

ALASKA LEGISLATURE COMMITTEE FILES 2007-2008 SJUD 12579

NOTES TO DECISIONS

Forfeiture of good time authorized. — The Department of Corrections has the authority to forfeit good time for a prisoner's misbehavior engaged in before resentencing on the same offense. *Briggs v. Donnelly*, 828 P.2d 1207 (Alaska Ct. App. 1992).

Stated in *Hill v. State*, 22 P.3d 24 (Alaska Ct. App. 2001).

Cited in *Hill v. State*, 22 P.3d 24 (Alaska Ct. App. 2001).

Collateral references. — 72 C.J.S., Prisons, §§ 48, 144-146, 148, 154.

Withdrawal, forfeiture, modification, or denial of good-time allowance to prisoner. 95 ALR2d 1265.

Sec. 33.20.060. Restoration of forfeited good time. The commissioner of corrections may restore all or a portion of a prisoner's forfeited good time, under regulations adopted by the commissioner, if the prisoner demonstrates progress in faithfully observing the rules of the correctional facility in which the prisoner is confined. The amount of forfeited good time restored by the commissioner shall be related to the severity of the offense or rule violation committed by the prisoner and the length of time of good conduct that followed the offense or rule violation. (§ 6 ch 107 SLA 1960; am § ch 11 SLA 1986)

NOTES TO DECISIONS

Stated in *Hill v. State*, 22 P.3d 24 (Alaska Ct. App. 2001).

Cited in *Bear v. State*, 439 P.2d 432 (Alaska 1968).

Collateral references. — 72 C.J.S., Prisons, § 21. Right to credit for time served under erroneous or

void sentence or invalid judgment of conviction necessitating new trial. 35 ALR2d 1283.

Article 2. Power of Governor to Grant Pardons, Commutations and Reprieves.

Section 70. Governor may grant pardons, commutations and reprieves

Section 80. Board of parole to investigate applications for executive clemency

Sec. 33.20.070. Governor may grant pardons, commutations and reprieves. The governor may grant pardons, commutations of sentence, and reprieves, and suspend and remit fines and forfeitures in whole or part for offenses against the laws of the State of Alaska or the Territory of Alaska. (§ 1 ch 16 SLA 1961)

Cross references. — For the constitutional provision on this subject, see Alaska Const., art III, § 21.

NOTES TO DECISIONS

There is no authority which would sanction the expansion of the superior court's jurisdiction to pass sentence into a realm of review and modification which is statutorily vested in either the

supreme court or the executive branch of government. *Davenport v. State*, 543 P.2d 1204 (Alaska 1975); *Szeratics v. State*, 572 P.2d 63 (Alaska 1977).

Cited in *Bear v. State*, 439 P.2d 432 (Alaska 1968).

Collateral references. — Pardon as affecting impeachment by proof of conviction of crime. 30 ALR2d 893.

Habitual criminal statute, pardon as affecting consideration of earlier conviction in applying. 31 ALR2d 1186.

Procedure to be followed where jury requests infor-

mation as to possibility of pardon or parole from sentence imposed. 35 ALR2d 769.

Offenses and convictions covered by pardon. ALR2d 1261.

Prejudicial effect of statement or instruction of court as to possibility of parole or pardon. 12 ALR 832.

Prejudicial effect of possibility of pardon. Pardon as possibility thereof. 58 Pardon as (Alaska Ct. App. 1992). ALR3d 466. Power of state.

Sec. 33.20.060. Clemency. of parole. The investigation.

When the governor the

(b) If require violence, or executive cl

victim may

(c) If the current, valid

required under not be disclos

(d) In this

(1) "crime"

(2) "crime"

(3) "victim"

ch 59 SLA 1986

Revisor's note as (d)(3). Renumber (d)(2) was renumbered. Effect of amendment effective July 1, 1998.

Chapter

Chapter

Article

1. Establishment, Cont

2. Commitments, Progra

3. General Provisions

Cross references. — For program in effect from July 30, 1998, see ch. 110, SLA Special Acts.

Governor Wally Hicker - Served 12/3/1990 - 12/5/1994

1	Grand Larceny	3 yrs	Pardon
2	Assault with deadly weapon	5 yrs & probation	Pardon
3	Assault II	3 yrs. with 3 suspended	Pardon
4	Extortion, receiving a bribe	4 yrs with 3 suspended	Pardon
5	Robbery, Larceny stolen vehicle	4 years	Pardon

Governor Tony Knowles - Served 12/5/1994 - 12/6/2002

1. Through Gov. Office	Manslaughter	5 yrs	Pardon (Nov. 1997)
2	ASSAULT IV		Pardon (Dec. 2001)

Governor Frank Murkowski - Serves 12/6/2002 to Present

1. — MICS III — PARDON (JUNE 2005) — RUTHER F. T. ECHIVERRI
2. — ~~NEGLECT~~ **NEGLECT HOMICIDE** — PARDON (NOV. 2006) — (THOM FISCHER, PRESIDENT) WHITEWATER ENGINEERING
3. — ASSAULT II — PARDON (OCT. 2006) — RICHARD "PAT" PATTERSON
4. — DWI — PARDON (OCT. 2006) — THOMAS E. KELLY
5. — THEFT III — PARDON (NOV. 2006) — RYAN ANGELO SARGENTO
6. — THEFT II } — PARDON (NOV. 2006) — WILSON DOUGLAS THORPE
RESISTING ARREST
ISSUING A BAD CHECK

JAMES WILLIS

Jimmie V. West ^{Denied previously} ^{down last minute}

EXECUTIVE CLEMENCY - GRANTED <i>(indicated by Governor)</i>			
Governor - Term of the Governor <i>(/clemency statistics.xls)</i>			
Gov. William Egan * Served 1/3/1959 - 12/5/1966			
	OFFENSE	SENTENCE	DECISION
1	Bribery of a law officer	5 years	Pardon
2	Smuggling	6 mons	Pardon
3	Manslaughter	2 years	Pardon
4	Theft	4 years	Pardon
5	Statutory Rape	Life sentence	Commutation of Sentence to 30 years
6	Forgery	15 years	Commutated to Time Served
7	Assault w/intent to rape	3 years	Pardon
8	Murder I	Life sentence	Pardon
9	Murder I	Life sentence	Commutation of Sentence to 15 years
10	Forgery	6 years	Pardon
11	Felatio	1 1/2 years	Pardon
12	Embezzlement	6 years	Pardon
13	Arson & Burglary	10 years	Pardon
14	Manslaughter	8 years	Pardon

15	No data - just says Anchorage	20 years	Pardon
16	Drunk & disorderly	6 mons	Pardon
17	Statutory Rape	3 years	Pardon
18	Assault & Battery & giving liquor to a minor	120 days	Commutated to 112 days
19	Burglary & Larceny	10 years	Commutation to 5 years
20	Statutory Rape	Life sentence	Commutation to 30 years
21	Rape	Life sentence	Commutation
22	Murder II	Life sentence	Commutation to 30 years
23	Murder II	25 years	Commutation to 20 years
24	Giving Liquor to a minor & reckless Driving	270 days	Commutated to Time Served
25	Through Governors office		Pardon
26	Through Governors office		Pardon
27	Through Governors office		Pardon
28	Through Governors office		Pardon
29	Cutting with intent to wound	9 years	Commutated to Time Served
30	Contributing to the delinquency of a minor	\$500.00 fine	Pardon
31	Burglary not in a dwelling X 2	18 mons	Pardon
32	Manslaughter	10 years	Commutated to Time Served
33	Murder II	15 years	Pardon

34. Through the Gov office	Fishing in a closed area		Pardon
35. Through Gov office	Fishing in a closed area		Pardon
36. Through Gov Office	Fishing in a closed area		Pardon
37. Through Gov Office	Assault & Battery		Pardon
38	Statutory Rape	9 years	Commutated to Time Served
39	Manslaughter	15 years	Commutated to Time Served
December 24 1962	Christmas Clemency's		9 Pardons not in yearly counts
40. Through Gov Office	Simple Assault		Pardon
41	Joyriding	\$800 Fine & 365 days	Pardon
42 Through Gov Office	Fishing in a closed area		Pardon
43 Through Gov. Office	Fishing in a closed area		Pardon
44 Through Gov. Office	Fishing in a closed area		Pardon
45 Through Gov Office	Fishing in a closed area		Pardon
46 Through Gov Office	Fishing in a closed area		Pardon
47	Minor in Possession of Alcohol	180 days	Pardon
48	Delinquent Minor		Pardon
49	Murder I	40 years	Commutated to 20 years
50	Disorderly Conduct	\$300.00 fine & 180 days	Pardon
51	Illegal Fishing	\$3000.00 fine	Fine remitted

December 24, 1963	Christmas Clemency's		3 pardons not in yearly counts
52	Drunkenness	6 mons	Pardon
53	Illegal Fishing	19 1/2 mons	Pardon
54	Negligent driving	Suspended Sentence	Pardon
55	Issuing checks w/out funds	1 year	Pardon
56	Forgery	\$1000.00 restitution/1 year	Pardon
57	Assault & Assault & Battery	90 days	Pardon
58	Child neglect	300 days	Pardon
59 Through Gov. Office	Assault & Battery	6 mons	Pardon
60	Manslaughter	12 years	Commute to Time Served
61	Murder I	Life sentence	Commute to 36 years
62	Murder II	Life sentence	Commutated to 20 years
63	Child neglect	365 days	Commutated to Time Served
64	Child neglect	365 days w/185 suspended	Commutated to Time Served
65	Possession of Alcohol by minor	2 days	Pardon
66	Assault & Battery	6 mons	Commutated to Time Served
67	Murder I	Life sentence	Commutated to 30 years
68	Murder II	Life sentence	Commutated to 30 years
69	Rape	Life sentence	Commutated to 30 years

