

HOUSE BILL NO. 204

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 administrative revocation of a minor's license to drive;
 2 creating criminal offenses of minor operating a vehicle after consuming alcohol,
 3 a minor's refusal to submit to chemical test, and driving during the 24 hours
 4 after being cited for minor operating a vehicle after consuming alcohol;
 5 establishing penalties for these offenses; and relating to implied consent to
 6 certain testing if operating a motor vehicle, aircraft, or watercraft."

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

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

9 (a) If a peace officer has probable cause and based on personal observation
 10 that a person who is at least 14 years of age but not yet 21 years of age has possessed
 11 or used a controlled substance in violation of AS 11.71, [OR] possessed or consumed
 12 alcohol in violation of AS 04.16.050, or operated a vehicle after consuming alcohol
 13 in violation of AS 28.35.280 and the peace officer has cited the person or arrested the

1 person for a violation of AS 11.71, [OR] AS 04.16.050, or AS 28.35.280, the peace
2 officer shall read a notice and deliver a copy to the person. The notice must advise that

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

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

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

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

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

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

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

22 (1) that the officer had probable cause and based on personal
23 observations that the person is at least 14 years of age but not yet 21 years of age and
24 has possessed or used a controlled substance in violation of AS 11.71, [OR] possessed
25 or consumed alcohol in violation of AS 04.16.050, **or operated a vehicle after**
26 **consuming alcohol in violation of AS 28.35.280;**

27 (2) that the peace officer has cited the person or arrested the person for
28 a violation of AS 11.71, [OR] AS 04.16.050, **or AS 28.35.280;**

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

30 (4) describing the circumstances surrounding the violation of the
31 controlled substances provisions of AS 11.71, [OR] the alcoholic beverages provisions

1 of AS 04.16.050, or the minor operating a vehicle after consuming alcohol
2 provisions of AS 28.35.280.

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

4 (g) Except as provided under (h) of this section, the department may not issue
5 a new license or reissue a license to a person whose driver's license, permit, or
6 privilege to drive has been revoked under this section unless the person is enrolled in
7 and is in compliance with, or has successfully completed

8 (1) an alcoholism education and rehabilitation treatment program, if the
9 revocation resulted from possession or consumption of alcohol in violation of
10 AS 04.16.050 or from operating a vehicle after consuming alcohol in violation of
11 AS 28.35.280; or

12 (2) a drug rehabilitation treatment program, if the revocation resulted
13 from possession or use of a controlled substance in violation of AS 11.71.

14 * **Sec. 4.** AS 28.15.184(g) is amended to read:

15 (g) The hearing for review of a revocation by the department under
16 AS 28.15.183 shall be limited to the issues of whether the person was at least 14 years
17 of age but not yet 21 years of age and whether the person possessed or used a
18 controlled substance in violation of AS 11.71, [OR] possessed or consumed alcohol in
19 violation of AS 04.16.050, or operated a vehicle after consuming alcohol in
20 violation of AS 28.35.280.

21 * **Sec. 5.** AS 28.35.031(a) is amended to read:

22 (a) A person who operates or drives a motor vehicle in this state or who
23 operates an aircraft as defined in AS 28.35.030(m)(2) or who operates a watercraft as
24 defined in AS 28.35.030(m)(3) shall be considered to have given consent to a chemical
25 test or tests of the person's breath for the purpose of determining the alcoholic content
26 of the person's blood or breath if lawfully arrested for an offense arising out of acts
27 alleged to have been committed while the person was operating or driving a motor
28 vehicle or operating an aircraft or a watercraft while intoxicated or if lawfully
29 arrested under AS 28.35.280 for the offense of minor operating a vehicle after
30 consuming alcohol. The test or tests shall be administered at the direction of a law
31 enforcement officer who has reasonable grounds to believe that the person was

1 operating or driving a motor vehicle or operating an aircraft or a watercraft in this state
2 while intoxicated or that the person was a minor operating a vehicle after
3 consuming alcohol.

