

HB

40

MOVES
BY BERKOWITZ

House Bill 40
Amendment No. 1

Adopted

In Section 2 of the bill, add a new subsection as follows:

- (e) The findings made by the court under (a) of this section are not admissible in a civil, criminal or administrative action arising out the motor vehicle accident.

of (Hypo)

MOVED BY
BERKOWSKI TB

Adopted

House Bill 40
Amendment No. 2

Section 2, Page 2, lines 12-23, delete and replace with:

- (c) A court revoking a person's driver's license, privilege to drive, or privilege to obtain a license under (a) of this section may consider a request for a limited license by the person. A court may not grant a limited license if another statute prohibits a limited license for violation of its provisions. A court shall require a certification of employment to prove a claim based on the person's employment, **and a certification of need by a licensed health care practitioner to prove a claim based on care for another person.** After a review has been made of the person's driving record and other relevant information, the court may grant limited license privileges for all or part of the period of revocation if the court finds that limitations can be placed on the license that will enable the person to drive without danger to the public, and that without a limited license
- (1) the person's ability to earn a livelihood would be severely impaired; or
 - (2) **the person would be severely impaired in acting as the primary care giver for someone with a debilitating medical or mental condition.**

Berkowitz Amendment #1

HB 40

Page 2

3/28/01

Line 20 following "livelihood"
inserts or provide care to another

same as line 23

Dean Guaneli coming back w/ some
amendments

STATE OF ALASKA

DEPARTMENT OF LAW
CRIMINAL DIVISION

TONY KNOWLES,
GOVERNOR

Mailing: PO Box 110300
Juneau, AK 99811-0300
Delivery: 123 4th Street, Ste 717
Juneau, AK 99801
Phone: (907) 465-3428
Fax: (907) 465-4043

January 12, 2001

JAN 12 2001

2:50 pm jp

The Hon. Norman Rokeberg, Chair
House Judiciary Committee
Alaska State Legislature
State Capitol, Room 118
Juneau, AK 99801

Re: HB 40 (Revocation of Driving Privileges)

Dear Rep. Rokeberg:

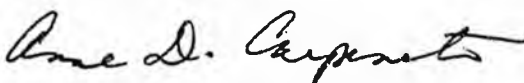
House Bill 40 was introduced January 10, 2001, and referred to your committee. I am writing to request that the bill be scheduled for a hearing at your earliest convenience.

The bill requires that a court revoke the driving privileges of a driver who violates the traffic laws, and the violation contributes to an automobile accident that results in a death. Drivers who violate traffic laws may not have committed a crime, but if their poor driving causes the death of another person, their driving privileges should be revoked. Several traffic deaths occur in Alaska every year when a driver causes the death of another by poor driving and the only consequence is a small fine. This is very difficult for the families of the victims. House Bill 40 provides for a one-year revocation of driving privileges under these circumstances. This period would be concurrent with any other revocation that might apply, and the court may grant a limited license if the court finds the limited license will not endanger the public.

If you have any questions about the bill or require further information, please feel free to call me at any time. Thank you for your consideration of this request.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: 
Anne D. Carpeneti
Assistant Attorney General

ADC:vr

Here are four actual cases of the type that HB 40 is intended to address.

Case 1 – A man driving along Glenn Highway into Anchorage one summer afternoon fell asleep at the wheel and violated a traffic regulation by driving onto the bike path. His car struck and killed a woman riding her bicycle on the bike path.

Case 2 – A woman drove from Anchorage to Cooper Landing, where she violated a traffic law by crossing the double yellow line and crashing into another car head on, killing the driver of the other car.

Case 3 – A teenage girl drove down Dimond Boulevard in Anchorage late at night. She violated a traffic law by driving over the median and collided with another vehicle head-on, killing the driver of the other car.

Case 4 – On a winter night, the driver of a pick-up truck on C Street in Anchorage was going under the posted speed limit, but still too fast for icy conditions. This is a violation of the state's "basic speed" law, which prohibits driving faster than is safe under existing road and weather conditions. The driver lost control and crossed into the opposite lane, hitting another car, and killing Albert Taylor's son.

In all these cases, alcohol and drug tests were negative, and there was no reported erratic driving prior to the collisions. There was no evidence of mechanical causes for the collisions.

No criminal prosecutions were possible because the state could not prove that the driver acted recklessly or with criminal negligence.

Sectional Analysis

Sections 1 and 4 provide for a mandatory court appearance for a driver who has violated a traffic law and the accident resulted in death. Section 4 requires a 2/3 vote because Section 1 indirectly amends a court rule.

