

**AMENDMENT**

OFFERED IN THE HOUSE

TO: CSSB 64(FIN)

Page 1, line 3, following "date;":

Insert "allowing a reduction of penalties for offenders successfully completing court-ordered treatment programs for persons convicted of driving while under the influence or refusing to submit to a chemical test; relating to court termination of a revocation of a person's driver's license; relating to periods of revocation of drivers' licenses for certain persons convicted of driving while under the influence or refusing to submit to a chemical test; relating to limitation of drivers' licenses; relating to restoration of a driver's license;"

Page 13, following line 31:

Insert new bill sections to read:

"\* **Sec. 26.** AS 28.15.181(f) is amended to read:

(f) The court may terminate a revocation for an offense described in (a)(5) or (8) of this section if

(1) **either**

**(A)** the person's license, privilege to drive, or privilege to obtain a license has been revoked for the minimum periods set out in (c) of this section; **or**

**(B) the person**

**(i) has successfully completed a court-ordered treatment program under AS 28.35.028;**

**(ii) has not been charged with or convicted of a violation of AS 28.35.030 or 28.35.032, or a similar municipal**

ordinance, since completing the program; and

(iii) has been granted limited license privileges under AS 28.15.201(g) and has successfully driven under that limited license without having the limited license privileges revoked; and

(2) the person complies with the provisions of AS 28.15.211(d) and

(e).

\* **Sec. 27.** AS 28.15.201(d) is amended 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 that the person either

(A) [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; or

(B) submit to daily testing as required under AS 47.38.020 in place of the use of the ignition interlock device; use of daily testing in place of an ignition interlock device under this subparagraph is

1       conditioned upon the person's not violating the requirements of the  
 2       program established in AS 47.38.020; if the person violates those  
 3       requirements, the court or the department shall reimpose the requirement  
 4       of the use of an ignition interlock device as required by (A) of this  
 5       paragraph [THE PERSON SIGNS AN AFFIDAVIT ACKNOWLEDGING  
 6       THAT

7                               (i) OPERATION BY THE PERSON OF A VEHICLE  
 8       THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK  
 9       DEVICE IS SUBJECT TO PENALTIES FOR DRIVING WITH A  
 10      REVOKED LICENSE;

11                           (ii) CIRCUMVENTING OR TAMPERING WITH  
 12      THE IGNITION INTERLOCK DEVICE IS A CLASS A  
 13      MISDEMEANOR; AND

14                           (iii) THE PERSON IS REQUIRED TO MAINTAIN  
 15      THE IGNITION INTERLOCK DEVICE THROUGHOUT THE  
 16      PERIOD OF THE LIMITED LICENSE, TO KEEP UP-TO-DATE  
 17      RECORDS IN EACH VEHICLE SHOWING THAT ANY  
 18      REQUIRED SERVICE AND CALIBRATION IS CURRENT, AND  
 19      TO PRODUCE THOSE RECORDS IMMEDIATELY ON  
 20      REQUEST];

21               (3) [(4)] the person is enrolled in and is in compliance with or has  
 22      successfully completed the alcoholism screening, evaluation, referral, and program  
 23      requirements of the Department of Health and Social Services under AS 28.35.030(h);

24               (4) [(5)] the person provides proof of insurance as required by  
 25      AS 28.20.230 and 28.20.240; and

26               (5) [(6)] the person has not previously been convicted of violating the  
 27      limitations of an ignition interlock limited license or been convicted of violating the  
 28      provisions of AS 28.35.030 or 28.35.032 while on probation for a violation of those  
 29      sections.

