

**SENATE CS FOR HOUSE BILL NO. 445(RLS)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**EIGHTEENTH LEGISLATURE - SECOND SESSION**

**BY THE SENATE RULES COMMITTEE**

**Offered: 5/8/94**  
**Referred: Today's Calendar**

**Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to operating or driving a motor vehicle, commercial motor  
 2 vehicle, aircraft, or watercraft; to motor vehicle forfeiture; and providing for an  
 3 effective date."

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

5 \* Section 1. AS 28.15.165(a) is amended to read:

6 (a) A law enforcement officer shall read a notice, and deliver a copy of it, to  
 7 a person operating a motor vehicle, commercial motor vehicle, or aircraft, if a  
 8 chemical test administered under AS 28.33.031(a) or AS 28.35.031(a) or (g) produces  
 9 a result described in AS 28.35.030(a)(2); a chemical test administered under  
 10 AS 28.33.031(a) produces a result described in AS 28.33.030(a)(2); or the person  
 11 refuses to submit to a chemical test authorized under AS 28.33.031(a) [AS 28.33.031]  
 12 or AS 28.35.031(a) or (g) [AS 28.35.032]. The notice must advise that

13 (1) the department intends to revoke the person's driver's license,  
 14 privilege to drive, or privilege to obtain a license, refuse to issue an original license

1 to the person, or disqualify the person;

2 (2) the person has the right to administrative review of the action taken  
3 against the person's license or determination not to issue an original license;

4 (3) if the person has a driver's license or a nonresident privilege to  
5 drive, the notice itself is a temporary driver's license that expires seven days after it  
6 is delivered to the person, except that if the person was operating a commercial motor  
7 vehicle the person will be ordered out of service for 24 hours under AS 28.33.130;

8 (4) revocation of the person's driver's license, privilege to drive, or  
9 privilege to obtain a license, a determination not to issue an original license, or a  
10 disqualification of the person, takes effect seven days after delivery of the notice to the  
11 person unless the person, within seven days, requests an administrative review.

12 \* Sec. 2. AS 28.15.165(c) is amended to read:

13 (c) Unless the person has obtained a temporary permit or stay of a  
14 departmental action under AS 28.15.166, if the chemical test administered under  
15 AS 28.33.031(a) or AS 28.35.031(a) or (g) produced a result described in  
16 AS 28.35.030(a)(2) or the person refused to submit to a chemical test authorized  
17 under AS 28.33.031(a) [AS 28.33.031] or AS 28.35.031(a) or (g) [AS 28.35.032], the  
18 department shall revoke the person's license, privilege to drive, or privilege to obtain  
19 a license, shall refuse to issue an original license, and, if the chemical test administered  
20 under AS 28.33.031(a) produced a result described in AS 28.33.030(a)(2) or the person  
21 refused to submit to a chemical test authorized under AS 28.33.031(a)  
22 [AS 28.33.031], shall disqualify the person. The department's action takes effect seven  
23 days after delivery to the person of the notice required under (a) of this section, and  
24 after receipt of a sworn report of a law enforcement officer

25 (1) that a chemical test administered under AS 28.33.031(a) or  
26 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2), that a  
27 chemical test administered under AS 28.33.031(a) produced a result described in  
28 AS 28.33.030(a)(2), or that a person refused to submit to a chemical test authorized  
29 under AS 28.33.031(a) [AS 28.33.031] or AS 28.35.031(a) or (g) [AS 28.35.032];

30 (2) that notice under (a) of this section was provided to the person; and

31 (3) describing the

1 (A) circumstances surrounding the arrest and the grounds for the  
2 officer's belief that the person operated a motor vehicle, commercial motor  
3 vehicle, or aircraft while intoxicated in violation of AS 28.33.030 or  
4 AS 28.35.030; or

5 (B) grounds for the officer's belief that the person operated  
6 a motor vehicle or commercial motor vehicle that was involved in an  
7 accident causing death or serious physical injury to another person.