Section 2 provides for a mandatory court revocation of driving privileges for one year if the court finds that the driver's violation of a traffic law contributed to an accident that caused the death of another person. The court can, however, grant a limited license if the person's ability to earn a livelihood would be severely impaired.

Section 3 defines "traffic law" according to the current definition that includes statutes, regulations and municipal ordinances that govern the driving or movement of motor vehicles.

Section 5 makes the new law applicable to accidents occurring on or after the effective date set out in **Section 6** of September 1, 2001.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 40
 (H) Publish Date: 1/10/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title: License Revocation for Fatal Accidents BRU: Motor Vehicles
 Component: _____
 Sponsor: Rules Committee
 Requester: Governor Component Number: 2348

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	1.0	1.0	1.0	1.0	1.0	1.0
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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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

There will be approximately 10 revocations per year and the reinstatement fee for each driver is \$100. The 10 revocations are only a small fraction of the total revocation workload and will not require extra expenditure.

Prepared by: Charles R. Hosack Phone 269-5559
 Division: Motor Vehicles Date/Time 11/1/00 12:00 AM
 Approved by: Alision Elgee, Deputy Commissioner Date 11/8/00
 Agency: Department of Administration

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

BILL NO. HB 40

Revision Date/Time (Note if correction) _____ Dept. Affected _____
 Title License Revocation for Fatal Traffic Accident BRU Alaska Court System
 Component Trial Courts
 Sponsor By Request of the Governor
 Requester House Judiciary Component No. 768

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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1002 Federal Receipts						
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Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
 The court system does not anticipate any fiscal impact from the passage of HB 40.

Prepared by: Douglas Wooliver *[Signature]* Phone 463-4750
 Division Alaska Court System Date/Time 2/23/01 11:14 a.m.
 Approved by: Stephanie Cole *[Signature]* Date 2/23/01
 Agency Alaska Court System

For distribution information, call the Governor's Legislative Office

TONY KNOWLES
GOVERNOR
governor@gov.state.ak.us

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

HB 40
P.O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500
Fax (907) 465-3532
www.gov.state.ak.us

January 8, 2001

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

Dear Speaker Porter:

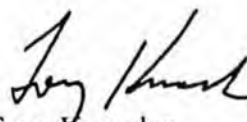
It may be surprising, but true, that many traffic accidents leading to deaths carry no criminal punishment. The driver may be guilty of a simple traffic violation carrying a maximum fine of \$300. At least 10 deaths a year on our state highways can fall into this category. Perhaps the driver fell asleep at the wheel or skidded on ice, and the consequences are deadly to a passing motorist or pedestrian.

Regardless of whether their conduct is criminal, drivers whose traffic violations contribute to a fatal accident pose a risk to people on the highways and cause much suffering to family and friends of their victims. I am re-introducing this bill that takes seriously these tragic deaths by requiring, under certain circumstances, revocation of driving privileges of a driver involved in a fatal traffic accident.

This bill requires the court to revoke for one year the driving privileges of a person who violated traffic laws which contributed to an accident that resulted in a death. The license revocation applies to drivers of all vehicles, including those for commercial use. The court would be allowed to grant limited license privileges if it determines driving is critical to the person's livelihood and will not pose a danger to the public.

When people drive in an unsafe way and cause the death of another, their privilege to drive should be revoked to protect other drivers, their passengers, and pedestrians on the roadways.

Sincerely,


Tony Knowles
Governor

HB 40

shall grant a hearing delay if the person presents good cause for the delay. If a person fails to attend or appear for the hearing at the time and place stated by the appropriate department and if a hearing delay has not been granted, the person's failure to attend or appear is considered a waiver of the hearing and the appropriate department may take appropriate action with respect to the person.

(c) If at a hearing conducted by the Department of Administration under (a) of this section it appears that the record of the person sustains suspension, revocation, limitation, denial, or other remedial action, the hearing officer shall so order and the Department of Administration may suspend, revoke, limit, deny, or take other remedial action against that person's license, registration, or title and, if appropriate, the department shall adjust the person's point total accumulated under AS 28.15.231.

