

**HB**

**2024**

TONY KNOWLES  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

3031  
P O Box 110001  
Juneau, Alaska 99811-0001  
1907 465-3500  
Fax (907) 465-3532

HD 204

February 27, 1995

The Honorable Gail Phillips  
Speaker of the House  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear Speaker Phillips:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to minors operating vehicles after consuming alcohol. Despite our best efforts to date, the number of drunk drivers continues to rise in Alaska. The state needs new tools to respond to the problem of drunk driving.

An important step in making our roads and other avenues of transportation safe is to focus on high-risk drivers and let the police take them off the road before tragedy strikes. Two particularly high-risk groups of drivers are those who operate commercial motor vehicles and minors. The legislature addressed commercial motor vehicle operators in 1992, passing stringent laws that keep commercial drivers off the roads when they are under the influence of alcohol. The time has come to do the same with underage drivers, who generally are not allowed under the law to possess or consume any alcohol.

This bill establishes a "zero tolerance level" for minors who consume alcohol and then operate a motor vehicle, aircraft, or watercraft. It does this by creating three new criminal violations: "minor operating a vehicle after consuming alcohol," "minor's refusal to submit to a chemical test," and "driving within the 24 hours after being cited for minor operating a vehicle after consuming alcohol."

These new offenses are only infractions and cannot result in jail time being imposed. Instead, the penalty is a fine of not more than \$1,000, an order that the minor perform community work service, or a combination of the two. An important feature of the proposed new law is that the minor can be taken off the road and to a police station or other location for the administration of a chemical test to determine the presence of

SUPPORTING DOCUMENTS

The Honorable Gail Phillips  
February 27, 1995  
Page 2

alcohol in the minor's blood or breath. If the minor refuses to take the test, that is a separate infraction, much like the misdemeanor crime of refusal we have for driving-while-intoxicated cases.

This bill's amendments to AS 28.15.183 and 28.15.184 would make the minor's driver's license or permit, privilege to drive, or privilege to obtain a license subject to administrative revocation under those "use it, lose it" statutes.

Under the bill, a minor who is cited for driving after consuming alcohol is prohibited from operating a motor vehicle, aircraft, or watercraft during the 24 hours after the citation is issued. This will help ensure that the minor stays off the road or other avenues of transportation while under the influence of alcohol.

I urge your favorable action on this bill.

Sincerely,



Tony Knowles  
Governor

**MADD**Telephone: (907) 522-6233  
FAX: (907) 522-6234

Mothers Against Drunk Driving

Anchorage Chapter  
615 East 82nd Avenue, Ste. B 1  
Anchorage, AK 99518-3157

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20 February 1996Representatives Mark Hanley & Richard Foster  
Co-Chairs, House Finance Committee  
State Capitol  
Juneau, Alaska 99801-1182

Dear Representatives Hanley &amp; Foster:


I write on behalf of our members, the Board of Directors, victims of drunk driving and all of us potential victims. We strongly support Governor Knowles' six-point anti-crime package, particularly the sections dealing with the alcohol problem. At this time I am particularly referring to HB 204.

Trusting we get our background data from the same sources, I will refrain from reciting a long list of familiar statistics. Suffice to acknowledge the tragedy that half the accidental deaths of our youth are alcohol or other drug related. We all must be ever vigilant in finding ways to eliminate this shameless waste of young talent. HB 204 is another step in that direction. It also seems to tie in well with "use it/lose it" and gives law enforcement officials a more specific law with which to deal with offenders under 21. Calls to this office from the general public very frequently address the youth and substance abuse problem.

As I interpret HB 204, it would essentially enact what is commonly called a "Zero Tolerance" statute. It simply makes rational sense since the use or possession of alcohol by anyone under 21 years of age is already illegal.

Your committee's positive acceptance and action on this bill will be loudly applauded by MADD.

Sincerely,

  
David H. Herndon  
Executive Director

Modifying Attitudes toward Drinking and Driving

SUPPORTING DOCUMENTS



February 20, 1996

Representative Mark Hanley  
House Finance Committee  
Room 507  
State Capitol  
Juneau, AK 99801-1182

Dear Representative Hanley,

On behalf of the Alaska Council on PREVENTION of Alcohol and Drug Abuse, I would like to offer our complete support for HB 204.

This important bill provides new tools to respond to the adolescent drinking and driving problem currently present in Alaska. A "zero-tolerance level" acknowledges that it is illegal for those under 21 to consume alcohol ever. It should not matter if their BAC is under .1 while operating a motor vehicle, aircraft, or watercraft. This bill allows for adolescents to be held accountable and responsible for their choice to use alcohol.

The Alaska Council supports all other aspects of this bill as it is written. We urge your favorable action on it. Thank you for your time and attention to this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'C-Joe DiMatteo', written over a horizontal line.

C-Joe DiMatteo  
Executive Director



## National Transportation Safety Board

Washington, D.C. 20594

March 29, 1995

Office of the Chairman  
Honorable Tony Knowles  
Governor  
State of Alaska  
P. O. Box 110001  
Juneau, Alaska 99811

DEPT. OF LAW

APR 03 1995

CRIMINAL DIVISION

**RECEIVED**

APR 03 1995

Attorney General's Office  
Juneau

Dear Governor Knowles:

It is my understanding that you have proposed legislation making it illegal for any minor to operate a vehicle after consuming alcohol. I am pleased that you are addressing the problem of alcohol-involved crashes among young drivers. Let me share with you the findings and recommendations of the National Transportation Safety Board regarding young drivers.

