to the situs of the grand jury.

(2) A witness who is not entitled to participate telephonically under subparagraph (1) may participate telephonically with approval of the presiding judge of the judicial district, or the presiding judge's designee. A motion to allow telephonic testimony under this subparagraph may be ex parte and shall be accompanied by an affidavit of the prosecuting attorney that states the reason telephonic testimony is requested.

(3) If a witness participates telephonically in grand jury proceedings, after the witness is sworn, the prosecuting attorney shall require the witness to:

(A) state the location from which the witness is testifying; and

of another is not improper in determining a sentence to be imposed against the accused. *Burleson v. State*, Op. No. 1222, P2d 1195 (Alaska 1975).

The supreme court's function, in a sentence appeal, is to determine whether the trial court was clearly mistaken in imposing the particular sanction. *Burleson v. State*, Op. No. 1222, P2d 1195 (Alaska 1975).

Sentencing court must unequivocally bring home to defendant that he has right to make a statement in his own behalf and to present any information in mitigation of punishment. *Natgrass v. State*, Op. No. 1314, 554 P2d 399 (Alaska 1977).

Actual consideration of police contacts will not invalidate sentence if from the record or by witnesses' testimony the court is aware of the circumstances and outcome of the contacts. *Buchanan v. State*, Op. No. 2553, 561 P2d 1197 (Alaska 1977).

Sentencing court may rely on psychiatric report which explains police contacts in reaching a diagnosis. *Buchanan v. State*, Op. No. 1316, 561 P2d 1197 (Alaska 1977).

Defendant's awareness by sentencing court of other police contacts will not serve to invalidate an otherwise valid sentence. *Buchanan v. State*, Op. No. 1316, 561 P2d 1197 (Alaska 1977).

Sentencing judge may consider instances of past anti-social behavior, substantiated by supporting information, even though defendant was not charged or convicted. *Sukapigak v. State*, Op. No. 1410, 562 P2d 697 (Alaska 1977).

Question, "Do you have anything you want to say before imposing sentence?" was minimal compliance with allocation requirement of this rule, where defendant was sentenced four months before Supreme Court imposed more stringent sentence. *Capwell v. State*, Op. No. 1482, 568 P2d 10 (Alaska 1978).

Trial court's failure to afford defendant the opportunity to make a statement on his own behalf at sentencing hearing was harmless error. *Mohm v. State*, Op. No. 1719, 584 P2d 40 (Alaska 1978).

Under Rule 32(a) the obligation is on the court to afford defendant the opportunity to speak and not on the defendant to request such an opportunity, hence defendant's failure to assert actively his right of allocution did not constitute error. *Mohm v. State*, Op. No. 1719, 584 P2d 40 (Alaska 1978).

Defendant's contention that consideration of his juvenile record by the court imposing sentence violated his right to a fair trial was rejected. *Penn v. State*, Op. No. 1774, 588 P2d 40 (Alaska 1978).

Despite the fact that defendant spoke at some length under examination by his counsel at the sentencing hearing, court's failure to inform him of his right of allocution constituted error. *Law v. State*, Op. No. 2301, 624 P2d 40 (Alaska 1981).

In order to establish a claim of racial bias in sentencing defendant must show that the sentence was probably higher than that which would have been imposed upon a defendant of different race with a like criminal history who committed a similar offense. *Coleman v. State*, Op. No. 2190, 621 P2d 869 (Alaska 1980).

Trial court, in conducting a hearing pursuant to this rule to determine whether mitigating and aggravating factors have been established, may consider evidence previously introduced at the trial. *Wolf v. State*, Op. No. 99, 647 P2d 609 (Alaska App. 1982).

Where defendant was given a chance to exercise his right of allocution just prior to sentencing and did not exercise that right on the ground that he needed more time to prepare, failure of the trial judge to give the defendant more time was not error. *Hastings v. State*, Op. No. 706, 736 P2d 1157 (Alaska App. 1987).

Denial of allocation may be harmless where the defendant is subject to presumptive sentencing, no aggravating or mitigating factors are established, and the totality of the circumstances would not warrant referral to a three-judge panel for sentencing. *Johnson v. State*, Op. No. 858, 762 P2d 493 (Alaska App. 1988).

Trial judge's oversight in denying defendant allocation was harmless beyond a reasonable doubt where the judge had already rejected proposed mitigating factors and possible referral to a three-judge panel for sentencing. *Johnson v. State*, Op. No. 858, 762 P2d 493 (Alaska App. 1988).

Rule 32.1. Presentence Procedure for Felony Sentencings.

(a) **Scheduling.** At the time guilt in a felony case is established by verdict or plea, the judge shall establish the date for a sentencing hearing and a presentencing hearing, if appropriate, and shall order a presentence investigation by the Department of Corrections. If the judge elects to schedule a single hearing, all of the procedures for the presentencing and sentencing hearings shall be applicable at the single hearing.

(b) Presentence Investigation and Report.

(1) The Department of Corrections shall prepare and deliver the report of the presentence investigation not less than 30 days before the presentencing hearing. The report shall contain any prior criminal conviction and any finding of delinquency of the defendant; and such information about the defendant's characteristics, financial condition, and the circumstances affecting the defendant's behavior as may be helpful in imposing sentence or in granting probation or in the correctional treatment of the defendant, and such other information as may be required by the judge. The presentence report shall comply with the Victims' Rights Act, AS 12.61.160-150.

The report shall be submitted to the judge, the state's attorney, and the attorney for the defendant; the defense attorney shall not be prohibited from providing a full copy to the defendant unless the judge enters on the record findings why providing specific portions of the report to the defendant would prove detrimental to the rehabilitation of the defendant or the safety of the public.

Unless otherwise ordered, or except as specifically allowed by other provisions of law, further disclosure of the report shall be limited to agents of the state's attorney or the defendant's attorney, any reviewing courts, and the agencies having charge of the defendant's rehabilitation.

(2) In the event the parties request preparation of a presentence report to aid them in reaching a plea agreement, the judge may order such a report made prior to the time stated in this rule. If a report is prepared prior to entry of a verdict or plea of guilty or no contest, the report shall be submitted only to the parties and not to the judge.

(3) Notwithstanding subparagraph (b)(2), the judge may use the presentence report to determine whether to accept a plea agreement under Criminal Rule 11.

(c) Notice of Aggravating and Mitigating Factors, Extraordinary Circumstances, Prior Convictions, and Other Information to be Relied on at Sentencing. (1) Within ten days after receipt of the presentence report, each party shall file:

(A) notice of any aggravating or mitigating factors, pursuant to AS 12.55.155, or extraordinary circumstances, pursuant to AS 12.55.165, on which it intends to rely, supported by a written statement outlining, as an offer of proof, the evidence that counsel contends establishes each aggravating or mitigating factor or extraordinary circumstance; and

(B) a memorandum giving notice of any evidence which the party intends to rely on at sentencing which was not previously presented at a prior proceeding in the case, in the notice described in (c)(1)(A), or in the presentence report, if the party intends to present additional witnesses, the memorandum shall include a list of these witnesses and a brief summary of their anticipated testimony. The memorandum need not give notice of matters to be mentioned in a defendant's allocution or a victim's oral statement.

(2) Within ten days after receipt of the presentence report, the state shall file:

(A) notice of the prior convictions, if any, on which it intends to rely for presumptive sentencing purposes; and

(B) notice of the amount of restitution, if any, it intends to request, supported by a memorandum or exhibits that establish the basis for the restitution request.

(d) Disputing Aggravating and Mitigating Factors, Extraordinary Circumstances, Prior Convictions, or Other Information. (1) Within ten days after receipt of the notices required by paragraph (c), each party shall file:

(A) notice whether the party concedes or disputes each aggravating or mitigating factor or extraordi-

nary circumstance asserted by the opposing party; and

(B) notice of objection to any information in the presentence report or in any other material the judge or opposing party has identified as a source of information to be relied on at sentencing on the ground that such information is insufficiently verified or is inaccurate. For each item a party contests as inaccurate, that party shall submit an affidavit from the party or another witness with personal knowledge outlining the testimony the witness is prepared to provide to refute or to explain the allegation, or a notice that the party has served or attempted to serve a subpoena upon the person who provided the contested information and intends to examine the person at the presentencing hearing.

(2) Within ten days after receipt of the notices required by paragraph (c), the defense shall file:

(A) notice of any objection to any of the prior convictions relied on by the state and a statement of the grounds for the objection as provided in AS 12.55.145(c), which shall be supported by affidavit if the objection is based on facts outside the record; and

(B) notice of any objection to any restitution request and a statement of grounds for the objection.

(e) Presentencing Hearing. At the presentencing hearing, the judge shall review the notices filed pursuant to paragraphs (c) and (d). The judge shall enter findings as to undisputed facts. For each allegation a party contends is based on insufficiently verified information, the judge shall determine whether the allegation is sufficiently verified and shall order stricken from the presentence report any allegation the judge finds is not sufficiently verified. The judge shall provide an opportunity for argument and then shall enter conclusions on legal issues that may be resolved without an evidentiary hearing. The judge shall clarify the material disputed facts, so that the parties can be prepared to present witnesses at the sentencing hearing.

(Added by SCO 157 effective February 15, 1973; amended by SCO 218 effective January 15, 1976; by SCO 536 effective October 1, 1982; by SCO 643 effective September 15, 1985; repealed and reenacted by SCO 1136 effective July 15, 1993)

Annotations

Cases

Sentence of five years' imprisonment for burglary, two of which were suspended, was not clearly mistaken, even though the defendant was 19 years old and it was his first felony offense. *Zurfluh v. State*, Op. No. 2238, 620 P2d 690 (Alaska 1980).

Where defendant was convicted of assault with a dangerous weapon for striking another person in the face with a beer bottle, sentencing court was not clearly mistaken in imposing

Alaska State Legislature

House of Representatives



Transportation Committee

March 8, 1996

Representative Brian Porter, Chairman
House Judiciary Committee

RE: LETTER OF INTENT, HB 462

On March 6, 1996 House Transportation Committee heard testimony and passed out of committee HB 462. The committee had no problem supporting this legislation. Discussions relating to the bill largely centered around amendment #1 by Representative Brice (see attached). This amendment addresses how the courts refer a person for rehabilitative treatment.

I know you are familiar with this proposed amendment and its implications. This letter is being sent at the request of the House Transportation Committee to let you know that we feel there is strong support for this amendment.

We passed the bill out of committee unamended in order to expedite the legislation. There is some question as to whether the wording in the amendment fully establishes its intent. The Transportation Committee request that the Judiciary Committee review the amendment and give it your utmost consideration during your deliberations.

Regards,

A handwritten signature in black ink, appearing to read "Gary L. Davis".

Gary L. Davis, Chairman
House Transportation Committee

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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

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

MEMORANDUM

February 26, 1996

SUBJECT: Sectional Summary of HB 462.

TO: Representative Brian Porter

FROM: Michael F. Ford
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Allows a court to impose part or all of the remaining portion of a suspended sentence for driving while intoxicated, if the convicted person fails to meet required alcohol rehabilitation treatment conditions.

Section 2. Allows a court to impose part or all of the remaining portion of a suspended sentence for refusing to take a chemical breath test, if the convicted person fails to meet required alcohol rehabilitation treatment conditions.

