

SENATE BILL NO. 84 am

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY SENATORS KELLY, Selo

Amended: 4/1/93

Introduced: 2/1/93

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to fees for identification cards and certain motor vehicle licenses
 2 and permits; to licenses issued to drivers and to revocation of a license to drive;
 3 and providing for an effective date."

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

5 * Section 1. AS 18.65.310(a) is amended to read:

6 (a) Upon payment of a \$10 [\$5] fee, the Department of Public Safety shall
 7 issue a card identical to the motor vehicle operator's license provided for in
 8 AS 28.15.111, except that the card shall be of a different color and shall state in bold
 9 type letters across the face of it that it is for identification purposes only.

10 * Sec. 2. AS 28.15.111(a) is amended to read:

11 (a) Upon successful completion of the application and all required
 12 examinations, and upon payment of the required fee, the department shall issue to
 13 every qualified applicant a driver's license indicating the type or general class of
 14 vehicles that the licensee may drive. The license must display (1) a distinguishing

1 number assigned to the license; (2) the licensee's full name, address, date of birth,
2 brief physical description, and color photograph; [AND] (3) either a facsimile of the
3 signature of the licensee or a space upon which the licensee must write the licensee's
4 usual signature with pen and ink; (4) a holographic symbol intended to prevent
5 illegal alteration or duplication; and (5) for a qualified applicant who is under age
6 21, the words "UNDER 21". A license is not valid until signed by the licensee. If
7 facilities are not available for the taking of the photograph required under this section,
8 the department shall endorse on the license, the words "valid without photograph."

9 * Sec. 3. AS 28.15 is amended by adding new sections to read:

10 Sec. 28.15.187. ADMINISTRATIVE REVOCATION OF A LICENSE TO
11 DRIVE FOR USE OF FALSE IDENTIFICATION. (a) If a peace officer has probable
12 cause based on personal observation that a person has used a driver's license as
13 fraudulent or false identification as prohibited by AS 04.16.060(d), the peace officer
14 shall read a notice and deliver a copy to the person. The notice must advise that

15 (1) the department intends to revoke the person's driver's license,
16 privilege to drive, or privilege to obtain a license, or refuse to issue an original license
17 to the person;

18 (2) the person has the right to administrative review of the revocation
19 or determination not to issue an original license;

20 (3) if the person has a driver's license or a nonresident privilege to
21 drive, the notice itself is a temporary driver's license that expires seven days after it
22 is delivered to the person;

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

27 (b) After reading the notice under (a) of this section, the peace officer shall
28 seize the person's driver's license if it is in the person's possession and shall deliver
29 it to the department with a sworn report describing the circumstances under which it
30 was seized.

31 (c) Unless the person has requested an administrative review, the department

1 shall revoke the person's driver's license, privilege to drive, or privilege to obtain a
2 license, or refuse to issue an original license, effective seven days after delivery to the
3 person of the notice required under (a) of this section, upon receipt of a sworn report
4 of a peace officer

5 (1) that the officer had probable cause based on personal observations
6 that the person used a driver's license as fraudulent or false identification as prohibited
7 by AS 04.16.060(d);

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

9 (3) describing the circumstances surrounding the violation of
10 AS 04.16.060(d).

11 (d) The department shall impose the revocation required under this section

12 (1) for a period of 60 days for a first revocation under this section; and

13 (2) for a second or subsequent revocation under this section for a
14 period of 12 months.

15 (e) Notwithstanding the provisions of AS 28.20.240 and 28.20.250, the
16 department may not require proof of financial responsibility before restoring a driver's
17 license or privilege that is revoked under this section.

18 (f) A license revocation imposed under this section shall be consecutive to a
19 license revocation imposed under another provision of law.

20 Sec. 28.15.189. ADMINISTRATIVE REVIEW OF REVOCATION OF
21 LICENSE FOR USE OF FALSE IDENTIFICATION. (a) A person who has received
22 a notice under AS 28.15.187(a) may make a written request for administrative review
23 of the department's action. If the person's driver's license has not been previously
24 surrendered to the department, it shall be surrendered to the department at the time the
25 request for review is made.

26 (b) A request for review of the department's revocation under AS 28.15.187
27 shall be made within seven days after receipt of the notice under AS 28.15.187 or the
28 right to review is waived and the action of the department under AS 28.15.187(c) is
29 final. If a written request for a review is made after expiration of the seven-day
30 period, and if it is accompanied by the applicant's verified statement explaining the
31 failure to make a timely request for a review, the department shall receive and consider

1 the request. If the department finds that the person was unable to make a timely
2 request because of lack of actual notice of the revocation or because of factors of
3 physical incapacity such as hospitalization or incarceration, the department shall waive
4 the period of limitation, reopen the matter, and grant the review request.

