

**HB**

**299**

**HFIN**

**FILE**

HOUSE COMMITTEE REPORT

3/23/94  
Rules

(11)  
Date Referred: March 9, 1994

FURTHER REFERRALS:

Date of Committee Action: 3/23/94 am

The FINANCE Committee considered:

HB 299

HOUSE BILL NO. 299

DRIVER'S LIC REVOCATION;ALCOHOL/DRUGS

"An Act relating to education programs on consumption of alcohol and to revocation of a driver's license for illegal consumption of alcohol; and providing for an effective date."

- RECOMMENDATIONS: [ ] the same title  
 be replaced with CS HB 299 (FIN) [x] a new title  
 have attached amendments(s)  
 do pass  
 do not pass  
 no recommendations  
 individual recommendations  
 additional referral to the \_\_\_\_\_ Committee

ADOPTS: HFC letter of Intent letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[x] fiscal impact DPS

[x] fiscal note(s) ~~\_\_\_\_\_~~

~~zero fiscal note~~

[x] zero fiscal note(s) CAW 3/9

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<u>Ronald J. Larson</u>	X	<u>Eileen Maclean</u> Maclean		✓	
		<u>Mark Hayney</u> Hayney		X	
		<u>San &amp; Paul Parnell</u> Parnell		X	
		<u>Perry Martin</u> Martin		X	
		<u>Mike Nasarre</u> Nasarre		✓	
		<u>Jay Brown</u> Brown		✓	
		<u>Jan Gussendorf</u> Gussendorf		X	
	(1)			(7)	

Ronald J. Larson Eileen Maclean  
 CHAIRMAN'S SIGNATURE

# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO: CSHB 299(FIN)

Revision Date: 3/24/94 Dept. Affected: Public Safety  
 Title: An Act relating to revocation of a driver's license...and providing for an effective date. BRU: Motor Vehicles  
 Component: Driver Services/Field Services  
 Sponsor: Representative Toohy  
 Requestor: (H) FIN COMPONENT SERIAL NO. 500, 502

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	126.1	126.1	126.1	126.1	126.1	126.1
TRAVEL	1.5	0	0	0	0	0
CONTRACTUAL	23.4	16.1	16.1	16.1	16.1	16.1
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	42.0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	194.0	143.2	143.2	143.2	143.2	143.2
CAPITAL EXPENDITURES						
CHANGE IN REVENUES (1005) <small>Revenue Code</small>	622.5	622.5	622.5	622.5	622.5	622.5

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	194.0	143.2	143.2	143.2	143.2	143.2
1006 GF/MHTIA						
Other						
TOTAL	194.0	143.2	143.2	143.2	143.2	143.2

Estimate of current year (FY 94) impact: \$ \_\_\_\_\_

POSITIONS:

FULL-TIME	3	3	3	3	3	3
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)  
See Attached

Prepared By: Juanita M. Hensley Phone: 465-2650  
 Division: Motor Vehicles Date: 03/24/94  
 Approved by Commissioner: *[Signature]* Date: 03/24/94  
 Agency: Richard L. Burton, Dept. of Public Safety

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Rev 01/94

*MJH*  
3/24/94

This bill will require the Division of Motor Vehicles to administratively revoke the driver's license of any person between the ages of 14 through 20 who has consumed or who is in possession of drugs or alcohol. The Division of Family and Youth Services (DFYS) reports approximately 1,200 youths between the ages of 14 through 17 are referred to their agency by police authorities for alcohol or drug offenses yearly. The Department of Public Safety Uniform Crime Report for 1992 shows approximately 1,300 persons between the ages of 18 through 20 are arrested or charged with drug and alcohol offenses (other than DWI) each year. The total number of youths whose driver's license or privilege to drive would be revoked is approximately 2,500. The Department of Public Safety Uniform Crime Report does not include 37 cities or rural communities.

In order to handle the additional 2,500 license revocations a year, and provide due process for the minor, one full-time Driver Improvement Specialist/Hearing Officer, and two full-time Motor Vehicle Representative I/II's would be required. The cost for personal services for a Driver Improvement Specialist/Hearing Officer is 52.8; the cost for two Motor Vehicle Representative I/II's is 73.3. The total for personal services is 126.1. The Driver Improvement Specialist and one Motor Vehicle Representative will be located in the Juneau Driver Services office and will handle the paperwork and hearings associated with administering the revocation of the driver's license. The second Motor Vehicle Representative will be located in the Anchorage Field Services section and will be used in the Motor Vehicle Field office to handle the reinstatement and issuance of a driver's license.

To revoke 2,500 additional driver's licenses a year takes over 30 processing steps per revoked license. It takes approximately 20 minutes to one hour to conduct an administrative hearing. Each processing step varies in the time it takes to complete. Complete accuracy is essential, as an error of entry onto a driving record could result in civil liability to the State. It takes approximately 20 minutes per applicant to reinstate a revoked driver's license; this time is exclusive of the time it takes a person to take the required tests; the person must make a new application for the driver's license or permit, take all of the required tests, and if the person is under the age of 18 a parent or legal guardian must give consent for the driver's license or permit and pay the reinstatement fee. Travel and per diem requested is to send the hearing officer to the National Judicial College for professional training in the fair hearing process.

Under existing law, each person whose license has been revoked must pay a \$100 fee when applying for reinstatement of his or her driver's license. This bill amends current law by requiring a reinstatement fee of \$250 for anyone who has had their driver's license suspended, revoked or limited more than one time. Assuming 90 percent of the minors who are eligible for reinstatement will comply with the reinstatement requirements and pay the \$100 fee, approximately \$225.0 will be generated annually as new program receipts/general fund revenue.

In FY93 the division reinstated approximately 5,300 driver's licenses where the person paid a fee of \$100. It is estimated that 50 percent or 2,650 have first time actions against their record and will continue to pay the \$100 fee and 50 percent or 2,650 of these drivers have prior actions against their record and will be required to pay the \$250 fee. The 2,650 drivers will be required to pay an additional \$150 which will generate an additional \$397.5 in new program receipt/general fund revenue. The total new program receipts/general fund revenue is \$622.5.



FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. CSHB 299 (JUD)

Revision Date: March 9, 1994  
Title: "...revocation of a driver's license for illegal possession or use of a controlled substance...alcohol..."  
Sponsor: Representative Toohy  
Requestor: Representative Toohy

Department Affected: Department of Law  
BRU: Prosecution  
Component: All  
COMPONENT SERIAL NO. 0085 through 0090

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND &						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING:

1002 Federal						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)  
Please see the attached analysis.

Prepared by: Richard I. Peques, Director  
Division: Administrative Services Division

Phone: 465-3672  
Date: March 9, 1994

Approved by Commissioner: Bruce M. Botelho, Attorney General  
Agency: Department of Law

Date: March 9, 1994

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FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. CSHB 299 (JUD)

ANALYSIS CONTINUATION:

The House Judiciary Committee version of HB 299 adds a new section to AS 28.15 that provides for the revocation of a driver's license of a person that is at least 14 years of age, but not yet 21 years of age, for the possession or use of a controlled substance in violation of AS 11.17, or the possession or use of alcohol in violation of AS 04.16.050.

Revocation would be handled administratively by the Department of Public Safety if a police officer had probable cause based on personal observation that the possession or use occurred. The administrative process includes a provision for an administrative appeals hearing, as well as providing for subsequent judicial review. A police officer would be required to read a notice and to deliver a copy to the person advising that revocation will occur in seven days, unless the person requests an administrative review within the seven days. The written notice would serve as a temporary seven day license or permit, and the police officer would seize the person's license or permit if it is in the person's possession. Revocation would include the person's driver's license, permit, privilege to drive, or privilege to obtain a license or permit. A first revocation would result in a revocation for a period of 90 days; a second revocation would result in a revocation for a period of one year; and a third revocation would result in revocation for a period of three years. The bill also provides that the Department of Public Safety may not issue a new license or reissue a license to a person whose driver's license, permit, or privilege to drive has been revoked, under these provisions, unless the person is enrolled in or in compliance with, or has successfully completed and paid for (1) an alcoholism education and rehabilitation program, if the revocation resulted from the possession or use of alcohol, or (2) a drug rehabilitation treatment program if the revocation resulted from the possession or use of a controlled substance. Finally, the bill increases the amount of the reinstatement fee, from \$100 to \$250, for any person who seeks a driver's license at the end of the revocation period.

Current statute (AS 28.15.185) contains similar penalties for the same offense; however, the existing statute is limited to youths ages 13 through 17, and the penalties can be invoked only if the person is adjudicated by a juvenile court of misconduct involving a controlled substance or alcohol.

Because the revocation process will be handled administratively within the Department of Public Safety, the bill is unlikely to have a direct fiscal impact on the Department of Law. However, we are concerned that there will be a secondary impact caused by youthful offenders who drive while their license is revoked or who cannot obtain a license or permit during a revocation period. We also expect that there will be a larger number of revocations than now occurs under the existing statute, because the age span covered by the bill is greater and because revocation will not require an adjudication. Thus it appears that the incidence of DWLS offenses will increase. However, data is not available that would give any clear idea on the amount of increase that will result if the bill is approved. Consequently, fiscal impact costs have not been shown. We therefore caution that increasing prosecutor caseload at a time when revenues are decreasing, and at a time when the existing caseload is already increasing, will result in prosecutors being forced to decline prosecution of certain offenses in favor of prosecuting more serious offenses.

Finally, we note that the bill includes well-reasoned findings in respect to the dangers involved in mixing alcohol and driving and the particular danger to youths under the age of 21. However, no findings have been included in respect to controlled substances and the dangers they present to youths under the age of 21.

CS FOR HOUSE BILL NO. 299(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 3/9/94

Referred: Finance

Sponsor(s): REPRESENTATIVES TOOHEY, Bunde, Mulder

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to revocation of a driver's license for illegal possession or use  
2 of a controlled substance or illegal possession or consumption of alcohol; to fees  
3 for reinstatement of a driver's license; and providing for an effective date."

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

5 \* Section 1. FINDINGS. The legislature finds that

6 (1) drinking alcohol is a factor in approximately one-half of all fatal motor  
7 vehicle accidents;

8 (2) any blood alcohol level affects driving ability and increases the likelihood  
9 of accidents;

10 (3) youthful drivers who consume alcohol are far more likely than sober  
11 teenage drivers to be killed in single vehicle accidents;

12 (4) drinking and driving is a leading killer of youths in this country;

13 (5) youths under the age of 21 are twice as likely as any other age group to  
14 be involved in an alcohol-related automobile accident; and

#1  
DELETED - PASSED  
-pannell

1 (6) schools in this state should conduct educational programs to teach youths  
2 about the dangers of drinking or using controlled substances and driving. ]

3 \* Sec. 2. AS 28.15 is amended by adding new sections to read:

4 Sec. 28.15.183. ADMINISTRATIVE REVOCATION OF A MINOR'S  
5 LICENSE TO DRIVE. (a) If a peace officer has probable cause based on personal  
6 observation that a person who is at least 14 years of age but not yet 21 years of age  
7 has possessed or used a controlled substance in violation of AS 11.71, or possessed or  
8 consumed alcohol in violation of AS 04.16.050, the peace officer shall read a notice  
9 and deliver a copy to the person. The notice must advise that

10 (1) the department intends to revoke the person's driver's license or  
11 permit, privilege to drive, or privilege to obtain a license or permit;

12 (2) the person has the right to administrative review of the revocation;

13 (3) if the person has a driver's license or permit, the notice itself is a  
14 temporary driver's license or permit that expires seven days after it is delivered to the  
15 person;

16 (4) revocation of the person's driver's license or permit, privilege to  
17 drive, or privilege to obtain a license or permit, takes effect seven days after delivery  
18 of the notice to the person unless the person, within seven days, requests an  
19 administrative review.

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

24 (c) Unless the person has requested an administrative review, the department  
25 shall revoke the person's driver's license or permit, privilege to drive, or privilege to  
26 obtain a license or permit, effective seven days after delivery to the person of the  
27 notice required under (a) of this section, upon receipt of a sworn report of a peace  
28 officer

29 (1) that the officer had probable cause based on personal observations  
30 that the person is at least 14 years of age but not yet 21 years of age and has  
31 possessed or used a controlled substance in violation of AS 11.71, or possessed or

1 consumed alcohol in violation of AS 04.16.050;

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

3 (3) describing the circumstances surrounding the violation of the  
4 controlled substances provisions of AS 11.71 or the alcoholic beverages provisions of  
5 AS 04.16.050.

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

7 (1) for a first revocation, for a period of 90 days;

8 (2) for a second revocation, for a period of one year; or

9 (3) for a third or subsequent revocation, for a period of three years.

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

13 (f) A revocation imposed under this section shall be consecutive to a  
14 revocation imposed under another provision of law, except that a revocation imposed  
15 under this section shall be concurrent with a revocation imposed under AS 28.15.185  
16 that is based on the same incident. A department hearing officer may grant limited  
17 license privileges in accordance with the standards set out in AS 28.15.201 to a person  
18 whose driver's license, permit, or privilege was revoked under this section.

