

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 85
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES GRUENBERG, GARA AND CISSNA

Introduced: 4/2/07

Referred:

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 8 driver's license, permit, or privilege was revoked for a period of at least 60 days under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 10 person whose driver's license, permit, or privilege to drive was revoked for a period of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) When a defendant is convicted under this section, the court shall consider
 19 the use of an ignition interlock device as provided in AS 12.55.102 and shall make
 20 findings concerning the decision. The court shall require the use of an ignition
 21 interlock device for the entire period of probation or sentence or a portion thereof,
 22 when its use is consistent with the purposes stated in AS 12.55.005 and as needed to
 23 protect public safety.

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

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

31 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

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

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