

HOUSE BILL NO. 61

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE NORDLUND, Ulmer

Introduced: 1/15/93

Referred: Transportation, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the offense of operating a motor vehicle, aircraft, or
2 watercraft while intoxicated; and providing for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1. FINDINGS AND PURPOSE.** (a) The legislature finds that the number of
5 persons who are drinking and driving in an impaired condition is a matter of serious concern,
6 and that there is a rational relationship between establishing a lower limit of alcohol
7 consumption and reducing the number of alcohol-related accidents and fatalities.

8 (b) It is the purpose of this Act to promote the general welfare and public safety by
9 imposing a more restrictive legal limit on alcohol consumption above which the person will
10 lose the privilege to drive.

11 * **Sec. 2.** AS 28.35.030(a) is amended to read:

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

14 (1) while under the influence of intoxicating liquor, or any controlled

1 substance;

2 (2) when, as determined by a chemical test taken within four hours
3 after the alleged offense was committed, there is 0.08 [0.10] percent or more by weight
4 of alcohol in the person's blood or 80 [100] milligrams or more of alcohol per 100
5 milliliters of blood, or when there is 0.08 [0.10] grams or more of alcohol per 210
6 liters of the person's breath; or

7 (3) while the person is under the combined influence of intoxicating
8 liquor and a controlled substance.

9 * Sec. 3. AS 28.35.030(b) is amended to read:

10 (b) Driving while intoxicated is a class A misdemeanor. Upon conviction

11 (1) the court shall impose a fine of not less than \$250 when, as
12 determined by a chemical test taken within four hours after the alleged offense
13 was committed, there was at least 0.08 but less than 0.10 percent by weight of
14 alcohol in the person's blood or at least 80 milligrams but less than 100
15 milligrams of alcohol per 100 milliliters of blood, or when there is at least 0.08
16 grams but less than 0.10 grams of alcohol per 210 liters of the person's breath;

17 (2) when, as determined by a chemical test taken within four hours
18 after the alleged offense was committed, there was 0.10 percent or more by weight
19 of alcohol in the person's blood or 100 milligrams or more of alcohol per 100
20 milliliters of blood, or when there is 0.10 grams or more of alcohol per 210 liters
21 of the person's breath, the court shall impose a minimum sentence of imprisonment
22 of

23 (A) not less than 72 consecutive hours and a fine of not less
24 than \$250 if the person has not been previously convicted;

25 (B) not less than 20 days and a fine of not less than \$500 if the
26 person has been previously convicted once;

27 (C) not less than 60 days and a fine of not less than \$1,000 if
28 the person has been previously convicted twice;

29 (D) not less than 120 days and a fine of not less than \$2,000
30 if the person has been previously convicted three times;

31 (E) not less than 240 days and a fine of not less than \$3,000 if

1 the person has been previously convicted four times;
2 (F) not less than 360 days and a fine of not less than \$4,000 if
3 the person has been previously convicted more than four times;
4 (3) [(2)] the court may not
5 (A) suspend execution of sentence or grant probation except on
6 condition that the person serve the minimum imprisonment under (2) [(1)] of
7 this subsection;
8 (B) suspend imposition of sentence;
9 (4) [(3)] the court shall revoke the person's driver's license, privilege to drive,
10 or privilege to obtain a license under AS 28.15.181, and may order the motor vehicle
11 or aircraft that was used in commission of the offense to be forfeited under
12 AS 28.35.036.
13 * Sec. 4. AS 28.35.033(a) is amended to read:
14 (a) Upon the trial of a civil or criminal action or proceeding arising out of acts
15 alleged to have been committed by a person while operating or driving a motor vehicle
16 or operating an aircraft or a watercraft while intoxicated, the amount of alcohol in the
17 person's blood or breath at the time alleged shall give rise to the following
18 presumptions:
19 (1) If there was 0.04 [0.05] percent or less by weight of alcohol in the
20 person's blood, or 40 [50] milligrams or less of alcohol per 100 milliliters of the
21 person's blood, or 0.04 [0.05] grams or less of alcohol per 210 liters of the person's
22 breath, it shall be presumed that the person was not under the influence of intoxicating
23 liquor.
24 (2) If there was in excess of 0.04 [0.05] percent but less than 0.08
25 [0.10] percent by weight of alcohol in the person's blood, or in excess of 40 [50] but
26 less than 80 [100] milligrams of alcohol per 100 milliliters of the person's blood, or
27 in excess of 0.04 [0.05] grams but less than 0.08 [0.10] grams of alcohol per 210 liters
28 of the person's breath, that fact does not give rise to any presumption that the person
29 was or was not under the influence of intoxicating liquor, but that fact may be
30 considered with other competent evidence in determining whether the person was
31 under the influence of intoxicating liquor.

1 (3) [REPEALED
2 (4)] If there was 0.08 [0.10] percent or more by weight of alcohol in
3 the person's blood, or 80 [100] milligrams or more of alcohol per 100 milliliters of the
4 person's blood, or 0.08 [0.10] grams or more of alcohol per 210 liters of the person's
5 breath, it shall be presumed that the person was under the influence of intoxicating
6 liquor.

7 * Sec. 5. This Act takes effect January 1, 1994.