


ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 86/2

9487 HOUSE TRANSPORTATION

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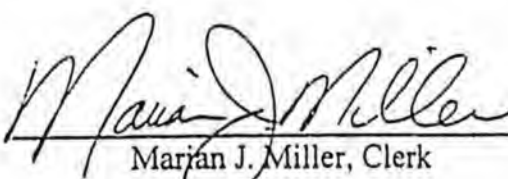
Section 4. Effective Date. This resolution shall be effective immediately upon adoption.

Adopted this 12th day of January, 1998.



Dennis Egan, Mayor

Attest:



Marian J. Miller, Clerk

Fault: Engelmann



March 14, 1997

Mr. Joe Perkins, Commissioner
Alaska Department of Transportation & Public Facilities
3132 Channel Drive
Juneau, AK 99801-7898

Subject: Craig City Council Position on Operation of the MV Malaspina

Dear Commissioner Perkins:

The City of Craig supports the continued operation of the MV Malaspina as a line vessel of the Alaska Marine Highway System in Southeast Alaska. It is our understanding that while the costs for keeping the Mal on-line until the year 2016 are very high, (\$10-\$15 million), the expenditure necessary to maintain the vessel as a day boat is relatively inexpensive (\$2-\$3 million). This being the case, we believe that the Mal can best be utilized as a day boat with it's service area being limited to Southeast Alaska.

We have advocated from the earliest discussions of the construction of the new vessel that the Malaspina must be kept on line. We stated that it makes no sense to reduce the number of vessels in the fleet and that if it is the intent to take the Mal out of service with the advent of the new vessel, the money would be better spent to upgrade the existing fleet and not construct the new vessel. We were assured that there were no plans to take the Mal out of service.

Keeping the Mal on line is especially important as there are so many communities in Southeast Alaska that are not adequately served now. We do not believe that budgetary considerations are the only criteria for making this decision. We believe that service is the primary consideration and that it is up to management to creatively finance the operation of the existing fleet. The current plan to have only three vessels on-line during the winter schedule for 1997-1998 is totally inadequate and threatens life/safety for our region. If management is not able to make the case to the legislature for adequate funding of the AMHS, perhaps it is indeed time to establish the Alaska Marine Highway Authority.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dennis Watson".

Dennis Watson
Mayor

cc: Governor Knowles
Senator Mackie
Representative Kookesh

CITY OF WRANGELL, ALASKA

RESOLUTION NO. 03-97-659

A RESOLUTION OF THE COUNCIL OF THE CITY OF WRANGELL, ALASKA, SUPPORTING THE RETENTION OF THE MALASPINA TO PROVIDE NEEDED SERVICE TO THE ALASKA MARINE HIGHWAY SYSTEM

WHEREAS, the Alaska Marine Highway System has requested input from affected communities concerning deployment alternatives for the motor vessel Malaspina; and

WHEREAS, the retention of the Malaspina for use as a day-boat in Lynn Canal or other needed Marine Highway services was supported by all eleven communities participating in the recent AMHS Advisory Committee Meeting; and

WHEREAS, retention of the Malaspina will permit better long-term service alternatives which would not be available if the Malaspina is sold; and

WHEREAS, the sale of the Malaspina would keep the AMHS as status quo rather than providing an additional vessel to service the needs of all Southeast communities; and

WHEREAS, the sale of the Malaspina would generate very little revenue (under \$100,000); and

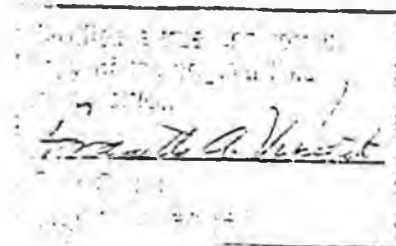
WHEREAS, Wrangell's pressing need for economic recovery presents a compelling need for continued and better Marine Highway service.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Wrangell, Alaska, supports the retention of the Malaspina as an integral part of the Alaska Marine Highway System.

ADOPTED: _____ March 11 _____, 1997

Douglas W. Roberts
Douglas W. Roberts

ATTEST: Franette A. Vincent
Franette A. Vincent, City Clerk



Sponsor: Administrator

CITY AND BOROUGH OF SITKA

RESOLUTION NO. 97-889

**A RESOLUTION OF THE ASSEMBLY OF THE CITY AND BOROUGH
OF SITKA, ALASKA SUPPORTING THE RETENTION OF THE MALASPINA TO PROVIDE
NEEDED SERVICE TO THE ALASKA MARINE HIGHWAY SYSTEM, AND IMPROVED
SERVICE TO SITKA**

WHEREAS, the Alaska Marine Highway System has requested input from affected communities concerning deployment alternatives for the motor vessel Malaspina; and

WHEREAS, the retention of the Malaspina for use as a day-boat in Lynn Canal or other needed Marine Highway services was supported by all 11 communities participating in the recent AMHS Advisory Committee Meeting; and

WHEREAS, retention of the Malaspina will permit better service alternatives which would not be available if the Malaspina is sold; and

WHEREAS, the sale of the Malaspina would generate very little revenue (under \$100,000); and


WHEREAS, Sitka's Marine Highway service is by far the worst in the entire mainline system, with Sitka receiving one-third to one-half or less of the service all other mainline ports receive; and

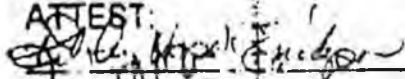
WHEREAS, Sitka's 8,500 population and pressing needs for economic recovery present as a compelling need for better Marine Highway service

NOW, THEREFORE, BE IT RESOLVED by the Assembly of the City and Borough of Sitka, Alaska supports the retention of the Malaspina as an integral part of the Marine Highway System.

BE IT FURTHER RESOLVED that the Assembly of the City & Borough of Sitka, Alaska supports BASIC SERVICES FOR SITKA WITH NO FURTHER EROSION IN SERVICE including three northbound and three southbound mainline sailings during the summer season spread evenly throughout the week, with reasonable connections to and from Bellingham and Prince Rupert and Haines and Skagway; and continued feeder ferry service to the villages

PASSED AND APPROVED by the Assembly of the City and Borough of Sitka, Alaska on this 11th day of March, 1997.


Peter S. Hallgren, Mayor

ATTEST:

Kathy Hope Erickson
Municipal Clerk



CITY OF HAINES, ALASKA

P.O. BOX 1049
HAINES, ALASKA 99827
(907) 766-2231 • TOURISM (907) 766-2234 • FAX (907) 766-3179

0126-01
MAR 19 1997
ALASKA
MARINE HIGHWAY

March 19, 1997

Mr. Gary Hayden
System Director
Alaska Marine Highway System
Department of Transportation and
Public Facilities
P.O. Box 25535
Juneau, AK 99802-5535

Post-It™ brand fax transmittal memo 7671		# of pages » 2
To GARY HAYDEN.	From TOM HEALY	
Co. AMHS	Co. HAINES	
Dept.	Phone #	
Fax # 465 2746	Fax #	

RE: Fleet Deployment

Dear Mr. Hayden:

This letter responds to Paul Engleman's 3/4/97 letter requesting statements in regards to fleet deployment issues.

The City of Haines favors keeping the Malaspina in service following the arrival of the new ferry Kennicott. The Malaspina will be available to supplement service between Juneau, Haines and Skagway to address the high demand for service in the Lynn Canal. Operating an additional vessel also allows the potential to deploy the fleet to provide a higher level of service to other communities.

The City of Haines prefers schedule alternate 1 as presented at the 2/26/97 Advisory Committee meeting. This schedule allows for increased service, but with lower additional costs than other schedule alternates.

A major concern regarding the proposed use of the Malaspina as a "day boat" in Lynn Canal is the fact that it stops in Haines just once on each round trip between Juneau and Skagway. Haines understands that this is necessary to reduce overtime costs. Haines already experiences bypasses on the "double-shuffle" mainline summer service, but, again, understands that this is necessary in order to fit the second run into the schedule.

Bypassing Haines will become a critical concern, however, in the event the system adopts a zone schedule. Alternates 6, 7 and 7a, for example, reduce service to Haines by up to fifty percent and add delays of up to twenty-four hours to travel between Haines and

Mr. Gary Hayden
March 19, 1997
Page 2

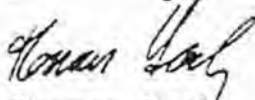
Skagway. Regular service in both directions between Haines and Skagway is a good example of a popular and profitable route that the Marine Highway should retain, but zone scheduling as proposed will devastate that service.

If the Marine Highway System considers a true "hub and spoke" zone schedule, Haines will insist that the vessel dedicated to the Lynn Canal stop in Haines both northbound and southbound. If this cannot occur, Haines will strongly oppose the dedication of a single vessel in the Lynn Canal and will support instead the traditional mainline vessel routing as is presently in effect, including the "double-shuffle" summer service.

Also in regards to Alternate 7, Haines questions whether scheduling one vessel doing one round trip north of Juneau each day will provide enough capacity to adequately address the capacity needs of the Juneau-Haines-Skagway route. If not, then supplementing this service with other mainline vessels is necessary.

Please give me a call if you have any questions.

Sincerely,



Thomas Healy
City Administrator
CITY OF HAINES

CITY OF SKAGWAY

GATEWAY TO THE GOLD RUSH OF '98"

P. O. BOX 415 SKAGWAY, ALASKA 99840

(PHONE) 907-983-2297

(FAX) 907-983-2151

March 7, 1997

Mr. Joe Perkins, Commissioner
Alaska Department of Transportation and Public Facilities
3132 Channel Drive
Juneau, AK 99801-7898

Dear Commissioner Perkins,

The City of Skagway would like to be put on record in support of continuing operation of the Malaspina following delivery of the MV Kennicott in the Summer of 1998. This would be the first opportunity in many years for the Alaska Marine Highway System to increase capacity. There is also a significant potential that the continued operation of the Malaspina could be at least self liquidating, if not a revenue generator for the system.

We are also in support of operating the Malaspina as a day boat in the Upper Lynn Canal. This accomplishes two things. First, it offers a schedule that has arrivals during a consistent hour throughout the week. This is a great benefit to businesses that schedule operations around those of the AMHS.

Second, it allows the potential for some of the current Lynn Canal service to be shifted elsewhere in the system for the benefit of those communities that have increasing demands of their own, or have a historical record of low service levels.

We have an opportunity with the construction of the new vessel to offer the region the potential for enhanced economic prosperity. Given the recent downturn in the timber industry, and challenges in the fishing industry, this prosperity will be sorely needed and greatly appreciated.

After the current Southeast Alaska Transportation Plan is developed, and some of its components are implemented, it will then be more appropriate for the Malaspina to go into its well deserved retirement. In the meantime, it is a valuable asset that must be retained in support of the communities of Southeast Alaska.

Sincerely,



Sioux Plummer
Mayor

cc: Governor Knowles
Senator Mackie
Representative Kookesh
City Council
SE Mayors
Alaska Municipal League
Southeast Conference

MALASPINA 1998

Mr. Chairman, ladies and gentlemen, thank you for the opportunity to describe this proposed legislation, which seeks your approval to operate the M/V Malaspina in the Lynn Canal. The timing of this improved service was prompted in large part by two imperatives which required timely action.

The first imperative was the need to publish the summer '98 schedule not later than early January. Earlier publication was desirable, but at the latest, the schedule had to be available for the travel trade shows which take place following the holidays. The advertisers who had purchased space in the schedule book, the show attendees, and individual travelers depend upon early publication in order to make their plans. We had agreed to provide the schedules to the printer on 7 September, but events following the Prince Rupert blockade prevented that. The necessity to get a schedule to the printer was urgent, but we do have a finished product.

The second requirement was to provide for the contingency that the introduction of our new ship, the M/V Kennicott, might be delayed or interrupted. In the spring of 1997 the Marine Highway Advisory Board had cited a requirement for a backup ship. The logical ship for that purpose, and the only one with a capability approaching that of Kennicott, is the Malaspina.

Neither of the other mainline ships has the speed or capacity to meet the backup requirement, and in any case, both would be fully employed on other demanding routes.

Like all of our ships, Malaspina must hold a US Coast Guard Certificate of Inspection, issued each year. The Certificate in the case of the Malaspina expired on 31 October. If she is to operate at all in 1998, either as a temporary replacement for the Kennicott or in the Lynn Canal, she must be drydocked and inspected. In addition, her engines and generators have reached their maximum operating hours and require overhaul. We have already begun this work, which is not intended to do anything more than to make it legally possible for her to carry passengers in 1998.

Having gone to the effort of restoring the ship's capability to operate, it seemed to me that if she were not required to substitute for the Kennicott, we would have a significant, state capital asset which would not earn any income in the summer of 1998 if we were to simply leave her alongside the pier. The most prudent choice of a site for the Malaspina to operate this summer is the Lynn Canal, where her revenues can be maximized. That choice is based on the results of studies which show a 7.3 annual growth rate in the Juneau-Skagway city pair. The same studies show that, in calendar year 1995, ridership wholly within Lynn Canal exceeded 96,000 passengers and 27,000 vehicles, and generated nearly \$3.4 million in revenue. Additional traffic demand to ports of call

south of Juneau generated an additional 43,000 passengers and more than 11,000 vehicles, adding another \$1.7 million in marginal fare revenue attributable to the Lynn Canal segments of these trips. Operating seven days per week this summer, I believe the Malaspina can pay her way. She will bring to the Marine Highway something that it has not had until now; daily, predictable service on a high-demand route. Passengers, and their servicing travel agents, will be confident that they can move north or south in the Lynn Canal every day, at reasonable hours. It's the kind of service that individuals and businesses served by the Marine Highway have been seeking for years. Now the opportunity is in our grasp.

