

**HOUSE BILL NO. 261**

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

**BY THE HOUSE JUDICIARY COMMITTEE**

**Introduced: 4/11/03**

**Referred: Judiciary, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to possession, control, or consumption of alcohol by a person under the**  
2 **age of 21 years and to furnishing or delivering alcohol to a person under the age of 21**  
3 **years; and providing for an effective date."**

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

5 **\* Section 1.** AS 04.16.050(b) is repealed and reenacted to read:

6 (b) A person who violates (a) of this section and who has not been previously  
7 convicted is guilty of a violation. In addition to any other order or recommendation,  
8 the court shall impose a fine of at least \$200 but not more than \$600. The court may  
9 refer the person to a community diversion panel, with the consent of the panel and the  
10 person, and require the person to comply with the conditions set by the panel. The  
11 sentence set by the court or the conditions imposed by the panel must include a  
12 requirement that the person

13 (1) attend an alcohol information school if one is available or another  
14 program that the court or panel may recommend; and

1 (2) perform 16 hours of community work.

2 \* **Sec. 2.** AS 04.16.050(c) is repealed and reenacted to read:

3 (c) A person who violates (a) of this section and who has been previously  
4 convicted is guilty of a class B misdemeanor. Upon conviction and in addition to any  
5 period of incarceration imposed, the court shall

6 (1) impose a fine of \$1,000;

7 (2) require up to 96 hours of community work;

8 (3) revoke the person's driver's license for up to six months;

9 (4) take possession of the person's driver's license;

10 (5) require the person to enroll in and pay for a juvenile alcohol safety  
11 action program if one is available; and

12 (6) suspend up to \$500 of the fine and place the person on probation as  
13 provided in (e) of this section.

14 \* **Sec. 3.** AS 04.16.050(e) is amended to read:

15 (e) The court shall place a person sentenced under [(b) ,] (c) [, OR (d)] of this  
16 section on probation for one year [, OR UNTIL THE PERSON IS 21 YEARS OF  
17 AGE, WHICHEVER IS LATER]. The person may not refuse probation. [THE  
18 COURT MAY REQUIRE THE PERSON TO PAY FOR AND ENROLL IN A  
19 JUVENILE ALCOHOL SAFETY ACTION PROGRAM, IF ONE IS AVAILABLE.]  
20 The court shall impose the following conditions of probation:

21 (1) the person shall pay for and successfully complete any education or  
22 treatment ordered or recommended;

23 (2) the person may not consume inhalants or possess or consume  
24 controlled substances or alcoholic beverages, except as provided in AS 04.16.051(b);

25 (3) the person shall timely complete any community work ordered, as  
26 provided in (f) of this section; and

27 (4) other conditions the court considers appropriate.

28 \* **Sec. 4.** AS 04.16.050(f) is amended to read:

29 (f) A person ordered to perform community work under this section shall  
30 perform the work within 120 days of the entry of judgment for a conviction. The court  
31 may expand the time period for up to 30 days upon a showing of good cause. The

1 person shall submit verification of completion of community work to the clerk of court  
 2 on a form provided by the court. If the verification is not provided within the time  
 3 period required by this subsection, the court shall, within 30 days, schedule further  
 4 proceedings in the case to determine whether a violation [OF PROBATION] has  
 5 occurred.

6 \* **Sec. 5.** AS 04.16.050(g) is amended to read:

7 (g) The treatment recommended by a juvenile alcohol safety action program  
 8 for **conviction of a violation of (a) of this section** [A PERSON PLACED ON  
 9 PROBATION UNDER (e) OF THIS SECTION] may include a period of inpatient  
 10 treatment if the judgment specifies the maximum period of inpatient treatment  
 11 authorized. A person who has been recommended for inpatient treatment may make a  
 12 written request to the sentencing court for review of the referral. A person shall make  
 13 a request for review within seven days after the recommendation and shall specifically  
 14 set out the grounds upon which the request for review is based. The court may order a  
 15 hearing on the request for review.

