

ALASKA LEGISLATURE COMMITTEE FILES 2007-2008 HTRA 12397

per pack of 20; and the tobacco products tax rate was increased to 75 percent of wholesale price. The legislature reduced the deduction percentage to cover accounting expenses from 1 percent to 0.4 percent.

**1999** – Effective June 3, 1999, Alaska became a signatory to the nationwide tobacco Master Settlement Agreement (MSA). The MSA is an agreement between 46 states, including the State of Alaska, and certain cigarette manufacturers which have voluntarily agreed to reimburse states for costs associated with cigarette smoking. The Agreement applies only to “participating manufacturers” (those manufacturers who have agreed to participate in the settlement).

The Agreement includes language to prevent “nonparticipating manufacturers” (those manufacturers who have not agreed to participate in the settlement) from deriving short-term profits and from becoming judgment-proof before liability arises. This language requires every nonparticipating manufacturer to place funds in an escrow account for each cigarette sold in the state. Per the agreement, the state is responsible to obtain data to determine the amount required to be placed in an escrow account by each nonparticipating manufacturer.

**2001** – Effective July 1, 2001, the Department of Revenue gained new tools to enforce the nationwide Master Settlement Agreement signed by the major cigarette producers and states. It allows the department to share information with other states and entities that may aid in the enforcement of the agreement. It also prohibits tobacco products licensees from importing and selling cigarettes in Alaska made by nonparticipating manufacturers that fail to comply with the agreement.

**2003** – The legislature required all cigarette manufacturers to certify to the division that they are either a signatory to the tobacco Master Settlement Agreement (MSA) or in compliance with Alaska Statute 45 53. The division is required to post on its website a list of the compliant cigarette manufacturers and their brands. Only those brands of cigarettes included in the list may be sold in Alaska.

**2004** – Effective January 1, 2004, the cigarette tax must be paid through the use of cigarette tax stamps. An Alaska cigarette tax stamp must be affixed to each cigarette pack prior to sale, distribution or consumption. Cigarettes found in the state that do not bear a cigarette tax stamp are contraband and subject to immediate seizure by the Department of Revenue or any other law enforcement agency in the state. Additionally, the sale of cigarettes at less than cost is prohibited.

During a special session in June 2004, the legislature passed legislation that:

- Increased the cigarette tax by 30 mills to 8 cents per cigarette or \$1.60 per pack of 20 cigarettes, effective January 1, 2005.
- Levied an additional tax of 12.5 mills or 25 cents per pack of 20 cigarettes on cigarettes imported into the state for sale or personal consumption if the cigarettes were manufactured by a nonparticipating manufacturer (NPM). A nonparticipating manufacturer is a manufacturer that did not sign the tobacco Master Settlement Agreement. Revenue from the entire cigarette tax increase and the additional tax on NPM product is deposited in the General Fund.
- Required 8.9 percent of cigarette tax revenue deposited in the General Fund to be deposited into the Tobacco Use Education and

*In the last of a series of tax increase enacted in 2004, the tax rate on cigarettes increased from \$1.80 to \$2.00 effective July 1, 2007.*

Cessation Fund, effective January 1, 2005. Amounts deposited in the fund may be appropriated by the legislature for tobacco use education and cessation programs.

- Increased the cigarette tax by 10 mills to 9 cents per cigarette or \$1.80 per pack of 20 cigarettes,

effective July 1, 2006. The revenue from this increase will be deposited in the General Fund.

- Increased the cigarette tax by 10 mills to 10 cents per cigarette or \$2.00 per pack of 20 cigarettes, effective July 1, 2007. The revenue from this increase will be deposited in the General Fund.

### FY 2007 Statistics

#### Tax Collections

General Fund	\$42,419,172
School Fund	26,972,936
Tobacco Use Education and Cessation Fund	<u>3,282,925</u>
<b>Total Tax Collections All Funds</b>	<b><u>\$72,675,033</u></b>

#### Tax Collections by Product

Cigarettes	\$64,235,755
Other Tobacco Products	<u>8,506,365</u>
Subtotal	72,742,120
License Fee Collections	\$6,200
Penalties & Interest	334,989
Accounting Expense & Tax Stamp Deduction	<u>(408,276)</u>
<b>Total Collections by Product</b>	<b><u>\$72,675,033</u></b>

#### Cigarettes sold or imported into the state – (individual cigarettes) as reported on returns\*

Total Cigarettes	761,900,078
Military and Indian Exempt Sales	(32,305,768)
Credits for Returns	<u>(20,151,908)</u>
<b>Taxable Cigarettes</b>	<b><u>709,442,402</u></b>

\*Does not include cigarettes for which tax stamps were purchased, but were not yet sold or imported into the state

#### Other Tobacco Products (value) as reported on returns

Total products	\$11,791,820
Military and Indian Exempt Sales	(133,663)
Credits for Returns	<u>(336,747)</u>
<b>Taxable Other Tobacco Products</b>	<b><u>\$11,321,410</u></b>

Number of Returns	4,621
Number of Taxpayers	833
Program Cost	\$796,370
Staffing (full time equivalent)	9.6

**Unclaimed Property  
AS 34.45**

**Description**

Property is considered unclaimed when a holder has no record of an owner or knows the name of an owner but does not have a correct address. Unclaimed property statutes apply only to intangible and personal property.

Unclaimed property is considered abandoned after it remains unclaimed for a period of time (dormancy period). Following the dormancy period, holders are required to report and remit unclaimed property to the state. Dormancy periods vary by type of property as prescribed by statutes.

Before reporting property to the Tax Division, holders are required to make reasonable efforts in locating owners.

Unclaimed property is held in trust by the state until the property is claimed by its rightful owner.

Most unclaimed property is in the form of cash (checking and savings accounts), stocks and bonds (including dividends) and safe-deposit contents. Other property includes uncashed utility deposits, traveler checks and wages.

Each year, Unclaimed Property receives reports of thousands of names of persons who cannot be located by holders. The state lists owner names on a searchable database at [www.missingmoney.com](http://www.missingmoney.com). If an owner finds their name a claim form is completed and upon verification, property is promptly returned to its rightful owner.

Unclaimed Property maintains an inventory of safe-deposit contents and other personal property

submitted by holders under this program.

Following are abandonment periods for property commonly reported under the unclaimed property program.

Type of Property	Years
Safe deposit box contents	1
Utility deposits	1
Wages	1
Life insurance proceeds	2
Customer overpayments	3
Savings & checking accounts	5
Stocks and bonds	5
Travelers' checks	15

**Reports**

Holders are required to report and remit unclaimed property by November 1 each year. The reports include property that is deemed unclaimed as of June 30 each year.

**Exemptions**

The following properties are exempt from the unclaimed property program:

- Unused airline tickets
- Unemployment compensation overpayments
- Permanent Fund dividends after March 1990
- ANCSA (Native) corporation stocks

**Disposition of Funds**

All funds received through the unclaimed property program are deposited into the Unclaimed Property Trust account in the General Fund.

Because not all unclaimed property owners are located, amounts received from holders exceed refunds to owners. The Tax Division maintains a balance in the trust

*Since 1986, Unclaimed Property has transferred \$55 million to the General Fund*

account and periodically transfers excess funds to the General Fund. Since the program's inception, the division has transferred approximately \$54.6 million to the General Fund.

**History**

**1986** – the Alaska legislature adopted the Uniform Unclaimed Property Act which went into effect September 7, 1986. Stocks issued by corporations organized under ANCSA were exempted from unclaimed property statutes.

**1988** – unused airline tickets were exempted retroactive to September 7, 1986.

**1989** – overpaid contributions by employers to the unemployment compensation fund were exempted retroactive to September 7, 1986.

**1992** – as part of the 1992 Budget Act (Ch 405 SLA 92), IEAD was ordered to privatize the unclaimed property program effective July 1, 1992. The program was not privatized because vendor proposals to a Request for Proposal issued by the Division exceeded the state's budgeted costs for administering the program. Also in 1992, permanent fund dividends were exempted effective April 1, 1992.

**1996** – provisions for simultaneous report and remit were enacted and the aggregate reporting amount was increased to \$100. Insurance companies were put on the same reporting cycle as all other holders. Maximum percentages were established for fee finders: 20% for property less than \$500; and 10% for property \$500 or more.

**1997** – Unclaimed Property became part of the information superhighway. Information may be obtained via the internet at [www.unclaimedproperty.alaska.gov](http://www.unclaimedproperty.alaska.gov) or the National Association of Unclaimed Property Administrators (NAUPA) website at [www.unclaimed.org](http://www.unclaimed.org).

**2001** – Purchased an unclaimed property software program (UPMS).

**2004** – Dormancy periods shortened based on 1995 version of the Uniform Unclaimed Property Act and added insurance demutualization language to AS 34.45.110 – 780.

**2005** – Upgraded the unclaimed property software system to allow reports to be uploaded and claims to be imported from a website (UPS2K).

**2006** – Unclaimed Property Program moved from Treasury to Tax Division on July 1.

*The unclaimed Property program was transferred to the Tax Division July 1, 2006.*

**FY 2007 Statistics**

Reports Received	2,539
Owner Names Reported	56,262
Claims Sent	8,725
Claims Refunded	2,368
Properties Refunded	5,111
Amount Refunded	\$2,243,136
Program Cost	\$305,472
Staffing (full-time equivalent)	5.9
Trust Account Balance, 6/30/2007	\$11,324,748

**Vehicle Rental Tax**  
**AS 43.52**

**Description**

Alaska levies an excise tax on fees and costs charged for the lease or rental of a passenger or recreational vehicle. The tax is levied on individuals renting vehicles and is collected by the rental/lease agency.

vehicles provided to customers by automobile dealers as replacement transportation during warranty, recall or service contract repairs.

**Rate**

Vehicle Type	Rate (fees & costs)
Passenger	10%
Recreational	3%

**Disposition of Revenue**

The division deposits all revenue from the vehicle rental tax into a special vehicle rental account in the General Fund. The legislature may appropriate the balance in the vehicle rental tax account for tourism development and marketing.

**History**

**2003** – The legislature enacted the vehicle rental tax on August 20, 2003. The tax became effective January 1, 2004.

**2004** – The legislature exempted the rental of taxicabs by taxicab drivers from the vehicle rental tax. Effective May 8, 2004 and retroactive to January 1, 2004, the division refunded any tax collected or remitted for taxi cab rentals between January 1 and May 8, 2004.

**2006** – The legislature exempted trucks rented by individuals for moving personal property and for vehicles provided to customers by automobile dealers as replacement transportation during warranty, recall or service contract repairs, effective January 27, 2006

**Returns**

Vehicle rental/lease agencies file tax returns and remit taxes quarterly. The returns and payments are due the last day of the month following the end of the calendar quarter in which the rental/lease agencies collected the tax.

**Exemptions**

Vehicle rental tax does not apply to:

- rentals or leases to federal, state, or local government agencies or employees on official business
- a lease or rental that contains a term exceeding 90 consecutive days or to the rental of taxicabs by taxicab drivers
- trucks rented by individuals for moving personal property and for

**FY 2007 Statistics**

Passenger vehicle rental	\$7,635,227
Recreational vehicle rental	360,289
Penalties & interest	<u>23,093</u>
<b>Total Tax Collections</b>	<b><u>\$8,018,609</u></b>
Number of Returns	431
Number of Taxpayers	117
Program Cost	\$42,644
Staffing (full time equivalent)	0.5

*The legislature may appropriate the balance in the vehicle rental tax account for tourism development and marketing.*

**Investigation Function**

**Description**

The Investigations Group consists of four field investigators and a supervisor. The Investigations Group primarily focuses on gaming and tobacco tax investigations, conducting field inspections of gaming locations and potential charitable gaming violations, as well as cigarette distributors and retailers, and potential cigarette and tobacco violations.

**Cigarette Tax Stamp Investigations**

The Investigations Group ensures that all cigarettes sold in Alaska are affixed with cigarette tax stamps in accordance with AS 43.50. The investigators seize unstamped or improperly stamped cigarettes and any other tobacco products otherwise designated as contraband within the provisions of Alaska Statutes. The investigators make recommendations to suspend or revoke a cigarette excise tax license or tobacco endorsement for violations of cigarette tax stamp laws. At the time of investigation, investigators determine potential violations of cigarette minimum pricing and cigarette shipping statutes.

Investigations are initiated by complaints from citizens, requests from revenue auditors, and/or routine field inspections of premises where cigarettes are sold. During investigations, the investigators are responsible for the education of cigarette and tobacco products licensees and cigarette retailers in the area of cigarette and tobacco products excise taxes, minimum pricing and shipping restrictions.

**Gaming Investigations**

The Investigations Group investigates potential gaming permit or license violations and illegal gambling. Investigations are initiated by routine inspections of premises where charitable gaming activities are located, complaints from citizens of suspected gaming violations, and requests from revenue auditors. During investigations, investigators educate permittees, licensees and the public about gaming laws and regulations.

**Other Investigations**

The Investigations Group provides investigative support to all groups within the Tax Division and may be called upon to investigate potential violations of any of the tax types administered by the division, including tax evasion or tax fraud.

*The Investigations Group may be called upon to investigate potential violations of any of the tax types administered by the division.*

**FY 2007 Statistics**

	Gaming	Tobacco	Motor Fuel	Mining	Total
Inspections	159	761	3	8	931
Other Action	<u>110</u>	<u>151</u>	<u>5</u>	<u>8</u>	<u>274</u>
<b>Total</b>	<b>269</b>	<b>912</b>	<b>8</b>	<b>16</b>	<b>1,205</b>

Note: The investigations group seized 2,825 packs of tobacco in FY 2007.

*Appeals conducts informal conferences and issues decisions in taxpayer appeals of assessments for all tax types*

**Appeals Function**

**Description**

The Appeals Group consists of two appeals officers and a supervisor. The appeals officers and supervisor conduct informal conferences and issue informal conference decisions in taxpayer appeals of assessments for all tax types administered by the Department of Revenue along with charitable gaming appeals. Appeals officers work with Department of Law attorneys to resolve issues related to audit and compliance actions. Appeals officers also participate with Department of Law attorneys as a team to represent the Department of Revenue in formal hearings before the Office of Administrative Hearings and in settlement negotiations. Appeals officers also work with the Department of Law attorneys in drafting statutes and regulations for the tax types administered by the Department of Revenue. For example, an appeals officer spent

considerable time this year working with Department of Law attorneys drafting the PPT statutes and regulations. Appeals officers also advise audit staff regarding issues involved in active or past litigation.

Oil and gas production tax cases and corporate income tax cases are a priority due to the complexity of the issues and the amount of tax revenue involved. These cases require more resources to complete than the other tax types administered by the Department of Revenue. Fishery business appeals increased this year due to increased audit activity in the salmon product development tax credit area.

Two additional appeals officers were hired in late 2007 to help with the back log of appeal cases and to cover for retirement(s) expected in the near future. Due to the new hires, the Appeals Group currently has four appeals officers and a supervisor.

**FY 2007 Statistics**

	Tax Periods*	Taxpayer Count
Beginning Inventory	304	109
Plus New Cases	167	151
Less Closed Cases	<u>312</u>	<u>173</u>
<b>Ending Inventory</b>	<b>159</b>	<b>87</b>

\* Tax periods correspond to periodic tax return filing requirements of taxpayers. One taxpayer may have several tax periods in appeals at the same time.

**Audit Function**

The income audit group is responsible for auditing corporate income taxes, including oil and gas corporate income tax returns.

The production audit group is responsible for auditing oil and gas production and property tax returns.

The excise audit group is responsible for auditing excise tax returns including alcoholic beverages, commercial passenger vessel, large passenger vessel,

mining license, motor fuel, vehicle rental and tobacco taxes, and tire fees.

The gaming audit group is responsible for financial compliance of permittees, operators and distributors.

The fish audit group is responsible for auditing fisheries-related tax returns including fisheries business, fishery resource landing, salmon enhancement, salmon marketing and seafood development taxes, and seafood marketing assessments.

**FY 2007 Statistics**

*The audit group includes income audit, production audit, excise audit, gaming audit and fish audit.*

	Audit Collections	Total Tax Collections
<b>Income Audit (Corporate Net Income)</b>		
Oil and Gas Corporations	\$83,518,505	\$676,111,422
Other Corporations	<u>8,575,523</u>	<u>177,011,212</u>
<b>Total Income Audit</b>	<b>\$92,094,028</b>	<b>\$853,122,634</b>
<b>Production Audit (Corporate Net Income)</b>		
Oil and Gas Production	\$17,510,672	\$2,288,986,515
Oil and Gas Property	50,640	65,692,167
Conservation Surcharge	<u>0</u>	<u>10,103,767</u>
<b>Total Production Audit</b>	<b>\$17,561,312</b>	<b>\$2,364,782,449</b>
<b>Fish Audit</b>	<b>\$478,594</b>	<b>\$60,352,523</b>
<b>Other Tax Types</b>	<b><u>\$57,176</u></b>	<b><u>\$267,608,295</u></b>
<b>Total</b>	<b><u>\$110,191,110*</u></b>	<b><u>\$3,545,865,901</u></b>

\* Does not include receipts or refunds resulting from litigation.

