

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 86 / 2

10904 HOUSE JUDICIARY

SB

309

ALASKA STATE LEGISLATURE

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



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

House Judiciary Committee

Memorandum

To: Leg. Legal

From: Vanessa Tondini, Committee Aide
House Judiciary Committee

Date: April 23, 2004

Re: CS Request

Please create a work draft House Judiciary Committee Substitute for work order # 23-LS1597H, SB 309, incorporating the attached two amendments. 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** and/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.

(HCS CSSB 309 (STA))
SB 309 version "H"

Amendment #1 - PASSED
by Rep. Gruenberg

Page 2, Lines 24 - 26

Delete the sentence: "The department must first attempt to get existing test results under this subsection before taking any steps to obtain a blood sample or to test for bloodborne pathogens."

(HCS CS 8B 309 (STA))
8B 309 version "H"

Conceptual Amendment #2 - PASSED
by Rep. Gruenberg

Page 5, Lines 9-11

Add the requirement of a mental state
"Knowingly in violation of AS 18.15.400-18.15.450"
... releases ...

ALASKA STATE LEGISLATURE



Official Business

SENATOR THOMAS H. WAGONER

- Co-Chair, Senate Resources Committee
- Co-Chair, Senate Transportation Committee
- Vice-Chair, Senate Community and Regional Affairs Committee
- Member, Legislative Council

Session: January – May

State Capitol, #427

Juneau, AK 99801

Phone: 907-465-2828 Fax: 907-465-4779

Interim: May – December

145 Main Street Loop; Suite 226

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April 15, 2004

The Honorable Lesil McGuire
Chair, House Judiciary Committee
State Capitol, Room 120
Juneau, AK 99801

Re: CS FOR CS 309(STA) – Bloodborne pathogen testing of prisoners

Dear Representative McGuire:

CS for CS 309(STA) was moved out of House State Affairs this morning has been referred to the Judiciary Committee. I request that this bill be scheduled at your earliest convenience. I have enclosed a copy of this bill, two zero fiscal notes, sponsors statement, and sectional analysis. Also enclosed is a copy of a recent report by Legislative Research Services.

Should you or your staff have any questions, or need further information, please contact my aide Kurt Olson at 2828.

Thank you for your assistance.

Sincerely,

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

Senator Tom Wagoner

23-LS1597H
Luckhaupt
4/7/04

**HOUSE CS FOR CS FOR SENATE BILL NO. 309(STA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION**

BY THE HOUSE STATE AFFAIRS COMMITTEE

**Offered:
Referred:**

Sponsor(s): SENATORS WAGONER, Elton, Dyson, Lincoln

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to testing the blood of prisoners and those in custody for bloodborne**
2 **pathogens."**

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

4 *** Section 1. AS 18.15 is amended by adding new sections to read:**

5 **Article 6B. Blood Testing of Prisoners for Bloodborne Pathogens.**

6 **Sec. 18.15.400. Bloodborne pathogen testing of prisoners and correctional**
7 **officers; required disclosures to and consent of prisoners and correctional**
8 **officers. (a) When requested by a correctional officer who may have received a**
9 **significant exposure from a prisoner, the department shall follow the testing**
10 **procedures of AS 18.15.400 - 18.15.450 if**

11 (1) a physician licensed under AS 08 determines that a significant
12 exposure to the correctional officer has occurred;

13 (2) the physician for the correctional officer needs the prisoner's
14 bloodborne pathogens test results to begin, continue, modify, or discontinue treatment

1 in accordance with the most current guidelines of the United States Public Health
2 Service, because of possible exposure to a bloodborne pathogen; and

3 (3) the correctional officer consents to providing a blood sample for
4 testing for a bloodborne pathogen.

5 (b) Before employing the testing procedures of AS 18.15.400 - 18.15.450 or
6 disclosing any information about the prisoner or correctional officer, the department
7 shall inform the

8 (1) prisoner that

9 (A) the prisoner's bloodborne pathogens test results, without
10 the prisoner's name or other uniquely identifying information, shall be reported
11 to the correctional officer if requested and that test results collected are for
12 medical purposes and may not be used as evidence in any criminal proceedings
13 or civil proceedings;

14 (B) the prisoner may refuse to provide a blood sample and that
15 the prisoner's refusal may result in a request for a court order to require the
16 prisoner to provide a blood sample; and

17 (C) the department will advise the correctional officer of the
18 confidentiality requirements and penalties before the officer's health care
19 provider discloses any test results;

20 (2) correctional officer of the confidentiality requirements of
21 AS 18.15.440 and that the correctional officer may be subject to penalties for
22 unauthorized release of test results about the prisoner.

23 (c) If the disclosures have been made, the department shall ask the prisoner if
24 the prisoner has ever had a positive test for a bloodborne pathogen. The department
25 must first attempt to get existing test results under this subsection before taking any
26 steps to obtain a blood sample or to test for bloodborne pathogens. The department
27 shall disclose the prisoner's existing bloodborne pathogens test results to the
28 correctional officer without the prisoner's name or other uniquely identifying
29 information.

30 **Sec. 18.15.410. Consent for testing; court order for testing; exception.** (a)
31 When a correctional officer has made a request under AS 18.15.400, except as

1 provided in (b) or (c) of this section or in AS 18.15.420, before collecting and testing
2 the blood of a prisoner, the department must first obtain the consent of the prisoner or
3 the prisoner's representative if the prisoner is unable to provide the consent.

4 (b) Consent of a prisoner's representative is not required if the department has
5 made reasonable efforts to locate the prisoner's representative and the representative
6 cannot be found within 24 hours after a significant exposure. If testing of available
7 blood occurs without consent because the prisoner is unconscious or unable to provide
8 consent, and a representative cannot be located, the department shall provide the
9 information required in AS 18.15.400 to the prisoner or representative whenever it is
10 possible to do so.

11 (c) If a prisoner dies before an opportunity to consent to blood collection or
12 testing, consent is not required, and the prisoner's blood may be collected and tested.

13 (d) If the prisoner or the prisoner's representative, if appropriate, consents and
14 a sample of the prisoner's blood

15 (1) is available, the department shall have the blood tested for
16 bloodborne pathogens;

17 (2) is not available, the department shall collect a sample and have the
18 blood sample tested for bloodborne pathogens.

19 (e) The department may not withhold care or treatment on the requirement that
20 the prisoner consent to testing for bloodborne pathogen.

21 **Sec. 18.15.420. Testing without consent.** (a) When a correctional officer
22 has made a request under AS 18.15.400 the department shall file a petition in the
23 superior court for a court order requiring the prisoner to provide a blood sample for
24 testing for bloodborne pathogens. The department shall serve the petition on the
25 prisoner at least 48 hours before a hearing on the petition. The petition must include
26 the following information supported by affidavit:

27 (1) a statement that the department followed the procedures in
28 AS 18.15.400 - 18.15.450 and attempted to obtain bloodborne pathogens test results
29 according to those sections;

30 (2) a statement that

31 (A) the correctional officer and department have documented

1 the officer's exposure to blood or body fluids during performance of the
2 officer's work duties;

3 (B) the department has asked the prisoner to consent under
4 AS 18.15.410, and the prisoner does not consent;

5 (C) the department has provided the correctional officer and the
6 prisoner with the disclosures required under AS 18.15.400; and

7 (D) the department has informed the correctional officer of the
8 confidentiality requirements of AS 18.15.440 and the penalties for
9 unauthorized release of prisoner information.

10 (3) a statement that a physician licensed under AS 08 and
11 knowledgeable about the most current recommendations of the United States Public
12 Health Service has determined that a significant exposure has occurred to the
13 correctional officer; and

14 (4) a statement that a physician has documented that the correctional
15 officer has provided a blood sample and consented to testing for bloodborne
16 pathogens, and bloodborne pathogens test results are needed for beginning,
17 continuing, modifying, or discontinuing medical treatment for the correctional officer.

18 (b) A court shall order a prisoner to provide a blood sample for bloodborne
19 pathogen testing if the court finds that

20 (1) there is probable cause to believe that a significant exposure to the
21 correctional officer from the prisoner has occurred;

22 (2) a licensed physician for the correctional officer needs the test
23 results for beginning, continuing, modifying, or discontinuing medical treatment for
24 the correctional officer; or

25 (3) a compelling need for the testing and test results exists; in making
26 this finding, the court shall consider the need for the test against the privacy or other
27 interests of the prisoner.

28 (c) The court may impose appropriate safeguards against unauthorized
29 disclosure by specifically identifying the persons to have access to the test results and
30 the uses of the test results when ordering a test under (b) of this section.

31 (d) After testing is completed under this section, the department shall inform

1 the prisoner whose blood was tested of the results. The department shall inform the
2 correctional officer's physician of the prisoner's test results without the prisoner's name
3 or other uniquely identifying information.

4 **Sec. 18.15.440. Confidentiality; penalties for unauthorized disclosure;**
5 **immunity.** (a) Bloodborne pathogens test results of a prisoner are confidential and
6 may not be disclosed except as provided in AS 18.15.400 - 18.15.450 and as needed
7 for the treatment or medical care of a prisoner specific to a bloodborne pathogen-
8 related illness.

9 (b) A prisoner may bring a civil action against a person who releases the
10 prisoner's name or other uniquely identifying information with the test results or
11 otherwise releases the test results, except as provided in AS 18.15.400 - 18.15.450.

12 (c) The department, a physician, and designated health care personnel are
13 immune from liability in any civil, administrative, or criminal action relating to the
14 disclosure of test results of a prisoner to a correctional officer and the testing of a
15 blood sample from a prisoner for bloodborne pathogens if a good faith effort has been
16 made to comply with AS 18.15.400 - 18.15.450.

17 **Sec. 18.15.450. Definitions for AS 18.15.400 - 18.15.450.** In AS 18.15.400 -
18 18.15.450,

19 (1) "bloodborne pathogens" means pathogenic microorganisms that are
20 present in human blood and can cause disease in humans; these pathogens include
21 hepatitis B virus (HBV), hepatitis C virus (HCV), and human immunodeficiency virus
22 (HIV);

23 (2) "correctional officer" means an employee of the Department of
24 Corrections or of an agent or contractor of the department working in a correctional
25 facility;

26 (3) "department" means the Department of Corrections;

27 (4) "prisoner" has the meaning given in AS 33.30.901;

28 (5) "significant exposure" means contact likely to transmit a
29 bloodborne pathogen, in a manner supported by the most current guidelines and
30 recommendations of the United States Public Health Service at the time an evaluation
31 takes place, that includes

1
2
3
4

(A) percutaneous injury, contact of mucous membrane or nonintact skin, or prolonged contact of intact skin; and

(B) contact, in a manner that may transmit a bloodborne pathogen, with blood, tissue, or potentially infectious body fluids.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 309
 (S) Publish Date: 3/5/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
 Title "Blood Pathogens Testing of Prisoners..." RDU Administration & Operations
 Component: Inmate Health Care
 Sponsor Senator Wagoner, Senator Elton
 Requester State Affairs, Judiciary Component No. 705

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	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

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

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	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

At this time the department does not anticipate a fiscal impact with the passage of this legislation.

Provisions of this legislation currently are addressed under the federal Bloodborne Pathogens standards promulgated by OSHA (29 CFR 1910-1030 dated December 1991) and adopted by Alaska OSHA (under 8 AAC 61-1010). The activities outlined and more relating to protection from, documentation of, and response to occupational exposure are essentially in effect under the existing OSHA standards. These tasks currently are addressed by the department and any additional tasks will be accomplished by the existing staff within the Department of Corrections.

Prepared by: Jerry D. Burnett, Director Phone (907) 465-3339
 Division Administrative Services Date/Time 3/3/04 10 47 AM
 Approved by: Portia C. K. Parker, Deputy Commissioner Date 3/3/2004
 Agency Department of Corrections

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSSB 309(JUD) am
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act relating testing the blood of prisoners BRU Risk Management
and those in custody for bloodborne pathogens Component Risk Management
 Sponsor Senators Wagoner, Elton, Dyson, & Lincoln
 Requester House State Affairs Component No. 71

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1007 I/A Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Risk Management administers the self insurance program providing workers' compensation protection for all state employees, including injury and illness claims that may be filed by Correctional Officers affected by this legislation.

The self insured worker's compensation claims will realize future savings if this proposed legislation is enacted. As the number reported exposures varies by year, no actual saving can be explicitly presented.

Future Risk Management's workers' compensation assessments to Corrections will reflect any savings realized as premiums charged each agency are developed from actual claims expenses incurred.

Prepared by: J. Brad Thompson, Director Phone _____
 Division: Risk Management Date/Time 4/7/04 2 16 PM
 Approved by: Kevin Jardell, Assistant Commissioner Date 4/7/2004
 Agency: Administration



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

*Possible
amendts.
Have a W here
to verify
on fiscal
points*

DEPARTMENT Health & Social Services	DIVISION PH	BILL NUMBER SB 309	SPONSOR WAGONER
SHORT TITLE OF BILL TESTING BLOOD OF PRISONERS FOR BLOODBORNE PATHOGENS			
DEPARTMENT POSITION Support			
PREPARED BY Doug Bruce, Director	DATE 02/19/2004	COMMISSIONER'S SIGNATURE Joel S. Gilbertson	DATE 02/25/2004

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Department of Corrections Department of Law	CONSTITUENT GROUP(S) AFFECTED BY BILL Correctional officers
ORGANIZATIONAL SUPPORT FOR BILL Correctional Officer Unit, Public Safety Employees Association	ORGANIZATIONAL OPPOSITION TO BILL Unknown

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

Senate Bill 309 adds new sections to AS 18.15 allowing a correctional officer who may have received a "significant exposure" from a prisoner to request, through the officer's physician, testing of the prisoner for bloodborne pathogens. This includes potential exposure to HIV and the hepatitis viruses. The bill details information the correctional facility must share with the prisoner and describes procedures for obtaining test results with and without the prisoner's consent. In addition, the bill describes confidentiality requirements for test results and authorizes a prisoner to bring civil action if test results are improperly released.

ANALYSIS OF BILL/PROGRAM EFFECTS

This bill relates primarily to the Department of Corrections, which would best address the issues noted below.

Within the Department of Health and Social Services, this bill is most applicable to the Division of Public Health, Section of Laboratories, which would perform tests required by the bill. Impact would be very minimal. The Division of Juvenile Justice already has measures in place for the testing of bloodborne pathogens.

