

**CS FOR HOUSE BILL NO. 4(FIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

**BY THE HOUSE FINANCE COMMITTEE**

**Offered: 4/28/01**

**Referred: Rules**

**Sponsor(s): REPRESENTATIVE ROKEBERG**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to motor vehicles and to operating a motor vehicle, aircraft, or**  
2 **watercraft; and providing for an effective date."**

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

4 \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
5 to read:

6 FINDINGS AND INTENT. (a) The legislature finds that

7 (1) driving on state highways is a privilege granted to citizens;

8 (2) in order to keep the privilege of driving on state highways, a citizen must  
9 follow state laws regarding safe driving;

10 (3) in 1998, there were 71 vehicle-related deaths in the state, and 31 were  
11 alcohol-related;

12 (4) in 1999, there were 76 vehicle-related deaths in the state, and 40 were  
13 alcohol-related;

14 (5) from 1998 to 1999, the number of traffic fatalities in Alaska rose by nine

1 percent;

2 (6) Alaska ranks in the top 15 states in terms of alcohol-related traffic  
3 fatalities;

4 (7) habitual offenders do most of the harm.

5 (b) It is the intent of this Act to reduce the number of alcohol-related traffic accidents  
6 and fatalities.

7 \* **Sec. 2.** AS 09.60.070(c)(14) is amended to read:

8 (14) driving while **under the influence of an alcoholic beverage,**  
9 **inhalant, or controlled substance** [INTOXICATED] or another crime resulting from  
10 the operation of a motor vehicle, boat, or airplane when the offender is **under the**  
11 **influence of an alcoholic beverage, inhalant, or controlled substance**  
12 [INTOXICATED];

13 \* **Sec. 3.** AS 12.25.033 is amended to read:

14 **Sec. 12.25.033. Arrest without warrant for operating vehicle while under**  
15 **the influence of an alcoholic beverage, inhalant, or controlled substance**  
16 **[INTOXICATED].** A peace officer may arrest a person without a warrant, whether  
17 or not the offense is committed in the presence of the officer, when the officer has  
18 probable cause to believe that the person to be arrested has committed the crime of  
19 operating a motor vehicle, an aircraft, or a watercraft in violation of AS 28.35.030 or a  
20 similar city or borough ordinance, if the violation is alleged to have occurred less than  
21 eight hours before the time of arrest.

22 \* **Sec. 4.** AS 12.55.125(c) is amended to read:

23 (c) A defendant convicted of a class A felony may be sentenced to a definite  
24 term of imprisonment of not more than 20 years, and shall be sentenced to the  
25 following presumptive terms, subject to adjustment as provided in AS 12.55.155 -  
26 12.55.175:

27 (1) if the offense is a first felony conviction and does not involve  
28 circumstances described in (2) of this subsection, five years;

29 (2) if the offense is a first felony conviction

30 (A) other than for manslaughter and the defendant possessed a  
31 firearm, used a dangerous instrument, or caused serious physical injury during

1 the commission of the offense, or knowingly directed the conduct constituting  
 2 the offense at a uniformed or otherwise clearly identified peace officer, fire  
 3 fighter, correctional employee, emergency medical technician, paramedic,  
 4 ambulance attendant, or other emergency responder who was engaged in the  
 5 performance of official duties at the time of the offense, seven years;

6 (B) for manslaughter and the conduct resulting in the  
 7 conviction was knowingly directed towards a child under the age of 16, seven  
 8 years;

9 **(C) for manslaughter and the conduct resulting in the**  
 10 **conviction involved driving while under the influence of an alcoholic**  
 11 **beverage, inhalant, or controlled substance, seven years;**

12 (3) if the offense is a second felony conviction, 10 years;

13 (4) if the offense is a third felony conviction and the defendant is not  
 14 subject to sentencing under (1) of this section, 15 years.

15 \* **Sec. 5.** AS 18.67.101 is amended to read:

16 **Sec. 18.67.101. Incidents and offenses to which this chapter applies.** The  
 17 board may order the payment of compensation in accordance with the provisions of  
 18 this chapter for personal injury or death that resulted from

19 (1) an attempt on the part of the applicant to prevent the commission of  
 20 crime, or to apprehend a suspected criminal, or aiding or attempting to aid a police  
 21 officer to do so, or aiding a victim of crime; or

22 (2) the commission or attempt on the part of one other than the  
 23 applicant to commit any of the following offenses:

24 (A) murder in any degree;

25 (B) manslaughter;

26 (C) criminally negligent homicide;

27 (D) assault in any degree;

28 (E) kidnapping;

29 (F) sexual assault in any degree;

30 (G) sexual abuse of a minor;

31 (H) robbery in any degree;

1 (I) threats to do bodily harm; or

2 (J) driving while under the influence of an alcoholic  
 3 beverage, inhalant, or controlled substance [INTOXICATED] or another  
 4 crime resulting from the operation of a motor vehicle, boat, or airplane when  
 5 the offender is under the influence of an alcoholic beverage, inhalant, or  
 6 controlled substance [INTOXICATED].

7 \* **Sec. 6.** AS 28.10.041 is amended by adding a new subsection to read:

8 (d) The department shall refuse to register a vehicle if the applicant fails to  
 9 register the vehicle using the applicant's first, middle, and last name or a business  
 10 name.

11 \* **Sec. 7.** AS 28.10 is amended by adding a new section to read:

12 **Sec. 28.10.453. Seizure of registration plates resulting from chemical**  
 13 **sobriety tests and refusals to submit to tests.** (a) If a law enforcement officer seizes  
 14 a driver's license under AS 28.15.165, the officer shall also seize the registration plates  
 15 for the motor vehicle the person was operating and shall deliver the registration plates  
 16 to the department if the person is a registered owner or co-owner of the vehicle.

17 (b) The law enforcement officer who seizes registration plates under this  
 18 section shall

19 (1) issue a temporary permit in a distinctive color under which the  
 20 vehicle may be operated that expires seven days after it is delivered to the person; and

21 (2) give the person written notice that, unless the person, within seven  
 22 days, requests an administrative review under AS 28.15.166, the department shall  
 23 suspend the registration for the motor vehicle and retain possession of the motor  
 24 vehicle registration plates as provided under (d) of this section.

25 (c) Unless the person has obtained a stay of a departmental action under  
 26 AS 28.15.166, if the chemical test administered under AS 28.33.031(a) or  
 27 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2) or the  
 28 person refused to submit to a chemical test authorized under AS 28.33.031(a) or  
 29 AS 28.35.031(a) or (g), the department shall revoke the registration for the motor  
 30 vehicle. The department's action takes effect seven days after delivery to the person of  
 31 the notice required under (b) of this section, and after receipt of a sworn report of a

1 law enforcement officer as described under AS 28.15.165(c).

2 (d) The period of revocation of a motor vehicle registration under this section  
3 shall be for the appropriate minimum period for driver's license revocations under  
4 AS 28.15.181(c) or court disqualifications under AS 28.33.140. A department hearing  
5 officer may grant limited motor vehicle registration privileges to a person whose  
6 motor vehicle registration was revoked under this section in accordance with the  
7 standards set out in AS 28.15.201 for granting limited driver's license privileges.

8 (e) The department shall allow a person who is an owner or co-owner of a  
9 motor vehicle and who is not the person who was operating the motor vehicle when  
10 the registration plates were seized under (a) of this section to register the motor  
11 vehicle without the name of the person who was operating the vehicle when the  
12 registration plates were seized under (a) of this section. If a person registers a motor  
13 vehicle under this subsection, the department shall reissue the registration plates  
14 seized under (a) of this section.

15 \* **Sec. 8.** AS 28.15.046(d) is amended to read:

16 (d) The department may not issue a license to an applicant who has been  
17 convicted of driving while **under the influence of an alcoholic beverage, inhalant,**  
18 **or controlled substance** [INTOXICATED] under AS 28.35.030 within two years of  
19 the time of application or to an applicant who has two or more convictions for driving  
20 while **under the influence of an alcoholic beverage, inhalant, or controlled**  
21 **substance** [INTOXICATED] within 10 years of the time of application.

22 \* **Sec. 9.** AS 28.15.081(a) is amended to read:

23 (a) The department shall examine every applicant for a driver's license. The  
24 examination must include a test of the applicant's (1) eyesight, (2) ability to read and  
25 understand official traffic control devices, (3) knowledge of safe driving practices, (4)  
26 knowledge of the effects of alcohol and drugs on drivers and the dangers of driving  
27 under the influence of alcohol or drugs, (5) knowledge of the laws on driving while  
28 **under the influence of an alcoholic beverage, inhalant, or controlled substance**  
29 [INTOXICATED], (6) knowledge of the laws on financial responsibility and  
30 mandatory motor vehicle liability insurance, and (7) knowledge of the traffic laws and  
31 regulations of the state. The examination may include a demonstration of ability to

1 exercise ordinary and reasonable control in the driving of a motor vehicle of the type  
 2 and general class of vehicles for which the applicant seeks a license. However, an  
 3 applicant who has not been previously issued a driver's license by this or another  
 4 jurisdiction shall demonstrate ability and shall present medical information that the  
 5 department reasonably requires to determine fitness to safely drive a motor vehicle of  
 6 the type and general class of vehicles for which the applicant seeks a license.