## Appendix A Historical Overview of Tax Programs

Tax Type	Legal Reference	First Enacted	Original Tax	Current Tax Structure	Latest Change
Alcoholic Beverages	AS 43 60	1933	Wine 5¢/gallon Beer 5¢/gallon	Per Gallon Liquor \$12.80 Wine \$2.50 Beer (Malt Beverage) and Cider \$1.07 Beer (Small Breweries) \$0.35	Effective 10/1/2002, tax rates increased for alcoholic beverages as referenced under current tax structure.
Commercial Passenger Vessel	AS 43 52	2006	\$46/passenger	\$46/passenger	2006 - voter initiative passed authorizing \$46 tax
Conservation Surcharge on Oil	AS 43 55	1989	5¢/bbl	1¢/bbl increasing to 4¢/bbl when fund balance drops below \$50m	2006 - rates changed to 1¢/bbl and 4¢/bbl
Corporate Income	AS 43 20	1949	10% of federal income tax liability	1% to 9.4% of net income	2006 - cruise ship operators subject to corporate income tax
Dive Fishery Management Assessment	AS 43 76 150	1997	Voluntary tax of 1, 3, 5, or 7% of value	SE AK Mgmt Area A Geoduck = 7% Sea Cucumber = 5% Sea Urchin = 7%	2005 - The legislature authorized an annual filing due date of March 31 for dive fishermen who export or sell to unlicensed buyers, effective January 1, 2005.
Electric Cooperative	AS 10 25 555	1959	1% of gross revenue if operating < 5 years  2% of gross revenue if operating ≥ 5 years	1/4 mill (\$ 00025) per kWh if < 5 years; 1/2 mill (\$ 0005) per kWh if ≥ 5 years	1980 - tax base on kWh rather than gross revenue
Estate	AS 43 31	1919	(Inheritance Tax) Based on value of property	State tax credit on federal estate tax return	1991 - interest on delinquent tax subject to compound interest under AS 43 05 225. Beginning FY 2003, the state estate tax will phase out as a consequence of changes in federal law
Fisheries Business	AS 43 75	1913	7¢ per case of canned salmon, Other -- dollar amount based on revenue	Floating 5% <sup>1</sup> and 3% <sup>2</sup> of value Shore-based 3% <sup>1</sup> and 1% <sup>2</sup> of value Cannery 4.5% of value Direct Market 3% <sup>1</sup> and 1% <sup>2</sup> of value	2006 - The legislature extended the Salmon Product Development Credit for expenditures made through December 31, 2008. The Salmon Utilization Credit was not extended

<sup>1</sup> Established species    <sup>2</sup> Developing species

Appendix A (Continued)

Tax Type	Legal Reference	First Enacted	Original Tax	Current Tax Structure	Latest Change
Fishery Resource Landing	AS 43.77	1993	3.3% of unprocessed value	3% of value <sup>1</sup> 1% of value <sup>2</sup>	2002 – The legislature authorized credits of up to 50 percent for contributions of not more than \$100,000 and 75 percent of the next \$100,000 in contributions made to the Alaska Veterans' Memorial Endowment Fund. The tax credit expired July 1, 2003
			<sup>1</sup> Established species <sup>2</sup> Developing species		
Gaming	AS 05 15	1960		\$20 annual permit fee for new and renewal permittees. \$50 renewal permit fee for permittees with \$20,000 to \$100,000 in gross receipts. \$100 renewal permit fee for permittees with over \$100,000 in gross receipts. \$500 annual operator license fee. \$1,000 annual distributor fee. \$2,500 annual manufacturer license fee. 3% tax of an amount equal to the gross receipts less prizes awarded on each series of pull tabs distributed	2005 - Calcutta Pools and Crane Classics authorized
Large Passenger Vessel Gambling	AS 05 16	2006	33% of adjusted gross income from gambling activities	33% of adjusted gross income from gambling activities	2006 - voter initiative passed authorizing gambling tax
Mining License	AS 43 65	1913	5% tax on mining net income of more than \$5,000	On net income <\$40,000 no tax. >\$40,001 \$1,200 plus 3% >\$50,001 \$1,500 plus 5% >\$100,000 \$4,000 plus 7%	2002 – The legislature authorized credits of up to 50 percent for contributions of not more than \$100,000 and 75 percent of the next \$100,000 in contributions made to the Alaska Veterans' Memorial Endowment Fund. The tax credit expired July 1, 2003
Motor Fuel	AS 43 40	1945	1¢ per gallon on all fuels	Highway - 8¢/gallon Marine - 5¢/gallon Aviation Gas- 4.7¢/gallon Jet Fuel - 3.2¢/gallon	2004 – The provision that exempted gasohol blended with at least 10 percent alcohol derived from wood or seafood waste from the motor fuel tax expired on June 30, 2004. Currently all gasohol is taxed at the rate of 8 cents per gallon.

**Appendix A (Continued)**

Tax Type	Legal Reference	First Enacted	Original Tax	Current Tax Structure	Latest Change
Oil & Gas Property	AS 43.56	1973	20 mills on full and true value	20 mills on full and true value	1996 - oil and gas property education tax credit was enacted.
Oil & Gas Production	AS 43.55	1955	1% of production value	12.25% of production value during first five years of production, 15% thereafter	2006 - PPT legislation enacted in special session.
Regulatory Cost Charge	AS 42.05.253 (Utilities) AS 42.06.285 (Pipelines)	1992	Electric Utilities: \$ 000626/kWh  Other Utilities: .653% gross revenue Pipelines: .653% gross revenue	Electric Utilities: \$ 000364/kWh Other Utilities: .786% gross revenue Pipelines: .786% gross revenue	2006 - rates increased by regulation.
Salmon Enhancement	AS 43.76	1980	Voluntary tax of 1%, 2% or 3% of value as elected by fishermen in an aquaculture region	Southern Southeast 3% Northern Southeast 3% Cook Inlet 2% Pr. William Sound 2% Kodiak - 2% Chignik - 2%	2004 - SB 286 clarified the incidence of the tax; when selling to a buyer who does not withhold the tax, fishermen must now pay the tax on an annual return. Ten additional rates ranging from 4 to 30%
Seafood Development	AS 43.76.350	2005	0.5%-2%	Pr. William Sound 1% Bristol Bay 1%	2006 - Commercial salmon drift gillnet fishermen in the Bristol Bay seafood development region elected a 1% tax.
Seafood Marketing	AS 16.51.120	1981	Voluntary assessment of 1%, 2% or 3% of value as elected by processors	Rate set at 0.5% effective January 1, 2005	2004 - SB 273 directed a member election of the Alaska Seafood Marketing Institute (ASMI). Fall election determined retention of Seafood Marketing Assessment and increased the rate to 0.5%.
Telephone Cooperative	AS 10.25.550	1959	1% of gross revenue if operating < 5 years. 2% of gross revenue if operating ≥ 5 years or longer	1% of gross revenue if operating < 5 years. 2% of gross revenue if operating ≥ 5 years or longer	1960 - The legislature changed the due date for filing returns to March 1.
Tire Fee	AS 43.98	2003	\$2.50 per new tire for highway-use motor vehicles Additional \$5 per tire with studs over 1.1 grams	\$2.50 per new tire for highway-use motor vehicles Additional \$5 per tire with studs over 1.1 grams	No changes since tire fee enacted in 2003

## Appendix A (Continued)

Tax Type	Legal Reference	First Enacted	Original Tax	Current Tax Structure	Latest Change
Tobacco	AS 43.50	1949	Cigarettes - 3¢ per pack of 20; Tobacco - 2¢ per ounce	90 mills/cigarette (\$1.80 per pack of 20) 75% of wholesale price	2004 - SB 1001 increases the tax to \$1.60 per pack on Jan. 1, 2005, to \$1.80 per pack on July 1, 2006, and to \$2.00 on July 1, 2007. An additional tax of \$.25 per pack is imposed on manufacturers that did not sign the Master Settlement Agreement.
Vehicle Rental	AS 43.52	2004	10% on passenger vehicle rentals of 90 days or less 3% on recreational vehicle rentals of 90 days or less	10% on passenger vehicle rentals of 90 days or less 3% on recreational vehicle rentals of 90 days or less	2006 - exemptions for trucks for moving personal property and vehicles as replacement transportation

## Repealed Tax Programs

Business License	AS 43.70	1949	\$25 license fee plus 5% of gross receipts > \$20,000 plus 25% of gross receipts > \$50,000	Repealed	Tax repealed effective January 1, 1979. License program transferred to DCCED by Executive Order effective July 1, 1988.
Oil & Gas Conservation	AS 43.57	1955	5 mills per barrel of oil or 50,000 cubic feet of natural gas	Repealed	Tax repealed effective July 1, 1999.
Coin-operated Devices	AS 43.35	1941	12.5% of gross receipts on coin-operated machines	Repealed	Tax repealed effective January 1, 1999.
Individual Income	AS 43.20	1949	10% of federal income tax liability	Repealed	Tax repealed retroactive to 1979.
Salmon Marketing	AS 43.76	1993	1% of value of salmon	1% of value of salmon	Repealed effective January 1, 2005.
School	AS 43.45	1919	\$5 tax on each male person	Repealed	Tax repealed retroactive to 1980.

**Appendix B  
Comparison of Alcohol Tax Rates – Liquor  
January 2007**

Alaska's total tax on liquor is not actually the highest among the states because many states charge a sales tax as well as an alcohol tax.

State	Rate (\$ per gallon)	Rank*	State	Rate (\$ per gallon)	Rank*
Alabama	Footnote <sup>1</sup>	N/A	Montana	Footnote <sup>1</sup>	N/A
<b>Alaska</b>	<b>12.80</b>	<b>1</b>	Nebraska	3.75	16
Arizona	3.00	21	Nevada	3.60	18
Arkansas	2.50	24	New Hampshire	Footnote <sup>1</sup>	N/A
California	3.30	19	New Jersey	4.40	11
Colorado	2.28	29	New Mexico	6.06	4
Connecticut	4.50	9	New York	6.44	3
Delaware	5.46	7	North Carolina	Footnote <sup>1</sup>	N/A
Florida	6.50	2	North Dakota	2.50	24
Georgia	3.79	15	Ohio	Footnote <sup>1</sup>	N/A
Hawaii	5.98	5	Oklahoma	5.56	6
Idaho	Footnote <sup>1</sup>	N/A	Oregon	Footnote <sup>1</sup>	N/A
Illinois	4.50	9	Pennsylvania	Footnote <sup>1</sup>	N/A
Indiana	2.68	23	Rhode Island	3.75	16
Iowa	Footnote <sup>1</sup>	N/A	South Carolina	2.72	22
Kansas	2.50	24	South Dakota	3.93	14
Kentucky	1.92	31	Tennessee	4.40	11
Louisiana	2.50	24	Texas	2.40	28
Maine	Footnote <sup>1</sup>	N/A	Utah	Footnote <sup>1</sup>	N/A
Maryland	1.50	32	Vermont	Footnote <sup>1</sup>	N/A
Massachusetts	4.05	13	Virginia	Footnote <sup>1</sup>	N/A
Michigan	Footnote <sup>1</sup>	N/A	Washington	Footnote <sup>1</sup>	N/A
Minnesota	5.03	8	West Virginia	Footnote <sup>1</sup>	N/A
Mississippi	Footnote <sup>1</sup>	N/A	Wisconsin	3.25	20
Missouri	2.00	30	Wyoming	Footnote <sup>1</sup>	N/A

<sup>1</sup> Sales are through state stores. Revenue is generated from various taxes, fees and net profits.

\* Out of 32 states which levy a per gallon tax, highest to lowest.

N/A - Not Applicable

Source: Federation of Tax Administrators

## Appendix B

### Comparison of Alcohol Tax Rates – Wine

#### January 2007

Alaska's total tax on wine is not actually the highest among the states because many states charge a sales tax as well as an alcohol tax.

State	Rate (\$ per gallon)	Rank*	State	Rate (\$ per gallon)	Rank*
Alabama	1.70	4	Montana	1.06	10
<b>Alaska</b>	<b>2.50</b>	<b>1</b>	Nebraska	.95	13
Arizona	.84	17	Nevada	.70	22
Arkansas	.75	19	New Hampshire	Footnote <sup>1</sup>	N/A
California	.20	43	New Jersey	.70	22
Colorado	.32	37	New Mexico	1.70	4
Connecticut	.60	25	New York	.19	45
Delaware	.97	12	North Carolina	.79	18
Florida	2.25	2	North Dakota	.50	31
Georgia	1.51	6	Ohio	.30	38
Hawaii	1.38	8	Oklahoma	.72	21
Idaho	.45	34	Oregon	.67	24
Illinois	.73	20	Pennsylvania	Footnote <sup>1</sup>	N/A
Indiana	.47	33	Rhode Island	.60	25
Iowa	1.75	3	South Carolina	.90	15
Kansas	.30	38	South Dakota	.93	14
Kentucky	.50	31	Tennessee	1.21	9
Louisiana	.11	46	Texas	.20	43
Maine	.60	25	Utah	Footnote <sup>1</sup>	N/A
Maryland	.40	35	Vermont	.55	28
Massachusetts	.55	28	Virginia	1.51	6
Michigan	.51	30	Washington	.87	16
Minnesota	.30	38	West Virginia	1.00	11
Mississippi	.35	36	Wisconsin	.25	42
Missouri	.30	38	Wyoming	Footnote <sup>1</sup>	N/A

<sup>1</sup> Sales are through state stores. Revenue is generated from various taxes, fees and net profits.

\* Out of 46 states which impose a per gallon tax, highest to lowest.

N/A - Not Applicable

Source: Federation of Tax Administrators

## Appendix B

### Comparison of Alcohol Tax Rates – Beer

#### January 2007

Alaska's total tax on beer is not actually the highest among the states because many states charge a sales tax as well as an alcohol tax.

State	Rate (\$ per gallon)	Rank	State	Rate (\$ per gallon)	Rank
Alabama	.53	4	Montana	.14	36
<b>Alaska</b>	<b>1.07</b>	<b>1</b>	Nebraska	.31	14
Arizona	.16	30	Nevada	.16	30
Arkansas	.23	20	New Hampshire	.30	15
California	.20	21	New Jersey	.12	38
Colorado	.08	44	New Mexico	.41	9
Connecticut	.19	23	New York	.11	40
Delaware	.16	30	North Carolina	.53	4
Florida	.48	6	North Dakota	.16	30
Georgia	.48	6	Ohio	.18	27
Hawaii	.93	2	Oklahoma	.40	11
Idaho	.15	34	Oregon	.08	44
Illinois	.185	26	Pennsylvania	.08	44
Indiana	.115	39	Rhode Island	.10	42
Iowa	.19	23	South Carolina	.77	3
Kansas	.18	27	South Dakota	.28	16
Kentucky	.08	44	Tennessee	.14	36
Louisiana	.32	13	Texas	.19	23
Maine	.35	12	Utah	.41	9
Maryland	.09	43	Vermont	.265	17
Massachusetts	.11	40	Virginia	.26	19
Michigan	.20	21	Washington	.261	18
Minnesota	.15	34	West Virginia	.18	27
Mississippi	.43	8	Wisconsin	.06	48
Missouri	.06	48	Wyoming	.02	50

Source: Federation of Tax Administrators

## Appendix B

### Comparison of Highway Gasoline Tax Rates January 2007

State	Rate (\$ per gallon)	Other Tax <sup>1</sup> (\$ per gallon)	Total (\$ per gallon)	Rank	State	Rate (\$ per gallon)	Other Tax <sup>1</sup> (\$ per gallon)	Total (\$ per gallon)	Rank
Alabama	16	2	18	38	Montana	27	0	27	9
<b>Alaska</b>	<b>8</b>	<b>0</b>	<b>8</b>	<b>51</b>	Nebraska	27.1	0.9	28	7
Arizona	18	0	18	38	Nevada	24	0.805	24.805	13
Arkansas	21.5	0	21.5	23	New Hampshire	19	1.625	19.625	34
California	18	0	18	38	New Jersey	10.5	4	14.5	49
Colorado	22	0	22	21	New Mexico	17	1.875	18.875	36
Connecticut	25	0	25	11	New York	8	16.6	24.6	14
Delaware	23	0	23	19	North Carolina	29.9	0.25	30.15	6
Dist of Columbia	20	0	20	28	North Dakota	23	0	23	19
Florida	4	11.3	15.3	47	Ohio	28	0	28	7
Georgia	7.5	7.7	15.2	48	Oklahoma	16	1	17	44
Hawaii	16	0	16	45	Oregon	24	0	24	16
Idaho	25	0	25	11	Pennsylvania	12	19.2	31.2	4
Illinois	19	1.1	20.1	27	Rhode Island	30	1	31	5
Indiana	18	0	18	38	South Carolina	16	0	16	45
Iowa	21	0	21	25	South Dakota	22	0	22	21
Kansas	24	0	24	16	Tennessee	20	1.4	21.4	24
Kentucky	18.3	1.4	19.7	33	Texas	20	0	20	28
Louisiana	20	0	20	28	Utah	24.5	0	24.5	15
Maine	26.8	0	26.8	10	Vermont	19	1	20	28
Maryland	23.5	0	23.5	18	Virginia	17.5	0	17.5	43
Massachusetts	21	0	21	25	Washington	34	0	34	1
Michigan	19	0	19	35	West Virginia	20.5	11	31.5	3
Minnesota	20	0	20	28	Wisconsin	29.9	3	32.9	2
Mississippi	18	0.4	18.4	37	Wyoming	13	1	14	50
Missouri	17	0.55	17.55	42					

<sup>1</sup> Includes state sales tax, gross receipts tax and underground storage tank taxes