Earlier efforts to develop a Lynn Canal service had foundered on the issue of labor agreements. While we were not successful in reducing manning levels as much as had once been hoped, we were able to obtain agreement that if the ship's hotel services did not earn revenue adequate to justify the initial employment levels, those shipboard positions might be reduced proportionally. In other words, we are able to monitor revenue and if that income is not sufficient, adjust the crew level in the hotel area. I would like to take this opportunity to congratulate all of the unions involved in reaching a Malaspina agreement, but most especially the Inland Boatmen's Union, for the vision and imagination they have displayed. That willingness to break new ground will, I trust, prompt a similar response to this legislation.

I think it is important to point out that the Malaspina labor agreement is the first example of a labor-management document that does not increase shipboard labor costs in the entire history of the Alaska Marine Highway System, and perhaps in the history of the State of Alaska. The agreement creates an ongoing relationship between shipboard manning and the vessel's success as a business venture. This is, to say the least, a rare provision in any labor contract. This agreement is the first, to my knowledge, which establishes a relationship between the profitability of a Marine Highway operation and the number of jobs it supports.

The Malaspina labor agreement is unique. It is a stand-alone document, intended only for the special circumstances surrounding the Malaspina in the Lynn Canal setting. But I'd like to suggest that it is in the best interests of the State to encourage imaginative approaches to labor issues and to welcome the profitability concepts embodied in the proposed Malaspina operations.

Finally, the Malaspina/Lynn Canal proposal is offered as an innovation in meeting our transportation needs. It provides an opportunity to test, at minimum cost, one approach to a possible future System, namely the "dayboat." If our operational experience so indicates, it is possible that the Malaspina could be replaced by a purpose-built ship, one designed for the Lynn Canal and offering

even greater advantages. The conceptualization and design of that ship can be accomplished using the data we have gained from operating the Malaspina for a time in this role. This proposal will collect real data, in a controlled environment, in a kind of clinical setting.

In researching this proposal, I noted that every recent study of AMHS operations had one element that appeared repeatedly: a dayboat in the Lynn Canal. Many other conclusions were in conflict with one another, but the Lynn Canal dayboat idea was persistent. I believe that this concept is persistent because it makes both economic and operational sense.

In summary, the Malaspina/Lynn Canal proposal offers an opportunity to:

- Obtain maximum use of a capital asset.
- Provide long-sought daily service on a heavy demand route.
- Establish a profit-related basis for AMHS operations.
- Implement an innovative, lower-cost labor agreement.
- Test and evaluate the potential for dayboat operations.
- Operate the ship on a revenue-neutral basis.

I am aware that this proposal is viewed by some as radical and that it has evoked alarm in some quarters. The mere fact that it contemplates a ninth ship in the Marine Highway inventory is enough to cause some to object. I would like to suggest that this proposal is in fact consistent with the legislature's stated

objectives to reduce AMHS costs while augmenting service. Those objectives can not be met unless we alter our current operating concepts. I urge the legislature to make a start by approving this legislation and I look forward to cooperating with both houses as you examine this proposal.

Thank you for your time and for the opportunity to make this statement.

MALASPINA LYNN CANAL SERVICE

- Service Demand (internal Lynn Canal only)
 - ▶ 96,000 passengers annually
 - ▶ 27,000 vehicles annually
 - ▶ 5.3% - 7.3% annual growth rate
 - ▶ \$5,011,300. revenue

- Business Concept
 - ▶ Restore Coast Guard Certificate. winter '98 (\$750,000.)
 - ▶ Depart Juneau 7:00 AM. return 10:00 PM daily. *summer* only.
 - ▶ Initially. offer cafeteria service & staterooms.
 - ▶ Adjust hotel crew size to meet demand and maintain profitability.
 - ▶ Market the service aggressively and maximize ridership.

- Operating Costs
 - ▶ \$816,541. 29 May to 30 June
 - ▶ \$3,979,600. 1 July to 7 Sept., and June 1999
 - ▶ Includes \$710,000. layup winter 98-99

- Revenues
 - ▶ \$642,146. 29 May to 30 June
 - ▶ \$2,215,157. 1 July to 7 Sept., and June 1999

- Net GF requirement
 - ▶ \$174,395. FY 98
 - ▶ \$1,764,443. FY99

- Opportunities
 - ▶ Obtain maximum use of a capital asset.
 - ▶ Provide long-desired daily service on heavy demand route.
 - ▶ Establish a profit-related basis for AMHS operations.
 - ▶ Implement an innovative and reduced-cost labor agreement.
 - ▶ Test and evaluate the potential for dayboat service.
 - ▶ Operate the ship on a revenue-neutral basis.

FY98 ESTIMATE M/V M/V MALASPINA LYNN CANAL SERVICE

M/V MALASPINA Lynn Canal Service Only - 4.7 WEEKS

(May 29 thru June 30, 1998)

(Operates with reduced crew only under modified contract terms)

PROJECTED EXPENDITURES	
Personal Services	\$ 521,725
Travel	2,050
Contractual	78,875
Supplies	215,891
Equipment	-
Estimated Cost	\$ 816,541

PROJECTED TRAFFIC	TOTAL	PERWK	REV/WK	TOTAL
Passengers	22,568	4,823.0	\$ 130,221	\$ 533,906
Vehicles	2,068	440.0	\$ 26,400	\$ 108,240
		Estimated Revenue	\$	642,146

Net GF Requirement (174,395)

- > As a point of reference, the internal Lynn Canal traffic in 1995 was 96,487 passengers and 27,186 vehicles. This generated \$3,400,000 in revenue. It is important to note that this traffic and revenue was over an entire calendar year and served by by all the mainline vessels during the summer months.
- > External traffic added another \$1,569,900 in revenue, and 43,439 passengers/ 11,138 vehicles. External traffic is defined as that traffic originating from points other than Juneau/Haines/Skagway. Other mainline vessels will still be handling external traffic.
- > Revenue estimates assume a total from all sources (tariff & onboard sales) of approximately \$32.50 per passenger.
- > Expenditure estimates do not include additional non-permanent support staff at the terminals, reservations, fiscal and payroll sections. They do include increased supply and utility costs at the Haines, Skagway and Juneau terminals.

FY99 ESTIMATE M/V M/V MALASPINA LYNN CANAL SERVICE

M/V MALASPINA Lynn Canal Service Only - 14.7 WEEKS

(JULY-SEPT 7, 1998 & JUN 1999)

(Operates with reduced crew only under modified contract terms)

PROJECTED EXPENDITURES	
Personal Services	\$ 2,036,000
Travel	8,000
Contractual	375,000
Supplies	850,000
Equipment	-
Layup	710,600
Estimated Cost	\$ 3,979,600

PROJECTED TRAFFIC	TOTAL	PER/WK	REV/WK	TOTAL
Passengers	68,000	4,823.0	\$ 130,703	\$ 1,342,917
Vehicles	6,200	440.0	\$ 26,400	\$ 372,240
		Estimated Revenue		\$ 2,215,157

Net GF Requirement (1,764,443)

- > As a point of reference, the internal Lynn Canal traffic in 1995 was 96,487 passengers and 27,186 vehicles. This generated \$3,400,000 in revenue. It is important to note that this traffic and revenue was over an entire calendar year and served by all the mainline vessels during the summer months.
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- > Revenue estimates assume a total from all sources (tariff & onboard sales) of approximately \$32.50 per passenger.
- > Expenditure estimates do not include additional non-permanent support staff at the terminals, reservations, fiscal and payroll sections. They do include increased supply and utility costs at the Haines, Skagway and Juneau terminals.

SUMMARY OF SIGNIFICANT CONTRACT CHANGES

M/V MALASPINA SUPPLEMENTA AGREEMENT

(NORTH LYNN CANAL SERVICE)

1. Provides a meet & confer process for timely adjustments to crew sizes based upon traffic volumes and available funding levels.
2. Eliminates most/all travel expenses associated with crew change-outs.
3. Limits State's "unearned wage" liability for injury/illness to max. 12 hrs. pay.
4. Provides 24-hr. grace period prior to "split wage" liability resulting from absent crew members.
5. Eliminates 84-hour "minimum guarantee" pay for Relief employees; paid only for actual time worked.
6. Provides for daily (rather than weekly) annual/medical leave usage.

MALASPINA LYNN CANAL SERVICE

- Service Demand (internal Lynn Canal only)
 - ▶ 96,000 passengers annually
 - ▶ 27,000 vehicles annually
 - ▶ 5.3% - 7.3% annual growth rate
 - ▶ \$5,011,300. revenue

- Business Concept
 - ▶ Restore Coast Guard Certificate, winter '98 (\$750,000.)
 - ▶ Depart Juneau 7:00 AM, return 10:00 PM daily, *summer* only.
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- Net GF requirement
 - ▶ \$174,395. FY 98
 - ▶ \$1,764,443. FY99

- Opportunities
 - ▶ Obtain maximum use of a capital asset.
 - ▶ Provide long-desired daily service on heavy demand route.
 - ▶ Establish a profit-related basis for AMHS operations.
 - ▶ Implement an innovative and reduced-cost labor agreement.
 - ▶ Test and evaluate the potential for dayboat service.
 - ▶ Operate the ship on a revenue-neutral basis.

SOUTHEAST CONFERENCE

An Alaska Regional Development Organization and USDA Resource Conservation and Development Council

A RESOLUTION SUPPORTING THE INTER-ISLAND FERRY AUTHORITY

(Resolution 98-20)

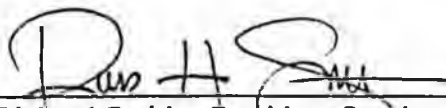
- WHEREAS** the island communities of Southeast Alaska are connected with each other and with other travel modes by our ferry services, and
- WHEREAS** state owned and operated ferry service to the outport communities of Southeast Alaska has been reduced to its lowest level since it was established in 1974, and
- WHEREAS** in light of the fact that ferry service to the island communities of Southeast Alaska is the main highway between communities and AMHS scheduling does not provide adequate year-around service to these communities, and
- WHEREAS** state law provides for and encourages establishment of community transportation authorities to meet their own transportation needs, and
- WHEREAS** several island communities of Southeast Alaska have formed, under State law, the Inter-Island Ferry Authority for the purpose of constructing and operating a feeder vessel ferry system for inter-island transportation and commerce, and
- WHEREAS** the Inter-Island Ferry Authority is necessary to meet the transportation needs of the island communities of Southern Southeast Alaska.

NOW THEREFORE BE IT RESOLVED THAT:

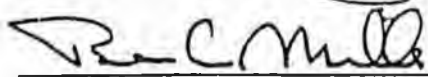
Southeast Conference supports the Inter-Island Ferry Authority in developing and operating feeder vessels from Prince of Wales Island to Ketchikan, Wrangell, Mitkof Island, and other island communities in Southern Southeast Alaska.

ADOPTED BY SOUTHEAST CONFERENCE ON SEPTEMBER 20, 1997.

Witness:


Richard Smith - President Southeast Conference

Attest:


Berne C. Miller - Executive Director

SOUTHEAST CONFERENCE

An Alaska Regional Development Organization and USDA Resource Conservation and Development Council

A RESOLUTION URGING STATE SUPPORT FOR INCREASED INDEPENDENT INVOLVEMENT IN THE ALASKA MARINE HIGHWAY SYSTEM

(Resolution 98-06)

- WHEREAS** the Alaska Marine Highway System is the lifeblood of southeast Alaska's economic and social life, without which its communities would wither and die, and
- WHEREAS** current Marine Highway System capacity is insufficient to meet demand during peak summer periods and is infrequent and inconvenient at other times, thereby constraining economic development and social relations affecting Southeast Alaska's residents, and
- WHEREAS** the State of Alaska will likely be unable to commit the resources needed to replace existing vessels in a timely manner, let alone purchase new vessels, and
- WHEREAS** the Prince of Wales Island Port Authority and the Goldbelt Corporation are both currently developing concepts, plans, and proposals for independent construction and operation of ferries on routes in Southeast Alaska, and
- WHEREAS** execution of these and similar projects would increase marine transportation system capacity in Southeast Alaska, thereby helping strengthen and diversify the region's economy, to the benefit of Southeast Alaska's people and the people of other parts of the State as well.

NOW THEREFORE BE IT RESOLVED THAT:

Southeast Conference urges the State of Alaska to facilitate development of independent ferry service in Southeast Alaska by soliciting private sector ideas about how Marine Highway System capacity can be increased, by encouraging public-private partnerships in marine transportation system development, and by constructing related transportation links as appropriate.

Southeast Conference requests the Administration to encourage and facilitate private sector efforts so that when an independent project is determined to be operationally and financially feasible, every effort is made to qualify such projects as integral parts of transportation system development plans for Southeast Alaska and for the State as a whole.

ADOPTED BY SOUTHEAST CONFERENCE ON SEPTEMBER 20, 1997.

Witness:


Richard Smith - President Southeast Conference

Attest:


Berne C. Miller - Executive Director

City of Skagway
P.O. Box 415
Skagway, AK 99840
(907)983-2297 Phone
(907)983-2151 Fax

February 4, 1998

Senator Jerry Mackie
State Capitol, Room 427
Juneau, AK 99801-1182

Dear Senator Mackie,

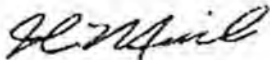
As you know, the City of Skagway is greatly interested in the prospect of operating the Malaspina as a day boat in the Lynn Canal. We see this as an opportunity to address a capacity bottleneck at this end of the system, provide consistent and convenient service to this highly utilized system component, and to free up other AMHS vessels for increased service to other southward ports.

