

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 86 / 2

10086 SENATE JUDICIARY

HB

151

FISCAL NOTE

No: 1
 Bill Version: CSHB 151 (JUD)
 (H) Publish Date: 4/27/99

**STATE OF ALASKA
 1999 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction)	Dept. Affected	Law
Title <u>"...relating to revocation and reinstatement of the driver's license of a person at least 14 but not yet 21 years of age."</u>	BRU	<u>Criminal Division/Civil Division</u>
Sponsor <u>Representative Kott</u>	Component	<u>1st-4th Judicial Districts; OSPA; Human Services</u>
Requester <u>House Judiciary Committee</u>	Component Serial No.	<u>2198-99;2201/03/61/79/08</u>

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 HB 151 makes several changes to the statutes relating to revocation of driver's licenses for minors possessing and/or consuming alcohol. Possession of alcohol would no longer be grounds for license revocation. Driver's license revocations imposed under different provisions of law for the same incident would be applied concurrently, rather than consecutively. And the bill would allow license reinstatement under certain circumstances.

This bill will have no fiscal impact on the Department of Law.

Prepared by <u>Joan M. Kasson</u>	Phone <u>465-5370</u>
Division <u>Attorney General's Office</u>	Date/Time <u>3/26/99, 4:27 PM</u>
Approved by Commissioner <u>for Bruce M. Bolger</u>	Date <u>3/26/99</u>
Agency <u>Department of Law</u>	

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SENATE COMMITTEE REPORT

DATE: 4/30/99

FURTHER:

DATE TURNED
IN TO OFFICE: _____

Judiciary Committee considered CS FOR HOUSE BILL NO. 151(JUD) am

"An Act relating to revocation and reinstatement of the driver's license of a person at least 14 but not yet 21 years of age."

and recommends:

- be replaced with CS HB 151 (F) (JUD)
- adopt previous CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:
- same title
 - new title
- House Bill:
- same title
 - technical title
 - new: SCR# _____

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
		<i>Kirk Haldor</i>	✓		
		<i>J. Sellers</i>	✓		
CHAIR: <i>John T. Taylor</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

**STATE OF ALASKA
1999 LEGISLATIVE SESSION**

BILL NO. SCS CSHB 151 (JUD)

Revision Date/Time (Note if correction)	Dept. Affected	Law
Title "An Act relating to possession, control, or consumption of alcohol by a person under 21 years ..."	BRU	Criminal Division
Sponsor Representative Kott	Component	1st-4th Judicial Districts; Criminal Appeals/Special Litigation
Requester Senate Judiciary Committee	Component Serial No.	2198-99;2201;61;79;03

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	224.6	224.6	224.6	224.6	224.6	224.6
Travel	0.8	0.8	0.8	0.8	0.8	0.8
Contractual	39.0	39.0	39.0	39.0	39.0	39.0
Supplies	3.4	3.4	3.4	3.4	3.4	3.4
Equipment	13.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	280.8	267.8	267.8	267.8	267.8	267.8

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	280.8	267.8	267.8	267.8	267.8	267.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	280.8	267.8	267.8	267.8	267.8	267.8

Estimate of any current year (FY99) cost:

POSITIONS

Full-time	2	2	2	2	2	2
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

SCS CSHB 151 (JUD) makes a third offense of minor consuming, possession, or control of alcohol a class B misdemeanor. Fourth and subsequent offenses become a class A misdemeanor. Under current law, these offenses are violations, and do not require Department of Law prosecution. Section 8 of the bill also increases the zero tolerance law for those under 21 who have consumed any amount of alcohol and operate a motor vehicle, by changing the penalty from a violation to a class B misdemeanor for a first offense, and a class A misdemeanor for a second offense within 5 years of the first. It also adds driving after taking any controlled substances to the zero tolerance law.

The Division of Motor Vehicles reports that in CY98, 980 minors had a third or subsequent conviction for minor consuming, which under this bill would be new cases for the Criminal Division. Approximately 135 would be

Prepared by	Joan M. Kasson <i>Joan M. Kasson</i>	Phone 465-5370
Division	Attorney General's Office	Date/Time 5/16/99, 11:38 AM
Approved by Commissioner	Bruce M. Botelho, Attorney General <i>Bruce M. Botelho</i>	Date 5/16/99
Agency	Department of Law	

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ANALYSIS CONTINUATION

new cases under zero tolerance (a minor driving after drinking, but not rising to the level of DWI). The Department of Law would require two new prosecutors, one in Anchorage and one in Fairbanks, to handle this new caseload.

Costs are based on the Civil Division's FY00 standard full-time equivalent attorney cost schedule (\$133,926), and include clerical support, communications, space, supplies, data processing, and other normal overhead expenses. An additional \$6,500 for one-time equipment purchases, costs that cannot be included in the rate as overhead, are added in FY00 only.

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. SCS CSHB 5(JUD)

Revision Date/Time (Note if correction) _____ Dept. Affected Department of Corrections
 Title An Act relating to possession, control, or BRU Administration and Operations
consumption of alcohol by a person under 21 years of age... Component All
 Sponsor Representative Kott
 Requester Senate Judiciary Committee Component Serial No. #0694

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous	256.3	256.3	256.3	256.3	256.3	256.3
TOTAL OPERATING	256.3	256.3	256.3	256.3	256.3	256.3

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	256.3	256.3	256.3	256.3	256.3	256.3
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	256.3	256.3	256.3	256.3	256.3	256.3

Estimate of any current year (FY99) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Section 1 of this legislation creates a class B misdemeanor for a third conviction of minor consuming, possession, or control of alcohol. Under current law this offense is a violation with no jail time. Based on data from the Division of Motor Vehicles, the Dept. of Corrections anticipates jailing 400 people a year for their third and subsequent convictions. This section will result in additional costs to the DOC of approximately \$211,400 annually.

Section 8 of this legislation institutes a zero tolerance policy for those under 21 who have consumed any amount of alcohol and operate a vehicle. The estimated number of people 18 yrs and older who will be convicted under section eight is 85. This section will result in additional costs to the DOC of approximately \$44,922 annually.

Prepared by Bruce Richards Phone _____
 Division Commissioner's Office Date/Time 5/15/99 6:50 PM
 Approved by Comm. Margaret M. Pugh *Margaret M. Pugh* Date 5/15/99
 Agency Department of Corrections

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FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. SCS for CS HB 151(JUD)

Revision Date/Time (Note if correction): _____ Dept. Affected: Health and Social Services
 Title: An Act relating to possession, control, or BRU: Alcohol and Drug Abuse Services
consumption of alcohol by a person under 21 years of age; Component: ASAP
 Sponsor: Rep. Kott COMPONENT SERIAL NO. #305
 Requestor: _____ See also (SN#): _____

Expenditures/Revenues: (Thousands of Dollars)
 Note: Amounts do not include inflation unless otherwise noted below.

OPERATING	FY2000	FY2001	FY2002	FY2003	FY2004	FY2005
PERSONAL SERVICES	130.0					
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	400.0					
MISCELLANEOUS						
TOTAL OPERATING	530.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	530.0					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	530.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY1999) cost: 50.0

POSITIONS:

FULL-TIME	1					
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

SCS for CS for HB 151(JUD) makes changes to the "Use it Lose It" laws. This bill re-criminalizes minor consuming by making the third offense within five years a Class B Misdemeanor and the fourth offense within five years a Class A Misdemeanor. In addition it makes a minor operating a vehicle a misdemeanor on the first offense.

There are two age groups that this Division must deal with: those under 18 and those 18,19,&20. For persons under age 18 there will need to be new programs developed to assess and monitor the first and second offenders to prevent the third offense. A systematic community response to person under 18 does not exist in Alaska.

Prepared by: Loren A. Jones Phone: _____
 Division: Alcoholism and Drug Abuse Date/Time: 5/15/99 6:33 PM

Approved by Commissioner:  Date: 5/15/99
 Agency: Department of Health & Social Services

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FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BIL' O. SCS CSHB151(JUD)

Revision Date/Time (Note If correction): _____ Dept. Affected: Health and Social Services
 Title: Relating to revocation & reinstatement of BRU: Family and Youth Services
driver's licenses of minors Component: McLaughlin Youth Center
 Sponsor: Rep. Kott COMPONENT SERIAL NO. 264
 Requestor: Senate (JUD) See also (SN#): _____

Expenditures/Revenues: (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING	FY2000	FY2001	FY2002	FY2003	FY2004	FY2005
PERSONAL SERVICES	168.0	173.0	178.2	183.6	189.1	194.8
TRAVEL						
CONTRACTUAL	6.0	6.2	6.4	6.6	6.8	7.0
SUPPLIES	12.0	12.4	12.7	13.1	13.5	13.9
EQUIPMENT	12.0	12.4	12.7	13.1	13.5	13.9
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	198.0	203.9	210.1	216.4	222.9	229.5

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	198.0	203.9	210.1	216.4	222.9	229.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	198.0	203.9	210.1	216.4	222.9	229.5


Estimate of any current year (FY1999) cost: \$0.0

POSITIONS:

FULL-TIME	3	3	3	3	3	3
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Minor possessing and consuming alcohol has been a violation, not a criminal offense, since September, 1995. SCS CSHB151(JUD) as amended would classify third and subsequent violations of possession or consumption of alcohol by minors under AS 04.16.050 as a misdemeanor offense. Based on the case numbers provided by the Division of Motor Vehicles for CY 98, there were 980 youth who would have been subject to a district court sentence involving some period of incarceration. Assuming 600 of these offenders were between 14 and 17 years of age and each received an average sentence of three days to serve, there would be a need for 3 youth counselor FTEs to provide 24 hour supervision and control, court transportation and other functions as required to meet the responsibilities of AS 47.14 relating to operation of juvenile correctional facilities. In addition, the increase in the department's detention population would result in increased utility, supply and equipment expenses.

Prepared by: George Buhite Phone: 465-2212
 Division: _____ Date/Time: 5/15/99 5:13 PM
 Approved by Commissioner:  Date: 5/15/99
 Agency: Department of Health & Social Services

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LEGAL SERVICES

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

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


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

MEMORANDUM

May 16, 1999

SUBJECT: Sectional Summary of SCS CSHB 151()
(Work Order No. 1-LS0492P)

TO: Senator Robin Taylor
Attn: Mel

FROM: Michael F. Ford 
Legislative Counsel

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

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

Section 1. This section increases from seven to 10 days the time period in which a person who is at least 14 but not yet 21 may appeal a driver's license revocation for possession or consumption of alcohol, use of a controlled substance, operation of a vehicle after consuming alcohol, or refusal to take a breath test.

Section 2. This section makes conforming amendments for changes in sec. 1.

Section 3. This section changes the revocation periods to 30 days for a first offense, 60 days for a second offense, 90 days for a third offense, and a year for a fourth or subsequent offense.

Section 4. This section provides that for a person who receives multiple periods of driver's license revocation under AS 28.15.183, the revocation periods run concurrently. Also a person who receives a license revocation of at least 60 days can apply for a limited license and a person who has more than a year of license revocation may apply for reinstatement under the provisions of sec. 5.

Section 5. Allows a person to have their license reinstated if the person has had their license revoked for at least a year, the person completes alcoholism or drug treatment, and the person has no other violations. Also provides for immediate reinstatement of the license if the state fails to prosecute the offense that triggers the license revocation, the case is dismissed, or if the person is found not guilty.

Senator Robin Taylor
May 16, 1999
Page 2

Section 6. This section makes conforming amendments for changes to section 1.

Section 7. Provides that sec. 5, regarding reinstatement of a drivers license, applies to offenses occurring before, on, or after the effective date of this Act. Provides that other than sec. 5, the provisions of this Act apply to offenses occurring after the effective date of the Act.

MFF:lmb
99-088.lmb

Underage Drinking

The problem of underage drinking is two-fold. First, underage drinking is unlawful and should be punished. Second, some underage drinkers become underage drivers, and that becomes a threat to others. Because drinking and driving is more dangerous than simply drinking, drinking and driving should be a more serious offense.

The underage drinker harms himself. The penalty should be proportionate to that fact. The underage driver harms others. Likewise, the penalty should recognize that.

Presently, the law hits both targets equally. A more rational approach would be to decrease the penalty for underage drinking which does not involve a vehicle and increase the penalty for drinking while in or around a vehicle.