Source: Federation of Tax Administrators

## Appendix B

### Comparison of Aviation Fuel Tax Rates

#### January 2007

State	Jet Fuel (\$ per gallon)	Rank <sup>1</sup>	Aviation Gas (\$ per gallon)	Rank <sup>2</sup>	State	Jet Fuel (\$ per gallon)	Rank <sup>1</sup>	Aviation Gas (\$ per gallon)	Rank <sup>2</sup>
Alabama	0.8	33	2.4	36	Montana	4.0	17	4.0	33
<b>Alaska</b>	<b>3.2</b>	<b>21</b>	<b>4.7</b>	<b>31</b>	Nebraska	3.0	23	5.0	25
Arizona	3.05	22	5.0	25	Nevada	2.0	26	1.0	38
Arkansas	Sales Tax	N/A	Sales Tax	N/A	New Hampshire	2.0	26	4.0	33
California	2.0	26	18.0	6	New Jersey	12.5	1	12.5	10
Colorado	4.0	17	6.0	21	New Mexico	Sales Tax	N/A	17.0	8
Connecticut	None	N/A	None	N/A	New York	8.0	5	8.0	15
Delaware	None	N/A	23.0	1	North Carolina	Sales Tax	N/A	Sales Tax	N/A
Florida	6.9	8	6.9	19	North Dakota	8.0	5	8.0	15
Georgia	Sales Tax	N/A	1.0	38	Ohio	Sales Tax	N/A	Sales Tax	N/A
Hawaii	1.0	31	1.0	38	Oklahoma	0.08	35	0.08	41
Idaho	4.5	16	5.5	24	Oregon	1.0	31	9.0	13
Illinois	11.0	2	11.0	11	Pennsylvania	2.0	26	4.3	32
Indiana	0.8	33	18.0	6	Rhode Island	None	N/A	None	N/A
Iowa	3.0	23	8.0	15	South Carolina	Sales Tax	N/A	Sales Tax	N/A
Kansas	Sales Tax	N/A	Sales Tax	N/A	South Dakota	4.0	17	6.0	21
Kentucky	Sales Tax	N/A	18.3	5	Tennessee	1.4	30	1.4	37
Louisiana	Sales Tax	N/A	20.0	3	Texas	None	N/A	None	N/A
Maine	3.4	20	22.0	2	Utah	9.0	4	9.0	13
Maryland	7.0	7	7.0	18	Vermont	None	N/A	20.0	3
Massachusetts	6.2	9	14.7	9	Virginia	5.0	12	5.0	25
Michigan	3.0	23	3.0	35	Washington	11.0	2	11.0	11
Minnesota	5.0	12	5.0	25	West Virginia	4.85	15	4.85	30
Mississippi	5.25	11	6.4	20	Wisconsin	6.0	10	6.0	21
Missouri	Sales Tax	N/A	Sales Tax	N/A	Wyoming	5.0	12	5.0	25

<sup>1</sup>Out of 35 states with tax rates

<sup>2</sup>Out of 41 states with tax rates

Source: National Business Aircraft Association, Inc. 2007 State Aviation Tax Report

**Appendix B  
Comparison of Cigarette Tax Rates  
January 2007**

State	Rate (\$ per pack)	Rank	State	Rate (\$ per pack)	Rank
Alabama	0.425	39	Montana	1.70	9
<b>Alaska</b>	<b>1.80</b>	<b>7</b>	Nebraska	0.64	30
Arizona	2.00	4	Nevada	0.80	25
Arkansas	0.59	32	New Hampshire	0.80	25
California	0.87	23	New Jersey	2.575	1
Colorado	0.84	24	New Mexico	0.91	22
Connecticut	1.51	11	New York	1.50	13
Delaware	0.55	35	North Carolina	0.30	44
Florida	0.339	43	North Dakota	0.44	38
Georgia	0.37	40	Ohio	1.25	16
Hawaii	1.60	10	Oklahoma	1.03	19
Idaho	0.57	33	Oregon	1.18	18
Illinois	0.98	21	Pennsylvania	1.35	15
Indiana	0.555	34	Rhode Island	2.46	2
Iowa	0.36	41	South Carolina	0.07	50
Kansas	0.79	27	South Dakota	0.53	37
Kentucky	0.30	44	Tennessee	0.20	47
Louisiana	0.36	41	Texas	1.41	14
Maine	2.00	4	Utah	0.695	29
Maryland	1.00	20	Vermont	1.79	8
Massachusetts	1.51	11	Virginia	0.30	44
Michigan	2.00	4	Washington	2.025	3
Minnesota	1.23	17	West Virginia	0.55	35
Mississippi	0.18	48	Wisconsin	0.77	28
Missouri	0.17	49	Wyoming	0.60	31

Source: Federation of Tax Administrators

## Appendix B Comparison of Tobacco Products Tax Rates January 2007

State	Rate	State	Rate
Alabama	.6¢ - 5.25¢/ounce	Montana	50% Wholesale Price
<b>Alaska</b>	<b>75% Wholesale Price</b>	Nebraska	20% Wholesale Price
Arizona	% 23.8¢/ounce	Nevada	30% Wholesale Price
Arkansas	32% Manufacturer Price	New Hampshire	19% Wholesale Price
California	46.76% Wholesale Price	New Jersey	30% Wholesale Price
Colorado	40% Manufacturer Price	New Mexico	25% Product Value
Connecticut	20% Wholesale Price	New York	37% Wholesale Price
Delaware	15% Wholesale Price	North Carolina	3% Wholesale Price
Florida	25% Wholesale Price	North Dakota	28% Wholesale Price
Georgia	10% Wholesale Price	Ohio	17% Wholesale Price
Hawaii	40% Wholesale Price	Oklahoma	60% - 80% Factory List Price
Idaho	40% Wholesale Price	Oregon	65% Wholesale Price
Illinois	18% Wholesale Price	Pennsylvania	N/A
Indiana	18% Wholesale Price	Rhode Island	40% Wholesale Price
Iowa	22% Wholesale Price	South Carolina	5% Manufacturer Price
Kansas	10% Wholesale Price	South Dakota	10% Wholesale Price
Kentucky	7.5% Wholesale Price	Tennessee	6.6% Wholesale Price
Louisiana	33% Manufacturer Price	Texas	35.213% Manufacturer Price
Maine	78% Wholesale Price	Utah	35% Manufacturer Price
Maryland	15% Wholesale Price	Vermont	41% Manufacturer Price
Massachusetts	90% Wholesale Price	Virginia	10% Wholesale Price
Michigan	32% Wholesale Price	Washington	75% Wholesale Price
Minnesota	70% Wholesale Price	West Virginia	7% Wholesale Price
Mississippi	15% Manufacturer Price	Wisconsin	25% Manufacturer Price
Missouri	10% Manufacturer Price	Wyoming	20% Wholesale Price

Tobacco products include chewing tobacco and snuff.

N/A - Not Applicable

Source: Federation of Tax Administrators

**Appendix B**  
**Comparison of Corporate Income Tax Rates**  
**January 2007**

State	Rate (%)	Tax Brackets		Number of Brackets
		Lowest	Highest	
Alabama	6.5		Flat Rate	1
<b>Alaska</b>	<b>1.0 - 9.4</b>	<b>\$10,000</b>	<b>\$90,000</b>	<b>10</b>
Arizona	6.968		Flat Rate	1
Arkansas	1.0 - 6.5	\$3,000	\$100,000	6
California	8.84		Flat Rate	1
Colorado	4.63		Flat Rate	1
Connecticut	7.5		Flat Rate	1
Delaware	8.7		Flat Rate	1
Florida	5.5		Flat Rate	1
Georgia	6.0		Flat Rate	1
Hawaii	4.4 - 6.4	\$25,000	\$100,000	3
Idaho	7.6		Flat Rate	1
Illinois	7.3		Flat Rate	1
Indiana	8.5		Flat Rate	1
Iowa	6.0 - 12.0	\$25,000	\$250,000	4
Kansas	4.0		Flat Rate	1
Kentucky	4.0 - 7.0	\$50,000	\$100,000	3
Louisiana	4.0 - 8.0	\$25,000	\$200,000	5
Maine	3.5 - 8.93	\$25,000	\$250,000	4
Maryland	7.0		Flat Rate	1
Massachusetts	9.5		Flat Rate	1
Michigan	Tax Based on Federal Taxable Income			N/A
Minnesota	9.8		Flat Rate	1
Mississippi	3.0 - 5.0	\$5,000	\$10,000	3
Missouri	6.25		Flat Rate	1

**Appendix B**  
**Comparison of Corporate Income Tax Rates**  
**January 2007**  
**(Continued)**

State	Rate (%)	Tax Brackets		Number of Brackets
		Lowest	Highest	
Montana	6.75		Flat Rate	1
Nebraska	5.58 - 7.81	\$50,000		2
Nevada	No Corporation Income Tax			N/A
New Hampshire	8.5		Flat Rate	1
New Jersey	9.0		Flat Rate	1
New Mexico	4.8 - 7.6	\$500,000	\$1,000,000	3
New York	7.5		Flat Rate	1
North Carolina	6.9		Flat Rate	1
North Dakota	2.6 - 7.0	\$3,000	\$30,000	5
Ohio	5.1 - 8.5	\$50,000		2
Oklahoma	6.0		Flat Rate	1
Oregon	6.6		Flat Rate	1
Pennsylvania	9.99		Flat Rate	1
Rhode Island	9.0		Flat Rate	1
South Carolina	5.0		Flat Rate	1
South Dakota	No Corporation Income Tax			N/A
Tennessee	6.5		Flat Rate	1
Texas	Tax Based on Capital and Surplus			N/A
Utah	5.0		Flat Rate	1
Vermont	6.0 - 8.5	\$10,000	\$250,000	3
Virginia	6.0		Flat Rate	1
Washington	No Corporation Income Tax			N/A
West Virginia	8.75		Flat Rate	1
Wisconsin	7.9		Flat Rate	1
Wyoming	No Corporation Income Tax			N/A
Federal	15.0 - 35.0	\$22,100	\$10,000,000	4

Source: Federation of Tax Administrators

**Appendix B**  
**Comparison of Individual Income Tax Rates\***  
**January 2007**

State	Rate (%)	Tax Brackets		Number of Brackets
		Lowest	Highest	
Alabama	2.0 - 5.0	\$500	\$3,000	3
<b>Alaska</b>	<b>No State Income Tax</b>			<b>N/A</b>
Arizona	2.59 - 4.54	\$10,000	\$150,000	5
Arkansas	1.0 - 7.0	\$3,599	\$30,100	6
California	1.0 - 9.3	\$6,622	\$43,468	6
Colorado	4.63	Flat Rate		1
Connecticut	3.0 - 5.0	\$10,000	\$10,000	2
Delaware	2.2 - 5.95	\$5,000	\$60,000	6
Florida	No State Income Tax			N/A
Georgia	1.0 - 6.0	\$750	\$7,000	6
Hawaii	1.4 - 8.25	\$2,400	\$48,000	9
Idaho	1.6 - 7.8	\$1,198	\$23,964	8
Illinois	3.0	Flat Rate		1
Indiana	3.4	Flat Rate		1
Iowa	3.6 - 8.98	\$1,343	\$60,436	9
Kansas	3.5 - 6.45	\$15,000	\$30,000	3
Kentucky	2.0 - 6.0	\$3,000	\$75,000	6
Louisiana	2.0 - 6.0	\$12,500	\$25,000	3
Maine	2.0 - 8.5	\$4,350	\$18,250	4
Maryland	2.0 - 4.75	\$1,000	\$3,000	4
Massachusetts	5.3	Flat Rate		1
Michigan	3.9	Flat Rate		1
Minnesota	5.35 - 7.85	\$21,310	\$69,991	3
Mississippi	3.0 - 5.0	\$5,000	\$10,000	3
Missouri	1.5 - 6.0	\$1,000	\$9,000	10

**Appendix B**  
**Comparison of Individual Income Tax Rates\***  
**January 2007**  
**(Continued)**

State	Rate (%)	Tax Brackets		Number of Brackets
		Lowest	Highest	
Montana	1.0 - 6.9	\$2,300	\$14,500	7
Nebraska	2.56 - 6.84	\$2,400	\$27,001	4
Nevada	No State Income Tax			N/A
New Hampshire	Tax Limited to Dividends and Interest			N/A
New Jersey	1.4 - 8.97	\$20,000	\$500,000	6
New Mexico	1.7 - 5.3	\$5,500	\$16,000	4
New York	4.0 - 6.85	\$8,000	\$20,000	5
North Carolina	6.0 - 8.0	\$12,750	\$120,000	4
North Dakota	2.1 - 5.54	\$30,650	\$336,550	5
Ohio	0.649 - 6.555	\$5,000	\$200,000	9
Oklahoma	0.5 - 5.65	\$1,000	\$10,000	7
Oregon	5.0 - 9.0	\$2,750	\$6,851	3
Pennsylvania	3.07	Flat Rate		1
Rhode Island	25% Federal Tax Liability			N/A
South Carolina	2.5 - 7.0	\$2,570	\$12,850	6
South Dakota	No State Income Tax			N/A
Tennessee	Tax Limited to Dividends and Interest			N/A
Texas	No State Income Tax			N/A
Utah	2.3 - 6.98	\$1,000	\$5,501	6
Vermont	3.6 - 9.5	\$30,650	\$336,551	5
Virginia	2.0 - 5.75	3,000	17,000	4
Washington	No State Income Tax			N/A
West Virginia	3.0 - 6.5	\$10,000	\$60,000	5
Wisconsin	4.6 - 6.75	\$9,160	\$137,411	4
Wyoming	No State Income Tax			N/A

\* Rates apply to unmarried individuals

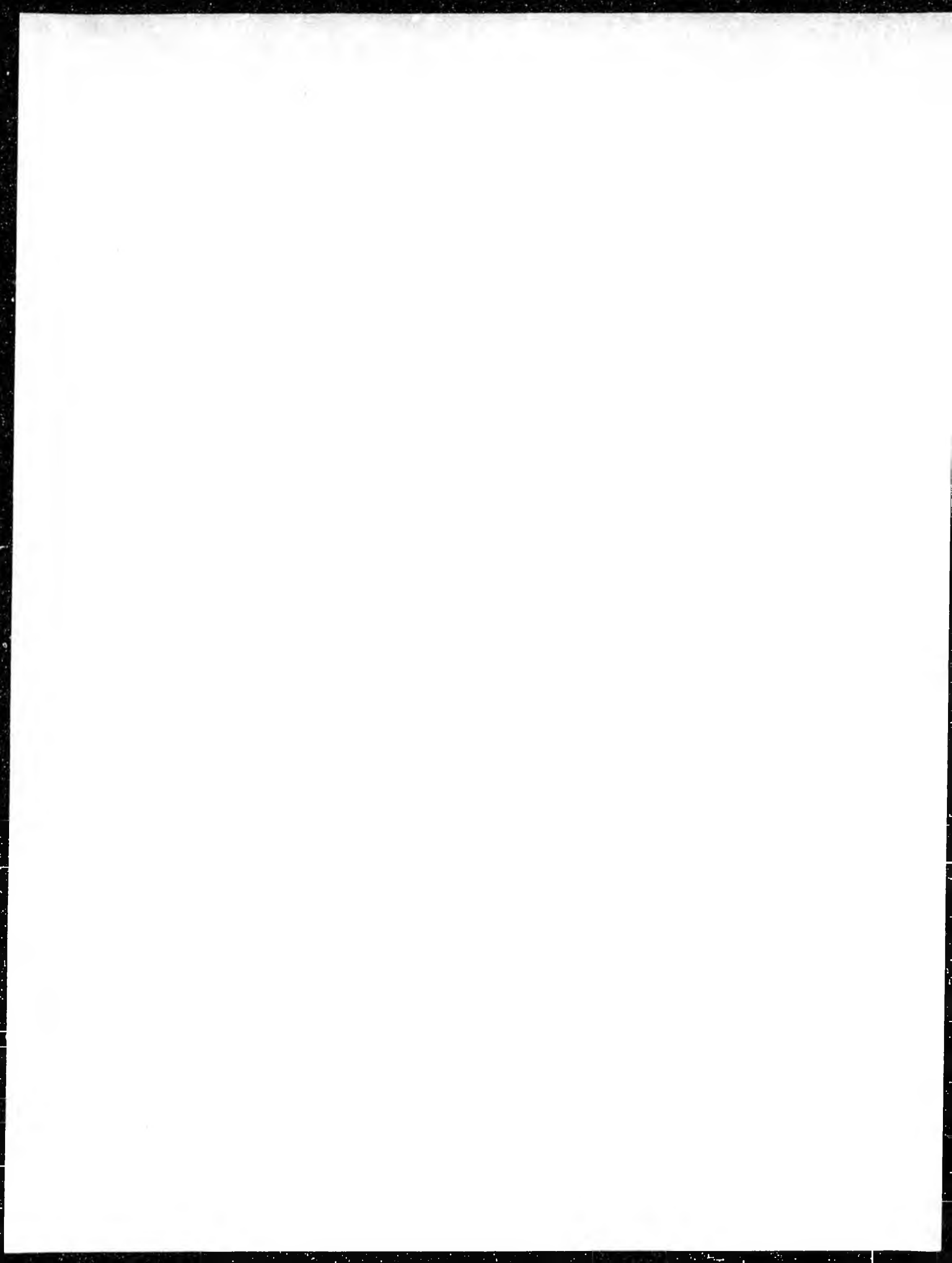
Source: Federation of Tax Administrators

