



LAWS OF ALASKA

2004

Source

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Chapter No.

AN ACT

Relating to the justification of defense of self or others, immunity from prosecution, probation, discretionary parole, and the right to representation in certain criminal proceedings; relating to violation of a custodian's duty; relating to sexual abuse of a minor; relating to release of information concerning certain cases involving a minor; relating to local options regarding alcoholic beverages, the offense of furnishing or delivery of alcoholic beverages to a person under 21 years of age, and forfeiture of property used in, and money or other items of value used in financial transactions derived from, violation of certain laws relating to alcoholic beverages; relating to assault by means of a dangerous instrument; relating to operating or driving a motor vehicle, aircraft, or watercraft while under the influence of an alcoholic beverage, inhalant, or controlled substance, to the refusal to submit to a chemical test, and to the presumptions concerning the chemical analysis of breath or blood; increasing the duration of certain provisions of domestic violence protective orders from six months to one year; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Relating to the justification of defense of self or others, immunity from prosecution,
2 probation, discretionary parole, and the right to representation in certain criminal proceedings;
3 relating to violation of a custodian's duty; relating to sexual abuse of a minor; relating to
4 release of information concerning certain cases involving a minor; relating to local options
5 regarding alcoholic beverages, the offense of furnishing or delivery of alcoholic beverages to
6 a person under 21 years of age, and forfeiture of property used in, and money or other items
7 of value used in financial transactions derived from, violation of certain laws relating to
8 alcoholic beverages; relating to assault by means of a dangerous instrument; relating to
9 operating or driving a motor vehicle, aircraft, or watercraft while under the influence of an
10 alcoholic beverage, inhalant, or controlled substance, to the refusal to submit to a chemical
11 test, and to the presumptions concerning the chemical analysis of breath or blood; increasing

1 the duration of certain provisions of domestic violence protective orders from six months to
2 one year; and providing for an effective date.

3

4 * **Section 1.** AS 04.11.010(c) is amended to read:

5 (c) Unless a municipality or established village has adopted a more
6 restrictive local option under AS 04.11.491(g), in [IN] a criminal prosecution for
7 possession of alcoholic beverages for sale in violation of (a) of this section, the fact
8 that a person

9 (1) possessed more than 12 liters of distilled spirits, 24 liters or more
10 of wine, or 12 gallons or more of malt beverages in an area where the sale of alcoholic
11 beverages is restricted or prohibited under AS 04.11.491 creates a presumption that
12 the person possessed the alcoholic beverages for sale;

13 (2) sends, transports, or brings more than 12 liters of distilled
14 spirits, 24 liters or more of wine, or 12 gallons or more of malt beverages to an
15 area where the sale of alcoholic beverages is restricted or prohibited under
16 AS 04.11.491 creates a presumption that the person sent, transported, or brought
17 the alcoholic beverages for sale in the area.

18 * **Sec. 2.** AS 04.11.010 is amended by adding a new subsection to read:

19 (d) In this section,

20 (1) "bring" has the meaning given in AS 04.11.499;
21 (2) "send" has the meaning given in AS 04.11.499;
22 (3) "transport" has the meaning given in AS 04.11.499.

23 * **Sec. 3.** AS 04.11.150(g) is amended to read:

24 (g) If a shipment is to an area that has restricted the sale of alcoholic
25 beverages under AS 04.11.491(a)(1), (2), or (3) or (b)(1) or (2), a package store
26 licensee, agent, or employee may not ship to a purchaser more than 10 and one-half
27 liters of distilled spirits, 24 liters or more of wine, or 12 gallons or more of malt
28 beverages in a calendar month, or a lower amount of distilled spirits, wine, or malt
29 beverages if the municipality or established village has adopted the lower amount
30 by local option under AS 04.11.491(g).