19 (g) The department may not issue a new license or reissue a license to a  
20 person whose driver's license, permit, or privilege to drive has been revoked under this  
21 section unless the person is enrolled in and is in compliance with, or has successfully  
22 completed and paid for

23 (1) an alcoholism education and rehabilitation treatment program, if the  
24 revocation resulted from possession or consumption of alcohol in violation of  
25 AS 04.16.050; or

26 (2) a drug rehabilitation treatment program, if the revocation resulted  
27 from possession or use of a controlled substance in violation of AS 11.71.

28 (h) In this section, "peace officer" does not include a person employed by the  
29 Department of Corrections.

30 Sec. 28.15.134. ADMINISTRATIVE REVIEW OF REVOCATION OF A  
31 MINOR'S LICENSE. (a) A person who has received a notice under AS 28.15.183(a)

1 may make a written request for administrative review of the department's action. If  
2 the person's driver's license or permit has not been previously surrendered to the  
3 department, it shall be surrendered to the department at the time the request for review  
4 is made.

5 (b) A request for review of the department's revocation under AS 28.15.183  
6 shall be made within seven days after receipt of the notice under AS 28.15.183 or the  
7 right to review is waived and the action of the department under AS 28.15.183(c) is  
8 final. If a written request for a review is made after expiration of the seven-day  
9 period, and if it is accompanied by the applicant's verified statement explaining the  
10 failure to make a timely request for a review, the department shall receive and consider  
11 the request. If the department finds that the person was unable to make a timely  
12 request because of lack of actual notice of the revocation or because of factors of  
13 physical incapacity such as hospitalization or incarceration, the department shall waive  
14 the period of limitation, reopen the matter, and grant the review request.

15 (c) Upon receipt of a request for review, if it appears that the person holds a  
16 valid driver's license or permit and that the driver's license or permit has been  
17 surrendered, the department shall issue a temporary driver's permit that is valid until  
18 the scheduled date for the review. A person who has requested a review under this  
19 section may request, and the department may grant for good cause, a delay in the date  
20 of the hearing. If necessary, the department may issue additional temporary permits  
21 to stay the effective date of its action under AS 28.15.183(c) until the final order after  
22 the review is issued.

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

28 (e) Notwithstanding AS 28.05.141(b), the hearing under this section may be  
29 held telephonically at the discretion of the hearing officer.

30 (f) A review under this section shall be held before a hearing officer  
31 designated by the commissioner. The hearing officer may

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

8 (g) The hearing for review of a revocation by the department under  
9 AS 28.15.183 shall be limited to the issues of whether the person was at least 14 years  
10 of age but not yet 21 years of age and whether the person possessed or used a  
11 controlled substance in violation of AS 11.71 or possessed or consumed alcohol in  
12 violation of AS 04.16.050.

13 (h) The determination of the hearing officer may be based upon the sworn  
14 report of a peace officer, if the sworn report is supported by probable cause based on  
15 personal observations as required under AS 28.15.183(a). The peace officer need not  
16 be present at the hearing unless either the person requesting the hearing or the hearing  
17 officer requests in writing before the hearing that the officer be present. If in the  
18 course of the hearing it becomes apparent that the testimony of the peace officer is  
19 necessary to enable the hearing officer to resolve disputed issues of fact, the hearing  
20 shall be continued to allow the attendance of the peace officer.

21 (i) Testimony given at the hearing is not admissible in a criminal trial unless  
22 the testimony given at the trial is inconsistent with testimony given at the hearing.

23 (j) If the issues set out in (g) of this section are determined in the affirmative  
24 by a preponderance of the evidence, the hearing officer shall sustain the action of the  
25 department. If one or more of the issues is determined in the negative, the  
26 department's revocation action shall be rescinded.

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

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

8 (m) The filing of an appeal under (l) of this section or a petition for review  
9 does not automatically stay the department's order or revocation. The court may grant  
10 a stay of the order or revocation under the applicable rules of court, after a motion and  
11 hearing, and upon a finding that there is a reasonable probability that the petitioner  
12 will prevail on the merits and that the petitioner will suffer irreparable harm if the  
13 order is not stayed.

14 \* Sec. 3. AS 28.15.211(c) is amended to read:

15 (c) At the end of a period of suspension or limitation, when that limitation  
16 follows a suspension, the person whose license has been suspended or limited may  
17 apply to the department and, upon payment of the proper fees, including a  
18 reinstatement fee [OF \$100], be issued a duplicate driver's license if the person is  
19 otherwise entitled to the license under this title.

20 \* Sec. 4. 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, pay all required fees  
24 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 or completion of an alcoholism  
27 education and rehabilitation treatment program if the person was sentenced under  
28 AS 28.15.181(c)(1); or

29 (2) completion of and payment for an alcoholism education and  
30 rehabilitation treatment program if the person was convicted under AS 28.15.181(c)(2)  
31 - (4).

1 \* Sec. 5. AS 28.15.271(b) is amended to read:

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

3 (1) a person who renews a driver's license by mail shall pay a fee of  
4 \$1; [AND]

5 (2) a person who applies for a limited driver's license under  
6 AS 28.15.201 shall pay a fee of \$100; and

7 (3) a person who applies for reinstatement of a driver's license  
8 under AS 28.15.211 shall pay a fee of \$250.

9 \* Sec. 6. APPLICABILITY. This Act applies to violations of AS 04.16.050 or AS 11.71  
10 that occur on or after the effective date of this Act.

11 \* Sec. 7. This Act takes effect July 1, 1994.

AMENDMENT

*withdrawn*

1a

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: HB 299(JUD):

Page 1, line 14 after " , ":

Delete "and"

Page 2, line 2 after "driving":

Delete "."

Insert "; and'

Page 2, after line 2:

Insert "(7) because studies show increases in alcohol excise taxes are a substantial deterrent to youths abusing alcohol, the Alaska State Legislature should increase the state alcohol excise tax."

AMENDMENT 2

*part*

OFFERED IN THE HOUSE  
TO: CSHB 299(JUD)

BY REPRESENTATIVE BROWN

#1  
adopted

Page 2, line 8, after "AS 04.16.050":

Insert "and the peace officer has cited the person or arrested the person for a violation of AS 11.71 or AS 04.16.050"

~~#5~~

Page 3, line 19:

Delete "The"

Insert "Except as provided under (h) of this section, the"

~~with~~

Page 3, line 22:

Delete "and paid for"

#2

Page 3, line 23:

Delete "an"

Insert "a state approved"

Page 3, line 26, after "a":

Insert "state approved"

Page 3, after line 27:

Insert a new subsection to read:

#3  
~~Amended #5~~

"(h) The provisions of (g) of this section do not apply to a person who is required to obtain drug or alcoholism treatment and who resides in an area that does not offer the required state approved drug rehabilitation or alcoholism education and rehabilitation program."

