



# LAWS OF ALASKA

2008

**Source**

SCS CSHB 19(JUD)(efd am S)

**Chapter No.**

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## AN ACT

Relating to ignition interlock devices; to limited driver's license privileges; to ignition interlock limited driver's license privileges; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1



## AN ACT

1 Relating to ignition interlock devices; to limited driver's license privileges; to ignition  
2 interlock limited driver's license privileges; and providing for an effective date.

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4 \* **Section 1.** AS 11.76.140 is amended to read:

5 **Sec. 11.76.140. Avoidance of ignition interlock device.** (a) A person  
6 commits the crime of avoidance of ignition interlock device if the person [MAY  
7 NOT] knowingly

8 (1) circumvents [CIRCUMVENT] or tampers [TAMPER] with an  
9 ignition interlock device in a manner intended to allow a person on probation under  
10 AS 12.55.102, with a condition of sentence under AS 12.55.102, or who has an  
11 ignition interlock limited license to avoid using the device; [OR]

12 (2) rents [RENT, LOAN, OR LEASE] a motor vehicle to a person  
13 and with criminal negligence disregards the fact that the person is on probation  
14 under AS 12.55.102, has a condition of sentence under AS 12.55.102, or has an

**ignition interlock limited license**, unless the vehicle is equipped with an ignition interlock device described in AS 12.55.102; or

(3) loans a motor vehicle to a person and knowingly disregards the fact that the person is on probation under AS 12.55.102, has a condition of sentence under AS 12.55.102, or has an ignition interlock limited license, unless the vehicle is equipped with an ignition interlock device described in AS 12.55.102.

**(b) Avoidance of ignition interlock device**

(1) under (a)(1) of this section is a class A misdemeanor;

(2) under (a)(2) or (3) of this section is [NOTWITHSTANDING AS 11.81.250, A PERSON CONVICTED OF VIOLATING THIS SECTION IS GUILTY OF] a class B misdemeanor and is punishable by a term of imprisonment of not more than [. THE MAXIMUM TERM OF IMPRISONMENT THAT MAY BE IMPOSED IS] 30 days and a [THE MAXIMUM] fine of not more than [THAT MAY BE IMPOSED IS] \$500.

\* **Sec. 2.** AS 28.01.010 is amended by adding a new subsection to read:

(j) A court may not enforce a municipal ordinance prescribing a penalty for driving while under the influence of an alcoholic beverage, inhalant, or controlled substance or refusal to submit to a chemical test unless that ordinance imposes ignition interlock device requirements under this title.

\* **Sec. 3.** AS 28.15.201(d) is repealed and reenacted to read:

(d) A court revoking a driver's license, privilege to drive, or privilege to obtain a license under AS 28.15.181(c), or the department when revoking a driver's license, privilege to drive, or privilege to obtain a license under AS 28.15.165(c), may grant limited license privileges if

(1) the revocation was for a misdemeanor conviction under AS 28.35.030 or a similar municipal ordinance and not for a violation of AS 28.35.032;

(2) the person

(A) has not been previously convicted and the limited license is not granted during the first 30 days of the period of revocation; or

(B) has been previously convicted and the limited license is not granted during the first 90 days of the period of revocation;

(3) the court or department requires the person to use an ignition interlock device during the period of the limited license whenever the person operates a motor vehicle in a community not included in the list published by the department under AS 28.22.011(b) and, when applicable,

(A) the person provides proof of installation of the ignition interlock device on every vehicle the person operates;

(B) the person signs an affidavit acknowledging that

(i) operation by the person of a vehicle that is not equipped with an ignition interlock device is subject to penalties for driving with a revoked license;

(ii) circumventing or tampering with the ignition interlock device is a class A misdemeanor; and

(iii) the person is required to maintain the ignition interlock device throughout the period of the limited license, to keep up-to-date records in each vehicle showing that any required service and calibration is current, and to produce those records immediately on request;

(4) the person is enrolled in and is in compliance with or has successfully completed the alcoholism screening, evaluation, referral, and program requirements of the Department of Health and Social Services under AS 28.35.030(h);

(5) the person provides proof of insurance as required by AS 28.20.230 and 28.20.240; and

(6) the person has not previously been convicted of violating the limitations of an ignition interlock limited license or been convicted of violating the provisions of AS 28.35.030 or 28.35.032 while on probation for a violation of those sections.

