

Introduced: 1/22/85
Referred: State Affairs, Judiciary
and Finance

1 IN THE SENATE

BY ABOOD

2 SENATE BILL NO. 75

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to suspension of the privilege to
7 obtain a driver's license."

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

9 * Section 1. AS 22.15.100 is amended to read:

10 Sec. 22.15.100. FUNCTIONS AND POWERS OF DISTRICT JUDGE AND
11 MAGISTRATE. Each district judge and magistrate has the power

12 (1) to issue writs of habeas corpus for the purpose of
13 inquiring into the cause of restraint of liberty, returnable before a
14 judge of the superior court, and the same proceedings shall be had on
15 the writ as if it had been granted by the superior court judge under
16 the laws of the state in such cases;

17 (2) of a notary public;

18 (3) to issue marriage licenses and to solemnize marriages;

19 (4) to issue warrants of arrest, summons and search war-
20 rants according to manner and procedure prescribed by law and the
21 supreme court;

22 (5) to act as an examining judge or magistrate in prelimi-
23 nary examinations in criminal proceedings; to set, receive and forfeit
24 bail and to order the release of defendants under bail;

25 (6) to act as a referee in matters and actions referred to
26 the judge or magistrate by the superior court, with all powers con-
27 ferred upon referees by laws;

28 (7) of the superior court in all respects including but not
29 limited to contempts, attendance of witnesses and bench warrants;

1 (8) to order the temporary detention of a minor, or take
2 other action authorized by law or rules of procedure, in cases arising
3 under AS 47.10, when the minor is in a condition or surrounding dan-
4 gerous or injurious to the welfare of the minor or others which re-
5 quires immediate action; the action may be continued in effect until
6 reviewed by the superior court in accordance with rules of procedure
7 governing these cases;

8 (9) to issue a temporary order for emergency injunctive
9 relief in cases involving domestic violence as provided in AS 25.35.-
10 020;

11 (10) to review an administrative revocation of a person's
12 driver's license, [OR] nonresident privilege to drive, or privilege to
13 obtain a driver's license, and an administrative refusal to issue an
14 original license, when designated as a hearing officer by the commis-
15 sioner of public safety and with the consent of the administrative
16 director of the state court system.

17 * Sec. 2. AS 28.05.141(c) is amended to read:

18 (c) If at the hearing under (a) of this section it appears that
19 the record of the person sustains suspension, revocation, limitation,
20 denial, or other remedial action, the hearing officer shall so order
21 and the department may suspend, revoke, limit, deny, or take other
22 remedial action against that person's license or privilege to obtain a
23 license and, if appropriate, the department shall adjust the person's
24 point total accumulated under AS 28.15.231.

25 * Sec. 3. AS 28.15.031(b) is amended to read:

26 (b) The department may not issue an original or duplicate
27 driver's license to, nor renew or reinstate the driver's license of, a
28 person

29 (1) whose license or privilege to obtain a license is

1 suspended or revoked, except as otherwise provided in this chapter;

2 (2) who fails to appear in court for the adjudication of a
3 certain vehicle, driver or traffic offense when the person's appear-
4 ance is required by statute, regulation or court rule;

5 (3) who is an habitual user of alcohol or another drug to
6 such a degree that the person is incapable of safely driving a motor
7 vehicle;

8 (4) who has previously been adjudged to be afflicted with,
9 or suffering from, a mental disability or a disease and who has not,
10 at the time of application for the license, been restored to compe-
11 tency by the methods provided by law;

12 (5) when the department, based upon medical evidence, has
13 determined that because of the person's physical or mental disability
14 the person is not able to drive a motor vehicle safely;

15 (6) who is unable to understand official traffic control
16 devices as displayed in this state or who does not have a fair knowl-
17 edge of traffic laws and regulations, as demonstrated by an examina-
18 tion;

19 (7) who has knowingly made a false statement in the per-
20 son's application for a license or has committed fraud in connection
21 with the person's application for, or in obtaining or attempting to
22 obtain, a license, or who has not applied under oath on the form
23 provided for the purpose of obtaining or attempting to obtain a li-
24 cense or permit; or

25 (8) who is required under AS 28.20 to furnish proof of
26 financial responsibility and who has not done so.