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70	Murder I	19 years	Commute to 16 years
71	Assault w/intent to kill. Assault w/deadly weapon	21 years & 1 day	Pardon
	Larceny. Possession w/deadly weapon to and from court room.		
72	Murder I	Life sentence	Commute to 30 years
73	Murder II	25 years	Pardon
December 24 1966	Christmas Clemency's		1 pardon not in yearly count
74	Murder I	Life sentence	Pardon
75	Burglary & Assault w/dangerous weapon	5 years	Pardon
76	Issuing checks w/out funds	210 days	Pardon
77	Shoplifting	6 mons suspended	Pardon
78	Rape	30 years	Commute to 24 years 6 mons
79	Petty larceny	\$100.00 fine	Pardon
80	Involuntary Manslaughter	6 years	Commutd to Time Served
81	Drunk in Public	90 days	Commutd to Time Served
82	Assault & Battery	210 days/ \$100.00 fine	Commutd to Time Served & full remission of fine
83	Attempted Robbery	18 mons probation	Pardon
Governor Wally Hickel - Served 12/5/1966 -1/19/1969			
1	Murder II	Life sentence/ paroled	Pardon

December 22 1968	Christmas Clemency's		11 commutation to time served, not in yearly counts
2	Grand Larceny	3 years	Commutation of Sentence
3	Manslaughter	9 years	Commutate to Time Served
4	Forgery	1 - 20 years	Commutate to 5 years
5	Issuing checks w/out funds	15 years	Commutate to 10 years
6	Disorderly Conduct	3 mons	Commutate to Time Served
7	Forgery	6 mons w/ 3 yrs probation	Pardon
8	Assault w/ deadly weapon	3 years probation	Pardon
9	Possession of narcotics	2 years	Commutate to Time Served
10	Arson	3 years	Pardon
11	Child neglect	347 days	Time served

Governor Keith Miller • Served 1/19/1969 - 12/5/1970

1	Passing Forged checks	5 years	commuted to time served
2	Burglary in a dwelling	3 yrs suspended w/2 yrs probation	Pardon
3	Petty larceny	\$50.00 fine, \$25.00 suspended	Pardon
4	cc of crime	30 days suspended, \$50.00 fine	Pardon

Governor William Egan • Served 12/5/1970 - 12/2/1974

1	Murder II	15 years	Pardon
2	Murder I	Life Sentence	Commutation to 36 years

3	Manslaughter	20 years	Commute to Time Served
4	Larceny in a building	7 years	Commute to Time Served
5	Burglary not in a dwelling	2 yrs suspended	Pardon
6	Furnishing liquor to a minor	180 days	Pardon
7	Burglary	1 year & 1 day	Pardon
8	Robbery	1 - 15 years	Commutated to 10 years
9	Assault with a deadly weapon/ dueling	5 years	Pardon
10	Contributing to the delinquency of a minor	4 years	Pardon
11	Murder I	Life Sentence	Pardon
12	Assault w/ a deadly weapon	5 years w/ 4 suspended	Pardon
13	Removal of merchandise	10 days	Pardon

Governor Jay Hammond • Served 12/2/1974 - 12/6/1982

1	Petty larceny	6 mons suspended & \$100.00 fine	Pardon
2	Larceny in a building & burglary not in a dwelling	7 yrs	Pardon
3	Arson II	4yrs & \$500.00 fine	Pardon
4	Possession of hallucinogenic drugs & stimulants	30 days 1 year probation	Pardon
5	Forgery, probation violation	2 years	Pardon
6	Burglary not in a dwelling IV counts	3 years concurrent	Pardon
7	Attempted Rape	18 mons	Pardon

8	Murder I	30 - Life	Pardon
9	Murder II, Assault w/intent to kill & rob,	Life + 12 years	commutation to time served
	armed robbery		
10	Larceny from a person	90 days, 2 yrs probation	Pardon
11	Forgery	5 years w/2 suspended	Pardon
12	Arson	8 years	Pardon
13	Theft II 2 counts & issuing bad checks	4 years jail, 4 yrs probation	Commutation

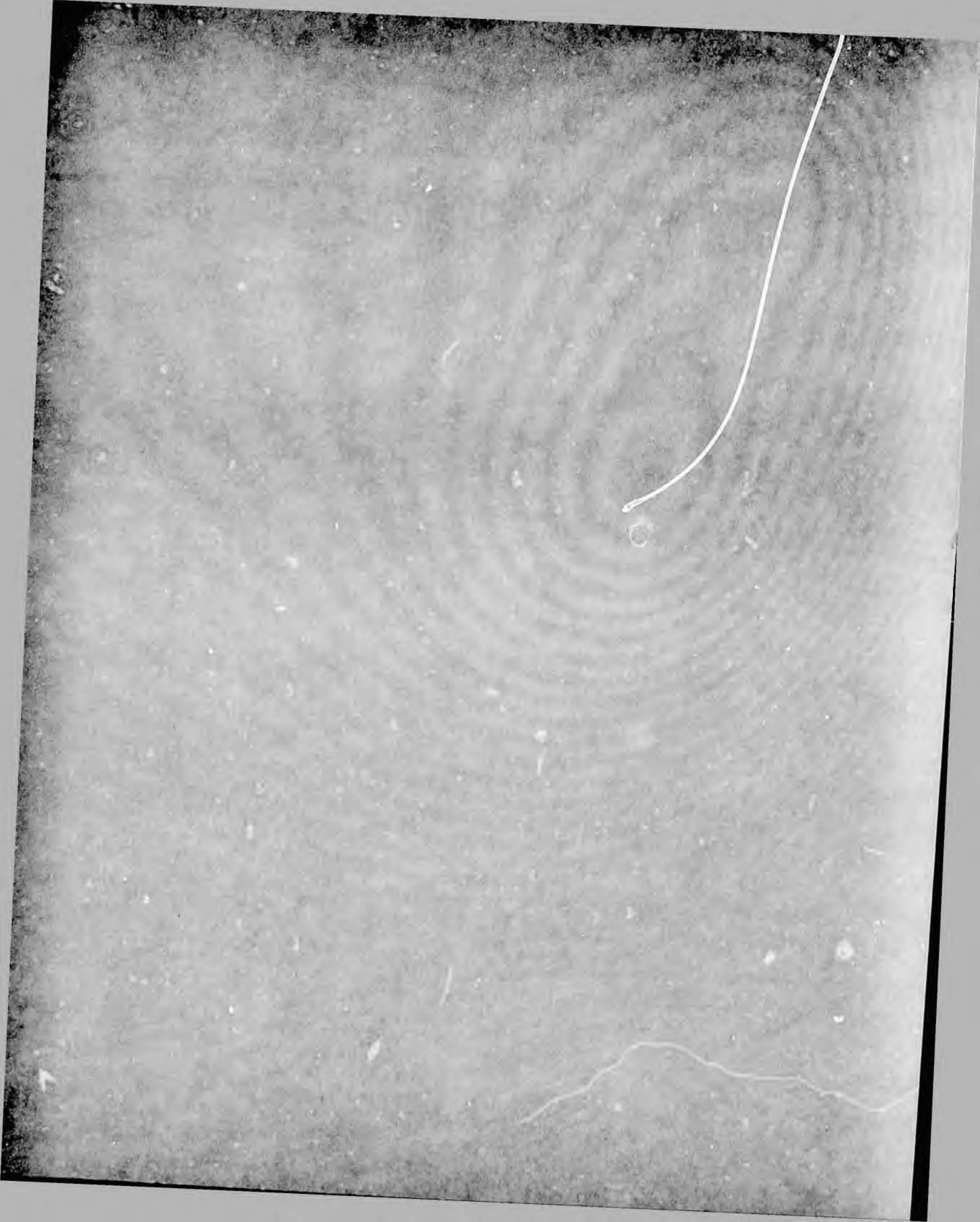
Governor Bill Sheffield - Served 12/6/1982 - 12/1/1986

1	Misconduct involving a weapon	1 yr	Commutation
2	Embezzlement by Bailee	6 months	Pardon
3	Grand Larceny	2 yrs probation	Pardon
4	Assault I	6 yrs	Conditional Commutation
6	Fraudulent use of credit card	3 years	Conditional Commutation
6	Murder I	Life	Commutation time served
7	Murder I	Life	Conditional Commutation
8	Driving while license revoked	10 days, license revoked 1 yr	Limited driver license
9	Driving while license revoked	50 days jail, \$1000.00 fine,	Granted remission of fine & restored
		drivers license revoked 1 yr	Drivers license
10	DWI : Refusal	90 days w/70 suspended, \$500 fine	

		Drivers license suspended 1 yr	Conditional Commutation of Jail Sentence
11	Driving while license suspended	10 days, license revoked 1 yr	Limited driver license
12	Driving while license suspended	30 days, 500 fine	Commutation of 4 days sentence
13	Driving with suspended operators license	30 days, 500 fine	
		Drivers license suspended 1 yr	commute jail term to 10 days only

Governor Steve Cowper • Served 12/1/1986 - 12/3/1990

1	Assault IV, Misconduct involving weapon III	120 days	commuted
2	Violation of securities act, revocation of bond	2 years	Pardon
3	Possession of Marijuana while driving.	150 fine	Pardon
4	Sexual Assault	6 years	Commute to Parole Eligibility
5	Sexual Assault I	8 years	Commutation
6	Misconduct involving controlled substance I	5 years	Commutation
7	Disorderly Conduct	\$25.00 fine	Pardon
8	Attempted burglary	3 years SIS, 3 yrs probation.	
10	DWI	Drivers license revoked 10 yrs	Conditional Commutation of Jail Sentence
11	Assault I	3 1/2 years	Granted eligibility of Parole
12	DWI	Drivers license revoked 10 yrs	Grant limited conditional pardon
13	Murder I	20 years	Conditional commutation, grant parole eligibility



HB

88

Alaska State Legislature

House of Representatives



Official Business

State Capitol
Juneau, AK 99801-1182

Representative Carl Gatto

Representative Max Gruenberg

Sponsor Statement and Sectional Analysis

CSHB 88 (FIN) Version "V" (25-LS0312\V) – Televisions and Monitors in Motor Vehicles

Sponsor Statement

The purpose of the bill is to prevent operators of motor vehicles from watching television, video, and any other programming by making it a crime. Furthermore the bill makes it a crime to install a device capable of being viewed while the vehicle is in operation. This bill is similar, in most respects, to the version of HB 12 that passed the House last year.

