

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11365 SENATE STATE AFFAIRS

Illinois	20,120	62,490	\$436,497,860		Pennsylvania	13,330	41,270	\$288,869,510	
Indiana	10,680	33,160	\$231,665,410		Rhode Island	800	2,420	\$17,161,200	
Iowa	6,950	21,710	\$151,136,000		South Carolina	6,470	20,130	\$140,455,970	
Kansas	7,200	22,470	\$156,493,400		South Dakota	2,140	6,670	\$46,451,940	
Kentucky	6,300	19,540	\$136,583,620		Tennessee	10,530	32,850	\$228,819,010	
Louisiana	6,760	20,980	\$146,683,870		Texas	40,110	125,000	\$871,322,210	
Maine	1,800	5,570	\$38,996,100		Utah	6,590	20,540	\$143,195,450	
Maryland	6,210	19,250	\$134,566,700		Vermont	1,000	3,100	\$21,705,250	
Massachusetts	5,460	16,680	\$117,783,060		Virginia	12,120	38,590	\$265,531,830	
Michigan	14,260	44,150	\$309,076,220		Washington	9,000	27,960	\$195,339,760	
Minnesota	7,830	24,260	\$169,654,660		West Virginia	2,880	8,960	\$62,581,740	
Mississippi	5,140	15,990	\$111,560,420		Wisconsin	10,770	33,490	\$233,729,770	
					Wyoming	570	1,710	\$12,173,900	
TEN YEAR TOTALS	416,060	1,293,270	\$9,029,725,750						

COMPARISON OF YOUNG AND ADULT DRIVER
CRASHES IN ALASKA USING LINKED TRAFFIC CRASH
AND HOSPITAL DATA

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ABSTRACT

This report describes the most serious young driver crashes in Alaska for the period 1991 through 1995. Rates, characteristics, and medical and financial out-comes of young driver crashes are compared with that of adult driver crashes. This research project demonstrates the usefulness of data linkage in crash research. Using the Mini Crash Outcome Data Evaluation System (MINICODES), trauma registry hospital discharge data were linked with traffic crash records. The data were analyzed to compare drivers aged 16-20 with drivers aged 21-50 who were involved in a crash resulting in the hospitalization or death of a crash victim. The CrashCost Program was used to estimate costs associated with young driver crashes for the five years.

Young drivers were 2.9 times more likely than adult drivers to be involved in crashes that resulted in the hospitalization of a crash victim, and 2.6 times more likely to be involved in a crash involving a fatality. Human factors were recorded as contributing factors for 68.2% of the young drivers, compared with 55.5% of the adult drivers ($P < .0001$). The highest hospital charge averages were those incurred by the victims of motor-cycle crashes. Total costs associated with the young driver crashes were estimated to be over \$300 million, which resulted in a cost per young licensed driver that was 3.4 times the cost per adult licensed driver.

INTRODUCTION

Motor vehicle crashes are the leading cause of death for young people in the United States aged 15 to 20 years. National statistics reveal that teen drivers are disproportionately involved in crashes. In 1995, young drivers aged 15 to 20 years comprised only 6.7% of the driving population, yet they accounted for 14% of the drivers involved in fatal crashes and 17% of the drivers in police-reported crashes. The losses these crashes represent in terms of human suffering are vast and difficult to quantify. The financial toll has been estimated at \$31 billion annually (1).

There are a number of factors that impact the driving performances of teens including age, inexperience, supervised driving, and night driving. An examination of the

effects of the different state laws on 15-17 year old driver fatality rates found that the minimum legal driving age and curfew laws had the greatest impact on driver fatality rates (2). Delayed full licensure age, night driving curfews, and supervised driving have all been shown to be effective in mitigating the high crash rate among 16 year olds. In upstate New York, however, where a combination of these strategies are employed, crash involvement rates remained low through age 24, compared with the other northeastern states studied (3).

The National Highway Traffic Safety Administration (NHTSA) recommends that states adopt a graduated licensing system that combines delayed full-privilege licensure, supervised driving, and night driving curfews. An evaluation of the effectiveness of New Zealand's graduated licensing system, in place since 1987, reveals a 23% reduction in crash injuries for the 15 to 19 year old population (4). Eleven states now have some form of graduated licensing. Evaluations of graduated licensing in California, Maryland, and Oregon demonstrated a 5-16% reduction in young driver crashes (5).

Motor vehicle crashes are the leading cause of death for Alaskans aged 16 through 20 and cause almost 50% of the unintentional injury deaths for this age group. Drivers in this age range were involved in 13.1% of police-reported crashes in Alaska during the period 1991 through 1995 while they accounted for only 6.3% of licensed drivers in the state. The crash rate of drivers aged 16 through 20 from 1991 through 1995 was 135.9 crashes per 1,000 drivers, which was 2.4 times the crash rate of drivers aged 21 through 50 (56.9 per 1,000 drivers).

Among 16 through 20 year old drivers, the crash rate in Alaska decreased each year to age 20. The crash rate of 17 year old drivers was 24% lower than that of 16 year old drivers; the 18 year old driver crash rate was 22% lower than that of 17 year old drivers; the 19 year old driver crash rate was 21% lower than that of 18 year old drivers, and, the 20 year old driver crash rate was 12% lower than that of 19 year old drivers.

The purpose of this study is to describe the most severe young driver crashes in Alaska, between 1991 and 1995, in terms of rates, characteristics, and medical and financial outcomes; to make comparisons between youth driver crashes and adult driver crashes; and, to demonstrate the usefulness of data linkage in crash research.

METHODS

Computerized crash records from the Highway Analysis System (HAS) for 1991 through 1995 were obtained from Alaska's Department of Transportation and Public Facilities. This system contains information on motor vehicle crashes on a trafficway, either recorded by police or self-reported. Alaska law requires that any motor vehicle crash which results in death, injury, or property damage of \$500 or more must be reported to the Alaska Department of Public Safety. Data include passenger demographics, type of vehicle, type of crash, contributing factors, type of injury, and body region injured. There are up to two contributing factors listed per driver involved in a crash, recorded by the enforcement officer. They fall into four main categories: human error, roadway conditions, environmental elements, and vehicle defects.

Hospital discharge data were extracted from the Alaska Trauma Registry, also for 1991 through 1995. The trauma registry is a statewide information system housed in the Alaska Department of Health and Social Services, which includes detailed data on all injury hospitalizations in the state. Alaska's trauma registry is somewhat unique in that trauma data are collected from all Alaskan acute care hospitals, of which there are 24, and are collected on all patients admitted for 24 hours or more. Data include patient demographics, ambulance service transport and treatment, hospital treatment and length of stay, diagnosis, injury severity, discharge status, charges, and payer billed.

In order to associate circumstances of crashes with corresponding injury outcomes, crash records and trauma registry records were linked using the Mini Crash Outcome Data Evaluation System (MINICODES), developed by the National Association of Governor's Highway Safety Representatives (NAGHSR) with the support of NHTSA. This software relies on a probabilistic linkage methodology which is particularly useful with data that lack identifiers or may contain incomplete or erroneous information. The methodology has been extensively tested and has demonstrated high precision matching (6).

Trauma registry records were considered for linkage by virtue of an external cause of injury code (E Code) in the range 810.0-816.9 and 819.0-819.9, motor vehicle traffic collision injury. E Codes are a coding system within the International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM), which are routinely entered into the Trauma Registry for each trauma patient. The identifiers used for linkage of the two databases were sex, age, birthdate, geographic region, and probable hospital admission date and time. Additional variables were used to review questionable matches. They consisted of vehicle type, crash type, residence city, crash city, position of injured person in vehicle, anatomical location of injury, and the injury description.

Only the most serious crashes were considered for study, i.e. those involving the hospitalization or death of a crash participant. A hospital crash refers to any motor vehicle traffic crash resulting in at least one victim of the crash admitted to a hospital for 24 hours or more. A fatal crash refers to any motor vehicle traffic crash resulting in at least one fatality. A fatality is defined as a death that occurs as a direct result of a motor vehicle crash within 30 days of the injury or during an acute care hospital stay if the patient was originally hospitalized within 30 days of the injury.

Through linkage of traffic crash data with trauma registry data, two populations were identified for study: drivers in crashes and victims of crashes. Drivers were divided into two groups, those aged 16 through 20 who are referred to as young drivers, and those aged 21 through 50, referred to as adult drivers. These two age groups were used for comparison to avoid the introduction of older drivers who are involved in crash patterns unique to their group. The victims of the crashes were described in terms of outcome, hospital charge payment source, and costs. The victims were also divided into two groups, those who were victims of young driver crashes and those who were victims of adult driver crashes.

Safety equipment consists of safety belts, safety belts with harnesses, child safety seats, and helmets. Alcohol involvement is recorded as a contributing factor on the police record if alcohol use is confirmed by a test or suspected. Disability is defined as the expectation that the patient will never be able to return to his or her pre-injury level of function in the judgement of the trauma registrar collecting the information from the medical record file.

Average hospital charges per crash victim were calculated using available trauma registry data. Because not all of the hospitals release this information, hospital charges are missing on about 50% of the trauma registry patients. More inclusive cost estimates were derived using the CrashCost Program obtained from NHTSA. This software program estimates the economic costs of motor vehicle crashes, including direct medical expenses, direct "other" expenses and indirect costs. The CrashCost program also accounts for unreported crashes and adjusts for locality and current economics (7).

The CrashCost estimates were based on Alaska specific data on the number of crash fatalities and the number of patients identified with an Abbreviated Injury Scale (AIS) score of four (severe injury) or five (critical injury). Injuries of an AIS of three or less are not adequately tracked by the trauma registry since only patients admitted to the hospital for one or more days are entered into the database. Therefore, the national ratio based estimates from the CrashCost Program were used to estimate the number of these less severe injuries.

RESULTS

A total of 3,158 trauma registry records were considered for linkage with traffic records, resulting in 2,183 matches, or a 69.1% matching success rate. The linked trauma registry records were compared with the unlinked records to see if the linked records were representative of the unlinked records. There were no significant differences between the groups in sex and age, however, there were significant differences relating to geographic location of crash and type of crash. The crashes among the linked trauma registry records occurred more often in the urban areas (Anchorage, Fairbanks, the Kenai Peninsula, Matanuska-Susitna Borough, and Juneau) ($p < .0001$). There was a significantly smaller percentage of Alaska Natives in this group than in the unlinked data group ($p < .0001$). The mean injury severity was greater among the linked records than among the unlinked records ($p < .05$). The linked data also included less pedestrian injuries ($p < .0001$) and more driver injuries ($p < .0001$) than the unlinked data.

Drivers

Linkage of traffic crash data with trauma registry data resulted in 2,508 drivers identified for their involvement in hospital and fatal crashes: 488 young drivers and 2,020 adult drivers. A comparison of crash involvement rates of young and adult drivers, annualized over the five-year period, is shown in Table 1. Young drivers were 2.9 times more likely to be involved in crashes that resulted in the hospitalization of a crash victim, and 2.6 times more likely to be involved in a crash involving a fatality.

Table 1.
Annualized Young and Adult Driver Involvement Rates in Hospital and Fatal Crashes, Alaska, 1991-1995

	Young Drivers (Age 16-20) N=488		Adult Drivers (Age 21-50) N=2,020		Rate Ratio
	N	Rate*	N	Rate*	
Hospital Crash Involvement	408	3.15	1,659	1.10	2.86
Fatal Crash Involvement	80	0.617	361	0.240	2.57

The young and adult drivers in hospital and fatal crashes are compared in Table 2. The two groups of drivers were similarly distributed by sex and use of safety equipment. Hospital and fatal crashes occurred most often during the summer months (July and August) among both groups of drivers. The time of day of the crash was also similar between the two groups. Adult driver crashes that

resulted in serious injury peaked in late afternoon and early evening (25.6%) and young drivers were most at risk between noon and 4 PM (23.4%).

Table 2.
Comparison of Young and Adult Drivers in Hospital and Fatal Crashes by Driver Sex, Safety Equipment Use, and Crash Time, Alaska, 1991-1995

	Young Drivers (Age 16-20) N=488		Adult Drivers (Age 21-50) N=2,020	
	N	Percent	N	Percent
Sex				
Male	324	66.4%	1,441	71.3%
Female	164	33.6%	579	28.7%
Safety Equipment Use				
Recorded	462		1,871	
Used	252	54.5%	1,053	55.9%
Not Used	210	45.5%	818	44.1%
Unrecorded	26		149	
Crash time				
Midnight- 4am	90	18.4%	304	15.0%
4am-8am	36	7.4%	187	9.3%
8am-noon	48	9.8%	232	11.5%
noon-4pm	114	23.4%	403	20.0%
4pm-8pm	111	22.7%	517	25.6%
8pm- midnight	89	18.2%	377	18.7%

* Rate per 1,000 licensed drivers

There are up to two contributing factors recorded in the traffic crash database for each driver in a crash. As indicated in Table 3, the percentage of young drivers with a contributing factor due to human error, as recorded by the investigating officer, was significantly higher than that of the adult drivers ($p < .0001$). Conversely, there was a greater percentage of adult drivers with "no contributing factor" recorded to describe their involvement in the crash ($p = .01$).

Table 3.
Comparison of Young and Adult Drivers in Hospital and Fatal Crashes by Contributing Factor, Alaska, 1991-1995

	Percent of Young Drivers with the Contributing Factor N=488		Percent of Adult Drivers with the Contributing Factor N=2,020	
	N	Percent *	N	Percent *
Human	333	68.2%	1,122	55.5% **
Vehicle	22	4.5%	49	2.4%
Environmental	23	4.7%	75	3.7%
Roadway	41	8.4%	122	6.0%
None	78	16.0%	551	27.3%***
Unknown	7	1.4%	21	1.0%

* Up to two contributing factors per driver so that column does not equal 100%

** $p < .0001$

*** $p = .01$

The contributing factors attributed to the young and adult drivers are detailed in Table 4. "Unsafe speed," i.e. speed too fast for conditions, was recorded as a contributing factor of the crash for 29.1% of the young drivers. "Alcohol" was believed to be a factor in the crashes of almost 16%. Conversely, alcohol was recorded factor for 24.9% of the adult drivers, with unsafe speed ranking second at 19.9%.

Table 4.
Comparison of Young and Adult Drivers in Hospital or Fatal Crashes by Contributing Factor, Alaska, 1991-1995

	Percent of Young Drivers with the Contributing Factor N=488		Percent of Adult Drivers with the Contributing Factor N=2,020	
	N	Percent*	N	Percent*
Unsafe Speed	142	29.1%	401	19.9%**
Alcohol	76	15.6%	502	24.9%***
Driver Inattention	59	12.1%	142	7.0%
Failure to Yield	45	9.2%	144	7.1%
Driver Inexperience	36	7.4%	28	1.4%
Pavement Slippery	32	6.6%	107	5.3%
Improper Lane Usage/Passing	27	5.5%	76	3.8%
Traffic Control Devise Disregard	24	4.9%	79	3.9%
Other Human Factor	19	3.9%	81	4.0%
Turning Improperly	10	2.0%	35	1.7%
Fell Asleep	9	1.8%	42	2.1%
View Obstructed	8	1.6%	36	1.8%

* Up to two contributing factors per driver so that column does not equal 100%

** $p = .04$

*** $p = .04$

Victims

Table 5 describes the outcomes of the two crash victim groups. There was no significant difference between the victims of the young driver crashes and those of the adult driver crashes in injury severity or length of hospital stay.

Table 5.
Outcomes of Young and Adult Driver Crashes, Alaska, 1991-1995

	Young Driver Crash Victims N=584		Adult Driver Crash Victims N=1,894	
	N	Percent	N	Percent
Total Deaths	99		344	
Scene Deaths	67		228	
Hospital Deaths	32		116	
Hospitalizations	517		1,666	
	Mean		Mean	
Injury Severity Score *	10.8		11	
Length of Hospital Stay (days)	6.7		7.6	
	N	Percent	N	Percent
Head Injury	208	40.2%	628	37.7%
Chest Injury	116	22.4%	402	24.1%
Spinal Cord Injury	14	2.7%	43	2.6%
Discharged with Disability	70	13.5%	186	11.2%

* Injury Severity Score is on a scale from 1 to 75, with 75 the most severe. An ISS of 16 or greater defines major trauma.

Average hospital charges for both groups of victims are listed in Table 6. These figures are based on available cost data from the trauma registry. Included are charges by type of vehicle, contributing factor, and use of helmets and safety belts. There were no significant differences between the two groups at the 95% confidence level in any of the categories compared. The highest average charges were those associated with motorcycle crash patients. The average charge for hospitalization for non-helmeted victims of young driver crashes was twice that of the helmeted victims.

Table 6.

Hospital Charges of Young and Adult Driver Crashes by Vehicle Type, Contributing Factor and Safety Equipment Use, Alaska, 1991-1995

	Young Driver Crash Victims, N=517		Adult Driver Crash Victims, N=1,666	
	Mean	Standard Error	Mean	Standard Error
All	\$16,269	\$ 1,640	\$18,174	\$ 1,146
Vehicle Type				
Passenger Car	\$15,250	\$ 1,889	\$17,397	\$ 1,450
Motorcycle	\$27,354	\$ 8,344	\$30,148	\$ 6,279
Pick-Up Truck	\$18,482	\$ 5,653	\$15,599	\$ 1,748
Contributing Factor				
Unsafe Speed	\$14,344	\$ 2,575	\$22,778	\$ 2,511
Alcohol Use	\$19,426	\$ 5,614	\$18,911	\$ 2,184
Driver Inattention	\$17,129	\$ 4,452	\$15,504	\$ 2,848
Failure to Yield	\$10,201	\$ 2,294	\$19,062	\$ 2,797
Safety Equipment Use				
Safety Equipment Used	\$15,543	\$ 2,223	\$15,943	\$ 1,514
Safety Belt	\$15,220	\$ 2,547	\$14,355	\$ 1,176
Motorcycle Helmet	\$17,309	\$ 3,699	\$28,323	\$ 9,519
No Safety Equipment Used	\$17,087	\$ 2,512	\$19,599	\$ 1,774
No Safety Belt	\$14,259	\$ 2,420	\$19,518	\$ 2,505
No Helmet	\$34,640	\$19,672	\$28,407	\$ 7,029

The distribution of payers billed for hospital expenses associated with the 2,183 hospitalized victims are presented in Table 7. Of the patients involved in the young driver crashes, the largest percentage billed their hospital expenses to private health insurance (33.1%), followed by those who were uninsured (19.3%), and those covered by automotive insurance (14.7%).