\* **Sec. 4.** AS 28.15.201 is amended by adding a new subsection to read:

(f) If a person is required to use an ignition interlock device as a condition of a limited license under this section and the device prevents a vehicle from being

operated, the person has not violated the requirements of the limited license by attempting to operate the vehicle.

\* **Sec. 5.** AS 28.35.030(b) is amended to read:

(b) Except as provided under (n) of this section, driving while under the influence of an alcoholic beverage, inhalant, or controlled substance is a class A misdemeanor. Upon conviction,

(1) the court shall impose a minimum sentence of imprisonment of

(A) not less than 72 consecutive hours, require the person to  
on interlock device after the person regains the privilege,  
limited privilege, to operate a motor vehicle for a minimum  
during the period of probation, and impose a fine of not less  
the person has not been previously convicted;

(B) not less than 20 days, require the person to use an ignition interlock device after the person regains the privilege, including any limited privilege, to operate a motor vehicle for a minimum of 24 months during the period of probation, and impose a fine of not less than \$3,000 if the person has been previously convicted once;

(C) not less than 60 days, require the person to use an ignition interlock device after the person regains the privilege, including any limited privilege, to operate a motor vehicle for a minimum of 36 months during the period of probation, and impose a fine of not less than \$4,000 if the person has been previously convicted twice and is not subject to punishment under (n) of this section;

(D) not less than 120 days, require the person to use an ignition interlock device after the person regains the privilege, including any limited privilege, to operate a motor vehicle throughout the period of probation, and impose a fine of not less than \$5,000 if the person has been previously convicted three times and is not subject to punishment under (n) of this section:

(E) not less than 240 days, require the person to use an ignition interlock device after the person regains the privilege, including

1                   **any limited privilege, to operate a motor vehicle throughout the period of**  
2                   **probation, and impose** a fine of not less than \$6,000 if the person has been  
3                   previously convicted four times and is not subject to punishment under (n) of  
4                   this section;

5                   (F) not less than 360 days, **require the person to use an**  
6                   **ignition interlock device after the person regains the privilege, including**  
7                   **any limited privilege, to operate a motor vehicle throughout the period of**  
8                   **probation, and impose** a fine of not less than \$7,000 if the person has been  
9                   previously convicted more than four times and is not subject to punishment  
10                  under (n) of this section;

11                  (2) the court may not

12                  (A) suspend execution of sentence or grant probation except on  
13                  condition that the person

14                  (i) serve the minimum imprisonment under (1) of this  
15                  subsection; and

16                  (ii) pay the minimum fine required under (1) of this  
17                  subsection;

18                  (B) suspend imposition of sentence;

19                  (3) the court shall revoke the person's driver's license, privilege to  
20                  drive, or privilege to obtain a license under AS 28.15.181, and may order that the  
21                  motor vehicle, aircraft, or watercraft that was used in commission of the offense be  
22                  forfeited under AS 28.35.036; and

23                  (4) the court may order that the person, while incarcerated or as a  
24                  condition of probation or parole, take a drug or combination of drugs intended to  
25                  prevent the consumption of an alcoholic beverage; a condition of probation or parole  
26                  imposed under this paragraph is in addition to any other condition authorized under  
27                  another provision of law.