Sectional Analysis

Section 1 amends AS 28.35 by adding a new section as follows:

Paragraph (a) sets forth the general rule that a person shall not drive a motor vehicle while watching a television, video monitor, or other type of video display. The elements of "driving with a screen operating" are 1) a person is driving a motor vehicle, 2) the video display is in full view by the driver while seated in a normal driving position, and 3) the video display is operating.

The crime covers any equipment creating a visual display, whether it is installed or hand held. The video display must be in the full view of the driver who is in a normal driving position to be in violation of the law. A front seat passenger watching a video display is not a violation of the statute since the display is not in the full view of the driver in a normal driving position while the vehicle is in motion.

Paragraph (b) prohibits installing or altering a video display in a motor vehicle that allows the images to be viewed by the driver while the vehicle is moving. This paragraph does not prohibit installing or altering a video display that operates only when the vehicle is not in gear.

Paragraph (c) provides specific exemptions for cell phones and personal data assistants that are used for verbal communication, aides to navigation, visual displays for

operational safety, for dispatch information, like those found in taxi cabs, for state and local highway construction and road repair equipment from the general rule prohibiting visual displays in full view of the driver while the vehicle is operating.

Paragraph (d) makes it clear that the bill is not intended to cover equipment installed in an emergency vehicles.

Paragraph (e) establishes an affirmative defense if the visual display becomes inoperable when the vehicle is moving.

Paragraph (f) states that a person who drives a vehicle who violates the law is guilty of a class A misdemeanor, except in cases where injury results;

- 1) it is a class C felony if, as a result of that violation, another person suffers a physical injury;
- 2) it is a class B felony if, as a result of that violation, another person suffers a serious physical injury;
- 3) it is a class A felony if, as a result of that violation, another person dies.

Paragraph (g) makes it a class A misdemeanor for a person to install equipment in violation of the law.

Section 2 of the bill defines "physical injury".

Section 3 of the bill sets forth an effective date of September 1, 2007.

◆ **13 AAC 04.260. Television receivers and headsets**

◆ (a) A motor vehicle driven in this state may not be equipped with television-type receiving equipment located where the viewer or screen is visible from the driver's seat.

(b) A driver of a motor vehicle may not wear a headset, headphones, or other headgear designed for receiving sound and transmitting sound to the driver, or wear ear plugs or a similar device which reduces the driver's hearing ability while driving a vehicle.

(c) This section does not prohibit the use of television-type or headgear-receiving equipment used exclusively for safety or law enforcement purposes, used for and designed to improve a driver's hearing ability, or navigational devices such as Global Positioning System (GPS) or Loran.

◆ **History: Eff. 12/31/69, Register 31; am 6/28/79, Register 70; am 2/8/98, Register 145**

◆ **Authority: AS 28.05.011**

LESSMEIER & WINTERS

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MICHAEL L. LESSMEIER
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E-MAIL: lw@gcl.net

VIA HAND DELIVERY

February 2, 2007

The Honorable Carl Gatto
Alaska House of Representatives
State Capitol, Room 108
Juneau, Alaska 99801-1182

The Honorable Max Gruenberg
Alaska House of Representatives
State Capitol, Room 110
Juneau, Alaska 99801-1182

Re: House Bill 88

Dear Representative Gatto and Representative Gruenberg:

State Farm Insurance supports House Bill 88. If there is any information or assistance we can provide in getting this legislation passed, please let me know. Thank you for sponsoring this bill.

Sincerely,



Sheldon E. Winters
Lobbyist for State Farm Insurance Companies

SEW/caf

Gatto-Gruenberg HB88.wpd



February 23, 2007

Representative Max Gruenberg
House of Representatives
Alaska Legislature
State Capitol, Room 110
Juneau, AK 99801-1182

Re: SUPPORT: CS HB 88 (STA)

Dear Representative Gruenberg:

The recent explosion in popularity of television and LCD screens for both entertainment purposes as well as tracking automobile performance and navigation has created the need to reexamine the use of these devices in motor vehicles from a safety versus convenience perspective. RVIA believes that H.B. 88 provides a good balance between safety and convenience for the people of Alaska.

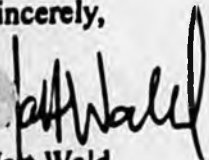
H.B. 88 takes into account the fact that RVs are used differently than other motor vehicles. Because RVs serve a dual purpose, they are designed to be both a motor vehicle and a temporary living facility. Occasionally, RV interiors are laid out with a television at the front of the coach. These televisions are used exclusively when the RV is parked and is serving as a temporary vacation home. Thus, RVIA supports the provisions of H.B. 88 that allow for televisions forward of the driver's seat so long as that TV is equipped with a device that renders the TV inoperable while the vehicle is under way. Again, H.B. 88 achieves the balance of safety while driving with convenience while parked on an RV vacation.

As I am sure you are aware, adventurous Americans who take RV vacations represent a large and important type of tourism in Alaska. RVers spent an estimated \$3.8 billion in local American communities from May through August of 2004 camping, visiting state and national parks, attending sporting events, visiting relatives and taking other forms of vacation while staying in their RVs. H.B. 88 allows for the boost to local economies that RV tourism brings.

RV enthusiasts were also pioneers in the global positioning satellite (GPS) phenomenon. RV manufacturers and dealers have been installing GPS in RVs for nearly 10 years and according to National Highway Traffic Safety Administration (NHTSA) Fatal Accident Reports (FARs) statistics, RVers have continued to be the safest drivers on the road during this time. GPS devices allow all drivers to reach their destination with more accuracy, efficiency and safety. H.B. 88 exempts GPS devices as well as screens that only report vehicle information such as miles per gallon being consumed and temperature in the cabin from prohibitions against video screens in the view of the driver.

The language contained in H.B. 88 has the enthusiastic support of RVIA and the entire RV industry. We urge swift passage of this good public policy which will make Alaska's roads safer and also make Alaskan RV vacations both safer and more convenient for the 30 million American RV owners and renters.

Sincerely,



Matt Wald

Director of Government Affairs

RECREATION VEHICLE INDUSTRY ASSOCIATION

Norman Cohen

From: Matt Wald [mwald@rvia.org]
Sent: Wednesday, February 28, 2007 10:17 AM
To: Norman Cohen
Subject: RE: RVIA support of HB 88

RVIA has reviewed and strongly supports CS HB 88 () Version K.



February 23, 2007

Representative Carl Gatto
House of Representatives
Alaska Legislature
State Capitol, Room 108
Juneau, AK 99801-1182

Chairman
J. MORTON, Jr.
Nissan

President
M. STANTON

Representative Max Gruenberg
House of Representatives
Alaska Legislature
State Capitol, Room 110
Juneau, AK 99801-1182

VEHICLE
MANUFACTURERS

- Aston Martin
- Ferrari/Maserati
- Honda
- Hyundai
- Isuzu
- Kia
- Mitsubishi
- Nissan
- Peugeot
- Renault
- Subaru
- Suzuki
- Toyota

AFFILIATES

- ADVICS
- Bosch
- Delphi
- Denso
- Hilachi
- JAMA
- Yamaha

Dear Representatives Gatto and Gruenberg:

Re: **SUPPORT: CS HB 88 (STA)**

I am writing on behalf of the Association of International Automobile Manufacturers, Inc., (AIAM) which is a trade association representing 14 motor vehicle manufacturers accounting for over 40 percent of all light duty vehicles produced annually in the United States.

AIAM members have invested over \$36 billion in U.S.-based production facilities, have a combined domestic production capacity of 3.7 million vehicles, directly employ over 95,000 Americans, and generate additional U.S. jobs in dealerships and supplier industries nationwide. AIAM members include Aston Martin, Ferrari, Honda, Hyundai, Isuzu, Kia, Maserati, Mitsubishi, Nissan, Peugeot, Renault, Subaru, Suzuki and Toyota. AIAM also represents original equipment suppliers and other automotive-related trade associations.

I am pleased to inform you that AIAM supports CS HB 88(STA) as approved by the House State Affairs Committee. This "screen device" bill will help prevent distracted driving while at the same time allowing drivers to use important technology like navigation systems, vehicle information displays and exterior view monitors which can assist drivers.

Please contact Michael Cammisa of my staff if you have further questions or need additional information about AIAM's position on CS HB 88(STA). Thank you for your consideration of AIAM's views.

Sincerely,

Michael J. Stanton
President & CEO

Norman Cohen

From: Michael X. Cammissa [Mcammissa@AIAM.ORG]
Sent: Tuesday, February 27, 2007 1:19 PM
To: Norman Cohen
Subject: AIAM Supports CS HB 88 version K

Norman –

I reviewed version K of CS HB 88 that I received today via fax. AIAM does not object to the changes that have been made in comparison to CS HB 88 (STA) as approved by the House State Affairs Committee. Therefore AIAM supports version K of CS HB 88 for the same reasons as indicated in our letter of February 23, 2007 supporting CS HB 88 (STA).

If you need additional information or a more formal letter, please let me know.

Best regards,
Mike

*Michael Cammissa
Director, Safety
Association of International Automobile Manufacturers, Inc.
2111 Wilson Boulevard, Suite 1150
Arlington, Virginia 22201
703/247-2105 (direct)
703/525-7788 (main)*



The Metro Star of The Sacramento Bee

This story is taken from [Sacbee / News](#).