8 \* Sec. 3. AS 28.15.166(g) is amended to read:

9 (g) The hearing for review of action by the department under AS 28.15.165  
10 shall be limited to the issues of whether the law enforcement [ARRESTING] officer  
11 had reasonable grounds to believe that the person was operating a motor vehicle or  
12 commercial motor vehicle that was involved in an accident causing death or  
13 serious physical injury to another person, or that the person was operating a  
14 motor vehicle, commercial motor vehicle, or aircraft while intoxicated in violation of  
15 AS 28.33.030 or AS 28.35.030 and whether

16 (1) the person refused to submit to a chemical test authorized under  
17 AS 28.33.031(a) [AS 28.33.031] or AS 28.35.031(a) or (g) [AS 28.35.032] after being  
18 advised that refusal would result in disqualification or the suspension, revocation, or  
19 denial of the person's license, privilege to drive, or privilege to obtain a license, and  
20 that the refusal is a misdemeanor;

21 (2) the chemical test administered [AUTHORIZED] under  
22 AS 28.33.031(a) or AS 28.35.031(a) or (g) produced a result described in  
23 AS 28.35.030(a)(2); or

24 (3) the chemical test administered [AUTHORIZED] under  
25 AS 28.33.031(a) produced a result described in AS 28.33.030(a)(2).

26 \* Sec. 4. AS 28.15.181(a) is amended to read:

27 (a) Conviction of any of the following offenses is grounds for the immediate  
28 revocation of a driver's license, privilege to drive, or privilege to obtain a license:

29 (1) manslaughter or negligent homicide resulting from driving a motor  
30 vehicle;

31 (2) a felony in the commission of which a motor vehicle is used;

1 (3) failure to stop and give aid as required by law when a motor  
2 vehicle accident results in the death or personal injury of another;

3 (4) perjury or making a false affidavit or statement under oath to the  
4 department under a law relating to motor vehicles;

5 (5) operating a motor vehicle or aircraft while intoxicated;

6 (6) reckless driving;

7 (7) using a motor vehicle in unlawful flight to avoid arrest by a peace  
8 officer;

9 (8) refusal to submit to a chemical test authorized under  
10 AS 28.33.031(a)(1), AS 28.35.031(a), or [AS 28.33.031 OR] AS 28.35.032 while  
11 under arrest for operating a motor vehicle, commercial motor vehicle, or aircraft while  
12 intoxicated, or as authorized under AS 28.33.031(a)(2) or AS 28.35.031(g);

13 (9) driving while license, privilege to drive, or privilege to obtain a  
14 license, canceled, suspended, or revoked, or in violation of a limitation.

15 \* Sec. 5. AS 28.33.031(a) is amended to read:

16 (a) A person who operates a commercial motor vehicle in this state is  
17 considered to have given consent to a chemical test or tests

18 (1) of the person's breath if the person is lawfully arrested for an  
19 offense arising out of acts alleged to have been committed when the person was  
20 operating the commercial motor vehicle while intoxicated; the [ . THE] test or tests  
21 may be administered at the direction of a law enforcement officer who has reasonable  
22 grounds to believe that the person was operating a commercial motor vehicle while  
23 intoxicated in violation of AS 28.33.030 or AS 28.35.030;

24 (2) of the person's breath and blood for the purpose of determining  
25 the alcoholic content of the person's breath and blood, and of the person's blood  
26 and urine, for the purpose of determining the presence of controlled substances  
27 in the person's blood and urine, if the person is involved in a motor vehicle  
28 accident that causes death or serious physical injury to another person; the test  
29 or tests may be administered at the direction of a law enforcement officer who  
30 has reasonable grounds to believe that the person was operating a commercial  
31 motor vehicle that was involved in an accident causing death or serious physical

1 ~~injury to another person.~~

2 • Sec. 6. AS 28.33.190 is amended to read:

3 Sec. 28.33.190. DEFINITIONS. In this chapter [AS 28.33.100 - 28.33.190],

4 (1) "alcoholic beverage" has the meaning given in AS 04.21.080(b);

5 (2) "commercial motor vehicle" has the meaning given in  
6 AS 28.40.100;

7 (3) "controlled substance" means any substance listed as being  
8 controlled under AS 11.71 or 21 U.S.C. 812 - 813, or determined under federal  
9 regulations to be controlled for purposes of 21 U.S.C. 801 - 813 (Controlled  
10 Substances Act);

11 (4) "disqualification" means a withdrawal of the privilege to drive a  
12 commercial motor vehicle;

13 (5) "disqualified" means that a person's privilege to drive a commercial  
14 motor vehicle has been withdrawn;

15 (6) "drive a commercial motor vehicle" means to affect the movement,  
16 attempt to affect the movement, or to be in actual physical control, of a commercial  
17 motor vehicle in motion, excluding slight motion incidental to loading, unloading,  
18 servicing, or inspecting the vehicle;

