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1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR HOUSE BILL NO. 6 (Judiciary)
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 28.05.051(b) is amended to read:

9 (b) The commissioner, officers and employees of the department
10 designated by the commissioner, judges and employees of a court, and
11 all peace officers, may take possession of a certificate of title,
12 [OR] registration or license issued by this jurisdiction that [WHICH]
13 has been revoked, canceled, limited or suspended, or [WHICH] is
14 fictitious, stolen or altered.

15 * Sec. 2. AS 28.15.081(a) is amended to read:

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

1 reasonably requires to determine [HIS] fitness to safely drive a motor
2 vehicle of the type and general class of vehicles for which the appli-
3 cant [HE] seeks a license.

4 * Sec. 3. AS 28.15 is amended by adding new sections to read:

5 Sec. 28.15.165. ADMINISTRATIVE REVOCATIONS RESULTING FROM CHEMI-
6 CAL SOBRIETY TESTS AND REFUSALS TO SUBMIT TO TESTS. (a) If a chemi-
7 cal test administered to a person driving a motor vehicle for which a
8 driver's license is required produces a result described under AS 28.-
9 35.030(a)(2) or if a person under arrest for driving a motor vehicle
10 for which a driver's license is required refuses to submit to a chemi-
11 cal test under AS 28.35.031(a), the law enforcement officer shall read
12 a notice and deliver a copy to the person. The notice shall advise
13 that

14 (1) the Department of Public Safety intends to revoke the
15 person's driver's license or nonresident privilege to drive, or refuse
16 to issue an original license to the person;

17 (2) the person has the right to obtain court review of the
18 revocation or determination not to issue an original license;

19 (3) the notice itself is a temporary driver's license that
20 expires seven days after it is delivered to the person;

21 (4) revocation of the person's driver's license or nonresi-
22 dent privilege to drive, or a determination not to issue an original
23 license shall take effect upon expiration of the temporary driver's
24 license unless the person within seven days initiates court proceed-
25 ings to rescind the action.

26 (b) After reading the notice under (a) of this section, the law
27 enforcement officer shall seize the person's driver's license if it is
28 in the person's possession and shall deliver it to the Department of
29 Public Safety with a sworn report describing the circumstances under

1 which it was seized.

2 (c) Upon receipt of a sworn report of a law enforcement officer
3 that a chemical test produced a result described under AS 28.35.030-
4 (a)(2) or that a person refused to submit to a chemical test under
5 AS 28.35.031(a), that notice under (a) of this section was provided to
6 the person, and that contains a statement of the circumstances sur-
7 rounding the arrest and the grounds upon which the officer's belief
8 that the person was driving while intoxicated a motor vehicle for
9 which a driver's license is required was based, the Department of
10 Public Safety shall revoke the person's license or nonresident privi-
11 lege to drive a motor vehicle in the state, or refuse to issue an
12 original license effective upon expiration of the temporary driver's
13 license issued under (a) of this section.

14 (d) The period of revocation of a driver's license by the De-
15 partment of Public Safety under this section shall be determined in
16 accordance with guidelines for court revocations under
17 AS 28.15.181(c).

18 Sec. 28.15.166. COURT REVIEW OF REVOCATION. (a) A person who
19 has received a notice under AS 28.15.165(a) may make a written request
20 for court review of the department's action under AS 28.15.165(c). If
21 the person's driver's license has not been previously surrendered to
22 the Department of Public Safety, it shall be surrendered to the court
23 at the time the request for review is made.

24 (b) A request for review shall be made within seven days after
25 the person receives the notice under AS 28.15.165(a) or the right to
26 review is waived and the action of the Department of Public Safety
27 under AS 28.15.165(c) is final. However, if the person shows that the
28 person for good cause was unable to make a timely request, the court
29 may waive the period of limitation, reopen the matter, and grant the

1 review requested.

2 (c) Upon receipt of a request for review, if it appears that the
3 person holds a valid driver's license and that the driver's license
4 has been surrendered, the court shall issue a temporary driver's
5 permit that is valid until the scheduled date for the review. The
6 court may issue additional temporary permits if necessary to stay the
7 effective date of the action of the Department of Public Safety under
8 AS 28.15.165(c) until the final order after the review is issued.