Young drivers are over-represented in traffic crashes and deaths. In 1990, drivers aged 15-20 years comprised only 7.1 percent of licensed drivers, but accounted for 14.9 percent of all driver fatalities. Further, while young drivers do only 20 percent of their driving at night, over half the crash fatalities of adolescent drivers occur during nighttime hours. First-year drivers (primarily ages 16 and 17) have twice the average number of crashes and, on a miles-driven basis, four times the number of crashes involving more experienced drivers.

After analyzing a large body of research involving young driver highway accidents and actions to prevent crashes by young drivers, the Safety Board has called for a major reassessment by the states to reduce crashes among drivers under 21. Nearly 20 years ago, safety researchers identified two major factors that contribute to the high fatality rate among youth: their lack of driving experience and their tendency to engage in risk-taking behavior. When alcohol is added to this already dangerous situation, the traffic risks are greatly enhanced.

The Safety Board's experience shows that the most effective deterrents are tough and fair laws as well as energetic enforcement combined with intensive and targeted education campaigns. Therefore, the Safety Board recommended adoption of a series of state legislative and policy actions that can be effective in reducing automobile crashes involving young drivers. Among these is the enactment of a comprehensive law that prohibits drivers under the age of 21 from driving with any measurable blood alcohol concentration.

Many States permit drivers under age 21 to drive legally with alcohol in their system, as long as their BAC does not exceed the State's adult legal limit (usually 0.10 percent). One study concludes, "Although young people drink and drive less often than people of other age groups, the young who do choose to drink and drive

are at significantly higher risk of fatal crash than other age groups of drinking drivers." The Safety Board believes that underage drivers with any measurable alcohol should not drive.

To combat the underage drinking-driving problem, by the end of last year, 30 States had enacted laws to prohibit vehicle operation by underage drivers with a BAC level lower than the BAC level specified for drivers over 21.

A law lowering the BAC for underage drivers has been found to be effective in reducing nighttime fatal crashes among teenagers in Maine, even though only 40 to 50 percent of teenagers knew about the law. A study of the Maryland 0.02 percent BAC law found statistically significant reductions (a minimum 11 percent reduction) in alcohol-related crashes in the affected age group. When combined with a public information and education campaign, the Maryland law resulted in a nearly 50 percent reduction in underage alcohol-related crashes over a 2-year period, 1989-1990.

Laws reducing the legal BAC for youth can be strengthened by imposing administrative license revocation when they are arrested with any measurable BAC. State laws should be enacted to administratively suspend or revoke the driver's license of an alcohol-positive driver who is under the age of 21. Further, enforcement and public information efforts should accompany implementation of these laws. Often, when impaired driving law sanctions are implemented through the judicial process, penalties are imposed very slowly or not at all, especially where juvenile courts have jurisdiction. A substantial body of research supports the effectiveness of both administrative adjudication and license revocation in reducing crashes among drivers of all ages. The driver's license is an important possession for a young person, and it is reasonable to expect a significant benefit from revoking the license of underage drivers caught driving with any measurable BAC.

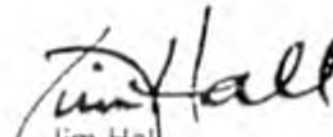
The Uniform Vehicle Code published by the National Committee on Uniform Traffic Laws and Ordinances contains a model law, Section 6-208, that provides guidance in drafting license revocation legislation for persons under 21 (copy enclosed). However, the Safety Board supports a zero alcohol tolerance for young drivers rather than the 0.02 percent level contained in Section 6-208. States that have laws with a BAC of 0.00 or 0.02 percent for young drivers are significantly more effective in reducing youth fatalities than are States that have laws with higher BACs (0.04, 0.05 or 0.06 percent). States that have zero tolerance laws for underage drivers appear to be more effective in reducing youth fatalities than States with a 0.02 percent BAC law for young drivers.

Our young people are this nation's most valuable resource. Too many of them are being killed and injured in highway crashes. We need to act forcefully now to reduce this loss and to continue the gains that were made during the early 1980's. Thus, the Safety Board strongly supports legislation lowering the allowable blood alcohol limit for drivers under age 21.

The National Transportation Safety Board is an independent Federal agency charged by Congress to investigate transportation accidents, determine their probable cause and make recommendations to prevent their recurrence. The Safety Board also conducts special studies of significant transportation safety problems. The recommendations that arise from our investigations and safety studies are our most important product.

Enclosed is a copy of the Safety Board's recommendation letter to the States. Please do not hesitate to contact me if you would like further information about these recommendations, or if there is any other way that the National Transportation Safety Board can be of assistance to you.

Sincerely,

  
Jim Hall  
Chairman

Enclosures

cc: Attorney General Bruce Botelho ✓

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

No. 1  
Bill Version:                       
(H) Public Date: 7/27/95

Revision Date:                       
Title: An Act relating to a minor operating vehicle after alcohol consumption.  
Sponsor: Governor  
Requestor:                     

Department Affected: Administration  
BRU: Office of Public Advocacy  
Component: Office of Public Advocacy  
  
COMPONENT SERIAL NO. 43

**EXPENDITURES/REVENUES:**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	00	00	00	00	00	00
<b>CAPITAL EXPENDITURES</b>	0	0	0	0	0	0
<b>CHANGE IN REVENUES ( )</b>	0	0	0	0	0	0

**FUND SOURCE:**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF MHTIA						
OTHER						
<b>TOTAL</b>	00	00	00	00	00	00

Estimate of any current year (FY 95) cost: \$ 0-

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary.)

