

**HOUSE BILL NO. 151**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

**BY REPRESENTATIVES KOTT, Austerman**

**Introduced: 3/22/99**

**Referred: Judiciary**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to revocation and reinstatement of the driver's license of a**  
2 **person at least 14 but not yet 21 years of age."**

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

4 **\* Section 1.** AS 21.89.027(a) is amended to read:

5 (a) Notwithstanding AS 21.36.210, an insurer offering insurance in this state  
6 may not (1) refuse to issue or renew motor vehicle liability insurance coverage; (2)  
7 cancel an existing policy of motor vehicle liability insurance; (3) deny a covered claim;  
8 or (4) increase the premium on a motor vehicle liability insurance policy if the refusal,  
9 cancellation, denial, or increase results only from the fact that the person's driver's  
10 license was revoked under AS 28.15.183 [OR 28.15.185] for [POSSESSION OR]  
11 consumption of alcohol in a situation where the person was not driving and was in  
12 violation of AS 04.16.050 or a municipal ordinance with substantially similar elements.

13 **\* Sec. 2.** AS 28.15.183(a) is amended to read:

14 (a) If a peace officer has probable cause to believe that a person who is at

1 least 14 years of age but not yet 21 years of age has possessed or used a controlled  
 2 substance in violation of AS 11.71 [,] or a municipal ordinance with substantially  
 3 similar elements, or [POSSESSED OR] consumed alcohol in violation of AS 04.16.050  
 4 or a municipal ordinance with substantially similar elements, operated a vehicle after  
 5 consuming alcohol in violation of AS 28.35.280, or refused to submit to a chemical  
 6 test under AS 28.35.285 and the peace officer has cited the person or arrested the  
 7 person for a violation of AS 11.71, AS 04.16.050, AS 28.35.280, or 28.35.285 or the  
 8 municipal ordinance with substantially similar elements, the peace officer shall read  
 9 a notice and deliver a copy to the person. The notice must advise that

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

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

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

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

20 (5) if the person has been cited under AS 28.35.280 or under  
 21 AS 28.35.285, that person, under AS 28.35.290, may not operate a motor vehicle,  
 22 aircraft, or watercraft during the 24 hours following issuance of the citation.

23 \* **Sec. 3.** AS 28.15.183(c) is amended to read:

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

29 (1) that the officer had probable cause to believe that the person is at  
 30 least 14 years of age but not yet 21 years of age and has possessed or used a  
 31 controlled substance in violation of AS 11.71 [,] or a municipal ordinance with

1 substantially similar elements, or [POSSESSED OR] consumed alcohol in violation of  
 2 AS 04.16.050 or a municipal ordinance with substantially similar elements, operated  
 3 a vehicle after consuming alcohol in violation of AS 28.35.280, or refused to submit  
 4 to a chemical test of breath under AS 28.35.285;

5 (2) that the peace officer has cited the person or arrested the person for

6 (A) a violation of AS 11.71, AS 04.16.050, AS 28.35.280, or  
 7 28.35.285; or

8 (B) possession or use of a controlled substance or **consumption**  
 9 **of** alcohol in violation of a municipal ordinance with substantially similar  
 10 elements;

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

12 (4) describing the circumstances surrounding the violation of the  
 13 controlled substances provisions of AS 11.71, the alcoholic beverages provisions of  
 14 AS 04.16.050, or the municipal ordinance with substantially similar elements, the  
 15 minor operating a vehicle after consuming alcohol [UNDER] provisions of  
 16 AS 28.35.280, or the minor refusing to submit to a chemical test of breath [UNDER]  
 17 provisions of AS 28.35.285.

18 \* **Sec. 4.** AS 28.15.183(f) is amended to read:

19 (f) A revocation imposed under this section shall be [CONSECUTIVE TO A  
 20 REVOCATION IMPOSED UNDER ANOTHER PROVISION OF LAW, EXCEPT  
 21 THAT A REVOCATION IMPOSED UNDER THIS SECTION FOR AN OFFENSE  
 22 FOR WHICH A REVOCATION IS REQUIRED UNDER AS 28.15.185 SHALL BE]  
 23 concurrent with a revocation imposed under **another provision of law** [AS 28.15.185]  
 24 that is based on the same incident. A [DEPARTMENT HEARING OFFICER MAY  
 25 GRANT LIMITED LICENSE PRIVILEGES IN ACCORDANCE WITH THE  
 26 STANDARDS SET OUT IN AS 28.15.201 TO A] person whose driver's license,  
 27 permit, or privilege was revoked under this section **may apply for reinstatement as**  
 28 **provided under (j) - (l) of this section.**

29 \* **Sec. 5.** AS 28.15.183(g) is amended to read:

30 (g) Except as provided under (h) of this section, the department may not issue  
 31 a new license or reissue a license to a person whose driver's license, permit, or

1 privilege to drive has been revoked under this section unless the person is enrolled in  
2 and is in compliance with, or has successfully completed,

3 (1) an alcoholism education or rehabilitation treatment program  
4 approved under AS 47.37, if the revocation resulted from [POSSESSION OR]  
5 consumption of alcohol in violation of AS 04.16.050 or a municipal ordinance with  
6 substantially similar elements, from operating a vehicle after consuming alcohol in  
7 violation of AS 28.35.280, or from refusal to submit to a chemical test of breath in  
8 violation of AS 28.35.285; or

9 (2) a drug education or rehabilitation treatment program, if the  
10 revocation resulted from possession or use of a controlled substance in violation of  
11 AS 11.71 or a municipal ordinance with substantially similar elements.

