

Original sponsors: Gruenberg, Barnes,
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1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 261 (Judiciary)

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."

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

8 * Section 1. AS 09.50.250 is amended to read:

9 Sec. 09.50.250. ACTIONABLE CLAIMS AGAINST THE STATE. A person
10 or corporation having a contract, quasi-contract, or tort claim
11 against the state may bring an action against the state in the superi-
12 or court. A person who may present the claim under AS 44.77 may not
13 bring an action under this section except as set out in AS 44.77.-
14 040(c). A person who may bring an action under AS 36.30.560 -
15 36.30.695 may not bring an action under this section except as set out
16 in AS 36.30.685. However, an [NO] action may not be brought under
17 this section if the claim

18 (1) is an action for tort, and is based upon an act or
19 omission of an employee of the state, exercising due care, in the
20 execution of a statute or regulation, whether or not the statute or
21 regulation is valid; or is an action for tort, and based upon the
22 exercise or performance or the failure to exercise or perform a dis-
23 cretionary function or duty on the part of a state agency or an em-
24 ployee of the state, whether or not the discretion involved is abused;

25 (2) is for damages caused by the imposition or establish-
26 ment of a quarantine by the state;

27 (3) arises out of assault, battery, false imprisonment,
28 false arrest, malicious prosecution, abuse of process, libel, slander,
29 misrepresentation, deceit, or interference with contract rights; or

1 (4) arises out of the use of an ignition interlock device
2 certified under AS 33.30.020(c).

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

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

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

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

12 (b) A person convicted of violating this section is guilty of a
13 violation.

14 * Sec. 3. AS 12.55 is amended by adding a new section to read:

15 Sec. 12.55.102. ALCOHOL RELATED OFFENSES. (a) The court may
16 order as a condition of probation that a defendant convicted of an
17 offense involving the use, consumption, or possession of an alcoholic
18 beverage may not operate a motor vehicle during the period of pro-
19 bation unless the vehicle is equipped with a properly functioning,
20 monitored, and maintained ignition interlock device. A condition of
21 probation imposed under this subsection takes effect after any period
22 of license revocation imposed under AS 28.15.165(d) or 28.15.181(c).

23 (b) The court, in imposing probation under (a) of this section,
24 may allow the defendant limited privileges to drive a motor vehicle
25 without an ignition interlock device if the court determines that the
26 defendant is required as a condition of employment to drive a motor
27 vehicle owned or leased by the defendant's employer and that the
28 defendant's driving will not create substantial danger. If the court
29 imposes probation described by this subsection, the court shall

1 require the defendant to notify the defendant's employer of the proba-
2 tion, and shall require that the defendant, while driving the em-
3 ployer's vehicle, carry a letter from the employer authorizing the
4 defendant to drive that vehicle.

5 (c) A court imposing a condition of probation under this section
6 shall require the surrender of the driver's license and shall issue to
7 the defendant a certificate valid for the duration of the probation or
8 a copy of the defendant's judgment of conviction. The defendant shall
9 bear all costs associated with fulfilling the condition of probation,
10 including installation, repair, and monitoring of an ignition inter-
11 lock device.

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

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

19 * Sec. 4. AS 28.35.030(c) is amended to read:

20 (c) Upon conviction under this section the court shall impose a
21 minimum sentence of imprisonment of not less than 72 consecutive hours
22 and a fine of not less than \$250 if the person has not been previously
23 convicted in this or another jurisdiction of driving while intoxicated
24 under this or another law or ordinance with substantially similar
25 elements or refusal to submit to a chemical test under AS 28.35.032 or
26 another law or ordinance with substantially similar elements. Upon
27 conviction under this section the court shall impose a minimum sen-
28 tence of imprisonment of not less than 20 consecutive days and a fine
29 of not less than \$500 if, within the preceding 10 years, the person