Several issues are noted in this version of the bill:

Page 4, Line 13 requires a court order to draw blood if a sample isn't present and the (Continued on Page 2)

AMENDMENTS PROPOSED

BILL ANALYSIS

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. SB 309

Additional Comments

(Continued from Page 1)

prisoner does not consent to the test; however, (a) of the same section (Page 3, Line 22) does not mention the need for a court order if a blood sample is present but the prisoner objects to the test. This appears inconsistent because, whether or not a blood sample is present, in either case the prisoner is objecting to the test.

① →

Page 2, Line 12 indicates that test results "may not be used as evidence in any criminal proceedings or civil proceedings." In some cases, it could be appropriate to charge a prisoner in an institution who has intentionally attempted to infect a staff member. Test results would be necessary evidence.

②

Page 2, Line 25 indicates that the facility "must first attempt to get existing test results under this subsection before taking any steps to obtain a blood sample or to test." This seems unnecessary, as previous test results are most likely irrelevant - current test results are what's needed. And, even current test results could be irrelevant, given that a person could still be infected with HIV, for example, and the test would not show it right away. At minimum, there should be a timeframe associated with the prior test results.

③
4/10

On Page 5, Line 14, providing test results to the officer's physician without specific identifying information is really not a true safeguard. Obviously, the physician will communicate the results to the officer who will then know the results of the test and who the test is associated with.

Finally, it should be noted the State of Alaska in 8 AAC 61.1010 already has adopted federal Occupational Safety and Health Administration (OSHA) standards to protect workers from bloodborne pathogens. The federal reference is 29 CFR 1910.1030.

*This is additional
safeguards
in the bill.
Is there federal
recognition?*

ALASKA STATE LEGISLATURE



Official Business

SENATOR THOMAS H. WAGONER

- Co-Chair, Senate Resources Committee
- Co-Chair, Senate Transportation Committee
- Vice-Chair, Senate Community and Regional Affairs Committee
- Member, Legislative Council

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Sponsor Statement

SB 309 - An Act related to the testing of prisoners for bloodborne pathogens.

During 2003, approximately 40 Alaska correctional officers were potentially exposed to bloodborne pathogens when they came into contact with blood or other bodily fluids from prisoners. In most cases, the contamination was an intentional act.

If blood, bodily fluids or waste from a prisoner or person in custody contaminates a correctional officer, that person cannot be required to submit a blood sample for testing. Most states offer this type of protection to their correctional officers. The 18th Legislature moved in this direction by requiring blood tests for persons charged with sex offenses.

Currently, correctional officers who have been exposed may undergo a two-week treatment with a broad range of preventative medication for hepatitis, HIV, and other potential contagions. Reactions to the medication can lead to lost time on the job and a disruption of home life.

I respectfully request the support of my colleagues in providing our correctional officers with a tool to control their potential exposure to life-threatening contamination in their workplace.

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Sectional Analysis – SB 309

Section 1. Amends AS 18.15 by adding five new sections:

Section 18.15.400 – Authorizes bloodborne pathogen testing of prisoners when requested by a correctional officer who has received significant exposure from a prisoner.

Section 18.15.410 – Consent for testing; from the prisoner or the prisoner's representative.

Section 18.15.420 – Provides provisions for testing without consent. There must be probable cause that a significant exposure has occurred, a licensed physician has to determine that test results are necessary, or a compelling need for testing exists. The court shall consider the need for the test against privacy or other interests of the prisoner.

Section 18.15.440 – Confidentiality provisions apply and results can be disclosed only as needed for treatment.

Section 18.15.450 – Definitions.

ALASKA STATE LEGISLATURE



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April 15, 2004

The Honorable Lesil McGuire
Chair, House Judiciary Committee
State Capitol, Room 120
Juneau, AK 99801

Re: CS FOR CS 309(STA) – Bloodborne pathogen testing of prisoners

Dear Representative McGuire:

CS for CS 309(STA) was moved out of House State Affairs this morning has been referred to the Judiciary Committee. I request that this bill be scheduled at your earliest convenience. I have enclosed a copy of this bill, two zero fiscal notes, sponsors statement, and sectional analysis. Also enclosed is a copy of a recent report by Legislative Research Services.

Should you or your staff have any questions, or need further information, please contact my aide Kurt Olson at 2828.

Thank you for your assistance.

Sincerely,

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

Senator Tom Wagoner

LEGISLATIVE RESEARCH REPORT

MARCH 4, 2004



REPORT NUMBER 04.145

INVOLUNTARY TESTING OF INMATES FOR BLOODBORNE PATHOGENS

PREPARED FOR SENATOR TOM WAGONER

BY PATRICIA YOUNG, MANAGER

You wished to know the number of states that allow involuntary testing of inmates for bloodborne pathogens and other serious transmissible diseases. You were particularly interested in states that permit testing without consent when an inmate has intentionally or unintentionally exposed a correctional officer to the inmate's blood or other bodily fluids.

Although a number of organizations compile information on state laws requiring testing of inmates for human immunodeficiency virus (HIV) in general, we found no agency having compiled a list of state laws providing for this particular subset of mandatory testing.¹ We searched the statutes of several states that, based on comments in various publications on corrections and testing for transmissible diseases, we thought likely to contain such provisions. By this process, we identified provisions in 15 states.² The attached table provides citations and brief descriptions of pertinent parts of those states' laws.

As you will note, in most of these states, if the prisoner refuses to submit to testing, the officer or the officer's employer or representative is authorized to seek a court order compelling the prisoner to submit. In only one of the states we examined (Michigan), is involuntary testing authorized without a court order:

In order to protect the health, safety, and welfare of department employees, the department may test a prisoner . . . whether or not the prisoner consents to the test. The department is not required to give the prisoner an opportunity for a

¹ We contacted the Association of State Correction Administrators; the American Correctional Association (which publishes *Corrections Compendium*), the American Federation of State, County, and Municipal Employees (an organization that testified in support of the federal Correction Officers Health and Safety Act of 1998, P.L. 105-370); the Law Enforcement Alliance of America; and the National Conference of State Legislatures.

² It is very possible that substantially similar provisions exist in other states.

hearing or to obtain an order from a court of competent jurisdiction before administering the test.³

Among the states we examined, we note that in Colorado, Ohio, and Wisconsin, intentionally exposing a corrections officer to bodily fluids is, in and of itself, a criminal act.

Not surprisingly, many corrections officials and organizations support provisions that allow for expeditious testing of prisoners who have exposed corrections officials and employees to their bodily substances. To that end, the Law Enforcement Alliance of America offers a model law, the Infectious Disease Testing Act.⁴ During the course of our research, we also found that the Council of State Governments included Colorado's "Act to Impose Penalties on Inmates Who Assault Employees of Detention Facilities Through Contact With Substances That May Cause Injury or Disease," in its 1999 volume of *Suggested State Legislation*.⁵

On the federal level, the Correction Officers Health and Safety Act of 1998 (Public Law 105-370), provides for such testing among federal prisoners—both those already sentenced and those detained before trial. Under the provisions of the act, upon "well-founded reason" to believe that a federal prisoner may have intentionally or unintentionally transmitted HIV to any officer or facility employee, the Attorney General "shall cause" that prisoner to be "tested promptly."⁶ The law further calls for the Attorney General, in consultation with the Secretary of the Department of Health and Human Services, to provide to states proposed guidelines for the prevention, detection, and treatment of prisoners and personnel who have or may be exposed to infectious diseases in correctional institutions. Although the act specified that the federal administration would provide these proposed guidelines within one year, officials with the Alaska Departments of Corrections and Law are not aware of any such guidelines.⁷

State and federal Occupational Safety and Health Administration (OSHA) regulations nevertheless pertain to all incidents of exposure in correctional settings. According to representatives of the Department of Corrections and representatives of the Section of Epidemiology in the Division of Public Health, on-the-job exposures are routinely evaluated for the likelihood of transmission of diseases, which generally takes a "fairly significant intrusion." As such, public health officials note that not every exposure is significant enough to warrant prophylactic treatment—which itself is intrusive and unpleasant, and which generally must be started as soon as possible after exposure.⁸ In cases deemed to present a likelihood of disease transmission, prophylactic treatments are begun long before test results would be available. In that regard, the issue is whether or not to continue the treatment after the test results are known.

³ Michigan Compiled Laws § 791.267b.

⁴ We include a copy of the Law Enforcement Alliance of America's Infectious Disease Testing Act as Attachment A.

⁵ We include the Colorado Act as presented in the Council of State Government's Suggested State Legislation, 1999, as Attachment B.

⁶ We include a copy of the Correction Officers Health and Safety Act of 1998, P.L. 105-370, as Attachment C.

⁷ We spoke with Portia Parker, deputy commissioner, Alaska Department of Corrections, and John Bodick, assistant attorney general (dealing with Corrections), Alaska Department of Law.

⁸ Wendy Craytor, HIV-STD program coordinator, Epidemiology Section, Division of Public Health, Department of Health and Social Services, (907) 269-8058. The state adoption of the federal regulations on bloodborne pathogens is 8 AAC 61-1010. The federal regulation adopted is 29 CFR 1910-1030.

As with the majority of the state laws we examined, the OSHA regulations allow for application to a court for an order compelling testing when a source refuses to submit to a blood sample.

I hope you find this information to be useful. Please do not hesitate to contact us if you have questions or need additional information.

Testing Prisoners After Exposing Corrections Officers to Bodily Substances, Selected States		
State	Citation	Brief Description
Colorado	18-3-203	Exposing a correctional officer or employee to bodily fluids or toxic, caustic, or hazardous materials with malicious intention is a crime of second degree assault. The court shall order a prisoner bound over for trial for, indicted for, or convicted of such an offense to supply blood or other bodily substances for testing.
Florida	384.287	If the person will not voluntarily submit to screening for sexually transmissible diseases that can be transmitted through a significant exposure, the employee may seek a court order directing the source to be tested.
Iowa	356.48	An inmate who exposes another person to bodily fluids "shall submit" to testing. If the offender refuses, the sheriff or person in charge of the jail may apply to the court for order compelling the source to submit to the testing.
Kansas	65-6009	If while performing official duties, an employee is exposed to another's bodily fluids and the source refuses to submit to testing for infectious diseases, the head of the agency may apply to the court for an order compelling the source to submit to such testing.
Maryland	18-338	An inmate "shall furnish" a blood sample for HIV testing when the inmate has been found guilty of violating institutional regulations, in connection with which violation, that inmate has exposed a correctional officer to bodily fluids, the exposure is confirmed by a health care provider, and the exposed employee has given written notice of the exposure to the managing official of the facility.
Michigan	791.267b	If the Department of Corrections determines that reasonable cause exists to believe that a prisoner's exposure of an employee to the prisoner's bodily fluids is of sufficient severity, the department "shall test" the prisoner for HIV or HBV, or both. "In order to protect the health, safety, and welfare of department employees, the department may test a prisoner...whether or not the prisoner consents to the test. The department is not required to give the prisoner an opportunity for a hearing or to obtain an order from a court of competent jurisdiction before administering the test."
Minnesota	241.331-338, et seq.	If a licensed physician has determination that a "significant exposure" has occurred, and no blood previously collected is available for testing, and the prisoner refuses to provide a blood sample, the facility or employee may petition the court for an order requiring the prisoner to provide the sample.

Testing Prisoners After Exposing Corrections Officers to Bodily Substances, Selected States

State	Citation	Brief Description
Nevada	441A.195	A law enforcement officer, correctional officer, emergency medical attendant, fireman, or any other criminal justice agency employee who may have been exposed to a contagious disease while performing official duties, or the employer of such a person, may petition the court for an order requiring the testing of the source person for HIV and HBV. The court "shall promptly hear" such a petition.
Ohio	2921.38	The intentional exposure of a law enforcement officer to bodily fluids is harassment—a fifth or third degree felony (third if the person knows he or she is a carrier of HIV, HBV, or TB). "The court, on request of the prosecutor, or the law enforcement authority responsible for the investigation of the violation, shall cause a person who allegedly has committed a violation of this section to submit to one or more appropriate tests..."
Oregon	433.085	Any law enforcement officer, parole and probation officer, corrections officer, emergency medical technician, firefighter or paramedic who in the performance of official duties comes into contact with the bodily fluids of another person may seek a court order compelling the source to submit to testing for HIV and HBV or HCV. The court "shall hold an ex parte in person or by telephone on the day of receipt of the petition, if possible, or within a reasonable period not to exceed three judicial days." Upon a showing that the petitioner has been exposed and the circumstances create probable cause to conclude that a significant possibility exists that the petitioner has been exposed to HIV, HBV, or HCV, the court shall order the testing of the source person.
South Dakota	23A-35B-1	A victim of "sliming" may request that the source person be tested. A health professional licensed or certified to do so shall take the blood sample.
Texas	81.05	A law enforcement or corrections officer, fire fighter, or emergency medical service employee or paramedic may request a department or health authority to order testing of a person who has exposed that person to bodily fluids if the professional believes the exposure places him or her at risk of a reportable disease including HIV. If the source refuses, the prosecuting attorney representing the state shall petition the court for an order requiring the test. The source person has a right to be represented by an attorney at the hearing.

Testing Prisoners After Exposing Corrections Officers to Bodily Substances, Selected States

State	Citation	Brief Description
Washington	70.24.340	A law enforcement officer, fire fighter, health care provider, health care facility staff person, department of corrections staff person, jail staff person, or other category of employment at risk of substantial exposure to another's bodily fluids, may request a state or local public health officer to order HIV testing. If the public health official refuses to order testing, the person may petition the court for a hearing, which must be held within 72 hours (exclusive of Saturdays, Sundays, and holidays). The standard of review is whether substantial exposure occurred and whether that exposure presents a possible risk of transmission of HIV.
Wisconsin	946.43 968.38	Any prisoner who throws or expels blood or other bodily substances at or toward an officer, employee, or visitor of the facility is guilty of a Class I Felony. If probably cause to believe that the exposure carried a potential for transmitting a communicable disease, the district attorney shall apply to the circuit court for an order requiring the source to submit to testing.

Sources: Various state statutes.

Attachment A

Law Enforcement Alliance of America,
Infectious Disease Testing Act



Law Enforcement Alliance of America

Law Enforcement, Crime Victims and Concerned Citizens... United for Justice!



INFECTIOUS DISEASE TESTING ACT

Section 1. This act may be cited as the "Infectious Disease Testing Act."

