

11877

SENATE

JUDICIARY

0072

HB

183

# SENATE COMMITTEE REPORT

DATE: 4/27/05

FURTHER:

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Judiciary Committee considered CS FOR HOUSE BILL NO. 183(JUD) am

## HB 183 CAMPAIGN FINANCE: SHARED EXPENSES/LISTS

"An Act relating to the use of campaign contributions for shared campaign activity expenses and to reimbursement of those expenses; and amending the definition of 'contribution' in regard to sharing fundraising lists between candidates and political parties without compensation."

and recommends:

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

**CS Senate Bill:**  
 Same Title  
 New Title

**SCS House Bill:**  
 Same Title  
 Technical Title Change  
 New Title w/ SCR # \_\_\_\_\_


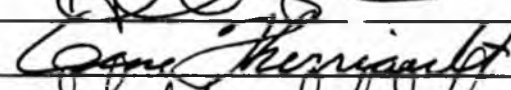
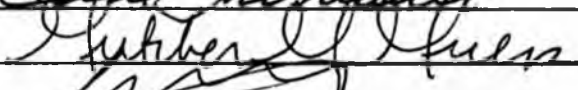

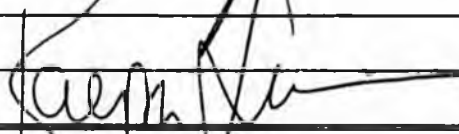
**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
	X			
			X	
			X	
			X	
<b>CHAIR:</b> 			X	

# Representative Mike Hawker

## Alaska State Legislature



### CS for House Bill 183 (JUD) am Sponsor Statement

**Session:**

State Capitol  
Juneau, AK 99801  
907 465-4949 direct  
800 478-4950 toll free  
907 465-4979 fax

**Interim:**

716 W 4<sup>th</sup> Avenue  
Anchorage, AK 99501  
907 269-0244 office  
907 269-0248 fax

**Member:**

House Finance Committee  
Legislative Budget  
& Audit Committee

**House District 32:**

Eagle River  
Anchorage  
Eliot  
Indian  
Bird  
Girdwood  
Portage  
Whittier  
Sunrise  
Hope

**"An Act relating to the use of campaign contributions for shared campaign activity expenses and to reimbursement of those expenses; and amending the definition of 'contribution' in regard to sharing fundraising lists between candidates and political parties without compensation."**

House Bill 183 makes two changes to our campaign finance reporting statutes: allows a candidate to reimburse another candidate for costs incurred in a shared campaign expense and allows candidates and political parties to share fundraising lists.

Currently, when more than one candidate is involved in an event, vendors must collect separately from each candidate. This complication is an unnecessary inconvenience for vendors and does not substantially enhance Alaska's strict campaign finance regulation.

The intent of current law is to prohibit one campaign from making a loan or contribution to another campaign. This prohibition is accomplished by imposing the burden of compliance on vendors rather than candidates. It is reasonable to expect candidates to know and comply with campaign statutes, but it is not appropriate to impose this expectation on merchants during the ordinary conduct of their business.

This bill allows one candidate participating in a shared campaign activity to pay a vendor if the other candidate(s) involved reimburse their portion of that payment within seven days. If the complete reimbursement were not received within that time limit, the expenditure would be an illegal campaign-to-campaign contribution.

The proposed statute relieves vendors of unnecessary responsibilities while maintaining our strict statutory prohibition of campaign-to-campaign loans or contributions.

Fundraising lists are developed by candidates and by parties from previous and likely contributors. At this time, it is illegal for a candidate to share this list with another candidate or with their party office, even though the information for previous contributors is available from the Alaska Public Offices Commission website.

Staff Contact: Juli Lucky 465-4949

Revised 4/28/05

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSHB 183(STA)  
 (H) Publish Date: 3/30/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title: Campaign Finance: Shared Expenses RDU: Alaska Public Offices Commission  
in State election advertising Component: Alaska Public Offices Commission  
 Sponsor: Hawker  
 Requester: House State Affairs Component No. 70

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

Estimate of any current year (FY2005) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

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

**ANALYSIS:** (Attach a separate page if necessary)  
 This bill will have no fiscal impact.

Prepared by: Brooke Miles, Executive Director Phone 907-334-1726  
 Division: Alaska Public Offices Commission Date/Time 3/29/05 7:38 AM  
 Approved by: Mike Tibbles, Deputy Commissioner Date 3/29/2005  
 Agency: Department of Administration

# Representative Mike Hawker

## Alaska State Legislature



**Session:**  
State Capitol  
Juneau, AK 99801  
907 465-4949 direct  
800 478-4950 toll free  
907 465-4979 fax

**Location:**  
716 W 4<sup>th</sup> Avenue  
Anchorage, AK 99501  
907 269-0244 office  
907 269-0248 fax

**Member:**  
House Finance Committee  
Legislative Budget  
& Audit Committee

**House District 32:**  
Eagle River  
Anchorage  
Rainbow  
Indian  
Bird  
Girdwood  
Portage  
Whittier  
Sunrise  
Hope

### Fact Sheet for House Bill 183

**Short Title:** Campaign Finance: Shared Expenses

**Current Version:** SCS CS HB 183 (STA)

**Staff Contact:** Juli Lucky, 465-4949

#### Summary:

- Clarifies that a payment for a shared expense made by one candidate that is reimbursed by the other participating candidate(s) within seven days is not an illegal campaign-to-campaign contribution.
- Allows a candidate and political party to share a fundraising list.

#### Benefits:

- Puts the onus for complying with campaign finance regulations regarding shared expenses on the candidate.
- Reduces paperwork and helps vendors receive prompt payment when providing services for political campaigns.
- Removes a prohibition against sharing a list of nominal value.

#### Background:

Current statute and regulations do not give clear guidance about payment for shared campaign activities, such as jointly hosted fundraisers. The statute clearly states that one campaign cannot make a contribution to another. The regulations clarify that candidates (or groups) may share campaign efforts if the costs and income are accounted for separately. The regulation has been interpreted to prohibit one candidate from paying a bill in full then collecting a reimbursement from each participating candidate.

This prohibition puts the burden on businesses to collect from each candidate on a pro-rata basis and reimburse any funds received over the pro-rata amount. House Bill 183 would allow for one candidate to make the expenditure and then collect from the other campaigns within seven days, thereby reducing the burden on businesses.

Revised 4/28/2005

**HB**

**184**

# SENATE COMMITTEE REPORT

DATE: 4/25/05

FURTHER:

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Judiciary Committee considered

HOUSE BILL NO. 184 am

## HB 184 MUNICIPAL FIREARM ORDINANCES

"An Act relating to firearms."

and recommends:

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

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 Same Title  
 New Title

**SCS House Bill:**  
 Same Title  
 Technical Title Change  
 New Title w/ SCR # \_\_\_\_\_

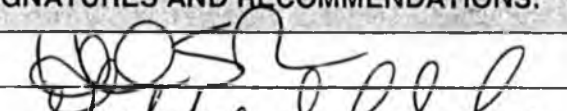
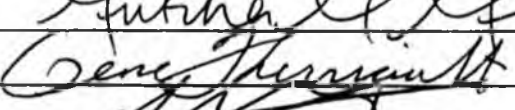
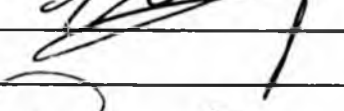
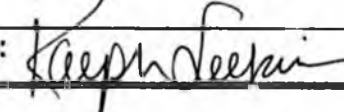
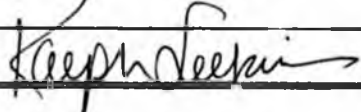
**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
				X
			X	
	✓			
	✓			
<b>CHAIR:</b> 	✓			

# LEGAL SERVICES

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

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

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

April 28, 2005

**SUBJECT:** Amendment AA.2 to HB 184 am; (Work Order No. 24-LS\AA.2)

**TO:** Senator Ralph Seekins  
Chair of the Senate Judiciary Committee

**FROM:** Pam Finley *PF*  
Revisor of Statutes

Enclosed is the amendment you requested. While we have tried to follow the model you provided, certain aspects of the amendment are unclear to me. Line 5 of the amendment says "Notwithstanding any other provision of law," but subsection (b) says that the section does not limit a person's rights or remedies under other law. These two statements seem inconsistent. Second, subsection (a) appears to prohibit A from telling B that B may not possess a firearm while B is in A's car. Is that intended? If so, there may be Due Process problems with this provision.

PF:med  
05-317.mcd

Enclosure

AMENDMENT #1

OFFERED IN THE SENATE

TO: HB 184 am

1 Page 1, lines 3 - 11:

2 Delete all material.

3 Insert new bill sections to read:

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

6 ~~(FINDINGS. The individual right to keep and bear arms being a constitutionally~~  
7 ~~protected right, the legislature finds the need to provide uniform laws throughout the state.~~

8 \* Sec. 1. AS 29.35.145(a) is repealed and reenacted to read:

9 (a) The authority to regulate firearms is reserved to the state and, except as  
10 specifically provided by statute, a municipality may not enact or enforce an ordinance  
11 regulating the possession, ownership, sale, transfer, use, carrying, transportation,  
12 licensing, taxation, or registration of firearms.

13 \* Sec. 2. AS 29.35.145 is amended by adding new subsections to read:

14 (c) Municipalities may enact and enforce ordinances

15 (1) that are identical to state law and that have the same penalty as  
16 provided for by state law;

17 (2) restricting the discharge of firearms in any portion of their  
18 respective jurisdictions where there is a reasonable likelihood that people, domestic  
19 animals, or property will be jeopardized; ordinances enacted or enforced under this  
20 paragraph may not abridge the right of the individual guaranteed by art. I, sec. 19,  
21 Constitution of the State of Alaska, to bear arms in defense of self or others;

22 (3) restricting the areas in their respective jurisdictions in which  
23 firearms may be sold; a business selling firearms may not be treated more restrictively

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the other businesses located within the same zone; and

(4) prohibiting the possession of firearms in the restricted access area of municipal government buildings: the municipal assembly shall post notice of the prohibition against possession of firearms at each entrance to the restricted access area.

(d) In this section,

(1) "firearms" includes firearms, or any other element relating to firearms or parts thereof including ammunition and reloading components;

(2) "restricted access area" means the area beyond a secure point where visitors are screened and does not include common areas of ingress and egress open to the general public.

(e) The prohibition on taxation in (a) of this section does not include imposition of a sales tax that is levied on all products sold within a municipality."

AMENDMENT

#2

OFFERED IN THE SENATE

TO: HB 184 am

1 Page 1, following line 11:

2 Insert a new bill section to read:

3 **\*\* Sec. 3.** AS 18.65 is amended by adding a new section to read:

4 **Article 10A. Firearms.**

5 **Sec. 18.65.800. Possession of firearms in motor vehicles. (a)**

6 Notwithstanding any other provision of law, the state, a municipality, or a person may  
7 not adopt or enforce a law, ordinance, policy, or rule that prohibits or has the effect of  
8 prohibiting an individual from possessing a firearm while that individual is within a  
9 motor vehicle or prohibiting an individual from storing a firearm that is locked in the  
10 individual's motor vehicle while the motor vehicle is otherwise legally parked in or on  
11 state or municipal property or another person's property. This section applies only to  
12 possession of a firearm by an individual who may legally possess a firearm under state  
13 and federal law.

14 (b) This section does not limit a person's rights or remedies under any other  
15 law.

16 (c) The state, a municipality, or a person is not liable for any injury or damage  
17 resulting from the storage of a firearm in the vehicle of ~~an~~ individual in accordance  
18 with this section."

*Added property of the individual's vehicle*  
*another #1*

Brian Judy's Answers  
to  
Senator Guess's Questions

8.25.010 Possession of weapon with intent to assault  
State law has four degrees of assault found in AS 11.41.200, 210, 220 & 230. Third degree assault includes "recklessly places another person in fear of imminent serious physical injury by means of a dangerous instrument" and "with intent to place another person in fear of death or serious physical injury to the person or the person's family member makes repeated threats to cause death or serious physical injury to another person." I can't imagine "intent" could be proven if there hadn't been some threat and/or another person was not in fear of imminent harm.

8.25.020 Concealed weapons  
The provision of this ordinance that requires a permit to carry a concealed firearm needs to be preempted, as it is contrary to state law as amended by HB 102 in 2003.

8.25.030 Discharge  
Specifically allowed in language of HB 184

8.25.040 Drive-by shooting  
There are numerous state laws that address this behavior including 11.61.190(a)(2), 11.61.190(a)(3), 11.61.200(a)(11), and 11.61.210(a)(2).