16 \* **Sec. 6.** AS 04.16.050(h) is amended to read:

17 (h) The juvenile alcohol safety action program to which a person is referred  
 18 under **(b) or (c) of** this section shall inform the court or a minor's juvenile probation  
 19 officer if the person fails to submit to evaluation or fails to complete successfully any  
 20 education or treatment recommended. If the court finds that the person has failed to  
 21 perform community work as ordered, to submit to evaluation, or to complete  
 22 successfully the education or treatment recommended, the court may impose the  
 23 suspended fine, and may impose any period of suspended incarceration. If the person  
 24 was convicted under (c) [OR (d)] of this section, the court shall revoke the person's  
 25 driver's license for an additional six months beyond the revocation imposed under (c)  
 26 [OR (d)] of this section. [A COURT REVOKING A PERSON'S DRIVER'S  
 27 LICENSE UNDER THIS SUBSECTION SHALL NOTIFY THE AGENCY  
 28 RESPONSIBLE FOR THE ADMINISTRATION OF MOTOR VEHICLE LAWS OF  
 29 THE REVOCATION WITHIN FIVE WORKING DAYS.]

30 \* **Sec. 7.** AS 04.16.050(j) is amended to read:

31 (j) A driver's license revocation under this section is consecutive to **another**

1        **revocation based on a violation of (a) of this section and to** a revocation imposed  
 2        under another provision of law [, BUT IS CONCURRENT WITH A REVOCATION  
 3        UNDER ANOTHER PROVISION OF LAW BASED ON A PRIOR CONVICTION,  
 4        ADJUDICATION OF DELINQUENCY, OR INFORMAL ADJUSTMENT UNDER  
 5        AS 47.12.060].

6        \* **Sec. 8.** AS 04.16.050(k)(3) is amended to read:

7                    (3) "previously convicted" means a conviction **for violation of this**  
 8        **section or a conviction** or an adjudication as a delinquent for a violation of **this**  
 9        **section**, AS 11.71, AS 28.35.030, 28.35.032, 28.35.280 - 28.35.290, or a law or  
 10        ordinance in another jurisdiction with [SUBSTANTIALLY] similar elements.

11        \* **Sec. 9.** AS 04.16.050(k) is amended by adding a new paragraph to read:

12                    (4) "community diversion panel" means a youth court or other similar  
 13        program selected by the court.

14        \* **Sec. 10.** AS 04.16.050 is amended by adding a new subsection to read:

15                    (l) A court that revokes a person's driver's license under (c) of this section  
 16        shall notify the agency responsible for the administration of motor vehicle laws of the  
 17        revocation within five working days of the revocation.

18        \* **Sec. 11.** AS 04.16.051(b) is amended to read:

19                    (b) This section does not prohibit the furnishing or delivery of an alcoholic  
 20        beverage

21                    (1) by a parent to the parent's child, by a guardian to the guardian's  
 22        ward, or by a person to the legal spouse of that person if the furnishing or delivery  
 23        occurs off licensed premises **and the consumption of the alcoholic beverage by the**  
 24        **child, ward, or legal spouse occurs in the immediate presence of the parent,**  
 25        **guardian, or legal spouse;** or

26                    (2) by a licensed physician or nurse to a patient in the course of  
 27        administering medical treatment.

28        \* **Sec. 12.** AS 21.89.027 is amended to read:

29                    **Sec. 21.89.027. Motor vehicle insurance following driver's license**  
 30        **revocation.** (a) Notwithstanding AS 21.36.210, an insurer offering insurance in this  
 31        state may not (1) refuse to issue or renew motor vehicle liability insurance coverage;

1 (2) cancel an existing policy of motor vehicle liability insurance; (3) deny a covered  
 2 claim; or (4) increase the premium on a motor vehicle liability insurance policy if the  
 3 refusal, cancellation, denial, or increase results only from the fact that the person's  
 4 driver's license was revoked under **AS 04.16.050** [AS 04.16.050(c), (d), OR (h)] for  
 5 possession or consumption of alcohol in a situation where the person was not driving  
 6 and was in violation of AS 04.16.050(a) or a municipal ordinance with substantially  
 7 similar elements.

8 (b) The provisions of (a) of this section may not prevent an insurer from  
 9 underwriting or rating based upon loss experience in the same manner as it would for a  
 10 person who has not had the person's driver's license revoked under **AS 04.16.050**  
 11 [AS 04.16.050(c), (d), OR (h)].

12 \* **Sec. 13.** AS 22.15.060(a) is amended to read:

13 (a) The district court has jurisdiction

14 (1) of the following crimes:

15 (A) a misdemeanor, unless otherwise provided in this chapter;

16 (B) a violation of an ordinance of a political subdivision;

17 (C) a violation of

18 **(i) AS 04.16.050, if the person is 18 years of age or**

19 **older;**

20 **(ii) AS 04.16.050 if the person is under 18 year of age**  
 21 **and the violation is a first violation of AS 04.16.050; or**

22 **(iii) AS 11.76.105;**

23 (2) to provide post-conviction relief under the Alaska Rules of  
 24 Criminal Procedure, if the conviction occurred in the district court.

