

Introduced: 1/12/82
Referred: Health, Education &
Social Services and Judiciary

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 657

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making miscellaneous amendments to the statutes
7 pertaining to the crime of driving while intoxicated;
8 and providing for an effective date."

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

10 * Section 1. AS 28.15.181(a)(5) is amended to read:

11 (5) operating or driving [OR OPERATING] a motor vehicle while
12 intoxicated [UNDER THE INFLUENCE OF ALCOHOL OR ANOTHER DRUG];

13 * Sec. 2. AS 28.35.032(a) is amended to read:

14 (a) If a person under arrest refuses the request of a law enforce-
15 ment officer to submit to a chemical test of his breath as provided in
16 AS 28.35.031, after being advised by the officer that his refusal will
17 result in the suspension, denial or revocation of his license and that
18 the refusal may be used against him in a civil or criminal action or
19 proceeding arising out of an act alleged to have been committed by him
20 while operating or driving a motor vehicle while intoxicated [UNDER THE
21 INFLUENCE OF INTOXICATING LIQUOR], a chemical test shall not be given.
22 The refusal of a person to submit to a chemical test of his breath as
23 provided in AS 28.35.031 does not preclude the administration of other
24 chemical tests if the person is lawfully arrested for an offense defined
25 in AS 11.41.100 -- 11.41.250 committed while the person was driving a
26 motor vehicle.

27 * Sec. 3. AS 28.35.032(b)(1) is amended to read:

28 (1) the arresting officer had reasonable grounds to believe
29 the arrested person had been operating or driving a motor vehicle in the

1 state while intoxicated [UNDER THE INFLUENCE OF INTOXICATING LIQUOR];

2 * Sec. 4. AS 28.35.032(e) is amended to read:

3 (e) The refusal of a person to submit to a chemical test of his
4 breath under (a) of this section is admissible evidence in a civil or
5 criminal action or proceeding arising out of an act alleged to have been
6 committed by the person while operating or driving a motor vehicle while
7 intoxicated [UNDER THE INFLUENCE OF INTOXICATING LIQUOR].

8 * Sec. 5. AS 28.35.033(a) is amended to read:

9 (a) Upon the trial of a civil or criminal action or proceeding
10 arising out of acts alleged to have been committed by a person while
11 operating or driving a motor vehicle while intoxicated [UNDER THE INFLU-
12 ENCE OF INTOXICATING LIQUOR], the amount of alcohol in the person's
13 blood or breath at the time alleged shall give rise to the following
14 presumptions:

15 (1) if [IF] there was 0.05 percent or less by weight of
16 alcohol in the person's blood, or 50 milligrams or less of alcohol per
17 100 milliliters of his blood, or 0.05 grams or less of alcohol per 210
18 liters of his breath, it shall be presumed that the person was not under
19 the influence of intoxicating liquor;[.]

20 (2) if [IF] there was in excess of 0.05 percent but less than
21 0.10 percent by weight of alcohol in the person's blood, or in excess of
22 50 but less than 100 milligrams of alcohol per 100 milliliters of his
23 blood, or in excess of 0.05 grams but less than 0.10 grams of alcohol
24 per 210 liters of his breath, that fact does not give rise to any pre-
25 sumption that the person was or was not under the influence of intoxi-
26 cating liquor, but that fact may be considered with other competent
27 evidence in determining whether the person was under the influence of
28 intoxicating liquor; [.]

29 (3) Repealed by sec. 13 ch. 129 SLA 1980;_

1 (4) if there was 0.10 percent or more by weight of alcohol
2 in the person's blood, or 100 milligrams or more of alcohol per 100 mil-
3 liliters of his blood, or 0.10 grams or more of alcohol per 210 liters
4 of his breath it shall be presumed that the person was under the influ-
5 ence of intoxicating liquor.

6 * Sec. 6. AS 28.35.033(b) is amended to read:

7 (b) For purposes of this chapter [SECTION], percent by weight of
8 alcohol in the blood shall be based upon milligrams of alcohol per 100
9 cubic centimeters of blood.

10 * Sec. 7. AS 28.35.033(d) is amended to read:

11 (d) To be considered valid under the provisions of this chapter
12 [SECTION] the chemical analysis of the person's breath shall have been
13 performed according to methods approved by the Department of Health and
14 Social Services. The Department of Health and Social Services is auth-
15 orized to approve satisfactory techniques, methods, and standards of
16 training necessary to ascertain the qualifications of individuals to
17 conduct the analysis. If it is established at trial that a chemical
18 analysis of breath was performed according to approved methods by a per-
19 son trained according to techniques, methods, and standards of training
20 approved by the Department of Health and Social Services, there is a
21 presumption that the test results are valid and further foundation for
22 introduction of the evidence is unnecessary.

23 * Sec. 8. This Act takes effect immediately in accordance with AS 01.10.
24 070(c).