8.25.050 Firearms on premises licensed for sale of alcohol  
Anchorage prohibits all possession. State law prohibits possession of LOADED firearm (11.61.220(a)(2)) and prohibits possession while intoxicated (11.61.210(a)(1)). State law is preferable and would be better if possession was allowed provided the carrier was not intoxicated AND was not consuming. If a person is in an establishment and is not consuming there is no reason to restrict them. For instance, consider an individual who takes his family out to dinner to a restaurant that serves alcohol but who is not consuming. That person should not be restricted.

8.25.060 Firearms on school grounds  
Covered in AS 11.61.210(a)(7).

8.25.070 Provision of firearm to violent minor by parent or guardian  
I didn't find a specific statute but such an act should be able to be prosecuted under Reckless Endangerment (11.41.250). Additionally, this is clearly a violation of Federal law.

8.25.080 Duty of parent or guardian who knows minor unlawfully possesses dangerous weapon  
I didn't find a specific statute but, again, Reckless Endangerment should be broad enough to cover this.

8.25.90 Sale or furnishing of firearms to minors At least partially covered (11.61.210(a)(6)).

**Brian Hove**

---

**From:** Brian Judy [110230.536@compuserve.com]  
**Subject:** RE: state law - anchorage ordinances  
Thursday, April 28, 2005 4:36 PM  
Brian Hove; Joe Michel

FYI. 1 of 2

-----Forwarded Message-----

**From:** "Sue Wright", INTERNET:Sue\_Wright@legis.state.ak.us  
**To:** "Brian Judy", [110230,536]

**Date:** 4/28/2005 4:10 PM

**RE:** RE: state law - anchorage ordinances

Brian page two the new section (b) 1 will not fly as employers on the North Slope prohibit the carrying of a firearm anywhere on the slope.

-----Original Message-----

**From:** Brian Judy [mailto:110230.536@compuserve.com]  
**Sent:** Thursday, April 28, 2005 2:49 PM  
**To:** Sue Wright  
**Subject:** RE: state law - anchorage ordinances

Sue,

I am fine letting Senator Seekins do what he pleases. Have your boss talk to him to coordinate and let me know the plan.

Brian

----- Internet Header -----

**Sender:** Sue\_Wright@legis.state.ak.us  
**Received:** from mxjnu00.legis.state.ak.us (mxjnu00.legis.state.ak.us [146.63.202.105])  
by siaaglaa.compuserve.com (8.12.11/8.12.7/SUN-2.17) with ESMTTP id j3SNAt6j002883  
for <110230.536@compuserve.com>; Thu, 28 Apr 2005 19:10:55 -0400 (EDT)  
**Received:** from [146.63.202.81] (helo=EXCHANGE00.akleg.org)  
by mxjnu00.legis.state.ak.us with esmtp (Exim 4.41)  
id 1DRIAI-0004rp-D5  
for 110230.536@compuserve.com; Thu, 28 Apr 2005 15:11:26 -0800  
**Content-class:** urn:content-classes:message  
**MIME-Version:** 1.0  
**Content-Type:** text/plain;  
charset="us-ascii"  
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**Subject:** RE: state law - anchorage ordinances  
**Date:** Thu, 28 Apr 2005 15:10:46 -0800  
**Message-ID:** <D2B5460B59633943B79230796EA9391D024596FD@EXCHANGE00.akleg.org>  
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**X-MS-TNEF-Correlator:**  
**Thread-Topic:** state law - anchorage ordinances  
**Thread-Index:** AcVMRH52YRnl6nYjScmvijae+6uInAAArxcg  
**From:** "Sue Wright" <Sue\_Wright@legis.state.ak.us>  
"Brian Judy" <110230.536@compuserve.com>  
**X-Virus-Scanned:** clamd / ClamAV version 0.75.1, clamav-milter version 0.75c  
on siaaglaa.compuserve.com  
**X-Virus-Status:** Clean

**Brian Hove**

---

**From:** Brian Judy [110230.536@compuserve.com]  
**To:** Thursday, April 28, 2005 4:36 PM  
Brian Hove; Joe Michel  
**Subject:** RE: state law - anchorage ordinances

FYI. 2 of 2

-----Forwarded Message-----

**From:** "Sue Wright", INTERNET:Sue\_Wright@legis.state.ak.us  
**To:** "Brian Judy", [110230,536]

**Date:** 4/28/2005 4:35 PM

**RE:** RE: state law - anchorage ordinances

Brian Mike does not have time to talk to the Senator. He is in two places at once. No I don't have the ammendments and don't expect to have them as is the norm in Senate Judiciary. Mike is concerned that the section you wrote is not acceptable to him as on the North Slope of Alaska has their own rules for their protection. If this ammendment is drafted to include that section we will ask the bill be held until it is removed.

Sue Wright

-----Original Message-----

**From:** Brian Judy [mailto:110230.536@compuserve.com]  
**Sent:** Thursday, April 28, 2005 3:20 PM  
**To:** Sue Wright  
**Subject:** RE: state law - anchorage ordinances

Are you referring to the amendments? Are they drafted yet? If so, please send me a copy. My fax is 916/448-7469. Has your boss talked to Senator Seekins?

----- Internet Header -----

**Sender:** Sue\_Wright@legis.state.ak.us  
**Received:** from mxjnu00.legis.state.ak.us (mxjnu00.legis.state.ak.us [146.63.202.105])  
by liaag2ac.mx.compuserve.com (8.12.11/8.12.7/SUN-2.18) with ESMTP id j3SNZce7027738  
for <110230.536@compuserve.com>; Thu, 28 Apr 2005 19:35:30 -0400  
**Received:** from [146.63.202.81] (helo=EXCHANGE00.akleg.org)  
by mxjnu00.legis.state.ak.us with esmtp (Exim 4.41)  
id 1DRIYK-0005Qr-FS  
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**X-MS-Has-Attach:**  
**X-MS-TNEF-Correlator:**  
**Thread-Topic:** state law - anchorage ordinances  
**Thread-Index:** AcVMSNaj+w5UgPpWQSeqnSFH4WZ7xgAATYLA  
**From:** "Sue Wright" <Sue\_Wright@legis.state.ak.us>  
"Brian Judy" <110230.536@compuserve.com>  
**X-Virus-Scanned:** clamd / ClamAV version 0.75.1, clamav-milter version 0.75c  
on liaag2ac.mx.compuserve.com

**Brian Hove**

---

**From:** Brian Judy [110230.536@compuserve.com]  
**S:** Thursday, April 28, 2005 4:43 PM  
**T:** Sue Wright  
**Subject:** RE: state law - anchorage ordinances

Sue,

I will pass this on to Senator Seekins. If he desires to move the bill without the vehicle language, NRA is ok with that. NRA views the preemption amendment as very important, however. Bottom line though, as you suggested and as I agreed, we will do as the Chair pleases.

Brian

**Brian love**

---

**From:** Brian Judy [110230.536@compuserve.com]  
**To:** Thursday, April 28, 2005 1:32 PM  
Brian Hove  
**Subject:** state law - anchorage ordinances

Per my phone message, following is a list of the Anchorage weapon ordinances with a comparison to state law. Please call to discuss (916/446-2455).

8.25.010 Possession of weapon with intent to assault  
State law has four degrees of assault found in AS 11.41.200, 210, 220 & 230. Third degree assault includes "recklessly places another person in fear of imminent serious physical injury by means of a dangerous instrument" and "with intent to place another person in fear of death or serious physical injury to the person or the person's family member makes repeated threats to cause death or serious physical injury to another person." I can't imagine "intent" could be proven if there hadn't been some threat and/or another person was not in fear of imminent harm.

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8.25.040 Drive-by shooting  
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8.25.090 Sale or furnishing of firearms to minors At least partially covered (11.61.210(a)(6)).



#15184

NATIONAL RIFLE ASSOCIATION OF AMERICA  
INSTITUTE FOR LEGISLATIVE ACTION

555 CAPITOL MALL SUITE 625  
SACRAMENTO, CALIFORNIA 95814  
(916) 446-2455  
(916) 448-7469 - FAX  
<http://nraila.org>

Fax Transmittal Cover Sheet

Message To:

BRIAN HOVE / SENATOR SEEKINS

Date:

4/27/05

Time:

10:50

AM PM  
(specify time)

Fax Number To:

907/465-5241

Office #:

Message From:

Brian Judy

Fax Number From:

(916) 448-7469

E-Mail:

110230.536@compuserve.com

# of pages

3

(including cover Sheet):

I TALKED WITH EDDIE GRASSER ABOUT THE STORAGE OF FIREARMS  
AT RESTRICTED ACCESS AREA SECURE POINTS. WE AGREED THAT IF THE  
STATE ISN'T GOING TO PROVIDE STORAGE FACILITIES ITS NOT POLITICALLY FAIR  
TO IMPOSE SUCH A MANDATE ON LOCALS SO I TOOK THAT OUT. WE WOULD  
LIKE TO TRY TO AMEND IN THE "VEHICLE IN PARKING LOTS" LANGUAGE.  
WE UNDERSTAND THAT MIGHT ADD MORE OPPOSITION BUT WE FEEL ITS  
FAIRLY IMPORTANT AND ARGUABLE. GIVE ME YOUR THOUGHTS... LANGUAGE  
FOR BOTH PROVISIONS IS ATTACHED. THANKS FOR YOUR HELP!

BRIAN

If a problem should occur with this fax,  
please call 916/ 446-2455

Repeal and reenact the existing preemption statute as follows:

**29.35.145**

(a) The individual right to keep and bear arms being a constitutionally protected right, the Legislature finds the need to provide uniform laws throughout the state. All authority to regulate firearms shall be reserved to the state and, except as specifically provided by the Legislature by statute, a municipality may not enact or enforce an ordinance regulating the possession, ownership, sale, transfer, use, carrying, transportation, licensing, taxation, or registration of firearms.

(b) Municipalities may enact and enforce ordinances:

(1) that are identical to state law and which have the same penalty as provided for by state law;

(2) restricting the discharge of firearms in any portion of their respective jurisdictions where there is a reasonable likelihood that people, domestic animals, or property will be jeopardized. Such laws and ordinances shall not abridge the right of the individual guaranteed by Article I, section 19 of the state Constitution to bear arms in defense of self or others;

(3) restricting the areas in their respective jurisdictions in which firearms may be sold, but a business selling firearms may not be treated more restrictively than other businesses located within the same zone; and

(4) prohibiting the possession of firearms in the restricted access area of municipal government buildings.

(c) As used in this section, the term "firearms" includes firearms, or any other element relating to firearms or parts thereof, including ammunition and reloading components.

(d) As used in (b) (4) of this section, "restricted access area" is the area beyond a secure point where visitors are screened and does not include common areas of ingress and egress open to the general public. The local legislative authority shall post a notice of the prohibition against possession of firearms at each entrance to the restricted access area.

(e) The prohibition on taxation in (a) does not include imposition of the regular sales tax that is added on to all products sold within a municipality.

(f) This section applies to home rule and general law municipalities.

Revised 4/27/05

**NEW SECTION. Possession of Firearms in Motor Vehicles**

(a) This chapter applies only to possession of a firearm by an individual who may legally possess a firearm.

(b) (1) Notwithstanding any other law and except as provided in (b) (2), a person, including a government entity, a corporation, a firm, a trust or partnership or an association, may not adopt or enforce a law, policy or rule that prohibits or has the effect of prohibiting an individual from possessing a firearm while that individual is within a motor vehicle or prohibiting an individual from storing a firearm that is locked in the individual's motor vehicle while the motor vehicle is otherwise legally parked in or on the person's property.

(2) Subsection (1) does not apply to an individual who possesses a firearm in violation of federal law.

(c) (1) An individual may bring a civil action to enforce the provisions of (b).

(2) If a person violates (b), the court, in an action brought under (c) (1), may:

(i) award court costs and attorney's fees, in addition to actual damages, to the prevailing individual; and

(ii) enjoin further violations of this chapter.

(d) This chapter does not limit a person's rights or remedies under any other state or federal law.

(e) A person is not liable for any injury or damage resulting from the storage of a firearm in the vehicle of another in accordance with this section.

*delete  
+ renumber*

4/25

# STATE OF ALASKA

**REPRESENTATIVE  
MIKE CHENAULT**

Official Business

Interim:  
145 Main St. Loop, Second Floor  
Kenai, Alaska 99611  
(907) 283-7223  
Fax: (907) 283-3075



**HOUSE OF REPRESENTATIVES**

Session:  
Capitol Building, Room 432  
Juneau, Alaska 99801-1182  
(907) 465-3779  
Toll Free: (800) 469-3779  
Fax: (907) 465-2833

## Sponsor Statement

### HB 184 "An act relating to firearms"

This bill was introduced to ensure that citizens be able to look to one law as the single final authority regarding firearm regulation. This bill will guarantee consistency in firearm law within the State of Alaska.