7 \* **Sec. 10.** AS 28.15.165(c) is amended to read:

8 (c) Unless the person has obtained a temporary permit or stay of a  
 9 departmental action under AS 28.15.166, if the chemical test administered under  
 10 AS 28.33.031(a) or AS 28.35.031(a) or (g) produced a result described in  
 11 AS 28.35.030(a)(2) or the person refused to submit to a chemical test authorized under  
 12 AS 28.33.031(a) or AS 28.35.031(a) or (g), the department shall revoke the person's  
 13 license, privilege to drive, or privilege to obtain a license, shall refuse to issue an  
 14 original license, and, if the chemical test administered under AS 28.33.031(a)  
 15 produced a result described in AS 28.33.030(a)(2) or the person refused to submit to a  
 16 chemical test authorized under AS 28.33.031(a), shall disqualify the person. The  
 17 department's action takes effect seven days after delivery to the person of the notice  
 18 required under (a) of this section, and after receipt of a sworn report of a law  
 19 enforcement officer

20 (1) that a chemical test administered under AS 28.33.031(a) or  
 21 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2), that a  
 22 chemical test administered under AS 28.33.031(a) produced a result described in  
 23 AS 28.33.030(a)(2), or that a person refused to submit to a chemical test authorized  
 24 under AS 28.33.031(a) or AS 28.35.031(a) or (g);

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

26 (3) describing the

27 (A) circumstances surrounding the arrest and the grounds for  
 28 the officer's belief that the person operated a motor vehicle, commercial motor  
 29 vehicle, or aircraft while **under the influence of an alcoholic beverage,**  
 30 **inhalant, or controlled substance** [INTOXICATED] in violation of  
 31 AS 28.33.030 or AS 28.35.030; or

1 (B) grounds for the officer's belief that the person operated a  
 2 motor vehicle or commercial motor vehicle that was involved in an accident  
 3 causing death or serious physical injury to another person.

4 \* **Sec. 11.** AS 28.15.166(a) is amended to read:

5 (a) A person who has received a notice under AS 28.10.453(b) or  
 6 AS 28.15.165(a) may make a written request **(1)** for administrative review of the  
 7 department's action under AS 28.10.453(c) or AS 28.15.165(c); or for **(2)** limited  
 8 motor vehicle registration privileges under AS 28.10.453(d) or for limited license  
 9 privileges under AS 28.15.165(d). If the person's driver's license has not been  
 10 previously surrendered to the department, it shall be surrendered to the department at  
 11 the time the request for review is made.

12 \* **Sec. 12.** AS 28.15.166(b) is amended to read:

13 (b) A request for review of the department's action under AS 28.10.453 or  
 14 AS 28.15.165 shall be made within seven days after receipt of the notice under  
 15 AS 28.10.453 or AS 28.15.165, or the right to review is waived and the action of the  
 16 department under AS 28.10.453(c) or AS 28.15.165(c) is final. If a written request for  
 17 a review is made after expiration of the seven-day period, and if it is accompanied by  
 18 the applicant's verified statement explaining the failure to make a timely request for a  
 19 review, the department shall receive and consider the request. If the department finds  
 20 that the person was unable to make a timely request because of lack of actual notice of  
 21 the department's action or because of factors of physical incapacity such as  
 22 hospitalization or incarceration, the department shall waive the period of limitation,  
 23 reopen the matter, and grant the review request. An initial request for limited license  
 24 privileges may be made at any time. Subsequent requests for limited license  
 25 privileges may not be made unless the applicant demonstrates a significant change in  
 26 circumstances.

27 \* **Sec. 13.** AS 28.15.166(c) is amended to read:

28 (c) Upon receipt of a request for review, if it appears that the person holds a  
 29 valid driver's license or motor vehicle registration plates and that the driver's license  
 30 or motor vehicle registration plates have [HAS] been surrendered, the department  
 31 shall issue a temporary driver's permit or motor vehicle registration that is valid until

1 the scheduled date for the review. A person who has requested a review under this  
 2 section may request, and the department may grant for good cause, a delay in the date  
 3 of the hearing. If necessary, the department may issue additional temporary permits to  
 4 stay the effective date of its action under AS 28.15.165(c) until the final order after the  
 5 review is issued.

6 \* **Sec. 14.** AS 28.15.166(g) is amended to read:

7 (g) The hearing for review of action by the department under AS 28.15.165  
 8 shall be limited to the issues of whether the law enforcement officer had **probable**  
 9 **cause** [REASONABLE GROUNDS] to believe that the person was operating a motor  
 10 vehicle or commercial motor vehicle that was involved in an accident causing death or  
 11 serious physical injury to another, or that the person was operating a motor vehicle,  
 12 commercial motor vehicle, or aircraft while **under the influence of an alcoholic**  
 13 **beverage, inhalant, or controlled substance** [INTOXICATED] in violation of  
 14 AS 28.33.030 or AS 28.35.030 and whether

15 (1) the person refused to submit to a chemical test authorized under  
 16 AS 28.33.031(a) or AS 28.35.031(a) or (g) after being advised that refusal would  
 17 result in disqualification or the suspension, revocation, or denial of the person's  
 18 license, privilege to drive, or privilege to obtain a license, and that the refusal is a  
 19 misdemeanor;

20 (2) the chemical test administered under AS 28.33.031(a) or  
 21 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2); or

22 (3) the chemical test administered under AS 28.33.031(a) produced a  
 23 result described in AS 28.33.030(a)(2).

24 \* **Sec. 15.** AS 28.15.181(a) is amended to read:

25 (a) Conviction of any of the following offenses is grounds for the immediate  
 26 revocation of a driver's license, privilege to drive, or privilege to obtain a license:

27 (1) manslaughter or negligent homicide resulting from driving a motor  
 28 vehicle;

29 (2) a felony in the commission of which a motor vehicle is used;

30 (3) failure to stop and give aid as required by law when a motor  
 31 vehicle accident results in the death or personal injury of another;

1 (4) perjury or making a false affidavit or statement under oath to the  
2 department under a law relating to motor vehicles;

3 (5) operating a motor vehicle or aircraft while **under the influence of**  
4 **an alcoholic beverage, inhalant, or controlled substance** [INTOXICATED];

5 (6) reckless driving;

6 (7) using a motor vehicle in unlawful flight to avoid arrest by a peace  
7 officer;

8 (8) refusal to submit to a chemical test authorized under  
9 AS 28.33.031(a) or AS 28.35.031(a) while under arrest for operating a motor vehicle,  
10 commercial motor vehicle, or aircraft while **under the influence of an alcoholic**  
11 **beverage, inhalant, or controlled substance** [INTOXICATED], or authorized under  
12 AS 28.35.031(g);

13 (9) driving while license, privilege to drive, or privilege to obtain a  
14 license, canceled, suspended, or revoked, or in violation of a limitation;

15 (10) vehicle theft in the first degree in violation of AS 11.46.360 or  
16 vehicle theft in the second degree in violation of AS 11.46.365.

17 \* **Sec. 16.** AS 28.15.181(c) is amended to read:

18 (c) A court convicting a person of an offense described in (a)(5) or (8) of this  
19 section arising out of the operation of a motor vehicle, commercial motor vehicle, or  
20 aircraft shall revoke that person's driver's license, privilege to drive, or privilege to  
21 obtain a license. The revocation may be concurrent with or consecutive to an  
22 administrative revocation under AS 28.15.165. The court may not, except as provided  
23 in AS 28.15.201, grant limited license privileges during the minimum period of  
24 revocation. **Except as provided under AS 28.35.030(n)(3) and 28.35.032(p)(3), the**  
25 [THE] minimum periods of revocation are [:]

26 (1) not less than 90 days if the person has not been previously  
27 convicted;

28 (2) not less than one year if the person has been previously convicted  
29 once;

30 (3) not less than 3 years if the person has been previously convicted  
31 twice;

1 (4) not less than 5 years if the person has been previously convicted  
2 more than twice.