12 \* **Sec. 6.** AS 28.15.183 is amended by adding new sections to read:

13 (j) A person whose driver's license, permit, or privilege was revoked under  
14 this section, who is 20 years of age or older, and whose remaining period of driver's  
15 license revocation is more than one year may apply for reinstatement of the person's  
16 driver's license as provided in this subsection. A person may apply to the department  
17 for reinstatement by filing a written request for review of the revocation imposed under  
18 this section with the department. The department shall issue a new license or reissue  
19 the person's driver's license as provided under AS 28.15.211(d) if

20 (1) the person complies with (g) of this section;

21 (2) the person has not violated a provision of this title or a regulation  
22 of the department since the revocation; and

23 (3) the license will allow the person to attend school, care for a  
24 dependent child, or earn a livelihood without creating a danger to the public.

25 (k) A person whose driver's license, permit, or privilege was revoked under  
26 this section, who is less than 20 years of age, and whose remaining period of driver's  
27 license revocation is more than one year may apply for reinstatement of the person's  
28 driver's license as provided in this subsection. A person may apply for reinstatement  
29 by filing a petition for review of the revocation with a youth court established under  
30 AS 47.12.400. The department shall issue a new driver's license or reissue the person's  
31 driver's license as provided under AS 28.15.211(d) if reinstatement is recommended

1 by the youth court. A youth court may not recommend that the department issue a  
 2 new license or reissue the person's driver's license as provided under AS 28.15.211(d)  
 3 unless the youth court determines that

4 (1) the person has complied with (g) of this section;

5 (2) the person has not violated a provision of this title or a regulation  
 6 of the department since the revocation; and

7 (3) the license will allow the person to attend school, care for a  
 8 dependent child, or earn a livelihood without creating a danger to the public.

9 (l) Notwithstanding (j) or (k) of this section, a person whose driver's license,  
 10 permit, or privilege was revoked under this section, who is less than 20 years of age,  
 11 whose remaining period of driver's license revocation is more than one year, who  
 12 resides in a municipality or area that does not have a youth court may apply to the  
 13 department for reinstatement of the person's driver's license as provided under (j) of  
 14 this section.

15 \* **Sec. 7.** AS 28.15.184(a) is amended to read:

16 (a) A person who has received a notice under AS 28.15.183(a) may make a  
 17 written request **to a youth court, or, if the person resides in a municipality or area**  
 18 **that does not have a youth court, to the department,** for administrative review of  
 19 the department's action. If the person's driver's license or permit has not been  
 20 previously surrendered to the department, it shall be surrendered to the department at  
 21 the time the request for review is made.

22 \* **Sec. 8.** AS 28.15.184(b) is amended to read:

23 (b) A request for review of the department's revocation under AS 28.15.183  
 24 shall be made **to a youth court or to the department** within seven days after receipt  
 25 of the notice under AS 28.15.183 or the right to review is waived and the action of the  
 26 department under AS 28.15.183(c) is final. If a written request for a review is made  
 27 after expiration of the seven-day period, and, if it is accompanied by the applicant's  
 28 verified statement explaining the failure to make a timely request for a review, the  
 29 **youth court or the** department shall receive and consider the request. If the **youth**  
 30 **court or the** department finds that the person was unable to make a timely request  
 31 because of lack of actual notice of the revocation or because of factors of physical

1 incapacity such as hospitalization or incarceration, the youth court or the department  
2 shall waive the period of limitation, reopen the matter, and grant the review request.

3 \* **Sec. 9.** AS 28.15.184(c) is amended to read:

4 (c) Upon receipt of a request for review by the youth court or the  
5 department, if it appears that the person holds a valid driver's license or permit and  
6 that the driver's license or permit has been surrendered, the department shall issue a  
7 temporary driver's permit that is valid until the scheduled date for the review. A  
8 person who has requested a review under this section may request, and the youth  
9 court or the department may grant for good cause, a delay in the date of the hearing.  
10 If necessary, the youth court or the department may issue additional temporary  
11 permits to stay the effective date of its action under AS 28.15.183(c) until the final  
12 order after the review is issued.

13 \* **Sec. 10.** AS 28.15.184(d) is amended to read:

14 (d) A person who has requested a hearing under this section and who fails to  
15 appear at the hearing, for reasons other than lack of actual notice of the hearing or  
16 physical incapacity such as hospitalization or incarceration, waives the right to a  
17 hearing. The determination of the youth court or the department that is based upon  
18 the officer's report becomes final.

19 \* **Sec. 11.** AS 28.15.184(e) is amended to read:

20 (e) Notwithstanding AS 28.05.141(b), the hearing under this section may be  
21 held telephonically at the discretion of the youth court or the hearing officer.

