

**HB**

**151**

4/23  
adopted

**CS FOR HOUSE BILL NO. 151(JUD)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FIRST LEGISLATURE - FIRST SESSION**

**BY THE HOUSE JUDICIARY COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVES KOTT, Austerman**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to revocation and reinstatement of the driver's license of a  
2 person at least 14 but not yet 21 years of age."

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

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

5 (a) If a peace officer has probable cause to believe that a person who is at  
6 least 14 years of age but not yet 21 years of age has possessed or used a controlled  
7 substance in violation of AS 11.71 [,] or a municipal ordinance with substantially  
8 similar elements, [OR] possessed or consumed alcohol in violation of AS 04.16.050  
9 or a municipal ordinance with substantially similar elements and the possession or  
10 consumption occurred while occupying a motor vehicle, operated a vehicle after  
11 consuming alcohol in violation of AS 28.35.280, or refused to submit to a chemical  
12 test under AS 28.35.285, and the peace officer has cited the person or arrested the  
13 person for a violation of AS 11.71, AS 04.16.050, AS 28.35.280, or 28.35.285, or the  
14 municipal ordinance with substantially similar elements, the peace officer shall read

1 a notice and deliver a copy to the person. The notice must advise that

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

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

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

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

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

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

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

21 (1) that the officer had probable cause to believe that the person is at  
22 least 14 years of age but not yet 21 years of age and has possessed or used a  
23 controlled substance in violation of AS 11.71 [,] or a municipal ordinance with  
24 substantially similar elements, [OR] possessed or consumed alcohol in violation of  
25 AS 04.16.050 or a municipal ordinance with substantially similar elements and the  
26 possession or consumption occurred while occupying a motor vehicle, operated a  
27 vehicle after consuming alcohol in violation of AS 28.35.280, or refused to submit to  
28 a chemical test of breath under AS 28.35.285;

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

30 (A) a violation of AS 11.71, AS 04.16.050, AS 28.35.280, or  
31 28.35.285; or

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

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

4 (4) describing the circumstances surrounding the violation of the  
5 controlled substances provisions of AS 11.71, the alcoholic beverages provisions of  
6 AS 04.16.050, or the municipal ordinance with substantially similar elements when the  
7 possession or consumption of the alcohol occurred while occupying a motor  
8 vehicle, the minor operating a vehicle after consuming alcohol [UNDER] provisions  
9 of AS 28.35.280, or the minor refusing to submit to a chemical test of breath  
10 [UNDER] provisions of AS 28.35.285.

11 \* Sec. 3. AS 28.15.183(f) is amended to read:

12 (f) A revocation imposed under this section shall be consecutive to a  
13 revocation imposed under another provision of law, except that (1) a revocation  
14 imposed under this section shall be concurrent with a prior revocation imposed  
15 under this section; and (2) a revocation for an offense for which a revocation is  
16 required under AS 28.15.185 shall be concurrent with a revocation imposed under  
17 AS 28.15.185 that is based on the same incident. A [DEPARTMENT HEARING  
18 OFFICER MAY GRANT LIMITED LICENSE PRIVILEGES IN ACCORDANCE  
19 WITH THE STANDARDS SET OUT IN AS 28.15.201 TO A] person whose driver's  
20 license, permit, or privilege was revoked under this section may apply for limited  
21 license privileges under AS 28.15.201(d) or reinstatement as provided under (j)  
22 of this section.

23 \* Sec. 4. AS 28.15.183(g) is amended to read:

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

28 (1) an alcoholism education or rehabilitation treatment program  
29 approved under AS 47.37, if the revocation resulted from possession or consumption  
30 of alcohol in violation of AS 04.16.050 or a municipal ordinance with substantially  
31 similar elements and the possession or consumption occurred while occupying a

1 motor vehicle, from operating a vehicle after consuming alcohol in violation of  
2 AS 28.35.280, or from refusal to submit to a chemical test of breath in violation of  
3 AS 28.35.285; or

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

7 \* Sec. 5. AS 28.15.183 is amended by adding a new section to read:

8 (j) A person whose driver's license, permit, or privilege was revoked under  
9 this section may apply for reinstatement of the person's driver's license as provided in  
10 this subsection. A person may apply to the department for reinstatement by filing a  
11 written request for review of the revocation imposed under this section with the  
12 department. The department shall issue a new license or reissue the person's driver's  
13 license as provided under AS 28.15.211(d) if

14 (1) the application for reinstatement is filed at least two years after the  
15 person's license, permit, or privilege was revoked;

16 (2) the person complies with (g) of this section;

17 (3) the person has not violated a provision of this title or a regulation  
18 of the department since the revocation; and

19 (4) the license will allow the person to attend school, care for a  
20 dependent child, or earn a livelihood without creating a danger to the public.

21 \* Sec. 6. AS 28.15.184(g) is amended to read:

22 (g) The hearing for review of a revocation by the department under  
23 AS 28.15.183 shall be limited to the issues of whether the person was at least 14 years  
24 of age but not yet 21 years of age and whether the person possessed or used a  
25 controlled substance in violation of AS 11.71 or a municipal ordinance with  
26 substantially similar elements, or possessed or consumed alcohol in violation of  
27 AS 04.16.050 or a municipal ordinance with substantially similar elements and the  
28 possession or consumption occurred while occupying a motor vehicle, operated a  
29 vehicle after consuming alcohol in violation of AS 28.35.280, or refused to submit to  
30 a chemical test of breath in violation of AS 28.35.285.

31 \* Sec. 7. AS 28.15.219 is amended by adding a new paragraph to read:

1 (4) "possessed alcohol" means having physical possession of an  
2 alcoholic beverage.

3 \* Sec. 8. APPLICABILITY. Sections 2 - 6 of this Act apply to violations that occur on  
4 or after the effective date of this Act.

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KOTT

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CS FOR HOUSE BILL NO. 151(JUD)

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A BILL

FOR AN ACT ENTITLED

1 "An Act relating to revocation and reinstatement of the driver's license of a  
2 person at least 14 but not yet 21 years of age; and relating to possession,  
3 control, or consumption of an alcoholic beverage by a person under 21 years of  
4 age."

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

6 \* Section 1. AS 04.15.050(b) is amended to read:

7 (b) A person who violates (a) of this section is guilty of a violation. Upon  
8 conviction in the district court, the court may impose a fine of not less than \$100,  
9 community work, or both. The court may offer the person the option of  
10 performing community work in place of a fine or a portion of the fine. The value  
11 of community work in place of a fine is as specified under AS 12.55.055(c).

12 \* Sec. 2. AS 04.16.050 is amended by adding a new subsection to read:

13 (c) In a prosecution for a violation of (a) of this section, the court may refer  
14 the matter to a youth court for recommendation of an appropriate sentence.

1 \* Sec. 3. AS 21.36.210(a) is amended to read:

2 (a) An insurer may not exercise its right to cancel a policy of personal  
3 automobile insurance except for the following reasons:

4 (1) nonpayment of premium; or

5 (2) the driver's license or motor vehicle registration of either the named  
6 insured or of an operator who resides in the same household as the named insured or  
7 who customarily operates a motor vehicle insured under the policy has been under  
8 suspension or revocation during the policy period or, if the policy is a renewal, during  
9 its policy period or the 180 days immediately preceding its effective date; [THIS  
10 PARAGRAPH DOES NOT APPLY TO REVOCATION AS DESCRIBED UNDER  
11 AS 21.89.027].