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB 184  
 (H) Publish Date: 3/22/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
 Title: Municipal Firearm Ordinance RDU: Comm Assist & Ec Dev (405)  
 Component: Community Advocacy

Sponsor: Chenault, Stoltze, Neuman, Dahlstrom  
 Requester: Harris Component No.: 2703  
House Community & Regional Affairs

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

Estimate of any current year (FY2005) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This legislation requires that municipalities may not enact or enforce an ordinance regulating the possession, sale, transfer, use, or transportation of firearms that is inconsistent with state law.

It would not create a fiscal impact on the operations of the department.

Prepared by: Michael Black, Director Phone 269-4578  
 Division: Community Advocacy Date/Time 3/21/05 2:23 PM  
 Approved by: Edgar Blatchford, Commissioner Date 3/21/2005  
 Agency: Commerce, Community and Economic Development

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: HB 184  
 (H) Publish Date: 3/22/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: LAW  
 Title "An Act relating to firearms." RDU CRIMINAL  
 Component Criminal Justice Litigation  
 Sponsor Representative Chenault  
 Requester House Community and Regional Affairs Component No. \_\_\_\_\_

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

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

Estimate of any current year (FY2005) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill amends AS 29.35.145 (Municipal Powers and Duties. Regulation of firearms.) by amending it prohibiting a municipality from enacting or enforcing ordinances regulating possession, sale, transfer, use, or transportation of firearms that are inconsistent with state law. The unamended language allows such ordinances if ratified by the voters.

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

Prepared by: Kathryn Daughhete, Director Phone 465-3673  
 Division Administrative Services Division Date/Time 3/18/05 4:24 PM  
 Approved by: K. Daughhete for Scott Nordstrand, Acting Attorney General Date 3/18/2005  
 Agency Department of Law

# LEGAL SERVICES

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

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

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

March 30, 2005

**SUBJECT:** Sectional Summary - HB 184 (Work Order No. 24-LS0632\A)

**TO:** Representative Mike Chenault

**FROM:** Gerald P. Luckhaupt *JPL*  
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, please note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

**Section 1 of the bill** provides that a "municipality may not enact or enforce an ordinance regulating the possession, sale, transfer, use, or transportation of firearms that is inconsistent with state law."

GPL:med  
05-218.med

**HB**

**1900**

# SENATE COMMITTEE REPORT

DATE: 4/25/06

FURTHER: Finance

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Judiciary Committee considered CS FOR HOUSE BILL NO. 190(FIN)

## HB 190 REQUIRED ID FOR PURCHASING ALCOHOL

"An Act relating to the purchase of alcoholic beverages and to access to licensed premises; relating to civil liability for certain persons accessing licensed premises; requiring driver's licenses and identification cards to be marked if a person is restricted from consuming alcoholic beverages as a result of a conviction or condition of probation or parole and relating to fees for the marked license; and requiring the surrender and cancellation of driver's licenses under certain circumstances."

and recommends:

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

<b>CS Senate Bill:</b>	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<b>SCS House Bill:</b>	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	x			
<i>Guthrie, G. Green</i>	x			
<i>[Signature]</i>			x	
<i>[Signature]</i>				
<b>CHAIR:</b> <i>Ralph Deekin</i>				✓

AMENDMENT

#2

OFFERED IN THE SENATE  
TO: CSHB 190(FIN)

~~with similar elements~~  
law or ordinance from another jurisdiction

- 1 Page 2, line 9:
- 2 Delete "or 28.35.032"
- 3 Insert ", 28.35.032, or a similar ~~municipal ordinance~~"
- 4
- 5 Page 2, line 10:
- 6 Delete "or 28.35.032"
- 7 Insert ", 28.35.032, or a similar municipal ordinance"
- 8
- 9 Page 4, lines 5 - 6:
- 10 Delete "or 28.35.032"
- 11 Insert "28.35.032, or a similar municipal ordinance"
- 12
- 13 Page 4, line 7, following "sections":
- 14 Insert "or a similar municipal ordinance"

Same

Same

Same

# LEGAL SERVICES

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

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

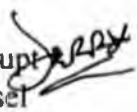
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

May 3, 2006

**SUBJECT:** Privilege to Purchase Alcohol (SCS CSHB 190(JUD),  
Work Order No. 24-LS0617AU)

**TO:** Senator Ralph Seekins  
Attn: Brian Hove

**FROM:** Gerald P. Luckhaupt   
Legislative Counsel

Enclosed is the SCS(JUD) you requested. I have one comment. I have serious doubts as to how the amendment adopted by the committee can be applied by the Department of Administration and alcoholic beverage licensees. The amendment is based upon a conclusion that it would be an equal protection violation to apply this law only to persons convicted of Alaska offenses whose right to consume alcohol is restricted under that conviction. This conclusion is, I believe, mistaken and no Alaska case supports this position. A person convicted of a crime in Alaska is not necessarily similarly situated to a person convicted of a crime by another state. Alaska does not have to treat offenders from other states the same as persons who committed their crimes in Alaska. In several contexts Alaska does treat Alaska offenders differently from offenders from other states and no court has found an equal protection violation from that differing treatment. See, e.g., AS 43.23.005; AS 11.56.750; AS 11.56.757; AS 44.41.035; AS 12.61.020.

Also, the bill requires the courts of other jurisdictions to somehow notify the Department of Administration of these convictions and requires these courts to notify the persons convicted that their Alaska driving privileges and identification cards are revoked, even if the person does not have an Alaska driver's license or identification card. I fail to see how the legislature can impose such a requirement. I further question how the Department of Administration can implement any such requirement when these courts of other jurisdictions are not bound by our statutes. If the courts of other states do not notify Alaska of every conviction for every crime that includes as part of the judgment and sentence that a person not consume alcohol, how will the Department of Administration implement this? Will the Department of Administration perform a search of the court records of every state and local government every time a person applies for a license or identification card in Alaska? If the Department of Administration does this and the Department of Administration finds that a person has been convicted of a crime in another state will the Department of Administration then examine the judgment and sentence of that offense to see if it contains a consumption of alcohol provision?

GPL:med  
06-360.med

Enclosure

# Alaska House of Representatives

Richard Foster  
P.O. Box 1630  
Nome, AK 99762  
907-443-5036  
Fax 907-2162



During Session  
State Capitol Rm. 410  
Juneau, AK 99801-1182  
907-465-3789  
Fax 907-465-3242

## Majority Whip

### SPONSOR STATEMENT FOR CS FOR HB 190 (FIN)

Alaska has some of the strictest drunken driving laws in the country, and still too many Alaskans are killed or injured by those who get behind the wheel after having too much to drink. House Bill 190 proposes a new approach to reducing the number of alcohol related deaths and accidents – prevent problem drinkers from getting their hands on alcohol.

House Bill 190 requires a physical display on state issued identification cards and driver's licenses if a person has been convicted of drunken driving or refusal to submit to a breathalyzer and subsequently is prohibited from consuming alcohol by a court or parole board. The identification card or license would be marked with "ROC," which stands for "Restriction On Consumption." This mark would alert those who sell alcohol that it is illegal for that individual to purchase or consume alcohol. While House Bill 190 provides a financial incentive for vendors to check the identification of their patrons, it remains completely voluntary on the part of the vendor to do so. If a vendor catches a person with a marked license or identification card attempting to purchase alcohol, the vendor can pursue a civil penalty of \$1000, similar to current provisions to prevent underage drinking.

This is a strong step toward preventing problem drinkers from purchasing alcohol and stopping some of the carnage they cause. I urge your support of HB 190.

# Alaska House of Representatives

Richard Foster  
P.O. Box 1630  
Nome, AK 99762  
907-443-5036  
Fax 907-2162



During Session  
State Capitol Rm. 410  
Juneau, AK 99801-1182  
907-465-3789  
Fa. 907-465-3242

## Majority Whip

### SECTIONAL ANALYSIS CS FOR HB 190 (FIN)

**Section 1:** Amends AS 04 by adding a new section that provides that a person who is not privileged to purchase alcohol may not enter or remain on a licensed premises for the purpose of obtaining or consuming alcohol; provides a civil remedy for licensees against persons who violate this section.

**Section 2:** Amends AS 04 by adding a new section that revokes the privilege to purchase alcohol a person convicted under AS 28.35.030 or 28.35.032 and has been restricted from consuming alcohol by court order or as a condition of probation or parole; requires the court or Department of Corrections to notify the individual that the person's identification card will be marked for the period of the person's parole or probation.

**Section 3:** Provides a conforming amendment to section 2.

**Section 4:** Amends AS 18.65.310 by adding a new subsections requiring the department to cancel the identification card of a person restricted from purchasing alcohol under section 2; requires identification cards to be marked in the same manner as driver's licenses; provides the ability for the department to charge a fee for issuing a marked identification card.

**Section 5:** Amends AS 28.15.111(a) by requiring driver's licenses to be designed to allow the license to display the letters "ROC" if the person's privilege to purchase alcohol has been restricted under section 2; defines "ROC" as an abbreviation for "restriction on consumption."

**Section 6:** Amends AS 25.15.161(a) by requiring the cancellation of a person's driver's license if their privilege to purchase alcohol has been restricted under section 2; requires a license be marked if the person obtains a new license.

**Section 7:** Amends AS 28.15.191 by adding new subsections requiring a court orders a person to refrain from consuming alcohol to require the surrender of the person's license and forward the license to the department; requires the court to provide notification to the restricted person that their new license will list the restriction imposed by section 2; requires the board of parole to notify the DMV when restricting a person from consumption of alcohol; requires the board to notify the individual that their license is subject to cancellation and a new license will list the restriction imposed by section 2.

**Section 8:** Amends AS 28.15.271 by adding a new subsection authorizing the department to set a fee for issuance of a marked license.

# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: CSHB 190(L&C)  
(H) Publish Date: 4/22/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
Title: "An Act relating to the purchase of RDU: Division of Motor Vehicles  
alcoholic beverages." Component: Motor Vehicles  
Sponsor: Rep. Crawford  
Requester: (H) Labor & Commerce Component No.: 2348

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>

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

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

Estimate of any current year (FY2005) cost: 0.0  
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
Under this bill the Division of Motor Vehicles (DMV) would be required to physically 'mark' a driver's license and state issued identification card if the holder's privilege to purchase alcohol has been restricted. The DMV today has no knowledge of a persons conditions of probation or parole.  
  
Until the number of customers and method of information transmission is ascertained in conjunction with the Alaska Court System, the DMV has no ability to measure the impact this will have on our planned operation. As a result we respectfully submit an indeterminate fiscal note.  
  
Once this criteria has been established, the DMV will provide a firm estimate of costs incurred and revenue generated as a result.

Prepared by: Duane Bannock, Director Phone 269 5008  
Division: Motor Vehicles Date/Time 4/7/05 3:46 PM  
Approved by: Michael Tibbies, Deputy Commissioner Date 4/7/2005  
Agency: Department of Administration

# FISCAL NOTE

STATE OF ALASKA  
2006 LEGISLATIVE SESSION

Fiscal Note Number: 2  
Bill Version: CSHB 190(JUD)  
(H) Publish Date: 2/13/06

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
Title: An act relating to the purchase of alcoholic beverages and to access to licensed premises... RDU: Legal and Advocacy Services  
Sponsor: Rep. Crawford Component: Office of Public Advocacy  
Requester: (H) Judiciary Component No.: 43

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

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This legislation would deny a person the privilege to purchase alcoholic beverages (AS 4.16.160) or enter premises (AS 4.16.047) that serve alcoholic beverages if the person has been ordered to refrain from consuming alcoholic beverages as part of a sentence for a crime under AS 28.35.030 or as a condition of probation or parole. This legislation would also provide a private right of civil action for a licensee against a person who enters a licensed premises in violation of the aforementioned. Finally, this legislation would require that driver's licenses be designed to allow the electronic reading and display of the person's identifying information and whether the person's privilege to purchase alcohol has been restricted under AS 4.16.160.

This legislation should have no fiscal impact on OPA.

Prepared by: Joshua P. Fink, Director  
Division: Office of Public Advocacy  
Approved by: Mike Tibbles, Deputy Commissioner  
Agency: Administration

Phone 907.269-3500  
Date/Time 2/8/06 at 7:50 p.m.  
Date 2/8/2006

# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number: 3  
 Bill Version: CSHB 190(JJD)  
 (H) Publish Date: 2/13/06

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title "An Act relating to the purchase of alcoholic beverages..." RDU Division of Motor Vehicles  
 Component Motor Vehicles  
 Sponsor Rep. Crawford  
 Requester (H) Jud Component No. 2348

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

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>

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

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

Estimate of any current year (FY2006) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill requires the Division of Motor Vehicles (DMV) to physically 'mark' a driver's license or a State issued Identification Card if the holder's privilege to purchase alcohol has been restricted. The DMV today has no direct knowledge of a persons conditions of probation or parole.