Laptop use while driving blamed for fatal crash

Bee Metro Staff -

Published 12:00 am PST Tuesday, February 27, 2007

A 28-year-old Chico man was killed Monday after he lost control of his car while working on his laptop computer while driving, according to the California Highway Patrol.

"We have reason to believe he was operating his laptop because it was still on and plugged into the cigarette lighter," said CHP Cmdr. Scott Silsbee.

Shortly after 8:35 a.m., the CHP received a report of a head-on crash on Highway 99 south of Yuba City between O'Banion Road and Highway 113.

The crash closed lanes in both directions for nearly two hours and traffic was diverted to alternate routes while a helicopter transported an injured couple to Rideout Hospital and work crews cleared the debris.

The name of the Chico man, who was driving a Toyota Corolla, was not released pending the notification of his relatives.

According to officers, Michael Layson and his wife, Christine, both 39, were southbound at the speed limit in their Hummer.

A driver of a southbound Honda told officers the northbound Toyota veered into his path and that he had to slow and swerve to avoid it. The Hummer, which was directly behind the Honda, slammed into the Toyota.

The Laysons, who live in Yuba City, were treated and released from the hospital with bumps and bruises, Silsbee said.

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Yellow Cab
Anchorage, Alaska 99524-1110
Anchorage, Alaska 99518
Anchorage, Alaska 99518

"Going Your Way 24 Hours a Day"

Dear: Representative Gruenberg

We are in the taxicab dispatch business in Anchorage Alaska and are afraid this proposed bill will put our company out of business. We are the largest taxicab dispatch company in Alaska and cannot do it without our computerized digital dispatch system. Since installation of our system the crimes committed against taxicab drivers in Anchorage has significantly declined. The car accident rates have also declined. Overall it has made cabs in Anchorage safer and more efficient.

I drafted a possible way to amend HB12 so it will not restrict commercial vehicles utilizing computerized digital dispatch systems for package and passenger service. I think the intent of this bill is to prevent the viewing of DVDs the internet or video technology from distracting the driver of vehicles in motion. I feel this is a worthwhile bill as long as it does not prevent established commercial businesses to use custom designed digital dispatch equipment.

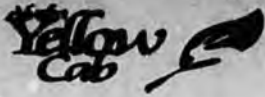
Wireless technology is advancing at a very rapid rate. I feel that customers who have this equipment and are willing to use it only in the backseat of a taxicab should be acceptable as long as it is out of view of the driver of the vehicle while the vehicle is in motion. There are a consider amount of riders who do use laptop computers and portable DVD players in taxicabs at this time. I feel it is wise to put a provision in this bill which allows this technology to be used by passengers located "out of the drivers view" in the behind the driver seating of the vehicle.

Below I have authored a draft of a possible amendment to this bill which will give make this bill reasonable for commercial business such as ours:

Computerized equipment used in commercial motor vehicles with the principal design, configuration and function for use in mobile vehicle digital dispatching exclusively for passenger transportation or package delivery service is allowed. Vehicles must be in compliance with all local and state regulated licensing requirements. If computerized equipment contained in commercial vehicles has the capability of two way internet web based video communication and/or has the ability to display copywrited motion video, then this equipment must be configured to blank out the screen from the view of the driver at all times when the vehicle is in motion. All internet based computers and video players intended for passenger use must be used only in seating located behind the driver of the vehicle and the screen must at all times when the vehicle is in motion be kept from the view of the driver.

You may also want to include a requirement for all commercial passenger carrying vehicles to display a sign inside with reads as follows:

WARNING: Use of portable computers or video equipment in the view of the driver while vehicle is in motion is prohibited and fineable by law.



Alaska 907 487-2111, Anchorage 907 271-1110
Sitka 907 339-1111, Kodiak 907 487-1111
Juneau 907 586-1111, Fairbanks 907 452-1111
Petersburg 907 435-1111, Bethel 907 533-1111

"Going Your Way 24 Hours a Day"

Your consideration in the needed changes to this bill will be greatly appreciated.

Sincerely, Dean Paul (Co- Owner of Alaska Yellow Cab)

CELL PHONES AND HIGHWAY SAFETY



STATE
LEGISLATIVE
UPDATE
MARCH 2007

2006 State Legislative Update

By *Matt Sundeen*

March 2007

In 2006, cell phones in motor vehicles continued to be a significant traffic safety concern for state legislatures. However, although cell phones in cars grabbed the most headlines, many state lawmakers now have broadened the topic to include a wider variety of driver distractions and potential regulations. This report provides information about cell phones and driving and the larger driver distraction debate. It examines the latest statistics and studies, details relevant laws and legislative activity, and analyzes the most critical issues.

Driver Distraction and Cell Phones

Most experts agree that distracted driving is a substantial problem. According to the National Highway Traffic Safety Administration (NHTSA), in 2005, 43,443 people died and approximately 2.7 million people were injured in an estimated 6.16 million police-reported motor vehicle traffic crashes.¹ NHTSA estimates that each year, motor vehicle crashes cost Americans approximately \$230 billion in economic damages.² Driver inattention is a leading factor in these crashes. A 2006 study published by NHTSA and the Virginia Tech Transportation Institute (VTTI) estimated that nearly 80 percent of crashes and 65 percent of near crashes involve some form of driver inattention.³ As a percentage of national statistics, the NHTSA and VTTI estimate would mean that driver inattention causes as many as 4.9 million crashes, 34,000 fatalities and 2.1 million injuries each year and as much as \$184 billion in economic damage.

Although many agree that driver awareness—or lack thereof—is a significant concern, there is little agreement over which distractions pose the most significant threat or what should be done about them. Driver distraction has been a potential problem since cars were invented. A virtually limitless number of events, activities and objects, both inside and outside the motor vehicle, can divert a driver from his or her primary task—the safe operation of the vehicle. A January 2007 survey by Nationwide Mutual Insurance found that 31 percent of respondents admitted they daydream while driving; 19 percent acknowledge that they fix their hair, text or instant message; 14 percent comfort or discipline children; and 8 percent drive with a pet in their lap. Surveyed drivers also confessed to changing seats with passengers, reading books, watching movies, writing grocery lists, nursing babies, putting in contact lenses, painting toenails, urinating out the car window, changing shoes and shaving while driving.

Recent interest in driver focus seems to stem almost exclusively from the introduction of cell phones into the driving environment. Two decades ago, cell phones were a novelty item in cars and a non-factor in traffic safety. Less than 900,000 people in the United States subscribed to wireless services, few people lugged around the pricey, shoebox-sized devices, and few traffic safety experts mentioned driver distraction as a safety concern.

Much has changed in 20 years. According to the wireless industry association, CTIA, the number of wireless subscribers in the United States has grown to more than 230 million.⁴ Recent studies confirm something most of us already know—many people are using their phones in the driving environment, and their popularity in the car continues to grow. A December 2005 NHTSA observational survey estimated that, at any given daylight moment, approximately 10 percent of U.S. drivers are using some type of phone, whether hand-



Cell phone use by younger drivers also continues to be a popular target for state legislators. Lawmakers in 13 states—Colorado, Connecticut, Delaware, Illinois, Maine, Maryland, Minnesota, New Jersey, North Carolina, Rhode Island, Tennessee, Texas and West Virginia—and the District of Columbia currently prohibit or restrict novice driver cell phone use. All current novice driver laws prohibit young drivers—those under age 18 or 21—who only hold a learner's or instructional driving permit from using any type of wireless device while operating a motor vehicle, except in emergency situations. In 2006, legislators in 28 states considered similar proposals, with new laws passing in Minnesota, North Carolina, Rhode Island and West Virginia. Although most of the 2006 bills linked novice driver restrictions to a learner's permit or intermediate license, several bills would have prohibited all teen drivers, regardless of license status, from using wireless devices.

Eleven states—Arizona, Arkansas, California, Connecticut, Delaware, Illinois, Massachusetts, New Jersey, Rhode Island, Tennessee and Texas—and the District of Columbia prohibit school bus drivers from using phones while operating a school bus. Legislators in five states proposed school bus driver phone restrictions in 2004, while legislatures in seven states considered such measures in 2005.

State legislatures also are taking an active role in improving the collection of data and information about the involvement of cell phones and other wireless devices in crashes. At least 27 states and the District of Columbia now require some or all law enforcement officers to collect information about cell phone involvement in crashes, up from just two states in 1998 (see table 1). In many states, such data collection is required by statute. In addition, legislatures or individual legislators in at least nine states—California, Delaware, Louisiana, Minnesota, New Jersey, New York, Pennsylvania, Virginia and Wisconsin—approved or asked for studies about the effects of wireless phones on traffic safety in their jurisdictions. The Pennsylvania General Assembly's Joint State Government Commission published a report on driver distraction and public safety in December 2001,²¹ and a special legislative task force in Delaware published a report on driver distractions in 2003.²² Washington passed a bill in 2005 that requires state police to track in accident report forms information about the involvement of wireless communication devices in motor vehicle crashes. The measure also requires the state police to include this information in its annual report of traffic safety statistics.

States also are moving to assert authority over the distracted driving issue. Legislatures in 10 states have moved to restrict local cell phone laws. Florida, Kentucky, Louisiana, Mississippi, Nevada, New Jersey, New York, Oklahoma, Oregon and Utah preempt local jurisdictions from restricting cell phone use while driving. This move was significant in Florida, where several local communities, including Miami-Dade County, had prohibited the use of hand-held phones while driving. Utah's law, enacted in 2006, pre-empted a prohibition on hand-held phones in Sandy, Utah.