12 \* Sec. 4. AS 28.15.183(a) is amended to read:

13 (a) If a peace officer has probable cause to believe that a person who is at  
14 least 14 years of age but not yet 21 years of age has possessed or used a controlled  
15 substance in violation of AS 11.71 [,] or a municipal ordinance with substantially  
16 similar elements, or [POSSESSED OR CONSUMED ALCOHOL IN VIOLATION OF  
17 AS 04.16.050 OR A MUNICIPAL ORDINANCE WITH SUBSTANTIALLY  
18 SIMILAR ELEMENTS,] operated a vehicle after consuming alcohol in violation of  
19 AS 28.35.280, or refused to submit to a chemical test under AS 28.35.285 and the  
20 peace officer has cited the person or arrested the person for a violation of AS 11.71,  
21 [AS 04.16.050,] AS 28.35.280, or 28.35.285 or the municipal ordinance with  
22 substantially similar elements, the peace officer shall read a notice and deliver a copy  
23 to the person. The notice must advise that

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

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

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

30 (4) revocation of the person's driver's license or permit, privilege to  
31 drive, or privilege to obtain a license or permit, takes effect seven days after delivery

1 of the notice to the person unless the person, within seven days, requests an  
2 administrative review;

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

6 \* Sec. 5. AS 28.15.183(c) is amended to read:

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

12 (1) that the officer had probable cause to believe that the person is at  
13 least 14 years of age but not yet 21 years of age and has possessed or used a  
14 controlled substance in violation of AS 11.71 [,] or a municipal ordinance with  
15 substantially similar elements, or [POSSESSED OR CONSUMED ALCOHOL IN  
16 VIOLATION OF AS 04.16.050 OR A MUNICIPAL ORDINANCE WITH  
17 SUBSTANTIALLY SIMILAR ELEMENTS,] operated a vehicle after consuming  
18 alcohol in violation of AS 28.35.280, or refused to submit to a chemical test of breath  
19 under AS 28.35.285;

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

21 (A) a violation of AS 11.71, [AS 04.16.050,] AS 28.35.280, or  
22 28.35.285; or

23 (B) possession or use of a controlled substance [OR  
24 ALCOHOL] in violation of a municipal ordinance with substantially similar  
25 elements;

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

27 (4) describing the circumstances surrounding the violation of the  
28 controlled substances provisions of AS 11.71, [THE ALCOHOLIC BEVERAGES  
29 PROVISIONS OF AS 04.16.050, OR THE MUNICIPAL ORDINANCE WITH  
30 SUBSTANTIALLY SIMILAR ELEMENTS,] the minor operating a vehicle after  
31 consuming alcohol [UNDER] provisions of AS 28.35.280, or the minor refusing to

1 submit to a chemical test of breath [UNDER] provisions of AS 28.35.285.

2 \* Sec. 6. AS 28.15.183(f) is amended to read:

3 (f) A revocation imposed under this section shall be consecutive to a  
4 revocation imposed under another provision of law, except that (1) a revocation  
5 imposed under this section shall be concurrent with a prior revocation imposed  
6 under this section; and (2) a revocation for an offense for which a revocation is  
7 required under AS 28.15.185 shall be concurrent with a revocation imposed under  
8 AS 28.15.185 that is based on the same incident. A [DEPARTMENT HEARING  
9 OFFICER MAY GRANT LIMITED LICENSE PRIVILEGES IN ACCORDANCE  
10 WITH THE STANDARDS SET OUT IN AS 28.15.201 TO A] person whose driver's  
11 license, permit, or privilege was revoked under this section may apply for limited  
12 license privileges under AS 28.15.201(d) or reinstatement as provided under (i)  
13 of this section.

14 \* Sec. 7. AS 28.15.183(g) is amended to read:

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

19 (1) an alcoholism education or rehabilitation treatment program  
20 approved under AS 47.37, if the revocation resulted from [POSSESSION OR  
21 CONSUMPTION OF ALCOHOL IN VIOLATION OF AS 04.16.050 OR A  
22 MUNICIPAL ORDINANCE WITH SUBSTANTIALLY SIMILAR ELEMENTS,  
23 FROM] operating a vehicle after consuming alcohol in violation of AS 28.35.280 [,]  
24 or from refusal to submit to a chemical test of breath in violation of AS 28.35.285; or

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

28 \* Sec. 8. AS 28.15.183 is amended by adding a new section to read:

29 (j) A person whose driver's license, permit, or privilege was revoked under  
30 this section may apply for reinstatement of the person's driver's license as provided in  
31 this subsection. A person may apply to the department for reinstatement by filing a

1 written request for review of the revocation imposed under this section with the  
2 department. The department shall issue a new license or reissue the person's driver's  
3 license as provided under AS 28.15.211(d) if

4 (1) the application for reinstatement is filed at least two years after the  
5 person's license, permit, or privilege was revoked;

6 (2) the person complies with (g) of this section;

7 (3) the person has not violated a provision of this title or a regulation  
8 of the department since the revocation; and

9 (4) the license will allow the person to attend school, care for a  
10 dependent child, or earn a livelihood without creating a danger to the public.

11 \* Sec. 9. AS 28.15.184(g) is amended to read:

12 (g) The hearing for review of a revocation by the department under  
13 AS 28.15.183 shall be limited to the issues of whether the person was at least 14 years  
14 of age but not yet 21 years of age and whether the person possessed or used a  
15 controlled substance in violation of AS 11.71 or a municipal ordinance with  
16 substantially similar elements, or [POSSESSED OR CONSUMED ALCOHOL IN  
17 VIOLATION OF AS 04.16.050 OR A MUNICIPAL ORDINANCE WITH  
18 SUBSTANTIALLY SIMILAR ELEMENTS,] operated a vehicle after consuming  
19 alcohol in violation of AS 28.35.280, or refused to submit to a chemical test of breath  
20 in violation of AS 28.35.285.

21 \* Sec. 10. AS 21.87.027 is repealed.

22 \* Sec. 11. APPLICABILITY. Sections 1, 2, and 4 - 9 of this Act apply to violations that  
23 occur on or after the effective date of this Act.

4/12

**CS FOR HOUSE BILL NO. 151(JUD)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FIRST LEGISLATURE - FIRST SESSION**

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**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to revocation and reinstatement of the driver's license of a  
2 person at least 14 but not yet 21 years of age; and relating to possession of an  
3 alcoholic beverage by a person under 21 years of age."

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

5 \* **Section 1.** AS 21.89.027(a) is amended to read:

6 (a) Notwithstanding AS 21.36.210, an insurer offering insurance in this state  
7 may not (1) refuse to issue or renew motor vehicle liability insurance coverage; (2)  
8 cancel an existing policy of motor vehicle liability insurance; (3) deny a covered claim;  
9 or (4) increase the premium on a motor vehicle liability insurance policy if the refusal,  
10 cancellation, denial, or increase results only from the fact that the person's driver's  
11 license was revoked under AS 28.15.183 [OR 28.15.185] for [POSSESSION OR]  
12 consumption of alcohol in a situation where the person was not driving and was in  
13 violation of AS 04.16.050 or a municipal ordinance with substantially similar elements.

14 \* **Sec. 2.** AS 28.15.183(a) is amended to read:

1 (a) If a peace officer has probable cause to believe that a person who is at  
2 least 14 years of age but not yet 21 years of age has possessed or used a controlled  
3 substance in violation of AS 11.71 [,] or a municipal ordinance with substantially  
4 similar elements, or [POSSESSED OR] consumed alcohol in violation of AS 04.16.050  
5 or a municipal ordinance with substantially similar elements, operated a vehicle after  
6 consuming alcohol in violation of AS 28.35.280, or refused to submit to a chemical  
7 test under AS 28.35.285 and the peace officer has cited the person or arrested the  
8 person for a violation of AS 11.71, AS 04.16.050, AS 28.35.280, or 28.35.285 or the  
9 municipal ordinance with substantially similar elements, the peace officer shall read  
10 a notice and deliver a copy to the person. The notice must advise that

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

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15 temporary driver's license or permit that expires seven days after it is delivered to the  
16 person;

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18 drive, or privilege to obtain a license or permit, takes effect seven days after delivery  
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22 AS 28.35.285, that person, under AS 28.35.290, may not operate a motor vehicle,  
23 aircraft, or watercraft during the 24 hours following issuance of the citation.

24 \* Sec. 3. AS 28.15.183(c) is amended to read:

25 (c) Unless the person has requested an administrative review, the department  
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27 obtain a license or permit, effective seven days after delivery to the person of the  
28 notice required under (a) of this section, upon receipt of a sworn report of a peace  
29 officer

30 (1) that the officer had probable cause to believe that the person is at  
31 least 14 years of age but not yet 21 years of age and has possessed or used a

1 controlled substance in violation of AS 11.71 [,] or a municipal ordinance with  
2 substantially similar elements, or [POSSESSED OR] consumed alcohol in violation of  
3 AS 04.16.050 or a municipal ordinance with substantially similar elements, operated  
4 a vehicle after consuming alcohol in violation of AS 28.35.280, or refused to submit  
5 to a chemical test of breath under AS 28.35.285;

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

7 (A) a violation of AS 11.71, AS 04.16.050, AS 28.35.280, or  
8 28.35.285; or

9 (B) possession or use of a controlled substance or consumption  
10 of alcohol in violation of a municipal ordinance with substantially similar  
11 elements;

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

13 (4) describing the circumstances surrounding the violation of the  
14 controlled substances provisions of AS 11.71, the alcoholic beverages provisions of  
15 AS 04.16.050, or the municipal ordinance with substantially similar elements, the  
16 minor operating a vehicle after consuming alcohol [UNDER] provisions of  
17 AS 28.35.280, or the minor refusing to submit to a chemical test of breath [UNDER]  
18 provisions of AS 28.35.285.