Table 7.

Payers Billed for Hospitalization of Victims of Young Driver and Adult Driver Crashes, Alaska, 1991-1995

	Young Driver Crash Victims N=517		Adult Driver Crash Victims N=1,666	
	N	Percent	N	Percent
Private	171	33.1%	472	28.3%
Uninsured	100	19.3%	368	22.1%
Automotive	76	14.7%	225	13.5%
Indian Health Service	50	9.7%	174	10.4%
Medicaid	40	7.7%	110	6.6%
Military	24	4.6%	118	7.1%
Champus	12	2.3%	42	2.5%
Medicare	10	1.9%	48	2.9%
Other/Unknown	34	6.6%	109	6.6%

Table 8 gives estimates of the total costs associated with young and adult driver crashes in Alaska for the five years using the CrashCost Program. Cost per young licensed driver was 3.4 times the cost per adult licensed driver.

Table 8.
Cost Estimates for Young and Adult Driver Crashes, Alaska, 1991-1995 *

	Young Driver Crashes	Adult Driver Crashes
	N	N
Fatalities	99	344
Injuries **	7,648	26,569
Property Damage Only	34,333	119,248
	Cost	Cost
Direct Medical Costs	\$ 36,750,837	\$126,786,020
Direct Other Costs	\$134,898,306	\$468,099,927
Indirect Costs	\$131,086,293	\$454,729,271
Total	\$302,735,436	\$1,049,615,218
Cost per Licensed Driver	\$2,336	\$697

* Cost estimates based on NHTSA CrashCost Program

** Injuries include hospitalized and non-hospitalized

DISCUSSION

Alaska is similar to the rest of the nation in that young people are disproportionately involved in motor vehicle crashes, and crash injuries constitute a major health problem among this group. Alaska is, however, distinctive by having the lowest population density of any state, about one person per square mile. There are 13,485 miles of roads but only five of Alaska's urban centers are connected by road. The formidable terrain, isolation, and extreme weather conditions make access to medical care a challenge for residents and visitors alike who are involved in motor vehicle traffic crashes. Teen drivers demonstrated a greater propensity for involvement in the most severe crashes compared with adults, but the involvement rate did not increase significantly with injury severity.

The serious and fatal crashes involving young drivers were more likely attributed to human factors compared with crashes involving adult drivers. These data suggest that immaturity, inexperience and risk-taking behaviors contribute to young driver crashes.

The high percentage of safety belt and helmet nonuse among both of the study populations (44%-46%) is partially explained by the fact that these were the drivers in crashes resulting in the most serious injuries, including injuries to themselves. The Youth Risk Behavior Survey of 1995 reported that about 20% of Alaska high school students surveyed responded that they rarely or never use safety belts. Among those who ride motorcycles, about 40% rarely or never wear helmets (8). In response to the 1995 Alaska Behavioral Risk Factor Survey, 33.1% of adults reported that they did not always use safety belts (9). These percentages are all higher than comparable national percentages. Lap and shoulder belts are 40-50% effective in reducing deaths and 45-55% effective in preventing moderate-to-critical injuries to passenger vehicle occupants (10). NHTSA estimates that helmets are 29% effective in preventing fatal injuries to motorcyclists and in a recent study showed that motorcycle helmets are 67% effective in preventing brain injuries (11).

Alcohol was not the leading contributing factor in young driver crashes as it was for adult driver crashes. This has been reported by other researchers and can be attributed largely to an alcohol purchase age of 21 in all states and a zero tolerance law for drivers under the age of 21 in 30 states, including Alaska. Zero tolerance means that anyone with a BAC level above 0.02 g/dl is considered legally intoxicated (1, 12, 13).

Almost 50% of hospitalized victims of teen driver crashes relied on private or automotive insurance to pay their hospital expenses. One hundred victims, or 19.3%, were uninsured. The hospital charges of an additional 26.3% of the patients were billed to a government program. NHTSA estimates that nationally private insurance

companies pay 55% of medical costs for hospitalized patients of motor vehicle crashes and the government pays only 23% (14). Alaska has a large Native American population and several military bases, which contribute to a significant role of the federal government in covering the cost of medical care in the state.

The highest average costs of hospitalization were incurred by motorcycle crash victims. Unhelmeted crash patients topped the list with an average cost of over \$34,000, double that of the helmeted victims in the same group.

Using the CrashCost Program, the estimated costs for teen driver crashes in Alaska for five years was over \$300 million. The financial burden quickly becomes an issue of public policy when such a large percentage of the cost is reimbursed with public funds.

There were several limitations to this study. Every driver in a crash was included in the crash involvement rates. Multiple car crashes involving more than one driver added multiple drivers to the statistics, often into both age groups simultaneously. In reality, driver responsibility for crashes is more complex than that, with participants assuming varying degrees of fault. For the purpose of this study, however, driver responsibility was given equal weight and was based on involvement.

Missing and incorrect data is undoubtedly partly responsible for the inability to link all trauma registry records with traffic crash records. The error rate in data linkage due to the linkage process itself has not been quantified. It is believed, however, that the 31% in non-linked data was largely due to unreported traffic crashes. A comparison of hospital discharge files and police road injury data in Australia resulted in a linkage rate of 64%. The researchers found increased linkage with injury severity and varying linkage rates with different types of crashes (29% for motorcyclists vs. 79% for motor vehicle drivers.) They also noted that the casualties outside the urban area linked less often to a police report than the urban casualties. Their conclusion was that the low linkage rate was largely due to the underreporting of crashes by police (15).

An under reporting of pedestrian injuries was reported by Agran, Castillo and Winn in 1987, in a comparison of police report information with hospital monitoring system information in Orange County, California. It was estimated that police underreported pedestrian injuries by 20%. The researchers also noted that nontraffic incidents were especially underreported, mainly because the police database criteria excludes cases occurring on private property (driveways, sidewalks and parking lots) where a large percentage of pedestrian injuries occur (16). Similarly, Alaska's traffic crash data reporting system excludes incidents on private property, as well as those involving vehicles not customarily used for transport on roads.

Other possible reasons for the under reporting of traffic crashes include lack of police officers in the rural areas, reluctance of crash participants to notify police, and failure of local enforcement personnel to submit investigation forms to the Department of Public Safety.

The mean age of the injured victims of young driver crashes was slightly lower than that of the entire population of injured victims studied (25 vs. 30). Since the CrashCost estimates were based on national averages, the present discounted value of lost productivity for victims of young driver crashes would differ slightly from the value of lost productivity for victims of all crashes. The difference, however, is likely to be minor.

RECOMMENDATIONS

The factors contributing to Alaska's young driver crashes – youth, inexperience, and risk-taking behavior – are analogous to those seen in other states and countries. Currently there is no graduated licensing system in Alaska; however, legislation has been introduced and is currently under consideration during the 1997-98 legislative session. Alaska is also one of few states that does not require any instructional permit prior to obtaining a full privilege license. Graduated licensing has been shown to successfully reduce young driver crashes. It is recommended that Alaska adopt a graduated licensing system that is appropriate for Alaskans, to include the requirement of supervised driving under an instructional permit, a probational driving period, and raising the minimum age for full licensure to 17. The expected result would be a reduction in injuries and deaths, mitigation of the impact of crashes on Alaska's stretched emergency medical services, and a significant cost savings.

Alaska has a primary safety belt enforcement law for children under age 16 and secondary enforcement for those aged 16 and over. There is a helmet law for motorcyclists under age 18 and all motorcycle passengers. At the least, the primary safety belt law and the helmet law should be expanded to include young drivers through age 20 to protect those drivers at greatest risk. Even more effective are universal laws, i.e. mandated usage for all persons, which have been shown to increase belt usage 10-15% and helmet usage to 100% (10,11).

In the past three years Alaska has enacted two zero tolerance laws for young people under 21 years of age. A minor caught in possession of or consuming alcohol, regardless of motor vehicle involvement, can have his or her driver's license revoked. A minor also can be cited for "driving while intoxicated," for any level of alcohol registered on a breathalyzer test. These laws send an important message to young drivers about drinking and driving in a state that has a major problem with alcohol involvement relative to a great variety of injuries. Full commitment by state and local jurisdictions is needed to enforce these and all other traffic safety laws.

ACKNOWLEDGEMENTS

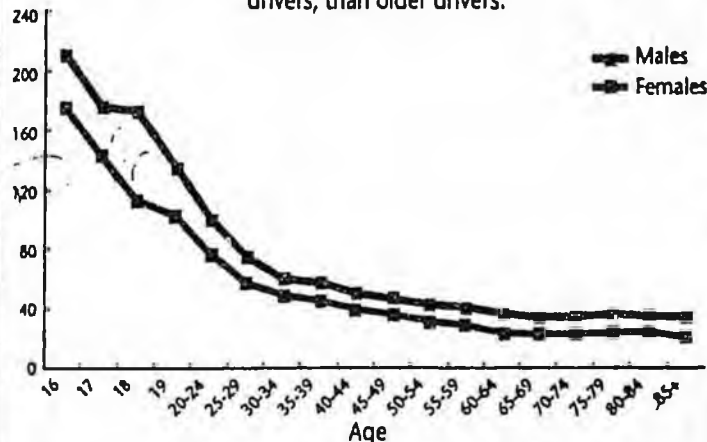
This study was based on a grant from the National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation. NHTSA has funded this research for the purpose of demonstrating the application and usefulness of linked data.

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15. Rosman DL, Knuiman MW, "A Comparison of Hospital and Police Road Injury Data," *Accident Analysis and Prevention* 26. (1994): 215-222.
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ACCIDENTS PER 1,000 LICENSED DRIVERS, 2000

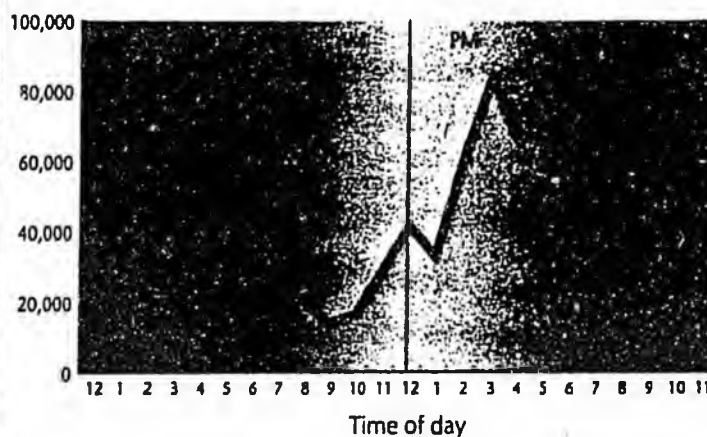
Teenagers, 16 to 18, are involved in more crashes per 1,000 licensed drivers, than older drivers.



Source: Journal of Safety Research, Vol. 34, No.1, National Safety Council, 2003.

WHEN CAR ACCIDENTS ARE LIKELY TO HAPPEN TO TEENS

Sixteen- to 17-year-olds are involved in more crashes between the hours of midnight and 5 a.m. than during daytime hours.



Source: Journal of Safety Research, Vol. 34, No.1, National Safety Council, 2003.

GRADUATED DRIVER LICENSING LAWS

States have been passing laws that ease teens into driving. The three important components of these GDL laws are:

1. A learner permit for at least six months.
 2. A required amount of supervised driving.
 3. An intermediate permit restricting night driving.
- Many states also limit the number of passengers.

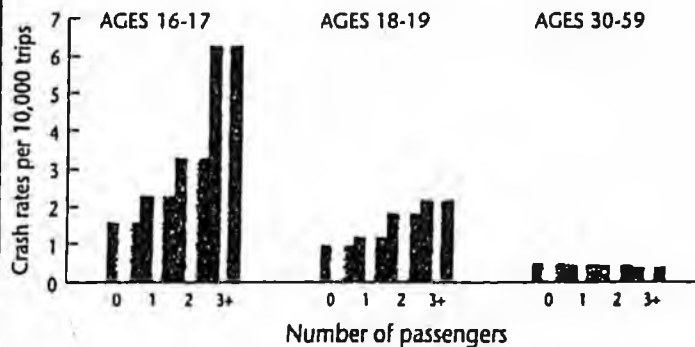


- One component
- Two components
- All three components
- ◇ Passenger restrictions

Source: National Conference of State Legislatures, December 2002

TEEN DRIVING WITH PASSENGERS

For teen drivers, the presence of passengers results in higher crash rates per 10,000 trips. As the number of passengers increase, so does the accident rate.



Source: Journal of Safety Research, Vol. 34, No.1, National Safety Council, 2003.



1997-2001		
Cause of Death	Deaths	% All Deaths
Unintentional injuries	121	44.0%
Motor Vehicle*	69	25.1%
Intentional self-harm (suicide)	88	32.0%
Assault (homicide)	18	6.5%
Total deaths	275	100.0%

2001		
Cause of Death	Deaths	% All Deaths
Unintentional injuries	23	43.4%
Motor Vehicle*	13	24.5%
Intentional self-harm (suicide)	16	30.2%
Malignant neoplasms	3	5.7%
Total deaths	53	100.0%

2000		
Cause of Death	Deaths	% All Deaths
Unintentional injuries	35	50.0%
Motor Vehicle*	24	34.3%
Intentional self-harm (suicide)	25	35.7%
Assault (homicide)	2	2.9%
Influenza and pneumonia	2	2.9%
Total deaths	70	100.0%

1999		
Cause of Death	Deaths	% All Deaths
Unintentional injuries	19	35.2%
Motor Vehicle*	11	20.4%
Intentional self-harm (suicide)	16	29.6%
Assault (homicide)	4	7.4%
Malignant neoplasms	4	7.4%
Total deaths	54	100.0%

1998		
Cause of Death	Deaths	% All Deaths
Unintentional injuries	20	45.5%
Motor Vehicle*	7	15.9%
Intentional self-harm (suicide)	18	40.9%
Assault (homicide)	2	4.5%
Total deaths	44	100.0%

1997		
Cause of Death	Deaths	% All Deaths
Unintentional injuries	24	44.4%
Motor Vehicle*	14	25.9%
Intentional self-harm (suicide)	13	24.1%
Assault (homicide)	8	14.8%
Total deaths	54	100.0%



S A V I N G T E E N A G E L I V E S

Section I

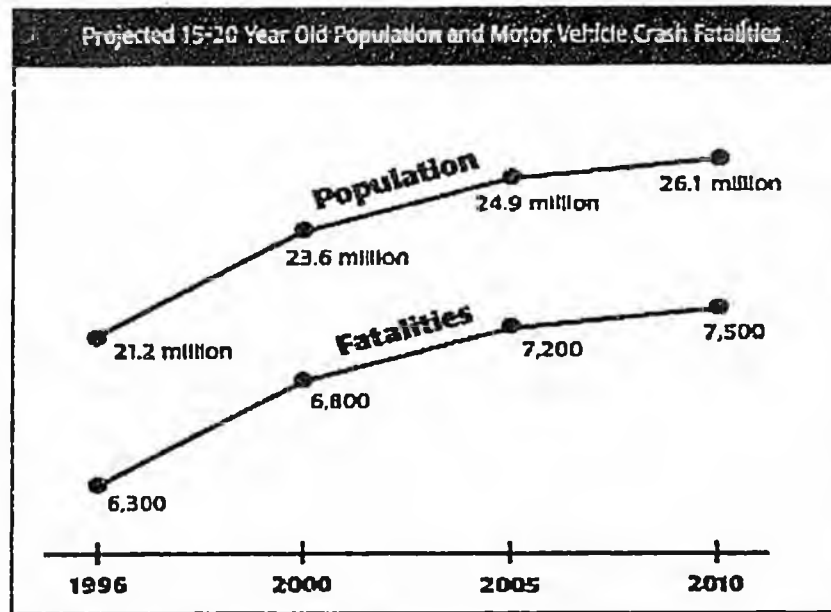
Introduction: The Need for Graduated Driver Licensing

In 1996, 6,319 young people age 15-20 died in motor vehicle crashes. Even though this age group makes up only seven percent of the driving population, they are involved in 14 percent of all traffic fatalities.

The Teen Driving Problem

It has been said many times that children are our most precious resource. While parents throughout time have loved their children enormously, today's parents have taken this saying to heart in more visible ways than previous generations. From the "CautionBaby on Board" window decals of the early 1980s to the ubiquitous "My child is an honor student at" bumper stickers of today, modern parents use the family car as a billboard to showcase their parental pride and their children's accomplishments.

But the same motor vehicle that goes from school to soccer to piano- in which Mom, Dad and the kids seem to live may also be the vehicle in which our teenagers die. Motor vehicle crashes are the leading cause of death for young people 15 to 20 years of age, causing roughly one-third of all fatalities in this age group. In 1996, 6,319 young people age 15-20 died in motor vehicle crashes. Even though this age group makes up only seven percent of the driving population, they are involved in 14 percent of all traffic fatalities. In 1996, teens were involved in more than two million non-fatal traffic crashes. Based on population projections, these numbers will go up unless we intervene. (See chart below.)



Source: AAA

On the basis of miles driven, teenagers are involved in three times as many fatal crashes as are all drivers. Why do young drivers have such poor driving performance? Three factors work together to make the teen years so deadly for young drivers:

- Inexperience
- Risk-taking behavior and immaturity
- Greater risk exposure

Inexperience: All young drivers start out with very little knowledge or understanding of the complexities of driving a motor vehicle. Like any other skill, learning to drive well takes a lot of time. Technical ability, good judgment and experience all are needed to properly make the many continuous decisions, small and large, that add up to safe driving. By making it so easy to get a driver license by literally handing teenagers the car keys without requiring an extended period of supervised practice-driving time we are setting them up for the risk of making a fatal mistake.