PROPOSAL

Minor Consuming

- 1st offense (violation) - [alternative 10 day suspension]
- 2nd offense (violation) - [alternative 30 day suspension]
- 3rd offense (class B misdemeanor) - [alternative 90 day suspension]
- 4th offense (class A misdemeanor) - [alternative up to 1 year suspension]

Minor Driving After Consuming Alcohol (AS 28.35.280)

- 1st offense (class B misdemeanor) - loss of license for 90 days
- 2nd offense (class A misdemeanor) - loss of license for up to 1 year

WORK DRAFT

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1-LS0492VP
Ford
5/16/99

SENATE CS FOR CS FOR HOUSE BILL NO. 151()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES KOTT, Ansterman, Dyson, Rokeberg, Smalley, Cissna

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to revocation and reinstatement of the driver's license of a
2 person at least 14 years of age but not yet 21 years of age."

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

4 * Section 1. AS 28.15.183(a) is amended to read:

5 (a) If a peace officer has probable cause to believe that a person who is at
6 least 14 years of age but not yet 21 years of age has possessed or used a controlled
7 substance in violation of AS 11.71 [,] or a municipal ordinance with substantially
8 similar elements, [OR] possessed or consumed alcohol in violation of AS 04.16.050
9 or a municipal ordinance with substantially similar elements, operated a vehicle after
10 consuming alcohol in violation of AS 28.35.280, or refused to submit to a chemical
11 test under AS 28.35.285, and the peace officer has cited the person or arrested the
12 person for the offense [A VIOLATION OF AS 11.71, AS 04.16.050, AS 28.35.280,
13 OR 28.35.285 OR THE MUNICIPAL ORDINANCE WITH SUBSTANTIALLY
14 SIMILAR ELEMENTS], the peace officer shall read a notice and deliver a copy to the

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person. The notice must advise that

(1) the department intends to revoke the person's driver's license or permit, privilege to drive, or privilege to obtain a license or permit;

(2) the person has the right to administrative review of the revocation;

(3) if the person has a driver's license or permit, the notice itself is a temporary driver's license or permit that expires 10 [SEVEN] days after it is delivered to the person;

(4) revocation of the person's driver's license or permit, privilege to drive, or privilege to obtain a license or permit, takes effect 10 [SEVEN] days after delivery of the notice to the person unless the person, within 10 [SEVEN] days, requests an administrative review;

(5) if the person has been cited under AS 28.35.280 or under AS 28.35.285, that person, under AS 28.35.290, may not operate a motor vehicle, aircraft, or watercraft during the 24 hours following issuance of the citation.

* Sec. 2. AS 28.15.183(c) is amended to read:

(c) Unless the person has requested an administrative review, the department shall revoke the person's driver's license or permit, privilege to drive, or privilege to obtain a license or permit, effective 10 [SEVEN] days after delivery to the person of the notice required under (a) of this section, upon receipt of a sworn report of a peace officer

(1) that the officer had probable cause to believe that the person is at least 14 years of age but not yet 21 years of age and has violated one of the offenses described in (a) of this section [POSSESSED OR USED A CONTROLLED SUBSTANCE IN VIOLATION OF AS 11.71, OR A MUNICIPAL ORDINANCE WITH SUBSTANTIALLY SIMILAR ELEMENTS, OR POSSESSED OR CONSUMED ALCOHOL IN VIOLATION OF AS 04.16.050 OR A MUNICIPAL ORDINANCE WITH SUBSTANTIALLY SIMILAR ELEMENTS, OPERATED A VEHICLE AFTER CONSUMING ALCOHOL IN VIOLATION OF AS 28.35.280, OR REFUSED TO SUBMIT TO A CHEMICAL TEST OF BREATH UNDER AS 28.35.285];

(2) that the peace officer has cited or arrested the person [OR

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ARRESTED THE PERSON] for

(A) a violation of AS 11.71, AS 04.16.050, AS 28.35.280, or 28.35.285; or

(B) possession or use of a controlled substance or alcohol in violation of a municipal ordinance with substantially similar elements;

(3) that notice under (a) of this section was provided to the person; and

(4) describing the circumstances surrounding the offense [VIOLATION OF THE CONTROLLED SUBSTANCES PROVISIONS OF AS 11.71, THE ALCOHOLIC BEVERAGES PROVISIONS OF AS 04.16.050, OR THE MUNICIPAL ORDINANCE WITH SUBSTANTIALLY SIMILAR ELEMENTS, THE MINOR OPERATING A VEHICLE AFTER CONSUMING ALCOHOL UNDER PROVISIONS OF AS 28.35.280, OR THE MINOR REFUSING TO SUBMIT TO A CHEMICAL TEST OF BREATH UNDER PROVISIONS OF AS 28.35.285].

* Sec. 3. AS 28.15.183(d) is amended to read:

(d) The department shall impose the revocation required under this section

(1) for a first revocation, for a period of 30 [90] days;

(2) for a second revocation, for a period of 60 days [ONE YEAR];

[OR]

(3) for a third [OR SUBSEQUENT] revocation, for a period of 90

days; or

(4) for a fourth or subsequent revocation. for a period of one year

[THREE YEARS].

* Sec. 4. AS 28.15.183(f) is amended to read:

(f) A revocation imposed under this section shall be consecutive to a revocation imposed under another provision of law, except that (1) a revocation imposed under this section shall be concurrent with a prior revocation imposed under this section; and (2) a revocation imposed under this section for an offense for which a revocation is required under AS 28.15.185 shall be concurrent with a revocation imposed under AS 28.15.185 that is based on the same incident. A [DEPARTMENT HEARING OFFICER MAY GRANT LIMITED LICENSE PRIVILEGES IN ACCORDANCE WITH THE STANDARDS SET OUT IN

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AS 28.15.201 TO A] person whose driver's license, permit, or privilege was revoked for a period of at least 60 days under this section may apply for limited license privileges under AS 28.15.201(d). A person whose driver's license, permit, or privilege to drive was revoked for a period of more than one year under this section may apply for reinstatement as provided under (i) of this section.

* Sec. 5. AS 28.15.183 is amended by adding a new section to read:

(j) A person whose driver's license, permit, or privilege was revoked under this section may apply for reinstatement of the person's driver's license as provided in this subsection. A person may apply to the department for reinstatement by filing a written request for review of the revocation imposed under this section with the department. The department shall issue a new license or reissue the person's driver's license

(1) as provided under AS 28.15.211(d) if the department finds that

(A) the application for reinstatement is filed at ~~least~~ one year after the person's license, permit, or privilege was revoked;

(B) the person complies with (g) of this section; and

(C) the person has not violated a provision of this title or a regulation of the department since the revocation; or

(2) immediately if

(A) the offense described under (a) of this section for which the person was cited or arrested is not prosecuted or the prosecution results in dismissal by a court; or

(B) a court or jury finds that the person is not guilty of the offense described under (a) of this section for which the person was cited or arrested.

* Sec. 6. AS 28.15.184(b) is amended to read:

(b) A request for review of the department's revocation under AS 28.15.183 shall be made within 10 [SEVEN] days after receipt of the notice under AS 28.15.183 or the right to review is waived and the action of the department under AS 28.15.183(c) is final. If a written request for a review is made after expiration of the 10-day [SEVEN-DAY] period, and if it is accompanied by the applicant's verified

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1-LS0492P

1 statement explaining the failure to make a timely request for a review, the department
 2 shall receive and consider the request. If the department finds that the person was
 3 unable to make a timely request because of lack of actual notice of the revocation or
 4 because of factors of physical incapacity such as hospitalization or incarceration, the
 5 department shall waive the period of limitation, reopen the matter, and grant the review
 6 request.

7 * Sec. 7. APPLICABILITY. (a) Section 5 of this Act applies to a driver's license
 8 revocation occurring before, on, or after the effective date of this Act.

9 (b) Sections 1 - 4 and 6 of this Act apply to a driver's license revocation for an
 10 offense that occurs on or after the effective date of this Act.

draft new
C.S.

SENATE CS FOR CS FOR HOUSE BILL NO. 151(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES KOTT, Austerman, Dyson, Rokeberg, Smalley, Cissna

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to possession, control, or consumption of alcohol by a person
2 under 21 years of age; relating to revocation and reinstatement of the driver's
3 license of a person at least 14 years of age but not yet 21 years of age; and
4 relating to offenses involving operating a motor vehicle by a person not yet 21
5 years of age."

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

7 * Section 1. AS 04.16.050(b) is repealed and reenacted to read:

8 (b) A person who violates (a) of this section is guilty of a

9 (1) violation and upon conviction the court may impose a fine of not
10 less than \$100;

11 (2) class B misdemeanor if, within the five years preceding the
12 violation, the person has been previously convicted twice under (a) of this section; or

13 (3) class A misdemeanor if, within the five years preceding the

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1 violation, the person has been previously convicted three or more times under (a) of
2 this section.

3 * Sec. 2. AS 28.15.183(a) is amended to read:

4 (a) If [A PEACE OFFICER HAS PROBABLE CAUSE TO BELIEVE THAT]
5 a person who is at least 14 years of age but not yet 21 years of age has possessed or
6 used a controlled substance in violation of AS 11.71 [,] or a municipal ordinance with
7 substantially similar elements, [OR] possessed or consumed alcohol in violation of
8 AS 04.16.050 or a municipal ordinance with substantially similar elements, operated
9 a vehicle after consuming alcohol in violation of AS 28.35.280, or refused to submit
10 to a chemical test under AS 28.35.285, and the peace officer has cited the person or
11 arrested the person for the offense [A VIOLATION OF AS 11.71, AS 04.16.050,
12 AS 28.35.280, OR 28.35.285 OR THE MUNICIPAL ORDINANCE WITH
13 SUBSTANTIALLY SIMILAR ELEMENTS], the peace officer shall read a notice and
14 deliver a copy to the person. The notice must advise that

15 (1) the department intends to revoke the person's driver's license or
16 permit, privilege to drive, or privilege to obtain a license or permit;

17 (2) the person has the right to administrative review of the revocation;

18 (3) if the person has a driver's license or permit, the notice itself is a
19 temporary driver's license or permit that expires 10 [SEVEN] days after it is delivered
20 to the person;

21 (4) revocation of the person's driver's license or permit, privilege to
22 drive, or privilege to obtain a license or permit, takes effect 10 [SEVEN] days after
23 delivery of the notice to the person unless the person, within 10 [SEVEN] days,
24 requests an administrative review;

25 (5) if the person has been cited under AS 28.35.280 or under
26 AS 28.35.285, that person, under AS 28.35.290, may not operate a motor vehicle,
27 aircraft, or watercraft during the 24 hours following issuance of the citation.

28 * Sec. 3. AS 28.15.183(c) is amended to read:

29 (c) Unless the person has requested an administrative review, the department
30 shall revoke the person's driver's license or permit, privilege to drive, or privilege to
31 obtain a license or permit, effective 10 [SEVEN] days after delivery to the person of

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the notice required under (a) of this section, upon receipt of a sworn report of a peace officer

(1) that [THE OFFICER HAD PROBABLE CAUSE TO BELIEVE THAT] the person is at least 14 years of age but not yet 21 years of age and has violated one of the offenses described in (a) of this section [POSSESSED OR USED A CONTROLLED SUBSTANCE IN VIOLATION OF AS 11.71, OR A MUNICIPAL ORDINANCE WITH SUBSTANTIALLY SIMILAR ELEMENTS, OR POSSESSED OR CONSUMED ALCOHOL IN VIOLATION OF AS 04.16.050 OR A MUNICIPAL ORDINANCE WITH SUBSTANTIALLY SIMILAR ELEMENTS, OPERATED A VEHICLE AFTER CONSUMING ALCOHOL IN VIOLATION OF AS 28.35.280, OR REFUSED TO SUBMIT TO A CHEMICAL TEST OF BREATH UNDER AS 28.35.285];

(2) that the peace officer has cited or arrested the person [OR ARRESTED THE PERSON] for

(A) a violation of AS 11.71, AS 04.16.050, AS 28.35.280, or 28.35.285; or

(B) possession or use of a controlled substance or alcohol in violation of a municipal ordinance with substantially similar elements;

(3) that notice under (a) of this section was provided to the person; and

(4) describing the circumstances surrounding the offense [VIOLATION OF THE CONTROLLED SUBSTANCES PROVISIONS OF AS 11.71, THE ALCOHOLIC BEVERAGES PROVISIONS OF AS 04.16.050, OR THE MUNICIPAL ORDINANCE WITH SUBSTANTIALLY SIMILAR ELEMENTS, THE MINOR OPERATING A VEHICLE AFTER CONSUMING ALCOHOL UNDER PROVISIONS OF AS 28.35.280, OR THE MINOR REFUSING TO SUBMIT TO A CHEMICAL TEST OF BREATH UNDER PROVISIONS OF AS 28.35.285].