**Appendix B**  
**Comparison of Sales Tax Rates**  
**January 2007**

State	Rate (%)	State	Rate (%)
Alabama	4.0	Montana	No State Sales Tax
<b>Alaska</b>	<b>No State Sales Tax</b>	Nebraska	5.5
Arizona	5.6	Nevada	6.5
Arkansas	6.0	New Hampshire	No State Sales Tax
California	7.25	New Jersey	7.0
Colorado	2.9	New Mexico	5.0
Connecticut	6.0	New York	4.0
Delaware	No State Sales Tax	North Carolina	4.25
Florida	6.0	North Dakota	5.0
Georgia	4.0	Ohio	5.5
Hawaii	4.0	Oklahoma	4.5
Idaho	6.0	Oregon	No State Sales Tax
Illinois	6.25	Pennsylvania	6.0
Indiana	6.0	Rhode Island	7.0
Iowa	5.0	South Carolina	5.0
Kansas	5.3	South Dakota	4.0
Kentucky	6.0	Tennessee	7.0
Louisiana	4.0	Texas	6.25
Maine	5.0	Utah	4.75
Maryland	5.0	Vermont	6.0
Massachusetts	5.0	Virginia	5.0
Michigan	6.0	Washington	6.5
Minnesota	6.5	West Virginia	6.0
Mississippi	7.0	Wisconsin	5.0
Missouri	4.225	Wyoming	4.0

Source: Federation of Tax Administrators





**COMMITTEE: House  
Transportation Standing  
Committee**

**DATE: March 25, 2008**

**SUBJECT: HB 106**

**REPEAL FEES FOR STUDED TIRES**



# PLEASE SIGN IN

**PLEASE PRINT:  
NAME & TITLE**

**ADDRESS**

**PHONE**

**REPRESENTING**  
(No acronyms unless for a state agency,  
please)

**DO YOU  
WANT TO  
TESTIFY ?**

PLEASE PRINT: NAME & TITLE	ADDRESS	PHONE	REPRESENTING (No acronyms unless for a state agency, please)	DO YOU WANT TO TESTIFY ?
males-waffey	MAILING:		DOT/IF	Available for questions
	E-MAIL:			
	MAILING:			
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	E-MAIL:			
	MAILING:			
	E-MAIL:			
	MAILING:			
	E-MAIL:			

**HB**

**126**



# Alaska State Legislature

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*Session:*

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Representative Kyle Johansen  
District 1

## HB 126 TALKING POINTS

- State is presently out of compliance with the federal Motor Carrier Safety Improvement Act (MSCIA) which Congress passed into law in 1999.
- We had until October 1, 2007 to get back into compliance (the state was notified by letter from the federal DOT). HB 126 accomplished that goal.
- Three different things occur when a state is not in compliance:
  - Loss of federal highway funds. The estimate from state DOT is \$7 million in FFY 08; \$14 million in FFY 09 and similar amounts thereafter. (Note: These are not 'free funds' – there is an 8% general fund state match required)
  - Loss of Motor Carrier Safety Assistance funds. The estimate from state DOT is \$850 thousand in FFY 08 and succeeding fiscal years. This money helps to pay for the road-side inspections, testing, and record keeping.
  - State's DMV loses the ability to issue CDL's to Alaskans that are good for driving trucks in interstate commerce
- The bill unanimously passed the House 39-0. Passed Senate 17-3.
- ATA (Alaska Truckers Association) supported the bill.
- The Federal Motor Carrier Safety Administration reviewed HB 126 and stated that the bill meets MCSIA.

# Alaska State Legislature

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Representative Kyle Johansen  
District 1

## Floor Statement (HB 126)

March 21, 2007

Mr. Speaker, I rise in support of HB 126. The state is presently out of compliance with the federal Motor Carrier Safety Improvement Act (MCSIA), ~~which Congress passed into law in 1999.~~ There is a letter to that effect dated January 31, 2007 from Mr. John Hill of the U.S. Department of Transportation to the Governor in member's packets.

We have until October 1, 2007 to get back into compliance. HB 126 will accomplish that goal. Mr. Speaker, I share the concerns of many of my colleagues who dislike federal mandates with carrots or sticks attached to them.

In this case, there are 3 different things that occur when a state is not in compliance:

- Loss of federal highway funds (In Alaska's case, the estimate from state DOT is \$7 million in FFY 08; \$14 million in FFY 09 and similar amounts thereafter, assuming similar amounts of highway funds come to the state in whatever bill follows SAFETEA-LU) These are not "free funds" there is an 8% general fund state match required; 63 million
- Loss of Motor Carrier Safety Assistance funds (In Alaska's case, the estimate from state DOT is \$850 thousand in FFY 08; \$850 thousand in FFY 09 and similar amounts thereafter)
- States's DMV loses the ability to issue CDL's to Alaskans that are good for working in interstate commerce

Several amendments were made to the bill through the committee process and I believe it is in good shape. However, Mr. Speaker, there is one further amendment I wish to offer. That amendment tightens up the title of the bill. I ask my colleagues to support the amendment.

Finally, I would note there is a letter of support for the bill from the Alaska Trucking Association in member's packets. They are very concerned about this issue; particularly the possibility that Alaska's DMV will not be able to issue CDL's valid for work in interstate commerce.

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## Representative Kyle Johansen District 1

### REVISED SPONSOR STATEMENT HB 126

"An act relating to driver's licenses and permits, commercial driver's licenses, and other motor vehicle laws; relating to the driver's license compact; and providing for and effective date."

The intent of HB 126 is to reduce the number and severity of commercial motor vehicle related fatalities and injuries. To achieve these ends, HB 126 updates existing motor vehicle statutes and adds new motor vehicle statutes to meet current and upcoming federal regulations for commercial driver's licenses. This legislation incorporates into Alaska law key provisions of the federal Motor Carrier Safety Improvement Act aimed at improving the overall effectiveness of the commercial driver's license program.

This bill will bring Alaska into compliance of the regulations set forth by the Federal Motor Carrier Safety Administration. Further noncompliance subjects Alaska to the withholding of up to five percent of federal-aid highway funds in the first year and up to ten percent of federal-aid highway funds in the second and subsequent years. The reduction in National Highway System, Surface Transportation Program and Interstate Maintenance funds is estimated to be \$7 million in federal fiscal year (FFY) 2008 and \$14 million in FFY 2009. If similar amounts to FFY 2009 are assumed, a total of \$63 million over a 5 year period would be lost if Alaska remains noncompliant. These funds are the most flexible dollars used in the State Transportation Improvement Program (STIP).

Alaska would also not receive the \$850,000 Motor Carrier Safety Assistance Program (MCSAP) grant in FYY 2008 and 2009 if HB 126 does not become law. The MCSAP is a Federal grant program that provides financial assistance to States to reduce the number and severity of crashes and hazardous materials incidents involving commercial motor vehicles (CMV) through consistent, uniform, and effective CMV safety programs.

This bill would exempt from the state's driver's license requirements certain military drivers operating commercial vehicles for military purposes and other drivers in cases of emergencies requiring additional assistance. Also, a nonresident holding a valid CDL issued by another jurisdiction whose permanent residence is maintained in that jurisdiction will not need to be issued a State of Alaska CDL.

# FISCAL NOTE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: HB126-DOA-DMV-2-13-07  
 Bill Version: HB 126  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_

Dept. Affected: Administration

Title "An Act relating to driver's licenses and permits, commercial driver's licenses,..."

RDU Division of Motor Vehicles  
 Component Motor Vehicles

Sponsor Rep. Johansen

Requester (H) STA

Component No. 2348

**Expenditures/Revenues**

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
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>	0.0	0.0	0.0	0.0	0.0	0.0
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<b>CHANGE IN REVENUES ( )</b>	0.0	0.0	0.0	0.0	0.0	0.0
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**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
<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 (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill will update existing motor vehicle statutes to bring the state into compliance with current and upcoming federal regulations for commercial driver's licenses.

We do not anticipate any change in expenditures or revenue as a result of this bill.

Prepared by: Duane Bannock, director

Division: Motor Vehicles

Phone 269-5559

Date/Time 2/13/07 10:00 AM

Approved by: Kevin Brooks, Deputy Commissioner

Agency: Department of Administration

Date 2/13/2007

# FISCAL NOTE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: HB 126-DOT-PLN-02-14-07  
 Bill Version: HB 126  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DOT&PF  
 Title Commercial Drivers Licenses RDU Planning  
 Component Program Development  
 Sponsor Johansen  
 Requester House STA Component No. 365

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

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
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 (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill brings the state into compliance with the Motor Carrier Safety Improvement Act of 1999.

Under section 384.401 of the Federal Motor Carrier Safety Regulations (49 CFR 384.401), a state that is not in compliance is subject to the withholding of up to five percent of Federal-aid highway funds that would otherwise be appropriated under 23 U.S.C. section 104(b). This reduction in National Highway System, Surface Transportation Program and Interstate Maintenance funds is estimated to be \$7 million in federal fiscal year (FFY) 2008 (starting October 1, 2007) and \$14 million in FFY 2009 (October 2008).

These funds are the most flexible dollars used in the State Transportation Improvement Program (STIP).

Prepared by: Mary Siruky Phone 465-4772  
 Division: Commissioner's Office Date/Time 2/14/07 12:00 AM  
 Approved by: John MacKinnon Date 2/14/2007  
 Agency: Department of Transportation and Public Facilities

# FISCAL NOTE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: HB 126-DOT-PLN-03-09-07  
 Bill Version: HB 126  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DOT&PF  
 Title Commercial Drivers Licenses RDU Planning  
 Component Program Development  
 Sponsor Johansen  
 Requester House STA Component No. 365

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

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
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 (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill brings the state into compliance with the Motor Carrier Safety Improvement Act of 1999. Under section 384.401 of the Federal Motor Carrier Safety Regulations (49 CFR 384.401), a state that is not in compliance is subject to the withholding of up to five percent of Federal-aid highway funds that would otherwise be appropriated under 23 U.S.C. section 104(b). This reduction in National Highway System, Surface Transportation Program and Interstate Maintenance funds is estimated to be \$7 million in federal fiscal year (FFY) 2008 (starting October 1, 2007) and \$14 million in FFY 2009 (October 2008). These funds are the most flexible dollars used in the State Transportation Improvement Program (STIP). Additionally failure to come into compliance could result in the loss of the Motor Carrier Safety Assistance Program funding. This would be \$850.0 for FY08 and FY09.

Prepared by: Mary Siroky  
 Division: Commissioner's Office  
 Approved by: Nancy Stagle, Director Admin Service  
 Agency: Department of Transportation and Public Facilities

Phone 465-4772  
 Date/Time 3/9/07 12:00 AM  
 Date 3/9/2007

Changes to Original Version of HB 126 Incorporated into the  
House Judiciary Substitute

- Section 1 was amended to add in the term “criminal justice information” to make it clear the type of information that can be accessed by DMV is limited in scope.
- Section 16 was amended to add in language “of a person who holds or is required to have a commercial driver’s license” to make it clear that the person convicted of certain offenses has to actually be holding a CDL at the time those offenses are committed in order to be disqualified from driving a commercial motor vehicle.
- Sections 18 and 19 were amended to add references in existing statutes to the new offenses added by the bill in section 16, (New AS 28.33.140(a)(9) and (a)(10).
- Section 23 was amended to add the language “In this subsection, “knowingly” has the meaning given in AS 11.81.900” to clarify that the owner / employer has to act “knowingly” in order to be held liable for the administrative penalties.
- Section 28 was amended to add brackets around the words “in writing” and to cap the letters so the proper drafting form for showing language to be deleted is used.

**CS FOR HOUSE BILL NO. 126(JUD)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FIFTH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE JUDICIARY COMMITTEE**

**Offered:**

**Referred:**

**Sponsor(s): REPRESENTATIVE JOHANSEN**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to driver's licenses and permits, commercial driver's licenses, and  
2 other motor vehicle laws; relating to the driver's license compact; and providing for an  
3 effective date."

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

5 \* **Section 1.** AS 28.05 is amended by adding a new section to read:

6 **Sec. 28.05.065. Access to criminal justice information.** (a) For purposes of  
7 carrying out the provisions of AS 28.05, AS 28.15, AS 28.33, and AS 28.35, an  
8 employee of the department assigned to perform functions under those chapters may  
9 access criminal justice information about an adult or minor charged with or convicted  
10 of an offense. *(Added in House Judiciary)*

11 (b) For purposes of obtaining access to criminal justice information  
12 maintained by the Department of Public Safety under AS 12.62, the unit assigned  
13 motor vehicle functions in the Department of Administration is a criminal justice  
14 agency conducting a criminal justice activity.

1 (c) In this section,

2 (1) "criminal justice activity" has the meaning given in AS 12.62.900;

3 (2) "criminal justice agency" has the meaning given in AS 12.62.900.

4 \* Sec. 2. AS 28.05.071 is amended to read:

5 **Sec. 28.05.071. Change of name or address.** A person who has applied for or  
6 been issued a certificate, registration, title, license, permit, or other form under this  
7 title, and who changes the person's name or moves from the address shown on the  
8 records or forms of the Department of Administration or the Department of Public  
9 Safety, shall notify the appropriate department [IN WRITING] of the change in name  
10 or address within 30 days

11 (1) on a form or in a format specified by the appropriate  
12 department; and

13 (2) in a manner prescribed in regulations adopted by the  
14 appropriate department.

15 \* Sec. 3. AS 28.15.021 is amended to read:

16 **Sec. 28.15.021. Persons exempt from driver licensing.** The following  
17 persons are exempt from driver licensing under this chapter:

18 (1) an employee of the United States government while operating a  
19 motor vehicle owned by or leased to the United States government and being operated  
20 on official business, unless the employee is required by the United States government  
21 or an agency of that government to have a state driver's license;

22 (2) a nonresident who is at least 16 years of age and who has a valid  
23 driver's license issued by another jurisdiction; however, an Alaska driver's license  
24 must be obtained by the end of a 90-day period after entry into the state;

25 (3) a member of the armed forces of the United States who has a valid  
26 driver's license issued by another jurisdiction when the permanent residence of the  
27 member is maintained in that jurisdiction;

28 (4) a person when driving an implement of husbandry, as defined by  
29 regulation, that is only temporarily driven or moved on a highway;

30 (5) a person when driving or operating an off-highway vehicle,  
31 watercraft, aircraft, or other vehicle not designed for highway use as specified by the

1 department by regulation;

2 (6) a person who is at least 16 years of age with a valid driver's license  
3 from a jurisdiction other than Alaska while driving a motor-driven cycle; however, an  
4 Alaska driver's license for driving a motor-driven cycle must be obtained by the end of  
5 a 90-day period after entering the state;

6 (7) a person when operating an electric personal motor vehicle;

7 (8) certain drivers in the United States military service who are  
8 operating commercial motor vehicles for military purposes; in this paragraph,  
9 "certain drivers in the United States military service"

10 (A) means

11 (i) a member of the United States active duty  
12 military, including active duty United States Coast Guard;

13 (ii) a member of the United States military reserves;

14 (iii) a member of the Alaska National Guard or the  
15 national guard of another state on active duty in this state,  
16 including a member on part-time Alaska National Guard training;  
17 and

18 (iv) an individual who serves as an Alaska National  
19 Guard military technician; in this sub-subparagraph, "Alaska  
20 National Guard military technician" means an individual who is  
21 not a member of the military, but is required to wear a military  
22 uniform;

23 (B) does not include an individual who serves as a United  
24 States Military Reserve technician;

25 (9) drivers employed by a municipality or established village, as  
26 that term is defined in AS 04.21.080, with a population of 3,000 or less operating  
27 snow removal equipment in this state within the boundaries of the municipality  
28 or established village if

29 (A) the employee who is properly licensed in this state and  
30 ordinarily operates the equipment is unavailable; or

31 (B) the municipality or established village determines that

1 **an emergency exists that requires additional assistance;**

2 **(10) a nonresident who holds a valid commercial driver's license**  
 3 **issued by another jurisdiction when the permanent residence of the commercial**  
 4 **driver is maintained in tha' jurisdiction.**

5 \* Sec. 4. AS 28.15.031(b) is amended to read:

6 (b) The department may not issue an original or duplicate driver's license to,  
 7 nor renew or reinstate the driver's license of, a person

8 (1) whose license is suspended, [OR] revoked, **canceled, or**  
 9 **withdrawn in this or any other jurisdiction** except as otherwise provided in this  
 10 chapter;

11 (2) who fails to appear in court for the adjudication of a certain  
 12 vehicle, driver, or traffic offense when the person's appearance is required by statute,  
 13 regulation, or court rule;

14 (3) who is an habitual user of alcohol or another drug to such a degree  
 15 that the person is incapable of safely driving a motor vehicle;

16 (4) when the department, based upon medical evidence, has  
 17 determined that because of the person's physical or mental disability the person is not  
 18 able to drive a motor vehicle safely;

19 (5) who is unable to understand official traffic control devices as  
 20 displayed in this state or who does not have a fair knowledge of traffic laws and  
 21 regulations, as demonstrated by an examination;

22 (6) who has knowingly made a false statement in the person's  
 23 application for a license or has committed fraud in connection with the person's  
 24 application for, or in obtaining or attempting to obtain, a license, or who has not  
 25 applied under oath on the form provided for the purpose of obtaining or attempting to  
 26 obtain a license or permit; or

27 (7) who is required under AS 28.20 to furnish proof of financial  
 28 responsibility and who has not done so.

29 \* Sec. 5. AS 28.15.031 is amended by adding new subsections to read:

30 (c) The department may not issue an original or duplicate commercial driver's  
 31 license to, nor renew or reinstate the commercial driver's license of, a person who is

1 disqualified from operating commercial motor vehicles in this or any other jurisdiction  
2 or is not domiciled in this state.

