

**HOUSE BILL NO. 27**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES LYNN, Foster, Gatto, Wolf, Dahlstrom

Introduced: 1/21/03

Referred: Transportation, Judiciary

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to driving while intoxicated; and providing for an effective date."**

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

3 \* **Section 1.** AS 28.35.030(b) is amended to read:

4 (b) Except as **otherwise** provided **in** [UNDER (n) OF] this section, driving  
5 while under the influence of an alcoholic beverage, inhalant, or controlled substance is  
6 a class A misdemeanor. Except as provided under (p) **and (s)** of this section, upon  
7 conviction,

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

9 (A) not less than 72 consecutive hours and a fine of not less  
10 than \$1,500 if the person has not been previously convicted;

11 (B) not less than 20 days and a fine of not less than \$3,000 if  
12 the person has been previously convicted once;

13 (C) not less than 60 days and a fine of not less than \$4,000 if  
14 the person has been previously convicted twice and is not subject to  
15 punishment under (n) of this section;

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

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

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

10 (2) the court may not

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

14 (B) suspend imposition of sentence;

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

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

24 \* **Sec. 2.** AS 28.35.030(n) is amended to read:

25 (n) **Except as otherwise provided in this section, a** [A] person is guilty of a  
 26 class C felony if the person is convicted under (a) of this section and has been  
 27 previously convicted two or more times since January 1, 1996, and within the 10 years  
 28 preceding the date of the present offense. For purposes of determining minimum  
 29 sentences based on previous convictions, the provisions of (r)(4) of this section apply.

30 **Subject to (s) of this section, upon** [UPON] conviction, the court

31 (1) shall impose a fine of not less than \$10,000 and a minimum

1 sentence of imprisonment of not less than

2 (A) 120 days if the person has been previously convicted twice;

3 (B) 240 days if the person has been previously convicted three  
4 times;

5 (C) 360 days if the person has been previously convicted four  
6 or more times;

7 (2) may not

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

11 (B) suspend imposition of sentence;

12 (3) shall permanently revoke the person's driver's license, privilege to  
13 drive, or privilege to obtain a license subject to restoration of the license under (o) of  
14 this section;

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

20 (5) shall order forfeiture under AS 28.35.036 of the vehicle, watercraft,  
21 or aircraft used in the commission of the offense, subject to remission under  
22 AS 28.35.037; and

23 (6) shall order the department to revoke the registration for any vehicle  
24 registered by the department in the name of the person convicted under this  
25 subsection; if a person convicted under this subsection is a registered co-owner of a  
26 vehicle or is registered as a co-owner under a business name, the department shall  
27 reissue the vehicle registration and omit the name of the person convicted under this  
28 subsection.

29 \* **Sec. 3.** AS 28.35.030 is amended by adding a new subsection to read:

30 (s) If a person is convicted under (a) of this section and it is determined by the  
31 trier of fact that, while the alleged offense was committed, the person was aware that

1           the person was pregnant or there was a passenger in the vehicle and the person was  
2           aware that the passenger was pregnant or was under nine years of age, the court shall  
3           double the minimum sentence of imprisonment and the fine imposed under (b)(1) or  
4           (n)(1) of this section. A person convicted under (b) of this section is guilty of a class  
5           A misdemeanor even though the person is required under this subsection to serve a  
6           sentence or pay a fine that exceeds the maximum sentence or fine for a class A  
7           misdemeanor.

8           \* **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to  
9           read:

10           **APPLICABILITY.** This Act applies only to acts committed on or after the effective  
11           date of this Act.

12           \* **Sec. 5.** This Act takes effect July 1, 2003.