

**CS FOR HOUSE BILL NO. 136(HES)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**EIGHTEENTH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE**

**Offered: 3/5/93**

**Referred: Judiciary, Finance**

**Sponsor(s): REPRESENTATIVE MULDER**

**A BILL**

**FOR AN ACT ENTITLED**

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

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

5 \* Section 1. AS 28.15.181(c) is amended to read:

6 (c) A court convicting a person of an offense described in (a)(5) or (8) of this  
7 section arising out of the operation of a motor vehicle, commercial motor vehicle, or  
8 aircraft shall revoke that person's driver's license, privilege to drive, or privilege to  
9 obtain a license. The revocation may be concurrent with or consecutive to an  
10 administrative revocation under AS 28.15.165. The court may not, except as provided  
11 in AS 28.15.201, grant limited license privileges during the minimum period of  
12 revocation. The minimum periods of revocation are:

13 (1) not less than [AT LEAST] 90 days if the person has not been  
14 previously convicted;

1 (2) not less than [AT LEAST] one year if the person has been  
2 previously convicted once;

3 (3) not less than 3 [AT LEAST FIVE] years if the person has been  
4 previously convicted twice;

5 (4) not less than 5 [AT LEAST 10] years if the person has been  
6 previously convicted more than twice.

7 \* Sec. 2. AS 28.15.201 is repealed and reenacted to read:

8 Sec. 28.15.201. LIMITATION OF DRIVER'S LICENSE. (a) A court of  
9 competent jurisdiction revoking a person's driver's license, privilege to drive, or  
10 privilege to obtain a license under AS 28.15.181(b) or the department under  
11 AS 28.15.165 may, for good cause, impose limitations upon the driver's license of a  
12 person that will enable the person to earn a livelihood without excessive risk or danger  
13 to the public. A limitation may not be placed upon a driver's license until after a  
14 review has been made of the person's driving record and other relevant information,  
15 and a limitation may not be imposed when a statute specifically prohibits the limitation  
16 of a license for a violation of its provisions.

17 (b) A court or the department imposing a limitation under (a) of this section  
18 shall

19 (1) require certification of employment;

20 (2) require proof of enrollment in and compliance with or completion  
21 of an alcoholism treatment program when appropriate;

22 (3) require the surrender of the driver's license; and

23 (4) issue to the licensee a certificate, or the department may issue a  
24 restricted driver's license, valid for the duration of the limitation.

25 (c) After the termination of a limitation as shown on the certificate or driver's  
26 license issued under (b) of this section, the license of a person on whom a limitation  
27 was imposed is revoked until the person receives a new license meeting the  
28 requirements set out in AS 28.15.211.

29 (d) A court revoking a driver's license, privilege to drive, or privilege to obtain  
30 a license under AS 28.15.181(c), or the department when revoking a driver's license,  
31 privilege to drive, or privilege to obtain a license under AS 28.15.165(c), may grant

- 1 limited license privileges for the final 60 days during which the license is revoked if  
2 (1) the revocation was for a violation of AS 28.15.181(a)(5) and not  
3 for a violation of AS 28.15.181(a)(8);  
4 (2) the person has not been previously convicted of an offense;  
5 (3) the court or the department determines that the person's ability to  
6 earn a livelihood would be severely impaired;  
7 (4) the court or the department determines that a limitation under (a)  
8 of this section can be placed on the license that will enable the person to earn a  
9 livelihood without excessive danger to the public; and  
10 (5) the court or the department determines that the person is enrolled  
11 in and is in compliance with, or has successfully completed, an alcoholism education  
12 and rehabilitation treatment program.

13 (e) The department may terminate a revocation and issue a driver's license to  
14 a person whose license, privilege to drive, or privilege to obtain a license was revoked  
15 for an offense described in AS 28.15.181(a)(5) or (8) if the offense occurred before  
16 July 1, 1993, and if

- 17 (1) the person's license, privilege to drive, or privilege to obtain a  
18 license has been revoked for the minimum periods set out in AS 28.15.181(c); and  
19 (2) the person complies with the provisions of AS 28.15.211(d) and (e).

20 \* Sec. 3. AS 28.15.211(d) is amended to read:

21 (d) At the end of a period of revocation or limitation following a revocation,  
22 a person whose driver's license has been revoked may apply to the department for the  
23 issuance of a new license, but shall submit to reexamination, [AND] pay all required  
24 fees including a reinstatement fee of \$100, and if the license was revoked under  
25 AS 28.15.181(a)(5) or (8), submit proof of

- 26 (1) enrollment in and compliance with an alcoholism education and  
27 treatment program if the person was sentenced under AS 28.15.181(c)(1); or  
28 (2) completion of an alcoholism education and rehabilitation  
29 program if the person was convicted under AS 28.15.181(c)(2) - (4).