Risk-taking behavior and immaturity: Adolescent impulsiveness is a natural behavior, but it results in poor driving judgment and participation in high-risk behaviors such as speeding, inattention, drinking and driving, and not using a seat belt. Peer pressure also often encourages risk taking.

Greater risk exposure: Teens often drive at night with other teens in the vehicle, factors that increase crash risk.

Teen drivers are different from other drivers, and their crash experience is different. Compared to other drivers, a higher proportion of teenagers are responsible for their fatal crashes because of their own driving errors:

- A larger percentage of fatal crashes involving teenage drivers are single-vehicle crashes compared to those involving other drivers. In this type of fatal crash, the vehicle usually leaves the road and overturns or hits a roadside object such as a tree or a pole.
- In general, a smaller percentage of teens wear their seat belts compared to other drivers.
- A larger proportion of teen fatal crashes involve speeding, or going too fast for road conditions compared to other drivers.
- More teen fatal crashes occur when passengers usually other teenagers are in the car than do crashes involving other drivers. Two out of three teens who die as passengers are in vehicles driven by other teenagers.

Crash Involvement Rates by Driver Age				
Age	All Crashes Per Million Miles	Fatal Crashes Per 100 Million Miles	All Crashes Per 1,000 Population	Fatal Crashes Per 100,000 Population
16	43	17	84	33
17	30	13	107	42
18	16	8	103	51
19	14	7	95	48
20-19	20	9	96	44
20-24	10	5	81	41
25-29	6	3	64	33
30-34	5	2	51	26
35-39	4	2	47	23
40-44	4	2	42	20
45-49	4	2	39	18
50-54	4	2	34	18
55-59	4	2	31	16
60-64	4	3	27	16
65-69	7	4	27	16
70-74	8	5	25	17
75+	12	12	18	17

Source: Insurance Institute for Highway Safety (Transportation Research Board Circular #458 - April 1996)

Effective remedies exist for controlling these risk factors and reducing traffic crash fatalities among young drivers without seriously encroaching on their need to get around. Graduated driver licensing combines a number of measures proven to be effective in fostering safer driving behavior in young drivers. In Ontario, Canada, and in New Zealand where graduated driver licensing is in effect crash deaths and injuries for teenage drivers have been reduced. Maryland, which has a nighttime driving restriction, and California have shown reductions in both fatal crashes and traffic violations among young drivers.

With graduated driver licensing, new drivers typically go through a three-stage process that involves their gradual introduction to full driving privileges. By restricting when teenagers may drive, and with whom, graduated driver licensing allows new drivers to gain much-needed on-the-road experience in controlled, lower-risk settings. It also means that a teenager will be a little older and more mature when he or she gains a full, unrestricted license. After the

young driver demonstrates responsible driving behavior, restrictions are systematically lifted until the driver "graduates" to full driving privileges.

This manual explains what graduated driver licensing is and why it is so important for every jurisdiction to take steps towards its implementation.

[Fwd: HB 213]

Subject: [Fwd: HB 213]
Date: Thu, 29 Jan 2004 13:14:04 -0900
From: Bruce Weyhrauch <Representative_Bruce_Weyhrauch@Legis.state.ak.us>
Organization: Alaska State Legislature
To: Linda Sylvester <Linda_Sylvester@legis.state.ak.us>

Subject: HB 213
Date: Thu, 29 Jan 2004 08:30:33 -0900
From: Pete & Cathie Mauro <alaskamauro@gci.net>
To: Representative_Bruce_Weyhrauch@legis.state.ak.us

Do I support Graduated drivers licensing...ABSOLUTELY !! Automobile crashes are the leading cause of death for our children. In the last six years Alaska has lost 130 of our youth to traffic crashes...one of those 130 people was my daughter. That very day she was studying for her permit and missed her 15th birthday by days. We as a family are devastated by this loss and don't wish this to happen to another family. Do I think HB 213 will save lives..ABSOLUTELY !! Do I think practice and experience will save lives...ABSOLUTELY. This legislation will help give parents the tools to restrict their children from driving with the distraction of other teens in the car and the limit the times when teens are on the road and when that car should be parked in your driveway and your child be safe at home. Nothing good happens from 1-5 in the morning. In my mind, this is a no brainer...the message is pure and simple...this legislation SAVES LIVES. There is overwhelming data on this issue

"ROAD READY TEENS" ...YES!!!!
Sincerely and Sadly
Cathie Mauro

Subject: [Fwd: HB 213 Graduated Driver's License bill]

Date: Wed, 28 Jan 2004 13:42:16 -0900

From: Bruce Weyhrauch <Representative_Bruce_Weyhrauch@Legis.state.ak.us>

Organization: Alaska State Legislature

To: Linda Sylvester <Linda_Sylvester@legis.state.ak.us>

Subject: HB 213 Graduated Driver's License bill

Date: Tue, 27 Jan 2004 20:28:40 -0900

From: Nancy Tankersley Fair <fairwinds@gci.net>

To: Representative_Bruce_Weyhrauch@legis.state.ak.us

CC: Con Bunde <Senator_Con_Bunde@legis.state.ak.us>, Les Gara <Representative_Les_Gara@Legis.state.ak.us>, Lesil McGuire <Representative_Lesil_McGuire@legis.state.ak.us>, "Bob Lynn/Rep." <Representative_Bob_Lynn@legis.state.ak.us>

Dear Rep. Weyhrauch:

As a mother of two teenagers, ages 15 and 19, and a victim of an accident caused by a teenage driver, I strongly support the Graduated Driver's Licensing bill.

We have instituted slightly stronger policies with our teens, to good results. However, it would be much better to have the same ground rules for all teens. As other states have shown, a system like this saves lives.

This is a very reasonable first step in making our roads safer. If the rural areas find this too restrictive, perhaps you can add a clause that makes this pertain only to larger communities with a bigger road system.

Thank you for sponsoring this important piece of safety legislation.

Sincerely,

Nancy Fair
4741 E. 112th Avenue
Anchorage, AK 99516

[Fwd: Graduated Drivers License Law - GDL]

Subject: [Fwd: Graduated Drivers License Law - GDL]

Date: Tue, 27 Jan 2004 10:50:56 -0900

From: Bruce Weyhrauch <Representative_Bruce_Weyhrauch@Legis.state.ak.us>

Organization: Alaska State Legislature

To: Linda Sylvester <Linda_Sylvester@legis.state.ak.us>

Subject: Graduated Drivers License Law - GDL

Date: Mon, 26 Jan 2004 18:18:35 -0900

From: Bill & Cindy Sims <simsfamily@gci.net>

To: Representative_Bruce_Weyhrauch@legis.state.ak.us

Hello Rep. Weyhrauch ... I am a parent of 3 teenagers here in Anchorage and wish to respond to the information I received pertaining to HB 213 you are sponsoring. I am in total support of this bill and ask that you continue to push to get this bill through to law.

I had heard rumors about this "restrictive" bill that was being proposed and after reading the actual proposed law, I was amazed that this law is actually very similar to restrictions I have given my own teenagers when they get their permit and driver's license. I have an 18 year old daughter, 16 year old son, and 14 year old daughter, and I have always been involved in our public schools and volunteer quite a bit at Dimond High -- so in other words, I am around teenagers quite a bit. One thing I have seen is that a lot of parents do not really think about adding restrictions to their teenagers when they obtain a license. Parents are busy and most actually look forward to when their child can drive to help out with getting them to and from sports, activities, etc. But we as parents need to look beyond our "conveniences" and realize that we have a responsibility to teach our young drivers. I have found that when you put more than one teenager in the car at a time things change -- the music is turned up, there are more distractions in the car, etc. We need to not only protect ourselves, but also those teenagers whose parents are not aware of the additional dangers that are associated with new young drivers.

Thank you for your support of HB 213. Please feel free to use this e-mail in support of the Alaska Graduated Driver's Licensing Law.

Cindy Sims
907.344.7748 or simsfamily@gci.net

Rep. Bruce Weytrauch
Capital Building
Juneau, Alaska 99801
465-2273

Dear Representative Weytrauch:

Thank you for introducing HB213.

Considering that motor vehicle crashes are the leading cause of death for 15-18 year olds, something must be done. I believe that young people should be introduced to the driving experience gradually by phasing in full driving privileges over time and in lower-risk settings. Your bill would help to achieve this... thereby saving the lives of our teenage drivers and their passengers.

You have my total support.

<u>NAME</u>	<u>ADDRESS</u>	<u>SIGNATURE</u>
Brenda Sadler	P.O. Box 57045 North Pole 99705	Brenda Sadler
Perry J. Williamson	1221 Lois Lane Fairbanks, AK 99702	Perry J. Williamson
Santra Trumbauer	P.O. Box 81305 Fairbanks AK 99708	Santra Trumbauer
Gabrielle Lorry	1853 Bridgewater Dr Fairbanks, AK 99708	Gabrielle Lorry
BILL LARRY	1853 BRIDGE WATER DR	Bill Lorry
LINDA L. PEARSON	3252 HELEN PL FAIRBANKS, AK 99709	Linda L. Pearson

Rep. Bruce Weyrauch
Capitol Building
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465-2273

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You have my total support.

Sincerely,

name Ronald F. Taylor

organization

address 1090 North Salem Drive

city/state/zip Anchorage, Alaska 99508

telephone (907) 770-1843

email RFT1@edlmail.com

Ronald F. Taylor

Rep. Bruce Weyhrauch
Capitol Building
Juneau, Alaska 99801
465-2273

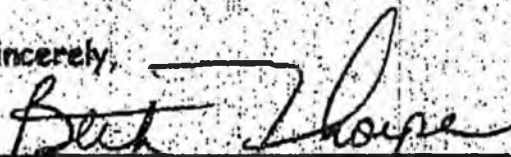
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Sincerely,



name Beth Thorne
organization Alaska Injury Prevention Center
address 3701 F Tudor, Ste. 105
city/state/zip Anchorage, AK 99521
telephone 929-3939
email

Rep. Bruce Weyhrauch
Capitol Building
Juneau, Alaska 99801
465-2273

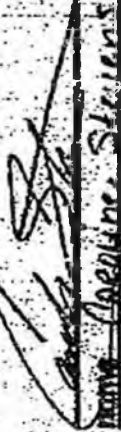
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You have my total support.

Sincerely,


Christine Stevens

organization Anchorages Police Dept.
address 4501 S. Braganza
city/state/zip Anchorage, AK 99501
telephone 786 8349
email CStevens@ci.anchorage.ak.us

Rep. Bruce Weyrauch
Capitol Building
Juneau, Alaska 99801
465-2273


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You have my total support.

Sincerely,


name Sam O'Connor
organization Sustainable Community Patrol
address 4930 Laurel #14
city/state/zip Juneau AK 99807
telephone 227-5157
email sam.oconnor@psj.net



MADD
Activism Victim Services Education™

Anchorage Chapter
4105 Turnagain Boulevard, Suite A • Anchorage, AK 99517
(907) 562-6890/Fax (907) 562-6896
Email: info@maddalaska.com
Visit our Web Site: www.maddalaska.com

Our Mission is to stop drunk driving, support the victims of this violent crime and prevent underage drinking

January 27, 2004

Representative Bruce Weyhrauch
Capitol Building
Juneau, AK 99801

Dear Representative Weyhrauch,

I am writing on behalf of the Anchorage Chapter of Mothers Against Drunk Driving in support of HB 213, Graduated Drivers Licensing.

This bill allows young, inexperienced drivers extra time to gain critical experience behind the wheel without the distractions of other youth in the vehicle, and also emphasizes the increased risk of driving during the late night/early morning hours.

Approximately four years ago, MADD participated in a series of youth forums during which young people 14-17 years of age, who discussed teen driving behaviors. The top reason they indicated for teen crashes was inattention, and they went on to describe the inattention as the result of paying attention to conversations and actions of their friends in the vehicle with them, including physically turning their head from the roadway to join in talk or actions going on around them.

Thank you, Representative Weyhrauch, for providing this step toward increasing the safety of Alaska's teen drivers.

Sincerely,

Marti Greeson

Marti Greeson
Executive Director
MADD Anchorage Chapter

Subject: [Fwd: HB 213]

Date: Tue, 27 Jan 2004 10:54:59 -0900

From: Bruce Weyhrauch <Representative_Bruce_Weyhrauch@Legis.state.ak.us>

Organization: Alaska State Legislature

To: Linda Sylvester <Linda_Sylvester@legis.state.ak.us>

Subject: HB 213

Date: Tue, 27 Jan 2004 08:03:26 -0900

From: "Michael Frost" <akshltzu@hotmail.com>

To: Representative_Bruce_Weyhrauch@legis.state.ak.us

Hello!

I am glad to see this type of legislation restricting the driving of a new driver for the first 6 months. This is exactly what I had implemented with my own son who is now 17 and my daughter will be 16 in a month and she will be restricted also.

I came up with this idea because I was hit 23 years ago by a new teen driver on her lunch break from school, with 3 other teens in the car with her. She ran a red light, totalled both cars and sent me and a couple of her friends to the doctor. I still suffer today from the injuries I recieved in that accident that may have been avoided if she had not been distracted with her friends in the car.

Nice going Mr. Weyrauch!

I hope this bill passes!

Michael Frost
Boreal Shelties
8326 Blackberry St.
Anchorage, Alaska 99502
Phone: (907) 248-0055
<http://mywebpage.netscape.com/BorealShelties/homepage.html>
E-Mail: akshltzu@hotmail.com

Shetland Sheepdog Club of Anchorage - Board Member & Show Chairperson
Alaska Kennel Club - Show Committee Member
Alyeska Canine Trainers - Puppy Obedience Instructor

Home to:
BIS Canada 2000, BISS, Am/Can CH Singltree Irresistible (1996-2003)
BIS Canada 2003, Am/Can CH Boreal Ring My Bell
Boreal Cafe' Kaladi
Beckward Dustcatcher
Simco Against All Odds
Skyview Storm Chaser
Boreal High Speed Traveler

Subject: [Fwd: Graduated Drivers License Law - GDL]
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Organization: Alaska State Legislature
To: Linda Sylvester <Linda_Sylvester@legis.state.ak.us>

Subject: Graduated Drivers License Law - GDL
Date: Mon, 26 Jan 2004 18:18:35 -0900
From: Bill & Cindy Sims <simsfamily@gci.net>
To: Representative_Bruce_Weyhrauch@legis.state.ak.us

Hello Rep. Weyhrauch ... I am a parent of 3 teenagers here in Anchorage and wish to respond to the information I received pertaining to HB 213 you are sponsoring. I am in total support of this bill and ask that you continue to push to get this bill through to law.

I had heard rumors about this "restrictive" bill that was being proposed and after reading the actual proposed law, I was amazed that this law is actually very similar to restrictions I have given my own teenagers when they get their permit and driver's license. I have an 18 year old daughter, 16 year old son, and 14 year old daughter, and I have always been involved in our public schools and volunteer quite a bit at Dimond High -- so in other words, I am around teenagers quite a bit. One thing I have seen is that a lot of parents do not really think about adding restrictions to their teenagers when they obtain a license. Parents are busy and most actually look forward to when their child can drive to help out with getting them to and from sports, activities, etc. But we as parents need to look beyond our "conveniences" and realize that we have a responsibility to teach our young drivers. I have found that when you put more than one teenager in the car at a time things change -- the music is turned up, there are more distractions in the car, etc. We need to not only protect ourselves, but also those teenagers whose parents are not aware of the additional dangers that are associated with new young drivers.

Thank you for your support of HB 213. Please feel free to use this e-mail in support of the Alaska Graduated Driver's Licensing Law.

Cindy Sims
907.344.7748 or simsfamily@gci.net

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From: Bruce Weyhrauch <Representative_Bruce_Weyhrauch@Legis.state.ak.us>

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Nice going Mr. Weyrauch!

I hope this bill passes!

Michael Frost
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Anchorage, Alaska 99502
Phone: (907) 248-0055
<http://mywebpage.netscape.com/BorealShelties/homepage.html>
E-Mail: akshltzu@hotmail.com

Shetland Sheepdog Club of Anchorage - Board Member & Show Chairperson
Alaska Kennel Club - Show Committee Member
Alyeska Canine Trainers - Puppy Obedience Instructor

Home to:

BIS Canada 2000, BISS, Am/Can CH Singltree Irresistible (1996-2003)

BIS Canada 2003, Am/Can CH Boreal Ring My Bell

Boreal Cafe' Kaladi

Beckward Dustcatcher

Simco Against All Odds

Skyview Storm Chaser

Boreal High Speed Traveler

Subject: [Fwd: Graduated Driver's Licensing Law]

Date: Tue, 27 Jan 2004 10:42:19 -0900

From: Bruce Weyhrauch <Representative_Bruce_Weyhrauch@Legis.state.ak.us>

Organization: Alaska State Legislature

To: Linda Sylvester <Linda_Sylvester@legis.state.ak.us>

Subject: Graduated Driver's Licensing Law

Date: Tue, 27 Jan 2004 09:02:47 -0900

From: "June Bewley" <ajb@da-insurance.com>

Organization: Denali Alaskan Insurance

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

CC: "June Bewley" <ajb@da-insurance.com>

A resounding YES to the 3 stages enumerated in the brief I received this morning. Obviously, lack of experience is the prime contributor to crashes.

Please vote to enact the staged GDL as soon as possible!

Will the teens who already have their licenses be "grandfathered in"?

Please make the law effective as soon as possible:

Thank you,

June Bewley

Subject: HB213

Date: Mon, 26 Jan 2004 19:16:06 -0900

From: "Robin Near" <rnear@alaska.net>

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

Dear Representative Weyrauch,

Having lived in AK for almost 33 years, I have known several families devastated by the deaths of their loved ones in vehicular accidents. Many involved teenagers who were inexperienced and not ready to drive. I raised two boys here and gladly paid for approved driver's training courses before allowing them to drive. Even that didn't seem enough. I am appalled that anyone 16 years of age can obtain a driver's license with no education or driving experience...all they need do is pass a simple written and driving test.