*when drug rehab or alcohol education is unavailable*

Reletter the following subsection accordingly.

*#3 Hqg  
deleted*

Page 7, line 8:

Delete "\$250"

Insert "\$100"

#3

adopted

Maclean

AMENDMENT

OFFERED IN THE HOUSE .  
TO: CSHB 299(JUD)

BY REPRESENTATIVE ~~DARSON~~

Page 7, line 8:

Delete "\$250"

Insert new subparagraphs to read:

"(A) \$100 if the person's driver's license has, within the 10 years preceding the application, been suspended, <sup>or limited</sup> or revoked, under the provisions of this chapter only once: or

(B) \$250 if the person's driver's license has, within the 10 years preceding the application, been suspended, <sup>or limited</sup> or revoked, under the provisions of this chapter two or more times"

~~6250~~

AMENDMENT 4 withdraw

OFFERED IN THE HOUSE

BY REPRESENTATIVE BROWN

TO: HB 299(JUD):

Page 1, line 5 after "FINDINGS":

Delete "."

Insert "AND INTENT."

Page 2, after line 2:

HFC  
let of JW  
CS(299) Au)

"It is the intent of the Alaska Legislature that new general fund program receipts provided by increases in the driver's license reinstatement fee be divided equally between the Department of Public Safety and the Department of Health and Social Services. The new program receipts received by the Department of Health and Social Services should be used for alcohol and drug abuse prevention and treatment programs specifically targeted at youth."

\_\_\_\_\_  
SLO      DATE      \_\_\_\_\_  
SLO      DATE

#5

A M E N D M E N T

OFFERED IN THE HOUSE  
TO: CSHB 299(JUD)

BY REPRESENTATIVE BROWN

adopted

Page 2, line 8, after "AS 04.16.050":

Insert "and the peace officer has cited the person or arrested the person for a violation of AS 11.71 or AS 04.16.050"

#5  
passing  
w/drawn

Page 3, line 19:

Delete "The"

Insert "Except as provided under (h) of this section, the"

Page 3, line 22:

Delete "and paid for"

40 or \$45 fee

B

Page 3, line 23:

Delete "an"

Insert "a state approved"

the dept  
may waive  
this if

Page 3, line 26, after "a":

Insert "state approved"

Page , after line 27:

Insert a new subsection to read:

~~(h)~~ <sup>The department may waive if</sup> The provisions of (g) of this section ~~do not apply to~~ a person who is required to obtain drug or alcoholism treatment ~~and who~~ <sup>where</sup> resides in an area ~~that does~~ <sup>is unavailable</sup> not offer the required state approved drug rehabilitation or alcoholism education and rehabilitation program."



# Alaska State Legislature

HOUSE OF REPRESENTATIVES

*Committee on Finance*

Official Business

P.O. Box V  
State Capitol  
Juneau, Alaska 99811

HOUSE FINANCE COMMITTEE

LETTER OF INTENT

FOR

CS HB 299 (FIN)

"It is the intent of the Alaska Legislature that new general fund program receipts provided by increases in the driver's license reinstatement fee be divided equally between the Department of Public Safety and the Department of Health and Social Services. The new program receipts received by the Department of Health and Social Services should be used for alcohol and drug abuse prevention and treatment programs specifically targeted at youth."

Ronald L. Larson 3/23/94  
Co-Chair Larson Date

EP MacLean 3/23/94  
Co-Chair MacLean Date



Official Business

# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

REPRESENTATIVE CYNTHIA TOOHEY

State Capitol  
Juneau, AK 99801-1182

DISTRICT 13

### SPONSOR STATEMENT

#### House Bill 299

**"An Act relating to revocation of a driver's license for illegal possession or use of a controlled substance or illegal possession or consumption of alcohol; and providing for an effective date."**

House Bill 299 is referred to as *"Use It-Lose It"* legislation.

There is no doubt that the dangerous association of controlled substances and alcohol with driving begins at an early age. It cannot be stressed enough that usage of alcohol or controlled substances causes a reduction of mental and physical capabilities and can severely impair one's ability to drive in a responsible manner. HB299 would provide the Department of Public Safety with a tool to help discourage youth from starting the dangerous and often fatal association of controlled substances and alcohol with driving.

Driving is a privilege looked forward to by all youngsters. Loss of this privilege can be a powerful deterrent. The intent of this bill is to provide the strongest possible incentive for our children to say "no" to controlled substances or alcohol. It gives youth a reason, that is acceptable to their peers, to say "no," while providing positive reinforcement to alcohol and drug-free teenagers by maintaining their eligibility to drive.

Under HB299, a minor who is old enough to have either a permit or license to drive would lose that license, permit, or privilege if said minor possessed, used, or consumed a controlled substance or alcohol. Revocation would be through an administrative proceeding.

This bill is supported by the Department of Public Safety, the Alaska Medical Association, the Alaska Council on Prevention of Alcohol and Drug Abuse, Alaskans for Drug-Free Youth, Mothers Against Drunk Driving, the Alaska Peace Officers Association, the Governor's Advisory Board on Alcoholism and Drug Abuse, the Ketchikan Mayor's Task Force on Substance Abuse, and the Alaska Association of Chiefs of Police. It has a fiscal note from the Department of Public Safety, but it is anticipated the revenue generated would more than cover the cost of the implementation. It would also enable the State to access additional federal funds. There is a zero fiscal note from the Department of Law. Your support would be appreciated.

Back-up

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

### MEMORANDUM

March 7, 1994

**SUBJECT:** Sectional Summary of CSHB 299(JUD)  
(Work Order No. 8-LS0961\X)

**TO:** Representative Cynthia Toohey

**FROM:** Michael F. Ford *M.F.*  
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

#### Section 1. Findings.

#### Section 2.

Sec. 28.15.183. Requires administrative revocation of a driver's license of a person who is at least 14, but not yet 21 years old, who has illegally consumed or possessed alcohol or a controlled substance. Establishes periods of mandatory revocation. Provides that revocation under this section is consecutive to revocation under another provision of law, except for a revocation under AS 28.15.185. Allows for the Department of Public Safety to grant limited license privileges.

