

Offered: 2/28/83  
Referred: Judiciary

Original sponsors: Abood, Furnace,  
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1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE  
2 CS FOR HOUSE BILL NO. 6 (State Affairs)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to driving a motor vehicle."

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

8 \* Section 1. AS 28.15.081(a) is amended to read:

9 (a) The department shall examine every applicant for a driver's  
10 license. The examination shall include (1) a test of the applicant's  
11 eyesight, (2) a test of the applicant's [HIS] ability to read and  
12 understand official traffic control devices, (3) the applicant's [HIS]  
13 knowledge of safe driving practices, (4) the applicant's knowledge of  
14 the effects of alcohol and drugs on drivers and the dangers of driving  
15 under the influence of alcohol or drugs, (5) the applicant's knowledge  
16 of the laws relating to driving while intoxicated, and the traffic  
17 laws and regulations of this state. The examination [, AND] may  
18 include a demonstration of ability to exercise ordinary and reasonable  
19 control in the driving of a motor vehicle of the type and general  
20 class of vehicles for which the applicant seeks a license. However,  
21 an applicant who has not been previously issued a driver's license by  
22 this or another jurisdiction must demonstrate [HIS] ability, and must  
23 present medical information that [WHICH] the department reasonably  
24 requires to determine [HIS] fitness to safely drive a motor vehicle of  
25 the type and general class of vehicles for which the applicant [HE]  
26 seeks a license.

27 \* Sec. 2. AS 28.15.181(a) is amended by adding a new paragraph to read:

28 (8) refusal to submit to a chemical test of breath under  
29 AS 28.35.032.

1 \* Sec. 3. AS 28.15.181(c) is repealed and reenacted to read:

2 (c) A court convicting a person of an offense under (a)(5) or  
3 (a)(8) of this section arising out of the operation of a type of motor  
4 vehicle for which a driver's license is required shall suspend or  
5 revoke that person's driver's license and may not grant limited li-  
6 cense privileges for the following periods:

7 (1) not less than 90 days if the person has not previously  
8 been convicted of an offense

9 (A) under (a)(5) of this section;

10 (B) under (a)(8) of this section;

11 (C) in another jurisdiction with elements substan-  
12 tially similar to an offense under (a)(5) of this section; or

13 (D) in another jurisdiction with elements substan-  
14 tially similar to an offense under (a)(8) of this section;

15 (2) not less than one year if the person has been previous-  
16 ly convicted of one offense

17 (A) under (a)(5) of this section;

18 (B) under (a)(8) of this section;

19 (C) in another jurisdiction with elements substan-  
20 tially similar to an offense under (a)(5) of this section; or

21 (D) in another jurisdiction with elements substan-  
22 tially similar to an offense under (a)(8) of this section;

23 (3) permanently if the person has been previously convicted  
24 of more than one of the following offenses or has more than once been  
25 previously convicted of one of the following offenses:

26 (A) an offense under (a)(5) of this section;

27 (B) an offense under (a)(8) of this section;

28 (C) an offense in another jurisdiction with elements  
29 substantially similar to an offense under (a)(5) of this section;

1 or

2 (D) an offense in another jurisdiction with elements  
3 substantially similar to an offense under (a)(8) of this section.

4 \* Sec. 4. AS 28.15.201(b)(1) is amended to read:

5 (1) require the surrender of the driver's license [AND, IF  
6 THE PERSON IS CONVICTED OF AN OFFENSE UNDER AS 28.15.181(a)(5), REVOKE  
7 THAT PERSON'S LICENSE FOR A PERIOD OF NOT LESS THAN 60 DAYS]; and

8 \* Sec. 5. AS 28.15.201(c) is amended to read:

9 (c) After the termination of a limitation as shown on the certi-  
10 ficate issued under (b) of this section, a person on whom a limitation  
11 was imposed is no longer bound by the limitation and may apply for a  
12 duplicate license under AS 28.15.141 [OR, IF OTHERWISE ELIGIBLE, FOR A  
13 NEW LICENSE IF THE LICENSE WAS REVOKED FOR CONVICTION OF AN OFFENSE  
14 UNDER AS 28.15.181(a)(5) AND LIMITED LICENSE PRIVILEGES WERE GRANTED  
15 UNDER AS 28.15.181(c)].