Until the number of customers and method of information transmission is ascertained in conjunction with the Alaska Court System, the DMV has no ability to measure the impact this will have on our planned operation. As a result we respectfully submit an 'indeterminate' fiscal note.

Once this information has been established, the DMV will provide a firm estimate of costs incurred and revenue generated as a result.

Prepared by: Duane Bannock, Director Phone 269 5008  
 Division Motor Vehicles Date/Time 2/9/06 9:00 AM  
 Approved by: Mike Tibbles, Deputy Commissioner Date 2/9/2006  
 Agency Department of Administration



**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](mailto:info@maddalaska.com)  
Visit our Web Site: [www.maddalaska.com](http://www.maddalaska.com)

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

DATE: March 22, 2005

TO: Labor and Commerce Commission  
Representative Tom Anderson, Chair  
Representative Pete Kott  
Representative Bob Lynn  
Representative Norm Rokeberg  
Representative David Guttenberg  
Representative Gabriel LeDoux

FROM: Marti Greeson, Executive Director  
MADD Anchorage Chapter

RE: HB 190

On behalf of the members, board of directors and staff of MADD in Anchorage, I am writing in support of HB 190.

The purchase of alcoholic beverages for persons over the age of 21 is a privilege, which can be and is revoked upon conviction for a DUI related offense. This revocation must be monitored and sales of alcohol refused to persons under order by the courts and/or as a consequence of probation or parole. Information provided on identification cards or driver's licenses will aid retailers and their agents in ensuring legal sales, and as a result reduce the recidivism rates for repeat offenders.

**Heather D. Beaty**

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**From:** Brenda Moore [bmoore@christianhealth.org]  
**Sent:** Tuesday, March 22, 2005 11:57 AM  
**To:** Rep. Tom Anderson; Rep. David Guttenberg; Rep\_Norm\_Rokeberg@legis.state.ak.us;  
Rep\_Gabriel\_LeDoux@legis.state.ak.us; Rep. Bob Lynn; Rep. Pete Kott  
**Cc:** Rep. Harry Crawford  
**Subject:** HB 190

To: Labor & Commerce Committee

From: Brenda Moore

Re: HB 190

Representative Harry Crawford has introduced HB 190 "An Act relating to the purchase of alcoholic beverages and to requiring identification to buy alcoholic beverages; requiring driver's licenses and identification cards to be marked if a person is restricted from consuming alcoholic beverages as a result of a conviction or condition of probation or parole."

This is written in favor of HB 190. A number of years ago the daughter of a close friend was struck while driving her children to an activity. She was killed and one of her children was injured.

The driver of the car that struck and killed my friend's daughter was driving with a revoked license, while under the influence of alcohol. He had several previous convictions of driving while under the influence, which resulted in his license being revoked.

I feel my friend's daughter might be alive today if the driver that killed her had been required to prove his privilege to drive and purchase alcohol.

I ask that you support the passage of HB 190 as a measure to preserve lives.

Sincerely,  
Brenda Moore  
907-522-7081

3/22/2005

**Josh Applebee**

---

**From:** Janies Barlow - Alexander [courtwatch@maddalaska.com]  
**Sent:** Tuesday, March 22, 2005 11:44 AM  
**To:** Rep. Tom Anderson; Rep. Pete Kott; Rep. Bob Lynn;  
Rep\_Gabriel\_LeDoux@legis.state.ak.us; Rep\_Norm\_Rokeberg@legis.state.ak.us; Rep.  
David Guttenberg  
**Subject:** HOUSE BILL 190

My Dear Representatives,

This Bill is to be heard this afternoon and I ask for your full support for this practical, sensible legislation.

This is legislation which responsible retailers support and thereby will be enforced. Let it be known, that in the great state of Alaska, the right to drive and a drivers license are privileges, which will be revoked for driving crimes.

Thank you.

Janies

Janies Barlow-Alexander  
Court Monitoring Coordinator  
(907)562-6890-T (907)562-6896-F  
4105 Turnagain Blvd, Ste A (99517)

"We cannot solve the problems that we have created with the same thinking that created them" AE

For more information about MADD, its free victim services or to donate, please visit [www.maddalaska.com](http://www.maddalaska.com) or call (907) 562-6890.

The number also connects victims to trained staff who can provide emotional support and guidance through the criminal justice system.

Department of Public Safety  
 Alaska State Troopers  
 Motor Vehicle Collision Cases  
 With Fatality or Injury  
 CY 2001 - CY 2005

Fatal Motor Vehicle Collisions			
Calendar Year	Alcohol and/or Drug Related	Total	Percent of Alcohol and/or Drug Related MVC
2001	18	46	39.1%
2002	18	43	41.9%
2003	18	50	36.0%
2004	19	54	35.2%
2005	13	44	29.5%

Injury Motor Vehicle Collisions			
Calendar Year	Alcohol and/or Drug Related	Total	Percent of Alcohol and/or Drug Related MVC
2001	144	939	15.3%
2002	148	973	15.2%
2003	126	977	12.9%
2004	121	911	13.3%
2005	106	932	11.4%

Based on Alaska State Trooper cases involving a Motor Vehicle Fatality or Injury recorded in APSIN as of April 26, 2006 for calendar years 2001 - 2005. A case was counted as Alcohol and/or Drug related based on the alcohol/drug flag.

**HB**

**201**

# SENATE COMMITTEE REPORT

DATE: 4/29/05

FURTHER:

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Judiciary Committee considered

HOUSE BILL NO. 201

## HB 201 PERM. FUND DIVIDEND APPS OF MILITARY

"An Act relating to an application for a permanent fund dividend for a member of the armed forces of the United States serving on active duty outside of the state; and providing for an effective date."

and recommends:

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

**CS Senate Bill:**

- Same Title
- New Title

**SCS House Bill:**

- Same Title
- Technical Title Change
- New Title w/ SCR # \_\_\_\_\_




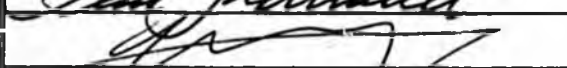

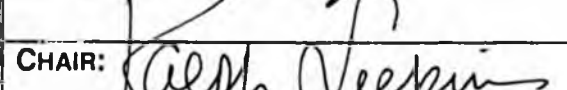
**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
			X	
			X	
	X			
	X			
				
<b>CHAIR:</b> 	X			

# STATE OF ALASKA

**REPRESENTATIVE  
MIKE CHENAULT**

Official Business

Interim:  
145 Main St. Loop, Second Floor  
Kenai, Alaska 99611  
(907) 283-7223  
Fax: (907) 283-3075



**HOUSE OF REPRESENTATIVES**

Session:  
Capitol Building, Room 432  
Juneau, Alaska 99801-1182  
(907) 465-3779  
Toll Free: (800) 469-3770  
Fax: (907) 465-2833

## Sponsor Statement

**HB 201 "An act relating to an application for a permanent fund dividend for a member of the armed services of the United States serving on active duty outside the state of Alaska"**

The purpose of this bill is to permit the person who has power of attorney for an individual who is serving on active duty with the United States armed services outside the state of Alaska to sign and file a permanent fund application for said individual.

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB 201  
 (H) Publish Date: 3/18/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Revenue  
 Title Perm Fund Dividend Apps of Military RDU Revenue Programs & Support  
 Component Permanent Fund Dividend  
 Sponsor Chenault  
 Requester \_\_\_\_\_ Component No. 981

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

HB 201 would allow a power of attorney to complete, sign and file an application for a military member stationed outside of the US.. A total of 6,205 applicants claimed a military absence from the state in 2004. The PFD does not track how many of these individuals were stationed outside the US. The bill would not result in any significant increased cost for processing PFD applications.

Prepared by: Sharon Barton Phone 907-465-4785  
 Division Permanent Fund Dividend Date/Time 3/16/05 1:21 PM  
 Approved by: \_\_\_\_\_ Date 3/16/2005  
 Agency \_\_\_\_\_

# LEGAL SERVICES

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

(907) 485-3867 or 485-2450  
FAX (907) 485-2029  
Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

March 9, 2005

**SUBJECT:** Permanent fund dividends for members of the armed forces;  
sectional summary (HB 201)

**TO:** Representative Mike Chenault,  
Co-chair, House Finance Committee  
Attn: Erich DeLand

**FROM:** Tamara Brandt Cook  
Director

TBC

**Sec. 1.** Permits another person to complete and file a permanent fund dividend application for a member of the United States armed forces who is serving outside of the country. The person must have a power of attorney from the member of the armed forces that authorizes the person to file the application.

**Sec. 2.** The effective date is January 1, 2006, the day before the beginning of the filing period for 2006 permanent fund dividend applications.

TBC:med  
05-166.med

## Erich Deland

---

**From:** Linda Zimmerman ([zimmerman@kpbsd.k12.ak.us])  
**Sent:** Tuesday, March 15, 2005 10:24 PM  
**To:** Erich Deland  
**Cc:** troy.zimmerman@us.army.mil  
**Subject:** HB 201 testimonial

Erich,

Unfortunately, I will be unable to attend the teleconference regarding HB 201 on Thursday, March 17. :( I have prepared a statement to be read & know that it would have a bigger impact if I was to speak. Being a teacher makes it difficult for me to be present at the time. Thank you for all you have done & all that Rep. Chenault has done with this situation. I pray that HB 201 gets passed quickly!

Linda

My name is Linda Zimmerman. I am a teacher on the Kenai Peninsula. My husband, Troy, is a History & Spanish teacher at the local high school in the town of Nikiski. We have 3 young children. My husband is also an Alaska Natl. Guardsman. My husband has been in the Natl. Guards for 21 years! Although he could have retired in February 2004 after receiving his 20 year letter, he decided to sign on for more years to serve his country.

On October 2004, our world was totally turned upside down. My husband was being deployed & would be overseas for 12 to 18 months serving his country with the Army. Never in a million years did I ever think this would happen to my family. There were a lot of emotions that we went through initially & still are going through. It has been a rollercoaster of emotions, disappointments & frustrations.

One of those frustrations was in January 2005 when I got a call from my husband & he informed me he would be heading "out" soon. I picked up my Permanent Dividen Fund application packet & asked him to help me fill out his so I could submit it with the General Power of Attorney I had. I was told that if I did it online it would be easy. The process was anything BUT easy! I was told via email that,

"Despite the fact that you may have a Power of Attorney for your husband, he is still physically able to sign his own application. He will have to sign before he will receive his 2005 dividend. When the application is processed, it will go through the intial review stage, and your husband will be mailed a letter requesting his signature. If you are in contact with your husband and he can sign the application and get it USPS postmarked back to us by March 31, 2005, you may want to do that. Or, you can mail in the application and we will process it and send your husband a signature page.

Please ensure you provide us with a copy of the Power of Attorney so we have it for our records and can discuss his application with you." (taken from the actual rejection email I received)

Now, I am a person who follows protocol & rules as a teacher, but I was so frustrated & confused by this rejection letter. My husband was going into a Combat Zone & the PFD office was more concerned over follow the proper protocol! I knew that I was not the only military spouse going through this, so that is when I decided to contact Representative Mike Chenault's office. I was told at a meeting the month before my husband left that having General Power of Attorney meant I could conduct official business on behalf of my husband's part. I even sent the PFD office a copy of the General Power of Attorney paperwork along with the 2 sets of orders for my husband. I sent 13 pages of documentation that proved that I in fact had General Power of Attorney for my husband. In the next 3 to 4 weeks. NEVER did the PFD office leave a message at my work phone number, home phone number or my cellular number. All of which they had. I found this very impersonal. All of my contact with them was via email. I tried calling the PFD office & I even left messages, but I never spoke to a human being.

Although my husband has email/computer access, I can count on 1 hand the number of times my husband has emailed me from Iraq. The soldiers have to sign up for their time on the

computers, & that time is only 20 or 30 minutes long. Internet connection can sometimes be tricky since they use jammers for security reasons, thus breaking phone connections. The power was out for 3 days recently in my husband's area, something unexpected for the soldiers, as is the situation in any war. The soldiers in Iraq & other places in the Middle East have an important job to do. Filing their PFD online is the LAST thing that they want to think about doing after a 12 hour shift of military duty. Also, you can imagine, the mailing system can be rather slow & unreliable when you are half way around the world.

