

HOUSE BILL NO. 40

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES ELTON, Therriault

Introduced: 1/13/97

Referred: Transportation, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the offense of operating a motor vehicle, aircraft, or
2 watercraft while intoxicated; relating to presumptions arising from the amount of
3 alcohol in a person's breath or blood; 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(a) is amended to read:

6 (a) A person commits the crime of driving while intoxicated if the person
7 operates or drives a motor vehicle or operates an aircraft or a watercraft

8 (1) while under the influence of intoxicating liquor, or any controlled
9 substance;

10 (2) when, as determined by a chemical test taken within four hours
11 after the alleged offense was committed, there is 0.08 [0.10] percent or more by weight
12 of alcohol in the person's blood or **80** [100] milligrams or more of alcohol per 100
13 milliliters of blood, or when there is 0.08 [0.10] grams or more of alcohol per 210
14 liters of the person's breath; or

1 (3) while the person is under the combined influence of intoxicating
2 liquor and a controlled substance.

3 * **Sec. 2.** AS 28.35.033(a) is amended to read:

4 (a) Upon the trial of a civil or criminal action or proceeding arising out of acts
5 alleged to have been committed by a person while operating or driving a motor vehicle
6 or operating an aircraft or a watercraft while intoxicated, the amount of alcohol in the
7 person's blood or breath at the time alleged shall give rise to the following
8 presumptions:

9 (1) If there was 0.04 [0.05] percent or less by weight of alcohol in the
10 person's blood, or 40 [50] milligrams or less of alcohol per 100 milliliters of the
11 person's blood, or 0.04 [0.05] grams or less of alcohol per 210 liters of the person's
12 breath, it shall be presumed that the person was not under the influence of intoxicating
13 liquor.

14 (2) If there was in excess of 0.04 [0.05] percent but less than 0.08
15 [0.10] percent by weight of alcohol in the person's blood, or in excess of 40 [50] but
16 less than 80 [100] milligrams of alcohol per 100 milliliters of the person's blood, or
17 in excess of 0.04 [0.05] grams but less than 0.08 [0.10] grams of alcohol per 210 liters
18 of the person's breath, that fact does not give rise to any presumption that the person
19 was or was not under the influence of intoxicating liquor, but that fact may be
20 considered with other competent evidence in determining whether the person was
21 under the influence of intoxicating liquor.

22 (3) [REPEALED]

23 (4) If there was 0.08 [0.10] percent or more by weight of alcohol in
24 the person's blood, or 80 [100] milligrams or more of alcohol per 100 milliliters of the
25 person's blood, or 0.08 [0.10] grams or more of alcohol per 210 liters of the person's
26 breath, it shall be presumed that the person was under the influence of intoxicating
27 liquor.

28 * **Sec. 3.** This Act takes effect September 1, 1997.