

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

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 3/26/93
Referred: Finance

Sponsor(s): REPRESENTATIVES MULDER, Phillips

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to revocation of and limitations on a driver's license; to the
2 offenses of driving while intoxicated and refusal to submit to a breath test;
3 imposing a limited license fee; amending Alaska Rule of Civil Procedure 32(b);
4 and providing for an effective date."

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

6 * Section 1. AS 28.15.165(d) is amended to read:

7 (d) The period of revocation of a driver's license, privilege to drive, privilege
8 to obtain a license, refusal to issue an original license, or disqualification shall be for
9 the appropriate minimum period for court revocations under AS 28.15.181(c) or court
10 disqualifications under AS 28.33.140. A department hearing officer may grant limited
11 license privileges in accordance with the standards set out in AS 28.15.201 to a person
12 whose driver's license or nonresident privilege to drive was revoked under this section.
13 The department may terminate a revocation imposed under this section and issue
14 a driver's license to the person, if the license, privilege to drive, or privilege to

1 obtain a license was revoked for an offense described in AS 28.15.181(a)(5) or (8)
2 and the person meets the conditions set out for termination of a revocation by the
3 court under AS 28.15.181(e).

4 * Sec. 2. AS 28.15.181(c) is amended to read:

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

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

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

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

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

20 * Sec. 3. AS 28.15.181(e) is repealed and reenacted to read:

21 (e) The court may terminate a revocation for an offense described in
22 AS 28.15.181(a)(5) or (8) if

23 (1) the person's license, privilege to drive, or privilege to obtain a
24 license has been revoked for the minimum periods set out in AS 28.15.181(c); and

25 (2) the person complies with the provisions of AS 28.15.211(d) and (e).

26 * Sec. 4. AS 28.15.201 is repealed and reenacted to read:

27 Sec. 28.15.201. LIMITATION OF DRIVER'S LICENSE. (a) A court of
28 competent jurisdiction revoking a person's driver's license, privilege to drive, or
29 privilege to obtain a license under AS 28.15.181(b) may, for good cause, impose
30 limitations upon the driver's license of a person that will enable the person to earn a
31 livelihood without excessive risk or danger to the public. A limitation may not be

1 placed upon a driver's license until after a review has been made of the person's
2 driving record and other relevant information, and a limitation may not be imposed
3 when a statute specifically prohibits the limitation of a license for a violation of its
4 provisions.

5 (b) A court imposing a limitation under (a) of this section shall

6 (1) require certification of employment;

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

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

10 (4) issue to the licensee a certificate valid for the duration of the
11 limitation.

12 (c) After the termination of a limitation as shown on the certificate issued
13 under (b) of this section, the license of a person on whom a limitation was imposed
14 is revoked until the person receives a new license meeting the requirements set out in
15 AS 28.15.211.

16 (d) A court revoking a driver's license, privilege to drive, or privilege to obtain
17 a license under AS 28.15.181(c), or the department when revoking a driver's license,
18 privilege to drive, or privilege to obtain a license under AS 28.15.165(c), may grant
19 limited license privileges for the final 60 days during which the license is revoked if

20 (1) the revocation was for a violation of AS 28.15.181(a)(5) and not
21 for a violation of AS 28.15.181(a)(8);

22 (2) the person has not been previously convicted; in this paragraph,
23 "previously convicted" has the meaning given in AS 28.35.030 and also includes
24 convictions based on laws presuming that the person was under the influence of
25 intoxicating liquor if there was 0.08 percent or more by weight of alcohol in the
26 person's blood;

27 (3) the court or the department determines that the person's ability to
28 earn a livelihood would be severely impaired without a limited license;

29 (4) the court or the department determines that a limitation under (a)
30 of this section can be placed on the license that will enable the person to earn a
31 livelihood without excessive danger to the public; and

1 (5) the court or the department determines that the person is enrolled
2 in and is in compliance with, or has successfully completed, an alcoholism education
3 and rehabilitation treatment program.

4 * Sec. 5. AS 28.15.211(d) is amended to read:

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

10 (1) enrollment in and compliance with or completion of an
11 alcoholism education and rehabilitation treatment program if the person was
12 sentenced under AS 28.15.181(c)(1); or

13 (2) completion of and payment for an alcoholism education and
14 rehabilitation treatment program if the person was convicted under
15 AS 28.15.181(c)(2) - (4).

16 * Sec. 6. AS 28.15.271(b) is amended to read:

17 (b) In addition to the fees under (a) of this section,

18 (1) a person who renews a driver's license by mail shall pay [BE
19 CHARGED] a fee of \$1; and

20 (2) a person who applies for a limited driver's license under
21 AS 28.15.201 shall pay a fee of \$100.