There is no fiscal impact.

Prepared by: Brian McGee  
Division: Office of Public Advocacy

Phone: 274-1684  
Date: 2-17-95

Approved by Commissioner: Mark Boyer  
Agency: Department of Administration

Date: 2-17-95

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# FISCAL NOTE

No.         
 Version: HB 204  
 (H) Publish Date: 2/27/95

STATE OF ALASKA  
 1995 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
 Title: An Act relating to the administrative revocation of a  
minor's license to drive  
 Sponsor: \_\_\_\_\_  
 Requestor: \_\_\_\_\_

Department Affected: Administration  
 BRU: Public Defender Agency  
 Component: Public Defender Agency  
 COMPONENT SERIAL NO. 1531

**EXPENDITURES/REVENUES:**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CHANGE IN REVENUES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**FUND SOURCE:**

(Thousands of Dollars)

FUND SOURCE	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY 95) cost: \$ 0

**POSITIONS:**

POSITIONS	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary.) There are two variables which will determine impact: 1) the number of projected arrests related to these newly created infractions and 2) a legal determination regarding the right to legal representation for said infractions. Ordinarily an individual is not entitled to public counsel services for mere infractions. On the other hand, the possible sanctions go beyond the normal range for infractions to include loss of driver's license. As such, it is an open question regarding court-appointed legal representation and therefore fiscal impact, if any.

Prepared by: John B. Salvo, Director  
 Division: Public Defender Agency

Phone: (907) 264-4412  
 Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer  
 Agency: Department of Administration

Date: 2/22/95

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# FISCAL NOTE

No. 3  
 Bill Version: HB 204  
 (H) Publish Date: 2/27/95

**STATE OF ALASKA  
 1995 LEGISLATIVE SESSION**

Revision Date: \_\_\_\_\_ Dept. Affected: Department of Law  
 Title: Administrative revocation of a minor's license BRU: Prosecution  
to drive... operating a motor vehicle after consuming alcohol... Component: All  
 Sponsor: Rules on Request of the Governor  
 Requester: Office of the Governor/OMB COMPONENT SERIAL NO. 0085-0090

**Expenditures/Revenues (Thousands of Dollars)**

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES						
--------------------	--	--	--	--	--	--

**FUND SOURCE (Thousands of Dollars)**

FUND SOURCE	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

**POSITIONS**

POSITIONS	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

**ANALYSIS: (Attach a separate page if necessary)**

This bill amends As 28 to establishes a "zero tolerance level" for minors who consume alcohol and then operate a motor vehicle, aircraft, or watercraft by creating three new criminal violations: "minor operating a vehicle after consuming alcohol", "minor's refusal to submit to a chemical test," and "driving within the 24 hours after being cited for minor operating a vehicle after consuming alcohol." These new offenses would be infractions and would not result in jail time being imposed. However, the penalty would be a fine of not more than \$1,000, an order that the minor perform community work service, or a combination of the two. The bill also provides that a minor convicted of these violations will also be subject to administrative revocation of the minor's driver's license under the state's "use it, lose it" statutes. The bill will not have a fiscal impact for the Department of Law because infractions are presented in district court by the arresting officer, which does not require the presence or assistance of a prosecutor.

Prepared by: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Division Date: 2/17/95  
 Approved by Commissioner: Bruce M. Botwin, Attorney General Date: 2/17/95  
 Agency: Department of Law

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# FISCAL NOTE

**STATE OF ALASKA**  
**1995 LEGISLATIVE SESSION**

**BILL NO**

No. 2  
Bill Version: 48 204  
(H) Publish Date: 1/27/95

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
Title: An Act relating to alcohol related driving offenses of minors... BRU: Alaska State Troopers  
Sponsor: Governor Component: Detachments  
Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 0799

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

	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
<b>OPERATING</b>						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0-	0-	0-	0-	0-	0-
<b>CAPITAL EXPENDITURES</b>	0-	0-	0-	0-	0-	0-
<b>CHANGE IN REVENUES ( )</b>	0-	0-	0-	0-	0-	0-
Revenue Code						

**FUNDING: (Thousands of Dollars)**

*002 Federal Receipts						
*003 GE Match						
*004 GE						
*005 GE Program Receipts						
*006 GE MHTA						
Other						
<b>TOTAL</b>	0-	0-	0-	0-	0-	0-

Estimate of current year (FY 95) impact: \$ \_\_\_\_\_

**POSITIONS:**

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

**ANALYSIS (Attach a separate page if necessary.)**

This bill would not impact the programs of the Alaska State Troopers. Currently, troopers are enforcing the alcohol laws as they pertain to minors including serving revocation notices to drivers.

Prepared By: 1st Sgt. Joe D'Amico Phone: 289-5412  
Division: Alaska State Troopers Date: 2/21/95  
Approved by Commissioner: *Ronald L. Otto* Date: 2/21/95  
Agency: Ronald L. Otto, Dept. of Public Safety

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# FISCAL NOTE

**STATE OF ALASKA**  
**1995 LEGISLATIVE SESSION**

No. \_\_\_\_\_  
 Bill Version: \_\_\_\_\_  
 BILL NO: (H) Publist Date: \_\_\_\_\_

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: An Act relating to alcohol related driving BRU: Motor Vehicles  
offenses of minors... Component: Driver Services  
 Sponsor: Governor  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 0500

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

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL EXPENDITURES</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CHANGE IN REVENUES ( )</b>	-0-	-0-	-0-	-0-	-0-	-0-
Revenue Code						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GE Match						
1004 GE						
1005 GE Program Receipts						
1006 GE/MTA						
Other						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 95) impact: \$ \_\_\_\_\_

**POSITIONS:**

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

**ANALYSIS: (Attach a separate page if necessary.)**

This bill will not impact the programs of the Division of Motor Vehicles. Current law requires DMV to administratively revoke the driver's license for the offense of minor in possession or consumption of alcohol.

