

Offered: 2/24/82  
Referred: Judiciary and Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

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CS FOR HOUSE BILL NO. 657 (HESS)

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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TWELFTH LEGISLATURE - SECOND SESSION

5

A BILL

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For an Act entitled: "An Act relating to penalties for driving while intoxicated."

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

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\* Section 1. AS 28.15.181(b) is amended to read:

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(b) A court convicting a person of an offense under (a)(1) - (4),

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(6), or (7) [(a)(1) - (7)] of this section shall revoke that person's

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driver's license for a period of not less than 30 days for the first

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conviction, unless the court determines that the person's ability to

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earn a livelihood would be severely impaired and a limitation under

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AS 28.15.201 can be placed on the license which will enable the person

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to earn a livelihood without excessive risk or danger to the public. If

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a court limits a person's license under this subsection, it shall do so

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for a period of not less than 30 days. Upon a subsequent conviction of

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a person for any offense under (a)(1) - (4), (6), or (7) [(a)] of this

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section, the court shall revoke the person's license and may not grant

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him any limited license privileges for the following periods:

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

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(2) not less than three years for a third or subsequent

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conviction.

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\* Sec. 2. AS 28.15.181 is amended by adding a new subsection to read:

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(c) A court convicting a person of an offense under (a)(5) of this

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section shall revoke that person's driver's license for a period of not

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less than 90 days for the first conviction. Upon a second conviction

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of a person for an offense under (a)(5) of this section, the court shall

1 revoke the person's license for a period of not less than two years.  
2 Upon a third or subsequent conviction of a person for an offense under  
3 (a)(5) of this section, the court shall revoke the person's license for  
4 five years. The court may not grant limited license privileges under  
5 this subsection. A person whose driver's license is revoked under this  
6 subsection may not apply to the department for the issuance of a new  
7 license until the period of revocation expires and his driving privilege  
8 may not be restored until the expiration of the revocation period.

9 \* Sec. 3. AS 28.15.291 is amended to read:

10 Sec. 28.15.291. DRIVING WHILE LICENSE CANCELED, SUSPENDED, REVOKED  
11 OR IN VIOLATION OF LIMITATION. (a) A [NO] person may not drive a motor  
12 vehicle on a highway or vehicular way or area in this state at a time  
13 when his driver's license, or privilege to drive in this state if he is  
14 licensed in another jurisdiction, has been canceled, suspended or re-  
15 voked, or when he is driving in violation of a limitation placed upon  
16 his license, even when he is driving under a license issued in another  
17 jurisdiction. Upon conviction of a violation of this section, the court  
18 shall impose a minimum sentence of imprisonment of not less than 10 days  
19 unless the license was revoked upon a conviction for driving or operating  
20 a motor vehicle under the influence of alcohol or another drug, in which  
21 case the court shall impose a minimum sentence of imprisonment of not  
22 less than 72 consecutive hours. If the license was revoked for five  
23 years upon a third or subsequent conviction for driving or operating a  
24 motor vehicle under the influence of alcohol or another drug, the court  
25 shall impose a minimum sentence of five years imprisonment in accordance  
26 with AS 28.35.030(c). The execution of sentence may not be suspended  
27 and [NOR MAY] probation or parole may not be granted until the minimum  
28 imprisonment provided in this section has been served. Imposition [;  
29 NOR MAY IMPOSITION] of sentence may not be suspended, except upon the

1 condition that the defendant be imprisoned for no less than the minimum  
2 period provided for in this section. In addition, his license or  
3 privilege to drive shall be revoked, and he may not be issued a new  
4 license nor may his privilege to drive be restored for an additional  
5 period of one year after the date that he would have been entitled to  
6 restoration of his driving privileges.

7 (b) When a person's license is canceled, limited, suspended or  
8 revoked, he shall be informed by the department or the court which takes  
9 the action at the time of the action that, upon a conviction of driving  
10 on a highway or vehicular way or area in this state at a time when his  
11 driver's license or privilege to drive in this state has been canceled,  
12 suspended or revoked, or upon a conviction of driving in violation of a  
13 limitation of his license, or upon a conviction of driving when his  
14 driver's license has been revoked for driving or operating a motor  
15 vehicle under the influence of alcohol or another drug, he will be sub-  
16 ject to the mandatory 10-day, 120 consecutive hour, or five-year sen-  
17 tence of imprisonment under (a) of this section.

