

CS FOR HOUSE BILL NO. 66 (JUDICIARY)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 3/20/92
Referred: Finance

Sponsor(s): REPRESENTATIVES SHARP, Taylor, Koponen, Zawacki, Barnes, Leman, M.A. Miller, G. Phillips,
Larson, Hudson, Baker

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to revocation of a minor's license to drive."

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

3 * Section 1. AS 28.15.185(a) is amended to read:

4 (a) The court shall revoke the driver's license, privilege to drive, or privilege to
5 obtain a license of a [A] person who is at least 13 years of age but not yet 18 [OLDER THAN
6 17] years of age who is adjudicated by a juvenile court of misconduct involving a controlled
7 substance under AS 11.71, possession of tobacco under AS 11.76.105, or possession or
8 consumption of alcohol under AS 04.16.050 [IS SUBJECT TO REVOCATION OF THE
9 PERSON'S DRIVER'S LICENSE UNDER (b) OF THIS SECTION].

10 * Sec. 2. AS 28.15.185(b) is amended to read:

11 (b) The court shall impose the revocation for an offense described in (a) of this section
12 as follows:

13 (1) for a first conviction or adjudication, the revocation shall [MAY] be for a
14 period of not less than 30 [TO EXCEED 90] days, but not more than one year;

1 (2) for a second or subsequent conviction or adjudication, the revocation shall
2 [MAY] be for a period of not less than 90 days but not more than two years [TO EXCEED
3 ONE YEAR].

4 * Sec. 3. AS 28.15 is amended by adding new sections to read:

5 Sec. 28.15.187. ADMINISTRATIVE REVOCATION OF A MINOR'S LICENSE TO
6 DRIVE. (a) If a juvenile probation officer or a peace officer has probable cause based on
7 personal observation that a person who is at least 13 years of age but not yet 18 years of age has
8 possessed or used a controlled substance in violation of AS 11.71, possessed tobacco in violation
9 of AS 11.76.105, or possessed or consumed alcohol in violation of AS 04.16.050, the juvenile
10 probation officer or peace officer shall read a notice and deliver a copy to the person. The notice
11 must advise that

12 (1) the department intends to revoke the person's driver's license, privilege to
13 drive, or privilege to obtain a license, or refuse to issue an original license to the person;

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

16 (3) if the person has a driver's license or a nonresident privilege to drive, the
17 notice itself is a temporary driver's license that expires seven days after it is delivered to the
18 person;

19 (4) revocation of the person's driver's license, privilege to drive, or privilege to
20 obtain a license, or a determination not to issue an original license takes effect seven days after
21 delivery of the notice to the person unless the person, within seven days, requests an
22 administrative review.

23 (b) After reading the notice under (a) of this section, the juvenile probation officer or
24 peace officer shall seize the person's driver's license if it is in the person's possession and shall
25 deliver it to the department with a sworn report describing the circumstances under which it was
26 seized.

27 (c) Unless the person has requested an administrative review, the department shall revoke
28 the person's driver's license, privilege to drive, or privilege to obtain a license, or refuse to issue
29 an original license, effective seven days after delivery to the person of the notice required under
30 (a) of this section, upon receipt of a sworn report of a juvenile probation officer or peace officer

31 (1) that the officer had probable cause based on personal observations that the

1 person is at least 13 years of age but not yet 18 years of age and has possessed or used a
2 controlled substance in violation of AS 11.71, possessed tobacco in violation of AS 11.76.105,
3 or possessed or consumed alcohol in violation of AS 04.16.050;

4 (2) that notice under (a) of this section was provided to the person; and

5 (3) describing the circumstances surrounding the violation of the controlled
6 substances provisions of AS 11.71, the possession of tobacco provisions of AS 11.76.105, or the
7 alcoholic beverages provisions of AS 04.16.050.

8 (d) The department shall impose the revocation required under this section

9 (1) for a first revocation, for a period of 30 days; or

10 (2) for a second or subsequent revocation, for a period of 60 days.

11 (e) Notwithstanding the provisions of AS 28.20.240 and 28.20.250, the department may
12 not require proof of financial responsibility before restoring a driver's license or privilege that
13 is revoked under this section.

14 (f) A license revocation imposed under this section shall be consecutive to a license
15 revocation imposed under another provision of law, except that a license revocation imposed
16 under this section shall be concurrent with a license revocation imposed under AS 28.15.185 that
17 is based on the same incident.

18 Sec. 28.15.189. ADMINISTRATIVE REVIEW OF REVOCATION OF A MINOR'S
19 LICENSE. (a) A person who has received a notice under AS 28.15.187(a) may make a written
20 request for administrative review of the department's action. If the person's driver's license has
21 not been previously surrendered to the department, it shall be surrendered to the department at
22 the time the request for review is made.