Section 3. Technical amendment to allow certain hearsay evidence in a felony prosecution to be presented to the grand jury.

Section 4. Allows hearsay evidence of prior convictions to be presented to the grand jury, in a felony prosecution for driving while intoxicated under AS 28.35.030(n) or refusal to take a chemical breath test under AS 28.35.032(p).

Section 5. Technical amendment regarding pre-sentence investigations by the Department of Corrections.

Section 6. Provides that unless the defendant is subject to a presumptive term of imprisonment, a pre-sentence investigation by the Department of Corrections is not required for a person convicted of felony driving while intoxicated or felony refusal to take a chemical breath test.

Representative Brian Porter
February 26, 1996
Page 2

Section 7. Applicability clause.

Section 8. Effective date.

MFF:glc
96-126.glc

STATE OF ALASKA

DEPARTMENT OF LAW

CRIMINAL DIVISION
February 27, 1996

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO

CRIMINAL DIVISION CENTRAL
OFFICE
P.O. BOX 110300
JUNEAU, ALASKA 99611-0300
PHONE: (907) 465-3428
FAX: (907) 465-4043

OFFICE OF SPECIAL PROSECUTION
AND APPEALS
310 K STREET, SUITE 308
ANCHORAGE, ALASKA 99501-2064
PHONE: (907) 269-6250
FAX: (907) 269-6270

The Hon. Brian Porter, Chairman
House Judiciary Committee
House of Representatives
State Capitol, Room 118
Juneau, Alaska 99801

Re: House Bill 462

Dear Representative Porter:

This is in response to your request for a legal analysis of HB 462, an act addressing driving while intoxicated offenses, Rules of Criminal Procedure, and providing for an effective date.

HB 462 amends the provisions of AS 28.35.030 and AS 28.35.032 as they relate to the powers and duties of the court if a person fails to complete a program of alcohol rehabilitation authorized by the court, after having been convicted of felony driving while intoxicated or felony refusal to submit to a chemical test. Present law requires the court to impose the entire remaining suspended sentence in these circumstances. Under HB 462, the court would have the discretion to impose either a part or all of the remaining sentence. This discretion would be very useful to the court in encouraging a defendant to return to treatment by having additional time to impose if the defendant again fails to finish the treatment program.

The bill also amends the Alaska Rules of Criminal Procedure to allow hearsay evidence of prior convictions to be used before the grand jury in felony driving while intoxicated and refusal to submit to a chemical test cases. This is particularly important in cases where prior convictions have occurred in other states. Although grand juries must be conducted within 10 days of arrest, it is often very time consuming to obtain certified copies of judgments. The use of criminal records to establish prior offenses would enable the cases to be brought to the grand jury in a timely way.

Finally, HB 462 amends the Alaska Rules of Criminal Procedure to allow felony driving while intoxicated and refusal to submit to a chemical test cases to proceed to sentencing without a presentence report, unless a presumptive sentence applies to the case. Defendants in these cases have been fairly and efficiently sentenced without a presentence report for many years; the expense and time of preparing a presentence report is not justified unless presumptive sentencing applies.

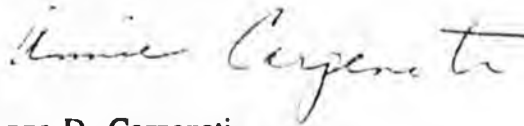
The Hon. Brian Porter, Chairman
House Judiciary Committee

February 27, 1996
Page 2

The Department of Law strongly supports the passage of HB 462. We will be pleased to assist in its progress through the legislature in any way.

Very truly yours,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: 
Anne D. Carpeneti
Assistant Attorney General

ADC:rew

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE BRICE

TO: HB 462

1 Page 1, after line 4:

2 Insert a new bill section to read:

3 **** Section 1.** AS 28.35.030(h) is amended to read:

4 (h) The court shall order a person convicted under this section to satisfy the
5 screening, evaluation, referral, and program requirements of an agency authorized by
6 the court to make referrals for rehabilitative treatment or to provide rehabilitative
7 treatment. An agency that refers a person for rehabilitative treatment shall
8 maintain records of the person's compliance with the rehabilitative treatment
9 program and shall comply with rehabilitative treatment recommendations of the
10 division of alcoholism and drug abuse established under AS 47.37.020. If a person
11 is convicted under (n) of this section, the court shall order the person to be evaluated
12 as required by this subsection before the court imposes sentence for the offense."

13 Page 1, line 5:

14 Delete "Section 1."

15 Insert "Sec. 2."

16 Renumber the following bill sections accordingly.

17 Page 2, after line 1:

18 Insert a new bill section to read:

19 **** Sec. 3.** AS 28.35.032(l) is amended to read.

20 (l) The court shall order a person convicted under this section to satisfy the
21 screening, evaluation, referral, and program requirements of an agency authorized by
22 the court to make referrals for rehabilitative treatment or to provide rehabilitative

1 treatment. An agency that refers a person for rehabilitative treatment shall
2 maintain records of the person's compliance with the rehabilitative treatment
3 program and shall comply with rehabilitative treatment recommendations of the
4 division of alcoholism and drug abuse established under AS 47.37.020. If a person
5 is convicted under (p) of this section, the court shall order the person to be evaluated
6 as required by this subsection before the court imposes sentence for the offense."

7 Renumber the following bill sections accordingly.

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 462

Revision Date: 12/1/95 Dept. Affected: Corrections
 Title: "An Act relating to the offenses of driving while BRU: Statewide Programs
intoxicated and refusal to submit to a chemical test..." Component: Community Corrections
 Sponsor: Representative Porter
 Requester: House Transportation COMPONENT SERIAL NO. 1382

Expenditures/Revenues (Thousands of Dollars)

| OPERATING EXPENDITURES | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 | FY 02 |
|------------------------|----------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | (104.0) | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | (104.0) | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

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

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--------------------------|----------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | (104.0) | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1006 GF/MHTIA | | | | | | |
| Other | | | | | | |
| TOTAL | (104.0) | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

| | | | | | | |
|-----------|----|--|--|--|--|--|
| FULL-TIME | -2 | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

The impact of automatic imposition of a suspended sentence was not previously considered. The more permissive language will not result in reduced costs allocated to incarceration costs in the fiscal note submitted with HB 159 signed by the Governor in 1995.

Rule 32.1(a) as amended in Sec. 5 of this bill will require pre-sentence investigations in 69 cases annually. 261 cases will be subject to the discretion of the trial court judge. It is assumed the court will chose to order a pre-sentence investigation in 50 percent of these cases. This will result in a projected decrease of 130 Pre-sentence investigations annually. Staff will be reduced by two probation officers and personal services will be reduced by \$104.0.

2 PO II X 52.0 annual salary = \$104.0 (decrement)

This decrement assumes that the 5 positions and funding related to HB 159 are annualized and will be funded in FY 97 without this legislation

Prepared by: Jerry Shriner
 Division: Office of the Commissioner
 Approved by Commissioner: Margaret M. Pugh Margaret Pugh
 Agency: Department of Corrections

Phone: 465-4640
 Date: 2/12/96
 Date: 2/12/96

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

For further distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO: HB 462

Revision Date: _____ Dept. Affected: Public Safety
 Title: An Act relating to the offenses of driving while BRU: Motor Vehicles
intoxicated and refusal to submit..... Component: Driver Services
 Sponsor: Rep. Porter
 Requestor: House Transportation COMPONENT SERIAL NO. 0500

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

| OPERATING | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 | FY 02 |
|----------------------------------|-------|-------|-------|-------|-------|-------|
| 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 (1005) | 0 | 0 | 0 | 0 | 0 | 0 |
| Revenue Code | | | | | | |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|--------------------------|---|---|---|---|---|---|
| 1002 Federal Receipts | | | | | | |
| 1003 GE Match | | | | | | |
| 1004 GE | | | | | | |
| 1005 GE/Program Receipts | | | | | | |
| 1006 GE/MHTIA | | | | | | |
| Other | | | | | | |
| TOTAL | 0 | 0 | 0 | 0 | 0 | 0 |

Estimate of current year (FY 96) impact: \$ 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.)

This bill has no fiscal impact on Division of Motor Vehicles.

Prepared By Charles R. Hosack Phone 269-5559
 Division Motor Vehicles Date 2/26/96

Approved by Commissioner  Date 2/27/96
 Agency Ronald L. Otte, Dept. of Public Safety

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

For further distribution information call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO: HB 462

Revision Date: _____ Dept. Affected: Public Safety
 Title: Drink driving: Evidence and Sentencing BRU: Alaska State Troopers
 Component: Detachments
 Sponsor: Representative Porter
 Requestor: H. Transportation COMPONENT SERIAL NO. 0799

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

| OPERATING | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 | FY 02 |
|---|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | -0- | -0- | -0- | -0- | -0- | -0- |
| CAPITAL | -0- | -0- | -0- | -0- | -0- | -0- |
| CHANGE IN REVENUES () Revenue Code | -0- | -0- | -0- | -0- | -0- | -0- |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|-----------------------|-----|-----|-----|-----|-----|-----|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program | | | | | | |
| 1006 GF/MHTIA | | | | | | |
| Other | | | | | | |
| TOTAL | -0- | -0- | -0- | -0- | -0- | -0- |

Estimate of current year (FY 96) impact: \$ _____

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.)

This bill will not have a fiscal impact on the Division of Alaska State Troopers

Prepared By: Lt. Dan Lowden Phone: 465-5505
 Division: Alaska State Troopers Date: February 28, 1996
 Approved by Commissioner: *Ronald L. Otte* Date: 2/28/96
 Agency: Ronald L. Otte, Department of Public Safety

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

For further distribution information call the Governor's Legislative Office

(7)

HOUSE COMMITTEE REPORT

Date Referred to Committee: February 2, 1996

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 3/6/96

The TRANSPORTATION Committee considered:

HB 462

HOUSE BILL NO. 462

DRUNK DRIVING: EVIDENCE & SENTENCING

"An Act relating to the offenses of driving while intoxicated and refusal to submit to a chemical test of breath or blood; amending Rules 6 and 32.1, Alaska Rules of Criminal Procedure; and providing for an effective date."

recommends it be replaced with the following committee substitute [] the same title [] a new title

[] additional referral to _____ Committee [] attached amendment(s)

ADOPTS: Transportation Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date)
[X] fiscal note(s) corrections [] fiscal note(s)

2 [X] zero fiscal note(s) Pub. Safety [] zero fiscal note(s)

Table with 5 columns: SIGNING WITH RECOMMENDATIONS, DP, DNP, NR, AM. Rows contain signatures of William, Sanders, Bruce, James, and others with corresponding checkmarks.

CHAIR'S SIGNATURE [Signature]

HB

496

HOUSE SPECIAL COMMITTEE ON MILITARY AND VETERANS AFFAIRS

HB 496 SPONSOR STATEMENT

Many potential recruits to the Alaska National Guard reside in isolated communities that are on the Alaska Marine Highway System. These individuals are not able to join the Guard without paying their own fare to and from drilling sites. As a result, Guard recruitment in these communities is difficult.