* Sec. 4. AS 28.15.183(d) is amended to read:

(d) The department shall impose the revocation required under this section

(1) for a first revocation, for a period of 10 [90] days;

(2) for a second revocation, for a period of 30 days [ONE YEAR];

[OR]

- 1 (3) for a third [OR SUBSEQUENT] revocation, for a period of 90
2 days; or
3 (4) for a fourth or subsequent revocation, for a period of one year
4 [THREE YEARS].

5 * Sec. 5. AS 28.15.183(f) is amended to read:

6 (f) A revocation imposed under this section shall be consecutive to a
7 revocation imposed under another provision of law, except that (1) a revocation
8 imposed under this section shall be concurrent with a prior revocation imposed
9 under this section; and (2) a revocation imposed under this section for an offense
10 for which a revocation is required under AS 28.15.185 shall be concurrent with a
11 revocation imposed under AS 28.15.185 that is based on the same incident. A
12 [DEPARTMENT HEARING OFFICER MAY GRANT LIMITED LICENSE
13 PRIVILEGES IN ACCORDANCE WITH THE STANDARDS SET OUT IN
14 AS 28.15.201 TO A] person whose driver's license, permit, or privilege was revoked
15 for a period of more than 30 days under this section may apply for limited license
16 privileges under AS 28.15.201(d). A person whose driver's license, permit, or
17 privilege to drive was revoked for a period of more than one year under this
18 section may apply for reinstatement as provided under (i) of this section.

19 * Sec. 6. AS 28.15.183 is amended by adding a new section to read:

20 (j) A person whose driver's license, permit, or privilege was revoked under
21 this section may apply for reinstatement of the person's driver's license as provided in
22 this subsection. A person may apply to the department for reinstatement by filing a
23 written request for review of the revocation imposed under this section with the
24 department. The department shall issue a new license or reissue the person's driver's
25 license as provided under AS 28.15.211(d) if the department finds that

26 (1) the application for reinstatement is filed at least one year after the
27 person's license, permit, or privilege was revoked;

28 (2) the person complies with (g) of this section; and

29 (3) the person has not violated a provision of this title or a regulation
30 of the department since the revocation.

31 * Sec. 7. AS 28.15.184(b) is amended to read:

1 (b) A request for review of the department's revocation under AS 28.15.183
2 shall be made within 10 [SEVEN] days after receipt of the notice under AS 28.15.183
3 or the right to review is waived and the action of the department under
4 AS 28.15.183(c) is final. If a written request for a review is made after expiration of
5 the 10-day [SEVEN-DAY] period, and if it is accompanied by the applicant's verified
6 statement explaining the failure to make a timely request for a review, the department
7 shall receive and consider the request. If the department finds that the person was
8 unable to make a timely request because of lack of actual notice of the revocation or
9 because of factors of physical incapacity such as hospitalization or incarceration, the
10 department shall waive the period of limitation, reopen the matter, and grant the review
11 request.

12 * Sec. 8. AS 28.35.280(d) is repealed and reenacted to read:

13 (d) A person convicted under this section is guilty of a

14 (1) class B misdemeanor; or

15 (2) class A misdemeanor if, within the five years preceding the
16 violation, the person has been previously convicted under this section.

17 * Sec. 9. AS 28.35.285(d) is repealed and reenacted to read:

18 (d) A person convicted under (a) of this section is guilty of a

19 (1) class B misdemeanor; or

20 (2) class A misdemeanor if, within the five years preceding the
21 violation, the person has been previously convicted under this section.

22 * Sec. 10. AS 28.35.290(b) is repealed and reenacted to read:

23 (b) A person convicted under (a) of this section is guilty of a

24 (1) class B misdemeanor; or

25 (2) class A misdemeanor if, within the five years preceding the
26 violation, the person has been previously convicted under this section.

27 * Sec. 11. Sections 14, 15, 16, and 23, ch. 143, SLA 1996 are repealed.

28 * Sec. 12. APPLICABILITY. (a) Section 6 of this Act applies to a driver's license
29 revocation occurring before, on, or after the effective date of this Act.

30 (b) Sections 1 - 5 and 7 of this Act apply to a driver's license revocation for an
31 offense that occurs on or after the effective date of this Act.

1 (c) Sections 8 - 10 apply to offenses that occur on or after the effective date of this
2 Act.

AMENDMENT

BY SENATOR TAYLOR

OFFERED IN THE SENATE

**TO: SCS CSHB 151(JUD)
"Work Draft LS0492\Z"**

Page 5, following line 11:

Insert a new bill section to read:

***Sec. 8.** AS 28.15.184(j) is amended to read:

(j) If the issues set out in (g) of this section are determined in the affirmative by a preponderance of the evidence, the hearing officer shall sustain the action of the department. A person who has been acquitted of the offense upon which the arrest or citation is based may present evidence of the acquittal to the hearing officer for consideration in deciding the issues set out in (g) of this section. If one or more of the issues is determined in the negative or the person has been acquitted of the offense upon which the arrest or citation is based, the department's revocation action shall be rescinded.

Renumber following sections accordingly.

1-LS0492\Y

Ford

5/11/99

adopted

SENATE CS FOR CS FOR HOUSE BILL NO. 151(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVES KOTT, Austerman, Dyson, Rokeberg, Smalley, Cissna

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to revocation and reinstatement of the driver's license of a
2 person at least 14 but not yet 21 years of age."

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

4 * Section 1. AS 28.15.183(a) is amended to read:

5 (a) If a peace officer has probable cause to believe that a person who is at
6 least 14 years of age but not yet 21 years of age has possessed or used a controlled
7 substance in violation of AS 11.71, or a municipal ordinance with substantially similar
8 elements, or possessed or consumed alcohol in violation of AS 04.16.050 or a
9 municipal ordinance with substantially similar elements, operated a vehicle after
10 consuming alcohol in violation of AS 28.35.280, or refused to submit to a chemical
11 test under AS 28.35.285, and the peace officer has cited the person or arrested the
12 person for the offense [A VIOLATION OF AS 11.71, AS 04.16.050, AS 28.35.280,
13 OR 28.35.285 OR THE MUNICIPAL ORDINANCE WITH SUBSTANTIALLY
14 SIMILAR ELEMENTS], the peace officer shall read a notice and deliver a copy to the

1 person. The notice must advise that

2 (1) the department intends to revoke the person's driver's license or
3 permit, privilege to drive, or privilege to obtain a license or permit;

4 (2) the person has the right to administrative review of the revocation;

5 (3) if the person has a driver's license or permit, the notice itself is a
6 temporary driver's license or permit that expires 10 [SEVEN] days after it is delivered
7 to the person;

8 (4) revocation of the person's driver's license or permit, privilege to
9 drive, or privilege to obtain a license or permit, takes effect 10 [SEVEN] days after
10 delivery of the notice to the person unless the person, within 10 [SEVEN] days,
11 requests an administrative review;

12 (5) if the person has been cited under AS 28.35.280 or under
13 AS 28.35.285, that person, under AS 28.35.290, may not operate a motor vehicle,
14 aircraft, or watercraft during the 24 hours following issuance of the citation.

15 * Sec. 2. AS 28.15.183(c) is amended to read:

16 (c) Unless the person has requested an administrative review, the department
17 shall revoke the person's driver's license or permit, privilege to drive, or privilege to
18 obtain a license or permit, effective 10 [SEVEN] days after delivery to the person of
19 the notice required under (a) of this section, upon receipt of a sworn report of a peace
20 officer

21 (1) that the officer had probable cause to believe that the person is at
22 least 14 years of age but not yet 21 years of age and has violated one of the offenses
23 described in (a) of this section [POSSESSED OR USED A CONTROLLED
24 SUBSTANCE IN VIOLATION OF AS 11.71, OR A MUNICIPAL ORDINANCE
25 WITH SUBSTANTIALLY SIMILAR ELEMENTS, OR POSSESSED OR
26 CONSUMED ALCOHOL IN VIOLATION OF AS 04.16.050 OR A MUNICIPAL
27 ORDINANCE WITH SUBSTANTIALLY SIMILAR ELEMENTS, OPERATED A
28 VEHICLE AFTER CONSUMING ALCOHOL IN VIOLATION OF AS 28.35.280, OR
29 REFUSED TO SUBMIT TO A CHEMICAL TEST OF BREATH UNDER
30 AS 28.35.285];

31 (2) that the peace officer has cited or arrested the person [OR

1 ARRESTED THE PERSON] for

2 (A) a violation of AS 11.71, AS 04.16.050, AS 28.35.280, or
3 28.35.285; or

4 (B) possession or use of a controlled substance or alcohol in
5 violation of a municipal ordinance with substantially similar elements;

6 (3) that notice under (a) of this section was provided to the person; and

7 (4) describing the circumstances surrounding the offense [VIOLATION
8 OF THE CONTROLLED SUBSTANCES PROVISIONS OF AS 11.71, THE
9 ALCOHOLIC BEVERAGES PROVISIONS OF AS 04.16.050, OR THE MUNICIPAL
10 ORDINANCE WITH SUBSTANTIALLY SIMILAR ELEMENTS, THE MINOR
11 OPERATING A VEHICLE AFTER CONSUMING ALCOHOL UNDER
12 PROVISIONS OF AS 28.35.280, OR THE MINOR REFUSING TO SUBMIT TO A
13 CHEMICAL TEST OF BREATH UNDER PROVISIONS OF AS 28.35.285].

14 * Sec. 3. AS 28.15.183(d) is amended to read:

15 (d) The department shall impose the revocation required under this section

16 (1) for a first revocation, for a period of 30 [90] days;

17 (2) for a second revocation, for a period of 180 days [ONE YEAR];

18 or

19 (3) for a third or subsequent revocation, for a period of one year
20 [THREE YEARS].

21 * Sec. 4. AS 28.15.183(f) is amended to read:

22 (f) A revocation imposed under this section shall be consecutive to a
23 revocation imposed under another provision of law, except that (1) a revocation
24 imposed under this section shall be concurrent with a prior revocation imposed
25 under this section; and (2) a revocation imposed under this section for an offense
26 for which a revocation is required under AS 28.15.185 shall be concurrent with a
27 revocation imposed under AS 28.15.185 that is based on the same incident. A
28 [DEPARTMENT HEARING OFFICER MAY GRANT LIMITED LICENSE
29 PRIVILEGES IN ACCORDANCE WITH THE STANDARDS SET OUT IN
30 AS 28.15.201 TO A] person whose driver's license, permit, or privilege was revoked
31 for a period of more than 30 days under this section may apply for limited license

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privileges under AS 28.15.201(d) or reinstatement as provided under (i) of this section.

* Sec. 5. AS 28.15.183 is amended by adding a new section to read:

(j) A person whose driver's license, permit, or privilege was revoked under this section may apply for reinstatement of the person's driver's license as provided in this subsection. A person may apply to the department for reinstatement by filing a written request for review of the revocation imposed under this section with the department. The department shall issue a new license or reissue the person's driver's license as provided under AS 28.15.211(d) if the department finds that

- (1) the application for reinstatement is filed at least one year after the person's license, permit, or privilege was revoked;
- (2) the person complies with (g) of this section; and
- (3) the person has not violated a provision of this title or a regulation of the department since the revocation.

* Sec. 6. AS 28.15.184(b) is amended to read:

(b) A request for review of the department's revocation under AS 28.15.183 shall be made within 10 [SEVEN] days after receipt of the notice under AS 28.15.183 or the right to review is waived and the action of the department under AS 28.15.183(c) is final. If a written request for a review is made after expiration of the 10-day [SEVEN-DAY] period, and if it is accompanied by the applicant's verified statement explaining the failure to make a timely request for a review, the department shall receive and consider the request. If the department finds that the person was unable to make a timely request because of lack of actual notice of the revocation or because of factors of physical incapacity such as hospitalization or incarceration, the department shall waive the period of limitation, reopen the matter, and grant the review request.

* Sec. 7. AS 28.15.219 is amended by adding a new paragraph to read:

(4) "possessed alcohol" means having physical possession of or the exercise of dominion or control over the alcohol, except that the driver of a vehicle is not considered to be in possession of alcohol that is in the possession of another person in the vehicle.

1 * **Sec. 8. APPLICABILITY.** (a) Section 5 of this Act applies to a driver's license
2 revocation occurring before, on, or after the effective date of this Act.
3 (b) Sections 1 - 4, 6, and 7 of this Act apply to a driver's license revocation for an
4 offense that occurs on or after the effective date of this Act.

The Municipality does not argue that the district court's ruling, if erroneous, was harmless error. Accordingly, the judgement of the district court is REVERSED.

derage drinkers. U.S.C.A. Const.Amend. 5; Const. Art. 1, § 9; AS 04.16.050, 28.15.183.