3 \* **Sec. 17.** AS 28.15.191(a) is amended to read:

4 (a) A court that convicts a person of an offense under this title or a regulation  
5 adopted under this title, or another law or regulation of this state, or a municipal  
6 ordinance that regulates the driving of vehicles, shall forward a record of the  
7 conviction to the department **within five working days**. A conviction of a standing or  
8 parking offense need not be reported.

9 \* **Sec. 18.** AS 28.15.201(d) is amended to read:

10 (d) A court revoking a driver's license, privilege to drive, or privilege to obtain  
11 a license under AS 28.15.181(c), or the department when revoking a driver's license,  
12 privilege to drive, or privilege to obtain a license under AS 28.15.165(c), may grant  
13 limited license privileges for the final 60 days during which the license is revoked if

14 (1) the revocation was for a violation of AS 28.15.181(a)(5) and not  
15 for a violation of AS 28.15.181(a)(8);

16 (2) the person has not been previously convicted; in this paragraph,  
17 "previously convicted" has the meaning given in AS 28.35.030 and also includes  
18 convictions based on laws presuming that the person was under the influence of  
19 intoxicating liquor if there was 0.08 percent or more by weight of alcohol in the  
20 person's blood;

21 (3) the court or the department determines that the person's ability to  
22 earn a livelihood would be severely impaired without a limited license;

23 (4) the court or the department determines that a limitation under (a) of  
24 this section can be placed on the license that will enable the person to earn a livelihood  
25 without excessive danger to the public; and

26 (5) the court or the department determines that the person **has met** [IS  
27 ENROLLED IN AND IS IN COMPLIANCE WITH, OR HAS SUCCESSFULLY  
28 COMPLETED, AN] alcoholism **screening, evaluation, referral, and** [EDUCATION  
29 AND REHABILITATION TREATMENT] program **requirements of the**  
30 **Department of Health and Social Services under AS 28.35.030(h)**.

31 \* **Sec. 19.** AS 28.15.211(d) is amended to read:

1 (d) At the end of a period of revocation or limitation following a revocation, a  
 2 person whose driver's license has been revoked may apply to the department for the  
 3 issuance of a new license, but shall submit to reexamination, pay all required fees  
 4 including a reinstatement fee, and, if the license was revoked under  
 5 AS 28.15.181(a)(5) or (8), submit proof to the court or the department that the  
 6 person has met the alcoholism screening, evaluation, referral, and program  
 7 requirements of the Department of Health and Social Services under  
 8 AS 28.35.030(h) [OF

9 (1) ENROLLMENT IN AND COMPLIANCE WITH OR  
 10 COMPLETION OF AN ALCOHOLISM EDUCATION AND REHABILITATION  
 11 TREATMENT PROGRAM APPROVED UNDER AS 47.37 IF THE PERSON WAS  
 12 SENTENCED UNDER AS 28.15.181(c)(1); OR

13 (2) COMPLETION OF AND PAYMENT FOR AN ALCOHOLISM  
 14 EDUCATION AND REHABILITATION TREATMENT PROGRAM APPROVED  
 15 UNDER AS 47.37 IF THE PERSON WAS CONVICTED UNDER  
 16 AS 28.15.181(c)(2) - (4)].

17 \* **Sec. 20.** AS 28.15.271(b) is amended to read:

18 (b) In addition to the fees under (a) of this section,

19 (1) a person who renews a driver's license by mail shall pay a fee of  
 20 \$1;

21 (2) a person who applies for a limited driver's license under  
 22 AS 28.15.201 shall pay a fee of \$100; and

23 (3) a person who applies for reinstatement of a driver's license under  
 24 AS 28.15.211 shall pay a fee of

25 (A) \$100 if the person's driver's license has, within the 10 years  
 26 preceding the application, been suspended, revoked, or limited under the  
 27 provisions of this chapter, except as provided by (C) of this paragraph, only  
 28 once; [OR]

29 (B) \$250 if the person's driver's license has, within the 10 years  
 30 preceding the application, been suspended, revoked, or limited under the  
 31 provisions of this chapter, except as provided by (D) of this paragraph, two

1 or more times;

2 **(C) \$200 if the person's driver's license has, within the 10**  
 3 **years preceding the application, been revoked under AS 28.35.030 or**  
 4 **28.35.032 only once; or**

5 **(D) \$500 if the person's driver's license has, within the 10**  
 6 **years preceding the application, been revoked under AS 28.35.030 or**  
 7 **28.35.032 two or more times.**

8 \* Sec. 21. AS 28.15.281(b) is amended to read:

9 (b) A person may not authorize or knowingly permit a motor vehicle owned  
 10 by the person or under the control of the person to be driven in this state by a person  
 11 who is not validly licensed. **This subsection does not apply to a victim of domestic**  
 12 **violence who authorizes or permits a motor vehicle to be driven due to fear of the**  
 13 **perpetrator of the domestic violence. In this subsection, "domestic violence" has**  
 14 **the meaning given in AS 18.66.990.**

15 \* Sec. 22. AS 28.33.030 is amended to read:

16 **Sec. 28.33.030. Operating a commercial motor vehicle while under the**  
 17 **influence of an alcoholic beverage, inhalant, or controlled substance**  
 18 **[INTOXICATED].** (a) A person commits the crime of operating a commercial  
 19 motor vehicle while **under the influence of an alcoholic beverage, inhalant, or**  
 20 **controlled substance** [INTOXICATED] if the person operates a commercial motor  
 21 vehicle

22 (1) while under the influence of **an alcoholic beverage, inhalant,**  
 23 **[INTOXICATING LIQUOR]** or any controlled substance;

24 (2) when, as determined by a chemical test taken within four hours  
 25 after the alleged offense was committed, there is 0.04 percent or more by weight of  
 26 alcohol in the person's blood or 40 milligrams or more of alcohol per 100 milliliters of  
 27 blood, or when there is 0.04 grams or more of alcohol per 210 liters of the person's  
 28 breath; or

29 (3) while under the combined influence of **an alcoholic beverage,**  
 30 **inhalant,** [INTOXICATING LIQUOR] and a controlled substance.

31 (b) Operating a commercial motor vehicle while **under the influence of an**

1 **alcoholic beverage, inhalant, or controlled substance** [INTOXICATED] is a class  
2 A misdemeanor.

3 (c) The sentencing of a person convicted under this section shall be in  
4 accordance with the minimum periods of imprisonment, fines, rehabilitative treatment,  
5 and other provisions of AS 28.35.030, as if the person had been convicted of a  
6 violation of AS 28.35.030. For purposes of sentencing, convictions for operating a  
7 commercial motor vehicle while **under the influence of an alcoholic beverage,**  
8 **inhalant, or controlled substance** [INTOXICATED] under this section, and for  
9 refusal to submit to a chemical test under AS 28.33.032, if arising out of a single  
10 transaction, are considered one previous conviction.

11 \* **Sec. 23.** AS 28.33.031(a) is amended to read:

12 (a) A person who operates a commercial motor vehicle in this state is  
13 considered to have given consent to a chemical test or tests

14 (1) of the person's breath if lawfully arrested for an offense arising out  
15 of acts alleged to have been committed when the person was operating the commercial  
16 motor vehicle while **under the influence of an alcoholic beverage, inhalant, or**  
17 **controlled substance** [INTOXICATED]; the test or tests may be administered at the  
18 direction of a law enforcement officer who has **probable cause** [REASONABLE  
19 GROUNDS] to believe that the person was operating a commercial motor vehicle  
20 while **under the influence of an alcoholic beverage, inhalant, or controlled**  
21 **substance** [INTOXICATED] in violation of AS 28.33.030 or AS 28.35.030;

22 (2) of the person's breath and blood for the purpose of determining the  
23 alcoholic content of the person's breath and blood and is considered to have given  
24 consent to a chemical test or tests of the person's blood and urine for the purpose of  
25 determining the presence of controlled substances in the person's blood and urine if  
26 the person is involved in a motor vehicle accident that causes death or serious physical  
27 injury to another person; the test or tests may be administered at the direction of a law  
28 enforcement officer who has **probable cause** [REASONABLE GROUNDS] to  
29 believe that the person was operating a commercial motor vehicle that was involved in  
30 an accident causing death or serious physical injury to another person.

31 \* **Sec. 24.** AS 28.33.031(c) is amended to read:

1 (c) A person who operates a commercial motor vehicle is considered to have  
 2 given consent to a preliminary breath test, at the direction of a law enforcement  
 3 officer, for the purpose of determining the alcoholic content of the person's blood or  
 4 breath. A law enforcement officer may administer a preliminary breath test if the  
 5 officer has **probable cause** [REASONABLE GROUNDS] to believe that the person's  
 6 ability to operate a commercial motor vehicle is impaired by the ingestion of alcoholic  
 7 beverages and that

8 (1) the commercial motor vehicle caused injury to person or property;

9 (2) the person violated the provisions of AS 28.33.130(a) or violated  
 10 the terms of an out-of-service order issued under AS 28.33.130; or

11 (3) the person unlawfully operated a commercial motor vehicle; in this  
 12 paragraph, "unlawfully" means in violation of any federal, state, or municipal statute,  
 13 regulation, or ordinance.

