

**SENATE BILL NO. 4**

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY SENATORS TAYLOR, Kelly, Sharp, Halford, Green

Introduced: 1/16/95

Referred: STA, JUD

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to arrest of a person under age 21 for illegal possession,  
2 consumption, or control of alcohol; to classifying certain offenses related to driving  
3 while intoxicated or failure to submit to a chemical test as felonies; and providing  
4 for an effective date."

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

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

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

11 (1) **AS 04.16.050;**

12 (2) AS 11.41.270 or AS 11.56.740; or

13 (3) [(2)] AS 11.41, AS 11.46.330, or AS 11.61.120, or has violated an  
14 ordinance with elements substantially similar to the elements of a crime under

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

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

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

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

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

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

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

21 \* **Sec. 4.** AS 28.15.291(b) is amended to read:

22 (b) Upon conviction under (a) **or (d)** of this section, the court

23 (1) shall impose a minimum sentence of imprisonment

24 (A) if the person has not been previously convicted, of not less  
25 than 10 days with 10 days suspended, including a mandatory condition of  
26 probation that the defendant complete not less than 80 hours of community  
27 work service;

28 (B) if the person has been previously convicted, of not less than  
29 10 days;

30 (C) if the person's driver's license, privilege to drive, or  
31 privilege to obtain a license was revoked under circumstances described in

1 AS 28.15.181(c)(1), or if the person was driving in violation of a limited  
2 license issued under AS 28.15.201(d) following that revocation, of not less than  
3 20 days with 10 days suspended, and a fine of not less than \$500, including a  
4 mandatory condition of probation that the defendant complete not less than 80  
5 hours of community work service;

6 (D) if the person's driver's license, privilege to drive, or  
7 privilege to obtain a license was revoked under circumstances described in  
8 AS 28.15.181(c)(2), (3), or (4), or if the person was driving in violation of a  
9 limited license issued under AS 28.15.201(d) following that revocation, of not  
10 less than 30 days and a fine of not less than \$1,000;

11 (2) may impose additional conditions of probation;

12 (3) may not

13 (A) suspend execution of sentence or grant probation except on  
14 condition that the person serve a minimum term of imprisonment and perform  
15 required community work service as provided in (1) of this subsection;

16 (B) suspend imposition of sentence; and

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

22 \* **Sec. 5.** 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 for a violation of AS 28.35.030(n) or 28.35.032(q).

27 \* **Sec. 6.** AS 28.35.030(b) is amended to read:

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

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

31 (A) not less than 72 consecutive hours and a fine of not less

1 than \$250 if the person has not been previously convicted;

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

4 (C) NOT LESS THAN 60 DAYS AND A FINE OF NOT LESS  
5 THAN \$1,000 IF THE PERSON HAS BEEN PREVIOUSLY CONVICTED  
6 TWICE;

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

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

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

16 (2) the court may not

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

20 (B) suspend imposition of sentence;

21 (3) the court shall revoke the person's driver's license, privilege to  
22 drive, or privilege to obtain a license under AS 28.15.181 [, AND MAY ORDER THE  
23 MOTOR VEHICLE OR AIRCRAFT THAT WAS USED IN COMMISSION OF THE  
24 OFFENSE TO BE FORFEITED UNDER AS 28.35.036].

25 \* **Sec. 7.** AS 28.35.030 is amended by adding a new subsection to read:

26 (n) A person is guilty of a class C felony if the person is convicted of driving  
27 while intoxicated and has been previously convicted two or more times. Upon  
28 conviction the court

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

31 (2) may not

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

4 (B) suspend imposition of sentence;

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

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

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

14 \* **Sec. 8.** AS 28.35.032(f) is amended to read:

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

18 \* **Sec. 9.** AS 28.35.032(g) is amended to read:

19 (g) Upon conviction under this section

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

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

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

25 (C) NOT LESS THAN 60 DAYS AND A FINE OF NOT LESS  
26 THAN \$1,000 IF THE PERSON HAS BEEN PREVIOUSLY CONVICTED  
27 TWICE;

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

31 (E) NOT LESS THAN 240 DAYS AND A FINE OF NOT

1 LESS THAN \$3,000 IF THE PERSON HAS BEEN PREVIOUSLY  
2 CONVICTED FOUR TIMES;

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

6 (2) the court may not

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

10 (B) suspend imposition of sentence;

11 (3) the court shall revoke the person's driver's license, privilege to  
12 drive, or privilege to obtain a license under AS 28.15.181 [, AND MAY ORDER THE  
13 MOTOR VEHICLE OR AIRCRAFT THAT WAS USED IN COMMISSION OF THE  
14 OFFENSE BE FORFEITED UNDER AS 28.35.036]; and

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

17 \* **Sec. 10.** AS 28.35.032 is amended by adding a new subsection to read:

18 (q) A person is guilty of a class C felony if the person is convicted under this  
19 section and has been previously convicted two or more times. Upon conviction,

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

22 (2) the court may not

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

26 (B) suspend imposition of sentence;

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

29 (4) the court may order as a condition of probation that the person take  
30 antabuse or a similar drug intended to prevent consumption of an alcoholic beverage;  
31 a condition of probation imposed under this paragraph is in addition to any other

1 condition authorized under another provision of law;

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

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

7 \* **Sec. 11.** APPLICABILITY. This Act applies to offenses that are committed on or after  
8 the effective date of this Act, except that references to previous convictions include  
9 convictions occurring before, on, or after the effective date of this Act.

10 \* **Sec. 12.** This Act takes effect July 1, 1995.