We are also aware of the budgetary challenges facing the State as you consider the implementation of this service. To this end we have secured a commitment from our private dock owner, the White Pass Corporation, for free winter berthing of the Malaspina during lay-up. I am also willing to go to the City Council for additional incentives in utility services if necessary to make the retention of the Malaspina more economically viable.

We feel very strongly that the provision of dayboat service, using the Malaspina, is of sufficient impact to the City and the region that we make this offer in an attempt to overcome at least a portion of the fiscal impediments you face. I have spoken with Mr. Doll at AMHS about our offer, and am willing to speak with any legislative or administrative body to move this idea forward. Please let me know what else I can do to assist you in your efforts to secure the funding for this dayboat operation. You can contact me at 983-2250, or Bob Ward, our City Manager, at 983-2297.

I hope this gives you some ammunition as you enter into this battle.

Sincerely,



John Mielke
Mayor

cc: Governor Knowles
Representative Kookesh
Senate Transportation Committee
House Transportation Committee
Commissioner Perkins - DOTPF
Bob Doll, Alaska Marine Highway System

DRAFT OPERATING PLAN 1998-1999
Dated November 15, 1997

Vessel Operations	3vo Wks Op Plan	Weekly FY 97 Costs	Total Op Plan Op Costs	Overhaul Weeks Op Plan	Weekly Pers Costs Overhaul	Total Op Plan Overhaul	Lay-Up Weeks Op Plan E	Weekly FY 97 Costs Layup	Total Op Plan Lay-Up	Total Op Plan Overall Costs	Total Estimated Revenue
Columbia	34.8	224,328.0	7,761,079.6	6.6	57,673	378,994	10.7	65,174	698,293	8,838,968	8,857,491
Kennicott	41.9	234,700.0	8,833,930.0	6.6	55,000	361,429	0.0	0	0	10,195,359	10,829,100
Matanooka	28.6	170,087.0	4,863,916.2	23.6	32,000	754,206	0.0		0	5,618,202	5,240,156
Taku	39.0	157,932.0	6,159,348.0	8.6	40,000	344,000	0.0		0	6,503,348	6,077,026
Aurora	38.7	88,453.0	3,423,131.1	13.3	68,845	915,639	0.0		0	4,338,770	1,890,398
LeConte	45.4	88,284.0	4,462,093.6	6.6	65,369	429,568	0.0		0	4,891,661	1,629,649
Sub-total	228.2	973,782.0	36,504,098.5	65.2	318,887	3,183,915	10.7	65,174	698,293	40,386,308	34,523,820
All Vessels		20,438	1,062,776							1,062,776	
SE Vess Risk Mgmt FY 97		46,134	2,946,203							2,946,203	
SE Vess Shore Side		11,976	622,757							622,757	
SE Vess Leave		147,985	7,695,220							7,695,220	
TOTAL SE		1,200,295	46,631,055	65.2	318,887	3,183,915	10.7143	65,174	698,293	62,713,282	34,523,820
Tustumena	45.7	84,187	3,847,345.9	21.9	49,925	1,091,218	0.0	0	0.0	4,938,563.8	2,410,859.0
Barlott	23.9	60,158	1,437,776.2	6.9	54,574	374,222	21.2	5,238	111,045.8	1,923,042.5	1,679,141.0
Sub-total	69.6	144,345	5,285,122	28.7	104,499	1,465,440	21.2	5,238	111,046	6,861,607	4,090,000
All Vessels		8,227	427,804							427,804	
SW Vess Risk Mgmt FY 97		14,164	736,551							736,551	
SW Vess Shore Side		0	0							0	
SW Vess Leave		47,167	2,452,684							2,452,684	
TOTAL SW		213,903	6,902,101	28.7	104,499	1,465,440	21.2	5,238	111,046	10,476,646	4,090,000
TOTAL SYSTEM	297.8	1,414,199	57,733,215	93.9	423,386	4,649,354	31.9	70,412	809,339	63,191,908	38,613,820

	EST. EXPENSE	FUNDING	AMOUNT
VESSELS	63,191,908	FY97 REVENUE	38,872,500
SHORE COSTS	9,140,900	FY98 GF	27,440,000
TOTAL FY99	72,338,808	SUBTOTAL	66,312,500
SHORTFALL	(9,026,308)		

AMHS FUND SUMMARY

	FY92	FY93	FY94	FY95	FY96	FY97	FY98	FY99
	Actual	Actual	Actual	Actual	Actual	Actual	Estimated	Estimated
Beginning Fund Balance	40,538.3	45,601.0	46,136.7	45,424.2	46,249.1	44,046.6	\$41,677.6	\$38,209.1
AMHS General Fund Appropriation	30,670.0	30,000.0	28,715.8	28,397.2	28,263.2	28,433.2	\$30,940.0	\$28,200.0
CIP Receipts/Interagency Receipts	1,003.3	1,288.0	1,320.0	1,341.0	1,768.0	1,028.1	\$1,157.4	\$1,227.4
AMHS Expenditures	(69,709.0)	(71,624.0)	(71,124.0)	(71,138.0)	(71,351.4)	(70,851.9)	(\$73,203.9)	(\$72,338.8)
AMHS Building				(500.0)				
AMHS Overhaul				500.0				
Other Fund Transfers Out(DOT/PF)	(6.3)	(6.3)	(6.3)	(6.3)	(6.3)	0.0	\$0.0	\$0.0
Cash In Transit or Due from Other Fund	207.0				468.0	149.1		
AMHS Revenues	42,837.7	40,878.0	40,372.5	42,231.0	38,656.0	38,072.5	\$37,638.0	\$38,613.0
Ending Fund Balance	45,601.0	46,136.7	45,422.7	46,249.1	44,046.6	41,677.6	\$38,209.1	\$33,911.5

NOTE: Beginning with FY98 CIP and I/A Receipts and associated expenditures are not included in the annual financial Balance Sheet or Statement of Activity in the Annual Financial Report. This is due to changes in GAAP.

The figures on this document for FY92 thru FY96 balance to the Alaska Marine Highway System Fund Trial Balance.

These figures include CIP receipts and associated expenditures. Since the AMHS Administrative Building and AMHS Overhaul appropriations are a part of the fund, expenditures and or re-appropriations are reflected.

AMHS Historical Data

FY	Revenue	General Fund Appropriation	Operating Expenditures	Passenger Traffic	Vehicle Traffic	Service Weeks			
						Total AMHS	Mainline	Feeder	Southwest
76	\$ 15,165	\$ 13,541	\$ 28,706	270,039	68,608	(data unavailable)			
77	17,640	15,943	33,584	283,123	71,204	326.1	150.1	93.5	82.6
78	16,163	18,247	34,410	229,879	59,354	352.3	143.6	126.1	82.6
79	19,280	18,698	37,978	280,561	69,238	350.1	141.4	121.8	87.0
80	21,165	24,755	45,920	300,971	72,459	341.5	137.1	117.4	87.0
81	24,746	26,384	51,130	337,635	30,510	337.1	119.7	130.4	87.0
82	29,069	27,154	56,223	350,379	85,466	356.6	139.2	130.4	87.0
83	29,925	30,139	60,064	364,358	91,721	344.0	133.0	125.0	86.0
84	32,510	29,752	62,262	368,613	93,544	358.0	144.0	129.0	85.0
85	33,708	31,603	65,310	366,910	99,164	369.0	148.0	133.5	87.5
86	33,601	32,301	65,902	363,881	95,880	372.7	151.6	136.7	84.4
87	33,126	29,949	63,075	358,375	96,104	343.9	139.3	118.3	86.3
88	34,308	28,863	63,171	325,449	84,796	308.8	138.5	85.9	84.4
89	35,907	29,264	65,171	338,258	88,789	313.5	135.3	96.9	81.3
90	36,122	31,800	67,037	354,258	92,991	307.5	137.5	88.7	81.3
91	42,561	37,100	73,250	366,026	94,517	297.1	142.3	88.8	66.0
92	42,838	30,670	68,993	374,001	96,863	305.4	141.0	91.9	72.5
93	40,879	30,000	70,950	351,525	92,561	296.4	126.9	89.7	79.8
94	40,373	28,716	69,123	350,200	93,962	297.7	140.4	80.0	77.3
95	42,231	28,397	69,938	345,030	91,026	307.2	142.1	83.6	81.5
96	38,537	28,263	68,714	329,398	88,823	292.6	136.8	85.2	70.6

NOTES:

Weeks of service for FY's 77-82 is based on "months of service" listed in historical records and may be inexact.

The MV Aurora came on line late in FY 77.

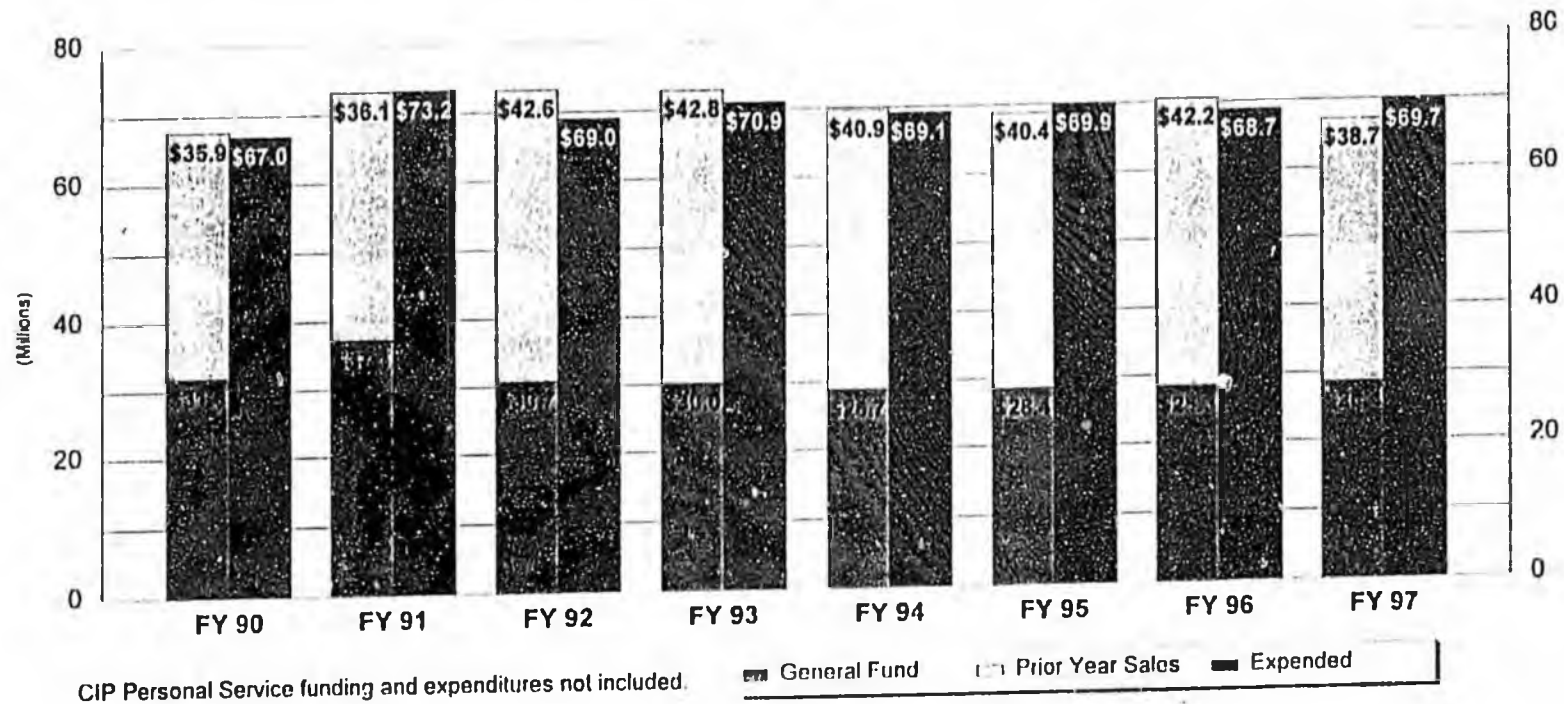
The MV Chilkat served Hollis and Metlakatla year-round through FY 87, then provided limited winter service in FY 88 and in FY 90, its last year of operation for the State.

Major refurbishment projects, affecting the level of service, occurred as follows:

- FY 79 Taku minor upgrade, 10/78 - 3/79
- FY 81 Taku refurbishment 10/80 - 8/81
- FY 83 Malaspina re-engine 10/82 - 5/83
- FY 85 Matanuska re-engine 11/84 - 6/85
- FY 89 Taku in overhaul, 9/25/88 - 2/2/89
- FY 90 Malaspina in overhaul 3/1/90 - 6/13/90
- FY 91 Tustumena refurbishment 10/17/90 - 5/17/91
- FY 92 Malaspina refurbishment 10/11/91 - 2/14/92; Bartlett aux refurbishment 9/15/91 - 1/19/92
- FY 93 Columbia aux refurbishment (Because Columbia normally in layup during winter, this did not affect service.)
Taku repower and overhaul 9/30/92 - 6/28/93)
- FY 94 Aurora elevator project 1/4 - 5/9/94; Tustumena propulsion refurbishment 12/6/93 - 4/30/94
- FY 95 Matanuska project 9/30/94 - 2/5/95; LeConte elevator project 12/28/94 - 4/10/95
- FY 96 Matanuska galley refurbishment 1/10 - 5/14/96; Taku Life Raft & SOLAR Fire Safety upgrade 11/6/95 - 6/2/96
Tustumena overhaul and repower project 10/30/95 - 5/5/96

Funding and Expenditures

FY 90 - 97



M/V MALASPINA FY-99 SERVICE LIFE EXTENSION PROGRAM

The DOT&PF Alaska Marine Highway System has initiated action to utilize Federal Highway Administration funding to accomplish the following projects in order to utilize the services of Malaspina for North Lynn Canal service in FY-99 and beyond.