I am very proud to say that my husband is serving his country, as are my children. I know that he has a long & difficult task before him, just as we do on the homefront. The PFD office has NO clue what they are talking about when they ask for my husband's signature, using the internet & sending things via email. My husband is a very busy soldier, doing what soldiers do in a combat situation. THIS takes priority over physically filling out a PFD form. THAT is what General Power of Attorney is for.

It is time that the PFD Dept. take a long hard look at their policies & seriously think about modifying some of the rules & policies, particularly when it comes to military spouses & their soldiers. As time goes by, more & more soldiers from Alaska are being deployed. Other spouses & soldiers will have to deal with the stress & headaches I have had to endure. The situation we military wives are in, is stressful enough! I beg you to please consider passing HB 201, not just for me, but for ALL Alaskan soldiers & their families. My husband is serving his country for goodness sake, doesn't that mean anything to anyone anymore?

Thank you for your time!

Linda L. Zimmerman  
4/5th Multiage Educator  
Student Council Coordinator  
Nikiski North Star Elementary

"The 6 Pillars of CHARACTER COUNTS! Trustworthiness, Respect, Responsibility, Fairness, Caring, & Citizenship. Have you hugged your PILLARS today?"

**HB**

**210**

## SENATE COMMITTEE REPORT

DATE: 4/27/05

FURTHER:

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Judiciary Committee considered CS FOR HOUSE BILL NO. 210(JUD)

### HB 210 BLOC BORN PATHOGEN TESTING

"An Act relating to blood testing of certain persons alleged to have committed certain offenses directed toward peace officers or emergency workers."

and recommends:

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

**CS Senate Bill:**  
 Same Title  
 New Title

**SCS House Bill:**  
 Same Title  
 Technical Title Change  
 New Title w/ SCR # \_\_\_\_\_

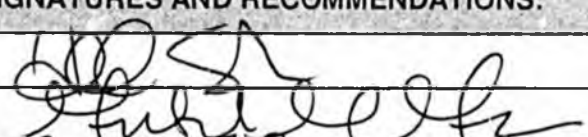
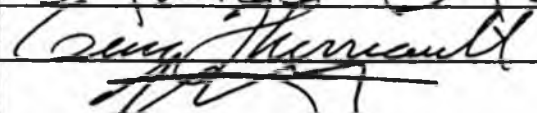
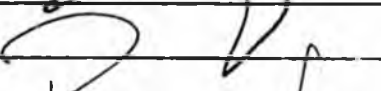
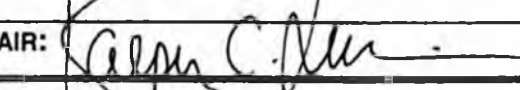
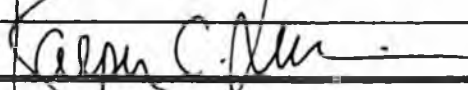
**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
	X			
	X			X
	X			
	✓			
CHAIR: 	✓			

24-LS0626F  
Luckhaupt  
4/29/05

SENATE CS FOR CS FOR HOUSE BILL NO. 210( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVES MCGUIRE, Dahlstrom, Gara, Olson, Gatto, Hawker, Stoltze, Chenault,  
Anderson

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to blood testing of certain persons alleged to have committed certain  
2 offenses directed toward peace officers or emergency workers."

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

4 \* Section 1. AS 18.15.400 is amended to read:

5           Sec. 18.15.400. Bloodborne pathogen testing of prisoners, certain adult or  
6 juvenile offenders, and public safety [CORRECTIONAL] officers; required  
7 disclosures [TO] and consent [OF PRISONERS AND CORRECTIONAL  
8 OFFICERS]. (a) When requested by a public safety [CORRECTIONAL] officer  
9 who may have received a significant exposure from an adult or juvenile offender or  
10 a prisoner, the employing agency [DEPARTMENT] shall follow the testing  
11 procedures of AS 18.15.400 - 18.15.450 if

12                   (1) a physician licensed under AS 08 determines that a significant  
13 exposure to the public safety [CORRECTIONAL] officer has occurred;

14                   (2) the physician for the public safety [CORRECTIONAL] officer

1 needs the adult or juvenile offender's or prisoner's bloodborne pathogens test results  
2 to begin, continue, modify, or discontinue treatment in accordance with the most  
3 current guidelines of the United States Public Health Service, because of possible  
4 exposure to a bloodborne pathogen; and

5 (3) the public safety [CORRECTIONAL] officer consents to  
6 providing a blood sample for testing for a bloodborne pathogen.

7 (b) Before employing the testing procedures of AS 18.15.400 - 18.15.450 or  
8 disclosing any information about the adult or juvenile offender or prisoner or public  
9 safety [CORRECTIONAL] officer, the employing agency [DEPARTMENT] shall  
10 inform the

11 (1) adult or juvenile offender or prisoner that

12 (A) the adult or juvenile offender's or prisoner's bloodborne  
13 pathogens test results, without the adult or juvenile offender's or prisoner's  
14 name or other uniquely identifying information, shall be reported to the public  
15 safety [CORRECTIONAL] officer if requested and that test results collected  
16 are for medical purposes and may not be used as evidence in any criminal  
17 proceedings or civil proceedings;

18 (B) the adult or juvenile offender or prisoner may refuse to  
19 provide a blood sample and that the adult or juvenile offender's or prisoner's  
20 refusal may result in a request for a court order to require the adult or juvenile  
21 offender or prisoner to provide a blood sample; and

22 (C) the employing agency [DEPARTMENT] will advise the  
23 public safety [CORRECTIONAL] officer of the confidentiality requirements  
24 and penalties before the officer's health care provider discloses any test results;

25 (2) public safety [CORRECTIONAL] officer of the confidentiality  
26 requirements of AS 18.15.440 and that the public safety [CORRECTIONAL] officer  
27 may be subject to penalties for unauthorized release of test results about the adult or  
28 juvenile offender or prisoner.

29 (c) If the disclosures have been made, the employing agency  
30 [DEPARTMENT] shall ask the adult or juvenile offender or prisoner if the adult or  
31 juvenile offender or prisoner has ever had a positive test for a bloodborne pathogen.

1 The employing agency [DEPARTMENT] shall disclose the adult or juvenile  
2 offender's or prisoner's existing bloodborne pathogens test results to the public safety  
3 [CORRECTIONAL] officer without the adult or juvenile offender's or prisoner's  
4 name or other uniquely identifying information.

5 \* Sec. 2. AS 18.15.410 is amended to read:

6 **Sec. 18.15.410. Consent for testing; court order for testing; exception. (a)**

7 When a public safety [CORRECTIONAL] officer has made a request under  
8 AS 18.15.400, except as provided in (b) or (c) of this section or in AS 18.15.420,  
9 before collecting and testing the blood of an adult or juvenile offender or a prisoner,  
10 the employing agency shall [DEPARTMENT MUST] first obtain the consent of the  
11 adult or juvenile offender or prisoner or the adult or juvenile offender's or  
12 prisoner's representative if the adult or juvenile offender or prisoner is unable to  
13 provide the consent.

14 (b) Consent of an adult or juvenile offender's or a prisoner's representative  
15 is not required if the employing agency [DEPARTMENT] has made reasonable  
16 efforts to locate the adult or juvenile offender's or prisoner's representative and the  
17 representative cannot be found within 24 hours after a significant exposure. If testing  
18 of available blood occurs without consent because the adult or juvenile offender or  
19 prisoner is unconscious or unable to provide consent, and a representative cannot be  
20 located, the employing agency [DEPARTMENT] shall provide the information  
21 required in AS 18.15.400 to the adult or juvenile offender, prisoner, or representative  
22 whenever it is possible to do so.

23 (c) If an adult or juvenile offender or a prisoner dies before an opportunity  
24 to consent to blood collection or testing, consent is not required, and the adult or  
25 juvenile offender's or prisoner's blood may be collected and tested.

26 (d) If the adult or juvenile offender or prisoner or the adult or juvenile  
27 offender's or prisoner's representative, if appropriate, consents and a sample of the  
28 adult or juvenile offender's or prisoner's blood

29 (1) is available, the employing agency [DEPARTMENT] shall have  
30 the blood tested for bloodborne pathogens;

31 (2) is not available, the employing agency [DEPARTMENT] shall

1 collect a sample and have the blood sample tested for bloodborne pathogens.

2 (e) The employing agency [DEPARTMENT] may not withhold care or  
3 treatment on the requirement that the adult or juvenile offender or prisoner consent  
4 to testing for bloodborne pathogens.

5 \* Sec. 3. AS 18.15.420 is amended to read:

6 **Sec. 18.15.420. Testing without consent.** (a) When a public safety  
7 [CORRECTIONAL] officer has made a request under AS 18.15.400, the employing  
8 agency [DEPARTMENT] shall file a petition in the superior court for a court order  
9 requiring the adult or juvenile offender or prisoner to provide a blood sample for  
10 testing for bloodborne pathogens. The employing agency [DEPARTMENT] shall  
11 serve the petition on the adult or juvenile offender or prisoner at least 48 hours  
12 before a hearing on the petition. The petition must include the following information  
13 supported by affidavit:

14 (1) a statement that the employing agency [DEPARTMENT] followed  
15 the procedures in AS 18.15.400 - 18.15.450 and attempted to obtain bloodborne  
16 pathogens test results according to those sections;

17 (2) a statement that

18 (A) the public safety [CORRECTIONAL] officer and  
19 employing agency [DEPARTMENT] have documented the officer's exposure  
20 to blood or body fluids during performance of the officer's work duties;

21 (B) the employing agency [DEPARTMENT] has asked the  
22 adult or juvenile offender or prisoner to consent under AS 18.15.410, and the  
23 adult or juvenile offender or prisoner does not consent;

24 (C) the employing agency [DEPARTMENT] has provided the  
25 public safety [CORRECTIONAL] officer and the adult or juvenile offender  
26 or prisoner with the disclosures required under AS 18.15.400; and

27 (D) the employing agency [DEPARTMENT] has informed the  
28 public safety [CORRECTIONAL] officer of the confidentiality requirements  
29 of AS 18.15.440 and the penalties for unauthorized release of adult or  
30 juvenile offender or prisoner information;

31 (3) a statement that a physician licensed under AS 08 and

1 knowledgeable about the most current recommendations of the United States Public  
2 Health Service has determined that a significant exposure has occurred to the public  
3 safety [CORRECTIONAL] officer; and

4 (4) a statement that a physician has documented that the public safety  
5 [CORRECTIONAL] officer has provided a blood sample and consented to testing for  
6 bloodborne pathogens, and bloodborne pathogens test results are needed for  
7 beginning, continuing, modifying, or discontinuing medical treatment for the public  
8 safety [CORRECTIONAL] officer.

9 (b) A court shall order an adult or juvenile offender or a prisoner to provide  
10 a blood sample for bloodborne pathogen testing if the court finds that

11 (1) there is probable cause to believe that a significant exposure to the  
12 public safety [CORRECTIONAL] officer from the adult or juvenile offender or  
13 prisoner has occurred;

14 (2) a licensed physician for the public safety [CORRECTIONAL]  
15 officer needs the test results for beginning, continuing, modifying, or discontinuing  
16 medical treatment for the public safety [CORRECTIONAL] officer; or

17 (3) a compelling need for the testing and test results exists; in making  
18 this finding, the court shall consider the need for the test against the privacy or other  
19 interests of the adult or juvenile offender or prisoner.

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

23 (d) After testing is completed under this section, the employing agency  
24 [DEPARTMENT] shall inform the adult or juvenile offender or prisoner whose  
25 blood was tested of the results. The employing agency [DEPARTMENT] shall  
26 inform the public safety [CORRECTIONAL] officer's physician of the adult or  
27 juvenile offender's or prisoner's test results without the adult or juvenile offender's  
28 or prisoner's name or other uniquely identifying information.

29 \* Sec. 4. AS 18.15.440 is amended to read:

30 Sec. 18.15.440. Confidentiality; penalties for unauthorized disclosure;  
31 immunity. (a) Bloodborne pathogens test results of an adult or juvenile offender or

1 a prisoner are confidential and may not be disclosed except as provided in  
 2 AS 18.15.400 - 18.15.450 and as needed for the treatment or medical care of a an  
 3 adult or juvenile offender or prisoner specific to a bloodborne pathogen-related  
 4 illness.

5 (b) An adult or juvenile offender or a prisoner may bring a civil action  
 6 against a person who knowingly, in violation of AS 18.15.400 - 18.15.450, releases  
 7 the adult or juvenile offender's or prisoner's name or other uniquely identifying  
 8 information with the test results or otherwise releases the test results.

