

HOUSE BILL NO. 179

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Introduced: 3/13/01
Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to underage drinking and drug offenses; and providing for an effective**
2 **date."**

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

4 * **Section 1.** AS 04.16.050(b) is amended to read:

5 (b) A person who violates (a) of this section **and who has not been**
6 **previously convicted** is guilty of **minor consuming or in possession or control** [A
7 VIOLATION]. Upon conviction in the district court, the court may impose a fine of
8 **not more than \$600 and** not less than **\$200 and shall impose at least 24 hours of**
9 **community work service** [\$100].

10 * **Sec. 2.** AS 04.16.050 is amended by adding new subsections to read:

11 (c) A person who violates (a) of this section and who has been previously
12 convicted once is guilty of repeat minor consuming or in possession or control. Upon
13 conviction in the district court, the court may impose a fine of not more than \$1,000
14 and not less than \$500, and shall impose at least 48 hours of community work service.

1 (d) A person who violates (a) of this section and who has been previously
 2 convicted two or more times is guilty of habitual minor consuming or in possession or
 3 control. Habitual minor consuming or in possession or control is a class B
 4 misdemeanor. Upon conviction, or upon an adjudication of delinquency, the court
 5 shall revoke the person's driver's license or permit, privilege to drive, or privilege to
 6 obtain that a license for six months, take possession of the person's driver's license or
 7 permit, require that the person receive alcoholism treatment specified under
 8 AS 28.35.030(h), and impose at least 96 hours of community work service. The court
 9 shall, by the end of the following business day, notify the agency responsible for
 10 issuing driver's licenses of a revocation under this subsection.

11 (e) A driver's license or permit, privilege to drive, or privilege to obtain a
 12 license revocation imposed under this section shall be consecutive to a revocation
 13 imposed under another provision of law, but shall be concurrent with a revocation
 14 under this section if the person has been previously convicted or received an informal
 15 adjustment for a violation of this section under AS 47.12.060.

16 (f) In this section, "previously convicted" means a conviction or an
 17 adjudication as a delinquent for a violation of (a) of this section, AS 11.71,
 18 AS 28.35.030, 28.35.032, 28.35.280 - 28.35.290, or a law or ordinance in another
 19 jurisdiction with substantially similar elements.

20 * **Sec. 3.** AS 04.16.180(a) is amended to read:

21 (a) Except as provided in AS 04.11.015, AS 04.16.025, **04.16.050**
 22 [AS 04.16.050(b)], 04.16.051, 04.16.200 - 04.16.210, and AS 04.21.065, a person who
 23 violates a provision of this title or a regulation adopted by the board is guilty, upon
 24 conviction, of a class A misdemeanor. Each violation is a separate offense.

25 * **Sec. 4.** AS 28.15 is amended by adding a new section to read:

26 **Sec. 28.15.176. Administrative revocation of license to drive for minors**
 27 **who consume or possess alcohol or drugs.** The department shall revoke the driver's
 28 license or permit, privilege to drive, or privilege to obtain a license of a minor for

29 (1) six months when notified of an informal adjustment under
 30 AS 47.12.060(b)(4) and shall revoke the minor's driver's license or permit, privilege to
 31 drive, or privilege to obtain a license for an additional six months when notified of an

1 unsuccessful adjustment under that paragraph;

2 (2) the time period specified in AS 28.15.185(b) when notified of an informal
3 adjustment under AS 47.12.060(b)(5).

4 * **Sec. 5.** AS 28.15.181 is amended by adding a new subsection to read:

5 (i) A court convicting a person under AS 04.16.050(d) shall revoke the
6 person's driver's license or permit, privilege to drive, or privilege to obtain a license as
7 provided in AS 04.16.050.

8 * **Sec. 6.** AS 28.15.183(a) is amended to read:

9 (a) If a peace officer has probable cause to believe that a person who is at least
10 14 years of age but not yet 21 years of age has [POSSESSED OR USED A
11 CONTROLLED SUBSTANCE IN VIOLATION OF AS 11.71 OR A MUNICIPAL
12 ORDINANCE WITH SUBSTANTIALLY SIMILAR ELEMENTS, POSSESSED OR
13 CONSUMED ALCOHOL IN VIOLATION OF AS 04.16.050 OR A MUNICIPAL
14 ORDINANCE WITH SUBSTANTIALLY SIMILAR ELEMENTS,] operated a
15 vehicle after consuming alcohol in violation of AS 28.35.280, or refused to submit to a
16 chemical test under AS 28.35.285, and the peace officer has cited the person or
17 arrested the person for the offense, the peace officer shall read a notice and deliver a
18 copy to the person. The notice must advise that