3 (d) In this section, "disqualified" has the meaning given in AS 28.33.190.

4 \* Sec. 6. AS 28.15.046(f) is amended to read:

5 (f) Costs of conducting the background check required under (b)(4) of this  
6 section shall be paid by the applicant. [A LICENSE ISSUED UNDER THIS  
7 SECTION EXPIRES ON SEPTEMBER 1 OF THE YEAR FOLLOWING  
8 ISSUANCE.] Application for renewal may be made by submitting to the department  
9 the results of a current physical examination and paying the required fee.

10 \* Sec. 7. AS 28.15.051(a) is amended to read:

11 (a) Except as provided in (b) of this section, a person who is at least 14 years  
12 of age may apply to the department for an instruction permit. The department may,  
13 after the applicant has successfully passed all parts of the examination under  
14 AS 28.15.081 other than the driving test, issue to the applicant an instruction permit.  
15 The permit allows a person, while having the permit in the person's immediate  
16 possession, to drive a specified type or class of motor vehicle on a highway or  
17 vehicular way or area for a period not to exceed two years. The permittee shall be  
18 accompanied by a person at least 21 years of age who has been licensed at least one  
19 year to drive the type or class of vehicle being used, who is capable of exercising  
20 control over the vehicle and who occupies a seat beside the driver, or who  
21 accompanies and immediately supervises the driver when the permittee drives a  
22 motorcycle. An instruction permit may be renewed one time. Once a license is issued  
23 to drive a specified type or class of motor vehicle, a driver is not eligible to obtain  
24 an instructional permit for that specified type or class of motor vehicle.

25 \* Sec. 8. AS 28.15.061(b) is amended to read:

26 (b) An application under (a) of this section must

27 (1) contain the applicant's full legal name, date and place of birth, sex,  
28 and mailing and residence addresses;

29 (2) state whether the applicant has been previously licensed in the past  
30 10 years as a driver and, if so, when and by what jurisdiction;

31 (3) state whether any previous driver's license issued to the applicant

1 has ever been suspended or revoked or whether an application for a driver's license has  
 2 ever been refused and, if so, the date of and reason for the suspension, revocation, or  
 3 refusal;

4 (4) contain the applicant's social security number; the requirement of  
 5 this paragraph only applies to an applicant who has been issued a social security  
 6 number; and

7 (5) contain other information that the department may reasonably  
 8 require to determine the applicant's identity, competency, and eligibility.

9 \* Sec. 9. AS 28.15.151(a) is amended to read:

10 (a) The department shall [MAY] maintain a file of

11 (1) every driver's license application, license or permit, and duplicate  
 12 driver's license issued by it;

13 (2) every license that has been suspended, revoked, canceled, limited,  
 14 restricted, or denied, and the reasons for those actions; [AND]

15 (3) all accident reports required to be forwarded to the department  
 16 under this title; and

17 (4) every disqualification of an individual from operating a  
 18 commercial motor vehicle.

19 \* Sec. 10. AS 28.15.151(b) is amended to read:

20 (b) The department shall [MAY] also maintain and update within 10 days  
 21 after receipt by the department, a file of all accident reports, abstracts of court  
 22 records of convictions of vehicle, driver, and traffic offenses, and other information  
 23 that [WHICH] the department considers necessary to carry out the purposes of this  
 24 chapter.

25 \* Sec. 11. AS 28.15.151(c) is amended to read:

26 (c) The department shall, upon request, subject to the applicable provisions of  
 27 AS 12.62 and (f) of this section and without charging a fee, furnish (1) a municipal,  
 28 state, or federal administrative or judicial agency with a certified abstract of the  
 29 driving record of a driver within 10 days after receipt of the request by the  
 30 department; and (2) a parent, foster parent, or guardian of a driver who is under 18  
 31 years of age and not an emancipated minor an abstract of the driving record of that

1 driver; the department may refuse to release the driver's address to the parent, foster  
 2 parent, or guardian if the department determines that the release of the driver's address  
 3 poses a threat to the health or safety of the driver. The abstract must include a listing  
 4 of accidents in which the driver has been determined by the department or a court of  
 5 competent jurisdiction to have been liable, convictions of vehicle, driver, and traffic  
 6 offenses, any actions taken upon the driver's license, and information relating to  
 7 financial responsibility.

8 \* Sec. 12. AS 28.15.171(b) is amended to read:

9 (b) The department shall [MAY], upon receiving the record of a conviction of  
 10 a person licensed in another jurisdiction for a vehicle, driver, or traffic offense in this  
 11 state, or upon suspending or revoking the person's driving privilege, forward a copy of  
 12 the record or suspension or revocation to the motor vehicle administrator for the  
 13 jurisdiction in which the person convicted is licensed.

14 \* Sec. 13. AS 28.15.211(a) is amended to read:

15 (a) Except for a point system suspension or revocation under AS 28.15.221 -  
 16 28.15.241 and unless provided otherwise by law, and unless the suspension or  
 17 revocation was for a cause that has been removed, a person whose driver's license,  
 18 privilege to drive, or privilege to obtain a license has been suspended or revoked may  
 19 not apply for a new license, and the person's driving privilege may not be restored,  
 20 until the expiration of

21 (1) 30 days [ONE MONTH] from the date on which the license,  
 22 privilege to drive, or privilege to obtain a license was suspended or revoked for a first  
 23 conviction of the particular offense from which the suspension or revocation resulted;

24 (2) 90 days [THREE MONTHS] from the date on which the license,  
 25 privilege to drive, or privilege to obtain a license was suspended or revoked for a  
 26 second conviction within 12 consecutive months of the same offense from which the  
 27 suspension or revocation resulted;

28 (3) one year from the date on which the license, privilege to drive, or  
 29 privilege to obtain a license was suspended or revoked for a third or subsequent  
 30 conviction within 12 consecutive months of the same offense from which the  
 31 suspension or revocation resulted.

1 \* Sec. 14. AS 28.15.211(b) is amended to read:

2 (b) A limitation, suspension, or revocation of a driver's license, privilege to  
3 drive, or privilege to obtain a license or a disqualification imposed by a court or the  
4 department takes effect on the date of final judgment, except that if another court or  
5 department limitation, suspension, disqualification, or revocation is in effect on the  
6 date of final judgment, the effective date of the last imposed limitation, suspension,  
7 disqualification, or revocation is at the end of the last day of the previous limitation,  
8 suspension, disqualification, or revocation unless the court or department specifies  
9 otherwise.

10 \* Sec. 15. AS 28.33.100(a) is amended to read:

11 (a) A person may not drive a commercial motor vehicle until the person  
12 applies for and is issued a license for that purpose under AS 28.15.041. The  
13 department may not issue a license to drive a commercial motor vehicle unless the  
14 applicant

15 (1) is at least 19 years of age, to operate in intrastate commerce or  
16 at least 21 years of age, to operate in interstate commerce;

17 (2) has held a valid driver's license at least one year before the date of  
18 application or meets the experience qualifications established by the department;

19 (3) has successfully completed all required driving tests and written  
20 and physical examinations;

21 (4) either does not have a driver's license issued by another jurisdiction  
22 or surrenders all driver's licenses issued by other jurisdictions; and

23 (5) is domiciled in this state.

24 \* Sec. 16. AS 28.33.140(a) is amended to read:

25 (a) In addition to any [THE] court action or administrative action in this or  
26 any other jurisdiction [PROVIDED IN AS 28.15.181], conviction of a person who  
27 holds or is required to have a commercial driver's license of any of the following  
28 offenses is grounds for immediate disqualification from driving a commercial motor  
29 vehicle for the periods set out in this section:  
30

31 (1) operating a commercial motor vehicle while under the influence of  
an alcoholic beverage, inhalant, or controlled substance in violation of AS 28.33.030;

- 1 (2) refusal to submit to a chemical test in violation of AS 28.35.032;
- 2 (3) operating a motor vehicle while under the influence of an alcoholic
- 3 beverage, inhalant, or controlled substance in violation of AS 28.35.030;
- 4 (4) leaving the scene of an accident in violation of AS 28.35.060, or
- 5 failing to file, or providing false information in, an accident report in violation of
- 6 AS 28.35.110;
- 7 (5) a felony under state or federal law that was facilitated because the
- 8 person used a [COMMERCIAL] motor vehicle;
- 9 (6) a serious traffic violation;
- 10 (7) driving after being placed out of service in violation of regulations
- 11 adopted under AS 19.10.060(c) or AS 28.05.011; [OR]
- 12 (8) operating a commercial motor vehicle in violation of a federal or
- 13 state statute or regulation, or a local law or ordinance, relating to railroad-highway
- 14 grade crossings;
- 15 (9) operating a commercial motor vehicle while the driver's
- 16 commercial motor vehicle license is suspended, revoked, or canceled, or the
- 17 driver is disqualified;
- 18 (10) causing a fatality through the negligent operation, or
- 19 operation in violation of a felony criminal law, of a commercial motor vehicle.

20 \* Sec. 17. AS 28.33.140(c) is amended to read:

21 (c) Upon a conviction by a court of [A COURT CONVICTING] a person of

22 an offense described in (a)(6) of this section, the department shall disqualify that

23 person from driving a commercial motor vehicle for not less than 60 days if the person

24 has been previously convicted once, and 120 days if the person has been previously

25 convicted more than once. The disqualification period under this subsection is in

26 addition to any other previously imposed period of disqualification. As used in

27 this subsection, "previously convicted" means having been convicted in this or another

28 jurisdiction, within three years preceding the date of the present offense, of an offense

29 described in (a)(6) of this section, or of another law or ordinance with substantially

30 similar elements, arising out of a separate incident.

31 \* Sec. 18. AS 28.33.140(d) is amended to read:

1 (d) Upon conviction by a court of [A COURT CONVICTING] a person of  
 2 an offense described in (a)(1) - (5), (9), or (10) of this section, the department shall  
 3 disqualify that person from driving a commercial motor vehicle for not less than one  
 4 year for a first offense, except that, if the offense was

5 (1) facilitated by a commercial motor vehicle transporting a hazardous  
 6 material [SUBSTANCE] that required that placards be placed on the vehicle under 49  
 7 U.S.C. 5101 - 5127, the period of disqualification is not less than three years;

8 (2) a felony offense that involved the manufacture, distribution, or  
 9 dispensing, or possession with intent to manufacture, distribute, or dispense, a  
 10 controlled substance, the disqualification is for life and the license may not be  
 11 reinstated under (g) of this section.

12 \* Sec. 19. AS 28.33.140(e) is amended to read:

13 (e) Upon conviction by a court of [A COURT CONVICTING] a person of  
 14 an offense described in (a)(1) - (5), (9), or (10) of this section, the department shall  
 15 disqualify that person from driving a commercial motor vehicle for life if the person  
 16 has been previously convicted. As used in this subsection, "previously convicted"  
 17 means having been convicted in this or another jurisdiction of an offense described in  
 18 (a)(1) - (5), (9), or (10) of this section, or of another law or ordinance with  
 19 substantially similar elements.

20 \* Sec. 20. AS 28.33.140(i) is amended to read:

21 (i) In addition to the requirements of AS 28.15.191, a court that disqualifies a  
 22 person from driving a commercial motor vehicle shall require the surrender of the  
 23 license, and shall immediately forward the license to the department with the record of  
 24 conviction and notification of the effective date of the disqualification. If the  
 25 disqualification occurs by administrative action as described in (a) of this section,  
 26 the person disqualified from driving shall surrender the license to the  
 27 department.

28 \* Sec. 21. AS 28.33.140(j) is amended to read:

29 (j) Upon conviction by a court of [A COURT CONVICTING] a person of an  
 30 offense described in (a)(7) of this section, the department shall disqualify that person  
 31 from driving a commercial motor vehicle for the following periods: (1) if the person

1 has not been previously convicted of violating an out-of-service order, not less than  
 2 180 [90] days; (2) if the person has been previously convicted once of violating an  
 3 out-of-service order, not less than two years [ONE YEAR]; (3) if the person has been  
 4 previously convicted more than once of violating an out-of-service order, not less than  
 5 three years; (4) if the person operates a commercial motor vehicle transporting  
 6 hazardous materials or a vehicle designed to transport 16 or more passengers,  
 7 including the driver, in violation of an out-of-service order, not less than 180  
 8 days; (5) if the person has been previously convicted of operating a commercial  
 9 motor vehicle transporting hazardous materials or a vehicle designed to  
 10 transport 16 or more passengers, including the driver, in violation of an out-of-  
 11 service order two or more times in separate incidents within a 10-year period, not  
 12 less than three years. In this subsection, "previously convicted" means having been  
 13 convicted in this or another jurisdiction of an offense described in (a)(7) of this section  
 14 within 10 years preceding the date of the present offense.

15 \* Sec. 22. AS 28.33.140(k) is amended to read:

16 (k) Upon conviction by a court of [A COURT CONVICTING] a person of  
 17 an offense described in (a)(8) of this section, the department shall disqualify that  
 18 person from operating a commercial motor vehicle for the following periods: (1) if the  
 19 person has not been previously convicted of violating a federal or state statute or  
 20 regulation, or a local law or ordinance, relating to railroad-highway grade crossings,  
 21 not less than 60 days; (2) if the person has been previously convicted once of violating  
 22 a federal or state statute or regulation, or a local law or ordinance, relating to railroad-  
 23 highway grade crossings, not less than 120 days; (3) if the person has been previously  
 24 convicted more than once of a violation of a federal or state statute or regulation, or a  
 25 local law or ordinance, relating to railroad-highway grade crossings, not less than one  
 26 year. In this subsection, "previously convicted" means having been convicted in this or  
 27 another jurisdiction of an offense described in (a)(8) of this section within three years  
 28 proceeding the date of the present offense.

29 \* Sec. 23. AS 28.33.140 is amended by adding new subsections to read:

30 (l) A person who operates a commercial motor vehicle whose driving is  
 31 determined by the United States Department of Transportation to constitute an

1 imminent hazard is subject to disqualification as specified by the department in  
 2 regulation. The regulations adopted by the department under this subsection must be  
 3 substantially similar to those set by the federal government.

4 (m) A person who violates the standards for operating a commercial motor  
 5 vehicle set out by the department in regulation is subject to civil penalties established  
 6 by the department in regulation. An employer who knowingly allows an employee to  
 7 drive in violation of an out-of-service order or in violation of a railroad-highway grade  
 8 crossing is subject to civil penalties as described in 49 U.S.C. 521(b) as established by  
 9 the department in regulation. The department may adopt regulations under AS 44.62  
 10 to implement this subsection. The regulations adopted under this subsection must be  
 11 substantially similar to any applicable federal regulations. In this subsection,  
 12 "knowingly," has the meaning given in AS 11.81.900. *Added definition of*

13 \* Sec. 24. AS 28.33.150(a) is amended to read:

*knowingly - House Judiciary*

14 (a) A person is guilty of a class A misdemeanor if the person drives a  
 15 commercial motor vehicle in this state

16 (1) without being licensed or privileged in this state to drive a  
 17 commercial motor vehicle;

18 (2) during a period when that person's driver's license, privilege to  
 19 drive, or privilege to obtain a license has been canceled, suspended, or revoked, or the  
 20 person has been disqualified, in this or another jurisdiction;

21 (3) in violation of a limitation placed upon that person's license or  
 22 privilege to drive in this or another jurisdiction;

23 (4) during a period when that person has been disqualified from  
 24 driving a commercial motor vehicle by a court or an administrative agency in this or  
 25 another jurisdiction; or

26 (5) in violation of an out of service order issued under AS 28.33.130 or  
 27 under a law in another jurisdiction having substantially similar requirements.

28 \* Sec. 25. AS 28.33.190(11) is amended to read:

29 (11) "serious traffic violation" means

30 (A) speeding 15 miles per hour or more above the posted limit;

31 (B) reckless or negligent driving, in violation of AS 28.35.400

1 or 28.35.410 or an ordinance with substantially similar elements;

2 (C) violation of a provision of this title, or a regulation adopted  
3 under this title, relating to improper lane changes or following too closely, or  
4 an ordinance with substantially similar elements; [OR]

5 (D) violation of a law or ordinance relating to traffic control,  
6 which was determined by the court by a preponderance of the evidence to have  
7 been a factor in causing physical injury to a person;

8 (E) driving a commercial motor vehicle without obtaining a  
9 license to drive a commercial motor vehicle;

10 (F) driving a commercial motor vehicle without a license to  
11 drive a commercial motor vehicle in the driver's possession; however, if an  
12 individual provides proof to the department by the date that the  
13 individual was required to appear in court or pay any fine for that  
14 violation that the individual held a valid license to drive a commercial  
15 motor vehicle on the date the citation was issued, the driving may not be  
16 considered as a serious traffic violation under this paragraph; or

17 (G) driving a commercial motor vehicle without the proper  
18 class of license to drive a commercial motor vehicle and any required  
19 endorsements for the specific vehicle group being operated, or for the  
20 passengers or type of cargo being transported.

