

**HOUSE BILL NO. 85**

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

BY REPRESENTATIVES GRUENBERG, GARA, AND CISSNA

Introduced: 1/16/07

Referred: State Affairs, Judiciary, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to ignition interlock requirements; relating to limited driver's license**  
2 **privileges for persons convicted of driving while under the influence of an alcoholic**  
3 **beverage, inhalant, or controlled substance or refusal to submit to a chemical test and**  
4 **requiring certain persons to utilize ignition interlock devices to qualify for a limited**  
5 **driver's license; relating to probation for driving while under the influence of an**  
6 **alcoholic beverage, inhalant, or controlled substance, and refusal to submit to a**  
7 **chemical test; and providing for an effective date."**

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

9 \* **Section 1.** AS 28.01.010 is amended by adding a new subsection to read:

10 (j) A court may not enforce a municipal ordinance prescribing a penalty for  
11 driving while under the influence of an alcoholic beverage, inhalant, or controlled  
12 substance or refusal to submit to a chemical test unless that ordinance imposes ignition  
13 interlock device requirements under AS 28.

1 \* **Sec. 2.** AS 28.15.183(f) is amended to read:

2 (f) A revocation imposed under this section shall be consecutive to a  
 3 revocation imposed under another provision of law, except that (1) a revocation  
 4 imposed under this section shall be concurrent with a prior revocation imposed under  
 5 this section; and (2) a revocation imposed under this section for an offense for which a  
 6 revocation is required under AS 28.15.185 shall be concurrent with a revocation  
 7 imposed under AS 28.15.185 that is based on the same incident. A person whose  
 8 driver's license, permit, or privilege was revoked for a period of at least 60 days under  
 9 this section may apply for limited license privileges under as 28.15.201(d) **or (f)**. A  
 10 person whose driver's license, permit, or privilege to drive was revoked for a period of  
 11 more than one year under this section may apply for reinstatement as provided under  
 12 (i) of this section.

13 \* **Sec. 3.** AS 28.15.201(d) is amended to read:

14 (d) A court revoking a driver's license, privilege to drive, or privilege to obtain  
 15 a license under AS 28.15.181(c), or the department when revoking a driver's license,  
 16 privilege to drive, or privilege to obtain a license under AS 28.15.165(c), may grant **a**  
 17 **person who resides in a community where an ignition interlock device cannot be**  
 18 **installed and that is not connected by road to Anchorage or Fairbanks or by the**  
 19 **Alaska marine highway system to Juneau** limited license privileges if

20 (1) the revocation was for a misdemeanor conviction under  
 21 AS 28.35.030(a) and not for a violation of AS 28.35.032;

22 (2) the person has

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

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

27 (i) the person has successfully completed a court-  
 28 ordered treatment program under AS 28.35.028 or former  
 29 AS 28.35.030(p); or

30 (ii) the court or department requires the person to use an  
 31 ignition interlock device during the period of the limited license;

1 (3) the court or the department determines that

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

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

8 (4) the court or the department determines that a limitation under (a) of  
9 this section can be placed on the license that will enable the person to earn a livelihood  
10 without excessive danger to the public;

11 (5) the court or the department determines that the person is enrolled in  
12 and is in compliance with or has successfully completed the alcoholism screening,  
13 evaluation, referral, and program requirements of the Department of Health and Social  
14 Services under AS 28.35.030(h); [AND]

15 (6) the person has not been previously convicted under  
16 AS 28.15.291(a)(2), AS 28.35.030, or 28.35.032 while driving or operating a vehicle,  
17 aircraft, or watercraft under a limited license issued under this section; and

18 (7) the person only operates a vehicle in the community where the  
19 ignition interlock device cannot be installed and that is not connected by road to  
20 Anchorage or Fairbanks or by the Alaska marine highway to Juneau.

21 \* **Sec. 4.** AS 28.15.201 is amended by adding a new subsection to read:

22 (f) A person whose driver's license or privilege to drive has been revoked  
23 under AS 28.15.165(c) or 28.15.181(c) and who resides in a community where an  
24 ignition interlock device may be installed or that is connected by road to Anchorage or  
25 Fairbanks or by the Alaska marine highway system to Juneau may apply to the  
26 department for ignition interlock limited license privileges. Ignition interlock limited  
27 license privileges allow the person to operate a vehicle on which an ignition interlock  
28 device has been installed and that is identified on the limited license certificate issued  
29 by the department to the person. The department may grant ignition interlock limited  
30 license privileges if

31 (1) the revocation was for a conviction under AS 28.35.030 or

1 28.35.032;

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

4 (3) the person signs an affidavit acknowledging that

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

8 (B) the person is required to maintain the ignition interlock  
9 device throughout the period of the limited license, to keep up-to-date records  
10 in each vehicle showing that any required service and calibration is current,  
11 and to produce those records immediately on request;

12 (4) the person has not previously been convicted of violating the  
13 limitations of an ignition interlock limited license.

14 \* **Sec. 5.** AS 28.15.291(b) is amended to read:

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

16 (1) shall impose a minimum sentence of imprisonment

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

21 (B) if the person has been previously convicted, of not less than  
22 10 days;

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

30 (D) if the person's driver's license, privilege to drive, or  
31 privilege to obtain a license was revoked under circumstances described in

1 AS 28.15.181(c)(2), (3), or (4) or if the person was driving in violation of a  
 2 limited license issued under AS 28.15.201(d) **or (f)** following that revocation,  
 3 of not less than 30 days and a fine of not less than \$1,000;

4 (2) may impose additional conditions of probation;

5 (3) may not

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

9 (B) suspend imposition of sentence;

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

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

17 \* **Sec. 6.** AS 28.35.030 is amended by adding a new subsection to read:

18 (u) In addition to penalties provided in (a) or (n) of this section, the court may  
 19 place a person convicted under those subsections on probation for a period of not more  
 20 than five years following a term of imprisonment, including any suspended term of  
 21 imprisonment. The court may place a limitation on the person's driver's license during  
 22 the term of the probation as provided in AS 28.15.201(d) or (f).

23 \* **Sec. 7.** AS 28.35.032 is amended by adding a new subsection to read:

24 (u) In addition to penalties provided in (a) or (p) of this section, the court may  
 25 place a person convicted under those subsections on probation for a period of not more  
 26 than five years following a term of imprisonment, including any suspended term of  
 27 imprisonment. The court may place a limitation on the person's driver's license during  
 28 the term of the probation as provided in AS 28.15.201(f).

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

31 **TRANSITIONAL PROVISION.** A person convicted of a misdemeanor violation of

1 AS 28.35.030 before the effective date of this Act who has a limited license issued under or is  
2 eligible to receive a limited license under AS 28.15.201(d) may continue to use that limited  
3 license or may receive a limited license as provided in AS 28.15.201 and is subject to  
4 penalties for violating the limitations on that license as provided in AS 28.15.291.

5 \* **Sec. 9.** This Act takes effect January 1, 2008.