Four other states—California, Florida, Illinois and Massachusetts—have enacted measures related to cell phone use while driving. California requires that rental cars with embedded cell phone equipment provide written instructions on the safe use of the cell phone. Florida and Illinois require that drivers who use headsets with their phones can use only a headset that blocks sound to one ear. Massachusetts generally allows cell phone use, provided the driver keeps at least one hand on the steering wheel at all times. Other states have considered legislation to increase driver negligence for being involved in a crash while using a cell phone; however, no state has passed such a proposal.

An emerging trend in legislation is to address multiple behaviors—not only cell phone use—on the road. Washington, D.C., prohibits several potential distracted driver behaviors, including reading, writing, personal grooming, interacting with pets or unsecured cargo, using personal communications technologies, or engaging in other activities that cause distractions. Connecticut's cell phone law, enacted in June 2005, includes a broad distraction provision that prohibits drivers from engaging in any activity not related to the actual operation of a motor vehicle in a manner that interferes with the safe operation of such vehicle on any highway. Seven other states considered broad distraction bills in 2006.

Other state legislatures have examined driver use of televisions and DVD players (see appendix B). At least 38 states restrict or prohibit televisions in motor vehicles. California and Louisiana restrict the placement of DVD players and similar entertainment devices to locations out of the vision of the driver. Illinois prohibits any visual media technology, other than a navigational system, to be located at points forward of the driver's seat. Tennessee and Virginia forbid the display of

pornographic videos in cars. In addition, Virginia prohibits the display of a video or motion picture in front of the driver's seat or within view of the driver. Legislatures in 14 states in 2006 considered legislation related to the use of televisions, DVD players or videos in cars.

Federal Action

As of February, 2007 the federal government had not acted on the distracted driving issue. Legislation considered by Congress in 2003 and 2001 failed to make it out of committee. Several federal agencies have studied the effects of wireless phones on traffic safety. In June 2003, the National Transportation Safety Board (NTSB) issued a report about a 2002 crash in Maryland that involved a young driver who was using a cell phone. According to the NTSB analysis, the crash involved multiple risk factors, and the NTSB could not determine the exact extent of the role of distraction due to wireless phone use. However, NTSB concluded that, "... current State laws are inadequate to protect young, novice drivers from distractions that can lead to accidents."²³ The NTSB recommended that the states that do not have restrictions for young drivers enact legislation to prohibit holders of learner's permits and intermediate licenses from using interactive wireless communication devices while driving.

In the same report, NTSB recommended improvements in driver education. The NTSB concluded that the public may not be aware of the risks associated with using the wireless phone while driving. NTSB urged that, "... all drivers should be educated about the risks of distracted driving, including the cognitive demands associated with use of interactive communication devices."²⁴ NTSB also urged states to improve data collection by including codes for interactive wireless communications devices on their traffic accident investigation forms.

NHTSA has long studied driver distraction and traffic safety but has not issued any regulations to address the topic. In 1997, NHTSA published a report—*An Investigation of the Safety Implications of Wireless Communications in Vehicles*—that summarized driver distraction research. In 2000, NHTSA conducted a driver distraction online forum and accepted public comments on driver distraction issues. NHTSA also has published several observational surveys in an attempt to document driver cell phone use.

A policy statement regarding cellular phone use while driving, posted on NHTSA's website, warned drivers of potential cell phone risks. According to the statement, "... the primary responsibility of the driver is to operate a motor vehicle safely. The task of driving requires full attention and focus. Cell phone use can distract drivers from this task, risking harm to themselves and others. Therefore, the safest course of action is to refrain from using a cell phone while driving."²⁵

Several federal agencies, national organizations, and state and local government agencies also have worked to improve data collection. In June 2003, the national Governors' Highway Safety Association released a revised edition of the Model Minimum Uniform Crash Criteria (MMUCC), which included changes intended to help gauge the effects of driver distractions. The criteria, which were developed in collaboration with NHTSA, the Federal Highway Administration, the Federal Motor Carrier Safety Administration, and numerous state and local agencies, describe what kinds of information states need to collect at crash scenes. The changes to the MMUCC are intended to help policymakers paint a more accurate picture of the role of cell phones and other distractions in motor vehicle crashes.

Local Action

Many counties, cities, towns and municipalities across the United States have considered restrictions on cell phone use while driving. The largest community—Chicago, Illinois—prohibits motorists from using hand-held phones while driving. More than two dozen local jurisdictions—in Florida, Illinois, Massachusetts, Michigan, New Jersey, New Mexico, New York, Ohio, Pennsylvania and Utah—have enacted similar restrictions. Local jurisdictions that have passed ordinances include: *

Appendix B. State Laws Regarding Televisions in Motor Vehicles

State/Jurisdiction	Restriction
Alabama	No television screen shall be located in front of the driver's seat or in such a manner as to obscure the driver's vision.
Alaska	No television can be visible to the driver. Navigation equipment is allowed.
Arizona	No television screen or any other means of receiving a television broadcast can be forward of the driver's seat or visible to the driver.
Arkansas	None.
California	No television receiver, video monitor or a television video screen, or any other similar means of usually displaying a television broadcast can be located in the vehicle at any point forward of the back of the driver's seat.
Colorado	None.
Connecticut	No television screen or other device of a similar nature, except a video display unit used for instrumentation purposes, can be visible to driver or interfere with the safe operation of the vehicle.
Delaware	None.
Florida	No television-type receiving equipment can be visible to the driver.
Georgia	None.
Hawaii	None.
Idaho	None.
Illinois	Prohibits visual media technology other than navigational systems from being located at any point in a motor vehicle visible to the driver. No television broadcast receiver can be visible to driver.
Indiana	A person may not operate a motor vehicle that has a television set installed in a manner that allows the driver to see the television set while operating the vehicle.
Iowa	None.
Kansas	No television-type receiving equipment screen can be visible to the driver. Navigation systems are allowed.
Kentucky	None.
Louisiana	Drivers cannot operate a motor vehicle with a television capable of receiving any prerecorded visual presentation unless the TV is behind the driver's seat or not visible to the driver while he or she is operating the vehicle. Retailers may not install a television set at any point forward of the back of the driver's seat.
Maine	No television viewer or screen can be visible to the driver.
Maryland	No television-type receiving equipment can be installed in front of the back of the driver's seat and cannot otherwise be visible to driver. Navigation systems are allowed.
Massachusetts	No television viewer, screen or other means of visually receiving a television broadcast can be installed forward of the back of the driver's seat or otherwise visible to the driver.
Michigan	Televisions visible to drivers are prohibited in motor vehicles.
Minnesota	No television or television-type equipment can be visible to the driver. Navigation systems are allowed. Closed circuit video systems that help a driver's rear or side visibility are allowed.
Mississippi	None.
Missouri	None.
Montana	None.
Nebraska	No television can be visible to the driver.
Nevada	No television-type receiving equipment can be visible to the driver. Television-type receiving equipment can be visible to the driver if used for safety, law enforcement or navigation.
New Hampshire	No television viewer, screen, or other means of visually receiving a television broadcast can be located at any point forward of the back of the driver's seat or otherwise visible to the driver.

Appendix B. State Laws Regarding Televisions in Motor Vehicles (continued)	
State/Jurisdiction	Restriction
New Jersey	No television set can be visible to the driver.
New Mexico	No television screen can be visible to the driver unless used as an aid to the driver in operating the vehicle.
New York	No television receiving set visible to driver unless closed-circuit television receiving equipment used for safety and navigation purposes.
North Carolina	No television screen or other means of visually receiving a television broadcast can be located at any point forward of the driver's seat or otherwise visible to the driver.
North Dakota	None.
Ohio	None.
Oklahoma	It is unlawful to install a television set in any location where it is visible to the driver.
Oregon	No television viewer, screen or other means of visually receiving a television broadcast can be located at any point forward of the back of the driver's seat or otherwise visible to the driver.
Pennsylvania	No television or television-type equipment can be visible to the driver. Navigation systems are allowed.
Rhode Island	No television viewer, screen, or other means of visually receiving a television broadcast can be visible to the driver.
South Carolina	No television screen can be visible to the driver.
South Dakota	No television screen can be visible to the driver.
Tennessee	No television screen or device of a similar nature can be visible to the driver. Display of obscene videos is prohibited.
Texas	No video-receiving equipment, including a television or similar equipment, can be visible to the driver. Navigation systems are allowed. Digital systems used for commercial purposes are allowed.
Utah	No television-type receiving equipment can be visible to the driver. Does not apply to law enforcement or safety use as approved by the DMV. Navigation systems are allowed.
Vermont	No television receiver, screen, or other means of visually receiving a television broadcast can be visible to the driver.
Virginia	No television receiver can be visible to driver. Video or motion pictures cannot be displayed in front of the driver's seat or within view of the driver. Display of obscene videos is prohibited.
Washington	No television viewer, screen, or other means of visually receiving a television broadcast can be forward of the back of the driver's seat or otherwise visible to the driver.
West Virginia	No television receiver can be visible to the driver.
Wisconsin	No device for visually receiving a television broadcast can be forward of the back of the driver's seat or visible to the driver.
Wyoming	No television-type receiving equipment can be visible to the driver unless used for safety, law enforcement or navigation.
American Samoa	None.
District of Columbia	No television equipment can be visible to the driver.
Guam	None.
Puerto Rico	No television may be located in a vehicle so that it is visible to the driver.
Virgin Islands	None.

*Laws as of December 2006.

Sources: *AAA Digest of Motor Laws*, 2007; NCSL, 2007.