Sec. 28.15.184. Provides for review of the administrative revocation before a hearing officer. If the illegal possession or consumption is proven by a preponderance of the evidence the revocation is required to be sustained. Provides for appeal of the hearing officer's decision to superior court.

Section 3. Technical amendment to remove a specified fee for reinstatement of a driver's license.

Representative Cynthia Toohey  
March 7, 1994  
Page 2

Section 4. Technical amendment to remove a specified fee for reinstatement of a driver's license.

Section 5. Imposes a fee of \$250 for reinstatement of a driver's license under AS 28.15.211.

Section 6. Applicability.

Section 7. Effective date.

MFF:gc  
94-171.glc



# ALASKA STATE MEDICAL ASSOCIATION

4107 Laurel Street • Anchorage, Alaska 99508-5334 • (907) 562-2662

February 15, 1994

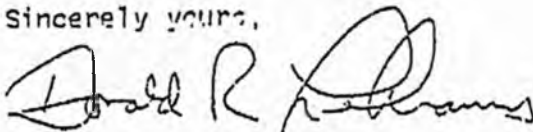
Representative Cynthia Tohey  
Alaska State Legislature  
P. O. Box V (MS 3100)  
Juneau, AK 99811

Dear Representative Tohey:

On behalf of the Alaska State Medical Association I would like to offer you our organization's strongest support for your committee substitute for House Bill #299. As physicians we are well aware of the trauma alcohol and drugs inflict upon Alaskans. These problems often begin while our youth are in their teens and this bill will serve as a ringing wake-up call that substance abuse has serious consequences and will not be tolerated. This bill is elegant in its simplicity and will be eloquent in its message once under-age drivers realize that substance abuse is incompatible with driving privileges. When enacted, this bill will be a model for other states to deal with this problem.

I thank you and your staff for your hard and thoughtful work on this bill. If I can be of any assistance to you in its passage, do not hesitate to contact me. If my testimony would ever be helpful, I would be happy to assist you.

Sincerely yours,



Donald R. Lehmann, M.D., A.B.F.P.  
President, Alaska State Medical Association

DRL:bj

## Alaska Association Chiefs of Police



February 15, 1994

Representative Cynthia Toohey  
Room 104  
State Capital Building  
Juneau, Alaska, 99801-1182

Dear Representative Toohey:

On behalf of the Alaska Association of Chiefs of Police I would like to offer our support for CSHB 299 (work draft of 2/11/94).

The number of teenagers killed while drinking and driving is an endless and ever increasing tragedy in today's society. In Alaska, where the illegal use of drugs and alcohol by minors is significantly higher than other parts of the country, the number of dysfunctional teens seems to be growing at an alarming rate.

The standard law enforcement approach of arrest and incarceration for possession or consumption has not solved or reduced this growing problem. (In the case of teens under the age of eighteen (18) it is simply a ride home with a later court appearance.) Education and counseling, along with innovative incentives is the only hope for reducing this behavior. Revocation of a minor's drivers license for any illegal possession or consumption, regardless of whether a vehicle was involved, is an extremely innovative approach to a very old problem. Because driving is such a cherished past time with most young people, the threat of losing this privilege may be the catalyst needed for some to finally "just say no".

If we can be of any assistance in the passage of this bill please let me know.

Very truly yours,

A handwritten signature in black ink, appearing to read "Ronald L. Otte". The signature is written in a cursive style with a large initial "R" and a long horizontal stroke at the end.

Ronald L. Otte  
President

RLO/lp

DRUG FREE YOUTH



WILL MAKE  
A STRONG AMERICA

# Alaskans For Drug-Free Youth

## Statewide Headquarters

2417 Tongass, Suite #114, Ketchikan, Alaska 99901  
Phone: 907-247-2273, 1-800-478-2273, fax 907-247-2232

February 15, 1994

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The Honorable Cynthia Toohey  
State Capitol  
Juneau, AK 99801-1182

Dear Representative Toohey:

Thank you for sending us the latest draft of HB 299. Our organization fully supports the "Use It - Lose It" administrative revocation of minors' permits and licenses. We believe this will be a very cost effective tool for law enforcement and more importantly, will provide our young people with a reason not to drink and use other drugs.

If there is one thing teenagers have in common, it is that they are all anxious to have a drivers license. The threat of losing it should make them think twice about taking a drink.

We are also interested in incorporating a .00 BAC for those under 21 years old. If it is possible to amend this bill to include that provision, we would appreciate it. We will continue to advocate for it in any case.

Thank you for being responsive to our suggestions for changes to your bill. If there is anything else we can do to help, please let us know. Lynda Adams will be back in the office next week and will be happy to answer any questions you may have.

Sincerely,

Cheri Davis,  
Development Director





ALASKA COUNCIL ON

# PREVENTION

OF ALCOHOL AND DRUG ABUSE, INC.

Founded 1962

February 15, 1994

Representative Cynthia Toohey  
House of Representatives  
State Capitol, Room 104  
Juneau, AK 99801-1182

Dear Representative Toohey,

Thank you for informing me about C.S. House Bill 299 draft dated February 11, 1994. The data you are about to read comes from the Robert Wood Johnson Foundation report dated October 1993. Prepared by the Institute for Health Policy, Brandeis University entitled *Substance Abuse the Nations Number One Health Problem, Key Indicators for Policy*. I am in support of this bill for the following reasons:

- Adolescent is a period of experimentation with substance use and teenagers are particularly at risk for being involved with alcohol and drug related vehicle injuries.
- Traffic crashes remain the single greatest cause of death among American youth and young adults and almost half of all traffic fatalities are alcohol-related.
- Diverse efforts under way in communities across the country including prompt license suspension, sobriety police checks, zero tolerance for underage drivers and public education have had an impact on alcohol impaired driving decline.
- The public supports stringent sanctions against driving while intoxicated and according to a national poll would like to see tougher enforcement of drinking age laws (64%) automatic license suspension for the first offense (89%) and automatic confiscation of plates for the second offense (89%).



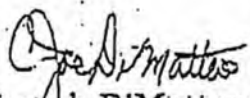
Representative Tooley  
February 15, 1994  
Page two

- Alcohol in any quantity is a risk factor for young drivers and nearly 40% of 16 to 19 year old drivers in alcohol involved fatal crashes had a B.A.C. level under 0.10%.
- Early use is related to later problems. By the eighth grade 70% of adolescents have consumed alcohol.

The above statistics show that any intervention we create as a community for young people will save many lives. Tougher laws and higher prices on alcohol and tobacco have proven to be effective deterrents for substance use and abuse among young people.