(d) A person aggrieved by the decision of the hearing officer may, within 30 days after a decision is mailed or delivered to the person, file an appeal in superior court for judicial review of the hearing officer's decision. The judicial review shall be on the record. The court may reverse the determination of the Department of Public Safety or of the Department of Administration if the court finds that the department making the determination misinterpreted the law, acted in an arbitrary and capricious manner, or made a determination unsupported by the evidence in the record. The respective department's decision suspending, revoking, canceling, limiting, restricting, or denying a license, registration, title, permit, or privilege is stayed and does not take effect during the pendency of an appeal. (§ 6 ch 178 SLA 1978; am § 2 ch 60 SLA 1986; am § 1 ch 158 SLA 1990; am § 2 ch 6 FSSLA 1996; am E.O. No. 99 § 40 (1997))

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

Effect of amendments. — The 1990 amendment rewrote subsection (d).

The 1996 amendment, effective July 4, 1996, in subsection (b), rewrote the first sentence and inserted "attend or" in two places in the last sentence.

The 1997 amendment, effective March 16, 1997, rewrote this section.

NOTES TO DECISIONS

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

This section is inapplicable to license revocations for refusal to submit to a breathalyzer test. *Borrego v.*

State, Dep't of Pub. Safety, 815 P.2d 360 (Alaska 1991).

A hearing officer must be impartial; however, it is appropriate for an officer to question witnesses. *Bollerud v. State*, Dep't of Pub. Safety, 929 P.2d 1283 (Alaska 1997).

Article 4. Disposition of Certain Vehicle and Traffic Offenses.

Section

151. Citations for scheduled vehicle and traffic offenses

155. Court and collection costs

Sec. 28.05.151. Citations for scheduled vehicle and traffic offenses. (a) The supreme court shall determine by rule or order those motor vehicle and traffic offenses, except for offenses subject to a scheduled municipal fine, that are amenable to disposition without court appearance and shall establish a scheduled amount of bail, not to exceed fines prescribed by law, for each offense. A municipality shall determine by ordinance the municipal motor vehicle and traffic offenses that may be disposed of without court appearance and shall establish a fine schedule for each offense.

(b) The supreme court shall establish a scheduled amount of bail allowing disposition of a citation for a violation of AS 28.05.095 without court appearance.

(c) The supreme court shall require as a condition of the disposition of an offense without appearance that a person charged with any offense for which a bail forfeiture amount has been adopted shall pay the surcharge prescribed in AS 12.55.039 in addition

to the bail forfeiture to be paid under this for under AS 37.05.1.

(d) The supreme court and each municipality section shall provide vehicle or traffic offense amount of the bail or zone. (§ 6 ch 178 SLA 1994; am §

Cross references. — For purpose in connection with section, see § 1, ch. 119, and Special Acts.

Effect of amendment added subsection (b).

The 1994 amendment, added subsection (c).

Sec. 28.05.155. C is attached to pay the court shall increase

- (1) \$25 for court cost
- (2) \$10 for collection

Effective dates. — Section which enacted this section 1996.

Chapter

Article

- 1. Registration (§§ 28.10.1
- 2. Title (§§ 28.10.201 —
- 3. Transfer of Vehicle (§
- 4. Filing Documents Ev
- 5. Fees and Charges (§§
- 6. Registration and Titl
- 7. General Provisions (§

Cited in *Newell v. Ne* (Alaska 1982); *Anderson v* 645 P.2d 205 (Alaska Ct.

Collateral references titles and Highway Traffic

Section

- 11. Vehicles subject to
- 21. Application for regi

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within 30 days after rior court for judicial e on the record. The lic Safety or of the rtment making the pricious manner, or ord. The respective ricting, or denying a ot take effect during 1986; am § 1 ch 158

ffective July 4, 1996, in irst sentence and inserted the last sentence. ffective March 16, 1997,

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be impartial; however, it er to question witnesses. ub. Safety, 929 P.2d 1283

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to the bail forfeiture amount established by the supreme court. The surcharge required to be paid under this subsection shall be deposited into the general fund and accounted for under AS 37.05.142.

(d) The supreme court, in establishing scheduled amounts of bail under this section, and each municipality that establishes or has established a fine schedule under this section shall provide that the scheduled amount of bail or fine, as applicable, for a motor vehicle or traffic offense that is committed in a highway work zone shall be double the amount of the bail or fine for the offense if it had not been committed in a highway work zone. (§ 6 ch 178 SLA 1978; am § 8 ch 76 SLA 1987; am § 4 ch 98 SLA 1990; am § 5 ch 119 SLA 1994; am § 6 ch 56 SLA 1998; am § 1 ch 64 SLA 1998)

Cross references. — For legislative findings and purpose in connection with the enactment of this section, see § 1, ch. 119, SLA 1994 in the Temporary and Special Acts.

