

Original sponsor: Ray

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1 IN THE SENATE

BY THE FREE CONFERENCE COMMITTEE

2 FREE CONFERENCE CS FOR CS FOR SENATE BILL NO. 5 *FCC*

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, revocation or denial of a motor vehicle operator's license  
29 for an accumulation of 12 or more points as a result of offenses

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

3 (c) The commissioner of public safety may assess points for con-  
4 victions in other states of offenses which, if committed in this state,  
5 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. The commissioner of public  
9 safety shall provide by regulation for a mandatory interview with a  
10 driver, who is identified as a problem driver, to be conducted upon the  
11 accumulation of not less than six points. The purpose of such an inter-  
12 view is to assist the person who is identified as a problem driver in  
13 overcoming substandard driving habits. An interview required under this  
14 subsection is not a substitute for a driver improvement interview and  
15 is to be conducted in an informal manner. A driver shall be required  
16 to comply with any recommendations designed to improve his driving  
17 abilities which are made to him during the interview.

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

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

1 greater point value.

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

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

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

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

26 Sec. 28.15.283. SUSPENSION, REVOCATION, LIMITATION, DENIAL. The  
27 department shall suspend, revoke, limit, deny, or initiate other remedial  
28 action against the driving privilege of a person, upon his failure to  
29 appear for a mandatory interview or driver improvement interview under

1 sec. 284 of this chapter, or upon a driver improvement interview and a  
2 failure to request a hearing as provided in sec. 285 of this chapter, or  
3 if a hearing is requested, upon conclusion of the hearing, when his  
4 driving record identifies him as a habitually reckless or negligent  
5 driver or as a habitual or frequent violator under sec. 282 of this  
6 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 under secs. 282 or 283 of this  
11 chapter, the department shall notify the licensee to appear for a  
12 driver improvement interview on a date not less than 10 days after the  
13 date of the notice. The notice shall contain a statement setting out  
14 the proposed departmental action and the grounds for that action. The  
15 notification shall be given to the licensee in writing by registered  
16 mail, addressed to the address of the licensee as shown by the records  
17 of the department.

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

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

1 improvement interview and the department may take appropriate action  
2 against the licensee's motor vehicle operator's license.

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

12 (b) Upon the conclusion of a driver improvement interview, the  
13 department's referee shall make findings on the matter under considera-  
14 tion and prepare and submit recommendations to the department. After  
15 a review of the referee's report and the department's records, the  
16 department shall render its decision concerning the matter under con-  
17 sideration and shall notify the person involved of its action in writing  
18 by registered mail. The decision is effective upon receipt of the  
19 notice. The person upon receiving the notice may, in writing and within  
20 10 days, request a hearing under sec. 286 of this chapter.

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

1 hearing is delayed, the department shall set a new date for the hearing  
2 no later than 30 days after the date of the original hearing.

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

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

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

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

1 (f) No suspension, revocation, limitation, denial of, or other  
2 action against a motor vehicle operator's license under secs. 282 - 288  
3 of this chapter may be for more than one year.

4 (g) If a person's license is suspended or revoked upon the accumu-  
5 lation of the number of points which require that action under secs.  
6 282 - 288 of this chapter and regulations adopted under those sections,  
7 no limited license may be issued to that person during the period of  
8 suspension or revocation.

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

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

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

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

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