I wish you success in getting House Bill 299 approved. If there is anything that I can do to help, please feel free to call me.

Sincerely,

  
Joseph DiMatteo  
Executive Director

/JDM

# ALASKA PEACE OFFICERS ASSOCIATION

State APOA Office • P.O. Box 240106 • Anchorage, Alaska 99524-0106 • (907) 277-0515



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February 23, 1994

MAR 2 1994

Representative Cynthia Toohey  
State Capitol  
Juneau, AK 99801-1182

Dear Representative Toohey,

The Alaska Peace Officers Association supports HB 299. We feel that drinking and driving under the influence of drugs or alcohol continues to be a matter of grave concern to the citizens of Alaska. People have come to understand and realize the high price we pay for such excesses. Finally, attitudes toward underage drinking and driving are becoming more critical. It is no longer a "rite of passage" for a young person to consume alcohol.

We agree with the intent of this legislation--to thwart underage drinking by limiting their privilege to drive if they possess or consume alcohol. The loss of this privilege will act as a strong deterrent to such acts.

Sincerely,

Michael A. Grimes  
Statewide President  
Alaska Peace Officers Association

LOTT & WESLEY GERRISH  
MEMORIAL

# M A D D

ANCHORAGE, ALASKA  
CHAPTER

MAILING ADDRESS:  
130 W. International Airport Rd., Suite J  
Anchorage AK 99518

(907) 258-MADD

BUSINESS ADDRESS  
130 W. International Airport Rd., Suite J  
Anchorage AK 99518

March 3, 1994

Rep. Toohey  
State Capitol  
Rm #104  
Juneau, AK 99801-1182

RE: "Bill #299 - Use It - Lose It"

Dear Representative Toohey:

The Anchorage Chapter of Mothers Against Drunk Driving supports the legislation to establish immediate license revocation for those juveniles who use controlled substances or consume alcohol.

Administrative license revocation has proven effective in reducing Driving Under the Influence offenses. It is constitutional, the U. S. Supreme Court, in "Mackey vs. Montrym: 2612,2620-21 (1979), has recognized that suspension of a drivers license prior to an administrative hearing is not a violation of due process so long as provisions are made for a swift post-suspension hearing.

MADD notes that an overloaded court system too often delays the judicial response to juvenile consumption or possession of a controlled substance. While awaiting their court date, many continue their actions with sometimes fatal results. On Labor Day, 1986, three (3) young people in Worcester County, Massachusetts, were killed by a 19-year old drunk driver who had been allowed to keep his license, even though he had more than .10% on a breath test a few days before. MADD chapters in Massachusetts united to help write a tough drunk driving bill in Massachusetts which became effective the following year.

The NHTSA, 1993 report on Drinking, Driving and other Drugs states that more than 43% of all 16- to -20 year-old deaths result from motor vehicle crashes. About half of these fatalities were alcohol-related crashes. Estimates are that 2,314 teenagers 16-20 years old died in alcohol related crashes in 1992.

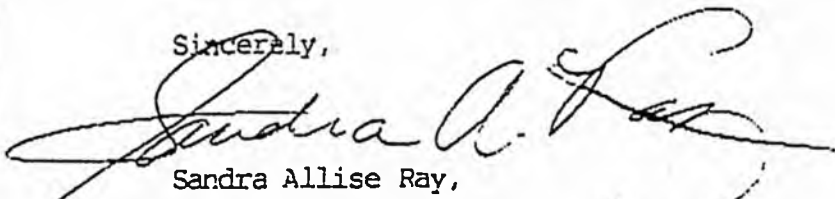
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ATTITUDES  
TOWARDS  
DRIVING AND

March 3, 1994  
Page Two

NHTSA, 1993 report states that approximately 60% of pedestrians 16 years and older killed in nighttime crashes had a BAC of .10 or greater. The statistics are alarming. Youthful drinking in Alaska and drug usage is not the exception, it is so ordinary that students I have personally spoken with, have advised me that our area high schools are actually the easiest place to buy drugs in the state. They report that they not only buy drugs in plain view, but they use in plain view.

As a retired police officer from the State of Florida and now the Executive Director of the Anchorage Chapter of MADD, I strongly urge the passage of this "Use It-Lose It" legislation. More stringent laws are needed to reduce the numbers of youthful consumption of alcohol and drugs. If we say it's illegal to possess it, we need a counter-measure which will effectively reduce the incidence. We must do more to prevent such needless loss of life and health. I sincerely believe that this law would constitute the strongest deterrent available to youthful drivers in Alaska. The best payoff is the contribution this legislation will make to our safety as we drive from place to place within Alaska.

Sincerely,



Sandra Allise Ray,  
Executive Director  
Scott & Wesley Gerrish Memorial Chapter  
Mothers Against Drunk Driving  
Anchorage, Alaska



Alaska Federation of Natives  
\*Sobriety Movement

March 10, 1994

Representative Toohey  
Alaska State Legislature  
House of Representatives  
State Capitol  
Juneau, AK 99801-1182

Dear Representative Toohey,

The AFN Sobriety Movement focuses on sobriety as the solution for many problems facing our people. The passage of House Bill 299 may well be an opportunity for early intervention with young people who are experiencing an alcohol or other drug addiction, thereby giving them a better chance for a successful treatment experience and hopefully saving them and the people around them from some of the devastating effects of alcohol and other drug abuse.

I believe that with the passage of House Bill 299, it will encourage sobriety\*, as it requires youth offending for the first time to participate in a treatment program for license reinstatement; and I support the passage of this bill.

Sincerely,

Greg Nothstine, Coordinator  
AFN Sobriety Movement

RVH

Sec. 04.16.050. Possession or consumption by persons under the age of 21. A person under the age of 21 years may not knowingly consume, possess, or control alcoholic beverages except those furnished persons under AS 04.16.051(b). (§ 3 ch 131 SLA 1980; am § 8 ch 109 SLA 1983)

Effect of amendments. — The 1983 amendment substituted "21" for "19."

#### NOTES TO DECISIONS

Cited in *M.O.W. v. State*, Ct. App. Op. No. 95 (File No. 4846), 645 P.2d 1229 (1982).