30      \* **Sec. 28.** AS 28.15.201 is amended by adding new subsections to read:

31               (g) Notwithstanding (d) of this section, a court revoking a driver's license,

1 privilege to drive, or privilege to obtain a license under AS 28.15.181(c), may grant  
2 limited license privileges if

3 (1) the revocation was for a conviction

4 (A) of a felony under AS 28.35.030; or

5 (B) under AS 28.35.032 or a similar municipal ordinance;

6 (2) the person is participating in, or has successfully completed, a  
7 court-ordered treatment program under AS 28.35.028;

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

10 (4) the court or department requires that the person either

11 (A) use an ignition interlock device during the period of the  
12 limited license whenever the person operates a motor vehicle in a community  
13 not included in the list published by the department under AS 28.22.011(b)  
14 and, when applicable, the person provides proof of installation of the ignition  
15 interlock device on every vehicle the person operates; or

16 (B) submit to daily testing as required under AS 47.38.020 in  
17 place of the use of the ignition interlock device; use of daily testing in place of  
18 an ignition interlock device under this subparagraph is conditioned upon the  
19 person's not violating the requirements of the program established in  
20 AS 47.38.020; if the person violates those requirements, the court or the  
21 department shall reimpose the requirement of the use of an ignition interlock  
22 device as required by (A) of this paragraph;

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

26 (6) the person has not previously been granted a limited license under  
27 this subsection and had the license revoked under (i) of this section;

28 (7) the person totally abstains from the use of alcoholic beverages,  
29 inhalants, and controlled substances; and

30 (8) the person participates in and pays the cost of testing, as ordered by  
31 the court, for the use of any of those substances.

1 (h) A person granted a limited license and required to use an ignition interlock  
 2 device under (d)(2)(A) or (g)(4)(A) of this section shall sign an affidavit  
 3 acknowledging that

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

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

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

12 (i) The court shall immediately revoke a limited license granted under (g) of  
 13 this section if the person

14 (1) is charged with or convicted of a violation of AS 28.35.030 or  
 15 28.35.032 or a similar law or ordinance of this or another jurisdiction; or

16 (2) tests positive under (g)(8) of this section for the use of alcoholic  
 17 beverages, inhalants, or controlled substances.

18 \* **Sec. 29.** AS 28.35.028(b) is amended to read:

19 (b) Once the court elects to proceed under this section, the defendant shall  
 20 enter a no contest or guilty plea to the offense or shall admit to a probation violation,  
 21 as appropriate. The state and the defendant may enter into a plea agreement to  
 22 determine the offense or offenses to which the defendant is required to plead. If the  
 23 court accepts the agreement, the court shall enforce the terms of the agreement. The  
 24 court shall enter a judgment of conviction for the offense or offenses for which the  
 25 defendant has pleaded or an order finding that the defendant has violated probation, as  
 26 appropriate. A judgment of conviction or an order finding a probation violation must  
 27 set a schedule for payment of restitution owed by the defendant. In a judgment of  
 28 conviction and on probation conditions that the court considers appropriate, the court  
 29 may withhold pronouncement of a period of imprisonment or a fine to provide an  
 30 incentive for the defendant to complete recommended treatment successfully.  
 31 Imprisonment or a fine imposed by a court shall comply with AS 12.55 or any

1 mandatory minimum or other sentencing provision applicable to the offense.  
 2 However, notwithstanding Rule 35, Alaska Rules of Criminal Procedure, and any  
 3 other provision of law, the court, at any time after the period when a reduction of  
 4 sentence is normally available, may consider and reduce the defendant's sentence,  
 5 **including imprisonment, fine, or license revocation,** based on the defendant's  
 6 compliance with the treatment plan; when reducing a sentence, the court (1) may not  
 7 reduce the sentence below the mandatory minimum sentence for the offense unless the  
 8 court finds that the defendant has successfully complied with and completed the  
 9 treatment plan and that the treatment plan approximated the severity of the minimum  
 10 period of imprisonment, and (2) may consider the defendant's compliance with the  
 11 treatment plan as a mitigating factor allowing a reduction of a sentence under  
 12 AS 12.55.155(a). A court entering an order finding the defendant has violated  
 13 probation may withhold pronouncement of disposition to provide an incentive for the  
 14 defendant to complete the recommended treatment successfully.

