

Introduced: 2/14/67
Referred: State Affairs
and Judiciary

1 IN THE HOUSE

BY BEIRNE

2 HOUSE BILL NO. 179

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to implied consent to chemical tests
7 as to alcoholic content of blood."

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

9 * Section 1. AS 28.35 is amended by adding new sections to read:

10 Sec. 28.35.031. IMPLIED CONSENT. (a) A person who drives a
11 motor vehicle on a public highway shall be considered to have given his
12 consent to a chemical test of his blood, breath or urine for the pur-
13 pose of determining the alcoholic content of his blood if lawfully
14 arrested for an offense allegedly committed while the person was driv-
15 ing a motor vehicle under the influence of intoxicating liquor. The
16 test shall be incidental to a lawful arrest and administered at the
17 direction of a peace officer having reasonable cause to believe the
18 person was driving a motor vehicle on a public highway while under the
19 influence of intoxicating liquor. The person shall be told that his
20 failure to submit to a chemical test will result in the suspension of
21 his privilege to operate a motor vehicle for a period of six months.

22 (b) The person arrested shall have the choice of whether the test
23 shall be of his blood, breath or urine.

24 (c) A person who is dead, unconscious, or otherwise in a con-
25 dition rendering him incapable of refusal shall be considered to have
26 consented and the tests may be administered whether or not the person
27 is told that his failure to submit to the test will result in the
28 suspension of his privilege to operate a motor vehicle.

29 (d) A person who is afflicted with hemophilia or a person who is

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1 afflicted with a heart condition and is using an anticoagulant under
2 the direction of a physician and surgeon is exempt from the blood test
3 required by this section.

4 (e) A person lawfully arrested for an offense allegedly committed
5 while the person was driving a motor vehicle under the influence of
6 intoxicating liquor may request the arresting officer to have a
7 chemical test made of his blood, breath or urine for the purpose of
8 determining the alcoholic content of the person's blood, and the
9 arresting officer shall have the test performed.

10 (f) Upon the request of the person tested, full information con-
11 cerning the test taken at the direction of a peace officer shall be
12 made available to him or his attorney.

13 Sec. 28.35.032. DEPARTMENT TO SUSPEND LICENSE. The department,
14 upon receipt of an officer's sworn statement that he had reasonable
15 cause to believe a person had been driving a motor vehicle on a public
16 highway while under the influence of intoxicating liquor and that the
17 person refused to submit to the test after being requested by the
18 officer, shall suspend his privilege to operate a motor vehicle for a
19 period of six months. The suspension shall become effective 10 days
20 after the giving of written notice to the person affected.

21 Sec. 28.35.033. WHO MAY ADMINISTER BLOOD TESTS. (a) Only a
22 physician, registered nurse or licensed clinical laboratory technolo-
23 gist or clinical laboratory technician acting at the request of a
24 peace officer may withdraw blood for the purpose of determining the
25 alcoholic content. This limitation does not apply to the taking of
26 breath specimens.

27 (b) The person tested may, at his own expense, have a physician,
28 registered nurse, licensed clinical laboratory technologist or clinical
29 laboratory technician or another person of his own choosing administer

1 a test in addition to any administered at the direction of a peace
2 officer. The failure or inability to obtain an additional test by a
3 person shall not preclude the admissibility in evidence of the test
4 taken at the direction of a peace officer.

5 Sec. 28.35.034. DEPARTMENT TO SET UP UNIFORM STANDARDS. The
6 Department of Public Safety, in cooperation with the Department of
7 Health and Welfare shall adopt rules and regulations which will
8 establish uniform standards for the giving of blood alcohol tests.
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