19 \* Sec. 4. AS 28.15.183(f) is amended to read:

20 (f) A revocation imposed under this section shall be consecutive to a  
21 revocation imposed under another provision of law, except that (1) a revocation  
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31 \* Sec. 5. AS 28.15.183(g) is amended to read:

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

5 (1) an alcoholism education or rehabilitation treatment program  
6 approved under AS 47.37, if the revocation resulted from [POSSESSION OR]  
7 consumption of alcohol in violation of AS 04.16.050 or a municipal ordinance with  
8 substantially similar elements, from operating a vehicle after consuming alcohol in  
9 violation of AS 28.35.280, or from refusal to submit to a chemical test of breath in  
10 violation of AS 28.35.285; or

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15 (j) A person whose driver's license, permit, or privilege was revoked under  
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17 this subsection. A person may apply to the department for reinstatement by filing a  
18 written request for review of the revocation imposed under this section with the  
19 department. The department shall issue a new license or reissue the person's driver's  
20 license as provided under AS 28.15.211(d) if

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22 person's license, permit, or privilege was revoked;

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24 (3) the person has not violated a provision of this title or a regulation  
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27 dependent child, or earn a livelihood without creating a danger to the public.

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1 controlled substance in violation of AS 11.71 or a municipal ordinance with  
2 substantially similar elements, or [POSSESSED OR] consumed alcohol in violation of  
3 AS 04.16.050 or a municipal ordinance with substantially similar elements, operated  
4 a vehicle after consuming alcohol in violation of AS 28.35.280, or refused to submit  
5 to a chemical test of breath in violation of AS 28.35.285.

6 \* Sec. 8. AS 47.12.400(a) is amended to read:

7 (a) The department may use youth courts to hear, determine, and dispose of  
8 cases involving

9 (1) a minor whose alleged act that brings the minor within the  
10 jurisdiction of AS 47.12.010 - 47.12.260 constitutes a violation of

11 (A) a state law that is a misdemeanor or a violation; or

12 (B) [THAT CONSTITUTES A VIOLATION OF] a municipal  
13 ordinance that prescribes a penalty not exceeding the penalties for a class A  
14 misdemeanor under state law; or

15 (2) possession of alcoholic beverages in violation of AS 04.16.050.

16 \* Sec. 9. APPLICABILITY. (a) The amendment to AS 21.89.027(a), made by sec. 1 of  
17 this Act, applies to driver's license revocations occurring on or after the effective date of this  
18 Act. AS 21.89.027(a) as it read on the day before the effective date of this Act applies to  
19 driver's license revocations occurring before the effective date of this Act.

20 (b) Sections 2 - 7 of this Act apply to a driver's license revocation that occurs on or  
21 after the effective date of this Act.

4/9

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

4 \* **Section 1.** AS 21.89.027(a) is amended to read:

5 (a) Notwithstanding AS 21.36.210, an insurer offering insurance in this state  
6 may not (1) refuse to issue or renew motor vehicle liability insurance coverage; (2)  
7 cancel an existing policy of motor vehicle liability insurance; (3) deny a covered claim;  
8 or (4) increase the premium on a motor vehicle liability insurance policy if the refusal,  
9 cancellation, denial, or increase results only from the fact that the person's driver's  
10 license was revoked under AS 28.15.183 [OR 28.15.185] for [POSSESSION OR]  
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12 violation of AS 04.16.050 or a municipal ordinance with substantially similar elements.

13 \* **Sec. 2.** AS 28.15.183(a) is amended to read:

14 (a) If a peace officer has probable cause to believe that a person who is at

1 least 14 years of age but not yet 21 years of age has possessed or used a controlled  
2 substance in violation of AS 11.71 [,] or a municipal ordinance with substantially  
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4 or a municipal ordinance with substantially similar elements, operated a vehicle after  
5 consuming alcohol in violation of AS 28.35.280, or refused to submit to a chemical  
6 test under AS 28.35.285 and the peace officer has cited the person or arrested the  
7 person for a violation of AS 11.71, AS 04.16.050, AS 28.35.280, or 28.35.285 or the  
8 municipal ordinance with substantially similar elements, the peace officer shall read  
9 a notice 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 (5) if the person has been cited under AS 28.35.280 or under  
21 AS 28.35.285, that person, under AS 28.35.290, may not operate a motor vehicle,  
22 aircraft, or watercraft during the 24 hours following issuance of the citation.

23 \* Sec. 3. AS 28.15.183(c) is amended to read:

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 to believe that the person is a  
30 least 14 years of age but not yet 21 years of age and has possessed or used a  
31 controlled substance in violation of AS 11.71 [,] or a municipal ordinance with

1 substantially similar elements, or [POSSESSED OR] consumed alcohol in violation of  
2 AS 04.16.050 or a municipal ordinance with substantially similar elements, operated  
3 a vehicle after consuming alcohol in violation of AS 28.35.280, or refused to submit  
4 to a chemical test of breath under AS 28.35.285;

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

6 (A) a violation of AS 11.71, AS 04.16.050, AS 28.35.280, or  
7 28.35.285; or

8 (B) possession or use of a controlled substance or consumption  
9 of alcohol in violation of a municipal ordinance with substantially similar  
10 elements;

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

12 (4) describing the circumstances surrounding the violation of the  
13 controlled substances provisions of AS 11.71, the alcoholic beverages provisions of  
14 AS 04.16.050, or the municipal ordinance with substantially similar elements, the  
15 minor operating a vehicle after consuming alcohol [UNDER] provisions of  
16 AS 28.35.280, or the minor refusing to submit to a chemical test of breath [UNDER]  
17 provisions of AS 28.35.285.

18 \* Sec. 4. AS 28.15.183(f) is amended to read:

19 (f) A revocation imposed under this section shall be consecutive to a  
20 revocation imposed under another provision of law, except that (1) a revocation  
21 imposed under this section shall be concurrent with a prior revocation imposed  
22 under this section; and (2) a revocation for an offense for which a revocation is  
23 required under AS 28.15.185 shall be concurrent with a revocation imposed under  
24 AS 28.15.185 that is based on the same incident. A [DEPARTMENT HEARING  
25 OFFICER MAY GRANT LIMITED LICENSE PRIVILEGES IN ACCORDANCE  
26 WITH THE STANDARDS SET OUT IN AS 28.15.201 TO A] person whose driver's  
27 license, permit, or privilege was revoked under this section may apply for limited  
28 license privileges under AS 28.15.201(d) or reinstatement as provided under (i)  
29 of this section.

30 \* Sec. 5. AS 28.15.183(g) is amended to read:

31 (g) Except as provided under (h) of this section, the department may not issue

1 a new license or reissue a license to a person whose driver's license, permit, or  
2 privilege to drive has been revoked under this section unless the person is enrolled in  
3 and is in compliance with, or has successfully completed,

4 (1) an alcoholism education or rehabilitation treatment program  
5 approved under AS 47.37, if the revocation resulted from [POSSESSION OR]  
6 consumption of alcohol in violation of AS 04.16.050 or a municipal ordinance with  
7 substantially similar elements, from operating a vehicle after consuming alcohol in  
8 violation of AS 28.35.280, or from refusal to submit to a chemical test of breath in  
9 violation of AS 28.35.285; or

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

13 \* Sec. 6. AS 28.15.183 is amended by adding a new section to read:

14 (j) A person whose driver's license, permit, or privilege was revoked under  
15 this section may apply for reinstatement of the person's driver's license as provided in  
16 this subsection. A person may apply to the department for reinstatement by filing a  
17 written request for review of the revocation imposed under this section with the  
18 department. The department shall issue a new license or reissue the person's driver's  
19 license as provided under AS 28.15.211(d) if

20 (1) the application for reinstatement is filed at least two years after the  
21 person's license, permit, or privilege was revoked;

22 (2) the person complies with (g) of this section;

23 (3) the person has not violated a provision of this title or a regulation  
24 of the department since the revocation; and

25 (4) the license will allow the person to attend school, care for a  
26 dependent child, or earn a livelihood without creating a danger to the public.