1 * **Sec. 4.** AS 04.11.491 is amended by adding a new subsection to read:

2 (g) If a municipality or established village has adopted a local option under
3 (a)(1), (2), (3), or (4), or (b)(1), (2), or (3) of this section, the municipality or
4 established village, as part of the local option question or questions placed before the
5 voters, may

6 (1) adopt an amount of alcoholic beverages that may be imported that
7 is less than the amounts set out in AS 04.11.150(g);

8 (2) adopt an amount of alcoholic beverages that would give rise to a
9 presumption that the person possessed the alcoholic beverages for sale; the amounts
10 adopted under this paragraph may be lower than those set out in AS 04.11.010(c);

11 (3) opt to not apply a class C felony to violations of AS 04.16.051 that
12 apply solely by reason of the municipality or established village adopting a local
13 option under this section.

14 * **Sec. 5.** AS 04.11.508(b) is amended to read:

15 (b) If the perimeter of an established village determined under (a) of this
16 section includes any area that is

17 (1) within a municipality

18 (A) that has adopted a local option, the local option adopted
19 by the municipality applies in the overlapping area;

20 (B) the local option adopted by the established village does
21 not apply in the overlapping area;

22 (2) within the perimeter of another established village and, if the
23 other established village has

24 (A) also adopted a local option under AS 04.11.491, the
25 local option of the established village that is less restrictive applies in the
26 overlapping area;

27 (B) not adopted a local option under AS 04.11.491, the local
28 option does not apply in the overlapping area [OR WITHIN THE
29 PERIMETER OF ANOTHER ESTABLISHED VILLAGE, THE
30 PERIMETER DESCRIBED UNDER (a) OF THIS SECTION IS LIMITED
31 TO AN AREA THAT INCLUDES ONLY THE ESTABLISHED VILLAGE].

1 * **Sec. 6.** AS 04.11.508(c) is amended to read:

2 (c) If the board determines that the perimeter of an established village as
3 provided under (a) and (b) of this section does not accurately reflect the perimeter of
4 the established village, the board may establish the perimeter of the established village
5 and the areas of overlapping perimeter described under (b) of this section for
6 purposes of applying a local option selected under this chapter.

7 * **Sec. 7.** AS 04.16.051(d) is amended to read:

8 (d) A person acting with criminal negligence who violates this section is guilty
9 of a class C felony if

10 (1) within the five years preceding the violation, the person has been
11 previously convicted under

12 (A) this section; or

13 (B) a law or ordinance of this or another jurisdiction with
14 elements substantially similar to this section; [OR]

15 (2) the person who receives the alcoholic beverage negligently causes
16 serious physical injury to or the death of another person while under the influence of
17 the alcoholic beverage received in violation of this section; in this paragraph,

18 (A) "negligently" means acting with civil negligence; and

19 (B) "serious physical injury" has the meaning given in

20 AS 11.81.900; or

21 (3) the violation occurs within the boundaries of a municipality or
22 the perimeter of an established village that has adopted a local option under
23 AS 04.11.491 and has not opted out of applying a class C felony to violations of
24 this section under AS 04.11.491(g).

25 * **Sec. 8.** AS 04.16.220(a) is amended to read:

26 (a) The following are subject to forfeiture:

27 (1) alcoholic beverages manufactured, sold, offered for sale or
28 possessed for sale, bartered or exchanged for goods and services in this state in
29 violation of AS 04.11.010; alcoholic beverages possessed, stocked, warehoused, or
30 otherwise stored in violation of AS 04.21.060; alcoholic beverages sold, or offered for
31 sale in violation of a local option adopted under AS 04.11.491; alcoholic beverages

1 transported into the state and sold to persons not licensed under this chapter in
2 violation of AS 04.16.170(b);

3 (2) materials and equipment used in the manufacture, sale, offering for
4 sale, possession for sale, barter or exchange of alcoholic beverages for goods and
5 services in this state in violation of AS 04.11.010; materials and equipment used in the
6 stocking, warehousing, or storage of alcoholic beverages in violation of AS 04.21.060;
7 materials and equipment used in the sale or offering for sale of an alcoholic beverage
8 in an area in violation of a local option adopted under AS 04.11.491;