16 \* Sec. 6. AS 28.15.291 is amended to read:

17 Sec. 28.15.291. DRIVING WHILE LICENSE CANCELED, SUSPENDED,  
18 REVOKED OR IN VIOLATION OF LIMITATION. (a) A [NO] person may not  
19 drive a motor vehicle on a highway or vehicular way or area [IN THIS  
20 STATE] at a time when that person's [HIS] driver's license, or privi-  
21 lege to drive that type of motor vehicle [IN THIS STATE IF HE IS  
22 LICENSED IN ANOTHER JURISDICTION,] has been canceled, suspended or  
23 revoked in this or another jurisdiction, or when [HE IS] driving in  
24 violation of a limitation placed upon that person's [HIS] license or  
25 privilege to drive in this or [, EVEN WHEN HE IS DRIVING UNDER A  
26 LICENSE ISSUED IN] another jurisdiction. Upon conviction of a viola-  
27 tion of this section, the court shall impose a minimum sentence of  
28 imprisonment of not less than 90 consecutive days and a fine of not  
29 less than \$500 nor more than \$1,000 [10 DAYS]. The execution of

1 sentence may not be suspended nor may probation or parole be granted  
2 until the minimum imprisonment provided in this section has been  
3 served; nor may imposition of sentence be suspended [, EXCEPT UPON THE  
4 CONDITION THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN THE MINI-  
5 MUM PERIOD PROVIDED FOR IN THIS SECTION]. In addition, the person's  
6 [HIS] license or privilege to drive shall be suspended or revoked, and  
7 the person [HE] may not be issued a new license nor may the [HIS]  
8 privilege to drive be restored for an additional period of one year  
9 after the date that the person [HE] would have been entitled to resto-  
10 ration of [HIS] driving privileges.

11 (b) When a person's license is canceled, limited, suspended or  
12 revoked, that person [HE] shall be informed by the department or the  
13 court that [WHICH] takes the action at the time of the action that,  
14 upon a conviction of driving on a highway or vehicular way or area in  
15 this state at a time when that person's [HIS] driver's license or  
16 privilege to drive in this state has been canceled, suspended or  
17 revoked, or upon a conviction of driving in violation of a limitation  
18 of the [HIS] license, that person [HE] will be subject to the manda-  
19 tory 90-day [10-DAY] imprisonment under (a) of this section.

20 \* Sec. 7. AS 28.35.030(a)(2) is amended to read:

21 (2) when, as determined by a chemical test given within  
22 four hours after the alleged offense was committed, there is 0.10  
23 percent or more by weight of alcohol in that person's [HIS] blood or  
24 100 milligrams or more of alcohol per 100 milliliters of that person's  
25 [HIS] blood, or when there is 0.10 grams or more of alcohol per 210  
26 liters of that person's [HIS] breath; or

27 \* Sec. 8. AS 28.35.030(c) is amended to read:

28 (c) Upon conviction under this section the court shall impose a  
29 minimum sentence of imprisonment of not less than 72 consecutive hours

