

HOUSE BILL NO. 136

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE MULDER

Introduced: 2/5/93

Referred: Health, Education & Social Services, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the offenses of driving while intoxicated and refusal to
2 submit to a breath test; and providing for an effective date."

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

4 * Section 1. AS 28.35.030(b) is amended to read:

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

6 (1) the court shall impose a minimum sentence of imprisonment of

7 (A) not less than 72 consecutive hours and a fine of not less

8 than \$250 if the person has not been previously convicted; imprisonment

9 required under this paragraph shall be served at a halfway house or, if a

10 halfway house is not available, another appropriate facility and the cost of

11 the imprisonment shall be paid by the person sentenced under this

12 paragraph; payment of the cost of imprisonment is not required if the

13 court determines the person is indigent; for costs of imprisonment that are

14 not paid by the person sentenced under this paragraph, including costs not

1 paid due to indigency, the state shall seek reimbursement from the
2 person's permanent fund dividend as provided under AS 43.23.065; while
3 at the halfway house or other appropriate facility, the person shall perform
4 at least 24 hours of community service work as directed by the director of
5 the halfway house or other appropriate facility;

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

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

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

12 (E) not less than 240 days and a fine of not less than \$3,000 if
13 the person has been previously convicted four times;

14 (F) not less than 360 days and a fine of not less than \$4,000 if
15 the person has been previously convicted more than four times;

16 (2) the court may not

17 (A) suspend execution of sentence or grant probation except on
18 condition that the person serve the minimum imprisonment under (1) of this
19 subsection;

20 (B) suspend imposition of sentence;

21 (3) the court shall revoke the person's driver's license, privilege to
22 drive, or privilege to obtain a license under AS 28.15.181, and may order the motor
23 vehicle or aircraft that was used in commission of the offense to be forfeited under
24 AS 28.35.036.

25 * Sec. 2. AS 28.35.032(g) is amended to read:

26 (g) Upon conviction under this section

27 (1) the court shall impose a minimum sentence of imprisonment of

28 (A) not less than 72 consecutive hours and a fine of not less
29 than \$250 if the person has not been previously convicted; imprisonment
30 required under this paragraph shall be served at a halfway house or, if a
31 halfway house is not available, another appropriate facility and the cost of

1 the imprisonment shall be paid by the person sentenced under this
2 paragraph; payment of the cost of imprisonment is not required if the
3 court determines the person is indigent; for costs of imprisonment that are
4 not paid by the person sentenced under this paragraph, including costs not
5 paid due to indigency, the state shall seek reimbursement from the
6 person's permanent fund dividend as provided under AS 43.23.065; while
7 at the halfway house or other appropriate facility, the person shall perform
8 at least 24 hours of community service work as directed by the director
9 of the halfway house or other appropriate facility;

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

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

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

16 (E) not less than 240 days and a fine of not less than \$3,000 if
17 the person has been previously convicted four times;

18 (F) not less than 360 days and a fine of not less than \$4,000 if
19 the person has been previously convicted more than four times;

20 (2) the court may not

21 (A) suspend execution of the sentence required by (1) of this
22 subsection or grant probation, except on condition that the person serve the
23 minimum imprisonment under (1) of this subsection; or

24 (B) suspend imposition of sentence;

25 (3) the court shall revoke the person's driver's license, privilege to
26 drive, or privilege to obtain a license under AS 28.15.181, and may order the motor
27 vehicle or aircraft that was used in commission of the offense be forfeited under
28 AS 28.35.036; and

29 (4) the sentence imposed by the court under this subsection shall run
30 consecutively with any other sentence of imprisonment imposed on the person.

31 * Sec. 3. AS 28.35.036(a) is amended to read:

1 (a) After conviction of an offense under AS 28.35.030 or 28.35.032, the state
2 shall [MAY] move the court to order the forfeiture of the motor vehicle, or aircraft
3 involved in the commission of the offense if the convicted person has been previously
4 convicted within two years preceding the date of the present offense in this or
5 another jurisdiction of more than one of the following offenses or has more than once
6 been previously convicted of one of the following offenses:

7 (1) driving while intoxicated under AS 28.35.030 or another law or
8 ordinance with substantially similar elements; or

9 (2) refusal to submit to a chemical test under AS 28.35.032 or another
10 law or ordinance with substantially similar elements.

11 * Sec. 4. APPLICABILITY. (a) This Act applies to offenses that are committed after
12 June 30, 1993.

13 (b) AS 28.35.036(a), as amended by sec. 3 of this Act, applies whether the previous
14 convictions occurred before, on, or after the effective date of this Act.

15 * Sec. 5. This Act takes effect July 1, 1993.