14 \* **Sec. 25.** AS 28.33.033(a) is amended to read:

15 (a) Upon the trial of a civil or criminal action or proceedings arising out of  
 16 acts alleged to have been committed by a person operating a commercial motor  
 17 vehicle while **under the influence of an alcoholic beverage** [INTOXICATED] in  
 18 violation of AS 28.33.030, the following rules apply with regard to the amount of  
 19 alcohol in the person's blood or breath at the time alleged:

20 (1) if there was less than 0.04 percent by weight of alcohol in the  
 21 person's blood, or less than 40 milligrams of alcohol per 100 milliliters of the person's  
 22 blood, or less than 0.04 grams of alcohol per 210 liters of the person's breath, that fact  
 23 does not give rise to a presumption that the person was or was not under the influence  
 24 of an **alcoholic beverage** [INTOXICATING LIQUOR], but that fact may be  
 25 considered with other competent evidence in determining whether the person was  
 26 under the influence of an **alcoholic beverage** [INTOXICATING LIQUOR];

27 (2) if there was 0.04 percent or more by weight of alcohol in the  
 28 person's blood, or 40 milligrams or more of alcohol per 100 milliliters of the person's  
 29 blood, or 0.04 grams or more of alcohol per 210 liters of the person's breath, it is  
 30 presumed that the person was under the influence of an **alcoholic beverage**  
 31 [INTOXICATING LIQUOR].

1 \* **Sec. 26.** AS 28.33.033(c) is amended to read:

2 (c) The provisions of (a) of this section may not be construed to limit the  
3 introduction of any other competent evidence bearing upon the question of whether  
4 the person was or was not under the influence of **an alcoholic beverage**  
5 [INTOXICATING LIQUOR].

6 \* **Sec. 27.** AS 28.33.140(a) is amended to read:

7 (a) In addition to the court action provided in AS 28.15.181, conviction of any  
8 of the following offenses is grounds for immediate disqualification from driving a  
9 commercial motor vehicle for the periods set out in this section:

10 (1) operating a commercial motor vehicle while **under the influence**  
11 **of an alcoholic beverage, inhalant, or controlled substance** [INTOXICATED] in  
12 violation of AS 28.33.030;

13 (2) refusal to submit to a chemical test in violation of AS 28.35.032;

14 (3) operating a motor vehicle while **under the influence of an**  
15 **alcoholic beverage, inhalant, or controlled substance** [INTOXICATED] in  
16 violation of AS 28.35.030;

17 (4) leaving the scene of an accident in violation of AS 28.35.060, or  
18 failing to file, or providing false information in, an accident report in violation of  
19 AS 28.35.110;

20 (5) a felony under state or federal law, which was facilitated because  
21 the person used a commercial motor vehicle;

22 (6) a serious traffic violation; or

23 (7) driving after being placed out of service in violation of regulations  
24 adopted under AS 28.05.011.

25 \* **Sec. 28.** AS 28.35.030(a) is amended to read:

26 (a) A person commits the crime of driving while **under the influence of an**  
27 **alcoholic beverage, inhalant, or controlled substance** [INTOXICATED] if the  
28 person operates or drives a motor vehicle or operates an aircraft or a watercraft

29 (1) while under the influence of **an alcoholic beverage**, intoxicating  
30 liquor, **inhalant**, or any controlled substance;

31 (2) when, as determined by a chemical test taken within four hours

1 after the alleged offense was committed, there is **0.08** [0.10] percent or more by  
 2 weight of alcohol in the person's blood or **80** [100] milligrams or more of alcohol per  
 3 100 milliliters of blood, or when there is **0.08** [0.10] grams or more of alcohol per 210  
 4 liters of the person's breath; or

5 (3) while the person is under the combined influence of **an alcoholic**  
 6 **beverage, an intoxicating liquor, an inhalant,** and a controlled substance.

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

8 (b) Except as provided under (n) of this section, driving while **under the**  
 9 **influence of an alcoholic beverage, inhalant, or controlled substance**  
 10 [INTOXICATED] is a class A misdemeanor. **Except as provided under (r) of this**  
 11 **section, upon** [UPON] conviction,

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

13 (A) not less than 72 consecutive hours and a fine of not less  
 14 than **\$1,500** [\$250] if the person has not been previously convicted;

15 (B) not less than **30 days, or not less than** 20 days **if the court**  
 16 **orders the person to perform 10 days of community service as authorized**  
 17 **under AS 12.55.055,** and a fine of not less than **\$3,000** [\$500] if the person  
 18 has been previously convicted once;

19 (C) not less than 60 days and a fine of not less than **\$4,000**  
 20 [\$1,000] if the person has been previously convicted twice and is not subject to  
 21 punishment under (n) of this section;

22 (D) not less than 120 days and a fine of not less than **\$5,000**  
 23 [\$2,000] if the person has been previously convicted three times and is not  
 24 subject to punishment under (n) of this section;

25 (E) not less than 240 days and a fine of not less than **\$6,000**  
 26 [\$3,000] if the person has been previously convicted four times and is not  
 27 subject to punishment under (n) of this section;

28 (F) not less than 360 days and a fine of not less than **\$7,000**  
 29 [\$4,000] if the person has been previously convicted more than four times and  
 30 is not subject to punishment under (n) of this section;

31 (2) the court 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;

4 (B) suspend imposition of sentence;

5 (3) the court shall revoke the person's driver's license, privilege to  
 6 drive, or privilege to obtain a license under AS 28.15.181, and may order **that** the  
 7 motor vehicle, [OR] aircraft, **or watercraft** that was used in commission of the  
 8 offense to be forfeited under AS 28.35.036;

9 **(4) the court shall, if the person has been previously convicted**

10 **(A) order the motor vehicle, aircraft, or watercraft used in**  
 11 **the commission of the offense forfeited under AS 28.35.036 or shall order**  
 12 **the motor vehicle, aircraft, or watercraft taken to the owner's residence or**  
 13 **property and immobilized for the period of time that the person's driver's**  
 14 **license is revoked; the court shall also require the person to pay any**  
 15 **administrative costs of keeping the motor vehicle, aircraft, or watercraft**  
 16 **immobilized; or**

17 **(B) two or more times, order the motor vehicle, aircraft, or**  
 18 **watercraft used in the commission of the offense forfeited under**  
 19 **AS 28.35.036.**

20 \* Sec. 30. AS 28.35.030(d) is amended to read:

21 (d) Except as prohibited by federal law or regulation, every provider of  
 22 treatment programs to which persons are ordered under [(h) OF] this section shall  
 23 supply the **judge, prosecutor, defendant, and an agency involved in the**  
 24 **defendant's treatment with information and reports concerning the defendant's**  
 25 **past and present assessment, treatment, and progress** [ALASKA COURT  
 26 SYSTEM WITH THE INFORMATION REGARDING THE CONDITION AND  
 27 TREATMENT OF THOSE PERSONS AS THE SUPREME COURT MAY  
 28 REQUIRE BY RULE]. Information compiled under this subsection is confidential  
 29 and may only be used **in connection with court proceedings involving the**  
 30 **defendant's treatment** [BY A COURT IN SENTENCING A PERSON  
 31 CONVICTED UNDER THIS SECTION, OR BY AN OFFICER OF THE COURT IN

1 PREPARING A PRESENTENCE REPORT FOR THE USE OF THE COURT IN  
2 SENTENCING A PERSON CONVICTED UNDER THIS SECTION].

3 \* **Sec. 31.** AS 28.35.030(h) is amended to read:

4 (h) The court shall order a person convicted under this section to satisfy the  
5 screening, evaluation, referral, and program requirements of an alcohol safety action  
6 program if such a program is available in the community where the person resides, or  
7 a private or public treatment facility approved by the division of alcoholism and drug  
8 abuse, of the Department of Health and Social Services, under AS 47.37 to make  
9 referrals for rehabilitative treatment or to provide rehabilitative treatment. If a person  
10 is convicted under (n) of this section, the court shall order the person to be evaluated  
11 as required by this subsection before the court imposes sentence for the offense.  
12 **Treatment required under this subsection shall occur, as much as possible, when**  
13 **the person is incarcerated. The cost of treatment required under this subsection**  
14 **shall be paid to the state by the person being treated. The cost of treatment**  
15 **required to be paid to the state under this subsection may not exceed \$10,000;**  
16 **however, the cost of treatment must include at least \$150 for the cost of an**  
17 **alcohol safety action program if the program is available. Upon the person's**  
18 **conviction, the court shall include reimbursement of the cost of treatment as a**  
19 **part of the sentence. Except for reimbursement from a permanent fund dividend**  
20 **as provided in this subsection, payment of the cost of treatment is not required if**  
21 **the court determines the person is indigent. For costs of treatment that are not**  
22 **paid by the person as required by this subsection, the state shall seek**  
23 **reimbursement from the person's permanent fund dividend as provided in**  
24 **AS 43.23.065. This subsection does not apply to costs of treatment incurred by a**  
25 **person if the cost is incurred as a result of treatment not required under this**  
26 **subsection.**