Your bill regarding a Graduated Driving License makes tremendous sense to those of us who know that the way one learns to become a good driver is *only by time & experience*. No one should learn such a complex skill by practicing on other drivers. It's time our state took responsibility for safer roads for all, by making youthful drivers regard driving for what it really is; *a serious responsibility!* The best way to guarantee this, is for youth to earn the privilege thru a series of checks. Thirty five other states have proven that it works by lower death and injury rates. What in the world are we waiting for? I hope your cohorts realize how many lives could be saved and how much needless suffering could be avoided by implementing a graduated drivers license law. Thank you for your insight and willingness to try and make a big difference for families in Alaska.

Sincerely, Robin Near
P.O. Box 80847
Fairbanks, AK 99708

January 26, 2004

Pete Eagan
699 Yak Road
Fairbanks, AK 99709

Re: HB 213

Rep. Bruce Weyhrauch
Capitol Building
Juneau, Alaska 99801

Dear Representative Weyrauch:

I am a life-long Alaskan (49 years), and am familiar with many a tragedy on our highways and roads. Thank you for introducing HB213. I believe that it is a very good bill. Some opponents might argue that it will be an inconvenience for families with young drivers, but our families' lives are certainly worth a little inconvenience.

Motor vehicle crashes are the leading cause of death for 15-18 year olds. Statistics in other states have clearly shown a significant reduction in the number of accidents and fatalities in the teen driving ranks following the institution of similar GDL legislation. It makes very good sense to phase in full driving privileges over a relatively short period of time. Experience can be rapidly gained while the young driver is free of many distractions that are currently the norm (e.g. late hours, rowdy peers in the vehicle, possible underage drinking, etc.).

This is a very sound and responsible bill. I heartily support it, and I hope that our Interior legislators do too.

Sincerely,

PETE EAGAN

Pete Eagan
451-5462 w
455-4793 h

[Fwd: GDL legislation]

Subject: [Fwd: GDL legislation]
Date: Mon, 26 Jan 2004 16:12:31 -0900
From: Bruce Weyhrauch <Representative_Bruce_Weyhrauch@Legis.state.ak.us>
Organization: Alaska State Legislature
To: Linda Sylvester <Linda_Sylvester@legis.state.ak.us>

Subject: GDL legislation
Date: Mon, 26 Jan 2004 11:04:01 -0900
From: "L J Rowinski" <ffljr@aurora.uaf.edu>
To: representative_bruce_weyhrauch@legis.state.ak.us

Thank you for your good work on this bill. The people whose lives are spared will never know they were in danger; but, you know and I know that we are everyone of us at risk. Thank you, Christi Rowinski, 479-5317
ffljr@uaf.edu

Subject: Letter of support for HB 213

Date: Mon, 26 Jan 2004 17:25:30 -0800 (PST)

From: Linda Pearson <lpearson18@yahoo.com>

To: terry.harvey@legis.state.ak.us

Hi Terry:

This is the letter I tried unsuccessfully to fax....

<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

January 26, 2004

Representative Bruce Weyhrauch

State Capitol Building- Room 30

<?xml:namespace prefix = st1 ns = "urn:schemas-microsoft-com:office:smarts" />Juneau, Alaska
99801

Dear Representative Weyhrauch,

Thank you for sponsoring and supporting House Bill 213- the Graduated Drivers License proposal. As a high school counselor for 30 years in the Fairbanks area, I had the opportunity to observe teens driving on a daily basis. Every day I saw kids showing off to their peers by speeding, gunning their engines, jumping stop signs, even challenging and racing other drivers and threatening pedestrians (playfully, of course). And this was before and after school in a school parking lot. This risky driving extends to the roads we all use.

As a proponent of safety, I practiced a type of GDL with my own children. They got their permits after their sophomore years, practiced driving with me for a year and a summer, and took a drivers' ed class before taking their licensing tests. I know that lots of practice under safe driving conditions helps novice drivers become good drivers and avoid risky behaviors.

Other states that have adopted GDLs have seen a reduction in teen accidents, deaths and injuries. Insurance companies also recognize the dangers posed by inexperienced drivers in the form of higher rates for young drivers.

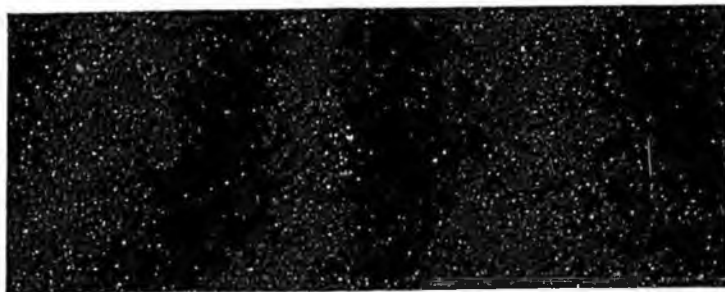
Thank you for your concern for all drivers and for promoting HB 213.

Sincerely,

Linda L. Pearson

3252 Helen Place

Fairbanks, Alaska 99709



Do you Yahoo!?
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Subject: Support of HB 213

Date: Mon, 26 Jan 2004 10:31:36 -0900

From: Debbie Manning <dmanning@northstar.k12.ak.us>

To: Linda_Sylvester@legis.state.ak.us

Dear Rep Weyrauch,

I lost my daughter on March 26, 2003 in a traffic accident on the Parks Highway. She got her driving permit at age 14 and her driver's license at age 16. I tried to prepare her as best I could for all driving experiences by driving with her whenever possible. When she was on her own though or with friends, I know she didn't always follow the rules. She was a typical driver of her age group -- driving too fast and taking too many chances because she believed nothing could ever happen to her. At age 20 she was finally getting some experience under her belt and driving more defensively; however, she never got a chance to improve any more. She was in a head-on collision. I still don't know the cause of the accident but I believe it was a combination of lack of attention and inability to read road conditions correctly. Perhaps if she would have had a more restrictive driver's license from the beginning, she would have been more aware of her limited experience and taken more precautions. It's too late for her, but maybe this bill will save other young people.

Debbie Manning
North Pole, AK

*Debbie Manning, Human Resources Technician
Fairbanks North Star Borough School District
(907)452-2000, ext 381
<http://www.northstar.k12.ak.us>*

Re: HB 213 - Graduated Driver's License

Subject: Re: HB 213 - Graduated Driver's License

Date: Mon, 26 Jan 2004 11:49:10 -0900

From: "Don Henry" <donhenry@mtaonline.net>

To: "Linda Sylvester" <Linda_Sylvester@legis.state.ak.us>

I live in Palmer and the road conditions are anything but small town driving, plus a large percentage of our yearly driving is spent with winter (dark, snowy, icy) road conditions. I think adding the 50-hour instruction step with nighttime driving limited is a good one, but it should include or be in addition to a driver's ed (defensive driving) course. Here in the Valley, Community Schools offers a 4-week program (8 hours a week) that costs (if I remember right) \$80. They have simulated modeled driving situations that prepares new (young) drivers to be defensive, responsible drivers. Instead of (or in addition to) legislating more laws, I think the State government should put forth effort (money) for new driver training courses. If the driver's ed course was available more often, most parents can afford the \$80. Right now though there is limited space and the program is offered twice during the school year. So I do support the GDL bill but think there is room for improvement. One comment on the 6-month period that requires the presence of a parent or an over-21 adult, but allows for the driver to drive with two siblings (without a parent or over-21 adult it appears). This does not make sense, if I'm understanding it right. Thank you for allowing me to comment. Sincerely, Carole Henry, 25346 E. Buckshot Lane, Palmer, AK 99645 (907) 745-6578

Subject: Limiting Teenaged Drivers

Date: Mon, 19 Jan 2004 03:17:29 +0000

From: "Jeanne Baker" <skreech29@hotmail.com>

To: Representative_Bruce_Weyhrauch@legis.state.ak.us

Mr. Weyhrauch;

A friend of mine suggested I contact you regarding this state's young drivers. I work for the local electric company as a meter technician. I am on the road all day every day reading meters and connecting and disconnecting electricity. I drive in town on busy streets, on the highways and on low traffic country roads, flats and hills. I am on the road in every weather condition Mother Nature can come up with. My job puts me in contact with many, many other drivers, young ones, old ones, good ones and bad ones. I cannot tell you how many times I have yielded to young drivers in order to avoid an accident, even though I had right of way. I have been cut off, nearly run off the road and been the recipient of many rude gestures when I honk to let a fellow driver know that he is a little too close or has not yielded when he was supposed to. The majority of these incidents have been young men, although there have been a few mature men, a few girls and women. Most older drivers are slower, but stay in the slow lanes and stay home in bad weather.

I have 2 grown children and did allow them to drive at 16 years old. I did not, however, allow them to transport a car full of kids, only an occasional one in an emergency, and they had curfews. They had to drive a full summer before I even thought of allowing them on the road. I used to take them to the school parking lot only when it was totally clear and have them slam on the brakes so they could learn how it felt if they skidded on the highway. We were only going about 20 MPH...but the effect was there. All this was done in a conscientious way so as to assure that they would not be a hazard on the road. They are in their mid-thirties now and have each had one speeding ticket, both in high school, and are very good drivers today.

I truly believe that if a program limiting teenaged kids was in effect, it would make the roads much safer for everyone. Of course, there would have to be stipulations for working teens...but the majority would be restricted in some ways. I really think this would give them a chance to mature a little bit and be a better driver and less of a hazard on the public roadways.

Sincerely,

Jeanne L. Daniel

Learn how to choose, serve, and enjoy wine at Wine @ MSN.
<http://wine.msn.com/>

Subject: boating safety and GDL

Date: Wed, 26 Mar 2003 21:35:40 -0900

From: Perkins <perkins@ak.net>

To: Representative_Bruce_Weyhrauch@legis.state.ak.us

Dear Representative Weyhrauch,

I'm impressed with your involvement with several safety issues. I'm an Eagle River constituent and an injury epidemiologist (I study injury patterns in various communities and populations). I have lived in Alaska for 25 years, 8 of which were in Dillingham. My injury prevention work with the U.S. Public Health Service took me to communities throughout Alaska before my retirement in 1998. I'm writing to encourage you in your support of HB93, to keep the Boating Safety Law active and in place. As you know, this Law brings in about \$600,000 of federal funds each year and the hardship on individuals is a miniscual \$10 registration fee every 3 years. It helps pay for flotation devices which are used on Kids Don't Float loaner boards throughout Anchorage and Alaska. It is a good law with huge positive impacts on the safety of all Alaskans and a very small impact on individuals. I introduced and encouraged the use of Float Coats throughout rural Alaska in the mid-seventies, and now they are used as the rule rather than the exception.

The other very positive legislation you are developing is the strengthening of the Graduated Driver's Licensing requirement for new drivers. Teens are 4 times more likely to die in a motor vehicle crash than their adult counterparts. Much of this increased risk is due to inexperience, lower seat belt useage, and alcohol. Teens rarely get into crashes when they are learning to drive with an adult present. Their risks increase tremendously shortly after they go solo, drive with other teens in the car, and drive after midnight. The good GDL laws that have been inacted in other states and countries have cut the teen crashes in half. They demand that teens have 6 months behind the wheel under an adult's supervision, no other non-family passengers, and no driving after midnight. Motor vehicles related injuries are the leading cause of death for our teens and we must see that they recieve the proper experience before turning them loose on the roads. School based driver's education has been shown to be ineffective, FYI.

I'm currently the Exec. Director of a non-profit injury prevention center and my special interest is to reduce the needless deaths and trauma from preventable injuries. If I can be of technical assitance to you on any injury prevention issues, please call 907-929-3941.

Ron Perkins, MPH

CAPITAL CHEVROLET
ROB SKINNER

5245 GLACIER HWY
JUNEAU, AK 99801

April 28, 2003

Rep. Bruce Weyhrauch

Dear Rep. Weyhrauch:

I'm pleased to add my support to HB 213, "Provisional Driver's License for Teen Drivers". Being the father of six up and coming drivers and as the "Managing Partner" for Capital Chevrolet I feel the up side to this bill clearly outweighs the small inconveniences that would result from it.

While growing up in a small town in Oregon several of my classmates were in serious car accidents, resulting in two fatalities, two friends who are permanently paralyzed and several other injuries of varying degrees. Most likely had a bill like this been in place my friends would be alive today and those paralyzed would not be so.

In my business we see every day the young drivers and their behaviors. We experience losses from minor accidents as a course of business but almost never from an older more mature employee. It is almost without exception that young drivers feel a need to push the envelope when the rush of power and freedom is afforded them associated with driving. I myself experienced it and so has every one who has been behind the wheel of a car. My sales persons are continually reminding our younger potential car owners to watch the traffic laws while on test drives.

While I'm a huge fan of our youth and understand that HB 213 will disappoint a few, the facts are clear, accidents will decrease and lives will be saved. Nothing is more important to a father than that.

Sincerely,

Rob Skinner
Owner, Capital Chevrolet

Rep. Bruce Weyhrauch
Capitol Building
Juneau, Alaska 99801
January 25, 2004

Al Near
POB 80847
Fairbanks, AK 99708

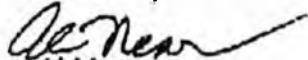
Dear Representative Weyrauch:

Thank you for introducing HB213.

Considering that motor vehicle crashes are the leading cause of death for 15-18 year olds, something must be done. I believe that young people should be introduced to the driving experience gradually by phasing in full driving privileges over time and in lower-risk settings. Your bill would help to achieve this... thereby saving the lives of our teenage drivers and their passengers.

You have my total support.

Sincerely,


Al Near

Subject: gdl

Date: Sun, 25 Jan 2004 18:42:24 -0900

From: "Rhammond" <chickencoop@starband.net>

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

Dear Representative Weyrauch,

please know that our entire family is very supportive of the GDL. We urge you to do all you can to help it pass. The lives saved will be worth it.

Thank you, Robin & Dick Hammond of Chicken, AK 99732

[Fwd: Bill to change drivers licenses]

Subject: [Fwd: Bill to change drivers licenses]
Date: Fri, 11 Apr 2003 21:05:33 -0800
From: Bruce Weyhrauch <Representative_Bruce_Weyhrauch@Legis.state.ak.us>
Organization: Alaska State Legislature
To: Linda Sylvester <Linda_Sylvester@legis.state.ak.us>

bill file

Subject: Bill to change drivers licenses
Date: Fri, 11 Apr 2003 12:55:05 -0800
From: Craig <craig4@gci.net>
To: Representative_Bruce_Weyhrauch@legis.state.ak.us

Bruce – Just wanted to get a few comments in on the bill to change drivers' licenses. Hopefully it's not too late. I think the "stepped system" for drivers' licenses is a good idea but is too extreme. As a minimum, a newly licensed teen should be able to participate in family responsibilities and at least be able to transport their own siblings who have probably been riding with them throughout the permit period. I also don't see a problem with teens giving a ride to 1 or 2 friends while driving to and from school, or to after school activities such as to the track field. Since we live 20 miles from the high school and are constantly trying to carpool, it seems absurd that 3 kids from our area would all drive separately, or 1 drive and leave the others to catch the bus which leaves almost an hour and a half before school starts. I think the purpose of MADD should be to keep car-loads of teens off the road while "cruising" on a Saturday night, not to punish responsible teens who are driving to and from school and activities. Again, if the rule under the new bill is for teens to not drive with others under the age of 25, please at least have an exemption for family members riding in the car. Thank you for considering this.

JoAnne Craig

789-2955

Sent email



CITY/BOROUGH OF JUNEAU
ALASKA'S CAPITAL CITY

OFFICE OF THE MAYOR

Telephone: (907) 586-5240; Facsimile: (907) 586-5385
Sally_Smith@ci.juneau.ak.us

April 23, 2003

The Honorable Bruce Weyhrauch
Alaska State Representative
State Capitol, Room 102
Juneau, Alaska 99801

Dear Representative Weyhrauch:

Juneau's assembly members have read an analysis of your House Bill 213, which would institute a graduated driver's license program. According to statistics provided by the Juneau Chapter of Mothers Against Drunk Driving (MADD), 3,889 of Alaska's youth between the ages of 16 and 20 were involved in traffic accidents during 2000. This is not acceptable, and begs the need for change.

We care about our youth and recognize that our current system of preparing them to drive is not working. House Bill 213 provides an opportunity to responsibly prepare our young Alaskan's for a lifetime of safe driving. You have the support of the City and Borough of Juneau on this important legislation. It can make the roads safer for all.

Sincerely,


Sally Smith
Mayor

cc: Cindy Cashen, MADD
The Honorable Kim Elton
The Honorable Beth Kerttula
CBJ Assembly
Clark Gruening
Jerry Mackie



JUNEAU SCHOOL DISTRICT
CITY AND BOROUGH OF JUNEAU
OFFICE OF THE SUPERINTENDENT

10014 CRAZY HORSE DRIVE • JUNEAU, ALASKA 99801-8529 • (907) 463-1700 • FACSIMILE (907) 463-1712

APR 29 2003

April 25, 2003

The Honorable Bruce Weyhrauch
Alaska State Legislature
State Capitol
Juneau, AK 99801

Dear Representative Weyhrauch:

Thank you for your sponsorship of House Bill 213 to establish a graduated driver's license program for Alaska. As I mentioned on Tuesday, the Juneau School Board unanimously supports this concept. I've written the members of the House Transportation Committee and hope they are responsive.

I'm glad to see that there are positive developments for Alyeska Correspondence School. Thank you for your continued support for education and for the Juneau Community in this matter.

Sincerely,


Peggy Cowan
Superintendent



Gimme Five!

Mayor's Task Force On Youth

*"Each youth in Juneau can
identify at least five caring
adults who are concerned
about their success"*

February 22, 2004

Representative Bruce Weyhrauch
State Capital, Room 102
Juneau AK 99801-1182

Dear Representative Weyhrauch,

The undersigned members of Juneau's Mayor's Task Force on Youth would like to express our concern about the risks facing young drivers in Alaska and our support of measures that mitigate those risks. We are aware that other states in our nation have devised programs that allow young people to steadily develop their driving skills with more safeguards in place to protect their own well-being, as well as those around them.

Alaskans under the age of 21 are involved in the highest percentage of traffic crashes in our state. Motor vehicle crashes are the leading cause of death for people from age 15 through 18 years old throughout our nation, and the fatality rate for young drivers is approximately 4 times as high as older drivers. We would like to see our state do a better job at protecting these young lives.

