

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

10855 HOUSE JUDICIARY

## FALSE AND MISLEADING ADVERTISING

Commercial speech is protected under the First Amendment of the U.S. Constitution, but there is no constitutional protection for false or misleading advertising. For example, any advertisement that targets underage persons for alcohol sales or consumption (the typology immediately following this one) can be interpreted as misleading because it invites an illegal transaction. Although legal interpretations of the terms "false", "misleading", and "targeting minors" are not well developed as they apply to alcohol advertising, a state with such a provision provides a basis for conducting investigations, establishing specific rules regarding ad content that is attractive to minors, and developing remedies to ensure that the ads will not be misleading.

In the typology below, we note the states with laws that expressly prohibit false and misleading advertising. All but two of these states (Maryland and Tennessee) cover all types of alcoholic beverages (distilled spirits, wine, and beer). We also list specific references to the type of advertising in which false and misleading claims are prohibited (newspapers and magazines, outdoor advertising, and electronic media). At present, 30 states have policies prohibiting false and misleading advertising.

### False and Misleading Advertising

|                          | False and Misleading Provision | Advertising Type         |                     |                  |               |
|--------------------------|--------------------------------|--------------------------|---------------------|------------------|---------------|
|                          |                                | Newspapers and Magazines | Outdoor Advertising | Electronic Media | Not Specified |
| Alabama                  | √                              |                          |                     |                  | √             |
| Alaska                   |                                |                          |                     |                  |               |
| Arizona                  |                                |                          |                     |                  |               |
| Arkansas                 |                                |                          |                     |                  |               |
| California               |                                |                          |                     |                  |               |
| Colorado                 |                                |                          |                     |                  |               |
| Connecticut <sup>1</sup> | √                              |                          |                     |                  | √             |
| Delaware                 | √                              | √                        | √                   | √                |               |
| District of Columbia     | √                              |                          |                     |                  | √             |
| Florida                  |                                |                          |                     |                  |               |
| Georgia                  | √                              |                          |                     |                  | √             |
| Hawaii                   |                                |                          |                     |                  |               |
| Idaho                    | √                              | √                        | √                   | √                |               |
| Illinois                 | √                              |                          |                     |                  | √             |
| Indiana                  |                                |                          |                     |                  |               |
| Iowa                     |                                |                          |                     |                  |               |
| Kansas                   | √                              |                          |                     |                  | √             |
| Kentucky                 | √                              |                          |                     |                  | √             |
| Louisiana                |                                |                          |                     |                  |               |
| Maine                    |                                |                          |                     |                  |               |
| Maryland <sup>2</sup>    | √                              |                          |                     |                  | √             |
| Massachusetts            | √                              |                          |                     |                  | √             |
| Michigan <sup>1</sup>    | √                              |                          |                     |                  | √             |
| Minnesota                | √                              |                          |                     |                  | √             |
| Mississippi <sup>1</sup> | √                              |                          |                     |                  | √             |

<sup>1</sup> The relevant provisions for Connecticut, Michigan, and Mississippi are found outside the ABC code.

<sup>2</sup> In Maryland and Tennessee, the provisions apply only to distilled spirits and wine.

|                            | False and Misleading Provision | Advertising Type         |                     |                  |               |
|----------------------------|--------------------------------|--------------------------|---------------------|------------------|---------------|
|                            |                                | Newspapers and Magazines | Outdoor Advertising | Electronic Media | Not Specified |
| Missouri                   | √                              |                          |                     |                  | √             |
| Montana                    |                                |                          |                     |                  |               |
| Nebraska                   | √                              |                          |                     |                  | √             |
| Nevada                     |                                |                          |                     |                  |               |
| New Hampshire              | √                              |                          |                     |                  | √             |
| New Jersey                 | √                              |                          |                     |                  | √             |
| New Mexico                 |                                |                          |                     |                  |               |
| New York <sup>3</sup>      | √                              |                          |                     |                  | √             |
| North Carolina             | √                              |                          |                     |                  | √             |
| North Dakota               |                                |                          |                     |                  |               |
| Ohio                       |                                |                          |                     |                  |               |
| Oklahoma                   |                                |                          |                     |                  |               |
| Oregon                     | √                              |                          |                     |                  | √             |
| Pennsylvania               | √                              |                          |                     |                  | √             |
| Rhode Island               |                                |                          |                     |                  |               |
| South Carolina             |                                |                          |                     |                  |               |
| South Dakota               |                                |                          |                     |                  |               |
| Tennessee <sup>2</sup>     | √                              | √                        |                     |                  |               |
| Texas                      | √                              | √                        | √                   | √                |               |
| Utah                       | √                              |                          |                     |                  | √             |
| Vermont                    | √                              | √                        | √                   | √                |               |
| Virginia                   | √                              |                          |                     |                  | √             |
| Washington <sup>4</sup>    | √                              |                          | √                   |                  | √             |
| West Virginia <sup>5</sup> | √                              |                          |                     | √                |               |
| Wisconsin                  |                                |                          |                     |                  |               |
| Wyoming                    | √                              |                          |                     |                  | √             |
| <b>State Totals</b>        | <b>30</b>                      | <b>5</b>                 | <b>5</b>            | <b>5</b>         | <b>24</b>     |

<sup>3</sup> In New York, the provision applies only to package stores.

<sup>4</sup> Washington has two provisions that relate to false and misleading advertising: one deals with outdoor advertising, and one does not specify the type of advertising.

<sup>5</sup> Virginia does not allow radio or TV ads for alcoholic beverages. A Constitutional issue concerning content-based restrictions and First Amendment protections may be relevant here.

## ADVERTISING THAT TARGETS MINORS

Legal provisions in many states prohibit ads of any type in which advertisers intend to target children, minors, or those under the legal drinking age, or encourage them, induce them, or make a special appeal to them to buy or consume alcoholic beverages. Targeting minors provisions can also prohibit advertising that uses images of children or models who are under the legal drinking age. We have focused on the specific wording of each statute because, although a state agency can pursue legal action against such ads through false or misleading provisions, enforcement is much easier when there is a specific provision against targeting minors. On the other hand, a provision that is poorly drafted will probably undermine a general false or misleading statute; a court is likely to conclude that the state legislature intended the targeting minors provisions to override (or serve as an interpretation of) a general false and misleading provision. For this reason, if a state has a targeting minors provision, it is important that the scope of the provision not be unduly restricted.

At present, 25 states have provisions of the type analyzed for this report. The variables in the chart below are defined as follows:

- **Reference**—this variable describes how the legal provision defines the audience that is not to be targeted. Nine states use the term “children” while six states refer to those “under the legal drinking age.” Fourteen states refer to “minors”, and in Kentucky and New Mexico the audience is not specified.
- **Placement**—nine states prohibit the placement of alcohol advertisements in school-related locations (this may include schools, universities, school buses, and yearbooks). Three states prohibit advertising near churches, and three states prohibit advertisements near playgrounds.
- **Symbols**—states may also restrict the use of symbols that can be depicted in advertisements. Six states prohibit the use of symbols of children; four states restrict symbols related to holidays such as Christmas or Easter; and five states prohibit the use of toys or other items that might appeal to children.
- **Wording**—seven states prohibit advertising that “induces” minors to drink; five states prohibit advertising that “encourages” minors to drink; and eight states prohibit advertising that “makes a special appeal” to minors. In some states, more than one of these phrases may be used to prohibit advertising that targets minors.

## Advertising That Targets Minors

|                                   | Targets Minors | Reference |                          |        | Placement      |          |              | Symbols             |          |      | Wording |            |                      |
|-----------------------------------|----------------|-----------|--------------------------|--------|----------------|----------|--------------|---------------------|----------|------|---------|------------|----------------------|
|                                   |                | Children  | Under Legal Drinking Age | Minors | School Related | Churches | Play-grounds | Symbols of Children | Holidays | Toys | Induces | Encourages | Makes Special Appeal |
| Alabama                           | √              |           |                          | √      |                |          |              |                     |          |      |         |            | √                    |
| Alaska                            |                |           |                          |        |                |          |              |                     |          |      |         |            |                      |
| Arizona                           |                |           |                          |        |                |          |              |                     |          |      |         |            |                      |
| Arkansas                          |                |           |                          |        |                |          |              |                     |          |      |         |            |                      |
| California <sup>1</sup>           | √              |           |                          | √      |                |          |              |                     |          | √    |         | √          |                      |
| Colorado                          |                |           |                          |        |                |          |              |                     |          |      |         |            |                      |
| Connecticut                       | √              | √         |                          |        |                |          |              | √                   | √        | √    |         |            |                      |
| Delaware                          | √              |           |                          | √      |                |          |              |                     |          |      | √       |            |                      |
| District of Columbia <sup>2</sup> | √              | √         |                          |        |                |          |              |                     | √        | √    |         |            | √                    |
| Florida                           |                |           |                          |        |                |          |              |                     |          |      |         |            |                      |
| Georgia                           | √              |           | √                        |        |                |          |              |                     |          |      |         |            |                      |
| Hawaii                            |                |           |                          |        |                |          |              |                     |          |      |         |            |                      |
| Idaho                             |                |           |                          |        |                |          |              |                     |          |      |         |            |                      |
| Illinois                          | √              | √         |                          |        |                |          |              |                     |          |      |         |            | √                    |
| Indiana                           |                |           |                          |        |                |          |              |                     |          |      |         |            |                      |
| Iowa                              |                |           |                          |        |                |          |              |                     |          |      |         |            |                      |
| Kansas                            |                |           |                          |        |                |          |              |                     |          |      |         |            |                      |
| Kentucky <sup>3</sup>             | √              |           |                          |        |                |          |              |                     |          |      |         |            |                      |
| Louisiana                         |                |           |                          |        |                |          |              |                     |          |      |         |            |                      |
| Maine                             | √              |           |                          | √      |                |          |              |                     |          |      | √       |            |                      |
| Maryland                          |                |           |                          |        |                |          |              |                     |          |      |         |            |                      |
| Massachusetts                     |                |           |                          |        |                |          |              |                     |          |      |         |            |                      |
| Michigan <sup>4</sup>             | √              |           |                          | √      |                |          |              |                     |          |      |         |            |                      |
| Minnesota                         | √              | √         |                          |        | √              |          |              | √                   |          | √    |         |            | √                    |
| Mississippi <sup>5</sup>          | √              | √         |                          |        |                |          |              |                     |          |      |         |            |                      |
| Missouri                          |                |           |                          |        |                |          |              |                     |          |      |         |            |                      |
| Montana                           |                |           |                          |        |                |          |              |                     |          |      |         |            |                      |
| Nebraska                          | √              | √         |                          | √      |                |          |              | √                   |          |      |         |            |                      |
| Nevada                            |                |           |                          |        |                |          |              |                     |          |      |         |            |                      |
| New Hampshire                     | √              |           | √                        | √      | √              |          |              |                     |          |      | √       |            |                      |
| New Jersey                        | √              | √         |                          | √      |                |          |              | √                   |          |      | √       |            |                      |
| New Mexico                        | √              |           |                          |        | √              |          |              |                     |          |      |         |            |                      |
| New York                          |                |           |                          |        |                |          |              |                     |          |      |         |            |                      |
| North                             | √              |           | √                        |        | √              |          |              |                     |          |      | √       |            |                      |

<sup>1</sup> California includes language that prohibits "the use in any advertisement of alcoholic beverages of any subject matter, language, or slogan addressed to and intended to encourage minors to drink the alcoholic beverages."

<sup>2</sup> The District of Columbia prohibits "the use of any picture or illustration depicting a child or immature person...."

<sup>3</sup> Kentucky has a general alcohol advertising provision that prohibits scenes of family or the home.

<sup>4</sup> Michigan has a general alcohol advertising provision that prohibits any references to minors on alcohol cartoons or containers.

