



1

2 Page 21, line 11:

3 Delete "(6)"

4 Insert "(7)"

5

6 Page 22, line 16:

7 Delete "(n)(3)"

8 Insert "(n)(4)"

WITHDRAWN

AMENDMENT #22

OFFERED IN THE HOUSE

by Representative Berkowitz

TO: CS HB 4 (TRA)

- 1 Page 4, line 16 -17, following "applicant"
- 2 Delete, "does not have a valid driver's license and the applicant's"
- 3 Page 4, line 17, following "revoked;"
- 4 Delete, "or"
- 5 Page 4
- 6 Delete, lines 18-19

AMENDMENT #25

WITMERSON

OFFERED IN THE HOUSE:

by Representative Berkowitz

TO: CS HB 4 (TRA)

- 1 Page 7
- 2 Delete, lines 28 - 31
- 3 Page 8
- 4 Delete, lines 1 - 2
- 5 Renumber accordingly
- 6 Page 8, line 17, following "under"
- 7 Delete, "AS 28.15.181(c) (2), (3), (4), or (5)"
- 8 Insert, "AS 28.15.181 (c)"

WITHDRAWN

AMENDMENT #24

OFFERED IN THE HOUSE

by Representative Berkowitz

TO: CS HB 4 (TRA)

- 1 Page 9
- 2 Delete, lines 7 - 24
- 3 Renumber accordingly

MOVERS
BY BERKOWITZ
WITHDRAWN
FOR NEW
3.28.01
MOVERS AGAIN
BY BERKOWITZ
3.31.01

ADOPTED ✓

AMENDMENT #25

OFFERED IN THE HOUSE

by Representative Berkowitz

TO: CS HB 4 (TRA)

- 1 Page 11
- 2 Delete, lines 2 - 11
- 3 Renumber accordingly

WITHDRAWN

AMENDMENT #26

OFFERED IN THE HOUSE

by Representative Berkowitz

TO: CS HB 4 (TRA)

- 1 Page 11, line 23
- 2 Delete, "AS 28.15.181 (c)(1) or (2)"
- 3 Insert, "AS 28.15.181 (c)(1)"
- 4 Page 11, line 30
- 5 Delete, "AS 28.15.181 (c)(3), (4), or (5)"
- 6 Insert, "AS 28.15.181 (c)(2), (3), or (4)"

ADOPTED
As Amended

AMENDMENT #27

OFFERED IN THE HOUSE

by Representative Berkowitz

TO: CS HB 4 (TRA)

- 1 Page 16, lines 11 - 31, following "convicted"
- 2 Delete all material
- 3 Page 17, lines 1 - ~~10~~
- 4 Delete all material

WITHDRAWN

AMENDMENT #28

OFFERED IN THE HOUSE

by Representative Berkowitz

TO: CS HB 4 (TRA)

- 1 Page 17, lines 5 - 10
- 2 Delete all materials

WITHDRAWN

AMENDMENT #29

OFFERED IN THE HOUSE

by Representative Berkowitz

TO: CS HB 4 (TRA)

1 Page 17, lines 30-31, following "not"

2 Delete, "except as provided under (1)(A)⁽ⁱ⁾~~(X)~~ of this subsection."

WITHDRAWN

AMENDMENT #30

OFFERED IN THE HOUSE

by Representative Berkowitz

TO: CS HB 4 (TRA)

- 1 Page 19, Line 8 - 9, following "treated."
- 2 Delete "The cost of treatment required to be paid to the state under this subsection may not exceed \$2,000"

OFFERED BY
Berkowitz

FAILS

AMENDMENT #31

OFFERED IN THE HOUSE

by Representative Berkowitz

TO: CS HB 4 (TRA)

- 1 Page 24
- 2 Delete "Lines 19 - 21"
- 3 Renumber sections accordingly

WITHDRAWN

AMENDMENT #32

OFFERED IN THE HOUSE

by Representative Berkowitz

TO: CS HB 4 (TRA)

- 1 Page 27, Line 28, following "state"
- 2 Delete "shall"
- 3 Insert "may"

WITHDRAWN

AMENDMENT #33

— OFFERED IN THE HOUSE

— by Representative Berkowitz

TO: CS HB 4 (TRA)

- 1 Page 27, lines 19 – 25
- 2 Delete all materials
- 3 Renumber accordingly

MOVES BY
RO KERBER
ADOPTED
AS AMENDED

✓

March 23, 2001

House Judiciary Committee

Proposed amendment # 34 to : CSHB 4 (TRA)

By: Representative Scott Ogan

Page: 27

Lines: 24 and 25

Change as follows: purpose of determining [the amount of alcohol in that person's blood or to determine] the presence of a controlled substance in the person's [blood] or urine.

Amended.

Delete lines 19 - 25 on page 27.

ADOPTED

See Amendment # 25

March 23, 2001

House Judiciary Committee

Proposed amendment # # 35 to : CSHB 4 (TRA)

By: Representative Scott Ogan

Page: 11

Line: 8

Amend as follows: \$100G. [; and]

Lines: 9, 10, and 11

Amend as follows: Delete

~~Amended~~
~~RECEIVED HOUSE JUDICIARY COMMITTEE~~
 Scott Ogan
 Representative

Moved by Rokeberg

Adopted as amended

AMENDMENT #30

OFFERED IN THE HOUSE
TO: CSHB 4(TRA)

BY REPRESENTATIVE ROKEBERG

1 Page 4, following line 19:

2 Insert a new bill section to read:

3 **** Sec. 7.** AS 28.10 is amended by adding a new section to read:

Amendment to clarify (amusing & conceptual)

4 **Sec. 28.10.453. Seizure of registration plates resulting from chemical sobriety tests and refusals to submit to tests.** (a) If a law enforcement officer seizes a driver's license under AS 28.15.165, the officer shall also seize the registration plates for the motor vehicle the person was operating and shall deliver the registration plates to the department.

(b) The law enforcement officer who seizes registration plates under this section shall

distinctively marked Adopted

conceptual amendment

10 (1) issue a temporary permit under which the vehicle may be operated that expires seven days after it is delivered to the person; and

11 (2) give the person written notice that, unless the person, within seven
12 days, requests an administrative review under AS 28.15.166, the department shall
13 suspend the registration for the motor vehicle and retain possession of the motor
14 vehicle registration plates as provided under (d) of this section.

15 (c) Unless the person has obtained a stay of a departmental action under
16 AS 28.15.166, if the chemical test administered under AS 28.33.031(a) or
17 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2) or the
18 person refused to submit to a chemical test authorized under AS 28.33.031(a) or
19 AS 28.35.031(a) or (g), the department shall revoke the registration for the motor
20 vehicle. The department's action takes effect seven days after delivery to the person of
21 the notice required under (b) of this section, and after receipt of a sworn report of a
22 law enforcement officer as described under AS 28.15.165(c).
23
24

1 (d) The period of revocation of a motor vehicle registration under this section
2 shall be for the appropriate minimum period for driver's license revocations under
3 AS 28.15.181(c) or court disqualifications under AS 28.33.140. A department hearing
4 officer may grant limited motor vehicle registration privileges to a person whose
5 motor vehicle registration was revoked under this section in accordance with the
6 standards set out in AS 28.15.201 for granting limited driver's license privileges.

7 (e) The department shall allow a person who is a co-owner of a motor vehicle
8 and who is not the person who was operating the motor vehicle when the registration
9 plates were seized under (a) of this section to register the motor vehicle without the
10 name of the person who was operating the vehicle when the registration plates were
11 seized under (a) of this section. If a person registers a motor vehicle under this
12 subsection, the department shall reissue the registration plates seized under (a) of this
13 section."
14

15 Renumber the following bill sections accordingly.

16
17 Page 6, following line 8:

18 Insert new bill sections to read:

19 **"* Sec. 11.** AS 28.15.166(a) is amended to read:

20 (a) A person who has received a notice under AS 28.10.453(b) or
21 AS 28.15.165(a) may make a written request for administrative review of the
22 department's action under AS 28.10.453(c) or AS 28.15.165(c) or for limited motor
23 vehicle registration privileges under AS 28.10.453(d) or for limited license
24 privileges under AS 28.15.165(d). If the person's driver's license has not been
25 previously surrendered to the department, it shall be surrendered to the department at
26 the time the request for review is made.

27 *** Sec. 12.** AS 28.15.166(b) is amended to read:

28 (b) A request for review of the department's action under AS 28.10.453 or
29 AS 28.15.165 shall be made within seven days after receipt of the notice under
30 AS 28.10.453 or AS 28.15.165, or the right to review is waived and the action of the
31 department under AS 28.10.453(c) or AS 28.15.165(c) is final. If a written request for

*conceptual
amendment
clarifying
ownership*

1 a review is made after expiration of the seven-day period, and if it is accompanied by
 2 the applicant's verified statement explaining the failure to make a timely request for a
 3 review, the department shall receive and consider the request. If the department finds
 4 that the person was unable to make a timely request because of lack of actual notice of
 5 the department's action or because of factors of physical incapacity such as
 6 hospitalization or incarceration, the department shall waive the period of limitation,
 7 reopen the matter, and grant the review request. An initial request for limited license
 8 privileges may be made at any time. Subsequent requests for limited license
 9 privileges may not be made unless the applicant demonstrates a significant change in
 10 circumstances.

11 * Sec. 13. AS 28.15.166(c) is amended to read:

12 (c) Upon receipt of a request for review, if it appears that the person holds a
 13 valid driver's license or motor vehicle registration plates and that the driver's license
 14 or motor vehicle registration plates have [HAS] been surrendered, the department
 15 shall issue a temporary driver's permit or motor vehicle registration that is valid until
 16 the scheduled date for the review. A person who has requested a review under this
 17 section may request, and the department may grant for good cause, a delay in the date
 18 of the hearing. If necessary, the department may issue additional temporary permits to
 19 stay the effective date of its action under AS 28.15.165(c) until the final order after the
 20 review is issued."

21
 22 Renumber the following bill sections accordingly.

23
 24 Page 18, line 8, following "AS 28.35.036":

25 Insert ":

26 (4) if the person has been previously convicted, the court shall
 27 order the motor vehicle or aircraft used in the commission of the offense forfeited
 28 under AS 28.35.036 or shall order the vehicle taken to the owner's residence and
 29 immobilized for the period of time that the person's driver's license is revoked;
 30 the court shall also require the person to pay any administrative costs of keeping
 31 the motor vehicle or aircraft immobilized"

1

2 Page 29, line 2:

3 Delete "Section 47"

4 Insert "Section 51"

5

6 Page 29, line 3:

7 Delete "sec. 55"

8 Insert "sec. 54"

Adopted

AMENDMENT #37

OFFERED IN THE HOUSE

BY REPRESENTATIVE ROKEBERG

TO: Amendment S.15 to CSHB 4(TRA) - *Amendment #7*

1 Page 1, line 9, following the first occurrence of "of":

2 Insert

3 "(1)"

4

5 Page 1, line 11, following "program":

6 Insert "; and

7 (2) up to 50 percent of the minimum fines required under (b)(1) or

8 (n)(1) of this section"

Moved by
Berkowitz
WITHDRAWN @
THIS TIME

AMENDMENT #58

OFFERED IN THE HOUSE
TO: CSHB 4(TRA)

BY REPRESENTATIVE BERKOWITZ

1 Page 18, line 8, following "AS 28.35.036":

2 Insert ";

3 (4) the person is disqualified from receiving a permanent fund
4 dividend under AS 43.23.005(d)"

5

6 Page 28, following line 17:

7 Insert new bill sections to read:

8 **"* Sec. 49.** AS 43.23.005(d) is amended to read:

9 (d) Notwithstanding the provisions of (a) - (c) of this section, an individual is
10 not eligible for a permanent fund dividend for a dividend year when

11 (1) during the qualifying year, the individual was sentenced as a result
12 of conviction in this state of a felony;

13 (2) during all or part of the qualifying year, the individual was
14 incarcerated as a result of the conviction in this state of a

15 (A) felony; [OR]

16 (B) misdemeanor if the individual has been convicted of two or
17 more prior crimes as defined in AS 11.81.900; or

18 (C) violation of AS 28.35.030.

19 *** Sec. 50.** AS 43.23.028(a) is amended to read:

20 (a) By October 1 of each year, the commissioner shall give public notice of
21 the value of each permanent fund dividend for that year and notice of the information
22 required to be disclosed under (3) of this subsection. In addition, the stub attached to
23 each individual dividend check and direct deposit advice must

24 (1) disclose the amount of each dividend attributable to income earned

1 by the permanent fund from deposits to that fund required under art. IX, sec. 15,
2 Constitution of the State of Alaska;

3 (2) disclose the amount of each dividend attributable to income earned
4 by the permanent fund from appropriations to that fund and from amounts added to
5 that fund to offset the effects of inflation;

6 (3) disclose the amount by which each dividend has been reduced due
7 to each appropriation from the dividend fund, including amounts to pay the costs of
8 administering the dividend program and the hold harmless provisions of
9 AS 43.23.075;

10 (4) include a statement that an individual is not eligible for a dividend
11 when

12 (A) during the qualifying year the individual was convicted of a
13 felony;

14 (B) during all or part of the qualifying year, the individual was
15 incarcerated as a result of the conviction of a

16 (i) felony; [OR]

17 (ii) misdemeanor if the individual has been convicted of
18 two or more prior crimes; or

19 (iii) violation of AS 28.35.030;

20 (5) include a statement that the legislative purpose for making
21 individuals listed under (4) of this subsection ineligible is to

22 (A) obtain reimbursement for some of the costs imposed on the
23 state criminal justice system related to incarceration or probation of those
24 individuals;

25 (B) provide funds for payments to crime victims and for grants
26 for the operation of domestic violence and sexual assault programs;

27 (6) disclose the total amount that would have been paid during the
28 previous fiscal year to individuals who were ineligible to receive dividends under
29 AS 43.23.005(d) if they had been eligible;

30 (7) disclose the total amount appropriated for the current fiscal year
31 under (b) of this section for each of the funds and agencies listed in (b) of this

1 section."