HB 496 would permit Guard members to travel to and from their drills without charge on the Alaska Marine Highway System, but only on a space available basis. These individuals perform great service to Alaska, for which they receive little compensation. It is not reasonable for the state to expect them to pay the prohibitively high costs of transportation in and out of their communities for what little they are paid. As a consequence, very few such individuals can afford to serve. The state, through the passage of this bill, would ameliorate this problem without incurring any additional expenses. Accordingly, your support is urged.

HOUSE SPECIAL COMMITTEE ON MILITARY AND VETERANS AFFAIRS

HB 496 SECTIONAL ANALYSIS

Section 1 of HB 496 requires the Department of Transportation to provide, free of charge, transportation on the Alaska Marine Highway to members of the Alaska National Guard who are traveling to or from official training activities. This requirement is contingent on space being available. The privilege extends to the Guard member and one personal vehicle.

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

ALASKA MARINE HIGHWAY SYSTEM / SYSTEM DIRECTOR

TONY KNOWLES, GOVERNOR

P O BOX 25535
JUNEAU, ALASKA 99802-5535
PHONE: (907) 465-3959
FAX: (907) 465-2474

February 22, 1996
No: L0367-96

The Honorable Gary L. Davis
Alaska State Legislature
State Capitol, Room 420
Juneau, Alaska 99801-1182

Dear Representative Davis:

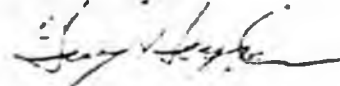
Thank you for your recent letter regarding the possibility of space available travel for members of the Alaska National Guard. I do believe that the connection between the Air Force space available program and the National Guard is easier understood than one with the Marine Highway System might be.

In recent years escalating operational costs have caused us to revisit free passage programs and to eliminate them where possible. On some runs 30% of the passengers were on pass and the associated costs for ticket administration, loading and off-loading, general housekeeping and emergency medical response were eating into our ability to provide all passengers with an acceptable level of service. We have made a relatively smooth transition to the current policy of offering seniors and handicapped persons passage at 50% of the posted tariff dependant on time of year and vessel. Vehicles associated with these itineraries have been charged at the normal rate.

It is my understanding that there are less than a hundred active National Guardsmen in Southeast and that training seldom takes place in the summer months. With that in mind I would propose that the AMHS provide reserved space transportation (walk on and vehicle passage) at 50% of the posted tariff for Alaska National Guard members traveling to and from training.

Thank you for suggesting the accommodation and for your continuing support.

Sincerely,



Gary L. Hayden
System Director

NATLGARD LET

Alaska State Legislature

House of Representatives



Transportation Committee

February 9, 1996

Gary Haden, System Director
Alaska Marine Highway
3132 Channel Drive
Juneau, AK 99801-7898

Dear Gary,

I received the attached letter from the Alaska National Guard requesting travel on a space available basis for guardsman traveling to training in the Southeast on the Alaska Marine Highway. The idea is one worth exploring.

Currently the Air Force offers space available seating to soldiers, and airmen, including the National Guard. I am wondering if a similar program could be set up with the State Ferry System on a space available basis. Would it be possible to offer this privilege to guardsman and their vehicles?

Thank you for your consideration. If I can be of any assistance in this matter, please don't hesitate to call.

Regards,

A handwritten signature in cursive script, appearing to read "Gary L. Davis".

Gary L. Davis, Representative

cc: Co-Chairs, Military and Veteran's Affairs
Representative Ivan
Representative Kott

jkt



ALASKA NATIONAL GUARD OFFICER'S ASSOCIATION

200 West 34th Avenue, Suite 727 Anchorage, Alaska 99503

(907) 333-3259

February 1, 1996

Honorable Gary Lee Davis
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

SUBJECT: National Guard Space-Available Travel on Alaska Ferry System

Dear Gary Davis,

On behalf of the Alaska National Guard Officer's Association, I am requesting your support in sponsoring a bill authorizing members of the Alaska National Guard to travel to their training location on the Alaska Ferry System, at no cost, on a space available basis. The Ferry services eighteen (18) communities that do not have National Guard units. Providing space-available travel would facilitate recruitment in these communities and expand the National Guard presence in the state.

Travel on a space-available basis can be accomplished with negligible impact on the cost of operating the State Ferry System. The Air Force has provided space available to all soldiers and airmen including the National Guard for many years. A similar program could be easily applied to the ferry system. Space-available privilege should extend to the individual and his or her privately owned, noncommercial vehicle.

Thank you for your continued support of the Alaska National Guard. If you can help us on this issue, our legislative affairs committee stands ready to assist with draft proposals or additional information you may require. Our local representative in Juneau is Captain Duff Mitchell who can be contacted at 789-8393 (page) or 790-2722 (home).

Sincerely,

Frank L. Boguslawski
Frank L. Boguslawski
CW3 (Ret), ANGOA
President

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 496

Revision Date: 3/1/96 Dept. Affected: DOT&PF
 Title: "An Act relating to transportation of members of BRU: Marine Operations
the Alaska National Guard by the Alaska Marine Highway System." Component: Southeast Vessel Operations
 Sponsor: House Special Committee on Southwest Vessel Operations
 Requester: Military & Veterans' Affairs, Transportation COMPONENT SERIAL NO. 630 & 631

Expenditures/Revenues

(Thousands of Dollars)

| OPERATING EXPENDITURES | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 | FY 02 |
|------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | 1.0 | 1.1 | 1.2 | 1.3 | 1.5 | 1.6 |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 1.0 | 1.1 | 1.2 | 1.3 | 1.5 | 1.6 |

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

| | | | | | | |
|------------------------|-------|-------|-------|-------|-------|-------|
| CHANGE IN REVENUES () | (3.0) | (3.3) | (3.6) | (4.0) | (4.4) | (4.8) |
|------------------------|-------|-------|-------|-------|-------|-------|

FUND SOURCE

(Thousands of Dollars)

| | | | | | | |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1006 GF/MHTIA | | | | | | |
| 1076 AMHS Fund | 4.0 | 4.4 | 4.8 | 5.3 | 5.9 | 6.4 |
| TOTAL | 4.0 | 4.4 | 4.8 | 5.3 | 5.9 | 6.4 |

Estimate of any current year (FY96) cost: 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

In recent years escalating operational costs have caused us to revisit free passage programs and to eliminate them where possible. On some runs, 30% of the passengers were on free passes. The associated costs for ticket administration, loading and off-loading of vehicles, general housekeeping, and emergency medical response impacts our ability to provide all passengers with an acceptable level of service.

Currently, seniors, handicapped, passengers experiencing disabilities, and youth groups pay at 50% of the posted tariff for their passage. Taken individually, the cost to the state of providing free passage may seem insignificant. Collectively, however, it has an eroding effect on the revenues AMHS requires to maintain a reasonable operating schedule.

Prepared by: Gary L. Hayden, Director
 Division: Alaska Marine Highway System
 Approved by: [Signature]
 Commissioner
 Agency: Department of Transportation and Public Facilities

Phone: 465-3959
 Date: 3/1/96
 Date: 3/1/96

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

For further distribution information, call the Governor's Legislative Office

(7)

HOUSE COMMITTEE REPORT

Date Referred to Committee: March 11, 1996

FURTHER REFERRALS:

Date of Committee Action: 3/20/96

The TRANSPORTATION Committee considered:

HB 496

HOUSE BILL NO. 496

FERRY TRANSPORTATION FOR NAT GUARD MEMBER

"An Act relating to transportation of members of the Alaska National Guard by the Alaska marine highway system."

recommends it be replaced with the following committee substitute [] the same title [] a new title

[] additional referral to Committee [] attached amendment(s)

ADOPTS: Letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[] fiscal note(s)

[X] fiscal note(s) DOT/PF

[] zero fiscal note(s)

[] zero fiscal note(s)

Table with 5 columns: SIGNING WITH RECOMMENDATIONS, DP, DNP, NR, AM. Rows include signatures: W.K. Williams, Jerry Sanders, Beverly Masek, Gary L. Davis.

CHAIR'S SIGNATURE Gary L. Davis

3/11/96

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: February 12, 1996

FURTHER REFERRALS:

Transportation

Date of Committee Action: 3-6-96

The HOUSE SPECIAL COMMITTEE ON MILITARY AND VETERANS' AFFAIRS Committee considered: HB 496

HOUSE BILL NO. 496 FERRY TRANSPORTATION FOR NAT GUARD MEMBER

"An Act relating to transportation of members of the Alaska National Guard by the Alaska marine highway system."

recommends it be replaced with the following committee substitute _____ [] the same title [] a new title

[] additional referral to _____ Committee
[] attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date)
 fiscal note(s) DOT&PF [] fiscal note(s)

[] zero fiscal note(s) [] zero fiscal note(s)

| SIGNING WITH RECOMMENDATIONS | DP | DNP | NR | AM |
|------------------------------|-----|-----|----|-----|
| <i>[Signature]</i> Mulder | X | | | |
| <i>[Signature]</i> Kott | X | | | |
| <i>[Signature]</i> IVAN | X | | | |
| <i>[Signature]</i> FOSTER | X | | | |
| <i>[Signature]</i> DAVIS | | | | X |
| | (4) | | | (1) |
| | | | | |
| | | | | |

CHAIR'S SIGNATURE *[Signature]* IVAN *[Signature]* Kott

HB

498

Alaska State Legislature

House of Representatives



Transportation Committee

SPONSOR STATEMENT

HB 498

HB 498 will name the bridge over Mineral Creek on West Egan Drive in Valdez, the "Bette Cato" Bridge.

Representative Bette Cato was first elected to the State House in 1980 and served as the first and only Chair of the House Transportation Committee. During her five terms, Bette fought tirelessly to improve Alaska's transportation system and through her efforts, was instrumental in obtaining the funds for the construction of this bridge.

Therefore, it only seems appropriate that this bridge be named in honor and recognition of Ms. Bette Cato. She truly enriched the lives of those in Valdez and will always be remembered for her dedication and devotion to the State of Alaska.

CITY OF VALDEZ, ALASKA

RESOLUTION NO. 96-28

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, HONORING MRS. BETTE CATO AND NAMING THE BRIDGE OVER MINERAL CREEK ON WEST EGAN DRIVE THE "BETTE CATO BRIDGE"

WHEREAS, Mrs. Bette Cato represented the citizens of the State of Alaska and the City of Valdez during her five (5) terms in the Alaska State Legislature; and

WHEREAS, as a legislator she fought very hard to secure and protect funding for the Department of Transportation, Harborview, Prince William Sound Community College, and the Alaska Marine Highway;

WHEREAS, she took pride in her Navy career as an aviation machinist during World War II, later serving as Commander for American Legion Post #2 in Valdez and Vice Commander of American Legion Post #20 in Kenai; and

WHEREAS, Mrs. Cato enriched the lives of our young people as a High School teacher for twenty (20) years in Valdez, Anchorage and Kenai; and

WHEREAS, Mrs. Cato will be remembered for her strength, her kindness, and her dedication to the citizens of Alaska and to our City

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, that:

the bridge over Mineral Creek on West Egan Drive shall be named

THE BETTE CATO BRIDGE

in honor of Mrs. Cato and in recognition of her accomplishment to obtain the funding for construction of West Egan Street and the bridge across Mineral Creek.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, this 4th day of March, 1996.