15 \* **Sec. 30.** AS 28.35.030(n) is amended to read:

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

23 (1) shall impose a fine of not less than \$10,000, require the person to  
 24 use an ignition interlock device after the person regains the privilege, **including any**  
 25 **limited privilege,** to operate a motor vehicle for a minimum of 60 months, and impose  
 26 a minimum sentence of imprisonment of not less than

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

28 (B) 240 days if the person has been previously convicted three  
 29 times;

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

1 (2) may not

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

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

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

8 (B) suspend imposition of sentence; or

9 (C) suspend the requirement for an ignition interlock device for  
10 a violation of (a)(1) of this section involving an alcoholic beverage or  
11 intoxicating liquor, singly or in combination, or a violation of (a)(2) of this  
12 section;

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

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

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

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

30 \* **Sec. 31.** AS 28.35.030(o) is amended to read:

31 (o) Upon request, the department shall review a driver's license revocation

imposed under (n)(3) of this section and

**(1)** may restore the driver's license if

**(A)** [(1)] the license has been revoked for a period of at least 10 years;

**(B)** [(2)] the person has not been convicted of a criminal offense since the license was revoked; and

**(C)** [(3)] the person provides proof of financial responsibility;

**(2) shall restore the driver's license if**

**(A) the person has been granted limited license privileges under AS 28.15.201(g) and has successfully driven under that limited license without having the limited license privileges revoked;**

**(B) the person has successfully completed a court-ordered treatment program under AS 28.35.028;**

**(C) the court previously terminated the person's revocation as provided in AS 28.15.181(f)(1)(B);**

**(D) the person has not been convicted of a criminal offense since the license was revoked;**

**(E) the person's privilege to drive may be restored as provided in AS 28.15.211; and**

**(F) the person provides proof of financial responsibility.**

\* **Sec. 32.** AS 28.35.030(t) is amended to read:

(t) Notwithstanding (b) or (n) of this section, the court

**(1)** shall waive the requirement of the use of an ignition interlock device when a person operates a motor vehicle in a community included on the list published by the department under AS 28.22.011(b);

**(2) may waive the requirement of the use of an ignition interlock device when the person regains the privilege to operate a motor vehicle if the court requires that a person convicted under this section submit to daily testing as required under AS 47.38.020 in place of the use of the ignition interlock device; use of daily testing in place of an ignition interlock device under this subsection is conditioned upon the person's not violating the requirements of the**



**program established in AS 47.38.020; if the person violates those requirements, the court shall reimpose the requirement of the use of an ignition interlock device as required by (b) or (n) of this section.**

\* **Sec. 33.** AS 28.35.032(g) is amended to read:

(g) Upon conviction under this section,

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

(A) not less than 72 consecutive hours, 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 six months, and impose a fine of not less than \$1,500 if 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 12 months, 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 18 months, 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 (p) 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 for a minimum of 24 months, 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, **including any limited privilege,** to operate a motor vehicle for a minimum of 30 months, 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, **including any limited privilege**, to operate a motor vehicle for a minimum of 36 months, 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;

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

(B) suspend imposition of sentence; or

(C) suspend the requirement for an ignition interlock device;

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

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

\* **Sec. 34.** 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(u)(4) apply. Upon conviction,

(1) the court shall impose a fine of not less than \$10,000, 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 60 months, and impose 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

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

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

(B) suspend imposition of sentence; or

(C) suspend the requirements for an ignition interlock device;

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

\* **Sec. 35.** AS 28.35.032(q) is amended to read:

(q) Upon request, the department shall review a driver's license revocation imposed under (p)(3) of this section and

**(1) may restore the driver's license if**

**(A) [(1)] the license has been revoked for a period of at least 10 years;**

**(B) [(2)] the person has not been convicted of a criminal offense since the license was revoked; and**

**(C) [(3)] the person provides proof of financial responsibility;**

**(2) shall restore the driver's license if**

**(A) the person has been granted limited license privileges under AS 28.15.201(g) and has successfully driven under that limited license without having the limited license privileges revoked;**

