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Original sponsors: Abood, Furnace,
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1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

2 SENATE CS FOR 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 28.05.051(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13 has been revoked, canceled, limited or suspended, or [WHICH] is ficti-
14 tious, 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 meet the
13 requirements of AS 44.62.360 and shall advise that

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

17 (2) the person has the right to administrative review of
18 the revocation or determination not to issue an original license in a
19 hearing conducted by the department under the Administrative Procedure
20 Act (AS 44.62);

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

23 (4) revocation of the person's driver's license or nonresi-
24 dent privilege to drive, or a determination not to issue an original
25 license shall take effect upon expiration of the temporary driver's
26 license unless the person requests an administrative review under
27 AS 28.15.166.

28 (b) After reading the notice under (a) of this section, the law
29 enforcement officer shall seize the person's driver's license if it is

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

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

18 Sec. 28.15.166. ADMINISTRATIVE REVIEW OF REVOCATION. (a) A
19 person who has received a notice under AS 28.15.165(a) may make a
20 written request for administrative review of the department's action
21 under AS 28.15.165(c) in a hearing conducted by the department under
22 the Administrative Procedure Act (AS 44.62). If the person's driver's
23 license has not been previously surrendered to the department, it
24 shall be surrendered to the department at the time the request for
25 review is made.

26 (b) A request for review shall be made in accordance with
27 AS 44.62.390, except that if the request is not made within seven days
28 after receipt of the notice under AS 28.15.165, then the right to
29 review is waived and the action of the department under AS 28.15.-

1 165(c) is final. However, if the person shows that the person for
2 good cause was unable to make a timely request, the department may
3 waive the period of limitation, reopen the matter, and grant the
4 hearing requested.

5 (c) Upon receipt of a request for a hearing, if it appears that
6 the person holds a valid driver's license and that the driver's li-
7 cense has been surrendered, the department shall issue a temporary
8 driver's permit that is valid until the scheduled date for the hear-
9 ing. The department may issue additional temporary permits if neces-
10 sary to stay the effective date of its action under AS 28.15.165(c)
11 until the final order after the hearing is issued.

12 (d) The hearing under this section shall be limited to the
13 issues of whether there was probable cause to believe that the person
14 was driving a motor vehicle while intoxicated and whether

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

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

19 (e) If the issues set out in (d) of this section are determined
20 in the affirmative by a preponderance of the evidence, the hearing
21 officer shall sustain the action of the department. If one or more of
22 the issues are determined in the negative, the department's action
23 shall be rescinded.

24 (f) If the action of the department in revoking a nonresident's
25 privilege to drive a motor vehicle is sustained by the hearing offi-
26 cer, the department shall give written notice of action taken to the
27 motor vehicle administrator of the state of the person's residence and
28 to any state in which that person has a driver's license.

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

1 (a) Conviction of any of the [THE] following offenses is [ARE]
2 grounds for the immediate [SUSPENSION OR] revocation of a driver's
3 license:

4 (1) manslaughter or negligent homicide resulting from [THE]
5 driving [OF] a motor vehicle;

6 (2) a felony in the commission of which a motor vehicle is
7 used;

8 (3) failure to stop and give aid as required by law [UNDER
9 THE LAWS OF THIS STATE] when a motor vehicle accident results in the
10 death or personal injury of another;

11 (4) perjury or [THE] making [OF] a false affidavit or
12 statement under oath to the department under a law relating to motor
13 vehicles;

14 (5) [OPERATING OR] driving a motor vehicle while intoxi-
15 cated;

16 (6) reckless driving; [OR]

17 (7) using a motor vehicle in unlawful flight to avoid
18 arrest by a peace officer;

19 (8) refusal to submit to a chemical test under AS 28.35.-
20 032.