27 \* **Sec. 32.** AS 28.35.030(k) is amended to read:

28 (k) Imprisonment required under (b)(1)(A) or (B) of this section shall be  
29 served at a community residential center or, if a community residential center is not  
30 available, at another appropriate place determined by the commissioner of corrections.  
31 The cost of imprisonment resulting from the sentence imposed under (b)(1) of this

1 section shall be paid to the state by the person being sentenced provided, however, that  
 2 the cost of imprisonment required to be paid under this subsection may not exceed  
 3 **\$2,000** [\$1,000]. Upon the person's conviction, the court shall include the costs of  
 4 imprisonment as a part of the judgment of conviction. Except for reimbursement from  
 5 a permanent fund dividend as provided in this subsection, payment of the cost of  
 6 imprisonment is not required if the court determines the person is indigent. For costs  
 7 of imprisonment that are not paid by the person as required by this subsection, the  
 8 state shall seek reimbursement from the person's permanent fund dividend as provided  
 9 under AS 43.23.065. While at the community residential center or other appropriate  
 10 place, a person sentenced under (b)(1)(A) of this section shall perform at least 24  
 11 hours of community service work, and a person sentenced under (b)(1)(B) of this  
 12 section shall perform at least 160 hours of community service work, as required by the  
 13 director of the community residential center or other appropriate place. In this  
 14 subsection, "appropriate place" means a facility with 24-hour on-site staff supervision  
 15 that is specifically adapted to provide a residence, and includes a correctional center,  
 16 residential treatment facility, hospital, halfway house, group home, work farm, work  
 17 camp, or other place that provides varying levels of restriction.

18 \* **Sec. 33.** AS 28.35.030(n) is amended to read:

19 (n) A person is guilty of a class C felony if the person is convicted **under (a)**  
 20 **of this section** [OF DRIVING WHILE INTOXICATED] and has been previously  
 21 convicted two or more times **since January 1, 1996, and** within the **10** [FIVE] years  
 22 preceding the date of the present offense. For purposes of determining minimum  
 23 sentences based on previous convictions, the provisions of (o)(4) of this section apply.

24 **Except as provided under (r) of this section, upon** [UPON] conviction, the court

25 (1) shall impose a fine of not less than **\$10,000** [\$5,000] and a  
 26 minimum sentence of imprisonment of not less than

27 (A) **180** [120] days if the person has been previously convicted  
 28 twice;

29 (B) **360** [240] days if the person has been previously convicted  
 30 three times;

31 (C) **440** [360] days if the person has been previously convicted

1 four or more times;

2 (2) may not

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

6 (B) suspend imposition of sentence;

7 (3) shall **permanently** revoke the person's driver's license, privilege to  
8 drive, or privilege to obtain a license **subject to restoration of the license under (p)**  
9 **of this section** [UNDER AS 28.15.181(c)];

10 (4) may order as a condition of probation or parole that the person take  
11 a drug or combination of drugs, intended to prevent the consumption of an alcoholic  
12 beverage; a condition of probation imposed under this paragraph is in addition to any  
13 other condition authorized under another provision of law; [AND]

14 (5) **shall** [MAY] also order forfeiture under AS 28.35.036 of the  
15 vehicle, **watercraft**, or aircraft used in the commission of the offense, subject to  
16 remission under AS 28.35.037; **and**

17 **(6) shall order the department to revoke the registration for any**  
18 **vehicle registered by the department in the name of the person convicted under**  
19 **this subsection; if a person convicted under this subsection is a registered co-**  
20 **owner of a vehicle or is registered as a co-owner under a business name, the**  
21 **department shall reissue the vehicle registration and omit the name of the person**  
22 **convicted under this subsection.**

23 \* Sec. 34. AS 28.35.030(o) is amended to read:

24 (o) In this section,

25 (1) **"inhalant" has the meaning given to the phrase "hazardous**  
26 **volatile material or substance" in AS 47.37.270; [REPEALED]**

27 (2) "operate an aircraft" means to [USE,] navigate, pilot, or taxi an  
28 aircraft in the airspace over this state, or upon the land or water inside this state;

29 (3) "operate a watercraft" means to navigate [OR USE] a vessel used  
30 or capable of being used as a means of transportation on water for recreational or  
31 commercial purposes on all waters, fresh or salt, inland or coastal, inside the territorial

1 limits or under the jurisdiction of the state;

2 (4) "previously convicted" means having been convicted in this or  
3 another jurisdiction, [WITHIN 10 YEARS PRECEDING THE DATE OF THE  
4 PRESENT OFFENSE,] of any of the following offenses; however, convictions for any  
5 of these offenses, if arising out of a single transaction and a single arrest, are  
6 considered one previous conviction:

7 (A) operating a motor vehicle, aircraft, or watercraft while  
8 **under the influence of an alcoholic beverage, inhalant, or controlled**  
9 **substance** [INTOXICATED,] in violation of this section or in violation of  
10 another law or ordinance with similar elements, except that the other law or  
11 ordinance may provide for a lower level of alcohol in the person's blood or  
12 breath than imposed under (a)(2) of this section;

13 (B) refusal to submit to a chemical test in violation of  
14 AS 28.35.032 or in violation of another law or ordinance with similar  
15 elements; or

16 (C) operating a commercial motor vehicle while **under the**  
17 **influence of an alcoholic beverage, inhalant, or controlled substance**  
18 [INTOXICATED] in violation of AS 28.33.030 or in violation of another law  
19 or ordinance with similar elements, except that the other law or ordinance may  
20 provide for a lower level of alcohol in the person's blood or breath than  
21 imposed under AS 28.33.030(a)(2).

22 \* **Sec. 35.** AS 28.35.030 is amended by adding new subsections to read:

23 (p) Upon request, the department shall review a driver's license revocation  
24 imposed under (n)(3) of this section and may restore the driver's license if

25 (1) the license has been revoked for a period of at least 10 years;

26 (2) the person has not been convicted of a criminal offense since the  
27 license was revoked; and

28 (3) the person provides proof of financial responsibility.

29 (q) If a person is convicted under this section and has been previously  
30 convicted, the court shall order the person to surrender the registration plates for any  
31 vehicle registered or co-registered in the person's name. The person shall surrender

1 the registration plates to the department by the close of the next business day. A  
 2 person other than the person convicted under this section who applies to register a  
 3 motor vehicle that has registration plates that were required to be surrendered under  
 4 this section but that were not surrendered as required by this subsection may not  
 5 register the vehicle unless the person registering the vehicle provides proof  
 6 satisfactory to the department that the person did not know that the registration plates  
 7 were required to be surrendered under this subsection or the person pays twice the  
 8 applicable registration fee required under AS 28.10.421.

9 (r) The court may suspend

10 (1) a portion of the mandatory minimum sentence required under  
 11 (b)(1) or (n)(1) of this section if the court determines that the person has successfully  
 12 completed a therapeutic court program; and

13 (2) up to 50 percent of the minimum fines required under (b)(1) or  
 14 (n)(1) of this section.

15 (s) For purposes of this section, the director of the division within the  
 16 department responsible for administration of this section or a person designated by the  
 17 director may request and receive criminal justice information available under  
 18 AS 12.62. In this subsection, "criminal justice information" has the meaning given in  
 19 AS 12.62.900.

20 \* **Sec. 36.** AS 28.35.031(a) is amended to read:

21 (a) A person who operates or drives a motor vehicle in this state or who  
 22 operates an aircraft as defined in AS 28.35.030(o) [AS 28.35.030(o)(2)] or who  
 23 operates a watercraft as defined in AS 28.35.030(o) [AS 28.35.030(o)(3)] shall be  
 24 considered to have given consent to a chemical test or tests of the person's breath for  
 25 the purpose of determining the alcoholic content of the person's blood or breath if  
 26 lawfully arrested for an offense arising out of acts alleged to have been committed  
 27 while the person was operating or driving a motor vehicle or operating an aircraft or a  
 28 watercraft while **under the influence of an alcoholic beverage, inhalant, or**  
 29 **controlled substance** [INTOXICATED] or if lawfully arrested under AS 28.35.280  
 30 for the offense of minor operating a vehicle after consuming alcohol. The test or tests  
 31 shall be administered at the direction of a law enforcement officer who has **probable**

1        **cause** [REASONABLE GROUNDS] to believe that the person was operating or  
 2        driving a motor vehicle or operating an aircraft or a watercraft in this state while  
 3        **under the influence of an alcoholic beverage, inhalant, or controlled substance**  
 4        [INTOXICATED] or that the person was a minor operating a vehicle after consuming  
 5        alcohol.