2

3 Renumber the following bill sections accordingly.

4

5 Page 29, line 3:

6 Delete "sec. 51"

7 Insert "sec. 53"

WITHDRAWN

✓

AMENDMENT #39A

OFFERED IN THE HOUSE
TO: CSHB 4(TRA)

BY REPRESENTATIVE ROKEBERG

- 1 Page 11, line 2:
- 2 Delete "a new subsection"
- 3 Insert "new subsections"
- 4
- 5 Page 11, following line 11:
- 6 Insert a new subsection to read:
- 7 "(d) The provisions of (c) of this section do not apply to a person who violates
- 8 (c) of this section because another person commits an act of domestic violence. In this
- 9 subsection, "domestic violence" has the meaning given in AS 18.66.990."

Moved
by Rokberg

ADAPTERS ✓

HB4

Amendment No. 39B

Add a new section to the bill:

*Sec. ____ AS 23.15.281(b) is amended to read:

(b) A person may not authorize or knowingly permit a motor vehicle owned by the person or under the control of the person to be driven in this state by a person who is not validly licensed. **This subsection does not apply to a victim of domestic violence who authorizes or permits a motor vehicle to be driven due to fear of the perpetrator of domestic violence. In this subsection, "domestic violence" has the meaning given in AS 18.66.990.**

Moved by
Rokeberg
Adopted

A M E N D M E N T #40

OFFERED IN THE HOUSE

BY REP. ROKEBERG

TO: CSHB 4(TRA)

Page 20, line 21

DELETE: "240"

INSERT: "180"

Page 20, line 23:

DELETE: "480"

INSERT: "360"

Page 20, line 25:

DELETE: "two years"

INSERT: "440 days"

Conform portions of amendment 16 (if adopted) dealing with refusal to time lines above (page 10, lines 21, 23, and 25 of amendment #16)

Moved
Adopted

A M E N D M E N T #41

OFFERED IN THE HOUSE

BY REP. ROKEBERG

TO: CSHB 4(TRA)

Page 16, line 11

DELETE: "500"

INSERT: "1500"

Do the same thing under 28.35.032
as well.

Adopted

Conceptual Amendment #42

ABAP Fee \$150 not less than

HB

4

(File 4)

**22ND LEGISLATURE ALCOHOL PACKAGE (active bills as of 3/21/01)
FY 2002**

<u>Legislation</u>	<u>GF</u>	<u>GF/PR</u>	<u>GF/MH</u>	<u>Other</u>	<u>Revenue Change</u>	<u>PFT</u>	<u>PPT</u>
HB 4 - Rokeberg Omnibus Drunk Driving	\$7,858.4 (7,587.4)**	\$ 151.9		\$ 294.6	\$ 762.1	31.5*	6 (27.5)**
HB 39 - Kott Mandatory Insurance And Treatment	\$ 314.0		\$ 226.0	\$ 60.2		7	
HB 132 - Judiciary Bootlegging Part Only	\$ 321.8						4
HB 172 - Porter Therapeutic Courts*	\$ 2,020.2*						20
HB 179 - Judiciary Minor in Poss.***	<u>\$ 1,500.0</u>	_____	_____	_____	_____	<u>22</u>	_____
Totals (w/duplication removed)	\$12,014.4 \$11,743.4)	\$ 151.9	\$ 226.0	\$ 354.8	\$762.1	84.5	6

\$14.0 M approximately with HB 179***

***Note: There is a duplication of 4 positions and approximately \$270,000 between HB 4 and HB 172 for one Superior Court Judge and associated positions (law clerk, in-court clerk, secretary)**

****Note: without Superior Court Judge & Associated positions**

*****Note: Minor in possession fiscal impact is estimate ONLY from H&SS amendments presented on House Floor during budget debate. DOES NOT INCLUDE LAW, COURT, PUBLIC DEFENDER, ETC. Add \$2 million & 10 positions (wild guess)**

**FISCAL NOTES FY 2002
TO CSHB 4 (TRA)
SUMMARY SHEET**

<u>Department</u>	<u>GF</u>	<u>GF/PR</u>	<u>Other</u>	<u>Revenue Change</u>	<u>PFT</u>	<u>PPT</u>
Court (see note 2)	\$ 368.6					4
(w/out Sup. Court Judge)	(97.6)					
Public Safety	\$ 153.2				1	
Health & Social Services						
Alcoholism & Drug Abuse	\$ 112.4					
Treatment	\$ 582.2					
Administration						
Public Defender	\$ 457.0				5.5	
Motor Vehicles	\$ 787.0			347.5	13	1
Corrections	\$ 4,693.6	120.0	294.6	414.6		
Law	\$ 704.4	31.9			8	1
Totals	\$ 7,858.4	151.9	294.6	762.1	27.5	6
(w/out Sup. Court Judge)	(7,587.4)					

Note: An extremely rough guess on revenue from increased fines collected by the Court system is \$300,000 (estimation 35% collection rate). These would go to the general fund.

Note 2: The Court System note reflects the costs associated with the addition of one Superior Court Judge. This amount is duplicated in the fiscal note to HB 172, wellness court. The Court System has testified that there is a need for a total of one new Superior Court Judge (with associated costs) for both bills -- not two new judges. The costs associated with a Superior Court Judge run about \$270,591 which includes the Judge, Law Clerk, Secretary and In-court clerk or a total of 4 FT positions.

**INTERAGENCY COST SUMMARY
HOUSE BILL 4 - OMNIBUS DRUNK DRIVING LEGISLATION
FY 2002**

Category	GF Cost	PFT	PPT
.08	\$2,264.2	4	3
.08 with Diversion	2,132.4	4	1
Phase in 10-year look back	594.8	0	1
Increased Fines & Penalties	3,879.4	11	1
30 days for 2nd DWI Offense	184.6	0	0
Vehicle Forfeiture	964.9	12	0

This does not reflect all fiscal notes, just the impact of various categories.

Prepared by Rep. Norman Rokeberg's Office by Information supplied by the Department of Law. Assumptions are those as supplied by Department of Law.

3/17/01

FISCAL NOTE

**STATE OF ALASKA
2001 LEGISLATIVE SESSION**

Fiscal Note Number: _____
 Bill Version: CSHB 4 (TRA)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title: An act relating to offenses involving operating BRU: Motor Vehicles
amotor vehicle, aircraft, or watercraft while under the..... Component: _____
 Sponsor: Representative Rokeberg
 Requester: H (JUD) Component Number: 2348

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	564.3	564.3	564.3	564.3	564.3	564.3
Travel						
Contractual	124.1	14.7	14.7	14.7	14.7	14.7
Supplies	23.1	4.9	4.9	4.9	4.9	4.9
Equipment	75.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	787.0	583.9	583.9	583.9	583.9	583.9

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

CHANGE IN REVENUES ()	347.5	347.5	347.5	347.5	347.5	347.5
-------------------------------	--------------	--------------	--------------	--------------	--------------	--------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	787.0	583.9	583.9	583.9	583.9	583.9
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	787.0	583.9	583.9	583.9	583.9	583.9

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time	13	13	13	13	13	13
Part-time	1	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See Attached sheets for detailed analysis.

Prepared by: Charles R. Hosack Phone 289-5559
 Division: Motor Vehicles Date/Time 03/08/01
 Approved by: Jim Duncan, Commissioner Date 3/8/01
 Agency: Department of Administration

For distribution information, call the Governor's Legislative Office

The fiscal impact can be separated into four main areas as follows:

1. Sec 6. This requires DMV to refuse to register a vehicle if the owner has a license suspension or revocation. Cost - \$546.0 10 PFT/1 PPT
2. Sec 26. DMV estimates DWI arrests will increase by 15% when BAC is reduced to .08. Requests for hearing will increase and an additional hearing officer and support person will be needed. Cost - \$112.0 2 PFT
3. Sec. 31 & 33. These sections require DMV to revoke the registration of vehicles owned by the offender or it requires the offender to surrender the license plates to DMV. Cost - \$48.2 1 PFT
4. Sec 47. This section requires DMV to establish and maintain a Public Database of Felony DWI offenders. Cost - \$80.9

The detailed analysis for each of these impacts will be shown on the attached pages.

1. Section 6 -- Refusal to Register

Section 6 of this bill will have a fiscal impact in that DMV shall refuse to register a vehicle or renew a registration if the applicant does not have a driver license and the applicant's license or privilege to drive is suspended or revoked. While the remainder of this bill addresses DWI issues, the language of Section 1 requires DMV to take actions on all suspensions or revocations regardless of the cause.

This provision is difficult to administer because the driver license and vehicle databases are not linked electronically. In the driver license program there is a requirement to positively identify the person so that convictions can be placed on the correct record. In the vehicle program identification of that specific property is key and there is no requirement to positively identify each vehicle owner. Currently there is not a requirement to use a complete legal name on ownership or registration records. This fact plus the issues of multiple ownership, business ownership, etc, makes it difficult and cumbersome to link the two databases. DMV's estimate of a project to link the two databases is \$1.5 to \$2 million for contract programming staff and would take 2 years to complete. This is no small undertaking and would not allow the provision to be implemented by the effective date of the bill.

Because there is no electronic link it will be necessary to review the driving record of each applicant and all co-owners every time a registration transaction is done. The annual volume of these transactions is 350,000 which includes both new and renewal transactions.

There are four areas of the registration program where this section will have a fiscal impact.

A. Business Partners - DMV uses business partners such as car dealers and emission inspection stations to process registrations. These partners are linked electronically to DMV for processing in real time and they operate much the same as a DMV office. Driver license information is confidential by statute and these partners are not allowed access to this information. These partners process 65,000 registration transactions annually and they would have to deny registration based on the applicants driver license status. DMV cannot give them access to driver information so it will be necessary to develop a new computer application that will allow query by driver license but will only return a "Yes" or "No" indicator based on the driving record status. This work will be done by a contract for programming service at the state's standard contract rates.

160 Hours x \$122.77 per hour = \$19,643
ITG contract administration fee = \$ 659

Note: Although it is not a cost to the state, vehicle sales may be affected if the dealer's inquiry returns a "no" reply on the purchaser. Not all dealers have online access; these transactions would come to a DMV office for researching and possible refusal of the registration.

B. Web/Phone Renewal Services - These electronic venues are completely automated so there is not a possibility to review the applicant's record to determine if the license is suspended or revoked. A person other than the owner could renew the registration if they were willing to pay for it and this complicates the problem further. These services will be discontinued and it is assumed that the applicants will now go to a DMV office or use the mail to renew registrations. The volume of transactions on these two venues is 30,000 annually. Using the standard renewal rate, one employee can process 20,000 transactions so this will require 1.5 PFT positions plus equipment and other costs.

1 PFT position and 1 PPT position, range 10	\$59,215
Equipment and associated costs	\$17,356

C. DMV Field Office Work - The remainder of the renewal transactions, 285,000 annually, will be done at a DMV office and it will be necessary to review the driving record prior to issuing the registration. This volume will lengthen the transaction and wait times and will require additional staffing to compensate. Assuming one employee can do 50,000 reviews annually then it will require 6 new PFT position for this work. In addition the mail renewal program would need 1 additional PFT position to ensure registrations are completed in a timely manner and returned to the owner. The annual volume of mail renewals is 70,000 and DMV is required to meet rigid time constraints in this program.

7 PFT positions, range 10	\$276,339
Equipment and associated costs	\$ 60,746

D. Hearing Process - Whenever DMV refuses to register a vehicle it is required to offer the opportunity to have a hearing as a matter of due process. It is estimated that 25% will request a hearing. This is the same average that request hearings on driver license actions. This volume will require 1 hearing officer and 1 support person.

1 PFT Hearing Officer, range 16	\$55,119
1 PFT position for admin support, range 10	\$39,477
Equipment and associated costs	\$17,356

Summary Costs (First Year)

Personal Services (10 PFT, 1 PPT)	\$430.2
Associated Costs	
Contractual	\$ 38.3
Commodities	\$ 18.2
Equipment	\$ 59.3
Total	\$546.0

2. Section 26 .08 BAC

Based on information from other states that have lowered the DWI threshold to .08 BAC and the Department of Justice, DMV estimates that DWI arrests will increase by 15%. All of these drivers must be afforded the opportunity for a hearing before their license can be revoked by DMV. Cases under the current .10 law are now scheduled for hearing 30 – 45 days out. This is a quasi-judicial process and will require one additional hearing officer and one support person.

1 PFT Hearing Officer, range 16	\$55,119
1 PFT position for admin support, range 10	\$39,477
Equipment and associated costs	\$17,356
Total Cost (First Year)	\$111,952

3. Section 31. Registration Revocation for Felony Offenders
Section 33. Surrender of License Plates for Repeat Offenders

These two sections are grouped together because the work actions are the same. DMV must either revoke a registration or require the surrender of license plates. Each action requires researching the vehicle records, making appropriate entries in the record and, in the case of revocations, and sending notice to the individual.

1 PFT position for admin support, range 10	\$39,477
Equipment and associated costs	\$ 8,678
Total Cost (First Year)	\$48,155

4. Section 47. Public Database of Felony Offenders

This database must be available to anyone and must be current and accurate. DMV will use a contractor to develop an internet application that will return appropriate information if the person is a felony offender.

640 hours contractor time @ \$122.77 per hour	\$78,563
ITG contract administration fee	\$ 2,357
Total Cost (one time cost)	\$80,920

Revenue

The license reinstatement fees for DWI offenders is increased by \$100 for first time offenders and by \$250 for repeat offenders. On average there are 3200 first time offenders and 1500 repeat offenders each year. Approximately 50% of these will reinstate the license. The remainder either leave the state or find the cost of the required insurance unaffordable. The combined revenue for those that do reinstate is estimated to be \$347,500 annually.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CS HB 4 (TRA)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title: "An Act relating to offenses involving operating a motor vehicle..." BRU: Legal & Advocacy
 Component: Public Defender Agency
 Sponsor: Representative Rokeberg
 Requester: (H) JUD Component Number: 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	337.8	381.1	422.9	470.5	470.5	470.5
Travel	11.9	13.7	15.4	17.2	17.2	17.2
Contractual	62.4	75.6	88.7	101.9	101.9	101.9
Supplies	7.1	8.1	9.0	10.0	10.0	10.0
Equipment	37.8	7.0	7.0	7.0	4.6	4.6
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	457.0	485.5	543.0	606.6	604.2	604.2

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	457.0	485.5	543.0	606.6	604.2	604.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	457.0	485.5	543.0	606.6	604.2	604.2

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time	5.5	6.0	6.5	7.0	7.0	7.0
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

CASHB4(TRA) is an omnibus bill making significant changes to driving while under the influence (DUI) laws.