Prepared By: Juanita M. Henisey Phone: 465-2650  
 Division: Motor Vehicles Date: 2/21/95  
 Approved by Commissioner: *Ronald L. Otte* Date: 2/21/95  
 Agency: Ronald L. Otte, Dept. of Public Safety

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# FISCAL NOTE

No 6  
 B / Version: HB 204  
 B (H) Fiscal Date: 3/29/95

STATE OF ALASKA  
 1995 LEGISLATIVE SESSION

Session Date: \_\_\_\_\_ Dept. Affected: Alaska Court System  
 Title: No Drink Before Driving if Under 21 BRU: Trial Courts  
 Sponsor: House Rules by request of Governor Components: \_\_\_\_\_  
 Requester: \_\_\_\_\_ COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES		(Thousands of Dollars)					
OPERATING EXPENDITURES		FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES							
TRAVEL							
CONTRACTUAL							
SUPPLIES							
EQUIPMENT							
LAND & STRUCTURES							
GRANTS & CLAIMS							
TOTAL OPERATING		.	.	.	.	.	.
CAPITAL EXPENDITURES							
CHANGE IN REVENUES ( )							

FUND SOURCE		(Thousands of Dollars)					
1002 Federal Receipts							
1003 GF Match							
& GF		.	.	.	.	.	.
1005 GF/Program Receipts							
1006 GF/MHTIA							
Other							
TOTAL		.	.	.	.	.	.

POSITIONS							
FULL-TIME							
PART-TIME							
TEMPORARY							

Estimate of current year (FY 95) cost: \$ None

ANALYSIS: (Attach a separate page if necessary)

\* - see attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel *[Signature]* Phone: 264-8229  
 Agency: Alaska Court System Date: 03/24/95

Approved by: Arthur H. Snowden, II, Administrative Director *[Signature]* Date: 03/24/95  
 Agency: Alaska Court System

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# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. HB 462

Revision Date: \_\_\_\_\_ Dept. Affected: Department of Law  
 Title: "...relating to the offense of driving while BRU: Criminal Division  
intoxicated and refusal to submit to a chemical test..." Component: Criminal Division  
 Sponsor: Representative Porter  
 Requester: Representative Porter COMPONENT SERIAL NO. 2085

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ 0.0

**POSITIONS**

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

This bill amends various statutes to conform to HB 159 approved last year, which treats third-time DWI offenders as felons. These include amending sentencing provisions when an offender fails to satisfactorily complete an alcohol treatment program, authorizes use of information received through the Alaska Public Safety Information Network regarding prior DWI convictions in grand jury proceedings, and provides that a presentence investigation is not required for a defendant convicted of felony DWI or felony refusal, unless the defendant is subject to presumptive sentencing as a repeat felony offender.

*Richard I. Pegues*

Prepared by: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Division Date: 2/21/96  
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 2/21/96  
 Agency: Department of Law

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# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. HB 204

Revision Date: 02/21/96 Dept. Affected: Alaska Court System  
 Title: No Drink before Driving if Under 21 BRU: Trial Courts  
 Sponsor: House Rules by request of Governor Component: \_\_\_\_\_  
 Requester: \_\_\_\_\_ COMPONENT SERIAL NO. 758

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES:	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

Fund Source (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL						

Estimate of any current year (FY 96) cost: None

Positions

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

\* - see attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel Phone: 284-8228  
 Agency: Alaska Court System Date: 02/21/96  
 Approved by: Arthur H. Snowden, II, Administrative Director Date: 02/21/96  
 Agency: Alaska Court System

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H-1

Ford

M E N D M E N T

TO: CSHB 204(FIN) AM

Page 8, line 17: delete "within 24 hours"

Page 8, line ~~18~~<sup>4</sup>: delete "13" and insert "14"

Page 8, line 27: delete "(a) of this"

Page 9, line 20: delete "(a) of this"



Pg 8  
line = 32

SENATE CS FOR CS FOR HOUSE BILL NO. 204(JUD)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:  
Referred:

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the administrative revocation of a minor's license to drive;  
2 creating criminal offenses of minor operating a vehicle after consuming alcohol,  
3 a minor's refusal to submit to chemical test, and driving during the 24 hours  
4 after being cited for minor operating a vehicle after consuming alcohol or refusal  
5 to submit to chemical test; establishing penalties for these offenses; relating to  
6 court ordered drug and alcohol screening, evaluation, referral, and programs;  
7 relating to implied consent to certain testing if operating a motor vehicle, aircraft,  
8 or watercraft; relating to an instrument's working tolerance in a chemical breath  
9 test; relating to the authority of a court to impose a suspended sentence after  
10 failure to complete a treatment program upon conviction of felony driving while  
11 intoxicated or felony refusal to submit to a chemical test; relating to the period  
12 of time a court may consider for determining prior convictions in sentencing a

1 person convicted of felony driving while intoxicated or felony refusal to submit  
2 to a chemical test; amending Rules 6 and 32.1, Alaska Rules of Criminal  
3 Procedure, to allow the use of hearsay evidence before a grand jury in a  
4 prosecution for felony driving while intoxicated or felony refusal to submit to a  
5 chemical test and to not require a presentence report for a first felony driving  
6 while intoxicated or first felony refusal to submit to a chemical test; and  
7 providing for an effective date."