27 \* Sec. 7. AS 28.15.184(g) is amended to read:

28 (g) The hearing for review of a revocation by the department under  
29 AS 28.15.183 shall be limited to the issues of whether the person was at least 14 years  
30 of age but not yet 21 years of age and whether the person possessed or used a  
31 controlled substance in violation of AS 11.71 or a municipal ordinance with

1 substantially similar elements, or [POSSESSED OR] consumed alcohol in violation of  
2 AS 04.16.050 or a municipal ordinance with substantially similar elements, operated  
3 a vehicle after consuming alcohol in violation of AS 28.35.280, or refused to submit  
4 to a chemical test of breath in violation of AS 28.35.285.

5 \* Sec. 8. APPLICABILITY. (a) The amendment to AS 21.89.027(a), made by sec. 1 of  
6 this Act, applies to driver's license revocations occurring on or after the effective date of this  
7 Act. AS 21.89.027(a) as it read on the day before the effective date of this Act applies to  
8 driver's license revocations occurring before the effective date of this Act.

9 (b) Sections 2 - 7 of this Act apply to a driver's license revocation that occurs on or  
10 after the effective date of this Act.



Anchorage Youth Court

PO Box 102735

Anchorage, AK 99510

Phone: (907) 274-5986 • Fax: (907) 272-0491

HB 151

Rep. Pete Kott  
Rep. Joe Green

March 10, 1999

Anchorage Youth Court would like to thank you for your interest in diverting juvenile alcohol possession and consumption cases to youth courts. We believe that many of these cases would be best handled in a youth court, since youth courts, using a peer court system, have tailored sentencing options and can give individual attention and role modeling to each defendant.

Anchorage Youth Court received from Rep. Kott's office a working copy draft of the proposed changes. One section in the draft proposes to give youth courts the responsibility of recommending to the department of motor vehicles that a person has met certain criteria and should get his/her driver's license back. While Anchorage Youth Court thanks you for your confidence in youth courts, we believe that this responsibility is too great for youth courts to take on.

Anchorage Youth Court does not believe that its students would serve best in the DMV arena. DMV requires too many administrative standards and has too many security and liability ramifications for our members. Anchorage Youth Court believes that youth courts' abilities could best be used to take some of the load from the court system which now must prosecute a juvenile for possessing or consuming alcohol, which, under AS 04.16.50, is a violation. These cases could be diverted out of the regular system and sent to a youth court, if the youth court believed that the cases would be proper. There are currently numerous youth courts working or forming around the state.

The current dilemma that Anchorage Youth Court finds itself in, is that the District Attorney does not believe that the current youth court statute authorizes it to divert alcohol cases to youth courts. This belief is based on the language in AS 47.12.400 which gives DHSS the ability to divert cases to youth courts which are within its jurisdiction. Alcohol (plus curfew and tobacco) are specifically NOT included in DHSS's jurisdiction (see AS 47.12.030), and we are informed that DHSS does NOT want to take jurisdiction of those cases back. The oddity comes from the language in AS 47.12.400 which grants youth courts jurisdiction to hear violations, but provides no mechanism in which to receive those types of cases, since DHSS does not deal with violations. While the statute does not prohibit youth courts from accepting cases which are referred from sources other than DHSS, it also does not specifically say that youth courts can. Therefore, it would be easier to just enable youth courts to take violation/infraction cases from referral sources other than DHSS.

*"A New Generation for Justice"*

To achieve this goal the alcohol working group has proposed amending the youth court statute itself, adding a new subsection (h) to AS 47.12.400. The following language is the suggestion. It does not specifically limit the types of cases to alcohol so that tobacco and curfew might be included as well.

This section does not preclude youth courts from accepting cases which constitute a violation, under state law or city ordinance, when referred from a law enforcement agency, a prosecutor, or a court.

The referral source needs to be broad enough to include referrals from VPC's, base MP's, and magistrates. The way I have phrased it may not be the best, but that is why we have used that particular language.

If you have any questions about what I have written, or this subject, please call me. I work every week day from 2 p.m. - 6 p.m. Thank you very much for your interest.

Sincerely,  
ANCHORAGE YOUTH COURT



Linda Johnson  
Legal Advisor

**Subject: HB 151**

**Date: Thu, 8 Apr 1999 00:15:36 -0500**

**From: "Kevin Hyde" <dallram@ptialaska.net>**

**To: <Representative\_Pete\_Kott@legis.state.ak.us>**

Dear Representative

Thank you for bringing the issue of Use and Lose it up in the form of HB 151. I appreciate your effort however HB 151 does not address 2 crucial points . #1 AS 28.15.183 was found to be Unconstitutional in the appeals court, because it requires the revocation of a drivers license for a non driving offence, HB 151 does not address this critical issue. #2 The administrative revocation of a drivers license by DMV when the accused has been found not guilty in a court or if the court has dismissed the case is also Unconstitutional as this requires a person to be tried twice for the same offence. Even though there are arguments for both of these issues It is wrong and our young people are the real losers here, please work Immediately to correct this terrible injustice.

I am Currently the president of a group called G.L.A.D. ( Good Legislation Assures Democracy) we are concerned parents who formed a group to fight this unjust law. We are currently working on an Initiative petition to have this law repealed and have retained an attorney to work on the wording of the Initiative as well as work as Legal advisor. We have a already membership that will easily assure us of enough signatures to get the Initiative certified however we are still working on the wording and should be sending our Initiative to Lt Governor Ulmers office for certification by the end of this month or the first half of next.

Please Contact Me as soon as possible to discuss this matter, I can be reached AT:

Kevin B Hyde, President , G.L.A.D. ( Good Legislation Assures Democracy)  
P.O> Box 105 Soldotna Alaska, 99669  
907 262 4889 Home  
907 398 6012 Cell

To: Rep. Pete Kott  
Fax: 907-465-2819

From: Ronald Jordan  
Fax: 907-235-2924

Ref: HB 151

Rep. Kott

I agree with HB 151 on the changes in the current law. But I would like to suggest these other changes be added on to your bill.

The consumption of alcohol or drugs be proven by breath, blood or urine alcohol test. That the required testing be done within 2 to 4 hours for alcohol and within 32 hours for drugs.

An breath alcohol test to show a .02 alcohol content and drug screens to show at or above the U.S. DOT drug testing levels.

An Adminstrative hearing be held only after a court or youth court hearing.


Many cases court hearings are upholding the results of a drug or alcohol test and the adminstrative hearings ar ingnoring the court findings.

Require that schools only act after the facts of any court hearing.

In many cases I am seeing the abuse of adminstrative hearings against the youth in Alaska. Many cases the youth are not involved with the consumption alcohol or drugs. Many of these kids and young adults are wrongfully accused and violated with A admistrative hearing that should not even be at. And the current state law will not let them defend themselves in a adminstrative hearing.

Many of these kids should not be punished nor fined because they were in the area of the violation nor held as "brothers keeper" "or guilt by association".

Thank you

  
Ronald Jordan  
8170 Woodgreen  
Anchorage, AK. 99518  
344-6302 Home number 235-7576

OR COPY MY CELL PHONE NUMBER  
THANKS IS 907-360-3716  
HM 344-6302

CS FOR HOUSE BILL NO. 151(JUD)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES KOTT, Austerman

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to revocation and reinstatement of the driver's license of a  
2 person at least 14 but not yet 21 years of age."

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

4 \* Section 1. AS 21.89.027(a) is amended to read:

5 (a) Notwithstanding AS 21.36.210, an insurer offering insurance in this state  
6 may not (1) refuse to issue or renew motor vehicle liability insurance coverage; (2)  
7 cancel an existing policy of motor vehicle liability insurance; (3) deny a covered claim;  
8 or (4) increase the premium on a motor vehicle liability insurance policy if the refusal,  
9 cancellation, denial, or increase results only from the fact that the person's driver's  
10 license was revoked under AS 28.15.183 [OR 28.15.185] for [POSSESSION OR]  
11 consumption of alcohol in a situation where the person was not driving and was in  
12 violation of AS 04.16.050 or a municipal ordinance with substantially similar elements.