1 and a fine of not less than \$250 nor more than \$500 if the person has  
2 not been previously convicted in this or another jurisdiction of  
3 driving while intoxicated or of refusal to submit to a chemical test  
4 of breath under AS 28.35.032 or another law or ordinance with substan-  
5 tially similar elements. Upon [A SUBSEQUENT] conviction under this  
6 section the court shall impose a minimum sentence of imprisonment of  
7 not less than 20 consecutive days and a fine of not less than \$500 nor  
8 more than \$1,000 if the person has been previously convicted once in  
9 this or another jurisdiction [WITHIN FIVE YEARS AFTER A CONVICTION] of  
10 driving while intoxicated [IN THIS OR ANY OTHER STATE] or [CONVICTION]  
11 of refusal to submit to a chemical test of breath under AS 28.35.032  
12 or another law or ordinance with substantially similar elements. Upon  
13 conviction under this section [,] the court shall impose a minimum  
14 sentence of imprisonment of not less than 30 [10] consecutive days and  
15 a fine of not less than \$1,000 nor more than \$2,500 if the person has  
16 been previously convicted in this or another jurisdiction of more than  
17 one of the following offenses or has more than once been previously  
18 convicted of one of the following offenses: (1) driving while intoxi-  
19 cated; or (2) refusal to submit to a chemical test of breath under  
20 AS 28.35.032 or another law or ordinance with substantially similar  
21 elements [UNLESS THE SUBSEQUENT CONVICTION IS WITHIN ONE YEAR OF THE  
22 PREVIOUS CONVICTION, IN WHICH CASE THE COURT SHALL IMPOSE A MINIMUM  
23 SENTENCE OF IMPRISONMENT OF NOT LESS THAN 20 CONSECUTIVE DAYS]. The  
24 execution of sentence may not be suspended nor may probation be  
25 granted until the minimum imprisonment provided in this section has  
26 been served. Imposition of sentence may not be suspended [, EXCEPT  
27 UPON THE CONDITION THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN  
28 THE MINIMUM PERIOD PROVIDED IN THIS SECTION]. In addition, if the  
29 offense arises out of driving a type of motor vehicle for which a

1 driver's license is required, the person's driver's [HIS OPERATOR'S]  
2 license shall be suspended or revoked in accordance with AS 28.15.181  
3 and the vehicle used in commission of the offense shall be impounded  
4 under AS 28.35.036 and may be forfeited under AS 28.35.037. In addi-  
5 tion, a person convicted under this section [STATUTE] shall undertake,  
6 for a term specified by the court, that program of alcohol education  
7 or rehabilitation that [WHICH] the court, after consideration of any  
8 information compiled under (d) of this section, finds appropriate.

9 \* Sec. 9. AS 28.35.031 is amended by adding new subsections to read:

10 (b) If a chemical test administered under this section to a  
11 person driving a motor vehicle of a type for which a driver's license  
12 is required produces results described under AS 28.35.030(a)(2) and  
13 the person has a driver's license, the law enforcement officer shall  
14 seize the person's driver's license. The law enforcement officer  
15 shall read a notice and deliver a copy to the person. The notice  
16 shall advise that

17 (1) the state intends to revoke or suspend the person's  
18 driver's license, or no original license will be issued to the person;

19 (2) the person has the right to obtain court review of the  
20 revocation, suspension, or determination not to issue an original  
21 license;

22 (3) the notice itself is a temporary driver's license that  
23 expires seven days after receipt of the notice by the person;

24 (4) revocation or suspension of the person's driver's  
25 license or a determination not to issue an original license shall take  
26 effect upon expiration of the temporary driver's license unless the  
27 person within seven days initiates court proceedings to rescind the  
28 action.

29 (c) Upon receipt of a sworn report of a law enforcement officer

1 that a chemical test administered under this section produced results  
2 described under AS 28.35.030(a)(2), containing a statement of the  
3 circumstances surrounding the arrest and the grounds upon which the  
4 law enforcement officer's belief was based that the person was driving  
5 while intoxicated a motor vehicle of a type for which a driver's  
6 license is required, the Department of Public Safety shall notify the  
7 person that the person's license or nonresident privilege to drive or  
8 operate a motor vehicle in the state is revoked or suspended, or that  
9 no original license or permit will be issued effective upon expiration  
10 of the temporary driver's license issued under (b) of this section.  
11 The department's action under this subsection shall be stayed if the  
12 person before expiration of the temporary driver's license initiates a  
13 proceeding in the court to rescind the department's action. The court  
14 proceeding shall be without jury and shall be limited to the issues of  
15 whether

16 (1) the person was validly arrested for driving while  
17 intoxicated a motor vehicle of a type for which a driver's license is  
18 required;

19 (2) the chemical test administered to the person produced  
20 the result described under AS 28.35.030(a)(2).