CITY OF VALDEZ, ALASKA

John L. Harris
John L. Harris, Mayor

ATTEST:

Sheryl L. Caples
Sheryl L. Caples, CMC, City Clerk



FISCAL NOTE

Revision Date: 2/12/96 Department Affected: DOT&PF
 Title: Naming the Berte Caro Bridge in Valdez. BRU:
 (Currently known as the Mineral Creek Bridge - W. Egan Drive)
 Sponsor: Transportation, State Affairs Component:
 Requestor: Component Serial Number:

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY97 | FY98 | FY99 | FY00 | FY01 | FY02 |
|-------------------------|------|------|------|------|------|------|
| PERSONAL SERVICES | 0 | 0 | 0 | 0 | 0 | 0 |
| TRAVEL | 0 | 0 | 0 | 0 | 0 | 0 |
| CONTRACTUAL | 0 | 0 | 0 | 0 | 0 | 0 |
| SUPPLIES | 0 | 0 | 0 | 0 | 0 | 0 |
| EQUIPMENT | 0 | 0 | 0 | 0 | 0 | 0 |
| LAND & STRUCTURES | 0 | 0 | 0 | 0 | 0 | 0 |
| GRANTS, CLAIMS | 0 | 0 | 0 | 0 | 0 | 0 |
| MISCELLANEOUS | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL OPERATING: | 0 | 0 | 0 | 0 | 0 | 0 |

| | | | | | | |
|---------|---|---|---|---|---|---|
| CAPITAL | 0 | 0 | 0 | 0 | 0 | 0 |
|---------|---|---|---|---|---|---|

| | | | | | | |
|---------------------|---|---|---|---|---|---|
| REVENUE FUND SOURCE | 0 | 0 | 0 | 0 | 0 | 0 |
|---------------------|---|---|---|---|---|---|

FUNDING: (Thousands of Dollars)

| | | | | | | |
|--------------------------|---|---|---|---|---|---|
| 1002 FEDERAL RECEIPTS | 0 | 0 | 0 | 0 | 0 | 0 |
| 1003 GF MATCH | 0 | 0 | 0 | 0 | 0 | 0 |
| 1004 GF | 0 | 0 | 0 | 0 | 0 | 0 |
| 1005 GF/PROGRAM RECEIPTS | 0 | 0 | 0 | 0 | 0 | 0 |
| 1006 GF/MHTLA | 0 | 0 | 0 | 0 | 0 | 0 |
| OTHER | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL FUNDING: | 0 | 0 | 0 | 0 | 0 | 0 |

POSITIONS (NONE REQ'D)

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

Estimate of current year (FY96) impact: \$0

ANALYSIS: (Attach a separate page if necessary)

The only anticipated expense of this change will be the purchase and installation of two new signs at the bridge site (estimated at less than \$500.00) for which the department will use its current M&O funding.

Prepared by: Bruce Freitag
 Division: Engineering & Operations Division

Phone: 465-6963
 Date: 2/15/96

Approved by Commissioner: Joseph L. Perkins
 Joseph L. Perkins

Phone: 465-3901

Agency: Department of Transportation and Public Facilities

Date: 2/20/96

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

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 12, 1996

FURTHER REFERRALS:

State Affairs

Date of Committee Action: 2/21/96

The TRANSPORTATION Committee considered:

HB 498

HOUSE BILL NO. 498

BETTY CATO BRIDGE IN VALDEZ

"An Act naming the Bette Cato Bridge in Valdez."

recommends it be replaced with the following committee substitute [] the same title [] a new title

[] additional referral to _____ Committee [] attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date)
[] fiscal note(s) [] fiscal note(s)
[X] zero fiscal note(s) DOT [] zero fiscal note(s)

Table with 5 columns: SIGNING WITH RECOMMENDATIONS, DP, DNP, NR, AM. Rows include signatures of W.K. Williams, [unclear], [unclear], Sublette James, and [unclear].

CHAIR'S SIGNATURE [Signature]



Alaska State Legislature

Please enter into the record my testimony to the (H) Transportation
committee name

committee on HB # 498 . dated 2-21-96
bill/subject

Wearing the "Betty Cato Bridge" as a friend
& citizen of Valdez, remembering all the service
Betty gave to this community. Her dedication
to all of us - not just this community
but through out her whole district. Her Betty
deserves recognition - without her - we
would not have this bridge - this the
majority of the citizens will be honored to
call that "The Betty Cato Bridge on ~~off~~ West
Egan Ave."

Signed: Dorrie M. Fischer
Testifier
Private Citizen
Representing (Optional)
Box 395
Address
907-835-4437
Phone No.

FISCAL NOTE

Revision Date: 2/12/96 Department Affected: DOT&PF
 Title: Naming the Bette Cato Bridge in Valdez. BRU:
 (Currently known as the Mineral Creek Bridge - W. Egan Drive)
 Sponsor: Transportation, State Affairs Component:
 Requestor: Component Serial Number:

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY97 | FY98 | FY99 | FY00 | FY01 | FY02 |
|-------------------------|------|------|------|------|------|------|
| PERSONAL SERVICES | 0 | 0 | 0 | 0 | 0 | 0 |
| TRAVEL | 0 | 0 | 0 | 0 | 0 | 0 |
| CONTRACTUAL | 0 | 0 | 0 | 0 | 0 | 0 |
| SUPPLIES | 0 | 0 | 0 | 0 | 0 | 0 |
| EQUIPMENT | 0 | 0 | 0 | 0 | 0 | 0 |
| LAND & STRUCTURES | 0 | 0 | 0 | 0 | 0 | 0 |
| GRANTS, CLAIMS | 0 | 0 | 0 | 0 | 0 | 0 |
| MISCELLANEOUS | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL OPERATING: | 0 | 0 | 0 | 0 | 0 | 0 |

| | | | | | | |
|---------|---|---|---|---|---|---|
| CAPITAL | 0 | 0 | 0 | 0 | 0 | 0 |
|---------|---|---|---|---|---|---|

| | | | | | | |
|---------------------|---|---|---|---|---|---|
| REVENUE FUND SOURCE | 0 | 0 | 0 | 0 | 0 | 0 |
|---------------------|---|---|---|---|---|---|

FUNDING: (Thousands of Dollars)

| | | | | | | |
|--------------------------|---|---|---|---|---|---|
| 1002 FEDERAL RECEIPTS | 0 | 0 | 0 | 0 | 0 | 0 |
| 1003 GF MATCH | 0 | 0 | 0 | 0 | 0 | 0 |
| 1004 GF | 0 | 0 | 0 | 0 | 0 | 0 |
| 1005 GF/PROGRAM RECEIPTS | 0 | 0 | 0 | 0 | 0 | 0 |
| 1006 GF/MHTIA | 0 | 0 | 0 | 0 | 0 | 0 |
| OTHER | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL FUNDING: | 0 | 0 | 0 | 0 | 0 | 0 |

POSITIONS (NONE REQ'D)

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

Estimate of current year (FY96) impact: \$0

ANALYSIS: (Attach a separate page if necessary)

The only anticipated expense of this change will be the purchase and installation of two new signs at the bridge site (estimated at less than \$500.00) for which the department will use its current M&O funding.

Prepared by: Bruce Freitag
 Division: Engineering & Operations Division

Phone: 465-6963
 Date: 2/15/96

Approved by Commissioner: *Joseph L. Perkins*
 Joseph L. Perkins

Phone: 465-3901

Agency: Department of Transportation and Public Facilities

Date: 2/20/96

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

HB

517

CS FOR HOUSE BILL NO. 517(TRA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE TRANSPORTATION COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE TRANSPORTATION COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to records and hearings of the Department of Public Safety;
2 relating to a temporary permit to drive a motor vehicle; relating to regulation
3 of motor vehicles and commercial motor vehicles; relating to ownership of certain
4 abandoned motor vehicles; relating to renewal of a driver's license by mail;
5 relating to commercial driver training schools; increasing the property damage
6 amounts for proof of financial responsibility and proof of motor vehicle eligibility
7 in order to lawfully operate a motor vehicle in the state; relating to certain
8 notifications in accidents involving property damage; relating to motor vehicle
9 registration procedures; and providing for an effective date."

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

11 * Section 1. AS 28.05.061(c) is amended to read:

12 (c) Records maintained by the department under this title or regulations

1 adopted under this title may be stored in any reasonable manner, including
2 electronic data storage. The commissioner and officers and employees of the
3 department designated by the commissioner shall, upon request, prepare under the seal
4 of the department and deliver, unless otherwise prohibited by law, a certified copy of
5 any record of the department maintained under this title or regulations adopted under
6 this title, charging a fee for each certified copy. A certified copy of the record stored
7 under this section is admissible in an administrative [A] proceeding or in a court
8 in the same manner as the original document.

9 * Sec. 2. AS 28.05.141(b) is amended to read:

10 (b) A hearing ordered under (a) of this section must [SHALL] be held by
11 telephone unless the hearing officer finds that a telephonic hearing would
12 substantially prejudice the rights of the person involved in the hearing or that an
13 in-person hearing is necessary to decide the issues to be presented in the hearing.
14 An in-person hearing must be held at the office of the department nearest to the
15 residence of the person involved in [REQUESTING] the hearing unless the department
16 and the person agree that the hearing is to be held elsewhere. The department shall
17 grant a hearing delay if the person presents good cause for the delay. If a person fails
18 to attend or appear for the hearing at the time and place stated by the department and
19 if a hearing delay has not been granted, the person's failure to attend or appear is
20 considered a waiver of the hearing and the department may take appropriate action
21 with respect to the person.

22 * Sec. 3. AS 28.10.031(b) is amended to read:

23 (b) A licensed vehicle dealer may issue to the purchaser of a vehicle sold by
24 the dealer a temporary permit to drive the vehicle. A permit is effective for a period
25 not to exceed 60 [30] days. The commissioner shall adopt regulations governing the
26 issuance of permits under this section.

27 * Sec. 4. AS 28.10.051(a) is amended to read:

28 (a) The department may suspend or revoke the registration of a vehicle, the
29 certificate of registration or registration plates for a vehicle, or a special permit when
30 (1) the department determines that the registration or certificate, plate,
31 or permit was fraudulently procured or erroneously issued:

1 (2) the department determines that a registered vehicle is mechanically
2 unsafe to be driven or moved on a highway, vehicular way or area, or other public
3 property in this state and the vehicle has been seized or impounded under
4 AS 28.05.091;

5 (3) a registered vehicle has been scrapped, dismantled, or destroyed
6 beyond repair;

7 (4) the department determines that a required fee or tax has not been
8 paid and the fee or tax is not paid upon reasonable notice and demand;

9 (5) a registration plate, permit, or certificate is knowingly displayed
10 upon a vehicle other than the vehicle for which issued;

11 (6) the department determines that the owner of a vehicle has
12 committed an offense under this chapter involving the registration or the certificate,
13 plate, or permit to be suspended or revoked;

14 (7) the vehicle has been reported to the department as stolen or
15 unlawfully converted;

16 (8) the department is otherwise required to do so under the laws of this
17 state; [OR]

18 (9) the department determines that the vehicle owner has violated the
19 requirements of AS 28.10.146 or 28.10.147;

20 (10) the department determines that a repair to a commercial
21 motor vehicle, ordered by the department under regulations adopted under
22 AS 28.05.011, was not completed after the owner or operator represented to the
23 department that the repair had been completed; or

24 (11) the owner or operator of a commercial motor vehicle has
25 placed a commercial motor vehicle back in service after it has been placed out of
26 service by the department without having it reinspected as required under
27 regulations adopted under AS 28.05.011.

