

Original sponsor: Rules Committee
by request of the Governor

Offered: 4/24/74

1 IN THE SENATE

BY THE FREE CONFERENCE COMMITTEE

2 FREE CONFERENCE CS FOR HOUSE CS FOR SENATE BILL NO. 193

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the operation of motor vehicles;
7 and changing Rule 35, Rules of Criminal Procedure."

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

9 * Section 1. AS 28.15.210 is amended to read:

10 Sec. 28.15.210. MANDATORY REVOCATION OF LICENSE. (a) The
11 following offenses are grounds for the immediate revocation of an
12 operator's license:

13 (1) manslaughter or negligent homicide resulting from the
14 operation of a motor vehicle;

15 (2) a felony in the commission of which a motor vehicle is
16 used;

17 (3) failure to stop and give aid as required under the laws
18 of this state when a motor vehicle accident results in the death or
19 personal injury of another;

20 (4) perjury or the making of a false affidavit or statement
21 under oath to the department under a law relating to the ownership or
22 operation of a motor vehicle;

23 (5) operating or driving an automobile, motorcycle or other
24 motor vehicle while under the influence of intoxicating liquor,
25 dangerous or narcotic drugs.

26 (b) A court convicting a person of any of the offenses listed in
27 (a)(1) - (4) [(a)] of this section shall revoke the license unless the
28 court determines that

29 (1) the person's ability to earn a livelihood would be

1 severely impaired, and

2 (2) a limitation can be placed on the license which will
3 enable the person to earn a livelihood without excessive risk of
4 danger to the public.

5 (c) A court convicting a person of the offense specified in (a)(5)
6 of this section shall revoke the license for a period of not less than
7 30 days for the first conviction, unless the court determines that the
8 person, except for the nature of the offense, would otherwise be entitled
9 to a limited license under (b) of this section. In that event, the court
10 shall limit the person's license for the 30-day period. Subsequent con-
11 victions of a person for the offense specified in (a)(5) of this section
12 shall result in the following periods of revocation by the court:

13 (1) not less than one year for the second conviction;

14 (2) not less than three years for a third or subsequent
15 conviction.

16 * Sec. 2. AS 28.15.220(a) is amended to read:

17 (a) A court may as a part of the sentence revoke, suspend, or
18 impose a limitation upon a license upon conviction of [(1) DRIVING
19 A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR A
20 NARCOTIC DRUG TO A DEGREE WHICH MAKES HIM INCAPABLE OF SAFELY DRIVING
21 A MOTOR VEHICLE; (2)] reckless driving.

22 * Sec. 3. AS 28.15.260(a) is amended to read:

23 (a) The court may not limit or suspend an operator's license or
24 privilege to drive a motor vehicle on the public highways for a longer
25 period than one year, except that, for the offense specified in
26 sec. 210(a)(5) of this chapter, the period may be longer than one year
27 and for the offense [OFFENSES] listed under sec. 220(a) [SEC. 220(a)(1)
28 AND (2)] of this chapter, limitation or suspension shall be as follows:

29 (1) 30 days for the first conviction, unless the court

1 determines that the person, except for the nature of the offense,
2 would otherwise be entitled to a limited license under sec. 210(b) of
3 this chapter. In that event, the court shall limit the person's
4 license for the 30-day period;

5 (2) one year for the second conviction;

6 (3) three years for a third or subsequent conviction.

7 * Sec. 4. AS 28.35.030 is amended to read:

8 Sec. 28.35.030. DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING
9 LIQUOR OR DRUGS. A person who, while under the influence of intoxi-
10 cating liquor, depressant, hallucinogenic or stimulant drugs or nar-
11 cotic drugs as defined in AS 17.10.230(13) and AS 17.12.150(3) operates
12 or drives an automobile, motorcycle or other motor vehicle in the
13 state, upon conviction, is punishable by a fine of not more than
14 \$1,000, or by imprisonment for not more than one year, or by both.
15 Upon a second conviction within five years after a first conviction
16 under this section, the court shall impose a minimum sentence of
17 imprisonment of not less than three days. Upon a subsequent conviction
18 within five years after a second conviction under this section, the
19 court shall impose a minimum sentence of imprisonment of not less than
20 10 days. The execution of sentence may not be suspended nor may proba-
21 tion or parole be granted until the minimum imprisonment provided in
22 this section has been served, nor may imposition of sentence be sus-
23 pended, except upon the condition that the defendant be imprisoned
24 for no less than the minimum period provided in this section, nor
25 may the punishment provided for in this section be reduced under
26 AS 11.05.150. In addition, his operator's license shall [MAY] be
27 revoked [LIMITED OR SUSPENDED] in accordance with AS 28.15.210(c) [AS 28.15.260(a)]