6        \* **Sec. 37.** AS 28.35.031(b) is amended to read:

7                (b) A person who operates or drives a motor vehicle in this state or who  
 8                operates an aircraft or watercraft shall be considered to have given consent to a  
 9                preliminary breath test for the purpose of determining the alcoholic content of the  
 10              person's blood or breath. A law enforcement officer may administer a preliminary  
 11              breath test at the scene of the incident if the officer has **probable cause**  
 12              [REASONABLE GROUNDS] to believe that a person's ability to operate a motor  
 13              vehicle, aircraft, or watercraft is impaired by the ingestion of alcoholic beverages and  
 14              that the person

15                      (1) was operating or driving a motor vehicle, aircraft, or watercraft that  
 16                      is involved in an accident;

17                      (2) committed a moving traffic violation or unlawfully operated an  
 18                      aircraft or watercraft; in this paragraph, "unlawfully" means in violation of any  
 19                      federal, state, or municipal statute, regulation, or ordinance, except for violations that  
 20                      do not provide reason to believe that the operator's ability to operate the aircraft or  
 21                      watercraft was impaired by the ingestion of alcoholic beverages; or

22                      (3) was operating or driving a motor vehicle in violation of  
 23                      AS 28.35.029(a).

24        \* **Sec. 38.** AS 28.35.031(g) is amended to read:

25                (g) A person who operates or drives a motor vehicle in this state shall be  
 26                considered to have given consent to a chemical test or tests of the person's breath and  
 27                blood for the purpose of determining the alcoholic content of the person's breath and  
 28                blood and shall be considered to have given consent to a chemical test or tests of the  
 29                person's blood and urine for the purpose of determining the presence of controlled  
 30                substances in the person's blood and urine if the person is involved in a motor vehicle  
 31                accident that causes death or serious physical injury to another person. The test or

1 tests may be administered at the direction of a law enforcement officer who has  
 2 **probable cause** [REASONABLE GROUNDS] to believe that the person was  
 3 operating or driving a motor vehicle in this state that was involved in an accident  
 4 causing death or serious physical injury to another person.

5 \* **Sec. 39.** AS 28.35.031 is amended by adding a new subsection to read:

6 (h) Nothing in this section shall be construed to restrict searches or seizures  
 7 under a warrant issued by a judicial officer, in addition to a test permitted under this  
 8 section.

9 \* **Sec. 40.** AS 28.35.032(a) is amended to read:

10 (a) If a person under arrest for operating a motor vehicle or aircraft while  
 11 **under the influence of an alcoholic beverage, inhalant, or controlled substance**  
 12 [INTOXICATED] refuses the request of a law enforcement officer to submit to a  
 13 chemical test authorized under AS 28.33.031(a)(1) or AS 28.35.031(a), or if a person  
 14 involved in a motor vehicle accident that causes death or serious physical injury to  
 15 another person refuses the request of a law enforcement officer to submit to a  
 16 chemical test authorized under AS 28.33.031(a)(2) or AS 28.35.031(g), after being  
 17 advised by the officer that the refusal will result in the denial or revocation of the  
 18 driver's license, privilege to drive, or privilege to obtain a license, that the refusal may  
 19 be used against the person in a civil or criminal action or proceeding arising out of an  
 20 act alleged to have been committed by the person while operating a motor vehicle or  
 21 aircraft while **under the influence of an alcoholic beverage, inhalant, or controlled**  
 22 **substance** [INTOXICATED], and that the refusal is a crime, a chemical test may not  
 23 be given, except as provided by AS 28.35.035. If a person under arrest for operating a  
 24 watercraft while **under the influence of an alcoholic beverage, inhalant, or**  
 25 **controlled substance** [INTOXICATED] refuses the request of a law enforcement  
 26 officer to submit to a chemical test authorized under AS 28.35.031(a), after being  
 27 advised by the officer that the refusal may be used against the person in a civil or  
 28 criminal action or proceeding arising out of an act alleged to have been committed by  
 29 the person while operating a watercraft while **under the influence of an alcoholic**  
 30 **beverage, inhalant, or controlled substance** [INTOXICATED], and that the refusal  
 31 is a crime, a chemical test may not be given, except as provided by AS 28.35.035.

1 \* **Sec. 41.** AS 28.35.032(e) is amended to read:

2 (e) The refusal of a person to submit to a chemical test authorized under  
3 AS 28.33.031(a) or AS 28.35.031(a) or (g) is admissible evidence in a civil or criminal  
4 action or proceeding arising out of an act alleged to have been committed by the  
5 person while operating or driving a motor vehicle or operating an aircraft or watercraft  
6 while **under the influence of an alcoholic beverage, inhalant, or controlled**  
7 **substance** [INTOXICATED].

8 \* **Sec. 42.** AS 28.35.032(g) is amended to read:

9 (g) **Except as provided under (t) of this section, upon** [UPON] conviction  
10 under this section,

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

12 (A) not less than 72 consecutive hours and a fine of not less  
13 than **\$1,500** [\$250] if the person has not been previously convicted;

14 (B) not less than **30 days, or not less than** 20 days **if the court**  
15 **orders the person to perform 10 days of community service as authorized**  
16 **under AS 12.55.055,** and a fine of not less than **\$3,000** [\$500] if the person  
17 has been previously convicted once;

18 (C) not less than 60 days and a fine of not less than **\$4,000**  
19 [\$1,000] if the person has been previously convicted twice and is not subject to  
20 punishment under (p) of this section;

21 (D) not less than 120 days and a fine of not less than **\$5,000**  
22 [\$2,000] if the person has been previously convicted three times and is not  
23 subject to punishment under (p) of this section;

24 (E) not less than 240 days and a fine of not less than **\$6,000**  
25 [\$3,000] if the person has been previously convicted four times and is not  
26 subject to punishment under (p) of this section;

27 (F) not less than 360 days and a fine of not less than **\$7,000**  
28 [\$4,000] if the person has been previously convicted more than four times and  
29 is not subject to punishment under (p) of this section;

30 (2) the court may not

31 (A) suspend execution of the sentence required by (1) of this

1 subsection or grant probation, except on condition that the person serve the  
2 minimum imprisonment under (1) of this subsection; or

3 (B) suspend imposition of sentence;

4 (3) the court shall revoke the person's driver's license, privilege to  
5 drive, or privilege to obtain a license under AS 28.15.181, and may order **that** the  
6 motor vehicle, [OR] aircraft, **or watercraft** that was used in commission of the  
7 offense be forfeited under AS 28.35.036; [AND]

8 (4) **the court shall, if the person has been previously convicted**

9 **(A) order the motor vehicle, aircraft, or watercraft used in**  
10 **the commission of the offense forfeited under AS 28.35.036 or shall order**  
11 **the motor vehicle, aircraft, or watercraft taken to the owner's residence or**  
12 **property and immobilized for the period of time that the person's driver's**  
13 **license is revoked; the court shall also require the person to pay any**  
14 **administrative costs of keeping the motor vehicle, aircraft, or watercraft**  
15 **immobilized; or**

16 **(B) two or more times, order the motor vehicle, aircraft, or**  
17 **watercraft used in the commission of the offense forfeited under**  
18 **AS 28.35.036;**

19 (5) 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. 43.** AS 28.35.032(h) is amended to read:

22 (h) Except as prohibited by federal law or regulation, every provider of  
23 treatment programs to which persons are ordered under [(l) OF] this section shall  
24 supply the **judge, prosecutor, defendant, and an agency involved in the**  
25 **defendant's treatment with information and reports concerning the defendant's**  
26 **past and present assessment, treatment, and progress** [ALASKA COURT  
27 SYSTEM WITH THE INFORMATION REGARDING THE CONDITION AND  
28 TREATMENT OF THOSE PERSONS AS THE SUPREME COURT MAY  
29 REQUIRE BY RULE]. Information compiled under this subsection is confidential  
30 and may only be used **in connection with court proceedings involving the**  
31 **defendant's treatment** [BY A COURT IN SENTENCING A PERSON

1 CONVICTED UNDER THIS SECTION, OR BY AN OFFICER OF THE COURT IN  
 2 PREPARING A PRE-SENTENCE REPORT FOR THE USE OF THE COURT IN  
 3 SENTENCING A PERSON CONVICTED UNDER THIS SECTION].