Sec. 28.20.240. Proof required when driving privilege is restricted. Whenever under a law of this state the license of a person is suspended, revoked, limited under AS 28.15.201, or canceled for any reason, the department may not issue to that person a new or renewal of license until permitted to do so under the motor vehicle laws of this state. A period of suspension, revocation, or cancellation continues until proof of financial responsibility for the future is provided. Upon expiration of a period of limitation, the license remains revoked until proof of financial responsibility for the future is provided. (§ 26 ch 163 SLA 1959; am § 7 ch 78 SLA 1982; am § 12 ch 77 SLA 1983)

#### NOTES TO DECISIONS

A person convicted of operating a motor vehicle while under the influence of intoxicating liquor is required to furnish proof of his financial responsibility for the future. *Paulson v. National Indem. Co.*, 498 P.2d 731 (Alaska 1972). Cited in *Manderson v. State*, 655 P.2d 1320 (Alaska Ct. App. 1983).

Sec. 28.20.250. Action in respect to unlicensed person. (a) If a person does not have a license, but by final order or judgment is convicted of, or forfeits bail or collateral deposited to secure an appearance for trial for an offense requiring the suspension or revocation of license, or for driving a motor vehicle upon the highways without being licensed to do so, or for driving an unregistered vehicle upon the highways, a license may not be issued to the person unless the person gives and thereafter maintains proof of financial responsibility for the future.

(b) Whenever the department suspends or revokes a nonresident's operating privilege for conviction or forfeiture of bail, the privilege remains suspended or revoked unless the person has previously given or immediately gives proof of financial responsibility for the future. (§ 27 ch 163 SLA 1959)

#### NOTES TO DECISIONS

Effect of application. — AS 28.20.160 and this section provide simply that the unlicensed driver subject to those laws "may not be licensed" until certain conditions are met; they do not use the language of "suspending" or refer to any "privilege" the unlicensed driver may have had. *Francis v. Municipality of Anchorage*, 641 P.2d 226 (Alaska Ct. App. 1982).

Sec. 28.15.185. Court revocation of a minor's license to drive.

(a) A person who is at least 13 years of age but not older than 17 years of age who is adjudicated by a juvenile court of misconduct involving a controlled substance under AS 11.71 or possession or consumption of alcohol under AS 04.16.050 is subject to revocation of the person's driver's license under (b) of this section.

(b) The court shall impose the revocation for an offense described in (a) of this section as follows:

(1) for a first conviction or adjudication, the revocation may be for a period not to exceed 90 days;

(2) for a second or subsequent conviction or adjudication, the revocation may be for a period not to exceed one year.

(c) Upon conviction or adjudication of an offense listed in (a) of this section the court may, upon petition of the person, review the revocation and may restore the driver's license, except a court may not restore the driver's license until

(1) at least one-half of the period of revocation imposed under this section has expired; and

(2) the person has taken and successfully completed a state approved program of drug rehabilitation if convicted of misconduct involving a controlled substance under AS 11.71, or alcohol rehabilitation if convicted of possession or consumption of alcohol under AS 04.16.050; this paragraph does not apply to a person who resides in an area that does not offer a state approved drug or alcohol rehabilitation program or a person that the court determines does not need alcohol or drug rehabilitation.

(d) Notwithstanding the provisions of AS 28.20.240 and 28.20.250, upon conviction of an offense specified in (a) of this section, the department may not require proof of financial responsibility before restoring or issuing the person's driver's license. (§ 1 ch 130 SLA 1988)

Sec. 28.05.141. Hearings and appeals. (a) Unless otherwise specifically provided, all hearings required under this title or regulations adopted under this title shall be conducted by the department under regulations adopted by the commissioner governing practice and procedure and consistent with due process of law. Hearings must be informal, and technical rules of evidence do not apply. A person who requests a hearing may retain an attorney. The hearing officer shall be appointed by the commissioner and may be appointed from the department. A hearing officer need not be an attorney, but must be impartial and may not have participated in the decision that is under review. The hearing officer does not have to file a full opinion or make formal findings of fact or conclusions of law, but the hearing officer must state the reasons for the determination and indicate the evidence relied upon. The proceedings at the hearing shall be recorded.

\* (b) A hearing ordered under (a) of this section shall be held at the office of the department nearest to the residence of the person requesting the hearing unless the department and the person agree that the hearing is to be held elsewhere. The department shall grant a hearing delay if the person presents good cause for the delay. If a person fails to appear for the hearing at the time and place stated by the department and if a hearing delay has not been granted, the person's failure to appear is considered a waiver of the hearing and the department may take appropriate action with respect to the person.

(c) If at the hearing under (a) of this section it appears that the record of the person sustains suspension, revocation, limitation, denial, or other remedial action, the hearing officer shall so order and the department may suspend, revoke, limit, deny, or take other remedial action against that person's license, registration, or title and, if appropriate, the department shall adjust the person's point total accumulated under AS 28.15.131.

(d) A person aggrieved by the decision of the hearing officer may, within 30 days, initiate a proceeding in district court to rescind the department's action by filing a notice of appeal in accordance with the applicable rules of court governing appeals in civil matters. The court shall conduct a hearing de novo. The decision of the department suspending, revoking, canceling, limiting, restricting, or denying a license, registration, title, permit, or privilege is stayed and does not take effect during the pendency of an appeal. (§ 6 ch 178 SLA 1978; am § 2 ch 60 SLA 1986)

Cross references. — For rules of court relating to appeals from administrative proceedings, see App. Rules 601-611.

Effect of amendments. — The 1986 amendment in subsection (c) inserted ", registration, or title."

#### NOTES TO DECISIONS

This section does not apply to a revocation of a license under AS 28.35.032. *Graham v. State*, 633 P.2d 211 (Alaska 1981).

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

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

- (1) require certification of employment;
- (2) require proof of enrollment in and compliance with or completion of an alcoholism treatment program when appropriate;
- (3) require the surrender of the driver's license; and
- (4) issue to the licensee a certificate valid for the duration of the limitation.

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

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

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

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

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

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

(5) the court or the department determines that the person is enrolled in and is in compliance with, or has successfully completed, an alcoholism education and rehabilitation treatment program. (§ 19 ch 178 SLA 1978; am §§ 10, 11 ch 117 SLA 1982; am §§ 8, 9 ch 77 SLA 1983; am §§ 16 — 18 ch 119 SLA 1990; am § 12 ch 3 SLA 1992; am § 4 ch 59 SLA 1993)

Revisor's notes. — In 1990, the word "five" was substituted for "six" in the last sentence of (d) of this section to correct a manifest error in § 18, ch. 119, SLA 1990.

Effect of amendments. — The 1990 amendment, effective January 1, 1991, inserted "or a hearing officer under AS 28.15.165" in the first sentence and added the provision relating to considerations in determining whether to grant limited license privileges in subsection (a); inserted "or hearing officer" in subsection (b); and added subsections (d)-(f).