Effect of amendments. — The 1990 amendment added subsection (b).

The 1994 amendment, effective January 1, 1996, added subsection (c).

The first 1998 amendment, effective August 27, 1998, substituted "pay the surcharge prescribed in AS 12.55.039" for "pay a surcharge of \$10" in the first sentence in subsection (c).

The second 1998 amendment, effective April 30, 1999, added subsection (d).

Sec. 28.05.155. Court and collection costs. If a person's permanent fund dividend is attached to pay the bail or fine for an offense involving a moving motor vehicle, the court shall increase the bail or fine of that person by at least

- (1) \$25 for court costs; and
- (2) \$10 for collection costs. (§ 4 ch 47 SLA 1996)

Effective dates. — Section 4, ch. 47, SLA 1996, which enacted this section, took effect on August 27, 1996.

Chapter 10. Vehicle Registration and Title.

Article

1. Registration (§§ 28.10.011 — 28.10.181)
2. Title (§§ 28.10.201 — 28.10.261)
3. Transfer of Vehicle (§§ 28.10.271 — 28.10.361)
4. Filing Documents Evidencing Liens or Encumbrances (§§ 28.10.371 — 28.10.401)
5. Fees and Charges (§§ 28.10.411 — 28.10.441)
6. Registration and Title Violations (§§ 28.10.451 — 28.10.493)
7. General Provisions (§§ 28.10.495 — 28.10.661)

NOTES TO DECISIONS

Cited in *Newell v. National Bank*, 646 P.2d 224 (Alaska 1982); *Anderson v. Municipality of Anchorage*, 645 P.2d 205 (Alaska Ct. App. 1982).

Collateral references. — 7A Am. Jur. 2d, *Automobiles and Highway Traffic*, § 51 et seq. 60 C.J.S., *Motor Vehicles*, § 58 et seq.

Article 1. Registration.

Section

11. Vehicles subject to registration
21. Application for registration

Section

31. Temporary permits
41. Grounds for refusing registration

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subsection (b), inserted "by
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Sec. 28.11.080. Disposal facilities. (a) The department may negotiate with an appropriate state or municipal agency in an effort to designate and acquire land for the temporary storage of vehicles before sale under AS 28.11.070, or for the final disposal of unsold abandoned vehicles.

(b) A municipality that adopts an ordinance under AS 28.11.100 shall designate appropriate areas within its jurisdiction for the disposal of abandoned vehicles. (§ 1 ch 61 SLA 1976; am § 16 ch 178 SLA 1978)

Sec. 28.11.090. Towing and storage lien on abandoned vehicle. A person authorized by contract or other official order to remove an abandoned vehicle has a lien upon a vehicle towed, moved, or stored by and in the possession of the person in accordance with AS 28.10.502. (§ 1 ch 61 SLA 1976; am § 17 ch 178 SLA 1978)

Collateral references. — 38 Am. Jur. 2d, Garages, and Parking and Filling Stations, §§ 140, 144 to 151. 61A C.J.S., Motor Vehicles, §§ 725, 748(d), (e). Lien for towing or storage, ordered by public officer, of motor vehicle, 85 ALR3d 199.

Sec. 28.11.100. Municipal abatement procedure. A municipality may adopt an ordinance establishing procedures for the abatement and removal from private or public property, as a public nuisance or a health or safety hazard, a wrecked, dismantled, or inoperative vehicle or a vehicle otherwise presumed to be abandoned. An ordinance adopted under this section must contain provisions for (1) notice to owners and lienholders of record and persons known to be lawfully entitled to possession of the vehicles, of their right to a hearing which shall be conducted by the municipality in the manner provided for by municipal ordinance; (2) notice to owners and lienholders as provided in AS 28.11.040; and (3) disposal of abandoned vehicles as provided in AS 28.11.070. (§ 1 ch 61 SLA 1976; am § 18 ch 178 SLA 1978; am § 6 ch 108 SLA 1997)

Effect of amendments. — The 1997 amendment, effective September 30, 1997, substituted "provided for by municipal ordinance" for "provided for the department under AS 28.05.131 — 28.05.141" near the end of the second sentence.

Sec. 28.11.110. Abandoned motor vehicle fund. (a) There is created in the department an abandoned motor vehicle fund, to be composed of appropriations by the legislature and proceeds from the sale of abandoned motor vehicles.

