

Original sponsors: Gruenberg, Koponen,
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1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2

CS FOR HOUSE BILL NO. 2 (HESS)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST 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 - 36.-
16 30.695 may not bring an action under this section except as set out in
17 AS 36.30.685. However, an [NO] action may not be brought under this
18 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 33.05.020(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 11.81.250(a) is amended to read:

16 (a) For purposes of sentencing under AS 12.55, all offenses
17 defined in this title, except murder in the first and second degree,
18 attempted murder in the first degree, sexual assault in the first
19 degree, sexual abuse of a minor in the first degree, misconduct
20 involving a controlled substance in the first degree, and kidnapping,
21 are classified on the basis of their seriousness, according to the
22 type of injury characteristically caused or risked by commission of
23 the offense and the culpability of the offender. Except for murder in
24 the first and second degree, attempted murder in the first degree,
25 sexual assault in the first degree, sexual abuse of a minor in the
26 first degree, misconduct involving a controlled substance in the first
27 degree, and kidnapping, the offenses in this title are classified into
28 the following categories:

29 (1) class A felonies, which characteristically involve

1 conduct resulting in serious physical injury or a substantial risk of
2 serious physical injury to a person;

3 (2) class B felonies, which characteristically involve
4 conduct resulting in less severe violence against a person than class
5 A felonies, aggravated offenses against property interests, or
6 aggravated offenses against public administration or order;

7 (3) class C felonies, which characteristically involve
8 conduct serious enough to deserve felony classification but not
9 serious enough to be classified as A or B felonies;

10 (4) class A misdemeanors, which characteristically involve
11 less severe violence against a person, less serious offenses against
12 property interests, less serious offenses against public
13 administration or order, or less serious offenses against public
14 health and decency than felonies;

15 (5) class B misdemeanors, which characteristically involve
16 a minor risk or physical injury to a person, minor offenses against
17 property interests, minor offenses against public administration or
18 order, or minor offenses against public health and decency;

19 (6) class C misdemeanors, which characteristically involve
20 conduct serious enough to deserve classification as a crime but not
21 serious enough to be classified as A or B midemeanors;

22 (7) violations, which characteristically involve conduct
23 inappropriate to an orderly society but which do not denote
24 criminality in their commission.

25 * Sec. 4. AS 12.55.035(b) is amended to read:

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

29 (1) \$75,000 for murder in the first or second degree,

1 attempted murder in the first degree, sexual assault in the first
2 degree, sexual abuse of a minor in the first degree, kidnapping, or
3 misconduct involving a controlled substance in the first degree;

4 (2) \$50,000 for a class A, B, or C felony;

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

6 (4) \$1,000 for a class B misdemeanor;

7 (5) \$500 for a class C misdemeanor;

8 (6) \$300 for a violation.

9 * Sec. 5. AS 12.55 is amended by adding a new section to read:

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

18 (b) The court, in imposing probation under (a) of this section,
19 may allow the defendant limited privileges to drive a motor vehicle
20 without an ignition interlock device if the court determines that the
21 defendant is required as a condition of employment to drive a motor
22 vehicle owned or leased by the defendant's employer and that the
23 defendant's driving will not create substantial danger. If the court
24 imposes probation described by this subsection, the court shall re-
25 quire the defendant to notify the defendant's employer of the proba-
26 tion, and shall require that the defendant, while driving the em-
27 ployer's vehicle, carry a letter from the employer authorizing the
28 defendant to drive that vehicle.

29 (c) A court imposing a condition of probation under this section

1 shall require the surrender of the driver's license and shall issue to
2 the defendant a certificate valid for the duration of the probation or
3 a copy of the defendant's judgment of conviction. The defendant shall
4 pay all costs associated with fulfilling the condition of probation,
5 including installation, repair, and monitoring of an ignition inter-
6 lock device.

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

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

14 * Sec. 6. AS 12.55.135 is amended by adding a new subsection to read:

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

19 * Sec. 7. 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. 8. 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. 9. 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. 10. 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. 11. 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 ignition interlock 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 class C misdemeanor.