19 (7) "employer" means a person who

20 (A) provides compensation to a person who operates a  
21 commercial motor vehicle, including wages or other remuneration, whether  
22 through an employment relationship or by contract; or

23 (B) acts as an agent of someone who provides compensation to  
24 a person who operates a commercial motor vehicle, with authority to allow,  
25 require, permit, assign, or authorize the person being compensated to operate  
26 a commercial motor vehicle;

27 (8) "hazardous substance" means a substance found by the United  
28 States Secretary of Transportation to be hazardous for purposes of 49 U.S.C. 1801 -  
29 1813 (Hazardous Materials Transportation Act);

30 (9) "operating a commercial motor vehicle" means

31 (A) to drive a commercial motor vehicle; or

1 (B) whether or not the vehicle is in motion, or is capable of  
2 being moved, to be in actual physical control, or to attempt to affect the  
3 movement, of a commercial motor vehicle; and

4 (10) "serious traffic violation" means

5 (A) speeding 15 miles per hour or more above the posted limit;

6 (B) reckless or negligent driving, in violation of AS 28.35.040  
7 or 28.35.045 or an ordinance with substantially similar elements;

8 (C) violation of a provision of this title, or a regulation adopted  
9 under this title, relating to improper lane changes or following too closely, or  
10 an ordinance with substantially similar elements; or

11 (D) violation of a law or ordinance relating to traffic control,  
12 which was determined by the court by a preponderance of the evidence to have  
13 been a factor in causing physical injury to a person.

14 \* Sec. 7. AS 28.35.030(a) is amended to read:

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

17 (1) while under the influence of intoxicating liquor, or any controlled  
18 substance;

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

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

26 \* Sec. 8. AS 28.35.030(b) is amended to read:

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

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

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

31 (B) not less than 20 days and a fine of not less than \$500 if the

1 person has been previously convicted once;  
2 (C) not less than 60 days and a fine of not less than \$1,000 if  
3 the person has been previously convicted twice;  
4 (D) not less than 120 days and a fine of not less than \$2,000  
5 if the person has been previously convicted three times;  
6 (E) not less than 240 days and a fine of not less than \$3,000 if  
7 the person has been previously convicted four times;  
8 (F) not less than 360 days and a fine of not less than \$4,000 if  
9 the person has been previously convicted more than four times;  
10 (2) the court may not  
11 (A) suspend execution of sentence or grant probation except on  
12 condition that the person serve the minimum imprisonment under (1) of this  
13 subsection;  
14 (B) suspend imposition of sentence;  
15 (3) the court shall revoke the person's driver's license, privilege to  
16 drive, or privilege to obtain a license under AS 28.15.181 [, AND MAY ORDER THE  
17 MOTOR VEHICLE OR AIRCRAFT THAT WAS USED IN COMMISSION OF THE  
18 OFFENSE TO BE FORFEITED UNDER AS 28.35.036].

19 \* Sec. 9. AS 28.35.030 is amended by adding new subsections to read:

20 (n) Upon conviction under this section, the court may order as a condition of  
21 probation that the person take antabuse or a similar drug intended to prevent the  
22 consumption of an alcoholic beverage. A condition of probation imposed under this  
23 subsection is in addition to any other condition authorized under another provision of  
24 law.

25 (o) If the court imposes a sentence of imprisonment under this section and the  
26 person has been previously convicted, the court shall also order forfeiture of a motor  
27 vehicle or aircraft used in the commission of the offense, subject to remission under  
28 AS 28.35.037.

29 \* Sec. 10. AS 28.35.031 is amended by adding a new subsection to read:

30 (g) A person who operates or drives a motor vehicle in this state shall be  
31 considered to have given consent to a chemical test or tests of the person's breath and

1 blood for the purpose of determining the alcoholic content of the person's breath and  
2 blood and shall be considered to have given consent to a chemical test or tests of the  
3 person's blood and urine for the purpose of determining the presence of controlled  
4 substances in the person's blood and urine if the person is involved in a motor vehicle  
5 accident that causes death or serious physical injury to another person. The test or  
6 tests may be administered at the direction of a law enforcement officer who has  
7 reasonable grounds to believe that the person was operating or driving a motor vehicle  
8 in this state that was involved in an accident causing death or serious physical injury  
9 to another person.