<sup>5</sup> Mississippi has a provision that prohibits TV ads five minutes before or after a program that consists primarily of animated material intended for children.

|                         | Targets<br>Minors | Reference |                                   |           | Placement         |          |                  | Symbols                   |          |          | Wording  |                 |                            |
|-------------------------|-------------------|-----------|-----------------------------------|-----------|-------------------|----------|------------------|---------------------------|----------|----------|----------|-----------------|----------------------------|
|                         |                   | Children  | Under<br>Legal<br>Drinking<br>Age | Minors    | School<br>Related | Churches | Play-<br>grounds | Symbols<br>of<br>Children | Holidays | Toys     | Induces  | Encou-<br>rages | Makes<br>Special<br>Appeal |
| Carolina                |                   |           |                                   |           |                   |          |                  |                           |          |          |          |                 |                            |
| North<br>Dakota         |                   |           |                                   |           |                   |          |                  |                           |          |          |          |                 |                            |
| Ohio                    | √                 | √         |                                   |           | √                 | √        | √                | √                         | √        |          |          |                 |                            |
| Oklahoma                |                   |           |                                   |           |                   |          |                  |                           |          |          |          |                 |                            |
| Oregon                  | √                 |           |                                   | √         |                   |          |                  |                           |          |          |          | √               | √                          |
| Pennsylvania            | √                 |           | √                                 | √         | √                 | √        | √                |                           |          |          |          |                 |                            |
| Rhode<br>Island         |                   |           |                                   |           |                   |          |                  |                           |          |          |          |                 |                            |
| South<br>Carolina       |                   |           |                                   |           |                   |          |                  |                           |          |          |          |                 |                            |
| South<br>Dakota         |                   |           |                                   |           |                   |          |                  |                           |          |          |          |                 |                            |
| Tennessee               |                   |           |                                   |           |                   |          |                  |                           |          |          |          |                 |                            |
| Texas                   |                   |           |                                   |           |                   |          |                  |                           |          |          |          |                 |                            |
| Utah                    | √                 |           |                                   | √         | √                 |          |                  | √                         | √        |          |          | √               | √                          |
| Vermont                 | √                 |           | √                                 |           |                   |          |                  |                           |          |          |          | √               | √                          |
| Virginia                | √                 |           |                                   | √         | √                 |          |                  |                           |          |          | √        |                 |                            |
| Washington              | √                 | √         | √                                 | √         | √                 | √        | √                |                           |          | √        |          |                 | √                          |
| West<br>Virginia        | √                 |           |                                   | √         |                   |          |                  |                           |          |          | √        | √               |                            |
| Wisconsin               |                   |           |                                   |           |                   |          |                  |                           |          |          |          |                 |                            |
| Wyoming                 |                   |           |                                   |           |                   |          |                  |                           |          |          |          |                 |                            |
| <b>State<br/>Totals</b> | <b>25</b>         | <b>9</b>  | <b>6</b>                          | <b>14</b> | <b>9</b>          | <b>3</b> | <b>3</b>         | <b>6</b>                  | <b>4</b> | <b>5</b> | <b>7</b> | <b>5</b>        | <b>8</b>                   |

## HAPPY HOURS AND DRINK SPECIALS

Excessive drinking practices include happy hours, all-you-can-drink specials, unlimited quantities of alcohol for one low price (usually during specified hours), ladies' nights, two-for-one promotions, nickel pitchers, and other practices that encourage customers of bars and restaurants to drink large quantities of alcohol quickly thereby reducing the incentive to monitor consumption levels and drink responsibly. The consequences of this high-risk drinking include automobile crashes and fatalities, injuries, unplanned sexual activity, assault, rape, and property damage.

In this analysis, we focused on state statutes and regulations that specifically targeted happy hour types of promotions. At present, 27 states have such a provision. Although some states may have provisions that prohibit awarding alcohol as a prize or providing free beverages, in other parts of statutory or regulatory codes as a stand-alone statute or regulation, the information below focuses on states with provisions expressly prohibiting excessive drinking practices. Additionally, several states, such as New Hampshire, have separate provisions prohibiting advertising happy hours or happy hour-related activities, such as ladies' nights. We did not include these provisions in this analysis.

The variables found in the chart below are defined as follows:

- **Free beverages**—ten states have happy hour provisions that contain specific prohibitions against the distribution of free alcoholic beverages.
- **Additional servings**—16 states prohibit an establishment from providing additional servings of alcoholic beverages until previous servings have been consumed.
- **Reduced price – specified day or time**—18 states prohibit the sale of alcoholic beverages at reduced prices during a specified days or time.
- **Unlimited beverages – fixed price, fixed time**—23 states prohibit the sale of alcoholic beverages during a fixed period of time for a fixed price.
- **Increased volume**—12 states prohibit increasing the volume of alcoholic beverages in a drink without increasing the price.
- **Prizes**—15 states have happy hour provisions that contain specific prohibitions against giving alcoholic beverages as prizes.

### Happy Hours and Drink Specials

|                        | Happy Hours and/or Drink Specials | Free Beverages | Additional Servings | Reduced Price - Specified Day or Time | Unlimited Beverages - Fixed Price, Fixed Time | Increased Volume | Prizes |
|------------------------|-----------------------------------|----------------|---------------------|---------------------------------------|---|------------------|--------|
| Alabama                | √                                 |                |                     | √                                     | √   |                  |        |
| Alaska                 | √                                 | √              | √                   | √                                     | √   |                  | √      |
| Arizona                | √                                 |                | √                   |                                       | √   |                  |        |
| Arkansas               |                                   |                |                     |                                       |   |                  |        |
| California             |                                   |                |                     |                                       |   |                  |        |
| Colorado               |                                   |                |                     |                                       |   |                  |        |
| Connecticut            | √                                 |                | √                   |                                       | √   |                  | √      |
| Delaware               | √                                 |                |                     | √                                     | √   |                  | √      |
| District of Columbia   |                                   |                |                     |                                       |   |                  |        |
| Florida                |                                   |                |                     |                                       |   |                  |        |
| Georgia                |                                   |                |                     |                                       |   |                  |        |
| Hawaii                 |                                   |                |                     |                                       |   |                  |        |
| Idaho                  |                                   |                |                     |                                       |   |                  |        |
| Illinois               | √                                 |                | √                   | √                                     | √   | √                | √      |
| Indiana                | √                                 |                | √                   | √                                     |   |                  |        |
| Iowa                   |                                   |                |                     |                                       |   |                  |        |
| Kansas                 | √                                 | √              |                     | √                                     | √   | √                | √      |
| Kentucky               |                                   |                |                     |                                       |   |                  |        |
| Louisiana <sup>1</sup> | √                                 |                |                     |                                       | √   |                  |        |
| Maine                  | √                                 | √              | √                   |                                       | √   |                  | √      |
| Maryland               |                                   |                |                     |                                       |   |                  |        |
| Massachusetts          | √                                 | √              | √                   | √                                     | √   | √                | √      |
| Michigan               | √                                 |                |                     |                                       | √   |                  | √      |
| Minnesota              |                                   |                |                     |                                       |   |                  |        |
| Mississippi            |                                   |                |                     |                                       |   |                  |        |
| Missouri               |                                   |                |                     |                                       |   |                  |        |
| Montana                |                                   |                |                     |                                       |   |                  |        |
| Nebraska               | √                                 |                |                     |                                       | √   |                  |        |
| Nevada                 |                                   |                |                     |                                       |   |                  |        |
| New Hampshire          |                                   |                |                     |                                       |   |                  |        |
| New Jersey             | √                                 |                |                     |                                       | √   | √                | √      |
| New Mexico             | √                                 | √              | √                   | √                                     | √   |                  | √      |
| New York               | √                                 | √              |                     |                                       | √   |                  |        |
| North Carolina         | √                                 |                |                     | √                                     | √   |                  |        |
| North Dakota           |                                   |                |                     |                                       |   |                  |        |
| Ohio                   | √                                 |                | √                   | √                                     | √   | √                | √      |
| Oklahoma               | √                                 |                | √                   | √                                     | √   | √                | √      |
| Oregon <sup>2</sup>    |                                   |                |                     |                                       |   |                  |        |
| Pennsylvania           | √                                 |                | √                   | √                                     | √   | √                |        |
| Rhode Island           | √                                 | √              | √                   | √                                     | √   | √                | √      |

<sup>1</sup> In Louisiana, selling or serving alcoholic beverages at a fixed price after 10 p.m. is prohibited.

<sup>2</sup> Although Oregon has no happy hour statute per se, it does have a provision that prohibits providing alcohol as prizes.

|                     | Happy Hours and/or Drink Specials | Free Beverages | Additional Servings | Reduced Price - Specified Day or Time | Unlimited Beverages - Fixed Price, Fixed Time | Increased Volume | Prizes    |
|---------------------|-----------------------------------|----------------|---------------------|---------------------------------------|---|------------------|-----------|
| South Carolina      | √                                 | √              |                     | √                                     |   |                  |           |
| South Dakota        |                                   |                |                     |                                       |   |                  |           |
| Tennessee           | √                                 | √              | √                   | √                                     | √   | √                | √         |
| Texas               | √                                 |                | √                   | √                                     | √   | √                |           |
| Utah                |                                   |                |                     |                                       |   |                  |           |
| Vermont             | √                                 |                | √                   |                                       |   | √                |           |
| Virginia            | √                                 | √              | √                   | √                                     | √   | √                | √         |
| Washington          | √                                 |                |                     | √                                     |   |                  |           |
| West Virginia       |                                   |                |                     |                                       |   |                  |           |
| Wisconsin           |                                   |                |                     |                                       |   |                  |           |
| Wyoming             |                                   |                |                     |                                       |   |                  |           |
| <b>State Totals</b> | <b>27</b>                         | <b>10</b>      | <b>16</b>           | <b>18</b>                             | <b>23</b>                                     | <b>12</b>        | <b>15</b> |

## Conclusion

The analyses of these policies relating to key provisions of alcohol beverage control laws reveal that there are considerable discrepancies in the ways in which states regulate the sale and consumption of alcohol in the United States. Key findings produced by the study include:

- Four states prohibit the purchase of alcohol by a minor only if the minor makes a false statement or representation of age in order to purchase the alcohol.
- Ten states allow minors to possess alcohol in any private location, including any private residence or venue.
- Three states do not prohibit the furnishing of alcohol to intoxicated individuals.
- Thirteen states require some type of mandatory Responsible Beverage Service (RBS), and 11 states provide incentives for retailers to participate. Three of the states with voluntary programs provide protection against license revocation for sales to minors or intoxicated persons if the licensee has participated in RBS training.
- Twenty-two states have passed keg registration laws, but the requirements vary widely from the definition of what constitutes a keg to the type of purchaser information required.
- Twenty-five states prohibit alcohol advertising that target minors.

Our analysis highlights the importance of understanding state laws that address underage consumption and drinking to intoxication. The presence or absence of a law may have a significant effect on the rate of alcohol-related problems in a state, particularly alcohol-related motor vehicle crashes. A law's wording, or the inclusion of an exception, may undercut the ability of law enforcement officials, regulatory agencies, and the courts to enforce it, thereby negating the law's intended effect. Research is needed to assess the impact of these laws and the variations across jurisdictions. When researchers engage in this work, it is important that they note the variations and loopholes in provisions to ensure accurate interpretation of results.

Our report provides a first, important step in assessing these state laws. There are several limitations that have already been noted. Most important, we do not include any analysis of local legislation, and we have not researched case law interpretations. These critical aspects of a comprehensive legal analysis are more appropriately accomplished on a state-by-state basis. Our goal is to provide an overview and introduction to the subject that can serve as an important starting point for researchers, policymakers, public health and law enforcement officials, and community organizations across the country.

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### FOR IMMEDIATE RELEASE

## **Nationwide Strategy to Combat Underage Drinking Requires Shared Responsibility; Action Also Needed to Improve Compliance With Laws**

WASHINGTON -- More young people drink alcohol than use other drugs or smoke tobacco, and underage drinking costs the nation an estimated \$53 billion annually in losses stemming from traffic fatalities, violent crime, and other behaviors that threaten the well-being of America's youth. Curbing underage drinking is an uphill battle because alcohol is legal and readily available to adults. To tackle the problem, a new report from the National Research Council and Institute of Medicine of the National Academies offers a comprehensive strategy

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that requires a deep, shared commitment from many institutions and individuals, including alcohol manufacturers and retail businesses, the entertainment industry, and parents and other adults in local communities.

Federal and state governments should help forge the commitment to curtail alcohol consumption by minors, the report adds. For example, the federal government should do more to educate adults about existing laws and the consequences of underage drinking. Federal and state governments also should provide additional financial assistance and other support to reinforce community-based initiatives, and to research the effectiveness of the proposed strategy itself and related policies.