We are fully supportive of measures that:

- Increase the amount of properly supervised behind-the-wheel driver education.
- Provide for greater preparation for and restrictions on night-time driving
- Place restrictions on the number of youth passengers young drivers can transport.
- Require young people to maintain a clean driving record before their level of driving privileges increase.
- Encourage young people to develop safe driving habits and experience.

Studies into the effectiveness of similar measures in other states and countries have shown significant reductions in the number of teenage crashes. As members of agencies dedicated to the health and well being of youth, we encourage all efforts that help them safely negotiate the passage into the world of adult responsibilities.

Respectfully submitted,

Juneau School Board

Zach Gordon Teen Club



Gimme Five!

Mayor's Task Force On Youth

*"Each youth in Juneau can
identify at least five caring
adults who are concerned
about their success"*

Boys and Girls Club

Elizabeth Williams

Association of Alaska School Boards

Sharon Young

Alaska Faith Communities Concerned for Children

Shelley Eidness

Echo Ranch/Campus Life

Randy Beaverson

Mothers Against Drunk Driving

Cindy Cashen

Southeast Alaska Guidance Association

Anita Hazue Passin

National Council on Alcoholism and Drug Dependence

Matt Felix

4-H Club

Mike ...

Juneau Youth Services

Walter Majors

HB

215

SENATE COMMITTEE REPORT

DATE: 5/10/03

FURTHER: Finance

DATE TURNED IN TO OFFICE: 5/17/03

State Affairs Committee considered CS FOR HOUSE BILL NO. 215(STA) am

HB 215 REPEAL ONE PERCENT FOR ART

"An Act relating to art requirements for public buildings and facilities; relating to identification, monitoring, maintenance, and reporting of art in public buildings and facilities; and relating to the art in public places fund."

and recommends:

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

Senate Bill:

- same title
- new title

House Bill:

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

NEW FISCAL NOTE(S):

| Department | Date | Fiscal | Zero | FN# |
|------------|------|--------|------|-----|
| | | | | |
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PREVIOUS FISCAL NOTE(S):

| Department | Date | Fiscal | Zero | FN# |
|------------|---------|--------|------|-----|
| DOT+PF | 4/10/03 | | ✓ | 1 |
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APPROPRIATION - no fiscal note

| SIGNATURES AND RECOMMENDATIONS: | DO PASS | DO NOT PASS | NO REC | AMEND |
|---------------------------------|---------|-------------|--------|-------|
| | ✓ | | | |
| | ✓ | | | |
| | ✓ | | | |
| | | | | |
| | | | | |
| CHAIR: | | | | |

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 215(STA)
 (H) Publish Date: 5/6/03

Revision Date/Time (Note if correction): _____ Dept. Affected: DOT&PF
 Title Repeal One Percent for Art BRU _____
 Component _____
 Sponsor Stolze
 Requester HSTA Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2004 | FY 2005 | FY 2006 | FY 2007 | FY 2008 | FY 2009 |
|------------------------|------------|------------|------------|------------|------------|------------|
| 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 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|-----------------------------|------------|------------|------------|------------|------------|------------|

| | | | | | | |
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| 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 (FY2003) cost: 0.0

Mark 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)

Prepared by: Dennis R. Poshard Phone 465-3900
 Division: Special Assistant to Commissioner Date/Time 4/2/03 5:56 PM
 Approved by: Commissioner Mike Barton Date 4/2/2003
 Agency: Alaska Department of Transportation and Public Facilities

ALASKA STATE LEGISLATURE

Chair:
House Finance Subcommittees for,
Department of Public Safety
Department of Law

Member:
House Finance Committee
Legislative Council



Session:
Alaska State Capitol
Juneau, AK 99801-1182
Phone: (907) 465-4958
Fax: (907) 465-4928
Toll Free (866) 465-4958

Interim:
PO Box 464
Chugiak, AK 99567

REPRESENTATIVE BILL STOLTZE

Representative_Bill_Stoltze@legis.state.ak.us

Sponsor Statement for CS for House Bill 215 (STA) am

"An Act relating to art requirements for public buildings and facilities; relating to identification, monitoring, maintenance, and reporting of art in public buildings and facilities; and relating to the art in public places fund."

Alaska's "Percent for Art in Public Places" program originated in 1975 with the requirement that a percent of state capital expenditures for public buildings and facilities be set aside to acquire works of art for display in those facilities (Alaska Statute 35.27).

My intent in introducing HB 215 was to address the fiscal aspect of the program; the original version repealed the percent for art program. The committee substitute for HB 215 provides 1% for art from the first \$10 million of the total construction costs, and reduces it to ½% thereafter. Additionally, the 1% would only apply to state funding sources, such as general funds or general obligation bonds.

At this time, a mechanism for maintenance doesn't exist. This bill sets aside 5% of the percent for art, placing it into the Art in Public Places fund to ensure works of art can be maintained in good condition. The Alaska State Council on the Arts (ASCA) would receive requests for maintenance, facilitate coordination of the repairs, and maintain a database of all artwork that is owned by the state.

Furthermore, annual reporting to ASCA will be required by those agencies subject to the Art in Public Places program. Required reporting will provide: the amount of state funding for the project, the percent set aside for art; the total cost of art, the title, artist, etc. The ASCA will have this information for monitoring works of art and the annual amount allocated to the percent for art program through new construction. Annually, the ASCA will prepare a report to the Legislative Budget and Audit Committee.

Additionally, this legislation strengthens the preference for Alaskan artists.

In the House State Affairs Committee, a member removed the long-standing reduced percentage for rural schools that allowed for a lesser percentage to compensate for the significantly higher construction costs for rural schools. On the House floor, the percentage for rural schools was amended back to one-half a percent.

I appreciate your consideration of this legislation.

DISTRICT 16

BIRCHWOOD • BUTTE • CHUGIAK • EKLUTNA • FAIRVIEW LOOP
KNIK RIVER ROAD • LAZY MOUNTAIN • PALMER • PETERS CREEK

LEGISLATIVE RESEARCH REPORT

APRIL 30, 2003



REPORT NUMBER 03.204

ALASKA'S "PERCENT FOR ART" PROGRAM

PREPARED FOR REPRESENTATIVE BILL STOLTZE

BY KATHLEEN L. WAKEFIELD, LEGISLATIVE ANALYST,

You asked what percentage of construction funds have been allocated to the "Percent for Art" program during the past three years.

As you may know, the legislature created the "Percent for Art" program in 1975.¹ The law, AS 35.27.010, stipulates that a portion of the funds appropriated for capital projects for public facilities (including schools, office buildings, court buildings, and state ferries) be set aside for the purchase of works of art. At least one percent of a project's construction or renovation costs must be dedicated to purchase of art, although schools in Rural Education Attendance Areas (REAs) may reserve a lower amount (no less than one-half of one percent). If the project's costs are under \$250,000 or the project will receive minimal public use, the amount reserved for art is placed in the Art in Public Places Fund.² The Alaska State Council on the Arts manages this fund and uses it to acquire art for other public buildings or to provide additional monies to a project if the actual cost for a work of art exceeds available funding.³

During fiscal years 2000-2002, the legislature appropriated about \$3.6 billion for all capital projects statewide.⁴ Of course, many of these projects were not for public facilities and did not qualify for the percent for art requirement. During that same time, the Alaska Court System and the Department of Transportation and Public Facilities (which also manages projects for other state departments) spent about \$1.1 million for art purchased under the "Percent for Art" program. This amount is less than one-half of one percent of the total authorized capital budgets for those years.

¹ For a more detailed legislative history of the "Percent for Art" program, you may wish to review Legislative Research Services Report 97.016, "Legislative History of Alaska's Percent for Art Program."

² AS 44.27.060.

³ The Alaska State Council on the Arts' website contains additional information on the "Percent for Art" program, <http://www.educ.state.ak.us/aksca/visual.htm>.

⁴ *Fiscal Summaries*, Division of Legislative Finance.

This \$1.1 million figure includes only two years' worth of expenditures by the Court System. During those two years, the Court System spent approximately \$8,000 for art. Expenditures vary from year to year, based on which projects are actually funded in the capital budget. In the previous two years (FY98-99), for example, the Court System spent almost \$279,000 for acquisitions under the "Percent for Art" program.⁵

The total figure for FY00-02, however, does not include amounts spent during those years for art for school construction and renovation projects. The Department of Education and Early Development does not track expenditures for art separately from other project costs, since school projects are managed by the individual school districts, and so was unable to provide us with firm cost figures. The department, which provides bond and grant funding to school districts for qualifying projects, spent almost \$584 million for school construction, renovation, and maintenance projects in FY00-02. Grant funding provides only 65 to 98 percent of the total project cost, so this figure is not the full construction amount.

However, based on the information for these projects provided by the department, we estimate that about \$3.6 million in state funds *may have been spent* on art for school projects for fiscal years 2000-2002. *Please note that this is our estimate only—actual expenditures may have been quite different.*⁶

It is important to note that there is no centralized repository of information on amounts spent for art in public places. For example, although the Alaska State Council on the Arts tracks expenditures for art on projects managed by the Department of Transportation and Public Facilities (based on information provided by the department), other entities, such as the Alaska Court System and individual school districts, maintain their own accounting records on their projects.

With these exceptions, if we include our estimate for art in schools, the state may have spent approximately \$4.8 million on the "Percent for Art" program for fiscal years 2000-2002. This figure is just over one percent of the total capital projects budget for those three years.

Table 1 contains the amounts spent for art for capital projects by the Alaska Court System and the Department of Transportation and Public Facilities for fiscal years 2000-2002, as well as our estimates for the Department of Education and Early Development for those years.

⁵ Although for fiscal years 2000-2002 the Department of Transportation and Public Facilities spent almost \$1.1 million for art in public places, in the previous two years it spent only \$32,000.

⁶ We arrived at the \$3.6 million estimate by calculating one percent for art for urban school construction and renovation projects, and one-half of one percent for REAA school projects funded (in part) by the department for FY00-02, based on amounts for the projects provided to us by the department. These amounts, of course, are not total project costs and do not include any federal or local funding sources. We excluded any projects that appeared to be maintenance work (roof repair or replacements, deferred maintenance, asbestos abatement, ADA upgrades, structural upgrades, fuel tank upgrades, etc.) and projects that were for technology installations or upgrades. Since the total funding for school projects is a mix of state, local, and sometimes federal monies, this estimate is probably lower than the actual amount spent for art in schools.

Table 1: Expenditures for the "Percent for Art" Program, FY2000-2002

| Fiscal Year | Alaska Court System ¹ | Department of Transportation and Public Facilities ² | Department of Education and Early Development ³
(estimate) | Total |
|--------------|----------------------------------|---|--|--------------------|
| 2000 | \$5,000 | \$240,614 | \$1,190,530 | \$1,436,144 |
| 2001 | \$3,000 | \$134,309 | \$1,177,094 | \$1,314,403 |
| 2002 | | \$698,722 | \$1,327,531 | \$2,026,253 |
| Total | \$8,000 | \$1,073,645 | \$3,695,155 | \$4,776,800 |

Notes: 1. The amounts listed in this table for the Alaska Court System are for the fiscal year in which funds were authorized, not the year in which the art was purchased. 2. The amounts listed for the Department of Transportation and Public Facilities are for projects for several state departments, and are for the years in which the actual expenditures for art were made. 3. The amounts listed for the Department of Education and Early Development are for certain school construction and renovation projects, and are for the year the construction funds were appropriated. By law, Rural Education Attendance Area (REAA) schools may allocate one-half of one percent to art, instead of the full one percent. *Please note: amounts for the Department of Education are estimates only, based on the amount of state grants or bonds allocated to the project and do not reflect total project costs. Total funding for school projects is a mix of state, local, and sometimes federal monies. Actual project costs, including the amount spent for art, are accounted for by the individual school districts.*

Sources: Alaska Court System; Alaska Department of Education and Early Development; Alaska State Council on the Arts.

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

HB

230

THE
FOLLOWING
DOCUMENT(S)
ARE
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ORIGINAL
COPIES

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB230CS-DOT-CO-2-9-04
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DOT&PF
Title Political Signs on Private Property RDU Administration & Support
Component Commissioner's Office
Sponsor Holm
Requestor Governor's Office Component No. 530

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)

Prepared by: Nona Wilson Phone 465-6973
Division: Legislative Liaison Date/Time 2/10/04 1:01 PM
Approved by: John MacKinnon, Deputy Commissioner Date 2/10/2004
Agency: Department of Transportation and Public Facilities

SENATE COMMITTEE REPORT

DATE: 5/18/03

FURTHER: Judiciary

DATE TURNED IN TO OFFICE: 3/12/04

State Affairs Committee considered CS FOR HOUSE BILL NO. 230(STA)

HB 230 POLITICAL SIGNS ON PRIVATE PROPERTY

"An Act relating to political signs on private property."

and recommends:

- be replaced with Sen. CS HB 230 (STA)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

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

NEW FISCAL NOTE(S):

| Department | Date | Fiscal | Zero | FN# |
|-----------------|----------------|--------|-------------------------------------|-----|
| <u>DOT + 86</u> | <u>2/10/04</u> | | <input checked="" type="checkbox"/> | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

PREVIOUS FISCAL NOTE(S):

| Department | Date | Fiscal | Zero | FN# |
|------------|------|--------|------|-----|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

APPROPRIATION - no fiscal note

| SIGNATURES AND RECOMMENDATIONS: | Do PASS | Do NOT PASS | No REC | AMEND |
|---------------------------------|---------|-------------|-------------------------------------|-------|
| <u>Bush</u> | | | <input checked="" type="checkbox"/> | |
| <u>Fisher</u> | | | <input checked="" type="checkbox"/> | |
| | | | | |
| | | | | |
| | | | | |
| CHAIR: <u>[Signature]</u> | | | <input checked="" type="checkbox"/> | |

SESSION ADDRESS:
Alaska State Capitol
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Fax: (907) 465-3517
Toll Free: 1-800-821-4925

Senator Gary Stevens
Alaska State Legislature

INTERIM ADDRESS:
112 Mill Bay Road
Kodiak, Alaska 99615
(907) 486-4925
Fax: (907) 486-5264



facsimile transmittal

To: *Leg. Legal* Fax: *465-2029*
From: *Katina* Date: *3/12/04*
Re: Pages: *3*
CC:

Urgent For Review Please Comment Please Reply Please Recycle

These two amendments were adopted by the Senate State Affairs Committee. Can I please get a final State Affairs CS that incorporates these amendments. Thank you.

AMENDMENT #1

OFFERED IN THE SENATE
TO: CSHB 230(STA)

1 Page 2, line 18, following "hazard":

2 Insert

3 "(C) the signs are located outside of department *of*
4 easements;" *negotiation*

5

6 Page 2, line 19:

7 Delete "(C)"

8 Insert "(D)"

Adopted 2/12/04

AMENDMENT #2

OFFERED IN THE SENATE
TO: CSHB 230(STA)

1 Page 1, following line 2:

2 Insert a new bill section to read:

3 **"* Section 1.** The uncodified law of the State of Alaska is amended by adding a new
4 section to read:

5 INTENT. It is the intent of the Alaska State Legislature that political signs on private
6 property not pose an opportunity for indirect commercial advertising."
7

8 Page 1, line 3:

9 Delete "Section 1"

10 Insert "Sec. 2"

11

12 Renumber the following bill section accordingly.

Re: HB230 amendment

Subject: Re: HB230 amendment

Date: Thu, 12 Feb 2004 12:30:37 -0900

From: "Jeffrey Stark" <jeffrey_stark@law.state.ak.us>

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

Todd:

I think I can live with that. You might also think about adding the phrase "Notwithstanding any other provision of this section" to introduce subsection (d). It's certainly implied, but I always believe there is nothing wrong with making things explicit.

Jeff

>>> Todd Larkin <Todd_Larkin@legis.state.ak.us> 2/12/2004 12:12:54 PM

>>>

(C) the signs are located outside of department easements.

I'm thinking that this language coupled with the language in the opening section (a) covers the whole category of "right of ways" and "easements".

Re: 6,c questions

It is unconstitutional to set a static time limit or window of time on this type of speech. We have crafted this language to give some tools to DOT for removing obsolete or abandoned signs. We feel that this type of language (phrased in the "permissive" rather than "restrictive") has the best chance to avoiding constitutional challenges.

Again, we have continued to keep FHWA informed to make sure that these provisions are acceptable.

Reference cases: Missouri, Oregon, California, Washington

Sec. 19.25.075. Findings and intent of the people of the State of Alaska.

(a) The people of the State of Alaska find that the presence of billboards visible from Alaska's highways endanger Alaska's uniqueness and its scenic beauty.

(b) It is the intent of the people of the State of Alaska that Alaska shall forever remain free of billboards. (§ 1 1998 Ballot Measure No. 5)

Revisor's notes. — In codifying this section, the revisor deleted “; and” at the end of subsection (a) and inserted a period.

Effective dates. — 1998 Ballot Measure No. 5, § 1, which enacted this section, took effect on March 4, 1999.

Sec. 19.25.080. Purpose. The purposes of AS 19.25.080 — 19.25.180 are

(1) to protect the public safety and the welfare of persons using the highways of the state by having outdoor advertising signs, displays, and devices along the highways controlled;

(2) to prevent unreasonable distraction of operators of motor vehicles; to prevent confusion with regard to traffic lights, signs, or signals or other interference with the effectiveness of traffic regulations, and to promote the safety, convenience, and enjoyment of travel on, and protection of the public investment in, highways in this state; to preserve and enhance the natural scenic beauty or aesthetic features of the highways and adjacent areas; and to attract tourists;

(3) to regulate outdoor advertising signs, displays, and devices in areas adjacent to the rights-of-way of the interstate, primary, and secondary systems within this state in accordance with this chapter and the regulations adopted under this chapter;

(4) to provide that outdoor advertising signs, displays, and devices that are not in conformity with the requirements of this chapter are a public nuisance;

(5) to provide a statutory basis for regulation of outdoor advertising signs, displays, and devices consistent with the public policy declared by the Congress relating to areas within and adjacent to the right-of-way of a highway of the interstate, primary, or secondary systems. (§ 1 ch 59 SLA 1949; am § 1 ch 86 SLA 1953; am § 2 ch 233 SLA 1968; am § 1 ch 155 SLA 1970; am § 1 ch 158 SLA 1988)

Legislative history reports. — For report on ch. 233, SLA 1968 (HCSCSSB 144 am FCC), see 1968 House Journal, p. 815.