The changes in the bill that will have the most fiscal impact on the Public Defender Agency are:

- Sec. 26 (Reducing blood alcohol level to .08 from .10 for DUIs);
- Sec. 31 (Phasing in a 10-year "look-back" period for prior convictions for felony DUI);
- Secs. 31 & 46 (Mandating vehicle forfeiture for second and subsequent DUIs and Refusals);

and the various Sections that increase fines, penalties, license revocation periods.

(Analysis continued on Page 2)

Prepared by: Barbara Brink, Director Phone (907) 334-4414
 Division: Public Defender Agency Date/Time: 03/08/01
 Approved by: Jim Duncan, Commissioner Date: 3/8/01
 Agency: Department of Administration

For distribution information, call the Governor's Legislative Office

ANALYSIS: (continued)

Sec. 26 - Reducing blood alcohol level to .08 from .10 for DUIs.

The Public Defender Agency accepts the Department of Law's estimate of a 10 percent increase in prosecutions as a result of reducing the blood alcohol level threshold for DUIs from .10 to .08. This is a conservative estimate. As the Department of Law points out, experience in other states varies. But in Maine, as state similar to Alaska in some respects (smaller population, Northern climate), there was about a 20 percent increase in prosecutions. The Public Defender Agency will be appointed in about 75% of the cases. Using Department of Law estimate of the number of prosecutions, the Agency will be appointed to an additional 242 misdemeanor cases and 16 felony cases. We will need one additional full-time attorney to handle this increased caseload. Because our Palmer office handles a significant number of DUI cases, we will place the attorney at that office. (See the spreadsheet below for the costs of this position.)

Sec. 31 - Phasing in a 10-year "look-back" period for prior convictions for felony DUI.

This section would phase in a 10-year "look-back" for prior convictions. Again, the Public Defender Agency accepts the Department of Law's estimate of the number of new cases that would result from this change in the law. As above, we estimate that we will be appointed in about 75% of these cases. The end result is that by FY06, the Public Defender Agency will have an increased caseload of 182 felony DUIs. We will eventually need two additional attorneys to handle this caseload. Because the effect of this provision will be felt beginning in FY02 and, we will add a half-time attorney in Anchorage in FY02, add a half-time attorney in Palmer in FY03, make the half-time attorney in Anchorage full time in FY04, and add a half-time attorney in Fairbanks in FY05. (See the spreadsheet below for the costs of these positions.)

Sec. 31 and 46 - Mandatory Vehicle Forfeiture.

These sections would require the state to initiate vehicle forfeiture proceedings upon conviction of a second or subsequent DUI. Forfeiture would be mandatory upon conviction for felony DUI. These hearings would be part of the sentencing in a criminal case, so defendants would have a right to assistance of counsel. Unlike most of the work the Public Defender Agency currently does, these hearings involve complicated issues of ownership and security interests. The Public Defender Agency would not have as much legal work to do in these hearings as the Department of Law, and, again, we will only be appointed in 75% of the cases. Nevertheless, we will need three paraprofessionals to effectively represent defendants if this provision is enacted. We would place Paralegals in our Anchorage, Fairbanks, and Palmer offices. These offices have the greatest number of DUI cases. (See the spreadsheet below for the costs of these positions.)

Various Sections Increasing Fines, Penalties, and License Revocation Periods

There are a number of sections that increase fines, penalties, and license revocation periods. For example, in Sec. 27, the mandatory minimum fines for DUIs are increased to \$500 for a first offense under .10, \$1,500 for a first offense over .10, \$3,000 for a second offense, and \$10,000 for a felony DUI. Another example, in Sec. 31, is the permanent license revocation for felony DUI. (Although, under Sec. 33, the license can be restored in 10 years if the defendant does not have additional criminal violations and meets other requirements.)

A number of Public Defender Agency clients will not be able to pay large fines. Therefore there will likely be additional probation revocation cases Agency attorneys will have to cover. Also, we are concerned about the effect on our caseload of the increased license revocation periods. Some people will choose to drive even though they do not have a license. Therefore, we are certain that we will have more Driving with License Revoked cases.

Although the Public Defender Agency cannot quantify the fiscal impact that these provisions will have, we are certain that there will be a significant, albeit indeterminate, impact.

PUBLIC DEFENDER AGENCY
HB 4 FISCAL NOTE

Sec. 26 -- 2.08	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	98.9	98.9	98.9	98.9	98.9	98.9
Travel	3.7	3.7	3.7	3.7	3.7	3.7
Contractual	27.3	27.3	27.3	27.3	27.3	27.3
Supplies	2.2	2.2	2.2	2.2	2.2	2.2
Equipment	8.5	0.8	0.8	0.8	0.8	0.8
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	140.6	132.9	132.9	132.9	132.9	132.9
POSITIONS						
Full-time	1	1	1	1	1	1
Part-time						
Temporary						

Sec. 31&46-Forfeiture	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	197.1	197.1	197.1	197.1	197.1	197.1
Travel	6.5	6.5	6.5	6.5	6.5	6.5
Contractual	22.0	22.0	22.0	22.0	22.0	22.0
Supplies	4.0	4.0	4.0	4.0	4.0	4.0
Equipment	26.0	2.6	2.6	2.6	2.6	2.6
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	255.6	232.2	232.2	232.2	232.2	232.2
POSITIONS						
Full-time	4	4	4	4	4	4
Part-time						
Temporary						

Sec. 31-Look-Back	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	41.8	85.1	126.9	174.5	174.5	174.5
Travel	1.7	3.5	5.2	7.0	7.0	7.0
Contractual	13.1	26.3	39.4	52.6	52.6	52.6
Supplies	0.9	1.9	2.8	3.8	3.8	3.8
Equipment	3.3	3.6	3.6	3.6	1.2	1.2
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	60.8	120.4	177.9	241.5	239.1	239.1
POSITIONS						
Full-time	0.5	1.0	1.5	2.0	2.0	2.0
Part-time						
Temporary						

TOTAL PUBLIC DEFENSE	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	337.8	381.1	422.9	470.5	470.5	470.5
Travel	11.9	13.7	15.4	17.2	17.2	17.2
Contractual	62.4	75.6	88.7	101.9	101.9	101.9
Supplies	7.1	8.1	9.0	10.0	10.0	10.0
Equipment	37.8	7.0	7.0	7.0	4.6	4.6
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	457.0	485.5	543.0	606.6	604.2	604.2
POSITIONS						
Full-time	5.5	6.0	6.5	7.0	7.0	7.0
Part-time						
Temporary						

FISCAL NOTE

**STATE OF ALASKA
2001 LEGISLATIVE SESSION**

Fiscal Note Number: _____
 Bill Version: CSHB 4 (TRA)
 () Publish Date: _____

Title: An Act relating to offenses involving operating a motor vehicle, aircraft, or watercraft while under the influence...
 Sponsor: Rep. Rokeberg
 Requester: House Judiciary Committee

Dept. Affected: Corrections
 BRU: Commissioner
 Component: All
 Component Number: 694

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual	1,065.6	1,225.4	1,394.2	1,562.9	1,731.6	1,731.6
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous	4,042.6	4,881.9	5,775.3	6,797.4	7,753.9	7,753.9
TOTAL OPERATING	5,108.2	6,107.3	7,169.5	8,360.3	9,485.5	9,485.5

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	414.6	432.6	452.6	470.6	490.6	490.6
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	4,693.6	5,674.7	6,716.9	7,889.7	8,994.9	8,994.9
1005 GF/Program Receipts	120.0	138.0	158.0	176.0	196.0	196.0
1037 GF/Mental Health						
Other - 1156 Receipt supported serv.	294.6	294.6	294.6	294.6	294.6	294.6
TOTAL	5,108.2	6,107.3	7,169.5	8,360.3	9,485.5	9,485.5

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

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

Prepared by: Candace Brower
 Division: Commissioner's Office
 Approved by: Margaret Pugh
 Agency: Department of Corrections

Phone 465-4652
 Date/Time 3/07/01/3:20 p.m.
 Date 3/8/01

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FISCAL NOTE

**STATE OF ALASKA
2001 LEGISLATIVE SESSION
DEPARTMENT OF CORRECTIONS**

**BILL NO. CSHB4(Tran)
PAGE 2 of 5
DATE 2/27/01**

This bill will make extensive changes in the current statutes regarding driving while intoxicated (including a name change to driving while under the influence of an alcoholic beverage or controlled substance). Because of the volume of the bill, we will only address the specific sections that affect the Department of Corrections.

Sec. 4. Changes the presumptive sentencing regarding Manslaughter by adding a provision for Manslaughter as a result of DWI. It will change the presumptive sentence from 5 to 7 years. This change will result in an increased cost to DOC of \$107,360 in FY05 and \$211,640 in subsequent years. This is based on Dept. of Law's estimate that there are 9 convictions a year for Manslaughter or Criminally Negligent Homicide (as part of a DWI). They agree that it is safe to assume 5 convictions a year for Manslaughter. Offenders are currently receiving 5-year sentences. With good time, they are serving 1205 days. Increasing the sentence to 7 years will create an extended sentence for these offenders of 481 days. The increase will begin in the 4th year of the sentence. The 5 offenders would serve an additional 244 days the 4th year and an additional 237 days the 5th year. In the 5th year the 244 days and the 237 will start "stacking" as offenders convicted in FY03 begin serving their extended time.
FY05 = 244 days X 5 offenders X \$88.00/day* = \$107,360
FY06 = 244 days X 5 offenders X \$88.00/day +
the above 5 offenders remaining 237 days X 5 X \$88.00 = \$104,280 for a total of \$211,640.
FY07 = \$211,640.

Sec. 26. Reduces the threshold for presumption of DWI from .10 to .08. It is estimated by the Department of Law that although this may not increase arrests by a large amount, it will increase convictions by 10%. In FY00 there were 418 statewide misdemeanor convictions for DWI and 200 felony convictions.

Misdemeanors

413	X	69%	=	285	X	3	X	\$64.00	=	\$54,720.00				
413	X	20%	=	83	X	20	X	\$64.00	=	\$106,240.00				
413	X	8%	=	33	X	73	X	\$64.00	+	36	X	\$112.00	=	\$287,742.00
413	X	2%	=	8	X	64	X	\$64.00	+	64	X	\$112.00	=	\$90,112
413	X	1%	=	4	X	75	X	\$64.00	+	75	X	\$112.00	=	\$52,800
Totals		100%		413										\$591,614.00

Felons

20 X 352 X \$88.00 = \$619,520.

591,614
\$1,211,134.00

FY02	FY03	FY04	FY05	FY06	FY07	
1,211,134	1,211,134	1,211,134	1,211,134	1,211,134	1,211,134	Cost of Incarceration
0	33,967	67,934	101,901	101,901	101,901	Probation Costs
1,211,134	1,245,101	1,279,068	1,313,035	1,313,035	1,313,035	Subtotal
0	-61,320	-61,320	-61,320	-61,320	-61,320	less savings for homicide.
-26,880	-26,880	-26,880	-26,880	-26,880	-26,880	Rep. Rokeberg Diversion
-179,264	-179,264	-179,264	-179,264	-179,264	-179,264	Inmate payment for incarceration
1,004,990	977,637	1,011,604	1,045,571	1,022,051	1,022,051	

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION
DEPARTMENT OF CORRECTIONS

BILL NO. CSHB4(Tran)
PAGE 3 of 5
DATE 02/27/01

If we multiply 413 misdemeanants (10% of total) by the percentages reflected in DMV 2000 statistics for 1st, 2nd, 3rd, 4th, and 5th time offenders, we come up with an estimate of how many of those offenders might be newly convicted under a .08 law. All 1st and 2nd time offenders go to the CRC so we utilized that cost of care for our calculations. Utilizing a snapshot done on 10/25/00 of our DWI population, we averaged the sentences being served for 3rd, 4th and 5th time offenders and estimated proportions of time served in CRCs and hard beds to come up with a total cost.

Assuming 20 new felons convicted under this threshold, and utilizing the average sentence for DWI felons, we estimated: $20 \times 352 \text{ days} \times \$88/\text{day} = \$619,520$. The total for misdemeanants and felons then is \$1,211,134.

Felony DWI offenders are usually given an average of 3 years probation. Probation costs will not be incurred until after completion of sentence so will not be felt until the 2nd and subsequent years. The daily cost for probationers is \$5.17/day. If 18 of the 20 felons are on probation the second year, the cost would be \$33,967. It would be necessary to add \$67,934 the third year and \$101,901 the fourth year. After that it would level off as the first probationers would drop off.

The Department of Corrections expects a 15% decrease in the incarceration rate for manslaughter/negligent homicides as a result of this legislation, beginning the second year. It will take time for the public to become aware of lowered BAC and to change behaviors. That would result in an annual savings, beginning in FY03, of \$61,320 (or 1.5 persons incarcerated @ \$112/day per year.)

Sec. 27. This section creates a diversion program for 1st time DWI offenders who have a BRAC between .08 and .10. If there are no aggravating factors and they complete a year of probationary time, complete and pay for treatment and their fines then they will have their jail time suspended. Estimating 285 of the 10% increase are 1st time offenders and as many as 75 may have a .10 or greater but would be convicted because of this legislation, that leaves a pool of 210. We estimate that 70 (1/3) of those will fall off because there will be aggravators involved (non-compliance, traffic offenses, etc.) The remaining 140 will complete the diversion at 3 days. $140 \times 3 \times \$64.00 =$ a savings of \$26,880.

This section also makes the minimum sentence for second time offenders 30 days, or not less than 20 days if the person performs 10 days community work service. In FY00 there were an estimated 824 second time DWI offenders. We assume that one-half will opt to complete the 10 days Community Work Service. The other half will serve their extra 10 days in the CRC. Including statutory good time, 412 offenders will serve 7 days @ \$64.00/day for a total of \$184,576.