18 \* Sec. 4. AS 28.35.030(b) is amended to read:

19 (b) Driving while intoxicated is a class A felony [MISDEMEANOR].

20 \* Sec. 5. AS 28.35.030(c) is amended to read:

21 (c) Upon conviction under this section the court shall impose a  
22 minimum sentence of imprisonment of not less than 120 [THREE] consecutive  
23 hours [DAYS]. Upon a second [SUBSEQUENT] conviction [WITHIN FIVE YEARS  
24 AFTER A CONVICTION] under this section, the court shall impose a minimum  
25 sentence of imprisonment of not less than 90 [10] consecutive days.  
26 Upon a third conviction under this section, the court shall impose a  
27 minimum sentence of imprisonment of not less than five years. Upon a  
28 fourth or subsequent conviction under this section, the court shall  
29 impose a minimum sentence of imprisonment of not less than five years

1 for each conviction under this section and an additional sentence of  
2 imprisonment of not less than five years if the fourth or subsequent  
3 offense was committed while the defendant's operator's license was  
4 revoked for a previous conviction under this section. The execution of  
5 sentence may not be suspended and [NOR MAY] probation may not be granted  
6 until the minimum imprisonment provided in this section has been served.  
7 Imposition of sentence may not be suspended, except upon the condition  
8 that the defendant be imprisoned for no less than the minimum period  
9 provided in this section. In addition, his operator's license shall be  
10 revoked in accordance with AS 28.15.181. In addition, a person convicted  
11 under this section [STATUTE] shall undertake, for a term specified by  
12 the court, a [THAT] program of alcohol education or rehabilitation which  
13 the court shall impose [,] after consideration of any information com-  
14 piled under (d) of this section [, FINDS APPROPRIATE].

15 \* Sec. 6. AS 28.35.030 is amended by adding new subsections to read:

16 (e) A motor vehicle used in or in aid of a violation of this  
17 section may be seized by a law enforcement officer incident to an arrest  
18 for a violation of this section. Upon conviction for a violation of  
19 this section, the motor vehicle seized is forfeited to the state and  
20 shall be disposed of as directed by the court. If the motor vehicle is  
21 sold, the proceeds of the sale shall be transmitted to the proper state  
22 officer for deposit in the general fund. A motor vehicle seized under  
23 this section, unless forfeited by order of the court, shall be returned  
24 to its rightful owner after completion of the case and payment of the  
25 fine or expiration of the term of imprisonment, if any.

26 (f) A forfeiture of a motor vehicle encumbered by a bona fide  
27 security interest is subject to the interest of the secured party if the  
28 secured party neither had knowledge of nor consented to the offense  
29 committed in violation of this section. If a motor vehicle is forfeited

1 under this section, a person who holds a secured interest in the motor  
2 vehicle may file a claim in the court in which the forfeiture action is  
3 pending for remittance of his interest upon showing at a hearing before  
4 the court that he holds a valid interest in the motor vehicle and that  
5 he had no knowledge of nor was a consenting party to the offense.

6 \* Sec. 7. AS 28.35.032(a) is amended to read:

7 (a) If a person under arrest refuses the request of a law enforce-  
8 ment officer to submit to a chemical test of his breath as provided in  
9 AS 28.35.031, after being advised by the officer that his refusal will  
10 result in the suspension, denial or revocation of his license, [AND]  
11 that the refusal may be used against him in a civil or criminal action  
12 or proceeding arising out of an act alleged to have been committed by  
13 him while operating or driving a vehicle under the influence of intoxi-  
14 cating liquor, and that the refusal is a misdemeanor, a chemical test  
15 shall not be given.

16 \* Sec. 8. AS 28.35.032 is amended by adding a new subsection to read:

17 (f) Refusal to submit to a chemical test under (a) of this section  
18 is a class A misdemeanor.  
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