Collateral references. — 40 Am. Jur. 2d, Highways, Streets and Bridges, §§ 273-336.
40 C.J.S., Highways, §§ 217, 232.

Billboards and other outdoor advertising signs as civil nuisance. 38 ALR3d 647.

Validity and construction of provision prohibiting or

regulating advertising sign overhanging street or sidewalk. 80 ALR3d 687.

Validity and construction of state or local regulation prohibiting off-premises advertising structures. 81 ALR3d 486.

Governmental liability for compensation or damages to advertiser arising from obstruction of public view of sign or billboard on account of growth of vegetation in public way. 21 ALR4th 1309.

Sec. 19.25.090. Outdoor advertising prohibited. Except as provided in AS 19.25.105, all outdoor advertising is prohibited. (§ 3 ch 59 SLA 1949; am § 1 ch 86 SLA 1953; am § 2 ch 155 SLA 1970)

Sec. 19.25.100. Rural signs. [Repealed, § 14 ch 155 SLA 1970.]

(Sec. 19.25.105. Limitations of outdoor advertising signs, displays, and devices. (a) Outdoor advertising may not be erected or maintained within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of the interstate, primary, or secondary highways in this state except the following:

(1) directional and other official signs and notices which include, but are not limited to, signs and notices pertaining to natural wonders, scenic and historic attractions, which are required or authorized by law, and which shall conform to federal standards for interstate and primary systems;

(2) signs, displays, and devices advertising the sale or lease of property upon which they are located or advertising activities conducted on the property;

Sec. 19.25.140. Compensation for removal of advertising. (a) The department is authorized to acquire by purchase, gift, or condemnation, all advertising devices and any property rights pertaining to them, when the advertising devices are required to be removed under AS 19.25.150.

(b) Damages resulting from a taking in eminent domain shall be ascertained in the manner provided by law. (§ 5 ch 233 SLA 1968; am § 45 ch 69 SLA 1970)

Sec. 19.25.150. Unlawful advertising. An advertising sign, display, or device that violates the provisions of AS 19.25.080 — 19.25.180 is a public nuisance. The department shall give 30 days' notice, by certified mail, to the owner of the land on which the advertising sign, display, or device is located, ordering its removal if it is prohibited by AS 19.25.080 — 19.25.180 or ordering the owner to cause it to conform to regulations if it is authorized by AS 19.25.080 — 19.25.180. If the owner of the property fails to comply within 30 days as required in the notice, the department shall remove the outdoor advertising sign, display, or device at the expense of the owner of the land or the person who erected it. (§ 5 ch 233 SLA 1968; am § 19 ch 21 SLA 1991)

Sec. 19.25.160. Definitions. In AS 19.25.080 — 19.25.180

(1) "billboards" means any signboards, signs, displays, notices or forms of outdoor advertising that do not strictly comply with the provisions of AS 19.25.075 — 19.25.180, or with any permit or permits issued pursuant to AS 19.25.075 — 19.25.180;

(2) "interstate system" means that portion of the National System of Interstate and Defense Highways located in this state, as officially designated, or as may hereafter be so designated, by the commissioner, and approved by the secretary of transportation (or by the secretary of commerce before the effective date of the transfer of functions under Public Law 89-670 (80 Stat. 931)), under the provisions of 23 U.S.C.;

(3) "outdoor advertising" includes any outdoor sign, display, or device used to advertise, attract attention or inform and which is visible to a person on the main-traveled way of a highway of the interstate, primary, or secondary systems in this state, whether by printing, writing, painting, picture, light, drawing, or whether by the use of figures or objects, or a combination of these, or any other thing designed, intended, or used to advertise, inform, or attract attention;

(4) "primary system" or "secondary system" means that portion of connected main highways, as officially designated, or as may hereafter be so designated, by the commissioner, and approved by the secretary of transportation (or by the secretary of commerce before the effective date of the transfer of functions under Public Law 89-670 (80 Stat. 931)), under the provisions of 23 U.S.C. (§ 5 ch 233 SLA 1968; am §§ 46, 47 ch 69 SLA 1970; am §§ 5, 6 ch 155 SLA 1970; am § 53 ch 30 SLA 1996; am § 3 1998 Ballot Measure No. 5)

Revisor's notes. — Reorganized in 1988 to alphabetize the defined terms. effective May 16, 1996, repealed paragraph (1).
The 1998 amendment, effective March 4, 1999,

Effect of amendments. — The 1996 amendment, added paragraph (1).

Sec. 19.25.170. Agreements with the United States; regulations. The department is authorized to enter into agreements in conformity with the provisions of this title with the United States Secretary of Transportation as provided by 23 U.S.C., relating to the control of outdoor advertising signs, displays, and devices in areas adjacent to interstate and primary systems and to take action in the name of the state to comply with the terms of the agreements, and to adopt required regulations. (§ 5 ch 233 SLA 1968)

Sec. 19.25.180. Applicability of municipal enactments. Notwithstanding AS 19.25.080 — 19.25.180, a municipality may enact ordinances that regulate outdoor

(3) signs determined by the state, subject to concurrence of the United States Department of Transportation, to be landmark signs, including signs on farm structures or natural surfaces, of historic or artistic significance, the preservation of which would be consistent with the provisions of this chapter;

(4) directional signs and notices pertaining to schools;

(5) advertising on bus benches or bus shelters, and adjacent trash receptacles, if the state determines that the advertising conforms to local, state, and federal standards for interstate and primary highways.

(6) [Repealed, § 4 1998 Ballot Measure No. 5.]

(b) [Repealed, § 21 ch 94 SLA 1980.]

(c) Outdoor advertising may not be erected or maintained beyond 660 feet of the nearest edge of the right-of-way of the main traveled way of the interstate, primary, or secondary highways in this state with the purpose of their message being read from that travel way except those outdoor advertising signs, displays, or devices allowed under (a) of this section.

(d) Outdoor advertising may not be erected or maintained within the right-of-way of an interstate, primary, or secondary highway except that outdoor advertising is allowed on

(1) bus benches and bus shelters, and adjacent trash receptacles, located within the right-of-way under the authority of a permit issued under AS 19.25.200, if the bus benches or bus shelters are located within a borough or unified municipality and the buses that stop at that location operate during the entire year.

(2) [Repealed, § 4 1998 Ballot Measure No. 5.]

(e) [Repealed, § 4 1998 Ballot Measure No. 5.] (§ 3 ch 155 SLA 1970; am §§ 1, 2 ch 195 SLA 1975; am § 1 ch 30 SLA 1980; am § 21 ch 94 SLA 1980; am § 1 ch 6 SLA 1987; am § 2 ch 158 SLA 1988; am §§ 1, 2 ch 84 SLA 1995; am §§ 2 — 4 ch 10 SLA 1997; am § 4 1998 Ballot Measure No. 5)

Cross references. — For legislative findings and intent concerning the enactment of subsection (e), see § 1, ch. 10, SLA 1997 in the 1997 Temporary and Special Acts.

Effect of amendments. — The 1995 amendment, effective September 14, 1995, inserted “, and adjacent trash receptacles,” in paragraph (a)(5) and subsection (d) and, in paragraph (a)(5), substituted “highways” for “highway systems” at the end.

The 1997 amendment, effective July 20, 1997, in subsection (a), added paragraph (6) and made related stylistic changes; in subsection (d), added the para-

graph (1) designation, added paragraph (2), and made related stylistic changes; and added subsection (e).

The 1998 amendment, effective March 4, 1999, repealed paragraphs (a)(6) and (d)(2), and subsection (e).

Collateral references. — Classification and maintenance of advertising structure as nonconforming use. 80 ALR3d 630.

Validity and construction of state or local regulation prohibiting the erection or maintenance of advertising structures within a specified distance of street or highway. 81 ALR3d 564.

Secs. 19.25.110 — 19.25.120. Removal of nonconforming advertising; neglect or refusal to obey removal order. [Repealed, § 43 ch 85 SLA 1988.]

Sec. 19.25.123. [Renumbered as AS 19.05.123.]

Sec. 19.25.130. Penalty for violation. A person who violates AS 19.25.080 — 19.25.180, or a regulation adopted under AS 19.25.080 — 19.25.180, is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$50 nor more than \$5,000. (§ 7 ch 59 SLA 1949; added by § 1 ch 86 SLA 1953; am § 4 ch 233 SLA 1963; am § 5 ch 10 SLA 1997; am § 2 1998 Ballot Measure No. 5)

Cross references. — For another provision governing penalties applicable to this chapter, see AS 19.45.002.

Effect of amendments. — The 1997 amendment, effective July 20, 1997, substituted “AS 19.25.080 —

19.25.180” for “them,” and substituted “violation” for “misdemeanor.”

The 1998 amendment, effective March 4, 1999, substituted “misdemeanor” for “violation” and increased the maximum fine from \$1,000 to \$5,000.



U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
ALASKA DIVISION
709 West Ninth Street, Room 851
P.O. Box 21648
Juneau, Alaska 99802
907-586-7418 | 907-586-7420 FAX

April 21, 2003

REFER TO
HDA-AK
File #: ROW 12

Representative Jim Holm
District 9
State Capitol Building
Juneau, Alaska 99801

SUBJECT: Alaska House Bill 230 on Political Signs on Private Property

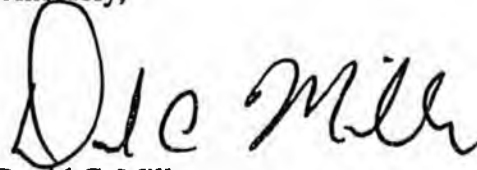
Dear Representative Holm:

In your letter of April 5, 2003, you asked if the new Alaska law amending Section 19.25.105(a) of the Alaska Statute would be considered by the Federal Highway Administration (FHWA) as a violation of the Highway Beautification Act (HBA) and subject to the penalty provision for lack of "effective control." In response to your question, the U.S. Department of Transportation does have the authority to impose a 10% penalty on Federal-aid funding if we determine that the State was in noncompliance with the HBA. The amendment you have proposed to the Alaska Statute provides an exemption from the general prohibition against signs along the Interstate, Primary or Secondary highways in Alaska. The exemption would apply only to "political signs on private property" if: "(1) individual signs do not exceed 32 square feet; (2) signs are not on a permanent base; and (3) no person receives compensation for displaying the signs."

The FHWA does not believe that such signs violate the HBA as long as the signs covered by this exemption would be temporary, relatively small, do not create a hazard to the traveling public, and are related to public elections. The First Amendment of the Constitution of the United States protects the right of landowners to free speech through signs. The most recent Supreme Court case on residential signs, City Ladue v. Gilleo, 114 S.Ct. 2038 (1994), held that residential signs expressing political, religious, or personal messages, were an important and distinct medium of expression that deserved protection. The Supreme Court did note that signs displayed for a fee or off-site commercial advertisements could probably be treated differently. The proposed change to Alaska law does not limit election signs to residences, only to private property, and does not specifically state that the signs must be temporary in nature. In addition, the signs must only relate to a public election and should not pose an opportunity for indirect commercial advertising. Despite these concerns, the FHWA does not believe that the proposed changes to Alaska law would violate the HBA. However, we would encourage that you coordinate with the Alaska Department of Transportation and Public Facilities (ADOT&PF) to ensure that if any problems arise as a result of changes to existing State Statute that the ADOT&PF's implementing sign regulations can resolve the issue.

I hope that this addresses the issues you raised in your letter of April 5, 2003. If you have any other inquiries regarding the HBA please contact Mr. Tim Haugh of the FHWA Alaska Division at (907) 586-7418.

Sincerely,

A handwritten signature in black ink that reads "D.C. Miller". The signature is written in a cursive style with a large, looped initial "D".

David C. Miller
Division Administrator

cc: Mike Barton, Commissioner, ADOT&PF
Mike Downing, Chief Engineer, ADOT&PF
Dennis Poshard, ADOT&PF
Rick Kauzlarich, ADOT&PF
Kurt Smith, ADOT&PF
Lance Hanf, Attorney-Advisor, FHWA, HCC-WE

Journal Text



05-17-2003

House Journal

1799

HB 230

The following, which was advanced to third reading from the May 16, 2003, calendar (page 1739), was read the third time:

CS FOR HOUSE BILL NO. 230(STA)

"An Act relating to political signs on private property."

**The presence of Representative Kapsner was noted.

The question being: "Shall CSHB 230(STA) pass the House?" The roll was taken with the following result:

CSHB 230(STA)
Third Reading
Final Passage

YEAS: 27 NAYS: 6 EXCUSED: 2 ABSENT: 5

Yeas: Anderson, Chenault, Coghill, Dahlstrom, Fate, Gara, Gatto, Gruenberg, Harris, Hawker, Heinze, Holm, Kott, Lynn, Masek, McGuire, Meyer, Morgan, Moses, Ogg, Samuels, Stoltze, Weyhrauch, Whitaker, Williams, Wilson, Wolf

Nays: Cissna, Crawford, Guttenberg, Kapsner, Kookesh, Seaton

Excused: Croft, Joule

Absent: Berkowitz, Foster, Kerttula, Kohring, Rokeberg

And so, CSHB 230(STA) passed the House and was referred to the Chief Clerk for engrossment.

Bill Root:

[Display Bill Root](#)

[Next Bill](#)

[To Report Problems with Basis Inquiry](#)

[Live KTOO Streams](#)



[Return to Basis Main Menu \(23rd Legislature\)](#)

COURT CASES ATTACHED

1. U.S. Supreme Court (for free speech)
2. Missouri (U.S. District Court) Whitton v. City of Gladstone, Missouri (for free speech)
3. Michigan (U.S. District Court) Dimas v. City of Warren (for free speech)
4. Oregon, Van v. Travel Information Council (for free speech)
5. California (U.S. District Court) City of Antioch v. Candidates' outdoor Graphics Service (for free speech)
6. Washington, Collier v. The City of Tacoma (for free speech)
7. Colorado, Pigg v. State Department of Highways (against free speech)



**Supreme
Court
Files**

Freedom of Speech ♦ 93-94 Term

CASE SUMMARY

- Case Name:** *City of Ladue v. Gilleo*, 114 S. Ct. 2038 (1994)
- Date Decided:** June 13, 1994
- Issue:** Freedom of Speech – Whether the government may constitutionally prohibit homeowners from displaying virtually all signs on their property.
- Vote:** No, 9-0
- Facts:** An ordinance in Ladue, Missouri, prohibited homeowners from displaying all signs on their property except residence identification signs, "for sale" signs, and signs warning of safety hazards. A homeowner displayed a letter-sized sign stating "For Peace in the Gulf" and challenged the constitutionality of the ordinance. The district and appellate courts held that the ordinance violated the First Amendment.
- Legal Principles at Issue:** While governments may regulate the physical characteristics of signs, they may not allow some signs and ban others based upon their content. Nor may governments ban all signs and foreclose an important form of communication. *Metromedia v. San Diego*, 453 U.S. 490 (1981).
- Legal Basis for Decision:** The Court agreed, holding that although the government may regulate the physical characteristics of signs, the First Amendment prohibits content-based regulation. Ladue's ordinance was simply too broad and it effectively eliminated one avenue of speech.
- This Case is Important Because:** The Court refused to accept the aesthetic justifications for the ordinance offered by Ladue and reaffirmed an individual's right to speak freely in his home.
- Quotable:** "Residential signs are an unusually cheap and convenient form of communication. Especially for persons of modest means or limited mobility, a yard or window sign may have no practical substitute."
- Writing for the Majority:** Justice Stevens
- Voting with the Majority:** Chief Justice Rehnquist, Justices Blackmun, Scalia, Kennedy, Souter, Thomas, and Ginsburg (Justice O'Connor concurring)

LEXSEE 83? f supp 1329

LARRY WHITTON, Plaintiff v. THE CITY OF GLADSTONE, MISSOURI,
Defendant

No. 92-0848-CV-W-1

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
MISSOURI, WESTERN DIVISION

832 F. Supp. 1329; 1993 U.S. Dist. LEXIS 13026

September 17, 1993, Decided

September 17, 1993, Filed

SUBSEQUENT HISTORY:

As Corrected September 21, 1993.

COUNSEL:

[**1] For plaintiff: W. Joseph Hatley, Cooperating Attorney, ACLU of Kansas and Western MO, Overland Park, KS. William C. Odle, Cooperating Attorney, ACLU of Kansas and Western MO, Kansas City, Missouri.

For defendant: Linda Salfrank, Swanson, Midgley, Kansas City, MO.

JUDGES:
WHIPPLE

OPINIONBY:
DEAN WHIPPLE

OPINION:

[*1330] ORDER

There are cross motions for summary judgment before the court. The court will grant plaintiff's motion and deny defendant's motion for the reasons stated below.

I. Background

Plaintiff Larry Whitton asks this court to hold that certain provisions of the City of Gladstone's (Gladstone) Sign Ordinance violate the United States Constitution's First and Fourteenth Amendments. Whitton lives in Gladstone and also owns a business there. Whitton

contends that the Sign Ordinance unconstitutionally hampers his ability to use his residential and commercial property in running and assisting others in running for political office.

Whitton's original complaint challenged the constitutionality of the Sign Ordinance's (1) fifteen-day durational limitation [**2] on the posting of political signs prior to an election; (2) five-day removal requirement of political signs after an election; (3) regulation of the number of political signs that could be placed in each residential or commercial lot and (4) regulation of external illumination of political signs. Whitton, at the same time he filed the complaint, also asked the court for a Temporary [*1331] Restraining Order (TRO) and a Preliminary Injunction to allow him to post political signs that promote his candidacy for sheriff of Gladstone in violation of the Sign Ordinance.