28                  \* **Sec. 6.** AS 28.35.030(n) is amended to read:

29                  (n) A person is guilty of a class C felony if the person is convicted under (a) of  
30                  this section and either has been previously convicted two or more times since  
31                  January 1, 1996, and within the 10 years preceding the date of the present offense, or

1 punishment under this subsection or under AS 28.35.032(p) was previously imposed  
2 within the last 10 years. For purposes of determining minimum sentences based on  
3 previous convictions, the provisions of (t)(4) of this section apply. Upon conviction,  
4 the court

5 (1) shall impose a fine of not less than \$10,000, **require the person to**  
6 **use an ignition interlock device after the person regains the privilege to operate a**  
7 **motor vehicle throughout the period of probation, and impose** a minimum sentence  
8 of imprisonment of not less than

9 (A) 120 days if the person has been previously convicted twice;

10 (B) 240 days if the person has been previously convicted three  
11 times;

12 (C) 360 days if the person has been previously convicted four  
13 or more times;

14 (2) may not

15 (A) suspend execution of sentence or grant probation except on  
16 condition that the person

17 (i) serve the minimum imprisonment under (1) of this  
18 subsection; and

19 (ii) pay the minimum fine required under (1) of this  
20 subsection; or

21 (B) suspend imposition of sentence;

22 (3) shall permanently revoke the person's driver's license, privilege to  
23 drive, or privilege to obtain a license subject to restoration of the license under (o) of  
24 this section;

25 (4) may order that the person, while incarcerated or as a condition of  
26 probation or parole, take a drug or combination of drugs, intended to prevent the  
27 consumption of an alcoholic beverage; a condition of probation or parole imposed  
28 under this paragraph is in addition to any other condition authorized under another  
29 provision of law;

30 (5) shall order forfeiture under AS 28.35.036 of the vehicle, watercraft,  
31 or aircraft used in the commission of the offense, subject to remission under

1 AS 28.35.037; and

2 (6) shall order the department to revoke the registration for any vehicle  
3 registered by the department in the name of the person convicted under this  
4 subsection; if a person convicted under this subsection is a registered co-owner of a  
5 vehicle or is registered as a co-owner under a business name, the department shall  
6 reissue the vehicle registration and omit the name of the person convicted under this  
7 subsection.

8 \* **Sec. 7.** AS 28.35.030 is amended by adding a new subsection to read:

9 (u) Notwithstanding (b), (n), or (r) of this section, the court shall waive the  
10 requirement of the use of an ignition interlock device when a person operates a motor  
11 vehicle in a community included on the list published by the department under  
12 AS 28.22.011(b).

13 \* **Sec. 8.** AS 28.35.032(g) is amended to read:

14 (g) Upon conviction under this section,

15 (1) the court shall impose a minimum sentence of imprisonment of

16 (A) not less than 72 consecutive hours, require the person to  
17 use an ignition interlock device after the person regains the privilege to  
18 operate a motor vehicle for a minimum of 12 months during the period of  
19 probation, and impose a fine of not less than \$1,500 if the person has not been  
20 previously convicted;

21 (B) not less than 20 days, require the person to use an  
22 ignition interlock device after the person regains the privilege to operate a  
23 motor vehicle for a minimum of 24 months during the period of  
24 probation, and impose a fine of not less than \$3,000 if the person has been  
25 previously convicted once;

26 (C) not less than 60 days, require the person to use an  
27 ignition interlock device after the person regains the privilege to operate a  
28 motor vehicle for a minimum of 36 months during the period of  
29 probation, and impose a fine of not less than \$4,000 if the person has been  
30 previously convicted twice and is not subject to punishment under (p) of this  
31 section;

(D) not less than 120 days, require the person to use an ignition interlock device after the person regains the privilege to operate a motor vehicle throughout the period of probation, and impose a fine of not less than \$5,000 if the person has been previously convicted three times and is not subject to punishment under (p) of this section;

(E) not less than 240 days, require the person to use an ignition interlock device after the person regains the privilege to operate a motor vehicle throughout the period of probation, and impose a fine of not less than \$6,000 if the person has been previously convicted four times and is not subject to punishment under (p) of this section;

(F) not less than 360 days, require the person to use an ignition interlock device after the person regains the privilege to operate a motor vehicle throughout the period of probation, and impose a fine of not less than \$7,000 if the person has been previously convicted more than four times and is not subject to punishment under (p) of this section;

(2) the court may not

(A) suspend execution of the sentence required by (1) of this subsection or grant probation, except on condition that the person

(i) serve the minimum imprisonment under (1) of this subsection; and

(ii) pay the minimum fine required under (1) of this subsection; or

(B) suspend imposition of sentence;