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

9 \* Section 1. AS 28.15.183(a) is amended to read:

10 (a) If a peace officer has probable cause to believe that a person who is at least  
11 14 years of age but not yet 21 years of age has possessed or used a controlled substance  
12 in violation of AS 11.71, or a municipal ordinance with substantially similar elements,  
13 or possessed or consumed alcohol in violation of AS 04.16.050 or a municipal ordinance  
14 with substantially similar elements, operated a vehicle after consuming alcohol in  
15 violation of AS 28.35.280, or refused to submit to a chemical test under  
16 AS 28.35.285 and the peace officer has cited the person or arrested the person for a  
17 violation of AS 11.71, AS 04.16.050, AS 28.35.280, or 28.35.285 or the municipal  
18 ordinance with substantially similar elements, the peace officer shall read a notice and  
19 deliver a copy to the person. The notice must advise that

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

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

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

26 (4) revocation of the person's driver's license or permit, privilege to  
27 drive, or privilege to obtain a license or permit, takes effect seven days after delivery of  
28 the notice to the person unless the person, within seven days, requests an administrative  
29 review;

1                   (5) If the person has been cited under AS 28.35.280 or under  
2                   AS 28.35.285, that person, under AS 28.35.290, may not operate a motor vehicle,  
3                   aircraft, or watercraft during the 24 hours following issuance of the citation.

4 \* Sec. 2. AS 28.15.183(c) is amended to read:

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

9                   (1) that the officer had probable cause to believe that the person is at  
10                  least 14 years of age but not yet 21 years of age and has possessed or used a controlled  
11                  substance in violation of AS 11.71, or a municipal ordinance with substantially similar  
12                  elements, or possessed or consumed alcohol in violation of AS 04.16.050 or a municipal  
13                  ordinance with substantially similar elements, operated a vehicle after consuming  
14                  alcohol in violation of AS 28.35.280, or refused to submit to a chemical test of  
15                  breath under AS 28.35.285;

16                  (2) that the peace officer has cited the person or arrested the person for

17                          (A) a violation of AS 11.71, [OR] AS 04.16.050, AS 28.35.280,  
18                          or 28.35.285; or

19                          (B) possession or use of a controlled substance or alcohol in  
20                  violation of a municipal ordinance with substantially similar elements;

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

22                  (4) describing the circumstances surrounding the violation of the  
23                  controlled substances provisions of AS 11.71, the alcoholic beverages provisions of  
24                  AS 04.16.050, or the municipal ordinance with substantially similar elements, the minor  
25                  operating a vehicle after consuming alcohol provisions of AS 28.35.280, or the minor  
26                  refusing to submit to a chemical test of breath under provisions of AS 28.35.285.

27 \* Sec. 3. AS 28.15.183(g) is amended to read:

28                  (g) Except as provided under (h) of this section, the department may not issue  
29                  a new license or reissue a license to a person whose driver's license, permit, or privilege  
30                  to drive has been revoked under this section unless the person is enrolled in and is in  
31                  compliance with, or has successfully completed

32                  (1) an alcoholism education or rehabilitation treatment program, if the

1 revocation resulted from possession or consumption of alcohol in violation of  
2 AS 04.16.050 or a municipal ordinance with substantially similar elements, from  
3 operating a vehicle after consuming alcohol in violation of AS 28.35.280, or from  
4 refusal to submit to a chemical test of breath in violation of AS 28.35.285; or

5 (2) a drug education or rehabilitation treatment program, if the revocation  
6 resulted from possession or use of a controlled substance in violation of AS 11.71 or a  
7 municipal ordinance with substantially similar elements.

8 \* Sec. 4. AS 28.15.184(g) is amended to read:

9 (g) The hearing for review of a revocation by the department under  
10 AS 28.15.183 shall be limited to the issues of whether the person was at least 14 years  
11 of age but not yet 21 years of age and whether the person possessed or used a controlled  
12 substance in violation of AS 11.71 or a municipal ordinance with substantially similar  
13 elements, or possessed or consumed alcohol in violation of AS 04.16.050 or a municipal  
14 ordinance with substantially similar elements, operated a vehicle after consuming  
15 alcohol in violation of AS 28.35.280, or refused to submit to a chemical test of  
16 breath in violation of AS 28.35.285.

17 \* Sec. 5. AS 28.35.030(h) is amended to read:

18 (h) The court shall order a person convicted under this section to satisfy the  
19 screening, evaluation, referral, and program requirements of an alcohol safety action  
20 program if such a program is available in the community where the person resides,  
21 or a private or public treatment facility approved by the Division of Alcoholism and  
22 Drug Abuse, of the Department of Health and Social Services, under AS 47.37 [AN  
23 AGENCY AUTHORIZED BY THE COURT] to make referrals for rehabilitative  
24 treatment or to provide rehabilitative treatment. If a person is convicted under (n) of this  
25 section, the court shall order the person to be evaluated as required by this subsection  
26 before the court imposes sentence for the offense.

27 \* Sec. 6. AS 28.35.030(j) is amended to read.