9 (c) The employing agency [DEPARTMENT], a physician, and designated  
 10 health care personnel are immune from liability in any civil, administrative, or  
 11 criminal action relating to the disclosure of test results of an adult or juvenile  
 12 offender or a prisoner to a public safety [CORRECTIONAL] officer and the testing  
 13 of a blood sample from an adult or juvenile offender or a prisoner for bloodborne  
 14 pathogens if a good faith effort has been made to comply with AS 18.15.400 -  
 15 18.15.450.

16 \* Sec. 5. AS 18.15 is amended by adding a new section to read:

17 Sec. 18.15.445. Assistance by departments and municipalities. The  
 18 department, the Department of Public Safety, the Department of Corrections, and each  
 19 municipality shall assist public safety officers and employing agencies in complying  
 20 with the requirements of AS 18.15.400 - 18.15.450.

21 \* Sec. 6. AS 18.15.450 is amended by adding new paragraphs to read:

22 (6) "adult or juvenile offender" means a person *in custody, arrested* charged under a *#1*  
 23 criminal complaint or a minor being held or subject to a petition under AS 47.12;

24 (7) "employing agency" means the

25 (A) department that employs a state employee who is, or  
 26 contracts with another person who is or employs, a public safety officer;

27 (B) municipality that employs a municipal employee who is, or  
 28 contracts with another person who is or employs, a public safety officer or that  
 29 contracts with, sponsors, or accepts the services of a public safety officer who  
 30 volunteers for a volunteer fire department or emergency medical services  
 31 agency;

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(C) Department of Public Safety for a public safety officer who volunteers for a volunteer fire department or emergency medical services agency that provides services in the unorganized borough outside of a municipality;

(8) "public safety officer" means a state or municipal juvenile or adult correctional, probation, or parole officer, a contractor or employee of a contractor in a correctional facility, a juvenile detention or treatment facility staff member, or a peace officer or fire fighter, emergency medical technician, or mobile intensive care paramedic employed by or volunteering for the state or a municipality or volunteer fire department or emergency medical services provider.

\* Sec. 7. AS 18.15.450(2) and 18.15.450(3) are repealed.

# ALASKA STATE LEGISLATURE



Session  
State Capitol Building, Room 118  
Juneau, Alaska 99801-1182  
Phone (907) 485-2995  
Fax (907) 485-8592

Interim  
716 West Fourth Avenue, Suite 430  
Anchorage, Alaska 99501  
Phone (907) 269-0250  
Fax (907) 269-0249

**REPRESENTATIVE LESIL MCGUIRE**  
**HOUSE DISTRICT 28**

Chair  
Judiciary Committee

Member  
House Leadership  
Rules Committee  
Health, Education  
& Social Services  
Committee  
Oil & Gas Committee  
Military & Veterans'  
Affairs Committee

## SPONSOR STATEMENT HB 210

*"An Act relating to blood testing of certain persons alleged to have committed certain offenses directed toward peace officers or emergency workers."*

HB 210 takes policies and procedures for testing for blood borne pathogen exposure to correctional officers that were passed by the 23<sup>rd</sup> Alaskan Legislature and expands them to include peace officers, firefighters, emergency medical technicians and mobile paramedics.

The bill first sets out procedures for determining if the first responders were exposed to blood borne pathogens in the course of their work. Once it is reasonably concluded that such exposure has occurred, the bill then sets out procedures for obtaining the consent of the person who exposed the first responder to have his or her blood tested. These procedures protect the identity of the person tested and pass on only the results of the test to the first responder exposed to the blood borne pathogens. The results of the test are also passed on to the person tested.

The bill also provides procedures for court ordered testing of the person who exposed the first responder to blood borne pathogens if that person refuses to be tested. The bill does not enact any new policies or procedures for blood borne pathogen testing, it simply extends the policies and procedures enacted by the 23<sup>rd</sup> Alaskan Legislature for correctional officers to the other first responders mentioned above.

# ALASKA STATE LEGISLATURE

Session  
State Capitol Building, Room 118  
Juneau, Alaska 99801-1182  
Phone (907) 465-2895  
Fax (907) 465-8592

Interim  
716 West Fourth Avenue, Suite 430  
Anchorage, Alaska 99501  
Phone (907) 269-0250  
Fax (907) 269-0246



REPRESENTATIVE LESLIE MCGUIRE  
HOUSE DISTRICT 28

Chair  
Judiciary Committee

Member  
House Leadership  
Rules Committee  
Health, Education  
& Social Services  
Committee  
Oil & Gas Committee  
Military & Veterans'  
Affairs Committee

## SECTIONAL ANALYSIS HB 210

*"An Act relating to blood testing of certain persons alleged to have committed certain offenses directed toward peace officers or emergency workers."*

Section 1 – Amends AS 18.15.400 by adding the term adult or juvenile offenders. By replacing *correctional* with public safety officers and replacing *department* with employing agency. This section authorizes bloodborne pathogen testing of prisoners when requested by public safety officer who has received significant exposure from a prisoner.

Section 2 – Amends AS 18.15.410 by adding the term adult or juvenile offenders. By replacing *correctional* with public safety officers and replacing *department* with employing agency. This section specifies the requirement of consent for testing; from the prisoner or the prisoner's representative.

Section 3 – Amends AS 18.15.420 by adding the term adult or juvenile offenders. By replacing *correctional* with public safety officers and replacing *department* with employing agency. This section provides provisions for testing without consent. There must be probable cause that a significant exposure has occurred, a licensed physician has to determine that test results are necessary, or a compelling need for testing exists. The court shall consider the need for the test against privacy or other interests of the prisoner.

Section 4 – Amends AS 18.15.440 by adding the term adult or juvenile offenders. By replacing *correctional* with public safety officers and replacing *department* with employing agency. This section states that confidentiality provisions apply and results can be disclosed only as needed for treatment.

Section 5 – Amends AS 18.15 by adding a new section AS 18.15.445 Assistance by departments and municipalities. Specifically stating that the department, the department of public safety, the department of corrections, and each municipality shall assist public safety officers and employing agencies in complying with the requirements of AS 18.15.400-18.15.450.

Section 6 – Amends AS 18.15.450 by adding new paragraphs. (Definitions)

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB210-LAW-CDCO-3-29  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: LAW  
 Title "An Act relating to blood testing of certain RDU CRIMINAL  
persons alleged to have committed certain offenses..." Component Criminal Justice Litigation  
 Sponsor Representative McGuire  
 Requester House Judiciary Component No. \_\_\_\_\_

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill amends AS 18.15.400 (Health, Safety, and Housing - Disease Control - Blood Testing of Prisoners for Bloodborne Pathogens) by broadening it to include all peace officers and emergency workers who may have exposure to offenders with blood borne pathogens. The current statute protects correctional officers from exposure to prisoners. This bill would also extend beyond prisoners, to any adult or juvenile offender whether incarcerated or not. The bill seeks to acknowledge that the risk of exposure to blood born pathogens is significant for all peace officers and the ability to test blood to identify where and when medical treatment might be needed is an important protection measure.

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

Prepared by: Kathryn Daughhete, Director Phone 465-3673  
 Division Administrative Services Division Date/Time 3/29/05 4:18 PM  
 Approved by: K. Daughhete for Scott Nordstrand, Acting Attorney General Date 3/29/2005  
 Agency Department of Law

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: HB 210  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Corrections  
Title "An act relating to blood testing of certain persons RDU Administration & Operations  
alleged to have committed certain offenses directed ...." Component: Inmate Health Care  
Sponsor Representative McGuire  
Requester Judiciary, Finance Component No. 705

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

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

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

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: 0.0

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

**POSITIONS**

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

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

This legislation expands Ch 142, SLA 04, HCS CSSB 309 (JUD) to include other "public safety officers from other public safety agencies and exposure from juvenile offenders".

The Department of Corrections does not anticipate a significant fiscal impact with the passage of this legislation.

Prepared by: Sharleen Griffin, Acting Director  
Division: Administrative Services  
Approved by: Portia C. K. Parker, Deputy Commissioner  
Agency: Department of Corrections

Phone (907) 465-4647  
Date/Time 3/28/05 9:39 AM  
Date 3/28/2005

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 210  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: \_\_\_\_\_  
 Title Bloodborne Pathogen Testing BRU Alaska Court System  
 Component Trial Courts  
 Sponsor McGuire  
 Requester \_\_\_\_\_ Component No. 768

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

Estimate of any current year (FY2005) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

The court system does not anticipate any fiscal impact from the passage of HB 210.

Prepared by: Douglas Wooliver, Administrative Attorney Phone 463-4750  
 Division: Alaska Court System Date/Time 3/24/05 9:12 AM  
 Approved by: Doug Wooliver for Stephanie Cole, Administrative Director Date 3/24/2005  
 Agency: Alaska Court System

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB210-DPS-ASTD-3-30-05  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: "An Act relating to blood testing of certain persons  
alleged to have committed certain offenses..." RDU: Alaska State Troopers  
 Component: AST Detachments  
 Sponsor: Rep. McGuire  
 Requester: House Judiciary Component No. 2325

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment:						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

Estimate of any current year (FY2006) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill amends AS 18.15.400 -18.15.450. Peace officers, fire fighters, emergency medical technicians, mobile intensive care paramedics employed or volunteering for the state or municipality, a volunteer department or emergency medical service provider will be able to request bloodborne pathogen testing when they have been exposed to blood or body fluids during the performance of their duties. The bill will now allow bloodborne testing of certain adult or juvenile offenders in addition to prisoners. The "employing agency" is responsible for insuring the testing procedures are followed correctly. Passage of this bill will have no immediate fiscal impact on the Department of Public Safety, and simply outlines the proper course of action when personnel are exposed to blood or body fluids. DPS has a policy for reporting this kind of exposure.

Prepared by: Lieutenant Todd Sharp Phone 907-465-3223  
 Division: Alaska State Troopers Date/Time 3/30/05 12:01 PM  
 Approved by: Commissioner William Tandeske Date 3/30/2005  
 Agency: Department of Public Safety

**HB**

**219**

# SENATE COMMITTEE REPORT

DATE: 4/15/05

FURTHER:

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Judiciary Committee considered CS FOR HOUSE BILL NO. 219(FIN)

## HB 219 STRANGULATION CRIMES

"An Act relating to the definition of 'dangerous instrument' as applied within the criminal code."

and recommends:

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

**CS Senate Bill:**  
 Same Title  
 New Title

**SCS House Bill:**  
 Same Title  
 Technical Title Change  
 New Title w/ SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
	X			
	X			
			X	
	X			
<b>CHAIR:</b>	✓			

# Representative Mike Hawker

## Alaska State Legislature



### Session:

State Capitol  
Juneau, AK 99801  
907 465-4949 direct  
800 478-4950 toll free  
907 465-4979 fax

### Interim:

716 W 4<sup>th</sup> Avenue  
Anchorage, AK 99501  
907 269-0244 office  
907 269-0248 fax

### Member:

House Finance Committee  
Legislative Budget  
& Audit Committee

### House District 32:

Eagle River  
Anchorage  
Rainbow  
Indian  
Bird  
Girdwood  
Portage  
Whittier  
Sunrise  
Hope

## House Bill 219

### Sponsor Statement

#### **"An Act relating to crimes and dangerous instruments."**

House Bill 219 specifically permits felony prosecution for an assault involving strangulation or suffocation. Strangulation is one of the top five risk factors for domestic violence homicide and is the cause of ten percent of homicide deaths in the United States. Yet, many cases have not been prosecuted as felonies due to physical evidence requirements that may not be relevant in strangulation assaults.

Strangulation can cause life-threatening injuries without obvious external marks that can be photographed and presented to a jury as evidence of "serious physical injury," which is required by current statute for felony assault. Forensic science proves that even in some fatal cases of strangulation there is no external evidence of injury. The cause of death was determined during autopsy, when the chance to photograph and collect untainted evidence had passed.

Without visible injuries, many cases are tried as misdemeanors even though the victim was minutes from death. Unconsciousness can occur within ten seconds, followed closely by irreversible brain damage and death within five minutes. Lack of oxygen can also cause internal injuries, including brain damage, which can lead to death hours, days or even weeks after the crime.

When strangulation occurs in a domestic relationship, it is indicative of a high level of violence within the relationship. In recent years, strangulation has been identified as one of the most lethal forms of domestic violence – a domestic violence victim who has been strangled is nine times more likely to be killed than one who has not.

This bill recognizes strangulation as a serious life threatening assault warranting felony prosecution. I urge your support.