27 * Sec. 4. AS 28.15.061(b) is amended to read:

28 (b) An application under (a) of this section shall

29 (1) contain the applicant's full name, date and place of

1 birth, sex, and mailing and residence addresses;

2 (2) state whether the applicant has been previously li-
3 censed as a driver and, if so, when and by what jurisdiction;

4 (3) state whether any previous driver's license issued to
5 the applicant has ever been suspended or revoked, [OR] whether an
6 application for a driver's license has ever been refused, or whether
7 the applicant's privilege to obtain a driver's license has ever been
8 revoked by a court or the department or a similar agency in another
9 state and, if so, the date of and reason for the suspension, revoca-
10 tion, or refusal; and

11 (4) contain other information which the department may
12 reasonably require to determine the applicant's identity, competency,
13 and eligibility.

14 * Sec. 5. AS 28.15.165(a) is amended to read:

15 (a) If a chemical test administered under AS 28.35.031(a) to a
16 person driving a motor vehicle for which a driver's license is re-
17 quired produces a result described in AS 28.35.030(a)(2) or if a
18 person under arrest for driving a motor vehicle for which a driver's
19 license is required refuses to submit to a chemical test under AS 28.-
20 35.031(a), a law enforcement officer shall read a notice and deliver a
21 copy to the person. The notice shall advise that

22 (1) the department intends to revoke the person's driver's
23 license or nonresident privilege to drive, or refuse to issue an
24 original license to the person;

25 (2) the person has the right to administrative review of
26 the revocation or determination not to issue an original license;

27 (3) the notice itself is a temporary driver's license, for
28 persons then holding a valid license, that expires seven days after it
29 is delivered to the person;

1 (4) revocation of the person's driver's license or nonresi-
2 dent privilege to drive, or a determination not to issue an original
3 license shall take effect upon expiration of the temporary driver's
4 license unless the person within seven days requests an administrative
5 review.

6 * Sec. 6. AS 28.15.181(a) is amended to read:

7 (a) Conviction of any of the following offenses is grounds for
8 the immediate revocation of a driver's license or the privilege to
9 obtain a driver's license:

10 (1) manslaughter or negligent homicide resulting from
11 driving a motor vehicle;

12 (2) a felony in the commission of which a motor vehicle is
13 used;

14 (3) failure to stop and give aid as required by law when a
15 motor vehicle accident results in the death or personal injury of
16 another;

17 (4) perjury or making a false affidavit or statement under
18 oath to the department under a law relating to motor vehicles;

19 (5) driving a motor vehicle while intoxicated;

20 (6) reckless driving;

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

23 (8) refusal to submit to a chemical test under AS 28.-
24 35.032;

25 (9) driving while license or privilege to obtain a license
26 is canceled, suspended, revoked or in violation of a limitation.

27 * Sec. 7. AS 28.15.181(b) is amended to read:

28 (b) A court convicting a person of an offense described in
29 (a)(1) - (4), (6), or (7) of this section shall revoke that person's

1 driver's license or privilege to obtain a driver's license for not
2 less than 30 days for the first conviction, unless the court deter-
3 mines that the person's ability to earn a livelihood would be severely
4 impaired and a limitation under AS 28.15.201 can be placed on the
5 license that will enable the person to earn a livelihood without
6 excessive danger to the public. If a court limits a person's license
7 under this subsection, it shall do so for not less than 60 days. Upon
8 a subsequent conviction of a person for any offense described in
9 (a)(1) - (4), (6), (7) of this section occurring within 10 years after
10 a prior conviction, the court shall revoke the person's license or
11 privilege to obtain a driver's license and may not grant the person
12 limited license privileges for the following periods:

- 13 (1) not less than one year for the second conviction; and
14 (2) not less than three years for a third or subsequent
15 conviction.