- The vessel will require the replacement of deteriorated steel curtain plate to continue service. The replacement of curtain plate is the subject of an 835 citation by the USCG requiring action by November 1997. Temporary repairs are planned and a one year extension of time to correct this deficiency is being sought.
- To continue safe and reliable service the vessel will require replacement of the side and stern doors similar to the work already completed on the MATANUSKA and the TAKU. The issue is a safety concern in operating the vessel in a following sea where there is water coming onto the main deck through the leaking stern doors.
- The solarium windows leak and require replacement with new windows similar work accomplished on other AMHS vessels. Without this work the solarium space becomes limited in use during the wet weather.
- The vessel's exterior paint is badly in need of blasting and painting. The scope of work includes blasting ten to fifteen percent of the surfaces to near white metal condition and application of two coats of primer and a final new coating to current standards. The scope of work includes from the sponson guard to the stack (blue, white, yellow, and weather decks).
- The mooring winch requires replacement and is a safety issue for continued reliable service. Due to equipment age, replacement parts are no longer available for components of this deck machinery.
- There is asbestos in the overheads of the cafeteria, both boat deck foyers and the forward lounge. While encapsulation may be possible, removal is the proper solution particularly in these high traffic public spaces.
- In order for the vessel to provide extended service, phase 2 design funding is required. Candidate projects include main engine replacement, required SOLAS / CFR upgrades, lube oil recovery system, public space upgrades including a potential day boat conversion, and lead paint abatement.

In order to accomplish the above work the vessel is in immediate need of the following funding:

Description	Amount
1. Curtain plate replacement	\$207,000.00
2. Side and stern door replacement	\$600,000.00
3. Solarium refurbishment	\$130,000.00
4. Exterior painting, vessel guard and up	\$600,000.00
5. Mooring winch machinery replacement	\$250,000.00
6. Asbestos abatement	\$320,000.00
7. Design (Phase 2) funding future upgrades	\$350,000.00
Total Funding	\$2,457,000.00

**CITY AND BOROUGH OF YAKUTAT, ALASKA
RESOLUTION 98-04**

A RESOLUTION REQUESTING THE ALASKA MARINE HIGHWAY SYSTEM TO INCLUDE YAKUTAT AS A PORT OF REGULAR SERVICE.

WHEREAS, Yakutat is one of Southeast Alaska's fastest growing areas and a hub for services of all types on the Gulf of Alaska Coast; and,

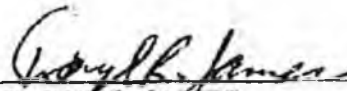
WHEREAS, Yakutat is the only major community in southeast Alaska without ferry system services; and,

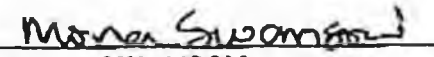
WHEREAS, Yakutat has existing facilities able to serve the ferry system during stops in Yakutat.

NOW, THEREFORE, BE IT RESOLVED, that the Alaska Marine Highway System include Yakutat as a regular stop on it's "Cross Gulf" schedule and also as a destination to be added to it's Southeast Alaska schedule.

PASSED AND APPROVED THIS 3rd DAY OF February, 1998.




DARYL R. JAMES
Mayor


MONA SWANSON
Borough Clerk

HB

343

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO: CSHB 343 (TRA)

Revision Date: 02/02/98 Dept. Affected: Administration
 Title: "An Act relating to the definition of BRU: Motor Vehicles
Commercial Motor vehicle..." Component: Driver Services
 Sponsor: Representative Davis
 Requestor: (H) TRANS COMPONENT SERIAL NO. 2150

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

OPERATING	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

CHANGE IN REVENUES ()						
Revenue Code						

FUNDING: (Thousands of Dollars)

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

Estimate of current year (FY 98) impact: \$ 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill will not fiscally impact the Division of Motor Vehicles

Prepared By: Juanita M. Hensley Phone: 465-5648
 Division: Motor Vehicles Date: 02/02/98
 Approved by Commissioner: *Mark Boyer* Date: 2/3/98
 Agency: Mark Boyer, Dept. of Administration

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Representative Gary L. Davis

SECTIONAL ANALYSIS

House Bill 343

"An Act excluding certain motor vehicles from the definition of commercial motor vehicle"

Section 1: Amends AS 28.40.100(a)(2) by expanding the exceptions listed under subsection (D) to include construction vehicles that are driven on roads in order to relocate the vehicle to a job site from the definition of a commercial motor vehicle.

HB343 SA. 1/28/98

Soldotna, AK

Representing House District 8

2 Pass, Seward

SECTIONAL

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Representative Gary L. Davis

SPONSOR STATEMENT

House Bill 343

“An Act excluding certain motor vehicles from the definition of commercial motor vehicle”

There is apparent confusion among law enforcement officials as to under what circumstances an individual is required to possess a commercial driver's license (CDL). Some Alaska statutes and regulations reference federal requirements, which exempt the need for a CDL in cases of moving construction equipment from one site to another—this is considered by them to be an incidental move. However other Alaska statutes require drivers of any equipment weighing over 26,000 pounds “used upon a land highway or vehicular way” to possess a commercial driver's licenses.

House Bill 343 amends the definition of “commercial motor vehicle” in AS 28.40.100(a)(2) by expanding the exceptions to include construction vehicles that are driven on roads in order to relocate the vehicle to a job site from the definition.

Including this exception clears up the confusion. The intent of the legislation is to allow individuals to move their construction equipment from one site to another without being required to have a commercial driver's license. If an individual is involved in work on the road, a commercial driver's license is still required.

HB343/SS/1/28/98

Representing House District 8
Soldotna, Sterling, Funny River, Cooper Landing, Hope, Moose Pass, Seward

1996 except that to the extent that the amendments made by §§ 6, 7, 10, 11, and 18-21 of this Act involve prior convictions, those prior convictions may have occurred before, on, or after November 8, 1996."

Sec. 28.40.100. Definitions for title. (a) Unless otherwise specifically defined or unless the context otherwise requires, in this title and in regulations adopted under this title

(1) "cancel" means to annul or terminate, by formal action of the department, a certification, registration, license, permit or privilege issued or allowed under this title or regulations adopted under this title, because of an error or defect in the document issued or the application for issuance or because the person holding the document is no longer entitled to it;

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

(A) used to transport passengers or property;

(B) used upon a land highway or vehicular way; and

(C) that

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

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

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

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

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

(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;

(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 business;

(4) "commissioner" means the commissioner of public safety;

(5) "custom collector vehicle" means a vehicle whose body and frame were manufactured before 1949 or a replica of a vehicle whose body and frame were manufactured before 1949 and that has been modified for safe road use; in this paragraph, "modified" includes a material alteration of the drive-train, suspension, brake system, or dimensions of the body;

(6) "department" means the Department of Public Safety;

(7) "driver" means a person who drives or is in actual physical control of a vehicle;

(8) "driver's license" or "license," when used in relation to driver licensing, means a license or permit to drive a motor vehicle, or the privilege to drive or to obtain a license to drive a motor vehicle, under the laws of this state, whether or not a person holds a valid license issued in this or another jurisdiction;

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

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

(A) suspend execution of sentence or grant probation except on condition that the person serve a minimum term of imprisonment and perform required community work service as provided in (1) of this subsection;

(B) suspend imposition of sentence; and

(4) shall revoke the person's license, privilege to drive, or privilege to obtain a license, and the person may not be issued a new license nor may the privilege to drive or obtain a license be restored for an additional period of not less than 90 days after the date that the person would have been entitled to restoration of driving privileges.

(c) In this section, "previously convicted" means having been convicted in this or another jurisdiction, within 10 years preceding the date of the present offense, of a violation of this section, AS 28.15.291, or another law or ordinance with substantially similar elements. (§ 19 ch 3 SLA 1992)

Editor's notes. — Section 30, ch. 3, SLA 1992 provides that for the purposes of this section, enacted by § 19, ch. 3, SLA 1992, convictions for offenses committed before April 1, 1992 are considered previous convictions.

Sec. 28.33.190. Definitions. In this chapter,

(1) "alcoholic beverage" has the meaning given in AS 04.21.080(b);

(2) "commercial motor vehicle" has the meaning given in AS 28.40.100;

(3) "controlled substance" means any substance listed as being controlled under AS 11.71 or 21 U.S.C. 812 — 813, or determined under federal regulations to be controlled for purposes of 21 U.S.C. 801 — 813 (Controlled Substances Act);

(4) "disqualification" means a withdrawal of the privilege to drive a commercial motor vehicle;

(5) "disqualified" means that a person's privilege to drive a commercial motor vehicle has been withdrawn;

(6) "drive a commercial motor vehicle" means to affect the movement, attempt to affect the movement, or to be in actual physical control, of a commercial motor vehicle in motion, excluding slight motion incidental to loading, unloading, servicing, or inspecting the vehicle;

(7) "employer" means a person who

(A) provides compensation to a person who operates a commercial motor vehicle, including wages or other remuneration, whether through an employment relationship or by contract; or

(B) acts as an agent of someone who provides compensation to a person who operates a commercial motor vehicle, with authority to allow, require, permit, assign, or authorize the person being compensated to operate a commercial motor vehicle;

(8) "hazardous substance" means a substance found by the United States Secretary of Transportation to be hazardous for purposes of 49 U.S.C. 1801 — 1813 (Hazardous Materials Transportation Act);

(9) "operating a commercial motor vehicle" means

(A) to drive a commercial motor vehicle; or

(B) whether or not the vehicle is in motion, or is capable of being moved, to be in actual physical control, or to attempt to affect the movement, of a commercial motor vehicle; and

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

(11) "serious traffic violation" means

(A) speeding 15 miles per hour or more above the posted limit;

(B) reckless or negligent driving, in violation of AS 28.35.040 or 28.35.045 or an ordinance with substantially similar elements;

(C) violation of a provision of this title, or a regulation adopted under this title, relating to improper lane changes or following too closely, or an ordinance with substantially similar elements; or

STATE OF ALASKA

DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER

TONY KNOWLES, GOVERNOR

P.O. BOX 111200
JUNEAU, ALASKA 99811-1200
PHONE: (907) 465-4322
FAX: (907) 465-4362



September 5, 1996

The Honorable Gary Davis
Alaska State Legislature
145 Main Street Loop #223
Kenai, AK 99611

Dear Representative Davis:

In response to your letter dated August 13, 1996, I would like to offer the following information regarding Commercial Drivers License (CDL) enforcement.

You are correct that a front loader less than 26,000 pounds does not require a CDL. If your front loader was greater than 26,000 pounds and you were engaged in an incidental move of the equipment between job sites, you would not need a CDL. If your loader was greater than 26,000 pounds and you were engaged in work on the road such as snow removal, a CDL would be required. It appears that the officer may have been in error when advising you that a CDL was required.

It appears legislation to bring State law into compliance with federal law is not necessary as there is no conflict between the two. In your specific case, the rule was not interpreted properly. There are cases where we must adjust our enforcement posture due to new interpretation rulings from Federal agencies. Such interpretations do not normally require new legislation.

For the reasons stated above, I see no reason to direct that the CDL regulations not be enforced. Rather, it would seem appropriate that we contact the officer involved to ensure he/she understands what the rules are. If you could provide more information as to the agency, time, date, location, and officer if known, we would follow up with proper instruction to ensure appropriate application of the rules.

If you have any further concerns, please contact my office.

Sincerely,



Ronald L. Otte
Commissioner

cc: Col. Glenn Godfrey
Alaska State Troopers

12-L2LH

Public Safety LETTER

FAX TRANSMITTAL

July 11, 1996

Pages: 3

FM:

US Department of Transportation
Office of Motor Carriers
Anchorage, AK
907-271-4068, fax 907-271-4069

TO:

Helen Donahue
Rep. Gary Davis
283-7095
fax: 283-3075

REMARKS:

Helen:

Per our conversation, here is a copy of the definition of a Commercial Motor Vehicle for CDL purposes (basically >26,000lbs) and an interpretation regarding the applicability of CDL regs to off road construction equipment. The operator of such equipment is not required to hold a CDL unless unusual circumstances were involved whereby the equipment was being used on a public access highway (plowing snow for example)



John M. Quartuccio
Special Agent, FHWA
Alaska Division Program Specialist

C D L R E G S

§ 383.3

49 CFR Ch. III (10-1-95 Edition)

(4) Prohibits an employer from allowing a person with a suspended license to operate a commercial motor vehicle;

(5) Establishes periods of disqualification and penalties for those persons convicted of certain criminal and other offenses and serious traffic violations, or subject to any suspensions, revocations, or cancellations of certain driving privileges;

(6) Establishes testing and licensing requirements for commercial motor vehicle operators;

(7) Requires States to give knowledge and skills tests to all qualified applicants for commercial drivers' licenses which meet the Federal standard;

(8) Sets forth commercial motor vehicle groups and endorsements;

(9) Sets forth the knowledge and skills test requirements for the motor vehicle groups and endorsements;

(10) Sets forth the Federal standards for procedures, methods, and minimum passing scores for States and others to use in testing and licensing commercial motor vehicle operators; and

(11) Establishes requirements for the State issued commercial license documentation.