Staff Contact: Juli Lucky 465-4949

Revised 3/17/2005

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB 219  
 (H) Publish Date: 3/23/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: \_\_\_\_\_  
 Title: Strangulation Crimes BRU: Alaska Court System  
 Sponsor: Representative Hawker Component: Trial Courts  
 Requester: \_\_\_\_\_ Component No.: 768

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

Estimate of any current year (FY2005) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

The court system does not anticipate any fiscal impact from the passage of HB 219.

Prepared by: Douglas Wooliver, Administrative Attorney Phone 463-4750  
 Division: Alaska Court System Date/Time 3/17/05 3:12 PM  
 Approved by: Doug Wooliver for Stephanie Cole, Administrative Director Date 3/17/2005  
 Agency: Alaska Court System

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: HB 219  
 (H) Publish Date: 3/23/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: LAW  
 Title "An Act relating to crimes and dangerous instruments." RDU CRIMINAL  
 Component Criminal Justice Litigation  
 Sponsor Representative Hawker  
 Requester House Judiciary Component No. \_\_\_\_\_

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

Estimate of any current year (FY2005) cost: \_\_\_\_\_  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*  
 This bill amends Title 11 Criminal Law AS 11.81.900 (General Provisions - Definitions) by adding a new subsection under (b)(15) defining hands or other objects used in strangulation as "dangerous instruments".  
 Passage of this legislation will have fiscal impact on the Department of Law.

Prepared by: Kathryn Daughhete, Director Phone 465-3673  
 Division Administrative Services Division Date/Time 3/22/05 2:45 PM  
 Approved by: K. Daughhete for Scott Nordstrand, Acting Attorney General Date 3/22/2005  
 Agency Department of Law

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 3  
 Bill Version: HB 219  
 (H) Publish Date: 3/23/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Public Safety  
 Title "An Act relating to crimes and dangerous instruments." RDU Alaska State Troopers  
 Component AST Detachments  
 Sponsor Rep. Hawker  
 Requester House Judiciary Component No. 2325

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill amends AS 11.81.900(b)(15) which is the criminal definition for "dangerous instrument." It adds "hands or other objects when used to impede normal breathing or circulation of blood by applying pressure on the throat or neck or obstructing the nose or mouth" to the definition.

This additional language adds clarity and will aid us when we have assault cases that involve strangulation and/or choking of victims.

Passage of this bill will have no fiscal impact on the Department of Public Safety.

Prepared by: Lieutenant Todd Sharp Phone 907-465-3223  
 Division Alaska State Troopers Date/Time 3/18/05 4:14 PM  
 Approved by: Commissioner William Tandeske Date 3/18/2005  
 Agency Department of Public Safety

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 4  
 Bill Version: HB 219  
 (H) Publish Date: 3/23/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title: An Act relating to crimes and RDU: Legal and Advocacy Services  
dangerous instruments. Component: Public Defender Agency  
 Sponsor: Rep. Hawker  
 Requester: House Judiciary Component No.: 1631

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	*	*	*	*	*	*
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	*	*	*	*	*	*

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

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

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill broadens the definition of "dangerous instrument" in the criminal code to include hands or other objects when used for strangulation or suffocation. Using or threatening the use of a "dangerous instrument" in the commission of an offense generally raises the level of the offense to a felony, or aggravates the offense. Including hands within the definition of "dangerous instruments" will increase the level of offenses currently charged where hands are used or threatened to be used in such a manner. The number of these impacted offenses cannot be determined with any certainty. This bill, if enacted, will have a fiscal impact on the operations of the Agency, but it is not possible to predict with any certainty what that impact will be. Therefore an indeterminate fiscal note is submitted.

Prepared by: Linda K. Wilson, Deputy Director Phone: (907)334-4416  
 Division: Public Defender Agency Date/Time: 3/21/05 8:42 AM  
 Approved by: Michael Tibbles, Deputy Commissioner Date: 3/21/2005  
 Agency: Department of Administration

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 5  
 Bill Version: CSHB 219(FIN)  
 (H) Publish Date: 4/12/2005

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title "An Act relating to crimes and dangerous instruments." RDU Legal and Advocacy Services  
 Component Public Defender Agency  
 Sponsor Rep. Hawker  
 Requester \_\_\_\_\_ Component No. 1631

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
 This bill amends Criminal Law AS 11.81.900 by amending the definition for "dangerous instruments".

Prepared by: House Finance Committee Phone 465-4945  
 Division \_\_\_\_\_ Date/Time 4/12/05 12:55 PM  
 Approved by: Representative Meyer Date 4/12/2005  
Representative Chenault

Tara Henry is a Forensic Nurse practicing in Alaska for the past 9 years. She performs medical-forensic examinations on victims of domestic violence, sexual assault and child abuse. She also testifies throughout the state of Alaska as an expert in forensic nursing, sexual assault and strangulation. This is her testimony regarding House Bill 219.

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Strangulation is a very serious, sometimes fatal physical force that is commonly used as a method to control victims of domestic violence and sexual assault. When a person is being strangled, they can become unconscious within seconds and die within minutes if they are unable to get free of the strangulation hold. Even if they are able to get free of the strangulation hold, they are still at risk for dying hours to days later from the internal trauma that has occurred in the neck.

When pressure is applied to the neck in a strangulation incident, oxygen exchange is prevented from occurring in the brain either by blocking the blood vessels and/or the airway. When someone is using their hands, forearms, ligature or other objects to strangle another person, they are literally controlling whether the person lives or dies.

A person can become unconscious so quickly when they are without oxygen, that oftentimes there are no visible injuries on the external surface of the neck. In addition police may be responding to a strangulation assault soon after the incident occurred and the bleeding that takes place in the tissue of the neck is not visible on the skin surface until after the police have left the scene. There are many symptoms a person can have when they are strangled such as difficulty breathing, hoarse voice, dizziness and unconsciousness.

Although strangulation cases can currently be prosecuted as felonies, it is often difficult to do so without the visible physical injuries on the neck. Medical experts in strangulation are required to explain to the jury symptoms of strangulation and how a person could have easily been killed by being strangled, yet not have any visible marks. This difficulty often results in strangulation cases being prosecuted as misdemeanors instead of the very serious physical force that is.

Strangulation has been recognized as one of the top five lethality risk factors for a domestic violence homicide. Alaska leads the nation in domestic violence homicide rates. Prosecuting all strangulation cases as felonies will help prevent some of the domestic violence homicides in our state. I urge you to pass house bill 219 so strangulation cases can be more effectively prosecuted as the life threatening assaults that they truly are.

Thank you very much.



**STATE OF ALASKA  
OFFICE OF VICTIMS' RIGHTS**

Representative Hawker  
State Capitol, Room 502  
Juneau, AK 99801-1182

April 11, 2005

RE: HB 219- An Act Relating To Crimes And Dangerous Instruments

Dear Representative Hawker:

As the acting director of the Alaska Office of Victims' Rights, I write in support of HB 219, which you introduced on March 15, 2005.

As a former domestic violence prosecutor and current victims' advocate, this is a bill I feel quite strongly about, and one where I have experiential knowledge to offer. Strangulation is under charged and under prosecuted in terms of severity of criminal action, particularly in the domestic violence context because the injuries are generally not readily discernable. Lack of physical evidence has caused the criminal justice system to treat many choking cases as minor incidents, much like a slap on the face where only slight redness may appear. Strangulation is also one of the most deadly methods of controlling a victim. Only eleven pounds of pressure placed on both carotid arteries for ten seconds is necessary to cause unconsciousness.<sup>1</sup> Brain death will occur in four to five minutes if strangulation persists.<sup>2</sup>

In my experience with domestic violence cases, strangulation injuries are very difficult to see upon initial officer contact with a victim because very often the telltale signs such as difficulty swallowing and symptomatic voice changes only develop a day or two after the event. Due to the lack of "serious physical injury" often these cases are not charged as serious assaults. Many strangulation

<sup>1</sup> *Correlation of Circumstances with Pathological Findings in Asphyxial Deaths by Hanging: A Prospective Study of 61 Cases from Seattle, WA*, Journal of Forensic Sciences, JFSCA, 30:4, Oct. 1985, 1140-47.

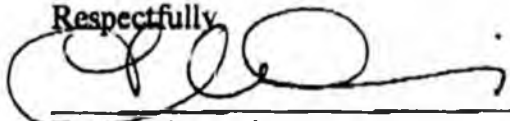
<sup>2</sup> *Id.*

victims report pain in the throat or hoarseness; others report nausea, loss of consciousness, hyperventilation, loss of bowel function, uncontrollable shaking or a loss of memory. Mental changes manifest as early restlessness and combativeness due to temporary brain anoxia and severe stress reaction<sup>3</sup> - so very often the "hysterical" victim is dismissed by police as unable to give a coherent statement of what has happened. Where the police cannot show severe physical injury through description of the injuries that they observe on scene, they charge the conduct as a misdemeanor crime, rather than a very serious strangulation crime. That is a good example of why this bill is so important - it doesn't require the prosecutor to show physical injury through expert testimony, in order to charge felony conduct. This bill would allow prosecutors to charge felony conduct where there are indicia of strangulation present, such as where a victim loses consciousness for a period of time, loses bowel function, or exhibits other symptoms of having been strangled.

Strangulation is one of the most lethal forms of domestic violence. Unconsciousness and death occur within a very short period of time. Victims generally have few immediately discernable injuries and may manifest internal injuries such as lung damage or pulmonary edema that result in death several days or weeks later.<sup>4</sup> When domestic violence perpetrators use strangulation to silence their victims, their conduct should be recognized for what it is - felonious assault. Strangulation is a form of power and control, which can have a devastating psychological effect on victims in addition to a potentially fatal outcome.

The Violence Policy Center Study, released in September of 2004, analyzed the Federal Bureau of Investigation's Uniform Crime Reporting Program Data and found that Alaska ranked number one in the United States for domestic violence deaths of women.<sup>5</sup> That is not a statistic of which Alaska can be proud. I urge you to raise this crime to the level of severity that it deserves and give prosecution the tools to prosecute these crimes in recognition of their severity.

Respectfully,



Tamara de Lucia,  
Acting Director  
Alaska Office of Victims' Rights

<sup>3</sup> *Strangulation Injuries In Children*. The Journal of Trauma: Injury, Infections and Critical Care. 40:1, Jan. 1996, 68-72.

<sup>4</sup> *The Value of Various Lung Changes in Death by Strangulation*. Arch Kriminol. 196:1-2, July 1995, 38-45.

<sup>5</sup> *When Men Murder Women: An Analysis of 2002 Homicide Data*, Violence Policy Center, September 2004, p.19.



**Forensic Nurses Association of Alaska**

PO Box 771833  
Eagle River, Alaska 99577

February 4, 2005

To Whom It May Concern:

The Forensic Nurses Association of Alaska supports the proposed statutory changes to include strangulation as a felony assault. Strangulation is a very serious, sometimes fatal physical assault that is commonly seen in domestic violence and sexual assault cases. When a person is being strangled, they are at a substantial risk for death. The victim becomes unconscious within seconds and death can occur within minutes.

It is well documented in the latest research that strangulation is one of the top five risk factors for a domestic violence homicide. Women who are strangled by an intimate partner are at a 5.9 times higher risk for being murdered by their partner than other women.

The State of Alaska leads the nation in the number of domestic violence homicides per capita. The proposed statutory changes that will include strangulation as a felony assault is a proactive approach to preventing domestic violence homicides, and is desperately needed in our state. In addition, the proposed changes will finally address this life threatening assault at the level of seriousness that it is.

The Forensic Nurses Association of Alaska fully supports and encourages this statutory change.

Sincerely,

A handwritten signature in black ink that reads "Carol Odinzoff, RN".

Carol Odinzoff, RN  
President  
Forensic Nurses Association of Alaska



# Municipality of Anchorage

4501 Bragaw Street • Anchorage, Alaska 99507-1599 • Telephone (907) 786-8500 • <http://www.muni.org>



Mayor Mark Begich

## Anchorage Police Department

March 17, 2005

Representative Mike Hawker  
State Capitol, Room 434  
Juneau, AK 99801-1182

Dear Representative Hawker,

I understand that a bill regarding strangulation has been introduced to the House of Representatives. Several of our Department members have been conferring with Tara Henry about what is being proposed. I would like to provide support for the passing of this bill.

The State of Alaska faces multiple challenges in combating the elevated rate of crimes involving sexual assault and domestic violence. All too often, we learn that some form of strangulation occurred during the commission of these crimes. Individuals who perpetrate this type of violence against another person are using it as the ultimate form of control. Through the use of one's hands or another object to impede normal breathing or circulation, they are sending a message to the victim that they control their life.