July 1, 1993." Section 12(b), ch. 59, SLA 1993 provides that "[s]tatutes amended or added by this Act that refer to previous convictions apply according to

The 1992 amendment, effective April 1, 1992, rewrote subsection (f).

The 1993 amendment, effective July 1, 1993, rewrote this section.

Editor's notes. — Section 30, ch. 3, SLA 1992 provides that for the purposes of the amendment made to (f) of this section by § 12, ch. 3, SLA 1992, convictions for offenses committed before April 1, 1992 are considered previous convictions.

Section 12(a), ch. 59, SLA 1993 provides that the 1993 amendment of this section "applies to offenses that are committed af-

ter the terms of those statutes whether the previous convictions occurred before, on, or after July 1, 1993."

#### NOTES TO DECISIONS

Issuance of limited licenses. — This section affirmatively vests the courts with ongoing power to issue a limited license, provided that issuance of such license is not prohibited under a provision of law in effect when the limited license is requested. *Howell v. State*, 834 P.2d 1254 (Alaska Ct. App. 1992).

Although subsections (d) and (e) specifically authorize the issuance of limited licenses to drivers whose license is revoked for DWI/refusal convictions, nothing in subsection (a) restricts the issuance of limited licenses only to such drivers. *Howell v. State*, 834 P.2d 1254 (Alaska Ct. App. 1992).

Application held not retroactive. — Where defendant, whose driver's license

had been revoked, moved for the issuance of a limited license, in reliance on newly amended language in this section, and did so within the time limitations of R. Crim. P. 35(a), it was error for the trial court to rule the issuance of such license was precluded by AS 01.10.101 (relating to effect of repeals or amendments) because defendant had been sentenced prior to the amended provision's effective date. Application of this provision prior to the effective date of the amendment was not a retroactive application of an amendment to the sentencing scheme promulgated under AS 28.15.181(d) and 28.15.291(c). *Howell v. State*, 834 P.2d 1254 (Alaska Ct. App. 1992).

Sec. 28.15.211. Periods of limitation, suspension or revocation; opportunity for hearing and surrender of license. (a) Except for a point system suspension or revocation under AS 28.15.221 — 28.15.241 and unless provided otherwise by law, and unless the suspension or revocation was for a cause that has been removed, a person whose driver's license, privilege to drive, or privilege to obtain a license has been suspended or revoked may not apply for a new license, and the person's driving privilege may not be restored, until the expiration of

(1) one month from the date on which the license, privilege to drive, or privilege to obtain a license was suspended or revoked for a first conviction of the particular offense from which the suspension or revocation resulted;

(2) three months from the date on which the license, privilege to drive, or privilege to obtain a license was suspended or revoked for a second conviction within 12 consecutive months of the same offense from which the suspension or revocation resulted;

(3) one year from the date on which the license, privilege to drive, or privilege to obtain a license was suspended or revoked for a third or subsequent conviction within 12 consecutive months of the same offense from which the suspension or revocation resulted.

(b) A limitation, suspension, or revocation of a driver's license, privilege to drive, or privilege to obtain a license imposed by a court takes effect on the date of final judgment, except that if another limitation, suspension, or revocation is in effect on the date of final judgment, the effective date of the last imposed limitation, suspension, or revocation is at the end of the last day of the previous limitation, suspension, or revocation unless the court specifies otherwise.

(c) At the end of a period of suspension or limitation, when that limitation follows a suspension, the person whose license has been suspended or limited may apply to the department and, upon payment of the proper fees, including a reinstatement fee of \$100, be issued a duplicate driver's license if the person is otherwise entitled to the license under this title.

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

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

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

(e) At the end of a period of limitation, suspension, or revocation under this chapter, the department may not issue a driver's license or a duplicate driver's license to the licensee until the licensee has complied with AS 28.20 relating to proof of financial responsibility.

(f) Unless otherwise provided by law, periods of limitation shall be made at the discretion of the court. (§ 19 ch 178 SLA 1978; am § 12 ch 117 SLA 1982; am § 25 ch 77 SLA 1983; am § 7 ch 70 SLA 1984; am §§ 19, 20 ch 119 SLA 1990; am § 5 ch 59 SLA 1993)

**Effect of amendments.** — The 1990 amendment, effective January 1, 1991, substituted "or privilege to obtain a license" for "a motor vehicle in this state" in the first sentence in subsection (a); inserted "privilege to drive, or privilege to obtain a license" in paragraphs (a)(1)-(a)(3) and in subsection (b); and made minor stylistic changes.

The 1993 amendment, effective July 1, 1993, in subsection (d), added "and if the license was revoked under AS 28.15.181(a)(5) or (8), submit proof of" to

the end of the introductory language and added paragraphs (1) and (2).

**Editor's notes.** — Section 12(a), ch. 59, SLA 1993 provides that the 1993 amendment to (d) of this section "applies to offenses that are committed after July 1, 1993." Section 12(b), ch. 59, SLA 1993 provides that "[s]tatutes amended or added by this Act that refer to previous convictions apply according to the terms of those statutes whether the previous convictions occurred before, on, or after July 1, 1993."

Sec. 28.15.271. Fees. (a) The fees for drivers' licenses and permits, including but not limited to renewals, and all related driver skills tests are as follows:

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

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

(1) a person who renews a driver's license by mail shall pay a fee of \$1; and

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

(c) The fee for a driver skills test must be paid at the time an appointment for the skills test is made or before the skills test is given, whichever is earlier. The department may not refund a driver skills test fee if the applicant cancels the appointment, fails to appear at the appointed day and time, or fails to pass the skills test.

(d) *[Repealed, § 28 ch 90 SLA 1991.]* (§ 19 ch 178 SLA 1978; am § 16 ch 60 SLA 1986; am § 3 ch 32 SLA 1988; am §§ 1, 2 ch 53 SLA 1990; am § 28 ch 90 SLA 1991; am § 4 ch 50 SLA 1993; am § 6 ch 59 SLA 1993)

**Effect of amendments.** — The 1990 amendment, effective January 1, 1991, inserted "and all related driver skills tests" in the introductory paragraph of subsection (a); rewrote paragraphs (a)(1) and (a)(2); substituted "driver's endorsement renewal" for "driver's permit" in paragraph (a)(6); and added subsections (c) and (d).

The 1991 amendment, effective July 3, 1991, repealed subsection (d).

The first 1993 amendment, effective July 1, 1993, increased the fees listed in subsection (a).

The second 1993 amendment, effective July 1, 1993, in subsection (b), added the paragraph (1) designation, substituted "pay" for "be charged" in that paragraph, added paragraph (2), and made a related stylistic change.