16 * Sec. 8. AS 28.15.181(c) is amended to read:

17 (c) A court convicting a person of an offense described in
18 (a)(5) or (8) of this section arising out of the operation of a motor
19 vehicle for which a driver's license is required shall revoke that
20 person's driver's license or privilege to obtain a driver's license.
21 The revocation may be concurrent with or consecutive to an administra-
22 tive revocation under AS 28.15.165. The court may not, except as
23 provided in (e) of this section, grant limited license privileges for
24 the following periods:

- 25 (1) not less than 90 days if, within the preceding 10
26 years, the person has not previously been convicted of an offense
27 (A) described in (a)(5) or (8) of this section; or
28 (B) under a law or ordinance in another jurisdiction
29 with elements substantially similar to an offense described in

1 (a)(5) or (8) of this section;

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

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

8 (3) not less than 10 years if, within the preceding 10
9 years, the person has been previously convicted of more than one of
10 the following offenses or has more than once been previously convicted
11 of one of the following offenses:

12 (A) an offense described in (a)(5) or (8) of this
13 section; or
14 (B) an offense under another law or ordinance in
15 another jurisdiction with elements substantially similar to an
16 offense described in (a)(5) or (8) of this section.

17 * Sec. 9. AS 28.15.211(a) is amended to read:

18 (a) Except for a point system suspension or revocation under
19 AS 28.15.221 - 28.15.241 and unless provided otherwise by law, and
20 unless the suspension or revocation was for a cause that has been
21 removed, a person whose driver's license, privilege to obtain a
22 driver's license, or privilege to drive a motor vehicle in this state
23 has been suspended or revoked may not apply for a new license nor may
24 the person's driving privilege be restored until the expiration of

25 (1) one month from the date on which the license or privi-
26 lege to obtain a license was suspended or revoked for a first convic-
27 tion of the particular offense from which the suspension or revocation
28 resulted;

29 (2) three months from the date on which the license or

1 privilege to obtain a license was suspended or revoked for a second
2 conviction within 12 consecutive months of the same offense from which
3 the suspension or revocation resulted;

4 (3) one year from the date on which the license or privi-
5 lege to obtain a license was suspended or revoked for a third or
6 subsequent conviction within 12 consecutive months of the same offense
7 from which the suspension or revocation resulted.

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

9 Sec. 28.15.291. DRIVING WHILE LICENSE OR PRIVILEGE TO OBTAIN A
10 LICENSE CANCELED, SUSPENDED, REVOKED OR IN VIOLATION OF LIMITATION.

11 (a) A person may not drive a motor vehicle on a highway or vehicular
12 way or area at a time when that person's driver's license, privilege
13 to obtain a driver's license, or privilege to drive has been canceled,
14 suspended or revoked in this or another jurisdiction, or when driving
15 in violation of a limitation placed upon that person's license or
16 privilege to drive in this or another jurisdiction. Except as provid-
17 ed in (c) of this section, upon conviction of a violation of this
18 section, the court shall impose a sentence of imprisonment of not less
19 than 10 days. The execution of sentence may not be suspended nor may
20 probation or parole be granted until the minimum imprisonment provided
21 in this section has been served; nor may imposition of sentence be
22 suspended. In addition, the person's license, privilege to obtain a
23 license, or privilege to drive shall be revoked, and the person may
24 not be issued a new license nor may the privilege to drive be restored
25 for an additional period of not less than one year after the date that
26 the person would have been entitled to restoration of driving privi-
27 leges or issuance of a license.

28 (b) When a person's license or privilege to obtain a license is
29 canceled, limited, suspended or revoked, that person shall be informed

1 by the department or the court that takes the action at the time of
2 the action that, upon a conviction of driving on a highway or vehicu-
3 lar way or area in this state at a time when that person's driver's
4 license, [OR] privilege to drive or privilege to obtain a driver's
5 license in this state has been canceled, suspended or revoked, or upon
6 a conviction of driving in violation of a limitation of the license,
7 that person will be subject to the mandatory minimum sentence of
8 imprisonment under this section.

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

26 (d) A person convicted of a violation of this section is guilty
27 of a class A misdemeanor.