The day before the court held a hearing on the TRO and the Preliminary Injunction, Gladstone repealed the Sign Ordinance and enacted a new one. The New Sign Ordinance removes the provision which limited the placement of all political signs n1 to one sign per candidate or issue per residential or commercial lot, restricts the total allowable square footage sign space per lot, extends the pre-election posting of signs from fifteen days to thirty days, extends the removal requirement from five to seven days and adds a section explaining the legislative purpose of the New Sign Ordinance. The New Sign Ordinance does not differ from the [**3] previous ordinance in any other respect. The court, at the TRO and Preliminary Injunction hearing, ruled in Gladstone's favor finding that Whitton failed to show he would suffer

irreparable harm if the city enforced the New Sign Ordinance.

n1 Section 25-8 of the New Sign Ordinance defines political signs as: "Any sign promoting, supporting, or opposing any candidate, office, issue or proposition to be voted upon at any public election."

Whitton now challenges the constitutionality of §§ 25-45, 25-46 and 25-47(b) of the New Sign Ordinance. Although the election is over, Whitton states that he plans to run for other offices in the future. n2 The relevant part of § 25-45 prohibits a residential or commercial owner from placing a political sign on his or her property more than thirty days before an election to which the sign pertains. n3 The section also requires that the sign be removed within seven days after the election. Section 25-47(b) makes the owner of the property, the candidate and the chairperson of a political committee responsible for removing the signs. Section 25-46 prohibits the illumination of all political signs.

n2 Thus, the case is not moot because it involves issues "capable of repetition, yet evading review." *Moore v. Ogilvie* 394 U.S. 814, 816, 89 S. Ct. 1493, 23 L. Ed. 2d 1 (1969) (citation omitted).

n3 Section 25-45 entitled, "Restriction of political signs within zones," reads:

A. Political signs located in an area zoned for residential use shall not exceed two (2) feet by two (2) feet on each side. In residential areas exposed political sign face shall not exceed an aggregate gross surface area of sixty-four (64) square feet per lot. No sign within such area shall be placed or erected more than thirty (30) days prior to the election to which such sign pertains and such sign shall be removed within seven (7) days after such election.

B. Political signs located in an area zoned for industrial or commercial use shall not exceed thirty-two (32) square feet in total and shall not have any side greater than eight (8) linear feet. In industrial and commercial areas exposed political sign face shall not exceed an aggregate gross surface area of five hundred twelve (512) square feet per lot. No sign within such area shall be placed or erected more than thirty (30) days prior

to the election to which such sign pertains and such sign shall be removed within seven (7) days after such election.

[**5]

III. Motion for Summary Judgment

A. Summary Judgment Standard

A movant is entitled to summary judgment under Fed. R. Civ. P. 56(c), "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Thus, the moving party bears the burden of proof. *Aetna Life Ins. Co. v. Great Nat'l Corp.*, 818 F.2d 19, 20 (8th Cir. 1987). When considering a motion for summary judgment, the court must scrutinize the evidence in the light most favorable to the non-moving party and the non-moving party "must be given the benefit of all reasonable inferences." *Mirax Chem. Prods. Corp. v. First Interstate Commercial Corp.*, 950 F.2d 566, 569 (8th Cir. 1991) (citation omitted). If the moving party meets its burden of proof, the burden shifts to the non-moving party who must set forth specific facts showing that there is a genuine issue for trial to defeat a motion for summary judgment. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248, 106 S. Ct. 2505, 91 L. Ed. 2d 202 (1986) [**6]

[*1332] The two requirements of Rule 56(c) are that there be (1) no genuine issue of (2) material fact. The United States Supreme Court explains that to establish a genuine issue of fact sufficient to warrant trial, the party opposing summary judgment "must do more than simply show that there is some metaphysical doubt as to the material facts." *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586, 106 S. Ct. 1348, 89 L. Ed. 2d 538 (1986). If a rational trier of fact considering the record as a whole could not find in favor of the non-moving party, then a trial is unnecessary. *Id.* Substantive law identifies which facts are material. "Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment. Factual disputes that are irrelevant or unnecessary will not be counted." *Anderson*, 477 U.S. at 248. In assessing whether a material fact is subject to a genuine dispute, a court should employ a standard essentially identical to that governing a motion for directed verdict under Rule 50(a). *Id.* at 250. [**7]

Finally, in *Celotex Corp. v. Catrett*, 477 U.S. 317, 91 L. Ed. 2d 265, 106 S. Ct. 2548 (1986), the Supreme Court concluded by encouraging the use of summary judgment in appropriate cases: "Summary judgment

procedure is properly regarded not as a disfavored procedural shortcut, but rather as an integral part of the Federal Rules as a whole, which are designed 'to secure the just, speedy and inexpensive determination of every action.'" *Id.* at 327 (citations omitted). See also, *City of Mt. Pleasant v. Associated Elec. Coop. Inc.*, 838 F.2d 268, 273 (8th Cir. 1988) ("The motion for summary judgment can be a tool of great utility in removing factually insubstantial cases from crowded dockets, free courts' trial time for those cases that really do raise genuine issues of material fact."). However, a court should always be mindful that summary judgment is an extreme remedy. *Inland Oil & Transp. Co. v. United States*, 600 F.2d 725, 727 (8th Cir.), cert. denied, 444 U.S. 991 (1979).

The parties agree that there are no genuine issues of material fact for a trier of fact to resolve. [**8] The present case is thus an appropriate one for the court to decide on a motion for summary judgment.

B. Durational Limitations and Removal Requirements

"Congress shall make no law ... abridging the freedom of speech " U.S. Const. amend. I. The Fourteenth Amendment, of course, secures the freedom of speech against states as well. *Burson v. Freeman*, 504 U.S. , 112 S. Ct. 1846, 119 L. Ed. 2d 5, 12 (1992)

Section 25-45 of the New Sign Ordinance prohibits a residential or commercial owner from placing a political sign on his or her property more than thirty days before an election to which the sign pertains and requires the sign be removed within seven days of the election. Section 25-45, in essence, constitutes a complete ban on posting political signs which is temporarily lifted thirty days before an election and reinstated after an election takes place. *City of Antioch v. Candidates' Outdoor Graphic Serv.*, 557 F. Supp. 52, 55 (ND. Cal. 1982). The posting of political signs constitutes speech. *Arlington County Republican Comm. v. Arlington County*, 983 F.2d 587, 593-94 (4th Cir. 1993); [**9] *Baldwin v. Redwood City*, 540 F.2d 1360, 1366 (9th Cir. 1976), cert. denied, 431 U.S. 913, 97 S. Ct. 2173, 53 L. Ed. 2d 223 (1977). Section 25-45 burdens speech, thus the next issue is which test the court should use in analyzing the constitutionality of § 25-45.

1. The Appropriate Test for Analyzing Section 25-45

Gladstone argues that the appropriate test for analyzing the constitutionality of § 25-45 is the time, place and manner test. A time, place or manner test is appropriate if the restrictions are "justified without reference to the content of the regulated speech, that they are narrowly tailored to serve a significant governmental

interest, and that they leave open ample alternative channels for communication of the information." *Clark v. Community for Creative Non-violence*, [**1333] 468 U.S. 288, 293, 104 S. Ct. 3065, 82 L. Ed. 2d 221 (1984)

The court cannot use the time, place and manner test in analyzing the thirty-day durational limitation and the seven-day removal requirement if Gladstone regulates speech on the basis of its [**10] content. A plurality of the Supreme Court in *Metromedia, Inc. v. City of San Diego*, 453 U.S. 490, 101 S. Ct. 2882, 69 L. Ed. 2d 800 (1981), articulated two tests it uses to determine if a restriction is content-based. Although the Supreme Court was sharply divided, it did not divide on the issue of what constitutes a content-based regulation. The first test is whether Gladstone gives commercial speech a greater degree of protection than noncommercial speech. If it does then the New Sign Ordinance is content-based and the court cannot analyze the thirty-day durational limitation and the seven-day removal requirement under a time, place and manner standard. *Id.* at 513. The second test is whether the section "distinguishes ... between permissible and impermissible signs ... by reference to their content." *Id.* at 516.

Section 25-45 fails both tests and is thus, not content-neutral. First, Gladstone favors commercial speech over noncommercial speech. Gladstone argues that it favors noncommercial speech [**11] over commercial speech because some commercial signs are subject to application, permit, fee or insurance requirements, but political signs are not. Gladstone does require some commercial signs to undergo several requirements that political signs do not. However, in residential areas, a homeowner may post a "For Sale" or "For Rent" sign indefinitely and post a construction sign for up to ninety days prior to construction without having to meet the application, permit, fee or insurance requirements. A homeowner may also post a sign advertising a garage sale although the parties have not provided the court with information as to whether such signs must meet any administrative requirements. Further, as discussed earlier, § 25-45 imposes a ban on political speech except during the thirty-day period before the election while allowing commercial owners to post permanent signs indefinitely. The New Sign Ordinance, thus does treat some commercial signs more favorably than political signs. In regards to removal, the political sign must be removed within seven days of the election, but a construction sign may remain standing an additional three days, or a total of ten days.

Second, assuming [**12] that the New Sign Ordinance does not treat commercial signs more favorably than noncommercial signs, § 25-45 distinguishes between permissible and impermissible signs on the basis of the signs' content. The Supreme

Court recently determined that prohibiting newsracks that distribute handbills, but not newspapers regulates on the basis of content. *City of Cincinnati v. Discovery Network, Inc.*, 507 U.S. , 113 S. Ct. 1505, 123 L. Ed. 2d 99, 115-17 (1993). There the Supreme Court found that the city did not regulate on the basis of any hostility toward a particular viewpoint, but recognized that "under the city's newsrack policy, whether any particular newsrack falls within the ban is determined by the content of the publication resting inside that newsrack. Thus, by any commonsense understanding of the term, the ban in this case is 'content-based.'" *Id.* at 116. Similarly, in the present case, a sign that reads "For Sale" thirty days before an election is permissible, but one that reads "Vote for Whitton" is not. What distinguishes between a permissible and an impermissible sign rests upon the content of the sign. Section 25-45, [**13] is content-based under any "commonsense understanding of the term." *Id.*

Further, a political sign that states "Whitton is Honest" or "Pro-Choice" is impermissible if an election on the candidate or issue is not pending, n4 but is permissible if an election [*1334] is pending within thirty-days from the posting of the signs. Again, what distinguishes between an impermissible and a permissible sign rests upon the content of the sign. See, *Burson*, 119 L. Ed. 2d at 13 ("Whether individuals may exercise their free speech rights near polling places depends entirely on whether their speech is related to a political campaign.).

n4 There is some confusion as to whether the ordinance prohibits a homeowner or a business from posting a sign advocating, for example, a position on abortion. Whether the New Sign Ordinance bans such speech does not change the court's analysis, the court discusses this issue only to discuss a possible contradiction within the ordinance.

Stuart Borders, who interprets and enforces the New Sign Ordinance for Gladstone, testified in deposition that the New Sign Ordinance allows a homeowner to post a sign advocating a position on abortion even though it is not an issue to be voted on within thirty days. If Mr. Border's reading of the New Sign Ordinance is correct, Whitton could post a sign advocating a position on abortion all year long, regardless of whether abortion is an issue the voters will decide in an upcoming election or not. This reading conflicts with § 25-45, because if abortion is an issue the voters will decide in an election, Whitton may not post a sign advocating a position on abortion until

thirty days before the election and he must remove the sign within seven-days after the election. Mr. Borders' reading would make the New Sign Ordinance impermissibly vague. E.g., *N.A.A.C.P. v. Button*, 371 U.S. 415, 83 S. Ct. 328, 9 L. Ed. 2d 405 (1963)

This reading also conflicts with the language of the New Sign Ordinance. The only permanent signs allowed in residential areas are name plate signs, real estate signs, church signs, construction signs, subdivision development signs, subdivision entrance signs and in some residential areas, ground signs. § 25-28. Gladstone also prohibits temporary signs in residential areas. § 25-39. The city does allow political signs as discussed in this Order, but political signs do not include general ideological speech under the New Sign Ordinance. Political signs include only signs that promote a "candidate, office, issue or proposition to be voted upon at any public election." § 25-8.

[**14]

Gladstone points to language in *Ward v. Rock Against Racism*, 491 U.S. 781, 109 S. Ct. 2746, 105 L. Ed. 2d 661 (1989), for its argument that § 25-45 is content-neutral. The Ward Court stated that the "principal inquiry in determining content neutrality ... is whether the government has adopted a regulation of speech because of disagreement with the message it conveys." *Id.* at 791. Gladstone argues it did not adopt § 25-45 because of any disagreement with the message the political signs convey thus, § 25-45 is content-neutral. In short, Gladstone argues that because it did not adopt the section to suppress a particular viewpoint, § 25-45 is content-neutral. The court accepts that Gladstone did not adopt § 25-45 because of a dislike of a particular viewpoint, but § 25-45 still prohibits the posting of political signs that pertain to an election more than thirty days before the election. Recently, the Supreme Court held that "content-based regulation extends not only to a restriction on a particular viewpoint, but also to a prohibition of public discussion of [**15] an entire topic." *Burson*, 119 L. Ed. 2d at 13. Likewise, the Supreme Court held that a ban on utility bill inserts discussing controversial issues of public policy such as nuclear power is not content-neutral even though the ban suppressed all points of view of an issue. *Consolidated Edison Co. v. Public Serv. Comm'n*, 447 U.S. 530, 537-44, 100 S. Ct. 2326, 65 L. Ed. 2d 319 (1980)

The Supreme Court's decision in *Renton v. Playtime Theatres, Inc.*, 475 U.S. 41, 106 S. Ct. 925, 89 L. Ed. 2d 29 (1986), also does not help Gladstone. There, the ordinance prohibited adult movie theaters from locating

n5 The city recognizes this because § 25-45 limits the square footage of signs in residential areas to 64 square feet per lot and in commercial areas to 512 square feet per lot.

[**21]

Regarding the seven-day removal requirement, Whitton's interest in maintaining signs promoting his candidacy declines greatly after the election. *Baldwin*, 540 F.2d at 1374-75 (dicta). As discussed above, however, Gladstone does not have a content-neutral, post-event removal restriction. Instead, Gladstone allows signs such as construction signs to remain longer than political signs. Gladstone does not offer any justification for such a distinction. Again, the Supreme Court agrees that aesthetics and traffic safety are significant interests, but they are not compelling even though Whitton has less an interest in maintaining the signs after the election. Further, Gladstone did not narrowly tailor the restriction. Without offering any justification for treating the signs differently, Gladstone allows construction signs to remain ten days after the construction is completed and real estate signs to remain indefinitely while allowing political signs to remain only seven days after the election. While a content-neutral restriction on post-event removal of signs might survive constitutional scrutiny, n6 the present content-based restriction on speech does [**22] not.

n6 Theodore Y. Blumoff, *After Metromedia: Sign Controls and the First Amendment*, 28 *St. Louis U. L. J.* 171, 193 (1984).

The facts in the present case are not those that can support content-based restrictions. In *Burson*, the Supreme Court upheld a statute that prohibited the solicitation of votes within 100 feet of a polling place even though the statute regulated on the basis of the content of the speech. *Burson*, 119 L. Ed. 2d at 22. The Supreme Court recognized that rarely will a content-based restriction on freedom of speech survive, but held that given the compelling interest in protecting the political process, the restriction on the freedom of speech was narrowly tailored. *Id.* at 14-22. The present case differs fundamentally from *Burson*. In the present case, the interests in traffic safety and aesthetics are significant, but they pale in comparison to an interest in protecting the political process which is one of the [**23] most vital rights an individual has in a democratic society. *Id.* at 14. The 100-foot restriction on soliciting votes on the day of an election also differs

considerably from Gladstone's ban on political speech that is lifted only for thirty days before an election and is reinstated seven days after the election. In short, the present case is not one of those rare cases that survives strict scrutiny.

2. Section 25-45 Fails Time, Place and Manner

Even assuming § 25-45 does not regulate speech on the basis of content, the thirty-day durational requirement would still fail the time, place and manner test. Again, a time, place or manner test requires that Gladstone narrowly tailor significant interests and that the restrictions "leave open ample alternative channels for communication of the information." *Clark*, 468 U.S. at 293. Gladstone's interests in traffic safety and aesthetics are significant thus, the only remaining issues are whether Gladstone narrowly tailored its restrictions to achieve these interests and whether Gladstone left alternative channels for communicating the information.

Gladstone did not narrowly [**24] tailor the thirty-day durational requirement to achieve its interests in traffic safety and aesthetics. The court does not require Gladstone to follow the least restrictive approach to meet its interests, rather, Gladstone must make sure its restrictions are narrowly tailored. The court in *Antioch* held that an ordinance [**337] which prohibited political signs except for a sixty-day period before the election to which the signs pertain is unconstitutional. *Antioch*, 557 F. Supp. at 61. There, the court noted that "Instead of a general ban, the City might regulate the size, design, and construction of the posters" *Id.* at 60-61. Gladstone could do the same. First, the city could regulate the construction and design of the signs. Second, the city could limit the square feet of signs on any one lot. Third, if Gladstone does not believe that its existing ordinances regulating the condition of signs is sufficient, it could limit the duration of time a temporary political sign can remain before the candidate or committee must remove or replace the sign.

Gladstone also does not leave open adequate channels of communication. [**25] Even ignoring the importance of permanent political signs, temporary political signs offer:

special advantages to the candidate seeking public office and to the advocate promoting a particular position on a state ballot measure. These signs are relatively inexpensive means of campaigning. Their use can be localized so that certain areas which the advocate wishes especially to reach may be targeted. A candidate or partisan can use the temporary sign to place a name or an issue before the public.

City of Antioch, 557 F. Supp. at 59. n7 Thus, the restrictions do not leave open ample alternatives to Whitton the candidate or to the committee advocating an issue for vote. Further, the restrictions do not leave open ample alternative to Whitton the homeowner to post signs promoting the candidates or issues he favors. The Vincent Court held the ban on posting political signs on public property was constitutional partly because one could still "exercise the right to speech and to distribute literature in the same place where the posting of signs on public property is prohibited." *Vincent*, 466 U.S. at 812. [**26] In the present case, Whitton the homeowner does not have such an alternative on his property. Thus, not only does § 25-45 fail to leave open other alternatives to Whitton the candidate, it also fails to do so for Whitton the homeowner.

n7 Gladstone offers an affidavit that questions the effectiveness of temporary political signs, however, courts generally recognize the unique advantages that temporary political signs have over other alternatives such as canvassing, radio and television. E.g., *Baldwin*, 540 F.2d at 1368 (Political posters have unique advantages and are less expensive than most other alternatives.); *John Donnelly & Sons v. Campbell*, 639 F.2d 6, 16 (1st Cir. 1980) (same), aff'd, 453 U.S. 916, 101 S. Ct. 3151, 69 L. Ed. 2d 999 (1981).