See publication Words and Phrases for other judicial constructions and definitions.



Steven K. REXFORD, Appellant,

v.

STATE of Alaska, Appellee.

No. A-6195.

Court of Appeals of Alaska.

July 25, 1997.

After defendant's driver's license was administratively revoked based on arrest for possessing or consuming alcohol while under age of 21, defendant moved to dismiss charges of minor consuming alcohol on double jeopardy grounds. The District Court, Second Judicial District, Barrow, Karen R. Hegyi, Magistrate, denied motion, and defendant was subsequently convicted. Defendant appealed. The Court of Appeals, Mannheim, J., held that administrative revocation of a minor's license for alcohol-related violation is not "punishment" for double jeopardy purposes.

Affirmed.

Double Jeopardy ⇐24

Administrative revocation of a minor's driver's license for alcohol-related violation is not "punishment" for double jeopardy purposes; valid regulatory purpose exists in restricting or revoking driver's licenses of un-

* Sitting by assignment of the chief justice made pursuant to Article IV, Section 16 of the Alaska Constitution.

Rebecca Wright, Assistant Public Defender, Barrow, and Barbara K. Brink, Public Defender, Anchorage, for Appellant.

Eric A. Johnson, Assistant Attorney General, Office of Special Prosecutions and Appeals, Anchorage, and Bruce M. Botelho, Attorney General, Juneau, for Appellee.

Before COATS, C.J., MANNHEIMER, J., and JOANNIDES, District Court Judge.*

OPINION

MANNHEIMER, Judge.

Steven K. Rexford was arrested for possessing or consuming alcohol while under the age of 21, AS 04.16.050. Based on this arrest, the Department of Public Safety commenced administrative proceedings against Rexford's driver's license under AS 28.15.183. Rexford's license was ultimately revoked in these administrative proceedings.

In the meantime, Rexford's prosecution for minor consuming alcohol was still pending in the district court. Following the administrative revocation of his driver's license, Rexford asked the district court to dismiss the criminal prosecution. Rexford contended that the administrative revocation of his license was a "punishment" for purposes of the double jeopardy clauses of the federal and state constitutions.¹ He argued that because he had already been punished once for his violation of the liquor laws, it would be illegal to punish him again for the same conduct.

Rexford acknowledged that this court had rejected a similar argument in *State v. Zerkel*, 900 P.2d 744 (Alaska App.1995). In *Zerkel*, we held that the administrative revocation of a driver's license based on a breath test result or a breath test refusal did not constitute "punishment" for double jeopardy pur-

1. See the Fifth Amendment to the United States Constitution and Article I, Section 9 of the Alaska Constitution.

poses. Rexford argued, however, that *Zerkel* was distinguishable from his case because, unlike the defendants in *Zerkel*, Rexford had not engaged in any act of driving—only drinking. Rexford argued that the Department of Public Safety had no valid administrative interest in regulating or restricting his ability to drive based on his act of drinking, when that drinking was unconnected to the operation of a motor vehicle.

Magistrate Karen R. Hegyi agreed with Rexford that the issue was whether a minor's act of consuming liquor "bears a direct relation to the government's regulatory goals or to the proper administration or enforcement of the regulatory scheme". *Zerkel*, 900 P.2d at 757. However, Magistrate Hegyi concluded that a minor's consumption of alcohol did, in fact, bear "a direct relation to the government's proper regulatory goal of making the highways safe". Magistrate Hegyi wrote,

Studies have shown that young drivers who drink are a danger not only to themselves but to everyone else. Teenagers have the highest alcohol-involved fatal accident rate of any age group. Alcohol-related traffic deaths are the number one killer of fifteen- to twenty-four-year-olds, and they account for approximately fifty percent of all teenage deaths. In addition, sixteen- to twenty-four-year-old drivers represent twenty percent of licensed drivers in the United States and [they account for fewer] than twenty percent of total miles driven, yet they account for forty-two percent of all fatal alcohol-related deaths. See *Johnson v. State Hearing Examiner's Office*, 838 P.2d 158, 182 (Wy. 1992), (dissenting opinion of Justice Brown), citing Rosenthal, *The Minimum*

2. In his trial memorandum, Rexford asserts in conclusory fashion that the State could have no valid purpose in taking administrative action against the driver's license of an underage drinker. Rexford does not anticipate or respond to the findings made by Magistrate Hegyi regarding the disproportionate danger that teenage drinking poses to highway safety.

3. Rexford's decision not to file a brief also means that he has failed to address the fact that one of

Drinking Age for Young People, 92 Dickenson L.Rev. 649, 654-660 (1987-88).

"Memorandum Order Denying Motion to Dismiss", pp. 6-7 (with some minor editorial changes). The magistrate therefore denied Rexford's motion to dismiss, and Rexford was subsequently convicted of minor consuming.

Rexford has appealed the district court's decision, but he has elected to rely on his trial court memorandum rather than file a brief in this court. This is his right under Alaska Appellate Rule 217(f). However, Rexford's trial memorandum was written before Magistrate Hegyi issued her decision, and Rexford's choice not to file a brief means that he has presented no rebuttal to Magistrate Hegyi's findings regarding the valid administrative purpose for revoking the driver's licenses of underage drinkers.²³

Based on the district court's findings, we too conclude that there is a valid regulatory purpose in restricting or revoking the driver's licenses of underage drinkers. We therefore hold that administrative license revocations under AS 28.15.183 are not "punishment" for double jeopardy purposes. A minor whose license has been revoked in an administrative proceeding under that statute may still be prosecuted for the offense of minor consuming.

The judgement of the district court is AFFIRMED.



the cases he relied on heavily in his memorandum, *United States v. \$405,089.23 in U.S. Currency*, 33 F.3d 1210 (9th Cir.1994), was reversed by the United States Supreme Court four months before Rexford filed this appeal. See *United States v. Ursery*, — U.S. —, 116 S.Ct. 2135, 115 L.Ed.2d 549 (1996).

Alaska State Legislature

House of Representatives

COMMITTEES
JUDICIARY COMMITTEE, CHAIR
RULES
MILITARY & VETERANS AFFAIRS
UTILITY RESTRUCTURING
ETHICS



INTERIM:
10928 EAGLE RIVER RD., SUITE 141
EAGLE RIVER, AK 99577

SESSION:
ALASKA STATE CAPITOL
JUNEAU, AK 99801

Memorandum

TO: Senator Robin Taylor, Chairman
Senate Judiciary Committee

FROM: Representative *Pete Kott*

SUBJECT: Request for Hearing, HB 151

DATE: May 3, 1999

I request that HB 151, an Act relating to revocation and reinstatement of the driver's license of a person at least 14 but not yet 21 years of age, be heard. Enclosed with this request is the following:

- Current version of the bill
- Sponsor statement
- Sectional Analysis
- Zero Fiscal Note

If there are any additional information is need contact Cory Winchell x4990.



Representative Pete Kott

JUNEAU OFFICE (907) 465-3777 TOLL FREE 1-800-861-KOTT(5688) FAX (907) 465-2819
EAGLE RIVER OFFICE (907) 694-8944 FAX (907) 694-8945 E-MAIL: representative_pete_kott@legis.state.ak.us



Alaska State Legislature

House of Representatives

COMMITTEES
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UTILITY RESTRUCTURING
ETHICS



INTERIM:
10928 EAGLE RIVER RD., SUITE 141
EAGLE RIVER, AK 99577

SESSION:
ALASKA STATE CAPITOL
JUNEAU, AK 99801

SPONSOR STATEMENT HB 151

The "Use It, Lose It" law incurs results that are inequitable toward teens who, after maturing and amending delinquent behavior, lose the valuable privilege of driving for substantial periods of time. Furthermore, the delinquent behavior by the juvenile need not be attached in any way to a vehicle under the current statute. This bill hopes to keep the intent of the "Use It, Lose It" legislation intact while dampening the harsher aspects associated with the legislation. When the law was ratified it was the legislature's belief that 2500 revocations per year would occur. That number has jumped to over 4500. The bill hopes to.

- **authorize administrative hearers to re-issue licenses upon a showing of:**
 - compliance with the statute;
 - compliance with the title or department regulation;
 - the license will allow the offender to attend school, care for a dependant child, or earn a livelihood without creating a danger to the public.
- **amend current law by requiring a "nexus" to a vehicle.**
- **remove "consecutive" penalties and run them "concurrently".**
- **require "physical possession" of alcohol rather than mere "constructive possession".**

The State of Alaska has a genuine interest in promoting driving safety as well as curbing teen alcohol use. Nevertheless, to punish a youth by administratively taking away his or her license for twenty years, for flighty mistakes made while very young is far too severe. When a person at a young age makes several mistakes, which become determinative of his or her future, consideration should be taken for amelioration of that youth's behavior. The "Use It, Lose It" law should be based on it's premise—if alcohol is used, the license is revoked. As a policy measure, if the youth shows corrective behavior upon reaching majority, the privilege of a license ought to be returned. I strongly urge your support for HB 151.



Representative Pete Kott

JUNEAU OFFICE (907) 465-3777 TOLL FREE 1-800-861-KOTT(5688) FAX (907) 465-2819
EAGLE RIVER OFFICE (907) 694-8944 FAX (907) 694-8945 E-MAIL: representative_pete_kott@legis.state.ak.us



Alaska State Legislature

House of Representatives

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INTERIM:
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EAGLE RIVER, AK 99577

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JUNEAU, AK 99801

SECTIONAL ANALYSIS HB 151

- Section 1, 2, 4, and 6** These sections are amended, establishing a "nexus" to a vehicle before an administrative revocation occurs. Basically, physical possession or consumption of alcohol must occur in the vehicle.
- Section 3:** This section is amended requiring that revocations run "concurrently" rather than "consecutively". Furthermore, this section provides for a limited license to be issued in light of the revocation.
- Section 5:** This is a new section which provides youth offenders who ameliorate their bad habits to be re-issued a license. The person must show compliance with both statute and regulation, and must show that they need license to attend school, care for a dependant child, or travel to work.
- Section 7:** This section is added to redefine "alcohol possession" to mean physical possession. This would mean, in-hand or on-person possession.
- Section 8:** This section is the applicability portion of the legislation of the bill.



Representative Pete Kott

JUNEAU OFFICE (907) 465-3777 TOLL FREE 1-800-861-KOTT(5688) FAX (907) 465-2819
EAGLE RIVER OFFICE (907) 694-8944 FAX (907) 694-8945 E-MAIL: representative_pete_kott@legis.state.ak.us



①

Hearing of
Senate Judiciary Committee
re: HB 151

Although I would like to see the "Use It-Lose It" law completely abolished as we already have laws to deal with underage drinking and driving after drinking, HB 151 is a start. I would like to voice my opinion on this issue.

The Dept. of Administration's power to revoke a young person's driver's license is particularly unconstitutional if they haven't been convicted of any crime. If the Court system has dismissed a case the Administration should not then be allowed to penalize kids.

My child and our family have suffered irreparable harm by this Law. My Son was not found guilty of any crime by the court but was subjected to license revocation by the administration anyway. As it stands the law subjects children & their families to emotional & financial hardships that are simply unfair.

(2)

It is difficult enough for a young person to begin their adult pathway. This law has imposed the additional stress of not being able to secure part time work, get themselves independantly to school and participate in many functions a teen should enjoy. We must change this law drastically to allow children to have their rights reinstated.

Thank you
Sincerely yours,

Melinda Steinhilber
(44855 Eddy Hill Dr.
Soldotna, AK 99669
262-5190

Alaska State Legislature



House of Representatives House Judiciary Committee

MEMORANDUM

DATE: May 17, 1999
TO: Senator Donley
FROM: Representative Pete Kott, Chair
Subject: HB 151

There are two versions to HB 151 that approach the subject very differently. The X.a version that passed out of House Judiciary and passed the floor of the House on April 29, 1999, incorporates several important changes into the existing Use It, Lose It law.

VERSION X.a

- (1) This bill establishes a nexus, or a connection, to a vehicle before a police officer can administratively revoke a license. This follows the rationale of Supreme Court analysis and is just good policy. Administratively taking a license from a youth who consumes in relation to a vehicle.
- (2) This bill also provides that penalties remain the same for youths who violate. First offense is 90 days, second offense is a year and third offense is three years. It does, however, provide that subsequent offenses of three years run concurrently rather than consecutively. This prevents stacking of three year offenses, which have in the past led to thirty-year revocations.
- (3) Most importantly, this bill provides a re-issuance hearing for youths who have changed their lifestyle, and have abided all statutes, regulations and administrative provisions after two years of a three year license loss.