28 * Sec. 11. 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 or
6 another law or ordinance with substantially similar elements. Upon
7 conviction under this section the court shall impose a minimum sen-
8 tence of imprisonment of not less than 20 consecutive days and a fine
9 of not less than \$500 if, within the preceding 10 years, the person
10 has been previously convicted once in this or another jurisdiction of
11 driving while intoxicated under this or another law or ordinance with
12 substantially similar elements or refusal to submit to a chemical test
13 under AS 28.35.032 or another law or ordinance with substantially
14 similar elements. Upon conviction under this section the court shall
15 impose a minimum sentence of imprisonment of not less than 30 consecu-
16 tive days and a fine of not less than \$1,000 if, within the preceding
17 10 years, the person has been previously convicted in this or another
18 jurisdiction of more than one of the following offenses or has more
19 than once been previously convicted of one of the following offenses:
20 (1) driving while intoxicated under this or another law or ordinance
21 with substantially similar elements; (2) refusal to submit to a chemi-
22 cal test under AS 28.35.032 or another law or ordinance with substan-
23 tially similar elements. The execution of sentence may not be sus-
24 pended nor may probation be granted except on condition that the
25 minimum imprisonment provided in this section is served. Imposition of
26 sentence may not be suspended. In addition, if the offense involved
27 driving a motor vehicle for which a driver's license is required, the
28 person's driver's license or privilege to obtain a driver's license
29 shall be revoked in accordance with AS 28.15.181 and the vehicle used

1 in commission of the offense may be forfeited under AS 28.35.036. In
2 addition, the court shall order, and a person convicted under this
3 section shall undertake, for a term specified by the court, that
4 program of alcohol education or rehabilitation that the court, after
5 consideration of any information compiled under (d) of this section,
6 finds appropriate.

7 * Sec. 12. AS 28.35.032(g) is amended to read:

8 (g) Upon conviction of a person under this section, the court
9 shall impose a minimum sentence of imprisonment of not less than 72
10 consecutive hours and a fine of not less than \$250 if the person has
11 not been previously convicted in this or another jurisdiction of
12 driving while intoxicated under AS 28.35.030 or another law or ordi-
13 nance with substantially similar elements or refusal to submit to a
14 chemical test under this section or another law or ordinance with
15 substantially similar elements. Upon conviction under this section the
16 court shall impose a minimum sentence of imprisonment of not less than
17 20 consecutive days and a fine of not less than \$500 if, within the
18 preceding 10 years, the person has been previously convicted once in
19 this or another jurisdiction of driving while intoxicated under AS 28.
20 35.030 or another law or ordinance with substantially similar elements
21 or refusal to submit to a chemical test under this section or another
22 law or ordinance with substantially similar elements. Upon conviction
23 under this section the court shall impose a minimum sentence of impris-
24 onment of not less than 30 consecutive days and a fine of not less
25 than \$1,000 if, within the previous 10 years, the person has been
26 previously convicted in this or another jurisdiction of more than one
27 of the following offenses or has more than once been previously con-
28 victed of one of the following offenses: (1) driving while intoxicated
29 under AS 28.35.030 or another law or ordinance with substantially

1 similar elements; (2) refusal to submit to a chemical test under this
2 section or another law or ordinance with substantially similar ele-
3 ments. The execution of sentence may not be suspended nor may proba-
4 tion be granted except on condition that the minimum imprisonment
5 provided in this section is served. Imposition of sentence may not be
6 suspended. If the offense involved driving a motor vehicle for which
7 a driver's license is required, the person's driver's license or
8 privilege to obtain a driver's license shall be revoked under AS 28.-
9 15.181. In addition, the court shall order, and a person convicted
10 under this section shall undertake, for a term specified by the court,
11 that program of alcohol education or rehabilitation that the court,
12 after consideration of any information compiled under (h) of this
13 section, finds appropriate. The sentence imposed by the court under
14 this subsection shall run consecutively with any other sentence of
15 imprisonment imposed on the committed person.

16 * Sec. 13. AS 28.40.050(b) is amended to read:

17 (b) A person convicted of a misdemeanor for a violation of a
18 provision of this title for which another penalty is not specifically
19 provided is punishable by a fine of not more than \$500, or by impris-
20 onment for not more than 90 days, or by both. In addition, the privi-
21 lege to drive or to obtain a license or the registration of vehicles
22 may be suspended or revoked.