Sec. 29. This section requires treatment to occur as much as possible while the offender is incarcerated. This applies to felony DWI offenders. It is estimated that there will be approximately 240 felony offenders in FY02. Treatment experts indicate that someone who has reached felony status as a DWI offender will almost certainly require intensive outpatient treatment or residential treatment services. We estimate that one-half of those will require the intensive Outpatient Treatment at \$2500 per person for a total of \$300,000. It is estimated that one-half will require Residential Treatment at a cost of \$6380 per offender for a total of \$765,600. The total cost of treatment the first year would be \$1,065,600. The second year it is estimated there will be 276 felons for a total treatment cost of \$1,225,440. The number of felons will increase each year by 38 increasing the cost of treatment for each subsequent year until FY06 when it will level off.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION
DEPARTMENT OF CORRECTIONS

BILL NO. CSHB4(Tran)
PAGE 4 of 5
DATE 02/27/01

This section also requires the felony offender to pay for treatment up to \$2,000 unless they are deemed indigent. For those who are deemed indigent, and those who are unable/unwilling to pay, the state shall seek reimbursement from the offenders Permanent Fund Dividend. However, felons do not receive PFDs for the qualifying year during which they serve their sentence. We estimated that 25% of the felony offenders would pay the \$2000 and the others would be indigent or unable to pay. The total revenue to the State of Alaska is estimated to be \$120,000 the first year, \$138,000 the second year, \$158,000 the third year, \$176,000 the fourth and levels off at \$196,000 the fifth year.

Sec. 30. This section increases the amount the offender is required to pay for his incarceration from up to \$1,000 to up to \$2,000. This does not make a large difference in revenue since the current minimum sentence for second time offenders is 20 days. With good time, someone would serve 13 days. This is served in a Community Residential Center @ \$64.00/day. That totals \$832. Offenders are already required to pay up to \$1,000 for cost of care. If the penalty is increased to 30 days, then the increase in cost of care will be made up for by the additional requirement. The requirement for payment is for misdemeanors only. If one half of the 824 second time offenders opt for the 30 day sentence, they would pay an additional \$280 each for a total of \$115,360.

Sec. 31. This section increases the 5-year look-back to a 10-year look-back, phasing it in over a 5-year period. Previously, in order to become a felon, an offender had to have two previous DWI convictions within the previous 5 years. This will gradually expand the look-back to 10 years, one year at a time over the next five years. This will reduce the fiscal impact that would have been felt if the system had to absorb what would be (by DMV and DOL figures) an estimated 190 new convicted felons in the first year. Utilizing Department of Law's logic, by the end of the five-year period, when the full ten-year look-back is achieved, the system will be adding the full 190 additional felons each year. These will be first time felony offenders. If they receive the 240 day minimum sentence proposed in this legislation, and presuming they receive their good time, they would each serve 160 days of incarceration. This would total \$535,040 for the first year phase-in. We will then assume (as does the Department of Law) that each new year of the phase-in will add an additional 38 new felons for a total of 76 at a cost of \$1,070,080. This will continue until it levels off in the fifth year at 190 for a total cost of \$2,675,200.

This section also doubles the minimum sentencing for felony offenders. Using 240 as the number of expected convicted DWI felons in FY02, and estimating that 80% of those will be third time offenders, 192 will serve an additional 80 days. Utilizing the cost of \$88/day (an average cost of ½ time in a CRC and ½ time in a hard bed) the cost for third time offenders will be \$1,351,680. Estimating that 15% will be 4th time offenders, that would result in 36 offenders serving an additional 160 days @ \$88/day for \$506,880. The remaining 5% (12 offenders) will serve an additional 244 days for a total of \$257,664. The total cost of this provision for the first fiscal year will be \$2,116,224. Utilizing the same formula and filling in the number of felons each year, the increased cost of higher penalties is as follows: FY03 \$2,447,808.. FY04 \$2,772,352.. FY05 \$3,118,016 and levelling off at \$3,435,168 in FY06.

FISCAL NOTE

**STATE OF ALASKA
2001 LEGISLATIVE SESSION
DEPARTMENT OF CORRECTIONS**

BILL NO. CSHB4(tran)
PAGE 5 of 5
DATE 02/27/01

Sec. 32. This section takes away the language in the current statute that provides a 10 year look-back for second time offenders. It is estimated that 3% of the 824 second time offenders will be affected by this removal. The result will be additional 26 offenders serving a term for second time offense rather than first for a total of \$22,464. This is based on the assumption that 13 will serve 13 days @ \$64.00/day and 13 will serve 20 days @ \$64.00/day for a total of \$27,456. Subtracting the 3 day sentence they would have served anyway as a first time offender, (3X26X\$64 = 4992) the total is \$22,464.

Sec. 33. (q) This section removes the eligibility for good time deductions from a person who fails to satisfy alcoholism treatment requirements imposed by the court under (h) of this section. It is impossible to quantify the impact this will have. We have no way of knowing how many will fall into this category and how much good time they would receive. 1st time offenders, if they are sentenced to 72 hours, are not eligible for good time credits.

The changes in revenues reflected in the fiscal note include:

\$120,000 in FY02 for inmate payment of treatment

\$294,624 (\$179,264 for .08 legislation inmate payment and **\$115,360** for increased sentencing for 2nd time offenders payment)

FISCAL NOTE

**STATE OF ALASKA
2001 LEGISLATIVE SESSION**

BILL NO. CSHB 4 (TRA)

Revision Date/Time (Note if correction) Revision dated 3/8/01 Dept. Affected _____
 Title Omnibus DWI Bill BRU Alaska Court System
 Component Trial Courts
 Sponsor Rep. Norman Rokeberg
 Requester House Transportation Committee Component No. 768

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	352.1	362.0	362.0	362.0	362.0	362.0
Travel						
Contractual	16.5	24.8	35.2	43.5	53.8	53.8
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	368.6	386.8	397.2	405.5	415.8	415.8

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	368.6	386.8	397.2	405.5	415.8	415.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	368.6	386.8	397.2	405.5	415.8	415.8

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time	4	4	4	4	4	4
Part-time	4	4	4	4	4	4
Temporary						

ANALYSIS: (Attach a separate page if necessary)

CSHB 4 (TRA) makes several changes to the statutes relating to the offense of driving while intoxicated. Some of those changes will have a fiscal impact on the court system.

The bill lowers the BAC necessary for a DWI violation under AS 28.35.030(a)(2) from .1 to .08. National studies show that this change typically results in a 10% increase in DWI filings. Based on that assumption, the court system would see an additional 500 misdemeanors and 28 felony filings a year.

The bill also imposes a five-year phase-in of a new 10-year look-back for felony DWI offenses. The Department of Law estimates that the phase-in will result in 45 new felony filings in year one, 90 in year two, 135 in year three, 180 in year four, and 225 in year five. This fiscal note is based on those estimates and on a 10% felony trial rate. Because the felony DWI load in Anchorage is already beyond the superior court's capacity, this note provides for a new superior court judge.

Finally, the bill calls for mandatory vehicle forfeiture for all second and subsequent DWI offenders. A court hearing is required for each forfeiture. The Department of Law estimates that this change will result in 800 forfeiture hearings. This note is based on that estimate and assumes that each hearing will last 15 minutes.

Prepared by: Douglas Wooliver Phone 463-4750
 Division Alaska Court System Date/Time 3/08/01 @ 11:00 A.M.
 Approved by: Stephanie Cole Date _____
 Agency Alaska Court System

For distribution information, call the Governor's Legislative Office

Alaska Court System

Fiscal Note Calculations for Draft CSHB4 Dated 2/16/01

2/28/01

Increase in 45 - 225 New Felonies FY02 thru FY06:

	FY02	FY03	FY04	FY05	FY06
Superior Court:					
Jury Costs	10,340	18,612	28,952	37,224	47,564
Superior Court Judge	138,467	142,300	142,300	142,300	142,300
Law Clerk for Superior Court Judge	48,130	49,400	49,400	49,400	49,400
Secretary	41,997	43,050	43,050	43,050	43,050
In-Court Clerk	41,997	43,050	43,050	43,050	43,050
	270,591	277,800	277,800	277,800	277,800
Fiscal Note Total for 45 - 225 New Felonies	280,931	296,412	306,752	315,024	325,364

Vehicle Forfeitures:

800 new hearings, 287 of which would be handled in conjunction with a superior court case (felony)

513 hearings @ 15 minutes/hearing = 128.25 hours of hearing time (one month)

	FY02	FY03	FY04	FY05	FY06
District Court:					
District Court Judge Pro Tem (1 Month)	10,084	10,449	10,449	10,449	10,449
In-Court Clerk PPT (1 Month)	3,500	3,588	3,588	3,588	3,588
	13,584	14,037	14,037	14,037	14,037
Fiscal Note for Vehicle Forfeitures	13,584	14,037	14,037	14,037	14,037

500 New Misdemeanors and 3 Felony Trials at .08:

	FY02	FY03	FY04	FY05	FY06
Superior Court:					
Jury Costs	6,204	6,204	6,204	6,204	6,204
District Court Judge Pro Tem (5 Months)	50,419	52,245	52,245	52,245	52,245
In-Court Clerk PPT (5 Months)	17,499	17,940	17,940	17,940	17,940
	67,918	70,185	70,185	70,185	70,185
Fiscal Note for 500 Misdemeanors + 3 Felony Trials	74,122	76,389	76,389	76,389	76,389

Cumulative Fiscal Note:

Personal Services	352,092	362,022	362,022	362,022	362,022
Contractual	16,544	24,816	35,156	43,428	53,768
Cumulative Total	368,636	386,838	397,178	405,450	415,790
Funding Source:					
1004 GF	368,636	386,838	397,178	405,450	415,790
Positions:					
Full-time	4	4	4	4	4
Part-time	4	4	4	4	4

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 6
 Bill Version: CSHB 4 (TRA)
 (H) Publish Date: 2/28/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Health & Social Services
 Title: An Act relating to offenses involving operating BRU: Alcohol & Drug Abuse Svcs
a motor vehicle Component: Alcohol/Drug Abuse Grants
 Sponsor: Rep Rokeberg
 Requester: House (TRA) Component Number: 1239

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	582.2	582.2	582.2	582.2	582.2	582.2
Miscellaneous						
TOTAL OPERATING	582.2	582.2	582.2	582.2	582.2	582.2

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	582.2	582.2	582.2	582.2	582.2	582.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	582.2	582.2	582.2	582.2	582.2	582.2

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Section 26 lowers the blood alcohol content from .10 to .08. It is estimated that this will result in a 10% increase in number of DUI cases resulting in convictions and mandatory referral to Alcohol Safety Action Programs and subsequently for treatment. Of these additional cases DHSS estimates that 75% would be treated in a public program. Due to existing wait capacity and waitlist an additional \$582.2 is required to fund the capacity required to provide the mandated treatment required.

Prepared by: Ernest Turner, Director Phone 465-2071
 Division: Alcoholism and Drug Abuse Date/Time 2/26/01 4:30 PM
 Approved by: Elmer A. Lindstrom, Special Assistant Date 3/1/01 8:45 AM
 Agency: Department of Health & Social Services

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CS HB 4 (TRA)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Health & Social Services
 Title: An Act relating to offenses involving operating BRU: Alcohol & Drug Abuse Svcs
a motor vehicle Component: Alcohol Safety Action Program
 Sponsor: Rep Rokeberg
 Requester: House (TRA) Component Number: 305

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXP ENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	60.0	60.0	60.0	60.0	60.0	60.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	52.4	52.4	52.4	52.4	52.4	52.4
Miscellaneous						
TOTAL OPERATING	112.4	112.4	112.4	112.4	112.4	112.4

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	112.4	112.4	112.4	112.4	112.4	112.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	112.4	112.4	112.4	112.4	112.4	112.4

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Section 26 lowers the blood alcohol content from .10 to .08. It is estimated that this will result in a 10% increase in number of DUI cases resulting in convictions and mandatory referral to Alcohol Safety Action Programs (ASAP) and subsequently for treatment. Of these additional cases DHSS estimates that 100% would be referred to an ASAP. The costs to handle these additional cases is \$112.4. We estimate that 65-70% of these cases will be handled by the ASAP office in Anchorage, which is operated by employees of the Division of Alcoholism and Drug Abuse.

Prepared by: Ernest Turner, Director Phone 465-2071
 Division: Alcoholism and Drug Abuse Date/Time 2/26/01 4:30 PM
 Approved by: Karen Perdue, Commissioner Date 2/27/01 8:48 AM
 Agency: Department of Health & Social Services

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

**STATE OF ALASKA
2001 LEGISLATIVE SESSION**

Fiscal Note Number: _____
 Bill Version: CSHB 4 (TRA)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title "An Act relating to offenses involving operating a BRU Criminal Division; Civil Division
motor vehicle, . . . under the influence . . ." Component 3rd-4th Judicial Districts;
 Sponsor Representative Rokeberg Collections & Support
 Requester House Judiciary Committee Component No. 2201;61;79;10

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	574.4	695.5	695.5	816.6	816.6	816.6
Travel	1.6	2.0	2.0	2.4	2.4	2.4
Contractual	93.2	111.9	111.9	130.6	130.6	130.6
Supplies	8.6	10.2	10.2	11.8	11.8	11.8
Equipment	58.5	6.5	0.0	6.5	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	736.3	826.1	819.6	967.9	961.4	961.4

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

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
1002 Federal Receipts						
1003 GF Match						
1004 GF	704.4	800.7	794.2	942.5	936.0	936.0
1005 GF/Program Receipts	31.9	25.4	25.4	25.4	25.4	25.4
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	736.3	826.1	819.6	967.9	961.4	961.4

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

POSITIONS	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Full-time	8	9	9	10	10	10
Part-time	1	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

CSHB 4 (TRA) makes numerous changes to the state's laws relating to driving under the influence of alcoholic beverages or controlled substances. These changes include renaming driving while intoxicated (DWI) as driving while under the influence (DUI); lowering the blood alcohol threshold for DUI to .08 from 0.10; increasing administrative and criminal penalties for DUI offenses; requiring vehicle forfeiture for repeat offenders; and requiring treatment costs be reimbursed to the state.

The changes in the bill which will have a fiscal impact on the Department of Law are: reducing the blood alcohol threshold for DUI to 0.08; the phasing in of a 10-year "look back" for felony DUI in place of the current 5-year "look back"; collection of treatment costs; and requiring vehicle forfeiture for second and subsequent convictions for DUI or refusal to submit to a chemical test. Each issue is addressed separately below. The department also anticipates an increase in the number of driving with a suspended or revoked driver's license misdemeanor.