9 (3) aircraft, vehicles, or vessels used to transport, or facilitate the
10 transportation of

11 (A) alcoholic beverages manufactured, sold, offered for sale or
12 possessed for sale, bartered or exchanged for goods and services in this state in
13 violation of AS 04.11.010;

14 (B) property stocked, warehoused, or otherwise stored in
15 violation of AS 04.21.060;

16 (C) alcoholic beverages imported into a municipality or
17 established village in violation of AS 04.11.499;

18 (4) alcoholic beverages found on licensed premises that do not bear
19 federal excise stamps if excise stamps are required under federal law;

20 (5) alcoholic beverages, materials or equipment used in violation of
21 AS 04.16.175;

22 **(6) money, securities, negotiable instruments, or other things of**
23 **value used in financial transactions derived from activity prohibited under**
24 **AS 04.11.010 or in violation of a local option adopted under AS 04.11.491.**

25 * **Sec. 9.** AS 04.16.220(e) is amended to read:

26 (e) The owner of property subject to forfeiture under (a) **or (i)** of this section
27 is entitled to relief from the forfeiture in the nature of remission of the forfeiture if, in
28 an action under (d) of this section, the owner shows that the owner

29 **(1) was not a party to the violation;**

30 **(2) [AND] had no actual knowledge or reasonable cause to believe**
31 **that the property was used or was to be used in violation of the law; and**

(3) had no actual knowledge or reasonable cause to believe that the person committing the violation had

(A) a criminal record for violating this title; or

(B) committed other violations of this title.

* **Sec. 10.** AS 04.16.220(f) is amended to read:

(f) A person other than the owner holding, or the assignee of, a lien, mortgage, conditional sales contract on, or the right to possession to property subject to forfeiture under (a) **or (i)** of this section is entitled to relief from the forfeiture in the nature of remission of the forfeiture if, in an action under (d) of this section, the person shows that the person

(1) was not a party to the violation subjecting the property to forfeiture;

(2) [AND] had no actual knowledge or reasonable cause to believe that the property was [USED OR WAS] to be used in violation of the law; **and**

(3) had no actual knowledge or reasonable cause to believe that the person committing the violation had

(A) a criminal record for violating this title; or

(B) committed other violations of this title.

* **Sec. 11.** AS 04.16.220 is amended by adding new subsections to read:

(i) Upon conviction for a violation of AS 04.11.010 or 04.11.499, if an aircraft, vehicle, or watercraft is subject to forfeiture under (a) of this section, the court shall, subject to remission to innocent parties under this section,

(1) order the forfeiture of an aircraft to the state;

(2) order the forfeiture of a vehicle or watercraft if

(A) the defendant has a prior felony conviction for a violation of AS 11.41 or a similar law in another jurisdiction;

(B) the defendant is on felony probation or parole;

(C) the defendant has a prior conviction for violating or 04.11.499; or

(D) the quantity of alcohol transported in violation of this title was twice the presumptive amounts in AS 04.11.010(c).

(j) Notwithstanding (i) of this section, a court is not required to order the forfeiture of a vehicle or watercraft if the court determines that

(1) the vehicle or watercraft is the sole means of transportation for a family residing in a village;

(2) the court may impose conditions that will prevent the defendant's use of the vehicle or watercraft; and

(3) either

(A) a member of the family would be entitled to remission under this section if the family member were an owner of or held a security interest in the vehicle or watercraft; or

(B) if a member of the family would not be entitled to remission, the family member was unable as a practical matter to stop the violation making the vehicle or watercraft subject to forfeiture.