10 \* Sec. 11. AS 28.35.032(a) is amended to read:

11 (a) If a person under arrest for operating a motor vehicle or aircraft while  
12 intoxicated refuses the request of a law enforcement officer to submit to a chemical  
13 test authorized under AS 28.33.031(a)(1) [AS 28.33.031(a)] or AS 28.35.031(a), or  
14 if a person involved in a motor vehicle accident that causes death or serious  
15 physical injury to another person refuses the request of a law enforcement officer  
16 to submit to a chemical test authorized under AS 28.33.031(a)(2) or  
17 AS 28.35.031(g), after being advised by the officer that the refusal will [, IF THAT  
18 PERSON WAS ARRESTED WHILE OPERATING A MOTOR VEHICLE OR  
19 AIRCRAFT,] result in the denial or revocation of the driver's license, privilege to  
20 drive, or privilege to obtain a license, that the refusal may be used against the person  
21 in a civil or criminal action or proceeding arising out of an act alleged to have been  
22 committed by the person while operating a motor vehicle or [, AN] aircraft [, OR A  
23 WATERCRAFT] while intoxicated, and that the refusal is a crime, a chemical test may  
24 not be given, except as provided by AS 28.35.035. If a person under arrest for  
25 operating a watercraft while intoxicated refuses the request of a law enforcement  
26 officer to submit to a chemical test authorized under AS 28.35.031(a), after being  
27 advised by the officer that the refusal may be used against the person in a civil  
28 or criminal action or proceeding arising out of an act alleged to have been  
29 committed by the person while operating a watercraft while intoxicated, and that  
30 the refusal is a crime, a chemical test may not be given, except as provided by  
31 AS 28.35.035.

1 **Sec. 12. AS 28.35.032(e)** is amended to read:

2 (e) The refusal of a person to submit to a chemical test authorized under  
3 AS 28.33.031(a) or AS 28.35.031(a) or (g) [OF BREATH UNDER (a) OF THIS  
4 SECTION] is admissible evidence in a civil or criminal action or proceeding arising  
5 out of an act alleged to have been committed by the person while operating or driving  
6 a motor vehicle or operating an aircraft or watercraft while intoxicated.

7 **Sec. 13. AS 28.35.032(f)** is amended to read:

8 (f) Refusal to submit to a [THE] chemical test [OF BREATH] authorized by  
9 AS 28.33.031(a) or AS 28.35.031(a) or (g) is a class A misdemeanor.

10 **Sec. 14. AS 28.35.032(g)** is amended to read:

- 11 (g) Upon conviction under this section
  - 12 (1) the court shall impose a minimum sentence of imprisonment of
    - 13 (A) not less than 72 consecutive hours and a fine of not less
    - 14 than \$250 if the person has not been previously convicted;
    - 15 (B) not less than 20 days and a fine of not less than \$500 if the
    - 16 person has been previously convicted once;
    - 17 (C) not less than 60 days and a fine of not less than \$1,000 if
    - 18 the person has been previously convicted twice;
    - 19 (D) not less than 120 days and a fine of not less than \$2,000
    - 20 if the person has been previously convicted three times;
    - 21 (E) not less than 240 days and a fine of not less than \$3,000 if
    - 22 the person has been previously convicted four times;
    - 23 (F) not less than 360 days and a fine of not less than \$4,000 if
    - 24 the person has been previously convicted more than four times;
  - 25 (2) the court may not
    - 26 (A) suspend execution of the sentence required by (1) of this
    - 27 subsection or grant probation, except on condition that the person serve the
    - 28 minimum imprisonment under (1) of this subsection; or
    - 29 (B) suspend imposition of sentence;
  - 30 (3) the court shall revoke the person's driver's license, privilege to
  - 31 drive, or privilege to obtain a license under AS 28.15.181 [, AND MAY ORDER THE

1           **MOTOR VEHICLE OR AIRCRAFT THAT WAS USED IN COMMISSION OF THE**  
2           **OFFENSE BE FORFEITED UNDER AS 28.35.036]; and**

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

5   \* Sec. 15. AS 28.35.032(j) is amended to read:

6                       (j) For purposes of this section, convictions for operating or driving while  
7           intoxicated under AS 28.33.030 or AS 28.35.030 and for refusal to submit to a  
8           chemical test [OF BREATH] under this section, if arising out of a single transaction  
9           and a single arrest, are considered one previous conviction.