13 \* Sec. 2. AS 28.15.183(a) is amended to read:

14 (a) If a peace officer has probable cause to believe that a person who is at

1 least 14 years of age but not yet 21 years of age has possessed or used a controlled  
2 substance in violation of AS 11.71 [.] or a municipal ordinance with substantially  
3 similar elements, or [POSSESSED OR] consumed alcohol in violation of AS 04.16.050  
4 or a municipal ordinance with substantially similar elements, operated a vehicle after  
5 consuming alcohol in violation of AS 28.35.280, or refused to submit to a chemical  
6 test under AS 28.35.285 and the peace officer has cited the person or arrested the  
7 person for a violation of AS 11.71, AS 04.16.050, AS 28.35.280, or 28.35.285 or the  
8 municipal ordinance with substantially similar elements, the peace officer shall read  
9 a notice 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 (5) if the person has been cited under AS 28.35.280 or under  
21 AS 28.35.285, that person, under AS 28.35.290, may not operate a motor vehicle,  
22 aircraft, or watercraft during the 24 hours following issuance of the citation.

23 \* Sec. 3. AS 28.15.183(c) is amended to read:

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 to believe that the person is at  
30 least 14 years of age but not yet 21 years of age and has possessed or used a  
31 controlled substance in violation of AS 11.71 [.] or a municipal ordinance with

1 substantially similar elements, or [POSSESSED OR] consumed alcohol in violation of  
2 AS 04.16.050 or a municipal ordinance with substantially similar elements, operated  
3 a vehicle after consuming alcohol in violation of AS 28.35.280, or refused to submit  
4 to a chemical test of breath under AS 28.35.285;

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

6 (A) a violation of AS 11.71, AS 04.16.050, AS 28.35.280, or  
7 28.35.285; or

8 (B) possession or use of a controlled substance or consumption  
9 of alcohol in violation of a municipal ordinance with substantially similar  
10 elements;

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

12 (4) describing the circumstances surrounding the violation of the  
13 controlled substances provisions of AS 11.71, the alcoholic beverages provisions of  
14 AS 04.16.050, or the municipal ordinance with substantially similar elements, the  
15 minor operating a vehicle after consuming alcohol [UNDER] provisions of  
16 AS 28.35.280, or the minor refusing to submit to a chemical test of breath [UNDER]  
17 provisions of AS 28.35.285.

18 \* Sec. 4. AS 28.15.183(f) is amended to read:

19 (f) A revocation imposed under this section shall be consecutive to a  
20 revocation imposed under another provision of law, except that a revocation imposed  
21 under this section (1) shall be concurrent with a prior revocation imposed under  
22 this section; and (2) for an offense for which a revocation is required under  
23 AS 28.15.185, shall be concurrent with a revocation imposed under AS 28.15.185 that  
24 is based on the same incident. A [DEPARTMENT HEARING OFFICER MAY  
25 GRANT LIMITED LICENSE PRIVILEGES IN ACCORDANCE WITH THE  
26 STANDARDS SET OUT IN AS 28.15.201 TO A] person whose driver's license,  
27 permit, or privilege was revoked under this section may apply for reinstatement as  
28 provided under (i) of this section.

29 \* Sec. 5. AS 28.15.183(g) is amended to read:

30 (g) Except as provided under (h) of this section, the department may not issue  
31 a new license or reissue a license to a person whose driver's license, permit, or

1 privilege to drive has been revoked under this section unless the person is enrolled in  
2 and is in compliance with, or has successfully completed,

3 (1) an alcoholism education or rehabilitation treatment program  
4 approved under AS 47.37, if the revocation resulted from [POSSESSION OR]  
5 consumption of alcohol in violation of AS 04.16.050 or a municipal ordinance with  
6 substantially similar elements, from operating a vehicle after consuming alcohol in  
7 violation of AS 28.35.280, or from refusal to submit to a chemical test of breath in  
8 violation of AS 28.35.285; or

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

12 \* Sec. 6. AS 28.15.183 is amended by adding a new section to read:

13 (j) A person whose driver's license, permit, or privilege was revoked under  
14 this section and whose remaining period of driver's license revocation is more than one  
15 year may apply for reinstatement of the person's driver's license as provided in this  
16 subsection. A person may apply to the department for reinstatement by filing a written  
17 request for review of the revocation imposed under this section with the department.  
18 The department shall issue a new license or reissue the person's driver's license as  
19 provided under AS 28.15.211(d) if

20 (1) the person's license, permit, or privilege has been revoked for at  
21 least two years;

22 (2) the person complies with (g) of this section;

23 (3) the person has not violated a provision of this title or a regulation  
24 of the department since the revocation; and

25 (4) the license will allow the person to attend school, care for a  
26 dependent child, or earn a livelihood without creating a danger to the public.

27 \* Sec. 7. AS 28.15.184(g) is amended to read:

28 (g) The hearing for review of a revocation by the department under  
29 AS 28.15.183 shall be limited to the issues of whether the person was at least 14 years  
30 of age but not yet 21 years of age and whether the person possessed or used a  
31 controlled substance in violation of AS 11.71 or a municipal ordinance with

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substantially similar elements, or [POSSESSED OR] consumed alcohol in violation of AS 04.16.050 or a municipal ordinance with substantially similar elements, operated a vehicle after consuming alcohol in violation of AS 28.35.280, or refused to submit to a chemical test of breath in violation of AS 28.35.285.

\* Sec. 8. APPLICABILITY. (a) The amendment to AS 21.89.027(a), made by sec. 1 of this Act, applies to driver's license revocations occurring on or after the effective date of this Act. AS 21.89.027(a) as it read on the day before the effective date of this Act applies to driver's license revocations occurring before the effective date of this Act.

(b) Sections 2 - 7 of this Act apply to a driver's license revocation that occurs on or after the effective date of this Act.

# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO. HB 151

Revision Date: \_\_\_\_\_  
 Title: An Act relating to revocation and reinstatement of the driver's license of a person at least 14 but not yet 21.....  
 Sponsor: Representative Kott  
 Requestor: H (JUD)

Department Affected: Administration  
 BRU: Motor Vehicles  
 Component: \_\_\_\_\_  
 COMPONENT SERIAL NO. 2348

Expenditures/Revenues: (Thousands of Dollars)  
 Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2000	FY 2001	FY2002	FY 2003	FY 2004	FY 2005
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						
----------------------	--	--	--	--	--	--

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						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 99) cost: \$ \_\_\_\_\_

**POSITIONS:**

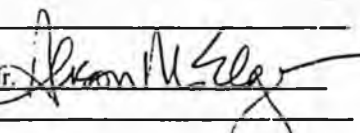
FULL-TIME						
PART-TIME						
TEMPORARY						

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

This bill repeals the provisions for a revocation for possession of alcohol by a person under 21 and provides a method for terminating revocations early for certain offenses. The repeal of the revocation for possession of alcohol will reduce the workload, but the need to review requests for early terminations will increase the workload. These two actions will offset each other and there will be no change to funding.

Prepared by: Charles R. Hosack  
 Division: Motor Vehicles

Phone: (907) 269-5559  
 Date: \_\_\_\_\_

Approved by Commissioner: Robert Poe Jr.   
 Agency: Department of Administration

Date: 4/6/99

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# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO. HB 151

Revision Date: \_\_\_\_\_  
 Title: An Act relating to revocation and reinstatement of the driver's license of a person at least 14 but not yet 21.....  
 Sponsor: Representative Kott  
 Requestor: H (JUD)

Department Affected: Administration  
 BRU: Motor Vehicles  
 Component: \_\_\_\_\_  
 COMPONENT SERIAL NO. 2348

Expenditures/Revenues: (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2000	FY 2001	FY2002	FY 2003	FY 2004	FY 2005
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						
----------------------	--	--	--	--	--	--

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						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 99) cost: \$ \_\_\_\_\_

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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

This bill repeals the provisions for a revocation for possession of alcohol by a person under 21 and provides a method for terminating revocations early for certain offenses. The repeal of the revocation for possession of alcohol will reduce the workload, but the need to review requests for early terminations will increase the workload. These two actions will offset each other and there will be no change to funding.

Prepared by: Charles R. Hosack  
 Division: Motor Vehicles

Phone: (907) 269-5559  
 Date: \_\_\_\_\_

Approved by Commissioner: Robert Poe Jr.  
 Agency: Department of Administration

Date: 4/6/99

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HOUSE BILL NO. 99

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/19/99

Referred: Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to sexual assault and the definitions of 'sexual contact,'  
2 'sexual penetration,' and 'legal guardian' in AS 11."

