

1 IN THE SENATE

BY RAY

CS

SENATE BILL NO. 5

2  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a point system for traffic-law  
7 violations."

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

9 \* Section 1. AS 28.15 is amended by adding new sections to read:

10 Sec. 28.15.282. POINT SYSTEM. (a) For the purpose of identify-  
11 ing habitually reckless or negligent drivers and habitual or frequent  
12 violators of traffic laws, the commissioner of public safety shall  
13 promulgate, under the Administrative Procedure Act (AS 44.62), regula-  
14 tions establishing a uniform system for the suspension, revocation or  
15 limitation of a motor vehicle operator's license issued under this  
16 chapter by assigning demerit points for convictions of violations  
17 of traffic laws which are required to be reported to the department  
18 under sec. 190 of this chapter.

19 (b) The regulations adopted under (a) of this section shall  
20 include a designated level of point accumulation which identifies  
21 drivers who are habitually reckless or negligent or who are habitual  
22 or frequent violators of traffic laws, so as to show a disrespect  
23 for traffic laws and a disregard for the safety of other persons.  
24 In formulating the point system authorized by this section, the com-  
25 missioner of public safety shall, in the interest of interstate  
26 uniformity, provide for suspension of a motor vehicle operator's  
27 license for an accumulation of 12 or more points as a result of  
28 offenses committed during any consecutive 12-month period or 18 or  
29 more points as a result of offenses committed during any 24-month

1 period. No more than six points shall be assessed for any single  
2 offense.

3 (c) The commissioner of public safety may assess points for  
4 convictions in other states of offenses which, if committed in this  
5 state, would be grounds for the assessment.

6 (d) Notice of each assessment of points may be given, but notice  
7 shall be given when the point accumulation reaches 50 per cent of the  
8 number at which suspension is authorized.

9 (e) No points may be assessed for violating a provision of a  
10 state law or regulation, or a city or borough ordinance, regulating  
11 standing, parking, equipment, size or weight; nor may points be  
12 assessed for violations by pedestrians, passengers or bicycle riders,  
13 or for violations of provisions relating to the preservation of the  
14 condition of traffic-control devices on the highway. Points shall  
15 be assessed for violations of oversize or overweight permits pertain-  
16 ing only to restrictions upon speed or hours of operation.

17 (f) If a licensee is convicted of two or more traffic violations  
18 committed on a single occasion, the licensee shall be assessed points  
19 for one offense only and, if the offenses involved have different  
20 point values, the licensee shall be assessed for the offense having  
21 the greater point value.

22 (g) The time periods provided for in this section for the  
23 accumulation of points shall be based upon the date of violation, but  
24 points may not be assessed until after conviction, either upon a plea  
25 of guilty or nolo contendere or as a result of a trial, for violation  
26 of the traffic laws.

27 (h) Only for purposes of assessing points under this section,  
28 a plea of nolo contendere accepted by the court or the forfeiture of  
29 any bail or collateral deposited to secure a defendant's appearance

1 in court, as evidenced by records forwarded to the department in  
2 accordance with the provisions of sec. 190 of this chapter, is con-  
3 sidered a conviction.

4 (i) No points assessed under authority of this section may be  
5 retained for more than two years after the date of their assessment  
6 for purposes of suspension, revocation or limitation of a motor  
7 vehicle operator's license issued under this chapter. Two points  
8 shall be deducted from the assessed total if the operator has not been  
9 convicted of a violation of the traffic laws for 12 months after his  
10 last conviction. In addition, two points shall be deducted from the  
11 assessed total upon the operator's furnishing to the department  
12 adequate proof of successful completion of a driver improvement course  
13 approved by the department. No more than one course may be used to  
14 obtain a reduction in points in any 12-month period.

15 (j) In this section "traffic laws" means statutes, regulations,  
16 and local ordinances governing the operation or movement of vehicles.

17 Sec. 28.15.283. SUSPENSION, REVOCATION, LIMITATION; POINT-  
18 SYSTEM HEARING. (a) The department may suspend, revoke or limit,  
19 upon a hearing or a failure to request a hearing as provided in this  
20 section, the motor vehicle operator's license of a person when his  
21 driving record identifies him as a habitually reckless or negligent  
22 driver or as a habitual or frequent violator under sec. 282 of this  
23 chapter.

24 (b) When the department's records show that a licensee has  
25 accumulated a sufficient number of points to be subject to license  
26 suspension, revocation or limitation, the department shall notify the  
27 licensee that, unless he requests a hearing within 15 days after the  
28 date of the notice to determine whether his motor vehicle operator's  
29 license should be suspended, revoked or limited, the department will

1 suspend, revoke or limit his license because he has been identified,  
2 through his point accumulation, as a habitually reckless or negligent  
3 driver or as a habitual or frequent violator of traffic laws. The  
4 notification shall be given to the licensee in writing by registered  
5 mail, addressed to the address of the licensee as shown by the records  
6 of the department.