28 * Sec. 5. AS 28.15.300 is amended to read:

29 Sec. 28.15.300. DRIVING WHILE LICENSE CANCELLED, SUSPENDED OR

1 REVOKED. (a) A person who drives a motor vehicle on a public highway
2 in this state at a time when his privilege to do so has been [IS]
3 cancelled, suspended or revoked by a court of competent jurisdiction
4 is guilty of a misdemeanor, and, upon conviction, the court shall
5 impose a minimum sentence of not less than 10 days. The execution of
6 sentence may not be suspended nor may probation or parole be granted
7 until the minimum imprisonment provided in this section has been
8 served, nor may imposition of sentence be suspended, except upon the
9 condition that the defendant be imprisoned for no less than the minimum
10 period provided for in this section, nor may the punishment provided
11 for in this section be reduced under AS 11.05.150.

12 (b) A person who has been convicted of any offense for which his
13 license is cancelled, suspended or revoked at the time of sentencing
14 in open court, shall be informed by the court that a conviction of
15 driving on a public highway in this state at a time when his privilege
16 to do so has been cancelled, suspended, or revoked that he will be,
17 upon conviction, subject to the mandatory 10 days imprisonment provided
18 for in (a) of this section.

19 * Sec. 6. AS 28.35.040 is repealed and re-enacted to read:

20 Sec. 28.35.040. RECKLESS DRIVING. (a) A person who drives a
21 motor vehicle in the state in such a manner as to create a substantial
22 and unjustifiable risk of harm to a person or to property is guilty of
23 reckless driving. A substantial and unjustifiable risk is a risk of
24 such a nature and degree that the conscious disregard thereof or a
25 failure to perceive it constitutes a gross deviation from the standard
26 of conduct that a reasonable person would observe in the situation.

27 (b) A person convicted of reckless driving is guilty of a mis-
28 demeanor and is punishable by a fine of not more than \$1,000 or by
29 imprisonment for not more than one year or by both.

1 (c) Lawfully conducted automobile, snowmobile, motorcycle or
2 other motor vehicle racing or exhibition events are not subject to the
3 provisions of this section.

4 * Sec. 7. AS 28.35 is amended by adding a new section to read:

5 Sec. 28.35.045. NEGLIGENCE DRIVING. (a) A person who drives a
6 motor vehicle in the state in such a manner as to create an unjusti-
7 fiable risk of harm to a person or to property and who, as a result of
8 the creation of the risk, actually endangers a person or property is
9 guilty of negligent driving. An unjustifiable risk is a risk of such
10 a nature and degree that a failure to avoid it constitutes a deviation
11 from the standard of care that a reasonable person would observe in
12 the situation. Proof that a defendant actually endangered a person or
13 property is established by showing that, as a result of the defendant's
14 driving,

15 (1) an accident occurred;

16 (2) a person, including the defendant, took evasive action
17 to avoid an accident;

18 (3) a person, including the defendant, stopped or slowed
19 down suddenly to avoid an accident; or

20 (4) a person or property, including the defendant or his
21 property, was otherwise endangered.

22 (b) The offense of negligent driving is a lesser offense than,
23 and included in, the offense of reckless driving, and a person charged
24 with reckless driving may be convicted of the lesser offense of neg-
25 ligent driving.

26 (c) A person convicted of negligent driving is guilty of a mis-
27 demeanor and is punishable by a fine of not more than \$300, and in
28 addition, the court may limit or suspend his operator's license in
29 accordance with AS 28.15.220(b) and AS 28.15.260(a).

1 (d) Lawfully conducted automobile, snowmobile, motorcycle or
2 other motor vehicle racing or exhibition events are not subject to the
3 provisions of this section.

4 * Sec. 8. Sections four and five of this Act change Court Rule 35, Rules
5 of Criminal Procedure by eliminating the courts discretion to reduce or
6 suspend a sentence within 60 days after it is imposed on second or subsequent
7 convictions for driving while under the influence of intoxicating liquor,
8 dangerous or narcotic drugs, or for driving a motor vehicle while the person's
9 privilege to do so has been cancelled, suspended, or revoked.

10 * Sec. 9. The mandatory sentences provided for second and subsequent
11 offenses in sec. 4 of this Act are applicable only if the first conviction
12 occurs after the effective date of this Act. The mandatory sentence pro-
13 vided for in sec. 5 of this Act applies only to a person convicted of driving
14 a motor vehicle on a public highway when his privilege to do so is cancelled,
15 suspended or revoked after the effective date of this Act.