

Original sponsor: Ray

Offered: 3/12/73
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 *HCS* CS FOR SENATE BILL NO. 5

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 identifying
11 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,
15 limitation, or denial of a motor vehicle operator's license issued
16 under this chapter by assigning demerit points for convictions of
17 violations of traffic laws which are required to be reported to the
18 department under sec. 190 of this chapter. The commissioner of public
19 safety shall adopt other regulations necessary to carry out the purposes
20 of this chapter.

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

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2 committed during any consecutive 12-month period or 18 or more points
3 as a result of offenses committed during any 24-month period.

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

7 (d) Notice of each assessment of points may be given, but notice
8 shall be given when the point accumulation reaches 50 per cent of the
9 number at which suspension is authorized. The commissioner of public
10 safety may provide by regulation for a mandatory interview with a
11 driver who is identified as a problem driver to be conducted upon the
12 accumulation of more than six points but less than 12 points. The
13 purpose of such an interview is to assist the person who is identified
14 as a problem driver in overcoming substandard driving habits. An inter-
15 view required under this subsection is not a substitute for a driver
16 improvement interview and is to be conducted in an informal manner. A
17 driver may not be required to comply with any suggestions designed to
18 improve his driving abilities which are made to him during the inter-
19 view.

20 (e) No points may be assessed for violating a provision of a
21 state law or regulation, or a city or borough ordinance, regulating
22 standing, parking, equipment, size or weight; nor may points be assessed
23 for violations by pedestrians, passengers or bicycle riders, or for
24 violations of provisions relating to the preservation of the condition
25 of traffic-control devices on the highway. Points shall be assessed
26 for violations of oversize or overweight permits pertaining only to
27 restrictions upon speed or hours of operation.

28 (f) If a licensee is convicted of two or more traffic violations
29 committed on a single occasion, the licensee shall be assessed points
for one offense only and, if the offenses involved have different point

1 values, the licensee shall be assessed for the offense having the
2 greater point value.

3 (g) The time periods provided for in this section for the accumu-
4 lation of points shall be based upon the date of violation, but points
5 may not be assessed until after conviction, either upon a plea of
6 guilty or nolo contendere or as a result of a trial, for violation of
7 the traffic laws.

8 (h) Only for purposes of assessing points under this section, a
9 plea of nolo contendere accepted by the court or the forfeiture of any
10 bail or collateral deposited to secure a defendant's appearance in
11 court, as evidenced by records forwarded to the department in accordance
12 with the provisions of sec. 190 of this chapter, is considered a con-
13 viction.

14 (i) No points assessed under authority of this section may be
15 retained for more than two years after the date of their assessment for
16 purposes of suspension, revocation, limitation, or denial of a motor
17 vehicle operator's license issued under this chapter. Two points shall
18 be deducted from the assessed total if the operator has not been con-
19 victed of a violation of the traffic laws for 12 months after his last
20 conviction. In addition, two points shall be deducted from the assessed
21 total upon the operator's furnishing to the department adequate proof
22 of successful completion of a driver improvement course approved by the
23 department. No more than one course may be used to obtain a reduction
24 in points in any 12-month period.

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

27 Sec. 28.15.283. SUSPENSION, REVOCATION, LIMITATION, DENIAL. The
28 department may suspend, revoke, limit, deny, or initiate other remedial
29 action against the driving privilege of a person, upon his failure to

1 appear for a driver improvement interview under sec. 284 of this
2 chapter, or upon a driver improvement interview and a failure to request
3 a hearing as provided in sec. 285 of this chapter, or if a hearing is
4 requested, upon conclusion of the hearing, when his driving record
5 identifies him as a habitually reckless or negligent driver or as a
6 habitual or frequent violator under sec. 282 of this chapter.

7 Sec. 28.15.284. DRIVER IMPROVEMENT INTERVIEW. (a) When the
8 department's records show that a licensee has accumulated a sufficient
9 number of points to be subject to license suspension, revocation,
10 limitation, denial, or other action, the department shall notify the
11 licensee to appear for a driver improvement interview on a date not less
12 than 10 days after the date of the notice. The notice shall contain a
13 statement setting out the proposed departmental action and the grounds
14 for that action. The notification shall be given to the licensee in
15 writing by registered mail, addressed to the address of the licensee as
16 shown by the records of the department.

17 (b) The interview ordered by the department shall be held at the
18 office of the department nearest to the residence of the licensee,
19 unless the department and the licensee agree that the interview is to
20 be held elsewhere. An interview delay shall be granted by the depart-
21 ment only if the licensee presents the department with good cause for
22 the delay. If an interview is delayed, the department shall set a new
23 date for the interview no later than 30 days after the date of the
24 original interview.