22 * Sec. 7. AS 28.15.291(b) is amended to read:

23 (b) Upon conviction under (a) of this section, the court

24 (1) shall impose a minimum sentence of imprisonment

25 (A) if the person has not been previously convicted, of not less
26 than 10 days with 10 days suspended, including a mandatory condition of
27 probation that the defendant complete not less than 80 hours of community
28 work service;

29 (B) if the person has been previously convicted, of not less than
30 10 days;

31 (C) if the person's driver's license, privilege to drive, or

1 privilege to obtain a license was revoked under circumstances described in
2 AS 28.15.181(c)(1), or if the person was driving in violation of a limited
3 license issued under AS 28.15.201(d) following that revocation, of not less than
4 20 days with 10 days suspended, and a fine of not less than \$500, including a
5 mandatory condition of probation that the defendant complete not less than 80
6 hours of community work service;

7 (D) if the person's driver's license, privilege to drive, or
8 privilege to obtain a license was revoked under circumstances described in
9 AS 28.15.181(c)(2), (3), or (4) or if the person was driving in violation of a
10 limited license issued under AS 28.15.201(d) following that revocation, of not
11 less than 30 days and a fine of not less than \$1,000;

12 (2) may impose additional conditions of probation;

13 (3) may not

14 (A) suspend execution of sentence or grant probation except on
15 condition that the person serve a minimum term of imprisonment and perform
16 required community work service as provided in (1) of this subsection;

17 (B) suspend imposition of sentence; and

18 (4) shall revoke the person's license, privilege to drive, or privilege to
19 obtain a license, and the person may not be issued a new license or a limited license
20 nor may the privilege to drive or obtain a license be restored for an additional period
21 of not less than 90 days after the date that the person would have been entitled to
22 restoration of driving privileges.

23 * Sec. 8. AS 28.35.030 is amended by adding new subsections to read:

24 (l) Imprisonment required under (b)(1)(A) or (B) of this section shall be served
25 at a community residential center or, if a community residential center is not available,
26 at another appropriate place determined by the commissioner of corrections. The cost
27 of imprisonment resulting from the sentence imposed under (b)(1) of this section shall
28 be paid to the state by the person being sentenced provided, however, that the cost of
29 imprisonment required to be paid under this subsection may not exceed \$1,000. Upon
30 the person's conviction, the court shall include the costs of imprisonment as a part of
31 the judgment of conviction. Except for reimbursement from a permanent fund

1 dividend as provided in this subsection, payment of the cost of imprisonment is not
2 required if the court determines the person is indigent. For costs of imprisonment that
3 are not paid by the person as required by this subsection, the state shall seek
4 reimbursement from the person's permanent fund dividend as provided under
5 AS 43.23.065. While at the community residential center or other appropriate place,
6 a person sentenced under (b)(1)(A) of this section shall perform at least 24 hours of
7 community service work and a person sentenced under (b)(1)(B) of this section shall
8 perform at least 160 hours of community service work, as required by the director of
9 the community residential center or other appropriate place. In this subsection,
10 "appropriate place" means a facility with 24-hour on-site staff supervision that is
11 specifically adapted to provide a residence, and includes a correctional center,
12 residential treatment facility, hospital, halfway house, group home, work farm, work
13 camp, or other place that provides varying levels of restriction.

14 (m) The commissioner of corrections shall determine and prescribe by
15 regulation a uniform average cost of imprisonment for the purpose of determining the
16 cost of imprisonment required to be paid under (l) of this section by a convicted
17 person.

18 * Sec. 9. AS 28.35.032(o) is amended to read:

19 (o) In this section,

20 (1) "cost of imprisonment" means the cost of imprisonment as
21 determined under AS 28.35.030(m);

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

23 * Sec. 10. AS 28.35.032 is amended by adding a new subsection to read:

24 (p) Imprisonment required under (g)(1)(A) or (B) of this section shall be
25 served at a community residential center, or if a community residential center is not
26 available, at another appropriate place determined by the commissioner of corrections.
27 The cost of imprisonment resulting from the sentence imposed under (g)(1) of this
28 section shall be paid to the state by the person being sentenced provided, however, that
29 the cost of imprisonment required to be paid under this subsection may not exceed
30 \$1,000. Upon the person's conviction, the court shall include the costs of
31 imprisonment as a part of the judgment of conviction. Except for reimbursement from

1 a permanent fund dividend as provided in this subsection, payment of the cost of
2 imprisonment is not required if the court determines the person is indigent. For costs
3 of imprisonment that are not paid by the person as required by this subsection, the
4 state shall seek reimbursement from the person's permanent fund dividend as provided
5 under AS 43.23.065. While at the community residential center or other appropriate
6 place, a person sentenced under (g)(1)(A) of this section shall perform at least 24
7 hours of community service work and a person sentenced under (g)(1)(B) of this
8 section shall perform at least 160 hours of community service work, as required by the
9 director of the community residential center or other appropriate place. In this
10 subsection, "appropriate place" means a facility with 24-hour on-site staff supervision
11 that is specifically adapted to provide a residence, and includes a correctional center,
12 residential treatment facility, hospital, halfway house, group home, work farm, work
13 camp, or other place that provides varying levels of restriction.

14 * Sec. 11. AS 28.35.030(l), as enacted in sec. 8 of this Act, and AS 28.35.032(p), as
15 enacted in sec. 10 of this Act, have the effect of amending Alaska Rule of Criminal Procedure
16 32(b) by requiring the court to enter the costs of imprisonment as a part of the judgment of
17 certain convictions.

18 * Sec. 12. APPLICABILITY. (a) This Act applies to offenses that are committed after
19 the effective date of this Act.

20 (b) Statutes amended or added by this Act that refer to previous convictions apply
21 according to the terms of those statutes whether the previous convictions occurred before, on,
22 or after the effective date of this Act.

23 * Sec. 13. This Act takes effect July 1, 1993.