[52 FR 20697, June 1, 1987, as amended at 58 FR 2668, July 2, 1993; 54 FR 90787, Oct. 3, 1989]

§ 383.3 Applicability.

The rules in this part apply to every person who operates a commercial motor vehicle in interstate, foreign, or intrastate commerce, and to all employers of such persons.

§ 383.5 Definitions.

As used in this part:
Administrator means the Federal Highway Administrator, the chief executive of the Federal Highway Administration, an agency within the Department of Transportation.

Alcohol or alcoholic beverage means:
 (a) Beer as defined in 26 U.S.C. 5062(a), of the Internal Revenue Code of 1954.
 (b) wine of not less than one-half of one per centum of alcohol by volume, or (c) distilled spirits as defined in section 5002(a)(8), of such Code.

Alcohol concentration (AC) means the concentration of alcohol in a person's blood or breath. When expressed as a percentage it means grams of alcohol

per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

Commerce means (a) any trade, traffic or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, including a place outside of the United States and (b) trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in paragraph (a) of this definition.

Commercial driver's license (CDL) means a license issued by a State or other jurisdiction, in accordance with the standards contained in 49 CFR part 383 to an individual which authorizes the individual to operate a class of a commercial motor vehicle.

Commercial driver's license information system (CDLIS) means the CDLIS established by FHWA pursuant to section 12007 of the Commercial Motor Vehicle Safety Act of 1986.

Commercial motor vehicle (CMV) means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle—

(a) Has a gross combination weight rating of 28,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or

(b) Has a gross vehicle weight rating of 28,001 or more pounds; or

(c) Is designed to transport 16 or more passengers, including the driver; or

(d) 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 require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172 subpart F).

Controlled substance has the meaning such term has under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) and includes all substances listed on schedules I through V of 21 CFR part 1308, as they may be revised from time to time. Schedule I substances are identified in appendix I of this subchapter and schedules II through V are identified in appendix J of this subchapter.

hi for
 CDL
 Report

Regulatory Interpretations / Guidance

§ 383.3 APPLICABILITY

Question 1: *Are school and church bus drivers required to obtain a CDL?*

Guidance: Yes, if they drive vehicles designed to transport 16 or more people.

Question 2: *Do mechanics, shop help, and other occasional drivers need a CDL if they are operating a CMV or if they only test drive a vehicle?*

Guidance: Yes, if the vehicle is operated or test-driven on a public highway.

Question 3: *Does part 383 apply to drivers of recreational vehicles?*

Guidance: No, if the vehicle is used strictly for nonbusiness purposes.

Question 4: *Does part 383 apply to drivers of vehicles used in "van pools"?*

Guidance: Yes, if the vehicle is designed to transport 16 or more people.

Question 5: *May a person operate a CMV wholly on private property, not open to public travel, without a CDL?*

Guidance: Yes.

→ **Question 6:** *Does the FHWA include off-road motorized construction equipment under the definitions of "motor vehicle" and "CMV" as used in § 390.5 and § 383.5?*

Guidance: No, because it is neither used on the highway nor used in the transportation of passengers or property.

→ **Question 7:** *What types of equipment are included in the category of off-road motorized construction equipment?*

Guidance: The definition of off-road construction equipment is to be narrowly construed and limited to equipment which, by its design, appearance, and function, is obviously not intended for use on a public road. Such equipment would include motorscrapers, backhoes, motorgraders, compactors, excavators, tractors, trenchers, and bulldozers.

Question 8: *Do operators of motorized cranes and vehicles used to pump cement at construction sites have to meet the testing and licensing requirements of the CDL program?*

Guidance: Yes, because such vehicles are designed to be operated on the public highways and therefore do not qualify as off-road construction equipment. The fact that these vehicles are only driven for limited distances, at less than normal highway speeds and/or incidental to their primary function, does not exempt the operators from the CDL requirements.

Question 9: *May a State require persons operating recreational vehicles or other CMVs used by family members for nonbusiness purposes to have a CDL?*

Guidance: Yes. States may extend the CDL requirements to recreational vehicles.

Question 10: *Do drivers of either a tractor trailer or straight truck that is converted into a mobile office need a CDL?*

Guidance: Yes, if the vehicle meets the definition of a CMV.

HB

358

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO: HB 358

Revision Date: 02/17/98 Dept. Affected: Public Safety
 Title: Impoundment or forfeiture of motor vehicles BRU: Alaska State Troopers
or aircraft Component: AST Director's Office
 Sponsor: Rep. Kelly
 Requestor: (H) Transportation COMPONENT SERIAL NO. 0508

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

OPERATING	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
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 ()	-0-	-0-	-0-	-0-	-0-	-0-
Revenue Code						

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 98) 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.)

Prepared By: F/Sgt. Don Bowman Phone: 269-5084
 Division: Alaska State Troopers Date: 02/17/98
 Approved by Commissioner: *Ronald L. Otte* Date: *2/17/98*
 Agency: Department of Public Safety

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February 20, 1998

The Honorable Pete Kelly
Alaska State House of Representatives
State Capitol, Room 411
Juneau, AK 99801-1182

Re: Impounding and forfeiting vehicles for drunk driving

Dear Rep. Kelly:

This is in response to your request for our opinion about the feasibility of impounding and forfeiting vehicles for drunk driving offenses, as provided in House Bill 358. We have not provided a detailed analysis of the specific provisions in HB 358, but we can say that, for a number of reasons, impounding and forfeiting vehicles in drunk driving cases creates legal and practical problems.

As a practical matter, in many parts of the state there are no readily available commercial impound yards. Even when the service is available, commercial operators will often refuse to impound vehicles with insufficient value to cover the fees, or when there is no insurance company to pay the fees. In those cases the state must pay the towing and storage fees, and in some instances fees for disposal of the vehicle. Only three State Trooper posts currently have secure fenced storage for vehicles. Additional storage yards would need to be constructed or fees paid for commercial storage of vehicles impounded for forfeiture.

Impounding cars, much less aircraft or vessels, is complicated by the need to protect and maintain the impounded property. It must be protected from vandalism, whether damage, and other similar hazards. If the state fails to do so, the value of the vehicle will be diminished, and the state may be liable for damages to the vehicle if it is ultimately returned to the owner.

On the legal side, to forfeit a vehicle the state must file a civil lawsuit, or must file a motion in the underlying criminal case. The state is involved in over 3000 DWI cases each year, and therefore a tremendous amount of additional legal work will be required.

In many cases the state will be successful in forfeiting the vehicle, but there are many reasons why vehicles will not be forfeited. The primary reason is if the vehicle is owned by someone else who had no reason to believe the defendant would be driving drunk. Therefore, vehicles owned by employers, vehicles borrowed from friends or relatives, or stolen vehicles, will be given back to the owners.

Financial institutions, such as banks, savings and loans, and credit unions, also have financial interests in vehicles that will prevent the state from obtaining the full value of many forfeited vehicles. At most, the state will be able to obtain only the defendant's equity in the vehicle, which in many instances will be little or nothing once the costs of sale are deducted.

The practical and legal problems with forfeiture of vehicles will result in a program that will cost more to operate than it brings in. While this cost might be justified if there were a significant deterrent effect on drunk driving, it is hard to conclude that that would be the case. The law would strike unequally on each defendant. Persons with vehicles worth little or nothing, or those whose vehicles have large loans carried by a bank, or those who operate vehicles owned by someone else, will not be affected much, if at all. It will strike hardest on those who buy relatively new vehicles and pay cash. The best law is one that affects everyone with certain consequences.

In addition, House Bill 358 requires the state to pay the impound fees when the defendant is not convicted of drunk driving. There are many reasons, however, why drunk driving cases are dismissed or reduced, that have little or nothing to do with guilt or innocence. For example, in many cases it turns out that the breath test machine was not working, or was not properly calibrated, or for some other reason the breath test results were not admissible. Without breath test results, juries sometimes do not convict, so prosecutors often reduce such charges to negligent or reckless driving, or dismiss charges altogether, even though there is little doubt that the person had been drinking. In other cases, the person may be charged with a more serious offense, such as possession of drugs, and the drunk driving charge may be dismissed as part of a plea negotiation for a conviction for the more serious offense. If the state is required to pay the costs of towing and impoundment in such cases, it will further add to the cost of the program.

For these reasons, forfeiture of property in Alaska is particularly difficult and time consuming. Forfeiture of property under state law is rarely undertaken today, even when allowed. Current law allows the state to seize the vehicle of a person convicted of a second or subsequent DWI, but in practice this is almost never done because the cost is not justified by the amount returned to the state.

As mentioned above, this a program that can probably only be operated in urban areas that have towing companies and secure storage facilities. Yet those same urban areas can adopt local ordinances to set up a municipal forfeiture program, similar to the one operating in Anchorage. A municipal program, under municipal control, would not be subject to state budget cuts, and would seem to have several advantages over a program run by the state. Moreover, municipalities have a large degree of control over local alcohol use, such as by setting hours of operation for bars, by local police enforcement practices, or by local option elections. Because of the importance of municipal policies in this area, we recommend that municipalities interested in such programs adopt local ordinances to implement them. If a particular municipality believes it does not have sufficient legal authority to adopt such a program

The Honorable John Torgerson
Alaska State House of Representatives

February 20, 1998
Page 4

because of limitations in Title 29 of the Alaska Statutes, then consideration should be given to amending state law.

Thank you for the opportunity to comment. If you have questions, please contact us.

RON OTTE
COMMISSIONER
DEPT. OF PUBLIC SAFETY

By: DEL SMITH BY DJG
Delbert Smith
Deputy Commissioner
Department of Public Safety

BRUCE BOTELHO
ATTORNEY GENERAL

By: Dean J. Guaneli
Dean J. Guaneli
Assistant Attorney General



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the H. TRANS. Com.
 Committee on House Bill 358 Committee Name Dated 2-18-97
Bill / Subject

SIGNED:

Patricia Mack

Testifier

Mothers Against Drunk Driving

Representing

412 Baranof Fairbanks 99701

Address / Phone Number

452-4924

HB358...TELECONFERENCE...TRANSPORTATION...February 18, 1998

Stiffer jail sentences and license suspensions have not reduced drunk driving sufficiently. We all know someone whose life has been touched by this continuing problem. Here in Fairbanks alone...the Fklinds, the Stanhergs and the Fosters have recently lost family members to drunk drivers. Closer to Juneau...Marty Clements was killed by a drunk driver Friday.

Throughout America, vehicle forfeiture laws are proving to be an effective deterrent.

Since 1989...Portland, Oregon has been taking away the vehicles of DWI offenders *and* those who choose to drive after their license has been suspended for DWI. Rearrests have been cut in half!

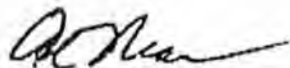
Since 1994...Anchorage has been impounding the vehicles of first offenders for thirty days...THIRTY DAYS! Repeat offenders lose their cars for good! Fatalities connected with drunk driving have been cut in half!

HB358 does not go far enough! Taking the best features of the Portland and Anchorage laws, Alaska needs:

- (1) A minimum 30 day impoundment for first offenders.
- (2) Forfeiture for a second offense...**and**...
- (3) Forfeiture for driving while a license is suspended or revoked for DWI.

Driving a car is a privilege...not a God given right. It's our responsibility to deny drunk drivers unlimited access to such lethal weapons.

Sincerely,



Al Near

DRUNK DRIVING STATUTORY AND CASE LAW SUMMARY

IMPOUNDMENT, REGISTRATION WITHDRAWAL OR CONFISCATION OF A VEHICLE FOR A DWI OFFENSE

IMPOUNDMENT ¹	REGISTRATION WITHDRAWN ¹		CONFISCATION	
California	Arizona	North Dakota	Alaska ³	North Dakota ⁸
Florida	Indiana ⁶	Ohio ¹⁹	Arizona ¹	Ohio ¹³
Illinois ²	Kansas ¹⁰	Oregon ⁵	Arkansas ¹¹	Pennsylvania ¹⁵
Iowa ⁹	Maine ⁵	Rhode Island	California ¹⁰	Rhode Island ¹⁶
Missouri ^{2,21}	Minnesota	South Dakota	Georgia ¹²	South
Montana ⁴	New	Virginia	Maine ⁹	Carolina ⁷
Ohio ¹⁸	Hampshire ¹³	Wyoming ⁵	Minnesota ¹⁶	Tennessee ¹⁷
Oregon ⁵	New York		Missouri ²¹	Texas ⁸
Wisconsin ¹⁷			Montana ¹⁶	Washington ¹³
			New York ¹⁴	Wisconsin ¹⁷
TOTAL=9	TOTAL=14		TOTAL=19	

¹The column titled "Impoundment" also includes States that immobilize vehicles. The column titled "Vehicle Registration Withdrawn" also includes States that impound license plates.

²Limited impoundment following a DWI arrest.

³Vehicle impoundment for persons under 18 who are convicted of a DWI offense.

⁴Vehicle impoundment only if the driver was under 18 years old.

⁵For a 2d offense w/n 6 years.

⁶For a subsequent DWI offense conviction, registration plates suspended.

⁷For a 4th DWI offense conviction with'n 10 years.

⁸For three (3) or more DWI offense convictions.

⁹For a 2nd or subsequent DWI offense conviction.

¹⁰An offender's vehicle is confiscated if they have had two (2) previous DWI offense convictions (within seven (7) years).

¹¹For a 4th DWI offense conviction within 3 years.

¹²For a 4th DWI offense conviction within 5 years.

¹³Applies only for 2nd or subsequent DWI offense convictions.

