

HB 271

Background Information

Prepared by Representative Mike Hawker's Office

The current schedule for violations of AS 28.35.030 (Operating a vehicle, aircraft or watercraft while under the influence of an alcoholic beverage, inhalant or controlled substance) or 28.35.032 (Refusal to submit to chemical test) is as follows:

An offense would be a Class A misdemeanor UNLESS there are two or more convictions within ten years of the current offense, then it would be a Class C felony. All offenses require use of interlock for a certain period of time after the person regains driving privilege/during probation.

These are the current statutory minimums (shaded cells are felonies):

Offense	Imprisonment	Revocation	Interlock	Fine	Forfeiture
1 st	72 hours	90 days	12 months	\$1,500	Allowable
2 nd	20 days	1 year	24 months	\$3,000	Allowable
3 rd	60 days	3 years	36 months	\$4,000	Allowable
3 rd within 10 years	120 days	Permanent*	Interlock required during entire probationary period	\$10,000	Mandatory
4 th	120 days	5 years		\$5,000	Allowable
4 th within 10 years	240 days	Permanent*		\$10,000	Mandatory
5 th	240 days	5 years		\$6,000	Allowable
5 th or more within 10 years	360 days	Permanent*		\$10,000	Mandatory
More than 5	360 days	5 years		\$7,000	Allowable

* If a person has a permanently revoked license, they can petition for restoration after ten years if there hasn't been a subsequent criminal offense and the applicant can show proof of financial responsibility.

Passage of HB 271 would change the current statute to allow a felony conviction for the 2nd offense within 10 years and increase the penalties for 3rd and 4th offenses (within 10 years) respectively.

According to NCSL, two states, Arkansas and Connecticut, require use of an interlock device prior to conviction. Texas requires an interlock device for a high BAC (.15 or greater) or for those arrested for DUI where there has been an injury or fatality.

Other states that charge felonies for 2nd offenses:

Indiana: 2nd offense within five years of first offense

Minnesota: 2nd offense with two other aggravating factors (BAC of .20 or more; driving with a child in the car)

New York: 2nd offense within 10 years

Oklahoma: 2nd offense within 10 years

Rhode Island: DUI with serious bodily injuries are felonies

Virgin Islands: 2nd offense