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

4 \* Section 1. AS 11.41.425(a) is amended to read:

5 (a) An offender commits the crime of sexual assault in the third degree if

6 (1) the offender engages in sexual contact with a person who the  
7 offender knows is

8 (A) [(1)] mentally incapable;

9 (B) [(2)] incapacitated; or

10 (C) [(3)] unaware that a sexual act is being committed;

11 (2) the offender, while employed in a state correctional facility or  
12 other placement designated by the commissioner of the Department of Corrections  
13 for the custody and care of prisoners, engages in sexual penetration with a person  
14 who the offender knows is committed to the custody of the Department of

1 Corrections to serve a term of imprisonment or period of temporary commitment;  
 2 or

3 (3) the offender engages in sexual penetration with a person 18 or  
 4 19 years of age who the offender knows is committed to the custody of the  
 5 Department of Health and Social Services under AS 47.10 or AS 47.12 and the  
 6 offender is the legal guardian of the person.

7 \* Sec. 2. AS 11.41 is amended by adding a new section to read:

8 **Sec. 11.41.427. Sexual assault in the fourth degree.** (a) An offender  
 9 commits the crime of sexual assault in the fourth degree if

10 (1) while employed in a state correctional facility or other placement  
 11 designated by the commissioner of the Department of Corrections for the custody and  
 12 care of prisoners, the offender engages in sexual contact with a person who the  
 13 offender knows is committed to the custody of the Department of Corrections to serve  
 14 a term of imprisonment or period of temporary commitment; or

15 (2) the offender engages in sexual contact with a person 18 or 19 years  
 16 of age who the offender knows is committed to the custody of the Department of  
 17 Health and Social Services under AS 47.10 or AS 47.12 and the offender is the legal  
 18 guardian of the person.

19 (b) Sexual assault in the fourth degree is a class A misdemeanor.

20 \* Sec. 3. AS 11.41.470(3) is amended to read:

21 (3) "legal guardian" means a person who is under a duty to exercise  
 22 general supervision over a minor or other person committed to the custody of the  
 23 Department of Health and Social Services under AS 47.10 or AS 47.12 as a result  
 24 of a court order, statute, or regulation, and includes Department of Health and Social  
 25 Services employees, foster parents, and staff members and other employees of group  
 26 homes or youth [CORRECTIONAL] facilities where the minor or other person [A  
 27 CHILD] is placed as a result of a court order or the action of the Department of  
 28 Health and Social Services [DIVISION OF FAMILY AND YOUTH SERVICES],  
 29 and police officers, [AND] probation officers, and social workers when those persons  
 30 [OFFICERS] are exercising custodial control over a minor or other person.

31 \* Sec. 4. AS 11.81.900(b)(55) is amended to read:

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(55) "sexual contact" means

(A) the defendant's

(i) knowingly touching, directly or through clothing, the victim's genitals, anus, or female breast; or

(ii) knowingly causing the victim to touch, directly or through clothing, the defendant's or victim's genitals, anus, or female breast;

(B) but "sexual contact" does not include acts

(i) that may reasonably be construed to be normal caretaker responsibilities for a child, interactions with a child, or affection for a child; [OR]

(ii) performed for the purpose of administering a recognized and lawful form of treatment that is reasonably adapted to promoting the physical or mental health of the person being treated; or

(iii) that are a necessary part of a search of a person committed to the custody of the Department of Corrections or the Department of Health and Social Services;

\* Sec. 5. AS 11.81.900(b)(56) is amended to read:

(56) "sexual penetration" means

(A) genital intercourse, cunnilingus, fellatio, anal intercourse, or an intrusion, however slight, of an object or any part of a person's body into the genital or anal opening of another person's body;

(B) but "sexual penetration" does not include acts

(i) performed for the purpose of administering a recognized and lawful form of treatment that is reasonably adapted to promoting the physical health of the person being treated; or

(ii) that are a necessary part of a search of a person committed to the custody of the Department of Corrections or the Department of Health and Social Services;

(C) each party to any of the acts defined as "sexual penetration" is considered to be engaged in sexual penetration;

# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO. HB 151

Revision Date/Time (Note if correction)	Dept. Affected	Law
Title "....relating to revocation and reinstatement of the driver's license of a person at least 14 but not yet 21 years of age"	BRU	Criminal Division/Civil Division
Sponsor Representative Kott	Component	1st-4th Judicial Districts; OSPA; Human Services
Requester House Judiciary Committee	Component Serial No.	2198-99;2201/03/61/79/08

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

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
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>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<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 (FY99) cost: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

HB 151 makes several changes to the statutes relating to revocation of driver's licenses for minors possessing and/or consuming alcohol. Possession of alcohol would no longer be grounds for license revocation. Driver's license revocations imposed under different provisions of law for the same incident would be applied concurrently, rather than consecutively. And the bill would allow license reinstatement under certain circumstances.

This bill will have no fiscal impact on the Department of Law.

Prepared by Joan M. Kasson *Joan M. Kasson*  
 Division Attorney General's Office  
 Approved by Commissioner for *Bruce M. Botelho* Attorney General  
 Agency Department of Law

Phone 465-5370  
 Date/Time 3/26/99, 4:27 PM  
 Date 3/26/99

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# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO. HB 151

Revision Date/Time (Note if correction)		Dept. Affected	Law
Title	"...relating to revocation and reinstatement of the driver's license of a person at least 14 but not yet 21 years of age."	BRU	Criminal Division/Civil Division
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<b>CAPITAL EXPENDITURES</b>						
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Temporary						

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HB 151 makes several changes to the statutes relating to revocation of driver's licenses for minors possessing and/or consuming alcohol. Possession of alcohol would no longer be grounds for license revocation. Driver's license revocations imposed under different provisions of law for the same incident would be applied concurrently, rather than consecutively. And the bill would allow license reinstatement under certain circumstances.

This bill will have no fiscal impact on the Department of Law.

Prepared by <u>Joan M. Kasson</u> <i>Joan M. Kasson</i>	Phone <u>465-5370</u>
Division <u>Attorney General's Office</u>	Date/Time <u>3/26/99, 4:27 PM</u>
Approved by Commissioner <i>for</i> <u>Bruce W. Bolger</u> <i>Bruce W. Bolger</i>	Date <u>3/26/99</u>
Agency <u>Department of Law</u>	

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## Sheet1

## Alaska Fatal Motor Vehicle Crashes at least one driver under age 21

year	#crashes where driver under 21	# Fatalities All ages	# crashes alcohol related	# alcohol related deaths
1998	16	19	1	1
1997	17	18	4	5
1996	16	20	5	8
1995	14	16	4	5
1994	13	17	6	9

Source: 1994-1998 Fatality Analysis Reporting System, National Highway Traffic Safety Administration and the Alaska Highway Safety Planning Agency.



# Alaska State Legislature

Please enter into the record my testimony to the House Judiciary committee name

committee on HB 151, dated 4-8-99  
bill # / subject

I THANK YOU FOR BRINGING THE ISSUE OF AS 28.15.183 TO YOUR COMMITTEE FOR REVIEW VIA HB 151. THERE ARE 2 CRITICAL ISSUES THAT HAVE NOT BEEN ADDRESSED BY 151.

1. THE APPEALS COURT HAS FOUND THAT 28.15.183 IS UNCONSTITUTIONAL BECAUSE THE DRIVERS LICENSE OF OUR YOUTH ARE BEING REVOKED FOR A NOW DRIVING OFFENCE.
2. 28.15.183 IS ALSO UNCONSTITUTIONAL BECAUSE OUR YOUNG PEOPLE ARE BEING TRIED TWICE FOR THE SAME OFFENSE ONCE BY THE COURTS AND OR JUVENILE INTAKE OFFICERS WHEN THESE PEOPLE AND THE ACCUSED TO BE NOT GUILTY OR WHEN THE CASE HAS BEEN DISMISSED THE DMV ADMIN REHEARAL STILL STANDS THUS REQUIRING ANOTHER HEARING WITH A DMV HEARING OFFICER WITH ALMOST ALWAYS RESULTS IN A GUILTY DECISION. THUS OVERRIDING THE JUDGES DECISION THIS IS WRONG. THIS LAW IS CAUSING OUR YOUNG PEOPLE TO BELIEVE THAT OUR SYSTEM OF JUSTICE IS AGAINST THEM. PLEASE REPEAL OR FURTHER AMEND HB 151 28.15.183

Signed: \_\_\_\_\_

Testifier

G.L.A.D. Good LEGISLATION ASSURES DEMOCRACY

Representing (Optional)

P.O. Box 105 Seldovia ALASKA 9976109

Address

907-262-4889 / Cell 398-6012

Phone number

**CS FOR HOUSE BILL NO. 151(JUD)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FIRST LEGISLATURE - FIRST SESSION**

**BY THE HOUSE JUDICIARY COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVES KOTT, Austerman**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to revocation and reinstatement of the driver's license of a  
2 person at least 14 but not yet 21 years of age."

