

HOUSE BILL NO. 462

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES PORTER, Toohey

Introduced: 2/2/96

Referred: Transportation, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the offenses of driving while intoxicated and refusal to
2 submit to a chemical test of breath or blood; amending Rules 6 and 32.1,
3 Alaska Rules of Criminal Procedure; and providing for an effective date."

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

5 * **Section 1.** AS 28.35.030(j) is amended to read:

6 (j) If a person fails to satisfy the requirements of an authorized agency under
7 (i) of this section, the court

8 (1) may impose any portion of a suspended sentence; however, if the
9 person was convicted under (n) of this section, the court shall impose **a part or all of**
10 the remaining portion of any suspended sentence;

11 (2) may punish the failure as contempt of the authority of the court
12 under AS 09.50.010 or as a violation of a condition of probation; and

13 (3) shall order the revocation or suspension of the person's driver's
14 license, privilege to drive, and privilege to obtain a driver's license until the

1 requirements are satisfied.

2 * **Sec. 2.** AS 28.35.032(n) is amended to read:

3 (n) If a person fails to satisfy the requirements of an authorized agency under
4 (m) of this section, the court

5 (1) may impose any portion of a suspended sentence; however, if the
6 person was convicted under (p) of this section, the court shall impose **a part or all of**
7 the remaining portion of any suspended sentence;

8 (2) may punish the failure as contempt of the authority of the court
9 under AS 09.50.010 or as a violation of a condition of probation; and

10 (3) shall order the revocation or suspension of the person's driver's
11 license, privilege to drive, and privilege to obtain a driver's license until the
12 requirements are satisfied.

13 * **Sec. 3.** Rule 6(r)(1), Alaska Rules of Criminal Procedure, is amended to read:

14 (1) Evidence which would be legally admissible at trial shall be
15 admissible before the grand jury. In appropriate cases, however, witnesses may be
16 presented to summarize admissible evidence if the admissible evidence will be
17 available at trial. Except as stated in subparagraphs (2), [AND] (3), **and (6)**, hearsay
18 evidence shall not be presented to the grand jury absent compelling justification for
19 its introduction. If hearsay evidence is presented to the grand jury, the reasons for its
20 use shall be stated on the record.

21 * **Sec. 4.** Rule 6(r), Alaska Rules of Criminal Procedure, is amended by adding a new
22 paragraph to read:

23 (6) In a prosecution for driving while intoxicated under
24 AS 28.35.030(n) or for refusal to submit to a chemical test under AS 28.35.032(p),
25 hearsay evidence, including information received through the Alaska Public Safety
26 Information Network, of prior convictions of driving while intoxicated or refusal to
27 submit to a chemical test may be presented to the grand jury.

28 * **Sec. 5.** Rule 32.1(a), Alaska Rules of Criminal Procedure, is amended to read:

29 (a) Scheduling. At the time guilt in a felony case is established by verdict or
30 plea, the judge shall establish the date for a sentencing hearing and a presentencing
31 hearing, if appropriate, and **except as provided under subsection (f) of this rule,**

1 shall order a presentence investigation by the Department of Corrections. If the judge
2 elects to schedule a single hearing, all of the procedures for the presentencing and
3 sentencing hearings shall be applicable at the single hearing.

4 * **Sec. 6.** Rule 32.1, Alaska Rules of Criminal Procedure, is amended by adding a new
5 subsection to read:

6 (f) When Presentence Investigation Not Required. Unless a person may be
7 sentenced to a presumptive term of imprisonment under AS 12.55.125(e)(1) or (2), a
8 presentence investigation by the Department of Corrections is not required for a
9 defendant convicted of driving while intoxicated under AS 28.35.030(n) or refusal to
10 submit to a chemical test under AS 28.35.032(p).

11 * **Sec. 7.** APPLICABILITY. This Act applies to offenses committed on or after the
12 effective date of this Act except that, to the extent the amendments made by this Act involve
13 prior convictions, those prior convictions may have occurred before, on, or after the effective
14 date of this Act.

15 * **Sec. 8.** This Act takes effect immediately under AS 01.10.070(c).