

SENATE CS FOR CS FOR HOUSE BILL NO. 151(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 5/18/99

Referred: Rules

Sponsor(s): REPRESENTATIVES KOTT, Austerman, Dyson, Rokeberg, Smalley, Cissna, Croft, Williams

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to revocation and reinstatement of the driver's license of a
2 person at least 14 years of age but not yet 21 years of age."

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

4 * Section 1. AS 28.15.183(a) is amended to read:

5 (a) If a peace officer has probable cause to believe that a person who is at
6 least 14 years of age but not yet 21 years of age has possessed or used a controlled
7 substance in violation of AS 11.71 [,] or a municipal ordinance with substantially
8 similar elements, [OR] possessed or consumed alcohol in violation of AS 04.16.050
9 or a municipal ordinance with substantially similar elements, operated a vehicle after
10 consuming alcohol in violation of AS 28.35.280, or refused to submit to a chemical
11 test under AS 28.35.285, and the peace officer has cited the person or arrested the
12 person for the offense [A VIOLATION OF AS 11.71, AS 04.16.050, AS 28.35.280,
13 OR 28.35.285 OR THE MUNICIPAL ORDINANCE WITH SUBSTANTIALLY
14 SIMILAR ELEMENTS], the peace officer shall read a notice and deliver a copy to the

1 person. The notice must advise that

2 (1) the department intends to revoke the person's driver's license or
3 permit, privilege to drive, or privilege to obtain a license or permit;

4 (2) the person has the right to administrative review of the revocation;

5 (3) if the person has a driver's license or permit, the notice itself is a
6 temporary driver's license or permit that expires 10 [SEVEN] days after it is delivered
7 to the person;

8 (4) revocation of the person's driver's license or permit, privilege to
9 drive, or privilege to obtain a license or permit, takes effect 10 [SEVEN] days after
10 delivery of the notice to the person unless the person, within 10 [SEVEN] days,
11 requests an administrative review;

12 (5) if the person has been cited under AS 28.35.280 or under
13 AS 28.35.285, that person, under AS 28.35.290, may not operate a motor vehicle,
14 aircraft, or watercraft during the 24 hours following issuance of the citation.

15 * **Sec. 2.** AS 28.15.183(c) is amended to read:

16 (c) Unless the person has requested an administrative review, the department
17 shall revoke the person's driver's license or permit, privilege to drive, or privilege to
18 obtain a license or permit, effective 10 [SEVEN] days after delivery to the person of
19 the notice required under (a) of this section, upon receipt of a sworn report of a peace
20 officer

21 (1) that the officer had probable cause to believe that the person is at
22 least 14 years of age but not yet 21 years of age and has violated one of the offenses
23 described in (a) of this section [POSSESSED OR USED A CONTROLLED
24 SUBSTANCE IN VIOLATION OF AS 11.71, OR A MUNICIPAL ORDINANCE
25 WITH SUBSTANTIALLY SIMILAR ELEMENTS, OR POSSESSED OR
26 CONSUMED ALCOHOL IN VIOLATION OF AS 04.16.050 OR A MUNICIPAL
27 ORDINANCE WITH SUBSTANTIALLY SIMILAR ELEMENTS, OPERATED A
28 VEHICLE AFTER CONSUMING ALCOHOL IN VIOLATION OF AS 28.35.280, OR
29 REFUSED TO SUBMIT TO A CHEMICAL TEST OF BREATH UNDER
30 AS 28.35.285];

31 (2) that the peace officer has cited or arrested the person [OR

ARRESTED THE PERSON] for

(A) a violation of AS 11.71, AS 04.16.050, AS 28.35.280, or 28.35.285; or

(B) possession or use of a controlled substance or alcohol in violation of a municipal ordinance with substantially similar elements;