¹⁴Possible for a 2nd or subsequent DWI offense convictions.

¹⁵Applies via "common law".

¹⁶For a 3rd or subsequent DWI offense conviction within 5 years.

¹⁷For a 3rd or subsequent DWI offense conviction within ten (10) years.

¹⁸For a 2nd offense within 5 years.

¹⁹Registration withdrawal applies to a 2nd offense and 3rd offenses within 5 years. For a 3rd offense within 5 year, the vehicle will also be "immobilized".

²⁰License plate revocation for a 4th or subsequent offense.

²¹State law provides that cities may enact forfeiture ordinances.

DRUNK DRIVING STATUTORY AND CASE LAW SUMMARY

IMPOUNDMENT, REGISTRATION WITHDRAWAL OR CONFISCATION OF A VEHICLE FOR DRIVING WHILE SUSPENDED/REVOKED WHERE THE ORIGINAL LICENSING ACTION WAS FOR A DWI OFFENSE

IMPOUNDMENT	REGISTRATION WITHDRAWN ¹		CONFISCATION
California Delaware Michigan ³ Nebraska New York ⁴ Oregon Wisconsin	Arkansas Delaware Maryland Michigan ⁴	Minnesota Ohio Oregon South Dakota	Alabama California ⁷ Arizona ² Maine ³ North Carolina ² South Carolina ⁶

TOTAL=7

TOTAL=8

TOTAL=6

¹The column titled "Vehicle Registration Withdrawn" also includes States that impound license plates.

²An offender's vehicle is confiscated if they drive while suspended/revoked for a previous DWI offense and commit another DWI offense.

³Applies only if the driver was the "sole owner" of the vehicle.

⁴For a 4th conviction within 10 years of driving while license is either suspended or revoked.

⁵The registration plates of the vehicle involved in the offense shall be confiscated and the vehicle impounded.

⁶For vehicles used in the offense, limited impoundment for 1st and 2nd offenses.

⁷Applies only if there was a prior misdemeanor offense either for driving while suspended or revoked or for habitual offender status.



TRAFFIC TECH

NHTSA Technology Transfer Series

Number 31

October 1992

SUMMARY OF IMPOUNDMENT AND FORFEITURE LAWS AND PRACTICES FOR DWI-INVOLVED DRIVERS

Ensuring that DWI offenders who receive the license suspension penalty actually do not drive is a major problem in most states. Many continue to drive, receive traffic citations and are involved in crashes during periods of license suspension. States have passed laws that directly affect the offender's vehicle, or license plates as a possible way of reducing this problem. For example, some states permit offenders' vehicles to be incapacitated (booted), impounded, or forfeited and sold. Other states permit their license plates to be removed and impounded. Still others permit specially marked license plates to be used.

Recently, Phase I of a NHTSA sponsored study was completed containing a description of these laws, information on their limitations and use, and the feasibility of conducting an impact evaluation for one or more of these laws.

Thirty-two states have passed these kinds of laws. Fourteen States (Alaska, California, Illinois, Montana, New Mexico, North Carolina, Nebraska, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Wisconsin) permit the impoundment, immobilization or forfeiture and sale of the vehicle of offenders who are convicted of DWI or driving while suspended as related to a DWI conviction. Laws in 11 States (Indiana, Iowa, Maryland, Michigan, Minnesota, New Hampshire, Ohio, South Dakota, Virginia, Washington, Wyoming) permit the suspension or revocation of the vehicle registration as well as the impoundment, destruction, or marking of plates. Also, 7 States (Arizona, Arkansas, Delaware, Maine, New York, North Dakota, Oregon) permit action to be taken against the registration, license plates and vehicle itself—depending on the offense.

Contact with State and local officials, members of the judiciary and police officers suggested that use of

vehicle impoundment and forfeiture is rare, because such laws are generally reserved for multiple DWI offenders and because of administrative, liability, and other problems such as judges reluctance to impact innocent family members. Laws applying to license plates that are handled using an administrative procedure are used in only 5 states (Ohio, Oregon, Washington, Iowa, Minnesota) but have been applied more often. For example, in Oregon, thousands of "zebra striped" stickers have been placed by police on the plates of cars of DWI offenders stopped for driving on a suspended license. Use of these stickers precludes problems associated with vehicle liability or added costs for towing and storage as with vehicle impoundment or forfeiture laws.

In Phase II of this study, NHTSA is conducting an evaluation of the effectiveness of the sticker laws in Oregon and Washington State for drivers convicted of DWI. The primary question being addressed is what effect does the law have on driving while suspended.

A detailed technical report prepared by National Public Services Research Institute of Landover, Maryland entitled *Assessment of Impoundment and Forfeiture Laws for Drivers Convicted of DWI: Phase I Report* is now available. It should be a useful resource to States and Communities interested in vehicle sanction laws and practices as applied to DWI offenders. Also, States considering passage of license plate impoundment laws for multiple DWI offenders under the 410 Supplemental Grant Criterion may find it helpful.

For additional information about this project, contact: Office of Program Development and Evaluation Traffic Safety Programs, NHTSA, NTS-31 400 Seventh Street, S.W., Washington, DC 20590



WHY DOES A PERSON DRINK ALCOHOL IF NOT TO CHANGE THEIR STATE OF MIND? BAD DAY AT THE OFFICE--HAVE A DRINK--RELAX. GOOD DAY AT THE OFFICE---HAVE A DRINK CELEBRATE. UP TIGHT WITH PRESSING PROBLEMS GIVE YOUR BRAIN A REST--HAVE A DRINK. WHATEVER THE REASON GIVEN OR NOT GIVEN DRINKING ALCOHOL CHANGES YOUR STATE OF MIND. PLEASE BE AWARE DRINKING IS NOT THE ISSUE HERE. A PERSON HAS THE RIGHT TO DRINK AS MUCH AS THEY LIKE AS OFTEN AS THEY LIKE---OPERATING A MOTOR VEHICLE AFTER DRINKING ALCOHOL IS THE ISSUE.

NOT EVERY DRUNK DRIVER KILLS OR INJURES A PERSON. THE DRUNK DRIVERS THAT DO ARE THE ONES WE ARE CONCERNED ABOUT. CAN ANY ONE TELL ME WHO OR WHEN AN IMPAIRED DRIVER WILL KILL OR INJURE NEXT? THIS IS NOT SILLY TALK THIS IS REALITY WIVES, HUSBANDS, SONS, DAUGHTERS, MOTHERS AND FATHERS ARE KILLED AND INJURED EVERY DAY BY DRUNK DRIVERS. WHEN A PERSON CHOOSES TO DRINK AND ALSO CHOOSES TO DRIVE IT IS NOT AN ACCIDENT WHEN THERE IS AN INJURY OR FATALITY IT IS A VIOLENT CRIME.

GOVERNMENT IS BEST THAT GOVERNS LEAST. THIS IS A WONDERFUL IDEA AND IT WILL HAPPEN AS SOON AS SOCIETY AS A WHOLE ACCEPTS RESPONSIBILITY FOR THEIR INDIVIDUAL ACTIONS.

IT HAS BEEN PROVEN IN CITIES AND STATES THAT HAVE SUBSTANTIAL VEHICLE FORFEITURE LAWS THAT DRUNK DRIVING IS REDUCED. THE OBJECT IS TO MAKE THE STREETS AND HIGHWAYS SAFER FOR ALL. IT SAVES LIVES---IT'S THE RIGHT THING TO DO.

COST OF ENFORCEMENT IS AN ISSUE THAT SHOULD BE DISCUSSED WITH A SURVIVOR OF A DRUNK DRIVER. WHAT IS THE PRICE OF ONE HUMAN LIFE?

ON THURSDAY FEB. 12, I ATTENDED SENTENCING FOR A DRUNK DRIVER IN FAIRBANKS. SINCE 1990 THIS PERSON WAS ARRESTED FIFTEEN TIMES. YES, IT IS A PUBLIC RECORD --15 TIMES. FIFTEEN TIMES THE POLICE REMOVED THIS DRUNK FROM THE STREETS OF FAIRBANKS. FIFTEEN TIMES THE DISTRICT ATTORNEY PROSECUTED THE DRUNK DRIVER. BECAUSE THE DRUNK DRIVER HAD NO MONEY, FIFTEEN TIMES THE PUBLIC DEFENDER WENT TO COURT. FIFTEEN TIMES A JUDGE PASSED SENTENCE.

HOW MUCH DID THIS ONE INDIVIDUAL COST IN TAX DOLLARS? IT IS IMPOSSIBLE TO CALCULATE. WHO ARE THE MAJORITY OF OFFENDERS IN ALASKA JAIL? DRUNK DRIVERS. COULD THE MONEYS SAVED BY NOT HAVING TO PROSECUTE DRUNK DRIVERS BE USED IN A MORE PRODUCTIVE MANNER LIKE SCHOOLS, ROADS, HEALTH AND OTHER ISSUES?----I THINK YES.

IF IMPOUNDING THE VEHICLE OF A DRUNK DRIVER IS TOO MUCH GOVERNMENT INVOLVEMENT IN PRIVATE PROPERTY WHAT IS AN ALTERNATIVE---RAISING TAXES TO PAY FOR MORE POLICE, ATTORNEYS, JUDGES AND JAILS?

THE REALIZATION OF A THIRTY DAY IMPOUNDMENT FOR FIRST TIME OFFENDERS WOULD REALLY MAKE A PERSON THINK BEFORE DRIVING IMPAIRED. SAFER ROADS FOR ALL OF US.

TAXPAYERS OUTNUMBER DRUNK DRIVERS. IT CAN ALSO BE SAID TAXPAYERS SUPPORT DRUNK DRIVERS.

THERE IS NO DOLLAR VALUE THAT CAN BE PLACED ON A LIFE. DRUNK DRIVERS KILL PEOPLE EVERY DAY.

WHEN A PERSON CHOOSES TO DRINK ALCOHOL AND ALSO CHOOSES TO DRIVE, IT IS NOT AN ACCIDENT--IT IS A VIOLENT, PREVENTABLE, CRIME.

AS I SAID IN THE BEGINNING, DRINKING ALCOHOL IS NOT THE ISSUE. DRIVING DRUNK IS.

PATRICIA MACK
412 BARANOF
FAIRBANKS, AK 99701 907 452-4924

7 of 8 intoxicated drivers involved in fatal crashes have no prior convictions within the past 3 years.

Repeat offenders are persistent drinkers and persistent drinking drivers. Whatever the judicial system did to them the first time they were arrested for DWI did not work, and changing behavior is difficult.

Sally Eklund

Erik - 21 years old - 3rd time offender

The background to this action was a serious problem that was developing in Portland and to a certain extent, in the state as a whole, in the enforcement of Driving While Suspended laws. The principle penalty for this serious offense was a jail sentence. However, Oregon jails were overloaded and many under court restraining orders. Therefore, many of the offenders convicted could not be accommodated in a timely manner and ultimately, some sentences had to be suspended.

The inability to effectively sanction offenders led to a search for alternative methods of preventing Driving While Suspended. An initial effort was made to amend the state forfeiture law to provide for the impoundment and forfeiture of vehicles driven by suspended drivers where the suspension resulted from a drunk driving conviction. The state legislature, however, failed to act on the bill, so the City Council of Portland took action. The original ordinance was passed in February 1989, but provided that it would not take effect until 90 days after the adjournment of the legislative assembly and then only if the assembly failed to enact a state-wide system for impounding vehicles operated by persons whose license had been suspended. Since the legislature failed to act, the ordinance came into effect and began to be enforced on December 15, 1989.

OPERATION OF ORDINANCE

Civil forfeitures, on the other hand, focus upon the unlawful use of a piece of equipment or other property irrespective of the owner's culpability. The owner is usually not mentioned directly in the suit and it is not necessary for the owner to be convicted of a crime for the forfeiture to proceed. The action is taken against the vehicle because it has become a public nuisance, not as a penalty for criminal behavior. Therefore, the seizing and the confiscation of the vehicle can proceed before the trial and conviction of the operator for a criminal offense. The seizure does not depend upon a conviction.

The forfeiture procedure provides for the stopping of a vehicle by a police officer based on abnormal or illegal driving or involvement in a crash. If an officer determines that the driver is

driving while suspended and revoked and that the suspension resulted from a DWI offense, the officer has grounds for seizing the vehicle. The officer then completes an impoundment form in triplicate and provides the original to the individual in charge of the vehicle at the time of the seizure. Normally, the officer will also cite the driver for Driving While Suspended. However, this is not a requirement of the civil forfeiture ordinance.

Currently, the vehicle is towed to a commercial wrecker's lot and held there pending a release from the police. A program is underway, however to build a city impoundment lot and, ultimately, vehicles seized under this ordinance will be towed directly to the city lot or moved from the commercial impound lot to avoid high commercial storage rates. The vehicle owner, or anyone else having a valid interest in the vehicle, has 15 days (if the vehicle is worth less than \$1,000 or up to 60 days if the value is over that amount) to file a claim with the City Attorney for return of the vehicle.

The ordinance provides for an expeditious hearing within 5 days after vehicle impoundment if the registered owner or a holder of other security interest files a written request for a hearing to show why the vehicle should not remain impounded. At such a hearing, the interested party can overturn the impoundment by demonstrating that the police officer did not have probable cause to make the stop or that the operator of the vehicle was not suspended or revoked for driving under the influence of the intoxicants. If a hearing is not requested or the hearing officer determines that the impoundment action was valid, then the City Attorney may institute legal proceedings to forfeit the vehicle to city within 42 days after impoundment. If the City Attorney does not take that action within 42 days, the vehicle is released to the registered owner.