23 (b) A request for review of the department's revocation under AS 28.15.187 shall be
24 made within seven days after receipt of the notice under AS 28.15.187 or the right to review is
25 waived and the action of the department under AS 28.15.187(c) is final. If a written request for
26 a review is made after expiration of the seven-day period, and if it is accompanied by the
27 applicant's verified statement explaining the failure to make a timely request for a review, the
28 department shall receive and consider the request. If the department finds that the person was
29 unable to make a timely request because of lack of actual notice of the revocation or because of
30 factors of physical incapacity such as hospitalization or incarceration, the department shall waive
31 the period of limitation, reopen the matter, and grant the review request.

1 (c) Upon receipt of a request for review, if it appears that the person holds a valid
2 driver's license and that the driver's license has been surrendered, the department shall issue a
3 temporary driver's permit that is valid until the scheduled date for the review. A person who has
4 requested a review under this section may request, and the department may grant for good cause,
5 a delay in the date of the hearing. If necessary, the department may issue additional temporary
6 permits to stay the effective date of its action under AS 28.15.187(c) until the final order after
7 the review is issued.

8 (d) A person who has requested a hearing under this section and who fails to appear at
9 the hearing, for reasons other than lack of actual notice of the hearing or physical incapacity such
10 as hospitalization or incarceration, waives the right to a hearing. The determination of the
11 department that is based upon the officer's report becomes final.

12 (e) Notwithstanding AS 28.05.141(b), the hearing under this section shall be held
13 telephonically unless the person requesting the hearing requests in writing that the hearing not
14 be held telephonically.

15 (f) A review under this section shall be held before a hearing officer designated by the
16 commissioner. The hearing officer shall have authority to

- 17 (1) administer oaths and affirmations;
18 (2) examine witnesses and take testimony;
19 (3) receive relevant evidence;
20 (4) issue subpoenas, take depositions, or cause depositions or interrogatories to
21 be taken;
22 (5) regulate the course and conduct of the hearing;
23 (6) make a final ruling on the issue.

24 (g) The hearing for review of a revocation by the department under AS 28.15.187 shall
25 be limited to the issues of whether the person was at least 13 years of age but not yet 18 years
26 of age and whether the person

- 27 (1) possessed or used a controlled substance in violation of AS 11.71;
28 (2) possessed tobacco in violation of AS 11.76.105; or
29 (3) possessed or consumed alcohol in violation of AS 04.16.050.

30 (h) The determination of the hearing officer may be based upon the sworn report of a
31 juvenile probation officer or peace officer, if the sworn report is supported by probable cause

1 based on personal observations as required under AS 18.15.187(a). The juvenile probation officer
2 or peace officer need not be present at the hearing unless either the person requesting the hearing
3 or the hearing officer requests in writing before the hearing that the officer be present. If in the
4 course of the hearing it becomes apparent that the testimony of the juvenile probation officer or
5 peace officer is necessary to enable the hearing officer to resolve disputed issues of fact, the
6 hearing shall be continued to allow the attendance of the juvenile probation officer or peace
7 officer.

8 (i) Upon written request of the person requesting the hearing, the hearing officer shall
9 stay the hearing until the conclusion of related criminal proceedings. If the person requesting
10 the hearing does not request a stay, testimony given by the person at the hearing is admissible
11 against the person in a criminal trial.

12 (j) If the issues set out in (g) of this section are determined in the affirmative by a
13 preponderance of the evidence, the hearing officer shall sustain the action of the department. If
14 one or more of the issues is determined in the negative, the department's revocation action shall
15 be rescinded.

16 (k) If the action of the department in revoking a nonresident's privilege to drive a motor
17 vehicle is not administratively contested by the nonresident driver or if the departmental action
18 is sustained by the hearing officer, the department shall give written notice of action taken to the
19 motor vehicle administrator of the state of the person's residence and to any state in which that
20 person has a driver's license.

21 (l) Within 30 days of the issuance of the final determination of the department, a person
22 aggrieved by the determination may file an appeal in superior court for judicial review of the
23 hearing officer's determination. The judicial review shall be on the record without taking
24 additional testimony. The court may reverse the department's determination if the court finds
25 that the department misinterpreted the law, acted in an arbitrary and capricious manner, or made
26 a determination unsupported by the evidence in the record.

27 (m) The filing of an appeal under (l) of this section or a petition for review does not
28 automatically stay the department's order or revocation. The court may grant a stay of the order
29 or revocation under the applicable rules of court, after a motion and hearing, and upon a finding
30 that there is a reasonable probability that the petitioner will prevail on the merits and that the
31 petitioner will suffer irreparable harm if the order is not stayed.