28 * Sec. 5. AS 28.11 is amended by adding a new section to read:

29 Sec. 28.11.025. CLAIM OF OWNERSHIP BY PRIVATE PROPERTY
30 OWNER. (a) In addition to removal of an abandoned vehicle under AS 28.11.020,
31 a vehicle that is left standing or parked on private property without the consent of the

1 private property owner and for a period in excess of three years is presumed to be an
2 abandoned vehicle and title to the vehicle may be transferred to the private property
3 owner as provided under this section. A person who claims ownership of an
4 abandoned vehicle under this section shall provide notice of the claim to the vehicle
5 owner of record and to lienholders in the manner prescribed for giving notice by the
6 department under AS 28.05.121. The notice must state the location of the vehicle and
7 the period of abandonment. If the vehicle is not registered in this state or the name
8 and address of the registered or legal owner or lienholder cannot be ascertained, notice
9 shall be given by publication in the manner prescribed in the rules of the court for
10 service of process by publication.

11 (b) If an abandoned vehicle is not reclaimed within 30 days after notice is
12 given as required under (a) of this section, the title to the vehicle vests with the owner
13 of the private property on which the vehicle is located. Upon application, the
14 department shall issue a new certificate of title to a vehicle whose ownership is
15 transferred under this section.

16 * Sec. 6. AS 28.15.101(c) is amended to read:

17 (c) A driver's license may be renewed by mail if the licensee complies with
18 (a) of this section, except that a license may not be renewed by mail if

19 (1) [THE APPLICANT'S LICENSE, WITHIN THE PREVIOUS FIVE
20 YEARS, HAS BEEN REVOKED BY A COURT AFTER CONVICTION FOR AN
21 OFFENSE UNDER AS 28.15.181(a) OR ANOTHER LAW OR ORDINANCE WITH
22 SUBSTANTIALLY SIMILAR ELEMENTS;

23 (2) THE APPLICANT'S LICENSE, WITHIN THE PREVIOUS FIVE
24 YEARS, HAS BEEN SUSPENDED, REVOKED, OR DENIED BY THE
25 DEPARTMENT UNDER AS 28.15.165 OR 28.15.251;

26 (3) THE APPLICANT, WITHIN THE PREVIOUS FIVE YEARS, HAS
27 BEEN CONVICTED OF A MOVING TRAFFIC VIOLATION;

28 (4) the most recent renewal of the applicant's license was by mail; or

29 (2) [(5)] the applicant is 69 years of age or older on the expiration date
30 of the driver's license being renewed.

31 * Sec. 7. AS 28.15.166(d) is amended to read:

1 (d) A person who has requested a hearing under this section and who fails to
2 attend or appear at the hearing, for reasons other than lack of actual notice of the
3 hearing or physical incapacity such as hospitalization or incarceration, waives the right
4 to a hearing. The determination of the department that is based upon the enforcement
5 officer's report becomes final.

6 * Sec. 8. AS 28.15.166(e) is amended to read:

7 (e) ~~The~~ [NOTWITHSTANDING AS 28.05.141(b), THE] hearing under this
8 section must [SHALL] be held by telephone unless the hearing officer finds that
9 a telephonic hearing would substantially prejudice the rights of the person
10 involved in the hearing or that an in-person hearing is necessary to decide the
11 issues to be presented in the hearing. An in-person hearing must be held at the
12 office of the department nearest to the residence of the person involved in
13 [REQUESTING] the hearing unless

14 [(1) A DISTRICT COURT JUDGE OR A MAGISTRATE HAS BEEN
15 DESIGNATED AS A HEARING OFFICER IN THE MATTER BY THE
16 COMMISSIONER; OR

17 (2)] the department and the person agree that the hearing is to be held
18 elsewhere.

19 * Sec. 9. AS 28.15.166(f) is amended to read:

20 (f) A review under this section shall be held before a hearing officer
21 designated by the commissioner. [UPON THE CONSENT OF THE
22 ADMINISTRATIVE DIRECTOR OF THE STATE COURT SYSTEM, THE
23 COMMISSIONER MAY DESIGNATE A DISTRICT COURT JUDGE OR A
24 MAGISTRATE TO SERVE AS THE HEARING OFFICER.] The hearing officer has
25 [SHALL HAVE] authority to

- 26 (1) administer oaths and affirmations;
27 (2) examine witnesses and take testimony;
28 (3) receive relevant evidence;
29 (4) issue subpoenas, take depositions, or cause depositions or
30 interrogatories to be taken;
31 (5) regulate the course and conduct of the hearing;

1 (6) make a final ruling on the issue.

2 * Sec. 10. AS 28.17.041(b) is amended to read:

3 (b) Regulations adopted under this section must state the requirements for a
4 school license, including requirements concerning manner and form of application,
5 location, place of business, facilities, records, equipment, courses and standards of
6 instruction, instructors, previous records of the school and instructors, financial
7 statements, schedule of fees and charges, character and reputation of the operators and
8 instructors, vehicle equipment and condition, inspection during reasonable business
9 hours, insurance or bonds in the sum and with the provisions the commissioner
10 considers necessary, and other matters the commissioner may prescribe for the
11 protection of the public. Regulations regarding courses and standards of
12 instruction for

13 (1) noncommercial motor vehicles must be consistent with
14 standards adopted by the commissioner; and

15 (2) commercial motor vehicles must meet or exceed the model
16 curriculum for training tractor-trailer drivers adopted by the United States
17 Department of Transportation.

18 * Sec. 11. AS 28.17.061 is repealed and reenacted to read:

19 Sec. 28.17.061. CIVIL PENALTY. (a) If the department determines a person
20 has violated a provision of this chapter, or a regulation adopted under this chapter, the
21 department may impose a civil penalty not to exceed \$5,000. In determining the
22 amount of a civil penalty imposed under this section, the department shall consider the
23 economic benefit resulting from the violation, the person's prior violations under this
24 section, and the seriousness of the violation.

25 (b) Before imposing a civil penalty under this section, the department shall
26 provide notice of the civil penalty and an opportunity to request an administrative
27 hearing. If a hearing is not requested within 30 days after notice of the civil penalty
28 is received, the right to a hearing is considered waived. If a hearing is requested, the
29 hearing shall be conducted as provided under AS 28.05.141.

30 (c) If a person fails to pay a civil penalty imposed under this section within
31 30 days after the civil penalty is imposed by the department, or if the civil penalty is

1 stayed pending an appeal, within 10 days after the court enters a final judgment in
2 favor of the department, the department shall notify the attorney general. The attorney
3 general may commence a civil action to recover the amount of the civil penalty.

4 * Sec. 12. AS 28.20.050(a) is amended to read:

5 (a) The provisions of this chapter requiring deposit of security and suspension
6 for failure to deposit security apply to the driver and owner of a vehicle subject to
7 registration under the laws of this state that is involved in any manner in an accident
8 in this state resulting in bodily injury to or death of a person or damage to the property
9 of any one person exceeding \$1,500 [S500].

10 * Sec. 13. AS 28.20.050(e) is amended to read:

11 (e) A peace officer investigating an accident that results in bodily injury to or
12 the death of a person or damage to the property of a person exceeding \$1,500 [S500]
13 shall inform persons involved in the accident in writing of the requirements of this
14 chapter as they apply to suspension of an operator's license or driving privileges.

15 * Sec. 14. AS 28.20.100(c) is amended to read:

16 (c) If the department evaluates the injuries or damage to a minor in an amount
17 not more than \$1,500 [S500], the department may accept, for the purposes of this
18 chapter only, evidence of a release from liability executed by a parent [NATURAL]
19 or legal guardian on behalf of the minor without court approval.

20 * Sec. 15. AS 28.20.230(a) is amended to read:

21 (a) The provisions of this chapter requiring the deposit of proof of financial
22 responsibility for the future apply to persons who are convicted of or forfeit bail for
23 certain offenses under motor vehicle laws or who, by ownership or operation of a
24 vehicle of a type subject to registration under AS 28.10, are involved in an accident
25 in this state that results in bodily injury to or death of a person or damage to the
26 property of any one person exceeding \$1,500 [S500].

27 * Sec. 16. AS 28.20.260(a) is amended to read:

28 (a) Upon receipt by the department of the report of an accident resulting in
29 bodily injury to or death of a person, or [PROPERTY] damage to the property of
30 any one person exceeding \$1,500 [S500], the department shall suspend the license of
31 the driver of a motor vehicle involved in the accident unless the driver or owner

1 (1) has previously furnished or immediately furnishes security required
2 by this chapter, or is excepted from furnishing security under AS 28.20.060; [,] and

3 (2) maintains proof of financial responsibility for three years following
4 the accident.

5 * Sec. 17. AS 28.22.021 is amended to read:

6 Sec. 28.22.021. REQUIREMENT OF PROOF OF MOTOR VEHICLE
7 LIABILITY INSURANCE. The owner or operator of a motor vehicle required to have
8 motor vehicle liability insurance that complies with this chapter or a certificate of self-
9 insurance that complies with AS 28.20.400, shall show proof of this insurance when
10 that person is involved in an accident that results in bodily injury to or death of a
11 person, or damage to the property of a person exceeding \$1,500 [\$500].

12 * Sec. 18. AS 28.22.041(h) is amended to read:

13 (h) Subsection (a) does not apply to a person who is required to provide proof
14 under AS 28.22.021 if the person

15 (1) is involved in an accident that results in property damage of less
16 than \$1,500 [\$1,000] and the damage occurs only to the property of the person
17 required to show proof of insurance;

18 (2) not later than 15 days after the accident, provides proof of motor
19 vehicle liability insurance that complies with this chapter or a certificate of self-
20 insurance that complies with AS 28.20.400 to the department; and

21 (3) establishes by a preponderance of the evidence that the failure to
22 have in effect motor vehicle liability insurance or to self-insure as required by this
23 chapter at the time of the accident was due to circumstances beyond the control of the
24 person.

