

HOUSE BILL NO. 203

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/27/95

Referred: Transportation, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the meaning of the phrase "previously convicted" as that
2 phrase applies to the operation of a motor vehicle, commercial motor vehicle,
3 aircraft, or watercraft while intoxicated."

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

5 * **Section 1.** AS 28.15.201(d) is amended to read:

6 (d) A court revoking a driver's license, privilege to drive, or privilege to obtain
7 a license under AS 28.15.181(c), or the department when revoking a driver's license,
8 privilege to drive, or privilege to obtain a license under AS 28.15.165(c), may grant
9 limited license privileges for the final 60 days during which the license is revoked if

10 (1) the revocation was for a violation of AS 28.15.181(a)(5) and not
11 for a violation of AS 28.15.181(a)(8);

12 (2) the person has not been previously convicted; in this paragraph,
13 "previously convicted" has the meaning given in AS 28.35.030 [AND ALSO
14 INCLUDES CONVICTIONS BASED ON LAWS PRESUMING THAT THE PERSON

1 WAS UNDER THE INFLUENCE OF INTOXICATING LIQUOR IF THERE WAS
2 0.08 PERCENT OR MORE BY WEIGHT OF ALCOHOL IN THE PERSON'S
3 BLOOD];

4 (3) the court or the department determines that the person's ability to
5 earn a livelihood would be severely impaired without a limited license;

6 (4) the court or the department determines that a limitation under (a)
7 of this section can be placed on the license that will enable the person to earn a
8 livelihood without excessive danger to the public; and

9 (5) the court or the department determines that the person is enrolled
10 in and is in compliance with, or has successfully completed, an alcoholism education
11 and rehabilitation treatment program.

12 * **Sec. 2.** AS 28.33.140(e) is amended to read:

13 (e) A court convicting a person of an offense described in (a)(1) - (5) of this
14 section shall disqualify that person from driving a commercial motor vehicle for life
15 if the person has been previously convicted. As used in this subsection, "previously
16 convicted" means having been convicted in this or another jurisdiction of an offense
17 described in (a)(1) - (5) of this section, or of another law or ordinance with
18 substantially similar elements, **including a law or ordinance of another jurisdiction**
19 **that presumed that the person was under the influence of intoxicating liquor at**
20 **a lower percentage by weight of alcohol in the persons's blood than that required**
21 **in this state.**

22 * **Sec. 3.** AS 28.35.030(m)(4) is amended to read:

23 (4) "previously convicted" means having been convicted in this or
24 another jurisdiction, within 10 years preceding the date of the present offense, of any
25 of the following offenses, or of another law or ordinance with substantially similar
26 elements, **including a law or ordinance of another jurisdiction that presumed that**
27 **the person was under the influence of intoxicating liquor at a lower percentage**
28 **by weight of alcohol in the person's blood than that required in this state;**
29 however, convictions for any of these offenses, if arising out of a single transaction
30 and a single arrest, are considered one previous conviction:

31 (A) operating a motor vehicle, aircraft, or watercraft while

1 intoxicated, in violation of this section;

2 (B) refusal to submit to a chemical test in violation of
3 AS 28.35.032; or

4 (C) operating a commercial motor vehicle while intoxicated in
5 violation of AS 28.33.030.

6 * **Sec. 4.** AS 28.35.036(a) is amended to read:

7 (a) After conviction of an offense under AS 28.35.030 or 28.35.032, the state
8 may move the court to order the forfeiture of the motor vehicle, or aircraft involved
9 in the commission of the offense if the convicted person has been previously convicted
10 in this or another jurisdiction of more than one of the following offenses or has more
11 than once been previously convicted of one of the following offenses:

12 (1) driving while intoxicated under AS 28.35.030 or another law or
13 ordinance with substantially similar elements, **including a law or ordinance of**
14 **another jurisdiction that presumed that the person was under the influence of**
15 **intoxicating liquor at a lower percentage by weight of alcohol in the person's**
16 **blood than that required in this state;** or

17 (2) refusal to submit to a chemical test under AS 28.35.032 or another
18 law or ordinance with substantially similar elements.