Prepared by: Joan M. Kasson Phone 465-5370
 Division: Attorney General's Office Date/Time 3/7/01 1:20 PM
 Approved by: Kathryn Daughhete for Bruce M. Botelho, Attorney General Date 03/07/2001
 Agency: Department of Law

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

BILL NO. CSHB 4 (TRA)

ANALYSIS CONTINUATION

charges will occur as a result of the increased fines and license revocation penalties; however, the impact is too speculative to quantify.

Section 26: Reduce blood alcohol threshold for DUI from 1.0 to 0.08 percent by weight.

In FY00, the Criminal Division accepted for prosecution 3,218 misdemeanor and 213 felony DUI referrals by law enforcement throughout the state. Recently received statistics from the Anchorage Police Department indicate there would be about a 6 percent increase in DUI referrals due to the lowering of the blood alcohol threshold to 0.08. Experience has varied in other states that have reduced from 0.10 to 0.08 the limit for driving while intoxicated (California, Maine, Oregon, and Utah). Some states have experienced a 20 to 40 percent increase in DUI cases. We believe a conservative estimate for the increase is about 10 percent. This would result in 322 additional misdemeanor and 21 felony DUI cases, which are much more time-consuming to prosecute than misdemeanors. The Department of Law assumes that municipalities which presently prosecute misdemeanor DUI will amend their ordinances to mirror the change in state law. If this does not occur, the estimated number of misdemeanor prosecutions is understated.

Much of the anticipated increase in prosecutions will occur in southcentral Alaska. Because Anchorage is the hub from which prosecutors are sent to assist other offices in times of overload, it will be necessary to add one new full-time attorney position to the Criminal Division's Anchorage District Attorney's Office.

The Collections unit in the Civil Division's Collections and Support section collects judgments for criminal fines, cost of incarceration for DUI offenders, and cost of court appointed counsel. The change to 0.08 as the threshold for DUI offenses will increase the number of judgments the unit is required to collect annually. Assuming an 80-85 percent conviction rate, the unit anticipates receiving 280 judgments for criminal fines as a result of this change. In addition, those individuals who do not qualify for the diversion created by Section 27 of the bill will have judgments for the cost of incarceration. Based on Department of Corrections calculations, we anticipate there will be 190 of these judgments. In addition, approximately 80 percent of the offenders are expected to have judgments for the cost of court appointed counsel, 220 in all.

In order to process and collect the estimated 690 new judgments each year, Collections unit personnel must enter the judgment data into the collections data base, post payments received, prepare PFD attachment packets for the court system and Department of Revenue, enter adjustments and process refunds when necessary, respond to phone calls from defendants, court personnel, prosecutors, and other state agencies, prepare satisfactions of judgments, and prepare quarterly or annual reporting of collections data. Much of this work can be handled by existing staff. However, the additional data entry and phone calls will require an additional half-time Administrative Clerk II.

Section 29: Collection of the cost of treatment

This section requires the state to seek reimbursement from a person's permanent fund dividend if they do not pay the cost of alcohol or substance abuse treatment required under CSHB 4 (TRA) themselves. The Department of Law has a number of questions concerning this requirement that must be answered before we can quantify the fiscal impact of this provision.

Section 31: Increase "look back" for felony DUI from 5-years to 10-years

Under current law, for the purposes of charging an offender with felony DUI, the state can only "look back" 5-years for the first two offenses. If any of the prior offenses are older than 5-years, the charge remains a misdemeanor. This section will phase in a 10-year look back period for felony DUI, one year at a time, over the next five years.

Based on Division of Motor Vehicle (DMV) data, it is estimated that increasing the limit to 10-years for how old prior convictions must be in order for the third offense to be charged as felony DUI will result in approximately 240 new felony DUI referrals per year when fully phased in. The Criminal Division estimates approximately 95 percent of these will be accepted for prosecution, based on acceptance rates for current felony DWI prosecutions. This would mean approximately 225 new felony prosecutions in all. For the purposes of this fiscal note, the Department of Law assumes the new felonies will phase in evenly over the 5-year phase in period: 45 new felony prosecutions in FY02, 90 in FY03, 135 in FY04, 180 in FY05, and 225 in FY06.

Felony prosecutions are much more resource intensive than misdemeanor prosecutions. Because the penalties are so much higher, defendants are more likely to vigorously challenge the charge, and less likely to settle prior to trial. The Criminal Division anticipates it would need two new FTE attorney positions to handle these new felony cases, to both screen the referrals and prosecute those that are accepted. These positions would phase in as the number of new felony referrals increase. We anticipate that one new FTE attorney for the Anchorage DAO would be necessary in FY03, and one new FTE attorney for the Fairbanks DAO in FY 05.

FISCAL NOTE

**STATE OF ALASKA
2001 LEGISLATIVE SESSION**

BILL NO. CSHB 4 (TRA)

ANALYSIS CONTINUATION

Section 46: Vehicle forfeiture

Upon conviction of a second or subsequent DUI or refusal to take a chemical test, this section would require the state to seek forfeiture of the motor vehicle or aircraft used in the commission of the offense. Under state law (AS 28.35.036-.037), forfeiture proceedings require a motion for forfeiture be filed with the court, and a hearing date set by the court upon receipt of the motion. Once the hearing date is set, the state must notify anyone who might have an ascertainable ownership or security interest in the vehicle or aircraft about the proceeding. A person claiming an ownership or security interest may then intervene and appear at the hearing in order to prove to the court they should be paid for their interest.

The Criminal Division estimates there will be 200 forfeiture hearings per year as a result of enactment of Section 46: approximately 100 to 150 per year in Kenai, in Palmer, and in Fairbanks, and approximately 100 per year in Anchorage. (Although the Municipality of Anchorage prosecutes misdemeanor DUI, the Department of Law prosecutes all felonies.) The remaining hearings would be spread throughout the rest of the state. Preparation for these hearings will involve research on ownership interests and paperwork. The Criminal Division estimates it will need to add four new FTE paraprofessional positions, one each in Anchorage, Kenai, Fairbanks, and Palmer, and 1 new FTE attorney position in Fairbanks to handle these cases. In addition, 2 new legal secretary positions will be necessary, one each in Anchorage and Kenai.

All position costs except the Collections unit position are based on the department's FY02 cost allocation plan, and include clerical support, communications, space, supplies, data processing, and other normal overhead expenses. Collections unit positions are specialized, and are not recovered through the cost allocation plan. The standard cost does not include one-time new equipment purchases, and \$6,500 per position is included. Proportionate support position funding is included in the standard attorney and paraprofessional cost schedule at a rate of approximately one support position for every three professional positions. Position authorizations for the support positions are required, however, and the four FTE legal secretary positions discussed in the 0.16 BAC and vehicle forfeiture sections above are requested, along with \$6,500 for one-time equipment costs for each position. The remaining clerical support funding embedded in the rate will be used to reduce clerical support vacancy so that the other new attorneys' clerical burdens can be handled. A summary of line-item costs by position for each section of CSHB 4 (TRA) narrated above follows:

Component	Position	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
<u>Section 26: 0.08 BAC</u>							
Criminal Division: 3rd Judicial District: Anchorage (2261)							
	100 1 FTE Attorney	121.1	121.1	121.1	121.1	121.1	121.1
	200	0.4	0.4	0.4	0.4	0.4	0.4
	300	18.7	18.7	18.7	18.7	18.7	18.7
	400	1.6	1.6	1.6	1.6	1.6	1.6
	500	6.5					
	Total 1004 General Fund	148.3	141.8	141.8	141.8	141.8	141.8
Civil Division: Collections & Support (2210)							
	100 1 PPT Admin Clerk II	17.4	17.4	17.4	17.4	17.4	17.4
	200	0.0	0.0	0.0	0.0	0.0	0.0
	300	7.0	7.0	7.0	7.0	7.0	7.0
	400	1.0	1.0	1.0	1.0	1.0	1.0
<u>Section 29: Collection of Treatment Costs</u>							
Civil Division: Collections & Support (2210)							
	100 Unknown						
	200						
	300						
	400						
	500						
	Total 1005 GF/Program Receipts	*****	*****	*****	*****	*****	*****

FISCAL NOTE

**STATE OF ALASKA
2001 LEGISLATIVE SESSION**

BILL NO. CSHB 4 (TRA)

ANALYSIS CONTINUATION

Component	Position	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
<u>Section 31: Phase in 10-year Look Back</u>							
Criminal Division: 3rd Judicial District: Anchorage (2261)							
	100 1 FTE Attorney		121.1	121.1	121.1	121.1	121.1
	200		0.4	0.4	0.4	0.4	0.4
	300		18.7	18.7	18.7	18.7	18.7
	400		1.6	1.6	1.6	1.6	1.6
	500		6.5				
	Total 1004 General Fund	0.0	148.3	141.8	141.8	141.8	141.8
Criminal Division: 4rd Judicial District (2201)							
	100 1 FTE Attorney				121.1	121.1	121.1
	200				0.4	0.4	0.4
	300				18.7	18.7	18.7
	400				1.6	1.6	1.6
	500				6.5		
	Total 1004 General Fund	0.0	0.0	0.0	148.3	141.8	141.8
Section 31 Total		0.0	148.3	141.8	290.1	283.6	283.6
<u>Section 46: Vehicle Forfeitures</u>							
Criminal Division: 3rd Judicial District: Anchorage (2261)							
	100 1 FTE Paraprofessional	78.7	78.7	78.7	78.7	78.7	78.7
	200 1 FFT Legal Secy	0.2	0.2	0.2	0.2	0.2	0.2
	300	12.2	12.2	12.2	12.2	12.2	12.2
	400	1.1	1.1	1.1	1.1	1.1	1.1
	500	13.0					
	Total 1004 General Fund	105.2	92.2	92.2	92.2	92.2	92.2
Criminal Division: 3rd Judicial District: Outside Anchorage (2279)							
	100 2 FTE Paraprofessional	157.4	157.4	157.4	157.4	157.4	157.4
	200 1 PFT Legal Secy	0.4	0.4	0.4	0.4	0.4	0.4
	300	24.4	24.4	24.4	24.4	24.4	24.4
	400	2.2	2.2	2.2	2.2	2.2	2.2
	500	19.5					
	Total 1004 General Fund	203.9	184.4	184.4	184.4	184.4	184.4
Criminal Division: 4rd Judicial District (2201)							
	100 1 FTE Attorney	199.8	199.8	199.8	199.8	199.8	199.8
	200 1 FTE Paraprofessional	0.6	0.6	0.6	0.6	0.6	0.6
	300	30.9	30.9	30.9	30.9	30.9	30.9
	400	2.7	2.7	2.7	2.7	2.7	2.7
	500	13.0					
	Total 1004 General Fund	247.0	234.0	234.0	234.0	234.0	234.0
Section 46 Total		556.1	510.6	510.6	510.6	510.6	510.6

FISCAL NOTE

**STATE OF ALASKA
2001 LEGISLATIVE SESSION**

BILL NO. CSHB 4 (TRA)

ANALYSIS CONTINUATION

Component	Position	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
<u>CSHB 4 (TRA) by component</u>							
Criminal Division: 3rd Judicial District: Anchorage (2261)							
100		199.8	320.9	320.9	320.9	320.9	320.9
200		0.6	1.0	1.0	1.0	1.0	1.0
300		30.9	49.6	49.6	49.6	49.6	49.6
400		2.7	4.3	4.3	4.3	4.3	4.3
500		19.5	6.5	0.0	0.0	0.0	0.0
Total 1004 General Fund		253.5	382.3	375.8	375.8	375.8	375.8
Criminal Division: 3rd Judicial District: Outside Anchorage (2279)							
100		157.4	157.4	157.4	157.4	157.4	157.4
200		0.4	0.4	0.4	0.4	0.4	0.4
300		24.4	24.4	24.4	24.4	24.4	24.4
400		2.2	2.2	2.2	2.2	2.2	2.2
500		19.5	0.0	0.0	0.0	0.0	0.0
Total 1004 General Fund		203.9	184.4	184.4	184.4	184.4	184.4
Criminal Division: 4rd Judicial District (2201)							
100		199.8	199.8	199.8	320.9	320.9	320.9
200		0.6	0.6	0.6	1.0	1.0	1.0
300		30.9	30.9	30.9	49.6	49.6	49.6
400		2.7	2.7	2.7	4.3	4.3	4.3
500		13.0	0.0	0.0	6.5	0.0	0.0
Total 1004 General Fund		247.0	234.0	234.0	382.3	375.8	375.8
CRIMINAL DIVISION TOTAL		704.4	800.7	794.2	942.5	936.0	936.0
Civil Division: Collections & Support (2210)							
100		17.4	17.4	17.4	17.4	17.4	17.4
200		0.0	0.0	0.0	0.0	0.0	0.0
300		7.0	7.0	7.0	7.0	7.0	7.0
400		1.0	1.0	1.0	1.0	1.0	1.0
500		6.5					
Total 1005 GF/Program Receipts		31.9	25.4	25.4	25.4	25.4	25.4
CIVIL DIVISION TOTAL		31.9	25.4	25.4	25.4	25.4	25.4
<u>CSHB 4 (TRA) SUMMARY</u>							
100		574.4	695.5	695.5	816.6	816.6	816.6
200		1.6	2.0	2.0	2.4	2.4	2.4
300		93.2	111.9	111.9	130.6	130.6	130.6
400		8.6	10.2	10.2	11.8	11.8	11.8
500		58.5	6.5	0.0	6.5	0.0	0.0
DEPARTMENT TOTAL		736.3	826.1	819.6	967.9	961.4	961.4
1004 GF		704.4	800.7	794.2	942.5	936.0	936.0
1005 GF/Prgm		31.9	25.4	25.4	25.4	25.4	25.4
PFT		8	9	9	10	10	10
PPT		1	1	1	1	1	1

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB 4 (TRA)
() Publish Date: _____

Revision Date/Time (Note if correction): 3/12/01 Dept. Affected: Public Safety
Title: Registration of Motor Vehicle, Operating Motor Vehicle, Aircraft, Watercraft while Intoxicated & Drivers License BRU: AST Detachment
Sponsor: Representative Rokeberg Component: AST Detachment
Requester: House Judiciary Component Number: 2325

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	47.6	47.6	47.6	47.6	47.6	47.6
Travel	7.5	7.5	7.5	7.5	7.5	7.5
Contractual	95.6	95.6	95.6	95.6	95.6	95.6
Supplies	2.5	2.5	2.5	2.5	2.5	2.5
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	153.2	153.2	153.2	153.2	153.2	153.2

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	153.2	153.2	153.2	153.2	153.2	153.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	153.2	153.2	153.2	153.2	153.2	153.2

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Forfeiture Program for 2nd DWI Offense

This legislation will require one full-time Procurement Specialist I, range 14 position to manage the forfeiture inventory (450 vehicles and 50 snow-machines). 75% of the inventory would be disposed to charities, non-profit corporations and/or local governments. The remaining 25% would be for AST use or storage for public auction. Included in this analysis are the transportation costs, storage costs, and I/M Test Fees. The transportation costs include twenty-five percent of the vehicles would require long-distance transportation (vehicle transport contractor - \$900 per vehicle) and seventy-five percent by short-distance (towing companies - \$50 per vehicle). The storage of vehicle (\$450 annually) and snow-machine (\$350 annually) would be contracted out to general automobile/RV storage facilities. The following costs are not included in this fiscal note: the administrative fee charged for the sale of vehicles (5% - 10% of sale proceeds); loan payoff of vehicles forfeited; and secure arrangements for vehicle storage. See attached sheets for additional detail. Also included is a cost estimate if forfeiture was based on 3rd offense instead of 2nd offense.

