

CS FOR HOUSE BILL NO. 19(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 3/28/07

Referred: Rules

Sponsor(s): REPRESENTATIVES MEYER, Crawford, Gruenberg, Gara, Kerttula, Gardner, Roses,
Kawasaki, Johansen, Johnson

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to ignition interlock devices; to limited driver's license privileges; and
2 to ignition interlock limited driver's license privileges."

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

4 * **Section 1.** AS 11.76.140 is amended to read:

5 **Sec. 11.76.140. Avoidance of ignition interlock device.** (a) A person
6 **commits the crime of avoidance of ignition interlock device if the person** [MAY
7 NOT] knowingly

8 (1) **circumvents** [CIRCUMVENT] or **tampers** [TAMPER] with an
9 ignition interlock device in a manner intended to allow a person on probation **under**
10 **AS 12.55.102, with a condition of sentence** under AS 12.55.102, **or who has an**
11 **ignition interlock limited license** to avoid using the device; [OR]

12 (2) **rents** [RENT, LOAN, OR LEASE] a motor vehicle to a person
13 **and with criminal negligence disregards the fact that the person is** on probation
14 **under AS 12.55.102, has a condition of sentence** under AS 12.55.102, **or has an**

1 **ignition interlock limited license**, unless the vehicle is equipped with an ignition
 2 interlock device described in AS 12.55.102; **or**

3 **(3) loans a motor vehicle to a person and knowingly disregards the**
 4 **fact that the person is on probation under AS 12.55.102, has a condition of**
 5 **sentence under AS 12.55.102, or has an ignition interlock limited license, unless**
 6 **the vehicle is equipped with an ignition interlock device described in**
 7 **AS 12.55.102.**

8 (b) **Avoidance of ignition interlock device**

9 **(1) under (a)(1) of this section is a class A misdemeanor;**

10 **(2) under (a)(2) or (3) of this section is** [NOTWITHSTANDING
 11 AS 11.81.250, A PERSON CONVICTED OF VIOLATING THIS SECTION IS
 12 GUILTY OF] a **class B** misdemeanor **and is punishable by a term of imprisonment**
 13 **of not more than** [THE MAXIMUM TERM OF IMPRISONMENT THAT MAY BE
 14 IMPOSED IS] 30 days and **a** [THE MAXIMUM] fine **of not more than** [THAT
 15 MAY BE IMPOSED IS] \$500.

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

17 (d) **Notwithstanding (f) of this section, in cases where a person cannot**
 18 **reasonably have an ignition interlock device installed, a person may apply to the**
 19 [A] court revoking a driver's license, privilege to drive, or privilege to obtain a license
 20 under AS 28.15.181(c), [OR THE DEPARTMENT WHEN REVOKING A
 21 DRIVER'S LICENSE, PRIVILEGE TO DRIVE, OR PRIVILEGE TO OBTAIN A
 22 LICENSE UNDER AS 28.15.165(c),] **for limited license privileges, and the court**
 23 may grant limited license privileges if

24 (1) the revocation was for a misdemeanor conviction under
 25 AS 28.35.030(a) **or a similar municipal ordinance** and not for a violation of
 26 AS 28.35.032;

27 (2) the person has

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

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

1 [(i)] the person has successfully completed a court-
 2 ordered treatment program under AS 28.35.028 or former
 3 AS 28.35.030(p); [OR

4 (ii) THE COURT OR DEPARTMENT REQUIRES
 5 THE PERSON TO USE AN IGNITION INTERLOCK DEVICE
 6 DURING THE PERIOD OF THE LIMITED LICENSE;]

7 (3) the court [OR THE DEPARTMENT] determines that

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

10 (B) the person has successfully completed a court-ordered
 11 treatment program described under AS 28.35.028 or former AS 28.35.030(p)
 12 and the person's ability to earn a livelihood, attend school, or provide for
 13 family health would be severely impaired without a limited license;

14 (4) the court [OR THE DEPARTMENT] determines that a limitation
 15 under (a) of this section can be placed on the license that will enable the person to earn
 16 a livelihood without excessive danger to the public;

17 (5) the court [OR THE DEPARTMENT] determines that the person is
 18 enrolled in and is in compliance with or has successfully completed the alcoholism
 19 screening, evaluation, referral, and program requirements of the Department of Health
 20 and Social Services under AS 28.35.030(h); and

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

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

25 (f) A court revoking a driver's license, privilege to drive, or privilege to obtain
 26 a license under AS 28.15.181(c), or the department when revoking a driver's license,
 27 privilege to drive, or privilege to obtain a license under AS 28.15.165(c), may grant
 28 ignition interlock limited license privileges. Ignition interlock limited license
 29 privileges allow the person to operate a vehicle on which an ignition interlock device
 30 has been installed and shall be identified on the limited license certificate issued by the
 31 court or department to the person. If the ignition interlock device prevents a vehicle

1 from being operated, the person has not violated the requirements of the limited
 2 license by attempting to operate the vehicle. The court or department may grant
 3 ignition interlock limited license privileges if