March 12, 2008

Chairman
J. MENDEL
Honda

President
M. STANTON

State Senator Lesil McGuire, Chair
State Capitol, Room 125
Senate State Affairs Committee
Alaska State Legislature
Juneau, AK 99801-1182

VEHICLE
MANUFACTURERS

- Aston Martin
- Ferrari
- Honda
- Hyundai
- Iauzu
- Kia
- Maserati
- Mitsubishi
- Nissan
- Peugeot
- Renault
- Subaru
- Suzuki
- Toyota

AFFILIATES

- ADVICS
- Bosch
- Delphi
- Denso
- JAMA

Dear Chairperson McGuire and Members of the Senate State Affairs Committee:

Re: CSHB 88(FIN)--Video Display Devices and Systems--SUPPORT

The Association of International Automobile Manufacturers, Inc. (AIAM)¹ provides the following comments in support of CSHB 88(FIN), a bill regarding video display devices and systems in motor vehicles. AIAM is not able to attend the Senate State Affairs Committee hearing on the bill scheduled for March 13, but we request that this statement be made part of the official Committee record on CSHB 88(FIN).

AIAM urges the Senate State Affairs Committee to approve CSHB 88(FIN). AIAM and its member companies fully support the policy concerns and goals expressed in CSHB 88(FIN) to prevent and eliminate driver distractions, while at the same time allowing drivers to utilize important technology like navigation systems, vehicle information displays and monitors or cameras to assist the driver while the vehicle is in motion.

Thank you for considering AIAM's comments in support of CSHB 88(FIN) at the upcoming hearing. Should you have any questions or require further information on video display technologies and other industry issues, please contact Mike Cammisa, AIAM's Director of Safety, at (703) 247-2105.

Sincerely,

Michael J. Stanton
President & CEO

cc: Senator Gary Stevens, Vice-Chair
Senator Hollis French
Senator Lyda Green
Senator Con Bunde

Representative Carl Gatto
Representative Max Gruenberg
Ms. Lisa Mariotti

¹ AIAM is a trade association representing 14 international motor vehicle manufacturers who account for 40 percent of all passenger cars and light trucks sold annually in the United States. AIAM provides members with information, analysis and advocacy on a wide variety of legislative and regulatory issues impacting the auto sector. AIAM is dedicated to the promotion of free trade and to policies that enhance motor vehicle safety and the protection of the environment. For more information, please visit our website at www.aiam.org.

As food prices soar, consumers alter

ECONOMY: Cost of eggs, milk and other basics has shot up.

By **ALAN SCHER ZAGIER**
The Associated Press

Steadily rising food costs aren't just causing grocery shoppers to do a double-take at the checkout line — they're also changing the very ways we feed our families.

The worst case of food inflation in nearly 20 years has more Americans giving up restaurant meals to eat at home. We're buying fewer luxury food items, eating more leftovers and buying more store brands instead of name-brand items.

For Peggy and David Valdez of Houston, feeding their family of four means scouring grocer ads for the best prices, taking fewer trips as a way to save gas and simply buying less food, period.

"We do more selecting, looking around, seeing which prices are cheaper," said David Valdez. "We are being more selective. We have got to find the cheapest price."

Record-high energy, corn and wheat prices in the past year have led to sticker shock in the grocery aisles. At \$1.32, the average price of a loaf of bread has in-

creased 32 percent since January 2005. In the last year alone, the average price of carton of eggs has increased almost 50 percent.

Ground beef, milk, chicken, apples, tomatoes, lettuce, coffee and orange juice are among the staples that cost more these days, according to the federal Bureau of Labor Statistics.

Overall, food prices rose nearly 5 percent in 2007, according to the U.S. Department of Agriculture. That means a pound of coffee, on average, cost 57 cents more at year's end than in 2006. A 12-ounce can of frozen, concentrated orange juice now averages \$2.53 — a 67-cent increase in just two years.

And a carton of grade A, large eggs will set you back \$2.17. That's an increase of nearly \$1 since February, 2006.

"The economy is having a definite impact on shopper behavior," said Tim Hammonds, president and chief executive officer of the Food Marketing Institute, a retail trade group. "People are significantly changing what they do."

Soaring prices are causing shoppers to rethink long-held habits such as store loyalty.

Wal-Mart and other supercenters that sell food now account for 24 percent of the

market, according to the most recent annual survey of shopping habits by Hammonds' organization.

Gina Pierson, a music teacher in Columbia, Mo., buys her family's staples at local grocery stores but makes regular trips to Wal-Mart to supplement the weekly shopping list.

Like many families struggling to get by, Pierson and her husband, a public school teacher, are adjusting their approach to buying, cooking and eating food. Restaurant meals are now almost a luxury.

"Between food and gas, it's just cheaper to stay home," she said.

In 2007, the FMI survey showed the average number of weekly shopping trips falling below two per household for the first time.

Paula Curtis, a mental health worker in Montpelier, Vt., said her grocery bill has been steadily climbing by \$10 to \$20 a week. She has cut back on meat, fruit, vegetables and snack food, and buys milk at the gas station, where she said it's cheaper.

"Every time I go, it's more and more," she said. "I make a list, but I don't necessarily get everything on it because I can't afford everything."

Risr

Recorded to increased

Average of four



* Most

SOURCES: U Agriculture, U

BUSINESS IN BRIEF

AIRLINES

Judge says he can't stop Aloha shutdown

HONOLULU — Hawaii's leaders tried to keep Aloha Airlines from shutting down but a bankruptcy judge said Aloha didn't need his approval to stop operations because it's a business decision.

State attorneys had asked Judge Lloyd King on Monday not to let Aloha stop flying.

State senators prepared \$50 million worth of loan guarantees in addition to tax breaks for Aloha. But any effort to save the money-losing airline could be futile unless it can make Aloha profitable.

Aloha has been caught in a three-way pricing war with one-way fares as low as \$1 since go airlines, an inter-island carrier started by Phoenix-based Mesa Air Group Inc. launched in June 2006

ELECTRONICS

Sony to offer movie channel on cellphones

LOS ANGELES — Sony Pictures Television says it will become the first Hollywood studio to offer full-length movies by cellphone.

The unit of Japanese electronics maker Sony Corp. says it will offer a range of popular titles on special AT&T Inc. phones in May.

The movies, such as "Bugsy," "Ghostbusters" and "Karate Kid," will be among those that have made their theatrical and DVD runs and have been broadcast on TV already. The titles will be streamed with advertisements in a loop and not be available on demand.

The service will be available only on new LG Vu and Samsung Access phones.

— Daily News wire reports

MONEY RATES AND COMMODITIES

Prime Rate	5.25
Discount Rate Primary	2.50
Fed Funds close	2.25
T-bills:	
3-month disc	1.44
6-month disc	1.50
T-bill, annualized, adjusted for constant maturity:	
1-year	1.60
T-Notes:	
1-year	1.43
2-year	1.6
5-year	2.46
10-year	3.43
T-Bonds:	
30-year	4.30
Libor:	
3-month	2.69
6-month	2.61
FHMA 30-year mortgage commitment:	
30-days	5.59
Money market fund	
Money Lynch Ready Assets:	
7-day avg yield	3.08
90 days	2.67
180 days	2.65

METALS

Gold (troy oz.):	
NY Merc	\$916.20
Silver (troy oz.):	
NY Merc spot	\$17.275
Lead (metric ton)	\$2797.00
Zinc HG (round)	\$1,094

OIL AND GAS

	Yesterday	Pt
West Texas Intermed \$ per bbl fob	101.54	↓
Light LA Sweet \$ per bbl fob	104.19	↓
Alaska No. Slope del. West Coast	101.58	↓
Natural Gas, Henry Hub, \$ per mmbtu	9.93	

FOREIGN EXCHANGE

Table shows the amount of foreign currency that \$1 buys. To determine how much of \$1 a single unit of the foreign currency will buy, divide number shown into 1.

	Yesterday	Premium	Yesterday	Pt	
Argent	3.1666	3.1636	Lebanon	1666.67	↓
Australia	1.0945	1.0909	Malaysia	3.1990	↓
Bahrain	.3771	.3770	Mexico	10.6496	↓
Brazil	1.7501	1.7440	N. Zealand	1.2720	↓
Britain	.5042	.5021	Norway	5.0968	↓
Canada	1.0287	1.0191	Pakistan	62.89	↓
Chile	454.55	454.55	Peru	2.770	↓
China	7.0175	7.0175	Philpines	41.58	↓
Colombia	2000.00	1818.18	Poland	2.23	↓
Czech Rep	16.00	16.00	Russia	23.4742	↓
Denmark	4.7259	4.7326	Saudi Arab	3.7494	↓
Dominican Rep	34.01	33.90	Singapore	1.3787	↓
Egypt	5.4555	5.4675	Slovak Rep	20.52	↓
Euro	.6335	.6345	So. Africa	8.1103	↓
Hong Kong	7.7982	7.7821	So. Korea	990.10	↓
Hungary	166.67	163.93	Sweden	5.9453	↓
India	40.000	39.746	Switzerland	.9935	↓
Indonesia	10000.00	10000.00	Taiwan	30.40	↓
Israel	3.5273	3.5298	Thailand	31.55	↓
Japan	99.91	100.00	Turkey	1.3321	↓
Jordan	.7086	.7085	U.A.E.	3.6738	↓
Kenya	62.89	62.29	Uruguay	20.5339	↓
Kuwait	2656	2657	Venezuela	2145.82	↓



March 12, 2008

Chairman
J. MENDEL
Honda

President
M. STANTON

State Senator Lesil McGuire, Chair
State Capitol, Room 125
Senate State Affairs Committee
Alaska State Legislature
Juneau, AK 99801-1182

VEHICLE

MANUFACTURERS

Aston Martin
Ferrari
Honda
Hyundai
Isuzu
Kia
Maserati
Mitsubishi
Nissan
Peugeot
Renault
Subaru
Suzuki
Toyota

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HB

90

Alaska State Legislature

Senator Hollis French, Chair
State Capitol, Room 417
Juneau, Alaska 99801
Phone: (907) 465-3892
Fax: (907) 465-6595



Committee Members:
Senator Charlie Huggins
Senator Bill Wielechowski
Senator Lesil McGuire
Senator Gene Therriault

Senate Judiciary Committee

MEMORANDUM

TO: Jerry Luckhaupt, Leg. Legal

FROM: Cindy Smith

RE: CS for HB90

Please prepare a CS for HB90 with the following additions

CS for SB157 (LS0755\L)
CS for HB 14(JUD) (LS0095\W)
CS for SB5 (LS0097\O)

And amendments, attached, on:

Kidnapping (LS0331\O.1)
DNA
Deletion of specified material in Section 5.