Prepared by: Lt. Steve Dunnagan Phone 269-4532
Division: Division of Alaska State Troopers Date/Time 3/9/01 1:00 PM
Approved by: Commissioner Glenn Godfrey Date 3/12/01
Agency: Department of Public Safety

For distribution information, call the Governor's Legislative Office

CS HB4 (Trans) - Vehicles Forfeited on 2nd DWI Offense

			Procurement Specialist I, Range 14, Anchorage			47,600
			Travel for Auctions			7,500
Type	Location	Vendor	Shipment or Annual Cost	Est. Annual #		Cost
Vehicle	Long Distance (25%)	AK Veh Tran	\$ 900	29	\$	25,875
Vehicle	Short Distance (75%)	Towing Co.	\$ 50	84	\$	4,188
I/M Test	Fbx/Anc - 30% of 450	Xpress Lube	\$ 55	34	\$	1,856
Snowmachine Storage	Anch, Palmer, Fbx	Auto / RV	\$ 350	13	\$	4,375
Vehicle Storage	Anch, Palmer, Fbx	Auto / RV	\$ 450	113	\$	50,625
Contractual Cost for One Position (phones, computer, postage, DP Svc)						\$ 8,700
Total Contractual Costs						\$ 95,619
Office and DP Supplies for One Position			Total Supply Costs			\$ 2,500
TOTAL						\$ 153,219

Assumption: 1,000 convictions, 50% forfeited (450 vehicles and 50 snowmachines), 75% of forfeitures disposed to Charity, Non-Profit Corporations and/or Local Governments. 25% disposed to AST for their use or storage for public auction.

Analysis does not include: 1. secure arrangement for vehicle storage. 2. Sale of Vehicle 5% Admin Fee. 3. Vehicle Loan Payoff - forfeited vehicles.

CS HB4 - Vehicle Forfeited on 3rd Offense

			Procurement Specialist I, Range 14, Anchorage			47,600
			Travel for Auctions			5,000
Type	Location	Vendor	Shipment or Annual Cost	Est. Annual #		Cost
Snowmachine	Bethel/Nome - Anc	NAC	\$ 210	13	\$	2,625
Vehicle	Long Distance (25%)	AK Veh Tran	\$ 900	13	\$	11,250
Vehicle	Short Distance (75%)	Towing Co.	\$ 50	38	\$	1,875
I/M Test	Fbx/Anc - 30% of 200*.25	Xpress Lube	\$ 55	15	\$	825
Snowmachine Storage	Anch, Palmer, Fbx	Auto / RV	\$ 350	13	\$	4,375
Vehicle Storage	Anch, Palmer, Fbx	Auto / RV	\$ 450	50	\$	22,500
Contractual Cost for Position (phones, computer, postage, DP Svc)						\$ 8,700
Total Contractual Costs						\$ 52,150
Office and DP Supplies for Position			Total Supply Costs			\$ 2,500
TOTAL						\$ 107,250

Assumption: 500 convictions, 50% forfeited (200 vehicles and 50 snowmachines), 75% of forfeitures disposed to Charity, Non-Profit Corporations and/or Local Governments. 25% disposed to AST for their use or storage for public auction.

Analysis does not include: 1. secure arrangement for vehicle storage. 2. Sale of Vehicle 5% Admin Fee. 3. Vehicle Loan Payoff - forfeited vehicles.

INTERAGENCY COST SUMMARY

Reduce Blood Alcohol Threshold for DWI to .08
5% increase assumption

ASSUMPTIONS

- *Cost estimates for for FY 02 only
- *Assumes the only change to current DWI statutes is to reduce the threshold for DWI from 1.0% blood alcohol to .08%, and a similar change for breath alcohol.
- *ACS 5% increase in DWI filings, both state and municipal
- *DMV 5% increase in drivers' license revocation cases and attendant administrative hearings.
- *PDA 5% increase, and they will represent 75% of the defendants.
- *DOC projects 5% increase in DWI misdemeanor and felony convictions, both state and municipal
- *Law, Criminal Division 5% increase in state DWI prosecutions.
- *Law, Civil Division projects 780 new DWI judgments will be subject to collection. (Cost of incarceration; court-appointed counsel; fines)
- *Both Law and PDA assume municipalities that prosecute misdemeanors in their jurisdictions will mirror the change in state law. If this does not occur, the estimated number of new misdemeanor cases is understated. The other agencies must respond to both state and local prosecutions.

AGENCY	GF COST	PFT	PPT	COMMENTS
Alaska Court System	\$37,100.00		2	0.1 district court judge and clerk; juror & personnel costs for felony trials
Department of Administration				
Division of Motor Vehicles	\$65,500.00		1	Hearing officer
Public Defender Agency	\$69,800.00		1	.5 FTE Palmer PDO
Department of Corrections	\$915,421.00			
Department of Health & Social Services				
ASAP	\$56,200.00			Assessments
Treatment	\$291,100.00			
Department of Law				
Criminal Division	\$109,300.00		1	.5 FTE attorney, Anchorage DAO
Collections and Support	*****		1	1/2 time Admin Clerk
	\$1,544,421.00	4	3	

INTERAGENCY COST SUMMARY

Reduce Blood Alcohol Threshold for DWI to .08

ASSUMPTIONS

- *Cost estimates for for FY 02 only
- *Assumes the only change to current DWI statutes: reduce the threshold for DWI from 1.0% blood alcohol to .08%, & a similar change for breath alcohol.
- *ACS projects 10% increase in DWI filings, both state and municipal
- *DMV projects 10-15% increase in drivers' license revocation cases and attendant administrative hearings.
- *PDA projects 10% increase, and they will represent 75% of the defendants.
- *DOC projects 10% increase in DWI misdemeanor and felony convictions, both state and municipal
- *Law, Criminal Division projects 10% increase in state DWI prosecutions.
- *Law, Civil Division projects 780 new DWI judgments will be subject to collection. (Cost of incarceration; court-appointed counsel; fines)
- *Both Law and PDA assume municipalities that prosecute misdemeanors in their jurisdictions will mirror the change in state law. If this does not occur, the estimated number of new misdemeanor cases is understated. The other agencies must respond to both state and local prosecutions.

AGENCY	GF COST	PFT	PPT	COMMENTS
Alaska Court System	\$74.10		2	0.4 district court judge and clerk; juror and personnel costs for felony trials.
Department of Administration				
Division of Motor Vehicles	\$112.00		2	Hearing officer and administrative clerk
Public Defender Agency	\$140.60		1	1 FTE Palmer PDO
Department of Corrections	\$1,031.80			
Department of Health & Social Services				
ASAP	\$112.40			Assessments
Treatment	\$582.20			***see note
Department of Law				
Criminal Division	\$148.30		1	1 FTE attorney, Anchorage DAO
Collections and Support	*****		1	1/2 time Admin Clerk
	\$2,201.6***	4	3	

***Treatment Note: While this is reflected in the Interagency Cost Summary, there is NO fiscal note attached to HB 4 that has this cost listed.

INTERAGENCY COST SUMMARY

HB 4 Increased Fines and Sentences

ASSUMPTIONS

- * Cost estimates are for FY02 only.
- * Does not include felony look back provisions of HB 4
- * Expect an increase in driving with suspended license misdemeanors, but unable to quantify.
- * PDA expects increase in probation revocation hearings due to failure to pay increased fines, but cannot quantify.
- * DOC assumes 50% of 240 felons will require intensive out-patient treatment, and 50% residential treatment.
- * DOC assumes of 240 felons receiving increased sentences, 80% will be 3rd time offenders, 15% 4th time, and 5% 5th time
- * DOC assumes 3% of 824 2nd time misdemeanants will have had their 1st conviction more than 10 yrs before.
- * Law, Civil Division cannot estimate cost of collection of treatment judgments without additional information.

AGENCY	GF COST	PFT	PPT	COMMENTS
Department of Administration				
Division of Motor Vehicles				
No vehicle registration w/ DWLS/R	\$546.0	10	1	1.5 FTE web/phone renewals; 7 FTE field offices; 1 FTE hearing officer & 1 FTE support
Revoke offender vehicle registration	\$48.2	1		1 FTE admin support position
Felony DWI database	\$80.9			
Public Defender Agency	\$0.0			
Department of Corrections				
Manslaughter presumptive	\$0.0			Increases begin in FY05: \$107.4; FY06 & FY07, \$211.6
Treatment	\$1,065.6			Increases to \$1,225.4 in FY03; \$1,394.2 in FY04; up to \$1,731.6 in FY06.
Increased felony sentences	\$2,116.2			Increases to \$2,447.8 in FY03; \$2,772.4 in FY04, up to \$3,435.2 in FY06.
Remove 2nd time misdo look back	\$22.5			Same cost each year.
Department of Health & Social Services				
ASAP	\$0.0			
Treatment	\$0.0			
Department of Law	*****			Collections & Support costs to collect treatment judgments - GF/Program Rcpts
Department of Public Safety	\$0.0			
TOTAL ESTIMATED COSTS	\$3,879.4	11	1	

INTERAGENCY COST SUMMARY

30 Days for 2nd DWI Offense

ASSUMPTIONS

* Cost estimates are for FY02 only.

* DOC assumes 412 second time offenders will serve 7 additional days. Remaining 50% will take community work service option.

AGENCY	GF COST	PFT PPT	COMMENTS
Department of Administration			
Division of Motor Vehicles	\$0.0		
Public Defender Agency	\$0.0		
Department of Corrections	\$184.6		Same cost each year.
Department of Health & Social Services			
ASAP	\$0.0		
Treatment	\$0.0		
Department of Law	\$0.0		
Department of Public Safety	\$0.0		
TOTAL ESTIMATED COSTS	<u>\$184.6</u>	<u>0 0</u>	

INTERAGENCY COST SUMMARY

Vehicle Forfeiture

ASSUMPTIONS

- * Cost estimates are for FY02 only.
- * Law assumes 800 hearings per year, statewide: 100-150/year Kenai, Palmer, Fairbanks; 100/yr Anchorage; remainder around state.
- * DPS assumes 1000 state and municipal convictions per year resulting in 500 vehicle forfeitures.
- * PDA assumes will represent 75% of defendants, but will not need to do as much post-hearing work as Law.

AGENCY	GF COST	PFT	PPT	COMMENTS
Department of Administration				
Division of Motor Vehicles	\$0.0			
Public Defender Agency	\$255.6	4		3 paralegals (Anch, Fairbanks, Palmer); 1 secretary (Anch)
Department of Corrections	\$0.0			
Department of Health & Social Services	\$0.0			
ASAP				
Treatment				
Department of Law	\$556.1	7		4 paraprofessionals (Anch, Kenai, Palmer); 1 atty (Fairbanks); 2 secy
Department of Public Safety	\$153.2	1		
TOTAL ESTIMATED COSTS	\$964.9	12	0	

INTERAGENCY COST SUMMARY

Phase in 10 Year Look Back

ASSUMPTIONS

- * Cost estimates are for FY02 only.
- * PDA assumes 225 new filings, and they will represent 75% of defendants, at 20% growth rate to a total of 169 in FY06.
- * Law assumes 225 new filings, at 20% growth per year (45 in yr 1, 90 in yr 2, 134 in yr 3, etc.)
- * DOC assumes 190 new convictions, at 20% growth per year (38 in yr 1, 76 in yr 2, 152 in yr 3, etc.)

AGENCY	GF COST	PFT	PPT	COMMENTS
Department of Administration				
Division of Motor Vehicles	\$0.0			
Public Defender Agency	\$60.8	1		Yr 2: Make attorney full-time; Yr 3: Add 1/2 attorney; Yr 4: make full-time. \$241.5 total cost
Department of Corrections	\$534.0			Increases to \$1,070.1 in FY03, up to \$2,675.2 in FY06.
Department of Health & Social Services				
ASAP	\$0.0			
Treatment	\$0.0			
Department of Law	\$0.0			Yrs 2 & 3: 1 PFT atty (Anch), \$148.3; Yrs 4 on: add 1 PFT atty (Fbx), \$290.1 total cost
Department of Public Safety	\$0.0			
TOTAL ESTIMATED COSTS	\$594.8	0	1	

INTERAGENCY COST SUMMARY

Reduce Blood Alcohol Threshold for DWI to .08 with HB 4 Diversion (no jail time)

ASSUMPTIONS

- * Cost estimates are for FY02 only.
- * DMV projects 10-15% increase in drivers' license revocation cases and attendant administrative hearings.
- * PDA projects 10% increase, and they will represent 75% of the defendants.
- * DOC projects 10% increase in DWI misdemeanor and felony convictions, both state and municipal. Approx 33% will do diversion.
- * DOC cost estimates include offsets for inmate payment for incarceration.
- * Law, Criminal Division projects 10% increase in state DWI prosecutions.
- * Law, Civil Division projects 690 new DWI judgments will be subject to collection.
- * Both Law and PDA assume municipalities that prosecute misdemeanors in their jurisdictions will mirror the change in state law. If this does not occur, the estimated number of new misdemeanor cases is understated. The other agencies must respond to both state and local prosecutions.

