

**HOUSE BILL NO. 69**

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES BUNDE, Toohey

Introduced: 1/16/95

Referred: Transportation, Judiciary, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the punishment of certain driving while intoxicated offenses;  
2 and providing for an effective date."

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

4 \* **Section 1.** AS 12.55.102(d) is amended to read:

5 (d) The court may include the cost of the ignition interlock device as a part  
6 of the fine required to be imposed against the defendant under AS 28.35.030 [AS  
7 28.35.030(b)] or 28.35.032 [28.35.032(g)].

8 \* **Sec. 2.** AS 28.35.030(b) is amended to read:

9 (b) Except as provided under (n) of this section, driving [DRIVING] while  
10 intoxicated is a class A misdemeanor. Upon conviction

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

12 (A) not less than 72 consecutive hours and a fine of not less  
13 than \$250 if the person has not been previously convicted;

14 (B) not less than 20 days and a fine of not less than \$500 if the

1 person has been previously convicted once;

2 (C) not less than 180 [60] days and a fine of not less than  
3 \$5,000 [\$1,000] if the person has been previously convicted twice [;

4 (D) NOT LESS THAN 120 DAYS AND A FINE OF NOT  
5 LESS THAN \$2,000 IF THE PERSON HAS BEEN PREVIOUSLY  
6 CONVICTED THREE TIMES;

7 (E) NOT LESS THAN 240 DAYS AND A FINE OF NOT LESS  
8 THAN \$3,000 IF THE PERSON HAS BEEN PREVIOUSLY CONVICTED  
9 FOUR TIMES;

10 (F) NOT LESS THAN 360 DAYS AND A FINE OF NOT LESS  
11 THAN \$4,000 IF THE PERSON HAS BEEN PREVIOUSLY CONVICTED  
12 MORE THAN FOUR TIMES];

13 (2) the court may not

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

17 (B) suspend imposition of sentence;

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

22 \* **Sec. 3.** AS 28.35.030 is amended by adding a new subsection to read:

23 (n) A person is guilty of a class C felony if the person is convicted of driving  
24 while intoxicated and has been previously convicted three or more times. The court  
25 shall impose a minimum sentence of imprisonment of not less than one year and a fine  
26 of not less than \$10,000. The provisions of (b)(2) and (3) of this section apply to a  
27 person sentenced under this subsection.

28 \* **Sec. 4.** AS 28.35.032(f) is amended to read:

29 (f) Except as provided under (q) of this section, refusal [REFUSAL] to  
30 submit to a chemical test authorized by AS 28.33.031(a) or AS 28.35.031(a) or (g) is  
31 a class A misdemeanor.

1 \* **Sec. 5.** AS 28.35.032(g) is amended to read:

2 (g) Upon conviction under this section

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

4 (A) not less than 72 consecutive hours and a fine of not less  
5 than \$250 if the person has not been previously convicted;

6 (B) not less than 20 days and a fine of not less than \$500 if the  
7 person has been previously convicted once;

8 (C) not less than 180 [60] days and a fine of not less than  
9 \$5,000 [\$1,000] if the person has been previously convicted twice [;

10 (D) NOT LESS THAN 120 DAYS AND A FINE OF NOT  
11 LESS THAN \$2,000 IF THE PERSON HAS BEEN PREVIOUSLY  
12 CONVICTED THREE TIMES;

13 (E) NOT LESS THAN 240 DAYS AND A FINE OF NOT  
14 LESS THAN \$3,000 IF THE PERSON HAS BEEN PREVIOUSLY  
15 CONVICTED FOUR TIMES;

16 (F) NOT LESS THAN 360 DAYS AND A FINE OF NOT  
17 LESS THAN \$4,000 IF THE PERSON HAS BEEN PREVIOUSLY  
18 CONVICTED MORE THAN FOUR TIMES];

19 (2) the court may not

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

23 (B) suspend imposition of sentence;

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

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

30 \* **Sec. 6.** AS 28.35.032 is amended by adding a new subsection to read:

31 (q) A person is guilty of a class C felony if the person is convicted under this

1 section and has been previously convicted three or more times. Upon conviction, the  
2 court shall impose a minimum sentence of imprisonment of one year and a fine of not  
3 less than \$10,000. The provisions of (g)(2), (3), and (4) of this section apply to a  
4 person sentenced under this subsection.

5 \* **Sec. 7.** APPLICABILITY. This Act applies to offenses that are committed on or after  
6 the effective date of this Act.

7 \* **Sec. 8.** This Act takes effect July 1, 1995.