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

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

1 it shall do so for [A PERIOD OF] not less than 60 [30] days. Upon a
2 subsequent conviction of a person for any offense under (a)(1) - (4),
3 (6), or (7) of this section occurring within 10 years after a prior
4 conviction, the court shall revoke the person's license and may not
5 grant the person [ANY] limited license privileges for the following
6 periods:

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

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

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

16 (1) not less than 90 days if, within the preceding 10
17 years, the person has not previously been convicted of an offense

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

22 (2) not less than one year if, within the preceding 10
23 years, the person has been previously convicted of one offense

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

28 (3) not less than 10 years if, within the preceding 10
29 years, the person has been previously convicted of more than one of

1 the following offenses or has more than once been previously convicted
2 of one of the following offenses:

3 (A) an offense under (a)(5) or (8) of this section; or

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

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

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

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

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

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

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

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

29 Sec. 28.15.291. DRIVING WHILE LICENSE CANCELED, SUSPENDED,

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

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

1 tory minimum sentence of [10-DAY] imprisonment under [(a) OF] this
2 section.

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

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

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

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

1 * Sec. 13. AS 28.35 is amended by adding new sections to read:

2 Sec. 28.35.028. SOBRIETY CHECKPOINTS. (a) The department
3 shall enforce the provisions of this title regarding driving while
4 intoxicated and in its enforcement efforts may use preliminary
5 breath tests under AS 28.35.031(b) at sobriety checkpoints on a
6 highway.

7 (b) In this section, "sobriety checkpoint" means a temporary
8 location on the highway used by peace officers and selected as a safe
9 place for detecting and apprehending intoxicated drivers.

10 (c) Nothing in this section prevents a person approaching a
11 sobriety checkpoint from avoiding the checkpoint by lawfully driving
12 in another direction.

13 Sec. 28.35.029. OPEN CONTAINER. (a) A person may not operate a
14 motor vehicle when there is an open bottle, can or other receptacle
15 containing an alcoholic beverage in the passenger compartment of the
16 vehicle.

17 (b) In this section,

18 (1) "motor vehicle" means a vehicle for which a driver's
19 license is required;

20 (2) "open" includes having a broken seal;

21 (3) "passenger compartment" means the area of a motor
22 vehicle normally occupied by the driver and passengers and includes a
23 utility or glove compartment accessible to the driver or a passenger
24 while the vehicle is being operated.

25 (c) A person who violates (a) of this section is guilty of an
26 infraction.

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

1 sition of sentence may not be suspended [, EXCEPT UPON THE CONDITION
2 THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN THE MINIMUM PERIOD
3 PROVIDED IN THIS SECTION]. In addition, if the offense involved
4 driving a motor vehicle for which a driver's license is required, the
5 person's driver's [HIS OPERATOR'S] license shall be revoked in accor-
6 dance with AS 28.15.181 and the vehicle used in commission of the
7 offense may be forfeited under AS 28.35.036. In addition, the court
8 shall order, and a person convicted under this section [STATUTE] shall
9 undertake, treatment or education commensurate with the person's needs
10 and the resources of the community where the person lives [FOR A TERM
11 SPECIFIED BY THE COURT, THAT PROGRAM OF ALCOHOL EDUCATION OR REHABILI-
12 TATION WHICH THE COURT, AFTER CONSIDERATION OF ANY INFORMATION COM-
13 PILED UNDER (d) OF THIS SECTION, FINDS APPROPRIATE].

14 * Sec. 15. AS 28.35.031 is amended by adding a new subsection to read:

15 (b) A person who drives a motor vehicle that is involved in an
16 accident or who has committed a moving traffic violation shall be
17 considered to have given consent to a preliminary breath test for the
18 purpose of determining the alcoholic content of the person's blood or
19 breath. The test shall be administered at the scene of the incident
20 at the direction of a law enforcement officer who has reasonable
21 grounds to believe that the person's ability to operate a motor vehi-
22 cle is impaired by the ingestion of alcoholic beverages, drugs or a
23 combination of drugs and alcohol, and that the person was driving a
24 motor vehicle that is involved in an accident or has committed a
25 moving traffic violation. The result of the test may be used by the
26 law enforcement officer to determine whether the driver should be
27 arrested. Before administering the test, the officer shall advise the
28 person that refusal may be used against the person in a civil or
29 criminal action arising out of the incident and that refusal is an

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

4 * Sec. 16. 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. 17. 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 10 years, the person has been previously con-