(k) When forfeiting property under (a), (d), or (i) of this section, a court may award to a municipal law enforcement agency that participated in the arrest or conviction of the defendant, the seizure of property, or the identification of property for seizure, (1) the property if the property is worth \$5,000 or less and is not money or some other thing that is divisible, or (2) up to 75 percent of the property or the value of the property if the property is worth more than \$5,000 or is money or some other thing that is divisible. In determining the percentage a municipal law enforcement agency may receive under this subsection, the court shall consider the municipal law enforcement agency's total involvement in the case relative to the involvement of the state.

(l) In this section, "village" means a community of fewer than 1,000 persons located off the interconnected state road system.

* **Sec. 12.** AS 09.50.020(a) is amended to read:

(a) A person who is guilty of contempt is punishable by a fine of not more than \$300 or by imprisonment for not more than six months. However, when the contempt is one mentioned in AS 09.50.010(3) - (12), or in an action before a magistrate, the person is punishable by a fine of not more than \$100 unless it appears that a right or remedy of a party to an action or proceeding was defeated or prejudiced

1 by the contempt, in which case the penalty shall be as prescribed for contempts
2 described in AS 09.50.010(1) **and** [.] (2) [, AND (13)].

3 * **Sec. 13.** AS 11.41.220(a) is amended to read:

4 (a) A person commits the crime of assault in the third degree if that person
5 (1) recklessly
6 (A) places another person in fear of imminent serious physical
7 injury by means of a dangerous instrument;
8 (B) causes physical injury to another person by means of a
9 dangerous instrument; or
10 (C) while being 18 years of age or older
11 (i) causes physical injury to a child under 10 years of
12 age and the injury reasonably requires medical treatment;
13 (ii) causes physical injury to a child under 10 years of
14 age on more than one occasion;
15 (2) with intent to place another person in fear of death or serious
16 physical injury to the person or the person's family member makes repeated threats to
17 cause death or serious physical injury to another person; [OR]
18 (3) while being 18 years of age or older, knowingly causes physical
19 injury to a child under 16 years of age but at least 10 years of age and the injury
20 reasonably requires medical treatment; **or**
21 (4) **with criminal negligence causes serious physical injury under**
22 **AS 11.81.900(b)(55)(B) to another person by means of a dangerous instrument.**

23 * **Sec. 14.** AS 11.41.438(a) is amended to read:

24 (a) An offender commits the crime of sexual abuse of a minor in the third
25 degree if
26 (1) **being under 16 years of age, the offender engages in sexual**
27 **penetration with a person who is under 13 years of age and at least three years**
28 **younger than the offender;**
29 (2) being 16 years of age or older, the offender engages in sexual
30 contact with a person who is 13, 14, or 15 years of age and at least three years younger
31 than the offender; or

(3) [(2)] being 18 years of age or older, the offender engages in sexual penetration with a person who is 16 or 17 years of age and at least three years younger than the offender, and the offender occupies a position of authority in relation to the victim.

* Sec. 15. AS 11.41.440(a) is amended to read:

(a) An offender commits the crime of sexual abuse of a minor in the fourth degree if

(1) being under 16 years of age, the offender engages in [SEXUAL PENETRATION OR] sexual contact with a person who is under 13 years of age and at least three years younger than the offender; or

(2) being 18 years of age or older, the offender engages in sexual contact with a person who is 16 or 17 years of age and at least three years younger than the offender, and the offender occupies a position of authority in relation to the victim.

* **Sec. 16.** AS 11.56 is amended by adding a new section to read:

Sec. 11.56.758. Violation of custodian's duty. (a) A person commits the crime of violation of custodian's duty if the person knowingly fails, when acting as a custodian appointed by the court for a released person under AS 12.30, to report immediately as directed by the court that the person released has violated a condition of release.

(b) Violation of custodian's duty is

(1) a class A misdemeanor if the released person is charged with a felony;

(2) a class B misdemeanor if the released person is charged with a misdemeanor.