28 (j) If a person fails to satisfy the requirements of an authorized agency under (i)  
29 of this section, the court

30 (1) may impose any portion of a suspended sentence; however, if the  
31 person was convicted under (n) of this section, the court shall impose a part or all of  
32 the remaining portion of any suspended sentence;

1 (2) may punish the failure as contempt of the authority of the court under  
2 AS 09.50.010 or as a violation of a condition of probation; and

3 (3) shall order the revocation or suspension of the person's driver's  
4 license, privilege to drive, and privilege to obtain a driver's license until the requirements  
5 are satisfied.

6 \* Sec. 7. AS 28.35.030(n) is amended to read:

7 (n) A person is guilty of a class C felony if the person is convicted of driving  
8 while intoxicated and has been previously convicted two or more times within the five  
9 years preceding the date of the present offense. For purposes of determining  
10 minimum sentences based on previous convictions [IF A PERSON HAS BEEN  
11 PREVIOUSLY CONVICTED], the provisions of (o)(4) of this section apply [ EXCEPT  
12 THAT ONLY CONVICTIONS OCCURRING WITHIN FIVE YEARS PRECEDING  
13 THE DATE OF THE PRESENT OFFENSE MAY BE INCLUDED]. Upon conviction,  
14 the court

15 (1) shall impose a fine of not less than \$5,000 and a minimum sentence  
16 of imprisonment of not less than

17 (A) 120 days if the person has been previously convicted twice;

18 (B) 240 days if the person has been previously convicted three  
19 times;

20 (C) 360 days if the person has been previously convicted four or  
21 more times;

22 (2) may not

23 (A) suspend execution of sentence or grant probation except on  
24 condition that the person serve the minimum imprisonment under (1) of this  
25 subsection; or

26 (B) suspend imposition of sentence;

27 (3) shall revoke the person's driver's license, privilege to drive, or  
28 privilege to obtain a license under AS 28.15.181(c);

29 (4) may order as a condition of probation or parole that the person take  
30 a drug, or combination of drugs, intended to prevent the consumption of an alcoholic  
31 beverage; a condition of probation imposed under this paragraph is in addition to any  
32 other condition authorized under another provision of law; and

1 (5) may also order forfeiture under AS 28.35.036 of the vehicle or  
2 aircraft used in the commission of the offense, subject to remission under AS 28.35.037.

3 \* Sec. 8. AS 28.35.031(a) is amended to read:

4 (a) A person who operates or drives a motor vehicle in this state or who operates  
5 an aircraft as defined in AS 28.35.030(o) or who operates a watercraft as defined in  
6 AS 28.35.030(o) shall be considered to have given consent to a chemical test or tests of  
7 the person's breath for the purpose of determining the alcoholic content of the person's  
8 blood or breath if lawfully arrested for an offense arising out of acts alleged to have been  
9 committed while the person was operating or driving a motor vehicle or operating an  
10 aircraft or a watercraft while intoxicated or if lawfully arrested under AS 28.35.280  
11 for the offense of minor operating a vehicle after consuming alcohol. The test or  
12 tests shall be administered at the direction of a law enforcement officer who has  
13 reasonable grounds to believe that the person was operating or driving a motor vehicle  
14 or operating an aircraft or a watercraft in this state while intoxicated or that the person  
15 was a minor operating a vehicle after consuming alcohol.

16 \* Sec. 9. AS 28.35.032(l) is amended to read:

17 (l) The court shall order a person convicted under this section to satisfy the  
18 screening, evaluation, referral, and program requirements of an alcohol safety action  
19 program if such a program is available in the community where the person resides,  
20 or a private or public treatment facility approved by the Division of Alcoholism and  
21 Drug Abuse, of the Department of Health and Social Services, under AS 47.37 [AN  
22 AGENCY AUTHORIZED BY THE COURT] to make referrals for rehabilitative  
23 treatment or to provide rehabilitative treatment. If a person is convicted under (p) of this  
24 section, the court shall order the person to be evaluated as required by this subsection  
25 before the court imposes sentence for the offense.

26 \* Sec. 10. AS 28.35.032(n) is amended to read:

27 (n) If a person fails to satisfy the requirements of an authorized agency under  
28 (m) of this section, the court

29 (1) may impose any portion of a suspended sentence, however, if the  
30 person was convicted under (p) of this section, the court shall impose a part or all of  
31 the remaining portion of any suspended sentence;

32 (2) may punish the failure as contempt of the authority of the court

1 under AS 09.50.010 or as a violation of a condition of probation; and

2 (3) shall order the revocation or suspension of the person's driver's  
3 license, privilege to drive, and privilege to obtain a driver's license until the  
4 requirements are satisfied.

5 \* Sec. 11. AS 28.35.032(p) is amended to read:

6 (p) A person is guilty of a class C felony if the person is convicted under this  
7 section and has been previously convicted two or more times within the five years  
8 preceding the date of the present offense. For purposes of determining minimum  
9 sentences based on previous convictions [IF A PERSON HAS BEEN PREVIOUSLY  
10 CONVICTED], the provisions of AS 28.35.030(o)(4) apply [, EXCEPT THAT ONLY  
11 CONVICTIONS OCCURRING WITHIN FIVE YEARS PRECEDING THE DATE OF  
12 THE PRESENT OFFENSE MAY BE INCLUDED]. Upon conviction,

13 (1) the court shall impose a fine of not less than \$5,000 and a  
14 minimum sentence of imprisonment of not less than

15 (A) 120 days if the person has been previously convicted twice;

16 (B) 240 days if the person has been previously convicted three  
17 times;