7 (c) Upon receipt of a request for a hearing the department shall  
8 determine the time and place, and shall serve upon the licensee, in  
9 the same manner as provided for in (b) of this section, a notice of  
10 hearing at least 10 days before the hearing. Hearings ordered by the  
11 department shall be held at the office of the department nearest to  
12 the residence of the licensee, unless the department and the licensee  
13 agree that the hearing is to be held elsewhere. A hearing delay  
14 shall be granted by the department only if the licensee presents the  
15 department with good cause for the delay. If a hearing is delayed,  
16 the department shall set a new date for the hearing no later than  
17 30 days after the date of the original hearing.

18 (d) A hearing requested under this section shall be presided  
19 over by a hearing officer appointed by the attorney general at the  
20 request of the commissioner of public safety. The hearing officer  
21 shall be provided through a contract executed between the attorney  
22 general and the commissioner of public safety.

23 (e) Hearings conducted under this section are limited to the  
24 issues of

- 25 (1) whether the convictions were those of the licensee;  
26 (2) whether there was a variance between a conviction and  
27 the information on which it was based;  
28 (3) whether points were improperly calculated;  
29 (4) whether credits, in the form of reductions, were

1 wrongfully withheld;

2 (5) whether errors appeared in the report of the conviction;  
3 and

4 (6) whether a license limitation should be imposed in place  
5 of a suspension or revocation.

6 (f) The hearing officer may administer oaths and may issue  
7 subpoenas for the attendance of witnesses and the production of books,  
8 papers and records and may apply to the district court for the enforce-  
9 ment of a subpoena by contempt proceedings and may require a reexamina-  
10 tion of the licensee under the provisions of sec. 250 of this chapter.  
11 A licensee may be represented by counsel, may present any relevant  
12 evidence, and shall be given full opportunity to confront and cross-  
13 examine all witnesses testifying against him. The proceedings at the  
14 hearing shall be recorded.

15 (g) If at the hearing it appears that the record of the licensee  
16 sustains suspension, revocation or limitation, the hearing officer  
17 shall so order and the department shall immediately suspend, revoke  
18 or limit the license and the license shall then be surrendered to the  
19 department. If at the hearing it appears that the record of the  
20 licensee does not sustain suspension, revocation or limitation, the  
21 hearing officer shall so order and the department may not suspend,  
22 revoke or limit the license and shall adjust the licensee's accumulated  
23 point total accordingly.

24 (h) The points assessed and the application of them against the  
25 licensee by the department under sec. 282 of this chapter are in  
26 addition to, and not in substitution for, other provisions of this  
27 chapter and are not a substitute for any penalty imposed by a court.  
28 However, when an assessment of points authorized under sec. 282 of  
29 this chapter for an offense would result in the suspension, revocation

1 or limitation of a motor vehicle operator's license and conflict with  
2 a greater or lesser restriction imposed by a court for the same  
3 offense, the decision of the court shall take precedence over this  
4 section.

5 (i) No suspension, revocation or limitation of a motor vehicle  
6 operator's license under this section may be for more than one year.

7 Sec. 28.15.284. JUDICIAL REVIEW UNDER POINT SYSTEM. (a) A  
8 person whose motor vehicle operator's license is suspended, revoked  
9 or limited under secs. 282 and 283 of this chapter may initiate a  
10 proceeding in the district court to rescind the department's action  
11 by filing a notice of appeal in accordance with the applicable rules of  
12 the court governing appeals in civil matters.

13 (b) The court proceeding under this section shall be without  
14 jury and shall be limited to a review of the issues set out in sec.  
15 283(e) of this chapter.

16 (c) If the issue set out in sec. 283(e)(1) of this chapter is  
17 determined in the affirmative and the issues set out in sec. 283(e)(2) -  
18 (6) of this chapter are determined in the negative, the court shall  
19 sustain the action of the department. If the issue set out in  
20 sec. 283(e)(1) of this chapter is determined in the negative or one  
21 or more of the other issues are determined in the affirmative, the  
22 department's action shall be rescinded and the department shall adjust  
23 the licensee's accumulated point total accordingly.

24 \* Sec. 2. AS 44.62.330(23) is amended to read:

25 (23) Department of Public Safety, as to suspension,  
26 revocation, cancellation or limitation [ETC.,] of driver's licenses,  
27 except as to revocation and suspensions under AS 28.35.031 - 28.35.034  
28 and except as to suspensions, revocations or limitations under  
29 AS 28.15.282 - 28.15.284.