FIRST-YEAR EXPERIENCE WITH THE PORTLAND ORDINANCE

Table 1 summarizes the experience during calendar year 1990 with the City of Portland Vehicle Forfeiture Ordinance for drivers operating while suspended for DWI. In total, 197 vehicles were seized of which 117 were ultimately released and 80 forfeited to the city. Of those 80, 30 have actually been auctioned. During this period, only one offender whose vehicle was seized has

requested a hearing on the issue of probable cause to seize the vehicle. In that case, the judge determined that the seizure was valid and the forfeiture process proceeded. The fact that 60% of the vehicles were released might suggest that the forfeiture program is not working. However, most of these releases are to third-parties who have a financial interest in the vehicle. These owners or lien holders must pay the towing and storage cost in order to repossess their vehicle as well as execute a stipulated judgement form which requires them not to return the car to the suspended driver. The form requires that if they do, and the offender is again apprehended using the vehicle while his or her license is suspended, the vehicle will be forfeited to the city and the owners, or lien-holders, interest in the vehicle will be forfeited.

Vehicle releases occur under the following situations:

1. *Stolen Vehicles* - The vehicle will be returned to the registered owner if he proves that the vehicle was stolen and if the registered owner pays all costs of towing and storage, and any other costs of impoundment.
2. *Security Interest Holder* - The vehicle will be returned to a bank or other security interest holder providing that the interest holder pays all costs of towing, storage, and impoundment and executes a "stipulated judgement" promising that the vehicle will not be returned to the offender.
3. *Vehicles Owned by Employer* - Vehicles owned by employers are also, at the discretion of the City Attorney, returned to employers providing the employer pays all the costs of towing, storage, and impoundment and executes the stipulated judgement.
4. *Crash-Involved Vehicles* - Vehicles that are of little value because they are severely damaged in crashes are normally released to the offenders since they have no value for the city. The offender, should he wish to retrieve the vehicle, must pay the towing, storage, and impoundment costs plus the vehicle must be

repaired sufficiently to meet requirements of the state for use on state highways. In many cases, this involves a much greater expense than the value of the damaged vehicle so the vehicle is frequently turned over by the offender to the wrecking yard for sale as scrap.

- 5. "Junk" Vehicles - Vehicles with a value of less than \$500 are not permitted on the highways of Oregon by state law. Where a vehicle confiscated from an offender has a value of less than \$500, the vehicle will normally be released to the offender. However, the offender will not be able to take the vehicle off the impound lot under state law.

Thus, many of the actions listed as a release of a vehicle actually deprive the offender of the use of that vehicle. In these cases, the City of Portland does not receive the income that would result from a forfeit and sale at auction. Nor, on the other hand, does the City sustain a loss from paying for the storage of a junk vehicle. These exceptions to the forfeit procedure make the ordinance accessible to the public by protecting the rights of innocent owners and lien holders (though these individuals must still pay out-of-the-pocket for towing, storage, and impoundment costs). This procedure also avoids running up the city's expense for forfeiting and auctioning vehicles where the costs of this action would probably exceed the price that could be obtained from the vehicle.

Cost of the Vehicle Forfeiture Program in Portland, Oregon

Table 2 summarizes expenditures and revenues presented in an annual report to the City Council by Commissioner Earl Blumenauer on January 16, 1991. The budget shows revenues from car sales in the 1990 budget year of \$60,000 with this increasing to \$166,000 in the 1991-1992 year. This cash flow is based on the assumption of an average sale price of \$980 per auctioned car, which has been the experience to date. In the FY 1991-1992 period, the city plans to open a storage lot of its own; therefore, it will create a new source of revenue from storage payments by the owners or lien holders of vehicles seized under the ordinance.

Table 3 indicates the value of the first 53 vehicles. As can be seen, approximately 70% of the vehicles were valued at less than \$1,000. This low value is typical of multiple DWI offenders, many of whom drive junk cars. However, while the average price received on auction for a vehicle was \$980, a larger percentage of the more expensive vehicles were seized and sold by the City of Portland.

While the budget shown in Table 2 indicates that the program will be subsidized from public funds in the amount of approximately \$70,000 for the FY 1991-1992 year, it should be kept in mind that the community would experience a considerable expense were these offenders given the more traditional penalty of time in jail. Data on the cost of alternative criminal prosecution of these offenders are not available, but it is clear that significant costs arise in prosecuting, convicting, and supervising individuals guilty of driving while suspended. Properly-run vehicle forfeiture programs have the potential benefit that since they raise some revenue to offset the costs of the program. It is possible that the amount of revenue could be increased, if program costs were added to the towing and storage charges which are paid by individuals to whom vehicles are released.

Police Reaction to Forfeiture Ordinance

An interview was held with officers of the traffic division of the Portland Police Department to determine their view of the ordinance and to obtain information on their experience with handling offenders whose vehicles were forfeited. The general reaction of the officers involved was one of strong support for the ordinance. They found it easy to apply since there was only one form that needed to be filed out and the vehicle could be handled by calling the storage company which would tow it to the impound lot. All the officers agreed that this procedure was a great improvement over the situation prior to the enactment of the ordinance when most of them believed that little action was being taken by the courts on Driving While Suspended cases. This offense was essentially not being enforced because of the lack of a significant penalty since jail sentences could not be carried out.

Despite the general support for the ordinance, police officers did have some complaints regarding the law. Several mentioned that they felt too many vehicles were being released rather than forfeited. This watered down the impact of the forfeiture law. When asked whether they always impounded a vehicle when they encountered a suspended driver, the officers indicated that on several occasions they had not done so. In one case, the officer found that the offender did not own the car and decided it was not worth the trouble. In another case, an officer missed an opportunity because the communications systems with the motor vehicle department was overloaded and he could not get the necessary driver record information. Another noted that the information indicating that an individual is suspended and the suspension was for DWI was not checked on the motor vehicle department abstracts and that sometimes this is missed by the dispatcher unless the officer makes a special effort to request some information.

An interview was also held with the owner of the private towing company which is used by the Portland Police Department for picking up and storing vehicles under the forfeiture ordinance. The company representative indicated that the procedure presented no problem to them and that the business was generally profitable. When called by the police, they would pick up the car and tow it to their storage lot and hold it until the owner arrived with a release form from the police department. The owner would then be required to pay their towing costs of \$55 plus \$12 a day storage. If the owner could not, or would not pay the bill, they could then take action to have the vehicle forfeited to them by communicating with the Department of Motor Vehicles and sending certified letters to any owner and lien holders of record. Unless these owners appeared to pay the cost and receive the car, the vehicle would be sold at public auction. Since it costs relatively little to store it on their lot, they apparently found this procedure to be generally profitable.

Legal Challenge to the Forfeiture Ordinance

To date, there have been approximately 395 vehicle seizures under the Portland Ordinance if those relating to prostitution are added to the DWI offenses. Only one of these seizures has been challenged in court and the ensuing trial in the District Court of Multnomah County resulted in

finding in favor of the ordinance and an affirmation of the seizure. The plaintiff in this case put forward six issues challenging the validity of the ordinance, and in an unusual action, the court provided a lengthy written opinion with respect to each of the issues. The issues are raised and the court's response are significant since many of these issues are raised by critics of forfeiture laws. The issues raised are described below:

1. The claimant challenged the ordinance on the basis that it violated his rights under the 4th Amendment of the U.S. Constitution... in that it authorized the seizure of a motor vehicle for forfeiture without requiring the issuance of a warrant. Judge Michael H. Marcus's opinion cites several state and federal cases which support the position that crimes involving an automobile can be an exception to the Constitutional requirement. He notes that the mobility of the automobile justifies its warrantless seizure under an otherwise valid forfeiture ordinance.
2. The claim was also made that the ordinance violates the due process clause of the 14th Amendment in that it required the claimant to provide a \$10 cash bond. In this particular case, the issue was mute because the City Attorney had waived the bond. The judge indicated that this might be an issue if the complainant was indigent but was not relevant in the present case.
3. The claim was made that the statute violates the individual's right against self-incrimination in that it requires him to submit a written claim concerning his asserted interest in the property. However, the form does not contain information on the offense itself, but rather, on the ownership of the vehicle. In any case, the judge argued that the claimant should have filled out the form leaving any information blank which he felt involved self-incrimination.
4. The claim was made that the ordinance is actually a criminal law rather than a civil enactment, and thus, that the claimant is entitled to the full protection afforded the defendant in a criminal proceeding including that of an appointed

annual report on the program, that whereas in 1987 and 1988, there had been 935 alcohol-related felony DWS cases, there were only 197 vehicles seized during the 1990 year. This may give some indication that the ordinance is having a deterrent effect.

The noteworthy features of this ordinance include:

1. The vehicle is seized at the time of the original stop and arrest.
2. The basis for the forfeiture is relatively clear and generally easily determined from the driving record which involves three elements: (a) being in charge of the vehicle, (b) having the driver license suspended or revoked, and (c) that revocation or suspension having resulted from a DWI conviction.
3. The offender is provided with an opportunity for hearing. (However, only one in 400 offenders has requested such a hearing.)
4. The impounding of a vehicle can proceed whether or not the individual is prosecuted for a criminal offense.
5. Procedures are established for safeguarding the rights of innocent leinholders and vehicle owners. At the same time, the process assures that those who provide vehicles to the offender are penalized through the requirement to pay expenses. They must also execute a guarantee that they will not return the vehicle to the offender.
6. Provision is made for rapidly releasing vehicles which have little or no value. Such releases are principally in those cases such as crash damage to the vehicle in which the vehicle cannot be successfully repossessed by the offender.
7. The program generates a substantial income to offset, at least in part, its cost.

While not self-sufficient, it may represent a relatively inexpensive approach to controlling the suspended driver.

TABLE 2

Veh'le Forfeiture Enforcement Program
Assuming 300 Vehicles Seized, Seek Forfeiture on 240

	FY '90-91 Budgeted	FY '91-92 Projected
Expenditures		
Police Data Tech I	80,937 (3)	53,985 (2)
Police Sargeant	50,442	50,442
Tow Charges	50,000	16,500 (\$55*300)
Legal Notice	20,000	28,440 (\$237*120)
Retows to new city lot	0	500 (\$25*20)
Miscellaneous	13,490	13,490
1/3 low lot expenses		73,458
City Attorney's Office	<u>50,000</u>	<u>70,000</u>
Total	274,869	312,493
Revenues		
Storage refunds	0	3,360 (60*7*\$8)
Tow refunds	40,000	3,300 (\$55*60)
Car sales	60,000	166,800†
General Fund	<u>174,869</u>	<u>139,233</u>
Total	294,869	312,493

† Assuming \$980 per car average is maintained, number of vehicles seized remains constant and percentage of vehicles forfeited goes up 50%. Additional assets of \$68,600 will be seized in FY 91-92 but will not be realized until the next fiscal year.

Actual public subsidy for program: $139,233 - 63,500 = \$70,633$

Table 3
City of Portland, Oregon
DUI/DWS Seizures and Forfeitures

Value of Vehicle	Vehicles Seized	Vehicles Pending	Vehicles Forfeited	Percent Forfeited
0 - 1,000	36	8	16	44%
1,000 - 5,000	13	3	8	62%
5,000 or more	4	1	3	75%

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US Department
of Transportation
National Highway
Traffic Safety
Administration

DOT HS 807 870
Final Report

June 1992

Assessment of Impoundment and Forfeiture Laws for Drivers Convicted of DWI Phase I Report: Review of State Laws and their Application

This document is available to the public from the National Technical Information Service, Springfield, Virginia 22161.

Technical Report Documentation Page

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15. Supplementary Notes Dr. Marvin Levy served as Contracting Officer's Technical Representative throughout the project.					
16. Abstract <p>Ensuring that DWI offenders who receive the license suspension penalty actually do not drive is a major problem in most states. This is clearly demonstrated by the fact that many suspended drivers continue to be involved in crashes and receive traffic citations during periods of license suspension.</p> <p>This report covers a study of vehicle impoundment and forfeiture laws and vehicle tag impoundment laws which have potential for preventing illicit driving by suspended DWI offenders.</p> <p>This is a report by the National Public Services Research Institute to the National Highway Traffic Safety Administration covering Phase I of Contract No. DTNH22-89-C-07026. This report summarizes the results of a study of the laws covering actions against vehicles and vehicle tags designed to discourage or prevent driving by individuals whose licenses have been suspended as a result of Driving While Impaired (DWI) conviction. The final report under this contract will cover Phase II of this research effort; an evaluation of laws in the States of Oregon and Washington which provide for the suspension of vehicle registration and the placing of stickers on vehicle tags by police.</p>					
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EXECUTIVE SUMMARY

OVERVIEW

Ensuring that Driving While Impaired¹ offenders who receive the license suspension penalty actually do not drive is a major problem in most states. Many suspended drivers continue to be involved in crashes and to receive traffic citations during periods of license suspension. This Phase I report, submitted to NHTSA by the National Public Services Research Institute, summarizes the findings of a study to identify the major features and application of state laws which aim to deter or prevent DWI by targeting the operator's vehicle (e.g., impoundment or forfeiture) or license plate (impoundment, family plates, etc.). Phase II of this effort involves an evaluation of the impact effectiveness of laws in Oregon and Washington states directed against the license plates (license plate "sticker" sanctions) of drivers who have had their operator's license suspended as a result of a DWI conviction. A final report on the methodology used and finding from this effort will be prepared during Calendar 1992.