A. Definitions. For the purposes of this section:

(1) "transmissible disease" shall include the human immunodeficiency virus (HIV) or any of its derivatives; hepatitis and any of its derivatives; tuberculosis; and any other serious illness which an exposed person could have a reasonable expectation of contracting from a subject.

(2) "exposed person" means a police officer, corrections officer, doctor, nurse, emergency medical technician, paramedic, or other health care provider, or a victim of crime, any part of whose body came into contact with the bodily fluids of an incarcerated person.

(3) "subject" means any person who is incarcerated.

B. Notification.

(1) If an exposed person notifies the official in charge of an incarceration facility where a subject is incarcerated, in writing, under penalty of perjury, on a form to be developed by the State Health Department, that any part of the exposed person's body came into contact with the bodily fluids of the subject, such official shall, pursuant to subsection (C), cause the subject's blood to be tested for the presence of a transmissible disease.

C. Duty of Health Official

(1) Notwithstanding any provision of law or regulation, a state, county, or local public health officer designated by the State Health Department shall, upon written request of an official in charge of an incarceration facility, cause a blood test to be administered forthwith to a subject and shall immediately provide to such official a written report specifying the date on which such test was completed and the results thereof.

(2) At the time of communicating the test results to the official in charge of an incarceration facility, such public health officer shall, if the results reveal that the subject has a transmissible disease, also communicate the results to the subject and the exposed person and shall provide the subject and the exposed person with referrals for counseling and appropriate health care and support services. The counseling and services required by this paragraph may be provided by a public health officer associated with the facility where the subject is incarcerated.

Section 2. Requirement for testing arrested person's blood for transmissible diseases.

A. Definitions. For the purposes of this section:

(1) "transmissible disease" shall have the same meaning as in section I.

(2) "exposed person" shall have the same meaning as in section I.

(3) "subject" means any person who has been arrested.

B. Arrest of Released Subject.

If an exposed person notifies a judicial officer, by sworn testimony, after a subject has been released that any part of the exposed person's body came into contact with the bodily fluids of the subject, the judicial officer shall promptly issue an arrest warrant for the subject. Once arrested, the subject shall not be released by a judicial officer until such subject's blood has been tested, pursuant to section I, for the presence of a transmissible disease.

C. Compliance.

Any failure to comply with the provisions of this section shall not impair or affect the validity of any of the proceedings conducted by a court with respect to any offense with which the subject is charged or affect the admissibility of the results of the blood test.

Attachment B

"Inmate Assaults with Body Fluids or Other Hazardous Substances"
Council of State Government's *Suggested State Legislation, 1999*



SUGGESTED STATE LEGISLATION

1999 Volume 58

Developed by the
Committee on Suggested State Legislation

The Council of State Governments
Lexington, Kentucky

Headquarters: (606) 244-8000

Fax: (606) 244-8001

E-mail: info@csg.org

Internet: www.csg.org

Attachment C

Correction Officers Health and Safety Act of 1998, P.L. 105-370

Inmate Assaults with Body Fluids or Other Hazardous Substances

This Act directs that inmates commit a crime of assault in the second degree if they throw or expel infected body fluids or other hazardous material at prison employees or others who provide prison services. The law directs that inmates who commit such crimes can be tested for communicable diseases and that the test results can be disclosed to their crime victims.

Submitted as:
Colorado
CH 270 (Laws of 1997)
Enacted into law, 1997.

Suggested Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act may be cited as "An Act to Impose Pen-
2 alties on Inmates Who Assault Employees of Detention Facilities Through
3 Contact With Substances That May Cause Injury or Disease."

1 Section 2. [*Assault in the Second Degree.*]

2 (1) A person commits the crime of assault in the second degree if:

3 (a) While lawfully confined in a detention facility within this state,
4 a person with intent to infect, injure, harm, harass, annoy, threaten, or alarm
5 a person in a detention facility whom the actor knows or reasonably should
6 know to be an employee of a detention facility, causes such employee to
7 come into contact with blood, seminal fluid, urine, feces, saliva, mucus, vomit,
8 or any toxic, caustic, or hazardous material by any means, including but not
9 limited to throwing, tossing, or expelling such fluid or material.

10 (2) (a) Any adult or juvenile who is bound over for trial for the offense
11 described in subparagraph (1)(a) of this section, subsequent to a prelimi-
12 nary hearing or after having waived the right to a preliminary hearing, any
13 person who is indicted for or is convicted of any such offense, or any person
14 who is determined to have provided blood, seminal fluid, urine, feces, sa-
15 liva, mucus, or vomit to a person bound over for trial for, indicted for, or
16 convicted of such an offense shall be ordered by the court to submit to a
17 medical test for communicable diseases and to supply blood, feces, urine,
18 saliva, or other bodily fluid required for the test. The results of such test
19 shall be reported to the court or the court's designee, who shall then dis-

Inmate Assaults with Body Fluids or Other Hazardous Substances

20 close the results to any victim of the offense who requests such disclosure.
21 Review and disclosure of medical test results by the court shall be closed
22 and confidential, and any transaction records relating thereto shall also
23 be closed and confidential. If a person subject to a medical test for
24 communicable diseases pursuant this subparagraph voluntarily submits
25 to a medical test for communicable diseases, the fact of such person's
26 voluntary submission shall be admissible in mitigation of sentence if
27 the person is convicted of the charged offense.

28 (b) In addition to any other penalty provided by law, the court may
29 order any person who is convicted of the offense described in subparagraph
30 (1)(a) of this section to meet all or any portion of the financial obligations of
31 medical tests performed on and treatment prescribed for the victim or vic-
32 tims of the offense.

33 (c) At the time of sentencing, the court may order that an offender
34 described in subparagraph (2)(b) of this section be put on a period of proba-
35 tion for the purpose of paying the testing and treatment costs of the victim
36 or victims; except that the period of probation, when added to any time
37 served, shall not exceed the maximum sentence that can be imposed for the
38 offense.

39 (3) (a) As used in this Act, "detention facility" means any building, struc-
40 ture, enclosure, vehicle, institution, or place, whether permanent or tempo-
41 rary, fixed or mobile, where persons are or may be lawfully held in custody
42 or confinement under the authority of this state or any political subdivision
43 of this state.

44 (b) As used in this Act, "employee of a detention facility" includes
45 employees of the [Department of Corrections,] employees of any agency or
46 person operating a detention facility, law enforcement personnel, and any
47 other persons who are present in or in the vicinity of a detention facility
48 and are performing services for a detention facility. "employee of a deten-
49 tion facility" does not include a person lawfully confined in a detention fa-
50 cility.

1 Section 3. [*Severability.*] [Insert severability clause.]

1 Section 4. [*Repealer.*] [Insert repealer clause.]

1 Section 5. [*Effective Date.*] [Insert effective date.]

Inmate Assaults with Body Fluids or Other Hazardous Substances

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45 employees of the [Department of Corrections,] employees of any agency or
46 person operating a detention facility, law enforcement personnel, and any
47 other persons who are present in or in the vicinity of a detention facility
48 and are performing services for a detention facility. "employee of a deten-
49 tion facility" does not include a person lawfully confined in a detention fa-
50 cility.

1 Section 3. [*Severability.*] [Insert severability clause.]

1 Section 4. [*Repealer.*] [Insert repealer clause.]

1 Section 5. [*Effective Date.*] [Insert effective date.]

Public Law 105-370
105th Congress

An Act

Nov. 12, 1998
[H.R. 2070]

To amend title 18, United States Code, to provide for the testing of certain persons who are incarcerated or ordered detained before trial, for the presence of the human immunodeficiency virus, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Correction
Officers Health
and Safety Act of
1998.
18 USC 4001
note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Correction Officers Health and Safety Act of 1998".

SEC. 2. TESTING FOR HUMAN IMMUNODEFICIENCY VIRUS.

(a) IN GENERAL.—Chapter 301 of title 18, United States Code, is amended by adding at the end the following:

"§ 4014. Testing for human immunodeficiency virus

"(a) The Attorney General shall cause each individual convicted of a Federal offense who is sentenced to incarceration for a period of 6 months or more to be tested for the presence of the human immunodeficiency virus, as appropriate, after the commencement of that incarceration, if such individual is determined to be at risk for infection with such virus in accordance with the guidelines issued by the Bureau of Prisons relating to infectious disease management.

"(b) If the Attorney General has a well-founded reason to believe that a person sentenced to a term of imprisonment for a Federal offense, or ordered detained before trial under section 3142(e), may have intentionally or unintentionally transmitted the human immunodeficiency virus to any officer or employee of the United States, or to any person lawfully present in a correctional facility who is not incarcerated there, the Attorney General shall—

"(1) cause the person who may have transmitted the virus to be tested promptly for the presence of such virus and communicate the test results to the person tested; and

"(2) consistent with the guidelines issued by the Bureau of Prisons relating to infectious disease management, inform any person (in, as appropriate, confidential consultation with the person's physician) who may have been exposed to such virus, of the potential risk involved and, if warranted by the circumstances, that prophylactic or other treatment should be considered.

"(c) If the results of a test under subsection (a) or (b) indicate the presence of the human immunodeficiency virus, the Attorney General shall provide appropriate access for counselling, health

care, and support services to the affected officer, employee, or other person, and to the person tested.

"(d) The results of a test under this section are inadmissible against the person tested in any Federal or State civil or criminal case or proceeding.

"(e) Not later than 1 year after the date of the enactment of this section, the Attorney General shall issue rules to implement this section. Such rules shall require that the results of any test are communicated only to the person tested, and, if the results of the test indicate the presence of the virus, to correctional facility personnel consistent with guidelines issued by the Bureau of Prisons. Such rules shall also provide for procedures designed to protect the privacy of a person requesting that the test be performed and the privacy of the person tested."

Deadline.
Regulations.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 301 of title 18, United States Code, is amended by adding at the end the following new item:

"4014. Testing for human immunodeficiency virus."

(c) GUIDELINES FOR STATES.—Not later than 1 year after the date of the enactment of this Act, the Attorney General, in consultation with the Secretary of Health and Human Services, shall provide to the several States proposed guidelines for the prevention, detection, and treatment of incarcerated persons and correctional employees who have, or may be exposed to, infectious diseases in correctional institutions.

Deadline.
18 USC 4042
note.

Approved November 12, 1998.

LEGISLATIVE HISTORY—H.R. 2070:

HOUSE REPORTS: No. 105-665 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Aug. 3, considered and passed House.

Oct. 20, considered and passed Senate, amended.

Oct. 21, House concurred in Senate amendment.



care, and support services to the affected officer, employee, or other person, and to the person tested.

"(d) The results of a test under this section are inadmissible against the person tested in any Federal or State civil or criminal case or proceeding.

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note.

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Aug. 3, considered and passed House.

Oct. 20, considered and passed Senate, amended.

Oct. 21, House concurred in Senate amendment.

SB

316

Subject: SB 316, Primary Seatbelt Law

Date: Wed, 5 May 2004 15:52:14 -0800

From: "Diamond, Joan W." <DiamondJW@ci.anchorage.ak.us>

To: <Vanessa_Tondini@legis.state.ak.us>

Vanessa,

I am aware that the House Judiciary Committee will hear the Primary Seatbelt Law tonight. I will be unable to testify however I want to go on record that the Municipal Department of Health and Human Services is in support of this bill. It has been 14 years since we first passed a secondary seatbelt law and the primary provision is truly the crown jewel of public health. It will increase our seatbelt use rate to 91%. The biggest benefit is the decrease in costs both financial to the state and the personal costs of death and long term suffering to individuals. The personal attention by the Judiciary Committee to pass this bill is greatly appreciated. Thank you for scheduling this bill.

Joan Diamond

Municipality of Anchorage

Department of Health and Human Services

Anchorage, Alaska 99519

Alaska State Legislature

Senator Con Bunde
District P

Vice Chair: Senate Finance Committee
Chair: Senate Labor & Commerce Committee
Member: Legislative Budget & Audit Committee

During Session:
State Capitol
Juneau, AK 99801-1182
(907) 465-4843

During Interim:
716 W. Fourth Avenue
Anchorage, AK 99501-2133
(907) 269-0181

MEMORANDUM

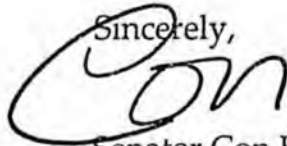
DATE: April 21, 2004
TO: Representative Lesil McGuire
Chair, House Judiciary Committee
FROM: Senator Con Bunde
RE: Senate Bill 316

Dear Representative McGuire,

Attached you will find the bill packet for Senate Bill 316. I would appreciate a hearing for the bill in the House Judiciary Committee.

Thank you for your consideration of this request. If you have any questions or would like more information, please call my office at x 4843.

Sincerely,



Senator Con Bunde



Alaska State Legislature

Senator Con Bunde
Senate District P

Vice Chair: Senate Finance Committee
Chair: Senate Labor & Commerce Committee
Member: Legislative Budget & Audit Committee

Sponsor Statement

Senate Bill 316

“An Act relating to motor vehicle safety belt violations.”

Currently, Alaska state law requires *all* individuals to wear a seat belt while driving or riding in any vehicle. Senate Bill 316 changes the enforcement measures of this law to allow police officers and state troopers to pull over individuals who are not wearing their seat belt. Presently, officers may cite drivers only if they are pulled over for another violation. As a direct result of this legislation, we have the opportunity to save lives, collect millions of dollars in Federal highway funding that comes with compliance of a primary seat belt law and save the state hundreds of thousands of dollars in emergency, rehabilitative and insurance costs annually.

Motor vehicle accidents are the *leading cause of death* for Americans of every age from 6 to 33 years of age and Alaska has one of the leading accident related death rates of all 50 states. Although seat belt use is required by statute and is the single most effective safety device in preventing injuries and fatalities, we are currently unable to enforce its use. In Alaska, a change in enforcement powers would lead to a 10-15% increase in seat belt use. That increase alone will prevent hundreds of injuries and save 12-15 lives in the first year alone.

The State of Alaska will automatically receive \$3,921,250 as a one time Federal grant for enacting a primary seat belt law (U.S. Department of Transportation, SAFETEA Primary Safety Belt Law Incentives Program). The grant may be used towards any road improvement plan statewide, including work on guardrails, new lanes, hazard elimination or any needed repairs. Additional funds to run advertisement campaigns and awareness programs will also be available based on current seat belt use and public compliance with the law.

