

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 69

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES BUNDE, Toohey

Introduced: 2/1/95

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act allowing a person under age 21 to be arrested by a peace officer
2 without a warrant for illegal possession, consumption, or control of alcohol;
3 classifying certain offenses related to driving while intoxicated or failure to submit
4 to a chemical test as felonies and relating to penalties for those offenses; and
5 providing for an effective date."

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

7 * **Section 1.** AS 12.25.030(b) is amended to read:

8 (b) In addition to the authority granted under (a) of this section, a peace officer
9 without a warrant may arrest a person when the peace officer has reasonable cause for
10 believing that the person has committed a crime under, or violated conditions imposed
11 as a part of the person's release before trial on misdemeanor charges brought under,

12 (1) **AS 04.16.050;**

13 (2) AS 11.41.270 or AS 11.56.740; or

14 (3) [(2)] AS 11.41, AS 11.46.330, or AS 11.61.120, or has violated an

1 ordinance with elements substantially similar to the elements of a crime under AS 11.41,
2 AS 11.46.330, or AS 11.61.120, when the victim is a spouse or former spouse of the
3 person who committed the crime; a parent, grandparent, child, or grandchild of the
4 person who committed the crime; a member of the social unit comprised of those living
5 together in the same dwelling as the person who committed the crime; or another person
6 who is not a spouse or former spouse of the person who committed the crime but who
7 previously lived in a spousal relationship with the person who committed the crime or
8 is in or has been in a dating, courtship, or engagement relationship with the person who
9 committed the crime.

10 * **Sec. 2.** AS 12.55.102(d) is amended to read:

11 (d) The court may include the cost of the ignition interlock device as a part of
12 the fine required to be imposed against the defendant under AS 28.35.030(b) **or (n)** or
13 28.35.032(g) **or (q)**.

14 * **Sec. 3.** AS 28.15.291(a) is amended to read:

15 (a) **Except as provided under (d) of this section, a** [A] person is guilty of a
16 class A misdemeanor if the person

17 (1) drives a motor vehicle on a highway or vehicular way or area at a
18 time when that person's driver's license, privilege to drive, or privilege to obtain a
19 license has been canceled, suspended, or revoked in this or another jurisdiction; or

20 (2) drives in violation of a limitation placed upon that person's license
21 or privilege to drive in this or another jurisdiction.

22 * **Sec. 4.** AS 28.15.291 is amended by adding a new subsection to read:

23 (d) A person is guilty of a class C felony if the person drives a motor vehicle
24 on a highway or vehicular way or area at a time when that person's driver's license,
25 privilege to drive, or privilege to obtain a license has been revoked and the revocation
26 was imposed under AS 28.35.030(n) or 28.35.032(q). Upon conviction under this
27 subsection, the court

28 (1) shall impose a minimum sentence of imprisonment of not less than
29 30 days and a fine of not less than \$1,000;

30 (2) may impose additional conditions of probation;

31 (3) may not

32 (A) suspend execution of sentence or grant probation except on

1 condition that the person serve a minimum term of imprisonment and perform
2 required community work service as provided in (1) of this subsection;

3 (B) suspend imposition of sentence; and

4 (4) shall revoke the person's license, privilege to drive, or privilege to
5 obtain a license, and the person may not be issued a new license or a limited license nor
6 may the privilege to drive or obtain a license be restored for an additional period of not
7 less than 90 days after the date that the person would have been entitled to restoration
8 of driving privileges.

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

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

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

13 (A) not less than 72 consecutive hours and a fine of not less than
14 \$250 if the person has not been previously convicted;

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

17 (C) not less than 60 days and a fine of not less than \$1,000 if the
18 person has been previously convicted twice **and is not subject to punishment**
19 **under (n) of this section;**

20 (D) not less than 120 days and a fine of not less than \$2,000 if
21 the person has been previously convicted three times **and is not subject to**
22 **punishment under (n) of this section;**

23 (E) not less than 240 days and a fine of not less than \$3,000 if
24 the person has been previously convicted four times **and is not subject to**
25 **punishment under (n) of this section;**

26 (F) not less than 360 days and a fine of not less than \$4,000 if
27 the person has been previously convicted more than four times **and is not**
28 **subject to punishment under (n) of this section;**

29 (2) the court may not

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

1 (B) suspend imposition of sentence;
2 (3) the court shall revoke the person's driver's license, privilege to drive,
3 or privilege to obtain a license under AS 28.15.181, and may order the motor vehicle or
4 aircraft that was used in commission of the offense to be forfeited under AS 28.35.036.