4 \* **Sec. 44.** AS 28.35.032(j) is amended to read:

5 (j) For purposes of this section, convictions for operating or driving while  
 6 **under the influence of an alcoholic beverage, inhalant, or controlled substance**  
 7 **[INTOXICATED]** under AS 28.33.030 or AS 28.35.030 and for refusal to submit to a  
 8 chemical test under this section, if arising out of a single transaction and a single  
 9 arrest, are considered one previous conviction.

10 \* **Sec. 45.** AS 28.35.032(l) is amended to read:

11 (l) The court shall order a person convicted under this section to satisfy the  
 12 screening, evaluation, referral, and program requirements of an alcohol safety action  
 13 program if such a program is available in the community where the person resides, or  
 14 a private or public treatment facility approved by the division of alcoholism and drug  
 15 abuse, of the Department of Health and Social Services, under AS 47.37 to make  
 16 referrals for rehabilitative treatment or to provide rehabilitative treatment. If a person  
 17 is convicted under (p) of this section, the court shall order the person to be evaluated  
 18 as required by this subsection before the court imposes sentence for the offense.  
 19 **Treatment required under this subsection shall occur, as much as possible, when**  
 20 **the person is incarcerated. The cost of treatment required under this subsection**  
 21 **shall be paid to the state by the person being treated. The cost of treatment**  
 22 **required to be paid to the state under this subsection may not exceed \$10,000;**  
 23 **however, the cost of treatment must include at least \$150 for the cost of an**  
 24 **alcohol safety action program if the program is available. Upon the person's**  
 25 **conviction, the court shall include reimbursement of the cost of treatment as a**  
 26 **part of the sentence. Except for reimbursement from a permanent fund dividend**  
 27 **as provided in this subsection, payment of the cost of treatment is not required if**  
 28 **the court determines the person is indigent. For costs of treatment that are not**  
 29 **paid by the person as required by this subsection, the state shall seek**  
 30 **reimbursement from the person's permanent fund dividend as provided in**  
 31 **AS 43.23.065. This subsection does not apply to costs of treatment incurred by a**

1        **person if the cost is incurred as a result of treatment not required under this**  
 2        **subsection.**

3        \* **Sec. 46.** AS 28.35.032(o) is amended to read:

4                (o) Imprisonment required under (g)(1)(A) or (B) of this section shall be  
 5        served at a community residential center, or if a community residential center is not  
 6        available, at another appropriate place determined by the commissioner of corrections.  
 7        The cost of imprisonment resulting from the sentence imposed under (g)(1) of this  
 8        section shall be paid to the state by the person being sentenced provided, however, that  
 9        the cost of imprisonment required to be paid under this subsection may not exceed  
 10       **\$2,000** [\$1,000]. Upon the person's conviction, the court shall include the costs of  
 11       imprisonment as a part of the judgment of conviction. Except for reimbursement from  
 12       a permanent fund dividend as provided in this subsection, payment of the cost of  
 13       imprisonment is not required if the court determines the person is indigent. For costs  
 14       of imprisonment that are not paid by the person as required by this subsection, the  
 15       state shall seek reimbursement from the person's permanent fund dividend as provided  
 16       under AS 43.23.065. While at the community residential center or other appropriate  
 17       place, a person sentenced under (g)(1)(A) of this section shall perform at least 24  
 18       hours of community service work and a person sentenced under (g)(1)(B) of this  
 19       section shall perform at least 160 hours of community service work, as required by the  
 20       director of the community residential center or other appropriate place. In this  
 21       subsection, "appropriate place" means a facility with 24-hour on-site staff supervision  
 22       that is specifically adapted to provide a residence, and includes a correctional center,  
 23       residential treatment facility, hospital, halfway house, group home, work farm, work  
 24       camp, or other place that provides varying levels of restriction.

25        \* **Sec. 47.** AS 28.35.032(p) is amended to read:

26                (p) A person is guilty of a class C felony if the person is convicted under this  
 27        section and has been previously convicted two or more times **since January 1, 1996,**  
 28        **and** within the **10** [FIVE] years preceding the date of the present offense. For  
 29        purposes of determining minimum sentences based on previous convictions, the  
 30        provisions of AS 28.35.030(o)(4) apply. **Except as provided under (t) of this**  
 31        **section, upon** [UPON] conviction,

1 (1) the court shall impose a fine of not less than **\$10,000** [\$5,000] and  
2 a minimum sentence of imprisonment of not less than

3 (A) **180** [120] days if the person has been previously convicted  
4 twice;

5 (B) **360** [240] days if the person has been previously convicted  
6 three times;

7 (C) **440** [360] days if the person has been previously convicted  
8 four or more times;

9 (2) the court may not

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

13 (B) suspend imposition of sentence;

14 (3) the court shall **permanently** revoke the person's driver's license,  
15 privilege to drive, or privilege to obtain a license **subject to restoration under (r) of**  
16 **this section** [UNDER AS 28.15.181(c)];

17 (4) the court may order as a condition of probation or parole that the  
18 person take a drug, or combination of drugs, intended to prevent consumption of an  
19 alcoholic beverage; a condition of probation imposed under this paragraph is in  
20 addition to any other condition authorized under another provision of law;

21 (5) the sentence imposed by the court under this subsection shall run  
22 consecutively with any other sentence of imprisonment imposed on the person; [AND]

23 (6) the court **shall** [MAY] also order forfeiture under AS 28.35.036, of  
24 the **motor** vehicle, [OR] aircraft, **or watercraft** used in the commission of the offense,  
25 subject to remission under AS 28.35.037; **and**

26 **(7) shall order the department to revoke the registration for any**  
27 **vehicle registered by the department in the name of the person convicted under**  
28 **this subsection; if a person convicted under this subsection is a registered co-**  
29 **owner of a vehicle, the department shall reissue the vehicle registration and omit**  
30 **the name of the person convicted under this subsection.**

31 \* **Sec. 48.** AS 28.35.032 is amended by adding new subsections to read:

1 (r) Upon request, the department shall review a driver's license revocation  
2 imposed under (p)(3) of this section and may restore the driver's license if

3 (1) the license has been revoked for a period of at least 10 years;

4 (2) the person has not been convicted of a criminal offense since the  
5 license was revoked; and

6 (3) the person provides proof of financial responsibility.

7 (s) If a person is convicted under this section and has been previously  
8 convicted, the court shall order the person to surrender the registration plates for any  
9 vehicle registered or co-registered in the person's name. The person shall surrender  
10 the registration plates to the department by the close of the next business day. A  
11 person other than the person convicted under this section who applies to register a  
12 motor vehicle that has registration plates that were required to be surrendered under  
13 this section but that were not surrendered as required by this subsection may not  
14 register the vehicle unless the person registering the vehicle provides proof  
15 satisfactory to the department that the person did not know that the registration plates  
16 were required to be surrendered under this subsection or the person pays twice the  
17 applicable registration fee required under AS 28.10.421.

18 (t) The court may suspend

19 (1) a portion of the mandatory minimum sentence required under  
20 (g)(1) or (p)(1) of this section if the court determines that the person has successfully  
21 completed a therapeutic court program; and

22 (2) up to 50 percent of the minimum fine required under (g)(1) and  
23 (p)(1) of this section.

24 \* **Sec. 49.** AS 28.35.033(a) is amended to read:

25 (a) Upon the trial of a civil or criminal action or proceeding arising out of acts  
26 alleged to have been committed by a person while operating or driving a motor vehicle  
27 or operating an aircraft or a watercraft while **under the influence of an alcoholic**  
28 **beverage, inhalant, or controlled substance** [INTOXICATED], the amount of  
29 alcohol in the person's blood or breath at the time alleged shall give rise to the  
30 following presumptions:

31 (1) If there was **0.04** [0.05] percent or less by weight of alcohol in the

1 person's blood, or **40** [50] milligrams or less of alcohol per 100 milliliters of the  
 2 person's blood, or **0.04** [0.05] grams or less of alcohol per 210 liters of the person's  
 3 breath, it shall be presumed that the person was not under the influence of **an**  
 4 **alcoholic beverage** [INTOXICATING LIQUOR].

5 (2) If there was in excess of **0.04** [0.05] percent but less than **0.08**  
 6 [0.10] percent by weight of alcohol in the person's blood, or in excess of **40** [50] but  
 7 less than **80** [100] milligrams of alcohol per 100 milliliters of the person's blood, or in  
 8 excess of **0.04** [0.05] grams but less than **0.08** [0.10] grams of alcohol per 210 liters of  
 9 the person's breath, that fact does not give rise to any presumption that the person was  
 10 or was not under the influence of **an alcoholic beverage** [INTOXICATING  
 11 LIQUOR], but that fact may be considered with other competent evidence in  
 12 determining whether the person was under the influence of **an alcoholic beverage**  
 13 [INTOXICATING LIQUOR].