21 (d) If the issues set out in (c) of this section are determined  
22 in the affirmative, the court shall sustain the action of the depart-  
23 ment. If one or more of the issues are determined in the negative,  
24 the department's action shall be rescinded. If the action of the  
25 department in suspending or revoking a nonresident's privilege to  
26 drive a motor vehicle is sustained by the court, the department shall  
27 give information in writing of the action taken to the motor vehicle  
28 administrator of the state of the person's residence and to any state  
29 in which that person has a license.

1 (e) If the person has not been previously convicted in this or  
2 another jurisdiction of driving while intoxicated or of refusal to  
3 submit to a chemical test of breath under this or another law or  
4 ordinance with substantially similar elements, the period of suspen-  
5 sion of license, nonresident privilege to drive, or denial of original  
6 license shall be 90 days. If the person has been previously convicted  
7 once in this or another jurisdiction of driving while intoxicated or  
8 of refusal to submit to a chemical test of breath under AS 28.35.032  
9 or another law or ordinance with substantially similar elements, the  
10 period of suspension of license, nonresident privilege to drive, or  
11 denial of original license shall be one year. Revocation of license,  
12 nonresident privilege to drive, or denial of original license shall be  
13 permanent if the person has been previously convicted in this or  
14 another jurisdiction of more than one of the following offenses or has  
15 more than once been previously convicted of one of the following  
16 offenses:

- 17 (1) driving while intoxicated; or  
18 (2) refusal to submit to a chemical test of breath under  
19 AS 28.35.032 or another law or ordinance with substantially similar  
20 elements.

21 \* Sec. 10. AS 28.35.032(a) is amended to read:

22 (a) If a person under arrest refuses the request of a law en-  
23 forcement officer to submit to a chemical test of breath as provided  
24 in AS 28.35.031, after being advised by the officer that the refusal  
25 will, if that person was arrested while operating or driving a motor  
26 vehicle of a type for which a driver's license is required, result in  
27 the suspension, denial or revocation of the license or nonresident  
28 privilege to drive, that the refusal may be used against the person in  
29 a civil or criminal action or proceeding arising out of an act alleged

1 to have been committed by the person while operating or driving a  
2 motor vehicle or operating an aircraft or a watercraft while intoxica-  
3 ted, and that the refusal is a misdemeanor, a chemical test shall not  
4 be given, except as provided by AS 28.35.035. If the person was  
5 arrested while driving a motor vehicle of a type for which a driver's  
6 license is required, refuses to submit to the chemical test, and has a  
7 driver's license, the law enforcement officer shall seize that per-  
8 son's driver's license. The law enforcement officer shall read a  
9 notice and deliver a copy to the person. The notice shall advise that

10 (1) the state intends to revoke or suspend the person's  
11 driver's license, or no original license will be issued to the person;

12 (2) the person has the right to obtain court review of the  
13 revocation, suspension, or determination not to issue an original  
14 license;

15 (3) the notice itself is a temporary driver's license that  
16 expires seven days after receipt of the notice by the person;

17 (4) revocation or suspension of the person's driver's  
18 license or a determination not to issue an original license shall take  
19 effect upon expiration of the temporary driver's license unless the  
20 person within seven days initiates court proceedings to rescind the  
21 action.