5 * **Sec. 6.** AS 28.35.030 is amended by adding a new subsection to read:

6 (n) A person is guilty of a class C felony if the person is convicted of driving
7 while intoxicated and has been previously convicted two or more times. For purposes
8 of determining if a person has been previously convicted, the provisions of (m)(4) of this
9 section apply, except that only convictions occurring within five years preceding the date
10 of the present offense may be included. Upon conviction the court

11 (1) shall impose a minimum sentence of imprisonment of 360 days and
12 a fine of not less than \$1,000;

13 (2) 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; or

17 (B) suspend imposition of sentence;

18 (3) shall revoke the person's driver's license, privilege to drive, or
19 privilege to obtain a license under AS 28.15.181(c);

20 (4) may order as a condition of probation or parole that the person take
21 antabuse or a similar drug intended to prevent the consumption of an alcoholic beverage;
22 a condition of probation imposed under this paragraph is in addition to any other
23 condition authorized under another provision of law; and

24 (5) may also order forfeiture under AS 28.35.036 of the vehicle or
25 aircraft used in the commission of the offense, subject to remission under AS 28.35.037.

26 * **Sec. 7.** AS 28.35.032(f) is amended to read:

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

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

31 (g) Upon conviction under this section

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

1 (A) not less than 72 consecutive hours and a fine of not less than
2 \$250 if the person has not been previously convicted;

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

5 (C) not less than 60 days and a fine of not less than \$1,000 if the
6 person has been previously convicted twice **and is not subject to punishment**
7 **under (q) of this section;**

8 (D) not less than 120 days and a fine of not less than \$2,000 if
9 the person has been previously convicted three times **and is not subject to**
10 **punishment under (q) of this section;**

11 (E) not less than 240 days and a fine of not less than \$3,000 if
12 the person has been previously convicted four times **and is not subject to**
13 **punishment under (q) of this section;**

14 (F) not less than 360 days and a fine of not less than \$4,000 if
15 the person has been previously convicted more than four times **and is not**
16 **subject to punishment under (q) of this section;**

17 (2) the court may not

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

21 (B) suspend imposition of sentence;

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

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

27 * **Sec. 9.** AS 28.35.032 is amended by adding a new subsection to read:

28 (q) A person is guilty of a class C felony if the person is convicted under this
29 section and has been previously convicted two or more times. For purposes of
30 determining if a person has been previously convicted, the provisions of
31 AS 28.35.030(m)(4) apply, except that only convictions occurring within five years
32 preceding the date of the present offense may be included. Upon conviction,

1 (1) the court shall impose a minimum sentence of imprisonment of 360
2 days and a fine of not less than \$1,000;

3 (2) the court may not

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

7 (B) suspend imposition of sentence;

8 (3) the court shall revoke the person's driver's license, privilege to drive,
9 or privilege to obtain a license under AS 28.15.181(c);

10 (4) the court may order as a condition of probation or parole that the
11 person take antabuse or a similar drug intended to prevent consumption of an alcoholic
12 beverage; a condition of probation imposed under this paragraph is in addition to any
13 other condition authorized under another provision of law;

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

16 (6) the court may also order forfeiture under AS 28.35.036, of the vehicle
17 or aircraft used in the commission of the offense, subject to remission under
18 AS 28.35.037.

19 * **Sec. 10.** APPLICABILITY. This Act applies to offenses that are committed on or after the
20 effective date of this Act, except that references to previous convictions include convictions
21 occurring before, on, or after the effective date of this Act.

22 * **Sec. 11.** This Act takes effect July 1, 1995.