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

4 \* Section 1. AS 21.89.027(a) is amended to read:

5 (a) Notwithstanding AS 21.36.210, an insurer offering insurance in this state  
6 may not (1) refuse to issue or renew motor vehicle liability insurance coverage; (2)  
7 cancel an existing policy of motor vehicle liability insurance; (3) deny a covered claim;  
8 or (4) increase the premium on a motor vehicle liability insurance policy if the refusal,  
9 cancellation, denial, or increase results only from the fact that the person's driver's  
10 license was revoked under AS 28.15.183 [OR 28.15.185] for [POSSESSION OR]  
11 consumption of alcohol in a situation where the person was not driving and was in  
12 violation of AS 04.16.050 or a municipal ordinance with substantially similar elements.

13 \* Sec. 2. AS 28.15.183(a) is amended to read:

14 (a) If a peace officer has probable cause to believe that a person who is at

1 least 14 years of age but not yet 21 years of age has possessed or used a controlled  
 2 substance in violation of AS 11.71 [,] or a municipal ordinance with substantially  
 3 similar elements, or [POSSESSED OR] consumed alcohol in violation of AS 04.16.050  
 4 or a municipal ordinance with substantially similar elements, operated a vehicle after  
 5 consuming alcohol in violation of AS 28.35.280, or refused to submit to a chemical  
 6 test under AS 28.35.285 and the peace officer has cited the person or arrested the  
 7 person for a violation of AS 11.71, AS 04.16.050, AS 28.35.280, or 28.35.285 or the  
 8 municipal ordinance with substantially similar elements, the peace officer shall read  
 9 a notice 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 (5) if the person has been cited under AS 28.35.280 or under  
 21 AS 28.35.285, that person, under AS 28.35.290, may not operate a motor vehicle,  
 22 aircraft, or watercraft during the 24 hours following issuance of the citation.

23 \* Sec. 3. AS 28.15.183(c) is amended to read:

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 to believe that the person is at  
 30 least 14 years of age but not yet 21 years of age and has possessed or used a  
 31 controlled substance in violation of AS 11.71 [,] or a municipal ordinance with

1 substantially similar elements, or [POSSESSED OR] consumed alcohol in violation of  
2 AS 04.16.050 or a municipal ordinance with substantially similar elements, operated  
3 a vehicle after consuming alcohol in violation of AS 28.35.280, or refused to submit  
4 to a chemical test of breath under AS 28.35.285;

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

6 (A) a violation of AS 11.71, AS 04.16.050, AS 28.35.280, or  
7 28.35.285; or

8 (B) possession or use of a controlled substance or consumption  
9 of alcohol in violation of a municipal ordinance with substantially similar  
10 elements;

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

12 (4) describing the circumstances surrounding the violation of the  
13 controlled substances provisions of AS 11.71, the alcoholic beverages provisions of  
14 AS 04.16.050, or the municipal ordinance with substantially similar elements, the  
15 minor operating a vehicle after consuming alcohol [UNDER] provisions of  
16 AS 28.35.280, or the minor refusing to submit to a chemical test of breath [UNDER]  
17 provisions of AS 28.35.285.

18 \* Sec. 4. AS 28.15.183(f) is amended to read:

19 (f) A revocation imposed under this section shall be [CONSECUTIVE TO A  
20 REVOCATION IMPOSED UNDER ANOTHER PROVISION OF LAW, EXCEPT  
21 THAT A REVOCATION IMPOSED UNDER THIS SECTION FOR AN OFFENSE  
22 FOR WHICH A REVOCATION IS REQUIRED UNDER AS 28.15.185 SHALL BE]  
23 concurrent with a revocation imposed under another provision of law [AS 28.15.185]  
24 that is based on the same incident. A [DEPARTMENT HEARING OFFICER MAY  
25 GRANT LIMITED LICENSE PRIVILEGES IN ACCORDANCE WITH THE  
26 STANDARDS SET OUT IN AS 28.15.201 TO A] person whose driver's license,  
27 permit, or privilege was revoked under this section may apply for reinstatement as  
28 provided under (j) of this section.

29 \* Sec. 5. AS 28.15.183(g) is amended to read:

30 (g) Except as provided under (h) of this section, the department may not issue  
31 a new license or reissue a license to a person whose driver's license, permit, or

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privilege to drive has been revoked under this section unless the person is enrolled in and is in compliance with, or has successfully completed,

(1) an alcoholism education or rehabilitation treatment program approved under AS 47.37, if the revocation resulted from [POSSESSION OR] consumption of alcohol in violation of AS 04.16.050 or a municipal ordinance with substantially similar elements, from operating a vehicle after consuming alcohol in violation of AS 28.35.280, or from refusal to submit to a chemical test of breath in violation of AS 28.35.285; or

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

\* Sec. 6. AS 28.15.183 is amended by adding a new section to read:

(j) A person whose driver's license, permit, or privilege was revoked under this section and whose remaining period of driver's license revocation is more than one year may apply for reinstatement of the person's driver's license as provided in this subsection. A person may apply to the department for reinstatement by filing a written request for review of the revocation imposed under this section with the department. The department shall issue a new license or reissue the person's driver's license as provided under AS 28.15.211(d) if

(1) the person complies with (g) of this section;

(2) the person has not violated a provision of this title or a regulation of the department since the revocation; and

(3) the license will allow the person to attend school, care for a dependent child, or earn a livelihood without creating a danger to the public.

\* Sec. 7. AS 28.15.184(a) is amended to read:

(a) A person who has received a notice under AS 28.15.183(a) may make a written request to a youth court, or, if the person resides in a municipality or area that does not have a youth court, to the department, for administrative review of the department's action. If the person's driver's license or permit has not been previously surrendered to the department, it shall be surrendered to the department at the time the request for review is made.

1 \* Sec. 8. AS 28.15.184(b) is amended to read:

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

13 \* Sec. 9. AS 28.15.184(c) is amended to read:

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

23 \* Sec. 10. AS 28.15.184(d) is amended to read:

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

29 \* Sec. 11. AS 28.15.184(e) is amended to read:

30 (e) Notwithstanding AS 28.05.141(b), the hearing under this section may be  
31 held telephonically at the discretion of the youth court or the hearing officer.

1 \* Sec. 12. AS 28.15.184(f) is amended to read:

2 (f) A review under this section shall be held before a youth court or a hearing  
3 officer designated by the commissioner. The youth court or the hearing officer may

4 (1) administer oaths and affirmations;

5 (2) examine witnesses and take testimony;

6 (3) receive relevant evidence;

7 (4) issue subpoenas, take depositions, or cause depositions or  
8 interrogatories to be taken;

9 (5) regulate the course and conduct of the hearing;

10 (6) make a final ruling on the issue.

11 \* Sec. 13. AS 28.15.184(g) is amended to read:

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

20 \* Sec. 14. AS 28.15.184(h) is amended to read:

21 (h) The determination of the youth court or the hearing officer may be based  
22 upon the sworn report of a peace officer [,] if the sworn report is supported by  
23 probable cause based on personal observations as required under AS 28.15.183(a). The  
24 peace officer need not be present at the hearing unless either the person requesting the  
25 hearing, [OR] the youth court, or the hearing officer requests in writing before the  
26 hearing that the officer be present. If, in the course of the hearing, it becomes  
27 apparent that the testimony of the peace officer is necessary to enable the youth court  
28 or the hearing officer to resolve disputed issues of fact, the hearing shall be continued  
29 to allow the attendance of the peace officer.

30 \* Sec. 15. AS 28.15.184(j) is amended to read:

31 (j) If the issues set out in (g) of this section are determined in the affirmative

1 by a preponderance of the evidence, the youth court or the hearing officer shall  
2 sustain the action of the department. If one or more of the issues is determined in the  
3 negative, the department's revocation action shall be rescinded.