9 (d) The court review under this section shall be without jury
10 and shall be limited to the issues of whether there was probable cause
11 to believe that the person was driving a motor vehicle while intoxi-
12 cated and whether

13 (1) the person refused to submit to a chemical test under
14 AS 28.35.031(a); or

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

17 (e) If the issues set out in (d) of this section are determined
18 in the affirmative by a preponderance of the evidence, the court shall
19 sustain the action of the Department of Public Safety. If one or more
20 of the issues are determined in the negative, the department's action
21 shall be rescinded.

22 (f) If the action of the Department of Public Safety in revoking
23 a nonresident's privilege to drive a motor vehicle is sustained by the
24 court, the department shall give written notice of action taken to the
25 motor vehicle administrator of the state of the person's residence and
26 to any state in which that person has a driver's license.

27 * Sec. 4. AS 28.15.181(a) is amended to read:

28 (a) Conviction of any of the [THE] following offenses is [ARE]
29 grounds for the immediate [SUSPENSION OR] revocation of a driver's

1 license:
2 (1) manslaughter or negligent homicide resulting from [THE]
3 driving [OF] a motor vehicle;
4 (2) a felony in the commission of which a motor vehicle is
5 used;
6 (3) failure to stop and give aid as required by law [UNDER
7 THE LAWS OF THIS STATE] when a motor vehicle accident results in the
8 death or personal injury of another;
9 (4) perjury or [THE] making [OF] a false affidavit or
10 statement under oath to the department under a law relating to motor
11 vehicles;
12 (5) [OPERATING OR] driving a motor vehicle while intoxi-
13 cated;
14 (6) reckless driving; [OR]
15 (7) using a motor vehicle in unlawful flight to avoid
16 arrest by a peace officer;
17 (8) refusal to submit to a chemical test under AS 28.35.-
18 032.

19 * Sec. 5. AS 28.15.181(b) is amended to read:

20 (b) A court convicting a person of an offense under (a)(1) -
21 (4), (6), or (7) of this section shall revoke that person's driver's
22 license for [A PERIOD OF] not less than 30 days for the first convic-
23 tion, unless the court determines that the person's ability to earn a
24 livelihood would be severely impaired and a limitation under AS 28.-
25 15.201 can be placed on the license that [WHICH] will enable the
26 person to earn a livelihood without excessive [RISK OR] danger to the
27 public. If a court limits a person's license under this subsection,
28 it shall do so for [A PERIOD OF] not less than 60 [30] days. Upon a
29 subsequent conviction of a person for any offense under (a)(1) - (4),

1 (6), or (7) of this section occurring within 15 years after a prior
2 conviction, the court shall revoke the person's license and may not
3 grant the person [ANY] limited license privileges for the following
4 periods:

- 5 (1) not less than one year for the second conviction; and
6 (2) not less than three years for a third or subsequent
7 conviction.

8 * Sec. 6. AS 28.15.181(c) is repealed and reenacted to read:

9 (c) A court convicting a person of an offense under (a)(5) or
10 (8) of this section arising out of the operation of a motor vehicle
11 for which a driver's license is required shall revoke that person's
12 driver's license and may not, except as provided in (d) of this sec-
13 tion, grant limited license privileges for the following periods:

14 (1) not less than 90 days if, within the preceding 15
15 years, the person has not previously been convicted of an offense

- 16 (A) under (a)(5) or (8) of this section; or
17 (B) a law or ordinance in another jurisdiction with
18 elements substantially similar to an offense under (a)(5) or (8)
19 of this section;

20 (2) not less than one year if, within the preceding 15
21 years, the person has been previously convicted of one offense

- 22 (A) under (a)(5) or (8) of this section; or
23 (B) a law or ordinance in another jurisdiction with
24 elements substantially similar to an offense under (a)(5) or (8)
25 of this section;

26 (3) not less than 10 years if, within the preceding 15
27 years, the person has been previously convicted of more than one of
28 the following offenses or has more than once been previously convicted
29 of one of the following offenses:

1 (A) an offense under (a)(5) or (8) of this section; or
2 (B) an offense under another law or ordinance in
3 another jurisdiction with elements substantially similar to an
4 offense under (a)(5) or (8) of this section.