21 \* Sec. 26. AS 28.33.190 is amended by adding new paragraphs to read:

22 (12) "commerce" means

23 (A) any trade, traffic, or transportation within the jurisdiction  
24 of the United States between a place in a state and a place outside of the United  
25 States; and

26 (B) trade, traffic, and transportation in the United States that  
27 affects any trade, traffic, and transportation described in (A) of this paragraph;

28 (13) "commercial driver's license" means a license issued by a state or  
29 other jurisdiction, in accordance with the standards contained in 49 C.F.R. 383, to an  
30 individual authorizing the individual to operate a class of a commercial motor vehicle;

31 (14) "conviction" means an unvacated adjudication or conviction of

1           guilt, or a determination that a person has violated or failed to comply with the law in  
2           a court of original jurisdiction or by an authorized administrative agency, an unvacated  
3           forfeiture of bail or collateral deposited to secure the person's appearance in court, a  
4           plea of guilty or nolo contendere accepted by the court, the payment of a fine or court  
5           cost, or violation of a condition of release without bail, regardless of whether the  
6           penalty is rebated, suspended, or probated;

7                   (15) "domicile" means a state of the United States where a person has  
8           the person's true, fixed, and permanent home and principal residence and to which the  
9           person has the intention of returning whenever the person is absent;

10                   (16) "hazardous material" means any material that has been designated  
11           as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of  
12           49 C.F.R. 172 or any quantity of a material listed as a select agent or toxin in 42  
13           C.F.R. 73;

14                   (17) "imminent hazard" means the existence of a condition that  
15           presents a substantial likelihood that death, serious illness, severe personal injury, or a  
16           substantial endangerment to health, property, or the environment may occur before the  
17           reasonably foreseeable completion date of a formal proceeding by the United States  
18           Department of Transportation begun to lessen the risk of that death, illness, injury or  
19           endangerment.

20   \* **Sec. 27.** AS 28.35.032(s) is amended to read:

21                   (s) For purposes of this section, the director of the division within the  
22           department responsible for administration of this section or a person designated by the  
23           director may request and receive criminal justice information available under  
24           AS 12.62. [IN THIS SUBSECTION, "CRIMINAL JUSTICE INFORMATION" HAS  
25           THE MEANING GIVEN IN AS 12.62.900.]

26   \* **Sec. 28.** AS 28.35.135(b) is amended to read:

27                   (b) A person who has a certification, registration, title, license, or other form  
28           issued under this title, or who has applied for a certification, registration, license, or  
29           other form, and who changes the person's name or moves from the address shown on  
30           the department's records or forms, shall notify the department [IN WRITING] of the  
31           change in name or address within 30 days

*Added in  
House Judiciary*

1 (1) on a form or in a format specified by the department; and

2 (2) in a manner prescribed in regulations adopted by the  
3 department.

4 \* Sec. 29. AS 28.37.150 is amended to read:

5 **Sec. 28.37.150. Grounds requiring refusal to issue license.** Upon application  
6 for a license to drive, the licensing authority in a party state shall ascertain whether the  
7 applicant has ever held, or is the holder of a license to drive issued by another party  
8 state. The licensing authority in the state where application is made may not issue a  
9 license to drive to the applicant if

10 (1) the applicant has held a license, but the license has been suspended,  
11 revoked, or canceled, or the applicant has been disqualified from operating a  
12 commercial motor vehicle, by reason, in whole or in part, of a violation, and the  
13 suspension period has not terminated;

14 (2) the applicant has held a license, but the license has been revoked by  
15 reason, in whole or in part, of a violation, and the revocation has not terminated;  
16 except that after the expiration of one year from the date the license was revoked, the  
17 person may make application for a new license if permitted by law; the licensing  
18 authority may refuse to issue a license to an applicant if, after investigation, the  
19 licensing authority determines that it will not be safe to grant to the person the  
20 privilege of driving a motor vehicle on the public highways;

21 (3) the applicant is the holder of a license to drive issued by another  
22 party state and currently in force, unless the applicant surrenders the license;

23 (4) the applicant has held a license, but has been disqualified from  
24 operating a commercial motor vehicle by reason, in whole or in part, of a  
25 violation, and the disqualification has not terminated; however, a person may  
26 make an application for a noncommercial driver license if permitted by other  
27 law.

28 \* Sec. 30. AS 28.90.990(a) is amended by adding a new paragraph to read:

29 (29) "criminal justice information" has the meaning given in  
30 AS 12.62.900.

31 \* Sec. 31. AS 28.33.140(b) and 28.33.190(8) are repealed.

1 \* **Sec. 32.** The uncodified law of the State of Alaska is amended by adding a new section to  
2 read:

3       TRANSITION: REGULATIONS. The Department of Administration may proceed to  
4 adopt regulations necessary to implement this Act. The regulations take effect under AS 44.62  
5 (Administrative Procedure Act), but not before the effective date of the statutory changes.

6 \* **Sec. 33.** Section 32 of this Act takes effect immediately under AS 01.10.070(c).

7 \* **Sec. 34.** Except as provided in sec. 33 of this Act, this Act takes effect July 1, 2007.

This is a **DRAFT AMENDED VERSION**  
of all amendments incorporated into **CSHB 126(JUD)(title am)** as of March 21, 2007

FOR YOUR INFORMATION ONLY

USE UNAMENDED VERSION WHEN DRAFTING  
FUTURE AMENDMENTS

**CSHB 126(JUD)(title am)**

CS FOR HOUSE BILL NO. 126(JUD)(title am)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Amended: 3/21/07

Offered: 3/14/07

Sponsor(s): REPRESENTATIVE JOHANSEN

**DRAFT**

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to access to criminal justice information for certain employees of the  
2 Department of Administration; relating to the procedure for changes to certificates,  
3 registration, titles, licenses, permits, and other forms relating to driving and motor  
4 vehicles; relating to requirements for, cancellations of, renewals of, reinstatements of,  
5 expirations of, disqualifications of, withdrawals of, suspensions or revocations of, and  
6 exemptions from commercial and other driver's licenses, permits, or privileges to drive;  
7 relating to records concerning motor vehicles and their drivers; relating to penalties for  
8 violating commercial driver licensing requirements; relating to the driver's license  
9 compact; and providing for an effective date."

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

11 \* Section 1. AS 28.05 is amended by adding a new section to read:

12 Sec. 28.05.065. Access to criminal justice information. (a) For purposes of

1 carrying out the provisions of AS 28.05, AS 28.15, AS 28.33, and AS 28.35, an  
 2 employee of the department assigned to perform functions under those chapters may  
 3 access criminal justice information about an adult or minor charged with or convicted  
 4 of an offense.

5 (b) For purposes of obtaining access to criminal justice information  
 6 maintained by the Department of Public Safety under AS 12.62, the unit assigned  
 7 motor vehicle functions in the Department of Administration is a criminal justice  
 8 agency conducting a criminal justice activity.

9 (c) In this section,

10 (1) "criminal justice activity" has the meaning given in AS 12.62.900;

11 (2) "criminal justice agency" has the meaning given in AS 12.62.900.

12 \* Sec. 2. AS 28.05.071 is amended to read:

13 **Sec. 28.05.071. Change of name or address.** A person who has applied for or  
 14 been issued a certificate, registration, title, license, permit, or other form under this  
 15 title, and who changes the person's name or moves from the address shown on the  
 16 records or forms of the Department of Administration or the Department of Public  
 17 Safety, shall notify the appropriate department [IN WRITING] of the change in name  
 18 or address within 30 days

19 (1) on a form or in a format specified by the appropriate  
 20 department; and

21 (2) in a manner prescribed in regulations adopted by the  
 22 appropriate department.

23 \* Sec. 3. AS 28.15.021 is amended to read:

24 **Sec. 28.15.021. Persons exempt from driver licensing.** The following  
 25 persons are exempt from driver licensing under this chapter:

26 (1) an employee of the United States government while operating a  
 27 motor vehicle owned by or leased to the United States government and being operated  
 28 on official business, unless the employee is required by the United States government  
 29 or an agency of that government to have a state driver's license;

30 (2) a nonresident who is at least 16 years of age and who has a valid  
 31 driver's license issued by another jurisdiction; however, an Alaska driver's license

1 must be obtained by the end of a 90-day period after entry into the state;

2 (3) a member of the armed forces of the United States who has a valid  
3 driver's license issued by another jurisdiction when the permanent residence of the  
4 member is maintained in that jurisdiction;

5 (4) a person when driving an implement of husbandry, as defined by  
6 regulation, that is only temporarily driven or moved on a highway;

7 (5) a person when driving or operating an off-highway vehicle,  
8 watercraft, aircraft, or other vehicle not designed for highway use as specified by the  
9 department by regulation;

10 (6) a person who is at least 16 years of age with a valid driver's license  
11 from a jurisdiction other than Alaska while driving a motor-driven cycle; however, an  
12 Alaska driver's license for driving a motor-driven cycle must be obtained by the end of  
13 a 90-day period after entering the state;

14 (7) a person when operating an electric personal motor vehicle;

15 (8) certain drivers in the United States military service who are  
16 operating commercial motor vehicles for military purposes; in this paragraph,  
17 "certain drivers in the United States military service"

18 (A) means

19 (i) a member of the United States active duty  
20 military, including active duty United States Coast Guard;

21 (ii) a member of the United States military reserves;

22 (iii) a member of the Alaska National Guard or the  
23 national guard of another state on active duty in this state,  
24 including a member on part-time Alaska National Guard training;  
25 and

26 (iv) an individual who serves as an Alaska National  
27 Guard military technician; in this sub-subparagraph, "Alaska  
28 National Guard military technician" means an individual who is  
29 not a member of the military, but is required to wear a military  
30 uniform;

31 (B) does not include an individual who serves as a United

1                    States Military Reserve technician;

2                    (9) drivers employed by a municipality or established village, as  
 3 that term is defined in AS 04.21.080, with a population of 3,000 or less operating  
 4 snow removal equipment in this state within the boundaries of the municipality  
 5 or established village if

6                    (A) the employee who is properly licensed in this state and  
 7 ordinarily operates the equipment is unavailable; or

8                    (B) the municipality or established village determines that  
 9 an emergency exists that requires additional assistance;

10                   (10) a nonresident who holds a valid commercial driver's license  
 11 issued by another jurisdiction when the permanent residence of the commercial  
 12 driver is maintained in that jurisdiction.

13 \* Sec. 4. AS 28.15.031(b) is amended to read:

14                   (b) The department may not issue an original or duplicate driver's license to,  
 15 nor renew or reinstate the driver's license of, a person

16                   (1) whose license is suspended, [OR] revoked, canceled, or  
 17 withdrawn in this or any other jurisdiction except as otherwise provided in this  
 18 chapter;

19                   (2) who fails to appear in court for the adjudication of a certain  
 20 vehicle, driver, or traffic offense when the person's appearance is required by statute,  
 21 regulation, or court rule;

22                   (3) who is an habitual user of alcohol or another drug to such a degree  
 23 that the person is incapable of safely driving a motor vehicle;

24                   (4) when the department, based upon medical evidence, has  
 25 determined that because of the person's physical or mental disability the person is not  
 26 able to drive a motor vehicle safely;

27                   (5) who is unable to understand official traffic control devices as  
 28 displayed in this state or who does not have a fair knowledge of traffic laws and  
 29 regulations, as demonstrated by an examination;

30                   (6) who has knowingly made a false statement in the person's  
 31 application for a license or has committed fraud in connection with the person's

1 application for, or in obtaining or attempting to obtain, a license, or who has not  
 2 applied under oath on the form provided for the purpose of obtaining or attempting to  
 3 obtain a license or permit; or

4 (7) who is required under AS 28.20 to furnish proof of financial  
 5 responsibility and who has not done so.

6 \* Sec. 5. AS 28.15.031 is amended by adding new subsections to read:

7 (c) The department may not issue an original or duplicate commercial driver's  
 8 license to, nor renew or reinstate the commercial driver's license of, a person who is  
 9 disqualified from operating commercial motor vehicles in this or any other jurisdiction  
 10 or is not domiciled in this state.

11 (d) In this section, "disqualified" has the meaning given in AS 28.33.190.

12 \* Sec. 6. AS 28.15.046(f) is amended to read:

13 (f) Costs of conducting the background check required under (b)(4) of this  
 14 section shall be paid by the applicant. [A LICENSE ISSUED UNDER THIS  
 15 SECTION EXPIRES ON SEPTEMBER 1 OF THE YEAR FOLLOWING  
 16 ISSUANCE.] Application for renewal may be made by submitting to the department  
 17 the results of a current physical examination and paying the required fee.

18 \* Sec. 7. AS 28.15.051(a) is amended to read:

19 (a) Except as provided in (b) of this section, a person who is at least 14 years  
 20 of age may apply to the department for an instruction permit. The department may,  
 21 after the applicant has successfully passed all parts of the examination under  
 22 AS 28.15.081 other than the driving test, issue to the applicant an instruction permit.  
 23 The permit allows a person, while having the permit in the person's immediate  
 24 possession, to drive a specified type or class of motor vehicle on a highway or  
 25 vehicular way or area for a period not to exceed two years. The permittee shall be  
 26 accompanied by a person at least 21 years of age who has been licensed at least one  
 27 year to drive the type or class of vehicle being used, who is capable of exercising  
 28 control over the vehicle and who occupies a seat beside the driver, or who  
 29 accompanies and immediately supervises the driver when the permittee drives a  
 30 motorcycle. An instruction permit may be renewed one time. Once a license is issued  
 31 to drive a specified type or class of motor vehicle, a driver is not eligible to obtain

1 a. Instructional permit for that specified type or class of motor vehicle.

2 \* Sec. 8. AS 28.15.061(b) is amended to read:

3 (b) An application under (a) of this section must

4 (1) contain the applicant's full legal name, date and place of birth, sex,  
5 and mailing and residence addresses;

6 (2) state whether the applicant has been previously licensed in the past  
7 10 years as a driver and, if so, when and by what jurisdiction;

8 (3) state whether any previous driver's license issued to the applicant  
9 has ever been suspended or revoked or whether an application for a driver's license has  
10 ever been refused and, if so, the date of and reason for the suspension, revocation, or  
11 refusal;

12 (4) contain the applicant's social security number; the requirement of  
13 this paragraph only applies to an applicant who has been issued a social security  
14 number; and

15 (5) contain other information that the department may reasonably  
16 require to determine the applicant's identity, competency, and eligibility.

17 \* Sec. 9. AS 28.15.151(a) is amended to read:

18 (a) The department shall [MAY] maintain a file of

19 (1) every driver's license application, license or permit, and duplicate  
20 driver's license issued by it;

21 (2) every license that has been suspended, revoked, canceled, limited,  
22 restricted, or denied, and the reasons for those actions; [AND]

23 (3) all accident reports required to be forwarded to the department  
24 under this title; and

25 (4) every disqualification of an individual from operating a  
26 commercial motor vehicle.

27 \* Sec. 10. AS 28.15.151(b) is amended to read:

28 (b) The department shall [MAY] also maintain and update within 10 days  
29 after receipt by the department, a file of all accident reports, abstracts of court  
30 records of convictions of vehicle, driver, and traffic offenses, and other information  
31 that [WHICH] the department considers necessary to carry out the purposes of this

1 chapter.

2 \* Sec. 11. AS 28.15.151(c) is amended to read:

3 (c) The department shall, upon request, subject to the applicable provisions of  
 4 AS 12.62 and (f) of this section and without charging a fee, furnish (1) a municipal,  
 5 state, or federal administrative or judicial agency with a certified abstract of the  
 6 driving record of a driver within 10 days after receipt of the request by the  
 7 department; and (2) a parent, foster parent, or guardian of a driver who is under 18  
 8 years of age and not an emancipated minor an abstract of the driving record of that  
 9 driver; the department may refuse to release the driver's address to the parent, foster  
 10 parent, or guardian if the department determines that the release of the driver's address  
 11 poses a threat to the health or safety of the driver. The abstract must include a listing  
 12 of accidents in which the driver has been determined by the department or a court of  
 13 competent jurisdiction to have been liable, convictions of vehicle, driver, and traffic  
 14 offenses, any actions taken upon the driver's license, and information relating to  
 15 financial responsibility.

16 \* Sec. 12. AS 28.15.171(b) is amended to read:

17 (b) The department shall [MAY], upon receiving the record of a conviction of  
 18 a person licensed in another jurisdiction for a vehicle, driver, or traffic offense in this  
 19 state, or upon suspending or revoking the person's driving privilege, forward a copy of  
 20 the record or suspension or revocation to the motor vehicle administrator for the  
 21 jurisdiction in which the person convicted is licensed.

22 \* Sec. 13. AS 28.15.211(a) is amended to read:

23 (a) Except for a point system suspension or revocation under AS 28.15.221 -  
 24 28.15.241 and unless provided otherwise by law, and unless the suspension or  
 25 revocation was for a cause that has been removed, a person whose driver's license,  
 26 privilege to drive, or privilege to obtain a license has been suspended or revoked may  
 27 not apply for a new license, and the person's driving privilege may not be restored,  
 28 until the expiration of

29 (1) 30 days [ONE MONTH] from the date on which the license,  
 30 privilege to drive, or privilege to obtain a license was suspended or revoked for a first  
 31 conviction of the particular offense from which the suspension or revocation resulted;

1 (2) 90 days [THREE MONTHS] from the date on which the license,  
 2 privilege to drive, or privilege to obtain a license was suspended or revoked for a  
 3 second conviction within 12 consecutive months of the same offense from which the  
 4 suspension or revocation resulted;

5 (3) one year from the date on which the license, privilege to drive, or  
 6 privilege to obtain a license was suspended or revoked for a third or subsequent  
 7 conviction within 12 consecutive months of the same offense from which the  
 8 suspension or revocation resulted.