(b) The proceeds from the sale of an abandoned motor vehicle under this chapter, after deducting the cost of impounding, advertising, and selling the vehicle, shall be deposited in the fund set out in (a) of this section.

(c) Money in the fund shall be disbursed to the department and to each of the municipalities bound by the provisions of this chapter upon presentation of a voucher for payment of services rendered in compliance with this chapter. (§ 1 ch 61 SLA 1976)

Chapter 15. Drivers' Licenses.

Article

1. Issuance, Expiration and Renewal of Licenses (§§ 28.15.011 — 28.15.151)
2. Cancellation, Suspension, Revocation or Limitation of Drivers' Licenses (§§ 28.15.161 — 28.15.219)
3. Point System (§§ 28.15.221 — 28.15.261)
4. Fees (§ 28.15.271)
5. Driver License Violations (§§ 28.15.281, 28.15.291)

Collateral references. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 96 et seq. 60 C.J.S., Motor Vehicles, §§ 146 to 164.50.

NOTES TO DECISIONS

Applied in Uhde v. State, 654 P.2d 1323 (Alaska Ct. App. 1982); Smith v. State, 756 P.2d 913 (Alaska Ct. App. 1988). Cited in State v. Robertson, 749 P.2d 902 (Alaska

Sec. 28.15.219. Definitions. In AS 28.15.161 — 28.15.219, (1) "disqualification" has the meaning given in AS 28.33.190; (2) "disqualified" has the meaning given in AS 28.33.190; (3) "disqualify" means that a person's privilege to drive a commercial motor vehicle is withdrawn. (§ 13 ch 3 SLA 1992)

Revisor's notes. — Reorganized upon enactment to alphabetize the defined terms.

Sec. 28.15.220. Discretionary suspension, etc. [Repealed, § 19 ch 178 SLA 1978.]

Article 3. Point System.

Table with 2 columns: Section and Section. Row 1: 221. Point system / 253. Driver improvement or alcohol information courses. Row 2: 231. Assessment of points, driver improvement interview / 255. Proof of financial responsibility. Row 3: 241. Reduction of points / 261. Definitions for AS 28.15.221 — 28.15.261. Row 4: 251. Suspension, revocation, limitation, denial

NOTES TO DECISIONS

Applied in McClain v. State, 641 P.2d 1265 (Alaska Ct. App. 1982).

Sec. 28.15.221. Point system. (a) For the purpose of identifying habitually reckless or negligent drivers and habitual or frequent violators of traffic laws, the commissioner shall adopt regulations establishing a uniform system for the suspension, revocation, limitation, or denial of a driver's license, privilege to drive, or privilege to obtain a license by assigning demerit points for convictions for violations of traffic laws that are required to be reported to the department under AS 28.15.191 and AS 28.37.130.

(b) The regulations adopted under (a) of this section shall include a designated level of point accumulation which identifies drivers who are habitually reckless or negligent or who are habitual or frequent violators of traffic laws, so as to show a disrespect for traffic laws and a disregard for the safety of other persons. In formulating the point system authorized by this section, the commissioner shall, in the interest of interstate uniformity, provide for suspension, revocation or denial of a driver's license, privilege to drive, or privilege to obtain a license for an accumulation of 12 or more points as a result of offenses committed during any consecutive 12-month period or 18 or more points as a result of offenses committed during any 24-month period. (§ 19 ch 178 SLA 1978; am § 14 ch 60 SLA 1986; am § 21 ch 119 SLA 1990)

Effect of amendments. — The 1990 amendment, effective January 1, 1991, substituted "privilege to drive, or privilege to obtain a license" for "or driving privilege" and "or privilege", respectively, in subsections (a) and (b).

NOTES TO DECISIONS

Cited in Gregory v. State, 717 P.2d 428 (Alaska Ct. App. 1986).

Collateral references. biles and Highway Traffic 60 C.J.S., Motor Vehicle Regulations establishing guards suspension or revoca

Sec. 28.15.225. Li

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Sec. 28.15.231. A (a) Notice of each as point accumulation r denial is required un accumulation shall b problem driver to a interview is to assis substandard driving informal manner. A d to improve the driver

(b) Points may not a municipal ordinanc points be assessed f violations of provisic devices on the highw permits relating only

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operator's license for "ha-

bitual," "persistent," or "frequent" violations of traffic
regulations, 48 ALR4th 367.