Lastly, the primary enforcement seat belt law has been proven to save billions of dollars that society bears annually from motor vehicle accidents. Eighty-five percent of all costs involved in a motor vehicle crash are borne by society. On a national level in 2000, the total cost of motor vehicle crashes was over 230 *billion dollars* (Alaska paid nearly a half a billion dollars), a cost of \$820 per person (National Highway Traffic Safety Administration). Safety belt usage saves approximately 50 billion dollars annually; conversely we spend an *extra* 26 billion on non-use.

Enacting a primary seat belt law may save more lives than any other single piece of legislation we consider this session. Currently, 20 states plus the District of Columbia have chosen to enforce a primary seat belt law. If every state did, we would save 1,900 lives, prevent 49,000 injuries and save Americans billions of dollars in health care, taxes and insurance costs in the first year alone. This bill saves money and lives. I urge you to consider the evidence before you and support SB 316.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB316-DPS-ASTD-2-23-04
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
Title Motor Vehicle Seat Belt Violations RDU Alaska State Troopers
Component AST Detachments
Sponsor Sen. Bunde
Requester S. State Affairs 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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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 repeal AS 28.05.095(e) that will, in affect, change seat belt violations from a "secondary" violation to a "primary" violation. This will allow law enforcement officers to contact motorists when a seatbelt violation is observed. As the law is now, the officer must have another reason to contact the violator before enforcement action can be taken for the seatbelt violation.

It is anticipated the implementation of this bill will have no fiscal impact on the Department of Public Safety.

Prepared by: Lt. Al Storey Phone 269-4532
Division Alaska State Troopers Date/Time 2/23/04 9:24 AM
Approved by: Commissioner William Tandeske Date 2/23/2004
Agency Department of Public Safety

Alaska Seat Belt Cost Analysis

EXECUTIVE SUMMARY

OBJECTIVES

An average of more than 39,000 Alaskans are involved in motor vehicle crashes every year. It is an expensive and painful problem with no single cause. For the citizens of Alaska, the medical costs alone are estimated to be over \$14.5 million per year, while property damage and long-term disabilities add millions more to this figure. Alaskans pay a significant portion of these costs through publicly funded programs.

It is well documented that wearing a seat belt significantly reduces the severity of injury and decreases the risk of death in a motor vehicle crash. *The Alaska Seat Belt Cost Analysis* attempted to quantify the medical costs associated with restrained and unrestrained occupants involved in motor vehicle crashes and the sources of payment for these hospitalizations.

RESULTS

With data supplied by the Alaska Department of Transportation and Public Facilities and the Alaska Trauma Registry (ATR), a thorough analysis of the health care costs to treat restrained and unrestrained vehicle occupants was undertaken. The data covered the years 1996 through 1999.

The study revealed that the decision not to wear a seat belt has economic consequences for everyone:

- ✓ During the time period analyzed, medical costs for those who were not wearing a seat belt at the time of the crash totaled \$13 million. Of this amount, 50% was paid with public funds.
- ✓ Victims of crashes in Alaska spent a cumulative average of 2,672 days in the hospital each year. The majority of these individuals - 58% - were unrestrained at the time of the crash.
- ✓ Medicaid costs to treat 83 crash victims under the age of 20 totaled \$1.6 million.
- ✓ Post-hospitalization care for victims of motor vehicle crashes is also expensive. Nineteen crash survivors were placed in "skilled nursing facilities" at a cost of \$1 million, of which 77% was paid by public sources. Of those 19 individuals, 13 were not wearing a seat belt at the time of their crash.

More than \$2.6 million in public funds is spent each year to care for unbuckled victims of motor vehicle crashes, and these are just the documented economic costs. Death and long-term disabilities involving the brain or spinal cord take their own toll on individuals and families and are very difficult to quantify.

CONCLUSIONS AND RECOMMENDATIONS

The Alaska Seat Belt Cost Analysis makes a compelling economic case for the use of seat belts. The most recent observational survey of seat belt use conducted in July 2003 showed that Alaskans are buckling up at a rate of 78.9%. While higher than previous years, there is a substantial segment of the population who is still not wearing a seat belt. Introduction and implementation of programs and public policies to encourage seat belt use will result in fewer injuries and deaths, ultimately reducing the financial burden on the taxpayers of Alaska.

Alaska Seat Belt Cost Analysis

**Alaska Injury
Prevention Center**



Ron Perkins, MPH

**Anchorage, Alaska
September 2003**

This research was made possible with funding from the Automotive Coalition for Traffic Safety, Inc.

EXECUTIVE SUMMARY

OBJECTIVES

An average of more than 39,000 Alaskans are involved in motor vehicle crashes every year. It is an expensive and painful problem with no single cause. For the citizens of Alaska, the medical costs alone are estimated to be over \$14.5 million per year, while property damage and long-term disabilities add millions more to this figure. Alaskans pay a significant portion of these costs through publicly funded programs.

It is well documented that wearing a seat belt significantly reduces the severity of injury and decreases the risk of death in a motor vehicle crash. The *Alaska Seat Belt Cost Analysis* attempted to quantify the medical costs associated with restrained and unrestrained occupants involved in motor vehicle crashes and the sources of payment for these hospitalizations.

RESULTS

With data supplied by the Alaska Department of Transportation and Public Facilities and the Alaska Trauma Registry (ATR), a thorough analysis of the health care costs to treat restrained and unrestrained vehicle occupants was undertaken. The data covered the years 1996 through 1999.

The study revealed that the decision not to wear a seat belt has economic consequences for everyone:

- ✓ During the time period analyzed, medical costs for those who were not wearing a seat belt at the time of the crash totaled \$13 million. Of this amount, 50% was paid with public funds.
- ✓ Victims of crashes in Alaska spent a cumulative average of 2,672 days in the hospital each year. The majority of these individuals - 58% - were unrestrained at the time of the crash.
- ✓ Medicaid costs to treat 83 crash victims under the age of 20 totaled \$1.6 million.
- ✓ Post-hospitalization care for victims of motor vehicle crashes is also expensive. Nineteen crash survivors were placed in "skilled nursing facilities" at a cost of \$1 million, of which 77% was paid by public sources. Of those 19 individuals, 13 were not wearing a seat belt at the time of their crash.

More than \$2.6 million in public funds is spent each year to care for unbuckled victims of motor vehicle crashes, and these are just the documented economic costs. Death and long-term disabilities involving the brain or spinal cord take their own toll on individuals and families and are very difficult to quantify.

CONCLUSIONS AND RECOMMENDATIONS

The *Alaska Seat Belt Cost Analysis* makes a compelling economic case for the use of seat belts. The most recent observational survey of seat belt use conducted in July 2003 showed that Alaskans are buckling up at a rate of 78.9%. While higher than previous years, there is a substantial segment of the population who is still not wearing a seat belt. Introduction and implementation of programs and public policies to encourage seat belt use will result in fewer injuries and deaths, ultimately reducing the financial burden on the taxpayers of Alaska.

Introduction

Motor vehicle crashes are the leading cause of death for Americans between the ages of 2 to 33 years.¹ Every 13 minutes, someone in America dies in a traffic crash, and every 10 seconds, someone is injured.² Each year in the U.S., traffic crashes claim about 42,000 lives and result in approximately three million injuries. These crashes cost every person in the U.S. an average of \$820 each.³ The financial costs are minor compared with the pain and suffering of the victims or the loss of a loved one.

According to the National Highway Traffic Safety Administration (NHTSA), in the year 2002, 42,815 people were killed in motor vehicle-related crashes and 2.92 million were injured. The total cost was \$230.6 billion.⁴ NHTSA also reported that failure to wear seat belts led to approximately 9,200 deaths and 143,000 injuries, costing the U.S. economy \$26 billion.

In 1999, Alaska had the highest unintentional injury death rate of all the 50 states. Of these deaths, motor vehicle-related fatalities were over twice as high as the next leading cause.⁵ Seat belts are the single most effective safety device in preventing serious injuries and reducing fatalities in motor vehicle crashes. Research has shown that lap and shoulder safety belts, when used properly, reduce the risk of fatal injury to front-seat occupants by 45% and the risk of moderate-to-critical injury by 50%. Child safety seats, when used properly, reduced infant fatalities in passenger cars by 71%.⁶

A 1995 NHTSA study, *Safety Belt Use Laws: An Evaluation of Primary Enforcement and Other Provisions*, showed that states with primary enforcement laws have significantly higher safety belt usage than states with secondary laws. Belt use was about 15% higher in the states with primary enforcement laws. Primary enforcement allows a police officer to stop a vehicle when occupants are unrestrained, while secondary enforcement allows for citing the unbelted motorist only if another infraction resulted in the stop.

Given the documented effectiveness of seat belts in reducing fatalities, the severity of injuries in traffic crashes and, therefore, medical costs associated with those injuries, the Alaska Injury Prevention Center decided to investigate the economic implications of unrestrained vehicle occupants involved in crashes.

This report attempts to quantify the hospital costs associated with seat belt use and non-use in Alaska, as well as to determine what portions of those costs are borne by taxpayers. The research was conducted by the Alaska Injury Prevention Center with funding support from the Automotive Coalition for Traffic Safety, Inc.

Methods

The *Alaska Seat Belt Cost Analysis* project used data from the Department of Transportation and Public Facilities (DOT&PF) from 1990-2001, to compare seat belt usage patterns for all Alaskan motor vehicle occupants. The DOT&PF data are taken from police reports that document seat belt use, property damage, fatalities, time of day, weather conditions, passenger seat belt use, contributing factors, etc.

The Alaska Trauma Registry (ATR) was used extensively for this study because it documents every trauma case resulting in at least one overnight stay in an Alaskan hospital. The ATR contains information about the length of stay, costs for treatment, source of payment, reported seat belt use, age, sex, injury severity, etc. The ATR does not contain information about outpatient visits, scene deaths, private physician contacts, chiropractor visits, and other costs for motor vehicle-related injuries.

Another database maintained by Medicaid, was explored but found to be of limited use because it did not track the cause of injury. If the Medicaid data could be linked with DOT&PF and ATR by age, sex, date of injury, etc., some of the long-term expenses beyond the hospital stay could potentially be tracked.

Hospitalization costs (from the Alaska Trauma Registry) for belted and unbelted occupants injured in a motor vehicle crash in Alaska, for the years 1996 – 1999 were compared. Hospital costs were analyzed by seat belt use or non-use, source of payment, days spent in the hospital, discharge location, and fatalities.

Restraint use was categorized into either the YES group or the NO group in the following manner:

YES	NO
Air Bag and Seat Belt	Air Bag Only (not restrained)
Seat Belt only	None
Infant/Child Restraint	

Many of the entries listed restraint use as UNKNOWN. The case narrative field in the ATR was used to re-categorize a few of the unknowns, but restraint use or non-use could not be determined for most of the unknowns, therefore they were analyzed separately.

In a landmark publication, *The Cost of Injury in the United States*, Rice and MacKenzie documented motor vehicle-related injuries per victim as the most costly of all unintentional injury categories. The average cost for each person

hospitalized for motor vehicle-related injuries was calculated to be \$43,409.⁷ Several studies have estimated the loss of productivity or quality of life costs for various types of injury, but for this analysis only the quantifiable hospital related costs were examined.

Costs attributed to the "general public" included payments from programs such as Medicaid, Medicare, Indian Health Service, military, CHAMPUS (military dependents), and no-pay patients. We could not adequately define uninsured motorists' costs which could also be attributed to public costs.

Results

Observational surveys completed by the University of Alaska's Institute for Social and Economic Research showed that in the Year 2000, 62% of the front seat occupants of motor vehicles were wearing seat belts. In the Year 2001, 63% of the front seat occupants of motor vehicles were wearing seat belts. These statistically valid surveys represent the driving population of the state and are important when examining seat belt use percentages among motor vehicle crash victims who are injured, hospitalized, or merely involved in a crash.

According to Alaska DOT&PF data from 1998 through 2000, an annual average of 39,613 motor vehicle occupants were involved in traffic crashes, and approximately 62 of these occupants lost their lives each year.⁸ Of all the motor vehicle occupants involved in a crash, only 6% reported not wearing a restraint, 66% were wearing a restraint, and 28% had unknown restraint use (see Table 1). When all of the cases with documented restraint use were analyzed separately, 9% were reportedly not wearing a seat belt, while 60% of the fatalities were unrestrained.

Table 1
Alaska Seat Belt Use (DOT&PF Data)
1998, 1999, 2000 Combined and Averaged

	All Motor Vehicle Occupants	All Occupants Where Seat Belt use Documented	All Fatalis	Fatals Where Seat Belt use Documented	Major Injuries	Minor Injuries	No Injuries
No Restraint	6% (7,641)	9%	54% (34)	60%	37%	15%	5%
Restraint Used	66% (77,936)	91%	37% (23)	40%	49%	74%	65%
Unknown Use	28% (33,263)		9% (5)		12%	11%	31%
<i>Annual Average</i>	39,613		62				

The Alaska Trauma Registry provided additional information on the more seriously injured occupants after they were admitted to a hospital. Of all the motor vehicle occupant hospitalizations, 48% were not wearing a restraint, 43% were wearing a restraint, and 9% had unknown restraint use (see Table 2). When all cases with documented restraint use were analyzed separately, 53% were unrestrained, and of the fatalities who died in the hospital, 56% were unrestrained.

Table 2

**Alaska Trauma Registry Data
Hospitalizations
1996 - 1999 Combined**

	All Motor Vehicle Occupant Hospitalizations	Cases with Seatbelt Use Documented	Fatals	Fatals with Seatbelt Use Documented
No Restraint	48% (887)	53%	49% (30)	56%
Restraint Used	43% (790)	47%	39% (24)	44%
Unknown Use	9% (167)	0%	11% (7)	

Another measure of severity used in this analysis was total number of hospital days for restrained and unrestrained occupants. An average of 2,672 days was spent in hospitals every year for motor vehicle occupant injuries in Alaska. Of the total hospital days where restraint use was documented, 58% of the patients had been unrestrained at the time of their crash and 42% were restrained (Table 3).