5 * Sec. 7. AS 28.15.181 is amended by adding a new subsection to read:

6 (d) A court revoking a driver's license under (c)(1) of this
7 section may grant limited license privileges for the final 60 days
8 during which the license is revoked if the court determines that the
9 person's ability to earn a livelihood would be severely impaired and a
10 limitation under AS 28.15.201 can be placed on the license that will
11 enable the person to earn a livelihood without excessive danger to the
12 public.

13 * Sec. 8. AS 28.15.201(b)(1) is amended to read:

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

17 * Sec. 9. AS 28.15.201(c) is amended to read:

18 (c) After the termination of a limitation as shown on the certi-
19 ficate issued under (b) of this section, the license of a person on
20 whom a limitation was imposed is revoked until the person receives a
21 new [NO LONGER BOUND BY THE LIMITATION AND MAY APPLY FOR A DUPLICATE]
22 license in accordance with AS 28.20.240 [UNDER AS 28.15.141 OR, IF
23 OTHERWISE ELIGIBLE, FOR A NEW LICENSE IF THE LICENSE WAS REVOKED FOR
24 CONVICTION OF AN OFFENSE UNDER AS 28.15.181(a)(5) AND LIMITED LICENSE
25 PRIVILEGES WERE GRANTED UNDER AS 28.15.181(c)].

26 * Sec. 10. AS 28.15.291 is amended to read:

27 Sec. 28.15.291. DRIVING WHILE LICENSE CANCELED, SUSPENDED,
28 REVOKED OR IN VIOLATION OF LIMITATION. (a) A [NO] person may not
29 drive a motor vehicle on a highway or vehicular way or area [IN THIS

1 STATE] at a time when that person's [HIS] driver's license, or privi-
2 lege to drive [IN THIS STATE IF HE IS LICENSED IN ANOTHER JURISDIC-
3 TION,] has been canceled, suspended or revoked in this or another
4 jurisdiction, or when [HE IS] driving in violation of a limitation
5 placed upon that person's [HIS] license or privilege to drive in this
6 or [, EVEN WHEN HE IS DRIVING UNDER A LICENSE ISSUED IN] another
7 jurisdiction. Except as provided in (c) of this section, upon [UPON]
8 conviction of a violation of this section, the court shall impose a
9 [MINIMUM] sentence of imprisonment of not less than 10 days. The exe-
10 cution of sentence may not be suspended nor may probation or parole be
11 granted until the minimum imprisonment provided in this section has
12 been served; nor may imposition of sentence be suspended [, EXCEPT
13 UPON THE CONDITION THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN
14 THE MINIMUM PERIOD PROVIDED FOR IN THIS SECTION]. In addition, the
15 person's [HIS] license or privilege to drive shall be revoked, and the
16 person [HE] may not be issued a new license nor may the [HIS] privi-
17 lege to drive be restored for an additional period of one year after
18 the date that the person [HE] would have been entitled to restoration
19 of [HIS] driving privileges.

20 (b) When a person's license is canceled, limited, suspended or
21 revoked, that person [HE] shall be informed by the department or the
22 court that [WHICH] takes the action at the time of the action that,
23 upon a conviction of driving on a highway or vehicular way or area in
24 this state at a time when that person's [HIS] driver's license or
25 privilege to drive in this state has been canceled, suspended or
26 revoked, or upon a conviction of driving in violation of a limitation
27 of the [HIS] license, that person [HE] will be subject to the manda-
28 tory minimum sentence of [10-DAY] imprisonment under [(a) OF] this
29 section.

1 * Sec. 11. AS 28.15.291 is amended by adding a new subsection to read:

2 (c) The court shall impose a sentence of imprisonment of not
3 less than 30 days and a fine of not less than \$500 upon conviction of
4 a violation of this section if the person's driver's license was
5 revoked under AS 28.15.181(c)(1). The court shall impose a sentence
6 of imprisonment of not less than 90 days and a fine of not less than
7 \$1,000 upon conviction of a violation of this section if the person's
8 driver's license was revoked under AS 28.15.181(c)(2) or (3). The
9 execution of sentence may not be suspended nor may probation or parole
10 be granted until the minimum imprisonment provided in this subsection
11 has been served. Imposition of sentence may not be suspended. In
12 addition, the person's privilege to drive may not be restored for an
13 additional period of one year after the date that the person would
14 have been entitled to restoration of driving privileges if the person
15 had not been convicted under this section.

