

**SPONSOR SUBSTITUTE FOR SENATE BILL NO. 4**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**NINETEENTH LEGISLATURE - FIRST SESSION**

**BY SENATORS TAYLOR, Kelly, Sharp, Halford**

**Introduced: 1/26/95**

**Referred: STA, JUD**

**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 providing 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 under AS 28.35.030(n) or 28.35.032(q). Upon conviction under this  
27 subsection, the court shall impose a minimum sentence of imprisonment of not less  
28 than 30 days and a fine of not less than \$1,000.

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

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

1 (1) the court shall impose a minimum sentence of imprisonment of  
2 (A) not less than 72 consecutive hours and a fine of not less  
3 than \$250 if the person has not been previously convicted;

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

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

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

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

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

18 (2) the court may not

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

22 (B) suspend imposition of sentence;

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

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

28 (n) A person is guilty of a class C felony if the person is convicted of driving  
29 while intoxicated and has been previously convicted two or more times. For purposes  
30 of determining if a person has been previously convicted, the provisions of (m)(4) of  
31 this section apply, except that only convictions occurring within five years preceding

1 the date of the present offense may be included. Upon conviction the court

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

4 (2) may not

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

8 (B) suspend imposition of sentence;

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

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

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

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

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

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

23 (g) Upon conviction under this section

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

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

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

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

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

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

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

10 (2) the court may not

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

14 (B) suspend imposition of sentence;

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

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

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

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

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

29 (2) the court may not

30 (A) suspend execution of the sentence required by (1) of this  
31 subsection or grant probation, except on condition that the person serve the

1                   minimum imprisonment under (1) of this subsection; or

2                                   (B) suspend imposition of sentence;

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

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

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

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

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

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