22 \* Sec. 11. AS 28.35.032(b) is amended to read:

23 (b) Upon receipt of a sworn report of a law enforcement officer  
24 that a person has refused to submit to a chemical test authorized  
25 under AS 28.35.031, containing a statement of the circumstances sur-  
26 rounding the arrest and the grounds upon which the law enforcement  
27 officer's belief was based that the person was [OPERATING OR] driving  
28 while intoxicated a motor vehicle of a type for which a driver's  
29 license is required [IN VIOLATION OF AS 28.35.030], the Department of

1 Public Safety shall notify the person that the person's license or  
2 nonresident privilege to drive or operate a motor vehicle in the state  
3 is revoked or suspended, or that no original license or permit will be  
4 issued effective upon expiration of the temporary driver's license  
5 issued under (a) of this section. The department's action under this  
6 subsection shall be stayed if the person before expiration of the  
7 temporary driver's license initiates [FOR THREE MONTHS IN THE SAME  
8 NOTICE THE DEPARTMENT SHALL INFORM THE PERSON THAT THE PERSON MAY  
9 INITIATE] a proceeding in the district court to rescind the depart-  
10 ment's action. The court proceeding shall be without jury and shall  
11 be limited to the issues of whether

12 (1) the arresting officer had reasonable grounds to believe  
13 the arrested person had been [OPERATING OR] driving [A MOTOR VEHICLE  
14 IN THE STATE] while intoxicated a motor vehicle of a type for which a  
15 driver's license is required;

16 (2) the arrested person refused to submit to the breath  
17 test upon request of the officer after being advised that refusal  
18 would result in the suspension, revocation, or denial of the person's  
19 license or nonresident privilege to drive and that the refusal is a  
20 misdemeanor; and

21 (3) the accused defendant was informed fairly of the nature  
22 of the tests, the accuracy of the methods, instruments [MACHINES],  
23 equipment involved, the expertise of the person administering the  
24 tests, or operator of the instruments [MACHINES], and the accused  
25 given such other reasonable information as may be requested by the  
26 accused.

27 \* Sec. 12. AS 28.35.032(d) is amended to read:

28 (d) If the person who refuses to submit to the chemical test  
29 authorized by AS 28.35.031 has not been previously convicted in this

1 or another jurisdiction of driving while intoxicated or of refusal to  
2 submit to a chemical test of breath under this or another law or  
3 ordinance with substantially similar elements, the period of suspen-  
4 sion of license, nonresident privilege to drive, or denial of original  
5 license shall be 90 days. If the person who refuses to submit to the  
6 chemical test [AUTHORIZED BY AS 28.35.031] has been previously con-  
7 victed once in this or another jurisdiction [ANY OTHER STATE] of  
8 [OPERATING OR] driving [A MOTOR VEHICLE] while intoxicated or of  
9 refusal to submit to a chemical test of breath under this or another  
10 law or ordinance with substantially similar elements [SECTION], the  
11 period of suspension of [OR REVOCATION FOR HIS] license, nonresident  
12 privilege to drive, or denial of original license shall be one year.  
13 Revocation of license, nonresident privilege to drive, or denial of  
14 original license shall be permanent if the person who refuses to  
15 submit to the chemical test has been previously convicted in this or  
16 another jurisdiction of more than one of the following offenses or has  
17 been more than once previously convicted of one of the following  
18 offenses:

- 19 (1) driving while intoxicated; or  
20 (2) refusal to submit to a chemical test of breath under  
21 this or another law or ordinance with substantially similar elements.

22 \* Sec. 13. AS 28.35.032(g) is amended to read:

23 (g) Upon conviction of a person under this section, the court  
24 shall impose a minimum sentence of imprisonment of not less than 72  
25 consecutive hours and a fine of not less than \$250 nor more than \$500  
26 if the person has not been previously convicted in this or another  
27 jurisdiction of driving while intoxicated or of refusal to submit to a  
28 chemical test of breath under this or another law or ordinance with  
29 substantially similar elements. Upon [A SUBSEQUENT] conviction under