AGENCY	GF COST	PFT	PPT	COMMENTS
Court System	0	0	0	
Department of Administration				
Division of Motor Vehicles	\$112.0	2		Hearing officer and administrative clerk
Public Defender Agency	\$140.6	1		1 FTE attorney, Palmer PDO
Department of Corrections	\$1,005.0			\$977.6 in FY03; \$1,011.6 in FY04; \$1,045.6 in FY05; \$1022.1 in FY06 and subsequent years.
Department of Health & Social Services				
ASAP	\$112.4			Assessments
Treatment	\$582.2			
Department of Law				
Criminal Division	\$148.3	1		1 FTE attorney, Anch DAO
Collections and Support	\$31.9		1	1/2 time Admin Clerk for collection of new judgments
TOTAL ESTIMATED COSTS	\$2,132.4	4	1	

HB

4

(File 5)

**HOUSE JUDICIARY COMMITTEE
HOUSE BILL 4
MARCH 14, 2001**

AGGRAVATORS



National Transportation Safety Board

Washington, D.C. 20594

Safety Recommendation

Date: AUG 7 2000

In reply refer to: H-00-26

Honorable Brian Porter
Speaker of the House
Alaska House of Representatives
State Capitol
120 4th Street
Anchorage, Alaska 99801-2133

The National Transportation Safety Board is an independent Federal agency charged by Congress with investigating transportation accidents, determining their probable cause, and making recommendations to prevent similar accidents from occurring. We are providing the following information to urge you to take action on the safety recommendation in this letter. The Safety Board is vitally interested in this recommendation because it is designed to prevent accidents and save lives.

This recommendation addresses ways to reduce fatalities, injuries, and crashes involving hard core drinking drivers, a term that, as defined by the Safety Board, includes repeat offender drinking drivers (that is, offenders who have prior convictions or arrests for a Driving While Impaired [DWI] by alcohol offense) and high-BAC offenders (that is, all offenders with a blood alcohol concentration [BAC] of 0.15 percent or greater). The recommendations are derived from the Safety Board's safety report *Actions to Reduce Fatalities, Injuries, and Crashes Involving the Hard Core Drinking Driver* and are consistent with the analysis we performed and literature we reviewed in this report.¹ As a result of this review, the Safety Board has issued two safety recommendations, one of which is addressed to the Governors and Legislative Leaders of the 50 States and the Mayor and Council of the District of Columbia. Information supporting the recommendation is discussed below. The Safety Board would appreciate a response from you within 90 days addressing the actions you have taken or intend to take to implement our recommendation.

In 1984, the National Transportation Safety Board published a safety study titled *Deficiencies in Enforcement, Judicial, and Treatment Programs Related to Repeat Offender Drunk Drivers (NTSB/SS-84/04)*. That study identified repeat offender drinking drivers (included under the Safety Board's category of "hard core drinking drivers") as a serious traffic safety problem.

¹ For additional information, read *Actions to Reduce Fatalities, Injuries, and Crashes Involving the Hard Core Drinking Driver*, Safety Report NTSB/SR-00/01 (Washington: National Transportation Safety Board, 2000).

In the more than 15 years that have passed since that investigation was concluded, efforts have been made by all the States to address this major safety problem. However, despite significant progress, the measures taken and the degree of implementation have not been uniform, and 15,794 people died in 1999 from alcohol-related crashes. This number is far above the target set by the Secretary of Transportation in 1995 to reduce the number of alcohol-related fatalities to no more than 11,000 by 2005, a goal that cannot be reached with a "business as usual" approach.

From 1983 through 1998, at least 137,338 people died in crashes involving hard core drinking drivers.² The National Highway Traffic Safety Administration's (NHTSA) data also indicate that at least 99,812 people were injured in fatal crashes involving hard core drinking drivers (as defined by the Safety Board) during that same time period. In 1998 alone, hard core drinking drivers were involved in a minimum of 6,370 highway fatalities. The estimated cost of these fatalities was at least \$5.3 billion nationwide.

The Safety Board's review identified a number of measures that appear to be effective in reducing alcohol-related crashes by hard core drinking drivers. The societal cost of crashes involving these drivers, both in human and economic terms, demands that additional action be taken by the States. Although all States have some components of a program to reduce hard core drinking driving, the variations in countermeasures used among the States are numerous, and no State uses all of the countermeasures that can reduce hard core drinking driver crashes.

For example, 40 States and the District of Columbia have administrative license revocation (ALR) laws for DWI test refusal or failure. The Safety Board recommended this countermeasure in 1984 and 1989 because ALR is an effective measure to reduce alcohol-related crashes and fatalities, and studies by NHTSA and others support this view. ALR laws have resulted in a 13- to 19-percent reduction in adult driver fatal crashes.³ However, the States of Kentucky, Michigan, Montana, New Jersey, New York, Pennsylvania, Rhode Island, South Carolina, South Dakota, and Tennessee currently do not have laws authorizing ALR for BAC test failure or refusal.

Sobriety checkpoints are conducted in 39 States. Publicized DWI enforcement including sobriety checkpoints can be very effective in identifying the hard core drinking driver and in reducing alcohol-involved driving and alcohol-related crashes. The Tennessee experience with weekly checkpoints indicates that this strategy is effective when conducted frequently, regularly, and statewide; in that State, sobriety checkpoints reduced alcohol-related fatal crashes by 20.4 percent.⁴ North Carolina's multi-year checkpoint program reduced the percentage of drivers having illegal BAC levels who were stopped at checkpoints by more than half (from 1.9 percent

² Nineteen ninety-eight is the most recent year for which complete data are available from the National Highway Traffic Safety Administration.

³ Robert B. Voas and A. Scott Tippetts, *The Relationship of Alcohol Safety Laws to Drinking Drivers in Fatal Crashes* DOT HS 308 980 (Washington: National Highway Traffic Safety Administration, 1999) 11-13.

⁴ John H. Lacey, Ralph K. Jones and Randolph G. Smith, *An Evaluation of Checkpoint Tennessee: Tennessee's Statewide Sobriety Checkpoint Program* (Washington: National Highway Traffic Safety Administration, 1998) 20 <http://www.nhtsa.dot.gov/search97/cgi/s97_cgi.exe>.

of those tested to 0.90 percent).⁵ In addition to deterring drinking and driving, checkpoints can be used to promote several other highway safety measures at the same time, including checking for valid driver's licenses, and safety belt use.⁶ Sobriety checkpoints provide an opportunity to apprehend not only alcohol-impaired drivers but also unlicensed drivers and those who are driving on licenses suspended or revoked for DWI. Often, when licenses are checked at sobriety checkpoints, more unlicensed than impaired drivers are found.⁷

Measures that separate hard core drinking drivers from their vehicles are used in 38 States and the District of Columbia. These measures include license plate action (impoundment, confiscation, or other actions) (8 States), vehicle immobilization (6 States), vehicle impoundment (12 States and the District of Columbia), and vehicle forfeiture (28 States). License plate action was found in Minnesota to reduce recidivism by 50 percent in a 2-year study.⁸ The use of vehicle immobilization in Ohio reduced recidivism by 36 percent in a 1-year period.⁹ In the same State, vehicle impoundment was found to reduce repeat offenses for driving while suspended or impaired by 40 percent in a 1-year period. Preliminary data from the New York City vehicle forfeiture program showed a 32.2 percent decrease in alcohol-related fatalities over an 11-month period.¹⁰ To the extent permitted by the U.S. Constitution and applicable State laws, vehicle-based sanctions can be administratively ordered at the time of arrest. When taken, this action ensures swift and certain punishment for the DWI offense and prevents offenders from avoiding such sanctions by transferring possession of their vehicles to family members or friends. Another vehicle sanction is the use of ignition interlocks, which are devices that can prevent an impaired driver from operating a vehicle. Thirty-eight States permit the use of these devices in some manner, and at least five States have statewide ignition interlock programs; statewide programs are being developed in other States. In Maryland, ignition interlocks reduced recidivism by 65 percent in the first year of the assignment of these devices.¹¹ Overall, vehicle sanctions to separate the hard core drinking driver from his or her vehicle or to prevent him/her from drinking while impaired appear to be effective tools in reducing hard core drinking driver recidivism.

⁵ Insurance Institute for Highway Safety, "North Carolina Belt Use Peaks at 84 Percent; Future Gains Sought," *Status Report* 33:2 (7 Mar. 1998) 5 <<http://www.highwaysafety.org/srpdfs/sr3302.pdf>>.

⁶ The Tennessee and North Carolina checkpoint programs also reported thousands of arrests for other offenses including stolen vehicles, illegal gun possession, drug offenses, and escaped felons. North Carolina reported 6,173 drug violators, 788 firearms violations, 403 stolen vehicles, and 273 fugitive arrests from 1993 through 1997. Lacey, Jones, and Smith, 20; Insurance Institute for Highway Safety, 5.

⁷ Susan E. Martin and David F. Preusser, "Enforcement Strategies for the Persistent Drinking Driver," *Strategies for Dealing with the Persistent Drinking Driver*, ed. Barry Sweedler, Transportation Research Board Circular 437 (1995) 41.

⁸ Alan Rodgers, "Effect of Minnesota's License Plate Impoundment Law on Recidivism of Multiple DWI Violators," *Alcohol, Drugs and Driving* 10: 2 (1994) 128.

⁹ Robert B. Voas, A. Scott Tippetts, and Eileen Taylor, "Temporary Vehicle Immobilization: Evaluation of a Program in Ohio," *Accident Analysis and Prevention* 29: 5 (1997) 635-36.

¹⁰ Howard Safir, George A. Grasso, and Robert F. Messner, "The New York City Police Department DWI Forfeiture Initiative," presented May 2000 at T2000 Conference of the International Council on Alcohol, Drugs, and Traffic Safety, Stockholm, Sweden.

¹¹ Kenneth H. Beck et. al., "Effects of Ignition Interlock License Restrictions on Drivers with Multiple Alcohol Offenses: A Randomized Trial in Maryland," *American Journal of Public Health* 89: 11 (Nov. 1999) 1698.

Sixteen States have laws prohibiting plea-bargaining DWI cases, but eight of those States limit the ban to specific conditions, such as when the DWI has caused an injury or fatality. The Safety Board continues to support its 1984 recommendation to eliminate the option of plea bargaining a DWI offense to a lesser, non-alcohol-related offense. This type of plea bargaining reduces the State's ability to track prior alcohol-related offenses when no record is kept of the original charges brought. Laws restricting plea bargaining have been found to reduce the number of DWI repeat offenses as well as the number of alcohol-related crashes. Plea-bargaining limits reduced subsequent DWI offenses by 36 percent in Ft. Smith, Arkansas, by 17 percent in Louisville, Kentucky, and by 58 percent in Lexington, Kentucky over a 3-year period.¹²

Diversion programs that may include assessment and treatment in exchange for judicial consideration of a lesser charge or less severe sanctions are used in many States.¹³ Diversion, like plea bargaining, interferes with the retention of accurate records for the hard core drinking driver. Diversion programs that allow license retention or erasure of offenses from the driver's record may prevent the State from prosecuting hard core drinking drivers as repeat offenders in the future, and should be eliminated.

As of January 1, 2000, 15 States had a high-BAC "aggravated" or "extreme" DWI offense, but the BAC that defines the offense varies from 0.15 percent to 0.20 percent. The elevated crash risk and potential for recidivism of high-BAC (0.15 percent or greater) drivers constitute a safety problem that warrants State legislation creating a high-BAC "aggravated" alcohol offense. A lowered-BAC law for repeat DWI offenders is also effective in reducing fatal crashes. Maine and North Carolina have lowered their BAC limit for drivers who have been convicted or similarly administratively adjudicated on a first DWI offense. An evaluation of the original Maine low-BAC law found a 25- to 35-percent reduction in the proportion of repeat offender drivers in fatal crashes.¹⁴ Maine has since changed its law to zero BAC for repeat offenders.

The problem of hard core drinking drivers is complex, and no single countermeasure appears to be sufficient to address it. The Safety Board does not believe that every State must have identical countermeasures in place; however, the Board believes that a model program to reduce hard core drinking driving would incorporate the following elements:

- ◆ Frequent and well-publicized statewide sobriety checkpoints that include checking for valid driver's licenses. Checkpoints should not be limited to holiday periods.
- ◆ Vehicle sanctions to restrict or separate hard core drinking drivers from their vehicles, including license plate actions (impoundment, confiscation, or other actions); vehicle immobilization, impoundment, and forfeiture; and ignition interlocks for high-BAC first offenders and repeat offenders.

¹² National Highway Traffic Safety Administration, *An Evaluation of the Elimination of Plea Bargaining for DWI Offenders* (Washington: National Highway Traffic Safety Administration, 1989) 1, 9-10.

¹³ The total number of States in which diversion programs are used was unavailable. As stated earlier, 16 States and the District of Columbia specifically provide for diversion by State law or statewide practice. Some local courts and judges in other States also offer diversion programs.

¹⁴ Ralph Hingsou, Timothy Heeren, and Michael Winter, "Effects of Maine's 0.05% Legal Blood Alcohol Level for Drivers with DWI Convictions," *Public Health Reports* 113 (Sep.-Oct. 1998) 443.

- ◆ State and community cooperative programs involving driver licensing agencies, law enforcement officers, judges, and probation officers to enforce DWI suspension and revocation.
- ◆ Legislation to require that DWI offenders who have been convicted or administratively adjudicated maintain a zero blood alcohol concentration while operating a motor vehicle.
- ◆ Legislation that defines a high blood alcohol concentration (0.15 percent or greater) as an "aggravated" DWI offense that requires strong intervention similar to that ordinarily prescribed for repeat DWI offenders.
- ◆ As alternatives to confinement, programs to reduce hard core drinking driver recidivism that include home detention with electronic monitoring, special DWI facilities, and/or intensive supervision probation programs.
- ◆ Legislation that restricts the plea bargaining of a DWI offense to a lesser, non-alcohol-related offense, and that requires the reasons for DWI charge reductions be entered into the public record.
- ◆ Elimination of diversion programs that permit erasing, deferring, or otherwise purging the DWI offense record or that allow the offender to avoid license suspension.
- ◆ Administrative license revocation for BAC test failure and refusal.
- ◆ A DWI record retention and DWI offense enhancement look-back period of at least 10 years.
- ◆ Individualized sanction programs for hard core DWI offenders that rely on effective countermeasures for use by courts that hear DWI cases.