(3) the court shall revoke the person's driver's license, privilege to  
privilege to obtain a license under AS 28.15.181, and may order that the  
vehicle, aircraft, or watercraft that was used in commission of the offense be  
under AS 28.35.036;

(4) the court may order that the person, while incarcerated or as a condition of probation or parole, take a drug or combination of drugs intended to prevent the consumption of an alcoholic beverage; a condition of probation or parole imposed under this paragraph is in addition to any other condition authorized under

1 another provision of law; and

2 (5) the sentence imposed by the court under this subsection shall run  
3 consecutively with any other sentence of imprisonment imposed on the person.

4 \* **Sec. 9.** AS 28.35.032(p) is amended to read:

5 (p) A person is guilty of a class C felony if the person is convicted under this  
6 section and either has been previously convicted two or more times since January 1,  
7 1996, and within the 10 years preceding the date of the present offense, or punishment  
8 under this subsection or under AS 28.35.030(n) was previously imposed within the  
9 last 10 years. For purposes of determining minimum sentences based on previous  
10 convictions, the provisions of AS 28.35.030(t)(4) apply. Upon conviction,

11 (1) the court shall impose a fine of not less than \$10,000, **require the**  
12 **person to use an ignition interlock device after the person regains the privilege to**  
13 **operate a motor vehicle throughout the period of probation,** and **impose** a  
14 minimum sentence of imprisonment of not less than

15 (A) 120 days if the person has been previously convicted twice;  
16 (B) 240 days if the person has been previously convicted three  
17 times;

18 (C) 360 days if the person has been previously convicted four  
19 or more times;

20 (2) the court may not

21 (A) suspend execution of the sentence required by (1) of this  
22 subsection or grant probation, except on condition that the person

23 (i) serve the minimum imprisonment under (1) of this  
24 subsection; and

25 (ii) pay the minimum fine required under (1) of this  
26 subsection; or

27 (B) suspend imposition of sentence;

28 (3) the court shall permanently revoke the person's driver's license,  
29 privilege to drive, or privilege to obtain a license subject to restoration under (q) of  
30 this section;

31 (4) the court may order that the person, while incarcerated or as a

1 condition of probation or parole, take a drug, or combination of drugs, intended to  
2 prevent consumption of an alcoholic beverage; a condition of probation or parole  
3 imposed under this paragraph is in addition to any other condition authorized under  
4 another provision of law;

5 (5) the sentence imposed by the court under this subsection shall run  
6 consecutively with any other sentence of imprisonment imposed on the person;

7 (6) the court shall order forfeiture under AS 28.35.036, of the motor  
8 vehicle, aircraft, or watercraft used in the commission of the offense, subject to  
9 remission under AS 28.35.037; and

10 (7) the court shall order the department to revoke the registration for  
11 any vehicle registered by the department in the name of the person convicted under  
12 this subsection; if a person convicted under this subsection is a registered co-owner of  
13 a vehicle, the department shall reissue the vehicle registration and omit the name of  
14 the person convicted under this subsection.

15 \* **Sec. 10.** AS 28.35.032 is amended by adding a new subsection to read:

16 (u) Notwithstanding (g) or (p) of this section, the court shall waive the  
17 requirement of the use of an ignition interlock device when a person operates a motor  
18 vehicle in a community included on the list published by the department under  
19 AS 28.22.011(b).

20 \* **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to  
21 read:

22 **TRANSITIONAL PROVISION.** A person convicted of a misdemeanor violation of  
23 AS 28.35.030 before the effective date of this Act who has a limited license issued under or is  
24 eligible to receive a limited license under AS 28.15.201(d), as that subsection read on the day  
25 before the effective date of this Act, may continue to use that limited license or may receive a  
26 limited license as provided in AS 28.15.201, as that section read on the day before the  
27 effective date of this Act, and is subject to penalties for violating the limitations on that  
28 license as provided in AS 28.15.291, as that statute read on the day before the effective date  
29 of this Act.

30 \* **Sec. 12.** This Act takes effect January 1, 2009.