25 \* **Sec. 14.** AS 28.15.181(h) is amended to read:

26 (h) A court convicting a person under AS 04.16.050(c) [OR (d)] shall revoke  
 27 the person's driver's license or permit, privilege to drive, or privilege to obtain a  
 28 license as provided in AS 04.16.050(c) [OR (d)].

29 \* **Sec. 15.** AS 28.15.185(e) is amended to read:

30 (e) In addition to revocation imposed under this section, a court that  
 31 adjudicates a delinquent minor for repeat minor consuming or in possession or control

1 under AS 04.16.050(c) [OR FOR HABITUAL MINOR CONSUMING OR IN  
 2 POSSESSION OR CONTACT UNDER AS 04.16.050(d)] shall revoke the minor's  
 3 driver's license, privilege to drive, or privilege to obtain a license as provided in  
 4 AS 04.16.050(c) [OR (d)].

5 \* **Sec. 16.** AS 47.12.030(b) is amended to read:

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

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

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

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

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

21 (5) AS 04.16.050, relating to possession, control, or consumption of  
 22 alcohol, except for conduct **that is a class B misdemeanor under AS 04.16.050**  
 23 [CONSTITUTING HABITUAL MINOR CONSUMING OR IN POSSESSION OR  
 24 CONTROL UNDER AS 04.16.050(d)]; and

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

1 or work that, on the recommendation of the municipal or borough assembly, city  
 2 council, or traditional village council of the defendant's place of residence, would  
 3 benefit persons within the municipality or village who are elderly or disabled.

4 \* **Sec. 17.** AS 47.12.060(b) is amended to read:

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

7 (1) must be made with the agreement or consent of the minor and the  
 8 minor's parents or guardian to the terms and conditions of the adjustment;

9 (2) must give the minor's foster parent an opportunity to be heard  
 10 before the informal adjustment is made;

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

17 (4) for a violation [OF HABITUAL MINOR CONSUMING OR IN  
 18 POSSESSION OR CONTROL] under AS 04.16.050(c) [AS 04.16.050(d)] must  
 19 include an agreement that the minor perform up to 96 hours of community work,  
 20 provide that the minor's driver's license or permit, privilege to drive, or privilege to  
 21 obtain a license be revoked for up to six months, and provide that the driver's license  
 22 or permit, privilege to drive, or privilege to obtain a license be revoked for an  
 23 additional six months if the informal adjustment is not successful because the minor  
 24 has failed to perform community work as ordered, or has failed to submit to evaluation  
 25 or successfully complete the education or treatment recommended; the department or  
 26 an entity selected by the department shall notify the agency responsible for issuing  
 27 driver's licenses of an informal adjustment under this paragraph or of an unsuccessful  
 28 adjustment described in this paragraph;

29 (5) of an offense described in AS 28.15.185(a)(1) must include an  
 30 agreement that the minor's driver's license or permit, privilege to drive, or privilege to  
 31 obtain a license be revoked as provided in AS 28.15.185(b); the department or an

1           entity selected by the department shall notify the agency responsible for issuing  
2           driver's licenses of an informal adjustment under this paragraph.

3       \* **Sec. 18.** AS 47.12.120(k) is amended to read:

4                   (k) A court that adjudicates a delinquent minor for **conduct that is a class B**  
5                   **misdemeanor** [REPEAT MINOR CONSUMING OR IN POSSESSION OR  
6                   CONTROL] under AS 04.16.050(c) [OR FOR HABITUAL MINOR CONSUMING  
7                   OR IN POSSESSION OR CONTROL UNDER AS 04.16.050(d)] shall revoke the  
8                   minor's driver's license or permit, privilege to drive, or privilege to obtain a license as  
9                   provided in AS 04.16.050(c) [OR (d)]. A court that adjudicates a delinquent minor for  
10                  an offense involving a controlled substance under AS 11.71 or involving a firearm  
11                  under AS 11 shall revoke the minor's driver's license or permit, privilege to drive, or  
12                  privilege to obtain a license as provided in AS 28.15.185.

13       \* **Sec. 19.** AS 04.16.050(d) is repealed.

14       \* **Sec. 20.** The uncodified law of the State of Alaska is amended by adding a new section to  
15       read:

16                  APPLICABILITY. This Act applies to offenses committed on or after the effective  
17       date of this Act, except that references to "previously convicted" include convictions  
18       occurring before, on, or after the effective date of this Act.

19       \* **Sec. 21.** This Act takes effect July 1, 2003.