Table 3

**Hospital Days
1996 - 1999 Average**

	Avg. Hospital Days per Year	%	% by "Known" Use
No Restraint	1402	52%	58%
Restraint Used	1009	38%	42%
Use Unknown	261	10%	

In 1994, the Federal Highway Administration published a technical report, *Motor Vehicle Accident*, and included the following lifetime injury costs by Abbreviated Injury Severity (AIS) score:

<u>Severity</u>	<u>Descriptor</u>	<u>Cost per Injury</u>
AIS 1	Minor	\$ 5,000
AIS 2	Moderate	\$ 40,000
AIS 3	Serious	\$ 150,000
AIS 4	Severe	\$ 490,000
AIS 5	Critical	\$1,980,000
AIS 6	Fatal	\$2,600,000

When correlating the AIS scores with seat belt use in Alaska, 60% of the patients with the lowest score of AIS 1, were wearing restraints at the time of their crash. The most severely injured patients, having scores of AIS 5, had the lowest percentage of restraint use at 45%.

Post-hospitalization costs are substantial, but difficult to measure. The most severe non-fatal cases are discharged to "skilled nursing" facilities which typically require round-the-clock monitoring. Of the patients discharged to skilled nursing, 13 had been unrestrained and 6 were restrained during the motor vehicle crash. The hospital costs for these 19 patients before they were discharged were nearly \$1 million, of which 77% was derived from public sources. Unfortunately, it was impossible to track post-hospitalization costs.

Costs

The costs for hospitalized motor vehicle occupants in Alaska were analyzed by the source of payment data in the ATR. These costs are not considered to be complete, since some of the costs are billed by sources outside of the hospital, such as medical specialists, chronic care facilities, pharmacies, medical and prosthetic equipment companies, etc. Generally, costs were paid by one or more of the following sources: motor vehicle property and casualty insurance, private health and medical insurance, CHAMPUS insurance for military dependents, military branches, Medicaid, Medicare, IHS for Alaska Native beneficiaries, and workers compensation insurance.

The Alaska Department of Health and Social Services, Section of Community Health and EMS recently completed a research project that analyzed injuries among Medicaid-eligible youth ages 0-20.⁹ The report compiled hospital costs for various types of injuries for the years 1995-1999.

Motor vehicle occupant injuries are the most expensive injury category for Medicaid. During the four-year period, there were 83 Medicaid-eligible Alaskans who were 0-20 years old and involved in motor vehicle crashes.

The breakdown of the medical costs to treat these individuals included:

- The average cost per case was \$20,000.
- Average cost per hospital day was \$3,300.
- Average number of days in the hospital was 6 days per case.
- Total number of Medicaid patients was 83, with a total estimated cost of \$1.6 million.

For the years 1996 through 1999, an analysis of hospital costs documented in the ATR for motor vehicle occupant injuries was undertaken. Only 66% of the patients had medical costs reported in the ATR because several of the hospitals serving federal beneficiaries and a few of the public hospitals did not report costs associated with individuals. Of the cases where costs were reported, over \$22.2 million was spent on direct medical care. When extrapolating average costs per case, the four-year costs were:

- \$21.8 million for unrestrained occupants and
- \$15.8 million for restrained occupants.

When including the "unknowns," an additional \$6.1 million is added, for a total of \$43.6 million. Of the total hospital costs reported, 59% represented unrestrained occupants (see Table 4).

Table 4

Alaska MV Hospital Costs

1996 - 1999

	Total Costs	Total Cases	Average Costs per Case	% of Total
No Restraint Used	\$13,039,797	534	\$24,419	59%
Restraint Used	\$9,177,849	460	\$19,952	41%

Of the total ATR costs for motor vehicle-related hospitalizations, 44% was paid by the general public through programs such as Medicaid, Medicare, Indian Health Service, military, CHAMPUS, and no-pay patients. Of this 44% paid by the public, 69% of the costs were for unrestrained occupants (see Table 5).

Table 5

Public Costs for Alaska MV Hospitalizations

1996 - 1999

	Total Costs	Total Cases	Average Costs per Case	% of Total
No Restraint Used	\$6,514,907	181	\$35,994	69%
Restraint Used	\$3,226,035	263	\$12,266	31%

There is well over \$2.6 million dollars spent each year on beneficiaries of public programs who are hospitalized for motor vehicle-related injuries. This number excludes the very costly pedestrian and bicycle victims injured by motor vehicles.

Conclusions

A substantial body of research demonstrates that seat belt use greatly reduces the number of traffic crash-related fatalities and the severity of injuries. In general, the more severe the injury, the less likely it will be that the individual was buckled up. The *Alaska Seat Belt Cost Analysis* shows that restraint use or non-use also affects the number of hospitalizations, length of stay in the hospital, and the overall cost of hospitalizations for motor vehicle occupants involved in crashes.

The analysis also shows that 44% of motor vehicle crash-related hospital costs are borne by the citizens of Alaska. Close to 40,000 vehicle occupants are involved in traffic crashes each year in Alaska. More than \$2.6 million dollars is spent each year for beneficiaries of public programs who are hospitalized for motor vehicle related injuries. Thus, the decision to wear or not wear a seat belt is not just a matter of personal choice, but a decision that has economic implications for all Alaskans.

This study only analyzed hospitalization costs of vehicle occupants involved in crashes. For those suffering some types of injuries, including those to the brain and spinal cord, long-term care and rehabilitation costs vastly exceed the initial hospitalization costs. Thus, the total cost to the public is significantly higher than those documented in this study.

Fortunately, seat belt use in Alaska is on the rise. The most recent observed seat belt use survey found that belt use was 78.9% in 2003 up from 66% in 2002. Still, experience from other states and Canada suggests that the largest reductions in

fatalities, injury severity (and thus medical costs) do not occur until belt use rates reach the 90 percent range.¹⁰

Most frequently, those who refuse to buckle up also tend to exhibit other high-risk behaviors like speeding and driving while impaired. It is critical that all drivers and passengers use seat belts and child restraints, as appropriate, if hospital and other medical costs resulting from motor vehicle crashes are to be substantially reduced. Programs and policies that result in higher restraint use will reduce traffic crash fatalities as well as the severity of injuries and costs to individuals and to the taxpayers of Alaska.

References

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- ¹ NHTSA, Traffic Safety Facts, 2002
 - ² NHTSA, Status of Occupant Protection in America, Buckle Up America Report, Nov. 2001.
 - ³ USDOT&PF, News Release, July 17, 2003.
 - ⁴ Ibid.
 - ⁵ CDC, WISQARS, Injury Mortality Report, All Injury Deaths and Rates per 100,000 by State.
 - ⁶ NHTSA, Traffic Safety Facts 2001 – Occupant Protection, DOT&PF HS 809 474.
 - ⁷ Rice DP, MacKenzie EJ, et. al., Cost of Injury in the United States, Report to Congress 1989.
 - ⁸ Alaska Traffic Accidents. Annual reports from the Alaska Department of Transportation and Public Facilities.
 - ⁹ Report on Injury Prevention Activities of Community Health and EMS Targeting Medicaid-Eligible Youth, by Martha Moore and the State Injury Prevention staff, 2003.
 - ¹⁰ NHTSA, Status of Occupant Protection in America, Buckle Up America Report, Nov. 2001.


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January 16, 2004

Memorandum

TO: Senator Con Bunde
FROM: Cherie Nienhuis 
Legislative Analyst
RE: Primary Safety Belt Laws

You asked about primary safety belt laws in other states. A safety belt law is primary when law enforcement officers are allowed to stop vehicles solely for safety belt violations. This type of law contrasts with secondary safety belt laws, which allow officers to cite safety belt violations only after stopping vehicles for other violations.

As of fall 2003, 20 states plus the District of Columbia have passed primary safety belts laws, and 29 states, including Alaska, have passed secondary safety belt laws.¹ New Hampshire does not have a safety belt law. According to a study completed for The National Safety Council, an estimated 12,177 motorists died since 1995 because of their states' failure to implement a primary safety belt law. The study estimates that, in Alaska alone, 43 lives could have been saved over the eight-year period had state lawmakers passed a primary safety belt law rather than a secondary one.

The Insurance Institute for Highway Safety publishes information about safety belt laws in each state, including whether they are primary (also called "standard"), and what the maximum fines are for first offenses. We include this information as Attachment B. We also include, as Attachment C, primary safety belt laws for three states whose laws changed from secondary to primary laws fairly recently.

I hope you find this information to be useful. Please do not hesitate to contact us if you have questions or need additional information.

¹ Neil K. Chaudhary, PhD, David F. Preusser, PhD, and the Preusser Research Group, Inc., "Lives Lost by States' Failure to Implement Primary Safety Belt Laws," November 5, 2003. We include a copy of this publication as Attachment A.

**Lives Lost by States'
Failure to Implement Primary
Safety Belt Laws**

November 5, 2003

Prepared by:

Neil K. Chaudhary, PhD
David F. Preusser, PhD
Preusser Research Group, Inc.
Trumbull, CT

For:

The National Safety Council's
Air Bag & Seat Belt Safety Campaign

OBJECTIVE:

The purpose of this study is to estimate the number of lives lost due to the failure of states to pass primary enforcement safety belt laws. Primary laws allow officers to stop motorists based solely on an observed seat belt violation. Secondary laws allow officers to enforce the safety belt law if and only if the motorist is first stopped for some other violation. In 2002, eighteen states plus the District of Columbia had primary laws (see Table 1). Historically, safety belt use has been higher in "primary states" than in states without primary laws. Figure 1 shows primary versus secondary states based on standard National Highway and Traffic Safety Administration (NHTSA) approved observational studies.

Table 1.
Dates of Primary Law Enactment (Source: NTSB)

State	Enacted	State	Enacted
Alabama	12/09/99	Maryland	10/01/97
California	01/01/93	Michigan	03/10/00
Connecticut	01/01/86	New Jersey	05/01/00
Delaware*	06/30/03	New Mexico	01/01/86
District of Columbia	10/01/97	New York	12/01/84
Georgia	07/01/96	North Carolina	10/01/85
Hawaii	12/16/85	Oklahoma	11/01/97,
Illinois*	07/03/03	Oregon	12/07/90
Indiana	07/01/98	Texas	09/01/85
Iowa	07/01/86	Washington	04/02/02
Louisiana	09/01/95		

* Law Changed in 2003

PROCEDURE:

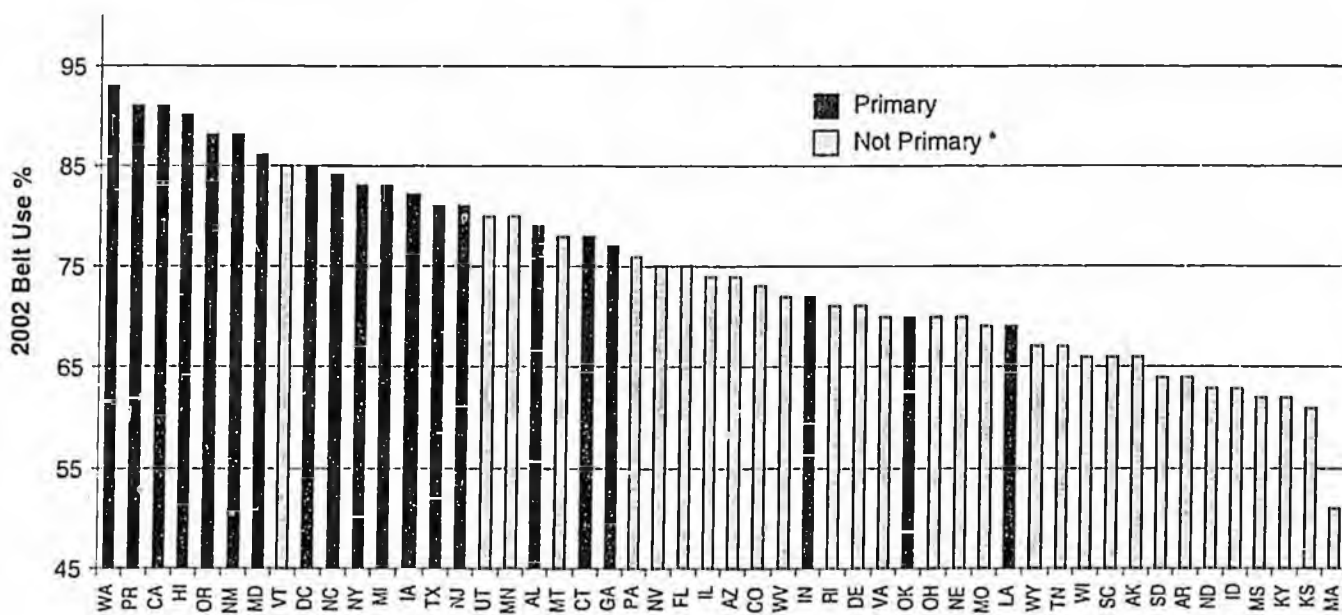
The first step was to determine the likely increase in the safety belt use rate associated with the passage of a primary law. Three methods were used to establish convergent validity.

Effectiveness of Primary Law

State wide observations:

The first estimate used NHTSA verified statewide observations of day-time belt use rates. We compared rates for states with primary laws to states without primary laws for each year starting with

1995 and ending with 2002 (See Table 2). For this analysis, as well as all following analyses, data from the District of Columbia and Indiana were excluded. DC simultaneously implemented a primary law and applied more strict consequences for violation of the law (high fines and points to the license) making it difficult to attribute change in belt use to the primary law alone. IN implemented a primary law in 1999, which was soon after ruled unconstitutional, then reinstated some time later, making it difficult to set a specific date for the onset of the primary law.



* Surveys were not submitted for ME and NH in 2002.

FIGURE 1. Belt use rates in 2002 (Data Source: NHTSA).

Table 2
Statewide Observed Belt Use 1995-2002 for Primary* Versus Non-primary Law States

	1995	1996	1997	1998	1999	2000	2001	2002	ALL
Primary	75%	74%	75%	78%	79%	79%	81%	83%	78%
not-Primary	60%	59%	60%	61%	63%	65%	67%	70%	63%
Difference	15%	15%	14%	17%	16%	14%	14%	13%	15%

* Excludes DC & IN

The results indicate that front seat occupants in primary states are between 13 and 17 percentage points ($M = 15$) more likely to be properly restrained than those in non-primary states.

FARS data estimations:

The second estimate of the value of primary laws was based on NHTSA's Fatality Analysis Reporting System (FARS); a database of crashes that resulted in at least one fatal injury. Using FARS, we compiled the number of fatally injured front seat occupants, ages 16 and older, of passenger vehicles who were, and were not, wearing safety belts. Theoretically, the number of belted drivers is underrepresented in the FARS database. This is because the proper use of safety belts reduces fatalities preventing the crash from entering the database. Thus, to estimate the number of belted drivers in "Potentially Fatal Crashes" (PFCs) we use the NHTSA estimation that safety belts are 45% effective in reducing fatalities in PFCs for passenger cars and 60% effective for light trucks (including pickups, SUVs and vans). That is, we estimated the number of front seat occupants who were involved in PFC's by hypothesizing that the number of belted drivers who died is 55% of all the belted drivers involved in crashes serious enough to potentially cause a fatality. An additional number of drivers in PFC's did not die because they were wearing seat belts.