"All segments of U.S. society should address underage drinking in a serious, coordinated, and sustained manner," said Richard J. Bonnie, John S. Battle Professor of Law and director of the Institute of Law, Psychiatry, and Public Policy at the University of Virginia, Charlottesville, and chair of the committee that wrote the report. "We have to find effective ways to protect our nation's youth while we respect the interests of responsible adult consumers of alcohol. The recommendations in this report attempt to strike the right balance." The congressionally mandated study lays out a strategy that includes heightened adult supervision of children's behavior and calls upon the alcohol and entertainment industries to take stronger steps to shield young people from unsuitable messages about alcohol consumption. Taken as a whole, the plan would have a considerable impact, the committee said, adding that the strategy should be subject to ongoing refinement.

To fund the proposed activities and to help reduce underage consumption, Congress and state legislatures should raise excise tax rates on alcohol – particularly on beer, which studies show is the alcoholic beverage that most young people prefer. Alcohol is much cheaper today, after adjusting for inflation, than it was 30 to 40 years ago. Higher tax rates should be tied to the Consumer Price Index to keep pace with inflation. Increasing the cost of alcohol has well-documented deterrent effects on underage drinkers, the report points out.

### **A National Wake-Up Call**

Most adults express concern about underage drinking and voice support for public policies to

curb it. Yet surveys show that youth often obtain alcohol from adults. Studies also show that many parents underestimate both the extent of the problem and their own children's alcohol-consumption habits.

States and localities should use a wide range of educational and enforcement measures to boost compliance with laws that prohibit selling or providing alcohol to children, adolescents, and young adults under the legal drinking age of 21. The aim is to deter adults and youths alike, the report says. Among the recommended steps are increasing the frequency of compliance checks, in which authorities monitor whether businesses are obeying minimum-drinking-age laws and levy fines when necessary, and requiring all sellers and servers of alcohol to complete state-approved training as a condition of employment. Likewise, the federal government should require states to achieve specified rates of retailer compliance with youth-access laws as a condition of receiving federal funds. And states should enhance efforts to prevent and detect the use of false identification by minors who want to purchase alcohol – for example, by issuing driver's licenses and state ID cards that can be electronically scanned.

In addition, states that allow Internet sales and home delivery of alcohol should adopt regulations that require customers to sign statements verifying their identity and age at the time of delivery. At the local level, police, working with community leaders, should create policies for detecting and shutting down underage drinking parties, the report says.

State and local leaders should develop efforts to reduce underage drinking that are tailored to specific circumstances of the problem in their communities, the report says. A broad range of public and private organizations and institutions, including the federal government, should encourage and fund community efforts that have a solid science base.

Likewise, the federal government should fund and actively support the development of a national media campaign to encourage parents and other adults to take steps in their own households and neighborhoods to discourage underage drinking. Officials should carefully craft this activity to make sure that it would reach a diverse audience, the report says.

All intervention and education programs, the committee stressed, should be rigorously

evaluated.

### **Roles for Alcohol and Entertainment Industries**

A substantial portion of alcohol advertising reaches an underage audience or is presented in a style that is attractive to youth, the report says. For example, television ads for alcohol often appear during programs where the percentage of underage viewers is greater than their percentage in the overall U.S. population.

The committee recommended that trade associations in the alcohol industry and individual companies strengthen their advertising codes to prohibit placement of commercial messages in venues where a large portion of the audience is underage. These groups also should establish independent, external review boards to investigate complaints about ads and enforce codes. In 1999 the Federal Trade Commission issued similar recommendations urging the industry to toughen its advertising standards for alcoholic beverages. For years, those standards have permitted ad placement in media where adults constitute at least 50 percent of the audience. The industry is expected to soon announce tougher standards that will restrict marketing to audiences with a much larger proportion of adults.

In addition, alcohol companies, advertising firms, and commercial media should refrain from marketing practices -- such as certain product designs or promotion techniques -- that may appeal to young people, the report says.

The alcohol industry also should join with private and public entities to create and fund an independent, nonprofit foundation that is focused solely on preventing and reducing underage drinking, the committee said. The industry currently invests in programs that were established with that stated goal; however, the results of these programs typically are not assessed using rigorous scientific methods.

The entertainment media have key roles to play, too. Officials in the music, television, and film industries should use rating systems and codes to reduce the likelihood that large numbers of young listeners and viewers will be exposed to unsuitable messages about alcohol consumption -- even when adults are expected to make up the majority of the audience. The

Motion Picture Association of America, for instance, should consider content about alcohol use when rating films, and assign mature ratings for movies that portray drinking in a favorable light, the report says.

The overall goal of the committee's broad strategy is to promote public awareness of the importance of reducing underage drinking, as well as greater accountability in mass communication. To this end, Congress should provide funding for the U.S. Department of Health and Human Services to routinely track youth exposure to alcohol ads by monitoring advertising practices. Likewise, HHS should regularly review representative samples of movies, TV programs, music recordings, and videos offered to audiences that are 15 percent or more underage. Findings from this work should be reported to Congress and the public, the committee said. Moreover, HHS should issue a comprehensive report to Congress each year on trends in underage drinking and progress in reducing the problem.

#### **Larger Government Investments Needed**

The use of alcohol among adults is deeply rooted in American culture, and beliefs vary widely about alcohol consumption and expectations for young people. But underage drinking is dangerous, the report emphasizes. It is a significant factor in youth traffic fatalities, and associated with suicide, other violence, and academic failure. When people start drinking in childhood or adolescence, they increase their risk of developing alcohol-related problems as adults.

In the 2002 Monitoring the Future survey, a federally sponsored study, about 72 percent of 12th graders and 39 percent of eighth graders reported that they had consumed some alcohol in the past year. That study also showed that more than a quarter of high school seniors had consumed five or more drinks in a row in the previous two weeks.

Federal and state excise taxes are potentially important tools for preventing and reducing underage drinking and its harmful consequences, the committee concluded. Extensive research indicates that even small changes in these tax rates can decrease the prevalence of drinking among youths, who tend to have limited discretionary income. Current federal excise tax rates of \$2.14 per 750-ml. bottle of 80-proof spirits, 33 cents per six pack of beer, and 21

cents per bottle of wine represent a long downward slide in the value of these taxes. Further, the federal government needs to enhance and better organize research in this area, the report says. A federal, interagency coordinating committee should be formed, with the secretary of HHS serving as chair, to provide national leadership on the topic. HHS should create a National Training and Research Center on Underage Drinking, and collect more detailed data on the problem -- gathering information on regional trends and on brands of alcohol that are popular among young people, for instance. HHS also should issue annual reports on progress in implementing the proposed strategy.

State policy-makers should designate an agency to spearhead and coordinate their activities and programs in this area, the report says. Also, residential colleges and universities, which face serious alcohol-related problems among students under 21, should develop, adopt, and evaluate comprehensive prevention approaches in partnership with local communities.

The report was sponsored by the U.S. Department of Health and Human Services. The National Research Council and the Institute of Medicine are private, nonprofit institutions that provide science and health policy advice under a congressional charter. The Research Council is the principal operating arm of the National Academy of Sciences and the National Academy of Engineering. A committee roster follows.

Pre-publication copies of **Reducing Underage Drinking: A Collective Responsibility** are available from the National Academies Press; tel. 202-334-3313 or 1-800-624-6242 or on the Internet at <http://www.nap.edu>. The cost of the report is \$50.00 (prepaid) plus shipping charges of \$4.50 for the first copy and \$.95 for each additional copy. Reporters may obtain a copy from the Office of News and Public Information (contacts listed above).

NATIONAL RESEARCH COUNCIL  
and  
Institute of Medicine  
Board on Children, Youth, and Families

**Committee on Developing a Strategy to Reduce and Prevent Underage Drinking**

*This document was supported by the Office of Juvenile Justice and Delinquency Prevention, in conjunction with its Enforcing Underage Drinking Laws program. The opinions in this document do not necessarily reflect the official position of the US Department of Justice.*

Using Alcohol Policy to Reduce Underage Drinking: Strategies that Work

The Underage Drinking Enforcement Center  
Pacific Institute for Research and Evaluation  
Calverton, Maryland

To a large extent, community environments determine whether and how much young people drink.<sup>1</sup> This environment consists of the community's alcohol-related norms and regulations and the availability of alcohol to young people (see figure). Policymakers and concerned citizens can help to shape their community environment to support healthy choices about alcohol use.

#### Controlling Alcohol Availability to Young People

There is no better established principle in prevention than this: If a community makes it more difficult for young people to obtain alcohol, underage drinking is reduced. In addition, because younger drinkers obtain alcohol from older people (friends, siblings, parents, and other adults), reducing the *overall* availability of alcohol in a community will reduce alcohol problems among young people.

- *Enforcement of laws against underage drinking* – Underage drinking laws are among our most important tools to reduce underage drinking, and the better the enforcement, the better the results. Enforcement efforts are most efficient and effective when they focus on adults (retailers, parents, older friends) who provide alcohol to underage drinkers. Nevertheless, enforcement aimed at young people themselves can send a message about community norms and may deter them from attempting to buy alcohol.
- *Reducing overall availability* – Reducing the overall availability of alcohol makes alcohol

less convenient for young people to obtain. It also sends a message to young people that alcohol does not have to be the central feature of social life. One important way to reduce the overall availability is to reduce the number of alcohol outlets relative to community size and population. Communities can also prohibit alcohol outlets in areas that are frequented by young people, for example, near schools. Finally, communities can restrict alcohol availability at public events, such as fairs and festivals or in other public places, such as beaches and parks.

#### Controlling the Ways in Which Alcohol Is Advertised and Promoted

Alcohol advertising and promotions are highly visible features of most community landscapes. The message often conveyed to young people is that drinking is expected, acceptable, and desirable. States and communities can reduce these messages through a variety of strategies:

- Controlling the location and content of outdoor advertising
- Prohibiting the distribution or sale to minors of alcohol promotional material (e.g., T-shirts).
- Restricting or eliminating alcohol industry sponsorship of local community events.

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<sup>1</sup> *Regulatory Strategies for Preventing Youth Access to Alcohol: Best Practices*, Washington, D.C.: OJJDP, USDOJ. Presented at OJJDP National Leadership Conference, 7/11-14/99.

- Community environments can exert powerful controls on drinking among young people
- If a community makes it more difficult for young people to obtain alcohol, underage drinking is reduced
- Alcohol advertising and promotions too often communicate to young people that drinking is expected, acceptable, and desirable

*The National Highway Traffic Safety Administration, under the Department of Transportation, provides a number of resources for the prevention of underage drinking, including the Community How To Guides On Underage Drinking Prevention. NHTSA also funds the National Association of Governors' Highway Safety Representatives' Underage Drinking Prevention Project (UDPP). The UDPP uses a comprehensive, community-based approach to address the issue of underage drinking.*

#### The Effects of Lowered Legal Blood Alcohol Limits for Young Drivers

Alexander Wagenaar, Ph.D.\*, Patrick O'Malley, Ph.D.\*\*, and Colette

be detected.

Tapert, S., Brown, G., Kinderman, S., Cheung, E., Frank, L., and Brown., S. fMRI measurement of brain dysfunction in alcohol-dependent young women. *Alcoholism: Clinical and Experimental Research*, 25(2):236-245, 2001.

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<sup>1</sup> See *Science, Kids, And Alcohol - Heavy Alcohol Use and Nervous System Development*.

- Evidence is increasing that alcohol-dependent young people experience deficits in cognitive functioning
- Functional magnetic resonance imaging (fMRI) revealed changes in brain functioning that may underlies these deficits
- Heavy drinking patterns leading to withdrawal pose particular threats to brain functioning in young women.