22 \* **Sec. 12.** AS 28.15.184(f) is amended to read:

23 (f) A review under this section shall be held before a youth court or a hearing  
24 officer designated by the commissioner. The youth court or the hearing officer may

25 (1) administer oaths and affirmations;

26 (2) examine witnesses and take testimony;

27 (3) receive relevant evidence;

28 (4) issue subpoenas, take depositions, or cause depositions or  
29 interrogatories to be taken;

30 (5) regulate the course and conduct of the hearing;

31 (6) make a final ruling on the issue.

1 \* **Sec. 13.** AS 28.15.184(g) is amended to read:

2 (g) The hearing for review of a revocation by the department under  
3 AS 28.15.183 shall be limited to the issues of whether the person was at least 14 years  
4 of age but not yet 21 years of age and whether the person possessed or used a  
5 controlled substance in violation of AS 11.71 or a municipal ordinance with  
6 substantially similar elements, or [POSSESSED OR] consumed alcohol in violation of  
7 AS 04.16.050 or a municipal ordinance with substantially similar elements, operated  
8 a vehicle after consuming alcohol in violation of AS 28.35.280, or refused to submit  
9 to a chemical test of breath in violation of AS 28.35.285.

10 \* **Sec. 14.** AS 28.15.184(h) is amended to read:

11 (h) The determination of the youth court or the hearing officer may be based  
12 upon the sworn report of a peace officer [,] if the sworn report is supported by  
13 probable cause based on personal observations as required under AS 28.15.183(a). The  
14 peace officer need not be present at the hearing unless either the person requesting the  
15 hearing, [OR] the youth court, or the hearing officer requests in writing before the  
16 hearing that the officer be present. If, in the course of the hearing, it becomes  
17 apparent that the testimony of the peace officer is necessary to enable the youth court  
18 or the hearing officer to resolve disputed issues of fact, the hearing shall be continued  
19 to allow the attendance of the peace officer.

20 \* **Sec. 15.** AS 28.15.184(j) is amended to read:

21 (j) If the issues set out in (g) of this section are determined in the affirmative  
22 by a preponderance of the evidence, the youth court or the hearing officer shall  
23 sustain the action of the department. If one or more of the issues is determined in the  
24 negative, the department's revocation action shall be rescinded.

25 \* **Sec. 16.** AS 28.15.184(k) is amended to read:

26 (k) If the action of the department in revoking a nonresident's privilege to  
27 drive a motor vehicle is not administratively contested by the nonresident driver or if  
28 the departmental action is sustained by the youth court or the hearing officer, the  
29 department shall give written notice of action taken to the motor vehicle administrator  
30 of the state of the person's residence and to any state in which that person has a  
31 driver's license.

1 \* **Sec. 17.** AS 28.15.184(l) is amended to read:

2 (l) Within 30 days of the issuance of the final determination of the **youth**  
 3 **court or the** department, a person aggrieved by the determination may file an appeal  
 4 in superior court for judicial review of the **youth court's or the** hearing officer's  
 5 determination. The judicial review shall be on the record without taking additional  
 6 testimony. The court may reverse the **youth court's or the** department's determination  
 7 if the court finds that the **youth court or the** department misinterpreted the law, acted  
 8 in an arbitrary and capricious manner, or made a determination unsupported by the  
 9 evidence in the record.

10 \* **Sec. 18.** AS 28.15.184(m) is amended to read:

11 (m) The filing of an appeal under (l) of this section or a petition for review  
 12 does not automatically stay the **youth court's or the** department's order or revocation.  
 13 The court may grant a stay of the order or revocation under the applicable rules of  
 14 court, after a motion and hearing, and upon a finding that there is a reasonable  
 15 probability that the petitioner will prevail on the merits and that the petitioner will  
 16 suffer irreparable harm if the order is not stayed.

17 \* **Sec. 19.** AS 47.12.400(a) is amended to read:

18 (a) The department may use youth courts to hear, determine, and dispose of  
 19 cases involving

20 (1) a minor whose alleged act that brings the minor within the  
 21 jurisdiction of AS 47.12.010 - 47.12.260 constitutes a violation of

22 (A) a state law that is a misdemeanor or a violation; or

23 (B) [THAT CONSTITUTES A VIOLATION OF] a municipal  
 24 ordinance that prescribes a penalty not exceeding the penalties for a class A  
 25 misdemeanor under state law; or

26 (2) **appeal of a license revocation under AS 28.15.184, or**  
 27 **reinstatement of a license to drive under AS 28.15.183(k).**

28 \* **Sec. 20.** APPLICABILITY. (a) The amendment to AS 21.89.027(a), made by sec. 1 of  
 29 this Act, applies to driver's license revocations occurring on or after the effective date of this  
 30 Act. AS 21.89.027(a) as it read on the day before the effective date of this Act applies to  
 31 driver's license revocations occurring before the effective date of this Act.

1 (b) Sections 2 - 19 of this Act apply to a driver's license revocation or reinstatement,  
2 as applicable, that occurs on or after the effective date of this Act.