We established a percentage of front seat occupants who were belted, and unbelted, in PFC's (see Table 3). Using these estimates we established that front seat occupants of vehicles involved in PFC's in states with primary laws have 15 percentage point higher belt use than persons in states without primary laws.

Within state estimations:

The third method was to compare observed belt use rates in those states that changed from secondary to primary. Two years of NHTSA verified statewide observed belt use rates prior to the law change for 8 states that changed their laws were compared to the two years after the law change. The year in which the law changed was excluded. The results indicated that observed belt use was, on average, 15 percentage points higher in the two years after than the two years before (see Table 4).

Table 3
Actual and Estimated Safety Belt use rates for Fatal, and
Potentially Fatal Crashes (Data Source: FARS 1995 – 2002)

		Primary*		Not Primary		Difference
		N	Est. Belted	N	Est. Belted	
Passenger Cars	Unbelted Dead	21520		50630		
	Belted Dead	27807		33010		
	Est. Belted Alive	22751		27008		
	Est. Total PFCs	72078	70%	110648	54%	16%
Light Trucks (Pickups, SUVs, Vans)	Unbelted Dead	16381		29320		
	Belted Dead	9069		9199		
	Est. Belted Alive	13604		13799		
	Est. Total PFCs	39054	58%	52318	44%	14%
Combined	Unbelted Dead	37901		79950		
	Belted Dead	36876		42209		
	Est. Belted Alive	36355		40807		
	Est. Total PFCs	106597	66%	158366	51%	15%

* Excludes DC & IN

Table 4
Change in Statewide Observed Belt use Prior to and After Law Changes
(Data Source: NHTSA)

	Years relative to Law Change					Difference
	-2	-1	0	1	2	
CA	48%	50%	59%	59%	67%	
LA	57%	53%	58%	65%	74%	
GA	57%	53%	58%	65%	74%	
MD	70%	70%	71%	83%	83%	
OK	46%	48%	60%	56%	61%	
AL	52%	52%	58%	71%	79%	
MI	70%	70%	84%	82%	83%	
NJ	63%	63%	74%	78%	81%	
	58%	57%	65%	70%	75%	
Means	58%			73%		15

These analyses provided three estimates of effectiveness of primary laws. All three of the methods suggest that belt use was likely to have increased about 15 percentage points had a state adopted a primary safety belt law during the period included in this study (1995 – 2002).

RESULTS

For the present study, we estimate that belt use would have increased an average of 15 percentage points after implementation of a primary law over the 8 year period from 1995 – 2002. Using the estimated 15 percentage point gain in belt use by implementation of a primary law, we estimated how many front seat occupants of passenger vehicles (16 and older) died because their states did not implement a primary law. The estimated effectiveness of the safety belt is 45% for passenger cars and 60% for light trucks. We calculated that since 1995 an estimated 12,177 motorists died because of their states' failure to implement a primary law (see Table 5). The number killed was highest in 1995 and generally decreased in later years as more states switched to primary (See Figure 2). The estimated lives lost per state ranges from 33 in Rhode Island to 1333 in Florida (See Table 6).

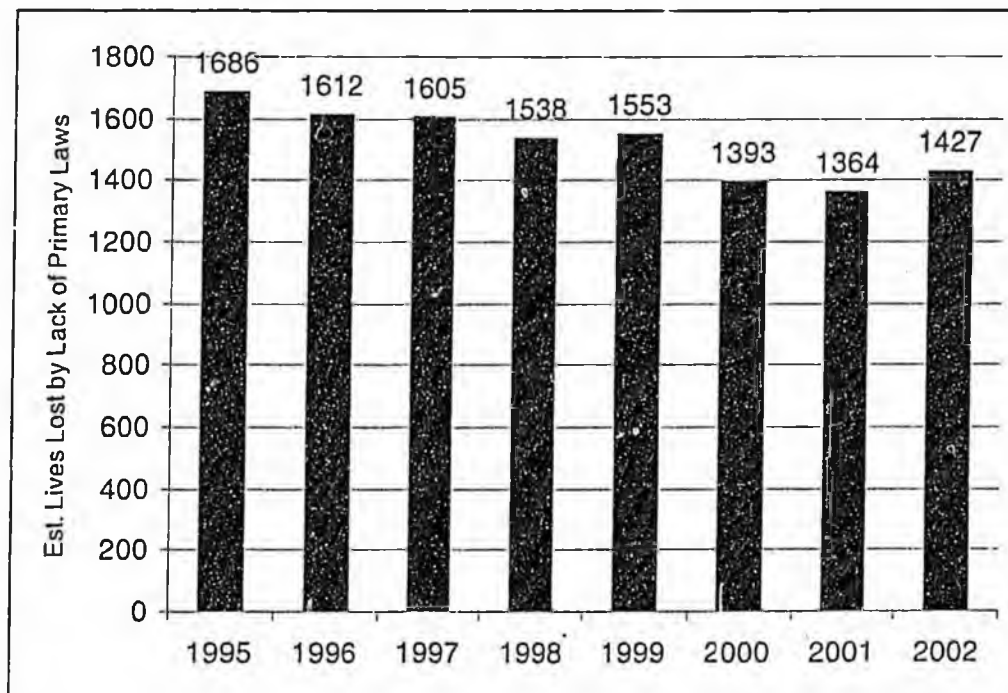


FIGURE 2. Est. Lives lost per year due to no primary enforcement safety belt law.

Table 5
 Est. Lives Lost Due to Lack of Primary Laws (1995-2002)

	States without Primary Laws	If Primary Law	Lives Lost
Unbelted Dead	79950	55505	
Belted Dead	42209	54477	
Est. Belted Survivors	40807	52984	
Total Dead	122159	109982	12177

CONCLUSION

Failure to implement primary laws in all states resulted in more than 12,000 lives were lost during the years 1995 - 2002. If the situation remains the same as in 2002, an estimated additional 1,400 motorists will be killed next year alone.

Table 6
 Est. Lives Lost Due to Lack of Primary Laws by State
 (1995-2002)

State	Est. Lives Lost	State	Est. Lives Lost
Alaska	43	Nevada	169
Arizona	415	New Hampshire	60
Arkansas	316	North Dakota	50
Colorado	357	Ohio	732
Florida	1333	Pennsylvania	667
Idaho	143	Rhode Island	33
Kansas	247	South Carolina	525
Kentucky	482	South Dakota	73
Maine	96	Tennessee	675
Massachusetts	157	Utah	172
Minnesota	314	Vermont	47
Mississippi	481	Virginia	478
Missouri	579	West Virginia	205
Montana	135	Wisconsin	387
Nebraska	134	Wyoming	94

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ATTACHMENT B

SAFETY BELT USE LAWS

State	Effective date	Standard enforcement?	Who is covered? In what seats?	Maximum fine 1st offense	Damages reduced for nonuse?
Alabama	7/18/91	yes; effective 12/9/99	6+ yrs. in front seat	\$25	no
Alaska	9/12/90	no	16+ yrs. in all seats	\$15	yes
Arizona	1/1/91	no	5+ yrs. in front seat; 5 through 15 in all seats	\$10	yes
Arkansas	7/15/91	no	15+ yrs. in front seat	\$25 ^{1,2}	no
California	1/1/86	yes; effective 1/1/93	16+ yrs. in all seats	\$20	no
Colorado	7/1/87	no	16+ yrs. in front seat	\$15	yes ³
Connecticut	1/1/86	yes	4+ yrs. in front seat	\$15	no
Delaware	1/1/92	yes; effective 6/30/03	16+ yrs. in all seats	\$25	no
District of Columbia	12/12/85	yes; effective 10/1/97	16+ yrs. in all seats	\$50 ¹	no
Florida	7/1/86	no	6+ yrs. in front seat; 6 through 17 yrs. in all seats	\$30	yes

State	Effective date	Standard enforcement?	Who is covered? In what seats?	Maximum fine 1st offense	Damages reduced for nonuse?
Georgia	9/1/88	yes; effective 7/1/96	5 through 17 yrs. in all seats; 18+ yrs. in front seat	\$15 ⁴	no
Hawaii	12/16/85	yes	4 through 17 yrs. in all seats; 18+ yrs. in front seat	\$45	no
Idaho	7/1/86	no	4+ yrs. in all seats	\$25	no
Illinois	1/1/88	yes; effective 7/3/03	6+ yrs. in front seat; all in all seats if driver is younger than 18 yrs.	\$25	no
Indiana	7/1/87	yes; effective 7/1/98	4 through 11 yrs. in all seats; 12+ yrs. in front seat	\$25	no
Iowa	7/1/86	yes	6+ yrs. in front seat	\$10	yes ³
Kansas	7/1/86	no	14+ yrs. in front seat	\$10	no
Kentucky	7/15/94	no	more than 40 in. in all seats	\$25	no
Louisiana	7/1/86	yes; effective 9/1/95	13+ yrs. in front seat	\$25	no
Maine	12/26/95	no	18+ yrs. in all seats	\$50	no

Standard Who is covered? In Maximum fine Damages reduced for

State	Effective date	enforcement?	what seats?	1st offense	nonuse?
Maryland	7/1/86	yes; effective 10/1/97	16+ yrs. in front seat	\$25	no
Massachusetts	2/1/94	no	12+ yrs. in all seats	\$25 ⁴	no
Michigan	7/1/85	yes; effective 4/1/2000	4+ yrs. in front seat; 4 through 15 yrs. in all seats	\$25	yes ²
Minnesota	8/1/86	no	all in front seat; 3 through 10 yrs. in all seats	\$25	no
Mississippi	7/1/94	no (yes for children <8)	4 through 7 yrs. in all seats/8+ yrs. in front seat	\$25	no
Missouri	9/28/85	no (yes for children <16)	4+ yrs. in front seat; 4 through 15 yrs. in all seats	\$10	yes ²
Montana	10/1/87	no	6+ yrs. in all seats	\$20	no
Nebraska	1/1/93	no	16+ yrs. in front seat	\$25	yes ²
Nevada	7/1/87	no	5+ yrs. in all seats	\$25	no
New Hampshire	n/a	no law	no law	no law	no

State	Effective date	Standard enforcement?	Who is covered? In what seats?	Maximum fine 1st offense	Damages reduced for nonuse?
New Jersey	3/1/85	yes; effective 5/1/2000	7 yrs. and younger and more than 80 lbs.; 8 through 17 in all seats; 18+ in front seat	\$20	yes
New Mexico	1/1/86	yes	18+ yrs. in all seats	\$25 ¹	no
New York	12/1/84	yes	16+ yrs. in all seats	\$50 ¹	yes
North Carolina	10/1/85	yes	16+ yrs. in front seat	\$25	no
North Dakota	7/14/94	no	18+ yrs. in front seat	\$20	yes
Ohio	5/6/86	no	4+ yrs. in front seat	\$30 driver/\$20 passenger	yes
Oklahoma	2/1/87	yes; effective 11/1/97	all in front seat	\$20	no
Oregon	12/7/90	yes	16+ yrs. in all seats	\$75	yes
Pennsylvania	11/23/87	no	8 through 17 yrs. in all seats; 18+ yrs. in front seat	\$10	no
Rhode Island	6/18/91	no (yes for children <13)	7+ yrs. in all seats	\$57	no
State	Effective date	Standard enforcement?	Who is covered? In what seats?	Maximum fine 1st offense	Damages reduced for nonuse?
South Carolina	7/1/89	no (yes for children <18 yrs.) ²	6+ yrs. in front seat; 6+ yrs. in rear seat with shoulder belt	\$10	no
South Dakota	1/1/95	no	5+ yrs. in front seat	\$20	no
Tennessee	4/21/86	no	4+ yrs. in front	\$10	no

			seat		
Texas	9/1/85	yes	4 through 16 yrs. in all seats; 17+ yrs. in front seat	\$200	no
Utah	4/28/86	no (yes for children <19 yrs.)	16+ yrs. in all seats	\$45	no
Vermont	1/1/94	no	16+ yrs. in all seats (eff. 1/1/04)	\$25 (eff. 1/1/04)	no
Virginia	1/1/88	no	16+ yrs. in front seat	\$25	no
Washington	6/11/86	yes; 7/1/2002	all in all seats	\$37	no
West Virginia	9/1/93	no	9+ yrs. in front seat; 9 through 17 yrs. in all seats	\$25	yes ²
Wisconsin	12/1/87	no	4+ yrs. in front seat; 4 through 15 yrs. in rear seat with shoulder belt	\$10	yes ²
Wyoming	6/8/89	no	5+ yrs. in all seats	\$25 ² driver/\$10 passenger	no

¹These states assess points for violations.

²Arkansas and Wyoming reward belt use by reducing the fine for the primary violation by \$10.

³Under the safety belt defense, Wisconsin allows a maximum 15 percent damage reduction (in Missouri, a maximum 1 percent). In 3 states (Iowa, Michigan, and Nebraska), the damage reduction may not exceed 5 percent. In Colorado, damages may be reduced for pain and suffering only, not economic or medical losses. In West Virginia, an award for medical expenses only may be reduced by no more than 5 percent.

⁴In Georgia, the maximum fine is \$25 if the child is 5-18 yrs. Drivers in Massachusetts may be fined \$25 for violating the belt law themselves and \$25 for each unrestrained passenger 12-16 yrs.

⁵Police are prohibited in South Carolina from enforcing safety belt laws at checkpoints designed for that purpose. However, safety belt violations may be issued at license and registration checkpoints.

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D. C. 20503

February 11, 2004
(Senate)

STATEMENT OF ADMINISTRATION POLICY
S. 1072 - Safe, Accountable, Flexible, and Efficient Transportation Equity Act
(Senator Inhofe (R) Oklahoma and 3 cosponsors)

The Administration supports enactment of a six-year highway, highway safety, and transit authorization bill and procedural efforts that would limit consideration of extraneous amendments and bring the bill to an up or down vote. Such a multi-year authorization would provide States and localities with predictable funding that enhances long-term transportation planning. The Administration's proposal, as modified by the President's FY 2005 Budget, would provide \$256 billion over six years, an historically high level of investment for highways and transit. This proposal represents a \$45 billion, or 21 percent, increase over the Transportation Equity Act for the 21st Century (TEA-21), the six-year bill enacted in 1998.