4 (1) the revocation was for a misdemeanor conviction under
 5 AS 28.35.030 or a similar municipal ordinance and not for a violation of
 6 AS 28.35.032;

7 (2) the person

8 (A) has not been previously convicted and the limited license is
 9 not granted during the first 30 days of the period of revocation; or

10 (B) has been previously convicted and the limited license is not
 11 granted during the first 90 days of the period of revocation;

12 (3) the person provides proof of installation of the ignition interlock
 13 device on every vehicle the person operates;

14 (4) the person signs an affidavit acknowledging that

15 (A) operation by the person of a vehicle that is not equipped
 16 with an ignition interlock device is subject to penalties for driving with a
 17 revoked license;

18 (B) circumventing or tampering with the ignition interlock
 19 device is a class A misdemeanor; and

20 (C) the person is required to maintain the ignition interlock
 21 device throughout the period of the limited license, to keep up-to-date records
 22 in each vehicle showing that any required service and calibration is current,
 23 and to produce those records immediately on request;

24 (5) the person is enrolled in and is in compliance with or has
 25 successfully completed the alcoholism screening, evaluation, referral, and program
 26 requirements of the Department of Health and Social Services under AS 28.35.030(h);

27 (6) the person provides proof of insurance as required by AS 28.20.230
 28 and 28.20.240; and

29 (7) the person has not previously been convicted of violating the
 30 limitations of an ignition interlock limited license.

31 * **Sec. 4.** AS 28.15.291(b) is amended to read:

1 (b) Upon conviction under (a) of this section, the court

2 (1) shall impose a minimum sentence of imprisonment

3 (A) if the person has not been previously convicted, of not less
4 than 10 days with 10 days suspended, including a mandatory condition of
5 probation that the defendant complete not less than 80 hours of community
6 work service;

7 (B) if the person has been previously convicted, of not less than
8 10 days;

9 (C) if the person's driver's license, privilege to drive, or
10 privilege to obtain a license was revoked under circumstances described in
11 AS 28.15.181(c)(1), or if the person was driving in violation of a limited
12 license issued under AS 28.15.201(d) **or (f)** following that revocation, of not
13 less than 20 days with 10 days suspended, and a fine of not less than \$500,
14 including a mandatory condition of probation that the defendant complete not
15 less than 80 hours of community work service;

16 (D) if the person's driver's license, privilege to drive, or
17 privilege to obtain a license was revoked under circumstances described in
18 AS 28.15.181(c)(2), (3), or (4) or if the person was driving in violation of a
19 limited license issued under AS 28.15.201(d) **or (f)** following that revocation,
20 of not less than 30 days and a fine of not less than \$1,000;

21 (2) may impose additional conditions of probation;

22 (3) may not

23 (A) suspend execution of sentence or grant probation except on
24 condition that the person serve a minimum term of imprisonment and perform
25 required community work service as provided in (1) of this subsection;

26 (B) suspend imposition of sentence;

27 (4) shall revoke the person's license, privilege to drive, or privilege to
28 obtain a license, and the person may not be issued a new license or a limited license
29 nor may the privilege to drive or obtain a license be restored for an additional period
30 of not less than 90 days after the date that the person would have been entitled to
31 restoration of driving privileges; and

1 (5) may order that the motor vehicle that was used in commission of
2 the offense be forfeited under AS 28.35.036.

3 * **Sec. 5.** AS 28.35.030 is amended by adding a new subsection to read:

4 (u) When a defendant is convicted under this section, the court shall consider
5 the use of an ignition interlock device as provided in AS 12.55.102 and shall make
6 findings concerning the decision. The court shall require the use of an ignition
7 interlock device for the entire period of probation or sentence or a portion thereof,
8 when its use is consistent with the purposes stated in AS 12.55.005 and as needed to
9 protect public safety.

10 * **Sec. 6.** AS 28.35.032 is amended by adding a new subsection to read:

11 (u) When a defendant is convicted under this section, the court shall consider
12 the use of an ignition interlock device as provided in AS 12.55.102 and shall make
13 findings concerning the decision. The court shall require the use of an ignition
14 interlock device for the entire period of probation or sentence or a portion thereof,
15 when its use is consistent with the purposes stated in AS 12.55.005 and as needed to
16 protect public safety.

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

19 TRANSITIONAL PROVISION. A person convicted of a misdemeanor violation of
20 AS 28.35.030 before the effective date of this Act who has a limited license issued under or is
21 eligible to receive a limited license under AS 28.15.201(d), as that subsection read on the day
22 before the effective date of this Act, may continue to use that limited license or may receive a
23 limited license as provided in AS 28.15.201 as that section read on the day before the
24 effective date of this Act and is subject to penalties for violating the limitations on that license
25 as provided in AS 28.15.291 as that statute read on the day before the effective date of this
26 Act.

27 * **Sec. 8.** This Act takes effect January 1, 2008.