10 \* Sec. 16. AS 28.35.032 is amended by adding new subsections to read:

11                      (q) Upon conviction under this section, the court may order as a condition of  
12           probation that the person take antabuse or a similar drug intended to prevent  
13           consumption of an alcoholic beverage. A condition of probation imposed under this  
14           subsection is in addition to any other condition authorized under another provision of  
15           law.

16                      (r) If the court imposes a sentence of imprisonment under this section and the  
17           person has been previously convicted, the court shall also order forfeiture of a motor  
18           vehicle or aircraft used in the commission of the offense, subject to remission under  
19           AS 28.35.037.

20 \* Sec. 17. AS 28.35.033(a) is amended to read:

21                      (a) Upon the trial of a civil or criminal action or proceeding arising out of acts  
22           alleged to have been committed by a person while operating or driving a motor vehicle  
23           or operating an aircraft or a watercraft while intoxicated, the amount of alcohol in the  
24           person's blood or breath at the time alleged shall give rise to the following  
25           presumptions:

26                      (1) If there was 0.04 [0.05] percent or less by weight of alcohol in the  
27           person's blood, or 40 [50] milligrams or less of alcohol per 100 milliliters of the  
28           person's blood, or 0.04 [0.05] grams or less of alcohol per 210 liters of the person's  
29           breath, it shall be presumed that the person was not under the influence of intoxicating  
30           liquor.

31                      (2) If there was in excess of 0.04 [0.05] percent but less than 0.08

1 [0.10] percent by weight of alcohol in the person's blood, or in excess of ~~40~~ [50] but  
2 less than ~~80~~ [100] milligrams of alcohol per 100 milliliters of the person's blood, or  
3 in excess of ~~0.04~~ [0.05] grams but less than ~~0.08~~ [0.10] grams of alcohol per 210 liters  
4 of the person's breath, that fact does not give rise to any presumption that the person  
5 was or was not under the influence of intoxicating liquor, but that fact may be  
6 considered with other competent evidence in determining whether the person was  
7 under the influence of intoxicating liquor.

8 (3) [REPEALED]

9 (4) If there was ~~0.08~~ [0.10] percent or more by weight of alcohol in  
10 the person's blood, or ~~80~~ [100] milligrams or more of alcohol per 100 milliliters of the  
11 person's blood, or ~~0.08~~ [0.10] grams or more of alcohol per 210 liters of the person's  
12 breath, it shall be presumed that the person was under the influence of intoxicating  
13 liquor.

14 \* Sec. 18. AS 28.35.035(a) is amended to read:

15 (a) If a person is under arrest for an offense arising out of acts alleged to have  
16 been committed while the person was operating a motor vehicle, aircraft, or watercraft  
17 while intoxicated, and that arrest results from an accident that causes death or physical  
18 injury to another person, a chemical test may be administered without the consent of  
19 the person arrested to determine the amount of alcohol in that person's breath or blood  
20 or to determine the presence of controlled substances in that person's blood and  
21 urine.

22 \* Sec. 19. AS 28.35.035(b) is amended to read:

23 (b) A person who is unconscious or otherwise in a condition rendering that  
24 person incapable of refusal is considered not to have withdrawn the consent provided  
25 under AS 28.33.031(a) or AS 28.35.031(a) or (g) and a chemical test may be  
26 administered to determine the amount of alcohol in that person's breath or blood or  
27 to determine the presence of controlled substances in that person's blood and  
28 urine. A person who is unconscious or otherwise incapable of refusal need not be  
29 placed under arrest before a chemical test may be administered.

30 \* Sec. 20. AS 28.35.036 is repealed and reenacted to read:

31 Sec. 28.35.036. FORFEITURE OF MOTOR VEHICLE OR AIRCRAFT. (a)

1 Upon forfeiture of a motor vehicle or aircraft under AS 28.35.030(o) or 28.35.032(r),  
2 the court shall require the surrender of the registration and certificate of title of that  
3 motor vehicle or aircraft. The registration and certificate of title shall be delivered to  
4 the department.

