

HOUSE BILL NO. 217

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE WEYHRAUCH

Introduced: 3/26/03

Referred: Transportation, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to driving while under the influence of an alcoholic beverage, inhalant,**
2 **or controlled substance and to presumptions arising from the amount of alcohol in a**
3 **person's breath or blood; and providing for an effective date."**

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

5 * **Section 1.** AS 28.35.030(a) is amended to read:

6 (a) A person commits the crime of driving while under the influence of an
7 alcoholic beverage, inhalant, or controlled substance if the person operates or drives a
8 motor vehicle or operates an aircraft or a watercraft

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

11 (2) when, as determined by a chemical test taken within four hours
12 after the alleged offense was committed, there is

13 (A) 0.08 percent or more by weight of alcohol in the person's
14 blood or 80 milligrams or more of alcohol per 100 milliliters of blood, or when

1 there is 0.08 grams or more of alcohol per 210 liters of the person's breath; or

2 **(B) more than 0.04 percent by weight of alcohol in the**
 3 **person's blood or more than 40 milligrams of alcohol per 100 milliliters of**
 4 **blood, or when there is more than 0.04 grams of alcohol per 210 liters of**
 5 **the person's breath, if the person has been previously convicted under this**
 6 **section; or**

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

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

10 (a) Upon the trial of a civil or criminal action or proceeding arising out of acts
 11 alleged to have been committed by a person while operating or driving a motor vehicle
 12 or operating an aircraft or a watercraft while under the influence of an alcoholic
 13 beverage, inhalant, or controlled substance, the amount of alcohol in the person's
 14 blood or breath at the time alleged shall give rise to the following presumptions:

15 (1) If there was 0.04 percent or less by weight of alcohol in the
 16 person's blood, or 40 milligrams or less of alcohol per 100 milliliters of the person's
 17 blood, or 0.04 grams or less of alcohol per 210 liters of the person's breath, it shall be
 18 presumed that the person was not under the influence of an alcoholic beverage.

19 (2) If there was in excess of 0.04 percent but less than 0.08 percent by
 20 weight of alcohol in the person's blood, or in excess of 40 but less than 80 milligrams
 21 of alcohol per 100 milliliters of the person's blood, or in excess of 0.04 grams but less
 22 than 0.08 grams of alcohol per 210 liters of the person's breath, **except as provided in**
 23 **a criminal action under AS 28.35.030(a)(2)(B)**, that fact does not give rise to any
 24 presumption that the person was or was not under the influence of an alcoholic
 25 beverage, but that fact may be considered with other competent evidence in
 26 determining whether the person was under the influence of an alcoholic beverage.

27 (3) If there was 0.08 percent or more by weight of alcohol in the
 28 person's blood, or 80 milligrams or more of alcohol per 100 milliliters of the person's
 29 blood, or 0.08 grams or more of alcohol per 210 liters of the person's breath, it shall be
 30 presumed that the person was under the influence of an alcoholic beverage.

31 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 APPLICABILITY. This Act applies to offenses committed on or after the effective
3 date of this Act, except that references to previous convictions include convictions occurring
4 before, on, or after the effective date of this Act.

5 * **Sec. 4.** This Act takes effect July 1, 2003.