4 * **Sec. 6.** AS 28.35 is amended by adding new sections to read:

5 ARTICLE 6. CERTAIN OFFENSES RELATING TO MINORS.

6 Sec. 28.35.280. MINOR OPERATING A VEHICLE AFTER CONSUMING
7 ALCOHOL. (a) A person who is at least 13 years of age but not yet 21 years of age
8 commits the offense of minor operating a vehicle after consuming alcohol if the person
9 operates or drives a motor vehicle or operates an aircraft or a watercraft after having
10 consumed any quantity of alcohol. A peace officer who has probable cause to believe
11 that a person has committed the offense of minor operating a vehicle after consuming
12 alcohol may

13 (1) place the person under arrest;

14 (2) request that the person submit to a chemical test or tests of the
15 person's breath for the purpose of determining the alcoholic content of the person's
16 blood or breath; and

17 (3) transport the person to a location at which a chemical or other test
18 authorized under (2) of this subsection may be administered.

19 (b) If a chemical test under (a) of this section reveals any alcohol
20 concentration within the person's blood or breath, the person shall be cited for
21 violating (a) of this section and then released unless there is a lawful reason for further
22 detention. A person who is 18 years of age or older shall be released on the person's
23 own recognizance. A person who is under the age of 18 shall be released to a parent,
24 guardian, or legal custodian.

25 (c) A person who is cited for violating (a) of this section shall be advised by
26 a peace officer that it is unlawful under AS 28.35.290 for the person to operate a
27 motor vehicle, aircraft, or watercraft during the 24 hours following the issuance of the
28 citation.

29 (d) The offense of a minor operating a vehicle after consuming alcohol is an
30 infraction. Upon conviction, the court shall impose a fine of not more than \$1,000,
31 community work service, or both. The court may offer the minor the option of

1 performing community work in place of a fine or a portion of the fine. The value of
2 community work in place of a fine is as specified in AS 12.55.055(c).

3 (e) In this section,

4 (1) "operate an aircraft" has the meaning given in AS 28.35.030(m);

5 (2) "operate a watercraft" has the meaning given in AS 28.35.030(m).

6 Sec. 28.35.285. MINOR'S REFUSAL TO SUBMIT TO CHEMICAL TEST.

7 (a) If a person under arrest for minor operating a vehicle after consuming alcohol
8 refuses the request of a peace officer to submit to a chemical test or tests of the
9 person's breath authorized under AS 28.35.031(a) and 28.35.280(a), after being advised
10 by the officer that the refusal will result in the denial or revocation of the driver's
11 license, privilege to drive, or privilege to obtain a license, that the refusal may be used
12 against the person in a civil or criminal action or proceeding arising out of an act
13 alleged to have been committed by the person while operating a vehicle after
14 consuming alcohol, and that the refusal is a violation, a chemical test may not be
15 given.

16 (b) The refusal of a minor to submit to a chemical test authorized under
17 AS 28.35.031(a) and 28.35.280(a) is admissible evidence in a civil or criminal action
18 or proceeding arising out of an act alleged to have been committed by the person while
19 operating a vehicle after consuming alcohol.

20 (c) Refusal to submit to a chemical test or tests of the person's breath
21 requested under AS 28.35.280 is an infraction. Upon conviction, the court shall
22 impose a fine of not more than \$1,000, or community work service, or both. The
23 court may offer the minor the option of performing community work in place of a fine
24 or a portion of the fine. The value of community work in place of a fine is as
25 specified in AS 12.55.055(c).

26 Sec. 28.35.290. DRIVING DURING THE 24 HOURS AFTER BEING CITED
27 FOR MINOR OPERATING A VEHICLE AFTER CONSUMING ALCOHOL. (a)
28 A person who has been cited for minor operating a vehicle after consuming alcohol
29 under AS 28.35.280 may not operate a motor vehicle, aircraft, or watercraft during the
30 24 hours following issuance of the citation.

31 (b) Operating a motor vehicle, aircraft, or watercraft during the 24 hours after

1 being cited for minor operating a vehicle after consuming alcohol is an infraction.
2 Upon conviction, the court shall impose a fine of not more than \$1,000, or community
3 work service, or both. The court may offer the minor the option of performing
4 community work in place of the fine or a portion of the fine. The value of community
5 work in place of a fine is as specified in AS 12.55.055(c).

6 (c) In this section,

7 (1) "operate an aircraft" has the meaning given in AS 28.35.030(m);

8 (2) "operate a watercraft" has the meaning given in AS 28.35.030(m).

9 * **Sec. 7.** This Act applies only to acts committed on or after the effective date of this Act.