5 (b) Forfeiture of a motor vehicle or aircraft under AS 28.35.030(o) or  
6 28.35.032(r) extinguishes the rights or claims of a person with an ascertainable interest  
7 in the motor vehicle or aircraft, unless the person seeks remission of the forfeiture  
8 under AS 28.35.037 within 90 days after the person receives notice of the right of  
9 remission under AS 28.35.037. Remission of forfeiture does not apply to a person  
10 convicted under AS 28.35.030(o) or 28.35.032(r) whose vehicle or aircraft is forfeited.

11 (c) If not released under AS 28.35.037, a motor vehicle or aircraft forfeited  
12 under AS 28.35.030(o) or 28.35.032(r) may be disposed of by the department by

13 (1) selling the motor vehicle or aircraft; proceeds from the sale shall  
14 be deposited into the general fund;

15 (2) taking custody of the property and authorizing its use by the state  
16 or another political subdivision of the state; or

17 (3) destroying property that is harmful to the public.

18 \* Sec. 21. AS 28.35.037(a) is repealed and reenacted to read:

19 (a) Upon forfeiture of a motor vehicle or aircraft under AS 28.35.030(o) or  
20 28.35.032(r), the state shall provide written notice within 30 days to each person with  
21 an ascertainable ownership or security interest in the motor vehicle or aircraft, other  
22 than the person convicted of the offense resulting in forfeiture, that

23 (1) the vehicle or aircraft has been forfeited;

24 (2) the person has a right to intervene to protect an interest in the motor  
25 vehicle or aircraft under (b) of this section; and

26 (3) failure to seek remission of forfeiture within 90 days will extinguish  
27 the rights of the person to the vehicle or aircraft.

28 \* Sec. 22. AS 28.35.037(b) is amended to read:

29 (b) At the request of a person with an ownership or security interest in a  
30 motor vehicle or aircraft forfeited under AS 28.35.030(o) or 28.35.032(r), other  
31 than the person convicted of the offense resulting in forfeiture, the court shall

1 schedule a hearing in a timely manner to determine if remission of forfeiture shall  
2 be ordered as provided under this section. At the hearing, a person who claims an  
3 ownership or security interest in the motor vehicle, or aircraft, must establish by a  
4 preponderance of the evidence that

5 (1) the petitioner has an interest in the motor vehicle, or aircraft,  
6 acquired in good faith;

7 (2) a person other than the petitioner was convicted of the offense that  
8 resulted in the forfeiture; and

9 (3) before parting with the motor vehicle, or aircraft, the petitioner did  
10 not know or have reasonable cause to believe that it would be used in the commission  
11 of an offense.

12 \* Sec. 23. AS 28.35 is amended by adding a new section to article 2 to read:  
13 Sec. 28.35.039. DEFINITION FOR AS 28.35.029 - 28.35.039. In  
14 AS 28.35.029 - 28.35.039, "controlled substance" has the meaning given in  
15 AS 28.33.190.

16 \* Sec. 24. AS 28.40.100(a) is amended by adding a new paragraph to read:  
17 (24) "serious physical injury" has the meaning given in  
18 AS 11.81.900(b).

19 \* Sec. 25. AS 28.35.030(m)(1) is repealed.

20 \* Sec. 26. REQUIRED STUDY AND REPORT. (a) The Department of Public Safety,  
21 in conjunction with the Department of Law, the Department of Corrections, the Alaska Court  
22 System, and the Alaska State Legislature, shall perform a comprehensive review of the  
23 following issues by December 31, 1994:

24 (1) the means by which the mandatory forfeiture of vehicles used in the  
25 commission of offenses related to driving while intoxicated may be implemented; and

26 (2) the means by which felony penalties may be applied to certain offenses  
27 related to driving while intoxicated.

28 (b) The review required under (a) of this section shall consider the fiscal effect on the  
29 state, deterrence of convicted and potential offenders, relevant policies of other governing  
30 bodies, and potential funding sources. Also, the Department of Public Safety shall present a  
31 report to the Nineteenth Alaska State Legislature that summarizes the conclusions of the

1 review described in this section and that recommends specific legislative action.

2 \* **Sec. 27. APPLICABILITY.** The amendments made by this Act apply to offenses that  
3 are committed on or after the effective date of this Act, except that references to previous  
4 convictions include convictions occurring before, on, or after the effective date of this Act.

5 \* **Sec. 28.** Sections 20, 21, and 22 of this Act take effect September 15, 1994.

6 \* **Sec. 29.** Except as provided in sec. 28 of this Act, this Act takes effect July 1, 1994.