

HOUSE BILL NO. 162

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES WILSON, Muñoz

Introduced: 3/23/15

Referred: State Affairs, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to administrative revocation of a driver's license; and repealing Rule**
2 **603(a)(3), Alaska Rules of Appellate Procedure."**

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

4 *** Section 1.** AS 12.55.102(a) is amended to read:

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

12 *** Sec. 2.** AS 28.15.181(c) is amended to read:

13 (c) A court convicting a person of an offense described in (a)(5) or (8) of this
14 section arising out of the operation of a motor vehicle, commercial motor vehicle, or

1 aircraft shall revoke that person's driver's license, privilege to drive, or privilege to
 2 obtain a license. [THE REVOCATION MAY BE CONCURRENT WITH OR
 3 CONSECUTIVE TO AN ADMINISTRATIVE REVOCATION UNDER
 4 AS 28.15.165.] The court may not, except as provided in AS 28.15.201, grant limited
 5 license privileges during the minimum period of revocation. Except as provided under
 6 AS 28.35.030(n)(3) and 28.35.032(p)(3), the minimum periods of revocation are

- 7 (1) not less than 90 days if the person has not been previously
 8 convicted;
- 9 (2) not less than one year if the person has been previously convicted
 10 once;
- 11 (3) not less than 3 years if the person has been previously convicted
 12 twice;
- 13 (4) not less than 5 years if the person has been previously convicted
 14 more than twice.

15 * **Sec. 3.** AS 28.15.182(b) is amended to read:

16 (b) The license revocation imposed under (a) of this section may be for a
 17 period of up to three years. This period is concurrent with any other period of
 18 revocation under AS 28.15.181 [AS 28.15.165 OR 28.15.181,] or any other action
 19 imposed by the department or court in connection with the accident.

20 * **Sec. 4.** AS 28.15.201(d) is amended to read:

21 (d) A court revoking a driver's license, privilege to drive, or privilege to obtain
 22 a license under AS 28.15.181(c) [, OR THE DEPARTMENT WHEN REVOKING A
 23 DRIVER'S LICENSE, PRIVILEGE TO DRIVE, OR PRIVILEGE TO OBTAIN A
 24 LICENSE UNDER AS 28.15.165(c),] may grant limited license privileges if

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

28 (2) the person

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

31 (B) has been previously convicted and the limited license is not

1 granted during the first 90 days of the period of revocation;

2 (3) the court [OR DEPARTMENT] requires the person to use an
3 ignition interlock device during the period of the limited license whenever the person
4 operates a motor vehicle in a community not included in the list published by the
5 department under AS 28.22.011(b) and, when applicable,

6 (A) the person provides proof of installation of the ignition
7 interlock device on every vehicle the person operates;

8 (B) the person signs an affidavit acknowledging that

9 (i) operation by the person of a vehicle that is not
10 equipped with an ignition interlock device is subject to penalties for
11 driving with a revoked license;

12 (ii) circumventing or tampering with the ignition
13 interlock device is a class A misdemeanor; and

14 (iii) the person is required to maintain the ignition
15 interlock device throughout the period of the limited license, to keep
16 up-to-date records in each vehicle showing that any required service
17 and calibration is current, and to produce those records immediately on
18 request;

19 (4) the person is enrolled in and is in compliance with or has
20 successfully completed the alcoholism screening, evaluation, referral, and program
21 requirements of the Department of Health and Social Services under AS 28.35.030(h);

22 (5) the person provides proof of insurance as required by AS 28.20.230
23 and 28.20.240; and

24 (6) the person has not previously been convicted of violating the
25 limitations of an ignition interlock limited license or been convicted of violating the
26 provisions of AS 28.35.030 or 28.35.032 while on probation for a violation of those
27 sections.

28 * **Sec. 5.** AS 28.33.031(b) is amended to read:

29 (b) Refusal to submit to a chemical test authorized under this section is
30 punishable under AS 28.35.032. A chemical test may be administered without consent
31 under AS 28.35.035. [A PERSON WHO IS DISQUALIFIED AS THE RESULT OF

1 DEPARTMENT ACTION UNDER AS 28.15.165, FOLLOWING A TEST
 2 ADMINISTERED UNDER THIS SECTION, CAN OBTAIN REVIEW OF THAT
 3 ACTION UNDER AS 28.15.166.]

4 * **Sec. 6.** AS 28.35.034 is amended to read:

5 **Sec. 28.35.034. Surrender of license or permit.** A person whose license or
 6 permit to operate or drive a motor vehicle has been revoked under **AS 28.15.181**
 7 [AS 28.15.165 OR 28.15.181] shall surrender the license or permit to the department
 8 on receipt of notice of the revocation. After the period of revocation has expired, the
 9 person may make application for a new license as provided by law.

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

12 REPEAL OF COURT RULE. Rule 603(a)(3), Alaska Rules of Appellate Procedure, is
 13 repealed.

14 * **Sec. 8.** AS 28.15.165 and 28.15.166 are repealed.

15 * **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to
 16 read:

17 APPLICABILITY. The Department of Administration shall dismiss an administrative
 18 revocation proceeding against a person, and return a driver's license or commercial driver's
 19 license to the person, who has received the notice described in AS 28.15.165, repealed by sec.
 20 8 of this Act, before the effective date of this Act, if the administrative revocation has not
 21 been completed before the effective date of this Act.

22 * **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to
 23 read:

24 TRANSITION. (a) A person whose driver's license or commercial driver's license was
 25 revoked under AS 28.15.165, repealed by sec. 8 of this Act, and who was not convicted under
 26 AS 28.33.030, AS 28.35.030, or 28.35.032 for the same conduct giving rise to the revocation
 27 may apply to the Department of Administration under AS 28.15.211(d) for issuance to the
 28 person of a new driver's license or commercial driver's license. The Department of
 29 Administration shall treat the effective date of this Act as the end of the person's revocation
 30 period.

31 (b) The Department of Administration may continue to administer a driver's license

1 revocation that occurred before the effective date of this Act for a person who was convicted
2 under AS 28.33.030, AS 28.35.030, or 28.35.032 or who pled guilty or nolo contendere, in
3 accordance with AS 28.15.165 and 28.15.166 as they read on the day before the effective date
4 of this Act.