1 has been previously convicted once in this or another jurisdiction of
2 driving while intoxicated under this or another law or ordinance with
3 substantially similar elements or refusal to submit to a chemical test
4 under AS 28.35.032 or another law or ordinance with substantially
5 similar elements. Upon conviction under this section the court shall
6 impose a minimum sentence of imprisonment of not less than 30 consecu-
7 tive days and a fine of not less than \$1,000 if, within the preceding
8 10 years, the person has been previously convicted in this or another
9 jurisdiction of more than one of the following offenses or has more
10 than once been previously convicted of one of the following offenses:
11 (1) driving while intoxicated under this or another law or ordinance
12 with substantially similar elements; (2) refusal to submit to a chemi-
13 cal test under AS 28.35.032 or another law or ordinance with substan-
14 tially similar elements. The execution of sentence may not be sus-
15 pended nor may probation be granted except on condition that the
16 minimum imprisonment provided in this section is served. Probation
17 may be conditioned as provided in AS 12.55.102. Imposition of sen-
18 tence may not be suspended. In addition, if the offense involved
19 driving a motor vehicle for which a driver's license is required, the
20 person's driver's license shall be revoked in accordance with AS 28.-
21 15.181 and the vehicle used in commission of the offense may be for-
22 feited under AS 28.35.036. In addition, the court shall order, and a
23 person convicted under this section shall undertake, for a term spec-
24 ified by the court, that program of alcohol education or rehabilita-
25 tion that the court, after consideration of any information compiled
26 under (d) of this section, finds appropriate.

27 * Sec. 5. AS 28.35.030 is amended by adding a new subsection to read:

28 (h) Notwithstanding (c) of this section, if the court imposes
29 probation under AS 12.55.102 the court may reduce the fine required to

1 be imposed under (c) of this section by the cost of the ignition
2 interlock device.

3 * Sec. 6. AS 28.35.032(g) is amended to read:

4 (g) Upon conviction of a person under this section, the court
5 shall impose a minimum sentence of imprisonment of not less than 72
6 consecutive hours and a fine of not less than \$250 if the person has
7 not been previously convicted in this or another jurisdiction of
8 driving while intoxicated under AS 28.35.030 or another law or ordi-
9 nance with substantially similar elements or refusal to submit to a
10 chemical test under this section or another law or ordinance with
11 substantially similar elements. Upon conviction under this section the
12 court shall impose a minimum sentence of imprisonment of not less than
13 20 consecutive days and a fine of not less than \$500 if, within the
14 preceding 10 years, the person has been previously convicted once in
15 this or another jurisdiction of driving while intoxicated under
16 AS 28.35.030 or another law or ordinance with substantially similar
17 elements or refusal to submit to a chemical test under this section or
18 another law or ordinance with substantially similar elements. Upon
19 conviction under this section the court shall impose a minimum sen-
20 tence of imprisonment of not less than 30 consecutive days and a fine
21 of not less than \$1,000, if, within the previous 10 years, the person
22 has been previously convicted in this or another jurisdiction of more
23 than one of the following offenses or has more than once been previ-
24 ously convicted of one of the following offenses: (1) driving while
25 intoxicated under AS 28.35.030 or another law or ordinance with sub-
26 stantially similar elements; (2) refusal to submit to a chemical test
27 under this section or another law or ordinance with substantially
28 similar elements. The execution of sentence may not be suspended nor
29 may probation be granted except on condition that the minimum

1 imprisonment provided in this section is served. Probation may be
2 conditioned as provided in AS 12.55.102. Imposition of sentence may
3 not be suspended. If the offense involved driving a motor vehicle for
4 which a driver's license is required, the person's driver's license
5 shall be revoked under AS 28.15.181. In addition, the court shall
6 order, and a person convicted under this section shall undertake, for
7 a term specified by the court, that program of alcohol education or
8 rehabilitation that the court, after consideration of any information
9 compiled under (h) of this section, finds appropriate. The sentence
10 imposed by the court under this subsection shall run consecutively
11 with any other sentence of imprisonment imposed on the committed
12 person.

13 * Sec. 7. AS 28.35.032 is amended by adding a new subsection to read:

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

18 * Sec. 8. AS 33.05.020 is amended by adding new subsections to read:

19 (c) The commissioner shall by regulation establish standards for
20 calibration, certification, maintenance, and monitoring of ignition
21 interlock devices required as a condition of probation under AS 12.-
22 55.102. The manufacturer of the interlock ignition device shall
23 reimburse the state for the cost of certification. The department
24 shall notify the manufacturer of the ignition interlock device when
25 the device is certified.

26 (d) The commissioner may not certify an ignition interlock
27 device unless the device displays a label warning that a person cir-
28 cumventing or tampering with the device in violation of AS 11.76.140
29 is guilty of a violation.