*This document was supported by the Office of Juvenile Justice and Delinquency Prevention, in conjunction with its Enforcing Underage Drinking Laws program. The opinions in this document do not necessarily reflect the official position of the US Department of Justice.*

Enforcement of Underage Drinking Laws: Strategies that Work

The Underage Drinking Enforcement Center

Pacific Institute for Research and Evaluation

Calverton, Maryland

Laws establishing 21 as the minimum purchase age for alcohol (adopted in all states by 1988) have been shown to be extremely effective in reducing underage alcohol consumption and its consequences<sup>1</sup>. According to the National Highway Traffic Safety Administration, the 21-year-old purchase age has saved more than 19,000 young lives through reductions in alcohol-related traffic crashes. There have also been reductions in injuries, homicides, suicides, and other alcohol-related problems.<sup>2,3</sup>

Despite the effectiveness of 21-year-old purchase age laws, more vigorous enforcement would further reduce underage drinking and save even more young lives. Evaluations have shown repeatedly that when the following techniques are applied, rates of sales to minors drop dramatically:

#### **Enforcement aimed at retailers**

Because there are many fewer sellers of alcohol than there are purchasers, strategies aimed at retailers are efficient. They are also very successful in reducing sales of alcohol to minors.<sup>4</sup>

Enforcement aimed at retailers includes the following key elements:

- Vigorous use of compliance checks
- Applying appropriate sanctions to merchants who sell to underage individuals
- Educating merchants regarding their responsibilities under the law
- Developing media coverage and community support for enforcement.

#### **Enforcement aimed at other sources of alcohol**

Young people obtain alcohol from many sources, including older friends and siblings, adults who agree to buy for them, and even parents. Some strategies for reducing these sources of alcohol include:

- Enacting keg registration laws that make the purchasers of kegs of beer responsible if minors are served from those kegs.
- Enforcing laws that prohibit buying alcohol for minors and citing adults who purchase for them
- Holding adults responsible if alcohol is served to minors in their homes
- Conducting enforcement campaigns to prevent or safely disperse parties where minors are drinking.

#### **Enforcement aimed at young people**

Little research is available demonstrating the effectiveness of enforcement aimed at young people. However, enforcement programs, such as "Cops in Shops," send a message about community norms and may deter young people from attempting to buy alcohol. Such youth only-approaches should be used in combination with other proven strategies.

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<sup>4</sup> O'Malley, P., and Wagenaar, A. Effects of minimum drinking age laws on alcohol use, related behaviors, and traffic crash involvement among American youth 1976-1987. *Journal of Studies on Alcohol*, 4:807-818, 1991

<sup>5</sup> Jones, N.; Pieper, C.; and Robertson, L. The effect of legal drinking age on fatal injuries of adolescents and young adults. *American Journal of Public Health* 82:112-115, 1992.

<sup>6</sup> Parker, M., and Rebhun, L. *Alcohol and Homicide: A Deadly combination of Two American Traditions*. Albany, NY: State University of New York Press, 1995.

**HB**

**430**



# Representative Beth Kerttula

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Alaska State Legislature, District 3  
State Capitol • Juneau, Alaska 99801-1182 • (907) 465-4766 • Fax (907) 465-4748  
E-mail: Representative\_Beth\_Kerttula@legis.state.ak.us • <http://www.kerttula.net>

## Sponsor Statement

### House Bill 430

**"An Act relating to employees under 21 years of age in the premises of hotels, restaurants, and eating places that are licensed to sell, serve, deliver, or dispense alcoholic beverages."**

Current law requires parental permission for 18-year-olds who are legal adults to work in establishments that serve alcohol. House Bill 430 would allow 18-year-olds to work in these establishments without parental permission. Under law, they still would not be able to sell, serve, deliver or dispense alcoholic beverages.

This change would clear up difficulties that 18-year-olds have had in finding gainful employment. In one instance, a young man was not able to get a job in a restaurant because there was no one who could sign a work permit for him. He had been a foster child and because he was 18, his foster parents no longer had the right to sign his work permit for him. House Bill 430 would fix this problem.

Thank you for your consideration of House Bill 430.





August 26, 2002

Representative Beth Kerttula  
Alaska State Legislature, District 3  
Room 430  
State Capitol  
Juneau, Alaska 99801-1182

Dear Representative Kerttula,

Recently when trying to hire an eighteen-year-old individual I came across one of those unfortunate situations.

The person, [REDACTED], needed a Work Permit approved by the Department Of Labor. He needed parental permission or permission from his legal guardian to complete the permit. He has no legal guardian as he is eighteen and no readily available access to parental consent.

His work permit was disapproved by the Department of Labor and I have enclosed the information they return to me with a copy of the disapproved permit.

There is no one we should be helping more than [REDACTED]. He is being brought to my premise by someone from *Dreams TFC, Inc.*, is in the Foster care system, and having a State Probation officer's assistance ([REDACTED]) yet is not hirable.

The State Statues should be changed. They should not require parental consent and should not require work permits designed for minors for an eighteen-year-old to work in a restaurant of my type.

Best regards,

H.B. Freer Jr.

Cc [REDACTED] - Foster Parent

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB430-DPS-ABC-2-23-04  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Public Safety  
 Title An act related to employees under 21 years of RDU Statewide Support  
age in the premises of hotels, restaurants, .... Component ABC Board  
 Sponsor Representative Kerttula  
 Requester H. Labor & Commerce Component No. 2690

**Expenditures/Revenues** (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2005    | FY 2006    | FY 2007    | FY 2008    | FY 2009    | FY 2010    |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services      |            |            |            |            |            |            |
| Travel                 |            |            |            |            |            |            |
| Contractual            |            |            |            |            |            |            |
| Supplies               |            |            |            |            |            |            |
| Equipment              |            |            |            |            |            |            |
| Land & Structures      |            |            |            |            |            |            |
| Grants & Claims        |            |            |            |            |            |            |
| Miscellaneous          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

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| <b>CHANGE IN REVENUES ( )</b> |  |  |  |  |  |  |
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**FUND SOURCE** (Thousands of Dollars)

|   |            |            |            |            |            |            |
|---|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts                   |            |            |            |            |            |            |
| 1003 GF Match                           |            |            |            |            |            |            |
| 1004 GF                                 |            |            |            |            |            |            |
| 1005 GF/Program Receipts                |            |            |            |            |            |            |
| 1037 GF/Mental Health                   |            |            |            |            |            |            |
| Other (Specify Type--Do not abbreviate) |            |            |            |            |            |            |
| <b>TOTAL</b>                            | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

Estimate of any current year (FY2004) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |

**ANALYSIS:** (Attach a separate page if necessary)

No fiscal impact is anticipated by the Department of Public Safety.

Prepared by: Douglas B. Griffin, Director Phone 269-0350  
 Division ABC Board Date/Time 2/23/04 8:25 AM  
 Approved by: Commissioner William Tandeske Date 2/23/2004  
 Agency Department of Public Safety

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: HB430-DOLWD-WH-02-20-04  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_  
Title: Employees under 21 at Licensed Premises

Department: Labor and Workforce Development  
RDU: Labor Standards & Safety  
Component: Wage & Hour

Sponsor: Representative Kerttula  
Requester: House Labor & Commerce

Component Number: 345

**Expenditures/Revenues** (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2005    | FY 2006    | FY 2007    | FY 2008    | FY 2009    | FY 2010    |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services      |            |            |            |            |            |            |
| Travel                 |            |            |            |            |            |            |
| Contractual            |            |            |            |            |            |            |
| Supplies               |            |            |            |            |            |            |
| Equipment              |            |            |            |            |            |            |
| Land & Structures      |            |            |            |            |            |            |
| Grants & Claims        |            |            |            |            |            |            |
| Miscellaneous          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

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| <b>CHANGE IN REVENUES ( )</b> |  |  |  |  |  |  |
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**FUND SOURCE** (Thousands of Dollars)

|   |            |            |            |            |            |            |
|---|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts                   |            |            |            |            |            |            |
| 1003 GF Match                           |            |            |            |            |            |            |
| 1004 GF                                 |            |            |            |            |            |            |
| 1005 GF/Program Receipts                |            |            |            |            |            |            |
| 1037 GF/Mental Health                   |            |            |            |            |            |            |
| Other (Specify Type--Do not abbreviate) |            |            |            |            |            |            |
| <b>TOTAL</b>                            | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

Estimate of any current year (FY2004) cost: None

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |

**ANALYSIS:** (Attach a separate page if necessary)

There is no anticipated fiscal impact to the department as a result of this legislation.

Prepared by: Grey Mitchell, Director  
Division: Labor Standards & Safety  
Approved by: Greg O'Claray, Commissioner  
Agency: Department of Labor and Workforce Development

Phone: 465-4855  
Date/Time: 2/20/04 11:35 AM  
Date: 2/20/2004







# Representative Beth Kerttula

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Alaska State Legislature District 3

Date: March 24, 2004  
To: Representative Lesil McGuire  
House Judiciary Committee  
From: Representative Beth Kerttula *Beth*  
Re: House Bill 430, 18-year-olds working in restaurants

---

I respectfully request that House Bill 430 be scheduled for a hearing in the House Judiciary Committee.

Attached you will find:

- Bill
- Fiscal Notes
- Sponsor statement
- Letter explaining difficulties
- Letter of support from ABC Board

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: HB 430  
(H) Publish Date: 2/26/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Department: Labor and Workforce Development  
Title: Employees under 21 at Licensed Premises RDU: Labor Standards & Safety  
Sponsor: Representative Kerttula Component: Wage & Hour  
Requester: House Labor & Commerce Component Number: 345

**Expenditures/Revenues** (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2005    | FY 2006    | FY 2007    | FY 2008    | FY 2009    | FY 2010    |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services      |            |            |            |            |            |            |
| Travel                 |            |            |            |            |            |            |
| Contractual            |            |            |            |            |            |            |
| Supplies               |            |            |            |            |            |            |
| Equipment              |            |            |            |            |            |            |
| Land & Structures      |            |            |            |            |            |            |
| Grants & Claims        |            |            |            |            |            |            |
| Miscellaneous          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

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| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
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| <b>CHANGE IN REVENUES ( )</b> |  |  |  |  |  |  |
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**FUND SOURCE** (Thousands of Dollars)

|   |            |            |            |            |            |            |
|---|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts                   |            |            |            |            |            |            |
| 1003 GF Match                           |            |            |            |            |            |            |
| 1004 GF                                 |            |            |            |            |            |            |
| 1005 GF/Program Receipts                |            |            |            |            |            |            |
| 1037 GF/Mental Health                   |            |            |            |            |            |            |
| Other (Specify Type--Do not abbreviate) |            |            |            |            |            |            |
| <b>TOTAL</b>                            | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

Estimate of any current year (FY2004) cost: None  
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |

**ANALYSIS:** (Attach a separate page if necessary)

There is no anticipated fiscal impact to the department as a result of this legislation.

Prepared by: Grey Mitchell, Director Phone 465-4855  
Division: Labor Standards & Safety Date/Time 2/20/04 11:35 AM  
Approved by: Greg O'Claray, Commissioner Date 2/20/2004  
Agency: Department of Labor and Workforce Development

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: HB 430  
 (H) Publish Date: 2/26/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Public Safety  
 Title An act related to employees under 21 years of RDU Statewide Support  
age in the premises of hotels, restaurants, .... Component ABC Board  
 Sponsor Representative Kerttula  
 Requester H. Labor & Commerce Component No. 2690

**Expenditures/Revenues** (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2005    | FY 2006    | FY 2007    | FY 2008    | FY 2009    | FY 2010    |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services      |            |            |            |            |            |            |
| Travel                 |            |            |            |            |            |            |
| Contractual            |            |            |            |            |            |            |
| Supplies               |            |            |            |            |            |            |
| Equipment              |            |            |            |            |            |            |
| Land & Structures      |            |            |            |            |            |            |
| Grants & Claims        |            |            |            |            |            |            |
| Miscellaneous          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

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| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
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| <b>CHANGE IN REVENUES ( )</b> |  |  |  |  |  |  |
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**FUND SOURCE** (Thousands of Dollars)

|   |            |            |            |            |            |            |
|---|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts                   |            |            |            |            |            |            |
| 1003 GF Match                           |            |            |            |            |            |            |
| 1004 GF                                 |            |            |            |            |            |            |
| 1005 GF/Program Receipts                |            |            |            |            |            |            |
| 1037 GF/Mental Health                   |            |            |            |            |            |            |
| Other (Specify Type--Do not abbreviate) |            |            |            |            |            |            |
| <b>TOTAL</b>                            | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

Estimate of any current year (FY2004) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |

**ANALYSIS:** (Attach a separate page if necessary)

No fiscal impact is anticipated by the Department of Public Safety.

