

Original sponsors: Gruenberg, Barnes,
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1 IN THE HOUSE BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE
2 CS FOR HOUSE BILL NO. 261 (HESS)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act relating to ignition interlock devices; and
7 establishing a class C misdemeanor."
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
9 * Section 1. AS 09.50.250 is amended to read:
10 Sec. 09.50.250. ACTIONABLE CLAIMS AGAINST THE STATE. A person
11 or corporation having a contract, quasi-contract, or tort claim
12 against the state may bring an action against the state in the superi-
13 or court. A person who may present the claim under AS 44.77 may not
14 bring an action under this section except as set out in AS 44.77.-
15 040(c). A person who may bring an action under AS 36.30.560 -
16 36.30.695 may not bring an action under this section except as set out
17 in AS 36.30.685. However, an [NO] action may not be brought under
18 this section if the claim
19 (1) is an action for tort, and is based upon an act or
20 omission of an employee of the state, exercising due care, in the
21 execution of a statute or regulation, whether or not the statute or
22 regulation is valid; or is an action for tort, and based upon the
23 exercise or performance or the failure to exercise or perform a dis-
24 cretionary function or duty on the part of a state agency or an em-
25 ployee of the state, whether or not the discretion involved is abused;
26 (2) is for damages caused by the imposition or establish-
27 ment of a quarantine by the state;
28 (3) arises out of assault, battery, false imprisonment,
29 false arrest, malicious prosecution, abuse of process, libel, slander,

1 misrepresentation, deceit, or interference with contract rights; or
2 (4) arises out of the use of an ignition interlock device
3 certified under AS 33.30.020(c).

4 * Sec. 2. AS 11.76 is amended by adding a new section to read:

5 Sec. 11.76.140. AVOIDANCE OF IGNITION INTERLOCK DEVICE. (a) A
6 person may not knowingly

7 (1) circumvent or tamper with an ignition interlock device
8 in a manner intended to allow a person on probation under AS 12.55.102
9 to avoid using the device; or

10 (2) rent, loan, or lease a motor vehicle to a person on
11 probation under AS 12.55.102, unless the vehicle is equipped with an
12 ignition interlock device described in AS 12.55.102.

13 (b) A person convicted of violating this section is guilty of a
14 class C misdemeanor.

15 * Sec. 3. AS 12.55.035(b) is amended to read:

16 (b) Upon conviction of an offense, a defendant who is not an
17 organization may be sentenced to pay, unless otherwise specified in
18 the provision of law defining the offense, a fine of no more than

19 (1) \$75,000 for murder in the first or second degree,
20 sexual assault in the first degree, kidnapping, or misconduct involv-
21 ing a controlled substance in the first degree;

22 (2) \$50,000 for a class A, B, or C felony;

23 (3) \$5,000 for a class A misdemeanor;

24 (4) \$1,000 for a class B misdemeanor;

25 (5) \$500 for a class C misdemeanor;

26 (6) \$300 for a violation.

27 * Sec. 4. AS 12.55 is amended by adding a new section to read:

28 Sec. 12.55.102. ALCOHOL RELATED OFFENSES. (a) The court may
29 order as a condition of probation that a defendant convicted of an

1 offense involving the use, consumption, or possession of an alcoholic
2 beverage may not operate a motor vehicle during the period of pro-
3 bation unless the vehicle is equipped with a properly functioning,
4 monitored, and maintained ignition interlock device.

5 (b) The court, in imposing probation under (a) of this section,
6 may allow the defendant limited privileges to drive a motor vehicle
7 without an ignition interlock device if the court determines that the
8 defendant is required as a condition of employment to drive a motor
9 vehicle owned or leased by the defendant's employer and that the
10 defendant's driving will not create substantial danger. If the court
11 imposes probation described by this subsection, the court shall re-
12 quire the defendant to notify the defendant's employer of the proba-
13 tion, and shall require that the defendant, while driving the em-
14 ployer's vehicle, carry a letter from the employer authorizing the
15 defendant to drive that vehicle.

16 (c) A court imposing a condition of probation under this section
17 shall require the surrender of the driver's license and shall issue to
18 the defendant a certificate valid for the duration of the probation or
19 a copy of the defendant's judgment of conviction. The defendant shall
20 bear all costs associated with fulfilling the condition of probation,
21 including installation, repair, and monitoring of an ignition inter-
22 lock device.

23 (d) The court may include the cost of the ignition interlock
24 device as a part of the fine required to be imposed against the defen-
25 dant under AS 28.35.030(c) or 28.35.032(g).

26 (e) In this section, "ignition interlock device" means equipment
27 designed to prevent a motor vehicle from being operated by a person
28 who has consumed an alcoholic beverage, and that has been certified by
29 the commissioner of corrections under AS 33.05.020.