In recent years, we are becoming more aware of the prevalence of strangulation as well as the extreme danger associated. The Anchorage Police Department has proactively responded to this information by educating all of our officers about how to recognize and respond to these incidents. An imperative part of this response package involves the prosecution of those who perpetrate these crimes. The proposed change in statute regarding the definition of dangerous instrument would add greatly to the ease of both charging and prosecuting these suspects.

I appreciate your willingness to carry this through. If you require any assistance from the Anchorage Police Department, please don't hesitate to call me personally.

Sincerely,

Walt Monegan  
Chief of Police

WM/ga

*Community, Security, Prosperity*

*Representing Alaska's Finest  
Alaska State Troopers, State Fire Marshals, Court Service Officers, Airport Police and Fire  
Officers, Juneau Police, Unalaska Police, Sitka Police, Fairbanks Police, Ketchikan Police,  
and the Soldotna Police*



## Political Action Committee

March 16, 2005

Representative Mike Hawker  
State Capitol, Room 502  
Juneau, AK 99801-1182

Re: HB 219

Dear Representative Hawker,

On behalf of the members of PSEA, I would like to thank you for introducing HB 219. We believe HB 219 brings about a much-needed amendment to better define the criteria of what is a "dangerous instrument".

As a representative of Alaska's law enforcement officers, it is imperative that we have the necessary tools to ensure that Alaska's citizens are adequately protected. HB 219 will better assist law enforcement with the prosecution for those individuals who have committed such a horrendous assault.

PSEA hopes that the legislature will act swiftly on this matter and pass HB 219.

Sincerely,

Maurice I. Hughes Jr.  
PSEA Vice President



Anchorage  
Police  
Department  
Employees  
Association

Phone (907) 561-7300  
P.O. Box 230330  
Anchorage, Alaska 99523  
500 West International Airport Road  
Anchorage, Alaska  
www.apdea.org

March 17, 2005

Re: HB 219

Dear Legislative Body:

The Anchorage Police Department Employees Association represents rank-and-file police employees in the Anchorage Police Department. I am writing to express the APDEA's full support for HB 219. There is presently an ambiguity in the law that has led to uncertainty by prosecutors as to how to charge the crime of strangulation. Unfortunately, this ambiguity has led to some of those who have committed this potentially life-threatening crime to receive lesser sentences than would otherwise be appropriate. HB 219 brings much needed clarity to this area.

I look forward to answering any questions you may have about HB 219.

Sincerely,

  
Michael Coulurier  
APDEA Vice President

## Juli Lucky

---

**From:** Natasha Norris [Natasha\_Norris@law.state.ak.us]  
**Sent:** Monday, March 21, 2005 11:17 AM  
**To:** Juli Lucky  
**Subject:** Strangulation bill

Ms. Lucky:

I am writing this email in support of House Bill No. 219. I have been a prosecutor for almost four years in the State of Alaska. I worked in Sitka, Alaska as the only State prosecutor, for two and half years. While at the Sitka post, I dealt with several strangulation cases. There are a couple of things regarding strangulation that are striking. First, strangulation occurs in many domestic violence situations. Often, when speaking to a victim of domestic violence, they disclose that although strangulation may not have occurred the incident leading to arrest, they have at one point or another, suffered strangulation at the hands of their boyfriend or husband. Second, because of the lethality of strangulation, ANYTIME a defendant uses their hands to block normal breathing causes a substantial risk of death or serious physical injury. The law now requires that before hands can be a "dangerous instrument", an expert needs to testify that the hands were used in a way that caused a substantial risk of death or serious physical injury. Given what we know about domestic violence and the lethality of strangulation, the definition of dangerous instrument should include the use of hands or other objects to strangle without the need for experts to testify to the lethality of strangulation. For the sake of victims, I hope House Bill No. 219 passes.

Sincerely,  
Natasha Norris

From: lisa rea [lisadrew@alaska.com]  
Sent: Tuesday, March 22, 2005 7:54 AM  
To: Juli Lucky  
Subject: Strangulation bill

Representative Hawker

As a resident of Anchorage, a Public Health Nurse and a Sexual Assault Nurse Examiner I want to thank you for your support of house bill 219, strengthening the statutes to increase strangulation from a misdemeanor to a felony. This bill is an opportunity to recognize the seriousness of strangulation. If you have any questions about why I support this I can be reached at 349-9941.

Thank you  
Lisa Rea, RN

# Columbus Dispatch (Ohio)

August 14, 2004 Saturday

## Strangulation Cases; Seminar Explores Details Overlooked in Investigations

By Alayna DeMartini, *Columbus Dispatch*

The man called 911 with an odd complaint.

"She won't die," he told the dispatcher. "I've tried to kill her four different ways. She won't die."

But when medics arrived at the couple's home they found that the man had succeeded in strangling his wife.

The call to a 911 operator in Las Vegas was played yesterday for central Ohio police officers, prosecutors and emergency personnel during a training session on recognizing and prosecuting strangulation and attempted strangulation cases.

Too often the assailant walks away with little or no punishment because there aren't always marks left on the victim, said Gael B. Strack, a San Diego city attorney who led yesterday's seminar at the Franklin County Courthouse.

The victim may have serious injuries that aren't always apparent, such as internal fractures in the throat, Strack said.

"We understand when someone's stabbed, when their lip is cut, because we can see the signs," Strack said. "With strangulation, most victims will have internal injuries. It's easy to overlook, minimize or trivialize."

A study by the San Diego city attorney's office of police reports showed that if there was no visible sign of attempted strangulation, the assailant wasn't charged with a serious crime.

"We didn't understand what we had in front of us," Strack said.

The study, conducted in the late 1990s, showed that police often neglected to clearly document what symptoms victims were experiencing, Strack said. Cases that were prosecuted were charged as misdemeanors when many could have been felonies, Strack said.

Franklin County prosecutors estimate that 30 percent to 40 percent of the annual 6,000 domestic-violence cases in the county involve choking or strangulation, said Leslie Ashworth, director of the Columbus city attorney's domestic-violence unit.

Typically, victims of attempted strangulation will have red marks on the neck and a raspy voice, Ashworth said.

However, victims sometimes refuse to be treated at a hospital because they can't afford it, Ashworth said.

"Then you lose the evidence," Ashworth said.

Even when victims go to hospitals, they often minimize their injuries and do not blame them on others.

"The important thing is for everyone to realize that it's a potentially life-threatening matter and not say 'Oh, they were just choked,'" Ashworth said.

In Ohio, someone who tries to strangle a mate could be charged with domestic violence, which is a misdemeanor, or a felony such as felonious assault.

Some states have recently stepped up their domestic-violence laws and the penalties for strangulation attempts.

On Thursday, North Carolina Gov. Mike Easley signed legislation, "assault inflicting serious physical injury by (attempted) strangulation," a felony punishable by up to two years in prison.

An Oklahoma law that goes into effect in November makes it a felony to commit attempted strangulation on a domestic partner.

ademartini@dispatch.com

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**Women's  
Justice Center**



**Centro de Justicia  
Para Mujeres**

250 Sebastopol Rd. — Santa Rosa, CA 95407 — (707) 575-3150 — E mail: rdjustice@monitor.net

## **Domestic Violence Homicide Risk Assessment (data from USDOJ Scale)**

**\*\* Weapons \*\* Threats \*\* Strangling \*\*  
\*\* Constant Jealousy \*\* Forced Sex \*\***

*Note: The top five risk factors for domestic violence homicide usually don't bleed! In fact, these high risk factors often don't leave any visible marks at all.*

*The only sure way to determine the presence of these high risk factors is through careful, comprehensive victim interviews.*

### **Ask & Document**

#### **The Top Five Risk Factors**

The numbers in parenthesis indicate the factor by which a domestic violence victim's risk of homicide is increased relative to other domestic violence victims.

- 1. Has the abuser ever used, or threatened to use, a gun, knife, or other weapon against victim? (20.2x )**
- 2. Ever threatened to kill or injure victim? (14.9x) Document complete and accurate quotes of the threats**
- 3. Ever tried to strangle (choke) the victim? (9.9x)**
- 4. Is abuser violently or constantly jealous? (9.2x )**
- 5. Has abuser ever forced victim to have sex? (7.6x )**

**More Notes:** *The US Dept. of Justice has now compiled a number of smaller studies into a lethality assessment list of 17 risk factors for domestic violence homicide. (The full lethality risk scale can be found at [ww.ncjrs.org/pdffiles1/jr000250e.pdf](http://ww.ncjrs.org/pdffiles1/jr000250e.pdf) Scroll to bottom of document. )*

*The numbers in parenthesis indicate the factor by which a domestic violence victim's risk of homicide is increased relative to other domestic violence victims. For example, if the abuser has used or threatened to use weapons, the victim's risk of domestic violence homicide is 20.2 times that of the average domestic violence victim.*

- ***Always Keep in Mind: All Domestic Violence Victims Are at Heightened Risk of Homicide.***
- *Don't dismiss threats to kill and maim as "just words". All victims should be asked about threats, and all threats should be quoted accurately and in detail. Also, threats to kill or maim are a crime in California, PC 422.*
- *Even victim advocates often fail to ask about sexual violence in the relationship. **Sexual violence is serious trauma, and, is a high risk factor for domestic violence homicide. Don't be shy. Always ask!***
- *The USDOJ lethality scale deals only with factors inside the relationship. Other studies have found that factors outside the relationship - such as the quality of prior law enforcement or court response - correlate with future lethality. But again, the key to uncovering these risk factors is the same; a careful, comprehensive victim interview.*

## How You Can Help

**Please pass this page on to health workers, teachers, clergy, counselors, friends, police, and neighbors... Or post it at your work, school, church or home.**

Feel free to photocopy and distribute this information as long as you keep the credit and text intact.

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Women's Justice Center,  
[www.justicewomen.com](http://www.justicewomen.com)  
[rdjustice@monitor.net](mailto:rdjustice@monitor.net)





OPDV Bulletin:  
Strangulation in Domestic Violence and Sexual Assault

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"He choked me~ but there are no marks."

*In 1999, the Clinton County District Attorney's Office and the New York Prosecutors Training Institute (NYPTI) hosted the nation's leading experts in the prosecution and investigation of strangulation cases. Assistant District Attorney Gael Strack and George McClane, MD, both from San Diego, California, presented their findings at the three-day conference, "Detection and Prosecution of Strangulation in Domestic Violence and Sexual Assault Cases," funded by the US Department of Justice Violence Against Women Grants Office and the New York State Division of Criminal Justice Services. The following is adapted from a condensed portion of their presentation.*

**"He choked me - but there are no marks."** Strangulation has only recently been identified as one of the most lethal forms of domestic violence. When perpetrators use strangulation to silence their victims, this is a form of power and control that has a devastating psychological effect on victims and a potentially fatal outcome. Historically, "choking" was rarely prosecuted as a serious offense because victims minimize the level of violence and police and medical personnel fail to recognize it.

Strangulation is defined as a form of asphyxia and is characterized by closure of the blood vessels and/or air passages of the neck as a result of external pressure on the neck. It is often incorrectly referred to as choking which involves blocking, or obstructing the windpipe. Ten percent of violent deaths in the US each year are due to strangulation, with six female victims to every male.

Strangulation by ligature is done with a cord like object that could include anything from a telephone cord to articles of clothing. Manual strangulation is done with the hands, forearms (as in the classic chokehold), or standing or kneeling on the victim's throat.

Clinically, a victim who is being strangled first experiences severe pain, followed by unconsciousness, and then brain death. The victim will lose consciousness by any one or more of the following: blocking of the carotid arteries (depriving the brain of oxygen), blocking of the jugular veins (preventing deoxygenated blood from exiting the brain), and/or closing off the airway, causing the victim to be unable to breathe. Only eleven pounds of pressure placed upon both carotid arteries for ten seconds is necessary to cause unconsciousness. If pressure is released immediately, consciousness will be regained within ten seconds. After 50 seconds of continuous oxygen deprivation the victim rarely recovers. To completely close off the trachea, three times as much pressure (33 lbs.) is required. For comparison purposes, it only takes 8 lbs. of pressure to pull a trigger on a gun.

Fifty percent of victims report symptomatic voice changes which may be as mild as simple hoarseness or a complete loss of voice. Many victims also report that it is difficult or painful to swallow. This is due to injury of the larynx cartilage and/or hyoid bone, a small horseshoe shaped bone in the neck. Difficulty getting a breath may be due to the hyperventilation that normally accompanies a terrifying event, but more importantly may be secondary to underlying neck injury. It is critical to know that breathing changes may initially appear to be mild, yet underlying injuries may kill the victim hours or days later due to decompensation of the injured structures. Involuntary urination and defecation often occurs. Officers