14 (3) [REPEALED]

15 (4) If there was **0.08** [0.10] percent or more by weight of alcohol in  
 16 the person's blood, or **80** [100] milligrams or more of alcohol per 100 milliliters of the  
 17 person's blood, or **0.08** [0.10] grams or more of alcohol per 210 liters of the person's  
 18 breath, it shall be presumed that the person was under the influence of **an alcoholic**  
 19 **beverage** [INTOXICATING LIQUOR].

20 \* **Sec. 50.** AS 28.35.033(e) is amended to read:

21 (e) The person tested may have a physician, or a qualified technician, chemist,  
 22 registered nurse, or other qualified person of the person's own choosing administer a  
 23 chemical test in addition to the test administered at the direction of a law enforcement  
 24 officer. The failure or inability to obtain an additional test by a person does not  
 25 preclude the admission of evidence relating to the test taken at the direction of a law  
 26 enforcement officer; the fact that the person under arrest sought to obtain such an  
 27 additional test, and failed or was unable so to do, is likewise admissible in evidence.  
 28 **The person who administers the chemical test shall clearly and expressly inform**  
 29 **the person tested of that person's right to an independent test described under**  
 30 **this subsection, and, if the person being tested requests an independent test, the**  
 31 **department shall make reasonable and good-faith efforts to assist the person**

1 **being tested in contacting a person qualified to perform an independent chemical**  
 2 **test of the person's breath or blood.**

3 \* **Sec. 51.** AS 28.35.035(a) is amended to read:

4 (a) If a person is under arrest for an offense arising out of acts alleged to have  
 5 been committed while the person was operating a motor vehicle, aircraft, or watercraft  
 6 while **under the influence of an alcoholic beverage, inhalant, or controlled**  
 7 **substance** [INTOXICATED], and that arrest results from an accident that causes  
 8 death or physical injury to another person, a chemical test may be administered  
 9 without the consent of the person arrested to determine the amount of alcohol in that  
 10 person's breath or blood or to determine the presence of controlled substances in that  
 11 person's blood and urine.

12 \* **Sec. 52.** AS 28.35.036(a) is amended to read:

13 (a) After conviction of an offense under AS 28.35.030 or 28.35.032, the **court**  
 14 [STATE] may [MOVE THE COURT TO] order the forfeiture of the motor vehicle,  
 15 [OR] aircraft, **or watercraft** involved in the commission of the offense **and shall**  
 16 **order forfeiture of the motor vehicle, aircraft, or watercraft** if the convicted  
 17 person has been previously convicted **twice** in this or another jurisdiction [OF MORE  
 18 THAN ONE OF THE FOLLOWING OFFENSES] or has [MORE THAN ONCE]  
 19 been previously convicted **twice** of one of the following offenses:

20 (1) driving while **under the influence of an alcoholic beverage,**  
 21 **inhalant, or controlled substance** [INTOXICATED] under AS 28.35.030 or another  
 22 law or ordinance with substantially similar elements; or

23 (2) refusal to submit to a chemical test under AS 28.35.032 or another  
 24 law or ordinance with substantially similar elements.

25 \* **Sec. 53.** AS 28.35.036(e) is amended to read:

26 (e) If not released under AS 28.35.037, a motor vehicle, **aircraft, or**  
 27 **watercraft** forfeited under this section may be disposed of at the discretion of the  
 28 Department of Public Safety. **Disposal under this subsection includes, by way of**  
 29 **example and not of limitation,**

30 **(1) sale, as a unit or in parts, including sale at an auction, and the**  
 31 **proceeds deposited into the general fund;**

1 **(2) transfer to a state or municipal law enforcement agency;**

2 **(3) being declared surplus and transferred to the Department of**

3 **Administration; or**

4 **(4) being destroyed.**

5 \* **Sec. 54.** AS 28.35.038 is amended to read:

6 **Sec. 28.35.038. Municipal impoundment and forfeiture.** Notwithstanding  
7 other provisions in this title, a municipality may adopt an ordinance providing for the  
8 impoundment or forfeiture of a motor vehicle [,] or aircraft [,] involved in the  
9 commission of an offense under AS 28.35.030, 28.35.032, or an ordinance with  
10 elements substantially similar to AS 28.35.030 or 28.35.032. An ordinance adopted  
11 under this section **may include a fee for the administrative costs incurred by the**  
12 **municipality and** is not required to be consistent with this title or regulations adopted  
13 under this title.

14 \* **Sec. 55.** AS 28.35.039(2) is amended to read:

15 (2) "alcohol safety action program" means a program **for alcohol and**  
16 **substance abuse screening, referral, and monitoring developed and implemented**  
17 **or approved by the Department of Health and Social Services under AS 47.37**  
18 [DESIGNATED BY THE COMMISSIONER OF HEALTH AND SOCIAL  
19 SERVICES AS AN ALCOHOL SAFETY ACTION PROGRAM].

20 \* **Sec. 56.** AS 47.37.040(14) is amended to read:

21 (14) cooperate with the Department of Public Safety and the  
22 Department of Transportation and Public Facilities in establishing and conducting  
23 programs designed to deal with the problem of persons operating motor vehicles while  
24 **under the influence of an alcoholic beverage, inhalant, or controlled substance**  
25 [INTOXICATED OR UNDER THE INFLUENCE OF DRUGS], and develop and  
26 approve alcohol information courses required to be taken by drivers under AS 28.15 or  
27 made available to drivers to reduce points assessed for violation of traffic laws;

28 \* **Sec. 57.** AS 47.37.040 is amended by adding a new paragraph to read:

29 (20) develop and implement, or designate, in cooperation with other  
30 state or local agencies, an alcohol safety action program that provides alcohol and  
31 substance abuse screening, referral, and monitoring services to persons who have been

1 referred by a court in connection with a charge or conviction of a misdemeanor  
 2 involving the use of a motor vehicle, aircraft, or watercraft and alcohol or a controlled  
 3 substance, or referred by an agency of the state with the responsibility for  
 4 administering motor vehicle laws in connection with a driver's license action involving  
 5 the use of alcohol or a controlled substance.

6 \* **Sec. 58.** AS 47.37.130(b) is amended to read:

7 (b) The program of the division must include

8 (1) emergency treatment provided by a facility affiliated with or part of  
 9 the medical service of a general hospital;

10 (2) inpatient treatment;

11 (3) intermediate treatment; [AND]

12 (4) outpatient and follow-up treatment; **and**

13 **(5) standards for alcohol safety action programs; the standards**  
 14 **may vary in their requirements and stringency according to the population, price**  
 15 **level, remoteness, access to transportation, and availability of ancillary services of**  
 16 **the area to be served; a program must meet the applicable standards before it is**  
 17 **approved by the division as an alcohol safety action program; the standards**  
 18 **required under this paragraph shall be established in a manner that provides**  
 19 **protection of the health, safety, and well-being of clients of the affected programs**  
 20 **and protection for the affected programs from exposure to malpractice and**  
 21 **liability actions.**

22 \* **Sec. 59.** AS 47.37.130 is amended by adding new subsections to read:

23 (h) The division shall

24 (1) inspect, on a regular basis, approved public and private alcohol  
 25 safety action programs at reasonable times and in a reasonable manner; and

26 (2) maintain a list of approved public and private alcohol safety action  
 27 programs.

28 (i) An approved public and private alcohol safety action program shall file  
 29 with the division on request data, statistics, schedules, and information that the  
 30 division reasonably requires. An approved program that fails without good cause to  
 31 furnish any data, statistics, schedules, or information as requested, or files fraudulent

1 returns of them, shall be removed from the list of approved programs.

2 (j) The director, after holding a hearing under the provisions of AS 44.62  
3 (Administrative Procedure Act), may suspend, revoke, limit, restrict, or refuse to grant  
4 an approval for an alcohol safety action program for failure to meet standards  
5 established under (b) of this section.

6 \* **Sec. 60.** The uncodified law of the State of Alaska is amended by adding a new section to  
7 read:

8 APPLICABILITY. (a) Section 6 of this Act applies to registration of a motor vehicle  
9 that occurs on or after the effective date of this Act.

10 (b) This Act applies to offenses committed on or after the effective date of this Act,  
11 except that references to previous convictions include convictions occurring before, on, or  
12 after the effective date of this Act.

13 \* **Sec. 61.** This Act takes effect July 1, 2001.