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Referred: Health, Education &
Social Services and Judiciary

6-0665A

1 IN THE HOUSE

BY DONLEY, KOPONEN, BROWN,
LEMAN, COLLINS, HUDSON,
MENARD AND ULMER

2

HOUSE BILL NO. 236

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 the offense of driving while
7 intoxicated and establishing presumptions of intoxi-
8 cation arising against persons 21 years of age or
9 older and persons under 21 years of age in civil and
10 criminal actions; and providing for an effective
11 date."

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

13 * Section 1. AS 28.35.030(a) is amended to read:

14 (a) A person commits the crime of driving while intoxicated if
15 the person operates or drives a motor vehicle or operates an aircraft
16 or a watercraft

17 (1) while under the influence of intoxicating liquor, or
18 any controlled substance listed in AS 11.71.140 - 11.71.190;

19 (2) when, as determined by a chemical test taken within
20 four hours after the alleged offense was committed [,]

21 (A) there is 0.10 percent or more by weight of alcohol
22 in the person's blood or 100 milligrams or more of alcohol per
23 100 milliliters of blood, or when there is 0.10 grams or more of
24 alcohol per 210 liters of the person's breath and the person was
25 21 years of age or older; or

26 (B) there is 0.05 percent or more by weight of alcohol
27 in the person's blood or 50 milligrams or more of alcohol per 100
28 milliliters of blood, or when there is 0.05 grams or more of
29 alcohol per 210 liters of the person's breath and the person was

1 under 21 years of age; or

2 (3) while the person is under the combined influence of
3 intoxicating liquor and another substance.

4 * Sec. 2. AS 28.35.033(a) is repealed and reenacted to read:

5 (a) Upon the trial of a civil or criminal action or proceeding
6 arising out of acts alleged to have been committed by a person while
7 operating or driving a motor vehicle or operating an aircraft or a
8 watercraft while intoxicated, the amount of alcohol in the person's
9 blood or breath at the time alleged shall give rise to the following
10 presumptions:

11 (1) if the person is 21 years of age or older and there was

12 (A) 0.05 percent or less by weight of alcohol in the
13 person's blood, or 50 milligrams or less of alcohol per 100
14 milliliters of the person's blood, or 0.05 grams or less of
15 alcohol per 210 liters of the person's breath, it shall be pre-
16 sumed that the person was not under the influence of intoxicating
17 liquor;

18 (B) in excess of 0.05 percent but less than 0.10 per-
19 cent by weight of alcohol in the person's blood, or in excess of
20 50 but less than 100 milligrams of alcohol per 100 milliliters of
21 the person's blood, or in excess of 0.05 grams but less than 0.10
22 grams of alcohol per 210 liters of the person's breath, that fact
23 does not give rise to any presumption that the person was or was
24 not under the influence of intoxicating liquor, but that fact may
25 be considered with other competent evidence in determining
26 whether the person was under the influence of intoxicating li-
27 quor; and

28 (C) 0.10 percent or more by weight of alcohol in the
29 person's blood, or 100 milligrams or more of alcohol per 100

1 milliliters of the person's blood, or 0.10 grams or more of
2 alcohol per 210 liters of the person's breath, it shall be pre-
3 sumed that the person was under the influence of intoxicating
4 liquor;

5 (2) if the person is under 21 years of age and there was
6 (A) at least 0.01 percent but less than 0.05 percent
7 by weight of alcohol in the person's blood, or at least one
8 milligram but less than 50 milligrams of alcohol per 100 milli-
9 liters of the person's blood, or at least one milligram but less
10 than 0.05 grams of alcohol per 210 liters of the person's breath,
11 that fact does not give rise to any presumption that the person
12 was or was not under the influence of intoxicating liquor, but
13 that fact may be considered with other competent evidence in
14 determining whether the person was under the influence of intoxi-
15 cating liquor;

16 (B) 0.05 percent or more by weight of alcohol in the
17 person's blood, or 50 milligrams or more of alcohol per 100
18 milliliters of the person's blood, or 0.05 grams or more of
19 alcohol per 210 liters of the person's breath, it shall be pre-
20 sumed that the person was under the influence of intoxicating
21 liquor.

22 * Sec. 3. This Act takes effect July 1, 1989.