4 \* **Sec. 16.** AS 28.15.184(k) is amended to read:

5 (k) If the action of the department in revoking a nonresident's privilege to  
6 drive a motor vehicle is not administratively contested by the nonresident driver or if  
7 the departmental action is sustained by the youth court or the hearing officer, the  
8 department shall give written notice of action taken to the motor vehicle administrator  
9 of the state of the person's residence and to any state in which that person has a  
10 driver's license.

11 \* **Sec. 17.** AS 28.15.184(l) is amended to read:

12 (l) Within 30 days of the issuance of the final determination of the youth  
13 court or the department, a person aggrieved by the determination may file an appeal  
14 in superior court for judicial review of the youth court's or the hearing officer's  
15 determination. The judicial review shall be on the record without taking additional  
16 testimony. The court may reverse the youth court's or the department's determination  
17 if the court finds that the youth court or the department misinterpreted the law, acted  
18 in an arbitrary and capricious manner, or made a determination unsupported by the  
19 evidence in the record.

20 \* **Sec. 18.** AS 28.15.184(m) is amended to read:

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

27 \* **Sec. 19.** AS 47.12.400(a) is amended to read:

28 (a) The department may use youth courts to hear, determine, and dispose of  
29 cases involving

30 (1) a minor whose alleged act that brings the minor within the  
31 jurisdiction of AS 47.12.010 - 47.12.260 constitutes a violation of

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(A) a state law that is a misdemeanor or a violation; or

(B) [THAT CONSTITUTES A VIOLATION OF] a municipal ordinance that prescribes a penalty not exceeding the penalties for a class A misdemeanor under state law; or

(2) administrative review of a license revocation under AS 28.15.184.

\* Sec. 20. APPLICABILITY. (a) The amendment to AS 21.89.027(a), made by sec. 1 of this Act, applies to driver's license revocations occurring on or after the effective date of this Act. AS 21.89.027(a) as it read on the day before the effective date of this Act applies to driver's license revocations occurring before the effective date of this Act.

(b) Sections 2 - 19 of this Act apply to a driver's license revocation that occurs on or after the effective date of this Act.

# Alaska State Legislature

## House of Representatives

COMMITTEES  
JUDICIARY COMMITTEE CHAIR  
RULES  
MILITARY & VETERANS AFFAIRS  
JUDICIAL RESTRUCTURING  
ETHICS

SESSION  
ALASKA STATE CAPITOL  
JUNEAU, ALASKA

### SPONSOR STATEMENT HB 151

#### **“An Act relating to revocation and reinstatement of the driver’s license of a person at least 14 but not yet 21 years of age.”**

The “Use It, Lose It” law incurs results that are inequitable toward teens who, after maturing and amending delinquent behavior, lose the valuable privilege of driving for substantial periods of time. Furthermore, the delinquent behavior by the juvenile need not be attached in any way to a vehicle under the current statute. This bill hopes to keep the intent of the “Use It, Lose It” legislation intact while dampening the harsher aspects associated with the legislation. When the law was ratified it was the legislature’s belief that 2500 revocations per year would occur. That number has jumped to over 4500. The bill hopes to:

- amend current law by requiring consumption of alcohol as a requisite to revoking a teen’s license.
- remove “consecutive” penalties and run them *concurrently*.
- establish youth court jurisdiction over revocation appeal hearing for juveniles, in areas that authorize youth courts.
- authorize administrative hearers to re-issue licenses upon a showing of:
  - compliance with the statute;
  - compliance with the title or department regulation;
  - the license will allow the offender to attend school, care for a dependant child, or earn a livelihood without creating a danger to the public.

The State of Alaska has a genuine interest in promoting driving safety as well as curbing teen alcohol use. Nevertheless, to punish a youth by taking away his or her license for twenty years, for flighty mistakes made while very young is far too severe. When a person at a young age makes several mistakes, which become determinative of his or her future, consideration should be taken for amelioration of that youth’s behavior. The “Use It, Lose It” law should be based on its premise—if alcohol is used, the license is revoked. As a policy measure, if the youth shows corrective behavior upon reaching majority, the privilege of a license ought to be returned. I urge support for HB 151.



**Representative Pete Kott**

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EAGLE RIVER OFFICE (907) 694-8944 FAX (907) 694-8945 E-MAIL [representative\\_pete\\_kott@legis.state.ak.us](mailto:representative_pete_kott@legis.state.ak.us)

# Alaska State Legislature

## House of Representatives

COMMITTEES  
JUDICIARY COMMITTEE, CHAIR  
RULES  
MILITARY & VETERANS AFFAIRS  
UTILITY RESTRUCTURING  
ETHICS



LEGISLATIVE COUNCIL  
1000 ALASKA CENTER DRIVE, SUITE 100  
EAGLE RIVER, AK 99577

SESSION  
ALASKA STATE CAPITOL  
JUNEAU, AK 99801

### SECTIONAL ANALYSIS HB 151

- Section 1, 2, 3, 5, and 13:** These sections are amended removing *possession* as an offense upon which a license can be administratively revoked. Section 3 places *consumption of alcohol* as a requisite for administrative revocation of a drivers license.
- Section 4:** This section is amended requiring penalties to run *concurrently* rather than consecutively. Further, this section permits a youth with a revoked license to apply for reinstatement .
- Section 6:** This section establishes a review procedure (per section 4) which permits a person with a revoked license to apply for reinstatement of the license. The three factors that must be met are (1) compliance with subsection (g); (2) compliance with the title or department regulations; and (3) the reissuance permits the person to to attend school, care for a dependant child, or earn a livelihood without danger to the public.
- Section 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, and 19:** These sections establish and empower youth courts to hear and determine department revocation actions. The powers of the youth courts are enumerated, and the requirements for findings are listed. Youth Courts are to be used only in areas where they are currently established or are established at a later date. In all other regions, administrative hearers are used.
- Section 20:** This section is the enabling portion of the legislation of the bill.



### Representative Pete Kott

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Subject: Re: AS 28.15.183

Date: Fri, 19 Mar 1999 18:44:55 -0600

From: "Kevin Hyde" <dallram@ptialaska.net>

To: "Representative Pete Kott" <Representative\_Pete\_Kott@legis.state.ak.us>

I have contacted M.A.D.D. In Anchorage and they feel that if A person is found Not guilty and the DMV still revokes the license that in is wrong. thank you for your efforts you can count on me to be there when it comes time for a hearing I also can make myself available to assist you in any way you think I can help I live on the Zenai but with some notice I would be willing to travel to Juneau to testify if needed.

Keep up the good work

Kevin B Hyde

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> From: Representative Pete Kott  
<Representative\_Pete\_Kott@legis.state.ak.us>  
> To: Kevin Hyde <dallram@ptialaska.net>  
> Subject: Re: AS 28.15.183  
> Date: Friday, March 19, 1999 2:23 PM

>  
> Kevin,

>  
> Thanks for your comments. My office is currently work on a bill that I  
> believe will take care of your concern as well as to take care of other  
> concerns that I have. For instance, when the bill was passed it was  
> expected that it would affect 200 kids. The number has swelled to 4500  
> annually. Many of these kids our in bad environments and thus have been  
> the subject of this law several times. In at least one instance a kid  
> can't get a drivers licence until the year 2025. That's absurd. We  
> have been working very closely with the Department of Public Safety and  
> the Department of Law to craft a bill that is more reasonable I believe  
> that it will be introduced on Monday with a hearing the following week.  
> I would encourage you to participate in the public process when the bill  
> comes up for a hearing. I am sure that the Mothers Against Drunk  
> Drivers will be on my case. The ironic thing is the law does not have a  
> nexis between the offense and the penalty.

>  
> Sincerely,

>  
>  
> Pete

> Kevin Hyde wrote:

> >  
> > Dear Representative,

> >  
> > Please review AS 28.15.183 Commonly referred to as the Use It Or Lose  
It

> > Law. This law requires the Department Of Motor Vehicles to revoke the  
> > drivers licenses of our 14 to 21 year olds even if the Judiciary has  
found

> > them to be NOT GUILTY of any crime. They can and do also revoke  
licenses if

> > the case was dismissed and also even in cases where the person has not  
even

> > been charged with a crime. This law is Unconstitutional as was decided  
by