25 * Sec. 19. AS 28.32.900(1) is amended to read:

26 (1) "commercial motor vehicle" means a motor vehicle or a
27 combination of a motor vehicle and one or more other vehicles

28 (A) used to transport passengers or property;

29 (B) used upon a highway or vehicular way [CONNECTED TO

30 (i) THE LAND-CONNECTED STATE HIGHWAY
31 SYSTEM; OR

1 (ii) A LAND HIGHWAY OR VEHICULAR WAY
2 WITH AN AVERAGE DAILY TRAFFIC VOLUME GREATER
3 THAN 499]; and

4 (C) which

5 (i) has a gross vehicle weight rating or gross
6 combination weight rating greater than 10,000 pounds;

7 (ii) is designed to transport more than 15 passengers,
8 including the driver; or

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

13 (D) except that the following vehicles meeting the criteria in
14 (A) - (C) of this paragraph are not commercial vehicles:

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

17 (ii) farm vehicles that are controlled and operated by a
18 farmer; used to transport agricultural products, farm machinery, or farm
19 supplies to or from that farmer's farm; not used in the operations of a
20 common or contract motor carrier; and used within 150 [300] miles of
21 the farmer's farm;

22 (iii) school buses;

23 (iv) vehicles owned and operated by the federal
24 government unless the vehicle is used to transport property of the
25 general public for compensation in competition with other persons who
26 own or operate a commercial motor vehicle subject to this chapter, and
27 except to the extent that regulation of vehicles operated by the federal
28 government is permitted by federal law; and

29 (v) vehicles used exclusively for purposes other than
30 commercial purposes;

31 * Sec. 20. AS 28.32.900(2) is amended to read:

1 (2) "commercial purposes" means activities for which a person receives
2 direct monetary compensation or activities for which a person receives no direct
3 monetary compensation but which are incidental to and done in furtherance of the
4 person's [PRIMARY] business;

5 • Sec. 21. AS 28.33.130(a) is amended to read:

6 (a) A person may not operate a commercial motor vehicle or be on-duty

7 (1) if, within the preceding four hours, the person

8 (A) consumed or was under the influence of

9 (i) an alcoholic beverage;

10 (ii) a controlled substance not prescribed by a physician;

11 or

12 (iii) a controlled substance prescribed by a physician that
13 might impair a person's ability to operate a commercial motor vehicle;

14 or

15 (B) had any measurable alcohol concentration within the blood
16 or breath or any detectable presence of alcohol; [OR]

17 (2) while in possession of an alcoholic beverage or a controlled
18 substance not prescribed by a physician unless

19 (A) the alcoholic beverage or controlled substance is manifested
20 and documented as part of an authorized shipment of cargo; or

21 (B) under AS 04, the alcoholic beverage may be legally served
22 to passengers being carried for hire;

23 (3) after being placed out of service for violation of a regulation
24 adopted under AS 28.05.011; or

25 (4) with an invalid operator's or commercial operator's license.

26 • Sec. 22. AS 28.33.140(a) is amended to read:

27 (a) In addition to the court action provided in AS 28.15.181, conviction of any
28 of the following offenses is grounds for immediate disqualification from driving a
29 commercial motor vehicle for the periods set out in this section:

30 (1) operating a commercial motor vehicle while intoxicated in violation
31 of AS 28.33.030;

- 1 (2) refusal to submit to a chemical test in violation of AS 28.35.032;
2 (3) operating a motor vehicle while intoxicated [,] in violation of
3 AS 28.35.030;
4 (4) leaving the scene of an accident in violation of AS 28.35.060, or
5 failing to file, or providing false information in, an accident report in violation of
6 AS 28.35.110;
7 (5) a felony under state or federal law, which was facilitated because
8 the person used a commercial motor vehicle; [OR]
9 (6) a serious traffic violation; or
10 (7) driving after being placed out of service in violation of
11 regulations adopted under AS 28.05.011.

12 * Sec. 23. AS 28.33.140 is amended by adding a new subsection to read:

13 (j) A court convicting a person of an offense described in (a)(7) of this section
14 shall disqualify that person from driving a commercial motor vehicle for the following
15 periods: (1) if the person has not been previously convicted of violating an out-of-
16 service order, not less than 90 days; (2) if the person has been previously convicted
17 once of violating an out-of-service order, not less than one year; (3) if the person has
18 been previously convicted more than once of violating an out-of-service order, not less
19 than three years. In this subsection, "previously convicted" means having been
20 convicted in this or another jurisdiction of an offense described in (a)(7) of this section
21 within 10 years preceding the date of the present offense.

22 * Sec. 24. AS 28.33.190 is amended by adding a new paragraph to read:

23 (11) "out-of-service order" means an order issued under regulations
24 adopted under AS 28.05.011 that prohibits an owner or operator of a commercial
25 motor vehicle from operating a commercial motor vehicle.

26 * Sec. 25. AS 28.35.080(a) is amended to read:

27 (a) The driver of a vehicle involved in an accident resulting in bodily injury
28 to or death of a person or total property damage to an apparent extent of \$1,500 [\$500]
29 or more shall immediately by the quickest means of communication give notice of the
30 accident to the local police department if the accident occurs within a municipality,
31 otherwise to the Department of Public Safety.

1 * Sec. 26. AS 28.35.080(b) is amended to read:

2 (b) The driver of a vehicle involved in an accident resulting in bodily injury
3 to or death of a person or total property damage to an apparent extent of \$1,500 [500]
4 or more shall, within 10 days after the accident, forward a written report of the
5 accident to the Department of Public Safety and to the local police department if the
6 accident occurs within a municipality. A report is not required under this subsection
7 if the accident is investigated by a peace officer.

8 * Sec. 27. AS 28.40.100(a)(2) is amended to read:

9 (2) "commercial motor vehicle" means a motor vehicle or a
10 combination of a motor vehicle and one or more other vehicles

11 (A) used to transport passengers or property;

12 (B) used upon a land highway or vehicular way [CONNECTED

13 TO

14 (i) THE LAND CONNECTED STATE HIGHWAY
15 SYSTEM; OR

16 (ii) A LAND HIGHWAY OR VEHICULAR WAY
17 WITH AN AVERAGE DAILY TRAFFIC VOLUME GREATER
18 THAN 499]; and

19 (C) that

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

22 (ii) is designed to transport more than 15 passengers,
23 including the driver; or

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

28 (D) except that the following vehicles meeting the criteria in
29 (A) - (C) of this paragraph are not commercial vehicles:

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14

(ii) farm vehicles that are controlled and operated by a farmer; used to transport agricultural products, farm machinery, or farm supplies to or from that farmer's farm; not used in the operations of a common or contract motor carrier; and used within 150 miles of the farmer's farm; and

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

* Sec. 28. AS 28.40.100(a)(3) is amended to read:

(3) "commercial purposes" means activities for which a person receives direct monetary compensation or activities for which a person receives no direct monetary compensation but that are incidental to and done in furtherance of the person's [PRIMARY] business;

* Sec. 29. AS 28.10.108(b) and 28.10.108(c) are repealed.

* Sec. 30. This Act takes effect July 1, 1996.

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB # 517

Revision Date: 2/16/96 Dept. Affected: DOT&PF
 Title: Regulation of Motor Vehicles / BRU: Department Wide
Commercial Motor Vehicles Component: Comm. Ofc.
 Sponsor: Transportation, ~~Justice~~
 Requester: ~~Justice~~ Transportation COMPONENT SERIAL NO. Comm. Ofc.

Expenditures/Revenues (Thousands of Dollars)

| OPERATING EXPENDITURES | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 | FY 02 |
|------------------------|------------|------------|------------|------------|------------|------------|
| 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 EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

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

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1006 GF/MHTIA | | | | | | |
| Other - All CIP Sources | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY96) cost: \$ _____

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)

Portions of this bill will have a direct and positive impact on the DOT&PF. This legislation will enhance the department's ability to better administer commercial vehicle activities in that it provides clarity to existing law, defines certain violations which will result in the suspension or revocation of vehicle registration and/or special permits, and provides meaningful deterrents to owners and operators of commercial vehicles from operating vehicles that are out of compliance with safety standards and drivers licensing requirements.

Cost savings are not necessarily tangible and will not result in a direct budget reduction. The public safety will however, definitely be enhanced. By keeping commercial vehicles that have been placed out of service by the department off of the road until they have been repaired and reinspected, the public's exposure to unsafe commercial vehicles will be minimized. Subsequently, the state will be less at risk from possible litigation involving unsafe commercial vehicles.

Prepared by: Sam Kito III Phone: 465-3900
Special Assistant

Division: Office of the Commissioner Date: _____

Approved by: *Joseph L. Puka* Date: 2/20/96
Commissioner

Agency: Department of Transportation and Public Facilities

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

For further distribution information, call the Governor's Legislative Office

Federal Motor Carrier Safety Regulations carry sanctions against states failing to pass a bill such as this. The sanction will cause the loss of federal highway funds to the State of Alaska in the amount of \$8.0 million in FFY97 (October 1, 1996). The second year of non-compliance carries a 10% penalty of \$16.0 million for FFY98 (October 1, 1997).

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO: HB 517

Revision Date: _____ Dept. Affected: Public Safety
 Title: An Act relating to motor vehicles, commercial BRU: DPS Statewide Support
motor vehicles..... Component: Commissioner's Office
 Sponsor: House Transportation Committee
 Requestor: H.T.R.A. COMPONENT SERIAL NO. 0523

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

| OPERATING | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 | FY 02 |
|-------------------------------|-------|-------|-------|-------|-------|-------|
| 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- |
| Revenue Code | | | | | | |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|--------------------------|-----|-----|-----|-----|-----|-----|
| 1002 Federal Receipts | | | | | | |
| 1003 GE Match | | | | | | |
| 1004 GE | | | | | | |
| 1005 GE/Program Receipts | | | | | | |
| 1006 GE/MHTIA | | | | | | |
| Other | | | | | | |
| TOTAL | -0- | -0- | -0- | -0- | -0- | -0- |

Estimate of current year (FY 95) impact \$ _____

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)

This bill includes some housekeeping measures that simplify several procedures affecting the operation of the Divisions of Motor Vehicles. It also provides for compliance with the Code of Federal Regulations, Title 49 of the Federal Motor Carrier Safety Assistance Program (MCSAP) and a compliance issue relating to the Commercial Motor Vehicle Safety Act (CMVSA), 49 CFR. Failure to maintain compliance with both the MSCAP grant and CMVSA may result in loss of the MSCAP grant funding and loss of 5 percent of federal highway aid funding.

Prepared By: Juanita M. Hensley Phone: 465-2650
 Division: Motor Vehicles Date: 2/15/96
 Approved by Commissioner: *Ronald L. Otte* Date: 2/15/96
 Agency: Ronald L. Otte, Dept. of Public Safety

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

For further distribution information call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA

BILL NO:

STATE OF ALASKA

Department of Public Safety

SPONSOR STATEMENT HOUSE BILL 517

Most Alaskans need a driver's license in order to carry on their daily lives. Obtaining license renewals and conducting other business with the Department of Public Safety, division of motor vehicles (DMV), can be time consuming. Most Alaskans have stood in line waiting to take care of business that require them to physically visit the DMV. This bill will make it easier for the Department of Public Safety to serve the public.

HB 517 will simplify procedures for obtaining a driver's license by removing exceptions to the renewal-by-mail program. Also, current law requires a person involved in an accident resulting in \$500 or more in damage to property to report the accident to the local police or the Alaska State Troopers for investigation. This amount was set in 1977; in present value, the slightest scrape can cost that much to repair. This bill raises the amount for required reporting to \$1,500.

HB 517 also provides for administrative hearings to be held by telephone in most instances to avoid costly travel. It allows the Department of Public Safety to keep its records electronically and provides that certified copies of those electronically stored records are admissible in courts and administrative hearings. It also allows a temporary permit issued by a car dealer to be valid for 60 days rather than 30 days, to give the dealer and the Department of Public Safety more time to take care of the necessary paperwork.