* Sec. 17. AS 11.81.330(a) is amended to read:

(a) A person may use nondeadly force upon another when and to the extent the person reasonably believes it is necessary for self defense against what the person reasonably believes to be the use of unlawful force by the other, unless

(1) the force involved was the product of mutual combat not authorized by law;

(2) the person claiming the defense of justification provoked the other's conduct with intent to cause physical injury to the other; [OR]

(3) the person claiming the defense of justification was the initial aggressor; or

(4) the force applied was the result of using a deadly weapon the person claiming the defense of justification possessed while

(A) acting alone or with others to further a felony criminal objective of the person or one or more other persons; or

(B) a participant in a felony transaction or purported transaction or in immediate flight from a felony transaction or purported transaction in violation of AS 11.71.

* **Sec. 18.** AS 12.30.020(b)(1) is amended to read:

(1) place the person in the custody of a designated person or organization agreeing as a custodian to supervise the person; the court shall, personally and in writing, inform the custodian about the duties required of a custodian, and that failure to report immediately in accordance with the terms of the order that the person released has violated a condition of release may result in the custodian's being held **criminally liable** [IN CONTEMPT] under **AS 11.56.758** [AS 09.50.010];

* **Sec. 19.** AS 12.30.020 is amended by adding a new subsection to read:

(i) The court shall issue written or oral findings to demonstrate why conditions provided under (b)(1) of this section needed to be imposed.

* **Sec. 20.** AS 12.50.101(a) is amended to read:

(a) If a witness refuses, on the basis of the privilege against self-incrimination, to testify or provide other information in a criminal proceeding before or ancillary to a court or grand jury of this state, and a judge issues an order under (b) of this section, the witness may not refuse to comply with the order on the basis of the privilege against self-incrimination. If the witness fully complies with the order, **the witness may not be prosecuted for an offense about which the witness is compelled to testify** [NO TESTIMONY OR OTHER INFORMATION COMPELLED UNDER THE ORDER, OR INFORMATION DIRECTLY OR INDIRECTLY DERIVED

1 FROM THAT TESTIMONY OR OTHER INFORMATION, MAY BE USED
2 AGAINST THE WITNESS IN A CRIMINAL CASE], except in a prosecution based
3 on perjury, giving a false statement [,] or otherwise knowingly providing false
4 information, or hindering prosecution.

5 * **Sec. 21.** AS 12.50.101(e) is amended to read:

6 (e) In [AS USED IN] this section,

7 (1) "higher-level felony" means an unclassified or class A felony;

8 (2) "lower-level felony" means a class B or class C felony;

9 (3) "other information" means books, papers, documents, records,
10 recordings, or other similar material;

11 (4) "proffer" means a written or oral statement by the attorney for
12 the witness, stating the attorney's good faith belief of the substance of the
13 witness's testimony or other information.

14 * **Sec. 22.** AS 12.50.101 is amended by adding new subsections to read:

15 (f) If a witness refuses, or there is reason to believe the witness will refuse, to
16 testify or provide other information based on the privilege against self-incrimination,
17 and if the attorney general or the attorney general's designee has not applied for an
18 order under (b) of this section, the court shall inform the witness of the right to be
19 represented by an attorney, and that an attorney will be appointed for the witness if the
20 witness qualifies for counsel under AS 18.85. The court shall recess the proceeding to
21 allow the witness to consult with the attorney for the witness.

22 (g) If the attorney general or the attorney general's designee declines to seek
23 an order under (b) of this section after the witness has had an opportunity to consult
24 with an attorney, and the witness continues to refuse to testify or provide other
25 information, the court shall hold a hearing to determine the validity of the claim of
26 privilege by the witness. The hearing shall be in camera.