Therefore, the National Transportation Safety Board makes the following safety recommendation to the Governors and Legislatures of the 50 States and the Mayor and Council of the District of Columbia:

Establish a comprehensive program that is designed to reduce the incidence of alcohol-related crashes and fatalities caused by hard core drinking drivers and that includes elements such as those suggested in the National Transportation Safety Board's Model Program.

Chairman HALL and Members HAMMERSCHMIDT, BLACK, GOGLIA, and CARMODY concurred in this recommendation. In the report that presented this recommendation, Member Hammerschmidt filed a dissent.

The Safety Board also issued one safety recommendation to the Department of Transportation.

In your response to the recommendation in this letter, please refer to Safety Recommendation H-00-26. If you need additional information, you may call (202) 314-6175.



By: Jim Hall
Chairman

CORRECTION

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



Central Microfilm Services
Department of Education & Early Development
State of Alaska

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Chairman HALL and Members HAMMERSCHMIDT, BLACK, GOGLIA, and CARMODY concurred in this recommendation. In the report that presented this recommendation, Member Hammerschmidt filed a dissent.

The Safety Board also issued one safety recommendation to the Department of Transportation.

In your response to the recommendation in this letter, please refer to Safety Recommendation H-00-26. If you need additional information, you may call (202) 314-6175.



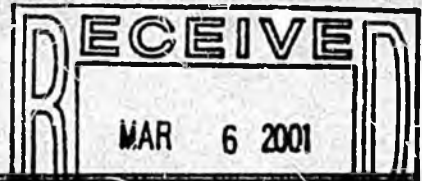
By: Jim Hall
Chairman

HB

4

(File 6)

**HOUSE JUDICIARY COMMITTEE
HOUSE BILL 4
INCREASED PENALTIES AND FINES
MARCH 12, 2001**



LEGISLATIVE RESEARCH REPORT

MARCH 2, 2001



REPORT NUMBER 01.004

FELONY DWI—TIME SENTENCED AND TIME SERVED

PREPARED FOR REPRESENTATIVE NORMAN ROKEBERG

BY PATRICIA YOUNG, LEGISLATIVE ANALYST

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You wished to know the amount of time served by individuals convicted of felony driving while intoxicated (DWI), as compared to the amount of time sentenced. You also asked for an explanation of "good time," and you wished to know how it is calculated.

SUMMARY

Felony sentencing is a complex matter, generally involving a number of variables. Felony DWI offenders may be subject to presumptive sentences, which include consideration of aggravating and mitigating factors and extraordinary circumstances; they are always subject to mandatory minimum sentences. Such offenders may also face additional charges—for example, charges for refusing a breath-test, driving with a suspended or revoked license, avoiding arrest, assault, or any number of other crimes may accompany the charge of DWI. As a result, a sentence may be a composite of various convictions that a judge orders an offender to serve concurrently, consecutively, or in some combination thereof. Despite those complications, however, the very specific provisions on minimum sentences for felony DWI offenses delineated in AS 28.35.030(n) ensure that judges hand down sentences of at least those lengths, that they suspend neither the imposition of the sentence nor the execution of the minimum terms, and that they not grant probation except on the condition that offenders serve at least the prescribed minimum terms in custody.

Despite the mandatory minimum sentences, however, offenders—including felony DWI offenders—will generally serve less time than judges impose. With only a few exceptions, AS 33.20.010 requires that offenders sentenced to more than three days must be released after serving two-thirds of the sentence, unless time earned for good behavior—known as “good time”—has been revoked or reduced because of misconduct within the correctional facility. If an offender’s sentence was for over two years, the one-third reduction is spent under the supervision of, and subject to conditions set by, the parole board. If an offender fails to comply with such conditions, the board may send the offender back to jail to serve all or a portion of the good time reduction.

We obtained two sets of data on the sentences of individuals convicted of felony DWI who were or are presently under the supervision of the Alaska Department of Corrections.¹ Because the information is not computerized, the project required that individuals at each state correctional facility housing felony DWI offenders sort through individual offender files and extract the sentencing information pertinent to the DWI felony. We attempted various analyses on the sentencing data for the entire cohort as well as for subsets of felony DWI offenders; eventually, however, we concluded that because of the complexity of sentencing procedures and apparent inconsistencies in the data collection process, such an analysis would provide unreliable results. After further discussions with Department of Corrections personnel, we concluded that such an analysis would also be unnecessary for the purposes of this report. According to Candace Brower, program coordinator, Department of Corrections, good time is always computed on the composite sentence, regardless of which portions are to be served concurrently and which are to be served consecutively. This means that regardless of whether a sentence represents time in

¹ Bruce Richards, special assistant with the Department of Corrections, provided us with “snapshots” of felony DWI offenders in custody as of July 19, 2000, and as of October 25, 2000. The department generated this information in anticipation of the legislature’s interest in the issue. According to Mr. Richards, department personnel at the various state correctional facilities sorted through the individual files of inmates sentenced for felony DWI offenses and listed the sentence of each offender for DWI only. Following receipt of the snapshots, we randomly selected six cases and requested sentencing details for each. Additionally, we asked for details on a particular case reviewed by the Alaska Court of Appeals, *Clark v. State*. By comparing the snapshots with the specific details, we realized that in addition to occasional errors, the data were compiled inconsistently—for example, although good time was to have been deducted, we found that in some cases it had not been removed. Representatives of both the Department of Corrections and the Court System stress the complexities involved in time accounting for sentences involving multiple charges, and thus, the irregularities in data may not be surprising.

jail for a single charge or for numerous charges, calculation of good time is a constant—one-third off the total amount of jail time.

As a result, we focused our attention on several appeals of felony DWI sentences that illustrate factors that go into sentencing and the relationship of the sentence imposed to the time served. We use a recent Alaska Court of Appeals case, *Clark v. State*, as our primary example. In this case, the defendant's criminal record is long, but his sentence is relatively straightforward. Because the sentence consisted of a single charge, his case is useful for the purpose of understanding the relationship between a sentence imposed and time served for felony DWI—as well as the process of mandatory parole—without the complexities inherent in attempting to untangle the strands of a composite sentence. We also include details of three other sentences—to represent sentencing and time served in more complex felony DWI cases.

As you will see, even in complex cases, the mandatory minimums for felony DWI sentences apply, as do the calculations for good time reduction of time served. For offenders with multiple convictions—a relatively common occurrence—the good time reduction is calculated on the composite sentence and applied to the aggregate term of imprisonment. Good time is always calculated at one day off for two days served, even for complex sentences.

PRESUMPTIVE SENTENCING AND CLASS C FELONIES

In the late 1970s, in response to wide differences among sentences for similar crimes, the Alaska legislature adopted a system of presumptive sentencing as part of an overall revision of the state's criminal code. A presumptive sentence is the prison sentence that applies if a given crime is of about average seriousness for that crime, and the offender's record is about typical for that type of offender. Lower and upper limits to the sentence are designated for less and more serious versions of the offense.² The purpose behind presumptive sentencing is to assure uniformity and predictability in the sentencing of repeat offenders charged with similar crimes.³

Under presumptive sentencing, the appropriate *sentencing range* for class C felonies (such as felony DWI) is normally zero to five years.⁴ Presumptive *terms* are the starting points for sentencing within a sentencing range; they represent the legislature's judgment as to the appropriate sentence for a typical felony offender who commits a typical act within the definition of a particular offense.⁵ Although most first time felony offenders are not subject to presumptive terms, case law would normally restrict the upper limit of a first time class C felony offense to two

² Alaska Judicial Council, *A Guide to Alaska's Criminal Justice System*, May 1998, p. 21; available through <http://www.ajc.state.ak.us>.

³ Senate Judiciary Committee, "Commentary on the Alaska Revised Criminal Code," *Senate Journal Supp.* No. 47, p. 148, June 12, 1978; adopted by House, *House Journal*, p. 1716, June 16, 1978. Presumptive sentencing, effective in 1980, was designed to eliminate "unjustified disparity in sentences imposed on defendants convicted of similar offenses committed under similar circumstances—disparity which is not related to legally relevant sentencing criteria."

⁴ AS 12.55.125(e).

⁵ *Mullin v. State*, 886 P.2d 1323, 1328 (Alaska App. 1994), cited in *Clark v. State*, 8 P.3d 1149, 1150 (Alaska App. 2000).

years; the potential sentencing range would, therefore, be from zero to two years.⁶ For a defendant with at least one prior felony conviction, the presumptive term within the zero to five year range is two years; for a defendant with two prior felony convictions, the starting point is three years.⁷ The law requires judges to apply the presumptive terms unless the degree of seriousness of the crime requires an adjustment of the sentence in consideration of specific aggravating and/or mitigating factors. If a judge finds that extraordinary circumstances exist such that "manifest injustice would result from . . . the imposition of the presumptive term, whether or not adjusted for aggravating or mitigating factors," then the court can send the case to a three-judge panel for sentencing.⁸

Just as there is normally no presumptive term for first time class C felonies, there is normally no mandatory minimum sentence for class C felonies, even for offenders who have multiple prior felony convictions. For the particular offense of felony DWI, however, the legislature has created a series of special mandatory minimum sentences. These minimum sentences hinge, not on an offender's prior record of felony convictions, but on the offender's record of DWI and breath-test refusal convictions within the preceding ten years.⁹

MANDATORY MINIMUM SENTENCES FOR FELONY DWI

In 1995, Alaska lawmakers changed the classification of certain repeat convictions for DWI from misdemeanor to felony offenses and established mandatory minimum fines and sentences for first, second, and subsequent felony convictions.¹⁰ By that act, a third conviction for DWI *within a span of five years* becomes a class C felony (AS 28.35.030[n]), as does a third conviction for refusal to submit to a chemical test for alcohol (AS 28.35.032[p]).

The law instructs judges to count prior convictions for DWI or breath-test refusals *within the preceding ten years* in order to determine the appropriate minimum sentence for the felony (AS 28.35.030[o][4]). For a class C felony DWI, the law requires a fine of not less than \$5,000 and imprisonment as follows:

⁶ Because the court has held that a first offender should normally receive a more favorable sentence than the presumptive sentence for a second offender, the potential range for a first class C felony offender would normally be from zero to two years. Suzanne D. DiPietro, "The Development of Appellate Sentencing Law in Alaska," *Alaska Law Review*, Vol. 7, No. 2, December 1990, p. 283, citing *Austin v. State* 627 P.2d 657 (Alaska App. 1981).

⁷ AS 12.55.125(e). Sentencing of Imprisonment for [class C] Felonies.

⁸ AS 12.55.165. Extraordinary Circumstances. AS 12.55.175. Three-Judge Sentencing Panel.

⁹ AS 28.35.030(o)(4), and *Clarke v. State*, at 1151.

¹⁰ Chapter 80 SLA 1995, effective September 13, 1995, made a third or subsequent DWI or breath test offense within five years a class C felony.

Table 1: Mandatory Minimum Sentences for Felony DWI

Number of Prior Convictions for DWI within Preceding 10 Years <small>AS 28.35.030(a)(4)</small>	Mandatory Minimum Time Sentenced <small>AS 28.35.030(n)(1)</small>
2	120 days
3	240 days
4 or more	360 days

Notes and Sources: Under AS 28.35.030(n), a person is guilty of a class C felony if convicted for driving while intoxicated and has previously been convicted two or more times within the five years preceding the date of the current offense. Although designation of the crime as a felony hinges on convictions for similar crimes *within the preceding five years*, the mandatory minimum sentences hinge on convictions for such crimes *within the preceding ten years*. Convictions for additional charges could increase the sentences imposed. Second and subsequent felony offenders would also be subject to presumptive terms under AS 12.55.125-175.

The law also provides that the court may suspend neither the imposition of the sentence nor the execution of the minimum term. Further, the court may not grant probation except on the condition that the offender serve the minimum term of imprisonment first.¹¹

Whereas a presumptive term represents the legislature's judgment on the typical or average sentence, a mandatory minimum represents the legislature's judgment concerning the "minimum sentence . . . appropriate for [an] offender whose conduct is the least serious contemplated by the definition of the offense."¹² Because a more specific sentencing statute—such as the mandatory minimums established for felony DWI—takes precedence over the general sentencing statute, a mandatory minimum would modify a sentencing range and presumptive term that would otherwise apply.¹³

Thus, this specific offense—felony DWI—is governed both by the usual rules of presumptive felony sentencing codified in AS 12.55.125-175, and by the mandatory minimum sentences established in AS 28.35.030(n). The minimum sentences listed in AS 28.35.030(n) represent the absolute minimum amount of jail time that a felony DWI offender will be sentenced to serve under any circumstances, as noted recently in *Clark v. State* by the Alaska Court of Appeals.

¹¹ AS 28.35.030(n). The law contains additional requirements; we have only listed those directly related to an offender's term of imprisonment. Although throughout this report we refer to "imprisonment," and other terms generally understood to mean "jail," we note that some offenders officially so described may actually be in halfway houses, treatment centers, or on electronic monitoring. According to Bruce Richards, special assistant with the Department of Corrections, the actual placement of a third time DWI offender is based on a risk assessment conducted by the department. Depending on the assessment, an offender may be eligible for alternative placement under AS 33.30.101 and AS 33.30.161. An otherwise eligible inmate would be allowed to apply for such placement after serving one-third of the original sentence less the one-third reduction in good time. For example, according to Mr. Richards, an offender sentenced to three years would be eligible to apply after serving one-third of two years (the three-year sentence less the one-year good time reduction).

¹² *Middaeton v. Anchorage*, 673 P.2d 283, 284 (Alaska App. 1983), cited in *Clarke v. State*, at 1150.

¹³ *Clark v. State*, at 1151.