9 \* Sec. 14. AS 28.15.211(b) is amended to read:

10 (b) A limitation, suspension, or revocation of a driver's license, privilege to  
 11 drive, or privilege to obtain a license or a disqualification imposed by a court or the  
 12 department takes effect on the date of final judgment, except that if another court or  
 13 department limitation, suspension, disqualification, or revocation is in effect on the  
 14 date of final judgment, the effective date of the last imposed limitation, suspension,  
 15 disqualification, or revocation is at the end of the last day of the previous limitation,  
 16 suspension, disqualification, or revocation unless the court or department specifies  
 17 otherwise.

18 \* Sec. 15. AS 28.33.100(a) is amended to read:

19 (a) A person may not drive a commercial motor vehicle until the person  
 20 applies for and is issued a license for that purpose under AS 28.15.041. The  
 21 department may not issue a license to drive a commercial motor vehicle unless the  
 22 applicant

23 (1) is at least 19 years of age, to operate in intrastate commerce, or  
 24 at least 21 years of age, to operate in interstate commerce;

25 (2) has held a valid driver's license at least one year before the date of  
 26 application or meets the experience qualifications established by the department;

27 (3) has successfully completed all required driving tests and written  
 28 and physical examinations;

29 (4) either does not have a driver's license issued by another jurisdiction  
 30 or surrenders all driver's licenses issued by other jurisdictions; and

31 (5) is domiciled in this state.

1 \* Sec. 16. AS 28.33.140(a) is amended to read:

2 (a) In addition to any [THE] court action or administrative action in this or  
 3 any other jurisdiction [PROVIDED IN AS 28.15.181], conviction of a person who  
 4 holds or is required to have a commercial driver's license of any of the following  
 5 offenses is grounds for immediate disqualification from driving a commercial motor  
 6 vehicle for the periods set out in this section:

7 (1) operating a commercial motor vehicle while under the influence of  
 8 an alcoholic beverage, inhalant, or controlled substance in violation of AS 28.33.030;

9 (2) refusal to submit to a chemical test in violation of AS 28.35.032;

10 (3) operating a motor vehicle while under the influence of an alcoholic  
 11 beverage, inhalant, or controlled substance in violation of AS 28.35.030;

12 (4) leaving the scene of an accident in violation of AS 28.35.060, or  
 13 failing to file, or providing false information in, an accident report in violation of  
 14 AS 28.35.110;

15 (5) a felony under state or federal law that was facilitated because the  
 16 person used a [COMMERCIAL] motor vehicle;

17 (6) a serious traffic violation;

18 (7) driving after being placed out of service in violation of regulations  
 19 adopted under AS 19.10.060(c) or AS 28.05.011; [OR]

20 (8) operating a commercial motor vehicle in violation of a federal or  
 21 state statute or regulation, or a local law or ordinance, relating to railroad-highway  
 22 grade crossings;

23 (9) operating a commercial motor vehicle while the driver's  
 24 commercial motor vehicle license is suspended, revoked, or canceled, or the  
 25 driver is disqualified;

26 (10) causing a fatality through the negligent operation, or  
 27 operation in violation of a felony criminal law, of a commercial motor vehicle.

28 \* Sec. 17. AS 28.33.140(c) is amended to read:

29 (c) Upon a conviction by a court of [A COURT CONVICTING] a person of  
 30 an offense described in (a)(6) of this section, the department shall disqualify that  
 31 person from driving a commercial motor vehicle for not less than 60 days if the person

1 has been previously convicted once, and 120 days if the person has been previously  
 2 convicted more than once. The disqualification period under this subsection is in  
 3 addition to any other previously imposed period of disqualification. As used in  
 4 this subsection, "previously convicted" means having been convicted in this or another  
 5 jurisdiction, within three years preceding the date of the present offense, of an offense  
 6 described in (a)(6) of this section, or of another law or ordinance with substantially  
 7 similar elements, arising out of a separate incident.

8 \* Sec. 18. AS 28.33.140(d) is amended to read:

9 (d) Upon conviction by a court of [A COURT CONVICTING] a person of  
 10 an offense described in (a)(1) - (5), (9), or (10) of this section, the department shall  
 11 disqualify that person from driving a commercial motor vehicle for not less than one  
 12 year for a first offense, except that, if the offense was

13 (1) facilitated by a commercial motor vehicle transporting a hazardous  
 14 material [SUBSTANCE] that required that placards be placed on the vehicle under 49  
 15 U.S.C. 5101 - 5127, the period of disqualification is not less than three years;

16 (2) a felony offense that involved the manufacture, distribution, or  
 17 dispensing, or possession with intent to manufacture, distribute, or dispense, a  
 18 controlled substance, the disqualification is for life and the license may not be  
 19 reinstated under (g) of this section.

20 \* Sec. 19. AS 28.33.140(e) is amended to read:

21 (e) Upon conviction by a court of [A COURT CONVICTING] a person of  
 22 an offense described in (a)(1) - (5), (9), or (10) of this section, the department shall  
 23 disqualify that person from driving a commercial motor vehicle for life if the person  
 24 has been previously convicted. As used in this subsection, "previously convicted"  
 25 means having been convicted in this or another jurisdiction of an offense described in  
 26 (a)(1) - (5), (9), or (10) of this section, or of another law or ordinance with  
 27 substantially similar elements.

28 \* Sec. 20. AS 28.33.140(i) is amended to read:

29 (i) In addition to the requirements of AS 28.15.191, a court that disqualifies a  
 30 person from driving a commercial motor vehicle shall require the surrender of the  
 31 license, and shall immediately forward the license to the department with the record of

1 conviction and notification of the effective date of the disqualification. If the  
 2 disqualification occurs by administrative action as described in (a) of this section,  
 3 the person disqualified from driving shall surrender the license to the  
 4 department.

5 \* Sec. 21. AS 28.33.140(j) is amended to read:

6 (j) Upon conviction by a court of [A COURT CONVICTING] a person of an  
 7 offense described in (a)(7) of this section, the department shall disqualify that person  
 8 from driving a commercial motor vehicle for the following periods: (1) if the person  
 9 has not been previously convicted of violating an out-of-service order, not less than  
 10 180 [90] days; (2) if the person has been previously convicted once of violating an  
 11 out-of-service order, not less than two years [ONE YEAR]; (3) if the person has been  
 12 previously convicted more than once of violating an out-of-service order, not less than  
 13 three years; (4) if the person operates a commercial motor vehicle transporting  
 14 hazardous materials or a vehicle designed to transport 16 or more passengers,  
 15 including the driver, in violation of an out-of-service order, not less than 180  
 16 days; (5) if the person has been previously convicted of operating a commercial  
 17 motor vehicle transporting hazardous materials or a vehicle designed to  
 18 transport 16 or more passengers, including the driver, in violation of an out-of-  
 19 service order two or more times in separate incidents within a 10-year period, not  
 20 less than three years. In this subsection, "previously convicted" means having been  
 21 convicted in this or another jurisdiction of an offense described in (a)(7) of this section  
 22 within 10 years preceding the date of the present offense.

23 \* Sec. 22. AS 28.33.140(k) is amended to read:

24 (k) Upon conviction by a court of [A COURT CONVICTING] a person of  
 25 an offense described in (a)(8) of this section, the department shall disqualify that  
 26 person from operating a commercial motor vehicle for the following periods: (1) if the  
 27 person has not been previously convicted of violating a federal or state statute or  
 28 regulation, or a local law or ordinance, relating to railroad-highway grade crossings,  
 29 not less than 60 days; (2) if the person has been previously convicted once of violating  
 30 a federal or state statute or regulation, or a local law or ordinance, relating to railroad-  
 31 highway grade crossings, not less than 120 days; (3) if the person has been previously

1 convicted more than once of a violation of a federal or state statute or regulation, or a  
 2 local law or ordinance, relating to railroad-highway grade crossings, not less than one  
 3 year. In this subsection, "previously convicted" means having been convicted in this or  
 4 another jurisdiction of an offense described in (a)(8) of this section within three years  
 5 proceeding the date of the present offense.

6 \* Sec. 23. AS 28.33.140 is amended by adding new subsections to read:

7 (l) A person who operates a commercial motor vehicle whose driving is  
 8 determined by the United States Department of Transportation to constitute an  
 9 imminent hazard is subject to disqualification as specified by the department in  
 10 regulation. The regulations adopted by the department under this subsection must be  
 11 substantially similar to those set by the federal government.

12 (m) A person who violates the standards for operating a commercial motor  
 13 vehicle set out by the department in regulation is subject to civil penalties established  
 14 by the department in regulation. An employer who knowingly allows an employee to  
 15 drive in violation of an out-of-service order or in violation of a railroad-highway grade  
 16 crossing is subject to civil penalties as described in 49 U.S.C. 521(b) as established by  
 17 the department in regulation. The department may adopt regulations under AS 44.62  
 18 to implement this subsection. The regulations adopted under this subsection must be  
 19 substantially similar to any applicable federal regulations. In this subsection,  
 20 "knowingly," has the meaning given in AS 11.81.900.

21 \* Sec. 24. AS 28.33.150(a) is amended to read:

22 (a) A person is guilty of a class A misdemeanor if the person drives a  
 23 commercial motor vehicle in this state

24 (1) without being licensed or privileged in this state to drive a  
 25 commercial motor vehicle;

26 (2) during a period when that person's driver's license, privilege to  
 27 drive, or privilege to obtain a license has been canceled, suspended, or revoked, or the  
 28 person has been disqualified, in this or another jurisdiction;

29 (3) in violation of a limitation placed upon that person's license or  
 30 privilege to drive in this or another jurisdiction;

31 (4) during a period when that person has been disqualified from

1 driving a commercial motor vehicle by a court or an administrative agency in this or  
2 another jurisdiction; or

3 (5) in violation of an out of service order issued under AS 28.33.130 or  
4 under a law in another jurisdiction having substantially similar requirements.

5 \* Sec. 25. AS 28.33.190(11) is amended to read:

6 (11) "serious traffic violation" means

7 (A) speeding 15 miles per hour or more above the posted limit;

8 (B) reckless or negligent driving, in violation of AS 28.35.400  
9 or 28.35.410 or an ordinance with substantially similar elements;

10 (C) violation of a provision of this title, or a regulation adopted  
11 under this title, relating to improper lane changes or following too closely, or  
12 an ordinance with substantially similar elements; [OR]

13 (D) violation of a law or ordinance relating to traffic control,  
14 which was determined by the court by a preponderance of the evidence to have  
15 been a factor in causing physical injury to a person;

16 (E) driving a commercial motor vehicle without obtaining a  
17 license to drive a commercial motor vehicle;

18 (F) driving a commercial motor vehicle without a license to  
19 drive a commercial motor vehicle in the driver's possession; however, if an  
20 individual provides proof to the department by the date that the  
21 individual was required to appear in court or pay any fine for that  
22 violation that the individual held a valid license to drive a commercial  
23 motor vehicle on the date the citation was issued, the driving may not be  
24 considered as a serious traffic violation under this paragraph; or

25 (G) driving a commercial motor vehicle without the proper  
26 class of license to drive a commercial motor vehicle and any required  
27 endorsements for the specific vehicle group being operated, or for the  
28 passengers or type of cargo being transported.

29 \* Sec. 26. AS 28.33.190 is amended by adding new paragraphs to read:

30 (12) "commerce" means

31 (A) any trade, traffic, or transportation within the jurisdiction

1 of the United States between a place in a state and a place outside of the United  
2 States; and

3 (B) trade, traffic, and transportation in the United States that  
4 affects any trade, traffic, and transportation described in (A) of this paragraph;

5 (13) "commercial driver's license" means a license issued by a state or  
6 other jurisdiction, in accordance with the standards contained in 49 C.F.R. 383, to an  
7 individual authorizing the individual to operate a class of a commercial motor vehicle;

8 (14) "conviction" means an unvacated adjudication or conviction of  
9 guilt, or a determination that a person has violated or failed to comply with the law in  
10 a court of original jurisdiction or by an authorized administrative agency, an unvacated  
11 forfeiture of bail or collateral deposited to secure the person's appearance in court, a  
12 plea of guilty or nolo contendere accepted by the court, the payment of a fine or court  
13 cost, or violation of a condition of release without bail, regardless of whether the  
14 penalty is rebated, suspended, or probated;

15 (15) "domicile" means a state of the United States where a person has  
16 the person's true, fixed, and permanent home and principal residence and to which the  
17 person has the intention of returning whenever the person is absent;

18 (16) "hazardous material" means any material that has been designated  
19 as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of  
20 49 C.F.R. 172 or any quantity of a material listed as a select agent or toxin in 42  
21 C.F.R. 73;

22 (17) "imminent hazard" means the existence of a condition that  
23 presents a substantial likelihood that death, serious illness, severe personal injury, or a  
24 substantial endangerment to health, property, or the environment may occur before the  
25 reasonably foreseeable completion date of a formal proceeding by the United States  
26 Department of Transportation begun to lessen the risk of that death, illness, injury or  
27 endangerment.

28 \* Sec. 27. AS 28.35.032(s) is amended to read:

29 (s) For purposes of this section, the director of the division within the  
30 department responsible for administration of this section or a person designated by the  
31 director may request and receive criminal justice information available under

1 AS 12.62. [IN THIS SUBSECTION, "CRIMINAL JUSTICE INFORMATION" HAS  
2 THE MEANING GIVEN IN AS 12.62.900.]

3 \* Sec. 28. AS 28.35.135(b) is amended to read:

4 (b) A person who has a certification, registration, title, license, or other form  
5 issued under this title, or who has applied for a certification, registration, license, or  
6 other form, and who changes the person's name or moves from the address shown on  
7 the department's records or forms, shall notify the department [IN WRITING] of the  
8 change in name or address within 30 days

9 (1) on a form or in a format specified by the department; and

10 (2) in a manner prescribed in regulations adopted by the  
11 department.

12 \* Sec. 29. AS 28.37.150 is amended to read:

13 Sec. 28.37.150. **Grounds requiring refusal to issue license.** Upon application  
14 for a license to drive, the licensing authority in a party state shall ascertain whether the  
15 applicant has ever held, or is the holder of a license to drive issued by another party  
16 state. The licensing authority in the state where application is made may not issue a  
17 license to drive to the applicant if

18 (1) the applicant has held a license, but the license has been suspended,  
19 revoked, or canceled, or the applicant has been disqualified from operating a  
20 commercial motor vehicle, by reason, in whole or in part, of a violation, and the  
21 suspension period has not terminated;

22 (2) the applicant has held a license, but the license has been revoked by  
23 reason, in whole or in part, of a violation, and the revocation has not terminated;  
24 except that after the expiration of one year from the date the license was revoked, the  
25 person may make application for a new license if permitted by law; the licensing  
26 authority may refuse to issue a license to an applicant if, after investigation, the  
27 licensing authority determines that it will not be safe to grant to the person the  
28 privilege of driving a motor vehicle on the public highways;

29 (3) the applicant is the holder of a license to drive issued by another  
30 party state and currently in force, unless the applicant surrenders the license;

31 (4) the applicant has held a license, but has been disqualified from

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operating a commercial motor vehicle by reason, in whole or in part, of a violation, and the disqualification has not terminated; however, a person may make an application for a noncommercial driver license if permitted by other law.

\* Sec. 30. AS 28.90.990(a) is amended by adding a new paragraph to read:

(29) "criminal justice information" has the meaning given in AS 12.62.900.

\* Sec. 31. AS 28.33.140(b) and 28.33.190(8) are repealed.

\* Sec. 32. The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATIONS. The Department of Administration may proceed to adopt regulations necessary to implement this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the statutory changes.

\* Sec. 33. Section 32 of this Act takes effect immediately under AS 01.10.070(c).

\* Sec. 34. Except as provided in sec. 33 of this Act, this Act takes effect July 1, 2007.

**DRAFT**

A M E N D M E N T

OFFERED IN THE HOUSE  
TO: CHB 126(JUD)

BY REPRESENTATIVE JOHANSEN

1 Page 1, lines 1 - 3:

2 Delete all material and insert:

3 ""An Act relating to access to criminal justice information for certain employees  
4 of the Department of Administration; relating to the procedure for changes to  
5 certificates, registration, titles, licenses, permits, and other forms relating to driving and  
6 motor vehicles; relating to requirements for, cancellations of, renewals of,  
7 reinstatements of, expirations of, disqualifications of, withdrawals of, suspensions or  
8 revocations of, and exemptions from commercial and other driver's licenses, permits, or  
9 privileges to drive; relating to records concerning motor vehicles and their drivers;  
10 relating to penalties for violating commercial driver licensing requirements; relating to  
11 the driver's license compact; and providing for an effective date.""



U.S. Department  
of Transportation

**Federal Motor Carrier  
Safety Administration**

The Honorable Sarah Palin  
Governor of Alaska  
Juneau, AK 99811

Administrator

JAN 31 2007

400 Seventh St., S.W.  
Washington, D.C. 20590

Refer to: MC-ESL

Dear Governor Palin:

This is a follow-up to the May 17, 2006, letter in which the Federal Motor Carrier Safety Administration (FMCSA) issued a determination of substantial noncompliance to the State of Alaska. That determination was based on the State's failure to adopt the statutory authority needed to enforce all the required Commercial Driver's License provisions of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). In addition, Alaska had not met the projected dates in its Action Plan (submitted in February 2006 to FMCSA) for beginning and passing the Structured Test administered by the American Association of Motor Vehicle Administrators (AAMVA) for transmitting and receiving via the Commercial Driver License Information System the new data elements required by MCSIA.

Since the May 17, 2006 letter, FMCSA has been encouraged that Alaska has established the date of January 29, 2007, to begin structured testing with AAMVA and has drafted legislation that it plans to introduce to the legislature that would bring the State into compliance with the MCSIA provisions for which it lacked statutory authority. Tracy Lewellyn, FMCSA Division Administrator in Alaska, has indicated to us that Kerry Hennings and Shelly Mellott deserve praise for their efforts in resolving compliance issues.