18 (C) 360 days if the person has been previously convicted four  
19 or more times;

20 (2) the court may not

21 (A) suspend execution of the sentence required by (1) of this  
22 subsection or grant probation, except on condition that the person serve the  
23 minimum imprisonment under (1) of this subsection; or

24 (B) suspend imposition of sentence;

25 (3) the court shall revoke the person's driver's license, privilege to  
26 drive, or privilege to obtain a license under AS 28.15.181(c);

27 (4) the court may order as a condition of probation or parole that the  
28 person take a drug, or combination of drugs, intended to prevent consumption of an  
29 alcoholic beverage; a condition of probation imposed under this paragraph is in  
30 addition to any other condition authorized under another provision of law;

31 (5) the sentence imposed by the court under this subsection shall run

1 consecutively with any other sentence of imprisonment imposed on the person; and  
2 (6) the court may also order forfeiture under AS 28.35.036, of the  
3 vehicle or aircraft used in the commission of the offense, subject to remission under  
4 AS 28.35.037.

5 \* Sec. 12. AS 28.35.039 is amended to read:

6 Sec. 28.35.039. DEFINITIONS FOR AS 28.35.029 - 28.35.039. In  
7 AS 28.35.029 - 28.35.039,

8 (1) "controlled substance" has the meaning given in AS 28.33.190;

9 (2) "alcohol safety action program" means a program designated by  
10 the commissioner of health and social services as an alcohol safety action program.

11 \* Sec. 13. AS 28.35 is amended by adding new sections to read:

12 ARTICLE 6. CERTAIN OFFENSES RELATING TO MINORS.

13 Sec. 28.35.280. MINOR OPERATING A VEHICLE AFTER CONSUMING  
14 ALCOHOL. (a) A person who is at least 14 years of age but not yet 21 years of age  
15 commits the offense of minor operating a vehicle after consuming alcohol if the person  
16 operates or drives a motor vehicle or operates an aircraft or a watercraft after having  
17 consumed any quantity of alcohol. A peace officer who has probable cause to believe  
18 that a person has committed the offense of minor operating a vehicle after consuming  
19 alcohol may

20 (1) place the person under arrest;

21 (2) request that the person submit to a chemical test or tests of the  
22 person's breath for the purpose of determining the alcoholic content of the person's  
23 blood or breath; and

24 (3) transport the person to a location at which a chemical or other test  
25 authorized under (2) of this subsection may be administered.

26 (b) If a chemical test under this section reveals any alcohol concentration within  
27 the person's blood or breath, the person shall be cited for violating this section and then  
28 released unless there is a lawful reason for further detention. A person who is 18 years  
29 of age or older shall be released on the person's own recognizance. A person who is  
30 under the age of 18 shall be released to a parent, guardian, or legal custodian.

31 (c) A person who is cited for violating this section shall be advised by a peace  
32 officer that it is unlawful under AS 28.35.290 for the person to operate a motor vehicle.

1 aircraft, or watercraft during the 24 hours following the issuance of the citation.

2 (d) The offense of a minor operating a vehicle after consuming alcohol is an  
3 infraction. Upon conviction, the court shall impose a fine of not more than \$1,000,  
4 community work service, or both. The court may offer the minor the option of  
5 performing community work in place of a fine or a portion of the fine. The value of  
6 community work in place of a fine is as specified in AS 12.55.055(c).

7 (e) In this section,

8 (1) "operate an aircraft" has the meaning given in AS 28.35.030(o);

9 (2) "operate a watercraft" has the meaning given in AS 28.35.030(o).

10 Sec. 28.35.285. MINOR'S REFUSAL TO SUBMIT TO CHEMICAL TEST.

11 (a) If a person under arrest for minor operating a vehicle after consuming alcohol  
12 refuses the request of a peace officer to submit to a chemical test or tests of the person's  
13 breath authorized under AS 28.35.031(a) and 28.35.280(a), after being advised by the  
14 officer that the refusal will result in the denial or revocation of the driver's license,  
15 privilege to drive, or privilege to obtain a license, that the refusal may be used against  
16 the person in a civil or criminal action or proceeding arising out of an act alleged to have  
17 been committed by the person while operating a vehicle after consuming alcohol, and  
18 that the refusal is a violation, a chemical test may not be given.

19 (b) A person who is cited for violating this section shall be advised by a peace  
20 officer that it is unlawful under AS 28.35.290 for the person to operate a motor vehicle,  
21 aircraft, or watercraft during the 24 hours following the issuance of the citation.

22 (c) The refusal of a minor to submit to a chemical test authorized under  
23 AS 28.35.031(a) and 28.35.280(a) is admissible evidence in a civil or criminal action or  
24 proceeding arising out of an act alleged to have been committed by the person while  
25 operating a vehicle after consuming alcohol.

26 (d) Refusal to submit to a chemical test or tests of the person's breath requested  
27 under AS 28.35.280 is an infraction. Upon conviction, the court shall impose a fine of  
28 not more than \$1,000, or community work service, or both. The court may offer the  
29 minor the option of performing community work in place of a fine or a portion of the  
30 fine. The value of community work in place of a fine is as specified in AS 12.55.055(c).

31 Sec. 28.35.290. DRIVING DURING THE 24 HOURS AFTER BEING CITED  
32 FOR ALCOHOL OR BREATH TEST OFFENSES. (a) A person who has been cited

1 for minor operating a vehicle after consuming alcohol under AS 28.35.280 or for refusal  
2 to submit to a chemical test of breath under AS 28.35.285 may not operate a motor  
3 vehicle, aircraft, or watercraft during the 24 hours following issuance of the citation.