Sec. 28.15.253. Driver improvement or alcohol information courses. Upon conviction of a violation of a traffic law that results in a driver accumulating six or more points from offenses committed during any consecutive 12-month period or nine or more points from offenses committed during any 24-month period, (1) on request of the department, the court may, in addition to any other penalty authorized by law, require the driver to successfully complete a driver improvement course approved by the department or an alcohol information course approved by the Department of Health and Social Services within a period of time prescribed by the court; and (2) the department shall require a person licensed under a provisional license to complete a driver improvement course approved by the department within a time period prescribed by the department. A driver improvement course approved under this section for a person who is under 21 years of age must be a course that is designed to benefit persons under 21 years of age and must be certified by a national organization. The department may suspend, revoke, or deny the driver's license of a person who fails to successfully complete the driver improvement course or the alcohol information course required by the court under this section within the prescribed time period. (§ 1 ch 78 SLA 1982; am § 10 ch 93 SLA 1998)

Effect of amendments. — The 1998 amendment, effective January 1, 1999, rewrote this section.

Sec. 28.15.255. Proof of financial responsibility. (a) The department may not reinstate a driver's license that has been revoked or suspended under AS 28.15.221 — 28.15.261 until the person whose license has been revoked or suspended provides proof of financial responsibility for the future.

(b) If a driver accumulates six or more points under AS 28.15.221 — 28.15.261 during a 12-month period, the department may require the driver to provide proof of financial responsibility for the future as a condition of retaining a driver's license, and may suspend the driver's license until proof of financial responsibility is provided.

(c) In this section, the term "proof of financial responsibility" has the meaning given in AS 28.20.630 and may be established as provided in AS 28.20. (§ 2 ch 78 SLA 1982; am § 26 ch 108 SLA 1989)

Sec. 28.15.260. Period of suspension. [Repealed, § 19 ch 178 SLA 1978.]

Sec. 28.15.261. Definitions for AS 28.15.221 — 28.15.261. In AS 28.15.221 — 28.15.261

(1) "licensee" includes, but is not limited to, an applicant for a new driver's license if the applicant's license was revoked under AS 28.15.221 — 28.15.261;

(2) "traffic laws" means statutes, regulations, and municipal ordinances governing the driving or movement of vehicles. (§ 19 ch 178 SLA 1978)

Revisor's notes. — The paragraphs were renumbered in 1984 to achieve alphabetical order.

NOTES TO DECISIONS

Quoted in *Anderson v. Municipality of Anchorage*, 645 P.2d 205 (Alaska Ct. App. 1982).

Sec. 28.15.270. Surrender of license. [Repealed, § 19 ch 178 SLA 1978.]

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February 26, 2001

Representative Norman Rokeberg
Chair, House Judiciary Committee

Re: HB 40

Dear Representative Rokeberg:

Following my testimony today concerning HB 40, you asked that I supplement my oral comments at today's hearing on HB 40 with some written information. Basically, while I support the intent of the bill, I thought that the proposed legislation should include language which indicates that any findings made by the court pursuant to proposed Section 28.15.182 may not be used in evidence in a civil action arising out of the accident.

Such language could track the language utilized in AS 28.35.120 regarding use of accident reports in evidence. That section states that "a report made in accordance with this chapter may not be used in evidence in a criminal or civil action arising out of the accident that is the subject of the report." This statute does not prevent testimony by investigating officers, it simply precludes admission of their reports into evidence. In the case of *Scott v Robertson*, 583 P.2d 188 (Alaska 1978), the Alaska Supreme Court stated:

The trend in recent years, however, has been to admit criminal convictions as evidence in subsequent civil trials where: (1) the prior conviction is for a serious criminal offense; (2) the defendant in fact had a full and fair hearing; and (3) it is shown that the issue on which the judgment is offered was necessarily decided in the previous trial. We adopt this position for use in Alaska.

Id. at 191-92 (footnotes omitted). Since the court in the *Scott v Robertson* case indicated that generally, any offense punishable by imprisonment should be considered a serious offense, and since many of the traffic laws which come within

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the purview of HB 40 would not involve imprisonment, a finding by the court under the bill as worded probably would not be admissible under the *Scott v Robertson* holding, unless violation of the traffic law was punishable by imprisonment, *e.g.*, driving under the influence.

There are any number of reasons why someone may not contest a traffic citation. My basic point is that the proposed legislation should not affect, one way or the other, a civil action arising out of the motor vehicle accident. Upon reflection, there probably is no need to add additional language to the proposed bill in light of existing Alaska law.

Thank you for your consideration of these comments.

Sincerely yours,



David S. Carter

DSC:ph/141994