This bill also provides for compliance with the Code of Federal Regulations, Title 49, the Federal Motor Carrier Safety Act Program grant requirements, and item 22 of the Commercial Vehicle Safety Act 49 CFR parts 383, 390 and 391 dealing with disqualifying a commercial driver for an out-of-service violation. It makes housekeeping changes for compliance purposes. Failure to adopt the provisions of 49 CFR may result in sanction of 5 percent of federal highway monies and Federal Motor Carrier Safety Assistance Program Grant (MCSAP) funding.

HOUSE TRANSPORTATION COMMITTEE

Sectional Analysis

HOUSE BILL 517

Motor Vehicle/Commercial Motor Vehicle Bill

Section 1. AS 28.05.061(c) allows the department to keep its records electronically and provides that certified copies of those electronically stored records are admissible in courts and administrative hearings.

Sections 2, 6 - 8. AS 28.05.141(b); 28.15.166(d-f); provides for administrative hearings to be held by telephone in most instances to avoid costly travel.

Section 3. AS 28.10.031(b) allows for a car dealer to issue 60 day temporary permit rather than 30 days.

Section 4. AS 28.10.051(a) allows the department to suspend or revoke the registration of a commercial vehicle if the owner continues to allow it to be operated after an order of repair was issued.

Section 5. AS 28.15.101(c) lifts some of the restrictions on renewing a driver's license by mail.

Sections 9-15 & 22-23. AS 28.20.050(a),(e); 28.20.100(c); 28.20.230(a); 28.20.260(a); 28.22.021; 28.22.041(h); 28.35.080(a); 28.35.080(b), raises the amount required for reporting of property damage resulting from a motor vehicle accident from \$500.00 to \$1,500.00.

Sections 16 & 24. AS 28.32.900(1); 28.40.100(a)(2) repeals the sections relating to exempt areas of the state where the average daily traffic on the roadways is less than 499. Also changes the exemption for vehicle safety inspections for farm vehicles from 300 miles from the farm to 150 miles from the farm.

Sections 17 & 25. AS 28.32.900(2); 28.40.100(a)(3) eliminates the requirement that commercial purposes has to be the primary business of the commercial vehicle operator; any business is sufficient

Section 18. AS 28.33.130(a) adds a provision placing a person "out-of-service" for violation of a regulation relating to safety equipment required on commercial vehicles and allows a person to be placed "out-of-service" when operating a commercial vehicle without a commercial driver's license.

Section 19. AS 28.33.140(a) adds to the list of offenses that the court must disqualify a person from operating a commercial motor vehicle

Section 20. AS 28.33.140(j) adds a new subsection relating to the length of time the court must disqualify a person from operating a commercial motor vehicle.

Section 21. AS 28.33.190 (11) adds a definition of "out-of-service order".

Section 26. AS 28.10.108(b) and (c) repeals outdated statutes to allow for staggered registration, a practice which is in place.

Section 27. Effective date of Act.



US Department
of Transportation

Federal Highway
Administration

400 Seventh St., B.W
Washington, D.C. 20590

Refer to: HCS-20

Ms. Juanita M. Hensley
Chief, Driver Services
Division of Motor Vehicles
Alaska Department of Public Safety
P.O. Box 20020
Juneau, Alaska 99802-0020

FEB 13 1996

Dear Ms. Hensley:

Thank you for your January 25, 1996 letter to Mr. Robert Redmond requesting confirmation that a State could be found not to be in substantial compliance with the commercial driver's license regulations if the disqualification of a commercial motor vehicle driver for violation of an out-of-service order is not adopted by October 1, 1996.

You are correct in your belief that a State must adopt and implement the new disqualification requirement for a violation of an out-of-service order by October 1, 1996. In both the "Deadline for Compliance" and "Structure" discussions in the preamble to the final rule "State Compliance With Commercial Driver's License Program" (Federal Register, May 18, 1994, Vol. 59, No. 95), the Federal Highway Administration clearly conveys the fact that State compliance with this 22nd requirement for State participation would not be required before October 1, 1996.

The "Substantial Compliance" discussion in the preamble to the final rule "Violations of Out-of-Service Orders by Commercial Motor Vehicle Operators, Disqualification and Penalties" (Federal Register, May 18, 1994, Vol. 59, No. 95), further conveys the fact that States must be in substantial compliance with this 22nd requirement for State participation by October 1, 1996.

While the effective date for this final rule was June 17, 1994, the State compliance deadline was deferred until October 1, 1996 to allow States sufficient time to take the necessary steps to assure compliance. Any State not meeting this deadline would be subject to sanctions as prescribed in 49 CFR 384.

I hope this information is helpful to you.

Sincerely yours,

James E. Scapellato, Director
Office of Motor Carrier
Research and Standards

cc: Linda Taylor (HSA-30)

FHWA HCS20:RR:Redmond:skb:65014:1/31/96
cc HCSRF, HCS20-RF
H:\HCS\HCS20\LETTERS\W-1\COMPL\HENSLEY
File: State File - Alaska

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 383, 390, and 391

[FHWA Docket No. MC-92-13]

RIN 2125-AC93

Violations of Out-of-Service Orders by Commercial Motor Vehicle Operators; Disqualifications and Penalties

AGENCY: Federal Highway Administration (FHWA), DOT.
ACTION: Final rule.

SUMMARY: The FHWA is amending the Federal Motor Carrier Safety Regulations (FMCSRs) by making a conviction of any violation of an out-of-service order by a driver of a commercial motor vehicle (CMV) a disqualifying offense. Such a conviction will result in suspension, revocation, or cancellation of the driver's commercial driver's license (CDL), or disqualification by the FHWA, for a period of time from 90 days to five years. Civil monetary penalties are provided for both drivers and their employers. This rule implements section 4009 of the Motor Carrier Safety Act of 1991 and responds to a petition filed by the Commercial Vehicle Safety Alliance (CVSA) on June 22, 1990. A State's failure to adopt the requirements of this rule will result in a withholding of Federal-aid highway funds. This action will deter the illegal operation of CMVs in violation of an out-of-service order.

EFFECTIVE DATE: June 17, 1994.

FOR FURTHER INFORMATION CONTACT: Ms. W. Teresa Doggett, Driver Standards Division, Office of Motor Carrier Standards (202) 366-4009, or Mr. David Sert, Office of the Chief Counsel, (202) 366-0834, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

On January 13, 1993, the FHWA published a notice of proposed rulemaking (NPRM) (58 FR 4640) that would amend 49 CFR parts 383, 390, and 391 to make a conviction of any violation of an out-of-service order by a driver of a commercial motor vehicle (CMV) a disqualifying offense. Such a conviction will result in suspension, revocation, or cancellation of the driver's commercial driver's license (CDL), or disqualification by the FHWA,

for a period of time from 90 days to five years. Civil monetary penalties were also proposed for both drivers and their employers. The NPRM responded to section 4009 of the Motor Carrier Act of 1991 (49 U.S.C. app. 2718), which directed the Secretary of Transportation to establish sanctions, penalties, and disqualifications relating to violations of out-of-service orders by persons operating commercial motor vehicles.

The statute specifies that any operator of a CMV who is convicted of a first violation of an out-of-service order is to be disqualified for no less than 90 days. Subsequent violations would lead to disqualification periods of from one to five years. The statute also sets forth civil penalties of not less than \$1,000 for drivers who are convicted of a violation of an out-of-service order, and of not more than \$10,000 for employers who are convicted of knowingly allowing a driver to violate an out-of-service order. Finally, the statute added State adoption and enforcement of the penalties for out-of-service violations to the list of conditions necessary to achieve "substantial compliance" with section 12009(a) of the Commercial Motor Vehicle Safety Act of 1986, and thereby avoid a withholding of apportioned Federal-aid highway funds. 49 U.S.C. app. 2708, 2710.

The NPRM also responded to a June 22, 1990, petition filed by the Commercial Vehicle Safety Alliance (CVSA), to include violations of out-of-service orders as disqualifying offenses under the provisions of the CDL program. The CVSA is an alliance of CMV safety enforcement officials from the United States, the Canadian provinces and territories, and the Federal government of Mexico.

Applicability

This rulemaking adds, to 49 CFR part 383 of the FMCSRs, disqualification periods and civil penalties for drivers, and civil penalties for employers, who violate out-of-service orders. Part 383 generally encompasses every driver of a motor vehicle that—

- (1) Has a gross combination weight rating (GCWR) of 26,001 or more pounds, inclusive of a towed vehicle with a gross vehicle weight rating (GVWR) over 10,000 pounds;
- (2) Has a GVWR of 26,001 pounds or more;
- (3) Is designed to transport 16 or more passengers, including the driver; or
- (4) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which is required to be placarded under the Hazardous Materials

Regulations (49 CFR part 172, subpart F).

No exceptions to the applicability of CDL requirements are provided in the regulations. Pursuant to the waiver authority granted in section 12013 of the Commercial Motor Vehicle Safety Act of 1986 however, the FHWA, on September 26, 1988, issued specific waiver provisions covering active-duty military personnel and, at each States discretion, certain farmers, firefighters, and operators of emergency equipment (53 FR 37313). Similarly, on April 17, 1992, the FHWA issued a notice of final disposition authorizing States to exempt certain employees of farm-related service industries from CDL knowledge and skills testing, allowing them to obtain a restricted CDL (57 FR 13650). Employees of farm-related service industries are still subject to all other CDL requirements. For these groups, the FHWA found that the waivers were not contrary to the public interest and would not diminish the safe operation of commercial motor vehicles.

To preserve consistency between 49 CFR part 383 (the CDL rules) and 49 CFR part 391 (qualifications of drivers), this action will also extend the purview of these regulations requiring disqualifications for violations of out-of-service orders to drivers of CMVs as defined in 49 CFR 390.5. This extension will affect all vehicles with a GVWR or GCWR greater than 10,000 pounds. This extension, based upon the FHWA's authority to establish minimum safety standards for CMVs, 49 U.S.C. 3102, 49 U.S.C. app. 2505, reflects the FHWA's belief that a smaller vehicle operating while designated as an "imminent hazard" presents the same kind of safety risk as a larger vehicle. Drivers of CMVs with a GVWR or GCWR greater than 10,000 pounds are already subject to civil penalties for violating out-of-service orders, as described in appendix A (IV) to part 386. The driver disqualifications set forth in this rulemaking will serve as an additional inducement to refrain from illegally operating a CMV in violation of an out-of-service order.

Definition

Out-of-service orders are issued in various forms. Operations out-of-service orders result from a Safety or Compliance Review conducted by the FHWA or an authorized enforcement officer of a State or local jurisdiction. Upon a finding of repeated failure to come into compliance with the Federal Motor Carrier Safety Regulations (FMCSRs) despite multiple enforcement actions, operations out-of-service orders direct a motor carrier to cease all or that

Required timing. The State shall qualify a driver as expeditiously as possible.

Recordkeeping requirements. The State shall maintain such driver records and cause such driver identification data to be retained on the CDLIS as the operator of the CDLIS specifies are necessary to the implementation and enforcement of the disqualifications listed for in §§ 384.215 through 384.219.

§ 384.232 Required timing of record checks.