(3) that notice under (a) of this section was provided to the person; and

(4) describing the circumstances surrounding the offense [VIOLATION OF THE CONTROLLED SUBSTANCES PROVISIONS OF AS 11.71, THE ALCOHOLIC BEVERAGES PROVISIONS OF AS 04.16.050, OR THE MUNICIPAL ORDINANCE WITH SUBSTANTIALLY SIMILAR ELEMENTS, THE MINOR OPERATING A VEHICLE AFTER CONSUMING ALCOHOL UNDER PROVISIONS OF AS 28.35.280, OR THE MINOR REFUSING TO SUBMIT TO A CHEMICAL TEST OF BREATH UNDER PROVISIONS OF AS 28.35.285].

* **Sec. 3.** AS 28.15.183(d) is amended to read:

(d) The department shall impose the revocation required under this section

(1) for a first revocation, for a period of 30 [90] days;

(2) for a second revocation, for a period of 60 days [ONE YEAR];

[OR]

(3) for a third [OR SUBSEQUENT] revocation, for a period of 90

days; or

(4) for a fourth or subsequent revocation, for a period of one year

[THREE YEARS].

* **Sec. 4.** AS 28.15.183(f) is amended to read:

(f) A revocation imposed under this section shall be consecutive to a revocation imposed under another provision of law, except that (1) a revocation imposed under this section shall be concurrent with a prior revocation imposed under this section; and (2) a revocation imposed under this section for an offense for which a revocation is required under AS 28.15.185 shall be concurrent with a revocation imposed under AS 28.15.185 that is based on the same incident. A [DEPARTMENT HEARING OFFICER MAY GRANT LIMITED LICENSE PRIVILEGES IN ACCORDANCE WITH THE STANDARDS SET OUT IN

AS 28.15.201 TO A] person whose driver's license, permit, or privilege was revoked for a period of at least 60 days under this section may apply for limited license privileges under AS 28.15.201(d). A person whose driver's license, permit, or privilege to drive was revoked for a period of more than one year under this section may apply for reinstatement as provided under (j) of this section.

* **Sec. 5.** AS 28.15.183 is amended by adding a new section to read:

(j) A person whose driver's license, permit, or privilege was revoked under this section may apply for reinstatement of the person's driver's license as provided in this subsection. A person may apply to the department for reinstatement by filing a written request for review of the revocation imposed under this section with the department. The department shall issue a new license or reissue the person's driver's license

(1) as provided under AS 28.15.211(d) if the department finds that

(A) the application for reinstatement is filed at least one year after the person's license, permit, or privilege was revoked;

(B) the person complies with (g) of this section; and

(C) the person has not violated a provision of this title or a regulation of the department since the revocation; or

(2) immediately if

(A) the offense described under (a) of this section for which the person was cited or arrested is not prosecuted or the prosecution results in dismissal by a court; or

(B) a court or jury finds that the person is not guilty of the offense described under (a) of this section for which the person was cited or arrested.

* **Sec. 6.** AS 28.15.184(b) is amended to read:

(b) A request for review of the department's revocation under AS 28.15.183 shall be made within 10 [SEVEN] days after receipt of the notice under AS 28.15.183 or the right to review is waived and the action of the department under AS 28.15.183(c) is final. If a written request for a review is made after expiration of the 10-day [SEVEN-DAY] period, and if it is accompanied by the applicant's verified

1 statement explaining the failure to make a timely request for a review, the department
2 shall receive and consider the request. If the department finds that the person was
3 unable to make a timely request because of lack of actual notice of the revocation or
4 because of factors of physical incapacity such as hospitalization or incarceration, the
5 department shall waive the period of limitation, reopen the matter, and grant the review
6 request.

7 * **Sec. 7. APPLICABILITY.** (a) Section 5 of this Act applies to a driver's license
8 revocation occurring before, on, or after the effective date of this Act.

9 (b) Sections 1 - 4 and 6 of this Act apply to a driver's license revocation for an
10 offense that occurs on or after the effective date of this Act.