Prepared by: Douglas B. Griffin, Director Phone 269-0350  
 Division: ABC Board Date/Time 2/23/04 8:25 AM  
 Approved by: Commissioner William Tandeske Date 2/23/2004  
 Agency: Department of Public Safety



# Representative Beth Kerttula

---

Alaska State Legislature District 3

## Sponsor Statement

### House Bill 430

**"An Act relating to employees under 21 years of age in the premises of hotels, restaurants, and eating places that are licensed to sell, serve, deliver, or dispense alcoholic beverages."**

Current law requires parental permission for 18-year-olds who are legal adults to work in establishments that serve alcohol. House Bill 430 would allow 18-year-olds to work in these establishments without parental permission. Under law, they still would not be able to sell, serve, deliver or dispense alcoholic beverages.

This change would clear up difficulties that 18-year-olds have had in finding gainful employment. In one instance, a young man was not able to get a job in a restaurant because there was no one who could sign a work permit for him. He had been a foster child and because he was 18, his foster parents no longer had the right to sign his work permit for him. House Bill 430 would fix this problem.

Thank you for your consideration of House Bill 430.



August 26, 2002

Representative Beth Kerttula  
Alaska State Legislature, District 3  
Room 430  
State Capitol  
Juneau, Alaska 99801-1182

Dear Representative Kerttula,

Recently when trying to hire an eighteen-year-old individual I came across one of those unfortunate situations.

The person, [REDACTED], needed a Work Permit approved by the Department Of Labor. He needed parental permission or permission from his legal guardian to complete the permit. He has no legal guardian as he is eighteen and no readily available access to parental consent.

His work permit was disapproved by the Department of Labor and I have enclosed the information they return to me with a copy of the disapproved permit.

There is no one we should be helping more than [REDACTED]. He is being brought to my premise by someone from *Dreams TFC, Inc.*, is in the Foster care system, and having a State Probation officer's assistance ([REDACTED]) yet is not hireable.

The State Statues should be changed. They should not require parental consent and should not require work permits designed for minors for an eighteen-year-old to work in a restaurant of my type.

Best regards,

A handwritten signature in black ink that reads 'H.B. Freer Jr.' The signature is written in a cursive, slightly slanted style.

H.B. Freer Jr.

Cc [REDACTED] -- Foster Parent



**State of Alaska**  
Department of Public Safety  
**Alcoholic Beverage Control Board**

Frank H. Murkowski, Governor  
William Tandeske, Commissioner

February 24, 2004

Representative Beth Kerttula  
Alaska House of Representatives  
State Capitol  
Juneau, Alaska 99801-1182

RE: HB 430

Dear Representative Kerttula:

Your office communicated with me by fax regarding concerns or comments I might have regarding HB 430. This bill addresses the issue of work permits, which include written parental or guardian consent, for eighteen year-olds working on liquor licensed premises.

I have reviewed the bill and see no reason that it should not become law. The requirement that eighteen year old persons, many of whom are emancipated from parental control and possess all rights of adults save access to tobacco and alcohol, must receive consent from parents for certain work opportunities is archaic. I believe these young adults are adequately protected by the remaining law that employment on licensed premises cannot involve serving alcohol. This change will address a disparity that now exists between the state's labor and alcohol laws and increase employment opportunities for young adults and the prospective labor pool for employers.

If you have any further specific questions, I will be happy to answer them for you.

Sincerely,

A handwritten signature in cursive script that reads "Douglas B. Griffin".

Douglas B. Griffin  
Director

cc: Lee Ann Lucas, Special Assistant, Department of Public Safety

HB

438

# HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: March 12, 2004

FURTHER REFERRALS:

Date of Committee Action: April 6, 2004

The JUDICIARY Committee considered:

HB 438

HOUSE BILL NO. 438

MOVE OVER LAW FOR DRIVERS

"An Act relating to motorists moving over or slowing down for emergency vehicles."

Recommends it be replaced with  HCS or  CS for HB 438 (JUD)  
 For Senate Bills with new title:  Technical Title  New Title: HCR \_\_\_\_\_  Same Title  New Title



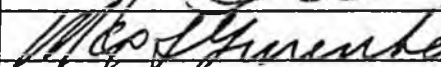
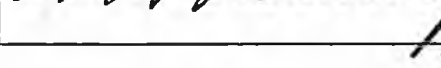
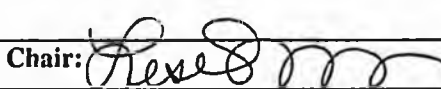
- attach amendments
- add new referral to \_\_\_\_\_ Committee
- Letter of Intent \_\_\_\_\_ Committee

List of  
Abbrev  
for  
Depts.:

- ADM
- CED
- COR
- CRT
- EED
- DEC
- DFG
- GOV
- HSS
- LEG
- LAW
- LWF
- MVA
- DNR
- DPS
- REV
- DOT
- UA

| <u>NEW FISCAL NOTES</u>           |      |        |        |      |
|-----------------------------------|------|--------|--------|------|
| *Assigned by Chief Clerk's Office |      |        |        |      |
| List by Dept(s):                  | *FN# | Fiscal | Indet. | Zero |
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| <u>PREVIOUS FISCAL NOTES</u> |     |        |        |      |
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| List by Dept(s):             | FN# | Fiscal | Indet. | Zero |
| DPS                          | 2   |        |        | ✓    |
| LAW                          | 1   |        |        | ✓    |
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| <u>Signing with recommendations</u>  | Printed Last Name | DP | DNP | NR | AM |
|--|-------------------|----|-----|----|----|
|         | SAMUELS           | X  |     |    |    |
|         | Holm              | ✓  |     |    |    |
|         | Gave              | ✓  |     |    |    |
|         | Gruenberg         | ✓  |     |    |    |
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|  |                   |    |     |    |    |
| Chair:  | McGuire           | ✓  |     |    |    |
| Chair:   |                   |    |     |    |    |





# ALASKA STATE LEGISLATURE

Rep. Lesil McGuire, Chair  
Rep. Tom Anderson, Vice-Chair  
Rep. Jim Holm  
Rep. Dan Ogg  
Rep. Ralph Samuels  
Rep. Les Gara  
Rep. Max Gruenberg



State Capitol, Room 120  
Juneau, AK 99801-1182  
(907) 465-4990  
Fax (907) 465-6592

## House Judiciary Committee

### Memorandum

**To:** Gerry Luckhaupt, Leg. Legal  
**From:** Vanessa Tondini, Committee Aide  
House Judiciary Committee  
**Date:** April 6, 2004  
**Re:** CS Request

---

Please create a final draft House Judiciary Committee Substitute for work order # 23-LS1602\D, HB 438, incorporating the attached amendment (23-LS1602\D.1). The bill was passed out of committee today.

If you have any questions, please call me at 4990. Thank you!

The information attached to this memo is **CONFIDENTIAL** an/or privileged. It is intended to be reviewed initially by only the individual named above. If the reader of this Memorandum is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of the information contained herein is prohibited. If you have received this in error, please immediately notify the sender by telephone and return this to the sender at the above address.

AMENDMENT #1 - PASSED

OFFERED IN THE HOUSE  
TO: CSHB 438(STA)

BY REPRESENTATIVE HOLM

- 1 Page 1, lines 11 - 13:
- 2 Delete all material.
- 3 Insert "fighter, shall slow to a reasonable and prudent speed below the speed limit."



✦ **13 AAC 02.275. Basic rule and maximum limits**

✦ (a) No person may drive a vehicle at a speed greater than is reasonable and prudent considering the traffic, roadway, and weather conditions.

(b) Except when a special hazard exists that requires a lower speed for compliance with (a) of this section, the limits specified in this subsection are the maximum lawful speeds throughout the state, and no person may drive a vehicle at a speed in excess of these maximum limits, unless otherwise posted:

(1) 15 miles per hour in an alley;

(2) 20 miles per hour in a business district;

(3) 25 miles per hour in a residential district; or

(4) 55 miles per hour on any other roadway.

(c) Repealed 6/28/79.

(d) Repealed 6/28/79.

(e) The maximum speed limits set forth in (b) of this section may be altered as authorized in 13 AAC 02.280.

✦ **History:** In effect before 7/28/59; am 12/15/61, Register 3; am 8/10/66, Register 22; am 12/31/69, Register 31; am 7/30/75, Register 55; am 6/28/79, Register 70

✦ **Authority:** AS 28.05.011



# STATE OF ALASKA



*Interim:*

119 North Cushman, Rm. 205  
Fairbanks, Alaska 99701  
(907) 456-7423  
Fax: (907) 451-9293


*Session:*

State Capitol Building  
Juneau, Alaska 99801  
(907) 465-3466  
Fax: (907) 465-2937

## REPRESENTATIVE JIM HOLM DISTRICT 9

DATE: March 9th, 2004

TO: Representative Lesil McGuire, Chair  
House Judiciary Committee

FROM: Representative Jim Holm 

RE: HB 438

Please schedule CSHB 438, (STA) MOVE OVER LAW FOR DRIVERS, for hearing in the House Judiciary Committee at your earliest convenience pending referral. Back-up material is attached.

Thank you very much for your help with this bill.

# CORRECTION

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



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

# STATE OF ALASKA



*Interim:*

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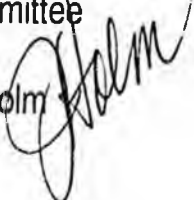
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## REPRESENTATIVE JIM HOLM DISTRICT 9

### HB 438 "Move Over Laws For Drivers" Sponsor Statement

13 FEB 04

***"An Act relating to motorists moving over or slowing down for emergency vehicles."***

HB 438 can save lives and prevent injury.

All over the country law enforcement, emergency, and fire personnel are putting their lives in danger on the roadways. This bill is an opportunity to improve their safety and their working conditions by requiring motorists to slow down and move over.

If Emergency personnel, as defined by statute, are pulled over on the side of the road with their emergency lights on, drivers will be required to slow down to 20 mph below the posted speed limit or to 5 mph on a road less than 25 mph. On a highway with more than two lanes, the motorist will also be required to occupy the lane furthest away from the emergency personnel unless otherwise directed.

This bill is long overdue. Many other states across the nation are adopting such statutes to ensure the safety of their citizens.

**Attachment A**

Official Code of Georgia Annotated  
40-6-16

**Official Code of Georgia Annotated**

40-6-16.

(a) The operator of a motor vehicle approaching a stationary authorized emergency vehicle that is displaying flashing yellow, amber, white, red, or blue lights shall approach the authorized emergency vehicle with due caution and shall, absent any other direction by a peace officer, proceed as follows:

(1) Make a lane change into a lane not adjacent to the authorized emergency vehicle if possible in the existing safety and traffic conditions; or

(2) If a lane change under paragraph (1) of this subsection would be impossible, prohibited by law, or unsafe, reduce the speed of the motor vehicle to a reasonable and proper speed for the existing road and traffic conditions, which speed shall be less than the posted speed limit, and be prepared to stop.

(b) The operator of a motor vehicle approaching a stationary towing or recovery vehicle or a stationary highway maintenance vehicle that is displaying flashing yellow, amber, or red lights shall approach the vehicle with due caution and shall, absent any other direction by a peace officer, proceed as follows:

(1) Make a lane change into a lane not adjacent to the towing, recovery, or highway maintenance vehicle if possible in the existing safety and traffic conditions; or

(2) If a lane change under paragraph (1) of this subsection would be impossible, prohibited by law, or unsafe, reduce the speed of the motor vehicle to a reasonable and proper speed for the existing road and traffic conditions, which speed shall be less than the posted speed limit, and be prepared to stop.

(c) Violation of subsection (a) or (b) of this Code section shall be punished by a fine of \$500.00.

**Attachment B**

Maine Revised Statutes Annotated  
29-A MRSA §2054, sub-§9 and 10

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 29-A MRSA §2054, sub-§9**, as enacted by PL 2001, c. 360, §8, is repealed.

**Sec. 2. 29-A MRSA §2054, sub-§10** is enacted to read:

**10. Stationary authorized emergency vehicles.** The following provisions govern the operator of a vehicle approaching or passing a stationary authorized emergency vehicle that is using an emergency light.

A. With due regard to the safety and traffic conditions, an operator of a vehicle approaching or passing a stationary authorized emergency vehicle that is using an emergency light shall:

(1) Reduce speed and maintain a speed throughout the incident area no greater than is reasonable and prudent under the conditions, including actual and potential hazards then existing;

(2) Vacate any lane wholly or partially blocked;

(3) Obey the directions of an authorized official directing traffic and all applicable traffic control devices; and

(4) Pass in a lane not adjacent to that of the emergency vehicle, if possible, or, if passing in a nonadjacent lane is impossible or unsafe, pass the emergency vehicle at a reasonable and prudent speed.