Phase I of this study had three objectives:

1. To identify States with laws providing for the impoundment of vehicle tags or the impoundment and forfeiture of the vehicle itself for the DWI offense or for Driving While Suspended² as a result of a DWI offense;
2. To determine the extent to which these laws have been applied, problems associated with their application and actions which might increase their use; and,
3. To determine whether adequate and sufficient data exists to support an impact evaluation of these impoundment and forfeiture laws.

STUDY METHODS

Phase I data were collected between April 1990 and March 31, 1991 (12 months) and involved the following activities:

1. *Review of the State laws* - At a minimum, the laws of every state with an impoundment or forfeiture sanctions program were reviewed and documented.

¹ States vary in the title applied to their drunk driving law(s). This report uses Driving While Impaired (DWI) to refer to all laws relating to impaired driving.

² States vary in the titles applied to the offense of operating a vehicle with a suspended or revoked driving license. This report uses Driving While Suspended (DWS) to refer to such laws.

2. *Review of Reports* - When available, technical reports, dealing with the implementation of a process or an impact evaluation of identified impoundment or forfeiture programs, were reviewed and assessed.
3. *Telephone Contact with Officials* - If the review of laws or reports suggested the program might be a candidate for an effectiveness evaluation, calls were made to state officials to collect information on the use of the law.
4. *Site Visits* - For the most promising candidates, a few states were visited in an effort to obtain more detailed information on the application of the law, relevant issues, problems, etc.

**Findings on State Laws Involving Impoundment,
Forfeiture and Other Sanctions Directed
Against Vehicles and License Plates**

A total of 32 states, the Virgin Islands, and the City of Portland Oregon were identified as having one or more laws affecting vehicle registration, vehicle tags, or the vehicle itself which could impact the illicit driving of offenders suspended as a result of a DWI conviction.

Actions against vehicles which states have employed in an effort to limit or eliminate driving by DWIs are as follows:

1. *Vehicle Forfeiture* - involves the state confiscating the vehicle of a DWI offender. States having legislation providing for vehicle forfeiture as a penalty for multiple DWI or DWS offenses include Alaska, California, Maine, New York, North Carolina, and Texas. (Two States, Pennsylvania and Tennessee, permit vehicle forfeiture of first-time DWI offender. Also, one locality (Portland, Oregon) has a local ordinance providing for vehicle forfeiture for driving while suspended as a result of a DWI offense.
2. *Vehicle Impoundment* - Overnight impoundment of the vehicle of an individual arrested for drunken driving is a typical practice in most states. Several States have laws which permit longer term impoundments, usually for repeat DWS or DWI offenders. States with such laws include California, Delaware, Nebraska, New York, New Mexico, Oregon, and Wisconsin. The State of California provides for 30 days impoundment for a first-time DWI offense. Montana provides for impoundment of vehicles of drivers under the age of 18.
3. *Vehicle Immobilization* - Motorists can be prevented from driving their vehicles by police use of a wheel locking "Boot." The State of New Mexico specifically provides for this type of vehicle action.

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Many States take action against the vehicle registration and/or the vehicle tag in order to control DWI convicted drivers.

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1. *Suspension of Vehicle Registration and License Plate Impoundment* - In a number of States convicted first time or repeat DWI offenders will have their vehicle registration suspended pending demonstration of financial responsibility. Failure by the offender to provide such evidence may result in the withdrawal of registration, and even in the impounding of the vehicle's plates. States with such laws are Arizona, Indiana, Iowa, Minnesota, New Hampshire, New York, North Dakota, Ohio, Oregon, South Dakota, Virginia, and Wyoming.

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2. *Special Tags - Three States* — Minnesota, Iowa, and Ohio — have provisions for issuing special plates to drivers with withdrawn vehicle registrations in order to permit the use of the vehicle for vocational purposes or by family members. Minnesota provides for the issuance of plates with special identity numbers to third-time DWI offenders. Ohio provides bright yellow "Family Plates" to first-time or multiple-time DWI offenders at the option of the court.

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3. *Sticker Programs* - Oregon and Washington state have laws which provide for the tagging of license plates of cars operated by suspended drivers, where many of the suspensions are related to a DWI offense. The laws involve a roadside procedure in which the police officer takes possession of the vehicle registration and affixes a Zebra-striped sticker to the vehicle tag (over the annual sticker). Suspended drivers who are vehicle owners are not able to show they are properly licensed, and cannot clear their registration and obtain a new license plate. Because police officers can stop these cars without probable cause to check for a valid operator's license, drivers with a suspended license should have a heightened risk of being caught for DWS.

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Findings on the Application of Impoundment and Forfeiture Laws

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An objective of this study was to determine the extent to which vehicle and vehicle tag impoundment was being applied to DWI offenders. Contacts with state officials and samples of court data indicated that use of vehicle impoundment and forfeiture are rare, both because such laws are generally reserved for the most severe cases (third-time and fourth-time DWI offenders) and because of administrative difficulties in applying these penalties. In most instances, it even proved to be impossible to obtain an accurate count of the vehicle impoundment and forfeiture cases because no state-wide data system exists for recording these actions. [It would be necessary to review the trial records in every court jurisdiction in a state to obtain these data.] Actions against the vehicle tag were easier to evaluate because state-wide records of such actions are available. For example, information on sticker plate programs indicated that these programs affect a sizeable number of DWI cases (1,200 to 10,000/year).

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RECOMMENDATIONS

A number of recommendations were developed to handle issues or problems raised by this research effort:

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Type Of Legal Process. In general, criminal laws providing for vehicle forfeiture should be avoided since they appear to be rarely used. Emphasis should be placed on legislation which provides for administrative impoundment of vehicles or plates and civil forfeiture of vehicles.

Timing of Vehicle or Plate Seizure. If either the vehicle or the plate is to be impounded, the legislation should provide for seizure at the time of the arrest, not after conviction when it may be difficult to locate the offender or his vehicle.

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If Vehicle Owner is Not the Offender. Owners should pay the towing and storage costs and sign an affidavit that they will not permit the offender to drive the car. If the offender is apprehended driving the owner's car again, the owner forfeits all claim to the vehicle (as is done in Portland).

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Concern for Family Members. Administrative laws which provide for cancellation of vehicle registration should include a provision for family plates (as in the Minnesota statute). Statutes or ordinances providing for vehicle impoundment or forfeiture should provide for the return of the vehicle to a family member with an ownership interest in the car, upon the payment of towing and storage fees, and the execution of an affidavit that the offender will not be allowed to use the vehicle.

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Reducing the Cost of Impoundment. Lower cost alternatives to vehicle impoundment should be considered, such as vehicle immobilization or the impoundment of the vehicle plates.

Recording of Impoundment and Forfeiture Sanctions. States should establish a record system which would summarize vehicle impoundment and forfeiture cases for the state as a whole in order to permit a determination of the extent to which this kind of legislation is being implemented.

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Defining Responsibility for Determining Vehicle Ownership. An agency should be designated to be responsible for determining vehicle ownership for the court prior to trial. Procedures should be established to provide for rapid notification of the DMV in the event of a vehicle sale or transfer. Also, transfers to individuals with the same surname or in the same household should be subject to special investigation to ensure that offenders are not transferring ownership to avoid the impoundment penalty.

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Impoundment and Forfeiture Should Be Used for Lesser Offenses. States that limit the use of impoundment and forfeiture laws to third- and fourth-time offenders should consider applying these laws to the broader segment of DWI or DWS drivers convicted of lesser offenses, e.g. second-time DWI offenders or DWS offenders where the suspension was based on a DWI conviction.

Authority to Stop Vehicle. Laws providing for special plates (e.g., family plates, stickered plates) should incorporate a provision that acceptance of such plates implies consent to the vehicle being stopped at any time by the officer to check the license of the operator.

Table I-1: Jurisdictions which have legislation or case law relating to the impoundment of plates or the impoundment or forfeiture of vehicle

No	State	Target of Law	Penalty	Offense	Type of Process (Criminal, Civil, or Administrative)	Type of Contact	Notes
1	Alaska	Vehicle	Forfeiture	2nd DWI	Criminal	Telephone	
2	Arizona	Vehicle	Forfeiture	DWI while DWS or 3rd DWI	Criminal	Visit	
		Plate	Suspension	1st DWI	Criminal		1
3	Arkansas	Vehicle	Forfeiture	4th DWI	Criminal	Telephone	
		Plate	Impoundment	DWS for DWI	Criminal		2
4	California	Vehicle	Forfeiture	3rd DWI	Criminal	Visit	
		Vehicle	Impoundment	1st DWI	Criminal		3
5	Delaware	Vehicle	Impoundment	DWS for DWI	Criminal	Telephone	4
		Plate	Impoundment	DWS for DWI	Criminal		
6	Illinois	Vehicle	Temp. Impoundment	1st DWI	Criminal	Telephone	5
7	Indiana	Plate	Suspension	2nd DWI	Criminal	Telephone	6
8	Iowa	Plate	Suspension	3rd DWI	Criminal	Telephone	7
		Plate	Special Plates	3rd DWI	Administrative		8
9	Maine	Vehicle	Forfeiture	DWI while DWS	Criminal	Telephone	9
		Plate	Suspension	1st DWI	Criminal		9
10	Maryland	Plate	Suspension	DWS for DWI	Criminal	Telephone	10
11	Michigan	Plate	Forfeiture		Criminal	Telephone	23
12	Minnesota	Plate	Suspension	3rd DWI	Administrative	Telephone	7
		Plate	Special Plates	3rd DWI	Administrative	& Report	8
13	Montana	Vehicle	Impoundment	1st DWI (<18)	Criminal	Telephone	22
14	Nebraska	Vehicle	Impoundment	DWS	Criminal	Telephone	11
15	New Hampshire	Plate	Revocation	1st DWI	Criminal	Telephone	7
16	New Mexico	Vehicle	Impoundment	2nd DWI	Criminal	Telephone	
		Vehicle	Immobilization	2nd DWI	Criminal	& Report	13
17	New York	Vehicle	Forfeiture	2nd DWI (Felony)	Civil	Telephone	
		Vehicle	Impoundment	DWI while DWS	Criminal		12
		Plate	Suspension	1st DWI	Criminal		7
18	North Carolina	Vehicle	Forfeiture	DWI while DWS	Criminal	Telephone/Report	

Assessment of Impoundment and Forfeiture Laws for Drivers Convicted of DWI

Table I-1: Jurisdictions which have legislation or case law relating to the impoundment of plates or the impoundment or forfeiture of vehicle

No	State	Target of Law	Penalty	Offense	Type of Process (Criminal, Civil, or Administrative)	Type of Contact	Notes
19	North Dakota	Vehicle	Forfeiture	3rd DWI	Criminal	Telephone	
		Plates	Suspension	1st DWI	Criminal		
20	Ohio	Plate	Suspension	1st DWI	Criminal	Visit	7
		Plate	Special Plates	1st DWI	Administrative		14
21	Oregon	Vehicle	Impoundment	2nd DWI	Criminal	Visit	10
		Plate	Sticker	DWS	Administrative		15
22	Portland	Vehicle	Forfeiture	DWS for DWI	Civil	Visit	
23	Pennsylvania	Vehicle	Forfeiture	1st DWI	Criminal	Telephone	16
24	Rhode Island	Vehicle	Forfeiture	4th DWI	Criminal	Telephone	
25	South Carolina	Vehicle	Forfeiture	4th DWI or 4th DWS	Criminal	Telephone	9
26	South Dakota	Plate	Suspension	1st DWI	Criminal	Telephone	7
27	Tennessee	Vehicle	Forfeiture	1st DWI	Criminal	Telephone	16
28	Texas	Vehicle	Forfeiture	3rd DWI	Criminal	Telephone	
29	Utah	Vehicle	Temp. Impoundment	1st DWI	Criminal	Telephone	17
30	Virginia	Plates	Suspension	1st DWI	Criminal	Telephone	18
31	Virgin Islands	Vehicle	Impoundment	Failure to Appear	Criminal	No Contact	19
32	Washington	Plate	Sticker	DWS	Administrative	Visit	20
33	Wisconsin	Vehicle	Impoundment	DWS	Criminal	Telephone & Report	21
34	Wyoming	Plate	Suspension	2nd DWI	Criminal	Telephone	7

Assessment of Impoundment and Forfeiture
Laws for Drivers Convicted of DWI

Table 1-1: Jurisdictions which have legislation or case law relating to the impoundment of plates or the impoundment or forfeiture of vehicle

Notes:

- 1 - Registration susp. for same length of time as license susp.
- 2 - 90 days if susp. was a result of a DWI conviction
- 3 - 30 days 1st, 90 days 2nd DWI conviction
- 4 - 90 day imp. of vehicle or plates for DWS if susp. was for DWI
- 5 - 6 hours only
- 6 - 6 months for felony DWI
- 7 - susp. for same period as drivers license
- 8 - special plates if needed by family member
- 9 - mandatory
- 10 - 120 days
- 11 - applies to drivers under age 18
- 12 - for "aggravated" DWS conviction
- 13 - immobilization apparently not used
- 14 - family plates required by some judges for limited use
- 15 - results in susp. of registration in 60 days
- 16 - forfeiture under common law, court must consider family
- 17 - short term imp. to protect public safety
- 18 - susp. for 1 year withdrawn if offender attends rehabilitation program
- 19 - court may impound car for failure to appear
- 20 - applies only to suspended drivers who own the vehicle, see note 15
- 21 - vehicle may also be imp. for failure to post security following an accident
- 22 - 30 day impoundment for DWS offense
- 23 - license plates confiscated for 2nd DWI offender

Assessment of Impoundment and Forfeiture
Laws for Drivers Convicted of D

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