30 \* Sec. 4. AS 28.15.211(e) is amended to read:

31 (e) At the end of a period of limitation, suspension, or revocation under this

1 chapter, the department may not issue a driver's license or a duplicate driver's license  
2 to the licensee until the licensee has complied with AS 28.20 relating to proof of  
3 financial responsibility and if the license was revoked under AS 28.15.181(a)(5) or  
4 (8) has submitted proof of

5 (1) enrollment in and compliance with an alcoholism education and  
6 treatment program if the person was sentenced under AS 28.15.181(c)(1); or

7 (2) completion of an alcoholism education and rehabilitation  
8 program if the person was convicted under AS 28.15.181(c)(2) - (4).

9 \* Sec. 5. 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 minimum sentence of imprisonment of

12 (A) not less than 72 consecutive hours and a fine of not less  
13 than \$250 if the person has not been previously convicted; imprisonment  
14 required under this subparagraph shall be served at a community  
15 residential center or, if a community residential center is not available, at  
16 another appropriate facility determined by the commissioner of corrections  
17 and the cost of the imprisonment shall be paid by the person sentenced  
18 under this subparagraph; payment of the cost of imprisonment is not  
19 required if the court determines the person is indigent; for costs of  
20 imprisonment that are not paid by the person sentenced under this  
21 subparagraph, including costs not paid due to indigency, the state shall  
22 seek reimbursement from the person's permanent fund dividend as  
23 provided under AS 43.23.065; while at the community residential center  
24 or other appropriate facility, the person shall perform at least 24 hours of  
25 community service work as directed by the director of the community  
26 residential center or other appropriate facility;

27 (B) not less than 20 days and a fine of not less than \$500 if the  
28 person has been previously convicted once; imprisonment required under  
29 this subparagraph shall be served at a community residential center or, if  
30 a community residential center is not available, at another appropriate  
31 facility determined by the commissioner of corrections and the cost of the

1 imprisonment shall be paid by the person sentenced under this  
2 subparagraph: 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 subparagraph, including costs  
5 not 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 community residential center or other appropriate facility, the  
8 person shall perform at least 160 hours of community service work as  
9 directed by the director of the community residential center or other  
10 appropriate facility;

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

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

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

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

19 (2) the court may not

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

23 (B) suspend imposition of sentence;

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

28 \* Sec. 6. AS 28.35.030 is amended by adding a new subsection to read:

29 (l) The commissioner of corrections shall determine and prescribe by  
30 regulation the cost of imprisonment at a community residential center for the purpose  
31 of determining the cost of imprisonment required to be paid under (b)(1) of this section

1 by a convicted person. The cost of imprisonment required to be paid under (b)(1) of  
2 this section may not be higher than the cost of imprisonment at a community  
3 residential center, no matter where the person is imprisoned.

4 \* Sec. 7. AS 28.35.032(g) is amended to read:

5 (g) Upon conviction under this section

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 subparagraph shall be served at a community  
10 residential center or, if a community residential center is not available, at  
11 another appropriate facility determined by the commissioner of corrections  
12 and the cost of the imprisonment shall be paid by the person sentenced  
13 under this subparagraph; payment of the cost of imprisonment is not  
14 required if the court determines the person is indigent; for costs of  
15 imprisonment that are not paid by the person sentenced under this  
16 subparagraph, including costs not paid due to indigency, the state shall  
17 seek reimbursement from the person's permanent fund dividend as  
18 provided under AS 43.23.065; while at the community residential center  
19 or other appropriate facility, the person shall perform at least 24 hours of  
20 community service work as directed by the director of the community  
21 residential center or other appropriate facility;

22 (B) not less than 20 days and a fine of not less than \$500 if the  
23 person has been previously convicted once; imprisonment required under  
24 this subparagraph shall be served at a community residential center or, if  
25 a community residential center is not available, at another appropriate  
26 facility determined by the commissioner of corrections and the cost of the  
27 imprisonment shall be paid by the person sentenced under this  
28 subparagraph; payment of the cost of imprisonment is not required if the  
29 court determines the person is indigent; for costs of imprisonment that are  
30 not paid by the person sentenced under this subparagraph, including costs  
31 not paid due to indigency, the state shall seek reimbursement from the

1 person's permanent fund dividend as provided under AS 43.23.065; while  
2 at the community residential center or other appropriate facility, the  
3 person shall perform at least 160 hours of community service work as  
4 directed by the director of the community residential center or other  
5 appropriate facility;

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

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

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

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

14 (2) the court may not

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

18 (B) suspend imposition of sentence;

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

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

25 \* Sec. 8. AS 28.35.032(o) is amended to read:

26 (o) In this section,

27 (1) "cost of imprisonment" means the cost of imprisonment as  
28 determined under AS 28.35.030(l);

29 (2) "previously convicted" has the meaning given in AS 28.35.030.

30 \* Sec. 9. APPLICABILITY. (a) This Act applies to offenses that are committed after  
31 June 30, 1993.

1 (b) AS 28.15.181(e), as amended by sec. 1 of this Act, AS 28.15.201(d), as amended  
2 by sec. 2 of this Act, AS 28.35.030(b), as amended by sec. 5 of this Act, and  
3 AS 28.35.032(g), as amended by sec. 7 of this Act, apply according to their terms whether the  
4 previous convictions occurred before, on, or after the effective date of this Act.

5 \* Sec. 10. This Act takes effect July 1, 1993.