25 (c) If a licensee fails to appear for a driver improvement inter-
26 view at the time and place stated by the department in its notice to
27 the licensee and if the licensee has not been granted an interview
28 delay, his failure to appear is considered a waiver of the driver im-
29 provement interview and the department may take appropriate action

1 against the licensee's motor vehicle operator's license.

2 Sec. 28.15.285. CONDUCT OF DRIVER IMPROVEMENT INTERVIEW; FINDINGS;
3 REQUEST FOR FORMAL HEARING. (a) A driver improvement interview shall
4 be conducted in an informal manner before a driver improvement examiner
5 sitting as a referee. The licensee shall have the right to make an
6 oral or written answer or statement in which he may controvert any point
7 or issue and present evidence or arguments for the consideration of the
8 department pertinent to the action to be taken or the grounds for the
9 action. The department may consider its records relating to the licen-
10 see. The driver improvement interview is not a formal agency hearing.

11 (b) Upon the conclusion of a driver improvement interview, the
12 department's referee shall make findings on the matter under considera-
13 tion and prepare and submit recommendations to the department. After
14 a review of the referee's report and the department's records, the
15 department shall render its decision concerning the matter under con-
16 sideration and shall notify the person involved of its action in writing
17 by registered mail. The decision is effective upon receipt of the
18 notice. The person upon receiving the notice may, in writing and within
19 10 days, request a hearing under sec. 286 of this chapter.

20 Sec. 28.15.286. HEARING. (a) Upon receipt of a request for a
21 hearing the department shall determine the time and place, and shall
22 serve upon the licensee, in the same manner as provided for in sec.
23 284(a) of this chapter, a notice of hearing at least 10 days before the
24 hearing. Hearings ordered by the department shall be held at the office
25 of the department nearest to the residence of the licensee, unless the
26 department and the licensee agree that the hearing is to be held else-
27 where. A hearing delay shall be granted by the department only if the
28 licensee presents the department with good cause for the delay. If a
29 hearing is delayed, the department shall set a new date for the hearing

1 no later than 30 days after the date of the original hearing.

2 (b) A hearing shall be conducted by the commissioner or by a
3 referee or hearing board appointed by him from administrative employees
4 of the department.

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

14 (d) If at the hearing it appears that the record of the licensee
15 sustains suspension, revocation, limitation, denial, or other remedial
16 action, the person conducting the hearing shall so order and the depart-
17 ment shall immediately suspend, revoke, limit, deny, or take other
18 action against the license and the license shall then be surrendered to
19 the department if required. If at the hearing it appears that the
20 record of the licensee does not sustain suspension, revocation, limita-
21 tion, denial, or other action, the person conducting the hearing shall
22 so order and the department may not suspend, revoke, limit, deny, or
23 take other action against the license and shall adjust the licensee's
24 accumulated point total accordingly.

25 (e) The points assessed and the application of them against the
26 licensee by the department under sec. 282 of this chapter are in addi-
27 tion to, and not in substitution for, other provisions of this chapter
28 and are not a substitute for any penalty imposed by a court.

29 (f) No suspension, revocation, limitation, denial of, or other

1 action against a motor vehicle operator's license under secs. 282 - 288
2 of this chapter may be for more than one year.

3 (g) If a person's license is suspended or revoked upon the accumu-
4 lation of the number of points which require that action under secs.
5 282 - 288 of this chapter and regulations adopted under those sections,
6 the department may not issue a limited license to that person during
7 the period of suspension or revocation.

8 (h) Under secs. 282 - 288 of this chapter, the term "licensee"
9 includes an applicant for a new license if his license was revoked under
10 secs. 282 - 288 of this chapter.

11 Sec. 28.15.287. JUDICIAL REVIEW UNDER POINT SYSTEM. A person
12 whose motor vehicle operator's license is suspended, revoked, limited,
13 or denied under sec. 286 of this chapter may initiate a proceeding in
14 the superior court to rescind the department's action by filing a notice
15 of appeal in accordance with the applicable rules of the court governing
16 appeals in civil matters. The hearing on the appeal shall be de novo.

17 Sec. 28.15.288. STAY OF DEPARTMENT ACTION PENDING HEARING OR
18 APPEAL. Any decision by the department suspending or revoking a person's
19 driving privilege shall be stayed and does not take effect while a hear-
20 ing is pending or during the pendency of a subsequent appeal to superior
21 court. However, the stay is effective only as long as there is no
22 conviction of a moving violation during the pendency of a hearing or
23 appeal.

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

25 (23) Department of Public Safety, as to suspension, revocation,
26 cancellation or limitation [ETC.,] of driver's licenses, except as to
27 revocation and suspensions under AS 28.35.031 - 28.35.034 and except as
28 to suspensions, revocations, limitations, or denials under AS 28.15.282 -
29 28.15.288