1 this section the court shall impose a minimum sentence of imprisonment  
2 of not less than 20 consecutive days and a fine of not less than \$500  
3 nor more than \$1,000 if the person has been previously convicted once  
4 in this or another jurisdiction [WITHIN FIVE YEARS AFTER A CONVICTION  
5 UNDER THIS SECTION OR] of driving while intoxicated or of refusal to  
6 submit to a chemical test of breath under this or another law or  
7 ordinance with substantially similar elements. Upon conviction under  
8 this section the court shall impose a minimum sentence of imprisonment  
9 of not less than 30 consecutive days and a fine of not less than  
10 \$1,000 nor more than \$2,000 if the person has been previously con-  
11 victed in this or another jurisdiction of more than one of the follow-  
12 ing offenses or has more than once been previously convicted of one of  
13 the following offenses: (1) driving while intoxicated; or (2) refusal  
14 to submit to a chemical test of breath under this or another law or  
15 ordinance with substantially similar elements [IN THIS OR ANY OTHER  
16 STATE, THE COURT SHALL IMPOSE A MINIMUM SENTENCE OF IMPRISONMENT OF  
17 NOT LESS THAN 10 CONSECUTIVE DAYS UNLESS THE SUBSEQUENT CONVICTION IS  
18 WITHIN ONE YEAR OF THE PREVIOUS CONVICTION, IN WHICH CASE THE COURT  
19 SHALL IMPOSE A MINIMUM SENTENCE OF IMPRISONMENT OF NOT LESS THAN 20  
20 CONSECUTIVE DAYS]. The execution of sentence may not be suspended nor  
21 may probation be granted until the minimum imprisonment provided in  
22 this section has been served. Imposition of sentence may not be  
23 suspended [, EXCEPT UPON THE CONDITION THAT THE DEFENDANT BE IMPRI-  
24 SONED FOR NO LESS THAN THE MINIMUM PERIOD PROVIDED IN THIS SECTION].  
25 In addition, a person convicted under this section shall undertake,  
26 for a term specified by the court, that program of alcohol education  
27 or rehabilitation that the court, after consideration of any informa-  
28 tion compiled under (h) of this section, finds appropriate. The  
29 sentence imposed by the court under this subsection shall run

1 consecutively with any other sentence of imprisonment imposed on the  
2 committed person.

3 \* Sec. 14. AS 28.35.034 is amended to read:

4           Sec. 28.35.034. SURRENDER OF LICENSE OR PERMIT [PERIOD OF REVO-  
5 CATION]. A person whose license or permit to operate or drive a motor  
6 vehicle has been suspended or revoked under the provisions of AS 28.-  
7 35.032 shall surrender the [HIS] license or permit to the department  
8 on receipt of notice of the suspension or revocation. [SUCH A PERSON  
9 IS INELIGIBLE FOR AN OPERATOR'S LICENSE OR PERMIT FOR THREE MONTHS  
10 FOLLOWING THE DATE ON WHICH THE LICENSE OR PERMIT WAS RECEIVED BY THE  
11 DEPARTMENT, UNLESS THE DISTRICT COURT FINDS THAT EXTENUATING CIRCUM-  
12 STANCES EXIST WHICH WOULD CAUSE EXTREME HARDSHIP, IN WHICH CASE THE  
13 SUSPENSION OR REVOCATION MAY BE MODIFIED OR NULLIFIED.] Unless the  
14 license is permanently revoked and after [AFTER] the [THREE MONTHS']  
15 period of suspension has expired, the person may make application for  
16 a new license as provided by law.

17 \* Sec. 15. AS 28.35 is amended by adding new sections to read:

18           Sec. 28.35.036. IMPOUNDMENT OF MOTOR VEHICLE; EXCEPTIONS. (a)  
19 If a peace officer has probable cause to believe a motor vehicle of a  
20 type for which a driver's license is required was used in the commis-  
21 sion of an offense under AS 28.35.030, that motor vehicle shall be  
22 impounded by the peace officer. Unless the motor vehicle is released  
23 under (c) or (d) of this section, the owner or person with the right  
24 to possess the motor vehicle shall pay the necessary costs of impound-  
25 ing and storing the vehicle before it may be released.