**(B) the person has successfully completed a court-ordered treatment program under AS 28.35.028;**

**(C) the court previously terminated the person's revocation as provided in AS 28.15.181(f)(1)(B);**

**(D) the person has not been convicted of a criminal offense since the license was revoked;**

**(E) the person's privilege to drive may be restored as provided in AS 28.15.211; and**

**(F) the person provides proof of financial responsibility.**

\* **Sec. 36.** AS 28.35.032(t) is amended to read:

(t) Notwithstanding (g) or (p) of this section, the court

**(1)** shall waive the requirement of the use of an ignition interlock device when a person operates a motor vehicle in a community included on the list

published by the department under AS 28.22.011(b);

**(2) may waive the requirement of the use of an ignition interlock device when the person regains the privilege to operate a motor vehicle if the court requires that a person convicted under this section submit to daily testing as required under AS 47.38.020 in place of the use of the ignition interlock device; use of daily testing in place of an ignition interlock device under this subsection is conditioned upon the person's not violating the requirements of the program established in AS 47.38.020; if the person violates those requirements, the court or the department shall reimpose the requirement of the use of an ignition interlock device as required by (g) or (p) of this section.**

Renumber the following bill sections accordingly.

Page 23, line 17:

Delete "secs. 1 - 28 and 30 - 34"

Insert "secs. 1 - 39 and 41 - 45"

Page 23, line 18, following "Act,":

Insert "AS 28.15.181(f), as amended by sec. 26 of this Act, AS 28.15.201(d), as amended by sec. 27 of this Act, AS 28.15.201(g) - (i), enacted by sec. 28 of this Act, AS 28.35.028(b), as amended by sec. 29 of this Act, AS 28.35.030(n), as amended by sec. 30 of this Act, AS 28.35.030(o), as amended by sec. 31 of this Act, AS 28.35.030(t), as amended by sec. 32 of this Act, AS 28.35.032(g), as amended by sec. 33 of this Act, AS 28.35.032(p), as amended by sec. 34 of this Act, AS 28.35.032(q), as amended by sec. 35 of this Act, AS 28.35.032(t), as amended by sec. 36 of this Act,"

Page 23, line 19:

Delete "sec. 26"

Insert "sec. 37"

Delete "sec. 27"

Insert "sec. 38"

1  
2 Page 23, line 20:  
3 Delete "sec. 28"  
4 Insert "sec. 39"  
5  
6 Page 23, line 21:  
7 Delete "sec. 32"  
8 Insert "sec. 43"  
9  
10 Page 23, line 22:  
11 Delete "secs. 1 - 28 and 30 - 34"  
12 Insert "secs. 1 - 39 and 41 - 45"  
13  
14 Page 23, line 23:  
15 Delete "secs. 1 - 28 and 30 - 34"  
16 Insert "secs. 1 - 39 and 41 - 45"  
17  
18 Page 23, line 27:  
19 Delete "sec. 30"  
20 Insert "sec. 41"  
21  
22 Page 23, line 29:  
23 Delete "sec. 30"  
24 Insert "sec. 41"  
25  
26 Page 24, line 3:  
27 Delete "sec. 26"  
28 Insert "sec. 37"  
29  
30 Page 24, line 6:  
31 Delete "sec. 27"

1           Insert "sec. 38"  
2           Delete "sec. 28"  
3           Insert "sec. 39"  
4  
5   Page 24, line 9:  
6           Delete "sec. 32"  
7           Insert "sec. 43"  
8  
9   Page 24, line 12:  
10          Delete "Section 29"  
11          Insert "Section 40"  
12  
13   Page 24, line 13:  
14          Delete "Section 36"  
15          Insert "Section 47"  
16  
17   Page 24, line 14:  
18          Delete "Sections 1 - 28 and 30 - 34"  
19          Insert "Sections 1 - 39 and 41 - 45"