27 (h) At the hearing under (g) of this section, the attorney for the witness, in the
28 form of a proffer, shall describe the testimony or other information that the witness
29 claims is privileged. The proffer must include a description of how the testimony or
30 other information could connect the witness with a crime. The proffer is privileged
31 and inadmissible for any other purpose. If the proffer establishes a factual basis that

1 there is a real or substantial danger that the testimony or other information to be
2 compelled would support a conviction or would furnish a link in the chain of evidence
3 leading to conviction for a crime, the court may find that the witness has a valid claim
4 of privilege.

5 (i) If the court finds that the witness has a valid claim of privilege, it shall
6 advise an attorney designated by the attorney general of that finding and inform the
7 attorney of the category or categories of offense to which the privilege applies: a
8 higher-level felony, a lower-level felony, or a misdemeanor. If the designated attorney
9 decides that granting immunity to the witness is appropriate, the designated attorney
10 shall inform the prosecution of that decision, and shall deliver or cause to be delivered
11 a letter to the witness, or an attorney for the witness, granting immunity to the witness.

12 The designated attorney may not disclose the category of offense to anyone.

13 * **Sec. 23.** AS 18.66.100(b) is amended to read:

14 (b) When a petition for a protective order is filed, the court shall schedule a
15 hearing and provide at least 10 days' notice to the respondent of the hearing and of the
16 respondent's right to appear and be heard, either in person or by an attorney. If the
17 court finds by a preponderance of evidence that the respondent has committed a crime
18 involving domestic violence against the petitioner, regardless of whether the
19 respondent appears at the hearing, the court may order any relief available under (c) of
20 this section. The provisions of a protective order issued under

21 (1) (c)(1) of this section are effective until further order of the court;
22 (2) (c)(2) - (16) of this section are effective for one year [SIX
23 MONTHS] unless earlier dissolved by court order.

24 * **Sec. 24.** AS 18.85.100 is amended by adding a new subsection to read:

25 (f) Notwithstanding (a) of this section, an indigent person is entitled to the
26 representation and necessary services and facilities of representation as provided in (a)
27 of this section when the person is a witness who refuses or there is reason to believe
28 will refuse to testify or provide other information based on the privilege against self-
29 incrimination.

30 * **Sec. 25.** AS 28.35.030(a) is amended to read:

31 (a) A person commits the crime of driving while under the influence of an

1 alcoholic beverage, inhalant, or controlled substance if the person operates or drives a
2 motor vehicle or operates an aircraft or a watercraft

3 (1) while under the influence of an alcoholic beverage, intoxicating
4 liquor, inhalant, or any controlled substance, **singly or in combination**; **or**

5 (2) **and if** [WHEN], as determined by a chemical test taken within four
6 hours after the alleged **operating or driving** [OFFENSE WAS COMMITTED], there
7 is 0.08 percent or more by weight of alcohol in the person's blood or 80 milligrams or
8 more of alcohol per 100 milliliters of blood, or **if** [WHEN] there is 0.08 grams or more
9 of alcohol per 210 liters of the person's breath [; OR

10 (3) WHILE THE PERSON IS UNDER THE COMBINED
11 INFLUENCE OF AN ALCOHOLIC BEVERAGE, AN INTOXICATING LIQUOR,
12 AN INHALANT, AND A CONTROLLED SUBSTANCE].

13 * **Sec. 26.** AS 28.35.030(n) is amended to read:

14 (n) A person is guilty of a class C felony if the person is convicted under (a) of
15 this section and **either** has been previously convicted two or more times since
16 January 1, 1996, and within the 10 years preceding the date of the present offense, **or**
17 **punishment under this subsection or under AS 28.35.032(p) was previously**
18 **imposed within the last 10 years**. For purposes of determining minimum sentences
19 based on previous convictions, the provisions of (r)(4) of this section apply. Upon
20 conviction, the court

21 (1) shall impose a fine of not less than \$10,000 and a minimum
22 sentence of imprisonment of not less than

23 (A) 120 days if the person has been previously convicted twice;
24 (B) 240 days if the person has been previously convicted three
25 times;