4 (b) Operating a motor vehicle, aircraft, or watercraft during the 24 hours after  
5 being cited for minor operating a vehicle after consuming alcohol or for minor's refusal  
6 to submit to a chemical test is an infraction. Upon conviction, the court shall impose a  
7 fine of not more than \$1,000, or community work service, or both. The court may offer  
8 the minor the option of performing community work in place of the fine or a portion of  
9 the fine. The value of community work in place of a fine is as specified in  
10 AS 12.55.055(c).

11 (c) In this section,

12 (1) "operate an aircraft" has the meaning given in AS 28.35.030(o);

13 (2) "operate a watercraft" has the meaning given in AS 28.35.030(o).

14 \* Sec. 14. AS 28.35.280(d) is repealed and reenacted to read:

15 (d) The offense of a minor operating a vehicle after consuming alcohol is an  
16 infraction. Upon conviction, the court shall impose a fine of not more than \$1,000. The  
17 court may offer the minor the option of performing community work in place of a fine  
18 or a portion of a fine. The value of community work in place of a fine is as specified  
19 in AS 12.55.055(c).

20 \* Sec. 15. AS 28.35.285(d) is repealed and reenacted to read:

21 (d) Refusal to submit to a chemical test or tests of the person's breath requested  
22 under AS 28.35.280 is an infraction. Upon conviction, the court shall impose a fine of  
23 not more than \$1,000. The court may offer the minor the option of performing  
24 community work in place of a fine or a portion of the fine. The value of community  
25 work in place of a fine is as specified in AS 12.55.055(c).

26 \* Sec. 16. AS 28.35.290(b) is repealed and reenacted to read:

27 (b) Operating a motor vehicle, aircraft, or watercraft during the 24 hours after  
28 being cited for minor operating a vehicle after consuming alcohol is an infraction. Upon  
29 conviction, the court shall impose a fine of not more than \$1,000. The court may offer  
30 the minor the option of performing community work in place of the fine or a portion of  
31 the fine. The value of community work in place of a fine is as specified in  
32 AS 12.55.055(c).

1 \* Sec. 17. AS 28.40 is amended by adding a new section to read:

2           Sec. 28.40.060. BREATH TEST RESULT VALIDITY. If an offense described  
3 under this title requires that a chemical test of a person's breath produce a particular  
4 result, and the chemical test is administered by a properly calibrated instrument approved  
5 by the Department of Public Safety, the result described by statute is not affected by the  
6 instrument's working tolerance.

7 \* Sec. 18. Rule 6(r)(1), Alaska Rules of Criminal Procedure, is amended to read:

8           (1) Evidence which would be legally admissible at trial shall be  
9 admissible before the grand jury. In appropriate cases, however, witnesses may be  
10 presented to summarize admissible evidence if the admissible evidence will be  
11 available at trial. Except as stated in subparagraphs (2), [AND] (3), and (6), hearsay  
12 evidence shall not be presented to the grand jury absent compelling justification for  
13 its introduction. If hearsay evidence is presented to the grand jury, the reasons for its  
14 use shall be stated on the record.

15 \* Sec. 19. Rule 6(r), Alaska Rules of Criminal Procedure, is amended by adding a new  
16 paragraph to read:

17           (6) In a prosecution for driving while intoxicated under  
18 AS 28.35.030(n) or for refusal to submit to a chemical test under AS 28.35.032(p),  
19 hearsay evidence received through the Alaska Public Safety Information Network or  
20 from other governmental agencies of prior convictions of driving while intoxicated or  
21 refusal to submit to a chemical test may be presented to the grand jury.

22 \* Sec. 20. Rule 32.1(a), Alaska Rules of Criminal Procedure, is amended to read:

23           (a) Scheduling. At the time guilt in a felony case is established by verdict or  
24 plea, the judge shall establish the date for a sentencing hearing and a presentencing  
25 hearing, if appropriate, and except as provided under subsection (f) of this rule,  
26 shall order a presentence investigation by the Department of Corrections. If the judge  
27 elects to schedule a single hearing, all of the procedures for the presentencing and  
28 sentencing hearings shall be applicable at the single hearing.

29 \* Sec. 21. Rule 32.1, Alaska Rules of Criminal Procedure, is amended by adding a new  
30 subsection to read:

31           (f) When Presentence Investigation Not Required. Unless a person may be  
32 sentenced to a presumptive term of imprisonment under AS 12.55.125(e)(1) or (2), a

1 presentence investigation by the Department of Corrections is not required for a  
2 defendant convicted of driving while intoxicated under AS 28.35.030(n) or refusal to  
3 submit to a chemical test under AS 28.35.032(p).

4 • Sec. 22. Sections 1 - 13 and 17 - 21 of this Act apply only to acts committed on or after  
5 the effective date of secs. 1 - 13 and 17 - 21 of this Act, except that to the extent that the  
6 amendments made by secs. 6, 7, 10, 11, and 18 - 21 of this Act involve prior convictions,  
7 those prior convictions may have occurred before, on, or after the effective date of this Act.

8 • Sec. 23. Sections 14 - 16 of this Act take effect only upon a final decision by the Alaska  
9 Court of Appeals and the Alaska Supreme Court that the possibility of imposing community  
10 work service by the court for the offenses prohibited under AS 28.35.280, 28.35.285, and  
11 28.35.290 gives rise to the right to court appointed counsel and trial by jury.