

**CS FOR HOUSE BILL NO. 342(FIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

**BY THE HOUSE FINANCE COMMITTEE**

**Offered: 4/28/04**

**Referred: Rules**

**Sponsor(s): REPRESENTATIVES GATTO, Gruenberg**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to driving while under the influence, to the definition of 'previously**  
2 **convicted,' to alcohol-related offenses, to ignition interlock devices, and to the issuance**  
3 **of limited driver's licenses; and providing for an effective date."**

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

5 \* **Section 1.** AS 12.55.102 is amended to read:

6 **Sec. 12.55.102. Alcohol-related [ALCOHOL RELATED] offenses.** (a) The  
7 court may order as a condition of probation **or generally as part of a sentence** that a  
8 defendant convicted of an offense involving the use, consumption, or possession of an  
9 alcoholic beverage may not operate a motor vehicle during the period of probation  
10 unless the vehicle is equipped with a properly functioning, monitored, and maintained  
11 ignition interlock device. A condition of probation **or sentence** imposed under this  
12 subsection takes effect after any period of license revocation imposed under  
13 AS 28.15.165(d) or 28.15.181(c).

14 (b) The court, in imposing probation **or a condition of a sentence** under (a) of

1 this section, may allow the defendant limited privileges to drive a motor vehicle  
 2 without an ignition interlock device if the court determines that the defendant is  
 3 required as a condition of employment to drive a motor vehicle owned or leased by the  
 4 defendant's employer and that the defendant's driving will not create substantial  
 5 danger. If the court imposes probation described by this subsection, the court shall  
 6 require the defendant to notify the defendant's employer of the probation, and shall  
 7 require that the defendant, while driving the employer's vehicle, carry a letter from the  
 8 employer authorizing the defendant to drive that vehicle.

9 (c) A court imposing a condition of probation under this section shall require  
 10 the surrender of the driver's license and shall issue to the defendant a certificate valid  
 11 for the duration of the probation or a copy of the defendant's judgment of conviction.  
 12 The defendant shall pay all costs associated with fulfilling the condition of probation,  
 13 including installation, repair, and monitoring of an ignition interlock device.

14 (d) The court may include the cost of the ignition interlock device as a part of  
 15 the fine required to be imposed against the defendant under AS 28.35.030(b) or (n) or  
 16 28.35.032(g) or (p).

17 (e) In this section,

18 **(1)** "ignition interlock device" means equipment designed to prevent a  
 19 motor vehicle from being operated by a person who has consumed an alcoholic  
 20 beverage, and that has been certified by the commissioner of corrections under  
 21 AS 33.05.020(c);

22 **(2)** "**motor vehicle**" has the meaning given in AS 28.40.100, but  
 23 **does not include snow machines and all-terrain vehicles not designed for and not**  
 24 **operated on highways or roads.**

25 \* **Sec. 2.** AS 28.15.201(d) is amended to read:

26 (d) A court revoking a driver's license, privilege to drive, or privilege to obtain  
 27 a license under AS 28.15.181(c), or the department when revoking a driver's license,  
 28 privilege to drive, or privilege to obtain a license under AS 28.15.165(c), may grant  
 29 limited license privileges [FOR THE FINAL 60 DAYS DURING WHICH THE  
 30 LICENSE IS REVOKED] if

31 (1) the revocation was for a misdemeanor conviction under

1 AS 28.35.030(a) **or 28.35.032** [AND NOT FOR A VIOLATION OF AS 28.35.032];

2 (2) the person has

3 **(A) not been previously convicted and the limited license is**  
 4 **not granted during the first 30 days of the period of revocation;**

5 **(B) been previously convicted, the limited license is not**  
 6 **granted during the first 90 days of the period of revocation, and**

7 **(i) the person has successfully completed a court-**  
 8 **ordered treatment program under AS 28.35.030(p);**

9 **(ii) the court or department requires the person to**  
 10 **use an ignition interlock device during the period of the limited**  
 11 **license; or**

12 **(iii) the person lives in a community not connected**  
 13 **by road to Anchorage and the license is limited to operation on**  
 14 **roads not on a road system connected to Anchorage or Fairbanks;**  
 15 **in this sub-subparagraph "road" or "road system" does not**  
 16 **include a connection to the Alaska marine highway system** [; IN