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

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

22 (3) if the person has a driver's license or permit, the notice itself is a
23 temporary driver's license or permit that expires 10 days after it is delivered to the
24 person;

25 (4) revocation of the person's driver's license or permit, privilege to
26 drive, or privilege to obtain a license or permit, takes effect 10 days after delivery of
27 the notice to the person unless the person, within 10 days, requests an administrative
28 review;

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

1 * **Sec. 7.** AS 28.15.183(c) is amended to read:

2 (c) Unless the person has requested an administrative review, the department
3 shall revoke the person's driver's license or permit, privilege to drive, or privilege to
4 obtain a license or permit, effective 10 days after delivery to the person of the notice
5 required under (a) of this section, upon receipt of a sworn report of a peace officer

6 (1) that the officer had probable cause to believe that the person is at
7 least 14 years of age but not yet 21 years of age and has violated one of the offenses
8 described in (a) of this section;

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

10 [(A)] a violation of [AS 11.71, AS 04.16.050,] AS 28.35.280 [,]
11 or 28.35.285 [;] or

12 [(B) POSSESSION OR USE OF A CONTROLLED
13 SUBSTANCE OR ALCOHOL IN VIOLATION OF] a municipal ordinance
14 with substantially similar elements;

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

16 (4) describing the circumstances surrounding the offense.

17 * **Sec. 8.** AS 28.15.183(i) is amended to read:

18 (i) A person whose driver's license, permit, or privilege **to drive** was revoked
19 under this section may apply for reinstatement of the person's driver's license as
20 provided in this subsection. A person may apply to the department for reinstatement
21 by filing a written request for review of the revocation imposed under this section with
22 the department. The department shall issue a new license or reissue the person's
23 driver's license

24 [(1)] as provided under AS 28.15.211(d) if the department finds that

25 **(1)** [(A)] the application for reinstatement is filed at least one
26 year after the person's license, permit, or privilege was revoked;

27 **(2)** [(B)] the person complies with (g) of this section; and

28 **(3)** [(C)] the person has not violated a provision of this title or a
29 regulation of the department since the revocation [; OR

30 (2) IMMEDIATELY IF

31 (A) THE OFFENSE DESCRIBED UNDER (a) OF THIS

1 SECTION FOR WHICH THE PERSON WAS CITED OR ARRESTED IS
 2 NOT PROSECUTED OR THE PROSECUTION RESULTS IN DISMISSAL
 3 BY A COURT; OR

4 (B) A COURT OR JURY FINDS THAT THE PERSON IS
 5 NOT GUILTY OF THE OFFENSE DESCRIBED UNDER (a) OF THIS
 6 SECTION FOR WHICH THE PERSON WAS CITED OR ARRESTED].

7 * **Sec. 9.** AS 28.15.184(g) is amended to read:

8 (g) The hearing for review of a revocation by the department under
 9 AS 28.15.183 shall be limited to the issues of whether the person was at least 14 years
 10 of age but not yet 21 years of age and whether the person [POSSESSED OR USED A
 11 CONTROLLED SUBSTANCE IN VIOLATION OF AS 11.71 OR A MUNICIPAL
 12 ORDINANCE WITH SUBSTANTIALLY SIMILAR ELEMENTS, OR POSSESSED
 13 OR CONSUMED ALCOHOL IN VIOLATION OF AS 04.16.050 OR A
 14 MUNICIPAL ORDINANCE WITH SUBSTANTIALLY SIMILAR ELEMENTS,]
 15 operated a vehicle after consuming alcohol in violation of AS 28.35.280 [,] or refused
 16 to submit to a chemical test of breath in violation of AS 28.35.285.

17 * **Sec. 10.** AS 28.15.185(a) is amended to read:

18 (a) A person [WHO IS AT LEAST 13 YEARS OF AGE BUT NOT OLDER
 19 THAN 17 YEARS OF AGE] is subject to revocation, under (b) of this section, of the
 20 person's driver's license or permit, privilege to drive, or privilege to obtain a license if
 21 the person

22 **(1) is at least 13 years of age but not yet 21 years of age and** is
 23 convicted of or is adjudicated a delinquent minor by a court for

24 [(1)] misconduct involving a controlled substance under AS 11.71 or a
 25 municipal ordinance with substantially similar elements; or

26 **(2) is at least 13 years of age but not yet 18 years of age and is**
 27 **convicted of or is adjudicated a delinquent minor by a court for** an offense
 28 involving the illegal use or possession of a firearm that is punishable under AS 11 or a
 29 municipal ordinance with substantially similar elements.

