

## HOUSE BILL NO. 444

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/4/94

Referred: Transportation, Finance

## A BILL

## FOR AN ACT ENTITLED

1 "An Act relating to sobriety checkpoints; and providing for an effective date."

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

3 \* Section 1. FINDINGS AND PURPOSE. The legislature finds that sobriety checkpoints  
 4 on highways and roads in this state are necessary to detect persons who are, and deter persons  
 5 from, driving while impaired by alcohol or drugs. The legislature further finds that the public  
 6 interest in safety on highways and roads outweighs the minimally intrusive detainment and  
 7 search associated with sobriety checkpoints conducted in accordance with a statutory plan  
 8 embodying explicit, neutral limitations on the conduct of individual law enforcement officers.  
 9 This Act implements the right of privacy in art. I, sec. 22, Constitution of the State of Alaska  
 10 as it relates to persons driving on Alaska highways and roads.

11 \* Sec. 2. AS 12 is amended by adding a new chapter to read:

12 CHAPTER 38. SOBRIETY CHECKPOINTS.

13 Sec. 12.38.010. OPERATION OF A SOBRIETY CHECKPOINT. A law  
 14 enforcement agency may establish and operate a sobriety checkpoint under a conf

1 order issued under AS 12.38.020. In operating a sobriety checkpoint under such a  
2 court order, a law enforcement officer may stop a motor vehicle and detain the driver.  
3 A driver shall stop and remain at a sobriety checkpoint as directed by a law  
4 enforcement officer.

5 **Sec. 12.38.020. AUTHORIZATION FOR SOBRIETY CHECKPOINTS. (a)**  
6 A sobriety checkpoint may be established and operated under written order of the  
7 court.

8 (b) Upon the request of a law enforcement agency, a judge may issue a written  
9 order to authorize the establishment and operation of a sobriety checkpoint if

10 (1) the law enforcement agency submits to the judge a written plan  
11 describing the following:

12 (A) the location of the checkpoint with a statement of reasons  
13 for the selection of the location;

14 (B) the date, time, and duration of the checkpoint;

15 (C) the sequence of motor vehicles to be stopped;

16 (D) the inspection or inquiry to be conducted to carry out the  
17 purpose of the checkpoint;

18 (E) the names of the law enforcement officer or officers in  
19 charge of the checkpoint;

20 (F) the configuration and location of signs, barriers, and other  
21 means of informing drivers that they must stop and remain at the checkpoint  
22 and directing the drivers to the place to stop;

23 (G) the notice to be given to the public of the dates and hours,  
24 but not the location, of the checkpoint;

25 (H) the instructions to be given to the law enforcement officers  
26 operating the checkpoint; and

27 (2) the judge makes a determination that the written plan for the  
28 checkpoint appropriately

29 (A) minimizes the length of time each driver will be delayed at  
30 the checkpoint;

31 (B) minimizes the intrusion to the driver caused by the

1 inspection or inquiry at the checkpoint;

2 (C) minimizes the fear and anxiety that the drivers will  
3 experience by stopping at the checkpoint;

4 (D) minimizes the degree of individual discretion to be  
5 exercised by the law enforcement officers operating the checkpoint; and

6 (E) maximizes the safety of the driver, the law enforcement  
7 officers, and the public.

8 (c) Upon determination by the judge that a plan meets the requirements of (b)  
9 of this section, the judge shall sign an order authorizing the sobriety checkpoint and  
10 issue it to the requesting law enforcement agency. The court shall retain a copy of the  
11 order under seal. The order becomes a public document 24 hours after the last date  
12 that the checkpoint was authorized to be in operation.

13 (d) The requesting law enforcement agency shall provide to the law  
14 enforcement officer or officers in charge of a sobriety checkpoint a copy of the plan  
15 and of the court order issued under (b) of this section, and shall ensure that a copy of  
16 the plan and court order are present at the checkpoint during operation of the  
17 checkpoint.

18 (e) Law enforcement officers operating a sobriety checkpoint shall substantially  
19 conform their activities to the procedures outlined in the plan.

20 (f) Upon request of a driver who is stopped at a sobriety checkpoint, a law  
21 enforcement officer present at the checkpoint shall exhibit a copy of the plan and of  
22 the court order issued under (b) of this section.

23 (g) Within 10 days after the last date that a sobriety checkpoint was authorized  
24 to be in operation, a law enforcement officer shall report to the court on the activities  
25 conducted under the order.

26 Sec. 12.38.030. PENALTY FOR FAILURE TO STOP. A person who  
27 knowingly passes a sobriety checkpoint authorized under AS 12.38.020 without  
28 stopping and remaining as required is guilty of a class A misdemeanor.

29 Sec. 12.38.900. DEFINITIONS. In this chapter, unless the context requires  
30 otherwise,

31 (1) "highway" has the meaning given in AS 28.40.100;

1                   (2) "law enforcement agency" means the Department of Public Safety  
2 or a municipal police department;

3                   (3) "law enforcement officer" means a peace officer as defined in  
4 AS 01.10.060 or AS 11.81.900(b);

5                   (4) "judge" means a judicial officer as defined in AS 22.20.010;

6                   (5) "motor vehicle" means the same as "vehicle" in AS 28.40.100;

7                   (6) "plan" means the written plan submitted under AS 12.38.020(b).

8                   (7) "sobriety checkpoint" means a roadblock procedure by which a law  
9 enforcement officer stops all, or a designated sequence of, motor vehicles traveling on  
10 a highway or road for the purpose of subjecting the drivers to questioning or the  
11 production of documents to determine whether there is reasonable suspicion to believe  
12 that the driver has violated AS 04.16.050, AS 28.33.030, AS 28.35.029, or 28.35.030.

13   \* Sec. 3. This Act takes effect July 1, 1994.