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR WIELECHOWSKI

TO: CSHB 90(FIN)

- 1 Page 3, line 15, following "age":
- 2 Insert ";
- 3 (6) kidnapping"

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 90(FIN)

Page 3, line 28:

Delete "(A)"

Page 3, lines 29 – 30:

Delete all material

draft

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSHB 90(FIN)

Page 6, following line 23:

Insert new bill sections to read:

“ **Sec. 11.** AS 44.41.035(b) is amended to read:

(b) The Department of Public Safety shall collect for inclusion into the DNA registration system a blood sample, oral sample, or both, from (1) a person convicted in this state of a crime against a person or a felony under AS 11 or AS 28.35 or a law or ordinance with elements similar to a crime against a person or a felony under AS 11 or AS 28.35, (2) a minor 16 years of age or older, adjudicated as a delinquent in this state for an act that would be a crime against a person or a felony under AS 11 or AS 28.35 if committed by an adult or for an act that would violate a law or ordinance with elements similar to a crime against a person or a felony under AS 11 or AS 28.35 if committed by an adult, (3) a voluntary donor, (4) an anonymous DNA donor for use in forensic validation, forensic protocol development, quality control, or population or statistical data bases, [AND] (5) a person required to register as a sex offender or child kidnapper under AS 12.63, **and (6) a person arrested for a crime against a person or a felony under AS 11 or AS 28.35, or a law or ordinance with elements similar to a crime against a person or a felony under AS 11 or AS 28.35.** The department also may collect

for inclusion into the DNA registration system a blood sample, oral sample, or tissue sample from crime scene evidence or from unidentified human remains. The DNA identification registration system consists of the blood, oral, or tissue samples drawn under this section, any DNA or other blood grouping tests done on those samples, and the identification data related to the samples or tests. Blood samples, oral samples, and tissue samples not subject to testing under this section, and test or identification data related to those samples, may not be entered into, or made a part of, the DNA identification registration system.

* Sec. 12. AS 44.41.035(i) is amended to read:

(i) The Department of Public Safety shall, upon receipt of a court order, destroy the material in the system relating to a person. The court shall issue the order if the person's or minor's DNA was included in the system under

(1) (b)(1) or (2) of this section and the court [IT] determines that

(A) [(1)] the conviction or adjudication that subjected the person to having a sample taken under this section is reversed; and

(B) [(2)] the person

(i) [(A)] is not retried, [OR] readjudicated, or ^(adjudicated for) convicted of another crime that requires having a sample taken under this section [FOR THE CRIME]; or

(ii) [(B)] after retrial, is acquitted of the crime or after ^(and is not convicted or adjudicated for another crime) readjudication for the crime, ^{that requires a sample taken under this section,} is not found to be a delinquent

or

(2) (b)(6) of this section and the court determines that

(A) the person arrested was released without being charged; or

(b) the criminal complaint, indictment, or information for the offense for which the person was arrested was dismissed, and a criminal complaint, indictment, or information for an offense requiring submission of a DNA sample is not refiled;

* **Sec. 13.** AS 44.41.035(l) is amended to read:

(l) The Department of Public Safety may not include in the DNA registration system a blood sample, oral sample, or tissue sample of the victim of a crime, unless that person would otherwise be included under **(b)(1) – (6)** [(b)(1) – (5)] of this section.

* **Sec. 14.** AS 44.41.035 is amended by adding a new subsection to read:

(q) The department shall make ^(reasonable) every effort to process each sample collected from a person under (b)(1), ^{(b)(5)} (b)(2), and (b)(6) of this section and include the identification data resulting from the testing of the sample in the identification registration system within 90 days after receiving the sample."

Renumber the following bill sections accordingly.

Page 7, line 5:

Delete all material and insert the following:

**** Sec. 15.** Section 14 of this Act takes effect July 1, 2009.

*** Sec. 16.** Except as provided in sec. 15 of this Act, this Act takes effect July 1, 2007.”

LEGAL SERVICES

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

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


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

MEMORANDUM

May 11, 2007

SUBJECT: SCS CSHB 90(JUD) (Work Order No. 25-LS0331\C)

TO: Senator Hollis French

FROM: Gerald P. Luckhaupt
Legislative Counsel 

Enclosed is the draft SCS(JUD) you requested. I have one comment. I have serious doubts about the constitutionality of taking a DNA sample from a person who is merely arrested for crimes listed in the bill draft. Taking a sample at this time, before there has been any judicial involvement, would appear to me to violate Alaska's explicit right to privacy¹ and also be an illegal search and seizure under Art. I, § 14. I can conceive of no authority that would authorize dispensing with the warrant requirement in this situation. A number of other states, including the states of Virginia, Minnesota, and Texas require that a judicial determination of probable cause be made before a DNA sample can be taken from an arrestee.

GPL:ljw
07-268.ljw

Enclosure

¹ Art. I, § 22, Alaska constitution.

**DPS Suggested Changes to "Bonnie Craig" Amendments
5-9-07**

1. Take out "presentment."
2. Change charge to arrested.
 - Helps with chain of custody issues, more practical
 - Currently how their computer system is set up; wouldn't be able to address "charged"
3. 2 Effective Dates:
 - Immediate effective date for collecting samples
 - 2 years for meeting 90 day processing timeline: July 2009
4. Clarify which information needs to be processed within 90 days:
 - DNA arrestees within 90 days
 - Crime scene not 90 days
5. Change to make "every effort" to process within 90 days, becomes good faith effort
 - Extenuating circumstances may prohibit: sick technician, instrument failure, stuck on a case in Barrow for 2 weeks
 - Don't want to open dept to possibility of a lawsuit
6. Will you include minors like SB 33?
 - If so, then paired with the "arrested" language, significantly increases workload. Juvenile samples must be removed when become non-juveniles
7. With our changes, they will be amending the fiscal note (previously \$350,000 for 2 half-time positions) to include four additional workers to handle caseload: ^{4-500,000}
 - Two criminalists
 - Technician
 - Codus (?) manager/administrator
8. Federal Grants available (that I asked about):
 - DNA Enhancement program--allows for overtime but in Alaska the criminalists are exempt from overtime (currently cannot accept the money)
 - Backlog Reduction Grant—subject to presidential funding, so not guaranteed; have to save samples until National Institute of Justice—cumbersome than in-house, not guaranteed funding

Annie Carpeneti has additional language for Page 2, line 19:

"and a criminal complaint indictment or information that has not been refilled."

presentment

Change charge to arrested

Immediate effective date fro collecting

2 years for meeting 90 days

July of 09 for processing

Clarify which info needs to be processed within 90 days

DNA arrestees within 90 days

Crime scene not 90 days

Make "every effort" to process within 90 days

Because

Crime lab to process, but some circumstances that prohibit it, sick lab technicians. Stuck in barrow, could be 95 days even though good faith effort

Not open dept to lawsuit, possibility of a law suit

Instrument failure

Include minors?

Arrested, then significant increase in juvenile samples, also remove who become non-juveniles...significantly increases workload

Amending the fiscal note

Four additional physicians to handle caseload

Two criminalists

Technician

Codus (?) manager/ Administrator

Identify, recruit, certify criminalists

Federal

DNA Enhancement program-allows for overtime, the criminalists exempt from overtime

Backlog Reduction Grant—subject to presidential funding, have to save samples until

natl instit justice—cumbersome than in-house

Not guaranteed funding

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MEMORANDUM

March 23, 2007

SUBJECT: Problem with Amendment incorporated into CSSB 33(STA)
(Work Order No. 25-LS0260\M)

TO: Senator Lesil McGuire
Attn: Shalon Szymanski

FROM: Gerald P. Luckhaupt 
Legislative Counsel

The CS(STA) adopted by the committee contains an amendment adding the term "minor" in three places.¹ The inclusion of "minor" is incorrect and may lead to problems applying AS 44.41.035 in the future.

I am not entirely sure why "minor" was included but it was apparently based upon a mistaken assumption that the word "person" includes only adult individuals. This is incorrect. "Person" is not separately defined in AS 44 so the definition in AS 01.10.060(a)(8) applies. This definition includes "a natural person." A natural person is not limited to just adults but includes minors as well. In each of the three places where minor was added the term person already encompassed minors. By adding minors in these three places we are now left with a problem in interpretation of AS 44.41.035.

When interpreting statutes courts presume that the legislature means what it says and that it does not employ superfluous terms and language. A court interpreting AS 44.41.035 will presume that the legislature meant something by included "a minor" in these three places and not including "a minor" in the other provisions of AS 44.41.035. A court will attempt to give effect to all the words and terms used by the legislature. To do that in AS 44.41.035 may lead to some unintended consequences. AS 44.41.035(b) requires the collection of DNA samples from various persons. The amendment added "or minor" to AS 44.41.035(b)(5) which requires the collection of samples from "a person required to register as a sex offender or child kidnapper under AS 12.63." The use of "person" in this paragraph includes adults and minors as AS 12.63 requires persons (whether adults of juveniles) convicted of certain crimes to register as sex offenders. Similarly

¹ The amendment adopted by the committee said to add "or minors" to the CS() on p. 1, line 14, and p. 2, lines 17 and 18, following "person." "Or minors" was changed to "or minor" as the plural was clearly incorrect. There was also no "person" found on p. 2, line 17, so "or minor" was added on lines 18 and 19.