The State shall perform the record checks prescribed in §§ 384.205, 384.206, and 384.220, no earlier than 10 days prior to issuance for licenses issued before October 1, 1995. For licenses issued after September 30, 1995, the State shall perform the record checks no earlier than 24 hours prior to issuance if the license is issued to a driver who does not currently possess a valid CDL from the same State and no earlier than 10 days prior to issuance for all other drivers.

Subpart C—Procedures for Determining State Compliance

§ 384.301 Substantial compliance—general requirement.

To be in substantial compliance with 49 U.S.C. app. 2708(a), a State must meet each and every standard of subpart B of this part by means of the demonstrable combined effect of its statutes, regulations, administrative procedures and practices, organizational structures, internal control mechanisms, resource assignments (facilities, equipment, and personnel), and enforcement practices.

§ 384.303 State certification for Federal fiscal year 1994 (FY 1994).

(a) **FY 1994 Certification Requirement.** Prior to July 18, 1994, each State shall review its compliance with this part and certify to the Federal Highway Administrator as prescribed in paragraph (b) of this section. The certification shall be submitted as a signed original and four copies to the State Director or Officer-in-Charge, Office of Motor Carriers, Federal Highway Administration, located in that State.

(b) **FY 1994 Certification Content.** The certification shall consist of a statement signed by the Governor of the State, or by an official designated by the Governor, and reading as follows: "I (name of certifying official), (position title), of the State (Commonwealth) of _____, do hereby certify that the State (Commonwealth) is in substantial compliance with all requirements of 49

U.S.C. app. 2708(a), as defined in 49 CFR 384.301, and contemplates no changes in statutes, regulations, or administrative procedures, or in the enforcement thereof, which would affect such substantial compliance through [the last date of the current Federal fiscal year]."

(Approved by the Office of Management and Budget under control number 2125-0542)

§ 384.305 State certifications for Federal fiscal years after FY 1994.

(a) **Certification requirement.** Prior to January 1 of each Federal fiscal year after FY 1994, each State shall review its compliance with this part and certify to the Federal Highway Administrator as prescribed in paragraph (b) of this section. The certification shall be submitted as a signed original and four copies to the State Director or Officer-in-Charge, Office of Motor Carriers, Federal Highway Administration, located in that State.

(b) **Certification content.** The certification shall consist of a statement signed by the Governor of the State, or by an official designated by the Governor, and reading as follows: "I (name of certifying official), (position title), of the State (Commonwealth) of _____, do hereby certify that the State (Commonwealth) has continuously been in substantial compliance with all requirements of 49 U.S.C. app. 2708(a), as defined in 49 CFR 384.301, since [the first day of the current Federal fiscal year], and contemplates no changes in statutes, regulations, or administrative procedures, or in the enforcement thereof, which would affect such substantial compliance through [the last date of the current Federal fiscal year]."

(Approved by the Office of Management and Budget under control number 2125-0542)

§ 384.307 FHWA program reviews of State compliance.

(a) **FHWA Program Reviews.** Each State's CDL program shall be subject to review to determine whether or not the State meets the general requirement for substantial compliance in § 384.301. The State shall cooperate with and provide information in conjunction with any program reviews under this section.

(b) **Preliminary FHWA determination and State response.** If, after review, a preliminary determination is made that a State does not meet one or more of the standards of subpart B of this part, the State will be informed accordingly prior to July 1 of the fiscal year in which the preliminary determination is made. The State will have up to thirty calendar days to respond to the preliminary determination. Upon request by the

State, an informal conference will be provided during this time.

(c) **Final FHWA determination.** If, after reviewing any timely response by the State to the preliminary determination, a final determination is made that the State is not in compliance with the affected standard, the State will be notified of the final determination.

§ 384.309 Results of compliance determination.

(a) A State shall be determined not substantially in compliance with 49 U.S.C. app. 2708(a) for any fiscal year in which it:

(1) Fails to submit the certification as prescribed in this subpart; or

(2) Does not meet one or more of the standards of subpart B of this part, as established in a final determination by the FHWA under § 384.307(c).

(b) A State shall be in substantial compliance with 49 U.S.C. app. 2708(a) for any fiscal year in which neither of the eventualities in paragraph (a) of this section occurs.

Subpart D—Consequences of State Noncompliance

§ 384.401 Withholding of funds based on noncompliance.

(a) **Following first year of noncompliance.** An amount equal to five percent of the funds required to be apportioned to any State under each of sections 104(b)(1), 104(b)(3), and 104(b)(5) of title 23, U.S.C., shall be withheld on the first day of the fiscal year following such State's first year of noncompliance under this part.

(b) **Following second and subsequent years of noncompliance.** An amount equal to ten percent of the funds required to be apportioned to any State under each of sections 104(b)(1), 104(b)(3), and 104(b)(5) of title 23, U.S.C., shall be withheld on the first day of the fiscal year following such State's second or subsequent year of noncompliance under this part.

§ 384.403 Period of availability; effect of compliance and noncompliance.

(a) **Period of availability.**

(1) **Funds withheld on or before September 30, 1995.** Any funds withheld under this subpart from apportionment to any State on or before September 30, 1995, shall remain available for apportionment to such State as follows:

(i) If such funds would have been apportioned under 23 U.S.C. 104(b)(5)(B) but for the provisions of this subpart, such funds shall remain available until the end of the second fiscal year following the fiscal year for

which such funds are authorized to be appropriated.

(ii) If such funds would have been apportioned under 23 U.S.C. 104(b)(1) or 104(b)(3) but for the provisions of this subpart, such funds shall remain available until the end of the third fiscal year following the fiscal year for which such funds are authorized to be appropriated.

(2) *Funds withheld after September 30, 1995.* No funds withheld under this subpart from apportionment to any State after September 30, 1995, shall be available for apportionment to such State.

(b) *Apportionment of withheld funds after compliance.* If, before September 30 of the last fiscal year for which funds withheld under this subpart from apportionment are to remain available

for apportionment to a State under paragraph (a) of this section, the State makes the certification called for in § 384.305 and a determination is made that the State has met the standards of subpart B of this part for a period of 365 days and continues to meet such standards, the withheld funds remaining available for apportionment to such State shall be apportioned to the State on the day following the last day of such fiscal year.

(c) *Period of availability of subsequently apportioned funds.* Any funds apportioned pursuant to paragraph (b) of this section shall remain available for expenditure until the end of the third fiscal year succeeding the fiscal year in which such funds are apportioned. Sums not obligated at the end of such period shall

lapse or, in the case of funds apportioned under 23 U.S.C. 104(b)(5), shall lapse and be made available by the Secretary for projects in accordance with 23 U.S.C. 118(b).

(d) *Effect of noncompliance.* If, at the end of the period for which funds withheld under this subpart from apportionment are available for apportionment under paragraph (a) of this section, the State has not met the standards of subpart B of this part for a 365-day period, such funds shall lapse or, in the case of funds apportioned under 23 U.S.C. 104(b)(5), shall lapse and be made available by the Secretary for projects in accordance with 23 U.S.C. 118(b).

[FR Doc. 94-11843 Filed 5-17-94; 8:45 am]
BILLING CODE 4910-22-0

HB

518

9-1.S1668\F
Cramer
4/2/96

CS FOR HOUSE BILL NO. 518()
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act exempting certain persons engaged in servicing certain vehicles or farm
2 implements from overtime wage requirements."

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

4 * Section 1. AS 23.10.060(d) is amended by adding a new paragraph to read:

5 (18) a flat rate mechanic primarily engaged in servicing automobiles,
6 trucks, or farm implements if the individual is employed by a nonmanufacturing
7 establishment primarily engaged in the business of servicing or selling those vehicles
8 or implements.

9 * Sec. 2. This Act applies to work performed on or after the effective date of this Act.

House Labor & Commerce Committee

State Capitol
Juneau, Alaska 99801-1182
907-465-4954

HB 518 SPONSOR STATEMENT

Persons engaged in selling and repairing automobiles are often paid on a commission basis. As a result, many of such people are desirous of working more than 8 hours a day or 40 hours a week. This presents a problem. The State of Alaska requires the payment of overtime for any time worked in excess of those limits. This is the case even where compensation is commission based.

Federal law provides mechanics and salesmen an exemption from overtime requirements. HB 518 would conform state law to the federal approach. Your support is urged.

House Labor & Commerce Committee

State Capitol
Juneau, Alaska 99801-1182
907-465-4954

HB 518 SECTIONAL ANALYSIS

Section 1:

Grants an overtime compensation exemption to salesmen, partsmen, and mechanics engaged in selling or servicing automobiles at nonmanufacturing establishments.

Section 2:

Provides that the Act applies only to work performed on or after its effective date.



Easy Street Auto, Inc.

February 26, 1996

VIA FACSIMILE

The Honorable Gary Davis
Alaska State Legislature
Juneau, Alaska
fax 465-3835

Support for HB 518, Overtime
Wage and Hour Requirements

Dear Representative Davis:

Wednesday, February 28, the House Transportation Committee will hear public testimony on HB 518, dealing with overtime wage and hour requirements. On behalf of the Alaska Auto Dealers Association and Easy Street Auto, Inc., I would like to express my support for House Bill 518. This bill will serve to bring the State of Alaska in line with the federal overtime exemption law regarding the automotive industry.

HB 518 deals exclusively with business' that are involved in the marketing of vehicles to the exclusive purchaser. This makes the bill a very narrow piece of legislation and we feel that is appropriate.

At the national level, there is a major shortage of qualified technicians. In Alaska this is particularly true. This offers an excellent opportunity for local employment. It is unfortunate that the available training for citizens is limited.

In other areas of the country technicians have the opportunity to earn as much income as they aspire to. Productivity increases because technicians know that by enhancing their education and skills through training they become more efficient and are compensated for their efforts. In Alaska technicians are rewarded for improving their skills but never reach the income potential of their counterparts outside.

It is in the best interest of Alaska to see that HB 518 passes the Legislature and becomes law.

Thank you for your time and effort.

Sincerely,

EMORY G. SHELLEY
President-Easy Street Auto, Inc.
Secretary-AK Auto Dealers Assn.

EGS/ds
auto:9698

"Easy to do business with Easy Street"

925 East Fifth Avenue • Anchorage, Alaska 99501 • (907) 258-3300

LETTER OF SUPPORT

(7)

HOUSE COMMITTEE REPORT

Date Referred to Committee: February 15, 1996

FURTHER REFERRALS: Labor and Commerce

Date of Committee Action: 4/4/96

The TRANSPORTATION Committee considered:

HB 518

HOUSE BILL NO. 518

OVERTIME COMP FOR VEHICLE SALES PEOPLE

"An Act exempting certain persons engaged in selling or servicing certain vehicles from overtime wage requirements."

recommends it be replaced with the following committee substitute [] the same title [] a new title

[] additional referral to Committee [] attached amendment(s)

ADOPTS: Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date) [] fiscal note(s) [] fiscal note(s)

[X] zero fiscal note(s) Labor [] zero fiscal note(s)

Table with columns: SIGNING WITH RECOMMENDATIONS, DP, DNP, NR, AM. Rows include signatures: W.F. Williams, Ron Brice, Kenneth James, Greg Smith, Greg Sanders.

CHAIR'S SIGNATURE Greg Smith