Alaska State Legislature



House of Representatives

House Judiciary Committee

- (4) Finally, this bill refines the definition of "alcohol possession" to mean physical possession. This will remove the more draconian cases of Use It, Lose It, which have taken licenses from youths who have not consumed alcohol, and have never even touched it, but are at a party and surrounded by alcohol. We do not want to administratively revoke licenses for mere guilt by association—that is far too harsh.

VERSION F : This version was adopted by the Senate Judiciary on Friday, May 14, 1999.

- (1) This bill sets up a complex and convoluted system of the first two violations becoming an administrative violation and the third and fourth violation going to a district court. This change in the bill, which added the district courts, added a fiscal note to an otherwise zero fiscal note bill.
- (2) This bill removes any nexus or connection to a vehicle, so that police officers can administratively revoke licenses for youths anywhere, anytime, upon a mere showing of probable cause. This does not address the problems which the bill sought to remedy. 4800 revocations per year under this standard, with fact pattern scenarios that borderline on ridiculous. We can expect far more unnecessary revocations in the years to come under this type of standard.
- (3) This bill then lessens the penalties for offenses. The first being a 30 day revocation, the second being 60 days, the third 180 days and the fourth totaling a year. This is not the type of message we want to send out for youths who violate the intent of use it lose it. We should rather make a stronger standard (ie. Nexus) and impose stricter penalties than make a weak standard, resulting in many violations, and than lessen the penalties. This version does not address the problems of Use It Lose It. It creates more problems to the current standard and is not even close to the bill that passed out of the House unanimously.

AMENDMENT

BY SENATOR TAYLOR

OFFERED IN THE SENATE

TO: SCS CSHB 151 (JUD)

Page 5, line 10:

Following "immediately"

Insert: "if a court dismisses or"

1 in violation of AS 28.35.280 or possession or use of a controlled substance in
2 violation of AS 11.71 or a municipal ordinance with substantially similar elements.

3 * Sec. 7. AS 28.15.183 is amended by adding a new section to read:

4 (j) A person whose driver's license, permit, or privilege was revoked under
5 this section may apply for reinstatement of the person's driver's license as provided in
6 this subsection. A person may apply to the department for reinstatement by filing a
7 written request for review of the revocation imposed under this section with the
8 department. The department shall issue a new license or reissue the person's driver's
9 license

10 (1) as provided under AS 28.15.211(d) if the department finds that

11 (A) the application for reinstatement is filed at least one year
12 after the person's license, permit, or privilege was revoked;

13 (B) the person complies with (g) of this section; and

14 (C) the person has not violated a provision of this title or a
15 regulation of the department since the revocation; or

16 (2) immediately ^{if a court dismisses or} if a court or jury finds that the person is not guilty
17 of the offense described under (a) of this section for which the person was cited or
18 arrested;

19 * Sec. 8. AS 28.15.184(b) is amended to read:

20 (b) A request for review of the department's revocation under AS 28.15.183
21 shall be made within 10 [SEVEN] days after receipt of the notice under AS 28.15.183
22 or the right to review is waived and the action of the department under
23 AS 28.15.183(c) is final. If a written request for a review is made after expiration of
24 the 10-day [SEVEN-DAY] period, and if it is accompanied by the applicant's verified
25 statement explaining the failure to make a timely request for a review, the department
26 shall receive and consider the request. If the department finds that the person was
27 unable to make a timely request because of lack of actual notice of the revocation or
28 because of factors of physical incapacity such as hospitalization or incarceration, the
29 department shall waive the period of limitation, reopen the matter, and grant the review
30 request.

HB

177

FISCAL NOTE

No: 1

STATE OF ALASKA
LEGISLATIVE SESSION

Bill Version: CSHB 177(HES)
(H) Publish Date: 4/19/99

Revision Date: _____
Title: "An Act relating to foster parents..."
Sponsor: Representative Dyson
Requestor: (H)HES

Department Affected: Administration
BRU: Legal and Advocacy Services
Component: Public Defender Agency
COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE:

(Thousands of Dollars)

Federal Receipts						
GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 98) cost: \$ _____

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill has no fiscal impact on the Public Defender Agency.

Prepared by: Barbara Brink, Director
Agency: Public Defender Agency

Phone: (907) 264-4414
Date: _____

Approved by Commissioner: Robert Poe Jr.
Agency: Department of Administration

Date: 4/12/99

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FISCAL NOTE

No: 2

STATE OF ALASKA
1999 LEGISLATIVE SESSION

Bill Version: CSHB 177(HES)
(H) Publish Date: 4/19/99

Revision Date/Time (Note if correction): _____
 Title: Relating to foster parents rights at delinquency proceedings.
 Sponsor: Rep. Dyson
 Requestor: House (HES)

Dept. Affected: Health and Social Services
 BRU: Youth Corrections
 Component: Probation Services
 COMPONENT SERIAL NO. 2134
 See also (SN#): _____

Expenditures/Revenues: (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING	FY2000	FY2001	FY2002	FY2003	FY2004	FY2005
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGES IN REVENUES ()						
-------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY2000	FY2001	FY2002	FY2003	FY2004	FY2005
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY1999) cost: \$0.0

POSITIONS:

POSITIONS	FY2000	FY2001	FY2002	FY2003	FY2004	FY2005
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill will have no fiscal impact on the Department if enacted.

5/13/99
 Prepared by: George Buhite *George Buhite* Phone: 465-2212
 Division: Family & Youth Services Date/Time: 4/13/99 1:14 PM
 Approved by Commissioner: Karen Perdue *Karen Perdue* Date: 4/14/99
 Agency: Department of Health & Social Services

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SENATE COMMITTEE REPORT

DATE: 5/6/99

FURTHER:

DATE TURNED IN TO OFFICE: 5/12/99

Judiciary Committee considered CS FOR HOUSE BILL NO. 177(HES)

"An Act relating to foster parents; relating to the right of foster parents to have notice of, and testify at, delinquency hearings and to the disclosure of minors' records to foster parents; and amending Rules 3, 7, 10, 12, 21, 23, and 25, Alaska Delinquency Rules."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:
- same title
 - new title
- House Bill:
- same title
 - technical title
 - new: SCR# _____

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

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill



Alaska State Legislature

- Interim (May-Dec) -
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Eagle River, Alaska 99577
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FAX (907) 694-1015

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Alaska State Capitol
Juneau, Alaska 99801-1182
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FAX (907) 465-4587

Toll free (800) 342-2199

REPRESENTATIVE FRED DYSON

CSHB 177 Sponsor Statement

"An Act relating to foster parents; relating to the right of foster parents to have notice of, and testify at, delinquency hearings and to the disclosure of minors' records to foster parents; and amending Rules 3, 7, 10, 12, 21, 23, and 25, Alaska Delinquency Rules."

Foster parents often are an inordinately valuable resource to the State of Alaska case workers and judges in respect to the condition and best interests of a foster child in state custody. This bill requires that foster parents be allowed to be present and have a voice at all proceedings dealing with the disposition and treatment of the child.

Because these foster parents live with the child continually, and are often very experienced at dealing with troubled children, most foster parents are an excellent resource for the overworked case workers and the busy judges who must make important decisions concerning children with very little information.

Last year, we introduced HB 456 which gave the right of foster parents to have notice of, and testify at, child-in-need-of-aid (CINA) and delinquency hearings and to the disclosure of minors' records to foster parents. In addition, HB 375, the Child Protection Bill which predominately focused on CINA proceedings, was introduced. Due to its subject, we were able to incorporate half of HB 456 into HB375.

Now law, HB 375 gives foster parents a right to be heard in CINA court proceedings, but not in delinquency hearings. HB 177 will essentially achieve my original intent and will allow foster parents a voice in court and information without regard to the process in which their foster children are involved.

- E-mail -
Representative_Fred_Dyson
@Legis.state.ak.us

- Internet -
<http://www.akrepublicans.org>



Alaska State Legislature

H HESS

HB 177

Please enter into the record my testimony to the

committee name

committee on HB 177

dated 4/15/99

bill # / subject

As foster parents I agree with the department and the probation officer that this bill will provide assistance for the department and the foster parent in helping redirect the lives of children in the juvenile justice program.

Signed:

Christine A. Huterson

Testifier

Voices for the Children

Representing (Optional)

POB 1323 Kina Ak

Address

907/283-2293

Phone number



Alaska State Legislature

- Interim (May-Dec.) -
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REPRESENTATIVE FRED DYSON

MEMORANDUM

May 6, 1999

To: Senator Robin Taylor, Chair
Senate Judiciary Committee

From: Representative Fred Dyson *FJD*

Subject: Request to schedule HB 177

Please schedule a Judiciary Committee hearing on CSHB 177, "An Act relating to foster parents; relating to the right of foster parents to have notice of, and testify at, delinquency hearings and to the disclosure of minors' records to foster parents; and amending Rules 3, 7, 10, 12, 21, 23, and 25, Alaska Delinquency Rules." HB 177 is a cleanup bill. Attached is a Sponsor Statement and backup material for your review.

- E-mail -
Representative_Fred_Dyson
@legis.state.ak.us

- Internet -
<http://www.akrepublicans.org>

Alaska State Legislature
HOUSE MAJORITY NEWS

web site: <http://www.akrepublicans.org>

State Capitol
Juneau, AK 99801
Actuality line: 1-800-478-6540

Jerry Ritter
Press Secretary
(907) 465-3804

FOR IMMEDIATE RELEASE: May 5, 1999

CONTACT: Rep. Fred Dyson (907) 465-2199

House-passed Bill Helps Foster Parents

Foster Parents Would Have Access to Records, Voice at Proceedings

(JUNEAU) -- The Alaska House of Representatives Wednesday unanimously passed House Bill 177, which requires that foster parents be allowed to be present and have a voice at all proceedings dealing with the disposition and treatment of the child. It also requires the State to provide them with information and records necessary for their foster child's proper care and protection.

"Because foster parents live with the child and are often experienced at dealing with troubled children, they are a valuable resource to overworked case workers and busy judges," said Representative Fred Dyson (R-Eagle River), sponsor of HB 177. "Often they must determine the condition and best interests of a foster child on the basis of very little information, information which foster parents can sometimes provide.

"During the last Legislature, we were able to pass legislation which allowed the disclosure of minors' records to foster parents in Child-In-Need-of-Aid (CINA) cases. It also permitted foster parents to be heard at CINA court proceedings, but not at delinquency hearings," Dyson said. "This bill completes the intent of that legislation, which was to allow foster parents a voice in court and information without regard to the process in which their foster children are involved."

HB 177 now moves to the Senate.

###

Broadcasters note: Comments are available on the Majority Actuality Line 1-800-478-6540

HB

180

FISCAL NOTE

No: 6

STATE OF ALASKA
2000 LEGISLATIVE SESSION

Bill Version: CSHB 180 (FIN)
(H) Publish Date: 2/7/00

Revision Date: January 31, 2000
Title: "An Act relating to the possession, manufacture, use, or delivery of controlled substances while children are present"
Sponsor: Representative Cowdery
Requestor: (H) FIN

Department Affected: Administration
BRU: Legal and Advocacy Services
Component: Public Defender Agency

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
PERSONAL SERVICES	15.2	15.2	15.2	15.2	15.2	15.2
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	15.2	15.2	15.2	15.2	15.2	15.2

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

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

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	15.2	15.2	15.2	15.2	15.2	15.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	15.2	15.2	15.2	15.2	15.2	15.2

Estimate of any current year (FY 00) cost. \$ -0-

POSITIONS:

FULL-TIME						
PART-TIME	.25	.25	.25	.25	.25	.25
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached.

Prepared by: Barbara Brink, Director
Division: Public Defender Agency

Phone: (907) 264-4414
Date: January 31, 2000

Approved by Commissioner: Bob Poe
Agency: Department of Administration

Date: January 31, 2000

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FISCAL NOTE

STATE OF ALASKA

BILL NO. CSHB 180 ^{FIN} ~~(JUD)~~

2000 LEGISLATIVE SESSION

ANALYSIS: (continued)

This bill would make it a class A misdemeanor to allow a child to be in a dwelling or vehicle where any controlled substance is being used, manufactured, displayed, or delivered. If the controlled substance is used, manufactured, etc. in the immediate presence of the child, it is also a class A misdemeanor even if the use, etc. is not in a dwelling or vehicle.

This bill has a broad reach. The child need not be aware of the use of the controlled substance in the dwelling. For example, even if a parent waited until the child is asleep in a separate room and used marijuana, the parent could still be subject to prosecution under this law.