16 * Sec. 12. AS 28.20.240 is amended to read:

17 Sec. 28.20.240. PROOF REQUIRED WHEN DRIVING PRIVILEGE [USE OF
18 LICENSE] IS RESTRICTED. Whenever under a law of this state the li-
19 cense of a person is suspended, revoked, limited under AS 28.15.201,
20 or canceled for any reason, the department may not issue to that
21 person a new or renewal of license [IN HIS NAME] until permitted to do
22 so under the motor vehicle laws of this state. A period of suspen-
23 sion, revocation, [LIMITATION,] or cancellation [UNDER THIS SECTION]
24 continues until proof of financial responsibility for the future is
25 provided. Upon expiration of a period of limitation, the license
26 remains revoked until proof of financial responsibility for the future
27 is provided.

28 * Sec. 13. AS 28.35.030(c) is amended to read:

29 (c) Upon conviction under this section the court shall impose a

1 minimum sentence of imprisonment of not less than 72 consecutive hours
2 and a fine of not less than \$250 if the person has not been previously
3 convicted in this or another jurisdiction of driving while intoxicated
4 under this or another law or ordinance with substantially similar
5 elements or refusal to submit to a chemical test under AS 28.35.032
6 or another law or ordinance with substantially similar elements. Upon
7 [A SUBSEQUENT] conviction under this section the court shall impose a
8 minimum sentence of imprisonment of not less than 20 consecutive days
9 and a fine of not less than \$500 if, within the preceding 15 years,
10 the person has been previously convicted once in this or another
11 jurisdiction [WITHIN FIVE YEARS AFTER A CONVICTION] of driving while
12 intoxicated under this or another law or ordinance with substantially
13 similar elements or [IN THIS OR ANY OTHER STATE OR CONVICTION OF]
14 refusal to submit to a chemical test under AS 28.35.032 or another law
15 or ordinance with substantially similar elements. Upon conviction
16 under this section [OF BREATH UNDER AS 28.35.032,] the court shall
17 impose a minimum sentence of imprisonment of not less than 30 [10]
18 consecutive days and a fine of not less than \$1,000 if, within the
19 preceding 15 years, the person has been previously convicted in this
20 or another jurisdiction of more than one of the following offenses or
21 has more than once been previously convicted of one of the following
22 offenses: (1) driving while intoxicated under this or another law or
23 ordinance with substantially similar elements; (2) refusal to submit
24 to a chemical test under AS 28.35.032 or another law or ordinance with
25 substantially similar elements [UNLESS THE SUBSEQUENT CONVICTION IS
26 WITHIN ONE YEAR OF THE PREVIOUS CONVICTION, IN WHICH CASE THE COURT
27 SHALL IMPOSE A MINIMUM SENTENCE OF IMPRISONMENT OF NOT LESS THAN 20
28 CONSECUTIVE DAYS]. The execution of sentence may not be suspended nor
29 may probation be granted except on condition that [UNTIL] the minimum

1 imprisonment provided in this section is [HAS BEEN] served. Impos-
2 sition of sentence may not be suspended [, EXCEPT UPON THE CONDITION
3 THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN THE MINIMUM PERIOD
4 PROVIDED IN THIS SECTION]. In addition, if the offense involved
5 driving a motor vehicle for which a driver's license is required, the
6 person's driver's [HIS OPERATOR'S] license shall be revoked in accor-
7 dance with AS 28.15.181 and the vehicle used in commission of the
8 offense may be forfeited under AS 28.35.036. In addition, a person
9 convicted under this section [STATUTE] shall undertake, for a term
10 specified by the court, that program of alcohol education or rehabili-
11 tation that [WHICH] the court, after consideration of any information
12 compiled under (d) of this section, finds appropriate.