B. The following penalties apply to violations of this subsection.

(1) A person who violates this subsection commits a Class E crime.

(2) A person who violates this subsection and at the time of the offense has a prior conviction for violating this subsection commits a Class E crime and is subject to a mandatory 30-day driver's license suspension. Title 17-A, section 9-A governs the use of prior convictions in determining a sentence, except that for purposes of this subparagraph, the date of each prior conviction may precede the commission of the offense being enhanced by no more than 3 years.

LD 0837 (LR: 0455 item 01) Unofficial Document created 02-20-2003 -  
14:41:16

C. Paragraphs A and B do not apply to authorized emergency vehicles in an incident area. Operators of emergency vehicles in an incident area shall proceed at a reasonable and prudent speed, with due regard to the safety of all persons in the incident area.

In addition to any other penalty imposed by law, if a violation of this subsection results in serious bodily injury or death to another person, the violator's driver's license must be suspended for at least 180 days and not more than 2 years.

### SUMMARY

This bill adds to the safety requirements governing drivers approaching or passing a stationary authorized emergency vehicle that is using an emergency light and increases the penalties for violation. The bill also clarifies that an authorized emergency vehicle must exercise due regard to the safety of others but is exempted from the other operator requirements of the new provision.

**Attachment C**

Nevada Assembly Bill 299 (2003)

Assembly Bill No. 299--Assemblymen Beers, Gustavson, Christensen, Conklin, Giunchigliani, Grady, Horne, Koivisto, McClain, Pierce, Sherer and Weber

Joint Sponsors: Senators Cegavske, Amodei, Care and Schneider

CHAPTER.....

AN ACT relating to motor vehicles; establishing the duties of a driver when that driver approaches an authorized emergency vehicle which is stopped and is making use of flashing lights; providing a penalty; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** Chapter 484 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Upon approaching an authorized emergency vehicle which is stopped and is making use of flashing lights meeting the requirements of subsection 3 of NRS 484.787, the driver of the approaching vehicle shall, in the absence of other direction given by a peace officer:*

*(a) Decrease the speed of his vehicle to a speed that is:*

*(1) Reasonable and proper, pursuant to the criteria set forth in subsection 1 of NRS 484.361; and*

*(2) Less than the posted speed limit, if a speed limit has been posted;*

*(b) Proceed with caution;*

*(c) Be prepared to stop; and*

*(d) If possible, drive in a lane that is not adjacent to the lane in which the emergency vehicle is stopped, unless roadway, traffic, weather or other conditions make doing so unsafe or impossible.*

*2. A person who violates subsection 1 is guilty of a misdemeanor.*

**Attachment D**

Oregon House Bill 2176 (2003)

## CHAPTER 42

AN ACT

HB 2176

Relating to motor vehicles.

Be It Enacted by the People of the State of Oregon:

**SECTION 1.** Section 2 of this 2003 Act is added to and made a part of the Oregon Vehicle Code.

**SECTION 2.** (1) A person operating a motor vehicle commits the offense of failure to maintain a safe distance from an emergency vehicle or ambulance if the person approaches an emergency vehicle or ambulance that is stopped

and is displaying required warning lights and the person:

(a) On a highway having two or more lanes for traffic in a single direction, fails to:

(A) Make a lane change to a lane not adjacent to that of the emergency vehicle or ambulance; or

(B) Reduce the speed of the motor vehicle, if making a lane change is unsafe.

(b) On a two directional, two-lane highway, fails to reduce the speed of the motor vehicle.

(2) The offense described in this section, failure to maintain a safe distance from an emergency vehicle or ambulance, is a Class B traffic violation.

Approved by the Governor April 1, 2003

Filed in the office of Secretary of State April 2, 2003

Effective date January 1, 2004

**Attachment E**

Kentucky Revised Statutes  
189.930

**189.930 Right-of-way to emergency vehicles -- Blocking or following emergency vehicles -- Driving over unprotected hoses of fire department.**

- (1) Upon the approach of an emergency vehicle equipped with, and operating, one (1) or more flashing, rotating, or oscillating red or blue lights, visible under normal conditions from a distance of five hundred (500) feet to the front of such vehicle; or the driver is given audible signal by siren, exhaust whistle, or bell, the driver of every other vehicle shall yield the right-of-way, immediately drive to a position parallel to, and as close as possible to, the edge or curb of the highway clear of any intersection, and stop and remain in such position until the emergency vehicle has passed, except when otherwise directed by a police officer or firefighter.
- (2) Upon the approach of any emergency vehicle, operated in conformity with the provisions of subsection (1) of this section, the operator of every vehicle shall immediately stop clear of any intersection and shall keep such position until the emergency vehicle has passed, unless directed otherwise by a police officer or firefighter.
- (3) No operator of any vehicle, unless he is on official business, shall follow any emergency vehicle being operated in conformity with the provisions of subsection (1) of this section closer than five hundred (500) feet, nor shall he drive into, or park the vehicle into, or park the vehicle within, the block where the vehicle has stopped in answer to an emergency call or alarm unless he is directed otherwise by a police officer or firefighter.
- (4) No vehicle, train, or other equipment shall be driven over any unprotected hose of a fire department when the hose is laid down on any street, private driveway, or track for use at any fire or fire alarm unless the fire department official in command consents that the hose be driven over.
- (5) Upon approaching a stationary emergency vehicle or public safety vehicle, when the emergency vehicle or public safety vehicle is giving a signal by displaying alternately flashing yellow, red, red and white, red and blue, or blue lights, a person who drives an approaching vehicle shall, while proceeding with due caution:
  - (a) Yield the right-of-way by moving to a lane not adjacent to that of the authorized emergency vehicle, if:
    1. The person is driving on a highway having at least four (4) lanes with not fewer than two (2) lanes proceeding in the same direction as the approaching vehicle; and
    2. If it is possible to make the lane change with due regard to safety and traffic conditions; or
  - (b) Reduce the speed of the vehicle, maintaining a safe speed to road conditions, if changing lanes would be impossible or unsafe.
- (6) This section does not operate to relieve the person who drives an emergency vehicle from the duty to operate the vehicle with due regard for the safety of all persons using the highway.

Effective: June 24, 2003

**History:** Amended 2003 Ky. Acts ch. 63, sec. 1, effective June 24, 2003. -- Amended 2000 Ky. Acts ch. 215, sec. 1, effective July 14, 2000. -- Amended 1980 Ky. Acts ch. 371, sec. 2, effective July 15, 1980. -- Created 1970 Ky. Acts ch. 93, sec. 3.

**Attachment F**

Ohio Code  
§ 4511.21.3

**[§ 4511.21-3] § 4511.213. Duties upon approaching stationary public safety vehicle displaying emergency light.**

(A) The driver of a motor vehicle, upon approaching a stationary public safety vehicle that is displaying a flashing red light, flashing combination red and white light, oscillating or rotating red light, oscillating or rotating combination red and white light, flashing blue light, flashing combination blue and white light, oscillating or rotating blue light, or oscillating or rotating combination blue and white light, shall do either of the following:

(1) If the driver of the motor vehicle is traveling on a highway that consists of at least two lanes that carry traffic in the same direction of travel as that of the driver's motor vehicle, the driver shall proceed with due caution and, if possible and with due regard to the road, weather, and traffic conditions, shall change lanes into a lane that is not adjacent to that of the stationary public safety vehicle.

(2) If the driver is not traveling on a highway of a type described in division (A)(1) of this section, or if the driver is traveling on a highway of that type but it is not possible to change lanes or if to do so would be unsafe, the driver shall proceed with due caution, reduce the speed of the motor vehicle, and maintain a safe speed for the road, weather, and traffic conditions.

(B) This section does not relieve the driver of a public safety vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.

(C) No person shall fail to drive a motor vehicle in compliance with division (A)(1) or (2) of this section when so required by division (A) of this section.

(D) (1) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(2) Notwithstanding section 2929.28 of the Revised Code, upon a finding that a person operated a motor vehicle in violation of division (C) of this section, the court, in addition to all other penalties provided by law, shall impose a fine of two times the usual amount imposed for the violation.

(E) As used in this section, "public safety vehicle" has the same meaning as in section 4511.01 of the Revised Code.

**HISTORY: 148 v H 86. Eff 9-28-99; 149 v. s 123, §1, eff. 1-1-04; 149 v H 490, §/4, eff. 1-1-04.**

**Attachment G**

**South Dakota Codified Laws  
32-31-6.1**

32-31-6.1. Stop required upon approaching stopped emergency vehicle using red signals -- Requirements for approaching vehicles using amber or yellow signals -- Violation as misdemeanor. Upon approaching from any direction any stopped authorized emergency vehicle making use of red visual signals meeting the requirements of this title, the driver of every other vehicle shall come to a complete stop before reaching the stopped emergency vehicle and may, unless otherwise directed, proceed with caution only after ascertaining that it is safe to do so, and upon approaching from any direction any stopped vehicle making use of amber or yellow warning lights, the driver of every other vehicle shall:

(1) If driving on an interstate highway or other highway with two or more lanes traveling in the same direction as the vehicle, merge into the lane farthest from the vehicle and proceed with caution, unless otherwise directed; or

(2) If driving on a two lane highway, slow to a speed that is at least twenty miles per hour less than the posted speed limit or five miles per hour when the speed limit is posted at twenty miles per hour or less and proceed with caution, unless otherwise directed.

A violation of this section is a Class 2 misdemeanor.

[Statutes Menu](#) | [FAQ](#) | [My Legislative Research](#) | [Privacy Policy](#) | [LRC Menu](#)

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**Attachment H**

Iowa Code  
321-323A

**321.323A Approaching certain stationary vehicles.**

1. The operator of a motor vehicle approaching a stationary authorized emergency vehicle that is displaying flashing yellow, amber, white, red, or red and blue lights shall approach the authorized emergency vehicle with due caution and shall proceed in one of the following manners, absent any other direction by a peace officer:

*a.* Make a lane change into a lane not adjacent to the authorized emergency vehicle if possible in the existing safety and traffic conditions.

*b.* If a lane change under paragraph "a" would be impossible, prohibited by law, or unsafe, reduce the speed of the motor vehicle to a reasonable and proper speed for the existing road and traffic conditions, which speed shall be less than the posted speed limit, and be prepared to stop.

2. The operator of a motor vehicle approaching a stationary towing or recovery vehicle, or a stationary highway maintenance vehicle, that is displaying flashing yellow, amber, or red lights shall approach the vehicle with due caution and shall proceed in one of the following manners, absent any other direction by a peace officer:

*a.* Make a lane change into a lane not adjacent to the towing, recovery, or highway maintenance vehicle if possible in the existing safety and traffic conditions.

*b.* If a lane change under paragraph "a" would be impossible, prohibited by law, or unsafe, reduce the speed of the motor vehicle to a reasonable and proper speed for the existing road and traffic conditions, which speed shall be less than the posted speed limit, and be prepared to stop.

**Section History: Recent form**

2002 Acts, ch 1013, §1

**Footnotes**

For applicable scheduled fines, see §805.8A, subsection 11, paragraph b

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Previous Section [321.323](#)

Next Section [321.324](#)

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**Attachment I**

**Alaska Authoritative Code**

**13 AAC 04.090 "Authorized Emergency Vehicies"**

**&**

**13 AAC 04.095 "Flashing Yellow Vehicular Warning Lights"**

**&**

**13 AAC 04.100 "Flashing Blue Lights on Vehicles"**



### **13 AAC 04.090. Authorized emergency vehicles**

(a) Every authorized emergency vehicle must, in addition to other equipment required by this chapter, be equipped with a signal light mounted as high as practicable, and which is capable of displaying to the front and rear flashing red color of sufficient intensity to be visible at 500 feet in normal sunlight. The flashing light must be sufficiently spaced from the headlights so that it will not be blacked out when the headlights are illuminated. An authorized emergency vehicle may display rotating beams of red light or of red and white light meeting the requirements of this subsection.

(b) Repealed 6/28/79.

(c) A police vehicle, when used as an authorized emergency vehicle, may but need not be equipped with alternately flashing red lights as specified in (a) of this section.

(d) Repealed 6/28/79.

(e) Repealed 6/28/79.