The fiscal impact of this bill could be very significant. However, it is difficult to say how many criminal prosecutions there will be under this bill. We do have rough estimates from our experience in Child in Need of Aid (CINA) cases of parents using controlled substances in the home when children are present. Our CINA attorneys believe that there is some documentation of drug use in the home or in the presence of children in about a quarter of our CINA cases. The Public Defender Agency was appointed to 996 new CINA cases in FY99. Using a conservative estimate of 10% rather than 25% of these cases being strong enough for criminal prosecution, that would mean 100 addition misdemeanors to which the Public Defender Agency could be appointed.

According to national standards, public defender misdemeanor lawyers are supposed to handle no more than 400 new cases per year. Therefore, we are requesting funding for ¼ of a misdemeanor lawyer's salary. We are not making requests for equipment, supplies, contractual services, or travel. We believe most of these cases would arise in Anchorage.

FISCAL NOTE

Bill Version: CSHB 180 (FIN)

(H) Publish Date: 2/7/00

**STATE OF ALASKA
2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) _____ Dept. Affected Department of Corrections
 Title An act relating to possession of controlled substances BRU Administration and Operations
in the presence of children Component All
 Sponsor Representative Cowdery
 Requester House Finance Committee Component No. #0694

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0

Estimate of any current year (FY2000) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Department of Law reports approximately 500 cases of Misconduct Involving a Controlled Substance in a year. Attempts have been made to determine how many of those cases may involve children in some way, but there is no data available. Additionally, although someone may be charged with Endangering the Welfare of a Child under this bill, that in no way ensures that the charge would not be concurrent, or used as a bargaining tool, in sentencing. In all likelihood, there would be instances when it would result in additional time (up to one year for a Class A Misdemeanor). It is the Department of Corrections' belief that there could be significant costs attached to this, but we have no way of quantifying it at this time. Therefore, the Department of Corrections is submitting an indeterminate fiscal note.

Prepared by: Candace Brower

Phone 465-3307

Division Commissioner's Office

Date/Time 2/2/00 4:27 PM

Approved by Commissioner Margaret M. Pugh

Date Feb 2, 2000

Agency Dept. of Corrections

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FISCAL NOTE

Bill Version: CSHB 180 (FIN)
 (H) Publish Date: 2/7/00

**STATE OF ALASKA
 2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) _____ Dept. Affected Law
 Title "An Act relating to the possession, manufacture, use,...of controlled substances while children are present." BRU Criminal Division
 Sponsor Representative Cowdery Component 1st-4th Judicial Districts; Criminal Appeals/Special Litigation
 Requester House Finance Committee Component No. 2198-99;2201;03;61;79

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	*****	*****	*****	*****	*****	*****
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY2000) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

CSHB 180 (JUD) raises storing drugs in a vehicle or dwelling where children are allowed to enter or remain from a violation to a class A misdemeanor, and expands the prohibition to allowing children in the presence of other unlawful conduct in relation to drugs. A class A misdemeanor provides a maximum one year incarceration, and a \$5,000 fine, compared to a violation which is a maximum \$300 fine and no period of incarceration. The more serious consequences of the offense would make it more expensive to prosecute. The bill also expands Contributing to the Delinquency of a Minor by broadening the prohibition of allowing a child to be in the presence of illegal drug activity.

The Department of Law cannot estimate at this time how many cases this offense might generate. Until some more experience is gained, the department cannot project the fiscal impact of this bill.

Prepared by: Joan M. Kasson *Joan M. Kasson* Phone 465-5370
 Division Attorney General's Office Date/Time 1/31/00 10:32 AM
 Approved by Commissioner *Ked For* Bruce M. Botelho, Attorney General Date 1/31/00
 Agency Department of Law

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FISCAL NOTE

Bill Version: CSHB 180 (FIN)

(H) Publish Date: 2/7/00

**STATE OF ALASKA
1999 LEGISLATIVE SESSION**

Revision Date		Dept. Affected	<u>Alaska Court System</u>
Title	<u>Possession of Drugs While Children are Present</u>	BRU	<u>Alaska Court System</u>
		Component	<u>Trial Courts</u>
Sponsor	<u>Rep. Cowdry</u>		
Requester	<u>House Finance</u>	Component Serial No.	<u>769</u>

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: None

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact anticipated.

Prepared by:	<u>Doug Wooliver, Administrative Attorney</u>	Phone:	<u>463-4750</u>
Agency	<u>Alaska Court System</u>	Date/Time:	<u>2/1/00 8:58 AM</u>
Approved by:	<u>Stephanie J. Cole, Administrative Director</u>	Date	<u>2/1/00</u>
Agency	<u>Alaska Court System</u>		

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SENATE COMMITTEE REPORT

DATE: 3/7/00

FURTHER: Finance

DATE TURNED
IN TO OFFICE: _____

Judiciary Committee considered

CS FOR HOUSE BILL NO. 180(FIN) am

"An Act relating to the manufacture, use, display, or delivery of controlled substances while children are present."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical title
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Rich Halford</i>	<input checked="" type="checkbox"/>	<i>J. H. Ellis</i>			
<i>John</i>	<input checked="" type="checkbox"/>				
CHAIR: <i>Chris Taylor</i>	<input checked="" type="checkbox"/>	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
<i>Admin.</i>	<i>3/7</i>	.	*
<i>Corrections</i>	<i>2/22</i>		*

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

REPRESENTATIVE JOHN J. COWDERY

Sponsor Statement for CS HB 180(FIN) AM

Existing statutes acknowledge that children should not be allowed to enter or remain where drugs are stored (11.51.110) or sold (11.51.130). However, current law does not prohibit the manufacture or use of drugs in the presence of children. Children learn by example. I believe the destructive behavior modeled by drug use in the presence of a child is as damaging as that of being in the same room, dwelling or vehicle in which drugs are stored or sold. HB 180 corrects this situation.

New language in House Bill 180 expands the sphere of space in which the co-presence of children and drugs is forbidden. By using the phrase, "in the immediate physical presence of" children are protected in outdoor situations like a yard, campsite or park bench. Stiffer penalty provisions send the clear message that children and drugs don't mix.

To promote uniformity of application the new provision employs "use, manufacture, delivery and display," terms used in existing controlled substance statutes.

- Sectional Review -

House Bill 180 adds new language to 11.51.130. New provisions provide penalty for allowing, aiding, inducing, causing or encouraging a child to enter or remain in the immediate physical presence of the manufacture, use, display or delivery of drugs, knowing that the manufacture, use, display or delivery is occurring. Violation is a class A Misdemeanor.

Current language only prohibits aiding, inducing, causing or encouraging a child to enter or remain in the *same room in a building* where the *sale* of the drug occurs.

file

Alaska State Legislature **HOUSE MAJORITY NEWS**

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Jerry Ritter
Press Secretary
(907) 465-3804

FOR IMMEDIATE RELEASE: March 3, 2000

**CONTACT: Representative John Cowdery
(907) 465-3879**

House: Keep Drugs Away from Minors Bill Punishes Drug Use in the Presence of Children

(JUNEAU) -- The Alaska House of Representatives Friday passed House Bill 180, which forbids allowing a child to be in the physical presence of controlled substances.

"HB 180 tightens the expectations placed on adults and sends a clear message that kids and drugs do not mix," said Representative John Cowdery (R-Anchorage), sponsor of HB 180. "It also corrects a small oversight in existing regulations to cover outdoor situations."

HB 180 prohibits adults from knowingly allowing a minor to enter or remain in the presence of the use, manufacture, delivery, or display of drugs. The crime would be punishable as a Class A Misdemeanor, Contributing to the Delinquency of a Minor.

HB 180 passed on a 25-11 vote. Notice of Reconsideration was filed.

###

Broadcasters note: Comments are available on the Majority Actuality Line 1-800-478-6540

HB

214

FISCAL NOTE

Bill Version: CSHB 214 (JUD)

(H) Publish Date: 5/3/99

**STATE OF ALASKA
1999 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) _____ Dept. Affected Department of Corrections
 Title An Act relating to litigation involving correctional BRU Administration and Operations
facilities; and amending rules 59(f), 60(b), 62, and 65, Alaska.. Component All
 Sponsor Representative Mulder
 Requester House Judiciary Committee Component Serial No. #0694

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	****	****	****	****	****	****

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	****	****	****	****	****	****

Estimate of any current year (FY99) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Dept. of Corrections is submitting an indeterminate fiscal note for this legislation because the Department is unable to ascertain its economic impact. Under the terms of this bill, the Department will be able to seek closure of the Cleary class action lawsuit one year following the effective date of the legislation. It is unknown, however, whether the court will act favorably on the Department's motion. Furthermore, even if it is assumed that the court does act favorably on the motion, the Department cannot readily determine the fiscal impact of such a ruling. On the "savings" side, the Department is currently paying for a court-appointed compliance monitor in the Cleary lawsuit. Presumably, these costs will no longer be incurred following termination of the lawsuit. Though not anticipated, it is possible that new litigation could be filed requiring comparable monitoring.

Prepared by Bruce Richards Phone 465-3307
 Division Commissioner's Office Date/Time 4/29/99 8:48 AM
 Approved by Comm. Margaret M. Pugh Date 4/29/99
 Agency Department of Corrections

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SENATE COMMITTEE REPORT

DATE: 5/10/99

FURTHER:

DATE TURNED
IN TO OFFICE: _____

Judiciary Committee considered

CS FOR HOUSE BILL NO. 214(JUD)

"An Act relating to litigation involving correctional facilities; and amending Rules 59(f), 60(b), 62, and 65, Alaska Rules of Civil Procedure."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:
- same title
 - new title
- House Bill:
- same title
 - technical title
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Kirk Halford</i>	✓				
<i>Don Doney</i>	✓				
CHAIR: <i>Adrian Taylor</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
<i>DOC</i>	<i>7/29</i>		✓

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill



REPRESENTATIVE ELDON MULDER

CO-CHAIR HOUSE FINANCE

ALASKA STATE LEGISLATURE • HOUSE OF REPRESENTATIVES

DISTRICT 23 • MULDOON & FORT RICHARDSON

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E-MAIL: REPRESENTATIVE_ELDON_MULDER@LEGIS.STATE.AK.US

SPONSOR STATEMENT

HOUSE BILL 214(JUD)

“Prisoner Litigation Reform Act”

REPRESENTATIVE ELDON MULDER

Modeled after successful federal legislation, HB 214(JUD) provides that court decisions effecting Alaska's prison system be as direct and unobtrusive as possible to the overall operations of the prison system. Currently, as seen with the Cleary case, judicial judgements are allowed to make broad sweeping requirements of the entire system in order to solve specifically identified, non-systemic problems within the Department of Corrections.

House Bill 214(JUD) requires any court orders or consent decrees be limited in scope to include only the specific problems or issues contained in the original complaint. It would also require the court to take into consideration the overall effect of its decisions on the management and fiscal impact on the department.

The States constitution clearly states that the Legislature has the exclusive right to appropriate. Recent court orders and consent decrees requiring certain levels of funding or services is in direct conflict with the Legislature's exclusive appropriation powers.

- The far reaching effects of recent court orders and consent decrees have also been in conflict with the Administrative branch's requirement to manage the State facilities and carry out the several constitutional goals of prison administration.

While the legislature recognizes the Judiciary's ability to ensure the constitutional rights of Alaska's prison population, it also recognizes that there is a constitutional separation of powers and duties that allows the State to effectively carry out its duties. House Bill 214(JUD) will accomplish this goal.

HB

225

FISCAL NOTE

No: 1
 Bill Version: CSHB 225 (JUD)
 (H) Publish Date: 5/8/99

STATE OF ALASKA
 1999 LEGISLATIVE SESSION

Division Date: 5/16/99
 Title: HB 925 Campaign Finance legis. and term effects
 Sponsor: Cowdery
 Requester: _____

Dept. Affected _____
 BRU _____
 Component _____
 Component Serial No. _____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES						
--------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1091 Designated Program Receipts						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by Cory Winchell
House Judiciary

Phone 468-4990
 Phone _____
 Date _____

SENATE COMMITTEE REPORT

DATE: 5/12/99

FURTHER:

DATE TURNED
IN TO OFFICE: _____

Judiciary Committee considered CS FOR HOUSE BILL NO. 225(JUD)

"An Act relating to election campaigns and legislative ethics; and providing for an effective date."

and recommends:

- be replaced with _____ CS HB 225 _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title

House Bill:

 - same title
 - technical title
 - new: SCR# _____

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	✓	<i>[Signature]</i>	✓		
CHAIR:		CHAIR: <i>[Signature]</i>			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
<i>H-JUD</i>	<i>5/8/99</i>	✓	
	<i>[Signature]</i>	✓	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

1-LS09311V
Kurtz
5/15/99

*adopted
moved
(amended)*

SENATE CS FOR CS FOR HOUSE BILL NO. 225(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES COWDERY, Kohring

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to election campaigns and legislative ethics; and providing for
2 an effective date."