Nonetheless, this letter is a reminder that Alaska is scheduled to lose up to 5 percent of its Federal-aid highway funds on October 1, 2007. The FMCSA will withdraw this determination only when the required legislation is passed and signed by you and when the State successfully completes the structured test of the MCSIA data elements administered by AAMVA.

The FMCSA would like to see Alaska take the necessary steps to avoid sanctions and join other States in creating a system to keep unsafe drivers of commercial motor vehicles off our highways by implementing the provisions of MCSIA.

The FMCSA Division Administrator Tracy Lewellyn and her staff are available to assist you. She may be contacted at (907) 271-4068.

Sincerely yours,

John H. Hill

cc:

Annette Kreitzer, Commissioner, Alaska Department of Administration  
Duane Bannock, Director, Alaska Division of Motor Vehicles  
Leo von Scheben, Commissioner, Alaska Department of Transportation  
Dominick Spataro, Division Chief, FMCSA CDL Division  
Tracy Lewellyn, FMCSA Division Administrator, Alaska  
William R. Paden, FMCSA Field Administrator, Western Service Center  
Kent Fleming, FMCSA Western Service Center  
J. Richard Capka, Administrator, Federal Highway Administration

## **Alaska Trucking Association, Inc.**

3443 Minnesota Drive · Anchorage, Alaska 99503 · Phone (907) 276-1149 · Fax (907) 274-1946  
[www.aktrucks.org](http://www.aktrucks.org)

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February 19, 2007

Chairman Bob Lynn  
House State Affairs Committee  
Alaska State Legislature  
State Capitol, Room 104  
Juneau, AK 99801

re: HB 126

Dear Chairman Lynn,

The Alaska Trucking Association is a state wide organization representing trucking interests from Barrow to Ketchikan. In another three weeks, we will conduct our 49<sup>th</sup> Annual Meeting celebrating over 49 years of representing our industry in Alaska. Our more than 200 members represent all of the diverse trucking operations in the state and many associate members who provide goods and services to our industry.

On behalf of ATA, I take this opportunity to express our support of HB126. HB 126 is an important bill relating to commercial drivers licenses, DMV operations and other driver issues.

In reviewing the bill, we are in agreement with the intent of the bill to reduce the number and severity of commercial motor vehicle related fatalities and injuries. Alaska has had an admirable commercial vehicle safety record over the years and we support efforts to continue to improve safety for commercial vehicles. One of the elements of our mission statement is to "...promote highway and driver safety."

Provisions of the bill will bring Alaska into compliance with Federal Motor Carrier Safety Administration regulations which will eliminate the possibility of federal sanctions against our federal-aid highway funds. These funds are currently in jeopardy due to Alaska's non-compliance.

Exemptions are included to expand the military exemption language to include more service members and to allow a non-CDL holder to operate snow removal equipment in case of emergency.

Chairman Bob Lynn  
House State Affairs Committee  
February 19, 2007

In line with FMCSA regulations, this change also allows a non-resident to operate a CMV using their home state license.

Bill language clearly states that 19 year old drivers may be issued a CDL to operate in intra state commerce. This clears up some previous ambiguities.

Many of the changes update penalties for drivers for disqualifying offenses. This will assist in keeping bad or unfit drivers off our highways thereby improving the safe driving environment.

To reiterate, Mr. Chairman, we support HB126 and urge the committee to move the bill with do pass recommendations.

Sincerely,



Aves D. Thompson  
Executive Director

cc: Representative Kyle Johansen  
Sponsor

**SECTIONAL ANALYSIS**

**HOUSE BILL NO. 126**

**"An Act relating to driver's licenses and permits, commercial driver's licenses, and other motor vehicle laws; relating to the driver's license compact; and providing for an effective date."**

Introduced: February 12, 2007

**Section 1:** Language to support the prior authorization under AS 28.35.030(q) and AS 28.35.032(s) for DOA/DMV to review criminal histories prior DUI/Refusals for proper application of revocation, suspension, cancellation and disqualification timeframes. Current records are not complete. 383.51

**Section 2:** Amends requirements so more current addresses may be used as reflected on citations, police reports, judgments or crash reports for notification of CDL drivers. 383.14

**Section 3:** Expands military exemption language to include more service members as required by FMCSA. 383.3 (c)

Adds exemption to allow non-CDL holder to operate snow removal equipment in case of emergency (this is good for the rural communities). 383.3(d)(3)

Allows a non-resident to operate a CMV using their home state license. FMCSA allows one CDL issued from the state where you are domiciled (permanent residence). 383.212

**Section 4:** Adds cancel and withdrawal language to comply with 384.201, 384.210

**Section 5:** Adds disqual language but may still be eligible for base privilege 384.212, 383.5

**Section 6:** Removes 1 year expiration of school bus license (no longer needed due to removal of tuberculin requirement in 05) which will allow the state to add a school bus license as an endorsement to a CDL as required by FMCSA 383.93, 383.123, 384.201

**Section 7:** Alaska allows CDL instruction permit holders to renew a CDL instruction permit as many times as requested effectively allowing a driver to operate a CDL along side a licensed CDL driver forever without taking the CDL skills test. DMV chose 1 renewal which equals 4 years total of driving on an instruction permit. Instruction permits will be issued specifically for each type of CDL (IC, IB, IA) so each upgrade allows 4 years of practice time.

**Sections 8:** Clarifies "legal" name and requires applicant to provide past driving history 384.206(2)(ii)

**Section 9:** "May" to "Shall" and maintaining disqual info 384.225, 384.207

**Section 10:** "May" to "Shall" and update record in 10 days 384.225, 384.207

**Section 11:** "May" to "Shall" and provide record in 10 days 384.225, 384.207

**Section 12:** "Shall" send convictions to other states.

**Section 13:** Change from one-month/three months to 30 days/90 days for consistency and equitable/equal time frames of suspension.

**Section 14:** Add disqualifications

**Section 15:** Clearly define 19 voa to operate intrastate. Add domicile per Fed. Reg.

**Section 16:** Add administrative actions and 2 new federal offenses

**Section 17:** Gives admin authority after court conviction to take disqual.

**Section 18:** Gives admin authority after court conviction to take disqual Change "substance" to "material" to comply with FMCSA

**Section 19:** Gives admin authority after court conviction to take disqual.

**Section 20:** Surrender of license if admin. Action

**Section 21:** Increases penalties to match federal requirements.

**Section 22:** Gives admin authority after court conviction to take disqual

**Section 23:** Gives USDOT authority to declare a driver an imminent hazard and creates civil penalties for employers.

**Section 24:** Adds disqualification info

**Section 25:** Adds 3 new serious offenses as required by FMCSA

**Section 26:** Adds new definitions

**Section 27:** Removes definition that has been added in AS 28.05.065

**Section 28:** Same amendment and logic as Section 2

**Section 29:** Updates compact with federal changes

**Section 30:** adds definition

**Section 31:** repeals language no longer applicable

# FISCAL NOTE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB 126  
 (H) Publish Date: 2/21/07

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title "An Act relating to driver's licenses and permits, commercial driver's licenses,..." RDU Division of Motor Vehicles  
 Component Motor Vehicles  
 Sponsor Rep. Johansen  
 Requester (H) STA Component No. 2348

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

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
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>	0.0	0.0	0.0	0.0	0.0	0.0
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<b>CHANGE IN REVENUES ( )</b>	0.0	0.0	0.0	0.0	0.0	0.0
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
<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 (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill will update existing motor vehicle statutes to bring the state into compliance with current and upcoming federal regulations for commercial driver's licenses.

We do not anticipate any change in expenditures or revenue as a result of this bill.

Prepared by: Duane Bannock, director  
 Division: Motor Vehicles  
 Approved by: Kevin Brooks, Deputy Commissioner  
 Agency: Department of Administration

Phone 269-5559  
 Date/Time 2/13/07 10:00 AM  
 Date 2/13/2007

# FISCAL NOTE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: HB 126  
 (H) Publish Date: 2/21/07

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DOT&PF  
 Title Commercial Drivers Licenses RDU Planning  
 Component Program Development  
 Sponsor Johansen  
 Requester House STA Component No. 365

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

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
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>

**CAPITAL EXPENDITURES**

**CHANGE IN REVENUES ( )**

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<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 (FY2007) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill brings the state into compliance with the Motor Carrier Safety Improvement Act of 1999.

Under section 384.401 of the Federal Motor Carrier Safety Regulations (49 CFR 384.401), a state that is not in compliance is subject to the withholding of up to five percent of Federal-aid highway funds that would otherwise be appropriated under 23 U.S.C. section 104(b). This reduction in National Highway System, Surface Transportation Program and Interstate Maintenance funds is estimated to be \$7 million in federal fiscal year (FFY) 2008 (starting October 1, 2007) and \$14 million in FFY 2009 (October 2008)

These funds are the most flexible dollars used in the State Transportation Improvement Program (STIP).

Prepared by: Mary Siroky Phone 465-4772  
 Division Commissioner's Office Date/Time 2/14/07 12:00 AM  
 Approved by: John MacKinnon Date 2/14/2007  
 Agency Department of Transportation and Public Facilities

# FISCAL NOTE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: 3  
 Bill Version: CSHB 126(JUD)  
 (H) Publish Date: 3/14/07

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DOT&PF  
 Title Commercial Drivers Licenses RDU Planning  
 Component Program Development  
 Sponsor Johansen  
 Requester House STA Component No. 365

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

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
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 (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS:**

Full-time						
Part-time						
Temporary						

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

This bill brings the state into compliance with the Motor Carrier Safety Improvement Act of 1999. Under section 384.401 of the Federal Motor Carrier Safety Regulations (49 CFR 384.401), a state that is not in compliance is subject to the withholding of up to five percent of Federal-aid highway funds that would otherwise be appropriated under 23 U.S.C. section 104(b). This reduction in National Highway System, Surface Transportation Program and Interstate Maintenance funds is estimated to be \$7 million in federal fiscal year (FFY) 2008 (starting October 1, 2007) and \$14 million in FFY 2009 (October 2008). These funds are the most flexible dollars used in the State Transportation Improvement Program (STIP). Additionally failure to come into compliance could result in the loss of the Motor Carrier Safety Assistance Program funding. This would be \$850.0 for FY08 and FY09.

Prepared by: Mary Siroky  
 Division: Commissioner's Office  
 Approved by: Nancy Slagle, Director Admin Service  
 Agency: Department of Transportation and Public Facilities

Phone 465-4772  
 Date/Time 3/9/07 12:00 AM  
 Date 3/9/2007

## STATE OF ALASKA

OFFICE OF THE COMMISSIONER

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JUNEAU, ALASKA 99811-2500FAX: (907) 586-8365  
PHONE: (907) 465-3900

January 29, 2007

The Honorable Kyle Johansen  
Alaska House of Representatives  
State Capitol  
Juneau, AK 99801-1182

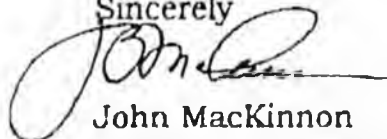
Representative Johansen: *Kyle*

The Federal Motor Carrier Safety Administration, within the U.S. Department of Transportation, found that Alaska was not in compliance with commercial driver's license provisions of the Motor Carrier Safety Improvement Act of 1999. Under section 384.401 of the Federal Motor Carrier Safety Regulations (49 CFR 384.401), a state that is not in compliance is subject to the withholding of up to five percent of federal-aid highway funds that would otherwise be appropriated under 23 U.S.C. section 104(b).

The reduction in National Highway System, Surface Transportation Program and Interstate Maintenance funds is estimated to be \$7 million in federal fiscal year (FFY) 2008 (starting October 1, 2007) and \$14 million in FFY 2009 (October 2008). These funds are the most flexible dollars used in the State Transportation Improvement Program (STIP).

If the Department of Transportation & Public Facilities can provide you any additional assistance in solving this problem so that transportation funding is not impacted, please let me know.

Sincerely



John MacKinnon  
Acting Commissioner

# Alaska State Legislature

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## Representative Kyle Johansen District 1

### REVISED SPONSOR STATEMENT

#### HB 126

"An act relating to driver's licenses and permits, commercial driver's licenses, and other motor vehicle laws; relating to the driver's license compact; and providing for and effective date."

The intent of HB 126 is to reduce the number and severity of commercial motor vehicle related fatalities and injuries. To achieve these ends, HB 126 updates existing motor vehicle statutes and adds new motor vehicle statutes to meet current and upcoming federal regulations for commercial driver's licenses. This legislation incorporates into Alaska law key provisions of the federal Motor Carrier Safety Improvement Act aimed at improving the overall effectiveness of the commercial driver's license program.

This bill will bring Alaska into compliance of the regulations set forth by the Federal Motor Carrier Safety Administration. Further noncompliance subjects Alaska to the withholding of up to five percent of federal-aid highway funds in the first year and up to ten percent of federal-aid highway funds in the second and subsequent years. The reduction in National Highway System, Surface Transportation Program and Interstate Maintenance funds is estimated to be \$7 million in federal fiscal year (FFY) 2008 and \$14 million in FFY 2009. If similar amounts to FFY 2009 are assumed, a total of \$63 million over a 5 year period would be lost if Alaska remains noncompliant. These funds are the most flexible dollars used in the State Transportation Improvement Program (STIP).

Alaska would also not receive the \$850,000 Motor Carrier Safety Assistance Program (MCSAP) grant in FYY 2008 and 2009 if HB 126 does not become law. The MCSAP is a Federal grant program that provides financial assistance to States to reduce the number and severity of crashes and hazardous materials incidents involving commercial motor vehicles (CMV) through consistent, uniform, and effective CMV safety programs.

This bill would exempt from the state's driver's license requirements certain military drivers operating commercial vehicles for military purposes and other drivers in cases of emergencies requiring additional assistance. Also, a nonresident holding a valid CDL issued by another jurisdiction whose permanent residence is maintained in that jurisdiction will not need to be issued a State of Alaska CDL.

## Sectional (Revised)

AS 28.05 – Powers and Duties of Department of Public Safety and Administration

AS 28.15 – Driver's Licenses: Issuance, Expiration, and Renewal of Licenses

AS 28.33 – Commercial Motor Vehicles

AS 28.35 – Offenses and Accidents

AS 28.37 – Driver's License Compact

### **SECTION 1**

Federal law requires states to look back 10 years at the criminal record of persons applying for commercial driver's licenses. Read together, sections (a) and (b) allow DMV access to the records it needs. The definition of "criminal justice information" is referenced in section 30 as having the meaning given in AS 12.62.900.

### **SECTION 2**

Federal law requires states to have an accurate database on drivers so the records of bad drivers can be accurately recorded and accessed when they later apply for a new license. This section requires persons to update their records with DMV or DPS when they change their name or address.

### **SECTION 3**

Federal law requires certain exemptions from a state's CDL licensing program and makes other exemptions discretionary with the state. This section adds 3 new exemptions. (1) The first is for certain drivers in the military and is mandatory. (2) The second is for drivers employed by a small city or village in an emergency situation for snow removal, and is discretionary at the state's election. (3) The final exemption is for nonresidents with valid CDL's from their home state.

### **SECTION 4**

Federal law contains a list of actions that prohibit the state DMV from issuing or renewing or reinstating a CDL to a person. This change matches up state law with the federal list for persons whose license is "suspended, revoked, cancelled, or withdrawn".

### **SECTION 5**

Same as above in section 4 except the term "disqualified" from the federal act is incorporated into the state law.

### **SECTION 6**

Section 6 allows school bus endorsements to expire at the same time the driver's license expires, which results in less people trying to renew at the same time at DMV.

## **SECTION 7**

Federal law requires states to limit the number of times an instruction permit can be renewed. This is to make sure a person does not keep renewing an instruction permit rather than meeting the requirements for a full CDL.

## **SECTION 8**

Federal law requires state DMV's to look back into a person's driving record for 10 years when they apply for a CDL. The requirement of the applicant to provide their full "legal" name is to assist DMV in finding out whether their CDL is suspended, etc., in another state.

## **SECTION 9**

Federal law requires state DMV's to maintain files of CDL applicants and holders. The change reflects that this duty is mandatory "shall" and not optional "may".

## **SECTION 10**

Same as above in section 9, plus federal law requires state DMV's to update their data every 10 days after receipt of a record by the DMV.

## **SECTION 11**

Federal law requires state DMV's to provide a certified abstract of a driving record to municipal, state, federal administrative, or a judicial agency within 10 days of a request.

## **SECTION 12**

Federal law requires state DMV's to forward a copy of the record of a conviction for a traffic offense of a person licensed in another jurisdiction to the DMV of that other jurisdiction. The change reflects that this duty is mandatory "shall" as opposed to discretionary or "may".

## **SECTION 13**

Current law sets the periods for certain suspensions or revocations of a CDL in terms of "months" rather than a set time period of days. This leads to some persons having a CDL suspended or revoked for 28 to 31 days, depending on the month. The changes set the time periods in numbers of days (30 and 90) to make all terms of suspension or revocation equal.

## **SECTION 14**

Updates statutes to reflect that the state's DMV is an entity that can disqualify a person from holding a CDL.

## **SECTION 15**

Current state statutes allow a person 19 years-of-age or older to obtain a CDL. Federal law imposes a minimum age of 21 years old or older to drive in interstate commerce. Federal law also only allows a state DMV to issue a CDL to a person domiciled in that state.