30 * **Sec. 11.** AS 28.15.185 is amended by adding a new subsection to read:

31 (e) In addition to revocation imposed under this section, a court that

1 adjudicates a delinquent minor for habitual minor consuming or in possession or
 2 control under AS 04.16.050(d) shall revoke the minor's driver's license, privilege to
 3 drive, or privilege to obtain a license as provided in AS 04.16.050(d).

4 * **Sec. 12.** AS 47.12.030(b) is amended to read:

5 (b) When a minor is accused of violating a statute specified in this subsection,
 6 other than a statute the violation of which is a felony, this chapter and the Alaska
 7 Delinquency Rules do not apply and the minor accused of the offense shall be
 8 charged, prosecuted, and sentenced in the district court in the same manner as an
 9 adult; if a minor is charged, prosecuted, and sentenced for an offense under this
 10 subsection, the minor's parent, guardian, or legal custodian shall be present at all
 11 proceedings; the provisions of this subsection apply when a minor is accused of
 12 violating

13 (1) a traffic statute or regulation, or a traffic ordinance or regulation of
 14 a municipality;

15 (2) AS 11.76.105, relating to the possession of tobacco by a person
 16 under 19 years of age;

17 (3) a fish and game statute or regulation under AS 16;

18 (4) a parks and recreational facilities statute or regulation under
 19 AS 41.21;

20 (5) AS 04.16.050, relating to possession, control, or consumption of
 21 alcohol, **except for conduct constituting habitual minor consuming or in**
 22 **possession or control under AS 04.16.050(d)**; and

23 (6) a municipal curfew ordinance, whether adopted under
 24 AS 29.35.085 or otherwise, unless the municipality provides for enforcement of its
 25 ordinance under AS 29.25.070(b) by the municipality; in place of any fine imposed for
 26 the violation of a municipal curfew ordinance, the court shall allow a defendant the
 27 option of performing community work; the value of the community work, which may
 28 not be lower than the amount of the fine, shall be determined under AS 12.55.055(c);
 29 in this paragraph, "community work" includes the work described in AS 12.55.055(b)
 30 or work that, on the recommendation of the municipal or borough assembly, city
 31 council, or traditional village council of the defendant's place of residence, would

benefit persons within the municipality or village who are elderly or disabled.

* **Sec. 13.** AS 47.12.060(b) is amended to read:

(b) When the department or the entity selected by it decides to make an informal adjustment of a matter under (a)(2) of this section, that informal adjustment

(1) must be made with [MAY NOT BE MADE WITHOUT] the agreement or consent of the minor and the minor's parents or guardian to the terms and conditions of the adjustment; [.]

(2) must give [IN ADDITION, THE DEPARTMENT OR ENTITY SHALL GIVE] the minor's foster parent an opportunity to be heard before the informal adjustment is made; [.]

(3) must include notice that [AN] informal action to adjust a matter is not successfully completed unless, among other factors that the department or the entity selected by it considers, as to the victim of the act of the minor that is the basis of the delinquency allegation, the minor pays restitution in the amount set by the department or the entity selected by it or agrees as a term or condition set by the department or the entity selected by it to pay the restitution;

(4) for a violation of habitual minor consuming or in possession or control under AS 04.16.050(d) must include an agreement that the minor perform 96 hours of community work service and that the minor's driver's license or permit, privilege to drive, or privilege to obtain a license be revoked for six months, as if the minor had been adjudicated delinquent; the department or entity selected by it shall notify the agency responsible for issuing driver's licenses of an informal adjustment under this paragraph;

(5) of an offense described in AS 28.15.185(a)(1) must include an agreement that the minor's driver's license or permit, privilege to drive, or privilege to obtain a license be revoked as provided in AS 28.15.185(b), as if the minor had been adjudicated delinquent; the department or entity selected by it shall notify the agency responsible for issuing driver's licenses of an informal adjustment under this paragraph.

* **Sec. 14.** AS 47.12.120 is amended by adding a new subsection to read:

(k) A court that adjudicates a delinquent minor for habitual minor consuming

1 or in possession or control under AS 04.16.050(d) shall revoke the minor's driver's
2 license or permit, privilege to drive, or privilege to obtain a license as provided in
3 AS 04.16.050(d). A court that adjudicates a delinquent minor for an offense involving
4 a controlled substance under AS 11.71 or involving a firearm under AS 11 shall
5 revoke the minor's driver's license or permit, privilege to drive, or privilege to obtain a
6 license as provided in AS 28.15.185.

7 * **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

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

12 * **Sec. 16.** This Act takes effect July 1, 2001.