26           (b) Impoundment of a motor vehicle under this section is for

27                   (1) 15 days if the driver has not previously been convicted  
28 in this or another jurisdiction of

29                           (A) driving while intoxicated; or

1 (B) refusal to submit to a chemical test of breath  
2 under AS 28.35.032 or another law or ordinance with substantially  
3 similar elements;

4 (2) 90 days if the driver has been previously convicted in  
5 this or another jurisdiction of

6 (A) driving while intoxicated; or

7 (B) refusal to submit to a chemical test of breath  
8 under AS 28.35.032 or another law or ordinance with substantially  
9 similar elements.

10 (c) Upon impoundment of a motor vehicle under this section an  
11 opportunity for a hearing under AS 28.05.131 shall be provided to the  
12 driver of the motor vehicle at the time of the impoundment, to the  
13 person with the right to possess the motor vehicle, and to any other  
14 person who has an ownership interest in the motor vehicle. The motor  
15 vehicle shall be released to the owner or person with the right to  
16 possess the motor vehicle if it is determined after the hearing that  
17 the impoundment was improper or that at the time of impoundment the  
18 motor vehicle was being driven

19 (1) by a person other than the owner or person with the  
20 right to possess the motor vehicle; and

21 (2) without the consent of the owner or person with the  
22 right to possess the motor vehicle.

23 (d) A motor vehicle impounded under this section shall be re-  
24 leased to the owner or person with the right to possess the motor  
25 vehicle if

26 (1) the driver is not charged within 10 days of impoundment  
27 with an offense under AS 28.35.030 or AS 28.35.032(f) related to the  
28 impoundment;

29 (2) the charge of an offense under AS 28.35.030 or

1 AS 28.35.032(f) related to the impoundment is dropped or dismissed; or  
2 (3) the driver is acquitted of all offenses under AS 28.-  
3 35.030 or AS 28.35.032(f) related to the impoundment.

4 Sec. 28.35.037. FORFEITURE OF MOTOR VEHICLE. (a) Upon convic-  
5 tion of an offense under AS 28.35.030 or AS 28.35.032(f) arising out  
6 of driving a motor vehicle of a type for which a driver's license is  
7 required the court may order the forfeiture of the motor vehicle  
8 involved in the commission of the offense if the convicted person was  
9 previously convicted in this or another jurisdiction of

10 (1) driving while intoxicated; or

11 (2) refusal to submit to a chemical test of breath under  
12 AS 28.35.032 or another law or ordinance with substantially similar  
13 elements.

14 (b) Upon forfeiture of a motor vehicle the court shall require  
15 the surrender of the registration and certificate of title of that  
16 motor vehicle.

17 (c) If not released under AS 28.35.038(c), a motor vehicle  
18 forfeited under this section may be disposed of at the discretion of  
19 the department.

20 Sec. 28.35.038. REMISSION OF FORFEITURES. (a) Upon ordering  
21 forfeiture of a motor vehicle under AS 28.35.037, the court shall  
22 within five days provide to every person who has an ownership or  
23 security interest in the motor vehicle written notice of the forfei-  
24 ture that includes

25 (1) a description of the motor vehicle;

26 (2) the time and place of the forfeiture;

27 (3) the legal authority under which the motor vehicle was  
28 forfeited;

29 (4) notice of the right to file a petition for remission of

1 interest in the forfeited motor vehicle.

2 (b) Upon receipt of a petition for remission of interest in a  
3 forfeited motor vehicle the court shall hold a hearing on the question  
4 and shall order remission of the interest if the petitioner shows that

5 (1) the petitioner has an interest in the motor vehicle  
6 acquired in good faith;

7 (2) a person other than the petitioner was convicted of the  
8 offense that resulted in the forfeiture;

9 (3) the petitioner was not negligent in parting with the  
10 motor vehicle.

11 (c) An order for remission under this section shall provide for

12 (1) reimbursement of the petitioner's interest in the motor  
13 vehicle; or

14 (2) delivery to the petitioner of the motor vehicle toge-  
15 ther with title to the motor vehicle.

16 \* Sec. 16. AS 28.15.211(a)(4) is repealed.