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

4 * Section 1. PURPOSE. In the interest of attracting Alaska's best and brightest to
5 legislative service and retaining their services in the citizen legislature, and recognizing that
6 legislators are not full-time servants of the state but rather individuals with separate careers
7 whose business and personal obligations demand attention during the legislative session, it is
8 the purpose of this Act to minimize the burdens on candidates and legislators imposed by
9 Alaska's campaign finance and legislative ethics laws, without compromising the efficacy of
10 those laws.

11 * Sec. 2. AS 15.13.030 is amended by adding a new subsection to read:

12 (b) In applying this chapter and adopting regulations under this chapter, the
13 commission shall narrowly interpret the applicable statutes and the commission's
14 powers concerning contributions to candidates and requirements for financial reports

1 from candidates to ensure that campaigns for public office are conducted in a manner
2 that imposes the fewest burdens necessary on citizens, candidates, and groups to
3 comply with statutory contribution limits and to provide appropriate information to the
4 public. If a statute is ambiguous, the commission shall consider the intent of the
5 legislature in interpreting the statute.

6 * Sec. 3. AS 15.13.040 is amended by adding a new subsection to read:

7 (j) The results of a poll limited to issues and not mentioning any candidate
8 may not be considered a contribution. The results of a poll provided to a candidate
9 that mention a candidate may not be considered a contribution to the candidate to
10 whom the poll results were provided unless the poll was requested by or designed
11 primarily to benefit the candidate.

12 * Sec. 4. AS 15.13.050(b) is amended to read:

13 (b) If a group intends to support only one candidate, or to contribute to or
14 expend on behalf of one candidate 33 1/3 percent or more of its funds, the name of
15 the candidate shall be a part of the name of the group. If the group intends to oppose
16 only one candidate [,] or to contribute its funds in opposition to or make expenditures
17 in opposition to a candidate, the group's name must clearly state that it opposes that
18 candidate by using a word such as "opposes," "opposing," "in opposition to," or
19 "against" in the group's name. Promptly upon receiving the registration, the
20 commission shall notify the candidate of the group's organization and intent. More
21 than one group may be registered by a candidate to support that candidate;
22 however, multiple groups controlled by a single candidate shall be treated as a
23 single group for purposes of the contribution limit in AS 15.13.070(b)(1).

24 * Sec. 5. AS 15.13.070(e) is amended to read:

25 (e) This section does not prohibit a candidate from using up to a total of
26 \$2,000 [\$1,000] from campaign contributions in a year to pay the cost of

27 (1) attendance by a candidate or guests of the candidate at an event or
28 other function sponsored by a political party or by a subordinate unit of a political
29 party;

30 (2) membership in a political party, subordinate unit of a political party,
31 or other entity within a political party, or subscription to a publication from a political

1 party; [OR]

2 (3) co-sponsorship of an event or other function sponsored by a
3 political party or by a subordinate unit of a political party; or

4 (4) publicizing or reporting the activities of an organized group of
5 legislators as that term is defined in AS 24.60.080(I).

6 * Sec. 6. AS 15.13.074(c) as repealed and reenacted by sec. 12, ch. 48, SLA 1996, is
7 amended to read:

8 (c) A person or group may not make a contribution

9 (1) to a candidate for governor or lieutenant governor or an
10 individual who files with the commission the document necessary to permit that
11 individual to incur certain election-related expenses as authorized by AS 15.13.100 for
12 governor or lieutenant governor when the office is to be filled at a general election
13 before January 1 following [THE DATE THAT IS 18 MONTHS BEFORE] the last
14 general election in which a governor was elected;

15 (2) to a candidate for the state legislature or municipal office or an
16 individual who files with the commission the document necessary to permit that
17 individual to incur certain election-related expenses for the state legislature or
18 municipal office as authorized by AS 15.13.100 when the office is to be filled at
19 a general election before the date that is 18 months before the general election;

20 (3) to a candidate or an individual who files with the commission the
21 document necessary to permit that individual to incur certain election-related expenses
22 as authorized by AS 15.13.100 for an office that is to be filled at a special election or
23 municipal election before the date that is 18 months before the date of the regular
24 municipal election or that is before the date of the proclamation of the special election
25 at which the candidate or individual seeks election to public office; or

26 (4) [(3)] to any candidate after the earlier of December 31 of the
27 year of the election or the 60th [LATER THAN THE 45TH] day

28 (A) after the date of a primary election if the candidate

29 (i) has been nominated at the primary election or is
30 running as a write-in candidate; and

31 (ii) is not opposed at the general election;

1 (B) after the date of the primary election if the candidate was
2 not nominated at the primary election; or

3 (C) after the date of the general election, or after the date of a
4 municipal or municipal runoff election, if the candidate was opposed at the
5 general, municipal, or municipal runoff election.

6 * Sec. 7. AS 15.13.074(f) is amended to read:

7 (f) A corporation, company, partnership, firm, association, organization,
8 business trust or surety, labor union, or publicly funded entity that does not satisfy the
9 definition of group in AS 15.13.400 may not make a contribution to a candidate or
10 group. Notwithstanding the prohibition set out in this subsection, a corporation,
11 company, partnership, firm, association, organization, business trust or surety,
12 labor union, or publicly funded entity may sponsor a political party event within
13 this state by paying for advertising, food, hall rental, and other actual costs
14 associated with the event.

15 * Sec. 8. AS 15.13.078 is amended by adding a new subsection to read:

16 (e) A campaign expenditure for goods or services made by the candidate from
17 personal funds or by cash, personal check, or personal credit card and reimbursed to
18 the candidate by the campaign before the end of the reporting period for the report due
19 February 15 under AS 15.13.110(a) is not a loan or contribution for purposes of this
20 section and shall be reported to the commission as a campaign expenditure.

21 * Sec. 9. AS 15.13.110(a) is amended to read:

22 (a) Each candidate and group shall make a full report in accordance with
23 AS 15.13.040 for the period ending three days before the due date of the report and
24 beginning on the last day covered by the most recent previous report. If the report is
25 a first report, it shall cover the period from the beginning of the campaign to the date
26 three days before the due date of the report. If the report is a report due February 15,
27 it shall cover the period beginning on the last day covered by the most recent previous
28 report or on the day that the campaign started, whichever is later, and ending on
29 December 31 of the prior year. The report shall be filed

30 (1) 30 days before the election; however, this report is not required if
31 the deadline for filing a nominating petition or declaration of candidacy is within 30

1 days of the election;

2 (2) one week before the election;

3 (3) 10 days after the election; and

4 (4) February 15 for expenditures made and contributions received that
5 were not reported during the previous year, including, if applicable, all amounts
6 expended from a public office expense term account established under AS 15.13.118
7 [AS 15.13.116(a)(8)] and all amounts expended from a municipal office account under
8 AS 15.13.116(a)(9), or when expenditures were not made or contributions were not
9 received during the previous year.

10 * Sec. 10. AS 15.13.112(c) is amended to read:

11 (c) A candidate may use up to a total of \$2,000 [\$1,000] in campaign
12 contributions in a year to pay the cost of

13 (1) attending, or paying the cost for guests of the candidate to attend,
14 an event or other function sponsored by a political party or subordinate unit of a
15 political party;

16 (2) membership in a political party, subordinate unit of a political party,
17 or other entity within a political party, or subscription to a publication from a political
18 party; [AND]

19 (3) co-sponsorship of an event or other function sponsored by a
20 political party or by a subordinate unit of a political party; or

21 (4) meetings or activities of an organized group of legislators as
22 that term is defined in AS 24.60.080(1).

23 * Sec. 11. AS 15.13.116(a) is amended to read:

24 (a) A candidate who, after the date of the general, special, municipal, or
25 municipal runoff election or after the date the candidate withdraws as a candidate,
26 whichever comes first, holds unused campaign contributions shall distribute the amount
27 held within 90 days. The distribution may only be made to

28 (1) pay bills incurred for expenditures reasonably related to the
29 campaign and the winding up of the affairs of the campaign, including a victory or
30 thank you party, thank you advertisements, and thank you gifts to campaign
31 employees and volunteers, and to pay expenditures associated with post-election fund

1 raising that may be needed to raise funds to pay off campaign debts;

2 (2) make donations, without condition, to

3 (A) a political party;

4 (B) the state's general fund;

5 (C) a municipality of the state; or

6 (D) the federal government;

7 (3) make donations, without condition, to organizations qualified as
8 charitable organizations under 26 U.S.C. 501(c)(3), provided the organization is not
9 controlled by the candidate or a member of the candidate's immediate family;

10 (4) repay loans from the candidate to the candidate's own campaign
11 under AS 15.13.078(b);

12 (5) repay contributions to contributors, but only if repayment of the
13 contribution is made pro rata in approximate proportion to the contributions made
14 using one of the following, as the candidate determines:

15 (A) to all contributors;

16 (B) to contributors who have contributed most recently; or

17 (C) to contributors who have made larger contributions;

18 (6) establish a fund for, and from that fund to pay, attorney fees or
19 costs incurred in the prosecution or defense of an administrative or civil judicial action
20 that directly concerns a challenge to the victory or defeat of the candidate in the
21 election;

22 (7) transfer all or a portion of the unused campaign contributions to
23 [AN ACCOUNT FOR] a future election campaign account in accordance with
24 AS 15.13.117 [; A TRANSFER UNDER THIS PARAGRAPH IS LIMITED TO

25 (A) \$50,000, IF THE TRANSFER IS MADE BY A
26 CANDIDATE FOR GOVERNOR OR LIEUTENANT GOVERNOR;

27 (B) \$10,000, IF THE TRANSFER IS MADE BY A
28 CANDIDATE FOR THE STATE SENATE;

29 (C) \$5,000, IF THE TRANSFER IS MADE BY A CANDIDATE
30 FOR THE STATE HOUSE OF REPRESENTATIVES; AND

31 (D) \$5,000, IF THE TRANSFER IS MADE BY A

1 CANDIDATE FOR AN OFFICE NOT DESCRIBED IN (A) - (C) OF THIS
2 PARAGRAPH];

3 (8) transfer all or a portion of the unused campaign contributions to a
4 public office expense term account [OR TO A PUBLIC OFFICE EXPENSE TERM
5 ACCOUNT RESERVE] in accordance with AS 15.13.118 [(d) OF THIS SECTION;
6 A TRANSFER UNDER THIS PARAGRAPH IS SUBJECT TO THE FOLLOWING:

7 (A) THE AUTHORITY TO TRANSFER IS LIMITED TO
8 CANDIDATES WHO ARE ELECTED TO THE STATE LEGISLATURE;

9 (B) THE PUBLIC OFFICE EXPENSE TERM ACCOUNT
10 ESTABLISHED UNDER THIS PARAGRAPH MAY BE USED ONLY FOR
11 EXPENSES ASSOCIATED WITH THE CANDIDATE'S SERVING AS A
12 MEMBER OF THE LEGISLATURE;

13 (C) ALL AMOUNTS EXPENDED FROM THE PUBLIC
14 OFFICE EXPENSE TERM ACCOUNT SHALL BE ANNUALLY
15 ACCOUNTED FOR UNDER AS 15.13.110(a)(4); AND

16 (D) A TRANSFER UNDER THIS PARAGRAPH IS LIMITED
17 TO \$5,000 MULTIPLIED BY THE NUMBER OF YEARS IN THE TERM TO
18 WHICH THE CANDIDATE IS ELECTED]; and

19 (9) transfer all or a portion of the unused campaign contributions to a
20 municipal office account; a transfer under this paragraph is subject to the following:

21 (A) the authority to transfer is limited to candidates who are
22 elected to municipal office, including a municipal school board;

23 (B) the municipal office account established under this
24 paragraph may be used only for expenses associated with the candidate's
25 serving as mayor or as a member of the assembly, city council, or school
26 board;

27 (C) all amounts expended from the municipal office account
28 shall be annually accounted for under AS 15.13.110(a)(4); and

29 (D) a transfer under this paragraph is limited to \$5,000.