1 * Sec. 5. AS 12.55.135 is amended by adding a new subsection to read:

2 (f) A defendant convicted of a class C misdemeanor may be sen-
3 tenced to a definite term of imprisonment of not more than 30 days
4 unless otherwise specified in the provision of law defining the of-
5 fense.

6 * Sec. 6. AS 28.35.030(c) is amended to read:

7 (c) Upon conviction under this section the court shall impose a
8 minimum sentence of imprisonment of not less than 72 consecutive hours
9 and a fine of not less than \$250 if the person has not been previously
10 convicted in this or another jurisdiction of driving while intoxicated
11 under this or another law or ordinance with substantially similar
12 elements or refusal to submit to a chemical test under AS 28.35.032 or
13 another law or ordinance with substantially similar elements. Upon
14 conviction under this section the court shall impose a minimum sen-
15 tence of imprisonment of not less than 20 consecutive days and a fine
16 of not less than \$500 if, within the preceding 10 years, the person
17 has been previously convicted once in this or another jurisdiction of
18 driving while intoxicated under this or another law or ordinance with
19 substantially similar elements or refusal to submit to a chemical test
20 under AS 28.35.032 or another law or ordinance with substantially
21 similar elements. Upon conviction under this section the court shall
22 impose a minimum sentence of imprisonment of not less than 30 consecu-
23 tive days and a fine of not less than \$1,000 if, within the preceding
24 10 years, the person has been previously convicted in this or another
25 jurisdiction of more than one of the following offenses or has more
26 than once been previously convicted of one of the following offenses:
27 (1) driving while intoxicated under this or another law or ordinance
28 with substantially similar elements; (2) refusal to submit to a chemi-
29 cal test under AS 28.35.032 or another law or ordinance with

1 substantially similar elements. The execution of sentence may not be
2 suspended nor may probation be granted except on condition that the
3 minimum imprisonment provided in this section is served. Probation
4 may be conditioned as provided in AS 12.55.102. Imposition of sen-
5 tence may not be suspended. In addition, if the offense involved
6 driving a motor vehicle for which a driver's license is required, the
7 person's driver's license shall be revoked in accordance with AS 28.-
8 15.181 and the vehicle used in commission of the offense may be for-
9 feited under AS 28.35.036. In addition, the court shall order, and a
10 person convicted under this section shall undertake, for a term
11 specified by the court, that program of alcohol education or reha-
12 bilitation that the court, after consideration of any information
13 compiled under (d) of this section, finds appropriate.

14 * Sec. 7. AS 28.35.030 is amended by adding a new subsection to read:

15 (h) Notwithstanding (c) of this section, if the court imposes
16 probation under AS 12.55.102 the court may reduce the fine required to
17 be imposed under (c) of this section by the cost of the ignition
18 interlock device.

19 * Sec. 8. AS 28.35.032(g) is amended to read:

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

1 preceding 10 years, the person has been previously convicted once in
2 this or another jurisdiction 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 section 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 10 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 previ-
11 ously 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 section or another law or ordinance with substantially
15 similar elements. The execution of sentence may not be suspended nor
16 may probation be granted except on condition that the minimum impris-
17 onment provided in this section is served. Probation may be condi-
18 tioned as provided in AS 12.55.102. Imposition of sentence may not be
19 suspended. If the offense involved driving a motor vehicle for which
20 a driver's license is required, the person's driver's license shall be
21 revoked under AS 28.15.181. In addition, the court shall order, and a
22 person convicted under this section shall undertake, for a term speci-
23 fied by the court, that program of alcohol education or rehabilitation
24 that the court, after consideration of any information compiled under
25 (h) of this section, finds appropriate. The sentence imposed by the
26 court under this subsection shall run consecutively with any other
27 sentence of imprisonment imposed on the committed person.

28 * Sec. 9. AS 28.35.032 is amended by adding a new subsection to read:

29 (k) Notwithstanding (g) of this section, if the court imposes

1 probation under AS 12.55.102 the court may reduce the fine required to
2 be imposed under (g) of this section by the cost of the ignition
3 interlock device.

4 * Sec. 10. AS 33.05.020 is amended by adding new subsections to read:

5 (c) The commissioner shall by regulation establish standards for
6 calibration, certification, maintenance, and monitoring of ignition
7 interlock devices required as a condition of probation under AS 12.-
8 55.102. The manufacturer of the interlock ignition device shall
9 reimburse the state for the cost of certification. The department
10 shall notify the manufacturer of the ignition interlock device when
11 the device is certified.

12 (d) The commissioner may not certify an ignition interlock
13 device unless the device displays a label warning that a person
14 circumventing or tampering with the device in violation of AS 11.76.-
15 140 is guilty of a class C misdemeanor.