(f) Repealed 6/28/79.

(g) If, in addition to the light required in (a) of this section, a second or subsequent light is mounted on the authorized emergency vehicle, the light must be mounted as high as practicable and at the same level as the first light. The lights must be as widely spaced laterally as practicable, and must meet the spacing and visibility requirements of (a) of this section. The second light may display flashing blue color in accordance with sec. 100 of this chapter.

**History:** In effect before 7/28/59; am 12/15/61, Register 3; am 8/10/66, Register 22; am 12/31/69, Register 31; am 6/28/79, Register 70

**Authority:** AS 28.05.011

### **13 AAC 04.095. Flashing yellow vehicular hazard warning lights**

(a) Repealed 6/28/79.

(b) Repealed 6/28/79.

(c) The following vehicles must be equipped with a flashing yellow warning light visible at 500 feet in normal sunlight to either the front, rear or sides or from all positions:

(1) a vehicle of the Department of Transportation and Public Facilities, a municipality, or a contractor used in highway maintenance, inspection, survey or construction when working upon or within eight feet of a roadway;

(2) a vehicle of a public utility company, when actually engaged in the construction, removal, repair, maintenance or inspection of a public utility facility and when parked or moving slower than the normal traffic flow upon or within eight feet of a roadway;

DOC D001145

(3) a motor vehicle engaged in towing a house or a building upon a highway;

(4) a pilot car as provided in 17 AAC 25.090; and

(5) a motor vehicle engaged in snow removal from private property when it moves onto, across or within eight feet of a roadway while removing the snow, or a motor vehicle engaged in snow removal from subdivision streets.

(d) The lights required in this section must be used to warn drivers of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing the hazard.

(e) After January 1, 1978, every bus, truck, truck-tractor and trailer 80 inches or more in overall width or 30 feet or more in overall length, and every motor vehicle manufactured after January 1, 1978, must be equipped with lights meeting the requirements of (f) of this section.

(f) Vehicular hazard warning lights must be mounted at the same level and as widely spaced laterally as practicable, except that on vehicles less than 80 inches overall width, only one warning light need be mounted on the rear of the vehicle. The lights must display simultaneously flashing yellow color to the front of the vehicle, except that on vehicles manufactured before January 1, 1969, the light showing to the front may display simultaneously flashing yellow or white color, or any shade of color between yellow and white. The lights displaying warning to the rear of the vehicle must show simultaneously flashing red or yellow color, or any shade of color between red and yellow. The lights authorized by this section must be visible from a distance of not less than 500 feet in normal sunlight.

(g) A tow car must be equipped with a flashing yellow warning light visible at 500 feet in normal sunlight to the front, rear and both sides. The tow car must illuminate the yellow warning light during preparation at the location from which a disabled vehicle is to be towed, and the yellow warning light must be illuminated when the tow car is towing a vehicle at a speed slower than the normal flow of traffic, during the hours of darkness when the towed vehicle does not have taillights illuminated to the rear, or when the taillights, stop lights or turn signals on the tow car are obscured by the towed vehicle. The flashing warning light may not be illuminated except as provided in this section.

(h) A vehicle used for the purpose of mail or other delivery along a highway must illuminate the lights required by this section at least 100 feet, but not more than 500 feet, before making a stop as required in the official performance of the duties of the driver of the vehicle. Display of the lights must continue for as long as the conditions specified in (d) of this section exist. The lights must be visible to the front and rear of the vehicle at a distance of 500 feet in normal sunlight. Further, a mail delivery vehicle must clearly display to the front and to the rear of the vehicle, the words "U.S. MAIL" in letters at least eight inches high on a distinctively contrasting background; other vehicles used in making deliveries along a highway must display the words "DELIVERY VEHICLE" in a like manner.

(i) The lights specified in this section may not be turned on when a vehicle is

(1) parked lawfully in an urban district;

(2) stopped lawfully to avoid conflict with other traffic or to comply with the directions of a police officer, a fireman or an authorized flagman or an official traffic-control device; or

(3) otherwise stopped or driven when there do not exist the conditions specified in (c) of this section.

**History:** Eff. 12/31/69, Register 31; am 6/28/79, Register 70

**Authority:** AS 28.05.011

**13 AAC 04.097. Special school bus lighting equipment**

(a) A school bus must, in addition to other equipment and distinctive markings required by this chapter, be equipped with signal lights mounted as high and as widely spaced laterally as practicable, which must display to the front two alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level. The lights must be visible at 500 feet in normal sunlight. The alternately flashing red lights must be illuminated by the driver of the school bus when, but only when, the bus is stopped for the purpose of receiving or discharging school children, except that the lights may not be illuminated in

(1) a designated school bus loading or unloading area where the bus is entirely off the roadway and a child being received into or discharged from the bus is not required to cross the roadway; or

(2) an intersection or other place where traffic is controlled by a traffic-control signal or by a police officer.

(b) A school bus must be equipped with yellow signal lights mounted near each of the four red lights required in (a) of this section and at the same level but closer to the vertical centerline of the bus. These lights must display two alternately flashing yellow lights visible to the front and rear of the bus for a distance of at least 500 feet in normal sunlight. The yellow flashing lights must be illuminated by the school bus driver at least 100 feet, but not more than 500 feet, before every stop at which the alternately flashing red lights are illuminated, at which time the alternately flashing yellow lights authorized by this section must be turned off.

(c) Every school bus must have indicator lights readily visible to the driver of the bus, which automatically indicate to the driver of the bus when any of the alternately flashing lights authorized by this section are illuminated.

**History:** Eff. 6/28/79, Register 70

**Authority:** AS 28.05.011

**Editor's note:** This section is based partially on former 13 AAC 04.090(b) and 13 AAC 04.150(c) - (e).

**13 AAC 04.100. Flashing blue lights on vehicles**

(a) A firefighter, an emergency medical service responder, or a police officer, with the concurrence of the chief of that person's department, when authorized under 13 AAC 02.517 or (i) of this section, may equip the person's motor vehicle with a flashing blue light that must be visible from the front and sides for a distance of 300 feet in normal sunlight. The flashing blue light authorized by this subsection may be illuminated only when the driver of the vehicle is a member of a fire or a police department responding to an emergency, and the vehicle must display a sign or plate that indicates the department membership and the name of the municipality or organization in which the driver is a member.

(b) Repealed 6/28/79.

(c) Repealed 6/28/79.

(d) Repealed 6/28/79.

(e) Police and public fire vehicles may not use a flashing blue light except simultaneously with a flashing red light as required in sec. 90 of this chapter.

(f) Vehicles, except those vehicles described in (e) of this section, that are owned or operated by the state or a municipality may not use a flashing blue light except simultaneously with a flashing yellow light and in accordance with 13 AAC 04.095.

(g) A person certified by a state agency to render emergency lifesaving or medical services, when authorized by the commissioner, may equip his private vehicle with a flashing blue light meeting the visibility requirements of (a) of this section, for use only when responding to an emergency. The flashing blue light may not be illuminated except when the driver of the vehicle is properly certified to render emergency lifesaving or medical services and his vehicle displays the "star of life" symbol.

(h) Lights displaying blue color may not be used upon vehicles, except as provided in this section.

(i) A fire chief, an emergency medical service provider, or a police chief of a municipality or borough that has been granted authority in writing by the commissioner may authorize a person to equip the person's motor vehicle with a flashing blue light if

(1) the person completes and returns to the commissioner or the commissioner's designee on a signed and notarized form prepared by the department a certification that

(A) the person's motor vehicle complies with the equipment standards set out in 13 AAC 04;

(B) the person holds a valid Alaska driver's license that has not been suspended, revoked, cancelled, or limited within the three years before the form is returned; and

(C) the person has read and understands the regulations for emergency vehicle operation set out in 13 AAC 02.140, 13 AAC 02.517 and 13 AAC 04.100; and

(2) if requested by the commissioner or the commissioner's designee, the person provides a certified copy of the person's driving record.

**History:** Eff. 12/31/69, Register 31; am 6/28/79, Register 70; am 6/12/97, Register 142; am 12/6/2001, Register 160

**Authority:** AS 28.05.011

**Editor's note:** Copies of the design standards for the "star of life" may be obtained from the emergency medical services section of the division of public health, Department of Health and Social Services.

### 13 AAC 04.105. Stoplamp and electric turn signals

Repealed 6/28/79.

### 13 AAC 04.110. Additional lighting equipment

Repealed 6/28/79.



**Attachment J**

**Peace Officer Letters of Support**

**Fairbanks Police  
Department**

Attn: Officer David A. Stevenson  
911 Cushman Street  
Fairbanks, AK 99701

February 16<sup>th</sup>, 2004

STATE OF ALASKA HOUSE OF REPRESENTATIVES  
Representative Jim Holme  
ATTN: Matthew Rudig, Staff to Representative Jim Holm  
State Capitol Building  
Juneau, AK 99801

To Whom It May Concern:

I am submitting this letter as a Statement in Support of House Bill 438.

I have been a police officer for over 17 years. I have been a police officer in Alaska since 1993. On October 8<sup>th</sup>, 2000 I was involved in an accident on the Richardson Highway just south of Fairbanks. In my accident, a driver traveling southbound on the Richardson Highway realized at the last minute that I was not merely doing a traffic stop. A wrecker was facing backwards on the highway ready to tow a vehicle. I did things to try and get the driver to slow down. My emergency overhead lights were on. She moved over, but did not slow down. She swerved suddenly and the icy road conditions threw her vehicle into a spin at 50 MPH causing her to crash into my patrol car. On this day, I did something different than I have ever done in my career. I did not get out of my patrol car and direct traffic as I usually do. It was dark. It was snowing heavily and had been raining earlier in the night, causing extremely slick road conditions. I could hardly stand on the road. If I had been out of my vehicle at the time of the accident, I would have been crushed between the patrol car and the car that struck me.

My patrol car was involved in a similar accident in 1998. Fairbanks Police Department Officer Williams using my patrol car. He was working an accident on the Richardson Highway when a driver failed to slow, drove through a large flare pattern and rear-ended my patrol car.

Sergeant Jewkes with the Fairbanks Police Department also was working an accident on the Johansen Expressway near the Peger Road overpass. A vehicle did not slow down and slid on the icy roads. He and a bystander had to jump over an embankment to avoid being crushed as the car struck the guardrail they were standing next to. We are thankful at the Fairbanks Police Department that it was only the embankment, and not the bridge itself.

In the 1980's Fairbanks Police Officer Don Lasage was struck on the Richardson Highway after he stopped to clear debris from the roadway. His emergency overhead lights were on. Officer Lasage was gravely injured and subsequently had to retire on medical retirement.

There are similar stories across the state where officers have jumped out of the way or felt the high speed brush of a mirror passing their head at 55 MPH plus. I have discovered an interesting effect through the years. Some drivers are so busy looking at the emergency overhead lights they actually drive towards them. (You drive to where you are looking.)

The point I see in this law is it will give a person an automatic response to the sight of emergency vehicles along the side of the road. We all take our foot off the accelerator when we see a police car coming the other way. I do it too. Even though we may not be speeding, it is an automatic response. We do not want a speeding ticket. With the proper advertising campaign and support in the media, this law could engrain in most driver's head that

when they seen the emergency overhead lights, they need to slow down and move over. We will automatically think, "Oh, emergency overhead lights... I better slow down and move over." Nobody wants a ticket.

Thank you for your time and consideration in this matter. Please vote for House Bill 438. It is a simple law that could save an officer's life and save our government money in damages and medical bills.

Sincerely,

David A. Stevenson #307  
Police Officer  
Fairbanks Police Department

**Subject:** [Fwd: New Alaska Statute]

**Date:** Tue, 10 Feb 2004 07:04:40 -0900

**From:** Representative Jim Holm <Representative\_Jim\_Holm@Legis.state.ak.us>

**Organization:** Alaska State Legislature

**To:** Matthew Rudig <Matthew\_Rudig@legis.state.ak.us>

---

**Subject:** New Alaska Statute

**Date:** Sat, 07 Feb 2004 01:12:33 -0900

**From:** Eric Jewkes <ejewkes@ci.fairbanks.ak.us>

**To:** Representative\_Jim\_Holm@legis.state.ak.us

I have read over the proposed statute AS 28.35.185 and give it my support. One, often overlooked, danger emergency service personnel frequently face is that of careless drivers. With so much of our time being spent on or near the road way, this danger is one that is difficult to defend against. Nothing we have can stop a 6000 pound car traveling at 55 plus mph.