30 * Sec. 12. AS 15.13.116(b) is amended to read:

31 (b) After a general, special, municipal, or municipal runoff election, a

1 candidate may retain the ownership of one computer and one printer and of personal
2 property, except money, that was acquired by and for use in the campaign. The
3 current fair market value of the property retained, exclusive of the computer and
4 printer, may not exceed \$5,000 [\$2,500]. All other property shall be disposed of, or
5 sold and the sale proceeds disposed of, in accordance with (a) or (c) of this section.
6 Notwithstanding any other provision of this chapter,

7 (1) a candidate may (A) [(1)] retain a bulk mailing permit that was
8 paid for with campaign funds, and (B) [(2)] use personal funds, campaign funds, or
9 unused campaign contributions transferred to a public office expense term account
10 under AS 15.13.118 [(a)(8) OF THIS SECTION] to pay the continuing charges for the
11 permit after the election; money [MONEY] used to continue the life of the permit
12 is not considered to be a contribution under this chapter; in [IN] addition to any
13 other use permitted under this chapter, during the candidate's term of office, the
14 candidate may use the bulk mailing permit for mailings associated with service in the
15 office to which the candidate was elected; during [DURING] the candidate's term
16 of office, if the candidate files a declaration of candidacy or the document necessary
17 to permit the candidate to incur election-related expenses under AS 15.13.100 [A
18 LETTER OF INTENT TO BECOME A CANDIDATE] for the same or a different
19 elective office, the candidate may also use the bulk mailing permit in that election
20 campaign;

21 (2) a candidate may retain campaign photographs and use the
22 photographs for any purpose associated with service in the office to which the
23 candidate was elected;

24 (3) a candidate may retain seasonal greeting cards purchased with
25 campaign funds; and

26 (4) campaign signs prepared for an election that has already taken
27 place have no monetary value and may be retained or disposed of at the
28 candidate's discretion.

29 * Sec. 13. AS 15.13 is amended by adding new sections to read:

30 Sec. 15.13.117. Future election campaign accounts. (a) Unused campaign
31 contributions may be transferred to one or more future election campaign accounts.

1 Before transferring unused campaign contributions to a future election campaign
2 account, a candidate must file a letter of intent to campaign for election with the
3 commission. The letter of intent may specify the office to be sought and must specify
4 the election year in which the campaign will take place. If the letter of intent does not
5 specify the office to be sought, a maximum of \$20,000 may be transferred for
6 campaigns for state office and a maximum of \$10,000 for campaigns for municipal
7 office. If the letter of intent does not specify that a state office is to be sought, a
8 maximum of \$10,000 may be transferred. Contributions may be transferred to an
9 account for a future campaign for election to an office other than that for which they
10 were originally raised.

11 (b) If a candidate seeks election to a different office than that specified in the
12 letter of intent filed under (a) of this section, the candidate may use only that portion
13 of the amount transferred that would have been permitted under this subsection for the
14 office actually campaigned for. Any excess funds transferred are forfeited to the state
15 under AS 15.13.116(c). Any contributions that could not have been accepted under
16 AS 15.13.072 or 15.13.074 for a campaign for the office actually campaigned for are
17 forfeited to the state under AS 15.13.116(c). If the candidate does not actually seek
18 election to any office at the election specified in the letter of intent, the entire balance
19 of the account is forfeited to the state under AS 15.13.116(c).

20 (c) For an office specified in a letter of intent under (a) of this section, a
21 candidate may transfer to a future campaign account an amount not exceeding

- 22 (1) \$100,000 for a future campaign for governor or lieutenant governor;
23 (2) \$40,000 for a future campaign for the state senate;
24 (3) \$20,000 for a future campaign for the state house of representatives;
25 (4) \$60,000 for a future campaign for mayor of a municipality with a
26 population greater than 100,000;
27 (5) \$40,000 for a future campaign for mayor of a municipality with a
28 population greater than 50,000 but not exceeding 100,000;
29 (6) \$20,000 for a future campaign for mayor of a municipality with a
30 population not exceeding 50,000; and
31 (7) \$10,000 for an office not described in (A) - (F) of this paragraph.

1 (d) A candidate may use \$1,000 of the funds in a future election campaign
2 account each year for unconditional donations to one or more organizations qualified
3 as charitable organizations under 26 U.S.C. 501(c)(3), provided the organizations are
4 not controlled by the candidate or a member of the candidate's immediate family.

5 (e) A candidate may use \$1,000 of the funds in a future election campaign
6 account each year for the cost of attending, or paying the cost for guests of the
7 candidate to attend, an event or other function sponsored by a political party or
8 subordinate unit of a political party.

9 **Sec. 15.13.118. Public office expense term accounts.** (a) After a general or
10 special election, a candidate who has been elected to the state legislature in that
11 election may establish a public office expense term account reserve with unused
12 campaign contributions. A candidate for the senate may transfer up to \$40,000 in
13 unused campaign contributions into a public office expense term account reserve. A
14 candidate for the house of representatives may transfer up to \$16,000 in unused
15 campaign contributions to a public office expense term account reserve. The public
16 office expense term account reserve may only be used to make transfers to a public
17 office expense term account.

18 (b) A candidate elected to the senate may transfer up to \$10,000 each calendar
19 year from a public office expense term account reserve to a public office expense term
20 account. A candidate elected to the house may transfer up to \$8,000 each calendar
21 year from a public office expense term account reserve to a public office expense term
22 account. A candidate elected to the legislature may also transfer any interest that has
23 accrued in the candidate's public office expense term account reserve to a public office
24 expense term account. If, during a calendar year, a candidate transfers less than the
25 permitted amount from a public office expense term account reserve to a public office
26 expense term account, the excess may be carried over in the reserve and transferred
27 in a subsequent calendar year. At the end of the candidate's term of office, a balance
28 in the public office expense term account reserve must be disposed of only as
29 authorized by AS 15.13.116(a)(2), (3), or (5).

30 (c) Funds in a public office expense term account may be used only for
31 expenses associated with the candidate's serving as a member of the legislature,

1 including the unconditional donation of up to \$1,000 a year to one or more
2 organizations qualified as charitable organizations under 26 U.S.C. 501(c)(3), provided
3 the organization is not controlled by the candidate or a member of the candidate's
4 immediate family. Funds in a public office expense term account or public office
5 expense term account reserve shall be annually accounted for under
6 AS 15.13.110(a)(4).

7 * Sec. 14. AS 15.13.145(b) is amended to read:

8 (b) Money held by an entity identified in (a)(1) - (3) of this section may be
9 used to influence the outcome of an election concerning a ballot proposition or
10 question if the use is permitted under AS 24.60.030(a)(5)(H) or [, BUT ONLY] if
11 the funds have been specifically appropriated for that purpose by a state law or a
12 municipal ordinance.

13 * Sec. 15. AS 15.13.400(3) is amended to read:

14 (3) "contribution"

15 (A) means a purchase, payment, promise or obligation to pay,
16 loan or loan guarantee, deposit or gift of money, goods, or services for which
17 charge is ordinarily made and that is made for the purpose of influencing the
18 nomination or election of a candidate, and in AS 15.13.010(b) for the purpose
19 of influencing a ballot proposition or question, including the payment by a
20 person other than a candidate or political party, or compensation for the
21 personal services of another person, that are rendered to the candidate or
22 political party;

23 (B) does not include

24 (i) services provided without compensation by
25 individuals volunteering a portion or all of their time on behalf of a
26 political party, candidate, or ballot proposition or question [, BUT IT
27 DOES INCLUDE PROFESSIONAL SERVICES VOLUNTEERED BY
28 INDIVIDUALS FOR WHICH THEY ORDINARILY WOULD BE
29 PAID A FEE OR WAGE];

30 (ii) services provided by an accountant or other person
31 to prepare reports and statements required by this chapter; [OR]

1 (iii) ordinary hospitality in a home;

2 (iv) professional legal or accounting services that are
 3 provided to a candidate, group, or political party without
 4 compensation by an attorney or accountant; the nature or form of
 5 the entity under which the attorney or accountant conducts the
 6 attorney's or accountant's professional practice does not affect the
 7 exception; or

8 (v) mass mailings by each political party describing
 9 the party's slate of candidates for election, which may include
 10 photographs and biographies of the party's candidates;

11 * Sec. 16. AS 24.45.121 is amended by adding a new subsection to read:

12 (d) An individual who is related to a member of the legislature may not be
 13 employed for compensation as a registered lobbyist or by a registered lobbyist.

14 * Sec. 17. AS 24.60.030(a) is amended to read:

15 (a) A legislator or legislative employee may not

16 (1) solicit, agree to accept, or accept a benefit other than official
 17 compensation for the performance of public duties; this paragraph may not be
 18 construed to prohibit lawful solicitation for and acceptance of campaign contributions
 19 or the acceptance of a lawful gratuity under AS 24.60.080;

20 (2) use public funds, facilities, equipment, services, or another
 21 government asset or resource for a nonlegislative purpose, for involvement in or
 22 support of or opposition to partisan political activity, or for the private benefit of either
 23 the legislator, legislative employee, or another person; this paragraph does not prohibit

24 (A) limited use of state property and resources for personal
 25 purposes if the use does not interfere with the performance of public duties and
 26 either the cost or value related to the use is nominal or the legislator or
 27 legislative employee reimburses the state for the cost of the use;

28 (B) the unlimited use of mailing lists, computer data, or other
 29 information lawfully obtained from a government agency and available to the
 30 general public for nonlegislative purposes;

31 (C) unlimited telephone or facsimile use that does not carry a

1 special charge;

2 (D) the legislative council, notwithstanding AS 24.05.190, from
3 designating a public facility for use by legislators and legislative employees for
4 health or fitness purposes; when the council designates a facility to be used by
5 legislators and legislative employees for health or fitness purposes, it shall
6 adopt guidelines governing access to and use of the facility; the guidelines may
7 establish times in which use of the facility is limited to specific groups; [OR]

8 (E) a legislator from using the legislator's private office in the
9 capital city during a legislative session, and for the 10 [FIVE] days
10 immediately before and the 10 [FIVE] days immediately after a legislative
11 session, for nonlegislative purposes if the use does not interfere with the
12 performance of public duties and if there is no cost to the state for the use of
13 the space and equipment, other than utility costs and minimal wear and tear,
14 or the legislator promptly reimburses the state for the cost; an office is
15 considered a legislator's private office under this subparagraph if it is the
16 primary space in the capital city reserved for use by the legislator, whether or
17 not it is shared with others;

18 (F) a legislator from unlimited use of legislative employees
19 to prepare and send out seasonal greeting cards;

20 (G) a legislator from using state resources to transport
21 computers or other office equipment owned by the legislator but primarily
22 used for a state function;

23 (H) unlimited use by a legislator of photographs of that
24 legislator;

25 (I) reasonable use of the Internet by a legislator or a
26 legislative employee except if the use is for election campaign purposes; or

27 (J) a legislator from soliciting, accepting, or receiving a gift
28 on behalf of a recognized, nonpolitical charitable organization in a state
29 facility;

30 (3) knowingly seek, accept, use, allocate, grant, or award public funds
31 for a purpose other than that approved by law, or make a false statement in connection

1 with a claim, request, or application for compensation, reimbursement, or travel
2 allowances from public funds;

3 (4) require a legislative employee to perform services for the private
4 benefit of the legislator or employee at any time, or allow a legislative employee to
5 perform services for the private benefit of a legislator or employee on government
6 time; it is not a violation of this paragraph if the services were performed in an
7 unusual or infrequent situation and the person's services were reasonably necessary to
8 permit the legislator or legislative employee to perform official duties;

9 (5) use or authorize the use of state funds, facilities, equipment,
10 services, or another government asset or resource for the purpose of political fund
11 raising or campaigning; this paragraph does not prohibit

12 (A) limited use of state property and resources for personal
13 purposes if the use does not interfere with the performance of public duties and
14 either the cost or value related to the use is nominal or the legislator or
15 legislative employee reimburses the state for the cost of the use;

16 (B) the unlimited use of mailing lists, computer data, or other
17 information lawfully obtained from a government agency and available to the
18 general public for nonlegislative purposes;

19 (C) telephone or facsimile use that does not carry a special
20 charge;

21 (D) unlimited storage or maintenance [STORING OR
22 MAINTAINING], consistent with (b) of this section, of election campaign
23 records in a legislator's office; [OR]

24 (E) a legislator from using the legislator's private office in the
25 capital city during a legislative session, and for the 10 [FIVE] days
26 immediately before and the 10 [FIVE] days immediately after a legislative
27 session, for nonlegislative purposes if the use does not interfere with the
28 performance of public duties and if there is no cost to the state for the use of
29 the space and equipment, other than utility costs and minimal wear and tear,
30 or the legislator promptly reimburses the state for the cost; an office is
31 considered a legislator's private office under this subparagraph if it is the