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

28 (2) may not

29 (A) suspend execution of sentence or grant probation except on
30 condition that the person serve the minimum imprisonment under (1) of this
31 subsection; or

(B) suspend imposition of sentence;

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

(4) 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 another provision of law;

(5) shall order forfeiture under AS 28.35.036 of the vehicle, watercraft, or aircraft used in the commission of the offense, subject to remission under AS 28.35.037; and

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

* **Sec. 27.** AS 28.35.030 is amended by adding a new subsection to read:

(s) In a prosecution under (a) of this section, a person may introduce evidence on the amount of alcohol consumed before or after operating or driving the motor vehicle, aircraft, or watercraft to rebut or explain the results of a chemical test, but the consumption of alcohol before operating or driving may not be used as a defense that the chemical test did not measure the blood alcohol at the time of the operating or driving. Consumption of alcohol after operating or driving the motor vehicle, aircraft, or watercraft may be used to raise such a defense.

* **Sec. 28.** AS 28.35.032(p) is amended to read:

(p) A person is guilty of a class C felony if the person is convicted under this section and either has been previously convicted two or more times since January 1, 1996, and within the 10 years preceding the date of the present offense, or punishment under this subsection or under AS 28.35.030(n) was previously

imposed within the last 10 years. For purposes of determining minimum sentences based on previous convictions, the provisions of AS 28.35.030(r)(4) apply. Upon conviction,

(1) the court shall impose a fine of not less than \$10,000 and a minimum sentence of imprisonment of not less than

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

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

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

(B) suspend imposition of sentence;

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

(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 consumption of an alcoholic beverage; a condition of probation or parole imposed under this paragraph is in addition to any other condition authorized under another provision of law;

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

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

(7) the court shall order the department to revoke the registration for any vehicle registered by the department in the name of the person convicted under this subsection; if a person convicted under this subsection is a registered co-owner of

1 a vehicle, the department shall reissue the vehicle registration and omit the name of
2 the person convicted under this subsection.

3 * **Sec. 29.** AS 28.35.033(c) is amended to read:

4 (c) Except as provided in AS 28.35.030(s), the [THE] provisions of (a) of
5 this section may not be construed to limit the introduction of any other competent
6 evidence bearing upon the question of whether the person was or was not under the
7 influence of intoxicating liquor.

8 * **Sec. 30.** AS 47.12.310 is amended by adding a new subsection to read:

9 (k) A state or municipal agency, other than a state or municipal law
10 enforcement agency, or authorized employee may disclose to the public information
11 regarding a case as may be necessary to protect the safety of the public provided the
12 disclosure is authorized by regulations adopted by the department.

13 * **Sec. 31.** AS 09.50.010(13) is repealed.

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

16 APPLICABILITY. (a) The changes made in secs. 7 - 11, 13 - 15, 17, and 25 of this
17 Act apply to offenses committed on or after the respective effective date of those sections.

18 (b) Sections 26 and 28 of this Act apply to offenses occurring on or after the effective
19 date of those sections, except that previous punishment, referred to in AS 28.35.030(n), as
20 amended by sec. 26 of this Act, and in AS 28.35.032(p), as amended by sec. 28 of this Act,
21 includes punishment imposed before, on, or after the effective date of secs. 26 and 28 of this
22 Act.

23 (c) Sections 16, 18, and 19 of this Act apply to custodians who fail to report on or
24 after the effective date of secs. 16, 18, and 19 of this Act, for persons released for offenses
25 committed before, on, or after the effective date of secs. 16, 18, and 19 of this Act.

26 (d) The changes made in secs. 20, 22, 24, 27, and 29 of this Act apply to criminal
27 proceedings for offenses committed before, on, or after the effective date of those sections.

28 (e) Section 30 of this Act applies to an offense occurring before, on, or after the
29 effective date of that section.

30 * **Sec. 33.** Sections 1 - 22 and 24 - 32 of this Act take effect July 1, 2004.