The thirty-day durational requirement and seven-day removal requirements of § 25-45 do not pass strict scrutiny and to that extent, § 25-45 is unconstitutional. [**27] The thirty-day durational requirement of § 25-45 also does not pass time, place and manner scrutiny and is therefore unconstitutional for that reason as well. The only remaining provision of the New Sign Ordinance in dispute concerns illumination.

C. Illumination

Whitton wishes to erect a permanent ground sign to advertise his business and to also use the sign to promote political candidates. Reading § 25-17 and 25-38 together, one may externally illuminate a permanent sign thirty square feet in area or less unless another section states otherwise. Section 25-46 states that "no political sign in any area of any zoned use may be lit by external sources with the sole purpose to light said sign." Thus, Whitton may erect an externally illuminated commercial sign no greater than thirty square feet in area or less on his commercial property, but not one that promotes his candidacy for office. As the court discussed earlier, such

a restriction regulates speech on the basis of its content and will not withstand constitutional scrutiny in the present case. Thus, to the extent that Gladstone allows a business to externally illuminate commercial signs on its property, Gladstone must also [**28] allow the business to externally illuminate political signs.

The New Sign Ordinance does not provide for external illumination of any sign on residential property, thus prohibiting external illumination of political signs on residential property does not regulate on the basis of content. The ban on external illumination, but still allowing internal illumination, is narrowly [*1338] tailored to meet Gladstone's interests in traffic safety and aesthetics. Also, a ban on external illumination in residential areas still leaves open ample alternative channels for communicating Whitton's political messages. The court refuses to strike any provision that prohibits the external illumination of signs in residential property.

III. Conclusion

It is therefore ORDERED that § 25-45 of the New Sign Ordinance is UNCONSTITUTIONAL to the extent that it prohibits political signs more than thirty days before an election. It is further

ORDERED that § 25-45 of the New Sign Ordinance is UNCONSTITUTIONAL to the extent that it requires removal of political signs within seven days after an election. It is further

ORDERED that the City of Gladstone is ENJOINED from enforcing the seven-day removal requirement in [**29] § 25-45 of the New Sign Ordinance. It is further

ORDERED that § 25-46 of the New Sign Ordinance is UNCONSTITUTIONAL to the extent that it allows a business to externally illuminate signs on its property promoting its business, but does not allow a business to externally illuminate similar signs that promote a political candidate or political issue. It is further

ORDERED that the City of Gladstone is ENJOINED from enforcing § 25-46 to the extent that it allows a business to externally illuminate signs on its property promoting its business, but does not allow a business to externally illuminate similar signs that promote a political candidate or political issue

DEAN WHIPPLE

UNITED STATES DISTRICT JUDGE

DATED: September 17, 1993

LEXSEE 939 f supp 554

GEORGE DIMAS, et al., Plaintiffs, -vs- CITY OF WARREN, Defendant.

Civil Action No.: 95-73396

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION

939 F. Supp. 554; 1996 U.S. Dist. LEXIS 13899

August 15, 1996, FILED

DISPOSITION:

[**1] Plaintiff's motion for summary judgment is GRANTED.

COUNSEL:

For GEORGE L. DIMAS, Council Secretary for the City of Warren, RON R. BRINSON, JOAN GREIF, CECELIA A. STEVENS, DENNIS BUCHHOLTZ, DOUGLAS A. COX, MARGARET ERMER, ROBERT RUDDER, plaintiffs: Michael J. Haddad, Goodman, Eden, Detroit, MI. Paul J. Denefeld, ACLU Fund of Michigan, Detroit, MI.

For WARREN, CITY OF, defendant: Matthew A. Seward, Rosalind H. Rochkind, Robert J. Squiers, Jr., Garan, Lucow, Detroit, MI. John J. Gillooly, Garan, Lucow, Detroit, MI. George G. Constance, Warren City Legal Department, Warren, MI.

JUDGES:

ANNA DIGGS TAYLOR, UNITED STATES DISTRICT JUDGE

OPINION BY:

ANNA DIGGS TAYLOR

OPINION:

[*555] MEMORANDUM OPINION AND ORDER

This matter is before the Court on Plaintiffs' motion for summary judgment pursuant to Fed.R.Civ.P. 56. The Court, having heard oral arguments and considered the memoranda submitted by the parties, finds that the City of Warren's ordinance regulating political election signs violates the First and Fourteenth Amendments of the United States Constitution. For the following reasons, Plaintiffs' motion for summary judgment is GRANTED.

BACKGROUND

In 1991, the City of Warren enacted a "Political [**2] Signs" ordinance which prohibited property owners from posting political election signs in their yard "before fifteen (15) days prior to any primary, school or special election." Violators of the ordinance were to be punished with fines "not to exceed one hundred dollars." n1

n1 Chapter 31, § 31-20, Political Signs, states, in relevant part:

(a) No candidate for political office shall allow any of his or her political signs to be erected or posted before fifteen (15) days prior to any primary, school or special election.

(b) All candidates for political office shall remove their political sign within one (1) week after the primary, school or special election. If any candidate for an office is nominated in the primary election, he or she shall be allowed to have his or her political signs remain until one (1) week after the general election.

(j) A violation of this section shall be punishable as a civil infraction with fines not to exceed one hundred dollars (\$ 100.00).

In August 1995, after [**3] absentee ballots had been distributed, but before the permissible time in which to post election signs commenced, residents began displaying their support for various candidates by posting such law signs. The City of Warren responded by sending "warning notice[s]" to the residents informing them of the ordinance and telling them to remove the signs within 72 hours or further court action would be taken. Plaintiffs herein complied with the notice and subsequently filed this lawsuit pursuant 42 § 1883, alleging that such an ordinance violates their constitutional rights under the First and Fourteenth Amendments of the United States Constitution.

On the same day that the lawsuit was filed, the City of Warren amended the ordinance to permit posting of

election signs up to forty-five days prior to an election, replacing the original fifteen day provision. n2

n2 The amended provision states,

(a) No candidate for a political office shall allow any of his or her political signs to be erected or posted before forty-five (45) days prior to any primary, school, or special election.

[**4]

On March 26, 1996, the City of Warren enacted an "Ordinance amending Appendix A of the Code of Ordinances of the City of [*556] Warren relating to Zoning." n3 The new appendix, like the previously amended ordinance, also provides that election signs may only be posted forty-five days prior to an election. Moreover, the appendix also states that only one sign per candidate, and per issue may be posted for each residential property. Violators were subjected to potential sentences including a fine of up to \$500.00, imprisonment for a term not to exceed 90 days, or both. n4

n3 Sec. 4A-13 of the amended appendix states, in relevant part:

Election signs. Temporary election signs may be erected forty-five (45) days prior to the primary election date and shall be removed in accordance with section 4A-26(c). Temporary election signs shall be allowed as follows:

one non-illuminated election sign per candidate and per issue is allowed for each lot frontage; those located along a major thoroughfare or collector road shall not exceed sixteen (16) square feet per sign; and if located along a local residential street shall not exceed for (4) square feet per sign.

i) Opinion signs. One opinion sign per residence shall be allowed in residential areas, excluding election signs which are otherwise regulated in this ordinance. The sign shall be located in the front yard set back and shall not exceed four (4) square feet in sign area.

[*5]

n4 Section 4A-66 states:

The violation of any provision of this Article by any person shall, upon conviction, be punished by a fine not exceeding five hundred dollars (\$ 500.00) or imprisonment for a term not exceeding ninety (90) days, or both.

STANDARD OF REVIEW

Summary judgment must be granted when the moving party demonstrates that there is no genuine dispute as to

any material fact, and that the undisputed facts of record require that judgment enter, as a matter of law, for the movant. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247-48, 91 L. Ed. 2d 202, 106 S. Cr. 2505 (1986). A party opposing a summary judgment motion must show more than "mctaphysical doubt" as to the material facts. *Street v. J.C. Bradford & Co.*, 886 F.2d 1472 (6th Cir. 1990). "A dispute about a material fact is 'genuine' only if 'the evidence is such that a reasonable jury could return a verdict for the nonmoving party.'" *Elvis Presley Enterprises v. Elvisly Yours, Inc.*, 936 F.2d 889 (6th Cir. 1991) (quoting *Anderson*, 477 U.S. at 248.) To survive a motion for summary judgment, [*6] the non-movant must demonstrate that there is some dispute of fact as to "an element essential to that party's case, and on which that party will bear the burden of proof at trial" *Celotex Corp. v. Catrett*, 477 U.S. 317, 322-323, 91 L. Ed. 2d 265, 106 S. Cr. 2548 (1986). The "burden on the moving party may be discharged by ... pointing out to the district court ... that there is an absence of evidence to support the non-moving party's case." *Celotex*, 477 U.S. 317, 325, 91 L. Ed. 2d 265, 106 S. Cr. 2548 (1985). In making such a determination, this court will examine any evidence in a light most favorable to the non-moving party. *Boyd v. Ford Motor Company*, 948 F.2d 283, 285 (6th Cir. 1991).

The elements of a claim under 42 U.S.C. § 1983 are that the conduct complained of (1) was committed by a person acting under color of state law and (2) such person deprived the plaintiff of rights, privileges, or immunities secured by the Constitution or laws of the United States. *Parratt v. Taylor*, 451 U.S. 527, 535, 68 L. Ed. 2d 420, 101 S. Cr. 1908 (1981). "Absent either element, a section 1983 claim will not lie." *Christy v. Randlett*, 932 F.2d 502, 504 (6th Cir. [*7] 1991).

ANALYSIS

Plaintiffs maintain that the City of Warren's ordinance is unconstitutional because it 1) limits the number of election and opinion signs a resident may place on his or her property, and 2) restricts the time within which such signs may be displayed. Plaintiffs argue that the ordinance burdens free speech and is an unconstitutional restriction on the time, place, and manner of speech.

This Court agrees. The Political Signs ordinance, in effect, imposes a year-round [*557] ban on political sign posting. The ban is temporarily suspended for forty-five days prior to an election and is reinstated one week after the election has taken place. The ordinance, in essence, provides candidates and their supporters with forty-five days to reach potential voters via temporary political sign posting. Clearly, such an ordinance imposes a significant burden on free speech.

While it is true that the Supreme Court has held that signs are a form of expression which is subject to municipal police powers, because such regulations inevitably burden communication itself, any regulation on the time, place, and manner of speech is permissible only if it advances a significant government [**8] interest, is justified without reference to the content of the speech, and leaves open ample alternative channels for communication of the information. *Metromedia, Inc. v. City of San Diego*, 453 U.S. 490, 69 L. Ed. 2d 800, 101 S. Ct. 2882 (1981). In the case at bar, the Court is not persuaded that the ordinance meets those criteria.

As an initial matter, the ordinance is not content-neutral. While the ordinance may appear to be content-neutral in the sense that it does not discriminate among political messages, it does impose restrictive time limitations upon political signs that are not imposed on commercial signs. For instance, the ordinance allows the posting of all other types of signs at any time although election signs are subjected to a forty-five day limitation. No other sign is subject to the same or similar time limitation. Such restrictive treatment unconstitutionally discriminates in the exercise of First Amendment rights where they have their "most urgent application . . . [in the] conduct of campaigns for political office." *Monitor Patriot Co. v. Roy*, 401 U.S. 265, 272, 28 L. Ed. 2d 35, 91 S. Ct. 621 (1971).

Defendants maintain that the ordinance serves a [**9] significant government interest in the preservation of neighborhood aesthetics, property value, and traffic safety. Such laws, however, must regulate evenhandedly. See generally, *Linnark Associates v. Willingboro*, 431 U.S. 85, 52 L. Ed. 2d 155, 97 S. Ct. 1614 (1977). Moreover, although the purpose may be a legitimate one, the city has failed to show that this interest "justifies placing time limits on the posting of political signs, but not on temporary signs that convey commercial messages or ideological messages unrelated to an upcoming election. In addition, it has not been shown that this particular time period of [forty-five] days, even if evenhandedly applied to all temporary signs, reasonably and adequately provides for the exercise of First Amendment rights." *City of Antioch v. Candidates' Outdoor Graphic Service*, 557 F. Supp. 52, 60 (N.D. Cal. 1932). The city may not impose durational limits or other restrictions on political advertising in order to advance aesthetic goals until it shows that it is "seriously and comprehensively addressing aesthetic concerns with respect to its environment." *Metromedia, Inc. v. City of San Diego*, 453 U.S. 490, 531, 69 L. Ed. 2d 800, [**10] 101 S. Ct. 2882 (1981) (Brennan, J., concurring). As such a showing has not been made, this interest, although legitimate, is not so well served by this measure that the resultant infringement upon constitutional rights can be justified.

In addition, Defendant's one election sign per candidate, per issue, and per opinion limitation "severely infringes on speech by preventing homeowners from expressing [their] support for more than one candidate when there [may be] numerous contested elections. [Moreover], if two voters living within the same household support opposing candidates, the sign limitation significantly restricts their ability to express support through sign posting." *Arlington County Republican Committee v. Arlington County, Virginia*, 983 F.2d 587, 594 (4th Cir. 1993). The enthusiastic support of the homeowner's candidate by more than one sign is, of course, flatly prohibited.

Lastly, the ordinance fails to leave open valid alternative channels for communication for the homeowner. Although the city maintained at oral argument that political signs may be posted inside a home window at any time throughout the course of the year, the ordinance does not [**11] so state, and the Court is not persuaded that this would be an adequate substitute for the important medium [*558] of speech that the city has foreclosed. The Supreme Court has clearly stated that "displaying a sign from one's own residence often carries a message quite distinct from placing the same sign someplace else, or conveying the same text or picture by other means. Precisely because of their location, such signs provide information about the identity of the 'speaker.'" *City of Ladue v. Gilleo*, 512 U.S. 43, 114 S. Ct. 2038, 2046, 129 L. Ed. 2d 36 (1994); See also, *Cleveland Area Board of Realtors v. City of Euclid*, 88 F.3d 382, 1996 WL 376320 (6th Cir. 1996). Furthermore, "a person who puts up a sign at her residence often intends to reach neighbors, an audience that could not be reached nearly as well by other means." *Ladue*, at 2046.

It should further be noted that residents have the same string incentive to keep their property values up and to prevent visual clutter in their yards and neighborhoods as does the city. The private interests of owners in the market value of their property should very substantially diminish the city's concerns regarding the unlimited [**12] proliferation of signs. *Id.* at 2047.

As a result, this Court finds that the city's ordinance limiting the number and duration of election and opinion signs violates Plaintiffs' civil rights pursuant to 42 U.S.C. 1983, and unconstitutionally infringes upon the First and Fourteenth Amendment of the United States Constitution.

Accordingly,

IT IS ORDERED that Plaintiff's motion for summary judgment be and hereby is GRANTED.

IT IS SO ORDERED.

ANNA DIGGS TAYLOR
UNITED STATES DISTRICT JUDGE
JUDGMENT

This matter has come before the Court, and the Court has entered its memorandum opinion and order. Now, therefore;

IT IS ORDERED AND ADJUDGED that Plaintiffs'

motion for summary judgment is GRANTED, and the above-captioned civil case is DISMISSED.

IT IS SO ORDERED.

ANNA DIGGS TAYLOR

UNITED STATES DISTRICT JUDGE

Date: AUG 15, 1996

LENSEE 628 p2d 1217

VAN et al, Petitioners, v. TRAVEL INFORMATION COUNCIL, Respondent

CA No. 18553

COURT OF APPEALS OF OREGON

52 Ore. App. 399; 628 P.2d 1217; 1981 Ore. App. LEXIS 2555; 7 Media L. Rep. 1772

November 12, 1980, Argued and submitted

May 26, 1981

PRIOR HISTORY:
[***1]

Judicial Review from Oregon Administrative Rules.

DISPOSITION:
Rule held invalid.

COUNSEL:

Steven L. Philpott, Eugene, argued the cause for petitioners. On the brief were Mary A. Marshall and Armstrong & Philpott, P. C., Eugene.

William F. Gary, Deputy Solicitor General, Salem, argued the cause for respondent. With him on the brief were James M. Brown, Attorney General, and John R. McCulloch, Jr., Solicitor General, Salem.

JUDGES:

Gillette, Presiding Judge, Roberts, Judge, and Campbell, Judge Pro Tempore.

OPINIONBY:
GILLETTE

OPINION:

[*401] [**1219] This is a proceeding pursuant to ORS 183.400(1). n1 Petitioners n2 challenge that portion of an administrative rule adopted by the Travel Information Council which limits the right to erect temporary political signs on land adjacent to a state highway to a period of sixty days preceding an election. OAR 733-20-050(3)(a), *infra*. Petitioners claim that the

rule violates the First Amendment and the equal protection clauses of both the Oregon and United States Constitutions. We agree and therefore declare the rule invalid. ORS 183.400(4). n3

n1 ORS 183.400(1) provides, in pertinent part:

"(1) The validity of any rule may be determined upon a petition by any person to the Court of Appeals in the manner provided for review of orders in contested cases * * *."

[***2]

n2 The interest of these particular petitioners is not part of the record before us. We note petitioners' claimed interest as set forth in the brief. Petitioner Van claims an interest by virtue of his ownership of real property located adjacent to state Highway 99. Petitioner Fitzgerald was, at the time of the petition, seeking election as a representative from the State of Oregon to the United States Congress. He was unsuccessful.

n3 ORS 183.400(4) provides that this court is to declare a rule invalid if we find that the rule:

"(4) Violates constitutional provisions, exceeds the statutory authority of the agency or was adopted without compliance with applicable rulemaking procedures."

Before turning to an examination of petitioners' specific claims, it is necessary to understand the federal and state statutory scheme of which the challenged regulation is a part. OAR 733-20-050 was promulgated