AS 44.41.035(b)(1) requires the collection of samples from persons convicted of certain crimes; the use of "person" in this paragraph includes minors as minors can be convicted for at least some of those offenses.² New AS 44.41.035(b)(6) requires the collection of samples from persons charged with certain crimes; the use of "person" in this paragraph includes minors as minors can be charged with at least some of those offenses.³ In AS 44.41.035(b)(2) the term "minor" is used because only minors may be adjudicated delinquent; the use of the broader term "person" here would have been incorrect.

Applying the rules of statutory construction to the addition of "or minor" to AS 44.41.035(b)(5) means that a court may be able to conclude that "person" does not have its normal meaning of a natural person, whether an adult or a juvenile, in AS 44.41.035(b) but must mean only an adult. A court could then fail to require the collection of DNA samples from a minor who is charged or convicted as an adult because only the term person is used in those paragraphs.⁴ This interpretation and incorrect application of the law by the courts is only possible because of the inclusion of "or minor" in AS 44.41.035(b)(5). The inclusion of "or minor" here is incorrect and should be removed.

The same analysis applies to the addition of "or minor" made to AS 44.41.035(i) in sec. 2 of the bill. The term "person" that is used in AS 44.41.035(i) includes adults or minors. The addition of "or minor" can only lead to confusion or incorrect interpretation or application of the law by the courts.

GPL:lmb
07-069.lmb

² See AS 47.12.030(a) which requires automatic waiver of minors who are at least 16 years of age to adult court when they are charged with certain crimes and AS 47.12.100 which allows for waiver of juvenile court jurisdiction when a minor is found to not be amenable to treatment as a juvenile.

³ See footnote 2, supra.

⁴ AS 44.41.035(1) and (6).

House Bill 14 in CS for HB 90

Sec. 1 of HB 90 (same as Sec. 1 of HB 14)

Prohibits a convicted drunk driver restricted from purchasing alcohol from entering a premise to obtain or consume alcohol, and provides for the civil penalty.

Sec. 2 of HB 90 (same as Sec. 2 of HB 14)

Creates a restriction on purchasing alcohol for convicted drunk drivers under court order not to drink. Requires court or parole board to notify individual that ID card must list restriction.

Sec. 3 of HB 90 (same as Sec. 3 of HB 14)

Allows (but does not require) a seller to require proof of ability to purchase by either showing state issued ID, proving out of state residency by showing out of state ID, or signing a waiver stating purchaser is not under restriction.

Sec. 30 of HB 90 (same as Sec. 4 in HB 14)

Requires DMV to cancel ID card of restricted individual and mark a reissued card for the period of restriction. Provides fee of \$50

Sec. 31 of HB 90 (same as Sec. 5 in HB 14)

Requires the restriction to also be listed electronically, to the extent the department is able to.

Sec. 32 of HB 90 (same as Sec. 6 in HB 14)

Instructs DMV to cancel the license of a restricted person and if a new license is issue, list the restriction for the period of the restriction.

Sec. 33 of HB 90 (same as Sec. 7 in HB 14)

Instructs court and parole board to require surrender of license and ID card and forward to DMV, report order within two days, inform person that their new ID or license will list restriction.

Sec. 34 of HB 90 (same as Sec. 8 in HB 14)

Provides fee of \$50 for issuing restricted license.

Sec. 42 of HB 90 (same as Sec. 9 in HB 14)

Provides effective date of January 1, 2008 to allow time for all agencies to conform.



Representative Ralph Samuels

House District 29

Date: May 2, 2007

To: Senator Hollis French, Chair
Senate Judiciary Committee

From: Representative Ralph Samuels

RE: Hearing Request for CSHB90(FIN)

Please schedule a hearing for CSHB90(FIN) at your earliest convenience.

Attached please find:

1. CSHB90(FIN)
2. CSHB90 (JUD)
3. CSHB90
4. Sponsor Statement
5. Sectional Summary
6. Fiscal Notes

Please contact Sydney Morgan of my office with any questions at x 6791.

Thank you.

Representative Ralph Samuels

Sponsor Statement CSHB90(JUD)

“An Act relating to credit toward service of a sentence of imprisonment; relating to violation of probation and parole conditions by sex offenders; relating to bail; relating to distribution of certain materials to minors; relating to time limitations for prosecution of certain crimes; relating to sex offender registration; relating to the maximum time for probation; relating to certain post-conviction relief applications; relating to good time; and providing for an effective date.”

HB90 encompasses a wide variety of issues relating to our legal, correctional and public safety systems. Following are the specific changes:

1. Currently, there are very few tools law enforcement and public safety have in requiring that sex offenders, who are on probation or parole, comply with the conditions of their release. HB 90 will provide for a class A misdemeanor if a person violates certain conditions of their probation or parole.
2. Under current law, it is a crime to send indecent materials, if the materials depict minors, to minors. I believe that sending indecent materials to a minor whether or not the individuals depicted are underage or not, should be a crime. HB 90 does just this.
3. HB 90 allows for the forfeiture of property, such as computers used in committing electronic distribution of indecent materials to minors. This forfeiture could only occur after conviction.
4. Adding “attempt, solicitation, and conspiracy to commit murder” and “hindering prosecution of murder” to the list of crimes for which the statute of limitations do not apply. Currently, the statute of limitations for both offenses is just 5 years. With the addition of a cold case prosecutor, the department of law feels that they can successfully bring those who fall under these categories to justice if the statute of limitations is lifted.
5. Currently, the courts are being asked to hold repeat bail review hearings based on little or no actual new information. The multiple bail review hearings are being used by defendants as a tactic to wear down an overburdened court system with repeat, inappropriate proposals to release a defendant.

HB 90 would require that the information offered supporting a subsequent bail review hearing actually be “new” information. It will help balance the constitutional right to bail with the constitutional right of victims to be treated with dignity, respect and fairness.
6. Under the premise that criminals should serve their sentenced time, HB 90 disallows credit toward a term of incarceration for time served while in a private residence, under

electronic monitoring or for certain treatment programs that are not similar to incarceration.

7. In 2006, the legislature adopted extended periods of probation, including a minimum of 15 years for felony sexual assault in the first degree, for felony sex offenders. HB 90 would change the maximum years of probation for a felony sex offense to 25, allowing for conformity to current law and to allow more flexibility in setting probation requirements.

8. Currently, persons convicted of electronic distribution of indecent material to minors do not have to register as sex offenders. HB 90 requires that persons convicted of this crime register as a sex offender.

9. In an effort to stem the abuse of post conviction relief, HB 90 requires that a person who brings an action for post-conviction relief, based on the claim that the person's attorney in a prior application for post-conviction relief was ineffective, must file the claim within one year after the court's denial of the prior application.

10. HB 90 provides that a prisoner may not be granted a good time deduction for any period spent in a treatment program, private residence, or under electronic monitoring. The good time deduction is to reward good behavior while incarcerated, and not in a home or similar place.

CSHB90(JUD)
SECTIONAL ANALYSIS

Section 1 provides that it is a class A misdemeanor for a convicted sex offender, who is on probation or parole, to violate particular conditions of probation or parole. The probation conditions include the requirement that the offender submit to regular polygraph examinations, the offender participate in treatment specifically related to the offense, and a condition that the court finds is specifically related to the defendant's crime.

The parole conditions include participation in treatment or counseling, reporting to the person's parole officer, abiding in a particular geographic area, submitting to periodic polygraph examinations, refraining from particular risky behavior related to the parolee's offense or criminal history, and abiding by certain conditions for sex offenders who also have committed domestic violence.

Section 2 Under current law, a person commits the crime of electronic distribution of indecent material to minors if the person sends certain indecent material depicting minors. This provision would also prohibit a person from sending indecent material to minors that depicts adults.

Section 3 is a conforming amendment that would allow the forfeiture of property such as computers used in committing electronic distribution of indecent materials to minors. The forfeiture could occur only after conviction of the offense.

Section 4. Under current law a prosecution for murder and certain sex offenses may be brought at any time. This provision would add to those crimes that may be brought at any time the "attempt, solicitation, and conspiracy to commit murder" and "hindering prosecution of murder". The Department of Law has a cold case prosecutor who has been successful in bringing cold cases to trial, but has been hampered by the statute of limitations for these crimes, which, under current law is five years.

Section 5 amends the law addressing when a person arrested for a crime may request a third and subsequent bail hearing. Current law requires the person to provide notice of new information that will be presented to justify a new hearing. The bill specifies that new information does not include the fact that the person cannot post the required bail, or other information that the person knew about but did not present at a previous hearing. The bill would also provide that seven days must elapse between third and subsequent bail hearings, unless the prosecuting authority stipulates otherwise.

Section 6 sets standards for when a court may grant credit toward a sentence of imprisonment for time spent in a treatment program. Credit may be given if the court has ordered the person to participate in the program as a condition of bail release or probation; the treatment program meets the standards set forth in the bill; and the director of the treatment program has informed the court that the person has participated and complied with the requirements of the program, has resided in the facility, and has abided by its rules.

The standards for granting credit toward a prison sentence require the program to be a residential facility that confines the person. The person must be subject to disciplinary sanctions for violating the facility's rules, and must be subject to immediate arrest without warrant for leaving the facility without permission.

A court may not grant credit against a prison sentence for time spent in a private residence or under electronic monitoring.

Section 7 changes the maximum period of probation from 10 to 25 years for felony sex offenses. In 2006, the legislature adopted extended periods of probation for sex offenders. This provision would conform the maximum period of probation in current law to these extended periods.

Section 8 requires a person convicted of electronic distribution of indecent material to minors to register as a sex offender.

Section 9 requires a person to bring an action for post-conviction relief, that is based on the claim that the person's attorney in a prior application for post-conviction relief was ineffective, within one year after the court's denial of the prior application for post-conviction relief is final.

Section 10 provides that a prisoner may not be granted a good time deduction for any period spent in a treatment program, a private residence, or under electronic monitoring.

Sections 11 and 12 include applicability provisions and an effective date of July 1, 2007.