13 * Sec. 14. AS 28.35.031 is amended by adding a new subsection to read:

14 (b) A person who drives a motor vehicle that is involved in an
15 accident, has committed an offense under AS 28.15.181(a), or drives a
16 motor vehicle in a manner that creates an unjustifiable risk to a
17 person or to property shall be considered to have given consent to a
18 preliminary breath test for the purpose of determining the alcoholic
19 content of the person's blood or breath. The test shall be adminis-
20 tered at the scene of the incident at the direction of a law enforce-
21 ment officer who has reasonable grounds to believe that the person was
22 driving a motor vehicle that is involved in an accident, has committed
23 an offense under AS 28.15.181(a), or is driving in a manner that
24 creates an unjustifiable risk to a person or to property. The result
25 of the test may be used by the law enforcement officer to determine
26 whether the driver should be arrested. Before administering the test,
27 the officer shall advise the person that refusal may be used against
28 the person in a civil or criminal action arising out of the incident
29 and that refusal is an infraction. If the person refuses to submit to

1 the test, the test shall not be administered. Refusal to submit to a
2 preliminary breath test at the request of a law enforcement officer is
3 an infraction.

4 * Sec. 15. AS 28.35.032(a) is amended to read:

5 (a) If a person under arrest refuses the request of a law en-
6 forcement officer to submit to a chemical test under AS 28.35.031(a)
7 [OF BREATH AS PROVIDED IN AS 28.35.031], after being advised by the
8 officer that the refusal will, if that person was arrested while
9 operating or driving a motor vehicle for which a driver's license is
10 required, result in the [SUSPENSION,] denial or revocation of the
11 license or nonresident privilege to drive, that the refusal may be
12 used against the person in a civil or criminal action or proceeding
13 arising out of an act alleged to have been committed by the person
14 while operating or driving a motor vehicle or operating an aircraft or
15 a watercraft while intoxicated, and that the refusal is a misdemeanor,
16 a chemical test shall not be given, except as provided by AS 28.35.-
17 035.

18 * Sec. 16. AS 28.35.032(g) is amended to read:

19 (g) Upon conviction of a person under this section, the court
20 shall impose a minimum sentence of imprisonment of not less than 72
21 consecutive hours and a fine of not less than \$250 if the person has
22 not been previously convicted in this or another jurisdiction of
23 driving while intoxicated under AS 28.35.030 or another law or ordi-
24 nance with substantially similar elements or refusal to submit to a
25 chemical test under this or another law or ordinance with substan-
26 tially similar elements. Upon [A SUBSEQUENT] conviction under this
27 section the court shall impose a minimum sentence of imprisonment of
28 not less than 20 consecutive days and a fine of not less than \$500 if,
29 within the preceding 15 years, the person has been previously

1 convicted once in this or another jurisdiction [WITHIN FIVE YEARS
2 AFTER A CONVICTION UNDER THIS SECTION OR] of driving while intoxicated
3 under AS 28.35.030 or another law or ordinance with substantially
4 similar elements or refusal to submit to a chemical test under this or
5 another law or ordinance with substantially similar elements. Upon
6 conviction under this section the court shall impose a minimum sen-
7 tence of imprisonment of not less than 30 consecutive days and a fine
8 of not less than \$1,000 if, within the previous 15 years, the person
9 has been previously convicted in this or another jurisdiction of more
10 than one of the following offenses or has more than once been pre-
11 viously convicted of one of the following offenses: (1) driving while
12 intoxicated under AS 28.35.030 or another law or ordinance with sub-
13 stantially similar elements; (2) refusal to submit to a chemical test
14 under this or another law or ordinance with substantially similar
15 elements [IN THIS OR ANY OTHER STATE, THE COURT SHALL IMPOSE A MINIMUM
16 SENTENCE OF IMPRISONMENT OF NOT LESS THAN 10 CONSECUTIVE DAYS UNLESS
17 THE SUBSEQUENT CONVICTION IS WITHIN ONE YEAR OF THE PREVIOUS CONVIC-
18 TION, IN WHICH CASE THE COURT SHALL IMPOSE A MINIMUM SENTENCE OF
19 IMPRISONMENT OF NOT LESS THAN 20 CONSECUTIVE DAYS]. The execution of
20 sentence may not be suspended nor may probation be granted except on
21 condition that [UNTIL] the minimum imprisonment provided in this
22 section is [HAS BEEN] served. Imposition of sentence may not be
23 suspended. If the offense involved driving a motor vehicle for which
24 a driver's license is required, the person's driver's license shall be
25 revoked under AS 28.15.181 [, EXCEPT UPON THE CONDITION THAT THE
26 DEFENDANT BE IMPRISONED FOR NO LESS THAN THE MINIMUM PERIOD PROVIDED
27 IN THIS SECTION]. In addition, a person convicted under this section
28 shall undertake, for a term specified by the court, that program of
29 alcohol education or rehabilitation that the court, after

1 consideration of any information compiled under (h) of this section,
2 finds appropriate. The sentence imposed by the court under this
3 subsection shall run consecutively with any other sentence of im-
4 prisonment imposed on the committed person.