17 THIS PARAGRAPH, "PREVIOUSLY CONVICTED" HAS THE  
 18 MEANING GIVEN IN AS 28.35.030 AND ALSO INCLUDES  
 19 CONVICTIONS BASED ON LAWS PRESUMING THAT THE  
 20 PERSON WAS UNDER THE INFLUENCE OF INTOXICATING  
 21 LIQUOR IF THERE WAS 0.08 PERCENT OR MORE BY WEIGHT  
 22 OF ALCOHOL IN THE PERSON'S BLOOD];

23 (3) the court or the department determines that

24 **(A) the person's ability to earn a livelihood would be severely**  
 25 **impaired without a limited license; or**

26 **(B) the person has successfully completed a court-ordered**  
 27 **treatment program described under AS 28.35.030(p) and the person's**  
 28 **ability to earn a livelihood, attend school, or provide for family health**  
 29 **would be severely impaired without a limited license;**

30 (4) the court or the department determines that a limitation under (a) of  
 31 this section can be placed on the license that will enable the person to earn a livelihood

1 without excessive danger to the public; [AND]

2 (5) the court or the department determines that the person is enrolled in  
3 and is in compliance with, or has successfully completed the alcoholism screening,  
4 evaluation, referral, and program requirements of the Department of Health and Social  
5 Services under AS 28.35.030(h); **and**

6 **(6) the person has not been previously convicted under**  
7 **AS 28.15.291(a)(2), AS 28.35.030, or 28.35.032 while driving or operating a**  
8 **vehicle, aircraft, or watercraft under a limited license issued under this section.**

9 \* **Sec. 3.** AS 28.15.201 is amended by adding a new subsection to read:

10 (e) In (d)(2) of this section, "previously convicted" has the meaning given in  
11 AS 28.35.030 and also includes convictions under laws presuming that the person was  
12 under the influence of intoxicating liquor if there was 0.08 percent or more by weight  
13 of alcohol in the person's blood.

14 \* **Sec. 4.** AS 28.35.030(r)(4) is amended to read:

15 (4) "previously convicted" means having been convicted in this or  
16 another jurisdiction **within the 15 years preceding the date of the present offense** of  
17 any of the following offenses; however, convictions for any of these offenses, if  
18 arising out of a single transaction and a single arrest, are considered one previous  
19 conviction:

20 (A) operating a motor vehicle, aircraft, or watercraft in  
21 violation of this section or in violation of another law or ordinance with similar  
22 elements, except that the other law or ordinance may provide for a lower level  
23 of alcohol in the person's blood or breath than imposed under (a)(2) of this  
24 section;

25 (B) refusal to submit to a chemical test in violation of  
26 AS 28.35.032 or in violation of another law or ordinance with similar  
27 elements; or

28 (C) operating a commercial motor vehicle in violation of  
29 AS 28.33.030 or in violation of another law or ordinance with similar  
30 elements, except that the other law or ordinance may provide for a lower level  
31 of alcohol in the person's blood or breath than imposed under

1 AS 28.33.030(a)(2).

2 \* **Sec. 5.** The uncodified law of the State of Alaska enacted in sec. 1, ch. 64, SLA 2001, is  
3 amended by adding a new subsection to read:

4 (q) Notwithstanding AS 28.15.201, the court may grant limited license privileges to a  
5 defendant if the court (1) determines that the defendant's ability to earn a livelihood, attend  
6 school or provide for family health would be severely impaired without a limited license, (2)  
7 requires the defendant to use an ignition interlock device, and (3) determines that there will  
8 not be excessive danger to the public. The court may impose further conditions and  
9 restrictions to a limited license if the court determines that the conditions and restrictions are  
10 necessary to ensure public safety and to monitor the continuing sobriety of the defendant.  
11 The court shall immediately revoke limited license privileges for any violation of any  
12 conditions or restrictions of the limited license privileges.

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

15 **APPLICABILITY.** Section 1 of this Act applies only to acts committed on or after the  
16 effective date of sec. 1 of this Act. Sections 2 - 5 of this Act apply to persons seeking limited  
17 licenses as a result of revocations for convictions occurring before, on, or after the effective  
18 date of secs. 2 - 5 of this Act. References to previous convictions in AS 28.15.201(d)(6),  
19 added by sec. 2 of this Act, and in AS 28.15.201(e), added by sec. 3 of this Act, include those  
20 occurring before, on, or after the effective date of secs. 2 and 3 of this Act.

21 \* **Sec. 7.** Sections 2 - 5 of this Act take effect immediately under AS 01.10.070(c).

22 \* **Sec. 8.** Except as provided in sec. 7 of this Act, this Act takes effect January 1, 2005.