The Administration believes that surface transportation reauthorization legislation should exhibit spending restraint and adhere to the following three principles: (1) transportation infrastructure spending should not rely on an increase in the gas tax or other Federal taxes; (2) transportation infrastructure spending should not be funded through bonding or other mechanisms that conceal the true cost to Federal taxpayers; and (3) highway spending should be financed from the Highway Trust Fund, not the General Fund of the Treasury. All spending for highways should be authorized and appropriated from the Trust Fund and derived from taxes imposed on highway use, thereby maintaining the link between Trust Fund revenues and highway spending.

However, the bill pending before the Senate authorizes: \$262 billion on highways and highway safety, which is \$50 billion above the President's request, and \$56 billion on mass transit, which is \$12 billion above the President's request. In total the Senate bill authorizes \$318 billion in spending on highways, highway safety, and mass transit over the next six years, a full \$62 billion above the President's request for the same period.

The Administration's proposed authorization level of \$256 billion over six years is consistent with the three principles listed above. We support a responsible six-year bill and support many of the provisions contained in this legislation. However, we oppose S. 1072 and the pending substitute because their spending levels are too high and they violate these principles discussed above. Accordingly, if legislation that violates these principles (such as this legislation, which authorizes \$318 billion) were presented to the President, his senior advisors would recommend that he veto the bill.

In addition, the Administration opposes inclusion in a surface transportation bill of unrelated provisions regarding Amtrak. Any legislation regarding the future of Amtrak should be considered separately and should provide for meaningful reforms, such as those proposed by the Administration. If surface transportation legislation containing such provisions were presented to the President, his senior advisors would recommend that he veto the bill.

The Administration wants to work closely with Congress to achieve an acceptable bill and recommends attention to the following areas.

Safety. The Administration appreciates the creation of a new Highway Safety Improvement Program (HSIP) and a strong safety belt incentive program, but believes the bill should also require States that have not enacted primary safety belt laws or achieved safety belt use rates of 90 percent to spend no less than 10 percent of core highway safety construction HSIP funds on behavioral safety projects eligible under the Section 402 program. In addition, the Administration opposes limiting a State's flexibility to use HSIP funds by requiring mandatory set-asides for rail-highway grade crossings or safe routes to schools. The Administration believes that several programs of the National Highway Traffic Safety Administration (NHTSA) should be consolidated and a portion of those funds should be used to reward States that aggressively reduce fatalities in the manner proposed by Section 2001(a) of the Administration's proposal. Also, language similar to that included in the Administration's proposal on providing for NHTSA-administered highway safety data grants should be added to help States improve their data to reasonable standards.

Environmental Provisions. The Administration opposes substantially broadening the list of eligible projects for Congestion Mitigation and Air Quality (CMAQ) funding because many of these new projects would have minimal air quality benefits. Eligibility for CMAQ funds should be limited to projects that achieve air quality benefits, particularly because the number of Clean Air Act nonattainment areas, which need this type of funding, will increase. The Administration believes that the bill should improve project delivery while protecting our environment. The bill should include a 180-day statute of limitations for legal challenges following final agency approval of highway and transit projects. This limit is necessary to reduce litigation uncertainty that can impede project development for years. The bill should also avoid adding new requirements to the transportation planning process, and integrate the transportation planning process with other environmental review processes to reduce redundancies.

With respect to project review under the National Environmental Policy Act, the bill should clarify the authority of State and local governments to be joint lead agencies, with the U.S. Department of Transportation, in preparing environmental documents. The Administration also notes that section 1511 is inconsistent with the President's proposal in SAFETEA, and encourages the Senate to adopt the President's proposal.

The Administration also believes that the bill should clarify standards pertaining to public park and recreation lands, wildlife and waterfowl refuges, and historic sites – commonly referred to as "Section 4(f)." A clarification of the Section 4(f) definition of "prudent" is needed to forestall confusing standards applied unevenly by the Federal Courts of Appeals. In addition, the bill should address the overlap between Section 4(f) and Section 106 of the National Historic Preservation Act to decrease project delays and uncertainty.

In addition, the Administration believes that the bill should not include a mandatory two percent set-aside from the Surface Transportation Program (STP) to support a highway stormwater discharge mitigation program. Stormwater discharge mitigation costs are already eligible under STP.

New Regulatory Mandates. The Administration strongly opposes the numerous

mandated rulemakings for NHTSA and the FMCSA. These provisions predetermine timetables and outcomes without adequate grounding in science, engineering and proof of net safety benefits. By prescribing specific requirements and mandating priorities, these provisions will delay or interfere with ongoing safety initiatives and may have the unintended consequence of redirecting agency resources away from programs that will do more overall good for safety. The Administration also objects to the inclusion of: (1) costly and burdensome provisions of the bill requiring FMCSA to issue medical certificates to 6.5 million commercial drivers while limiting the performance of medical examinations to physicians alone; and (2) the bill's expansion of hours-of-service safety exemptions.

Financing and Freight Mobility. The Administration appreciates the bill's expansion of the Transportation Infrastructure Finance and Innovation Act (TIFIA) loan program by lowering the project threshold and broadening the list of eligible projects to include freight projects. However, the Administration opposes removing the TIFIA program requirement that a borrower have a dedicated source of revenue for repaying its TIFIA loan. Likewise, the Administration opposes allowing railroads to use Federal grants to pay the credit risk premium or repay Railroad Rehabilitation and Improvement Financing loans.

The Administration supports amending the bill to give States the ability to manage congestion and raise additional revenue by allowing drivers of single occupant vehicles to use High Occupancy Vehicle lanes by paying tolls. The Administration also supports amending the bill to provide States flexibility to implement variable tolls on interstates for congestion management or air quality improvement purposes. In addition, the Administration supports amending the bill to incorporate the Administration's proposal to amend the Internal Revenue Code to permit the issuance by State and local governments of "private activity bonds" for highways and surface freight transfer facilities.

Public Transportation Programs. Aside from concerns about overall funding levels, the Administration is pleased that the bill includes provisions to improve human service transportation coordination and expand the "New Starts" program, but is disappointed by the omission of a performance incentive program to reward transit agencies based on increases in transit ridership.

Accountability and Oversight. The Administration is pleased that the bill includes stringent project management and financial plan requirements which were requested by the Administration. Improved accountability and focused oversight by the Federal Highway Administration will help maximize the effective use of available funds.

Funding Firewalls and Guarantees. The Administration supports a separate category or "firewalls" for determining the level of spending from the Highway Trust Fund, but only in the context of the Administration's proposal for annual statutory limits on discretionary spending. In addition, the Administration does not propose the creation of "firewalls" for general fund spending on such critical areas as defense and homeland security, and therefore opposes such treatment for general fund spending on mass transit programs.

Byrd Test Change. The Administration opposes weakening the Byrd Test to compare spending authority to current resources plus four years, rather than two years, of estimated future revenue. The Byrd Test was established at the creation of the Highway Trust Fund in 1956 to

ensure that future revenues would be sufficient to cover outstanding spending authority. The Byrd Test has been successful in ensuring the Highway Trust Fund's solvency for nearly 50 years, and modification could allow levels of spending that cannot be sustained by estimated revenues to the Highway Trust Fund.

Park Roads. The Administration supports the funding level for park roads, but opposes the provisions of section 1806 of the bill that establish a park funding priority system that would reduce the Administration's ability to implement the President's Park Legacy Program. Allocation of park road funding should be consistent with the sound asset management approach on which the President's Park Legacy Program is based and which is currently used by the National Park Service, in a manner that will best address the needs of all parks, not just a few.

Cross-Border Transportation. The Administration opposes the bill's provisions defining foreign trucks and buses engaged in the cross-border transportation of cargo and passengers into the United States as "imports." Existing statutory provisions already address cross-border transportation safety, and the revised definition would significantly disrupt the almost \$2 billion daily cross-border movement of goods.

MAGLEV. The Administration opposes the continued authorization of funding for Magnetic Levitation Transportation Technology Deployment (MAGLEV). The Administration's SAFETEA proposal did not seek funding for MAGLEV and believes funds can be better spent investing in the Nation's public transportation systems.

Budget Estimates and Enforcement

This bill would affect direct spending and receipts. It is critical to exercise responsible restraint over Federal spending in a manner that ensures deficit reduction and the Administration looks forward to working with Congress to control the cost of this bill. The Budget Enforcement Act's pay-as-you-go requirements and discretionary spending caps expired on September 30, 2002. The President's FY 2005 Budget includes a proposal to extend the discretionary caps through 2009, a pay-as-you-go requirement that would be limited to direct spending, and a new mechanism to control the expansion of long-term unfunded obligations. OMB's cost estimate of this bill currently is under development.

* * * * *



THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

April 2, 2004

The Honorable Con Bunde
Alaska State Senate
State Capitol, Room 506
Juneau, AK 99801-1182

Dear Senator Bunde:

In 2002, 42,815 Americans died on our Nation's roads and over 18,000 of them were not wearing safety belts. In Alaska, 54 people died as passenger vehicle occupants, while 24 were not wearing a safety belt. Wearing a safety belt would have saved the lives of half of those people. In addition to the waste of life, not wearing belts cost our country about \$20 billion last year in total economic loss.

I commend your leadership in supporting a primary safety belt law that will help Alaska achieve a 90 percent belt use rate. In the Bush Administration's Safe, Accountable, Flexible and Efficient Transportation Equity Act of 2003 transportation reauthorization proposal, States receive a significant incentive if they get their safety belt use rate to 90 percent or enact a primary enforcement law. For Alaska, that would mean \$3.9 million to use on a wide range of transportation needs, including safety infrastructure repairs.

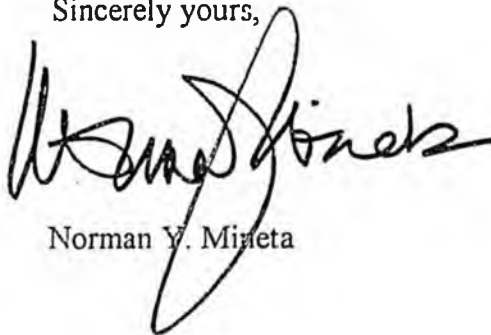
The plan to reward States for excellence in safety belt use is consistent with the Bush Administration's priority of respecting state authority to make their own laws. Our proposal rewards States for taking the necessary actions to save lives through increased safety belt use rates. We are firmly committed to the idea of providing States with incentives to increase safety belt use.

There are obvious benefits to achieving higher belt use rates. We estimate that your bill will save the State's economy \$19.3 million. More importantly, the value to the five families each year whose loved ones would return home to them would be impossible to measure.

A primary safety belt law is sound public policy. When States upgrade their law to primary enforcement, significant gains are achieved almost immediately. In 2000, Michigan's safety belt use rate went from 70 percent to 84 percent after the enactment of its primary enforcement law. Alabama's use rate stood at 58 percent in 1999, only to jump to 71 percent in 2000 and to 79 percent in 2001.

As your session progresses, I hope that you will be successful with your legislation that will make Alaska a true leader in traffic safety. With you help, I know we are going to save lives. If you have any questions, feel free to contact Nicole Nason, Assistant Secretary for Governmental Affairs at (202) 366-4573.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Norman Y. Mineta". The signature is fluid and cursive, with a large loop at the end.

Norman Y. Mineta



State of Alaska
Department of
Public Safety

Frank H. Murkowski, Governor
William Tandeske, Commissioner

February 18, 2004

The Honorable Con Bunde
Alaska State Senate
State Capitol, Room 506
Juneau, AK 99801

Dear Senator Bunde:

As I have previously discussed with you, I support the implementation of primary seat belt legislation in Alaska. My support is based on twenty-six years of service as an Alaska State Trooper where I personally investigated a large number of motor vehicle crashes resulting in serious injury or death. Without question, seat belts save lives.

As Commissioner of Public Safety, I am committed to doing all that is reasonable to ensure the safety of all Alaskans. Primary seat belt legislation would provide a viable means for law enforcement to ensure compliance with seat belt regulations and thereby reduce the incidents of serious injury or loss of life.

I believe that primary seat belt legislation and ongoing education efforts are excellent strategies to reduce the alarming number of serious injuries or deaths on our highways. If the Department of Public Safety can be of assistance to you in your legislative endeavors, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in cursive script, appearing to read "William Tandeske".

William Tandeske
Commissioner



Service Since 1921

ANCHORAGE POLICE DEPARTMENT MEMORANDUM

Date: February 19, 2004
To: Senator Con Bunde
From: Captain Ross Plummer Patrol Division
Subject: Seatbelt Law

The Anchorage Police Department in conjunction with State and local law enforcement agencies has the responsibility to protect the public. At times this task is difficult and often compounded by inadequate laws. Anchorage Police Department is contributing to public safety by enforcing the existing occupant protection laws within our jurisdiction. Officers are far too familiar with the often tragic results of not wearing safety belts during a collision. The loss of lives and injuries sustained in our city are far too many.

National studies show seat belts save lives. The Anchorage Police Department is dedicated in the fight to save lives. A primary seat belt law would assist in our efforts to help make our streets safer. At this time Officers are unable to stop drivers who choose not to wear a safety belt. The new proposed seat belt law will enable officers to stop and cite violators. This will help save lives by encouraging more people to wear safety belts. The Anchorage Police Department has dedicated resources to a new traffic unit and believes this bill will allow officers to make a difference in lowering our fatalities and decreasing injuries within the city of Anchorage.

During 2002 there were 36 vehicle fatalities in the city of Anchorage. During 2003 Anchorage Police Department worked with the National Highway Transportation and Safety Office to proactively increase seat belt usage in the state of Alaska. During 2003 Anchorage increased seatbelt use by 13%. This is the highest increase in the nation. Our compliance rate is now over 85%. In 2003 our fatalities went down 13% from 36 to 23. One must ask if this is coincidental or correlated to the increased enforcement.

In the last quarter of 2003 there were 4 fatalities that could have been prevented if the driver would have been wearing a seatbelt. Having a primary seatbelt law will not ensure that everyone will wear them but the possibility of saving one life is something worthy of acknowledgement.

The Anchorage Police Department supports this bill and all efforts towards saving lives and making our streets safer.