5 * Sec. 17. AS 28.35.034 is amended to read:

6 Sec. 28.35.034. SURRENDER OF LICENSE OR PERMIT [PERIOD OF REVO-
7 CATION]. A person whose license or permit to operate or drive a motor
8 vehicle has been [SUSPENDED OR] revoked under AS 28.15.165 or AS 28.-
9 15.181 [THE PROVISIONS OF AS 28.35.032] shall surrender the [HIS]
10 license or permit to the department on receipt of notice of the revo-
11 cation. [SUCH A PERSON IS INELIGIBLE FOR AN OPERATOR'S LICENSE OR
12 PERMIT FOR THREE MONTHS FOLLOWING THE DATE ON WHICH THE LICENSE OR
13 PERMIT WAS RECEIVED BY THE DEPARTMENT, UNLESS THE DISTRICT COURT FINDS
14 THAT EXTENUATING CIRCUMSTANCES EXIST WHICH WOULD CAUSE EXTREME HARD-
15 SHIP, IN WHICH CASE THE SUSPENSION OR REVOCATION MAY BE MODIFIED OR
16 NULLIFIED.] After the [THREE MONTHS'] period of revocation has ex-
17 pired, the person may make application for a new license as provided
18 by law.

19 * Sec. 18. AS 28.35 is amended by adding new sections to read:

20 Sec. 28.35.036. FORFEITURE OF MOTOR VEHICLE. (a) After convic-
21 tion of an offense under AS 28.35.030 or AS 28.35.032 involving a
22 motor vehicle of a type for which a driver's license is required and
23 upon motion by the state, the court shall hold a forfeiture hearing
24 and may order the forfeiture of the motor vehicle involved in the
25 commission of the offense if the person has been previously convicted
26 in this or another jurisdiction of more than one of the following
27 offenses or has more than once been previously convicted of one of the
28 following offenses:

29 (1) driving while intoxicated under AS 28.35.030 or another

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

4 (b) Upon forfeiture of a motor vehicle the court shall require
5 the surrender of the registration and certificate of title of that
6 motor vehicle. The registration and certificate of title shall be
7 delivered to the Department of Public Safety.

8 (c) If not released under AS 28.35.037, a motor vehicle for-
9 feited under this section may be disposed of at the discretion of the
10 department.

11 Sec. 28.35.037. REMISSION OF FORFEITURES. (a) Upon moving for
12 forfeiture of a motor vehicle under AS 28.35.036, the state shall
13 provide to every person who has an ascertainable ownership or security
14 interest in the motor vehicle written notice that includes

- 15 (1) a description of the motor vehicle;
16 (2) the time and place of the forfeiture hearing;
17 (3) the legal authority under which the motor vehicle may
18 be forfeited;
19 (4) notice of the right to intervene to protect the inter-
20 est in the motor vehicle.

21 (b) Upon receipt of a motion to intervene in a forfeiture hear-
22 ing the court shall order the satisfaction of the interest from the
23 proceeds of the sale of the motor vehicle or order the motor vehicle
24 to be released to the petitioner together with title to the motor
25 vehicle if the petitioner shows by a preponderance of the evidence
26 that

- 27 (1) the petitioner has an interest in the motor vehicle
28 acquired in good faith;
29 (2) a person other than the petitioner was convicted of the

1 offense that resulted in the forfeiture;

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

4 **Sec. 28.35.038. MUNICIPAL IMPOUNDMENT AND FORFEITURE.** Notwith-
5 standing other provisions in this title, a municipality may adopt an
6 ordinance providing for the impoundment or forfeiture of a motor
7 vehicle involved in the commission of an offense under AS 28.35.030,
8 28.35.032, or an ordinance with elements substantially similar to
9 AS 28.35.030 or AS 28.35.032. An ordinance adopted under this section
10 is not required to be consistent with this title or regulations adopt-
11 ed under this title.

12 * **Sec. 19.** AS 28.15.211(a)(4) and AS 28.35.032(b),(c), and (d) are re-
13 pealed.