To add a personal story relating to this: After working for the Fairbanks Police department around 2 years I responded to a traffic accident on the Johansen expressway. The vehicles involved in the accident were not able to be driven, which meant staying on the roadside, near the Peger overpass. I was aware of the dangers of passing cars and had one of the driver's, whom I was speaking with, stand with me in front of my car. While I was talking to the driver I heard a vehicle sliding on the ice. I turned around to see a Jeep, out of control, and heading right at my patrol car, and us. I had just enough time to tell the other driver to run. We both ran toward the guardrail, jumping over it and down the embankment (luckily just passed the overpass and not on the actual bridge). The Jeep struck my patrol car, at approximately 50 mph, in the middle of the driver's door, pushing my car into the area where we had just been standing.

Would this proposed law change what happened or what could have happened? Maybe not. Regardless, I believe the intent of the law represents what a driver with good sense would do anyway. Unfortunately common sense does not always parallel good sense and a legislative reminder is necessary.

Thank you for your concerns and efforts.

Eric Jewkes, Sergeant  
Fairbanks Police Department

**Subject: New Alaska Statute**

**Date:** Sat, 07 Feb 2004 01:12:33 -0900

**From:** Eric Jewkes <ejewkes@ci.fairbanks.ak.us>

**To:** Representative\_Jim\_Holm@legis.state.ak.us

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Thank you for your concerns and efforts.

Eric Jewkes, Sergeant  
Fairbanks Police Department

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: HB438-LAW-CDCO-2-13  
 Bill Version: HB438  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: LAW  
 Title "An Act relating to motorists moving over or RDU CRIMINAL  
slowing down for emergency vehicles." Component Criminal Justice Litigation  
 Sponsor Representative Holm  
 Requester House Transportation Component No. \_\_\_\_\_

**Expenditures/Revenues (Thousands of Dollars)**

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

| OPERATING EXPENDITURES | FY 2005    | FY 2006    | FY 2007    | FY 2008    | FY 2009    | FY 2010    |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services      |            |            |            |            |            |            |
| Travel                 |            |            |            |            |            |            |
| Contractual            |            |            |            |            |            |            |
| Supplies               |            |            |            |            |            |            |
| Equipment              |            |            |            |            |            |            |
| Land & Structures      |            |            |            |            |            |            |
| Grants & Claims        |            |            |            |            |            |            |
| Miscellaneous          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

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| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
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| <b>CHANGE IN REVENUES ( )</b> |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|

**FUND SOURCE (Thousands of Dollars)**

|   |            |            |            |            |            |            |
|---|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts                   |            |            |            |            |            |            |
| 1003 GF Match                           |            |            |            |            |            |            |
| 1004 GF                                 |            |            |            |            |            |            |
| 1005 GF/Program Receipts                |            |            |            |            |            |            |
| 1037 GF/Mental Health                   |            |            |            |            |            |            |
| Other (Specify Type--Do not abbreviate) |            |            |            |            |            |            |
| <b>TOTAL</b>                            | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |

**ANALYSIS:** (Attach a separate page if necessary)

This bill amends AS 28.35 by adding a new section to require that drivers of vehicles overtaking parked emergency vehicle shall vacate the lane nearest the parked emergency vehicle if two or more lanes travelling in the same direction exist. Otherwise the driver of the overtaking vehicle shall slow to 20 miles an hour below the speed limit except where the speed limit is 25 mile per hour or below, in which case the driver shall slow to five miles per hour. The amendment provides that a violation of the new section is a class A misdemeanor results in personal injury, and an infraction if not.

Passage of this legislation will have no foreseeable fiscal impact on the Department of Law.

Prepared by: Kathryn A. Daughhete, Director Phone 465-3673  
 Division Administrative Services Date/Time 2/13/04 3:03 PM  
 Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 2/13/2004  
 Agency Department of Law

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB438-DPS-ASTD-2-11-04  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Public Safety  
 Title Motorists Slowing Down for Emergency Vehs RDU Alaska State Troopers  
 Component AST Detachments  
 Sponsor Rep. Holm  
 Requester (H) Transportation Component No. 2325

**Expenditures/Revenues (Thousands of Dollars)**

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

| OPERATING EXPENDITURES | FY 2005    | FY 2006    | FY 2007    | FY 2008    | FY 2009    | FY 2010    |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services      |            |            |            |            |            |            |
| Travel                 |            |            |            |            |            |            |
| Contractual            |            |            |            |            |            |            |
| Supplies               |            |            |            |            |            |            |
| Equipment              |            |            |            |            |            |            |
| Land & Structures      |            |            |            |            |            |            |
| Grants & Claims        |            |            |            |            |            |            |
| Miscellaneous          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

|                             |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|
| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|

|                               |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|
| <b>CHANGE IN REVENUES ( )</b> |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|

**FUND SOURCE (Thousands of Dollars)**

| FUND SOURCE                            | FY 2005    | FY 2006    | FY 2007    | FY 2008    | FY 2009    | FY 2010    |
|--|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts                  |            |            |            |            |            |            |
| 1003 GF Match                          |            |            |            |            |            |            |
| 1004 GF                                |            |            |            |            |            |            |
| 1005 GF/Program Receipts               |            |            |            |            |            |            |
| 1037 GF/Mental Health                  |            |            |            |            |            |            |
| Other (Specify Type—Do not abbreviate) |            |            |            |            |            |            |
| <b>TOTAL</b>                           | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

Estimate of any current year (FY2004) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |

**ANALYSIS:** *(Attach a separate page if necessary)*  
 This bill will amend AS 28.35.185 to require that drivers slow or move over (depending on conditions) when they approach a stationary emergency vehicle that is displaying flashing lights on a highway or roadway.  
  
 A violation of section AS 28.35.185 resulting in personal injury would be a class A misdemeanor; violations under other circumstances would constitute an infraction.  
  
 This bill will have no fiscal impact on the Alaska State Troopers.

Prepared by: Lt. Al Storey Phone 269-4532  
 Division Alaska State Troopers Date/Time 2/11/04 10:23 AM  
 Approved by: Commissioner William Tandeske Date 2/11/2004  
 Agency Department of Public Safety

Citizen Business Government Visitor



www.state.wy.us

WYDOT > News



WYDOT News  
5300 Bishop Blvd.  
Cheyenne, WY 82009-3340

### Many drivers still not complying with 'Move Over' law

Posted July 21, 2003

Two years after the law went into effect, Wyoming Highway Patrol troopers report many drivers still fail to obey the requirement that they move to the lane farthest from any emergency vehicle parked with lights flashing beside an interstate or other four-lane highway.

"I'd be willing to bet every stop we make somebody violates this law," Patrol Sgt. Steve Townsend said.

Since the law went into effect on July 1, 2001, troopers have written nearly 600 citations for violations, despite the difficulties involved in catching up with offenders.

To assist with enforcement, the Patrol sometimes has troopers work in tandem so, while one trooper is dealing with a stop, the second one can monitor the traffic and cite drivers who fail to move over or slow down.

Those who are caught face a fine and court costs totaling \$110, but failing to obey the law can lead to more serious consequences. Since the law took effect, 21 Highway Patrol vehicles have been struck while parked with emergency lights flashing beside a highway.

Patrol administrator Col. John Cox said drivers cited for failing to move over or slow down give a variety of excuses ranging from ignorance of the law to traffic not allowing them to safely move over. Cox said drivers are not cited if the lane change can't be made safely, but troopers' observations at the scene and video taken from Patrol vehicles often does not support drivers' claims that traffic wouldn't allow them to move over.

"We need to keep the issue in front of the motoring public through signing, public education and enforcement, Cox said. "When clearance is given to an emergency vehicle at roadside the safety margin is increased for not only the people at roadside, but the passing motorist and their passengers as well."

WYDOT has erected signs around the state to remind drivers of the law's requirements.

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Last modified: - Tuesday, 30-Dec-03 11:47:40

**[§ 4511.21.3] § 4511.213. Duties upon approaching stationary public safety vehicle displaying emergency light.**

(A) The driver of a motor vehicle, upon approaching a stationary public safety vehicle that is displaying a flashing red light, flashing combination red and white light, oscillating or rotating red light, oscillating or rotating combination red and white light, flashing blue light, flashing combination blue and white light, oscillating or rotating blue light, or oscillating or rotating combination blue and white light, shall do either of the following:

(1) If the driver of the motor vehicle is traveling on a highway that consists of at least two lanes that carry traffic in the same direction of travel as that of the driver's motor vehicle, the driver shall proceed with due caution and, if possible and with due regard to the road, weather, and traffic conditions, shall change lanes into a lane that is not adjacent to that of the stationary public safety vehicle.

(2) If the driver is not traveling on a highway of a type described in division (A)(1) of this section, or if the driver is traveling on a highway of that type but it is not possible to change lanes or if to do so would be unsafe, the driver shall proceed with due caution, reduce the speed of the motor vehicle, and maintain a safe speed for the road, weather, and traffic conditions.

(B) This section does not relieve the driver of a public safety vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.

(C) No person shall fail to drive a motor vehicle in compliance with division (A)(1) or (2) of this section when so required by division (A) of this section.

(D) (1) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(2) Notwithstanding section 2929.28 of the Revised Code, upon a finding that a person operated a motor vehicle in violation of division (C) of this section, the court, in addition to all other penalties provided by law, shall impose a fine of two times the usual amount imposed for the violation.

(E) As used in this section, "public safety vehicle" has the same meaning as in section 4511.01 of the Revised Code.

**HISTORY: 148 v H 86. Eff 9-28-99; 149 v. s 123, §1, eff. 1-1-04; 149 v H 490, §/4, eff. 1-1-04.**

OHIO

32-31-6.1. Stop required upon approaching stopped emergency vehicle using red signals -- Requirements for approaching vehicles using amber or yellow signals -- Violation as misdemeanor. Upon approaching from any direction any stopped authorized emergency vehicle making use of red visual signals meeting the requirements of this title, the driver of every other vehicle shall come to a complete stop before reaching the stopped emergency vehicle and may, unless otherwise directed, proceed with caution only after ascertaining that it is safe to do so, and upon approaching from any direction any stopped vehicle making use of amber or yellow warning lights, the driver of every other vehicle shall:

(1) If driving on an interstate highway or other highway with two or more lanes traveling in the same direction as the vehicle, merge into the lane farthest from the vehicle and proceed with caution, unless otherwise directed; or

(2) If driving on a two lane highway, slow to a speed that is at least twenty miles per hour less than the posted speed limit or five miles per hour when the speed limit is posted at twenty miles per hour or less and proceed with caution, unless otherwise directed.

A violation of this section is a Class 2 misdemeanor.

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### 321.323A Approaching certain stationary vehicles.

1. The operator of a motor vehicle approaching a stationary authorized emergency vehicle that is displaying flashing yellow, amber, white, red, or red and blue lights shall approach the authorized emergency vehicle with due caution and shall proceed in one of the following manners, absent any other direction by a peace officer:

*a.* Make a lane change into a lane not adjacent to the authorized emergency vehicle if possible in the existing safety and traffic conditions.

*b.* If a lane change under paragraph "a" would be impossible, prohibited by law, or unsafe, reduce the speed of the motor vehicle to a reasonable and proper speed for the existing road and traffic conditions, which speed shall be less than the posted speed limit, and be prepared to stop.

2. The operator of a motor vehicle approaching a stationary towing or recovery vehicle, or a stationary highway maintenance vehicle, that is displaying flashing yellow, amber, or red lights shall approach the vehicle with due caution and shall proceed in one of the following manners, absent any other direction by a peace officer:

*a.* Make a lane change into a lane not adjacent to the towing, recovery, or highway maintenance vehicle if possible in the existing safety and traffic conditions.

*b.* If a lane change under paragraph "a" would be impossible, prohibited by law, or unsafe, reduce the speed of the motor vehicle to a reasonable and proper speed for the existing road and traffic conditions, which speed shall be less than the posted speed limit, and be prepared to stop.

#### Section History: Recent form

2002 Acts, ch 1013, §1

#### Footnotes

For applicable scheduled fines, see §805.8A, subsection 11, paragraph b

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Previous Section [321.323](#)

Next Section [321.324](#)

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