Municipality of Anchorage

P.O. Box 196650 • Anchorage, Alaska 99519-6650 • 825 "L" Street • <http://www.muni.org>



Mayor Mark Begich

Department of Health and Human Services

February 23, 2004

Senator Con Bunde
State Capitol, Room 506
Juneau, AK 99801-1182

Subject: Primary Seatbelt Law, SB 316

Dear Senator Bunde,

The Municipality of Anchorage, Department of Health and Human Services strongly supports the primary seatbelt law because it can save more lives by increasing the Alaska use rate to 90%. A seatbelt law already exists but this bill would lift the restriction for public safety officers to pull a motorist over for not wearing a seatbelt.

We know from the Alaska Trauma Registry that 84% of the belted occupants in crashes walked away uninjured compared with only 60% of the unbelted occupants. In a ten year period, the patients who were not buckled up at the time of the crash were almost twice as likely to sustain a serious head injury and over one and a half times more likely to be discharged with a permanent disability. One in three of these people billed a government program for their hospital care and the cost to a rehabilitation or skilled nursing facility. A permanent disability, especially head trauma and brain damage, which many of the injuries are, can cost Medicaid millions of dollars per patient. With a decrease in crashes and injuries, the state can reduce the financial burden for emergency response, public safety officers, hospitalization, rehabilitation and legal expenses.

It has been 12 years since a seatbelt law was first introduced in Alaska. Twenty states and DC have passed a primary seatbelt law and it is time for Alaska to get the benefit of this public health policy.

Sincerely,

A handwritten signature in cursive script that reads "Joan Diamond".

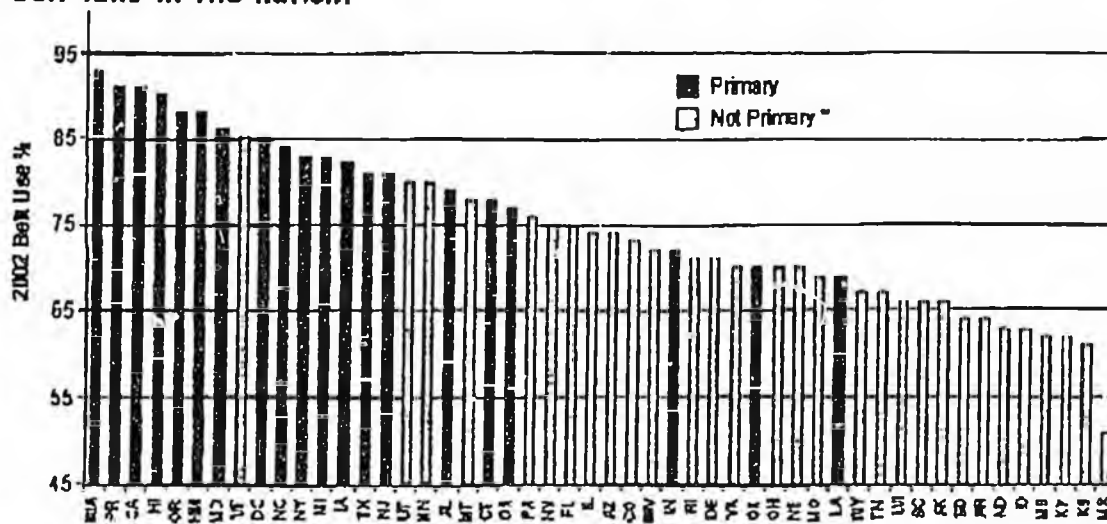
Joan Diamond
Municipality of Anchorage
Department of Health and Human Services
Injury Prevention

Community, Security, Prosperity

Dear Senator Bunde,

Thank you for introducing SB316.

The following graph clearly illustrates the effectiveness of primary seat belt laws in the nation.



* Surveys were not submitted for ME and NH in 2002.

FIGURE 1. Belt use rates in 2002 (Data Source: NHTSA).

According to statistics provided by the National Highway Transportation Safety Administration (NHTSA), up to 50% of those who die in car crashes in which seat belts were (not) used might have survived if they had been. For example... here in Alaska last year we lost 32 people who were not using seatbelts. Half (16 Alaskans) might have been saved IF ONLY THEY HAD BUCKLED UP!

Considering this potential for saving lives on Alaska's highways the Fairbanks Chapter of MADD supports primary seat belt enforcement.

Sincerely,

Al Near

Al Near
vice-president
MADD Fairbanks Chapter
2/18/2004

**Alaska Injury
Prevention Center****Alaska Injury Prevention Center**

PO Box 210736
Anchorage, AK 99521-0736
Tel. 907-929-3941
FAX 907-929-3940
Email: asc1@alaska.net

February 18, 2004

Senator Con Bunde
State Capitol, Room 506
Juneau, AK 99801-1182

Dear Senator Bunde,

I would like to take this opportunity to offer my expertise and experience in support of SB 316. I recently completed a study funded by a non-profit group called the Automotive Coalition for Traffic Safety. This research project, *Alaska Seat Belt Cost Analysis*, compiled and analyzed the hospital costs associated with seat belt use in Alaska. The research is already getting statewide recognition as an argument to be used for primary enforcement of seat belt laws. The study shows that from 1996 through 1999, medical costs for unbelted occupants totaled more than \$13 million dollars of which, 50% were paid with public funds. I've attached a copy of the Executive Summary for your use.

Fairbanks was the first city in Alaska to pass an ordinance giving police the authority to stop someone for not wearing a seat belt – primary enforcement. There was considerable public backlash over the new ordinance and it was eventually repealed, but the fine for the existing law was significantly increased. Anchorage was also considering a similar municipal ordinance that would allow primary enforcement of seat belt use within the city limits and asked for a copy of the research findings.

Alaska was recently chosen by the National Highway Traffic Safety Administration as one of 13 states to receive special initiatives to reduce our DUI deaths, and to increase our seat belt usage. At 79%, Alaska's seat belt usage rate has improved tremendously over previous years, but there are still a significant number of non-users in the state. If we are able to get a primary enforcement law passed, we would expect to see the seat belt usage rate climb to around 90%.

As the evaluator for the recent Click It or Ticket enforcement campaigns, we conducted random telephone surveys on 1,600 Anchorage residents. One of the questions asked if they were in favor or opposed to police stopping someone for not wearing a seat belt. Sixty-seven (67%) percent said they were in favor of such a law.

I hope this helps,

Ron Perkins, MPH
Executive Director, AIPC



MADD
Activism | Victim Services | Education™

Mothers Against Drunk Driving
JUNEAU CHAPTER
211 4th St., Suite 314
Juneau, AK 99801
Phone (907)463-2562
Fax (907)463-2540
madd@alaska.net
www.madd.org/ak/juneau

February 18, 2004

Senator Con Bunde
State Capitol Building, room 506
Juneau, Alaska 99801-1182

Re: Senate Bill 316, "An Act relating to motor vehicle safety belt violations."

Dear Senator Bunde,

Mothers Against Drunk Driving (MADD) supports Senate Bill 316. MADD advocates increase use of occupant protection for all motor vehicle drivers and passengers and recognizes the need for publicized, enforce safety belt and child seat laws as a major defense against alcohol-and other drug-impaired drivers. A seat belt is our best defense against drunk driving.

Studies have found that states which pass a primary seat belt law increase the average seat belt usage by nine to fourteen percentage points. This in turn, decreases crash fatalities by an average of eight percent and decreases the severity of injuries in crashes.

Seat belts are proven to reduce the risk of serious injury or death in a crash by forty five percent, and a study shows 12,177 lives have been lost since 1995 because 30 states, including Alaska, have failed to enact a primary seat belt law.

Some argue that they should be able to choose not to wear a seat belt. However, seat belt use is the law already. Additionally, the decision to wear a seat belt affects those too young to make a conscious choice.

Adults who do not buckle up are sending a message to children that it is all right not to use seat belts-the probability of a fatally injured child being unrestrained is more than twice as likely when the adult driving was unrestrained.

85 percent of the costs of crashes are borne by society, not by the individuals in the crash. Considering that a crash costs 55 percent more when a crash victim is unbelted, we have a financial imperative to enact primary seat belt law, in addition to the moral and ethical imperatives.

Sincerely,

Cindy Cashen
Executive Director



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Bill Graves
President and Chief Executive Officer

February 13, 2004

The Honorable Frank Murkowski
Governor of Alaska
Office of the Governor
State Capitol
P.O. Box 110001
Juneau, AK 99811-001

DEPARTMENT OF PUBLIC SAFETY
... JUNEAU, ALASKA

FEB 23 2004

COMMISSIONER'S OFFICE

Dear Governor Murkowski,

While the National Highway Traffic Safety Administration (NHTSA) has reported that safety belt usage among passenger vehicle drivers has risen to an all-time high of 79 percent, the news is not as positive among our nation's truck drivers.

Recently the U.S. Department of Transportation (DOT) released a new national study that found only 48 percent of truck drivers wear safety belts. In 2002, 588 truck drivers lost their lives in crashes. Half of them were not wearing their safety belts. Of the 171 drivers that were ejected from their trucks, 80% hadn't buckled up. We can, and must, do a better job to help save lives on our roads.

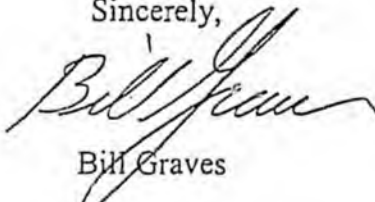
As the national trade association that actively promotes highway safety while representing every type and class of motor carrier in the trucking industry, the American Trucking Associations (ATA) is concerned that the usage rate among truck drivers falls well short of the nationwide average among passenger vehicle drivers. Along with the Alaska Trucking Association, Inc., I'm writing to ask for your assistance.

According to the NHTSA, states with primary safety belt laws have usage rates about 8 percentage points better than states with secondary enforcement laws. I strongly urge you to be the champion for a primary safety belt law in your state by seeking legislative action as soon as the opportunity arises. Doing so will make a real difference. As a former Governor, I understand the difficult task that I'm asking you to undertake, however, by doing so you will be directly responsible for helping to save lives in Alaska.

The Honorable Frank Murkowski
February 13, 2004
Page Two

You can help us increase safety belt usage among truck drivers. By championing a primary safety belt law, you can provide strong support to this important public safety initiative to save more lives. If your staff would like to discuss ATA's work on this issue, please have them contact ATA's Safety & Operations Department at (703) 838-1847.

Sincerely,



Bill Graves

CC: Norman Y. Mineta, Secretary, U.S. Department of Transportation
Jeffrey W. Runge, M.D., Administrator, National Highway Traffic Safety
Administration
Annette M. Sandberg, Administrator, Federal Motor Carrier Safety Administration
Mike Barton, Acting Commissioner, Alaska Department of Transportation & Public
Facilities
William Tandeske, Commissioner, Alaska Department of Public Safety
Michael Bell, Alaska Trucking Association, Inc.

February 11, 2004

TO: Lauren Wickersham – Senator Bunde's Office

FROM: Don Smith – Alaska Highway Safety Office

PRIMARY SAFETY SEAT BELT LAW

Primary enforcement allows a law enforcement officer to stop a vehicle and issue a citation when the officer observes an unbelted driver or passenger. Secondary enforcement, which is what Alaska has now, means that a citation for not wearing a safety belt can be written only after the officer stops the vehicle or cites the offender for another infraction

A primary seat belt law will not only save lives and reduce injuries in Alaska, but will also save Alaska's citizens substantial amounts of money in associated health care costs.

The average safety belt use in States with primary enforcement laws was 11 percentage points higher than in States without primary enforcement.

When States upgrade their laws from secondary to primary, dramatic increases in safety belt use are often observed.

If Alaska can raise its safety belt use rate 11 percentage points by passing a primary belt use law, it is estimated that 6 lives could be saved in Alaska annually.

Primary safety belt laws also help save the lives of children. Citizens are much more likely to buckle up and place their children in child safety seats when there is the possibility of receiving a citation for not doing so.

Safety belts reduce the risk of death to front seat passenger car occupants by 45% and the risk of moderate to critical injury by 50%. In light truck occupants, safety belts reduce the risk of death by 60 % and moderate to critical injury by 65%.

Also, even if you are a good driver, wearing your seat belt is your best defense against drunk, drowsy, and aggressive drivers.

It is estimated that in the year 2000 safety belt use saved about \$50 billion in medical care, lost productivity and other injury related cost in the United States. Conversely, safety belt non-use cost society about \$26 billion. Each critically injured survivor costs an average of \$1.1 million. Medical costs and lost productivity account for 84 % of the cost for this most serious level of non-fatal injury.

Those not directly involved in crashes pay for nearly ¾ of all crash costs, primarily through insurance premiums, taxes, and travel delay. These costs, borne by society rather than by crash victims – totaled over \$170 billion in 2000 for all traffic crashes

Safety belts save lives!

Subject: Senate Bill 316 - PRIMARY Seat Belt Law

Date: Thu, 26 Feb 2004 11:52:52 -0900

From: Lisa Kibbee <LKibbee@mcc-cpa.com>

To: "Senator_Gary_Stevens@legis.state.ak.us" <Senator_Gary_Stevens@legis.state.ak.us>,
"Senator_John_Cowdery@legis.state.ak.us" <Senator_John_Cowdery@legis.state.ak.us>,
"Senator_Bert_Stedman@legis.state.ak.us" <Senator_Bert_Stedman@legis.state.ak.us>,
"Senator_Gretchen_Guess@legis.state.ak.us" <Senator_Gretchen_Guess@legis.state.ak.us>,
"Senator_Lyman_Hoffman@legis.state.ak.us" <Senator_Lyman_Hoffman@legis.state.ak.us>,
"Senator_Con_Bunde@legis.state.ak.us" <Senator_Con_Bunde@legis.state.ak.us>

Senators,

As a volunteer medical professional I urge you to pass SB 316. It could really save lives here in Alaska. Please make this a reality for those families who have lost their loved ones already and the many more lives you are likely to save in the future.

Sincerely,

Lisa Kibbee
Lieutenant - Team One
EMT 1
Alaska Professional Volunteers

Subject:

Date: Wed, 25 Feb 2004 23:41:17 -0800 (PST)

From: J McArthur <judithmcarthur@yahoo.com>

To: Senator_Con_Bunde@legis.state.ak.us

Senator Bunde,

Please support S.B. 316. Wearing a seat belt is what saved my child's life when she was hit by a drunk driver.

Judith McArthur

P.O.Box 773111

Eagle River AK 99577

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