1 victed once in this or another jurisdiction [WITHIN FIVE YEARS AFTER A
2 CONVICTION UNDER THIS SECTION OR] of driving while intoxicated under
3 AS 28.35.030 or another law or ordinance with substantially similar
4 elements or refusal to submit to a chemical test under this or another
5 law or ordinance with substantially similar elements. Upon conviction
6 under this section the court shall impose a minimum sentence of im-
7 prisonment of not less than 30 consecutive days and a fine of not less
8 than \$1,000 if, within the previous 10 years, the person has been
9 previously convicted in this or another jurisdiction of more than one
10 of the following offenses or has more than once been previously con-
11 victed of one of the following offenses: (1) driving while intoxi-
12 cated under AS 28.35.030 or another law or ordinance with substan-
13 tially 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, the court shall order, and a person
28 convicted under this section shall undertake, treatment or education
29 commensurate with the person's needs and the resources of the communi-

1 ty where the person lives [FOR A TERM SPECIFIED BY THE COURT, THAT
2 PROGRAM OF ALCOHOL EDUCATION OR REHABILITATION THAT THE COURT, AFTER
3 CONSIDERATION OF ANY INFORMATION COMPILED UNDER (h) OF THIS SECTION,
4 FINDS APPROPRIATE]. The sentence imposed by the court under this
5 subsection shall run consecutively with any other sentence of im-
6 prisonment imposed on the committed person.

7 * Sec. 18. AS 28.35.034 is amended to read:

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

21 * Sec. 19. AS 28.35.035 is amended to read:

22 Sec. 28.35.035. ADMINISTRATION OF CHEMICAL TESTS WITHOUT CON-
23 SENT. (a) If a person is under arrest for an offense arising out of
24 acts alleged to have been committed while the person was driving a
25 motor vehicle [THE CRIME OF DRIVING] while intoxicated, and that
26 arrest results from an accident that causes death or physical injury
27 to another person, a chemical test may be administered without the
28 consent of the person arrested to determine the amount of alcohol in
29 that person's breath or blood.

1 (b) A person who is unconscious or otherwise in a condition
2 rendering that person incapable of refusal is considered not to have
3 withdrawn the consent provided under AS 28.35.031 and a chemical test
4 may be administered to determine the amount of alcohol in that per-
5 son's breath or blood. A person who is unconscious or otherwise
6 incapable of refusal need not be placed under arrest before a chemical
7 test may be administered.

8 (c) If a chemical test is administered to a person under (a) or
9 (b) of this section, that person is not subject to the penalties for
10 refusal to submit to a chemical test provided by AS 28.35.032 and
11 28.35.034.

12 * Sec. 20. AS 28.35 is amended by adding new sections to read:

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

22 (1) driving while intoxicated under AS 28.35.030 or another
23 law or ordinance with substantially similar elements; or

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

26 (b) Upon forfeiture of a motor vehicle the court shall require
27 the surrender of the registration and certificate of title of that
28 motor vehicle. The registration and certificate of title shall be
29 delivered to the department.

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

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

8 (1) a description of the motor vehicle;
9 (2) the time and place of the forfeiture hearing;
10 (3) the legal authority under which the motor vehicle may
11 be forfeited;

12 (4) notice of the right to intervene to protect the inter-
13 est in the motor vehicle.

14 (b) Upon receipt of a motion to intervene in a forfeiture hear-
15 ing the court shall order the satisfaction of the interest from the
16 proceeds of the sale of the motor vehicle or order the motor vehicle
17 to be released to the petitioner together with title to the motor
18 vehicle if the petitioner shows by a preponderance of the evidence
19 that

20 (1) the petitioner has an interest in the motor vehicle
21 acquired in good faith;

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

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

26 Sec. 28.35.038. MUNICIPAL IMPOUNDMENT AND FORFEITURE. Notwith-
27 standing other provisions in this title, a municipality may adopt an
28 ordinance providing for the impoundment or forfeiture of a motor
29 vehicle involved in the commission of an offense under AS 28.35.030,

1 28.35.032, or an ordinance with elements substantially similar to
2 AS 28.35.030 or AS 28.35.032. An ordinance adopted under this section
3 is not required to be consistent with this title or regulations adopt-
4 ed under this title.
5 * Sec. 21. AS 28.15.211(a)(4) and AS 28.35.032(b),(c), and (d) are re-
6 pealed.