5 (c) Upon receipt of a request for review, if it appears that the person holds a
6 valid driver's license and that the driver's license has been surrendered, the department
7 shall issue a temporary driver's permit that is valid until the scheduled date for the
8 review. A person who has requested a review under this section may request, and the
9 department may grant for good cause, a delay in the date of the hearing. If necessary,
10 the department may issue additional temporary permits to stay the effective date of its
11 action under AS 28.15.187(c) until the final order after the review is issued.

12 (d) A person who has requested a hearing under this section and who fails to
13 appear at the hearing, for reasons other than lack of actual notice of the hearing or
14 physical incapacity such as hospitalization or incarceration, waives the right to a
15 hearing. The determination of the department that is based upon the officer's report
16 becomes final.

17 (e) Notwithstanding AS 28.05.141(b), the hearing under this section shall be
18 held telephonically unless the person requesting the hearing requests in writing that the
19 hearing not be held telephonically.

20 (f) A review under this section shall be held before a hearing officer
21 designated by the commissioner. The hearing officer shall have authority to

- 22 (1) administer oaths and affirmations;
23 (2) examine witnesses and take testimony;
24 (3) receive relevant evidence;
25 (4) issue subpoenas, take depositions, or cause depositions or
26 interrogatories to be taken;
27 (5) regulate the course and conduct of the hearing;
28 (6) make a final ruling on the issue.

29 (g) The hearing for review of a revocation by the department under
30 AS 28.15.187 shall be limited to the issue of whether the person used a driver's license
31 as fraudulent or false identification as prohibited by AS 04.16.060(d).

1 (b) The determination of the hearing officer may be based upon the sworn
2 report of a peace officer, if the sworn report is supported by probable cause based on
3 personal observations as required under AS 18.15.187(a). The peace officer need not
4 be present at the hearing unless either the person requesting the hearing or the hearing
5 officer requests in writing before the hearing that the officer be present. If in the
6 course of the hearing it becomes apparent that the testimony of the peace officer is
7 necessary to enable the hearing officer to resolve disputed issues of fact, the hearing
8 shall be continued to allow the attendance of the peace officer.

9 (i) Upon written request of the person requesting the hearing, the hearing
10 officer shall stay the hearing until the conclusion of related criminal proceedings. If
11 the person requesting the hearing does not request a stay, testimony given by the
12 person at the hearing is admissible against the person in a criminal trial.

13 (j) If the issue set out in (g) of this section is determined in the affirmative by
14 a preponderance of the evidence, the hearing officer shall sustain the action of the
15 department. If the issue is determined in the negative, the department's revocation
16 action shall be rescinded.

17 (k) If the action of the department in revoking a nonresident's privilege to
18 drive a motor vehicle is not administratively contested by the nonresident driver or if
19 the departmental action is sustained by the hearing officer, the department shall give
20 written notice of action taken to the motor vehicle administrator of the state of the
21 person's residence and to any state in which that person has a driver's license.

22 (l) Within 30 days of the issuance of the final determination of the department,
23 a person aggrieved by the determination may file an appeal in superior court for
24 judicial review of the hearing officer's determination. The judicial review shall be on
25 the record without taking additional testimony. The court may reverse the
26 department's determination if the court finds that the department misinterpreted the
27 law, acted in an arbitrary and capricious manner, or made a determination unsupported
28 by the evidence in the record.

29 (m) The filing of an appeal under (l) of this section or a petition for review
30 does not automatically stay the department's order or revocation. The court may grant
31 a stay of the order or revocation under the applicable rules of court, after a motion and

1 hearing, and upon a finding that there is a reasonable probability that the petitioner
2 will prevail on the merits and that the petitioner will suffer irreparable harm if the
3 order is not stayed.

4 • Sec. 4. AS 28.15.271(a) is amended to read:

5 (a) The fees for drivers' licenses and permits, including but not limited to
6 renewals, and all related driver skills tests are as follows:

- 7 (1) all noncommercial vehicles and motor-driven cycles
8 (A) each license fee \$ 15 [10];
9 (B) each driver skills test \$ 15;
10 (2) all commercial motor vehicles
11 (A) each license fee \$100;
12 (B) each driver skills test \$ 25;
13 (3) instruction permit \$ 5 [3];
14 (4) duplicate of driver's license or instruction permit .. \$ 10 [3];
15 (5) temporary license and renewal of permit \$ 5 [3];
16 (6) school bus driver's endorsement renewal \$ 5 [3].

17 • Sec. 5. This Act takes effect July 1, 1993.